Chairman's backing underpins Dettore's successes at DWG

By REBECCA A. FANNIN

MIAMI BEACH—Most risk managers would envy Raymond J. Dettore, vp of insurance at DWG Corp., a billion-dollar holding company, for his autonomy.

He was handpicked in 1976 by DWG's well-known chairman, Victor Posner, to revamp insurance for three companies DWG holds and another three companies Mr. Posner controls.

In two years' time after he was recruited from a subsidiary company to DWG's sunny headquarters, he implemented many modern corporate insurance techniques that cut insurance costs, achieving ample rewards and recognition along the way.

Thirty-five-year-old Mr. Dettore doesn't boast of his accomplishments, despite one observer's belief that he's ended up with the best risk management job in the nation because of its visibility, responsibility and location in a plush apartment building on this touristy beach.

"I'd like to help other risk managers get more status. Fortunately, I've done a lot and been recognized," Mr. Dettore says in a grateful, thoughtful tone.

Although Mr. Dettore seems to accept success with a shrug of the shoulders, his job carries immense responsibilities that would probably worry less able managers. Besides reporting directly to the chairman and seeing him daily, Mr. Dettore directs two captive insurance companies and several self-insurance programs he set up. He also has the authority to sign $800,000 invoices without upper management approval.

The six companies among the DWG and Posner holdings leave "no time to become bored or unoccupied." Many of the companies have high-risk exposures, such as tree trimming and propane gas distribution. In addition, they are so diversified, with products ranging from steel, paper and plastic to shirts, that they can't share a common insurance program.

It's difficult to find a "common cost element for allocating insurance costs" because of the variety of risks and insurance vehicles, says Mr. Dettore of his struggles.

"Most other risk managers can't

Continued on page 71

Photo: Wide World

10 employes die in fire

Firemen search for the 10 employes who died in a fire that swept the Younkers department store in Des Moines, Iowa. Damage to the building, which did not have a sprinkler system, is estimated at more than $22 million since the entire Christmas inventory was destroyed. Aetna Life & Casualty provides the workers compensation insurance for Younkers. Maximum weekly death benefits for families in Iowa is $265.

Chamber offers cure for health cost spiral

By JERRY GEISEL

WASHINGTON—Earlier this year, hospital advocates were urging that more beds be installed in a proposed Cincinnati hospital than some employers thought were necessary.

Similar situations have developed in other areas of the country. The Department of Health, Education and Welfare says there are more than 100,000 surplus hospital beds.

On health planning issues, the business community for the most part has stood on the sidelines even though it is paying, through its group health insurance premiums, the major cost of health care.

Cincinnati was different.

A health care committee made up of representatives from the city's leading businesses was able to convince the regional planning authority to reduce the number of beds in the proposed facility to a more reasonable level.

While the action taken by businesses in Cincinnati may be an isolated success story, more victories may be possible if a national health care strategy unveiled this month by the U.S. Chamber of Commerce catches on.

The program developed for the Chamber is a series of strategies employers can deploy to get a handle on health care costs. It provides business with a methodology to help it look at what it is spending on health care, gives examples of what some businesses are doing in controlling costs and offers many cost-saving alternative action plans.

Much of the information that the Chamber presents has been available elsewhere. But Willis Goldbeck, director of the Washington Business Group on Health, saluted the Chamber for putting all this information together in one package.

Mr. Goldbeck noted that since the package has the imprimatur of

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Week of November 13, 1978

business insurance

the national newsmagazine of loss prevention, risk financing and employe benefit management

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Texas firm battles IRS over cash flow deduction

By KATHRYN J. McINTYRE

DALLAS—Steere Tank Lines Inc. here is going to the U.S. Supreme Court next month for vindication of an arrangement with its insurer that it maintains constitutes insurance, although the Internal Revenue Service, the Tax Court and the Fifth Circuit Court of Appeals have disagreed.

Steere is arguing that its "deposit premium account" with its insurer is simply a type of retrospectively rated insurance program for its petroleum transport business and that it is entitled to a tax deduction for its premiums. The IRS and the courts said the plan is devoid of any risk transfer necessary to insurance, leaving the plan only slightly disguised self-insurance.

The cost of insurance, but not self-insurance, qualifies for a tax deduction as a business expense.

While many experts say Steere's insurance arrangement is so unique that the outcome of the case will have no bearing on the kinds of cash flow plans they see regularly, at least one lawyer believes insurers and corporations generally ignoring the case should perk up.

"The Steere Tank case acts as a very sharp reminder of the law as it has existed since the U.S. Supreme Court decision in Helvering versus Le Gierse (1941)," observed tax attorney Sidney R. Pine of the New York law office of Trubin Sillcocks Edelman & Knapp. "A lot of insurance experts concocting retro policies of unusual types should take warning of the necessity of risk transfer in retrospective arrangements."

Insurers who reportedly offer cash flow plans to large accounts, which are designed to ultimately make the policyholder the payer of his own losses, while still providing a tax deduction for the premiums paid, claim to be unaware of the Steere case, dismiss it as irrelevant to their programs or refuse to comment.

Hartford Fire Insurance Co., The Home Insurance Co. and Aetna Casualty & Surety Co. all pleaded ignorance of the case.

INA Special Risks Facilities Inc. president Jack Morrison said, "Generally, I don't believe any of the insurance programs INA or INA Special Risks has in place for its clients would be adversely affected by the Steere Tank Lines decision. I don't see any of the things we've done fall precisely in that case because in every one of our

Continued on page 70

Record computer theft shakes banks, insurers

By MARGARET LeROUX

LOS ANGELES—Security Pacific Bank expects to recover $10.2 million stolen by a computer consultant arrested and charged with piercing bank security and transferring the funds to accounts in New York and Switzerland. But the record white-collar EDP crime has bankers and insurers worried that such thefts could happen elsewhere and that bank bond prices might rise.

The bank stated it believes the loss would have been covered under its bankers blanket bond policy had the funds not been recovered. The $14 million primary bond is underwritten by Fireman's Fund Insurance Co., Hartford Insurance Co. and Aetna Life & Casualty Insurance Co.

Security Pacific, the tenth largest bank in the U.S., carries a $1 million deductible under the bond. The primary layer of coverage is split equally among the three insurance companies. An excess bond is underwritten by the three insurers giving the bank coverage to a $29 million limit.

Authorities believe the EDP theft occurred Oct. 25 when Stanley M. Rifkin, working as a computer consultant, allegedly obtained access to the transfer room where funds are moved by cable between branches and other banks. He learned the day's "key," a secret code that must be included

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The inside story

M&M to oppose N.Y. exchange?

Marsh & McLennan chairman L. Patton Kline threatens to oppose the constitution of the New York Insurance Exchange if his fellow drafters place any more limits on the influence of brokers in the exchange's activities. That would be a startling shift for one of the exchange's first and most fervent supporters. **Page 6.**

Gun firm pays $6.8 million

Remington Arms pays out $6.8 million to settle a product liability suit, which could be the largest lump-sum payment in a single personal injury case in the history of tort law. The recipient, a prominent Texas defense attorney who specialized in defending insurance companies. **Page 12.**

The people column page 78

Captive, self-insurance update

THE MONTHS AHEAD may prove to be merely evolutionary and not revolutionary, though no less interesting than the past year, as the establishment of captives tapers off with the onset of heated price competition among insurers. At the same time, captives already formed and doing business will grow more powerful in the marketplace as they enlarge their reserves, their surpluses and their books of business. Before our eyes we're seeing the emergence of a whole new type of insurance industry as captives alter the way insurance is bought and sold.

Moreover, there's been an explosion of captive-related underwriting pools and services because corporate parents look feverishly toward potentially lucrative new profit centers.

Meanwhile, the use of self-insurance continues to ebb and flow in concert with changes in the market for insurance, never falling from favor but losing some of its luster every time insurers begin to compete aggressively for business. We wonder if there will once again be a lapse in the use of self-insurance as has been customary in times when insurance is readily available and more reasonably priced?

As the insurance industry rushes head long down the hill from its profit peaks into another valley of never-ending cycles, we'll examine what's happened with captives and self-funded programs in the last year and what's ahead in a special report Jan. 8. We'll look at the response by insurers to having policyholders get into the insurance business in a big way and we'll probe the mushrooming growth of numerous domiciles for captives, both onshore and offshore.

What's the level of interest in new captives and self-insurance programs when there aren't any insurance crises to spur their growth? Who's using new and sophisticated banking or cash flow plans? What's the status of self-funding in the benefit business? What are small businesses to do when they need captives and self-insurance?

Watch for the Captives and Self-Insurance Issue Jan. 8 when we illuminate these and other timely subjects. ▪

There are Umbrellas and there are Umbrellas

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Reed Shaw adds 2

Two brokerage firms have been acquired by Reed Shaw Stenhouse Inc., the U.S. subsidiary of the largest Canadian broker. The two firms to increase Reed Shaw's growth to 21 cities in the U.S. are John L. W. Swan and Co. Inc. of New York City and Cornish and Carey Insurance Associates of Palo Alto, Calif.

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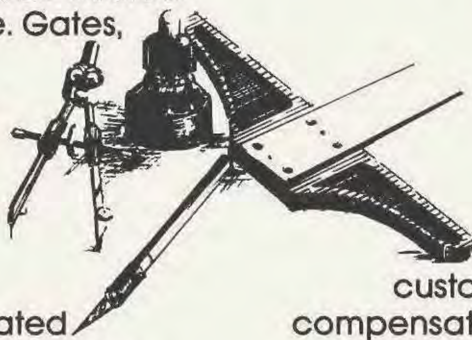

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A&A promotes Bogardus, Soubry to fill slot left by chairman's death

NEW YORK—John A. Bogardus and Kenneth W.S. Soubry are stepping up to fill the top positions at Alexander & Alexander following the death last month of chairman and chief executive officer William L. Carter.

Mr. Bogardus was named chief executive officer and chairman of the executive committee by the A&A board of directors in addition to his post as A&A president. Mr. Soubry, who had stepped down as chairman last year but continued to serve at A&A as chairman of the executive committee, is again A&A's chairman.

Tinsley H. Irvin, executive vp, takes over for Mr. Bogardus as chief operating officer and is also now chairman of the operations committee.

Chicago-based Robert A. Gielow, senior vp and national director of A&A's risk analysis and management group, was chosen to join the other three as a member of the executive committee. He is expected to remain in Chicago.

Aetna concedes ads deceptive

TOPEKA—One year after Aetna Life and Casualty Co. began an extensive ad campaign explaining why insurance costs were soaring, the big Hartford-based insurer settled charges here that assertions in the ads were deceptive and misleading.

Under the terms of a consent order issued by the Kansas insurance department, Aetna admitted that it could not prove that one million product liability claims were filed in 1976—an assertion made in Aetna ads that ran late last year.

If Aetna ever repeats use of the one million product liability claims in advertising, it could lose its license to do business in Kansas.

Crum & Forster Insurance Cos. previously agreed to similar consent orders issued by the Kansas and Connecticut state insurance departments that bar that company from repeating claims made that appeared in its product liability advertising.

Hines reveals insurance 'oligopoly'

CHICAGO—Northbrook Insurance Co. and Weavers Syndicate together have the power of an "open oligopoly" to affect availability and prices for excess casualty insurance, Harold H. Hines, president of Marsh & McLennan Inc. told a meeting of the LaSalle Street Club here. Their power to influence markets doesn't imply any collusion or any illegal activity, said Mr. Hines, but their dominance is undeniable.

"An open oligopoly operates in the worldwide system to control the price of excess casualty coverage," he said. Moreover, he told *Business Insurance*, the U.S. insurance industry essentially functions as an open oligopoly as well, considering the limited number of suppliers strong enough to influence price but not strong enough to disregard competitors' reactions.

Weavers and Northbrook, for example, are subject to the restraints of competition from other suppliers such as AIG, the Merrett Dixey Syndicate, INA and others who can come in at some point and undercut Weavers and Northbrook to win business.

In analyzing the impact of several economic factors on supply and demand for insurance, he pointed out the existence of this oligopoly as only one of the forces at work to make insurance a highly cyclical business.

Mr. Hines believes insurance will continue to be a cyclical business for a long time, despite the best efforts of many insurers to be contra-cyclical by severely restricting underwriting or laying off people, both of which he believes are counterproductive.

Chicago leads in transit accidents

CHICAGO—The Chicago mass transit agency had the worst safety record again last year of the 10 mass transit systems in the nation. It was the second year in a row the Chicago Transit Authority had the most deaths and injuries.

Chicago had 11 deaths and 208 injuries in mass transit accidents, while the other nine systems combined had only one death (in New York) and 22 injuries. Most of the Chicago deaths and injuries resulted from a February 1977 crash on a city elevated train.

The CTA self-insures claims up to $3 million a year.

OSHA drops some regulations

WASHINGTON—The Occupational Safety and Health Administration (OSHA) this month will drop 928 standards that it found were unnecessary or unrelated to job safety and health.

Last December, OSHA proposed revoking some 1,100 standards, but the safety agency agreed to reinstate 172 provisions after a number of unions successfully argued that the standards were essential for worker safety.

Of the 928 standards on the list, 607 cover general industry and 321 are special regulations dealing with barrel-making, bakery equipment, laundry machines and operations.

One of revoked standards concerned the height for mounting fire extinguishers, an example often cited by OSHA critics illustrating how the agency was concentrating on "nit-picking" regulations at the expense of reducing serious workplace hazards.

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the benefit beat

Railroad workers new benefits aim at cost control

NEW HEALTH AND WELFARE benefits, many aimed at employe benefit cost control, have been introduced for 13,000 railroad inspectors employed nationwide by Consolidated Rail Corp. and the National Railroad Passenger Corp., known as Amtrak.

Cost control features include the full payment of charges for pre-admission testing and second surgical opinions as well as payment for charges incurred at ambulatory surgical centers, which will be treated like hospital outpatient expenses.

Reimbursement for hospital outpatient expenses will be paid in full under the new contract, an increase from the maximum of $100 plus 80% of the excess over $100.

In addition, payment for surgical expenses, hospital miscellaneous expenses and ambulance charges have been increased for the workers represented by the Transport Workers Union. The maximum benefit for a surgical procedure has been increased to $1,000 from $650. Reimbursement for hospital charges for medical care and treatment, excluding charges for room and board, and fees by nurses, physicians and surgeons, has been increased to $2,000 plus 80% of the excess over $2,000 from the previous $1,000 plus 80% over $1,000.

The railroad carmen will also receive full reimbursement for major medical expenses that exceed $2,000 during a year's time. Previously, the worker paid 20% of such major medical expenses over a $2,000 aggregate.

Major medical expense benefits have been expanded to cover workers who retire at 61 years of age or who have become disabled.

The early retirement major medical benefit includes a $100 deductible per year for each individual and 20% coinsurance except for 35% coinsurance for out-of-hospital mental or nervous treatments.

In addition, the physician's fee benefit has been increased to $10 per day from $6 per day for physician visits while the patient is confined to a hospital. The maximum payable during any hospital confinement has been increased to $3,650 from $2,190.

Changes in dental benefits include an increased payment to $750 for all expenses from $500. The maximum deductible for any year is $100, $50 for one individual and $100 for a covered employe and his dependents who have collectively incurred a $100 expense.

For treatment of alcoholism, charges for room and board and care will be paid up to $50 per day for not more than 31 days per year with a lifetime maximum of $3,000.

Pregnancy bill signed

President Carter this month signed into law the landmark bill that requires employers to offer full medical, hospital and disability benefits to pregnant employes.

While the legislation requires employers to pay for maternity-related expenses on the same basis as they cover any other sickness or disability in their benefit plans, it does not require them to pay for abortions unless the abortion was performed to protect the life of the mother or if the abortion resulted in medical complications.

The law goes into effect May 1, 1979.

Carter's guidelines

The 7% wage hike guideline in the Carter Administration's recently announced anti-inflation program may be a lot tougher than previous wage-price guidelines. The new pay standard covers employe benefits as well as wages while previous wage controls generally left benefits untouched. It is estimated that benefits make up more than one-third of an employe's compensation. Increases in the cost of benefits, such as hospital cost hikes of 10%, are to be included in the 7% ceiling.

Volkswagen benefits

Assembly workers at the Pennsylvania plant of Volkswagen of America Inc. won substantial increases in employe benefits in a three-year contract closing the gap between wages and benefits of U.S. and foreign automotive manufacturing employes represented by the UAW.

The new benefits package offers comprehensive hearing aid, vision care, prescription and dental benefits.

Under the hearing aid plan, workers will receive 100% reimbursement for costs related to the examination and fitting of a hearing aid.

Vision care provisions of the contract, which become effective Jan. 1, 1979, will provide an examination, lenses and frames every 12 months for the employe and his family, subject to a $5 deductible for an examination and $7.50 deductible for lenses and frames.

Prescription drug benefit is subject to a $3 deductible for all prescription drugs purchased for the employer and family.

The worker and his family will also receive 100% reimbursement for a dental examination, fluoride treatment, cleaning and emergency treatment of pain twice a year as well as 90% reimbursement for oral surgery—extraction of a tooth, fillings, bridgework, dentures—and 50% for orthodontia or replacement of existing dentures.

Most dental work done on the assembly worker and family is subject to a $750 calendar maximum for each person and $650 lifetime maximum for each person for any orthodontia work. The dental program will also go into effect Jan. 1, 1979.

Other benefits include comprehensive hospital and surgical coverage at no cost to the employe, pensions after 30 years of service and tuition refunding of $350 for non-college courses and $700 for college courses.

Wages for assembly workers under the contract will reach $7 an hour retroactive to Sept. 1, $7.50 an

Continued on following page

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Benefit beat . . .

Continued from preceding page
hour on Nov. 1, 1979, and $8.20 an hour Nov. 1, 1980.

First medical benefits

A new three-year contract negotiated by the Seafarers International Union and the two largest ports in the Baltimore area gives 130 tugboat crewmen significant increases in pensions and their first major medical coverage.

Pension benefits were increased to $440 monthly from the previous $340 monthly. The new major medical coverage is a non-contributory plan funded by Baker-Whiteley Towing Co. and Curtis Bay Towing Co.

The contract includes a 35-cent wage increase with cost of living allowances starting October 1979 and October 1980. In addition, a change in work rules effectively increases the crewmen's pay by another 9%.

FASB rule delayed

The Financial Accounting Standards Board has delayed until the first quarter of 1979 its deadline for issuing a final statement or revised exposure draft on accounting and reporting by defined benefit pension plans. "The extensive liaison" with the U.S. Labor Department and the actuarial and accounting professions in an effort to "avoid conflicts, duplication and confusion in providing meaningful financial reporting" is the cause of the delay, not to mention the "complexity of the issues," says FASB.

Still to be decided by the board, as reported by *BI* Oct. 16, is how to measure benefit information, how the information should be presented, how contributions should be handled and disclosure of investments.

Federal employes

Health insurance premiums next year for the majority of federal workers and retirees will remain unchanged. The Civil Service Commission says health insurance premiums for 1.7 million federal employes and retirees will stay at their current levels while 280,000 people will pay lower premiums if they remain with their same health plan and type of coverage. Government employes' biggest carrier, Blue Cross and Blue Shield, will not make any benefit changes for 1979. Other carriers, though, either are making improvements or cutting out some services. The Kaiser health plan for Southern California charges employes $6.67 biweekly while the government contributes $11.39 cents. Family coverage costs the employe $19.11 while the government pays $27.52.

Publisher picks HMO

At the urging of a newly recruited employe, Crain Communications Inc. in Chicago is offering employes membership in an HMO. NorthCare, the first HMO to be offered, serves only the northern Chicago area and will be available to just 25 to 35 of Crain's 185 Chicago home office employes. An HMO to serve the larger employe group which lives in the downtown area is being sought, but the company is still looking for a downtown HMO with prices comparable to NorthCare's.

An employe joining NorthCare will have to pay $13.76 a month for the HMO service while Crain will pay $27.06 a month, the cost of the company-paid indemnity health plan underwritten by Connecticut General. Family coverage in the HMO will cost the employe $50.62 and Crain will pay $59.18 to meet the $109.80 per month HMO bill.

The publishing company, with news bureaus around the country and a major New York office, has yet to offer HMOs anywhere else. Should HMO membership be requested by employes elsewhere, the company will arrange it, a spokeswoman said.

Crain Communications publishes *Business Insurance*, Advertising Age and other specialized business and consumer magazines.

Profit sharing plans

Companies with profit sharing programs contributed an average of 9.61% of workers' pay to their plans last year, almost the same figure contributed in 1976. A study of 563 companies with profit sharing plans by Hewitt Associates and the Profit Sharing Council of America found no significant changes in profit sharing experience between 1976 and 1977.

Employers surveyed contributed over $992 million in profit sharing plans, with $126 million distributed as cash and the rest placed in deferred plans. Deferred plans remain the most prevalent type of profit sharing (81%) and profit sharing continues to be most popular at smaller companies with less than 500 employes (69% of the survey).

Over two-thirds of the companies (69%) do not offer a pension plan along with their profit sharing program. However, 58% of firms with a cash or combination cash and deferred profit sharing also provide pension plans.

A contribution only at the discretion of the employer is the most popular type of plan (39%), followed by contributions as a fixed percentage of profit after deducting a return on stockholder equity, a fixed percentage of profit and a fixed percentage of profit with additional contribution at the discretion of the employer.

Conn. benefits

Dental benefits and greater employe contributions to benefits are on the upswing among 200 corporations in Connecticut, according to a survey by Risk Administration Services Inc. of Greenwich, a subsidiary of Financial Guardian Group.

Dental insurance is growing among smaller and medium companies as well as larger ones and its use has nearly doubled since a similar study in 1976 revealed that 19% of the companies provided dental benefits.

Among other findings, the survey revealed that all companies surveyed offer group term life insurance and medical coverage. Employes contribute to life insurance at 57% of the companies and to medical coverage at half.

All the larger companies provide long term disability coverage, while very few companies with less than 100 employes provide this benefit.

In addition, pension plans are offered by 60% of the companies surveyed, which range in size from under 50 employes to major corporations in the Greenwich, Stanford and Norwalk areas of Connecticut.

Qualified profit sharing plans are used by 13% of the companies while supplementary insurance coverage for selected executives is carried by 57% of the companies.

•

Benefit beat keeps insurance and employe benefit managers up-to-date on what other companies are doing and informed of current developments in the employe benefit field. We'd like to know if you've made any changes. Write Kathryn J. McIntyre, Business Insurance, *740 N. Rush St., Chicago, Ill. 60611 or call 312-649-5286.*

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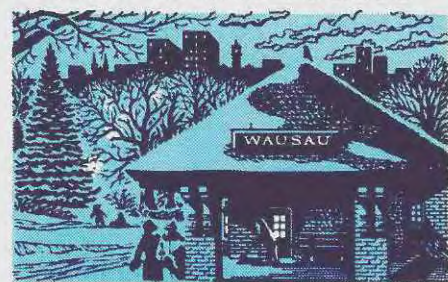

Photographed on location with Circus Vargas, "World's largest traveling Big Top."

Wausau Insurance Companies
Employers Insurance of Wausau

M&M chairman threatens to oppose N.Y. exchange

By ELLIS SIMON

NEW YORK—The sole broker on the committee drafting the constitution and by-laws for the New York Insurance Exchange could become a public critic of the proposal if provisions are adopted that would further restrict the influence of brokers in administration of the exchange.

Brokers suffered a setback in October when the committee decided that the board of governors would be composed of five underwriting members, four public members and three broker members.

The drafting panel is currently considering provisions that would have the public members nominated separately by the underwriting and broker members of the exchange and would prevent representatives of underwriting syndicates controlled by brokerage firms from serving on the board of governors and vice-versa.

Marsh & McLennan chairman L. Patton Kline has written to state insurance superintendent Albert B. Lewis, the committee chairman, and members of the committee calling on them not to adopt such provisions. Mr. Kline told *Business Insurance* he would speak out in opposition to the constitution should these provisions be included.

Such a stance would represent an ironic reversal of roles since Marsh & McLennan and several of the other major brokerage houses were the major backers of the legislation creating the exchange.

According to Michael Curran, deputy insurance superintendent, the proposal on public membership on the board of governors that is currently being considered calls for the underwriters and brokers to each nominate two members and have the public members elected by the entire exchange.

However, critics of this proposal, including Mr. Kline, have said that this would result in an extension of the five-to-three margin of underwriters to brokers, giving underwriters a seven-to-five majority on the board.

"To join knowing you'll be a minority member and have issues in your interest voted down is unsatisfactory," Mr. Kline said.

There are difficult decisions that will have to be made affecting both underwriters and brokers and these decisions should be made on the basis of what is good for the exchange as a whole, Mr. Kline explained.

He also called the position on preventing representatives of syndicates controlled by brokerage firms from sitting on the board of governors "intolerable."

This position, and a similar one barring representatives of brokerage operations controlled by underwriting syndicates from serving on the board, was agreed upon by the committee at its October meeting, according to the minutes.

However, Mr. Kline said no formal vote had been taken on the issue and he hopes to get it changed at the committee's next meeting Nov. 17.

Mr. Kline told *Business Insurance* that Marsh & McLennan would be interested in becoming a syndicate manager in the Insurance Exchange but had no intention of making major capital investment in the syndicates themselves. "We don't intend to enter the business of risk taking. It's not our business," he said.

Insurance companies would probably be the biggest source of investment in the exchange, Mr. Kline said, noting that only they can enjoy the tax advantage of being able to deduct loss reserves.

Several other major brokerage firms expressed interest in participating in the exchange beyond placement of business in syndicates. However, these plans have not passed the planning stage, in part because it is not known what will be included in the constitution and by-laws of the exchange.

Peter J. Ripp, vp of investor and public relations at Frank B. Hall, said his firm would be likely to invest in syndicates or manage them if the rules of the exchange prove favorable. However, he cautioned that "we envision scenarios where it would not be beneficial to us."

In general, if brokers were placed in a minority position, their role would probably be a restricted one, Mr. Ripp said.

Corroon & Black president Richard Miller said his firm would probably invest in syndicates should the exchange prove to be viable, but that decision has yet to reach the board room. Alexander & Alexander president and chief executive officer Jack Bogardus said he could not say what posture his firm will take until the constitution and by-laws are made public.

Schiff-Terhune International would "love" to manage a syndicate, said executive vp Bert Linder, but the limited number of syndicates that will probably be formed at first will probably keep the brokerage firm out of syndicate management until the exchange is able to expand.

Johnson & Higgins senior vp David H. Winton, an alternate member of the drafting committee, said his company would probably want to manage at least one syndicate, but the firm has not reached any decision.

None of the brokers contacted expressed interest in forming syndicates themselves. The enabling legislation for the exchange limits their interest in a syndicate to less than 20%.

While 20% ownership is the minimum interest in a property normally required for consolidation of earnings, Mr. Kline said there are other formulas that could be adopted for this purpose.

Some of the insurance brokers said they had been contacted by securities firms interested in the potential for marketing investments in syndicates or financial services.

But, Wall Street firms contacted by *Business Insurance* spoke of the exchange's potential in cautious terms and many said they had little or no interest in getting involved.

A spokesman for Merrill Lynch said the firm was not considering marketing investments in syndicates at this time, but would continue to monitor the exchange to see if there's interest among the firm's clientele.

Dan Sargent, a partner in Salomon Brothers, a major investment banking firm, said the firm would probably not look to get involved in capitalization of syndicates since it normally deals with professional investors and the amounts needed to be raised for the syndicates are below what the firm normally handles.

He added that it was doubtful the firm would invest in the exchange on its own behalf because it was unlikely that such investment would yield a rate of return equivalent to the 15% plus that Salomon now enjoys on its portfolio. ■

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BI4

Record settlement in product suit?

Gun firm pays $6.8 million to attorney

By JERRY GEISEL

AUSTIN, Tex.—Remington Arms Co. Inc., the famed weapons manufacturer, agreed to pay $6.8 million to a prominent Texas defense attorney who was paralyzed from the waist down in a hunting accident last year.

Legal observers said the huge settlement may be the largest lump-sum payment in a single personal injury case in the history of tort law.

The lion's share of the settlement, though, is covered by insurance. Remington's primary liability insurance policy, underwritten by Liberty Mutual, has a $5 million limit with a $100,000 deductible. The remainder of the award is covered by Remington's excess insurers including Lloyd's of London.

Remington defense attorney Robert McKissick of Corpus Christi said he was "appalled" at the size of the settlement. Being forced to settle for such a high amount is indicative of the "current state of the product liability law . . . and the lack of any defense under the law," he said.

Mr. McKissick said tort reform is urgently needed to restore balance to the legal system. Thirteen product liability reform bills were introduced in the Texas state legislature last year, but none of the bills made it out of committee.

But plaintiff attorney Joseph Jamail of Houston, who represented the injured lawyer, John Coates, said the size of the injury will encourage Remington to make safer products.

"Anytime that I have been instrumental in trying to make things safer, then I'm gratified," Mr. Jamail said. "I'm not out to hurt any business . . . that is the furthest thing from my mind. But when we manufacture products we ought to produce them as carefully as possible so that people don't get hurt using them."

Mr. Jamail doubted if critics of the large settlement would be willing to change places with his client who lacks bowel and bladder control, never will be able to walk and has "lost some of the finer enjoyments in life."

The accident occurred Dec. 11, 1977, when 42-year-old Mr. Coates, a famed trial attorney who had specialized in defending insurance companies in product liability cases, set out on a hunting trip with his 16-year-old son Will and two Austin district court judges.

Will Coates stepped into the car with the three other hunters carrying a Remington Mohawk 600 rifle, a .243-caliber high-powered weapon used to hunt small game, primarily deer.

After getting into the car, one of the judges asked Will Coates if the rifle was loaded and if the safety catch was on. When young Mr. Coates answered yes to both questions, one of the persons suggested that he unload the weapon, according to Mr. Jamail.

Mr. Jamail said the Coates boy then pushed the safety from the on to off position, a step necessary to unload the rifle. While the youth was pushing the safety switch, the rifle discharged, severely wounding his father and leaving him paralyzed below the waist for life.

Mr. Jamail, who ironically was opposing Mr. Coates in a liability case at the time of the accident, sued in district court under the strict theory of liability.

He argued that the Mohawk rifle should have been manufactured so that the safety did not have to be taken off in order to unload it and that a discharge only should have been possible if the trigger was fully pulled.

But Remington attorney Mr. McKissick said the rifle was not defective and that the Coates accident could have been avoided by observing basic safety rules.

"You don't go carrying a loaded rifle into an automobile," he said. "And you don't point a weapon at someone you don't intend to fire at."

Mr. Jamail conceded that loaded weapons should not be brought into an automobile. "I don't dispute that. But damn it, a gun shouldn't explode just by using the safety," he argued.

Shortly after Remington agreed in court to pay Mr. Coates $6.8 million, the weapons manufacturer of Bridgeport, Conn., announced that it was recalling four different bolt-action guns made before February 1975, including the Mohawk 600, so that their trigger mechanisms can be replaced.

The recall is being made because "in some unusual circumstances it's possible to move the safety and trigger in such a way that subsequently moving the safety selector to the fire position could result in an accidental discharge," said Remington spokesman Edmund McCawley. ▪

Few injuries balloon costs

MILWAUKEE—Less than 2% of all workers compensation injuries account for more than 50% of all injury costs, says Employers Insurance of Wausau.

At the same time, president John Schoneman says his company's research indicates less than 6% of all injuries accounts for 94% of all injury costs.

These "vital few" and "very vital few" statistics—which can be broken down for various industries—can result in identifying the crucial injuries any industry must try to avoid, Mr. Schoneman observed. ▪

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Co-op attorney denies PBB claims paid too quickly

By ELLIS SIMON

LANSING—The attorney for the Michigan Farm Bureau rejects a judge's observation that the farmers co-op may have aggravated its problems with PBB claims by settling too quickly.

The judge's observation came as he cleared the Farm Bureau of any wrongdoing in the first case of PBB damages to come to trial.

In denying the $750,000 suit brought by Missaukee County dairy farmer Roy Tacoma, Judge William Peterson ruled that Farm Bureau contributed to "the needless destruction of animals exposed to low levels of PBB . . . by its initial reaction to the PBB accident in treating all cases alike and in settling claims as if PBB were as toxic as plaintiffs have claimed."

Polybrominated biphenyl (PBB), a toxic fire retardent, was introduced into the food cycle of Michigan dairy cattle between 1971 and 1974. The accident was the result of a shipping mix-up in which Farm Bureau received PBB instead of nitrous oxide from supplier and co-defendant Michigan Chemical Co. and added the poisonous substance to cattle feed.

To date, the two firms and their insurers have settled with 800 claimants for $40 million, exceeding the $8.6 million limit of Farm Bureau's liability insurance coverage and reaching well into the upper layers of the $28 million coverage maintained by Northwest Industries, parent of Michigan Chemical.

Despite Judge Peterson's opinion that Farm Bureau acted in haste by paying some claims without verifying that losses were the result of PBB, Kenneth McIntyre, attorney for the co-op, does not expect directors and officers suits to materialize.

He explained that with the state quarantining entire herds there was fear that the longer these animals were kept alive, the larger the claims would be and there would be greater potential for poisonings of humans.

The best way to handle the problem was to destroy the herds and eliminate the human health threat, Mr. McIntyre said, noting that both the defendants and their insurers were determined to cut their losses.

"Given the atmosphere of fear and scientific knowledge about the effects of PBB, I don't see how anyone can second guess us," he added.

However, Mr. McIntyre said he could see insurance companies in the future taking a slower approach to multi-claims situations as a result of Judge Peterson's opinion.

Auto-Owners Insurance Co., Firemen's Fund Insurance Co. and the New Hampshire Insurance Group wrote the Farm Bureau liability coverage. Northwest Industries was insured by Travelers Insurance Co., Aetna Casualty & Surety Insurance Co., Lloyd's of London, INA and American Home Assurance Co.

