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update

Gillespie sues AFC, Lindner following suit against MIC

LOS ANGELES—California Insurance Commissioner Roxani Gillespie on June 3 sued American Financial Corp., its chairman, Carl H. Lindner, and 13 former Mission Insurance Group directors and key employees.

The lawsuit seeks to hold them liable for any damages Mission Insurance Co. units may sustain in a recent lawsuit filed by seven MIC

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Bill requires firms to accept pension rollovers

By JERRY GEISEL

WASHINGTON—An employer with a defined contribution pension plan would be required to accept rollovers from newly hired employees' former defined benefit and defined contribution plans under legislation introduced last week in the House and Senate.

The bills, introduced by Rep. Rod Chandler, R-Wash., and Sen. John McCain, R-Ariz., also would generally bar an employee leaving a company from taking a pre-retirement lump-sum distribution from a defined benefit or a defined contribution plan.

Instead, the employer either would have to transfer the accumulated funds to a defined contribution plan sponsored by the worker's next employer or to an Individual Retirement Account, where the funds would be held until the employee reached age 59½.

Alternatively, employees could choose to keep their accumulated funds in their former employers' plans.

The legislation also would generally prohibit an employee from withdrawing a lump-sum pension distribution once it was rolled over into an IRA until he or she reached age 59½.

In addition, the legislation would require employers of any size not currently offering a qualified retirement plan to set up so-called Simplified Employee Pension Plans with a salary reduction feature for any employee who requests such a plan.

SEPPs—most often offered by small employers—are similar to IRAs in design, but allow a maximum annual

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Westinghouse starts huge coverage battle

By STEPHEN TARNOFF

ELIZABETH, N.J.—In one of the largest insurance coverage actions ever, Westinghouse Electric Corp. is suing all of its property and liability insurers since 1948 for the defense and indemnification of massive hazardous waste and toxic substances claims pending against the company.

The suits seek coverage for the cost of cleaning up 74 separate hazardous waste sites nationwide and for responding to hundreds of bodily injury claims filed by Westinghouse customers claiming they were exposed to toxic substances contained in the company's products.

In all, more than 140 U.S. and international primary and excess liability and property insurers are named in two lawsuits filed by Pittsburgh-based Westinghouse on May 8 in Union County Superior Court in Elizabeth, N.J. (see story, page 41).

Westinghouse could have more than $1 billion in coverage under all of the policies.

Last week, attorneys knowledgeable about hazardous waste and toxic coverage litigation said the Westinghouse litigation is certainly one of the largest and most complex insurance coverage actions ever filed. Not only is Westinghouse seeking coverage for claims involving a large number of hazardous waste sites and toxic substances, but it also is suing a large number of insurers, including its property as well as its liability insurers.

"It clearly is the broadest coverage case ever filed in the United States," said Philip Matthews of the San Francisco firm of Hancock, Rothert & Bunshoft, who represents insurers in hazardous waste litigation.

Among the problems posed by the case is the need to take discovery for each of the more than 90 hazardous waste sites

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Toy maker settles suit for $2.25 million

Photo: Mary Herlehy

Fisher-Price's toy school bus passengers sold today differ from the one that a child choked on when he was less than 2 years old in 1973, leaving him brain damaged.

By LINDA J. COLLINS

BUFFALO, N.Y.—A $2.25 million settlement by Fisher-Price Toys of a 14-year-old product liability lawsuit is one of the largest individual settlements ever by a toy manufacturer, according to the plaintiffs' attorneys and risk managers at other toy companies.

The suit, settled by Buffalo, N.Y.-based Fisher-Price last month, was filed in July 1973 by the parents of a child who suffered physical and mental handicaps after choking on a figurine included with a toy school bus.

"I don't know of any settlement that has come close to that—certainly not as far as Mattel is concerned," said John G. Pinner, assistant treasurer and risk manager for Mattel Inc. in Hawthorne Calif.

"I have not seen one larger than that," said another toy manufacturer's risk manager, who asked not to be identified.

The $2.25 million settlement, which has been paid, included $1.4 million designated for the injured child and $850,000 for his parents.

"The loss was fully insured" under Fisher-Price's product liability coverage, said Paul Charland, risk manager for Fisher-Price, a division of The Quaker Oats Co. of Chicago.

Royal Insurance Co. "paid the entire settlement amount as a primary carrier and recovered some from reinsurers," confirmed a spokesman for Royal in Charlotte, N.C.

The settlement was slowed because the injury occurred in Canada and the product was purchased in Canada by Canadian residents, said James M. Buckley of Buffalo, one of the plaintiff's attorneys. That spurred lengthy jurisdictional disputes over where the case should be tried, since Fisher-Price is based in Buffalo.

A U.S. District Court judge in Buffalo decided the case should be tried by that court under consideration of Canadian law.

"We opposed the decision to try the case under Canadian law," Mr. Buckley said, explaining that Canadian courts generally award much smaller product liability judgments than U.S. courts.

Meanwhile, "We felt it should have been tried in Canadian court" because the accident occurred in Canada, said Mr. Charland of Fisher-Price.

In June 1981, a six-member jury awarded

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reinsurers seeking to rescind contracts with MIC and alleging fraud and negligence.

The reinsurers' lawsuit names Ms. Gillespie in her capacity as MIC's liquidator. The plaintiffs are Abeille-Paix Reassurances in Paris; Ohio Reinsurance Co. of Celina, Ohio; Walton Insurance Ltd. in Bermuda; Compagnie Transcontinentale de Reassurance in France; Hassneh Insurance Co. of Israel Ltd. in Tel Aviv; Hamburger International Ruckversicherung in West Germany, and Imperial Casualty & Indemnity Insurance Co. in Omaha, Neb.

These seven reinsurers are among the 140 companies sued by the department last December for allegedly not paying MIC's reinsurance claims (*BI*, Dec. 29, 1986).

Pacific Marine ordered closed

OLYMPIA, Wash.—The Washington Insurance Department last week ordered the Pacific Marine Insurance Co. to cease operating after examiners estimated that the insurer could by underreserved for future losses by as much as $55 million.

An Insurance Department order revoking the insurer's certificate of authority will become effective July 2, pending a department hearing, a spokesman said. He added that the department will ask Pacific Marine to place itself into voluntary receivership.

The action followed an examination of Pacific Marine, which wrote mainly workers comp and marine coverages. Though the company's adjusted capital and surplus was $7.6 million as of March 31, examiners found that Pacific Marine could be substantially underreserved.

Among other things, Pacific Marine reported potential liabilities of only $1 million for auto warranty coverage on 30,000 vehicles insured through Universal Dealer Services of El Toro, Calif. (*BI*, Sept. 16, 1985). The insurer also reported $29.6 million in reinsurance recoverables from Pacific Marine Insurance Co. of Alaska, a former subsidiary.

Meanwhile, the Alaska Division of Insurance filed a petition June 3 in Superior Court in Anchorage to rehabilitate Pacific Marine of Alaska. A hearing is scheduled for today.

Insurance division examiners found that Pacific Marine of Alaska had double-counted a large asset in its most recent financial statement and had "substantially" underreserved for future losses, said Director John L. George. Examiners also were unable to verify some of the company's reinsurance, he added.

Pacific Marine of Seattle is owned by a Bermuda trust administered by the Bank of Bermuda Ltd., and by Trader (Jersey) Ltd., a Jersey Islands holding company. Pacific Marine of Alaska is owned by Robert A. Bell, a Bermuda resident.

Insurer protests Florida ban

TALLAHASSEE, Fla.—Physician's National Risk Retention Group Inc. claims the Florida Insurance Department deliberately used outdated financial data to keep the group from writing medical malpractice coverage in the state.

U.S. District Court Judge Maurice Paul last week ordered the Baton Rouge, La.-based insurer to stop selling the coverage to Florida physicians until it could prove its financial position was better than statements submitted to the Florida department showed.

The insurer says it is preparing financial information that will prove it has sufficient capital to write medical malpractice coverage in Florida, according to a spokesman.

The District Court judge acted on a complaint by Florida Insurance Commissioner Bill Gunter, who warned Florida doctors that Physician's National was in "questionable financial shape" (*BI*, June 8). Mr. Gunter submitted financial statements with his complaint that showed the group had $100,000 in capital and a $900,000 letter of credit. The department said the group was offering rates 30% to 35% below that of other experienced insurers.

However, an Insurance Department spokeswoman last week said the department received a letter dated June 9 from Physician's National stating that it intends to raise Florida rates by 30%.

Sara Carpenter, comptroller of Physician's National, said that on May 27 the insurer showed $1.2 million in unencumbered assets, which allowed it to issue policies.

Alan Buchalder, vp of marketing for Physician's Reliance Group in Marietta, Ga., which operates the risk retention group, claims the Florida department was aware of the new figures and deliberately misrepresented the insurer's financial condition.

The spokeswoman said the department "acted on financial data provided to the department on May 21."

Alabama's tort bill signed

MONTGOMERY, Ala.—Alabama Gov. Guy Hunt late last week signed 10 tort reform bills that will, among other things, cap punitive damage awards at $250,000 and allow judges to order structured settlements of awards larger than $150,000.

"We got pretty much everything we went after," said Tom Coker, a vp with the Business Council of Alabama in Montgomery, a member of the Alabama Civil Justice Reform Committee.

However, Mr. Coker acknowledged that "it remains to be seen what the courts will do on several of the points."

William Scruggs, president of the State Bar of Alabama, said the package was "on the balance, more good than bad." But, he questioned whether punitive damage caps are constitutional.

In medical malpractice cases, the law also caps non-economic damages at $400,000 and wrongful death awards at $1 million.

The legislation, passed last week, also liberalizes the collateral source rule, amends the state's venue statutes and repeals the "scintilla rule," which allowed a lawsuit to proceed even if there is only scant evidence against the defendant.

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Variable PBGC premium gains business backing

By JERRY GEISEL

WASHINGTON—Businesses are lining up behind a variable-rate pension termination insurance premium structure.

Last week, the ERISA Industry Committee, the powerful Washington-based benefits lobbying organization, endorsed basing premiums charged by the Pension Benefit Guaranty Corp. on the financial condition of pension plans.

And, earlier this month, the employee benefits committee of the Financial Executives Institute, a Morristown, N.J.-based association representing some 13,000 senior financial executives, gave its full support to a variable-rate PBGC premium.

"A variable-rate premium structure would. . .be a more equitable and more efficient prospective premium structure," the FEI's benefit committee said. "If organizations choose to underfund their plans for whatever reason, they and their competitors should know that they must pay a price for this strategy."

In addition, a group of about 30 large employers, representing a broad cross-section of American businesses, have established the Coalition for Retirement Income Security to convince Congress to scrap the current flat-rate PBGC premium in favor of a variable rate premium structure.

"A variable-rate premium will increase incentives for employers to improve pension plan funding, increasing the probability that promised benefits will be paid," said Michael Gulotta, a member of the coalition and president and chief actuary of Actuarial Sciences Inc. in Piscataway, N.J., a subsidiary of AT&T.

These endorsements come on top of earlier support for a variable-rate PBGC premium by such major business groups as the Risk & Insurance Management Society and the National Assn. of Manufacturers.

The RIMS and NAM support came about the same time the Reagan administration unveiled a variable rate premium proposal (*BI*, March 30).

These groups also generally support proposals requiring employers to fund their pension liabilities more quickly, reducing the PBGC's exposure to big claims when underfunded pension plans collapse.

"ERIC's position is that the best way to protect the (defined benefit plan) system is to ensure secure pension funding," said ERIC Executive Director Mark Ugoretz.

This growing employer support for a variable-rate PBGC premium structure greatly increases the chances that Congress will adopt the concept when it considers legislative proposals this session to shore up the financial base of the PBGC, which has a $4 billion deficit.

Currently, the PBGC charges all employers—regardless of the financial condition of their pension plans—the same annual flat-rate premium of $8.50 per plan

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International shippers press for new cargo liability rules

By JOHN PARRY

GENEVA, Switzerland—Cargo owners worldwide are launching a global lobbying campaign to persuade governments to ratify new cargo liability rules that would shift the burden of cargo liability from cargo owners to shipowners.

Several groups of shippers in several nations, representing 63% of the world's cargo trade, began their lobbying campaign for the proposed rules, called the Hamburg Rules, shortly after a private meeting June 1 with members of the International Union of Marine Insurers organized by the International Chamber of Commerce and the United Nations Conference on Trade and Development.

Specifically, the Shippers National Freight Claims Council in New York will urge the Reagan administration to ask for a Senate hearing and ratification of the rules, said William Augello, general counsel for SNFCC.

Ratification of the rules by the United States—which so far has been denied—would speed up ratification in other countries, Mr. Augello predicted.

It is hoped that the new campaign will end the logjam the rules have faced since they were adopted by the UNCTAD in 1978, Mr. Augello pointed out.

"What we have is a Catch-22 situation in which all major governments say they will ratify the rules if their major trading partners will," Mr. Augello told a press conference here June 2. "This means everyone is sitting on the fence waiting for the other guy to move."

The Hamburg Rules, which were passed by 67 international UNCTAD delegates in 1978, must be ratified by the governments of 20 countries before becoming international law. So far, only 11 countries have approved them: Barbados, Chile, Egypt, Hungary, Lebanon, Morocco, Romania, Senegal, Tanzania, Tunisia and Uganda.

In addition, West Germany is ready to ratify the Hamburg Rules. And, France and Italy have laws similar to the Hamburg Rules that apply only to shipping within their respective borders, Mr. Augello noted.

However, the United States has not ratified the rules, Britain is opposed to them and Japan refuses to consider them, adopting a "hands-off" policy, according to Mr. Augello.

The rules would replace the Hague-Visby Rules of 1936, which virtually free shipowners from cargo claims.

Many cargo owners have been advocating adoption of the Hamburg Rules for at least the last four years. Under the Hague-Visby Rules, they claim that, for example, a shipowner can be negligent for navigating a ship into rough weather but would not responsible for paying any loss of cargo. Instead, the cargo owner pays for losses.

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✔ Several members of Congress say they favor increased attention to the insurance business, but they are not seeking repeal of insurers' antitrust exemption or to substitute federal for state regulation. **PAGE 6**

✔ Insurers deserve the recent ruling by California Superior Court Judge Ira A. Brown Jr. that gives asbestos producers maximum coverage for asbestos bodily injury claims, this week's editorial states. **PAGE 8**

✔ The People's Insurance Co. of China is "vigorously developing" its foreign business and overseas contacts, its chairman says at the "Insurance and China" conference sponsored by the Chartered Insurance Institute in London. Coverage begins on **PAGE 19**

✔ The earthquake is coming, Franklin W. Nutter, president of the Alliance of American Insurers, warns in Speaking Out. Insurers, the business community and government must focus now on preparing to cope with the catastrophic losses, he says. **PAGE 26**

✔ The current system of state regulation is not working and should be amended or replaced, said two insurance company executives at the third annual Harold H. Hines Jr. Memorial Symposium in Chicago. **PAGE 32**

✔ Securities analyst Leonard M. Wilson reviews the public brokers' first-quarter results and says they confirm that the property/casualty insurance market crunch is now easing. **PAGE 43**

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Firm sues doctors for comp fraud

By MEG FLETCHER

DAYTON, Ohio—An Ohio employer is asking a state appellate court for permission to sue an occupational disease clinic and two doctors who certified that dozens of Dayton Walther Corp. employees contracted silicosis and other job-related ailments.

Dayton Walther, a subsidiary of Toronto-based Varity Corp., alleges that two doctors practicing at the Greater Cincinnati Occupational Foundation clinic from 1984-'86 performed inadequate medical examinations on company employees who later filed workers compensation claims against the company.

Dayton Walther also claims the doctors issued incorrect and fraudulent reports either due to insufficient knowledge and training or "reckless disregard for the accuracy" of their findings.

"As a direct and proximate result of the defendants' negligence and/or wanton and reckless misconduct, (Dayton Walther) is being required to investigate and defend numerous meritless workers compensation claims, all to its great expense," the suit says.

The company will not disclose how much it has spent to investigate and defend the claims.

Dayton Walther, which self-insures its workers compensation exposures, filed its appeal April 28 in the 1st District Court of Appeals in Cincinnati after its lawsuit was dismissed by a Hamilton County Court of Common Pleas judge in March.

Dayton Walther originally filed its lawsuit in August 1986, after it was hit with 114 workers compensation claims following the announcement that it would curtail foundry operations and lay off workers while the facility was being converted to another production process.

The company currently employs 168 people, including administrative employees.

The suit sought $1 million in compensatory damages and $1 million in punitive damages from Drs. Michael Kelly and David Egilman and the clinic to compensate Dayton Walther for the costs of investigating and defending the 114 workers compensation claims, which were filed within a seven-month period in 1984 and 1985.

Those claims comprised 94% of all work comp claims filed against the company from January 1980 to October 1986, according to Terrence Geremski, the company's vp of finance and chief financial officer.

Most of the 114 claims were based on examinations conducted at the clinic by Drs. Kelly and Egilman, Mr. Geremski said.

Nearly half of the claims alleged workers had contracted silicosis, a chronic lung disease produced by prolonged and extensive exposure to free crystallizing silica, like that used in sand molds used to cast metal. Other employees alleged hearing loss and hand and wrist injuries due to the extensive use of vibrating hand tools, according to court papers.

Thus far, only two of the cases have been adjudicated through the Ohio workers compensation system, both of which resulted in rulings in favor of the employees, according to Mr. Geremski. Seven of the claims have been withdrawn, he said.

In its suit, Dayton Walther argued that "a physician's medical negligence can and does give rise to independent claims for relief by persons outside the physician-patient relationship."

The doctors and the clinic had a duty to Dayton Walther "to exercise reasonable care in being sufficiently trained to hold themselves out as occupational health specialists, in performing medically thorough and proper examinations, in making medically

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High risk bill duplicates OSHA requirements, businesses testify

By DEBORAH SHALOWITZ

WASHINGTON—Pending federal legislation that would require employers to notify employees who are or have been exposed to hazardous substances is unnecessary because it duplicates existing Labor Department standards and would be extremely costly, say business group representatives and a government official.

The legislation would require employers to notify current and past employees exposed to hazardous substances in the workplace —going back at least 30 years—that they should seek medical testing to determine whether exposure has or is likely to cause illness or disease.

Employers would have to pay for the medical testing.

Employers and insurance groups protest that the legislation, known in both houses as the High Risk Occupational Disease Notification and Prevention Act, S. 79 and H.R. 162, would cost them billions of dollars in additional tort and workers compensation claims, litigation costs and employee medical costs (*BI*, April 27).

Opponents of the legislation testified before the Senate Small Business Committee last week that the existing Occupational Safety and Health Administration hazard communication standard already requires employers to notify employees if they are working with hazardous substances (*BI*, Sept. 30, 1985).

And, the 3rd U.S. Circuit Court of Appeals in Philadelphia directed OSHA late last month to expand the hazard communication rule within 60 days to cover all employers.

The rule will then cover about 5 million businesses, estimated Frank S. Swain, chief counsel for advocacy of the U.S. Small Business Administration in Washington, D.C., compared with about 500,000 as the standard was originally written (see update, page 2).

The proposed legislation is "cumbersome, confusing" and "not necessary" because of the OSHA standard, said Mr. Swain.

The hazard communication standard established by OSHA in May 1986 requires all chemical-using manufacturers to implement a hazard communication program, he explained. This rule covers approximately 14 million workers in more than 320,000 manufacturing facilities dealing with about 575,000 potentially hazardous substances, he said.

Sam Sowell, chairman and chief executive officer of International Graphics in Little Rock, Ark., agreed the OSHA communications standard makes the proposed legislation "unnecessary and counterproductive."

The OSHA standard focuses "federal resources on hazard pre-

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Softening facultative market causing reinsurers concern

By JUDY GREENWALD

While the U.S. reinsurance industry is now reporting vastly improved underwriting results, some reinsurance company executives warn that trouble may be looming ahead.

Barring natural catastrophes, the industry is expected to continue its underwriting turnaround through this year, but a softening market—particularly for facultative reinsurance—is causing some reinsurers worry, while the adequacy of loss reserves remains an ongoing concern.

"The terms and pricing improvements have taken hold and they're showing up in results," said Jim Stannard, senior vp of F&G Re Inc. in Morristown, N.J., a wholly owned subsidiary of USF&G Corp. "I'd expect them to continue at this level, barring a major catastrophe," for the remainder of the year, he said.

According to a survey of 73 reinsurers by the Reinsurance Assn. of America, the U.S. reinsurance industry posted a 100.8% combined ratio in the first quarter, down nearly seven points from a 107.7% combined ratio in the first quarter of 1986 for a similar, though not identical, group of reinsurers.

The 20 largest U.S. reinsurers, based on net written premiums, posted a a slightly better combined ratio—

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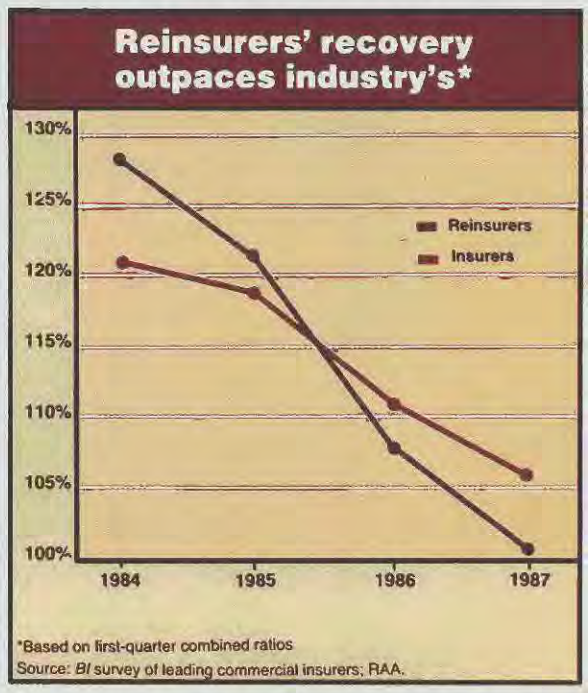

EBC conference coming up

By DONNA DiBLASE

Utilization review, triple options, flexible benefits, COBRA, tax reform and 401(k)s—how does a benefit manager begin communicating the real meaning of all the benefit buzzwords to employees, especially when there are almost as many media with which to communicate benefits as there are benefits to communicate?

Benefit managers will have the opportunity to see how some of their colleagues have tackled these communication tasks, as well as learn how to communicate some of the newer issues in employee benefits, at the *Business Insurance* Employee Benefits Communication Conference. The conference will be held at the Grand Hyatt Hotel in New York on Aug. 3 and 4.

Featured at the conference will be informative panel discussions, case studies of award-winning benefits communication campaigns and the presentation of the 15th annual *Business Insurance* Employee Benefits Communication Awards.

Communication's potential to influence behavior will be the highlight of a keynote address by Elaina Zuker, president of Success Strategies Inc., an organizational consulting and management company in New York.

Regardless of how elaborate or basic the communication effort, benefit managers must keep in mind the impact that effective communication can have on employees' attitudes and responses to benefits changes.

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Opren suits may return to Indiana court

By CAROLYN ALDRED

LONDON—As many as 500 British plaintiffs currently suing Indianapolis-based Eli Lilly & Co. in England for unspecified damages allegedly caused by the anti-arthritis drug Opren may press their case in the United States.

Some of those plaintiffs already had filed suit in Indiana against Eli Lilly, but their case was dismissed in 1984.

Lawyers for the plaintiffs may attempt to bring the case to Indiana courts because the plaintiffs cannot afford to pursue their case in the United Kingdom, said Rodger Pannone, a partner with Pannone Napier, one of the law firms acting for the plaintiffs.

The possible return of the case to U.S. courts follows a June 3 decision by a United Kingdom Court of Appeals upholding a London High Court ruling that all 1,500 British plaintiffs in the litigation against the pharmaceutical manufacturer, including 500 plaintiffs that are not receiving legal aid from the British government, must share court costs equally if the High Court finds for Eli Lilly (*BI*, June 8).

Under British law, the losing party in a court case generally must pay all court costs.

The plaintiffs' lawyers had argued that estimated court costs of between 3 million and 6 million pounds ($5 million to $10 million) should be borne only by the 1,000 claimants entitled to legal aid. "Total costs in this case could total anything from 3 million pounds upwards, and most of our clients are people in their 60s and 70s who, if they are not on legal aid, stand to lose all their savings and even their homes if litigation fails," Mr. Pannone said.

Eli Lilly has a worldwide product liability insurance policy to cover Opren claims outside of the United States. American International Group Inc. subsidiary American International Underwriters is the sole insurer on the primary layer, and the policy's excess layers are placed in the U.S. market, said John Tissington, claims manager of AIU (UK) Ltd.

Mr. Tissington confirmed that no Opren claims had been settled outside the United States. He refused to comment on the policy's limits.

Eli Lilly's U.S. product liability may be completely self-insured at present for the first $100 million, London sources say. And an Eli Lilly spokesman confirmed the company is a member of A.C.E. Insurance Co. Ltd., which writes $140 million of liability coverage excess of $100 million.

However, between 1977 and 1985, Eli Lilly in the United States carried a $5 million self-insured retention and between $30 to $55 million in various layers in the London market, sources here say.

Leading underwriters on the excess liability layers in London were Lloyd's of London underwriter Robin Jackson, director of Merrett Holdings P.L.C., and H.S. Weavers (Underwriting) Agencies Ltd., which participated only on layers of $15 million excess of $15 million and below.

An Eli Lilly spokesman denies that it had $55 million excess of $5 million in product liability coverage, but would not comment on the company's coverage.

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Dayton Walther

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reliable diagnoses and in transmitting those diagnoses to (Dayton Walther) in its capacity as a self-insured employer under the workers compensation laws of Ohio," the suit alleges.

However, it continues, the two doctors "were insufficiently knowledgeable" to properly perform the examinations, to form accurate diagnoses, to determine the extent of the employees' disabilities and "to attribute the employees' conditions to their employment" at Dayton Walther.

Attorneys for the defendants alleged that the doctors did not owe Dayton Walther a duty of care and that the company was challenging the right of workers to seek medical advice and the right of doctors to render opinions free from the threat of legal liability.

"This attack on the physician-patient relationship and on the right of a worker to seek compensation for work-related injuries is particularly outrageous in view of the fact that plaintiff admits that the workers compensation proceedings are 'ongoing.' " according to court papers filed on behalf of Dr. Egilman, who has since left the clinic and is now practicing in Rhode Island.

Common Pleas Court Judge Simon L. Leis Jr. agreed with the defendant's argument when he dismissed Dayton Walther's lawsuit.

Dayton Walther's allegations of fraud do not support a cause of action because third parties are not allowed to bring malpractice actions against a physician in Ohio unless they are a close family member, Judge Leis said.

In addition, "even if disinterested third parties were permitted under Ohio law to hold physicians responsible for medical negligence, the type of injury claimed by Dayton Walther does not give rise to any kind of relief," Judge Leis ruled.

"Generally, Ohio grants recovery in tort for personal injury or property damage but not for pure economic loss," he said.

In addition, "the doctrine of witness immunity insulates physicians from civil liability based upon testimony or reports given at a trial" or a workers compensation hearing, he said.

Judge Leis dismissed Dayton Walther's claims with prejudice, meaning that the lawsuits cannot be refiled alleging the same claim or cause of action.

Dayton Walther filed its appeal of the judge's decision on April 28, said Gerald J. Rapien, Dayton Walther's attorney with the Cincinnati firm of Taft, Stettinius & Hollister. The appeal argues that the trial court erred in granting the defendants' motion for summary judgment.

Whether Dayton Walther's action can be considered an effort to harass or intimidate doctors or merely self-defense "depends on whose side your on," said John H. Lewis, an attorney and workers compensation consultant in Coconut Grove, Fla.

"It doesn't shock me that they tried it," Mr. Lewis said. "However, Ohio is probably not the best state in which to do it, because courts there have been very reluctant to establish legal theory upon which an employer or (insurance) carrier can recover any of its costs against a third party."

Many other states have broader views of employers' recovery rights, Mr. Lewis added.

"This may be the first shot in the war, but not the last," Mr. Lewis said.

Dayton Walther's Mr. Geremski denies that the company filed the lawsuit in an effort to intimidate or harass doctors who diagnose employees as having occupational ailments. The surge in workers compensation claims is "a very serious matter," he said.

A spokeswoman for the clinic and the doctors declined to comment on any aspect of the lawsuit.

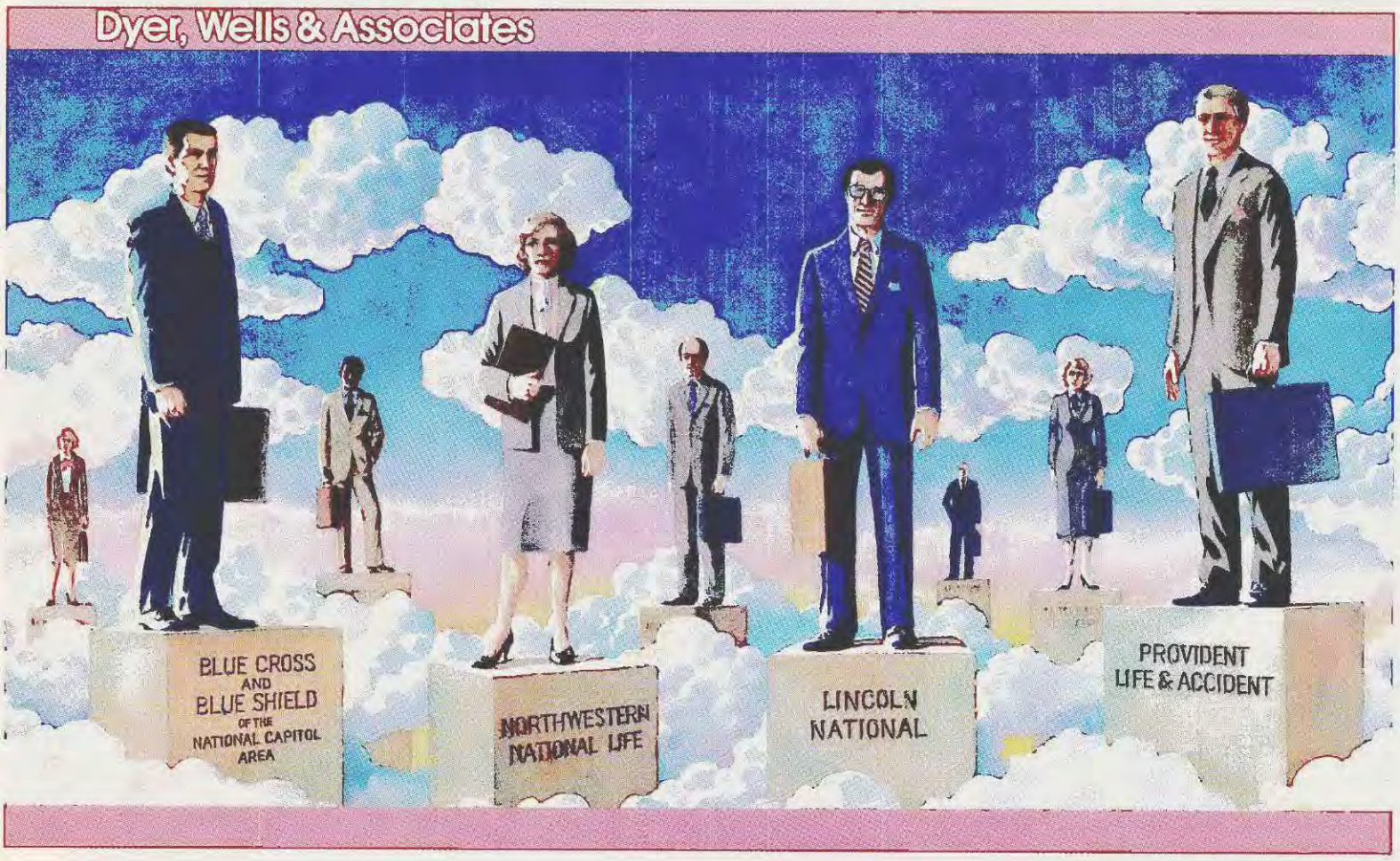
Mr. Geremski said Dayton Walther has received calls from attorneys representing two Midwestern employers facing similar situations.

Meanwhile, Dayton Walther is being sued by a group of workers who allege the company committed an intentional tort by permitting silica dust levels to exceed state and federal thresholds, said Richard Sutton, a partner in the Dayton-based firm of Sutton, Overholser & Schaffer.

