Week of June 16, 1975

business insurance

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

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Settlement offered in record Paris DC10 crash

LOS ANGELES—Four defendants and their insurers have offered to settle compensatory damage claims that will probably range in the millions of dollars in order to close out liability cases stemming from the March 3, 1974 crash of a Turkish Airlines DC10 near Paris, France.

The crash killed 346 persons, making it the worst civil aviation disaster in history. (*Business Insurance*, April 1, 1974 and subsequent 1974 issues).

Two unresolved issues could still upset the offer, however—the issue of punitive damage awards and the question of eventual disclosure of evidence that was gathered in pretrial stages of the case.

The settlement offer was made in U.S. District Court here in late May by attorney James FitzSimons, who represents McDonnell-Douglas Corp., manufacturer of the airplane.

Mr. FitzSimons told U.S. District Court Judge Peirson Hall that he made the offer on behalf of McDonnell-Douglas and the other three defendants in the case—General Dynamics Corp., Turkish Airlines, and the U.S. government's Federal Aviation Administration.

Mr. FitzSimons said the four defendants and their insurers would split the cost of settling the compensatory awards, but he declined to say how the liability would be shared.

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The fuselage of the Turkish Airlines DC10 umbojet.

Blanket bond insurers raise bankers' ire with fidelity, loan loss restrictions

By SUSAN ALT

CHICAGO—Bank risk managers are reacting very strongly, and very negatively to the changes in bankers' blanket bond policies now finalized, in progress or, at least, under discussion by nearly every large bond underwriter.

Insurers are attempting to back away from the area of "trading losses"—which includes bonds, commodities and foreign currency—and loan losses, which they contend were never intended to be covered by bankers' fidelity bonds.

Bank risk managers are responding with calls for activation of an association captive underwriter for fidelity bond insurance, a topic studied seriously several times in the last five years by members of the American Bankers Assn. insurance and protection division.

"I believe there is going to be a general move by bond insurers to restrict our coverage with their redefinitions of dishonesty," said the insurance officer for a major New York City bank. "Frankly, I think it's time for the ABA to start thinking about forming its own captive bonding carrier. The ABA has done studies in the past, but each time the market has softened and the solution was less viable. But if this happens, and insurers start getting hardnosed we'll look someplace else."

Chubb & Son, managing underwriter for Federal Insurance Co., has finalized its new wording of the bond, saying it was faced with only two alternatives: Change the wording and limit the potential loss liability, or get out of the market because of heavy losses already incurred.

But the unilateral move by Chubb, not a member of the Surety Assn. of America, to restrict its bank bond form has bankers talking about "pulling out of the market." Jack Harden, senior bond underwriter at Chubb, responds to these threats with: "When we've had an opportunity to sit down with our insureds, we've been totally successful in getting them to go along without changes. The banks really agree with us, at least before a loss situation occurs."

Chubb has filed new forms in nearly every state, incorporating two major changes. An endorsement was added to the policy reasserting the intention of the policy to cover only losses caused by employe infidelity where there was a clear intent to defraud.

Chubb also narrowed coverage as a result of its new definition of dishonesty, which puts a 1% minimum quantifier or $500, (whichever is greater) on the amount of "improper personal financial gain" which an employe must achieve before Chubb will honor a claim.

Further, Chubb eliminated salaries, commissions, fees or "other emoluments," including raises and promotions associated with employment from the category of improper personal financial gain.

Lloyd's is in the process of changing the wording in its bankers blanket bond form, at least bankers expect the changes to be included in the so-called HANC bond form which Lloyd's uses to cover U.S. banks.

Although Leslie R. Dew, senior deputy chairman of Lloyd's and the leading bond insurer, told *Business Insurance* several weeks ago that the new wording was in the final stages of completion, it's known that no changes have been finalized yet. "Mr. Dew is having additional meetings now with London brokers on this, because they apparently weren't too happy about the new wording" said a U.S. insurance official close to Lloyd's.

Mr. Dew would like to change the bond coverage by using a "preamble" to the policy, which *Business Insurance* learned was originally drawn up to read: "The policy is a contract of indemnity designed to protect the insured from fortuitious loss directly or uninterruptedly resulting from defined happenings or conduct. Manifestly it is not the intention of the insurer or insured to cover the hazards of trading. To do so would be to translate the role of the insurer into that of a coventurer with the right to participate in trading profits. This preamble is witness to the insured's acceptance of this expression of intent. It shall not be construed to broaden the coverage provided by the policy coverage or conditions."

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Trial verdict may alter safe deposit box cover

By JOANNE GAMLIN

SANTA ANA, CA.—Two questions surround the jury trial in Orange County Superior Court that stems from the spectacular March, 1972, bank vault burglary of the Laguna Niquel branch of United California Bank.

The first is whether United California Bank is liable for the loss, originally estimated at over $3 million but now scaled down to $800,000, because it advertised the Laguna Niquel branch safe deposit boxes as enclaves of absolute safety.

The second question may be easier. It is whether the bank is liable because the Laguna Niquel branch had a McCulloh loop rather than a direct wire type of silent vault alarm system in early 1972.

The trial, which encompasses 60 plaintiffs in three separate but similar cases against UCB and two other defendants, got started in the courtroom of Judge Claude M. Owens in early May. It is now anticipated that jury deliberations will begin the week of June 16th because the defense attorneys have reduced their roster of witnesses.

The two other defendants are the Orco Alarm Co., which supplied central station alarm service to the Laguna Niquel branch in early 1972 and Diebold Inc., which provided the vault door and alarm to the bank in southern Orange County.

Both sides are expected to appeal the jury verdict. But if the ultimate decision should go against United California Bank, a dramatic change can be expected in the way banks and savings and loan associations insure their safe deposit boxes (*Business Insurance*, Feb. 17, 1974).

Thanks to the fact that in the past banks have rarely lost the few liability lawsuits brought against them for safe deposit box losses, most banks have found it sufficient to insure their boxes with straight liability protection. It does not insure the contents of individual boxes.

However, should the case before, Judge Owens favor the plaintiffs, these institutions may feel compelled to look at a far more expensive form of safe deposit box coverage, robbery/burglary insurance.

In his case against United California Bank, plaintiff attorney Arthur N. Hews is known to be relying on a three-week decision by the California Supreme Court in a products liability case, *Hauter* vs. *Zogarts et al.* After ruling for the plaintiff, the high court asserted that the trend is now toward narrowing the scope of "puffing" and expanding the liability of manufacturers who make broad, promotional statements about their products. The defendant in this case had advertised a golf trainer by stating that "completely safe ball will not hit player."

Three of the 60 plaintiffs were summoned as witnesses by Mr. Hews. Against the objections of chief defense attorney, Claire D. Johnson, he introduced as evidence brochures that advertised the Laguna Niquel safe deposit boxes.

Dr. Leon Dale, a plaintiff who

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'The Actuaries Full Employment Act'

Services are up under ERISA

By MARGARET LeROUX

NEW YORK—The pension reform law means administrative headaches for employe benefits managers, many of whom are seeking relief by going to actuarial consulting firms.

A trend toward turning the recordkeeping function of employe benefit plans over to consultants was noted by one actuary.

"ERISA (Employe Retirement Income Security Act) is one big recordkeeping nightmare," a spokesman for Towers, Perrin, Forster & Crosby Inc. said.

Risk Management SERVICES

A special section devoted to risk management services will be found on pages 17 through 60 of this issue.

"Clients are looking for all the help they can get," Leonard Mactas, president, consulting actuarial division of Kwasha Lipton said.

"ERISA should be renamed the Actuaries Full Employment Act," another actuary quipped, "judging from the volume of business we've been doing since the law went into effect."

Eager to provide benefits managers with assistance in meeting disclosure and other requirements of the new pension law are the 3,408 members of the American Academy of Actuaries and the approximate 5,500 members of the American Society of Actuaries.

Business Insurance asked a number of the top actuarial consulting firms how they are helping clients meet ERISA requirements. Most firms noted they are expanding existing services such as investmen planning and performance studies, trust and portfolio auditing and drafting of plan documents to meet disclosure requirements.

Some firms have added new services since ERISA's enactment.

George B. Buck Consulting Actuaries Inc. organized a separate department to handle all ERISA-related reporting to the Department of Labor, a spokesman for the firm said.

"We are substantially expanding our communications department in anticipation of a deluge of announcement material, summary plan description and employe benefit statement work coming up this fall," the spokesman continued.

The firm also has increased staffs in the actuarial and group insurance consulting areas and opened a new branch office in Atlanta. Another branch office in Chicago is scheduled to open in July.

Towers, Perrin, Forster & Crosby "expanded

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Paris DC10 crash . . .

Continued from page 1

The quid pro quo for a speedy settlement of the compensatory claims appears to be that the plaintiffs forego their claims to punitive damages.

Mr. FitzSimons said McDonnell-Douglas was firm in its stand that the facts do not warrant punitive damage awards and stated that no American jury would grant them.

New York attorney Lee S. Kreindler, who represents about 70 families in the case, said that position could make the defendants' offer unacceptable.

He said large numbers of plaintiffs in the case would probably refuse the offer if the defendants insist they give up their claim to punitive damages.

He said plaintiffs are seeking $100,000 in punitive damages per victim, for a total of about $33.5 million.

He also questioned whether pretrial evidence would ever be disclosed if the defense offer was accepted. The evidence has been kept under lock and key by a "gag" order pending actual trial.

Some of his clients, he said, feel very strongly that the evidence should be disclosed to the public because of what it will show about the errors of the defendants.

A better picture of the situation should emerge when the two sides go back to court in Los Angeles to clarify details of the offer.

Mr. FitzSimons said the offer would eliminate liability as a question in the case because the defendants proposed to settle without admitting liability or having it proven in court.

"We are proposing a method by which the plaintiffs can get immediate recovery," he said. The earliest date for a trial would probably be sometime this fall.

Mr. FitzSimons said if the amount of a compensatory award could not be agreed to out-of-court, the defendants would be willing to let a jury set the figure.

The award negotiations could be tricky in this case because so many of the victims, all but about 25, were foreigners. A Korean earning $2,500 a year would probably not receive the same award as a Californian earning $25,000 a year.

McDonnell-Douglas has $15 million product liability primary coverage underwritten by Associated Aviation Underwriters and an excess cover with limits of $150 million through Lloyd's, *Business Insurance* learned.

Disclosure of the pretrial evidence may be viewed as sensitive because of the tangled web of events that led to the tragedy.

The cause of the crash was laid to a cargo door which was improperly latched and came off in flight. The resultant depressurization buckled the passenger cabin floor and severed control cables sending the plane into a dive to the ground.

The Federal Aviation Administration, McDonnell-Douglas, and General Dynamics, subcontractor, had ordered several changes made on the plane but the fault was not corrected on the Turkish craft. ■

Shirt-Sleeve Forum

How Do You Select an Insurance Broker?

By Dinner Levison

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Nuclear pools to pick up inspection costs

MONTEREY, CA.—Some electric utility companies won't have to provide authorized inspectors to oversee inspections of atomic power plants while temporarily shut down after July 1, when an association of nuclear risks insurers will begin to pick up those costs.

As required by the American Society of Mechanical Engineers code, utilities previously had to contract with an insurer or a private firm to monitor the inspection conducted by an in-house team or another outside firm.

Under the new arrangement, the Nuclear Energy Liability-Property Insurance Assn., (NEL-PIA), a group of approximately 100 stock insurers of atomic risks, will pay for the required witnesses to the inspection without an increase in the premiums.

"Based on studies to date, this (new arrangement) can be handled in the current rate structure," according to John J. Carney, engineering manager-property of the NEL-PIA, who announced the change at a workshop on nuclear insurance sponsored by the Atomic Industrial Forum here June 2-5.

Cost savings are substantial but difficult to measure because the number of inspectors used at a reactor and the length of the examination can vary. One insurer, however, told this magazine that it charges $150 per inspector each day, plus expenses. As many as six technicians could be needed to monitor the inspection because of exposure limits to radiation, and it could last as much as two days to a week, working around the clock.

NEL-PIA's decision to pay for authorized inspectors was an outgrowth of its efforts to establish regulations on inservice inspections of nuclear reactors in the American Society of Safety Engineers codebook, specifically, Chapter XI.

"Having promoted the development of Chapter XI, you feel you ought to stand by that commitment," said Mr. Carney. The regulations were passed in 1971, and he said that since 1973 NEL-PIA has been thinking about picking up the costs of authorized inspections for its insureds.

"This commitment of the insurance industry is not born of altruism, but of financial self-interest," said Mr. Carney in his speech at the workshop early this month. "Even though the probability of a failure may be small, we can have $300 million in property and liability capacity on the line at a nuclear power plant, and it should be obvious that because of this financial stake, the insurance companies will vigorously pursue independent surveillance and monitoring of the activities of utilities and servicing firms that may be hired to perform tests and examinations."

Additionally the move by NEL-PIA cuts off the intrusion of state or municipal governments into the inspections. Under Chapter XI, an authorized inspector can be associated with either a government body or an insurance company. The NEL-PIA system, said Mr. Carney in his speech, "serves the interest of public and plant safety as well as any system which could be established by a government agency, and without the need to hire and train large numbers of additional federal employes." ■

No-fault has constitutional implication

WASHINGTON—The Senate's no-fault auto insurance bill (S. 354) is probably unconstitutional, Attorney General Edward Levi told the Senate Commerce Committee this month.

The Justice Department told the Senate committee essentially the same thing last year, but that did not stop the Senate from passing a bill nearly identical to the current measure under consideration.

The constitutional problem, as the Justice Department sees it, involves the authority of Congress to employ a regulatory scheme that requires the states to devote their funds and personnel, and to create agencies and facilities, to administer a federal law.

S. 354 sets minimum standards for no-fault programs that states would be required to meet.

Is it permissible, the Attorney General asked, "for the Congress to intrude upon such state sovereignity as is left by requiring state agencies and employes to perform as though they were federal instruments or employes, or as though the federal Congress were the state legislature and possessor of the state's sovereignty?"

Mr. Levi said the issue of Constitutional federalism was not "a frivolous one."

"It is close to the protection of diversity, creativity, and freedom within our system," he said. "The importance of protecting and promoting these values should be a compelling consideration in determining whether a federal uniform automobile insurance law is desirable and particularly whether requiring state agencies to implement such a law is appropriate." ■

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Clarification

In a story about a $7 million liability award against ITT-Sheraton Corp. (*Business Insurance*, June 2) it was reported that American Home Assurance Co., one of ITT-Sheraton's excess underwriters, was understood to carry the largest layer of excess coverage. While American Home participates in the ITT-Sheraton coverage, its participation is layered on losses in excess of $30 million. The company, therefore, will not be involved in this loss. Home Insurance Co. is the ITT-Sheraton excess underwriter with a substantial participation in this particular loss.

Indemnification agreements legal but tricky

By RICHARD L. GORDON

WASHINGTON—The Labor Department said this month its interpretation of the pension reform law allows corporations and unions to indemnify fiduciaries as an alternative to purchasing fiduciary liability insurance.

The department said last March that indemnification appeared allowable after "an initial examination of the question," but this month's statement is the first firm position that has been taken.

The department's position, stated in Interpretive Bulletin 75-4, is worded in such a manner that it appears corporations and unions should still approach the indemnification issue cautiously.

The government said that while indemnification agreements do not violate the pension reform law's ban on exculpatory agreements," "parties entering into an indemnification agreement should consider whether the agreement complies with the other provisions of part 4 of Title I of the act and with other applicable laws."

Part 4 of the law is the fiduciary responsibility section. "Other applicable laws" include a host of state laws regulating indemnification agreements.

The department's interpretation tion stops short of preempting state regulation on indemnification agreements, although the pension reform law can preempt state laws in some situations.

Some sources here also believe that labor unions may have trouble indemnifying their fiduciaries because of the Landrum-Griffin Act which sets fiduciary rules for officials handling union funds.

The department's bulletin said that indemnification must "leave the fiduciary fully responsible and liable, but merely permit another party to satisfy any liability incurred by the fiduciary in the same manner as insurance."

It provided two examples of indemnification arrangements it believes permissible.

First, indemnification of a plan fiduciary by (a) an employer, any of whose employes are covered by the plan, or an affiliate of such employer or (b) an employe organization, any of whose members are covered by the plan.

The pension law spells out the definition of affiliate in section 407 (d) (7).

Second, indemnification by a plan fiduciary of the fiduciary's employes who actually perform the fiduciary services.

Some of the problems that must still be worked out, probably on a case by case basis, include whether state laws will allow corporations to indemnify persons other than officers and directors.

"Some states will find it difficult to indemnify a third party," said Theodore D. Bower, special assistant to the vp-taxes, Sears, Roebuck & Co. Mr. Bower, a member of the Labor Department's pension advisory council is active on the indemnification issue.

Michael Gordon, staff counsel to Sen. Jacob K. Javits (R-N.Y.) and an expert on the law, shared the qualms in this area.

He said he knew of no state laws "that relate to indemnification of fiduciaries for employe benefit plans. Most of the rules developed outside the employe benefit context."

And many states will not allow indemnification agreements to pay for breaches brought about by gross negligence or willful misconduct.

Mr. Bower also pointed out that many corporate by-laws may not allow for indemnification agreements for their officers.

Indemnification in some cases may appear a little riskier for the fiduciary than insurance because few state laws require a corporation to put aside cash to make good should a claim arise.

"What happens if there is a judgment against a fiduciary and the employer goes down the drain?" asked Mr. Bower. "In most states, the plan or participant can only sue the fiduciary and not the corporation as an indemnifier.

"If the indemnifier doesn't come through," commented Mr. Gordon, "well, that's tough."

Despite the imperfections, the current interpretation should at least clear the air.

"I've talked to several companies and so far they feel this is adequate," said Claudine Malone, assistant professor at the Harvard Business School and another member of the advisory council.

"Indemnification should give you the same protection that purchased insurance would," she said. "For large companies with sufficient assets to assume that risk, this should meet their needs.

"For smaller companies," she said, "they still have almost no alternative but insurance. This interpretation doesn't leave them any worse off than they were before, however," she said.

The question of what type of firm indemnification will appeal to received mixed initial reactions.

Mr. Gordon, Sen. Javits' aide, said he believed it would be more attractive to smaller plans where assets at risk are more manageable and the number of fiduciaries to be included in an indemnification agreement is limited.

"It simply may be more convenient for them to enter into these agreements and take their chances than to go out and get insurance," he said.

"I think joint boards of trustees and particularly the professional trustee is much better advised to go out and get some kind of insurance," he added.

"Indemnification is usable by a large corporation," Mr. Gordon said, "but a large corporation may have a large number of fiduciaries. It may be cheaper in the long run to get insurance than to worry about indemnifying ecah and every one of them in case of suit."

One large corporation with a lot of fiduciaries is Connecticut General Life Insurance Co. Douglas Hunter, their vp-group pension operations, told *Business Insurance* that Connecticut General is looking into insurance rather than indemnification. Mr. Hunter is also a member of the advisory council.

Mr. Hunter noted that Connecticut General has many agents in the field that may need protection and insurance seems "a better business way of handling the problem." ■

Gallagher opens branch

Arthur J. Gallgher & Co., Chicago-based brokerage organization, opened a new branch office in Los Angeles, Ca., its first branch in that city. Michael Poland was named manager of the branch. He was formerly with Farr & Stone Inc., Los Angeles.

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Despite malpractice insurance crisis, physicians' assistants are covered

WASHINGTON—In the shambles of today's medical malpractice insurance market, the American Academy of Physicians' Assistants has finally found coverage for its 1,200 members.

The underwriter will be the All-Star Insurance Co. of Milwaukee, Wi., and the physician's assistants (PAs) will be offered $100,000/-$300,000 liability protection for a premium of about $575 a year, according to Neil Cohen of Insurance Designers Inc., Alexandria, Va., the association's insurance consultant.

The policy will be the claims-made form that some malpractice underwriters are holding out as the solution to the current malpractice mess.

Under claims-made, the policy covers only claims made during the policy term. Under the former "occurrence" form, the policy covered any incident that occurred during the policy year, regardless of when the claim was actually filed.

"It's the way we feel we can make a profit and not have to maintain huge reserves for five or 10 years," Ray Sommerfield, vp-assistant secretary of All-Star, told *Business Insurance*.

Mr. Sommerfield admits that All-Star is not a "major factor" in the insurance markets for malpractice coverage.

Its program for physicians and surgeons, mainly in California, was killed off last December when the company's reinsurer bowed out and a replacement could not be found.

But the insurance for the physician's assistants, who work under the supervision of doctors, was "a class that's not excluded by our general reinsurance treaty. Physicians and surgeons were excluded from the general treaty," Mr. Sommerfield said.

For the PAs, the search for malpractice coverage has been an exhaustive and frustrating experience that lasted more than a year.

Toward the end, Mr. Cohen said, three or four companies were finally found who were interested in handling the risk, but only All-Star offered a level premium for all PA's.

Mr. Cohen's firm, working with the H. William Monroe Insurance Agency, Monterey, Ca., had several deals on the brink of completion only to see them fall through as the malpractice crisis worsened.

Reinsurance never appeared to be a serious problem, Mr. Cohen said, but finding a company willing to take on the direct underwriting proved to be like looking for a needle in the haystack.

All of this was confusing to the academy and its director, Dr. Donald W. Fischer, because they believed they had a very insurable risk.

"PAs have a good track record," Dr. Fischer said. "They've been around for about 10 years and there hasn't been a judgment against in PA or his physician. With that kind of record, we felt we should be able to get coverage."

The academy at one point threw up its hands about ever finding a direct underwriter and looked seriously at forming its own offshore captive in Bermuda.

After all, said Mr. Cohen, the PAs were capable of generating annual premium in the range of $900,000 a year and that was a figure that would go up as more PAs graduated and went into the work force.

The need for coverage, while not quite as pressing as it is for surgeons is nontheless severe, he explained.

Dr. Fischer explained that PAs are presently covered for malpractice as a rider on the employing doctor's malpractice policy.

This dependency on the employing doctor's coverage has caused problems that moved the Academy into the insurance markets to try to get coverage for PAs individually.

A PA can't move from job to job unless his new employer can get coverage for him on his malpractice policy, Dr. Ffischer explained.

Without individual coverage, Dr. Fischer said, "there's also a question about how much coverage the doctor and the PA get under the combined policy.

"What happens to the PA if he is sued and the physician is not? Or if there is a judgment that takes more than, or most of, the face amount of the coverage? How much does the doctor get? How much does the PA get?

And while the PAs normally work under the direction of a doctor, he said, what happens if the PA is temporarily working under the supervision of a doctor other than the one with whom the insurance is carried?

Mr. Cohen said he hopes to present the policy to the Academy's membership this summer and expects an initial enrollment of perhaps 250 to 300 members. ■

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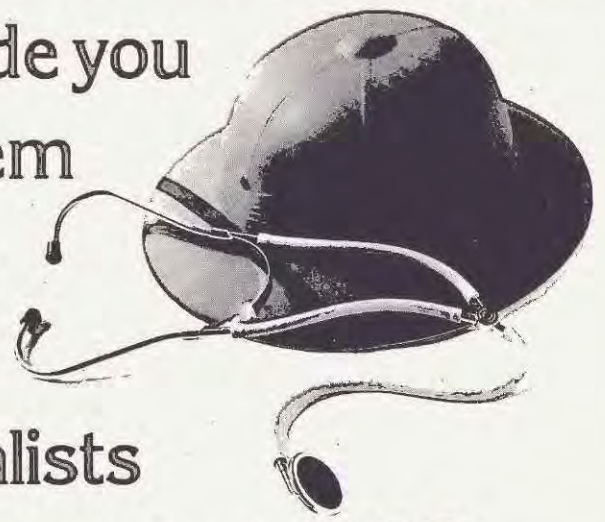

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Lloyd's offers new fiduciary liability policy

NEW YORK—Lloyd's of London is offering a new fiduciary liability policy with expanded coverage that includes the employer/sponsor of an employe benefit plan.

The new policy also covers common law liability, where the former Lloyd's policy covered liability only as imposed by the Employe Retirement Income Security Act (ERISA), said Marshall Rahner, president of Professional Indemnity Agency a correspondent Lloyd's firm.

"Any act or omission is administration of an employe benefits plan is included in the new policy," Mr. Rahner noted. Exclusions include fines, penalties, taxes, claims for benefits and contributions that should have been made by the employer.

The new policy features a $1,000 per claim deductible, but the deductible does not apply to defense costs.

Up to $10 million in liability is available with the new policy and premium costs will be 30% higher than those quoted in the old Lloyd's policy.

Minimum premiums quoted in the old Lloyd's policy were $1,375 for coverage up to $250,000 annual aggregate limit, $1,950 for $500,-000 and $2,500 for $1 million. (*Business Insurance* Feb. 10, 1975).

The new policy, effective as of the end of May, was developed "because it was felt the old policy was not adequate," Mr. Rahner said. "Clients were asking for broader coverage." ■

How to "chop down" a 185-foot smokestack

When long-time policyholder Al Paschke Construction Company Inc., of Ephraim, Wisconsin, came to us for coverage on their plan to dynamite a 19-story high, steel-reinforced concrete smokestack . . . well, candidly, we were a bit apprehensive. Especially because it had to drop *between* buildings containing hundreds of thousands of dollars worth of goods and equipment.

However, Paschke has a reputation for both skill and safety. And we have a reputation for sticking with our clients, and providing them with practically *any* kind of insurance that any kind of business could need.

So we studied the plan, helped develop the operating safety procedure, and provided our own on-site safety consultant for the duration of the operation.

And, as always, they pulled off a perfect job. Using a technique similar to notching a tree on the "fall" side, Paschke severed it from its base with a carefully measured charge. The giant shivered momentarily, then fell in a slow, stately, heart-stopping arc that ended precisely where planned. No injuries, no damaged property, no sweat!

Paschke's case illustrates our assertion that we help our policyholders for all we're worth. And the degree of help you get is just exactly what an insurance company *is* worth. At Employers of Wausau, we make sure insurance works for you.

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A. H. Robins settles for $425,000 on contraceptive device liability

By RICHARD L. GORDON

KEY WEST, FL.—A product liability case involving a death from use of A. H. Robins Co. Inc.'s Dalkon shield intrauterine device was settled this month for $425,000. It was the first case to be settled involving a fatality.

The Richmond, Va., based company refused to comment on the settlement. But *Business Insurance* learned that the bulk, if not all, of the award was paid by Aetna Casualty & Surety Co.

The award went to the husband and two daughters of Mrs. Maria Meggs, 27, who became pregnant after using the contraceptive device and died April 4, 1974.

The Meggs family had originally sued the company for $5 million. The case was before Monroe County (Florida) Circuit Court.

Robins Co. told its shareholders this spring that its product liability insurance program had been changed effective March 1 to include a $4 million deductible.

For suits based on incidents that occurred before that date, however, the company said the deductible amount was "not significant in light of the company's financial condition."

Company spokesmen declined to specify what the "not significant" deductible was. They indicated, however, that the chances for incidents to arise under the new $4 million deductible were believed to be not serious since the product has been withdrawn from the market since last June. (*Business Insurance*, Sept. 16, 1974.)

The company cautioned that many of the suits which have been filed against the company seek punitive as well as compensatory damages and that punitive damages are not insurable in most jurisidictions.

A recent settlement of a suit in Kansas involving the Dalkon shield awarded $75,000 in punitive damages on top of $10,000 in compensatory damages.

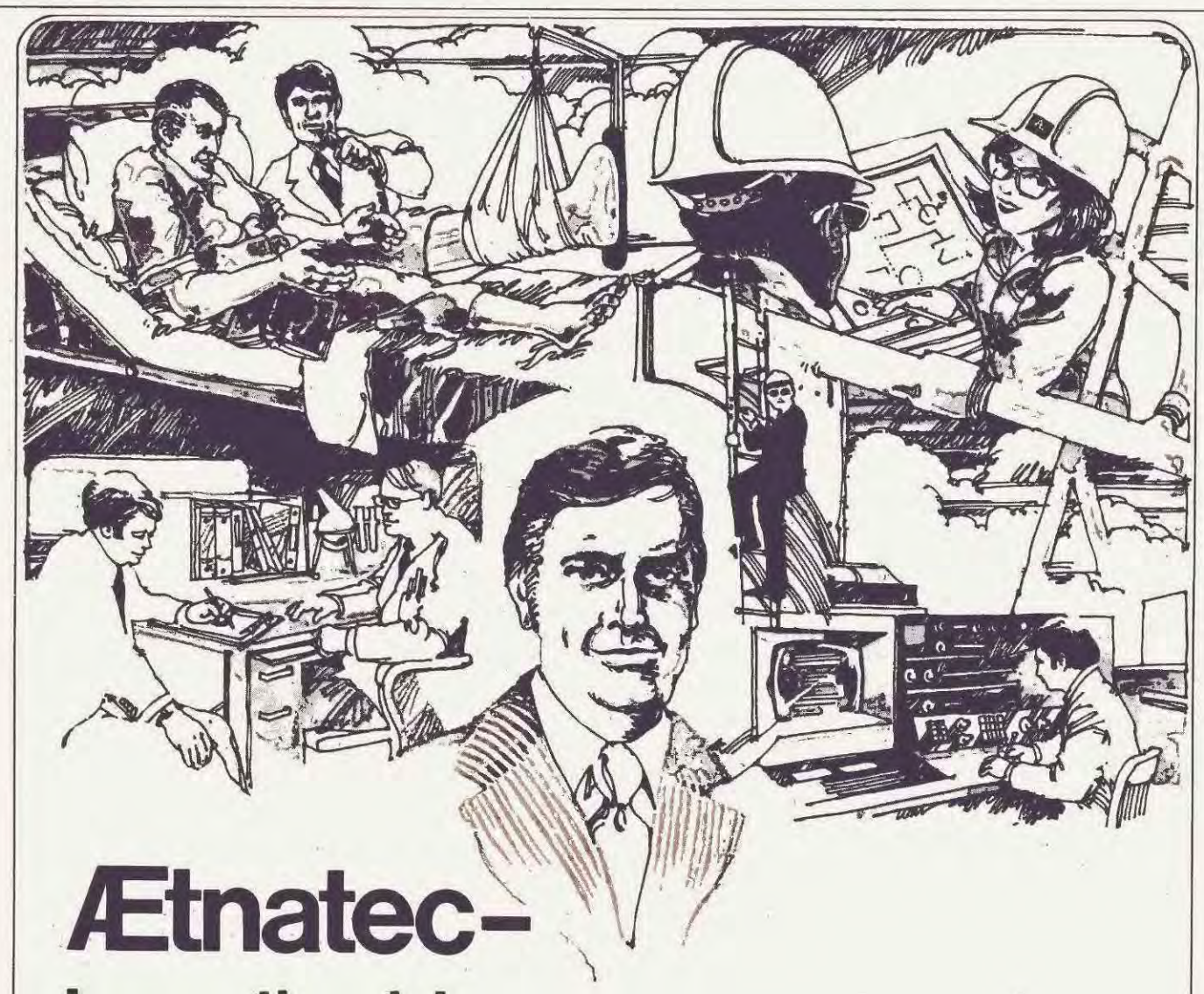
The company indicated that lawsuits have been filed at a fairly rapid rate. Its annual report for 1974, prepared last February 10, said 148 liability cases were pending. One month later, the company said in a press release accompanying the annual report, that the total had climbed to 186. At its annual meeting in April, the company said an additional 40 suits had been filed.

Company officials declined to reveal the amount and type of damages sought in these suits.

The Meggs family was represented by the Miami law firm of Spence, Payne, and Masington. Stuart Grossman, an attorney on the case, said, "I'm quite certain that this is the largest award so far. As far as I know, every penny we got in the case came from Aetna." ■

Salt Lake acquisition

American National General Agencies Inc. in Salt Lake City acquired the general agency business of Heber J. Grant Co. also in that city. ANGA is a subsidiary of Sperry & Hutchinson Co.



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Most ERISA suits seek delinquent contributions

WASHINGTON—Tavern owners in Alaska, painting contractors in Washington state, and construction firms operating in Florida are among the first employers to be involved in legal actions stemming from the pension reform law.

While many are predicting thousands of suits will eventually be filed under ERISA, only 32 legal actions have been sent to the Labor Department as of May 13.

Section 502 (h) of the law requires copies of the lawsuits to be filed with the Labor and Treasury Departments and gives the two departments authority to intervene in the litigation at their discretion.

At this point, neither the Labor or Treasury Departments has found any of the suits of sufficient interest to draw their active attention.

Most of the suits, in fact, have been filed by pension or welfare funds seeking delinquent contributions from employers. Many of the amounts sought are only about $1,000.

Combined, the Bartenders fund and the Painters fund have filed about a dozen suits seeking to force Alaska bar owners or Washington state painting contractors to pay delinquent pension, welfare, and sometimes apprenticeship fund contributions.

Most of the dollar amounts involved in these suits are around $1,000.

The suits filed in Florida also seek back pension fund contributions.

In Boston federal court, the United Paperworkers International Union filed suit against the Valley Paper Co. pension plan to collect $18,000 which remained in the fund when the paper company went into bankruptcy in June 1973.

In New York's southern Manhattan federal district court, a squabble between a union and three employer trustees of the Tapers Insurance Fund has gone to court with the plaintiffs charging that the employer co-chairman of the fund has refused to sign checks since February of this year.

The plaintiffs alleged the check signing freeze is an attempt "to coerce and bring pressure" on the labor organization, the Drywall Tapers and Pointers of Greater New York.

The only suits exempt from the filing requirement with the government are those that exclusively seek to recover benefits owed plan participants or beneficiaries. ■

Stadium security

Burn International Security Services Inc., New York, was awarded a five year contract to provide security for the new stadium at Pontiac, Mi., scheduled to open this fall. Annual billings of $1 million are expected, according to Edward W. Hyde, Burns' president. The company will handle all phases of protection from ticket selling and taking to uniformed and plainclothes guard work for the Detroit Lions football team home games and other events scheduled in the 80,000 seat domed structure.

States should take lead in no-fault: Ford

WASHINGTON—The Ford administration backs the idea of no-fault auto insurance but says the federal government should "stand aside" and let the states take the lead in this area.

The administration position was outlined by Transportation Secretary William T. Coleman Jr. in testimony before the Senate Commerce Committee last month. The committee is considering a bill (S. 354) which would set minimum standards for state no-fault plans and which would require the states to adopt such plans.

For most purposes, the new statement is identical to the stand taken by the Nixon administration last year and ends speculation that top federal officials had given up their preference for state action on the question.

"I appreciate the fact," Secretary Coleman said, "that many, including this department, may have once anticipated that the pace of state reform would have produced more extensive and more substantial results by this time than it has.

"Yet, in retrospect, that expectation was clearly unrealistic," he said. "Given the complexity, the controversial nature, the many uncertainties, and the pervasive scope of the changes involved, the progress that has already been achieved should be viewed as truly remarkable and applauded for the achievement it is."

Current federal no-fault bills apply only to medical and economic losses, not to property damage claims.

On the touchy primary issue—whether auto insurers alone or in competition with health insurers should cover these claims—the administration came down on the side of the auto insurers.

The administration's preference for auto insurance as primary underwriter of no-fault benefits is based on the assumption that there is a "voluntary" insurance system in place which cannot be expected to be universal or mandatory in its coverage.

"We have not addressed the presently hypothetical problem of coordinating medical loss benefits between no-fault automobile insurance and whatever type of mandatory national health insurance plan may be adopted in the future," Secretary Coleman said.

"Whatever our views might be in this matter now, it seems inevitable that the final decision will be made in the context of the decision on a national health insurance plan itself," he said.

"For the present," he said, "we believe that as long as no-fault reform, whether at the state or the national level, is mandatory and provides universal, high limit coverage of automobile accident medical losses, it should be primary over other private benefit sources." ■

Blue Cross rolls up 2.8%

CHICAGO—There were 87.6 million persons enrolled in Blue Cross plans in 1974, up 2.3 million or 2.8% from 1973, it was reported this month at the Blue Cross Assn. annual meeting.

Paid out claims for benefits reached $8.3 billion in 1974, up from $7.4 billion in 1973.

U.S. Blue Cross plans accounted for 82.4 million subscribers and 84% of these were enrolled through group contracts.

Blue Cross operates 74 plans in in the United States, four in Canada, and one in Jamaica. ■

Malpractice law

Legislation limiting awards in medical malpractice lawsuits to $400,000 was approved by the Oregon House which has sent the measure, H.B. 2647, to the Senate for action there. The proposed new Oregon law also would eliminate any attorney contingency fee arrangement and substitute fee setting by a judge. The measure also includes a provision which would permit physicians to create their own malpractice insurance fund.

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editorial opinions

Bankers entitled to a better explanation

BANKERS ARE RIGHTFULLY upset about the changes being made in blanket bond forms, further restricting coverage in what they see as already-restrictive policies.

Some bank risk managers actually sympathize with bank blanket bond insurers' desire to eliminate the question of loan losses and currency speculation losses from being covered under the language of the bonds. Such losses due to poor bank management were never intended to be covered under the bonds, say insurers .

The banks, by and large, agree.

Risk managers for 15 or so banks we talked to, however, contended such losses have generally not been claimed by banks under their bonds. Currency and commodity trading losses, and bad loans, even when attributed to unauthorized acts by employes, have not been paid by underwriters. Further, they are not even viewed by most banks as the types of losses which should be covered by bonds.

Bad loans by bank officers are also not seen as a "problem area." None of the banks we surveyed had had a single paid claim under a bond in the last two years involving a loan loss being covered as defalcation, dishonesty or fraud.

We asked the underwriters, then, to give us an idea of the paid and/or incurred claims they've had in the last two years which would fall into this realm of "questionable" claims which they now want to exclude from coverage. Not a single insurer, however, could provide any current statistics on the number, size or total amount of losses in the last year or two which would be set aside (hypothetically) in the event bonds had contained policy wording such as that now in final stages at Lloyd's, already finalized by Chubb, and under discussion by members of the Surety Assn.

Indeed, they could not, or were unwilling to divulge any picture of paid or incurred losses in the last two years which came under Clause A, which is the category of employe infidelity and defalcation.

Now we think that's a bit much, for insurers to expect policyholders to sit quietly by and "take their word for it" that there's a crisis today with bankers bonds. As our stories in this issue point out, there are a few pretty sensational examples being cited of claims currently on underwriters' desks which involve this area of bad loans by bank officials.

But do these show a trend? Nobody has proved it to us. At this point we can only conclude insurers are overreacting to a few isolated experiences. All we've got to look at are a few outdated figures from the Surety Assn. which indicate, if anything, a pretty healthy bank bond business.

Banks are fighting the bond changes. They're talking tough about pulling away from Federal Insurance Co. (affiliated with Chubb) because of its unilateral move to limit bond coverage. They're also asking underwriters for proof that changes are necessary.

We don't think that's too much to ask of the insurance industry. We believe any time insurers start asking for new exclusions and key changes such as a re-definition of dishonesty, they should be willing to back up their contentions with facts. It is no more than they would ask of their clients.

Surely the actuaries who are figuring out loss forecasts, rates and trends for the underwriters are privy to better facts than we've heard. Policy restrictions might be necessary. So might higher rates. Prove it.

The banks are not opposed to the idea of having to prove substantial improper gain by a bank employe in order to show clear intent to harm the bank or commit fraud. But they've always had to do that, bankers argue.

Are the insurers really afraid of litigation over these claims? Are they afraid to let the cases go to jury trials because they know bank clients will win? These are some questions being asked. We believe they deserve answers.

One further point: Each banker we talked with cited his or her own bank's good experience as a reference point, then concluded, "It must be the little banks out in Podunk that are putting in all these loan loss claims."