The Tacoma case was before Judge Peterson for 14 months and was the longest trial in Michigan history. Most of the time was spent with the plaintiffs arguing for $500,000 in punitive damages above their $250,000 compensatory damages claim, according to Mr. McIntyre.

Mr. Tacoma felt discriminated against because "we took his neighbors herds and paid their claims, but not his," Mr. McIntyre explained. A $40,000 settlement had been offered to Mr. Tacoma and his wife.

However, Judge Peterson ruled that PBB was not found in sufficient levels in Mr. Tacoma's cattle to have caused damage. The opinion stated that PBB is not harmful in small quantities.

Since no cause was found in the plaintiff's case, Mr. Tacoma was ordered to pay court costs plus legal fees of $30 per day. These expenses were estimated to run as high as $100,000.

While Mr. McIntyre said he was not surprised that no punitive damages were awarded, the finding of no cause did surprise him. However, he said this finding may have reflected the different types of scientific evidence presented by the paintiff and defense.

The defendants used controlled studies, while the plaintiffs based their case on after-the-fact information from other claimants, he explained.

Gary Schenck, attorney for Mr. Tacoma and approximately 80 other plaintiffs whose cases have yet to come to trial, did not return telephone calls for his comment.

However, he reportedly has said he intends to appeal Judge Peterson's decision. Mr. McIntyre noted, however, that the decision was based upon the judge's analysis of the facts and that an appellate court is unlikely to reverse such a ruling unless the interpretation of fact was found to be wrong.

What impact the Peterson ruling will have upon the other 160-plus PBB cases waiting to come to court plus a $119 million suit against Farm Bureau and Michigan Chemical filed in February by the state of Michigan is unclear.

However, Mr. McIntyre said plaintiffs will probably seek jury trials in the future and can't afford to spend another 18 months on a single trial. He added that Judge Peterson's decision will probably hurt the punitive damages request in the state's suit.

An assistant attorney general said the issues in the state's case are different from those raised by Mr. Tacoma. He added that the court is currently hearing arguments on whether the state has the right to seek recovery of damages for its expense in easing the PBB dilemma. A decision on that issue is expected by the end of November. ■

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editorial opinions

The IRS is nit-picking again

AS A STORY in this issue points out, the IRS considers it fair game to take off after some of the banking plans corporations are setting up with their insurers. What the IRS is apparently indicating is that there'll be much closer scrutiny in the future of programs that act as chronological stabilization tools. Some of these plans don't really involve any risk transfer, the IRS contends.

It doesn't appear that all kinds of retro plans will fall under the IRS's new category of plans not qualifying for valid tax deductions of premiums paid. But we're quite certain that the Steere Tank Lines case is a sign of fights to come, especially since very large corporate policyholders have been using their leverage increasingly in recent years to maneuver their insurers into the spot of agreeing to act as "fronts" for programs that basically allow the policyholder to deduct premiums while the insurer is taking no risk.

▪ Though few in the industry will admit openly that such practices are becoming widespread, or that the impact of the Steere case could be serious, conversations we've had with insurance buyers, brokers and insurers over the last five years indicate these programs are far from unusual or uncommon.

We believe the tax law prohibition against deductions for reasonable self-insured reserves is what has led to these banking plans (or zero-risk retro plans) in the first place. The laws should be changed, to allow self-insured reserves to be funded with before-tax dollars, allowing that such reserves are indeed necessary to fund future losses and that the practice doesn't constitute any illegal manipulation of taxable earnings.

But—and that's a big qualifier—given the existing tax law, the Steere case appears to us to have an important meaning for risk managers. It may set the stage for aggressive action by the IRS as it goes after companies simply using an insurance company as a conduit for self-insurance dollars, with the insurer in essence accepting a fee for the use of its name but not accepting any risk.

▪ The IRS is nit-picking, in our view. Self-insurance is an important tool for corporate financial managers and we don't understand why the IRS is fighting so hard to discourage self-funding among companies able to do so. There's a whole wagon load of reasons why self-insurance should be encouraged rather than frustrated. We'd like to see someone in the Carter Administration take an interest in this problem and take time to understand what self-insurance is and why it's necessary. Then maybe someone can convince the IRS to alter its stance on so important a subject.

Pompous HEW

ROBERT D. O'CONNER, from HEW, gave a talk recently at the fall conference of the Council on Employe Benefits in which he displayed an appalling lack of understanding about what employers are doing to hold down the costs of health care in order to keep a check on their benefit expenses.

Because employers pay many of the health care bills in this country under their company-provided health and medical benefit programs, it's only logical that employers would have been among the first to recognize the need to fight inflation in the healthcare field.

But Mr. O'Conner apparently didn't realize this as he insultingly addressed his benefit-manager audience in Washington on an almost-elementary level, belaboring the basic reasons for rising health care costs. Did he think that his listeners—some of the most influential and articulate benefit chiefs in the nation—didn't already understand the problem?

If the cap on hospital spending isn't adopted, he warned, benefit managers might have to start tackling the problem of rising health care costs themselves. What does Mr. O'Conner think benefit managers do, day in and day out?

He went on to suggest that next year, instead of inviting a government official to address this subject, benefit managers will be discussing among themselves what can be done to contain health care costs.

Mr. O'Conner and the rest of the Department of Health, Education and Welfare should take a closer look at the efforts already being made by the private sector to stem health care inflation and throw some government weight behind corporate efforts.

letters

Business Insurance welcomes letters from its readers. Please keep your comments as brief as possible and we reserve the right to edit or shorten letters for clarity or space. Please send your comments to Letters to the Editor, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611.

Kudos to Downes

To the editor: RE: Perspective. Over the years I have been a consistent reader of many of the trade and business publications affecting insurance. *Business Insurance*, from the beginning, has been one of my favorites. When I find the most current issue on my desk, after scanning the first page headlines, I then, usually, turn next to the "Perspective" page.

Peter Downes' recent analysis of how bureaucracies and bureaucrats function was a real masterpiece. His advice to risk managers would be good advice to anyone who is a part of, or works with a large, corporate or governmental structure. My compliments to him.

Bill H. Crandall
Senior vp, The Daniel and Henry Co. Insurance, St. Louis, Mo.

Honesty needed

To the editor: I was interested in your article dealing with St. Regis Paper Co.'s acquisition of Southland Paper Mills and the subsequent replacing of Southland's property coverages in Industrial Risk Insurers with St. Regis' carrier, the Factory Mutuals (Oct. 16).

It appears that IRI's coverage was due to expire one month after the acquisition, which didn't give Factory Mutuals sufficient time to engineer the risk. In order to secure this needed time, Southland's insurance manager blithely admits, "We played a little game with the renewals because we knew we would ultimately cancel. There was a faint hope of keeping the business, so they were willing to give extentions."

If Southland's insurance manager knew that IRI's covers would ultimately be canceled, it was a deception, not a "little game," to keep IRI expectantly hanging in there. Surely the needed extention would have been granted by IRI even though they were told the truth and knew they had no hope of retaining the business.

Where jumbo accounts are involved is honorable dealing with your insurance companies a thing of the past or am I being naive?

Peter R. I. Pine
Vp, Walke-Parks Insurance Corp., Norfolk, Va.

Reply to Otremba

To the editor: The "Perspective" section of your Oct. 2 issue includes a survey by Daniel S. Otremba that condemns the entire insurance industry for failure to

Continued on page 72

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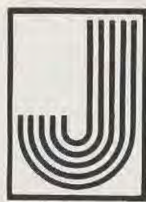

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Model tort reform bill slated for '79 unveiling

WASHINGTON—The Commerce Department plans to unveil in January a model product liability law that could be adopted by the states.

The model law would attempt to resolve the current uncertainties in the tort litigation system—one of the causes of high product liability insurance premiums—by establishing guidelines on a host of complex legal issues, according to Victor Schwartz, chairman of the Commerce Department task force on product liability and accident compensation.

Mr. Schwartz said the model law will be fair and balanced and "avoid the retroactive application of product liability law."

The model law represents one of the Commerce Department's long term solutions to resolve product liability problems. A short term solution—increasing the carryback period for product liability losses from three years to 10 years—was approved last month by Congress.

Mr. Schwartz said the model law, to be published in the Federal Register for public comment, will propose guidelines in a number of areas of the tort law including:

- What is the manufacturer's responsibility when a product is improperly designed or when the seller fails to warn of a possible hazard? Mr. Schwartz said this area of the law presents the most problems in finding a fair solution.
- What is a manufacturer's liability for unavoidable defects such as defects in new pharmaceutical products?
- Should compliance with industry or government safety standards be a relevant defense in a product liability case?
- Guidelines on the use of "expert" witnesses in a product liability case.
- Assessing a manufacturer's responsibility when a product has been used or has been altered.
- The relevance of punitive damages. "Should a manufacturer be subject time and time again to punitive damages" for the same defect, Mr. Schwartz said.

Turning to another area, Mr. Schwartz revealed that the Carter Administration failed to back a proposal that would have allowed businesses tax deductions for funds paid into a reserve to pay for product liability losses because of fears that the concept would be too costly and set an uncomfortable precedent.

Finally, Mr. Schwartz cautioned business groups on the use of the words "tort reform" as a label to identify the drive to change the law affecting product liability.

Consumer groups do not consider changes in the tort law that take away their right to receive fair compensation for injuries to be tort reform, Mr. Schwartz observed. ■

Edith Lichota

WASHINGTON—Boredom may be the biggest obstacle business groups face in trying to get state legislatures to pass product liability reform laws, Edith Lichota, assistant treasurer of the Carborundum Corp., told the RIMS-Chamber of Commerce seminar.

"As I travel around the country I get the feeling that interest in product liability may have peaked," Mrs. Lichota said. "So we have to work that much harder to stir up interest to get the reforms that are necessary."

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Michigan, Connecticut

Blues recruit firms for hypertension effort

CHICAGO—Employers in Michigan and Connecticut covered under Blue Cross/Blue Shield plans will soon be approached to participate in a pilot venture to detect and control hypertension, a condition which afflicts 15 million people in the American work force.

The project marks the second phase of a two-year study on work site hypertension control and follows a planning program headed by the BC & BS Assns. that began last November under a contract with the National Heart, Lung and Blood Institute.

To establish work-based hypertension programs the Michigan and Connecticut plans will follow guidelines set by the BC & BS Assns., the national coordinating arm for Blue Cross and Blue Shield plans.

- A program specialist and program coordinator will inventory an area to assess the service capabilities of local blood pressure control organizations. After getting this information, the planning staff will find organizations willing to work with Blue Cross.
- Marketing executives will be trained to sell the concept to employers. The executive must convince employers that this program can save him money while improving the overall health and risks of his employes.
- The program coordinator will act as a consultant to the employer to plan and implement a program tailored to the size and the needs of the employer.

According to Joan Miller, project manager for the BC & BS Assns., however, each program to be effective must screen employes, refer possible high blood pressure victims to doctors, push follow-up consultations with doctors and employes to make certain the person is hypertensive and then monitor all employes with hypertension.

"It is the follow-up consultation and the monitoring of the progress of the employe that makes this kind of program work," Ms. Miller added.

At this stage in the project, BC & BS will help employers give the employe supporting information to correct his condition through educational programs about medication and special diet plans.

For employers without an occupational health staff or the capacity to absorb one, Blue Cross has devised an alternate plan. According to Ms. Miller, 47% of the employers in Blue Cross plans do not have a health staff.

The plan, called "the circuit riding concept," consists of a team of professionals from outside sources such as health maintenance organizations or veteran's administration hospitals to implement the program for a number of small employers in the community.

The BC & BS will work out the financial details of such an arrangement and then provide the training materials to set up the system.

The Michigan plan with 4.5 million subscribers and the Connecticut plan with 1.2 million subscribers will test the project for 15 months. Based on the results of this testing period, training programs and project materials will be made available to all BC & BS plans across the nation.

"This project is one step in our effort to change the focus of health care toward one of early detection and treatment of disease," said Walter J. McNerney, president of the BC & BS Assns.

BC & BS plans provide health care for about 35% of the employed population in America. ■

More men killed

Accidental deaths have always been significantly higher among men than women, the American Council of Life Insurance says. Latest government data show that men die from accidents at a rate almost two-and-a-half times higher than women, says the Council.

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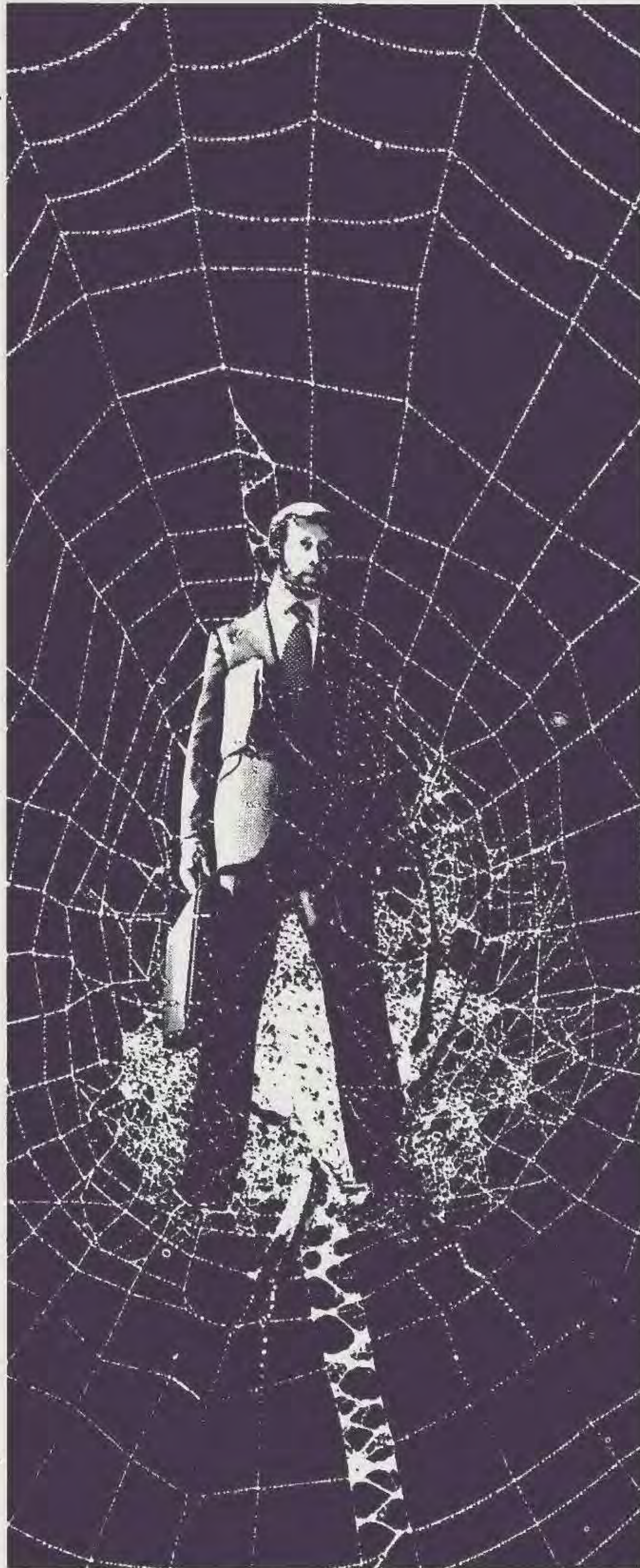

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Modeled after pioneer CIRCL

11 captives create new reinsurance outlet

By KATHRYN J. McINTYRE

GRAND CAYMAN—Eleven captive insurance companies are operating a new captive reinsurance company here, Cayman Overseas Reinsurance Assn. Ltd. (CORAL), for better access to reinsurance and risk shifting.

Modeled after the pioneer captive reinsurance company, Corporate Insurance & Reinsurance Co. Ltd. (CIRCL) in Bermuda, CORAL is designed for smaller companies and lower levels of insurance, said John W. Ray, director of Cayman Underwriters Services Ltd., which is managing CORAL.

"CORAL is not a competitor to CIRCL," Mr. Ray stressed. "CORAL is intended to give small companies more capacity and to help them grow," he explained, while CIRCL caters to large captives.

The new reinsurance facility, created at the request of captives managed by Cayman Underwriters, is further proof that captive insurers are branching beyond insuring just the risks of their parent companies as they were first created to do.

A captive's participation in a facility such as CORAL or CIRCL, where some of the captive's parent company's risks are transferred to others while unrelated business is assumed by the captive, can be interpreted as a captive's attempt to satisfy the IRS that tax deductions for premiums paid to the captive are warranted or as an effort by the captive to solidify its position as a profit center for the parent company—or both.

To join CORAL, a captive purchases 25 shares of common stock at $1,000 a share. In comparison, CIRCL requires $200,000, the cost of one share, for membership.

However, CORAL member and non-member captives with money to invest can purchase additional preferred stock in CORAL being issued at $1 a share to raise $1 million in additional capital for the fledgling reinsurer.

CORAL's capacity is now $3 million to $5 million with the goal of reaching $30 million to $40 million in a few years. The reinsurer expects to handle $750,000 in premiums in its four months of operation by year end 1978 and hopefully $12 million by the end of 1979.

The largest, and only publicly known, shareholder captive of CORAL is Charter Oil's captive St. Ives Insurance Co. Ltd., which is also a member of CIRCL and the owner of Cayman Underwriters.

Although he declined to release their names, Mr. Ray said the other 10 CORAL shareholders are the Cayman captives of two other oil companies, a large publishing company, a food and groceries association from New Orleans, an association of construction companies, three chains of insurance agencies from New York, Michigan and Texas, a food service company and an individual.

Two additional Bermuda captives may join CORAL, Mr. Ray said, but the big push was to gather 11 companies to establish CORAL in September as a non-controlled foreign corporation so its earnings for parent companies would not be immediately taxable in the U.S. CORAL plans to limit its membership to the high twenties, Mr. Ray noted.

The captives forming CORAL have made three-year commitments to the reinsurance facility. Charter Oil's St. Ives will also at least fulfill its remaining four-year commitment to CIRCL, Mr. Ray said, reinsuring its high layer excess with CIRCL and its primary insurance with CORAL through a fronting company.

"The reinsurance program in CORAL is very similar to CIRCL's," the management company director explained. Captives will offer their risks to an underwriting committee of CORAL directors, which will exclude the representative of the captive whose business is being considered. The committee will decide how much of the risk being offered CORAL it will accept and will offer shares of that risk to the captive shareholders of CORAL.

After members have taken their shares of the risk, CORAL will keep a portion of the risk and then reinsure the remainder. General Reinsurance Corp., which split with CIRCL after differences of opinion on underwriting, will be CORAL's treaty reinsurer, Mr. Ray confirmed. A representative of General Re will sit in on underwriting committee meetings and will be able to influence the committee's decisions since it can refuse to reinsure risks, Mr. Ray conceded.

There will be two reinsurance pools in CORAL, one for reinsurance on a treaty basis with General Re and the other for more difficult to place risks to be reinsured on a facultative basis with General Re and others.

CORAL shareholders are not obliged to offer risks to CORAL or to assume risks from CORAL. Neither is CORAL obliged to accept risks from its shareholders.

However, the program is designed to cede to each captive shareholder 80% of the business ceded to CORAL by its shareholders. It's also planned for CORAL to accept risks unrelated to its shareholders, from other captives and U.S. reinsurers, "to give CORAL shareholders additional premiums for more capacity," Mr. Ray explained.

Since ultimately shareholders of CORAL are at risk for the other shareholders' ability to meet their commitments, underwriting guidelines were established. No more than 10% of the capital and surplus of either a shareholder or CORAL is to be exposed to any one risk and premiums on all risks retained are not to exceed four times the capital and surplus.

Initially, CORAL will deal only in casualty risks.

Mr. Ray noted that while the reinsurance rates "overall will be a little less than market rates, no one is going to make a big savings in premiums in CORAL." To the extent that CORAL is eventually profitable, predicted to take three to four years after reserves are built up, shareholders placing insurance with CORAL will be awarded reduced premiums and policyholder dividends.

CORAL's real selling point, according to Mr. Ray, is it will allow parent companies to strengthen their insurance programs "because their captives will grow." In addition, risks that might not find reinsurance on the open market will hopefully be able to place it with CORAL. ■

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Jury rules Ford Capri defective, awards $3 million

LOS ANGELES—A 25-year-old woman, who was paralyzed in 1973 when her 1971 Capri struck a barrier on the Hollywood Freeway, has won a $3 million product injury verdict against Ford Motor Co. in Los Angeles superior court.

Plaintiff attorneys argued that Ford was liable for the injuries suffered by Patricia Robison of North Hollywood because the steering mechanism of her Capri was defective, causing her to strike the barrier in the freeway.

Ford will appeal the verdict, according to a company spokeswoman.

The $3 million verdict followed by only a few days an $11.5 million verdict in Los Angeles against Ford in the case of a college student who suffered permanent brain damage in a 1970 accident in a Lincoln Continental (*BI*, Oct. 30).

In the current case, Ford attorneys argued that Ms. Robison had had a fight with her boyfriend and had been speeding. The car maker also claimed that the plaintiff's car had not been properly repaired after an earlier accident.

Ms. Robison's $3 million verdict was arrived at after the jury had found her to be responsible for 39% of the accident and Ford 61%. The jury assessed damages at $5.3 million for medical care, pain and suffering and loss of earnings. However, that amount was reduced by 39%. ▪

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Million dollar awards grow, but rate slackens

CLEVELAND—Jury awards topping the $1 million mark continued their upward climb last year, but the rate of increase was sharply lower from previous years.

Fifty-six verdicts over $1 million were awarded in 1977, a 14.2% increase over the 49 $1 million awards in 1976. By contrast, $1 million awards jumped from 26 in 1975 to 49 in 1976, an 88% increase, according to Jury Verdict Research Inc., a legal research firm here which compiled the figures.

At the same time, the administrative office of the U.S. Courts reports that the number of product liability cases filed in U.S. district courts increased only slightly in the last year.

According to the court's preliminary annual report, 4,077 product liability cases were filed in U.S. courts in fiscal year 1977, which ended June 30, 1977. In fiscal year 1978, 4,372 cases were filed, a 7.2% increase over the previous year.

Between 1962 and 1977, at least 232 million dollar awards were made, according to the Cleveland research firm. The tally on a year-by-year basis is:

1962: 1	1970: 7
1963: 2	1971: 11
1964: 1	1972: 22
1965: 3	1973: 17
1966: 1	1974: 24
1967: 4	1975: 26
1968: 5	1976: 49
1969: 3	1977: 56

In a study of 188 million dollar awards, Jury Verdict Research found that California led the nation in big awards recording 45 million dollar verdicts. New York had 25 verdicts of $1 million or more, while Florida had 24 and Illinois 13.

Forty-four of the million dollar verdicts involved product liability while malpractice actions resulted in 27 such verdicts and auto accidents in 26.

Information sources for Jury Verdict Research include court clerks, newspaper clippings and attorneys who supply details on cases.

Furthermore, the million dollar awards figure refers only to jury verdicts. Usually, the final settlement after appeals and out-of-court settlements is substantially less than the initial award.

The report from the administrative office of the U.S. Courts revealed that the number of product liability cases filed in a state is not directly linked to the size of the state's population.

For example, Louisiana, the 20th most populous state, had 206 product liability cases filed in U.S. courts in fiscal year 1978, placing the state in the number five position in the number of cases filed.

South Carolina, the 26th largest state, also was the home of a lot of litigation. One hundred eighty-two product liability cases were filed in federal courts in fiscal year 1978, a 31.9% increase over the previous year and the sixth highest number in the country.

Texas overthrew Pennsylvania to gain the dubious distinction of having more product liability cases filed in federal court than any other state. The Lone Star state recorded 371 new product liability cases in fiscal year 1978 topping number two Pennsylvania's 348.

Third in the U.S. district court product liability standings was New York with 234 cases followed by Michigan with 207 cases.

Of the 50 states, Wyoming and North Dakota shared honors by tying for the fewest number of product liability cases filed in U.S. district courts in fiscal year 1978. Only eight product liability cases were filed in each of those state's federal courts. ▪

RIMCO moves

RIMCO Inc. has moved to larger offices at Meadow Park Central in Dallas. The risk management consulting firm is still in the same building but moved to accommodate its 42 persons.

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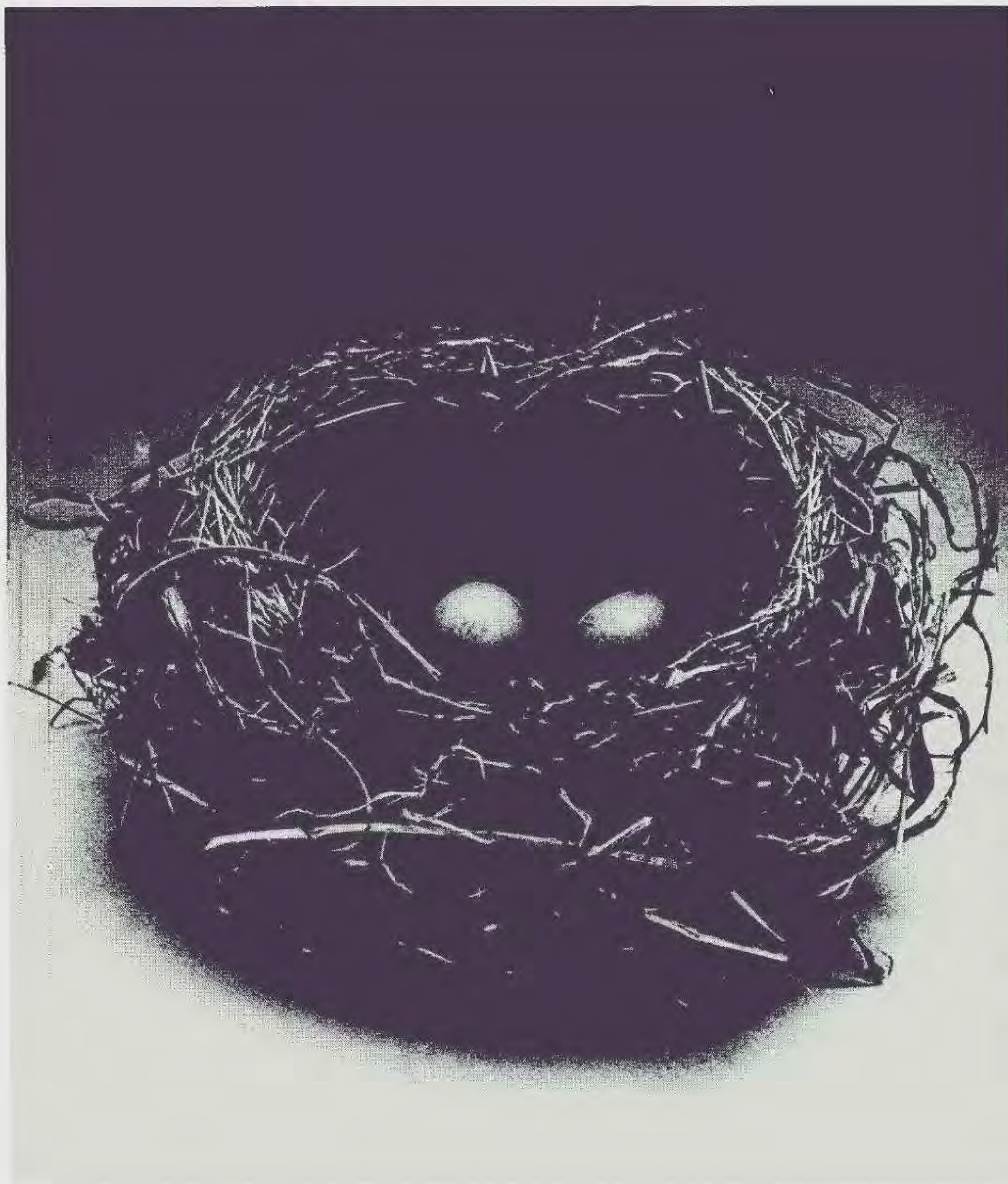

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Frozen food firms hope Bermuda melts premiums

By JERRY GEISEL

McLEAN, Va.—A trade association-owned captive domiciled in balmy Bermuda may be the right ingredient to melt rising liability insurance premiums for frozen food processors.

Food Industry Insurance Co. Ltd. (FIICO), the captive of the Frozen Food Institute, will offer policyholders $1 million of coverage on general liability risks, including product liability. An additional $5 of excess umbrella liability coverage also is available through FIICO.

FIICO is taking the first $50,000 of risk on an occurrence basis for the primary coverage. Scor Re, a Dallas-based reinsurer, is picking up the next $950,000 of risk, also on an occurrence basis.

Ninety-five per cent of the first $1 million of excess coverage is reinsured on a facultative basis while all excess above the $1 million mark is reinsured. American Re-Insurance Co. has been heavily involved in the excess reinsurance arrangements.

Unlike other trade association captives which often have used a licensed insurer to act as a "front," FIICO itself will be issuing policies. FIICO vp Jerry Wallin said the captive isn't large enough to justify the cost of "fronting" arrangements.

Like most other corporations, frozen food processors suddenly were hit with huge product liability insurance premium increases about two years ago. Premiums, in some cases, increased 10-fold in a couple of years, even though the loss experience of the industry had been excellent.

Some frozen food companies felt their premiums were being hiked to pay for insurers' product liability losses in other industries and that wasn't "quite right," Mr. Wallin said.

Ebasco Risk Management Consultants was retained to come up with alternative insurance options. After careful scrutiny of Frozen Food Institute members' claims experience, Ebasco recommended a Bermuda captive.

Bermuda edged out Colorado to base the captive because of tax advantages the British colony offers as well as the lower capitalization requirements. Under Colorado law, a trade association must have $750,000 in capital while Bermuda only requires $120,000 in capital. The association contributed the capital for the captive.

Policies currently are being issued. Of the 120 members of the Frozen Food Institute, five companies have purchased policies. Mr. Wallin expects that about half of the trade association members will buy FIICO policies.

Mr. Wallin said FIICO's annual premium flow should be between $400,000 and $500,000 after its first full year of operations. Five years from now, Mr. Wallin believes an annual premium flow of $1 million is possible.

Premiums are based on standard manual rates, though substantial discounts are available for companies with good claims experience. Mr. Wallin estimated that a typical FIICO policyholder is paying 25% to 30% less than under prior insurance arrangements.

FIICO is being managed by Insurance Brokerage & Management Co. Ltd. of Bermuda. Claims are being adjusted by Crawford & Co. on a fee basis.

Currently, a technical staffer from the Frozen Food Institute assists policyholders with loss control services. However, safety and loss control engineering services will be purchased as FIICO expands.

In order to join the program, a company must be a member of the Frozen Food Institute. The current 120 members of the association produce about 80% of the frozen food processed in the U.S.

Policies will be issued annually. After a year, rates will be reviewed and adjusted downward for members with favorable claims experience.

Policyholders are enthused about the reasonable cost of coverage and quick claims handling, Mr. Wallin said. While Mr. Wallin is encouraged at FIICO's progress, the captive isn't going to stop at providing only general liability coverage. Property coverage might be the next line FIICO will write, Mr. Wallin predicted. ▪

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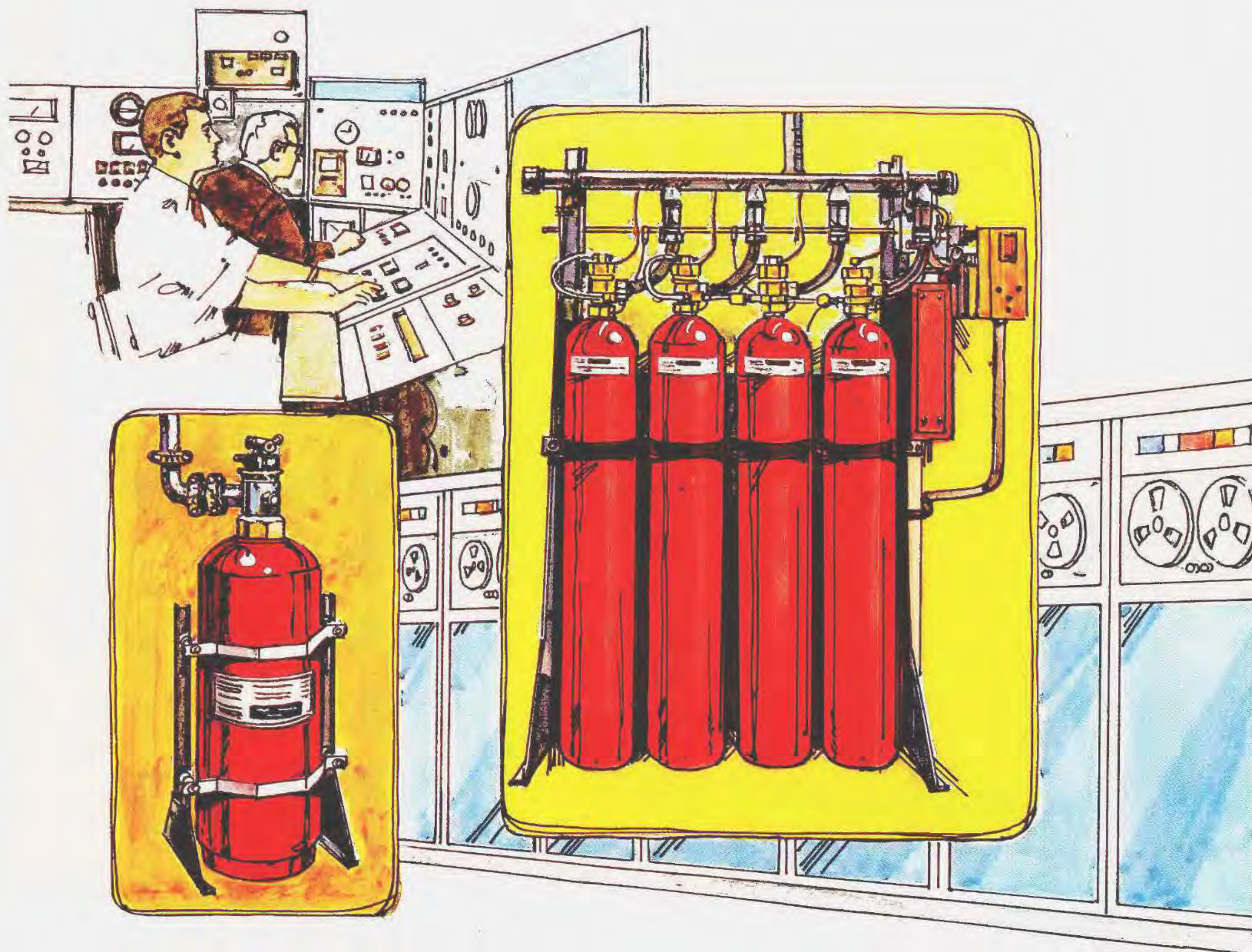

Carter sees quick impact for changes

WASHINGTON—The Carter Administration's reorganization plan designed to reduce various problems associated with the pension reform law will be implemented right away and will have "immediate tangible results," President Carter said following congressional approval of the plan.