He filed the lawsuit in Montgomery County Common Pleas Court earlier this year on behalf of 16 workers, including one deceased employee, who allege they became ill from exposure to the dust.

The suit seeks a total of $10 million in compensatory damages and $5 million in punitive damages, he said.

Dayton Walther denies the allegations, Mr. Rapien said. ■



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☐ **Yes,** please send more information on FLEXTRAK. Our operating system is:

☐ IBM Mainframe ☐ Other

☐ Send Survey

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A.C.E, BF&M to build office

HAMILTON, Bermuda—A.C.E. Insurance Co. Ltd. and Bermuda Fire & Marine Insurance Co. Ltd. are forming a joint-venture company to construct a new five-story building near the center of Hamilton.

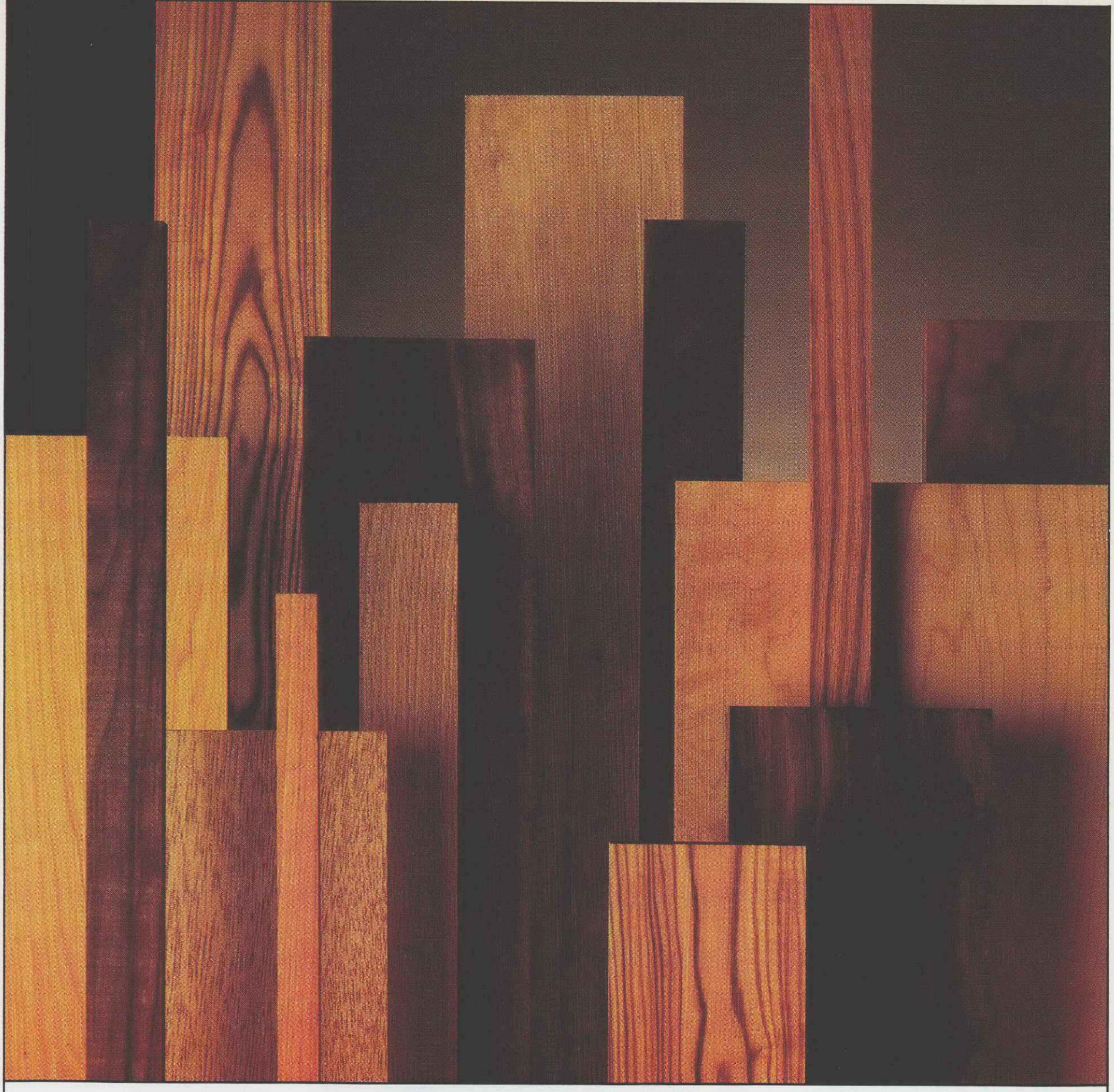
Plans are for both A.C.E. and BF&M to maintain their headquarters in the new building.

Announcing the project June 10, BF&M President Cyril Rance said that the building will be completed by the end of 1989.

However, he would not reveal how much A.C.E. will contribute to the project, which is expected to cost between $10 million and $15 million.

A.C.E. is taking a 40% stake in the joint-venture company, Scarborough Property Holdings. A.C.E. Chairman and Chief Executive Officer John R. Cox said that A.C.E. will lend Scarborough the funds to build the new headquarters building, but he said the size of the loan has not yet been determined.

"As a newcomer to Bermuda, we are keen to demonstrate our commitment to the island and this project reflects that as well as our strength and performance," Mr. Cox said.



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Insurers need review: Congressmen

By DEBORAH SHALOWITZ

WASHINGTON—Several Senate and House members say they favor increased congressional attention to the insurance business, but they are not seeking repeal of insurers' antitrust exemption or to substitute federal for state regulation.

Addressing topics ranging from amendments to the McCarran-Ferguson Act, to federal product liability legislation, to insurer insolvencies, the legislators told a crowd of more than 200 people at an Insurance Information Institute government briefing they want to work with the insurance industry and avoid hasty decisions.

Sen. Arlen Specter, R-Pa., a member of the Senate Judiciary Committee, said, "there's a fairly heavy burden of proof to establish the need to change" the McCarran-Ferguson Act, which gives insurers limited immunity from federal antitrust law and grants states primary regulation of the insurance industry.

However, questions about industry price-fixing must be addressed, he said.

A bill to repeal the antitrust exemption was introduced earlier this month by Sen. Howard Metzenbaum, D-Ohio, but it would allow insurers to jointly collect and exchange some historical data on paid claims and reserves (*BI*, June 8).

"The critical determinants" for legislators who haven't yet taken a position in the debate about repeal of McCarran-Ferguson could be availability and cost issues, Sen. Specter said.

Rep. Dan Glickman, D-Kan., a member of the House Judiciary Committee, said there is "some interest" among House members in repealing McCarran-Ferguson, but "you don't see a big push in the House."

One reason is that House Judiciary Committee Chairman Peter W. Rodino, Jr., D-N.J., is involved in the Iran-contra hearings, he said.

Rep. Glickman predicted the House will take "no significant action until the Senate acts."

While Rep. Glickman said he has not yet taken a position on the issue, he expressed concern about the potential impact of repeal on small insurance companies—of which there are many in his state.

"Before we move into any massive change in the pricing of insurance, we have to consider the long-term effects" of these changes, he stated.

A longtime supporter of federal product liability reform, Rep. Glickman said he is working for the passage of legislation introduced by Rep. Bill Richardson, D-N.M. That bill, H.R. 1115, would establish uniform standards of liability for manufacturers and abolish joint and several liability for non-economic damages (*BI*, March 2).

"We're making good progress" on product liability legislation in the House, noted Rep. James J. Florio, D-N.J., chairman of the House Subcommittee on Commerce, Consumer Protection and Competitiveness.

The House bill is "more modest" than the bill approved by the Senate Commerce Committee that subsequently died on the Senate floor and therefore is "much more realistic," he said.

But an opponent of federal product liability legislation, Sen. Ernest "Fritz" Hollings, D-S.C., chairman of the Commerce, Science & Transportation Committee, told the insurers that product liability reform could backfire on the industry.

"The idea of product liability law at the federal level is a bad-bone deal," he declared. "The federal courts are much more liberal than the state courts," so damage awards would be larger.

"I just don't want to see the federal government get into the tort system," Sen. Hollings opined.

"But if we're going to federalize the tort system, we wouldn't be starting with product liability," he said. Efforts to reform medical malpractice torts would be more likely, he noted.

Addressing insurer insolvencies, Rep. Florio said a lack of uniformity among state regulations could be exacerbating the problem.

"The states sometimes disagree over which one has authority when insolvency strikes" and want to take different actions, he said.

The collapse of Mission Insurance Co. is an example of the complications resulting from differing state regulations, he pointed out.

"Preliminary indications are that a significant source of Mission's difficulty may be uncollectible reinsurance," Rep. Florio said. "At the same time, Mission's own inability to pay reinsurance claims may have been at least one cause of the insolvency of Integrity Insurance Co., of Paramus, N.J.

"Possible differences between California and New Jersey on the best way to handle the Integrity insolvency raise questions about coordination between the states," he said.

A number of the suggestions on how to deal with insurer insolvencies proposed to Rep. Florio's subcommittee by industry representatives and experts include federal involvement.

For example, Rep. Florio said a former insurance commissioner suggested giving the federal courts responsibility for coordinating insolvency proceedings.

"Others have suggested that Congress should establish uniform minimum standards for solvency regulation," he said.

But "although Congress is discussing these proposals, I would not expect early legislation on anything so major as a federal guaranty fund unless more of a consensus develops," Rep. Florio predicted. "The consensus will evolve as the difficulty becomes more visible and therefore more real."

However, "I am one of those who would have to be persuaded that federal responsibility for insurer solvency would be handled better than similar federal responsibility has been handled in other areas in recent years," he stated, referring to the government's supervision of thrift institutions.

Therefore, it is "highly unlikely" that the government will create a federal guaranty fund similar to the Federal Deposit Insurance Corp., he concluded.

However, it is likely that there will be some effort to try to develop minimum standards for the states to use, he said.

Rep. Florio advised insurers to try to work with legislators now, rather than after a real industry crisis, and he called on insurance executives "to renew your commitment to play a role at the state and federal level to take part in policymaking." ■

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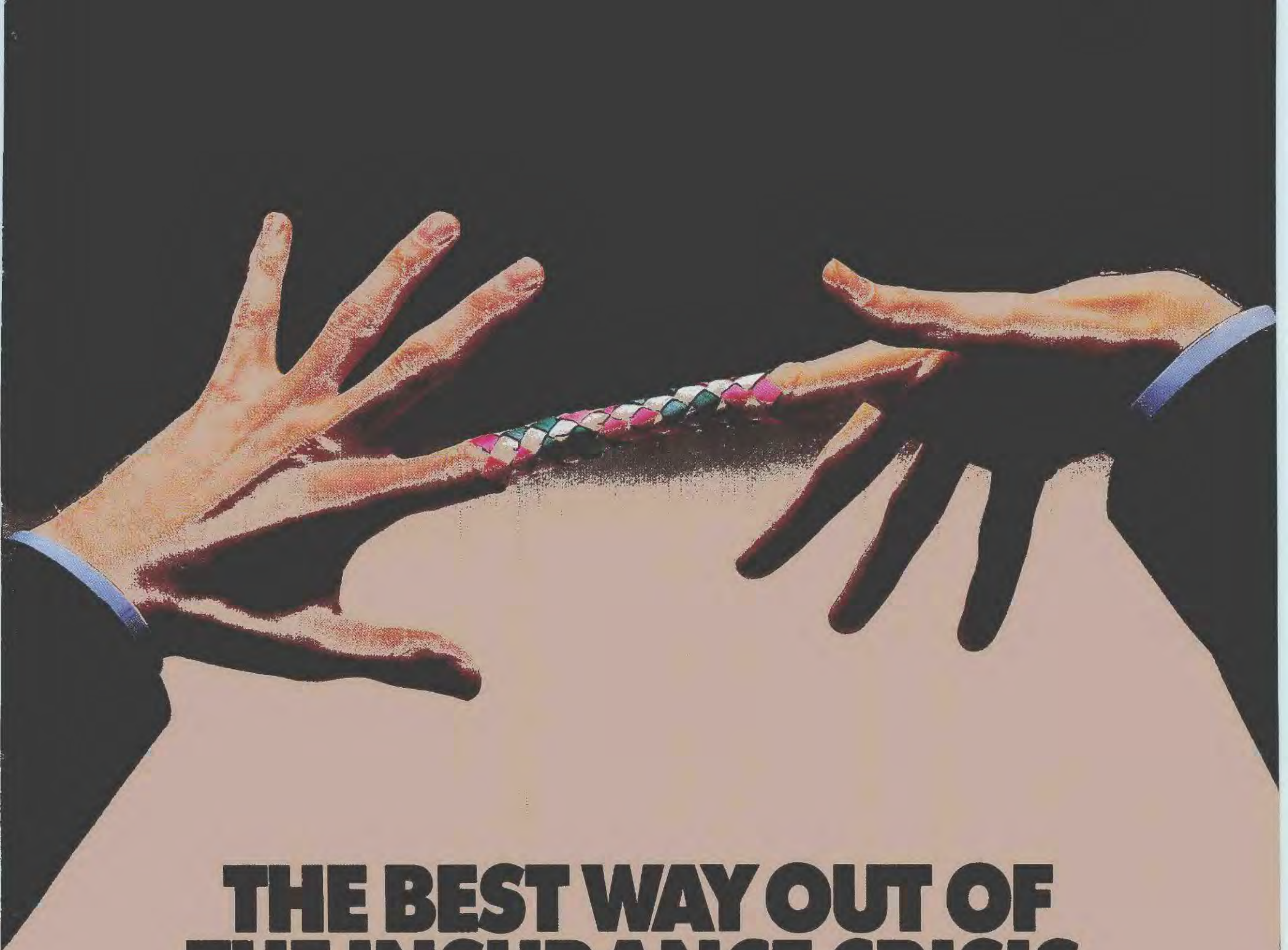

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opinions

Insurers get just reward

JUST AS WE EXPECTED, California Superior Court Judge Ira A. Brown Jr. handed a sweeping victory to asbestos producers in their fight with insurers for payment of asbestos bodily injury claims (*BI,* June 1; June 8).

And, we predict that ruling in the San Francisco coverage litigation will be upheld on appeal.

That's good news for the asbestos producers and many manufacturers as they seek to maximize insurance coverage for long-latent injury claims. But, it's bad news for insurers that have to find a way to pay claims for injuries caused by asbestos and other toxic substances and remain solvent.

Insurers, however, deserve the ruling they got from Judge Brown. It's the crowning reward for their mishandling of the complicated dispute over coverage for asbestos injury claims.

Originally, policyholders would have been content with coverage only from their insurers during the period persons were exposed to asbestos. But, because some insurers, for their own benefit, espoused the manifestation theory, asbestos producers eventually devised the theory that all insurers from exposure through manifestation should be liable for asbestos claims.

And, when insurers had the opportunity to equitably settle this complex dispute two years ago under the Wellington Agreement, some refused and continued to litigate. Among them are the more than one dozen insurers that lost before Judge Brown, resulting in a ruling that provides the broadest coverage yet for asbestos injury claims.

The preferable alternative was subscribing to the Wellington Agreement, as we said in August 1984.

The three producers in this phase of the San Francisco litigation had signed the agreement. But, several of their insurers instead wasted millions of dollars in litigation trying to narrow their liability for asbestos bodily injury claims.

The result: a precedent-setting longer period of coverage for policyholders to tap than the Wellington Agreement developed, and in many aspects the same conditions as the Wellington Agreement.

Judge Brown ruled that all insurers of an asbestos producer from the time a person was exposed to asbestos through the time the victim files a claim or dies are responsible to pay claims. The Wellington Agreement adopts a somewhat shorter period of coverage: insurers on the risk from the time of exposure to asbestos to the time it is diagnosed or the victim dies are liable for the claim.

Furthermore, Judge Brown ruled that policyholders do not have to contribute to claims costs in proportion to any periods for which they were uninsured, the same as under Wellington.

Two years of litigation would not have been wasted if all insurers had signed the Wellington Agreement. Furthermore, the conditions of the Wellington Agreement would have been subject to further negotiation in coverage settlements for long-latent injury claims. Now, Judge Brown's broad interpretation stands as legal precedent.

To deny that this ruling will have tremendous influence over future decisions on the extent of coverage for bodily injury claims stemming from other toxic substances, as some insurers do, is naive. This ruling is based on the most extensive record to date on the medical evidence, on the nature of asbestos-related diseases, on the history of the drafting of the comprehensive general liability insurance policy and on the past conduct and practices of insurers and policyholders.

Judge Brown's ruling that defense cost coverage ceases when limits are exhausted under pre-1966 policies was a victory for insurers, but the Wellington Agreement also resolved this issue. Under Wellington, defense coverage ends with the exhaustion of policy limits but defense costs will be paid by all insurers that wrote policies prior to 1966 after all other coverage is exhausted.

Insurers should learn their lesson and begin serious negotiations with asbestos producers on the extent of coverage for asbestos property damage claims, instead of pursuing more litigation.

And, now that Judge Brown's ruling has shown what a fair settlement the Wellington Agreement offers, insurers that have not yet signed the Wellington Agreement should do so and join the Asbestos Claims Facility. Luckily for these insurers, they aren't barred from joining the facility.

Although we have pointed out that the facility has problems it needs to solve (*BI,* July 21, 1986), we believe that it offers the fairest settlement of coverage disputes and is the best method for resolving asbestos claims in the most fair and expeditious manner possible for all concerned.

letters

There's no perfect method for selecting umpire

To the editor: It has taken a long time, but I have finally found a subject on which I can disagree with my good friend Jonathan Bank (apart from the merits of particular cases in which we happened to be adversaries). It seem to me that his comments on certain aspects of reinsurance arbitration in "Drawing Lots Undermines Arbitration" in the Persepective section miss the mark (*BI,* June 1).

Just as there is no perfect method to select the ideal jury in a civil litigation, so there is no perfect method to select the ideal umpire in an arbitration. My experience suggests that the lot drawing method, for all of its shortcomings, is still probably the best and most practical means. Partly, of course, this is because most of the other available methods have proved to be unsatisfactory.

As soon as a so-called independent agency becomes involved in the selection process, be it a court or a trade organization, the situation immediately becomes complicated by political considerations and by the possibility that the umpire may be unknown to the arbitrators and perhaps not even personally compatible with them.

The lot selection method at least assures that the umpire will be a relatively known quantity.

Continued on page 10

Business Insurance welcomes letters from its readers. Please keep your comments as brief as possible. We reserve the right to edit letters for clarity or space. We will not publish unsigned letters. Send your comments to Letters to the Editor, Business Insurance, 740 N. Rush St., Chicago, Ill., 60611.

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letters

Continued from page 8

But the lot selection method has not achieved so much general acceptance only by default. It also has the important advantage that it generally produces a fair and practical result. The people who serve as umpires are active or retired insurance or reinsurance executives who almost invariably take their responsibilities very seriously and call the shots as they see them. They would no more think of deciding in favor of the party who nominated them simply *because* he nominated them than they would of accepting an outright bribe.

Naturally, any trial lawyer will try to select jurors who are, as far as he is able to judge, more likely than not to see things his way, and counsel in a reinsurance arbitration will propose potential umpires he thinks are likely to be sympathetic to his cause; that is, however, a very different proposition from having the prospective umpire's vote sewed up in advance.

If counsel is operating within even the broadest constraints of propriety and ethics, he cannot be certain of the predisposition of his nominees because he will not have discussed the case with them. Moreover, if the nominees are really not disinterested they are subject to challenge, informally within the context of the arbitration itself or before a court if necessary.

Of course, from time to time there will be individuals who attempt to abuse or manipulate the system, and it is certainly true that sometimes the line to be walked is a rather fine one, but it seems to me that Mr. Bank's own experience tends to fortify the entire process because it demonstrates that in the event of overt abuse, there is always a judicial remedy.

Mr. Bank also appears to take a dim view of the adversarial nature of most arbitrations. He points out that, instead of seeking "equitable resolutions of disputes," the parties now "seek to win." I see nothing wrong in that.

The reason there is an arbitration in the first place is that the parties disagree. Because they operate in a civilized environment and have an established contractual relationship, they have agreed in advance on a procedure for resolving that disagreement. Obviously, they would not be arbitrating if each of them did not think he was right, and it would be surprising indeed if each of them did not attempt in arbitration to persuade the panel of the correctness of his position. In other words, they seek to win and nothing could be more material or inevitable.

However, there is no inconsistency between that posture and "good faith as a guiding principle." Good faith is not incompatible with a hard-fought battle, as long as the battle is a clean one. Most of the ones I have seen have been vigorous but clean, and certainly one of the major functions of the arbitration panel is to make sure that the fight stays clean.

It is precisely for that reason that I disagree with Mr. Bank's suggestion that allowing "lawyers in the private sector (to) serve as arbitrators" is a violation of the intent of the parties. The right kind of lawyer-arbitrator can be more effective than anyone else in keeping counsel in line and making certain that the battle remains a clean one. Because of his training and experience, he can also be particularly useful in helping to establish the procedural guidelines for the arbitration and keeping it on a smooth course. For example, the panel's determination as to the nature and extent of discovery that should be permitted (apparently another of Mr. Bank's pet peeves) must always depend on the facts of the particular case, and a knowledgeable reinsurance attorney is uniquely qualified to help sort out that aspect.

If I may venture into a little bit of thumbnail psychology without sounding patronizing, it occurs to me that Mr. Bank's attitude may have been soured by one unfortunate episode. I am sure that upon further reflection on his broad experience as a whole, he would acknowledge that far more often than not the system works pretty much the way it was intended to, that most counsel in reinsurance arbitrations do not abuse the system as his adversary evidently attempted to in that case and, that as an alternative to litigation as a means of resolving reinsurance controversies, arbitration is still the best game in town.

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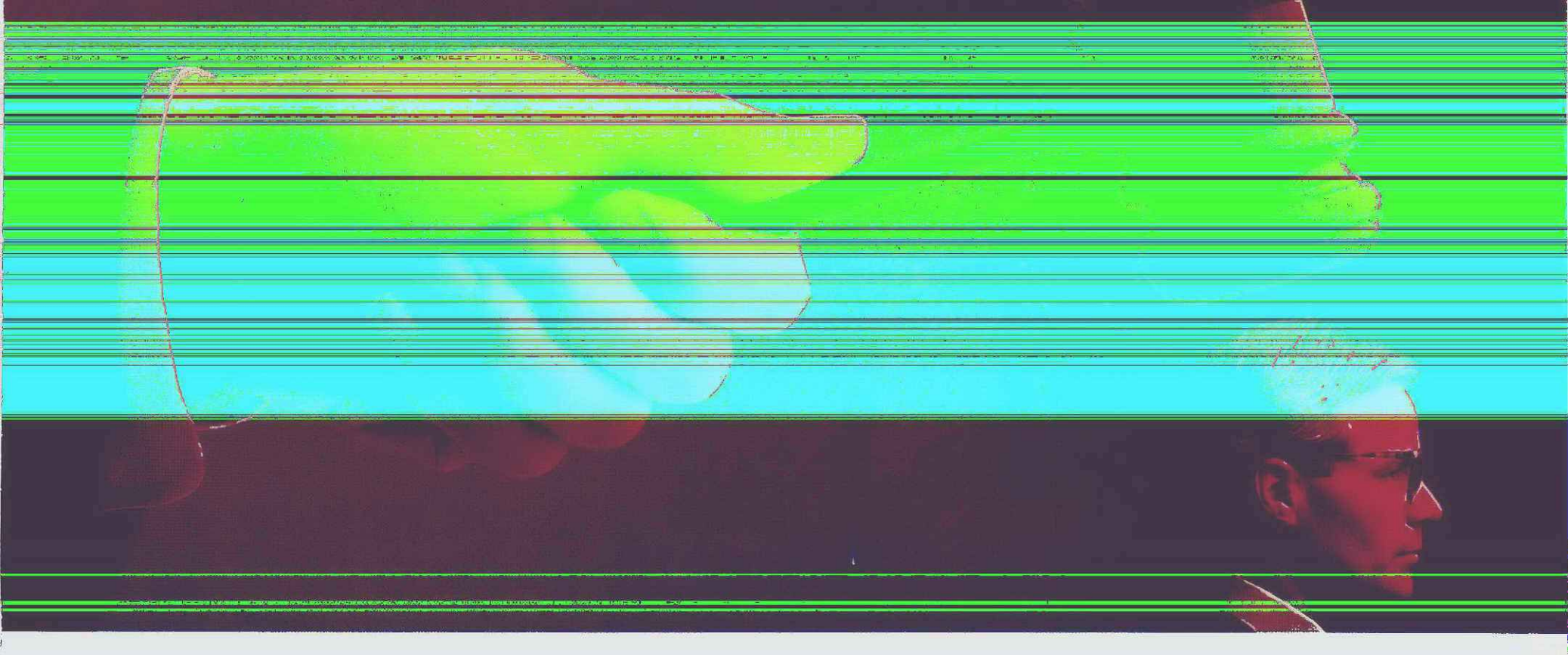

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Medicare reform effort picks up steam

By DEBORAH SHALOWITZ

washington

WASHINGTON—The drive to expand Medicare coverage is gaining momentum on Capitol Hill.

The Senate Finance Committee unanimously approved legislation late last month to expand Medicare to cover the costs of catastrophic illnesses. The proposal is similar—both in terms of the benefits provided and the method of financing—to legislation approved by the House Ways and Means Committee (*BI*, May 18).

The Senate bill, S. 1127, would cap a beneficiary's annual out-of-pocket expenses for Medicare-covered services at $1,700 and eliminate hospital coinsurance after a beneficiary paid an annual deductible of $520 (*BI*, May 11). It also would:

- Increase skilled nursing facility coverage to 150 days from 100 days annually.
- Increase home health care coverage to 45 days from 21 days per year.
- Eliminate the 210-day limit on hospice care.

These benefits would be financed by a supplemental annual premium based on a beneficiary's income tax payment, plus a $4 increase in the Medicare Part B monthly premium.

The supplemental annual premium paid by a beneficiary would be between $12 and $14 per $150 of income tax due, excluding the first $150 of income tax, and would not exceed a total annual supplemental premium of $800 in 1988.

Sources estimate that between 35% and 40% of current Medicare beneficiaries would be subject to the annual supplemental premium.

The bill was introduced by Senate Finance Committee Chairman Lloyd Bentsen, D-Texas, and co-sponsored by 18 senators from both parties, including Senate Majority Leader Robert C. Byrd, D-W.Va., and Senate Minority Leader Robert Dole, R-Kan.

Meanwhile, the House Ways and Means Committee officially approved legislation to expand Medicare to cover catastrophic health care costs.

The bill, H.R. 2470, merges two bills, H.R. 1280 and H.R. 1281, that had been tentatively approved by the Ways and Means Committee (*BI*, May 18).

Proposals to expand Medicare coverage beyond catastrophic health care also are surfacing on Capitol Hill.

For instance, three bills were introduced recently that would expand Medicare to cover prescription drugs, and more proposals are anticipated.

One bill, S. 1240, sponsored by Sen. Bob Graham, D-Fla., also would expand Medicare to cover preventive care, including annual check-ups and screenings for high-risk conditions, such as hypertension, glaucoma, pre-cancerous conditions and impaired mental health.

Sen. Graham's provision for prescription drug benefits would cover a limited list of common prescription medicines for chronic diseases, as well as selected immunizations.

These benefits would be financed by a $4-per-month additional premium, and a 5% copayment for individual prescriptions would be required. Beneficiaries also would be responsible for a $100 annual deductible for the prescription drug program.

To reward beneficiaries who maintain a healthy lifestyle, the legislation would grant beneficiaries with such a lifestyle a $1 per-month premium discount from either the annual or monthly Medicare premium. A healthy lifestyle is defined as not smoking, consuming only moderate amounts of alcohol and maintaining an appropriate weight as determined by a doctor.

The preventive care benefits provided by the bill would be available as an optional addition to Medicare Part B, which currently covers physician services. The services would be financed by an additional monthly premium of $3 to the Part B monthly premium of $17.90.

According to Sen. Graham, the additional premium would cover half the cost of the preventive care program, and the federal government would pay the balance of the program's cost.

A bill introduced by Rep. Henry A. Waxman, D-Calif., chairman of the House Health and the Environment Subcommittee, would expand Medicare Part B to cover prescription drugs and insulin.

Under that legislation, H.R. 2485, beneficiaries would pay a $400 annual deductible and an additional monthly Part B premium. The added premium would be $3.40 in 1988, $5 in 1989, $5.50 in 1990, $6.10 in 1991 and $6.80 in 1992.

The added premium is designed to cover all of the projected costs of the program.

Another House bill, sponsored by Rep. Fortney (Pete) Stark, D-Calif., chairman of the Health Subcommittee of the Ways and Means Committee, also would expand Medicare to cover prescription drugs.

Under H.R. 2592, all outpatient prescription drug costs would be covered by Medicare, subject to a $500 annual deductible and a 20% coinsurance requirement.

The cost of the new program would be financed by a $2 increase in the monthly Medicare Part B premium and a 15% increase in the income-related supplemental premium that is proposed in H.R. 2470, the Ways and Means Committee's catastrophic illness bill.

Unpaid leaves

Legislation requiring businesses with more than 15 employees to grant unpaid leave to workers for serious personal illnesses, the birth or adoption of a child and a child or parent's serious illness was approved by two House subcommittees.

Both the Labor-Management Relations Subcommittee of the House Education and Labor Committee and the Subcommittee on Compensation and Employee Benefits of the House Post Office and Civil Service Committee gave their approval to the legislation, H.R. 925, late last month.

However, the bill is still under consideration by one other subcommittee in each of the full committees.

The legislation would guarantee

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an employee's job or an equivalent position upon return from the leave period and would ensure the continuation of pre-existing health benefits for the employee during the leave period.

The legislation was introduced by Rep. William Clay, D-Mo., chairman of the House Labor-Management Relations Subcommittee. It is co-sponsored by Rep. Patricia Schroeder, D-Colo.

Under the bill, employees would be eligible for unpaid family leave of 18 weeks over a 24-month period upon the birth, adoption or serious health condition of a child or a parent.

Leave could be taken on a reduced-hour basis, not to exceed 36 work weeks, and should be scheduled so as not to unduly disrupt the employer's operations.

Unpaid family leave would have to be taken within one year of the birth or adoption of a child, and employees would be required to provide reasonable notice of the leave, if possible.

The bill allows employers to require that employees include allowable paid leaves, such as vacation time, as part of the total leave time granted.

Unpaid medical leave of up to 26 weeks over a 12-month period for an employee's personal illness would be subject to similar substitution and notice requirements.

The legislation would allow employers to limit an employee's combined family and medical leave to a maximum of 36 weeks over a one-year period.

Similar legislation was introduced in the Senate earlier this year by Sen. Christopher J. Dodd, D-Conn., chairman of the Subcommittee on Children, Family, Drugs and Alcoholism of the Senate Labor and Human Resources Committee.

Sen. Dodd's proposal is similar to Rep. Clay's proposal, except that the Senate bill would not provide for unpaid leave to care for a sick parent.

Sen. Dodd's proposal, S. 249, is under consideration by the subcommittee.

Mandated benefits

The economic impact of mandated benefits would have to be considered by any Senate committee passing such legislation under a resolution co-sponsored by Sen. Dan Quayle, R-Ind., and Sen. Dale Bumpers, D-Ark., chairman of the Senate Small Business Committee.

The resolution would require any Senate committee that approves legislation mandating employers to assume the cost of providing increased benefits to employees to include in the report accompanying the bill an objective analysis of its impact on domestic employment and the competitiveness of U.S. business.

"An objective analysis of the impact that mandated benefit legislation may have on employers, especially small businesses, must be an essential part of the legislative process," Sen. Quayle said upon introducing the measure.

"Mandated benefits offer a benefit to employees at no cost to the Federal government. But they are not free. They cost money—and they cost jobs. Ultimately, the price of benefits for currently employed workers is paid for by those who cannot get jobs because higher labor costs are stymieing job growth," the senator said.

CBO urges 401(k)s

Congress should consider requiring all employers to offer 401(k) salary reduction plans to their employees, the Congressional Budget Office says.

The CBO, a research arm of Congress, says universal 401(k) plans would give employees, especially short-service workers, increased opportunity to build retirement savings.

And, to encourage employers to match salary deferrals to 401(k) plans, Congress could eliminate all contributions to Individual Retirement Accounts, the CBO says.