Who is it, underwriters? We'd like to have a profile of defalcation claimants. Policyholders are entitled to one.

Moreover, we'd like to hear from the little banks: What kind and quantities of bond losses are you generating out there, anyway?

But, $7 million?

YOU KNOW those insurance advertisements that picture a group of people in a court room jury box with the copy line underneath, "Someday 12 wonderful people could destroy you?" Well they're not kidding.

We're referring to the largest liability award ever given by a jury, $7 million awarded to a youth and his family by a U.S. District Court jury in Washington, D.C. the other day.

The youth's neck was broken in a swimming pool dive at an ITT-Sheraton Corp. hotel. He's now a quadraplegic.

While no amount of money will ever make this youth whole again, nor return to his family the normalcy it once enjoyed, we think the award is clearly excessive. The award is subject to review by the District Court judge who can accept it, modify it or reject it.

It's our opinion that the award should be modified or rejected by the judge. And while he's at it, the good judge might consider commenting on just where the American system of tort liability is leading us all.

Now, we're not suggesting that the system be done away with, for it has worked for centuries. However, this society's pursuit of greater and greater GNPs has clearly led to some excesses in areas we can no longer afford.

It seems to us that what this country needs, in lieu of a revision of its system of jurisprudence, is a massive dose of education in economics. Or, for lack of a more erudite description, a lesson in who ends up paying for what.

Americans who serve on juries, indeed this country's entire citizenry, need to be reminded that awards such as this one will come full circle in time, and end up being paid out of the pockets of consumers. It's an educational campaign which might be mounted by the liability insurance industry working in concert, with benefits that reach beyond the comprehensive general liability line (i.e., malpractice, products).

Again, we do not mean to diminish the tragedy of this particular case. But, $7 million?

letters

This column is a readers' forum. Letters are welcome. Address letters to the Editor of Business Insurance, 708 Third Ave., New York, N.Y. 10017.

Bad medicine

To the Editor: I would like to comment on the editorial entitled "A hurricane" in your May 19 issue. While I certainly grant there is a crisis in malpractice insurance, I think you have ignored one of the primary causes. You seem to place the fault primarily upon the attorney and perhaps upon the insurance industry.

Granted, some fault may and undoubtedly does lie with those sources, but you have ignored the root source, the doctors themselves and more particularly their lack of policing their profession. In twenty years of practice primarily in the tort field and primarily representing defendants I have frequently run into what I consider malpractice (I have never filed a plaintiff's malpractice action). I have frequently had doctors tell me "off the record" that other doctors were guilty of malpractice, but they would not or could not so testify either out of personal conviction or for fear of reprisals from the organized medical societies, hospitals and insurers.

Accordingly, it is my suggestion that when remedial steps are being considered the first consideration should be a review of the doctors themselves. It is unpleasant to mention that many lawyers are regularly disbarred, but it is so. I cannot remember the last time a doctor lost his right to practice except for the most obvious and blatant malpractice.

I am suggesting that one way to eliminate malpractice claims would be to make an effort to eliminate genuine malpractice. The cause of the problem is not contingent fees; it is to a large extent the considerable amount of bad medicine that is practiced.

Arthur E. Siegel

Cincinnati, Oh.

Better ad control

To the Editor: The Safety Committee of the Associated General Contractors of Massachusetts at its meeting of April 29, 1975 reviewed the American Re-Insurance Co. ad on page 9 of the April 21, 1975 issue of *Business Insurance*.

We noted the total lack of guardrails, inadequate reshoring, and the 50% usage of hardhats.

Surely the loss control industry can exercise better quality control over its advertisements.

Ralph W. Niles

Chairman, safety committee, Associated General Contractors of Massachusetts Inc., Chestnut Hill, Ma.

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Risk control services use on rise, survey shows

CHICAGO—A mail survey of several hundred *Business Insurance* readers revealed that 40% of the risk managers responding have steadily increased the amount of services they obtain from outside suppliers.

Furthermore, of the 86 responses to the survey, 38 of the risk and insurance managers said they plan to purchase or look into purchasing at least one new service in the future. In many cases, several new services are scheduled for addition to corporate rosters in coming months.

Many companies planning to use more services in the future indicated they will go to independent suppliers for those servies, that is, firms not part of insurance company or brokerage operations. This would be a continuation of a trend indicated by the responses to the survey, because most companies which have increased their use of outside services in the last year have done so by using more independent firms for those services.

Services most frequently anticipated for use in the future are:

- captive management or captive studies, 14 responses,
- assets appraisals, 10 responses,
- risk management consulting, eight responses,
- employe benefits planning, seven responses.

Risk managers indicating that fewer services would be needed in coming months (seven written comments) attributed the anticipated change to increased emphasis on in-house administrative personnel to achieve better control, particularly in such areas as safety and loss control engineering, security programs, guards and industrial hygiene.

One company said that with the shift to a self-insured workers' compensation program, all safety, claims control and self-insurance related activities will be moved in-house.

Another company, however, said it will purchase more services outside because this offers "the opportunity to the risk manager to pick and choose among suppliers at negotiated prices."

Most companies pay for services several different ways. Some services are billed on a fee basis, risk managers said, while others are obtained as part of a premium or commission package.

Of the 86 responses, only nine companies said they don't pay any fees for services, while seven said none of their service costs are included in commissions or premiums. Several risk managers commented that they recently went to a negotiated fee basis for services which had previously been on a commission or premium package basis.

In fact, 51 companies said they negotiate their fees for services with the suppliers. Only nine said fees are not negotiated.

Twenty-seven companies noted that the services they purchased in the latest year were the same as those obtained previously, nine said they used fewer services last year than before, and their comments indicated budget-cutting was the key reason.

All but two of the 86 companies which responded presently use at least two services supplied by insurer, broker or independent firm. Those two firms don't use any outside services.

Of the 14 different risk management services listed for risk managers to check off, those most frequently used are: claims adjusting (75), fire protection engineering (74), safety and loss control services (63), actuarial services (62), asset appraisals (53), employe benefits planning (49), guard services (43).

Other services presently used by risk managers include: Risk management consulting servies (42), industrial hygiene programs (40), data processing services (39), employe benefits administration (33), security services (30), rehabilitation (25), and captive management or captive studies services, with only 24 responses.

Other services which were mentioned as possibilities in the future were actuarial services and data processing services, each with five mentions; fire protection engineering from independent suppliers with four mentions; claims adjusting, benefits administration and rehabilitation, each with three mentions; and a single response for each area indicating interest in seciurity services, industrial hygiene and guard services.

Two firms said they use risk management services not listed.

Of the services purchased from outside suppliers, claims handling services from an independent supplier. The other, located abroad, purchases environmental pollution advisory services from an independent.

Risk services are paying a whopping chunk of cash annually for services, the survey revealed. Some 41 companies supplied actual figures on services expenditures, which ranged from a low of $400 per year up to $3.5 million specified as "for services only." The most frequently noted expenditure was $100,000-plus (4), and the average expenditure was a substantial $161,629.

Some firms noted expenditures as a portion of total insurance premiums. The answers included 3%, 10% and 12% of premium.

Portion of total risk management budget (including premiums) spent for services last year ranged between three-tenths of 1%, and 50%. Some 28 companies said they spend less than 5% of total departmental budget for outside services. The most frequent answer was 1% of total budget, with 10 responses. Two others spent less than 1%, they said.

Two companies spend nearly 10% of total budgets on services, while another two spend about 12%. Three firms said they spend 15%, 20% and 30% respectively.

Other companies measure services expenditures differently. Two said they spend 10% to 12% of premium cost annually for services. A large multinational firm spending some $6 million a year for premiums figures it spends half of that for services.

Four other companies disclosed they spend between 10% and 25% of insurance department administrative budgets for services.

And one risk manager offered a comment about services expenditures indicative of his accounting system: "Fees charged by independent suppliers are not in the insurance budget because they are charged back to other departments."

Among the comments of firms planning to purchase more services in the future from outside suppliers were these remarks: "May have to engage independent firm to do property evaluations as brokers seem to be cutting back on services rendered."

"Will buy services for specific needs such as captive study and risk management audit."

"Will use risk management consultants, marine surveyors."

"Probably will use more services for appraisals, fleet maintenance, employe benefits. Reasons: Trans-

Continued on page 18

New kidnap prevention service firm may soon be condition of coverage

CHICAGO—Companies wanting to buy kidnap/ransom insurance from Lloyd's insurers may soon be required to use kidnap prevention and loss control methods as a condition of the kidnap/ransom coverage, *Business Insurance* learned.

This prediction was made by Julian Radcliffe, a director of London-based Investment Insurance International (Managers) Ltd., a Lloyd's syndicate at the forefront of political risk and kidnap/ransom insurance markets.

"The market is moving quite rapidly" in the direction of requiring an insured to use a new kidnap prevention service firm as "a condition of underwriting," said Mr. Radcliffe in an interview with this magazine.

Control Risks Ltd. was established in late 1974 to assure that companies plan adequately for protection and handle post-kidnap activities correctly, said David J. Walker, a director of the newly-created firm.

Both Control Risks and Investment Insurance International are part of the Hogg-Robinson Group, a diversified British company with extensive insurance interests.

In case where the client is insured with Lloyd's, Mr. Walker often works on behalf of the underwriters, "but it's not necessarily that kind of arrangement," he says. "Basically, these services act to reduce the risks, both physical and procedural, inherent in the kidnap exposure. Thus, we mitigate the risk. This reduction of the risks can be tied into the kidnap/ransom insurance, or can be completely separated from the insurance to be used purely as a loss control measure," said Mr. Walker during the interview.

The concept of preventing kidnappings is only in the embryonic stage, said Mr. Walker, whose background for this business was some years of service with the British government. Demand for the service has been strong, he said. Clients of Control Risks now number about 30 large multinational firms, he added. Seven or eight of these are U.S.-based multinational companies, and the rest are U.K. and European firms. Mr. Walker envisions building the client roster to between 50 and 100 clients by the end of 1975, and wants "at least half of those (to be) U.S.-based."

The reasons London is now so concerned with preventing kidnappings "and this is also true of the insureds," says Mr. Walker is because of a rash in terrorist activity in South America and Italy, along with a few other countries in recent years. He also points out substantial financial justification for controlling the risk: "The premiums are high, and they are usually large; the individual has a particular interest in reducing this risk; and we believe the market will follow the prevention course, with premium reductions comparable to the reduction in risk."

Mr. Walker's services break into two distinct areas: pre-kidnap surveys, risk reduction methods, and crisis management planning; followed by post-kid-

Continued on page 20

Photo—Guardsmark Inc.

More services used . . .

Continued from page 17

fer of some risk, unable to provide services in-house, need outside expertise."

"May purchase services in employe benefit area because of current need to change program."

"Will buy more services from independent suppliers. Insurance companies in general do not have heavy people."

"Anticipate buying more services primarily in the industrial hygiene area, also risk management studies."

"Possible future services on risk analysis and materials hazards will be additional services to assist in the overall risk management program."

When asked if there are services needed that aren't available or are difficult to find, risk managers replied:

"Yes, a good study on corporate security."

"A list of physicians and their fields of specialization for employe referrals."

"Loss control services-only on a national basis."

"Yes, because of (our) remote location in Alaska, most firms have no service facilities."

A number of risk managers commented that they have been very satisfied with the quality of services purchased and the performance of suppliers, including insurers, brokers and independents. Some typical favorable comments: "Services provided upon request have been more than adequate to the extent that we have not always utilized them as effectively as we could."

"Definitely obtained money's worth. Certain brokers have been very helpful in reducing costs."

"We have been able to buy services for less money than it would have cost to provide them internally."

"We could not maintain in-shop actuarial people or asset appraisal staff for the seasonal peaks and valleys."

Thirteen other risk managers offered constructive criticism of some services they've used and some services suppliers they've worked with. Comments included: "Life insurance consultants and health insurance consultants and services are associated at brokerages and agencies. Independent evaluation and assessment of these respective areas is very hard to find. Most, if not all, advice is tied to marketing of a particular line."

"We were not too impressed with the report of an insurance consulting firm which was engaged to do an audit."

"The captive managers have left a lot to be desired on the engineering loss control side."

"I have not received the claims service (actuarial and statistical) from insurance companies which should be provided under a normal policy arrangement. Service and statistical data is slow and inaccurate. Negotiation for this service on a fee basis, as a recognized charge, rather than hidden in the premium, brings better results."

"Slowness in developing and reporting loss information from the insurer."

"All have been good except for firms offering work comp claims services (self-insured.) These firms only handle claims routinely, and we must tell them what to do on more technical claims. They only want to do paperwork and not the more difficult functions which are essential for total claims cost control."

"The term service is a misnomer in the insurance industry. Technical assistance is a better term to define those which may be obtained, from those in insurance contract itself, for commissions paid."

"Providers tend to provide minimal service. Essential that they be monitored frequently to assure that you are getting what you're paying for."

"When we moved to higher deductibles, reducing our total dollar premiums, our broker's service declined noticeably and has continued to deteriorate. We are now going to independents for our needs with far better results."

"Yes, I've been satisfied, when the services have not come from brokers. Brokers charges are very high."

"Many of the engineers employed are not qualified. They do not follow up, they make shabby inspections, and dictate reports from previous reports." ■

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OSHA sets free, on-site consultations

WASHINGTON—States without federally approved job safety and health plans can now contract with the Occupational Safety and Health Administration (OSHA) to provide free on-site consultations.

Most states with OSHA approved plans already offer such services to employers.

Consultations will not trigger a subsequent OSHA inspection of the workplace, but there are some similarities between consultations and inspections.

Consultants who discover hazards which could reasonably be expected to cause death or serious physical harm will request the employer to eliminate the hazard.

Consultants may conduct follow-up consultative visits to assure such hazards have been eliminated. If employers refuse to cooperate in eliminating these hazards, consultants will be required to notify the affected employes and OSHA immediately.

Employers can withhold a consultant's report from an OSHA inspector if he wishes. But the failure of a consultant to point out a hazard will not constitute a defense if an OSHA inspector subsequently issues a citation for an alleged violation involving that hazard.

OSHA said top priority for these consultations will initially be given to small businesses and to those with hazardous operations. ■

OIL foresees an increase in liability limits

HAMILTON, BERMUDA—The board of directors of OIL Ltd. is considering increasing the liability limits for the oil industry captive to $100 million from the present $75 million, *Business Insurance* learned.

Meeting in late May, the board decided to recommend the increase to member stockholders who will accept or reject the increase at the annual meeting in August.

George Yaneff, president and chief executive officer of OIL Ltd. stressed that "nothing is final yet, but we are studying the possibility of increasing the limit of liability."

The increase is being considered to offset the effects of inflation, Mr. Yaneff said. ■

"We were discussing ways to prevent losses and someone asked if our insurance company belongs to the Factory Mutual System."

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Kidnap prevention . . .

Continued from page 17

nap negotiation assistance to get the victim back alive.

Control Risks charges fees of $500 per day plus expenses for the initial risk survey part of the program, and the post-kidnap services fees which are negotiated "probably are in the same general range," said Mr. Walker.

Risk surveys usually cost $5,000 to $10,000 for a couple of days spent at the client's corporate headquarters plus visits to several of the firm's key foreign locations. Control Risks provides each client with a manual, briefings and training for kidnap prevention. "The first thing we tell (expatriates) is to generate an awareness of the threat," says Mr. Walker.

He carries out seminars in the foreign country for guards, employes of the expatriates and domestic servants to educate them about threats and the reactions they should have to threats.

"I tell clients to follow an erratic and unpredictable routine. This is undoubtedly the most important single thing you can do to prevent a kidnapping," Mr. Walker believes. "I also tell clients to maintain a low profile in the foreign country. I tell the company employe to drive a dented Falcon instead of a shiny Cadillac."

The employe must also keep up good communications with a source of help at all times, Mr. Walker instructs. "The best thing to do is to keep a two-way radio in your bedroom."

The person living in a foreign country must also maintain protection in-depth at all times, he declared. "I tell them to follow the 'concentric rings' approach to personal protection." In simple terms, this approach is based on layers of protection and security all the way from the outer environment to the inner living quarters.

"One of the main problems one runs into is totally incompetent guards for the high-ranking employe in a foreign country. They generally know nothing about movement control, grenade drills; they have no commanding control system, and they have never been told what they were doing there," says Mr. Walker.

Naturally one of the items on the list of "preplanned and controlled responses" which Control Risks emphasizes is insurance.

In the crisis management category of kidnap handling, Mr. Walker's firm provides help in planning for a reaction to a kidnapping, instruction and assistance in how to process threats, establishing responsibilities for action in the event of a kidnapping negotiating instruction and assistance, and training on how to handle press, police, family and employes.

Kidnap/ransom insurers often want someone like Mr. Walker on the scene, of course, to prevent fraud or uncover it if the kidnap was part of a dishonest get-rich-quick scheme. "That is clearly a danger" in these cases, says Mr. Walker. "It is also important to make sure that the insurance, if there is any, is kept very much in the background," he adds, noting that Control Risks has as many clients who are not insured as it has clients who are insured.

Part of the effort to minimize the final loss in kidnapping cases involves Mr. Walker's help in "stiffening the resolve" of the people involved in the case not to overreact in order to settle too quickly. ■

Italy and S. America pose biggest kidnap risks

CHICAGO—Kidnapping and terrorist threats in Italy have escalated to major proportions, although Argentina continues to be the major area of concern, said David J. Walker, a director of Control Risks Ltd., a firm specializing in kidnap prevention, and loss control.

"In Italy, the targets are nearly always Italian nationals, mainly Italian employes of Italian corporations so far. But there is considerable interest in activities there," Mr. Walker told *Business Insurance*.

He said there were 49 reported kidnappings in Italy last year, "and we figure there are two unreported kidnappings for every reported case. Twenty kidnappings have been reported in Italy so far in 1975, largely in the industrialized north (Milan and Turin). "Ransoms are rising," says Mr. Walker.

But for international corporations, the kidnapping risk in Italy is not as extensive as the risk in South America, he added. Risks in Lebanon and Tehran are big enough to create growing concern, he said.

Mr. Walker quoted Dr. Richard Clutterbuck, an expert on political violence, who has predicted that "terrorism is almost sure to increase. It will increase primarily because in the short term it seems to pay; political blackmail gets results; convicted terrorists are released, huge ransoms are paid, and publicity on a scale unimaginable before the television age is acquired free.

"It will increase secondly because industrial society becomes more vulnerable every day . . . because terrorists can travel more, and more easily . . . terrorist ideas travel even more easily than the terrorists themselves," Dr. Clutterbuck said.

Mr. Walker noted that kidnapping as political blackmail—and out of this grew criminal and financial kidnapping—effectively began in Guatemala in 1968. It spread to Brazil, the Dominican Republic, Argentina and Uruguay, and later to nearly every country of the world.

"It is our experience that the existence of kidnap/ransom coverage has been a very minor factor in an ultimate decision of whether to pay a ransom," said Mr. Walker.

He gave *Business Insurance* a rundown on current assessments of kidnap risks including those in:

- Guatemala, where right- and left-wing terrorists are operating;
- Uruguay, where the Tupamaros in 1972 provoked a backlash which led to their virtual destruction;
- Brazil, where terrorist activities have lessened since 1972, but there is still a latent problem which "undoubtedly exists."
- Argentina, where the E.R.P. is reliably believed to have accumulated over $30 million by May 1974, with terrorist forces now including some members coming from Chile, Uruguay and Bolivia;
- Africa, where kidnapping is not a usual activity, but where there is random violence in countries with post-colonial struggles as disruptive forces;
- Portugal, which could well be turbulent along with Spain. ■

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Property engineering unaffected by economy

By LINDA MOSKOWITZ

NEW YORK—While budgetary cutbacks are trimming costs at many industrial operations, the use of property protection services by major corporations remains largely unaffected by such economizing measures.

Risk Management SERVICES

Furthermore, it appears likely likely that most corporate risk managers would put up a good battle before they let such services be cut, according to an informal survey by *Business Insurance*.

"I would fight tooth and nail against that," said Clayton Carlson, risk manager at Boise-Cascade, when asked if he felt property protection services would be one of the first things to go in a budget cutback at his firm.

"A good preventive program is necessary if we want to control losses," he said.

While declining comment on the actual value of the property at Boise-Cascade, Mr. Carlson said that a considerable amount of the property are highly protected risks (HPR) and are inspected "as required" by the insurer on a constant call-back basis.

Boise-Cascade uses the Factory Mutual System (FM) for all its property insurance, according to Mr. Carlson.

In addition, an in-house staff is maintained as a back-up to the insurer's inspection service.

No cutbacks or changes are presently being contemplated at Boise-Cascade in the property protection program, Mr. Carlson explained.

At Gold Kist Inc. an expanded use of property protection services is being considered, according to Robert Rich, director of corporate insurance.

Marsh & McLennan Protection Consultants, Schirmer Engineering Co. and Factory Mutual services are all utilized at Gold Kist.

Fees for these services "vary from year to year," Mr. Rich explained, as the consulting firms are not contracted on a regular basis.

"If you don't conserve property, the corporation can't make money," said Mr. Rich, discussing why loss prevention services will be the least likely target of budget cuts. Without property conservation "you'd be losing a profit center," he added.

Howard Weber, risk manager at 3M Co., doesn't feel the current economic outlook is affecting his company's property loss control program.

However, he does feel the firm is "probably spending fewer dollars (on loss control) in proportion to property values than five years ago," but he also notes that inflation is largely responsible for pushing up property values.

"This is cyclical," Mr. Weber explained, "the (amount spent on) loss prevention will catch up."

In addition to use of carrier and broker property protection serices, 3M Co. also maintains an in-house staff, the extent of which is "related evenly to property value," Mr. Weber said.

The suppliers of loss control services confirm the corporate risk managers' views regarding the need and tend to retain property protection services at optimum levels.

"There's a little softening in budgets, but we haven't seen a real strong change in this area," said Harrison H. Goff, vp-corporate relations for Allendale Mutual Insurance Co., FM member company.

Recessionary times often indicate "more loss potential," according to Bruce Suter, director of client services at EBASCO, another property service consultant.

Practices such as using old equipment and cutting down on maintenance can lead to greater losses, Mr. Suter believes. Therefore, he feels loss prevention services must be kept up.

"People are more liability conscious," he added as another reason for few cutbacks in property services. ■

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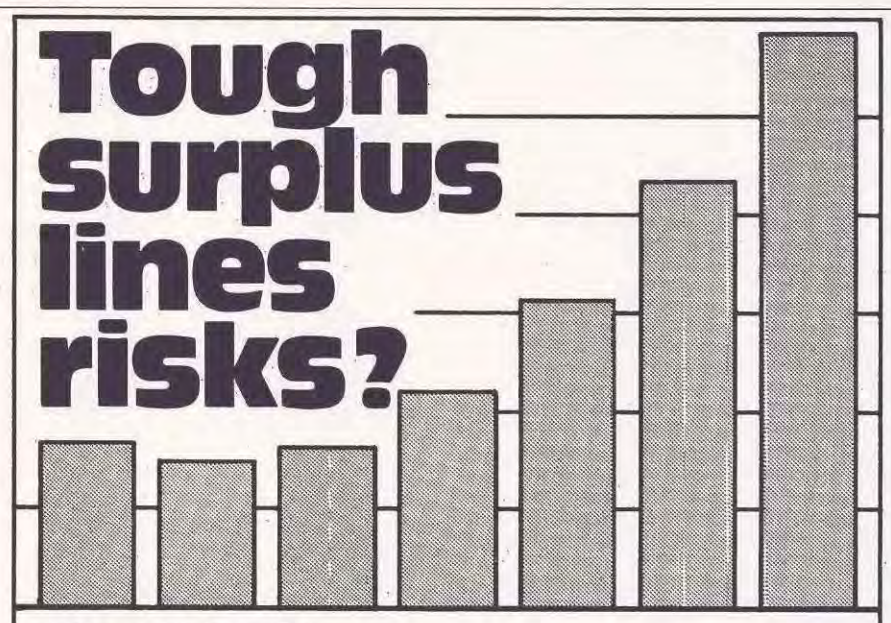

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• A brochure on Loss Control Inc.'s **OSHA Recordkeeping Service** is available. It briefly describes the company's ability to provide this service and tell how the records can also be used for loss control purposes. For a free copy write to Jim Levine, Loss Control Inc., OSHA Recordkeeping Service, P.O. Box 1539, Nashville, Tn. 37202.

• A **Schedule of Conferences** is available from the International Safety Academy, a member of the Insurance Co. of North America Corp. It lists dates for conferences on basic safety management, total loss control management, inspector training and environmental health management. For a free copy write to the academy at 1021 Georgia Ave., Macon, Ga. 31201.

• **ESIS/Loss Control Services** is a brochure detailing ESIS Inc.'s services, including OSHA-oriented inspections and total loss control systems. For a copy of the brochure or more information, contact: Stanley A. Greene, vp, ESIS Inc., Two INA Plaza, 13th Floor, 1600 Arch St., Philadelphia, Pa. 19101.

• Employers may offer an income tax preparation service to their employes for less than a penny per employe hour, according to **An Exciting Employe Benefit from H&R Block,** published in May. Year-round service is offered to employes at no additional charge to the employer or employe. For a free copy of the brochure which describes the details, write Louis S. Cupp, H&R Block, 4410 Main St., Kansas City, Mo. 64111.

• Medical Administration Programs Overview, released by Health Application Systems, describes the program's design of providing health care administrators with effective cost and quality controls. The program's capabilities and features are listed along with how the program can help a particular clients' needs. For a free copy write Richard Wolpert, 875 Mahler Rd., Burlingame, Ca. 94010.

• Hermann Hospital, Houston, offers direct assistance to companies that wish to develop or evaluate programs for troubled employes. For more information write to Troubled Employes Service System, 631 Hermann Professional Building, Houston, Tx. 77025, or call John Schaeffer at (713) 527-4023.

• Gay and Taylor Inc. has published a **Directory of Facilities** which lists multiple line adjusting services available through over 100 offices in the East and Midwest. Company history, experience, quality control procedures and special services are also covered. The directory is published twice a year and is free to *Business Insurance* readers by writing James E. Gay II, Gay and Taylor Inc. P.O. Box 1410, Winston-Salem, N.C. 27102.

• **A Comprehensive Plan for Asset Protection** is a 20-page booklet by Honeywell Commercial Division. The booklet explains the Alpha 3000 concept of integrated fire protection, security and building operation systems. Economic advantages to owner and insurer are stressed. For a free copy write Honeywell Commercial Division, Olive Ling, 2701 4th Ave. S., Minneapolis, Mn. 55408.

• Health Application Systems is offering a booklet **Medical Benefit Administration Systems,** which describes the key features of the firm's medical benefit administration systems and the advantages they offer to sponsors of medical benefit programs—primarily corporations, union trust funds, health maintenance organizations and government agencies. For a free copy of the descriptive brochure, write Lynden N. Kendrick, Health Application Systems, 1633 Bayshore Highway, Burlingame, Ca. 94010.

• Eldorado Service Corp., an affiliate of Eldorado Insurance Co., has made available **Claim Handling and Loss Control for Self-Insureds,** a brochure in notebook binder form that describes the company's planning procedures, claims techniques and loss control service. A proposal and claims forms complete the kit. Presently limited to California and Oregon, the kit may be obtained by writing Marketing Director, Eldorado Service Corp., 525 University Ave., Palo Alto, Ca. 94301.

• **Fire Protection Engineering** presents ECCO Service Inc.'s ability to assist the corporate insurance buyer, architects, contractors and engineers with fire protection design assistance, rate analysis and premium negotiation with insurance carriers. Free copies may be obtained by writing William D. Smith, president, ECCO Services Inc., P.O. Box 27128, Houston, Tx. 77027.

• H. Clarkson (Overseas) Ltd., a London-based insurance broker specializing in construction risks, is offering a brochure on how it handles **Projects at Risk** around the world. Pictures of projects handled by Clarkson and a description of their brokering services make up the brochure, along with a list of their member companies around the world. For a free copy write to the firm at Ibex House, Minories, London, EC3N 1HJ.

• **Rehab** is a new brochure of services offered by the Rehabilitation Services Division of Fred. S. James & Co. It describes the workings of the rehabilitation program and outlines the services provided to any employer who wishes to reduce potential costs through an active rehabilitation facility. The brochure is available from James Rehabilitation Services Division, Fred. S. James & Co., P.O. Box 7601, San Francisco, Ca. 94120.

• Alexander & Alexander is offering a brochure on its **Consulting Actuarial Services,** a special division providing services in pension plan design and actuarial projection. Free copies may be ob-

tained by writing to: Communications Dept., Alexander & Alexander Inc., 1185 Avenue of the Americas, New York, N.Y. 10036.

• The First Risk Management Cos. have prepared a brochure that describes their **Professional Counselling in Risk/Insurance/Financial Management.** The companies are consulting risk and insurance management firms, operating nationally and internationally. The professional qualifications of the firms' executive consultants are also described. For a free copy write Leonard J. Silver, CPCU, president, First Risk Management Co., 835 Glenside Ave., Wyncote, Pa. 19095.

• The Computer Security Institute publishes a **Portfolio of Membership Services** which describes the institute's bimonthly newsletter and tells of research projects in progress, including a cost/-benefit analysis of automatic fire suppression systems for computer facilities. For a free copy of the descriptive brochure, write to John C. O'Mara, Computer Security Institute, Five Boston Post Rd., Northboro, Ma. 01532.

• **Do Your Employes Know the Dollars and Cents Value of the Benefits You Provide Them?** has been recently published by The Connell Co. The brochure shows why Connell's personalized benefit inventory is an effective way to inform employes of your complete benefit package. For a free copy write to Communications Dept., Connell Co., 275 Wyman St., Waltham, Ma. 02154.

• **Management Oriented Claims Adjustments,** a brochure from ECCO Services Inc., explains the firm's ability to represent the corporate client in claim negotiations and settlement. Free copies may be obtained by writing William D. Smith, president, ECCO Services Inc., P.O. Box 27128, Houston, Tx. 77027.

• **Restore** is a CNA Insurance program to return persons with permanent physical disabilities to their fullest usefulness: physically, mentally, socially and vocationally. The program is described in an eight-page pamphlet available from George Hamilton, CNA Plaza, Chicago, Il 60685.

• Communitronics Inc., a subsidiary of Fred. S. James & Co. Inc., is offering a brochure that describes the company's program designed to **Tell your Employes about Their Benefits.** The program, called EmployesBIS, is a benefit information system which provides employes with an individual computerized benefit statement to inform them of their total compensation. Free descriptive brochures may be obtained by writing to Communitronics Inc., 2001 McKinney Ave., Dallas, Tx. 75201.

• The requirements for an adequate independent data-processing system are detailed in **Risk Management Information Systems Specifications and Reports,** available from Corporate Systems Corp. The system described is designed for large risks at multiple locations, with a combination of insured and self-insured coverages. The type and frequency of computer reports needed are included. For a free copy of the brochure write to Marvin Gwinn, communications director, Corporate Systems Corp., Box 2827, Amarillo, Tx. 79105.

• B&K Instruments is offering a brochure on its **SP-321 Digital Data System for Noise & Vibration Analysis.** The system prints out mean value, standard deviation and pseudo-histogram of the statistical data. An additional program computes the Environmental Protection Agency's day-night average sound level. For a free copy write Bill Rhodes, director of communications, B&K Instruments Inc., 5111 W. 164th St., Cleveland, Oh. 44142.

• Benefacts Inc. has published a **Total Approach to Communication** brochure which explains how the employer benefits from the employe benefits program when employes fully recognize and appreciate the investment made for them. The brochure provides basic information on individualized intra-corporate benefits communication programs set up by Benefacts on comprehensive multi-media levels. For a copy write Robert Eilerson, vp marketing, Benefacts Inc., Hampton Plaza, 300 E. Joppa Rd., Baltimore, Md. 21204.

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7000 hour veteran. *At seventeen, Emily Howell was still an aspiring stewardess who had yet to take her first airplane ride. So she bought a round trip ticket from Denver to Durango to see what flying was like. "On the return flight, I was the only passenger and they let me ride up front for awhile. That's when I fell in love with flying. I knew right then I wanted to be a pilot." Within the year, Emily had earned her private ticket and today she's a 7,000 hour veteran. More significantly, she's the first gal ever hired by a scheduled U. S. airline as a flight crew member. When she's not flying for Frontier, she likes to fly her own Cessna 182 for fun. She insures it with USAIG. Why USAIG? "It just seemed natural," she says. "I knew they were real pros because a lot of my friends insured with them. When my agent recommended USAIG, I felt like he was recommending an old friend."*

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Flurry of activity seen in computerized loss forecasting services

CHICAGO—The handful of companies heavily involved in risk analysis and forecasting using computers find themselves besieged with questions about their approach to risk management.

They also have had a steady flow of new clients coming to them, anxious to avail themselves of the latest risk management financial planning tools, despite the clearly experimental nature of much of the 'modelling' being applied to this segment of corporate budgeting.

The market for such services is expanding enough so that a few more firms plan to join the ranks of firms in the risk forecasting field. Those already doing such programs include Armistead Miller Wallace Inc. of Nashville, Tn., a division of Synercon; the Anistics division of Alexander & Alexander Inc.; and Marsh & McLennan's Risk Analysis Group in Chicago.

Expecting to develop computerized statistical forecasting capabilities within the near future are Corroon & Black's Chicago office, and CNA Insurance Co.

Corporate Systems Corp. in Amarillo, Tx., currently has the data processing savvy and facilities to do simulations and forecasting. But for now the firm has all the business it can handle in the EDP loss reporting field, and hasn't taken its programs the "one step farther" that would be required for risk measurement, except in one case when CSC did a special project about a year ago for the petroleum industry.

What is at best a million-dollar a year business is creating an expansionary mood for firms in the field. The Anistics division of A&A has expanded to 16 people from only four a year ago. Marsh & McLennan has seven people in its Risk Analysis Group, and has other divisions, working autonomously, in New York and Los Angeles. Armistead Miller Wallace's technical studies group, part of the national accounts department, is under the direction of Dr. Tom Allen and has four people.

Corroon & Black's plans call for a new "cash flow study team" headed by senior vp Richard S. Schmidt. Also on the team will be Richard Morris, an MBA in finance from the University of Chicago, Jack Kelly, vp and casualty expert at the firm, along with a casualty marketing person and a casualty loss control expert.

Mr. Schmidt told *Business Insurance* he is 'in the process" of putting together a system to do computerized loss projections, present value programs, and discounted cash flow analyses. The firm will be working with a Chicago bank, using the bank's systems personnel and computers. But Corroon & Black doesn't plan to offer its services on a fee basis to non-clients. This program will be used to help clients with their planning.

CNA foresees that it will be able to do loss forecasting using simulations and modelling in the more-distant future, said John J. Avignone, senior vp of services. CNA is embarking on a total systems approach to integrating its various product lines and customer loss and account information into a single EDP system. The risk management system, said Mr. Avignone, is one component of this overall effort, and will probably fall into place about 1978.

Anistics, which has its hands full working with A&A accounts, has worked with outside clients on a fee basis. "But we hardly have time for outside clients now, we're growing so fast," said Joseph A. Destein, president of the division. Last year the firm worked with about 80 different companies, starting and completing about 35 projects in the year, he said.

Anistics "applies quantitative methods to risk measurement using operations research methods." The procedure is to develop a data base by collecting loss runs from the clients' insurers (in tape form), plus developing new data if needed. "That is the most time-consuming and difficult portion of what we do, and that's where all the cost come in, too," said Mr. Destein. Most Anistics clients have used no formal data collection system in the past, relying heavily on insurers to collect loss and accident data, he noted.

Anistics then uses the data to forecast expected losses, standard deviation from expected loss, and possible variance of losses, in order to create forecasting parameters. The probability distribution, mean, median, mode and standard deviation are used to describe the risk being considered.

"Given that we can forecast parameters, we then put them into computer simulation models in order to show expected total losses. Once we can assign for the client the probabilities of loss, then we can ask the computer to do different analyses for us. The most important of these is the truncation analysis, which is the value of losses which can be expected at various levels of risk retention. It tells us within different levels of probabilities how much the client is going to lose within these retention levels," explained Mr. Destein.

Anistics also conducts a sensitivity analysis for each risk, which basically indicates what would happen if the prediction of losses turned out to be wrong. "If it is a very sensitive type of risk, then the client would want to take more care to negotiate an insurance contract to stop the loss at some level. We analyze the sensi-

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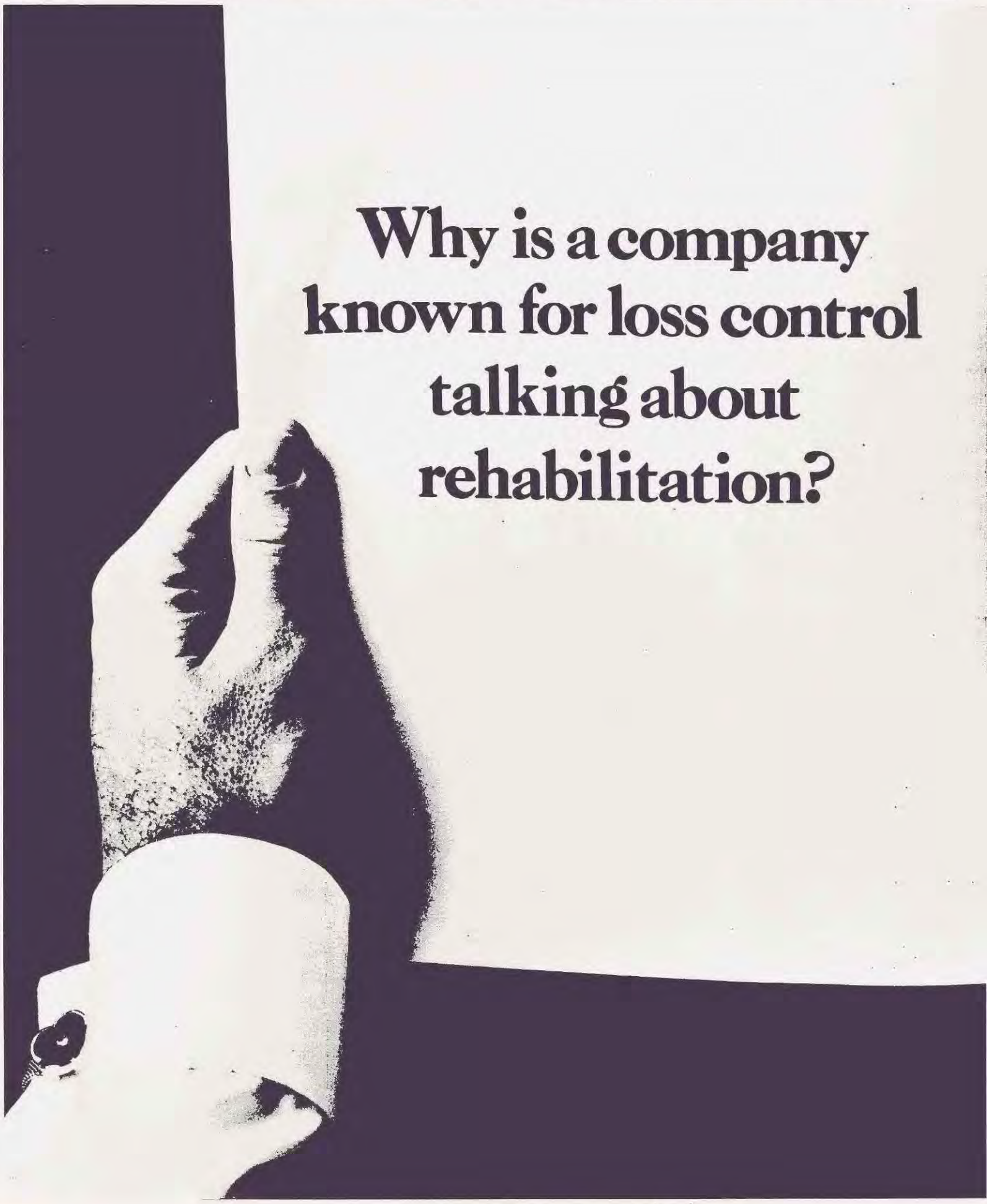

tivity of the risk to each of many different variables. By doing this, the client is on his way to financial planning, by knowing how much of expected losses can be directly expensed, how much should go into reserves, into a captive, into a spread-loss plan, into what we call pseudo-insurance, and into insurance premiums," explained Mr. Destein.

