

business insurance

the national newsmagazine of loss prevention, risk financing and employe benefit management

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Ford sues 50 insurers over punitive damages

By JOANNE GAMLIN

LOS ANGELES—The Ford Motor Co. has filed suit in Los Angeles superior court against more than 50 insurance companies that provide product liability insurance for the automaker.

The companies, which provide both primary liability and multiple excess policies, have indicated a refusal to reimburse Ford for punitive damages awarded in a case involving a 1972 Pinto, according to the lawsuit.

In the now famous case in Santa Ana, Calif., Richard Grimshaw, 18, was awarded \$125 million in punitive damages for severe burns he suffered in an accident five years ago in a 1972 Pinto.

The award was later reduced by the presiding superior court judge to \$3.5 million in punitive damages and \$3.1 million in compensatory damages. However, both Mr. Grimshaw and Ford are appealing the move. The automobile manufacturer contends that the jury ver-

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Insurance Exchange is born

Drafting its rules next major hurdle

By ELLIS SIMON

NEW YORK—Passage of legislation creating the New York Insurance Exchange, formerly called the Reinsurance Exchange, represents only the first hurdle in the complex process of developing an underwriting syndicate marketplace in the United States.

From here the task gets tougher.

The bill, which passed the state senate without opposition and by an overwhelming majority in the assembly, mandates creation of a 13-member panel chaired by the superintendent of insurance to draft a constitution and by-laws for the proposed "American Lloyd's." That draft must be submitted to the superintendent by Jan. 1, 1979.

After that, the superintendent must submit the proposed constitution and by-laws within one month to the legislature. If neither house votes to reject the proposal within 45 days, the Insurance Exchange would have authority to begin operations April 1, 1979.

The Insurance Exchange proposal was linked in the legislature with another plan to boost New York State's role as an insurance center—the free trade zone. The trade zone permits specially licensed companies to write certain high premium, "unusual" and "high loss hazard" risks without prior approval on rates and forms.

The exchange's fate was uncertain until a few hours before the vote. John Dunne, chairman of the senate insurance committee, had sought further study of the proposal while the senate leadership was seeking an adjournment.

However, Sen. Dunne came out with an endorsement after changes in the bill gave to the legislature the right to select six of 13 members of the constitution drafting committee and choice of

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James D. Koehnen of American Re-insurance: "We have no quarrel or problem with the exchange, but we would not want the exchange to have any advantage over licensed reinsurers."



L. Patton Kline of Marsh & McLennan: The exchange is "one of the most significant legislative actions of this century in the area of insurance."

Most brokers gush, but insurers wary

By KATHRYN McINTYRE and JERRY GEISEL

CHICAGO—New York insurance brokers who pushed hard for passage of the legislation authorizing creation of the New York Insurance Exchange are so excited about its prospects that they sound almost ready to line up at the yet-to-be formed syndicates to place risks.

But existing U.S. insurers and reinsurers, as well as some brokers and wholesalers, are taking a "wait and see" approach to the exchange. They are unwilling to commit enthusiasm, let alone a promise of participating, to an underwriting facility that has been approved only in concept by the New York legislature.

Those who are reserving judgment and commitments say they first need to see the constitution and by-laws under which the exchange will operate. Reinsurers are particularly concerned that the syndicates on the exchange be subject to the same regulation that governs licensed reinsurers, lest the syndicates operate at a competitive advantage.

Some observers are questioning where the underwriting talent and capital will be found. Supporters of the exchange answer that there is competent underwriting talent in this country and more can be developed. But no one seems to know precisely who is going to create the syndicates and invest in them to supply the capital needed to underwrite risks.

Proponents of the exchange stress that there won't just be a shift of capacity from existing insurance markets to the new exchange, but that non-insurance industry money will be invested to create new capacity in the new market facility.

Marsh & McLennan executive vp Robert Clements said, "The investment will come from a variety of sources—existing insurance interests and investors not now in the insurance business, both private and corporate investors." Alexander & Alexander vp

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Insurance, pension cutbacks eyed for employes working past age 65

By SUSAN ALT

CHICAGO—Although many employers are still undecided about what changes to make in benefit programs following the change in mandatory retirement laws, it appears most are leaning toward cutbacks in pensions, life insurance and disability coverage for over-65 workers.

At the same time, they don't appear unduly disturbed about possible increases in the cost of benefits

employe benefit board

for workers who stay at the job beyond age 65, attributing overall cost stability in most cases to declines in the costs of some programs that will offset hikes in others.

These are some of the key findings of *Business Insurance's* survey of 90 corporate employe bene-

fit managers at companies representing over 2.7 million workers.

Nine out of every 10 members of the Employe Benefit Board said their companies had a mandatory retirement policy prior to the passage of a federal law moving the retirement age back to 70. Of those, well over 90% used 65 as the retirement age, while a small group used age 68 and another small group had 70 as the mandatory retirement age.

The change in retirement age is likely to encourage about 10% of all eligible employes to stay on the job until age 70, according to predictions by these 90 benefit managers.

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The inside story

Hall acquires London broker

Lloyd's officials emphasize that their approval of Frank B. Hall's new bid to acquire Leslie & Godwin is not a departure from the policy that Lloyd's brokers must be independent. **Page 2.**

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Lloyd's okays new Hall bid for broker

LONDON—Lloyd's officials emphasize that their approval of Frank B. Hall's new bid to acquire London brokers Leslie & Godwin is not a departure from the policy that Lloyd's brokers must be independent of outside control.

Hall, the fourth largest U.S. broker, agreed to pay \$45 million to purchase Leslie & Godwin. But Hall also told the Committee at Lloyd's that it would reorganize Leslie & Godwin so that all Lloyd's business is transacted by Leslie & Godwin International, a wholly

owned subsidiary. Hall will then arrange for 75% of Leslie International to be owned by non-insurance interests acceptable to Lloyd's.

Earlier this year, Lloyd's blocked Hall's move to acquire Leslie & Godwin, saying outside interests could not purchase more than a 20% interest in a Lloyd's broker. Lloyd's chairman Ian Findlay said outside control could weaken the self-regulatory operation of the market.

Directors of Leslie & Godwin

say they will recommend acceptance of the Hall offer. The Rothschild Investment Trust Ltd., which owns 10.5% of Leslie & Godwin, also announced it was in favor of the acquisition.

The new agreement follows discussions between Hall and the Committee at Lloyd's on how a successful takeover of Leslie & Godwin could be structured.

Hall's interest in acquiring Leslie & Godwin was more to obtain an international brokerage firm with facilities to complement Hall's organization than to acquire a Lloyd's broker, said Hall vp Peter Ripp.

However, Hall was also seeking more direct access to Lloyd's, which it will achieve through its 25% interest in Leslie & Godwin International, he added.

"We would have preferred to own 100%, but if that's all we can do, we'll take 25%," Mr. Ripp said.

Lloyd's observers expect other U.S. brokers to renew their efforts to purchase interests in Lloyd's brokers. Marsh & McLennan was making overtures to several Lloyd's brokers, including Wigham-Poland Ltd., when the Committee adopted the 20% rule.

Lloyd's officials say, however,

that every case will be considered individually.

Just before the new Hall effort was approved, Lloyd's chairman Ian Findlay told its 14,000 members that it was the self-regulatory tradition which gives Lloyd's so much flexibility in handling large risks.

"If the Lloyd's Committee is to exercise these powers of self-regulation effectively, it is necessary that the control of firms operating in the Lloyd's market should rest firmly in the hands of people who have long experience in its workings," he said.

"If control passes to groups outside the community, then the effectiveness of these powers might be eroded with serious effects on the market."

Brokers throughout the U.K. are now subject to registration under laws passed by Parliament last

year to avoid the growth of "mushroom agencies" which might induce consumers to take out insurance by improper means.

But this law is mainly meant to protect the public from harassment over domestic life or similar policies, or to ensure that the many small one or two-man broking groups dealing in household, auto or personal liability risks have adequate resources to meet their needs.

Lloyd's brokers qualify automatically for registration with the newly formed Brokers' Council because of the stringent conditions for their solvency and professional attitudes laid down by Lloyd's over many years.

Mr. Findlay confirmed that the decision to enforce the 20% rule arose from a working party which had been examining the new Parliamentary controls for brokers and that the working group would have to ensure its own internal disciplinary powers were adequate, so there might be technical changes in Lloyd's by-laws.

for your information ...

Travelers pays Hartford \$12 million in collapse of coliseum roof

HARTFORD, Conn.—The Travelers Insurance Co. has paid a more than \$12 million insurance claim to the city of Hartford to cover damages to the Hartford Civic Center caused when the coliseum's roof collapsed.

"This payment is the largest individual claim payment made in The Traveler's 114-year history. We have paid more in single disasters but in many payments to many different policyholders," said Raymond W. Stahl, senior vp.

In addition, the Travelers has been paying the city \$75,000 monthly on a \$1.5 million business interruption policy.

Mr. Stahl said the claim payment is only the first phase of settling the insurance since the city of Hartford and the insurance company plan to "recover the settlement cost plus the uninsured loss from those who may be held financially accountable for the disaster."

Most buy fiduciary insurance

NEW YORK—The vast majority of 72 corporations surveyed by Johnson & Higgins have purchased fiduciary liability insurance to protect directors against suits as a result of the pension reform law.

J&H said 61 firms (84%) of a cross-section of firms purchased the insurance, one firm is considering buying fiduciary insurance and 10 have not purchased fiduciary coverage. In addition eight firms, all with more than 1,000 employees, have agreed to indemnify their money managers in the event of suits.

The survey also disclosed that board of directors have spent more time on pension laws since the passage of ERISA. The most common concern at both large and small companies is benefits. Large companies are next most often concerned by rates of return and ERISA compliance while ERISA compliance is more important at smaller companies.

Federal insurance agency moved

WASHINGTON—The Carter Administration has proposed merging the Federal Insurance Administration with five other federal agencies into a new office to be called the Federal Emergency Management Agency.

The new agency will administer the flood insurance program and the crime insurance program which the FIA now has jurisdiction over.

The merger is not expected to result in any personnel changes among the FIA staffers, said administrator Gloria Jimenez.

OSHA lightens paperwork burden

WASHINGTON—The Occupational Safety and Health Administration wants to make paperwork burdens a little lighter. OSHA has agreed to cut its annual survey sampling from 110,000 small businesses to about 65,000. The survey requires filing of all accident and illness records with the federal safety agency.

Firms cut from the OSHA survey will be predominately small offices, such as real estate and insurance agencies.

errors & omissions

- A story June 26 about the National Assn. of Insurance Commissioners annual meeting gave an incorrect date when insurance companies will have to begin to report product liability as a separate line on the annual statement. Product liability will be a separate line on the 1980 statement that is filed in 1981. However, the reporting change is tentative and could be overturned at the NAIC annual meeting in December.

- The city of San Francisco may

shelve plans to hire its first risk manager, although no final decision has been made, as editing in a June 26 story on Proposition 13 omitted.

- Due to a typographical error, the number of attendees at the Nahm, Turner, Vaughan & Landrum Inc. insurance seminar was understated in the June 26 issue. One hundred seventy-five insurance buyers (not 125) gathered for the day-long seminar sponsored by the Louisville broker.

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Vol. 12, No. 14—Business Insurance is published every other Monday at 740 Rush St., Chicago, Ill. 60611. Controlled circulation postage paid at Brookfield, Wis., Chicago, Ill. and New York, N.Y. Copyright 1978 by Crain Communication Inc.

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the benefit beat

UAW wins major retirement improvements at Rockwell

ROCKWELL UAW EMPLOYEES won major improvements in retirement benefits under a new contract based on the contract won earlier this year after a three-month strike at McDonnell Douglas Corp. Two new early retirement plans were added at Rockwell. Employees age 55 or older with 30 years of service now may retire with a monthly benefit of \$600 payable until age 62. Then Social Security benefits begin and the company paid benefit drops to the basic pension of \$10 per month per year of service. That basic benefit will also be increased under the contract to \$12 per month per year of service.

In addition, an 85-point plan was instituted which allows a worker whose age and years of service equal 85 to retire July 1 and receive benefits according to an actuarially determined table. For example, a 56-year-old worker with 29 years of service would receive \$185.60 a month under the basic pension plan plus a supplement until age 62 of \$160.08 under the 85-point plan. The 85-point plan was introduced at Rockwell; it was not bargained for at McDonnell Douglas. The benefits under an existing early retirement plan are also improved. A retiring worker age 60 to 62 with 20 years of service will receive a supplemental monthly payment of \$325 a month until age 62 instead of \$250. Benefits paid to already retired workers will increase 50 cents per month per year of service on Jan. 1, 1980 and another 50 cents on Jan. 1, 1981.

Major medical insurance benefits covering 12,000 workers are increased to a lifetime maximum of \$20,000 from \$15,000 and the annual benefit is increased to \$15,000 from \$7,500. For retirees, the lifetime maximum after-retirement benefit doubles to \$20,000. Maximum weekly accident and sickness benefits are increased to \$170 from \$155. Noncontributory life and AD&D insurance is increased to \$8,500 from \$7,500.

NATIONAL HEALTH insurance won't be put into effect for at least several more years, President Carter now says. Mr. Carter blamed the high inflation rate and constraints on the federal budget for the delay in his on-again, off-again plan to propose a national health insurance scheme. But the President also said that he would direct HEW secretary Joseph Califano to continue to work with members of Congress, governors and medical and hospital groups to work out the details and timetable.

TRANSIT WORKERS in New York City will have a 1977 cost of living wage increase included in pension benefit calculations effective October 1979, the city transit authority has agreed. The move would raise the wage base for pension calculations by 40 cents per hour. Inclusion of the cost of living increase in pension calculations was not part of a contract settlement reached this spring between the transit authority and transit workers unions. However, the additional benefit was agreed to after other city employees received them in their contract talks.

TRESOPs, which enable employers to purchase company stock with funds made available by a 1% tax credit on capital expenditures, are growing rapidly. According to a survey by Hewitt Associates, 152 of the 530 Fortune 1,000 firms (29%) now have or are instituting the employe stock ownership plan, up sharply from the 9.5% reporting a

TRESOP in a similar survey last year. As expected, capital intensive firms favored the TRESOP most. Only 18 financial or non-industrial firms reported TRESOPs compared to 103 industrial companies and 21 utilities. Benefit trends for TRESOPs include more restrictive eligibility requirements to increase the benefit for average participants. The majority of companies expect benefits to be less than \$200 per employe, although nearly 10% of the firms said their benefits would exceed \$500 per employe.

MEANWHILE, LEGISLATION introduced by Sen. Russell Long (D-La.) would make TRESOPs more

attractive to labor intensive companies as well as capital-oriented companies. Under the proposal (S. 3241), companies would receive a tax credit for contributions of 2% of qualified capital expenditures or 1% of annual covered payroll. The bill also makes other changes, such as allowing a rollover of TRESOP benefits into an individual retirement account and allowing a TRESOP participant to also set up an IRA, to make the benefit more attractive.

DETROIT will be served by a new, expanded HMO next year organized under the auspices of the Big Three automakers, the UAW, local hospitals and Michigan's

largest HMO, Metro Health Plan. As a result of a feasibility study conducted by Kaiser-Permanente Advisory Services and funded by Ford Motor Co., it was decided to expand Metro Health Plan, formed by the UAW in 1960, into a new HMO with broader community support. The new Health Alliance Plan of Michigan will use the facilities of Henry Ford Hospital as well as Metro Health Plan and Metropolitan Hospitals. It is expected to have an enrollment of 125,000 compared with Metro Health Plan's current enrollment of 75,000. The employe benefit managers of the Big Three automakers sit on the board of directors of the new HMO along with representa-

tives of the United Auto Workers, Henry Ford Hospital, Metropolitan Hospitals, a bank, the teachers' federation and a community development association.

SOCIAL SECURITY benefits are increasing faster than the inflation rate, report consultants Towers, Perrin, Forster & Crosby. But only about a third of major corporations surveyed by TPF&C have granted ad hoc pension increases to help retirees cope with inflation. Over the past decade benefits for a single male retiring at age 65 increased to \$341.10 a month from \$156 a month, an increase of 119%. The consumer price index over the

Continued on following page

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the benefit beat

Continued from preceding page same period rose 87%. Although Social Security benefits are automatically increased as the cost of living rises, automatic indexing is rare in the private system because of its cost. TPF&C found that 25 of 72 major corporations granted ad hoc pension increases last year. Twenty-four firms granted increases in 1976 or 1975 and 19 granted hikes in 1974. Three firms had not provided any post-retirement benefit increases since 1974.

BLUE CROSS and Blue Shield say they will pay hospitals to close excess beds by paying construction debts for facilities now not being used. Blue Cross president Walter J. McNerney said the move is part of the Blue Cross/Blue Shield ef-

fort to control health care costs.

CALIFORNIA is going to file a lawsuit against the Internal Revenue Service challenging the right of the IRS to require the state to file reports under the pension reform law. California does not want to fill out form 5500 required by ERISA, said an official in the state attorney general's office, although the form for states is simpler than the form corporations are required to supply. "We don't think a state should have to fill out the 5500," said the official, since the law is an infringement on state's rights.

PBGC IS PROPOSING a series of options to strengthen shaky multi-employer pension plans. PBGC, in a report to Congress suggests that plans experiencing financial prob-

lems be permitted to increase employee contributions and limit benefit increases. In addition, PBGC would provide loans to plans that face insolvency even after being reorganized. For single-employer plans, PBGC has proposed that it should only have to guarantee benefits to participants when a plan sponsor goes bankrupt, rather than when the plan is terminated as is the case now. By changing the condition on which the federal agency will provide benefits from one of termination to one of insolvency, PBGC believes it will reduce the incentive to terminate a plan.

Benefit Beat keeps insurance managers, employe benefit managers and others informed of changes in programs around the nation. We'd like to know if you've made any changes or know of any important developments. Write Greg David, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611.

For product liability reserves

Interagency dispute perils new tax break

By JERRY GEISEL

WASHINGTON—An interagency row may doom a Commerce Department proposal to permit business to take tax deductions for funds set aside in a special reserve to pay product liability claims.

The Treasury Department has attacked the Commerce recommendation that corporations be allowed to deduct \$100,000 annually to fund a product liability self-insurance reserve as an "inefficient subsidy."

One of the arguments Treasury used in opposing the concept is

that not only would a deduction be permitted when the reserve is established, but that the interest a business would earn on the reserve would not be subject to taxes.

The attitude of Treasury could be crucial in shaping the Carter Administration's position on the proposal. A high-ranking government official said that on tax-related issues, the Administration is far more likely to side with Treasury than Commerce or any other federal agency. "The tax code is Treasury's turf," the official observed.

Still, the Carter administration remains undecided on the tax deduction proposal. The Office of Management and Budget continues to put off a decision endorsing or rejecting the concept.

Even if the Administration does side with Treasury, Congress still could push ahead and pass a product liability tax deduction bill. "The Administration's position is only one factor affecting Congress's decision whether to approve such a proposal," said Rep. John LaFalce (D-N.Y.).

The House Ways and Means Committee is frequently opposed to tax legislation presented by the Administration, added Marc Rosenberg, special projects director for Rep. Charles Whalen (R-Ohio).

Mr. Rosenberg observed that Treasury's position was not a startling revelation. "After all they have been opposed to reserve funding for the last 25 years," he said.

While Treasury came out against tax deductions for product liability, it did offer a possible compromise. The agency has suggested that corporations be allowed to carryback product liability losses for up to 10 years, an increase from the current three-year period.

One of the shortcomings to increasing the carryback period is that it does not assure consumers that some money would be set aside to pay for a product liability claim, according to Victor Schwartz, chairman of the task force on product liability and accident compensation.

C&B forms new unit

NASHVILLE—Corroon & Black Corp. has integrated its analytical services, captive insurance company management and captive reinsurance services in a new division, Corroon & Black—Advanced Risk Management Services (ARMS), based here.

Five existing operations were aligned under the division: research and development, risk information services, the two captive management companies, one based in Bermuda and the other in Nashville, and a newly formed facultative reinsurance facility, Reinsurance Group Inc. of Boston. An operation specializing in self-insurance services may be added.

Research and development chairman J. Bransford Wallace was named director of the new division by Corroon & Black chairman Robert F. Corroon. "The broad spectrum of services offered by the new Advanced Risk Management Services Division, backed by five self-supporting components, has enabled us to provide our clients with the most efficient cost solution to business problems," Mr. Corroon said.

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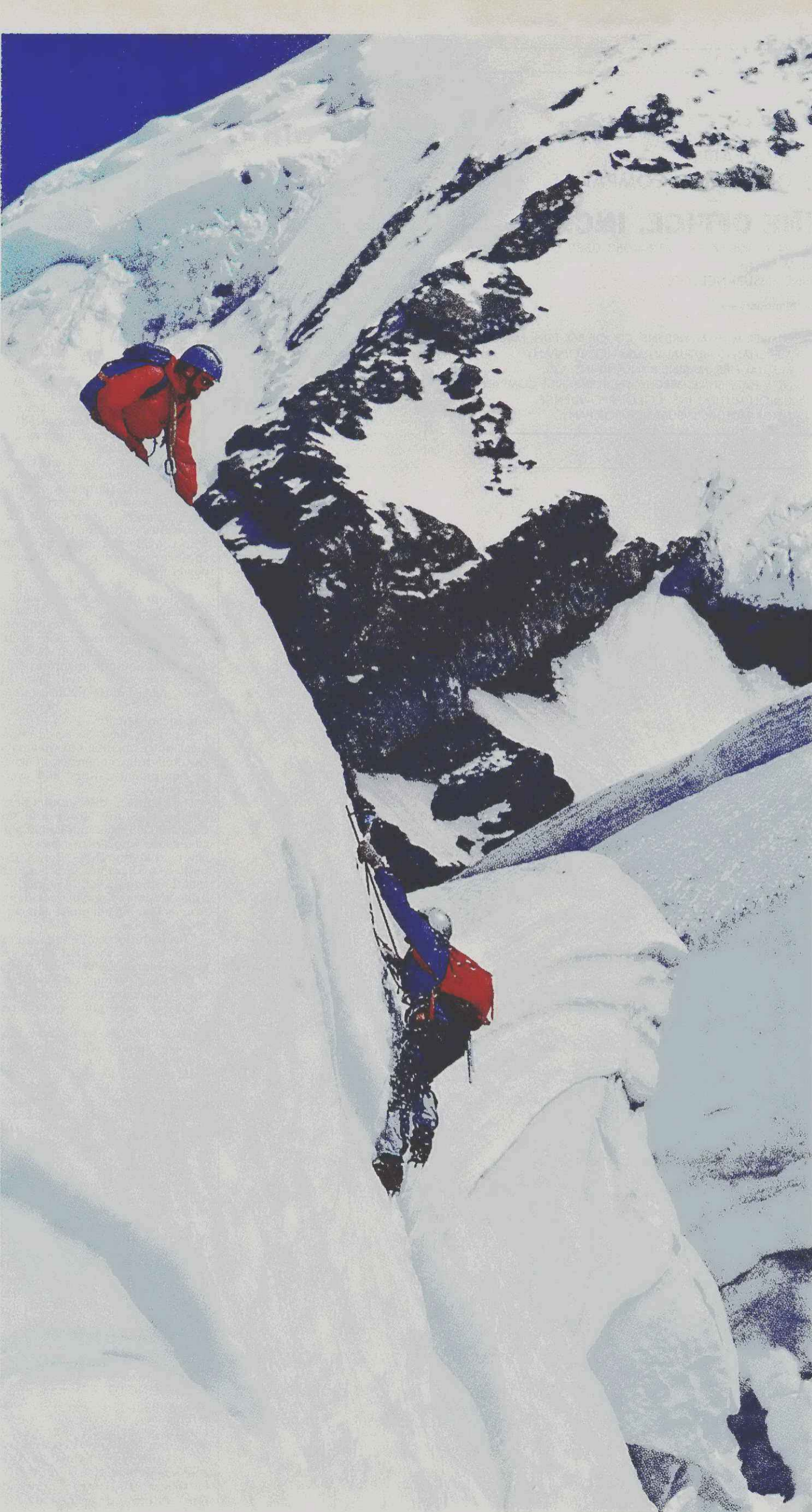
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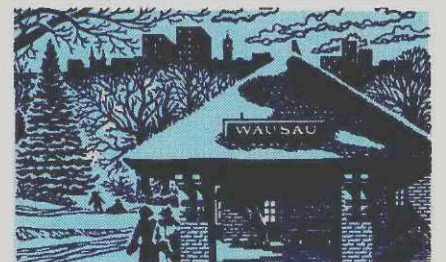


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Nuclear plant liability limit

Court ruling favorable not crucial, experts say

By REBECCA A. FANNIN

WASHINGTON—The U.S. Supreme Court's decision to uphold the constitutionality of a law limiting the liability of nuclear power plants is viewed by the nuclear industry as favorable but not essential to the stability of insurance markets for nuclear risks.

The nuclear energy insurance pool "would have continued to provide the same amount of coverage and continued to try to increase the limits of coverage even if there were no limit on liability," said Lawrence G. Cummings, vp of

Nuclear Insurance Consultants, a service of Marsh & McLennan Inc.

Neither would unlimited liability have prevented the building of more nuclear power plants, Mr. Cummings said.

At issue in the Supreme Court case was whether a lower federal court decision that the Price-Anderson Act, which limits liability to \$560 million for any single nuclear risk, was unconstitutional.