If all IRA contributions were eliminated, "the highly compensated would then be even more strongly motivated to persuade their employers to make matching contributions," according to the agency.

In its report, "Tax Policy for Pensions and Other Retirement Saving," the CBO acknowledges that mandating 401(k) plans would cost the federal government billions of dollars in lost tax revenues.

However, the CBO suggests several options to offset that revenue loss, including decreasing the current maximum annual employer contribution to a defined contribution plan to $15,000 per participant from $30,000 currently and slashing the maximum annual benefit that can be provided through a defined benefit plan from the current $90,000 to the Social Security taxable wage base, currently $43,800.

The CBO says this would increase federal revenues by about $13 billion between 1988 and 1992.

CBO also estimates that imposing a 5% tax on investment income earned on assets held by pension and savings plans would yield $17.4 billion in revenues over the next five years.

401(k) legislation

Legislation that would permit tax-exempt organizations to establish 401(k) salary reduction plans has been introduced by Rep. Tom Petri, R-Wis.

State and local governments would not be allowed to form 401(k) plans under the bill, H.R. 2304.

Under the Tax Reform Act of 1986, tax-exempt organizations cannot form new 401(k) plans if they had not already established the plans by July 1986. However, 401(k) plans formed before that date are "grandfathered" under the tax bill.

Rep. Petri explained last month when he introduced the bill that non-profit organizations traditionally have used 401(k) plans in lieu of high salaries to attract qualified employees.

"I believe we ought to be making every effort to encourage people to think of their retirement when seeking employment," he said. "Why should the use of 401(k) plans be limited to for-profit organizations?"

Medical malpractice

States could receive up to $2 million from the federal government for enacting medical malpractice reforms under a bill introduced this month by Sen. Orrin G. Hatch, R-Utah, ranking minority member of the Labor and Human Resources Committee.

Sen. Hatch said when he introduced the bill, some of the reforms that would make a state eligible to receive an incentive award are:

- Periodic payment of damages greater than $100,000.
- Elimination of the collateral source rule, "which allows plaintiffs in effect to double dip by receiving damages from several sources for the same injury."
- Limiting pain and suffering damages and punitive damages to $250,000.
- Limiting attorneys' fees "so that the injured party receives a larger share of the recovery."

Under the bill, S. 1315, states also would be eligible for grants of up to $250,000 to develop programs to establish medical malpractice reforms.

The bill is co-sponsored by Sen. Chic Hecht, R-Nev., and Sen. Daniel Inouye, D-Hawaii. ■

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Binney to head proposed PCW runoff agency

By CAROLYN ALDRED and STACY SHAPIRO

london

LONDON—Ivor Binney will head Additional Underwriting Agencies (No. 4) Ltd., the underwriting agency proposed by Lloyd's of London to manage the runoff of syndicates formerly managed by PCW Underwriting Agencies Ltd., market sources say.

Mr. Binney, 57, retired at the end of March as deputy chairman of Lloyd's broker C.T. Bowring & Co. Ltd.

Mr. Binney could not be reached for comment and Lloyd's would not comment on reports of Mr. Binney's appointment.

Under Lloyd's settlement proposal to PCW members, Lloyd's will contribute 45 million pounds ($73.4 million) from its Central Fund, while 37 other organizations will contribute 55 million pounds ($89.7 million). The 1,547 PCW members belonging to the PCW non-marine syndicates must pay 34 million pounds ($55.4 million) toward the agreement to help fund the syndicates' losses.

Lloyd's also will cover any underwriting losses related to the former PCW syndicates exceeding current estimates (*BI*, April 13).

Under the settlement, Lloyd's will create a new syndicate, 9001, and cede all PCW syndicate business to it. The 134 million pounds to be contributed by Lloyd's, the other parties and PCW members will be paid to the syndicate as a reinsurance-to-close premium, closing the PCW account.

The new syndicate will in turn cede all its business to a new Lloyd's subsidiary, Lioncover Insurance Co. Ltd. AUA (No. 4) Ltd. will be established to manage both syndicate 9001 and Lioncover.

Lloyd's results

A preliminary survey covering 85% of the total stamp capacity at Lloyd's of London indicates that 1984, the year now closing under Lloyd's three-year accounting system, will be a "much better" year than 1983, (*BI*, June 1).

Lloyd's 1984 global profits, which will be announced in September, are expected to increase to about 350 million pounds ($406 million at year-end 1984 exchange rates) from 179 million pounds ($259.6 million at year-end 1983 rates) in the 1983 accounting year, predicts a group of Lloyd's members who control publishing company Chatset Ltd.

Lloyd's members, after profit commissions to members' agents are subtracted, will receive 200 million pounds to 250 million pounds ($232 million to $290 million) in profits from the 1984 account, compared with 110 million pounds ($159.5 million) from the 1983 account, Chatset says.

Overall, Lloyd's profits will equal about 6% of the premium income underwritten, based on the Chatset estimates.

The Lloyd's non-marine market is expected to show a loss of 1% in 1984, compared with a 6.1% loss in 1983, according to Chatset.

"Non-marine has again been patchy, but the overall picture is very much better than 1983 with two-thirds of all syndicates making a profit," according to a statement by Chatset.

In fact, three syndicates—syndicate 210, managed by R.W. Sturge & Co.; syndicate 553, managed by C.J.W. (Underwriting Agencies) Ltd.; and the former syndicate 702, formerly underwritten by Ian R. Posgate—accounted for 35 million pounds ($40.6 million) of losses. However, although the Sturge syndicate lost 8 million pounds ($9.3 million) in 1984, it is only a 9% loss because of the "size of the syndicate," Chatset points out.

The marine market in 1984 "had an excellent year," the Chatset report said. The market produced a profit margin of 14%, compared with 13.4% in 1983.

Nearly all Lloyd's marine syndicates made a profit in 1984, "except for one or two syndicates who wrote yachts, stop-loss or reinsured satellites," Chatset said.

In the aviation market, "nearly every syndicate has shown a good profit, which belies the theory that aviation is the most risky class of business," Chatset said.

Lloyd's aviation market is expected to make a 15% profit in 1984, compared with 9% in 1983.

Meanwhile, Lloyd's of London's annual premium income could increase threefold to 30 billion pounds ($48.9 billion at current exchange rates) by the year 2000, says Lloyd's Chairman Peter Miller.

Mr. Miller, speaking at the "Lloyd's 2000" conference, also predicted that membership would increase to between 40,000 and 45,000 people by the end of the century.

He pointed out that this was a conservative estimate. Recent computer predictions have indicated that membership would increase to 55,000 generating a gross premium capacity of 52 billion pounds ($84.8 billion) by 2000, he noted.

Lloyd's membership in 1986 increased by 8.8% to 31,484 compared with 28,944, according to the Corp. of Lloyd's annual report published late last month.

In addition, almost 9,000 members increased their premium income limits "and this, combined with the number of new members, generated an overall increase in the market's capacity of 21%." Lloyd's current capacity is 10.2 billion pounds ($16.3 billion).

The corporation reported profits of 12.8 million pounds ($18.9 million at year-end 1986 exchange rates) in 1986, compared with a loss of 18.4 million pounds in 1985 ($26.7 million at year-end 1985 rates) due to a payment of 43.4 million pounds to the British Inland Revenue to settle Lloyd's syndicate tax disputes.

Operating revenues increased to 122.1 million pounds in 1986 ($180.7 million) from 102.8 million pounds ($149 million) in 1985.

Sturge acquisition

Sturge Holdings P.L.C., which owns the largest group of underwriting agencies at Lloyd's of London, plans to acquire all the underwriting agency businesses of Bellew, Parry & Raven Group.

Details of the purchase have not been disclosed and the acquisition will not be completed until Oct. 1, said Pat Houghton, Sturge's financial director. The sale also is subject to approval of the Committee of Lloyd's, Sturge said.

Continued on next page

To A Lot Of Insurance This Was A Stop Sign.

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Continued from previous page

BPR underwriting agency affiliates act as the members' agent for 752 Lloyd's members and manage 13 active syndicates, primarily in the non-marine market, with a gross premium capacity of 216 million pounds ($352.1 million).

Sturge currently acts as members' agent for 1,928 Lloyd's members and manages 16 syndicates in the marine, non-marine, aviation and motor markets with a combined gross premium capacity of 1 billion pounds ($1.63 billion) in 1987.

Current disciplinary proceedings at Lloyd's against the BPR agencies' main shareholders, Bertram Grattan-Bellew, John Parry and Charles Raven, will not affect the acquisition, said Mr. Houghton.

"The disciplinary investigations are into the individuals concerned and not the underwriting agencies," he said.

Meanwhile, publicly traded Sturge is predicting a pretax profit of 11.6 million ($18.9 million) pounds for the year ending Sept. 30, 1987.

The directors made the forecast, an increase of 22% from 1986 pretax profit of 9.51 million pounds ($15.6 million), after announcing the company's six-month results this month.

For the six months ending March 31, pretax profits rose 30.4% to 3 million pounds ($4.9 million) from 2.3 million pounds ($3.8 million) for the corresponding period last year.

Net managed premium capacity for the group increased to 770 million pounds ($1.2 billion) in the 1987 accounting year from 685 million pounds ($1.1 billion) the previous year, said Chairman David Coleridge.

"The 1984 underwriting account continued to be a difficult year for the non-marine market, and whilst results are expected to improve over 1983, no profit commission is anticipated from our largest non-marine syndicate," said Mr. Coleridge.

Profit commissions are paid when the underwriting year is closed under Lloyd's three-year accounting system.

The underwriting accounts for 1985 and after have benefited from higher rates, and the non-marine market's 1986 account is currently showing the best results in 20 years, he added.

Satellite coverage

The owners of one of the first direct broadcast satellite is looking for insurance in the London, French, German and U.S. insurance markets.

Recently, French insurance broker Faugere & Jutheau along with Lloyd's of London broker Bowring Space Projects Ltd. made a preliminary presentation to Lloyd's underwriters concerning the TDF-1 direct broadcast satellite.

Presentations will also be made to German and U.S. underwriters before the brokers talk individually to underwriters about insuring TDF-1, said Mohammed B. Dahbi, head of the aviation and aerospace division of Faugere & Jutheau.

The satellite, owned by TeleDiffusion de France and valued at 1.4 billion French francs ($229.5 million), is to be launched on a Ariane rocket in April 1988.

TDF-1, which will provide four new direct satellite broadcast stations to France, is probably one of the largest satellites to be launched to date.

Direct broadcast satellites broadcast signals that can be picked up by small rooftop antennas. They allow programs to be broadcast directly to homes via a satellite.

The craft will have six transponders—including two backups. Plans began for TDF-1 in 1980 and it was designed, manufactured and tested until last year, when the satellite was put in storage awaiting a launch. TDF-1 will be tested again once it leaves storage in French Guyana before it is launched.

Mr. Dahbi says that underwriters he has talked to are interested in insuring TDF-1, but he has not yet contacted all of the world's satellite insurance markets.

Merrett stock listing

Merrett Holdings P.L.C. will "probably be seeking" a full listing on the London Stock Exchange early next summer, says Chairman Stephen Merrett.

The company's shares are currently traded over the counter.

Pretax profits at the company, which owns one of Lloyd's of London's largest underwriting agencies, increased 193% to 5.3 million pounds ($8.9 million) in 1986 from 1.81 million pounds ($3.04 million) in 1985. Revenues increased 113.9% to 7.72 million pounds ($12.97 million) from 3.61 million pounds ($6.06 million).

Merrett's profits benefited from a return to "more acceptable levels" of profit commission at the Lloyd's syndicates managed by the company, said Mr. Merrett. Profit commissions for the 1983 underwriting year, which closed in 1986, were 4.1 million pounds ($6.89 million), compared with 782,333 pounds ($1.3 million) the previous year.

In addition, a 19.79% increase in 1987 capacity of the group's managed syndicates was more than expected and will result in increased agency fee income, Mr. Merrett said. Further growth in 1988 also is likely, he added.

Merrett Holdings began to diversify into other insurance-related areas in 1986, "reducing reliance on the cyclical nature of Lloyd's underwriting," Mr. Merrett noted. For example, in September, the company acquired the outstanding 80.1% of Robert Bishop Ltd., a London loss adjuster.

Meanwhile, the group's interest in loss adjusting has been bolstered this year through the purchase of Graham Miller & Co (Northern) (*BI*, April 6).

"Further developments into loss adjusting are foreseen both overseas and in the U.K.," says the company in a statement accompanying the annual results.

St. Katherine profit

London-based St. Katherine Insurance Co. P.L.C. reported 1986 pretax profits of 398,000 pounds ($589,040), a "noteworthy turnaround" of 900,000 pounds ($1.3 million), according to Chairman David Sawyer.

The company reported a loss in 1985 of 502,000 pounds ($727,900).

Premium volume of 54.2 million pounds ($80.2 million) in 1986 was down 10% from 60.2 million pounds ($87.3 million) in 1985, while underwriting losses of 4.4 million pounds ($6.5 million) were down 27% compared with 6 million pounds ($8.7 million) in 1985, according to a statement from the company.

Investment income of 5.5 million pounds ($8.1 million) was marginally higher than 5.4 million pounds ($7.83 million) in 1985, "benefiting from realized gains in a period of falling interest rates on the company's large dollar portfolio," said the statement.

A subsidiary, Fountain Insurance Co. Ltd., which stopped writing new business in 1985, "suffered from its participation in the North American casualty account written in the early period of its history," Mr. Sawyer noted.

Meanwhile, changes in the corporate and subsidiary structure of Prescot Insurance Holdings Ltd., which manages St. Katherine, have

Continued on next page

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Continued from previous page
been announced by Vartkis Boghos, the company's new chairman and chief executive.

Prescot Insurance Holdings, a subsidiary of Minet Holdings P.L.C., is to become an operating company with responsibility for group strategy, finance and investment.

Italian purchase

Italian insurer Assicurazioni Generali SpA has acquired a 26% stake in Lloyd's of London broker Harris & Dixon (Insurance Brokers) Ltd.

The acquisition will be followed by a "considerable injection of cash into the company, enabling us to expand, particularly overseas," said Bernard Coe, president of the broker.

Harris & Dixon specializes in reinsurance brokerage, with annual brokerage revenues of about 5 million pounds ($8.2 million), confirmed Mr. Coe. It employs about 150 people.

"We have had a special relationship with Assicurazioni Generali for some years now and this will enable us to work more closely and increase our overseas contacts," he added.

Harris & Dixon, which is a privately held broker, would not comment on the price paid for the 26% stake.

Charity 'slip'

Brokers, underwriters and even Lloyd's Chairman Peter Miller are being asked to take a percentage of a special Lloyd's of London "slip" on a Roman sailing ship that sunk 1,700 years ago.

The slip is the novel idea of Ian Daish, general manager of Transglobe Underwriting Management (Guernsey) Ltd. in Guernsey, to raise funds to preserve the "Asterix," a Roman ship whose remains were salvaged in 1984 from the harbor at St. Peter Port, Guernsey's capital.

The Guernsey Maritime Trust, established to raise 70,000 pounds ($114,100) to complete preservation work on the ship, wants to put the ship's remnants on public display.

The trust approached Mr. Daish to see if the Guernsey insurance market could help raise funds. As a result, Mr. Daish put together a Lloyd's "slip" to raise 25,000 pounds ($40,750).

The Guernsey Maritime Trust asked Mr. Miller, who owns property on Sark in the Channel Islands, if Lloyd's and Mr. Miller's names could be used on the slip. He granted the permission.

Mr. Miller also said he personally would contribute to the special slip.

The slip says the type of coverage is "marine hull." The policyholder is the Guernsey Maritime Trust and the vessel is the "Asterix." The policy period is "unlimited from circa A.D. 180 (local standard time)."

The sum insured for hull and machinery is "values in accordance with the accepted scales in use at the time of construction, adjusted upwards in accordance with the compound rate of inflation since time of launch."

The conditions on the slip that apply are the Institute Time Clauses (Hulls) IXCXXXIII—"very fragile timbers and artifacts requiring constant expert attention. . .excluding liability to and of the constructors."

According to the slip, the premium is waived.

The percentages signed on the slip will not be "signed down" if there is oversubscription of the slip. Transglobe has signed up for the first 2,500 pounds ($4,075).

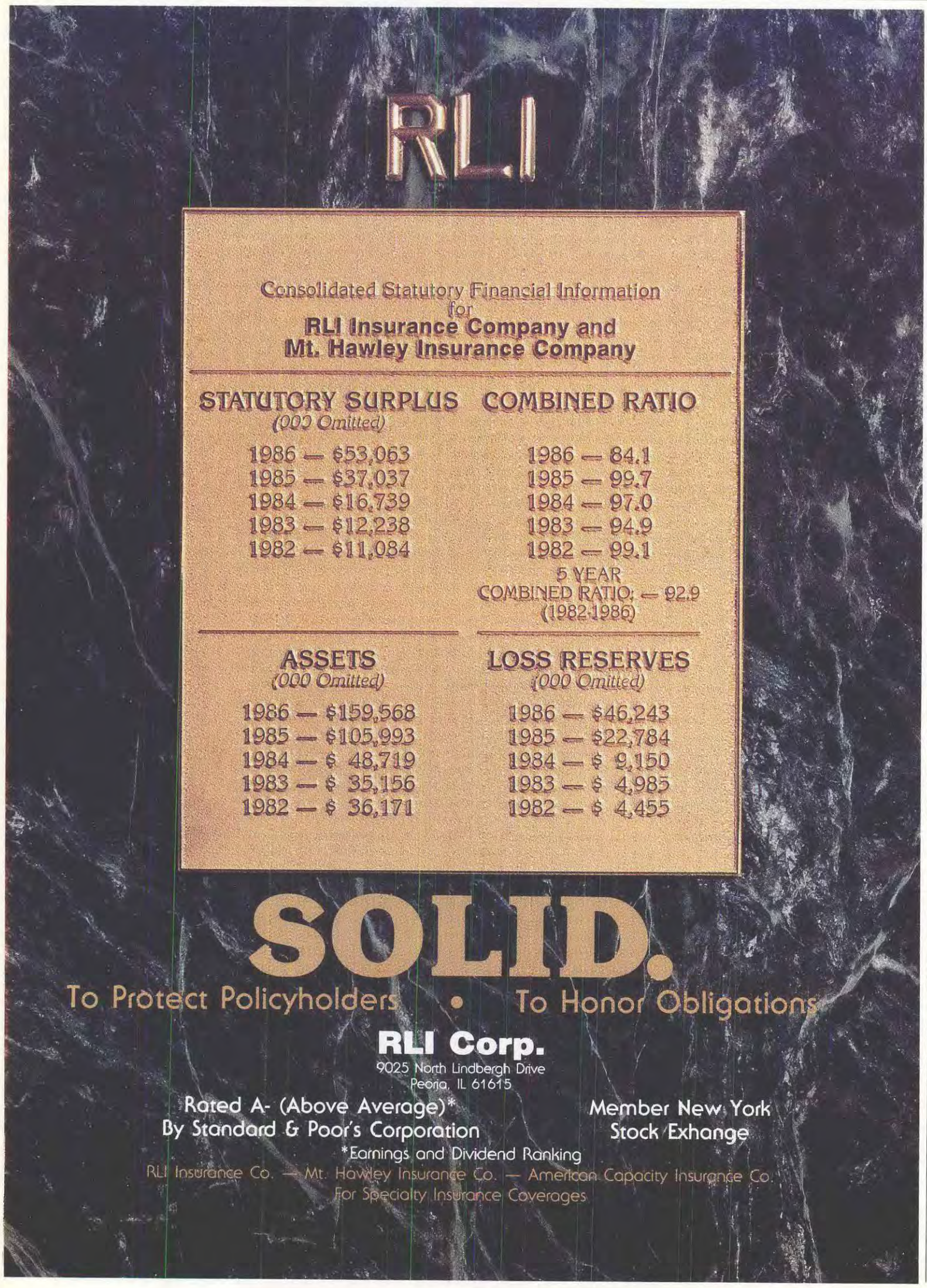
Comings & goings

David Palmer, chairman and chief executive of Lloyd's of London broker Willis Faber P.L.C., is the new chairman of the British Insurance Brokers' Assn. Mr. Palmer was formerly deputy chairman of BIBA and succeeds **Dickie Alexander,** a director of Sedgwick Group P.L.C., who has been chairman for five years.

David Howard has joined CW Bloodstock Ltd., a new subsidiary of Lloyd's broker Crawley Warren & Co. Ltd., as managing director. He previously was an executive at Oakley Vaughan & Co. Ltd.

Alexander Stenhouse U.K. Ltd. has appointed three associate directors in its London operations division: **Terry Brown** and **Steve Forrest,** major city clients; and **Peter Fleming,** central insurance services (marketing).

Alan Punter has been appointed a director in the London office of Anistics Ltd., a subsidiary of Alexander & Alexander Services Inc. Mr. Punter previously was responsible for research and application of statistical techniques of loss analysis with Lloyd's broker Sedgwick Group P.L.C. ■



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Revco appoints risk management chief

comings & goings: buyers

Alton Schexnayder has assumed responsibility for the risk management department at Revco D.S. Inc. in Twinsburg, Ohio. Mr. Schexnayder, director of risk management, replaces **Lawrence D. Bell**, who has retired from Revco to establish Arizona Risk Management Inc., a consulting firm in Green Valley, Ariz. Mr. Schexnayder oversees a 21-person risk management staff and is responsible for the retail drug store chain's in-house loss prevention unit and Twinsburg Claims Inc., a subsidiary formed to handle Revco's property/casualty and disability claims. He reports to Greg Raven, vp and treasurer. Mr. Schexnayder received a bachelor of science degree in geology from Louisiana State University in Baton Rouge. He holds the Certified Safety Professional and Associate in Risk Management designations. In addition, Mr. Schexnayder is a member of the American Society of Safety Engineers and a deputy member of the Risk & Insurance Management Society.

* * *

Glenn S. Carlson, 31, has been named manager-risk management at Sun Carriers Inc. in Media, Pa. In this position he is responsible for the consolidated risk management program for Sun Carriers' three trucking companies, as well as the employee benefits program for the corporate staff of the transportation management company. He replaces **Henry Graef**, who has left the company, and reports to Paul Shiffler, treasurer. Previously, Mr. Carlson was risk manager at IU International Corp. in Philadelphia. He received a bachelor of science degree in business administration from Widener University in Chester, Pa., and holds the Associate in Risk Management designation.

* * *

J. Douglas Gross has been named director of insurance services at McDonnell-Douglas Information Systems Group in St. Louis. In this position he oversees insurance program coordination and development, including property/casualty and health coverage. He replaces and reports to Jim Capes, who was promoted to vp of banking, finance and insurance. Mr. Gross, who joined McDonnell-Douglas in 1972, most recently served as manager of professional services. He holds a bachelor's degree in political science from the University of Missouri in St. Louis.

* * *

Daniel Fraser has been named insurance and benefits manager at Rocco Inc. in Harrisonburg, Va. In this newly created position Mr. Fraser oversees all general liability insurance, employee benefit coverages and workers compensation. He reports to John Williams, chief financial officer. Mr. Fraser joined Rocco, in 1981, and most recently served as controller of Rocco Farms-Chicken division. He received a bachelor of science degree in accounting and a master of business administration degree from James Madison University in Harrisonburg. In addition, Mr. Fraser was named Outstanding James Madison University Graduate by the Business School. He has served as president of the Skyline Chapter of the National Assn. of Accountants and holds the Certified Management Accounting designation.

Mr. Fraser

•

We'd like to report on staff changes in your company's risk management, safety or employee benefits department. Just drop a note to Paul Winston, assistant copy editor, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611-2590, or call 312-649-5442. Please send a photograph, too.

Insurer creates scholarship

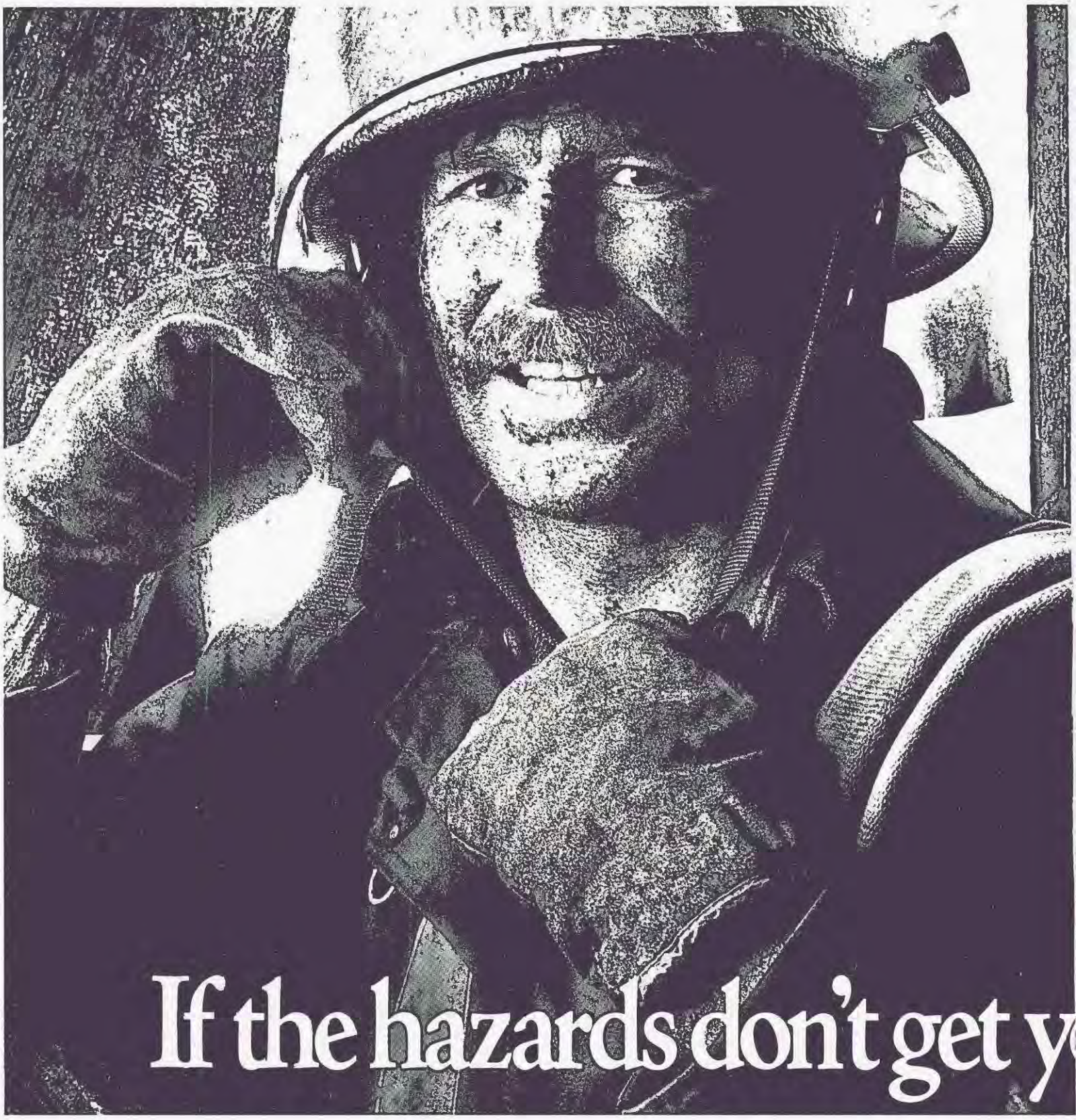
WASHINGTON—Continental Corp. has established the Victor Herd Memorial Scholarship at Howard University in Washington, D.C.

Howard University juniors with a concentration in insurance studies will be eligible for the annual award named in honor of J. Victor Herd, who was chairman of Continental from 1957 until 1970. The scholarship is a two-year grant covering tuition, room, board and expenses.

Mr. Herd, who died in March, was involved with the creation of the university's Center for Insurance Education in 1978.

The first recipient of the scholarship is Chester K. Stewart of Bloomfield, Conn.

"The establishment of this scholarship award commemorates Victor Herd's dedication to Continental and Howard University," said John P. Mascotte, Continental's chairman and chief executive officer and chairman of the Continental Corp. Foundation, which was started by the company in 1957.



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'Insurance and China' conference

Chinese insurer developing foreign ties

By CAROLYN ALDRED

LONDON—China's state-owned insurer, People's Insurance Co. of China, is "vigorously developing" its foreign business and increasing its overseas contacts, says Chairman Qin Daofu.

"Under the guidance of its opening-up policy, China has greatly advanced friendship with other countries. In the insurance field the PICC is vigorously developing its foreign-related business and developing its contacts in the world insurance market," said Mr. Qin at the "Insurance and China" conference in London last month, organized by the Chartered Insurance Institute.

The PICC currently maintains reinsurance relationships with insurance companies and brokers in more than 100 countries, said Mr. Qin. However, about 50% of the business ceded to PICC comes from the London market, he added.

"Since 1979, China has carried out a policy of politically maintaining stability and unity, economically invigorating the domestic economy and opening up to the outside world," Mr. Qin said.

Also, since 1980, the PICC has grown dramatically, increasing its workforce to more than 60,000 employees from 2,600. It now has 500 offices, up from 50.

"To meet the needs of invigorating the domestic economy and opening to the outside world, the PICC has, since 1980, reinstated domestic insurance, which was in suspension for 20 years, and accelerated the development of foreign-related insurance," he said.

Between 1980 and 1986, PICC's domestic premium volume has increased an average of more than 55% annually, while its foreign-related business has risen more than 5% annually, he said.

"In such a short span of seven years, China's insurance industry has attained a growth of unprecedented scale," he added.

For 1986, PICC wrote total premiums of 5.25 billion yuan ($1.4 billion), up 58.1% from 1985, said Mr. Qin.

"Insurance service has expanded in scope. . .and more and more types of insurance are now available from the PICC. By now, 800 billion yuan ($215 billion) worth of assets of around 500,000 enterprises owned by the government, local authorities, collectives or individuals are insured," he said.

Also, new types of foreign-related insurance, such as oil exploration and nuclear power coverages, have been developed for both domestic and foreign clients, he added.

In the domestic market, 50 million families have taken out household property insurance and 60 million people have purchased life insurance, he said.

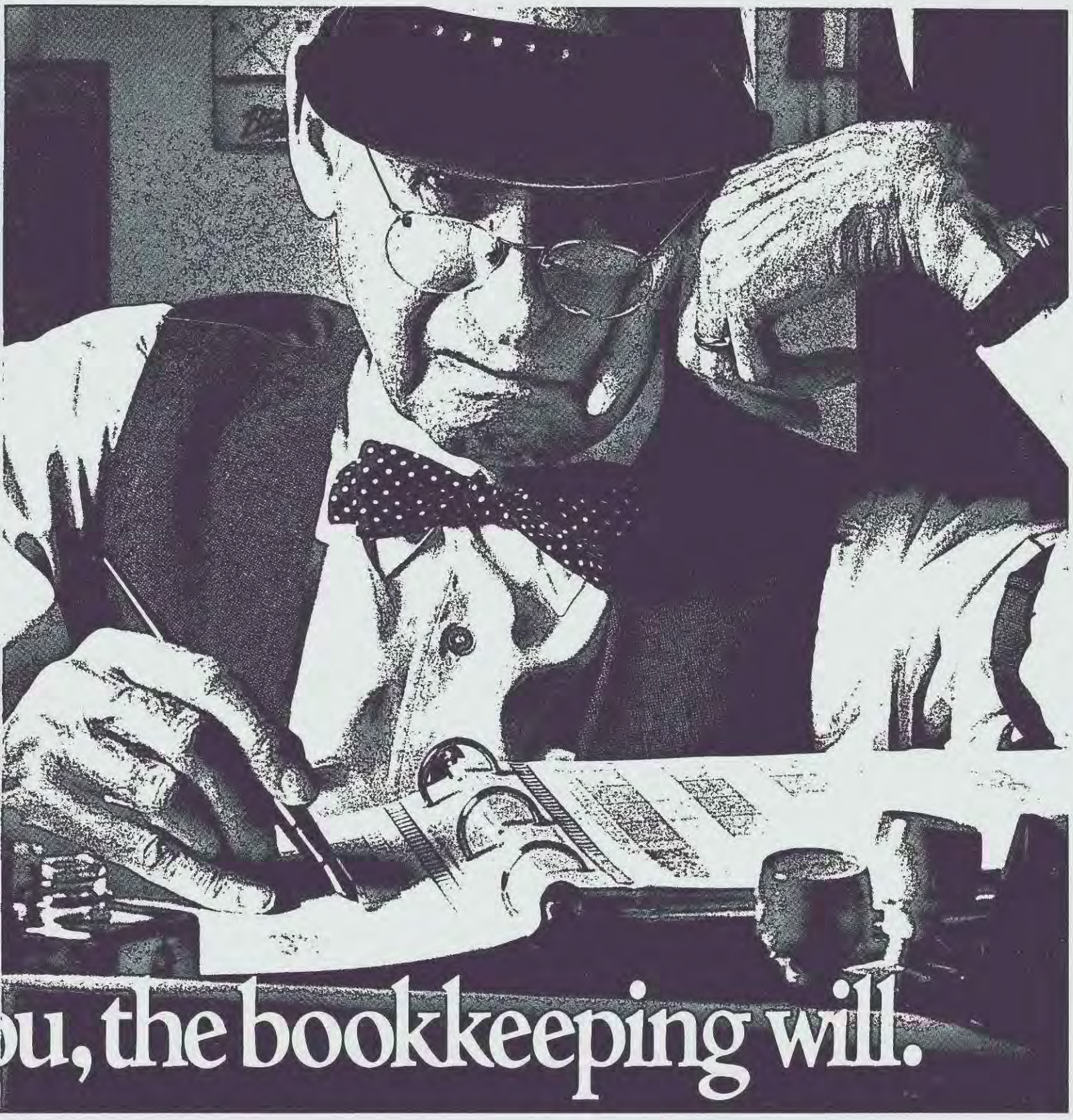
The increase in PICC's premiums and its accumulation of funds have made an impact on the national economy, particularly when there is a catastrophe, Mr. Qin noted. "For example, the PICC paid out 70 million yuan ($18.8 million) as a result of serious flooding in the Szechwan region in 1981, and in 1985 the company paid out more than 200 million yuan ($53.7 million) for flooding resulting from a major typhoon."