Anistics recently completed a forecast in the area of workers' compensation in which it collected additional data from the client such as man-hours worked, payroll, number of employes and invested assets at each location, to be used as part of a multiple regression analysis. "We found out which of these factors or combination of them most affected the frequency of work comp losses for this company. We learned that invested assets was best for predicting frequency of accidents, and payroll was worst. Yet payroll is the traditional basis for estimating work comp losses," said Mr. Destein.

Armistead Miller Wallace and Marsh & McLennan do basically the same kind of loss probability studies as Anistics. All three firms have been relatively successful at obtaining loss run tapes from clients' underwriters in order to have data for the computer programs. All three, in turn, are

Risk Management SERVICES

building a wider data base which may provide information on certain classes of loss or industry hazards. This base could be used to project losses with greater accuracy for clients in such areas as workers' compensation or fleet property and liability. It would also provide a trend picture to be used for clients with the same general exposures but without adequate historical records.

Marsh & McLennan's Chicago group, under the direction of Tom Tucker, includes assistant vp Peter Burkholder, MBA Richard Pierpont, and systems specialist Pat Drilling. The group serves M&M's Midwest region and is separate from the New York and Los Angeles groups "which perform basically different services."

Computer services are offered by the Risk Analysis Group of M&M to non-clients of the firm (on a fee basis) as well as to present clients. Services include forecasting, information storage and loss reporting, financial comparisons of funding plans and discounted cash flow analysis, and loss projections as far as 10 to 20 years in the future for self-insurers and clients with captives.

"We also test the cash sensitivity of programs of retention versus insurance. This is particularly important in the property and casualty areas where there is a problem with capacity," said Mr. Burkholder. "We do have one or two accounts in this area where the balance is critical in the property area between retention and the availability of very high limits."

M&M is working to build an extensive loss information base for future department projects. "We have a couple of commitments for underwriters to provide us with more extensive loss data. We're going to pay them for it. We're trying to get their actual loss runs in the form of tapes, so we can adapt the information to out system," said Mr. Burkholder, "to build up a storage of data about the experience of businesses with related exposures. When you get five or six clients with, say, related work comp risks, you have a good base to work with."

Armistead Miller Wallace, which works with two PhD consultants from the University of Tennessee, will work on a fee basis with companies which are not AMW clients. Nearly every national account client of the firm gets a statistical loss analysis or cash flow analysis. Computer risk studies were begun at AMW in 1972. The firm is presently working on two major consulting projects with non-client companies and handled about a dozen such projects in the last year.

AMW now offers four different types of computerized statistical programs. The property inventory program is a survey of buildings and contents, and basically results in a report of all insured values. It includes a survey of exposures.

The casualty aggregate loss probability study projects the likelihood of losses within retention levels, based on an analysis of historical loss experience.

Cash flow studies involve computerized modelling techniques, and provide a comparison of cash flow programs to standard insured plans.

The most sophisticated, and costly, program is the quantitative matrix model, which compares loss funding methods to arrive at an expected net cost for each alternative risk management technique. It forecasts losses and costs, including such data as tax treatment, cost of money, investment income, etc. and incorporating capital budgeting methods. ■

U.K. medical team checking for hazards

Health hazards in British industrial plants are now being checked by a new team of 100 fully-qualified doctors working under the control of the Department of Employment. They have already given advice to trade unions on potential risks in the chemical, lead and other industries where occupational health services are essential. Information on processes involving ionising radiations is also being provided, and regular medical check-ups of thousands of workers are being arranged. The team has been in operation for 12 months. The team, known as EMAS (Employment Medical Advisory Service), works in close cooperation with large industrial plants which have their own medical officers, but also concentrates on small factories without full-time experts.

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Are forecasts valid and costs justified?

Computer method of risk analysis has its fans, but some doubt value

CHICAGO—Computerized loss forecasting may be a new trick in the risk management bag, but the concept of statistical loss analysis has been around a long time.

While advocates of the statistical approach to risk management are abundant, the computer approach still has many sideline observers and a few vociferous skeptics who question the ratio of costs to benefits, and the validity of projections.

Traditional calculations of expected losses and probability distributions generally do not go as far as using simulation and modelling techniques possible with computers. But risk managers told *Business Insurance* they have been manually forecasting losses in terms of frequency and severity for years, and are not universally convinced that the cost of the computer services is justified.

Computer simulation studies for risk forecasting are not inexpensive. Clients pay anywhere from $4,000 to $100,000 for such programs. A simple captive model using computers can cost between $4,500 and $20,000, with most falling in the $7,000 to $15,000 range. Broader risk forecasting studies done with computers generally cost $20,000 to $50,000 depending how many classes of risks are analyzed, the degree of exposure analysis, amount of program development required and the use of computer time.

It is standard for suppliers of these services to bill clients on the basis of man-hours worked plus direct costs.

One real skeptic is A. Hawthorne Criddle, vp of corporate education in the Wayne, Pa. office of Fred. S. James. Says he: "Risk management is still in a highly developmental stage. The actuarial sciences have not yet demonstrated they can made accurate forecasts for the insurance industry, with its huge universe. I'm still on the skeptical side about using an even smaller universe for forecasting experience for a single company.

"The necessary data depends on the nature of the problem you're dealing with. In the case of a high-frequency loss area, three to five years' history might be enough, but with a low frequency risk, often 15 to 20 years is not enough.

"We are highly conscious of the limitation of these forecasts. Insurance companies with their large masses of data still have large deviations from the expected values, so there are problems with company forecasts."

James has no formal risk analysis division, computerized or otherwise, but uses traditional manual statistical analysis methods for forecasting.

A few of the nation's largest corporations, including large petroleum firms, have used internal systems for risk management forecasting. It's widely known that Exxon Corp. depends on its in-house computers, handled by the computer systems group at headquarters. Exxon has had a computerized loss reporting system for four years, using it for loss prevention and control.

Shell Oil Co. a few years ago began using computer simulations based on the Monte Carlo technique to project, initially, hurricane losses, Shell's officers have said. The company subsequently shifted its risk management programs heavily to self-insurance in both property and casualty areas. The operations departments of Shell, however, were responsible for these computer programs and loss forecasting efforts. The risk management department has had little to do with the projects.

A handful of other firms—perhaps several hundred in all—have used outside suppliers with computer facilities to asses past experience and project future losses and costs. Even those who are using such techniques, however, recognize their drawbacks because of the experimental nature of accounting for the variable elements in the risk management environment.

"It's just another tool," says Richard Pierpont, quantitative specialist with Marsh & McLennan's Risk Analysis Group in Chicago. "Simulation techniques are an additional indicator we can employ to fix in our minds proper estimates of expected losses. Consequently, they should be used in conjunction with other methods of arriving at estimated losses for the account, such as regression and time series analysis, actuarial approaches and conventional insurance widsom.

"I believe that simulation techniques are quite valuable," he went on to say, "If the input data has enough breadth to give us a reasonable validity in describing both the frequency and severity curves upon which we base our projections."

Joseph A. Destein, president of the Anistics division of Alexander & Alexander, believes the risk manager's assessment of a risk coupled with his intuitive feel for variables and the trends, are essential to the overall forecasting procedure.

As Mr. Pierpont puts it: "We are simply reproducing phenomena under test conditions that we would expect to happen in actual performance. The random selection criteria of the Monte Carlo routine removes any bias that we ourselves might impose. The only reason we use a computer for this, is that the cross-multiplication of all the points along the (probability distribution) curve 250 times is a mammoth project that would take some time to do by hand. But the actual concept is quite simple."

A. Hunter Long, with the national accounts division of Frank B. Hall & Co., sees statistical analysis in risk management as "the difference between custodial management and anticipatory or planning management."

Hall does not have computer facilities for forecasting but Mr. Long noted the firm has done about 35 or 40 statistical studies for clients, developing data, massaging them for trends, and developing models.

Most brokers, captive management firms, and risk management consultants appeared ready to perform similar manual calculations after developing historical data for clients. Typically, these loss projections if priced separately from

Continued on page 30

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We know our business. And we want yours.

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Computer method . . .

Continued from page 28

a bigger program or from commissions, cost $4,000 to $8,000.

A Detroit-based vehicle manufacturer uses a combination of in-house computer facilities for loss reporting and forecasting, coupled with some forecasting services from the statistical analysis subsidiary of its broker.

This firm's risk manager doesn't believe in paying extra for such services, either. "I expect it to be part of the broker's services," he said. The company obtains the loss run tapes from its underwriters in all lines (it has done this for over 10 years now) and translates the data into a form that can be put into the in-house computer for forecasting and trend. analysis purposes.

A major diversified retail chain based in the midwest uses its in-house computers for auto collision and workers' compensation loss reporting and forecasting. "At various times we run different data through the computers to make our projections." The firm gets some statistical analysis help from its six brokers.

Other lines haven't been put on the computers because "we have to ask how much it costs on our own computer time. Time-sharing is expensive, and other projects often take precedence over risk management. Merchandising is the top priority for us right now and takes nearly all the computer time," said this firm's risk manager.

"I'm sure that outside computerized forecasting services are a growing area. The outside consulting firm which does this kind of forecasting would be invaluable for the company which needs a starting point in this area, and hasn't collected the data yet, or needs to completely reassess insurance programs," said this risk manager.

"We see in the not-too-distant future more opportunity for computerizing (risk management) operations here, but I don't foresee using outside services for this because I think we would use our own computers."

A Midwest-based food company however, is presently "going through the exercise" of using an outside service, Corporate Systems Corp., of Amarillo, Tx., to computerize accident, claim and loss information, and establish IBNR factors for claims. "These are all necessary systems in order to improve our forecasting and to distribute and budget our charges internally among divisions and plants. I don't have the ability to do this in-house because of the small size of my department," said the risk manager.

Cost of this service, based on insurance premiums and self-insured losses, is near $12,000 a year for this company. The risk manager is also interested in the types of forecasting services offered by Anistics, a division of Alexander & Alexander, which uses computers to project losses and costs into the future.

A Texas-based user of the Corporate Systems EDP program said he uses reports from CSC to project losses, and tries to factor some trends into his calculations. He does the forecasts manually using a rolling three to five-year average loss record, and describes the retention study he does as "basically informal."

And for the level of risk to retain in the firm's captive insurance subsidiary, "I work on a general-feel basis, really," he said. ■

Contractors battle crime, hire ex-con as consultant

OAKLAND, CA.—Because their insurance carriers told builders they were facing losses in excess of $500,000 a year from theft and vandalism at construction job sites, the Associated General Contractors of California in the East Bay area including Alameda and Contra Costa counties have organized a new anti-crime program.

Oakland insurance broker Ray Poulton was named chairman of an Anti-Theft Committee, with Ralph Thomas as coordinator of the job-site security program, for the contractors which has hired an ex-convict as a crime prevention consultant.

The construction industry also has established a reward system in which up to $1,000 will be paid any person whose "tip" leads to the arrest of a construction site thief or vandalism suspect, or the recovery of stolen construction materials or equipment.

"Without such a program," Mr. Poulton told the builders, "the insurance carriers who operate in California will be required to boost your insurance premiums out of sight."

Individuals with information may call a "hot line" number which will be in operation 24 hours a day, seven days a week. Callers may identify themselves or remain anonymous. Amount of the reward will be determined by the Jobsite Security Committee of the AGC group.

Contractors involved in the program will be furnished "expert consultants" by insurance carriers and will be told how to install fencing around construction sites, use guard dogs, security guards, alarms, floodlights and other security measures.

Contractors also will be asked to engrave all of their building equipment with drivers' license numbers to enable law enforcement officers to identify stolen equipment.

A similar program launched at Sacramento by the Construction Industry Crime Prevention Program there has reduced construction site crime by 40% in the past year and similar crimes in Alameda and Contra Costa counties, without such a program, have increased by 16%.

"Our program at Sacramento," explains Robert A. Walker, president and owner of Walker Plumbing Heating and Air Conditioning Co. and head of the campaign, "is moving so well in its fight against theft and vandalism, it has been necessary to hire a full time manager."

Gene Cottrell, formerly with Kaiser Gypsum Co., assumed full managerial responsibility for the Sacramento program in May.

The current new program at Oakland is financed by the California Construction Advancement Program.

Mr. Poulton, who operates his own Poulton & Associates Insurance, said theft and vandalism losses nationally are costing insurers of engineering and construction companies "at least $100 million a year."

He and his committee will issue newsletters each month reporting on success of the program and various aspects of job site security. ■

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Supplier of benefit messages formed by PR, graphics actuarial experts

SEATTLE—Benfo Inc. was formed to aid employers who are wrestling with how to best provide employe benefit communication programs.

It emerges at a time when personnel and benefit managers are becoming increasingly nervous because the federal pension reform act specifies employe benefit communications be written so they are easily understood.

"Many companies now are very concerned about The Employe Retirement Income Security Act (ERISA) regulations and are confused because although the law is here, not all regulations have been finalized," says Allen T. Manning, executive director of the Seattle based Benfo.

"But they know pretty well what the guidelines are and are getting into the spirit of things by trying to find ways to meet the new act," says Mr. Manning. Company managers are also concerned because benefit costs continue to grow, now commonly running 28% to 32% of payrolls.

Mr. Manning feels Benfo (acronym for benefit information) can give employers "one stop" solutions because of the company's unique makeup: it's a joint venture of three Seattle companies providing a package of graphics, printing, art, design, copy and computer programming, "the big factors that make up the end product of communication programs."

The partner companies are M & R Services, computer services organization of Milliman & Robertson, consulting actuaries; Jay Rockey Public Relations, and United Graphics, a major Northwest quality printer.

"We were formally organized early in 1974, before ERISA was legislated. The principal companies have worked together in the benefits communications area since 1968," says the executvie director.

"Many times, a client doesn't know exactly what he wants, often because he hasn't been involved in such matters before. Clients know they need something and have an idea of what it should be; but they need someone to help them put it together," says Mr. Manning.

"They may have medical and dental plans, pension plans, profit sharing, etc., available to employes. But the employe doesn't have booklets clearly explaining these benefits. Many employe booklets that do exist are written with all the warmth and charm of an insurance policy. The booklets are so mundane that the employes don't read them," says Mr. Manning.

"We also need to get an estimate of costs. Costs run anywhere from $3,000 to $20,000 annually and the cost varies with the complexity of the plan, availability of input data, etc. We have clients who've used their own in-house capabilities, which can lower costs. For instance, one client used its in-house computer programming and we did the rest. Another client may have a printing capability and we'll do the rest."

Risk Management SERVICES

Benfo works on a "fee basis, plus expenses. Certain costs are fixed, like design, the amount of paper used, programming etc."

Mr. Manning feels "although brokerage houses sometimes can perform these functions, they often have to farm out one facet, such as the printing or design.

"We feel that to give a client a comprehensive account of their plan requires one heck of a lot of coordination," says Mr. Manning. "And we very much want to stay away from a stereotype approach. We want to give them a personalized design and a personalized statement. This way, they get a lot more for their dollar."

If a company has less than 100 employes, Mr. Manning notes "that company is not obligated by most of the rules in the pension communication laws. But companies with a large number of part-time employes or seasonal employes (over 100) are not exempt. The law requires that an individual be told his rights if he works 1000 hours a year, of if a seasonal employe works 500 hours a year," says Mr. Manning.

"A good rule of thumb in planning benefit communications is that the more employes, the less costly a program per employe," he says. Benfo rarely works for companies with less than 150 employes. "For us, to keep the cost per employe down to a reasonable level, we have to aim for more than 150 employes. Of course, it sometimes happens that we can recommend that a company use in-house capabilities which makes it possible to use expert, outside help," says Mr. Manning.

Although slide presentations, film strips, closed-circuit television system, motion pictures, tape recordings, etc., are available, "not a lot are being used unless a company has a tremendous budget. The one execption is international companies who can't afford to send a guy around the world to various corporate branches. So the company may use audio visuals and send out films or slides to the branches to explain how to fill out forms, etc.," Mr. Manning adds.

"But in this economic climate, I don't expect any company to just step out and say 'do it and send the bill to me later.' The company managers are very carefully selecting the tools they want to employ."

The means companies needs and choices vary widely. A Seattle transportation company used a small employe handbook, but a large forest products company used a series of five individual brochures to explain different benefits. A bank used a loose-leaf notebook approach, supplemented by a separate brochure for annual employe benefit reports. ■

Wyatt expands survey

Wyatt Co., a consulting actuarial firm, expanded its annual directors' and officers' (D&O) liability survey questionnaire to include information about fiduciary liability insurance, according to Warren G. Brockmeier, director of risk management services. The questionnaires, which are already in the mail, ask for the name of D&O and fiduciary liability carriers and query risk managers at the largest U.S. companies about profitability and acquisition activity which may correlate with D&O claims, Mr. Brockmeier said. Summary reports will be provided to each survey participant in about three months.

Leatherby's is still the FASTEST check in workers' compensation

To no one's surprise, the State of California's latest report (July-Dec.'74) shows Leatherby's rank for promptness of payment among 31 workers' compensation companies writing $5 million or more in premiums is No. 1. Leatherby's "index of promptness" is 97.75—only six companies were even rated 90 or more.

Leatherby's rank in the three proceeding reports was the same—No. 1. Immediately before that, because its writings had not yet reached the $5 million level, it ranked first in the next grouping.

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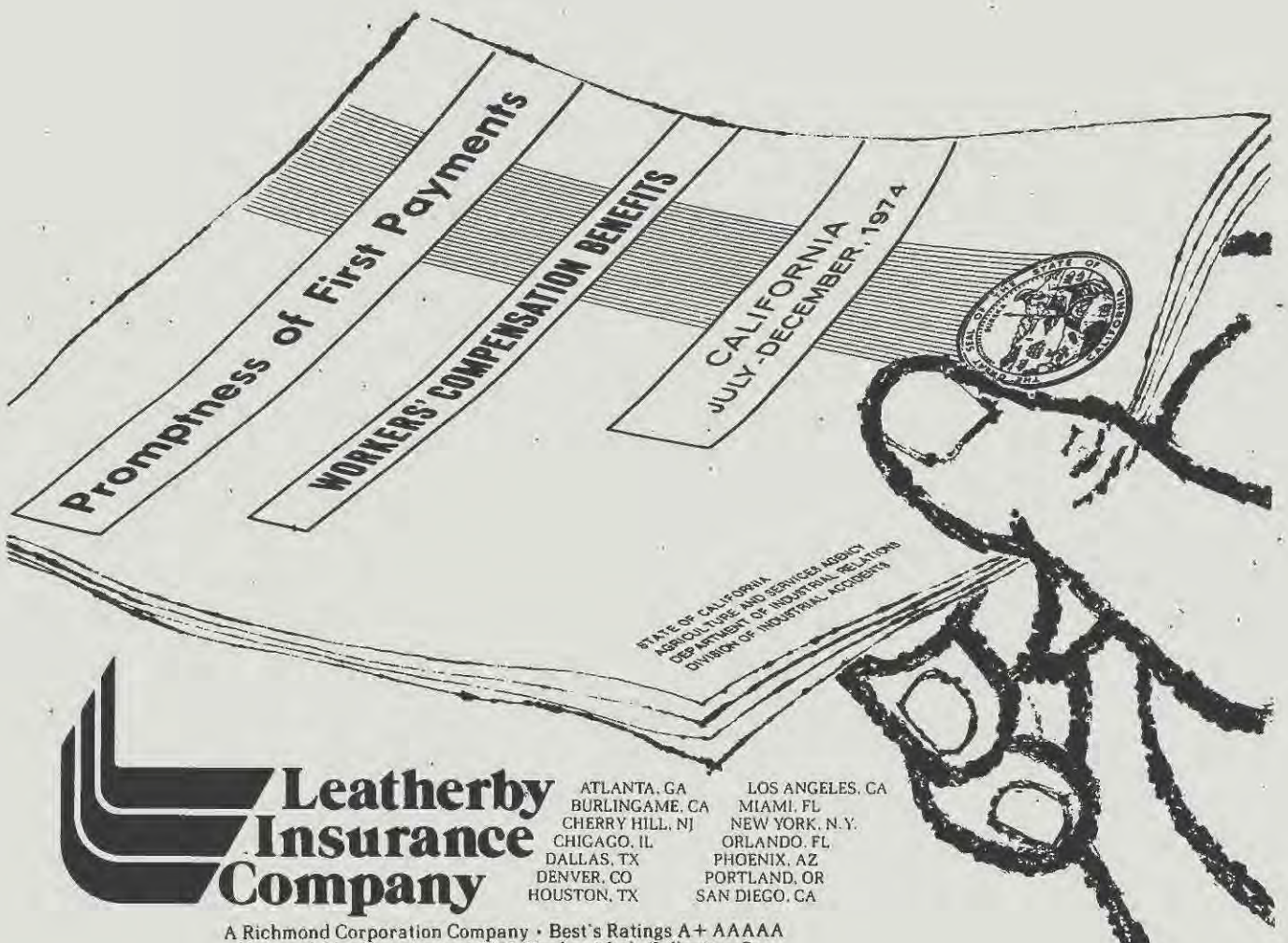

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Playboy realizes big savings with change to independent adjusters

By SUSAN ALT

CHICAGO—Robert Mooney had a gut feeling that insurance company adjustors were costing him and Playboy Enterprises Inc. a lot of money with their attitude about settling liability cases.

Inflation alone was boosting unsettled claims to high figures before they were closed, he reasoned.

So he changed the whole program. That was just two years ago. Since then, he's saved over $200,000 on settled claims, $10,000 on administrative costs and adjusting expenses, plus had the use of some $171,000 or more that the insurance company held out as "incurred reserves," he is proud to report.

This remarkable change was wrought with the help of Walter Kaye Associates, Playboy's New York City brokerage firm, and Kroll, Edelman, Elser & Wilson, attorneys in New York who act as Playboy's adjusters on all liability claims.

Mr. Mooney is delighted with the help he gets from Kroll, Edelman, which he describes as a firm of independent adjusting attorneys. True, he pays them a fee to do his bidding and keep Playboy out of trouble. But since the firm also acts as attorneys for Lloyd's of London, Playboy's primary liability insurer, the arrangement is also good for Lloyds. Basically, it keeps claims out of the size realm which Lloyd's would have to pay.

Mr. Mooney recognizes that fact of life, but as he says: "My view is that they represent me on the primary layer, and represent Lloyd's on the excess. They're watching both of our interests. It saves us money and it saves Lloyd's money, so it's a good marriage. They have to answer to me and to Lloyd's. It's not as if they were representing one party while taking advantage of the other. They deal fairly with both."

When Mr. Mooney joined Playboy, the firm was under a three-year retrospective rating plan with St. Paul Fire & Marine Insurance Co. St. Paul wasn't interested in working with Playboy on any other basis.

"I felt that if I could institute a plan that I had discussed with Tom Bourgeois at Walter Kaye over a period of months, I could reduce losses substantially and as a result, benefit the insurance company at the same time I would be helping us.

"I felt that in order to properly handle the type of losses we were being hurt on, we needed a more professional adjustor, and a more personal type of loss control. I weighed the idea of third party adjustor...independent adjustors . . .then was introduced to the idea that there were third party adjusting attorneys," Mr. Mooney recounts.

Of prime importance was getting claims closed out as soon as possible. "I found that insurance company adjustors would investigate a claim and then would let it sit, so that the amount of the claim would build. My gut feeling was that they sat around much too long, for months and sometimes years. I felt that if we could contact these potential claimants immediately, in many cases a lawsuit could be prevented. And in some cases the amount claimed could be reduced."

In most cases, Playboy's Mr. Mooney receives a letter from an attorney representing a claimant even before a suit is filed. It will be either in the form of an attorney's lien or will indicate the claimant really doesn't want to go to court, and will suggest a meeting and discussion, and an opportunity for investigation and settlement, before it goes any further.

"This is really to our advantage. We attempt to even beat this timing. We want to sit down with the potential claimant prior to having that person contact an attorney, if that's at all possible. If, for example, there is a broken bone caused by a fall on our premises, in most cases we will talk to that person within one day after the accident and assure the victim that all medical bills will be paid, etc., if we see that there is negligence on our part."

It works, says Mr. Mooney. In cases such as this, people are more concerned about medical bills than anything else. "It's at a later date that the other expenses arise, and if you can prevent an open claim then, you're in good shape." Loss of income is a good example of subsequent losses that Playboy is sued for, he said.

Information on the accidents, or incidents, sometimes didn't filter in for weeks or even months, however, under the old system, and that was the first requirement of the new system. Mr. Mooney and Mr. Bourgeois set up a liability accident report notice. They use one form for hotels and another for clubs.

"The hotels generate 85% of our losses, because of volume. The clubs have steady traffic but not like the hotels. Within 12 hours of any occurrence, the manager is required to fill one of these out, even if the accident only involves spillage. If a bunny spills a drink down the front of a patron, it gets an incident report. But it is no longer an 'incident' if that is hot coffee spilled on a customer. It is an accident. We never used to be able to distinguish between the two, because everything was recorded as spillage, even though in the case of a coffee spill we now had a very serious potential liability because of burns," said Mr. Mooney.

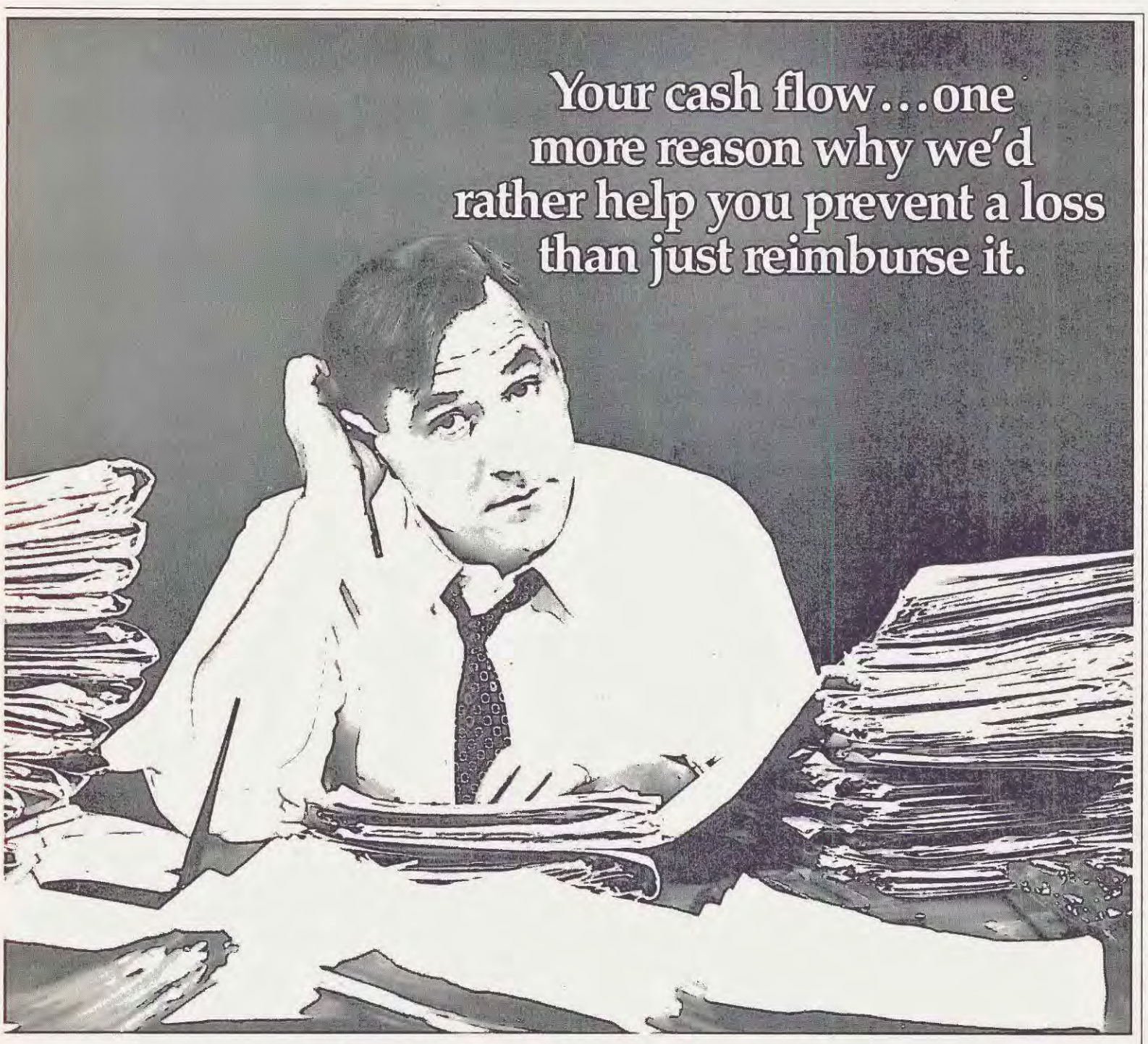
In the hotels, forms are completed by security personnel. First copy goes to Kroll, Edelman in New York, second copy goes to Mr. Mooney, third goes to the Playboy security department. Mr. Mooney files it in an incident file. If Kroll's office feels the person involved in the incident should be contacted, action is taken and negotiations start immediately.

"If it's something like a fracture, you obviously can't close the case right away. But if it's a theft, for instance, Kroll can decide whether we can invoke the innkeepers' legal liability act, which would mean we're not liable unless we were extremely negligent. So we make a decision at a very early stage about how this will be handled."

Under this plan, Kroll, Edelman handles claims up to $2,500. Playboy has an aggregate retention of $500,000 on a three-year basis. Lloyd's insures the primary layer over that for $100,000 per occurrence, and the second layer is with American Home up to $1 million.

Kroll, Edelman, upon receiving an incident report, codes it based on an EDP worksheet, and ships

Continued on page 36



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Playboy program . . .

Continued from page 34
it over to Walter Kaye, which punches out a card, feeds it into the computer, and produces a monthly list of every case open, settled and reserved. The printout is coded to conform to Mr. Mooney's incidence file, so he can cross-reference. Information on the printout includes location of incident, reserve established on the basis of maximum estimated claim settlement, name of claimant, date of loss, nature of incident, and result of incident.

In the first 21 months of this program, Playboy's total costs were $281,104, versus total cost under the St. Paul program of $489,751 for the prior 21 months. Settlements were actually higher than under the old program, said Mr. Mooney, who also was alarmed when his incident frequency leaped 250% under the new system. (He attributed this, however, to the fact that under the old system accidents just didn't get reported.)

"The basic charge is the big thing," he says. "St. Paul had a basic charge of $75,325 for commission, administration costs and profit. We eliminated that altogether. St. Paul's adjusting expense was about $55,000 dollars, and under Kroll that expense runs $64,000. But it's worth it."

There are additional costs of the new plan which aren't shown on the computerized list of savings which Mr. Mooney was showing to a visitor. "Obviously Lloyd's of London hasd a premium, and I don't bring that into this, because that's already assumed," he says.

He declined to disclose actual premium paid to the excess insurers for this plan, or to disclose the fees paid to Walter Kaye and to the adjusting attorneys, Kroll, Edelman. Of the premium, though, Mr. Mooney says "it is less than the deposit premium we were paying for the retro. On the three-year basis, the new plan's premiums run about $384,000 total. There was an outright savings in premiums alone going into this plan of 22%."

And over the 21-month period for which he had reports, the average monthly payout of retained losses was $11,000, resulting in "a savings of over $235,000 over the full period."

The most recent period, the first quarter of 1975, showed only two losses over $2,500, in the realm of the Lloyd's policy. That was, to say the least, "less than last year," says Mr. Mooney.

"Naturally, when you go from a fully insured retro plan to a layered program, the higher the layers go the less you're going to have to pay for insurance. At first, we had no real basis for determining what the layers should be, so we took gross sales. For two months I researched where the losses were coming from.

"We felt, and rightly so, that a high proportion of losses were generated by hotels. The rest are spread out over clubs, the magazines, etc. So we agreed to use 75% of gross sales at hotels and 25% of gross sales at clubs to determine their premium charge by location. Then we figured out a rate by going to the rating bureau and taking down all of the modification factors to arrive at a net rate to start with.

"We decided on the retention level by reviewing the retro adjustment, for three years, picking out every loss in excess of $2,500. We found that 80-odd% of our losses were below that figure."

There's always the possibility the retention can be increased, Mr. Mooney admits. "But I have said that I want to wait three years before I look at that. Then I'll run it through the machine again and find out how many losses we had that were between $2,500 and $5,000. I can tell you already that I can count them on both hands. So I might be able to derive even further savings from the insurance company."

Playboy set up a $15,000 self-insurance fund when it went with this program. Expenses and losses under $2,500 are paid out of the fund, which is reimbursed at the end of each month. Other expenses with this program include an infrequent $100 charge for a private detective or outside service used to investigate a case. "Sometimes I'll spend $100 and learn something very critical to a case, such as the fact a claimant was in an auto accident the week before a claim was filed against us," says Mr. Mooney.

Any time the firm reserves the maximum $2,500 for a claim, Lloyd's is notified because they may become involved, and the settlement is estimated at an amount of which Lloyd's is told.

One advantage of the system, using outside claims adjustors, plus data processing services from Walter Kaye, is that Mr. Mooney can pinpoint the facts of his losses . . .Chicago Playboy hotel, one new open claim in a given month, no disbursements, $11,000 in paid claims during a very busy period; total of 110 new incidents reported for all locations in the month; 25% to 30% of incidents converted to claims.

"I've been able to see where the most frequent incidents are occurring and move to correct the problem. When I first started this up, for example, I was getting hurt at one location with slip-and-fall accidents, so I called the director of security and asked what was happening. I also flew down there, and found there was nothing wrong with the ramp at all, and there had been signs put up to correct the problem. I heard employes talking among themselves nearby, realized they didn't speak English and couldn't read the signs. This was an employes' entrance, but other people were using it. I quickly corrected the problem."

"What this is doing for us is developing a very good guest-company relationship. We want the customer happy, and if they feel they're being treated fairly, I firmly believe they'll be happy," says Mr. Mooney.

Does he ever disapprove of the way Kroll handles a case? "I have the settlement figures for every single case. I call them on the carpet if they don't perform to my satisfaction. On more than one occasion, I've said to them, 'What the hell are you doing spending $550 to bring about a $275 settlement?' The answer was clear. . .if they hadn't done it, the case was a potential $1,500 loss."

Another example of the difference Mr. Mooney's and the attorneys' personal involvement can make is the instance of a recent auto accident case near a club, after which Mr. Mooney and the attorneys were notified at their homes, in the evening. "Kroll's lawyer was on the phone with the injured party's personal physician within hours, conferring about the case and finding out how it really happened. The case ended up costing $560, although it could have cost a fortune if it had not been handled this way. The hotel managers are now instructed to use their own judgment about whether to get us involved immediately, and they know who to call if they decide on action." ■

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Actuarial consultants . . .

Continued from page 1

our planning and organization staffs," a spokesman said. "And we're placing greater emphasis on a number of other areas."

In the investment area this means a greater emphasis on financial forecasting and use of actuarial procedures in setting investment and funding policy, he added.

"We're using our direct compensation people to work out the best approach to the problem of the $75,000 pension maximum for company top executives," the TPF&C spokesman said, "and are stressing the computerization of employe recordkeeping to meet ERISA disclosure requirements."

Kwasha-Lipton set up a department for dealing with investment manager relationships.

"We'll help a client establish the objectives and responsibilities of an investment manager," Mr. Mactas said. "And we'll also get into the area of interviewing prospective investment managers, to advise clients what to look for in determining whether a candidate is really what they're looking for."

At the Wyatt Co., "a lot more of the recordkeeping functions have been turned over to us by clients as a result of ERISA," according to Edward F. Boynton, actuary with the firm's Washington D.C. office.

Mr. Boynton reported the firm is "doing a lot more work" since ERISA's passage, but no specific services relating directly to the act have been added.

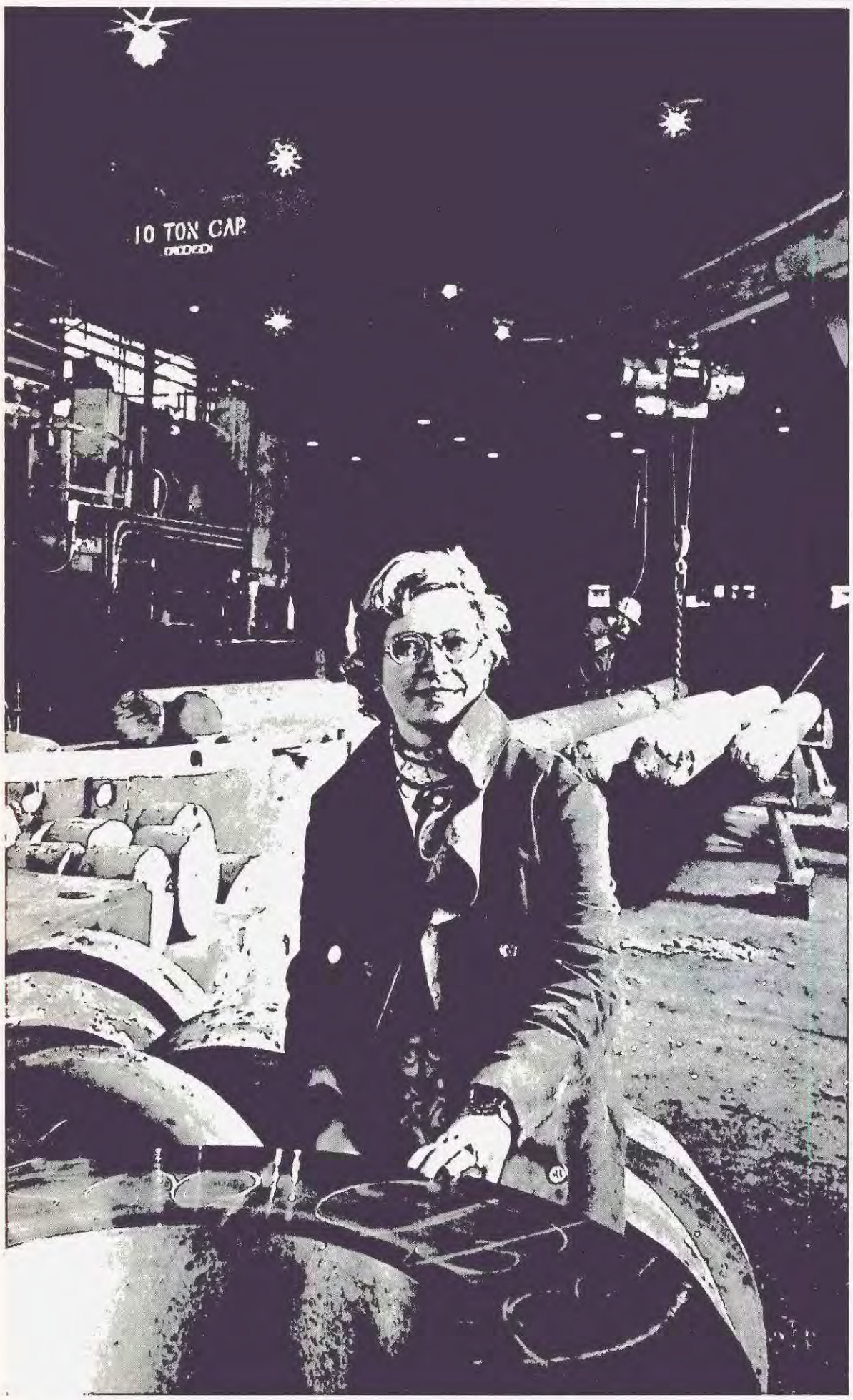
A. S. Hansen is "considering expanding what we've done in pension consulting, trust and portfolio auditing and investment planning," William Bret, vp with the firm's Dallas office said. The firm is studying the impact of ERISA in the area of fiduciary liability, Mr. Bret added.

