

# business insurance

for buyers of employe, property and liability protection

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A series of earthquakes jarred Sonoma County, California, and it is now estimated the city of Santa Rosa suffered about \$5 million in damage. The Santa Rosa Memorial Hospital was hit with \$100,000; 40 homes were damaged beyond repair and 200 were seriously damaged. Because of normal exclusions for earthquake damage, most businesses and individuals are uninsured. The city will have to pay for most of the damages out of self-insurance. —Wide World photo

## Open 'minimutual' crackdown with help of new Missouri laws

By RICHARD BJORKLUND

JEFFERSON CITY, Mo.—New laws go into effect in Missouri today that require "minimutual" insurance companies to file annual statements and subject them to charter forfeiture if they write insurance in unauthorized lines or out of state.

The new laws, adopted by the 75th general assembly and signed into law by Gov. Warren E. Hearnes, followed disclosures in *Business Insurance* that charters of "minimutual" companies were being used to write worthless insurance policies on major risks far beyond Missouri's boundaries. Missouri remains the only state that does not require insurance department regulation of farm mutual companies.

A Federal official, meanwhile, told *Business Insurance* that one "minimutual" operator collected more than \$6 million in premiums for worthless insurance policies. He said this substantial premium figure indicates that the "minimutual" was used to write major commercial risks, often through legitimate brokers and excess brokers. (Other articles on insurance frauds appear on pages 7 and 44 of this issue of *Business Insurance*.)

FARM MUTUAL companies in Missouri are limited to writing fire and lightning coverages in their home counties and adjacent counties, a limitation that enables legitimate farm mutual companies to provide needed coverages at low cost to farmers and homeowners. In a series of articles that began last December, *Business Insurance* revealed that a number of Missouri "minimutuals" wrote such coverages as marine hull, fleet auto and liability in such

far-flung places as Ethiopia, Texas and Washington state.

Alfred C. Sikes, assistant attorney general of Missouri, said the new laws will enable his office and the office of the secretary of state to crack down on "minimutual" operators who misuse their charters.

"One bill provides that the secretary of state can examine "minimutual" companies and if he finds certain violations of the terms of a charter, he can automatically declare the charter forfeited without going through a cumbersome court hearing," Mr. Sikes said. "Then it would be up to those who hold the charter to prove in court that they had not violated charter limitations."

He said this forfeiture procedure may be followed in four or five cases where it is suspected that farm mutual companies write out of state or issue policies on the "wrong types" of insurance.

PRIOR TO adoption of the new laws, the Missouri attorney general's office was forced to laboriously trace down long chains of charter transfers to determine who controlled companies whose charters were abused.

Mr. Sikes in June succeeded in gaining court revocation of the charter of National Exchange Insurance Co. operated by R. B. Gudder, who was served with the decree of dissolution.

"Such 'show cause' hearings will no longer be required if the secretary of the state has evidence that a charter has been violated," Mr. Sikes said. "It will be up to the operators of these companies to stay within the limitations of the law."

## Shell award is covered

NEW YORK—Shell Oil Co. is insured through Travelers Insurance Co. for a \$400,000 liability award to a young man injured in a gas heater explosion at a Shell service station.

The award was made to Allen Levine, 22, for permanent injury to both legs. Mr. Levine's father was awarded an additional \$35,000 from Shell for medical ex-

penses. Travelers handles the first \$250,000 of Shell's liability coverage on a retrospective basis and also the next \$750,000 portion of the primary layer.

Excess has been 100% with Lloyd's of London, but Shell is currently in the midst of contract renewal negotiations and a source

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## Aristotle Onassis pledges 100% support and TOVALOP gets start

LONDON—Aristotle Onassis has pledged 100% support for oil pollution insurance pool, TOVALOP, and lodged his full tanker membership. Rival Greek shipowner Stavros Niarchos has been coming in with his promises so that his fleet is expected to be in fully as well, though he is doing it in stages of six or seven ships.

These indications of the tremendous send-off to the pool have now been given to *Business Insurance*, which rightly anticipated (Sept. 15) that it would be operating by the fall.

Administrative chief Arthur F. Tripp Jr. will be flying to New York near the end of October to report individually to its American sponsors on the detailed furtherance of the plan, which became officially effective worldwide on Oct. 6.

THE SUPPORT from these "majors"—Gulf Oil, Mobil Oil, Esso Transport, Standard Oil of California, and Texaco—represents nearly 9 million tons of American tanker ownership, plus the large tonnage under the two British co-sponsors, B. P. Tanker and Shell International.

But on top of this many other American independents have

come in to give it the boost to over 50% membership of world tanker tonnage (63 million tons) needed to make it effective.

*Business Insurance* learned they include Sun Oil Company, Philadelphia; Grand Bassa Tankers; Cities Service Tankers; and Anglo-Norress. Each is believed to represent between 100,000 and 250,000 tons, so that altogether U. S. interests, including the sponsors, cover 10 million tons.

However, it is thought at least another 2 million tons of U. S. tanker tonnage will be captured once TOVALOP's success is spelled out to them.

THE EXACT figures will need final checking in various ways, depending on whether or not the outstanding firms involved own their tankers, or choose to have them on time or bare-boat charter.

But most of the big tanker-owning countries, with one notable exception, are now in. That exception is Japan, which apart from one or two small applications for membership, has chosen to review the situation first.

So membership now includes such countries as the U. S., Britain, Greece, Norway (and other Scandinavian countries), France, Hol-

land, Italy, Australia, New Zealand, *Continued on page 50*

### Late news

#### Fire hits Sydney storage center

NEW YORK—A fire described as the "city's worst in 30 years" swept through a storage center in Sydney, Australia, late last month destroying nine sheds and damaging several others. Loss is expected to be in "excess of \$3 million," according to the Australian news and information bureau here. Insurance details are not immediately available, although a source at AFIA noted: "We're on something there, but we're not sure of the extent yet." Similarly, a source at AIU said that they were involved, adding, "I think you'll find that most of the major international underwriters have some of the loss." The destroyed sheds contained new automobiles, newsprint and other goods.

#### GE offers to eliminate group contributions

NEW YORK—General Electric, in the midst of the bargaining talks with the International Union of Electrical Workers and the United Electrical Workers, has offered to eliminate the .9% contribution that employes make toward their own group insurance coverage, effective October, 1970. GE also proposed to do away with a \$25 deductible for hospital expenses and pay in full the first \$500 of such expenses each year, up from \$225. GE's offer includes an increase in the pension formula to a new base of \$5 to \$7.50 times each year of service at age 65, up from the present \$4.50 monthly minimum.

#### \$22 million fire rocks Spanish refinery

MADRID—The Escombrers Oil Refinery in Cartagena, Spain, was rocked by a series of explosions Oct. 1, causing damages of an estimated \$22 million. The refinery, which produces 160,000 barrels of crude oil a day, is 60% owned by the Spanish government, 20% owned by Chevron and 20% by Texaco. Insurance is understood to be written by Spanish companies with reinsurance in London and "nothing in American markets," *Business Insurance* was told. The explosion is the third worst in the history of the petrochemical business.

#### 'All in day's work,' comp unit says

ALBANY—"It's all part of the job," ruled the appellate division of the state supreme court, which gave a flat turn-down to an Episcopal priest's claim for workmen's compensation.

The matter started on Easter Sunday, 1966, when Rev. Melville Harcourt, rector of St. Ann's Church in Brooklyn, suffered a heart attack while lambasting the "God is Dead" theology espoused by the late Bishop James Pike.

Rev. Hartley linked his heart attack and subsequent complications to emotional trauma, caused by the "God is Dead" movement.

The state supreme court disagreed, however, upholding the decision of the Workmen's Compensation Board that the priest's "work activities did not involve excessive stress or exertion."

# Familiar melody whistled at Philadelphia parley

By STEPHEN GILKENSON

PHILADELPHIA—Members of the Delaware Valley Chapter, American Society of Insurance Management, who attended the chapter's 12th annual conference here the other day, probably came away whistling "It Seems to Me I've Heard That Song Before."

That, of course, is an oversimplification. However, generally speaking one recurrent theme was hammered home time and again: The insurance industry today is in difficult straits. Moreover, the problems are giving those who depend upon insurance for their livelihoods severe cases of indigestion.

(It may be apropos to mention here that the insurance industry is not alone. The Philadelphia ho-

tels have problems as well. The day before the conference, hotel workers called a strike. ASIM had to cancel luncheon plans at the Sheraton, as well as between-session coffee breaks. And a men's wash room surveyed by a *Business Insurance* reporter was rather messy.)

**WHILE THE LYRICS** sung to the Delaware Valley chapter may have varied from those sung to others the melody remained the same.

More than one conference speaker told the audience of shrinking insurance capacity, of the "disappearance of the reinsurance market" and the "large loss experience" suffered by companies in recent years.

At least one speaker, however,

implored the insurance industry to do something about it. "The insurance companies will have to change, or the changes will be made for them," said William S. Mortimer, director of insurance at Norton Simon Inc. in Fullerton, Calif., and national president of ASIM.

Nonetheless, it was not a one-sided affair. Insurance company representatives had their say.

**RICHARD MALCONIAN**, assistant vp and manager of the special claims department at Liberty Mutual Insurance Co., told the group about the "dramatic changes in products liability law" since 1930.

"I have no doubt that in a number of years products liability suits will probably exceed au-

tomobile liability suits," he said, adding that he thinks the industry has been "saddled" with excessive responsibility for their products as a result of recent court decisions. "It used to be 'let the buyer beware.' Now it's 'let the seller beware,'" he warned ASIM members attending.

"The simple answer," one speaker told the conference while talking of causes of the current dilemma in the industry, "seems to be that rates have been inadequate for some time."

**LEO C. HARVEY**, exec vp of Fred S. James & Co., a Chicago-based brokerage, said that inflation has played a major role in rate structures that are now inadequate. He also cited as no less important a cause the large busi-

ness interruption claims due to current technology where loss of the use of an industrial item can close a company's operation for months. Recent sociological changes were mentioned as well. "The attitude now is to find someone liable and then seek damages," Mr. Harvey said.

"Why," the broker asked the audience, "do insurance companies go on losing money?" Because, he answered, investment income has been good and has offset underwriting losses, and surpluses have increased.

"It's like the old story about two insurance men who met on the street. 'How's business, Harry?' one asked. 'Well,' said Harry, 'it's like sex. When it's good it's real good. And when it's bad it's still pretty good.'"

**SPEAKING FOR** insurance carriers at the conference was Bradford N. Smith, chairman of Insurance Co. of North America Corp.

Mr. Smith also mentioned the dwindling reinsurance market and told the audience the demand for same is "driving prices up." However, the chairman noted, "capacity is there. When an insured will pay a company a rate that will guarantee a profit, the insurance is there," he said.

The afternoon conference session was devoted to two panel discussions, one dealing with communications between risk managers, brokers and insurance companies, the other with insurance legislation.

Speaking at the former, Morris Lloyd Jr., an assistant vp for Alexander & Alexander, said that one of the problems the broker is constantly faced with is "confidential information." He said that for a broker to operate effectively certain information must be entrusted to him. When it is not, he noted, the results can be "downright drastic."

**ROBERT M. YOUNG**, insurance manager of Scott Paper Co., mentioned three ways in which today's risk manager should communicate: (1) to the broker and underwriter, (2) to top management and (3) to the rest of the company. Regarding the latter, he emphasized, "you must sell the merits of a good loss prevention program to the company's employees."

The importance of good communications was also echoed by L. Robert Quillen, commercial  
*Continued on page 12*

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The 1,000-foot S.S. Manhattan, on lease from Seatrain by Humble Oil, passed by Baffin Island before starting its \$40 million journey through the Northwest Passage.

# Canadian underwriters hit bank savings cover

SAINT ANDREWS, N. B.—The Life Underwriters Assn. of Canada has taken a firm stand against the sale of group life insurance as an adjunct to bank savings plans.

This type of insurance covers the life of the saver for the amount of his savings goal.

According to LUAC, many of these current group plans violate the true principles of group insurance. As evidence of these violations, LUAC cited the following bank practices:

- The saver must apply for insurance coverage (it is not available to everyone in the group until each shows evidence of insurability).
- The saver must be interviewed by a bank clerk after he

submits his application for insurance coverage (the clerk is not connected with the group insurance department, and is, therefore, not subject to its regulations).

• Many banks do not have the safety valve of convertibility written into their group insurance contracts (members of the group cannot automatically convert their group coverage to individual insurance when they leave the group without showing evidence of insurability—at least up to age 65).

In a brief presented to the provincial superintendents of insurance, LUAC criticized these practices in the group insurance field and requested the superintendents' help in curbing them. ■

## Humble's icebreaker self-insured

NEW YORK—The S. S. Manhattan, on which Humble Oil and Refining Co.'s hopes to navigate the Northwest Passage rode these past few weeks, is self-insured, according to spokesmen for the oil company.

"The Humble policy is to follow a program of substantial self-insurance and that policy is being followed in the case of the Manhattan expedition," a source told *Business Insurance*, noting that a company the size of Humble and its parent, Standard Oil of New Jersey, finds it far more economical to self insure.

The value of the expedition to find a route through the deep Arctic ice to the oil-rich North slope of Alaska has been placed at close to \$40 million by Humble. The value of the ship, however, is somewhat less than that. Asked if the company is prepared to take such a loss, the source said: "I don't know if we're prepared, but we will take it."

**THE MANHATTAN** is on two-year lease from Seatrain lines with an option to buy.

A spokesman for Seatrain said that the line does not cover the Manhattan with any form of insurance, not even products liability. "When the ship was released to Humble," he said, "they assumed full responsibility." He noted that as with all vessels, the Manhattan was inspected by regulatory bodies and had been delivered in top condition.

The Manhattan, which is the largest vessel flying a U. S. flag, had been chopped apart, strengthened, sharpened and lengthened prior to its delivery to Humble.

The Manhattan reached her destination, Port Barrow, Alaska, Sept. 21. It has since departed on the return voyage, via the same route, and is expected back in New York early in November. However, the return trip is no less treacherous, although the expedition has proved that the ice (which reaches heights of 40 feet above sea level and sometimes dips as much as 100 feet below the ship's waterline) can be navigated.

"The passage that the ship cleared on the way up has by now frozen together again," a Humble man said. ■

## Hayes made vp

Robert E. Hayes has been named vp-group insurance San Francisco for Metropolitan Life Insurance Company's Pacific Coast territory.

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# washington watch

## Sec. Finch agrees with Nader on the seriousness of Brown Lung

WASHINGTON—Health, Education & Welfare Secretary Robert Finch, in a letter to Ralph Nader, highly-vocal critic of industrial safety practices, has said that the Federal government now recognizes byssinosis as a "serious occupational disease that has been too long ignored in the U. S.," and assured him that his department is actively working on a solution to the problem.

Byssinosis, commonly called brown lung, is an occupational re-

spiratory disease of cotton, flax and hemp workers that has the same symptoms of breathlessness, progressive disability and eventual death as black lung, a disease of coal miners.

The Finch letter was in response to one written to him recently by Mr. Nader, in which Mr. Nader outlined for the secretary alleged horrors that exist within the nation's textile industry because of the high incidence of brown lung.

Among other things, Mr. Nader charged that the textile industry not only has done nothing to improve conditions in the mills that lead to brown lung, but that it even refuses to admit that such a disease exists.

**SECRETARY FINCH** defended industry in his letter to Mr. Nader. "You asserted in your letter the textile industry's unwillingness in the past to recognize the seriousness of the byssinosis prob-

lem," he said. "We have had indications that this is not the attitude of the industry today. The latest survey results I mentioned were called to public attention some months ago by the Consumer Protection and Environmental Health Service.

"Since then, the executive council of the Textile Workers Union of America, the National Cotton Council of America, and the committee on health and safety of the American Textile Manufacturers Institute, have expressed their concern and have asked the Public Health Service to provide more definitive information on the prevalence and control of the disease."

The survey to which Secretary Finch referred was taken in two U. S. cotton mills where it was found that 25% of the carders and 12% of the spinners were suffering from byssinosis. In addition, Secretary Finch said that in a

cotton mill operated at the Federal prison in Atlanta, 28% of the men in carding and spinning were found to have symptoms of byssinosis.

Regarding industry's response to the survey by asking for further information, Secretary Finch told Mr. Nader he realized that this by itself "is hardly meaningful action to control byssinosis." But, he said, "I am hopeful that it does reflect a growing recognition by both industry and labor that we can no longer tolerate this threat to the health of textile workers."

**SECRETARY FINCH** said he feels that the Federal government has a dual role to carry out in dealing with "the byssinosis problem." First, he said, "we must develop the additional information needed to curb the hazard in the mills. Second, we must have an effective mechanism for insuring that this knowledge is applied.

"In your letter, you cited the research of Dr. Arend Bouhuys and his associates," Secretary Finch continued. "The Public Health Service has helped support Dr. Bouhuys' work for the past five years. The Environmental Control Administration of the Consumer Protection and Environmental Health Service recently approved a new three-year research grant which will enable Dr. Bouhuys to continue his byssinosis studies. Other research necessary for the development of standards and control of the disease is under consideration now.

"The National Institutes of Health currently is undertaking an examination and expansion of its research efforts in the entire field of pulmonary diseases, with special emphasis on the chronic pulmonary diseases.

"Once criteria are developed to protect the health of workers, there must be a mechanism for putting them into effect. New legislation in this field is essential. The Occupational Safety and Health Act proposed to Congress by the President would provide this mechanism," he continued.

"As you know," he concluded, "byssinosis is only one of the occupational diseases and other hazards that confront American workers. We cannot build a comprehensive health program in this country without dealing with these job-related diseases and injuries."

## When the man from Talcott talks insurance it's with Paige O'Brien Russell



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### Paige O'Brien Russell

## Explosion damage claim is settled

FORT WORTH—A \$405,000 settlement, one of the largest in the history of Tarrant County, has been awarded to a 55-year-old woman, crippled by fractures received when a gas explosion shattered her home on April 6, 1967.

Mr. and Mrs. Robert Keagle filed the suit against the Lone Star Gas Co. and General Construction Co. According to the Keagles' attorney, the city of Fort Worth instructed the gas company to lower mains so that General Construction could repave the streets.

Escaping gas from a line ruptured by construction equipment and not repaired by Lone Star Gas accumulated beneath the Keagle house and eventually caused the explosion.

As a result of the explosion, Mrs. Keagle, formerly an athletic woman, had 14 operations during her 548-days' hospitalization and will remain a permanent cripple.

The suit was dismissed from court after lawyers agreed upon the \$405,000 settlement.



# Herbert Miller has this little fix-it shop in Okinawa.

Herb and about 2,700 others, that is, in places like Germany, Japan and Libya.

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Washington, D.C. Other Subsidiaries right now may be selling an executive jet to an Arab sheik, or supplying the process that turns heavy crude oil into sulfur-free fuel for use in the battle against air pollution.

Needless to say, we've really got to run to keep up with a policyholder like this. Their unusual problems tax us to come up with creative insurance solutions. It keeps us hopping, but we think insurance ought to work for a living.

**Employers Insurance of Wausau**



## Custodian accounts for kids have many attractions but some pitfalls

NEW YORK—For the man who foresees bigger tax bites, setting up custodian accounts for children might prove an effective remedy. It's one way to get income away from yourself and into investments that can throw off lightly taxed dollars.

What you do is place some of your savings or investments into a custodian account for a youngster—accumulate a fund until he reaches 21—and you will not have to pay an income tax on the earnings.

But that's only part of the story. Through the custodian device, a child can pick up as much as

\$900 in tax-free income each year. (And if the account is invested in securities, there is an extra \$100 exclusion). This comes about because of the \$600 personal exemption plus \$300 minimum standard deduction. And remember, you still get to keep your \$600 exemption for your child, while you continue to support him.

**THE LATE** Senator Robert Kennedy like the idea so much he set up separate custodial accounts for his then ten children. He set aside assets in their respective names (with himself as

custodian), established at least \$9,000 in additional exemptions and deductions, and splintered the tax (if any) on the transferred property, ten ways.

Still, there's a tax hazard to such custodial arrangements. If you set up the deal and you die before your children get to be 21, the property that you have given away can be dumped into your taxable estate. That's what happened to Sen. Kennedy.

Of course, had he made his wife, Ethel, the custodian, the estate tax on the custodial property would have been eliminated. But who can tell who will be first to

go—the husband or the wife. Chances are, it will be the husband if we follow the statistical averages.

\* \* \*

**GENERAL BUSINESS** conditions and current developments. These are the two chief stock market indicators, say Wall Street experts.

If the business cycle is on the upswing, usually the stock market will reflect an upward movement. Conversely, if general business conditions falter, so too will most stocks.

Here are two specifics to watch in the next several months, say the experts: Inflation and how it will be controlled and a break in the peace talks. If we see definite signs in business statistics as they relate to inflation or a change in the military setup in Vietnam, Wall Street insiders predict a definite upturn.

\* \* \*

**YOU CAN DEDUCT** your country club dues, dinners, and other expenses if—and it's a big if—you meet certain Internal Revenue tests.

First, IRS says, you must use the club facilities more than half for business. Anything less won't do. In other words, you must be able to itemize just how many days you spent at the club and whether you use the club for business or personal purposes on each of these days. If more than 50% of the days were used for business, you've passed the first hurdle.

Once you've satisfied the 50% test, it doesn't mean you can write off your entire country club costs. You can only deduct that portion of your club dues "directly related" to business. For instance, if you've used the club three quarters of the time for business purposes, you won't necessarily get a 75% deduction. You must still show the percentage of your expenses at the club that went for business use.

\* \* \*

**IT'S NOT** unusual for businessmen to make Christmas gifts to doormen, elevator operators and others. And, of course, it's just as common to expense off these items. But it's quite another thing to make these deductions stick, as one taxpayer discovered.

Newi was a salesman of television time for the ABC network. At Christmas, he gave an average of \$10 each to delivery boys, elevator operators, doormen, etc.—a total of \$160 in all.

The Tax Court denied the deduction since Newi failed to show that the tips were helpful and appropriate—or indeed reasonably related to his selling activities. In other words, they were not ordinary or necessary business expenses.

\* \* \*

No matter what incentive plan a company may offer its top brass, every executive, salesman, etc., runs headlong into the same frustration: How much does he get to keep? What's the "net after taxes"?

As a result, companies are constantly seeking new benefit packages that will do the most good for individual employees. Some companies are even willing to offer a choice of benefits tailor-made to the individual's needs—e. g., insurance, savings plans, stock, cash (immediate or deferred). In some cases, the savings plan includes a mutual fund selection.

The new development in incentive pay—known as the "cafeteria" approach—will soon take on still another wrinkle. Benefit choices will be made through computer programming. For example, let's say Mr. Executive is up for a \$10,000 bonus. The computer will test the various ways to which he can put that \$10,000 to best use. It will show him what these choices will mean in actual after-tax payout. In effect, the computer will reveal whether it's better to take the cash now or later—whether it's better to take it in company stock or perhaps put it in the mutual fund of his choice. Thus, the company will be able to stretch Mr. Executive's bonus benefits at no additional cost to it.

### Marcus award

William L. Frigon, director of insurance and safety for Hennis Freight Lines Inc., Winston-Salem, N. C., has been named winner of the 1968 Marcus A. Dow Award by the National Safety Council.

