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Update

Insurers win battle to divide Westinghouse coverage litigation

ELIZABETH, N.J.—Insurers battling with Westinghouse Electric Corp. over coverage for the cleanup of 80 hazardous waste sites nationwide and thousands of personal injury claims have succeeded in breaking up the massive litigation.

New Jersey Superior Court Judge Lawrence Weiss ruled last week that he will hear only coverage litigation involving nine New Jersey sites and about 150 personal injury claims resulting

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Lawsuits rock industry

Attorneys general's actions may cripple ISO: Observers

By JUDY GREENWALD

SAN FRANCISCO—The massive antitrust litigation filed last week against property/casualty insurers, reinsurers, brokers and trade organizations could drastically change the way insurers and reinsurers do business, observers say.

While some dismiss the suits as simple election-year grandstanding by state attorneys general that will quietly die come November, others say the suits—if successful—could destroy the Insurance Services Office Inc., the group that provides ratemaking, policy forms and statistical services to U.S. property/casualty insurers.

The suits—which allege, among other things, that the defendants conspired to eliminate occurrence-based commercial general liability policy forms and exclude all pollution coverage from the CGL form—also could have a chilling effect on insurers' willingness to cooperate with one another, observers contend, which would decrease the industry's efficiency and increase its costs.

Some observers also say the litigation will cost the property/casualty industry millions of dollars in legal fees, which could increase the cost of insurance.

And, even if the complaints ultimately are dropped, the litigation, which made front-page headlines in newspapers across the nation last week, has further damaged the property/casualty industry's already tarnished public image.

Meanwhile, defendants named in the suits vehemently deny the allegations. And, other industry officials and observers describe as ludicrous the charges by the attorneys general that the highly fragmented property/casualty industry hatched a worldwide conspiracy to limit the scope of general liability insurance coverage in the United States.

"To believe that this group of companies met on some dark night in some telephone

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Antitrust allegations outline scheme to limit CGL cover

By JUDY GREENWALD

SAN FRANCISCO—Insurers, reinsurers and other industry officials hatched a conspiracy to manipulate the U.S. commercial liability insurance market, seven state attorneys general allege in antitrust suits bulging with specific names, dates and places.

As a result of this scheme, the suits contend, the Insurance Services Office Inc. was forced to rewrite its new commercial general liability insurance policy forms to exclude all coverage for pollution incidents and include a retroactive date in the claims-made CGL policy.

Seven largely identical lawsuits brought by attorneys general from Alabama, California, Massachusetts, Minnesota, New York, West Virginia and Wisconsin were filed Tuesday in U.S. District Court in San Francisco.

A somewhat similar suit also was filed by the Texas attorney general in a state court

(see related story, page 38).

The federal court lawsuits—which are expected to be consolidated into one action—outline in elaborate detail a chain of events that the attorneys general claim led to liability coverage restrictions for U.S. businesses and public entities.

The suits accuse defendants of state and federal antitrust violations. While the insurance industry has limited antitrust immunity under the McCarran-Ferguson Act, the law specifically bars acts of "coercion, boycott and intimidation."

The attorneys general's lawsuits allege the conspiracy began after ISO announced it would revamp its 1973 CGL policy form. The revision differed from the old form in one key respect, the suits say: ISO offered a claims-made policy form along with an occurrence form.

However, both new forms—dubbed the 1984 CGL forms—continued to cover sudden

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Kennedy asks employers to fund long-term care

By JERRY GEISEL

WASHINGTON—Employers would be belted with an $8.9 billion annual increase in Social Security payroll taxes under a proposal to create a massive federal long-term health care insurance program.

The proposal, unveiled last week by Senate Labor and Human Resources Committee Chairman Edward M. Kennedy, D-Mass., would provide universal coverage to protect the elderly from potential financially ruinous long-term health care expenses, such as extended stays in nursing homes.

Sen. Kennedy estimates that the cost of the program, dubbed "Lifecare," would be $18.6 billion. The cost would be shared nearly equally by employers and employees by increasing the wage base for FICA taxes to $75,000 from the current $45,000, which Sen. Kennedy estimates would generate about $17.8 billion. Participants would pick up the rest of the tab on the program costs.

The current FICA tax rate of 7.51%—paid equally by employers and employees—would not be affected.

But, employers and insurers say it is premature to consider such a massive federal program before other less far-reaching initiatives are tried, and that a program like Lifecare could discourage employers from developing their own long-term health care programs.

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Aviation hull, liability rates fall in face of overcapacity

By STACY SHAPIRO

LONDON—Aviation hull and liability insurance rates will continue to dive, even though 1987 was the second-worst year on record for insured airline losses.

Airlines, which agreed to the terms of their April 1 renewals as early as 4½ months in advance, have received average reductions of 50% in hull rates and 20% in liability rates.

The airlines include Lufthansa German Airlines, which received a 57% hull rate cut and a 22% reduction in liability rates, and British Airways, whose hull rates were reduced by 53% and whose liability rates were cut by 35%.

These rate reductions are in line with those for airlines whose hull and liability insurance renewed in October, despite the high level of 1987 airline losses (see chart).

Brokers and underwriters agree that huge hull and liability rate reductions probably will continue through July 1 renewals. However, some aviation underwriters predict rate reductions will flatten by October, while some brokers believe that reductions will continue through next October's renewals, with hull rates dropping another 20% and liability rates falling by an additional 10%.

"The aviation market has suffered a slight accident," said Wally C. Corbett, former senior underwriter and now a board member of Minster Insurance Co. Ltd.

Due to capacity that some say has tripled in the last year and a lack of underwriting skills, the aviation insurance market's attempt to increase rates and improve results "has stalled and nosedived. The image of the market is severely dented, and some think there may be structural damage," Mr. Corbett said.

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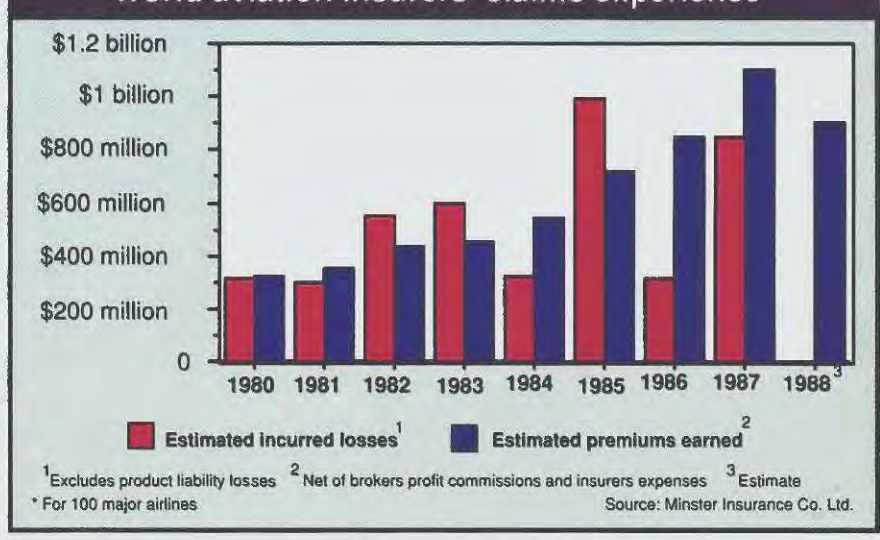
World aviation insurers' claims experience*



[1]Excludes product liability losses [2]Net of brokers profit commissions and insurers expenses [3]Estimate

* For 100 major airlines

Source: Minster Insurance Co. Ltd.

Mandatory second surgical opinions eliminated from New York Life plans
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Alcoholic beverage makers face suits over birth defects, beer drinker's death
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Update

Westinghouse suits split

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from exposure to toxic substances in New Jersey.

Barring a successful appeal by Westinghouse, the remaining litigation probably will be heard in the other 23 states with hazardous waste sites, said attorneys representing insurers in the litigation.

Pittsburgh-based Westinghouse filed suit against more than 140 of its property and liability insurers, seeking defense and indemnification for cleanup costs and to respond to more than 3,000 personal injury claims alleging exposure to toxic substances (*BI*, Sept. 28, 1987; June 15, 1987).

Judge Weiss also extended for 45 days a previous order temporarily prohibiting insurers from pursuing litigation in other states so Westinghouse has a chance to appeal (*BI*, Feb. 22).

Westinghouse has not yet decided whether it will appeal.

"We believe all these cases should be decided on a site-specific basis," said Puritan Insurance Co. attorney Mitchell Lathrop, with Adams, Duque & Hazeltine in San Diego. "The citizens of each state have the right to have all matters regarding hazardous waste sites in their state heard in their courts."

Notification bill stalls in Senate

WASHINGTON—A bill that would require employers to pay for the medical screening of current and former workers with a high risk of contracting occupational disease is stalled on the Senate floor despite new exemptions for small businesses.

The House passed a similar bill last year (*BI*, Oct. 19, 1987).

A revised version of the legislation, substituted by Labor and Human Resources Committee Chairman Edward Kennedy, D-Mass., would exempt employers with 100 or fewer employees in the first two years after it is enacted. In addition, employers of seasonal agricultural workers would be exempted from a provision requiring other employment for workers diagnosed as at risk of developing an occupational disease. Small businesses also would be exempt from the requirement to pay one year's salary to employees who cannot be transferred to another job.

Previously, employers with 10 or fewer employees were exempted from those provisions.

The National Federation of Independent Business remains opposed to the legislation, calling the exemption merely a "placebo."

During its consideration of S. 79, the Senate rejected a comprehensive amendment filed by Sens. Mitch McConnell, R-Ky., Jack Danforth, R-Mo., and Bob Kasten, R-Wis., that contained both general tort and product liability reform provisions.

Kaiser retirees to get stock

DENVER—Kaiser Steel Corp. retirees would receive more than 15 million shares of new common stock to pay for medical claims and pension benefits under a reorganization plan filed last week.

In addition, the federal Pension Benefit Guaranty Corp. would receive about 6.5 million shares of stock in the new company, Kaiser Holdings Inc., according to court papers.

Under the plan, which has not yet been approved by the U.S. Bankruptcy Court, the new company would issue 30 million shares of stock. Kaiser would issue 14 million shares of stock to a retiree medical benefits trust. In addition, Kaiser would ensure that the trust is funded with at least $3.5 million annually. Some 1.08 million shares of stock would be placed into a retiree pension fund, with the remainder distributed to other creditors and shareholders.

The plan also calls for Kaiser to distribute to retirees, the PBGC and other creditors proceeds from the sale of assets and damages it expects to receive from litigation against former management.

Fontana, Calif.-based Kaiser filed for protection under Chapter 11 of the U.S. Bankruptcy Code in February 1987 (*BI*, Feb. 9, 1987).

Texaco shareholders drop suits

WHITE PLAINS, N.Y.—A group of Texaco Inc. shareholders is dropping 16 derivative lawsuits that sought to tap the oil giant's $100 million in directors and officers liability insurance.

However, the company's D&O insurers have agreed to pay shareholders "less than 50%" of their total legal fees up to a maximum of less than $5 million if those fees total $10 million, said Harvey R. Miller, a Texaco bankruptcy attorney with Weil, Gotshal & Manges in New York. Shareholders would not be reimbursed for any percentage of legal fees exceeding $10 million, he said.

The shareholders dropped the lawsuits as part of a court-approved reorganization plan for Texaco.

Houston-based Pennzoil Co. sued Texaco in 1985 over Texaco's 1984 acquisition of Getty Oil Co. and won a record $10.53 billion judgment that ultimately forced Texaco to seek Chapter 11 bankruptcy protection.

Texaco's primary D&O insurer is National Union Fire Insurance Co. of Pittsburgh, Pa., a unit of American International Group Inc. Other insurers that have participated in various layers of Texaco's D&O program at various times include Lloyd's of London underwriters led by syndicates managed by Merrett Holdings P.L.C.; Federal Insurance Co., a Chubb Corp. unit; and Harbor Insurance Co., a Continental Corp. unit (*BI*, Feb. 22).

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Errors & omissions

- Fred Reiss will retain control of Transnational Ltd., a Cayman-based insurance company, following the purchase of Mr. Reiss' majority interest in The Reiss Organization (*BI*, March 21). However, Swiss Re will purchase Transnational Risk Management Ltd., the Reiss Organization's Cayman-based captive management unit.

- Among the factors influencing health care costs is the AIDS epidemic in some areas of the country, not just at some companies as was reported in the March 14 Ask a Benefit Manager column.

Mandatory second opinions dropped by New York Life

By MICHAEL BRADFORD

NEW YORK—A major group health insurer's decision to eliminate mandatory second surgical opinion provisions will not set a trend among its competitors, market observers say.

Employees and dependents covered by indemnity plans written by New York Life Insurance Co. and participants in the New York Life Preferred Patient Plan, the insurer's PPO that spans 18 states and covers 450,000 people, no longer are required to seek a second surgical opinion for non-emergency surgery under a plan change that took effect March 1.

However, patients still may elect to have a second opinion, and New York Life will pay 80% of the cost of the opinion.

"We just found it wasn't saving us money," said a New York Life spokesman. He pointed out that the insurer still requires pre-admission review of patients before they are admitted to a hospital and that the second opinion requirement was duplicating that procedure.

New York Life decided most second opinions were unnecessary when it found in a recent study that 92% of all surgical recommendations were confirmed by the second doctor, the spokesman added.

New York Life's decision to eliminate mandatory second surgical opinions follows years of debate among health care professionals over whether the cost-containment feature is effective.

Lynn Dowling, executive director of the American Assn. of Preferred Provider Organizations in Chicago, pointed out that "there has been a debate about the worth of second opinions since the early '80s."

Ms. Dowling said she was not surprised by New York Life's decision to eliminate mandatory second opinions, "because it is rare that you will find a decision that goes against the first physician's recommendation. The percentage of decisions reversed is very small."

However, she does not expect New York Life's decision to signal the beginning of the end of mandatory second opinion programs, since they provide a benefit that probably will keep most insurers from abandoning the cost-containment feature.

"You cannot calculate the significance of the sentinel effect," Ms. Dowling said, explaining that the second opinion requirement might influence a "less than professional" physician not to recommend a questionable and expensive surgery in the first place.

A spokeswoman for the Blue Cross & Blue Shield Assn. agreed that "there is a sentinel effect that is cost-saving, but it can't be measured. Physicians who might otherwise be knife-happy will review that decision," she said.

BC/BS has not discussed removing the second opinion features of its 58 managed care programs covering 11.7 million subscribers across the country, the spokeswoman said.

John Hannon, vp-group corporate for The Prudential Insurance Co. of America in Roseland, N.J., said, "There's no question that there's a sentinel effect when a physician knows the program is in place."

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Nuclear industry supports Senate-passed liability cap

By DEBORAH SHALOWITZ

WASHINGTON—The nuclear power industry wants Congress to extend for another 20 years a cap on the industry's liability in the event of a nuclear accident.

The industry and insurers of nuclear liability risks support legislation to renew the Price-Anderson Act now winding through Congress that would cap the industry's liability at $7.5 billion in the event of an accident.

And, Senate- and House-passed versions of the legislation will likely be reconciled easily because they are very similar, say nuclear insurance experts.

The major difference between the two bills is that the Senate version would extend the liability cap for 20 years while the House version would extend it for 10 years.

The other main difference between the bills is that the Senate version allows the Energy Department to impose civil or criminal penalties of up to $100,000 per day on federal contractors that violate nuclear safety regulations.

The House version of the bill does not contain such a provision.

"We're pleased with the Senate-passed version," said a spokeswoman for the Edison Electric Institute, a Washington, D.C.-based association of investor-owned electric utilities.

"It's a good piece of legislation," said Kevin Billings, director of legislative programs for the American Nuclear Energy Council, a Washington, D.C.-based association representing utilities, insurers and contractors involved with nuclear power.

Mr. Billings observed that the proof is "nobody is completely happy with this thing—and nobody's completely outraged either."

Tim Peckinpaugh, an attorney with the Washington, D.C., firm of Preston, Thorgrimson, Ellis & Holman, who represents two nuclear insurance pools, agreed that the legislation on the whole is "a good piece of work."

Since its enactment in 1957, the Price-Anderson Act has been renewed for 10 years at a time. However, the insurance industry wants the current amendment to be effective for a longer period, in part because the renewal process can take years, Mr. Peckinpaugh said.

For example, Congress, the insurance industry, the utility industry and environmentalists have been working on the scheduled 1987 renewal of the act for about three years.

Mr. Peckinpaugh contends it would not be necessary to renew the law every 10 years because, unlike previous Price-Anderson amendments, both the Senate and House bills would index the utilities' liability cap to inflation.

However, Keiki Kehoe, director of the nuclear accountability project for the Environmental Policy Institute, a Washington, D.C.-based research and public interest lobbying group, called the Senate's 20-year extension proposal "a disaster."

She believes that 20 years is too long for such a cap.

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Inside

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NAIC seeks opinion on broker affiliations

By MEG FLETCHER

SANTA FE, N.M.—The National Assn. of Insurance Commissioners is asking risk managers and others to comment on a controversial proposal to restrict brokers from placing business with affiliated insurers.

"We have a sense of the problem and the ramifications of what we are doing. But we want to customize it so we don't hit things incidentally," said New York Insurance Superintendent James P. Corcoran at the NAIC's Spring Meeting, held March 13-16 in Santa Fe, N.M.

Mr. Corcoran chairs the NAIC's Special Insurance Issues Committee that last June proposed the model law, which has been criticized primarily by brokers and insurers because they fear it would hamper brokers from helping to organize alternative risk financing facilities (*BI*, Dec. 14, 1987).

He plans to redraft the proposal and circulate it among committee members before it is presented for possible adoption as a model law at the NAIC's Summer Meeting in June in New York City.

While NAIC model laws are not binding, they are used as guidelines for state legislatures to use in drafting laws affecting the insurance industry.

The proposal has undergone changes in the past nine months as commissioners broadened their inquiry into related issues.

The original model law introduced last June prohibited any broker from placing business, either directly or indirectly, with "controlled" insurers (*BI*, June 29, 1987).

For example, a broker is presumed to "control" an insurer if the broker holds 10% or more of an insurer's voting securities, though this provision could be appealed to a state insurance commissioner.

A November draft of the proposal contained similar wording, but also prohibited any reinsurance intermediary that has "control" of an insurer from placing reinsurance business with that insurer.

However, the prohibitions would not apply to an intermediary that "makes a full and complete written disclosure to the ceding insurer of its relationship with the assuming insurer prior to completion of the transaction."

While a working group of the Special Issues Committee did not redraft the model when it met in February, it broadened its scope to include not only broker-owned insurers, but also insurer-owned brokers. The group plans to consider insurer-managing general agent affiliations separately.

In addition, the group outlined the following proposed requirements as key issues for comment:

- Disclosure of the relationship between the broker and insurer.
- A ban on placement of insurance with a controlled insurer only when the amount of business placed by the broker exceeds a certain percentage of the insurer's entire business.
- Reporting the amount of commissions paid to broker-owners.
- In the event of a controlled insurer's insolvency, basing the broker's liability on the percentage of business it places with the insurer.

For example, the broker would be liable only for its own book of business if it places less than 10% of the insurer's business.

However, if the broker places more than 10% of the insurer's business, the broker would be liable for the insurer's entire book of business.

- Either ban all placement of business with controlled insurers, or adopt special standards as additional safeguards if placement is permitted.

Some of the standards could include: higher minimum capital and surplus requirements; more conservative premium-to-surplus ratios; and actuarial certifications of the business placed by the broker.

These suggestions were submitted to an ad hoc industry committee of brokers, insurers, agents and risk managers.

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Alcoholic beverage makers face product liability suits

Photo: Stan Miskiewicz

The lawsuits contend that breweries and distillers should have warned of their products' dangers.

By GLENN HUNTLEY

The death of a 26-year-old beer drinker due to pancreatitis and the birth defects of four children whose mothers drank alcoholic beverages while pregnant may raise new product liability concerns for brewers and distillers of alcoholic beverages.

In separate lawsuits, the beer drinker's widow and the children's parents charge that breweries and distillers are strictly liable for damages because they failed to label their products with warnings about the health risks of alcohol consumption.

The U.S. District Court for the Middle District of Pennsylvania will hear the suit filed against Stroh Brewery Co. of Detroit by the widow of William Hon of Nanticoke, Pa., who died in September 1983 at age 26 from pancreatitis.

The 3rd U.S. Circuit Court of Appeals in Philadelphia sent the case back to the lower court in December after ruling the lower court erred in denying a trial in the case because of a lack of triable issues.

In addition, three suits were filed last November in U.S. District Court in Seattle alleging that several distillers and breweries failed to warn women of the health risks to fetuses if mothers drink beer and liquor while pregnant.

As a result, the suits allege, four children were born with birth defects attributable to fetal alcohol syndrome, which can result in neurological impairment, growth retardation, facial deformations, finger defects and other physical and behavioral problems.

The suits were filed on behalf of:

- Michael Thorp, 4, of Seattle by his parents, Harold and Candance Thorp. The suit names as a defendant James B. Beam Distilling Co. of Shepherdsville, Ky.
- Andrew Penn, 10, and Daniel Penn, 8, of La Push, Wash., by their mother, Debra Penn. The suit names Heublein Inc. of Hartford, Conn., and G. Heileman

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RIMS seminars to investigate health costs

By JUDY GREENWALD

Restraining the cost of health care claims for problems like AIDS is an issue of growing concern to benefit managers.

In response, the Risk & Insurance Management Society will offer a seminar titled "Managing High Exposure Claims: AIDS, Chemical Dependency, Psychiatric" during its Capital Conference '88, to be held April 17-22 in Washington, D.C.

In addition, the 26th annual RIMS conference will offer seminars on liability issues associated with managed care programs, welfare plan discrimination rules, utilization management and the impact of federal legislation on benefit plans.

To help new benefit managers as well as risk managers interested in learning more about benefit issues, RIMS for the first time will offer a track program—a series of courses on a specific topic—devoted to benefit issues.

Bob O'Brien, national account executive at Intracorp in Wayne, Pa., a moderator for the seminar on high-exposure claims, said he hopes seminar attendees come away with an understanding of some of the alternatives available to deal with these illnesses. The seminar, S 22, will be held Thursday, April 21, from 9-11:30 a.m.

Topics to be covered include how benefit managers should identify and administer claims and take a pro-active management role, "making sure the money they're spending on these sorts of illnesses is well-spent."

Speakers scheduled for the seminar include Frederick B. Hebert, associate professor of psychiatry at the University of Colorado Medical Center in Denver, who will cover alternative approaches to psychiatric and substance abuse cases.

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Wellness plans can save money: Survey

By ALISON KITTRELL

A new survey on wellness programs bears out what many employee benefit experts long have professed: The programs save money.

Employers with wellness programs that measured their effectiveness in dollars and cents reported an annual average health care cost savings of $49.74 per employee, according to the survey by the Health Research Institute.

Those savings were computed by comparing actual health care costs with company estimates of what health care costs would have been without the wellness program.

However, only 11.2% of the survey respondents had a mechanism to track savings and only 30% of them reported their findings.

The overall average annual cost for operating a wellness program, reported by the survey respondents with such programs, was $14.48 per eligible employee.

Thus, according to HRI, companies with wellness programs realized $3.44 in savings for every dollar spent on the programs.

"Often people do wellness programs because they intuitively believe they make good sense," says William E. Hembree, director of the Walnut Creek, Calif.-based HRI.

But, Mr. Hembree notes that the survey shows that "these companies are definitely saving as a result of the wellness programs. . . .If that doesn't give a good reason to have healthier employees, I don't know what does."

The HRI survey is based on responses from 141 employers nationwide, of which 63.1% offer a wellness program that most often includes weight reduction and smoking cessation programs. However, Mr. Hembree notes that the HRI targeted the survey to companies it knew or believed offered wellness programs.

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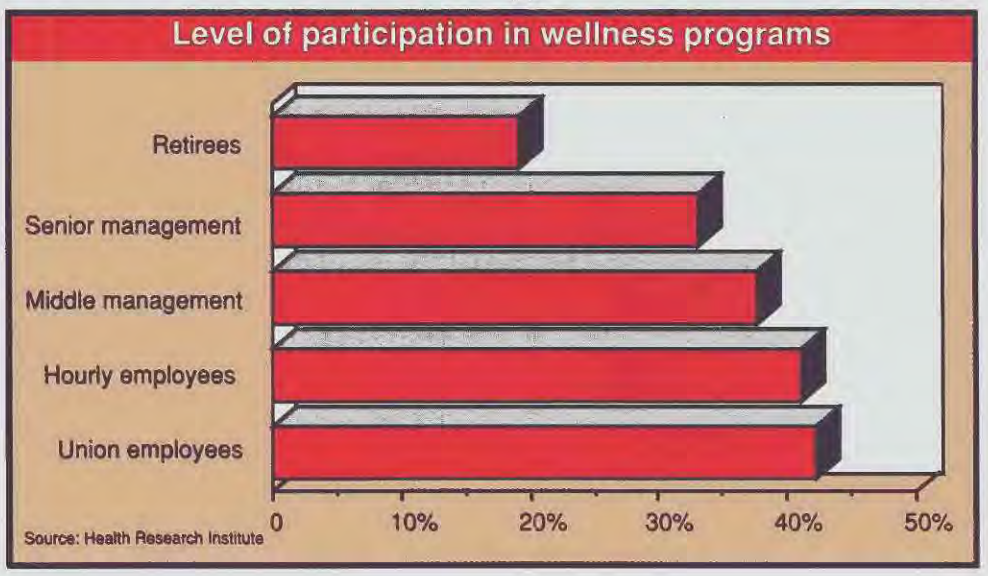


Long-term care

Continued from page 1

The Lifecare program would be divided into two parts:

- Part A would provide up to six months of coverage for nursing home care and unlimited coverage for necessary home health care without a deductible or coinsurance.

The entire $14.1 billion annual cost of Part A would be funded by the revenue generated by increasing the Social Security taxable wage base.

- Part B would pay for 65% of the daily cost of nursing home care after six months.

The revenue generated by raising the Social Security taxable wage base also would pay for $3.7 billion, or 82%, of the $4.5 billion cost of Part B. Premiums paid by participants would pay the remainder of the Part B cost.

Monthly Part B premiums, for example, would be $10 for a 45-year-old and $25 for a 65-year-old.

Sen. Kennedy expects to introduce enabling legislation soon.

"For the average senior citizen, a stay in a nursing home today can be as financially ruinous as a stay in the hospital used to be in the dark days before Medicare," Sen. Kennedy said when he unveiled the proposal before the National Council of Senior Citizens in Washington.

He called raising the Social Security taxable wage base to pay for such a program fair.

But employers say that while they recognize the need to protect the elderly from catastrophic long-term health care expenses, they oppose such a large-scale federal program for which they would pay half the costs.

"It is a terrible idea to raise Social Security taxes. Payroll taxes are already one of the biggest tax burdens for small employers. This would exacerbate the problem," said James Klein, manager of pension and health care policy for the U.S. Chamber of Commerce.

"Employers are not even slightly interested in another increase in FICA taxes," said Willis Goldbeck, president of the Washington Business Group on Health.

"Sen. Kennedy's proposal goes too far, too fast and probably in an incorrect manner," asserted Stuart J. Brahs, vp-federal government relations in the Washington office of The Principal Financial Group, a diversified insurance and financial services company based in Des Moines.

Employers and insurers would like to see more limited initiatives examined first, including:

- Changing tax codes so that employers could tax-effectively prefund long-term care benefits.
- Allowing employers to roll over excess assets from terminated overfunded pension plans into special long-term health care trusts.
- Offering tax deductions for contributions to so-called Individual Medical Accounts.

While insurers say they recognize there may be a role for a federal long-term health care program, they say it should be limited to those unable to afford coverage.

"The insurance industry believes that those who can pay for their own care should do so and that the flexibility of fully funded private insurance approaches—not a single public program—is the better means of doing so. For those who are unable to pay for their own care, public programs are both appropriate and necessary," said Bruce Boyd, chairman of the long-term care task force for the Health Insurance Assn. of America.

Indeed, there are concerns that introduction of Sen. Kennedy's proposal could discourage employers and insurers from developing new, long-term health programs.

"This could stifle initiative in the private sector," warned Sharon Canner, assistant vp for industrial relations with the National Assn. of Manufacturers in Washington.