A great deal depends on how the Department of Labor interprets actuarial services, which are considered parties-in-interest, and in which services the actuary is acting as a fiduciary, he said.

"It could well be that we will be involved in selecting investment strategy," Mr. Bret noted.

Hewitt Associates "had every service imaginable before the pension reform law went into effect," Peter Friedes, chief executive, said. The firm expects to expand some services "as ERISA unfolds," he continued.

For the present, clients are seeking help complying with the pension reform law, Mr. Friedes said. "We're stressing they do more than just comply, but to think ahead five or 10 years to what the whole field of employe benefits will be like. ■



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Rates could increase 12% for P/C lines

NEW YORK—Property and casualty premium rates on commercial lines of insurance will probably rise by 12% overall, according to the executive vp of the Continental Corp. and the Continental Insurance Co.

Joseph F. Murphy made those projections before the insurance industry panel of the 1975 Institutional Investors conference.

He said Continental had enjoyed a 21% increase in written premiums thorugh March, with a surplus of approximately $1,150,000,000, up 20% over Dec. 31, 1974.

"There is no doubt that companies like ours are getting many more commercial lines submitted these days. And there is equally no doubt that we are better able to get a better price for our products," Mr. Murphy said.

"Rate increases are being pursued and they are being obtained. We are able to move most quickly in those states which have open competition laws, of course. And fortunately those states—while not in a majority numerically—do represent a majority of this nation's premium volume," he said.

Mr. Murphy's comments would appear to contradict the findings of a study released by the New York insurance department which concluded that since competitive pricing went into effect, the cost of property and liability insurance in the state stabilized. ■

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Actuaries face conflict over pension reform law

NEW YORK—Fiduciary liability, a hotly debated topic among actuaries since the passage of the pension reform law, may mean higher prices for actuarial consulting services or even the curtailment of some services in the area of employe benefits programs.

Whether or not they are acting in a fiduciary capacity in the services they render is the issue. Actuaries are divided on the issues.

"It's an open question," Blackburn Hazlehurst, president, Hazlehurst & Associates, Atlanta, said. "But whether or not we're considered fiduciaries, we're retained to act on the part of our clients."

"A lot of people are playing the game of 'the emperor has no clothes,' and trying to ignore the issue of fiduciary liability," James H. Pollard, president, James H. Pollard & Associates Inc., Baltimore, commented, "I don't see how an actuary can get away from it."

"We believe the actuarial services we provide make us fiduciaries," William Dreher, president, Dreher-Rogers & Associates stated. "Our legal counsel advised us to act as though we were, even if the law doesn't consider us fiduciaries."

James D. Hutchinson, newly-appointed administrator of the Office of Employe Benefit Security has stated publicly that lawyers, accountants and actuaries are not considered fiduciaries if their activity is "strictly limited to the professional services they render."

However, neither Mr. Hutchinson nor the Department of Labor are saying what constitutes stepping over the line of professional services to the realm of fiduciary responsibility. That issue is being left to the courts to determine on a case by case basis, Labor Department spokesmen have stated.

If someone who gives investment advice is by definition a fiduciary, William Bret, vp, A. S. Hansen Inc., stated, "then it seems to me an actuary is acting as a fiduciary if he's advising his client on investment strategy."

For brokerage houses and accounting firms that have actuarial consulting divisions and for consulting firms that offer a wide variety of services, a problem arises in interpreting the party-in-interest clause of ERISA.

Mr. Bret explained that services such as auditing, investment management appraisals and financial modelling could be considered party-in-interest services but would not violate the conflict of interest section of the law.

It boils down to the question of which services are considered party-in-interest and which are fiduciary in nature, Mr. Bret observed. "And if you offer fiduciary services, does it preclude you from offering party-in-interest services?"

"We do need some insight from the Department of Labor as to our legal liability," he continued. "If we're doing a professional job, I don't see why we should be considered personally liable."

A number of actuarial consulting firms have either obtained fiduciary liability insurance or are looking into the market for insurance protection.

Leonard Mactas, president of the actuarial division of Kwasha Lipton Inc. noted the firm had gotten "what insurance is available."

Some of the smaller firms are finding costs of fiduciary liability coverage prohibitive. "We haven't been able to discover any market that provides satisfactory coverage," Mr. Hazlehurst said.

Mr. Dreher said his firm is reviewing its coverage and expects an extension to be made.

The cost of fiduciary liability insurance will eventually find its way into consulting fees, most actuaries agreed.

"If we have to buy extra insurance, the added expense to our overhead will find its way into the rates," one actuary told this magazine.

"Probably the most serious aspect of ERISA is the cost and availability of fiduciary liability coverage," Mr. Pollard said. ■

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Buyers see $$ spent for services as good value

By PAUL R. MERRION

CHICAGO—Some corporate insurance executives think they get a bargain when they buy insurance-related services, while others see it as a necessary expense. Yet almost all would agree that they get their money's worth when they go outside for help, according to an informal phone survey conducted by *Business Insurance*.

Those inclined to see services as a necessity appear to be cutting back on what they buy, and are scrutinizing proposed purchases very carefully. Marriott Corp.'s insurance department is "trying to reduce services of brokers to the bare minimum," according to John D. Woods, insurance manager. They currently use their broker mainly for consultation on international problems, for which they pay a fixed fee plus costs.

Marriott has also had preliminary discussions with an independent consultant and the consulting arms of two brokers on the possibility of an overall study of the insurance department. The use of captives would probably be a part of that study, Mr. Woods said, although they're not sure how in-depth the whole project would be, nor are they sure that they'll do the study at all.

"Deciding to do it may depend on deciding which company to hire," he said. Marriott is also "studying very carefully" a series of proposals from insurance companies to provide administrative-services-only for the employe benefit operation.

McGraw-Edison Co. in Elgin, Il., is also "trying to minimize spending on consultants," according to director of corporate insurance Norman Kenney, in order to economize but also as part of an "effort to become more self-sufficient." Spending on consultants is down this year, he noted, although "we don't hesitate to call them in if needed."

For fire protection engineering, Mr. Kenney relies "heavily" on his insurance carriers: Allendale Mutual Insurance Co. and Factory Insurance Assn. The carriers' work is supplemented by in-house studies, he said.

Dow Chemical Corp.'s general philosophy on suppliers is "to contract for services when we expect the quality to be better than our in-house capabilities," said William Zacharias, director of corporate insurance. That translates into a very limited use of outsiders for services, except for the typical inspections by the insurer for boiler and machinery risks and the normal fire protection engineering and inspections provided by the underwriter.

They did use an independent consultant a few years ago to do a captive feasibility study, Mr. Zacharias said, and "if broker has expertise, we may tap that," but Dow's use of outsiders will be limited for the time being.

At the same time that these companies are reducing their use of services supplied by outside firms, other companies are buying as they always have been, and they foresee an increased need for specialized consultants.

Brokers are a favorite when it comes to extra services, most insurance executives said. Beside their duties of knowing the insurance marketplace and placing the policy—termed an "essential service" by many of those contacted—brokers are asked to provide other forms of assistance as the needs of their clients change.

The story of a major Midwest agricultural processor testifies to the adaptibility of brokers: The company had a broker do a captive feasibility study years ago. They finally set up a captive for full operations a year ago—a move that went against the advice of the

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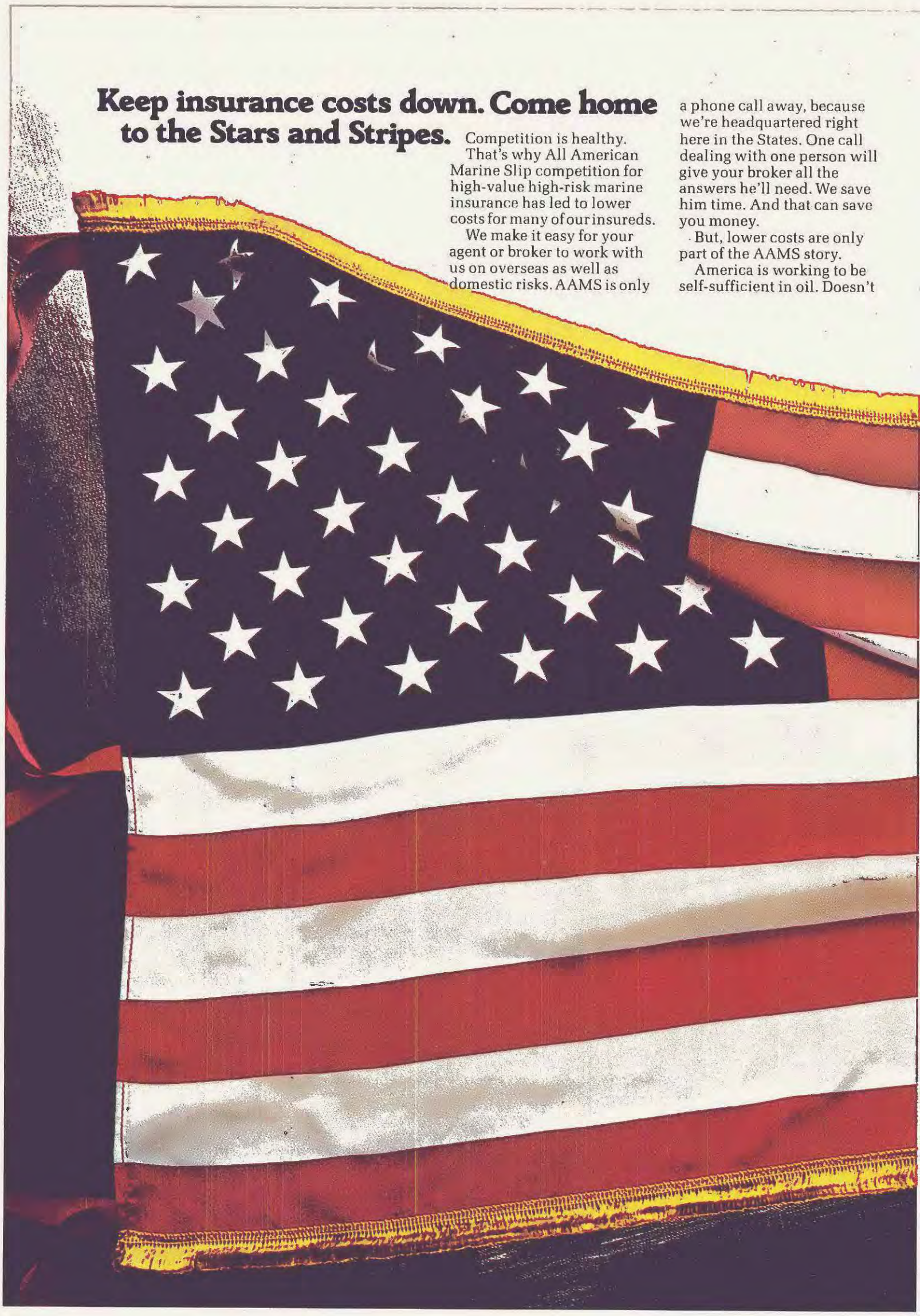

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broker's study.

Now the processor is considering a captive for its domestic risks. Two brokers and an independent consultant are doing studies, and the insurance executive there, who declined use of his or the firm's name, is not expecting the brokers broker used for the previous sutdy:

"Over the last 10 years, brokers have seen that there's no way to tives, so now they get in and provide services for self-insured companies. It's something they must do to salvage what business they can.

"If they handle a number of such services, they can do it for less; less than we could do it for ourselves,' the insurance department official said.

Insurance officials call on brokers for other services also. H. Lee McConnell, risk and insurance manager at Hershey Foods Corp. in Hershey, Pa., said he turns to his broker for advice on loss control and would use them for a self-insurance study if he wanted one done. In addition, he believes that "you ought to have some independent firm coming in looking over your shoulder every five years or so." The last overall study of the manufacturer was in mid-1972.

United Airlines' Waller Smith, director of insurance, said he expect his brokers "to provide a full line of services." Above all, he tells his brokers two things: "Make sure that you tell us everything that's available in the marketplace," and "we expect the best product at the best price."

He also relies on his brokers to provide engineering advice, especially when there is a dispute between a company engineer and the underwriter's engineer. "The engineer of a broker can mediate a difference of opinion," Mr. Smith said. "The often settle an impasse."

Borg-Warner Corp., based here, uses consultants extensively—for everything from full-blown studies of the entire risk management department to computerized loss runs on workers' compensation.

Arnold Berg, director of risk management, said the Wyatt Co. makes an overall review of the department every three to five years, plus the special projects Wyatt does regularly, such as an analysis of their difference-in-conditions coverages. He estimated the cost for a complete review to be $15,000; updates of the review, provided there are no major change, run between $5,000 to $8,000.

Mr. Berg said that one of the most essential services provided by outsiders is industrial hygiene consulting, and the three firms he uses "will be used more in the future because of OSHA problems." He believes that more validity can be obtained from an outside source, a belief that is reflected in the lack of an in-house industrial hygiene team at Borg-Warner.

For appraisals, Mr. Berg turns to the insurer and occasionally when he needs an update, an independent appraisal firm. He said it's cheaper to go to an outsider that to maintain an in-house staff.

Another corporate insurance executive who sees consultants on the rise, especially in the industrial hygiene area, is Gawain Bonner, director of loss control at Tenneco Inc., Houston.

Tenneco uses an industrial hygiene consultant to supplement its own in-house staff. Outsiders are used most often on specialized problems—such as noise or conditions that might lead to pulmonary attacks—and "if a quick answer is needed at a distant point, then an industrial hygiene firm is used," Mr. Bonner said.

However, he said he "would much prefer to use our in-house team rather than rely on outsiders, for two reasons: "One, an in-house team has a real need to dig in—they're part of the management team. And two, unless you've used the consulting firm before or you use one that comes highly recommended, you don't know what you're getting—you're almost ltierally buying a 'pig in the poke.' "

Their use of outside firms has so far been limited to the extent that less than 1% of the budget is set aside for services.

But "it will be much greater than that" in the future, Mr. Bonner said. "Problems are coming that will require the use of more consultants. It's uneconomical to gear up an in-house staff to handle complex problems." ■

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Computerized benefit form popular as trend to personal report wins favor

NEW YORK—A trend to personalizing employe benefits communication and the disclosure requirements of the pension reform law have combined to make individual computerized benefit statements the most popular current means of benefits communication, according to benefit managers and consulants.

Employe benefit managers also cited audio/visual programs as the most convenient way of informing new employes of the benefits available to them.

The individual computerized statement brings the whole benefits program down to a personal level, a spokesman for Hewitt Associates said.

"It achieves an effect no other medium can achieve," he continued. "The popularity of the benefit statements shows employes are telling corporations, 'Talk to me as an individual.' "

The computerized benefit statement is "completely indispensible

Risk Management SERVICES

tool for communication if a company has 500 or more employes," Mel Borleis, vp, Kwasha Lipton said. "It's one of the few communications that integrates all the benefit plans and the formulas for them. It gets into the home, whereas other communications don't."

"The computerized benefit statement is "the best thing we've come up with," Howard Bates, employe benefits manager for Smith-Kline & French Laboratories said.

"There's no question that the benefit statement is the most popular communication among employes," said a spokesman for Textron Inc.

Computerized benefit statements have been in existence since 1965 but their increase in popularity has occurred only in the past few years, according to benefits consultants.

To meet disclosure requirements of the Employe Retirement Income Security Act (ERISA), however, consultants predict more companies will go to a computerized benefit statement this year than ever before.

The initial cost of computerizing a company's benefit plans and the formulas for them can cost as much as $15,000. This estimate is based on the cost of computerizing a single set of plans and mailing out a statement to 1,000 employes, a spokesman for A. S. Hansen said.

However, a modified statement meeting ERISA requirements could be prepared for less than $2,000, the Hansen spokesman added.

"It all depends on how many plans a company operates; the more complicated the program, the more expensive," Kwasha Lipton's Mr. Borleis commented. "Some companies have so many different plans, it would not be practical for them to have a single benefit statement."

Once the data is compiled for a benefit statement the annual cost of issuing it drops considerably.

"Most consultants would say about $5 per employe," one benefits manager said.

Though the benefit statement may be the most popular communication with employes, audio/visual programs are the favorite among many benefits managers and consultants.

"When you've got to reach a lot of employes in many different locations, a slide program is the answer," another benefits manager noted.

"Audio/visual programs give the basic information about the company's benefits, John Lamantia, employe benefits manager for Lever Bros. said. "When we accompany the slide presentation with a question and answer session, we've found it to be a very successful means of communicating with employes."

The flexibility of a slide program was cited by benefits managers and consultants alike.

"The beauty of a slide program is if you make changes in the benefit plan, you just have to insert a few slides rather than redo the entire program," Richard A. Harvey, manager of employe benefits planning at Pfizer Inc. explained.

One benefits manager, though praising the concept of the audio/visual approach to benefits communication, warned against what he termed "the first shuffle approach."

The latest trend in audio/visual programs is to leave the employe with a positive impression of his company rather than focus on the details of the benefits program," he explained. "At the very least, when an employe leaves the audio/visual presentation he should have a basic understanding of the benefit plan."

The cost of an audio/visual presentation "is a wide open question," a spokesman for consultant Scott-Miller Inc. said. Most benefits consultants agreed $10,000 cost is a bare minimum.

"That's a low estimate for an audio/visual program," a spokesman for Hewitt Associates said. "$12,000 to $14,000 is more of a middle ground estimate."

As a general guideline, a slide presentation will cost from $1,000 to $2,000 per minute, depending upon how much effort is put into it, Kwash Lipton's Mr. Borleis said.

In comparison, a movie will cost $2,000-$3,000 per minute, if it involves location shooting, color film and actors.

One benefit manager compared the cost of an audio/visual program done in 1973: "It cost $14,000 for a 30 minute program with 96 slides," to a new program done in 1975: "$13,000 for 20 minutes and 50 slides."

Some benefits managers said they cut costs by doing communications in-house rather than using consultants. Other, however, said the quality of programs done by consultants is worth the cost involved.

"It depends on what we have time to do ourselves," one benefit manager noted. "For an audio/visual presentation, I can do it, but the consultants can do it a little better." ■

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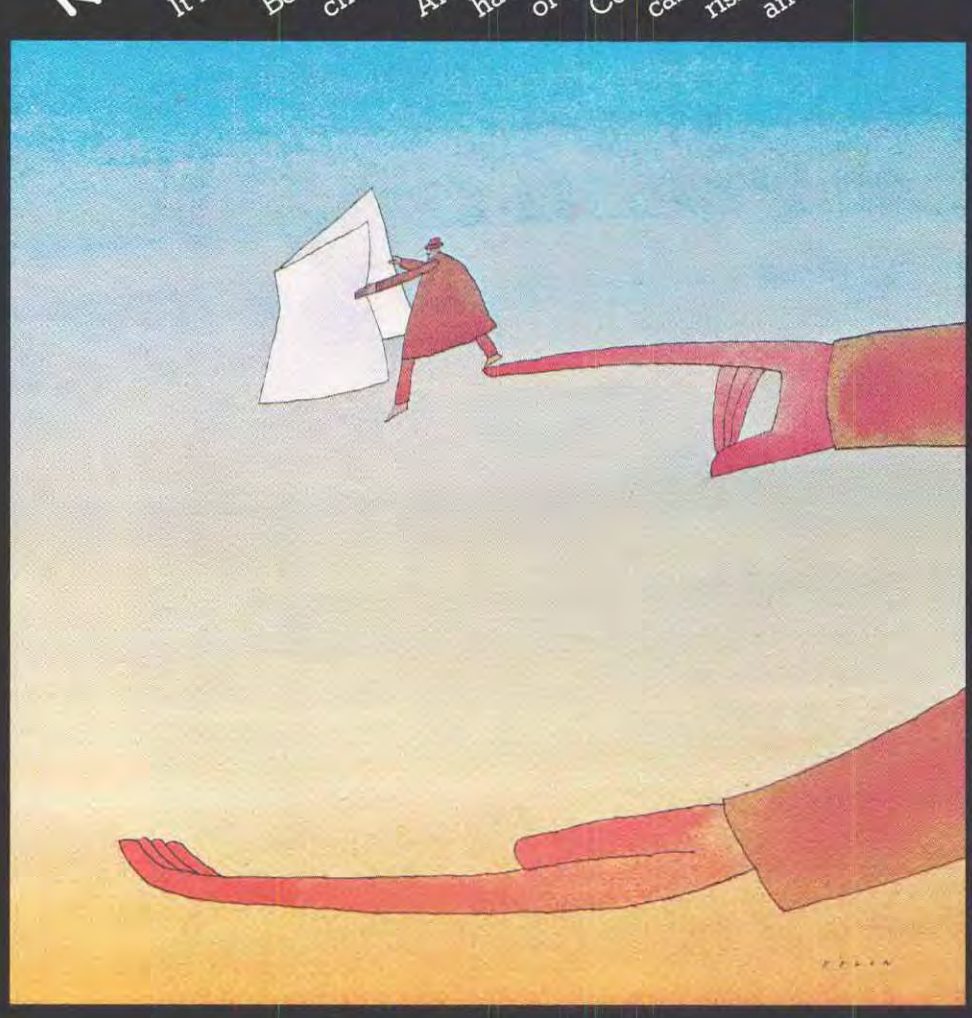

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Storm losses up

Insured property losses were revised upward following the storm system which hit the central states May 19 and 20. The American Insurance Assn. now says insured property losses hit $15.5 million for the seven states. Hardest hit was Minneapolis-St. Paul, which had losses of $5.1 million. Illinois has $3.6 million in insured losses, and Oklahoma had $2.3 million in losses. No estimate is yet available for losses caused by flooding in Virginia.

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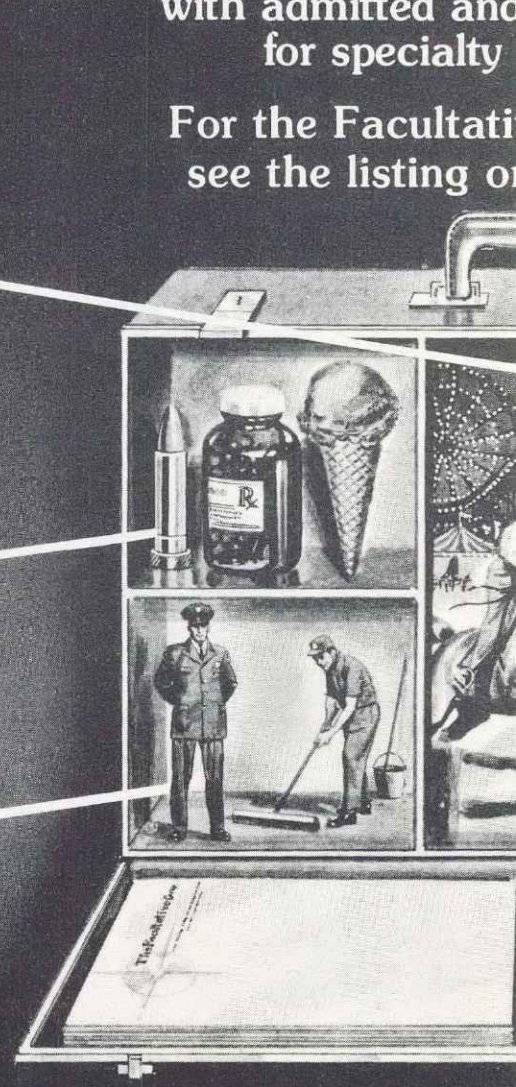

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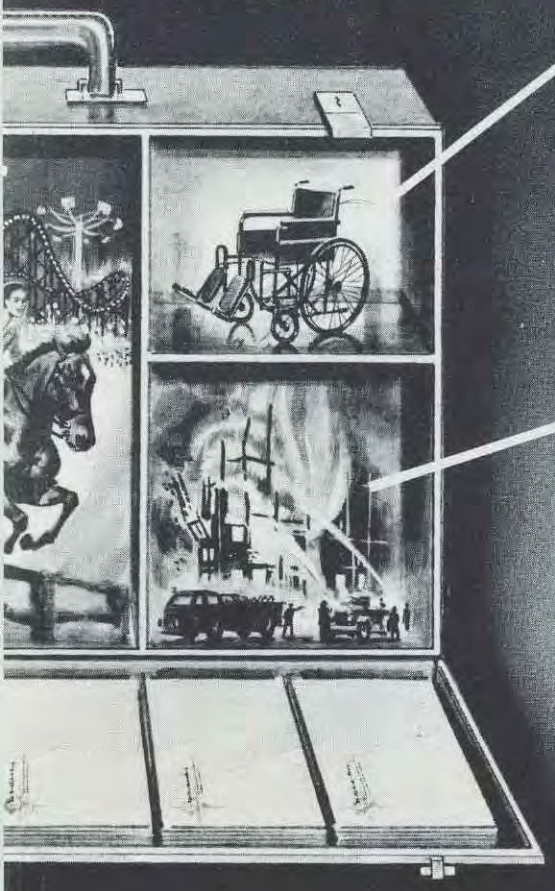

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Marine insurers seen cutting back services

Sources numerous for marine loss control help

By MARIE KRAKOWIECKI

NEW YORK—There are at least 11 outside services, some governmental, which risk managers can tap to supplement their marine safety and loss prevention programs.

Unlike loss prevention programs routinely offered by marine insurers, few of these services are specifically tailored to the risk management function.

Collectively they provide a valuable pool of raw safety data that could impact on marine safety programs. But the risk manager must be ready not only to collect the information, but to interpret and apply it to a company's own needs.

There is some evidence suggesting that marine insurers are cutting back this year on certain loss prevention facilities previously offered to insureds. The reason: marine underwriting losses suffered in 1974. A small but noteworthy case in point is the Hartford Group's decision to drop its support of an inland marine training school. . .the National River Academy, which Hartford sponsored in 1972.

If risk managers can expect less marine loss prevention guidance from the insurance industry these days, the backup services available from assorted marine organizations take on new coloration.

The granddaddy of them all, from a risk management viewpoint at least, is the Marine Index Bureau (MIB) here.

Run by Captains Bruno J. Augenti and Robert B. Hart, the MIB is the only commercial depository for illness and injury data on personnel of U.S. merchant marine and affiliated industries. In addition to its standard computer data service, affiliated with the American Insurance Assn.'s index system, the MIB offers a "pre-employment reports service" on an annual basis.

For a flat fee, a subscriber to this service can make an inquiry to the MIB about a specific seaman the company may be about to hire. The MIB will feed back information about the person's health and injury background on the same day, to help the company assess the person's seaworthiness from a safety standpoint (*Business Insurance*, Feb. 24).

The MIB maintains records on more than seven million seamen, and it says most steamship companies are already subscribers. It will also provide separate reports at a flat rate for non-subscribers.

For those risk managers or insurance managers who are directly involved with maritime personal injury claims, there is a group that meets every third Wednesday at the Seamen's Church Institute for an exchange of information on illegitimate claims and troublesome ports.

This is the Society of Maritime Personal Injury Consultants. Its president is James Spahn of Ogden Marine Inc. Mr. Spahn says the 32 members, which include some insurance managers, "get into some good hot arguments" about experience. One member is Captain Anderson, manager of loss prevention for Prudential Lines, which Mr. Spahn says has the best reputation in the industry for loss prevention. Secretary of the group is Prudential's George Friedheim. New members are invited—but not from law firms.

The Commerce Department's Federal Maritime Administration is probably overlooked by marine risk managers. It performs specialized and technical marine functions. The administration (not to be confused with the Maritime Commission which doesn't get involved in safety programs) is probably best known for its marine manpower division which runs state on-vessel safety training courses, including the U.S merchant marine academy in Kings Point, N.Y.

John Benn, safety officer of the division of ship management, told this magazine that federal funding is available to companies that want to install safety devices on board their ships but can't afford to. If they can show how a specific device would help their safety programs, the government will sometimes supplement up to half the cost, according to Mr. Benn.

Queries about a computer radar device called "Digiplot" were answered by Mr. Mara of the FMA who himself once held a patent on a computer collision tracking device now marketed by AMI Marine Digital Co.

"Digiplot" by the way, is one of the sophisticated computer radar devices on the market about which the Maritime Administration has information. It is manufactured by Iotron Corp., Bedford, Ma.

According to Iotron, the device provides automatic and continuous information about the true or relative motions of other ships for collision prevention. About 140 commercial vessels currently use it. The base price per vessel is $65,000. To install the Digiplot with all extra features boosts the price up to $83,300.

The U.S. Coast Guard is probably the most frequently-mentioned organization when the subject of marine safety comes up, but its Marine Safety Council's programs are mostly those required by federal law, and have to do primarily with licensing of commercial ships and general competence, rather than specialized risk management procedures.

Nevertheless, the Marine Safety Council's marine safety plans and projects division, has two functions that should not be ignored: it proposes maritime laws, and after public hearings on some, finally cements them into operating regulations. In January, for example, the Marine Safety Council proposed an amendment which would reduce the requirements for licensing and certifying deck officers.

Moving from the Commerce to the Defense Department, another agency to keep an eye on is the Defense Mapping Agency, particularly its hydrographic center.

The hydrographic center has an "Information to Mariners" division headed by O. L. Martin. It produces a weekly bulletin for ships sailing in foreign waters, warning them of physical hazards

Continued on page 50

"LIGHT WATER" AFFF controls 48-hour tanker fire in 30 minutes.

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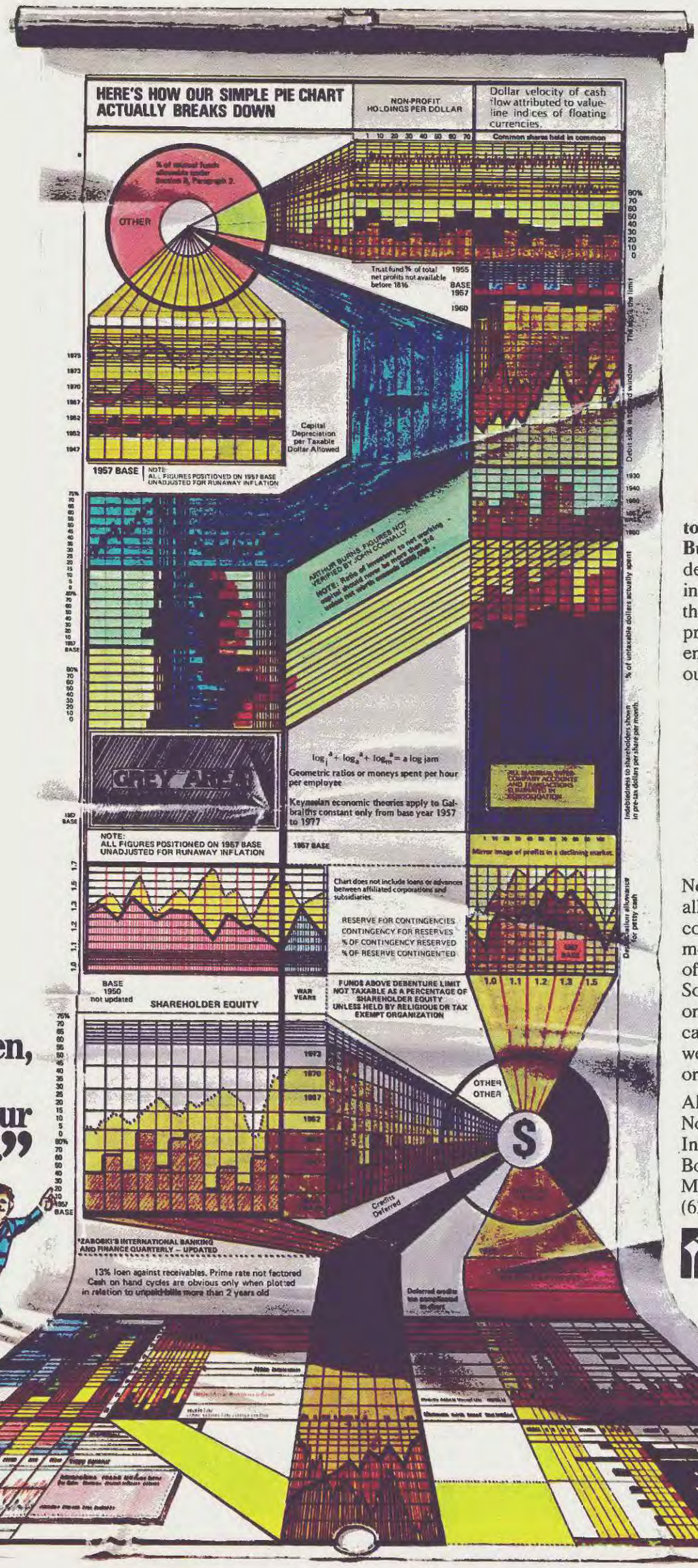

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Marine services . . .

Continued from page 48

and corrections to nautical charts. Mr. Martin says the bulletin is available, free, upon request to his department.

The hydrographic center also broadcasts radio information twice daily to ships to warn them of more crucuial hazards or chart corrections, a point risk managers might want to pass along to their company's navigators.

More rarely, the center also issues special political warnings from the state department. It issued a danger warning for the waters off Cambodia and Vietnam following the Mayaguez incident in May, for example, although the last previous political warning to ships came in 1952 when Richard Nixon, then Vice President, was visiting China.

The marine office of the National Safety Council in Chicago does not get directly involved in marine risk management, but comes recommended by the Maritime Administration as a depository for records of shipowners' experience. The office sponsors a newsletter on marine safety written by its member from the Bethlehem Steel Co.

Risk Management SERVICES

For risk managers who are able to get involved in loss prevention programs right from the building stages of their companies' ships, the American Bureau of Shipping, 45 Broad St., New York, is a major classification society to be aware of.

The ABS establishes standards for the design, construction, and periodic survey of ships and marine structures. It rules on whether a vessel is structurally and mechanically fit for its intended service. It also runs a computer service that carries facts on 32,000 ships that can provide design assistance in the early planning stages of any structure.

If you've missed the boat, so to speak, and are faced with a risk management problem of salvaging a shipwreck, chances are you'll get involved with the U.S. Salvage Assn. (If you have your marine insurance through any group member of the American Hull Insurance Syndicate, the AHIS will probably work directly with the association, however. The "hull fraternity" is the chief customer of U.S. Salvage).

However, the association has expanded its customers to include steamship companies, construction companies and the like. It is an independent national organization that performs vessel damage surveys, hull and tow inspections and related salvage and technical services.

U.S. Salvage, with executive offices at 99 John St., New York, also does inspections to ascertain the suitability of various vessels to proceed on contemplated trips. It has done a number of studies, some of which led to curative data for hull bottom damage, and suggestions for improved mooring procedures.

The Intergovernmental Maritime Consultative Organization (IMCO) is an arm of the United Nations. Its only office is at 101 Piccadilly, London W 1. However, its documents are available at the United Nations library, and at public libraries which act as depositories for the U.N. (The New York Public Library at Fifth Ave. and 42nd Street is one).

IMCO's aims are broad—cooperation between governments of maritime nations—but seem to be supportive of basic risk management principles. It has argued persuasively for raised worldwide standards of training and watchstanding, and for improving the professional qualifications of mariners, for instance.

Risk managers concerned with safety in inland waterways rather than with blue water risks might want to have their company assign some personnel to the training course given at the National River Academy in Helena, Arkansas (*Business Insurance*, Sept. 11, 1972). Aside from a training school run by the Seafarers International Union, the National River Academy is the only major training center working on loss control procedures for riverways.

The National River Academy was started in 1970 by Capt. Pierre Becker, its director. It features a two-year cadet program with on-deck safety training. Capt. Becker said most of the seamen in training are children of older seamen, but that the Academy does accept management trainees from companies that want to improve their river loss control. One Alabama firm, for instance, sent a man there for training for ten weeks.

The Hartford Insurance Group was the first insurance company to sponsor the National River Academy in 1972. Since then, the Academy has picked up more than half a dozen industry sponsors including the MOAC, and the Atlantic Mutual Insurance Co.

However, Capt. Becker pointed out that the Hartford dropped its $600-a-year sponsorship of the program this year, apparently in a cutback of its inland marine program.

There are a number of journals, periodicals, books and reports available to risk managers on almost every aspect of maritime operations, including loss prevention and safety. "Ports of the World" has just gone into its tenth edition. This guide to cargo loss control is printed by the Insurance Co. of North America as a service to the foreign trade community.

It contains information on ports, port conditions and it gives a basic guide to packing principles. It is available from INA's policyholders' service division, P.O. Box 7728, Philadelphia, Pa.

A quarterly publication put out by the Jefferson Law Book Co. at the National Press Building, Washington, is the Journal of Maritime Law and Commerce. A sample aticle was a piece on containerization insurance and liability by Carl McDowell, executive vp of the American Institute of Marine Underwriters.

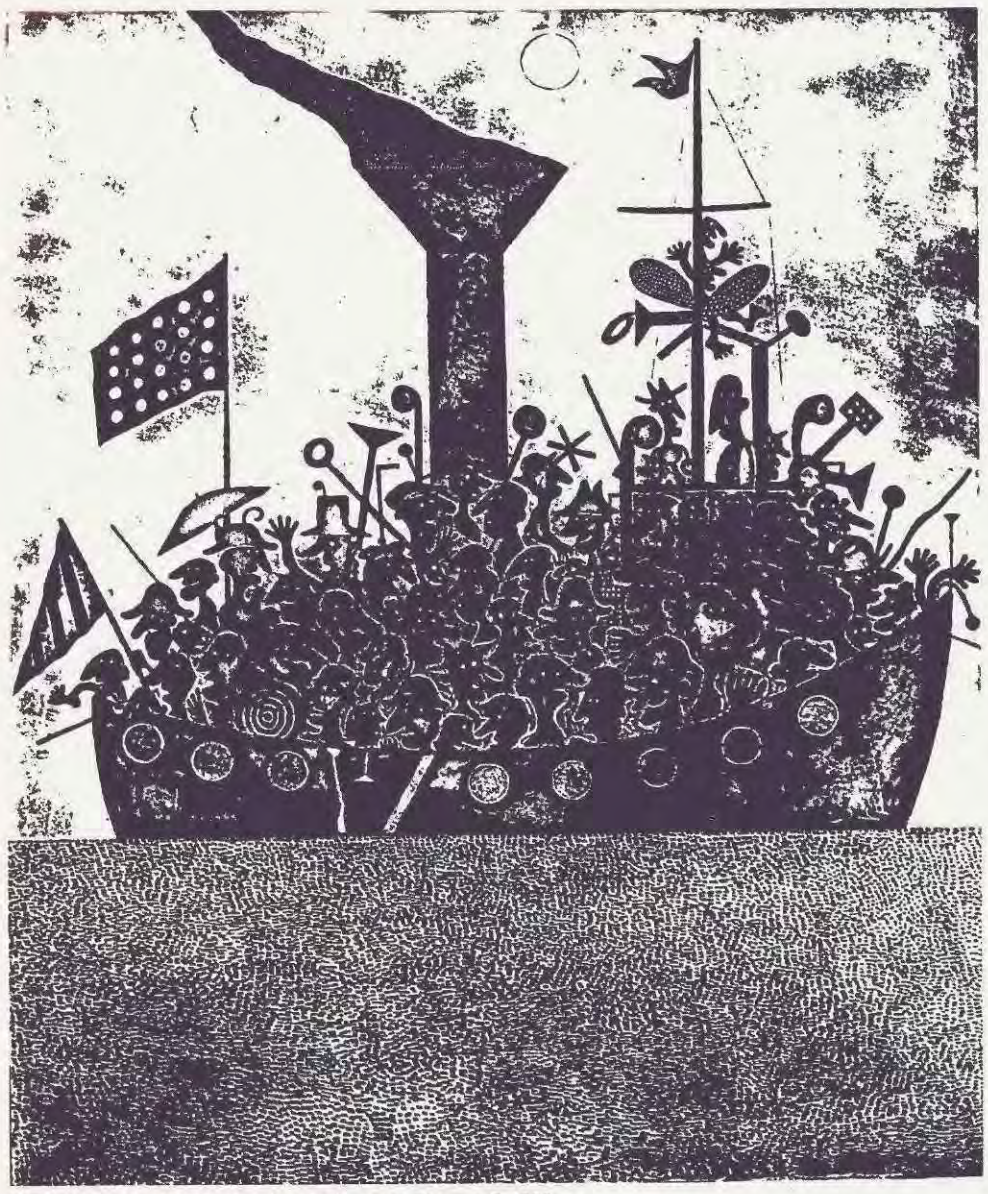
The Tanker Advisory Center, New York, is another source risk managers can go to for information, particularly loss information, if their interest is tankers of 6,000 deadweight tons and upwards.

