

Tall ships' liability was no dream to insure

By MARIE KRAKOWIECKI

NEW YORK—Operation Sail 1976 began as a dream. And in the way of dreams, it did not lend itself readily to the idea of risk.

But a mere two days before the glorious parade of tall ships was to sail into New York Harbor in a Bicentennial spectacular, Op Sail's planners found that part of their dream had turned into a nightmare. That part that came with buying insurance.

What Operation Sail's planners apparently did not foresee until too late was that besides being a romantic tribute to the great age of sail and the icing on America's birthday cake, Op Sail would also be one of the biggest potential liability exposures ever to be faced by the waterfront areas of New York and neighboring New Jersey.

On July 2, it was virtually impossible to get through the phone lines to Operation Sail 1976, the non-profit group at the World Trade Center which was coordinating the Fourth of July extravaganza.

However, when Howard Slotnick, treasurer, was contacted, he characterized the insurance situation as "a horror show."

"I can't talk to you about this right now," the harried treasurer said in what was probably the understatement of the day for him. "But boy, when this whole thing is over, I want to get the story out about how the underwriters have been behaving."

When a reporter called his office earlier and identified her affiliation as "Business Insurance," she was immediately asked in a hopeful tone: "What insurance company?"

Mr. Slotnick, before jumping back to his business at hand, did confirm reports from other sources that a number of New York City brokers were working on a volunteer basis to help place coverage.

He had special praise for an executive from Johnson & Higgins.

"Jim Wallace at J&H has been literally knocking himself out for us. He's been working really hard for us, and without any thought to commissions on the premiums. It's all volunteer," Mr. Slotnick said.

"You can call him to get the details."

Not surprisingly, when Mr. Wallace's office was reached later on July 2, he was tied up in meetings.

However, another broker said that in addition to Johnson & Higgins, major efforts were being made by Marsh & McLennan and Frank B. Hall to help Op Sail get insurance.

He also said Alexander & Alexander, Adams & Porter and Bleichroeder, Bing & Co. Inc. were working on the project.

An official at another New York City non-profit group which is working closely with Operation Sail also said his experience with underwriters in trying to get marine liability insurance was a hassle.

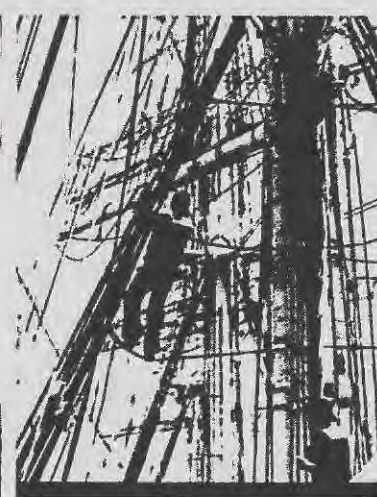
"I could really blacken a lot of eyes if I told you about all the problems we've been having with our insurance. You wouldn't believe it."

He went on to say he wanted to reveal everything, but that the

underwriter causing the biggest problems was his organization's own insurance carrier, and that since his group's insurance policy was coming up for renewal in the near future, he feared reprisals by the insurance company if he publicly said anything unflattering about it.

Estimates published by the Wall Street Journal just two days before the tall ships were due indicated there would be approximately five million spectators in the viewing area on land alone.

The Coast Guard anticipated about 20,000 small pleasure boats. Continued on page 6



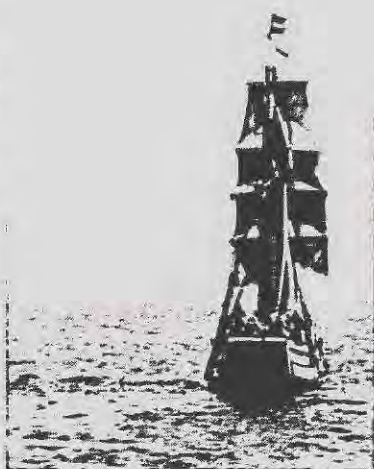
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Shallow pipeline blamed for explosion

By JOANNE GAMLIN

CULVER CITY, CA.—A catastrophic explosion, which wiped out an entire city block and caused six fatalities and at least eight serious injuries, occurred on June 17 when an excavation machine cut through an underground Standard Oil gasoline pipeline during a road-widening project.

Property damage alone is estimated at about \$1.5 million. Involved in the tragedy, which has already brought one wrongful death lawsuit are: Standard Oil of California, San Francisco; The California Department of Transportation (Caltrans); the Griffith Co., Long Beach, Ca., the contractor; and C. W. Poss, Inc., Huntington Beach, Ca., the subcontractor.

A preliminary investigation by federal, state, county and city officials has disclosed that 1975 test borings on both sides of the point where the gasoline pipeline broke revealed that the Standard Oil line was 18 to 20 inches below the bottom of the planned new road bed.

Webster B. Todd Jr., chairman of the National Transportation Safety Board, disclosed that last January a 700-foot section of the pipeline, located three blocks from the explosion site, was lowered because it was found to be too close to the surface of the new roadway.

A member of the Los Angeles County Board of Supervisors said that there are thousands of miles of such pipes in the county. He

called for a safety study by federal, state, county and city engineers.

The wrongful death lawsuit brought in federal court on June 23 asks for \$5 million in damages and names Standard Oil, Griffith and Poss as defendants.

However, one source close to the investigation told Business Insurance that it is possible that criminal charges could be brought under sections 6423 and 6425 of the California labor code which cover 'unsafe' labor conditions.

An attorney for Standard Oil said he anticipates many lawsuits will arise from the explosion. He also confirmed that So-Cal is self-

insured for public and general liability.

"We are certain that this will be a self-insured claim," he said, adding that he expects two to three years to elapse before the case is resolved.

Caltrans also is self-insured for public liability, said Joseph Montoya, deputy chief counsel for the agency. He pointed out, however, that under construction contracts the contractors and subcontractors can include state agencies in their public liability policies. If they opt not to do this, he said the state agency can withhold payments to the contracting firms if the state body is hit with liability claims.

Under the \$3.9 million contract

for the two-mile road-widening project, awarded last September by Caltrans, the state agency is insured for public liability by the two contractors, Mr. Montoya affirmed.

He went on to state that it is his understanding that Travelers Insurance which covers C. W. Poss may deny coverage to Caltrans. Mr. Montoya indicated that if coverage is denied, Caltrans may have to go to court.

Griffith Co., the contractor, is insured for liability by Mission Equities in the primary layer and by Sayre & Toso in the excess area. Mission Equities declined to divulge policy limits.

Question of defining and insuring swine flu liability is still unresolved

By PAUL R. MERRION

WASHINGTON—At the end of three days of legislative meetings on a bill to indemnify the makers of swine flu vaccine, the score stood:

Congress: 0

Drug companies: 0

The House Health and Environment Subcommittee tried to move swiftly to pass the administration bill, but it bogged down in the first day of working sessions June 30 when the subcommittee members realized the government was being asked to assume all liability under the contract except for negligence in the manufacture of the vaccine.

The problem is, there is no contract and hence no precise statement of obligations, and the drug companies will not agree to a contract until they are protected against risks that the government is supposed to assume.

"What we want to know is what

the government is liable for," said Rep. Andrew Maguire (D-N.J.), one of the more vocal critics of the legislation. "This bill indemnifies the 'other' obligations of the contract without identifying them, without us even seeing a contract."

The crux of the problem is the undertaking by the government of the design, testing and notification of hazards associated with the vaccine, functions that the manufacturers normally assume. The drug companies fear being enjoined in legal battles arising from one of these areas.

"We want to make the vaccine available, but we don't want to be liable for something beyond our control," said Roger A. Clark, an attorney for Merrell National Laboratories.

The four drug manufacturers involved in the government program—Richardson-Merrell, American Home Products, Warner-Lambert and Merck & Co.—have been notified by their product liability insurers that they will not be cov-

ered for the swine flu program because the risks are "unknowable and uninsurable," according to Leslie Cheek, vp of the American Insurance Assn., in his testimony before the subcommittee.

"The (insurance) industry is having a hard time providing coverage for risks and customers with which it is familiar, and has neither the capacity nor the desire to take on new and unmeasurable liabilities," he added.

In an unusual move, the subcommittee held on the following day an informal hearing with the drug company lawyers and an insurance industry representative to try to break the impasse. At the end of that session on July 1, the chairman of the subcommittee, Rep. Paul G. Rogers (D-Fl.), said: "That (problem) ought to be handled by agreement rather than by law, because I don't think the committee is in a position to write a law at this time."

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Swine flu liability . . .

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As one wag put it during a break in the session: "I hope there aren't any high school students here because they just saw the breakdown of the whole legislative process."

Attorneys for the drug makers, the Justice Department and HEW met July 2, to try and meet Rep. Rogers' request and resolve the problem through changes in the contract rather than by legislation. There were no breakthroughs at the session, which lasted after normal business hours, according to Dr. Delano Meriwether, HEW's director of national influenza programs.

At presstime, there was no word whether the slight modifications in the previously drafted contract would be approved by the Justice Department, HEW and attorneys for the drug manufacturers. Even if it is approved by all three groups, Dr. Meriwether pointed out, the contract must still go to the boards of directors of the four drug companies "for the controlling decision."

In the meantime, Congress re-

cessed July 5 until July 19. Markup sessions on the indemnification bill will resume at that time, a subcommittee side said, but the delay makes it unlikely that any legislation will pass both houses by the end of the month.

At the fact-gathering hearing on June 28, the subcommittee was told by Ivan Husovski, president of Merrell-National Laboratories, that Congress must pass the indemnification law "by early July" if the companies are to be expected to make enough vaccine for the \$135 million mass immunization program this summer and fall. Merrell is responsible for making about 20% of the vaccine.

Merrell is understandably leery of the risks in the program. One of its foreign units reportedly produced Thalidomide, which caused birth deformities in children whose mothers had taken the drug, and Richardson-Merrell Inc., another unit, produced MEB/29 an anti-cholesterol agent that also caused eye cataracts, loss of hair and a skin disease.

When polled by Chairman Rog-

ers, the lawyers for the drug companies said the manufacturers were undecided as to whether they would continue making the vaccine if they couldn't get insurance or government indemnification.

"Even if one or two companies pull out, it will seriously cripple the program," warned an official at the Department of Health, Education and Welfare.

Ever since President Ford decided to proceed with the mass immunization scheme last April, problems have been cropping up.

Setting aside \$135 million to inoculate some 200 million Americans works out to be substantially less than \$1 per shot. Yet aside from manufacturer's liability worries, hospitals and doctors face an equal if not greater malpractice risk, which may create a staggering increase in their insurance premiums.

Dr. Leo Gehrig, senior vp of the American Hospital Assn., told the subcommittee that some malpractice insurers have told the hospitals they insure that they will treat swine flu vaccine recipients the same as any other out/patient malpractice risk.

That insurance cost will average about \$1.50 per inoculation to each

individual, Dr. Gehrig said, and early tests of the swine flu vaccine have indicated that young children may need two doses for effective immunization.

One possible loophole in some areas is a state law that gives immunity to public health workers. By becoming a volunteer, nurses and doctors would be considered public employees, but this would work only in states with such immunity laws, Dr. Gehrig pointed out.

A bill to indemnify those who administer the vaccine, similar to the bill for manufacturers, has been introduced by a member of the subcommittee, Rep. Tim Lee Carter (R-Ky.), but it is stalled pending the outcome of the manufacturers' bill.

Given the attitude of the legislators, that outcome is very much up in the air. After asking the drug company representatives about their liability experience with other vaccines, and hearing one say that there were only five suits last year, and another say that his company's experience was "quite good," Chairman Rogers said:

"We've been told there would be 400,000 potential deaths if a swine flu epidemic occurs, and here we are talking about experience that is very slight.

"I don't see much responsibility from the insurance industry and it's spreading to the drug industry."

"It's startling to me," Rep. Rogers said, "on the basis of information received today, that it would be impossible to get insurance coverage."

Commercial Union pays out of court

SAN FRANCISCO—Commercial Union Insurance Co. of New York and Massachusetts will pay \$600,000 of a \$1.7 million out of court settlement negotiated by attorney John W. Herron on behalf of Stephanie Daly.

Mrs. Daly, who, with two young sons now lives in the Mid-West, is the widow of Alan Daly, 30, a computer production manager for the San Rafael Independent Journal, who was murdered during a newspaper strike six years ago.

Mr. Daly was beaten and fatally shot in his San Francisco home on July 4, 1970 and died 12 days later. He had been shot by Larry Rutherford, one of two young men hired by Frank J. Thurber, a member of San Francisco-Oakland Mailers' Union, Local 18.

Thurber was charged with having supplied a .45 calibre pistol used in the killing of Mr. Daly. Thurber was found guilty of first degree murder and the two youths were sentenced to custody of the California Youth Authority.

Defendants in the personal damages lawsuit, which had been scheduled for Superior Court trial, in addition to the Mailers' Union, were the International Typographical Union, Local 21; Teamsters Local 921; the San Francisco and Marin County Labor Councils and 43 other union locals.

The remainder of the out of court settlement, \$1.1 million, will be shared by a number of insurance carriers, including Travelers' which insured Local 21; U.S. Fidelity and Guaranty, insurer for the two Labor Councils; and Continental which insured the Mailers' Union local.

Directs association

Professional Independent Mass-Marketing Administrators (PIMA) appointed Robert L. Norris, CPCU, executive director. He succeeds Ardell T. Everett, who was executive administrator from the association's formation last year. PIMA is based in Chicago.

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the benefit beat

DuPont dental plan to cost \$200 per employe

E. I. duPONT de NEMOURS & CO. INC., Wilmington, De., is establishing a dental benefit program for its 100,000 employes nationwide at an estimated cost of \$20 million for the plan's first year in operation.

Insured with Connecticut General Insurance Co., the plan is non-contributory and provides a maximum annual benefit of \$750 for employes and each of their dependents. The plan also provides a maximum lifetime benefit of \$500 for orthodontic work. To become effective September 1, the plan will pay full costs of diagnostic and preventive work, including oral examinations, cleaning, fluoride treatments, dental x-rays and space maintainers for children. Other dental services are reimbursed according to a schedule detailing 400 procedures including fillings, oral surgery, root canals and bridge work.

MICHIGAN EDUCATIONAL SPECIAL Services Assn. (MESSA) chose The Equitable Life Assurance Society of the U.S. as carrier for its group life and health insurance program expected to generate some \$50 million a year in group insurance premiums. MESSA's program will cover more than 55,000 subscriber members and their families. Subscribers are expected to purchase \$650 million of life insurance. MESSA members include teachers, administrators, custodians and other employes of more than 500 school districts in Michigan. MESSA is a non-profit corporation affiliated with the Michigan Education Assn.

HUMANA INC., owner of 64 hospitals and operator of eight additional health care facilities, switched its health insurance program for its own nearly 15,000 employes to Prudential Insurance Co. of America from Blue Cross/Blue Shield. A spokesman for Prudential in Chicago cited "service, price and funding arrangements" as primary reasons for Louisville-based Humana's change in health benefit providers. Another source who asked not to be identified also cited an inadequate national account set-up at the Blues as part of the reason for the change. Each Blues organization in each state handles claims differently, the source noted.

CHICAGO BRIDGE & Iron Co., Oak Brook, Ill., last month moved its health insurance plan for salaried personnel to The Equitable Life Assurance Society of the U.S., dropping Blue Cross/Blue Shield. "We're closer to self-insurance (on health benefits) than ever before," said John Donahue, personnel assistant in charge of group life and medical insurance. Some 2,500 to 3,000 salaried employes of Chicago Bridge & Iron are affected by the change. Union bargaining units are still covered by the Blues, Mr. Donahue said. "Equitable is more flexible than the Blues on service and financing arrangements," he noted. "We pay Equitable a certain percentage of our cash flow (for claims). Claims are processed in 10 different locations, but they are handled the same anywhere in the country," he added. This was an important consideration for the company because Chicago Bridge & Iron has 27 separate sales offices and fabricating units. The company also has retirees scattered throughout many states, Mr. Donahue explained.

PRUCARE, the Houston health maintenance organization sponsored by Prudential Insurance Co. of America, so far has enrolled 10 corporate accounts in the Houston area in addition to the insurer's own employes. Employer participants are: Baker International; Western Electric; W. S. Bellows (construction); Houston, Stevenson & Cummings (insurance brokerage); Allen Parker & Co. (insurance company); Bellair (city government); Property Management Systems; National Flame & Forge; Marathon Manufacturing Co. and CRS Design. PRUCARE is the first insurance company-sponsored HMO in the nation to be federally qualified and the first to be certified by the state of Texas. The HMO's marketing director Terry Burke told *Business Insurance* he is confident that "40% of the prospective accounts with over \$500 lives each will move to PRUCARE" within a few months. Medical care for the HMO is de-

livered through MacGregor Medical Clinic Associates, a group of 28 physicians.

"**AFIA TERMINATED** its medical coverage a month ago in the Far East," said Che Lin, actuary and president of Marsh & McLennan South East Asia Ltd., at a benefits meeting in Chicago last month. He was presenting a wrapup of benefit developments in the Orient for some M&M clients. "We feel that statement is a misinterpretation," responded Andrew M. MacDonald, vp of AFIA's accident and health division in Wayne, N.J. when contacted for comment. "AFIA has not terminated medical coverage in the Far East. We are becoming more selective on renewal underwriting. In addition, AFIA has "removed

the autonomy of some country managers" which means that more underwriting "must go through Singapore," according to Mr. MacDonald.

PAPERWORK PROBLEMS . . . At least two major San Francisco area corporations are responding to the growing pressure for benefit compliance under ERISA by adding benefits administrators to handle the increased paperwork. Breuners Fine Furniture, a retail chain with 12 stores, now has Keith Brooks laboring full time in benefits, also handling claims for workers' compensation and unemployment benefits and reporting to the vp of personnel. He formerly divided his time among taxes, insurance and employe benefits. The

increasing backlog of ERISA-related work was the chief cause of the job alteration, Mr. Brooks said. He's spending nearly 100% of his time preparing and maintaining records for such required documents as form 5500, the EBS-1 report and the summary plan description. Another Bay Area firm—a diversified producer of consumer and shelter products—last fall moved its assistant insurance manager to benefits, workers' compensation and safety. "However, most of my time is consumed by ERISA compliance," he pointed out. A consolidation of this company's various pension plans into a single retirement system boosted the number of vested participants to about 2,000 from 500, contribut-

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Benefit . . .

Continued from page 3
ing to the need for a person spending more time on benefits, the manager said.