# Can your company profitably set up its own insurance company?

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To us as brokers, a captive company is simply one more way to handle a corporate insurance program. We examine every aspect impartially. Objectively. In the light of your industry's insurance needs. And in the light of achieving maximum profitability for you.

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# Indict 7 linked with Nassau business insurer

By THOMAS LUTZ

ANCHORAGE — A Federal grand jury here has returned a 12-count indictment against seven people who organized or represented a Nassau, Bahamas, property and liability insurance company specializing in—among other things—marine and aviation coverage for corporations and businesses.

The company, British Frontier General Assurance Ltd., has written coverages in every state in the U.S. but one without being authorized and has neither assets nor reserves, according to the indictment and Federal officials.

The seven persons are charged with mail fraud, it was learned, after the grand jury kept its findings secret for more than a month. Since then, *Business Insurance* was told that the indictment is part of the far-reaching investigation by postal authorities into wide-spread criminal infiltration into the insurance industry.

**THOSE INDICTED** were James Leslie Ladd (also known as James Olson); his wife, Violet Ladd (a.k.a. Viola Olson); Cecil Wilbur Lynn (a.k.a. Bill Lynn); Marvin P. Curry; Charles M. Kruthamer; John A. Sanderson; and Richard Peil.

All seven have been taken into custody or voluntarily appeared before Federal district courts in various parts of the U.S.

Six are free on bonds, and the seventh, Richard Peil, was taken to a Federal detention center in Arizona in lieu of a \$100,000 bond.

Each defendant faces a maximum penalty on each of the 12 counts of five years in Federal prison and \$1,000 in fines, if convicted.

**BRITISH FRONTIER** General Assurance Ltd. has underwritten considerable corporate and business risks. According to Federal officials, the company sold \$10 million of "woefully underpriced" coverage since its inception in January, 1966. The figure cited represents premium volume, not coverage limits, and is considered "highly conservative" by at least one authority.

In the Alaskan area of Kodiak alone, it was learned, \$50,000 in premium coverage was written on 20 risks. Marine coverage in Alaska was sold by representatives of British Frontier for 5% of insured value; normally such risks are rated at between 8% and 14% of insured value.

The indictment alleges that the defendants falsely claimed that Republic National Mortgage Corp. delivered to British Frontier trust bonds valued at \$1.75 million.

It also charges that the Nassau-based insurer and the defendants claimed that a trust account had been established in the U.S. for American policyholders, but, in fact, one had not.

**THE INDICTMENT** alleges that:

- James Leslie Ladd was designated as president of British Frontier, Cecil Wilbur Lynn vp and Violet Ladd secretary-treasurer, and that all three are directors of British Frontier.

- The defendants operated James L. Ladd Inc. insurance agency at Las Vegas to defraud corporations, businesses and individuals.

- A checking account in the name of British Frontier General Assurance Ltd. was opened at the Bank of Las Vegas and that James Leslie Ladd was the au-

thorized signature for the checking account.

- Another checking account was opened at the First National Bank of Nevada, Las Vegas, in the name of James L. Ladd Inc. and that James Leslie Ladd, again, was the authorized signature of that bank account.

- A brokerage account at Eastman, Dillion, Union Securities & Co., Las Vegas, was opened and that, once again, James Leslie Ladd became the person designated to authorize transactions.

- As of August 1, 1967, the defendants circulated a phony financial statement concerning the status of British Frontier to insurance agents and brokers to induce them to sell insurance for the Nassau-based insurance oper-

ation. (This particular charge, *Business Insurance* was told, is a relatively new twist in the prosecution of mail fraud in connection with insurance. It involves, among other things, the attempt to prove that assets and reserves of an insurance operation are not what the operators crack them up to be.)

**THE INDICTMENT** also charges that James L. Ladd entered into an agreement with defendant John A. Sanderson in which the latter sold insurance for British Frontier as Sanro Inc., at Phoenix, Ariz.

As part of that agreement, Sanro deposited premiums received in a Phoenix bank account and sent cashier's checks payable to British

Frontier General Assurance Ltd. to James Ladd at Las Vegas, according to the indictment.

British Frontier policies supposedly issued by Sanro from Phoenix—which, it was learned, numbered many of major significance—were, in fact, initiated, conducted and directed by James Ladd from Las Vegas, it is charged.

And finally, the defendants are accused of pocketing premiums and not paying claims. According to the indictment, "It was further part of the said scheme and artifice to defraud that the defendants would and did deposit and cause to be deposited, money and checks received in payment of insurance premiums and protection, as a result of the scheme and artifice having been so devised, into bank

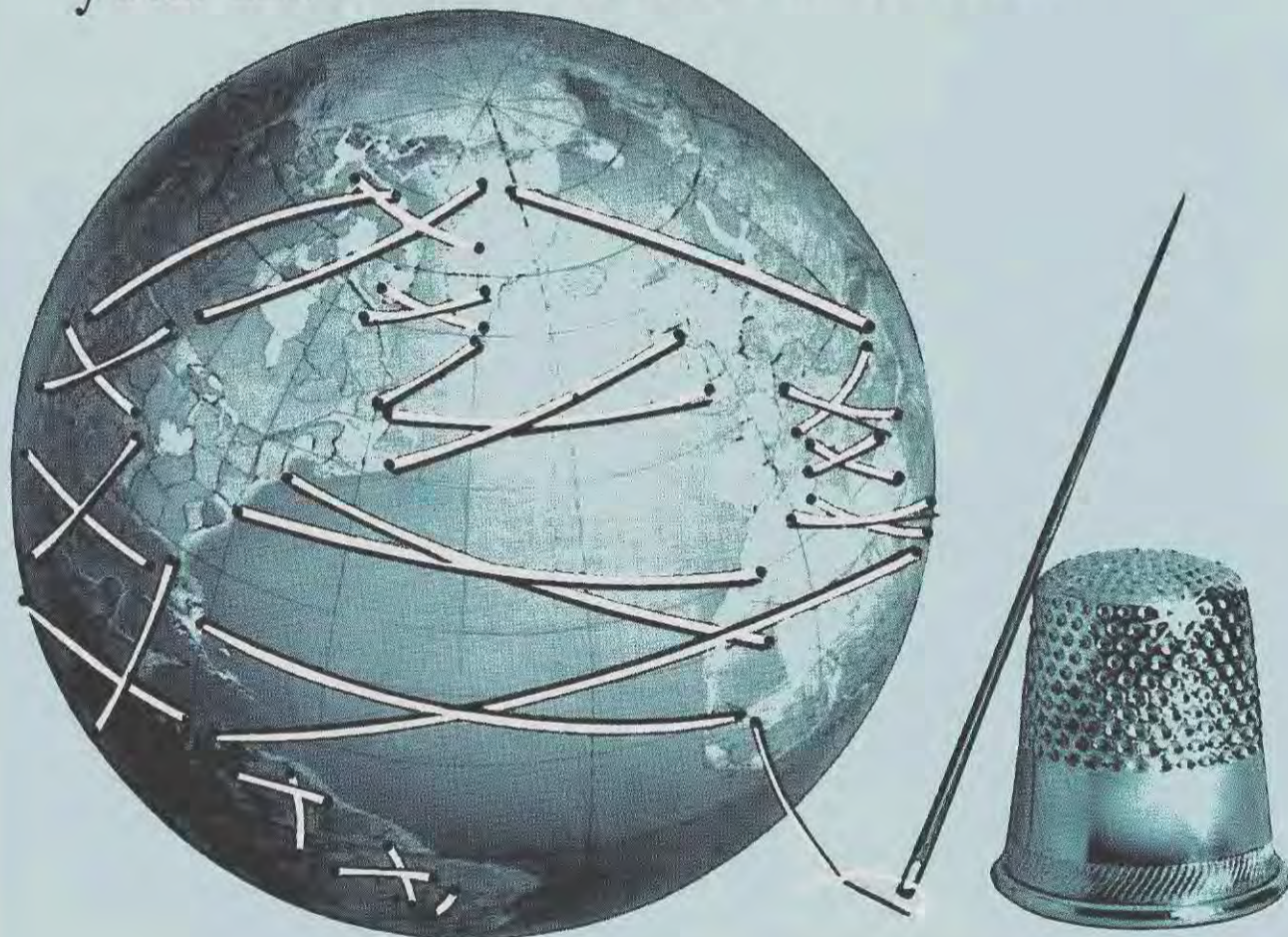
accounts and a brokerage account opened for that purpose and from there would and did convert and cause to be converted to their own benefit and use money and checks, then and there well knowing that it was not being used to provide the insurance protection and coverage as represented."

**THE 12 COUNTS** of the indictment evolved out of allegedly illegal correspondence between James Ladd and Thomas Sweeney of Trinity Insurance Co., a Kodiak, Alaska, insurance agency.

Mr. Sweeney is not named as a defendant in the indictment because he was found to be unaware of, and not involved in, the al-

*Continued on page 56*

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## info for buyers

Info for Buyers offers material that *Business Insurance* believes will be of value to its readers. The complete name and address of each supplier of information is listed so that readers can write directly to the publisher, simply saying that they saw the item in *Business Insurance*.

Readers are invited to submit items for inclusion in this column. A sample of the literature should be sent to: Info for Buyers, *Business Insurance*, 740 Rush Street, Chicago 60611.

• **Building Codes, Their Scope and Aims** is a booklet prepared by the engineering and safety department of the American Insurance Assn. It traces the development of building code concepts from the Babylonian era to the present and also discusses fire prevention, detection and extinguishing. Suggestions for stricter enforcement of existing codes are also made. The illustrated item is available for 20¢ from the association at 85 John St., New York, N. Y. 10038.

• The Chamber of Commerce of the United States has released a 72-page book telling businessmen how to detect organized crime in their own companies. **Desk Book on Organized Crime** points out the symptoms of organized crime techniques and suggests what businessmen can do to combat them. The book gives details on how to fight dummy or fraudulent associations, gambling, labor racketeering, loan sharking, monopoly and coercive competitive practices, illegal uses of stocks, bonds, credit cards, and illegal takeover of a legitimate business. For a copy write the news department of the Chamber of Commerce of the United States, 1615 "H" St., N.W., Washington, D. C.

• A four-page, illustrated brochure on **Data-Vault, Walk-In Computer Media Vault** is available from Data-American Equipment Co., 333 N. Michigan Ave., Chicago, Ill. 60601. It explains the need for vault protection of computer tapes against fire, steam, explosion and flood. The new vault protects tapes with a temperature less than 140°F. for at least six hours in a fire exposure equal to the American Standard Time and Temperature Test reaching 2,250°F.

• **Effects of Sonic Boom** is a 174-page book recently published by Dr. J. H. Wiggins Jr., who heads his own firm of consulting researchers and professional engineers. The book is a synthesis of information and data resulting from various sonic boom overflight test programs and other research in that field of interest. The book sells for \$16 and is available from the author at 2516 Via Tejon, Palos Verdes Estates, Cal. 92074.

• National Automatic Sprinkler and Fire Control Assn. Inc. has released **Automatic Sprinklers in Building Codes**, a 16mm, color, sound film. Narrated by Lowell Thomas, the film is directed primarily toward building officials, architects, engineers, fire prevention officers and urban renewal planners. The film details the basic principles of building codes and the part that automatic

sprinklers play in providing for maximum public safety, design flexibility and reduced construction cost. Copies may be purchased directly from the association at 2 Holland Ave., White Plains, N.Y. 10603 for \$110 per print. Or you may contact one of the 28 nation-wide offices of Modern Talking Picture Service Inc.

• Three informational items are available from the Council of Profit-sharing Industries, 29 N. Wacker Dr., Chicago, Ill. 60606. **COPSI** describes the three basic services of the council: legal and legislative, communications, technical. **Profit Sharing and How It Can Help You!** details the growth in the number of U.S. profit-sharing plans, reasons behind this increase and its effect on the national economy. **Setting Forth Some Essential Facts to Consider either in Reviewing an Existing Profit-sharing Plan or for Establishing a New Plan** is a 12-page worksheet prepared by the council and can be adapted for use by any business. These items are free on request.

• Information on the **Reid Report** is free from John E. Reid and Associates, 600 S. Michigan Ave., Chicago, Ill. 60605. The report was developed for use as a written examination in conjunction with or in place of polygraph (lie detector) tests in screening employees for jobs necessitating a high degree of honesty. The initial information explains attitudes toward honesty and application of the report and contains comments from various companies that have used it in hiring employees.

• **Fire Foil**, a fire-retardant paint, has been introduced by the Valspar Corp. The paints insulate coated surfaces through the process of intumescence, a chemical reaction forming tiny cells on top of the surface when exposed to temperatures of about 400 degrees or higher. Fire Foil is available in alkyd flat and semi-gloss and in a range of decorator colors. There is a possibility of lower insurance premiums as a result of the greater fire protection provided by this type of paint. For more information on the product contact William R. Cahill at the corporation, Rockford, Ill. 61100.

• **Camerz Surveyor** automatic hold-up cameras are available in 35mm and 70mm for use in financial, retail, industrial and other types of installations for protection against robbery, theft, pilferage and unauthorized entry. The cameras offer a 65 degree angle of view, a stop-action shutter, and may be set to run only while a special switch is held. They may also be used in conjunction with hold-up alarm systems. A specification sheet is free from Photo-Control Corp., 5225 Hanson Ct., Minneapolis, Minn. 55429.

• Card Key Systems, 901 S. San Fernando Blvd., P. O. Box 589, Burbank, Cal. 91503, has published its product catalog CC-6-69 containing information on security lock access-control systems and machine readable credentials. The six-page illustrated brochure describes the two elements of the system—a **Card-Key** identification card that acts as a magnetic key, and a **Securiti-Lock**, which is magnetically actuated by the card.

• **Don't Be Half Insured** is offered free by Lansing B. Warner Inc., 4210 Peterson Ave., Chicago, Ill. 60646. The literature is directed toward the corporate insurance manager and discusses inflation's effects and the subject of coinsurance. Write the company in care of Russell K. Hedborn, marketing manager.

• **Information Management for Financial Industries** is a 10-panel brochure from Moll Associates that explains how information management techniques can help a firm use all its data to best advantage. All the techniques mentioned are geared toward making data relevant and useful in terms of realizing corporate goals. For a free copy contact Moll at 372 Main St., Watertown, Mass. 02172.

• Museums and businesses that display items such as painting, sculpture, gems, stamps and coins can obtain information on the **Extra Sensory Perceptor** from the United States Research Corp., 1920 "L" St., N.W., Washington, D. C. The ESP is designed with all solid-state circuitry to assure reliability and minimum maintenance. It contains a changeable emergency battery unit in case of an AC power and auxiliary connections are available to fit individual needs.

• An eight-page item of interest to captive insurers, self-insureds, brokers and consultants has been offered by Eastman Kodak Co. Business Systems Markets Div., Rochester, N. Y. 14650. **Information Systems for Insurance Companies** explains the use of microfilm systems for effective, economical information management. The item is free on request.

• **Guide to the Prevention of Fuel Explosions for Gas- and Oil-fired Boiler Furnaces** is a booklet produced by Kemper Insurance Cos. It makes recommendations for safety supervisory devices designed to eliminate many hazardous conditions and to effect a fast shutdown of equipment when a hazardous condition does exist. The recommendations are for boilers having steam capacities generally not exceeding 200,000 pounds per hour. A free copy of the guide is available from the Combined Property Dept., Kemper Insurance Group, 4750 N. Sheridan Rd., Chicago, Ill. 60640.

• **The American Telephone Alarm** is a free brochure explaining the security reporting system developed and manufactured by A.T.A. Control Systems Inc., 980 W. 84th St., Hialeah, Fla. 33014. The alarm can be programmed to call authorities in case of burglary, fire, medical emergency or equipment failure. Added protection for situations such as hold-ups can be obtained by a pocket-sized remote control or hidden buttons.

• A compact, self-contained fire-protection system, about the size of a portable television, is now available from Fenwal Inc. the new **FIREPAC** system is adaptable to the protection of personnel working in confined areas (such as bank vaults, laboratories or libraries) or for use in areas where equipment, documents or furnishings of high value are concentrated. The fire extinguishant Freon FE 1301 does not damage papers, furnishings or electronic equipment. The unit can be used singly or in connection with other units and has its own fire detectors. Each unit can protect 1,500 cubic feet of space. For information write FIREPAC, Fenwal Inc., 400 Main St., Ashland, Mass. 01721.

# Doctors need malpractice headache cure

SAN FRANCISCO—Cost of malpractice insurance for doctors continues to "skyrocket," witnesses testified here at hearings by the state senate judiciary committee into medical malpractice problems.

State senator Donald L. Grunsky (Watsonville-R.) said his committee will "take a very serious look at the way in which the state's doctors have to get malpractice insurance.

"The ability or inability of doctors to get such insurance," Mr. Grunsky said, "has created a number of serious social problems."

**THE COMMITTEE** hearings had been told that in Northern California one company, American Mutual, handles almost all such insurance and in Southern California one brokerage, the Nettleship Co., does most of the business there.

"The testimony we have received," Mr. Grunsky added, "shows clearly the inherent evils in such an arrangement. Some doctors, because the companies consider them uninsurable, are driven out of the medical field. Others leave practice because of the high premium cost.

Witnesses had testified that doctors will not testify against other doctors; doctors are victimized by lawyers; insurance companies are victimized by juries; patients are taking advantage of the statute of limitations; doctors cannot afford malpractice insurance; and patients are charged more by doctors to make up for the high premiums.

**JAMES KING**, Northern California manager of the malpractice division of American Mutual Insurance, told the Committee that premiums have gone up 129% in the past 11 years "and we are still losing money in this area of insurance."

As the Committee concluded its hearings, superior court judge Andrew J. Eyman set aside State Board of Medical Examiner rulings against four Bay Area doctors found guilty last year of performing allegedly illegal therapeutic abortions.

The doctors had all been accused by the Board of performing

abortions on women who had suffered from German measles during their pregnancy.

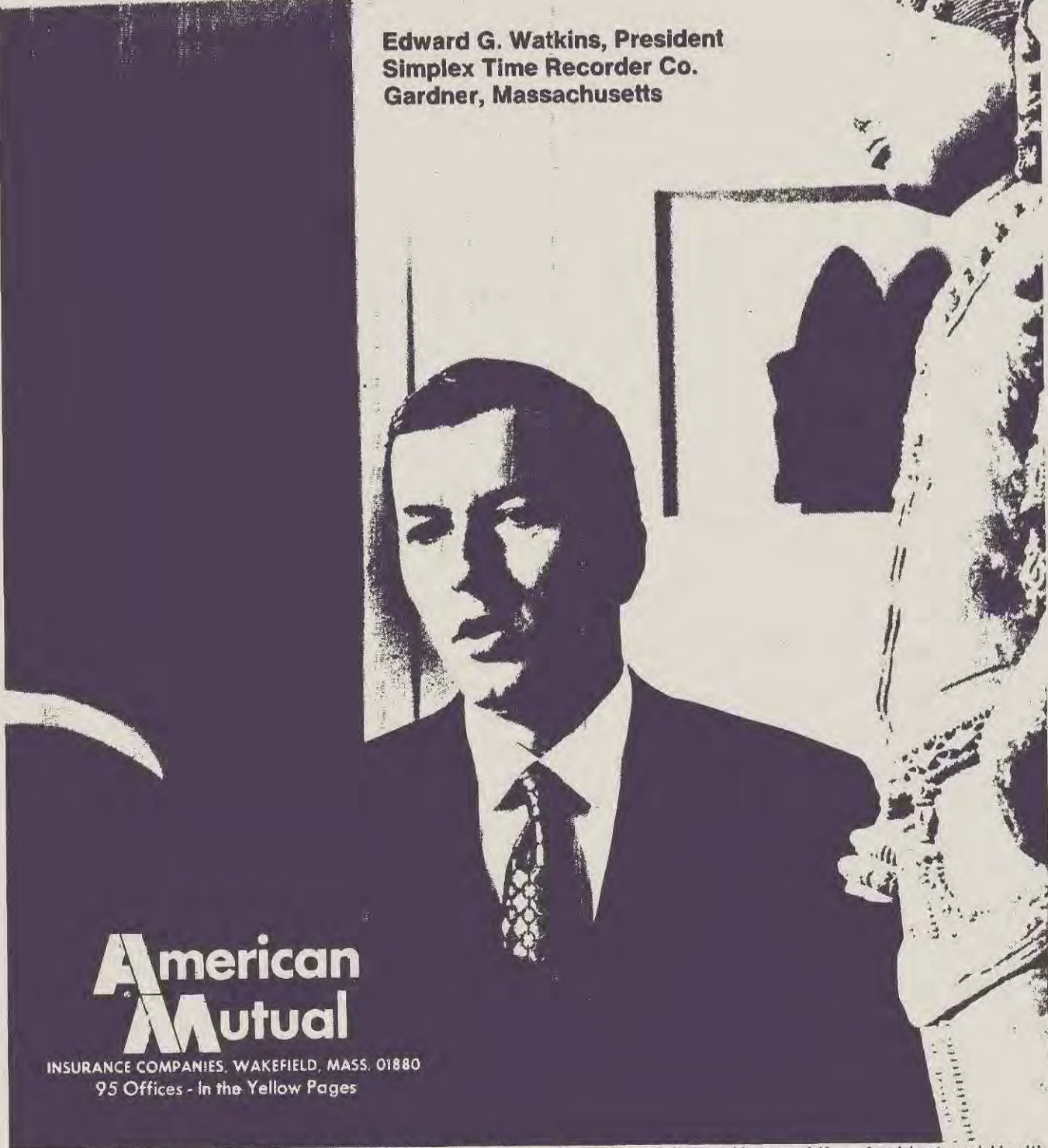
Judge Eyman ruled the board acted incorrectly in punishing the doctors with 90 day suspensions of their medical licenses conditional on one year of good conduct.

## Investment service bows

An investment service to measure the performance of large numbers of portfolios on the "unit basis" has been developed by R. Shriver Associates, Denver, N.J. Called "portfolio systems," the service also gives portfolio managers information on tax costs, yields, current market values, annual income estimates and diversification percentages for both bonds and common stocks.

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## following the funds

# Zinbarg, Dreher debate advisability of stocks, bonds in pension portfolios

The following is a question-and-answer session at last month's National Foundation of Health, Welfare & Pension Plans conference in New York. Fielders of the questions are Edward D. Zinbarg, vp and chief economist at Prudential Insurance Co. of America, and William A. Dreher, vp, at A. H. Hansen Inc.

**Question:** If stocks are going to have a higher return than bonds why not just buy stocks?

**Mr. Zinbarg:** Well I think that

is what has been happening; more and more trustees and investment managers have been saying why should we buy bonds? I think you have to have a very high aversion to risk to keep large percentages of money in bonds. But if for example you were to put the probability of a major depression at higher than I would put it then I could very well see why you would buy bonds and that is the only kind of answer I can give.

**Mr. Dreher:** But it is clear from my work with trustees and as

reflected in the comments we have made this morning that your funds are in a much better position to accept the risks of equity investment than had in the past been considered appropriate.

But we have got a special set of circumstances today when you have short virtually guaranteed five and ten year rates of return on bonds in the 7% to 8% area which produces a very awkward decision if you look at expectations on equities in the 9%, 10%, 11% area.

The range is relatively narrow in terms of the investment being made today. Long term the range is wider and the decision is easier. To me one of the significant disadvantages of bond investment in the climate we have had for the past ten years is the relative illiquidity of those investments and the fact that they have proved to be relatively volatile investments with market values changing substantially contrary to the somewhat innocent assumption that many had made about such investments.

