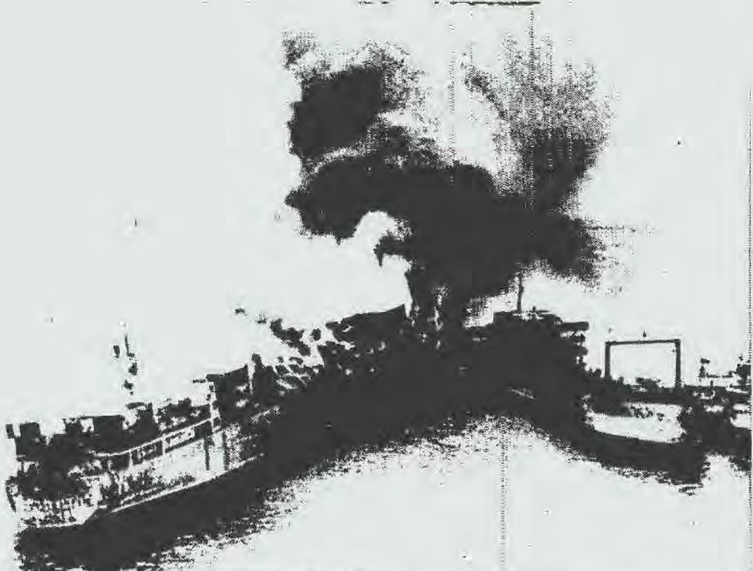

**U.S. Supreme Court** rule will affect damages such as those which arose out of the 1973 New York harbor collision of the Sea Witch, left, and the Esso Brussels. —Wide World photo

# Marine hull, liability losses seen altered in wake of high court rule

By MARIE KRAKOWIECKI

NEW YORK—The United States Supreme Court overturned an old and essentially "no-fault" maritime law in favor of a comparative negligence approach in settling ship collision damage cases.

While marine insurance experts here expect few immediate effects from the landmark decision, some have predicted a long-range impact on fleet premiums and risk management practices.

Before the high court announced its unanimous opinion last month, financial responsibility for ship collisions was split evenly between the involved parties regardless of varying degrees of fault.

This approach, which dated back to 1854, was once the prevailing English rule. But even England dropped it by 1911, and all the world's maritime nations except the United States have been apportioning maritime damages on the basis of fault.

The new ruling promises to set off a long, if still uncertain, chain of events for marine insurers and insureds.

"This is bound to affect premium rates for fleets. although it will be some time before we see just what those premium changes will be," remarked John A. Potts, president of the Marine Office, Appleton & Cox (MOAC). MOAC, a leading U.S. marine insurer, predicates its rates on fleets' past experience, and usually uses five year periods, Mr. Potts explained. He said it is likely to take five years before the law's influence on premiums is assessable.

One insurance manager for a large containership operation begged off comment on what the new law would mean to his insurance packages. "I've been going to meetings all morning with the company's top management

Continued on page 8

## Sheraton insured for liability

# Youth awarded $7 million

WASHINGTON—A $7 million liability damage award to be paid by ITT-Sheraton Corp. is insured under an all-risk blanket property and liability insurance package with Aetna Casualty & Surety Co. and excess liability umbrella policies, *Business Insurance* learned.

The jury verdict was handed down here early last week, and is thought to involve the largest award in American jurisprudence.

The U.S. District Court jury awarded the payment to a youth whose neck was broken when he dived into a swimming pool at the Sheraton Park Hotel here in 1971. ITT-Sheraton said it intends to appeal the verdict.

C. Dickey Dyer, insurance manager for ITT-Sheraton Corp., said the Aetna policy has a $100,000 limit. The excess umbrella policy, he said, "is more than sufficient to cover the amount of the award." Mr. Dyer declined to name the excess insurers.

It was learned from other sources, however, that the excess coverage is contained in policies for several layers, underwritten by several different insurers. American Home Assurance Co. is understood to carry the largest layer, with some coverages thought to be in the London markets. Each insurer on the excess end participates on a pro-rata share.

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Week of June 2, 1975

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# Use of trusts for self-insured benefits gets double boost

By MARGARET LeROUX

NEW YORK—The combined effects of the pension reform act and a Missouri Supreme Court decision made 501(c)(9) trusts for self-insuring employe benefits programs a popular topic among employe benefits managers, actuarial consultants and underwriters who attended a seminar on the topic here late last month.

Section 514 of the Employe Retirement Income Security Act (ERISA) preempts state laws relating to employe benefit programs. The Missouri Supreme Court decision stated that self-insured benefit programs are not the same as "insurance business" by employers.

The plans are thus not subject to regulation by state insurance departments (*Business Insurance*, Jan. 13). The decision culminated a 10-year battle between Monsanto Co. and the state insurance department over the issue.

"ERISA and the Monsanto decision make 501(c) (9) a lot more attractive," Thomas Walsh, employe benefits manager at Olin Corp. said. Mr. Walsh was among a number of benefit managers who attended the American Management Assn. seminar on ERISA's impact on 501(c)(9) trusts.

**"The Monsanto** decision was a major victory for self-insured benefit programs," Richard Duesenberg, director of law, Monsanto Textiles Co. said. "I would assume there will be much more interest in 501(c)(9) trusts in the future as a result."

Another seminar speaker, Harold Gilbert, consulting actuary with George B. Buck Consulting Actuaries, alluded to interest by Lloyd's of London in reinsuring 501(c)(9) trusts.

Mr. Gilbert advised reinsuring the trusts on an annual aggregate basis for high level loss protection. "Lloyd's will quote reinsurance for excess loss coverage," he said. "They're anxious to get into the market."

Later Mr. Gilbert said he had been in contact with Thompson Graham & Co. Ltd. in London and that the director, Miles Hansen, indicated he was willing to take applications for stop loss coverage for 110%-120% of expected losses of 501(c)(9) trusts.

James H. Brennan, vp, Towers, Perrin, Forster & Crosby, who also spoke at the two-day seminar, noted that 501(c)(9) trusts offer "an attractive alternative" to insured benefit plans and cited several considerations involved in establishing such trusts.

Financial advantages include the tax-exempt status of investment earnings of 501(c)(9) trusts and the reduction or elimination of charges such as premium tax, commissions and risk handling fees paid to underwriters of insured plans.

**Connecticut has** passed a tax similar to a premium tax on self-insured benefit plans, however, and other state legislatures are considering similar taxation, it was noted.

Frank Cody, consulting actuary, predicted other states will follow Connecticut's example as a way of getting around ERISA's preemption of their regulatory powers.

Another advantage of the 501(c) (9) trust is its flexibility, Mr. Brennan said, especially in long term disability programs where "there's a tremendous potential for cost savings.

"If you try to insure an LTD program in 1975," he noted, "it's very difficult to get it underwritten on a reasonable premium rate basis."

When asked how large an annual premium for LTD would make a 501(c)(9) trust a worthwhile alternative, Mr. Brennan estimated "from $150,000 on up, under the right circumstances."

"You need a high reserve, low frequency plan; if you don't have that, I wouldn't fool with it," one employe benefit manager attend-

Continued on page 2

## Premium lower by 33% on million-dollar business

# A&A wins Westinghouse marine cargo account

By PAUL R. MERRION

PITTSBURGH—Alexander & Alexander took Westinghouse Electric Co.'s ocean marine cargo insurance business away from Johnson & Higgins and obtained a 33% premium reduction for the client in the process, *Business Insurance* learned.

The premium cut and account change took place April 1 after Fireman's Fund, Westinghouse's insurer, found out the policy was being put out for competitive bids for the first time in nearly 20 years by the former J&H account executive who had gone to A&A.

That premium reduction came on top of a 35% reduction gained by Westinghouse a year earlier on the basis of an inequitable loss ratio, according to Robert Isacsen, the former account executive at Johnson & Higgins who is now a vp and in charge of the account at Alexander & Alexander.

"It was an easy one to take," said Mr. Isacsen, who moved to A&A last November. "I wasn't permitted to get into it when I was there because there is a very political structure at J&H." He explained that although he was the overall supervisor of the Westinghouse account at J&H, the broker for about 20 years, other people there had control of the ocean marine cargo portion.

**"They handled it** as a house account at J&H. They thought they had it in their hip pocket. As with any account with a long tenure, it was generally not attended to," he said. "Had J&H allowed me to take a fresh look at it, they might have prevented the move."

The need for a change in brokers was felt as much as two years ago, according to Richard Ackerman, director of insurance at Westinghouse. "After a while, the aggressive edge is dulled. We felt a change in brokers might result in more aggressiveness. Alexander was a little more aggressive, a little hungrier.

"A&A looked at our cargo insurance and said they could do a better job," he said. The broker-to-be came up with a competitive proposal and approached another

Continued on page 8

# Mine operators agree to hike pension welfare contributions for miners

WASHINGTON—It appears to be too little, and too late, but anthracite coal mine operators have agreed to sharply increase their contributions to the nearly bankrupt anthracite health and welfare fund.

The operators also agreed to improvements in the health insurance package for about 2,300 miners that will add substantially to their fringe benefit costs over the life of the three year contract negotiated with the United Mine Workers of America.

About 15,000 retired anthracite coal miners receive pensions of $30 a month from a fund that now has only about a dozen contributing employers. In 1947, when the fund was established, there were 220 contributing employers.

The fund is financed by a royalty paid for each ton of coal mined. The royalty will increase to $1.20 a ton this year, up from 90 cents a ton. In 1976, the royalty moves up to $1.30, and in 1977 it will reach $1.40.

The new royalty schedule is projected to produce about $15 million for the fund over the life on the contract, compared to about $8 million in revenues from the previous three year contract.

The union called the increase in royalties the largest boost ever negotiated in any one contract, but it will not provide enough funds to improve the $30 monthly pension benefit.

**The fund is** expected to continue its efforts to partially terminate the plan by transferring the pension obligations of nearly half of the retirees to the new Pension Benefit Guaranty Corp. (PBGC), the government corporation that reinsures pension benefits.

PBGC, however, is not obligated to assume the pension burden for any multiemployer plan until January 1, 1978.

A hearing on the proposed termination had been scheduled for April, but it was postponed pending the outcome of the negotiations for this contract.

Union officials said the new health insurance package will cost the operators $4.1 million a year by the final year of the contract. They said health insurance cost the operators $1.6 million for the year ended last March 31.

**Anthracite miners** struck for about four weeks in Pennsylvania over wages and fringe benefits. Pension plan contributions were a major concern.

Unlike the bituminous coal industry, where health benefits are self-insured, the anthracite industry uses Blue Cross-Blue Shield plans.

**The Blue Cross** plan was changed from a 120-day co-op plan to a 365-day full semi-private care agreement. The new plan also provides full coverage for outpatient emergency medical care, outpatient radiation therapy, follow up care after accidents, outpatient pathology services, tuberculosis, and coverage for student dependents.

The Blue Shield plan was changed to cover all of the expenses that might be incurred under the new Blue Cross benefits.

Major health coverage, with a $50,000 lifetime limit, was also included in the package. ■

# Wickes turns to Travelers and Hall for liability plan

By JOANNE GAMLIN

SAN DIEGO—Wickes Corp. moved its general and automobile liability coverage, including workers' compensation, from Argonaut Insurance Co. to The Travelers Insurance Cos., effective May 1, *Business Insurance* learned.

As part of the change in underwriters, Wickes also changed brokers. It moved the account to Frank B. Hall, which is the broker for The Travelers Insurance, from Marsh & McLennan, which was the broker for the Argonaut Insurance Co. plan.

Hall has been the broker for the Wickes property policy for several years. The company has a master property policy including HPR, all-risk and DIC.

A total of $3 million in premiums is said to be generated by the insurance package involved in the transfer from Argonaut to The Travelers. The design of the liability coverage was not altered in the transfer, it was learned.

Wickes general liability policy, which offers first-dollar coverage, sets various limits for bodily injury, property damage and medical expenses. The highest limit is $500,000 in bodily injury and property categories. (*Business Insurance*, September 16, 1974.)

The Wickes automobile liability policy also has no deductible.

The Wickes forest industries division was unaffected by the switch in underwriters and brokers. Late last year, however, Wickes replaced Bayly, Martin & Fay as the brokers for the liability coverage for the forest industries division with the Leatherby Insurance Service Co. At that time, Leatherby had been serving as the broker for workers' compensation for the forest industries division. ■

# Risk manager salary report draws RIMS' ire

NEW YORK—An American Management Assn. (AMA) report on salaries of corporate insurance administrators has met with criticism from the Risk and Insurance Management Society (RIMS).

The newly-released study is part of AMA's annual Executive Compensation Service Middle Management Report. RIMS objects to the criteria used in the survey a spokesman for the organization told *Business Insurance*.

The corporate insurance administrator's salary is categorized according to value of property covered, ranging from $75 million to more than $500 million. The RIMS spokesman claims that property value is not necessarily an accurate criterion on which to base a risk or insurance manager's salary.

**"Each job must** be valued and a salary placed when factors such as job responsibilities, size of company, individual attainment and replacement value of the person are considered" the RIMS spokesman said.

Regional variations and a cost of living index are other factors to be considered, he added.

The AMA study reflects the median salaries of survey respondents. The AMA makes a practice of eliminating the top 25% and bottom 25% of salaries for each category of its studies, another practice with which RIMS takes issue.

"You're not getting a standard range; you've eliminated both the highest and the lowest salaries," the RIMS spokesman complained.

However, a spokesman for the AMA believes the study results give a pretty well balanced picture of insurance administrators' salaries.

More than 600 firms responded to the survey They represented the top two-thirds of the Fortune 1,000 corporations as well as smaller companies, the AMA said.

**All participants** in the survey are subscribers to AMA's Executive Compensation Service. Survey results are sent to subscribers only: they are not widely available.

Survey results for companies whose value of property covered by insurance was less than $75 million indicate a median salary for insurance administrators of $16,500. The minimum salary range for this category was $13,500, the maximum $19,000.

The median value of property covered by insurance for this category is $35 million and the median annual premium cost is $600,000. Two employes is the median number supervised by the insurance administrator in this category and 22% of the positions pay bonuses.

The next category includes companies with $75 million to $150 million in property covered by insurance, the median being $100 million with a median annual premium of $800,000.

Salaries for insurance managers in this category show a range from a minimum $15,000 to a maximum $21,900 with the median salary being $17,300. Bonuses are paid in 21% of the positions and employes supervised range from two to four.

For companies with $150 million to $300 million in property covered by insurance, the range for insurance administrators' salaries is $16,400 to $24,000, with the median figure being $19,500.

**Bonuses are** paid in 43% of the positions and employes supervised range from three to five. The median value of property covered in this category is $225 million with a median annual premium of $1.5 million.

Median salaries ranging from $17,400 to $26,300 with bonuses paid in 24% of the positions are paid by companies whose insured property ranges from $300 million to $500 million, according to survey results. The median salary paid in this category is $21,900, for three to five employes supervised by insurance administrators.

Median value of property covered by insurance in this category is $380 million with a median annual premium of $2 million.

The final category covers companies with more than $500 million in insured property and a median annual premium of $3 million. The salary range for insurance administrators in this group is from $21,000 to $30,900 with the median figure being $25,200. Bonuses are paid in 26% of the positions and the number of employes supervised ranges from four to seven. ■

# Self-insured benefits...

*Continued from page 1*

ing the session commented.

There are more than 100 employe sponsored 501(c)(9) trusts in existence, according to John R. Diefendorf, vp, Frank B. Hall & Co., "but you'd be hard-pressed to find a list anywhere of who's doing it," he added. Most companies are reluctant to acknowledge they have such a trust.

The trusts are most often used to fund LTD programs. Medical benefits and post-retirement death benefits and short term disability programs are also popular programs for 501(c)(9) trusts.

**The advantages** of a 501(c)(9) trust have to be measured against the risks involved, Mr. Diefendorf noted. Several other seminar speakers also described the risks involved. They include:

The plan could terminate in a deficit position. A self-insured benefit plan must not only meet current cash requirements, but also, must be able to support future losses.

"You've got to have enough reserve to support the level of benefits paid," Mr. Gilbert said.

There's a potential for employe concern over loss of benefit security in a 501(c) (9) trust and increased use of the grievance procedure when a claim is refused could result, speakers pointed out.

"You've got to use extreme care if unions are involved," Mr. Brennan advised. Other speakers warned that employer-employe contributions could become a collective bargaining issue.

Administrative headaches may await an employe benefits manager who switches from an insured to 501(c)(9) trust for a benefit plan. "Insurance contracts provide a convenient budget device," Mr. Diefendorf stated.

**However underwriters,** recognizing the competition they are encountering from self-insured plans, are offering administrative-services—only contracts. And there are numerous consulting actuarial firms to advise the manager of a self-insured plan.

Benefits managers should also consider the fiduciary liability aspects of 501(c)(9) trusts, warned Theresa Stuchiner, general counsel and vp, Kwasha Lipton Inc. She told seminar participants the Labor Department has stated a preference for the corporate sponsor to be named as the fiduciary rather than a single administrator in plans that are singly, rather than jointly administered.