AEROJET GENERAL CORP. in El Monte, Ca. liberalized its life, health and retirement benefit programs, *Business Insurance* learned. The company jettisoned benefit schedules in favor of covering 80% of "usual, customary and reasonable" charges under its noncontributory dental benefit plan, said Hands Day, corporate employee benefit manager. "Because we have always struggled to control costs, this is a liberal move for Aerojet," Mr. Day said. He also told of broadened hospitalization benefits, which now cover a maximum of 365 days for any one illness, a change from the previous 70 day maximum coverage. Major medical limits were raised at the same time

to \$50,000 maximum per individual from \$25,000. Under the new plan, Aerojet covers 100% of major medical costs over \$5,000 incurred in any calendar year, Mr. Day said. The long term disability program now provides for a maximum salary continuance of \$3,075 a month, up from the old maximum of \$1,825 a month. Life insurance benefits for retired employees, however, were restricted so that a maximum of \$3,000 group life insurance is provided after retirement. Previously, retirees retain 25% of group life coverage that they had enjoyed as employees. Last August, Aerojet decided to award full retirement benefits to all workers taking early retirement beginning at age 62 provided they had 10 years of service.

COMMUNICATIONS PROBLEMS on claims processing" was the reason given by St. James Hospital, Chicago Heights, Ill., for ending its employee health insurance

contract with Blue Cross/Blue Shield and signing on with Travelers Insurance Co. Over 1,500 employees are covered by the new contract, which became effective May 4, according to J. W. Harrison, director of employee relations for St. James. "Travelers was competitive on price too," he said.

ACTUARY DAN MCGINN Los Angeles, is advising a number of his Taft-Hartley union trust funds to adopt what he calls "an automatic joint and survivor death benefit." The new benefit is to take the place of ERISA-mandated provisions covering survivor death benefits in Taft-Hartley trusts which are considered by many administrators to be nightmares. Mr. McGinn, who counts many of the biggest West Coast Taft-Hartley trusts as clients, said that the automatic joint and survivor death benefit should result in substantial administrative efficiencies, if not actual cost reductions. ■

Vehicle administrators face personal liability

WASHINGTON—State motor vehicle administrators face a potential for personal liability if they fail to keep drunk drivers off the road, according to Andrew R. Hricko, general counsel of the Insurance Institute for Highway Safety.

A legal study prepared by Mr. Hricko for the winter 1976 issue of the *Federation of Insurance Counsel Journal* notes that recent trends in court decisions may be leading to a whole new area of liability for certain public officials.

While most existing cases rely on the traditional defenses—sovereign immunity, non-liability for discretionary action, and lack of proximate cause—"the trend in some parallel areas, such as the

release of mental patients who later commit injuries, supports the view that the previous defenses of administrators may not be as solid as they appear," Mr. Hricko wrote.

"In addition, several recent suits against administrators indicate that they should review the obligations imposed upon them by statute and take appropriate measures to insure their compliance."

The potential liability of state motor vehicle administrators can be found in a series of statutes which were intended to keep "habitual users of alcohol" from operating motor vehicles either by denying them an initial license or by terminating the license through suspension or revocation, Mr. Hricko believes.

All but 10 states have statutes that require the revocation of a driver's license to anyone who is deemed to be a "habitual drunkard," according to Mr. Hricko.

Lists of persons who have been confined to institutions for alcoholism and police dockets with names of those arrested repeatedly for drunk driving are available to state motor vehicle administrators, he noted.

"In most states, however, the director of motor vehicles takes no action whatsoever to determine whether an applicant for a new license or the renewal of an existing license may fall within the definition of a habitual drunkard," Mr. Hricko said.

He cited a recent case in Nevada in which the state settled a damage suit for \$35,000 which arose when a Nevada licensee with several convictions for drunk driving was involved in a fatal crash while under the influence of alcohol. Potential liability of the state was in the area of \$750,000, Mr. Hricko noted.

The court found that although the state administrator could issue licenses to a person with two or more drunk driving convictions if it was "not opposed to the public interest," the state issued the license routinely without a public hearing, Mr. Hricko wrote.

Nevada is currently drafting procedures to establish such a hearing mechanism, according to the author.

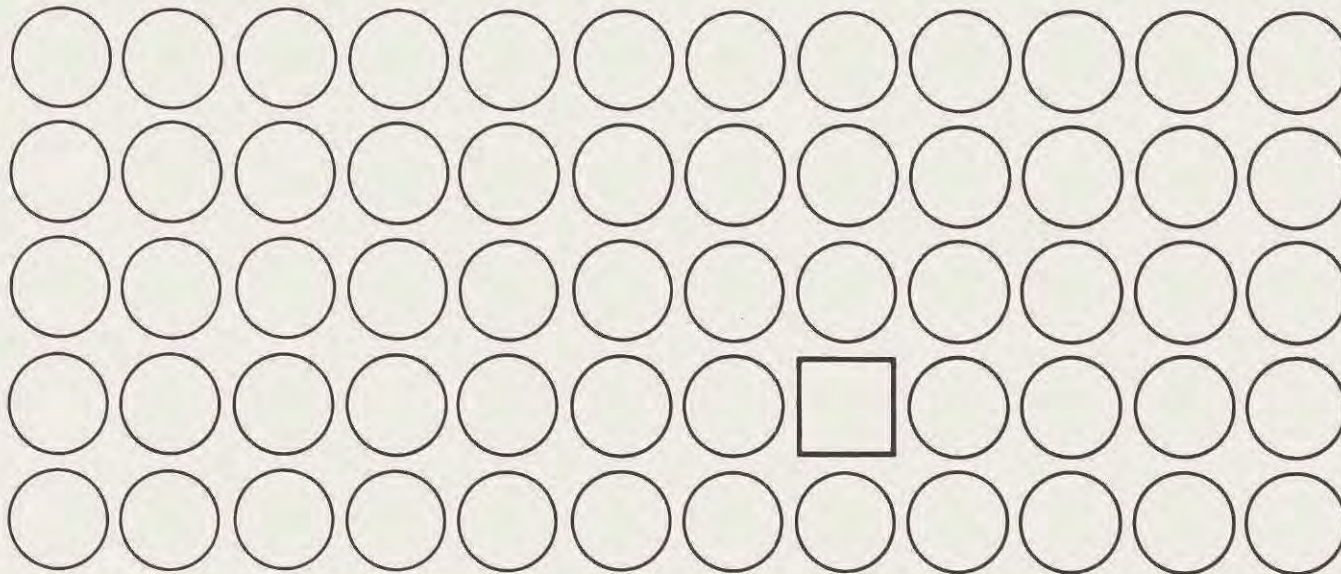
In a similar case, the state of Iowa was found liable for \$235,000 in damages for issuing a license to a person released from a mental institution. "Although the person was certified as 'restored in mind' upon his release, no evidence was presented that any opinion had been rendered concerning his ability to safely operate a motor vehicle," Mr. Hricko noted. The case is being appealed.

The reasoning behind the trend toward increased liability for motor vehicle administrators goes like this, according to Mr. Hricko:

"Administrators will not be held liable for the exercise of their discretion in the issuance of a driver's license. There must, however, be evidence that discretion was in fact exercised and that the issuance of licenses was not conducted in a routine or perfunctory manner."

Mr. Hricko suggested that administrators take "reasonable action" to make sure that people who have or who apply for licenses do not fall into the category of people who are excluded from having them. Hearings must be held to make sure that an individual's rights are protected when a license is denied or revoked, and Mr. Hricko suggested that administrators should keep records of these hearings and their decisions.

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Insuring tall ships . . .

Continued from page 1

many of them piloted by inexperienced weekend sailors, to jam the waterways for a glimpse of the review.

The Federal Aviation Administration was gearing up for trouble, too. Although it banned small aircraft from flying above the parade route on the Hudson river after the FAA had been swamped with flight applications, some 400 from the press alone, the agency expected some problems.

There are more than 5,000 aircraft within a 300-mile radius of New York, and the Hudson River flight is a popular one with weekend air cruisers.

Even concessionaires who stand to make fat profits from the sail event were not without their exposures.

For instance, Restaurant Asso-

ciates Industries, which built bleachers at Battery Park for 18,000 spectators, charging them \$25 a head for a seat and entertainment and a box lunch, could have earned \$75,000 if all seats were sold.

But, a spokesman said, it had committed itself to spend \$250,000 for site preparation, and such things as insurance and security.

However, security was a major concern in the City's own preparation for handling the crowds. And in New Jersey, Governor Brendan Byrne authorized 1,400 National Guard troops to report to the state police for manning the harbor side.

Secret Service arranged to have all its agents in the New York area on duty for the weekend since President Ford, Vice President Rockefeller, Secretary of State Henry Kissinger and Treasury Secretary William Simon were all potential visitors for Op Sail.

The Federal Bureau of Investigation was reportedly worried about the possibility of sabotage. Two of the ships in Op Sail, the Chilean traing schooner Esmeralda, and the Colombian bark Gloria, were expected targets of protest.

Perhaps ironically, it seems the least concern over insurance involves the actual ships in the Op Sail armada. Of the sixteen tall ships, most are government-owned and therefore uninsured, according to marine sources.

Operation Sail 1976 did not make any kind of special insurance coverage available to the ships participating in the review. Each was to secure its own coverage, an Op Sail representative said in June.

One of the few tall ships which is not government-owned and is therefore covered by private insurance, is the 177-foot barkentine Gazela Primeiro.

Once a Portugese fishing vessel, the Gazela Primeiro is now owned by the Philadelphia Maritime Museum and is insured by the Marine Office—Appleton & Cox (MOAC), a part of the Continental Group of companies.

A spokesman for the Philadelphia Maritime Museum, contacted after the Gazela Primeiro was rammed at the start of the sail to New York Harbor, said the deductible on the MOAC coverage was different than usual for the Op Sail conditions.

"Normally, we have a \$10,000 deductible for the ship under the MOAC coverage," the museum source said.

"But under racing conditions, the deductible goes up to \$25,000," he noted regretfully, adding that the damage the ship sustained when she was rammed by Norway's Christian Radich on one side and Romania's Mircea on the other at the outset of the race, would have to be paid for by the Museum.

The insurance coverage for the vessel while she is docked in Philadelphia later for that city's Bicentennial visitors will not vary from a normal policy, the Museum added.

The Insurance Co. of North America, which was once the insurer for Gazelo Primeiro, but was later dropped, said it did not insure any of the current grouping of tall ships. MOAC said the same.

However, INA, noted that it is insurer for a large number of pleasure craft, some of which were bound to be involved in viewing the Op Sail festivities.

A company spokesman said the coverage for each of the craft was individually arranged, and that a vessel's participation in racing events like the Op Sail activities would not change its coverage unless conditions to that effect were spelled out in its policy. ■



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• A brief, explanatory brochure on **Earthquakes**—why they occur, information on predicting building damage, building design, and construction materials—is offered by AFIA Worldwide Insurance. The necessary steps to take before, during and after earthquakes is explained. Free copies are available by writing AFIA Worldwide

Insurance, 1700 Valley Road, N.J. 07470.

• The Institute of Life Insurance has released its book on **Life Insurance Buying** analyzing the characteristics of insured persons and data for a six-year trend in purchases from 1968-1974. Single copies are free; additional copies,

60 cents. Write the Institute of Life Insurance, Statistical Services, 277 Park Avenue, New York, N.Y. 10017.

• **Savings Through Insurance Management** is now available in reprint form from a Dallas-based risk management firm. The article, written by Rimco Inc. president, William McIntyre, contains information on insurance management for companies with a large corporate insurance program. Free copies are available by writing Rimco Inc., 10300 North Central Expressway, Suite 180, Dallas, Tx. 75231.

• An in-depth, informative booklet on **The Role of the Risk Manager in Industry and Commerce**, written by John Parkinscn, former chairman of the Assn. of Insurance & Risk Managers in Industry and Commerce, is now available. The Keith Shipton Developments Special Study explores such basic

questions as the risk management process and where a risk manager fits into the company organization. The price is \$5.00 including air-mail postage. Write Keith Shipton Developments Ltd., Adelaide House, London Bridge, London EC4R 9DS, England.

• The General Adjustment Bureau's **Office Directory** contains 112 pages of data on GAB's branch, regional, and corporate staffs. Also included are regular and emergency contact procedures, facility availability and insurance services information. For a free copy write the General Adjustment Bureau, Management Service Dept., 123 William St., New York, N.Y. 10038.

• Guidelines adopted by Huggins & Co. Inc. on actuarial assumptions and cost methods for benefit pension plans under ERISA have been summarized into a booklet form. Asset valuation, investment return and turnover are

some of the guidelines described. For single free copies write Mr. Joseph Banik, Hay-Huggins Communications Center, 1401 Walnut St., Philadelphia, Pa. 19102.

• Medical benefit administrative services contracts (ASOs) and the advantages of using these contract services are described in **Health Benefit Administration**, published by Health Application Systems Inc. The brochure is written for employee benefit managers who administer health and medical insurance programs. For a free copy of the brochure write to: John Fabretti, Medical Product Manager, Health Application Systems Inc., 1633 Bayshore Highway, Burlingame, Ca. 94010.

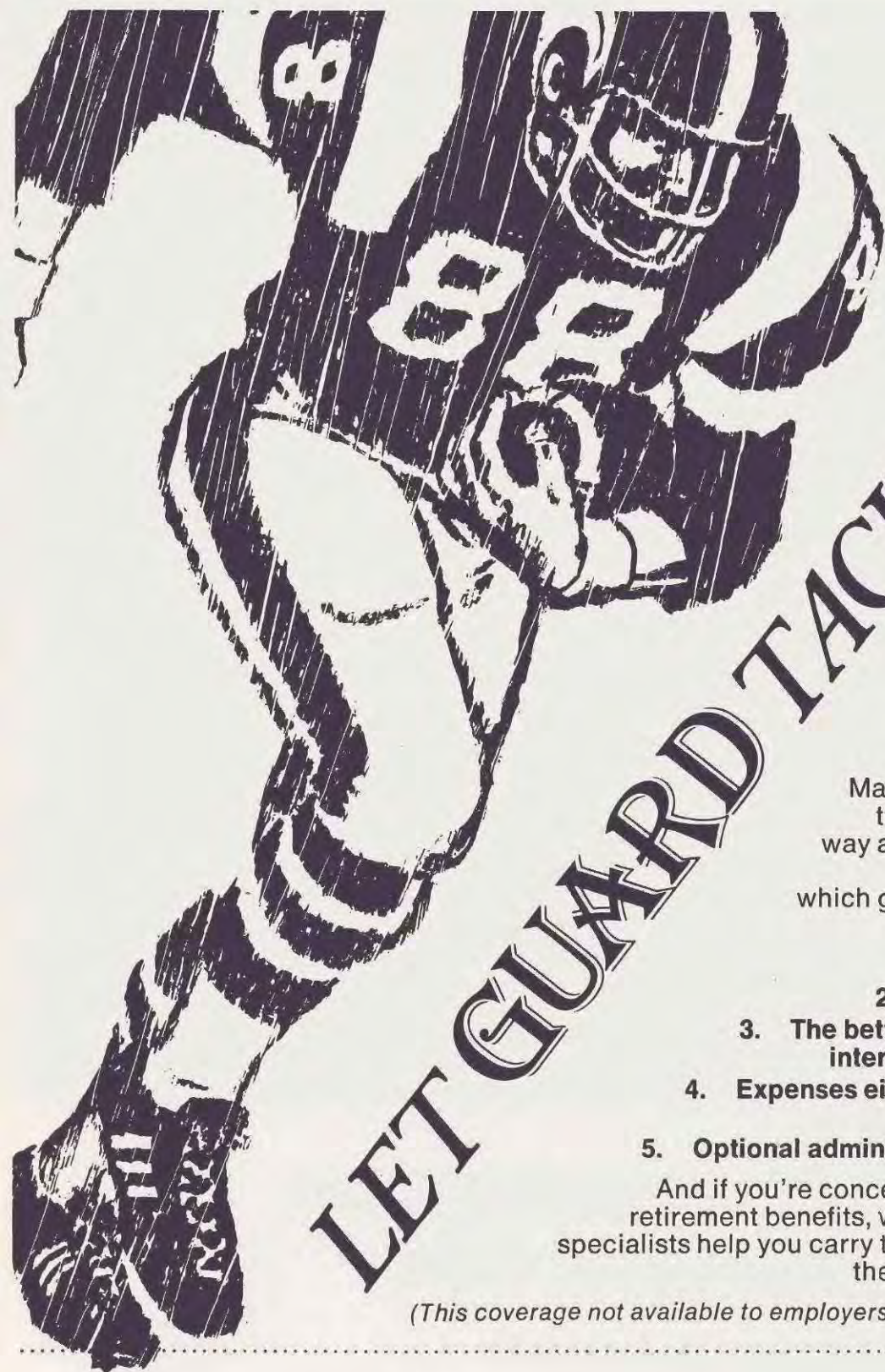
• **The Bank Cash Safe Alarm System** is a brochure which describes security for banks and savings and loan offices. It includes information on capacitance protection, economies, operating details, and flexibility of the 400A alarm system of Mosler Safe Co. Write Mosler Safe Co., 1561 Grand Blvd., Hamilton, Oh. 45012.

• The California Workers' Compensation Institute has published **Litigation in Workers' Compensation—A Report to the Industry**. The 15-page report contains the results of a two-year study by a professional research organization to find out why employees litigate—or why they feel they have to—in order to determine the extent of unnecessary litigation and what steps the industry could undertake to reduce it. The CWCI reveals one dominant theme: Uncertainty creates a fertile atmosphere for litigation. For free copies, write to Alan Tebb, California Workers' Compensation Institute, 315 Montgomery St., San Francisco, Ca. 94104.

• A status report on the production, use and disposal of rigid and flexible urethane foams had been issued by the Urethane Safety Group of the Society of the Plastics Industry. The report, **Urethane Plastics**, points out the rapidly expanding use of this material for insulation and cushioning. Fire safety guidelines for using foam in building construction, included in the report, note that all organic foams should be considered combustible. The report is available for \$1.50 from the society, 250 Park Ave., New York, N.Y. 10017

• **You and the High-Rise Building Fire**, written by Dr. Anne W. Phillips, discusses the physiological and emotional problems faced by human beings, especially the elderly, when confronted by fire. Dr. Phillips is a surgical researcher at Massachusetts General Hospital, Boston. Price is \$2.50. To order, write to the Society of Fire Protection Engineers, 60 Battery-march St., Boston, Ma. 02110.