**Mr. Zinbarg:** It is precisely because more and more people are seeing less and less reason for investing in mortgages and bonds as opposed to common stock that I think the threat of controls is as great as it is. In other words if the private mechanism doesn't produce bonds and mortgage money on which the economy runs we may well get into the

situation where the government forces pension funds, savings banks, life insurance companies or what have you to put money into those areas. That is what gives me such great concern, the very fact that everybody says why should we buy bonds.

**Question:** In view of the dollar size of some funds is it foreseeable that we will have government control on tax or investment returns? There are a few of that nature, the likelihood of taxing the returns or taxing the pension funds themselves.

**Mr. Zinbarg:** Well, as I have indicated, I think there is a substantial possibility and we are seeing it already. As I understand it the House ways and means committee tax reform bill provides for a lower tax on, for example, mutual savings banks and savings and loan associations which invest X percent of their money in residential mortgages and a higher tax for those institutions that invest a lower proportion of this.

I don't know whether the root of control would be tax or subsidy. You can have a carrot; you can have a stick. But I think we have got the makings of this kind of control already and it is not difficult at all for me to visualize a possibility that the government would say if you want your pension fund to remain tax exempt then it has to meet such and such asset distribution requirement. It is not difficult to envision that at all.

**Mr. Dreher:** Well, there is another straw in the wind to the same conclusion that the tax reform bill to which you mention provides for a change in the capital gains treatment of lump sum distributions for qualified pension funds. My own guess, though, is that the nature of these funds established through labor-management collective bargaining process gives them quite a considerable insulation against some of the possibilities for either taxation of the change in the tax basis of contributions as they go in or a change in the tax status of investment return.

Certainly though if this becomes a material factor or becomes reality it will have a bearing on the way in which investment performance can be interpreted. Of course it undoubtedly would influence investment policy.

**Question:** If Guns and Butter inflationary society is going to have a higher return on common stocks than the normal one, why is it that in the recent period the stock market has gone down?

**Mr. Zinbarg:** I think the answer to that is quite clear and that is that the new administration has indicated quite clearly that it is going to or try to change Guns and Butter to oleomargarine and that is what the stock market is reacting to.

We are moving away from Guns and Butter inflationary approach and the market had previously been built on the assumption of continuing inflation and it is starting to question that assumption. I think that it should question that assumption because I think that continuing high inflation carries a much lower probability than moderate inflation and we are seeing that readjustment.

**Question:** I have one for our speakers. The implications of a 5% return on bonds suggest that if you buy a bond today at 8%, and then it yields 5% in a year or two, the price will have gone way up and no matter what sort of accounting you are using, this undoubtedly has helped pension funds a great deal.

On the other hand if you buy a stock which presumably will have

Continued on page 58

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# Insurance 'first order of business,' says Gurash, INA's chief executive

PHILADELPHIA—INA Corp., in spite of its moves to diversify, still considers a profitable insurance operation its "first order of business," in the words of John T. Gurash, the firm's new chairman and chief executive officer.

Mr. Gurash, 59, succeeds Bradford Smith Jr. as the top man at INA. Mr. Smith, who retires Nov. 1, will continue to serve the company as a director and a member of the executive committee.

"Look," Mr. Gurash told *Business Insurance*, "here are few things you can do in the way of diversification in a reasonable span of time that will have any impact on earnings to overcome a bad insurance year.

"One of the things I'm con-



John T. Gurash

vinced of is that we are in the insurance business in a big way

and we always will be."

MR. GURASH disagrees with those who hold that the conglomerate's entry into the insurance field will result in less insurance capacity. He maintained that conglomerates—and he didn't deny that INA Corp. might some day become major one itself—would "not necessarily mean less capacity but more emphasis on profits because of the single ownership that demands performance. I see nothing wrong with that."

Mr. Gurash, who came to INA from Pacific Employers group when the two insurers merged in 1965, indicated that INA will become a bit more choosy in the lines it underwrites. He said the

insurer plans to "taper down some of our activities in personal lines in the bad rate states" and "zero in where we can make money."

INA writes roughly twice as much commercial business as personal business, Mr. Gurash pointed out, "and yet we have some of our biggest problems in commercial from an underwriting loss standpoint." However, "I have confidence in our ability to do all right in the commercial area because it's more flexible. We can control pricing."

Mr. Gurash admitted that the capacity squeeze was "the most difficult problem of all," but he said that the problem is "often confused." People, he noted, talk about the difficulty of getting enough capacity to insure personal automobile lines. "You can get all the new money you want for that," he said, if the price is right.

**BUT INSURING** the big new

747 jumbo jet is a different story, Mr. Gurash stated. "I don't think it's particularly a pricing insurance problem so much as a total economic problem.

"If the exposure on a 747 is \$150 million, where can we marshal the resources for that? I don't think any one insurance company can solve this. It's a very difficult problem.

"We are willing to take a chance up to \$10 million for a premium of \$10,000. If all the \$10 millions available don't add up to fulfill the needs of the aviation industry, I don't know where we can go from there. I'm not sure if this would signal government intervention," Mr. Gurash said.

The new INA Corp. chief executive said he has "done a lot of thinking about the climate in which we live"—a society capable of producing great technological gains but also capable of polluting our rivers and streams.

Mr. Gurash said he "emphatically agrees with the stance INA has taken to deny most liability coverage" for damages arising out of contamination or pollution of land, air, water or other real personal property.

"These are not insurable exposures," Mr. Gurash said. "We shouldn't be a party to it."

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## Parley . . .

Continued from page 2

casualty manager for Chubb & Son.

Speaking during the day's final session were William B. Pugh Jr., assistant general counsel of INA; Thomas J. Finley Jr., secretary-manager of the Insurance Federation of Pennsylvania Inc. and the industry's chief lobbyist in the state; and James E. Bailey, legislative counsel for the ASIM.

Mr. Pugh, in effect, said that the old Boy Scout motto, "Be Prepared," was a good one to abide by when trying to present an effective insurance legislation position. "There are three points to remember," he said. "Have knowledge of your subject; do your homework. Believe in your cause. And, third, remember that insurance is a highly regulated industry with its regulations related to the public interests. Temporary successes will come back and haunt you if they are contrary to the public interests," he said.

Mr. Bailey, on the other hand, urged risk managers to stay within "the accepted protocol" when trying to influence legislation. "Remember that legislation is a give and take proposition and we cannot always hope to be successful."

Asked how important political contributions helped influence legislative activities (which brought the inevitable wave of laughter from the group), Mr. Bailey said "political contributions are the lifeblood of the political system in the U.S." and urged risk managers to financial support candidates sympathetic to legislation benefiting them.

Mr. Finley, who also outlined legislative procedures for the group, echoed Mr. Bailey's thought, but warned insurance managers to "always keep in mind that your contribution is without strings."

When all was said and done, however, ASIM members in the Delaware Valley probably remember one thing of their 12th annual conference: Their business is faced with problems and the solutions are not coming easy.

Mr. Mortimer may have summed it up early in the session when he said:

"As you know, it used to be a fight in the board room as to whose broker would get the business. Now, it's where can you put the business."



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AFIA also has seven offices in the United States. Each is staffed by knowledgeable insurance people who can help you plan your international insurance programs, using the latest available foreign information. Our world headquarters in New York is the industry's leading source for insurance information overseas.

These reasons help to explain why Parke-Davis is one of the 87 largest companies in America doing business overseas that insures with AFIA.



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# AFL-CIO not bullish about prospects for increased unemployment benefits

WASHINGTON—The AFL-CIO doesn't pin much hope on President Nixon's efforts to get the states to boost unemployment insurance benefits.

According to James O'Brien, an unemployment insurance specialist in the union's department of Social Security, the same tack was tried in the Eisenhower Administration and was "a dismal failure."

In a recent message on improving unemployment benefits, President Nixon urged the states to increase maximum unemployment payments so that nearly all unemployed workers could receive half of their normal pay. President Eisenhower, said the union,

proposed the same thing in 1954.

**ALTHOUGH** Secretary of Labor George P. Shultz followed up the President's statement with the remark that the states made progress in improving benefits between 1955 and 1960, Mr. O'Brien disputed his figures.

In the intervening years, only two states met the recommended standards, Mr. O'Brien noted. Another seven states allowed maximum unemployment compensation of more than \$3,335 a year or \$64.14 a week—the poverty level set by the Department of Health, Education & Welfare.

"It is not unreasonable to assume that the states will respond

to the urging of President Nixon in the same fashion that they responded to the urging of President Eisenhower," Mr. O'Brien stated.

**BENEFIT LEVELS,** Mr. O'Brien said, declined as a percentage of the statewide average weekly wages between 1954 and 1960 in 15 states and remained the same in three other states.

Changes in benefits in 15 other states during 1954-60 were "negligible," Mr. O'Brien stated. Weekly benefits in these states were raised 5% of the average weekly wage, although coverage was extended by 28%.

President Nixon said in his

message that "if the program is to fulfill its role, it is essential that the benefit maximum be raised. A maximum of two-thirds of the average wage in the state would result in benefits of 50% in wages to 80% of insured workers."

**THE ADMINISTRATION'S** proposal to Congress would extend coverage to 4.8 million of the 17 million persons not now protected, and would establish an additional period of Federal benefits during severe national recessions.

If the states don't act to boost benefits in two years, the President indicated he will press for national standards.

The AFL-CIO, for its part, wants coverage of all wage and salary workers to be eligible for benefits after 20 weeks of work.

The union has also urged maximum weekly benefit amounts to be set as a percentage of wages, so they will automatically rise as wages increase.

# Insured jobless rate falls to 2.1%

WASHINGTON—The insured jobless rate fell to 2.1% in fiscal 1969, down from 2.4% the previous year, according to the Department of Labor's Manpower Administration.

Labor Department analysts reported finding some indications that insured unemployment figures may be headed upward during the first few weeks of fiscal 1970, mainly because volumes were higher than a year ago in four of the first five weeks.

But they said the trend may be the result of purely seasonal developments. Much of the higher volume during this period may be because of different scheduling of auto plant shutdowns for model changeover and to differences in plant closing dates or summer vacations.

All but ten states registered declines in the insured jobless rate for fiscal 1969. The largest reductions were in New York (13,900), California (13,200), Illinois (6,400), Ohio (5,700), Michigan (5,500) and Indiana (5,200).

Among the states showing larger numbers of insured jobless were Connecticut (2,300), Washington (2,200) and Louisiana (1,300). The other seven dropoffs were minimal, the Labor Department said.

States showing the lowest rates of insured unemployment—less than 1%—were Virginia (0.7%), Colorado and Texas (0.8%), and New Hampshire (0.9%).

States with the highest rates of insured unemployment were Alaska (7.4%), Puerto Rico (7.3%), California and Washington (3.5%), Nevada and New Jersey (3.3%) and Maine and Rhode Island (3.1%).

Initial claims averaged 192,900 weekly during fiscal 1969, down from 210,800 average for the previous year.

# Alarm firm held at fault in robbery

CLEARWATER, Fla.—Grover C. Criswell Jr., former mayor of St. Petersburg Beach, was awarded \$133,108 in damages by a circuit court jury here as a result of a burglary at a museum he once owned.

Mr. Criswell had charged that Brinks Signal Co. was negligent in the installation of a burglar alarm system at his now defunct museum in St. Petersburg Beach. He maintained that the system didn't prevent the burglary that occurred on Jan. 31, 1964.

The jury awarded Mr. Criswell \$108 for damages to his building and \$133,000 for the loss of a money collection owned by Irving M. Moskovitz of Southfield, Mich., on display at the time.

Mr. Criswell's attorneys maintained that the contract with Brinks was breached because it did not provide the protection it should have.

# Tebb named manager

Alan Tebb, 40, president of Compensation Advisors Inc., Seattle, has been named the first full-time general manager of the California Workmen's Compensation Institute. Insurer members of the Institute write about 65% of the California workmen's compensation premium volume.

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# Michigan Bell names black insurer on group

DETROIT—Michigan Bell Telephone Co. has named Great Lakes Mutual Life Insurance Co., a firm that has almost all black policyholders, to handle about 20% of its group life business.

With the signing of the contract, it will be the first time that a black insurance company has insured a public utility, according to Thad B. Gaillard, Great Lakes president.

In May the insurer signed a similar agreement with S. S. Kresge Co., but Mr. Gaillard said the Michigan Bell business "is the largest pack of insurance we have ever covered."

**GREAT LAKES** will handle about 20% of the utility's \$350

million group life insurance, and Metropolitan Life will handle the rest.

"Michigan Bell was not out shopping for a co-insurer," said Bell president William M. Day. "It's just that Great Lakes had such a good salesman in Mr. Gaillard." He said he was first approached by Mr. Gaillard four or five months ago.

Great Lakes policyholders, Mr. Gaillard explained, are about 98% black and the company employes mostly blacks, but he said the insurer intends to enlist more white subscribers and white employes.

Michigan Bell has 28,000 employes, of whom 13% are black, the firm said. ■



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# Ryan gets risk post at Celanese

NEW YORK—John J. Ryan, formerly manager, employe benefits, has been named corporate director, risk administration and insurance, at Celanese Corp. here.

Mr. Ryan succeeds MacVicker Snow, who has joined American Risk Management Inc., New York consultant.

At Celanese Ronald Jalbert, formerly supervisor of employe benefits, succeeds Mr. Ryan as manager, employe benefits. Mr. Jalbert joined Celanese about eight months ago from Norton Co.

Celanese's fire, boiler and machinery and business interruption coverage is with Factory Insurance Assn. and its liability coverage is handled by Insurance Co. of North America and Commercial Union. Rollins Brudkci & Hunter is the company's broker.

Mr. Ryan joined Celanese in 1962 as supervisor of employe benefits. Prior to joining the firm he served with AMF Inc.

He will continue to purchase employe benefit coverages for Celanese but administration of benefits will be handled by Mr. Jalbert. ■

# Du Pont sues owners of 2 vessels

HOUSTON—E. I. Du Pont de Nemours & Co. has filed a \$510,000 cargo damage suit against owners of two vessels involved in a collision on Houston's Ship Channel.

The suit, filed in U.S. district court here, names as defendants Blue Star Line Ltd. of Great Britain, and its cargo ship, Halifax Star, and Southern Towing Co. of Missouri and its towboat, John M. Warner.

Du Pont, owner of a liquified propylene gas cargo aboard a chartered barge being towed by the Warner, said the collision between the barge and the Halifax Star was caused by the defendants' negligence.

The petition said the vessels failed to display proper lights, keep a proper lookout.

Du Pont asked that the court order sale of the motor vessels, if necessary, to pay damages.

One of the two tanks aboard the barge, each containing 1150 tons of propylene gas, was ruptured, spewing gas. Both the tug and the freighter managed to escape the cloud of gas. ■



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# Aldridge tells of 'frustrations' in trying to start captive life setup

NEW YORK—Eugene C. Aldridge II, former insurance manager of the Dallas-based Texas Instruments, was here recently to talk about what he calls his "favorite and most frustrating" subject—the ins and outs of creating a captive life insurance company.

Speaking at a seminar sponsored by the John Liner Letter-Insurers Press and presented by Management Seminars Inc., Mr. Aldridge noted that it was his favorite subject because he had spent the better part of four-and-a-half years drawing up a captive life company for Texas Instruments.

TI shelved the plan in December 1968. And therein lies the frustration, Mr. Aldridge admitted to *Business Insurance* after the session. The former insurance manager resigned from the company early in August. He is now engaged in his own sales and consulting operation in the Dallas area.

**ASKED FOR** comment on why TI shelved the plan, Hans A. Wolf, corporate treasurer, told *Business Insurance* from Dallas:

"Our principal reason—our exclusive reason, in fact—was that we felt we had so many other business opportunities in lines which we are familiar with that we had better expend our energies there rather than go into something completely different."

Mr. Wolf further reiterated TI's reasons by adding:

"We looked at the booming electronics industry and decided that we prefer to concentrate our resources, including our people resources, on our mainstream businesses which offer us very attractive growth opportunities. Therefore, we did not feel it appropriate to form a captive insurance subsidiary."

**"WE JUST WANT** to be a \$3 billion industry. We don't want to be involved in everything," he said.

Mr. Wolf noted that Mr. Aldridge had been very actively involved in the TI study of a captive life company. "I think the boys did a very good job," he commented.

While the formation of such a company has not been arbitrarily dropped by Texas Instruments ("We never drop anything arbitrarily"), Mr. Wolf said he does not expect reconsideration of the plan in the near future. "But," he added, "who is to say that in 10 years or so we might not take another look at it."

Parenthetically, Mr. Aldridge's slot has not been filled at the Dallas company. "We have a couple of prospects internally, but no decision has been reached as yet," the corporate treasurer added.

**DESPITE** the TI decision, Gene Aldridge continues to be a firm believer in captive life insurance companies. In fact, if the tone of his message to about 80 insurance managers and other representatives of the industry is to be considered, he is an active crusader for the cause.

And the cause most certainly must be considered a hot issue among companies and their insurance managers today. After he spoke at a morning session at the Biltmore Hotel here, he was all but besieged by eager insurance managers with questions during a coffee break. So much so that he almost missed the coffee himself. (A thoughtful soul finally delivered him a cup on the dais.)

Drawing on his wide experience while working on a captive life insurance model for TI, Mr. Aldridge noted that there are two motives for forming such a company. "First, and the primary one," he said, "is as a service to employes and their families. The second," he noted, "is as a financial opportunity for the parent company."

**A CAPTIVE** life insurance company, Mr. Aldridge explained, serves the employe in four essential ways:

(1) It makes permanent life insurance available at discounted premium rates on a payroll de-

duction plan.

(2) It makes professional benefit counseling available for all employe programs.

(3) It provides counseling in formal estate planning, including the preparation of a "last will and testament." (Here Mr. Aldridge noted that only one in eight employes in the U.S. has prepared a will, largely because they don't understand the need.)

(4) It meets the needs of the employe after he retires by continuing coverage and counseling.

**WHILE THEY** were considered secondary in the Texas Instruments study, Mr. Aldridge em-

phasized, the financial opportunities a captive life insurance company offers the parent company are numerous. He cited more than a dozen. Among them were:

- The small initial investment in most states. He clarified this somewhat by saying that while in some states \$1 million of \$2 million is required, most states require far less. In Texas, for instance, the requirement is \$250,000.

- The captive life would require an initial investment only. After that it would be self-funding, regardless of rate of growth.

- There is no product obsolescence. "They're not going to do away with life insurance," Mr. Aldridge commented.

- There is a receptive market. "The market comes to you and it is very receptive if there is employe loyalty."

- The parent company pays

low interest costs—as low as 3.5%—for funds it borrows from the captive.

- There is tax deferral on profits from the captive.

- There is a ready market for the sale of a life company.

**A QUESTION** was later raised about the possibility of "some real restrictions" when a captive attempts to do business in other states where the parent company has operations. The questioner summed up by saying, "Texas insurance laws are extremely unique," a remark that drew a wave of laughter from the group.

Mr. Aldridge, while not excessively humored, replied, "Yes, we might have had some advantages in Texas." Overall, however, he did not see any insurmountable obstacles in doing business from state to state.

*Continued on page 18*

J. H. Weiser & Son Contracting Co. is currently installing the sewage system for the town of Youngtown, Arizona—a \$700,000 project.



# New Yorkers try out alternatives to present health insurance schemes

NEW YORK—Union and state government officials, grappling with the problem of uncontrollable health costs, have come up with some innovative alternatives.

The proposals came amid growing criticism of existing health insurance plans and their efforts to install continual rate increases. A 43% rate hike request by Blue Cross here, for instance, was approved this month by the state court of appeals.

Attacking the Blue Cross rate hike, John J. DeLury, president of the Uniformed Sanitation men's Assn., declared at a press conference this month that hospitals should be treated as public utilities

with their costs regulated by a public commission. It was Mr. DeLury who earlier said that city employees should pull out of Blue Cross because of "extraordinarily high" rates and form their own hospital plan.

**ANOTHER UNION**, District 65 of the National Council of Distributive Workers, apparently thought Mr. DeLury's suggestion was a good one, with slight modification. The union has pulled its 7,000 members out of the Health Insurance Plan of Greater New York—in protest of a 37% rate increase earlier this year—to try a one-year test of self-insurance.

In addition to the 7,000 employees-exodus from HIP, the test will also provide 100% coverage to 19,000 other employees who have been enrolled in a partial self-insurance program underway for the past 15 years. Up to now, members had to pay one-third of physicians' costs themselves.

State Sen. Norman F. Lent, chairman of the joint legislative committee on public health, this month held two-day hearings to discuss the health cost crisis. Sen. Lent, on the eve of the hearings, suggested that health insurance companies might also own and operate hospitals and clinics as a way to "bring health care up and

costs down."

**SEN. LENT** held that a new corporation set up to take over the operation of municipal hospitals here by next July, could become such a combination insurer and provider of health care.

Under his proposal, insurers would own and operate hospitals and clinics, where physicians would practice under group setups and subscribers would enroll under prepayment plans covering virtually all charges.

He said that subscribers to the Kaiser Foundation Health plan in California and elsewhere use hospital facilities 60% as much as other people, and when they do go in have to stay only 70% as long as other patients.

**THE KAISER PLAN** now operates in six regions—Northern California (the San Francisco Bay

Area, nine counties and Sacramento); Southern California (Greater Los Angeles and San Diego); Oregon (Portland, Vancouver, Washington); Hawaii, Ohio and Colorado. The membership is 1.9 million, of which 1.7 million are in California, and only 3% are Kaiser company employees.

Kaiser Foundation owns and operates 19 acute general hospitals—a total of 3,749 licensed beds to serve health plan members. The total investment in land, buildings and equipment at the end of 1968 was \$143 million.

In addition, there's currently under construction, or committed, another \$124 million worth of hospitals and medical offices. Included in these figures is an extended care facility in Cleveland, which is in the process of being converted to Kaiser's first acute general hospital in the Ohio region at an investment of \$2.3 million.

The other new region—Colorado—started business in Denver on July 1 of this year with a new medical group and newly enrolled members.

**DURING THE COURSE** of Sen. Lent's hearings, legislators heard a proposal to merge all Blue Cross and Blue Shield plans in the state and to ban reduced rates from groups which make less use of insured care.

Health Commissioner Mary C. McLaughlin, who made the suggestion, said these moves would save administrative costs and create a statewide community rate for prepaid health care.

Dr. McLaughlin was critical of Blue Cross' "experience-rating" procedure whereby big employers get rate adjustments according to their use of health facilities. This gives Blue Cross "an escape hatch from public review of rate increase," Dr. McLaughlin testified.

**SEN. LENT** said that New York employes and employers pay out \$5 billion a year in health costs. More than 80% of state residents, he said, are covered at least partially by Blue Cross and Medicaid.