Director Arthur McKenzie in the past has posted casualty data from Lloyd's of London, including classified return of casualties for world tankers, and has done a study of tanker losses between 1964-1973, in which he made recommendations to cut back on those losses. ■

A&A combines benefit

Alexander & Alexander Inc. formed a new operating group known as Human Resource Management (HRM) to coordinate for A&A clients all services in personnel-related fields. Among the services now integrated under the group are employe benefits planning, actuarial consulting, estate and financial planning, life insurance, employe information systems, and benefit plan communications. T. H. Irvin, senior vp, was named to direct the new operating division.

RBH Will Shape Up Your Marine Insurance Program



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More firms contract out for hygiene assistance

By MARIE KRAKOWIECKI

NEW YORK—Industrial hygiene services have been blooming in the five years since the passage of the Occupational Safety and Health Act. But risk managers and insurance buyers aren't necessarily the ones who get to pick them.

In 1974 alone, some $34 million was spent for monitoring instruments relating to OSHA activities. Frost & Sullivan, a technological market research organization, projects that over the next decade a $385 million market will emerge just in instrumentation to monitor workers against occupational hazards.

A random sampling of more than a dozen major industrial firms showed that when the time comes to decide how money will be spent on industrial hygiene services, the final word comes more often than not from an autonomous safety or loss prevention division of the corporation, rather than from the insurance department.

At E.I. duPont de Nemours & Co., Wilmington, De., which claims to have the best safety record by far of any U.S. industrial giant, spokesmen were emphatic in stating the company's in-house industrial hygiene program has no relationship to the corporate insurance department at the treasurer's office.

DuPont, incidentally, plays an unusual corporate role in industrial hygiene services: It managed to chalk up such a good record in-house that it has been selling safety service advice to other corporations that would like to follow its lead. It has been doing this since 1972 (*Business Insurance,* May 22, 1972); it may or may not indicate a trend, but DuPont says when it sells its services, it does not deal with other companies' corporate insurance or risk managers.

At the opposite end of the spectrum, from an insurance buyer's viewpoint at least, is Chicago's Borg-Warner Corp. director of risk management Arnold Fredrick Berg has been very active in hiring outside industrial hygiene consultants for the last two years. Mr. Berg currently uses the National Loss Control Service Corp. (NATLSCO) of Long Grove, Il.

NATLSCO is associated with the Kemper Insurance Group, but Mr. Berg made it clear the firm was hired from a pure risk management viewpoint, and was not part of a package from Kemper. He does not, in fact, currently use Kemper for insurance programs.

Besides NATLSCO, Mr. Berg has used George D. Clayton Associates, a Detroit industrial hygiene consultant, and the Chicago office of Bolt, Beranek & Newman (BBN) on a per-piece basis for various air sampling and noise reading services he felt were necessary.

"On costs, I've been able to stay as low as $1,000 and I've gone as high as $10,000 on a per-day and per-job basis with the industrial hygiene consultants," Mr. Berg recalled.

Continental Can Corp., New York, like Borg-Warner, buys the services of NATLSCO through the corporate insurance department, although it may have arrived at its decision differently.

Like many other companies which use Liberty Mutual Insurance Co. for comprehensive general liability packages, Continental Can used Liberty Mutual's industrial hygiene services while the Boston insurer held its business.

The switch to NATLSCO came when Liberty Mutual wouldn't go along with a program Continental Can wanted to pursue using a captive insurance company. Liberty Mutual will not sell its industrial hygiene services or separate them in any way from total insurance packages.

Kennecott Copper Corp., a current user of Liberty Mutual's industrial hygiene services at a number of locations, also considers industrial hygiene to be a risk management function, according to assistant insurance manager Walter H. Wilson.

However, Mr. Wilson said Kennecott's really big mines were self-insured or covered by state funds rather than by Liberty Mutual's program. He said at the local level it was possible outside industrial hygienists might be hired. Kennecott's corporate insurance department "acts as a liaison" bringing Liberty Mutual's industrial hygiene services to the people in the field, he explained.

Champion International offers one example of a company which handles its industrial hygiene program both on an in-house and outside consulting basis, with the primary responsibility falling on the loss prevention department.

Champion's risk manager, William Wynne, is in the company's New York office. However, he said industrial hygiene is entirely handled through the loss prevention department headed by Otto Wagers in Hamilton, Ohio.

Champion "depends a great deal" on Liberty Mutual's services, but does hire outside consultants for noise control, and other areas where the firm is self-insured.

For example, Champion in the past has employed Dr. Amram Glorig, a pioneer in hearing conservation, who currently works at the Callier Center for Communication Disorders in Dallas, Tx. Champion also has its own in-house industrial hygienist, Ed Beebe, who does a lot of work with vapor and fume control.

American Cyanamid Co., Wayne, N.J., is another example of a company which the risk manager has some participation in industrial hygiene decisons, but where the primary momentum comes from another department.

Neill E. Crowley, Cyanamid's corporate insurance manager, explained that while he works closely with Bill Andresen of the firm's Occupational and Environmental Services (OES) division and

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is in on policy-making decisions, the industrial hygiene function of OES is not under the direct supervision of his department.

Most of Cyanamid's industrial hygiene program is done in-house Mr. Crowley said. "When you bring in a consultant, he brings you expertise, but he's only as

Risk Management SERVICES

good as what you tell him about your operations. After all, with an operation like we run, our own people are here 24 hours a day. It pays to do things in-house."

Contacted at his Dallas center, hearing expert Glorig explained that when he is hired by a corporation to do work on hearing conservation, it is usually on a retainer basis for a set fee per year.

He said he hasn't knowingly dealt with any insurance or risk managers in his work. "My dealing is strictly with safety departments, personnel departments, and sometimes with the very top management of the company," Dr. Glorig commented.

Besides Champion International, he has done consulting for Crown Zellerbach, International Paper, and St. Regis Paper. Dr. Glorig's services are often called upon in workers' compensation cases.

One corporate safety man who has dealt with Dr. Glorig and other outside industrial hygiene consultants said costs ran about $300 per day for most consultants, and higher for Dr. Glorig. "I can't tell you exactly how much. That depends on the job. But it's plenty," he emphasized.

Payment for industrial hygiene services from outside consultants is typically made on a per-hour or per-day basis, confirmed Loss Control Inc.'s manager of risk management, Victor Aeby.

Loss Control Inc. is a big supplier of industrial hygiene services that used to be owned by broker and insurance holding company Synercon, in Nashville, Tn.

In April, Loss Control's principals bought the firm back from Synercon, and are currently working with a number of insurance-related firms. Mr. Aeby said that Loss Control will work directly with corporate risk managers, without the use of a broker, at the request of a risk manager.

Loss Control's typical service charge is $30 per person per hour, Mr. Aeby said. He explained the firm makes overall estimates for large jobs. Some recent work it has been doing for a chemical firm ran up a $4,000 bid, for instance.

A flock of insurance companies besides Liberty Mutual offer industrial hygiene services, but unlike Liberty Mutual, most others seem willing to sell the services to non-clients who don't necessarily buy entire packages.

Some of the best-known companies doing this are the ESIS division of Insurance Co. of North America, Fireman's Fund, and Kemper's NATLSCO division.

The insurance industry undoubtedly views itself as the backbone in the entire area of industrial hygiene. Aetna Life & Casualty has been busy sending representatives to seminars across the country getting out this message.

In late May, Aetna vp David Curley told an administrative engineers conference in Chicago that the insurance industry is working on improving its technical facilities to help deal with the problems of occupational health.

Some 13,000 potentially hazardous materials are now present in work environments, according to research firm Frost & Sullivan. Whether insurers can maintain their top position in coping with this problem remains to be seen.

A spokeswoman for Liberty Mutual indicated that in the last year, requests from corporate insureds have tripled and quadrupled for help in monitoring dangerous agents in work environments.

And in response to burgeoning demand, small industrial consulting firms are springing up with highly specialized services. Some like Occusafe/Inc., take their name directly from the occupational hazards aspects of the law.

And there are others, like Industrial Noise Services Inc. of Palo Alto, Ca., which promise to help companies comply with OSHA. This firm advertises that for "less than 50 cents per employe per month" it will provide everything a plant needs to satisfy or exceed OSHA hearing test requirements.

Whatever shape industrial hygiene services take in the years to come, it seems safe to predict that the buying function will vary from corporation to corporation. ■

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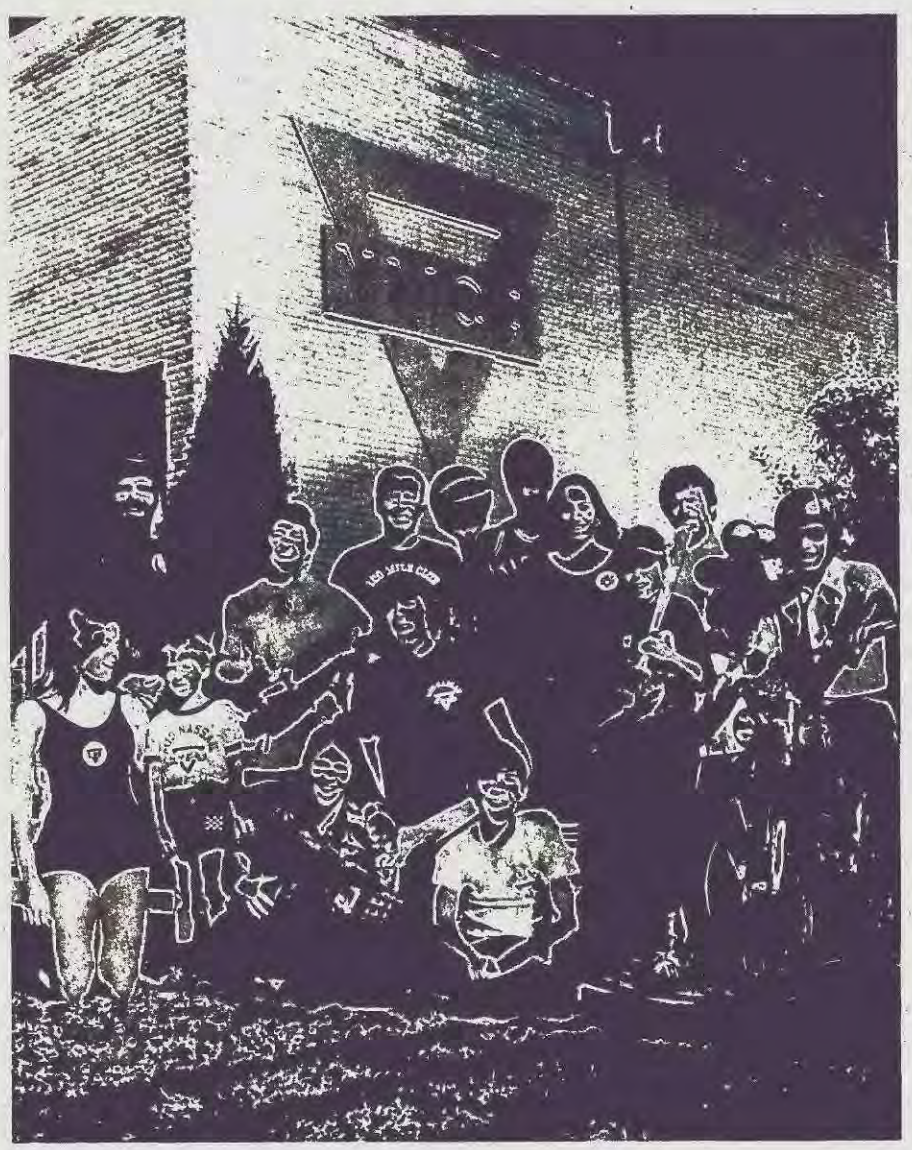

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Recordkeeping service labeled as under-used but clients are satisfied

By ELISABETH M. WECHSLER

NASHVILLE—An accident recordkeeping and prevention program developed by Data Services Corp., a division of Synercon Inc., based here, has earned generally favorable comments, but some buyers are under-utilizing it, *Business Insurance* learned.

The city of Chattanooga, for example, claims it does not use the "analytical data"—that is, the accident data broken down by injury type, department, age, sex and occupation, said Lee Doney, safety director for the city.

The reason, he explained, is that "safety program changes must be approved by the city and there's no safety committee." Any changes would have to be approved by the city commission and "it's a new one," he added.

Mr. Doney cited the "improved reporting procedures" for Occupational Safety and Health Administration regulations as a result of the service. "Chattanooga didn't have a centralized reporting procedure before," he said.

The city's plan is a prototype of what Data Service is offering all its clients: a combination of OSHA recordkeeping, compliance and accident information feedback on a monthly basis so that the client's safety programs can be improved.

According to James H. Levine, manager of the OSHA recordkeeping service division for Data Service, OSHA compliance requires that accidents requiring first aid or those relating to lost work time be reported.

Data Service provides its clients with more detailed information—a report on all accidents which occurred, on a monthly and cumulative basis for the year, by injured employe, department and location.

The format of the report is designed "for persons primarily responsible for safety," Mr. Levine said. "It's simplified and usable and comes out on preprinted forms."

The cost is based "on the number of accidents and number of locations," Mr. Levine said.

For the city of Chattanooga, the cost was about $2,268 for 1974, which covered 6,000 employes in eight municipal departments involving some 125 locations, said James A. S. Wilson, special counsel to the city.

Mr. Wilson said the city hopes eventually to "go to its own computer someday" but officials knew they lacked the capacity to set up a system similar to Data Service's last July when they contracted for the program.

No savings has been determined yet, Mr. Doney said, because there was no basis for comparison. "In one year you can't take the statistics and apply them to the whole program. No records were kept for the city before," he said.

"We're reasonably satisfied (with the service)," Mr. Doney said. "It's fair. We may renew the contract in July," he added.

Including the city of Chattanooga, Mr. Levine told *Business Insurance* that Data Service covers "40,000 employes in 35 states with 500 locations," pointing out that a location did not necessarily mean a separate client entity.

Hospital Corp. of America (HCA), based here, signed on as a client in January. "No one centrally was charged with the responsibility to assist or direct hospital personnel to comply with OSHA," said M. Ray Hodges, assistant vp, insurance, for HCA.

Some 60 hospitals in HCA receive monthly data on all accidents affecting hospital employes, he said. Data Service "provides a loss prevention program which pin-points areas of the hospital where accidents, occur," he continued. "Another function is to educate hospital personnel about what to do in case of an accident."

Continued on page 55

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Continued from page 54

Data Service makes "available a person to answer phone calls or letters on a 24 hour basis as to whether an accident is reportable (under OSHA law) or not. The communication line is open," Mr. Hodges said.

Risk Management SERVICES

Annual cost for HCA members participating is estimated to be about $200 per hospital.

"If results are achieved, then we'll be pleased," Mr. Hodges said. "It frees hospital personnel to concentrate on other matters and it helps him report to OSHA because it provides him with the needed information."

Mr. Hodges said that HCA "did not direct hospitals" in its association to buy the service "but recommended it." A few hospitals had their own system but 60 signed on the service.

Mr. Levine formerly administered the state of Tennessee's OSHA recordkeeping program and said he approached Synercon with the idea. The OSHA service subsequently was developed jointly by Data Service (which serves as manager) and Loss Control Inc., a safety, health and environmental engineering subsidiary of Synercon.

He believes the service is a "valuable management tool that will reduce accidents and result in savings to the bottom line."

Data Service is different from other recordkeeping services, Mr. Levine said, because it gives the data on a monthly, rather than quarterly, basis; it's cheaper and clients must only submit the first report of injury form plus answer other questions on the back, rather than code the information themselves.

"OSHA compliance is guaranteed," Mr. Levine said.

"It keeps us abreast of the (accident) trends, said Ron Miner, manager of industrial relations for Cosco Business Equipment in Gallatin, Tn., which has been on the plan for a year. "We pass the information on to safety supervisors," he said. "It also helps in filling out the OSHA year end report, which usually takes one and a half days. This alone saves us the cost of the service for one or two months," Mr. Miner said.

The company has about 450 employes and the cost is somewhat less than $500 a year for its one-location furniture manufacturing facility, he said.

Other clients include Ireland's Restaurants, a fast food chain in the southeast; Irvin Industries in Lexington, Ky.; Horace Small Manufacturing Co., based here; and eight Taco Tio and Kentucky Fried Chicken franchises, also based here. ■

Britian forms land-based oil risk pool

LONDON—Britain has set up its own risk pool, to provide capacity for the underwriting of large oil and petro-chemical risks. It will be confined basically to land-based installations and will not compete with the marine market in the growing offshore developments in the North Sea and elsewhere.

It is also not intending to compete with the Oil Insurance Ltd. in the U.S. and has in fact had talks with that organization before setting up its own operations in Europe (*Business Insurance*, Oct. 28, 1974).

The new pool, to be known as International Oil Insurers, is an association of major U.K. insurance companies, with backing from some French companies. Lloyd's also has an interest in it.

It will provide material damage and consequential loss cover on land-based installations and services, and has reinsurance capacity up to $50 million available through international arrangements.

Frederick D. Hudson, general manager of the new pool, told *Business Insurance*: "We'll be providing domestic capacity for U.K. and European companies in the oil and petrochemical industries who need companies coverage we can offer. It may be available also for U.K. companies with U.S. and other overseas interests, or for U.S. companies who may want our services in the European area. But we're certainly not invading the American market."

An oil risk pool under Norwegian control already operates from Oslo (*Business Insurance*, March 10).

Fire rates changed

Course of construction fire insurance rates for Montana were revised by the Insurance Services Office. The new rate, reduced 20%, became effective May 28. The revision includes a 40% rate increase for building and contents, on boarding and lodging houses, housekeeping hotels and other institutional risks. Hospitals and their adjacent structures got a 20% reduction in fire rates.

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Survey shows most firms biding time on HMOs

MINNEAPOLIS—Most major corporations are biding their time on the subject of health maintenance organizations (HMOs) until final regulations under the HMO Act of 1973 are published.

This was the major finding of a survey by the Twin City Health Care Development Project here, an organization created in April, 1972 by 20 employers and insurers to promote HMO development in the Minneapolis-St. Paul communities.

Ninety corporations in the top Fortune 500 listing responded to the survey, the Project director said. A mailing was made to 300 firms in the Fortune 500 list, selected at random, in order to determine the "current level of understanding" among employers about the HMO Act.

The Development Project also wanted to know where employers were getting their information about HMOs, and where they would turn in the future for information and assistance.

As a result of the survey, "the approach that has worked so effectively in the Twin Cities area should be expanded to other parts of the country," the Project concluded in its summary of the survey.

Key findings which led to this conclusion were:

- 20% of the firms said they currently work with one or more HMOs.
- 59% of companies indicated they were unsure of the HMO Act's effect on their organizations.
- 19% currently offer their employes an HMO option, while another 3% are working on offering the option.
- 73% indicated their company is taking no (or no further) action until final regulations for the HMO Act are published.
- none of the firms would hire new staff to assist in offering an HMO option.. 82% would utilize current personnel, 60% would call on insurance carriers or brokers, and 30% expect to use consultants for assistance.

Close to half the firms answering the survey questions indicated they "would be interested in an association that could provide information services" on HMOs, the Project report said.

"It appears that the strategy of mandating the dual choice option on employers of 25 or more employes with a health benefits plan has not had the desired impact on HMO development and enrollment," said the Development Project's survey report. The report went on to describe the HMO Act of 1973 as "not sufficient in itself."

Cited as reasons for the slow progress of HMO development were "the slow publishing of regulations and the lack of certified HMOs." Twin City Health Care Development Project indicated it will promote its services nationally in order to address what it described as a secondary reason for employer hesitancy about HMOs: "the apparent lack of awareness of the problems of an employer in offering an HMO option." The Development Project said this "secondary reason must be addressed so that employers will move ahead in offering the option once the regulations are finalized."

The Development Project envisions expanding the materials prepared for use in the Twin Cities, and providing it, at a price, to companies around the country, including informational materials and consulting services. When the Development Project was set up in 1972, 11 local employers signed up to participate, including General Mills, Control Data Corp., Minnesota Mining and Manufacturing Co., Honeywell Inc., Cargill Inc., Pillsbury Co., Hoerner Waldorf Corp., Dayton Hudson Foundation, First National Bank of Minneapolis, Northern States Power Co., and Northwestern National Bank of Minneapolis.

Also acting as sponsors were eight insurers, including Northwestern National Life Insurance Co., Lutheran Brotherhood, Aetna Life & Casualty Co., Prudential Life Insurance Co., Mutual of New York, The Equitable Life Assurance Society of the U.S., Occidental Life Insurance Co. of California, Massachusetts Mutual and the Commonwealth Fund.

There are now six operating HMOs in the Twin Cities, serving over 94,000 metropolitan area residents, the Project said. Two of the participating employers, General Mills and Cargill, have had over 40% of their eligible employes sign up to use the HMO option.

Each of the 20 sponsors agreed in 1972 to fund the Project by contributing the same amount of money. Operating procedures are established by three committees.

Charges for various types of assistance which employers can receive from the Project include:

- consulting services, $350 to $500 per day plus expenses;
- Blue Book of HMOs, providing general information on operational methods, $8.50;
- audio visuals about the nature of the HMO, $250 in the past, but some changes are anticipated, possibly with a customized approach to audio visual material for interested employers, with cost running higher, up to $1,000;
- a directory of all HMOs located in the U.S., and their operating statistics, $250 for the first copy, $100 for additional copies. ■

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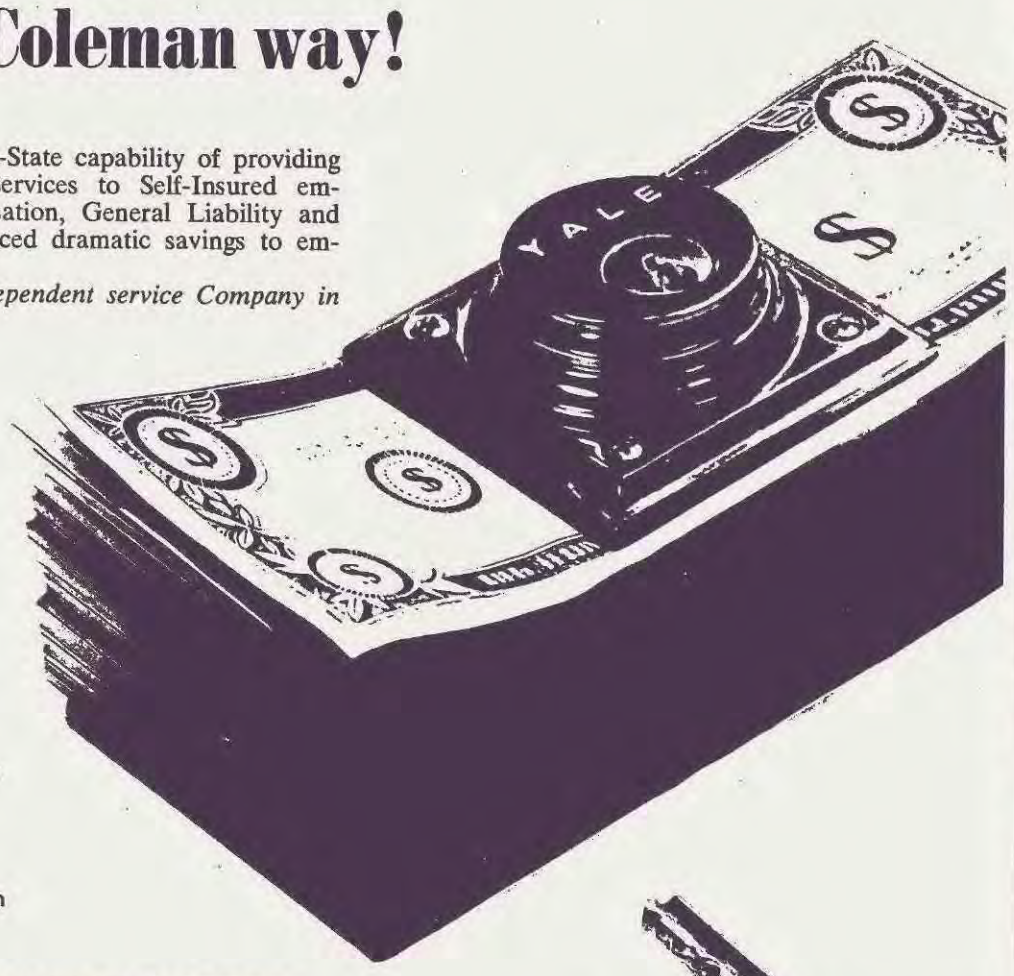

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Some group plans can get around rules

WASHINGTON—Is it possible for an employer or union to offer a group insurance program to its members or employes and still escape the complexities of the pension reform law?

The Labor Department proposed this month that the answer be yes, but only if a list of qualifiers are first met.

Most group insurance programs will be classified as "employe welfare benefit plans" under the law and subject to its reporting, disclosure, and fiduciary rules.

To get around the rules, here are the department's prerequisites:

- The program must be completely voluntary.
- The employer or employe association's role must be limited to publicizing the program and handling the premium payments through payroll deductions or dues checkoffs.
- The employer or employe association cannot make contributions or receive any consideration in connection with the plan.
- And the employer or employe association cannot hold the program out as an employe or membership benefit. ■

New service to analyze effects of age on claims

AMARILLO, TX.—Corporate Systems Corp. is developing a new program for its EDP recordkeeping clients which will determine the effect of aging on the size of claims when paid, *Business Insurance* learned.

"We aim to find out the relationship between claims when they are settled versus claims when they are incurred, and the relationship between the amount reserved to pay claims and the actual amounts paid, historically," said Marvin D. Gwinn, director of communications.

The data processing systems supplier is also broadening its alliance with insurance industry clients to include mini-computer terminals on location with clients. CSC installed a mini-computer at the Alexander & Alexander branch office in Dallas in January, and will soon install another at NATLSCO, a division of Kemper Insurance Co., with whom CSC just finalized a contract to provide casualty loss reports and account data reports. Corporate Systems will provide more detailed loss reporting systems for NATLSCO's self-insured clients.

Of the 700 clients which Corporate Systems claims, there are 50 Fortune 500 companies and a lot of corporations which would rank in the second 500 in size. Of the corporate clients, 70% use the incurred loss system which CSC offers, and the other 30% use the claim and expense management system. The incurred loss system tracks each reported loss, recording the deductible amount, through to settlement, and provides aggregate loss statistics. The claim and expense management system tracks cash flow for self-insurers on the basis of incurred losses, analysis of payments, time of settlement, reserve amounts, and details about the types of losses incurred.

Of the latter 30%, about a third use the safety program also, Mr. Gwinn said. It is for large companies which want to track details on losses for prevention and control purposes. Some firms also use this additional information to do trend analyses and loss projections.

CSC has not gone into the computer simulation forecasting field, but "we're still very much interested in putting together a composite model for clients" to use in doing projections, said Mr. Gwinn. Corporate Systems some time ago did a one-time risk forecast based on a time series analysis frequency but the calculations were done manually and CSC has done no more with the concept.

"We used the West Texas State University facilities to try to forecast work comp losses and employe injuries. We did make some progress, but we did not feel the models were commercially usable. This study was done for the petroleum industry. Any study like this almost has to be done on an industry basis," he believes.

Corporate Systems' programs cost four-tenth of 1% of premium cost plus self-insured losses up to a certain level, then seven-tenths of 1% of premium above that. One client, for example, in the $3.5 million premium range pays $1,500 for all four programs. Some CSC clients in the jumbo class, however, of $8 million to $9 million in premium "can negotiate a special rate."

What is unusual about the Corporate Systems program is the quantity of information about each loss and accident which can be put into the computer, and the details of those losses can then be used to analyze trends.

Every CSC client gets a monthly report on the 10 most frequent accident types and the 10 accidents which cost the most. But very few clients ask for a complete printout of accidents by injury type or cause type, said Mr. Gwinn, even though such a report would only cost the amount of the paper it's printed on.

Gaining in popularity at CSC are the value development reports, which provide self-insured companies with a periodic overview of incurred claims through to settlement. ■

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Cite cost containment; increased cash flow

West Coast firms are enthusiastic over self-funded benefits programs

By JOANNE GAMLIN

LOS ANGELES—West Coast corporations or other entities that have all or part of their group health plans self-insured—whether under an 'administrative services only' program from an insurance company or by a 'third party administrator'—are one group of happy folks.

The advantages of self-insuring group health plans with ASO plans or with outside claims handling services are broad. At least that's the opinion of employe benefit people who owe their employment to a spectrum of employers, including unions, trade associations and institutions such as hospitals.

For two Southern California corporations that have ASO programs with Aetna Life & Casualty Co., the foremost benefit is financial: Containing premium costs and swelling the cash flow.

Doris Ramsey, risk and benefits manager, Rohr Industries, Chula Vista, Ca., is one who thinks she is sitting pretty with her ASO program from Aetna. She said that bringing cash in-house that would otherwise go to an insurance company's reserves has been the premiere benefit of her company's six-year-old group health self-insurance program.

"Under an ASO scheme, the benefit plan sponsor is relieved of the responsibility of paying premiums which, naturally, embrace a lot of guesstimates about future claims costs," she said, pointing out that while she is 'sold' on the ASO program, she is also on the outlook for an even more sophisticated claims handling method.

Under her ASO program, she figures Rohr's payments for group health benefits are approximately 10% less than they would be under a traditionally insured group health plan.

She elaborated: "If the claims dollars dictate an increase of 1% that is all you pay under an ASO program."

At Purex, Lakewood, Ca., Bob Chisholm, manager of employe benefits, told *Business Insurance* that the standout advantage of his ASO program with Aetna is that it contains costs.

"At the time Purex decided to go into a self-insured program with Aetna in April, 1972, our fixed medical premiums were rising every six months," he disclosed. He noted that the group health underwriter until that time was The Travelers.

Since Purex has gone on an ASO program, he said payouts for claims have not risen above the level they reached in April, 1974.

For its ASO program with Aetna, he said his plan pays a fixed fee of 5 cents to 6 cents on each dollar paid out in claims.

Pronouncing himself "very satisfied" with his current group health setup, Mr. Chisholm stressed he is not considering changes such as a switch to a third party administrator.

Nonetheless, on the West Coast, third party administrators seem to be where the action is. Some of them, particularly those for multi-employer group benefit plans, have been active here for several decades. At present, there are a host of firms offering outside claims handling, record keeping, and more recently, peer evaluation services. So many, in fact, that according to Robert L. Jenkins, president, Imperial Industries, a unit of S&H Corp., "the competition for business has grown fierce."

The third party administrators offering claims handling and claims evaluation services for group health plans predominate. Their roster includes such firms as R. L. Kautz & Co., United States Administrators, Imperial Industries, Scott Wetzel Services Inc., Gates, McDonald & Co. and Health Plan Administrators—the latter two specializing in hospitals. Other firms make prescription drugs their specialty. These include Paid Prescriptions; Prepaid Prescriptions, a part of United States Administrators; and Prescription Card Services. Many third party administrators accept insured as well as self-insured group health plans as clients.

And like the client advocates of ASO programs, corporations or other entities that choose self-funding accompanied by use of a third party administrator are impelled, above all, by visions of a fat cash flow.

"We figure we conserve between $40,000 and $50,000 a year by self-funding our health/medical program and giving the claims administration to R. L. Kautz," declared A. C. Schmohl, treasurer, Gaffers & Sattler, a subsidiary of Magic Chef Corp.

He recalled that his company became acquainted with Kautz, a part of the Pinehurst Corp., when the third party administrator assumed Gaffers & Sattler's self-insured workers' compensation program for which it arranged excess coverage with a carrier.

Gaffers & Sattler was pleased with Kautz's handling of the workers' compensation program. Consequently, it moved to establish a health and welfare trust fund administered by Kautz.

Along with administration, he said Kautz now keeps records, writes checks and supplies technical advise.

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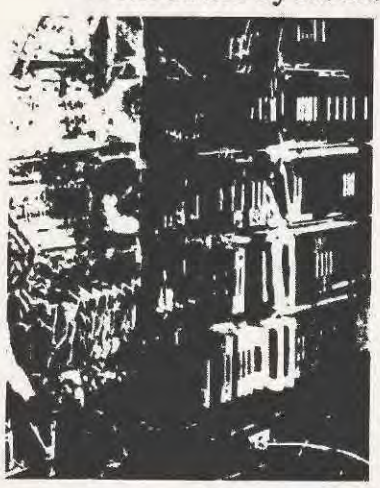

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tor, Mr. Schmohl said his company pays a fixed fee "which is less than an insurance company's retention would be."

Kautz has public bodies as clients; on its customer list are the cities of Downey and Palo Alto.

Any investigation of third party administration business on the West Coast will reveal, however, that unions, trade associations and hospitals often eclipse corporations as client potential.

United States Administrators boasts a battalion of union customers. One of these is the Construction Laborers, Local 591, Santa Barbara, where secretary-treasurer Sal Aparicio, said that his group health plan is administrated by an ASO program from Aetna and his dental and prescription plans by United States Administrators.

Cost containment has resulted from both program, he is confident. He noted that U.S. Administrators maintains a panel of druggists who set reasonable prices for commonly sold prescription drugs. When pharmacists demand prices of plan members, who are covered by U.S. Administrator's Prepaid Prescription service, that surpass these levels, he said the administration company's computer system will reject the charges.

In the dental area, he said that U.S. Administrators has a staff that does nothing but compare a patient's X-rays for proposed treatment with records of that person's past dental work. In this way, much needless work is never done, he pointed out.

Samuel Kaplan is president of United States Administrators. He maintains that about 18% of all dentists and physicians are either incompetent or willing to inflate their bills. That's one reason why he believes that the on-line IBM 370 computer system which is programmed to reject bloated charges is a paramount asset of his operation. A health review board, a council of 28 physicians and surgeons who lay down health care standards for his clients is another.

Scott Wetzel Services Inc., Bremerton, Wa., also maintains that it has a sophisticated (almost on-line) computer oriented claims handling service. On the West Coast, Inter-Mountain Oil Marketers Assn. in Salt Lake City, is a major client. The group of oil/gas distributors has used Scott Wetzel as the third party administrator for its health/accident trust since January, 1974, pointed out Jim Murphy, executive director.

Relating that his association set up the trust after being asked to accept a 35% premium increase from its former insurer, Mr. Murphy claimed that even after boosting his members' premiums about 15% "our rates are $20 a month below the comparable Cadillac Blue Cross plan."

He said that excess coverage is purchased at the rate of $2 per account from Safety Mutual Insurance, St. Louis.

Gates, McDonald & Co., a subsidiary of Nationwide Corp., Columbus, Oh., is one of the burgeoning number of newcomers in the field of third party administration of self-funded group health plans. The firm leaped into the field only two years ago.

"Hospitals are a favorite target of our self-funded project," revealed a spokesman, pointing out that his 46-year-old company has specialized in services to workers' compensation programs and to employer funds for unemployment compensation.

The unassailable advantage that hospitals gain by creating a self-funded group health plan was outlined by Arthur Turner, assistant administrator, Whittier Hospital, situated in the town of the same name. He said that most covered employes make the hospital, a client of Gates, McDonald & Co., their center for health care.

"Therefore, about 50% of all charges paid under the plan are for services provided by the hospital and consequently not paid," he explained.

"Moreover, with this system, we are able to pay our claims in mere minutes," he asserted.

Still not every customer of a third party administrator selects financial advantage as the paramount reason for seeking such service.

Franklin Hardinge Jr., a consultant to the employe benefit plan of the giant California Savings and Loan League, pointed out he picked Imperial Industries (it merged last year with Health & Welfare Administrators) to handle claims, and in the near future, record keeping, for his self-

Continued on page 60

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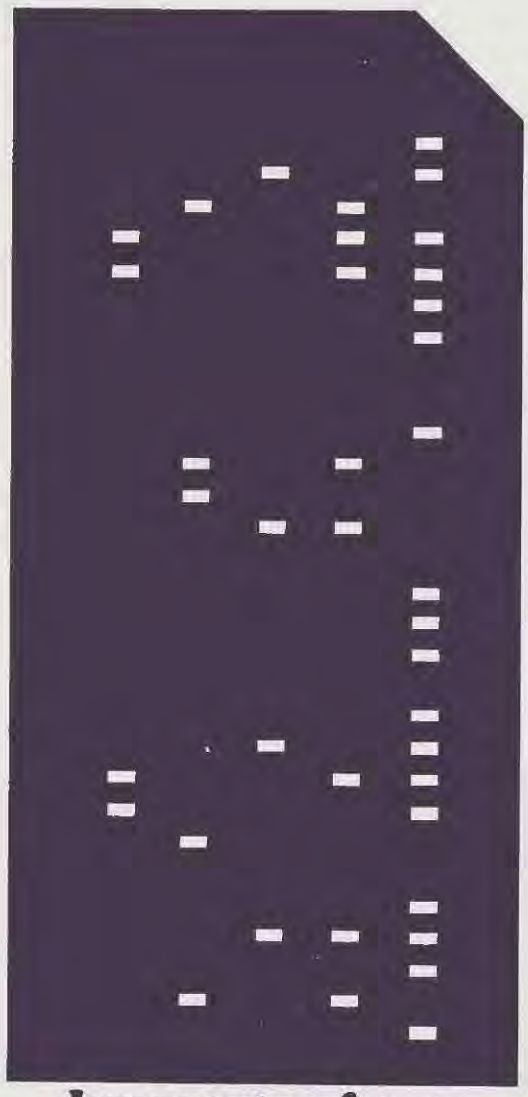

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Self-funded...

Continued from page 59

funded employe benefit plan because he has enjoyed an excellent relationship with the firm in the past. Beyond that, he likes its services.