ERISA's "prudent man guideline applies to 501(c)(9) trusts as does the section on prohibited transactions," Mrs. Stuchiner said. Administrators of 501(c)(9) trusts should carefully examine what could be considered a "party-in-interest" when purchasing outside services, she added. ■

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# Agent/Broker call

A MAILING OF questionnaires for the fourth annual *Business Insurasnce* Agent/Broker Profiles issue to be published July 28, went out late last month. The issue will profile agents and brokers with $150,000 or more in gross revenues annually, and which do more than 50% of their business with commercial insurance consumers. Agents and brokers that may not have received a questionnaire may obtain one by writing on company letterhead to Ms. Linda Moskowitz, *Business Insurance*, 708 Third Ave., New York, N.Y. 10017. Or, for more immediate attention, Ms Moskowitz may be reached by telephone, 212/986-5050. The deadline for all returns is June 10.

# Fights over cause block quick malpractice action

By MARGARET LeROUX

NEW YORK—When it comes to the malpractice issue, if there's one thing physicians, underwriters and legislators agree upon it's that the solution to the problem won't be easy or uncomplicated.

Opinions on how to achieve the solution vary widely among the three groups, however. There is disagreement about who or what caused the malpractice crisis.

Insurers blame skyrocketing claims and size of jury verdicts in malpractice cases. Doctors charge insurers and lawyers with creating he problems, while lawyers say doctors brought on their own woes.

Since many of today's malpractice claims are covered by policies written as far back as 15 and 20 years ago, the underwriters claim they are suffering losses not adequately covered by their reserves.

**Testifying before** a Senate subcommittee examining the malpractice issue, Robert N. Gilmore Jr., senior vp of the American Insurance Assn. (AIA) said that the total premium of companies reporting to the Insurance Services Office (ISO) in 1966 was $13.5 million. Incurred losses for that policy period, estimated in early 1967 were $5.6 million, he said.

"By 1974 actual paid losses for the 1968 policy year have amounted to $18.2 million, a sum three times the original estimate," he said. "And this is not the end; more losses will be paid under policies written in 1966."

The ISO is working with the National Assn. of Insurance Commissioners (NAIC) on a draft of a Uniform Statistical Plan for medical malpractice experience.

The organization originally recommended a nationwide increase of approximately 170% in malpractice insurance rates but the NAIC claimed the ISO statistics lacked malpractice data from California, New Jersey and New York.

**The two groups** are preparing a new statistical plan which is expected to be implemented Jan. 1, 1976.

According to the Department of Health, Education and Welfare, physicians and hospitals paid a total $61 million in malpractice premiums in 1960. By 1970 that figure had jumped to $370 million and by 1973 it had almost doubled again, to $700 million. Premiums for 1975 may be more than $1 billion, according to HEW estimates.

That insurance company reserves are not adequate to meet losses paid out is disputed by some members of the medical profession.

"Malpractice is just a small part of the liability market," a spokesman for the American Medical Assn. (AMA) told *Business Insurance*. "The insurance companies haven't shown very good hard data to justify the rate increases they've been seeking."

A malpractice settlement survey done for the Medical Society of the State of New York by Peat, Marwick, Mitchell & Co. showed an increase in settled claims from 288 in 1963 to 769 in 1973. Settlements during that period increased from $1,405,000 in 1963 to $17,452,000 in 1973. The average claim paid in 1963 was $4,878; this amount jumped to $22,694 in 1973.

Citing malpractice insurance's poor loss ratio, some underwriters decided last year to get out of the market. Most notable was Argonaut Insurance Co., which requested rate increases of 200% and 400% in some states, and cancelled policies in others, as was done in New York and California.

Other underwriters stopped issuing new policies. St. Paul Fire & Marine Insurance Co. and the Medical Protective Insurance Co. both stopped writing new policies in Wisconsin for a period, a spokesman for the state's insurance department said, though both have since resumed underwriting.

**Most malpractice** policies were written on an occurrence basis, physicians being covered for all medical treatment he performs during the policy year, regardless of when the claim was filed.

This allows a long tail of liability to continue for years after a policy has expired, in some cases. Underwriters say the lag makes it impossible to predict reserves needed to pay out claims.

To combat the long tail liability problem of the occurrence policy, underwriters still in the malpractice market are switching to claims-made policies which cover physicians only for claims brought during the year the policy is in effect.

St. Paul Fire & Marine, one of the leading malpractice underwriters, will write only claims made policies as of June 1.

The ISO, which represents a large number of insurance companies, has also developed a claims-made policy for marketing in states where there is a serious availability problem for malpractice insurance.

Medical Protective Insurance Co., however, will continue to write occurrence policies "for the forseeable future," a company spokesman said.

"We have been studying claims-made policies and variations on them," he added, "but at this point we haven't found another form we're happy with."

**Both ISO and** St. Paul Fire & Marine spokesmen emphasized that claims-made policies are not the solution to the malpractice problem, not by any means. "They don't solve anything but the (immediate) cost problem," a St. Paul spokesman said.

Because losses will be easier to predict in a claims-made form, according to underwriters, rates are considerably lower than for occurrence policies.

AMA, however, has urged doctors not to accept claims-made policies.

Another proposed solution to the malpractice problem is the joint underwriting association or pool approach; wherein a state assigns malpractice risks to all liability underwriters doing business in the state. Some form of JUAs have been put into law in six states this year and are being considered by many others.

The AMA supports JUAs but only as a stop-gap measure. The AMA is "lukewarm about this approach," a spokesman said.

"There is a danger in the JUA approach in that it lets legislators off the hook," he continued, "and allows them to avoid facing up to their responsibility of changing a deficient system."

Yet another approach is a no-fault type of insurance for malpractice, which gets no nod from either AMA or HEW.

"No-fault doesn't work in this

*Continued on page 4*


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# *State medical groups forming own mutual carriers for malpractice risk*

NEW YORK—The formation of mutual liability insurance companies has been announced by a number of state medical societies in recent weeks, while state governments continue to study the possibilities of joint underwriting associations in an attempt to deal with the vanishing malpractice insurance market.

New York lawmakers passed a measure in late May establishing a joint underwriting association of 300 insurance companies doing business in the state. The law also sets a two and a half year statute of limitations with a maximum of 10 years in the case of infants, for lawsuits involving malpractice issues and provides for a board of professional medical conduct.

Physicians in Missouri, Maryland and Michigan are in the processs of establishing mutual liability insurance companies to provide coverage to members of the states' medical societies.

**The Missouri** State Medical Insurance Co. Inc. will offer from $100,000 to $300,000 in liability coverage to the 4,700 members of the state medical society. The company will also write a $5 million umbrella policy, Royal Cooper, assistant executive secretary of the state medical society told *Business Insurance.*

Operating on a for-profit basis, the insurance company will act as a broker for physicians. Policies will be written on a claims-made basis by Mutual Fire, Marine Inland Insurance Co. of Philadelphia with Shand Morahan & Co., Evanston, Il. as underwriting manager.

The firm of Rollins, Burdick, Hunter, Chicago, will act as administrator-broker, Mr. Cooper said.

Premiums for $100,000 in coverage range from $408 for class one physicians (general practitioners) to $5,328 for anesthesiologists and neurosurgeons.

"These figures are for physicians practicing in metropolitan areas," Mr. Cooper said. "Doctors practicing in rural areas will pay roughly 20% less."

The modified claims-made policy offers Missouri physicians a number of attractive features, Mr. Cooper continued, among them a "tail" policy at a cost of 10% of the annual premiums for nonpracticing physicians.

The Michigan Physicians Mutual Liability Insurance Co. is in the process of being approved by the state insurance department but plans to offer state physicians basic coverage up to $100,000 per incident and $300,000 for any one year.

**In Maryland** the Medical Mutual Liability Insurance Society was established after the legislature passed malpractice legislation authorizing mutual insurance companies.

Operating funds for the mutual will come from a $300 assessment for each of the 5,000 physicians practicing in the state. Premium rates and limits of coverage are still being negotiated, a spokesman for the state medical society said.

A bill which would freeze malpractice insurance rates at their current level until March 1976, under consideration by the Rhode Island legislature prompted a threat by St. Paul Fire & Marine Insurance Co., a major underwriter in the state, that it would discontinue doing business in the state if the measure becomes law.

St. Paul's policies for Rhode Island doctors it insured expired May 1 but the company agreed to an extension until June 30 while the state insurance department evaluates the company's rate request for claims-made policies.

Doctors are still on the picket lines throughout the state of California while the state legislature, called into special session by Gov. Edmund G. Brown Jr. studies the governor's nine point program for malpractice claims. ■

## *Hospitals . . .*

*Continued from page 3*

context," the AMA spokesman said. "You end up with a situation where every time medical care doesn't effect a cure, there's a lawsuit filed."

Caspar Weinberger, HEW Secretary has said a no-fault approach would be "impossible to price and difficult to administer."

The AMA is lobbying for a medical injury commission, similar to workers' compensation, with a schedule of benefits for injuries incurred. New Jersey Insurance Commissioner William Sheeran is one administrator who opposes such a solution. "Have you ever looked at a typical schedule for workers' compensation payments?" Commissioner Sheeran asked. "It's totally inadequate."

**The AMA is** seeking changes in the tort liability system, for example elimination of the "res ipsa loquitur" situation. This remedy would place the burden of proof on the plaintiff rather than on the defendant in medical malpractice cases.

Commissioner Sheeran, however, is wary of changes in the tort liability system. "The strong effort on the part of the medical profession to take away the tort rights of individuals should be looked at carefully," he said.

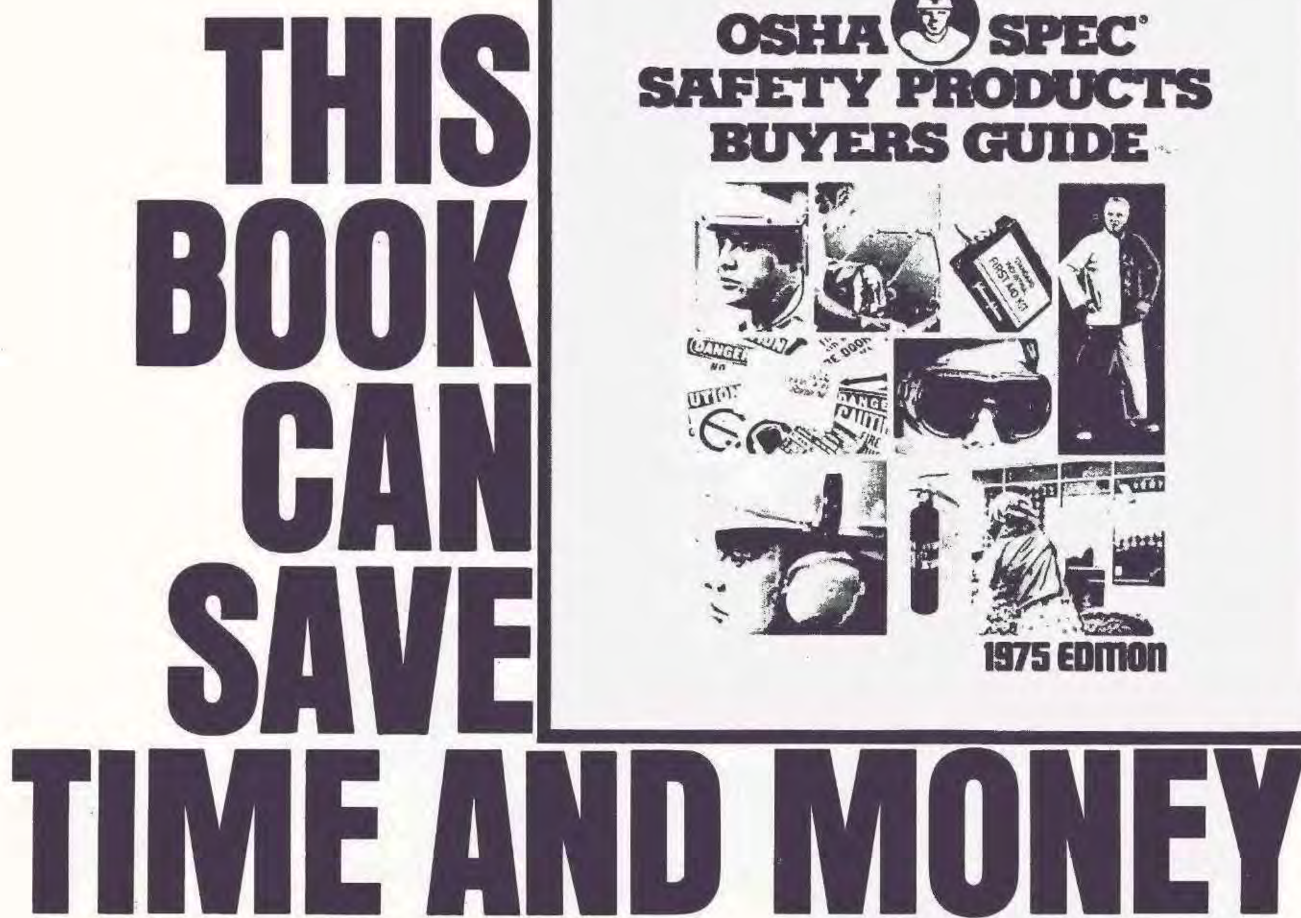
The National Assn. of Independent Insurers supports a program of solutions to the malpractice problem which includes:

- negligence on the part of a physician should have to be proved by medical testimony, not presumed.
- a defendant should be responsible for following only his community's accepted standards of medical practice.
- any promises, guarantees or warranties a doctor may make with respect to a cure or improvement in the health of a patient should be unenforceable unless provided in writing.

The Insurance Information Institute concludes that it is vital for the medical and legal profession to work together with the insurance industry to develop solutions to the malpractice problem. ■

## Sedgwick Forbes in Middle East venture

Sedgwick Forbes, international insurance broking group, established Sedgwick Forbes Middle-East Ltd. to bring international insurance and reinsurance services direct into the rapidly developing area of the Middle East. Six offices have been opened in Riyadh, Jeddah, Cairo, Abu Dhabi, Bahrain and Beirut. The company is a joint venture between Sedgwick Forbes Holdings and a group of multinational Arab partners, who are consultants to Western and Arab industry and commerce in the Middle East.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# INA losing big business accounts, but sticking with premium rate hikes

By MARIE KRAKOWIECKI

NEW YORK—The Insurance Co. of North America lost about $40 million in big commercial accounts as a direct result of a program it launched two years ago to hike premium rates on third party liability lines, *Business Insurance* learned.

INA is standing firm behind its decision to audit premiums to keep them up, however, particularly in general liability and group auto.

According to Bernard A. Buge Jr., executive vp, INA would rather "walk away" from an account than accept business for which the premium was set at an unacceptably low level.

Hardest hit by the toughened corpoate policy on pricing (a policy generally ill-received by risk managers, insurance buyers and brokers) is the New York service office, headed by resident vp Leonard Cummings.

Last year New York lost between $10 million and $15 million in commercial accounts. This year, the figure (net) is already running near $8 million for three lines.

**"There's no question** that Mr. Cummings has borne the brunt of the losses of all our service offices," Mr. Buge said during a visit to the New York office where he was to attend a board of directors' meeting.

"We had difficulty convincing our own people to get this system in effect, so you can imagine the impact it had on an office like New York. New York is the most competitive place in the country. It's really a wild and woolly market, with characters coming out of the woodwork offering unrealistically low prices.

"Why you could probably walk across the street and get a million dollars worth of coverage for a $250 premium from somebody. That just doesn't make sense. Underwriters have to be ready to walk away from this kind of thing. We've got to get away from the donor-line concept," Mr. Buge said.

In commercial third-party liability lines, INA has lost money for the past six years. "That's a pretty unattractive record and we are trying to do something about it," Mr. Buge said.

He explained that in 1973, INA began looking closely at premiums it was charging for general liability and auto in its commercial lines.

**"We were amazed** to discover that on our experience-rated risks with various companies, the final premium we were utilizing in relation to the manual premium had a percentage increment of 54%. Our field underwriters were looking at the manual premium as a ceiling instead of a floor when they were setting charges."

The manual premium Mr. Buge referred to is the rate set down in the Insurance Services Office's book of standard rates for certain classes of insurance. The INA official maintains that the ISO's information is so incomplete as to sometime make the manual "a work of fiction."

What the INA executives wanted to do was establish a procedure which would strictly monitor how its field underwriters were establishing premiums.

In 1973, the company stripped its national accounts division ("the elite guard, the swingers of this end of the business," Mr. Buge dubbed them) of all underwriting and price-setting duties.

Instead, they handle marketing functions and claims services for customers. When it comes time to set the premium they must turn to INA's various product line offices—which stand firm on pricing.

He said the system has worked pretty well in establishing lines of communication between insurance buyers and INA, because of the direct personal claims service contact the buyers get from the national accounts division people.

But because of the firmness of the pricing, even this new system has had its share of lost business for INA. Last year, INA was pleased to win the account of a quality third-party liability risk located in the midwest. It was one of the largest accounts the company got under the new set-up.

**However, when** renewal time came up April 30, the midwest risk dropped INA (which had charged it an $88,000 annual premium) in favor of going to a competitor insurer which only charged $30,000 for the same coverage.

"I was shocked," Mr. Buge recalled. "But we know that our $88,000 charge was a fair one, and we wouldn't have lowered it in any event. At least we managed to keep the general liability portion of that account."

To keep field underwriters from charging too low a price, INA has set up a system under which field underwriters must send in monthly "rated risk reports" for each piece of business.