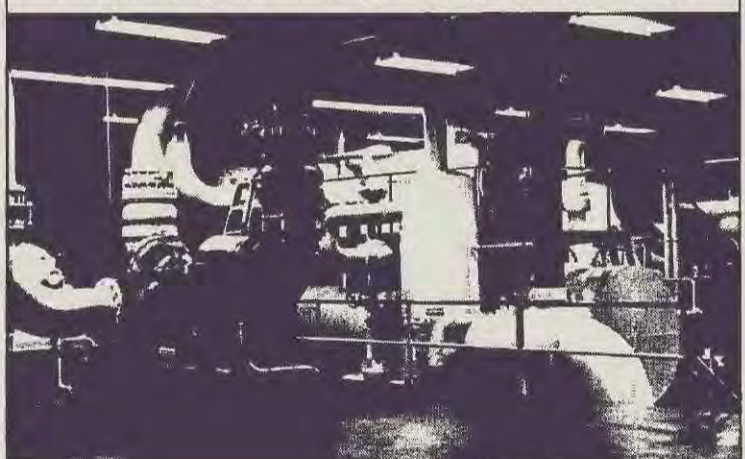

"The cost of care continues to soar beyond the reach of low and middle-income families," Sen. Lent stated. "Personalized, continuous care is lacking. A plan for on-going health maintenance is virtually nonexistent, provoking increased and expensive hospitalization.

"And our most widely accepted forms of health insurance alleviate none of these problems. We seek alternatives that will offer a more rational method to serve the health needs of the community," Sen. Lent commented.

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# Pensions, riot claims campaign issues in New York

NEW YORK—The city's pension plan has become an issue in the mayoral race here, and businessmen's riot claims against New York promises to become one.

Both issues involve Controller Mario A. Procaccino, Democratic candidate for Mayor and an early front runner, although most political observers agree that Mayor John Lindsay and Republican Candidate John Marchi have been closing the gap of late.

The first issue was dropped when the Republican-Liberal candidate for controller, Floravante Perrotta, charged that the city's five pension plans (for police, fire, employes, teachers and board of education) could have earned \$2 billion more than they did since 1961 if they had performed as well as most private pensions and mutual funds.

**"IF THE CITY** pension funds had been invested as competently as most private pension funds, which have rates of return from 6% to 13% since 1961, the city would have gained \$200 million to \$350 million a year in additional investment income," Mr. Perrotta contended.

Mr. Procaccino dropped the other shoe himself. He rejected small businessmen's claims against the city for \$4 million based on damages from looting and vandalism after the murder of Rev. Martin Luther King Jr. in the spring of last year.

**IRONICALLY,** it is similar small businessmen and blue collar workers who have given Mr. Procaccino most support—and whom the Mayoral candidate first encouraged to file the damage

claims.

The decision came after a 16-month investigation by a special unit of the controller's office into claims that police took no action to prevent looting.

Mr. Perrotta, in his position paper on pensions, noted that the city's expenditures for pension funds in fiscal 1969-70 will total \$508.7 million. Although the plans were originally designed for the city to pay 75% of the annuity and employes to pay 25%, the city now pays almost the entire amount.

**ONE OF** Mr. Perrotta's major complaints is that the controller measures performance on the basis of earnings yield and ignores market value, unrealized appreciation and depreciation. The earnings yield measurement system, said

Mr. Perrotta, "has been totally discarded in the financial world because, including appreciation and depreciation, it fails to measure the true economic performance of the fund. Virtually every bank, insurance company and mutual fund measures performance on a rate of return basis."

He said both the Bank Administration Institute and the National Foundation of Health, Welfare & Pension Plans have "vigorously asserted" that a measurement system that doesn't account for market values is "totally invalid."

Mr. Perrotta also hit the city's reluctance to invest pension funds in common stocks. Although by law the funds are allowed to put 30% of their funds into stocks, the five New York pensions in 1968 had 2.3% invested in equities, Mr. Perrotta said.

**"THE BEAR MARKET** in bonds is now 22 years old. This means that bond prices have been a declining trend for more than two decades. The decline since 1950 has been almost 50%. Translated into dollars this means that a 30-year bond, purchased in 1950 for \$100, bearing a 2.5% coupon, is now worth only about \$50. The stock market on the other hand has shown a growth of about 300% in this same period," Mr. Perrotta stated.

The candidate held that the city's pension funds should move to the legal 30% limit in common stocks. From 1957 to 1964, he said, private pensions have increased common stock holdings from 24.7% of total book assets to 41.6%, and achieved a rate of return of 6.69%.

Thirteen state pensions have invested more than 20% of their assets in common stock, Mr. Perrotta said.

"As of Sept. 15, 1969, the Dow Jones Industrial Index was 40% higher than its June 30, 1960, level. This unmanaged index appreciated 40% during the same period that bond prices were depreciating about 30%.

**"THE NEW YORK** City controller's office during this period nonetheless saw fit to increase the funds' investment in corporate bonds by \$2 billion and to place only \$122 million in equities. In the 1966-67 fiscal year 63.5% of new investments were in corporate bonds. It is time for the city's funds to join the 20th Century," declared Mr. Perrotta.

Mr. Perrotta branded as "absurd" the practice of the funds investing in mortgages outside New York City. "I propose that the mortgage monies of the pension funds be made available to New Yorkers. This is both socially and economically desirable."

Mayor Lindsay, who is a running mate with Mr. Perrotta, endorsed the cost of living increase for the 30,000 retired city workers. The mayor said he has asked his pension committee to "develop and deliver" such a program to him by the end of the year.

If the funds were properly managed the city would be able to reduce its contributions by at least \$100 million a year, Mr. Perrotta maintained. "This is enough money to provide hospital space for 1,800 patients and put 3,600 more policemen on the street and build five elementary schools. ■

## Captive . . .

Continued from page 16

An employe of Texas Instruments for almost 15 years until he resigned in August, Mr. Aldridge noted that at least 35 major U.S. corporations now have their own captive life insurance companies. During the four-and-a-half years he worked on the project for TI 25 of these were studied by himself and others at the Dallas company.

**AS A RESULT** of those studies some conclusions and recommendations were reached. He explained them in outline form:

- Establish, do not purchase, an existing life company.
- Limit your market to employes and family members during the early years of the operation.
- Offer a simplified product line, with each policy meeting a specific need.
- Offer non-participating "permanent" life insurance at minimum premium rates.
- Establish cash surrender values at minimum levels during the early years, to prevent excessive flow of sums while employes are young and subject to a higher turnover rate, and maximum levels in later years.
- Keep guaranteed interest rate for policy loans at a reasonable rate. He suggested 6% to discourage borrowing on policies, such as that which is now happening on life insurance policies that guaranteed a rate of 5%.
- Market it to employes through formal group presentations, with immediate sign-up possible (without physical examination).
- Carry out all selling and counseling on the company premises, and with salaried counselors instead of commissioned agents.
- Collect all premiums for active employes through payroll deductions.
- Do not sell to former employes unless they purchased coverage while employed and have maintained such coverage in full force and effect.

**IN QUESTIONING** that followed, Mr. Aldridge noted that the minimum number of employes a company should have before considering a move into the captives life field would be 5,000, one-half of whom were married and had families.

Of the more attractive benefits the captive provides for employes, he also noted, is lower premium rates. "You definitely can offer them a lower rate than they could get on the outside—as much as 10% less for older employes and 30% for employes 18-20 years old just starting with a company," he said. ■

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**Fickle finger' winner****Deductible in product recall cover to absorb Hippy Sippy callback**

NEW YORK—A candy importer and distributor here, who has products recall insurance, has recently gone through a rather mind-blowing recall experience. And, while the amount of expense to recall the product is not expected to go above the policy's deductible, it was nice just knowing the coverage was there, a company executive intimated to *Business Insurance*.

R. L. Albert & Sons Inc. had imported 7,650 cases of a candy product known as Albert's Hippy Sippys, which were made in Japan by the Shinsei Syokhin Co.

A rather novel candy item, to say the least, Hippy Sippys consisted of colorfully coated chocolate pellets enclosed in a polyethylene container shaped in the form of a drug-dispensing hypodermic needle. Approximately five inches long, the needle-shaped container had a plastic straw enclosed. After removing the container top, the candy pellets were supposed to be consumed by sucking into the mouth through the straw.

ACCORDING TO sources at the Food & Drug Administration in Washington, which issued the recall in April, the product was deemed to be hazardous because "under normal conditions of use, sucking the candies through the straw into the mouth required forceful inhalation which could result in the pellets being drawn into the bronchial tree, which could result in serious pulmonary disorder."

"In other words," an FDA source told *Business Insurance*, "a child could choke on the pellets if they entered his windpipe."

Coloring the case in even more vibrant hues, although the FDA says the incident had nothing to do with the recall, is the fact that Albert's Hippy Sippys were the recipient of a rather dubious award on the popular NBC television program, "Rowan & Martin's Laugh-In."

A source of some embarrassment to the Albert firm, Hippy Sippys were singled out for one of the early Fickle Finger of Fate citations given by Messrs. Rowan and Martin. According to those who recall the particular Monday night NBC show on which the award was presented, the gist of the citation read: "To a company that is distributing a candy for children enclosed in a container that resembles a hypodermic needle." The rub, of course, was the obvious exploitation of current drug consciousness with youths.

ACCORDING TO Sidney Albert, president of the candy firm, the company has had products recall insurance for more than a year. The Fireman's Fund American policy is written through the Henry Fox Co., general insurance brokers and consultants in Great Neck, N.Y.

"We're in the import business and also subject to the food and drug laws," Mr. Albert said the other day. "Every once in a while, we get an overseas manufacturer who disobeys our orders and we have to recall something. It doesn't happen very often, but every once in a while." He explained that Hippy Sippys is the first recall the company has had since it took out insurance coverage for such an event.

According to Albert's broker, Henry L. Fox, the policy covering the candy firm has a \$5,000 de-

ductible. "The loss will probably be under that amount," he said. "We had no trouble tracking down the product. R. L. Albert deals only with responsible sub-distributors, and practically all of them are on computer systems. We notified them of the recall and they came back almost immediately."

MR. FOX NOTED that his brokerage firm currently has three products recall policies on its books. "We find ourselves gravitating more and more towards the food industry. I guess every food account could use products recall

insurance today," he said, adding that he thinks "insurance companies are still going very carefully" with the form of coverage.

"They're not really pushing products recall because they are still experimenting with it to some extent." Loss experience is still almost nil, he observed, adding that "we're probably the only broker around here who has lived through a products recall experience."

Another arm of Mr. Fox's company is Good Weather Insurance which specializes in writing weather coverage. ■

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# Pharmaceutical executives ponder effects of third-party payment plans

CHICAGO—The National Pharmacy Insurance Council, under the sponsorship of the American Pharmaceutical Assn., met this month here to discuss innovative developments in the growing trend toward third-party payments for consumer prescription drug purchases.

Through several different service programs, established by government, employe and private health insurance organizations, the individual patron is relieved of all or most of the cash layout for his prescription drug purchases.

Previously, the patient relied on reimbursement policies in filling doctors' prescriptions. This prac-

tice tied up the individual's cash for an indefinite period and also required his having the cash on hand for what are often expensive and unexpected drug purchases.

**UNDER THE SERVICE** programs, although several of programs require a cash co-payment varying from 50¢ to \$2 or more for each prescription, it is the pharmacist who lays out the total or partial cost of the insured medicines.

National interest has developed among the pharmacists in maintaining an effective voice in the third-party payment situation. The professional organization of

pharmacists, the American Pharmaceutical Assn., with its membership drawn from government, trade and private pharmaceutical concerns, recently invited representatives of several drug organizations to join the insurance council to discuss possible developments evolving from a burgeoning trend toward prepayment and insurance.

The intent of the council is to provide the pharmacist with information about the prepayment processes and to establish suggested guidelines for maintaining high quality service to the public while establishing some efficient method for handling multiple claims.

**THE COUNCIL** also expects that the research involved will result in offering the underwriters a better general understanding of pharmacy practices.

Presently, Medicaid, Medicare, Champel, (covering military personnel), Blue Cross-Blue Shield, private insurance companies and certain unions utilize some form of service program. The United Auto Workers have incorporated a drug program into the benefits for several of its workers as of Oct. 1. The insured employes will be supplied with identification cards to cover their prescription payments except for the \$2 per purchase deductible co-payment.

Pharmacists in a particular area are usually offered a flat fee for the prescription drug by the third-party carriers. Generally the fee is the cost of the drug plus a service charge for dispensation.

**SUCH FEE** offerings are fully within the law. Each pharmacist

individually has the option to accept or reject the price. If he accepts, he signs a participation agreement.

Pharmacists acknowledge that the nature of the third-party payment programs necessitates a ceiling to prevent unfair or spiraling costs. Yet, they also recognize that participation in the program results in increased business costs due to outstanding cash deficits and necessarily efficient maintenance of participation forms assuring their payments.

According to Roger Cain, assistant executive director of the American Pharmaceutical Assn., the council will discuss the possibility of the pharmacist, rather than the third-party carriers, submitting a data-backed fee for each drug. The fee, to be in effect for a year, would closely approximate the usual charge for the prescriptions and would prevent unfair disadvantages falling to either party.

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employees—not the usual 25. Here are a few new Nationwide benefits in regular group:

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2. **Supplementary Widow/Widower Benefit**—extended to the surviving spouse if age 50 or over at the time of employee's death. Pays monthly until age 62.

3. **Survivor Hospital Benefits**—pays premium payments for the surviving

family covered by the employee's hospital-surgical-medical plan.

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## N.J. worries about high comp costs

NEWARK—The New Jersey chamber of commerce has voiced alarm over the "staggering" increase in the cost of workmen's compensation insurance in the state. In the last six years, according to the chamber, its cost has risen about \$100 million.

The mounting costs of workmen's comp are "far out of line" with the rises in employment, the chamber noted. Whereas employment rose 17.6% over the last six years, compensation costs rose 92.1%—to \$204.3 million in 1968, up \$32 million over 1967.

The imbalance in such costs has put New Jersey "in an increasingly difficult" position to compete with nearby states, said the chamber. A study taken by the New Jersey group showed that on the average for every dollar spent by a New Jersey employer on workmen's comp costs, his counterpart in New York spends 73¢; in Connecticut 54¢; in Delaware 38¢; and in Pennsylvania 35¢.

"Why are New Jersey's costs so high? It's because each day tens of thousands of dollars are paid to satisfy awards here for injuries which are neither permanent nor disabling. All too frequently these awards are based solely upon diagnosis and complaints and made completely without regard to permanent impairment or loss of function," the chamber said.

It urged members to get behind two state bills that would redefine "permanent disability." In addition to increasing the maximum weekly benefits payable to workers "actually" permanently disabled, the measures would provide "a vitally needed, objective definition" of such disability and "provide employers with relief from the staggering—and still mounting—burden of compensation for so-called 'permanent partial' disability."

Moreover, the chamber stated, the bills, in providing an employer credit for prior disability and also in establishing "more realistic" criteria for compensating workers with heart diseases, "would materially enhance employment opportunities for all handicapped workers by removing fears about extra liability which now may be discouraging some employers from hiring the physically handicapped."

## Kirby joins Corroon

Lewis Kirby, formerly a vp at Alexander & Alexander, has joined Corroon & Black Corp., New York, as vp-production.

# City of Hartford wants its insurer to figure in its investment income

HARTFORD—City corporation counsel John M. Fitzgerald has proposed that the city's insurer, the Aetna Life & Casualty Co., be required to include investment income in determining profits and losses, which, in effect, set the insurance rates to be charged.

And if Aetna is not willing to figure investment income into the rates charged Connecticut's capital city, Mr. Fitzgerald asserted, he is prepared indeed to go to the state insurance commissioner (William R. Cotter) to receive relief. He will go to the court of common pleas in even further action.

Although he is acting on behalf of the city, Mr. Fitzgerald said, he believes that savings can be realized for the individual purchaser of liability coverage if the investment income were figured into profits and losses prior to determination of rates.

**THE FITZGERALD** proposal is contained in a letter to the city counsel, Mr. Fitzgerald requesting permission and authorization to "proceed in the matter" to court, if necessary, and to employ "some technical assistance" in the insurance rating field, if required.

His request is sparked by a recent approval for higher rates on automobile insurance in Connecti-

cut plus enactment of state public act 665, which provides for negotiation of individual rates covering such large risk elements as the city of Hartford (subjected to urban unrest in 1968 and again over Labor Day Weekend, 1969).

Mr. Fitzgerald, commenting that "apparently the insurers are insisting that the automobile liability is handled substantially at a loss," remarked that he tends to "preliminarily" disagree with this

conclusion, "since it is my distinct impression that the insurers in submitting their statements of business operations on their underwriting profits and losses relating to automobile liability insurance, do not consider the amount of money that they have gained from investing premium dollars."

**MOREOVER**, he reminded the city council that a test case, cur-

rently under way in New Jersey, seeks to require insurers in establishing rates for auto liability insurance, to include the monies and profits derived from investing premium dollars.

He said, too:

"It is my opinion that if the insurers were required to include in their profit and loss statements relating to automobile insurance the amount of income derived from investment of premium dollars, the insurers would actually show profit.

"If our insurer (Aetna Life & Casualty) is unwilling to consider investment income, or is unwilling to grant us a hearing in re-

gard to the city's rate, then it would be my intention to appeal to the insurance commissioner for a hearing thereon.

**"HOWEVER**, the course of action to be followed in the event the insurance commissioner denies us a hearing is rather unclear as far as (the new) statute is concerned.

"If the insurance commissioner were to grant us a hearing and deny our complaint to require insurers to include investment income in arriving at a rate the statute is clear that a person aggrieved may appeal to the court of common pleas of Hartford county."

## United Fire, Teledyne without D&O

CHICAGO—Two executives of United Fire Insurance Co. have filed suit in Federal district court here against Teledyne Inc., Los Angeles, and its chairman alleging that Teledyne failed to buy United Fire stock when it was \$28 a share as it had promised. Recently, United Fire sold for \$12 over the counter.

Last June, the two United Fire executives were among those named in a suit filed against them and the company by United Insurance Co. of America, which is 52% owned by Teledyne. That suit alleges that the defendants conspired to "siphon and divert business and profit" from United Insurance from 1953 to April, 1968, when Teledyne bought controlling interest in the company.

Neither Teledyne nor United Fire, *Business Insurance* was told, has directors and officers liability coverage—although there is some question as to whether or not the coverage would apply in these instances.

**THE SUIT** against United Fire and its executives was filed in Cook County circuit court here and calls the defendants a "control group" that, starting in 1953, reduced its interest in United Insurance to less than 51% and "acquired virtually all the common stock" of United Fire, an all-but dormant company at the time.

The suit against Teledyne was filed by O. T. Hogan and A. H. Teschke, who are described as "substantial" shareholders in the fire insurance company. They claim in the suit that Teledyne promised to purchase their holdings of United Fire in return for support of a Teledyne tender offer for United Insurance shares.

Teledyne, the suit alleges, owes \$25.2 million for all of United Fire's 900,000 outstanding shares of stock.



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# london line

## British insurers report 'brighter results' from underwriting in U.S.

LONDON—Brighter results from their American underwriting experiences are being reported by several leading British insurance companies.

Latest returns from Royal Insurance show that its underwriting loss on U. S. business in the first half 1969 is cut to \$20 million, comparable with a \$28 million loss in the first half 1968.

Its operating ratio was 105.5, compared with 109.8, and it reports "Reduction in U. S. under-

writing loss is due to improved experience in the second quarter 1969, in part reflecting the absence of severe riot claims this year."

**INVESTMENT** pattern by Royal has included a move from short- to long-dated U. S. bonds, which have helped to boost its income. But its world-wide results have shown substantial underwriting losses in the region of \$8 million that have hurt the

profit from its good U. S. results.

Commercial Union had a statutory U. S. underwriting loss of nearly \$9.5 million for the same six-month period, compared with nearly \$14 million comparable period 1968. Its operating ratio dropped to 104.3% from 106%.

This includes a cut in the claims ratio from 72.2% to 70.6% of earned premiums, which follows pooling arrangements that began to operate at the beginning of 1969 and the elimination of

high-risk American accounts. But its expense ratio stayed much the same because of costs in moving its headquarters from New York to Boston.

On the other side of the profit-and-loss market, however, Britain's General Accident group had a worse situation in the U. S. where its loss so far this year rose to \$7.7 million from \$2.5 million mid-1968, and it also was unlucky with its U.K.-based business, though this is now improving, the company said. Operating ratio was 103.89%, against 99.69% in first-half 1968. Like other companies, it has been reportedly hoping for higher rate awards in Eastern states.

**SUN ALLIANCE** group did well with improved results in U. S. and overseas territories to offset setbacks in its British results where further rate increases are threatened.

Company chairman R. E. Flem-

ing said that following the sale of the Manhattan and Guarantee companies, its U. S. non-marine premium income is cut to 10.6% of total fire and accident premiums, but the group has been relieved of much potentially unprofitable business.

A less meagre return from the U. S. operations is forecast.

\* \* \*

**DEEP-SEA** fishing accidents call for new safety attitudes, according to a British government's probe into casualties in its trawler industry in the past ten years.

The government assesses the accident risk to fisherman as seventeen times as high as that of the general male industrial population.

Owners are blamed for not having gone far enough toward accepting final responsibility for the safety of their vessels and crews, and legal requirements for seaworthiness, stability and fire protection of trawlers are now being demanded.

The British Government may supply \$1 million toward better weather reporting and medical services.

\* \* \*

Burstproof doors and collapsible steering columns will become compulsory for all new automobiles sold in Britain after mid-1972.

Regulations to provide added safety on these lines are being tabled through the government by its transport minister, Richard Marsh, who aims to reduce accidents through people falling out of their seats when struck by another vehicle.

\* \* \*

Businessmen in Britain are being pressed to catch up with their rivals from America and other countries in using company-owned executive aircraft more than they do at present.

Inducements to take this step include the ingenious suggestion that they could live longer as a result. Industrialist David Barran, of Shell Transport and Trading, told seventy other businessmen at a recent conference that by ceasing to be slaves to the time-tables of scheduled airlines on their sales trips they might avoid coronary thrombosis caused through hurry and pressure.

## 'Forced' to set up own auto insurer

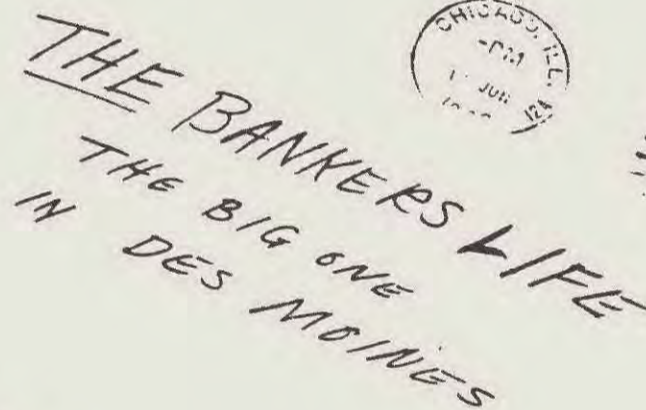
CINCINNATI—The Ohio president of the AFL-CIO said that pressure from members forced the organization to work on creating its own automobile insurance company.

"We didn't want to get into this area," Frank King said at the district 30 convention of the United Steelworkers of America. "But pressure from our members due to the increases in rates and cancellation of policies without good reason caused us to move into it."

Mr. King said that the Ohio AFL-CIO sought relief from the rates from the courts, state legislature and the Ohio department of insurance, but all efforts have been futile.

"Thus, the only remedy we see for the foreseeable future is to provide automobile insurance to our members at a reasonable cost and on a permanent basis," Mr. King said.

## The postman cameth.



When this letter arrived recently asking for information offered in one of our TODAY SHOW television commercials, we got quite a chuckle from it.