However, Mr. Hardinge emphasized that he wasn't looking for cost control in the services of a third party administrator. That wasn't necessary in his case. He said he had achieved an immense savings in premium costs when in October, 1971, he organized a 501 trust and began self funding all elements of his benefit plan except life insurance.

"I calculate we conserve $1 million a year by being self-funded," he underscored.

Imperial Industries, part of Bayly, Martin & Fay, the brokerage firm, has maintained an executive and administrative claims service for more than 30 years.

Noting the crowd of newcomers that have been streaming into his business arena during the last five years, president Robert L. Jenkins said there is a tendency among insurers to resist doing business with third party administrators.

He suggested the reason might be a lot of insurance firms have been hurt in their dealings with incapable administrators.

Prescription drug third party administrators, according to their exuberant clients, would never tumble into that unhappy category. Perhaps because offering a prescription drug program is such a visible benefit, clients of this type of third party service emit nothing save enthusiasm.

In Phoenix, Ariz., Barbara Wilkie, group benefits manager, Cudahy Meat Packing Co., is an example of this frame of mind.

She explained that employes covered by Paid Prescriptions, a non-profit operation which is affiliated with Health Application Systems, pay only $1 for each prescription that is filled. She said the pharmacists then forward the bills to Paid Prescriptions which reinburses the druggists. Cudahy then replenishes Paid Prescription's coffers.

Ms. Wilkie said that Paid Prescriptions receives a flat administration fee of 50 cents per employe every month.

"This is our most talked about benefit, and that's saying a lot," she exclaimed. Ms. Wilkie added that the average covered family appears to be spending a modest $5 a month for prescription drugs.

The Cement Masons union in Los Angeles also has given a ringing welcome to a similar prescription drug service, this one from Prescription Card Services, a unit of Foremost-McKesson Corp. Instead of the $1 per prescription service, PSC members, like the Cement Masons union, pay only 50 cents for each perscription.

A spokesman for the Cement Masons said that PCS bills the union's managing company twice a month for the prescriptions and an administrative fee.

"Sure, it's a popular benefit," he asserted. Among its circle of assets, he believes, is a strong check on drug abuse.

Irv Allen, a consultant with Martin E. Siegel, the national actuarial firm, echoed that view. He said that until such services arose, drugs were inevitably part of major medical programs and therefore candidates for overuse. He asserted that the claims monitoring function of these administrators has reduced both drug overcharging and overuse. ■

Economy woes stall Ford risk consultants

By PAUL R. MERRION

DEARBORN, MI.—Ford Motor Co. last October created a firm called Risk Services Inc., a wholly owned subsidiary drawing on eight specialists in the corporate insurance department to provide studies and other services for the buyers and sellers of insurance.

So far, the plight of the auto manufacturing industry has kept the venture stalled in the garage, waiting for an economic turnaround. Risk Services is "still in the embryo stage," according to a source within the Ford insurance department. All studies are "still on the drawing boards," he said, and they're likely to stay there until late summer.

"If we didn't have the kind of industrial economic problems we have, we'd be much further along. It's tough to have an idea that you think is worthwhile and then have to sit on it," the source said.

Risk Services is keeping a low profile both within the firm and externally. Except for an announcement to several insurers and other selected parties when the subsidiary was formed, there has been no advertising of the services they are prepared to provide. "We're not ready to solicit business," the source said. "Our business to date has been very limited."

Drawing on the international expertise of several people on the 14-person Ford insurance staff, two types of studies that are foreseen are studies for an insurance company that wants to start an overseas operation or a foreign insurance company that wants to start operations in the U.S.

Other possible projects are studies on the underwriting of special risks or an analysis of transport damage; the latter would draw heavily on Ford's established damage statistics, the source said. The transport damage information can be broken down by railroad line, geographical area or other criteria, he added.

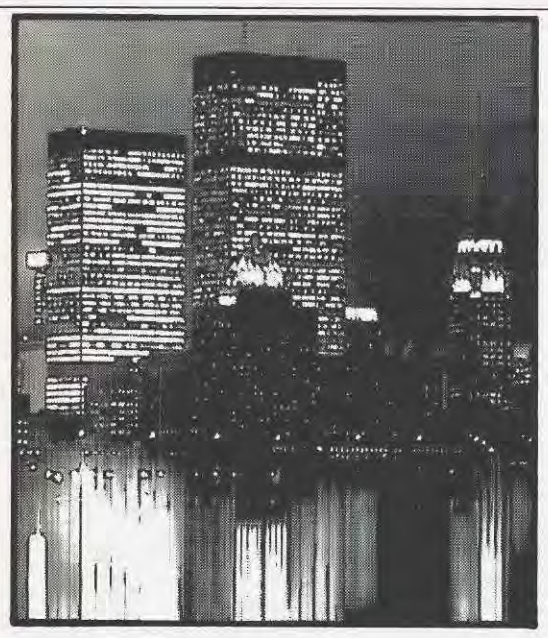
He said they plan to generate their own data for studies in addition to using Ford statistics.

One service that Risk Services will not provide is overall risk management consulting, although the firm will tackle specific problems such as fire protection engineering at a specific plant.

Risk Services was formed "to make a profit" from selling services to companies that are looking for an objective viewpoint. "We have nothing to gain from slanting," the source said, adding that payment is made on a prenegotiated fee basis.

Some companies prefer studies to come from a firm other than an insurer or a broker, he said. Risk Services was formed after it became apparent that there was a need for such services, he said.

Overlapping specialties are brought to Risk Services by the eight people who will be splitting their time between the insurance department and the services firm. The combined expertise of those in Risk Services includes accounting and finance, according to the source, as well as computer systems analysis, fire protection engineering, insurance law, risk management, special risks underwriting, statistics, subrogation and transportation. ■



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Charge DOT lax on rail safety; changes sought

WASHINGTON—The Senate was asked to fire the Transportation Department for poor performance in improving railroad safety.

"Railroad accidents have increased nearly 50% since the Department of Transportation assumed responsibility for rail safety in 1967," said Sen. Harrison A. Williams (D-N.J.). "Last year, 140 employes were killed and more than 15,000 were injured in 10,400 accidents."

Sen. Williams and Sen. Jacob K. Javits (R-N.Y.) introduced legislation last month (S. 1743) to move the Transportation Department's Federal Railroad Administration into the Labor Department.

"Since 1970, the department has had comprehensive authority to regulate rail safety, but it has adopted no safety rules affecting maintenance shops, offices, or stations where more than half of the workforce is employed," Sen. Williams said.

"Although the department hired additional inspectors last year, there was a sharp decline in the number of inspections of passenger cars, freight cars, and locomotives," he said.

"The problem has been further irritated by the failure of the Departments of Labor and Transportation to establish clear jurisdictional lines of responsibility over rail safety," according to the senator.

"Under existing law," he said, "the Department of Labor can exert authority where the Department of Transportation has not. Yet when the Department of Labor stepped in, the Transportation Department proposed rules and regulations governing the same employe functions. The question of proper jurisdiction is now in the courts."

The senator said, "This bureaucratic wrangling has benefited no one and leaves the railroad worker without adequate protection. This transfer to the Department of Labor will place greater emphasis on the safety and health of rail workers."

The bill would establish a Federal Railroad Safety and Health Administration in the Labor Department to be staffed by the personnel now running the Federal Railroad Administration.

A spokesman for the Federal Railroad Administration said, "We feel the interests of the industry are best being served with safety placed in the FRA. We think the job is being done."

The Assn. of American Railroads has no position on the bill yet, but association attorney Thomas Phemister said he would urge the bill be "opposed as strongly as possible."

"We have some problems with the FRA in that their fine structure is a little less than equitable, but we think the FRA understands the railroad's situation better than the Labor Department," he said.

Railroad unions for some time have been interested in a Labor Department role in railroad occupational safety and health.

The National Transportation Safety Board, which investigates major railroad accidents, said it had no position on the bill.

The Williams-Javits proposal itself may well be little more than a warning to the Transportation Department. Jurisdiction over the bill has been split between the Senate Commerce and Senate Labor and Public Welfare committees. Neither committee has plans for hearings at this time.

"We want to get the idea out that this idea isn't far removed from reality," said an aide to Sen. Williams. "Rail safety hasn't been paid close enough attention to." ■

Risk control seminar

The University of Dallas in Irving, Tx. is sponsoring a three-day seminar for risk managers June 30 through July 2 at Colby-Sawyer College. Seminar director Bruce Evans, of the University of Dallas graduate school of management, said emphasis will be on human aspects of risk management, personnel and communications areas of risk management. Tuition is $295.

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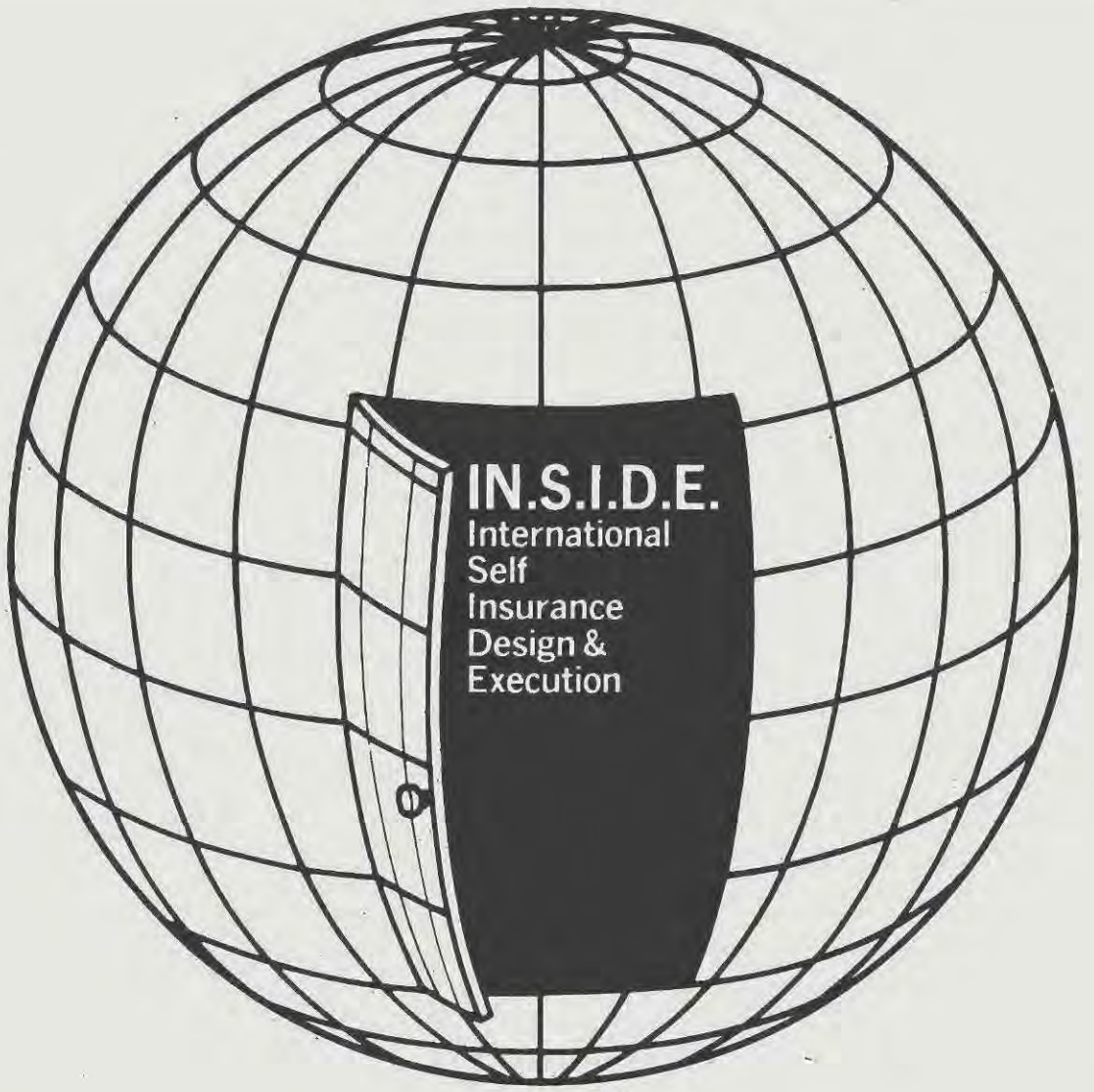

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Clarkson alters environmental risk policy for heavy US marketing effort

CHICAGO—H. Clarkson (Overseas) Ltd., one of the largest Lloyd's brokerage firms based in London, is modifying the language of its year-old environmental impairment liability (EIL) insurance policy with an eye to some heavy marketing efforts to U.S.-based corporations.

The broker has contracted with Ray Severin, consultant and former insurance manager for Amax Inc., in order to adapt the policy to standard U.S. forms and "make it more marketable," said Charles A. Muller, deputy chairman of Clarkson. Mr. Muller, Mr. Severin and other Clarkson people were interviewed while visiting Chicago to hold discussions about the EIL coverage with Great Lakes Agency and CNA, among others.

Knowledgeable insurance industry sources told *Business Insurance* that CNA will soon market the EIL policy to U.S. commercial clients, reinsuring through Clarkson with the international pool Clarkson put together to underwrite the coverage.

"North America is an area where we see a potential market for this insurance, particularly in the heavier industrial categories of business"' such as mining, engineering, oil and petrochemicals, said Mr. Muller.

Worldwide, Clarkson has underwritten between 20 and 30 EIL policies in the year since the firm's creation, said Mr. Muller. He claimed the firm has some 300 corporations under active study for the coverage.

Policies were sold to insureds in Europe, the U.K. and Canada, he told *Business Insurance*. "We've got some very major risks on the books in Canada. Some of the 300 under consideration are multinationals based in London, Canada and the USA. We anticipate making a breakthrough in Japan. We have sold several policies there already, namely to the oil industry directly through Japanese insurance companies," said Mr. Muller. He does not foresee, however, finalization of all 300 policies under consideration. "If we could firm up half by yearend this would be a realistic goal."

Premiums on the 20 to 30 policies sold ranged between $80,000 for a $10 million limit (the policy covers a one year term on a claims-made basis) down to $1,000. "We have two major risks under consideration where the premiums would certainly be much higher than the previous high of $80,000 which was cited, said Mr. Muller, declining to disclose any more details about these pending programs "because they may involve captives, etc."

Mr. Muller acknowledged that Clarkson's policy covering pollution liability is not the only game in town— "there are, of course some competitors with similar schemes"—but he held fast to his claim that Clarkson's policy is unique in its breadth of coverage. The policy is underwritten by Swiss Reinsurance Co. and Mercantile & General Reinsurance Co.

Mr. Severin noted the policy is being adapted to the standard comprehensive general liability policy language used in the U.S., for corporate insureds here, requiring minor changes in language and format. He illustrated an area being modified as coverage for costs incurred in defense of claims which is not spelled out in most U.K. policies but is requested by U.S. firms, who want specific language about investigation and defense areas.

EIL insurance is designed to indemnify against losses resulting from pollution caused by non-accidental events. As Mr. Muller said, it won't cover a loss from, say, a pipeline rupture, but it would cover gradual leakage of tanks over the years, and damages resulting from noise or vibrations.

The policy defines environmental impairment as the "emission, discharge, dispersal, disposal, seepage, release or escape of any liquid, solid, gaseous or thermal irritant, contaminant or pollutant into or upon land, the atmosphere or any watercourse or body of water." The definition goes on to include the "generation of smell, noises, vibrations, light, electricity, radiation, changes in temperature or any other sensory phenomena arising out of the insured's operations."

The two-page British policy form includes a short description of the coverage, and long lists of exclusions and conditions of coverage. The 12 exclusions cover everything from liability related to war risks and operation of airports, to products liability, liability arising from genetic damage, and the cost of fines. Absolute exclusions include EIL from war risks, nuclear risks and claims by the insured's own employes. Other exclusions can be deleted on a buy-back plan.

There is, however, an absolute exclusion for losses caused by grossly negligent activity by the insured.

Every risk, before quoting by the insurer, is subject to a complete risk analysis survey in order to arrive at a rating schedule for the risk, based on assessment of many different categories.

For this initial evaluation, and for subsequent monitoring tasks, Clarkson and the insurers established a firm called Environmental Risks Analysis Systems (ERAS) This firm will work closely with Environmental Resources Ltd., consultants based in London, who drew up the rating system for the policies, quantifying the pollution potential inherent in over 100 industries' production processes. The system includes ratings based on

Continued on page 65

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nearly 25 pollution risk areas which the insurer calls static, and another 10 to 15 variable factors.

ERAS has its headquarters in the London offices of Environmental Resources Ltd., owned by Clarkson and the two reinsurance companies. ERAS, Clarkson said, will have a "presence" in all countries in which EIL coverage is being marketed, and also will "act as independent consultants to solve specific problems submitted by individual clients, whether EIL-covered or not."

The cost of the initial surveys is reimbursed by the insurers up to 10% of the premium, and the insured pays anything over that, said Mr. Muller. "The insured also pays for the entire appraisal if it doesn't buy the EIL coverage in the end after obtaining the survey and quote," he stated. The largest fee for a survey so far has been $1,500, which has been "well within" the 10% paid by the insurer. In Canada where three mines are under consideration, personal visits by the surveyors are required, "so the surveys will cost more than that," said Mr. Muller.

Clarkson's surveyor-appraisor in the U.S. for risk analysis purposes is a firm called International Research Technology Corp. with offices in Arlington, Va. and in California.

Mr. Muller said he is also "looking into" group schemes for this EIL coverage, for a Canadian trade association in the sand and gravel industry. "I have every reason to believe this policy will be used" by that group, he added. "Several brokers in the U.S. are also approaching groups and looking into this," he told this magazine.

Size of premium discounts for groups would depend on whether participation in the coverage was voluntary or mandatory for members of the group, he disclosed. "The evidence we have on one scheme for a group indicates there could be substantial savings," as high as one-third of premiums for a group. "We do aim to make this plan attractive for our broker friends," Mr. Muller said.

Coverage includes a per occurence limit and a limit of the insurer's liability on an annual aggregate basis. Available limits are $7.5 million per claim, and $15 million aggregate. Deductibles, which do apply to defense costs, and are standard but not absolutely mandatory, range upwards of $5,000 per claim. One Clarkson EIL client has a $10,000 deductible and another has a $25,000 deductible.

"We have several quotes going that are based on $100,000 up to $250,000 deductibles. These prospects told us not to bother quoting with a deductible of less than that."

There is a mandatory 10% coinsurance. Limits over the automatic limits are available, said Mr. Muller. "We have one prospective client with a captive who wants to tie in with other policies up to $50 million but with a very high deductible of either $2.5 million or $5 million," he said. ■

Reinsurance costs to rise

MONTREAL—There will be no capacity problem in the reinsurance market for 1975, but buyers can expect higher costs and tightended underwriting controls, said an officer of a leading reinsurer.

Reinsurers are not cutting back, Ronald J. Taylor, vp-E. W. Blanch Co. said, and in fact are buying reinsurance on themselves known as retrocessional capacity.

In addition, some life companies and primary insurers have entered the reinsurance field, Mr. Taylor continued, new reinsurance pools have been formed and foreign reinsurers are more active in the American market.

"I look for a tightening in the catastrophe market to start appearing toward mid-year," he predicted, "and becoming more pronounced at year's end when a great many catastrophe programs come up for renewal."

Reinsurers will be paying increased attention to the merits of the primary book of business being reinsured, the company being reinsured and the people in the company who are responsible for putting business on the books, he continued.

Companies can expect to be required to provide more in the way of underwriting information and "you can expect increased personal contact with your reinsurer's reps," he added. ■

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CROWN
LIFE INSURANCE COMPANY

legal brief

Bank wins bond suit over officer's dishonest check float arrangement

IN THIS CASE a bank president, who also happened to be a part owner of a livestock company, was engaged in an extensive three-bank float arrangement. The primary purpose of this arrangement was to enable the use, on a continuing basis, of several hundred thousand dollars of uncollected funds. The question at issue was whether a bank's knowledge of this situation triggered the termination clause of a banker's blanket bond because of "any dishonest or fraudulent act" of an employe. The United States Court of Appeals for the Eighth Circuit believed that it did, thus releasing the insurance company from liability.

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

In a previous lawsuit the First National Bank of Sikeston (First) was held liable to the Providence State Bank for over $100,000, the amount it had paid out on checks it had honored. First brought this action against Transamerica Insurance Co. (Transamerica) to recover this loss, contending that the bond was terminated under a clause cancelling coverage for any employe of First upon First's learning of any dishonest or fraudulent act by that employe.

The loss here was the result of arrangement set up by Donald R. Bohannon, then president of First, to enable the Gibson Livestock Co. (Gibson) to obtain large amounts of operating capital. The Comptroller of the Currency criticized Bohannon's assistance to Gibson and Bohannon's ownership of Gibson shares.

Soon thereafter Bohannon resigned as president of First, and eventually resigned from First altogether. Under the three bank arrangement Gibson had the use of hundreds of thousands of dollars for short periods without having to pay interest. When the scheme got out of hand, the Providence State Bank, one of the banks involved in the arrangement, lost $340,138. But Providence was successful in recovering $100,174, in a lawsuit against First. Transamerica repeatedly refused to defend First or to pay the judgment. In its suit against Transamerica the trial court ruled in favor of First.

On this appeal Transamerica contended that First's prior knowledge of Bohannon's dishonest and fraudulent acts terminated the bond. The court agreed that during part of the period Bohannon served as an employe, officer and director of the bank, First was aware of the scheme.

The court pointed out that after Bohannon resigned from First, he found out how much cash was needed each day to cover Gibson's check from First's cashier. Consequently, the court believed that First had to be aware that Gibson was using First in a float scheme. In addition the court ruled that dishonest and fraudulent conduct within the meaning of a fidelity bond did not have to constitute a criminal offense. *First National Bank of Sikeston* v. *Transamerica Insurance Co.*, U.S. Court of Appeals for the Eighth Circuit, April 17, 1975, Ross J. (BI/01/Jy.—$2)

Business Interruption Insurance

Is an insurance agent who negligently fails to procure insurance for his client liable to the client for any resulting loss? Yes, according to the Supreme Court of Georgia.

In this case the Columbus Interstate Insurance Agency (Columbus) undertook to obtain a sufficient amount of business interruption insurance for Wright Body Works (Wright). The insurance contract that was issued required Wright to maintain an amount of insurance equal to at least 70% of an amount based upon Wright's designated earnings. Otherwise Columbus' liability would only be 70% of the actual loss.

Holding itself out as an expert in the field of insurance, Columbus undertook to review annually the business audits of Wright and to determine if the business interruption policies were sufficient. Wright brought this action against Columbus to recover damages in excess of the liability limits of the business interruption policies, attributing the inadequate coverage to Columbus' negligence. Both the trial court and Court of Appeals ruled in favor of Columbus without permitting the case to go to trial.

In essence the Court of Appeals ruling was that in every case where an insurance policy is issued and the insured is furnished with a copy of the policy, no recovery can ever be had of the policy does not in fact provide the coverage contracted for.

The Supreme Court of Georgia disagreed, ruling that an agent who negligently fails to procure insurance for his principal is liable to the principal for any resulting loss. The court pointed out that in this case Columbus undertook to review annually Wright's business audits to determine if the policies were sufficient. This review was done to relieve Wright from the responsibility "of itself having the policy examined minutely to determine if the coverage required was included within the terms of the insurance policies."

Consequently the supreme court believed that there was a jury question with respect to any negligence on the part of Columbus and that Wright was entitled to have a trial to ascertain Columbus' negligence, if any. *Wright Body Works* v. *Columbus Interstate Ins.*, Supreme Court of Georgia, November 26, 1974 Nichols, P.J. 210 S.E. 2d 801 (BI/02/Jy.—$2)

Proof of Arson

In a claim for loss arising out of a fire, the United States Court of Appeals for the Second Circuit ruled that circumstantial evidence may be used to establish the defense of fraud because direct proof of arson seldom is available.

Elgi Holding Inc. (Elgi) brought this action against the Insurance Co. of North America (INA) for $212,960, claiming that

Continued on page 67

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HARTFORD STEAM BOILER INSPECTION AND INSURANCE

Continued from page 66

amount was due it under two INA insurance policies that covered an office-warehouse structure in Buffalo. The building was completely destroyed by fire in the early morning hours of May 7, 1972. INA alleged the defense of fraud, claiming that Lester Hall, Elgi's owner, had caused the fire to be set as part of an attempt to obtain the insurance proceeds in order to alleviate his percarious financial situation. A jury ruled in favor of INA.

At trial, two expert witnesses were permitted to testify. In essence, both witnesses concluded that the fire had been accelerated by the use of a flammable substance. Evidence was also introduced with respect to Hall's financial status showing that:

- a bank had threatened to foreclose a mortgage on the warehouse immediately prior to the fire because Hall had missed eight consecutive payments (totalling $9,000);
- on May 3, 1972, immediately prior to the fire, Hall had obtained $33,000 in income protection insurance on the building;
- Hall had written many bad checks in the four months preceeding the fire; and
- Hall had outstanding judgments and liens against him at the time of the fire.

On appeal Hall contended that this evidence was insufficient to sustain the jury's verdict. In ruling that circumstantial evidence was permissible to establish proof of arson in cases of this nature, the court concluded that the evidence was sufficient because it established that the fire was incendiary in nature and that Hall had a motive to cause it. Consequently, the appellate court agreed that INA had adequately proven the defense of fraud and was not liable under the policies. *Elgi Holdings Inc.* v. *Insurance Co. of North America,* United States Court of Appeals for the Second Circuit, February 28, 1975, *per curiam* (BI/03/Jy.—$2)

(Copies of the entire decisions described in this column may be obtained by writing to Business Insurance, *attn. Managing Editor, 740 N. Rush St., Chicago, Il. 60511. Please enclose a $2 check made out to Case Unlimited Inc., for each case, and specify the code number of the opinion, which is at the end of each brief.)*

Mine safety under study

WASHINGTON—The overall injury rate was up slightly but fatalities were down in the nation's metal and nonmetal mining industries in 1974, the Interior Department's Mining Enforcement and Safety Administration (MESA) said this month.

The entire question of MESA's supervision of mine safety program will get a hard look by the Senate Labor and Public Welfare Committee.

Sen. Harrison A. Williams Jr. (D-N.J.), the committee's chairman, has filed a bill (S. 1302) to shift mine safety from Interior's MESA to the Labor Department's Occupational Safety and Health Administration.

MESA's administrator, James Day, resigned after considerable pressure from the United Mine Workers union, which charged he was a political appointee rather than a safety professional. ■

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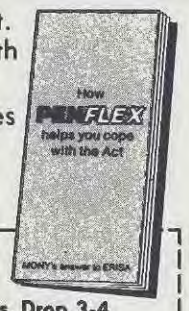

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Business Insurance book review

Controlling the cost of disability: A new view

Reviewed by
D. A. WEAVER
Policyholder Education Director
Employers Insurance of Wausau

Occupational Disability: Causes, Prediction, and Protection; Rolland A. Martin, M.D.; Charles C. Thomas, Publisher; Springfield, Illinois; 1975 206 pages.

UNDER PRESENT workers' compensation laws, "Disability is made a commodity." Even if a risk manager can accept that appalling view, he cannot avoid consideration of the price of the commodity.

If a worker suffers the loss of an eye or an arm, he's impaired, but not disabled. He becomes disabled by what happens next; by claims handling which goads him; by physicians who treat the injury, not the person; by adversary proceedings which encourage disability and fix it in his mind; by rehabilitation that evaluates for claim settlement but does not rehabilitate; by becoming a commodity in a system which measures itself by dollars rather than by its affect on the injured worker.

The above words, while not a direct quote, may serve to introduce the general tone of Occupational Disability. To capsulize further: Occupational injury and disease should not be merely "compensated." The system should first guard the worker against becoming disabled as a result of injury, to get him back to suitable work, and to being a dues-paying member of society. In short, the philosophy should be "disability prevention," (in which "compensation" plays a necessary part) rather than a monetary philosophy in which disability prevention becomes a belated afterthought to save money.

To the employer and to the risk manager, disability prevention presents an opportunity. The opportunity may turn to waste and tragedy if the employer merely abandons the injured worker to the care of the system. "There are insurers who practice the concepts of disability prevention," but this in no way exonerates the employer of a crucial responsibility as a member of the care team. Doctor Martin, the author of Occupational Disability, devotes a section to the responsibility of the employer, through the word "opportunity" is interchangeable with "responsibility."

Though Doctor Martin lapses into some minor confusion in terminology, it should be clear that he is not talking about safety of injury prevention. He is talking about disability. The statistics "while they show a reduction in the number of disabling injuries—

Continued on page 69

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also show an increase in the average number of days the worker is disabled." The safety professional expresses that fact as an increase in severity, an increase, according to Doctor Martin, induced by an array of faults and errors in the philosophy, the procedures, and the performance of people who function in the worker compensation system—lawyers, physicians, employers, claim adjusters, the victim, the insurance companies and the state agencies.

Occupational Disability offers a clear focus: The system ought to aim at disability prevention rather than hassle over benefit levels. On the other hand, in this imperfect world, it should be remembered that in decades of trial and innovation the workers' compensation system has done much more than merely compensate. Major insurers have a corps of registered nurses who aspire to perform the role Doctor Martin describes for his service coordinator, and more. It was an insurance company which conceived, owned, and operated the first rehabilitation hospital in the country, a duty they gave up only when the medical profession finally geared up to the task all over the country. Disabled workers are sustained, and most do return to work, often owing some credit to the system. In the past, severe exposures sometimes threatened to wreck the compensation system, but those exposures were reduced and controlled by demands imposed by pervasive underwriting, augmented by safety counseling from insurance carriers. The critique from one state, and from one innovation, becomes parochial when Doctor Martin describes a quagmire forgetting that he really stands on a hilltop.

Doctor Martin cites an array of case studies to make his various points depending, unfortunately, almost exclusively on back cases. The obscure etiology, and almost universal prevalence of backache, makes it a poor "proof" of anything. Nonetheless, the author makes a substantial point: At least in some circumstances the worker's disability is created by the people and the system that should be helping him.

Chapter Four deals with disability as an entity as Doctor Martin has viewed it from his position as medical director, Workmen's Compensation Board, State of Oregon. Beginning with this chapter, the doctor presents himself best. He moves on to the exposition of a predictive theory which needs research. A risk manager may see an opportunity to transform theory into a tool of management control. He details cases of blind routine on the part of insurers, physicians, claim adjusters, rehabilitation specialists, and vocational counselors, a blindness with tragic results palely reflected in huge dollars.

Occupational Disability describes the care team in critical terms. The physician cannot fulfill the key responsibilities and decisions the system imposes upon him. Insurance claim procedure wants compliance with the law, at least cost. The insurance company rehabilitation nurse should not be subordinate to the claims function. Information developed by disability prevention should be regarded as privileged and not double as claims investigation. Rather, claims data should flow to disability prevention. Rather than cultivate the adversary process, the legal profession should create alternatives to litigation.

"The best manner in which any attorney can help a worker is to guide the worker back into normal life with the least possible disability and an opportunity for gainful employment." To that end, the employer's kindness is an important ingredient but a poor definition of his own self-interest. The care team is really a disjointed array of disciplines, professions, and agencies, each routinely pursuing its own goals. No one deals with the injured claimant to prevent or reduce disability except as an afterthought to staunch the flow of dollars, and this deplorable view leads to the need for a service coordinator.

The service coordinator, a person of startling but logical qualifications, is a key part of Oregon's Disability Prevention Division which is advanced as a model by Doctor Martin. In 1969, the Oregon Workmen's Compensation Board took a "critical look at itself." What it found can be a model to all states as to what to look for, and that leads to the first three chapters.

The first three chapters are an unfocused critique of the workers' compensation system with undigested facts and views drawn from the report of the National Commission on State Workmen's Compensation Laws. The effect is condemnatory of the system as a system. This is not the effect created by the report itself. The National Commission spared no faults in its evaluation of the system, and detailed specific improvement necessary, but espoused a fundamental acceptance of the workers' compensation system. These opening three chapters proved to be an unnecessary (as well as unfocused) foray into social philosophy for in the end, Doctor Martin reconciles himself to the system, if only a disability prevention program be added.

Nonetheless, this book is a sound and responsible contribution. It should be studied in every insurance company dealing in workers' compensation, especially by adjusters, claim lawyers, rehabilitation specialists, and nurses—and by executives. The same significance applies to risk managers, especially those who self-insure.

Do insurers correctly perceive their mission in the system? Do their procedures measure the things that truly reveal their impact on society or are they mere money shufflers? Should they be a passive part of this system, or is there a new challenge (an urgent necessity!) for leadership?

The same questions could be directed to the state agencies, and the same need to study this volume. Union leaders?—Yes, union leaders! Physicians and lawyers who function in the system should know this book. And somewhere, somehow, appropriate people should see to it that key legislators know about it. It may offer a better vision than the hassle over benefits. ■

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When you need a better solution.

Consultant suggestion: investigate direct writers before finalizing cover

SAN FRANCISCO—No insurance program should be finalized until after a complete assessment of insurance markets, including direct writers, advises a risk management consulting firm in a publication on the subject.

Warren, McVeigh Griffin & Huntington told corporate subscribers to its monthly newsletter: "If you don't deal direct yourself, encourage your broker to develop the market and pay him a fee."

Warren, McVeigh noted it had difficulty obtaining information on the largest direct writers in commercial lines, attributing this to a kind of "conspiracy of silence" in the field. Direct writers are those mutual, stock or reciprocal insurance companies which bypass the broker or independent agent to deal directly with the insured through salaried or contract agents.

Available statistical material on insurers does not identify direct-writing companies, said the newsletter. Eleven leading direct writers identified by the consulting firm were: Allstate Insurance Co., California Casualty Insurance Group, Employers Insurance of Wausau, Farmers Group Inc., Leatherby Insurance Co., Liberty Mutual Insurance Co., Lynn Insurance Group, Nationwide Insurance Group, New Jersey Manufacturers Insurance Co., Sentry Insurance Co., and Lansing B. Warner Inc.

Among the advantages of working with direct writers are the possible cost savings to be derived from lower sales costs and administrative expenses, the newsletter said. The potential for better communication between insured and insurer with a direct writer can be another advantage, although "it is often more theoretical than real," the consultants wrote.

Principal among the advantages of working with a direct writer is the "blend of services" in such areas as claims adjusting, loss prevention and rehabilitation which direct writers "seem . . . more inclined to emphasize," Warren, McVeigh believes.

Possible disadvantages of using direct writers, the consultants suggested, might include: Lack of skilled broker to identify needs and translate them into insurance language, stricter claims settlements than with agency-writing insurers, and emphasis on volume insurance lines rather than specialty areas.

Three important omissions exist in the list of 11 direct writers, Warren, McVeigh warned. They include State Farm Insurance Co. which "does not write any appreciable amount of commercial or industrial business, except for commercial fire, multi-peril, workers' compensation and bonds on a "minor scale." Also omitted from the list are the Factory Mutuals, the firm said, noting that they have received separate treatment. State funds were excluded because they write only workers' compensation. ■

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We've done them all. Right down to a design which can keep a lot of money from going down the drain. And all this experience means we can help you get your next job done right, too. And show you how to save money in the process by recommending a knowledgeable contractor near you.

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Firms which have foreign captives to get tax hike

CHICAGO—Many U.S. corporations operating captive insurance subsidiaries in Bermuda and other offshore domiciles will be faced with substantially higher tax payments on income earned by those foreign subsidiaries, because of rules on new business taxes contained in the Tax Reduction Act of 1975.

The new tax rules are effective for the 1976 year and "will cost quite a few captives a fair amount of money, although by no means will all captives be affected," according to Marianne Burge, partner in Price Waterhouse & Co., New York.

Affected captives will be those located offshore and used to underwrite U.S. risks.

"Close attention will have to be given to the level of capitalization and the amount of accumulated earnings over the years so that the tax impact on corporations arising out of the operations of their captives can be properly monitored," said Marsh & McLennan in a directive to client following passage of the tax reduction act.

The repeal of the "minimum distribution" provision of Subpart F of the tax law is the major change affecting captives. As Price Waterhouse explained in letters sent to clients with captives, this means some U.S. parent companies of captives will now be subject to taxes on the net income of the captives from underwriting U.S. risks.

"However, the foreign tax credit provisions have not been amended except for oil-related income," said Mrs. Burge, "And thus parent companies with 'excess' foreign tax credits will still be able to offset these credits against the U.S. risk income," she added.

The repeal of the minimum distribution provisions "should have a potentially minimum effect on captive companies," offered Marsh & McLennan.

The brokerage firm, however, sees a greater impact on captives coming from the other major change in the law, a reduction in the amount of investment income of a captive which can be sheltered from taxes each year.

"The amendment to the provisions of foreign base company income will, under certain conditions, make investment income more easily taxable on an as-earned basis in contrast to a distributed basis," said the firm.

This change also involves the Subpart F rules in the tax code. Previously, the '30% rule' enabled a captive to shelter some investment income from current taxation under Subpart F, in addition to the investment income on insurance reserves. The amount which could be sheltered was equal to 30% of total gross income, defined as premiums plus investment income. This is now reduced to 10% of total gross income. ■

Open new office

Unionamerica Insurance Group has opened an office in Toronto, according to William F. W. Fellows, president of the group. He saiud the new office will operate under the name Swett & Crawford Insurance Agency, Ltd. The office will write multi-lines of insurance.

Woolworth extends health plan to most employes

By MARIE KRAKOWIECKI

NEW YORK—F. W. Woolworth Co. leans heavily toward self-insurance in its property/casualty program. And since it considers cost control to be a prime risk management objective, it watches its $1.3 billion of exposure in the U.S. with a wary eye.

At the same time, the 95-year-old retailer has just committed itself to spending at least $3.5 million more annually to improve the group medical portion of its employe benefits program, in a new contract with the Metropolitan Life Insurance Co.

William J. Ott Jr., insurance and benefits manager, explained that when he joined the company four years ago, Woolworth executives had a sound basic hospitalization coverage in a program from Metropolitan. But full-time employes of some 2,000 Woolworth and Woolco stores in the U.S. had a wild patchwork of locally-negotiated benefits with Blue Cross and Blue Shield.

The company did not make any contributions in the local coverages, and sometimes even within the same city there would be four or five Woolworth stores whose employes' benefits were wildly divergent. Mr. Ott wanted something more homogenized.

About this time last year, he and personnel from Metropolitan made a comprehensive study of the storeworkers' medical coverages and concluded the only way to handle things sensibly would be to get one overall program for all the locations. That is, all Woolworth and Woolco store locations in the U.S. Woolworth also operates a number of oversees subsidiaries as well as Kinney and Richman Brothers stores, but their insurance programs are handled autonomously.

He went to Metropolitan Life because of an existing relationship with that insurer, which had insured the company's executives' medical coverages. No broker was involved; Mr. Ott deals directly with Metropolitan account executive William F. Johnston.

Woolworth is mostly non-union, except on the West coast, where approximately 200 stores already had coverage from Metropolitan Life. So throughout the rest of the country, Mr. Ott was able to pull about 1,600 of the 2,000 stores into the new program. It is an exact mirror of the executives' plan, except for a longer 90-day eligibility requirement.

In a few instances, due to either better rates or existing labor agreements, Woolworth continued coverage through the Blues, particularly in New York, Michigan and Ohio.

For the legion of Woolworth store employes covered by the new program, perhaps the most important feature of the new plan is that it matches the basic hospitalization they had under the Blues, but at much lower cost to them. Before, employes paid all. Under the new set-up, Woolworth picks up two thirds of the tab for individual coverages, and the employe pays only the final third for individual coverage, plus premiums for dependent coverage.