The report is sent to an auditing team at INA's home office. "Our guys in Philadelphia go over those reports if they see that the field underwriters have been on a give-away, they send an auditing team out there, zap, and get things back on the right track," Mr. Buge said.

Mr. Buge said that in the two years the monitoring program has been in effect, INA has managed to close the incremental difference between actual rates charged and manual rates dramatically.

"We've moved that 54% incremental rate I mentioned to you before to a 98.9% on a rated risk for the first three months of 1975."

One of the biggest problems in pricing that INA says it faces is in the workers' compensation area.

"There is a true rate inadequacy in the workers' comp area," Mr. Buge complained. "I won't mention the state, let's just say it's a midwestern one, but they approved an 88% benefit increase for workers' compensation. Do you know what we got for a rate increase at the same time? Only 24%."

On a typical risk ("if there is such a thing") with limits of $150,000, workers' comp would usually account for $100,000, while general liability and commercial auto would each account for $25,000, Mr. Buge explained.

Using these numbers, just how high has INA gone in firming its pricing?

"Well, the movement of rate increases for compensation is slight —maybe 10%," Mr. Buge esimated. "But on general liability and auto, it's higher. Your overall increase may approximate 20% or 30%. Of course, if you consider the 18% inflation rate that has been running over the past two years, that amount right off the top is due strictly to inflation. And the remainder of the increase is being applied mainly to lines that were deficiently priced to start with." ■


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# Marine hull losses . . .

Continued from page 1
about this very issue. I really don't know what any of it will mean yet," he said.

William H. Rodda, president of the Chicago-based Marine Insurance Handbook Inc., is not as sure as Mr. Potts that the new law will make any concrete changes in marine premium rates. But he agrees with the MOAC head in his feeling that litigation in marine collision cases will be greatly increased.

Mr. Rodda said he didn't think the law would have a long range effect on marine insurance because the Supreme Court's position in this case is just a reflection of the way common law is being interpreted across the land, with the concept of comparative negligence gaining wider and wider acceptance.

"Even under the old rule, if one ship was wholly at fault, then all damages would be paid by that ship," Mr. Rodda pointed out. He admitted, however, that it was very difficult to prove one wholly responsible for damages in a court of law.

Joseph DeCaminado, general counsel for Atlantic Cos., which includes marine underwriter Atlantic Mutual Insurance Co., New York, echoed Mr. Rodda's opinion that premium rates would not be immediately affected by the Supreme Court's rule. But he said it could result in a "more equitable distribution of premiums" over the long haul.

"As you look down the road a bit, if you have a fleet involved in a number of collisions and it seems to be continuously at greater fault, its premiums will probably go up. But for a fleet continuously not negligent, the opposite would be true," Mr. DeCaminado said.

Few of those interviewed were able to make any flat statements about how the rule might affect marine risk management and safety programs, but the general consensus was that it could only help, not hurt the present situation.

**MOAC's John Potts** commented: "All your steamship companies are going to say they already are safety conscious, that they already follow the best risk management procedures.

"But if, say, a particular steamship company starts to feel the financial pinch after being found 90% liable in a collision case, well, it's pretty sure that company will have greater incentive to look at its risk management and safety training of personnel more closely."

The case which spurred the Supreme Court to let the U.S. join other maritime nations in adopting the comparative negligence admiralty standards set down by the Brussels liability convention of 1910 was brought by the U.S. government in docket 74363 on behalf of the Coast Guard.

It was an appeal from a lower court decision in which it was held that damages to the ship Mary A. Whalen, owned by the Reliable Transit Co., New York, and grounded off New York harbor during a storm, were caused 25% by the Coast Guard and 75% by the Whalen.

Even though the lower court established that the burden of fault was the Whalen's in the celebrated 1968 incident, it ruled that each party should pay half the damages because of the 121-year-old admiralty rule. The Supreme Court, however, struck down this decision and sent the case back to the lower court for further proceedings consistent with its new opinion.

It countered objections that the courts will be overrun with litigation cases for ship collisions. "Congestion in the courts cannot justify a legal rule that produces unjust results in litigation simply to encourage speedy out-of-court accommodations," Justice Stewart Potter wrote in the decision. ■

# A&A . . .

Continued from page 1
underwriter for a quote, Mr. Ackerman said. Fireman's Fund, the insurer for 62 years, lowered its rates when it found out about the competition, he said.

"A&A's testing of the market showed that our rates were higher (than they should have been)," the director of insurance said, and "that presssure on Fireman's Fund caused them to reduce our costs." Westinghouse wrote a broker of record letter on the same day that the rate change went into effect.

**Besides the cut** in premiums, Alexander & Alexander streamlined administration of the policy with a simplified rate schedule that includes a block war risk cover offering a flat premium charge for coverage of cargoes regardless of war risks at the destination, according to Mr. Ackerman.

The premium for risks associated with overseas shipping of heavy equipment, such as turbines and generators, is in the range of $750,000 to $1 million, industry sources told this magazine. "The limits are high enough to cover, on a replacement basis, anything we might ship," Mr. Ackerman said. As with most marine cargo insurance, there are no deductibles.

In gaining the account, A&A did not reduce its commission rate, according to Mr. Isacsen. ■

# $7 million . . .

Continued from page 1
ITT, the parent company, has outside liability limits which extend up to $100 million, it is known.

Johnson & Higgins was the broker for the Aetna policy in effect at the time the claim was incurred. ITT-Sheraton now works with Frank B. Hall on its liability coverage.

The award went to Thomas Hooks and his family of Venice, Il. Mr. Hooks, then 18, was attending an Explorer Scout convention at the time of the accident. Young Hooks is a quadraplegic confined to a wheelchair. He spent over a year in hospitals. He was an outstanding youth who had been slated to become national Explorer Scout president.

**Both the manufacturer** of the diving board and the manufacturer of the swimming pool were dismissed from liability.

As a result of the accident, ITT-Sheraton has a corporate policy of removing all diving boards from all Sheraton hotel swimming pools, Mr. Dyer said. Sources close to the company said the hotel chain had had several other diving board accidents around the time of the Sheraton Park Hotel accident.

The lawsuit contended the diving board's springiness made it unsafe for pools being used by inexperienced divers.

Aetna Casualty & Surety has insured the all-risk blanket package coverage on 54 ITT-Sheraton locations since late 1970, when the company consolidated its programs. The casualty coverage had previously been underwritten by American Mutual Insurance Co.

The jury's award is subject to review by the judge who can accept it, modify it or reject it. ■


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# Unions attack airlines for mutual aid pact protection against strike losses

WASHINGTON—Airline industry labor unions went to the Senate Commerce Committee last month with their fight to ban the airline mutual aid agreement, a mutual arrangement among 16 commercial airlines that provides financial aid in the event of a strike.

Sen. Mike Gravel (D-Ak.) submitted a bill (S. 306) that would terminate the Mutual Aid Pact.

Raul R. Ignatius, president of the Air Transport Association (ATA), the industry group representing the airlines, said the agreement "does not give airline management undue leverage in the collective bargaining process and most certainly does not assure profits for the airline as a result of the strike.

"The need for protection against strike losses," Mr. Ignatius told Sen. Howard W. Cannon (D-Nv.), is necessary because an airline, unlike companies in many other industries, cannot stockpile its product and ride out a strike."

**To illustrate** the airlines' strike loss problem, Mr. Ignatius said that since 1958 strike losses for the 16 airlines totalled $714.3 million. Mutual aid payments under the agreement amounted to only $365.2 million during that period.

"In no other industry is an employer mutual asssitance arrangement subject to anything approaching the same kind of official, public scrutiny as the airlines mutual aid agreement," he said. "Even the railroad industry's mutual strike insurance program is operated free of government oversight."

He said mutual aid is necessary if the airlines are to maintain even a semblance of influence over their labor costs, which are about 40 percent of their total operating costs.

"Undue restriction on the right of the airlines to protect themselves as do other industries would be completely discriminatory, unfair and unjustified," he said.

The agreement provides two forms of payment as a type of specialized business interruption insurance.

First, a payment is made on the basis of the "additional traffic" concept. A member carrier that gains traffic as a result of the shutting down of another carrier pays the struck member the difference between its increased revenues and its increased costs attributable to the increased traffic.

**These benefits,** Mr. Ignatius said, provide inadequate protection because they are effective only when the major competitors of the struck airline are members of the mutual aid pact.

A second payment, known as "supplemental payments," is therefore available, he said.

The maximum obligation of each member to make supplemental payments is limited to one percent of each member's air transport operating revenues for the preceding calendar year.

Supplemental payments are made when necessary to assure that, together with additional traffic payments, the struck carrier receives a percentage of its normal operating costs for the flight operations shut down, according to a schedule that starts at 50% of costs and decreases over the length of the shut down to 35% of costs.

The Civil Aeronautics Board previously has refused to bar the mutual aid agreement, as have recent federal court rulings. A bill to bar the agreement has not previously reached the floor of either house of Congress.

The hearings last month were actually the first time the question has reached that stage of the legislative process.

The 16 members of the mutual aid pact are American, Braniff, Continental, Eastern, Frontier, Hughes Airwest, National, North Central, Northwest, Ozark, Pan American, Piedmont, Texas International, Trans World, United and Western Airlines. ■

# Voters work for patients' rights law

WEST COVINA, CA.—The Patients' Rights Initiative, a measure that would give persons victorious in medical malpractice suits the right to collect at least 90% of the award or settlement, is gathering voter signatures in preparation for qualifying for the statewide November 4th election.

In California, laws can be passed by the initiative process as well as by the state legislature. To be placed on the ballot by Nov. 4th, the Patients' Rights Initiative needs 312,404 valid voter signatures, according to Dr. William McColl, M.D., an orthopedic surgeon and one of two physicians who are authoring the initiative.

He told *Business Insurance* that if the initiative failed to make the Nov. 4th election, it will be placed on the ballot next June.

Dr. McColl called the initiative "pro patient" rather than anti-attorney.

**However,** literature supporting the initiative asserts that the attorneys' contingency fee system is a contributing factor in the medical malpractice crisis and a "rip-off" of insurance companies, physicians and injured parties.

A full-page advertisement in the April 2nd edition of the Los Angeles Times bears the headline that "patients, not attorneys, (are) entitled to a lion's share of settlements."

A chart appearing in a mailing from the initiative's backers makes the same point. It uses figures from an actual 1974 case that produced an award of $1,600,000. Costs, according to the chart, ran to $8,000. But while the attorney's fee under the contingency system totaled $500,000 in the actual case, the same fee is shown in the chart to be a slim $159,200 under the Patient's Rights Initiative.

And the net amount of money going to the patient would have been $340,800 more with the initiative or $1,432,800 versus $1,092,000. ■

## Keen liability interest

Taisho Marine and Fire Insurance Co. of Japan is "keenly interested in product liability matters both in the U.S. and in Japan," said a spokesman in response to a newly-released translation of **Products Liability: Guide for Management,** sanctioned by the Defense Research Institute of Milwaukee. "The translation is one demonstration that products liability has international implications," commented an Alabama attorney.


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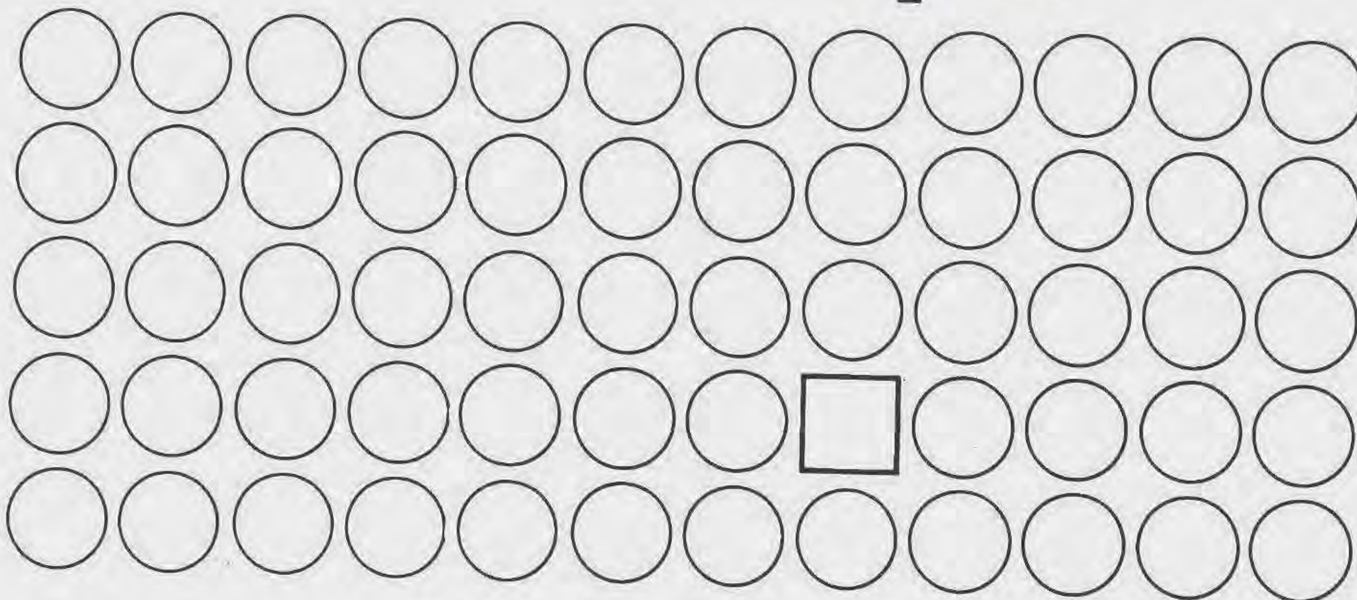

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• Kwasha Lipton's **International Employe Benefits** service is described in a free brochure available by writing to Henry F. Magnusen, Kwasha Lipton Inc., 429 Sylvan Ave., Englewood Cliffs, Jersey, 07632.

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

• The long-time availability of legal insurance in Europe is discussed in a study published by the American Bar Foundation. **Legal Expense Insurance: The European Experience in Financing Legal Services**, by Werner Pfennigstorf, points out that the contingency fee system in America eliminates the need for the basic ingredient in European legal insurance—payment of costs incurred in prosecuting damage claims against third persons. Copies of the 117-page paperbound book cost $3. Write to the author at the American Bar Foundation, 1155 East Sixtieth St., Chicago, Il. 60637.

• **Health Maintenance Organizations: Viewpoints and Considerations**, by Dan Maruna, is available from Protech Publications. The book costs $4, but there is a 25% discount to *Business Insurance* subscribers. To order, write to Protech Publications, 2182 Dupont Dr., Irvine, Ca. 92664.

• **Risk Management by Mandate** provides a chronology of federal safety and health legislation from the beginning of workers' compensation laws through the enactment of the OSHA Act of 1970. Included are chapters on consumer and product liability and environmental and health risks. Copies are $5.95 plus shipping. Write: Management Research & Development Institute Inc., 321 E. William St., Wichita, Ka. 67202.

• Zurich-American's **Top Security Multi-Peril Policy** explains the plan's board, flexible insurance program. The policy can be tailored to the needs of business situations and a variety of deductibles and coverages are available. For your free copy write Zurich-American Insurance Cos., 111 W. Jackson Blvd., Chicago, Il. 60604.

• **Fire Protection Trends**, a bimonthly newsletter published by the Sierra Group, a nationwide fire protection consulting engineering organization, contains news items concerning developments in the fire protection field. To be placed on the mailing list without charge, write Kenneth E. Berg, The Sierra Group, 145 Natoma St., San Francisco, Ca. 94105.

• **General Industry OSHA Safety and Health Standards Digest**, prepared by Mandata Inc., is an alphabetical digest covering approximately 90% of the OSHA standards for general industry. Written in non-technical terms, it also contains a standards source keyed to the official standards in the Federal Register. To obtain a free copy write to Debi Signor, Mandata Inc., P.O. Box 10940, Houston, Tx., 77018.

• **Catastrophe Protection for Banks** and other financial institutions is a magazine article reprint written by the president of Wohlreich & Anderson Ltd. He warns insurance managers not to rely on industry insurance guidelines alone. He provides and discusses a detailed coverages checklist suggested to supplement guidelines in determining catastrophe insurance needs for financial institutions. For a free copy write Anthony Bova, Wohlreich & Anderson Ltd., 55 John St., New York, N.Y. 10038.

• Almost 200 **Ports of the World** are described in a new 10th edition of a 74-page booklet prepared by the Insurance Co. of North America. Thumbnail descriptions of ports—including ones in Russia and Red China—give information on discharge facilities, labor and handling conditions, delay and congestion problems, pilferage and damage hazards, and climate. Also, it gives tips for cutting losses from pilferage, theft, non-delivery, handling and stowage damage, and water damage. Containerized and air cargo shipping are also covered. Free copies are available from SuperService, Insurance Co. of North America, 9th floor, 1600 Arch St., Philadelphia, Pa. 19101.

• Equitable Life Assurance Society of the U.S. has published an extensive survey called **1973 Hospital Room & Board Charges.** The survey is based on data from 1557 short-term general hospitals, providing weighted average charges for private, semi-private and intensive care accommodations in 581 cities. State and national averages are also included. For a free copy write John Goddard, Equitable Life Assurance Society, 1285 Ave. of the Americas, New York, N.Y. 10019.