The plan "will reduce substantially ERISA's administrative burden on both businesses and labor unions by reducing the time required to process applications for exemptions from prohibited transactions and accelerating the issuance of the remaining regulations," President Carter said.

Under the plan, which was approved last month, the Treasury Department now has primary jurisdiction for setting pension plan standards for funding, participation, vesting and benefits.

On the other hand the Labor Department will hold sway on establishing fiduciary standards for pension and welfare benefit plans. It will be up to Labor to issue exemptions from the prohibited transactions provisions of ERISA. ▪

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Since it's a custom-tailored program, the hospital isn't confined to a predetermined package, or paying big premiums based on sharing all risks and losses with other hospitals. In fact, with the savings on premiums and the income from the trust, a hospital can stabilize—and often dramatically improve its cash position.

With all the expensive, stop-gap measures being employed by hospitals in the wave of the malpractice crisis, this is the first really well developed, reasonable approach to hospital liability.

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around the states

North Dakota court voids medical malpractice law

BISMARCK—North Dakota's medical malpractice law is unconstitutional, the state supreme court says.

In an unanimous decision, the five justices upheld a decision by a district court judge in a suit brought by four state physicians.

The high court agreed with the district judge that the law violates the equal protection clause and due process provisions of the 14th amendment.

The law, enacted by the state legislature in 1977, requires health care providers to carry $100,000 worth of medical malpractice insurance to be licensed to practice medicine in North Dakota.

The statute also required doctors and hospitals to participate in a patient trust fund, administered by the state insurance commissioner, to cover malpractice claims up to $300,000.

The high court maintained the liability limit was too low compared with other states and violated physicians' rights to equal protection and due process.

The supreme court also ruled the law deprives defendants of the right to trial by jury. Under the law, patients could bring a malpractice suit in district court without a jury naming the fund as defendant.

Limiting the amount seriously injured patients can recover for medical negligence also violates the equal protection clause, the court said.

Maternity leave

OLYMPIA—The Washington State human rights commission has confirmed a commission regulation that denial of maternity leave is sex discrimination when sick leave is otherwise offered.

Wanda Bashay filed a discrimination complaint in March 1976, alleging she was denied maternity leave by the Tacoma-Pierce County Employes Credit Union when she became pregnant.

The commission-appointed tribunal decided that Ms. Bashay should be paid 4½ months' back pay, minus state unemployment payments she has received.

Psychological benefits

FRANKFORT, Ky.—A worker who said his psychological problems stemmed from a work-related injury failed to convince the Kentucky court of appeals that he is entitled to total occupational disability benefits.

The claimant, Robert E. Williamson, contended that psychiatric problems resulting from an injury at work rendered him totally occupationally disabled, although he admitted no physical problems remained from the injury.

The Kentucky workmen's compensation board rejected his claim and that decision was upheld by a circuit court.

State fund

ST. PAUL—A state-operated insurance fund to pay benefits to injured workers is one possibility for reducing workers compensation costs in Minnesota.

Democratic Sen. Steve Keefe said a study commission which has been looking at workers compensation for nearly two years will issue a report in December and will aim at a "substantial reduction" in rates.

Sen. Keefe is chairman of the study commission, which is composed of both public and legislative members.

He said one of his tentative conclusions is that private insurance companies, which now supply all workers compensation coverage in Minnesota, "have grown fat and lazy" under government protection. Private insurers are skimming 30 cents of each insurance dollar for overhead, while some state-operated funds get by on only eight cents for administrative costs, he charged.

N.D. tort reform

BISMARCK—A North Dakota interim legislative committee has passed a proposal to limit the scope of consumer lawsuits against manufacturers of products resulting in personal injury.

By a 6-4 margin, the legislative council's interim product liability committee voted to limit consumers from suing a manufacturer whose product resulted in death or injury.

Under the bill, consumers would be restricted from suing if an alteration of the product by the consumer caused the injury or death; if the product was not defective at the time of sale and was considered safe according to government standards and if 11 years elapsed from the date of manufacture or 10 years passed since the date or sale.

Two members of the committee questioned the constitutionality of the proposal.

Wage loss urged

TALLAHASSEE—Insurance commissioner Bill Gunter is imploring Florida legislators here to study a wage-loss approach to the compensation of permanent partial injuries.

Under the present system, permanent partial injuries comprise 4% of the state's workers compensation cases, but eats up 50% of the money paid out.

The wage-loss proposal offers a two-step system for compensating permanent partial injuries. First, the injured worker would receive a lump sum payment based on the medical severity of the impairment and then periodic payments based on proven record of actual wage loss.

Brainstormed by Miami attorney John Lewis and John Burton, professor of industrial and labor relations at Cornell University, the plan attempts to eliminate costly subjectivity in payment determination and forces insurance companies to increase emphasis on the rehabilitation of the worker.

The current law was repealed earlier this year and will expire July 1, 1979. ■

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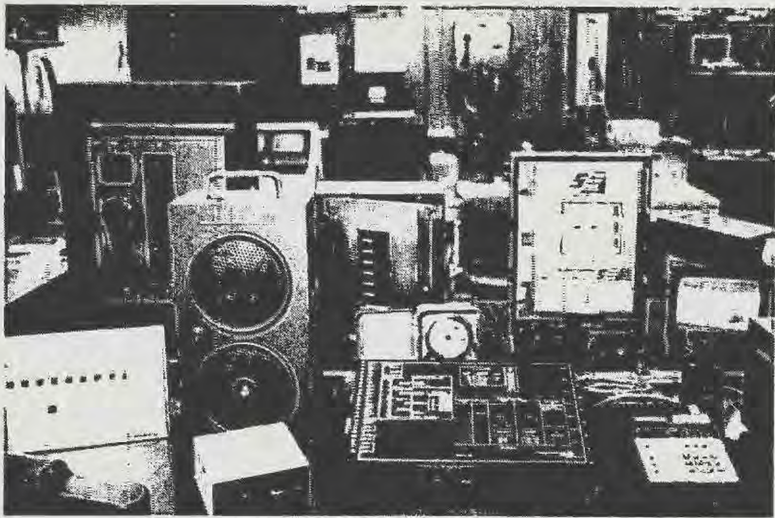

Photo: Mary Cairns

Electronic devices such as these, which can monitor access to sensitive areas and patrol hallways, parking garages and elevators via a camera, will eventually replace security guards.

Corporate men in blue replace watchman gear with suits, technology

By FRITZIE PANTOGA
Crain News Service

CHICAGO—Exit doorknob shakers, private eyes and night watchmen. Enter security representatives in blue blazers, investigators in three-piece suits, loss prevention experts with attache cases and calculators.

The security industry is going corporate.

The move away from the rent-a-cop mentality toward hire-a-security director parallels 10 years of phenomenal industry growth. In a 1970 study by Rand Corp., figures show that in 1969 $3.3 billion was spent on private security and outlays this year are expected to top $9 billion, with approximately $300 million spent in Chicago.

John Burke, chairman of Chicago chapter of the American Society of Industrial Security (ASIS), estimates that at least 200 area firms now have in-house or proprietary security directors who oversee everything from investigations of purse snatchings to emergency evacuations to executive protection.

He reports that the Chicago ASIS chapter, with 450 members who are either directors and managers of security or suppliers of goods and services, has doubled its membership in five years.

Corporations increasingly are eager to pay from $15,000 for a plant security chief to $80,000 for a director of security at a multinational corporation.

The rising crime rate, high cost of internal theft and increasing number of terrorist acts are contributing factors to the boom.

A less dramatic, but probably more direct cause for elaborate security programs is the advent of giant office buildings or vertical cities which local law enforcement agencies cannot police.

Security directors at Chicago's Sears Tower, IBM Plaza, CNA Plaza or the Standard Oil Building are charged with safekeeping of 10,000 to 12,000 people a day.

Budgets range from $500,000 to $2 million, excluding electronic equipment. Staffs range from 40 at CNA to 93 at Sears Tower.

In addition to six-figure operating budgets, these corporations have hefty investments in electronic equipment, closed circuit television, cameras, scanners, alarm systems, sprinkler systems, automatic locks, computerized locks and paging systems. One member of the Sears' security staff estimates that Sears Tower has $5 million in equipment at its skyscraper.

Kidnapings and bombings may make headlines, but they seem somewhat remote when you talk to Chicago security directors.

They will tell you in well-modulated tones that their jobs include investigations, emergency planning, screening of employes, protection of sensitive information and physical security.

Getting ever-so confidential, a few will acknowledge a growing concern for executives. "Yes, I believe terrorist activities will increase in this country." "Yes, kidnaping for profit is on the upswing." But this is not the daily fare.

The day-to-day activity of most security directors, unless they are heads of security for highly visible multi-national corporations, is as low-keyed as their beige-carpeted offices.

"Our function is to observe and report, patrol and protect," says Phillip Schmidt, head of building security at Standard Oil.

Mr. Schmidt, whose clean-cut, steely-eyed good looks would make him a candidate for a starring role on an FBI series, has no flair for the dramatic. He sticks to the book and talks about emergency procedures and concern for the safety of the occupants of the building. He and other area directors agree this is their number one concern.

At CNA, for instance, setting up and implementing emergency procedures is a big part of the security program. All security personnel have cardio-pulmonary resuscitation training and a few are paramedics. The security staff trains other CNA employes. Eugene Joyce, director of security, says six people on each floor assist with CPR training.

The security representatives also drill personnel on evacuation procedures. They have set up teams with one floor captain and four leaders, an organization similiar to Standard Oil's floor team system.

Safety of occupants also includes protection from crime. Twenty-year law enforcement veteran Arthur Bilek, who chaired the Private Security Advisory Council of the Law Enforcement Assistance Administration, points out that this is a relatively new function of security. "Years ago compa-

Continued on following page

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Chicago security . . .

Continued from preceding page
nies didn't give much thought to protecting employes from harm," he observes.

At CNA the protection policy begins in the lobby. Since the company instituted tight entry and exit controls in 1974, crimes like purse snatchings, thefts and assaults have dropped 37%, according to Mr. Joyce.

CNA employes are issued I.D. badges which they flash to enter the cordoned-off elevators. Visitors must stop at a reception booth in the lobby and register. If a visitor walks matter-of-factly toward the elevator without stopping, a security officer in a blue blazer will approach and ask, not too philosophically, "Where are you going?"

When you register at the booth the receptionist calls whomever you plan to see and confirms your appointment. You are issued a visitor's badge. Either the person you are to meet will come down and get you or security will escort you to that office.

It may seem like a lot of rigamarole for people to go through just to conduct business, but Mr. Joyce contends the employes don't mind. One woman who goes through a similar process in the CBS building remarked, "It's a hassle. On the other hand, I'm glad the guards are there when I come out at night because someone always walks me to my car."

The Standard Oil Building has an "open mode" operation during the day, closed mode at night. Mr. Schmidt points out that because the building is 40% tenant occupied people are constantly coming and going. "If we checked everyone, we'd have people lined up all day."

This does not mean you can go anywhere in the building. Access to some floors and offices is limited to those holding key cards, a computerized card used to unlock doors. Whenever a card is used, the activity is recorded on the computer. With a push of the button, Mr. Schmidt can tell who entered, where and when. If someone tries to use the card in an unauthorized area, it is also recorded.

In addition to these controls, both buildings have extensive closed circuit TV systems. Monitors sitting in a central security station watch scanners zero in on parking garages, exits and entrances, elevators and sensitive areas.

Both companies have between 40 and 45 people on staff. Security representatives monitor in and out traffic, patrol the building, monitor scanners, escort people in and out and investigate irregularities. Communications officers keep track of everyone via radio and pagers.

Neither Messrs. Schmidt nor Joyce are looking for heroes. All security personnel are instructed to report suspicious activity to the police. The prime purpose of security is not to apprehend, but to prevent crime.

The phrase "loss prevention" is frequently heard in security circles these days. Loss prevention is the corporate term for closing the door before the horse gets out. But first you have to find out which door is open.

A good loss prevention program includes a system of checks and balances—operational controls which deter theft. According to Mr. Bilek, these types of measures work better than hyped up security measures—hidden cameras, guards on loading docks and locks. ▪

Photo: Mary Cairns

Loss prevention is checks and balances more than hyped up security measures, says Arthur Bilek.

Private eye's crystal ball for security

CHICAGO—More than 20 years ago, a young Chicago police detective on a routine missing persons assignment uncovered some clues that led to the solving of a sensational teenage murder case.

The murder made headlines and the detective got a job in the Illinois state attorney's office.

Today, that detective, Arthur J. Bilek, is fighting crimes committed against business. He is regarded as one of the leading experts on private security in Illinois, having walked the corporate beat as the director of security for the Hilton Hotel chain and the director of security for CFS Continental.

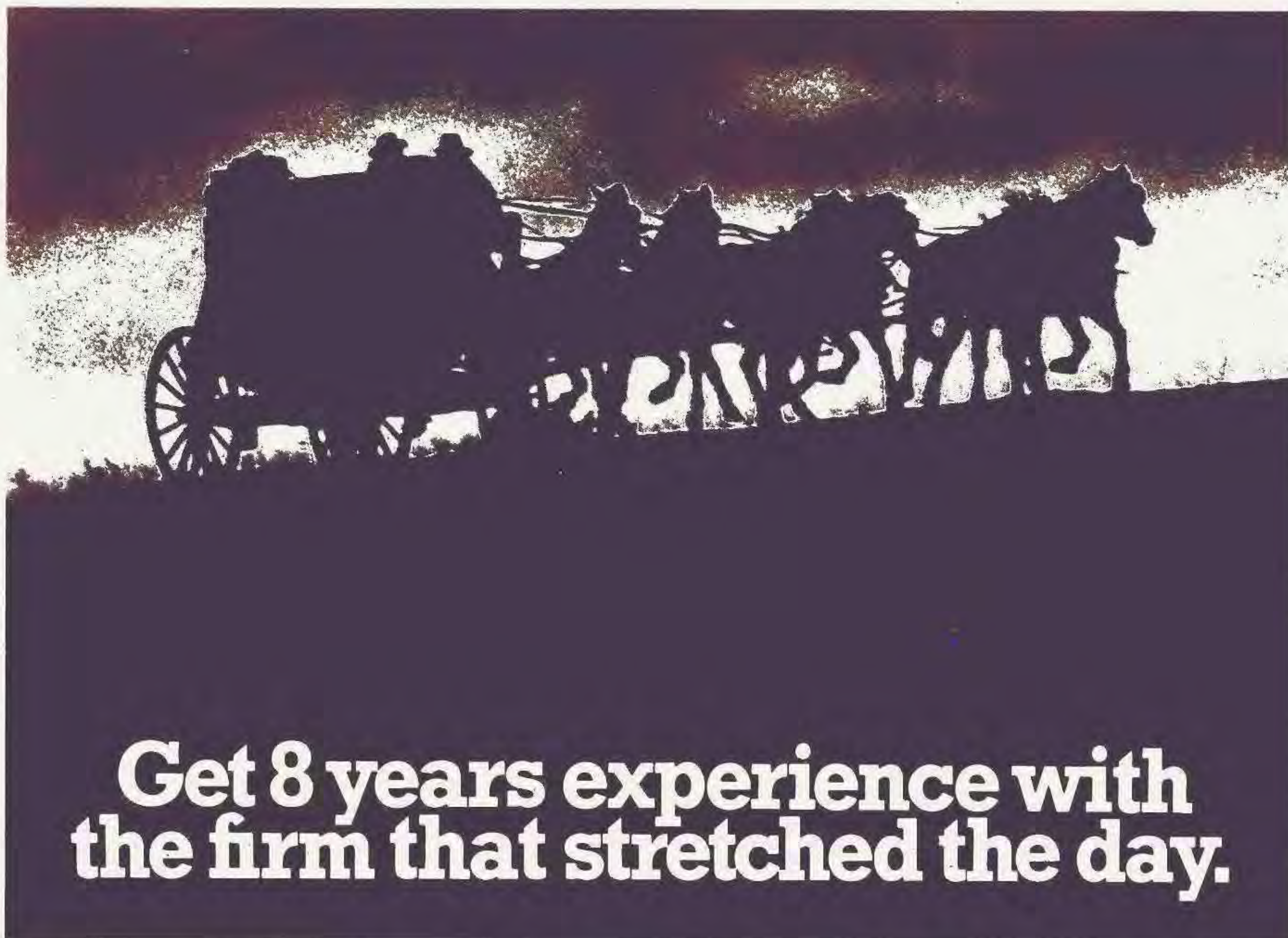
According to Mr. Bilek, more companies will be taking an increasingly aggressive approach to crime as the numbers of internal and external crimes increase. A more ominous possibility is the increase of terrorism in this country.

The private security role in developing defense strategies will expand because, he says, "The public law enforcement sector simply cannot meet this need in business."

Mr. Bilek believes the next 10 years will mark major changes in the business community relating to security. The developments he foresees are:

- Security directors will become part of a top management team which forms a corporate security policy.
- Because of their management roles, security directors will be MBA types rather than former law enforcement figures. "They won't be hired if they're not business wise."
- Directors will design total security packages including methods for screening applicants, ordering operational warehouse controls, purchasing a building with security in mind.
- Companies will cut back on security guards in favor of electronic devices, and the remaining security professionals will hold supervisory or managerial positions. The emphasis will be on quality as the role of the security guard changes.
- National and regional companies as well as multinational companies will set up cooperative programs to protect key executives.
- The relationship between security directors and law enforcement agencies will improve with increased sharing of information, particularly regarding terrorist activities and protection plans.

—*Fritzie Pantoga* ▪



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london line

14 nations meeting to up oil spill liability

By JOHN H. MILLER

LONDON—Delegates from 14 nations are meeting in the U.K. to work out final details of a new pollution agreement which will hike compensation for tanker "spills" to $36 million from $17 million in the near future.

The money will come from an international fund, to be known as the Fund Convention, to which major oil companies in the signatory countries will contribute.

But the U.S. government is not among the signatories to the convention, which has been under review since 1971 and has now been accepted by leading maritime nations such as Britain, France, Japan, the Scandinavia nations, West Germany and other shipping countries.

It will not have any immediate impact on the Amoco Cadiz affair, where the tanker's owners are the target for $1.5 billion in damages in lawsuits which have been brought in U.S. courts against Standard Oil of Indiana and its associate companies.

But it can play an important part in future compensation for oil spills if international agreements can be reached on the maximum amounts to be levied against oil companies or tanker owners for such disasters.

Because of the size of the Amoco Cadiz spill last March, the French government is already asking for the new fund to be prepared to lift its compensation facilities to $72 million.

Formal acceptance of the new fund will be welcomed by shipowners, oil companies and their insurers because they may reasonably know the limitation of damages which may be sought from them. But since many countries are still outside the scope of the new fund, voluntary contributions towards major oil spills are still being contemplated by oil companies through their scheme known as CRISTAL (contact regarding interim supplement to tanker liability for oil pollution) which has been in operation for the last several years.

French tanker fines

Tanker captains can be fined up to $1.2 million by the French Government for oil spills under plans which are being introduced to prevent further pollution problems after the Amoco Cadiz grounding.

Penalties for sailing too near the French coast or breaking marine traffic rules will rise to $240,000 for tanker owners if the French government adopts the strict new laws.

The penalties are more than the U.K. imposes, but the international organization IMCO (Inter-Governmental Consultative Organization) says, "Anything that will make the sea safer and avoid pollution is welcomed by us, as we feel that many fines in the past have been too low."

Tenerife blame

Blame for the disastrous air crash at Tenerife in March 1977 in which 583 people were killed is being put on the pilot of the KLM jumbo which collided with Pan Am's Boeing 747 on take-off.

But Dutch aviation authorities are already disputing the Spanish government report which claims that the pilot never got full clearance for getting airborne because of a radio mix-up.

Insurance sources in London say that it is unlikely that the findings of the Spanish aviation commission will have any material impact on the ultimate passenger liability settlements.

These are now expected to cost the insurance market between $80 and $90 million, making a total pay-out of under $150 million for both passenger and hull liability since the aircraft were valued at $63 million.

A majority of the passenger liability claims are understood to have been settled and are turning out to be less than was feared in the initial shock of the disaster, when some experts predicted that it might cost $400 million.

Realistic attitudes have been taken in negotiations between victims' relatives, their lawyers and insurers in the hope of achieving proper settlements, according to one leading U.K. source.

This has meant that shorter time has been expended in litigation than in the case of the Turkish DC10 crash in 1974, when Californian lawsuits led to final settlements of $62 million for the deaths of 340 people, with attorneys fees reaching just over $10 million according to judgments last year.

Individual settlements also reflect that many of the victims were retired families on holiday.

The London aviation market takes a substantial part of the insurance losses, probably close to 50%, so it is closely in touch with future developments.

Although in theory some insurers might try to subrogate claims against KLM if their pilot is ultimately deemed at fault, the general feeling is that this is unlikely, as the spread of insurance cover across the market is so wide that most firms would be involved in payouts to a large extent whoever is finally blamed.

The Spanish report, which is regarded at present as purely technical with no judicial backing, says the KLM pilot had received his route authorization but no takeoff clearance. The Dutch authorities claim the crew believed they had clearance and never heard any radio message to the contrary, partly because the control tower was apparently busy with the Pan Am aircraft at the same time.

The planes were diverted to Tenerife when a bomb threat closed the Spanish airport where both were to land.

But the Pan Am plane had taxied from the runway by an incorrect exit and this caused general confusion, according to the Spanish commission's findings.

British fires

Fire losses in the U.K. are running at 30% above last year, having topped $60 million in September, one of the worst results for five years for the British Insurance Assn. which represents more than 300 companies. Twelve-month losses total $625 million against $420 million for the comparable period 1977. ■

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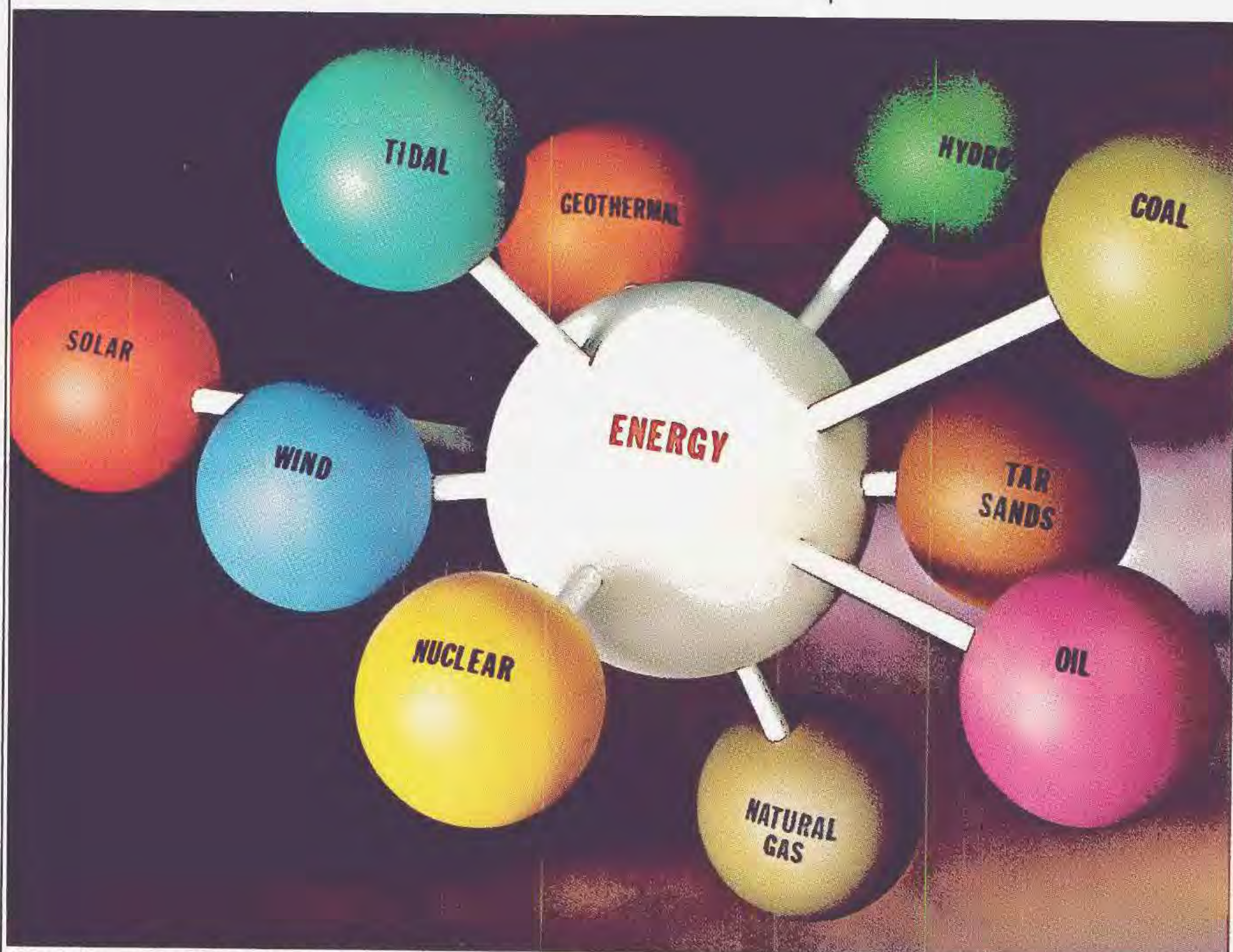

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riskWatch

Firms reap yield with personal budgeting benefit

By JOANNE GAMLIN

SAN FRANCISCO—A brand new, relatively low-cost fringe benefit is attracting the interest of some sizeable California companies. And that may be the reason why it is now poised to move East.

"Personal money management" is the name of the new game in town. What it entails is a 15-hour course in personal money management, including personal insurance and budgeting, investment principles, annuities, federal tax laws, retirement planning and some real estate, all packed into two back-to-back Saturday sessions and paid for in part by the employe participants.

In contrast to standard company-sponsored programs in personal money management generally limited to executive suite personnel, the companies offering the new personal money management courses to their work forces do so with no discrimination whatsoever based on income level or age or position. Most of the companies also add a brief education in the companies' own employe benefit programs in the hope that it may give their workers a fresh insight into the value and cost of other, more traditional benefits.

More important, said Timothy P. Carlson, financial vp for Acurex Corp. in Mountain View, Calif., the course "fulfills an enormous need."

Mr. Carlson, who with Roland M. Jones of Dillingham Corp., might be considered a missionary for the new benefit, regards it as not only as much needed, but also as a benefit that returns a good value to the sponsoring company.

"Compare it in dollars per year to any other employe benefit," he suggested. "For Acurex's health insurance premiums, we spend $650,000 a year. For the personal money management program we are spending nearly $3,000 or approximately $30 a couple for six classes a year that have about 15 couples."

Roland M. Jones, described by many observers as the prime mover behind the new benefit, brought personal money management to Dillingham two years ago, after the company had experimented with a program of hiring high-priced consultants to do financial counseling for a small number of executives earning six-figure salaries.

"After three years, they realized that this was not working and discontinued it," recalled Mr. Jones, a regional manager—human resources for Dillingham.

However, his own interest in the subject was up and Mr. Jones next met with the Menlo Park, Calif., investment management firm of Bailard, Biehl & Kaiser Inc. (BB&K). The firm aroused his curiosity because its three principals were authors of a fast-selling textbook in the field, appropriately called "Personal Money Management."

BB&K had experimented with giving courses in their speciality in the early 1970s in cooperation with such corporations as Hewitt Packard, Ampex and Standard Oil of California. These programs were never successful, however, probably because they relied too heavily on the utilization of the three men.

Dillingham then decided that offering personal money management programs to their entire work

Continued on following page

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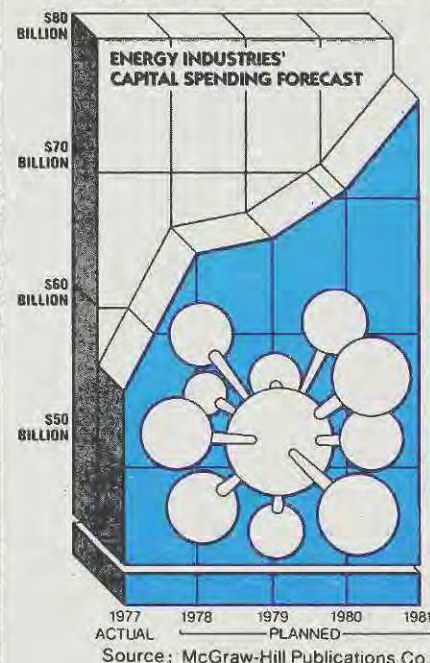

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riskWatch . . .

Continued from preceding page
force might be a better idea. Mr. Jones visited BB&K and afterward began work on a formal program that could be used for his company's employes.

In cooperation with the money management firm, Mr. Jones produced audio-visual tapes, 20-minute presentations that now account for about 40% of the course time of the companies sponsoring the benefit.

The use of the tapes, plus in-house training of the people who will serve as moderators, help to keep the costs of the benefit moderate, according to its proponents.

Mr. Jones now runs a training school for employes who want to be trained as course moderators.

According to the audio-visual tape, workers taking the course should be able to walk out armed with a number of new financial insights. These include a personal balance sheet, his/her tax situation, a personal forecast of financial needs and wants, a system of recording expenditures, a method of budget control, plus complete information on the other benefits offered by the company.

In short, says the tape, the course should do no less than transform money spenders into money managers.

Among the Bay Area companies that have offered the benefit for at least a year are Acurex and Castle & Cooke. Transamerica Corp. launched a course last July and the Bank of California and American Data Processing, located at Clifton, N.J., are on the verge of starting programs.

Spokesmen for all the firms agree on many aspects of their respective courses. First, spouses and live-in companions are urged to attend because the companies believe that the course is more effective when a couple combine their efforts at understanding its sometimes arcane message. Secondly, the companies all charge the employes who attend the program a nominal fee, say $15, for the privilege. Third, while the companies rely on the tapes and the course outlined as supplied by Mr. Jones, they also try to tailor the course to the needs of their own employes.

'You ask how many people in the class have a will . . . and you will find out that none of them do.'

—Timothy Carlson
Acurex

"We found the course to be too slim in real estate," notes Mr. Carlson of Acurex. He wrote a 'primer' on the topic to meet the high interest in residential real estate he observed among the participants of his company's program.

Significantly, both he and Rowland Miller, corporate director of organization and management development at Castle & Cooke, agree that the program has been an all-around eye opener for all involved.

"No matter what their income level, I found that the program participants were all screwed up financially," said Mr. Miller.

Mr. Carlson agreed that he was appalled at the ignorance of his employes on the subject of wills. "You ask how many people in the class have a will," he said, "and you find out that none of them do."

Similarly, he discovered that people are naive about the impact that future inflation will have on the remainder of their lives. To bring this message home, Acurex uses the example of a man who earns $12,000 a year and a woman who makes $8,000, both aged 40, will need the staggering sum of $750,000 to survive successfully after retirement if inflation for the next 25 years averages only a gentle 5%.

This never fails to jolt employes, he observes.

Does the idea of liability for what could be called bad financial advice ever make sponsoring companies jittery? Mr. Jones acknowledged that he was troubled at first by the specter of lawsuits. But those fears have vanished.

Keith Bloomfield of American Data Processing of New Jersey, a firm which so far has run only a pilot program for its San Francisco based employes, and Kathi Johnson of Transamerica both agree that their firms have little or no liability fears.

"We cover all the topics on a pro and con basis," Ms. Johnson said. "We emphasize that we are not speaking as experts and that we are not speaking for Transamerica." ■

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OSHA fines NL smelter

WASHINGTON—The Occupational Safety & Health Administration (OSHA) slapped NL Industries with a total of $155,000 in fines after finding 14 health violations at the firm's Beach Grove, Ind., lead smelter.

NL Industries was fined $10,000 for each of 12 "willful" violations, $4,000 for a repeat violation and $31,000 for failing to correct health problems uncovered by OSHA during a 1976 inspection.

OSHA said the company didn't properly use and maintain respirator equipment needed to protect workers from lead. OSHA also alleged that the firm permitted the storage and consumption of food and beverages in areas contaminated with lead. NL Industries said the fine was "without merit" and it plans to appeal. ■

Public risk managers open doors for new group

WASHINGTON—PRIMA, the national organization for public risk and insurance managers, is about to set down roots with a formal membership drive in the next month.

A brochure about the Public Risk & Insurance Management Assn. and the first of what is hoped will be monthly newsletters from PRIMA will be mailed out by next month. Those on the mailing list of the International City Management Assn. and the over 100 persons who requested information when the founding of PRIMA was announced last May will receive the mailing, said Natalie Wasserman, staff coordinator for PRIMA at the ICMA.