Woolworth now pays for the plan on a retrospective basis. But Mr. Ott has his eye on a kind of premium financing plan which Metropolitan developed in 1962 for Caterpillar Tractor Co.

This would be the "minimum premium reserves plan." Mr. Johnston, the Metropolitan account executive, explained under this program the client esentially self-insures the first 90% of costs, and Metropolitan insures the excess. Mr. Ott says he finds the cash flow advantage of such a plan attractive.

Fewer claims have filtered in than Woolworth's management expected for the beginning stages of a medical benefits program; but the company may budget a higher yearly allotment than its originally projected $3.5 million to handle costs.

When it multiplied actual costs for January by 12 to get a possible yearly total, the result came too close to $3.5 million for comfort, according to Mr. Ott. He would like to see a broader margin between actual costs and budget allotments.

Some 42,000 workers are eligible for the basic medical, major medical and maternity benefits which feature 120 days of full semi-private hospital stay and special services after a $25 deductible. There are also surgical benefits up to $1,000; in-hospital physician's attendance fees up to $500; and maximum major medical limits of $100,000. Major medical pays 80% of covered expenses after basic benefits, following a $100 deductible.

To communicate the new program to such a large number of employes, Mr. Ott and his staff, along with Metropolitan personnel, visited six Woolworth regional offices to train local managers how to get the message across. Simple pre-announcement posters were tacked up in all the stores. (A typical one featured a baby-bearing stork heralding the "coming event".) Store managers followed up with a flip chart program and script describing coverages.

Mr. Ott's other employe benefits responsibilities include the retirement program attending the company's $110 million pension fund; and a stock purchase plan under which Woolworth employes with two years' service can buy company stock at a discount, and a stock option plan for certain key executives.

The passage of the 1974 Employe Retirement Income Security Act made it necessary for Woolworth to make amendments to its pension plans. The company expects the changes will increase the annual costs and funding requirements by approximately $2.4 million. And the insurance department's dealing with the pension plan has been complicated by ERISA, too.

In the last year, the insurance department hired Thomas Kiley to act as pension supervisor. He reports to Mr. Ott on employe benefit developments with the $110 million trust, which covers virtually 99% of Woolworth employes in the U.S., according to the insurance manager.

Woolworth also uses Marsh & McLennan as a pension consultant to keep up to date on other fronts revolving around the pension issue. Marsh & McLennan acts as actuary on the normal operations of the plan, and is in the process of preparing studies on costing out which Mr. Ott hopes will be finalized in September.

The day before *Business Insurance* interviewed Mr. Ott, the Labor Department announced an extension of the deadline filing dates for EBS-1 forms, the new and more complicated forms describing the pension plans that are replacing the older D1-S forms. Mr. Ott was visibly pleased about the extension from August 31 this year to May of 1976 even though he has only one major plan to file for.

"I was over at Marsh & McLennan yesterday going over costs for the pension program, and as far as I'm concerned, the Labor Department could extend that deadline forever," he said with a grin.

Switching the discussion to Woolworth's property/casualty program, Mr. Ott became more serious, particularly on the subject of workers' compensation

The Travelers Insurance Cos. currently write Woolworth's workers' compensation and the company's general liability policy brokered through Marsh & McLennan.

Mr. Ott credits Travelers with doing an excellent job in the workers' compensation area. But, he notes, costs have almost doubled in the last three years. This is one of the reasons Woolworth has retained Betterly Associates, a Wolcester, Ma.-based risk management consultant, to do a comprehensive study on the feasibility of self-insuring workers' compensation.

Although Mr. Ott is not close to a decision on the issue of self-insurance for workers' comp, he is very enthusiastic about its function in his other property/casualty coverages. Highlights include:

- "a very highly self-insured" general liability program including product liability with the Travelers, with total limits of $50 million, including various layers of excess.
- fire insurance on Woolworth warehouses, written on a direct basis with Factory Mutual System, and primarily placed with member company Allendale Mutual Insurance Co. After a $25,000 deductible, total limits are $50 million.
- $10 million-per-loss fire insurance on Woolworth stores in extended coverage from the Travelers, after a $500,000 deductible backed up by difference in conditions coverage from National Union Fire Insurance Co.
- directors' and officers' liability coverage from Sequoia Insurance Co., brokered through J. H. Minet. This "high limit" three-year policy carried a $130,000 premium.
- fiduciary liability coverage, originally handled as an endorsement on the Sequoia D&O policy, but later farmed over completely to National Union Fire Insurance Co., which gave Mr. Ott a lower price than Sequoia.

New rules promulgated by the Financial Accounting Standards Board against contingency reserving (*Business Insurance*, April 21) are expected to have a definite impact on Woolworth's property coverages ,but Mr. Ott is still undecided on how to cope with the problem.

"We have been self-insuring our property program with high deductibles for 25 years. Now we can either buy a stop-loss aggregate, or we can live with it and take losses as they occur. The aggregate's cheap, but it seems like a waste of money."

FASB rules won't affect Woolworth's casualty program, he maintained. The company has been reserving for loss, but charging reserves established to a general liability account. It feels that once a liability is there the FASB rules permit reserving. ■

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April	16,747	17,718	17,812	—	17,812
May	24,129	25,528	10,002	—	10,002
June	30,763	32,547	2,983	—	2,983
July	12,535	13,262	22,268	—	22,268
August	26,366	27,895	7,635	—	7,635
September	28,321	29,964	5,566	—	5,566
October	31,816	33,661	1,869	—	1,869
November	38,858	41,112	- 5,582	—	- 5,582
December	22,883	24,210	11,320	—	11,320
January	16,993	17,979	17,551	—	17,551
Total	$249,411	$263,876	$162,484	$40,565	$121,919

Note: This is an illustration of a claim payment pattern that could be expected in the first year of a case.

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Blue Cross dental care offered federal workers

WASHINGTON—Blue Cross-Blue Shield proposed a dental care package for inclusion in the federal government's employe benefits program effective next January 1.

The proposal, however, flies right into the teeth of a get tough federal policy on employe benefits expenditures.

The Civil Service Commission buys employe benefits for most civilian federal employes. Bargaining between the commission's Bureau of Retirement, Insurance and Occupational Health and some 40-odd health insurance providers begins in earnest, however, in several weeks.

The Blues' dental idea is one of several proposals that the health insurance providers routinely present to the government agency for consideration at contract bargaining time every year.

"I've told them (the insurers) that the situation is not good in terms of cost," Thomas A. Tinsley, director of the Bureau of Retirement, Insurance and Occupational Health told *Business Insurance*.

"I didn't tell them not to submit anything new," he said, "but I told them they'd better be prepared to tell us what they'd be willing to trade off."

President Ford, he said, has made it clear that "he wants no new spending initiatives in the employe benefits area. If anything, he wants to take some of them away. We've gotten the message," he said.

The Civil Service Commission said health insurance premiums for 1974, paid jointly by the government and the employes, totaled around $1.4 billion.

Mr. Tinsley estimated the government would be facing a rate increase of "in the neighborhood of 20%" just to maintain the present package, without improvements, in 1976.

The dental proposal, as laid on the table by the Blues, would represent a significant new cost. It was priced at $19.71 a month for an employe and his dependents and was designed to be built into the regular health insurance package, not as a separate option. The government would pay $11.83 of that amount, with employes picking up the remaining $7.88.

The premium for the current "high option" family coverage runs $64 a month.

The Blues' proposal would include X-rays; oral exams; fluoride treatment for persons under age 19; cleaning, scaling and polishing; repairs of broken dentures; fillings; emergency treatment; simple extractions; nerve treatment; dental consultation; and space maintenance.

Orthodontic services and new dentures were not included in the Blues' proposal.

Some of the civil service plans already offer some form of dental coverage, but the major carriers do not at present offer dental programs.

The government health insurance programs cover about nine million persons. The two largest carriers are Blue Cross, with 5.5 million persons, and Aetna, with 1.3 million.

The news of the dental proposal is apparently a "leak" from what are normally closed-door bargaining sessions.

The provisions of next year's employe benefits package are expected to be formally announced this fall, probably in October or November. ■

Aetna hikes malpractice rates 73.8%

HARRISBURG, PA.—About 1,200 Pennsylvania physicians insured by Aetna Casualty & Surety Co. had their medical malpractice insurance rates increased by 73.8% effective May 13.

The increase approved by Pennsylvania Insurance Commissioner William J. Sheppard was lower than Aetna's original request for an 87.8% boost.

In its final form, the rate increase will amount to an estimated $902,000 in additional annual income for Aetna, the third largest medical malpractice underwriter in Pennsylvania.

"Aetna demonstrates an underwriting loss of over $45 million in its malpractice business during the 10 years between 1964 and 1973," Mr. Sheppard said in announcing approval of the rate boost.

"The company's underwriting position had become so precarious in Pennsylvania that it had announced an intent of terminating malpractice coverage in the state unless some rate relief was granted."

The Pennsylvania state legislature will be asked to consider a proposal to establish a Joint Underwriting Association to guarantee the continued availability of medical malpractice insurance in the state.

The proposal would also attempt to control costs by establishing more efficient legal procedures to deal with medical malpractice claims. ■

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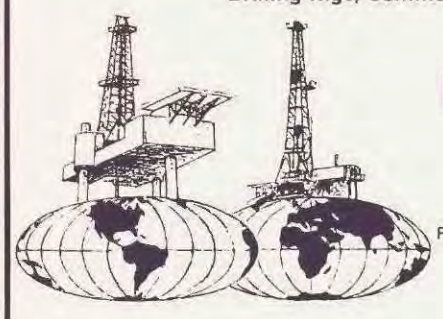

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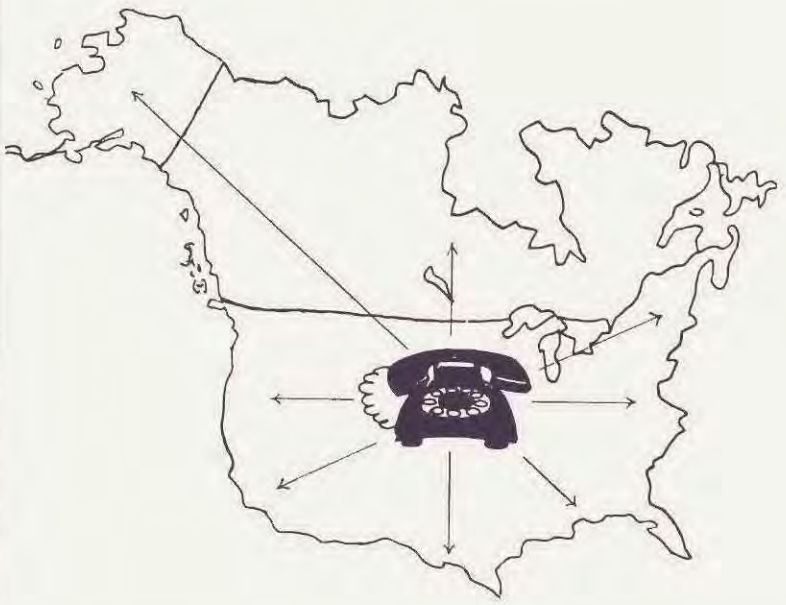

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James designs property package for Prudential

NEWARK, N..—Prudential Insurance Co. of America saved about $500,000 on its property insurance premiums by meshing previously autonomous policies on corporate offices and investment properties into one blanket cover.

Fred S. James of New York designed the package that beat out the bids of two other brokers, including the former broker for part of the business, James S. Kemper Agency of Chicago. Five leading brokers, plus Kemper, submitted proposals for the best way to deal with the cumbersome insurance problem. About a year ago, two of them, in addition to Kemper, were asked to market their ideas among two underwriters of their choice, according to Raymond Patella, Prudential's risk manager.

"The other two (brokers) did an outstanding job," Mr. Patella said, "but James was a little bit better in terms of coverage obtained, deductibles, manuscripting a new policy, and cost savings.

"All the proposals would have been an improvement, but James had the best overall program," he said.

In the fall of 1973, shortly after Mr. Patella left Bache & Co. to become Prudential's risk manager, he saw the need to coordinate the property insurance on the headquarters building in New York, nine regional home offices, and almost $750 million worth of investment properties such as office buildings, shopping centers and apartment buildings, he said.

Previously, the Prudential offices were insured by one underwriter and the investment properties, scattered throughout the United States and Canada, were covered by another. The James program layered the coverage of all the properties, which have a combined replacement value in excess of $1 billion, Mr. Patella said.

St. Paul Fire & Marine Insurance Co. is insuring the first $75 million in coverage for normal named perils and $10 million worth of difference-in-conditions insurance. The excess layer, amounting to $25 million for normal named perils and another $10 million for DIC, is insured by Fireman's Fund, according to Mr. Patella.

The premium for both layers exceeds $600,000 per year, according to Timothy Mahoney, the senior account executive at James. Thus, the new program cuts the premium by about 22%. The three-year policy's premium will be paid in annual installments. There are two types of deductibles, Mr Patella said: a modest $10,000 for basic risks such as fire, and a $100,000 deductible for special risks such as earthquake and flood.

In addition, as much as $100 million in other investment properties will probably be brought into the program within a year as they become aware of them and their current coverage, Mr. Mahoney said. One of the reasons for the year-long wait between the choice of brokers for marketing the coverage and the final presentation to senior management in March 1975 was that they had "difficulty with the lists of the locations and the values. We had to survey many of the properties," Mr. Patella said. ■

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Insurer may cut premium finance plan

HARTFORD—The Travelers Insurance Cos., which presently offer two or three premium financing schemes, are doing a study which could lead to the elimination of financing altogether.

Travelers' accounting department is quietly looking into what would happen in its field offices around the country if the insurer told agents that they should steer insureds to "more appealing" plans offered by companies like AFCO, which specialize in financing insurance premiums for commercial accounts (*Business Insurance*, April 21).

According to one source at Travelers, the company is not even sure how widely used the premium financing setups are, although it is aware that Richmond, Va., seems to have the heaviest concentration of commercial accounts on financing systems.

Under Travelers' current arrangements, which are usually set up through an agent or broker, the company buying the insurance signs a promissory note to Travelers, and then makes monthly payments for a specified period, with a flat interest charge of either 5% or 6%, depending on the state involved. ■

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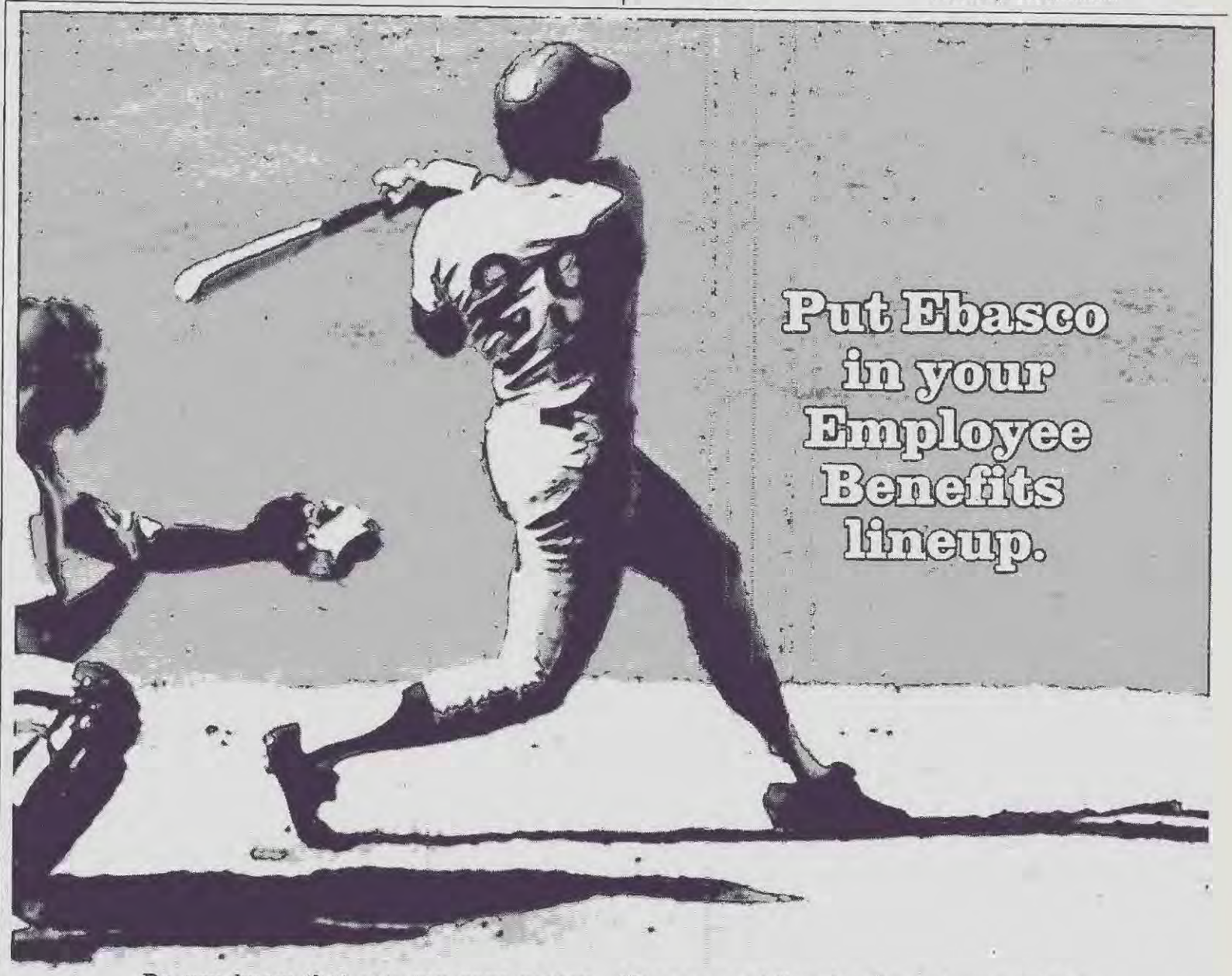

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PERSPECTIVE

How does an insured respond to extortionist? Coverage voided?

Insurers are found to disagree about whether fire coverage applies in the event of property damage caused by a policyholder's refusal to accede to extortion demands.

By LEONARD J. SILVER, CPCU
President
First Risk Management Co./First Insurance Management Co., Philadelphia

IN EARLY AUTUMN 1974, at a meeting of our consultants, the question arose: What would be the effect on a fire policy's coverage if an insured received a demand from an extortionist for a million dollar payment; failure to pay being the threat to destroy the business by fire or bomb? Would such a refusal to pay be an increase in hazard under the statutory portion of the fire policy?

We tossed this subject around in more than one meeting and decided to go one step further to determine whether or not there indeed was such a problem.

Before we had a chance to do anything, there was an extortion threat against the power company that provided electricity to Portland, Oregon. This brought the question clearly into the public limelight.

Between November, 1974 through January, 1975 we sent a form letter to every insurer of every client we service. In certain instances we addressed the letter to the client's broker where that broker had the client's insurance placed via many carriers. The letter stated in part:

> "If one of our mutual clients receives an extortion demand, the refusal to which would be the threatened damage or destruction to his property and his ability to continue operating—he is really left with only two choices:
>
> 1. To give in and pay such "pirates" their demand, which would encourage further activity: or
>
> 2. To refuse to pay the demand, such as the utilities in Oregon have refused, thereby subjecting his property and ability to do business to the threat of destruction.
>
> "If our mutual client takes the stand that he will not pay to the people demanding extortion money or other forms of ransom, it could possibly be construed by his actions that he is intentionally increasing the hazard to his property by his refusal to pay (knowing that by so refusing, he is jeopardizing his property).
>
> "In most fire policies it is specifically stated (and in other property policies it is stated or implied) that if an insured intentionally increases the hazard, the insurance becomes null and void.
>
> "If any of our clients were ever put into the position that the Oregon utilities have been put into and that resulted, from his refusal to meet the extortionist's demands, in the destruction of the property insured, for any insurer to deny liability on the grounds that the client intentionally increased the hazard and nullified the insurance would be manifestly legal.
>
> "In our position as consulting risk managers for the aforementioned client insured under the following insurance policies we are requesting of you (or if you are a broker, through you) that we receive from you (or if you are a broker, from the insurers, through you) a letter agreeing that an extortionist's demand would not be construed, in case of subsequent damage or destruction caused by the extortionist, as an intentional increase in hazard, nullifying the insurance.
>
> "All of the above concerns property insurance. However, there could be implications on liability insurance as well.
>
> "If with full knowledge of the threat of destruction, our client failed to pay the extortionists; and the extortionists, e.g., planted explosives that in the course of going off injured third parties, we can see the carrier could deny liability for injuries to the public. Such denial could remotely be possible predicated upon an interpretation of "accident". To be an "accident" courts have determined that the incident must have been unexpected. In the example set forth herein, the refusal of a client to relent to extortionists threatening damage to his property could virtually put the event into the realm of having been expected.
>
> "Hence, if you are a liability insurer for our client (or an agent for such a carrier, or a broker through whom this coverage is placed) we similarly seek a letter of agreement that if the refusal of our client to accede to an extortionist's demand results in acts by the extortionist injuring third parties, that liability will not be denied on grounds that the act was not unexpected.
>
> "We will be amenable to a blanket letter without specific clients or specific policies, if you choose. We do look forward to your prompt cooperative response in this matter."

The results clearly indicate that there is a problem. There is absolutely no agreement that such refusal to accede to an extortionist's demand would in any way interfere with coverage, or if it would, how it would.

We wrote to about sixty companies, agents or brokers. We received about thirty-five specific responses.

As you will see, there is a wide span from completely negative to completely positive in the responses. This very fact indicates that there is a serious problem.

Continued on following page

Close broker-utility relationship needed for nuclear growth

By EUGENE F. JOHNSON
vp, Clifton & Co., Los Angeles, Ca.

MEETING PROJECTED DEMANDS for national electrical power usage requires unprecedented capital investment in new plants by the utility industry. With soaring costs and slow regulatory response to rate increases the electrical utilities find themselves caught in a capital squeeze, the outcome of which has been the cancellation or delay of 27.3% of the indicated additions that were to come on line in 1974 through 1983.

These cancellations and delays, mostly of nuclear power plants, jeopardize the goals of Project Independence. It is currently predicted that if these new facilities do not proceed, we will develop critical generating capacity by 1978.

Utility managements seeking cost reductions, so as to move forward in meeting projected load requirements, can be expected to examine operating expense. Insurance premiums are one such cost item that will undergo management scrutiny. For the broker who has not developed a responsive risk program, this can be the moment of truth.

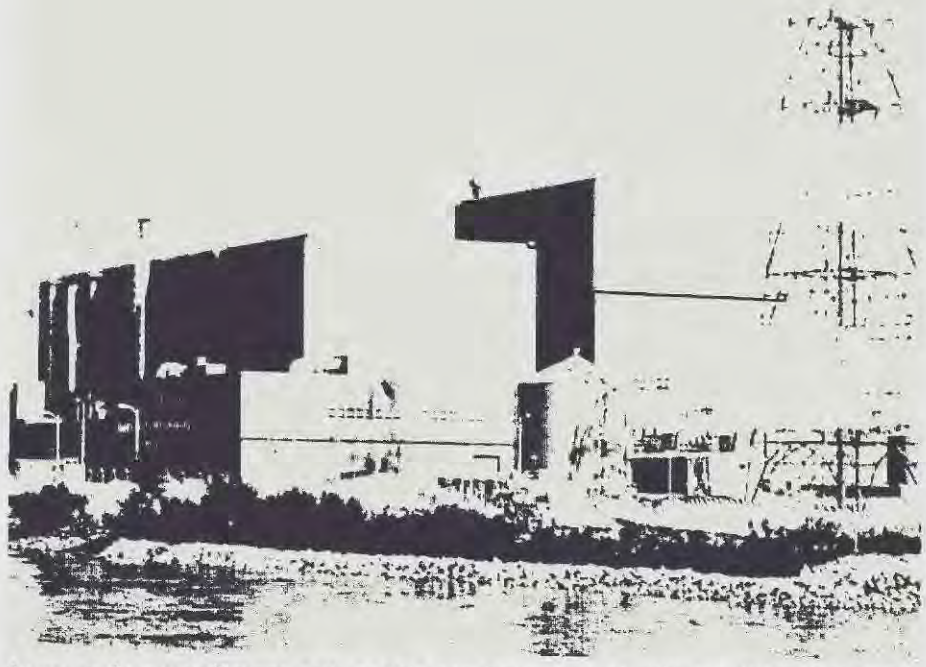
Nuclear power, first developed as a military weapon, emerged from infancy under a cloak of secrecy. Later as nuclear energy was turned to peaceful application, concerned groups challenged its safety and environmental impact. The outcome has created an atmosphere of doubt, suspicion and misinformation, fed by recent accidents, that provide an erroneous image of nuclear risk to the insurance market.

A broker familiar with nuclear-utility technology can do much to dispel this image, by proper appraisal of risk on the basis of hazard identification and analysis. By development of a "hazard-tree", utility management may determine risks to be assumed versus the need for transfer to insurance carriers.

Application of this specific technique, for insurance purposes, requires a close broker-utility working relationship from site selection thru to operational basis. Further the broker, through his own engineering services, can make available to the utility planners protection requirements of insurance carriers.

When prepared the "hazard-tree" analysis lists specific risks confronting that particular nuclear power facility. Each risk upon identification, during plant developmental stage, is documented as to degree and safeguards applied. From this data maximum credible loss potential is established.

Need for broker services is not limited to the construction period. The greatest threat to a utility today is deliberate theft of nuclear materials, seizure or sabotage by radical groups. As a Ford Foundation study stated in April 1974,



Large nuclear installations such as this one have unusual risks requiring close cooperation of utilities and insurance specialists.

the growth of the nuclear power industry carries a "substantial risk" of terrorists or others stealing nuclear materials to make illegal weapons.

Based on nuclear data available to the public, a terrorist's greatest need in constructing a nuclear device is fissionable material. A by-product of the nuclear-power fuel cycle is plutonium-240. For India, the core of its atomic bomb was amassed from a 40-megawatt research reactor.

Recognizing vulnerability, the Ribicoff amendment to the Price-Anderson Act was introduced. This amendment would make power plant operators liable for damage caused by nuclear materials stolen from their facilities. Though defeated, the amendment could be revived due to NRC (Nuclear Regulatory Commission) agreement to study the issue and report back to Congress.

During July and August of 1974, Commonwealth Edison's Zion nuclear power plant was made the target of two bomb threats and possible sabotage attempts. In the suspected sabotage incident a valve controlling a cooling pump was found closed on three occasions. This valve closure reduced in great part the safety margin built into the reactor.

Continued on following page

business insurance PERSPECTIVE

Extortion . . .

Continued from preceding page

A large agent (A.) responded:

". . . while I can understand your concern about a client's possible inability to collect a loss in the event of a claimed increase of hazard pertaining to threatened extortion, I have to say that I believe that you are being unreasonable and impractical to request the letters that you have requested. . .I believe that most insurers would feel that such a letter would give a waiver which is more subject to abuse by insureds in general than abuse of the increase in hazard condition in an insurance policy. . .we respectfully decline to give you the letter that you have requested or to ask this of our insurance companies."

A large broker (B.) indicated that at a 33% additional premium the kidnap/ransom and extortion cover that he had just quoted for the client could be amended to cover this exposure.

A Puerto Rican broker (C.) stated:

". . . please note that no insurance company here in Puerto Rico is willing to endorse the policies to that effect, because extortion is an illegal act, therefore, outside of scope of the policy."

Three carriers (D., E. and F.) absolutely, with no further comment, refused to issue any endorsement or letter on the subject beyond their curt refusal.

One very large direct writing mutual carrier (G.) stated:

"This is a very timely and interesting topic for discussion. However, (G.) does not normally make claims decisions on hypothetical situations. Since the Oregon case was not referred to us for settlement, it is impossible to know all of the details of the claim. As you know, we treat each claim on an individual basis taking recent court decisions into consideration.

"Our underwriting department has forwarded your letter to our home office legal staff for their opinion and I will keep you advised of any response."

That letter was dated November 26, 1974. We have never heard from their home office legal staff.

A stock subsidiary (H.) of a large mutual carrier received the following response from their legal department:

"It has been the position of the company not to venture hypothetical interpretations of policies based upon circumstances which may or may not occur. The reason being that the company will always reserve the right to determine in each instance what the alternatives presented by the situation are and act accordingly.

"It would therefore be most unfortunate for anyone to venture an answer regarding a hypothetical question, which might at some point in the future be detrimental to the interest of the company."

Hence, it would certainly appear that there are carriers who feel that there is indeed a potential defense against a claim, and do not wish to commit themselves that they would not use it.

One large general agent (I.) responded:

"I agree that there could be an implication that if the client failed to pay the extortionist that this could be construed as an intentional increase in the hazard thus nullifying the insurance, both property and liability. However, we disagree with Mr. Silver's solution to the problem.

"Before giving this type of extension of coverage we would like to look at each specific insured and if we decide to extend the coverage charge accordingly."

The legal department of one of America's foremost multi-risk carriers (J.) responded:

"We cannot sign an agreement whereby we undertake to state that in all situations where there is an extortion demand and subsequent damage to property or injury to persons resulting therefrom, that such will always be construed to be occurrences within the meaning of our policy and, as such, that insurance will be provided therefor under our contracts.

"Neither can we flatly adhere to the reasoning proposed in the November 11th letter to which reference was previously made in that we cannot always construe an extortion demand as thereafter necessarily increasing the possibility of damage to persons or property. Nor, do we wish to be placed in a position of perhaps encouraging extortion by indicating that if an insured does not accede to such a demand, he will not thereafter be provided with insurance under our policies."

Interestingly, company K., the parent of company H. referred to above responded as regards a different client:

"The problem which you referred to concerning extortion demands and threat of damage to property for non-compliance is, undoubtedly, a real problem that has recently reared its head in American society. As the insurer of a property, we obviously cannot anticipate what action the owner might take as the extortion demand does not always threaten damage or destruction to his property. However, I do think it is logical that a property owner, when facing such a problem, should immediately consult with his insurance company and make them aware of the problem. By so contacting the insurance company, I do not see how we could possibly construe his actions as having intentionally increased the hazard of his poperty without notifying us.

"The provision to which you refer in the standard policy contract has existed for the many years that I have been with K., and I have had no experience in my 35 years of service where this provision was enforced in a . . . contract. However, we could not comply with your request which I interpret as formally agreeing that we would never make application of this provision. The reason for inserting the provision in the standard contract, in my opinion, was to place responsibility on the part of the policyholder to advise his insurance carrier under circumstances when the hazard may be increased within his knowledge."

This letter was signed by a senior vice president.

A Florida agent contacting a Florida stock company (L.) quoted their response:

"The attached is very interesting. Although no company would agree to a blanket letter, several agree that the p.d. exposure would be covered if company was given notice of an extortion threat, but no way would they consider any additional remarks about the liability."

From several of these letters and others received, there is a thread of feeling among some companies that they would view the situation one way if notified in advance of the fire or bombing, and another way if they weren't.

A large Pennsylvania mutual company (M.), as was the case with a couple of others, took the stand that the client should rely solely on the company's reputation:

"It is difficult to give an answer on a potential claim without a specific loss being involved. We cannot anticipate the actual circumstances surrounding a loss until the event occurs.

"I will say that M. has a fine reputation for standing behind their policies and would honor the coverage provisions under the various policies. . .this question is rather unique and new within our country and perhaps adequate law has not yet been developed. . .unfortunately we are not in a position to give an answer on a predetermination of coverage before a loss occurs, as requested; but I do feel that our reputation of standing behind the coverages we provide is well established."

A New Jersey agency responded by writing:

"Firstly, Mr. Silver, I am convinced that the proper interpretation of both liability and standard fire contracts unequivocally provides the protection inherent in both types of

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Nuclear . . .

Continued from preceding page

To meet these threats requires development and maintenance of reliable security systems. The utility industry, which has previously had little call for such stringent protective measures, can obtain valuable insight from the knowledgeable broker.

Human error, an unmeasurable factor, requires a viable loss prevention program. A recent example of this risk exposure is the October 1974 Zion emergency cooling system accident. As reported, a mechanic working on Reactor 2 inadvertently tripped one of four primary water pumps. This in turn caused the reactor to shut down automatically.

Automatic sensing devices detecting a malfunction signaled the high pressure emergency core cooling system to begin pumping emergency cooling water into the reactor. However, two valves frozen shut in the safety system failed to open automatically when signaled. Upon inspection a four-foot length of half-inch pipe was found inside the turbine valve, causing it to jam. It is presumed the pipe was most likely dropped into the turbine during construction.

Loss of the emergency core cooling system, if it had been required, could have resulted in a core melt-down. Since this has never occurred, one can only theorize as to the behavior of this molten radioactive mass. The Ergen Report released in 1967 by the AEC (now NRC) provides some insight.

In brief the report says, with loss-of-coolant, the temperature of the reactor core would reach well over three thousand degrees Fahrenheit, in little more than one minute. This would cause melt-down of the core material, which accumulates at the bottom of the reactor. Melt-through of the reactor pressure vessel might be expected to take 20 to 60 minutes. The high-temperature mass would then sink into the earth, growing in size for about two years and persisting for about a decade.

Human error also occurs in that the learning cycle for nuclear technology is not complete. The insurance industry, with its loss control experience, can provide important continuing input toward cycle completion. A three-hour fire, at the TVA Browns Ferry Plant, this past March, shut-down two 1,098 megawatt reactors. The blaze underscores need for loss control to avoid unnecessary risk in nuclear power plants.

By not providing complete separation of cables for various safety controls, the fire nullified needed back-up emergency systems. For the utility industry such incidents must be totally averted with a "no-accident" prevention philosophy. Failure to do so increases risk of a catastrophe, with potential for forced moratorium or abandonment of nuclear power.

Estimates in 1957 projected a serious nuclear power accident would cause 3,400 deaths, 43,000 injuries and $7 billion in damage. More likely, the 1974 Rasmussen Report states, such an accident would cause 92 deaths, 200 injuries and $1.7 billion in damages. The chance of such a serious accident is estimated at one in a billion for every year of reactor operation.

The present Price-Anderson Act, which sets a $560 million liability that is mostly covered by the federal government, will expire August, 1977. A bill that would have extended the federal nuclear insurance law for five years was vetoed by President Ford. In this new bill a system for retroactive premium assessments was provided to eventually increase the total cover by $1 billion or more the next several years. Eventual phasing out of the federal government insurance role with an expanded presence for private underwriting pools would have been the goal.

President Ford, in his veto message, explained the objections thus: "In this instance", he wrote, "the clear constitutional infirmity of the bill not only affects my powers and duties but directly endangers substantial and important private rights. If the bill is unconstitutional, it will remain unconstitutional despite my signing it. As a result, a sure source of funds for prompt payment of public liability claims, a primary objective of the Price-Anderson Act, would be in doubt. The uncertainty over nuclear liability protection would also adversely affect that private investment which will be necessary as nuclear power assumes its vital role in meeting the nation's energy requirements. The public interest would not be served by approving legislation which creates these uncertainties."

In California a nuclear initiative campaign has been launched which, if approved by voters, will supersede Price-Anderson liability limits. This legislation would permit full compensation of people and businesses in the event of personal injury, property damage, and economic losses resulting from escape or diversion of radioactive materials at the site of any nuclear power plant. It would further cover escape or diversion of radioactive materials in the transportation, reprocessing and storage or disposal of such materials from these plants. Plants in non-compliance would be required to operate at less than licensed capacity.

For utilities these events provide ominous warnings of future insurance problems. The insurance market today suffering from adverse loss experience, both generally and for specific utility class of business, indicates capacity limitations, selective underwriting and higher premiums. A utility is well advised to project ahead in its need for insurance. Knowledge of the market is most important. Often overlooked, by the utility, is provision of technical service upon the part of broker and insurance carrier.

The United States, to meet future electrical generating requirements, will make a major commitment to nuclear power. We in the insurance industry must assume positive roles, to assist in meeting the goal of Project Independence. Together, with the utilities we can continue to safely seek the good that nuclear energy will provide our society. ■

Mr. Johnson is a vp and account executive in the Los Angeles office of Clifton & Co. He is a CPCU and associate in risk management, Insurance Institute of America, member of the American Society of Civil Engineers nuclear structures and materials manual section committee dealing with general structural aspects of nuclear plant site-selection.

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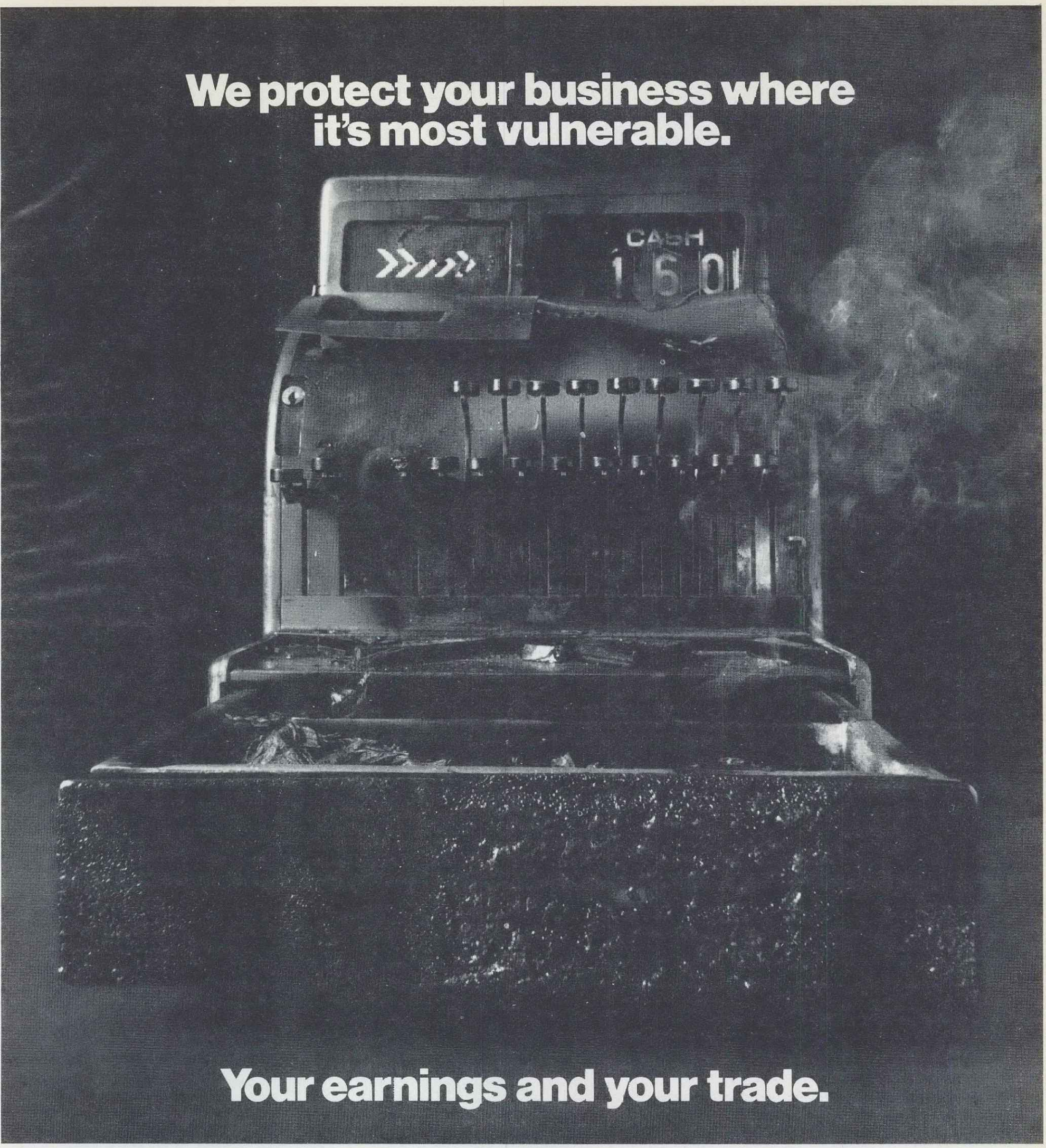

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Extortion demand . . .