• 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 and self-insured coverages. The type and frequency of computer reports needed are included. For a free copy write Marvin Gwinn, Corporate Systems Corp., Box 2827, Amarillo Tx. 79105.

# Labor Dept. holding off on ERISA regulations

WASHINGTON—The U.S. Department of Labor is waiting to see how the private pension and welfare plan industry reacts to the fiduciary standards of the new pension reform law before it formulates any tough set of regulatory standards.

Paul J. Fasser Jr., Assistant Secretary of Labor, made this point to a group of labor law practitioners of the American Bar Assn.

Mr. Fasser said the industry's adherence—or avoidance—of Employe Retirement Income Security Act guidelines would mold the Labor Department's enforcement policy.

"If the industry generally accepts the standards and applies them with a minimum of the sort of impropriety we can expect from an imperfect human nature, we can assume relatively light regulatory control will prevail," he said, adding:

"If it does not, and makes concerted attempts to evade or avoid the standards, we can expect demands for more and more rigid regulation."

**He told the** lawyers that "expert" advice attorneys give to those running pension and welfare plans might make them fiduciaries under the new law.

"To the extent that the labor law practitioner advises his client and, in many cases, handles directly plan reporting and other aspects of plan management, his responsibility can be considerable and exacting."

Mr. Fasser described the agencies within the Labor Department and the Internal Revenue Service which will be responsible for the enforcement of ERISA.

The Office of Employe Benefits Security (OEBS) has been set up in the Labor Department to handle reporting and disclosure requirements and fiduciary standards.

Within the IRS, the Division of Employe Plans and Other Exempt Organizations will administer vesting, participation and funding standards for pensions.

**A separate** and more publicized entity, the Pension Benefit Guaranty Corp. (PBGC), will assure most pension plan participants of their benefits if their plans go bankrupt.

The IRS and the PBGC are concerned only with pension plans, while the Labor Department will be concerned with pension plans plus all kinds of welfare benefit plans ranging from health insurance to pre-paid legal service and apprenticeship programs, Mr. Fasser told the ABA group. ■

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# Broker sees R&D losses as excluded

DALLAS—Research and development loss expenses cannot be included under business interruption coverage unless a specific piece of equipment is produced, according to Robert W. Walker, vp with Marsh & McLennan, Los Angeles.

"It's hard to project losses for research and development," Mr. Walker told members of a working seminar on business interruption insurance at the 13th annual Risk & Insurance Management Society conference here.

"Usually (research and development) is just thinking and planning," he said.

Another factor in establishing the loss under business interruption coverage is "the actual income that would have been earned," Mr. Walker explained. "If an industry is in a slow-down, then there's a question of what profits were slumped.

"It doesn't really cover loss of profits because it doesn't cover loss of customers," he added.

Frank Gray, Underwriters Adjustment Bureau, Montreal, said that in Canada the standard English business interruption form also is offered, which includes a loss of goodwill of customers as a result of the loss within a certain time limit. ■

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## editorial opinions

# Stand up and be counted, benefits managers

WHEN THE Employe Retirement Income Security Act was signed into law under a bright sun in the White House's Rose Garden last September 2 many sighs of relief were released. The law may not have been all things to all people but it was law now and it could have been worse.

Now that the dust has settled, many are saying that it couldn't have been much worse. At a meeting with White House aides the other day, for example (*Business Insurance* May 19), several corporate executives and their pension consultants painted a rather grim picture of what ERISA has wrought.

One consultant told the officials he has been advising trustees of multiemployer pension plans to resign. Another predicted that contributory pension plans covering as many as one million persons may terminate this year. A banker said he foresees a major, and possibly permanent, shift of pension fund money from troubled equity markets to debt markets.

The message left behind in the White House, relates our Washington editor Richard L. Gordon, the only member of the news media present, was that the pension officials want someone inside government to have an overview of what ERISA is doing to their industry. And, he adds, they want someone in government to start thinking long term about where pension funds will fit into an eventual national retirement system, as well as where pension fund assets will fit in the long range plans for meeting the nation's capital needs.

■ Quite clearly, ERISA has taken its toll. The subtle pressures on the industry at this time may seem overblown to some—and indeed they may be at this particular moment—but many of the winds that are blowing could nevertheless lead to a form of mass panic in the nation's private pension system.

In our opinion, it would be much wiser for many of the prophets of doom to redirect their energies in more positive directions.

Many of the doomsayers should be rolling up their sleeves and getting down to Washington where Rep. John E. Dent (D.-Pa.) and his House subcommittee on labor standards held "oversight" hearings in late April and early May.

Though the key legislators involved in the development of ERISA have been deluged with letters of complaint about various problems with the law, not one corporate pension fund official showed up to testify at the oversight hearings. Industry-related organizations such as the American Bankers Assn. and the Securities Industry Assn., did their best to outline the problems with the law at the hearings, but where were the corporate fund officials who wrote all those letters?

■ According to our information, some of the letter writers got personal invitations and begged off. How can the reformers take the industry's problems to Congress if fund officials are so little concerned about them that they won't stand up and speak out?

The meeting at the White House the other day was a start, of course, for it did bring many corporate pension officials and their consultants to Washington. But there is much more to be done, and it appears that the impetus for "reform" of the reform law will have to come from Capitol Hill, not the Oval Office.

There are indications that the House may act on several fronts if enough legislative pressure is brought to bear. The committee, for instance, might be willing to draft amending legislation that would more precisely delineate fiduciary liability, as well as examine the problems surrounding fiduciary liability insurance. The major problems encountered by funds in meeting record-keeping requirements is another hot area. The ranking Republican on the committee, John Ehrlenborn (R.-Il.) has also indicated a willingness to attack plan termination insurance and its 30% contingent liability feature. Dent's committee, too, may be willing to reexamine minimum funding rules under the measure.

It appears, then, that the pension industry (including corporate, union, multiemployer and association plans), as well as fields related to these, have the ear of some influentials on Capitol Hill.

Now is the time for an all out assault by those who would argue with the elements of ERISA that have put a burden on and indeed threatened the nation's private pension system. It's time to stand up and be counted.

# Reward responsibility

IN A WISE though belated move, the United States Supreme Court has reversed an 1854 decision stating that two ships which collide at sea must divide the resulting damage expense equally, regardless of whether one was more responsible for the accident then the other.

The new decision, a 180-degree turn for the Justices, holds that financial responsibility for a collision at sea should now be divided proportionately among the two or more parties involved, depending on the degree of fault of each of them.

The U.S. joins 38 other nations in adopting this attitude towards fault at sea (England dropped the prevailing English rule of division of damages in 1911).

"It is no longer apparent, if it ever was, that this Solomonic division of damages serves to achieve even rough justice," Associate Justice Potter Stewart wrote in the unanimous court decision.

"An equal division of damages is a reasonably satisfactory result only where each vessel's fault is approximately equal and each vessel thus assumes a share of the collision damages in proportion to its share of the blame, or where proportionate degrees of fault cannot be measured and determined on a rational basis," Justice Stewart wrote. The opinion is certain to spark a rash of appeals on other marine cases previously adjudicated.

The new rule is bound to have an impact on the management of risks at sea. Responsible ship owners who exercise the utmost diligence in plying the world's seas should applaude it. Less responsible operators should become more responsible because of it.

## 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.*

### In explanation

To the Editor: I would like to correct statements attributed to me in the May 5, 1975 issue of *Business Insurance* concerning gas industry insurance costs. In the first paragraph of an article on page 38, I am reported to have said that the gas industry's largest cost of doing business—by 30%—is insurance coverage. This, of course, is manifestly untrue. Compared to the cost of drilling wells, laying transmission lines, building compressor stations, etc., insurance costs have traditionally been a relatively minor part of our operating cost. What I did say was, considering the energy crisis and the highly regulated state of the gas business, that for the first time certain insurance costs would be given higher visibility in the regulatory hearings and other consumer forums. The outstanding example I gave was that the largest single operating cost of the 125,000 cubic meter LNG tankers that will come into service transporting gas from Africa to the United States East Coast is, by more than 30%, the cost of insurance. This just happens to be the first of a new generation of insurance costs that will have a much higher profile than they have had in the past. To the extent that the commercial insurance markets will make coverage available to the gas industry, another instance will undoubtedly involve the insurance costs for $700 million coal gasification plants coming on line in the next five to ten years.

In another paragraph in the same article, I am quoted as giving the values of the LNG supertankers as $250 million. The figure should be $150 million.

**A. Gordon Hanau**
Manager of Insurance, Consolidated Natural Gas Service Co., Pittsburgh, Pa.

### Our man in Atlanta

To the Editor: While reading *Business Insurance*, week of April 21, 1975, I noticed an erroneous reference in the article appearing on page 25. Mr. Joseph M. Collins, mentioned in column three as "Coca-Cola's insurance manager," is the insurance manager of The Coca-Cola Export Corp., a wholly owned subsidiary of The Coca-Cola Co., administering the foreign operations of the company.

The Coca-Cola Co.'s corporate headquarters general insurance department is managed by Mr. William H. Quay, Jr. Mr. Quay is re-

*Continued on page 16*

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# Fresh approach is the goal for Penney's benefits

By PAUL R. MERRION

NEW YORK—Even though employe benefits at J.C. Penney Co. Inc. will stay as they are pending a turnaround in the economy, big things are happening behind the scenes.

"In a recessionary year, we can't even begin to contemplate improvements that would increase company costs," says director of compensation and benefits Niels H. Neilsen.

But his eyes light up when he talks about other changes in employe benefits, changes that could go to the roots of corporate thinking on what attracts, holds and motivates employes.

The retail store chain has a long history of original thinking about the relationship of workers to the company, going back to James Cash Penney himself, who called all his employes "partners," no matter how menial their jobs. When the chain grew, it became impractical and meaningless to say that, so now, all employes are called "associates."

That fresh look at things is continuing with Mr. Neilsen, whose diverse work background provides skepticism of traditional methods. He always questions the way things are done, and, he says, "I'm not accepting answers like 'It's always been done that way.' "

**His previous** work experience—which includes marketing and computer systems—also has an effect on the way he directs the benefits operation.

A major accomplishment of the past year was the production of "Highlights," a brochure that summarizes the complete benefit program and makes it not only easy to understand, but interesting. "We're trying to market benefits, not just communicate them. That's the kind of thing that is really a turn-on," Mr. Neilsen says.

He compares the "Highlights" booklet to a useful owner's manual, rather than an incomprehensible and dull mechanic's manual.

But even more fundamental changes are brewing at J.C. Penney. "It helps to have a larger perspective," Mr. Neilsen says. He says he's asking basic questions such as, "How do we measure what we get for our benefit dollar?" and "What do the employes get out of our program?"

What this means is that the J.C. Penney employe benefit department is "thinking deeply about employes' value systems," he says. It all boils down to the basic question, "How do you set up an employe benefits program so that employe goals are consistent with corporate goals?" Mr. Neilsen says.

One way to find answers to these questions is to survey the employes, a practice that J.C. Penney has used for years. However, Mr. Neilsen is planning to use a market research firm to do a survey based on market research principles and techniques, in order to obtain a more accurate reading of the employes' feeling about their benefits. "Marketing research people have the ability to ask the right kinds of questions and to use computer systems to come up with meaningful results," he says.

**Another example** of a fresh approach to employe benefits is an efficiency move started last summer and completed by yearend. The long-term disability claims handling procedure was overhauled with the result that the lag between the filing of a claim and the time when compensation starts arriving was reduced from six weeks to less than two.

The previous system used preliminary forms which were used

## letters

*Continued from page 14*

sponsible for the risk management of The Coca-Cola Co., and its domestic subsidiaries, throughout the entire United States.

Incidently, Mr. Quay is a charter member and helped organize the Atlanta Chapter of the Risk and Insurance Management Society. He served as the chapter's second president and was on the national board of directors for seven terms.

**Gretta S. Wray**
Sr. Insurance Analyst, The Coca-Cola Co., Atlanta, Ga.

### Any CPCUs or RMs?

To the Editor: Your April 21 issue listed an imposing group of topnotch risk managers, whom you see as 'foremost'. By now, I warrant you have a nice stack of new nominations.

Also, are you telling us something about professional designations when you note nary a CPCU or RM among them?

Let me say, nonetheless, that you chose well, and Houston is proud to see two of its own in the top eighteen.

**Vincent Williams**
Insurance Manager, First City National Bank of Houston, Houston, Tx.

*Editor's note: Good point, Mr. Williams, about the professional designations. In fact, four of the risk managers on our list of 18 have the CPCU designation, and three are Associates in Risk Management. But, even more important, nearly every individual is committed to further education. Many have taken several of the CPCU and risk management courses, several are certified safety professionals, several have law degrees, and nearly all have taken graduate business courses, usually in finance. Three people on our list taught the Insurance Institute's risk management courses.*


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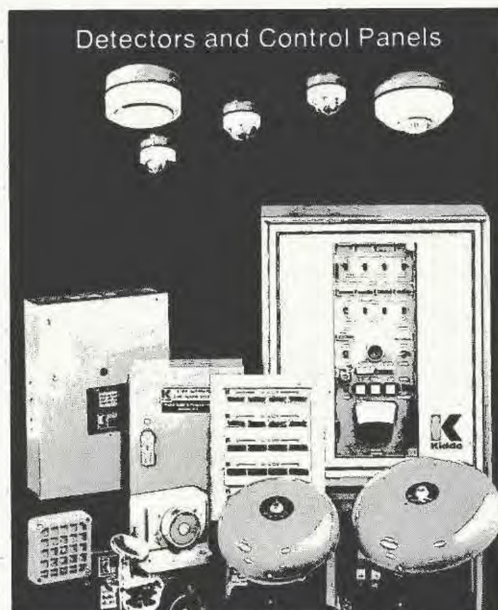

Portable Extinguishers

by the benefits staff to fill out other forms, thus causing an unnecessary delay, not to mention the unnecessary paperwork. Penney's in-house systems analysis team was called in, and they consolidated the four complex claims forms into one simple form.

This move, which not only improved service to employes by getting their benefits to them faster, had the added pleasant effect of making the benefits workers' jobs less tedious by eliminating much of the paperwork. In fact, the procedures now in use save about 100 man-hours a week, Mr. Neilsen says. Thus, the new system actually saves money for the company, instead of being an expense.

**And J.C. Penney** has a good place to use those savings. Being a retail firm, with many part-time employes, Penney is facing nearly $5 million in extra pension costs in 1976 because of earlier eligibility and vesting requirements under the pension reform act. That amounts to about a 14% increase in costs, according to an official in the pension department.

Penney's eligibility requirement was previously 35 hours per week, which must be reduced to 20 hours per week under ERISA's 1,000 hours-per-year rule. And the company is opting for 10 year vesting because "it does the most for employes in the least time," Mr. Neilsen says. Previous vesting rules required 15 years of service at age 45, or 10 years at age 50. Another portion of the added pension costs will come from "the immense increase in administrative work," the compensation and benefits director says.

Besides the pension plan, Penney has a savings and profit sharing plan, which had a 10% increase in employe contribution last year, he says. The company matches about 50%, depending on corporate profits, of the employes' share (up to 6% of earnings), and it is invested in Penney stock while the employe's share can go into company stock, a growth stock account or a fixed-income securities account.

On the whole, the J. C. Penney benefit menu has all the usual offerings, with a few garnishes to make it more appealing than the average retail chain's program.

**For instance,** the company instituted a dental program four years age (insured with Equitable Life Assurance Society) that covers those enrolled in the medical plan, which is also insured by Equitable. The plan pays 80% of most dental expenses, and 50% of items such as bridgework, crowns, and other precision attachments. For this coverage, an employe with two dependents pays $3 per month, and there is a $35 deductible.

The hospital-surgical-medical plan insures the employe for 120 days of semi-private care and all other expenses in that time, after which the employe pays the first $25. For this coverage, an employe with two dependents pays $10.75 a month. The plan also pays 80% of major medical expenses.

Long-term disability benefits, administered by Prudential, are self-insured through a 501(c)(9) trust. Prudential also is the insurer for term life insurance, which costs 35 cents a month for each $1000 of insurance, and accidential death and dismemberment coverage. Supplemental life insurance is carried by the Aetna Life Insurance Co. ■

# Anti-hijack security at U.S. airports is paying off

WASHINGTON—Tough management of hijack risks at commercial airports in the United States paid off last year, the Federal Aviation Administration (FAA) said.

As many as 25 potential hijackings were averted and a vast stockpile of illegal weapons was seized, according to the FAA.

For the second year in a row, there were no successful hijackings of U.S. aircraft. Only three hijack attempts occurred.

By comparison, the FAA said there 27 successful and unsuccessful hijackings of U.S. aircraft in 1972 before the new security measures were implemented in early 1973.

The FAA said two major problem areas will receive attention in 1975—cargo security and aircraft sabotage.

**Noting that** a bomb explosion destroyed a Trans World Airlines jetliner near Greece last year with the loss of 88 lives, the FAA said that "significant progress is being made to develop effective explosive detection techniques and devices that can efficiently screen both checked baggage and cargo.

"Such devices are being put in use," the FAA said, "but research to find better and more efficient systems will continue."