The ICMA Public Service Center here is tending to PRIMA's development in an effort to fulfill a commitment to the underwriters of a public officials liability insurance program that ICMA would expand risk management awareness in government (*BI*, May 15).

Offering cities, counties, states and other political subdivisions a forum for their risk management concerns, PRIMA is asking governmental entities to fork over a $50 annual membership fee to the association. Only governments are being invited to join PRIMA, to the exclusion of insurance vendors.

Initially, PRIMA's activities as a clearinghouse of information for the public risk manager will be focused on the monthly newsletter, Ms. Wasserman said.

PRIMA president Dennis Tweedale, risk manager of Madison, Wis., hopes the newsletter will be filled with "how-to" stories submitted by members. "There could be safety stories, such as 'We had a problem with people blocking fire doors and this is how we solved it,' " he suggested.

The newsletter will also feature a column discussing the latest court decisions affecting public liability and a listing of job openings in public risk management as they are sent into PRIMA, noted Ms. Wasserman.

Mr. Tweedale is also anticipating PRIMA will offer public risk managers a vehicle for expressing their concerns to other public interest groups. He recently read, for example, that the American Bar Assn. is preparing a model procurement quote for use by municipalities and he's concerned the document could suggest all insurance be put out for bid when municipalities fare better negotiating their insurance.

While Mr. Tweedale intends to follow-up on this matter, PRIMA would be the ideal organization to pursue such concerns in the future, he noted, as well as serving as a source of information on insurance for public entities for groups such as the ABA.

Eventually, it's hoped PRIMA will branch out by conducting research projects for its members, sponsoring seminars and maintaining a speakers bureau. An annual PRIMA meeting is targeted as another chance for government risk managers to get together other than during the industry session at the annual Risk & Insurance Management Society meeting.

"But we're certainly not going to take the place of RIMS," stresses board member Betty Conner, insurance coordinator for Memphis, Tenn. "We want to expand our section of risk management," she explained, "since there are a lot of problems unique to government risk management."

"We're envisioning a membership of all municipalities throughout the country who are looking for an organization that will hopefully provide them with the organizational and educational tools to help them maintain a professional risk management program," said Robert M. Bieber, PRIMA board member and risk manager for Westchester County, N.Y.

The ICMA has estimated there are 89,000 persons in governments across the country who could benefit from involvement with PRIMA, the majority of whom handle risk management and insurance duties on a part-time basis. Mr. Tweedale suggests PRIMA should also view itself as a service organization for smaller communities.

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For more information on PRIMA, contact Natalie Wasserman, ICMA Public Service Center, 1140 Connecticut Ave. N.W., Washington, D.C. 20036.

Idaho firm trustees sued

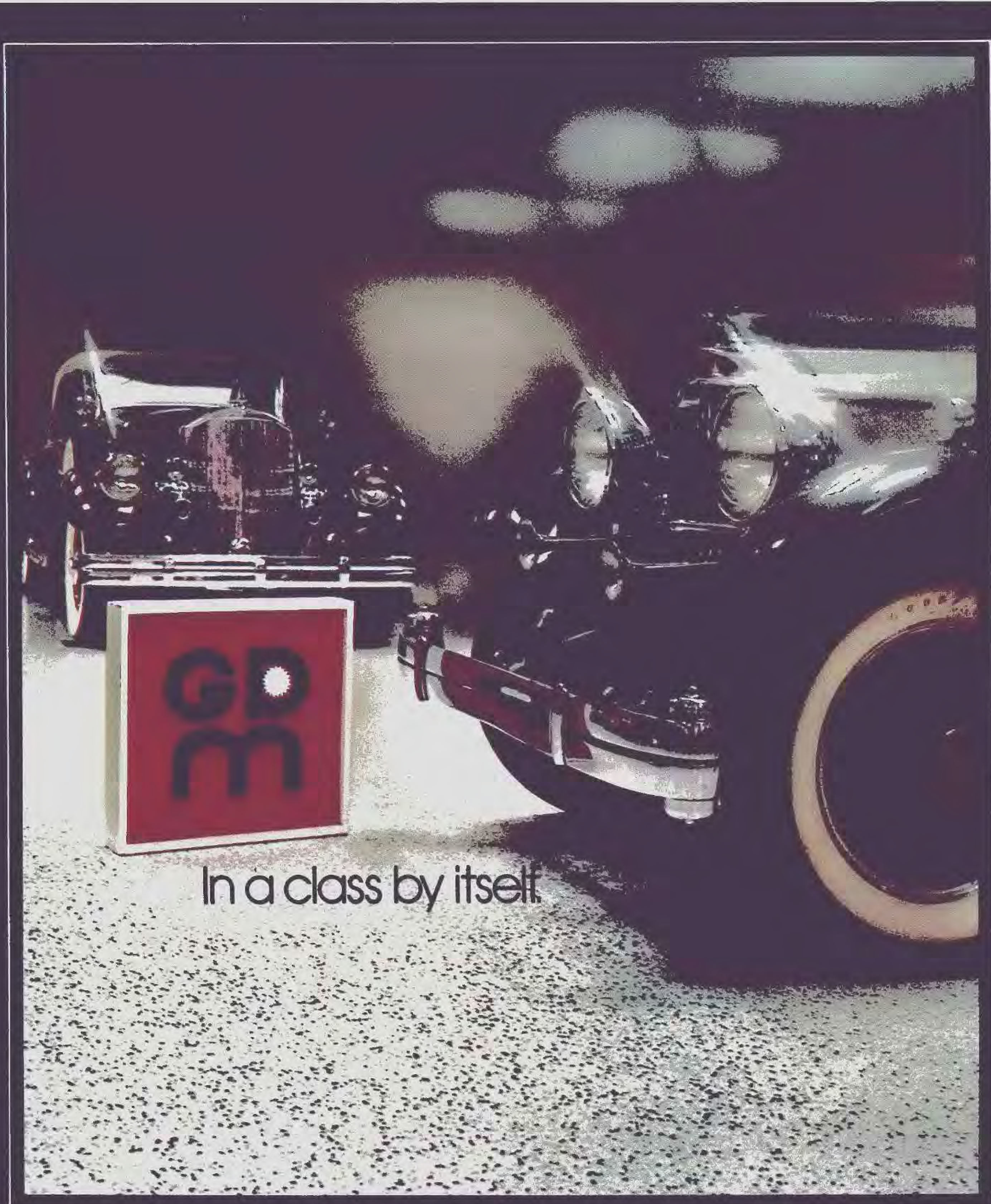
BOISE—The government is suing trustees of the Zweigart Packing Corp. Profit Sharing Trust, charging the trustees with a number of violations of the pension reform law.

According to the Labor Department suit, the trustees loaned more than $330,000—virtually all the trust's assets—to the Zweigart Packing Corp. of Pocatello, Idaho, and failed to demand prompt repayment of the loan before the corporation went out of business in 1977.

The suit, which was filed in U.S. district court here, asks that the defendants be removed as fiduciaries and reimburse the trust for amounts lost as a result of their alleged misconduct.

Named as defendants in the suit are Fred Zweigart Sr., Fred Zweigart Jr., Billy Yowell, Vernard Swartz, Theo Whittle and Dale Jones.

Under ERISA, fiduciaries must act with undivided loyalty on behalf of the participants and beneficiaries of a pension plan and may not use control over plan assets to benefit themselves or the corporation. ■



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Directors' and

Corporate managers and directors are being held personally liable under the law for a widening range of their actions. Their greater vulnerability to claims and awards has stepped up the demand for liability insurance.

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

If one of the officers of a company fails to obtain competitive bids for a major purchase, can he wind up being held personally responsible for a court judgment against him?

The answer is that he certainly can. In general, should a corporate director or officer act mistakenly or negligently – or should he fail to act at all when action is required – his personal assets may ultimately be at stake. Directors and officers have been held personally liable by courts for such acts as improvident investment of corporate funds in a proxy fight and failure to exercise reasonable care in the selection of a bank. And with new responsibilities resulting from closer government regulation of business, the likelihood of an executive slipup has grown considerably.

Unquestionably, officers and directors are being sued these days with increasing frequency and for ever-greater amounts. This has led to something of a run on liability insurance for directors and officers, with rates going up and coverages not always available.

Asking hard questions

To fulfill their obligations today, directors and officers should be exceptionally well-informed on the overall management of their company. In particular, a director is expected to make a reasonable investigation – at first hand, if need be – of the transactions in which he participates as a board member. This includes such matters as corporate financing and financial reporting, the issuing of securities, proposed mergers and acquisitions and the like. And an officer has a specific responsibility to use reasonable care in overseeing the day-to-day activities of company employees.

But even though officers and directors may act objectively, carefully and diligently, their

Officers' Liability

management of corporate affairs is never immune from attack. Every act performed by a director or officer that results in a loss of any kind should be viewed as a potential source of a lawsuit.

Reasonable prudence

In the event of a suit, the "prudent man" rule may furnish a defense for the officer or director. If it can be shown that he did everything an ordinary prudent man would have done under the circumstances, he may well be on his way to a successful defense. And if he acted in good faith and in the best interests of the company as he saw them, he will usually be reimbursed or indemnified by his company for any legal fees and judgments incurred.

In turn, one part of a directors' and officers' insurance policy covers the company when it makes such reimbursements. And when company indemnification is not available, another part of the policy can provide for the direct reimbursement of an officer or director.

Most sizable corporations today – including over 90% of the firms listed on the New York Stock Exchange – carry directors' and officers' liability insurance in amounts ranging from $5 million to $60 million and more. The premiums paid usually reflect the company's relative vulnerability to litigation.

Corporate targets

What makes a company particularly susceptible to litigation involving directors and officers?

Aside from sheer size, a company with a number of unprofitable years is much more likely to be the object of lawsuits than is a consistently profitable one. Diversified companies are more litigation-prone than those in a single type of business, as are companies engaged in acquisitions. And publicly held companies are more vulnerable than private or closely held companies.

Stockholders and stockholder classes are frequent plaintiffs in actions brought against publicly held companies and their directors. Employees and former employees, customers, government agencies and prior owners of acquired companies are also potential plaintiffs.

Directors' and officers' liability is a specialized form of insurance. INA is one of the major carriers providing this coverage for companies of all sizes and is able to meet the specialized needs of larger companies for such protection.

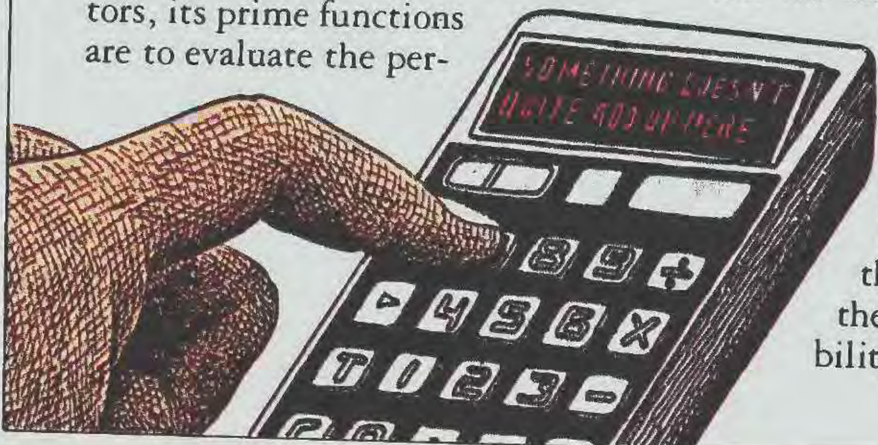
* * *

The Insurance Company of North America was founded in 1792 in Independence Hall, Philadelphia. Today it is the largest component of INA Corporation's international network of insurance and financial service companies. In property and casualty insurance and risk management services, life and group insurance, health care management, and investment banking, INA and its affiliated companies offer a unique combination of products and services to business and industry around the world.

INA insurance products and services are available through selected independent agents and brokers. For an informative booklet on current trends in directors' and officers' liability, write INA, 1600 Arch Street, Philadelphia, Pa. 19101.

The board room's "super sleuths"

One of the most effective loss-prevention measures for dealing with directors' and officers' liability is the audit committee. Usually composed solely of outside directors, its prime functions are to evaluate the performance of the company's independent auditors, assure the effectiveness of internal accounting and controls systems, and test the reliability of all financial information. If the committee successfully fulfills these obligations, it can hold down the liability exposure of the board – as well as the premiums for liability insurance.



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The Professionals

Take us for instance. Not long ago some very attractive rates for architects and engineers showed up on the professional liability scene. So attractive, we didn't see how such rates could provide adequate coverage and service. Nevertheless, those rates lured a lot of design professionals—some even away from us.

Sure enough, the new rates turned out to be too low to meet the costs of even the sketchiest coverage. Architects and engineers who thought they were getting a deal are beginning to see hefty increases, while our rates have only increased modestly.

We're not surprised. It's been 21 years since we sat down with AIA, NSPE and Continental Casualty Co., one of the CNA insurance companies, and came up with a breakthrough in liability coverage. In that time, we've seen insurance companies come and go, making plenty of mistakes along the way. It is just as true now as then—there just aren't many corners to be cut in this business.

That's why we have always offered a total program rather than just a series of policies. From the most comprehensive loss prevention service in the industry to the only coast-to-coast team of expert defense attorneys, we give your client his money's worth. That's why we've got a record of consistent leadership. That's why ours is the only program commended by AIA and NSPE.

If your client is one of those who left us for what seemed to be greener pastures, he's probably watching them turn brown now. Consider this: he's got nothing to lose and plenty to gain by coming back. In fact, from a cost standpoint, he'll find we look very good. Especially after what's happened while he was away.

So before your client calls you first, get a quote from us. But don't be surprised if our line's busy.

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PERSPECTIVE

Firms must retire obstacle course in revising benefits for older workers

By Kenneth Keene

BY NOW, MOST EXECUTIVES are aware that the Age Discrimination in Employment Act (ADEA) amendments, passed last May, raised the protected age to age 70 from age 65. On Jan. 1, 1979, employers covered by ADEA cannot discriminate in their hiring and employment practices for any individual up to age 70.

What this probably means to employers was spelled out—sort of—by the Department of Labor with its recent announcement of proposed regulations to implement the amendments. What the proposed regulations contain is nothing quite as simple as calling for an end to age discrimination practices up to age 70. Rather, they are more like an obstacle course which redefines how over-65ers must be treated under employe benefit plans.

For employers—who may not be aware of the proposed regulations—this means a cautious, thorough second-thinking of their benefit plan practices. If issued in their present form, the DOL's proposed regulations will affect nearly every aspect of plan administration and design.

Here's just a sampling of what the proposed regulations are calling for:

- Benefits can be reduced in plans where age is an actuarially significant factor in plan design. (By DOL's reasoning, vacation or sick-leave plans would not meet this criterion; life insurance plans would.) However, benefits can only be reduced to the point where cost-equivalency is reached; that is, the cost of a particular benefit for an older employe must be the equivalent of the cost of that same benefit for a younger employe.
- Any adjustments in benefits must be done on a benefit-by-benefit basis and not as a package. The DOL's reasoning is that individuals have different needs. A package approach might deprive an individual of a benefit of particular value to him "in a way unjustified by the age-related costs of that benefit."
- Whatever benefit adjustments are made, they must be done on a year-by-year basis. For example, the cost of providing a benefit at age 65 must equal the cost of providing that same benefit at age 64; benefit cost at age 66 must equal that at age 65 and so on. Reducing benefits based on age grouping—e.g., going from ages 60-64 to ages 65-69—will not be permitted. It penalizes younger employes in each age grouping and DOL says it cannot be justified using the cost-equivalent test.
- Greater contributions by an older employe cannot be required as a condition of employment of plan participation to maintain the same level of benefits as a younger employe. However, an employe can be permitted to make additional contributions to maintain his prior benefit level.
- Regarding defined benefit pension plans, an employer will not be required to credit years of service for purposes of benefit accrual after normal retirement age. The employer is not required to pay the actuarial equivalent of normal retirement benefits to an employe who retires after working beyond the normal retirement age, nor will employers be required to begin benefit payments before actual retirement date.
- Regarding defined contribution plans, a "non-supplemental" plan can cease contributions at normal retirement age. A supplemental plan (e.g., an employer's profit sharing plan is a supplemental plan if that employer also maintains a defined benefit plan for the employe) cannot cease contributions at normal retirement age.
- Group life insurance coverage can be reduced if it is cost-justified, but it cannot be discontinued below age 70 except upon an employe's separation from service. The proposal permits an 8% yearly reduction in coverage for employes between age 65 and 70; greater reductions must be cost-justified. Presumably, if the plan starts the reductions prior to age 65, this will be allowed where cost-justified.
- On health insurance, the DOL proposal lacks crispness. DOL states that a general guideline is difficult. "Reductions may not be concentrated on certain items so as to make coverage less attractive to older workers. As a result of the savings to employers when benefits are available through Medicare, reductions in total health benefits for employes age 65 to 70 will not be justified."
- Long term disability is handled in the proposed regulations through two alternatives. DOL will decide later which approach it will adopt. The first alternative would not permit cutoff of any LTD benefits before age 70. The second would permit the cutoff of benefits at age 65 if the disability occurred prior to age 60. If the disability occurred after 60, then LTD benefits must continue during disability for five years or, if less, up to age 70.

Many finer points are covered in these regulations, but the ones listed above are more than enough to give employers a taste of what they have to grapple with. While the regulations are, indeed, only proposed ones, employers should not become too hopeful that final regulations will be any less strin-

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The new regulations on older workers' benefits mean a careful rethinking of employers' benefit plan practices.

Photo: Mary Cairns

Kenneth Keene, senior vp and director of Johnson & Higgins in New York, is a noted employe benefit expert and a frequent contributor to these Perspective pages.

Bankers bond: Getting what you expect?

By James A. Cook Jr.

ALL BANKERS UNDERSTAND the significance of bankers blanket bonds. After all, according to the policy, the insurer, subject to the terms of the bond, indemnifies and holds harmless the insured with respect to losses sustained at any time but discovered during the bond period. The insurance agreements include protection against losses through dishonest or fraudulent acts. However, what you see and what you get may be two different things.

From time to time, the bankers blanket bond receives more than passing attention in various discussions and publications. Often this has occurred subsequent to business recessions, as happened in the mid-1970s. Apparently, more losses through dishonesty are discovered during such periods. Comments have been focused on the increasing cost of bankers blanket bonds and restrictions in coverage through riders. A general feeling has developed of "what is going to change next?"

Obviously, the most severe problems are faced by those banks who, for one reason or another, discover that they are unable to obtain fidelity coverage from any insurer.

Union Planters National Bank of Memphis endured an extremely unpleasant experience with its bankers blanket bond coverage in the mid-1970s. Between September 1974 and January 1975, the bank filed five fidelity bond claims against its former insurer. The total of the claims exceeded $25 million; however, the maximum recoverable under the policies totaled approximately $16 million.

'We learned the hard way that recovering any amount under a bond claim is very time-consuming and expensive.'

Subsequently, the bank spent more than $750,000 pursuing the five bond claims. Finally, on June 10, 1977, a state circuit court jury awarded us $4.5 million on one of the five claims. Subsequently, the bonding company filed an appeal; however, in October 1978, the Tennessee court of appeals affirmed the circuit court verdict and increased the award by approximately $35,000. On July 1, 1977, the bank and its bonding companies agreed to a $6.3 million cash settlement on the remaining four claims. (*Business Insurance*, June 27, 1977.)

The experience at Union Planters was unpleasant, but apparently not unique. We learned the hard way that recovering any amount under a bond claim is very time-consuming and expensive. We learned that complying with the policy requirements by providing sufficient documentation to support proofs of loss and promptly furnishing representatives of the insurance company with all requests was not enough to recover within a reasonable time under our policy.

The experience was particularly difficult for Union Planters because the bank, at yearend 1974, had recorded as an asset on the balance sheet "bond claims receivable" totaling $10 million—in excess of 15% of stockholders' equity. Unfortunately, in Tennessee there is no provision for penalties in cases of bad faith by a fidelity bond carrier and interest is not usually recoverable under a fidelity claim prior to a judgment.

Therefore, for a period of more than two and one half years, we had a $10 million non-earning asset until we could obtain payment of claims or be awarded a judgment by the courts.

For the most part, Union Planters learned by experience about fidelity bonds and the results of filing related claims. We found out that, except for a few isolated technical publications, there is very little written about the subject. Hence, there was very little to guide us, our attorneys and others regarding procedure under fidelity bond claims.

This lack of public information probably has resulted from an unwillingness (uneasiness) of most people to publicize the results of their experiences of this nature. It also is deeply rooted in the insurance industry's reluctance to disclose information about claims, perhaps for fear of providing others with suggestions on how to commit crimes. In addition, the insurance industry has been unproductive in publishing information about loss prevention techniques.

The delays encountered by Union Planters in recovering under its bond provide some valuable insight into tactics used by certain bonding companies to delay payment of legitimate claims. We followed the standard procedures stated in the standard form bankers blanket bond. These included filing notices and proofs of loss within the time limitations provided. Included with the proofs were the voluminous exhibits and attachments required to support our position.

Shortly after filing the proofs, the bank was visited by the insurer's local counsel. Shortly thereafter, several CPAs hired by the insurer's attorneys also visited the bank. At this time, the "stretch-out" began. The

Continued on page 46

James A. Cook Jr. is senior vp of Union Planters National Bank in Memphis, Tenn.

PERSPECTIVE

High paid executives' disability plans often don't restore income

By Steven N. Schrenzel

THE SENIOR EXECUTIVE faces a unique problem: The janitor often has better disability benefits than the president.

Suppose for a moment that one morning as you arrive at your office you are confronted by the news that one of your associates has been seriously injured in a freak accident such as a fall down a flight of stairs he had walked every day of his adult life. Your first reaction is relief that your friend and colleague wasn't killed. Your next reaction will be to ask how long he will be away from work. Your concern will be honest and sincere, perhaps motivated in part by the thought that some extra responsibility might find its way to your office.

The rest of that day your colleague is the topic of considerable discussion. Why he fell, how he was hurt, how serious is the injury and how he has nothing to worry about since your company had recently purchased group long term disability insurance covering all employes for 60% of their monthly income. That evening you learn that the injury was more serious than was evident at first and that it is possible that your colleague won't be able to return to work for a very long time, if at all.

Later that night, you think about your colleague. You think how lucky it is that your company's benefits department had the foresight to recommend the purchase of disability insurance. You are a little worried about the fact that he will receive only 60% of his prior monthly income. As you are restless and somewhat nervous you decide to review your own budget and see how you would fare on 60% of your prior income. What would have to be cut?

It's been years since you and your wife had a formal budget, so you are reduced to reviewing your checkbook. You realize that many expenses that you incur now, while you're healthy and active would be frivolous and unneccessary if you were incapacitated. Club dues, travel, sports activities and other expenses would be eliminated. Private schools might be considered an unnecessary luxury and your life insurance probably has waiver of premium. On the other side of the ledger would be some additional costs for home repair since you might not be able to be your own handyman.

You come to grips with the fact that you could live on 60% of your income especially since the part of it that is from Social Security is tax free.

You decide to review your benefits book supplied by your company's benefits department. You turn to the tab entitled long term disability income. You are pleased that the plan is underwritten by a major carrier and that everything seems to be clearly explained.

The benefit is stated as being 60% of average monthly earnings, but the maximum benefit is $3,500 monthly. Also, the definition of disability provides that you are insured in your own occupation for only two years. You notice that benefits are reduced by any payments made to you by Social Security, the Veterans Administration, your employer and several other sources. You decide to talk with your benefit manager the next morning.

Shortly after you call, your benefit manager and an assistant are sitting in your office. You begin by asking if they were aware of the accident that had occurred. They respond that they were already processing all the needed forms. The assistant is anxious to point out that the new disability plan was going to be very helpful to your colleague and his family.

This was the opening you had hoped for and you proceeded to explain that your unfortunate associate was typical of many executives in the company. He was successful and therefore enjoyed a high income (over six figures) with comparable high obligations. You mention that you had reviewed the LTD tab of your benefit book and you were satisfied with the provision for 60% of income but you were concerned with the maximum benefit of $3,500 because it represented far less than 60% of your income and far less than 60% of the income of several other senior executives. As an example you had worked up the following table:

Annual Salary	Monthly Income	60% Benefit
$36,000	$3,000	$1,800
$48,000	$4,000	$2,400
$60,000	$5,000	$3,000
$70,000	$5,833	$3,499.99

Steven N. Schrenzel, CLU, is vp of Crampton, Lewis & Co., a Chicago-based brokerage and consulting firm specializing in the design, development and implementation of executive benefit plans. The firm's clients include both public and privately held companies as well as local government units.

The limits on disability plans often don't allow an executive full protection in the event of a disability.

Further, you point out that $3,500 represents 50% or less to higher income executives. To wit:

Annual Salary	Monthly Income	$3,500 as % of prior earnings
$ 80,000	$ 6,666.66	52.5%
$100,000	$ 8,333.33	42 %
$120,000	$10,000	35 %
$150,000	$12,500	28 %
$200,000	$16,666.66	21 %

The benefit managers were slightly taken aback by your questions about the plan. They had assumed that virtually everyone would be enthusiastic about the plan and they felt particularly good that the plan had become effective before the injury to a senior executive. They felt that they had done a thorough job of researching comparable plans and then shopping for what they thought was a top notch plan at a rock bottom price.

You are sure that your benefit managers will look into the problem further. Nevertheless you decide to investigate on your own. Disability insurance is far more complicated than you had previously thought. The variations in benefit provisions, in premiums and premium guarantees and in the sources of insurance is staggering.

In your own case you find that Social Security, group disability insurance—employer sponsored, group disability insurance—through associations, workers compensation benefits, retirement benefits—disability retirement, credit insurance, individual policies, personal investments and

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Risk Management Notes

How one company handles insurance certificates

By Warren, McVeigh, Griffin

YOU MAY BE INTERESTED in the approach taken by a major food company toward the problem of providing certificates of insurance. When a certificate is requested, they send out a form letter (signed by the director of insurance) as follows:

"Consolidated Foods Corp. its divisions and subsidiaries have been inundated in recent years with numerous requests for Certificates of Insurance and specialized hold harmless and proof-of-insurance forms. Each of these forms has been as individual as the organization requesting completion.

"In order to eliminate this administrative burden for all parties, it is the intent of Consolidated Foods Corp. to provide this letter in lieu of insurance certificates. This letter will eliminate the need for repeated renewal certificates and should our coverage as described below be removed, we will notify you promptly. In those instances where several requests from different segments of a corporation are received, this letter will be forwarded to the insurance department of that corporation.

"The company, its divisions and subsidiaries maintain a comprehensive program of risk retention and insurance. Our casualty program for auto, general, contractual, products and completed operations liability has limits in excess of_____. Those organizations involved in the sale or distribution of our products are afforded protection under our broad form vendors coverage. Understandably, such protection would not apply to any person or organization who:

a. changes the form of products or articles.

b. repacks such products or articles.

c. is guilty of negligence which is the cause of injury or damage.

d. shall assume any liability under contract.

"You can be assured that Consolidated Foods Corp. will continue to provide adequate insurance coverage to protect its own interests as well as those of its retailers, distributors and other interested parties."

This is a sensible approach for a large organization, though smaller firms may find difficulty having it accepted.

Consolidated Foods reports that they have issued thousands of these letters, with favorable results—less than 1% have written back to request a formal certificate. Of those who did object, most were lawyers whose objections were that they were not named as additional insureds and there was no evidence of insuring the hold harmless agreement.

The response of Consolidated Foods is approximately as follows:

With respect to the first objection, there is little reason for concern if the hold harmless agreement is adequate. Being named as additional insured has the disadvantage of subjecting the named party to all terms of the contract, such as reporting occurrences, following up on warranties or other policy requirements, and possibly even paying the premium.

Objection two is not valid because the letter does say contractual liability is carried. Possibly this point could be made more precise by indicating the contractual coverage is broad form.

This letter technique appears to be a sensible approach to the insurance certificate problem and it does reduce the administrative burden considerably. ■

Warren, McVeigh, Griffin is a risk management consulting firm in San Francisco.

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PERSPECTIVE

Disability plans . . .

Continued from page 44
family employment are possible sources of benefits.

Some of the sources require your affirmative action and a premium cost. Some benefits are affected by others. Occupational and non-occupational causes can affect the sources of benefits.

The next day you begin your inquiries. The Social Security Administration representative is very cordial and provides you with a statement that is difficult to understand but provides the information you need. The LTD tab of your group insurance booklet indicates that the only offset for Social Security is your primary benefit. Your college fraternity alumni association and your lodge both have programs available and are anxious to provide you with information. Workers compensation is offset against your employe group benefits and in many states the maximum income benefit would not equal your group benefit.

You are intrigued by your company's retirement plan, which has a provision whereby trustees may allow withdrawals due to personal hardship including illness. This sort of provision varies tremendously from plan to plan including variances among the plans maintained by your firm's subsidiaries.

One of your major concerns is over your ability to repay some of the loans you have outstanding. You have borrowed for your car, your children's education, the purchase of real estate and other investments. Also, from time to time you have used various charge cards and lines of credit extended by your bank. While reviewing your loan papers, you note that from time to time you have elected "creditor insurance." You carefully scrutinize the forms and determine that some of the "creditor insurance" coverages also include disability benefits while others only have death benefits. You note that the cost seems substantial but you resolve to be attentive to these credit insurance details in all future loan negotiations.

Your next step is to consult with your life insurance agent. Your agent is happy to hear from you. He is very anxious to meet with you when you reveal your interest in buying disability insurance. The agent is familiar with products, underwriting and what is about to become a new phase in your vocabulary—participation limits.

The agent quickly loses some of his earlier enthusiasm when he finds that you have a group disability plan. He explains that most carriers will not offer or participate in more than $3,000 or $3,500 of monthly benefit, but he offers to investigate further. He also explains that all existing disability insurance as well as other income sources (investment income) are considered in determining the maximum amount of insurance available (see table). Some sophisticated carriers consider the income tax impact of benefits. If benefits are employer provided as a plan of sick pay they will be taxable as income. However, if the executive pays premiums with after-tax dollars, the benefits are not taxable.

Sample Participation Benefit

Annual Income	Monthly Maximum Benefit Limit
$ 18,000	$ 400
$ 20,000	$ 500
$ 24,000	$ 700
$ 36,000	$1300
$ 48,000	$2000
$ 75,000	$2700
$105,000	$3500

The insurance agent is able to offer you several solutions, including a suggestion that you introduce him to your benefit manager.

There are at least three ways to increase coverage: "Buy back" the Social Security offset under the group plan utilizing individual coverage. Seek a carrier that will offer over the usual $3,000-$3,500 limits—some major carriers will consider up to $4,000 on a case-by-case basis and some smaller but reputable companies will consider limits in excess of $5,000. Or buy additional coverage on a short term basis, (2 year or 5 year) available also on a case-by-case basis.

The insurance agent suggests that such programs can often be best offered as employe benefit plans. Even though they might be hard to administer, they represent a more attractive piece of business to carrier and therefore might be easier to obtain. The agent also explains that disability coverages vary tremendously from carrier to carrier and that the definition of disability benefit provisions must be considered in deciding upon an appropriate carrier.

Most executives tend to invest in equity and tax shelter situations, and investment income is not usually a goal until shortly before retirement. However, you should analyze the effect that your net worth would have on your income.

A last consideration is the possible employment or increased employment of other family members. If a spouse is not presently employed or is only employed part-time, consideration should be given to possibly increasing or initiating employment.

The employment of children is at best uncertain and probably should be considered a windfall if it occurs.

In conclusion, most highly paid executives cannot feel complacent about the status of their employer-provided disability benefits. A realistic appraisal of income needs and sources should be completed and within the parameters of reality you should take personal action and encourage your employer to make the same appraisal with respect to its executive group. ▪

Photo: Mary Cairns

The 1978 amendments are being used as an excuse to force cumbersome and costly results on employers as well as a new layer of red tape, says Ken Keene.

Older workers . . .

Continued from page 43
gent.

In fact, once administration of the ADEA is taken over by the Equal Employment Opportunity Commission (EEOC) in July 1979, it would not be surprising to see even tougher standards instituted, such as crediting years of service after normal retirement age under pension plans, or paying LTD benefits up to age 70 regardless of time of disability.

In the meantime, employers and their counsel and consultants must plot a course to comply with the law. It's a difficult task at best, for the many questions surrounding the proposed regulations have yet to be answered such as:

- What constitutes a benefit?
- Can pension plan benefits be used to offset LTD benefits?
- Will salary increases and benefit formula changes have to be taken into account for employes who work past age 65?
- How does the ERISA-required joint and survivor normal form of annuity tie in with survivor income and other life insurance benefits?

From a recent national poll conducted by our firm, it appears that a significant minority of the working population intends to remain employed after reaching age 65. If this turns out to be the case in actual practice, then employers should be forewarned about the cost and personnel aspects.

To illustrate the cost, just look at group term life insurance. If a non-contributory plan provides a benefit of two times pay, the employer's cost at age 65 is about 5% of the employe's pay—this cost must then be absorbed for those working at age 66, 67, etc.

I take great exception to the thrust of the DOL proposals. For example:

Or take LTD—the chance of becoming disabled at age 65 is four or five times the chance of becoming disabled at an average working age. And what about medical plans which provide $250,000 or $500,000 or unlimited medical coverage? The cost exposure is extremely high for older workers.

- ADEA has protected those up to age 65 since 1967 without inhibiting the employer's right to curtail benefits. Now, it seems the 1978 amendments, which basically merely extend the protected age to 70, are being used as an excuse to force cumbersome and costly results on employers.
- The benefit-by-benefit tests are particularly odious. Why shouldn't an employer be allowed to take credit for benefit redundancies on some type of benefits to offset shortfalls in others? It is the total package, even including vacation and sick leave plans, which should count.