Between 1980 and 1986, PICC paid a total of 5.4 billion yuan ($1.45 billion) in claims, he added.

During its period of dramatic growth, PICC also increased its training efforts to absorb the huge numbers of new employees.

"Insurance is a profession that requires highly technical knowledge and technical training is a very important task. The PICC has made arrangements with various institutes of finance and banking to run insurance courses," he said.

Currently, some 2,000 students and research workers are studying insurance at schools and colleges and around 10,000 PICC staff members have undergone short-term insurance training, he said. ■



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Chinese insurer's growth to continue, says broker

By CAROLYN ALDRED

LONDON—The increasing number of joint ventures between China and the Western world has increased the amount of foreign business written by People's Insurance Co. of China, a leading London broker points out.

International insurance brokers have helped smooth the way, said Dick Bowes, deputy chairman of Lloyd's of London broker Willis Faber & Dumas Ltd.

Mr. Bowes spoke about the role of the insurance broker in China at the "Insurance and China" conference last month, organized by the Chartered Insurance Institute.

"We can talk to the PICC on the company's behalf for insurance arrangements, particularly in the growing construction and offshore oil industries," noted Mr. Bowes.

Furthermore, "as PICC has approached new areas of business, such as offshore exploration of oil and gas, it has sought advice from international brokers and experts throughout the world," he said.

"Brokers have been of great value to the PICC in bringing up-to-date techniques of insurance in these areas. Although the PICC has been on a learning curve, it is somewhat daunting to see how well that learning has been absorbed," Mr. Bowes added.

In addition, China's open-market policy means the country has taken a much more active involvement in international insurance affairs since 1980, noted Mr. Bowes. For example, PICC has opened an office in London to provide insurance for Chinese companies operating outside China and has also hosted a large insurance conference in Peking.

PICC 'has sought advice from international brokers and experts,' Mr. Bowes says.

There is also a small number of brokers providing a link of continuity between China and the rest of the world, he said. These include Willis Faber, whose links with the PICC date back to the state-owned insurance company's formation in 1949, Mr. Bowes said.

In particular, "the company's account of international reinsurance through these brokers provides a important window on the world for the PICC," he said.

"Unhappily, PICC's major growth in international reinsurance from brokers—which occurred from 1980 onwards—coincided with the time when reinsurance results saw a downturn," according to Mr. Bowes.

"This must have provided difficult times for the PICC, but at least it coincided with an explosive growth in the PICC's domestic account," he added.

Until 1980, "the world didn't look to the Chinese insurance industry with much interest," but that now has changed, Mr. Bowes noted.

The most dramatic change has been as a result of PICC's decision to "participate again in the domestic market and, with a country of 1 billion people, the percentage growth rates have been very large," he said.

However, domestic insurance written by PICC is direct, without a broker serving as an intermediary, he added.

The London and other insurance markets play an important part in helping train PICC's rapidly growing domestic staff, Mr. Bowes noted.

"The PICC's number of employees has grown to 60,000 from 500 in just seven years, with the prospect of increasing to 100,000 in the next three years. As the domestic account grows, more insurance products and more expertise are necessary," he explained.

"We brokers and a number of other organizations in London, including the Chartered Insurance Institute, have welcomed the opportunity of receiving people from China for training," added Mr. Bowes. ■

Does your employee belong in a psychiatric hospital?

Maybe so. Fortunately, serious mental illness is highly treatable. But what sort of treatment setting is most appropriate? If your group insurance plan offers mental health care benefits, you can't afford to be confused about what types of therapeutic services, hospitals and facilities are available. In fact, understanding who needs a private psychiatric hospital and who doesn't can help you manage your inpatient psychiatric benefits more efficiently.

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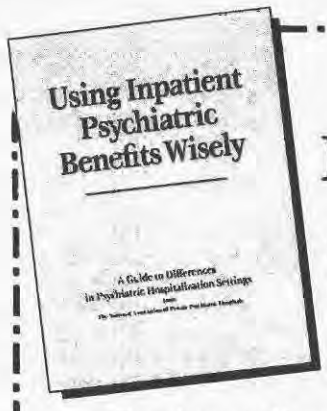
The National Association of Private Psychiatric Hospitals (NAPPH) has assembled a comprehensive booklet which clearly defines the differences among mental health inpatient providers. We've also included useful information about the types of patients we treat and the costs involved, plus the latest facts on hospital trends and the utilization of inpatient services, all broken out in easy-to-understand, reproduceable language and charts.

The booklet is free—but the information is invaluable.

The National Association of Private Psychiatric Hospitals



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BI 6/15

Lloyd's forges ties with PICC

By STACY SHAPIRO

LONDON—Lloyd's of London Chairman Peter Miller does not believe he will see the day when Lloyd's competes directly in China with the state-owned People's Insurance Co. of China.

"My grandchildren may see it, if I ever have any, but I can't see it happening yet," he told the "Insurance and China" conference, sponsored by the Chartered Insurance Institute last month.

However, Lloyd's will continue to support PICC by offering training programs and reinsurance support, he said.

Currently Lloyd's is teaching three PICC employees on Lloyd's scholarships about the technical aspects of insurance, he said.

Lloyd's also participates in the PICC's reinsurance program, which since 1983 has been relatively small, Mr. Miller noted. In 1983, PICC ceded 230 million yuan ($61.2 million) in reinsurance premium and in 1985 reinsurance ceded totaled only 289 million yuan ($76.9 million).

"It means that the amount of reinsurance business (from the PICC) is small," he said. "But for Lloyd's, that doesn't make China uninteresting."

Mr. Miller, who visited China two years ago to reinforce Lloyd's relationship with PICC and to learn about future opportunities, said he was impressed with the opportunity for Lloyd's growth in China but could see problems with setting up an insurance industry virtually from scratch.

"As I see it, the essential element of the relationship of Lloyd's with China is its longevity," he said.

China was an important 19th Century trading partner for Britain, with Lloyd's insuring ships and cargo headed to and from China, and the relationship again flourished in 1985, when the PICC agreed to represent Lloyd's in four Chinese ports.

"We believe in the necessity for a very long-term relationship with whoever we trade with," Mr. Miller said. ■

China to be world leader, Heath says

LONDON—China offers the British insurance industry "enormous" opportunities, former British Prime Minister Edward Heath says.

China and Japan together are "going to be the most powerful economic force that the world has ever seen," Mr. Heath said at the Chartered Insurance Institute's "Insurance and China" conference last month.

Mr. Heath, a Lloyd's of London member, was prime minister from 1970 through 1974.

In the next century, the Pacific nations will dominate the world just as Western nations have dominated in the past, Mr. Heath said.

"We must establish ourselves in the Pacific. . . .I am glad you see that there are opportunities there to be seized," said Mr. Heath, who was the first British prime minister in two decades to visit China.

When he went to China in the early 1970s, Mr. Heath said Chinese heads of state were most concerned about feeding 1 billion people seven days a week, 365 days a year and not about expansionist policies. But China is now self-sufficient in food supplies and can become an important player in the world economy, he said.

Mr. Heath doubts that the new open-door policy in China will be closed if a new regime comes into power. He believes, in fact, there are enough young people in the Chinese government to keep the current economic policy alive.

He also believes that joint ventures between foreign corporations and Chinese investors will continue to "be successful."

However, he said those who trade in China should remember a few important details when conducting business with the Chinese:

- The Chinese like to deal only with the top officials of a company, not even senior subordinates. And once a relationship is built, the Chinese probably will not conduct business with anyone except the person or people they know.
- Western executives should spend a long time in China to understand the country.
- Chinese businessmen are remarkably thorough. "We mustn't expect to get away with anything. This takes time . . . and it means that negotiations may drag on a little. But, it is the best way to do business in the long term," Mr. Heath said. ■

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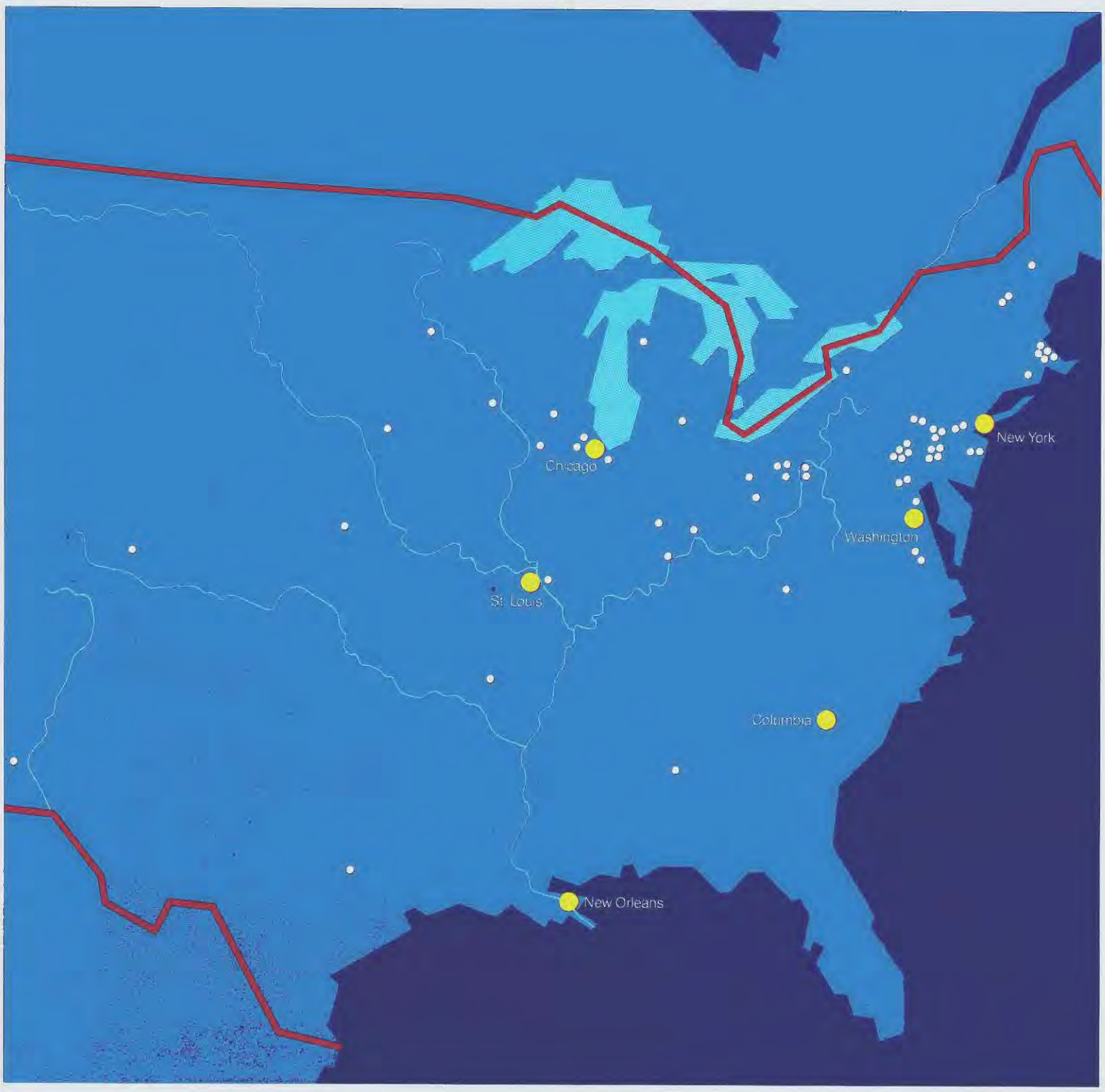

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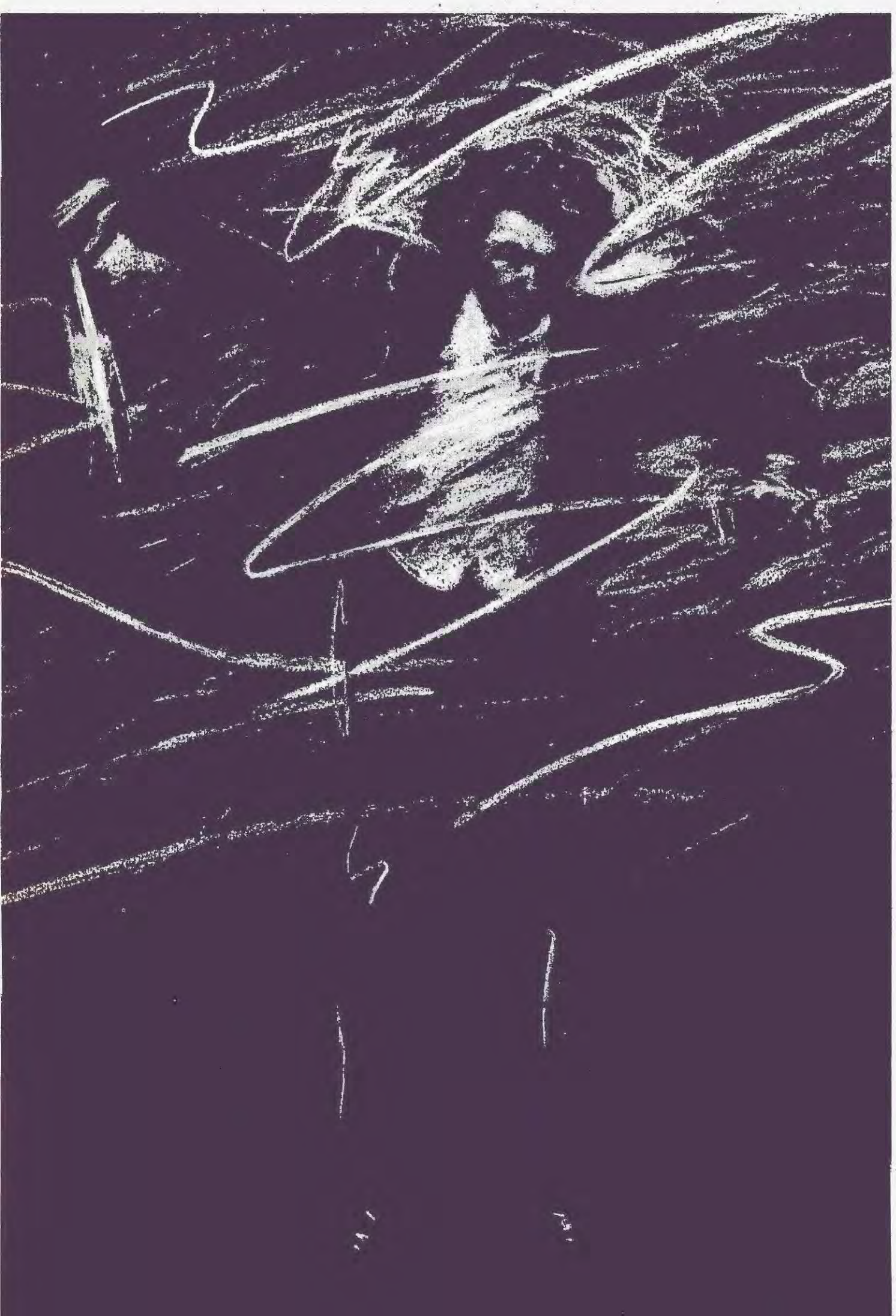

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perspective

Quakes call for concerted efforts

By Franklin W. Nutter

FOR AN EVENT that occurs only once every 150 years, long-term planning is an unnatural act. It is difficult to focus the mind on being prepared. Nevertheless, that is precisely what the insurance industry, the business community and government now must do.

The earthquake is coming.

If we had 150 years from today to plan for it, time would not be of the essence. Unfortunately, one of the most devastating earthquakes in the United States occurred along the New Madrid Fault in Missouri in 1811 and 1812, slightly more than 150 years ago. The San Francisco earthquake of 1906 suggests, mistakenly, that we still have plenty of time there. However, scientists predict with a probability of 50% that in the next 20 years a quake of similar size will occur along the San Andreas Fault.

Scientists estimate that citizens in 39 of our 50 states are exposed to the hazard of an earthquake. Although most of us think of San Francisco and Los Angeles as the most critically exposed, not an entirely inaccurate assumption, we rarely think of Charleston, S.C., Little Rock, Ark., and Memphis, Tenn., as having similar exposures. But they do.

The Earthquake Engineering Center at Stanford University in Palo Alto, Calif., estimates that 70 million U.S. citizens are exposed to a "severe" earthquake risk, while some 120 million citizens are exposed to a moderate risk.

Most of us have recollections of small earthquakes occurring in California in recent years. More appropriate, however, is the Mexican earthquake of September 1985.

Between 5,000 and 10,000 persons were killed, while 30,000 were injured and as many as 3,500 structures were damaged—some entirely.

speaking out

For insurers in the United States, these recent events are not so startling as two independent studies that have focused critical attention on the earthquake risk and the financial impact it would have not only upon insurers but the country as a whole.

For the year ending December 1984, the California Insurance Department estimates that the probable maximum loss to the insurance industry as a result of only shake damage for an earthquake registering 8.25 on the Richter scale would be $4.2 billion in San Francisco and $6 billion in Los Angeles.

These estimates suggest extraordinary insured and uninsured losses; however; for our industry these estimates have been compounded by the passage of legislation in January 1985 by the California Legislature.

In exchange for clarification of policy language covering the earthquake risk, the industry was required to make a mandatory offer of earthquake insurance on residential structures in California. As a result, coverage for earthquake exposure increased from approximately 7%-8% of residential structures to nearly 25% of residential structures in California.

The second eye-opening study was the further refinement of efforts to assess the potential dollar impact resulting from a quake.

The insurance industry's research arm, the All-Industry Research Advisory Council based in Oak Brook, Ill., recently completed a study to evaluate the impact of the 1906 San Francisco earthquake if it were to occur today.

Photo: AP/Wide World

Workers remove rubble after two quakes devastated Mexico City in 1985. Insurer losses, though, were not tremendous because many buildings were uninsured.

AIRAC concluded that fire following a quake of similar size as that which occurred in 1906 would result in $9 billion of damage, in addition to the projections for shake damage alone. The study further suggests that if wind speeds exceed the assumed 10 mph at the time of the quake, the damage would rise exponentially: At 20 mph, fire following a quake would cause $13 billion-$15 billion of damage; at 40 mph, damage from fire could reach as much as $40 billion (*BI*, June 1).

Perhaps most startling about these numbers is that neither the shake damage estimates nor the fire loss estimates include losses from workers compensation, business interruption, automobile losses or surety payments.

Nor, for that matter, do they include the loss of life or costs of medical and health care.

What should be done? Various insurance industry organizations—including the American Insurance Assn., the National Assn. of Independent Insurers, State Farm Insurance Co., American International Group Inc. and the Alliance of American Insurers—have been working for the past year in an attempt to reach agreement on the principles of a program to make earthquake insurance available and to protect against the truly catastrophic losses that would be involved.

Conceptually, the program would be structured as a primary insurance program offering earthquake coverage on residential structures similar to coverage offered under the National Flood Insurance Program's "write-your-own" program. In addition, an excess catastrophe program for the reinsurance of catastrophe losses would be available.

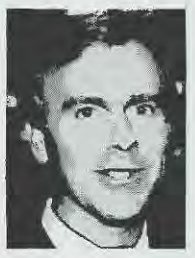
Under the primary program, the federal government would directly insure against the earthquake risk up to a moderate financial cap. In addition to the government's direct marketing of the coverage, the insurance industry would market and service policies issued under this program. Coverage incentives through the enabling legislation could be considered.

Under the excess catastrophe program, the federal government would act as a catastrophe reinsurer, providing coverage for most property and liability losses resulting from the event of an earthquake, including losses flowing from the natural consequences of the quake itself such as workers compensation, general liability and business interruption losses.

Insurers would purchase this catastrophe reinsurance at an actuarial rate and retain a percentage of the exposure for their own account. This excess catastrophe reinsurance from the government would be available in excess of amounts available from private sources.

The operation of the entire program would be under the auspices of a government corporation administered by both private and public representatives.

The specifics of the proposal have yet to be finalized. but the need to do so is critical. We have neither the luxury of time nor the resources to ignore this potentially crippling financial event. A consensus among business and government prior to the quake itself will be a credit to all of those seeking to find long-term solutions to tomorrow's problems.



Franklin W. Nutter is president of the Alliance of American Insurers in Schaumburg, Ill.

Microcomputer-based systems

Continued from previous page

megabyte per 1,000 claims, but they seldom remain on the system longer than two to three years," he said.

"You should never max out a computer; therefore, I would not recommend anyone install more than eight users on a microcomputer or more than 75-80 users on a supermicrocomputer," Mr. Amatelli said. "It would be quite safe and still retain very high performance if, on a supermicrocomputer, you were to process 30,000 claims annually and retain them on the system for about a 10-year period. You would require about 60 terminals and adjusters."

However, Mr. Smart's benchmarks differed. "From our experience, we have found that the upper limit of a typical microcomputer-based RMIS system is approximately 1,000 new cases per year. On the other hand, we have delivered successful minicomputer systems that can accommodate 30,000 to 40,000 new cases per year," he said.

Sound confusing? I hope that this has not discouraged any of you from investing in an RMIS. Although some vendors have conflicting views on the practicality of micro-based systems, keep in mind that they were defending their own products and services.

However, you can glean some very important principles and conclusions from this two-part series.

First, it is paramount that careful planning precede any decisions. As Anistics' Mr. Hall observed: "The key is to select the right tool for the job, to have technical experts (with both data processing and insurance/risk management knowledge) aid you in the decision-making process and to keep your future RMIS needs in mind while you select the system to meet your current needs. To avoid planning is to invite disaster.

"The trick is selecting an RMIS that has and will stand the test of time," he says.

Secondly, your decision to invest in a system should be preceded by an earlier decision as to whether you want control over they system or whether you want others to control it for you. The service and technical expertise of the vendor are critical items to evaluate.

RMIS hardware

Vendors differ on merits of microcomputer-based systems

LAST MONTH, in the first part of this column (*BI*, May 25), several vendors commented on the usefulness of planning before investing in risk management information system hardware.

An organization desiring to implement an RMIS first must answer the question: "Do we want to run our own system or transfer the responsibility to a vendor?"

Further, the importance of vendor service is equally, if not more important, than more obvious issues of cost, hardware and software type.

This month, we will look at more comments from RMIS vendors on the key question of which is the preferred hardware environment: microcomputer, minicomputer or mainframe?

• Traditionally, what have been the strengths and weaknesses of a microcomputer-based risk management information system?

Alan B. Cantor, president of Cantor & Co. in Beverly Hills, Calif., says microcomputers have a significant cost advantage over minicomputers and mainframe-based systems.

For between $5,000 to, at most, $30,000 with all the peripherals, a user with a microcomputer—or personal computer—could have a complete risk management information system, Mr. Cantor reports.

Further, while most companies and organizations across the United States with claims volumes exceeding $100,000 have traditionally used minicomputers or mainframe computers, companies with a smaller volume of claims will find microcomputers a viable option, he said.

Richard B. Hall, executive vp of Anistics Inc. in New York, pointed out that the microcomputer's value is in receiving downloaded information from a mainframe or minicomputer, and then doing extensive spreadsheet analysis.

However the microcomputer does have limitations, John Conway, president of Conway Computer Consultants Inc. of Metairie, La., contends. "The PC, from inception, was designed for *personal computing*; i.e., for the needs of one person. The thrust of software, peripheral devices, etc., was always directed at this basic design assumption."

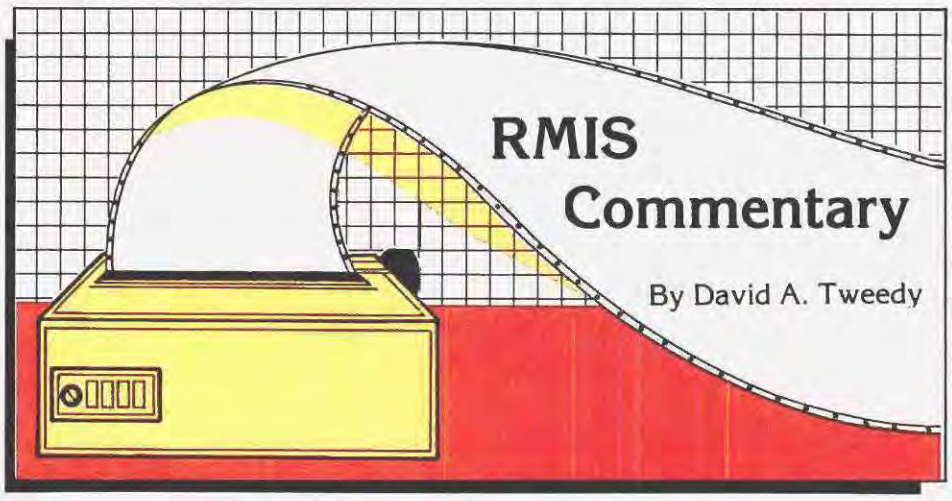
Mr. Hall agreed, stating "if multiple users are a system requirement, a mini or mainframe may be necessary. If remote multiple users (or access by multiple locations) are necessary, a mini or mainframe is a requirement."

• What do recent technology changes mean to microcomputer-based systems?

Frank E. Amatelli, president of National Risk Management Inc. of San Ramon, Calif., states: "One point which I would like to bring out is the gross misunderstanding most individuals I have spoken with have concerning micro- and supermicrocomputers. They are not PCs."

"The business micro- and supermicrocomputers (such as the IBC 386-100 super microcomputer) are 32-bit multiuser systems, with three or four megabytes of random access memory, 16-megahertz clocks with no wait states and storage capacity to about one gigabyte! This is a far cry from the conception many people have of an (IBM) XT with two floppy drives. To consider the former in the same breath as the latter is to call an earth mover a pickup truck," Mr. Amatelli says.

Mr. Cantor agrees. "In addition to offering a cost and control advantage to the buyer, some of the more recent models of Compaq and other (microcomputers) can handle in excess of 20,000 claims comfortably. The historical weaknesses of microcomputers are fast disappearing and, in the very near future, the technological changes of the microcomputer will rival larger machines."



Herb Zlotogorski, an independent consultant and former RMIS vendor, also pointed out the misconception many non-computer professionals have when they see the word personal computer.

Mr. Zlotogorski says that when many risk manager read about an microcomputer system based on 80286 or 80386 microchips, which are more powerful than those used in most "personal computers," they still "translate this to a PC running DOS in a standard system. PC-DOS or MS-DOS (disk operating systems commonly used on IBM personal computers) are simply not written to handle multiple tasks at this point let alone multiple users," he says.

"If the vendor is running a different operating system on these machines, we really may be discussing a mini system, also sometimes called a micro because of the use of the same hardware as the PC-based systems. It is conceivable that a mini-/micro-based system utilizing a different operating system (such as Unix or Pick) could provide the risk manager with more horsepower," he says.

• How, then, does the microcomputer compare against the larger (and more expensive) minicomputer?

Gary L. Smart, vp-sales with California Interactive Computing of North Hollywood, Calif., states that "when comparing the suitability of one kind of computer to another, an often overlooked or misunderstood consideration is the nature of the application software that is to be run on the computer.

"It is definitely *not* valid to assume that all kinds of application software (claims analysis, cost of risk allocation, loss forecasting software) run with equal efficiency on a given machine," he says.

"Some software is highly interactive and places a high input/output (I/O) demand on the central processing unit (or basic machine). Some of the more comprehensive systems require a significantly greater amount of CPU power. Microcomputers, in general, have a greater constraint on their ability to deal with high I/O applications than do minicomputers," Mr. Smart continues.

"Another hardware consideration is the capability of the computer to perform a myriad of other functions, including reporting in real time on claims status. A fully functioning RMIS is totally integrated and comprises reporting capabilities at a detailed level, rather than solely totals or summary data. Such a system may include automatic reserving, policy information, policy tracking, premium allocation, loss trending and forecasting and other functions. If such functions are truly integrated, a substantial amount of processing and storage capacity is called for," noted Mr. Smart.

Mr. Conway agreed, stating that "the minicomputer, as compared to the microcomputer, was designed and developed to handle *data processing* from *multiple simultaneous users*. Operating systems and other software were written to achieve these goals, and support was built in for such through-put-enhancing options as print, spooling, job queuing and such devices as multiple high-speed printers and fast, high-capacity disk storage."

However, Mr. Amatelli disagreed, stating that "a good microcomputer can handle eight users without showing much degradation at all. They are certainly much quicker than almost any mini- or mainframe computer that is on-line over a phone line modem, even with a high-speed dedicated line, and internally with either a coaxial or Ethernet cable. As for the volume of claims the microcomputer can handle, it will be limited in most cases by the number of users and not volume.

"However, the supermicrocomputer is an entirely different matter," he adds. "It can go up to 100 ports or terminals and can house about 1 gigabyte of disk storage with up to 24 megabytes of RAM and a 32-bit Intel 80386 processor for I/O transfer. This is one powerful supercomputer."

Mr. Amatelli concludes, "The big thing to remember is that you are not making sacrifices in speed, accuracy, productivity or reliability. These systems work extremely well and can easily compete with the speed of most mini- and mainframe computers."

However, as Mr. Zlotogorski points out, there are other problems with micro-based systems. "Most of the PC systems that I have seen do not have a tape interface directly hooked to the PCs. Therefore, if a risk manager had some data input directly and more data coming in from insurance companies to update a data base, most of the systems could not meet the function," he said.

"An additional aspect is the cost of allowing remote access to this micro-based system. If there are remote locations that need access to the data, a mechanism for the access must be provided. This access could be connection to a common carrier (such as Telenet) or long distance. This option requires software to handle the dial-up as well as allow the remote user to act as if he had the database on his own local PC. The cost associated with hooking up to a common carrier is not trivial," Mr. Zlotogorski notes.

• What are the recommended benchmarks distinguishing which type of computer to use?

Mr. Amatelli said this "depends on the type of claim. On our system, workers compensation and liability claims require three megabytes of storage for each 1,000 claims. These claims should remain on the system for at least 10 years or more. However, group health claims require only one

Continued on next page

David A. Tweedy is a risk management consultant for D.A. Betterley Risk Consultants Inc. in Worcester, Mass. He is the assistant editor of Betterley Risk Management Commentary and the author of RMIS Update, a yearly publication analyzing major risk management information systems and vendors. His column on risk management information systems appears the third Monday of every month.

Mr. Tweedy

Aon to acquire employee benefit consultant

Chicago-based Aon Corp. will acquire Philadelphia-based Miller, Mason & Dickenson Inc., an employee benefits consulting firm, for more than $10 million.

Aon, formerly Combined International Corp., also owns broker Rollins Burdick Hunter Co.

Aon's existing employee benefits consulting unit, Rollins Brookfield, will be merged with MM&D and operated under the MM&D name.