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been stable and solvent for 115 years, and the first 100 are the toughest.

For most hazards, Umbrella Excess Liability coverage starts after the first \$100,000 or so of lawsuit misfortune, and goes on up to \$5 million, which we consider more on the order of a cataclysm.

It has a combined single limit, so you don't have to guess exactly what kind of disaster is most likely to hit your company. You're covered for personal injury, property damage, auto and product liability—even advertising offenses. (Don't write, we're covered.)

Join Jack Merriweather and us in a good thing: The St. Paul's Umbrella Excess Liability Protection. Your catastrophe may be delivered tomorrow, if someone gets the order processed in time.

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\*Please write on your letterhead. We didn't want you to have to print your name on a tiny line in an ugly coupon.

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# opinions

## Focus on motor fleets

Commercial vehicles are big business and a big part of the nation's economy.

As the graph on this page shows, we now have more than 16 million motor trucks, double the number there were in 1950. Many of these trucks (3.5 million to be exact) and many automobiles (1.9 million) are counted among vehicles owned by 75,000 motor fleet operators. All motor fleets now include more than 7.4 million of about 100 million vehicles registered in the U. S. And they account for an even larger share of mileage because they are busy doing the nation's transport chores.

Insurance alone for commercial vehicles now costs in excess of \$2.2 billion annually, about one-fifth of the nation's total outlay for auto insurance.

These figures indicate the responsibility motor fleet owners have to operate their vehicles safely and to prudently insure them against highway mishaps. The scope of this responsibility and how it is met by fleet operators will be reviewed in a special section of the January 5 issue of *Business Insurance*.

Among the features in the section will be:

- An analysis of the meaning for fleet operators of various proposals to reform the auto victim compensation system. Some of the proposed changes would directly affect insurance costs for motor fleet operators, though those who offer the reforms are understandably vague about the effect of their plans on insurance rate structures.
- Interviews with motor fleet operators who have been successful in reducing accidents by introducing driver safety training. National Safety Council figures indicate that commercial trucks and cars have accident rates far below that of private passenger cars, and their accident records have generally improved in recent years. *Business Insurance* will tell the safety secrets of some of the nation's best-run fleets.
- Insights into what major fleet insurers are doing to save insurance premium dollars for their policyholders. Special reports will tell how insurers are using new safety materials and rating incentives to reduce motor fleet insurance costs.
- News of what Detroit manufacturers are doing to make fleet vehicles safer to meet and exceed Federal safety standards.

Throughout the January 5 special section, *Business Insurance* writers will point up the close interrelationship between motor fleet insurance costs and programs that promote safety through driver training and proper vehicle maintenance.

Readers are invited to suggest motor fleet topics they would like to see covered in the special section that will put the focus on motor fleets.

## Enlightened giving

There was good news in the announcement from CNA Foundation, supported by Continental Assurance Co. and Continental Casualty Co., that it doubled its gifts to community and united funds in 1969. Certainly many other insurance companies have sharply increased their charitable contributions in recent years, but the CNA Founda-

# business insurance

for buyers of employe, property and liability protection

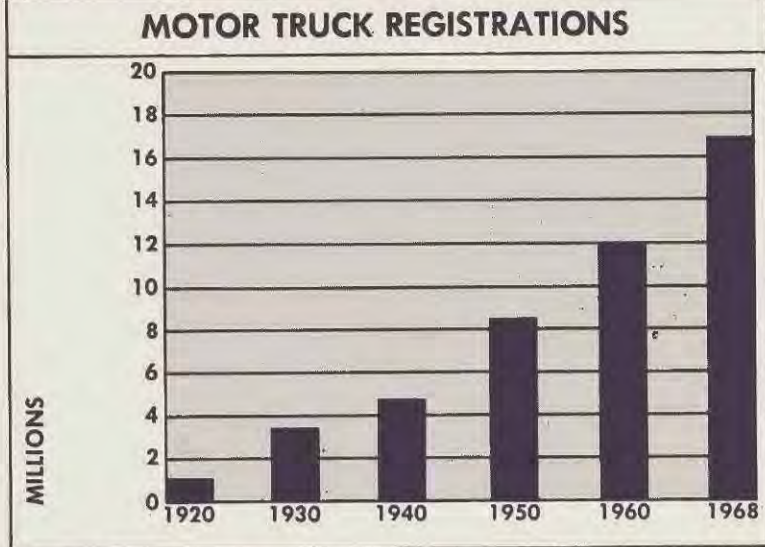
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The nation's fleet of motor trucks has doubled in number since 1950 to a total of more than 16 million vehicles. This number constitutes fully 37% of the world's trucks. A major share of motor trucks operated in the U.S. are part of motor fleets serving the nation's consumers and businesses. There are an estimated 75,000 motor fleets of 10 or more vehicles, including in excess of 3.5 million trucks. On January 5, *Business Insurance* will publish a special section devoted to the insurance and safety problems faced by motor fleet operators.

Source: Automobile Manufacturers Assn.

tion gifts indicate that foundation directors want to relieve some of the root problems of our society.

One grant, for example, goes to a research project high school for drop-outs designed to be a model for school systems. Another contribution will be used to rehabilitate jail inmates through programmed instruction to develop skills to be used when the prisoners are released. This project's success is measured by the fact that 70% of inmates participating have completed the programs and have held jobs for an average of one and a half years.

Yet another of the CNA Foundation gifts will be used to provide economic opportunities for minority-group businessmen, helping them establish their own enterprises with gross sales in the range of \$100,000 to \$500,000 annually. Other funds will go to further the work of an agency that trains local people to work with former mental patients in their home communities.

We believe it to be in enlightened self-interest of insurers to help aimless drop-outs, jobless ex-convicts, opportunity-poor ghetto dwellers and forgotten mental patients. These are society's exiles. They—understandably—cause a disproportionate share of property damage and personal injuries.

We believe that the directors of the CNA Foundation made their bequests because they are erudite men of this century conscious of the basic problems of society and how to meet them. But they might also be credited with knowing the true meaning of loss prevention.

## Application reading

We note there are many decisions in a large number of states holding that where an insurer's agent enters false answers to questions contained in an application for insurance, despite a truthful disclosure by and without the knowledge of the applicant, or insured, the insurer is responsible for such erroneous answers, and cannot defend the action on the subsequent issued policy on the ground that the applicant's answers were false.

The courts, in so deciding, have considered the practices commonly followed in the solicitation of insurance, and the reliance which applicants usually place on insurance agents. They have declared that a contrary rule would encourage mischief and fraud.

The theory is that when the agent was acting as the agent for the insurer, it is estopped to assert the falsity of the answers. The courts say the agent's knowledge was imputed to the insurer, and that in the eyes of the law, it therefore issued the policy, knowing the true facts.

Some courts use the old maxim that where one of two innocent persons must suffer by reason of the fraud or misconduct of a third person the loss should fall on him who made the perpetration of the wrong possible. Now these rulings do represent the great weight of authority.

On the other hand, in considerably fewer decisions, it has been held that the applicant or insured was chargeable with and responsible for such false answers in the application, especially where the truth of the answers was warranted and where the insurer's agent was a mere soliciting agent.

These decisions rest on the grounds that the agent, being engaged in perpetrating a fraud against his principal, was not acting as the agent of the insurer in the transaction, and the insurance company was not bound by his conduct, or chargeable with his knowledge. Also, that the signing of the application by the applicant or insured, without reading it and discovering the false answers, constituted gross or inexcusable negligence which precluded a recovery on the policy.

They say that a palpable fraud was committed against the insurer and no policy would have been issued, had the company known the true facts. A material misrepresentation should void the policy regardless of the good faith of the insured.

No matter which legal view you are inclined to agree with, it is perfectly obvious that the careful reading of an application by the applicant is more important than a careful reading of the policy after it is issued, particularly if you live in a state which denies the validity of such a policy. Incidentally, these states are Kentucky, New Jersey, New York, Pennsylvania, Rhode Island, Texas, and Missouri.

# letters

## FIA on paper

To the Editor: The lead article in the Sept. 15, issue of *Business Insurance* comments on two recent fires of multi-million dollar size at properties in the paper industry and properly emphasizes the concern of FIA, and other insurers of such risks, as to adequacy of fire protection standards and the security of fire protection equipment at properties of this general type. Some of the comments in your article require clarification to avoid possible misinterpretation.

These two fires are the latest of an increasing number of major losses that have occurred at paper manufacturing and processing risks in recent years and, while it is anticipated that the final evaluation and adjustment of these insured losses will not reach the figures you have used for estimates, they will seriously affect the overall loss experience of this occupancy class, which is already unacceptable to insurers and continues to deteriorate despite our efforts in both engineering and underwriting areas.

The development of high piled stock warehousing facilities, such as at the Mead risk, which present fire potentials beyond that which can be cared for by conventional sprinkler protection, has been recognized for several years and supplemental protection standards have been developed and urged upon property owners for some time.

The continued presence of such deficiencies, with excessive delays in the recognition and installation of needed protection, unnecessarily exposes properties to fire damage of a scope which cannot be offset by premium increases alone. Similarly, the absence of thorough planning for response to a fire emergency, particularly to assure the full effectiveness of fire protection installations and fire fighting techniques, readily leads to disastrous such as the incident at Jacksonville Paper.

Effective top-level management interest in the prompt elimination of recognized deficiencies and the maintenance of a high quality of plant security is most essential. These matters are particularly important at properties where there is generally a high level of combustible occupancy such as the paper industry.

As to rate structures, existing filings applicable to sprinklered properties are sufficiently flexible to permit full recognition of increased loss potentials and individual risk rates are up-dated as conditions require. As many of our policy holders recognize, paper industry risks insured by FIA have now and will continue to be effected to a major degree by our current evaluation of loss potential and it would be a mistake for your comments to lead to any other interpretation.

Industry must fully recognize it creates its own loss experience by the nature of the properties it constructs and the manner in which they are used. Insurers can only assist in providing advice as to the protection property and then must adjust the scope and cost of underwriting commitments on an economically sound basis.

**J. H. Keenan**  
 Assistant, General Manager,  
 Factory Insurance Assn., N. Y.

## Fidelity bonds

To the Editor: In a recent issue of *Business Insurance*, an article was published under Risk Management Notes, prepared by War-



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Or do you go so far as to wonder if the company in which you have your

policy will still be the same company, with the same agent or broker, all through the policy period?

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# Xerox minority hiring program in concert with risk management

ROCHESTER, N. Y.—The people at Xerox Corp. here have initiated a program of minority hiring which seems to be in harmony with the company's risk management program.

Xerox gears its insurance program to the catastrophic event that could affect the earnings power of the company, and hiring ex-convicts, "inner city" residents and handicapped workers doesn't pose any possibility of a catastrophic loss, explained Charles M. Armstrong, property and casualty insurance manager at Xerox.

"Clearly Xerox was committed to the hiring of ex-convicts and handicapped workers, and only we could assume the risk," Mr. Armstrong told *Business Insurance*.

**THE COMPANY'S** surety bond writer, Federal Insurance, has agreed to cover minority group employees on a "limited liability" basis after Xerox submits applications on each employee. Mr. Armstrong said that the insurer has agreed to cover "the bulk" of the several dozen ex-convicts and handicapped workers which the company has taken on.

Xerox said that 16% of newly hired workers—one out of six—are minority group employees. Most are hard core unemployed—the under educated and inner city inhabitants.

Hiring began several months ago when Xerox, in a move to explore untapped work forces, dipped into the "hard-core" unemployed. As a first step, Maurice

Downey, Xerox manager of special services, talked with prison parole officers about job possibilities for ex-convicts.

**AFTER INTENSIVE** screening, acceptable trainee prospects were found. Decisions were based on parole officer recommendations, the parolee's willingness to work and his willingness to cooperate within a large corporation. "The men were chosen regardless of their crimes," noted Mr. Armstrong. "We have murderers, forgers, conmen—the gamut. But our only concern is their future, not their past."

Normal fidelity coverage on such employees was not readily available, Mr. Armstrong said, because "we couldn't expect an in-

surance company to cover an exposure that we deliberately—although with a noble intention—sought," he explained. "Most of the losses we sustain will have to be absorbed as part of the cost of this program. But I can say that so far we haven't had one bad experience."

Xerox said the ex-convicts are working side by side with all other workers, their backgrounds unknown to the rest of the employees. The company adds that progress is judged solely on performance with "no weight placed upon prison records."

**ACCORDING TO** Mr. Downey, the number of accepted ex-convicts is increasing. Their jobs range from computer programming to stock work. In fact, the program is showing such success it has been a subject of consideration within prison walls, especially among prospective parolees. The company's news organ reports that requests used to come

into the attention of personnel, but now bear Mr. Downey's name.

Similar success has been seen in the hiring of handicapped individuals. Xerox, in recruiting blind and disabled workers, tried to overthrow the "spartan" concept of hiring, according to Mr. Downey. The deaf, the blind, persons deprived of the use of legs and confined to wheelchairs, these are just some of the "special" employees Xerox made minor adjustments to accommodate.

For example, a current computer programmer trainee, formerly selling newspapers on a corner, works with Braille computer paper. This triples the amount of paper used, three lines of Braille equaling a single line or regular print. Occasionally, an assistant will read long lists of information. Otherwise, the blind employees perform identically to the others in their class.

**ANOTHER COMPUTER** course enrollee is a polio victim confined to a wheelchair and disabled from the waist down. The man was not born disabled, and so found his new and tragic condition that much more unbearable when other employers turned him down because of his handicap. Quoted in the *Xerox World*, the employee said, "I know guys no more qualified than I who got hired for the same job after I was turned down."

Major insurance hazards for disabled workers are encountered in getting in and out and around the premises of employment. A major block in hiring wheelchair applicants is an inaccessible building. But the Xerox plant in Rochester, New York, scene of a great deal of the minority hiring, is specially designed with wheelchair ramps and wheelchair-accessible washrooms to accommodate persons deprived of normal locomotion. And easy-access toilet facilities helps eliminate personal sickness due to restricted activity.

Once again, the responsibility for workmen's compensation risks is mostly Xerox's, since the firm has a retrospective rating plan through Employers Insurance of Wausau and is in effect paying for administrative service from the insurer. But company sources indicate normal injury trends for the handicapped workers, with only minor accidents reported.

**XEROX EXPECTS** equal return for its efforts, it should be noted. In the case of ex-convicts, Mr. Downey's preliminary interviews "lay it right on the line," in his words. Such pre-training discussions cover the facts about working with others in a big corporate structure, making no bones about the considerable adjustments involved.

## Camille slaps Xerox for \$250,000

ROCHESTER—Xerox Corp. suffered damages to its duplicating equipment of an estimated \$250,000 from the ravages of Hurricane Camille.

"Most of Camille's destruction centered along the waterfront areas, where Xerox had many types of copiers and duplicators installed," reported Jeff Tidwell, manager of the New Orleans branch.

Xerox is insured for property damage by Appalachian Insurance Co. The firm does not carry business interruption coverage for its leased equipment in the field, although such insurance is written by Factory Insurance Assn. for copiers and duplicators under production at Xerox plants.

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# Survey shows municipalities lack insurance know-how: Todd to ASIM

DALLAS—The Dallas-Fort Worth chapter, American Society of Insurance Management's 12th annual conference took a look at risk procedures in municipal government, international employee benefits and ASIM in a time of challenge, among other hot topics.

Larry Wallace, manager of insurance and employee benefits, Otis Engineering Co., Dallas, was general conference chairman. Robert L. Stoeck, insurance administrator, Ling-Temco-Vought Inc., Dallas, and Jerry T. Nitsche, director of insurance and pensions, Dresser Industries, Dallas, presided at the morning and afternoon sessions, respectively.

"There is even greater need for effective risk management techniques in municipal government than in business corporations," because, among other reasons, the burden of loss falls on a concentrated area and the ability to raise additional revenue might be severely hampered due to possible losses to citizens arising from the same peril. "The problem is that in most cases (municipal) officials do not even know what their objectives are, let alone the procedures necessary to achieve them."

**THESE ARE SOME** of the conclusions Jerry D. Todd, assistant professor, department of finance, University of Texas at Austin, made as a result of his survey of cities in 10 states, including Texas. He prefaced his remarks by stating that in the past 20 years urbanization and demands by citizens for expansions of everything from schools to zoos are on the upswing, and "each new service or facility offers new possibilities for property and liability loss exposure."

"Identifying and analyzing loss exposure requires specialized skills and knowledge. However, whereas many business firms employ full or part-time risk managers to attend to this function, municipalities, for the most part, rely on outside help and advice."

He said that problems of risk analysis and control for the municipality have been magnified by the recent court decisions and statutes recognizing increased liability exposures of municipalities to third parties. About one-fourth of the states or more, including Texas as of Jan. 1, 1970, have had their immunity to tort liability abolished (of the 10 states surveyed, in all except Texas was this action taken by the state supreme court; in Texas, however, it was taken by the legislature).

Like the business corporation, the municipal corporation in many states is now held liable for negligent actions of its employees. "Even the failure to act, particularly by high officials, may subject the municipality to liability suit. There is one case on record which held school board officials personally liable for failure to require a building contractor to provide a performance bond," he noted.

"WHILE CITIES are beginning to think in terms of stronger personnel administration, systems analysis and financial management, the risk management specialty has yet to emerge from the role of insurance purchasing. Procedures for effective risk control are often inadequate," he said. Of the cities in the 10 states included in Mr. Todd's survey, 79% do not have written policies regarding insurance matters, and of those

that do, the statements are far from comprehensive. Only 10 of 195 municipalities indicated that they have anyone resembling an insurance manager. In almost half, with the city council or city manager or mayor alone determine city policy on insurance practices. Only about half collect loss statistics for property losses or liability judgments. Large numbers of municipal officials are unaware of their exposure to liability.

"A real problem in policy making," said Mr. Todd, is that in more than one-third of all cities surveyed the city council does not determine city policy on insurance practices, even though it is

ultimately responsible to the citizens for the safety of city assets and the ability of the city government to provide continuous city services.

"Although few municipalities surveyed consider the function of risk management as more than the 'whens' and 'hows' of insurance purchasing and the filing and payment of claims, at least the purchase of insurance is generally centralized, which is important whether coverages are negotiated directly with insurers or placed through local agents or agents' associations. The director of finance is the insurance purchaser in three-fourths of the cities surveyed. The mayor or city

manager is involved in over half of the cases," according to Mr. Todd.

"IT WOULD greatly increase efficiency if the decisions to insure, the amounts of insurance to purchase, and the types of contracts to purchase were determined centrally, rather than on a departmental basis. Another possibility for greater efficiency in city risk management would be to include public housing authorities, hospitals, water and other utilities—even school districts—under a competent risk manager's responsibility. Two obstacles appear to stand in the way of such accomplishments: 'politics' and the fact that it is not uncommon for school districts or city utilities to be better managed from a risk control standpoint than the city," he explained.

Observing that the purchase of insurance from private insurers is

the dominant means used to reduce municipal risks, Mr. Todd said that a very small percentage of those cities responding to the survey acknowledged using any other method of controlling besides insurance, especially for liability risks. The only exception is workmen's compensation, which is insured in state workmen's compensation funds in more than one-third of the municipalities outside Texas.

"Self-insurance funds are almost nonexistent in municipal governments," he said. "Only eight cities out of 195 appear to have bona fide self-insurance funds. Four of these are supplemented by excess insurance. Many cities, however, pay some losses out of current appropriations for losses or out of general funds."

"DURING THE PAST few years, interest and participation  
*Continued on page 34*

# Aetna now guarantees 7% on group pension funds.

Once more, Aetna is a step ahead of the industry in liberalizing interest guarantees on the fixed dollar portion of unapplied funds held under deposit administration and deferred annuity contracts.

The new guarantees will be given to all deposits made in the first five contract years until such funds have been applied to provide pensions.

Interest will be compounded at the following rates:

- First Two Years ..... 7%
- Next Eight Years ..... 5½%
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These guaranteed interest rates will also be given to the fixed dollar portion of similar funds held under all investment-type (including IPG) contracts.

For more details, talk to your broker or Aetna Group Representative.



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# Patent infringement insurance cannot be bought

NEW YORK—Patent infringement suits are currently pending against at least two major U.S. corporations, which has raised an important question from insurance buyers: Is insurance protection for such an eventuality available?

Apparently it is not. That, at least, is the consensus of several knowledgeable in the field questioned by *Business Insurance*. Nevertheless, there is an interest in the possibility of such coverage.

As one source at a company now embroiled in litigation said: "We'd be interested in finding out if there is such an animal. Not that we would buy it, but the possibilities would certainly be explored."

The latest suits involve RCA

and U.S. Plywood-Champion Papers Inc.

**RCA HAS BEEN** sued by Itek Corp., a manufacturer of optics and electronics products headquartered in Lexington, Mass. The Itek patent involved, issued in 1965, covers a data processing system used in high-speed composition that can be used for printing.

In its complaint, Itek charges infringement of the patent by RCA's Videocomp electronic composition system, which was introduced commercially in 1966. The system generates images of type characters on the screen of a cathode ray tube at rates of up to several thousand characters a second. The characters are then photographed line by line on page by

page, and the resulting film may be used for preparing a printing plate.

U.S. Plywood-Champion Paper, on the other hand, has been sued by National Cash Register, alleging patent infringement on a process used for carbonless paper.

**NATIONAL CASH** Register said it has been manufacturing and selling various kinds of carbonless papers covered by patents for more than 10 years. Carbonless, multicopy papers are used mostly in business forms and computer printout sheets. A process known as microencapsulation is used, in which the paper is coated with tiny dye-filled capsules. The dye becomes visible when the capsules are ruptured by a typewriter key or pen point.

U.S. Plywood-Champion Paper announced in January that it was coming out with a similar product called Micron II. "After discovery of our micron process of microencapsulation," a company spokesman said after the suit was filed, "we reviewed carefully all existing patents in this field. This not only clearly indicated that our process for making Micron II wouldn't infringe any existing patents, but led to the application for our own U.S. patents which were granted several months ago."

Despite the outcome of both suits, which will probably be some time coming, it is believed that patent infringement insurance will not figure in either of them. RCA does not have such

coverage, a company spokesman said, and it is believed the same is true at U.S. Plywood-Champion Paper. (A spokesman for the latter refused to discuss the case or whether his company has patent infringement coverage when questioned by a *Business Insurance* reporter.)

"**WE'VE LOOKED** into it from time to time and even sounded it out with our brokers several years ago," a source at RCA said. "It was available at one time, I understand, but it was withdrawn. I think the loss experience was pretty horrendous and the company writing it got scared and pulled out," he said, adding that RCA would be interested in finding out if such coverage does exist.

It is believed that Seaboard Surety Co. was the only major company writing infringement coverage for years. The company pulled out of the market five or six years ago, however.

"Yes, it was basically because of a profit motive," a Seaboard source said. "But we never had a tremendous loss experience with it," he added, noting also that the company didn't write many infringement policies and was pretty cautious about those it did assume, issuing them only after thorough patent searches had been conducted.

**SEABOARD**, the source further explained, had reinsured all its infringement covers with Lloyd's.

"If I recall correctly, Lloyd's sent a group over here to study the possibility of assuming some of the business when we discontinued the coverage. I think they finally decided they were too far away from it," he said. He noted also that it was rather involved coverage to write. "We were insisting that competent patent attorneys—sometimes two or three of them—make thorough studies before we issued a policy," the Seaboard man said.