The DOL asks for written comment to be received by Nov. 21, 1978. Perhaps they will have a change of heart on the proposed regulations, but don't bet on it!

Trying to answer all the questions generated is beyond the scope of this column and probably anyone's scope until full clarification is offered up by the DOL, or a court having jurisdiction.

Still, there is no way to circumvent the reality that most employe benefit plans will need a major overhauling. The best advice is to proceed with caution. ▪

Bankers bond . . .

Continued from page 46
auditors examined and reviewed the materials submitted with the claims, as well as all documents made available voluntarily by the bank. In addition, the auditors, from time to time, asked for specific additional documents, all of which were produced as quickly as possible.

By late 1975, documents necessary to support the claims, except for adjustments to losses resulting from mitigation of damages, had been made available to the bonding company. By early 1976, we were informed that it would be necessary to wait until related criminal matters (indictments, pleas and trials) had been resolved before the bond claims could be pursued. Due to continuances, the most significant criminal trials were not completed until late September 1976. Audits of the claims continued intermittently until early 1977.

Obviously, a sound legal strategy was necessary to pursue the claims. Therefore, we engaged the best law firm available. Bank counsel participating in the claims had previously served as defense counsel to an insurer in a number of fidelity bond cases.

A complete review of the methods we used isn't possible for this article; however, some techniques which proved to be extremely valuable can be summarized.

First, we established a completely separate department to gather and maintain custody of all claims and related documents and to focus attention on related litigation (significant both in number of cases and in dollars of exposure).

Second, the proofs of loss were intentionally kept clean, clear and simple. Every attempt was made to focus on the important aspects of each case and minimize immersion in details. As soon as complaints were filed, we made every effort to get our cases to court as rapidly as possible.

Third, the department was motivated to pursue all litigation aggressively. For example, in response to one massive set of interrogatories, bank personnel and lawyers devoted over 800 hours during a five-day period to provide answers on a timely basis so that a previously established trial date could be maintained.

Finally, we made every effort to mitigate losses relating to the claims. We also made every possible effort to initiate negotiations with the fidelity bonding company. In substance, our attitude during this time was, "We have good claims and we will furnish you anything you need to allow you an opportunity to establish a position from which we may negotiate a settlement."

Fortunately, we succeeded, at least to the extent of $10.8 million. However, we paid a tremendous price in terms of sacrifices of people, money and time. Our experience raises questions such as what explanation could there be for the delay?

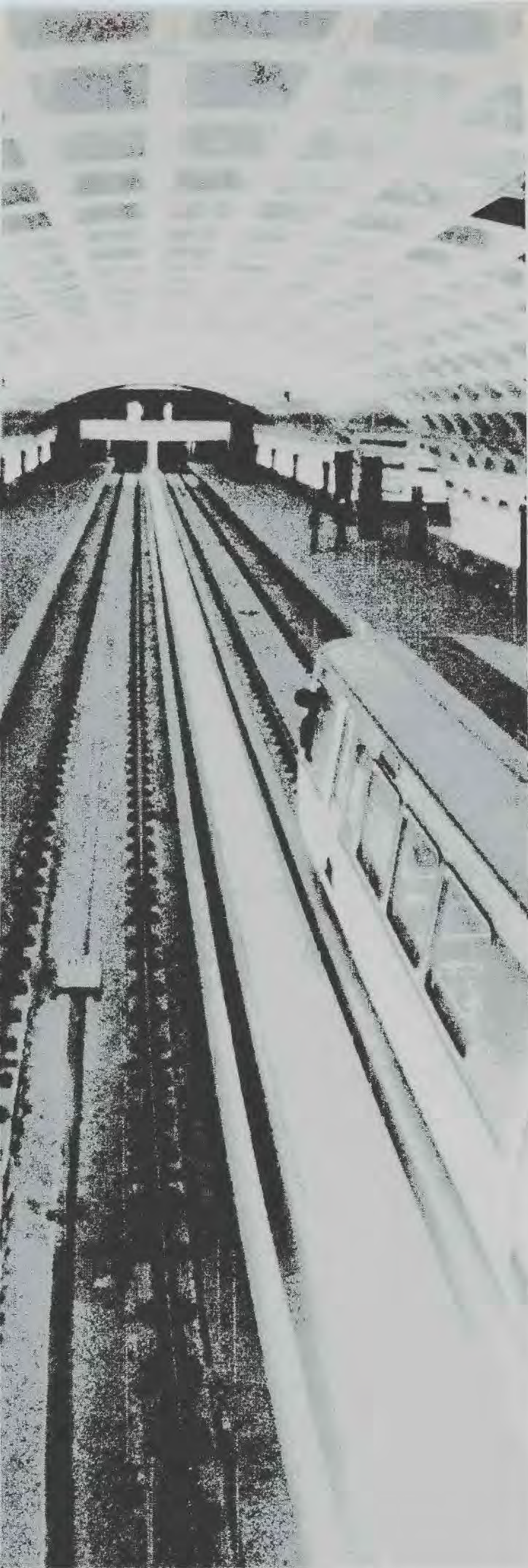
One answer may be the nature of the insurance company. Its earnings come from investment income and the excess of premium income over expenses and losses. Although some insurers rely entirely upon investment income to show a net income, others also earn income on underwriting.

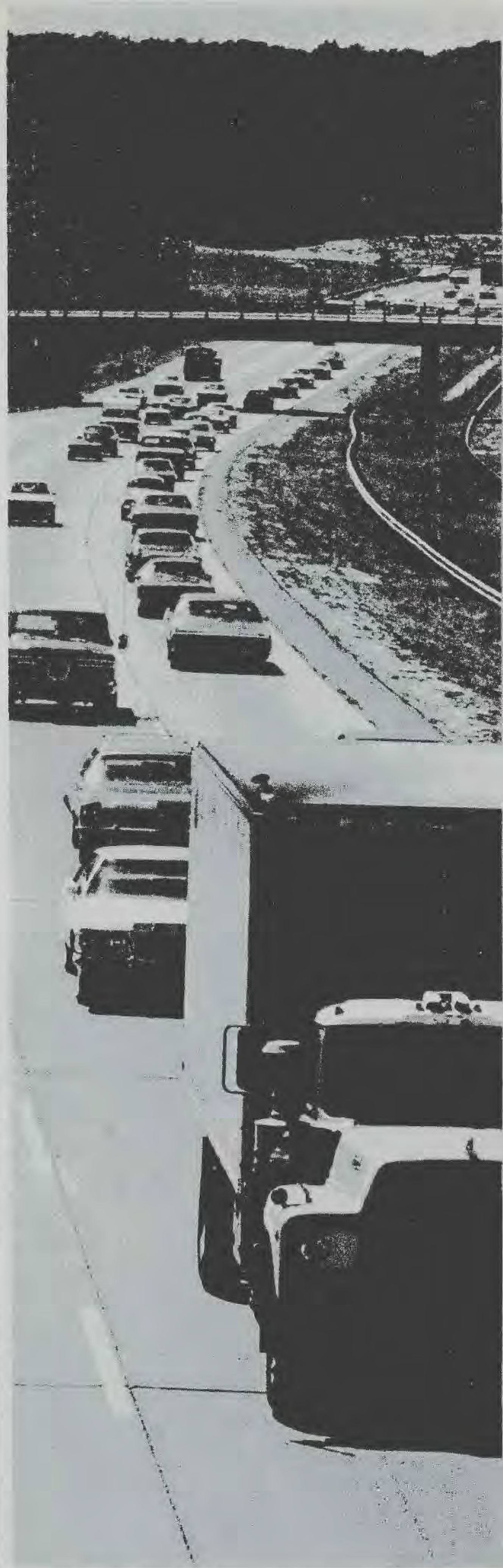
One way an insurer can maximize income from underwriting is to delay payment of claims as long as possible. This correspondingly, provides the insurer with an opportunity to retain the cash for investment purposes for as long as possible. Hence, there is a positive economic motive to delay the resolution of claims as long as possible.

Union Planters' experience, both illuminating and extremely costly, taught us this: Do not take your fidelity insurance or insurer for granted. It should be a significant corporate asset and should be acquired, maintained, and evaluated with sophistication and knowledge. A bank should be certain that what it thinks it sees is what it actually gets.

•

This is only a small part of what the bank discusses in depth at two-day seminars produced in April (Innisbrook, Fla.) and May (Chicago). Two more seminars will be held at Palo Alto, Calif., in December, and at Durango, Colo., in February. Union Planters aims to acquaint bankers, attorneys, and others with what can occur when a claim, particularly a large one, is filed against a fidelity insurer. For more details about the seminars, which cost $495, contact Mr. Cook at 901-523-6687.





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Tavern reciprocal under way

SAN FRANCISCO—A proposed liquor liability insurance exchange is going ahead despite passage of a law in California that protects bar owners and bartenders from liability for injuries caused by their patrons.

The law, termed "an outrage" by Rep. Willie Brown (D-San Francisco), will be tested in the state supreme court. "No one should have the immunity bar owners and bartenders have in this law," Rep. Brown said.

In addition to removing liability for patrons' actions, California Gov. Jerry Brown also signed into law a companion bill that allows a bartender to be sued if he serves an obviously intoxicated person who then injures another person.

The liquor liability issue has been brewing on the West Coast ever since a court ruling last year found bar owners and bartenders liable for injuries caused by their customers. Another ruling issued earlier this year applied the same liability to hosts of private parties and fund raising affairs.

Because of these rulings, the market for liquor liability insurance virtually cried up and a reciprocal that would provide restaurant and bar owners with $300,000 primary and $200,000 excess liability coverage was established by San Francisco broker William A. Ellis. The Dram Shop Liability reciprocal is reinsured by the General Reinsurance Co. and managed by the William A. Ellis agency.

Though in existence for more than a year, the reciprocal can't issue policies because its license has not yet been granted by the California insurance department. A similar reciprocal was formed by a liquor industry trade group, Western Beverage Assn., but its application for licensing was withdrawn.

"We maintain the reciprocal approach is the best route for bar owners at this time," Mr. Ellis said, "because until the supreme court rules on the constitutionality of the new laws, there is still the hazard of exposure."

Even though the liability market has softened considerably in recent months, restaurants and bars are not favored risks. "I haven't seen any underwriters jumping into liquor liability," Mr. Ellis observed. ▪

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Court voids Calif. limit on damages

GLENDALE, Calif.—A superior court judge here has ruled unconstitutional a $250,000 limit on damages for pain and suffering in medical malpractice cases.

Judge Robert P. Schifferman said the limit, part of the 1975 Keene Act passed as a response to physician protests over soaring malpractice insurance premiums, violated the equal protection clause of the Constitution.

A spokesman for assemblyman Barry Keene, author of the bill, said Mr. Keene is pleased with the judge's decision since higher California courts had refused to rule on the law. This action will clear the way for higher court reviews, the spokesman added.

Judge Schifferman's ruling came during a pre-trial hearing of a case involving Barbara Lee Lewis, who is suing Glendale Adventist Medical Center alleging that she lost sight in one eye after eye surgery there. Her suit asks for $1.7 million in general damages for pain and suffering, far exceeding the statutory limit of $250,000.

The judge said that a limit imposed because one person was injured on the operating table instead of the highway is "arbitrary."

"Are we to say that the 'medical malpractice crisis' justifies telling a patient that for the negligent removal of his one good kidney . . . he could be arbitrarily restricted in his recovery of damages," the judge continued "whereas if he had been an occupant of a rear-ended fiery Pinto automobile he may be compensated by a jury without an arbitrary limit being imposed for the pain, suffering and disfigurement which he sustained?"

Judge Schifferman was referring to the $125 million in punitive damages awarded last February to an 18-year-old youth who was burned over 80% of his body when the gas tank of a Pinto in which he was riding exploded. The verdict later was reduced by the trial judge to $6.6 million and both sides are appealing this move.

The judge said that in both a medical malpractice case and in an automobile injury a plaintiff may sustain identical severe and lasting pain. Yet one is limited in the damage he can collect and the other is not, he said.

"The court is not critical of the legislature, in view of the hysterical atmosphere . . . which spawned this legislative attempt to deal with the malpractice problem," he said. "The fact remains, however, that the technique adopted in this court's view denied the plaintiff the equal protection of the act."

The California Trial Lawyers Assn., which has opposed the damage limitation, will file a friend-of-the-court brief in support of the judge's ruling. The brief will state that other provisions of the Keene Act are also unconstitutional. ▪

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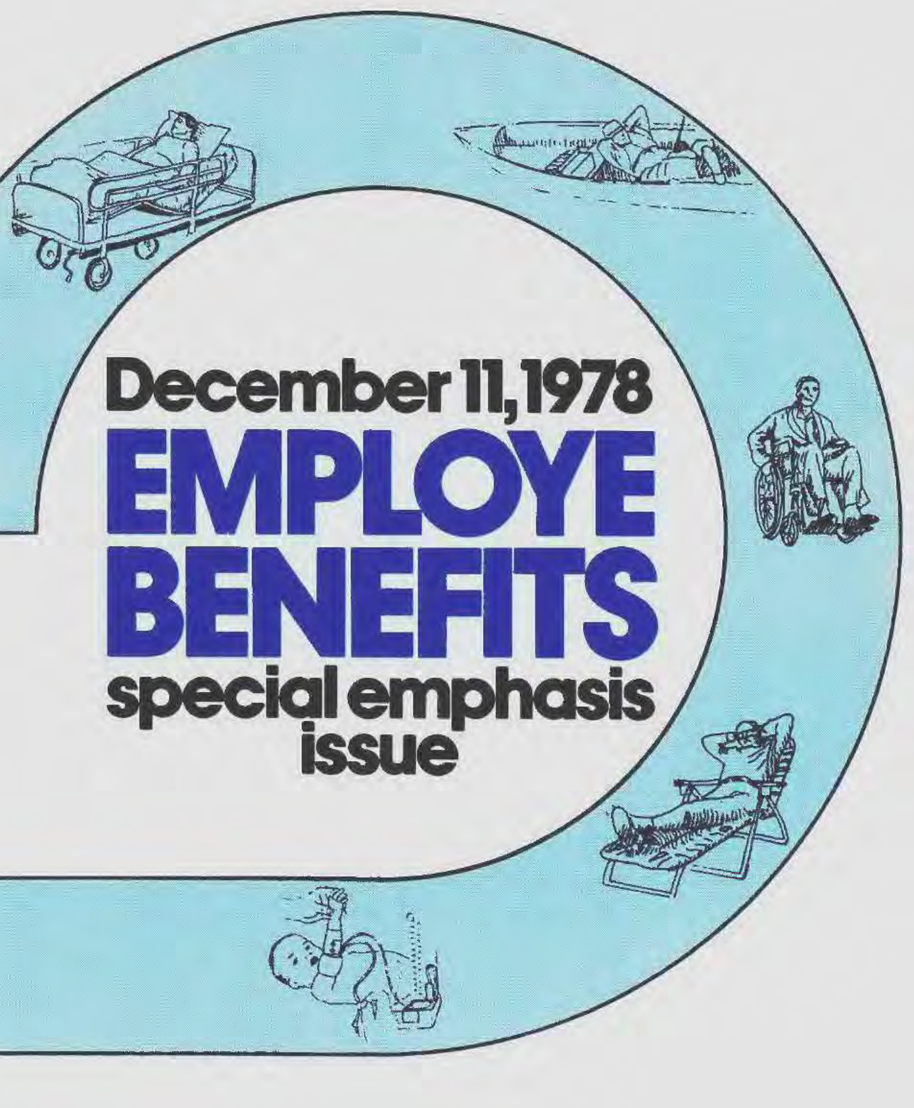
White collar crime costs $44 billion

WASHINGTON—White-collar crime now costs U.S. business a staggering $44 billion annually, according to the U.S. Chamber of Commerce.

The $44 billion loss comes from a variety of white-collar offenses: bribery; kickbacks; credit card and check fraud; use of counterfeit products and securities theft, said the Chamber. ▪

Cost containment is the byword for corporate benefit and financial executives. The December 11, 1978 special emphasis issue of BUSINESS INSURANCE will probe, in-depth, the techniques that benefit clients have begun to use during the last two or three years to stem the rise in benefit liabilities.

As risk management tools have been applied more frequently to benefit programs—including closer claims scrutiny, more co-insurance, bigger deductibles for workers covered under plans, and fully self-insured programs—corporations have expected to reap the rewards of their efforts in the form of cost savings. Business Insurance will take a closer look at these efforts.



Many companies have also recognized that they can try to intervene in the health care marketplace to control benefit costs, by becoming more involved in Health Systems Agencies and rate setting boards and by serving on hospital boards of trustees.

Competition is hot and heavy in the group life and health field... B.I. editors will scrutinize the impact of competitive forces at work by talking with buyers and suppliers of group insurance packages.

The nation's largest market and most powerful labor union will be negotiating new contracts during 1979. The December 11 issue will take a look at what's in store for bargainers facing off across the tables.

And, as every few years, B.I. will talk with some of the most controversial authorities around the country to compile their views of what will happen to employe benefit programs over the next five years.

Small groups are cashing in on collective clout by joining multiple employer trusts. And insurers are competing for the growing pool of small group funds. The editors will probe this trend as well.

The **December 11 EMPLOYE BENEFITS special emphasis issue** is another outstanding opportunity for marketers of all forms of employe benefits, insurance or services, to reach the largest and most active audience of corporate benefit decision makers, their consultants, agents and brokers. Nearly 100,000 such readers in U.S. corporations and service organizations will be exposed to your advertising message in this important issue.

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Natural hazard losses to skyrocket: Study

REDONDO BEACH, Calif.—A "pioneer study" by a risk management company here reveals that unless stringent loss prevention measures are taken in this decade the cost of destruction from natural hazards could have a devastating effect on the U. S. economic system.

The study, developed by the J. H. Wiggins firm for the National Science Foundation, projects damages caused by the nation's most destructive natural hazards—earthquake, landslide, expansive soil, hurricane, storm surge, tornado, floods, winds, and tsunami—and then shows the percentage by which the damage might be reduced if certain measures were applied.

Each of the hazards was modeled and programmed on computers to provide estimates of annual and, in some cases, sudden castastrophic losses which have an impact on the nation's building wealth between 1970 and the year 2000. The results indicate that the cost of replacing and repairing buildings destroyed by the nine hazards studied will soar 85% in the 30-year period.

Under the average 1970 conditions, the report fixes building losses from natural hazards at approximately $10.5 billion by 1978 monetary standards. If appropriate measures are not applied, the report asserts that these figures could reach $19.5 billion annually beginning in 2000.

However, if effective measures were to begin in 1980, the study reveals that dollar losses would be reduced by 25% or $5 billion in the year 2000.

Computer models on earthquakes estimate the annual cost of replacing and repairing buildings hit by earthquakes will increase almost 25% between 1970 and 1985 with a 45% increase between 1985 and 2000.

For example, if the 1906 San Francisco earthquake were to recur in 1980, building damage would reach $24 billion, 5,000 persons would be killed and 200,000 would be injured. By 1990, building losses would reach $30 billion and by the end of the century losses would be $36 billion.

Damages caused by landslides will soar 130% between 1970 and 2000, the report indicates. But landslides could be prevented, according to the experts contacted if adequate land use and construction requirements were added to building codes, the codes enforced and early detection methods used.

Computer models revealed a savings of more than $250 million annually by the year 2000, just in the cost of replacing and repairing buildings hit by slides, if one chapter of the uniform building code of the international conference of building officials were applied to new construction across the nation beginning in 1980.

Expansive soil damage, the most dangerous in cities with sharply defined wet and dry seasons, accounts for over $1.9 billion in building losses.

If soil stabilization prior to construction or stronger foundations became standard across the country, the study indicates that $1.5 billion could be saved annually beginning in 2000.

If ignored, building losses will increase over $4.5 billion by 2000.

Overflowing waterways destroy or damage 410,000 buildings across the nation in a typical year, with aggregate cost of over $3 billion.

Stepped-up dam and levee construction resulting from government awareness of the problem, may reverse a year-to-year rise in costs resulting from flood, according to the Wiggins Study.

The report, however, supports acceleration of new flood control projects because costs will probably start climbing again as the turn of the century approaches, increasing about 15% between 1990 and 2000.

A $850 million savings could be achieved by the year 2000, according to computer models, if the most exposed cities would require more rigid building site and construction control beginning in 1980.

Illinois, according to the report, suffers the greatest dollar damage by floods because it is the most heavily populated of the nation's tornado states.

Computer projections revealed that nationwide tornado damage to buildings during a typical year averages at least $1.5 billion.

Because of rising building costs and population growth in the central states, the report said that twister damage to buildings will increase more than 130% between 1970 and 2000, hitting $3.5 billion by 2000.

The report states that if the 1973 uniform building code strength provisions were increased by 50% in all categories pertaining to wind resistance and were employed nationally by 1980, tornado losses to new construction could be reduced about 45%. Overall building losses would drop 15%.

Although the study is the most comprehensive of its type ever attempted, the report appeals for accelerated identification of hazardous locations.

"The challenge is enormous, but the stakes are high." Mr. Wiggins said. "Billions of dollars and countless lives can be saved over the next decade by mitigating the losses caused by any one or combination of these earth, air and water-related hazards." ■

Lloyd's angrily denies charges of a 'broker mafia'

By JOHN H. MILLER

LONDON—Lloyd's is locked in a row over hints that it is under the domination of a "broker's Mafia" which wants to see changes in the way it is run.

At the time when Lloyd's hopes to present a united front to developing U.S. competition, it is facing suggestions that there is a split over the administration of its regulatory powers.

But leading broking firms who are closely involved in placing huge lines of U.S. business have joined forces to deny threats of a plot to alter its traditions of individualism. And Sir Havelock Hudson, past chairman of Lloyd's, has angrily and publicly termed the idea "disgraceful."

Action has already been taken this year against four small broking firms that have been either suspended or removed from the list of Lloyd's brokers.

But publicity over its attitude towards U.S. brokerage groups trying to enter the market and disputes involving other brokerage firms or syndicates over the cause of large payouts have focused attention on its unique self-regulatory powers.

The new storm erupted when the London Sunday Times published an article in its widely-read business news section under the bold headline "Brokers to seek reform at Lloyd's," in which it claimed that sweeping changes in Lloyd's structure were being sought.

The idea came from a pressure group within the 12 leading broking firms, the newspaper asserted, and hinted that "by this time next year the way in which Lloyd's is run could be fundamentally different."

Source for this assertion was reported to be the chief executive of a leading broker who refused to be identified, though he claimed that a "wave of insurance scandals" had brought the pressure group together.

Basically the brokers want to see the whole regulatory structure of the Lloyd's market working more openly, rather than along the lines of a private club in keeping with its 300 years' traditions. There might also be merit in appointing a chief executive to run its affairs instead of leaving it to the ceremonial duties of a Lloyd's chairman, according to the Sunday Times article.

The writer, Maurice Barnfather, went on to assert that the "internal Mafia at Lloyd's, or the broker barons as they are sometimes called, have been stung into action by a wave of public disputes." Protests to that claim came rapidly from market leaders.

The nine chairmen and three senior board members of the twelve firms he named, which between them have annual profits estimated at more than $300 million, promptly wrote back:

"We refute the implication that we are involved in any powerful pressure group which is seeking sweeping changes in the way Lloyd's is run. As far as we are concerned, changes are made by the Committee of Lloyd's in consultation with all parties in the market. The imputation that our firms would be involved in collective pressure rather than being prepared to take part in the normal procedures which exist is completely refuted."

The brokers are A. Ronald Taylor (Willis Faber Dumas), Neil Mc. L. Mills (Bland Payne Holdings), R.H. Warrender (Bain Dawes), P. Bowring (C.T. Bowring & Co.), F.R.D. Holland (C.E. Heath), E.J. Gordon Henry (Matthews Wrightson Holdings), Morris F. Abbott (Hogg Robinson), Michael J. Glover (Alexander Howden), Peter T. Wright (Sedgwick Forbes), G.E. Knight (Fenchurch), R. Singer (Leslie & Godwin) and R.F. Mabbott (J.H. Minet & Co.).

At the same time Sir Havelock Hudson, chairman of Lloyd's from 1975-77, said: "Forms of denigration of Lloyd's can well be of advantage to some of our competitors in the highly competitive world of

Continued on following page

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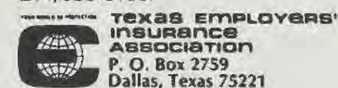

Employers Insurance of Texas:
Texas Employers' Insurance Assn.
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Broker mafia . . .

Continued from preceding page
international insurance.

"These comments will be seized upon with gusto by them, but they are ridiculous speculation, which will cause exasperation to many people at Lloyd's," he added.

"From time to time self-regulation entails severe measures being taken against firms or individuals and it is quite possible the committee of Lloyd's will take further action in the months to come."

Peter Wright, chairman of Sedgwick Forbes, which derives large business from the U.S., agreed: "The suggestion that a pressure group is seeking reforms is quite unfounded.

"There is no such group among the leading brokers, who are all highly competitive and keep each other on their toes. That is what enables Lloyd's to give its customers such good service."

Henry White-Smith, of the Willis Faber group and the current chairman of Lloyd's Insurance Brokers' Committee, responded, "I have no knowledge of any moves by the broking community to seek changes in the present structure of Lloyd's, with whom there is an excellent relationship. As far as the membership of this committee is concerned, there are no signs of anyone seeking to reform the organization of Lloyd's in any way.

"Brokers with whom I am in touch through the committee certainly hope the present happy and friendly relationship will continue and nothing has arisen among our members to justify suggestions that we want to make any fundamental changes in the way in which Lloyd's is run."

Brokers at Lloyd's elect their committee annually, under a procedure in which each firm has only one vote. They also have members on the full committee of Lloyd's.

But Mr. Barnfather insisted that his implication, that concern is felt at the effectiveness of the existing Lloyd's disciplinary structure to cope with the market's growing complexities, is correct.

He added: "My sources for the story are within the twelve leading brokers named in the article. No formal 'ginger group' exists. But motivation, not demands, for change are coming from leading Lloyd's brokers."

Lloyd's officials, however, still insist there is no foundation for the suggestion.

Suggestions that there might be some antagonism toward the powerful brokerage groups who admittedly control much of Lloyd's placings and also manage underwriting agencies have come from smaller members of the Lloyd's market.

> 'Over the years the broker barons, a term with which I would not disagree, have in many cases lined their pockets beyond the dreams of avarice and sit at the top of a mountain of gold.'
>
> —John A. Wyatt

John A. Wyatt, a marine underwriter for 30 years with a small syndicate which is not linked with any broking group, observes, "Lloyd's market is unique in the true sense of the word and brokers have rightly emerged on the scene to meet the volume of trade it gets. But they carry no risk, being paid for their enterprise by the people who do carry risk.

"Over the years the 'broker barons,' a term with which I would not disagree, have in many cases lined their pockets beyond the dreams of avarice and sit at the top of a mountain of gold," he continued.

"In my view, a totally dominated brokers' market, with a puppet government, will not work. Competition, which will stimulate profitable business for the community, must take place between genuinely different sections of the whole."

Richard Gentry, who is on the European marine side of a medium-sized broking firm, Robert Bradford Hobbs Savill, said: "Small firms still have a large part to play in the Lloyd's market and some of their syndicates have been more profitable than the big ones in recent times, though naturally this trend might change.

"There is no doubt that there have been occasions in the past when disciplinary or regulatory action has not been taken when it should have been. Failure to do so breeds an atmosphere of contempt and disillusionment on the part of the great majority who wish to see the rules enforced. ■

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Calif. to require more auto info

SACRAMENTO—California Gov. Edmund Brown signed into law a bill requiring auto insurance companies to compile statistical information used in setting rates on the basis of zip code boundaries, a procedure likely to reduce insurance rates in minority areas like East Los Angeles.

The governor signed the measure after he met privately here with representatives of the east side's United Neighborhoods Organization.

In the past, a neighborhood survey showed east side policyholders were being charged excessive rates because East Los Angeles was part of a territorial area that includes Beverly Hills, where motorists drive more expensive cars and are more prone to sue after an accident.

Heavy lobbying by the organization prompted State Farm Insurance Co. and two others this summer to lower rates in East Los Angeles. ■

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Suit alleges asbestos conspiracy, asks $1 billion

LOS ANGELES—A class action suit filed here asks for $1 billion in damages from 15 major U.S. asbestos manufacturers who allegedly conspired to conceal and distort medical and scientific information on the health hazards of asbestos.

The suit was filed on behalf of more than 5,000 workers in two Southern California shipyards, Todd Shipyard in San Pedro and the Long Beach Naval Shipyard.

The lawsuit is reported to be unique among asbestos-related lawsuits because it makes a request for a restitution of profits, a legal remedy usually confined to suits between businessmen.

According to the suit, the 15 asbestos manufacturers "have been unjustly enriched by the profits of their continued manufacture and sale of asbestos during the period of their concealment of the facts" (1938 to the present). The 15 companies "are indebted" to the injured workers in the amount of their profits since 1938 or about $1 billion, the suit says.

"Asbestos was and is an extremely hazardous substance and was and is unsafe and defective when used in the construction, repair and maintenance of seagoing vessels by workers at the Todd Pacific Shipyard in San Pedro and the Long Beach Naval Shipyard," the suit continues. When tiny asbestos particles are breathed, they cause severe, disabling and deadly lung and respiratory illnesses, including lung cancer.

The 15 defendants to the suit are Johns-Manville; Raybestos-Manhattan Inc.; Owens-Corning Fiberglass Corp.; Celotex; Philip Carey Corp.; Eagle-Picher Industries Inc.; Pittsburg-Corning Corp.; Unarco Industries Inc.; Standard Asbestos Manufacturing & Insulating Co.; Ruberoid Co.; Keene Corp.; Armstrong Cork Co.; H.K. Porter, Amotex and Combustion Engineering.

In a separate action, officers of the Marine & Shipbuilding Workers Union sent a letter to California state attorney general Evelle J. Younger, Los Angeles district attorney John Van de Kamp and the county grand jury. The letter asks the officials "to commence immediately the investigation of the asbestos industry for possible manslaughter and other criminal violations in their suppression and distortion of scientific and medical information concerning the deadly nature of asbestos."

> 'The legislation would give a right to compensation but not a right to sue.'
> —Congressional aide

The letter said scientific and medical reports were manipulated so that the companies "might continue to produce and to sell asbestos at great profit to them. This conscious choice of profit over the lives of working people who have unknowingly exposed themselves to this deadly substance is, in every sense of the word, criminal."

The letter is signed by Steve M. Roberts and three other officers of the union.

A congressional hearing, chaired by Rep. George Miller in San Francisco last month was told the manufacturers "knew about the health threat and initiated an apparent coverup."

Legislative aide John Lawrence said that representatives of Johns-Manville and the Asbestos Information Assn. were asked to appear at the hearings and both declined.

Rep. Miller will propose legislation next year to reduce future exposure to asbestos through workplace safety standards that are more stringent than those currently in existence, outline how to notify people who have been exposed to asbestos and set up a means of providing follow-up health screening, and establish a way of dealing with the issue of compensation for people who become ill or die of asbestos exposure.

Mr. Lawrence said that there are problems with workers compensation because exposure of many victims of asbestosis occurred too long ago for claims to be filed within the required reporting periods.

"There is also a question of whether workers compensation is really applicable or not," he said.

He added that Rep. Miller does not support proposals by Rep. Millicent Fenwick to split the responsibility for the asbestos health threat among the government, the asbestos manufacturers and the tobacco manufacturers.

"The legislation would give a right to compensation but not a right to sue," he said.

Rep. Miller will conduct additional hearings this year in areas of the West Coast that have numerous shipyard employes, such as Long Beach or Hawaii. ■

City begins work plan

FREMONT, Calif.—Joe Tonda, the first risk and insurance supervisor for this suburb of San Francisco, has only had his job since last February, but he believes he can already claim one solid accomplishment: the city's new modified work program.

The program, which Mr. Tonda implemented, is aimed at employes who become temporarily injured on the job but are eligible to collect their full salaries while they are recuperating at home.

"The city is paying them their full salaries, but with this program, we are also getting some sort of work out of them," said Mr. Tonda. Fremont, like many other California cities, pays employes with industrial injuries full salaries for a year in lieu of a temporary disability weekly payment of $154.

Although he has no cost figures on how much money the modified work program begun last March is saving, Mr. Tonda is assured that funds are being conserved. The city now has some control over these employes and the workers themselves are being eased back to work.

Without the program, a few of these workers might not have ever come back to work, he noted.

However, the program is designed to be in operation for only a temporary period, for each worker.

Mr. Tonda has launched a risk management program which concentrates on identifying exposures not previously recognized. ■

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First public island company

Bermuda reinsurer to tap captive market

HAMILTON, Bermuda—A new multiple line reinsurance company here intends to tap the maturing captive insurance community on the island in its quest to become a major international reinsurance company.

Aneco Reinsurance Co. Ltd., sporting a board of directors sprinkled with insurance entrepreneurs, a domicile in a tax haven and an intention to soon go public with a $10 million stock offering, is "very much interested in reinsuring captives" as part of its business, said Aneco chairman Francis J. Mulderig.

Planning to reinsure half the business it underwrites, Aneco also expects captives to be among those accepting retrocessions from Aneco, Mr. Mulderig added.

But Aneco is not being set up to just funnel reinsurance business from one source to another—nor to provide business to other companies owned by Aneco shareholders—the former American International Reinsurance Co. director maintained. "We are going to be a major international reinsurer."

Mr. Mulderig, whose background includes involvement on the behalf of AIRCO with the organization of the now prosperous American International Group, was also one of the 12 persons who held all the common stock of C.V. Starr & Co. Inc. The 10 directors of C.V. Starr now control 231 companies including the vast AIG network.

Bermuda was chosen as the domicile for Aneco because "Bermuda has become an insurance center," Mr. Mulderig explained. "So in addition to the tax advantages, we have a rapidly growing market."