In a separate development, the FAA ruled that only radioactive materials for medical or research use will be allowed aboard passenger carrying airliners.

The shipper of the radioactive goods must certify in writing that the cargo is intended for such uses before it will be allowed aboard.

The new rule is more restrictive than earlier procedures and comes about after sharp criticism from airline pilots about the FAA's hazardous cargo rules. ■


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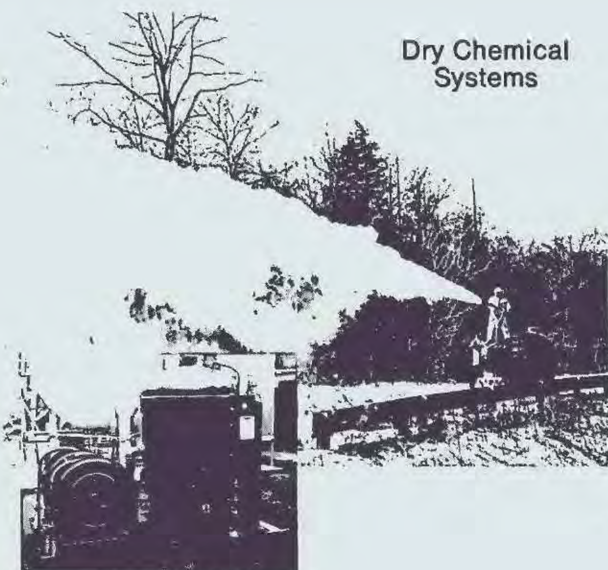


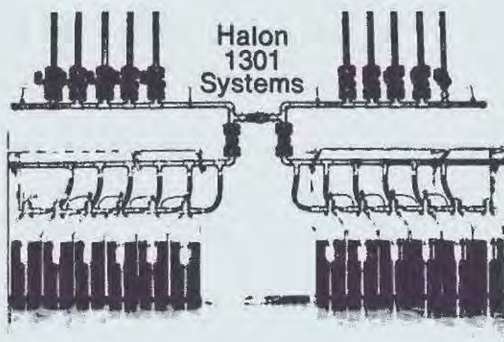


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# State oil spill insurance is called 'unnecessary'

LOS ANGELES—Edward J. Kettel, insurance manager of Atlantic Richfield Co., told a meeting of Town Hall that the creation of a $35 million oil spill liability fund for the state of California is probably unnecessary.

He was speaking on the topic of oil spill insurance and California Senate bill 387 which would set up a $35 million state oil spill liability fund (*Business Insurance*, March 10).

He said the insurance to guarantee the payment of claims to the public and to cover the cost of containment and clean-up is already available.

Acknowledging that there is much activity by the petroleum industry to promote a 'super fund' to cover the costs of claims and clean up on a national scale, Mr. Kettel cautioned that if each state with shore lines or riverfronts were to establish trust funds for oil spills, "oil industry exploration expenditures could be inhibited due to reduced cash flow."

Chief among the reasons why no state fund is needed, he said, is that "according to our latest information there are 100 clean-up cooperatives in the United States.

**"These cooperatives** in most instances have equipment and standby crews available for oil spill casualties while the others have contracts to provide manpower and equipment when necessary. The petroleum companies provide the capital and pay the operating expenses to these cooperatives.

"In California there are four such cooperatives: Clean Coastal Waters (Long Beach), Clean Seas (Santa Barbara), Clean Bay (San Francisco), and Humboldt Oil Spill Cooperatives (Eureka)."

Beyond this, he said, there are numerous agreements that show that "the petroleum industry recognizes that it must demonstrate its responsiveness to the problem of oil spills and the legal issues which invariably result."

One of these is the Tanker Owners Voluntary Agreement Regarding Liability for Oil Pollution or the Tovalop Agreement, he said.

It provides that the signatories to the agreement will pay for clean up costs and containment expenses of government that arise from an oil spill of an owned and entered vessel. The agreement carries a $10 million limit or $100 per gross registered of the vessel or whichever is less.

Mr. Kettel related that because at the outset it was difficult to obtain insurance coverage for Tovalpo liabilities in the commercial market, I.T.I.A. or the International Tanker Indemnity Association, a Bermuda based underwriter, was created by the petroleum industry.

Subsequently, he said the commercial market decided it wanted a piece of the action and agreed to include Tovalop liabilities in its normal marine liability policies, along with liabilities to third parties up to a maximum of $25 million.

**Over the next** several years, Mr. Kettel pointed out that other insurance and indemnity facilities such as W. Q. I. S. or the Water Quality Insurance Syndicate covering small boat owners, tugs and barges was established.

Cristal, or the Contract Regarding an Interim Supplement to Tanker Liability for Oil Pollution, which does for cargo owners what the Tovalop agreement does for vessel owners, came next. He said its indemnity complement Tovalop to a maximum of $30 million.

"The Cristal Agreement provides for the creation of a fund based on a cents per barrel contribution calculated on each member's annual oil imports," according to Mr. Kettel, who noted that the agreement also provides coverage for claims made by members of the public.

The next insurance and indemnity facility created by the petroleum industry, he went on, was Oil Insurance Limited or OIL. It provides pollution liability insurance including clean up to a limit of $75 million.

With the development of the North Sea, still another indemnity facility came into being. It is called O.P.O.L. or Offshore Pollution Liability Agreemnet and has a limit of $16 million. ■

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# Sears issues revised profit sharing book

CHICAGO—Sears, Roebuck & Co.'s saving and profit sharing fund reissued its descriptive brochure this month to comply with the 1973 Employment Retirement Income Security Act.

The 20-page booklet describes in language the average participant can understand the plan's operation and benefits for its 280,000 member employes.

Aside from meeting "the specific minimum requirements of the law, the brochure includes a question and answer section and illustrations," according to Merl Douglas, executive director of the fund. In the past, he explained, the brochure's prose was "best understood by lawyers."

The deferred profit sharing trust was founded for Sears employes in 1916 and now is the world's largest with assets of more than $2 billion. Eligible employes of Allstate Insurance Co., Schirmer Engineering Corp. (both based here) and 11 other Sears' subsidiaries also participate in the plan.

Booke & Co., the Winston-Salem based consulting and actuarial were responsible for the concept, original copy, artwork and production supervision. ■

business insurance
PERSPECTIVE

# Pension reform creates 10 areas of concern for overseas benefits

"One company of which we know is setting up a new plan for its third-country nationals with special wording in the (benefit) plan document making it clear that the plan will be maintained outside the United States."

**By BOB BISHOP**
**Benefits consultant, Coopers & Lybrand**
**New York**

*Editor's note: This article on potential effects of the pension reform law on international benefits planning appeared in the most recent issue of the Coopers & Lybrand Newsletter.*

WHILE U.S. BUSINESSES are by now well aware that the new pension reform law will have a significant impact on operations, little attention has been given to the possible effects on international pension plans maintained by U.S. parent companies. These plans either cover foreign local nationals or so called third-country nationals, who, for our purposes, are defined as non-U.S. citizens working for a U.S. company in a country other than their own or the United States.

At first reading, the Employe Retirement Income Security Act of 1974 appears to exclude foreign plans, a point some commentators have already made. Although true in general, there might be situations where a U.S. company's foreign pension plan could be affected.

It is precisely those undefined areas that international benefit managers should review. We have already seen examples in our practice where the foreign plans of U.S.-owned companies have been affected by the new law.

It is hoped that future regulations will help resolve many of the issues underlying these situations.

At present, there are 10 major areas of concern, which can be categorized as follows:

- Plans located in the United States that provide benefits for foreign employes.
- Unfunded plans for aliens abroad.
- Plans in Puerto Rico, the Virgin Islands, Samoa, Guam, Wake Island, and the Canal Zone.
- Foreign-branch plans.
- Plans providing severance pay.
- Plan assets outside the United States.
- Discrimination and eligibility requirements.
- Lump-sum benefits.
- U.S. expatriates who terminate service.
- Problems arising from prior service with foreign affiliates.

**Plans for Nonresident Aliens.** In the past, some companies established separate pension plans in the United States to cover their foreign nationals or third-country nationals working abroad. Among the reasons for this were obtaining better returns on the funds invested, maintaining closer control, and keeping the plan's funds in a stable currency.

Many companies even secured IRS qualification for their plans to gain the concomitant tax advantages. Naturally, the pension reform act governs those plans, so they must either be brought in line with the new regulations or moved from the United States to a foreign location.

At present, the latter seems a more logical approach. To keep a plan in the United States while both trying to comply with the Act and satisfy foreign regulations simultaneously would undoubtedly be very difficult.

**Unfunded Plans for Aliens Abroad.** "Unfunded" means plans for which funds are not set aside for pension benefits. Although the new law does not cover the plans maintained abroad for aliens living outside the United States, there are still unanswered questions about unfunded plans administered in some way from this country by a U.S. parent company for its foreign employes working overseas. One major problem concerns an unfunded plan that pays deferred compensation to a select group, and yet is not an excess benefits plan providing benefits exceeding amounts allowed by Internal Revenue Code Section 415. Certain sections of the Act exclude this type of arrangement, but it must, nonetheless, comply with Part I of Title I, the Act's reporting and disclosure provisions.

Another major difficulty could arise where a plan is "maintained" inside the United States. Since the law defines the terms "administrator" and "plan sponsor" somewhat vaguely, many of these plans could be construed as being maintained inside the United States. If that is so, the Act may cover these plans. As a result of this interpretation, one company of which we know is setting up a new plan for its third-country nationals with special wording in the plan document making it clear that the plan will be maintained outside the United States. (In this way, it is hoped that the plan will not be subject to the Act's reporting and disclosure requirements.) At this point, we advise keeping a close watch on any new developments that might help to clarify the issue.

**Pension Plans in Puerto Rico, the Virgin Islands, Samoa, Guam, Wake Island, and the Canal Zone.** The Act covers these plans regardless of their structure. The one exception applies where Puerto Rican trusts that are part of a qualified pension, profit-sharing, or stock-bonus plan for Commonwealth residents are exempted by the Act from U.S. tax under Section 501(a).

Although, in the past, separate corporate pension plans have been established in those geographical areas, it now appears that there may be a trend deriving from the Act to bring them under the U.S. parent plan. An amalgamation of this nature would make the plan administration more efficient, especially for companies with relatively small operations overseas.

The Pension Reform Act signed by a smiling President Ford on Sept. 2, 1974 has implications for managers charged with planning benefits for overseas employes, advises Coopers & Lybrand.

**Foreign-Branch Pension Plans.** Pension plans for local nationals in foreign branches of U.S. companies have always presented special problems. These arrangements had to meet U.S. qualification requirements while simultaneously satisfying local cond.-

*Continued on following page*

*Computerized loss simulations were begun in '71*

# Standards body told of Shell's statistical loss analysis method

*Editor's note: The following presentation was made by officers of Shell Oil Co., at public hearings held by the Financial Accounting Standards Board after the standards-setting body issued its proposed rules on accounting for future self-insured losses. The presentation, obtained from FASB documents which are available to the public, is published here as a valuable documentation of Shell's risk management procedures. The questions which appear in the article were asked by members of the FASB in the course of the Shell presentation.*

I AM R. C. THOMPSON controller of Shell Oil Co. I am accompanied by Mr. R. L. Koons, manager of our accounting research and policy department. We have previously presented a paper to you on accounting for future losses, as well as on the previous issues considered at your public hearings, because we believe it quite important that the FASB receive directly the views from those who are responsible for preparing financial reports as well as all the other parties interested in the improvement in financial reporting standards.

We are pleased to participate in this process, which we believe offers the best prospect for improving the quality and credibility of financial statements.

Our views on today's topic were set forth in some detail in the paper submitted, and I will touch only briefly on a few key points.

A provision to reflect uniformly uninsured casualty losses, commonly called self-insurance, can be made in a rational, objective, consistent manner. The present standards are vague as to whether such a provision is permissible.

We, and many other firms, do make such a provision. We not only believe such a provision proper, but with the present state of risk exposure and insurance availability in our industry, it is essential that such a provision be made in order to fairly present net income.

We utilize computer programs in analyzing all pertinent data in order to quantify risk exposure and average loss expectation, and develop a range of probabilities that a given level provision will be adequate to cover loss expectation.

In our industry, insurance simply is not available to cover some of our future loss risks. Generally, these uninsurable risks pertain to loss of wells, containment of well blowouts and some of the environmental and clean-up costs.

**While we believe** reasonable criteria can be established for self-insurance, the real deterrent to prevent abuse is disclosure of: policy, the current and cumulative provision, and losses.

With such disclosure, it should be relatively easy for investors to form their judgments as to adequacy or inadequacy of the current charge and accumulative provision.

While we believe it more difficult to specify specific criteria for determining a provision for foreign expropriation or prospective litigation of various types, we believe the Board could well rely primarily upon the protection of adequate disclosure and sanction a provision in these two areas.

We have not had the exposure or felt the need to provide for either of these two items, but other companies apparently are faced with different circumstances. We do feel that it is actually far preferable to provide ratably for relatively certain future losses that build up over time but occur intermittently.

**Since the details** or reasoning for the foregoing were set forth in our paper, I will not repeat these at this point, but feel that some background comments on Shell Oil's situation may be helpful.

Prior to 1971, we utilized commercial insurance to cover various levels of loss exposure in essentially all aspects of our business. For non-insured risks, whether or not insurable, we maintained a program which required systematic provisions charged to income resulting in a level of accrued provision which, because of uninsured losses charged against it, did not grow significantly.

In the latter part of 1970, and during the first half of 1971, we suffered significant losses resulting from two major well blowouts and fires, one onshore and one offshore. Insurance recovery, although our coverage was probably typical for our industry, was minimal relative to our total loss of property and out-of-pocket expense incurred in controlling fires, wild wells, etc. Needless to say, our accrual provision was wiped out rather quickly.

These events triggered an in-depth study

*Continued on following page*

**business insurance**

# PERSPECTIVE

## Shell Oil presentation . . .

*Continued from preceding page*
of our entire insurance and risk management program, and resulted in a management decision to drop insurance coverage on certain major business segments.

A major factor in that decision was our determination that, using tested probability techniques and relevant empirical data, we could reasonably predict future losses within various confidence limits and better define our loss exposure.

On a cost/benefit measurement basis, we immediately ascertained that, for Shell, continued insurance coverage of certain risks was inappropriate.

Using the predictive data just mentioned, we immediately commenced taking a monthly provision calculated to cover projected losses on an annualized basis, plus an additional increment to allow the accumulated reserve to grow slowly over future years. We run an annual update on our study, and during the past year substantially expanded the scope and detail included after further testing our basic premises.

**We have reviewed** our techniques and methodology with our public accountants as well as providing them with a copy of our detailed study. We urge the Board to favorably consider the legitimacy and propriety of this course of action.

*Q:* In your organization, being large as it is, don't these losses that you speak of occur with some regularity?

*Mr. Thompson:* It all depends on the magnitude of loss you're referring to. As an indicator for us, when we established our self-insurance provision in 1971 of the magnitude we have, we eliminated all losses below $1 million which recur with considerable frequency and probably are not, in a company the size of Shell, worthwhile for using the reserve.

So, in fact, we provided this reserve only for losses in excess of $1 million. Here the relative frequency is not predictable to the extent that we can say we will have so many happen next year.

I can give you the relative percentages, as I recall them, from my study breakdown. There is a 26% chance that we will suffer a significant hurricane loss this year.

There is a 50% chance that we will incur an onshore fire, or storm loss in one of our plants.

These are all in excess of a million dollars.

There is a 30% or 35% chance that we will incur a fire explosion loss in one of our offshore facilities.

These kinds of numbers came out of a rather extensive "Monte Carlo" type of computer program, using both our past data and then the level of asset exposure we have.

**Incidentally, interestingly,** when we established in 1971 our program for ostensibly uncovering all of our offshore platforms, we were able to obtain from the weather service the tracks of all the hurricanes that had taken place and their intensities from about the turn of the century. We were able to bring that into a program which essentially then told us if you can utilize past experience rating, what kind of track we were in with some of our major platforms and what our risks might be.

We had incurred, as others had, significant hurricane damage in the last part of the 1960s.

*Q:* Have you set a limit, a ceiling on this reserve? In other words, will it accumulate to X number of dollars and then no further additions will be made?

*Mr. Thompson:* We have set no limit. We have not set a limit. And if you were to pin me down as to what a practical limit might be, I would have to probably say that (it is) a number approximating our maximum probable loss in our highest risk location. Determining that amount might be difficult. It would be in our case—and we have some numbers on this—a probable loss of $70 million to $80 million, and this would be on gross plant values in excess of $400 million.

**Rather than set** an upper limit, in our annual update we use the existing reserve together with the extension of the current reserve provision to determine the probabilities of survival—This year, next year, and the following years.

*Q:* Is this what is called the probability of ruin? Is that what you mean by probability of survival?

*Mr. Thompson:* (It represents) the probability of having your reserves completely wiped out.

For our current determination of the level of provision we would take—and you can do this very easily once you have this program, using the base you have presently established and your predictive abilities here—you can take the various levels of reserve and test them against those for a 10-year period—what the possibility of survival over the next 10 year period would be. Currently, in the update we did last August, we had a probability of survival without wiping out our reserve of about 90% in year one. But at the current level of reserve provision being taken, it dropped to 50% in year 10. In other words a 50% chance we would be wiped out somewhere in the 10-year-period.