More than half of MM&D's $13.2 million in consulting revenues is related to retirement and savings plans consulting, while welfare plan consulting generates about 25% of revenues and benefit communications consulting 10% (*BI,* Dec. 22, 1986).

Formed in November 1986, Rollins Brookfield offers actuarial consulting, pensions consulting, group welfare consulting, as well as administration of defined contribution plans.

Daniel T. Cox, president of Rollins Brookfield, will be president of MM&D.

ICI forms captive

The Investment Company Institute, a national trade association for the mutual fund industry, is forming a captive to provide professional liability coverages to its members and their affiliates.

The company initially will provide up to $10 million in fidelity bonds and another $10 million in combined errors and omissions and directors and officers liability insurance, said Donald Boteler, director of operations-fund accounting. The new ICI Mutual may offer higher limits later, he added.

The captive hopes to be writing policies by July 1.

A manager for ICI Mutual, which probably most likely will be domiciled in Vermont, has yet to be selected, he said.

The association hopes to start the captive with $80 million in capital and generate $20 million in first-year premiums. The captive plans to generate initial capital by assessing policyholders four times their first-year premiums, part of which can be guaranteed with letters of credit.

Coverage will be underwritten by units of the Progressive Insurance Group of Mayfield Village, Ohio, which recently was chosen to underwrite D&O insurance for the American Bankers Assn. captive (*BI,* Jan. 5; Oct. 27, 1986).

All members of the association, almost 2,000 mutual funds, are eligible to seek insurance for themselves, their advisers and their principal investment underwriters.

Zurich expands

Zurich-American Insurance Group has created a specialized underwriting facility to accept high-level direct excess property/casualty business.

The new division, called Excess, Surplus and Specialty Lines, is open to both U.S. brokers and Zurich-American agents on a brokerage basis.

Zurich-American offers $11 million in property insurance limits excess of $10 million. For difference-in-conditions policies, Zurich-American will write excess of $20 million.

Although the insurer has $11 million in capacity, the average policy will have limits of $5 million to $6 million, according to John Breitenbach, manager property underwriting. Zurich-American will write most lines of property coverage except for hazardous chemicals, ocean marine, aircraft, casinos and racetracks.

In addition, Zurich-American will write $5 million in casualty

markets

limits excess of $10 million.

The new division, which replaces the capacity no longer offered by affiliate Zurich International Insurance Co. Ltd. in Bermuda, is located in corporate headquarters at 231 N. Martingale Road, Schaumburg, Ill. 60196.

For more information, contact Mr. Breitenbach 312-843-6166 or Hassan Ali, manager casualty underwriting 312-843-9126.

Warwick adds marine

Warwick Insurance Co. has created an Inland Marine Department. Warwick plans to write all sizes of accounts with no minimum to limits of $10 million. The program's major reinsurer is Prudential Re of Newark, N.J.

Pam Mestman Silverman will head the new department, which will begin operating July 15.

Warwick will offer premium discounts to Warwick clients that want to expand their existing cover to include inland marine, Ms. Silverman said. Premiums for these so-called supported policies will begin at $250, while premiums for non-supported businesses will begin between $500 and $1,000.

Warwick will write coverage for builder's risk, contractor's equipment, data processing equipment, goods while being manufactured, scheduled property and fine arts.

Initially, Warwick only will write in New Jersey, but the company plans to expand into Massachusetts by year-end. In addition, Warwick has applied for licenses in New York, Connecticut and Pennsylvania.

For more information, contact Ms. Silverman at Warwick Insurance Co., CN 1998, Morristown, N.J. 07960; 201-267-8220.

Work comp adviser

Richard S. Anderson, who retired last month as manager of California's Office of Self-Insurance Plans, has opened his own consulting firm.

As head of Anderson & Associates, he will consult on workers compensation and state self-insurance matters.

Mr. Anderson supervised the self-insured work comp plans of all employers in California—both public and private—for 10 years, and was highly regarded for his knowledge of state self-insurance regulation.

Prior to stepping into that post, Mr. Anderson was a consultant in the state self-insurance office, which is a division of the California Department of Industrial Relations.

Mr. Anderson is being replaced temporarily by Mark Ashcraft, who will retain his position as executive assistant to Ronald Rinaldi, California's director of industrial relations.

Anderson & Associates is located at 431 Claydon Way, Sacramento, Calif. 95864; 916-485-6822. ■

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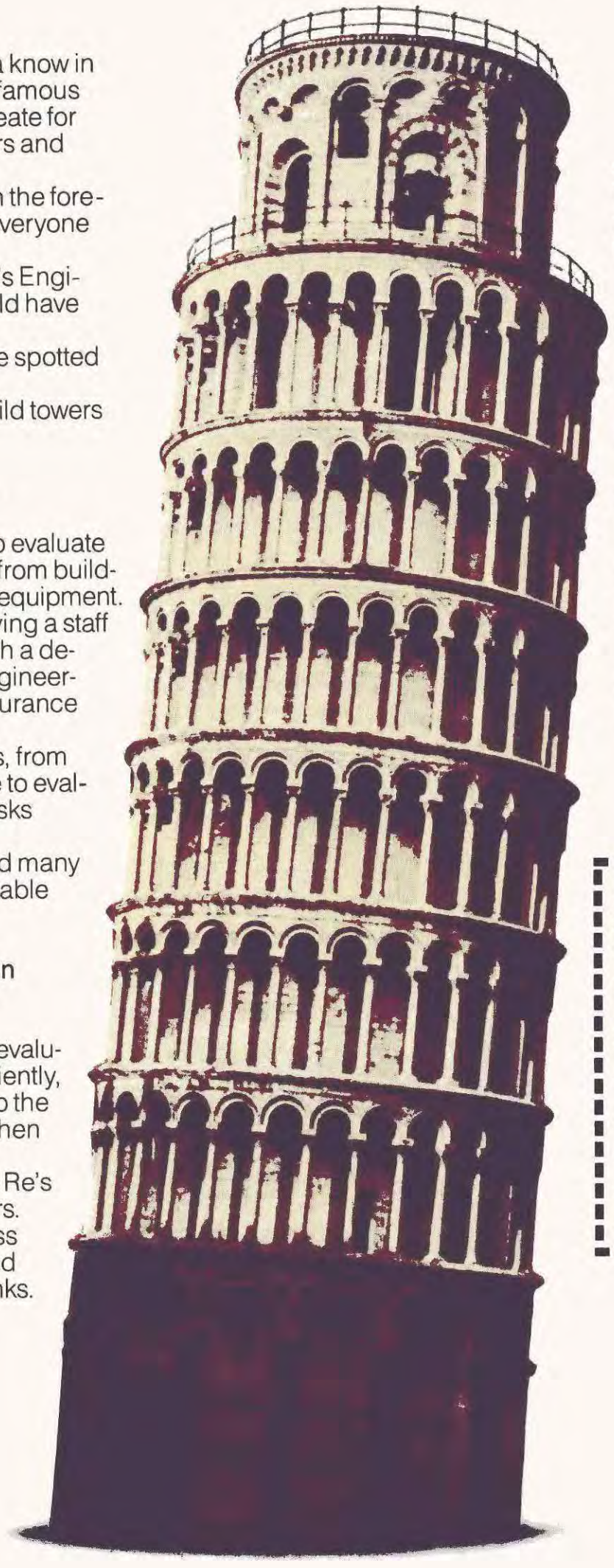

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BI conference

Continued from page 3

In her presentation, Ms. Zuker will outline six "influence styles" to help benefit managers develop the most effective communication programs for positive results.

In addition, the conference agenda includes:

- A discussion of creative ways to communicate the continuation of benefits provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985.

Benefit managers will learn how Jacksonville, Fla.-based Barnett Banks Inc. took the bite out of COBRA. Catherine Corse, employee benefits officer, will discuss how Barnett communicated the complex legislation to its employees with a minimum of paperwork.

- A panel discussion addressing the challenge of communicating triple-option plans to employees.

Effectively communicating the combination of traditional indemnity plan, health maintenance organization and preferred provider organization options presents a special challenge.

Developing a communication campaign that defines employees' choices without overloading them with information will be illustrated by Laura Fairman, director of product research and development in the group insurance marketing division of New York-based Metropolitan Life Insurance Co., and Edward J. Zeman, director of employee services for Long Island Rail Road Co. in Jamaica, N.Y.

- A discussion of how market and consumer research techniques can be applied to developing employee satisfaction surveys.

Benefit managers can use the same methods their corporations use to study consumers' satisfaction with their products to find out how employees view their benefits.

John Parkington, director of organization research in the Boston office of The Wyatt Co., will illustrate how employee satisfaction surveys can be conducted in a positive manner for successful results.

Attendees will get a look at the ongoing communication program used by BankAmerica Corp.

- A lively session in which the audience will rate selected audio-visual presentations submitted to the Employee Benefits Communication competition.

"You Be the Judge," presented annually, will be moderated by Herb Zeltner, president of New York-based Herbert Zeltner Consulting Inc. In this session, attendees will have the opportunity to see and judge how their colleagues have used audio-visual media to communicate benefits.

- A panel discussion focusing on evaluating the performance of utilization review programs and how to communicate this cost-control method to employees.

Dr. Arnold Milstein, president of San Francisco-based National Medical Audit, a division of benefit consultant William M. Mercer-Meidinger-Hansen Inc., will discuss how these programs operate as well as some key findings on the performance levels of utilization review programs.

And, attendees will get a look at the ongoing communication program employed by San Francisco-based BankAmerica Corp.

Victoria George, a benefits specialist in the company's benefit planning department, will discuss how bankamerica effectively communicates to employees the procedures and reasons behind utilization review.

- A session highlighting effective ways to increase participation in 401(k) savings plans.

James D. Biggerstaff, manager of compensation and benefits for Pearl Health Services Inc. in Dallas, will discuss how humorous communication and a promotional contest boosted participation in the company's 401(k) plan.

- Case studies of employee benefit communication programs.

These sessions will be presented concurrently on both days of the conference, giving participants the chance to attend all three.

Included is San Francisco-based Pacific Gas & Electric Co.'s 1986 award-winning total communication effort, "Flex."

The campaign began with an employee survey that was used in designing the company's flexible benefits plan.

Sally Gottlieb, PG&E's flex plan coordinator, and Jeffrey Horn, a principal consultant in the Denver office of benefit consultant Towers, Perrin, Forster & Crosby, will discuss and present the many facets of the "Flex" communication program.

In another case study, I.B. Wallman, a member of the employee relations staff of Ford Motor Co., and Jay Marchant, a principal in the Stamford, Conn., office of Mercer, will discuss how Ford evaluated and implemented its interactive video communication program.

The innovative communication system, which will be demonstrated in this case study, uses a touch-sensitive video screen and digital audio and video discs to illustrate benefits.

And, Sony Corp.'s interactive computer communication program will be presented by Alfred Hayes, director of human resources for the Park Ridge, N.J.-based company.

Timothy Stentiford, a consultant with Lincolnshire, Ill.-based Hewitt Associates, also will be on hand to help demonstrate the system, which provides personalized information to employees.

In addition to the discussions and case studies, the conference will feature an awards luncheon at which *Business Insurance* Publisher Alfred Malecki will present awards to the winners of the 15th annual Employee Benefits Communication competition.

The awards recognize outstanding communication programs in four categories: booklets; personalized correspondence; audio-visual presentations; and total benefits communication programs.

One first-place award and two runners-up awards will be presented in each category.

Along with the awards presentation, the first-place audio-visual presentation will be shown during the luncheon.

The conference will open with a meet-and-greet reception on Sunday evening, Aug. 2. The meetings will begin at 8:30 a.m. on Monday and adjourn at 4:30 p.m. on Tuesday.

The cost of attending the conference is $650, with a 10% discount offered to additional registrants from the same company.

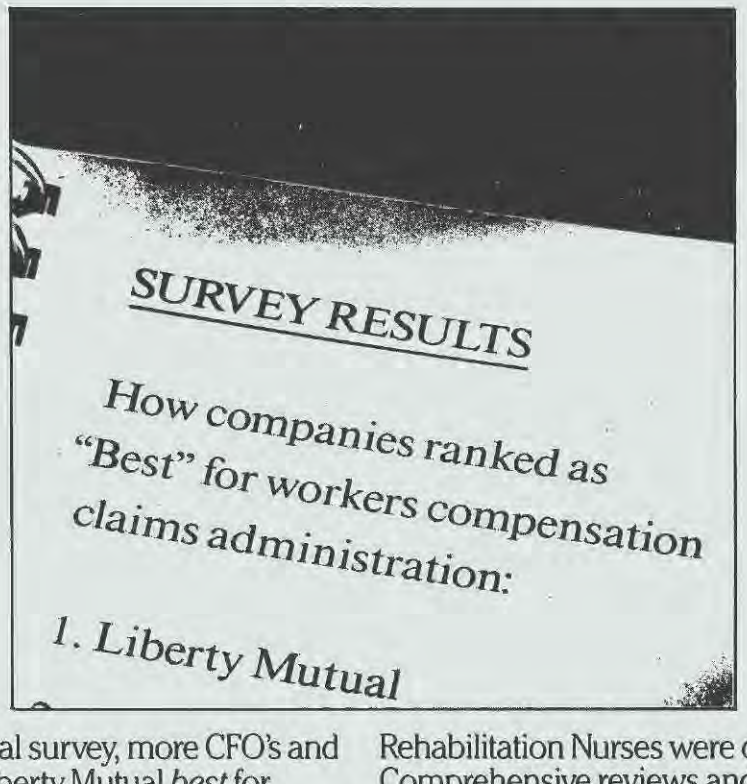
Included in the cost is the Sunday evening reception, a conference workbook, educational materials from a gallery of literature provided by service suppliers and luncheons.

A limited block of rooms has been set aside at the Grand Hyatt Hotel at a special rate of $130 per night for single accommodations and $150 per night for double. These rates are available to conference registrants only and will be honored until July 13.

Special travel arrangements are available from most points in the United States to New York via American Airlines through Travel Technologies Group in Chicago.

For more information, contact Barbara Dalton, Conference Registrar, *Business Insurance* Communications Services Department, 220 E. 42nd St., New York, N.Y. 10017; 212-210-0780. ■

Best.



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California JPA to offer comp coverage

TORRANCE, Calif.—Dozens of California school districts are expected to buy excess workers compensation coverage through a new joint powers authority that is starting up July 1.

About a dozen individual school districts and 24 joint powers authorities representing other districts are expected to participate in Schools Alliance for Workers Compensation Excess.

The districts planning to participate in SAWCX offer classes ranging from kindergarten to two-year college programs. Their combined annual payroll is $2.5 billion, according to Murt Munson, senior vp of Kennan & Associates in Torrance, Calif., which will administer SAWCX in addition to several school-related JPAs.

around the states

SAWCX is designed to offer each participating district $10 million in per occurrence limits for workers compensation coverage excess of a participant's self-insured retention and $1 million in employers liability limits.

Employers liability coverage is available to respond in unlikely instances where courts decide that an injured employee should not be limited to recovery under the workers compensation system as the exclusive remedy for his injury.

Participants can choose among four levels of self-insured retention, ranging from $125,000—which is permitted for districts with no more than $40 million in payroll—to $250,000.

The program, which is being phased in over a two-year period, does not require that districts pay a large, upfront capitalization charge, Mr. Munson said.

This year, SAWCX will merely purchase excess insurance on a group basis.

However, in 1988, the JPA intends to self-fund claims above a participant's self-insured retention up to $500,000 per occurrence and purchase coverage for per occurrence losses excess of $500,000, he said.

The feasibility of the program was underscored by a study that showed that of the 59,000 school-related workers compensation claims filed since 1978, only 23 sought between $100,000 and $200,000. In addition, only two sought more than $200,000, but less than $100,000 was paid out in both cases, he said.

In addition, rising workers compensation rates in California increased the popularity of the program, he added.

How to Get a HANDLE on COBRA

Getting a handle on COBRA is not only smart but essential. Ignorance and/or noncompliance of this new group health continuation law can result in costly fines and losses.

DO YOU HAVE 4 OR MORE QUALIFYING EVENTS PER MONTH?

Proper compliance with COBRA requires expertise and if done manually can be a nightmare. The burden of producing up to 29 letters, forms and documents required by COBRA is proving to be an expensive, time-consuming operation, leaving margins for error and decreasing the time and effort that could be utilized more productively in daily business functions.

CORPORATE COBRA MANAGER

Travis Software Corp., a leader in employee benefit software packages for employers, has designed an automated system based on the expertise of employee benefit professionals that helps fully administer the complete personnel functions required by COBRA.

CORPORATE COBRA MANAGER

CORPORATE COBRA MANAGER IS WELL DOCUMENTED

The system comes with a complete User's Manual. The Manual is precise and comprehensive in training the operator as to how to install the CORPORATE COBRA MANAGER, input of information required for each Principal Qualified Beneficiary and how to use the system on a daily basis.

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Travis Software Corp. supports CORPORATE COBRA MANAGER users by offering telephone support and by developing additional capabilities to the system.

The system will be updated when regulations for the COBRA law become available or when additional legislation becomes effective assuring users of the continuity and current adherence to the law.

CORPORATE COBRA MANAGER is a system that allows large amounts of COBRA-related information to be stored without limit to the number of beneficiaries or insurance plans.

Over 700 companies, to date, find CORPORATE COBRA MANAGER is cost effectively reducing the hours it took to manually comply with COBRA.

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Requires only the entry of names of beneficiaries, information about their Qualifying Event and benefit plans they may elect. All other record-keeping functions, correspondence generation and premium computations are part of the system. This approach reduces the number of telephone calls you will receive in your office from COBRA continues.

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Public official liability

RICHMOND, Va.—More than 700 public entities have joined a state-organized plan providing public officials' liability coverage during its first six months of operation.

And, at least 300 more public entities are expected to join the Public Officials Liability Self-Insurance Plan before the end of the year, said Robert C. Vogt, program manager in Richmond, Va.

The plan offers limits of $1 million per occurrence with a $1 million annual aggregate, excluding defense costs.

Participants can choose among deductibles, beginning at $500, or self-insured retentions, beginning at $25,000. Defense costs count toward the amount a member retains, he said.

The Virginia Legislature authorized the plan because public officials' liability coverage was either unavailable or unaffordable for about 500 of the state's constitutional officers, including sheriffs, local prosecuting attorneys and circuit court clerks, Mr. Vogt said.

However, it was later expanded to allow cities, towns, counties and some additional political subdivisions and some non-profit corporations to insure their officials and employees.

The plan operates as a non-assessable mutual insurance company and does not require capital contributions. It is not backed by the full faith and credit of the state, Mr. Vogt said.

However, its premiums base is growing. The constitutional officers, who are being phased in during the year ending Nov. 30, guarantee $700,000 to $800,000 in premium, Mr. Vogt explained.

More than $1.3 million in premiums has been collected thus far from all participating agencies, he added.

He intends to seek excess insurance for the plan after July 1.

Two HMOs face fines

TALLAHASSEE, Fla.—Two Florida health maintenance organizations charged with fraudulent enrollment practices have been fined $35,000 each and ordered to reimburse medical expenses to duped subscribers.

Florida Insurance Commissioner Bill Gunter levied the fines against Comprehensive Medical Care of Coral Gables and Finlay Medical Centers in Miami last month after a month-long investigation revealed the two HMOs were enlisting elderly subscribers who did not know they were enrolling in the programs. The enrollment scam took place between January and May of 1986, according to the Florida Department of Insurance.

A spokeswoman for the department said one enrollment method the HMOs used led subscribers to believe they were signing petitions

Continued on next page

Continued from previous page
for increased police protection in their communities.

Mr. Gunter charged Finlay with 27 counts of dishonest and fraudulent enrollment practices and CAC with 12 counts. Both have paid the fines, the department says.

"We regret that it happened," said Roger Gonzalez, director of corporate development for Finlay. "The individuals that were involved were independent contractors and were terminated immediately."

Officials with CAC did not return phone calls.

Attorneys who negotiated with the Insurance Department on behalf of the HMOs would not comment on the abuses.

Another Florida HMO, International Medical Center Inc., also was under investigation on the same charges. IMC has been declared insolvent and placed into receivership (*BI*, May 11; May 18).

In a statement announcing the fines, Mr. Gunter said: "I will not tolerate practices which not only violate Florida law, but also destroy the good faith and trust of Florida consumers. HMOs and others should be forewarned that these blatant abuses will be punished and punished severely."

In addition to the fines, Finlay and CAC were ordered to reimburse subscribers for any medical expenses they may have incurred as a result of the inappropriate enrollments. The reimbursements must be provided within two weeks of notification by the enrollees.

The HMOs also must submit the names of any salespersons that are suspected of fraudulent enrollment practices to the state attorney's office and assist in prosecutions.

Under an emergency rule issued by Mr. Gunter last month, enrollees in Florida HMOs must be notified in writing at least seven days before membership is effective. In addition, HMOs cannot pay sales commissions until seven days after the notice is mailed.

Insurer investigation

NEW YORK—The New York attorney general's staff is reviewing allegations that a non-profit health services corporation that also writes group health cover has deliberately delayed paying claims to maximize its investment income.

No decision has been made about whether complaints against New York-based Group Health Inc. merit a special investigation, said Nathan Riley, a spokesman for Attorney General Robert Abrams.

In addition to being a group health insurer, GHI provides medical services, dental services, home health care and prescription drugs.

William Mastro, GHI vp, "categorically and emphatically" denied that the health insurer and service provider had systematic problems in administering claims.

GHI's group programs cover more than 700,000 employees and about 1.3 million dependents, he said. In addition, federal officials have recognized GHI for the quality of its claims handling program for Medicare recipients in Queens County, he said.

GHI processes more than 11 million claims for group insurance programs in New York state, including programs for New York City's employees.

Consumers' problems with the insurer were spotlighted late last month by Assemblyman Alan Hevesi, D-Queens. Over the past three years, his office has received several hundred complaints about GHI, Mr. Hevesi said.

There are 19 "tactics" that the health insurer allegedly uses to delay the processing and payment of claims so it can maximize investment income or frustrate subscribers, Mr. Hevesi said.

Among his complaints are that GHI:

- Systematically makes mistakes in the processing of forms.
- Repeatedly requests information that has already been provided.
- Frequently misplaces forms.
- Finds misplaced original claim forms after policyholders have re-filed them and then rejects the claims contending that the policyholders sought payment of the same claim twice.
- Often does not answer its telephone.

Illinois HMO folds

CHICAGO—The Illinois Insurance Department is liquidating Chicagocare Inc., a health maintenance organization that was based in Oak Park, Ill.

Chicagocare's third quarter 1986 annual statement listed liabilities of $415,572 and assets of $89,685—resulting in a $325,887 deficit—according to figures released by the department. ■

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Regulatory overhaul needed: Insurers

By STACY ADLER

CHICAGO—The current system of state regulation is not working and should be amended or replaced, according to two insurance company executives.

John R. Cox, chairman and chief executive officer of A.C.E. Ltd. and A.C.E. Insurance Co. Ltd. of Bermuda, and Robert C. Nevins, executive vp-marketing with The Home Insurance Co. in New York, told risk managers attending the third annual Harold H. Hines Jr. Memorial Symposium last week that a new system of regulation is needed.

The symposium, "Risk Management in the 1980s and Beyond: The Age of Uncertainty," was co-sponsored by the Chicago Chapter of the Risk & Insurance Management Society and The Insurance School of Chicago.

Mr. Cox

Mr. Cox called for federal regulation of the insurance business while Mr. Nevins said he was not partial to either federal or state regulation but merely advocating a new, streamlined system.

"It is ridiculous to think we can have 51 jurisdictions," said Mr. Cox, referring to state regulation.

"About eight years ago, we freed the airlines. Today it is a disaster, but it is a disaster where the strong will survive," making for a better industry, Mr. Cox said. "I think the insurance industry should follow the same pattern."

Mr. Nevins suggested state regulation of insurance companies has become convoluted.

"We have to re-examine the reason to regulate an insurance company. We should be regulated on our ability to pay on the promises we make. The only thing regulation should do is protect the public from companies that make promises they cannot live up to."

Mr. Nevins advocated wiping the slate clean. Lawmakers should develop a new system of regulation designed to avoid insurer insolvencies, he said.

On the other hand, Albert J. Beer, a consulting actuary with the Tillinghast Division of Towers, Perrin, Forster & Crosby Inc. in New York, doubts whether trading state regulation for federal regulation of the insurance industry is the answer.

Mr. Beer said the McCarran-Ferguson Act is a "red herring" and that the real problem with the industry lies in its inability to use the rating information available to set appropriate, stable rates.

But, Mr. Cox cited the inability of the American Excess Insurance Assn. to operate in all states as evidence that state regulation does not work. American Excess is a line slip formed in May 1986 to provide excess liability coverage with limits of $75 million excess of $25 million (*BI*, May 26, 1986).

'I welcome anybody into the insurance business. I enjoy the competition, as long as you play by the same rules I do and share the responsibility,' says The Home's Robert C. Nevins.

"Here we are, well over a year into the game, and the American Slip still doesn't have permission to do business in a number of states. And they have bastardized contracts in several other states," Mr. Cox said.

"It can't operate the way it should because it is hamstrung with all kinds of unnecessary regulation. If that is what state regulation brings, then I don't think it's being helpful," Mr. Cox said.

The American Slip is unable to write coverage in Florida, Kansas, Massachusetts, North Dakota, South Dakota, Texas, Wyoming and Puerto Rico because it has not received licenses, said Mike St. Pierre, underwriting manager of Farmington Management in East Hartford, Conn. Farmington manages American Excess.

Members of American Excess are: Aetna Casualty & Surety Co. of Hartford, Conn.; Insurance Co. of North America, a CIGNA Corp. unit in Philadelphia; Travelers Indemnity Co. of Hartford; Federal Insurance Co., a unit of Chubb Corp. in Warren, N.J.; United States Fire Insurance Co., a unit of Crum & Forster Corp. in Morristown, N.J.; Zurich Insurance Co., U.S. branch in Schaumburg, Ill.; The Home Insurance Co. of New York; General Accident Insurance Co. of America in Philadelphia; and North American Co. for Property & Casualty Insurance in Greenwich, Conn.

Mr. Nevins

Mr. Cox noted that X.L. Insurance Co. Ltd. in Barbados started in business at the same time American Slip was formed also to provide liability insurance limits of $75 million excess of $25 million. But because X.L. is an offshore insurance company and free of cumbersome state regulation, it has grown dramatically.

X.L. had written premiums of $260 million as of Jan. 31 while the American Slip had written $120 million in premiums (*BI*, April 13).

Mr. Nevins also pointed out that because offshore insurance companies are not regulated, they do not "share the social responsibility" traditional insurers must bear, including involuntary charges for insolvencies and mandatory participation in pools.

"I welcome anybody into the insurance business. I enjoy the competition, as long as you play by the same rules I do and share the responsibility," he said.

Mr. Cox quipped: "I worked 16 years for a firm in New York where the credo was 'All I want is an unfair advantage' and I don't mind having one."

Mr. Cox formerly worked for American International Group Inc.

Mr. Cox also stressed that A.C.E. is not a captive, but a "private insurance company," pointing out that A.C.E. no longer requires, or permits, new policyholders to become investors in the company.

While Mr. Cox and Mr. Nevins debated whether or not captives, or private insurance companies, and insurers were really on a "level playing field," Mr. Beer questioned whether they were even "all in the same sport."

Mr. Beer

"The traditional insurance marketplace, its major role is in producing earnings as a corporate, commercial entity. The private insurance marketplace, its major role is to provide the facility for insurance," Mr. Beer explained.

Therefore, captives are formed to satisfy a particular need in a particular insurance cycle. But, when that need is either satisfied or no longer relevant, many of the policyholders that turned to captives to place their difficult risks will return to the commercial marketplace, the panelists said.

"There is a tremendous potential for adverse selection," Mr. Beer warned.

"I think the people that are going to get back into the traditional marketplace, in general, are probably the ones who have done damage to the risk retention group concept," Mr. Beer said.

Mr. Cox and Mr. Nevins agreed. But they noted that some policyholders that joined very stable, well-conceived captives will remain there regardless of swings in the market.

"There will be some movement of business because, as they say in the Army, '10% never get the word'—10% who always buy on price," Mr. Cox said.

He added: "There will a natural evolutionary process. Some of the captives will have served their purpose and be liquidated and some ultimately will become traditional companies in their own right. But there will be others that will remain as we know them now."

Similarly, as the insurance market improves, some risk managers are likely to purchase additional insurance.

Too often risk managers use insurance to stabilize corporate earnings only to find that their premium price is even more volatile than an actual loss would have been, Mr. Beer said.

"As ironical as it may sound, many people out there are overinsured," Mr. Beer said. "Perhaps, much of corporate America is still overinsured." ■

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Chairs at two colleges set up in Hines' memory

By KATHRYN J. McINTYRE

CHICAGO—Harold H. Hines Jr. is being remembered with two teaching chairs—one in risk management at Northwestern University and one in health care management at Yale University.

The Harold H. Hines Jr. Chair in Risk Management at the Kellogg School of Management at Northwestern University in Evanston, Ill., is being donated this summer by Aon Corp., formerly Combined International Corp.

Chicago-based Aon is the parent company of insurance broker Rollins Burdick Hunter, where Mr. Hines was president and chief executive officer when he died in June 1984 at age 59.

Aon President Patrick G. Ryan announced the creation of the chair at the Harold H. Hines Jr. Memorial Symposium in Chicago June 4. The symposium is presented annually by the Insurance School of Chicago and the Chicago Chapter of the Risk & Insurance Management Society to honor Mr. Hines, who was described at the symposium as a "student of the business."

During his 30-year career in commercial insurance, Mr. Hines wrote numerous articles and delivered many speeches on the economics of the commercial insurance business and risk management.

The chair "will be instrumental in educating people on the key issues" of risk management, Mr. Ryan said. A professor will be hired and a curriculum in risk management developed, both for students seeking a masters in business administration and for continuing education programs at the Allen Center at Northwestern, Mr. Ryan said.

"People pursuing any area of business need to know and understand the subject," Mr. Ryan said later in an interview.

Aon Corp. is donating $1 million to fully fund the chair.

Last year, Mr. Hines' widow, Mary Pick Hines, established the Harold H. Hines Jr. Professorship in Health Care Management at Yale University in New Haven, Conn., his alma mater.

The Yale chair was inspired by Mr. Hines' efforts to ensure that medical care be delivered in an equitable, fiscally sound and proficient manner, according to an announcement by Yale.

Among Mr. Hines' contributions to health care were:

- Member of the Commonwealth Task Force on Academic Health

Continued on page 34

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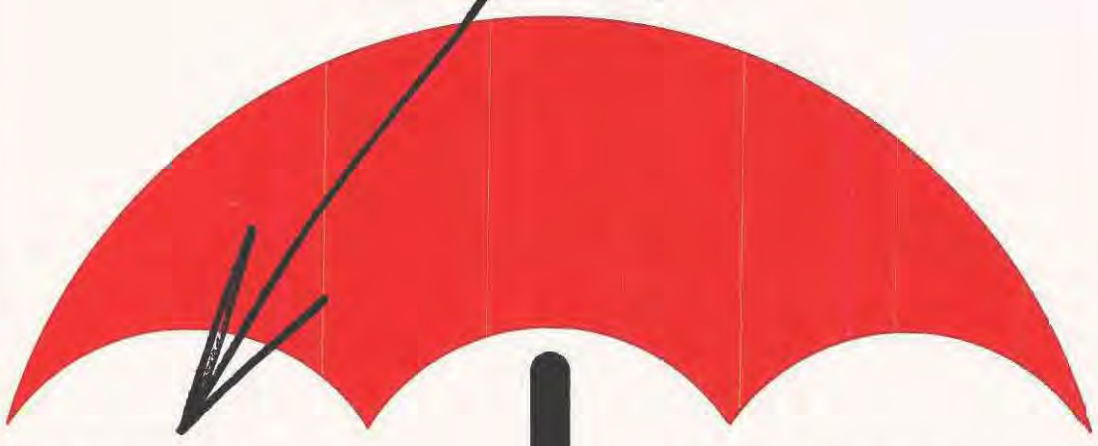

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Work comp seminar to move to Virginia

AIRLIE, Va.—Timely workers compensation issues will be examined through lectures and discussion during the 11th Annual National Symposium on Workers' Compensation, to be held next month at a new location.

The meeting will be held July 5-10 at Airlie House in Airlie, Va., near Washington, D.C.

The new site is more centrally located and more convenient for direct air travel, says Robert B. Collyer, a consultant based in Ormond Beach, Fla., and a conference co-director.