• Georgia State University's school of business administration has published **RISKM: Administrator's Manual for Utilization**, which is a comprehensive forecasting model for risk managers in a wide range of businesses and institutions. The 110-page paperbound manual presents the basic concept of applying quantitative techniques, relying on Monte Carlo simulation, to measuring the effects of factors such as premiums, loss frequency, loss severity, loss control plans, reserve levels, and aggregate insurance coverage on overall insurance programs. The manual is available for \$7.50 postpaid in the U.S. and Canada (\$9 elsewhere) by writing to the Publishing Services Division, School of Business Administration, Georgia State University, Atlanta, Ga. 30303. Also available as a supplement and at additional cost is the computer program for this quantitative model, written in Fortran.



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Seeks state opinion on joint powers agreement

SAN FRANCISCO—The office of state attorney general Evelle Younger has been asked by a state legislator to prepare an opinion as to whether two or more local hospital districts can enter into joint powers agreement contracts to insure medical malpractice liability and staff physicians' medical malpractice risks.

A spokesman for the attorney general's office told *Business Insurance* that the process by which the attorney general issues an opinion is a time-consuming and careful one and that he cannot be sure at this point whether an opinion will, in fact, be forthcoming.

He declined to name the hospital districts or the state legislator who authored the requests to his office. Yet he noted that the state legislature is teeming with bills addressed to the question of liability insurance coverage for public entities.

A hospital district is just one type of local public entity covered in government code sections 990, 990.4 and 990.8, pointed out an official for the state Department of Insurance. He said these sections enable a public entity to self-insure against tort liabilities, either by a funded or an unfunded method, and permits two or more public entities to provide for insurance by means of joint powers agreements.

There is currently in Sacramento a bill, S.B. 2054, authored by state senator John A. Nejedly that would allow cities to form a joint powers agreement to purchase insurance. The bill would remove the agreement from regulation by the California Insurance Department.

The bill springs from the efforts of the cities of Contra Costa County, responding to a study done by the consulting firm of Warren, McVeigh, Griffin & Huntington, to form a joint powers agreement to purchase insurance for all losses exceeding \$100,000 per occurrence. The study also proposed that the cities form a central pooled fund to take care of losses which fall between their individual retentions and \$100,000. (*Business Insurance*, March 22, 1976).

The spokesman for the insurance department said that his office has no official position on S.B. 2054 at this time.

However, he said there is a conflict between the aforementioned code and the state insurance code. For example, while the insurance code recognizes the right of a public-entity to self-insure, he

Mom sues Gillette in deodorant death

Damages of \$500,000 are sought in a suit filed in San Francisco against Gillette Co., Boston manufacturer of Right Guard underarm deodorant, by the mother of a 31-year old man who died in his bathroom of burns suffered after he lighted a match just after using the deodorant. The plaintiff's attorney also asked for a federal injunction to halt further sale of Right Guard. On July 1, 1975, the suit asserts, the deceased after using Right Guard, struck a match to light a cigaret. The air around him ignited and he sustained second and third degree burns over 35% of his body, causing death 30 days later. The suit charges that Gillette, as manufacturer, failed negligently to warn users of Right Guard that lighting a match immediately after use of the product could ignite the surrounding air.

said it does not give the nod to reciprocals or to the insuring of one entity by another.

"We believe that reciprocals are removed from the self-insurance concept," he said, noting that theoretically, under the government code, a joint powers agreement can self-insure without being funded.

"You can imagine what would happen if losses exceeded expectations," he said.

Should the attorney general issue an opinion regarding the hospital districts' right to form a joint powers agreement, he agreed that that opinion would be applicable to all public entities covered by the government code, including the cities of Contra Costa County. ■



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WHAT BERNARD DAENZER SAID ABOUT RISK MANAGEMENT.

"There is nothing more embarrassing to a risk manager than to build a whole program of insurance and then to discover that it went all wrong because it was built on an improper assumption of facts or on inadequate information. If he really wants to break down this whole idea of the 'insurance survey' or 'financial management of a risk,' or whatever term he uses for his approach to the problem of risk, he must start with an analysis of the three basic functions: (1) risk detection, (2) analysis and evaluation, and (3) decision making.

"The biggest problem is definitely in risk detection, the basic fact-finding procedure."

(Bernard John Daenzer. From his book "Fact-Finding Techniques in Risk Analysis" ©1970 by American Management Association, Inc.)

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Task force study will be ready in January

WASHINGTON—The results of the Commerce Department's inter-agency task force study of the product liability problem will be ready in time for the President—whoever he may be—to suggest specific remedies in his State of the Union address next January.

The chairman of the task force, J. I. Smith, who is also the department's general counsel, told a government briefing June 16 sponsored by the Insurance Information Institute that the White House's Economic Policy Board had charged the Commerce Department with giving the President "a feel for remedies that can be used in the State of the Union address."

When asked what would happen

if a new President is elected in November, Mr. Smith said, "we don't think in those terms." However, he said Commerce Secretary Elliot Richardson would be committed to give the report to whoever is the President.

Meanwhile, a Commerce official told this magazine that requests for proposals to study parts of the product liability problem will be put out for bid by private contractors by the end of June.

The three areas earmarked for the initial phase of the survey are manufacturers who have been hardest hit by the product liability crunch, especially machine tool manufacturers and other makers of capital goods; the insurance industry; and the legal system.

The study will look at product liability problems caused by both accidents in the workplace and those suffered by consumers.

In his speech, Mr. Smith stressed the need for the "full cooperation and assistance of the insurance industry" in the task force's efforts.

He noted that the Insurance Services Office (ISO) is conducting a study of the product liability claims closed from July through October 1976 by approximately 25 of its member companies. "This study will gather extensive data on an estimated 30,000 product liability claims which should be extremely useful to the efforts to define the product liability problem and to fashion appropriate remedies," Mr. Smith said.

He also noted studies being conducted by the Risk and Insurance Management Society and the National Assn. of Insurance Commissioners.

In addition, he said the American Insurance Assn. and the American Mutual Insurance Alliance are currently formulating remedial proposals which will be presented to the task force.

Mr. Smith said that while he feels "constructively skeptical" about the feasibility of appropriateness of any comprehensive federal solution to the product liability problem, he is striving to form final recommendations which will be thoughtful and fair. "We will seek to accommodate fairly the complex competing concerns which affect product liability," he concluded. ■

James takes over account

PORTLAND, OR.—Gilmore Steel, a privately-held corporation with annual sales of \$120 million, moved its entire corporate insurance program including employee benefits from Frank B. Hall & Co. to Fred S. James, Portland.

Arno Thies, insurance manager, told *Business Insurance* that every segment of the corporate insurance program is included in the change effective as of June 21.

Approximately \$500,000 a year in premiums is generated by the account, Mr. Thies said. He noted that brokerage fees amount to about \$70,000 annually. Mr. Thies said that the change was made because it was felt that Fred S. James would offer more support to the Gilmore account.

"For one thing, James has a large staff, including boiler, machinery people whom we need," he explained.

He added that he does not anticipate any change in carriers to result from the shift. ■

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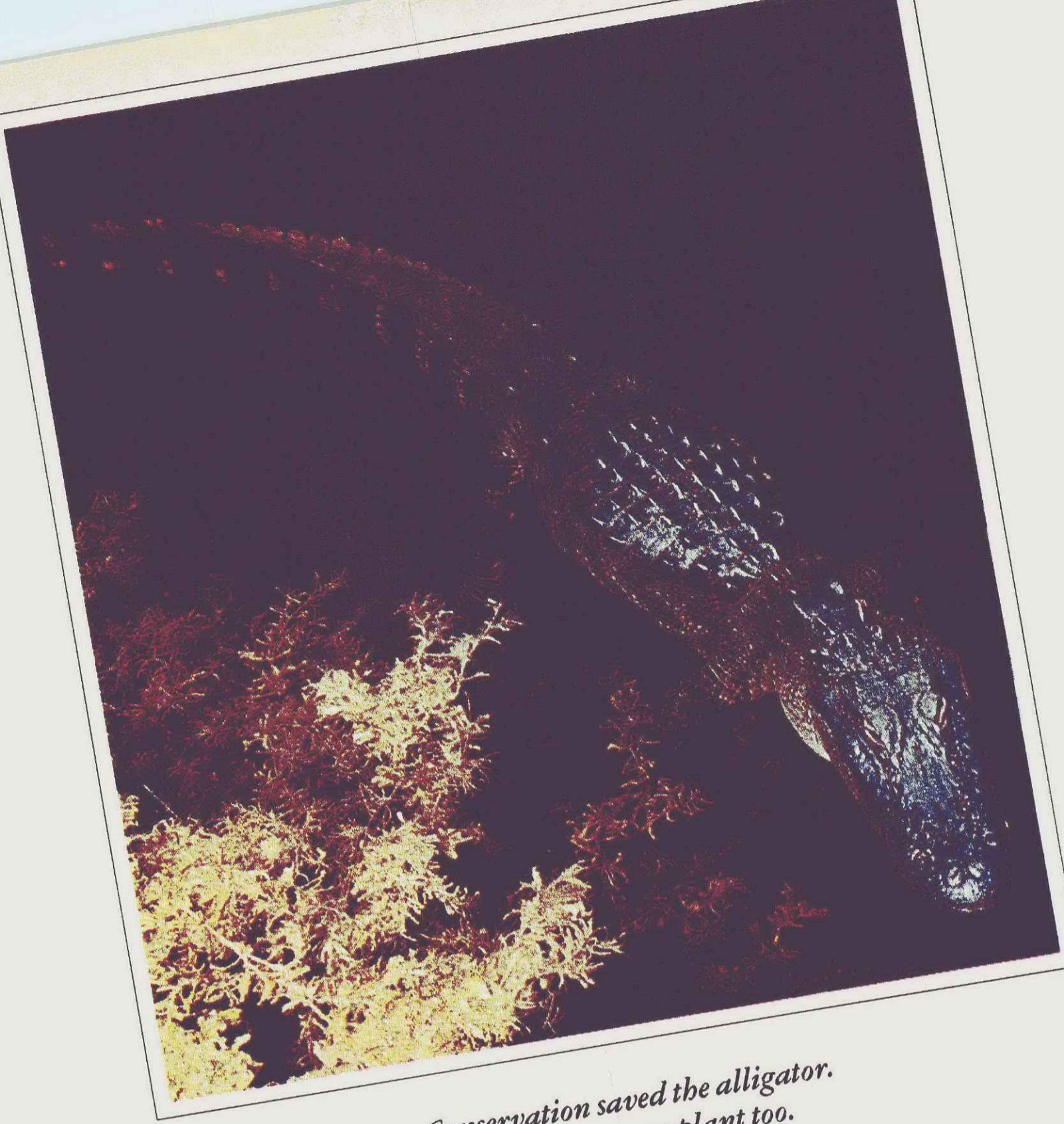


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editorial opinions

Installation plan

THAT THERE IS a need for some modification of the legal system for settling product and professional liability claims is undeniable. Of the many suggestions for tort reform that are being discussed, we believe one of the most meritorious (and the one deserving immediate implementation) is the call for damage awards to be paid by installment over a long period of time.

Much abuse of the U.S.'s legal system is traceable to the injured party's opportunity for windfall profits. These can be won by asking for large damages for pain and suffering caused by a product or professional service. No matter how bad an injury, we don't think people deserve to profit from an accidental event.

Lump sum payments of damages create windfall profits for plaintiffs. Can corporations, doctors, or other organizations—much less an economic system—afford to pay increasing numbers of multimillion dollar lump sum awards? We think not.

Payments of awards in annual installments over the life of a victim or over any given period of time is a much more efficient way to dole out damages. Furthermore, this creates a predictable financial obligation for the person or organization paying the damage award to someone else.

Funding this annual obligation can be accomplished in a number of ways, by using a trust fund, escrow accounts, insurance (i.e. annuities) and other methods. We believe judges would relieve a good part of the product liability and malpractice crises by establishing procedures for periodic payment of damages and by outlawing lump sum awards to plaintiffs.

And the insurance industry could channel its energies into more fruitful efforts than it is by calling continuously for "reform of the tort system." We urge the insurance industry and the country's corporate establishment to start educating the judiciary about the advantages of installment payments to victims of negligence.

Stalling tactics

AS A FRONT PAGE story in our May 31 issue pointed out, the Supreme Court put the issue of pregnancy as a disability on the back burner. In a highly unusual move, the nation's highest judicial body decided not to rule on the issue of benefit discrimination charges against General Electric Co. by a female employe.

The Supreme Court wants the case re-argued. This, too, is highly unusual.

The GE case is undoubtedly a major one, destined to affect the corporate world for years to come. The argument is over alleged inequities in the way employers promise and pay for benefits for men and women.

If the court rules for GE, civil rights and equal opportunity for the sexes will be dealt a setback. Should the ruling go against GE, there will be an enormous benefit cost to pay. Many employers will be greatly affected if they suddenly can't exclude pregnancy-related illness from disability benefit plans. Briefs filed on GE's behalf by a number of large

corporations spell out clearly the potential cost impact of such a ruling.

It may even be that a ruling for the woman employe in this case will force employers to withdraw some of their benefits coverage—in other words, tighten up on providing benefits—for all employes. Employers may feel they have to do this because of the added expense involved in treating everyone equally.

If that happens, so be it. Benefits shouldn't have provisions that discriminate against one class, race or gender of employes. If benefits have to be restricted in the end let them be restricted equitably, at least.

In deference to the Supreme Court Justices, this case may well have warranted deferral because of its thorniness. But the court-delayed action on a ticklish issue in the midst of a heated election-year Presidential campaign, causes some questions about the court's reasons for not wanting to speak out and possibly alienate President Ford's big business constituency.

We hope that wasn't the reason for the delay.

Loss prevention

SAFETY AND SECURITY are two subjects at the core of loss prevention. As the keys to good risk management, safety and security demand a generalist's broad knowledge of all the alternative ways to protect assets and people.

The managers in every large organization faced with the tasks of controlling the financial impact of surprise events also need enough specialized technical expertise to know the right questions to ask about the equipment and mechanical systems that make loss control programs effective.

What's more, with insurance unavailable or unaffordable for some kinds of risks, safety and security systems to prevent losses which must be paid out of one's own pocket are no longer "complementary" measures to accompany insurance. They are necessary, if not primary, measures to be used in conjunction with risk retention and self-insurance.

Safety and security are expanding beyond the bounds of traditional concepts. Product safety now goes beyond the corporate safety engineering and safety committees to "user safety," sometimes with the aspect of protecting the product user from himself. Fire safety still includes sprinkler systems and emergency escape routes, but also includes life support systems and central monitoring electronics to assure the safety of people and operations. Security has evolved from the guarding of tangible assets to include prevention by the most sophisticated means of such intangibles as valuable time or competitive secrets.

Business Insurance's annual Safety and Security Issue scheduled for September 20 aims to provide a reference to managers needing to understand the latest techniques for implementing risk prevention plans.

Readers are invited to suggest story ideas about innovative and successful loss prevention programs, as well as applications of safety and security concepts or equipment which are being used as part of risk management efforts. If you have information for this issue, contact Susan Alt, Editor, *Business Insurance*, 740 North Rush St., Chicago, Il. 60611 (312) 649-5278.

letters

Letters are welcome. Address letters to the Editor of *Business Insurance*, 740 N. Rush St., Chicago, Il. 60611.

Cross liability

To the Editor: The May 17 article on page 24 under the heading Risk Management Notes refers to the need for "cross liability" or "severability of interest" clauses to be added to liability insurance policies.

With the 1973 revision of the basic liability policy jacket, the definition of "insured" is such as to eliminate the need for "cross liability" endorsements, in my opinion.

G. Herbert Smith

Insurance Consultant, Westbrook-Norton Inc., Charlotte, N. C.

'Service' partners

To the Editor: Needless to say, the front page story on the University of California program in your June 14 issue gives our Group partners a great deal of satisfaction.

There is an oversight, however, which we feel is significant. The partners in the Risk Management Group that were mentioned in the story are what we refer to as the "service" partners. We also have what we refer to as "retail" partners; i.e. local, independently-owned insurance brokers, who assist with the client contact and on-the-scene servicing.

In the case of the University of California, two, both based in Oakland, are involved: Bob Wells of Saylor & Hill Co., and Arlene Vrooman of Expo Insurance Brokers Inc.

Other brokers being used include, but are not limited to, Hal King of Dohrmann-King & Co., Stockton, Ca.; John Pryor of Kern Insurance Associates Inc., Bakersfield, Ca.; Bob Eaton of Eaton & Eaton, Fresno, Ca.; Jim Miller of McGee & Thielen, Sacramento, Ca.; Paul Manchester of Manchester Insurance, Santa Barbara, Ca.

Gordon H. Beamer, CPCU

President, The Risk Management Group, San Francisco

Response to suits

To the Editor: I read with interest your editorial of December 1, 1975 "Unified Defense Needed On Product Liability." It is well and good to refer to the Defense Research Institute and to suggest a coordinated total program as a response to court suits.