Aneco is the first reinsurance company on the island to be publicly held. Other reinsurers in Bermuda are subsidiaries of insurance companies domiciled elsewhere or captives going into third-party business.

But the captive insurance market in Bermuda is viewed by Aneco as just the "icing on the cake, not the mainstay" of business for the new company, contends Edward J. Mallozzi, who will direct underwriting for Aneco as president of A.E.C. Professional Services Ltd. Aneco has contracted with A.E.C. for underwriting consulting services.

A.E.C. is a wholly owned subsidiary of Andrew Edwards & Co. And among the people and money behind Aneco are the principals of Andrew Edwards, a New York-based reinsurance intermediary.

Mr. Mulderig maintains that the principals of Andrew Edwards are setting up Aneco with a $127,000 capital investment "because the time is right, there is need for such a reinsurance company and the place for it is Bermuda."

That a separate corporation, A.E.C., will do the underwriting for Aneco under a contract is necessitated by Aneco's desire not to be found engaged in U.S. trade or business so that it can best exploit the tax advantages of being based in Bermuda.

The personal links between Andrew Edwards, its subsidiary A.E.C. and Aneco include:

- Mr. Mulderig, who before becoming president and chairman of Aneco was chairman of Andrew Edwards, is still a stockholder in Andrew Edwards as well as Aneco.
- Andrew J. Barile, president of Andrew Edwards, is a director of Aneco and a stockholder in Andrew Edwards and Aneco.
- Mr. Mallozzi, executive vp and treasurer of Andrew Edwards, is president of A.E.C. and a director of Aneco. He owns stock in Andrew Edwards and Aneco. He will devote all his time to A.E.C.
- Gordon Werner, a principal shareholder in Andrew Edwards, is a shareholder and director of Aneco.

Other investors in Aneco are Mr. Mulderig's son Robert A. Mulderig, secretary of Andrew Edwards, and Spottswood P. Dudley of New York. Among Aneco's other officers are Alan G. Jackson, former controller of Mobil Oil Corp. subsidiaries in Bermuda, as treasurer and Bermuda attorneys Dudley Spurling as vp and director and David J. Doyle as secretary.

The preliminary prospectus on Aneco warns there could be conflicts of interest from the people and business relationships linking Aneco, A.E.C. and Andrew Edwards. But it also says Mr. Mallozzi and Mr. Barile do not intend to vote as directors of Aneco on proposed transactions between Aneco and A.E.C. or Andrew Edwards.

It is envisioned, however, that as a reinsurance intermediary, Andrew Edwards will at least initially be a primary source of reinsurance business for Aneco.

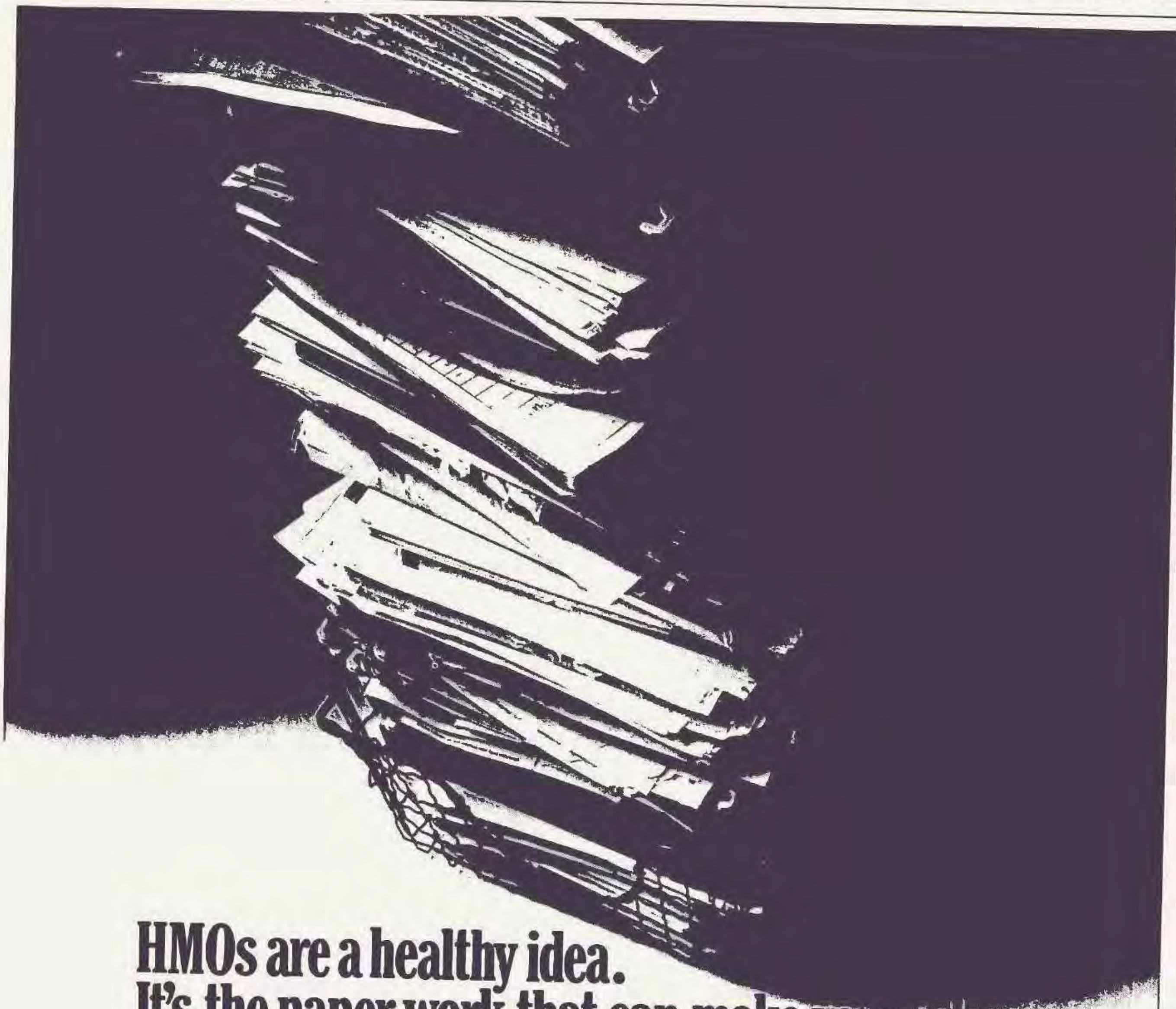
The Securities & Exchange Commission is expected to approve Aneco's registration this month. If all Aneco's stock offering of 1.7 million shares is sold, presumably at $6 a share, Aneco will be in business in "a few days" with $10 million in capital, Mr. Mulderig said.

The company intends to keep retained business on a three-to-one premium-to-surplus ratio, so it could at least do a premium volume of $30 million immediately.

The company also intends to lay off half the risks it assumes and to buy reinsurance to stop its losses at $500,000 on any one occurrence and to buy aggregate excess reinsurance to stop its combined ratio of losses plus expenses from exceeding 105% of its premiums.

Mr. Mallozzi denied that this indicates Aneco won't be doing much reinsurance business on its own, calling Aneco's intended reinsurance arrangements merely "prudent" for a new company. These designs, however, are subject to the availability and price of the reinsurance, he notes.

Aneco intends to write fire and allied lines, multi-peril, ocean marine, inland marine, liability, aviation, hail and other miscellaneous classes of reinsurance. It does not expect to write primary reinsurance for workers compensation, medical malpractice, hazardous product liability, directors and officers liability and errors and omissions liability policies. ■



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Health insurers grow

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Ore. requires legal insurance, lawyers start self-insured fund

By HARRIET KING

PORTLAND—Oregon is the first state to implement a self-insured professional liability program for its 4,000 lawyers in private practice. Industry observers view it as a potential model for similar programs in other states.

The plan is drawing so much attention "not a day goes by when I don't get an inquiry," says Lester L. Rawls, Oregon's former insurance commissioner who is administering the Professional Liability Fund.

Oregon is one of many western states where the state bar association works with the state legislature to regulate lawyers. For example, the legislature has said that all lawyers must be members of the bar if they intend to practice in Oregon.

The state bar's board of governors asked the legislature in 1973 to require that all lawyers carry liability insurance. "The bar went to the open market and said 'we need a company to write all of our people.' But the insurance companies said no way would they insure everyone, they wanted to exclude some lawyers," recalled Mr. Rawls. "Our governor said that was not acceptable."

So, the legislature last year made it possible for the bar association to set up the Fund to administer a self-insurance program for liability effective July 1, 1978.

The self-insurance move, too, was made because of dissatisfaction with commercial coverages and costs. In 10 years, liability insurance costs more than tripled for Oregon lawyers who ended up paying some of the highest premiums in the country.

Within the last two years, one carrier jumped premiums to $904 from $256 a year for a claims made policy. At the same time, coverage was less inclusive. Because of the high premium cost, up to 25% of Oregon's lawyers were not insured.

Under self-insurance, all lawyers now pay $500 a year in premiums. Mr. Rawls says this figure was derived by deducting 25%—representing commissions and some administration costs—from the Insurance Services Office rate. Liability limitations are $100,000 per incident.

Some 1,000 of the state's lawyers have opted for additional coverage up to a $200,000 annual aggregate. Several brokers are authorized to deal in this excess coverage, although Mr. Rawls noted that Alexander & Alexander Inc. "is getting the lions share as they were the first ones into this excess and worked with us to develop the plan."

Included in the Fund are prior acts as long as there was no notice of a claim prior to July 1. Attorneys leaving private practice are also able to get extended "tail" coverage. They pay a one time assessment of one-and-a-half times the annual assessment, which would be $750 under current rates.

Not included in the coverage are government attorneys, corporate lawyers, lawyers engaged in Legal Aid Service and others such as patent attorneys who can obtain professional liability coverage through their national association. To be exempt from state law, patent attorneys must furnish proof of liability coverage.

Coverage also does not include patent practice or non-client related losses such as libel, slander, malicious prosecution and false arrest. These coverages are available through excess carriers. At the present time the program has no deductible, but Mr. Rawls noted that at some future date, it may become in the best interest of the Fund to invoke a deductible.

Sponsors also felt that their costs could be lower for attorneys than what is provided by commercial carriers because there would be no profit factor, costs such as advertising and brokers commission is eliminated, large reserves in anticipation of claims that may never be asserted will not be necessary and broad participation among all Oregon lawyers will spread the risk and reduce the cost.

Support from lawyers "was overwhelming," he says, although he notes that a few still did not want to buy liability coverage. "We had no idea what to expect in the number of claims and payout. Commercial carriers had not kept good statistics in this area. Our problem was that since 25% of Oregon lawyers were not insured, we did not know what type of claims were out there lying in the weeds," Mr. Rawls complained.

"We finally ran a survey and got 95% participation from lawyers, put the results into a computer and projected we'd get 500 claims in 10 years. During the first four months, we have received two or three claims that will develop into

Continued on following page

Photo: Terry King

Former insurance commissioner Lester Rawls says his fund might invoke a deductible in the future.

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Oregon lawyers . . .

Continued from preceding page
some payment," revealed Mr. Rawls.

The $500 premium assessment could also be changed. "We still have to decide if $500 is equitable for both lawyers in Portland and the guy practicing out in the boondocks. Eventually, we will have enough experience to rate it," he added.

Mr. Rawls will concentrate on loss control and will soon hire a person to work in loss prevention. "We'll say to lawyers, 'This is the way to do business and these actions will cause losses," he notes.

"The largest single error producing claims is the failure to comply with the statute of limitations," he says, "so we're working on a booklet that will list various statutes and their time limitations.

"For example, a lawyer called me today. He had a client who was jailed wrongfully for one week. But to bring action against the county, he must notify them within six months of occurrence. The lawyer was concerned because he couldn't reach his client and wanted to know if he should assume he no longer had the man as a client or if he should file a note of intent. I told him to go ahead and file to make sure he didn't later have a loss."

His new loss prevention person will also work with legal secretaries "to make sure they see to it that their bosses file on time." He also ordered an American Bar Assn. loss control slide presentation.

By year end, administrative costs to run the program for six months and to set it up and pay for furniture, fixtures, accounting and legal procedure will come to $158,990. In the future, however, with the addition of more staffers, "I anticipate a yearly administrative budget of $228,811," notes Mr. Rawls.

For other states to adopt a similar plan, they'd have to have an integrated bar where membership is manditory and the state would also have to have enough lawyers and cash flow in the program to pay for administering it.

A number of other western states, (Washington, Alaska, Idaho, Utah, Montana, Colorado, Arizona and New Mexico) have been meeting with Oregon officials for initial discussions on whether "We should all go together into one large program, implement individual programs or whatever," said Mr. Rawls.

"We could bring more states into our plan, if they pay their way and amend their laws so we don't violate their insurance laws," he suggested. ■

Calif. counties' group probe state excess pool

SACRAMENTO, Calif.—The County Supervisors Assn. of California (CSAC) is studying an excess liability fund for counties through a joint powers agreement (JPA).

According to a report put out by the association's executive committee, participating counties would probably place between 50% to 75% of their projected excess insurance premiums into a centralized fund for the payment of excess losses. The fund, to operate on the same principles as a mutual insurance company, would be owned and operated by the counties themselves.

Gregory L. Trout, insurance coordinator for the association, revealed that his group would like to have the JPA operational between July 1979 and January 1980. A risk manager may be hired by the JPA to act as a consultant to participating counties.

The first step in the plan is to appoint a task force that would report to the CSAC executive committee by December, he said.

Such things as the level of funding necessary, the layer of liability to be assumed and how much to be reinsured and the premiums to be assessed annually would be determined by the participating counties with the help of a consultant.

A CSAC survey contained in the report found that the average county excess liability insurance premium paid in 1978 was $234,906 compared to $31,880 in 1973—an increase of 634%. Since 1973, counties have spent $42 million for excess liability insurance coverage, the survey found.

"In 1978 alone, over $12 million was spent, even though the number of counties without liability coverage is increasing. In 1973, there were no uninsured counties but in 1978 there are eight," it said.

The report states that counties report there have been no excess liability insured losses paid or reserved since 1973.

The report concludes that since 1973, California counties have paid approximately $16 million for the operating expenses of excess insurance companies. The remaining $26 million was paid to cover "expected losses," it said. But since there reportedly were no losses, the $26 million was used to pay for the incurred losses of other policyholders or reverted to the companies as additional profits.

The individual purchase of excess liability insurance has not been a cost effective allocation of county resources, according to the CSAC report. ■

Life benefits total $26.5 billion

WASHINGTON—Life insurance benefit payments totaled $26.5 billion in the U.S. last year, reports the American Council of Life Insurance, up from $24.6 billion a year earlier.

Of this money, 61% was paid to living policyholders in the form of matured endowments, surrender values, policy dividends, disability payments and annuity benefits, says the Council. Beneficiaries of deceased policyholders received 39% of the money. ■

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Exec tunnels maverick plan for transit

By REBECCA A. FANNIN

MIAMI—Innovative risk management should save this bursting metropolis millions of premium dollars when it insures the building of a billion-dollar mass transit system, beginning next spring.

While greater Miami plans to spend a massive sum of money to free its clogged highways of sunshine seekers, its risk manager has paved new ground by devising a unique means of reducing the project's insurance costs.

Not one to blindly conform with self-insurance rules he thinks are needless, John J. O'Brien, Dade County's insurance and risk manager, simplified the rules. He gained permission from the Florida State Department of Commerce to employ his ideas, first to be tested in the state.

"The department seemed to appreciate the innovativeness," Mr. O'Brien said.

He noted proudly that he received permission from the state to self-insure a workers compensation wrap-up plan, which has never been done before in Florida. He also won the go-ahead to use a contractor's experience modification of 1.0, which in effect allows the county to self-rate the workers compensation risks for the project, rewarding it the full amount of whatever savings it gains from good loss experience.

What this all means is that Dade County will act as self-funding agent and administrator of claims for the county as general contractor and for as many as 200 subcontractors on the project.

Self-insuring workers compensation in the wrap-up plan should save the county approximately 66% in insurance premiums, Mr. O'Brien said.

Most of that savings will result from the expected good loss experience of the building project. Using an example to illustrate, he explained that the county could reserve for $10 million, a standard premium if the insurance were purchased. But with good loss experience, that amount would be reduced to, say, $5 million for claims, reserves and administrative expense or the amount needed during the five years of construction.

Additional savings should result from the nature of a wrap-up plan, which insures contractors as a package rather than individually.

The rates won't reflect any previous poor loss experience of the contractors involved. Rather, all contractors will be rated as though all have clean loss slates, Mr O'Brien explained.

Administrative and accounting fees will also "be cut to the bones," Mr. O'Brien noted. One broker who submitted a bid to administer the project's insurance program reduced its proposed fees to $56,000 from $75,000.

Mr. O'Brien explained that the broker's fees to administer the insurance program will be reduced because the county will absorb engineering and most claims handling duties while the broker will be responsible for loss control and marketing insurance coverages.

The internal administration of claims by Mr. O'Brien's staff of 29 and additional personnel to be hired should produce annual savings of $500,000 for the county's self-insurance of workers compensation outside the project.

The project's cost will be reduced because of a simplified method Mr. O'Brien has devised for rating the workers compensation.

Instead of breaking payroll down by classification, Mr. O'Brien plans to use 90% of the contract price of payroll for labor only contracts or 50% of the contract price for labor and material contracts. He prefers the second approach.

Mr. O'Brien explained how his method of rating workers compensation would work. To illustrate, he used a figure of $18 million for total premium and $300 million for the total labor cost. Dividing the labor cost by the premium, he derives an estimated 6 cents per $100 of payroll workers compensation rate. (These aren't the county's actual figures.)

The estimated premiums would then be adjusted annually to reflect the actual project cost.

Since effective loss prevention is a key to the program's success, Mr. O'Brien plans to set up a separate insurance office of six people to be staffed by the broker who wins the account.

"All the major brokers have submitted proposals." Mr. O'Brien said, including Fred S. James, Marsh & McLennan, Frank B. Hall and Reed Shaw Stenhouse. Frank B. Hall has the largest Miami office of those brokers.

Liability limits suggested by the brokers range from a high of $75 million for general liability, including errors and omissions, to a low of $50 million. Mr. O'Brien said he would be comfortable with a $75 million limit but quipped that limits as "high as the moon" could be needed for such a massive project.

For builder's all-risk insurance, brokers have suggested $30 million limits while another has preferred $25 million for personal injury and property damage.

Other coverages necessary for the project are railroad protection insurance since the county is constructing next to a railroad, surety bonds and contractor's equipment, including auto liability.

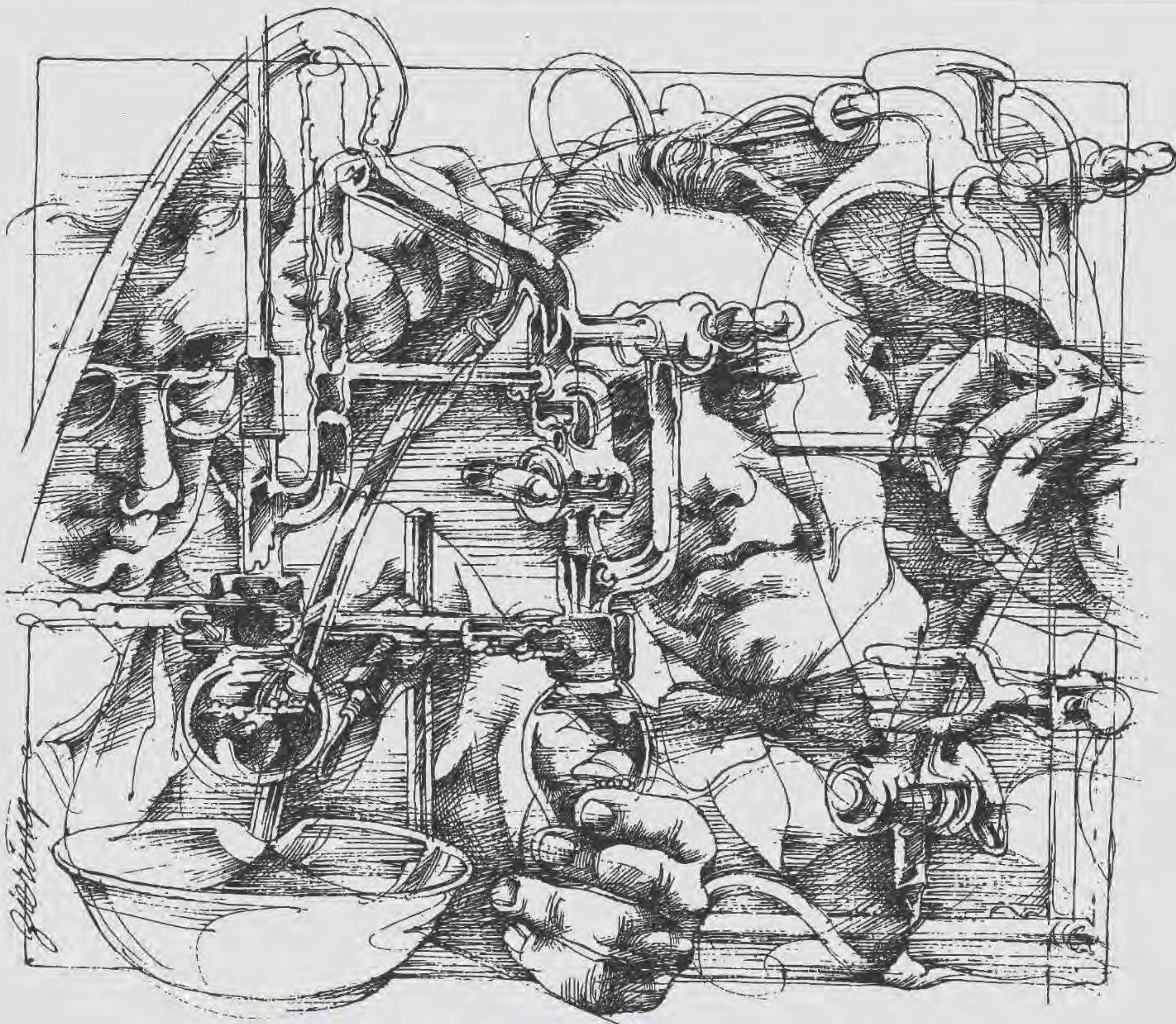
Mr. O'Brien, who joined Dade County in 1977 after a short stint in the business of apartment and townhouse cleaning, is no newcomer to risk management. He has chalked up 20 years of risk management experience as national director of claims at Avis-Rent-A-Car, insurance manager for Mack Truck and insurance manager for Franklin Mint Corp.

He's also no novice at insuring high-exposure risks. Dade County includes 23 municipalities.

Except for the airport liability, the county's liability is self-insured. Property coverage is purchased with a $1 million retention and a $276 million limit. ■

Photo: Rebecca Fannin

Self-insuring workers compensation should save the county almost 66% in premiums, says John O'Brien.



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benefit tax slants

Delayed stock bonus can protect for inflation

By JOSEPH S. ROBINSON
Attorney-at-Law

PUTTING OFF A bonus or portion of compensation until retirement can generate a tax saving. Typically, such plans call for a naked promise by the company to make continued payments to an executive when he retires or to his family in the event of his death. However, as a result of inflation's assault on such pre-fixed setups, more and more corporations are utilizing their company stock, hopefully to offset the future dollar loss.

They gear the deferred compensation arrangement to the appreciation on the value of their stock. The corporations treat the deferred amounts as if they were invested in a fixed number of shares of their own stock.

For instance, one plan provided for paying the employe "... the number of shares of its common stock which the deferred portion of his incentive pay for the year involved would buy as of the time ..." In effect, the corporation immediately translates a bonus into an equivalent amount of its shares and may even buy and hold that amount of stock for future use. This number of shares, or their dollar equivalent, is turned over to the executive when the deferment period ends and can then be worth considerably more than the amount of the original dollar bonus due.

For the executive's viewpoint, this is like investing his deferred bonus in his company's stock and getting the full benefit of any appreciation in value. While the higher value becomes fully taxable compensation when the amount representing the value of the stock is turned over to him, this is more advantageous than getting no growth at all on his deferred bonus.

Since the employer is not required to hold stock for the executive, the arrangement is called "phantom" or "shadow" stock.

After giving the go-ahead signal on the use of shadow or phantom stock and other plans, IRS had second thoughts. It suspended issuing rulings on any such deferred compensation plans. IRS expressed concern that, in substance, the employe in these situations receives the compensation and deposits it with the employer to be held for the employe's benefit. (*IRS-1881, 9/7/77*).

However, Congress, in the 1978 Tax Act, has barred the IRS from closing this "loophole."

Partial rollovers

A new law allows employes who receive lump sum distributions from a pension or a profit sharing plan to rollover all or part of the payout into an IRA or into another qualified plan.

If an employe elects to make a partial rollover, the amount that isn't rolled over will be taxed in the year received as ordinary income and will not be eligible for the special 10-year averaging. Therefore, a taxpayer should weigh the pros and cons of his option. A partial rollover means he'll be able to defer tax on part of his payments and still keep some cash on hand. But the loss of the 10-year averaging may mean the current tax due on the retained part will outweigh the tax advantages of the deferral on the rolled over portion.

Bonus time

Benefit managers and others concerned with payroll taxes should consider the added cost to the company in allowing an employe to take his year-end bonus in January 1979 instead of this December. Here's why:

Currently, Social Security taxes go as high as $1,071 or 6.05% on the first $17,700 of earnings. Next year, it jumps to $1,403 or 6.13% on the first $22,900 of earnings. So if a company plans to pay a 10% bonus to a $20,000-a-year employe, the $2,000 bonus would be subject to Social Security tax if it were made in January 1979; it would escape this tax if paid out in December.

Survivorship annuity

Under Treasury rules, payments under non-transferable annuity contracts distributed from qualified plans to participants or their beneficiaries are taxable only as they are actually received. In addition, it appears that annuity payments to beneficiaries under such contracts will be eligible for the estate tax exclusion. Here is a ruling which expands the latter point.

A former employe had been a member of a state's qualified, contributory pension plan. Separate accounts were kept of his and the state's contributions. On retirement he elected an option provided by the plan under which his contribution with interest was refunded to him and a survivorship annuity became payable to him and his wife who survived him.

The revenue service ruled that, since the wife's annuity was predicated solely on the employer's contributions, it is free of estate tax. (*Rev. Rul. 78-151*).

Letter rulings

From time to time we report a private letter ruling that may have relevance to benefit plans. We do this to convey the possible attitude of IRS on a particular point.

IRS commissioner Jerome Kurtz has stated that a significant portion of private letter rulings are reversed when revenue rulings are later published on the subject. Accordingly, because of the possibility of reversal and since these rulings cannot be cited as precedent in actions before the IRS or courts, caution should be exercised in using letter rulings for guidance. ■

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• Surveys indicate that most people do not shop around for insurance. The Missouri consumer information center is now offering **a guide for buyers of health insurance** to encourage shopping for insurance. Some advice, caution and guidelines are given in the 15-page booklet so that consumers, armed with a better understanding of health insurance, will shop for the policy and rates that best suit their needs and lifestyle. For a free copy write Department of Consumers Affairs, Box 1157, Jefferson City, Mo. 65102.

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• Revised and updated, **GAB's Little Red Book 1978** is a comprehensive directory of addresses and telephone numbers for the more than 650 GAB branches throughout the U.S., Canada, Caribbean and Europe. Also listed are the company's services and key executives. The directory includes a tear-out card with the emergency claims service telephone numbers. The 62-page booklet is available without cost by writing J.W. Weatherstone, Marketing & Products Division, GAB, 123 William St., New York, N.Y. 10038.

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Lanoff blasts back

Labor flubbed ERISA, Senate report charges

Crain News Service

WASHINGTON—A report for a Senate subcommittee blasts the Labor Department's enforcement of the pension reform law, but ERISA administrator Ian Lanoff is returning the report's fire.

The Controller General in a report for the Senate permanent subcommittee on investigations also criticized Labor Department efforts to enforce the 1959 Labor Management Reporting and Disclosure Act. Both laws dealing with pensions and employe benefits are enforced by the Labor Department's labor management services administration.

"More vigorous enforcement is needed to detect and investigate potential criminal as well as civil violations" of the two laws, says the report.

Among the criticisms in ERISA enforcement cited by the study are most enforcement efforts are civil, rather than criminal, not enough time is spent on enforcement, the field audit operation is unsatisfactory and there is inadequate staffing.

The report recommends that more staff than requested by Labor and the Office of Management and Budget; the number of onsite field audits be increased; procedures be established to notify the Justice Department of activities to avoid duplicating investigations, and improving the timeliness of investigations and training.

Mr. Lanoff said the bottom line is that he doesn't understand why ERISA is "continually lumped" with the 1959 law as a criminal act. "We see ERISA as a civil act, as does the IRS," he said.

He said, for example, if the criminal avenue were followed for a transaction, and indictment could be handed down after an investigation, but would not do the pension fund any good.

He also said that although most of the previous enforcement work

The critical report ignores the changes instituted by the Labor Department, says administrator Ian Lanoff.

has been initiated by outside complaints, a system has been established for enforcement officers to check certain things on documents which will enable them to initiate audits themselves. "But the report just ignored that," Mr. Lanoff charged.

Mr. Lanoff added that the Labor Department, contrary to what the report says, has had success in the enforcement area. He cited cases brought against the Teamsters Central States pension fund, Teamsters Local 282 and the Southern Labor Union.

Further, Mr. Lanoff noted that the Labor Department has brought in law students in its field offices to make inquiries, freeing up enforcement officers. Additionally, he said the department has spent so much time in training that some of the offices have complained.

The government report was conducted at the national office in Washington and at field offices in Philadelphia and San Francisco.

The report says that Labor set a goal that 65% of pension office time be spent on enforcement, a goal which was not met. According to the report, 47% of the time was spent on enforcement, 30% was spent on technical assistance and 11% was spent on training.

According to the report, 32 ERISA audits were completed in 1977 and 64 were being planned for 1968, a 100% increase. Additionally, 105 audits are being planned for 1979, a 64% increase.

"These planned increases are an improvement in audit coverage, but the number planned is still relatively insignificant in relation to the estimated 500,000 pension and welfare benefit plans known to Labor and reporting under the acts," the report says. ■

Crime insurance plan expanded

WASHINGTON—The Virgin Islands this month was added to the list of areas in which federal crime insurance is available.

Residents and small businesses can purchase the burglary and robbery insurance through licensed property insurance agents or brokers. The federal program has a $15,000 limit.

The program enables individuals and companies to obtain affordable insurance that will not be canceled because of losses.

Aside from the Virgin Islands, federal crime insurance currently is available in 23 weeks. ■

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legal briefs

Court limits shooting death damages to work comp

HERE THE HUSBAND of a dental assistant accidentally shot by her dentist-employer sued the dentist for her wrongful death. The Maryland Court of Appeals ruled that the husband's exclusive claim was under the workers compensation law in that the death resulted from an incident of employment and therefore arose out of her employment.

Dixie Lee Cox, dental assistant to Dr. William L. Knoche, was killed by the negligent act of Dr. Knoche. The accident occurred in the dental office when Dr. Knoche was showing a hand gun to a patient. The gun accidentally discharged and a bullet went through a composition wall between the office and a hallway striking Mrs. Cox fatally wounding her. At the time of the accident, Mrs. Cox was cleaning up dental powder spilled in the hallway. The trial court entered a judgment in favor of Mr. Cox.

On this appeal, Mr. Cox argued that the Workmen's Compensation Act did not apply because while the accident occurred in the course of employment it did not arise out of the employment.

The court disagreed pointing out that an injury arises out of employment when it results from some obligation, condition or incident of the employment under the circumstances of the particular case. The court concluded that the injury here did result from an incident of Mrs. Cox's employment especially as she had not stepped aside from her employment, was not guilty of any deviation from her duties and was exposed to the injury she suffered by reason of her employment. *Knoche* v. *Cox*, Court of Appeals of Maryland, April 25, 1978. (BI/01/O.-$4).

Escape clauses

Two insurance companies in this case participated in the settlement of a wrongful death action brought against a mutual insured. The companies then filed this suit to determine which insurer would bear the loss because of "escape" or "other insurance" clauses in the respective policies.

The underlying wrongful death action was settled for $375,000. All but $125,000 of the settlement was accounted for by one insurer or the other. It was this remaining sum that was the source of controversy.

Continental Casualty Co. (Continental) issued the insured an umbrella excess liability policy that provided that if the insured had other insurance "whether on a primary, excess or contingent basis, there shall be no insurance afforded hereunder . . ." The second insurer, Insurance Co. of North America (INA) wrote a blanket liability policy which provided that if there was other insurance the insurance under its policy would be in excess of that insurance. The question was which of the companies was obligated for the $125,000.

The appellate court was of the opinion that the case rested upon an interpretation of whether these were "escape" or "excess" clauses. An "escape" clause, according to the court, relieves an insurance company from any obligation while an "excess" clause would provide supplemental protection after the first policy had been exhausted.

The court concluded that the INA clause was clearly an "excess" clause and that Continental's was an "escape" clause. Because under Pennsylvania law a conflict between an "excess" and an "escape" clause results in a refusal to enforce the latter, the court held that the full amount of the loss must be assumed by Continental. *INA* v. *Continental Cas. Co.*, U.S. Court of Appeals for the Third Circuit, April 27, 1978. (BI/02/O-$4).

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

Want of integrity

A bank brought this suit against its insurer to recover $450,000 under a fidelity provision of a bankers blanket bond for losses caused by the conduct of one of its employes. The Supreme Court of New Jersey ruled that the words "dishonest or fraudulent," as used in fidelity bonds, encompasses any acts which show a want of integrity or a breach of trust and that, under the facts of this case, there was coverage under the bond.