A source close to the London market confirmed that if Lloyd's is writing patent insurance in this country "it would be safe to say they don't write much."

**SOURCES** at Marsh & McLennan said that Marsh & McLennan has made inquiries from time to time but have been unable to place the business.

"The latest report we have for a client is February, 1969, and it was zilch then. There just isn't any market for it." He added that many underwriters are afraid patent infringement insurance would be "considered a license to do anything you want to when a product is developed that already is patented."

He added also that the loss experience of companies who wrote patent infringement covers was rather poor. "The trouble was that there really wasn't any spread of the risk. If you write a few of them (policies) and have a couple of losses, you're dead," he said. ■

## Comp costs 17.7% more

A workmen's compensation increase in Texas, which went into effect in May, has raised employers' premiums for the insurance by an average of 17.7%, according to Ed Kasper, head of the workmen's compensation division of the state insurance department. A new law increased the maximum weekly benefits from \$35 to \$49 and increases the minimum benefits from \$9 to \$12 a week.

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# CG to back prepaid medical plan open to all residents of complex

By ALLEN M. WIDEM

HARTFORD—Connecticut General Life Insurance Co. has agreed with Johns Hopkins Medical Institutions to become financial administrator for a new, prepaid, in-patient and out-patient medical insurance plan in the new, fast-growing city of Columbia, Md.

This marks the first such plan backed by an insurance firm and is available to all Columbia residents.

Connecticut General has served as chief financial backer of real estate developer James Rouse's new community in Maryland's Howard County.

**ONE SIGNIFICANT** factor—believed to be unique in the insurance industry—is permitting virtually all residents of the de-

velopment to join if they so desire.

The new Columbia plan emphasizes preventive medicine, provides hospitalization and a wide range of medical services (i.e., office visits to physicians, diagnostic services, prescribed drugs, psychiatric and maternity care and periodic health evaluations).

Financial details were not divulged by Connecticut General, but one source told *Business Insurance* that the projected plan is to cost the typical Columbia family \$43.50 monthly.

The plan is to be launched with eight doctors at a clinic; patients needful of hospital facilities will be sent to Johns Hopkins Hospital,

Baltimore.

**INITIAL PHASE** of the Columbia hospital-clinic will have been erected at a \$3.5 million cost; by 1971. Seven years later, it will contain 180 beds in a 100,000-square foot structure.

Columbia itself is projected to hit a 125,000 population level by the late 1970s. The figure at present is 5,000.

*Business Insurance* learned that these benefits are included under the Columbia plan:

- Out-patient services at \$2 a visit, services for preventive care (check-ups), diagnostic care, eye examinations and eyeglass prescriptions, immunizations and injections and annual health re-

view-prescriptions to be included.

- Hospital care in a semiprivate room for as many days as is necessary, less cost, intensive care service, surgical and medical care fee).

- Maternity care (flat \$100 fee).

- House calls by doctors (\$5 for first visit, \$2 for each additional visit for same illness).

- Hospital care—up to 30 days a year—for disabilities connected with mental illness.

- Free ambulance service when ordered by a Columbia Plan physician.

**JOHN S. WYPER**, a Connecticut General VP, remarked that the firm agreed to the plan "because of the exciting possibility that this concept will offer Columbia area people better health care at lower cost."

He said, too:

"We hope to demonstrate that

an active partnership between a major provider and major financier of health services is feasible on a financially sound, private basis.

"If our objectives can be achieved, we are confident that the program will have national significance."

From Dr. Robert M. Hayssel, director of the Johns Hopkins office of health care program, came the observation that emphasis will be on preventive and ambulatory medical care.

### HE ADDED:

"The prepayment idea really removes economic consideration from the doctor-patient relationships.

"It will encourage members to seek early diagnosis and treatment of illness.

"Our periodic health evaluation service will help further in detecting health problems early." ■

## Japan starts scheme for loan cover

TOKYO—Japanese companies purchasing machine, tools, presses, printing machinery, textile machinery and other equipment with the aid of business loans will benefit from a governmental "loan insurance system" to be implemented from next year by the Ministry of International Trade and Industry.

The use of business loans as a means of purchasing machinery on credit has greatly increased in the past few years in scope within industry.

The method used is that of a three-way tie-up with the dealer and a bank, which pays for the machinery and collects payments in monthly installments from the third person, the purchaser.

**THIS SYSTEM** has a number of merits, such as lower interest rates than in ordinary installment purchasing and simpler accounting procedures.

The chief drawback to the system has been the danger of the purchaser's bankruptcy preventing conclusion of repayment. Companies making use of business loans have thus been required to provide security for the banks, and this has limited the use of business loans as a means of financing equipment investment.

Dealers and users will be co-signers as insured parties and would therefore share risks.

The categories eligible for business loan insurance will include machine tools, forging machinery, printing machinery, textile machinery, mining machinery, civil engineering and construction machinery, bookmaking machinery, wood processing machinery, industrial furnaces, plastics machinery, electroplating machinery, casting machinery, precision measurement equipment, testing equipment, analytic equipment, and fork lifts.

The ministry expects that as much as \$111 million worth of loans will be insured in the first year the system is used. ■

## Consultant moves

The Zischke Organization Inc., pension plan consultants, actuaries and administrators, are moving to new quarters on the entire 6th floor of the just completed 38 story Aetna Life & Casualty Building, San Francisco.

# Who says, "Accidents can be controlled?"

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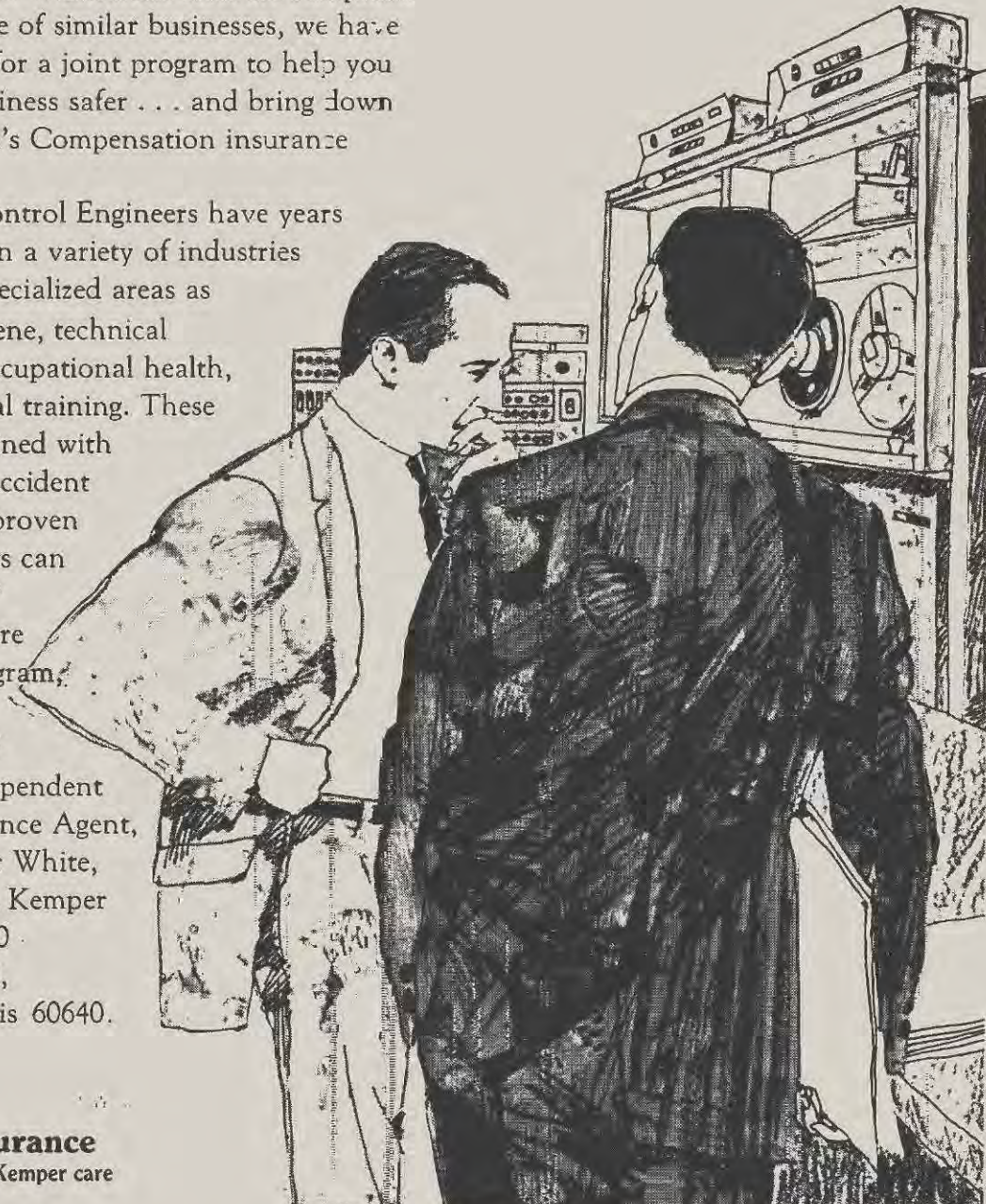
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Our Loss Control Engineers have years of experience in a variety of industries and in such specialized areas as industrial hygiene, technical engineering, occupational health, and educational training. These services, combined with computerized accident control, have proven that "Accidents can be controlled."

To learn more about this program, see the Yellow Pages listing of your local independent Kemper Insurance Agent, or write Walter White, Vice-President, Kemper Insurance, 4750 Sheridan Road, Chicago, Illinois 60640.



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You can count on Kemper care



# letters

Continued from page 24

ren, McVeigh & Assoc., San Francisco.

The article contained some very interesting information concerning fidelity coverage, most specifically, the availability of a fidelity bond for persons with prison records.

I happen to have an account which has a special problem similar to this and would very much like to know how they can obtain a bond through the Federal Manpower Retraining Act.

Would it be possible for you to supply me with more specific information so I can advise my client whom to contact?

**Thomas A. Stang**

President, Stang Associates, Inc. Jacksonville, Fla.

*Editor's Note: You may contact United Bonding Co., 1121 15th St., N.W., Washington, D. C. 20005. According to sources at the U. S. Department of Labor, the company will provide bonds up to \$10,000, premiums for which are paid by the Federal government.*

## Bailed question . . .

To the Editor: William Rodda's article "Bailed Property" was most interesting, and it raises a point that has troubled me for some time.

Mr. Rodda says: "The presence of \$20,000 worth of other people's goods on the insured's premises and for which he is liable would boost the coinsurance requirement to \$96,000." (Emphasis added.)

My question is this: Suppose the insured was not liable would this value be included for coinsurance? In the case he recites, assume the owner of "other people's goods" filed a claim: Would the insurance company be legally obligated to defend the claim? Assume they proved the policyholder not liable: Then they would pay nothing, but could they then insist on including "other people's goods" for calculating the coinsurance?

Your thoughts will be appreciated.

**Samuel O. Penn, Jr.**

Truman Hayes & Co., Boston, Mass.

## . . . And answer

*Editor's note: Mr. Rodda replies: The coinsurance requirement would not be affected if the insured were not liable for the property belonging to someone else.*

*A commonly used wording (that of the SMP General Property Form) provides under personal property that the policy "shall cover similar property held by the insured and belonging in whole or in part to others for not exceeding the amount for which the insured is liable."*

*The coinsurance clause refers to the "property covered hereunder," and property for which the insured is not liable is not covered. It could not be included in the value for coinsurance purposes.*

*Fire policies, SMP policies and other property coverage policies, ordinarily do not obligate the insurance company to defend the insured in connection with bailee liability. It is up to the insured to determine whether he is liable for the property of others. Such policies, in addition, usually make no provision for deciding whether the insured is liable. I do not know of any particular trouble between policyholders and companies because of this silence of the policies on this point.*

## 'Off-premises'

To the Editor: In your Sept. 1 issue there is an article concerning loss adjustment problems

arising out of Hurricane Camille. I agree that the wind-water damage dilemma certainly creates real loss adjustment problems; however, I think the situation was misstated in the latter part of the article where business interruption due to off-premises factors was treated. It is true that off-premises power or utility failure causing interruption can be insured, but it is not part of the conventional business interruption form relative to a fire insurance contract or a boiler and machinery contract.

In the off-premises utilities business interruption area there is a further problem not particularly related to wind and water, but rather to the presence of coverage and lack of coverage; that is, the existence of business interruption coverage in respect to a given plant site and the absence of business interruption coverage relative to off-premises utilities

serving the same plant site. The adjustment problem is to develop a rationale for paying (or not paying) a business interruption loss due to an insured peril occurring at the site in the face of a concurrent uninsured off-premises failure of utilities which would have shut the plant down anyway.

**John L. Stief**

Insurance Manager, Products and Chemicals, Inc., Allentown, Pa.

## 'Excellent'

To the Editor: Thank you very much for the excellent article in *Business Insurance* on our benefits communications program. The article was interesting to all who have commented on it to me, and accurate as well.

From the number of calls I have received on the article you obviously have a very large audience. I of course read *Business*

*Insurance* even when my name isn't mentioned in it, and so does our president. I first learned about the article as a result of a call from his office. I receive notes from him from time to time with clippings from *Business Insurance* attached, asking questions about them.

We would like to reprint page 52 of the Sept. 15 issue on which the article about American-Standard appears, so we can distribute copies to the people in our organization who put on the presentation in some 120 cities. May we have your permission to reprint that page?

**Herbert F. Hadley,**

Manager of Benefit Planning, American Standard, New York

## 'Required reading'

To the Editor: I have been an avid reader of *Business Insurance* since its birth, and I find each

issue informative, helpful and just plain interesting.

I would like to particularly praise your column, "Risk Management Notes." This column should be required reading for all risk managers.

Thank you, *Business Insurance*, for a fine publication.

**Norman Barham**

Insurance Manager, Investors Funding Corp. of New York, New York, N.Y.

## Info response

To the Editor: I am writing this letter to inform you of the fantastic response to my offer of a brochure in your Info for Buyers column. I received over 250 requests for the brochure which described our self insurance program for workmen's compensation. The requests were mostly from corporate insurance buyers.

*Continued on page 32*



If you've got the usual kind of risk, it doesn't take much talent for someone to write up the usual kind of insurance.

After all, the coverages and rates are somewhere in a manual. And almost anybody can look them up.

But when you've got a different kind of risk, you need someone with a special kind of experience and insight. And a lot of common sense and imagination. Someone like MOAC. For when it comes to insuring a risk as unusual as a giant TV tower — all the way from plant to site

and on through erection — there's nothing but judgment to fall back on.

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And while every product and every policy are bound to be a little different, we've got the records, the research and the people to come up with the proper coverage and cost every time.

# Liberalize formula for prorating liability for truck freight damage

WASHINGTON—The long-standing proration formula for concealed damage in trucking freight has now been liberalized in a plan that hopes to "accord an equal factor of responsibility to the shipper, intermediate warehouse and carrier," according to a National Freight Claims Council bulletin.

The NFCC's revision of the previous ruling which prorated on the basis of mileage, now includes "broken" transit claims which do not involve continuous transport as well as "unbroken" transit claims. The new rule will affect the amount of liability assumption by the truckers, and, as summed up by one trucking insurance man, "we'll have to wait to see

how the insurers respond to this broader approach."

The plan calls for "broken" transit claims to be divided according to the number of handling points, each point being a fraction of the total liability.

**IN DETAIL**, the trucker's liability would be affected in the following manner, based on a hypothetical example: Shipper X sends a sealed crate of glass items from his factory in New York to a customer in San Diego, Cal. The crate is stored in a New York warehouse and then delivered by trucker A to a train station 100 miles away. A freight train hauls the crate across country to Los Angeles, where trucker B delivers

the crate to a San Diego storage house 200 miles away. The customer, when receiving the crate, discovers a concealed damage to the glass items and files a claim.

Because there were five points of delivery, the concealed damage could have taken place at any one of them. The NFCC plan would parcel two-fifths of that responsibility to the truckers, since only two of the delivery points involved cartage lines.

The two truckers, left with their two-fifths liability, then divide the loss between them, comparing their respective mileages. In this case, trucker B assumes twice as much liability as trucker A, because B carried the crate twice as far. ■

## Lloyd's chairman Mance to 'explore' in Australia

LONDON—Boosting business "down under" in the Southern Hemisphere will be the mission of Lloyd's chairman Harry S. Mance when he visits Australia for a three-week goodwill tour starting mid-October.

Through a spokesman in London he told *Business Insurance*: "I am going out to see for myself what the insurance situation is like in Australia where there is so much expansion going on in many business directions.

"It is an exploratory trip which will put me in touch with public officials and business leaders. I do not want to make any further comment on the position at the moment."

**BUT BEHIND** his tour is clear-

ly the intention of Lloyd's syndicates to grasp as much as they can of the tremendous insurance potential in that expanding part of the globe.

Mr. Mance will visit construction works on big new dams, oil installations and major mining projects that are the key to Australia's tremendous growth.

He will be visiting Melbourne, Perth and Sydney among the important cities.

With Lloyd's prestige behind him, he will be seeing top leaders in commerce and finance to stress the value of keeping up its links with Britain by placing as much insurance as possible back in the "home country."

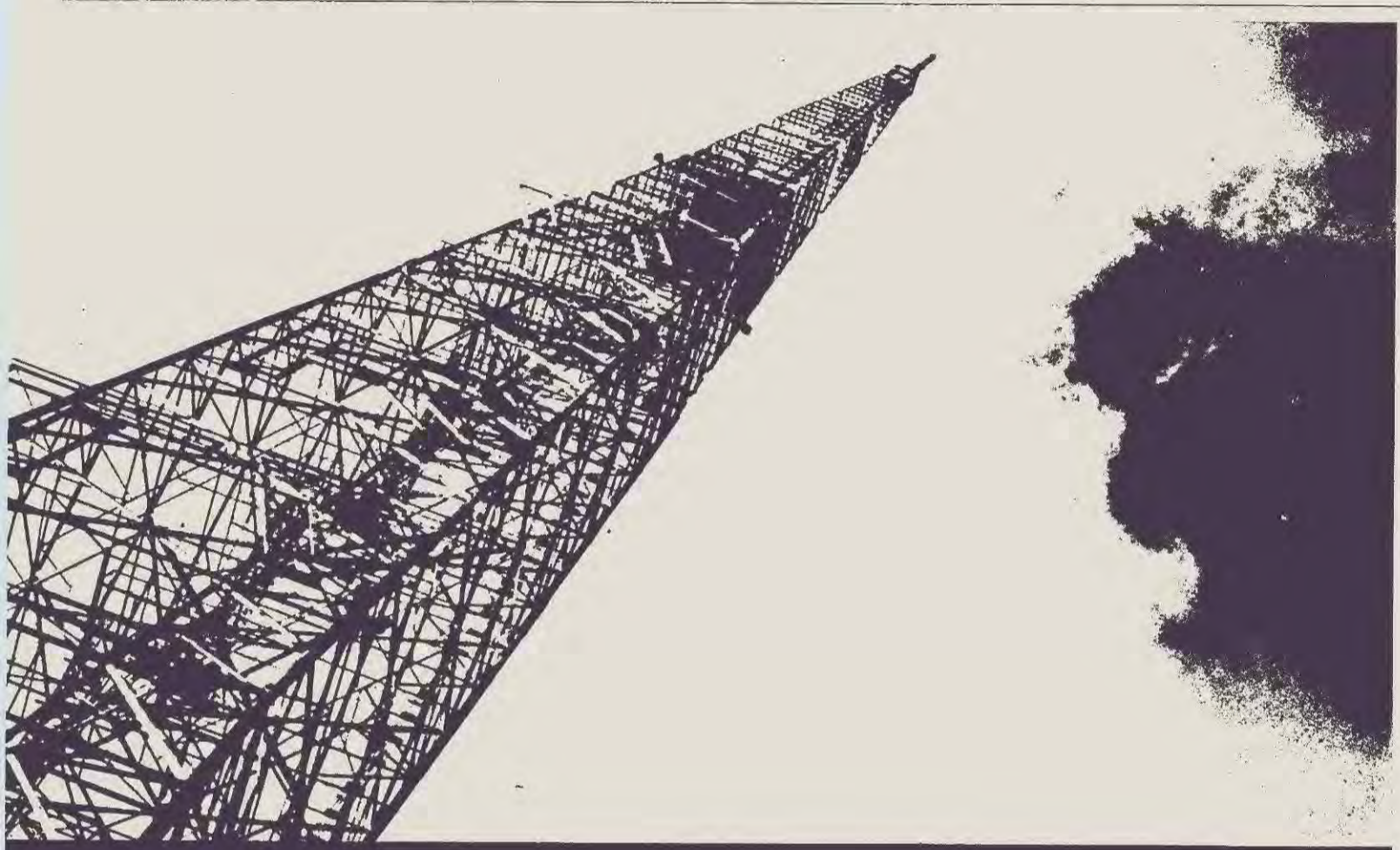
In London, Lloyd's officials play down any suggestion of drastic moves to tap the Australian market, and hint that anything its underwriters may do in opening offices there are individual ventures.

**HOWEVER**, Lloyd's is a well-knit body that can combine like a club in developing profit-making enterprises. And the members are not going to let Australian potential lie idle.

But its officials want to correct the view that moves to enter the Australian market on a bigger scale are in any way directly linked with sterling problems.

They assert definitely that as far as the British Treasury is concerned there is no difficulty put upon Lloyd's in dealing in any country's currency that it virtually wishes, and support this by stressing that it already does business in more than one hundred different foreign currencies.

This is a safe comment as far as Lloyd's as a world wide institution is concerned, even though some individual members may feel they want to expand their own ventures in directions. ■



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What's more, we'll serve you from 30 departmental and field offices throughout North America. We'll give you men who can bind larger risks—and bind them faster—and who can settle claims without checking with every vice president in the company.

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insurance—both wet and dry. In fact, we write more marine insurance than anyone else in the world. We'll write it by the manual when it's possible. And we'll write it on our own when it's not.

For additional information, we invite you to write to Walter T. Wells, Vice President, Marine Office • Appleton & Cox Corporation, 123 William Street, New York, N. Y. 10038. Aviation insurance through Associated Aviation Underwriters.



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### Buy out partner in real estate deal

Kaiser Aetna, the new real estate-land development partnership formed by Aetna Life & Casualty Insurance Co., Hartford, and Kaiser interests, Oakland, Calif., has purchased Macco Corp.'s one-third interest in the 87,500-acre Rancho California project in Riverside county, south of Los Angeles. Purchase price was reportedly \$19 million in cash. The acquisition makes Kaiser Aetna 100% owner of Rancho California, one of the largest multi-purpose projects in the country. It includes farming, tree crops, vineyards, dairy farms, thoroughbred horse farms, homesites, county ranches, recreation and industrial-commercial operations.

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# Letters

Continued from page 30

I most heartily recommend this column to anyone desiring to reach a large audience throughout the country. I might add in closing that I find *Business Insurance* one of the most balanced insurance publications on the national scene.

**Alvin J. Sims,**

Manager, Assurers' Service, Inc., Providence, R. I.

## 'Timeliness'

To the Editor: I found *Business Insurance* to be of particular importance in my area of specialty—risk management. I believe your attention to detail and the timeliness of your reports have added

another dimension to the reporting of this long neglected area of corporate endeavor.