But one should go further. The Defense Research Institute in March 1975 published an article by John Arness and John Kitcher stating "... a substantially large number of accidents involving cap-

Continued on page 18

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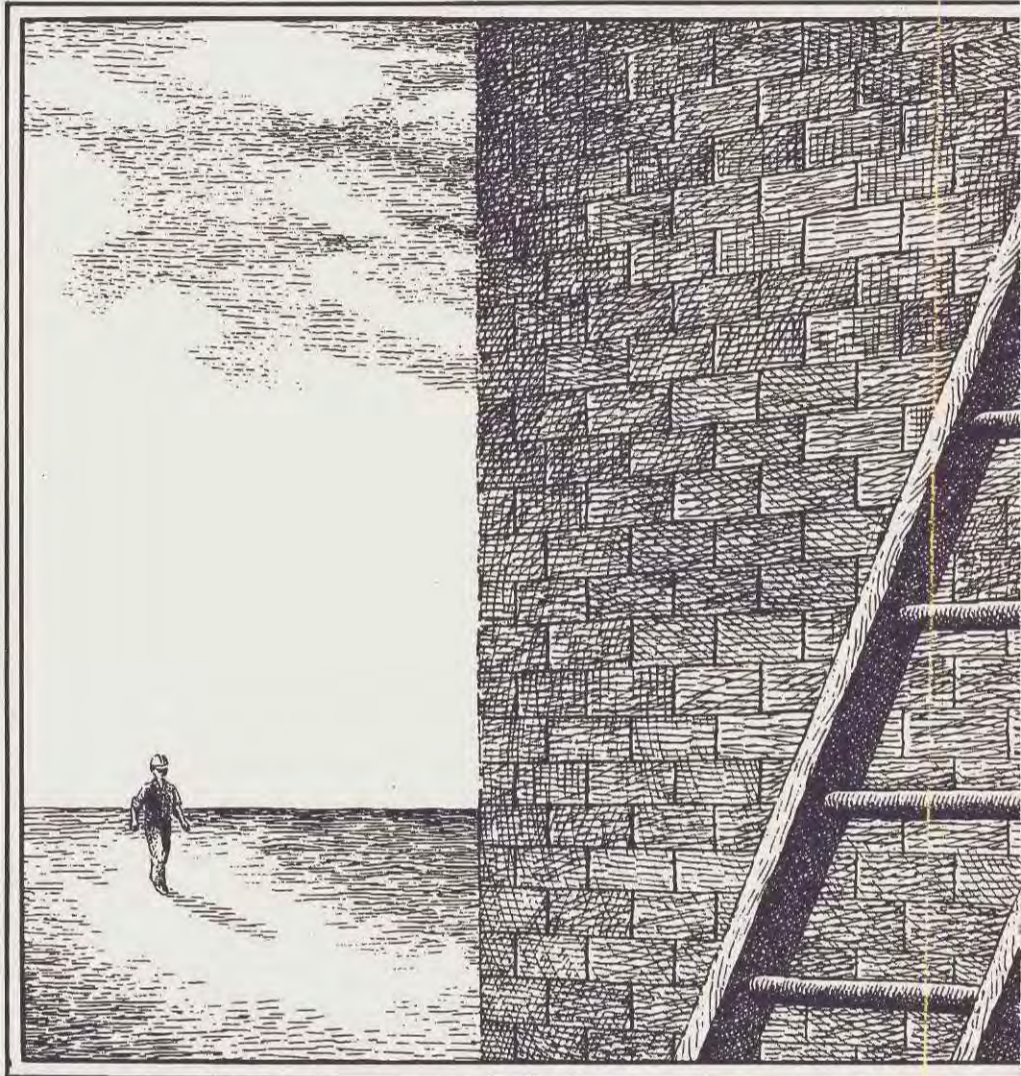
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Workers' Co

32 of the 50 states increased workers' compensation benefits during 1975, generally at correspondingly higher cost to employers. A bill now in Congress establishing Federal standards for state compensation programs would increase benefits and costs still further.

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



difficult to arrive at until analyses of the bill's final provisions are completed.

The impact of this pending legislation is already being felt, as the various state legislatures continue to enact an unprecedented number of changes in their compensation laws to bring them more in conformity with proposed Federal standards. (In 1975 alone, 32 states increased workers' compensation benefits.) Advocates of the existing system point to rapid progress at the state level as making Federal intervention unnecessary. Supporters of the Williams-Javits Bill contend that the progress to date is insufficient.

Proposed new standards

Major standards which would be established by the Williams-Javits Bill as currently proposed include:

- Universal coverage with no exclusion for small employers or type of employment except in cases where other Federal law is already applicable. Some 12 million of the nation's 85 million workers are not now covered, including many low-income farm and household

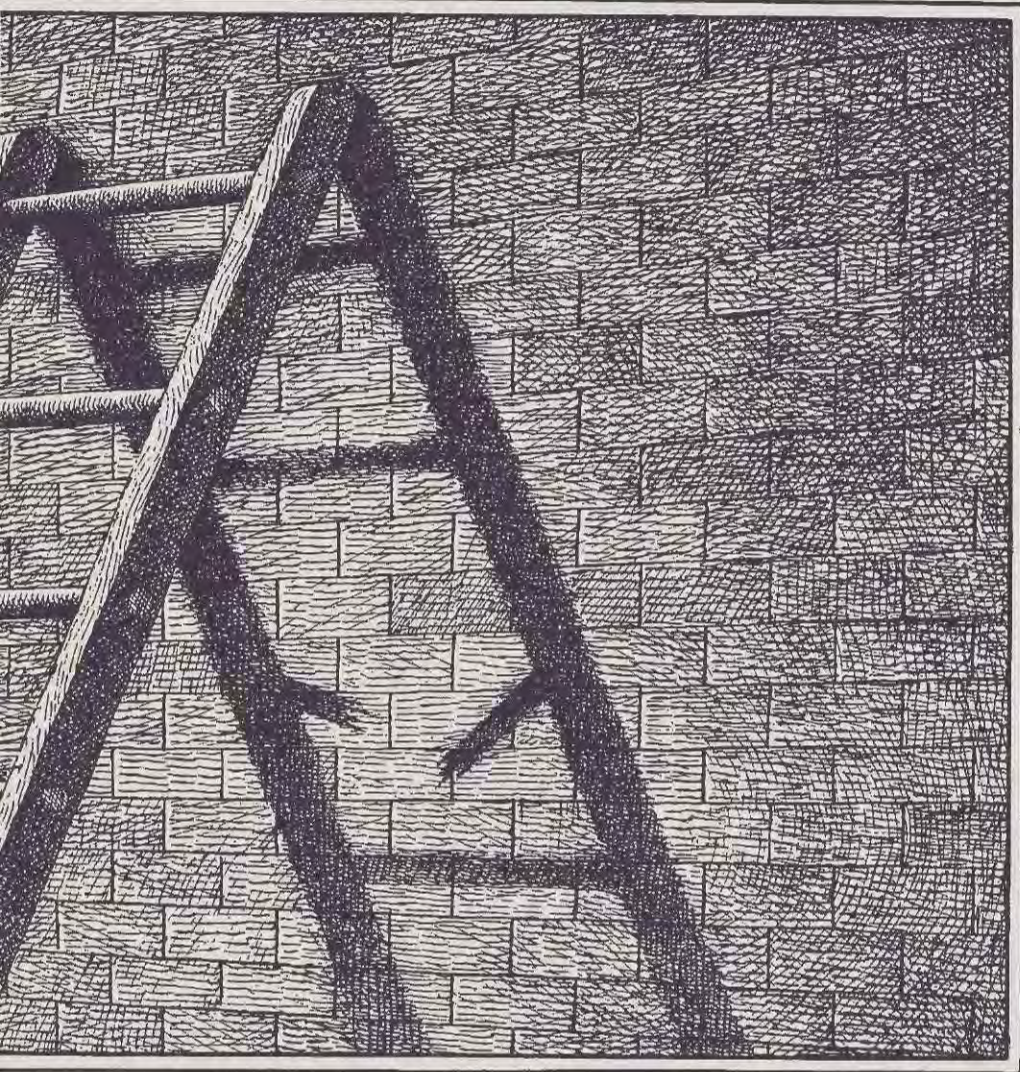
The cost of workers' compensation, the nation's oldest form of social insurance, has increased greatly in recent years—the result of inflationary pressures on claims, and of expanded coverage and increased benefits in the programs of the individual states.

Proposed legislation calling for Federal standards would add further to the cost of the system, which has been administered at the state level since the first compensation plans were enacted in the early 1900's.

The Williams-Javits Bill (#2018) now in Congress would require all states to conform to specific standards as to the coverage of workers and the benefits to which they or their survivors are entitled in case of job-related death or disability. The result would be increased coverage and benefits, since most state standards would have to be revised upward, some drastically.

The cost of compensation programs—borne entirely by employers—would soar, perhaps even tripling or quadrupling on a national basis, although estimates are dif-

mpensation



workers.

- A guarantee in most cases of weekly death or total disability benefits of at least two-thirds of an employee's average weekly wage.
- Minimum total disability benefits of half the average weekly wage in each individual state, or the worker's actual average weekly wage, whichever is less.
- Minimum death benefits of not less than half the average weekly wage in each state.
- Eliminates time and dollar ceilings on the amount of compensation for death or total disability, and on the type or extent of necessary medical and rehabilitation services.

Holding down premium increases

Should the bill become law, already escalating workers' compensation premiums paid by employers will undoubtedly rise still further in proportion to the higher level of benefits payable.

In these circumstances, measures to reduce both the frequency and severity of job-related disabilities will be

even more important in holding down premium costs.

An important step in this direction is a complete review of a firm's safety measures now in effect, looking toward a comprehensive safety program with the elimination of needless hazards. Such a survey can be made by insurance companies and their agents or brokers, or by outside organizations specializing in loss control and prevention services.

Another way of reducing workers' compensation costs is through the use of medical management services to speed the return of disabled employees to employment. A shortening of the periods of disability can mean substantial reductions in disability payments and medical costs.

Insurance companies themselves are an important source of loss control and rehabilitation services, although not all provide them to their policyholders to the same degree. In selecting an insurance company, employers can turn to their independent insurance agent or broker to determine how best to obtain such services.

For a fuller discussion of workers' compensation from an objective standpoint, INA has prepared a booklet entitled, "Workers' Compensation: Some Professional Considerations." Copies may be requested by writing INA Corporation, 1600 Arch Street, Philadelphia, Pa. 19101.

* * *

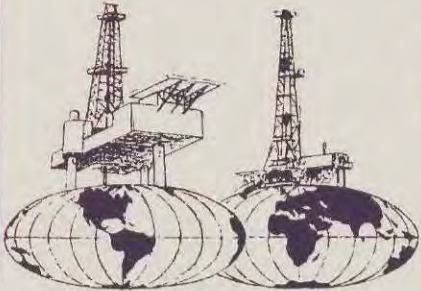
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letters

Continued from page 14

ital goods and products resulting directly from owner or user error. In the context of this article, the terms 'owners' or 'users' include agents, servants, employees, permissive users or those who may be anticipated to use the product. It is, further, the thesis of this article that owners or users of capital goods products are, in many instances, the ones best able to bear the cost involved in product-connected accidents. Finally, we believe that shifting the costs of those accidents to the owners would pro-

duce greater emphasis on safety practices, which would cause a direct reduction in the number and seriousness of product-related injuries."

I would like to point out one more thing which we call the "case of the double negative." "The ex post facto application of changing definitions of a defect, when buttressed by testimony of 'experts' and the admissibility of evidence as to modifications made at anytime after the shipment of a product in question, combine to: (1) make it increasingly difficult to disprove any allegation regarding something one may or may not have done 20-30-40-50 years ago or more as a producing cause of an

industrial accident which occurs today; (2) motivate a manufacturer to feel that to incorporate new technology and make a better product is to admit that any previous product was defective.

But, the need to disprove an allegation is not immediate to the threat. The cause of action in search of a defect, the definition of which is constantly changing, need not be carried for our members and associated companies to lose everything because of the resulting unavailability of liability insurance coverage at a price they can afford."

E. H. Rosenberg
President, Retort Inc., Franklin, Ma.

**Terminates
marine cover
this month**

SAN FRANCISCO—The Matson Navigation Co. is terminating, effective July 20, its marine/cargo insurance, including war and strike risk coverage, which it purchased to protect shippers using its vessels to transport goods between the West Coast and Hawaii.

John W. Beahrs, insurance manager for The Matson Navigation Co., told *Business Insurance* that the termination of the coverage should not dismay the thousands of shippers who use Matson ships to carry goods from the West Coast to Hawaii.

He explained that the coverage being terminated protects only against loss of cargo during Matson's possession, and that "Matson is legally liable for most routine cargo damage.

"This means there will be no change in the payment of routine trade losses," he continued, noting that his company boasts an excellent reputation for settling claims expeditiously.

Mr. Beahrs advised shippers to purchase insurance to protect against disasters, including strikes and war risks if they are concerned about such perils, and nothing more, he advocated.

He went on to point out that Matson will save only about \$80,000 in annual insurance premiums by the cancellation of the marine/cargo coverage. Annual premiums for total container cargo damage amount to about \$200,000 a year, he said. He buys this coverage through Marsh & McLennan and from a number of insurance carriers. Several million dollars a year are spent on premiums for the company's corporate insurance program, he added.

The \$80,000 saved in premiums, moreover, is miniscule compared to the Matson Navigation Co.'s gross revenues on container cargo which are in excess of \$100 million a year, he said.

The insurance manager noted that his company began picking up the marine/cargo coverage for shippers using its Hawaiian-bound vessels in 1958 as a means of promoting its container technology. Through-bills of lading, protecting goods from warehouse to warehouse, were begun as a service at about the same time, but were discarded 15 years ago after the company concluded that it was needlessly paying claims of connecting carriers, namely railroads and truckers.

Opens in Eleuthera

The Bahamas is the site selected for the new AFIA Worldwide Insurance office. The Eleuthera location marks the third AFIA branch in the North Caribbean region; the others are in Nassau and Kingston.

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one company out shines
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**We don't run when
it rains...**

**that's why we sell more
LTD than anyone else.**

Looking back a little sheds a lot of light.

Take the year 1965. Of all the major LTD carriers we competed with that year, not one is really a factor in the business today. That says something about our stability. It says, "We don't run when it rains."

Paying claims is really what it's all about.

In an industry as competitive as ours, it takes courage to charge enough to provide benefits and proper claims servicing when the time comes. But that's what a quality contract is all about, and to us — there's no other way. We've seen too many companies buy their way into the business one year, only to wind up having to price themselves out the next.

Predictable performance year after year.

It came as no surprise to most people that again last year we sold more true

group LTD cases (10 or more lives) covering more employees than anyone else in the industry.*

We set the standard.

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As proof that we know what we're up to, we'll sell our LTD without the usual requirement of other coverages in the "bargain." Because our LTD stands alone, we sell it alone, all the way down to 10 life groups.

* Source: Employee Benefit Plan Review, April 1976

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Outpatient alcoholism care studied by Blues

By MARGARET LeROUX

NEW YORK—The Blue Cross Assn. is studying the feasibility of including non-hospital treatment of alcoholism in coverage provided by the 70 Blue Cross Plans across the country.

The BCA recently signed a contract with the National Institute on Alcohol Abuse and Alcoholism (NIAAA); an agency of the Department of Health, Education and Welfare to do a 12 month study of the proposal.

The study, according to Blue Cross president Walter J. McNerney, is designed to develop a workable benefit package as well as the administrative, marketing and educational systems needed to provide effective alcoholism care.

If the program is found to be practical, economically reasonable and effective, Blue Cross will offer the coverage to its national account contracts throughout the country.

Of the 70 Blue Cross Plans, approximately 61 now provide some hospital coverage for alcoholism; however outpatient care is covered by only a few plans.

Blue Cross of Maryland offers a choice of three programs of alcoholism treatment to its 106,000 subscribers. They include residential in-patient care of alcoholic treatment centers, outpatient benefits including counseling and psychiatric evaluation and an option adding outpatient treatment to the major medical benefit.

The programs have been in effect for almost a year, according only to subscribers covered under the state's 17 group plans.

The coverage doesn't require hospitalization, the spokesman said. "In fact, it has been found that it's less expensive than making hospitalization a requisite."

Capital Blue Cross of Harrisburg, Pa. which serves over 1 million subscribers in South Central Pennsylvania also offers alcoholism treatment as part of the contract.

There is no extra charge for inclusion of the alcoholism treatment, a spokesman for that plan stated,

but hospital care for detoxification is a requirement for coverage.

The plan does include an intermediate phase of therapy and counseling as part of the alcoholism treatment.

The alcoholism treatment has been a part of Capital Blue Cross's coverage since August of 1974, the plan spokesman said.

"We're into the second year of a five year study to see if the benefit is cost-effective," the spokesman noted.

During 1975 Capital Blue Cross paid 188 claims for the alcoholism treatment at a total cost of \$174,248. This represents an average \$926 per claim.

The BCA feasibility study will search for answers to questions like the following:

- What kinds of treatment should be covered—hospital, outpatient, intermediate care, counseling, rehabilitation? For what period of time—30 days, 90 days or longer?

- How can a reasonable premium rate be set to cover such a complex benefit package?

- How can the benefit be marketed, considering the fact that many alcoholic persons deny their own problem and many other persons, including some employers, think of alcoholic persons in terms of punishing them rather than sharing the cost of helping them?

- What legal problems will be encountered with state laws that limit some Blue Cross Plans to covering only hospital or medically supervised care?

- How can misuse of the benefit be controlled, to make sure each person being treated is receiving the right kind of treatment in the right setting?

- What educational programs will be needed among the public employers, physicians, hospitals, other health care professionals and alcoholic persons themselves?

- What procedures will be necessary to administer the program effectively and economically?

According to the NIAAA, some nine million Americans—or one in 10 of the 95 million who drink—are either alcoholics or are considered problem drinkers.

Alcoholism costs the nation an estimated \$25 billion a year in lost work time and productivity, motor vehicle accidents and treatment not only for alcoholism, but also for other diseases and accidents caused or aggravated by alcoholism, the NIAAA states.

"Approximately five million workers have alcohol-related problems," Theodore M. Raichel, project director of the BCA study said, "and if properly treated, have an excellent chance of recovery or rehabilitation. It is important that we move toward eliminating or reducing financial barriers to receiving the appropriate care."

College risk seminar

SAN FRANCISCO—Representatives of 18 Western colleges and universities gathered to hear about major problems in the insurance industry, including problems of risk management and loss control, at a seminar here last month sponsored by the Insurance Information Institute. Among speakers at the seminar was Ralph E. Gentry, risk manager for the Los Angeles Times and president of the Risk & Insurance Management Society (RIMS). Dr. Carl Spetzler of Stanford Research Institute made a presentation on a recent SRI study of the role of risk classifications in property and casualty insurance.



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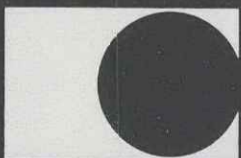
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Philippines leads the Far East in benefit levels, but lags behind US

By ELISABETH M. WECHSLER

CHICAGO—"Long-term disability isn't available in the Far East," commented Marsh & McLennan, Inc.'s Hong Kong-based broker. Neither is dependent group life nor dental insurance.

Employee benefit programs are "a relatively new concept" in that part of the world, said Che Lin, an actuary with a Ph.D. from the Wharton School of Finance. As president of Marsh & McLennan South East Asia Ltd., Mr. Lin was here to discuss the current benefit situation with clients.

"The Philippines is probably the most advanced country on benefits because of the longtime American presence there," Mr. Lin said. Still, the traditional view of employees in Asia is that "they'd rather have the \$1 today than the \$5 in several years."

Marsh & McLennan's approach involves reviewing the statutory benefits, local industry practice and the company's current benefit plan and then making recommendations. "Usually we can't get past the second step," Mr. Lin mused, "because there often isn't any industry practice" in a given area.

Nine countries are serviced by Mr. Lin's office including Korea, Japan, Taiwan, Philippines, Singapore, Malaysia, Thailand, Indonesia and Hong Kong.

"Communication is often a problem between the U.S. parent and foreign management," he said. "One or the other is not tuned in on the plan."

Sometimes the problem of communication carries over to the workforce, he continued. Recounting an incident about a factory in Thailand, Mr. Lin underscored a humorous but devastating gap in communications. The local management of the factory had recommended a daily room and board reimbursement of \$2.50 for its 125 workers.