So far, just a handful of employers have purchased long-term health care policies for their employees. But, while few companies currently offer long-term coverage, that could change.

For example, while Travelers Insurance Co. has sold just two group long-term health insurance policies to employers, the Hartford, Conn.-based insurer says there is high corporate interest in the coverage.

While few experts and lobbyists expect imminent passage of Sen. Kennedy's proposal, they say it shows the speed at which a health care issue can become a major concern among policymakers.

Two years ago, there was virtually no discussion of long-term health care coverage in Congress. Today, though, nearly all of the presidential candidates have discussed the issue, noted Frank McArdle, education and communications director for the Employee Benefit Research Institute in Washington.

Even before Sen. Kennedy unveiled his proposal, Rep. Claude Pepper, D-Fla., the champion of the elderly, had been pressuring a congressional conference considering legislation to expand the federal Medicare program to cover more acute care catastrophic expenses to add a long-term health care benefit.

In fact, it was the introduction and discussion of Medicare legislation, which is supposed to make the elderly less vulnerable to catastrophic health care bills, that has been the catalyst for interest in long-term health care coverage: Both politicians and the public eventually realized that the Medicare legislation would not do anything to protect the elderly from huge nursing home expenses.

"The Medicare legislation has raised everyone's consciousness that long-term care was a big hole in the measure," said John Hickey, a partner at benefit consultant Kwasha Lipton in Fort Lee, N.J.

"There was an increased realization that long-term health care is the area where the elderly can face a true financial disaster as opposed to acute care," said the Chamber's Mr. Klein.

And, no one expects the issue to go away.

"I expect long-term health care coverage to be at the top of the next president's agenda," predicted Howard Weizmann, executive director of the Assn. of Private Pension & Welfare Plans in Washington. ■

Jacqueline LaSota joins *BI* copy desk

CHICAGO—Jacqueline LaSota has joined the *Business Insurance* Chicago staff as an assistant copy editor, announced Associate Publisher and Editor Kathryn J. McIntyre.

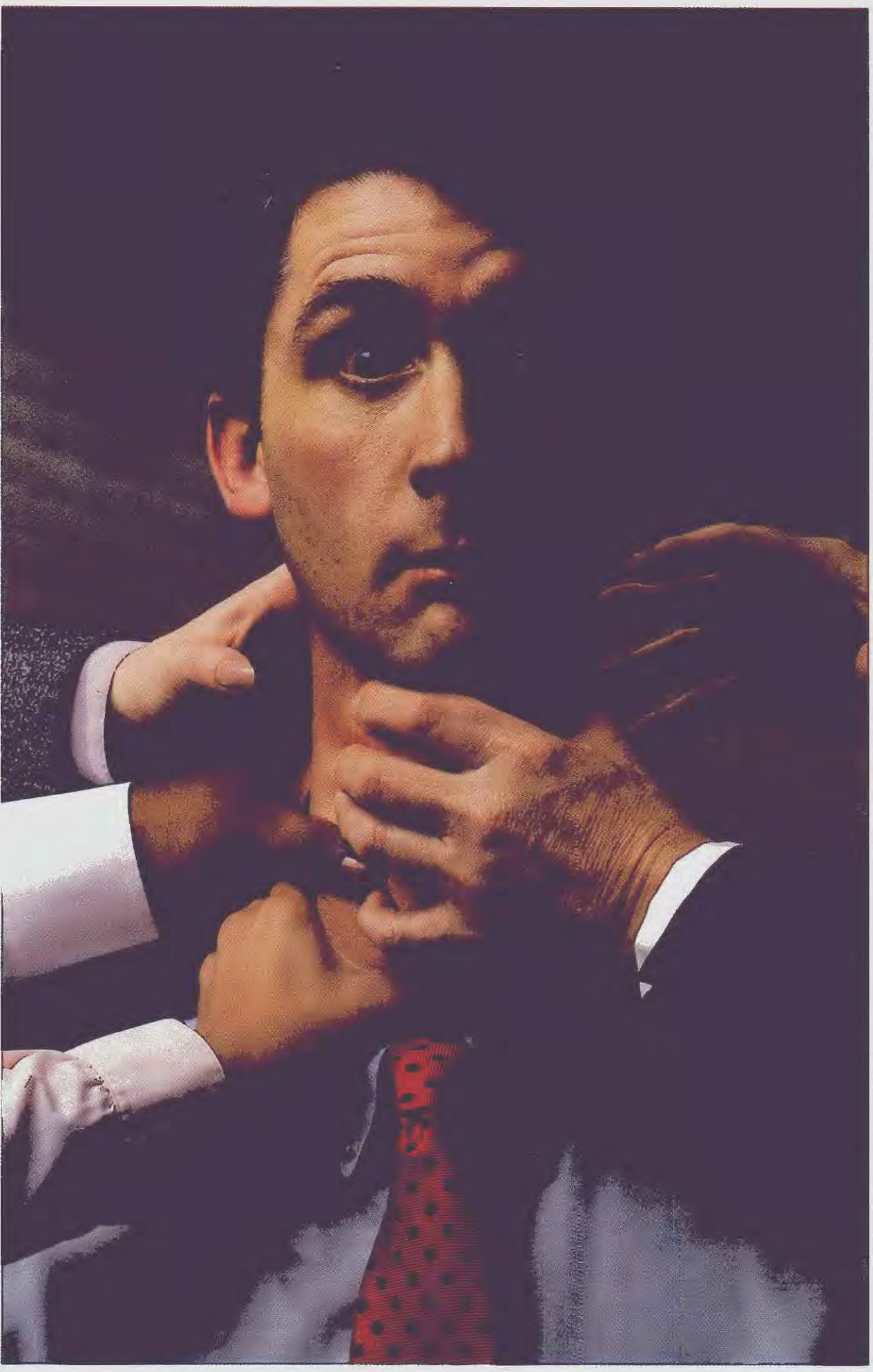
Ms. LaSota

Ms. LaSota, 22, received a master of science degree in journalism from the Medill School of Journalism at Northwestern University in Evanston, Ill., in December. In addition, she graduated cum laude in January 1987 from Loyola University of Chicago with a bachelor's degree in communication. She is a member of Alpha Sigma Nu, a Jesuit academic honor society.

Prior to joining *BI*, Ms. LaSota worked as an editorial assistant for Medical Electronics & Equipment News magazine, published by Reilly Publishing Co. in Park Ridge, Ill.

Ms. LaSota can be reached at 312-649-5440. ■

WHEN TIMES ARE TIGHT, IT'S THE BENEFITS MANAGER THAT FEELS THE SQUEEZE.



You know the feeling.

Management wants you to hold down rising employee benefits costs. But since cutting benefits isn't the answer, you try to offer alternatives. Like shared costs and flexible benefits.

In doing so, you get squeezed by employees, because changing benefits creates confusion, dissatisfaction and lots of questions.

NWNL Group can help relieve the pressure.

You see, we look at your company's insurance needs differently, so we find solutions others may not see.

Take our Appropriate Care and Treatment program (ACT) for catastrophic medical claims, for example.

With ACT we're able to find ways to provide coverage for more cost effective treatment by recommending alternatives to employees and their physicians. Like outpatient care, using specialized non-hospital facilities and home health care.

The way we see it, cost efficiency doesn't mean reduced benefits, it simply means finding ways to increase the efficiency of the care.

If you're feeling the squeeze, let us send our booklet "10 Ways to Cut Benefit Costs." Call or write Ginny Patrick, NWNL Group, P.O. Box 20, Minneapolis, Minnesota 55440, (612) 372-5784.

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Anchorage co-op effort cuts health costs

Benefit beat

The city of Anchorage, Alaska, is bringing health care costs under control through a program endorsed by city management and union members.

The cooperative effort between the city and its workers cut 10% off the city's anticipated health care bill in 1987, the cost-containment program's first year.

The cost-containment program saved Anchorage about $250,000 in 1987, according to Rick Johnson, a principal with consultant William M. Mercer-Meidinger-Hansen Inc. in Seattle, who helped design the program.

"Everyone agrees on the program's success as measured by a 10% reduction in paid claims," said Pam Amstrup, Anchorage's benefit supervisor.

"I'm really pleased with it," said Barbara Huff, president of the Anchorage Municipal Employees Assn.

In 1986, the union, which represents about 670 city employees, faced a choice between higher deductibles and copayments for health care coverage or a reduction in benefits, she said.

Instead, the union proposed a cost-containment program. A committee of city administrators and union representatives investigated and approved pre-admission review, discharge planning, hospital audits, second surgical opinions, pre-admission testing, outpatient surgery requirements and a mandatory generic prescription drug program as plan provisions.

The key to Anchorage's program is an intensive pre-admission review process, Mr. Johnson said.

The program includes incentives to encourage employee participation: Patients using the recommended procedure receive 100% reimbursement, and those not complying receive 50% reimbursement.

The union approved the cost management program in 1986 by "an overwhelming vote," Ms. Huff said. Shop stewards explained the program to members, she said.

The self-insured medical plan for municipal workers pays 100% of hospital visits and surgical procedures. Other medical services and office visits require a $50 deductible and a 20% copayment of the first $2,500, but exceeding expenses are 100% covered.

The city decided to use the committee's program to help control the cost of a similar self-insured health care program for management personnel, bringing 1,500 city employees to the cost-containment program.

Long-term care cover

Employee-paid, long-term health care insurance is an attractive benefit to younger employees even though they may not benefit for many years, according to a recent survey.

Some 66% of the approximately 5,780 enrollees in a new long-term care program sponsored by two employers last year were between 30 and 50 years old, and 80% were younger than 50, according to a survey by Aetna Life & Casualty Insurance Co. of Hartford, Conn., which underwrote the plan.

The survey was based on enrollment information of long-term care plans offered by Aetna and Procter & Gamble Co. of Cincinnati.

Aetna offered the program to 40,000 employees, and 7.2%, or about 2,880, bought the coverage last year, said Joanne Mathieu, director of Aetna's LTC plan.

"We were really pleased with that 7.2%," Ms. Mathieu said.

About two-thirds of the initial enrollees were between 30 and 50 years old.

At Procter & Gamble, about 14.5% of its 20,000 corporate salaried employees purchased the new coverage, Ms. Mathieu said. Two-thirds were under 50 years old.

Nearly 15% were younger than 30 years old, the survey found.

"The fact that such a significant group of young people signed up for a benefit they may not need for 40 years or more indicated a growing consumer awareness of the need for long-term care coverage," said Deborah H. Warner, Aetna's employee benefits division manager.

The plans cover care in a nursing home, at home or in community-based centers, Ms. Mathieu said.

Under both employers' plans, an enrollee pays the entire premium, which is based on age at time of enrollment and is designed to remain stable during the policy period, Ms. Mathieu said.

The plan offers three benefit levels: $50, $75 or $100 per day. For example, the monthly premium for the $50 per day plan would be $7 for a 30-year-old, $22 for a 50-year-old and $47 for a 60-year-old.

Coverage at both companies also is extended to employees' spouses for an additional premium.

At Procter & Gamble, the coverage also is available to employees' parents for an additional premium, Ms. Mathieu said.

The insurance requires a 90-day waiting period and has a lifetime limit of $1 million.

•

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Opinions

Masking a monster

WHILE WE HAVE a lot of respect for reports produced by the U.S. General Accounting Office, we think the conclusion the GAO drew in a recent study of product liability suits filed in federal courts is off-target.

In that report, the GAO said the increase in product liability litigation is "neither accelerating nor explosive" (*BI*, March 14). In reaching that conclusion, the GAO noted that more than half of the 272% increase in the number of federal product liability suits filed between 1976 and 1986 was related to asbestos litigation.

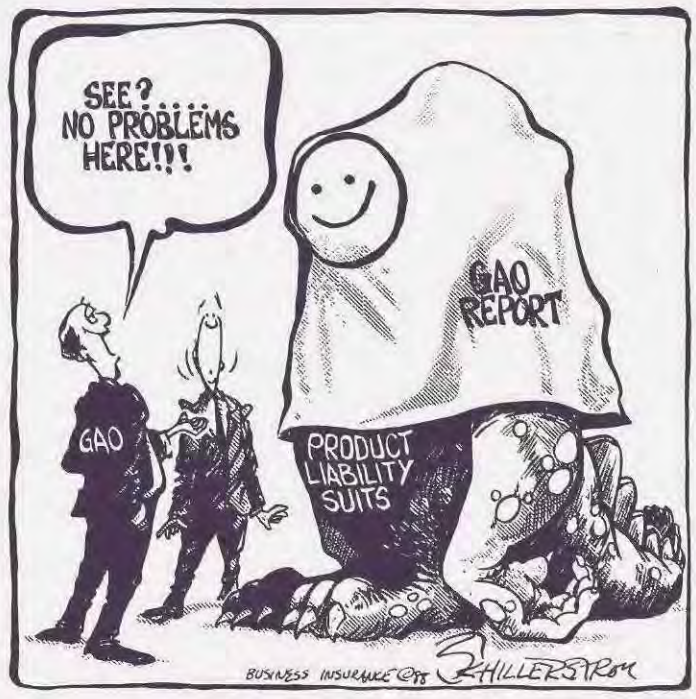
If asbestos lawsuits and the mass litigation involving the Dalkon Shield intrauterine device and Bendectin, an anti-morning sickness drug, are excluded from the tally, the number of product liability suits filed in the federal courts rose by only 104% between 1976 and 1986, the GAO report observes.

But we can't see the logic, nor can business lobbyists and government officials, of excluding certain types of product liability suits—the very ones whose growth has been explosive—in studying product liability. If asbestos, Dalkon Shield and Bendectin suits are excluded, then why not exclude suits related to Agent Orange, the defoliant used in the Vietnam War, or DES, the anti-miscarriage drug? Surely, suits and settlements involving those products have helped fuel the increase in federal product liability litigation.

Carried to an extreme, so many products could be excluded from a list of federal product liability suits that there would be no increase at all.

Even if one follows the GAO methodology and excludes asbestos, Dalkon Shield and Bendectin suits from the total, the 104% increase in product liability suits filed over a 10-year period strikes us as a very substantial increase in litigation.

Predictably, special interest groups, like the Assn. of Trial Lawyers of America, are using the GAO report as ammunition in their lobbying



against enactment of a uniform federal product liability reform law. ATLA says the report "once again demonstrates the lack of any basis to pass federal product liability legislation." On the contrary. The GAO report does, in fact, show a significant increase in litigation.

And, the raison d'être of a federal product liability law goes far beyond raw numbers. Such a law would provide manufacturers with a fairer, more rational and predictable set of rules by which product liability suits can be decided. The costs of defending and the outcomes of these suits in the current hodgepodge of rules is not addressed in the GAO report.

There is useful information in the GAO report: It offers an insight into just how much litigation has been triggered by certain products. But the report should only be considered a starting point for further research in trends in product liability litigation.

Letters

Subrogation compromise would hurt employers

To the editor: In his letter to the editor of Feb. 22, Jerrold Keating vigorously attacks my article on federal product liability reform (*BI*, Feb. 1).

Upon careful reading, it appears that Mr. Keating's attack consists of two—and only two—arguments of any substance. First, he implies that the existence of a no-fault employer defense in the Richardson/Florio compromise bill should eliminate my concerns. Second, he implies that since his company has not been able to generate any significant subrogation recoveries, the elimination of subrogation would do little harm.

Contrary to Mr. Keating, I do not feel that the Richardson/Florio compromise necessarily represents the last chapter in the product liability reform saga. Most of the other product liability proposals that people have talked about in the past—and, I suspect, will talk about in the future—provide for the total elimination of subrogation in all cases. In any event, if the Richardson/Florio compromise sticks, I hardly feel that a provision that puts the burden of proof on employers to prove that the harm was not in any way caused by the fault of the claimant's employee or co-employee is the same thing as automatic right of subrogation.

As for his observation that Hewlett-Packard has developed few significant recoveries from subrogation, let me suggest that Mr. Keating has missed the whole thrust of my article. The point is not that employers are currently collecting large sums via subrogation. The point is that without subrogation, both the size of workers comp awards and the number of workers comp claims can be expected to increase significantly.

W. Kirk Liddell
President
IREX Corp.
Lancaster, Pa.

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To the editor: Recently I read with interest an article carrying the byline of Stacy Shapiro and Carolyn Aldred entitled, "Weavers Shuffles Slip in Wake of M&M Memo" (*BI*, Jan. 11). I am writing to correct an inaccuracy that appeared in that article referring to Mutual Insurance Co. Ltd. of Bermuda as a captive of the American Newspaper Publishers Assn.

Mutual Insurance Co. Ltd. insures a substantial number of members of the ANPA but in no way is a captive of that organization. Mutual Insurance Co. Ltd. is a duly licensed company admitted in Bermuda by a special act of the Legislature and is a totally independent entity.

Paul L. O'Brien
U.S. General Counsel
Mutual Insurance Co. Ltd.
Washington, D.C.

CERA would be a burden on the EPA

To the editor: I found your editorial offering kudos to DeRoy C. Thomas' proposed Comprehensive Environmental Response Authority to be very ironic (*BI*, Feb. 29).

It was fascinating to read in two of your lead articles that while Mr. Thomas proposes a massive federal program to control pollution claims, his company, Hartford Insurance Group, is going to some substantial lengths to avoid such liability at Love Canal.

The private sector suggesting a massive federal program to assess liability, provide insurance, clean up and adjust pollution claims seems a bit unrealistic in 1988.

Additionally, a full page ad by one of several companies providing such coverage ran in this issue. The tools exist in the private sector to manage all the aspects of this problem, and the Environmental Protection Agency doesn't need these issues tacked onto its mission of protecting the environment.

Kenneth J. Berger

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Wellness survey

Continued from page 3

According to the HRI's 1985 biennial cost-containment survey, which was sent to random employers nationwide, 33.5% of the respondents had a wellness program.

Perhaps even more telling than the savings attributed to wellness programs, though, is a comparison of the average per-employee health care costs for employers that participated in the wellness survey and the costs for employers that participated in the more general 1985 cost-containment survey. This comparison shows that per-employee health care costs were lower—and rose less quickly—among the respondents to the wellness survey.

The wellness survey respondents reported a per-employee medical care cost in 1984 of $1,575, compared with a per-employee cost of $1,770 in 1984 reported by respondents to the 1985 cost-containment survey.

In 1985, the wellness survey respondents' medical care costs rose only 1% to an average of $1,591 per employee, while estimated health care expenditures for the cost-containment survey respondents rose 10% to $1,947.

The wellness survey respondents reported an average health care cost of $1,663 per employee in 1986, an increase of 4.5% over 1985, compared with an estimated $10% increase to $2,142 for the broader sample in the cost-containment survey. And, estimated 1987 health care costs were $1,709 per employee for the wellness survey participants, a 2.8% hike, compared with a 9.9% jump to $2,356 for the cost-containment survey participants.

Mr. Hembree believes that much of the cost savings being realized because of wellness plans can be attributed to a broadening of the programs in recent years.

He explains that, several years

'Wellness programs really are. . .medium- and long-term cost containment,' says Mr. Hembree.

ago, "what really happened is that instead of looking at wellness broadly. . .people were seeing wellness programs as synonymous with fitness facilities. But often fitness facilities preached to the already converted; the sinners weren't there."

Recently, though, wellness programs have been expanded from a more narrow focus on fitness to a broader aim of achieving and maintaining good health, Mr. Hembree says.

"We've seen the programs. . .expand both vertically and horizontally" in terms of the types of programs offered and in terms of the employees that are eligible to participate and actually do take part.

The most-common wellness program reported by the survey respondents was a weight reduction/nutrition program, offered by 88.7% of the companies offering wellness activities, including 82% that offered the program on-site and 6.7% that offered the program both on-site and at a location away from work.

The next most common program was smoking cessation classes, which were offered by 86.5% of the respondents with wellness programs, including 71.9% on-site, 4.5% off-site and 10.1% both on- and off-site. The respondents also said that smoking cessation programs were the most popular of the wellness programs.

Other types of wellness programs reported by the survey respondents were health education, offered by 83.2%; employee assistance programs and substance abuse programs, offered by 79.7%; fitness programs, offered by 78.7%; stress reduction programs, offered by 78.6%; health risk assessments, offered by 66.3%; fitness facilities, offered by 57.3%; and medical consumer education, offered by 29.2%.

This broadening of the types of programs offered also has meant a broader range of employees participating in the programs, Mr. Hembree says. For example, 94.3% of the survey respondents said that their senior management employees are eligible to participate in the wellness program, and 93.2% said participation was open to middle management and to hourly employees. But 88.8% also said participation was open to union employees, and 76.4% allowed retirees to participate.

And, union employees had the highest reported level of participation: an average of 42.3% (see chart, page 3). Participation levels averaged 41.1% for hourly employees, 37.6% for middle management, 33.1% for senior management and 19.2% for retirees.

Mr. Hembree says that wellness programs will continue to grow in popularity, as employers—many of which already have instituted short-term cost-containment measures like raising deductibles and copayments—look for longer-range solutions to rising health care costs.

"It seems like every day we talk to an employer who says, 'I've done everything I can do in the short term. What do I do now?' " Mr. Hembree says. "The answer has to be wellness programs.

"What wellness programs really are is medium- and long-term cost containment," he explains. "What you're doing is preventing future costs."

Mr. Hembree adds that keeping people healthy not only helps cut medical costs; it also aids employee productivity and morale.

"For years, employers have spent millions and billions on medical care costs, which just reimburse people for something they don't want to have happen in the first place," he notes.

And, he expects employers to continue to develop new and even more effective wellness programs. "I think we're just seeing companies scratch the surface of creativity in these programs," he says. "You ain't seen nothing yet."

Among other survey findings:

- Some 74.2% of the respondents with wellness plans said they had established objectives for their wellness program, including 45.5% that had formal written objectives.
- Some 71.9% of these respondents said they offered inducements or incentives for employees to participate in their wellness program. The incentives included prizes, offered by 56.3%; company-subsidized programs, like paying for an employee's membership in a fitness club, offered by 54.7%; reimbursement for an employee's health care copayment, offered by 45.3%; time off during work for participation, offered by 43.8%; and cash awards, offered by 12.5%.
- The average cost for start-up of a wellness program reported by the respondents was $99.10 per eligible employee in internal costs plus $18.37 per eligible employee in outside costs.
- The companies that responded to the survey employed a total of 3.66 million people in the United States. The average age of their employees was 38.3 years. The average age of employees participating in the wellness programs was 36.1 years.

●

Copies of the survey, "Corporate Wellness Programs: 1987 Biennial Survey Results," are available free from Health Research Institute, 1600 S. Main Plaza, Suite 170, Walnut Creek, Calif. 94596; 415-676-2320.

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Syndicate 553 members contemplate lawsuit

By CAROLYN ALDRED

London

LONDON—Members of former Lloyd's of London syndicate 553, managed by C.J.W. (Underwriting Agencies) Ltd., are calling a meeting to discuss possibly suing Lloyd's over losses that may exceed 50 million pounds ($91.5 million at current exchange rate).

In a letter sent this month, Tony Benyon, chairman of the Warrilow Names Steering Committee, advised names of a meeting on May 17 to discuss possible legal action against Lloyd's members' agents, managing agents or the Corporation of Lloyd's for failing to warn members of substantial overwriting by the syndicate.

Huge underwriting losses, particularly on North American liability business, led non-marine underwriter Cyril J. Warrilow to resign early last year after the syndicate reported underwriting losses of nearly 78 million pounds ($115.4 million at year-end 1986 exchange rate), resulting in a deficit to 1,452 names of 16.4 million pounds ($24.3 million) for the 1984 underwriting year (*BI*, June 29, 1987).

Also, the 1984 account was kept open and losses deteriorated further. At the end of last year, accounting firm Spicer & Pegler reported an estimated loss to names of at least 31.9 million pounds ($60.3 million at year-end 1987 exchange rate) (*BI*, Dec. 7, 1987).

Now, "I understand from various sources that a loss ratio of 200% is being forecast," Mr. Benyon says in his letter. This would mean a loss of 56 million pounds ($102.5 million at current exchange rate), or twice the syndicate's 1984 net premiums written of 28 million pounds ($51.3 million).

Peter Maitland, chairman of C.J.W (Underwriting Agencies), refused to comment on the losses but confirmed estimates had deteriorated since last year.

The meeting, which will be held at Lloyd's, will be addressed by lawyer Stephen Bailey of the London law firm of Elborne Mitchell & Gordon Pollock Q.C.

Mr. Bailey is currently representing members of syndicates formerly managed by Oakeley Vaughan (Underwriting) Ltd. who are suing Lloyd's over losses totaling at least 20 million pounds ($36.6 million) (*BI*, Feb. 15).

Griffin Insurance Assn.

A mutual insurance company, The Griffin Insurance Assn. Ltd., has been formed by 20 small- to medium-sized Lloyd's of London brokers to insure their own errors and omissions risks.

"Already some 20 brokers with a combined brokerage income of almost 100 million pounds ($183 million) have given legally binding commitments to insure with Griffin, and others are expected to join," according to a statement released by Tindall, Riley & Co., the mutual's manager.

All Lloyd's brokers hoping to join the mutual insurance company will "undergo strict vetting of their broking operations and will be required to take part in a continuing risk management program," the statement adds.

Griffin offers up to 20 million pounds ($36.6 million) in aggregate coverage limits and "no attempt is being made to undercut current market rates in the initial stages," according to Tindall Riley.

The mutual was set up because of dissatisfaction with the "steeply rising cost of errors and omissions coverage in relation to (the brokers') collective claims experience. . .and the immediate intention is to bring stability to members' insurance costs," the manager says.

Griffin was licensed as an insurer March 7 by the Department of Trade and Industry.

Legal & General losses

Losses from the storm that hit Southeast England last October cost London-based insurer Legal & General Group P.L.C. 42 million pounds ($79.4 million at year-end 1987 exchange rate), net of reinsurance, the company announced this month.

As a result, its pretax profits for the year ended Dec. 31, 1987, fell 22.2% to 79.2 million pounds ($149.7 million) from 101.8 million pounds ($150.7 million at year-end 1986 exchange rate) in 1986, says the company's annual report.

Combined premium volume for life and property/casualty business increased 24.2% to 1.54 billion pounds ($2.9 billion) from 1.24 billion pounds ($1.8 billion) in 1986.

Group Chief Executive Joe Palmer described the October storm as the "worst natural disaster in the U.K. for 200 years" but said it did not detract from the "overall good health" of the company's property/casualty insurance business.

Meanwhile, Lloyd's of London broker Edgar Hamilton Ltd. estimates that total insurance claims from damages suffered in the United Kingdom from the storm will be about 1.5 billion pounds ($2.7 billion).

In a newsletter to clients, the broker states that a recent estimate by the Assn. of British Insurers of 865 million pounds ($1.6 billion) does not take into account losses sustained by Lloyd's syndicates.

Edgar Hamilton estimates Lloyd's syndicates will sustain property losses of at least 150 million pounds plus motor insurance losses of 4 million pounds ($7.3 million). "Lloyd's will also incur substantial reinsurance claims, including reinsurance of some of the composites' (Britain's major life/property/casualty insurers) property accounts," it adds.

Comings and goings

Peter Davis has been appointed group finance director of Sturge Holdings P.L.C. Mr. Davis previously was deputy chairman of British carpet retailer Harris Queensway P.L.C. Prior to that he was a partner with accountants Price Waterhouse.

Alexander Howden Ltd. has promoted **Ian R. Flack, John W. Hanna** and **Oliver C. Prior** to the company's board of directors.