The good safety record of the approximately 65 nuclear plants in the U.S. apparently has assured the nuclear industry that limited liability is not essential.

The chance of a nuclear accident occurring is "extremely remote," said Charles R. Bardes, vp of liability underwriting at American Nuclear Insurers, composed of U.S. companies and foreign reinsurers who provide the total private insurance coverage for nuclear power plants.

A claim under a nuclear liability insurance policy has never been paid in the 20 years of writing nuclear risk and the nuclear insurance pool has refunded 68.7% of original premiums. Insurers of nuclear risk have noted that the safety record of the nuclear industry is probably unmatched in American industry.

Accidents have occurred at nuclear power plants, but they have resulted from construction work or equipment failure and were non-nuclear.

The plaintiffs, the Carolina Environmental Study Group and the Catawba Central Labor Union plus 40 persons who live nearby two reactors that the Duke Power Co. built near Charlotte, N.C., argued that the imposed liability limits deprive victims of nuclear accidents from collecting adequate compensation for loss.

The plaintiffs contended that a single nuclear accident could result in damages of \$14 billion.

Recovery from an accident would come from both the nuclear insurance pool and the government.

American Nuclear Insurers provides maximum liability coverage of \$140 million with an additional \$335 million coverage in a retrospective rated plan. That total coverage of \$475 million of coverage is topped by the government, which fills the gap between the private insurance industry's capacity and the \$560 million limit.

The pools plan to increase the limits of liability coverage available to \$160 million by the end of this year and the amount of property coverage from \$220 million to \$275 million.

Capacity has increased from a 1957 base of \$60 million in property and \$60 million in liability, when the pool began writing nuclear risk.

New pension guide available

WASHINGTON—A new directory containing detailed financial information on over 400,000 pension funds in the U.S. is now available from Insurance Research Inc.

The directory, divided into 84 separate guides, gives information on total assets, contributions, administrators and participants.

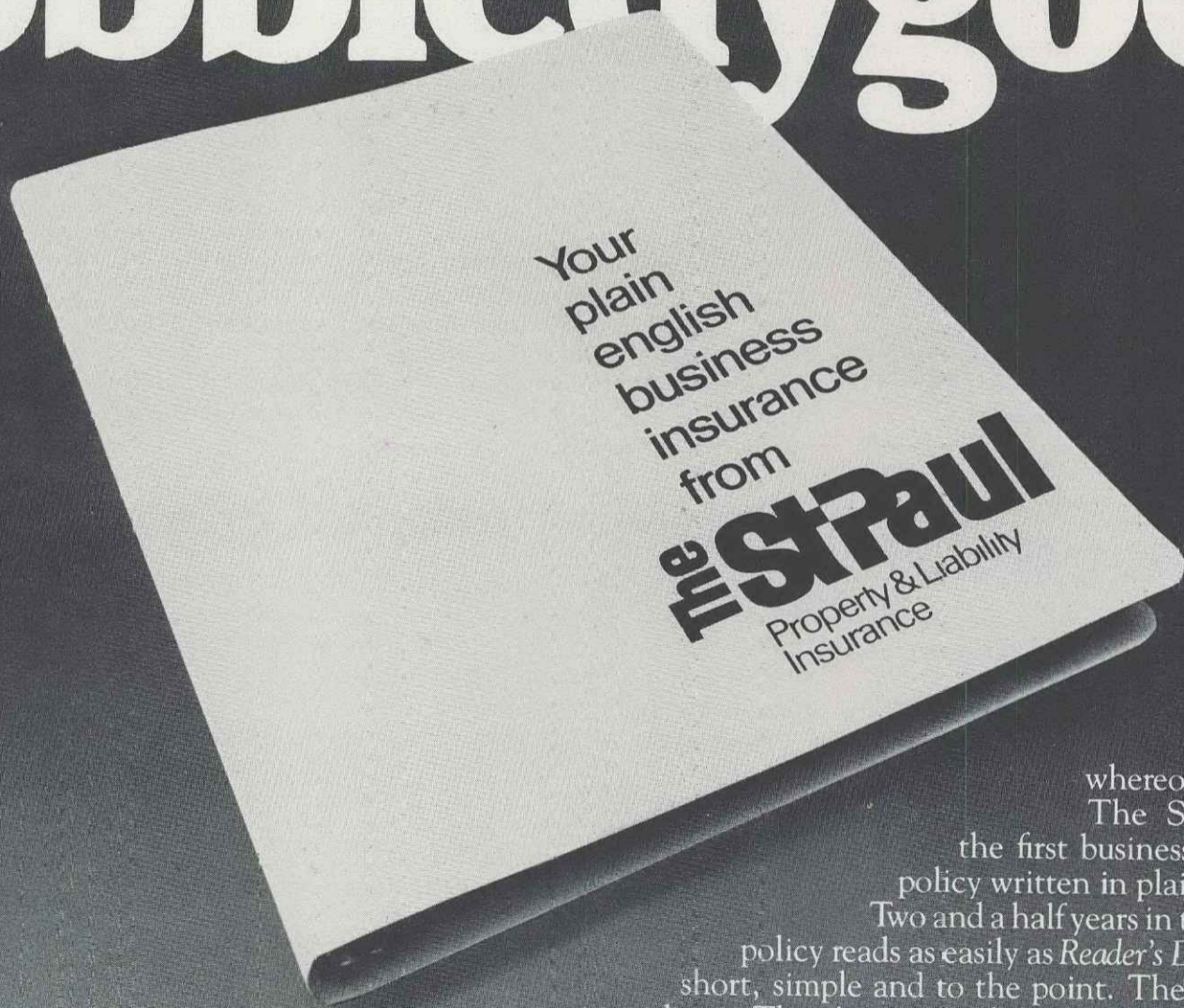
The price per volume ranges from \$95 to \$300. Insurance Research Inc. is located at 533 National Press Building, Washington, D.C. 20045.

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editorial opinions

Awards that disappear

WHERE HAVE all the dollars gone...?

This song may be familiar to corporate risk managers facing lawsuits over pollution, directors and officers liability, employment discrimination, product liability injuries and an endless variety of events that spark litigation these days.

But it's also a familiar tune to plaintiffs who too frequently sing the woes of having won a case, only to find the dollars going everywhere except into the plaintiff's bank account.

Kemper Insurance Cos. documented this problem recently within the pages of its novel "newspaper" format used for the 1977 annual report. As Kemper noted, when the widow wins, she often loses. Here's the case Kemper presented: Kemper's policyholder paid part of a \$170,000 death claim settlement after the driver of a large earth mover was killed when the machine went over a cliff. Kemper's insured had furnished one of the multiple sets of brakes which were allegedly defective and contributed to the settlement along with other suppliers. The funds were eventually distributed this way:

- \$56,660.60 went to the plaintiff's attorney as the one-third contingency fee.
- \$43,381.15 went to the plaintiff's attorney to cover costs in preparing the case and for trial costs.
- \$2,736 was for court costs.
- \$5,675.83 went to the manufacturer of the earth moving machine to cover defense costs.
- \$20,000 was the compromise payment of the workers compensation lien.
- \$40,000 was used to establish four trust accounts of \$10,000 each for the minor children.
- \$1,540.36 went to the widow.

Total defense costs, Kemper noted, were about \$200,000, of which Kemper's own attorney's fees were over \$26,000.

It cost \$370,000 to settle a \$1,540.36 payment to the widow.

Risk managers

BECAUSE THERE'S been so much controversy over the salaries of risk and insurance managers and their positions within the corporate infrastructure, we were interested to observe the results of a survey in the hospital field and the comparability of a hospital position to the corporate risk management position.

Hospital development directors in the Midwest earn between \$13,000 and \$60,000, according to the National Assn. of Hospital Development. This is roughly the same salary yardstick as that for risk managers as determined by the Sibson survey sponsored by RIMS.

Hospital development directors surveyed were found to have a median salary of \$25,000 and an average salary of \$27,000. These figures are both pretty close to

Sibson's findings in the risk management field.

Hospital development directors, we found out, usually report to the hospital's chief executive officer. Sometimes the hospital CEO has the title of president and is second in command under the chief administrator; sometimes it's the chief administrator who functions as CEO. These development directors have broad responsibilities that include fund raising, coordination of expansion planning, working with architects and sometimes other financial management tasks.

That's not a bad position to be comparing the risk manager or insurance manager to. And we think it casts a pretty favorable light on compensation in the risk management field.

Insurance regulation

THE FEDERAL TRADE COMMISSION has a task force studying the insurance industry with an eye to its regulation by the states and the industry's exemption from federal antitrust laws.

The upshot of the study is likely to be proposals calling for less state regulation of insurance rates, possible repeal or amendments to the McCarran-Ferguson Act and an outline for government intervention in the industry in the form of antitrust enforcement.

The object of this exercise is to assure that consumers get the best deal over the long run by assuring that the insurance industry will be as competitive as possible. A review of prior approval of insurance rates apparently convinced the FTC that this form of rate regulation isn't beneficial for the consumer.

We've never been particularly enamored with insurance regulation in many states, commissioners being political animals and all. But not being any great fans of greater federal regulation to correct (or exacerbate) the already existing problem, we would suggest that the insurance industry is pretty competitive on its own and that all regulation should be pared to the absolute minimum. The FTC need only look at the experience of the industry through the rate-cutting cycles of the past 10 years to find evidence of such healthy and robust competition that the insurers nearly kill themselves and each other in battle.

Detering internal crime

A LOUIS HARRIS POLL recently found that Americans strongly object to having companies snoop on their employes. Seventy-five percent of the people surveyed didn't think companies should use closed circuit televisions to monitor productivity.

But people widely support the use of internal electronic surveillance systems by corporations to prevent theft and pilferage, as well as the use of other techniques to prevent these crimes. Nearly three-fourths of the persons polled think anti-theft surveillance is okay, while 75% approved of using investigators disguised as regular employes to prevent pilferage.

None of these findings are particularly surprising. In fact, it's heartening that people seem to see the value of having deterrents to internal crimes.

letters

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

Lying

To the editor: Re your Speaking Out column by Peter Downes on filling our survey questionnaires truthfully. Lying is a form of cheating! One wonders about the motivation of people who justify lying and those who publish their views.

Gerald R. Cioci

Treasurer, Butler International Inc., Paramus, N.J.

Consultants' split

To the editor: The section of risk management services May 29 appeared to be very complete and informative. The article "Buyers' misfortunes are consultants' fortunes" by Kathryn J. McIntyre concentrated on firms which are real consultants. This is true even though I have seen a silly fragmentation of consultants into two groups with basically the same mission. As founder and first president (1964-1966) of the senior group, I can only hope that as time goes on, both will come to realize the necessity for the public to be presented with one body of independent consultants who have no conflicts of financial interest with the buyer of insurance.

As for solicitation of client retainers, William Peet Co. continues to feel that in giving advice about coverage improvement, we should continue our 20-year-old practice of letting our reputation speak for itself. However, we feel that for the average corporate buyer, insurance in 1978 like many other commodities is seriously over-inflated.

We have created a new corporation, Peet & Isenberg, which will actively solicit clients who are interested in reversing this inflationary trend and getting insurance costs down. Buyers' misfortunes need not be consultants' fortunes: Both should benefit.

William Peet

President, William Peet Co., Peet & Isenberg, St. Paul (Member of the Insurance Consultants' Society)

Taxing perks

To the editor: Your editorial comment "Don't tax those perks" (June 12) expresses an opinion that is the foundation of our tax problems. Untaxed benefits of the few are the very reason for the tax re-

Continued on page 31

business insurance

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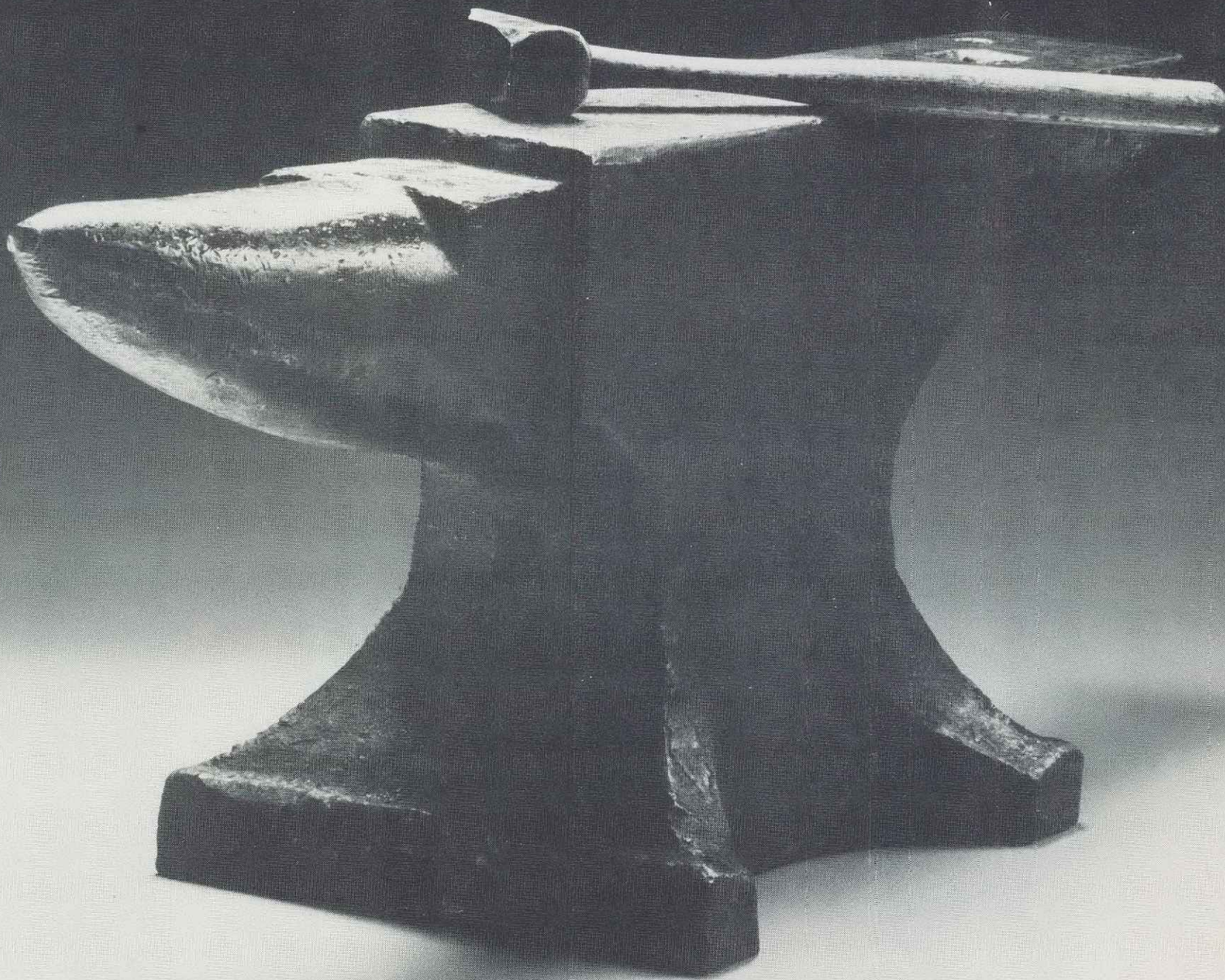
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Published biweekly at 740 Rush St., Chicago, Ill. 60611 (312-649-5200). Offices at 708 Third Ave., New York, N.Y. 10017 (212-986-5050); Suite 1253 National Press Building, Washington, D.C. 20004 (202-638-5300); 6404 Wilshire Blvd., Los Angeles, Ca. 90048 (213-651-3710). 75 cents a copy. \$15 a year in U.S. Foreign \$5 a year additional. WILLIAM STRONG, vp-circulation. PAMELA JANOUSEK, circulation manager; ROGER DiGREGORIO, fulfillment director. Four weeks' notice required for change of address. Address all subscription correspondence to Circulation Department, Business Insurance, 740 Rush St., Chicago, Ill. 60611. Telex number 25-4248; Cable address: CRAINCOM. Microfilm copies are available from University Microfilms, 300 Zeeb Rd., Ann Arbor, Mich. 48103. Microfiche copies are available from Bell & Howell, Micro Photo Division, Old Mansfield Rd., Wooster, Ohio 44691.



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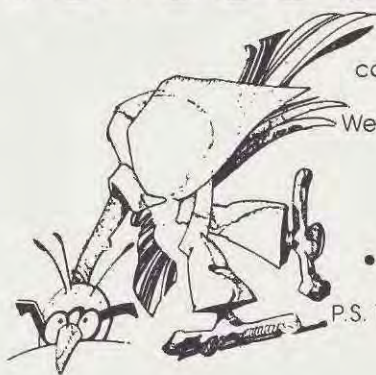
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Illinois, New Hampshire approve tort reforms

CHICAGO—The Illinois legislature passed a product liability reform bill late last month, the first large industrial state to approve tort reform.

At the same time, New Hampshire Gov. Meldrim Thompson signed a tort reform bill (S.B. 28) that requires product liability suits to be filed within 12 years from the time the manufacturer of the final product parted with its possession. Suits also must be filed within three years of the time of injury.

The Illinois legislation (H.B. 1333 and S.B. 1847) requires suits to be filed no later than 12 years from the date of manufacture or 10 years from the date of sale to the initial

user, whichever comes first.

Passage of the bill, however, was not welcomed by all state business groups. Wholesalers and distributors are concerned about a provision which would begin a new statute of limitations from the time a product was altered or modified.

The bill was passed by overwhelming majorities of each legislative branch but approval came only after weeks of hard negotiating between state business groups and associations representing trial attorneys.

Under the compromise, the trial lawyers agreed to support a statute of limitations if business groups stopped pushing for more extensive reforms, such as a state of the art defense.

"We're disappointed we didn't get more, considering the desperate need for tort reform," said Illinois Manufacturers Assn. president Orville Bergren. "On the other hand, considering the power and determination of the trial lawyers, we're pleased to get this first step."

Gov. James Thompson has given no indication whether he will sign the bill and business groups are concerned that a veto is possible.

The New Hampshire bill allows manufacturers and sellers to defend a suit by arguing a product was altered or modified as well as a defense that a product met the state of the art when manufactured.

During the regular legislative session, the bill was overwhelmingly approved by the house, but died 13-11 in the senate—an almost exact replay of the situation last year when the proposal failed to receive senate approval by one vote.

But this year after their initial setback, businessmen personally convinced legislators of the importance of the product liability bill, explained Dick Flynn, manager, legislative affairs for the Business and Industry Assn. of New Hampshire.

"This was a case where the business community won because they actively fought for what they believed in," Mr. Flynn said.

Since the product liability reform movement took off in 1977, 13 states have enacted major legislation. Last year, Utah, Colorado and Oregon passed product bills.

So far this year, Arizona, Georgia, Indiana, Kentucky, Minnesota, Nebraska, New Hampshire, Rhode Island, South Dakota and Tennessee have enacted product liability reform legislation. A bill passed by the Florida legislature in June still needs the signature of the governor before it becomes law.

New consultant to aid cities

HAMBURG, N.Y.—A new risk management consulting firm has been formed here to specialize in aiding municipalities in Upstate New York control insurance costs by applying risk management techniques.

The firm has been formed by Ernest A. Holfoth, who was previously a consultant with Alrich & Cox.

S.F. firms merge

The San Francisco insurance brokerage firm of Dempster & Cruden has merged with Henry Sheehy Insurance Services Inc., a firm specializing in insurance for the construction industry. The new firm will be called Cruden, Clifford & Sheehy Inc.



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THE INSURANCE BUYER'S ERISA QUIZ

- Does your policy limit coverage to persons defined as fiduciaries?
- Does your policy limit coverage to wrongful acts of insureds only?
- Does your policy provide defense costs within the limits of liability?
- Does your policy limit loss to damages by definition, and exclude non-pecuniary claims?
- Does your policy by definition exclude employee benefits liability losses?
- Does your policy include outside persons as insured fiduciaries?
- Does your policy contain a limited retroactive acts exclusion?
- Has your policy been purchased without the advice of competent legal counsel who has rendered an opinion in writing as to which contract he felt offered the broadest coverage?

If the answer to *any* of the above questions is "Yes," the chances are you have probably purchased the wrong policy. And the real problem is that you will probably never know until you have an uninsured loss.

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

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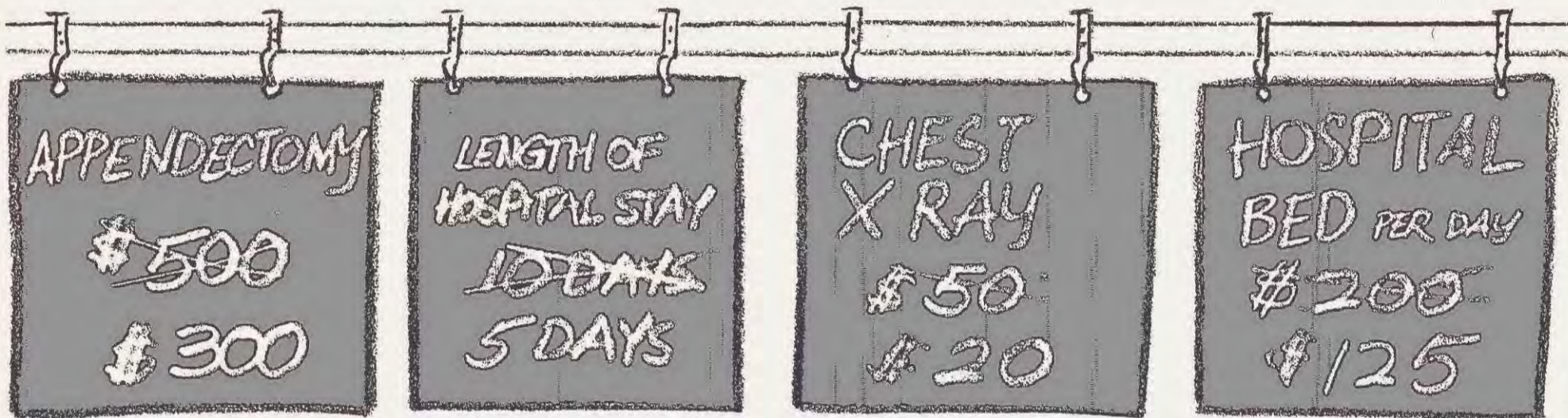
cers Policy may serve the best interests of the insurance carrier and the broker, but it may *not* serve *your* best interest because it may not give your people the complete protection as provided by the P.I.A. form. The responsibilities of persons covered under each policy are quite different; in fact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

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Something new of rising health care



Health care costs in this country are rising at an unacceptable rate. And Metropolitan, as one of the leading group health care insurance providers, realizes that something has to be done.

So, we've put together a medical cost containment program. It has several facets. And its basic strength is that we're involving everybody that affects, and is affected by, the rising cost of health care: users, employers, providers, insurers and regulators.

We can't sum up the whole program in one statement, but here are some of the highlights:

Designing Flexible Group Medical Plans.

We're providing plans that give our group customers more options in health care delivery, eliminating the unnecessary, and finding alternatives to the costly.

For example, we're recommending plans featuring a range of deductibles to shift some responsibility of payment to the users, giving them a greater sensitivity to the costs of medical care.

We're also advocating new types

of coverage to encourage the use of effective and less costly alternatives to lengthy and costly hospital stays. Like extended care facilities, home health care, alcoholic and drug rehabilitation facilities, ambulatory surgical facilities, and on an outpatient basis, pre-admission and post release testing.

Metropolitan, in cooperation with some of our group customers, is also evaluating the long-term effects of a Voluntary Second Surgical Opinion feature that may help discourage unnecessary surgery.

What it comes down to is finding the best way to design Group Medical plans. A way that's more effective and less expensive.

Group Claim Consultants. Our people in the field who make it work.

Metropolitan Claim Consultants are key to implementation of most of our Cost Containment Programs.

Metropolitan Claim Consultants act as our group customer's interface with all health care participants (hospitals, doctors, patients, etc.). They

analyze programs, recommend changes when necessary and work for mutual cooperation among providers, users and insurers.

They can also initiate various money saving programs for policyholders. Such as an Absence Control Program that can eliminate or cut down abuse of sick time and disability.