As this passed through corporate channels to the U.S. benefit department, someone assumed the figure recommended was wrong by one decimal point, so the policy adopted was \$25.00 a day, according to Mr. Lin.

However, in that rural location, it was physically impossible to spend more than about \$2.10 a day and the workers staged a strike over the "unpaid balance" of their reimbursement. They believed that some insurance company executive was pocketing the rest of their daily allowance, because they could only receive money for the expenses they could document, Mr. Lin explained.

Simplifying the problem to clarify it for his audience, Mr. Lin said, "In Asia we trust the person more than the project (i.e., the piece of paper), while in the states you trust the project more than the person."

The benefits that are most popular in the Far East are group term life, group accidental death and dismemberment (AD&D), basic medical (usually not major medical) and a lump sum pension, Mr. Lin continued.

In Japan, private health care providers have been permitted to offer coverage in addition to the existing national health program, Mr. Lin said. "Services are not adequate. It's hard to get into a hospital."

Private coverage is allowed as a rider to an AD&D policy which is a rider to a group life policy, he explained. "Whether Japanese industry is adequately prepared to

process medical claims is doubtful," he added.

"Lump sum pensions are tax free in Japan but if given in monthly payments, they would be 100% taxable," Mr. Lin said. "The lump sum is considered a trade-off for giving up the right to work."

On pension funding, Mr. Lin recommends using book reserves for U.S. companies. "You can take a 50% tax credit for the year you set it up," he said, but explained that "this could and has created an accounting problem."

"A minimum of one month of final pay per year of service is the rule of thumb for a retirement benefit in the Philippines and

other Far Eastern countries, Mr. Lin said, adding that "employees get upset if it's less than that."

Although Hong Kong has "no government regulation of even basic things," Mr. Lin said, "all pensions must be filed with the government and the benefits must be spelled out. There are no clear-cut guidelines on what is a qualified plan or not."

Mr. Lin believes that "either the whole package of U.K. pension reforms will be adopted in Hong Kong, or none of it."

Malaysia's benefit programs are "primitive," Mr. Lin noted, but he described a "new interest in the medical benefits spiral between the level of the benefit and hospital room costs: It was adjusted

at least six times in the last two years," he said.

A central provident fund, similar to Social Security here, is paid for by a 5% contribution from the government and a 5% contribution by the employer. This 10% contribution would usually yield one month of final pay for each year of service, he said.

"When employees find out that half their retirement benefit is contributed by the government, hence with their own tax money, they'll be upset," Mr. Lin believes. People in Malaysia seem to lack awareness and understanding of their benefits.

Inflation has hit Singapore's government pension program, he said. "It started the same as Malaysia's—5% from the government and 5% from the employer, with a pension ceiling of about \$135 a month. Now it's 16% and 16% in contributions, with no ceiling. There's a proposal to make it 18%

and 18% with no ceiling," Mr. Lin noted.

Indonesia is "the most backward country as far as employee benefits are concerned," Mr. Lin believes. The government is considering starting up a national pension program with 70% of final average pay and indexed benefits.

"It will create a huge deficit because they aren't applying actuarial standards for calculation. The administration costs will be 25%."

Just proving the existence of people is difficult. There are no bank accounts and it's hard to find out if they're still living. It's hard to get investigators to go out in the boonies," he said.

In Korea, "funding is not encouraged for retirement benefits," Mr. Lin said. "Anything that stirs up labor problems or raises the cost of goods is not welcome in Korea," he said. "The effect is a policy of immediate survival. Worry about pension liabilities later."

"Before you look at the cost page, sir... look at our benefits."

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Blue Shield new carrier for Idaho health plan

BOISE, ID.—Blue Shield of Idaho was awarded the new contract for the state employe group health insurance program, according to George Neumayer, acting director of the department of administration.

Mr. Neumayer said that the successful insurance company bid for the employe life, accidental death and dismemberment and disability income benefits is Continental Life & Accident Co. of Boise.

Blue Shield of Idaho becomes the official carrier for the group health insurance plan on July 1, replacing Blue Cross of Idaho.

Marty Miller who works in the department of administration told *Business Insurance* that the rea-

son Blue Shield was selected over Blue Cross was that the former submitted a retention with an 82% claims loss ratio that would have been 5.5% of premiums versus 5.97% from Blue Cross of Idaho. Blue Shield also in its bid quoted a group health premium which was about \$82,000 a year less than that quoted by Blue Cross.

Mr. Miller said that the total annual premium on the group health program is about \$7.5 million.

As for Continental Life & Accident Co. of Boise being named the carrier for employe life, AD&D and LTD benefits, Mr. Miller explained that the company had long written the coverage for life and

accidental death and dismemberment. He said that Mutual Benefit Life had written the coverage on long term disability, but that in bidding for that business the company submitted a bid carrying a premium rate increase over that submitted by the winning carrier.

Mr. Neumayer said that a total of 12 carriers submitted bids for the two policies, with four companies quoting on the health coverage and 10 firms competing for the life, AD&D and LTD. He noted that two companies submitted package quotations for the health and life.

An actuary from Milliman & Robertson was retained to assist in the evaluation of bids, he said.

"The new health insurance plan will provide a substantial improvement in medical benefits for state employes," he continued. "The major change is that the state will go from a program of offering three optional health

insurance plans for employes to paying the full cost for the employe on a single plan with a better set of benefits than was previously provided under any of the three plans," he said.

Mr. Neumayer said that some specific improvements in the health insurance plan are increasing maternity benefits to cover pregnancy-related expenses in the same manner as any other illness and increasing the lifetime limits under the major medical benefit from \$20,000 per person to \$250,000 per person. ■

\$22 million damage

More than \$22 million of estimated damage to insured property was caused by heavy rains, hail, thunderstorms and tornadoes that hit Oklahoma, Kansas, Nebraska, Texas and Wyoming. According to the American Insurance Assn., Oklahoma was hardest hit in the storm lasting May 28-June 1.

Benefits best for Canadian public sector

NEW YORK—Canadian public servants receive far more employe benefits from their public pension plans than do Canadians enrolled in private plans.

A recent seminar sponsored by Hewitt Associates was told by Frank Livsey, manager of Hewitt's Toronto office, that "Canada's public service pension plans are extremely generous; the competition with private plans is very great."

A 1975 Hewitt survey analyzing Canadian pension practices showed that as a group, public sector plans not only include the largest plans in Canada, but also have different patterns of coverage, contributions and benefits than those in the private sector.

The study points out that while nearly all of the members of public sector plans are covered by integrated plans (plans which may include offsets with government benefits to avoid duplication of benefits and costs), less than 60% of the members of Canada's private sector plans are in integrated plans.

The approximately 42% of non-integrated private sector plans are almost all flat benefit plans, which are mainly union negotiated. Mr. Livsey emphasized at the conference that "union pressure will have a terrific impact on future private pension plans."

Mr. Livsey went on to add that "while private plans contain retirement, death, disability and termination benefits, few of them provide immediate benefits for disability, nor do they provide for automatic cost of living increases."

"There is a growing trend, however, to increase private pension benefits to retired employes because of high inflation," he stated.

The half-day seminar was held to make U. S. employers who have Canadian subsidiaries more aware of the impact of recent legislation and taxation on employe benefit plans. ■

Mercer expands

William M. Mercer Inc. acquired McKee, Carter & Stewart Inc., a Houston-based executive compensation and employe benefit consulting firm established in 1971. Mercer is the employe benefits consulting division of Marsh & McLennan Inc.

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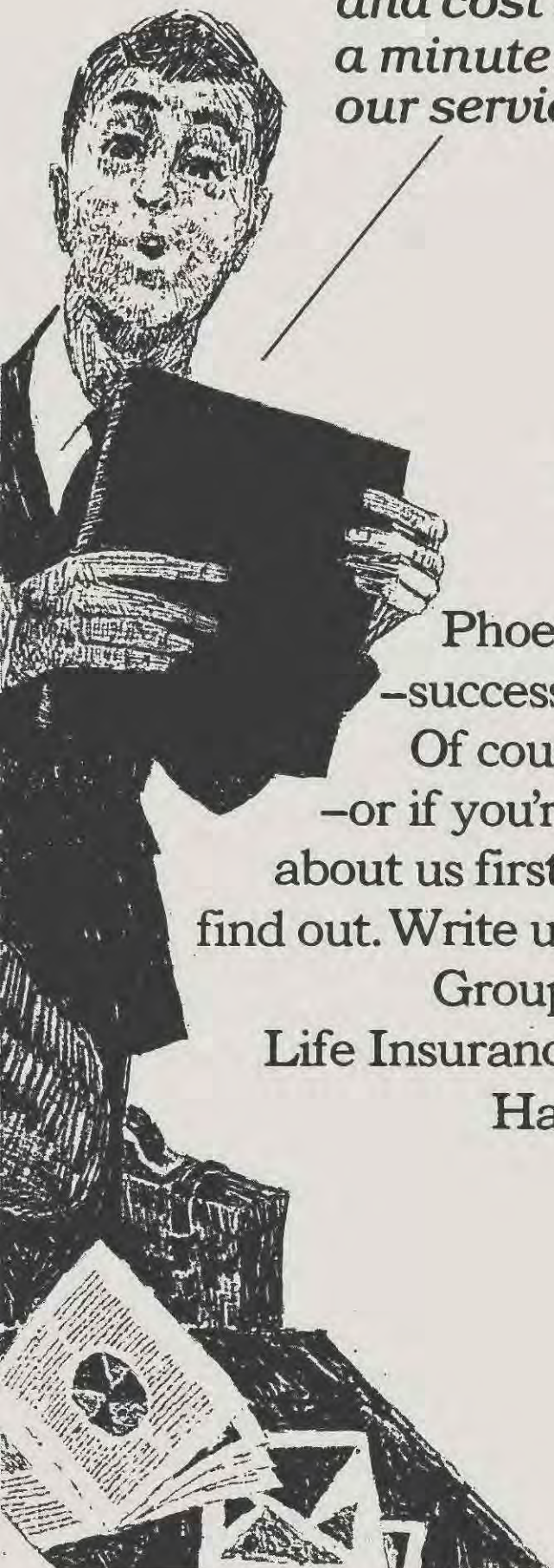
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legal brief

Group policies allowed to exclude work-related accidents, court rules

THE UNITED STATES Court of Appeals for the Tenth Circuit has upheld the applicability of an exclusion clause in a group health and accident policy for injuries arising out of, or in the course of, employment. Consequently, the court limited recovery to the estate of a deceased employe of a TV station to the amount awarded under a workers' compensation claim.

This action was brought by the administrator of the estate of Earnest R. Scherer against the Prudential Insurance Co. of America (Prudential) which had issued a

group health and accident policy to the TV station. Scherer, an employe of the station, had been shot by the jealous husband of a lady who had assisted in a "telethon" program to raise money for char-

The abstracts published in this column were prepared by Cases Unlimited Inc., Evanston, Ill.

ity. Scherer subsequently died as a result of his gunshot wounds. The shooting occurred after Scherer had kissed the lady on her cheek as an expression of gratitude for her participation. The total med-

ical expense for Scherer was \$34,505.75, of which \$19,000 was recovered in the workers' compensation proceedings. This action was brought against Prudential to recover the difference of \$15,505.75.

The group policy excluded charges incurred in connection with an injury arising out of, or in the course of, any employment for wage or profit. Scherer's administrator agreed that the policy should be read to exclude "injury" but he asserted that the policy should not be read to exclude medical expenses not recovered under the workers' compensation law.

The court did not agree. The court believed that if the term "covered" applies to injury, "the exclusion is of 'charges' incurred in connection therewith." "The medical expenses," the court stated, "are charges resulting from the injuries. Accordingly the medical expenses are excluded if the injury arose out of or in connection with the employment." The court believed that under the facts of this case, the risk was connected with Scherer's employment and that his injury arose out of the employment. Therefore, the court concluded that the exclusionary provision of the group policy precluded recovery. *Roskell v. The Prudential Insurance Company of America*, United States Court of Appeals for the Tenth Circuit, January 19, 1976, Breitenstein, J. (BI/03/A.-\$3)

General liability insurance

This action for damages was brought by an insured against its

insurer, St. Paul Fire & Marine Insurance Co., for breach of a broad form comprehensive general liability insurance policy. The breach was claimed to have occurred when St. Paul refused to defend an action brought by a third party against the insured. The Supreme Court of Oregon ruled that a company's payment of money in cashing forged checks which purported to have been issued by the insured did not constitute "injury or to destruction of tangible property" as contemplated by the policy. Consequently, the court held that the insurer had no duty to defend the insured in an action brought by the company which cashed the checks.

Fred Meyer Inc., sought to recover damages against Temco Metal Products Co. which resulted from Meyer's cashing of forged checks which purported to have been issued by Temco. The checks had been taken from Temco's place of business and its protectograph had been used to imprint the amount of the checks. Meyer claimed that Temco was negligent in various respects in allowing the checks and the protectograph to come into the possession of the forgers and in failing to notify promptly law enforcement agencies of the loss of the checks.

The policy provided for protection to the insured from loss through claims against it for bodily injury and property damage. Property damage was defined by the policy as "injury to or destruction of tangible property." It was Temco's basic contention that the payment by Meyer of its money on the forged checks constituted injury to or destruction of Meyer's tangible property and a claim against Temco based upon the loss was therefore such a claim as St. Paul was obligated to defend under its policy of insurance. The court did not agree. *Temco Metal Products Company v. St. Paul Fire & Marine Insurance*, Supreme Court of Oregon, December 12, 1975, Holman, J. 543 P.2d 1 (BI/04/A.-\$3)

Bankers' blanket bond

A Texas appellate court has ruled that a bank did not sustain a loss under a bankers' blanket bond when it accepted forged securities as collateral for the renewal of notes on a loan when the notes were uncollectible at the time the renewals were made.

The Texas National Bank of Dallas (Texas National) brought this suit against the Fidelity and Deposit Co. of Maryland (Fidelity) and Leslie L. Stewart. Texas National sought to recover \$40,326.91, which represented the unpaid balance due on Stewart's note to Texas National. Fidelity was the carrier of a bankers' blanket bond issued to Texas National which indemnified the bank for losses "through the insured's having, in good faith and in the course of business . . . accepted or received, sold or delivered, or given any value, extended any credit . . . on the faith of . . . any securities . . . which proved to have been (a) counterfeited or forged. . ." Stewart was in debt to Texas National for \$65,000. The debt was supported by three notes. In subsequent transactions, Stewart consolidated and renewed the loan into a single note and delivered to Texas National stock certificates representing a total of 4,000 shares in the Graphic Service, Inc. It was undisputed at the trial that the stock certificates were forgeries and worthless. The trial court found in favor of Fidelity.

On appeal Texas National contended that there was evidence to show that it had sustained its loss "through" its acceptance of the forged securities. The court disagreed. The court believed that it

Continued on page 27



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Poor loss ratio triggers worker safety program

SAN JOSE—An innovative safety program went into effect July 1 for California's sheet metal industry, in an effort to reduce skyrocketing costs of workers' compensation insurance and to improve job efficiency.

Employee Benefit Insurance Co. here has been named to write two new group insurance policies for members of the California Sheet Metal and Air Conditioning Contractors' Assn. One policy, explained Robert H. Nambo, executive director of the association, will be for the contractors who have at least 51% of their payroll in Insurance Category 5538, for sheet metal work, and the other will cover companies with at least 51% of payroll in Category 3400,

sheet metal goods manufacturing.

A total of 360 California contractors are involved. Compensation insurance premiums for the program are projected to reach \$1.5 million by the end of 1976. "The decision to start this new program," Mr. Nambo said, "followed a year in which the industry's loss ratio significantly increased.

"Two years ago," he said, "our loss ratio leaped to 46%, with our former carrier. Last year, the loss ratio soared even higher, to a totally unacceptable 71%. We believe

the switch will reverse this trend."

Dividends returned to the contractors, according to Mr. Nambo, have been "shrinking during each of the last three years, while the premiums have been increasing."

The loss ratio last year in California for all industrial companies was 74.5%. The sheet metal industry, under its former carrier, had a loss ratio average in excess of 90% while the loss ratio of Employee Benefit Insurance clients was 55%. The former underwriter was the State Compensation Insurance Fund, which handled the business for three years.

"Our new approach to workers' compensation," Mr. Nambo said, "will include use of video tape safety programs, computerized loss control efforts and customized in-house training and orientation seminars." ■

Kaiser firm attracts bids

SAN FRANCISCO—Underwriters Services Inc., a brokerage firm which is wholly-owned by the various Kaiser companies including Kaiser Industries, is on the selling block.

And several leading national brokerage firms have lined up as contenders to buy USI, *Business Insurance* learned. Marsh & McLennan and Johnson & Higgins are said to be two of the leading bidders.

USI does about \$6 million a year in commissions, about \$2 million of which stems from business with Kaiser companies and affiliates, a source close to the situation said. Bechtel Corp. also is said to be a substantial client for USI. This source said that USI "is not profitable."

Kaiser Industries, the holding company which owns 38% of USI, is demanding "cash up front" for the firm, which is headed by Donald Henning, the source revealed to this magazine.

USI is being sold as part of the previously announced Kaiser Industries liquidation plan under which the huge holding company proposed to divest itself of all operating subsidiaries. USI is also about 20% owned by Kaiser Aluminum & Chemical Corp. ■

Legal . . .