The National Newark & Essex Bank (Essex Bank) was covered under the bond issued by the American National Insurance Co. (American) under which the bank was indemnified against any dishonest or fraudulent act of any of its employes. Essex Bank suffered losses approaching $500,000 resulting from the improper activities of a vice president and branch manager with respect to his handling of large collateralized loans, particularly for a single bank customer. In essence, the officer permitted substantial shortages of collateral, under-margining of loans, large overdrafts and the constant violation of a bank requirement that the customer maintain a compensating balance in his account equal to 20% of the outstanding loan.

Essex Bank filed a claim with American which was denied. This suit resulted in a judgment in favor of the bank on the issue of coverage but the case was, nevertheless, dismissed because of a late filing of the suit.

The appellate court affirmed the ruling on coverage noting that it was irrelevant that the officer did not personally profit from his lack of supervision. Also, the court said that the words "dishonest and fraudulent" are to be given a broad scope in fidelity bonds to protect employers against employes' wrongful acts which, although not criminal, nevertheless display a significant lack of probity, integrity or trustworthiness.

The court also concluded that Essex Bank had filed its suit in a timely manner and could pursue its claim against the insurer. *Nat. Newark and Essex Bank* v. *Ameri-*

Continued on following page

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Legal briefs . . .

Continued from preceding page
can Ins., Supreme Court of New Jersey, April 27, 1978. (BI/03/O-$4).

Supplemental protection

Does the insolvency of a primary insurer for professional liability insurance compel a supplemental carrier to assume any loss? Not according to a decision of the United States Court of Appeals for the Fourth Circuit which ruled that the supplemental carrier was not obligated to defend malpractice suits brought against a physician.

Dr. Rafael Molina was issued two "catastrophe liability" policies by U.S. Fire Insurance Co. (U.S. Fire). These policies were designed to provide supplemental protection in the event the insured incurred liability for damages in an amount exceeding the coverage provided by the primary insurer which under the terms of the supplemental policies was to be in an amount not less than $100,000 per claim.

The primary carrier became insolvent. Two professional malpractice suits were filed against Dr. Molina. Because of the insolvency of the primary carrier, Dr. Molina requested U.S. Fire to defend. U.S. Fire refused.

Dr. Molina then sued U.S. Fire seeking a declaration of rights under the two policies. The trial court ruled in favor of the insurer.

The appellate court agreed concluding that it was clear that the U.S. Fire policies required that the underlying insurance must be in force and "collectible." The court said U.S. Fire's limited coverage was manifested by a provision that if the insured failed to maintain an underlying policy, U.S. Fire's policy would apply in the same manner it would have applied had such primary policy been maintained. *Molina v. U.S. Fire Ins. Co.*, U.S. Court of Appeals for the Fourth Circuit, May 1, 1978. (BI/04/O-4).

90-day death clause

The Supreme Court of Ohio has ruled that provisions in an accidental death and dismemberment policy limiting recovery to situations where death occurred within 90 days of an accident were not contrary to public policy and were enforceable.

Paul D. Rhoades was insured by The Equitable Life Assurance Society of the United States under a group accidental death and dismemberment policy which called for payment of an indemnity in the event that the insured sustained bodily injuries in an accident and as a result of which the insured died within 90 days.

Mr. Rhoades was injured in an automobile accident on September 14, 1974, hospitalized until October 11, 1974, and rehospitalized December 21, 1974 to January 1, 1975. On January 7, 1975, two days after his last release and 116 days after the accident, Mr. Rhoades died as a result of a cardiac arrest.

His widow filed a claim for the accidental death indemnity. Equitable refused to pay. The widow sued but lost in the trial court. This was reversed by an intermediate appellate court.

The principal issue on the appeal here was whether the provision in the policy limiting recovery to situations where death occurs within 90 days was contrary to public policy. The appellate court concluded that it was not.

According to the court, the test as to whether an insurance contract provision was void as against public policy was whether its purpose was injurious to the public or contravenes some established interest of society. The court noted that the purpose of the 90-day limitation was to eliminate disputes concerning the proximate causes of an insured's death. Rather than being injurious to the public, the court believed the time limitation served a legitimate societal function.

Thus, the court decided that Equitable was not liable. *Rhoades v. Equitable Life Assur. Soc. of U.S.*, Supreme Court of Ohio, April 12, 1978. (BI/05/O-$4).

No duty to employes

A Michigan appellate court has ruled that the relationship between a fire insurance carrier and its insured does not by itself create any duties on the part of the carrier to the insured's employes. Furthermore, the court concluded that where the insurance company voluntarily assumed to assist the employer in inspecting the plant for fire hazards, such did not extend to employe safety so as to impose liability on the insurer for an employe's injuries arising out of a fire.

The Great Lakes Steel Corp. (Great Lakes) carried fire insurance with Allendale Mutual Insurance Co. (Allendale). Allendale's agent, Factory Mutual Engineering Assn. (Factory), conducted periodic inspections of Great Lakes for fire hazards. An employe of Great Lakes was seriously injured in a fire caused by an electrical defect. The employe sued both Allendale and Factory claiming that they were negligent in failing to discover and notify Great Lakes of the defective ungrounded electrical system. The employe received an $860,000 jury verdict, but the trial court directed a verdict for the insurance company and agent.

On this appeal, the insurance company and its agent argued that they had no duty to inspect Great Lakes for employe safety hazards and thus could not be liable for any alleged negligence in failing to discover this defect. The appellate court agreed, pointing out that the insurance company's inspections were limited in both scope and purpose to fire hazards.

Noting that Factory's inspectors were trained in fire hazards rather than employe safety, the court agreed that any duty assumed by them did not extend to the injured employe because employes were not included within the orbit of risk created by the assumed duty. *Smith v. Allendale Mut. Ins. Co.*, Court of Appeals of Michigan, Oct. 25, 1977, *released for publication* Jan. 12, 1978. (BI/05/Jy.-$4).

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(Copies of the entire decision may be obtained by sending a check for $4 made out to Cases Unlimited to Business Insurance, *740 N. Rush St., Chicago, Ill. 60611.)*

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Dividends are expressed as a percentage of paid premiums and depend on loss experience and member participation. In 1977 more than $6 million in dividends was returned to MarketDyne's safety groups. ■

Insurance bids, broker changes need careful hand, report says

CHICAGO—As the insurance markets ease, more corporations, government bodies and institutions are considering rebidding their insurance coverage. But risk managers should be aware that only a careful and reasoned approach will produce benefits, say Bernard M. Brown and Charles F. Moody in the current Risk Management Reports.

The two consultants, vps at Risk Planning Group in Darien, Conn., suggest that frequent rebidding of insurance coverage is self-defeating. "Underwriters who feel they may lose a line of business in a few years will charge a premium high enough to recover heavy front end costs in a shorter time," they observe.

Although many municipalities and other government agencies are required to rebid their insurance, common causes in the private sector include the opportunity to take advantage of loosening markets, management dissatisfaction with the performance of a broker or underwriter, a new risk manager or a change in the risk manager's superior and a significant restriction in coverage or increase in cost at renewal.

A company should change brokers if there are too-frequent changes in underwriters, a change in the people in day-to-day control of the account, if the growth of a company outstrips the capabilities of the broker, if service is inadequate or if the broker is not examining self-insurance alternatives which might reduce commission income, the consultants urge.

A risk manager should be certain that the fault lies with the broker and not the risk manager when considering a switch. Risk Management Reports suggests brokers be given a written list of areas needing improvement and a reasonable amount of time to correct problems before opening the account for bid.

In a repeated observation on the rebidding process, Messrs. Brown and Moody say, "Too much unprofessional activity still exists in the client/broker/underwriter relationship, so make it a point to be as professional as possible in dealing with all brokers or underwriters."

"Insurance brokers should not be selected on the basis of friendship, old school ties or other subjective reasons," they add. "In this day and age, the insurance broker represents an important business relationship. Treat him as professional and an expert and demand that he act like one."

Risk Management Reports say a key to successful negotiating is the complete disclosure of all losses. "In this age of professionalism," the consultants warn, "risk managers who submit specifications which are not accurate or which hide, distort or gloss over problem areas will probably not enjoy the best reputation within the relatively small community of underwriters."

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The report also recommends that risk managers trust their brokers, meet personally with underwriters, obtain a breakdown in the cost of the various services to be supplied and explain the philosophy behind rebidding the coverage.

Risk Management Reports is edited by H. Felix Kloman, president of Risk Planning Group of Darien, Conn. It is published by *Business Insurance* six times a year. ■

Agents eye bank limits

WASHINGTON—The National Assn. of Professional Insurance Agents (PIA) is gearing up for an intensive campaign in the 96th Congress to enact legislation that limits the insurance activities of bank holding companies.

The PIA had failed in its efforts during the last session of Congress when a section of the Financial Institutions Regulatory Act of 1978 dealing with holding companies was eliminated despite an earlier vote in support of a significant amendment.

"We are disappointed because we were close to enactment of this much-needed and long overdue legislation," said PIA president Wayne L. Naugle. "We must assume that the crowded House calendar and the rush to adjourn did not permit adequate time for debate."

Throughout the association's campaign to gain approval in the last Congress, the PIA argued that the sale of property and casualty insurance by banks is not in the public interest and exerts undue economic coercion on independent agents.

The regulating measure, introduced as Title XIII of H.R. 13471, amended sections of the Bank Holding Act of 1956.

Under the proposed amendment measure bank holding companies would be able to provide insurance only to insure the life of a debtor in connection with a specific credit transaction while the debtor is disabled or in a community of under 5,000 with inadequate insurance activities. ■

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dates for buyers

NOV. 27-28. RCI Communications Inc. will present an advanced seminar in Key Biscayne, Fla., on the reduction of construction insurance costs. The seminar will be repeated **Dec. 13-14** in New Orleans and **Jan. 16-17** in San Francisco. Workshops will cover new material such as preparation for premium audits, rating plans for competitive proposals, management for professional liability, captives and self-insurance funding, determining insurance costs for construction bids, the London market and workers compensation guaranteed cost plans. Cost of the seminar is $395 with team fees available. Contact RCI Communications Inc., Suite 350, Building V, 10300 North Central Expressway, Dallas, Tex. 75231; or you can phone 214-363-9656.

NOV. 28-29. How to profit from the London market by improving coverage and lowering costs is the title of a RIMCO seminar to be repeated by popular demand in Chicago. Future seminars will be held in New Orleans on **Dec. 14-15** and San Francisco on **Jan. 17-18.** The program will cover an introduction to Lloyd's broker, the role of the surplus lines broker, collecting a loss, the role of Lloyd's agent and how to present a risk for a London placement. Cost: $395, team fees available. Contact RCI Communication Inc., Suite 350, Building V, 10300 North Central Expressway Dallas, Tex. 75231; phone 214-363-9656.

NOV. 30-DEC. 2. Union Planters National Bank is bringing back the fidelity bond claim seminar due to popular demand. The seminar, which will be held at Rickey's Hyatt House in Palo Alto, Calif., will examine executive fidelity, bond claims and related matters. Seminar participants will be shown how to file and pursue a claim, possible consequences of the claim, the insurers part in the claim, legal strategies if your claim is not paid and steps to reduce fidelity bond claims. Cost is $495 which includes seminar, meeting materials, lunch and dinner Thursday evening. Contact Union Planter National Bank of Memphis, James A. Cook Jr., Special Assistant for Financial Affairs, 67 Madison Ave., Memphis, Tenn. 38147; phone 901-683-1985.

DEC. 6. The National Health Care Corp., a subsidiary of ESIS Inc., will hold a seminar at the Wilshire Hyatt in Los Angeles examining the company's specialized service in forming and administering self-funded group medical programs. Self-insurance, the excess marketplace, claims administration, methods of claims funding and guides for prompt quotations and proposals from a company are the topics to be discussed. Contact the National Health Care Corp., 45 Bromfield St., Boston, Mass. 02108; phone 617-542-2747.

DEC. 7. The Risk Management Group (London) is offering a seminar designed to help businessmen cope with the problems in product liability. The seminar will outline a practical plan that would allow businessmen to manage product liability economically, give the buyer satisfaction and the insurer an underwriting profit. Cost is $160. Contact Gillian Morley, Risk Research Group (London) Ltd., Bridge House, 181 Queen Victoria Street, London EC4V 4DD; phone 01-236-2175.

DEC. 7-9. The International Foundation on Employe Benefit Plans will hold its annual public employe conference in San Diego. The conference will focus on some of the concerns shared by those involved in the operation of health, welfare and pension plans. Benefits and the impact of liabilities on the payment of benefits, changes in fringe benefit priorities and design, pension funding problems and Social Security amendments are just some of the topics to be covered. A debate between a municipal labor relations director and a union representative about the impact of the public sectors fiscal crisis on collective bargaining is also slated. Cost is $225 for foundation members and $285 for non-members. Contact The International Foundation of Employe Benefit Plans, P.O. Box 69, Brookfield, Wis. 53005; phone 414-786-6700.

JAN. 29-FEB. 1. Financial Costing in Risk Management is an advanced seminar to be offered by The University of Dallas. The seminar will examine the impact and timing of risk management accounting decisions with an emphasis on the identification of accounting decisions in self-insurance and captive operations, the allocation of risk management costs to various divisions and the building of a risk management operating budget. Cost is $345 for RIMS deputy members and $375 for others. Contact Professor Bruce Evans, The University of Dallas, Management Laboratories of America Inc., Irving, Tex. 75061; phone 214-438-1123 ext. 360 or 214-438-5765.

JAN. 22-28. The Cardio-Metrics Institute and the Human Performance Laboratory are the sponsors of a symposium on health and preventive medicine in the corporate setting to be held in Hollywood, Fla. The symposium will cover the role of industry in the control of preventable disease and health abuse with particular emphasis on the areas of stress, nutrition, physical activity, heart disease and alcoholism. Current research findings will be presented and discussed by medical authorities and selected corporate health programs will be reviewed. Cost: $475. Contact Cardio-Metrics. Institute, 295 Madison Ave., New York, N.Y. 10017.

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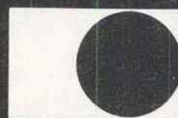

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IRS exempts Keogh plans from filing

WASHINGTON—Self-employed taxpayers with their own retirement plans, known as Keogh plans, will not have to file Form 5500-K, the annual report for employe pension benefit for sole proprietorships, if they are the only participant in the plan or if they are members of certain partnerships.

This filing change will relieve about 400,000 persons from filing Form 5500-K, the Internal Revenue Service announced this month.

In addition, the IRS is exempting about 2.4 million taxpayers from filing a special schedule, known as Form 5329, supporting the deduction they take on their income tax return for contributions paid into an individual retirement account.

However, about 150,000 persons who owe excess contribution taxes, premature distribution taxes or taxes on certain accumulations in IRA accounts or annuities will be required to file revised Form 5329. ▪

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Crain's Chicago Business

THE WEEKLY NEWSPAPER FOR MID-AMERICA

*Leo J. Shapiro & Associates, July 1978

In 1975 crash at Kennedy airport

Eastern to appeal negligence verdict

By REBECCA A. FANNIN

NEW YORK—While more than half the claims resulting from a fatal Eastern Airlines crash three years ago have been settled out of court, a new snag has developed in Eastern's decision to contest a jury decision that it was negligent in the accident.

An Eastern 727 crashed at Kennedy Airport in June 1975 while attempting to land in shifting winds. One hundred and thirteen of the 124 passengers on board were killed.

Although Eastern hasn't conceded liability, it has shared payment of the 67 claims settled so far with the federal government. Eastern agreed to assume 60% of the liability, while the government assumed the remaining 40% up to a maximum of $12 million.

Open claims number 49, some of which will probably go to trial for the amount of damages, according to Robert Alpert, vp of claims at United States Aviation Underwriters, Eastern's lead underwriter at the time of the crash. Eastern has since switched to insurance carriers in London and Europe.

Those claims settled have ranged in dollar amounts from $15,000 to as high as several hundred thousand dollars, Mr. Alpert said. No claims have reached the $1 million mark.

Eastern's limits of liability could not be confirmed although the co-counsel for the plaintiffs, Frank H. Granito of Speiser & Krause, estimated that the airline's liability is insured at $150 million.

"The settlements in these cases never even reach 20% to 30% of total insurance limits," Mr. Granito said.

Eastern's insurance department said its insurance coverage is more than adequate to meet the claims.

In the negligence trial, the plaintiffs charged that Eastern was negligent because it knew of another craft whose landing had been averted because of a wind sheer on the runway where it crashed.

The plaintiffs also blamed the air traffic controllers for not alerting the Eastern flight that a second aircraft had experienced difficulties in landing on the same runway. While the controllers had relayed this information to the supervisor, it was not reported to the Eastern aircraft.

Eastern, represented by Walter Rutherford of Haight, Gardner, Poor & Havens, is appealing the case because the judge failed to allow the lawyer to introduce evidence that could have influenced the jury's decision, such as recordings of the cockpit voice tape and the flight path of the craft.

The defendant also claims that the jury was misled by the judge, who failed to tell the jury about the right of pilots to rely on air traffic controllers for correct information.

In addition, the jury was not told of Eastern's arrangement with the government to share liability payments.

"The jury may have believed that the plaintiffs would have gone uncompensated if they didn't find Eastern negligent," said Mr. Alpert at Eastern's aviation underwriter.

Plaintiff's lawyer Mr. Granito called Eastern and its insurer's effort to get the government to share in the liability a "fantastic job and a remarkable result."

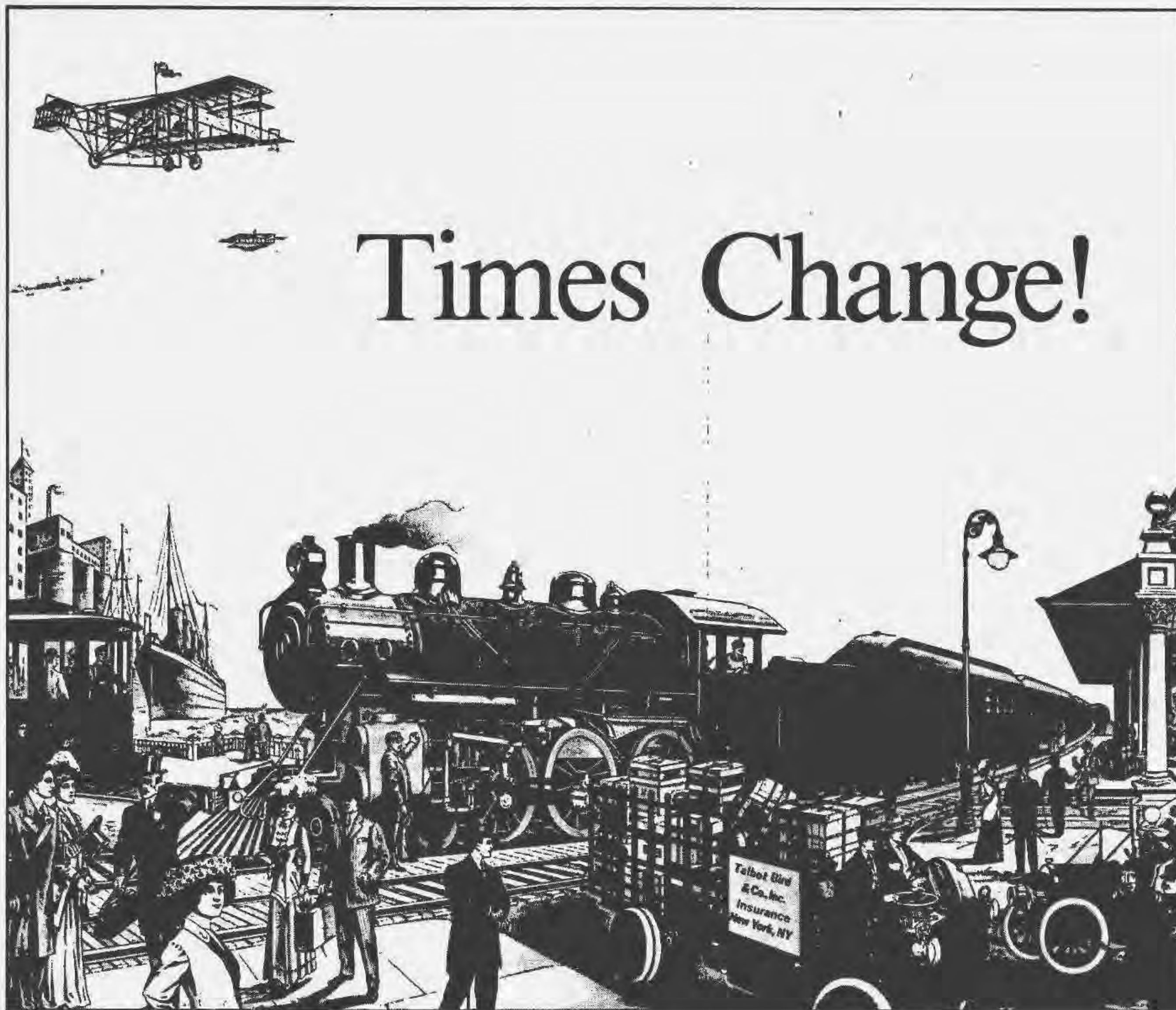
He added that the agreement would probably hold firm regardless of the outcome of an appeal.

Mr. Granito said the negligence trial began because the defendants and plaintiffs could not reach an agreement about how much interest should be paid on the claim settlements.

Claimants can collect 7% interest from the date the suit is started in Louisiana, where the plane originated and can collect 6% from the date of death under New York law.

Eastern had initially agreed not to contest liability if the plaintiffs did not attempt to collect interest, Mr. Granito said.

"In the end, the defendants will spend more to try and appeal the case then they would have spent on the interest," he said. ▪



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INA unit to provide D&O cover

BOSTON—INA Special Risks Facilities Inc., the INA subsidiary organized last year as the backbone of Philadelphia-based insurer's reentry into large account and difficult risks markets, is writing directors and officers liability insurance.

"There is still room for one or two more insurers," said Peter Wood, special risks vp in charge of the D&O operation.

Through its reinsurance treaties, INA will be able to provide $15 million coverage and can probably offer an additional $5 million to $10 million by obtaining facultative support, Mr. Wood said.

At present, the D&O facility will not write coverage in excess of other D&O policies, but Mr. Wood said excess layers might be considered in the future. In addition, he said he would not consider policies for school boards since he believes premium levels are not sufficient to write them at a profit.

First year projections call for approximately $10 million premium volume, according to Mr. Wood.

Currently, INA is employing standard techniques used by other D&O underwriters, such as studying a company's financial data and profitability, Mr. Wood said. The company has established a computer link with Standard & Poor for this purpose.

However, Mr. Wood, who formerly headed D&O operations at The Home Insurance Co., said more innovative underwriting techniques could be introduced in the future. He would not elaborate on these except to say that reducing premium would not necessarily be their purpose.

INA's D&O operations will be organized as a managing agency subsidiary based in Boston and headed by Mr. Wood. Underwriting operations began in September.

In entering the D&O market, INA is following the path of American International Group, with which INA competes on many lines, particularly in the difficult risk and international insurance areas. AIG subsidiary American Home was the first domestic insurer to write D&O coverage. ▪

Swett & Crawford buys 20% of Harris & Dixon

LA broker claims its new link to Lloyd's the best

By REBECCA A. FANNIN and JOHN H. MILLER

LOS ANGELES—Swett & Crawford is calling its link with Lloyd's broker Harris & Dixon a sweeter deal than either Marsh & McLennan or Frank B. Hall gained with their new ties to London.

The Los Angeles-based excess/surplus broker obtains the only exclusive arrangement with a Lloyd's broker, according to William F.W. Fellows, president of Swett & Crawford.

Swett & Crawford and the Lloyd's broker have agreed that they will consult each other before making arrangements to do business with other brokers, Mr. Fellows said, giving them a competitive edge.

The president said that doing business with a smaller Lloyd's broker is advantageous because some London underwriters like to deal exclusively with smaller brokers.

"That's no secret," he observed. "Everyone in the market knows this."

While Swett & Crawford bought into a smaller broker for its future value, Frank B. Hall and Marsh & McLennan's deals were with major Lloyd's brokers.

Earlier, Frank B. Hall purchased London broker Leslie & Godwin, but obtained only a 25% share of that firm's Lloyd's operation, and Marsh & McLennan made plans to combine its operation with C.T. Bowring without any change in stock holdings.

Swett & Crawford will have a 20% interest in Harris & Dixon, in keeping with decision of the Committee of Lloyd's to limit ownership to that amount. The Los Angeles-based broker first approached Lloyd's six months ago about the deal, which the committee has approved.

"We had our application in before either Hall or Marsh & McLennan filed theirs," said Lee Barnes, executive vp of international and reinsurance operations for Continental Corp., Swett and Crawford's parent company.

The link with Harris and Dixon will open several geographical areas for development.

Saudia Arabia, where many U.S. firms are engaged in commercial projects with large-scale risks, is one area pinpointed for development, Mr. Barnes said. Other areas are Hong Kong, Yugoslavia and Nigeria.

Swett & Crawford has a longstanding relationship with Harris & Dixon, using the Lloyd's broker to place substantial lines of business ranging up to exposures on $1 billion risks. Harris & Dixon has emphasized special facilities for many U.S. commercial projects in recent times.

The two brokers have jointly owned and operated a subsidiary, Guest Spencer & Co., which offers worldwide marketing and servicing facilities, as well as reinsurance, and help in establishing both captive and new insurance companies outside the U.S.

Guest Spencer will be phased into the joint operations of the brokers.

Mr. Barnes said joint ownership of Guest Spencer sparked the idea to link more directly with a Lloyd's broker.

The deal with Harris & Dixon will result in the creation of joint insurance broking companies in various parts of the world. The deal is seen at Lloyd's as a significant new venture in the use of smaller broking firms whose reputations can attract business.

Harris & Dixon is owned by the family interests of Viscount Wimborne, one of Britain's titled peers.

Lord Wimborne, whose family motto is, "By iron, not by the sword," still takes an active interest in the firm. Present chairman Michael W. Pragnell, said, "Our association with Swett & Crawford, with whom we have been closely in touch for several years, will enable mutual activities to be expanded in various parts of the world."

Harris & Dixon claim to be the oldest insurance brokers at Lloyd's, where they began in 1797, and are part of a group which now embraces shipbroking and air freight as well. They handle fleets, machinery and cargo shipments in their marine insurance side and a wide range of non-marine business.

They are especially used by a number of substantial customers in government, industry and commerce, and run their own marine syndicate through a separate agency. ■

Carter vetoes disability bill

WASHINGTON—President Carter vetoed legislation that was designed to crack down on disability retirement abuses by District of Columbia police officers and firefighters.

The legislation would have immediately eliminated the right of police and firefighters to retire on full disability because of aggravated off-duty injuries. It also would have tightened other disability provisions for newly hired personnel, but not for employes already on the payroll.

"Although the bill's benefits and disability reforms are desirable, its failure to apply these reforms to current employes constitutes a serious and costly deficiency," President Carter said.

Supporters of the vetoed bill said new legislation will be drafted and introduced in Congress. ■

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Steere Tank . . .

Continued from page 1

programs there is an element of risk transfer."

Liberty Mutual Insurance Co.'s Bill White in special accounts maintained, "We don't have arrangements like that with any companies we insure."

CNA Insurance Co. and AIG Risk Management Inc. both refused to discuss how the Steere case might relate to the arrangements they are setting up for their large accounts.

But at least two major insurers are writing one program that doesn't meet the risk transfer test applied by the IRS. Southern California Edison Co. was challenged this year for taking a tax deduction for premiums paid under a spread-loss or chronological stabilization program, *Business Insurance* learned. But the utility declined to identify the two insurers involved. (See related story, below.)

More investigation?

John Olsen, a Fred S. James vp and an attorney, suggests that "real cost plus or chronological stabilization plans have always been open to attack." The Steere case, he argues, entails facts that are "distinguishing to the point the case can't be precedent setting," including the way premiums were set and claims handled.

The Steere case, coupled with the IRS rejection of the California utility's arrangement for a tax deduction, could suggest the IRS is stepping up its investigation of what is behind an insurance agreement with an insurance company before approving it as insurance for the purpose of a tax deduction.

"The Steere case certainly shows the IRS is looking more closely where they may have walked away before," observed Robert A. Mulderig, an attorney and secretary of Andrew Edwards & Co. in New York.

Steere had taken a tax deduction for premiums paid under its insurance agreement now in question for eight years before the IRS challenged the company in 1972. However, the first tax return filed by Southern California Edison with the spread loss program in effect in 1974 was challenged by the IRS.

The attorney handling Steere's appeal to the U.S. Supreme Court declined to discuss the case, referring *Business Insurance* to the Fifth Circuit Court of Appeals decision handed down last summer.

The decision says that Steere paid two premiums to Tri-State Insurance Co. of Tulsa, Okla. and received a bond declaring Steere financially able to pay accident claims against it. One premium, non-refundable, was based on a percentage of Steere's gross revenues and charged at a minimum of $6,000. The other premium, based on a larger percentage, was payable to a "contract premium account." It was from the second premium that losses were paid, with Steere agreeing to indemnify the insurer for any losses exceeding the balance in the account and the insurer agreeing to return to Steere any money remaining in the account after six years, after paying losses and the insurer's expenses.

Too blatant

Furthermore, Steere agreed to defend Tri-State against any legal actions arising from the parties' agreement, and Tri-State allowed Adjustment & Inspection Co. to manage the contract premium account. A&I was owned by trusts established for the benefit of the children of the owners of Steere Tank Lines. Bruce Steere, president of Steere, was also president of A&I.

The court was asked to determine if the $222,000 payment by Steere to the contract premium account constituted insurance. The court concluded it did not "because Tri-State has no risk beyond Steere's insolvency."

That Steere actually paid an amount of money to another company for a period of time is hardly enough to make the payment a premium for insurance, the court held. "The court is of the opinion that mere loss of control is not sufficient to establish deductibility especially when the 'loss' is limited by an agreement to return a portion of the funds at a later time and when the loss of control is to a company related to Steere by common ownership and management."

Attorney Mr. Mulderig observed that Steere and Tri-State "went about it in a blatant way.

"Other plans we've seen are more sophisticated," he continued. "The insurer is at risk though it's set up for the policyholder to be in the same place as Steere at the end of six years. But there's a theoretical risk taken by the insurance company that the system set up won't work and someone could get hurt." ■

IRS challenges plan at California utility

ROSEMEAD, Calif.—A spread-loss or chronological stabilization insurance plan for a utility here is under attack by the Internal Revenue Service for not exhibiting the element of risk transfer necessary for justifying a tax deduction for the premiums paid.

An annual tax deduction of $1.5 million for the premiums paid for $20 million of physical damage insurance over a $500,000 deductible is one item on a shopping list of challenges by the IRS to the 1974 and 1975 tax returns of Southern California Edison Co., says its senior vp H. Fred Christie.

The IRS is arguing the plan merely allows the utility to self-insure its losses, so the annual payments cannot be deducted as insurance premiums.

The two major insurers on the program are taking 12% of the annual premium for the physical damage insurance, which excludes boilers and reactors, and the rest is reserved to pay the utility's losses, Mr. Christie explained. After 10 years, money unspent out of the first year's payment and the interest earned on it will be applied to the eleventh year's premium. Money remaining from the second year's experience in the plan will be applied against the premium in the twelfth year and so on, as long as the program runs.

Similarly, the cost of losses under the program is spread over 10 years. Assume the utility has paid $8 million more to the insurers than has been paid out by the insurers for expenses and losses, Mr. Christie illustrated. If the utility suffered a $20 million loss today, there would be $12 million to be recouped in future years. Rather than paying the $1.5 million annual premium for the next 10 years, the utility would pay $2.7 million per year—the sum of the $1.5 million annual premium plus one-tenth or $1.2 million of the loss exceeding the reserved funds.

This feature, allowing the utility to pay for a large loss over 10 years instead of paying for it entirely in the year it is incurred, is attractive to the utility "even if we lose the tax deduction," Mr. Christie observed.

The company has actually built up closer to $9 million in reserves since it started the program in 1974, Mr. Christie said. If the utility cancelled the plan today, the insurers would return about 85% of the $9 million to Southern California Edison.

The utility is now trying to "amend the program for sufficient risk transfer for deductibility," Mr. Christie said. The 12% now paid the insurers is for "the element of risk transfer they are taking," he noted. But the credit risk the insurers are assuming and their responsibility to recover certain losses from other parties isn't enough of a risk transfer, the IRS says.

Whatever redesign the company and its insurers on the program devise will be presented to the IRS in a few months when negotiations over the tax returns begin. That assumes the insurers, whom Mr. Christie would not name, are interested in continuing the program. ■

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DWG's Dettore . . .

Continued from page 1

believe I can keep track of all this."

But Mr. Dettore can tick off each company's unique insurance coverages with little hesitation, displaying a keen business sense. And, it seems, a photographic memory for financial details.

Working with Mr. Posner has been an inspiration to develop those skills. "He's a financial genius and I've learned more about management from him than anywhere else," Mr. Dettore admitted. "He gives you a lot of incentives."

Apparently, Mr. Dettore was given plenty of incentives to hold insurance costs down for the holding company. Before he came aboard, property and casualty insurance premiums were rising rapidly, but have now leveled off. In addition, employe benefit costs have risen much more slowly than the average statewide increases since Mr. Dettore took over.

DWG pays approximately $15 million annually for insurance, "less than 2% of gross sales," Mr. Dettore pointed out proudly.

Costs were held down by introducing two captive insurance companies, one self-insurance plan, two minimum premium plans and one employe benefit trust at DWG.

Chesapeake Insurance Co., one of the captives, located in Bermuda, underwrites workers compensation, automobile liability, general liability and some life insurance for the three companies DWG holds: Southeastern Public Service, National Propane and Wilson Brothers.

The captive collects $4.5 million in premiums annually, and insures the first $500,000 of any loss. The captive is fronted by National Union, which doesn't take any of the risk, and is managed by Frank B. Hall & Co.