For the past 10 years the symposium was held at the University of Maine in Orono, Maine. However, insurers were conspicuously absent from last year's conference, possibly because insurers repeatedly complained that Maine workers compensation rates were inadequate (*BI*, Aug. 25, 1986).

The Airlie conference center, which is nestled in the Blue Ridge foothills, duplicates "the hermetic environment" found in Orono that is conducive to a meaningful exchange between experts and participants, according to J. Howard Bunn Jr., a workers compensation consultant in Clarendon Hills, Ill., and the conference's co-director.

A broad spectrum of participants are encouraged to attend, including employers, labor unions officials, state and federal administrators, doctors, lawyers, insurers and rehabilitation professionals.

Among the topics to be examined are:

- The problems posed by permanent disability and related developments in Florida, New York and Ontario.
- Ratemaking and the impact of external economic factors on workers compensation insurance rates.
- Emotional stress claims.
- The Economic Report of the President, an annual report that includes a section on workers compensation and safety.

This discussion will be followed by a review of the issues that study commissions and task forces throughout the nation are considering.

- Labor-related issues including federal and state requirements and proposed legislation aimed at making employees more knowledgeable about job-related health hazards.
- Research developments on a variety of issues including the costs and outcome of rehabilitation, performance indicators for permanent partial disability and medical evidence in back cases.

Symposium participants include John F. Burton Jr., a professor of the New York State School of Industrial Relations at Cornell University in Ithaca, N.Y.; John H. Lewis, a Miami-based attorney; Richard Fein, executive vp of the National Council on Compensation Insurance in New York; Arlene Holen, senior economist with the Council of Economic Advisers in Washington, D.C.; Don Elisburg, administrator of the Occupational Health Legal Rights Foundation in Washington, D.C.; and Richard Victor, executive director of the Workers Compensation Research Institute in Cambridge, Mass.

The conference registration fee is $595. Room and board, consisting of three meals daily, are billed separately at $72 per person per day for a single, or $62 per person per day for a double.

Day guests can pay $13 per day for lunch or $29 per day for lunch and dinner. Credit cards are not accepted at Airlie House; however, Master Card, American Express and Visa may be used to pay the registration fee.

All arrangements are made through The Collyer Co., 366 W. Granada Blvd., Ormond Beach, Fla., 32074. Questions can be directed to Mr. Collyer at 904-672-0675, or Mr. Bunn at 312-789-0500. ■

Hines teaching chairs

Continued from page 32

Centers, part of the Commonwealth Fund.

- Member of the Harvard Overseers' Visiting Committee to the Medical School.
- Two terms as chairman of the Michael Reese Hospital and Medical Center.
- Chairman of the Health Education Commission of the State of Illinois.
- Chairman of the national citizens advisory committee to the Assn. of American Medical Colleges.
- Trustee of the Hospital Research and Education Trust, associated with the American Hospital Assn.

"He was a devoted Yale alumnus and he had worked with Yale in fund raising. He was always devoted to innovative and pragmatic endeavors and I wanted this chair to serve as a model for other institutions to show how monies could be utilized maximally and where indeed it would encourage academic people to work together in ways that haven't been done before," said Mrs. Hines.

The chair is interdisciplinary, and can be located in different schools at Yale.

"The purpose of this is to encourage communication between otherwise specialized areas," Mrs. Hines pointed out. "It is up to the head of the university to decide where this should be placed to maximum benefit."

The Harold H. Hines Jr. Professorship ensures that the concerns of the health care industry—such as the study of the structures of the industry, the costs and benefits inherent in any health care delivery system and the management of private health care institutions—will be addressed, said a Yale spokeswoman. The professor will educate students to better understand medicine, public policy and the management of profit and not-for-profit organizations, she added.

The first incumbent of the Hines chair at Yale is a professor of Operations Research and Information Sciences at the School of Organization and Management: Robert B. Fetter. His work has included developing diagnostic-related groups planning models.

Anyone wishing to contribute the Harold H. Hines Jr. Professorship in Health Care Management in Mr. Hines' memory may send gifts to: Yale University Development Office, P.O. Box 2038, New Haven, Conn. 06521.

Cargo rules

Continued from page 2

Shipowners currently are responsible only for cargo lost due to theft, but the shipowner has to pay only $500 per lost "package," which courts worldwide have interpreted to mean a bulk container (*BI*, Sept. 13, 1982). Such containers can carry many millions of dollars in goods.

In 1936, when the Hague-Visby Rules were implemented, deckborne container traffic did not exist, according to John Gillieron, vice chairman of the commercial conditions committee of the Australian Shippers Council.

As a result, the Hague-Visby Rules "are the most unconscionable, inequitable liability scheme every devised by man," according to Mr. Gillieron.

Under the Hamburg Rules, shipowners would be responsible for cargo from its delivery at the loading dock until it is discharged at the port of arrival, including liability for theft before the cargo is discharged.

Maximum liability per "package" would be increased to 835 special drawing rights ($1077.15 at current exchange rates). SDRs are an "imaginary" unit of currency based on five actual currencies—U.S., West German, British, French and Japanese—used in international banking to avoid adverse fluctuations among single currencies.

Under the Hamburg Rules, packages would be defined as a unit designated for insurance purposes. For example, 600 bales of cotton would count as 600 packages, Mr. Augello pointed out. Under current court interpretations of the Hague-Visby Rules, if the bales were contained in one container that was lost due to theft, the container would be considered one package.

As a result, cargo owners under the Hamburg Rules will be able to claim more compensation from shipowners for lost or damaged goods and, subsequently, will see their cargo insurance premiums decrease, Mr. Augello predicted.

Marine underwriters and shipowners, on the other hand, believe that the Hague-Visby Rules are adequate and should not be replaced by the Hamburg Rules (*BI*, Feb. 28, 1983).

In particular, years of case law has been built upon the old rules, reducing the amount of disputes that go to court, while the Hamburg Rules have never been court-tested, Mr. Augello noted.

In fact, some underwriters and shipowners are more concerned about the potential of increased legal costs than about their increased liability if the Hamburg Rules are adopted.

The Hamburg Rules "could increase the complexity of handling claims against the shipowner," said Matthew Marshall, deputy secretary for the Institute of London Underwriters. "Hamburg gives a new approach, which would have to be tested in the courts."

Also, some marine insurers—particularly those providing coverage for shippers in developing countries—fear the new rules would make cargo insurance unnecessary.

Mr. Augello agreed that shipowners would have to broaden their cargo liability coverage placed with protection and indemnity clubs and that premiums would shift from cargo underwriters to P&I clubs.

Also, shipowners can expect to pay increased litigation costs once the Hamburg Rules are adopted, Mr. Gillieron admitted.

However, overall, adopting the Hamburg Rules would result in cheaper insurance, Messrs. Augello and Gillieron said.

"The Hamburg Rules are a historic turning point in world trade," Mr. Augello said. "We think we have got an excellent case for getting things moving. But, it will be a tough fight. The insurers are very strong." ■

Virginia schedules insurance hearings

RICHMOND, Va.—The Virginia Bureau of Insurance will hold four public hearings concerning insurance affordability and availability problems in the state.

The hearings will be in: Roanoke, on June 30 in the Roanoke Municipal Building, Council Chamber; Norfolk on July 8 in the Norfolk City Hall, City Council Chamber, 11th floor; Richmond on July 14 in the General Assembly Building, House Room C; and Fairfax City, July 21, Fairfax City Hall, Room 305, second floor.

All four hearings will begin at 7 p.m. For more information on the hearings, call the State Bureau of Insurance at 800-552-7945. ■

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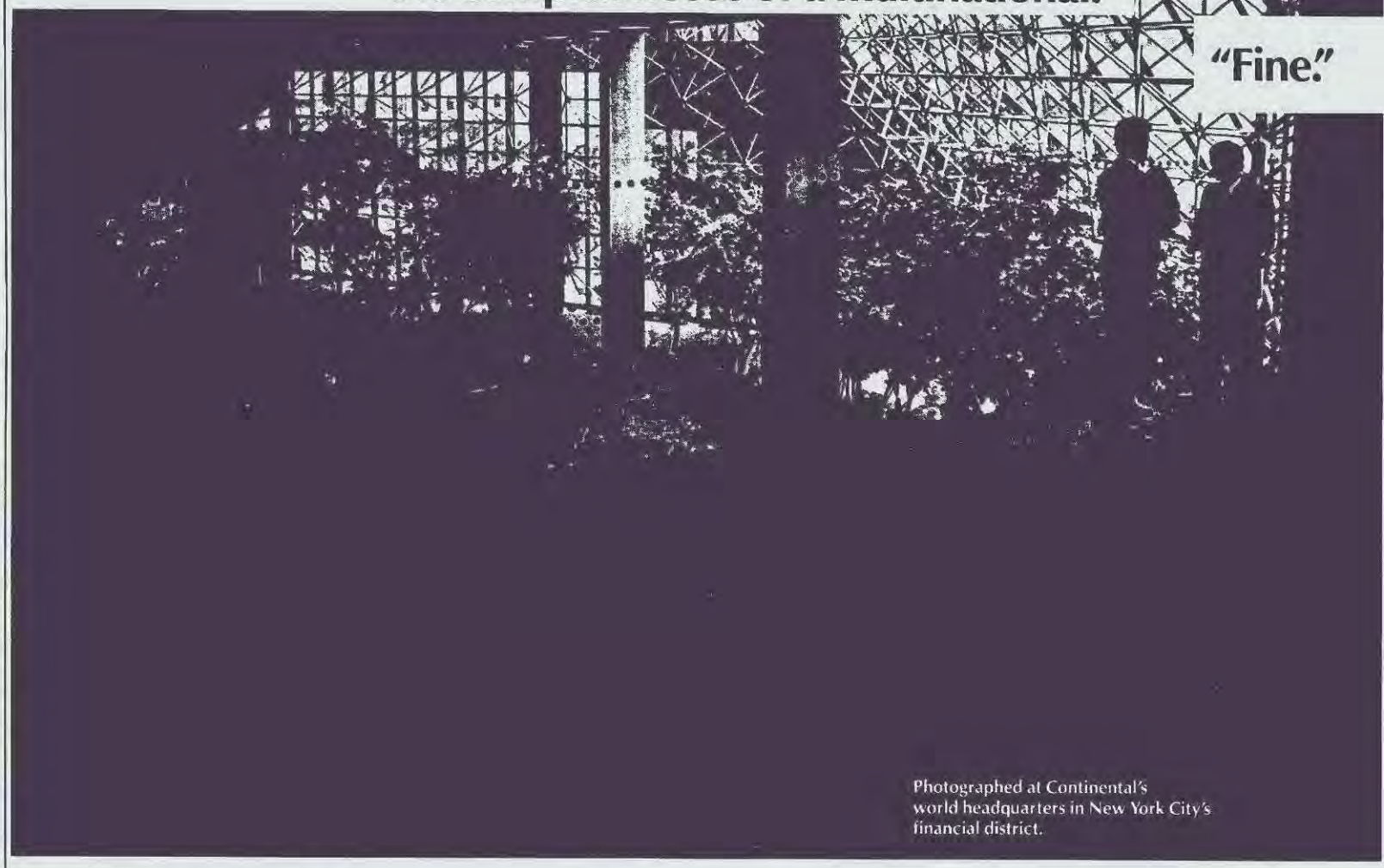

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PBGC premium

Continued from page 2

participant.

If the current flat-rate PBGC premium structure is maintained, the premium will have to be at least tripled and perhaps boosted to as much as $50 per plan participant to enable the PBGC to meet its financial obligations to participants of underfunded plans that have been terminated, observers say.

And, there is no telling how high the PBGC premium will rise if the agency continues to be hit with termination claims exceeding $100 million.

For example, the recent termination of several pension plans by Dallas-based LTV Corp. resulted in a more than $2 billion claim on the agency.

Employers with well-funded plans view this scenario of huge premium hikes as an unfair tax they must pay to subsidize competitors that do not adequately fund their plans.

"It is a cost without a benefit," observes Mr. Gulotta of the Coalition for Retirement Income Security.

While many employers have resented the flat-rate premium, until now there has been no indication that businesses, trade associations or other lobbying groups would do battle to change the system.

Indeed, when Congress last year considered and passed legislation making it more difficult to terminate underfunded pension plans, the most intense lobbying came from groups seeking to weaken the legislation, federal pension officials have said.

Now, however, it appears that companies with well-funded pension plans will join the drive to enact a variable-rate PBGC premium.

However, many obstacles remain. The variable-rate proposals advanced by the various groups differ from each other and from the Reagan administration's proposal.

But PBGC Executive Director Kathleen P. Utgoff says the administration's proposal is not carved in stone and is open to modification.

"We are receptive to responsible alternatives that are consistent with the objectives of the variable-rate approach," Ms. Utgoff pointed out.

Those objectives include raising sufficient premium income to pay off the PBGC's deficit, to meet future claims the agency will incur and to give employers a financial incentive to improve plan funding.

Under the administration's proposal, employers whose vested pension benefit obligations are overfunded by at least 25%—calculated according to PBGC interest rates—initially would pay the current annual premium of $8.50 per plan participant. This premium would be indexed to the annual average increase in national wages.

Plans that are considered "underfunded" would pay, in addition to the basic $8.50 premium, a "funding charge" of $6 per $1,000 of underfunding. A plan would be considered underfunded if its assets did not exceed vested benefit obligations by at least 25%.

However, plans with fewer than 100 participants, regardless of their financial condition, would pay only the basic $8.50 PBGC premium.

In addition, the PBGC would have the authority to adjust the funding charge—up or down—by as much as 50% every three years if claims experience proved better or worse than expected.

'We are receptive to responsible alternatives that are consistent with the objectives of the variable-rate approach,' says Ms. Utgoff. Those objectives include raising sufficient premium income to pay off the PBGC's deficit.

The annual premium generally would be capped at $100 per plan participant, but that cap would be indexed to 150% of the annual increase in national wages.

Other provisions in the administration's proposal would impose special premium surcharges on employers that receive pension funding waivers from the Internal Revenue Service and make a parent company and all affiliates in a so-called "controlled group"—and not the pension plan—responsible for paying PBGC premiums.

However, all the business groups endorsing the variable-rate premium agree that requiring employers to overfund their plans by at least 25% to escape special funding charges is too stiff and is unnecessary.

Mr. Gullota points out, for example, that it would be unlikely the PBGC would be liable for plans that are more than 100% funded but less than 125% funded. As a result, the Coalition for Retirement Income Security says funding charges should be set only for plans that are less than 100% funded, while the benefit committee of the Financial Executives Institute believes that the threshold for funding charges should be set at 110% of vested liabilities.

The administration decided on a higher funding level because changing economic conditions—such as a slumping stock market—can quickly turn an overfunded funded plan into an underfunded plan.

Both the FEI's benefit committee and the coalition are in general agreement with the $6 funding charge per $1,000 of underfunded obligations, while ERIC favors a $2 funding charge, subject to a cap of $50 per participant.

However, all the groups oppose giving the PBGC the authority to adjust funding charges up or down according to future claims experience.

They say that Congress—and not a quasi-federal agency—should set premium levels.

But Ms. Utgoff, while willing to discuss the issue, notes that a flexible funding charge is appropriate because no one can precisely predict the agency's future claims experience.

A flexible funding charge "will cope with a wide range of claims," Ms. Utgoff said.

In addition, the business groups all oppose the indexing of the PBGC premium, again arguing that only Congress should have the authority to adjust premiums.

But Ms. Utgoff notes that if premiums were not adjusted to wage inflation, "you would have to collect more upfront." ■

Occupational disease bill

Continued from page 3

vention and safety awareness rather than on after-the-fact notification which may or may not reach the right people," he said in testimony representing the Printing Industries of America, an Arlington, Va.-based trade association representing more than 30,000 printing and graphic arts firms.

The OSHA hazard communications rule requires employers to:

- Develop and maintain a written hazard communication program that delineates and describes the hazards in the workplace.
- Label all hazardous substances in and leaving the workplace.
- Prepare a material safety data sheet on each hazardous substance in the workplace that describes the substance and provides information on how to avoid harmful exposures.

"We are barely a year into the most sweeping regulatory proposal ever put forward by OSHA and Congress hasn't held a single day of oversight hearings on the program," Mr. Sowell pointed out. "Instead, (Congress has) focused on a totally new approach that is fraught with enormous risks and potential expense that could impose severe harm on our economy."

Sen. Bumpers

But Sen. Howard Metzenbaum, D-Ohio, sponsor of the legislation, responding to a question from Small Business Committee Chairman Dale Bumpers, D-Ark, on how effective OSHA is, said, "I'm afraid I couldn't give it a passing grade."

A representative of the National Assn. of Manufacturers urged Congress to refrain from enacting new legislation until it has assessed the impact of OSHA's hazard communications rule.

"NAM urges the Congress not to create a new bureaucracy invested with jurisdiction over worker safety and health issues," said Richard Gallagher, president of Gallagher Corp., a plastics manufacturer in Gurnee, Ill. "Such duplicative regulation can only make America's industry, especially small business, move further into the non-competitive realm," he said in testimony representing the Washington, D.C.-based NAM.

But an aide to Sen. Metzenbaum said the bill does not just duplicate OSHA's efforts.

The OSHA hazard communication rule only covers current employees, while the Metzenbaum legislation also covers past employees, the aide pointed out. And the OSHA rule involves only a workplace warning, not medical monitoring, he added.

'The bill (may be) liability-neutral but it is not litigation-neutral,' says Frank S. Swain of the U.S. Small Business Administration.

Mr. Sowell protested that "to go back for 30 years retroactively and to expose small business to the cost and potential liability problems of exposure to substances which were considered safe at the time is inconceivable."

The result could be unfair to employers, he said.

For example, in 1980, an OSHA standard required employers to stop using products containing lead, so printers stopped using ink that contained lead, Mr. Sowell said. Under the proposed legislation, though, printers would be liable to notify workers employed during the preceding 23 years of their exposure to lead.

And, he asked, if an employee contracted lead sickness, how would it be determined where he got the lead sickness from: the ink used by the printing plant, the paint containing lead used throughout his home or years of inhaling leaded fuel emissions?

Therefore, this legislation could lead to unwarranted liability on the part of printers and other employers, he concluded.

Representatives from business groups and the SBA also faulted contentions that the legislation is really liability-neutral.

"The bill (may be) liability-neutral but it is not litigation-neutral," stated Mr. Swain of the SBA. It would "create quite a chain of litigation that we do not have now," greatly increasing employers' costs.

Sen. Bumpers agreed. "One of the real concerns is that (the bill) foments litigation," he admitted. "But I don't know how you avoid that."

While the legislation prevents employees from using the notification as evidence in a tort claim against the employer, it could increase employers' liability if employees submit workers compensation claims based on the stress they endured during the notification process, pointed out Craig Berrington, general counsel for the American Insurance Assn. in Washington, D.C.

Employers also would have to bear the cost of medical monitoring under the legislation.

"The expense of medical monitoring as prescribed by this proposal, superimposed on already escalating health care costs, will be unbearable for many small businesses," asserted Dr. Donald Hayes, chairman of the safety and health committee of the American Textile Manufacturers Institute and director of health and hygiene for Burlington Industries Inc.

Furthermore, "medical monitoring is not a clear-cut entity," he noted. "Absent a clear-cut set of tests related to a particular risk or exposure, the average community physician in areas where small businesses are located will simply order every test which could conceivably be related to that risk."

And physicians "would be inclined to perform every medical test known to man" to protect themselves from liability, he added.

It also remains unclear who will pay for medical testing of employees who have moved to a new job or retired from employment where they were exposed to a hazardous substance.

Still another cost that employers would have to absorb under the legislation would be transferring employees at risk from exposure to hazardous substances to another position in the company. If another position is not available, the employer could let the employee go but would have to provide him with severance pay equal to one year's salary.

However, both organized labor, which supports the legislation, and Sen. Metzenbaum indicated a willingness to make these provisions less devastating to small businesses.

Sen. Metzenbaum said his staff is "exploring ways in which small business may be exempted from these provisions consistent with the need to protect employees against discrimination."

David Mallino, director of legislation for the industrial union department of the AFL-CIO in Washington, said he "wants to craft an exemption for employers with less than 10 employees" from these provisions.

Opponents of the legislation claim it will cost businesses billions of dollars and fault Congress for not producing a study calculating the bill's economic impact.

"Our opposition is not to the desirability of occupational disease notification and testing, but to blindly proceeding without obtaining independent cost estimates," stated Mark Greenbury, vp of Arrowsmith Tool & Die of Southfield, Mich., representing the National Tooling & Machining Assn., a trade association in Fort Washington, Md. ■

Pension plan proposal

Continued from page 1

per-employee contribution of $30,000, including a $7,000 cap on pretax salary deferrals.

Employers would have to amend their pension plans to comply with these changes by Jan. 1, 1989, or at the expiration of a collective bargaining agreement under which a plan was established, whichever is later.

Some benefit experts say that the legislation, while well-intended, would create new burdens for employers and would discourage some employees from contributing to employer-sponsored pension plans.

A worker's former employer and his or her new employer could both face new administrative complications under the Chandler-McCain proposal, observers point out.

Currently, when an employee leaves a company, an employer can simply give the employee the funds he or she has accumulated in a defined contribution plan as a lump-sum distribution. In the case of a defined benefit plan, employers generally give employees the cash value of the benefit if it is less than $3,500. Larger amounts generally remain in the plan until the employee reaches retirement age.

Under the Chandler-McCain legislation, though, the employee's current employer would have to explain the transfer options to the worker and be responsible for the transfer.

At the same time, the new employer would have to open up its defined contribution plan, assuming it had one, to distribution transfers from new employees' former pension plans.

"There might be some new administrative burdens that employers would have to take on," observed Frank McArdle, director of communications and educational programs at the Employee Benefit Research Institute, a Washington-based benefits think tank.

Some observers also question whether employees would continue to contribute to pension plans if they were barred from collecting contributed funds before retirement.

"Frankly, I would not tell a 25-year-old to save under these circumstances," observed Dick Raskin, a consulting actuary in the New York office of The Wyatt Co.

'Millions of Americans will head into their golden years with very little security unless we give them the tools to enhance their own future,' says Rep. Rod Chandler, R-Wash.

"Pension plans with good participation rates would have a hard time keeping up those participation rates" with restrictions on pre-retirement lump-sum distributions, he said.

"If you told people that they almost never could get their hands on the money (before retirement), the employee savings rate would be reduced," added Frederick Rumack, director of taxes and legal services at Buck Consultants Inc.

In addition, employers would have to beef up their communications efforts to explain to employees they no longer could simply take lump-sum distributions when they change jobs.

Benefit experts also say it is unfair to force employers to once again amend their pension plans when companies are struggling to comply with the numerous changes in the Tax Reform Act of 1986, including faster vesting requirements and new non-discrimination rules.

One consultant says he sees no need for the legislation.

"I think the current system works quite well. Employees can transfer their benefits into an IRA," points out Harold Dankner, a partner in the Washington office of Coopers & Lybrand.

But Rep. Chandler, who has won support from employers for his earlier proposal to give companies tax incentives to prefund retiree health care benefits (*BI*, May 4), said last week that barring employees from taking lump-sum pension plan distributions when they change jobs would help ensure they have a steady stream of retirement income to supplement Social Security.

"Millions of Americans will head into their golden years with very little security unless we give them the tools to enhance their own future," according to Rep. Chandler.

"Workers changing jobs several times in their work lives lose a great deal of money because their benefits are not rolled over," he said.

Sen. McCain added, "This bill will help assure people that the money they're putting into their pension plans will be there when they retire."

Under the legislation, pre-retirement lump-sum pension distributions generally only would be allowed in the event of death; disability; medical care expenditures, including nursing home or long-term insurance costs; or to invest in an employee stock ownership plan.

Currently, employees can take a lump-sum distribution from a defined contribution pension plan, like a profit-sharing plan, regardless of age.

However, under the Tax Reform Act of 1986, employees who do not roll over their pre-retirement distributions into IRAs must pay a 10% excise tax on the distributions.

In addition, those distributions, unless they are rolled over into an IRA or unless the beneficiary is over 59½, now are taxed as ordinary income. Previously, such distributions were entitled to a favorable taxation method, known as 10-year forward averaging.

Those changes probably will discourage many employees from spending lump-sum distributions immediately, according to experts, who add that it is premature to bar pre-retirement distributions until the effects the 1986 tax penalties are known.

"The Tax Reform Act provided disincentives to spend the money. Let's see if those disincentives work," said Wyatt's Mr. Raskin.

Experts say the government shouldn't be given the power to ban pre-retirement lump-sum distributions, arguing that should be a decision for individuals to make.

But Rep. Chandler says if the government gives pension contributions a tax-favored status, it has the right to attach conditions on their use.

"It isn't unreasonable to expect that such (tax) favored investments be used for the purpose for which they are protected: to provide retirement income," he said. ■

datebook

JUNE 22-23. Solving Insurance Problems for Associations and Overview of Risk Financing Alternatives seminars in Chicago, sponsored by the Tillinghast Division of Towers, Perrin, Forster & Crosby; $50 for Overview of Risk Financing Alternatives; $400 for Solving Insurance Problems; $450 for both sessions. **Also June 24-25** in Los Angeles, **June 29-30** in Washington, D.C., and **July 1-2** in Dallas. Conference Director, Tillinghast/TPF&C, 722 Post Road, Darien, Conn. 06280; 203-655-9791.

JUNE 22-23. Health Care Cost Containment workshop in Philadelphia, sponsored by the Health Research Institute; $495. **Also July 27-28** in Honolulu; **Aug. 17-18** in San Diego; **Sept. 14-15** in Cleveland; **Oct. 5-6** in Boston; **Oct. 26-27** in San Francisco; **Nov.9-10** in New York; and **Dec. 7-8** in Chicago. Health Research Institute, 1600 S. Main Plaza, Suite 170, Walnut Creek, Calif. 94596; 415-676-2320.

JUNE 22-25. Corporate Benefits Management Conference in Lake Tahoe, Nev., sponsored by the International Foundation of Employee Benefit Plans; $605 for IFEBP members, $680 for non-members. International Foundation of Employee Benefit Plans, Registration Department, 18700 Bluemound Road, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6700.

JUNE 22-26. Loss Control Management seminar in Atlanta, sponsored by the International Loss Control Institute; $695. International Loss Control Institute, P.O. Box 345, Loganville, Ga. 30249; 404-466-2208.

JUNE 23. The Illinois Insurance Exchange—An Alternative Market seminar in Chicago, sponsored by the Illinois Insurance Exchange; no charge. Theresa L. Ryan, Illinois Insurance Exchange, 175 W. Jackson Blvd., Suite 1234, Chicago, Ill. 60604; 312-939-2400.

JUNE 24. Conference on COBRA Compliance II: The Regulations in Newark, N.J., sponsored by PJI Benefits & Personnel Research Associates; $225. Patricia Ibbs, Personnel Research Associates, 49 Oakridge Road, Verona, N.J. 07044; 404-587-4967.

JUNE 24. Advanced "Post Graduate" Cost Management workshop in Philadelphia, sponsored by the Health Research Institute; $250. **Also July 29** in Honolulu; **Aug. 19** in San Diego; **Sept. 16** in Cleveland; **Oct. 7** in Boston; **Oct. 28** in San Francisco; **Nov. 11** in New York; and **Dec. 9** in Chicago. Health Research Institute, 1600 S. Main Plaza, Suite 170, Walnut Creek, Calif. 94596; 415-676-2320.

JUNE 25. Assessing Vendors (HMOs, PPOs, Utilization Review Firms, etc.) workshop in Philadelphia, sponsored by the Health Research Institute; $250. **Also July 30** in Honolulu; **Aug. 20** in San Diego; **Sept. 17** in Cleveland; **Oct. 8** in Boston; **Oct. 29** in San Francisco; **Nov. 12** in New York; and **Dec. 10** in Chicago. Health Research Institute, 1600 S. Main Plaza, Suite 170, Walnut Creek, Calif. 94596; 415-676-2320.

JUNE 25. Cost Containment Through Communications and Education workshop in Philadelphia, sponsored by the Health Research Institute; $250. **Also July 30** in Honolulu; **Aug. 20** in San Diego; **Sept. 17** in Cleveland; **Oct. 8** in Boston; **Oct. 29** in San Francisco; **Nov. 12** in New York; and **Dec. 10** in Chicago. Health Research Institute, 1600 S. Main Plaza, Suite 170, Walnut Creek, Calif. 94596; 415-676-2320.

JUNE 25. Group Actuaries Breakfast in New York, sponsored by the Actuaries Club of New York; $10 for ACNY members; $15 for non-members; $5 extra at the door. Robert M. Sackel, the Guardian Life Insurance Co. of America, 201 Park Avenue S., New York, N.Y. 10003; 212-598-8548.

JUNE 25-26. Labor/Management Cost Containment workshop in Philadelphia, sponsored by the Health Research Institute; $495. **Also July 30-31** in Honolulu; **Aug. 20-21** in San Diego; **Sept. 17-18** in Cleveland; **Oct. 8-9** in Boston; **Nov. 12-13** in New York; and **Dec. 10-11** in Chicago. Health Research Institute, 1600 S. Main Plaza, Suite 170, Walnut Creek, Calif. 94596; 415-676-2320.

JUNE 25-26. Developments in Offshore Insurance conference in Douglas, Isle of Man, co-sponsored by the Isle of Man Government Insurance Authority and the Risk & Insurance Research Group Ltd.; 285 pounds (approx. $479) plus 15% VAT. Risk & Insurance Research Group Ltd., 4 Henrietta St., Covent Garden, London WC2E 8PS; 01-836-0614.

JUNE 29-JULY 1. Hazard Communication: Worker Training and Right-to-Know course in Los Angeles, sponsored by the University of Southern California's Institute of Safety and Systems Management; $400. University of California, Institute of Safety and Systems Management, Office of Extension and In-service Programs, 3500 S. Figueroa St., Suite 202, Los Angeles, Calif. 90007; 213-743-6523.

JULY 5-9. 23rd Annual Conference of the International Insurance Society Inc. in Seoul, South Korea; $900 for industry participants; $450 for academic or government representatives; $250 for spouses. International Insurance Society Administrative Headquarters, P.O. Box J, Tuscaloosa, Ala. 35487; 205-348-8974.

JULY 5-10. The 11th Annual National Symposium on Workers Compensation in Airie, Va., co-sponsored by J. Howard Bunn Jr. and Robert B. Collyer; $595. The Collyer Co., 366 W. Granada Blvd., Ormond Beach, Fla. 32074; 904-672-0675.

JULY 9-10. Non-Qualified Deferred Compensation Plans seminar in New York, sponsored by the Practising Law Institute; $390. **Also Aug. 3-4** in San Francisco. Practising Law Institute, Dept. 5W, 810 Seventh Ave., New York, N.Y. 10019; 212-765-5700.

JULY 12-24. Executive Management Program in Harriman, N.Y., sponsored by the College of Insurance; $1,995 for college sponsors; $2,295 for non-sponsors. The College of Insurance, 1 Insurance Plaza, 101 Murray St., New York, N.Y. 10007; 212-962-4111.

JULY 13-17. Modern Safety Management seminar in Atlanta, sponsored by the International Loss Control Institute; $695. International Loss Control Institute, P.O. Box 345, Loganville, Ga. 30249; 404-466-2208.

JULY 27-31. Managing Program Implementation seminar in Atlanta, sponsored by the International Loss Control Institute; $695. International Loss Control Institute, P.O. Box 345, Loganville, Ga. 30249; 404-466-2208.

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Opren claims

Continued from page 3

The 1,500 claimants are suing Eli Lilly; William Ian Hamilton Shedden, who headed Eli Lilly's basic research in the United Kingdom until 1977; three British subsidiary companies of Eli Lilly; and the British Committee on the Safety of Medicines, according to a writ by the leading plaintiff, Joseph Owen Davies, filed in the Manchester District Registry in 1984 and amended on June 28, 1985.

Licences to supply drugs in the United Kingdom are granted by government health ministers on the advice of the Committee on the Safety of Medicines, said a spokesman from the British Department of Heath. However, he refused to comment on the Opren case.

Initially, however, 446 British plaintiffs filed 17 product liability suits in Indiana against Eli Lilly. But the case was dismissed in 1984 when a U.S. Circuit Court judge held that the plaintiffs should plead their cases in English courts. The circuit court reasoned, in part, that the English courts would facilitate judgments or settlement of the cases.