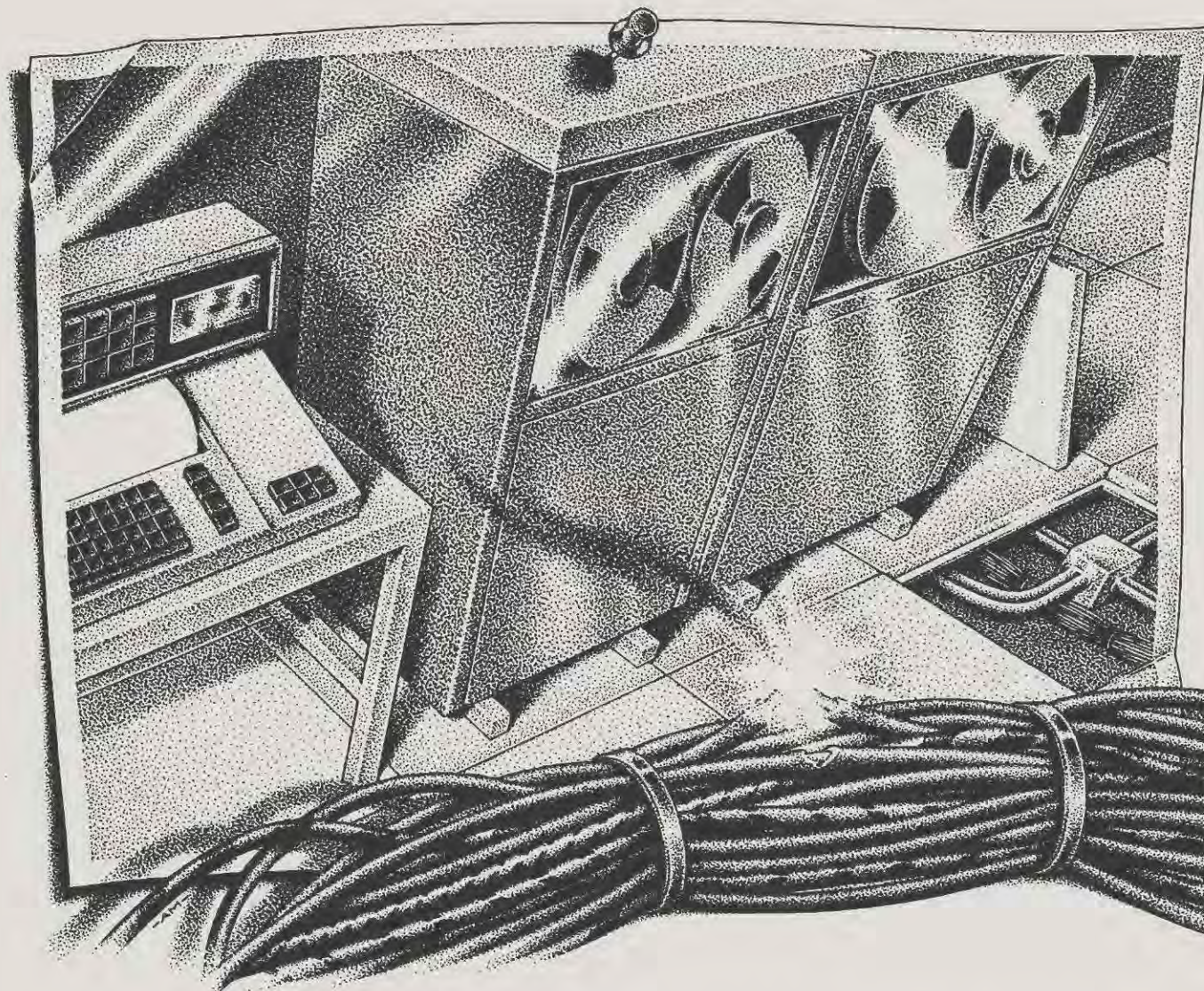
Continued from page 26

was "factually established that the bank had already suffered the loss before any forged securities were accepted! In order for Fidelity to have been liable under the bond, the court concluded that it was necessary for Texas National to establish that its loss was a consequence of, or by reason of, its acceptance of the forged securities. Since it was established that Texas National could not have collected its debt from Stewart at the time of the note renewals and receipt of the forged securities, the court believed that the loss was not the result of accepting the securities. *Tex. Nat. B. of Dallas v. Fid. & Dep. Co. of Md.*, Court of Civil Appeals of Texas, August 29, 1975, James, J. 526 S.W.2d 770 (BI/02/F.-\$3) ■

(Copies of the entire decisions described in this column may be obtained by writing to Business Insurance, attention: Editor, 740 N. Rush St., Chicago, Ill. 60611. Please enclose a \$3 check made out to Cases Unlimited Inc., for each case, and specify the code number of the opinion, which is at the end of each brief.)

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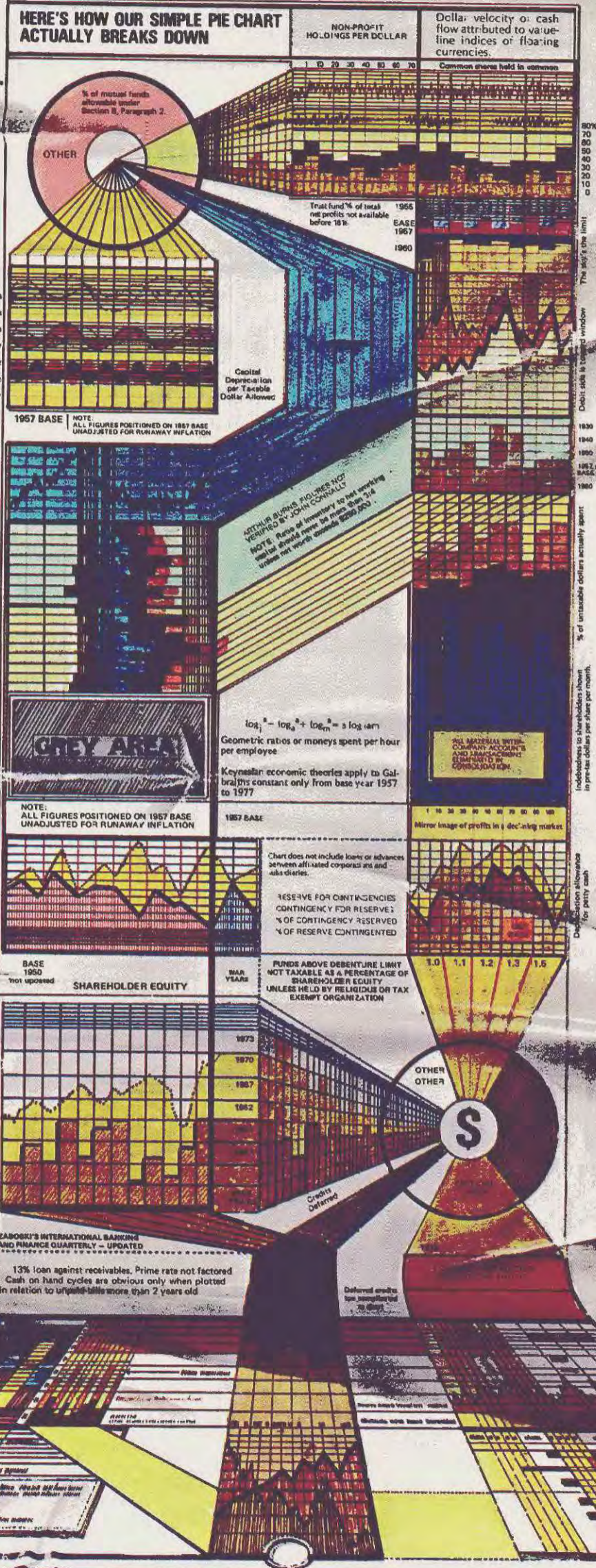
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PERSPECTIVE

PRODUCT LIABILITY RISKS:

'Double selling job' can spell success in obtaining coverage

By C. P. CAIRELLI
Consultant
The Hartford Insurance Group

INSURANCE BUYERS are aware by now that product risks can no longer be treated as just another general liability coverage. Indeed, in a growing number of cases, product exposures have become a major factor in determining whether an insurer will accept the account or even submit a bid.

In theory, products liability coverage is always available to a manufacturer willing to pay the right price. But we are rapidly approaching the point where the premium for certain products may actually exceed the limits of the policy. Already there have been products that were effectively forced off the market by escalating insurance costs or by efforts to reduce the loss potential.

The question is whether product liability coverage can be obtained at a price which manufacturers feel they realistically can afford to pay. Insurance buyers can hardly be encouraged by recent renewal quotes that are two, three, or five times higher than existing rates. It might appear that underwriters are merely applying some arbitrary increase premium factor to arrive at the new rates. But in fact they are making every effort to assess accurately the true potential for loss and to price coverages accordingly.

Product underwriting is necessarily as much an art as a science at this stage in its development. Industry ratemaking organizations cannot provide loss data by product category. Nor do we have comprehensive product safety standards to serve as a guide in evaluating risks. Despite the enactment of tough new consumer protection laws, many products still have no applicable safety standards of any kind. The standards that do exist tend to be voluntary, and even mandatory standards are no guarantee of a good, safe product.

The inadequacy of existing standards is

nowhere better illustrated than in the case of foamed plastics. A cheap and effective insulating material, polyurethane foam received a relatively low flame-spread rating under laboratory testing conditions. In actual fires, however, exposed foam plastic burns rapidly and with great intensity, giving off large quantities of black, toxic smoke. Fatalities arising from such fires have resulted in a number of expensive lawsuits against manufacturers. Belatedly, it was discovered that old test standards developed for natural materials do not adequately measure the flammability of synthetics.

Even when products meet minimum safety requirements at the factory, they may deteriorate rapidly in actual use. Microwave ovens, for example, have developed excessive radiation leakage after brief service because of problems with gasketing around doors. A decline in combustion efficiency has similarly resulted in dangerous carbon monoxide emissions from a certain flueless gas heater. With virtually no statute of limitations on product lawsuits, manufacturers may be exposed to substantial losses from products that become sub-standard long after they were discontinued.

The lack of adequate safety controls led in 1973 to the enactment of the Consumer Product Safety Act to protect the public against "unreasonable risk of injury" from hazardous products. Incredible as it may seem, we still encounter many prospective insureds who are unacquainted with the requirements of this law. Yet the agency it created has virtually unprecedented power to establish mandatory product safety standards and to enforce them through stiff criminal and civil penalties.

In practice, it is true, the Consumer Product Safety Commission has failed to live up to its advance billing. Understaffing has prevented the agency from adequately monitoring the thousands of product types under its jurisdiction. Response to many product complaints in force after nearly three years (a standard for bicycles is scheduled

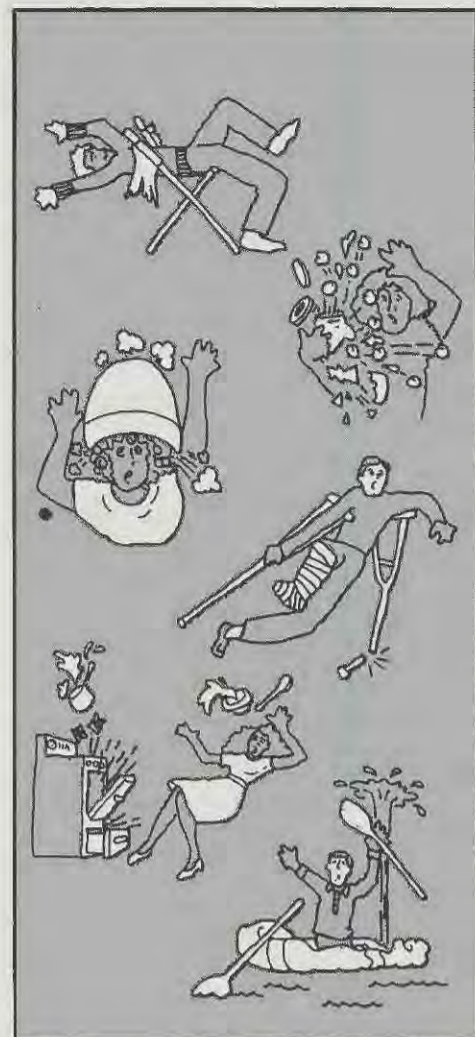
to take effect in May following several previous postponements). Now the chairman of the commission has proposed that his agency be phased out entirely because of favorable voluntary action by private industry.

The absence of comprehensive product safety standards, much less adequate enforcement mechanisms, has created a dangerous vacuum in which casualty insurers must operate. For all practical purposes, it has been left to the courts to decide what constitutes an unsafe product. And the courts in a series of landmark product injury cases have simultaneously expanded the grounds for recovery of damages while eliminating traditional defenses under the law of torts. The effect in many instances has been to shift the burden of proof from the plaintiff to the defendant.

The resulting volume of products liability suits has been matched by breathtaking increases in jury awards and average claim settlements. Even when the courts ultimately rule in favor of the defendant, the insurer must still pay legal expenses that are often far in excess of the claim. As Prof. Jeffrey O'Connell and other tort reformers have pointed out, a sizeable proportion of products liability premiums tends to wind up in the hands of a few highly skilled lawyers and technical experts representing either side.

Given these circumstances, the insurer is likely to be anything but casual in his handling of products liability risks. Many large brokers understand this and are now doing a double selling job that involves both the client and the carrier. The objective is not only to win the account but also to place it with the insurance company.

Many products liability submissions fail to elicit a bid because the underwriter lacks sufficient information about the extent of exposure. Compliance with minimum safety requirements won't guarantee coverage if loss experience has been poor. And even an unblemished loss record may not mean much unless it can be tied to conscientious



loss prevention efforts by the manufacturer.

A detailed presentation of the product exposure can greatly enhance the likelihood of acceptance and may also favorably influence rates. The best examples submitted by agents and brokers are so well done that insurers sometimes use them in lieu of their own pre-coverage surveys. Certainly it cannot hurt to understand what insurance companies feel represents a good product risk and to emphasize those aspects in making a submission.

Because of the wide variety of product types, insurers have been forced to take a very basic approach in evaluating risks. Whatever the product or its hazards may be, experience has shown that certain procedures and organizational characteristics must exist in order to control losses. These go by various names depending on the insurance carrier involved, but most fall into one of three broad categories. These include measures to prevent losses, to provide the user with proper instructions and safety materials and to protect the manufacturer in

Continued on following page

'Risk policy' more than daily risk-handling

By WILLIAM RICH
Executive vp and director
Corporate Policyholders Counsel Inc.

SHALL WE HIRE a risk manager? What is the scope of the risk manager's authority? To whom should he report? What functions should he perform? These are among the questions being asked by top echelon corporate managers who are seeking to deal as effectively as possible with the expanding problems of risk.

We find in texts and articles on risk management statements such as "every company has a corporate policy on risk management, whether it knows it or not." I think this is wrong unless you want to play with words by saying that no policy is policy. Even today, many corporations lack any visible program of treating risk based on sound management principles. Statements on policy, written or unwritten, can be concerned only with management concepts that either exist or which are in the planning stages.

Let us then concede that a corporation may not have any risk management program whatsoever, although it is dealing with risk daily. Reducing this to insurance parlance, the insurance clerk can produce

an insurance register or some policies from the files, but there is no insurance program anywhere in sight.

We thus approach our newly acquired client who has asked us whether a risk manager should be hired. We must cut through an almost endless number of theoretical and practical considerations so that we can offer a specific recommendation. We must secure facts and separate them from opinions, and weigh options. The president or managing director may state with conviction that he is concerned with the preservation of assets and continuity of operations and quality of products and maintenance of skills. However, we may find no positive program backing up this pronouncement.

As we move from office to office at corporate headquarters, we are concerned with organizational structure and management policy and strategy. More important, we must comprehend the climate of management. Among the many questions we ask is the key question whether, within this management environment, the middle manager is given the proper blend of supervision, support and freedom to carry out the management functions assigned to him.

We are all familiar with situations where

a well qualified risk manager cannot perform effectively because the climate is not conducive to optimum performance in spite of what appears on the organization chart. He resigns in frustration or is fired. As consultants, we cannot overlook the possibility that a risk manager might not be the answer to a certain management setting.

"Ever since we can remember, there have been insurance administrators who are the last ones to hear about a new acquisition or a major new construction project."

In a corporation where there is a firmly established structure of middle management which operates effectively in decision making and other functions in concert with top management, it is most likely that the risk manager will make a major contribution to the corporate effort. Lacking any such structure or relationship, the responsibility for risk management would have to find a home on a catch-as-catch-can basis, possibly in the office of one of the top of-

ficers who would have the time as well as the requisite knowledge and management talent to plan and implement the risk program.

Turning from the overall management climate to the risk management program itself, if there be one, we can apply numerous yardsticks to measure its present quality. Robert C. Katz, in a Harvard Business Review article, describes the skills as 1) technical; 2) human; and 3) conceptual. In technical terms, is the corporation doing what it should be doing and doing it well? In human terms, are people talking with each other? Is there a flow of ideas among all of the various departments and divisions leading to the most constructive use of the technical skills and practices? Conceptually, is the flow of skills well directed, moving in a direction designed to meet broad corporate objectives? At the technical and human skill levels, we are concerned primarily with the treatment of pure risks which relate to occurrences that may produce loss, but under no circumstances produce gain. In the case of the conceptual skills, speculative as well as pure risks must be evaluated.

It is best that we look first at the quality of the technical skills which are the nuts

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PERSPECTIVE

Daily risk-handling . . .

Continued from preceding page

and bolts of the risk program. I cannot begin to enumerate all of the classes of technical skills with which we are concerned. These skills, relating to such areas as employee safety, physical plant protection, security, research and development, data processing, marketing and quality control are evaluated through property surveys, interviews, analysis of loss statistics and reviews of contracts and all other relevant data. We also probe the knowledge and practice of the administrator who purchases the insurance and handles the day to day problems relating to its administration.

A closely related concern is whether there is effective communication among those employing these skills. We may find very highly competent technical people—plant managers, works engineers, design engineers, buyers, traffic personnel, marketing managers, safety people, insurance buyers and financial officers, whose outlook on risk is nevertheless parochial—largely limited to their own area of operations.

Ever since we can remember, there have been insurance administrators who are the last ones to hear about a new acquisition or a major new construction project.

Many plants, warehouses and offices standing today are either "over-protected" or under-protected against fire and other types of loss because the designers concerned about work flow neglected to communicate with those with expertise in protection and insurance. It is surprising how frequently we find that those charged with the responsibility for employee safety do not know what the premiums and other costs of losses are and yet the thrust of their efforts is to invest the corporation's resources into programs which will reduce these costs.

Some corporations without risk managers have attempted to perform this communication function through the formation of committees consisting of people in the work areas mentioned. The chairman is normally selected from the group, either on a permanent or on a rotating basis. Almost invariably, the meetings become less and less frequent and finally, all that is left is a tattered organization chart filed under "R" for risk management. Why does this happen? Because there is no broad gauge leadership and coordination by a person whose sole responsibility is risk management. If you are a plant engineer, you know what your priorities are. If you are the director of data processing, you know what your priorities are. If you are a risk manager, you know what your priorities are.

We now move to our third criterion, the conceptual skills. Let us suppose we find our corporation without a risk manager is well equipped with technical skills and practices and has been able to communicate through some form of risk management action group. We must now determine whether our client has developed long range objectives with respect to risk (chance of loss) and whether these objectives are being achieved through coordination and integration of all of the activities and interests of the organization.

At the conceptual level in risk management we would inquire, for example, whether a decision has been made as to the allowable extent of loss assumption and whether this is expressed in a formula which responds to changes in economic or other conditions. Have studies of alternate funding mechanisms been undertaken in association with others? Have risk management educational goals been established for both staff and line people?