John McNally has been appointed the manager for Guardian Royal Exchange Assurance P.L.C.'s London City claims bureau. He was previously manager of the company's Mersey claims bureau in Liverpool, England. ■

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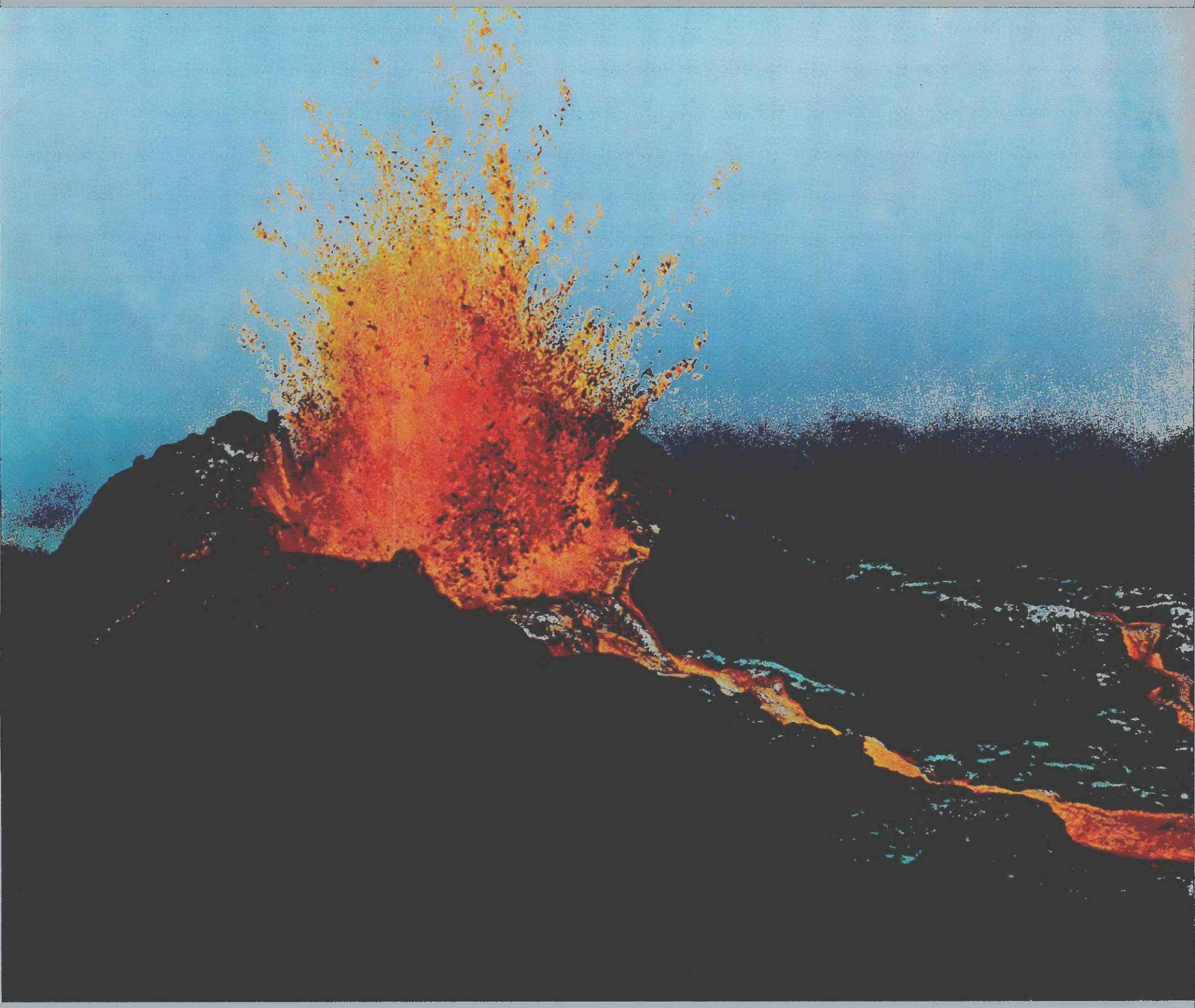

In recent years, the cost of dental care has risen even faster than the cost of medical care.

As a country, we're spending nearly $27 billion on trips to the dentist. By 1990 that figure is expected to reach over *$42 billion*.

If the dental cost explosion doesn't subside, many people may simply postpone seeing a dentist. So a minor dental problem turns into a major problem. And a costly one.

What does all of this mean to an employer? Loss of productivity. Dental problems have resulted in the loss of over 100 million working hours a year. What's more, a company's benefits budget may not be able to support unmanageable dental costs.

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CIGNA

Bolinder urges industry cooperation

By LINDA J. COLLINS

'I personally encourage all industry professionals to provide feedback so that insurance companies can continue to make rational risk and pricing decisions,' says William H. Bolinder, president and CEO of Zurich-American Insurance Cos.

CHICAGO—Insurers, brokers and risk managers must behave responsibly to ensure the stability of the insurance industry, an insurance company executive warns.

"I personally encourage all industry professionals to provide feedback so that insurance companies can continue to make rational risk and pricing decisions," said William H. Bolinder, president and chief executive officer of Zurich-American Insurance Cos. in Schaumburg, Ill.

Insurers, in attempting to monitor their own activities, "need and welcome" feedback from other members of the insurance community, he stressed.

Mr. Bolinder spoke earlier this month to the Chicago Chapter of the Society of Chartered Property & Casualty Underwriters.

Mr. Bolinder said he is relieved to hear "a growing chorus of other responsible voices warning against destructive price-cutting in the current soft market."

According to Mr. Bolinder:

- Insurers, agents and brokers must work together to educate consumers about the dangers of rampant competition and the need for pricing adequacy.
- Brokers, agents and risk managers also should attempt to forge long-term relationships with insurers that price their products responsibly.
- Insurers must exercise discipline in committing their resources and knowledge to serving those markets in which they have expertise.
- Regulators need to work on improving their early warning systems for spotting insurer insolvencies.

"Together, we must have courage and stand up for sound underwriting practices," Mr. Bolinder said.

Although evidence is strong that insurer reserves are inadequate to withstand a return to cutthroat competition, "reality has never before stopped our industry from going off the deep end," he said.

Insurers in the past have sometimes behaved "like a flock of birds headed south to the call of 'Cheap. Cheap,' " Mr. Bolinder added.

"Over a four-year period in the (early) '80s, insurers cut rates by 75% in some products and lines of insurance—and then they raised rates in some lines by 500% almost overnight," Mr. Bolinder said.

Today, "in the continuing saga of the '80s, it's the morning after: The party is over."

He expressed concern that members of the insurance community might overreact to current rate reductions in the property/casualty marketplace and "create self-fulfilling prophecies" of another disastrous soft market.

Some of the current rate reductions are simply adjustments to insurer pricing formulas, Mr. Bolinder said.

"If we can exercise discipline during 1989, rates will gradually stabilize and move upward again in 1990," he predicted.

Mr. Bolinder said that Zurich-American and "probably a lot of other insurers are prepared to resist the herd instinct to enter into another devastating round of cutthroat price competition."

A round of price wars similar to the one that occurred during the first part of the decade may prompt policyholders to "act through their lawmakers, state regulators and consumer activists to take the insurance business—as we know it today—away from us," he warned.

However, he pointed out that some of the factors contributing to the magnitude of the last soft market—high interest rates, a strong dollar and a booming stock market—do not exist today. Those influences temporarily masked the magnitude of depletions of insurance company reserves.

"Today, the setting is vastly different," Mr. Bolinder said.

"Much reinsurance capacity was lost to the last cycle," and today's reinsurers "show no tendency to cut rates to attract business. . .They are far more interested in competing on terms and conditions" for quality business, he said.

However, even in the absence of those conditions of the early 1980s, big problems loom in the future for property/casualty insurers, Mr. Bolinder warns.

Those future problems are:

- State guaranty fund assessments.

"Between 1984 and 1987, 68 property/casualty insurers went broke" and many others are now "singing a swan song," he said.

In addition, assessments made against solvent insurers to pay for the claims of insolvent insurers are at record levels, he added.

Mr. Bolinder

- Uncollectible reinsurance.

Reinsurance recoverables were about equal to industry surplus in 1986 and probably exceeded surplus by 20% in 1987, according to Mr. Bolinder.

- State joint underwriting authorities.

JUAs in Massachusetts, New Hampshire, New York, Rhode Island and South Carolina are in serious trouble and eventually could collapse, he said. This is as serious a situation as insurer insolvencies, he warned.

- The Tax Reform Act of 1986.

Mr. Bolinder predicted that the tax act "is going to close the show for some of us. . . .Insurers should have this factored into their prices now, but we don't."

He said he agrees with estimates by the Insurance Services Office Inc. that the tax law will add two to four points to the combined ratio of the average insurer.

Insurers should not lose sight of these factors when they price their products, he cautioned. ■

Maryland Casualty taps Heusi for top post

Joe D. Heusi has been named president and chief executive officer of Maryland Casualty Co. in Baltimore, American General Corp.'s principal property/casualty insurance subsidiary.

Mr. Heusi, 45, has served since 1983 as president of The Variable Annuity Life Insurance Co., another American General unit based in Houston. He also has been chief executive officer of that company since 1984.

He joined VALIC in 1968.

In other insurer changes:

Barry J. Gilway appointed senior vp-insurance services, a new position, at W.R. Berkley Corp. in Greenwich, Conn. Previously, he was executive vp of Crum & Forster Commercial Insurance Cos.

At Associated Aviation Underwriters in Short Hills, N.J., **Kevin Hilliard** appointed vp and director of national accounts claims and **Carl A. Pfeiffer** named vp and manager of airline liability claims. Previously, Mr. Hilliard was vp-product liability claims and Mr. Pfeiffer was senior supervisor in the home office claims department.

Agents/brokers

Robert B. Lockhart named head of Marsh & McLennan Inc.'s Tulsa, Okla., office. Mr. Lockhart also is a senior vp.

At M&M's Seattle office, **M. Steven Sadler** and **Jerry M. Wood** promoted to senior vps. **Kathryn L. Clemens, Sandra J. Dillmann, Steven Hoffman** appointed vps.

Robert M. Whitmarsh named vp of M&M's Anchorage, Alaska, office.

In M&M's Portland, Ore., office, **W.D. "Dick" Johnson** named senior vp and **Ann Keller** vp. Both previously were with Rollins Burdick Hunter Co.

Thomas J. McCormick III and **Brian J. Foy** promoted to vps in M&M's Columbus, Ohio, office. Mr. McCormick heads the risk management unit and Mr. Foy heads the financial institutions and surety unit.

Mr. Revzan

Henry A. Revzan promoted to senior vp from vp of Johnson & Higgins in Chicago.

The Lockton Insurance Agency in Prairie Village, Kan., promoted **Charles Wear** to executive vp. He has been with the agency since 1984. Also, **Linda Acker** and **John Sullivan** named vps. Ms. Acker previously was claims department manager and Mr. Sullivan an account executive.

Mr. Graves

Stephen G. Graves joined Biddle, Bishop & Smith Inc. in Radnor, Pa., as vp-commercial lines. Most recently, he was with Glenn, Nyhan & Associates Inc. in Princeton, N.J.

James J. Martin appointed vp of Todd & Co. Inc. in Rockford, Ill. Mr. Martin was previously vp at the Rockford branch of Rollins Burdick Hunter Co.

Mark F. Susco appointed vp/branch manager of Robinson-Conner Inc.'s Pittsburgh office.

J. Patrick Phelan joined Dean & Co. in Cleveland as executive vp. Mr. Phelan most recently served as vp of the Bank of Virginia's commercial property and casualty operations.

Comings & goings: industry

At Fred S. James & Co. Inc. in New York, **C. Richard Peterson** named director of corporate group services. He previously was regional director of James' Eastern region.

Raymond D. Dracca promoted to vp-business development of Rollins Burdick Hunter Co. of Wisconsin in Milwaukee. Mr. Dracca had been account executive.

James A. Rericha promoted to vp from assistant vp at Frank B. Hall & Co. of Illinois in Chicago.

Jardine Emett & Chandler Inc. promoted the following people to senior vps: **William Poland** in Los Angeles, **Linda Griffing** in Hawaii, and **Linda Carnevale** and **Rebecca Heiberger** in San Francisco.

Nicholas Marino promoted to vp of employee benefits in Jardine Emett & Chandler's Capital District office in Schenectady, N.Y.

Wesley Imamura joins the company's Hawaii office as vp and marketing/underwriting manager.

At Alexander & Alexander Inc., **Clarence R. Messick Jr.** and **Charles J. Lehr** named managing vps for New York State regional operations and the Indianapolis office, respectively. Mr. Messick will be based in Melville, N.Y. Previously, Mr. Messick was director of the Midwest region and Mr. Lehr was manager of account services, marketing and claims.

Also, **Allen J. McDowell** named Southeast regional director for A&A. He had been managing vp in the Detroit office.

HMOs/PPOs

Phillip Jeffrey Haas joined PARTNERS National Health Plans in Seattle as executive director. Previously, he was president and chief executive officer of First Choice Health Plan in Bellevue, Wash.

Excess/surplus

Michael C. Barschig joined Crouse & Associates, a Los Angeles surplus lines broker, as vp and branch manager. Formerly, he was property manager for Swett & Crawford in Los Angeles.

Other suppliers

At Pharmacy Management Services Inc. in Tampa, Fla., **James N. Harrell** promoted to senior vp from vp, **William F. Chastain Jr.** promoted to chief operating officer from vp and **Michael W. Clark** promoted to vp-operations from operations manager.

Sandra O. Wolff named executive director of The Queen's Occupational Health Network, a health care consulting unit of The Queen's Medical Center in Hawaii. Previously, Ms. Wolff was a principal and manager of Amherst Associates Inc.

Fred L. Pool joined Associated Claims Management Inc. in Walnut

Continued on next page

Bill would set professional liability rules

By DEBORAH SHALOWITZ

WASHINGTON—Legislation that would establish a uniform standard of liability for professionals is expected to be introduced within a month by Rep. Don Ritter, R-Pa.

According to a draft proposal of the bill, a professional would not be held liable for malpractice unless a plaintiff proved the professional was negligent when performing the service that caused the injury.

Professionals also could not be held liable if the potential for harm could not have been discovered based on the knowledge available at the time—the "state-of-the art" defense—or in cases in which the services were provided to the government and they conformed to government contract specifications.

The measure also is expected to propose:

- Abolishing joint-and-several liability.
- Allowing periodic payments for future damages exceeding $100,000.
- Reducing any award by the amount paid to the plaintiff from collateral sources, such as workers compensation and disability insurance.
- Limiting attorneys' fees to 33.3% of the first $250,000 of an award, 25% of the second $250,000 and 20% of any damages greater than $500,000.
- Requiring plaintiffs to prove by "clear and convincing evidence" that the harm was caused by a professional's malicious and reckless disregard for safety in order for punitive damages to be awarded.
- Limiting a plaintiff's receipt of punitive damages to no more than three times the compensatory damages. The balance of punitive damages would be paid to the state.

Washington

EPA suing waste site manager

The U.S. Environmental Protection Agency and the state of Louisiana are suing Houston-based Browning-Ferris Industries, a major solid and hazardous waste management company, and two of its subsidiaries for alleged violations of federal and state hazardous waste laws.

The EPA is asking a federal judge in Lake Charles, La., to fine Browning-Ferris and subsidiaries, Chemical Services Inc. and CECOS International Inc., a maximum of $25,000 per day.

The Lake Charles facility was purchased by BFI-CSI in 1972 and has been operated since 1983 by CECOS, which now manages all of BFI's hazardous waste operations.

According to the EPA, samples of groundwater from directly beneath the facility contained numerous chemicals known and suspected of causing cancer and birth defects.

PBGC Advisory Committee

Two new members of the Labor Department's Advisory Committee to the Pension Benefit Guaranty Corp. have been appointed to three-year terms, and another member has been named chairman of the committee.

Murray P. Hayutin, president of Reichart-Silversmith Inc., a Denver insurance agency, will serve as chairman of the committee. Mr. Hayutin previously served as an employer representative on the committee.

M.J. Mintz, senior partner and chairman of the tax department of Dickstein, Shapiro & Morin in Washington, will represent the public; and Richard M. Prosten, director of bargaining and research for the Industrial Union Department of the AFL-CIO in Washington, will represent employee organizations. ■

Comings & goings: industry

Continued from previous page

Creek, Calif., as vp. Also, **Edward (Ted) Maashoff** promoted to vp and claims manager for the Northern division.


Mr. Stewart

Ben F. Stewart III joined Booke & Co. as a retirement consultant in the Birmingham, Ala., office. Mr. Stewart formerly was senior tax consultant and a member of the pension and profit-sharing group of Ernst & Whinney in Birmingham.

Reinsurance

United Republic Reinsurance Co. in Houston named **Rex L. Davis** chairman and chief executive officer. He will be succeeded as president and chief operating officer by **Wayne Peterson**, who previously was executive vp and chief underwriting officer.


Mr. Weathrell

At General Reinsurance Corp. in Stamford, Conn., **John F. Seibert** appointed vp.

Joel I. Levine promoted to vp and corporate actuary at General Reassurance Corp. in Stamford.


Mr. Schulz

John R. Prezzano elected vp at Trenwick Group Inc. in Westport, Conn. Mr. Prezzano had been an assistant vp in the Hartford, Conn., branch.


Mr. Barone

William H. Wetherell joined AM-RE Brokers Inc. in San Francisco, a unit of American Re-Insurance Co., as vp. He had been vp of the company's treaty department.

George D. Schulz promoted to vp-treaty account management at American Re's San Francisco office. **George C. Barone** promoted to vp from manager of the bond department at American Re's New York office. ■

PRIMA anniversary to highlight conference

WASHINGTON—The 10th anniversary celebration of the Public Risk & Insurance Management Assn. will highlight the group's conference May 17-20 in New Orleans.

But the focus of the annual conference, titled "The Next Decade. . .Risk Management Goes Marching On," will be the largest offering ever of sessions and roundtable discussions on nearly every aspect of public entity risk management.

Following a reception May 17, William Boast, president of SYNCOM Ltd. in Littleton, Colo., will discuss motivating managers and staff in stressful and ever-changing workplaces.

Following the opening session, conference participants will be able to choose from more than 60 concurrent sessions discussing risk management and employee benefits.

The conference sessions are designed to benefit risk managers of all experience levels and are rated as: basic, intermediate, advanced or of interest to all.

Session topics include: cost allocation, litigation management, workers compensation, police and public officials' liabilities, claims management, purchasing department losses, fleet safety and proposed guidelines for accounting and financial reporting of risk management activities.

Other topics include complying with environmental and right-to-know regulations, developing a team approach to coping with design liability for major construction projects, assessing an insurer's solvency and stability, matching employees to the job, establishing insurance requirements for contracts and choosing a consultant.

Employee benefits issues that will be discussed include health care market predictions, cafeteria plans, workplace fitness and wellness programs, employee assistance programs and acquired immune deficiency syndrome.

Sessions on risk management information systems will focus on making good use of loss data and software programs.

Risk managers' personal needs will be considered in sessions on career development and stress management.

A wide range of speciality sessions also are being offered.

Sessions explaining commercial insurance coverages will consider work comp as well as comprehensive general liability, property and boiler and machinery. In addition, a daylong program will be offered on reinsurance.

Another daylong program for school risk managers and administrators will consider: loss control, playground safety, risk management for sports and valuing libraries.

In addition, risk managers with at least three years' experience can apply to participate in special workshops. The sessions are designed to allow risk managers to exchange ideas and get advice from their peers.

PRIMA's Pooling Section will hold its annual meeting as well as discussions on its pooling guidelines and delivering improved services to pool members.

Attendees also will be able to register in advance to meet with software specialists in a risk management information systems exhibit hall, where the capabilities of microcomputer programs will be described on a one-on-one basis.

Individual fees for public entity registrants are $300 for the first representative of a member government and $260 for each additional registrant. The fee for a representative of a non-member public entity is $370, which includes a PRIMA membership fee for the entity.

Industrial affiliates and non-member private sector attendees can contact PRIMA to obtain its fee schedule.

All fees will increase April 15.

Included in the registration fee are the cost of continental breakfasts, luncheons, coffee breaks and a Louisiana Cajun Festival and paddle wheel boat ride.

Smoking is banned in all presentations but is allowed in hallways.

For more information, contact PRIMA at 1120 G. St. N.W., Suite 400, Washington, D.C. 20005; 202-626-4650. ■

U.K. legislation may hike insurance costs

By CAROLYN ALDRED

LONDON—Two recent legislative developments in the United Kingdom could prompt a significant increase in product liability lawsuits against manufacturers, retailers and service providers, attorneys say.

And, if the number of product liability suits increases, British insurance buyers can expect large liability insurance premium increases, some insurers and brokers say.

The head of the judiciary in England and Wales on Feb. 29 introduced amendments to the legal aid bill currently under review in Parliament that would provide many more plaintiffs government-provided financial aid to file multiparty litigation against companies, attorneys say.

The financial aid also would remove a major obstacle blocking the introduction of future legal changes that would allow true class-action suits in the United Kingdom, attorneys say.

And on March 1, Britain's Consumer Protection Act, which imposes strict product liability on manufacturers of consumer products, came into force (*BI*, Feb. 29).

The Consumer Protection Act puts into law the European Community directive on product liability, which shifts the burden of proof of negligence from the consumer to the manufacturer.

The two measures could be "a double blow for certain manufacturers, such as pharmaceutical companies," warned Edward J. Hester, an assistant manager with Zurich Insurance Co. in London.

The Consumer Protection Act and the amendments to the legal aid bill could be 'a double blow for certain manufacturers, such as pharmaceutical companies,' warns Edward J. Hester of Zurich Insurance Co. in London.

Mr. Hester said it is too early to predict what the cumulative effect of the Consumer Protection Act and the amendments to the legal aid bill may be on liability insurance rates.

However, he said that implementation of strict liability alone is expected to increase product liability rates by 15% on average.

Other estimates of eventual rate hikes tied to the new product liability law range from 5% to 20% (*BI*, March 21).

However, some companies producing or supplying high-risk products could face rate hikes of more than 50% with the introduction of strict liability, according to Oliver Prior, managing director of London broker Holmes Lessiter & Johnston Ltd., a subsidiary of Alexander Howden Ltd.

Against the background of a stable insurance market, Mr. Prior predicted insurance rate increases of between 10% and 20% for non-hazardous product manufacturers and increases of more than 50% for some "high-risk" manufacturers, such as pharmaceutical companies.

While the introduction of strict liability in Europe has been debated and expected for years, the legal aid bill amendments were last-minute surprises to attorneys and the insurance industry.

The amendments were added by the Lord Chancellor, the head of the judiciary in England and Wales, during the bill's third reading in the House of Lords, the British Parliament's upper house. The bill, passed by the House of Lords this month, now returns for debate to the House of Commons which reviewed an earlier version of the bill.

According to a statement released by the Lord Chancellor's office, the amendments are "designed to establish a new procedure by which the legal aid aspects of actions raising common problems might be handled more effectively."

Class actions currently are not permitted under English law. Instead, attorneys use a system of "lead actions."

Under this system, when many claimants plan to file similar suits against a company, an attorney sometimes will choose one or a couple of test cases—lead actions—to take to trial. Based on the outcome of the lead actions, other attorneys and claimants can assess whether it is worth pursuing their cases.

However, there is no contingency fee system under English law; courts usually order the losing party to pay all court costs.

Therefore, if the defendant prevails in the lead trial, the court costs would be paid by all of the claimants, thereby reducing the financial risk per claimant of taking a claim to trial.

In addition, even if a plaintiff wins his case, the judge may order him to pay court costs if the defendant is bankrupt.

Currently, government-provided financial aid is available only to some claimants involved in multiparty litigation. And, a losing claimant receiving legal aid is not required to repay the aid.

But, claimants ineligible for financial aid are reluctant to file suit because the potential litigation costs would be prohibitive, attorneys say.

Under the legal aid bill amendments, anybody wanting to take part in multiparty litigation would be eligible for government-provided financial aid as long as they used attorneys selected by a restructured Legal Aid Board, attorneys say.

The new board would enter into contracts with those law firms to reimburse them for providing legal aid to the claimants.

The new board would be autonomous but would be the responsibility of the Lord Chancellor's department. Legal aid funds currently are administered by the Law Society, a lawyers' professional body.

Also, under the lead-action system, even if the lead plaintiff prevails in the lead-action case and a plaintiff who receives legal aid is awarded damages in a subsequent trial, that award must be used to pay any legal costs incurred by the legal aid fund. Although the loser usually has to pay court costs, there often are other legal costs that each party ends up paying separately.

The result is that the claimant often is left with little or even no compensation.

The amendments proposed by the Lord Chancellor would reduce the amount of money the legal aid fund may "claw back" from successful claimants to pay legal costs, attorneys say.

"Many more people who have legitimate liability claims will be able to litigate and seek compensation from negligent companies, if the amendment is passed," said Gerald Newman, a lawyer with the Law Society.

And, providing a means of financing whole groups of claimants removes a major obstacle to multiparty litigation so the English legal system may be changed in the future to allow class actions to be filed, Mr. Newman said.

The "inadequacies of financing any form of class-action litigation in England were highlighted in the Opren case," said Mr. Newman, referring to litigation filed by British claimants against U.S. drug manufacturer Eli Lilly & Co. of Indianapolis.

In that case, a U.K. Court of Appeals upheld a London High Court ruling that all 1,500 British plaintiffs seeking compensation against Lilly for alleged side effects of an anti-arthritis drug—including 500

Continued on next page

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plaintiffs not receiving legal aid—must share court costs equally if the High Court finds for Lilly (*BI*, June 15, 1987).

The plaintiffs' lawyers had argued that estimated court costs of between 3 million and 6 million pounds ($5.5 million and $10.9 million) should be borne only by the 1,000 claimants entitled to legal aid.

Litigants not eligible for legal aid but with limited financial resources would otherwise be unable to risk suing Lilly, the plaintiffs' attorneys argued.

Since then, more than 1,000 claimants have accepted Lilly's settlement offer of about 2.25 million pounds ($4.1 million) (*BI*, Jan. 25).

However, at least 350 claimants are still suing Lilly, said Richard Barr, a partner of the Ipswich law firm Dawbarns.

In a High Court hearing scheduled for today, Lilly plans to argue that the lawsuits are barred under England's three-year statute of limitation and were also filed too late to be part of the global settlement it offered.

Mr. Barr called the hearing to seek advice from the judge as to how to proceed with the litigation.

Although U.K. Court of Appeals Judge John Donaldson rejected arguments by plaintiffs' attorneys that only plaintiffs receiving legal aid should bear any court costs, he expressed dissatisfaction with both the inability of the English legal system to cope with class actions and the inadequacies of legal financial aid funding.

Mr. Newman also pointed out that the proposed changes in legal aid financing would give claimants the financial ability to sue under the Consumer Protection Act.

"The latest legislation on product liability would have been no good if people had no means of using it," he said.

"The latest legislation on product liability would have been no good if people had no means of using it," he said.

"This will make a fundamental difference to product liability litigation. It will encourage speedier settlement" by negligent companies, said Mark Mildred, a lawyer with the London and Manchester based law firm Pannone Napier. Pannone Napier is a leading plaintiff's law firm and acts for the Opren claimants.

A report published by the Law Society last month noted that "when the Consumer Protection Act 1987. . .comes into operation there will be cases when a number of consumers can band together to take proceedings against a manufacturer."

The Consumer Protection Act is "going to make it easier for people to bring claims against manufacturers of defective products leading to an increase in claims and an increase in manufacturers' responsibility," said Terry Sparkes, group insurance and risk manager for Metal Box P.L.C., based in Reading, England.

Mr. Sparkes also pointed out that handling related claims "on a group basis is a responsible way of reducing legal expenses for manufacturers and consumers."

However, insurers would not welcome a situation where multiparty litigation "became the norm," warned Zurich's Mr. Hester.