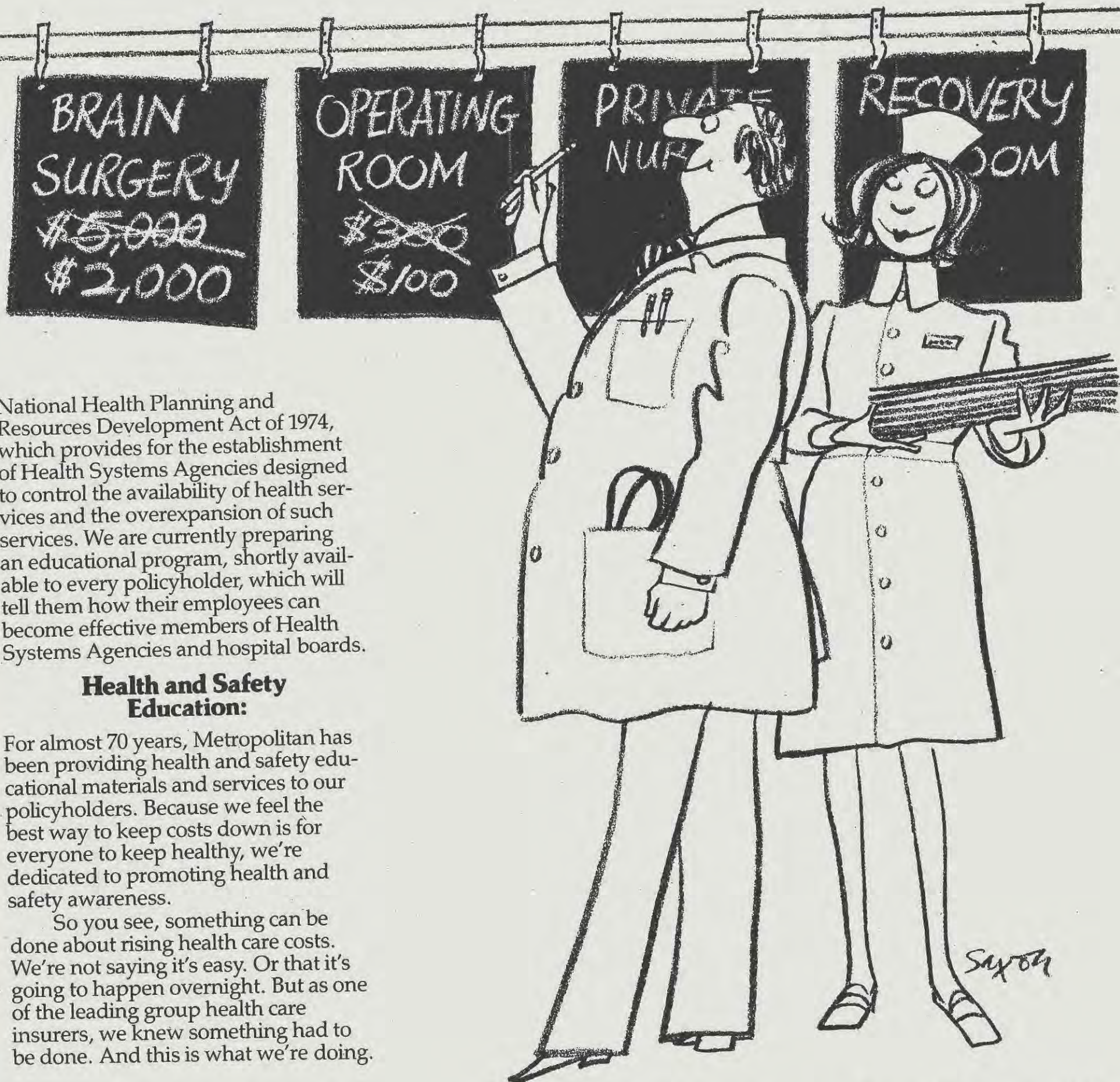
In the administration of health care benefits for millions of employees and their dependents, we have developed a broad data base. Analyzing claim data, claim consultants investigate unusual utilization patterns and resolve unexplained or abnormal charges. They make sure Group plans are functioning properly by monitoring results, and they are responsible for regular evaluations to our policyholders.

Promoting and Supporting Legislation:

Metropolitan is also actively involved in legislation aimed at containing medical care costs. And we're showing our customers how they can also make their concerns felt.

For example, we support the

about the problem costs. A solution.



National Health Planning and Resources Development Act of 1974, which provides for the establishment of Health Systems Agencies designed to control the availability of health services and the overexpansion of such services. We are currently preparing an educational program, shortly available to every policyholder, which will tell them how their employees can become effective members of Health Systems Agencies and hospital boards.

Health and Safety Education:

For almost 70 years, Metropolitan has been providing health and safety educational materials and services to our policyholders. Because we feel the best way to keep costs down is for everyone to keep healthy, we're dedicated to promoting health and safety awareness.

So you see, something can be done about rising health care costs. We're not saying it's easy. Or that it's going to happen overnight. But as one of the leading group health care insurers, we knew something had to be done. And this is what we're doing.

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For reinsurance business

Pinehurst unit to sell shares to large captives

By SUSAN ALT

LOS ANGELES—Pinehurst Corp. plans to establish a Bermuda operation that will sell shares to captive insurers, offering them the opportunity to share in third-party reinsurance business on a favorable cost basis, *Business Insurance* learned.

Joseph A. Destein, who recently resigned from his position as president of the Anistics division of Alexander & Alexander, has formed a new company named Risk Sciences Group Inc. here, and is setting up this operation for

Pinehurst, an insurance holding company. He is acting as consultant in the preparation of a prospectus for a private offering of shares, expected to be finalized within the next several months. He is also helping to develop a long term operating plan for the new holding company, he confirmed.

Pinehurst owns three insurance companies—Presidio in the U.S., Transworld in Bermuda and North Atlantic Insurance Co. in London. Transworld Insurance Co. in Bermuda will be used both as a holding company for the other two firms, and as the operating entity. Transworld will then sell up to 76% of its shares to approximately eight outside insurance companies, with no one investor allowed to hold more than 10% of the stock. These investors will consist mainly of captive insurers whose parent companies want to involve the captives in more third-party business, according to Pinehurst's plans.

It's not known exactly what the price of the shares will be, although indications are that a company of this kind will need capital of about \$15 million to \$20 million. Assuming 10 equal parts, this would require investment of about \$2 million per purchaser.

Investment commitments are expected to be completed by January 1979, said Jim Brooks, executive vp of Pinehurst's risk management division.

Because the holding company will then become a non-controlled foreign corporation under Internal Revenue Service rules, income generated for Transworld and for the captive-participants will be in a favorable tax position.

Mr. Destein envisions that the Pinehurst plan will offer advantages for captives because they will virtually own the production and underwriting unit through which they will obtain retrocessions, meaning that they can obtain reinsurance business without as much commission or override cost. It is possible that the captives investing in an operation like this could save as much as 10% to 15% of reinsurance premiums generated because of the lower acquisition costs, said Mr. Destein.

Pinehurst will allow the participating captives to use their shares in Transworld as security for business retroceded by Transworld Insurance to the captives. One of the problems that captive insurance companies apparently have had getting into third-party business is that they've been required to put up letters of credit and trust funds to provide financial guarantees when they've wanted to participate in other reinsurance pooling arrangements.

The Pinehurst program is designed to allow captives to obtain immediate control of reinsurance premiums that would otherwise be tied up in trust funds and to allow them to invest any way they want, said Mr. Destein.

Transworld will charge a management fee for underwriting services, equivalent to probably about 5% of premium, on a cost-plus basis coupled with some profit sharing, Mr. Destein noted.

He estimates there are about 50 Bermuda-based captive insurance companies large enough to participate in this plan, each with a minimum size of about \$3 million in capital and surplus.

This plan is similar to one that American International Group established in late 1977. ■

“Piper has been able to hold its products liability insurance costs steady for the past three years despite a nationwide rise in such costs and the more than doubling of Piper's sales.”



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Few losses navigate low rates for most corporate airplanes

By ELLIS SIMON

NEW YORK—Corporate aircraft owners pay less for \$1 million in liability coverage than many young male drivers pay for a \$50,000 automobile liability policy.

Loss experience with jets and other large craft flown by America's biggest firms has been excellent and the scramble to write this business has driven rates below the point of profitability for many insurers. Despite this, there are no signs of the market reversing course and using rate hikes to restore underwriting profits.

Liability rates for corporate aircraft cover range from \$250 to \$350 per \$1 million, said Jay Lavenson, executive vp at Bayly, Martin & Fay. By comparison, a single male driver under age 25 would pay over \$500 for \$50,000 liability coverage in the New York metropolitan area.

Hull coverage normally runs between 60 cents and 70 cents per \$100, noted A.J. Bethel, manager of Marsh & McLennan's general aviation division. But a rate of \$1.25 per \$100 would be needed for the business to be profitable, he added.

Despite the absence of profits in covering corporate aircraft, insurers are not ready to throw in the hat. "Our position is one in which results are not as good as we'd like, but we're not into a disaster state," said INA assistant vp Raymond L. Richards. "We're not prepared to hit the panic button."

Insuring corporate aircraft has "snob appeal" since it involves insurers with the aircraft fleets of prestigious firms such as General Motors and Proctor & Gamble, said Thomas Dougherty, senior vp at Dallas-based Aviation Office of America. "Everybody likes to say 'we insure them.'"

While the safety record of corporate aircraft has been superb, claims that occur usually result from engine damage due to ingestion of foreign objects and "hangar cancer," small dents caused by contact with other planes in crowded hangars, said Howard T. Weber, director of insurance at 3M Co. in St. Paul.

Mr. Weber's company operates one of the most expensive corporate aircraft fleets in the country, according to Business Week.

Commercial airlines self-assume

such risks because of their frequency and relatively low cost, but the engine represents the biggest part of the cost of an executive jet, he said.

Even with low rates, not all companies purchase insurance for their aircraft. Dow Chemical self-insurers the hull risk because of a corporate philosophy of retaining as much risk as it can afford, said W.C. Zacharias, director of corporate insurance.

Not all corporate aircraft lines are as competitive as the executive jets and large twin-engine turboprops normally used by large firms. Light, twin-engine aircraft have had "horrible" experience, particularly on the West Coast where they often crash into mountains, said Joe Mankowich, executive vp of Frank B. Hall's Los Angeles-based aviation division.

High losses are beginning to force rates up on this class of business, he noted.

Careful selection of risks is a must if insurers are to write a business such as corporate aircraft at a profit, said an underwriter from a New York-based aviation syndicate. What a company does with its planes and how they select and train pilots are key factors in rating the aircraft risk, he said. "A turbine (jet) craft with an inexperienced pilot is not a good risk."

Rates could differ by 10% to 15% depending upon a pilot's qualifications, said Mr. Mankowich of Frank B. Hall.

Special uses of corporate aircraft, such as chartering the craft to another firm that employs pilots of unknown quality, could also affect rates, noted INA's Mr. Richards. While the special use market is just as competitive, it allows for more precise underwriting.

Geographic territory covered by a corporate plane also affects underwriting. M&M's Mr. Bethel recommends that clients purchase a broad form of coverage that insures them for overseas and intercontinental flights even though they normally fly only in the United States.

"You never know when you're going to need an airplane elsewhere," he said.

On liability, he and several other brokers recommended coverage of \$100 million. Typically, the insured

obtain a \$20 million primary liability policy and covers the remainder on its corporate umbrella.

The worst catastrophic loss possible with a corporate aircraft would be for it to have a mid-air collision with a commercial airliner, said 3M's Mr. Weber.

Employees flying aboard corporate planes are usually covered through workers compensation and accidental travel death benefits. Companies often purchase admitted liability coverage to provide guests and their survivors with a quick settlement.

Usually these policies provide death benefits of between \$50,000 and \$100,000 per seat and they are purchased in addition to an aircraft's general liability coverage, said Mr. Dougherty. Many companies use them to cover employees as well as guests, he added.

Bayly, Martin & Fay's Mr. Lavenson recommended that risk managers check their travel accident policies, since often they do not provide coverage for employees traveling on corporate aircraft.

Mr. Weber and Mr. Zacharias said they both rely upon workers compensation and their travel accident policies to cover employees aboard their craft. However, Chrysler Corp. manager of insurance Dan Gaitley purchases admitted liability coverage for both guests and employees aboard that firm's corporate fleet.

Mr. Lavenson pointed out several other pitfalls to placing coverage on corporate aircraft. Often broad forms of coverage can be obtained for the same price as more restrictive forms just by knowing what to ask for, he said.



ARE CAPTIVES STILL FEASIBLE?

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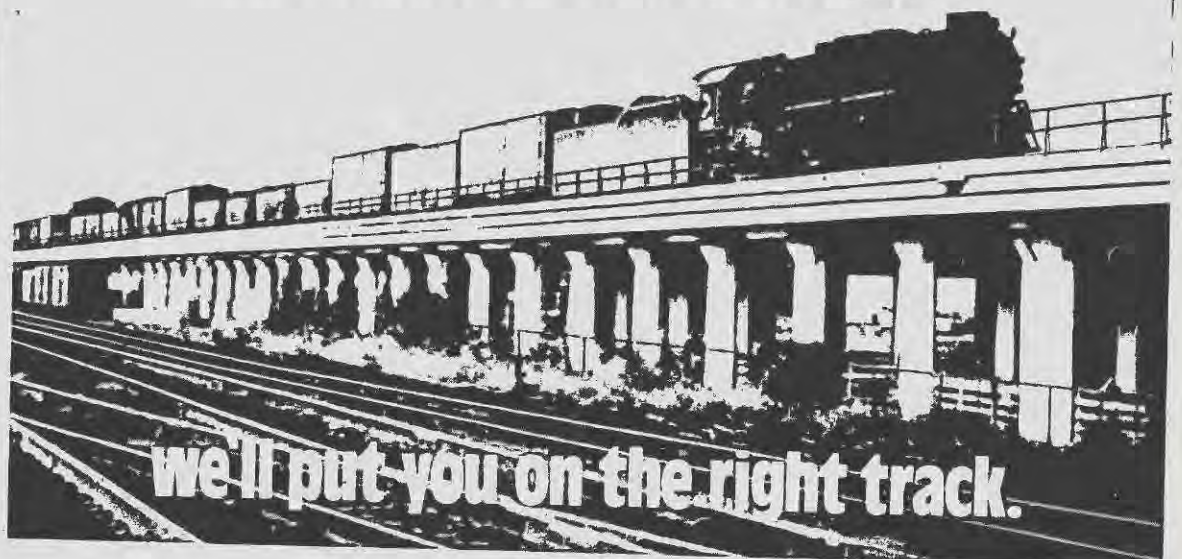
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Vermont court upholds \$1 million ski award

MONTPELIER, Vt.—The state supreme court here has upheld a \$1.5 million award to a skier paralyzed in a 1974 accident on a slope of the Stratton Mountain Corp. The ski area is fully insured for the judgment by American Home Assurance Co. through the National Ski Areas Assn. Insurance Plan.

The award last summer stunned the ski area industry in Vermont and threatened its liability insurance market (BI, Aug. 22, 1977). But ski area operators through their state association succeeded in securing legislation to restrict such litigation. The legislation satisfies American Home and underwriters at Lloyd's, the two sources of liability insurance for

Vermont ski area operators, said Vermont Ski Areas Assn. executive director Joe Parkinson.

Stratton Mt. was found negligent in maintenance of its novice ski slope by a jury after the presiding judge ruled that the doctrine of assumption of risk did not provide the ski area with a valid defense. The doctrine, which holds that there are certain risks assumed by a participant in such activities as skiing, had stood as a defense in similar liability cases in Vermont until the judge's ruling.

The legislation passed this year in Vermont restores assumption of risk as a defense in such liability cases in the state. But the law is weaker than what was hoped for because it does not specifically define what the inherent risks are, admitted ski area lobbyist David L. Cleary.

No one expressed surprise at the supreme court decision. "We really expected it," said Mr. Parkinson of the state ski areas' association. The association now is directing its efforts to an extensive program to educate ski areas on how to avoid liability suits and establish grounds for a defense.

The association is developing guidelines on advertising, for example, to respond to the concerns expressed by the trial judge and the supreme court that the ski areas represent their trails as perfectly groomed, leaving the novice skier free to assume he won't, literally, run into trouble. Suggestions for warning signs and a skiers' responsibility code are also part of the program, said Mr. Parkinson.

Although upholding the award to James Sunday, the supreme court did agree that assumption of risk stands as a complete bar to recovery when the risk claimed to be assumed is obvious and necessary, observed Mr. Cleary. "But we don't know what they mean by obvious and necessary," he added. Without specific delineation in the recently passed legislation of what risks are assumed by a skier, Mr. Cleary fears it's open to interpretation by the courts on a case-by-case basis. The legislature will be asked again next year to outline the specific risks in the law, he said.

The supreme court's 17-page decision in the Sunday case, Mr. Cleary continued, places a duty on ski areas to exercise a greater degree of care in the maintenance of novice ski slopes as compared with intermediate or advanced trails. Mr. Sunday, a beginning skier on a novice trail, claimed brush in the trail caused his accident. The ski area denied there was brush in the trail.

A motion has been filed in superior court on behalf of Stratton Mountain requesting a new trial on the grounds that new evidence has surfaced. The motion claims that new evidence suggests alcohol use may have contributed to the accident and that Mr. Sunday's accident may not have occurred as he described it during the trial.

Observers, however, expect the court to decide that the evidence was discoverable during the trial and refuse to order a new trial in the case.

Medical director

Dr. H. Clark Bates Jr., vp of underwriting and medical director of Shenandoah Life Insurance Co., is the new chairman of the medical section of the American Council of Life Insurance. The section is composed of medical officers of the Council's members.



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By the way, this aerial photo depicts rice paddies in Sacramento, California.

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For product liability coverage

Chemical firms jell a Bermuda captive

By JERRY GEISEL

WASHINGTON—Members of the Chemical Specialties Manufacturers Assn. (CSMA) believe they have found a binding solution to their product liability insurance problems.

The solution is Chem-Spec Insurance Ltd., a Bermuda-based captive insurance company owned by the CSMA that will provide policyholders with up to \$1 million of coverage on product liability risks.

Chem-Spec is paying a fee to the American International Group for writing the insurance policies and for claims administration and loss prevention services. AIG is not sharing in the risk.

Policyholders will pay the first \$2,500 of each loss. Above that Chem-Spec will provide up to \$100,000 of coverage on a claims-made basis, with a major East Coast reinsurer picking up the next \$900,000 of risk, also on a claims-made basis. Each policy has a \$2 million annual aggregate limit.

Chem-Spec began two years ago when CSMA members suddenly faced huge product liability insurance premium increases. Rates jumped anywhere from 20% to 3,000% in one year. One CSMA member's insurance premium soared from \$7,900 to \$149,000 even though the company had not suffered a loss in over five years.

Even after imposing premium increases, the insurance companies supplying coverage to CSMA members still were not satisfied.

"The insurance companies were saying in some cases 'we don't want you, we don't want to supply coverage even at rates 3,000% higher,'" said Ralph Engel, president of the CSMA, whose 417 member companies produce \$19 billion of consumer goods including waxes, antifreeze, detergents and aerosols.

An insurance committee was formed as a first step to cope with the deteriorating liability situation. Members were surveyed to discover if those stupendous product liability insurance hikes were justified.

One survey of 54 member companies with sales of under \$5 million revealed that the average premium had shot up from \$8.73 per \$1,000 of sales in 1975 to \$18.40 per \$1,000 of sales in 1976 even though the number of claims filed in the same period dropped from 28 to 13.

CSMA members weren't getting a very good return on their premium dollar. Between 1972 and 1976 the 54 companies in the survey settled claims for a total of \$177,691, a bare third of the \$524,623 premium the companies paid for product liability insurance in just one year—1976.

With this information as a base, Fred S. James & Co. of Houston,

Tex., was retained as consultants to do a more sophisticated analysis. James developed a nine-page questionnaire to garner information such as insurance costs, company sales and quality control programs of participating CSMA members.

After analyzing the data, James suggested several insurance alternatives, but an association-owned Bermuda captive was chosen principally because of the tax advantages an offshore facility offered, Mr. Engel said.

Chem-Spec was incorporated earlier this year with a capital of \$1 million and a contributed surplus of \$1 million. The capital was raised from premiums.

The base rate for participants is

\$6 per \$1,000 of sales, plus a one-time premium deposit of \$3 per \$1,000 of sales to cover startup costs. That \$9 rate per \$1,000 of sales is substantially less than participants were paying their insurance carriers for coverage that in many cases wasn't even comparable.

Policies will be issued annually. After a year or two, the Chem-Spec program will be reviewed and rates may be adjusted downward, Mr. Engel said.

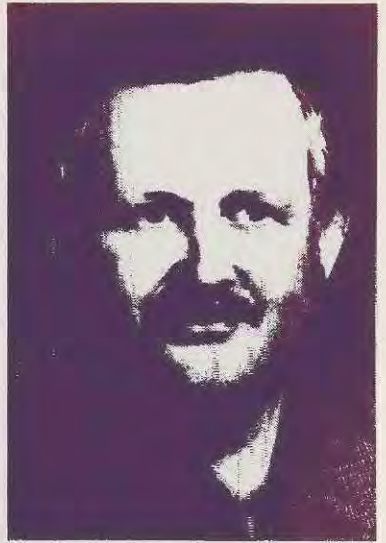
Right now, Chem-Spec has 47 participants. Mr. Engel doesn't know how many companies will eventually join the program, but his goal is for the Chem-Spec program to cover CSMA members

whose annual sales total more than \$200 million.

In order to join the program, a company has to be a member of the CSMA. It also must report its loss experiences over the last five years and allow it's plant to be inspected by AIG loss control engineers.

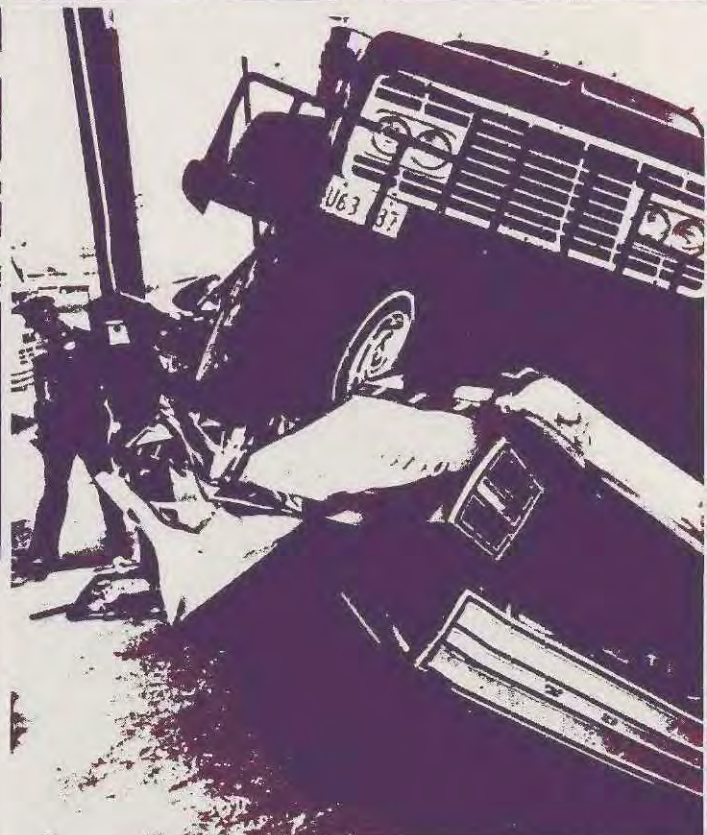
Unlike other association captive programs, excess or umbrella coverage is not provided through a Chem-Spec purchased policy. Mr. Engel said with \$1 million of primary coverage under their belts, policyholders should have no difficulty obtaining excess coverage.

Mr. Engel believes Chem-Spec offers CSMA members "the most viable solution to the problem at hand and the program will grow ad infinitum."



Ralph Engel, president of CSMA, says that an association-owned captive was selected because of the tax advantages of an offshore facility.

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Underwriters roll for cover to avoid punk rock

By REBECCA A. FANNIN

NEW YORK—Except for a select few, insurance company underwriters react to punk rock concerts much like a crowded theater responds to the cry of fire.

Punk rock performers, with their driving sound that fuses sex, violence, theatrics and political disgust with music, have scared off all primary insurance company underwriters except for the Fireman's Fund Insurance Co. and selected excess and surplus underwriters.

Even these underwriters have panicked as punk rock has gained appeal. Investors Insurance Co. in Paramus, N.J., canceled insurance coverage for CBGB's, a New York theater, when the underwriter learned that all performers were punk, according to broker Larry

Weinstein of Theodore Weinstein Co. in New York.

Likewise, Fireman's Fund, the largest underwriter of show business insurance, banned for two months insurance for bodily injury at punk rock concerts, confirmed George Walden, agent for Fireman's Fund for show business policies at Albert G. Ruben in Los Angeles. The ban was prompted by reports of violence at concerts of the Sex Pistols from England and the Dead Boys of Cleveland.

Despite the fear though that insuring punk rock is too great a risk, promoters and knowledgeable insurance company representatives doubt that punk rock concerts are more prone to violence than traditional rock'n'roll concerts.

Hilly Kristal, operator of CBGB's, said the attitude of punk

There is 'no distinction between punk rock and rock. You can't back it up statistically that punk produces more insurance claims than traditional rock.'

—George Walden,
Albert G. Ruben

rock is decidedly rock'n'roll. The reported violence of punk rock was created by writers, he added.

In his four year's experience at CBGB's, Mr. Kristal said he's never had an incident that resulted in an insurance claim. Although fights have broken out at the bar, he said he doesn't "stimulate violence by bringing in tough acts."

Located near New York's center

for bums and alcoholics, the dingy bar with its factory-like ceilings, broken chairs, sticky tables and graffiti walls, seems to invite a clientele who stick safety pins in their ears and perform other weird acts to fit the mold of the reported

punk rock concert attendees.

But a recent visit at CBGB's failed to produce anything stranger than that seen at any disco. The bar was crowded with teenaged, long-haired, energetic youths who did nothing more than clap and bob up and down to the driving beat of the music of punk rockers, The Mumps.

Somewhat unnerving, however, were glistening knives lined up on The Mumps drum sets. But when the group appeared on stage with trimmed hair, black pants, white shirts and black ties (and tennis shoes) and began getting down to the business of creating music, the fear dissipated.

Fireman's Fund agent Mr. Walden claimed that there is "no distinction between punk rock and rock. You can't back it up statistically that punk produces more insurance claims than traditional rock."