We generally find in a corporation without a risk manager some lack in technical risk skills, a significant lack in ongoing communication skills and a serious lack in the long range risk management conceptual skills. In these cases, we recommend that a risk manager be employed—to serve, if you will, as the catalyst in the development of an aggressive, well designed program of coping with corporate risk.

I regret to say that we have found these skills also lacking in corporations with a

risk manager on the staff and in some cases even with a consultant on board. How can this possibly be? I believe that a part of the answer can be gleaned from addressing ourselves to questions dealing with the scope of authority of the risk manager.

A risk manager's authority derives from three sources. First, of course, the organization chart defines and charts the flow of authority, responsibility and accountability. I have heard most risk managers say that it is a genuinely useful tool. A few have said that it belongs in the Sunday comic section.

Second, is the management climate whose substance is a blend of supervision and freedom, good judgment and confidence which at best will stimulate the risk manager to manage to the full extent of his capabilities and at the worst to render him completely ineffective.

Third, is the risk manager himself. He obviously must win the respect, as a manager, of his subordinates and his superiors. In carving out the true scope of his authority, much of the design will be his. If he is a clerk, he will be so considered by his associates. If he is a technician, only his technical advice will be sought. If, indeed, he is a manager, he will without question assume a key role in corporate affairs.

The risk manager should hold a staff position in at least the middle management echelon. I would like to offer three fundamentals underlying his authority. Other elements of authority are implicit in the functions he performs as later described.

- First, the risk manager should have complete access to all corporate information relating to risk. He is one of the few people with a master key to all such information. No hands off, no keep out, no limited access.

He should also have the authority to set up the mechanisms for gathering data at all corporate levels. And, if he is to properly implement the required management skills, it is vital that he be empowered and encouraged to travel extensively, survey at least the major properties and become well acquainted with those upon whom he relies in his management of the risk program.

- He should be empowered to evaluate the risk management activities of his peers and superiors in both the staff and line

functions. This is essential if he is to offer recommendations with respect to the overall direction of the risk management program.

- While he would normally have no direct authority over the line operators, he should have an open channel through his superior to those who do have authority. We believe that such a relationship should be more than assumed. It should be visible as a potentially effective deterrent to the unwarranted risk taking of those line executives who are willing to play dice games with corporate resources.

I am not quite ready to recommend that the risk manager report to the president or managing director. It may sound like a fine idea, but in the few such instances with which I am familiar, the president did not find time to fill any kind of effective role either as a supervising superior or as the ultimate decision making authority.

As a general rule, we favor the placement of the risk management department in the financial division. Uncertainty is normally ultimately converted to dollars even when it deals first with lost man hours, environmental problems or any of an endless number of other risk subjects. With no reflection on any other division of the corporation, generally the financial managers are better equipped with the facts and figures and overall disciplines to serve as the base from which a risk manager can function most effectively.

As corporations more fully develop and staff their divisions of resources and planning, we can foresee that risk administration could well find its home there.

Without amplification, I suggest the following as major functions involving the skills of the risk manager, in which he plays either a direct or coordinative role:

1. The preparation of a written statement outlining the corporate policy on risk management—beyond the planning and preparation are its acceptance by corporate management, implementation, periodic evaluation and continuing education of corporate staff and line officials.

2. The identification and evaluation of exposures to loss; and an assessment of the allowable extent of loss assumption.

3. The formulation and purchase of an insurance plan or adoption of other risk transfer mechanisms designed to smooth the impact of especially large losses over a period of years.

4. Direction (or coordination) and audit of the corporate safety program—objective to reduce losses (and costs).

5. Direction (or coordination) and audit of the corporate fire protection programs—objective to reduce losses (and costs) and

the setup of priorities of investment in fire and other types of protection.

6. Direction (or coordination) and audit of the corporate security program with emphasis on such matters as registering visitors, monitoring sprinkler valves and water flow, protection of key equipment, and disaster procedures.

7. Preparation of guidelines for the protection of vital records, drawings, computer installations, and other key production engineering, research and administrative operations.

8. Coordination with the law department in areas of risk avoidance and claims.

9. Coordination with local controllers, with guidelines for reporting values, new locations and other pertinent risk subjects.

10. Development of procedures for reporting losses and negotiating loss settlements.

11. The spread of loss costs (losses and premiums) equitably among the cost centers.

12. Coordination with the internal audit staff in terms of monitoring the manner in which risk management guidelines are being carried out at the local level.

13. Day to day administration of the programs—discussions and correspondence on all risk subjects with corporate personnel, brokers, insurers, and others.

14. Planning for the consolidation of the risk program of newly acquired entities.

15. Regular visits to the divisions to counsel on risk problems relating to properties and operations.

16. Evaluation of the performance of the insurers and brokers against pre-established standards.

17. The maintenance of records and preparation of reports summarizing premiums, insured and uninsured losses, including a commentary on loss trends with an evaluation of the programs concerned with the specific risk area. Also, a description of planned projects for protection of properties and operations.

18. A long range program for corporate risk planning. ■

William R. Rich has been with Corporate Policyholders Counsel Inc. since 1946.



He is a chartered property underwriter and a member of the Institute of Risk Management Consultants. He plans and directs many of his firm's major risk management studies. He specializes in property and business interruption insurance problems.

Product . . .

Continued from preceding page
the event of a claim.

Perhaps most important in light of recent legal developments are the "upstream" or preventive measures that can be taken to hold down losses. Traditionally, the manufacturer was held liable only if negligence could be proved or if there was a breach of warranty. Increasingly, however, manufacturers have been held strictly liable for any damage or injury resulting from a product that was defective when it left the factory.

Quality control as such may not be significant unless specifically geared to product safety. To minimize losses, the manufacturer must undertake thorough use and misuse studies early in the product's development. Appropriate monitoring and testing procedures must then be implemented to assure that the product will not cause damage or injury while in normal use or even in the event of a malfunction.

Wherever possible, outside testing facilities should be engaged to verify compliance with relevant safety standards. Although third-party standards may not in themselves certify product safety, they can be extremely useful in defining the product against lawsuits and are highly regarded by insurance companies.

When misuse of the product might lead to injuries, the manufacturer has an additional obligation under the law to provide appropriate warnings and instructions on safe use. The theory is that the manufacturer is more expert than the consumer on the uses and abuses of a product and should

be able to foresee injuries that could result from its misuse or misapplication.

Safe operating instructions are not deemed adequate in themselves to protect the user against injury. The manufacturer is also expected to provide warnings both of inherent product hazards and of any hazards arising from misuse. Failure to do so may be construed as an act of negligence on the part of the manufacturer, even if the product itself is harmless when properly used.

The courts recognize that no product can be made entirely free of hazards. But manufacturers should nevertheless be prepared to prove that every precaution was taken to eliminate defects and to make sure the product was reasonably safe to use. The best way to accomplish this is to keep detailed records of loss control procedures and safety inspections. Good record-keeping will serve not only to protect the manufacturer in the event of a lawsuit but will also help to keep product safety considerations in proper focus during the manufacturing process.

In the event that an incident is reported, the following procedures are recommended:

- Obtain the product involved in the incident and determine whether it is defective or hazardous;

- Record all circumstances that pertain to the incident (especially helpful are photographs and statements from persons involved);

- Forward a complete report to designated officials noting whether the incident appears isolated or part of a product trend;

- Take appropriate action based on findings: field repairs, advice to users, or de-

sign revisions;

- Document all actions taken in response to the reported loss.

Preventive measures, warnings and instructional materials to users, precautions to be followed in the event of an incident—these are the aspects of product loss control that insurance carriers look for in evaluating a risk. Standing behind such efforts should be the attitude of the company's management. Do these efforts represent a high-level awareness of the problem and a genuine commitment to product safety? If so, then we would expect to find a management structure that assigns specific product safety responsibilities to qualified individuals within the organization. Moreover, we should expect to find a working knowledge of safety requirements among all employees directly involved in product design and manufacture.

All these efforts taken together will not guarantee placement of a risk. But neither should a buyer or broker overlook any opportunity to enhance the likelihood of placement. Given the reality of today's products liability market, he can only be faulted for not trying. ■

C. P. Cairelli is a product safety consultant in The Hartford Insurance Group's loss control department. A graduate of the University of Hartford with a degree in mechanical engineering, he held engineering positions with McGraw Edison, North American Phillips and Dynamics Corp. of America before joining The Hartford in 1971. He is a Registered Professional Engineer in Connecticut and a member of the Society of Professional Engineers and American Society of Safety Engineers.

Most computer crime discovered only accidentally, says specialist

By SUSAN ALT

CHICAGO—Nearly all of the 420 known cases of computer crime were discovered by accident, said Donn B. Parker of Stanford Research Institute, pointing to the need for more careful analysis of the risks of computer losses and tighter controls to catch computer crimes.

"We really know very little about what computer crime there really is," he told his audience at the Computer Protection/Insurance Seminar here, sponsored by *Business Insurance* and Computer-world magazines. Computer crime seems to be growing exponentially, said Mr. Parker. Only six of the cases he has documented were discovered by auditors within the companies which were victims of the crimes.

The biggest computer crime, of course, was the Equity Funding fraud, giving rise to \$2 billion in nonexistent insurance contracts and generating losses of that amount, said Mr. Parker. Another 144 cases which he has studied generated about \$65 million in losses, but it's not known what portion of those were covered by insurance of any kind, Mr. Parker said.

"I estimate that computer crime losses are currently running about \$10 million a year," he noted. But computer auditing methods aren't keeping pace with systems advancements, he warned. Criminals aren't having any trouble keeping up with the technology, though, he added.

"After Equity Funding, there were hundreds of committees set up all over the world to discuss new systems of computer audits."

Losses tend to be greater when computers are involved in crimes, Mr. Parker pointed out. In general, his records show bank fraud and embezzlement in the U.S. had an average value per case of \$19,000 in 1975, up from \$7,000 per case in 1965. Bank fraud cases involving computers, however, involved an average loss per case of some \$430,000, Mr. Parker related.

According to his documented cases, the businesses which have been victims of crimes by computer are in these industries, in order of frequency: banking, education ("Students experimenting and testing the limitations of campus computers"), government ("A recent study uncovered 69 cases of frauds with federal computers"), manufacturing, insurance, computer services, transportation, retail stores, and dating bureaus.

"Furthermore, I've had four cases where computers have been shot with guns," said Mr. Parker, citing these cases as illustrations of employe frustrations being taken out on the machines.

A profile of "the enemy," he said usually defines these characteristics:

- The computer thief will be young, between 18 and 30 years old, bright, eager and highly motivated.

- Robin Hood syndrome; ("Stealing from the rich and keeping it.")

- Computer thieves usually enjoy new challenges and are game-players; ("These people thrive on the risk-taking aspect.")

- Collusive; ("A study of ordinary bank fraud showed there was collusion between employes in only about 4% of cases, but in cases involving computers, there was collusion in almost 50% of the cases.")

- Secrecy frustration; ("Computer thieves often will tend to talk too much.")

Of the computer thieves Mr. Parker has interviewed personally, every one "said he encountered auditors who created a problem" and made the crime more difficult to conceal. But all too often, the criminals were notified ahead of time about an auditor's visit. The criminals also often felt they knew exactly what procedure the auditors would follow in their audit, Mr. Parker warned. Thus, he advised incorporating an element of surprise in the audit system.

"Generally," he added, "these people use the computer in exactly the way it was designed to be

used." That is, the criminals work "within specifications," not altering the machine's programs in any significant way.

Mr. Parker has identified the principal vulnerability of the computer-user in 362 of the cases analyzed. They include:

- Poor controls over manual input/output handling (147);
- weak or absent physical access controls (46);
- weaknesses in computer or terminal operations (48);
- failure of business ethics (41);
- poor control of programs (33);
- lack of operating controls on access (24);

- failure to prevent impersonation (19).

No one really knows whether fraud and theft losses which involve computers have been covered by any kind of insurance, Mr. Parker said. This is one of the issues Mr. Parker will be researching with the grant he recently received from the National Science Foundation, he noted. "Only recently has any thought been given to the bonding of EDP employes any differently than any other employes," he said.

"Yet," he continued, "when you're dealing with an intentional act (of an employe), you're dealing with an entirely different kind of an errors and omissions problem."

He predicted that "We're going to see more damage to people" by the use or misuse of computers, since people's lives and well-being are at stake. Mr. Parker cited examples of how humans are de-

pendant upon computers and could be damaged by the systems in instances where transportation systems operate on computers, heart monitoring in hospitals is EDP-controlled, and computer-controlled flight operations at airports.

"We are bound to see increased losses per case" with computers, Mr. Parker warned, although he believes the numbers of cases of white collar crimes "will likely decrease."

Among the EDP insurance areas which Mr. Parker would like to see explored is that of third party errors and omissions liability coverage, especially for intentional acts of both employes and non-employes. "Seeing if insurance can be extended to cover programming errors is another area for investigation," Mr. Parker believes. He noted that he doesn't believe any underwriters will cover programming errors at present under EDP policies.

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Burden is proving infidelity in computer crime

By ELISABETH M. WECHSLER

CHICAGO—"It takes a lot of work to uncover, present, support and collect the facts which document an insured fidelity loss," observed William A. Mahoney, vp and manager of the claims depart-

ment for Marsh & McLennan Inc.

"The primary burden is not the computer but establishing employe infidelity," he told participants at the Computer Protection/Insurance Seminar here, sponsored by *Business Insurance* and *Computerworld* magazines.

"The computer will record the footprints. All you need to do is find out who the thief is," Mr. Mahoney continued, emphasizing that the way to overcome the identification problem is through "hard work."

He pointed out that a "computer doesn't make dishonesty any different except to speed up the losses." Some companies don't have transaction tapes for real time computers, he cautioned, in which case no footprints would be left.

Since a fidelity bond is a contract, "the best source of what dis-

honesty is, is the courts where decisions have been made," Mr. Mahoney noted.

One of the simplest but clearest definitions of dishonesty, he believes, is "what the ordinary guy figures dishonesty is. 'Look at the act and you'll get a gut reaction whether it's dishonesty or just an error in judgment or incompetency,'" he explained, referring to one judge's definition.

An employe who diverts company funds for illegitimate purposes even though it benefits other people and not himself, should be covered under a bond, Mr. Mahoney said. "What he did with the money may be madness but it doesn't erase the dishonest act that he committed in diverting the funds.

"Stealing a formula can be insured against, but it is difficult to

establish the full value," Mr. Mahoney said.

"If a computer tape is stolen, there is no way to establish a loss, but if the employe sets up a company and profits by that tape, then this is proof that the tape was the basic sales potential," he pointed out.

"Sometimes it's hard to prove what business was diverted. The insurance company may not pay out the claim but may share the legal fees so that the insured is able to recover from the new business," he explained.

"Unless the computer program is an original, there is a problem of establishing its value as more than paper," he said.

"A fidelity bond does not insure against the mental imbalance or lunacy of an employe but only for his dishonest acts," he reminded the audience. "Physical damage to a computer facility is not covered under a bond because it's not a dishonest act," he noted.

"If an employe is found to be dishonest and let go, you should at least inform your company that you know the person is dishonest," Mr. Mahoney suggested. "The bond automatically terminates when the insurer proves you knew a particular employe was dishonest.

"In most cases a client insured must choose whether to be reimbursed for lost revenues or extra expense, which must be more than you'd pay anyway," Mr. Mahoney said.

He advised keeping receivables and payables separate "because it would take collusion to handle both ends of the transaction." A risk manager can work more closely with internal auditing because

they get the first whiff that something's awry," he said. "If the risk manager gets a hint of something wrong, he can ask his bonding company or insurance broker what to do."

"It is not a requirement to prosecute the dishonest employe to get money under a fidelity claim," Mr. Mahoney explained. The main reason for this is that insurance companies don't want to be dragged through several lawsuits, he added.

"A confession from a dishonest employe doesn't mean anything because the person is obviously not an honest individual," he pointed out. "If you take a confession, let him narrate it," he advised.

The advantages of obtaining a confession are that it may explain his trail of action and could help the risk manager close off the loophole for a future incident, he said.

"Embarrassment on the part of the company prevents it from going to the prosecutor with information to arrest the dishonest employe," Mr. Mahoney speculated. "The company doesn't want the publicity."

However, he cautioned that other employes may "figure they won't be caught" if they tried to get away with a similar dishonest or fraudulent act.

Mr. Mahoney advised risk managers to devise a form for company divisions instructing them about what to do if they find something affecting the fidelity area.

"Don't arrest the suspected employe and don't confiscate the goods; get legal advice," Mr. Mahoney emphasized. ■

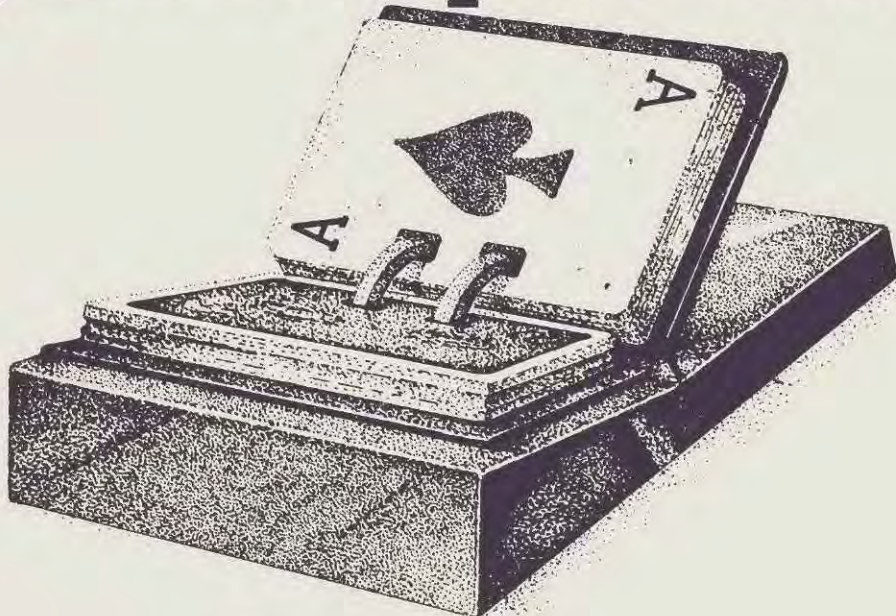
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Big utilities express more interest in Nuclear Mutual as alternative

By MARIE KRAKOWIECKI

NEW YORK—Some of the nation's biggest utility companies are toying with the idea of joining Nuclear Mutual Limited (NML). The captive that provides property insurance for nuclear stations since NML now has a proven, three-year track record.

Within nine months, in fact, NML hopes to win over at least one utility company that is so large it could substantially reduce the commitment the captive currently requires its 15 members to pay in the form of a retrospective premium call in the event of a maximum policy limit loss.