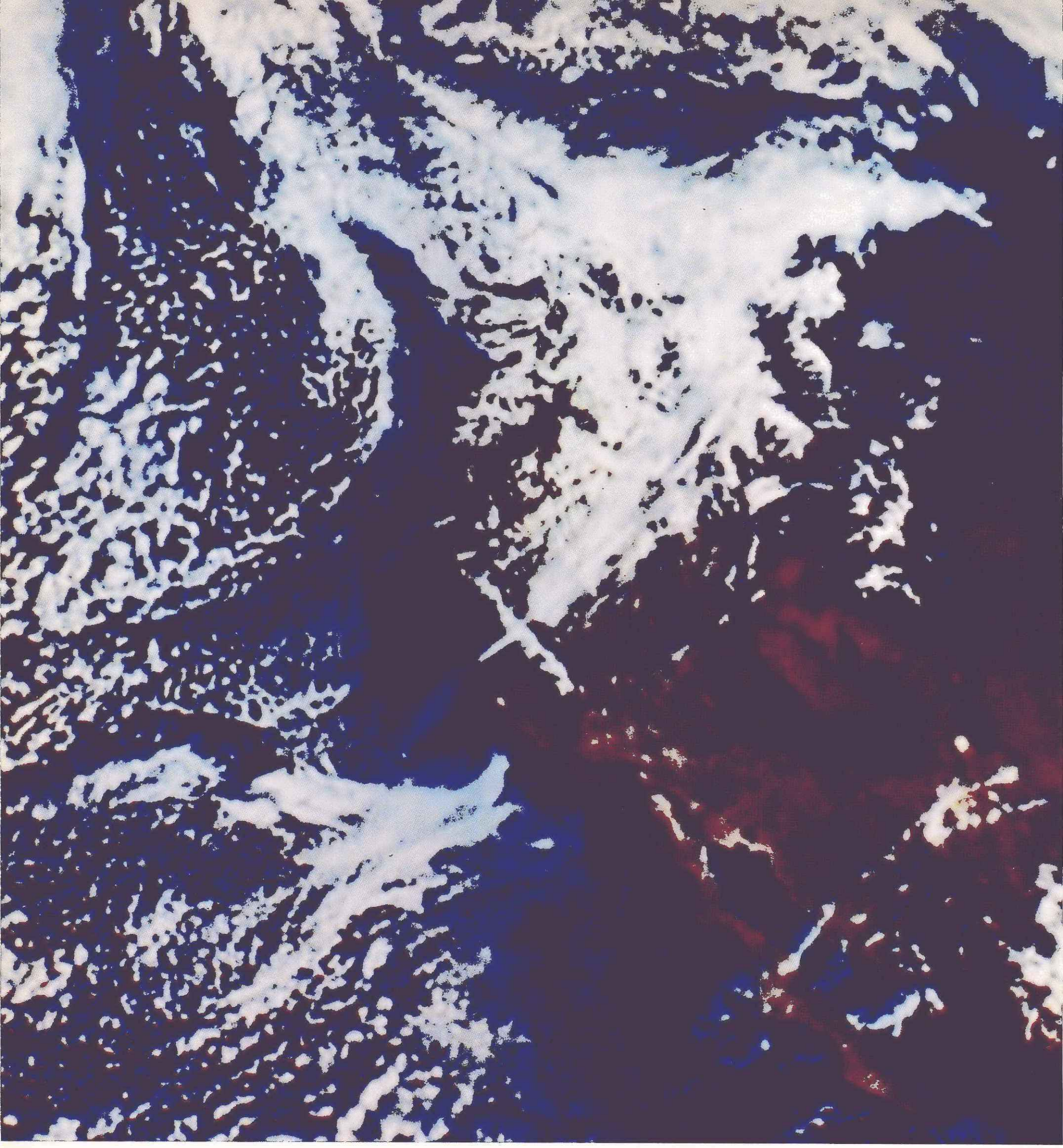
"From an insurer's point of view, consumers' ability to bring class actions will open up new areas of liability," said Mr. Prior of Holmes Lessiter & Johnson.

However, multiparty litigation is likely to be confined initially to victims injured in disasters such as last year's capsizing of a passenger ferry in the English Channel, rather than a series of product liability claims naming one particular product, some attorneys say (*BI*, March 16, 1987).

Multiparty litigation is "probably going to be confined to disaster-type litigation where there is a common background to all victims. Drug-related or product liability situations, where there are many individual factors involved, will not so easily lend themselves to the class-action approach and a great deal of thought will have to be given if these types of cases are to be accommodated in such a way," said David McIntosh, a lawyer with the London law firm Davies Arnold & Cooper.

Rolf Lloyd-Williams, insurance administration manager of London-based pharmaceutical company Glaxo Holdings P.L.C., agreed.

"One is sympathetic with people who cannot afford to sue large companies, but unless claims share a wholly common cause, multiparty litigation is unsuitable. In this business, there are often too many variables," he explained. ■



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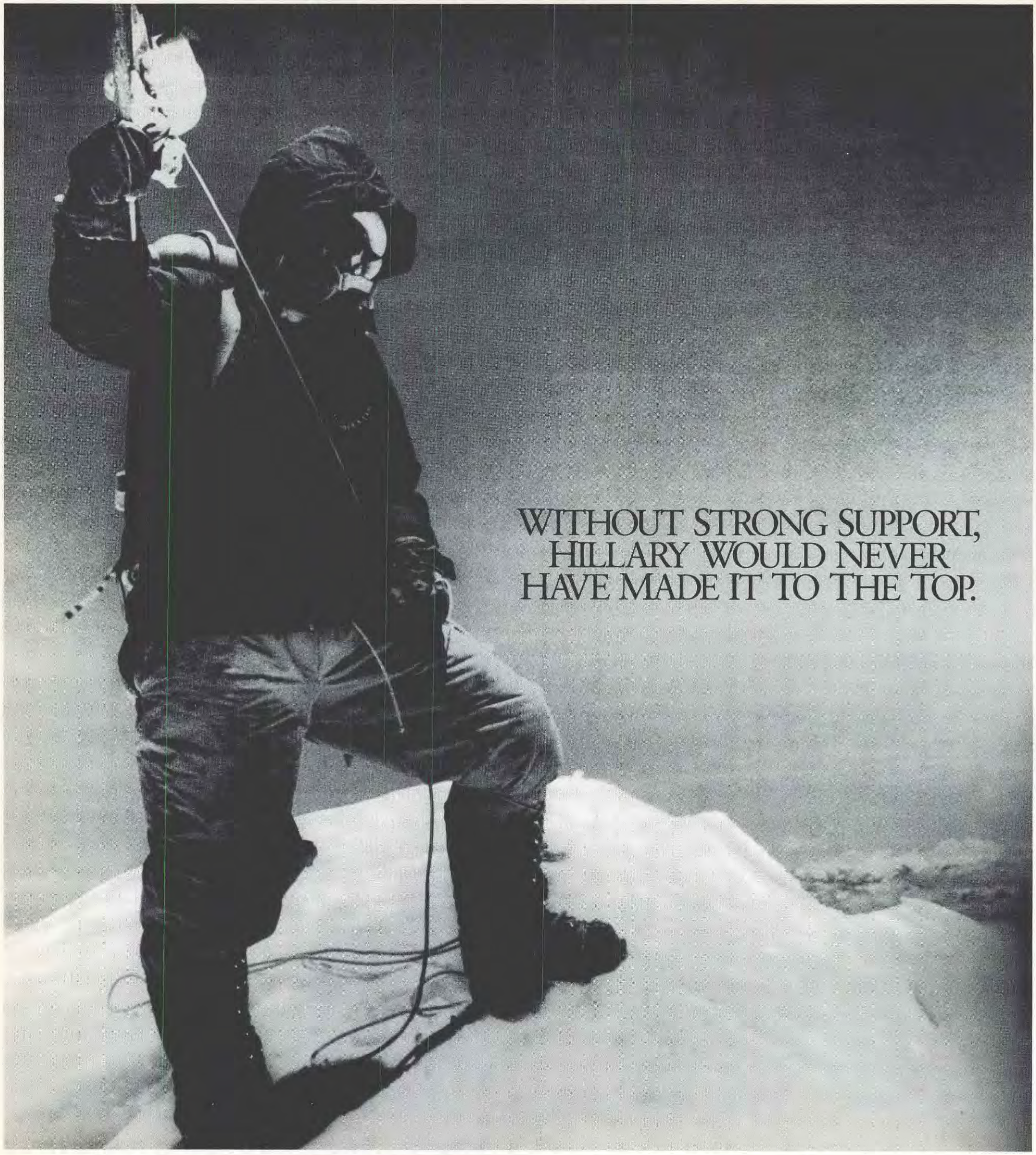

When Sir Edmund Hillary stood at mountaineering's ultimate destination on the morning of May 29, 1953, he wasn't alone. Sherpa guide Tenzing Norgay crested the summit with him. Without the assistance of the "Tiger of the Himalayas" and other Sherpa porters, Hillary wouldn't have had a snowball's chance.

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Careful planning can lead to savings, better claims control

By Bhupinder S. Sood

EMPLOYERS SPENT more than $25.1 billion in 1984 to insure or self-insure their workplace-injury risks—9% more than that in 1983—according to the U.S. Department of Health and Human Services.

Looking at it another way, in 1984 the cost of such insurance was $1.66 per $100 of payroll. In the same year, the proportion of all wage and salary employees covered by job injury laws was 86.8%, representing 82.6 million workers. Covered payrolls amounted to $1.53 trillion or 84.7% of all civilian wage and salary disbursements.

As in all lines of casualty insurance, workers compensation rates have jumped dramatically over the past few years and there does not seem to be an end in sight. In addition, premiums collected do not cover losses. In 1986, for example, insurers expect to pay $1.22 in losses and expenses for every dollar collected in premiums.

As a result, employers are contributing larger amounts to obtain coverage that is required by law in 47 states. And some states also link increases in workers compensation benefits to annual increases in the Consumer Price Index, which further adds to work comp insurance costs.

As an alternative to traditional insurance, some employers may opt to self-insure, funding workers compensation losses on a self-controlled basis. The employer pays day-to-day claims and protects himself against larger losses with stop-loss coverage that kicks in at a certain trigger point.

Self-insured workers compensation also can be thought of as insurance with a large deductible: The employer protects itself against losses up to specific dollar limits per occurrence or, in the aggregate, over a stated time period.

Self-insurance of workers compensation more and more is becoming a plausible alternative to traditional insurance. Double-digit rate hikes for traditional indemnity coverage are not uncommon these days and are predicted to continue in the foreseeable future.

The trend toward self-insurance is accelerating. In 1984, employers spent $3.9 billion toward workers compensation pools for small employer groups.

Basically, two types of factors encourage the use of self-insurance as an alternative to traditional insurance: endogenous and exogenous. Endogenous factors are those that are unique to a company or industry; exogenous factors are those that are uncontrollable, such as the economy.

The following are some of the endogenous factors that are accelerating the trend toward self-insurance of workers compensation:

- Risk. Some industries are greater risks and traditional insurers are not writing some lines of business. Coverage, if at all available, is very expensive or may not be adequate for the company or industry.

A good example is the lumber and logging industry in New England. Maine employers are looking at 30% rate hikes even after legislation was passed to cut permanent partial benefits. In such situations, there is a desire to find industrywide solutions. As a result, industries and trade associations are forming captives, risk retention groups or are looking into self-insurance of workers compensation as a way out.

- Loyalty. By self-insuring workers compensation benefits, employees become more loyal. It tends to lead to more responsible behavior, reduces frivolous claims and causes employees to work toward a more common goal.

Formerly, employees perceived an outside insurer as one with "deep pockets," and would file claims thinking the insurer was responsible for payment. But that attitude is different toward a self-insured employer, because employees realize that huge workers compensation losses could affect them by reducing company profits.

Employees once perceived an outside insurer as one with 'deep pockets,' thinking the insurer was responsible for claims.

- Control. By self-insuring, an employer has greater control over claims handling and the loss adjustment process.

Cash flow also improves under a self-insured workers compensation program because the employer can conserve cash and has control over substantial reserves.

- Budgets. Risk managers are constantly faced with shrinking budgets and have the difficult task of justifying each dollar invested in insurance. Commercial insurance rates may rise, but it is easier to plan on a year-to-year basis. Under a self-insured workers compensation program, it is difficult to plan because the level of losses is not known.

Self-insurance will save money over a period of time; it should not be looked upon as a short-term program. The savings generated—say, over a period of three to five years—should be large enough to set the program on a self-sustaining basis. Putting such a plan into action requires a lot of effort and cooperation, but once it is set up, risk managers do not have to spend sleepless nights 30 days before expiration of coverage or face rate hikes that blow their budgets or face a substantial drop in coverage. Under a self-insured workers compensation program, a risk manager is no longer at the mercy of the market.

Some of the exogenous, or uncontrollable, factors accelerating the trend toward self-insurance are:

- Inflation. Workers compensation costs are tied closely to rising medical costs and the cost of living. When medical costs rise and benefits must be provided at new inflation-adjusted levels, rates for workers compensation insurance tend to go up.
- Legal. In our litigious society, large corporations are targets for lawsuits. Court settlements that defy a company's economic means are commonplace, jury awards are out of tune with reality and punitive damages add to already bloated awards. Corporations are expected to perform well in terms of social responsibility and corporate image.

To determine the feasibility of implementing a self-insured workers compensation program, a risk manager needs to perform a risk analysis. It may be a good idea to separate bottom-line dollar figures from non-economic factors. Using a point system and weighted-average method, it should be possible to assign points to qualitative considerations, hence making them quantitative. This analysis should be thoroughly reviewed with top management.

In cases where premiums paid for workers compensation insurance are large, a good and impartial analysis should be able to determine the feasibility of self-insurance. Obviously "white-collar" businesses such as banks, trading companies or commercial establishments would not be ideal candidates for a self-insured work comp program; risks are small and so are premiums.

Businesses like construction contractors, nursing homes, hospitals, supermarket chains, restaurant chains, trucking companies or manufacturing establishments are ideal candidates, especially where large concentrations of employees are employed at a single or few locations.

Each business is unique and an analysis should be made of a company's current exposures before setting up a self-insurance program. The following minimum information is needed for such an analysis:

- Financial statements (audited and certified, from the past three years).
- Prior three years' claims experience broken down by type of loss—medical or indemnity—and number of claims.
- Prior three years' payrolls by industrial classification.
- Projected 12 months' payroll by industrial classification.

An independent insurance broker, actuary or consultant should be able to help set this up.

Timing also is important in planning a self-insured program. It is best to start six months before the renewal date of your existing insurance. The decision should be made within three months so that the self-insured filings are approved by the state. The risk manager needs to provide adequate time to ensure that all the needed information is gathered, is accurate, is reviewed and, if accepted, to file for approval with the appropriate jurisdictions.

Self-insurance of workers compensation is permitted in 47 states. It should be noted that self-insurance is a privilege, not a right.

Once a self-insured plan is put into effect, the self-insurer must provide services formerly provided by the primary insurer. These include services for loss handling, safety procedures, method of adjusting losses, method of payment and a claims manual. Loss reports need to be filed with the company's top management and accumulated to monitor loss exposure in relation to stop-loss. Other services include:

- Safety consultation and loss prevention programs.
- Self-insured tax calculations.
- Monthly computerized loss experience reports.
- Claims frequency analysis.

Once established, a self-insured program should be able to save anywhere between 18% to 30% of the work comp manual premium. Imputed interest on cash retained will increase these savings. Usually savings are much greater during the initial years of a self-insured plan until such time that claims reach a more mature level.

A self-insurer can expect to pay between 20% and 27% of normal premium on the following fixed costs of a self-insured plan:

- Excess coverage.
- Self-insured bond.
- Claims service (can be handled in-house or contracted out).
- Safety insurance taxes.
- Claims liabilities (paid and outstanding).

The final test of whether a plan would work is the quality of management and its commitment to carry it through. Management must know and understand the implications of a self-insured plan. In addition, it must lead and be willing to effect policies and procedures to make it work, such as controlling losses, developing safety procedures and educating the workforce.

The program needs to be looked upon as one cog in the total financial picture of the company. The financial and non-financial aspects of the program need to be studied, as well as the tax effects of the program. Even a feasibility study that shows substantial savings is going to be meaningless if the attitude of top management is nonchalant, or if safety procedures are lax or loss experience is bad.

Self-insurance is not a way out for companies with bad losses or with poor financial standing. Even the best plan will not work if management lacks interest.

Bhupinder S. Sood is an independent insurance broker and consultant in Nashville, Tenn.

Product liability proposal is fair

By James H. Mack

IN A RECENT ISSUE of *Business Insurance*, W. Kirk Liddell expressed his views on upcoming product liability reform (*BI*, Feb. 1). Unfortunately, Mr. Liddell's comments missed their mark. His view that employers are treated unfairly in the product liability bill before the House Energy and Commerce Committee, H.R. 1115, is simply not the case.

The current product liability system lacks fairness, balance and uniformity. It results in excessive transaction costs and inequity in jury verdicts for both claimants and manufacturers. At present, product liability laws vary so widely from state to state that many times lawyers are the only winners.

A particular element of the current system, which fosters unfairness and unsafe workplaces, is the subrogation lien. A recent claims study by the Insurance Services Office Inc. indicated that 57% of the dollars paid out by insurers in work-related incidents involved situations in which employer fault was a factor. Note that the 57% relates to dollars paid out; the actual number of claims is undoubtedly much higher.

More than 90% of the claims brought against machine tool builders involve employer fault. However, in most states employers are able to shift their workers compensation costs onto the manufacturers of workplace products, regardless of employer fault.

Mr. Liddell is incorrect when he states that in "cases where employer fault is an issue, manufacturers are not without defenses to the underlying product liability action. . ." On the contrary, unless he can prove that the employer was solely at fault, the manufacturer is held responsible for a defective product, even if the product's "defect" resulted from employer alteration or lack of proper maintenance. Lack of training by the employer is also a frequent cause of employee injuries.

In addition to reimbursing negligent employers for their own carelessness, the subrogation lien has resulted in excessive legal costs. The ISO study indicates, for example, that although workplace incidents account for only 11% of the total number of product liability claims, they account for 42% of the total number of dollars paid out for those claims.

Insurance companies have testified that, by reducing transaction costs, elimination of the subrogation lien will result in lower product liability insurance premiums without increasing workers compensation premiums for most employers. Those likely to experience an increase in workers compensation insurance rates are employers that maintain unsafe workplaces and currently are able to shift their workers compensation costs onto the product liability system through the subrogation lien.

As a matter of policy, this is as it should be: Employers that tolerate unsafe workplace practices *should* bear the cost of industrial accidents.

The current product liability system provides little incentive for employers to maintain a safe workplace. Employers—not manufacturers of workplace products—are usually in the best position to control the workplace environment. They are responsible for seeing that equipment is properly maintained and safeguarded and that employees are adequately trained in the safe use of industrial products.

Speaking out

The disincentives for safety are obvious in a system that permits an employer to pass along the cost of industrial accidents to third-party manufacturers that exercise little or no control over the workplace environment.

Subrogation shifts the focus *away* from accident prevention.

Mr. Liddell also appears to forget that workers compensation is a no-fault system. It is intended to absorb the cost of workplace injuries. The approach taken in H.R. 1115 places strong incentives on employers to maintain safe workplaces. If these incentives work, and the only workplace injuries that occur are because of truly defective products, workers compensation costs will be reduced substantially. Most importantly, fewer employees will be injured.

The unfair, unsafe and expensive results of the subrogation system should be eliminated by prohibiting the employer—or its workers compensation insurer—from pursuing a subrogation lien, except where the employer can prove he is without fault.

The employer, in exchange for giving up his right to pursue a subrogation lien, should receive substantial reinforcement of the immunity shield traditionally afforded by the workers compensation system. This objective is accomplished in H.R. 1115 by preventing a manufacturer from bringing third-party suits against the employer.

While only a few states have allowed such lawsuits, there is a significant opportunity for others to do so. Objective experts—including Arthur Larsen of Duke University, a leading authority on workers compensation law—have said that the approach taken in H.R. 1115 represents the best solution for *all* parties and is in the public interest.

The current version of H.R. 1115 provides a fair outlet to those employers that are in no way responsible for a workplace accident. If an employer believes he is totally without fault, he may pursue his subrogation claim in the context of the lawsuit and, if the jury agrees with him, the lien will be enforced. However, in so doing, the employer waives the protection the bill provides against contribution or indemnity claims that some states permit manufacturers to bring against employers.

The elimination of the subrogation lien would not affect an injured worker's ability to recover workers compensation benefits, a product liability damage award or net economic loss; nor would it increase the workers compensation insurance premiums of most employers.

Enactment of the legislation would simply make clear that the costs of the workers compensation system will be paid by the workers compensation system—as was originally intended—and not by the tort system.

Product liability reform is long overdue. The need for uniformity and fairness is obvious. Victory in this long battle is now in sight. We need to unite behind this effort.

James H. Mack is public affairs director of the McLean, Va.-based National Machine Tool Builders Assn.

Loss control keeps heads above water

By The Insurance Institute of America

The following question and answer are drawn from the curriculum for the Associate in Risk Management designation awarded by the Insurance Institute of America. They represent the type of question asked—and the possible answers—in one of the three examinations for the A.R.M. designation.

This month's exercise, drawn from a recent ARM 55 national examination, describes how any organization—here a hotel—having one principal location can minimize its losses by appropriate pre-accident and post-accident actions.

A.R.M. exercises

Q: The large swimming pool on the third floor of the 10-story Green Hotel suddenly collapsed at 11 a.m. on a particular Tuesday, causing several hundred thousand gallons of water to cascade through the occupied meeting rooms on the hotel's second floor and the hotel's administrative offices and restaurant facilities on the ground floor.

Beyond the physical damage to the hotel, the rushing waters caused injuries to hotel employees and guests and made the hotel's office and restaurant facilities unusable for at least a week.

What steps should the hotel's management have taken before the pool collapsed and after the pool collapsed to minimize the severity of the hotel's losses from:

- Physical damage to the hotel building and its contents?
- Interruption of its office and restaurant operations?
- Injuries to hotel employees and guests?

A: • Before the accident, the hotel could have prevented the property damage from the collapse by relocating the pool or improving the pool enclosure and structural supports. Pre-loss actions that could have reduced the severity of the property damage could include reducing the size of the pool, locating less vulnerable property on the floors beneath the pool or installing drains to take the water away relatively harmlessly.

After the accident, further property damage or the financial consequences of such damage could be reduced by protecting undamaged property or by selling damaged property for its salvage value.

- To prevent or minimize net income losses from interrupted operations the hotel could, before the pool collapsed, have made detailed plans for substitute facilities or dispersed or relocated its office and restaurant operations so that they would not be so vulnerable to any escaping pool waters.

Once the collapse had occurred, the hotel could minimize further net income losses by expediting repairs, moving some activities to temporary quarters elsewhere and advertising widely that the hotel remains "open for business" despite its recent misfortunes.

- Injuries to employees and guests, for which the hotel potentially may be liable, could be prevented by any of the pre-event actions that would avoid the initial property damage or reduce the concentration of persons in the immediate vicinity of the pool.

Furthermore, developing an emergency plan to provide first-aid to and evacuate those who may be injured would tend to minimize the harm for which they may litigate.

After the accident, when some employees and guests may have been injured, effective claims management—especially including advance payments and appropriate rehabilitation—would tend to reduce the hotel's liability costs. Dubious claims should be resisted through strong legal defense.

The sample questions and answers used in this column are taken from the Associate in Risk Management designation curriculum of the IIA. For more information on the content of the A.R.M. program, write Dr. G.L. Head, Vp, Insurance Institute of America, P.O. Box 314, Malvern, Pa. 19355.

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APRIL 5. Workers' Compensation Issues Into the '90s workshop in Philadelphia, co-sponsored by The Society of Chartered Property & Casualty Underwriters and the Greater Valley Forge CPCU chapter; $130 for CPCU members; $160 for all others. 20% discount for groups of three or more from the same company registering at the same time. Bonnie Kinsley, Society of CPCU, 720 Providence Road, Malvern, Pa. 19355; 215-251-2735.

APRIL 5-8. Supervisory Management course in New York City, sponsored by The College of Insurance; $630 for college sponsors; $715 for non-sponsors. The College of Insurance, 1 Insurance Plaza, 101 Murray St., New York, N.Y. 10007; 212-962-4111.

APRIL 6. On-the-Job Safety in Public Works workshop in Indianapolis, sponsored by The Education Foundation of the American Public Works Assn.; $75 for U.S. APWA members, $100 for Canadian APWA members, $95 for U.S. non-members, $120 for Canadian non-members. American Public Works Assn., 1313 E. 60th St., Chicago, Ill. 60637; 312-667-2200.

APRIL 6. Communications/Education and Advanced Cost Containment Workshops in San Francisco, sponsored by Health Research Institute; $250. **Also April 20** in New York City, **May 18** in Chicago, **June 17** in Dallas and **June 20** in San Antonio, Texas. Workshop coordinator, Health Research Institute, 1500 S. Main Plaza, Suite 170, Walnut Creek, Calif. 94596; 415-676-2320.

APRIL 6-7. Update: Insurance and Reinsurance Disputes in the Property/Casualty Industry conference in Dallas, sponsored by Executive Enterprises Inc.; $895; $795 for additional registrants from same organization. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-223-0787; 800-831-8333 within New York.

APRIL 6-7. 101 Ways to Cut Your Business Insurance Costs Without Sacrificing Protection seminar in San Francisco, sponsored by the International Risk Management Institute Inc.; $498. **Also April 20-21** in Washington, D.C. International Risk Management Institute Inc., 12222 Merit Drive, Suite 1660, Dallas, Texas 75251-2217; 800-527-2580.

APRIL 6-8. Designing Retirement Plans Under Tax Reform seminar in Baltimore, sponsored by Yaffe & Co. Inc.; no charge. Yaffe & Co. Inc., 800 N. Charles St., Baltimore, Md. 21201; 301-332-1166.

APRIL 7. The OSHA Hazard Communication Standard seminar in Springfield, Ill., sponsored by the Illinois State Chamber of Commerce; $90 for members $135 for non-members. **Also April 26** in Chicago. Linda Rice, ISCC, 20 N. Wacker Drive, Chicago, Ill. 60606-3083; 312-372-7373.

APRIL 7. Building Defenses Against Errors & Omissions Claims workshop in Denver, sponsored by The Society of Chartered Property & Casualty Underwriters; $130 for CPCUs; $160 for non-members. **Also April 28** in Minneapolis. The Society of CPCU, Kahler Hall, 720 Providence Road, CB No. 9, Malvern, Pa. 19355-0709; 215-251-2728.

APRIL 7-8. Health Care Cost Containment Workshop in San Francisco, sponsored by Health Research Institute; $495. **Also April 18-19** in New York City, **May 19-20** in Chicago, **June 15-16** in Dallas and **June 21-22** in San Antonio, Texas. Workshop coordinator, Health Research Institute, 1600 S. Main Plaza, Suite 170, Walnut Creek, Calif. 94596 415-676-2320.

APRIL 8-9. How to Use the Risk Retention Act of 1986 symposium in San Francisco, sponsored by the Risk Management Section of the Society of Chartered Property & Casualty Underwriters; $200 for Society of CPCU members; $250 for non-members. **Also April 21-22** in New York and **May 13-14** in Chicago. Julie Ann Juliana, Professional Services Coordinator, The Society of CPCU, Kahler Hall, 720 Providence Road, CB No. 9, Malvern, Pa. 19355; 215-251-2735.

APRIL 10-13. Underwriting Management Workshop in Arlington, Va., sponsored by the Alliance of American Insurers; $275 for Alliance member companies only. Susan Saccaro, Alliance of American Insurers, 1501 Woodfield Road, Suite 400 West, Schaumburg, Ill. 60195-4980; 312-490-8542.

APRIL 10-15. Basic Reinsurance course in Princeton, N.J., sponsored by The College of Insurance; $1,095 for sponsors of the college; $1,195 for non-sponsors. The College of Insurance, 1 Insurance Plaza, 101 Murray St., New York, N.Y. 10007; 212-962-4111.

APRIL 11-15. Mobile Crane, Overhead Crane Rigging Practices Safety Training program in Sacramento, Calif., sponsored by the Crane Institute of America; $495. **Also April 25-29** in Anchorage, Alaska, and **May 9-13** in Salt Lake City. Crane Institute of America, 455 Douglas Ave., Suite 2255A, Altamonte Springs, Fla. 32714; 407-682-0073.

APRIL 11-12. Employee Benefits in an Uncertain Era conference in Washington, D.C., sponsored by National Employee Benefits Institute; no charge for NEBI members; $395 for non-members. National Employee Benefits Institute, 2445 M. St. N.W., Suite 400, Washington, D.C. 20037; 800-558-7258.

APRIL 11-15. Understanding and Using the London Market course in London, sponsored by the Insurance & Reinsurance Research Group Ltd.; $1,282. Joy Bambrough, Insurance & Reinsurance Research Group Ltd., Bridge House, 181 Queen Victoria St., London EC4V 4DD; 01-236-2175.

APRIL 12-13. Emerging Issues in Employee Benefits-1988 and Beyond conference in Atlanta, sponsored by The Employers Council on Flexible Compensation; $450 for both days; $275 for one day. **Also April 21-22** in Los Angeles, and **May 5-6** in Chicago. Patricia Ibbs, PJI Benefits, Suite 1000, 3390 Peachtree Road N.E., Atlanta, Ga. 30326; 404-364-6552.

APRIL 12-13. Ergonomics and Job Modifications course in Long Grove, Ill., sponsored by the National Loss Control Service Corp.; $350. **Also May 24-25, Sept. 20-21.** National Loss Control Service Corp., K-3, Long Grove, Ill. 60049-0075.