Underwriters, however, are hesitant to insure punk rock although they may insure rock concerts. For instance, Chubb & Son isn't really interested in insuring punk rock, said Lawrence Grant, vp of Chubb Corp. But the company provides excess insurance for more conservative acts such as Barry Manilow and Elton John, whose music tends to appeal to an older audience. For a Barry Manilow date at the 15,000-seat West Side Tennis Club in Forest Hills, Chubb provided a \$4 million excess policy over National Union's primary policy of \$1 million.

One of the reasons underwriters tend to shun punk rock insurance is that the trend of this "New Wave" music is so new.

American Home, for instance has insured everything from the open air Woodstock in 1969 and California Jam to the Beach Boys, Chicago, Led Zeppelin, the Rolling Stones, Kiss, Eagles, Diana Ross and the Doobie Brothers. But it hasn't insured any punk rock concerts because it just hasn't had any requests for it said Sal F. Nociforo, who heads the special events department as assistant vp of American Home/National Union Insurance Cos.

"Punk is just so new," Mr. Nociforo said, "but we would consider it depending on who the group is and where they're performing."

While claims problems for the new punk rock are difficult to trace, clearly rock concerts and performers have caused riots and

Continued on following page

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Punk rock . . .

Continued from preceding page
violent acts.

National Union insured a Led Zeppelin concert a year ago at the Tampa Stadium in Florida that ended in a violent confrontation between police and spectators af-

ter the concert was rained out. The spectators, who held rain or shine tickets, stormed the stage while others angrily demanded refunds for their tickets. Approximately 40 spectators were injured, two seriously.

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Rock performers themselves also sometimes get rowdy. A well-known rock band wrecked a hotel room in Toronto a few years ago and as a result the underwriter has pulled out of the market of writing insurance for rock performers, said broker Ron Cohen of Cohen Insurance in New York. The claim for \$50,000 is still pending, he said.

Another rock performer put his hand through a glass window and had to cancel five concerts. The insurance company paid out \$100,000 under the nonappearance insurance.

The volatility of rock concerts and performers has chased the Travelers Insurance Co. and INA from rock insurance.

"They used to represent rock performances but they've turned very conservative now," Mr. Cohen said.

The entire insurance marketplace for such risky ventures as rock and punk rock has tightened

during the past several years.

"Years ago, no claims resulted from special events. People went there for entertainment so they didn't think of suing," said American Home's Mr. Nociforo.

Concert halls have dramatically increased the limits of coverage for bodily injury and property damage from \$300,000 just six years ago to a "not unusual" figure today of \$5 million, Mr. Nociforo said, adding that few will accept less than \$1 million coverage because of the riot fears. Madison Square Garden in New York, for instance, requires \$1 million limits. By comparison, the three-day rock concert at Woodstock nine years ago was only insured for \$1 million. Premium for the coverage was \$150,000.

Premiums for such concerts have risen as well. Mr. Cohen said five years ago a concert could be insured for as low as \$250. "Today, you need a \$1,000 premium just to make it worthwhile to process," he

said.

The variety of coverages needed for a rock concert and the arrangements for purchasing insurance and certifying that it is in force make the process comparable to providing comprehensive general liability insurance for a corporation.

Concert halls usually require that the promoter of the concert purchase insurance, provide the hall with a certificate of insurance, include the hall as an additional named insured, arrange an indemnity clause and hold the hall harmless for damage that occurs.

The promoter purchases nonappearance insurance, usually with a one or two performance deductible to reimburse himself when a cancellation leaves him with expenses for advertising, fixed contracts, workers salaries and transportation.

Liability coverage is perhaps the most important coverage because of potential riots. A promoter can be sued if an accident occurred as a result of the concert. Likewise, performers can be sued for injuries that resulted from a riot the performers created by their stage mannerisms or their encouragement. Liability coverage is usually written without a deductible, Mr. Cohen said.

Property insurance protects the valuable sets, props, wardrobes, musical instruments and light and sound equipment. The actual location of the concert is also insured.

"There is all kinds of new equipment and the values are unbelievably high," Mr. Cohen said.

Rain insurance, provided chiefly by Goodweather Inc. of Great Neck, N.Y., and accident and travel insurance are secondary but necessary coverages.

Insurance for the rock band Kiss while on the road is essential to the band's protection. The band travels in a 40-foot long coach known as the Silverlight Express, equipped with an entertainment center, a jacuzzi whirlpool bath, central air conditioning, galley kitchen and solid teak paneling. The chief fear while traveling is that the band's fans—largely 12 to 17 years olds who tend to become emotionally charged—will raid the coach looking for souvenirs.

Kiss, which was insured on the road by American Home, carries \$500,000 liability coverage and \$250,000 property insurance. ■

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AUG. 6-8: Risk management seminar sponsored by the Independent Insurance Agents of America in cooperation with the Chartered Property and Casualty Underwriters. Topics for the seminar to be held at the Sugar Loaf Mountain Resort in Cedar, Mich., include risk control, retention and analysis, disaster planning, transfer of risk and basic concepts. Registration fee of \$385 includes tuition, room and board and transportation from the airport. Contact Leslie I. Loveland, Director of Education, 85 John St., New York, N.Y. 10038 or call 212-285-4281.

AUG. 24-25: Advanced Decision Techniques for Risk Management jointly sponsored by the Continuing Education in Business and Management and the Graduate School of Business Administration of the University of California at Berkeley. Richard H. Soper, director of risk management for Levi Strauss, will chair the two-day meeting at the Hotel St. Francis in San Francisco. The registration fee of \$275 includes lunch on both days. Contact Continuing Education, University of California Extension, 2223 Fulton St., Berkeley, Calif. 94720; 415-642-4241.

Conference to examine future of work comp

CHICAGO—Are you troubled by rising workers compensation costs? Are you fearful of what broadened liability might mean for your company? Do you want to know what legislation pending in Congress might mean for the present state workers compensation systems?

Answers to these and other questions will be provided by the National Conference on Workers Compensation sponsored by *Business Insurance* magazine in Chicago on July 24-26.

The registration fee for the conference is \$385, with 10% discounts available to additional registrants from the same company. All inquiries and registrations should be sent to Taylor Lucas, Crain Educational Division, 740 N. Rush St., Chicago, Ill., 60611, or call (312) 649-5245.

A roster of over 30 speakers includes corporate risk managers, safety experts, insurance company and brokerage authorities, claims administration specialists, labor leaders, federal regulators and noted academics. They'll direct their attention to present and future workers compensation exposures, the role of state and federal regulation in the workers compensation system, and the many techniques that can be used to control compensation costs.

The two-and-a-half day conference will be held at the Continental Plaza Hotel and will include six general sessions and seven concurrent sessions covering nearly every important aspect of workers compensation regulation, insurance and self-insurance and loss control.

Robert C. Benjamin, claims and rehabilitation director of the California State Insurance Fund, will join Alan Tebb of the California Workers Compensation Institute in a discussion of cumulative trauma claims, how they're increasing and how they can be handled.

The thorny problem of growing liabilities for occupational disease stemming from the broadening definition of those diseases is to be the subject matter of three leading experts on the subject. Dr. Thomas Mancuso of the University of Pittsburgh will join Dr. Peter Barth of the University of Connecticut to discuss the scope of the employer's exposure, the breadth of the occupational disease problem, and management's responsibilities now and in the future. Anthony Mazzochi, vp of the Oil, Chemical & Atomic Workers International Union, will speak from the worker's perspective.

Alternative methods of compensation for workplace injuries will be presented and discussed by Ron Conley of the Department of HEW, Clarence Johnson of Employe Benefits Insurance Co. and Joseph E. Markey of the California Self-Insurers Assn.

Safety and loss prevention techniques are to be examined as the critical elements in controlling workers compensation costs by Walter Pfeiffer of the Coca-Cola Bottling Co. of Los Angeles and Harold Hodnick of Reed Shaw Stenhouse of California.

The specter of federal intervention in workers compensation will be examined within the context of what has happened under the federal Longshoremen's & Harbor Workers' Act. A trio of experts will meet to debate whether the act has gone too far or far enough.

An entire morning of the conference will be spent debating the issue of federal versus state regulation of workers compensation, as six leading national experts meet in a faceoff to argue the possible impact of a federal law, whether there's a need for federal legislation and the effectiveness of state programs.

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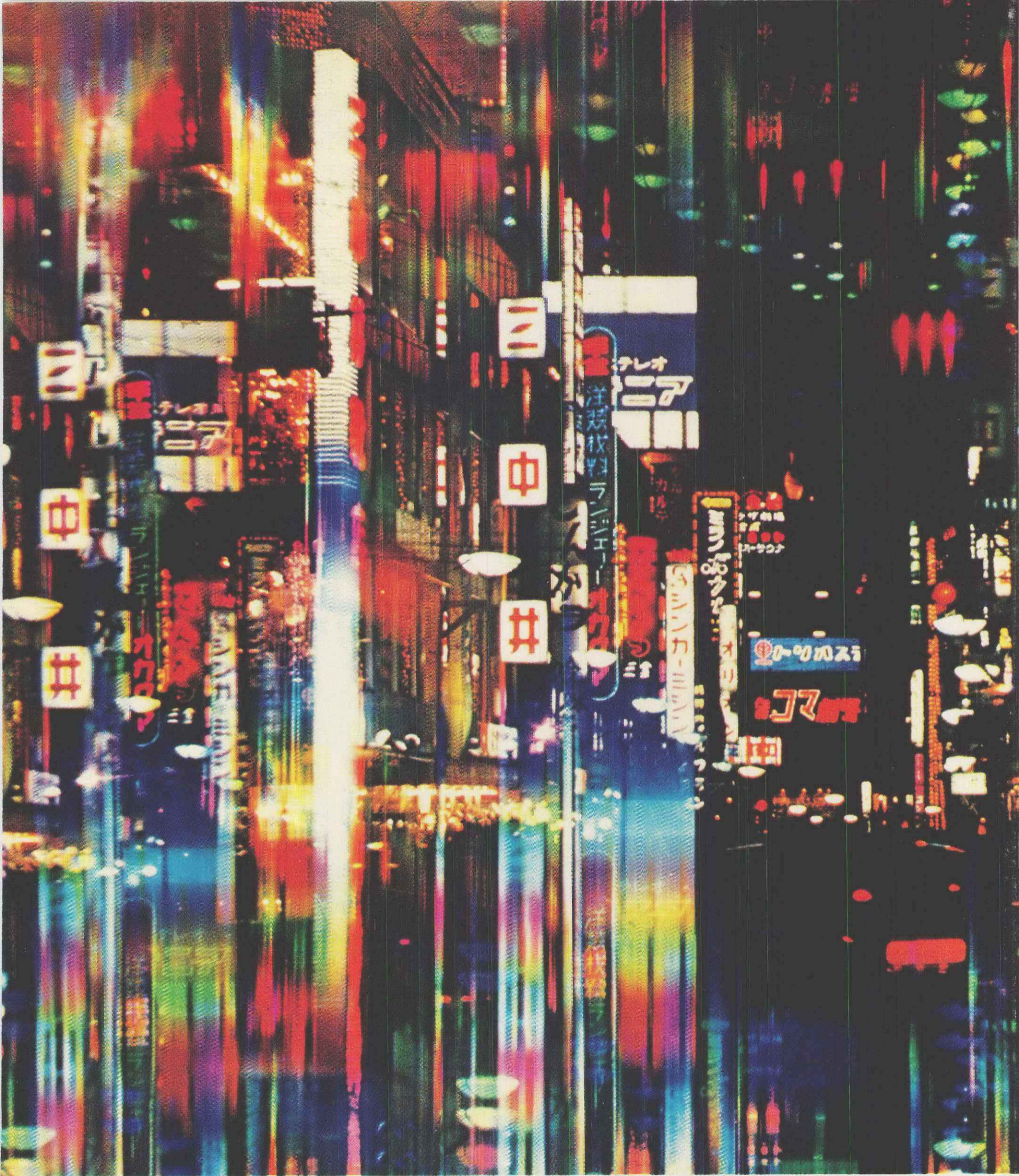
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W. J. (Bill) Shirley
DIRECTOR OF SPECIAL MARKETING

info for buyers

• Pension Planning Co. Inc. is offering a summary of the **ERISA amendments** introduced by Sens. Jacob Javits and Harrison Williams. For a free copy of the three-page newsletter write Communications Dept., Pension Planning Co. Inc., 355 Lexington Ave., New York, N.Y. 10017.

• How can you cope with the new mandatory retirement law? Alexander & Alexander may be able to help by providing you with their new booklet: **Mandatory Retirement in Perspective**. For a free copy write Charles W. Simons, Manager-Human Resource Management, Alexander & Alexander, 300 East Joppa Road, Baltimore, Md. 21204.

• **New legislation in Brazil** has made important changes in pension arrangements in the largest nation in South America. If you have operations in Brazil, consultants Kwasha Lipton offer a newsletter analyzing the changes. For a free copy write Dept. M, Kwasha Lipton, 429 Sylvan Ave., Englewood Cliffs, N.J. 07632.

• **Insurope News**, a publication of the Insurope Multinational Assn. of Group Benefit Insurers, offers a quick summary of recent benefit changes in several nations. For a copy of Number 1/1978 write Insurope Secretariat, Boulevard Bichoffsheim 45-Box 7, 1000 Brussels, Belgium.

• **Clayton Environmental Consultants**, a technical services unit of Marsh & McLennan, offers a description of its services in a free

14-page brochure. Write Richard J. Powals, Coordinator of Business Development, Clayton Environmental Consultants Inc., 25711 Southfield Road, Southfield, Mich. 48075.

• The U.S. Department of Labor is offering to tell you **What You Should Know About the Pension and Welfare Law**. This guide to the Employe Retirement Income Security Act of 1974 is available free by writing the Office of Procurement, Labor-Management Services Division, Department of Labor, 200 Constitution Ave. NW, Washington, D.C. 20216.

• **Flood Insurance Information For Lending Institutions** is an updated guide from the American Bankers Assn. The cost is \$12.50 plus postage to members and \$15 to non-members. Write American Bankers Assn., 1120 Connecticut Ave., NW, Washington, D.C. 20036, requesting Order Number 211900.

• **INA** reviews the reasons **workers compensation** costs have increased dramatically in recent years as well as proposed legislation for federal work comp standards in their booklet **Workers Compensation**. For a free copy write INA, Dept. R, 1600 Arch St., Philadelphia, Pa. 19101.

• **Employe Benefits: The Starting Point** describes the employe benefit services of Frank B. Hall, the nation's fourth largest insurance broker. The 24-page color booklet is available free by writing Communications Dept., 549 Pleasantville Road, Briarcliff Manor, N.Y.

10510.

• **SICK** is a Self-Insurance Claims Kit prepared by Johns Eastern Co. The claims adjusting firm explains its philosophy and how it handles claims in the free booklet available by writing Don Johns, President, Johns Eastern Co. Inc., P.O. Box 4175, Sarasota, Fla. 33578.

• A 16-page brochure from Confidential Planning Services—**A Unique Fringe Benefit**—describes the national employe benefit communication and comprehensive financial counseling services of the firm. The company stresses personal interviews and explanations of the integration of Social Security with company pension plans. For a free copy write Confidential Planning Services, P.O. Box 429, Middletown, Ohio 45042.

• **The Captive Insurance Concept** is an updated brochure on captive insurance companies prepared by Landmark Management Co. in Oklahoma City. Included are reprints of several *Business Insurance* articles. For a free copy write Landmark Management Corp., P.O. Box 676, Oklahoma City, Okla. 73101.

• How do the Social Security amendments of 1977 affect **pension plans**. Kwasha Lipton is offering their newsletter on the subject to aid corporate benefit managers in understanding the issues. For a free copy write Dept. M, Kwasha Lipton, 429 Sylvan Ave., Englewood Cliffs, N.J. 07632.

• Are you mystified by the often-shrouded world of **reinsurance**. A new 45-page booklet by Andrew J. Barile, president of Andrew Edwards & Co. in New York, could help to explain the ins and outs of the reinsurance business. The guide costs \$4.50 plus 55 cents for postage and handling. Write Interstate Service Corp. P.O. Box 1725, Oklahoma City, Okla. 73101.

No-fault bill won't pass, says O'Neill

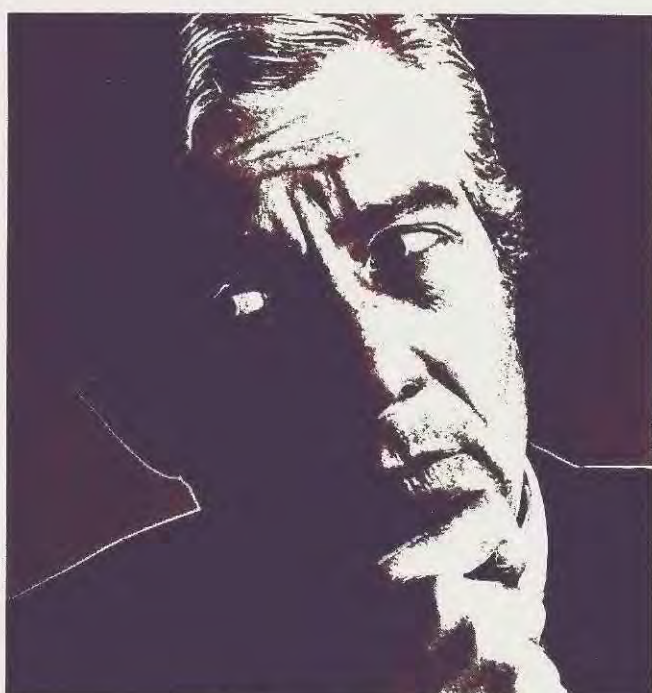
WASHINGTON — Legislation establishing federal no-fault automobile standards will not pass Congress this year, House speaker Thomas "Tip" O'Neill told a conference of insurance executives last month.

Speaking before the Insurance Information Institute's annual government affairs briefing, Mr. O'Neill said the press of other legislation, particularly bills affecting taxes and energy, leaves insufficient time for decisive action on no-fault.

However, Mr. O'Neill did predict that Congress would approve cost controls for hospitals. The cost-control legislation, which was introduced by the Carter administration in April 1977, still must clear several congressional committees.

Rep. Ronald Sarasin (R-Conn.), who also spoke at the briefing, said legislation that would permit businesses to deduct funds paid into a self-insurance reserve to pay product liability claims stands little chance of clearing Congress during the current session.

Touching a sensitive insurance industry nerve, Rep. Charles Wiggins (R-Calif.) said Congress currently lacks enthusiasm for amending or repealing the McCarran-Ferguson Act, (the 1945 law that exempted insurance companies from federal anti-trust laws in exchange for state regulation), but more interest could develop later when a Presidential task force looking into the anti-trust law issues its findings.



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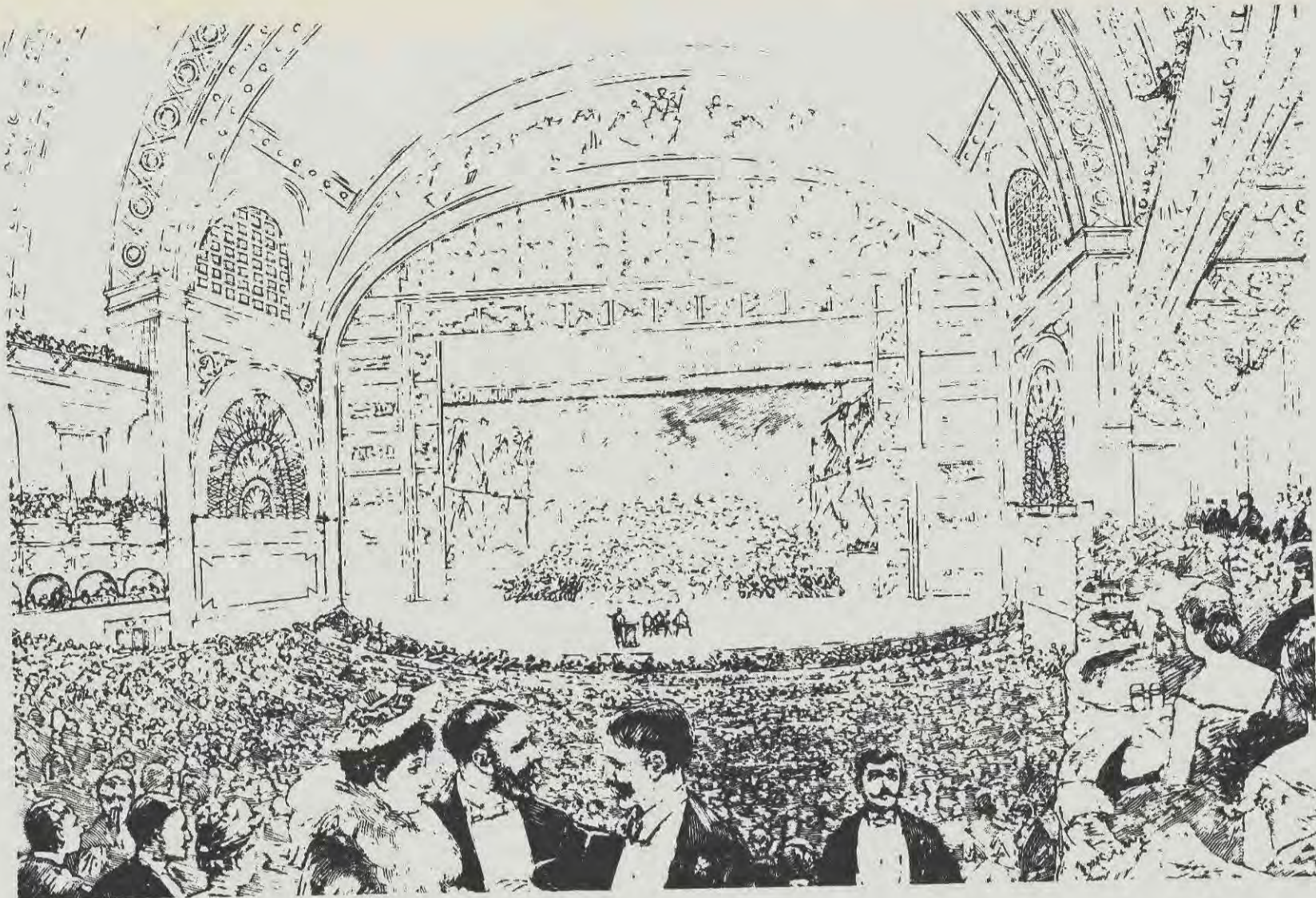
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*Source: An Audience Profile of the Business Insurance Buyer Reader, April 1977; Readership Study of the B.I. Agent /Broker Circulation, December 1975. Figures include pass-along readership.

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London line

Lloyd's frets over increasing capacity

By JOHN H. MILLER

LONDON—Underwriting syndicates are closely watching future capacity at Lloyd's to keep it in line with world needs with the possibility of restrictions getting even more attention.

Managing agents for leading syndicates are already monitoring the business which is being generated and, although the Lloyd's administrative committee is reluctant to intervene unnecessarily, it will impose limitations if this becomes necessary.

Ian Findlay, chairman of Lloyd's, warned that these measures might be needed at Lloyd's annual meet-

ing of members.

The financial results of Lloyd's business for the past three years will not be disclosed until August, when its annual global returns are released.

But meantime Mr. Findlay pointed out that membership now stands at 14,134 and that more than 3,500 people have sought to join next year.

He explained: "A steady increase in capacity is a healthy feature for the market provided that it is accompanied by a corresponding growth in business.

"But where this is not the case, there must be doubt whether so large an increase in membership is

desirable. The decision on how much additional capacity can be accepted by syndicates is a matter for their managing agents in consultation with underwriters. But the committee will intervene if this becomes necessary."

Lloyd's membership rose by 25% in 1977 and as much as 33% this year. In recent years a large increase in membership became necessary to make up for world inflation and the depreciation in the value of the pound sterling. But with close to a 30% hike in membership likely next year, that position is changing.

Premium levels become the role of individual syndicates, as the

Committee does not interfere with their operations, but naturally it looks for the market as a whole to produce profitable results.

At the same time, having attracted many U.S. and other overseas members in recent years, it does not want to turn away potential capacity if this would be too premature.

Tighter rules

Tighter rules for overseas companies that want to write direct insurance business in the U.K. will be introduced July 31.

The aim is to put domestic insurance regulations in line with those

that will apply when greater freedom for competitive underwriting throughout Europe is accepted under intended legislation.

The new rules do not represent any major changes in the procedures that have operated in Britain since 1974. But they will mean that overseas companies who have now operated through a branch or agency will have to maintain a resident general representative in the U.K. in the future.

They will also have to submit to the U.K. trade department a scheme of operations for the business they intend to carry on. Companies already authorized to write business will be allowed to go on doing so, but are expected to adhere to the new rules which have now been adopted by the government.

Negotiations are now in progress to speed up plans for the wider European insurance market that was approved in principle by the leading nations in western Europe in 1976.

But as the scheme was first envisaged more than 25 years ago and has been moving slowly ever since, there is no immediate sign of its adoption.

Relaxations have been lifted on reinsurance coverage, but the other directives are still being hotly debated. However, Trade Minister S. Clinton Davis told Parliament:

"The recent adoption in Europe of a coinsurance directive is a major step as it will open up to competition the whole area of those very large commercial risks which because of their size and nature need to be shared among a number of insurers. When it comes into operation, Lloyd's and U.K. insurance companies will be able to take part in covering such risks through their U.K. establishments."