*Q:* With respect to costs that you have included to the extent that they would represent future out-of-pocket costs—for example, mud that you might have to buy to pump into an exploded well—have you given any thought to discounting that portion of the reserve to its present value?

*Mr. Thompson:* We did not give any thought to discounting that.

*Q:* I would like to explore a little bit, Mr. Thompson, what you would do if you have a very adverse experience in any one year. Some have argued that in such an instance, it would be improper to charge the losses against the reserve because it leads to the conclusion that the reserve itself is too small if the loss experience starts running heavily against your expectancy.

Have you given thought to what you would do if the reserve was depleted, or largely depleted? Would you attempt to build it back up in a short period, or would you get along with a very small or zero reserve? What would you do?

*Mr. Thompson:* We discussed this at some length. In fact, we decided, as we did in 1971, that we would, if the loss exceeded the level of reserve, immediately wipe it out and come through with the balance of the loss in the curent period and commence our reserve provision once again at a level on a predictive basis which would allow us a reasonable projected build. So, if you anticipated, let's say on an average basis that your loss experience was going to be an aggregate, over 10 years, of $10 million or $11 million a year, we would feel that $1 million a month would be a good provision to be taken against current income.

> "We determined that using tested probability techniques . . . we could predict losses within various confidence limits . . . (and) immediately ascertained that, for Shell, continued insurance coverage of certain risks was inappropriate."

*Q:* Mr. Thompson, you indicated that you can in fact predict certain types of losses—certain types of costs that will occur in the future. I have two questions. First, is this unique to your industry? Secondly, do you predict such things as increases in labor costs beyond the term of the labor contract, for example, where you can reasonably expect the costs to exceed a million dollars?

*Mr. Thompson:* I'll take the last one first. We have provided for an increased asset valuation over the 10-year term we look at basically in this program. But this is primarily done on the basis of our expected additions to plant and equipment. We have not built in an inflation factor for the cost associated, shall we say, with the loss. Our reserve essentially is to protect the net asset valuation, and we are not reserving or setting up cumulative provision, at least in our case, to provide for replacement.

I would say that perhaps any industrial firm as large as Shell, with widely dispersed operations of different kinds, could probably do a similar type of testing that we have done, based upon their past experience, based upon the incidence of loss. Especially if they are in an industry which keeps as good records of losses as the petroleum industry.

We didn't utilize only our own loss experience but we were able, through the association with the American Petroleum Institute, to develop extensive loss experience for the entire industry. This allowed us a better basis than an individual firm. However, I think that Shell is big enough, in and of itself, to have developed an experience, and can do what an insurance company can do, if you come down to the point of predicting what is going to happen.

I might say one further thing on insurance, getting back to our 1971 study. Insurance in the minds of most people is a financing kind of thing. It provides money in a time of loss, as opposed, I think, to the other aspect. I think, again, for those of us who are quite large, the ability to shift the risk of loss to commercial insurance coverage is almost nil, really, without paying prohibitively high premiums to someone undertaking that risk.

**That being the case,** a provision to accumulate a reserve for your own future losses is not at all dissimilar to paying the kinds of premiums which prospectively cover a loss and which retrospectively may have to recover a loss already incurred. It is not a different ball game. The only one difference is that there is cash outlay if you pay it over to a commercial insurance company and you keep the cash if you do it yourself.

*Q:* Regarding the procedures you described about arriving at your annual charge for self-insurance, it might be argued, that those procedures would be appropriate for developing the level of the reserve rather than the annual charge. That is, that there is some level of reserve for self-insurance that ought to be maintained against the assets, like level of bad debts, or some of the more common things. Is it the annual charge that you're after or is it really an apropriate exposure to risk that has been quantified, regardless of its classification as a valuation reserve on a liability?

*Mr. Thompson:* Mr. Sprouse, I think it is the monthly and annual charge that is far more important here than the level of reserve provision you have accumulated. Now, you can, of course, once you have established all of these probabilities, average out your loss experience. I would say that your current provision will more likely be slightly in excess of that which would cover your expected annual loss on a mean basis. Given good experience, as we have had, by the way, since 1971, you can build a reserve provision, accumulate a provision, which offers a comfortable base which allows us then, as we recently did, to reduce our level of monthly provision. ■

## Pension law's impact on foreign plans . . .

*Continued from preceding page*
tions and regulations. The new measure takes some very limited steps toward alleviating the problem in that aliens who are not U.S. residents are excluded from the eligibility requirements. It is hoped that when regulations are issued, the special problems of branch plans will be clarified.

**Foreign Severance Plans.** The new legislation revises the terms for maintaining a trust to fund termination or severance payments for aliens overseas. Previously, separate accounts had to be kept for each employe for a trust of this sort. The Act has eliminated the separate-accounts requirement for tax years beginning after December 31, 1973.

**Plan Assets Outside the United States.** The trustees of a U.S. plan may not keep any of its assets outside the jurisdiction of the U.S. district courts, according to Section 404(b), Title I, of the Act. The provision affects those plans that have made foreign currency investments outside the United States. Unless special authorization is obtained from the Secretary of Labor, these investments will have to be eliminated.

**Discrimination and Eligibility Requirements.** The Act excludes nonresident alien employes from the IRS eligibility and discrimination requirements previously in effect.

**Lump-Sum Benefits.** The tax rules on lump-sum distributions from qualified plans have been changed. This is unlikely to affect foreign pension planning. It is possible, however, that some companies may have made special agreements with foreign executives to pay a lump-sum benefit actuarially equivalent to what they would have received under a U.S. pension plan. If such a promise was made, and it was agreed that the foreign benefit would be equal to the U.S. benefit net of tax, then the new regulations could limit the amount of the benefit.

**U.S. Citizens Abroad Who Break Service.** The new Act modifies the rules governing breaks in service. Businesses should make certain that no conflict exists between planned "breaks in service" for U.S. expatriates vis-á-vis their U.S. domestic staffs. Not very many problems should arise as long as a company keeps a U.S. citizen as a participant in its benefit plan while he is working overseas; there could be problems, however, if that individual is temporarily removed from the plan. A situation of this sort, however, requires careful review.

**Prior Service with Foreign Affiliates.** The Act states that an individual's service with a foreign affiliate is to be counted as part of the service necessary to qualify for pension benefits. In addition, it appears that any benefits an employe might receive from a foreign affiliate's plan will have to be combined with his U.S.-plan benefits. Care must be exercised to ensure that the amount does not exceed the maximum benefits allowed by the Act. Companies anticipating problems here should amend their U.S. plans so that benefits and costs are not duplicated. ■

*Mr. Bishop has been an international benefits consultant with Coopers & Lybrand, an international auditing firm, for a year. He was previously with a major insurance underwriter, an international bank and a large international insurance brokerage firm.*

# Construction industry has unique ERISA problems

WASHINGTON—Construction employers contributing to multi-employer pension plans have a bad case of the jitters brought on by financial liabilities they see in the new pension reform law.

The liability worries fall into two main areas: first, the tax liability to the IRS in the event a plan fails to meet minimum funding requirements; and second, the liability by employers to the Pension Benefit Guaranty Corp. (PBGC) in the event the fund is terminated with insufficient assets to pay vested benefits.

These problems were laid out before the House Labor Standards Subcommittee by Harry P. Taylor, president of the Washington-based Council of Construction Employers Inc. The subcommittee was hearing testimony on the implementation of the pension reform law.

Mr. Taylor said the problem in meeting the law's new funding standards centered around bargaining methods in the industry.

**Construction** employers, he said, normally agree to pay a certain amount per hour worked by each employe to the pension fund. Benefits are based on projected income from these contributions.

Because the construction industry is so volatile, and because contributions are based on hours actually worked, the annual contributions to the fund can vary greatly and might dip below the mandated funding level.

"In short," Mr. Taylor told the subcommittee, "the many vicissitudes present in the construction industry place far too much conjecture upon the level of contributions that will be made to the Taft-Hartley type pension plans of construction employes to justify the ERISA position which holds employers liable for underfunding based upon benefit levels that are no more than the result of educated guesses made by actuaries."

"Once the level of contributions and benefits is set," he said, the employer loses all control for the period of the collective bargaining agreement.

"And even at its conclusion, the employer cannot unilaterally reduce benefits and would not otherwise be under any obligation to increase contributions—that being an integral part of the collective bargaining process itself.

"Nevertheless," he said, "despite the employers' lack of control, liabilities are created over and above any that have ever been imposed before and in excess of those requested by unions in arms-length collective bargaining.

He predicted that this uncertainty will result in many employers refusing to approve any benefit increases that would create further funding liability.

PBGC's claim to up to 30% of the net worth of an employer terminating an underfunded pension plan greatly exacerbates the unpredictable financial conditions of many construction firms, Mr. Taylor said.

**And, unlike** other employers, construction firms often operate over large geographic areas and may be contributing to dozens of separate funds at any given point in time. That could make them liable in the event that any one of the funds collapses.

"Consider how the accounting profession is going to characterize the contingent liability being newly imposed upon construction employers, and especially those making payments to defined benefit plans of collective bargaining units in diverse locations over a multi-state area," he said.

"Financial institutions are notoriously leery of contingent liability situations which could, if they mature, interfere with a company's ability to sustain continued operations.

"This problem is real," he said, "and, in light of the trend toward greater disclosure in the accounting profession, can be expected to have a resounding effect quite soon throughout the whole construction industry. ■

# Insurer seeks to recoup loss

CHICAGO—The Commercial Union Assurance Cos. group considered filing a lawsuit to recover the more than $1 million still missing from the $4.3 million Purolator heist last November, it was learned. (*Business Insurance*, Nov. 11).

No decision has been made whether or not to file a suit in the future, according to Robert J. Huddy, vp of claims, Boston. "We're still investigating the logistics of recovering the money in other ways," he said. "We're talking to banks and government bodies at this point."

Much of the missing money is believed to be in numbered bank accounts in the Cayman Islands.

An Associated Press radio wire story broadcast locally on May 6 quoted Richard T. Sikes, an attorney for Commercial Union here, as saying that the company filed a lawsuit against the convicted burglars to recover the money.

Mr. Huddy refuted the fact that a suit had already been filed. ■


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# Versatility is key word for insuring shifting risks of modern municipality

ANAHEIM, CA.—Underwriters should be judged on the basis of the five C's, in the opinion of Richard McElligott, risk manager, San Diego, County. He said they are: control service, counseling, claims service, competitiveness and capacity.

Mr. McElligott, who believes that a public entity's risk management program must reflect the shifting exposures of a modern municipality, was speaking at a seminar on risk management for public agencies held at the Western Safety Congress. The three-day congress was sponsored by the Greater Los Angeles Safety Council.

Mr. McElligott attempted to lay down rules for the creation of an effective risk management program by an official in public service who is not a pro in that field.

The first step is the development of a risk management policy which spells out how the risk game is played, he told the group. (A show of hands indicated the group was composed of public agency employes who specialize in eiuther safety or insurance—or, in a minority of cases, both.)

**The second step,** he said, is the writing of a risk management manual to be an instrument of communication with management about the entity's insurance and loss prevention program.

Next, safety, claims and insurance—functions which are often scattered in municipal governments—must be viewed as three prongs of a single operation, he indicated. He said that of the three, safety officers are most likely to be left on the sidelines "because in many cities and counties, the safety function is limited to employe safety.

"But does it really make a difference who falls down the front stairs of your office buildings, whether he be an employe or a member of the public?" he questioned.

A loss data system also is integral to the operation of a successful risk management program in a public agency, he asserted. Acknowledging that most municipalities lack the financial resources to provide for an in-house loss data system, he recommended that risk managers piece together some system from what is available.

"You can get EDP loss runs from your liability underwriters," he continued, "although the extent depends on who your carriers are. So pull together what you receive from outside sources and build your system from there.

**"If you cannot** get it together, then spend the money for a specialized outside system," he noted.

Leases and contracts should be appraised in light of what the public agency actually wants to protect and that information should be distilled in the indemnity agreement, he said, adding: "Then attack the agreement with the requirements needed such as: hold-harmless agreements, certificates of insurance, additional insureds, waivers of subrogation or copies of the policy.

"You may receive a certificate of insurance that tells you there is a $1 million limit," he illustrated. "Fine. Yet the certificate may have 14 excluding endorsements of which you are not aware, including such coverages as errors and omissions, medical malpractice, auto, aviation or contractual liability.

"I received a request not long ago from one of our airport managers who wanted to learn how much insurance would be required for an aerobatic show planned for the county airport. I looked at it, screamed and threw it back into my in-basket," he revealed, adding:

"I understand that over $30 million in lawsuits have been filed as a result of the Sacramento air show crash."

**When it comes** to bidding a public agency's insurance program, Mr. McElligott urged that a risk profile be drawn up prior to the time the request for bids is made.

"Let your organization's story be told regarding how many miles of roads you maintain, how many parks, swimming pools, employes, medical buildings, airports, police and fire facilities," he elaborated.

In sum, he said, the underwriter should be presented with all available information, including past premium and loss history and the safety and property conservation program.

If a public entity should opt for self-insurance, he went on to caution that a clear method of financing must be communicated to management.

Because public agency risk managers must deal with elected officials rather than executives with more stable tenure, he suggested that the financing for self insured projects be described in full in the risk manager's policy statement.

"Suppose you have a big loss three years from now and you have two new members of your board. In such a case, you must be able to demonstrate that it was not the agency's intent to insure this type of loss when they ask 'do we have insurance?' "

**As for appraising** the underwriters themselves, Mr. McElligott said public entities have a tendency to accept the lowest bid without investigating the financial stability or capacity of the company submitting the bid.

He observed: "It's amazing how some insurance companies take out full page advertisements to relate their policyholder services in loss prevention, and then the OSHA people come around and cite them for violations."

Brokers, at the same time, should not be expected to recommend a premium reduction or a self-insurance program, he said, because they rely on commissions for their income.

Versatility must be the byword for public entity risk managers, however, due to the fact that they move in a world of constantly shifting risks, he observed.

He illustrated: "In our country, we went into the food stamp program a year ago with the idea that no one was going to knock us over. We planned a most positive program; we leased a bank vault and we installed three security systems. Now the federal government says we must sell food stamps across the counter in various locations around the country. So we have a new ballgame in less than one year." ■


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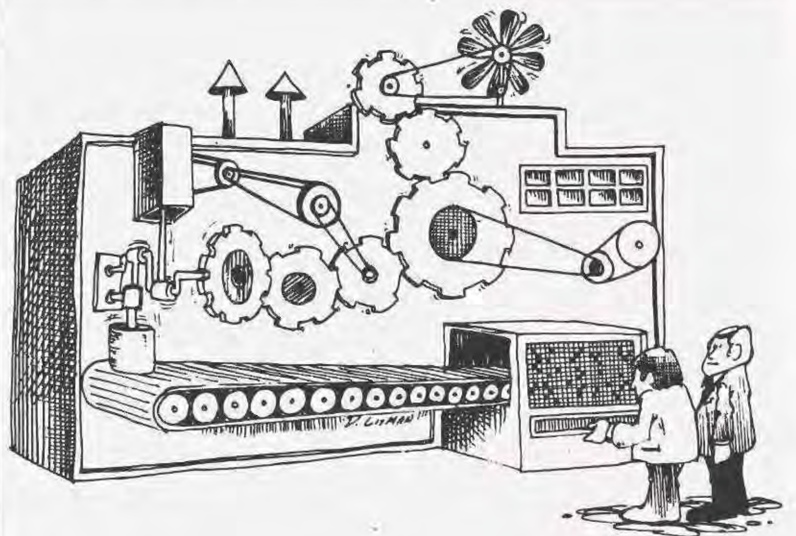


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# Hospital group approves captive for malpractice

CHICAGO—At a special meeting held May 16, the American Hospital Assn.'s house of delegates voted overwhelmingly to grant the group's board of trustees standby authority to create a captive insurer which would underwrite or reinsure malpractice coverage for hospitals.

Through a bylaws amendment, delegates authorized the board of trustees to levy, upon identification of a "significant need" or a "crisis," a one-time special dues increase of $2 per bed to provide capitalization for the captive insurance company. The standby authority expires in August, 1976.

The captive is being domiciled in Illinois, and "everything is done except for incorporating the captive," said James L. Groves, risk manager for the AHA. He said that if the board of trustees moves to trigger the captive, activation would take 30 to 60 days. Minimum capitalization required for the captive would be $1.5 million, to be covered by the $2 per bed charge.

John A. McMahon, president of the AHA, declared that "the standby program, if enacted, would address one part of the malpractice problem, that of insurance availability for hospitals. It would not have an effect on problems such as cost, inherent in the existing tort system in various states, which affect both hospitals and physicians."

**The AHA's** two-pronged attack on the present crisis includes AHA legislative action at the state levels. AHA legal counsel in Los Angeles will be putting together legislative packages for the state legislatures, the group said.

"In February we were saying the crisis was the unavailability of coverage, and now we are willing to admit the crisis also includes cost," said Mr. Groves. He foresees that the captive if activated "may be able to deal with a cost issue as well," because of the fact that he sees the AHA captive's premium charge as being very competitive.

Criteria were established as prerequisities to the board of trustees meeting to consider activiating the captive in the event of "crisis":

A request that the board meet must come from two or more state hospital associations.