**Tom C. Allen**

Assistant Professor, College of Business Administration, University of Tennessee, Knoxville, Tenn.

## 'Up-to-the-minute'

To the Editor: thank you very much for sending me the clipping from your publication that announced my joining Employers Insurance of Wausau. I thought the article was done very well and do appreciate having it.

I have been receiving and reading *Business Insurance* for a year or more and find it very informative and continue to look to it as a source for up-to-the-minute insurance and safety information.

**M. F. Biancardi**

Director, Product Safety, Employers Insurance of Wausau, Wausau, Wis.

## 'Monrovia'

To the Editor: I just wanted to tell you how much I enjoy reading *Business Insurance*. Although I am not primarily concerned with insurance I find the contents of your excellent magazine of great value to me constantly.

Just to show you that I read it carefully, in your lead article on Chubb on the first page of the August 4th issue, you have three references to the "Bank of Monrovia" which should be the "Bank of Monrovia." I am sure others have written you about this, but I have been there and the name sticks in my mind.

**Townsend Hornor**

Partner, White, Weld & Co., New York, N.Y.

## 'Every page of interest'

To the Editor: The first issue of *Business Insurance* that I received came to me from Gerald Goss, of

our insurance department. Every page was of interest to me as insurance correspondent, remitter and company nurse. The magazine is invaluable and I find the contents informative. It keeps me up to date on matters that may not otherwise come to my notice.

**Ethel M. Butters**

Insurance Correspondent, Kennedy's, Boston, Mass.

## 'Very helpful'

To the Editor: First, may I congratulate you on a fine publication. The information I receive from *Business Insurance* is well worthwhile and very helpful to me in my various lines of work.

Now, my request. In your August 18 issue, there was an article dealing with the risks taken by "on the spot" radio interviews and "live" reporting. Unfortunately, I have misplaced my copy of *Business Insurance* for this date and I am very eager to secure a copy of

that article. Could you help me in this respect?

**Walter J. Buzby, II**

Secretary/Treasurer, Walter J. Busby Inc., Atlantic City, New Jersey.

*Editor's Note: The article is on its way.*

## Bahamas code

To the Editor: The article on the subject of the Bahama Islands and their insurance code was most interesting and informative.

I would like to obtain a copy of the Bahamas' Insurance Act of 1969 and was wondering if you could furnish me with a copy. If this is not feasible, could you suggest where such a copy would be available.

**Joseph P. Decaminda**

Assistant Secretary The Atlantic Cos., New York

*Editor's note: A copy of the code is on its way.*

## Include disaster dates

To the Editor: It might be helpful if you included dates of various disasters. You did on the Du Pont blast, but the Southern Illinois University picture caption did not mention a date. One occasionally misses a news item, so it is good to carry it.

I enjoy your publication and find it helpful.

**E. Brundage**

Employee Relations Manager,

Burns & Roe Inc., Oradell, N. J.

*Editor's Note: The arson blast that toppled Southern Illinois University's Old Main building and resulted in a \$5.1 million loss occurred on June 8, 1969.*

## Michigan Week

To the Editor: We're happy to have the Greater Michigan Foundation and Michigan Week explained so well to so many!

Now why not come to Michigan to see for yourself what a great state it really is—right away, or during Michigan Week 1970 (May 16-23), or any time at all?

**Mrs. Leona Weeks**

Executive Director, Greater Michigan Foundation, Lansing, Michigan.

## Best printed

To the Editor: *Business Insurance* is the most informative magazine printed.

**Harry A. Bramwell**

Harry A. Bramwell Co., Los Angeles, Cal.

## 'Informative'

To the Editor: Our staff finds your magazine very informative.

**R. S. Lowenthal**

Partner, Lowenthal & Co., New York, N. Y.

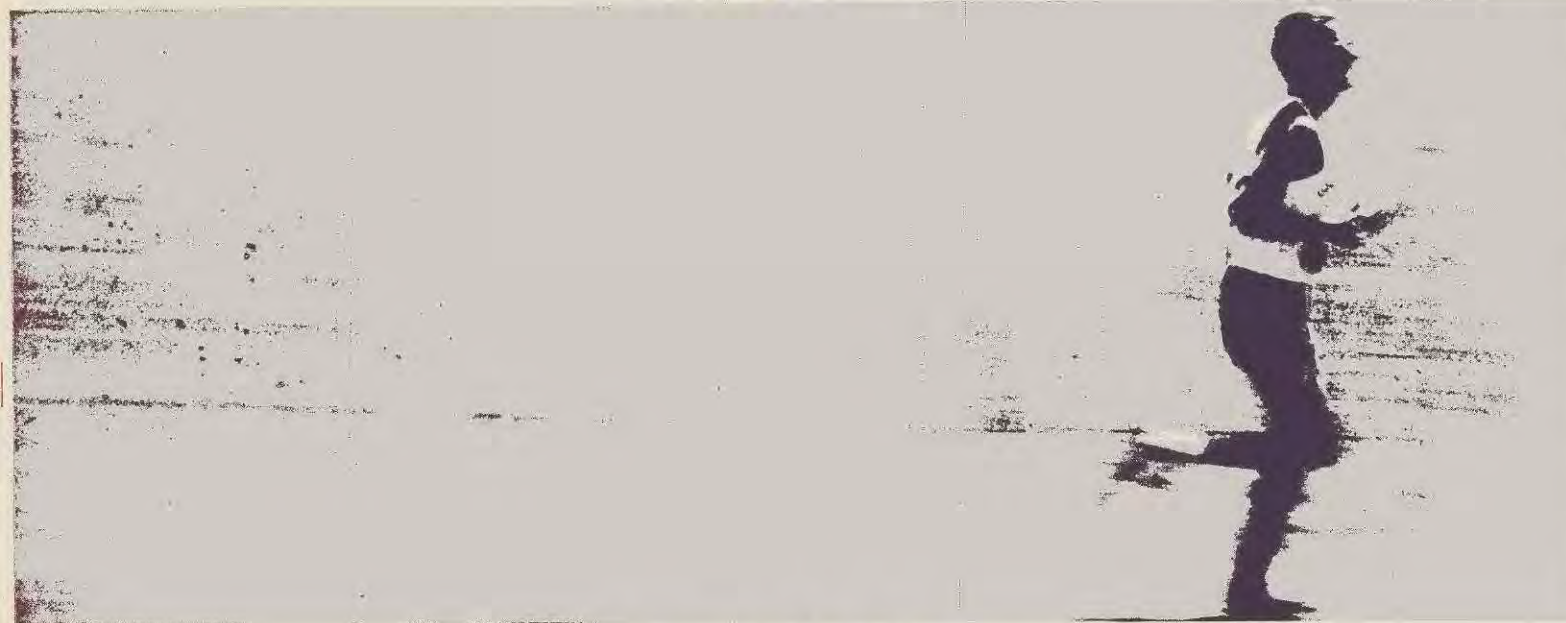
## Pick head of insurers' solvency unit

SAN FRANCISCO—Robert Early, president of The Farmers Group, has been named president pro-tem of the newly organized California Insurance Guarantee Assn.

Harry Boyd, also of Farmers, was named secretary-treasurer pro-tem.

The organizational meeting also has named a nominating committee to recommend a slate of permanent officers and has also selected drafting committees to write by-laws and draft the insurance policy by which the carriers will underwrite each other's solvency.

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## Giles on the law

# Beware of incontestability clauses in group insurance contracts: Giles

By JOHN W. GILES  
Attorney-at-law

WASHINGTON—You know that your roster of employees is in a constant state of flux, with older employees leaving and new employees taking their places.

You also know that applications for coverage in your group insurance plan are quite informal, compared with the ordinary insurance application.

Now in spite of the apparent laxity in carefully screening employees to determine their eligibility for group insurance, there have been comparatively few cases dealing with the problem of whether the misrepresentation of the employer-employee relationship is a defense which a group insurer is precluded from raising after an incontestability clause has become effective.

**THE AUTHORITIES** are divided on this question of whether the incontestability clause precludes a group insurer from raising a defense that there was a misrepresentation regarding the employer-employee relationship. The view that misrepresentation may not be contested by the company is illustrated in several cases including *John Hancock Mutual Life Ins. Co. v. Dorman*, 108 Fed 2d 220, and *Equitable Life Assurance Soc. v. Florence*, 171 S.E. 317.

The other view that misrepresentation may be contested by the insurance company is illustrated in *Fisher v. Prudential Ins. Co.* 218, At 2nd 62. In that case, the incontestable clause was one year. The court said that an incontestable clause, after the passage of the stipulated period, proscribes defenses which go to the validity of the policy, whether because of noncompliance with conditions, or the falsity of representations or warranties, but that it was never intended to enlarge the coverage of the policy, to compel an insurance company to insure lives it never intended to cover or to accept risks or hazards clearly excluded by the terms of the policy.

The provision that a policy shall be incontestable after a certain amount of time is a definition of the hazards to be borne by the insurer, and it means only that within the limits of the coverage, the policy stands, unaffected by any defense that it was invalid at its inception, or thereafter became invalid by reason of a condition broken.

Regardless of which view you prefer, we submit to you that it is most important that the possibility of litigation be eliminated at the outset by a careful check on all those persons who are potentially eligible for inclusion under the coverage of a group policy. Are they eligible employees?

\* \* \*

**THE OPERATOR** of a trencher manufactured by the defendant was injured when the machine "bucked" and knocked him to the ground. He recovered \$40,000 in the lower courts.

The supreme court of Illinois sent the case back for a new trial, saying that in cases based on strict liability of a manufacturer, the plaintiff must plead and prove his exercise of due care for his own safety, and the absence of such proof will defeat the action.

In this case the manufacturer also intended that the action was barred by the two-year statute of limitations. The machine had been out of the control of the manufac-

turer for more than two years.

On this point the ruling was that an action to recover for personal injuries resulting from a sudden traumatic event, accrues at the time when the injury occurs. This action was not barred by the statute of limitations (See *James Williams v. Brown Manufacturing Co., Inc.*, Illinois Supreme Court, May 28, 1969).

\* \* \*

**THIS IS A RIPLEY** believe-it-or-not case that will give you the shivers. The insurer brought an action for a declaratory judgment,

alleging that a liability policy issued to an insured did not cover claims made against the insured resulting from the death of a third party who was struck by a car which he was operating.

The facts were that two employees were told by their employer to pick up the employer's car from his home. When they arrived at the house, the employer's wife and daughter emerged from the house and told them not to take the car until she called her husband. Since the insured was anxious to get home, he decided to take the car in spite of the protest. As he was driving the car

out of the driveway, the women tried to stop him.

The employer's wife stood in front of the car, and the daughter ran into the house to call the police after screaming at the insured to stop "because he was going to kill my mother." According to the witnesses, the insured continued to move forward while the wife continued to back up in front of the car, with her hands on the hood. When the insured finally reached the street, he just took right off, with the woman still holding on to the hood.

Although he saw her body come out from under the car, he left the scene. His testimony later was at the criminal trial that the woman had stepped to the side of the car in the driveway, and that when he reached the street, he saw her again, but it was too late to stop. After the impact, he said he blacked out and went berserk. He pleaded guilty to manslaughter

and received a six-year sentence.

The lower court found the woman's death accidental. On appeal the court held that this was definitely not an accident. Because of the continuing actions of the insured, the possibility of injury to the woman could not be said to be unforeseen, unusual or unexpected. The judgment of the lower court was reversed. (*State Farm Mutual Auto Insurance Co., v. Treas et al.*, Maryland Court of Appeals, July 9, 1969.)

\* \* \*

**A MILWAUKEE** woman has filed a \$1,000 suit charging that the stick-proof lining on a tea kettle burned on her stove, emitting "poisonous and insidious" fumes which killed her bilingual parakeet and English-speaking Mynah bird.

Continued on page 42

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# ASIM...

Continued from page 27

in international employe benefit functions, by U.S. parent management, insurance companies, brokers and consultants has accelerated so much that there are significant developments every month," William N. Martin, assistant secretary, group division, Aetna Life & Casualty Co., Hartford, told ASIM members.

"The local national is the easiest to deal with, since there are fewer problems and variables involved," Mr. Martin said. The U.S. expatriate—citizens of our country assigned overseas—must come under a benefit compensation program which is specially designed for his needs and your need for him to go in the first place. Generally speaking, including him in your domestic program

—with perhaps some adjustments—is a satisfactory approach.

"The third-country national, the man without a country so-to-speak, presents the greatest benefit compensation challenge. There is evidence that all segments of the international employe benefits industry are making a strong effort to develop solutions to the problem of providing benefit compensation programs which will satisfy both his and his employer's general objectives. This is perhaps the most challenging area of caring for the individual employe that we have today.

**THERE ARE NO** reasons to expect that the development of social insurance will slow down and, in fact, some countries now only have partial programs or have only extended them to portions of their total populations, Mr. Martin noted. "Speaking of

population and its explosive growth, there are developing around the world some future funding commitments that really stagger the imagination. Mexico is one example of this, since three-quarters of its total population is under 30 years old," he said.

"One helpful social security feature in most European countries is the existence of reciprocity agreements for old age pensions. The agreements permit a person residing in any of the participating countries to be credited as though living in his home country for this portion of social security. However, the employe generally must retire within Europe or else lose all he has coming to him. We expect reciprocity agreements to become more numerous, and this will be welcomed," he observed.

"About 20 countries have what are called 'leaving service indemnity' programs which, of

course, are also employe benefits, and must be taken into account in your planning. The programs generally involve a payment related to term of service at the time of termination for any reason, including death. There is no geographic pattern to these programs since they are found on every major continent around the world," Mr. Martin said.

He said that, in general, collective bargaining has not developed abroad in the way it has in the U.S. "In parts of Europe, for example France, the Netherlands and Greece, there is organized bargaining on an industry basis. The huge unions bargain with associations of all employers in specific industries to establish age and benefit programs.

**"SOME COMPULSORY** benefits have resulted from this bargaining and they are generally provided by groups of underwrit-

ers on a sharing basis. Such benefit commitments should also be part of your basic checkpoints in developing a plan abroad. Much of the main thrust of bargaining has been at the governmental level to expand social insurance and to assure government attention to areas of general employe concern," Mr. Martin told ASIM.

As to the benefits themselves, international employe benefits are primarily concerned with the welfare areas of old age, premature death, good health and the replacement of lost income. The most common benefit in private plans is the old age pension supplementing the social plan—although there are many countries in which there are no private pensions due to rich social security, unstable currency, or both, he noted.

"Not as common in private plans are widow's and orphan's pensions and group life insurance, although don't mistake their second place as an indication that they are not actively in the race. Less common is the private insured medical expense benefit plan. Disability pensions are not very common but appearing more and more, and in a few countries, you may find a few long term disability income plans similar to our own. This is a very general reading because among different countries and continents, the local emphasis varies remarkably," he added.

**MR. MARTIN SAID** that while the majority of pension plans are funded through insurance company deferred annuity contracts, there are alternative funding mediums available in some countries that make an insured approach less than advisable for some plans under current industry controls. "There are not yet more than a few places where deposit administration and equity funding are definitely and aggressively on sale."

There are also many differences in the handling of benefits in various countries, Mr. Martin said. One example is in the area of experience rating. "In some markets it hardly exists. In many areas where it does, you really shouldn't call it experience rating. You should say profit sharing.

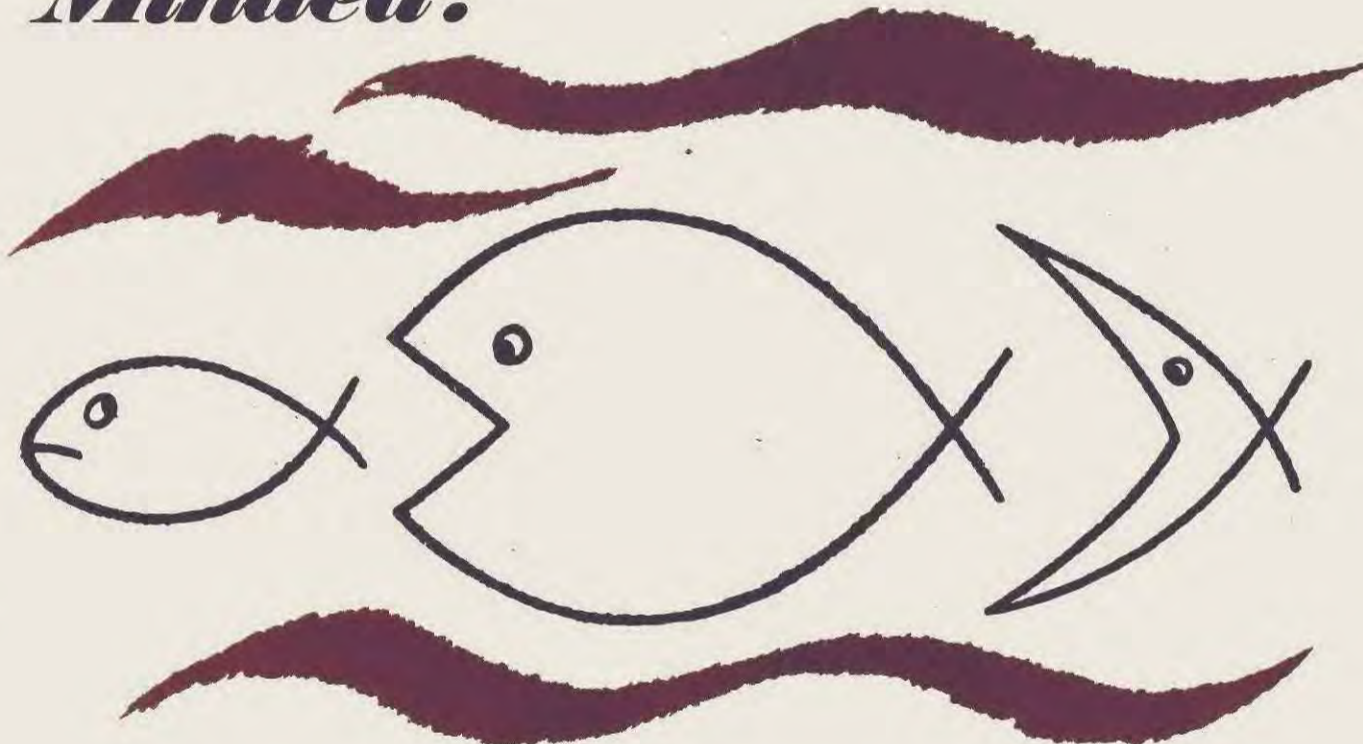
"To give you one example, in a U.S. group life plan handled on retention accounting—and don't try to export the word retention—at the end of the year, the carrier starts with the total premium; subtracts claims paid and reserve balance; retains expenses determined by formula; and the remainder is identified as a refund or perhaps a special reserve deposit. This is really generalizing, but abroad, the carrier would also start with the total premium paid, but first subtract a generally flat expense charge and then subtract the claims paid and the reserve balance.

"The remainder, if any, would be declared profit. Depending upon the size of the account, the country involved and other factors, some or none of that profit might be shared with the policyholder. In some countries, it is not legal to deliver any of the profit balance to the policyholder and I don't know of more than a few where it is permissible to refund it all," Mr. Martin said.

**IN THE U.S.**, relatively few international companies have taken a firm directive role in the planning and execution of international employe benefits, Mr. Martin contended. "Control in this context should simply be participation in the policy making and overall planning as well as in studying and approving final recommendations for actual pur-

Continued on page 35

## Acquisition Minded?



### Don't forget the problems of merging employee benefits

While you're totalling assets and evaluating market advantages... while you're estimating cost economies... remember the pension obligations and the many other hidden liabilities in benefit programs often overlooked.

Blending your own benefits program with that of another company is no easy job. It needs specialized abilities and plenty of experience.

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"CONGRATULATIONS TO THE SOCIETY OF CPCU ON ITS 25th ANNIVERSARY"

# Settle small claims from Toronto fire

TORONTO—One of the worst fires in Toronto's history ripped through three lumber yards, a store, and a woolen mill late last month, in which heat from the flames damaged half a block of houses and a car. Only three weeks later, most of the small claims have been settled and the charred ruins swept away.

Two hundred and fifty firefighters and policemen, as well as many civilian volunteers, fought to control the blaze and a crowd

## State Farm still wants antitrust test

CHICAGO—An executive of State Farm Mutual Automobile Insurance Co., Bloomington, Ill., has reiterated State Farm's position that auto insurance should be subject to Federal antitrust laws.

Roger Joslin, vp and controller, said here that there should be an amendment to the McCarran-Ferguson act exempting the rating practices of auto insurers from state rating laws, "thus automatically subjecting such activities to the Sherman, Clayton Act and Federal Trade Commission Acts."

Speaking before the Conference of Mutual Casualty Cos., Mr. Joslin continued: "Many were unquestionably surprised that the largest insurer in the business, writing nearly half of 1968 car insurance growth, would invite Federal surveillance of its activities under the Sherman Act."

"We do not fear this prospect," he said, "and are prepared to subject ourselves to that well-established body of Federal law that expresses the public policy of the U.S. with respect to the proper conduct of interstate business." ■

## ASIM...

Continued from page 34

chases or funding commitments. "U.S. parent management can not be an effective dictator in this area. All parties will be most effectively served if the parent just acts as the overall director and the guardian of effective two-way communications, both within their own organization and with the advisory and underwriting services they select," he declared.

ASIM's national president, William S. Mortimer, director of insurance, Norton Simon Inc., Fullerton, Calif., viewed with alarm a long list of problems ranging from archaic accounting practices to civil disobedience, but bore down heavily on rising costs and disappearing reinsurance. "The situation can't get much worse," he stated.

Referring to the insurance industry's attitude that "we'll never get back to a buyer's market," he warned that if they don't make changes, it will be done for them. He cushioned his remarks, however, by emphasizing that "the risk manager needs a vital, strong insurance industry," and wishes to work with the industry to preserve it.

But he pointed out one bright ray shining through the gloom. Top management's concern about current problems affords the risk manager the chance of getting top visibility in his own company. "Most insurance administrators will fail to meet the challenge of the golden opportunity. His crutch is a little short. He lacks the technical skill and guts to do the job. We need to set individual goals and improve personal performance," he declared. ■

of 20,000 on-lookers. The fire began at Oliver Lumber Co. here. It spread to the John Ziner Lumber, and further west to the Fairbank Lumber Co. It burned out the Hopewell Grocery store to the east and caused extensive damage to Patons & Baldwins (Canada) Ltd. to the north.

**THE CHAOS** of the scene was increased when flames snapped overhead power lines, blacking out a large section of the west end of the city. Houses in the area were evacuated, so no lives were lost in the blaze and injuries were minor. The cause of the fire is still undetermined.

By the middle of September, the melted sidings, bubbled paint and other heat damage to the

homes was either repaired or under repair. Fairbanks Lumber, the least hit with about \$10,000 in damages, was operating—business as usual. The settlement had already been agreed. Ziner Lumber Ltd. also seemed to be in full operation.

The story at Oliver Lumber is somewhat different. Although management refused to comment, it was apparent that the entire stock, including trucks, had been destroyed.

**ACCORDING TO** the adjusters, Adamson's Ltd., it will be some time before they can accurately assess what appears to be well over half a million dollars of damage. The insurance policies of the lumber yards each were underwritten by approximately 20

different companies. No one insurance company seems to have been hit by a large percentage of the claims.