It will aid risk-sharing on massive exposures like oil rigs or other industrial risks.

Rate cutting?

Financial experts in the U.K. believe the U.S. insurance market will show few signs of extensive rate cutting in the next few months.

The analysis is contained in a report from stockbrokers Rowe & Pitman, who comment: "The industry is in a conservative mood with management determined to avoid the disasters of 1975 and content to accept a lower rate of growth rather than chase unprofitable premium income.

"There have been several false alarms of rising competition in the U.S., but it is our impression that the industry is generally holding firm on premium rates.

"Nevertheless the position has been reached where it will be more difficult to increase premiums and inflation rates in 1978 may tend to edge upwards. So that although loss and expense ratios have fallen from 108% in 1975 to 97% last year and 1978 may compare well with latest figures, we expect ratios to rise to between 98% and 99% in the next two years."

Analysts in London take the view that profitability in U.S. underwriting has however reached a level which will make it difficult for companies to achieve any significant rate hikes in the regulated classes in the coming months.

But Europe has had bad underwriting experiences in recent years, especially in Holland and Germany, so there must be steps to reduce underwriting losses in those countries. ■

CPCU president

Steven B. Steinberg, director of risk management at J. Weingarten Inc. in Houston, has been elected president of the Houston chapter of the Society of Chartered Property and Casualty underwriters.

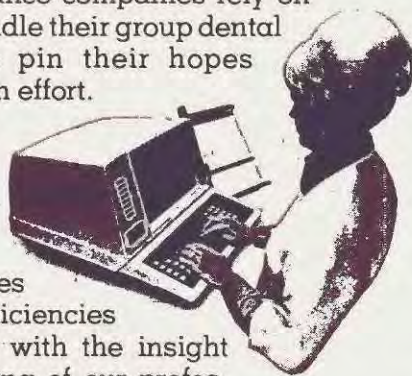
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THE TRAVELERS



HEW office promises to spur HMO growth

NEW YORK—The office of health maintenance organizations is geared up to drive the growth of HMOs, the only tested alternative to a wasteful and inefficient current health system, says HMO office director Howard R. Veit.

"To obtain substantial reductions in health care costs, the HMO concept must become a main part of the health system, enroll more subscribers and continue to provide quality health care," said Mr. Veit at a Group Health Institute conference.

The HMO staff, revamped and with new staff members, is pushing for HMO awareness with major mass media promotions, attempting to simplify qualification applications and placing greater emphasis on regulation of HMOs.

The federal role in enforcing standards for federally qualified HMOs has been "woefully inadequate," Mr. Veit said. The HMO office, however, has drafted a plan outlining the Health, Education and Welfare department's responsibilities for preventing poor quality, financial instability and abuse of HMOs. HEW will conduct public meetings on the proposed compliance plan this month.

Reiterating the commitment of the department to preventing abuse and detecting fraud, Mr. Veit noted that pending Senate legislation requiring consolidated financial statements and full disclosure of financial interests would also strengthen regulatory capability.

Mr. Veit said his office has simplified its application forms for qualifications to reduce its backlog of applications. It plans to make qualification decisions within 120 days and to reduce the waiting period eventually to 90 days.

To improve the efficiency of the HMO office, Mr. Veit said the newly created HMO office was organized to report directly to the assistant secretary of health. Three new functional divisions in the HMO office were added: office of program support for budget, personnel and administrative services, a promotion division and a division of compliance to strengthen regulatory programs.

In addition, the office is strengthening top management and adding 37 new positions.

Promotion is a major focus of the HMO office to increase the very low general awareness of HMOs, Mr. Veit said. He noted that a 1975 survey conducted by the National Center for Health Statistics found

that only 19.9% of the public had heard the term health maintenance organization or prepaid group practice. And of that 19.9% only 4.3% could name an HMO correctly.

Mr. Veit said he recently addressed a large group of physicians and discovered that many did not understand the meaning of the term health maintenance organization.

Mr. Veit called upon members of the Group Health Institute to promote HMOs by telling policy makers what HMOs have accomplished: high member satisfaction, high re-enrollments, and members that are receiving appropriate care and like what HMOs are offering. ■

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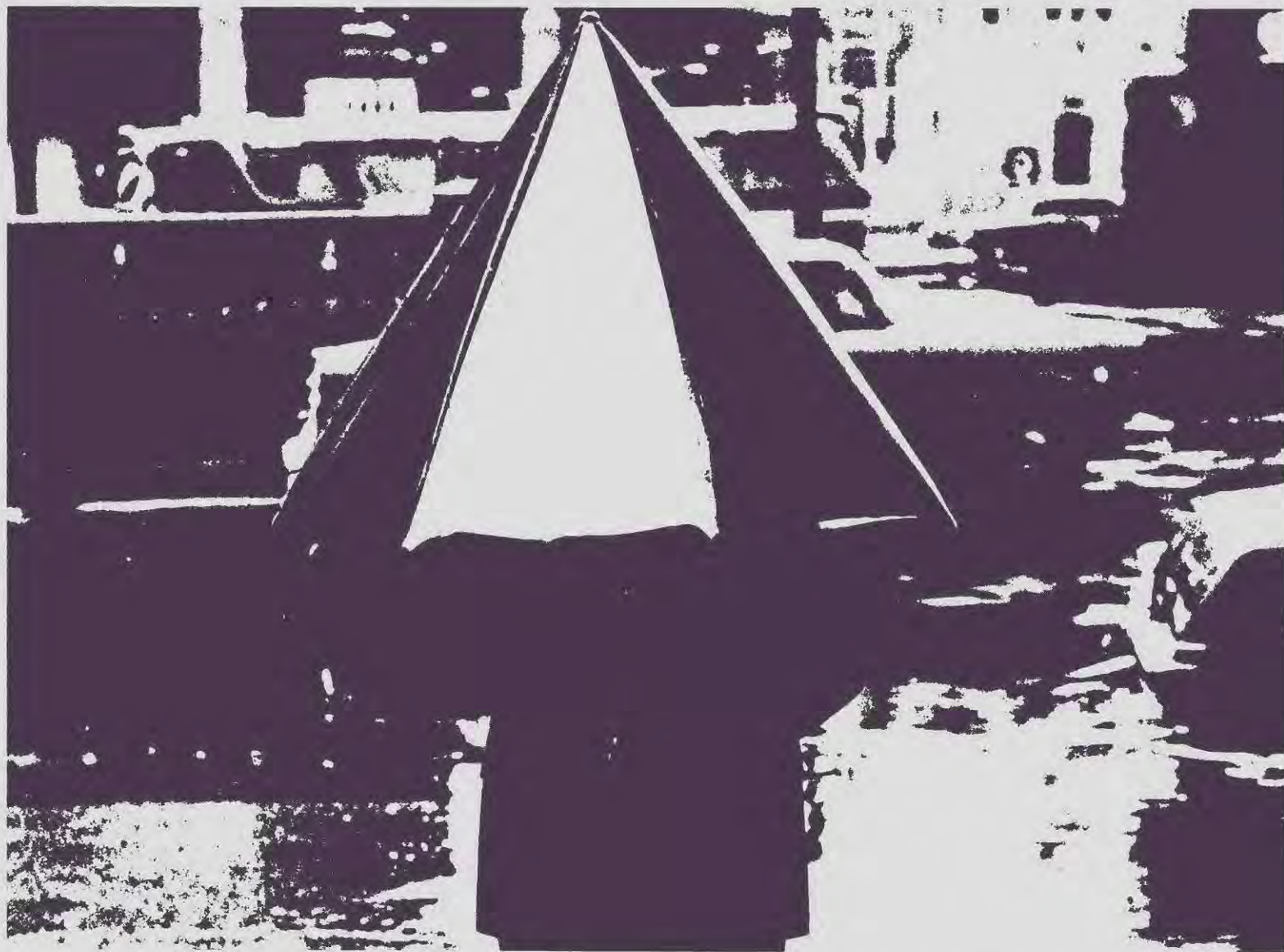
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INA acquires Stuyvesant firm

PHILADELPHIA — Stuyvesant Insurance Co., a wholly owned subsidiary of the H. F. Ahmanson & Co. of Los Angeles, has been acquired by INA. INA president John Cox said the acquisition is part of INA's program to offer more types of property/casualty insurance through subsidiary companies.

Terms of the acquisition were not disclosed.

Group life gains

Group life insurance set up under new or revised contracts in April totaled \$8.6 billion, compared to \$6.9 billion for April 1977. Purchases of group life insurance for the 12 months ending in April totaled \$120.2 billion up from \$106.3 billion for the same period one year earlier. All amounts represent the face value of the insurance contracts.

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St. Paul cuts medical rates, reports profit

ST. PAUL—The St. Paul Fire & Marine Insurance Co. earned an underwriting profit of \$12.9 million on \$130.5 million in medical malpractice premiums last year, allowing a reduction in rates for doctors and hospitals in many states and increases in only a few states.

It's the second year in a row that the St. Paul has lowered rates for its medical malpractice insurance which it writes on the claims-made form. The effect of the rate changes on individual premiums will vary from state to state, the company said.

The decrease in rates in seven states will more than offset the normal premium increase scheduled as most doctors move into the fourth year of claims-made coverage during 1978. Claims-made policy premiums rise each year until the fifth year after which the premium does not change unless the frequency or average value of claims change.

A chart in the company's Malpractice Digest shows, for example, that a general practitioner in Ohio who performs major surgery in the fourth year of a claims-made policy will pay \$2,020 for \$100,000/\$300,000 of liability insurance in 1978 compared to \$2,878 in 1977.

The cost of excess insurance to doctors in the 29 states in which St. Paul markets doctors malpractice insurance will also decrease this year. A decrease to \$147,430 in the average value of excess claims reported during 1972 through 1976 compared to \$185,465 during 1970 to 1975 accounts for the decreased cost of the insurance as does a change in the policy.

St. Paul is now marketing a single policy for \$1 million of insurance instead of issuing two separate policies, a primary and excess, for \$1.1 million of insurance. Doctors in 23 states buying the \$1 million policy will pay a smaller premium for it in 1978 than they did for \$1.1 million of insurance in 1977, but doctors in four states will pay more.

The doctor in Ohio, for instance, who decides to buy the \$1 million policy will pay \$3,636 for it in 1978 compared to the \$5,756 he paid in 1977 for \$1,100,000/\$1,300,000 of malpractice insurance. Insurance to \$5 million is now also available from St. Paul.

Nationally, the St. Paul's claims cost experience in 1977 on insured doctors was about 5% better than expected.

Hospital medical malpractice rates will also go down in 14 states, increase in three and remain the same in 21.

Addressograph chooses M&M

LOS ANGELES—Addressograph Multigraph Corp., which moved its corporate headquarters here from Cleveland last month, has named Marsh & McLennan Inc. of Los Angeles as the new broker for its entire account.

Alexander & Alexander in Cleveland formerly brokered the Addressograph account.

M&M vp Marty Harrington said that the \$4 million to \$5 million in premium volume included foreign, domestic, property, casualty and employe benefit coverages.

Mr. Harrington said Addressograph sent out detailed questionnaires to five Los Angeles brokers. Marsh & McLennan eventually beat out Alexander & Alexander and Johnson & Higgins for their account.

letters

Continued from page 8
volts of the average taxpayer.

Your article might well have gone on to propose that all payments be "in kind." That way none of us would pay any tax.

Why should the tax paying public furnish the fringe benefits that holds an employee to an employer? If the employer is too cheap to pay an adequate wage the people lose two ways. The inadequate salary produces a low tax and the "fringe" affords no tax at all. The average taxpayer and the country lose. The employee ends up no better off since the increased payroll would afford a proper standard of living and would give the employee "freedom of choice." Only the employer gains since he retains a good employee at an inadequate wage furnishing a benefit at usually no additional cost (i.e., merchandise at a discount, etc.) and often at a tax advantage, again "stealing" from other taxpayers.

Your insurance magazine seems to apply the theory of insurance in reverse. "Steal a little from all the taxpayers to benefit a few fat cats."

R.E. Jackson

Knoxville, Tenn.

Perspective articles

To the editor: In your issue of May 15 you published a fascinating article on the subject of hold-harmless agreements by Ron Almqvist.

As a principal in a medium-sized insurance brokerage office, I would be most appreciative if more articles of a like nature were printed in your publication.

Lawrence Smirlock

Smirlock & Ungar, Great Neck, N.Y.

Business Insurance solicits articles on risk management and employee benefit issues for our Perspective pages. If you've got an idea for a Perspective article, write Susan Alt, Editor, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611 or call 312-649-5278.

Fire protection

To the editor: We were pleased to see in your May 29th issue an article concerning the importance of fire protection engineering consultants.

On the other hand, we were quite distressed to see that you give the impression that Rolf Jensen & Associates, Schirmer Engineering Corp. and Factory Mutual Research Corp. are the only major factors in this field. This is certainly not the case.

The Chicago yellow pages provide evidence of the existence of Gage-Babcock & Associates Inc., a pioneer in the practice of fire protection engineering and consulting for 26 years, with offices in New York, Chicago, San Francisco and Los Angeles and a staff of over 15 qualified and experienced fire protection engineers.

Fire protection engineers and consultants are becoming increasingly important to more and more companies, but your readers deserve the whole story.

William E. Backes, PE

Vp, Gage-Babcock & Associates Inc., Chicago.

OSHA's worth

To the editor: In your June 12 edition you published an editorial on OSHA in which you made several erroneous statements and expressed asinine opinions.

OSHA has done no good whatsoever. The industrial accident rate has not declined at all since OSHA. Employers do not need anyone to remind them of their safety. This

idea implies that we are less concerned about our employees, most of whom we know by their first names, than is some demagog in politics to whom they are just votes or to some bureaucrat to whom they are an excuse to justify the harassment induced by the bureaucrat's anti-business attitude. (As you perhaps don't know, a large percentage of OSHA inspectors are former union officials.)

The director of OSHA's opinion that the Supreme Court decision won't hamper this Gestapo is correct. The decision was crass hypocrisy by pretending to protect citizens from illegal search and seizure and then giving carte blanche by saying that the mere facts of OSHA's existence justifies the

Continued on following page

Where is Greenwood, Indiana?

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Or call our corporate headquarters in Kansas City, 816/391-1000.

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letters

Continued from preceding page search warrant.

I don't know of any employer who would trade safety for higher production. Your statement to that effect indicates a gross ignorance concerning the way factories work. Concern for employe safety is particularly important in Illinois because of the high cost of workmens compensation due to extreme bias in the laws and in the industrial commission.

Raymond E. Cross

Lake Forest, Ill.

Work comp pool

To the editor: I was extremely interested in the beautiful sales pitch by Jerry Geisel (June 12) about a new workers compensation pool in Florida.

Particular attention is called to this paragraph, which I quote: "By contrast, insurance companies writing workers compensation don't pay dividends. Thus a firm that paid \$100,000 in annual workers compensation premiums and only had an annual claims loss of \$20,000 would not receive a dividend if its workers compensation program were written with an insurance company."

In the first place, insurance companies have been paying dividends on workers compensation in Florida since long before I entered the business in 1941. They still do.

Admittedly, these companies do use the so-called "mutual company discount," which is smaller than the stock company discount paid by non-dividend companies.

I would like to draw your attention to an ad we ran in the Florida "Blueprint" which is a publication of the Florida Lumber and Building Material Dealers Assn., which

pointed out that we paid \$198,814 in dividends to the 55 members of the association in 1977. The ad was encouraging all 276 members of the group to participate in the program.

Through American Motorists Insurance Co., we gave the stock company discount up front and paid a dividend of 52.8% for the year in question.

So you see, there are ways to get dividends without self-insuring. Not only this, but if you use a reputable insurance company of strong financial backing, you don't risk problems that could come about if your specific excess or aggregate excess limits are not high enough.

I hate to say it, but thoughts of aggregate excess limits in a state like Florida of only \$1 million would not be reassuring to me as an employer. All of us recall the case where 51 men fell at one time from the top of a cooling tower! Something similar can happen any time.

I would suggest you also correct the wording in your headline to read "No claims reported since April." A Florida employe can wait two years before deciding he did hurt his back and the employer is required to pay the employe's lawyer down in that state.

J. B. Rozier

President, Associated Mutuals Inc., division of James S. Kemper & Co., Atlanta, Ga.

Our headline actually read "Florida firms pool and not a claim since April."

Banks or insurers?

To the editor: The comment (June 12) by an unidentified risk manager, "The main problem is we don't have underwriters in New York. We have banking institutions," is appropriate.

As a transplanted New Yorker and an underwriter by trade, I might take exception to this dis-

criminatory remark, although there seems to be some truth in what this risk manager says.

The problem really is that too many underwriters (not all) have a malady that can best be diagnosed as "the 50% syndrome." This affliction requires that not only must the policyholder maintain at least a 50% loss ratio but the producers' office also has to maintain a 50% loss ratio for his book of business.

This mode of underwriting overlooks the basic concept of what insurance is really all about, i.e. "the law of averages" and "the law of probability." These foundation blocks of insurance are valid mathematical premises. When negated by the "50% syndrome," they place the underwriter in the banking business.

Hermann-Paul Schlander

President, A & M Property Insurance Brokerage, Pasadena, Calif.

Who is naive?

To the editor: Your editorial "Employers deserve pension incentives" stated "it is about time to amend the Williams and Javits ERISA Act of 1974." I agree with you wholeheartedly; it is about time for this action, but we have yet to see you acknowledge that it was your publication that was literally overrun with enthusiasm for its passage in 1974 and prior.

Surely you are not so naive as to think that this type of legislation could be implemented without an overkill and standard governmental bureaucracy. I think it is about time we had some candor in terms of acknowledging your role in seeking passage of Williams-Javits. The political persuasion and past performance of these two should have told you quite a bit.

Wirt A. Yerger, Jr.

Ross & Yerger, Jackson, Miss.

Self-insured reserves

To the editor: Jerry Geisel may be correct in announcing that various insurance trade associations have denounced legislative proposals that would permit tax deductions for self-insurance funds businesses set aside to pay product liability claims (May 29).

As a member of the board of directors of the Insurors in Nashville, Tenn., as an active member of the Society of Chartered Property and Casualty Underwriters, I can emphasize that self-insurance is extremely, if not vitally important to the industry.

To quote a leading carrier, it is "the most important development in commercial risk management... and is largely in response to supply and demand in the insurance marketplace..." The setting aside of self-insurance funds under a tax shelter break is one of the major answers to the current market capacity problem which has been created not only by increasing demands for insurance and costs of losses but by decline in the value of investments.

It is imminently important that all commercial and industrial risks, who can sensibly do so, set up and enlarge as finances permit their own self-insurance fund.

Mr. Geisel may be correct in stating that "the insurance trade associations appear very concerned that tax deductions for product liability reserves would lead to abuses..." but I am not entirely sure what these abuses would be. Mr. Geisel goes further in saying that "observers believe the industry is really more concerned about losing more business to self-insurance." I believe this is a totally uninformed opinion held by those less sophisticated in the field of risk analysis and risk management.

Paul R. Smith, Jr.

Vp, Jack Brandon Insurance Agency Inc., Nashville, Tenn.

**\$100,000,000
up in smoke**

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\$20 million plus for the platform itself. Millions of dollars to control the well. Perhaps, several million dollars more for seepage and pollution. And you haven't even begun to redrill the wells yet!

In the Baltimore Canyon or North Sea, the figures would be considerably higher.

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employe benefit board

Continued from page 1

When asked to estimate what percentage of their companies' employees eligible for retirement at 65 would stay on the job beyond that age over the next five years, they responded:

Employees	Responses
0%	2
1-4	20
5-10	42
11-15	12
16-25	11
25-50	11
over 50	2

Depending on what employers are legally allowed to do eventually with benefits for over-65 workers, it looks as though about half the group of benefit managers expects to freeze pension benefits for workers at age-65 levels. The largest group (51) indicated they would cut off benefit accruals at age 65 based on years of service, while a slightly smaller group said their companies plan to cut off accruals based on salary level at age 65.

About one-fifth of the participants in the survey said their companies plan to allow employees to continue accruing retirement benefits based on years of service or salary after age 65, until retirement. The remainder said they're still undecided about which direction to go.

The picture was clearer in the group life insurance field, where 65% of the participants said they've pretty much decided at this point to reduce life insurance benefits for over-65 workers. A few intend to eliminate life insurance benefits entirely for those who stay on the job past age 65 and a few will freeze life insurance benefits at the age-65 levels. A significant 27% of the group plan to continue providing life insurance for employees over 65 at the same levels as for other employees.

Life insurance

Within the group intending to reduce life insurance for workers over 65, about one-fourth will reduce the benefits by 50%. Another one-quarter of the group said they'll lower the benefit to the normal retiree level. Other Board members cited various methods they'd use to reduce the benefit, including reductions:

- of 20% per year over 65 down to a flat \$2,000-\$3,000 benefit.
- to a flat \$1,500 benefit.
- of 2% per month after 65.
- of 30% at 65, then 10% per year until age 70.
- to \$7,500 maximum.
- to one-times pay.
- to two-times pay.
- from two-times salary to flat \$10,000.
- of 25%.
- of 50% of basic at 65, then 10% per year until 69.
- to \$1,000 maximum.
- of 15% for five years.
- to flat \$5,000.

Several companies said they'd like to spend the same premium dollars for life insurance benefits for older workers as they do for pre-65 employees, but if it's more expensive to continue life benefits, they'd reduce the benefit. Another benefit manager suggested that his company will probably install a graduated employe contribution schedule for life insurance.

Women's group

Shirley Shilling is the new president of the National Assn. of Insurance Women. Ms. Shirley is a partner in the Fred E. Cimino & Associates Inc. insurance agency in Los Angeles. The NAIW has over 19,000 members.

Two-thirds of the Board members said their companies will either eliminate health and medical benefits entirely for workers over 65 (7%) or will reduce health and medical benefits by adding a medicare carveout (62%).

A sizeable group—one-third—said health and medical benefits will probably be continued at the same levels as those for under-65 workers.

Disability benefits are clearly in for some changes for the over-65 group. Well over half of the corporate benefit managers surveyed said their companies plan to eliminate disability and/or salary continuation benefits and another small group of managers plan to reduce disability benefit periods during which payments will be made.

Only about one-third of the group plans to continue disability benefits (especially short-term benefits) for workers over 65 at the same levels as for workers of other ages.

Benefit costs will rise because of the extension of mandatory retirement to age 70, predicted 45% of the corporate benefit chiefs. But their votes were offset by the 46% of the group who believe benefit costs will stay about the same overall, with some increases offset by some decreased costs.

Cost outlook

Only 9% of the benefit directors felt costs would actually decline.

The increases in costs, if and when they come, will be chiefly in disability benefits, said 24 managers, and in basic medical and major medical benefits, said 19 managers. About 8% of the survey participants noted they look for cost increases in pensions, profit

Pushing early retirement

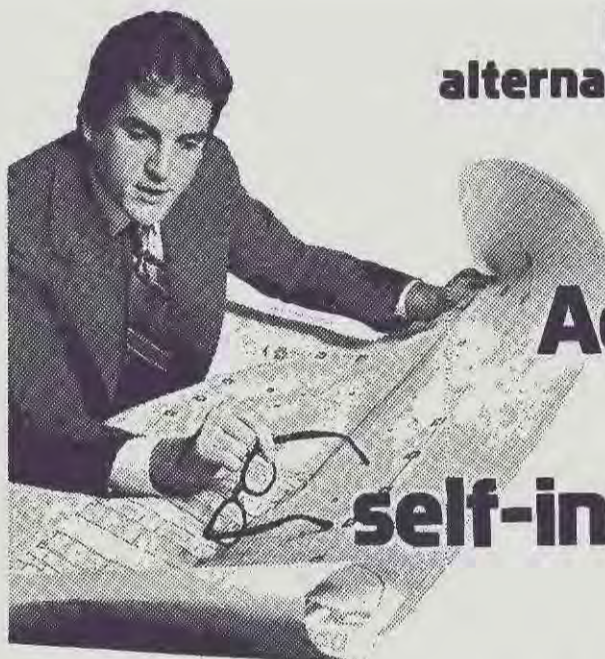
Many companies don't really like the idea of workers continuing beyond age 65 and prefer to encourage early retirement, if anything. Consider this comment from the benefit manager for a leading electronic equipment supplier:

"It is management's desire to encourage early retirement. This will help to provide more promotion opportunity for younger employees. The new legislation moves in a different direction from the one management would like to go. It is clear that in order to offset this new direction, we must provide greater incentives to encourage early retirement. The first local step for us would be to improve our early retirement benefits under the pension plan at some future date."

sharing, dental and life insurance plans.

A typical response about costs came from the risk manager for a well-known high-technology company, who commented: "Costs will stay about the same because there

is an actual decrease in pension costs and there will be an increase in medical and STD costs. These will offset. The number of employees working past 65 will be very small so any costs associated with this would be insignificant."