It is uncertain how many of the 446 British plaintiffs that originally filed suit in Indiana are not entitled to legal aid from the British government and may reopen their case in the Indiana courts.

The need for a speedy settlement to the U.K. litigation also was stressed by appeal judge Sir John Donaldson in the appeal court hearing.

"Opren was prescribed in cases of arthritis, which is more usually encountered in the elderly rather than the young, and accordingly, the average age of the plaintiffs is higher than would otherwise be the case," he said. He noted that "if elderly patients are to be compensated by an award of damages, they need to receive that money at a time when they can still make use of it."

However, Sir John pointed out the inadequacies of English law in coping with product liability class actions, compared with U.S. law.

"The concept of the 'class action' is at yet unknown to the English courts. In some jurisdictions, notably in the United States, where large numbers of plaintiffs are making related claims against the same defendants, there are special procedures enabling all the claims to be disposed of in a single action," he said.

"Clearly this is something which should be looked at by the appropriate authorities to see whether it has anything to offer, and if so, to introduce the necessary procedural rules."

Meanwhile, the English courts must apply existing procedures to reach decisions quickly and economically, Sir John said.

For example, in the Opren case "the claimants cannot expect to receive awards which are very large as compared with awards in other cases, primarily children," because most of the plaintiffs are elderly and will not have to endure their disability for long, said the judge.

However, the cost of litigation "will be extremely high both for the plaintiffs and the defendants. No individual plaintiff, going it alone, even if successful, could expect to derive any benefit because the irrecoverable costs would exceed the amount of the damages which he would be awarded," he added.

Even if a plaintiff wins, "let him not celebrate too soon," the judge said.

Sir John noted that although the losing party is usually ordered to pay court costs, if the losing defendant has no money or the legal aid fund has to incur further costs in making the defendant pay, "that fund is required to use (the winning plaintiff's) damages to pay back every penny of costs which it has incurred in assisting him to fight the case."

"Opren has highlighted the problems that exist in the English legal system for plaintiffs trying to fight these cases," said Mr. Pannone of Pannone Napier and chairman of the British Law Society's contentious business committee.

"The Law Society has set up a working party to look at alternative means of funding such cases. Although we have looked at the U.S. system of contingency payments as one option, I do not believe that is a system that commends itself to the U.K.," he added.

One method might be some form of official public inquiry, such as in the recent British ferry disaster, which could establish liability, said Mr. Pannone.

Lawyers for the British plaintiffs point out that although "hundreds" of U.S. victims of the anti-arthritis drug benoxaprofen, which was marketed in the United States in 1982 as Oraflex, have been compensated by Eli Lilly in out-of-court settlements, none of the British arthritis sufferers who claim to have suffered side-effects from the drug have received any settlements.

"We believe about 200 claims have been settled in the U.S. for various amounts starting at about $20,000 and upwards," said British Opren Action Group Chairman Kathleen Grasham, who claims her mother died as a result of taking the drug.

"All claims have been settled in the U.S. out of court and very discretely and quietly," she added.

For example, in one U.S. court judgment in 1983 in Columbus, Ga., Eli Lilly was ordered to pay $6 million to the son of an 81-year-old woman who allegedly suffered fatal side-effects after taking Oraflex (*BI*, Feb. 13, 1984).

Appeal proceedings were begun by Eli Lilly after U.S. District Judge Robert Ellis refused to lower the award, but the claim was later settled out of court for a figure "close to $6 million," sources claim.

An Eli Lilly spokesman in Indianapolis was not willing to disclose the final settlement figure but said it "was not $6 million."

Eli Lilly's lawyers in the United Kingdom did not return telephone calls.

Eli Lilly refused to say how many cases have been settled in the United States, noting in a statement issued to *Business Insurance*: "We do not give specifics about how we handle our litigation. We have seen reports that Eli Lilly has settled all benoxaprofen cases in the U.S. This is not accurate. We have settled some cases and have taken some cases to trial; other cases have been dropped voluntarily by plaintiffs or have been dismissed by courts."

However, fewer than 25 cases involving U.S. claimants are still outstanding, said an Eli Lilly spokesman.

Eli Lilly's underwriters refused to comment on the number of Oraflex claims filed in the United States.

Lawyers for the British plaintiffs also claim the Court of Appeal decision torpedoed a proposed settlement between the claimants and Eli Lilly and the U.K. Committee on the Safety of Medicine that had been "nearly achieved" before the court hearing.

The plaintiffs' lawyers accuse Eli Lilly of stalling a possible settlement. "It cannot be right for Eli Lilly and the government to delay settlement until they see how many victims have had to drop out," said a statement for the plaintiffs.

"A form of settlement, which included a scale of compensation for claimants, had been agreed by the lawyers concerned and the AIU but was vetoed at the last minute by Eli Lilly," said a spokesman for the plaintiffs.

This was denied by Eli Lilly. The company said in a statement that "while there have been confidential discussions regarding ways of resolving the issue, we have made no offer of a settlement to the 1,500 British claimants."

However, besides AIU and Eli Lilly, the manufacturer's excess insurers would have to agree to any settlement, noted Mr. Tissington of AIU.

Court papers filed by plaintiffs in the United Kingdom allege that 83 people have died as a possible result of taking the drug. Most of the other victims suffered severe skin irritation when exposed to sunlight or radiant heat after taking the drug, court papers say. Other symptoms linked to the drug include hepatic and respiratory disorders.

The leading plaintiff, who was born in 1915, began taking Opren in 1980 after suffering from arthritis for 15 years, the writ claims. After taking the drug he "began to suffer from intense and burning pain when exposed to sunlight, from skin rashes and from dizziness and headaches," court papers say.

"All these symptoms are persisting, and have caused the plaintiff a great deal of pain and additionally the plaintiff remains at risk of the future development of cancer," the papers state.

Between April 1979 and January 1980 the U.K. Committee on the Safety of Medicines and the licensing authorities "demanded or requested further information. . .on the safety of (Opren) specifically in respect of it causing photosensitivity, that is, severe and burning skin irritation and/or rashes often with acute and intense pain on exposure to sunlight or radiant heat," court papers allege.

Those symptoms, which also included onycholysis (a severe hardening of the nails), "were characteristic of (Opren) but not of other NSAIDS," the papers add. An NSAID is a non-steroid anti-inflammatory drug used in relieving arthritic pain and swelling but it is not a cure for arthritis.

The authorities "indicated that they were ready to issue a product licence subject to satisfactory assurances as to the incidence and severity of those side-effects," the plaintiffs allege in their statements of claim.

Information was provided that satisfied the licensing authorities, the plaintiffs' court papers say. "Such information is summarized in an article 'Long Term Safety of Benoxaprofen' by Walter M. Mikulaschek published in a supplement to the Journal of Rheumatology in 1980," the court papers note.

The supplement was based on a symposium on benoxaprofen held in Wiesbaden, West Germany, in 1979, "but the symposium and supplement were sponsored and financed" and mostly written by employees of Eli Lilly and its subsidiaries, the plaintiffs claim.

"None of the. . .papers was subject, as is appropriate, to independent peer review and critical independent professional scrutiny prior to publication," court papers continue.

Eli Lilly, however, denies this. The licensing authorities wrote to Dista Products Ltd., an Eli Lilly U.K. subsidiary, on March 23, 1980, stating their agreement to grant a product licence for Opren, Eli Lilly states in court papers. "No assurances were required by (the licensing authorities) from (Dista Products) in the. . .letter," Eli Lilly's court papers say.

In addition, "all of the published papers (from the Wiesbaden conference) were subject to independent peer review and critical independent professional scrutiny prior to publication," Eli Lilly's court papers note.

In October 1980, benoxaprofen was launched in the United Kingdom "with substantial publicity based on claims that it was a major breakthrough in the treatment of arthritis," papers filed by the plaintiffs claim.

In addition, the drug was "extensively" advertised in the medical press as a new NSAID that had "a new way of working" and had only "mild and transient side-effects," the plaintiffs' say in court papers. In addition, the advertisements said the drug would "actually modify the arthritic disease process," the court papers claim.

However, the drug was classified by the U.S. Food and Drug Administration under category C, meaning it presents "little or no new developments or therapeutic advance," the papers note. It was another non-steroidal anti-inflammatory drug that alleviated pain but does not cure arthritis, the court papers state.

Eli Lilly admits in court papers that benoxaprofen was classified as a category C drug by the FDA and that it "was advertised to the medical profession, that its introduction received publicity and that the benefits of benoxaprofen were promoted by (Eli Lilly's representatives) to the medical profession."

Following the marketing of the drug to British general practitioners in October 1980, "an unprecedented number of adverse drug reactions were reported" to the U.K. Committee on the Safety of Medicines, the plaintiffs claim. More than 2,000 adverse drug reactions had been reported by August 1981, and, in total, 3,963 adverse drug reactions have been reported. In addition, 83 deaths were linked to the drug, the court papers say.

In 1980 and 1981, about one in every six adverse drug reactions reported were related to Opren, the papers claim.

In October 1982, the British product license for Opren was withdrawn, and the drug was withdrawn from markets throughout the world. ■

EC to challenge state-of-the-art defense

By CAROLYN ALDRED

LONDON—The European Commission may challenge Great Britain's new Consumer Protection Act because it contains a state-of-the-art defense for product liability defendants that is much broader than the EC's directive, observers say.

The directive, which is designed to impose strict liability on producers, importers and retailers in all member states, is due to be implemented throughout the European Community by October 1988. So far, Britain is the first EC state to incorporate the directive into its national legislation.

But, the introduction of the EC directive will not necessarily mean an end to litigation like the Opren case, according to Rodger Pannone, a partner with Pannone Napier, one of the law firms acting for the Opren claimants.

Great Britain's Consumer Protection Act, enacted last month, enforces the EC directive, but it includes a development risk, or state-of-the-art, defense that could let some future product liability defendants in Great Britain escape liability for defective products, observers agree.

The British law states a producer shall not be liable if "the state of scientific and technical knowledge at the relevant time was not such that a producer of products of the same description as the product in question might be expected to have discovered the defect if it had existed in his product while they were under his control."

The EC directive includes three options that member states may include in their legislation, including the state-of-the-art defense, which states that the producer shall not be liable if "the state of scientific and technical knowledge at the relevant time was not such as to enable the existence of the defect to be discovered."

The EC directive means that the producer is liable if anyone, anywhere in the world could have realized the existence of the defect, including all scientists and technicians, as well as manufacturers of that or any other product. The U.K. act says the producer is liable only if it was possible for another manufacturer of the same product to have detected the defect.

Britain's interpretation of the directive may be challenged in the European Court of Justice, said Guy Dehn, legal officer for Britain's National Consumer Council.

"The European Commission is very concerned about the U.K's development risk defense and is considering bringing infraction proceedings against the U.K.," he added. "By introducing lower standards than those indicated in the directive, the act is undermining the objectives of the directive to introduce strict liability in the EC," Mr. Dehn said.

The EC has not yet been "officially informed of the passage of the British Consumer Protection Bill or of its wording," said an EC spokesman.

"Member states are not obliged to take the exact wording of the directive, but its content must be in accordance with the spirit of the directive," he added.

And, because of the state-of-the-art defense allowed by the U.K. act, "it cannot be said that Opren will be the last of such battles. We are going to see exactly the same arguments of the last decade. There is a crying need for the law to be changed to allow class actions to be brought," Mr. Pannone said.

The development risk defense also will mean "our market will be flooded with foreign products which are being launched in the U.K. by manufacturers," said British Opren Action Group Chairman Kathleen Grasham.

If Britain is the only state to introduce such a wide defense "it will become the testing ground for any unscrupulous product manufacturer launching new products," Mr. Dehn agreed.

Draft legislation in Denmark and West Germany currently includes the state-of-the-art defense as outlined in the directive, Mr. Dehn pointed out. Other countries, such as France, may not include the defense at all, he said.

Largest U.S. reinsurers' first-quarter 1987 results

(All amounts in thousands of dollars) (Ranked by net reinsurance premium written)

Reinsurers	Policyholders' surplus (reinsurers only)	Net reinsurance premiums written 1987	Net reinsurance premiums written 1986	Net reinsurance premiums earned	Losses & loss adjustment expenses	Loss ratio	Underwriting expenses	Expense ratio	Combined ratio 1987	Combined ratio 1986
General Re	$2,097,464	$598,781	$602,758	$603,757	$461,459	76.4%	$146,706	24.5%	100.9%	106.1%
Employers Re	735,524	336,830	267,508	313,303	252,380	80.6	59,569	17.7	98.3	104.0
American Re	446,169	252,568	208,957	252,526	186,837	74.0	59,332	23.5	97.5	100.7
Munich Re	404,263	174,589	145,999	175,750	120,455	68.5	53,444	30.6	99.1	107.0
North American/Swiss Re	537,171	174,099	188,267	152,477	103,070	67.6	62,828	36.1	103.7	112.4
Prudential Re	404,469	164,789	138,975	156,591	108,386	69.2	48,055	29.2	98.4	113.6
USF&G	N/A	103,752	21,664	109,192	74,188	67.9	29,030	28.0	95.9	103.5
Kemper Re	267,328	94,810	100,793	104,150	85,916	82.5	17,124	18.1	100.6	111.0
National Re	155,589	87,365	73,931	83,738	71,637	85.5	14,547	16.7	102.2	110.1
Transatlantic Re	124,569	75,064	66,341	72,024	59,281	82.3	17,332	23.1	105.4	114.2
Continental Re	125,703	74,863	68,402	69,164	52,341	75.7	21,473	28.7	104.4	112.1
INA Re	163,636	71,575	63,319	59,612	45,043	75.6	17,728	24.8	100.4	105.0
PMA Re	43,266	60,343	45,242	28,746	24,434	85.0	10,319	17.1	102.1	101.2
Constitution State Mgt.	N/A	59,321	45,891	55,217	43,089	78.0	14,149	23.9	101.9	111.1
Constitution Re	131,891	58,189	40,055	55,492	41,001	73.9	14,829	25.5	99.4	104.7
St. Paul Re	N/A	53,525	59,057	53,006	40,180	75.8	13,082	24.4	100.2	96.1
Continental Casualty	N/A	52,421	59,124	34,818	27,764	79.7	15,045	28.7	108.4	104.7
Skandia America Group	286,038	49,774	50,470	47,269	34,822	73.7	16,660	33.5	107.2	115.7
Buffalo Re	147,341	46,708	40,064	44,054	40,516	92.0	8,096	17.3	109.3	123.2
New York Ins. Exchange	N/A	45,275	47,208	50,983	36,811	72.2	16,298	36.0	108.2	155.1
Totals for top 20	**6,070,421**	**2,634,641**	**2,321,025**	**2,521,869**	**1,909,612**	**75.7**	**655,646**	**24.9**	**100.6**	**108.3**
Total for all companies	**8,094,965**	**3,306,684**	**2,858,614**	**3,174,906**	**2,398,945**	**75.6**	**832,854**	**25.2**	**100.8**	**107.7**

*Top 20 totals do not include Putnam Re

Source: Reinsurance Assn. of America

Reinsurers

Continued from page 3

100.6%—in this year's first quarter, an improvement from 103.3% in the first quarter of 1986.

The reinsurers' recovery has outpaced the overall U.S. property/casualty industry's (see chart).

The 24 major commercial property/casualty insurers surveyed by *Business Insurance* posted a 105.3% first-quarter combined ratio (*BI*, June 8). And the entire U.S. property/casualty insurance industry posted a 103.8% combined ratio in the first quarter, according to A.M. Best Co. (*BI*, June 1).

Reinsurers expect the rebound to continue for the rest of 1987 if catastrophe losses remain mild.

"I would expect 1987 should be quite a good year, barring some natural catastrophes," said Norman M. Wayne, president of the property/casualty reinsurance division at CIGNA Corp., which operates INA Reinsurance Co.

"The great unknown is always property catastrophe losses," agreed N. David Thompson president and chief executive officer of North American Reinsurance Co./Swiss Reinsurance Co. in New York.

Kemper Reinsurance Co., which posted a 100.6% first-quarter combined ratio, expects about the same performance through year-end, said Don Smith, president and chief operating officer. However, "if we do have a catastrophic event, it could change completely."

The reinsurers participating in the RAA survey posted a 75.6% loss ratio and a 25.2% expense ratio in the first quarter, while the Top 20 reinsurers reported a 75.7% loss ratio and a 24.9% expense ratio.

Net premiums written for all 73 reinsurers surveyed increased to $3.31 billion, up 15.7% from $2.86 billion in the first quarter of 1986, even though 27 reinsurers, or more than one-third of those surveyed, reported premium volume declines. In 1986, reinsurers' first-quarter premium volume increased 46%.

The growth in net premiums written for the Top 20 reinsurers slowed somewhat further to 13.5% or $2.63 billion, with six companies reporting declines.

Some observers point out that the facultative reinsurance market is softening. Ceding insurers are retaining more risk, leading to increased competition for the remaining business, with rates either flattening or dropping, said Michael Fitt, chairman and chief executive officer of Employers Reinsurance Corp. in Kansas City, Mo.

The property facultative market has been soft for the past 18 months, and the casualty facultative market for the last three, Mr. Fitt said. About 26% of Employers Re's business is facultative.

Kemper Re, whose net written premiums fell 5.9% in the first quarter to $94.8 million, attributed the drop to the softening facultative market. "The facultative rates have softened, and we refuse to run the rates down," said Mr. Smith.

Mr. Smith said he anticipates a 40% drop this year in the Kemper Re's facultative book of business, which accounts for about 30% of Kemper Re's premium volume.

"We have seen less facultative reinsurance being purchased," said CIGNA's Mr. Wayne. "I would say prices certainly have leveled off. Certainly there is selective price competition."

However, he maintained that rates are still appropriate.

A spokesman for General Reinsurance Corp., whose net premium volume fell about 0.7% in the first quarter, attributed the decline to increased retentions by ceding companies. "No two of them have exactly the same reasons" for increasing retentions, he said.

But the spokesman said despite increased competition in "spots here and there," there has been no evidence of general price erosion.

Paul Inderbitzin, executive vp of American Re-Insurance Co. in New York, said many ceding companies have been able to retain more business because their policyholder surplus has increased. As a result, there is less demand for facultative reinsurance, he said.

He agreed with the General Re spokesman, however, that there has been no significant price erosion. Facultative reinsurance accounted for about 55% of American Re's $252.6 million in net written premiums in the first quarter.

William D. Warren, chairman and president of National Reinsurance Corp. in Stamford, Conn., whose premium volume grew 18.2% to $87.4 million in the first quarter, said increased ceding company retentions has affected his company's facultative business.

But Richard White, senior vp and chief financial officer at the Skandia America Group in New York, said his company has seen more evidence of higher retentions for treaty, rather than facultative, business, even though the amount of facultative business written by Skandia is not "as overwhelming a factor" as it had been.

Skandia's net premium volume declined 1.4%, to $49.8 million in the first quarter. In addition to higher retentions, the decline was attributable in part to the runoff of some of business written last year.

Joseph Fahys, president and chief executive officer of the New York Insurance Exchange, who agreed that primary companies are increasing their retentions, said insurers are less inclined to buy facultative reinsurance because more treaty capacity is now available.

"Quite a bit of our facultative volume is off substantially," particularly for casualty risks, he said.

The NYIE, some of whose syndicates have stopped writing in the last year (*BI*, Nov. 17, 1986; Sept. 8, 1986), reported a 4.1% decline in net premiums written to $45.3 million in the first quarter.

The exchange posted a 108.2% combined ratio in the first quarter, compared with a 155.1% ratio for the comparable period a year ago.

However, Mr. Fahys noted the NYIE reported a 133.6% combined ratio at year-end 1986, so the underwriting improvement is more gradual than it at first appears.

While many ceding companies decided to increase their retentions last year, "on balance, there's certainly growth available," said F&G Re's Mr. Stannard. His company, which began writing business in late 1983, boosted its premium volume 378.9% in the first quarter to $103.8 million.

"Our growth will not continue at this pace by any means," said Mr. Stannard, conceding that F&G Re may move down a couple of notches in the Top 20 in the next two years. USF&G, he explained, writes relatively few large contracts, so increased retentions would impact its business.

Reinsurers also say reserve adequacy remains a concern.

"There's still some catching up that may have to go on," said CIGNA's Mr. Wayne. But he added, "I would say that we're quite comfortable with our reserve position."

"Companies have used this period as an opportunity to strengthen reserves," Mr. Stannard noted. However, he pointed out that reserve adequacy varies from company to company.

"I think that this should be a fairly good year for the insurance industry as a whole, but it also is a time for reinsurers to be strengthening reserves," said Kemper Re's Mr. Smith.

"I think probably there's still under-reserving, especially for some of the major problems—asbestosis, any toxic substances, pollution, those kinds of things," said American Re's Mr. Inderbitzin.

However, he said, "We think we're strongly reserved."

John W. Smithson, president and chief operating officer of PMA Reinsurance Corp. in Philadelphia, said reserve strengthening was the reason behind the increase in PMA's first-quarter combined ratio to 102.1% in 1987 from 101.2% in 1986.

The company had an 85% loss ratio in the first quarter, compared with the industry average of 75.6%. "I would describe that as being conservatively reserved," he said. PMA specializes in working-layer casualty business for standard lines.

"Continued reserve strengthening" is the reason St. Paul Reinsurance Management Corp.'s combined ratio rose to 100.2% in this year's first quarter from 96.1% a year ago, said President Paul F. Butler. "It had nothing to do with the development of the business."

"We continue to be cautious" about reserving for 1984 and prior years, said Skandia's Mr. White. "We just don't want to release these reserves. This has got to be a minority view," he said, pointing to the overall industry's 100.8% first-quarter combined ratio. Skandia posted a 107.2% combined ratio in the first quarter, down 8½ points from a 115.7% combined ratio in 1986's first quarter.

Even if reinsurers could be confident they have a handle on all losses from prior years—and this is a "major question"—the problem of recovering from retrocessionaires remains, Mr. White said. ■

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Westinghouse suit

Continued from page 1

involved, Mr. Matthews noted. "They've created a real monster," he observed.

In one of the only comparably significant insurance coverage lawsuits, Shell Oil Co. in 1983 filed a declaratory judgment action against 270 liability insurers that provided it coverage from 1947 until 1983, seeking coverage for what could amount to more than $1 billion dollars in clean-up costs it faces at two hazardous waste sites in Colorado and California. That suit is still pending (*BI*, Nov. 7, 1983).

However, Westinghouse's lawsuit is broader because it involves more waste sites and because Westinghouse is suing its first-party property insurers in addition to its liability insurers.

"I have not seen it before," said an attorney who requested anonymity. "It is unusual for property insurers to be joined."

"It is very unusual," Mr. Matthews agreed.

Among the insurers that wrote substantial amounts of coverage for Westinghouse is Boston-based Liberty Mutual Insurance Co., which wrote primary liability insurance from October 1948 until January 1977, and underwriters at Lloyd's of London, which wrote liability and property coverage from 1956 until 1982.

"It's a massive complaint involving a complex series of products and coverage over decades and will take a lot of time to sort out," said Christopher Mansfield, vp and general counsel for Liberty Mutual Insurance Co.

"Westinghouse is unjustifiably trying to shift its corporate responsibility for cleaning up all of its sites to its insurers," said Leonard Sheft, with the New York firm of Sheft, Wright & Sweeney, who represents American International Group Inc. general liability insurers named in the litigation. AIG subsidiaries wrote liability and property insurance for Westinghouse between 1969 and 1983.

"We're claiming no coverage," Mr. Sheft said.

Westinghouse brought its suits against its insurers just a few weeks after the company's 34 nuclear liability insurers, members of the Nuclear Energy Liability Insurance Assn., sued Westinghouse subsidiary Westinghouse Hittman Nuclear Inc. in state court in Louisville, Ky. The insurers contend they should not have to provide coverage to clean up a nuclear waste disposal site in Fleming County, Ky.

Some of the insurers suing Westinghouse in their capacity as nuclear insurers also are named by Westinghouse in the New Jersey litigation in their capacity as general liability insurers.

"When insurance companies sue a policyholder when they haven't been provoked, it is an eye-opener," said Westinghouse's attorney Peter J. Kalis, who is with the Pittsburgh firm of Kirkpatrick & Lockhart.

He said he did not know if Westinghouse had reported to the insurers that it had been notified by the Environmental Protection Agency that it was a potentially responsible party in the investigation of contamination at a disposal site used by Westinghouse Hittman. At least one other company that used the disposal site had notified the insurers of its potential liability.

Mr. Kalis declined to comment on the Westinghouse litigation beyond the contents of the complaint.

The Westinghouse suits in New Jersey raise numerous coverage issues, including many that are being litigated in other courts across the country in disputes between policyholders and their insurers over hazardous waste sites.

Among the issues are:

- The trigger of coverage—which policies, if any, should respond to the losses.
- Whether coverage is barred by the pollution exclusion clauses in some of the policies.
- Whether there is coverage for property damage at sites owned by Westinghouse.
- Whether there is coverage for Westinghouse's defense and remedial costs stemming from injunctive relief actions brought by government agencies.

In the lawsuit naming both property insurance underwriters and liability insurance underwriters, Westinghouse and Minneapolis-based subsidiary Thermo King seek coverage for environmental damage claims stemming from the alleged contamination of 74 sites involving more than 90 locations.

The environmental contamination claims and lawsuits against Westinghouse—brought by local, state and federal government agencies—concern properties owned, previously owned or leased by Westinghouse and also property not owned by Westinghouse and Thermo King but where both companies are alleged to have shipped hazardous wastes. Thermo King faces environmental contamination claims in connection with two locations.

In their suit against their property and liability insurers, Westinghouse and Thermo King contend the insurers must defend and indemnify them from the time a toxic substance was first released or deposited at a site until the substance was removed or contained.

Westinghouse says its industrial and manufacturing processes have included: electroplating operations; metal cleaning and finishing operations; diverse manufacturing processes which made such products as lighting fixtures, electrodes and flashcubes; the manufacture, repair, reconditioning and disposal of capacitors and transformers; the processing of industrial materials; the processing of nuclear fuel; and analytical and research laboratory operations.

In the course of its industrial operations, it has used various organic and inorganic substances and generated or produced waste products, Westinghouse says.

These include spent solvents and degreasing agents, waste oil, paint wastes, radioactive materials, acids, bases, polychlorinated biphenyls (PCBs) and related compounds, trichloroethylene (TCE), xylene, benzene, phenols, toluene, alcohol, heavy metals and other organic and inorganic compounds.

The U.S. Environmental Protection Agency has begun actions and notified Westinghouse and Thermo King that they may be liable as potentially responsible parties under the Comprehensive Environmental Response, Compensation and Liability Act, also known as Superfund, for groundwater, surface water and soil contamination of various sites throughout the United States.

In addition, state environmental regulatory agencies and private parties have brought similar actions under state and federal law.

'When insurance companies sue a policyholder when they haven't been provoked, it is an eye-opener,' says Peter J. Kalis.

As a result of the environmental claims, Westinghouse and Thermo King already have spent and will spend "substantial amounts" to clean up Westinghouse's property and protect the property and lives of others, the suit adds.

For example, in August 1985, Westinghouse entered a consent decree with: the city of Bloomington, Ind.; Monroe County, Ind.; the state of Indiana; other local agencies; and the EPA. They had sued Westinghouse concerning the cleanup of hazardous substances from six sites in the area.

Under the terms of the consent decree, Westinghouse must:

- Excavate and remove quantities of soils, solid waste and other materials contaminated with PCBs and other materials from the sites.
- Remove contaminated sediment from identified streams and stream banks.
- Construct a high-temperature incinerator to incinerate PCBs, associated hazardous wastes and solid wastes.
- Transport to the incinerator and incinerate the material contaminated with PCBs and other material excavated and removed from the sites.
- Dispose of the ash and other byproducts of incineration.
- Perform interim remedial measures, including monitoring, at each of the six sites prior to excavation and removal.
- Close and maintain each site once removal of materials contaminated with PCBs and other materials has been accomplished.
- Monitor each of the sites after closure.

Estimates by government officials of the total cost of the cleanup effort range from a low of $50 million to in excess of $100 million over a 15-year period. Westinghouse would not comment on the cost.

In their litigation against their property and liability insurers, Westinghouse and Thermo King contend that:

- Their primary and excess liability insurers have a duty to pay all defense and indemnification costs for property damage claims from the time of release of toxic substances through removal, repair or containment and that Westinghouse and Thermo King can select the policy and policy years that must respond.
- Each of their property insurers must reimburse and compensate them for all physical loss or damage to property Westinghouse and Thermo King leased or owned, also from release through removal, repair or containment.
- Westinghouse and Thermo King have the right to select which of these policies and the policy years will apply.

The suit naming only Westinghouse's liability insurers seeks coverage for bodily injury claims stemming from hundreds of lawsuits filed against the company by individuals allegedly exposed to toxic substances contained in products manufactured or sold by Westinghouse.

In its suit, Westinghouse says claimants allege they have been exposed to:

- Asbestos-containing products manufactured or sold by Westinghouse.
- Fumes from welding rod products manufactured or sold by Westinghouse.
- PCBs and related by-products and compounds contained within products manufactured or sold by Westinghouse.
- Other allegedly deleterious substances.

The suit asks for a declaration from the court that primary and excess liability insurers must provide coverage from inhalation through manifestation of clinical symptoms. Westinghouse contends there is a "cumulative injurious process" from first inhalation of or exposure to the substance, while the substances are present in the body and when clinical symptoms are manifested.

Both suits also charge the insurers with breaching the insurance contracts entered into with Westinghouse and Thermo King.

They also ask the court to enjoin the insurers from failing or refusing to defend and indemnify Westinghouse, to force the insurers to perform their obligations under the insurance contracts and to grant Westinghouse and Thermo King unspecified damages.

Westinghouse also is seeking that the insurers named in both suits be held liable for defending and indemnifying the company for all future hazardous waste and toxic substance claims.

In New Jersey, where nine of the hazardous waste sites are located, courts have ruled in favor of policyholders on coverage issues involving pollution and toxic tort claims.

Indeed, State Court Judge Lawrence Weiss, who will hear the Westinghouse case, ruled late last year in *Solvents Recovery Services of New England, Inc. vs. Hartford Insurance Co.* that there is a continuous trigger of coverage for hazardous waste claims.

He also ruled that the costs of removing waste and remedying a contaminated site are covered by liability policies.

And, in *Lac D'Aminate Du Quebec vs. American Home Assurance Co.*, a U.S. District Court judge in Newark, in predicting how the state Supreme Court would rule, found that insurers were liable for defense and indemnification of asbestos property damage claims if they were on the risk from the time products with asbestos were installed in buildings until the products were removed or contained (*BI*, Aug. 19, 1985).

Several sources said insurers' attorneys are discussing whether to seek to have the cases—or those portions of the cases involving sites located outside New Jersey—moved to another state on the basis that the state is an inconvenient forum.

Nine of the 74 sites allegedly contaminated are in New Jersey.

Westinghouse is involved in products and services relating to the generation and control of electricity, and many other businesses. Its activities include the development, manufacture, sale and service of: electrical and electronic products; elevators; office furniture; advanced manufacturing systems; electrical equipment and; industrial materials. It also is in the broadcasting and cable television business.

Thermo King manufactures commercial refrigeration products. ■

Insurers named in Westinghouse suit

Insurers that wrote both property and liability insurance between 1948 and 1982 for Westinghouse Electric Corp. and have been sued by Westinghouse for coverage for both bodily injury and environmental contamination claims are:

Aetna Casualty & Surety Co.; AIU Insurance Co.; Allianz Insurance Co.; Allianz Underwriters Inc.; Allstate Insurance Co., as successor-in-interest to Northbrook Excess & Surplus Insurance Co.; American Centennial Insurance Co.; American Home Assurance Co.; American Insurance Co.; Appalachian Insurance Co. of Providence; Argonaut Northwest Insurance Co.; Atlanta International Insurance Co., as successor to The Drake Insurance Co. of New York.

Also, CNA Reinsurance of London Ltd.; Employers Mutual Casualty Co.; Federal Insurance Co.; Fireman's Fund Insurance Co.; First State Insurance Co.

Also, General Reinsurance Corp.; Gibraltar Casualty Co.; Granite State Insurance Co.; Hanover Insurance Co.; Harbor Insurance Co.; Hartford Accident & Indemnity Co.; Highlands Insurance Co.; The Home Insurance Co.; Insurance Co. of North America; The Insurance Co. of the State of Pennsylvania; Landmark Insurance Co.