Speaking before a nuclear insurance workshop sponsored by

Marsh & McLennan's technical services division, Nuclear Insurance Consultants, NML's vp William H. Manly said many more utilities are now expressing "lively interest" in the captive as an alternative to insuring through the Nuclear Energy Liability-Property Insurance Assn. (NEL-PIA).

When NML was started three years ago in competition with NEL-PIA, one feature that kept some potential utilities from membership was a requirement that each participant would agree to pay a sum equal to 14 times its annual premium in the event of a catastrophic loss.

In 1973, NML had just over \$7 million in premiums when it

started. Since then, premiums have grown to \$13 million, and it has a \$50 million line of credit from banks.

What that means, coupled with NML's excellent loss experience, Mr. Manly said, is that the "realistic" retrospective premium call has dropped to 10.5 times from 14 times the annual premium.

"If another utility comes in, it will reduce the realistic call even further," Mr. Manly told *Business Insurance*.

He said he had in mind three or four utilities which were asking about coverage with NML (one is said to be actively considering membership) whose participation would reduce the multiple by another one and one-half, making it

nine times annual premium.

Mr. Manly indicated there would be a time lag before new utilities would join the captive even if they are considering it right now, because NEL-PIA charges a utility six months' premium if it changes insurance companies in mid-policy.

All NML policies are renewed April 1, Mr. Manly said. He expects a lot of utilities to be looking toward that date to switch their coverages from he pools. But a few are known to be looking at a change even before that date.

He would not name the big utilities interested in NML's alternate approach to insuring nuclear properties, but said the captive's "best prospects" were in the South, the Midwest and the West, utilities whose insurance managers have traditionally been more willing to deal with the world insurance market.

Utilities in the Northeast, he explained, historically have had close ties with the New England insurance companies which belong to the NEL-PIA pools, and were therefore less likely to come over to NML.

Mr. Manly, who is vp and assistant secretary for Southern Company Services Inc., a wholly

owned subsidiary of the Southern Co. as well as vp and board member of NML, told the 86 members at the workshop of the captive's progress in the three years it has been operating.

Besides increasing its premiums from just over \$7 million in 1973 to more than \$13 million this year, the Hamilton, Bermuda-domiciled captive has a loss experience under 6% for 1975, and for a three year period, under 11%.

Operating expenses declined from 13.1% in 1973 to 10.1% in 1975. As of April 1, 1976, base rates for NML operating policies were cut 10%, Mr. Manly told the group.

"NML has brought benefits to every United States utility insuring nuclear facilities," Mr. Manly told his listeners, basing his observation on the fact that as a result of the competition NML gave to NEL-PIA, the pools introduced their credit rating plan.

He also credited NML with nudging NEL-PIA into being more innovative and flexible with respect to its coverages because of that competition.

"After 15 years of almost static policy wording" the pools began broadening their policies, the NML vp said.



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The main reason that a group of utilities banned together to form the captive was that around 1971, their risk managers sought premium reductions or reserving or refunds from the pools in view of their loss ratios, which were below 25%.

They also wanted more coverage, more input in loss prevention and engineering statements, and more information on the basis of premium rates. When the pools did not meet these demands, the utilities got together a five-member ad hoc committee to study how to set up a utility-owned nuclear property insurance captive.

By 1971, some 35 utilities underwrote the commitment expenses; by 1972, the captive put out a prospectus; and by January 1, 1973, NML began its operations with 15 participating members.

Participants in NML are limited to owning a 9.5% interest in NML. The captive has a board of directors consisting of 11 members from the utilities and two from Bermuda. There is also an executive committee and two advisory committees—the engineering advisory committee and the insurance advisory committee.

David Vaughan of Insurance Services Ltd. (the Marsh & McLennan Bermuda operation) is general manager.

Because of over-reserving in its first year, NML paid its members an abnormally high dividend last year. Another high dividend payment this year created much of the current interest in the captive by non-member utilities.

Mr. Vaughan received about 35 written requests for the NML newsletter and about 12 or 15 requests from utilities for information on NML's engineering standards. ■

people

L.A. schools appoint former zoo executive

The Los Angeles Unified School District appointed **Chester E. Hogan**, 60, risk management administrator, a newly-created position, effective July 12. He reports to the assistant director of contractual relations. Initially, Mr. Hogan will assist in the implementation of a new self-insured workers' compensation program, which became effective on July 1. He also will be responsible for developing loss control programs for property and casualty risks. The district is "partially self-insured on casualty" and "essentially self-insured on fire" risks, said **Donald L. Reedy**, Mr. Hogan's boss and the person who supervised insurance and safety sections in performing the function before Mr. Hogan was hired. Before joining the L. A. school district, Mr. Hogan was vp of Kapner, Dull & Wolfberg Inc., Sherman Oaks, Ca., a management consulting firm. Prior to that he was executive administrator of the Los Angeles Zoo.

* * *

Harley-Davidson Motor Co., Milwaukee, Wi., created the position of manager-product liability claims and named **Tarry Schmidt**, 45, to fill it. Temporarily, Mr. Schmidt is reporting to the vp and general manager of Highland Insurance Agency, a subsidiary of the motorized vehicle manufacturer which works on insurance for its dealers. "The position has more to do with Harley-Davidson's own

products," Mr. Schmidt told *Business Insurance*. His primary responsibility is to "coordinate activities between the manufacturer, defense attorneys and underwriter (Hartford Casualty Insurance Co.) wherever products are involved." A number of product liability cases are currently pending, he

explained, which "could amount to several million dollars." More important to the long range future of his job is the "courts' current outlook on strict liability." Mr. Schmidt formerly was a casualty claims supervisor at Crum & Forster, Milwaukee. Harley-Davidson is a subsidiary of AMF Inc.

* * *

Marion Laboratories Inc., Kansas City, Mo., appointed **J. G. (Jim) Mason**, 44, director of compensation, benefits and risk management on June 28. It is a newly-created position which combines three functions that were previously handled separately. Mr. Mason formerly was personnel director for Kansas City operations; in that

position he took charge of employee benefits. **Michie Slaughter**, director of personnel and organization development, previously was responsible for the pharmaceutical company's compensation function. **Dr. Arvid Zuber**, corporate secretary, had also handled risk management as part of his job. Mr. Mason reports to the vp-corporate personnel. Three non-clerical staff report to him; eight have functional responsibility.

* * *

The state of New Mexico created a risk management division and hired **Taylor Hendrickson**, 42, to head up the operation. Formerly manager of the property division

Continued on page 38



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people

Continued from page 37

for Hartford Insurance Group in Cincinnati, Mr. Hendrickson started his new job on June 14. He reports to the director of the state department of finance and administration. He is responsible for studying the risks of all governmental agencies, establishing safety programs and purchasing insurance as needed. **Alfred Mitchell**, now retired from Hartford Insurance Group in Dallas, has served as a consultant to New Mexico since early May; he said he expects to continue for another month. Because of the recently enacted tort claims act (which removed state immunity in litigation after July 1), Mr. Hendrickson's initial emphasis is casualty risks, according to Mr. Mitchell. Eventually, Mr. Hendrickson will address state property coverage.

Instrument Systems Corp., Huntington, N.Y. hired **Mark E. Sysler** as director of insurance, effective July 6. He reports to the corporate secretary and replaces **W. Michael McDonald** who joined Otis Elevator Co., New York (BI May 17). Mr. Sysler formerly was supervisor of corporate losses and claims at American Broadcasting Cos., New York City.

New York-based Viacom International Inc. named **Joseph F. Yumet**, 43, manager of insurance and employe benefits, effective June 1. He reports to the treasurer and is responsible for property/casualty risks as well as medical, life and pension programs for the company's 800 employes. Mr. Yumet replaces **Joseph Carazzone**, who had served as a consultant at Viacom for three years following his retirement from the insurance department at CBS, New York. Mr. Yumet previously was director of insurance and employe benefits at REA Express Inc., New York. The position is being phased out, Mr. Yumet said, as a result of the firm's bankruptcy petition filed in November 1975.

Beginning on September 1, **William Bruce Coddling** will take over the newly-created position of risk manager for the city of Fresno, Ca. Mr. Coddling formerly was an in-

dependent insurance adjuster at Townsend Adjustment Service, Fort Worth, Tx. In his new position, Mr. Coddling will report to the director of finance for the municipality. He will be in charge of the newly-established self-insurance fund for Fresno's property/casualty risks and employe benefits.

Thomas R. (Ron) Heaton, 43, was appointed insurance manager for the Oshawa Group, Toronto, on June 7. It is a newly-created position for the large wholesaling operation. Mr. Heaton reports to **Leonard Eisen**, treasurer, who had performed the insurance function among his other duties. Formerly Ontario automobile manager for Canadian General Insurance Co., Toronto, Mr. Heaton is responsible for property/casualty risks including fleet exposures. He said he expects to act as liaison with Oshawa Group's security department, which soon will be expanded to include loss prevention programs.

Dresser Clark Division, Olean, N.Y., hired **Scott Slater** on June 28 as safety supervisor at its main plant. Mr. Slater reports to the employe relations manager and is responsible for the plant's safety and security programs. He previously was safety program director at Dalton Foundries, Warsaw, In. Mr. Slater replaces **Philip Smith**, who was transferred to another position in the personnel department.

Harrison M. Bains Jr. was elected assistant treasurer at Nabisco Inc., New York, in May. He replaces his boss, **Edward J. Matthews Jr.**, who was promoted to corporate treasurer (BI, Aug. 25, 1975). His responsibilities include financial analysis relating to pensions and employe benefits at Nabisco. Mr. Bains previously was assistant treasurer at Richardson-Merrell Inc., Wilton, Ct.

Three benefits analysts were named at Champion International Corp., Stamford, Ct.: **John Alberto**, formerly benefits administrator at AMF Inc., White Plains, N.Y.; **Neil Bogus**, formerly pension representative at Mutual Life Insurance Co. of New York, New York City; and **David Reiss**, an attorney previously with a Norwalk, Ct.-based law firm. All three report to Edith Hersher, manager of benefits planning and communication at Champion. Initially, their collective responsibility is ERISA compliance, but eventually they will be involved in the "total range of benefit planning and communication," according to Mrs. Hersher. The positions were created because of the department's increased workload.

Kelly Delaney, 28, was named compensation analyst at Iowa Beef Processors Inc., Dakota City, Nb. in May. In the newly-created position, Ms. Delaney is responsible for benefit plan cost analyses, as well as wage/salary analyses and job evaluations. Reporting to the director of compensation, Ms. Delaney formerly was a salary analyst at John Hancock Mutual Life Insurance Co., Boston.

Bendix Corp., Southfield, Mi., promoted **Janet Dworakowski** to senior insurance administrator from insurance administrator, effective July 1. She reports to the manager of general insurance. In another move, **Roberta Holderith** was promoted to insurance analyst from secretary, effective July 1. **Bill Kursinsky**, formerly supervisor of general insurance, left Bendix at the end of June to join Johnson & Higgins in Phoenix, Az., according to Robert E. Smith, director of corporate insurance at Bendix.

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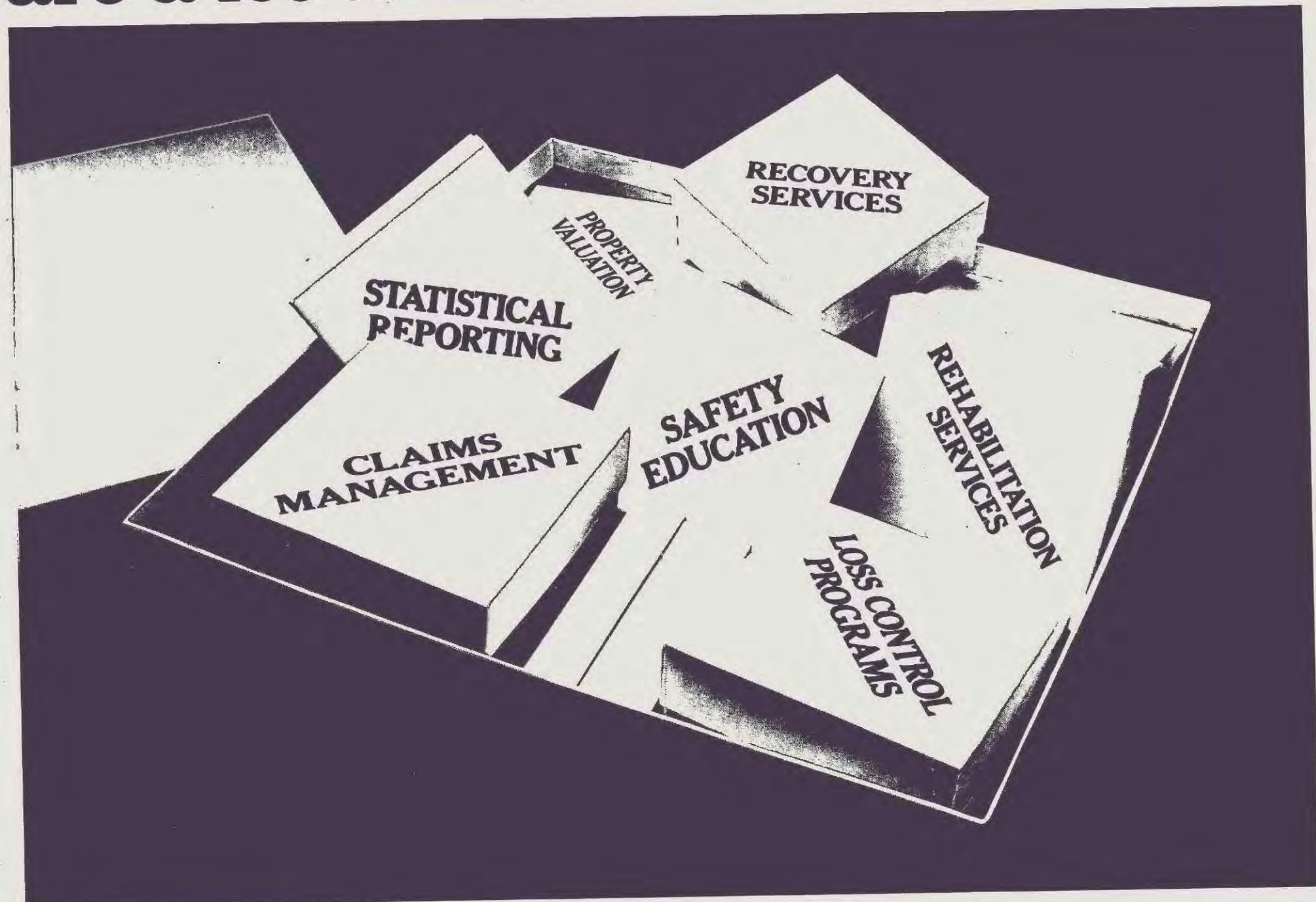
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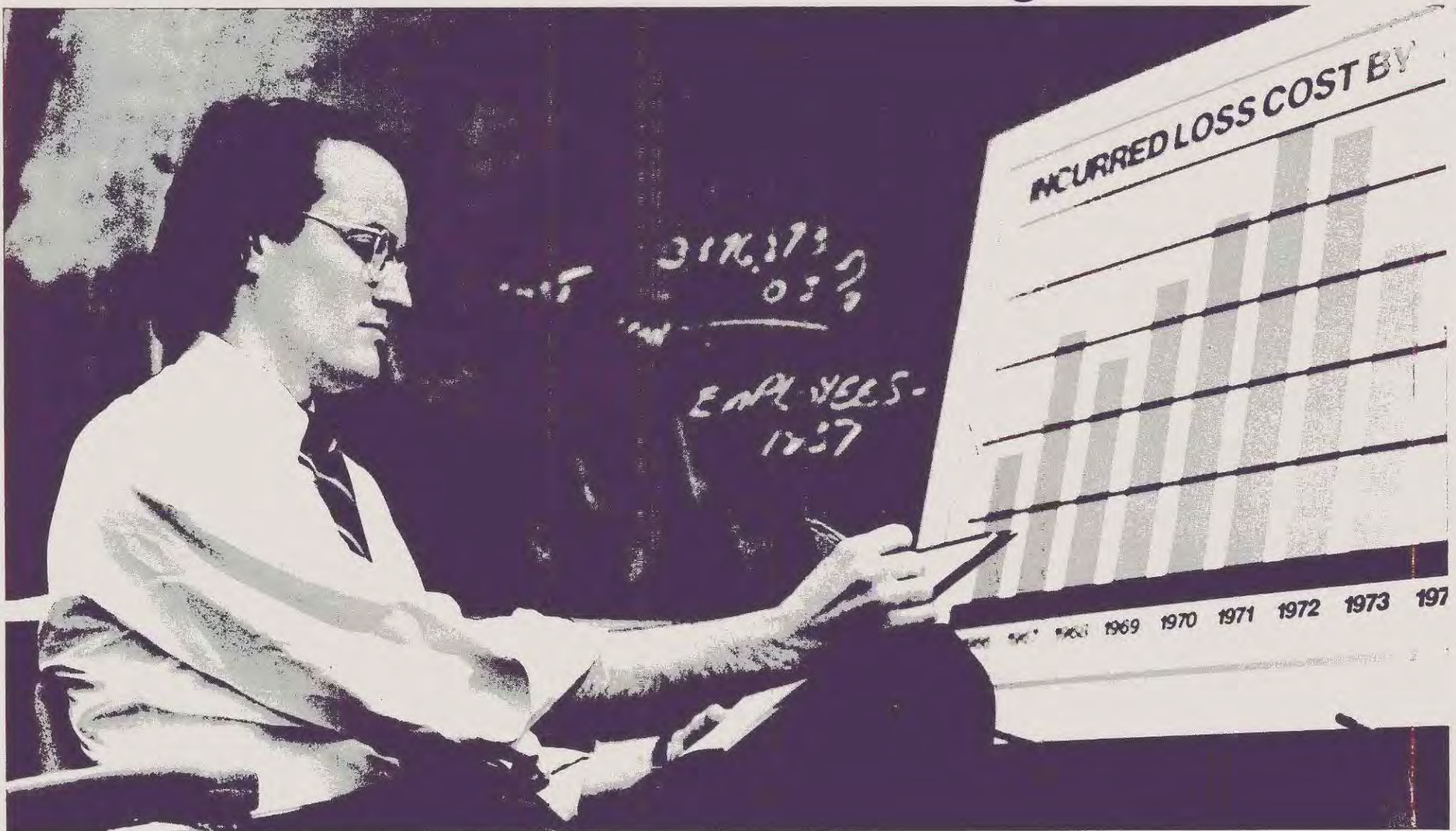
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