APRIL 12-14. Meet the Challenge: The New World of Employee Benefits symposium in Baltimore, sponsored by LOMA; $395 for registrants from LOMA member companies; $595 for registrants from non-member companies. LOMA Meetings Department, 5770 Powers Ferry Road, Atlanta, Ga. 30327; 404-951-1770.

APRIL 13. The 1986 Risk Retention Act and other Captives-A New Opportunity workshop in Jacksonville, Fla., co-sponsored by The Society of Chartered Property & Casualty Underwriters and the North Florida CPCU chapter; $130 for CPCU members; $160 for all others. Bonnie Kinsley, Society of CPCU, Kahler Hall, 720 Providence Road, Malvern, Pa. 19355; 215-251-2735.

APRIL 13. Workers Compensation course in New York City, sponsored by The College of Insurance; $195 for sponsors of the college, $245 for non-sponsors. The College of Insurance, 1 Insurance Plaza, 101 Murray St., New York, N.Y. 10007; 212-962-4111.

APRIL 13-15. Effective Management and Direction of Malpractice Insurers and Trusts seminar in Atlanta, sponsored by Tillinghast, a division of Towers, Perrin Forster & Crosby; $750. Patricia A. Kelley, Tillinghast, TPF&C, 1 Atlanta Plaza, Atlanta, Ga. 30026-1119; 404-261-5420.

APRIL 13-15. Society of Actuaries Spring Meeting in Anaheim, Calif., sponsored by the Society of Actuaries. Registration based on following professional designation: $255 for FSAs and ASAs, $270 for MAAAs, CAPPs, CASs, CIAs, American Statistical Assn. members and local actuarial clubs, $127 for retired SOA members, $305 others. Linda M. Delgadillo, Society of Actuaries, 500 Park Blvd., Itasca, Ill. 60143; 312-773-3010.

APRIL 13-15. Understanding Property-Casualty Statutory Financial Statements workshop in Chicago, sponsored by Executive Enterprises Inc.; $995 for first registrant; $895 for each additional registrant from the same organization. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-223-7880; 800-831-8333 within New York.

APRIL 13-15. Issues in Employee Benefits: Advanced Course in Atlanta, sponsored by the American Management Assn. Human Resources Division; $695 for individual AMA members; $800 for non-members. **Also April 18-20** in Chicago and **April 25-27** in Boston. American Management Assn., P.O. Box 319, Saranac Lake, N.Y. 12983; 518-891-0065.

APRIL 14-15. Reinsurance Market 1988 symposium in London, sponsored by the Insurance & Reinsurance Research Group Ltd.; $698. Joy Bambrough, Insurance & Reinsurance Research Group Ltd., Bridge House, 181 Queen Victoria St., London EC4V 4DD; 01-489-1487.

APRIL 14-15. Effective Oral Presentations course in New York City, sponsored by The College of Insurance; $395 for sponsors of the college; $445 for non-sponsors. The College of Insurance, 1 Insurance Plaza, 101 Murray St., New York, N.Y. 10007; 212-962-4111.

APRIL 14-15. Trial Techniques seminar in Washington, D.C., sponsored by The Defense Research Institute Inc.; $370 for DRI members; $395 for non-members; special discount for two or more attendees from the same firm and address. Defense Research Institute, 750 N. Lake Shore Drive, Suite 500, Chicago, Ill. 60611; 312-944-0575.

APRIL 17-22. 26th Annual Risk Management and Employee Benefits conference in Washington, sponsored by the Risk & Insurance Management Society; full week: $695 for members; $795 for non-members; partial week: $575 for members; $675 for non-members. RIMS Conference Department, 205 E. 42nd St., New York, N.Y. 10017; 212-286-9292.

APRIL 17-22. Fifteenth Annual International Assn. of Industrial Accident Boards and Commissions Workers Compensation College in Chapel Hill, N.C.; $350 for IAIABC members; $450 for non-members. International Assn. of Industrial Accident Boards and Commissions College, P.O. Box 13449, Jackson, Miss. 39236.

APRIL 18-19. Non-Life Actuaries at Work technical conference in London, sponsored by the Insurance & Reinsurance Research Group Ltd.; $672. Insurance & Reinsurance Research Group Ltd., Bridge House, 181 Queen Victoria St., London EC4V 4DD; 01-236-2175.

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Technology may change Lloyd's operations

By CAROLYN ALDRED

LONDON—Proposed changes at Lloyd's of London could radically alter how business is transacted at the 300-year-old market.

Members of the Council of Lloyd's, underwriters and brokers must make fundamental strategic decisions during the next year if Lloyd's is to face tomorrow's competitive challenges, market officials and observers said at a Lloyd's 2000 conference, held March 20 and sponsored by Lloyd's Systems and Communications Group to discuss the progress in technology at Lloyd's and future market developments.

Specifically, conference participants said the market must decide:

- Whether Lloyd's should expand significantly into European and other foreign markets, reducing its massive dependence on the U.S. market.

If Lloyd's is to reap benefits from the liberalization of trade barriers in Europe, it must establish offices in European countries, pointed out Alan Lord, Lloyd's chief executive.

- Whether Lloyd's should permit non-Lloyd's brokers or even policyholders to place business directly with Lloyd's underwriters.
- Whether Lloyd's underwriters should expand their product base from high-risk, specialty lines of insurance to include large-volume, low-premium business, like small commercial and personal lines.
- Whether Lloyd's should abandon its internal barriers differentiating its marine, non-marine and aviation markets.

Policyholders should be able to place all of their coverage within one market, some brokers and underwriters argue.

- Whether Lloyd's should re-examine how it obtains its underwriting capacity.

Recent changes by the British and U.S. governments to lower income tax rates has reduced the incentive for many investors to join Lloyd's, some speakers argued.

One of the most important issues currently facing Lloyd's is how it is preparing for the liberalization of trade within the European Community as trade barriers gradually are removed by 1992, conference participants agreed. Already EC member countries have agreed to open the non-life market for commercial risks (*BI*, Dec. 28, 1987).

"We need to set ourselves up in a way that will ensure that we provide a convenient and acceptable service to those in Europe who will, if we get it right, welcome the opportunity of a new and competitive market," explained Mr. Lord

However, freedom of services is a two-way street, he said. "It would be astonishing if there were not organizations in Europe which were planning to do what they can to knock Lloyd's off its perch."

Meanwhile, the removal of trade barriers in Europe will give Lloyd's an opportunity to reduce its dependence on the United States for business, conference participants noted.

The U.S. currently generates 40% of Lloyd's annual premium income, said Robin Mountfield, deputy secretary of the British Department of Trade and Industry. "I believe there is a need to become less dependent on earnings from the U.S. and to take greater advantage of the European market, which after 1992 should be regarded as our home market," he said.

For example, the EC nations' population of 320 million is 50% greater than that of the United States, whereas the average per-capita insurance expenditure is 334 pounds ($608) in the EC compared with 973 pounds ($1,771) in the United States. "This gives an idea of the present size of the European market and its potential," Mr. Mountfield pointed out.

"It is quite clear Lloyd's will have to go somewhere else for honey, and that is Europe. We shall have to establish ourselves in Europe before 1992," agreed former Lloyd's Chairman Peter Miller, chairman of broker Thomas R. Miller & Son (Holdings) Ltd.

To compete effectively in Europe, Lloyd's will need to set up offices throughout the EC nations, said Mr. Lord, pointing out that Lloyd's already has such an office in Zurich, Switzerland.

Meanwhile, Lloyd's must examine removing barriers within its own market to take advantage of the eradication of trade barriers in Europe, other speakers argued.

"In the year 2000 it is probable that most insurance business will be placed electronically, with less intermediaries between source of business and underwriter," said Des Lee, head of systems and communication at the Corp. of Lloyd's.

Mr. Lee is one of the executives responsible for establishing the London Market Network, a computer network designed to link Lloyd's underwriters, London insurance companies and Lloyd's brokers. Lloyd's currently is attaching more than 60 of its syndicates to the network.

When the network is complete and extends beyond London to the United States, Europe and other areas of the world, there is no technological reason why Lloyd's underwriters cannot receive business directly from sources like U.S. brokers, bypassing Lloyd's brokers completely, said Mr. Lee.

Currently, more than 90% of the U.S. business placed at Lloyd's by some 150 Lloyd's brokers is produced by six U.S. brokers, he said.

"Using international links and some simple formatted quotation screens, could underwriters provide quotations direct to business sources? The answer is no under established trading practices. The answer is yes from a technology point of view," he said.

Currently, under the 1982 Lloyd's Act, all business written by a Lloyd's underwriter must be placed by a Lloyd's broker, except if the Council of Lloyd's permits otherwise. Some underwriters recently have expressed concern that Lloyd's may be restricting its accessibility to business by mandating that Lloyd's brokers be the sole source of business for syndicates (*BI*, March 7; Dec. 14, 1987).

At least six underwriting agencies believe the council should allow underwriters to accept business from sources other than Lloyd's brokers.

"Wider access by underwriters to incremental business which the present broker system does not naturally produce" is a commercial problem the council will have to discuss, said Mr. Lord.

"I think this is going to be a subject consuming a great deal of time in (the) council. . .for several months," he noted, adding that it also will be widely debated throughout the entire market.

Robert Keville, chairman of the Lloyd's Insurance Brokers Council and a director of Willis Faber P.L.C., welcomed the fact that Lloyd's brokers will be given the opportunity to discuss the "sensitive issue of direct dealing."

Meanwhile, Mr. Lord stressed that any future use of non-Lloyd's brokers would initially involve only "incremental" business and will not affect the majority of Lloyd's brokers' business.

Merrett Underwriting Agency Management Ltd. is setting up a non-Lloyd's syndicate this year, with four of its six underwriters located in Birmingham, England, to write commercial property risks. Using a new service company, Merrett hopes to attract up to 30% of its business from non-Lloyd's brokers (*BI*, Dec. 14, 1987). Several other agencies also plan to seek permission to use sources other than Lloyd's brokers to garner more high-volume, low-premium business, sources say.

However, some speakers questioned whether Lloyd's should broaden its product base.

"There seems to be pressure for underwriters to concentrate less on high-risk specialist business and look for high-volume business," said Graham McKean, a director of Lloyd's broker Ballantyne, McKean & Sullivan Ltd., noting that Lloyd's is acquiring the computer support necessary to write such business.

However, "if you look at how much the banks, insurance companies and building societies have already spent on such technology, you must question how successful Lloyd's will be in attracting that sort of business," he added.

Marine underwriter Chris Rome, chairman of Lloyd's Underwriting Assn., also rebuts the need for Lloyd's to use direct dealing and attempt to attract high-volume, low-premium business.

"Personally I think it's a dead duck. Its technologically possible that we can do it, but that doesn't make it desirable," he said. Lloyd's is renowned for being prepared to accept unusual risks and "face-to-face dealing is important for the more complex risks," he added.

However, Mr. Rome did question whether Lloyd's should continue to enforce the invisible barriers between the different markets within Lloyd's. For example, marine underwriters at Lloyd's are supposed to devote no more than 10% of their total premium income for the underwriting of non-marine risks, and non-marine underwriters do not write marine business. There is also a separate aviation market.

"Why should separate markets continue when it doesn't benefit the policyholder?" questioned Mr. Rome. "I find it hard to believe by the year 2000 there won't have been an erosion of the barriers."

Already, many syndicates write a diversity of risks and "as long as the corporation ensures that syndicates have the required expertise and support systems, there is no reason why an underwriter shouldn't write a wide spread of risks," Mr. Rome said, adding that the matter probably would be seriously discussed by the market in the near future.

Mr. Lord earlier refused to discuss the subject of internal market barriers at Lloyd's when questioned by an attendee, replying that it was a matter for the separate markets to discuss.

However, the issue is causing considerable debate at Lloyd's, especially concerning the extent of non-marine business some marine underwriters are writing (*BI*, Dec. 7, 1987).

"There are strange goings-on in the market. The mariners are accused of resorting to that age-old British tradition: piracy," noted Lloyd's' Mr. Lee.

Meanwhile, Lloyd's also should examine those very people who provide underwriters with their underwriting capacity: the Lloyd's names, Mr. Rome said.

"The whole climate for names is changing," he said. The days of 90% income tax levels have gone, reducing the tax-saving benefits for potential Lloyd's names, he noted.

Lowering tax rates would reduce the write-offs Lloyd's members may declare for underwriting losses.

For example, the British chancellor of the exchequer proposed this month to reduce the top individual income tax rate in the United Kingdom to 40%.

"Lloyd's needs to do some major tactical thinking about increasing the benefits for Lloyd's names," Mr. Rome said. ■

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"The current position on airline rating is that if you have a good five-year record, a hull reduction of around 50%, a liability reduction of say 20% and an extra $100 million or so of liability cover thrown in can be expected," said Johnathan Palmer-Brown, chairman of broker Nicholson Chamberlain Colls Aviation Ltd. and former chairman of Stewart Wrightson Aviation Ltd.

"People are prepared to look at renewals two or three months ahead of time, and some are looking at July renewals now," pointed out Peter Butler, managing director of Nicholson Chamberlain Colls Aviation.

"There is a feeling that these reductions of rates will start to slow down either July 1 or Oct. 1 when everyone has had the reductions. I think that is going to happen, but there will continue to be a reduction in rates, say another 20% on hulls and 10% on liabilities," he said.

"This is a loss-driven business, and until losses occur—like a couple of big hull losses—we will not see the market hardening," said Peter Sweet, deputy chief executive of Bowring Aviation Ltd.

"But there is a stronger consensus that we complete (decreases) until October," he said.

"The biggest buyers will keep striving for even lower rate levels, especially if the claims stay at their somewhat clement level," said Ralf Oelssner, insurance director for Lufthansa. "Perhaps once all the renewals have gone through substantial reductions, there might be a certain leveling out—perhaps by autumn 1988."

Aviation underwriters are cutting rates despite a less than stellar loss record in 1987.

Last year, 20 western built jetliners were destroyed and 593 people died in aviation disasters, market sources say.

The losses included the November crash of a Continental Airlines DC-9 jetliner on takeoff in Denver, killing 28 people and injuring 54 others (*BI*, Nov. 23, 1987), and the crash of a Northwest Airlines Inc. MD-80 jetliner near Detroit in August, which killed 156 people (*BI*, Aug. 24, 1987).

Altogether, insured airline losses in 1987 totaled $850 million, compared with $990 million in 1985, the worst year on record.

Despite the 1987 losses, aviation underwriters still earned about $250 million in underwriting profits last year, based on estimated earned premiums of $1.1 billion, according to statistics provided by Mr. Corbett.

Although he cannot predict the direction of future rates, Mr. Corbett calculates that world aviation underwriters' earned premium volume will decrease this year and in 1989, assuming that rate reductions continue "only for as long as it takes to give every airline client the benefit of what was being done from mid-1987. It assumes, thereafter, later in 1988, the market will stabilize."

On this basis, Mr. Corbett believes airlines aviation underwriters will accumulate earned premiums of only $900 million this year— marking the first time earned premium volume has declined during this decade—and only $750 million in 1989.

Jacques Gangloff, chairman of French aviation insurer La Reunion Aerienne in Paris, believes that premium volume will drop to $650 million this year. He also estimates, based on past statistics, that aviation losses will increase to $1.2 billion in 1988.

"The (rate-cutting) cycle will not be completed before the third quarter of 1988," Mr. Gangloff said. "But, if the trend continues, losses will be larger than premiums, which will create weak markets. Capacity will be reduced and rates will increase. It is urgent that we put a stop to the trend and establish stable partnerships between policyholders and insurers."

The aviation insurance market is considered by aviation brokers and underwriters to be the most volatile of all insurance markets.

Rates, which dipped slightly in July 1983, rose as much as 150% in 1984 for some airlines after record airline losses of $550 million in 1983. Rates continued to climb in 1985 and 1986 by as much as 300% because of the record $990 million in airline losses in 1985.

Airlines at that time warned underwriters that rates were rising too quickly for no logical reason, recalled SAS's Mr. Oelssner at an aviation insurance conference in London earlier this month.

"I distinctly remember a number of large, especially European, airlines trying to convince the market to take it steady; they warned that due to the cyclical behavior of this business, the airlines would be nursing a long memory and come back with a vengeance. The operative word in vogue at that time was 'overreaction,' " he remarked.

Toward the end of 1986, however, "the tables started to turn," Mr. Oelssner said. Aviation underwriters earned a massive underwriting profit that year because losses totaled only $310 million and earned premiums, fueled by rate hikes, jumped to $845 million, according to Mr. Corbett's statistics.

As a result, capacity in the world aviation insurance and reinsurance market has as much as tripled since 1985, underwriters and brokers say.

Brokers started to shop the world for coverage and found better buys in the French and American markets. London, which had been considered the market's rate leader, lost its edge. Today, only between 20% and 45% of each airline's coverage is written in the London market, compared with an average of 65% a few years ago, said one London broker.

Also, airlines belonging to International Air Transport Assn. formed a captive, Airline Mutual Insurance Co. Ltd., in November 1986 (*BI*, Nov. 17, 1986). Since then, 17 airlines, including the recent addition of British Airways, have joined the captive, said Mr. Oelssner, the captive's president.

The new capacity forced hull and liability rates down by as much as 20% to 30% last April, the first time rates had been cut in three years (*BI*, April 20, 1987).

But massive rate reductions did not come into play until Oct. 1, brokers say, when Thai Airways International Ltd. received a 63% reduction in its hull rates.

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Aviation insurance conference

Airline risk managers seek broader cover

By STACY SHAPIRO

LONDON—Airline risk managers are upset about the lack of coverage aviation underwriters provide.

The risk managers want aviation underwriters to supply custom-made insurance programs—particularly liability insurance programs—for aviation and non-aviation risks, like hotel, car rental and travel service subsidiaries. Underwriters had provided such broad coverage under aviation insurance policies until they excluded non-aviation risks a couple of years ago.

Also, risk managers want aviation underwriters to rate airline hull and liability risks based on an individual airline's loss history rather than on the world aviation industry's performance.

Two heated debates took place among some of the 12 airline risk managers, 28 brokers and 44 aviation underwriters attending question-and-answer sessions at the "Aviation Insurance—What's Next" conference earlier this month in London sponsored by Insurance Risk & Research Group Ltd. More than 100 people attended, though few London aviation insurers were represented at the conference.

John Palmer-Brown, a founder and director of broker Nicholson Chamberlain Colls Ltd. and former chairman of Stewart Wrightson Aviation Ltd., sparked the controversy over airlines' insurance requirements when he said in a speech that wider coverage is needed to reflect "the needs of our clients. Where our clients' principal business is an airline, we surely should look to cover as many associated activities as possible, particularly from a liability standpoint.

"And if today that's difficult to do, we must find a way forward to satisfy the demand," he said.

Mr. Palmer-Brown also said that if aviation underwriters assemble all airline risks in one package, it would be up to the underwriter to determine the rates based on the information supplied by the airline. More experts would be needed to analyze the information and rating would be more complex "if we could tailor coverages to one airline," he admitted.

H.E. Westerstad, director of insurance for Scandinavian Airlines Systems in Stockholm, Sweden, agreed that aviation underwriters need to offer broader coverage to include all the risks airlines encounter in all their businesses. He also said aviation underwriters do not ask for enough information when they are rating airline passenger liability exposures.

However, aviation underwriters claimed that they could not offer broader coverage to airlines because the reinsurance, expertise and time are not available to support such a package.

"One policy for all risks would be (written) on a net-line basis because no underwriters would offer reinsurance on that basis," said Ray Jeffs, a consultant and the retired chief underwriter for Aviation & General Insurance Co. Ltd. in London.

Another European underwriter noted that there currently is volatility in the non-aviation liability field, and underwriters would need at least five years of loss experience

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Other airlines likewise saw their rates slashed:

- South African Airways received about a 40% cut in its hull rates and a 10% reduction in its liability rates when its coverage renewed Oct. 1 (*BI*, Dec. 7, 1987).
- KSSAF Group, the world's second-largest insurance-buying group of airlines, received a 56% rate cut for hull insurance and a 20% decrease in liability rates on Oct. 1 (*BI*, Nov. 2, 1987).

The KSSAF group is led by KLM Royal Dutch Airlines, Scandinavian Airline System and Swiss Air Transport Co. Ltd. and includes Austrian Airlines and Finnair.

- United Airlines' hull rates were cut 30% and its liability insurance rates were cut 39% when it renewed its coverage Oct. 1.
- Texas Air Corp., whose $10.3 billion fleet is the world's largest, received a 45% reduction on hull and liability rates on Dec. 1, even though the fleet value was increased from $8.8 billion and its liability insurance limits were increased to $750 million from $600 million (*BI*, Nov. 23).

Airlines that had renewed their coverage earlier in 1987 and did not receive these reductions "felt that they didn't get the kind of treatment that the other airlines received," said Bowring's Mr. Butler.

As a result, in late 1987, aviation underwriters—whose reinsurance treaty renewals provided additional capacity for 1988—agreed to "a series of understandings" with airlines whose coverage renews on April 1 or May 1. Under those agreements, the renewals would be given "the earliest possible consideration," Mr. Butler said.

In fact, most of the airlines whose coverage renews on April 1 and May 1 negotiated the renewals by January.

For example, London market sources say Lufthansa received a 57% hull rate reduction for its $4.5 billion fleet and a 22% liability rate reduction when it negotiated its April 1 renewal last November.

Also, Air India received a 54% hull rate reduction and a 12% liability rate reduction for its April 1 renewal, even though the 1985 loss of a $100 million Air India Boeing 747 that exploded over the Atlantic Ocean, killing 326 people, is the largest hull loss in history.

Last week, arbitrator Lord Roskill concluded that the loss was a war risk loss and ordered the war risk underwriters to pay the entire loss.

British Airways received a "very large reduction in rates," when it negotiated its April 1 renewal in January, said Geoffrey Hargreaves, chairman of Sedgwick Aviation Ltd., British Airways' broker.

Mr. Hargreaves noted, however, that he believes that the percentage decrease in an airline's rate is a "meaningless yardstick."

Sources in the market say that British Airways, which had last renewed its coverage on Dec. 1, 1986, saw its hull rate drop 53% to 0.15% of its fleet's $5.4 billion insured value—or $8.1 million—from 0.39% of insured value. Liability rates were cut to 16 cents from 25 cents per revenue passenger kilometer.

In addition, British Airways opened a Bermuda captive to write 20% of its aviation insurance, sources confirm.

The airline contributed 10 million pounds ($18.5 million) in capital to Speedbird Insurance Co. Ltd., which is being managed by Sedgwick Group Overseas Management Services Ltd. The captive, which starts operations April 1, will cede 2.5% of British Airways coverage to AMI, sources confirm.

In addition, British Airways, which bought British Caledonian Airways Ltd. last year, continues to keep British Caledonian's Guernsey captive "open," Mr. Hargreaves said. The captive continues to be managed by Transglobe Underwriting Management (Guernsey) Ltd.

Several U.S. airlines, including Northwest Airlines, will renew their aviation insurance in July, but so far no major airlines have started renewal negotiations.

However, airlines are confused by the volatility of aviation insurance rates, said Gordon U. Cobleigh, executive vp of Hall Aviation, a unit of Frank B. Hall & Co. Inc. in New York.

"We have said our buyer clients are pleased with recent heavy reductions, but they are also confused. One went so far as to state that the very process of commercial catastrophic risk transfer has taken on a degree of volatility that would seem to be the antithesis of what hazard loss cost containment is all about." ■

Delta hit with record crash award

By MICHAEL BRADFORD

NEW YORK—A $7.97 million jury award to the estate of a former International Business Machines Corp. executive killed in the 1985 crash of a Delta Air Lines jetliner is the largest compensatory award ever in a aircraft wrongful death case, an attorney says.

New York attorney Lee Kreindler, who represented the estate of Philip D. Estridge and his wife, Mary Ann, in the case, said that although last week's award by a U.S. District Court jury in Manhattan was a record, he was "a little disappointed that (the award) was not higher."

Mr. Kreindler said he agreed to not seek punitive damages because "Delta, through its insurance carrier, admitted liability." He identified the insurer as United States Aircraft Insurance Group, a New York-based pool of insurers that writes aviation risks.

USAIG's representative in the case could not be reached.

A Delta spokesman in Atlanta said, "Delta did not contest liability" so the Estridge suit and others could possibly be settled. "If we had contested liability, these things could not have been settled quickly."

The spokesman said that all but around two dozen of the 136 suits related to the crash have been settled. He did not have figures on how much those settlements have totaled so far.

At the time of the August 1985 crash at Dallas-Fort Worth International Airport, Delta had $750 million in aviation liability coverage and underwriters subsequently reserved $125 million to pay liability claims related to the accident (*BI*, Aug. 12, 1985).

Mr. Kreindler said last week that USAIG had indicated it would ask Judge John E. Sprizzo to set aside the jury verdict.

Mr. Kreindler originally sued Delta for $25 million on behalf of relatives of Mr. Estridge, the 47-year-old executive who was responsible for development of the IBM Personal Computer, and his wife.

The bulk of the jury's award was aimed at compensating for the loss of Mr. Estridge's earning power. The court heard testimony that described the executive's career as one-time president of IBM's Entry Systems divisions, which developed the IBM PC, and later as the computer maker's vp of manufacturing.

The jury award included $5.8 million for the loss of Mr. Estridge's earning capacity until age 60 and $475,000 for the amount he could have earned between 60 and 65. In addition, the jury awarded $1.5 million to compensate for the loss of Mr. and Mrs. Estridge's "enjoyment of life's activities" and $200,000 for pain and suffering the couple experienced just before their deaths in the fiery crash.

A trial in Fort Worth, Texas, currently is under way to determine whether the federal government will share liability for the crash.

Delta sued the government in 1985, alleging the crash was caused by the negligence of air traffic controllers (*BI*, Sept. 9, 1985). ■

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before they could estimate the rates for non-aviation risks.

"As an underwriter, there must be a great degree of skill in underwriting hotel liability risks and other economic activities of the airlines. That requires an underwriter with the skills and knowledge of the matters concerned," said Wally Corbett, senior underwriter of Minster Insurance Co. Ltd. in London.

"There is an obvious danger for (aviation) underwriters to write widely differing risks. I'd love one policy. . .but I will insist it is not practical. I would have to consult four or five other departments, and that would take days. Underwriters have only minutes to make decisions," he said.

"But we had the cover for years and years," rebutted SAS' Mr. Westerstad.

"It's not practical to deploy the skills of underwriters in other departments for the very little premium," said Mr. Corbett.

One airline risk manager pointed out that underwriters in the marine market are able to assemble broad packages of insurance.

"Aviation underwriters say it is impractical with no statistical information. But, in the marine market, the syndicates write everything and get reinsurance. . . .why can't it be done in the aviation market? Do you want us to go to the marine market?" the risk manager asked.

"It really isn't that difficult and we would like to see the matter addressed," added Mr. Palmer-Brown.

During another session at the conference, Ralf Oelssner, insurance director for Lufthansa German Airlines in Cologne, West Germany, warned that aviation underwriters should stop using price as the only means of marketing coverage to individual airlines and consider policy wordings and conditions.

Also, when assessing aviation liability rates, underwriters should take into account each airline's route network, the nationality of passengers and other criteria, he said.

Underwriters should "get away from price as the only parameter," said Mr. Oelssner, otherwise "troughs (in rates) will tend to be longer than peaks."

"If underwriters, however, were to remember conditions as a possible feature of underwriting, we could come back to one of the airlines' most favorite hobby-horses: individual risks assessment."

Aviation underwriters should recognize their clients' needs, said Mr. Oelssner. "Whichever broker and/or underwriter will cater for them in an innovative way will gain market share," he said. "Airline insurance managers, by nature, are basically lazy. They prefer wholesale shopping in one market to retail shopping in a number of markets.

"Whether you call it total travel concept or not, availability is the operative word. Airlines diversify into all sort of activities: travel agencies, tour operators, sponsorships. Airlines cause pollution; airlines provide ground transportation. For all that they need liability covers, not necessarily from the ground up, (but) on the other hand, what's wrong with sublimits?" he asked.

As long as the coverage is available, the price is negotiable, said Mr. Oelssner.

However, Mr. Jeffs vigorously defended aviation underwriters' decision making. "Underwriting is not a science. It is a rule of thumb," he said.