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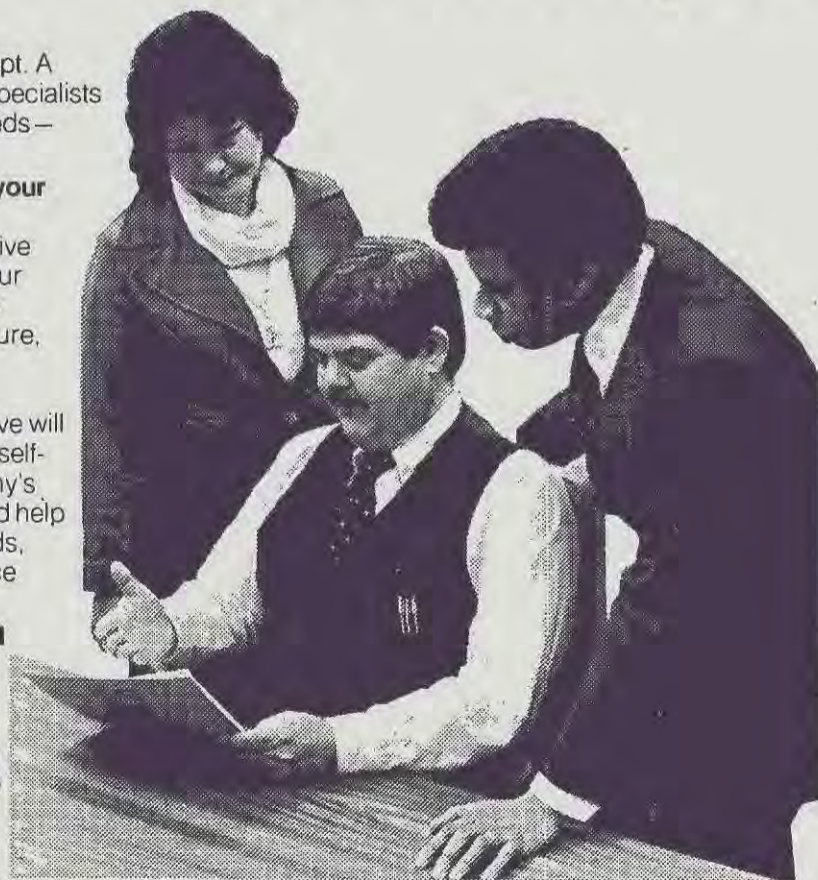
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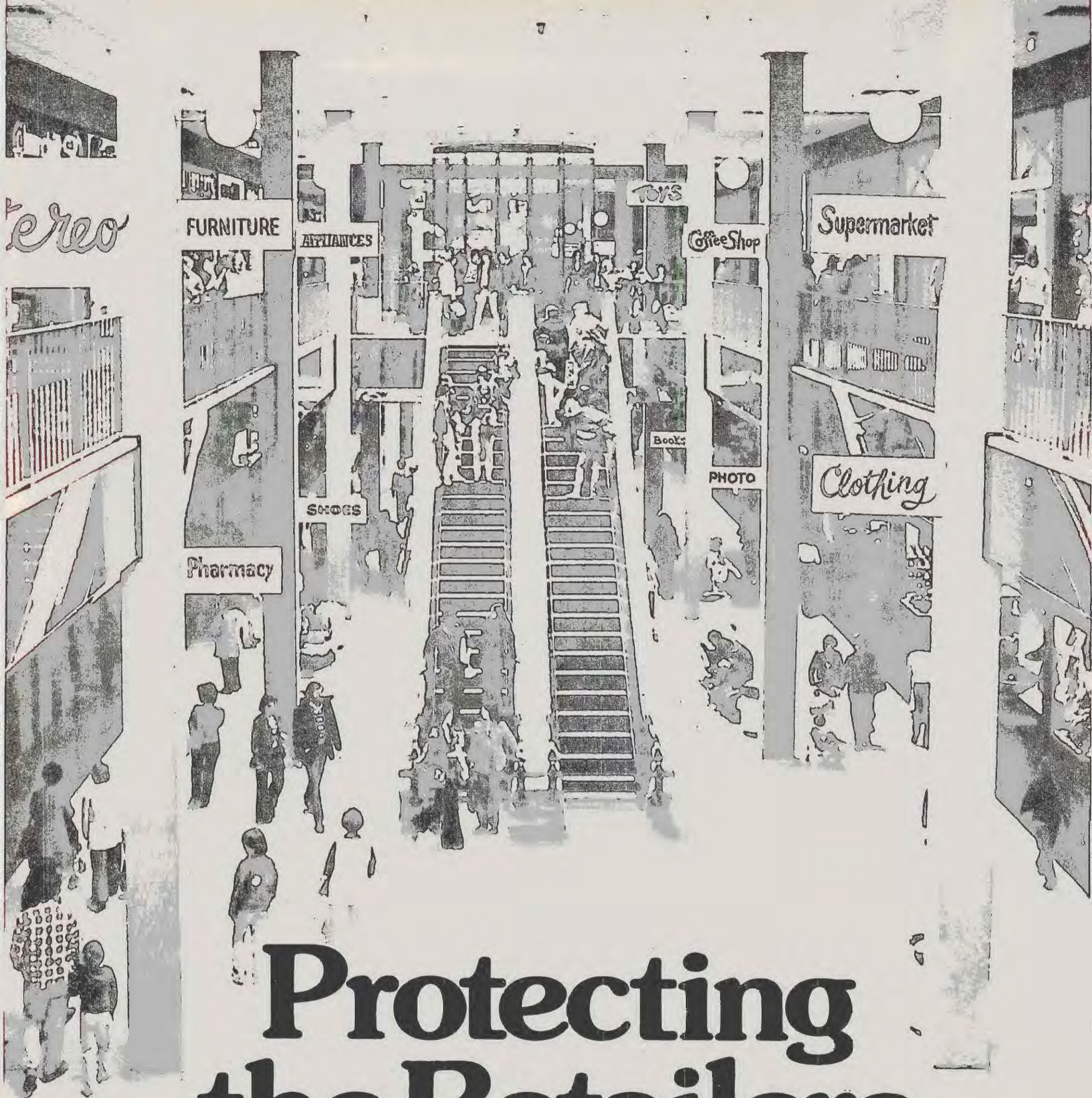
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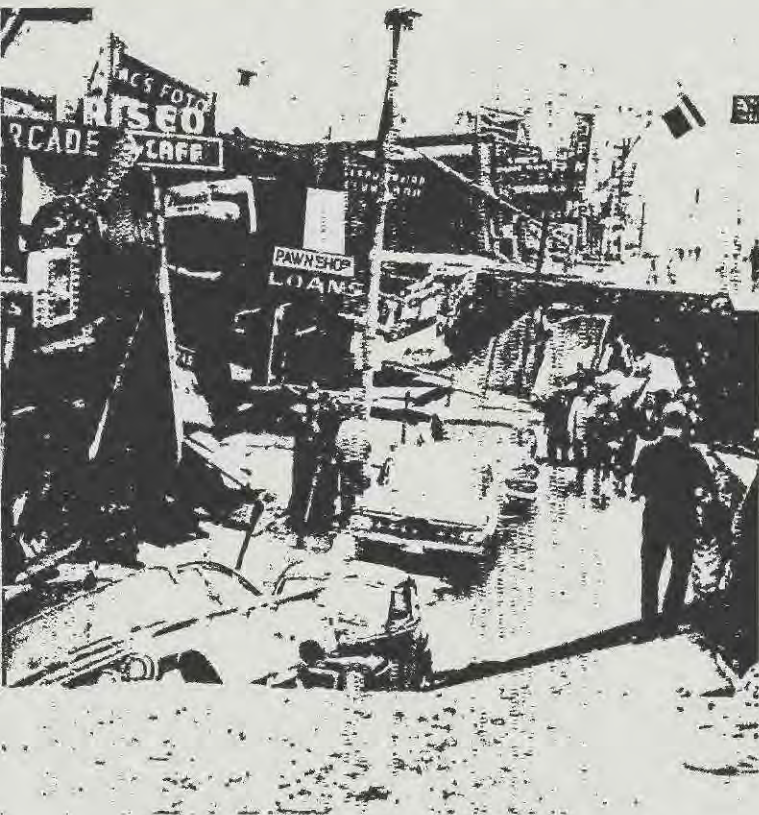
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PERSPECTIVE



The versatile difference-in-conditions policy can be used to cover unusual losses to property or to develop insurance for risks—such as earthquakes—that is often hard to obtain in the standard markets.



Your carefully shaped DIC policy tackles unforeseen loss, tough risk

By Frank T. Glynn

Pacific Coast Property Manager
Voigt, Walker & Co.
San Francisco

ITEM: One Labor Day weekend a large department store decided it would be an opportune time to vacuum their furnaces. The contractor vacuumed the furnaces with soot entering the canvas bags mounted on his truck. Unbeknownst to him one of the bags ruptured. Also unknown to the contractor was that he had backed his truck up against the building next to the air-conditioning unit which in turn sucked up the soot as it left the bag. This permeated the entire six floors of this structure and the amount of damage paid by the underwriter after salvage was \$155,000.

ITEM: The collapse of the flooring at a liquor warehouse was the result of overloading or improper construction. A section of the third floor, measuring 30 feet by 50 feet and holding stacks of empty cardboard cartons, fell to the second floor containing empty bottles, knocking out the section of this floor measuring 50 feet by 60 feet, which in turn fell to the ground floor containing

distilled liquor. The claim for this loss was \$250,000, taking into consideration damage to the building, equipment, stock and extra expense.

How can an unsuspecting insured protect himself against such unforeseeable losses as described above?

The insured may purchase a DIC (difference in conditions) policy.

These two losses are actual losses that were covered under a DIC policy. It is true that both of these occurrences are extremely rare, but they certainly demonstrate the versatility of this contract. Let's take a look at this policy and see what makes it tick.

Intriguing cover

We will use the following example of a typical DIC contract as a sample:

Insured:	A.B.C. Corp. Anywhere, U.S.A.
Amount of insurance:	\$5,000,000*
Annual premium:	\$50,000
Values:	
Buildings	\$ 5,000,000
Equipment	10,000,000
Stock	2,000,000

Business int.	5,000,000
Extra expense	500,000
Valuable papers	2,500,000
Total values:	\$25,000,000
*excess \$500,000 earthquake and flood excess \$25,000 all other insured perils	

Even though the abbreviated term of DIC in property insurance refers to the wording "difference in conditions," it may very well be that a more descriptive name for this coverage should be "damned intriguing cover." This particular coverage has within its basic qualities the all intriguing aspects of being able to tailor and adapt first-party all-risk coverages to any particular insurance problem that an insured may encounter. Its primary purpose is to wrap around the basic property insurance coverages, such as fire, lightning, extended coverage perils, vandalism and malicious mischief, and in the case of more sophisticated highly protected risks, the above perils, plus leakage from fire protective systems, sonic boom and molten metal, as well as those standard all-risk exclusions such as—but not necessarily limited to—earthquake, flood, errors in design, breakdown of machinery and other exclusions of standard all-risk coverages. Any of these exclusions may be modified or de-

leted.

The contract may also be used to insure those type of losses difficult to insure in the standard markets. For example, the capacity for the peril of earthquake along the Pacific Coast states is somewhat limited in the standard markets, but usually sufficient capacity can be developed in the DIC market for this peril. The same may be true when property is located in flood prone areas or a particular risk may have a burglary or robbery exposure which the standard market does not wish to insure.

Catastrophic perils

When perils of a catastrophic nature are insured, they may be subject to a single loss clause. This states briefly that each loss covered by the insured perils, such as earthquake, occurring within a 72-hour period shall constitute one claim, regardless of the number of aftershocks within the said 72-hour period. One limit of liability shall apply as well as one deductible during this period of time.

The DIC policy may also require an aggregate limit applying to these catastrophic perils. This somewhat restricts the basic

Continued on page 42

Our woe: The tale of C. Manual Raitz

By Charles A. McAlear, CPCU

McAlear Associates Inc.
Grand Rapids, Mich.

AS THIS NARRATIVE is restricted to the formal education of C. Manual Raitz and his subsequent career in insurance, we find him first in grammar school. This was not the friendly one-room, frame, country schoolhouse of song and story, but a drab fire-resistant red brick building centered cunningly amid a sea of asphalt for the convenient tuition of city urchins of which Manual was, undeniably, one.

Through the years he was exposed here to the rudiments of arithmetic, the mechanics of reading, the physical pain of writing and the unplumbed mysteries of spelling. In passing he caught a swift fleeting scent of literature, a glimpse of history far off on the

C. Manual Raitz was disappointed in school and fired by an insurance company. But he found his place running the insurance system for the whole country.

horizon and a nearly catastrophic dose of civics. No music and no philosophy.

High school resembled grammar school except that the teachers had less time to teach and there was an athletic program. This two-story brick building, backed up against a railroad line, was fire-resistant and sprinklered. Fire drills were less frequent. The athletic program allowed him to run furiously around a quarter mile cinder track

to the point of exhaustion as often as he liked.

On the academic side most teaching seemed to be firmly based on the premise that each student had missed grammar school in its entirety—more arithmetic, writing and spelling cleverly concealed under the guise of requests for essays on various subjects, all dull. History remained rote

literature invisible in a fog. Music had a big bass beat for the convenience of marchers. Still no philosophy. Despite the large number of friends or faces that dropped from the scene to take jobs in factories or simply stand under the street light until all hours, Manual persevered.

His expectations were high for college. Learned, kindly men in long dark robes dispensing wisdom by the magnum, contemplative walks across diagonals under oak trees, meandering streams close by hushed walls of ivy. He was not prepared for the precise and harried instructor training hosts of contemporaries in mundane skills aimed, his fellow students frequently opined, only at increasing their capacity to earn money. As his capacity for thorough boredom had increased substantially through the years, he went with the pack and after a time found that he had earned a degree and was thrust

Continued on page 42

PERSPECTIVE

Our columnist sets the record straight on Lloyd's controversy and N.Y. exchange

By Peter Downes

Manager of Insurance
American Trading & Production Corp.
Baltimore

I HAVE READ with a great deal of amusement the agonized cries over the Committee of Lloyd's decision to restrict outside ownership of Lloyd's brokers to not more than 20%. A lot of crocodile tears are being shed, so I thought it was about time I straightened a few things out.

One of the complaints I hear most is that the decision is a restriction of free trade. The New York insurance superintendent has made the accusation and I seem to remember a certain editorial on the subject. All this indicates to me is that some people in the United States have been away from free trade for so long a time that they no longer know what it is.

Free trade implies absence of government restraint—nothing more. Other than this, the trader can do as he damn well pleases provided that he does not indulge in such things as assassination because this would be antisocial. Indeed, the attitude of the typical free trader is that if a competitor is brought to his knees, make sure that he is kicked smartly in the teeth and stomped on before he has a chance to recover.

A wise move?

There have been some great examples of this laudable attitude such as Carnegie, Rockefeller, DuPont, Mellon and Vanderbilt. In fact, old Commodore Vanderbilt was so imbued with the principle that when he thought his operations were being interfered with down in Central America, he had the U.S. Navy shoot up a whole town so as to induce it to behave itself. That took real enterprise—free trading at its best!

To my mind the insistence that Lloyd's should not have made the decision it did is nothing more nor less than a manifestation of the desire for protectionism. Whether the Committee's decision was a wise one, however, is another matter entirely, there being something to be said for both sides of the argument.

First of all it must not be forgotten that Lloyd's is a marketplace and as such the intent of the Committee was perhaps to ensure that no single broker or other group would become sufficiently powerful to attempt to monopolize it. The Sherman Anti-Trust Act attempts to do much the same

Speaking Out



thing in the United States.

Secondly, if I were a foreign broker attempting to gain a solid entry into the market, I would wonder whether I had actually been defeated over the long run. True, I would not be able to achieve my objectives overnight as I had hoped, but there are a great many ways of opening a chess game. I am sure that those involved need no hints from people like myself as to what their future strategy should be.

Who has the stature?

One of the things to come out of this storm in a tea cup is Gov. Hugh Carey's proposal for a reinsurance exchange and perhaps a market for direct surplus lines business in New York. Actually, this has been talked about for years and even I mentioned it in a column last year. My own feeling then and now is that I know of nobody of sufficient stature to bring it off successfully. Such a leader would be obliged to wage major and successful wars with brokers, agents, direct carriers, reinsurers and the state insurance departments just for openers, since they all have their own axes to grind. Even now commentators are remarking on "heated controversies" which are emerging over the

proposals.

In this connection I would hazard a guess that many are thinking of the exchange in terms of easy money and fat profits. If so, they should forget about the whole thing because there is no easy money in direct surplus lines insurance or facultative reinsurance. Unless they are prepared to lose their shirts, they may as well think of taking up automobile insurance in New Jersey since it may well be more profitable from time to time.

Moreover, those in the market must remember that there will be experienced competitors to face up to. If, for example, my broker felt obliged to go into the surplus lines market on my behalf I would require him to obtain quotations from London and New York and if he preferred not to do so I would quickly find one who would. In addition, competition will be global with the London underwriter quite prepared to trade off some of his worldwide profits to gain a competitive edge. Of course, members of the exchange could think of going global themselves, but this may well be hazardous if they do not know their way around.

Some suggestions

I am fully aware that nobody of importance is in the least likely to heed these comments, but since I may have the opportunity of saying I told you so at sometime in the future, I have a few more suggestions:

- The administrative organ of the exchange should be an entirely separate body which provides facilities and has nothing to

do with market operations.

- State authorities should have no jurisdiction at all over what is written, how it is written and at what rates.

- State authorities should have jurisdiction over the solvency of the insurers. With modern equipment, authorities can be kept up to date by the hour.

- Solvency requirements must always be sufficiently stringent to exclude any fly-by-night operators and marginal insurers.

- Underwriting operations should be kept separate from parent company accounts in a separately organized subsidiary. Guarantees may be called for from the parent.

- All underwriting bodies shall be obliged to pay all premiums into and all claims from a central fund.

- A separate guarantee fund for the benefit of policyholders shall be maintained so as to avoid payment delays in the event of litigation by the primary guarantors.

- Broking and underwriting should be entirely separate functions so as to eliminate any possibility of major brokerages monopolizing the market.

Concerning this last item, perhaps the single largest failing of the London market is the degree to which brokers effectively govern it. The proposed entry of brokers into the New York exchange has already caused suggestions of anti-trust implications. Moreover, I have no doubt too that many Americans will wish to inhibit the activities of foreign groups in a U.S. institution. It may be necessary to restrict ownership by brokers in underwriting institutions to 20%. ■

Worth Repeating Are insurers telling the truth?



IF YOU SWALLOWED the insurance industry's propaganda line, you would believe that there never has been a large jury verdict that was not excessive. However, it is the excesses of the insurers in charging the adversary system with excesses that are excessive. With each new revelation of their duplicity, the decibel level of the insurers' cries for tort annihilation increases.

While industry officials decry the size of jury verdicts, Jury Verdict Research announces that verdicts have hardly kept pace with the rate of inflation. Their researchers found that from 1973 through 1976, jury verdicts increased at an annual rate of 7.47%. For the same period, the Consumer Price Index went up 8% a year.

While the insurers claim that punitive damages are granted with impunity, the report of a House subcommittee studying product liability shows otherwise. The report states that according to the Insurance Services Office, there was only one instance where punitive damages were actually awarded out of 24,000 claims closed. Another study, for the Interagency Task Force on Product Liability, found only three reported appellate cases upholding punitive damages in the last 10 years.

While the Insurance Service Office issued a press release stating that their Closed Claim Survey showed that "The average payment for a bodily injury claim is \$13,911 per claim," the statistical data in this survey led the House subcommittee to conclude "...that the average payment made with respect to all bodily injury claims was less than \$3,600." Further, for every dollar paid for claims, 35 cents went for claim administration expenses (indicating that approximately one-fourth of all payments were for these expenses), and less than 4% of all claims went to verdict, with the insurer winning approximately 75% of these.

After countless calls from the trial bar for the insurers to prove their charges with facts, some information is finally seeping out. The insurers' howls of "crisis" have amounted to falsely yelling "fire" in a crowded theater. Their ratemaking practices have been as scientific as a pin the tail on the donkey game. They have "panic priced." They have routinely overreserved with IRS approval. They have reacted to a "perceived" increase in claim frequency. The extent of that overreaction may have allowed the false one million dollars product liability claim figure to be used in rate setting.

No wonder the industry has kept this information to itself so long. Perhaps the insurers knew where the real excesses were?

—Tom Davis

President, Association of Trial
Lawyers of America

Risk Management Notes

Corporate aircraft policies often exclude use by others

By Warren, McVeigh, Griffin

Risk Management consultants
San Francisco

Hull and liability policies covering corporate aircraft will often restrict coverage when the plane is used by others.

It may limit use to "industrial aid or pleasure and business" which excludes "any operations for which a charge is made."

Non-owned aircraft coverage may exclude any aircraft "if any charge for its use is made to others by any insured."

One aircraft policy, issued by Eagle Star Insurance Co., had a clause which excluded "operating the aircraft under the terms of any remuneration for the use of said aircraft."

The insured allowed another company to use the plane on the condition that the other company paid expenses of operation, maintenance and storage. Apparently, no profit was intended.

In a court case, the insured contended that mere reimbursement of expenses did not constitute remuneration for its use. However, the court differentiated between this language and language such as "a charge is made," saying that the language of the policy in question was broader and that it applied whether or not a profit was made. Simply being reimbursed for expenses would constitute remuneration.

The case is American Casualty Co. vs. Eagle Star Insurance Co., Supreme Court of Utah, 568P.2d731, reported August 1977.

If a corporate aircraft is used by others and any reimbursement is made, it would be wise to read the wording of your policy carefully to see what it says about reimbursement. If there is any question, get a clarifying letter from the underwriter. A letter from your broker is probably not sufficient because he is not a legal representative of the underwriter unless he is also a licensed agent. ■

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tough ones make us experts at routine coverages, as well. So bring us your capacity risks, excess of loss, valued business interruption, and hospital operating risks. But bring us your standard fire risks too. Just as a fireman handles all kinds of emergencies, we handle all kinds of fire insurance. We welcome inquiries from any licensed agent or broker. You don't have to be a regular producer to place business with an AIG company.