Excess insurance for Southeastern and Wilson is purchased in two layers, for losses of $2.5 million over the primary and for $5 million above the $3 million underlying coverage.

For National Propane, which has high exposures in propane gas distribution, $44 million in excess insurance is layered for $1 million over the primary, $19 million over $1 million and $5 million over $20 million.

Besides sharing a captive, the three companies in the DWG group participate in a 501(c)(9) employe benefit trust. The trust has helped DWG hold down its employe benefit cost increases to 19% a year while the average statewide increase has been 50%, he said.

Insurance is more fragmented for the three separate companies Mr. Posner controls: Pennsylvania Engineering, Sharon Steel and NVF.

A second captive which Mr. Dettore established, Essex Insurance Co. located in Bermuda, underwrites workers compensation for Pennsylvania Engineering. Managed by Fred S. James, Essex collects $1 million in annual premiums. Included in that amount is outside business with third parties generating $200,000 in premiums, which it accepts on a treaty reinsurance basis from Union Indemnity of New York.

Pennsylvania Engineering, which works on large construction projects, produces rolling mill equipment, and builds furnaces for the steel industry, purchases the rest of its coverages in the traditional marketplace.

Sharon Steel, one of the 13 largest steel producers in the nation, self-insures workers compensation under the only self-insurance program in effect before Mr. Dettore arrived. The steel company purchases general liability and automobile liability coverage from Liberty Mutual.

A subsidiary of Sharon Steel, Carpenter Town Coal & Coke, self-insures workers compensation, a program Mr. Dettore set up because Carpenter Town was having claim problems with black lung disease afflicting its miners. By self-insuring, DWG saved $1 million in insurance premiums over an 18-month period.

The third company Mr. Posner controls, NVF, purchases its workers compensation, general liability and automobile liability insurance from Liberty Mutual. NVF produces high-quality commercial paper, fibers, laminated plastics and material handling devices for the airline industry.

The three companies Mr. Posner controls also purchase employe benefit coverage separately. Pennsylvania Engineering uses a retrospectively rated plan, while Sharon Steel and NVF are on minimum premium plans equivalent to 90% self-insurance, Mr. Dettore explained.

All that work earned Mr. Dettore a promotion to vp of insurance from risk manager one year after he was transferred. Additional departments were added to his realm of responsibilities, which now include safety, engineering, property and casualty risks and employe benefits. He subsequently increased his staff by adding a corporate claims manager and a director of risk management.

The additional personnel allowed Mr. Dettore to focus on "setting up new insurance vehicles," taking day-to-day administrative burdens off his shoulders.

Mr. Dettore isn't stagnating after accomplishing so much. He's contemplating use of a single large captive instead of the two he uses because of the tax advantages a group-owned captive gains under the recent IRS ruling. He's also considering transferring Pennsylvania Engineering's general liability risks into a captive, because premiums have been escalating, doubling last year with only one insurer willing to quote. A decision will be made when the engineering company's coverage comes up for renewal in January. ■

Raymond Dettore is considering a group captive for the various companies he serves as risk manager.

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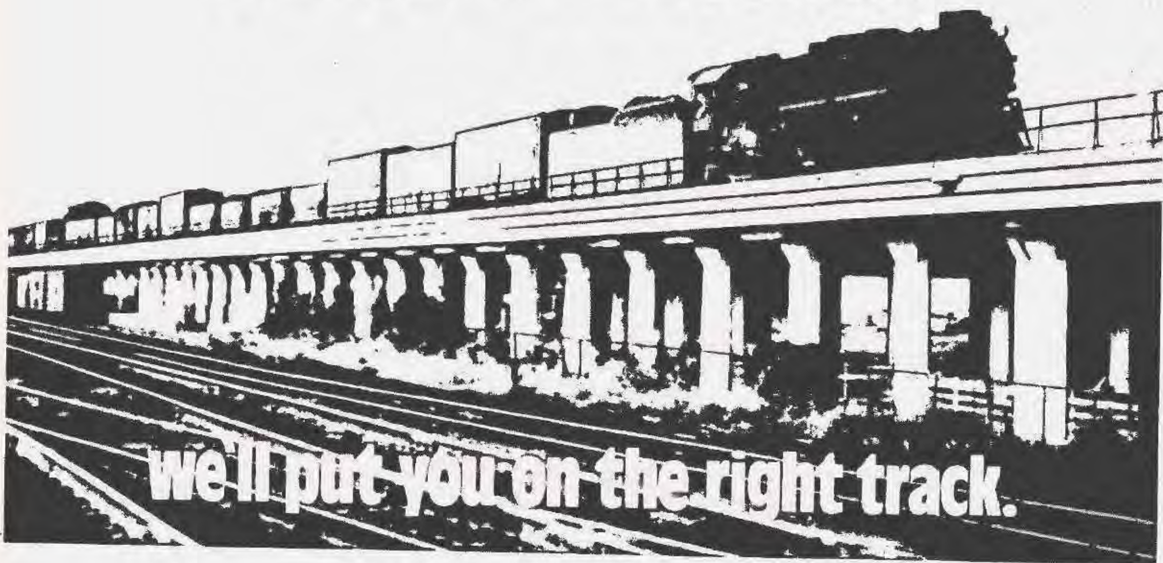

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Letters . . .

Continued from page 14
provide effective loss control services.

This survey was conducted in connection with Mr. Otremba's graduate studies at the University of Arizona. In fact, I wrote to him on at least four occasions and provided what I hoped would be helpful materials and counsel, which he acknowledged as "outstanding and generous support" for his project. I feel his lack of broad background and experience have caused him to reach some totally unwarranted conclusions.

Perhaps the most serious criticism relates to the size of the sample—19 insurance carriers, 42 field representatives and 18 customers. The insurance carrier respondents are not identified as to size, but none of the larger carriers I have contacted participated. The conclusions, therefore, represent at best only the services provided by some smaller companies and can hardly be called "the insurance industry."

A more representative study is one conducted in 1977 for NIOSH, in which over 3,300 firms responded that "the (occupational safety and health related services) resource most used by all industrial sectors is that of insurance carrier, which provided services to 78.4% of the firms." This is significantly greater than any other source of help such as safety councils, government agencies, trade associations, or private consultants.

As to the insurance company's functions, my statement to the National Commission on State Workmen's Compensation Laws, perhaps deserves quoting in proper context:

"The insurance company's loss control department has two basic functions: First, assisting the insured employer in preventing losses; and second providing the company with underwriting information. These functions are not inconsistent and actually are difficult to separate. Developing information that guides underwriters in the selection of good business and assisting our accounts in improving conditions that cause injuries and other losses, go together."

During the first six months of 1978, only 49.7% of The Hartford's contacts and 47% of our risk time were spent developing underwriting evaluation data, so more than half was devoted to risk improvement work for our insureds.

The matter of "discriminating against smaller employers" also should be put into proper perspective. A recent study at The Hartford on workers compensation disclosed that 48.3% of the risk evaluation surveys and 23.7% of the risk improvement surveys involved risks with less than $3,000 annual premium. Most carriers now enclose with every workers comp policy a brochure offering counsel and assistance, but very few firms accept the offer of help.

Our services are routinely provided commensurate with the nature and size of risk, degree of hazard anticipated and demonstrated record of injuries reported, which is consistent with what the commission recommended and the state of Texas later adopted as law. Services are thus provided where needed and where wanted; nothing in the concepts of insurance and rating ever contemplated that we would or could afford to service every risk, as Mr. Otremba implies.

Condemnation for failure to supply consultation on loss problems, to analyze and supply loss data, to study the work environment in relation to proper selection, placement and training of employes—these are all standard procedures for carriers subscribing to AIA services who write a very large part of the workers compensation in the U.S.

Our files are full of letters of appreciation for providing these services. Further, some of the questions asked implied that the carrier would actually take over these functions, rather than serve as a consultant to the insured's management, which may have caused some of the 42 field representatives to answer in a way that acknowledged the need to avoid legal liability.

John L. Pickens
Vp, The Hartford, Hartford, Conn.

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State, local plans gain 2 million

WASHINGTON—State and local employe retirement systems gained almost two million new participants between 1972 and 1977. According to the 1977 Census of Governments report, 11 million state and local government employes were members of publicly administered retirement systems in fiscal 1976-77, up from 9.1 million in fiscal 1971-72.

The financial assets of the public retirement systems that were included in the report totaled $123.5 billion, almost double from the $68.8 billion in assets five years earlier. ■

First regulators

New Hampshire established the nation's first regulatory body to oversee the operations of insurance companies in 1851, reports the American Council of Life Insurance.

Chamber report . . .

Continued from page 1

the Chamber of Commerce, businesses will be much more likely to pay attention to it than if it was released by a university or the government.

Mr. Goldbeck underscored the importance of the Chamber proposal by observing that it puts the Chamber firmly on the record for supporting the use of health maintenance organizations and supporting the idea that business has to get more involved in health planning.

The Chamber action plan, which was developed by Interstudy, a Minneapolis research group, explains how a business can establish a health action committee—the first step in developing a health strategy.

The Chamber advises that members of the health action committee should come from the ranks of finance, risk management, employe benefits and work place safety.

Some businesses, though, may feel that their strategies can be implemented more effectively through a community organization and the Chamber proposal explains the steps necessary to set up such an organization.

The particular strategy worked out by a health care team will vary from company to company, but the Chamber program recommends businesses take several key steps to hold down costs.

A major step for business to take in the health care cost front is to stimulate competition by offering employes the HMO option as an alternative to conventional health insurance.

HMO support

Citing just one chapter in the HMO success story, the Chamber proposal notes that the Genesee Valley Group Health Assn. in Rochester, N.Y., offers rates that are 29% below Blue Cross although it offers more benefits.

The Chamber also suggests that businesses take a more active role in promoting physical fitness programs for employes as well as more health screening efforts.

Cannon Mills, the big textiler in North Carolina, screened 11,000 of its 16,000 employees over an 18-month period at a cost of $8 for each man and $12 for each woman. The screening uncovered 1,600 cases of hypertension, 80 individuals with diabetes and 21 persons with cancer.

While the Chamber acknowledges that the exact cost savings of employe screening programs are different to measure, the programs can result in a decrease in absenteeism and increases in productivity as disabilities are uncovered and treated.

Another available cost-containment technique is self-insurance. By self-insuring, an employer doesn't have to pay for insurance companies profits and it can avoid state insurance premium taxes, the report says. Self-insuring may be feasible not only for corporate giants, but also for firms with less than 500 employes.

Second surgical opinion programs still are in the experimental stage, but impressive savings may be possible for employers who use this approach, the Chamber says. If an average surgical case were to be avoided, a business might save an average of $2,000 in direct expenses, with additional savings generated through uninterrupted service by the employe.

Second opinions

However, the Chamber warns that the path toward implementing a second surgical opinion is not without its share of potholes.

Mandatory second opinion programs are difficult to enforce and denial of payment if a second opinion is not obtained could cause employe dissatisfaction and possibly legal challenges, the Chamber says.

Business may want to consider greater utilization of ambulatory surgery programs in which employes go to clinics where routine surgery—such as hernia repair, and tonsillectomy—can be performed and avoiding costly hospitalization. The ambulatory clinics charge anywhere from 18% to 38% less than hospitals for the same operation, one study found.

Some large employers and employe groups have experimented with pre-negotiated physician fee schedules. Under this arrangement a panel of physicians is retained who agree to limit charges to pre-set fees.

For example, the United Storeworkers Union in New York provides a broad range of benefits to 12,000 department store workers and their dependents. The plan uses the services of a panel of doctors from all specialties who agree to accept lower fees than they normally would. ▪

N.Y. brokers seek voice on key issues

NEW YORK—While excess and surplus lines brokers in New York have historically maintained a low profile, the formation of the New York Insurance Exchange and free trade zone has motivated several producers to organize an association to express their views on these and other issues.

Called the New York State Excess & Surplus Brokers Assn., the group sees its main objective as maintaining a "positive and constant dialogue with the New York state insurance department and state legislative representatives on all matters affecting their interests."

While the group supports the concept of the New York Insurance Exchange, its president, Gerard Nolan of Parkington Associates, said the group will not issue a formal opinion until it studies the exchange's constitution and bylaws which are still in the drafting stage.

In the future, the association might take positions on such issues as advocacy of a "white list" of qualified non-admitted carriers and other amendments to state insurance law that affect its membership, Mr. Nolan said.

He added that he envisions the association eventually taking the same strong advisory position to the insurance department currently enjoyed by the California Surplus Lines Assn.

The New York group is affiliated with the National Assn. of Surplus Lines Offices and is attracting membership from the key excess and surplus lines brokers in the state. ▪

Policy reserves top $200 billion

WASHINGTON—Policy reserves of U.S. life insurance companies totaled $281 billion last year, reports the American Council of Life Insurance, up $22 billion from 1976.

These reserves, says the Council, represent the funds set aside as required by state laws to meet the companies' future obligations to policyholders and their beneficiaries as they become due. ▪

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FM insurer creates new Bermuda captive

WALTHAM, Mass.—Arkwright-Boston, the second largest member of the Factory Mutual system, will enter the Bermuda captive insurance market Dec. 1.

"The company recognizes the fact that there are some things that can be better handled by an offshore captive," said John L. Carey, the Arkwright-Boston staffer who first suggested the formation of the Bermuda captive.

Mr. Carey explained that the Bermuda captive will provide Arkwright-Boston with a way to transfer risks that don't fit into the U.S. commercial market.

"In a way, the thinking behind the decision to form a captive is right in line with the thinking that spurred the formation of the Factory Mutual system," Mr. Carey noted. "In the past few years, FM companies have gotten away from their foremost purpose, which is to create a commercial market that is totally responsive to the needs of the policyholder. The formation of the captive marks the recognition of Arkwright-Boston policymakers that the company must create a market totally attuned to the needs of the policyholders to fulfill its original purpose."

The captive, Mr. Carey added, will merely serve as a facility to serve the policyholders. "We don't intend to aggressively book a great deal of business at first."

However, Mr. Carey refused to give details about what kind of risks would be transferred to the captive and how those risks would be transferred. According to the Arkwright-Boston staffer, there are some details that have to be ironed out, including the staffing of the Bermuda captive.

Arkwright-Boston follows other insurance companies such as AIG, INA, Continental and Kemper that have formed Bermuda subsidiaries.

Policyholders of Arkwright-Boston and eventually policyholders of Allendale will hold shares in the Bermuda captive. Allendale, the largest member of the FM system, will merge with Arkwright-Boston on Jan. 1.

Presently Allendale does not have a Bermuda captive. According to a spokesman for Allendale, the company has examined the pros and cons of entering the offshore captive market, but didn't feel ready to make that move. ▪

Consultants set think tank for benefits

NEW YORK—The first think tank solely dedicated to employe benefits expects to start turning out "significant contributions in research in the first half of next year," says its president.

Quentin I. Smith, president of the consulting firm Towers, Perrin, Forster & Crosby and president of the newly founded Employe Benefits Research Institute (EBRI) believes, "There is a lot of misunderstanding and lack of knowledge about employe benefits. There is a great deal of research that needs to be done."

EBRI, founded and funded by 13 leading actuarial and employe benefits consulting firms, will fill the research void, said Mr. Smith, delving into such areas as pension plans and health care.

"Outside specialists," drawn from universities and other research groups for example, will conduct the research projects. EBRI also intends to follow public attitudes and trends in employe benefits.

The research results should "contribute to the development of effective public policy in the employe benefit area," the founding principals suggest.

In addition to distributing the results of its research to government agencies and policy-makers as well as others in the field, EBRI intends to sponsor lectures, debates and meetings on employe benefit issues.

"Our goal is to promote the development of soundly conceived private and public employe benefit plans that can be effectively administered," Mr. Smith explained.

EBRI expects to expand its membership in the future, possibly to corporations and "leading public figures," Mr. Smith noted. But EBRI will not lobby per se, he continued, on the premise that "good thoughtful research will go a long way" to further its goal.

The founding members of EBRI, who agreed not to disclose how much money they contributed to the organization, include TPF&C; Alexander & Alexander Inc., Buck Consultants Inc., A.S. Hansen Inc., Hewitt Associates, Johnson & Higgins, Kwasha Lipton, Martin E. Segal Co., Meidinger & Associates, Milliman & Robertson Inc., Tillinghast, Nelson & Warren Inc., The Wyatt Co. and William M. Mercer Inc. ▪

Council taps Mulhollen

The Profit Sharing Council of America elected Roger D. Mullhollen, vp of corporate personnel of Johnson & Son Inc. in South Carolina, to serve as chairman.

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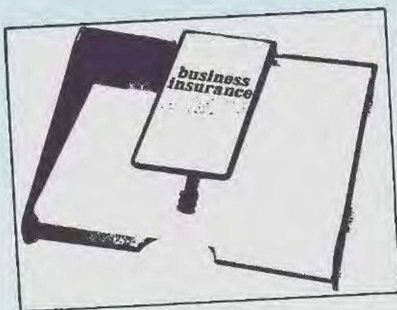

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Fireman's Fund exec questions self-insurance public benefits

LOS ANGELES—The vice chairman and chief operating officer of Fireman's Fund Insurance Co. says he's opposed to tax credits for self-insured reserves and questions whether self-insurance is really in the public interest.

Speaking at an all-industry day sponsored by the Los Angeles chapter of the Chartered Property & Casualty Underwriters, O.D. Oliphant said using the premium charged by regulated insurers as a measure of the expense of self-insurance is "an apples and oranges comparison."

Self-insurers reflect their loss costs at the time and for the amount of the loss sustained, Mr. Oliphant said, while insurers are taxed by a gross premium tax.

"Another concern we have about self-insurers involves the broader issue of their responsibilities to third-party claimants and society at large," Mr. Oliphant said. "Doesn't the public interest principle apply to all assumption of risk, regardless of who assumes it?"

The cost of programs such as workers compensation pools, automobile assigned risk plans, FAIR plans and insolvency guaranty funds should be shared by self-insurers, Mr. Oliphant suggested.

"Doesn't the self-insurance phenomenon exacerbate the involuntary market problems if the self-insurer isn't charged for the expense?" he asked. "By taking good risks out of the picture, don't they leave other insureds to support the less desirable risks?"

The Fireman's Fund executive also questioned whether self-insurers have the ability to make proper decisions on claims reserving and litigation. Insurers have objectivity, are better able to direct and control outside counsel and have the experience to appraise potential exposures, he contended.

"A self-insured would have a tough time achieving that sense of objectivity when he has market considerations, intra-corporate profit relativities, brand name reputation and other such issues on his mind," he said.

Self-insurers don't have the volume to justify establishing a claims organization, so claims management is often left up to a composite of corporate functions lacking uniform direction and experience, he said.

A risk manager doesn't have anything approaching the broad spread of risk that insurance companies have, "and could find himself embarrassed by adverse developments in reserves he's established," Mr. Oliphant contended.

Recent legislation in the occupational disease area could pose a problem for self-insured risk managers, he cautioned. Within a few years in California claims for occupational disease will fall to the party on the risk at the time the claim is made, even though the exposures that caused the disease reach back for decades. "One manufacturer recently received 60 claims, each for $200,000 for asbestosis from exposures dating back to the 1940s," he said. "That's $12 million to be paid by the insurer or self-insurer on the account today."

"There are a lot of very impressive, mature self-insurance programs in the field today," Mr. Oliphant said. "There are a lot of adolescents too. We must guard against abuses that could bring regulation eliminating the advantages of self-insurance programs." ▪

SPD procedures are continued

WASHINGTON—Pension plan administrators preparing summary annual reports for the 1977 plan year should continue to observe the same filing procedures they used last year, the Labor Department says.

The Labor Department says plan administrators should keep on following the temporary summary annual report guidelines that were issued in August 1976.

A new proposal, which would turn the summary annual report into a uniform easy-to-fill-out form was unveiled this August, but the Labor Department is cautioning administrators that the proposal has not been adopted yet.

If and when the proposal is adopted, it will not apply to the 1977 plan year. ▪

People column . . .

Continued from page 78

president of the captive, **Sister Kathleen Anne Nelligan,** becomes the captive's chairman of the board. Mr. O'Connell retains his broad duties as executive director of Holy Cross Shared Services, in charge of personnel, financial management, purchasing, data processing as well as insurance for the congregation's educational institutions, convents and retirement homes.

* * *

Michael J. Reilly, 23, has joined Atlantic Richfield Co. in Los Angeles as insurance analyst. He reports to E.J. Kettel, assistant treasurer. Previously, Mr. Reilly was an associate consultant for M&M Risk Management Services in Los Angeles.

* * *

David V. Roberts, 40, has joined E-Systems Inc. in Dallas as director of risk management, replacing **Dennis Morton,** who left the company. He reports to director of personnel J.A. Wittkower and is in charge of property, casualty, group insurance and loss prevention. Mr. Roberts was risk manager for Trailways Inc. in Dallas previously. Trailways hasn't hired a new risk manager.

* * *

Fred LaMar is the new director of corporate risk management for Farmland Industries in Kansas City. He replaces **John Hogue,** who joined Johnson & Higgins in Houston. Mr. LaMar previously was risk manager for Butler Manufacturing in Kansas City. His replacement there is **Charles C. Connely IV,** 31, who previously was a Butler division's credit manager. Mr. Connely reports to treasurer Steve Lightstone.

•

We'd like to report on staff changes in your risk management or employe benefits department. Just drop a note to Rebecca A. Fannin, Business Insurance, *708 Third Ave., N.Y., N.Y. 10017 or call 212-986-5050. We'd also like to receive pictures of those involved.*

Huge bank theft . . .

Continued from page 1

in any transfer order, and just after the close of the business day ordered the $10.2 million transfer, a bank investigator disclosed.

An officer at Security Pacific admitted the timing of Mr. Rifkin's call "caught our personnel at a low level of security. We have taken steps to insure there will not be a recurrence."

More than the total amount of the loss, $2 million in cash and $8.1 million in diamonds bought after the computer consultant allegedly transferred the money to an account in Switzerland, was recovered. The diamonds were appraised at $13 million retail value.

But the exposure "scares us to death," a spokesman for Fireman's Fund said. "If this guy was able to tap into the fund's transfer system and get that amount of money in one shot it raises the question of whether this (electronic funds transfer system) is an insurable risk."

Risk managers at other West Coast banks are worried about the effect the theft may have on the already tight bankers blanket bond market. "This couldn't have come at a worse time," said the risk manager for a large San Francisco bank. "I'm in the midst of negotiating a renewal of our bond."

However, a broker in the bankers blanket bond market on the West Coast said, "Nobody's in a panic over this. A loss like this could have occurred any time in the past 50 years. I don't think the bond market will overreact."

This near-loss is sure to be discussed at a Surety Assn. of America meeting scheduled in New York this month. The subcommittee meeting on proposed revisions in the bankers blanket bond will be looking into the situation, according to one of the committee members. ▪

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people

Pasadena taps Hughes; Reliance shuffles staff

Donald R. Hughes has been named risk administrator for the city of Pasadena, Calif., replacing Dave Morris who resigned. An 11-year employe of the city, Mr. Hughes began his career in the city police force, rising to the rank of lieutenant. Mr. Hughes is also an attorney with a private practice.

* * *

The insurance staff at Reliance Electric Co. in Cleveland has been replaced following the departure of the director of risk management **Bert M. Schecter** and the insurance manager **Terry W. Anderson,** 32. The new director of risk management is **Ronald H. Stolle,** 30, previously manager of corporate insurance at American Air Filter Co. Inc. in Louisville where he hasn't been replaced. The new insurance manager at Reliance is **Vicki K. Schleimer,** formerly the company's claims administrator. Reliance's former director of risk management, Mr. Schecter, left to become corporate risk manager for Addressograph-Multigraph Corp. when that company moved from Cleveland to Los Angeles. He replaced **Frank Hudson,** who stayed in Cleveland at Park Ohio Corp. as risk manager, a newly created position. Mr. Anderson left to become risk manager for the city of Tucson, a position open for approximately a year following the city's separation of insurance functions from contract administration.

* * *

At the University of Illinois, **Murray Edge** has been named risk manager for the medical center campus, a newly created position. Mr. Edge reports to **Alexander M. Schmidt,** vice chancellor for health services. He formerly was with CNA and has 20 years experience in the insurance industry as claims investigator and supervisor.

* * *

Ray Allen has been named risk manager for Daylin Inc. in Los Angeles. Although this is his first risk management position, Mr. Allen said that most of his experience has been with the insurance industry. He was a commercial packaging underwriter for INA in Tampa, Fla., and a casualty underwriter for Royal-Globe Insurance Co. in Houston. After that, Mr. Allen was an insurance analyst with Exxon in Houston and most recently he was with A.I.C. Oil Rig Inc. in Houston.

* * *

In an addition to the employe benefit staff at Miller Brewing Co., **Jean Dart,** 25, has been named corporate benefit analyst. She reports to corporate benefits manager Norman Naughton. Ms. Dart was previously employed with Watkins, Ross, Waterfield and Baines an actuarial consulting firm in Grand Rapids, Mich.

* * *

Suzanne P. Biber, 27, who received her MBA in insurance and risk management last August from Temple University, has joined Exxon Corp. in New York as risk analyst. She reports to I.T. Tobye, risk management coordinator. Ms. Biber replaces **Wayne Faust,** who was both a financial and risk analyst. He has joined Exxon's international financial planning and economics department.

* * *

John A. Mancuso, 32, has been promoted to insurance and risk manager at New Jersey National Bank in Trenton. Mr. Mancuso joined New Jersey National in 1977 as risk management administrator. He reports to cashier Thomas A. Gasper.

Mancuso Toth

* * *

Jack C. Toth, 39, has been promoted to the newly created position of manager of business risk insurance for Quaker State Oil Refining Corp. in Oil City, Pa. The position evolved after the company split the insurance department into group benefits and personnel with property and casualty insurance in a separate department. Mr. Toth reports to W.P. Hodges, senior financial vp. Mr. Toth has been with Quaker State for 11 years as assistant to the coordinator of insurance and personnel. Two years ago, he assumed additional duties as assistant equal employment opportunity officer.

* * *

John E. Sheehan, 61, has been promoted to manager of employe benefits at Inland Steel Co. in Chicago. He replaces A.F. Winston, who retired. Mr. Sheehan previously was assistant manager of employe benefits and has been with the company since 1938.

* * *

Robert J. Cornelius, former risk manager for the Fresno Unified School District has been promoted to director of budget services. Replacing him as risk manager is **John P. Grotts,** formerly workers compensation analyst. Mr. Grotts was initially hired by the school district as a safety analyst four years ago. The position of workers compensation analyst will not be filled until spring. Fresno Unified School District self-insured workers compensation, general liability, fire and employe benefits.

* * *

John E. Mairana, 27, has been promoted to insurance manager from internal auditor at Dow Jones & Co. Inc. in Princeton, N.H., reporting to treasurer Frederick Hetzel. Mr. Mairana replaces **Kevin J. Christel,** who became director of insurance at Western Union Corp., as reported.

* * *

John A. O'Connell, 53, has assumed additional insurance responsibilities for Sisters of the Holy Cross in Notre Dame, Ind. He becomes risk manager for the Sisters of the Holy Cross as well as president of Havican Insurance Co., a Colorado captive insurance company that provides insurance coverage for the congregation. The previous

Continued on page 77

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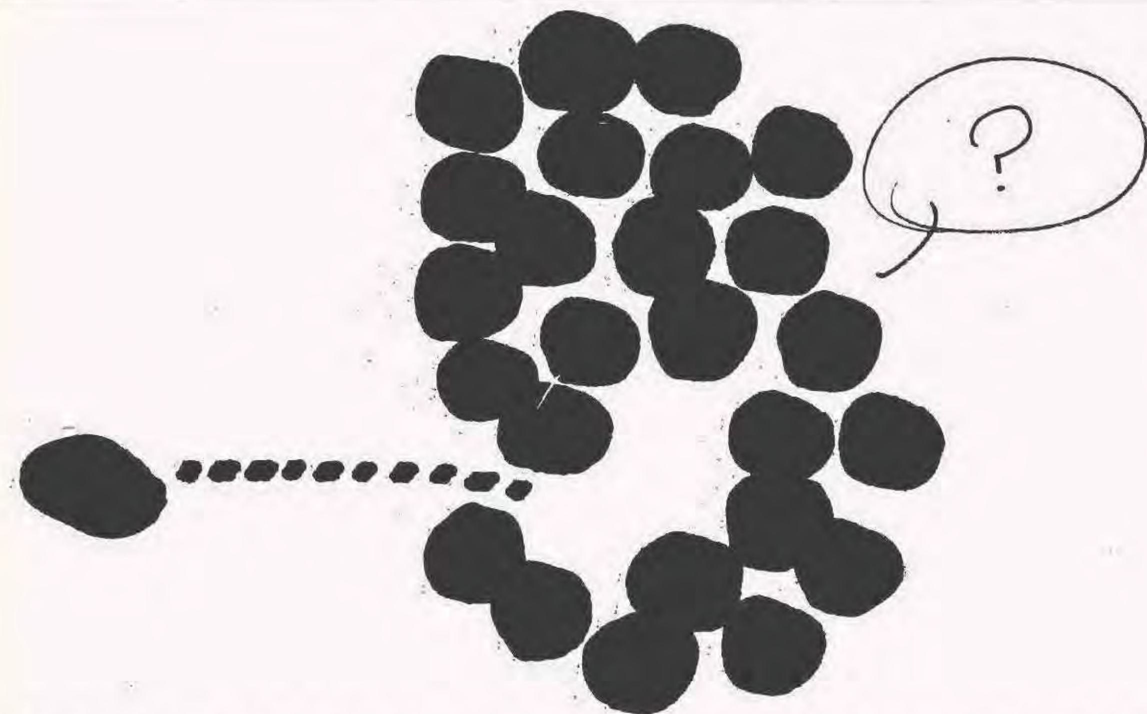

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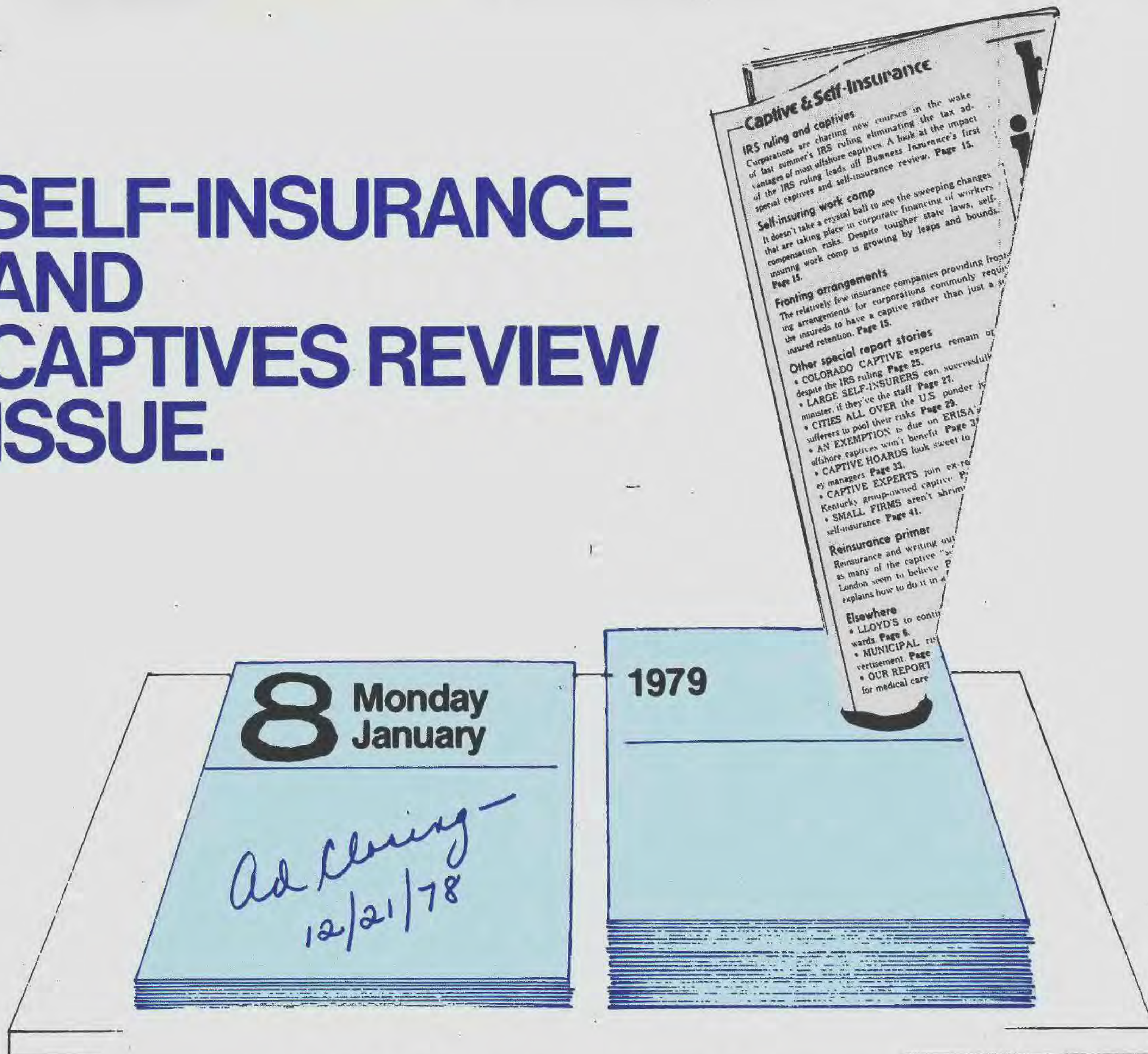

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This special report will deal with questions such as: What's the level of interest in new captives and self-insurance programs when there aren't any insurance crises to spur their growth? Who's using new and sophisticated banking or cash flow plans? What's the status of self-funding in the benefit business? What are small businesses to do when they need captives and self-insurance?

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