At least 100 hospitals must be signed up to particiate, with at least 10,000 beds and representing $5 million annual premium.

If the AHA triggers the captive it will be for all AHA members. "Some members of the AHA think it could be triggered right away, but others see the resolution of issues in some states, such as with the recently passed legislation in Indiana, which will correct the problem," Mr. Groves said.

**The captive** could be used either as a primary insurer or a reinsurer, and will use a fronting insurance company in states where it is necessary to follow that procedure in order to be an admitted insurer.

Legal counsel Winston & Strawn decided against Colorado or Bermuda as domiciles "because we would have had to put up the extra money anyway in Illinois in order to be licensed as a reinsurer," Mr. Groves added.

Trustees would make a final decision on a managing agent and broker of record for reinsurance when and if the captive is activated. "We haven't formally chosen anybody to manage it. We are going to look at a number of people. We also have not chosen a broker of record," he said.

Marsh & McLennan's Chicago office acted as contract consultants on a fee basis for the AHA. Marsh's risk analysis group, for a fee estimated by sources outside the AHA to be between $50,000 and $75,000, gathered malpractice data from a number of sources and performed computer simulations in order to project losses for the AHA captive.

R. E. Potter Ltd., a Chicago-based Lloyd's correspondent, "started the whole thing rolling," however, said Mr. Groves, by presenting the concept of the captive to the AHA early in 1975.

Since that time the AHA has talked with many carriers and narrowed its list to about 20 insurers not in malpractice lines of business which could act as fronting insurers for the captive.

**When the AHA** initially discussed the idea of a captive insurer, it was because markets were disappearing and hospitals were in crisis situations (*Business Insurance*, Feb. 24, and May 5). Mr. Groves cited the example of 92 hospitals in Louisiana which were without any coverage at any price. A similar situation was encountered by 30-some hospitals in Iowa, he said. However, some insurers have come in and picked up some of the hospitals, including Hartford Fire Insurance Co. and Ambassador, "which has been quoting on some coverage."

In fact, the AHA two weeks ago completed a study on hospital insurance which showed some 25 to 30 insurance companies still underwriting liability coverage for hospitals "in one form or another," said Mr. Groves. One of these carriers suddenly discovered as a result of the AHA study that it had the malpractice liability coverage for 12 hospitals. This carrier appears to be ready to continue the coverage, but another carrier which similarly discovered it was underwriting 10 hospitals' malpractice coverage "seems to be in the process of cancelling" all the policies, said Mr. Groves.

**Cost competition** for underwriters already in the malpractice market may result from the captive if it is activated, he explained. "In Boston, for example, a hospital with about 200 beds went from a premium of $66,000 to $850,000. Kemper had been the insurer and losses had been only $75,000 over five years. The hospital had to take the coverage quoted by Argonaut after Kemper cancelled. The Argonaut coverage was for $1 million per occurence and $1 million annual aggregate. Our captive premium wouldn't even have been one-half that," Mr. Groves declared.

However in a state like Pennsylvania where hospital malpractice coverage is charged on the basis of about $200 per bed right now, Mr. Groves expects that the AHA captive "probably couldn't do better than that."

The captive will be reinsured with Lloyd's and U.S. domestic reinsurers, he added. Eventually, the captive could also be used for AHA members' property insurance also, Mr. Groves said. AHA members have about $100 billion in insurable property values. But the initial thrust of the captive would be for malpractice and general liability coverage. ■


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## Underwriters feel substantial war risk rates in order on Suez shipping

LONDON—Marine underwriters in Britain believe war risk rates should be substantial for cargoes passing through the Suez Canal when it opens once again for traffic.

But they will review the situation on suitable occasions when the hazards faced in that zone are clearly being reduced to safer levels.

Initially they will charge a special war risk of 25 cents per $100 on the insured value of all cargoes, including tanker cargoes, which are routed through the canal.

This will be levied as an additional premium on top of the existing rates for Mediterranean and Red Sea shipments, which already bear a 12.5 cent per $100 rate for war risks, strikes, riots and civil commotions, making 37.5 cents total charge on every $100 of cargo value.

The thinking behind these figures is that there are still many unexploded mines or bombs in the canal, which might be detonated by a passing vesssel, even though the authorities in Egypt will obviously make it as safe for passage as possible.

Rates for war risks in peaceful areas generally run as low as four cents per $100, so the total canal risk rate of 37.5 cents, is nearly 10 times this figure.

If shippers venture to send cargoes for Israel through the Suez Canal, rare as this may be, then underwriters can levy any war risks rate they like.

The rates were agreed upon by the Institute of London Underwriters, whose assessments of the situation are usually followed by other marine markets, though the U.S. market can naturally take an independent line if it wishes.

Meanwhile Lloyd's underwriters are waiting for the release of 15 ships trapped in the Suez Canal since the 1967 conflict. Lloyd's has paid out all claims on their cargoes, and now own those cargoes. The insurers can sell them in the hope of recouping some their losses, especially if they contain materials like lead, which has risen in value with inflation over the past eight years. It is hoped the cargoes may be worth $20 million to $30 million to make up for the claims.

* * *

**Losses on U.S.** business are estimated to have cost British insurance companies nearly $100 million last year. At least one company is reducing the scale of its underwriting of U.S. risks as a consequence.

The Royal Insurance Group lost $65 million from competition which it described as "irrational." But it believes that competititon is diminishing in commercial and general liability lines. Royal foresees that it will be able to impose substantial rate hikes on some classes of business.

Kenneth Bevins, chief general manager, commented: "We're not likely to take on new business at unprofitable rates any longer even if we risk pricing ourselves out of some lines."

Phoenix Assurance had a $5 million underwriting loss on its U.S. operations. Worldwide catastrophes, such as Australian floods and cyclones, contributed to the loss.

* * *

**Safety problems of** buildings constructed with "high alumina cement" are being studied by the British Government in a $2.5 billion loss prevention probe.

The survey became necessary after some load-bearing beams collapsed in municipal schools with near-fatal results.

Insurers so far have not become involved because the danger premises were evacuated of pupils in time to prevent casualties.

But now the government's building research division is testing 40,000 buildings for flaws, including schools, old people's homes, and comercial properties.

Contractors in the U.K. used high alumina cement, a material which hardens rapidly, in large-scale developments between 1950 and 1970. But it has been found that chemical changes can take place in the cement without warning and can weaken structures hazardously, largely through the effects of warmth and moisture on the product.

Several years ago the product was used in France, where it was developed more than 50 years ago. It was banned in 1947 in France because faults developed in its structure. Germany followed suit in 1962, and now Britain is checking on similar product problems.

Remedial measures in buildings where high alumina cement has been used are expected to very costly.

* * *

**Marine insurance is** at present very much a buyer's market, Allen Schumacher, chairman of the U.S. Hull Insurance Syndicate, told Greek shipping leaders during a European business trip.

Requests for reduced values coupled with the concentration of risk because of major oil tankers idled by shipping slump have come at a very bad time, and could lead to some contraction in market capacity, he said. "The big problem for underwriters is to balance the spread and concentration of risks, and we are faced with a complex situation," he admitted.

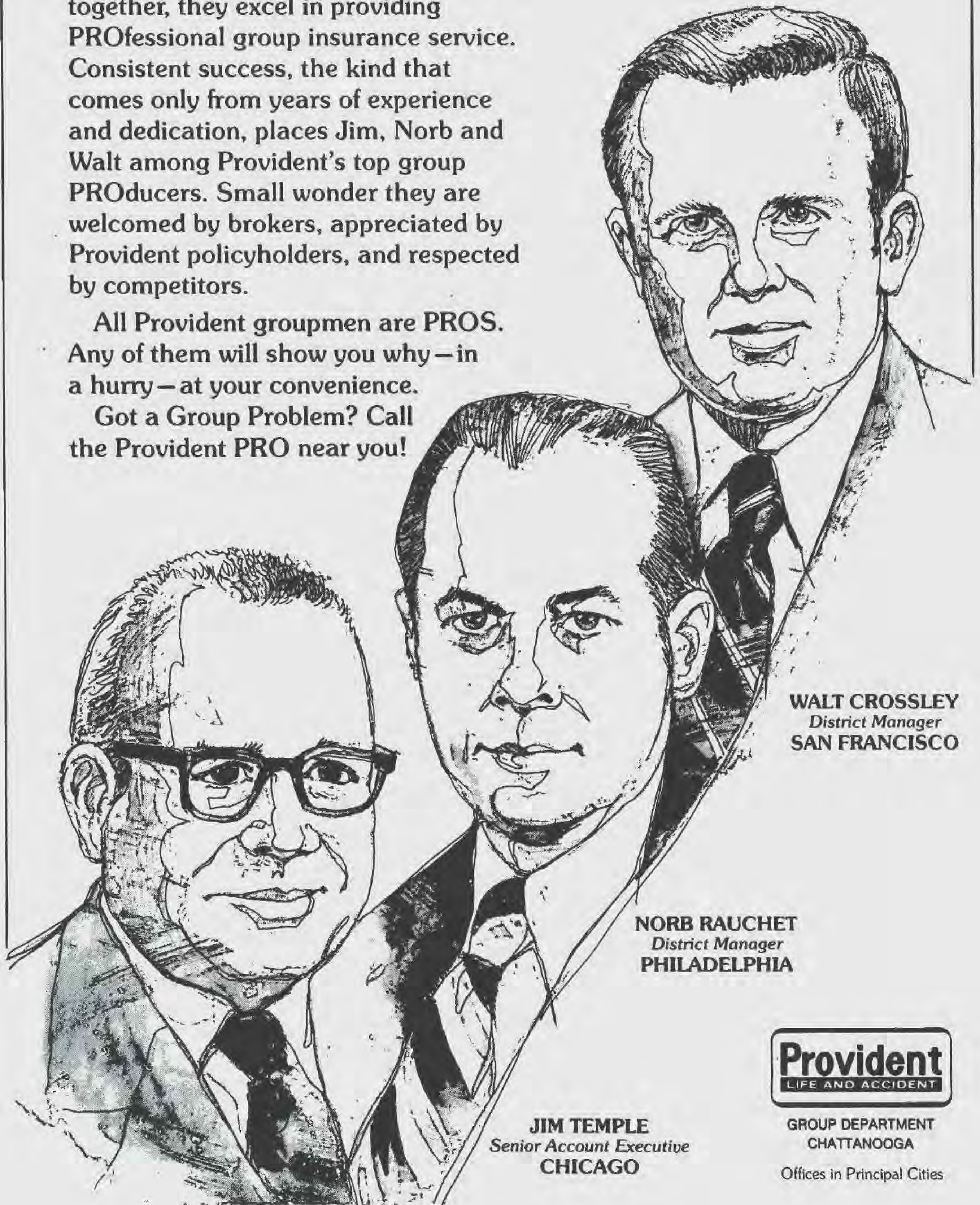
"Owners are seeking reduced values and returns of premium because their ships are laid up, yet building and repair costs go on rising. But I hope the tanker market will again be in balance within two years."

M. Schumacher met members of the Greek shipping world, as well as some U.K. marine risk brokers, in London. He pointed out that his syndicate had lower premium income last year.

* * *

**Sun Alliance & London** Insurance Co. is planning to raise nearly $90 million by a public stock issue, in order to hike its solvency margins. This will enable it to accept more premium income and tighten up ratings on business which it says has been unprofitable.

Losses of $18 million were suffered on its U.S. and Canadian business last year, with fire and casualty operations heavily hit through an abnormal number of large claims. Facilities offered in western Canada are being reduced, and acceptances in certain other Canadian provinces will be restricted this year. ■

# 'Serious talks' helped premium picture

By HARRIET KING

SEATTLE—The new director of the Seattle Art Museum has found that by "talking serious business" with insurance brokers, he could substantially lower his premium rates—in spite of the growing security problems and increasing theft and vandalism that confront museum directors today.

"We were not too happy with our insurance rate and began shopping around until we found a broker who could meet our needs," said Willis F. Woods. "The policy is very much the same, although the reporting system is somewhat different. We were paying 5 cents per hundred dollars of valuation each month, but are now paying 3.26 cents.

"We also raised the limits substantially," he said. A year ago the aggregate annual exposure was $300,000 to $400,000, but it is now $1.2 million; under Mr. Woods' short tenure, the museum has attracted higher quality exhibits. His only tradeoff: The previous policy covered some overseas transit that must now be written as a separate endorsement when shipping art overseas.

**Mr. Woods** had plenty of impetus for finding better coverage: The Assn. of Art Museum Directors recently funded a study that determined museums were often paying inordinately high rates in relation to payout, said Mr. Woods. "No insurance company had ever tested the rates and everybody was scared of handling fine arts, so the rates remained high," he says.

Mr. Woods took directorship of the museum in January, 1974. For the previous 11 years he directed the Detroit Institute of Arts and thus has dealt for years with the insurance problems inherent in big city museum administration: Slippage in the museum's book, print and souvenir shop; vandalism both intentional and unintentional; and the problems of attracting art from private collections when collectors are becoming increasingly "skittish" about the risks of lending. And when the occasion has warranted it, he's been instrumental in thwarting thefts of valuable art.

**Museum security** needs grow yearly; the larger the city, the bigger the problems. "In Detroit, we had 10 to 12 incidents of vandalism a month. Mainly it was unintentional damage such as breakage caused by ladies with large, jangling bracelets, but occasionally the damage was malicious," says Mr. Woods. Detroit paid out a half-million dollars a year in guard salaries alone; plus, 14 underwriters grouped to insure the museum's permanent collection with a $30 million policy.

The pace is more tranquil in Seattle, "but our security problems are growing here," says the director. Part of this stems from the museum's success: "Our attendance is increasing so we'll have to increase our guard force soon. Generally, a higher traffic flow means reduced theft because people are curious and watch others in the crowd. But the incidence of accidental vandalism increases because people bump into each other or are knocked against a painting or sculpture."

Formerly, 300,000 persons visited the museum each year but the number is increasing as visitors flock to see recent exhibits such as the primitive arts from the Nelson Rockefeller collection or the photo exhibit, "Behind the Great Wall of China."

Art is insured in a variety of ways: For traveling exhibits, the cost of insurance usually is included in the fee the museum pays, and sometimes the government indemnifies the show. During a recent traveling Chinese Archaeological Exhibition, the government insured the show for up to $50 million, since no insurance carrier could pick up the tab, says Mr. Woods. Otherwise, the museum insures art that it does not own when shown under its auspices and its own art when off museum premises under its fine art policy.

Thieves with an eye toward collecting ransoms from insurance companies for stolen art would do well to select pieces on loan from private collections. The majority of museums across the country don't insure their permanent collections, according to Mr. Woods.

**"Every year at** the museum directors meeting we raise our hands to indicate who insures permanent collections. Only 10 or 12 hands wave in the air, although the meeting is attended by some 50 or 60 directors." Those that insure include the Cincinnati Art Museum which carries $1 million disaster insurance because the city government insists on it. Also, the National Gallery of Art is owned and self-insured by the government. "Most companies don't like to carry that type of policy," says Mr. Woods.

The Seattle Art Museum shares the spotlight in Volunteer Park with the Seattle conservatory and an open reservoir overlooking Seattle's Space Needle. The city owns and maintains the building and provides it with custodial care although the museum is a private corporation and assets are privately held.

Museum trustees are supposedly protected from D&O claims by a waiver of liability in the museum's bylaws. "But this concerns our attorneys now," says Mr. Woods. "Courts seem to be treating trustees more and more like corporate directors."

The museum does not carry conventional and fidelity covers and the all-risk fine arts policy. The latter policy, however, excludes mysterious disappearance, says Marilyn Davis, museum business manager. It also separates losses from the Guild Rental Loft out of the fine art policy because the Guild generates a disproportionate number of claims, she notes. The Guild policy contains a $100 deductible clause since the majority of claims come from local artists who detect minor damages to frames, pedestals, etc. "We only have about four claims a year in the fine arts area," says Mrs. Davis.

**Falls in the** museum store remain a problem in Seattle. And in Detroit, slippage was running about 11% although "we managed to knock that down to 5% or 6%," says Mr. Woods.

When thefts occur and when ransom is suggested, the insurance companies are the only ones generally with the cash to pay so "it's up to the insurance companies to say they will or will not pay," says Mr. Woods.

Notable exceptions do occur: "In Detroit, a police sergeant once paid $300 to buy back a tiny 16th century Flemish painting worth about $20,000," says Mr. Woods. "A night guard discovered the theft and told reporters it was worth $10,500. He must have just pulled that figure out of a hat and wanted to sound like an authority. I quickly told reporters it was nowhere near that amount because we didn't want the ransom to increase.

**"The thief** apparently got scared; he nervously called and said he represented a 'friend' who was willing to give it back if no charges were pressed, but that he had incurred $300 in expenses and would we pay them? There was no time to waste so we agreed; a police sergeant rounded up $300 from his own pocket and paid it because we wanted to get a look at the guy. We later reimbursed the policeman," says the director.

A small Calder stabile art form that belonged to one of the trustees was stolen in Detroit. "I not only talked to the insurance company but to the thief several times," says Mr. Woods. "The piece was worth about $10,000 although the thief only wanted $700. We tried to trace the phone calls but I couldn't seem to keep the thief on the phone long enough. I finally persuaded him to call my business agent who spent 10 or 11 minutes explaining our different insurance coverages.