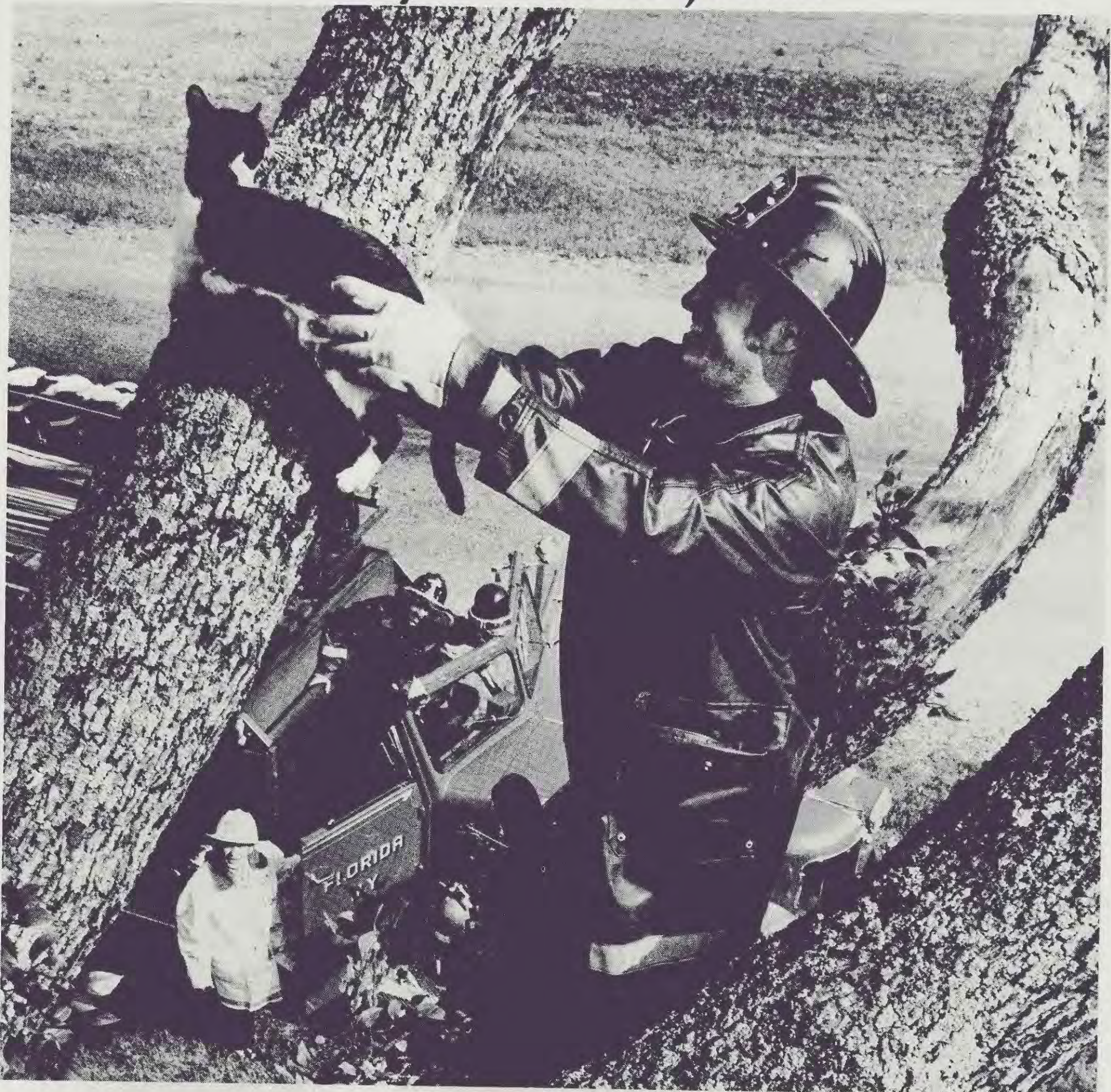
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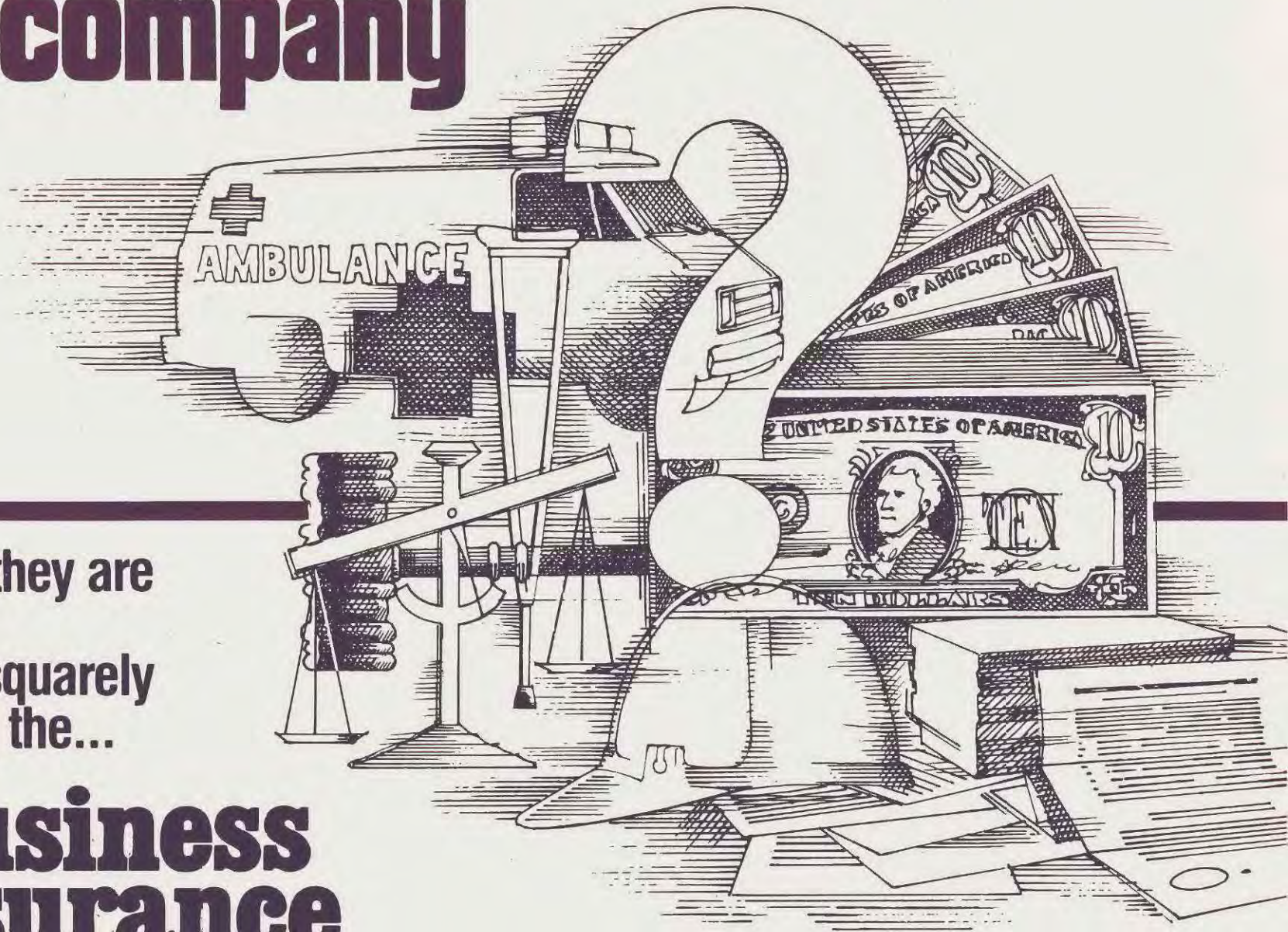
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SUNDAY July 23

4:00 pm: Early Registration. Pick up your Conference materials and brief yourself on the program and speakers you'll be hearing over the next two and one half days.

7:00 pm: Welcome Reception. Take this opportunity to meet your fellow participants and discuss today's issues over an informal cocktail.

MONDAY July 24

8:00 am: Registration.

9:00 am: Welcome. Alfred Malecki, Publisher, *Business Insurance* and Susan Alt, *BI* Editor, set the stage for an exciting, thought-provoking Conference.

9:15 am: Occupational Disease—Technology's Growing Nightmare. Dr. Thomas F. Mancuso, Research Professor—Occupational Medicine, Graduate School of Public Health, University of Pittsburgh, is joined by Dr. Peter S. Barth, Professor and Head of the Department of Economics, University of Connecticut and Anthony Mazzocchi, Vice President, Oil, Chemical & Atomic Workers International Union. Together they take a close look at industry-spawned illness and how it has grown to be a major source of compensation claims—the extent of the problem, moral issues involved, legal liability now and in the future, how to identify and analyze major risk areas, the high cost of inaction.

10:30 am: Cumulative Trauma—The California Experience. Alan Tebb, General Manager, California Workers Compensation Institute, and Richard Robinson, Member, General Assembly, State of California, examines the good and the bad under California's cumulative trauma provisions, how employers can contain costs, and to what extent predictions of disaster have been borne out.

11:45 am: Wage-Loss—Is It A Better Idea? Clarence G. Johnson, Executive Vice President, Member of the Board of Directors, Employee Benefits Insurance Company, and Ron Conley, Acting Director, Office of Policy Research & Analysis,

Department of Health, Education and Welfare. Together they examine what's wrong with the present system of setting benefits, how the system can be improved in terms of compensation methods and procedures, whether the wage-loss concept is a good or bad substitute, and what the federal government's view is.

1:20 pm: Luncheon.

2:45 pm: Concurrent Sessions. Two in-depth sessions look at specific Workers Compensation funding problems. Attend the one of your choice.

- Market Overview For Self Insurers. John F. Milliken, Vice President, Alexander & Alexander, examines the current state of the insurance markets in the Workers Compensation area—where can employers go for a front or bonds under self-insurance regulations.

- The Problems And Opportunities In Self-Insurance. Edward R. Lloyd, Director of Insurance and Assistant Secretary, Dan River Inc., tells you how to plan for self-insurance success—pitfalls to avoid, loss prevention programs, computer analysis, and program advantages.

4:00 pm: Concurrent Sessions. Two intensive sessions look at areas of great concern to employers. Attend the one of your choice.

- Fraud—How To Spot, Prove & Prevent It. Salvatore J. Camp, Assistant Counsel, Unit A, Waterfront Commission of New York, is joined by Charles F. Murphy, Assistant Director, Supervisor of Industrial Insurance, Department of Labor & Industries, State of Washington, and William W. Johnston, Chairman, Industrial Commission, State of Ohio. How prevalent is fraud? What investigative techniques work best? What can employers do to prevent fraud? What can be done to make staying "sick" less profitable than returning to work?

- Accounting Methods For Self-Insured Workers Compensation Losses. Arthur B. Willis, Attorney, member of the firm, Willis, Butler, Scheiffy, Leydorf & Grant, explains how and why Crescent Wharf & Warehouse Company was able to

accrue its liability for payments to employees in future years. What precedents were established? What does this mean for other self-insurers? What procedures must be followed to gain tax advantages?

6:00 pm: Cocktail Reception.

TUESDAY July 25

9:00 am: Has The Government Gone Too Far? Ralph M. Hartman, Director—Office of Workers' Compensation Programs, Employment Standards Administration, United States Department of Labor, is joined by Dennis J. Lindsay, Senior Partner, Lindsay, Nahstoll, Hart, Neil & Weigler, and John J. Runzer, Attorney, Pepper, Hamilton & Scheetz. They examine the Federal Longshoreman's & Harbor Workers Act; how it has been extended; what it means to you—is it really the biggest give-away program ever devised?

10:45 am: Loss Prevention—Shape Up And Save. Harold V. Hodnick, P.E., C.S.P., Safety Consultant, Reed Shaw Stenhouse of California, is joined by Walter Pfeiffer, Director of Corporate Safety, Coca-Cola Bottling Company of Los Angeles. Safety and loss prevention programs are examined closely—how strict should they be? What do most employers have to do to improve their programs? What is the cost of various workplace injuries? Where should safety efforts be concentrated?

12:45: Luncheon.

2:15 pm: Three fascinating sessions cover areas of growing importance in successful Workers Compensation programs management. Attend the one of your choice.

- Rehabilitation—Paving The Road Back. Linda Abernathy, Vice President, Director of Rehabilitation Services Division, Fred S. James & Company and George T. Welch, President, International Rehabilitation Associates, Inc., an INA Corporation subsidiary. How properly ad-

ministered rehabilitation programs can reduce costs and get employees back on their feet. What kind of injuries lend themselves to rehabilitation?

- Health Screening—Filtering Out Risks. Dr. Joseph LaDou, Medical Director, Peninsula Industrial Medical Clinic, and Dr. David M. Lipscomb, Professor, Director, Noise Research Laboratory, Department of Audiology & Speech Pathology, University of Tennessee examine the importance of hearing and health screening to employers faced with rising workers' compensation risks and losses. Is it important to document the health of all employees? How can risks be minimized? Are employers going to go broke paying for hearing loss?

- How To Deal Successfully With State Workers Compensation Administrators. W. Thomas Sprentall, Manager, Workers Compensation, Eastman Kodak Company tells you about his experiences and problems in working with state administrators: is an adversary relationship the rule? How to prepare your case for quick handling.

6:00 pm: Cocktail Reception.

WEDNESDAY July 26

9:00 am: Faceoff—Federal Vs. State Regulation Of Workers Compensation. Donald E. Elisburg, Assistant Secretary of Labor, Employment Standards Administration, U.S. Department of Labor; Howard Bunn, Jr., Vice President, National Association of Independent Insurers; Robert B. Collyer, Executive Assistant, UBA Inc.; Harry W. Dahl, Esq., Harry W. Dahl Law Office; John H. Lewis, Esq., Attorney; William J. Moshofsky, Vice President, Georgia Pacific Company; and Norman A. Weintraub, Economist, International Brotherhood of Teamsters, engage in a freewheeling, wide-open debate over the merits of federal or state administration of workers compensation programs. Are states incompetent? Will the federal government make things worse?

12:30 pm: Adjournment.



Dr. Peter S. Barth
Department of Economics
University of Connecticut



Salvatore J. Camp
Waterfront Commission
of New York



Harry W. Dahl, Esq.
Harry W. Dahl
Law Office



Ralph M. Hartman
U.S. Department
of Labor



Clarence G. Johnson
Employee Benefits
Insurance Company



William W. Johnston
Industrial Commission,
State of Ohio



Dr. David M. Lipscomb
Department of Audiology
& Speech Pathology
University of Tennessee



Edward R. Lloyd
Dan River Inc.



Tony Mazzocchi
Oil, Chemical
& Atomic Workers
International Union



John F. Milliken
Alexander & Alexander



William J. Moshofsky
Georgia Pacific Company



Charles F. Murphy
Department of
Labor & Industries
State of Washington



John J. Runzer
Pepper, Hamilton
& Scheetz



W. Thomas Sprentall
Eastman Kodak Company



George T. Welch
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PERSPECTIVE

Your DIC policy . . .

Continued from page 37

policy as usually a paid loss will not reduce the amount of insurance in any way. When the aggregate applies, any loss paid will reduce the limit by the amount paid. If the insured wants the limit to be reinstated, a pro-rata additional premium may be required by underwriters. This aggregate can apply to the term of the policy but is usually applied to each policy year.

Layered approach

The DIC policy lends itself nicely to stop-loss or layering approaches. In our example of the A.B.C. Corp., we note that the total insured values are \$25 million with the amount of insurance written being \$5 million. Had the DIC approach been normally subject to the coinsurance provisions, A.B.C. Corp. would have had to buy anywhere from \$20 million to \$25 million, depending upon the coinsurance percentage being applied. The stop-loss provision allows A.B.C. Corp. to buy the amount of insurance they feel will adequately protect them in case of a severe loss. The amount of insurance chosen will depend on several factors, the most significant being:

- The estimated probable maximum loss (PML) or the amount subject to one loss.
- The catastrophic characteristics of the coverage being offered.
- The ability to market the amount of insurance desired by the insured.
- The premium costs for the coverage desired.

Each individual risk will dictate other factors to be considered, but the above considerations will usually crop up again and again. The larger and the greater spread of risk for the insured, the greater the possibility of a stop-loss approach in writing a DIC. Conversely, the smaller a particular risk, the less advantage there is to a stop-loss approach.

If A.B.C. Corp.'s broker decided that the

'It is important for the insurance buyer to understand that a deductible may be applied against the total loss or the amount of insurance carried.'

proper approach would be a layering program, you might find the following breakdown of amounts of insurance using the same total amounts of insurance:

Primary layer: \$1,500,000 (excess \$500,000 earthquake & flood excess \$25,000 all other insured perils.)

First excess layer: \$3,500,000 (Excess \$2,000,000 earthquake & flood excess \$1,525,000 all other insured perils.)

The premium breakdown may look like this:

Primary layer: \$35,000
First excess layer: \$15,000

\$50,000 premium needed

The layering approach may be used where there is sufficient premium available to apportion premium among the various layers while allowing adequate pricing for the completion of the placement. As a general rule, I do not care to use the layer approach unless there is in the neighborhood of \$50,000 premium available for the coverage. A question usually arises as to how the premium is distributed among the various layers. The premium allocation is a judgment decision using the considerations noted

above when using the stop-loss provisions.

However, a good rule of thumb to determine the premium allocation is the "Lloyd's First Loss Scale." This allocates premium to primary and excess layers based on the relationship of the primary layer to the total insurance carried. A key consideration is to allow sufficient premium for the primary layer so as to not leave gaps in this critical area. Usually deficiencies in premium in the excess layers will not be as significant or as great as deficiencies in the primary layer.

Once a premium has been developed for the primary layer and the authorizations have been completed, the excess layer premiums should fall pretty much in line. If there should be additional pricing needed for the excess layers, it should be comparatively negligible compared to the primary layer.

It is important for the insurance buyer to understand that a deductible may be either applied against the total loss sustained or the amount of insurance carried. If A.B.C. Corp. had a \$10 million insured loss, the insured would always collect his \$5 million. However, if the deductible were applied against the amount of insurance carried, he would not only have to suffer the difference between the loss and the amount of insurance he carried, but he would also have to pick up an additional uninsured portion, namely the amount of the deductible of the policy.

Excess of loss

Most DIC policies are written excess-of-loss as shown in our illustration. This means that in the event of a flood loss of \$4 million, A.B.C. Corp. would not be reimbursed for the first \$500,000 and the underwriter would then respond for the \$3.5 million excess of the \$500,000. It is sometimes stated that the \$500,000 will be a self-insured retention (SIR).

This being the case, the insured does not have permission to insure this portion of his exposure, although he may set aside his own funds to protect against this loss possibility. However, if the insurance reads \$5 million excess of \$500,000, as noted in the example, the insured can pay the high premium to insure a portion or all of this \$500,000.

Tale of C. Manual Raitz . . .

Continued from page 37

out upon society—still with no philosophy.

Out of economic necessity he found himself interviewing for jobs. He was struck by the fact that each interviewer, usually encapsulated in a small glass partition behind a grimly green desk in a large, noisy, too-bright office, seemed to feel that he himself had reached the very pinnacle of success. Nonetheless, economic pressures being what they were, he accepted a job. The money wasn't great, but, it had been carefully explained to him, it offered security and opportunity. C. Manual Raitz had been employed by an insurance company.

He soon learned the ropes, concentrating on the paperwork itself without trying to understand what it represented. Whenever in doubt he found that an entity known as home office had published volumes of detailed guidelines appropriate to any possible paper situation. He did not prosper, but his raises were sufficient to keep him ever so slightly better paid than the new employees with the firm, who soon looked on him as an old experienced hand. The job seemed sufficient to his needs until something better came along.

One day he woke up married. On another day he was a father. Faced with these undeniable responsibilities, he decided he should improve his prospects by entering another phase of his education. He began taking courses in insurance leading to a professional designation, letters after his name that would announce his accomplishments to his peers and superiors alike. Though sometimes astounded by his discoveries he did not let that interfere or alter the way he did his job. In the long run his greatest asset in pursuing his course of study was one developed in school and at work, an infinite capacity for boredom. He became a CPCU.

Manual the manager

This evidence of his dedication coupled with his stable position as a family man, as well as his even-tempered acceptance and

support of all home office directives and that he was six feet tall marked him for promotion. He became a manager. He was assigned a cubicle, a green top desk six inches wider than the one he had grown accustomed to using and a stainless steel rack upon which to hang his coat and hat. He had reached a pinnacle.

Disaster struck. Though home office directives were followed ever so religiously, company profits waned. Profits became losses. Losses mounted. Corporate surgery was indicated. The branch was closed. C. Manual Raitz was without a job. So much for security in the folds of a corporation.

Badly shaken, C. Manual reviewed job opportunities. Companies no longer charmed; agencies frightened. But government beckoned. Despite the severe handicap that his experience represented, he finally landed a job with the state insurance department. He liked it very much. The directives were similar to those he had become accustomed to following. His pay was higher, his cubicle was larger and the coffee breaks were longer. He was satisfied and secure.

The great debate

Manual Raitz did not participate in the great debate of 1982. From his position he was barely aware of the tumult.

Several things happened at once to touch off the debates. The extension of workers compensation coverage to cover injuries to retired workers and their families was only one factor. What some courts had decided relative to a manufacturer's responsibility to users of its product had been codified into law. Each manufacturer was held strictly liable for all pain and suffering as well as economic loss due to any accident involving his product regardless of age, misuse or contributory negligence.

The FAIR Plans had been expanded to include package policies and rates were set at levels below that of commercially available insurance in order to reflect the fact that commissions to agents were no longer

Several events coincided to touch off the great insurance debate of 1982. Hearings were held at every level, although the most important were held before the U.S. Senate.

paid. Property coverage was made "all-risk" including flood and earthquake regardless of location and condition of building.

Carriers were also affected by the vanishing personnel syndrome, as it became affectionately known, along with all other businesses. First they could not compete with the higher wages, better benefits and luxurious working conditions offered to government employees at every level. Then as inflation pushed all citizens into a 50% tax bracket, those failing to land government jobs preferred to work only for those who could pay in cash without bothering to report the transaction to government.

In any event, losses mounted and had to be paid, so the financial base of the carriers eroded. They could not accept more premiums. Applicants were turned down. But those with insurance caused the most furor. Businesses saw themselves as breaking up under the burden of their premiums and individual citizens complained of premiums that dwarfed their admittedly high expenses for food and lodging. They marched on Washington.

Clarifying the problem

Hearings were held at every level but the most important development occurred in the United States Senate. Professor Renad, an academic authority on insurance matters stated the problem clearly and without ambiguity:

"Insurance carriers must have a financial base (called surplus) for the protection of the policyholder. Losses have increased and this increase in losses has caused the insurance carriers to lose money. This loss of money means that insurance carriers have less capacity to write increased premiums.

It is very important for a broker or agent as well as the insured to understand the difference between the SIR and excess-of-loss provisions of the DIC policy. Many times the SIR is used rather loosely. If this is so I suggest that a clarification as to intent be requested of the underwriter so there is a full and clear understanding. If the underwriter is using this term very loosely we suggest also that the wording self-insured retention be deleted from the contract provisions in order to avoid any controversy should a loss occur.

It is common in the event of an earthquake, flood and other catastrophic peril to have percentage deductibles such as 2% of values at risk at the time of the loss. There are certain disadvantages to this approach to both parties of the insurance contract. The insurer never really knows exactly what his amount of loss is going to be after the application of the deductible. In order to so determine a loss, a valuation of a damage property will be required in order to determine the amount of deductible to be applied against the loss. The insured, on the other hand, never really knows exactly how much his deductible will be for any given loss. It is certainly to the advantage of both parties, the insured and the insurer, to agree as to a dollar amount of deductible prior to a loss.

The A.B.C. Corp. example helps illustrate the full spectrum of property and exposures which may be insured under a DIC contract. These items of insurance may be insured with separate limits of liability and the most common and simplified way of doing so is to include all of these items of insurance under one limit of liability as shown in the example.

Premiums for these contracts are based on total values at risk. There may be in this contract a premium adjustment clause which states that when values fluctuate up or down at the end of a given period of time, such as the end of the first policy year, such revised values will be applied against a composite rate. This rate has been determined by dividing the policy inception premium by the total values at risk at inception. In this way the insured is paying only for the exposure which he has at risk and the insurer is also getting paid a premium based on the exposure being assumed.

Yet, more and higher losses mean increased premiums, but because of their smaller financial base, carriers can accept less premium. Therefore insurance becomes scarce and premiums again rise or insurance is unavailable."

Clearly, Professor Renad went on, an adequate financial base was the core of the problem.

By eliminating the need for such a base the problem could be solved.

The only solution

The best possible writer of insurance was only such an entity that did not need such a base nor need be concerned with profit to build it.

Only one entity could meet this requirement and that was the government who should, Professor Renad advocated, be the exclusive writer of all insurance.

Ultimately the legislation was introduced, passed by the House and Senate, signed by the President and became the law of the land. The Federal Property and Casualty Insurance Fund had been established.

C. Manual Raitz was at the right place at the right time. A search for a man of his precise education and qualifications, familiar at once with insurance and government involvement, plucked him from his cubicle and transported him to Washington. Senate confirmation was assured. No one could testify that he had ever taken a stand on any issue.

He sits now in his large carpeted corner office overlooking the cherry blossoms and contemplates how his philosophy, as it evolved, has stood him in good stead and how countless young men and women might benefit were it published.

N.Y. Exchange . . .

Continued from page 1

four of seven members of the exchange's first board of governors.

In addition, the amended bill gave to both houses of the legislature the right to veto the exchange's constitution and by-laws.

"I felt the legislature should retain some kind of overview on how the exchange should be set up," Sen. Dunne said.

Several supporters of the proposal credited Sen. Dunne's support with having gotten the bill through the legislature. The senator also moved to change the exchange's name from Reinsurance Exchange to Insurance Exchange.

"Why give it a label that most of the public wouldn't understand?" he queried.

The next step will be Gov. Hugh Carey's signature. An aide to the governor said it takes two weeks to get a measure transferred from the legislature to the executive chamber. The governor's approval is expected since he first proposed the exchange.

After that comes selection of the 13-member panel that will draft the constitution and by-laws. Insurance superintendent Albert B. Lewis will chair that group, composed of six Carey appointees, two each by the assembly speaker and senate majority leader and one each by the minority leaders of both houses.

The drafting committee "should have a broad-based representation," Sen. Dunne said. "I would like to see membership of the committee with a broader base than only their immediate personal interest. I don't think the committee should be only brokers and underwriters."

Qualifications

Superintendent Lewis added that the committee must be a "balanced group" so it is neither weighted in favor of brokers nor insurance companies. He said he has written to the governor and legislative leaders urging them to make their committee selection as quickly as possible.

Until now, the exchange proposal had been under the auspices of an ad hoc group called the New York Reinsurance Exchange in Formation committee, with representatives from about 12 insurance companies, brokerage houses and reinsurance brokers.

That group and other concerned industry representatives met in late June with superintendent Lewis to discuss the schedule and problems to be dealt with in drafting the constitution and by-laws.

Membership qualifications and admissions, business practices, syndicate solvency requirements, establishment of a guaranty fund and funding methods are the key issues to be considered in drafting of the constitution and by-laws, said Donald Kramer, the insurance consultant who put together the original proposal.

Superintendent Lewis called the exchange's "financial viability and integrity" the most important factor in its success. "Under no circumstances should we have a question of the financial integrity of the exchange to respond to a loss," he said.

Mr. Kramer said he expected the exchange to maintain the "same standards of financial integrity that Lloyd's and the New York Stock Exchange have enjoyed for 300 and 200 years respectively." The Insurance Exchange would have to police its own members and expel those who violate its standards, he added.

One area where strong regulation will be needed is on ratios of premium to surplus, said Mr.

Lewis. Control of capacity is an area of "maximum focus," he added. "Each syndicate is a link in a chain and any one weak link affects the whole chain."

Membership requirements should be broad, Mr. Kramer said. However, brokers and intermediaries probably will be required to hold a New York license and underwriters in the syndicates should have to meet a high professional standard yet to be determined, he added.

Means test

That standard could be in the form of a special designation created by the exchange, passing a test devised by the exchange, a certain number of years underwriting experience or the CPCU designation, Mr. Kramer suggested.

Being a London underwriter might also meet the requirement however. Mr. Kramer and David H. Winton, a director of Johnson & Higgins, said there were hundreds of qualified underwriters in the United States. London underwriters could be attracted to the New York Insurance Exchange for the opportunity to be part of a new venture, Mr. Kramer added.

A means test, similar to one currently used by Lloyd's, might be required before individuals could invest in syndicates, he noted. The likely minimum investment in a syndicate will be \$100,000 and participants will have to show that they are capable of belonging to a risk bearing organization, Mr. Kramer said.

As a form of investment, the Insurance Exchange will have relatively high risk, with the degree of risk reflecting the quality of the syndicate's underwriting management and how effectively the syndicate uses reinsurance, Mr. Kra-

mer pointed out.