For example, there are many components that already go into the calculation of an airline's liability premium, like its size and structure, said Mr. Jeffs. Then, rate reductions or increases are calculated using revenue passenger miles or kilometers "as a yardstick," he said.

Underwriters should 'get away from price as the only parameter,' says Ralf Oelssner.

Also, deductibles are used—on engine claims, for example—after underwriters paid millions of dollars because the wordings weren't clear enough. "We decided we couldn't review every policy. . .so we introduced the deductibles to reduce the engine claims. We didn't see anything wrong with that because we didn't intend to include engine failure" in the original policies, he said.

Mr. Oelssner replied, "I have sympathy for underwriters introducing smooth, time-saving procedures, but there are in some cases differences in airlines and coverages should recognize this."

"I don't agree," said Mr. Jeffs. "The original premiums should reflect the risks in the first place."

Aviation underwriters keep the data on which they base rates a closely guarded secret, participants at the conference noted. And, the secrecy is justified, said Mr. Jeffs. "We are very competitive and we do not want to share our own information."

However, Jim Bannister, head of Insurance Risk & Research Group and a risk management consultant, said the aviation insurance industry "is almost neurotic about its secrecy. You do an enormous amount of studies. . .and you demean yourself by not showing the amount of information you put together to your buyer. . . .It is a big mistake to be over-secretive."

"I have the opposite view," replied Mr. Jeffs. ■

Aviation war risk rates declining, broker says

By STACY SHAPIRO

LONDON—Aviation hull war risk rates and the additional premium charged for liability war risk insurance are falling this year despite the continued threat of hijackings and terrorist attacks, says a London aviation broker.

Hull war risk rates already have been cut by more than 65% to 75% this year, said Michael Woods, deputy managing director of the aviation division of Willis Faber & Dumas Ltd. Further reductions are likely in the absence of any "major deterioration in the loss picture," he said.

At the same time, the additional premium for war risk liability coverage that airlines must pay in conjunction with their aviation liability insurance are "under pressure" because of competition that is driving down aviation all-risk liability rates, he said.

"A more interesting development is the trend in some markets, and with some underwriters, to include the war additional premium within the overall" liability insurance rate, said Mr. Woods. If this continues, the additional war risk premium could be eliminated for aviation liability policies, he added.

"Man is generally quite a pugnacious, territorial animal, and war

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Aviation war risk cover

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in one form or another has been one of his preoccupations since Cain slew his brother Abel in biblical times," Mr. Woods told an aviation insurance conference in London earlier this month sponsored by Insurance Risk & Research Group Ltd.

"It is a sad fact of life that since our civilized 20th century started, there has not been a single day without a conflict somewhere in the world."

For the airline industry, terrorism first struck in 1931 in Peru when a group of revolutionaries took control of an aircraft to deliver unsolicited mail "en masse" to their fellow countrymen to further their political aims, said Mr. Woods.

Since then, "there have of course been occasional acts of sabotage for personal motives, including insurance frauds, but the most frequent cause (of bombings or hijackings) has been political, which gives a different and difficult dimension to writing this class of business," he said.

Over the years, acts of terrorism involving aircraft have become increasingly more violent, though they have decreased in number. Worldwide hijackings reached a high of 83 in 1970, then declined rapidly to an average of 33.6 per year in 1985. Acts of sabotage peaked in 1977 to 31 incidents and have averaged just under 10 per year between 1978 and 1986.

The reduction in incidents is due to improved airline security, said Mr. Woods. "I wonder how many of us here remember those more casual days when boarding an aircraft was a comparatively simple process?"

Unfortunately, however, security weaknesses are exploited by terrorist groups, so that as passenger and baggage screening has been improved, airport weaknesses have been exposed, he said, noting 25 bombing and shooting incidents at airports between 1973 and 1985.

'Man is generally quite a pugnacious, territorial animal, and war in one form or another has been one of his preoccupations since Cain slew his brother Abel,' Mr. Woods says. 'It is a sad fact of life that since our civilized 20th century started, there has not been a single day without a conflict somewhere in the world.'

"This situation is being remedied but there is a considerable cost involved and inevitably not all airports will achieve the same degree of preparedness as others," Mr. Woods said.

Mr. Woods also pointed out that 80% of all hull war risk insurance currently is written in the London market, primarily by the marine market though an aviation underwriter occasionally will lead the coverage. Worldwide capacity totals about $225 million per aircraft.

Estimated worldwide hull war risk premium volume reached approximately $85 million in 1986 when a minimum rate of 0.1% of an aircraft's insured value was established, said Mr. Woods. Last year, estimated hull war risk premium volume reached around $110 million to $115 million, while premium volume this year is expected to drop to at least $85 million, he said, noting that is not enough to pay for the loss of one wide-bodied jetliner.

Mr. Woods also pointed out one problem in the hull war risk policy wording, known as the Merrett Airline One Wording, which is now used by underwriters. The policy says it covers all risks that are named in a war risk exclusion clause in the airlines' all-risk hull policy.

"As a result, the onus is with the all-risks underwriters to prove that the exclusions apply. In the absence of such proof, the war underwriters can quite legitimately deny the payment of a claim."

To get around this problem, all-risk and war risk underwriters introduced the "50/50" clause, an agreement that says both sets of underwriters will initially pay 50% of a hull loss when it cannot be immediately determined whether the loss is an all-risk loss or a war risk loss.

"Even this has displayed its shortcomings," said Mr. Woods.

Although Mr. Woods did not refer to a particular case, an arbitrator ruled last week that war risk underwriters, not all-risk insurers, must pay a disputed $100 million claim for the 1985 loss of an Air India Boeing 747. The arbitrator has not yet published a report on his decision.

"The fundamental problem is the wording of the exclusion itself (in the aviation all-risk) policy. Although it is the result of 20 years of evolution, it still allows for elements of doubt, particularly those sections which infer a political motivation," Mr. Woods explained.

"As a result there will always be claims where circumstances are such that, short of a reliable proven confession of method and guilt, the all-risk underwriters may have to pay. So they should, you may say, but I would rather remove all doubt one way or another."

Mr. Woods suggests that underwriters clarify policy language by:

- Redefining the war exclusion in the all-risk policy—and therefore by inference the hull war policy—"to reflect the means not the aims of the perpetrators."
- Offer hull all-risk and war risk coverage on one policy.

Underwriters say this is not possible because the two types of coverage require separate reinsurance programs.

- Have all-risk underwriters maintain the present exclusion for aircraft on the ground, which would be covered by war risk underwriters, but cover all losses, including terrorist acts, while the aircraft is in flight.

"To my mind, the last suggestion has the most attraction," said Mr. Woods. "The actual exposure to all-risk insurers would be the same and losses in flight, particularly transoceanic flights, give most opportunity for disputes."

Meanwhile, aviation liability war risk coverage always has been covered within an airline's aviation liability policy for an additional premium. Currently, the additional premium is 10% of the all-risk liability premium, though certain airlines pay up to an extra 25%.

There is "pressure" to reduce the liability war risk additional premium, said Mr. Woods. Also, "by virtue of the significant reductions in the basic liability rates, the war risk additional premium expressed as a percentage of this rate is, of course, generating less premium."

"A more interesting development is the trend in some markets, and with some underwriters, to include the war additional premium with the overall rate, a device that will inevitably lead to its ultimate extinction unless outside forces intervene." ■

Trends could reduce crash awards: Attorney

By STACY SHAPIRO

LONDON—Several trends in U.S. aviation litigation noted by a U.S. attorney could reduce the damages paid to plaintiffs in wrongful death lawsuits following airline crashes.

For example, U.S. courts are increasingly deciding to send cases involving foreign airlines back to the country in which the airline is based, said George Tompkins Jr., a partner with Condon & Forsyth in New York.

Court awards in foreign countries usually are less than those handed down by U.S. courts, he noted. Also, U.S. appellate courts continue to reduce damages awarded by lower courts to plaintiffs who sue airlines and their manufacturers following a crash, Mr. Tompkins said.

Aviation underwriters should still expect the average U.S. passenger claim following a fatal crash to be $600,000 to $700,000 before legal fees, but they should not expect awards to top $1 million in U.S. courts, he said.

In addition, punitive damages are seldom awarded after airline disasters, Mr. Tompkins said.

Mr. Tompkins opposes tort reform, claiming that the U.S. legal system is adequate and should not be tampered with. "I am not in favor of any form of tort reform in the U.S.," he said. "I am a great believer of the common law system. I am not an advocate of sweeping legislative reform and glad that (on a federal level) it has not taken place."

Mr. Tompkins, who spoke at an aviation insurance conference in London earlier this month sponsored by Insurance & Reinsurance Research Group Ltd., pointed to several trends in U.S. aviation litigation that could reduce airline damage awards.

U.S. courts "with continuing frequency" are returning airline crash litigation back to the appropriate foreign forum, said Mr. Tompkins. As a result, it is "surprising" that London underwriters charge premiums based on the inflated court awards in the United States "when often the cases are thrown back to a foreign country," he said.

For example, all efforts by plaintiffs to file wrongful death claims in U.S. courts resulting from the March 1986 Mexicana Airlines crash near Mexico City, which killed 166 people, "have to date been unsuccessful," he said (*BI*, April 7, 1986).

Sixteen Mexican citizens and later representatives of four U.S. passengers filed suit against Mexicana and Boeing Co., the plane's manufacturer, in a federal court in Texas, but the litigation was dismissed "on the ground of forum non conveniens," he said.

The Texas court ruled last year that Mexico was an adequate and available alternative forum, as Texas "had virtually no relation to the litigation because the aircraft was on a domestic flight within Mexico and the decedents were traveling upon tickets purchased in Mexico for an intra-Mexico flight," said Mr. Tompkins. The court also rejected an argument that the suits should be heard in Texas because Mexican law was less favorable to plaintiffs.

About 69 Mexican plaintiffs also filed suits simultaneously in federal courts in Texas, Illinois and California. However, the cases were dismissed voluntarily in Texas and dismissed in Illinois on the ground of "forum non conveniens," said Mr. Tompkins. Plaintiffs "are now at bat for the third strike" in California, where the question of jurisdiction is being fought in an appellate court, even though an early trial has been ordered by the district court.

Other cases also have been returned to foreign countries, he said:

- The 3rd U.S. Circuit Court of Appeals recently affirmed a lower court ruling to dismiss a suit against Boeing by the British widow of one of the 45 persons killed in the November 1986 crash of a Boeing Vertol 234 Chinook helicopter in the North Sea (*BI*, Nov. 17, 1986). The appellate court ruled that "substantial weight" should not be given to the fact that dismissal will force the plaintiff to litigate in Britain, where awards are often lower than in U.S. courts.
- All but seven suits stemming from the August 1985 crash of a Japan Air Lines Boeing 747 in Japan, which killed 520 people, will be heard in Japan, a King County, Wash., Superior Court judge ruled last August (*BI*, Aug. 3, 1987). The decision is currently being appealed to the Washington Supreme Court, said Mr. Tompkins.

Claims filed by survivors of the seven non-Japanese victims will be heard in the King County court next month, said Mr. Tompkins.

"If the cases had been left in Seattle, (insurers) might have been better off," said Mr. Tompkins, noting that the Japanese yen is now stronger against the dollar and so "underwriters will have to reimburse in yen, which costs more now than in 1985."

Also, appellate courts continue to reduce court awards "with continued frequency," Mr. Tompkins told the audience.

In reviewing damage awards in *Gumbs vs. Pueblo International Inc.*, the 3rd U.S. Circuit Court of Appeals said last year that "there is no doubt that this trend is a response to the increasingly outrageous amounts demanded by plaintiffs and awarded by juries, he said. "A jury has very broad discretion in measuring damages; nevertheless, a jury may not abandon analysis for sympathy for a suffering plaintiff and treat an injury as though it were a winning lottery ticket. There must be a rational relationship between the specific injury sustained and the amount awarded."

If appellate courts continue reducing awards, "then district court judges will have the guidelines they need" to acknowledge the proper levels of compensation, said Mr. Tompkins.

In the meantime, punitive damages remain an anomaly in aviation litigation, he said.

The only aviation crash case in which punitive damages were awarded was reversed last year by the Supreme Court of Oregon, he noted. A lower court jury ordered United Airlines and a United pilot to pay $750,000 in punitive damages, as well as compensatory damages, to a plaintiff following the 1978 crash of a United jetliner near Portland, Ore. The trial court judge, however, set aside the punitive damages.

An appellate court reinstated the punitive award, but the state Supreme Court overturned that decision and ruled in favor of United, he said.

Mr. Tompkins also said some groups are calling for changes in the Montreal Protocol and the Warsaw Convention, international treaties that limit damage awards stemming from international flights to $75,000 per person.

They are calling for a new "supplemental compensation plan" that would provide for additional compensation over and above these limits. The proposal would set an aggregate damage limit of $500 million per incident per aircraft.

If this proposal were passed by Congress, airlines would probably charge another $4 to $5 per ticket to fund the new plan. This legislation "may slip through unnoticed," said Mr. Tompkins. ■

Liquor lawsuits

Continued from page 3

Brewing Co. Inc. of La Crosse, Wis.

• Brittany Howard, 4, of Seattle, by her father, Mark Howard. The suit names Anheuser-Busch Inc. of St. Louis; Potter Distilleries Inc.; California Cooler Co. of San Francisco; and Stroh.

The Thorp, Penn and Howard cases contain identical allegations and were filed at the same time by the same attorney but as separate actions.

All four suits seek unspecified compensatory damages, but only the Hon suit seeks punitive damages, which also are unspecified.

Spokesmen and attorneys for alcohol producers named in the suits declined to comment on the litigation and on the companies' insurance.

However, insurance brokers point out that brewers' and distillers' product liability risks typically are insured under their commercial general liability policies.

Liquor makers over the past decade generally have been able to purchase as much as $50 million of insurance coverage, according to brokers.

David Cregger, assistant vp and branch manager of wholesale broker Swett & Crawford Group in Denver, said liquor producers have been able to obtain between $20 million and $40 million of liability insurance excess of between $1 million and $5 million of primary coverage and possibly could buy additional coverage.

General liability coverage has been widely available for liquor producers with premium rates remaining stable for the past decade, said J. Michael Hammer, vp of national marketing for Fred S. James Co. in New York.

"We have had no problem finding casualty coverage, including product, in the standard markets," he said. "We have no problem getting $50 million or more for our clients."

Underwriters have not yet expressed any concern about potential exposures related to liquor product liability, according to Mr. Cregger.

But, he warned the market may tighten "somewhat" if courts return decisions against the alcohol manufacturers.

"It will be interesting to see what happens when underwriters become aware of what comes from these lawsuits," Mr. Cregger said.

Suits previously filed by liquor consumers or their relatives have tried to establish brewers' and distillers' liability for, among other things, drunken-driving accidents and alcohol poisoning from overconsumption in a short period. But, courts have rejected the cases, ruling that those dangers were well-known to users.

However, the Hon case, which has drawn the most attention thus far in the alcohol industry and legal communities, raises a new issue: whether makers of alcoholic beverages can be held liable for injury or death due to "moderate" consumption of alcohol.

"Our facts are a little bit different," said Norman Namey, Ms. Hon's attorney, with the firm of Cardone & Namey in Wilkes-Barre, Pa. "Our facts are this guy used the product as it was intended."

Mr. Hon "never had a chance to understand the risk he was taking," said Maurice A. Cardone, also an attorney for the plaintiff.

Mr. Hon consumed two or three beers on an average of four nights a week for about six years prior to his death from pancreatitis.

Mr. Hon's usual brands were Old Milwaukee and Old Milwaukee Light, which Stroh currently produces, according to court documents.

The biggest challenge for the plaintiffs will be providing hard evidence directly linking alcohol consumption to the birth defects of the children, says Mr. Schwartz. 'They better have their proof in order and it had better be good.'

Dr. Harry Plotnick, a Cincinnati-based toxicologist and pharmacologist, stated in an affidavit that Mr. Hon's death was "the direct result of the ingestion by the decedent of alcohol-containing beverages over a prolonged period of time."

"His use of alcohol appears to have been prolonged, but not, in my view, excessive," Dr. Plotnick concluded.

The lawsuit alleges Stroh offered for sale a product that was in "a defective condition" because it lacked warnings about risks of moderate use.

Mr. Hon and the general public had not been made aware of potential adverse effects of moderate alcohol use, the suit says.

"We're not saying take the product off the market. We're saying put a warning label on it," Mr. Cardone said.

But Stroh maintained in its briefs and during oral arguments before the 3rd Circuit that Ms. Hon did not provide sufficient evidence to prove the cause of her husband's disease.

The company also argued that prolonged, even though moderate, use of its product precluded any liability on its part.

The Hon suit also alleges that Stroh commercials effectively have taught the consuming public that alcohol consumption is associated with a healthy lifestyle.

But Stroh argued before the 3rd Circuit that its advertisements are irrelevant in this case because Ms. Hon's attorneys had not presented evidence that Mr. Hon relied on the ads to make judgments about drinking.

The 3rd Circuit found that the alleged hazards of moderate consumption of alcohol and the tone of Old Milwaukee ads should be decided by a jury.

"Based on this evidence we believe there is a material dispute of fact as to whether the sale of Stroh's beer products with no warning was safe for its intended purpose," wrote Judge William Stapleton for the three-judge panel.

The cases alleging birth defects also raise the issue of warnings about alcohol use, according to Barry Epstein, a Newark, N.J., attorney who represents the three Washington state families in the cases.

"I feel these cases are based on something that you should warn about," Mr. Epstein said, referring to fetal alcohol syndrome.

The lawsuits allege the brewers and distillers knew that in utero exposure to alcohol could cause diverse birth defects but that this information was not widely known by the public.

A medical study by several physicians that was published in March 1968 by Quest Medical, a French medical journal, revealed higher incidence of deformity and developmental problems among children exposed in utero to alcohol, the suits say.

A specific pattern of birth defects known as fetal alcohol syndrome was identified in a study published in November 1973 by Lancet, a British medical journal, according to the suits.

The companies' failure to warn about possible birth defects, even though they knew some pregnant women drank heavily, was a proximate cause of the birth defects, according to the suits.

It was technically feasible for the defendants to include a warning label on their products, the suits also say.

Although a link now has been made between birth defects and alcohol use, few people are aware of the syndrome and the distillers and brewers have not made any effort to inform them, according to Mr. Epstein.

"I don't think they (the manufacturers) are going to admit that it's established even now," Mr. Epstein said.

Some attorneys believe the four suits could open the door to other product liability suits against alcoholic beverage producers.

Mr. Namey, Ms. Hon's attorney, said the Hon case could set a new precedent that would open the liquor industry to other claims of damages resulting from alcohol consumption.

The product liability lawsuits are opening the first cracks in an industry that usually has won fights in courts and legislatures, he said. "They are almost a protected industry, it seems."

Arthur Bryant, president of Trial Lawyers for Public Justice in Washington, D.C., said the Hon case could end the liquor industry's general immunity to damage claims.

If the jury awards damages to Ms. Hon, it could trigger other cases based on damages allegedly caused by moderate alcohol consumption, he said.

The suits filed by the parents of the children born with fetal alcohol syndrome also could expose alcohol producers to greater product liability if the plaintiffs can prove the effects of alcohol consumption on fetuses were established but not widely known to the general public, said Victor Schwartz, counsel to the Product Liability Alliance and a partner with the law firm of Crowell & Moring in Washington, D.C.

However, he said, if the cases go to trial, the biggest challenge for the plaintiffs will be providing hard evidence directly linking alcohol consumption to the birth defects of the children involved in the cases.

"They better have their proof in order and it had better be good," Mr. Schwartz said.

Another attorney who specializes in product liability law said the recent cases may deal with new issues but that they still attack the long-established legal rule that the hazards are widely known, thus exempting alcohol producers from liability.

"I don't think it's going to be that significant," said Liberty Mahshigian, an attorney with Crowell & Moring.

The Hon case probably will not create new law that would expose the liquor industry to other claims, Ms. Mahshigian said.

Spokesmen for the Distilled Spirits Council and the Beer Institute, the two major industry groups in Washington, D.C., declined to comment on the cases while they are pending. ■

Price-Anderson

Continued from page 2

However, she called the Price-Anderson bills in Congress "an improvement over current law."

Some observers speculated that Congress may split the difference between the two extension proposals and authorize a 15-year extension of Price-Anderson.

Mr. Billings predicted that the provision in the Senate bill giving the Energy Department authority to levy civil or criminal penalties against nuclear power utilities that fail to meet federal safety standards probably will survive and become part of the final proposal.

Mr. Billings noted that the Nuclear Regulatory Commission has the authority to levy the same types of fines against private firms.

Mr. Peckinpaugh observed that the remainder of the differences between the two bills primarily are technical.

The two bills are "remarkably similar," Mr. Peckinpaugh said.

"We don't see any substantive differences on any of the insurance-related issues," said Joseph Marrone, general counsel and senior vp of American Nuclear Insurance, a Hartford, Conn.-based group of approximately 100 stock insurance companies and one of the main nuclear insurance pools.

Nuclear insurance experts and congressional aides agreed that working out differences between the two versions of the legislation will not be too difficult.

Other amendments contained in the Senate but not the House version of the bill include:

- Allowing Energy Department employees who are injured as a result of handling nuclear waste to sue the federal government directly for damages.
- Allowing the Nuclear Regulatory Commission to indemnify radiopharmaceutical companies against liability.
- Requiring Congress to act as quickly as possible to develop a compensation plan in the event the $7.5 billion liability limit is not sufficient to cover damages.

The next step in the legislative process has not been decided yet. Either a conference committee will be established to work out a compromise bill or the House will be asked to vote on the Senate version of the bill.

The House approved its version of H.R. 1414 on July 30 (*BI*, Aug. 3, 1987). The Senate passed its version earlier this month (*BI*, March 21).

The Price-Anderson Act sets up a two-tier formula to cap utilities' liability for nuclear accidents. Under the act, each utility is liable for an amount equal to the maximum nuclear liability insurance limit available, which currently is $160 million.

To fulfill that requirement, almost all utilities buy nuclear liability insurance from one of two pools—ANI or Mutual Atomic Energy Liability Underwriters, a Chicago-based group of approximately 100 mutual insurance companies.

The second tier of liability coverage provided under Price-Anderson is organized through a retrospective assessment of each licensed nuclear reactor.

Under the current law, the entire nuclear power industry can be assessed up to $5 million per reactor to pay claims exceeding $160 million that stem from an accident. This assessment would be collected after a nuclear accident has occurred.

Under both the Senate and House versions of the Price-Anderson amendments, this retrospective assessment would be raised to $63 million per reactor, with payments not to exceed $10 million per year, to pay for claims and legal and administrative costs that exceed insurance coverage.

If that amount does not cover claims and related costs, each reactor can be assessed an additional $3.15 million.

Currently, there are 112 active nuclear reactors in the United States, so the total liability limit in the event of a nuclear accident under the amended Price-Anderson Act would be about $7.5 billion.

The Price-Anderson Act expired Aug. 1, 1987, but a grandfather clause has limited the industry's liability to about $720 million for accidents involving active plants and those under construction. ■

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Business Insurance Circulation Breakdown* Commercial Consumers

Administrative:	
CEO's Presidents and Owners	2,779
Vice-Presidents, General Managers and Other Administrative Personnel	3,155
Financial:	
Chief Financial Officers and Vice-presidents of Finance	2,732
Secretaries, Treasurers, controllers and other Financial Personnel	5,585
Risk/Employee Benefits:	
Vice-presidents, directors, managers, and other related department personnel of: insurance, risk, employee benefits, personnel, compensation, pension, safety, security, industrial relations, human resources and employee/labor relations	10,021
Sub-total	**24,272**
Associations	481
Government, Unions and Educational Institutions	972
Commercial Consumers	
Sub-total	**25,725**
Insurance Agents and Brokers	10,697
Insurance Companies	7,644
Actuaries, Attorneys, Adjusters, Appraisers and Consultants	4,311
Others Allied to the Field	1,982
TOTAL	**50,059**

* Source Business/Occupational breakdown of qualified circulation, Nov. 30, 1987 issue, as submitted to BPA for Dec. 1987 BPA Publisher's Statement.

Broker affiliation model law

Continued from page 3

However, the committee never responded as a group. Rather, brokers and insurers presented their comments separately to the Special Issues Committee at the NAIC's Santa Fe meeting.

Representing the broker faction, Ad Hoc Industry Committee Chairman Ronald D. Markovits, senior counsel of Rollins Burdick Hunter Co. in Chicago, proposed that:

- A producer controlled by or affiliated with an insurer must provide complete written disclosure to the client of that affiliation before coverage is bound.
- Any insurer writing more than 25% of its direct business through affiliated producers must report with its annual statement the total compensation it paid to all producers, breaking out how much was paid to affiliated producers.
- Each insurer writing more than 25% of its direct business through its controlled or affiliated producers shall provide a separate actuarial certification of that business.

The broker faction also rejected the "strict liability" concept and concluded that prohibiting transactions above a certain percentage level was "arbitrary and unworkable."

The insurers' view was presented by Michael Lovendusky, counsel to the American Insurance Assn., who also represented the Alliance of American Insurers, the National Assn. of Independent Insurers and the National Assn. of Mutual Insurance Cos.

He proposed in a written draft that:

- Brokers must provide a client with written disclosure before placing coverage with an affiliated insurer.
- Every insurance broker that controls an insurer shall provide quarterly financial reports stating: total gross premium by line of insurance written by each insurer—whether the broker controls it or not—on business produced by the insurance broker; and fees, commissions or compensation by line of insurance received from insurers, whether controlled or not.
- In the event of the insolvency of an insurer that is controlled by a broker, the broker would be required to indemnify the guaranty fund for all covered claims and expenses—regardless of whether they are for transactions placed by the broker—if the broker placed 10% or more of the insurer's total net direct written premium in the calendar year preceding the insolvency.

If the broker placed less than 10% of the insurer's total net direct written premium, the broker would be liable for only the covered claims and expenses attributable to that business.

In response to the broker proposal, NAIC President John Washburn questioned how the 25% level was chosen and whether it was appropriate. Mr. Markovits explained that it was just a starting point at which regulators might want to take a closer look at an insurer.

In addition, Mr. Washburn expressed his desire that disclosure requirements help reveal whether the client is being sold overpriced coverage from affiliated insurers.

And, Mr. Corcoran went as far as proposing that affiliated brokers be required to offer clients other insurance options.

"They are following, of course, the prime directive of the industry, which is: 'Slow down the NAIC,'" Mr. Corcoran said in an interview. "Those days are over."

However, other committee members considered the comments as helpful.

In response to the insurers' comments, Mr. Corcoran said they "went too far, in the sense that they almost acted as if the guaranty funds wouldn't protect those policyholders from those companies owned by brokers. That would not be acceptable."

However, insurers could pay claims and then try to recover the costs through subrogation actions against the broker, Mr. Corcoran added.

The model law's goal is to eliminate problems stemming from the "inherent" conflict of interest between a broker who tries to meet a client's needs as well as those of an affiliated insurer, Mr. Corcoran has said.

Mr. Corcoran, who as New York insurance superintendent is liquidator of Union Indemnity Insurance Co. of New York, an affiliate of broker Frank B. Hall & Co. Inc., said the insolvency was not the primary reason he proposed the model law. However, Mr. Corcoran has filed suit to pierce the corporate veil that separates Hall from Union Indemnity and show that the insurer was operated as a division of Hall and not a separate subsidiary (*BI*, June 22, 1987).

Written comments on the proposed model law and information about insurance arrangements that could be adversely affected by the proposal should be sent to Mr. Corcoran, New York Insurance Department, 160 W. Broadway, New York, N.Y. 10013. ■

Form Risk Retention Act consensus: Harkavy

By MEG FLETCHER

SANTA FE, N.M.—Proponents of risk retention and purchasing groups and state regulators need to resolve their differences and jointly offer solutions to problems created by a lack of clarity in the federal Risk Retention Act, a spokesman for risk managers urges.

A consensus must be developed before congressional officials review a report on the impact of the 1986 amendments to the federal Risk Retention Act later this year, said Jon Harkavy, director of governmental affairs for the Risk & Insurance Management Society Inc.

"I don't feel comfortable leaving our fates to the courts" to interpret the act, Mr. Harkavy said, because that is likely to result in mixed decisions that will exacerbate the confusion.