Also, Lexington Insurance Co.; Liberty Mutual Insurance Co.; Lumbermens Mutual Casualty Co.; The Mercantile & General Reinsurance Co. Ltd.; National Casualty Co.; National Continental Insurance Co., as successor to American Star Insurance Co.; National Union Fire Insurance Co. of Pittsburgh, Pa.; Nationwide General Insurance Co.; North Star Reinsurance Corp.; Northwestern National Insurance Co. of Milwaukee.

Also, Old Republic Insurance Co.; Prudential Reinsurance Co.; Puritan Insurance Co., as successor to The Manhattan Fire & Marine Insurance Co.; Southern American Insurance Co.; Unigard Security Insurance Co., as successor-in-interest to Unigard Mutual Insurance Co.; Zurich Insurance Co.

Also, Underwriters at Lloyd's of London; Accident & Casualty Insurance Co. of Winterthur; Agrippina Versicherungs Aktiengesell- schaft; Alba General Insurance Co. Ltd.; Allianz International Insurance Co. Ltd.; Andrew Weir Insurance Co. Ltd.; Anglo-French Insurance Co. Ltd.; Aviabel; Aviafrance; Aviation & General Insurance Co. Ltd.; The Baloise Fire Insurance Co. Ltd.

Also, Bellefonte Insurance Co.; Bermuda Fire & Marine Insurance Co. Ltd.; Bishopsgate Insurance Co. Ltd.; The British Aviation Insurance Co. Ltd.; British Law Insurance Co. Ltd.; British National Life Insurance Society Ltd.; British Northwestern Insurance Co. Ltd.; British Traders Insurance Co. Ltd.; Brittania Arrow Holdings Ltd., as successor-in-interest to Slater, Walker Insurance Co. Ltd.; Compagnie Belge D'Assurances Aviation S.A.

Also, Compagnie D'Assurances Maritimes Aeriennes et Terrestres Societe Anonyme; Cornhill Insurance Co. Ltd.; Delta-Lloyd Non-Life Insurance Co. Ltd.; The Dominion Insurance Co. Ltd.; The Drake Insurance Co. Ltd.; Eagle Star Insurance Co. of Canada; Eagle Star Insurance Co. Ltd.; Economic Insurance Co. Ltd. "Norwich"; Edinburgh Assurance Co. Ltd.; English & American Insurance Co. Ltd.

Also, European General Reinsurance Co. of Zurich; Excess Insurance Co. Ltd.; F.M. Insurance Co. Ltd.; Federal Insurance Co. Ltd.; Fidelidade Insurance Co. of Lisbon; Folksam International Insurance Co. (U.K.) Ltd.; General Accident Fire & Life Assurance Corp. Ltd.; General Insurance Co. Helvetia Ltd., St. Gall; Guardian Royal Exchange Assn. Ltd.; Guildhall Insurance Co. Ltd.; Helvetia-Accident Swiss Insurance Co.; The Hibernian Fire & General Insurance Co. Ltd.

Also, Insurance Corp. of Ireland Ltd.; La Concorde (Compagnie D'Assurances Centre les Risques de Toute Nature) S.A.; London & Edinburgh General Insurance Co. Ltd.; London & Hull Maritime Insurance Co. Ltd.; The London & Overseas Insurance Co. Ltd.; Mentor Insurance Co. Ltd.; Minster Insurance Co. Ltd.; Motor Union Insurance Co. Ltd.; Motor Union Insurance Society Ltd.; Mutual Reinsurance Co. Ltd.

Also, National Casualty Co. of America Ltd.; The New India Assurance Co. Ltd.; North Atlantic Insurance Co. Ltd.; The Oriental Fire & General Insurance Co. Ltd.; The Orion Insurance Co. Ltd.; Pacific & General Insurance Co. Ltd.; Phoenix Assurance Co. Ltd.; Pine Top Insurance Co. Ltd.; Provincial Insurance Co. Ltd.; Reliance Marine Insurance Co. Ltd.; River Thames Insurance Co. Ltd.; Scottish Lion Insurance Co. Ltd.; Skandia Insurance Co. Ltd.

Also, Sovereign Marine & General Insurance Co. Ltd.; Sphere Insurance Co. Ltd.; St. Helen's Insurance Co. Ltd.; St. Katherine Insurance Co. Ltd.; Storebrand Insurance Co. (U.K.) Ltd.; Stronghold Insurance Co. Ltd.; Swiss National Insurance Co. Ltd., Basel; Swiss Union General Insurance Co. Ltd.; The Taisho Marine & Fire Insurance Co. (U.K.) Ltd.; Terra Nova Insurance Co. Ltd.; The Threadneedle Insurance Co. Ltd.; The Tokio Marine & Fire Insurance Co. (U.K.) Ltd.

Also, The Trident Insurance Co. Ltd.; Turegum Insurance Co.; Unionamerica Insurance Co. Ltd.; The Victoria Insurance Co. Ltd.; The Victory Insurance Co. Ltd.; Wallbrook Insurance Co. Ltd.; Winterthur Swiss Insurance Co.; The World Auxiliary Insurance Corp. Ltd.; Yasuda Fire & Marine Insurance Co. (U.K.) Ltd.

The following property insurers are named only in the suit seeking coverage for environmental contamination claims:

Birmingham Fire Insurance Co. of Pennsylvania; California Union Insurance Co.; The Central National Insurance Co. of Omaha, Neb.; Columbia Casualty Co.; Employers Insurance of Wausau, as successor to Employers Mutual Liability Insurance Co. of Wisconsin; Great American Surplus Lines Insurance Co.; Mutual Fire, Marine & Inland Insurance Co.; Ranger Insurance Co.; Royal Exchange Assurance of America Inc.; Stonewall Insurance Co.; Zurich American Insurance Co. of Illinois; Assurance Compagniet Baltica Aktieselskab; Interlloyd Insurance Co.; The Israel Insurance Co. Ltd.

Fisher-Price

Continued from page 1

$3.1 million to the plaintiffs. But the award was reduced to $2.4 million on appeal to reflect recoveries allowable under Canadian law. Appeals were still pending when the settlement was reached.

"Our appeal was heard and we were confident, following the hearing, of a reversal in the court decision," Mr. Charland said. However, the toy manufacturer was concerned about the continuing "adverse publicity" it had received from the case and mounting legal costs, he added.

Fisher-Price's defense costs, which were covered by insurance, included the expense of hiring experts in Canadian law, according to Mr. Charland. The nature of the lawsuit "made virtually every issue conferrable to our Canadian consultants," he said.

"The transaction costs have been immense, but I have no way of putting a dollar amount on it," Mr. Charland said, adding, "The costs were great on both sides."

However, Mr. Charland pointed out that Fisher-Price settled the case "for significantly less than the original verdict," when interest payments and other considerations are factored into the costs.

"All things considered, we felt that disposal of the matter for the settled amount was in the best interests of the company," he said.

The plaintiff's attorneys in the case say they recovered their expenses incurred during the long years of litigation, but declined to disclose their contingent fee at the request of their client.

The suit stems from an incident that occurred in January 1971 in Ottawa. A 14-month-old boy, Iain Cunningham, swallowed a figurine that was part of playset formerly called the Play Family School Bus and now marketed as the Little People School Bus. The toy, designed for children between the ages of 2 and 6, was purchased for Iain's first birthday.

"The toy incorporates a series of small figurines of a type included in many of the playsets we've made over a number of years," Mr. Charland explained. The figurines nestle in holes in the open bus.

The piece that lodged in the boy's throat was a limbless wooden figurine of a young girl with plastic pigtails protruding from the sides of her head. The figure was approximately 1¾-inches tall and 1-inch wide.

The parents, who were with the child at the time he swallowed the object, testified they made repeated attempts to dislodge the object from the child's throat. However, they charged that the figurine's pigtails acted like a "fishhook," making their attempts to remove the object futile.

The mother gave Iain mouth-to-nose resuscitation while the father drove to a hospital. The boy was unconscious by the time they arrived at the hospital and remained in a coma for several months.

When he regained consciousness, doctors determined the object had cut off the oxygen supply to his brain and caused permanent brain damage and cerebral palsy.

After years of intense therapy, the boy is capable of walking short distances with the aid of a walker, according to Mr. Buckley. However, his speech is unintelligible.

A neighbor of the Cunninghams first notified Fisher-Price about the accident in April 1971, said Edward M. Swartz, a partner in the law firm Swartz & Swartz in Boston and the lead attorney for the plaintiffs. Fisher-Price's president responded by pointing out that the child was too young to be given the toy, Mr. Swartz said.

The boy's parents filed a product liability suit in July 1973 seeking $6 million in damages, alleging negligence and breach of warranty.

While Fisher-Price maintained that the toy was specifically designed for use by children over the age of 2, the plaintiff's attorneys countered that the box in which the toy was contained was marked "safe" and "non-toxic," leading the parents to believe the toy would be safe for their child.

According to Mr. Swartz, the warnings on the box did not mitigate the toy's basic design problems. He noted that even at the age of 2, children are in their oral stages of development and "the figures are shaped like a thumb: suckable."

He also pointed out that Fisher-Price marketed other toys for children 18 months and older that contained the figurines.

In addition, the package carried no warning that choking-related injuries could occur if the figurines were placed in a child's mouth, stressed Mr. Swartz, who specializes in product liability law and has written several books on the subject, including two specifically dealing with toy-related injuries: "Toys That Don't Care" and "Toys That Kill."

Mr. Swartz found that Fisher-Price had not conducted safety tests when it redesigned its Little People series in 1965 and reduced the size of the figurines.

It also was revealed in the trial that Fisher-Price had received more than one warning letter from other parents whose children had swallowed the figurines, Mr. Swartz said. Yet, he alleged, the manufacturer did not attempt to warn consumers of the potential danger or reduce the risk of choking by modifying the design.

But, Mr. Charland said that "no other lawsuits were filed" against Fisher-Price relating to the product. The specific figurine responsible for the Cunningham injury has been discontinued, Mr. Charland added. However, the school bus is still "marketed and the figures are still an important part of the play value," he said.

"The shape of the figures is somewhat different than it was in 1971," Mr. Charland pointed out. "The change, incorporated a half a dozen years ago, is the modification of a hairpiece that sat atop the head of the figure involved."

The school bus figurines are now made of plastic, instead of wood, and the new package warns: "Regardless of age, this product is not intended for children who still put objects in their mouths."

But Mr. Swartz argues that this warning is not specific or prominent enough to alert parents to the choking hazard. And, he said the modification "doesn't change the basic design. They clipped the braids off one figurine, but the figurines are still small enough to swallow." ■

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update

Ohio work comp rate increase

Continued from page 2

COLUMBUS, Ohio—Most Ohio private employers will face a 30% increase in workers compensation rates July 1.

The state's Industrial Commission adopted the rate increase last Thursday, affecting 232,000 private employers that purchase workers comp coverage from the exclusive state fund.

About 840 large employers, whose employees comprise about 35% to 40% of the state's workforce, self-fund the risk.

The rate increase was needed primarily to pay for increased expenditures by by the Disabled Workers Relief Fund, said Emory Huguelet, commission vice chairman. A law approved last year reduced eligibility requirements, making it easier for injured workers to receive compensation, and increased benefit levels.

The rate increase also will help eliminate a $1.2 million deficit in the $6.8 billion workers compensation fund.

The rate increase does not affect any public employers, such as municipalities and school districts.

Brokers raided in policy scam

NEW YORK—Five New York insurance brokerages were raided and 11 brokers arrested last week for allegedly issuing phony insurance policies covering as many as 10,000 livery cabs in the city.

The Brooklyn-based brokerages—which issued policies primarily to Haitian immigrant cab drivers, some of whom police said knew the coverage was phony—were duPeuples Brokerage, L&J Enterprises, New Star Auto Inc., Andre Brokerage and Blind Man Willie.

Separately, four employees of Vallecillo Insurance Services of Concord, Calif., were indicted June 3 for issuing phony insurance to about 200 cab and truck drivers.

Broader hazard notice ordered

PHILADELPHIA—The Occupational Safety and Health Administration must expand its hazard communication standard within 60 days to apply to all employers, the 3rd U.S. Circuit Court of Appeals in Philadelphia has ruled.

Currently, the rule only covers manufacturers.

The ruling follows a July 1985 decision by the court directing OSHA to expand the standard to cover non-manufacturing industries, unless the agency could state why that was not feasible. That ruling was in response to objections by organized labor and others to the limited scope of the standard.

In November 1985, OSHA issued an "advance notice of rulemaking," soliciting comments on hazard communication practices in non-manufacturing sectors. The comment period ended in February 1986, but OSHA has not yet expanded the standard.

The court last month directed the agency to publish an expanded rule within 60 days or "a statement of reasons why. . . a hazard communication standard is not feasible."

OSHA is deciding whether to appeal the decision.

Maryland admits ILU

BALTIMORE—The Institute of London Underwriters, which represents 108 companies writing marine, aviation and transportation insurance in the London market, has been admitted by Maryland as a reinsurer of wet marine and transportation insurance.

Maryland is the first state to accept the ILU as a licensed body of insurers. ILU members no longer will have to be licensed individually to reinsure those risks in the state.

ILU members write approximately half of all the marine business underwritten in the London market.

Underwriters at Lloyd's of London, the other major marine market in London, are accredited reinsurers in all U.S. jurisdictions, expect in Kansas for Kansas-domiciled companies where credit is allowed only when security is posted.

The ILU is now talking to "about five more" state insurance commissioners to get similar acceptance in those states, said Peter Worsfold, ILU general manager.

Many ILU members are individually licensed in various states.

Briefly noted

The New York State Court of Appeals, the state's highest court, ruled last week that **mandatory drug testing** of public school teachers is unconstitutional. The unanimous ruling was the first state high court decision on compulsory testing of public employees that does not involve a negotiated labor contract. . . .After statewide hearings, the California Insurance Department soon will decide whether it wants the Insurance Services Office to continue publishing **advisory rates for commercial casualty business in the state.** . . .Thomas R. Miller & Son (Bermuda), which manages protection and indemnity clubs, expects within three months to begin operating **Professional Indemnity Mutual Insurance Assn.** in Bermuda to provide errors and omissions coverage to more than 20 of London's largest law firms. . . .The New York Insurance Department will prohibit domestic life insurers from investing more than 20% of their assets in "high-yield risk obligations," otherwise known as **junk bonds**. . . .A House panel has approved an amendment adding **prescription drug coverage** to the Medicare expansion bill, H.R. 2470, passed last month by the House Ways and Means Committee (see story, page 12). The benefit, effective after a beneficiary pays annual out-of-pocket expenses for prescription drugs totaling $400, would be financed by an additional monthly payment of $3.60 tacked on to the Medicare Part B monthly premium. . . .A recent study on mice by a Michigan State University professor shows that **DES-related cancer** may extend to granddaughters of women who took the drug. . . .The London insurance market plans to introduce its first **intermarket electronic network system**, which will cut down on paperwork and save time on the payment of claims and placement of policies.

First-quarter broker results show end of market crunch

By LEONARD M. WILSON

Special to Business Insurance

THE DUST HAS SETTLED on first-quarter financial reports of the publicly owned insurance brokers. Results confirm the assessment that the property/casualty insurance market crunch is now easing. Observers may differ as to the degree of rate softening, but it is clear the price competition in commercial lines is now a fact of life.

Growth in domestic insurance brokerage commissions and fees decelerated markedly for most of the brokers in the first quarter. Excluding Marsh & McLennan Cos. Inc., the average commission gain for the other brokers in our universe amounted to 11%, a far cry from the 15% to 20% advances registered in 1986. The waning year-over-year increase in commission growth communicates rather emphatically what is happening to pricing in commercial lines.

Mr. Wilson

Why leave out Marsh & McLennan from our calculations? The industry leader posted a gain of roughly 20% in domestic brokerage revenues, and this increase materially outstripped the performance of the other public brokers. M&M's stellar growth could have been the result of business mix, timing or possibly new business.

Softer rates had an adverse impact on renewals, but we suspect that the ability to write more coverage under conditions of improving capacity may have had a countervailing effect. It is difficult to isolate the extent of the trade-off between easing prices and increased capacity. But the typical renewal book of business may have almost held its own in terms of commissions.

New business provided virtually all of the commission growth in the quarter. The public brokers are old hands at sustaining the flow of new business. Sometimes, we wonder whether the spigot will soon run dry, but not so far. Without any help from premium rates, new business becomes the key to growth over the next few years.

Lost business may have eased a bit for some brokers. Clients seem more likely to stay put in a market where rates have stabilized, but have not gotten so soft as to make pricing the overriding focus of the insurance buyer. That may come at some point, however.

Reinsurance brokerage, which does not have the same importance for each of the public brokers, also shows signs of a changing cycle. The momentum of growth for reinsurance brokerage has diminished, suggesting that rates are not much better than stable. Moreover, increased retentions on the part of primary companies seems to be paring demand for reinsurance coverage.

International insurance brokerage, by our estimate, was not especially robust in the quarter. Numerous crosscurrents affected foreign brokerage. Premium rates are soft in some geographical areas, stable in others. Currency exchange rates bolstered non-dollar commission income, but hurt profit margins on dollar-denominated business that is serviced in London. In addition, there is still evidence that foreign reinsurers are yet to become enamored of more difficult U.S. coverages.

Contingent commissions are not typically divulged by the public brokers. We have the impression, though, that contingent commissions moved ahead strongly. Though a small proportion of total revenues, contingents can be important to year-over-year earnings growth if their advance is large. We think that some of the brokers did, in fact, benefit significantly from a robust increase in contingent commissions.

Investment income was up against tough comparison. Investment earnings in last year's first quarter benefited from higher interest rates. Investment income in this year's first quarter, on the other hand, reflected a drop in short-term money markets. Upcoming quarters should have it considerably easier in this category.

Overall, revenues rose an average of 12% for the five brokers, with Marsh & McLennan leading the group. Expenses for the five advanced 16.4%. This disparity between intake and outgo is disquieting. Indeed, only M&M and Corroon & Black Corp. posted quarterly results that can be termed strong. The slippage in profit margins for the other brokers again reflects the embedded momentum of costs in insurance brokerage.

Quarterly results were also affected by a number of special factors. Alexander & Alexander Services Inc. booked a sizeable profit on the sale of a building. Arthur J. Gallagher & Co. set up a reserve for self-insured errors and omissions exposures. Frank B. Hall & Co. Inc. effected a change in a formula for booking services fees that penalized comparisons.

Non-recurring charges are no longer unusual in any industry, but in the case of the brokers' first quarter, they made it more difficult to interpret results.

We expect the factors that influenced the first quarter's results will persist through 1987. Premium rates are likely to soften further, even if gradually. International business shows no signs of taking up slack for slower conditions domestically. Expenses may still outstrip the growth in revenues for some of the brokers unless steps are taken to rein back cost escalation.

We have calculated that an insurance brokerage with a generous flow of new business can achieve revenue growth in a range of 10% to 13% within an environment of moderately soft premium rates. If we are right, then earnings growth can be sustained with a modicum of cost restraint.

The last cycle of soft rates found most public insurance brokers too optimistic about the length and duration of the competitive cycle.

We point no finger because they had plenty of company. Nonetheless, profit margins received a pummeling because managements were often late in getting costs down to the pace of revenue growth. As we see it, the brokers are now entering a danger zone of potentially narrower profit margins for the same reason.

Insurance brokerage stocks seem currently to have lost their investor following. Price-to-earnings ratios seem inordinately conservative. The lack of interest can be squared with anxiety over insurance pricing and brokers' cost control.

Seguros La Commercial

Mexico-based insurer Seguros La Commercial reported that net profit for 1986 increased 27.1% to 3.79 billion pesos ($2.9 million at current floating exchange rates) from 2.98 billion pesos ($2.3 million) in 1985.

Net written premiums rose 127.3% to 88.4 billion pesos ($68.4 million) from 38.9 billion pesos ($30.1 million).

The insurer specializes in property coverage.

Scor U.S. Corp.

Scor U.S. Corp.'s first-quarter operating income soared to $3.1 million from $267,000 in the first quarter of 1986.

The company's first-quarter combined ratio also improved dramatically to 97.11% from 116.4% in the year-earlier period.

The company attributed its strong earnings to increased premium rates, improved loss experience and a 120% increase in earned premiums vs. only an 84% increase in underwriting expenses.

Net income for the quarter increased nearly six-fold to $3.5 million from $592,000 from the first quarter of 1986.

The company's fresh start benefit amounted to $249,000 in the quarter.

Net written premiums totaled $26.6 million, up 116% from $12.3 million in the year-earlier quarter.

Utica National

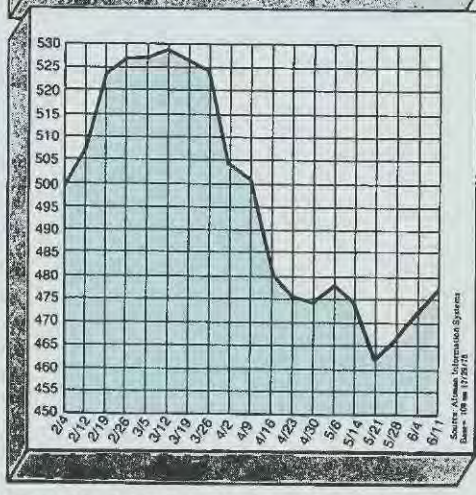
New Hartford, N.Y.—based Utica National Insurance Group reported first-quarter net income for property/casualty operations fell 24.6% to $4.3 million from $5.7 million.

W. Craig Heston, president and chief executive officer, said that while the 1987 profits were down from last year, "the profit was arrived at in a manner much more to our liking this year, through a decrease in underwriting losses, rather than a reliance on capital gains as a source of income."

The combined ratio improved to 108.49% in the first quarter, compared with 121.76% a year ago. ■

Leonard M. Wilson, a managing director at L.F. Rothschild, Unterberg, Towbin in New York, specializes in insurance brokerage stocks. He is a member of the New York Society of Security Analysts.

BI Insurance Index



Insurance industry stocks advanced for the third consecutive week as the *Business Insurance* stock index rose 4.3 points to 477.3 on June 11 from 473.0 on June 4. Forty-one issued increased during the latest trading period, while only eight issues declined and 11 remained unchanged. The largest increases were posted by: Business Men's Assurance Co. of America, up 18.8%; Scor U.S. Corp., up 15.6%; Protective Life Insurance Corp., up 12.0%; Nobel Insurance Ltd., up 9.8%; and Statesmen Group Inc., up 9.7%. The largest declines were suffered by: Aneco Reinsurance Co. Ltd., down 8.3%; Frank B. Hall & Co. Inc., down 5.8%; The Hartford Steam Boiler Inspection & Insurance Co., down 4.4%; Provident Life & Accident Insurance Co., down 4.0%; and Kemper Corp., down 2.3%. The *Business Insurance* index gained 0.9% during the period, but lagged behind the advances in the stock major market averages. The Dow Jones 30 Industrials advanced 1.4%, the New York Stock Exchange composite rose 1.3% and the Standard & Poor's 500 index increased 1.2%.

British Issues

June 9 Companies	Price pence	P/E	Div. pence	Yield %	1 Week High—Low pence	pence
Comml Union	327	11.3	17.8	5.4	327—314	
Genl Accident	945	10.3	36.3	4.1	970—945	
Gdn Royal Exch	935	11.7	46.5	5.0	938—925	
Royal	450	7.8	21.2	4.7	469—450	
Sun Alliance	885	10.2	32.2	3.6	885—869	
Brokers						
CE Heath	493	14.7	34.5	6.9	493—488	
Hogg Robinson	513	15.8	15.7	3.1	513—478	
JH Minet	324	10.6	12.9	4.0	327—324	
Sedg Grp	290	13.2	16.4	5.7	301—290	
Stew Wrightson	433	12.0	17.8	4.1	448—433	
Willis Faber	458	16.4	15.5	3.4	463—456	

Source: Philip Olsen/Alan Clifton, Insurance Industry Specialists Kitcat & Aitken Stockbrokers, London

BI Industry Stock Report

June 11, 1987 6/5/87 thru 6/11/87

Brokers		Price	% Chg.	P/E	$ Div.	% Yld.	High	Low	Vol.(000)
Alexander & Alexander Svcs	NYSE	25.38	0.5	30.2	1.00	3.9	25.38	25.13	363.4
Baldwin & Lyons Inc	OTC	19.00	0.0	7.9	0.20	1.1	19.00	18.50	0.7
Corroon & Black Corp	NYSE	29.75	2.1	13.8	0.84	2.8	29.75	29.13	236.4
Gallagher Arthur J & Co	OTC	21.00	2.4	16.2	0.40	1.9	21.25	20.75	234.9
Hall Frank B & Co Inc	NYSE	12.25	-5.8	0.0	0.00	0.0	13.00	12.25	175.0
Marsh & Mclennan Cos Inc	NYSE	63.75	3.0	17.4	2.40	3.8	63.75	61.50	568.3
Poe & Assoc Inc	OTC	12.25	0.0	15.5	0.40	3.3	12.25	12.25	17.8
AGENTS/BROKERS	AVERAGE			15.4		3.1			
Conglomerates & Holding Cos.									
Anderson Clayton(Ranger/PanAm)	NYSE	65.63	0.0	18.8	0.00	0.0	0.00	0.00	0.0
Armco Inc	NYSE	10.00	-12.1	0.0	0.00	0.0	11.25	10.00	1,821.0
Barkley W R Corp	OTC	28.75	6.5	9.8	0.28	1.0	28.75	27.50	347.5
Berkshire Hathaway Inc Del	OTC	3360.00	0.0	111.6	0.00	0.0	3360.00	3360.00	1.1
CIGNA Corp	NYSE	62.00	3.3	8.9	2.80	4.5	62.00	60.13	1,884.5
CNA Finl Corp (CNA)	NYSE	52.25	-0.5	11.9	0.00	0.0	52.25	51.25	191.6
General Re Corp	NYSE	56.25	6.1	17.3	1.00	1.8	56.25	53.63	1,491.9
ITT (Hartford Group)	NYSE	58.88	1.7	15.1	1.00	1.7	58.88	56.88	2,961.8
Sears Roebuck & Co. (Allstate)	NYSE	50.75	-0.7	13.2	2.00	3.9	50.88	50.25	3,535.9
Transamerica Corp (Occidental)	NYSE	34.88	4.5	7.8	1.76	5.0	34.88	33.25	843.8
CONGLOMERATES/HOLDING COS.	AVERAGE			59.5		0.2			
Insurers									
Aetna Life & Cas Co	NYSE	57.75	0.2	8.8	2.76	4.8	57.75	57.00	2,694.4
American General Corp	NYSE	38.38	1.3	10.3	1.25	3.3	38.38	37.50	1,317.8
Amern Heritage Life Invt Co	NYSE	33.25	0.8	16.8	0.96	2.9	33.50	32.75	3.7
American Indty Finl Corp	OTC	14.00	1.8	0.0	1.12	8.0	14.25	13.75	9.4
American Intl Group Inc	NYSE	70.00	3.7	15.4	0.25	0.4	70.00	67.25	1,586.3
Aneco Reins Ltd	OTC	2.75	-8.3	11.0	0.00	0.0	3.00	2.75	10.4
Avemco Corp	NYSE	22.50	-47.8	16.3	0.28	1.2	44.00	22.13	168.6
Business Mens Assurn Co Amer	OTC	31.50	18.9	0.0	1.10	3.5	31.50	26.75	578.4
Chubb Corp	NYSE	63.75	5.8	10.1	1.68	2.6	63.75	59.63	778.7
Combined Intl Corp	NYSE	25.38	0.0	9.0	1.20	4.7	25.38	25.38	195.4
Continental Corp	NYSE	45.00	4.0	10.2	2.60	5.8	45.00	43.38	563.0
Crown Life Ins Co	OTC	250.00	0.0	8.6	6.40	2.6	250.00	250.00	0.0
Durham Corp	OTC	33.25	0.0	19.6	0.92	2.8	33.50	33.13	7.0
Farmers Group Inc	OTC	42.50	0.0	13.4	1.20	2.8	42.50	41.50	695.8
Fairmont Finl Inc	AMEX	17.63	0.0	9.9	0.00	0.0	0.00	0.00	0.0
Fireman Fd Corp	NYSE	37.50	1.4	12.9	0.40	1.1	37.50	36.50	382.2
Fremont Gen Corp	OTC	17.13	6.2	0.0	0.60	3.5	17.13	16.25	172.7
Great West Life Assurn Co	OTC	700.00	0.0	14.4	18.00	2.6	0.00	0.00	0.0
Home Group Inc	AMEX	20.00	6.7	5.1	0.20	1.0	20.00	18.88	384.6
Hanover Ins Co	OTC	33.50	2.3	8.0	0.36	1.1	33.50	32.50	36.8
Harleysville Group Inc	OTC	16.25	8.3	5.1	0.40	2.5	16.25	15.25	44.5
Hartford Steam Boiler Insptn	OTC	32.50	-4.4	14.1	1.00	3.1	34.25	32.00	150.7
Kans City Life Ins	OTC	28.25	0.9	10.9	0.96	3.4	28.25	28.00	74.6
Kemper Corp	OTC	31.50	-2.3	10.9	0.60	1.9	32.00	31.25	892.9
Liberty Corp S C	NYSE	38.63	1.6	13.9	0.72	1.9	38.63	37.88	40.9
Lincoln Natl Corp Ind	NYSE	49.75	0.8	10.5	2.16	4.3	49.75	48.75	499.8
Mission Ins Group Inc	PAC	1.38	0.0	0.0	0.00	0.0	4.38	0.69	2.4
Monumental Corp	OTC	55.63	0.0	18.8	0.00	0.0	55.63	55.63	1.1
Nac Re Corp	OTC	26.25	6.1	34.5	0.00	0.0	26.25	24.75	173.4
Nobel Ins Ltd	OTC	14.00	9.8	10.5	0.37	2.6	14.25	13.25	75.6
Northwestern Natl Life Ins	OTC	25.88	2.0	7.4	0.96	3.7	25.88	25.38	126.1
Ohio Cas Corp	OTC	46.50	3.3	13.2	1.68	3.6	46.50	44.75	188.9
Old Rep Intl Corp	OTC	28.75	2.7	10.3	0.80	2.8	28.75	28.00	96.9
Orion Cap Corp	NYSE	22.13	1.1	0.0	0.76	3.4	22.13	21.88	104.2
Protective Corp	OTC	14.00	12.0	11.4	0.70	5.0	14.00	12.50	268.9
Provident Life & Acc Ins Co	OTC	21.00	-4.0	11.6	0.84	4.0	22.00	21.00	309.8
St Paul Cos Inc	OTC	46.50	1.6	10.8	1.76	3.8	46.50	43.88	1,442.0
SAFECO Corp	OTC	29.75	-48.7	11.1	0.96	3.2	58.50	29.50*	541.3
Scor U S Corp	OTC	13.00	15.6	15.5	0.00	0.0	13.00	1.50*	124.4
Seibels Bruce Group Inc	OTC	15.75	1.6	98.4	0.80	5.1	16.00	15.25	83.1
Selective Ins Group Inc	OTC	25.50	2.0	9.8	0.92	3.6	25.75	24.50	49.7
Statesman Group Inc	OTC	4.94	9.7	0.0	0.05	1.0	5.00	4.56	357.0
Tokio Marine & Fire Ins Co	OTC	92.00	0.0	103.4	0.17	0.2	92.00	92.00	3.0
Torchmark Corp	NYSE	27.00	-0.5	9.6	1.20	4.4	27.13	26.75	618.2
Travelers Corp	NYSE	44.13	2.0	9.4	2.28	5.2	44.13	42.75	1,870.1
Trenwick Group Inc	OTC	15.50	3.3	26.3	0.00	0.0	15.75	15.25	27.5
United Fire & Cas Co	OTC	30.00	6.2	9.6	0.96	3.2	30.00	28.50	18.5
United States Fid & Gty Co	NYSE	39.75	3.6	9.6	2.48	6.2	39.75	38.63	3,080.9
Unum Corp	NYSE	23.50	4.4	0.0	0.40	1.7	23.50	22.25	409.5
Uslife Corp	NYSE	37.75	-1.3	9.7	1.20	3.2	37.75	36.75	133.6
Washington Natl Corp	NYSE	24.13	-0.5	12.4	1.08	4.5	24.50	24.13	70.5
Zenith Natl Ins Corp	OTC	21.00	2.4	12.1	0.80	3.8	21.00	20.25	100.3
INSURANCE COMPANIES	AVERAGE			12.2		2.7			

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