"The trace discovered that he was calling from one of our lobby phones. I saw him wait to make another call. Then he went into the men's room. By the time he walked out the police were there and arrested him," says Mr. Woods.

In Philadelphia Mr. Woods says that a mysterious phone caller asked the museum curator "are you missing something?" The curator discovered that a cubist Picasso drawing was stolen; the thief had tacked a "temporarily removed" sign on the wall. In the next contact, the thief told the curator to "please" publicize the theft. By coincidence three or four days later, a shootout occurred in a gas station; one man captured by police confessed to the art theft. Three thugs had swiped the Picasso but their "fence" wouldn't take it; he couldn't imagine that anyone would buy it. The thieves "therefore wanted the publicity to convince the fence that the drawing was indeed an important work of art," says Mr. Woods.

Mr. Woods says higher insurance costs and the greater frequency of thefts is making it more difficult for museums to persuade private collectors to lend their prize art to museum exhibitors.

Willis F. Woods

"The overall experiences of the last couple of years has made people more skittish about lending or even letting people know they are collectors. I've had turndowns from people who don't want their holdings publicized," he says.

**As the value** of a collection goes up, insurance costs inevitably tag along. "I'd guess that many private collectors are not fully insuring their collections because of the higher rates," says Mr. Woods.

He adds "I had two friends in Detroit who were collectors. As they became more famous, it was more and more difficult to insure their collections. It finally got to the point where one friend sold over a million dollars worth of fine art because it was just getting to be such a hassle."

Luckily, when homes are broken into, thieves "have often not been too discerning," says Mr. Woods. "A thief will often go for the furs and leave a very valuable work of art."

Where does stolen art go? "Ten years ago the word was that everything was going to South America. The word I get now is that not a significant amount is going there, but to other countries," says the director.

The Seattle Art Museum is known for its jade and Asian art collections, and with the addition of five new galleries, a larger proportion of its holdings are now on display. In most museums, he says, only the "tip of the iceberg"—often 10% or less—is on display. ■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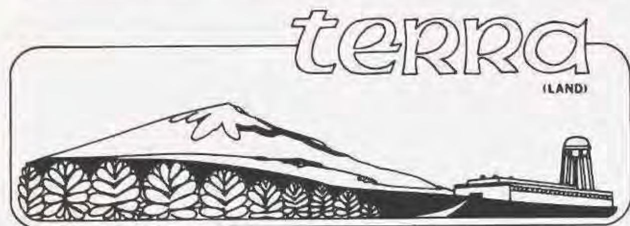

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# Voluntary compliance expected on ad rule

SAN FRANCISCO—California expects insurance brokers or agents to voluntarily refrain from advertising as consultants and asks them to remove their names from the listing "insurance consultant" from the telephone yellow pages, according to a new interpretation of the state insurance code and regulations.

"We're giving the insurance producers an opportunity to cooperate with (the California Department of Insurance) voluntarily," said Andrew G. Loeb, attorney for the state. "We expect the approach to be largely successful," he added.

Producers are being given until May 1975 to see that their firm names are removed from the consultant listing in the phone book. They must also agree not to "employ any office signs, letterheads, business cards or other promotional material which refer to the available service as including those of an insurance consultant," said the statement issued by the insurance commissioner's office and written by Mr. Loeb.

**The interpretation** also applies to out of state brokers or agents doing business in California. They must comply with the restriction on advertising as consultants. Mr. Loeb said he thought the California-based branch of a firm would monitor any out of state colleagues doing work in the state.

"If within a reasonable time, the insurance producers don't give voluntary compliance then the department may issue disciplinary proceedings," Mr. Loeb said. The violations would come under either the unfair practices code or the misrepresenting a license code.

Consultants are defined by the statement as "individuals who charge their clients a fee based on time and expenses and provide advice on the need for insurance and the selection of insurance carriers . . .An insurance consultant derives no compensation, directly or indirectly from the sale of insurance."

The interpretation was facilitated by the adoption of Ruling No. 187 in July 1973, which "requires an insurance producer to adopt a name indicating the nature of the service being offered. Among the terms prohibited from use by producers is consultant. . .which implies the absence of any interest in the actual sale of insurance."

**"Well over 90%** of the names listed under insurance consultants are also listed under the heading insurance," the statement continued. "Fewer than a dozen can be justified based on the services actually offered."

Mr. Loeb explained that a formal bulletin still might be issued. Another notice goes to insurance producers in the form of a caption at the bottom of the annual or biannual license renewal statement.

"The interpretation represents a joint effort between the telephone company in California and the department of insurance, Mr. Loeb said, adding that since 1939 the telephone company has received complaints regarding the inclusion of producers under the consultant heading.

"Insurance producers should demonstrate pride in their profession," the statement said. "The insurance industry must be forthright in its representations of available services and costs. . . The insurance producer is in a position of trust. Such a trust is best served by an open admission of the source of compensation. ■

# Montana law to require licensing for consultants

HELENA, MT.—A Montana law to be enforced beginning July 1 forces insurance consultants to be licensed by paying an annual $50 fee and passing an exam (or being designated as a professional under one of several categories) or face a possible $1,500 fine.

The question of whether an agent should be allowed to apply for a consultant's license has not been resolved, according to Josephine Driscoll, Assistant Deputy State Insurance Commissioner. Montana has no insurance brokers, only agents, she said.

"There may be an inherent conflict of interest," said Louis Forsell, chief of the legal division for the state auditor's office which includes the insurance department.

In any case, an agent could not serve as a consultant at the same time he or she is functioning as an agent, Mrs. Driscoll said, adding that there's a 12-month waiting period to shift gears between functions.

**Any further** definition of the law will be determined by July 1 and could be issued as a regulation, administative opinion or attorney general's opinion, said Mr. Forsell.

The legislation was prompted by Philip Bird, an actuary with the consulting firm of Hendickson, Bird & McKoskey, based here. The firm was formed last year, according to Mrs. Driscoll and is the only insurance consulting group in the state. The firm pressed for legislation in order to establish professional standards for consultants in the state, she said.

Still to be decided is the composition of an exam in lieu of one of the following affiliations: CPCU, CLU, Society of Actuaries, Casualty Actuarial Society or the American Academy of Actuaries, Mrs. Driscoll explained.

"A person not licensed as an insurance consultant. . .or who uses any other designation or title likely to mislead the public. . .is guilty of a misdemeanor and upon conviction shall be fined $1,500," the law states.

The appliction fee to be renewed annually costs $50 and must correspond to proper qualifications, the law states.

"No person licensed as an insurance consultant. . .may receive any fee. . .unless the compensation is based upon a written memorandum signed by the party to be charged and specifying. . .the compensation," it continued.

"No person licensed as an insurance consultant may receive any compensation direct or indirect as a result of the sale of insurance and may not recommend or encourage the purchase of insurance," the law states. ■

## Clarification

Bank of America carried a war risk endorsement on the travel accident provisions for its Saigon employes under a worldwide insurance policy underwritten primarily by Insurance Co. of North America. Due to two paragraphs inadvertently dropped from its May 19 issue, *Business Insurance* incorrectly identified the INA coverage as being held by Caltex Petroleum Corp.

# Require only the first two EBS-1 pages

WASHINGTON—Yet another delay has hit the Labor Department's new pension reform reporting program, but this one should be welcomed by pension and employe benefit plan administrators.

The department announced last month that it will require only the first two pages of the new ESB-1 form to be filed with the government by Aug. 31. The EBS-1 form replaces the old D1 and D1-S forms.

The previous reporting schedule called for the complete EBS-1 form to be filed by Aug. 31. It also required that summary plan descriptions be provided participants and beneficiaries by Aug. 31.

The deadline for the full EBS-1 filing and for the distribution of plan summaries was shoved back to May 30, 1976.

Pension industry officials meeting at the White House May 7 told the Ford Administration there was no way they could properly fill out the EBS-1 form and meet the August 31 deadline.

The Labor Department said the information it will gain from the first two pages of the form will make it easier to determine what funds will need simplified reporting procedures or possible exemptions from reporting requirements. ■

# Engineers can cut work-related deaths: Stender

WASHINGTON—There is much that construction engineers and designers can do to reduce work-site injuries and deaths, John H. Stender, chief of the Occupational Safety and Health Administration, told the American Concrete Institute.

Mr. Stender said he believes "engineers and designers have a moral, if not legal, responsibility to exercise their best professional experience and judgment to provide a safe base, which in turn will enable the contractor to do the job safely.

"Obviously, designers and engineers cannot guarantee someone else's compliance with OSHA standards," he said. "But they can help prevent unnecessary risks such as building collapse by knowing OSHA requirements that relate to total safety at the construction site."

A March 2, 1973 collapse of a 24-story building under construction in Falls Church, Va., killed 14 and injured 34 others. (*Business Insurance*, March 12, 1973).

The architects and structural engineers were found liable for damages in a suit brought by one of the insured workmen (*Business Insurance*, Jan. 27).

The original award of $500,000 was later reduced to $250,000. The case is under appeal.

**Mr. Stender** said better safety practices, such as perimeter guards, safe scaffolding, and better housekeeping are now more often in evidence.

However, he said, one hears too often about the costs of complying with OSHA requirements, and not enough about the financial drain on the construction industry of the costs of job injuries and deaths that can be prevented by complying with OSHA standards.

He said this drain, based on private sector estimates, ranges between $4 billion and $5 billion per year. ■

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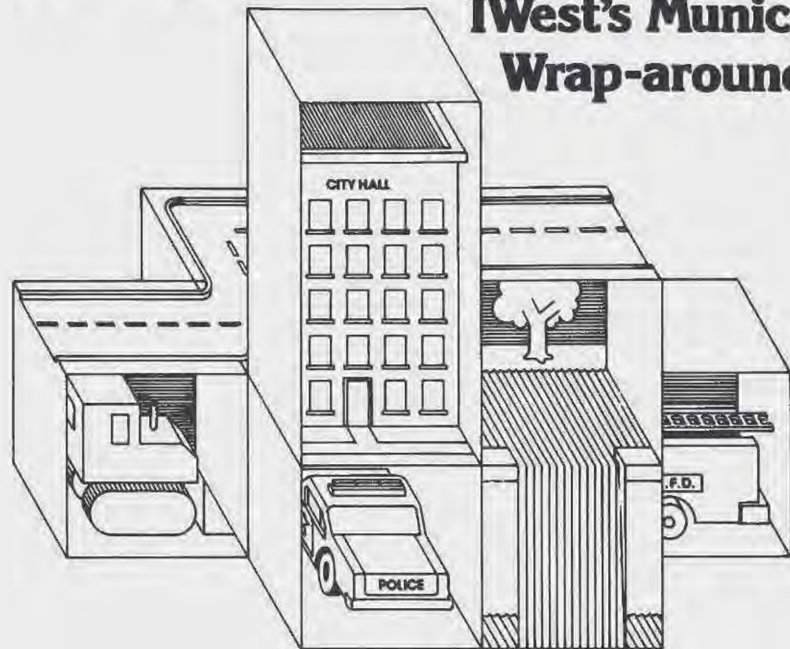


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# dates for buyers

**June 9-13:** One-day regional seminars, sponsored by the International Foundation of Employe Benefit Plans, will be held in these Canadian cities: Halifax, Montreal, Toronto, Calgary and Vancouver. Additional information can be obtained from the foundation at P.O. Box 69, Brookfield, Wi. 53005.

**June 16:** Health Maintenance Organizations in New Jersey will be the subject of an all-day conference sponsored by the Personnel Discussion Panel, Newark Chamber of Commerce and the New Jersey Department of Health. Exhibits by the state's developing HMOs and speakers from HEW, major New Jersey employers and state agencies will be featured. For more information contact Richard Quinn, Personnel Discussion Panel, P.O. Box 570, Room 8357, Newark, N.J. 07101.

**June 16-18:** The American Management Assn. is holding a seminar on the fundamental of employe benefits, in Chicago. For more information, contact the AMA, 135 W. 50th St., New York, N.Y. 10020.

**June 20:** The Puget Sound chapter of the American Society for Industrial Security will hold a national regional seminar and exhibits in Seattle. For more information contact Sally Ann Mowrey, 729 N. 184th St., Seattle, Wa. 98133.

**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 9-11:** Workers' compensation: costs, coverages and problems will be discussed at an American Management Assn. seminar in New York. For further details, write to the AMA, 135 W. 50th St., New York, N.Y. 10020.

**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 further 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 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. To obtain registration information, write to System Safety Conference, Brian Moriarty, P.O. Box 2444, Huntington Beach, Ca. 92646.

# people

## Don Schieck quits Illinois risk manager job; joins A&A

**Don Schieck** resigned as risk manager for the state of Illinois to join the Anistics division of Alexander & Alexander as regional manager based in Chicago, a newly created position. He was the state's risk manager for just over a year. No replacement has yet been named. Mr. Schieck was with Rockwell International Corp. as assistant insurance manager before he joined the state of Illinois.

* * *

**Thomas L. Watters** was named supervisor of licensing and compliance for Bellefonte Insurance Co., Middletown, Oh., a wholly-owned subsidiary of Armco Steel Corp. He was previously supervisor of casualty insurance for Armco Steel. No replacement has yet been named. Bellefonte specializes in treaty and facultative reinsurance, and excess and surplus lines business. Mr. Watters has a degree in industrial engineering from Purdue University, and is completing studies in law. ■

* * *

**Stephen R. Frey** was named insurance manager for New York-based W. T. Grant Co. Mr. Frey replaces Joel White, who left the company in January. Mr. Frey reports to Anthony G. Adams, assistant treasurer, who had temporarily been performing the duties of Mr. White since January. Mr. Frey is responsible for employe benefits for the 70,000 employes of the retail chain, as well as property and casualty programs. The company has more than $500 million in insured properties. Before joining Grant, Mr. Frey was a claims supervisor in the New York office of Crum & Forster.

* * *

The newly created position of risk and insurance manager at Baker Industries Corp. was assumed by **Alex Carrozelli.** The Greenwich, Ct.-based firm, which produces industrial chemicals, had no risk management department prior to his appointment. Mr. Carrozelli, will be reporting to Michael S. Pansini, vp, and assistant treasurer. Before accepting this position, Mr. Carrozelli was insurance manager at Commercial Solvents Corp., New York. Before that he was associated with General Telephone & Electronics as assistant manager of insurance. Mr. Carrozelli's replacement at Commercial Solvents has not been named. ■

# Canada Pension Plan hikes pensionable earnings level

TORONTO—Recent changes in the Canada Pension Plan will accelerate the level of pensionable earnings for the next several years until it catches up with the average Canadian wage of about $15,000, said J. Bruce MacDonald, actuary and vp of William M. Mercer Ltd., employe benefit consultants.

The amendments were made in order to produce pensions at the level that was originally anticipated, because since 1973 most Canadians have earned more than the $5,600 level of pensionable earnings. With the new annual increase in the level of pensionable earnings, the Canada Pension Plan YMPE (year's maximum pensionable earnings) is expected to catch up with the average wage at around the $15,000 level, which is estimated to be about 1980 or within a few years later, Mr. MacDonald predicted.

He also noted that actuarial reports indicate that Canada Pension Plan benefits will exceed contributions some time in the 1990s. Thus, he aded, part of the existing investments will have to be liquidated to provide the continuing pensions. Currently, the investments consist of provincial government bonds, except in Quebec, "and the provinces are not going to be pleased to have to redeem these bonds," said Mr. MacDonald. ■

# *Nuclear plant liability risk premium cut*

HARTFORD, CN.—A modest cut in premiums for liability insurance on nuclear power plants was announced by the two private insurance pools offering the coverage.

The two pools—the Nuclear Energy Liability/Property Insurance Assn. and the Mutual Atomic Energy Liability Underwriters—raised their coverage limits to $125 million per reactor from $110 million last January.

The premium cut amounts to 20% for that portion of the coverage in excess of $100 million. Premiums for the first $100 million of coverage were unchanged.

**The premium** for the top $25 million of coverage at single reactor sites will now be $20,000, down from $25,000, the pools said. For two reactor sites, the premium will be reduced to $25,000 from $31,250.

The cost of the first $100 million coverage is based on a fairly complex formula that includes a "base" premium amount, determined by risk, that can range from $25,000 to $60,000.

The average base premium runs about $37,000, *Business Insurance* learned. Using that figure, $100 million of liability coverage for a single reactor site would cost about $280,000 a year, according to the pricing formula.

The federal government, under the Price-Anderson Act, has set a $560 million limit on liability for nuclear reactors. The government would indemnify for any damages above the private insurance coverage limits.

The two people said their premium reduction was based on the exceptional safety records of the plants now in operation and on the findings of a reactor safety study recently completed by Professor Norman Rasmussen of the Massachusetts Institute of Technology.

**The Rasmussen** study found the chances of a nuclear reactor accident causing substantial damage to be remote. The findings of that study have been sharply criticized by opponents of nuclear power, however.

Total premiums for nuclear liability coverage written by the pools is estimated to run between $13.5 million and $14.5 million this year. The pools insure 54 atomic reactor sites.

The pools said they have yet to receive a claim for injury or damage to the public arising from the operation of a nuclear reactor since the inception of pool insurance operation in 1957. ■

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