But differing perspectives presented by regulators and risk retention and purchasing group participants in a panel discussion at the National Assn. of Insurance Commissioners' spring meeting earlier this month indicated that developing a consensus may be difficult.

Some states, anticipating problems that could harm consumers, have taken actions that thwart the intent of the Risk Retention Act, said Edward T. Barrett II, a U.S. Commerce Department official who co-authored a report on the implementation of the 1986 amendments to the act.

Mr. Harkavy said that businesses that are considering forming purchasing groups feel "threatened" by laws that require them to seek rate and form approval from more than one state and by some states' efforts to regulate purchasing groups as surplus lines insurers.

However, Michael J. Mullen, a Washington, D.C., attorney who represents risk retention and risk purchasing groups, contends that no state has the authority to approve a purchasing group's rates and forms. But, he said, state regulators can step in when the solvency of a purchasing group is questionable.

Joining regulators in supporting state oversight of risk retention and purchasing groups was panelist George Shaffer, chairman of governmental affairs for the Independent Insurance Agents of America.

However, regulators differ about whether a purchasing group should be regulated in the state in which it is domiciled, in the state in which it generates the highest aggregate premium or in any state in which a member is located.

And, a state regulator's ability to judge whether a group's rates are adequate, fair and non-discriminatory in another state is hampered by a lack of data, said NAIC President John Washburn, the Illinois insurance director.

Under the original Risk Retention Act of 1981, risk retention groups and purchasing groups could only provide product liability and completed operations coverage. The 1986 amendments to the act allow the groups to provide members with all types of commercial liability insurance except workers compensation.

Both Mr. Barrett and Mr. Mullen urged that the purchasing group registration process be eased with the creation of a single, standardized form that can be submitted to insurance departments in all states in which the group has members.

Mr. Mullen wants the form to contain only information mandated by the federal law, while Mr. Barrett suggested that it be expanded to include information about the group's managers, which is not required by the Risk Retention Act.

While Mr. Shaffer supported the regulators' contention that licensed agents should be used to handle the groups' business, Mr. Mullen said this should not be a requirement.

Mr. Mullen was also concerned that state authorities not discriminate against insurance policies obtained through risk retention and purchasing groups for purposes of meeting state financial responsibility requirements.

However, panel moderator David Thornberry, a member of the Texas State Board of Insurance, emphasized that state insurance regulators do not set policy for other state authorities, like those in a transportation department, who must decide whether a company's insurance arrangements meet the financial responsibility requirements (*BI*, March 21).

Other topics discussed at the NAIC meeting included:

Statistical reporting

The NAIC's Statistical Task Force presented a rough draft of a proposed model regulation updating the way property/casualty insurance companies report financial and statistical information on an annual and quarterly basis.

Regulators say the new quarterly data will help them identify emerging trends in commercial liability insurance lines and help them review significant data by specific line.

Colorado Insurance Commissioner John Kezer urged that the measures be adopted as soon as possible because the information is essential for effective regulation.

Reinsurance recoverables

An NAIC subgroup is seeking comment by April 15 on proposed guidelines regulating the way insurers report reinsurance recoverables that are more than 90 days past due.

The guidelines require insurers to disclose on their financial statements amounts more than 90 days past due that are in dispute, and to write off amounts more than 90 days past due that are not in dispute.

The NAIC's Property & Casualty Reinsurance Accounting Study Group also is proposing changing the NAIC's accounting practices manual so that any amount in dispute from an affiliated insurer not be allowed as an asset or as an offset to loss reserves.

Comments should be submitted to Ken Smith, deputy director-property/casualty of the Illinois Insurance Department.

New regulator

Paul Roller, 40, has been appointed director of the Alaska Division of Insurance effective April 1.

Mr. Roller joined the Alaska Insurance Division in February 1987 as deputy director.

He was 1986 finance director of Alaska Gov. Steve Cowper's gubernatorial campaign. From 1981-86 he was a trust administrator in Alaska and California.

Mr. Roller replaces John George, who resigned to pursue a consulting career.

Mr. George joined the Alaska Insurance Division as deputy director in 1977. ■

Second surgical opinions

Continued from page 2

However, New York Life decided that its pre-admission review provides a strong enough sentinel effect, according to the insurer's spokesman.

Ralph Pollock, executive director of the Hartford, Conn.-based Business Coalition on Health, an organization of 34 major employers in the state, said he is not surprised New York Life discontinued the program.

"There's always been a question of whether managed care features are effective," he remarked, adding that the effectiveness of second opinion programs has been widely debated.

Mr. Pollock said one of the disadvantages of the second opinion requirement is that it "undermines the physician-patient confidence" when a patient is forced to question the doctor's opinion.

Mr. Pollock said that although he did not know of any other insurers contemplating eliminating the second opinion requirement, he believed "we'll see more and more insurance companies say this is not cost-effective."

One insurer that continues to believe the concept is cost-effective is second opinion pioneer Prudential. Mr. Hannon said he believes Prudential was the first insurer to begin paying for second opinions, in the late 1970s. The concept has paid off, he contends: For every $1 Prudential spends on its second surgical opinion program, it saves about $3.

Prudential requires patients to seek a second opinion before surgery is scheduled for several non-emergency conditions.

The savings from mandatory second opinions is not as great as from some other features of managed care, "but it warrants continuing the program," he said.

Although apparently no other insurers have abandoned the mandatory second surgical opinion concept, at least one major company has modified its program.

Corporate Health Strategies Inc. in Westport, Conn., a subsidiary of Metropolitan Life Insurance Co., determines whether second surgical opinions are needed as part of the overall utilization review services it provides for its parent.

Rob Chernow, president and chief executive officer of Corporate Health Strategies, said increased computer capabilities helped the company develop a system last year that allows the requirement for a second surgical opinion to be waived in some cases.

"Essentially, for any procedure, we can ask a series of questions related to the procedure," Mr. Chernow said. If the process reveals that surgery is required after the first opinion, the patient is admitted without the expense of another physician's opinion, he explained.

For example, "hysterectomies are always on the second surgical opinion list" of group health insurance plans, Mr. Chernow pointed out. But under the Corporate Health Strategies review, if the first physician indicates that tests reveal the patient is seriously ill, "we waive the second opinion, and the woman is admitted." ■

RIMS employee benefit sessions

Continued from page 3

Jackie Mazoway of Intracorp's employee benefits division will discuss the concept of case management, while Scott Strickland, who is in the department of internal medical at Park-Nicollet Medical Center & Hennepin Company Medical Center in Minneapolis, will discuss acquired immune deficiency syndrome.

John R. McCartie, manager of employee benefits at New York-based Westavco Corp., will moderate as well as give an employer's overview of managed care programs.

Benefit managers should come away with a better idea of cost control after attending a seminar called "Managed Care and Its Liabilities," according to its coordinator, Dan Klein, senior director of marketing at Health Management Strategies International Inc. in Washington. The seminar, S 20, will be held Thursday, April 21, from 9-11:30 a.m.

Mr. Klein said attendees will gain a greater appreciation of managed care issues from the perspectives of benefit managers, medical directors and law firms that handle these cases.

Scheduled speakers include James Wayne, corporate director of compensation and benefits for Washington, D.C.-based Peoples Drug Stores, who will discuss cost-containment program selection, benefit communication and employer liability issues.

Jacqueline M. Saue, an attorney with the Washington law firm of Pierson, Bal & Dowd, will discuss the legal input that should be included in the design of cost-containment programs, including such areas as criteria and standards to develop documentation, the importance of a professional and experienced staff, and medical personnel selection and performance.

Continued on next page

RIMS sessions

Continued from previous page

Alan B. Zients, HMSI's medical director, will discuss quality benchmarks for managed care programs, including program criteria and standards, medical and legal input into plan design, limitations involved in the supervision of the professional and nursing staff, ongoing in-house quality assurance programs and pitfalls to avoid.

Session moderator will be Benjamin W. Giuliani, executive vp at Blue Cross/Blue Shield of the National Capital Area in Washington.

Non-discrimination rules for welfare plans contained in the Tax Reform Act of 1986 do not take effect until 1989. However, because they are so complex, benefit managers should be learning about them now, said Joe Walshe, a partner with Coopers & Lybrand in Washington.

Mr. Walshe will moderate a seminar called "Welfare Plan Discrimination Rules: How Bad Are They?" which is scheduled for 9-11:30 a.m. on Tuesday, April 19.

"They're quite complicated, and they're going to require some serious planning," said Mr. Walshe.

Also scheduled to speak at the seminar, S 27, is Larry Cavanaugh, director of employee benefits at Hartford, Conn.-based United Technologies Corp.

The conference also will feature seminars on implementing a successful flexible benefit program, S 24; managing physician charges, S 21; managing health maintenance organization options and costs, S 16; post-employment medical benefits, S 23; and linking rates to risks in relation to health care costs and lifestyles, S 17.

The track program features several sessions. T 13, "Maximum Benefits for Minimum Cost: Funding and Design Issues in Group Benefit Plans," is designed to give attendees a better appreciation of how dynamic the health care system is, said session coordinator Rik Lindahl, senior manager at Peat Marwick Main & Co. in Dallas. The program is scheduled for 9-11:30 a.m. Tuesday, April 19.

Plan design, cost containment and alternative health care delivery systems will be among the topics discussed, Mr. Lindahl said.

The different components of health care benefit costs also will be discussed, as well as the growing use of multiple vendors. And, participants will discuss adverse selection, in which good risks select HMOs, leaving the poor risks in indemnity plans.

Speakers scheduled include Steve Cataldo, director of risk management at Trammel Crow Co. in Dallas, who will describe the impact on benefits of a major consolidation at his company that led to an increase in employees to 9,000 from 2,000.

Also scheduled to speak are Steve Williams, human resources manager at the Rosewood Corp. in Dallas, who will discuss his firm's experience with self-insurance; and Len Vinsko, a Dallas-based consultant.

Another session will provide help for employers considering implementing a flexible benefit plan. The idea of bringing flex to a small firm "seems to be overwhelming for some people," said Andy Hauer, senior consultant with Coopers & Lybrand in San Francisco.

But, getting over that misconception will be the aim of T/S 14, "Flexible Benefits Plan Design Issues: The Basics of Designing a Flexible Benefits Plan for Companies of 50 to 1,000 Employees."

The session, which is offered both as part of the employee benefits track and as a separate conference seminar, will be held on both Wednesday, April 20, and Thursday, April 21, from 2:30-5 p.m.

Catherine Connolly, manager of compensation and benefits at San Jose, Calif.-based Convergent Inc., will discuss some of the in-house issues that come into play in implementing flexible benefit programs, said Mr. Hauer, who is coordinating the session.

In addition, William Lamb, who heads Coopers & Lybrand's national flexible benefit practice from its New York office, will discuss administrative issues. Terri McKenna, senior consultant and attorney in Coopers & Lybrands' Washington office, will discuss legal issues, while Charles Bardwell, a partner in the firm's San Jose office, will cover communications, and Mr. Hauer will discuss plan design.

Workers are staying on the job longer before retiring, which means their chances of becoming disabled increase. A track program session called "The Design, Funding and Administration of Disability Programs" will offer basic information about long-term disability plan design, said moderator James E. Crockett, manager of risk and benefits at the Denver Water Department.

Topics scheduled for discussion during T 11 include funding issues involved in long-term disability programs as well as how Social Security and workers compensation benefits relate to those plans.

Other scheduled speakers include Elizabeth G. Sprecht, consultant at Darien, Conn.-based Towers, Perrin, Forster & Crosby Inc., and Richard H. Wille, executive vp at Thomas L. Jacobs & Associates Inc. in Chicago.

Track sessions also will focus on the future of employee benefits, T/S 15, and on the basics of pension and savings plans, T 12.

Also scheduled is a special general session on "Mandating Minimum Health Coverage: Socialized Medicine or Just What the Doctor Ordered?"

A debate on the issue is set for Wednesday, April 20, between Sen. Orrin Hatch, R-Utah, and another congressional representative who has not yet been selected.

The conference also will feature sessions on general risk management, risk management information systems, insurance, finance, loss control, legal and legislative issues, claims, workers compensation and general management topics.

Common interest groups, which are limited to 30 attendees, also will be held. Some of these groups are devoted to specific topics, such as aviation exposures and international risk management, while others have been organized around special needs of participants, such as minority risk managers and part-time risk managers.

In addition, about 40 industry groups in fields ranging from adhesives to telecommunications will meet for one or two days each during the conference.

More than 200 firms will participate in the conference exhibition at the Sheraton Washington Hotel, which also will be the site of many meetings and seminars as well as a message center.

The exhibits will be open on Sunday, April 17 from noon until 6 p.m., Monday through Wednesday from 8 a.m. to 5 p.m., and Thursday from 8 a.m. to 12:30 p.m.

Seminars will be held at the Washington Hilton and Towers and the Omni Shoreham as well as at the Sheraton. Shuttle buses will be available to transport RIMS members between hotels.

Registration fees for the conference are $595 for RIMS members attending the entire week and $695 for non-members. The partial-week registration charge is $475 for RIMS members and $575 for non-members. There also is a $195 one-day registration for both members and non-members.

For further information, contact the RIMS Conference Department, 205 E. 42nd St., New York, N.Y. 10018; 212-286-9292. ■

Antitrust suits

Continued from page 1

booth and conspired to change this and that type of business is really off the wall," said Maurice R. Greenberg, president and chief executive officer of American International Group Inc. in New York, which was not named in the suit.

"It just shows the degree of ignorance that exists about how our business operates," Mr. Greenberg said last week at a conference in New York.

"If this case were to go to the Supreme Court, it would probably dismiss it. The Supreme Court has been hostile to such wide-reaching investigations of industries without a clear understanding of the issues involved," said George L. Priest, John M. Olin professor of law and economics at Yale Law School in New Haven, Conn.

Some observers also question the motivations behind the suits.

Pointing to the failure of efforts to eliminate insurers' limited antitrust exemption under the McCarran-Ferguson Act, some question whether the suit was filed to build support for repeal of at least portions of the federal law.

"This is at least an outgrowth of the effort to destroy McCarran-Ferguson," said West Virginia Insurance Commissioner Fred Wright.

However, California Deputy Attorney General Thomas Dove, who devoted two years to developing the case, asserts that the suits were brought solely because the attorneys general believe insurers violated antitrust laws.

The seven suits, filed in U.S. District Court in San Francisco, charge that Hartford Fire Insurance Co., a Hartford Insurance Group unit, CIGNA Corp., Aetna Casualty & Surety Co. and Allstate Insurance Co. led the conspiracy that resulted in the elimination of all pollution coverage from ISO's commercial general liability policy forms and the insertion of a retroactive date provision in the claims-made CGL form.

The suits also contend that some defendants attempted to eliminate all occurrence-based CGL coverage, though observers point out that most CGL risks are still written on occurrence forms.

Besides the four U.S. primary insurers, the suits name: ISO; the Reinsurance Assn. of America; six U.S. reinsurers; eight Lloyd's of London managing agencies; six British reinsurance companies; and three reinsurance brokers.

Also named are Robin A.G. Jackson, one of the leading underwriters of U.S. casualty business at Lloyd's, and former Lloyd's Chairman Peter Miller.

In addition to fines, which can be trebled under antitrust laws, the suits seek a major restructuring of ISO. They also ask the court to reinstate ISO's original version of the new CGL forms, which provide broader coverage than the forms that eventually were adopted, including coverage for sudden and accidental pollution.

The suits were filed by attorneys general in New York, Alabama, California, Minnesota, Massachusetts, West Virginia and Wisconsin, and other states may join the litigation, said Mr. Dove.

In addition, a similar suit that named several additional defendants as well was filed in Texas state court by the Texas attorney general (see story, page 38).

Edmond Rondepierre, senior vp and general counsel for General Reinsurance Corp. in Stamford, Conn., one of the defendants named in the suits, pointed out the lawsuits challenge the 1945 McCarran-Ferguson Act, which provides insurers with a limited exemption from federal antitrust laws, except in cases of "boycott, coercion and intimidation."

The repeal of McCarran-Ferguson would hurt the industry's ability to gather statistical information, said Mr. Rondepierre, adding that smaller companies that cannot gather this data on their own will be particularly impacted.

The ultimate result, he said, would be to "give a virtual monopoly to the biggest companies because they could, in fact, rely on their own statistics."

Craig Barrington, general counsel for the American Insurance Assn. in Washington, said he believes concern about ISO's future as a result of the suit is "well-founded."

The Texas suit, he noted, calls for ISO to cease doing business in Texas altogether, while the San Francisco suits "essentially would remove responsibility for ISO operations from the industry that finances it to a board of directors dominated by court-appointed members."

There is a question "as to whether they (ISO) will be able to survive," said Charles Ruoff, senior vp at Fred S. James & Co.

And, if ISO is eliminated, smaller companies would be especially hard hit, he said.

"It could have the detrimental effect, ultimately, of causing just the reverse of the suits' intended purpose," Mr. Ruoff said. Smaller companies could conceivably find themselves unable to compete and either be "swallowed up" or driven out of business.

"The smaller companies are extremely dependent on organizations like ISO for the accumulation of statistical data," commented George Frink, president of Des Moines-based IMT Insurance Co., a mutual that operates in four states.

"I want to know if all of these attorneys general who are screaming and hollering will accept responsibility for all the small companies that will become insolvent because they do not have access to a meaningful data base," said Myron M. Picoult, senior vp and senior insurance analyst at Oppenheimer & Co. in New York.

California Insurance Commissioner Roxani M. Gillespie said she did not foresee a problem as long as ISO is allowed to collect data and loss costs. But, if ISO cannot collect loss data, it would have a "horrendous" impact and "wreak havoc" on the market.

The lawsuits could have a "very great" effect on the insurance industry, because the issues involved question "the fundamentals of how the business operates," said Barbara Stewart, president of New York-based Stewart Economics, an industry consultant.

For example, "these lawsuits are chilling the industry's ability to work out common policy forms," she said. Without common forms, she said, every claim would have to be adjudicated in a court.

However, Jon Harkavy, director of governmental affairs for the Risk & Insurance Management Society in New York, said that while it may be desirable that insurers use common policy forms, an organization like ISO that is completely funded by the industry "raises problems, which I think are raised in the suit."

ISO puts insurance buyers and regulators in a constant defensive mode, said Mr. Harkavy, adding he would like to see changes so that regulators and policyholders have a bigger voice in ISO affairs.

The intent of the suit is not to destroy ISO, added California's Mr. Dove. "I would just want (ISO) to do what it's supposed to do without breaking the law."

Mr. Dove acknowledged that he would like Congress to repeal McCarran-Ferguson. "Every other industry in the United States has learned how to operate under the antitrust laws. Are these companies saying they're not smart enough?" he asked.

However, "I'm bringing the suit because I'm sworn to uphold the laws of the state. The laws have been violated and the public has been injured as a result of the illegal activities we've uncovered," Mr. Dove said.

The suits could have a negative impact on insurers' willingness to cooperate with one another even if ISO survives intact, observers say.

There is "no doubt" these suits could hinder insurer cooperation even if it is not proved that ISO and the insurers violated antitrust laws, said an ISO spokesman. "It tends to make you uneasy about anything you do."

"It really could create market problems," said Stephen Martin, Hartford' vp of governmental affairs.

Observers say the suits, which garnered lots of media attention, also have hurt the industry's image.

"It's a type of problem we certainly don't need right now," said Dale Skupa, vp of governmental affairs at the National Assn. of Mutual Insurance Companies in Indianapolis. "It is a type of thing that regardless of whether the allegations are correct or not, doesn't leave a very positive image of what the industry is doing."

David J. Brummond, assistant vp and assistant general counsel at the National Assn. of Independent Insurers, agreed. "It causes the industry to have a black eye whether or not the allegations are true."

"This certainly doesn't help the public's perception of our business one bit. The problems in the coverage areas they are suing over for the most part have abated," said Patrick Gallagher, vp at broker Arthur J. Gallagher & Co. in Rolling Meadows, Ill.

"The idea that these decisions are made in a smoky back room seems totally unfounded and without merit. Of course, I've never been in a smoky back room," he said.

Defending the suit also will be costly, say some observers.

It could take four or five years to conclude the litigation, said Gen Re's Mr. Rondepierre, adding that antitrust litigation is "excruciatingly expensive." These expenses, he said, "are going to wind up in the rate structure of the policyholder."

This factor, however, was dismissed by RIMS' Mr. Harkavy. "I'm under no illusions anything the insurance industry incurs, be it a cocktail party or a lawsuit, won't be passed on to the consumer.

"It's not a helluva lot of a defense," he added. "That shouldn't in and of itself be a shield to antitrust actions."

Other observers pointed out last week that the property/casualty industry is highly fragmented and that previous investigations have not uncovered proof of collusion.

"There have been a number of prior inquiries by state and federal governments which didn't turn up the conditions alleged in the suits," said James' Mr. Ruoff.

And, referring to the severity of the last soft market, analyst Michael A. Lewis, first vp at Dean Witter Reynolds Inc. in New York, quipped that if that was the result of collusion, "maybe they're better off not working together."

"This is a very competitive industry," said Gloria Vogel, associate director at Bear, Stearns & Co. in New York. "If it wasn't, you wouldn't see so many companies doing so many stupid things."

Ms. Vogel also referred to the failure of the claims-made form to be widely accepted, despite the alleged collusion. If the insurers were working together, she said, "you would think they would have been able to make it stick."

Several observers said there was a definite political motivation behind the suits, noting that some of the attorneys general are seeking office this year.

For example, Minnesota Attorney General Hubert H. Humphrey III, a Democrat, is running for the Senate, while West Virginia Attorney General Charles Brown, also a Democrat, is seeking re-election.

"The move is 100% political, aimed at consumer groups. It's a hot political issue in a political year when some of these people are running for office or getting ready to run," said Samuel Alcorn, senior vp-operations at broker Bayly, Martin & Fay International Inc. in Fort Worth, Texas.

"It might be attractive to the attorneys general politically to show that they are protecting insureds' interests. This is a popular kind of an issue and one through which they could gain enormous advantages politically," said Mario Leo, chief executive at broker TPF&C Reinsurance, a unit of Towers, Perrin, Forster & Crosby in Philadelphia.

"The timing and location of the suits are fascinating," said Patricia A. Borowski, vp-government and industry affairs for the National Assn. of Professional Insurance Agents in Alexandria, Va. "The timing is fascinating because it could be an attempt to keep alive the issue of McCarran-Ferguson on Capitol Hill when the issue is essentially dying."

In addition, she said, "the choice of which of the seven states' federal district courts in which to file is fascinating, given the number of insurance initiatives now pending in California" (*BI*, Feb. 29).

However, the attorneys general deny any political motivation.

"When people feel really cornered, they cast around for something to say," pointed out New York Attorney General Robert Abrams, adding that playing politics is "a common charge."

California's Mr. Dove denied the suits are politically motivated, noting that the attorneys general who filed the litigation include Republicans and Democrats, liberals and conservatives.

"The entire political spectrum has looked at the facts," he said. "We're not talking about wild, left-wing ideologue crazies."

In addition, the notion that the property/casualty industry is highly fragmented is "ridiculous," said Mr. Dove.

The claims-made form's failure to be widely accepted by U.S. insurers does not prove there was not a conspiracy, Mr. Dove added. The fact that the insurance industry's conspiracy didn't work out "doesn't mean it wasn't a conspiracy," he said.

Many of the defendants said last week they had not yet received the court papers and could not comment. Those willing to comment, though, issued categorical denials of any wrongdoing.

Aetna, for instance, issued a statement describing the lawsuit as "another political move by political officeholders who have consistently opposed any and all efforts to address the real problems of the nation's liability system," which lie in the "lawsuit crisis."

"Any business decisions made by Aetna executives are made independently," said the statement. "Aetna has not improperly consulted with any other organizations about any business judgments this company has made. We will vigorously defend ourselves against allegations to the contrary in what will surely be an incredibly expensive and time-consuming process."

Continued on next page

Update

Chrysler nears MIG agreement

WASHINGTON—Chrysler Motors Corp. may become the second employer to administer Medicare benefits for its retirees under a federally sponsored project.

Detroit-based Chrysler and the Health Care Financing Administration, the federal agency that administers Medicare, are expected to sign a cooperative agreement soon to work out details on how Chrysler would participate in a demonstration of the agency's "Medicare Insured Group" concept.

Under the MIG concept, employers or unions administer Medicare benefits for their retirees under a unified program with the employers' own retiree benefits using managed care techniques. The employer or union receives a monthly experience-rated premium equal to 95% of what HCFA estimates it would cost it to provide Medicare benefits for the group of retirees.

HCFA can spend up to $600 million annually on three MIG demonstration projects under a provision of the 1987 budget reconciliation act (*BI*, Feb. 1). The agency already has signed a cooperative agreement with New York-based Amalgamated Life Insurance Co. to demonstrate a MIG (*BI*, Nov. 9, 1987).

Briefly noted

A Bridgeport, Conn., jury has ruled that **Protective Mutual Insurance Co.** does not have to pay a 1975 property damage claim filed by Melrose Park, Ill.-based Grand Sheet Metal Products Corp. because company officials ordered the fire that destroyed a Shelton, Conn., plant operated by a subsidiary. Grand Sheet sued the insurer for $30 million, plus fees and damages that could have totaled $90 million overall. . . .Illinois' new **Comprehensive Health Insurance Plan** for individuals who have difficulty finding health insurance will not meet its April 1 start-up date due to a lack of funding. But Illinois Insurance Director John Washburn said he anticipates "there will be a program" (*BI*, Feb. 1). . . .All workplace inspections conducted by the **Occupational Safety and Health Administration** beginning today will include a tour of a facility's "high-hazard" areas and a review of the employer's overall occupational safety and health program. Previously, some workplaces with lower-than-average injury and illness rates were inspected only for proper record keeping or compliance with the federal hazard communication standard. . . .A California appellate court ruling that a property insurer has a duty to indemnify a policyholder when a **covered peril threatens to damage insured property**—even if no damage has occurred—cannot be used as a precedent, the California Supreme Court has ruled (*BI*, Feb. 29). . . .The U.S. Supreme Court has refused to review an appellate ruling prohibiting **A.H. Robins Co.** from setting up a $15 million emergency fund to pay for in vitro fertilization of Dalkon Shield victims nearing the end of their childbearing years. . . .Bermuda-based Forum Reinsurance Co. Ltd. is bidding $4.4 million to acquire control of **Aneco Reinsurance Co. Ltd.** of Bermuda. Forum is offering to purchase for cash up to 1 million shares at $4 per share. Aneco's board was still considering the offer last week.

Antitrust suits

Continued from previous page

"Allstate is not now, and never has been, involved in a conspiracy to fix prices or constrain the market. Any suggestions to the contrary are patently false," the Northbrook, Ill., insurer said.

The ISO spokesman denied that the organization had done anything secretive or surreptitious when drafting the new CGL form. He noted that numerous public hearings were held before the forms were adopted.

The idea that Hartford had sufficient power to manipulate the liability insurance market is "absolutely laughable," said Hartford's Mr. Martin. To suggest that the "so-called conspirators" generated a liability crisis to foster the tort reform movement at the state level "is just nonsense."

Hartford tried to increase prices during the soft market of the early 1980s and lost market share, Mr. Martin added. Between 1980 and 1985, it lost 20% of its business. "To say we were looking at the claims-made form to cure these problems is, again, nonsense."

"It's totally unfounded," said a spokesman for Fireman's Fund Insurance Cos. in Novato, Calif., which was named in the Texas suit, but not in the San Francisco suits. "I'm not sure what more I can say about it. Antitrust charges against the industry are ridiculous and groundless. Fireman's Fund operates in one of the most competitive industries in the country."

Travelers Corp. in Hartford, Conn., which was named only in the Texas lawsuit, said it "has always sought to conduct its business in a legal and proper manner. . . .We feel the charges contained in the Texas suit are baseless and without merit."

"We have not done anything wrong, and we were surprised to find we were named as a party in this," said Peter de la Cruz, an attorney with Keller & Heckman in Washington, D.C., who represents the RAA, which is named in both the San Francisco and Texas suits.

A spokesman for Kemper Corp., whose London-based Kemper Reinsurance London Ltd. subsidiary was named in the San Francisco suits, said: "We certainly feel we're in a position to resist such an action with considerable vigor, and plan to do so."