Continued from page 76

policies for claims which might be of insureds to yield to extortion demands under threats of damage or destruction of property.

"In answer to your reference to similar situations resulting in failure of a standard liability policy to respond due to a company's invoking the fact that the cause of the claim was not unexpected, I further believe that the existing standard forms of liability protection would respond to the protection of the insured, and this protection is an inherent part of the contracts."

Interestingly, the same carrier (O.), on another risk, advised via their Pennsylvania agent that their main legal department advised:

"They are not in a position to allow the extortionist coverage. They feel that they must stand on the conditions of the present policy since there have been no legal precedents or court tests in this."

The same company, O., endorsed the policies of a Florida client as follows as regards the property coverage:

"**It is understood** and agreed that this policy covers loss caused directly or indirectly by neglect of the insured or failure of the insured to use all reasonable means to save and preserve the property at risk. Further, any action taken by the insured or failure of the insured to take action shall not be deemed an increase in hazard."

Inasmuch as the Florida client has an SMP policy, the carrier endorsed the liability portion to read:

"It is understood and agreed that this policy covers liability of the insured even if directly or indirectly contributed to by the insured or by failure of the insured to use all reasonable means to avoid said liability. Further, any action taken by the insured or failure of the insured to take an action shall not be deemed by the insurer to have made said resulting accident, occurrence or event intentional as regards the insured as a result of said action taken by the insured or failure of the insured to take said action."

Hence, here we have an example of thinking from the completely negative to completely positive action by the same insurer as relates to three different clients in three different states.

Five large brokerage firms, four of which are nationwide in scope, stated that they were taking the question to the legal departments of the companies they place business with, one on a nationwide basis, for their opinions. In each instance, this was during February, 1975. None of them have come back with any responses to date. The Jackson, Mississippi, office of one of our largest insurers (P.) gave the matter significant thought and responded with a more analytical letter which stated, in part, (in addition to forwarding our inquiry to their home office legal department):

"It is our opinion that we will not be able to write any blanket letter saying that we would cover any given peril at any given time which would amount to nothing less than wholesale blanket coverage for any risk. We certainly can see the problem that an insured would face along these lines, but once again we simply do not feel that we could give blanket approval on any type loss."

On the other hand, there were many positive responses, though certainly not uniform.

A large British group that writes a great deal of boiler insurance (Q.) and an American boiler specialty company (R.) pointed out that there is nothing in the boiler policy that could be affected by the results of a refusal to an extortionist. The American company pointed out that not only is an accident arising out of 'acts of sabotage, vandalism or malicious mischief" is considered accidental within the terms of their policy—but went on to state that if one of their policyholders receive such an extortion demand:

"and their refusal of the extortion demand could result in damage or destruction of insured property, we would certainly like to be advised when such a condition exists."

A California liability carrier (S.) agreed to a letter saying:

"with regard to coverage for claims arising out of damages caused by extortion. . .I think this extension is worth an additional .05 in rate"!

Under an umbrella policy, a major American casualty company (T.) headquartered in Chicago where our client is also headquartered, stated:

"Coverage would be afforded by our umbrella, the reason being an act of extortion is unintended and unexpected from the standpoint of the insured.

"In this instance, an endorsement is not warranted because coverage is afforded under the policy wording."

As is the case with many of the refusals that we received, wherein I disagreed with their rationale, here is an example of an acceptance of liability, which pleases me, though I disagree with the rationale behind it.

The Pittsburgh office of a major American carrier (U.) responded:

"We have thoroughly reviewed the letter from the insurance consultants for the above insured, and can find no legal precedent that would bear on the subject in question.

"In the absence of such, we can not really make a categorical statement that would apply on every loss, as circumstances always vary. We can however state that if a loss should occur under the broad circumstances as outlined in the consultants letter, we as a reputable company would not deny coverage for either fire/extended coverage, or liability on this risk. This statement is being made on the basis that the insured would report any threats against his property immediately to the proper authorities.

"As a company we seriously doubt that if a loss occurred, and coverage was denied by any insurance company for the reasons outlined in the consultants letter, that the courts would permit that interpretation to stand."

One very major American company (V.) wrote, as relates to one division of our client, from their District of Columbia office:

"I have referred your letter to our home office. . .and we feel that it is impossible for us to state our position in general terms that will apply to all cases. However, it will only be in extreme cases that we would deny coverage, either under our comprehensive general liability policy or under our fire policy simply on the basis that the risk was increased due to the demand or threat of an extortionist or that the loss was not "unexpected" due to that threat."

From the San Francisco office of the same company, as relates to another division of our same client they state:

"The question raised concerning the effects of resisting an extortion demand is a very interesting one. It certainly seems to us that the action of the insured in payment or non-payment of an extortion demand, by itself, is not an increase in hazard 'by any means within the contract of knowledge of the insured.' "

The writer of this letter overlooks in later comments the fact that a tornado, riot, etc., are beyond the control of their insured whereas whether or not to pay an extortionist is within his control.

A Pennsylvania liability and workmen's compensation specialty mutual (W.) responded:

". . .if an insured refused to accede to an extortionist's demand which results in the acts by the extortionist injuring a third party or parties, we would not deny a defense to the insured on grounds that the act was not unexpected. The above statement would apply to all policies written by our company for your clients."

A major reciprocal insurer from Chicago (X.) stated, in response to our letter dealing with the extortion effect on our clients' property damage policies:

"In discussing this matter with . . .of our claims department, it was agreed that we do not construe a threat as constituting an increase in hazard as to property damage insurance, nor does it void the concept of an accident from the insured's viewpoint as regards liability insurance."

Eight of what must be considered insurers of the "Tiffany class" (Y., Z., Aa., Bb., Cc., Dd., Ff.) responded that unconditionally the refusal on the part of any of our clients (their insureds) to make payment to extortionists demands would under no condition be considered in any way to impair their coverage or to allow the resulting injuries to be construed as arising out of other than an unintentional act.

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Some benefit plans may be excluded from Title I disclosure requirements

WASHINGTON—A high stakes game of definitions is being played by the Labor Department with the outcome determining what employer "practices" will be covered by the complex and expensive rules of Title I of the pension reform law.

The department this month proposed that a grab bag of employer programs that directly or indirectly benefit employes be excluded from coverage under the law because they don't meet the law's definition of "employe welfare benefit plans."

Exclusion means that these programs are exempt from all of Title I, which includes the law's reporting and disclosure and fiduciary standards sections that are causing so many problems.

Even the list proposed this month, which ran to more than a dozen items, is not exhaustive, the department cautioned.

"It is impossible to discuss or even list all of them," the department said. "Consequently, it is not intended that inferences as to the treatment of particular practices and arrangements not listed can be drawn from the inclusion or omission of any topic."

The department's less than exhaustive list of programs that it thinks do not belong under the pension law includes:

• Overtime pay, shift and holiday premiums, holiday gifts, discount sales, on premise service facilities which don't provide welfare benefits to participants, hiring halls, pay for jury duty and court testimony.

• Bonus programs aren't welfare plans as defined by the law, according to the department, but they can be subject to the law as a pension plan "if payments are systematically deferred to the termination of covered employment or beyond, or so as to provide retirement income to employes, or both."

• First aid stations could be conceived as a welfare benefit, the department said, but "the protection afforded to employes if such facilities were treated as employe benefit plans would not justify the costs of Title I compliance."

• Remembrance funds should be excluded, the department said, since they aren't important to the well being and security of survivors, but a funeral expense fund would fall under the law's tough rules because its "assurance that the cost of a funeral would not have to be borne by an employe's survivors is by no means an insignificant contribution to the employe's sense of financial security and peace of mind."

• Unemployment benefits are covered by the law, but strike beneefits should not be because the department said "a strike is not to be equated with unemployment."

• Paid sick leave and paid vacations shouldn't be covered by the law because the department believes they are associated with regular wages rather than "benefits triggered by contingencies such as hospitalization."

• Compensating an employe for short absences from work also doesn't become a benefit plan unless the employer makes a formal program out of it, the department said, since benefit "plan" or "program" implies a "predetermined treatment of classes or types of similar situations."

• Job skill training is also not a benefit program because "it is virtually inseparable from an employe's normal duties for which compensation is paid," the department said.

These ideas about what is covered or not covered by the pension law are in proposal form only. ■

Welfare plan exemptions: Labor Dept.

WASHINGTON—Welfare plans with fewer than 100 participants would be exempt from some or all of the reporting and disclosure requirements of the pension reform law, according to a proposal issued by the Labor Department this month.

The exemption would apply to plans with fewer than 100 participants "for which benefits are paid solely as needed from the general assets of the employer or employee organization maintaining the plan or the benefits of which are provided exclusively through insurance contracts or policies, the premiums for which are paid directly by the employer or employe organization from its general assets, issued by an insurance company or similar organization which is licensed to do business in any state, or both."

Under the proposal, only a plan funded solely from the general assets of the employer or employe organization maintaining the plan will be eligible for the exemption.

Summary plan descriptions would still be required to be supplied to participants, however, "Disclosure to participants and beneficiaries concerning their rights and obligations under the plan and the act would not be guaranteed through distribution of insurance certificates." ■

Extortion . . .

Continued from page 78

Certain conclusions are indeed brought out from these less than complete results:

1. There is a wide area of disagreement as concerns this whole subject.

2. There is no uniformity of opinion even within some companies, for one branch will respond one way while another branch holds the opposite point of view.

3. Most companies, even those that agree that refusal to accede to the demands of an extortionist will not impair coverage, want to be informed of the situation if it occurs.

4. The fact that some companies hold these dire coverage potentialities as vested defenses indicates that from a risk management standpoint, from this aspect alone, there is indeed a problem that warrants action.

5. Many large brokerage houses and many of our better insurers have failed to respond to our inquiry or follow-ups. To me this indicates that they don't even want to get involved in the question. To me this emphasizes that possibly the problem is of iceberg proportions and we are only realizing a small part.

6. Two carriers agreed to "provide the coverage" but at an additional premium. Several carriers indicated, in their refusal to "provide the coverage" that it would require a change in policy wording. Maybe this is the approach toward certainty. Possibly there should be formulated a uniform endorsement "providing the coverage" at a nominal additional premium and possibly with the proviso that carriers be notified at the inception of the episode. ■

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Trial . . .

Continued from page 1

testified as a witness, said that he received the impression from the brochures that "such security as afforded by UCB was 100%. The safety was 100%."

"Would you have placed your valuables in the box if you knew that in the event of a loss, you would not be reimbursed,?" Mr. Hews asked him.

"No," Mr. Dale responded. "I would not have placed my valuables in a box that showed the least doubt as to the safety question."

Yet upon cross examination by Mr. Johnson he admitted that he did not rely on the advertising in selecting the UCB branch and that he still maintains a safe deposit box at Laguna Niquel.

Asked whether UCB sees anything wrong in continuing this style of safe deposit box advertising, Lawrence Sloane, senior vp for the bank and a defense witness, said that it does not.

Mr. Sloane described himself as "stunned and shocked" by the burglary through the vault roof of the branch bank. He testified, however, that until that event he conceived of bank security in terms of preventing bank holdups and robberies which he said were a national problem in the early 1970s.

Mr. Hews' witnesses, on the other hand, testified that part of the reason why the burglary was so successful was that the bank's vault had a McCulloh loop or party line type of silent telephone wire alarm system rather than a direct wire.

Raymond Beck, a former sales manager for Orco Alarm, said that McCulloh loops had been "compromised" many times before 1965 when the branch bank was being constructed.

He said that if given a choice, UCB would invariably choose the cheaper of any two silent vault alarm systems. In 1965, he testified, a McCulloh loop was chosen for Laguna Niquel against his recommendations.

Bradleigh G. Smart, security chief at UCB, was called by Mr. Hews. Contradicting the testimony of Mr. Beck, he said that no alarm system salesman ever recommended a direct wire in 1965.

The UCB security chief portrayed himself on the witness stand as being unaware of most of the advancements in the bank vault security field from the period of 1966 to 1972.

Skilled bandits have been able to "defeat" both the McCulloh loop and the direct wire system as well as some of the advancements made beyond them, said an expert witness for the plaintiffs, Thad L. Weber. He is a security consultant and an author of a book, "Alarm Systems and Theft Protection or Think Like a Thief."

"In your opinion in 1965, what type of a system should have been put in at Laguna Niquel?" Mr. Hews inquired.

"A direct wire central station system with line security," returned the witness, who said that the Laguna Niquel bank was vulnerable to criminal attack in 1972 due to its isolation and poor police protection.

Mr. Weber said that Orco Alarm Co. in Santa Ana, which provided central station services for the branch bank's McCulloh loop in early 1972, knew about line security as early as 1970.

Yet defense witness, Frank J. Meiners, an operations manager for the Morse Signal Devices Co., Los Angeles, denied that Orco had facilities for the line security as early as that.

He testified—as did Mr. Beck under cross examination—that in 1972 most banks in Southern California used loops rather than direct wires to protect their safety deposit vaults. ■

Objections raised to fiduciary exemptions

WASHINGTON—An organization representing multiemployer employe benefit plans is not satisfied with the federal government's latest attempt to lessen the chance for a fiduciary breach by multiemployer plan trustees.

The Labor Department and the Internal Revenue Service late last month proposed three exemptions to the pension reform law's prohibited transaction rules.

The proposed exemptions would allow multiemployer plans to:

- extend payment deadlines for contributing employers who cannot make on time fund contributions;
- make construction loans to employers that contribute to the fund;
- lease office space or provide administrative services to or from employers or employe associations.

Without the exemption, these types of transactions would be prohibited because they constitute a potential conflict of interest situation under the prohibited transaction rules.

Violation of the rule would leave the fiduciaries open to civil suit or penalties imposed by the federal government.

The National Coordinating Committee for Multiemployer plans, however, has been seeking a "blanket" exemption that would postpone imposition of the prohibited transaction rule until some time in the future.

Eugene Mittelman, an attorney for the committee, said the exemption proposals were too narrow and did not cover the large number of other transactions that could now be banned under the rule.

The committee had attacked the prohibited transaction rule as far back as last January because of the uncertainty it created among multiemployer plan fiduciaries.

"We're still not happy," Mr. Mittelman said. "We have no present inclination to drop the matter. We are planning to continue the fight."

He said it was almost certain the committee would request a full public hearing on the exemption proposals. The deadline for submitting written comments to the federal government is June 30.

The prohibited transaction rule became effective January 1, 1975. Some Capitol Hill staff members active in drafting the bill have admitted that perhaps the Congress was overly hasty in making the rule become effective so soon after passage.

The exemption proposals are both prospective and retrospective, however, to cover transactions that already occurred since the first of the year. ■

Denver agents merge

J. H. Silversmith Inc. one of Denver's oldest and largest insurance agencies, acquired Frye, Broun, Thorpe & McGlone Insurance Agency, Denver. The merger resulted in a total staff of 25 people and an annual volume of $5 million, Silversmith said.

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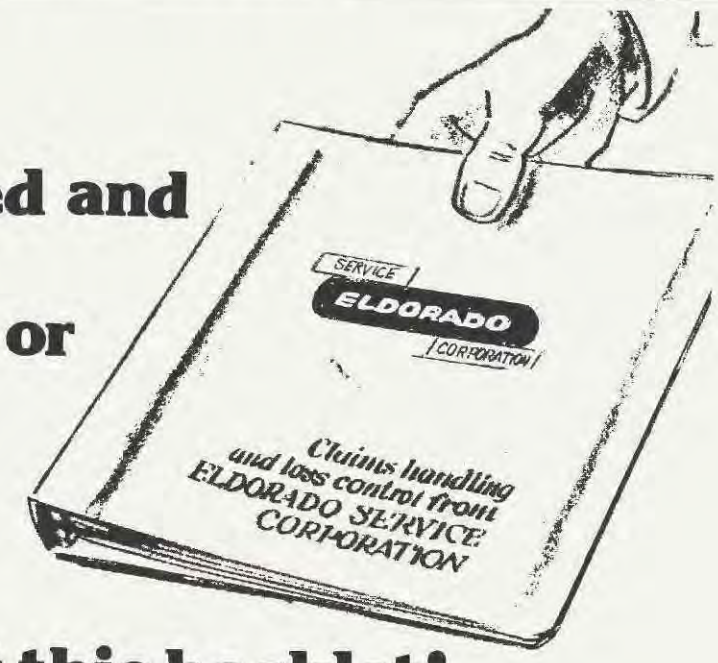

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Bank bond insurance . . .

Continued from page 1

Several brokers confirmed for this magazine that Mr. Dew is having further meetings in London because he did not receive anything near unqualified approval of his desired changes. The indication from Lloyd's brokers was that changes will also be implemented in the U.S. bank bond form.

"The major point of changes in Lloyd's form is a new definition of the fidelity insuring clause," said a Lloyd's broker in London. "Lloyd's does not believe that favors and gifts, such as holiday vacation trips, lunches and liquor, can in any way be called a personal financial gain from a dishonest act."

According to George Jones, however, brokers generally are in accord with Mr. Dew about the need for some change. Mr. Jones, who is with Stewart-Wrightson Surety & Specie Ltd., is described by bank bond experts in the U.S. as the leading Lloyd's broker for bank bonds. He said: "Mr. Dew is the leading underwriter in this field, so his concern about this trend shows he is intending to be more specific with the language, so that coverage is quite clear.

"In one form or another, either primary coverage or reinsurance, much of the bank bond insurance ends up in London, so that his view is very important. I would sum it up by saying that both sides of the market (brokers and insurers) appreciate that if we are to have a viable market for bank bonds, the wording has to be amended. There is no doubt in my mind that we, the brokers, are completely in accord with underwriters' thinking on this."

Bank risk managers agree that loan losses and trading losses, unless there is clearly related fraud, do not belong under the coverage of the bond. What they want, though, is for insurers to choose one of two alternatives: Leave the bonds alone and make modifications only with bank clients having a specific underwriting problem, or handle this problem by means of a simple exclusion, leaving the dishonesty clause intact.

"Our position is to try to negotiate for no change," said a major U.S. broker who is expert in bank bonds. "Unless there is a particular underwriting problem. In that event we would consider some modification."

The 400 members of the Surety Assn. of America are still studying the problem and haven't finalized plans for change in the form. Meetings are being held, said Frank LeMunyon, secretary of the form used by Surety Assn. mem-Surety Assn.

Indications from members are that a phrase about "intent to defraud" will be added to the bond form used by Surety Assn. members, said a broker with many bank clients.

One problem everyone is having centers around the fact that insurers, bankers and brokers are not convinced that Chubb's new wording solves the problem. "It will be in the courts constantly, because it is open to so much interpretation," said a Chubb client.

"My thought is that if you come up with wording that requires any further interpretation, then you have the same problem as before," added a spokesman for Continental Insurance Co. Another insurer believes the Chubb policy now excludes some acts that "should clearly be covered."

Mr. Harden of Chubb admits the new policy is still being interpreted, and responds to questions about specific cases which might arise with the comment that the facts of each case would have to be considered.

"Chubb's new wording is subject to a lot of further negotiation and interpretation," said Harry Haack, bond specialist at Marsh & McLennan.

It doesn't appear that any of the members of the Surety Assn. are about to make any unilateral moves outside the group to amend their bonds, brokers and insurers said.

"If we had a risk that we could not underwrite on any other basis, then we would use new wording that says if any employe steals it has to be more than just a violation of authority, and that a judgmental error should not be covered," said Daniel Drake, senior bond underwriter for INA.

"I think I can correct the currency trading problem by correcting the section on violation of authority and the dishonesty definition. We have not decided to do this, however, we would probably work within the Surety Assn.'s forms revision committee. I would prefer to be part of that before I would take independent action," Mr. Drake added.

The American Bankers Assn. insurance and protection division took what Ed Armstrong, assistant director, called a "holding position" on Chubb's form change, neither approving nor disapproving of it but classifying it "a single, non-standard form." Chubb interprets this non-opinion of the ABA as a positive sign, but Mr. Armstrong reiterated that the ABA stance does not indicate approval. "Expansion of this action beyond Chubb will require reassessment of our position," said the latest issue of the ABA protection bulletin.

"We will do anything we can to keep the very broad dishonesty clause from being damaged," said Mr. Armstrong. "We don't want to see the bond butchered up."

ABA members are upset enough about the impending changes by other insurers that there is an ad hoc committee within the protection division now being established "to prevent alterations of bond language that is harmful to bankers."

"I would be very reluctant to accept this kind of an endorsement on a bond of ours, so there's going to be trouble if the Surety Assn. members try to push these changes through," said a risk manager for a large money center bank.

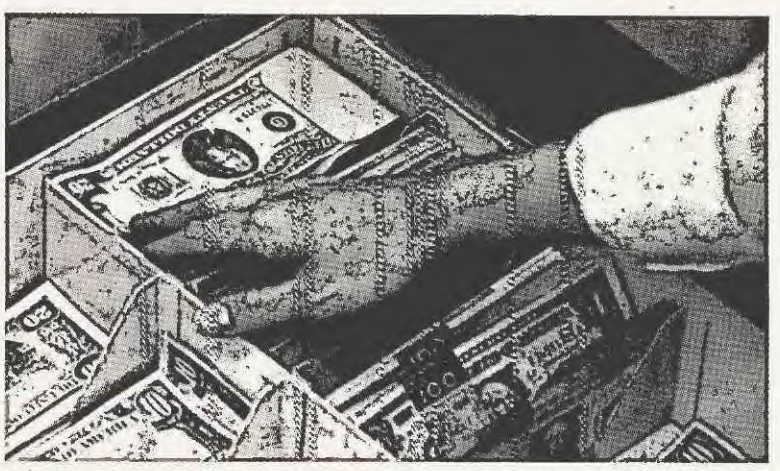
"If there are changes needed in bond wording, it should be done on a bank-by-bank basis, because it's an underwriting problem, not an industrywide problem," declared Fred Silverthorn, vp and insurance manager for Republic National Bank in Dallas.

Mr. Silverthorn, and many other bank risk managers, also stated that they think premiums should be lowered correspondingly for the decrease in coverage in a more restricted bond.

It's known that one very large bank, upon learning that its insurer was putting a modification of wording into the bank's bond, in the form of an endorsement mailed to the policyholder, notified its foreign operations not to sign a thing, because the bank strongly objected to the changes.

London is said to be concerned that unilateral moves to change bond wording could cause a disastrous uprising among bankers who could bolt the markets.

Judging from the number of bankers seriously calling for a captive again, this is not an insignificant concern. Summed up one bank risk management source: "Banks have got to look more seriously at alternative funding mechanisms, in order to insulate the underwriters from the routine, normal losses. Within the next 12 months we'll see a lot more activity in this area, unless there's a major shift in capacity of underwriting posture by the bank bond industry." ■



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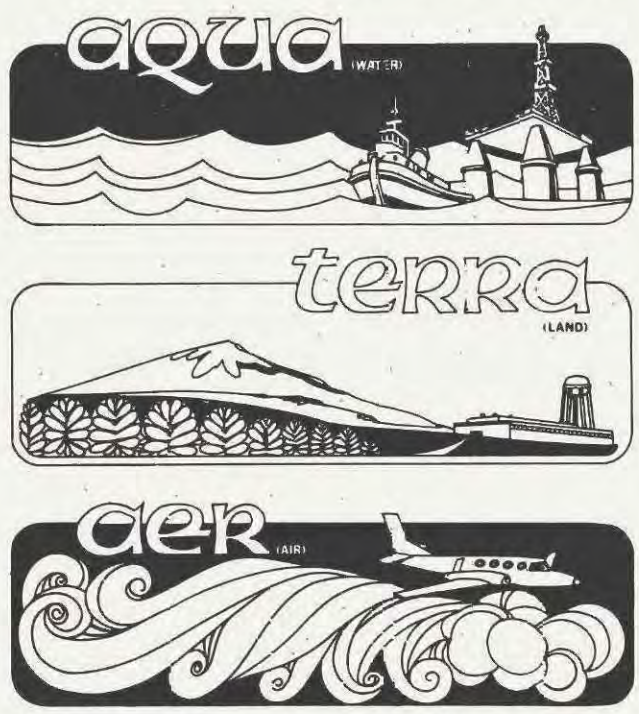

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Bankers charge bond changes unjustified based on actual losses

CHICAGO—Two major objections are being raised by bankers to changed wording in bankers blanket bonds. One is that the narrowing of the definition of dishonesty is unjustified on the basis of losses. The other is that an employe of a bank can commit fraud or be dishonest without necessarily chalking up any personal monetary gain.

"My objection to Chubb's (1%) move is that bank employes who are dishonest can gain in lots of other ways. They can receive prestige, favors and sexual favors," noted one banking industry official.

"If a teller was walking past a bundle of cash and took some, then this would not be 'deliberate' as I interpret Chubb's definition, which now requires the act to be deliberate," this insurance officer continued. "We feel a dishonest act is a dishonest act. If a guy is stealing on behalf of his mistress or his mother-in-law, and doesn't have any direct personal gain, it would appear the loss would not be covered under the Chubb wording," he argued.

Bond policyholders complained to *Business Insurance* that they have been unable to obtain loss records from bond insurers which would justify restriction of bond coverage. "One question asked of (Leslie R.) Dew at the RIMS conference in Dallas was how many losses has he had in the area of bad loans and currency trading, and no answer was forthcoming," said one bank manager. Mr. Dew is deputy chairman of Lloyd's and an influential bond insurer.

A survey of 15 major banks by this magazine disclosed that they are unqualifiedly certain that no banks they know of have ever put in a claim in the bad loan area. Nor were the banks aware of any paid claims in the currency trading realm, although several cases were cited later of paid or incurred claims in this field. Several banks, in fact, said they had not recorded a single claim under the blanket bond in the last several years, much less one in these "questionable" areas.

"I really wonder whether there is this bigger problem that bond insurers talk about," said one skeptical risk manager. "None of the banks I've talked with in the past year, and that's a lot of banks, have ever had this questionable kind of loss. So my conclusion is that this problem must be with the little banks out in Podunk. Nobody has any concrete examples for us when we ask for them."

"We're not trying to get rid of all of these kinds of losses where the employe was clearly a crook," defended Jack Harden, senior bond underwriter for Chubb & Son. "We're trying to get rid of losses caused by people who were committing unauthorized, unsupervised, unwise acts where they really have been misled, hoodwinked or duped but were not willfully trying to hurt their employers by their actions."

A search for paid or incurred claim statistics involving cases which underwriters are saying bonds were never intended to cover disclosed these facts:

- The Franklin National Bank losses under bankers bond "could run" as high as $10 million, but no claim has even been filed as yet, and any action will depend on what the Federal Deposit Insurance Corp. decides it can recover from the bond;
- It's understood that Lloyd's paid a $5 million currency trading claim for Lloyds bank, which was then in financially-troubled condition.
- The Switzerland office of United California Bank is thought to have incurred a $60 million commodity trading loss more than two years ago, of which $9.5 million was paid under the bond by Continental Insurance Co., the primary insurer. This is thought to be the largest paid claim to date in the trading area.
- Union Planters National Bank in Memphis uncovered in 1973 and 1974 loan and investment losses for which it has claimed $16.5 million from its bond insurers as fidelity losses. The losses were incurred as the "direct consequence of the wrongful conduct of former employes, including eight officers," the bank claimed.

Union Planters said in its latest annual report that it realistically expects to recover some $10 million from bonding companies, which have subsequently denied the claims. The case is expected to go to litigation. Fidelity & Deposit Insurance Co. of Maryland is the primary carrier on the bond.

There are no other facts on losses available, with the excep-

Continued on page 84

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Charges unjustified . . .

Continued from page 83
tion of some Surety Assn. figures dating from 1973 which indicated total annual bank bond premiums of $62 million, total commercial bank incurred (not paid) losses of $39 million, for a loss ratio of about 63%, up very slightly from 1971's loss ratio.

Chubb's Mr. Harden stated that Chubb has "very large pending losses, all either involving loans or letters of credit, and almost all made to real estate developers. Ours have not been currenty trading losses. Those are with the large banks, mainly, who do not put in claims because they can afford to write the losses off. In two months, we have received claims where the banks were out of pocket more than $15 million in the (loan) area. There were five claims totaling $15 million."

"One has heard figures of over $10 million in the major U.S. cases in the last two years," said a source close to Lloyd's. "One is talking about the medium to small banks, in the main. The large banks are able to ride out such losses better than smaller ones. These are claims made rather than claims paid that I'm talking about. The bank officers really are almost under an obligation to try to claim under the bond to recover part of these losses, or else shareholders could press charges against bank officers for not doing their jobs to conserve assets."

A leading U.S. bond underwriter said "there is clearly a trend for loan losses to increase. Banks wrote off over $2 billion in bad loans in 1974. We can see this in news stories about REIT defaults. The problem has become acute because when the banks have big losses, they look to every possible source to recover some of the losses."

Another insurer speculated when asked about losses in loan areas that "there are about $50 million to $60 million in incurred or paid claims over the last several years in bad loan area, or the area of a 'questionable' loss which might not have been absorbed in the bond if the wording being used by Chubb had been in effect."

"A lot of claims that we've had in these areas we haven't paid anything on yet. And we probably won't pay anything. A lot of these cases are going to litigation," said the bond underwriter for one of the nation's largest insurance companies. "We've got a situation right now where a bank is suing us for not honoring our contract, but the bank won't name anybody as stealing under the bond to show infidelity because they are afraid of getting a countersuit for defamation of character." ■

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Mistake for fiduciaries to resign in fear

NEW YORK—Employe benefit fund trustees who resign, and those who advise them to do so, because of potential fiduciary liabilities under the pension reform law are making a mistake, Sen. Jacob K. Javits (R-N.Y.) said in a speech here last month.

"They misinterpret the prudent-man rule because they erroneously assume that a mistake in judgment by a trustee is grounds for a lawsuit against him," the senator said.

"I can assure you that was not the intent of the Congress, and every lawyer who has made a careful study of the law and its history knows this to be true," he said.

"Certainly, personal liability attaches when a trustee is guilty of negligence, mismanagement, or worse—as for any fiduciary," he show infidelity because they are because a trustee failed to be clairvoyant." ■

dates for buyers

July 7-10: An institute for printing and publishing industry funds will focus on common problems faced by these funds such as worker turnover and plan administration. Sponsored by the International Foundation of Employe Benefit Plans, the sesions will be held in Minneapolis. For more information, contact the foundation at P.O. Box 69, Brookfield, Wi. 53005.

July 14-16: The American Bankers Assn. will hold a Risk Management in Banking Seminar at the University of Colorado, Boulder. Designed to provide a working knowledge of premium saving techniques and insurance coverages and markets, the seminar should provide an increased ability to reduce losses and premium costs. The seminar, including study materials and room and board, will cost $245, and it is limited to 50 participants. For information, write to Ed Armstrong, assistant director, insurance and protection division, American Bankers Assn., 1120 Connecticut Ave., NW, Washington, D.C. 20036.

July 15-18: The International Foundation of Employe Benefit Plans will hold an institute for new trustees, advanced trustees and administrators of Taft-Hartley Plans, in Denver. For more information, write to the foundation at P.O. Box 69, Brookfield, Wi. 53005.

July 21-25: INA Corp.'s International Safety Academy will hold a total loss control management conference in Tarpon Springs, Fl. Experienced loss control managers, risk and insurance managers, and safety personnel are encouraged to attend. Tuition is $395. For more information, write to the academy at 1021 Georgia Ave., Macon, Ga. 31201.

July 24: The 1975 System Safety Conference, a one-day session for lawyers, engineers and managers concerned with product safety, will be held at the Bahia Hotel in San Diego. Legal issues of product safety, medical dangers, design-induced human error and hazard-free toys are among the topics. Write to System Safety Conference, Brian Moriarty, P.O. Box 2444, Huntington Beach, Ca. 92646.

Aug. 11-15: R & R Newkirk and Business Seminars Institute will hold their fifth annual pension and profit-sharing seminar: "Complying with the Pension Reform Law in 1975." The seminar will be at Fairleigh Dickinson University, Madison, N.J. Fourteen nationally prominent pension experts—including officials of the Pension Benefit Guaranty Corp.—will be the featured speakers. For further information, write to Bill Spencer, Business Seminars Institute Inc., 428 Old Hook Road, Emerson, N.J. 07630.

Aug. 19-22: The sixth annual Product Liability Prevention Seminar, sponsored by the New Jersey Institute of Technology, will be held under the auspices of the College of Engineering in Newark. All professionals involved with product liability are invited. In addition to the in-depth technical seminar, optional evening workshops on specific liability prevention techniques will be offered. Tuition is $300 for members of sponsoring organizations; $325 for non-members. For more details, write to Martin Post, Newark College of Engineering, 323 High St., Newark, N.J. 07102.

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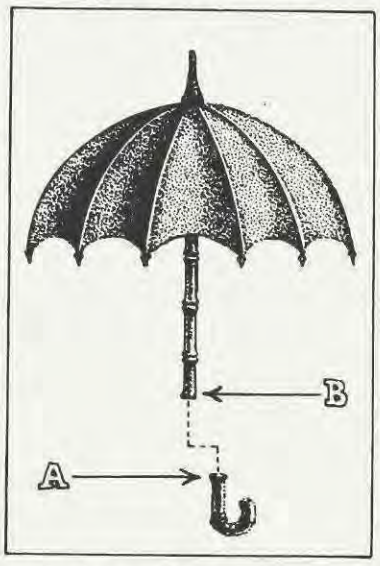

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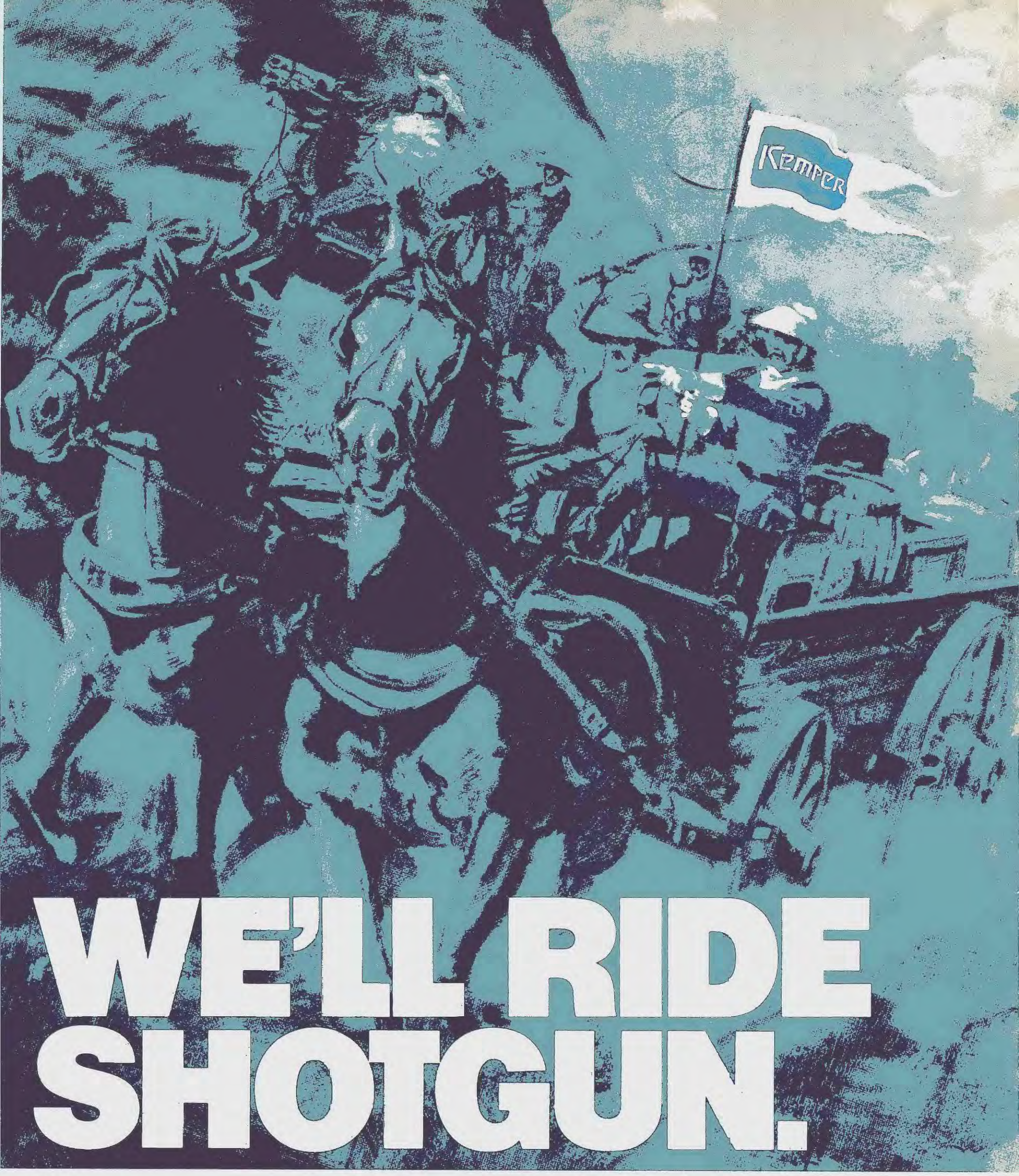

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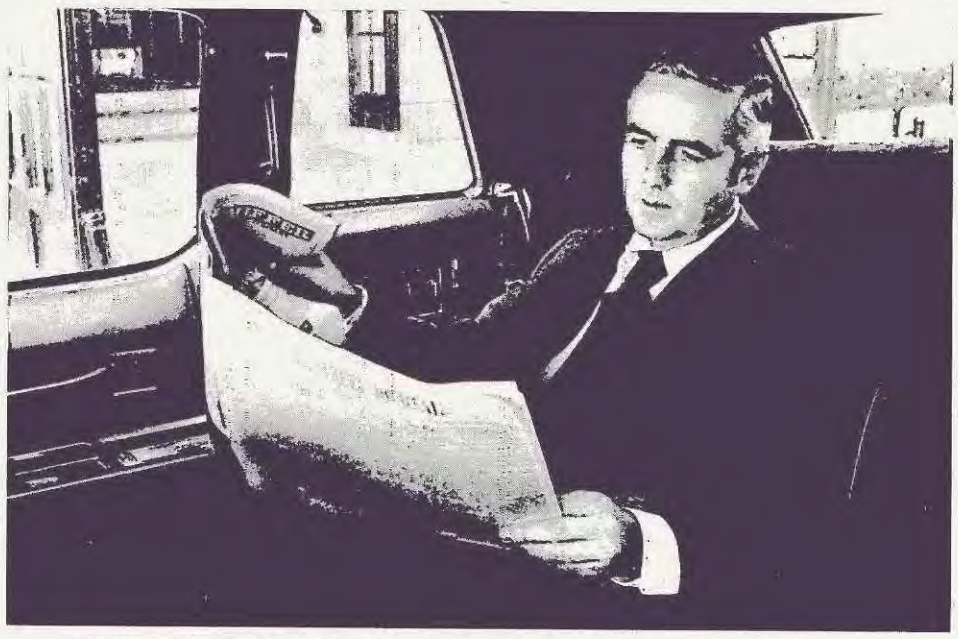

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