Unlike Lloyd's, however, syndicate members will have limited liability as a result of the establishment of a guaranty fund and other means to secure the exchange, its members and policyholders against losses.

Guarantees

Purchase of reinsurance by the syndicates will be the method of guaranty until exchange operations pick up, Mr. Kramer explained. After that, a percentage of premium will be placed in the guaranty fund until it builds up to a sufficient level, he said.

"Starting up the security fund immediately will lock up capital," said Mr. Lewis.

The Insurance Exchange will write reinsurance, non-U.S. risks and surplus risks that have been rejected by the free trade zone companies. These lines will be exempt from prior approval require-

ments on rates and forms.

In addition, the exchange will be exempt from all state and local taxes except the premium taxes that it will collect from member syndicates. Syndicates will not be taxed by the state on their net income, but the income will be passed-through to syndicate members and taxed as part of investors' income.

Start-up plans for the exchange call for a minimum of 20 syndicates each capitalized to \$3 million, presenting capacity of \$200 million.

Although the exchange's architects have perceived it as being self-regulated, the superintendent said that his department will have a "demanding role" as the exchange gets underway to see that syndicates do not overextend themselves and to watch the sources and control of money.

"Until things get moving, the department must be the final word on financial stability," Mr. Lewis said,

Continued on following page

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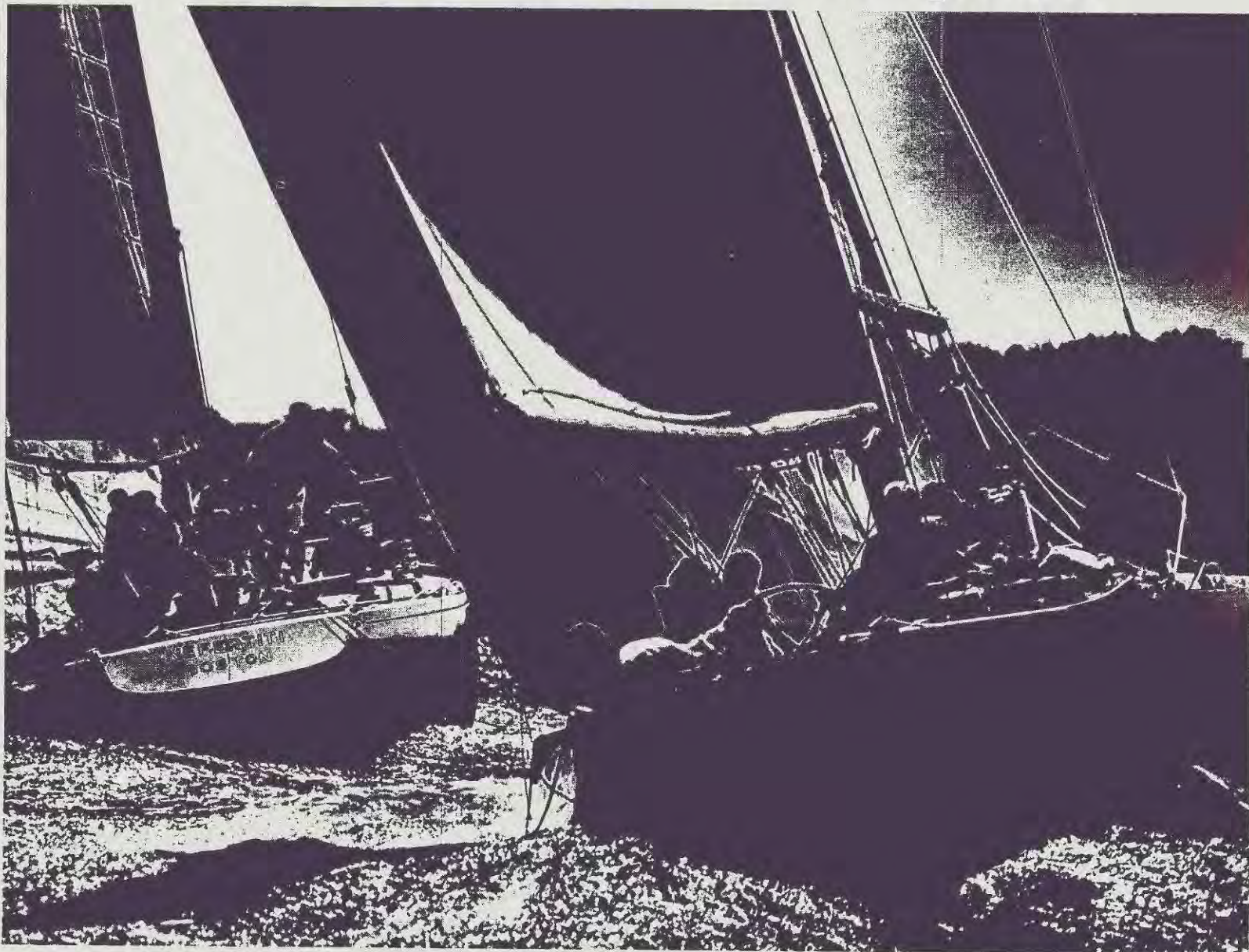


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New York . . .

Continued from preceding page adding that a special division within the insurance department will probably have to be established to monitor the exchange.

There have also been concerns expressed from various sources about the possibility of the exchange set up violating federal antitrust regulations. "Other than mismanagement, the only threat to this (the exchange) not succeeding is that it will be fatally flawed under federal antitrust laws," warned Sen. Dunne.

Mr. Lewis said his department and outside counsel have reviewed the proposal and have not found any possible antitrust conflicts.

The free trade zone, becomes effective Sept. 1, 1978. Unlike the exchange, which will be a physical

entity requiring an underwriting floor and support facilities, the trade zone is merely an exemption from certain forms of regulation.

The license will cost \$1,000 per year and a trade zone company will be required to maintain a surplus of \$4 million. Trade zone risks will not have to be submitted for prior approval on rate and form.

To fall into that category, a risk will have to generate \$100,000 in premium or be designated by the insurance superintendent as "unusual" or of "high loss hazard."

An amendment to the trade zone section of the recently passed bill was proposed by the insurance department, providing a risk does not have to be rejected by a trade zone company before it can be submitted to the surplus markets.

This provision will prevent admitted insurance companies from using the trade zone to cut off access to the surplus lines. ■

Brokers, insurers . . .

Continued from page 1

Gerard F. Curtis sees as potential investors "an A&A, a Hartford, a GM and a John Jones."

Unable to contact personally the vast pool of potential investors referred to by Mr. Curtis with the generic "GM and John Jones," *Business Insurance* reporters interviewed brokers, insurers and reinsurance companies to determine the commitment that exists to investing in the New York Insurance Exchange.

It appears that if the exchange were to open its doors in today's climate of response, there would be a flood of brokers looking to place risks in a desert of capacity.

So far, only the Insurance Co. of North America has gone on the record with its intention to organize an underwriting syndicate. INA president John Cox, who lobbied for the exchange legislation, told *Business Insurance* that his company intends to organize an underwriting syndicate when the exchange starts operation.

Prudential Re

The Hartford and the Reliance Group, which are actively participating in these early stages of the development of the exchange, presumably are doing so with an eye to participation in the exchange, but executives at neither company could be reached for comment.

Prudential Reinsurance Co. is the only reinsurer that told *Business Insurance* it would be interested in participating in the exchange, provided the constitution and by-laws allowed a workable facility. "If it's practical, we'll want a substantial interest in syndicates—maybe even one of our own and interest in ones with underwriters we respect," said vp Ross Cowan. "If there are new ways to market successfully, you're crazy if you don't do it."

Otherwise, responses from executives at American insurance and reinsurance companies range from reserved support for the concept, to no opinion, to downright dismissal of the proposal as creating an unnecessary facility.

Crum & Forster and St. Paul spokesmen said their companies support the concept of the Insur-

ance Exchange, as well as the relaxation of controls over large risks afforded by the free trade zone created in the same legislation. But both companies want to know "the rules of the game" on the exchange before commenting further.

The Travelers at this point is "extremely interested in the exchange from the standpoint of a buyer of reinsurance," said second vp Donald L. Cole, "but as seller, we don't know yet." He explained, "It's not that we're unenthusiastic, but we need to know what we're going with."

Wary insurers

Neither Aetna Life & Casualty nor The Home Insurance Co. have any definite opinion on the exchange. "We are looking at it very, very carefully," said an Aetna spokesman, "but we are reserving judgment until we see the constitution and by-laws." The Home's spokesman said, "We have no corporate position on this plan. We are waiting to see how it will be implemented."

At Continental Corp., where executives had been concerned about the speed with which the proposal was developed, there are now "reservations about how the exchange will be constituted," said a spokesman. He stressed, however, that the company supports the goals of strengthening the U.S. market and building capacity. "If it gets going and is an important factor—viable, effective, working—it's likely we would participate," he added.

American International Group, whose president Hank Greenberg had opposed the exchange until broker participation in syndicates was limited to less than a 20% interest, isn't committed to writing risks on the exchange either. Though Mr. Greenberg said AIG "will support the exchange in every way we can," he said it would be "premature" to say whether

AIG would participate in its underwriting syndicates. He added that with AIG recently organizing a new reinsurance company, Trans Atlantic Re, he couldn't see any particular benefit to owning or operating an exchange syndicate.

Except for Prudential Re, professional reinsurers aren't interested now in investing in the exchange. Since the exchange is authorized to write all kinds of reinsurance in addition to non-U.S. risks and risks that can't be placed in the free zone, the professional reinsurers recognize the exchange as a direct competitor.

American Re-insurance Co. isn't interested in becoming a member of the exchange since it would be competing with itself, said president James D. Koehnen. "We have no quarrel or problem with the exchange," he said, "but we would not want the exchange to have any advantage over licensed reinsurers."

Other reinsurers

N. David Thompson, executive vp of North American Reinsurance Corp., observed, "It's hard to make any specific comment about the exchange without knowing how it will work." He agreed that if the syndicates on the exchange were allowed to do business by a "different set of rules, we'd have a fair complaint." But he stressed that professional reinsurers "don't fear knowledgeable and responsible competition."

A Kemper Reinsurance Co. spokesman praised the free trade zone aspect of the legislation, saying if more states took such action risks now being underwritten overseas would readily return to U.S. underwriters. But he suggested the exchange "is not particularly needed now with advanced communications and travel accommodations. We think the marketplace concept with one floor isn't nearly as important anymore."

Excess/surplus insurance and reinsurance brokers too have reservations about the prospects of

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the New York Insurance Exchange. Jeremy D. Cooke, vp of Major Surplus Ltd. in Livingston, N.J., complained, "We have nothing more than an indication of what people would like to put together in today's insurance market. Whether it will actually work, I don't know."

H. James Griffith, president of Princeton Risk Managers Inc. in Princeton, N.J., also raised the question of the availability of the top-notch underwriting talent that he views as crucial to creating "an insurance operation and not just a cash flow operation." The major excess/surplus broker also isn't convinced that the syndicates will attract the capital needed to make them work.

Captive interest

One source of capital frequently mentioned is the offshore captive insurance company industry. Thomas Duffield, president of the Captive Insurance Companies Assn. Inc., said the exchange could be very attractive for captives.

Edward P. Lalley, president of Ideal Mutual Insurance Co. of New York, believes captives may participate in syndicates "since I've always felt that those who have put captives on stream are the advanced thinkers of the industry." Ideal Mutual itself will "seriously consider joining the exchange," he said.

Even the effervescent brokers aren't committing their companies to investing in syndicates on the exchange, though they aren't closing the door to that option either.

M&M chairman L. Patton Kline hailed the legislation creating the exchange as "one of the most significant legislative actions of this century in the area of insurance... From the standpoint of the American commercial insurance buyer, the contributions of the Insurance Exchange and insurance free trade zone offer the prospect of the additional capacity so sorely needed to create a balance between supply and demand in the commercial insurance market."

M&M's Mr. Clements said, "What we hope and think is that the free trade zone and the Insurance Exchange will create an international marketplace in New York City with the exchange as the centerpiece, if it's done properly." He conceded, though, that the exchange would have to grow "significantly bigger" than the \$60 million cited as its initial capitalization in order to have an impact on the insurance marketplace.

A&A senior vp Thomas D. West agreed the "initial impact will be minimal," but he is enthusiastic about the exchange's possible contribution to future capacity needs, in whatever lines they may be.

Learning process

Mr. West and Mr. Curtis played down the lukewarm response among insurers and reinsurers. "They're waiting for the by-laws," Mr. West shrugged. "And they are going through a learning process on this," added Mr. Curtis, who has been involved in development of the exchange in New York from the beginning.

The two A&A executives stressed the exchange is not a threat to existing insurance markets here or in London. It is being created to "service business that is not now being served," such as providing high limit excess insurance and liability umbrellas that are unavailable now, they explained. Neither British nor American companies admit to feeling such a threat.

Johnson & Higgins, which along with M&M, A&A and Smythe, Sanford & Gerard, has devoted talent, time and money to the ex-

change project, plans "an active, visible and supportive role on the exchange," said senior vp and director David Winton. "We can't see anything but good if the exchange is set up properly."

While one large, Midwest insurance company suggested the exchange would end up serving only New York business and a large Midwest broker admitted being skeptical of the exchange, at least one other insurance industry organization headquartered outside of the Empire State is fascinated with the exchange proposal. Bayly, Martin & Fay is "thrilled with the whole idea," said senior vp Samuel Alcorn. "We're totally enthusiastic and waiting for its fruition."

Mr. Alcorn predicted that with surpluses restored, insurance companies "will take a look at this for another source of income." His company, which has a large New York office, will "take a hard look at participating in a syndicate," he said.



Samuel Alcorn of Bayly, Martin & Fay says his firm is "thrilled with the whole idea: We're totally enthusiastic and waiting for its fruition."

Lloyd's underwriters sue in CTI-pool controversy

LONDON—Leading underwriters at Lloyd's have now begun a lawsuit in Britain over reinsurance claims for losses suffered in container chartering by CTI International Inc. of White Plains, N.Y.

As already reported, CTI is suing Oceanus Mutual Underwriting Assn., a Bermuda-based P&I pool, for \$292,000 for container loss or damage in 1977 under a policy taken out more than 18 months ago.

It is now learned that a Lloyd's syndicate, the H.G. Chester Group, is also suing Oceanus for unspecified damages for breach of contract over a reinsurance arrangement made late-1975.

Under this agreement, Oceanus took over the responsibility for "run off" claims which might arise after the Lloyd's policy for CTI International terminated end-1976: Sources in London say Lloyd's has already met some of these losses in addition to those covered by its direct insurance, but has failed so far to obtain reinsurance payment from Oceanus.

CTI was insured in the U.S. through Crum & Forster until mid-1975, but then placed its business in London by arrangements in which U.K. brokers C.E. Heath and U.S. brokers Alexander & Alexander were reportedly involved.

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Bridger succeeds retiring Stuart at Canada packers

Donald M. Stuart retired this month after 42 years with Canada Packers Ltd., 23 years of which were as the company's first and only insurance manager. Mr. Stuart, 60, is one of the founders of the Ontario Risk & Insurance Management Society, which recently established the "Don Stuart Award" to be given annually in recognition of accomplishment in risk management in Canada. Mr. Stuart says he will be taking his life a little easier but will continue his work with the Ontario RIMS chapter.

Replacing Mr. Stuart in the titled position of risk and insurance manager is J.A. "Tony" Bridger, 40, who has been with Canada Packers for more than 17 years. Mr. Bridger joined Canada Packers shortly after graduating from the University of Toronto in 1961 and has worked directly under Mr. Stuart in the insurance department since 1972. Taking over as assistant to the risk and insurance manager is J. "Joe" Hardy, 33. Mr. Hardy has been with the company for nine years, most recently in the accounting division of the food services office.

Dennis Chambers, 26, has been promoted to risk manager at U.S. Home Corp. in Clearwater, Fla., reporting to director of insurance Thomas P. Myers. Mr. Chambers has been assistant risk manager since he joined the company in

1976. Prior to that time he was an underwriter with the Travelers Insurance Co. in Chicago.

Pamela Collins, 25, has been hired by St. Josephs Hospital in Chicago to implement a risk management program. Ms. Collins is a recent master's graduate of George Washington University, where she wrote her thesis on implementing a risk management program at another Chicago hospital. As part of the process in starting the risk management department, Ms. Collins plans to hire a safety manager. Previously, risk management duties were fragmented among the hospital's financial division, its attorneys and the hospital's brokers. Ms. Collins reports to Jerry Horney, assistant administrator of finance and administrative services.

At Sterling Precision Corp. in West Palm Beach, Fla., Howard Dunberg, 35, has been named risk manager. He reports to treasurer Charles P. Gallopo. Mr. Dunberg replaces Robert Young, who left the company. Previously, Mr. Dunberg was a risk administrator for the Raynoier division of International Telephone and Telegraph in New York, where he hasn't been replaced.

Delores Cancellieri of USLIFE has been promoted to assistant secretary-general insurance coord-

inator, a position which carries duties similar to a risk manager. Mrs. Cancellieri terms the promotion an "additional title" and said she will be involved in coordinating the insurance needs of USLIFE's 25 active subsidiaries.

J. Pete Biggs, 33, has joined Coastal States Gas Corp. in Houston as insurance manager. He replaces Douglas B. Cook, who joined Noble Affiliates in Ardmore, Okla., as reported. Mr. Biggs previously was a senior administrator in the insurance and loss control department at Tenneco Inc. in Houston. At Tenneco, Allen Cooper, 24, has been transferred from the production and exploration department to the insurance department as insurance analyst. He reports to insurance manager Russell Jones.

The Stauffer Chemical Co. of Westport, Conn., has appointed Richard Stalker, as manager of property protection. Mr. Stalker will report to E.S. Hays, director of safety and loss control. Previously, Mr. Stalker had logged seven years each with the engineering division of the Factory Mutual Insurance Cos. and the Xerox Corp. Mr. Stalker replaces Henry G. Hyde, manager of safety and loss prevention at BASF-Wyandotte Corp. of Parsippany, N.J. Mr. Hyde's post is a new position at BASF-

Wyandotte.

Albert Edward Fridenstine III, 30, was appointed to the newly created position of risk manager assistant for the State of Idaho's department of risk management. Mr. Fridenstine assists George Collins, risk manager for the state. He was formerly a claims adjuster with the General Adjustment Bureau.

Larry Davidson, formerly director of benefits and compensation with the G. D. Searle Co. in Skokie,

Ill., has been named manager of employe benefits for the Wickes Co. in San Diego. Mr. Davidson reports to John Golish, director of benefits and compensation.

Edward G. Paull is the new pension and benefits administrator for the Southern California Rapid Transit District in Los Angeles. In charge of the group medical and dental program as well as pensions at the transit district, Mr. Paull formerly was employe benefit manager for Valmont Industries in Valley, Neb.

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Ford lawsuit . . .

Continued from page 1

dict for punitive damages could not be awarded because there was no evidence of willful intent to inflict injury and because the instructions which informed the jury that punitive damages could be assessed were erroneous.

The principal argument in the Grimshaw case was that Ford knowingly designed the 1972 Pinto with a gas tank located where it would be apt to rupture upon light impact.

In its lawsuit filed in late June, Ford asks for no monetary award, but rather requests the court to make a determination of its rights and the duties of the defendant insurance companies in regard to the payment of punitive damages.

A hearing on the lawsuit has been set for July 17. A trial is slated

to follow.

The suit states that in the wake of the Feb. 7 announcement of the original \$125 million punitive damage award in the Grimshaw case, three other lawsuits have been either filed or amended for punitive damages. Two of these cases make requests for punitive damages of \$10 million while a third asks for punitive damages in an amount equal to 5% of Ford's net worth as of Dec. 1, 1978.

Ford has a self-insured retention for product liability. Yet it also has primary liability policies and multiple excess umbrella policies from the insurance companies for product liability coverage according to the lawsuit. A schedule detailing the policies of insurance, limits of liability, policy numbers and effective

policy periods of each of the excess liability policies issued, is part of exhibit "A" of the Ford lawsuit.

The suit goes on to relate that Ford has demanded that the defendants whose excess liability policies covered the Grimshaw case indemnify the automaker for all punitive and exemplary damages for which it could become legally liable.

The defendant insurance companies have replied that they refuse to pay any damages awarded as a "result of a deliberate act by any insured," the suit states, and have advised Ford that they reserve rights to pay coverage for all punitive damages and to indemnify Ford for such judgments in the future.

The domestic defendant companies are The Home Insurance Co.; the Aetna Casualty & Surety Co.; Affiliated FM Insurance Co.; American Bankers Insurance Co. of Florida; American Employers' Insurance Co.; The American Insurance Co.; American Motorists Insurance Co.; American Reinsurance Co.; Appalachian Insurance Co.; Columbia Casualty Co.; Continental Casualty Co.; Drake Insurance Co. of New York; Federal Insurance Co.; First State Insurance Co.; First State Underwriting Agency of New England Reinsurance Corp.; Granite State Insurance Co.; Hartford Accident & Indemnity Co.; Highlands Insurance Co.; Insurance Co. of the State of Pennsylvania; International Surplus Lines Insurance Co.; Lexington Insurance Co.; Midland Insurance Co.; Mutual Fire, Marine and Inland Insurance Co.; National Union Fire Insurance Co.; Northbrook Insurance Co.; Prudential Reinsurance Co., and Puritan Insurance Co.

Some of the international insurance companies named in the suit are Lloyd's; Helvetia Accident Swiss Insurance Co.; The Institute of London Underwriters; the Dominion Insurance Co. Ltd., and London and Edinburgh General Insurance Co.

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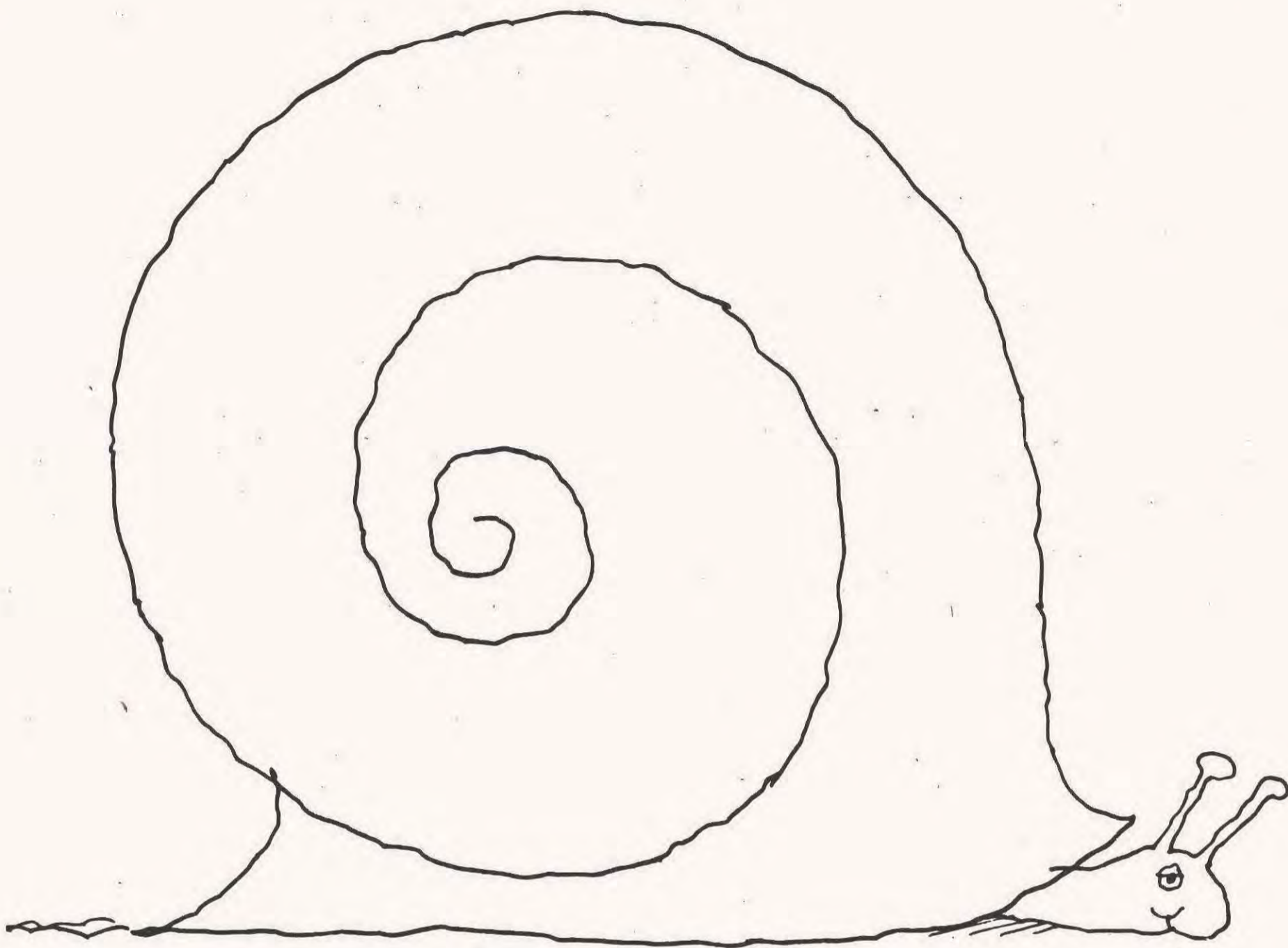
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