Other U.S. defendants that said they could not comment included CIGNA, Constitution Reinsurance Corp., Winterthur Swiss Insurance Co., Prudential Reinsurance Co., Mercantile & General Reinsurance Co. of America and reinsurance broker Thomas S. Greene & Co.

Most of the London-based defendants also refused to comment because they had not seen the suits, though many said they were "surprised" and "amazed."

A statement from Lloyd's of London said: "In respect of the allegations made against members of the Lloyd's community, Lloyd's understands that each named defendant strongly denies any wrongdoing and will vigorously defend the legal actions brought against them."

The statement noted that, Lloyd's "had willingly assisted in arranging for five of the attorneys general to interview representatives of the Lloyd's market in connection with their inquiries last year. All those individuals invited to assist the attorneys general did so freely."

"I have every confidence that the allegations against the insurance industry will be demonstrated to be baseless," said Mr. Miller, the former Lloyd's chairman.

"I hope no (Lloyd's) chairman will feel muzzled" as a result of the litigation, he said, adding that "the attorneys general appear to be attacking the individual's right of free speech.'

"There was no agreement to impose (a pollution exclusion) across the board. To designate the discussions as an agreement is totally and utterly untrue," said Graham McKean, a director at London broker Ballantyne McKean & Sullivan Ltd., also named as a defendant.

The suits allege that the London-based defendants agreed at a November 1985 meeting held in Ballantyne's offices that all North American casualty reinsurance treaties would be written with a pollution exclusion.

Mr. Jackson, an underwriter for Lloyd's non-marine syndicates managed by Merrett Underwriting Agencies Management Ltd., refused to comment on the litigation, but a press statement from Merrett said "we are confident there is no substance" in the suits.

Current Lloyd's Chairman Murray Lawrence, whose underwriting agency, Murray Lawrence & Partners, is named as a defendant, refused to comment beyond the formal statement made by Lloyd's.

Observers said that it is not unusual for state attorneys general to work together to bring consumer-oriented legal actions.

Attorneys general have cooperated in several consumer-related investigations in recent years, said Oregon Attorney General Dave Frohnmayer, president of the National Assn. of Attorneys General.

For instance, officials in all 50 states cooperated in litigation that charged that oil companies overcharged consumers, while a group of states also initiated joint action against Chrysler Corp. for allegedly rolling back odometers, he said.

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Contributing to this article were Agent/Broker Editor Linda J. Collins and Associate Editor Meg Fletcher in Chicago; International Editor Stacy Shapiro and Associate Editor Carolyn Aldred in London; and Editorial Assistant Collin Nash in New York.

Suits outline alleged CGL scheme

Continued from page 1

and accidental pollution incidents, and defense costs were excluded from policy limits. In addition, the claims-made form did not include a retroactive date, which cuts off all coverage for accidents or events prior to that date.

However, according to the suits, Hartford Fire Insurance Co., one of the defendants, opposed the new forms because it felt:

- The claims-made form should have contained a retroactive date provision.
- The occurrence form should have been eliminated entirely.
- Pollution coverage should have been totally excluded.
- Defense costs should have been included within policy limits.

Additionally, defendant Allstate Insurance Co. also "opposed the claims-made form because it contained no standard retroactive date provision," the suits say.

Despite Hartford's and Allstate's objections, the ISO board of directors approved the new forms in December 1983 and submitted them to state regulators for approval in early 1984.

In response, Hartford and Allstate—as well as defendants CIGNA Corp. and Aetna Casualty & Surety Co.—exerted "concerted pressure to restrict CGL coverage available to the consumer under the new forms," the suits say.

On March 2, 1984, Hartford officials met with representatives of General Reinsurance Corp. to formulate a joint strategy to "derail" the 1984 ISO CGL forms "unless ISO adopted their demands," the suit says.

Defendant Allstate Insurance Co. also 'opposed the claims-made form because it contained no standard retroactive date provision,' the suits say.

And, at a March 13 meeting of the executive committee of the Reinsurance Assn. of America, General Re "initiated a coordinated effort with the RAA to force revisions to the newly filed ISO CGL claims-made form," court papers say. They add that the RAA executive committee created a "CGL committee," whose members included Gen Re, Mercantile & General Reinsurance Co. of America, Constitution Reinsurance Corp., North American Reinsurance Corp. and Winterthur Swiss Insurance Co.

Subsequently, at a June 15 meeting of this committee, members agreed to boycott the 1984 ISO forms unless a retroactive date was added to the claims-made form and a pollution exclusion and defense cost cap was added to both forms, the suits allege. Then, in a June 19 letter, the RAA announced its members would not provide reinsurance for coverage written on the 1984 ISO CGL forms.

Meanwhile, Hartford, Aetna, CIGNA and Allstate also encouraged a boycott of the 1984 CGL forms by key Lloyd's of London syndicates to force ISO to adopt forms excluding pollution coverage and including a claims-made retroactive date, the suits say.

For instance, on April 23, 1984, ISO learned that Robin Jackson, non-marine underwriter for Lloyd's syndicates managed by Merrett Underwriting Agencies Management Ltd., planned to not write reinsurance for insurers using the new ISO forms, the suits say.

Hartford and Allstate then enlisted the help of New York-based reinsurance broker Thomas A. Greene & Co. Inc. and London intermediary R.K. Carvill & Co. Inc. to coordinate London reinsurers' response to the forms, the suits say.

When the ISO staff traveled to London to discuss the new forms, the suits say, London reinsurers said they would boycott North American CGL insurance unless the same demands made by Hartford the previous year were met. This was communicated to the ISO staff at meetings and at a July 4, 1984, dinner at the Garrick Club, a private men's club, attended by Mr. Jackson; Richard Hazell, chief underwriter for Lloyd's syndicates managed by Three Quays Underwriting Management Ltd.; Charles Skey, underwriter for syndicates managed by R.A. Edwards & Payne (Underwriting Agency) Ltd.; and Gale Coles, underwriter for syndicates managed by Janson Green Ltd.

Continued on next page

Texas lawsuit seeks to bar ISO from operating in state

AUSTIN, Texas—An antitrust suit filed by the Texas attorney general asks that the Insurance Services Office Inc.'s authority to operate in Texas be revoked and that ISO be permanently enjoined from doing business in the state.

The suit, filed in Travis County District Court in Austin, is essentially similar to the seven antitrust actions filed by other state attorneys general in federal court in San Francisco, though the allegations and the defendants named in the Texas suit differ somewhat (see story, page 1).

The Texas suit asserts that ISO has been largely dominated by a relatively small number of companies. According to the suit, from the beginning of 1982 until the end of 1986, only 37 different companies—comprising about 2.8% of ISO's total membership—served on its board of directors.

"Further, eight to 12 large primary companies. . .consistently controlled the executive committee," the suit says. "The primary insurer defendants, comprising approximately 0.6% of the membership of ISO, dominated the ISO committee structure and thereby controlled ISO."

Five of the primary insurers named as defendants—Aetna Casualty & Surety Co., Hartford Fire Insurance Co., Liberty Mutual Insurance Co., Travelers Insurance Co. and USF&G Corp.—served on all major committees responsible for ISO commercial general liability forms, according to the suit.

Describing efforts to win support for ISO's revised CGL program, court papers state that then-ISO President Daniel J. McNamara sent a letter on July 12, 1985, to all chief executive officers serving on ISO's board of directors, noting the CGL program was facing significant opposition in New York, Illinois, Texas and Michigan. The letter asked for the insurers' aid.

"To maximize its impact, we encourage you to convey your request for support in your own words and style, but we have enclosed a list of points you might consider making," the letter said.

"The 'points' provided by defendant ISO to the primary insurer defendants and others included several threats of lack of insurance availability," court papers say.

Defendants named in both the Texas suit and the San Francisco suits are: ISO, Aetna, CIGNA Corp., Hartford, the Reinsurance Assn. of America and Lloyd's of London underwriter Robin A.G. Jackson. The Texas suit also names Lloyd's non-marine Syndicate No. 799, managed by Merrett Underwriting Agencies Management Ltd. and underwritten by Mr. Jackson, while the San Francisco suits name the Merrett agency.

Named in the Texas suit, but not in the San Francisco actions, are Liberty Mutual, Travelers, USF&G, Fireman's Fund Insurance Cos. and St. Paul Fire & Marine Insurance Co.

—By Judy Greenwald

Continued from previous page

"ISO staff reported that the dinner attendees were 'almost militant' in their determination to eliminate coverage of CGL risks on the occurrence form," the suits say.

In August 1984, ISO staffers allegedly recommended to the executive committee that key changes requested by the defendants be reconsidered.

The suits also allege that Hartford and Aetna demanded that ISO invite representatives of U.S. and foreign reinsurers to a Sept. 20 meeting of the ISO executive committee, even though reinsurers had never before been invited to speak at such a meeting.

During the evening of Sept. 19, 1984, the papers allege, ISO officers dined with Gen Re Chairman Ronald Ferguson, Gen Re President John Etling, North American Reinsurance Corp. President N. David Thompson, Prudential Reinsurance Corp. Chairman George Nimmo and RAA President Andre Maisonpierre to reaffirm the united stance they would present at the next day's meeting.

After foreign and domestic reinsurers presented their position at that meeting, the ISO Executive Committee voted to include a retroactive date in the claims-made form and to exclude all pollution coverage from both new forms, the suits say.

However, the committee decided to defer until a later date the defense cost proposal and made no change in its plan to offer a new occurrence form along with the new claims-made form.

ISO, Hartford, Aetna and an unnamed London reinsurer then formed an "ISO team" to market the new forms, the suits allege. "This scheme included coordinated speeches before groups of insurance brokers and agents to convince them a reinsurance boycott would ensue if the ISO forms were not approved."

Meanwhile, London reinsurers, including Mr. Jackson and Mr. Hazell, continued to try to eliminate the use of the CGL occurrence form, the suits charge.

To convince insurers to use the claims-made form, the reinsurers followed two strategies, the court papers say:

- They said publicly and privately that reinsurance would not be written for primary insurers using the occurrence form.
- They redesigned reinsurance treaties by including sunset clauses—which bar claims against a reinsurer after a certain date—to eliminate coverage for long-tail risks.

"In furtherance of the first strategy, Lloyd's reinsurers, including lead underwriters Robin Jackson and Richard Hazell, concertedly refused to renew long-standing reinsurance treaties with primary U.S. insurers unless the insurers were prepared to switch from the occurrence to the claims-made form," according to the court papers.

Primary insurers that were unenthusiastic about using the claims-made form were either left without reinsurance or with very low limits, the papers charge.

In addition, Lloyd's representatives, including then-Chairman Peter Miller, made speeches "to present their agreed-upon position" that Lloyd's syndicates would not reinsure business written on an occurrence basis, the suits say.

Mr. Jackson also allegedly circulated a series of letters to brokers, clients and reinsurance syndicates pushing for more changes from ISO, including elimination of the occurrence form.

In addition, during 1985 and early 1986, London reinsurers imposed sunset clauses on U.S. insurers using occurrence forms, the suits say.

Furthermore, London reinsurers allegedly would not cover pollution incidents even if coverage was written on a claims-made form.

"This conspiracy had the effect of drastically restricting the availability of pollution liability coverage in the United States" and, when it was available, raised its price above competitive levels, the suits say.

Eventually, "as a result of the boycott, coercion and intimidation," ISO won regulatory approval for its revised CGL forms in most states, court papers say. In addition, ISO officially withdrew data collection and actuarial services in connection with the 1973 CGL form in July 1987, making it difficult and expensive for ISO members to use the 1973 form.

Besides the allegation concerning the CGL form, the suits also allege that:

- ISO was pressured by domestic and London reinsurers, as well as others, to develop restrictive policy language for excess liability and umbrella policy forms, "despite the fact that ISO, as the trade association for admitted companies, plays no role in the unregulated excess and umbrella market."
- U.S. and London reinsurers "agreed to boycott reinsurance and insurance policies for property seepage and pollution exposures," which restricted the availability of pollution coverage for property risks.

The suits seek both monetary damages and a variety of industry reforms.

For instance, the suit filed by the New York attorney general asks that each corporate defendant be ordered to pay up to $1 million in penalties and each individual defendant up to $100,000. In addition, it also seeks treble damages as a result of the "conspiracies and combinations."

The suit also asks the court to decree that the defendants and conspirators have engaged in "an unlawful combination and conspiracy in restraint of trade and commerce" and that they be enjoined from continuing in their conspiracy.

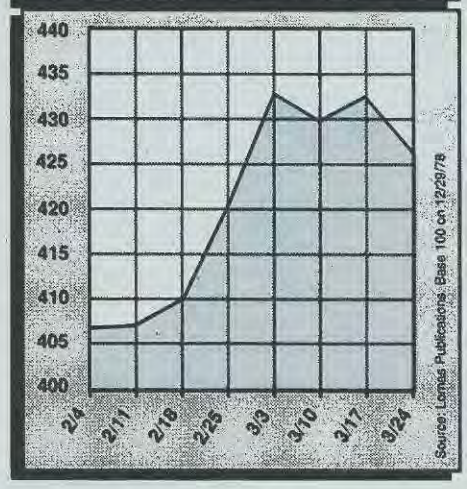
The suits also ask that:

- ISO be ordered to issue policy forms that include all elements of the original 1984 CGL forms.
- ISO be ordered to maintain statistical and rating support for both the 1973 and original 1984 CGL forms.
- A majority of ISO's board be court-appointed "public interest members."
- ISO be restructured "to prevent further anti-competitive activity."
- Both ISO and the RAA be enjoined from communicating directly outside their organization's formal auspices concerning rates, policy language, forms and terms and conditions of insurance.
- The RAA and its members be prohibited from establishing any committee that engages in any activity regarding forms, rates, terms or conditions "upon which primary insurers or reinsurers provide coverage for CGL risks."
- Both ISO and the RAA keep tape recordings of every committee meeting for at least 10 years and make the tapes available to state authorities upon request.
- ISO data be provided to anyone who requests it in return for a "reasonable, cost-based fee."
- Defendant insurers and reinsurers be prohibited from participating on any ISO board or committee for 10 years. In addition, the suits asks that Gen Re be prohibited from sitting on any RAA board or committee for 10 years.
- Reinsurer defendants withdraw any requirements that insurers use claims-made forms.
- Defendants be ordered to develop antitrust compliance programs and manuals and report annually to the court and plaintiffs' counsel on compliance efforts for the next 10 years.

Defendants named in the federal court suits include:

- U.S. insurers: Hartford Fire Insurance Co.; Allstate Insurance Co.; Aetna Casualty & Surety Co.; and CIGNA Corp.
- Trade associations: the Insurance Services Office Inc. and the Reinsurance Assn. of America.
- Domestic reinsurers: General Reinsurance Corp.; Prudential Reinsurance Co.; North American Reinsurance Corp.; Constitution Reinsurance Co.; Mercantile & General Reinsurance Co. of America; and Winterthur Swiss Insurance Co.
- Lloyd's defendants: Robin A.G. Jackson; Peter N. Miller; Merrett Underwriting Agencies Management Ltd.; Three Quays Underwriting Management Ltd.; Janson Green Ltd.; R.A. Edwards & Payne (Underwriting Agency) Ltd.; C.J. Warrilow-Hine & Butcher Ltd.; Harvey Bowring Ltd./Murray Lawrence & Partners; K.F. Alder & Others (Underwriting Agencies) Ltd.; D.P. Mann & Others (Underwriting Agencies) Ltd.
- London market reinsurers: Union American Insurance Co. Ltd.; CNA Re (U.K.) Ltd.; Terra Nova Insurance Co. Ltd.; Excess Insurance Group Ltd.; Kemper Reinsurance London Ltd.; Continental Reinsurance (U.K.) Ltd.
- Brokers: Thomas A. Greene & Co. Inc. of New York; and Ballantyne McKean & Sullivan Ltd. and R.K. Carvill & Co. Ltd., both of London. ■

BI Insurance Index



Insurance industry stocks followed the rest of the market last week and tumbled, as the *Business Insurance Index* dropped 6.5 points to 426.5 on March 24, from 433.0 on March 17. Advancing issues were led by Berkshire Hathaway Inc., up 10.4%; Lawrence Insurance Group, up 8.6%; Alexander & Alexander Services Inc., up 5.1%; Zenith National Insurance Corp., up 4.4%; and CNA Financial Corp., up 3.7%. Declining issues were led by Nobel Insurance Ltd., down 9.1%; Corroon & Black Corp., down 9%; Business Mens Assurance Co., down 8.5%; Marsh & McLennan Cos. Inc., down 7.8%; and Transamerica Corp., down 6.5%. Issues showing the most activity during the period were: Farmers Group Inc., 5.8 million shares traded; Sears Roebuck & Co. (Allstate), 2.9 million shares traded; and United States Fidelity & Guaranty, 2.9 million shares traded. The *Business Insurance Index* slipped 1.5% for the period, better than the leading market indicators: The Dow Jones 30 Industrials fell 3%; the Standard & Poor's 500 dropped 2.9%; and the New York Stock Exchange Composite saw a 2.4% drop.

British Issues

March 24 Companies	Price pence	P/E	Div. pence	Yield %	1 Week High—Low pence	pence
Commil Union	324	12.3	21.9	6.3	347—	324
Gani Accident	897	10.4	47.9	5.2	914—	897
Gdn Royal Exch	879	12.9	56.2	6.0	924—	879
Royal	396	10.5	26.4	6.4	413—	398
Sun Alliance	880	13.7	43.1	4.7	925—	880
Brokers						
Bradstock	224	12.6	6.8	3.0	230—	224
CE Heath	370	13.7	34.5	9.3	374—	370
Hogg Robinson	142	10.9	9.6	6.8	143—	142
Lloyd Thompson	160	13.7	6.8	4.2	160—	157
PWS Holdings	194	8.1	14.4	7.4	197—	194
Sedgwick Grp	206	12.7	16.4	8.0	208—	206
Steel Brrl Jones	159	9.8	13.7	8.6	160—	158
Willis Faber	208	11.9	15.1	7.2	212—	208

Source: Philip Olsen/Alan Clifton, Insurance Industry Specialists Kitcat & Aitken Stockbrokers, London

BI Industry Stock Report

MARCH 24, 1988 **3/18/88 THRU 3/24/88**

		Price	Weekly % change	Year to Date % change	Annual High	Annual Low	Vol.(000)	$ Div.	% Yield	P/E	Book value	Mkt/Bk. value
BROKERS												
Alexander & Alexander Svcs	NYSE	23.00	5.1	29.6	24.50	17.75	351	1.00	4.3	15.0	3.61	6.37
Baldwin & Lyons Inc.	OTC	13.50	0.0	12.5	15.00	12.00	0	0.20	1.5	5.1	18.66	0.72
Corroon & Black Corp.	NYSE	30.50	-9.0	8.0	34.75	28.00	168	1.08	3.5	14.5	6.82	4.47
Gallagher Arthur J. & Co.	NYSE	15.25	3.4	-4.7	18.00	13.88	13	0.48	3.1	10.5	4.81	3.17
Hall Frank B. & Co.	NYSE	5.00	2.5	73.6	5.50	2.88	357	0.00	0.0	10.5	0.00	N/A
Hilb, Rogal & Hamilton	OTC	11.75	2.2	20.5	12.75	9.75	13	0.00	0.0	10.5	0.00	N/A
Lawrence Ins. Group	AMEX	11.00	8.6	63.0	11.00	6.88	7	0.32	2.9	11.2	4.10	2.68
Marsh & McLennan Cos. Inc.	NYSE	50.50	-7.8	2.0	55.63	45.25	707	2.40	4.8	12.4	7.27	6.95
Poe & Assoc Inc.	OTC	7.25	3.6	3.6	7.25	6.75	0	0.40	5.5	7.0	0.57	12.72
BROKERS	AVERAGE		1.0	23.1					2.8	10.8		
CONGLOMERATES & HOLDING COMPANIES												
Berkley W.R. Corp.	OTC	23.63	-6.4	-1.5	29.00	23.50	295	0.28	1.2	5.8	17.31	1.37
Berkshire Hathaway Inc. DEL	OTC	3450.00	10.4	16.9	3350.00	3000.00	994	0.00	0.0	18.4	96.82	5.78
CIGNA Corp.	NYSE	47.25	-3.1	7.7	51.88	43.88	885	2.96	6.3	5.8	50.12	0.94
CNA Fin'l Corp.	NYSE	59.50	3.7	7.0	61.00	51.00	574	0.00	0.0	9.2	42.71	1.39
General Re Corp.	NYSE	49.13	-4.4	-12.1	56.38	49.50	1292	1.20	2.4	10.3	26.60	1.85
ITT (Hartford Group)	NYSE	45.38	-3.4	0.8	49.25	43.25	2431	1.25	2.8	8.9	44.08	1.03
Sears Roebuck & Co. (Allstate)	NYSE	37.13	-2.9	10.4	39.88	32.25	2897	2.00	5.4	8.5	32.94	1.13
Transamerica Corp.	NYSE	34.25	-6.5	15.1	36.75	29.75	639	1.84	5.4	6.3	30.32	1.13
CONGLOMERATES	AVERAGE		-1.6	5.5					2.9	9.1		
INSURERS												
Aetna Life & Cas Co.	NYSE	44.25	-3.3	-2.2	49.88	43.50	1342	2.76	6.2	5.9	53.56	0.83
American General Corp.	NYSE	34.13	-4.2	7.5	36.38	30.75	1587	1.40	4.1	8.9	27.13	1.26
Amer Heritage Life Invt	NYSE	25.25	0.0	4.1	26.00	24.00	5	0.96	3.8	11.8	21.70	1.16
Amer Indty Fin'l Corp.	OTC	9.00	-1.4	0.0	9.75	8.25	4	0.56	6.2	11.8	20.30	0.44
American Int'l Group	NYSE	55.88	-3.5	-6.9	65.38	54.25	1712	0.30	0.5	9.7	34.54	1.62
Aneco Reins Ltd.	OTC	3.75	-6.3	10.9	4.00	3.13	13	0.00	0.0	9.7	1.93	1.94
Aon Corp.	NYSE	25.38	-2.4	10.9	27.00	21.88	457	1.28	5.0	9.1	15.23	1.67
Argonaut Group	OTC	45.75	-0.5	53.8	49.00	29.50	355	0.00	0.0	8.2	29.19	1.57
AVEMCO Corp.	NYSE	24.50	-1.0	24.8	25.25	17.88	36	0.28	1.1	12.7	7.74	3.17
Belvedere Corp.	AMEX	5.00	-2.5	14.2	6.00	4.38	12	0.04	0.8	11.9	7.65	0.65
Business Mens Assum Co.	OTC	32.50	-8.5	21.5	36.00	25.50	125	1.20	3.7	87.8	27.39	1.19
Chubb Corp.	NYSE	58.13	-4.5	4.0	63.38	52.00	409	2.16	3.7	7.0	39.52	1.47
Continental Corp.	NYSE	37.38	-3.9	-3.5	41.63	37.00	490	2.60	7.0	6.9	41.62	0.90
Durham Corp.	OTC	26.00	-1.9	20.9	28.00	21.50	80	0.92	3.5	22.2	26.00	1.00
Farmers Group Inc.	OTC	60.75	-1.4	50.9	63.88	40.50	5750	1.44	2.4	15.7	22.15	2.74
Fireman's Fund Corp.	NYSE	26.25	-5.0	8.7	31.00	25.75	545	0.50	1.8	31.0	29.81	0.95
Fremont Gen Corp.	OTC	11.38	0.0	18.2	13.50	9.25	96	0.60	5.3	31.0	16.75	0.68
Home Group Inc.	NYSE	13.00	-1.0	9.4	14.38	11.50	270	0.20	1.5	2.7	17.65	0.74
Hanover Ins Co.	OTC	24.50	2.1	5.4	26.25	22.50	76	0.36	1.5	5.4	25.10	0.96
Harleysville Group Inc.	OTC	16.25	2.3	23.9	16.38	13.38	53	0.55	3.4	8.0	16.18	1.00
Hartford Steam Boiler Insp	OTC	27.50	-5.2	19.6	29.25	22.50	79	1.00	3.6	10.5	11.87	2.32
Kans City Life Ins	OTC	28.50	0.9	8.6	28.50	25.25	0	0.00	0.0	10.5	0.00	N/A
Kemper Corp.	OTC	28.88	-0.5	16.5	25.25	21.00	461	0.72	3.0	7.5	27.11	0.88
Liberty Corp. S.C.	NYSE	43.25	3.0	21.8	43.38	34.50	10	0.80	1.8	16.5	20.90	2.07
Lincoln Nat'l Corp.	NYSE	46.00	-2.6	14.6	48.75	40.25	241	2.36	5.1	8.9	44.85	1.03
NAC Re Corp.	OTC	23.75	-2.1	33.8	24.50	18.50	3	0.00	0.0	16.4	19.43	1.22
Nobel Ins Ltd.	OTC	5.00	-9.1	-42.9	9.50	5.00	69	0.40	8.0	23.8	9.37	0.53
Northwestern Nat'l Life	OTC	26.00	-2.8	13.6	29.25	22.63	134	0.96	3.7	7.0	35.18	0.74
Ohio Cas Corp.	OTC	35.25	0.0	-2.8	38.25	33.50	187	1.88	5.3	8.2	27.86	1.27
Old Rep Int'l Corp.	OTC	24.38	-0.5	21.9	25.75	20.00	103	0.74	3.0	5.3	19.80	1.23
Orion Cap Corp.	NYSE	15.88	-5.2	17.6	17.25	13.13	54	0.76	4.8	5.3	9.39	1.69
Phoenix Re Corp.	OTC	7.75	-6.1	19.2	8.75	6.75	45	0.00	0.0	4.8	10.15	0.76
Protective Corp.	OTC	14.75	0.0	20.4	14.88	12.25	53	0.70	4.7	14.5	16.98	0.87
Provident Life & Acc Ins Co.	OTC	20.50	3.1	31.2	21.88	15.63	681	0.84	4.1	51.3	27.00	0.76
St. Paul Cos. Inc.	OTC	45.25	0.0	-1.6	51.00	41.50	654	2.00	4.4	6.7	36.34	1.25
SAFECO Corp.	OTC	24.00	-2.0	-13.5	30.00	24.00	690	0.96	4.0	7.7	21.39	1.12
SCOR US Corp.	OTC	9.00	0.0	-2.7	9.25	7.25	190	0.00	0.0	6.9	9.20	0.98
Seibels Bruce Group Inc.	OTC	12.00	-2.0	6.7	14.25	11.00	56	0.80	6.7	8.0	12.88	0.93
Selective Ins Group Inc.	OTC	21.00	-1.2	10.5	22.00	19.25	99	1.08	5.1	5.6	19.47	1.08
Statesman Group Inc.	OTC	4.56	-4.0	-2.8	2.75	1.88	92	0.05	1.1	5.6	5.19	0.88
Tokio Marine & Fire Ins	OTC	80.75	-2.4	22.6	83.00	63.25	17	0.19	0.2	68.4	0.00	N/A
Torchmark Corp.	NYSE	29.50	-1.7	20.4	31.00	24.50	251	1.00	3.4	9.9	13.01	2.27
Travelers Corp.	NYSE	35.63	-3.7	1.4	40.00	34.50	1828	2.40	6.7	8.7	45.28	0.79
Trenwick Group Inc.	OTC	11.75	0.0	14.6	11.75	9.75	157	0.16	1.4	11.2	14.65	0.80
United Fire & Cas Co.	OTC	25.75	-1.0	-1.0	27.00	24.00	7	0.96	3.7	5.0	21.64	1.19
United States Fid & Gty	NYSE	31.88	-4.1	11.9	34.38	28.88	2684	2.64	8.3	6.5	22.36	1.43
UNUM Corp.	NYSE	21.75	-0.6	17.6	22.75	17.88	220	0.40	1.8	12.5	28.84	0.75
USLIFE Corp.	NYSE	36.00	-2.4	26.3	38.25	28.00	295	1.28	3.6	8.6	43.09	0.84
Washington Nat'l Corp.	NYSE	28.00	0.0	17.3	28.50	24.00	38	1.08	3.9	22.0	32.80	0.85
Zenith Nat'l Ins Corp.	NYSE	20.50	4.4	36.7	21.25	15.00	123	0.80	3.9	9.9	12.26	1.67
INSURERS	AVERAGE		-1.9	12.7					3.3	14.4		
ALL COMPANIES	AVERAGE		-1.5	13.2					3.2	13.3		

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