Patons & Baldwins, housed in a large concrete and brick structure, suffered the second largest amount of damage, chiefly from water, loss of windows and casings. Because the woolen mill was about to move its heavy fall stock, the damage to the finished wool was considerable.

Patons & Baldwins is insured under a composite policy underwritten by the Royal Group. A spokesman for the company said, "Our relations with our brokers and insurers have always been excellent. Naturally we are doing our best to minimize our losses and the amount we must claim."

## Reject claims of 'people's park' row

SACRAMENTO—Claims for \$5,300,000 filed against the state by 92 persons injured during the "people's park" demonstration have been rejected by the State Board of Control.

Among the claims denied was one for \$50,000 filed by San Francisco Chronicle reporter Don Wagers who said he was shot by a law officer during the demonstration at the University of California.

Action by the Board paved the way for civil court suits by those who filed the claims. ■



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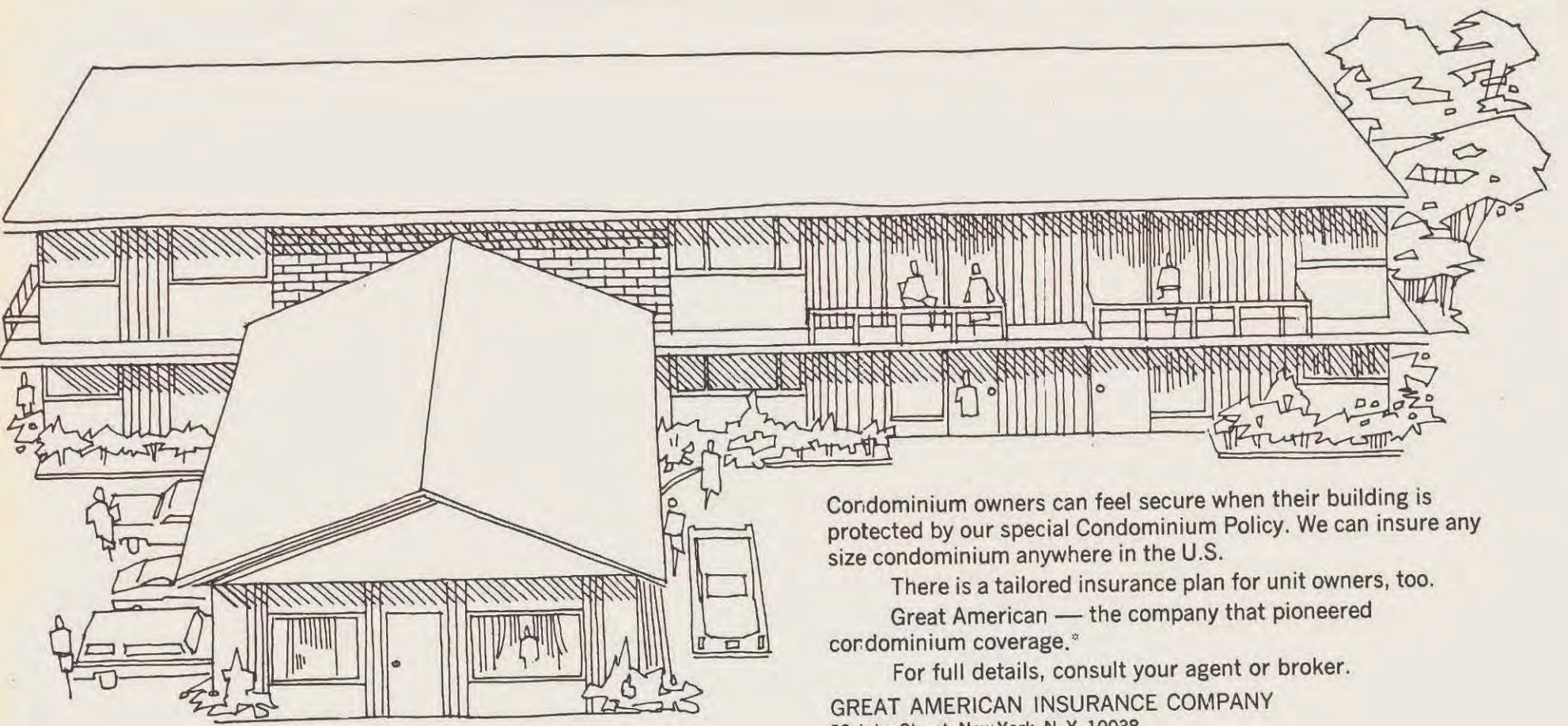
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# business insurance/perspective

## Directors & officers liability: Two views

### D&O liability coverage— fact or fiction?

by John P. Olsen,  
insurance manager,  
Ingersoll-Rand Co.,  
New York, N.Y.



J. P. Olsen

In observing the insurance industry's marketing of directors and officers liability insurance, we may be witnessing one of the most successful merchandising efforts in insurance history. There certainly is nothing comparable within memory.

Premium income estimates range to \$20 million (some say more). Some searching

inquiries made to insurers concerning actual paid losses disclosed they would barely dent the premium income to date. Insurers claim there is litigation pending but refuse to discuss the facts, the amount of their reserves, nor their reasoning for establishing any reserves.

The marketing of the coverage has been skillfully performed. "Scare" advertising, "scare" articles in insurance and financial publications and "scare" press releases to other key publications, all directed at the highest corporate management levels, have

affected against these risks. The grocer who is "scared" when he is told of the possible liability and legal defense costs arising from a claim by a shopper who has slipped on a banana peel, should properly be "scared." But in this simple example, the insurers have stood ready to provide protection for the risk. This has been universally true in all types of insurance.

Now let's examine the d&o marketing. As a preface, I must emphasize that the industry's major sales and thrusts have been aimed directly and solely at the cor-

**'The marketing of the coverage has been skillfully performed. Scare advertising, scare articles . . .'**

succeeded in bringing the business from practically zero three or four years ago to its present level.

**THE UTILIZATION** of this "scare" technique, standing by itself, is neither unethical nor without precedent. I know of no successful marketing program which has not, quite correctly, attempted to forcefully and adequately communicate the risks of uninsured loss. Of course, in these instances the industry has stood ready to offer insurance protection to pro-

porate officer and director; *not* expenses to the corporation incurred as a result of their express or common law indemnifications of a director or officer following his successful or unsuccessful defense of an action.

In order to understand the problem, it is absolutely necessary to have, however brief, a general but accurate knowledge of the liabilities to which the corporate director or officer is exposed. In general, these liabilities may be divided into two categories. The first results from a suit brought

by the corporation itself or, as is usually the case, by a shareholder on behalf of the corporation. It is commonly referred to as a derivative action and usually involves such areas as conflict of interest, self-dealing, short-swing profits, faulty business judgment, resulting in waste of corporation assets, mismanagement or negligence.

**THIS IMPORTANT POINT** to remember is that a derivative action is for the benefit of the corporation (contingent attorneys fees excepted) and for all practical purposes it is really the corporation that is bringing the action.

The second category is generally referred to as third-party actions. These cover a wide variety of suits. They include: antitrust actions; violation of the Federal securities law (e.g. section 11 of Securities Act of 1933—material misstatement in a registration statement—and section 10b of the 1934 Act—insider manipulations such as the Texas Gulf Sulphur case); injuries to shareholders (e.g. non-payment of dividends); and statutory liability (e.g. illegal payment of dividends, improper repurchase of stock, loans to director). There are other areas but these are the common bases for suits.

Of the liabilities enumerated and cutting through a host of legal mumbo-jumbo, insofar as third-party actions are concerned, most states permit the corporation to indemnify the director even if he loses if he "acted in good faith and in a manner not opposed to the best interests of the corporation" and with respect to any criminal action "had no reason to believe that his actions were unlawful."

This just about covers the waterfront. It is correct that no indemnification with respect to derivative actions is permitted for the obvious reason that it is the corporation that is bringing the suit. But some states, including Delaware, now permit, following certain procedural requirements, that a director or officer who loses a deriv-

*Continued on following page*

## Texas Gulf Sulphur revisited: An admonition to consider D & O coverage

by Ware Adams,  
attorney-at-law,  
Chicago, Ill.

An article in a recent issue of *Business Insurance*, "High Court confirms D & O cover would not apply in Texas Gulf case" (May 12, 1969), hastened to note that this form of insurance coverage does not apply where the assureds have been adjudged liable for attempting to use inside information to profit in company securities transactions. The article criticized policy "shortcomings," seemed to imply that coverage for a Texas Gulf case should be available, and sharply questioned the reasonableness of current coverage costs.

A closer analysis at ramifications of the holding in the Texas Gulf case indicates that attractiveness and usefulness of d&o coverage to corporations and persons subject to the Federal securities laws. Review of the purpose and scope of present policies reveals that the coverage provided in the dual policy package actually brushes against permissible limits of indemnity at law. Although costs for the cover have, indeed, risen sharply in the past couple of years, there is little evidence that it has become an underwriting "bonanza"—particularly because of incurred legal expenses.

The Texas Gulf case arose out of that company's discovery of a large deposit of base and rare metals in Ontario. Following

aerial and ground geophysical surveys, drilling commenced in November, 1963. Four days later it was suspended. From November, 1963, through March, 1964, drilling remained suspended, fake core drills were planted at the discovery site to mislead other prospectors, and Texas Gulf purchased most of the outstanding interests in the tract. Drilling resumed on March 31, 1964, and on April 16, 1964, the company held a special press conference to issue an announcement that it had "made a major strike of zinc, copper, and silver."

**A YEAR LATER**, on April 19, 1965, the SEC filed a complaint. It alleged that during the interim period after initial drilling

and before the press conference, 13 directors, officers, and employees of the company had each committed one or more violations of Sec. 10(b) and Rule 10(b)-5 of the Securities Exchange Act of 1934: (1) bought Texas Gulf stock or calls on the basis of inside drilling information without appropriate disclosure; (2) given inside information to friends and relatives so that they might buy stock or calls, without appropriate public disclosure, and (3) accepted stock options with knowledge of the discovery withheld from the option granting committee.

The SEC also charged the company with violation of the Act in the issuance of a

*Continued on following page*

## Olsen...

ative action may still recover his legal expenses if he acted "reasonably and honestly." It goes without saying that if a director wins his suit, then he is entitled as a matter of right to indemnification from the corporation.

**THIS FAIRLY WELL** narrows the grounds upon which a director or officer can be held liable and not at the same time be indemnified. With the exceptions noted above, they will be limited to those areas involving derivative actions.

Let's examine briefly what the d&o policy will provide, or better still, what it will take away in the event of a successful derivative or third-party action. There are three major exclusions that well may take away just about everything. Exclusion (b) excludes coverage for "claims based upon or attributable . . . to profits to which a

director or officer is not legally entitled." This would appear to exclude Texas Gulf Sulphur and all the recent publicized cases including the conflict of interest and self-dealing cases.

Exclusion (d) expressly prohibits all "short swing" profits under section 16b of the Security Exchange Act of 1934. Exclusions (e) which is a strangely worded dishonesty exclusion, although protecting against claims upon which suits are brought alleging dishonesty—unless there is a judgment establishing the dishonesty—nevertheless is silent as to what will be done in the event a complaint alleging dishonesty and fraud (and they all do) results in a judgment setting forth a single finding. It would appear the burden remains on the insurer to prove the dishonesty but this may have to await litigation.

**I MUST SERIOUSLY** ask the question: What is left? Someone will say, "Well, what about a derivative action where the

director or officer has acted innocently?" I ask him to tell me more. Give me the facts where such an innocent act would give rise to a derivative action that the director could not successfully defend, or where, at least one of the exclusions would not come into play.

I again reiterate that the issue is not the insurance covering corporate indemnity. This has been a risk historically assumed by all corporations. The industry's campaign directed against the director and officer has given rise to the purchase of this coverage—the corporation expenses.

It is also time for some risk managers to come out of hiding and review the reasons for their purchase and particularly their reasons for accepting the unconscionable recent high increases for this coverage. Three times the cost of the coverage two years ago is just about the starting point for the new costs. I get the distinct impression that these increases have followed in direct proportion to the steamrolling

purchase of this coverage by an ever increasing number of corporations—not in relation to losses and loss expense—historically the prime guide to premium rate structure.

**IT SEEMS THERE** is a burden upon the industry to give a detailed accounting—not broad brush—but a detailed explanation of the present status of this coverage. Unless this is done, the ever increasing impression that this is the most profitable coverage ever underwritten, will gain greater credence. Certainly such an airing might prevent a most distasteful alternative—the entrance of governmental regulatory authorities. ■

*John P. Olsen received a B.S. degree from the University of Virginia in 1945 and an LL.B. degree cum laude from the New York Law School in 1954. He has been manager of the insurance department of Ingersoll-Rand since 1965.*

## Adams...

false and misleading press release on April 12 intended to quell rumors about the discovery. This release asserted that widely circulated reports in the press "exaggerate the scale of operations, and mention plans and statistics of size and grade of ore that are without factual basis."

Rule 10(b)-5 declares it unlawful for any person, directly or indirectly, in connection with the purchase or sale of a security to employ any device to defraud, to make any untrue statement of a material fact, or omit to give a material fact in order not to mislead, or engage in any practice which would operate as a fraud or deceit upon any person.

The commission in its complaint asked that the defendants be enjoined from future similar violations, and make rescission and restitution to sellers of stock, and of options to the grantor company. The court of appeals ruled in favor of the SEC, and remanded the case to the district court to carry out appropriate relief. The U. S. Supreme Court subsequently declined to issue a writ of certiorari and review the decision of the court of appeals.

**IN THE MEANTIME** the company and individual defendants have been deluged with derivative and other suits asking for damages approximated at \$75 million.

In order to determine whether a bona fide claim would lie under the d&o package one must first consider the corporate reimbursement policy. If that does not apply, then the policy covering the individual directors and officers as insureds should be consulted. As pointed out in the *Business Insurance* article last May, it is unlikely that either policy would give indemnity on the facts as developed by the SEC in its Texas Gulf litigation.

The corporate policy simply underwrites corporate indemnification pursuant to applicable state law and company by-law or charter. It insures this corporate responsibility. What are its advantages?

The policy offers indemnity for an exceedingly large limit, large in dollar aggregate, and large in comparison to premium cost. This renders an indemnity award by the company more palatable to stockholders who will very likely have to be informed either as part of a settlement pursuant to Rule 23 of the Federal civil procedure rules (or a similar state rule), or pursuant to a substantive requirement in the SEC proxy rules.

**THE SERVICES** of insurance attorneys are made available in disposing of claims—their experience and their opinion as to the reasonableness of a proposed settlement and/or submitted legal fees may be a crucial factor in the scale of a lawsuit. The propriety of an indemnity award wished to be made by a board of directors or top management can be buttressed with the concurrence of underwriters and their attorneys as independent third parties.

Assuming that the provisions of the 1967

Delaware Corporation Code applied to the Texas Gulf case and the corporate insured had no by-law or article restricting indemnity allowed by statute, then it would appear that corporate indemnity could not be awarded. This is because the defendants, in the opinion of the appellate court, did not act "in good faith and in a manner reasonably believed to be in or not opposed to the best interests of the corporation" (§145(A), Delaware Corporation Code). The same rationale precludes indemnity in a derivative case under the Delaware law.

Underwriters intend in the "individual" part of the policy package to provide insurance protection to honest and well-intentioned corporate officials who, nevertheless, become subject to a monetary liability because of their positions and who

**'The policy offers indemnity for an exceedingly large limit, large in dollar aggregate, and large in comparison to premium cost.'**

cannot obtain corporate indemnity. Three areas of liability in particular are covered by the policy: (1) derivative liability without a finding of "active and deliberate dishonesty"; (2) Securities Act of 1933 liability incurred as a result of an omission or misleading statement in a registration statement filed pursuant to the Act; and (3) any specific liabilities subject to corporate indemnity by state statute but precluded because of a narrower and restrictive company by-law or article provision.

**THIS POLICY** contains various specific exclusions not present in the corporate policy. These exclusions fall into three broad, general categories: other insurance is available; the situation presented manifests actual and intentional dishonesty; or the insured sought to make a personal profit for himself not in connection with his responsibilities as a corporate official, and was not entitled at law to keep any such profit or gain.

The public policy behind these exclusions becomes self-evident. In the Texas Gulf case the defendants sought to profit personally by taking advantage of inside information to purchase company stock. No insurance would be available under the policy because of an exclusion of claims involving a "personal profit or advantage to which they were not legally entitled."

A viewer, unfortunately, would be rather myopic to conclude that d&o coverage "is not worth the price" because it does not apply to the Texas Gulf case. A terse conclusion of this sort overlooks the purpose of the decision of the appellate court as to expanded liabilities of corporate officials under Rule 10(b)-5. Suffice it to say that the basis for liability has been magnified much. Two decisions rendered by the courts after Texas Gulf and relying on it as precedent readily illustrate the host of new liabilities established by this notorious

case—liabilities not involving attempts by corporate officials to profit personally in company stock. Moreover, the liabilities in these subsequent cases would present bona fide d&o claims for damages and legal expenses.

These cases are *Heit v. Weitzen* (402 F. 2d 909) decided by the U. S. Court of Appeals in New York in October, 1968, and *Sprayregen et. al. v. Livingston Oil Co.* (295 Fed. Supp. 1376) decided by the Federal district court in New York in September, 1968.

**IN HEIT V. WEITZEN** the plaintiffs were holders of Belock Instrument Co. convertible subordinated debentures and common stock. They sued the company and certain corporate officials along with auditors and underwriters for violations of

securities laws (including Rule 10(b)-5). They alleged that Belock's annual report and press releases contained false, misleading or inaccurate statements which artificially inflated the market price of common stock and debentures because they included various overcharges on government contracts. The complainants asserted that the individual defendants knew or should have known of the overstatements. There was no charge whatever of a participation by the company or any insider in any transaction in Belock securities.

The district court had dismissed the complaint. It reasoned that there was no liability at law under Rule 10(b)-5 on the facts because the alleged omissions and misstatements did not take place "in connection with the purchase or sale of any security." The appellate court reversed and remanded for a trial. It pointed out that it had to reassess the trial court's holding in light of the rules enunciated in *SEC v. Texas Gulf Sulphur Co.* that after referring to the Texas Gulf opinion, the court ruled that "There is no necessity for contemporaneous trading in securities by insiders or by the corporation itself."

Rule 10(b)-5 is violated whenever assertions are made to influence the investing public if they are false or misleading or are so incomplete as to mislead "irrespective of whether the issuance of the release was motivated by corporate officials for ulterior purposes." The Supreme Court declined to review the *Whitzen* decision in May of this year.

**THE SECOND CASE** centers around a talk to the New York Society of Security Analysts by the president of Livingston Oil Co. Speeches before this society are, of course, commonplace and have become a routine means of disseminating corporate information and prospects to the investing public. The alleged bane in this particular

instance was that the speaker utilized estimates given him by independent public accountants and projected corporate earnings for the year but turned out to be in error.

A few weeks later the company hastened to revise and correct the announced estimate because of a mistake in substantially underestimating corporate depletion and depreciation. The result was greatly reduced earnings, instead of increased profits for 1965. Defendants include three directors, the accounting firm, and a public relations firm which distributed write-ups of the speech. Plaintiffs were buyers of stock who bought on reliance of the projections and before the announced correction and sellers who refrained from selling because of the good report. Overruling a motion to dismiss, the district court upheld the complaint because of the Texas Gulf holding.

Absent some proof of actual or intentional dishonesty or bad faith, both of these cases would present valid d&o claims for liabilities and legal expenses incurred by the defendant individuals.

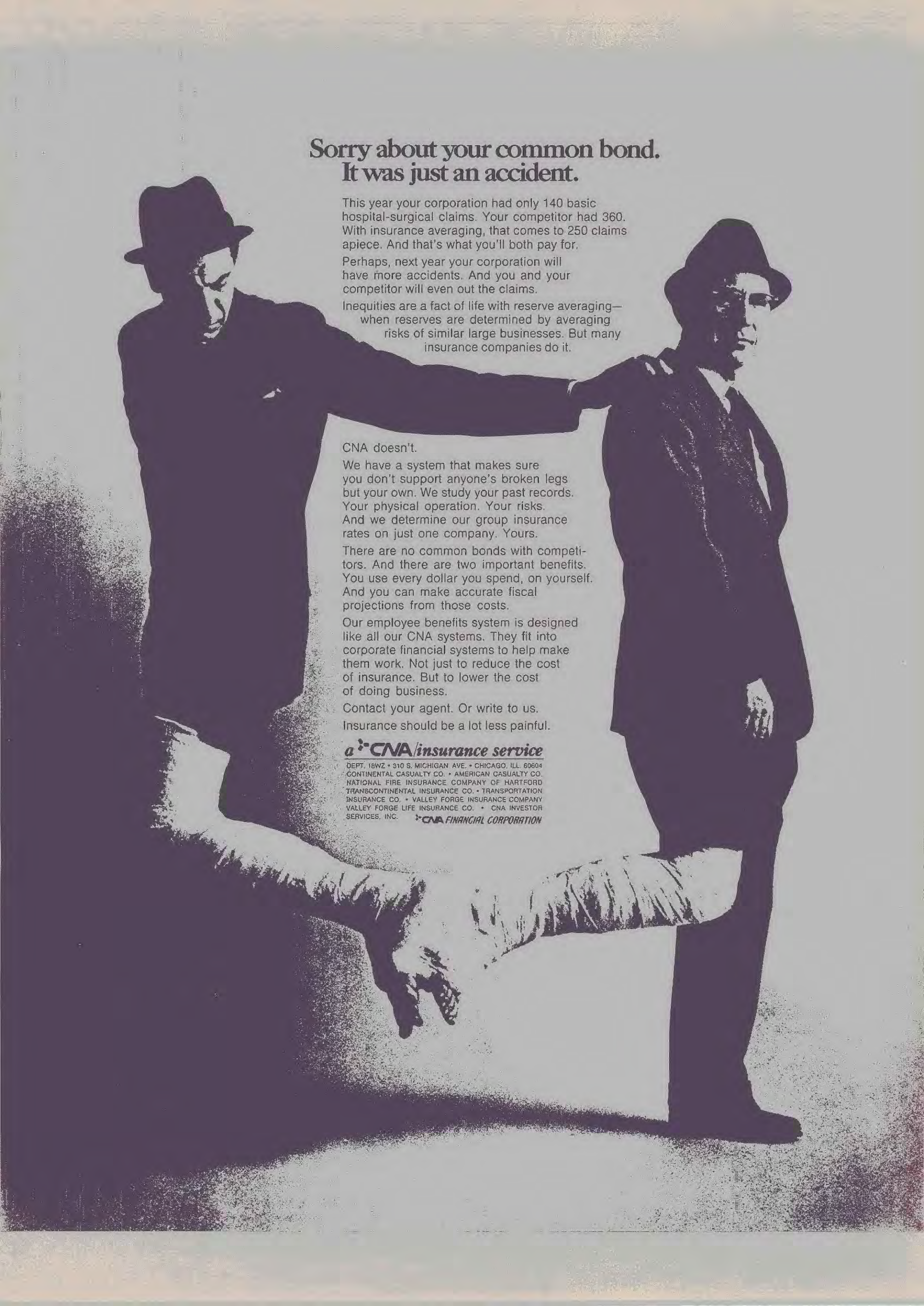
These two cases illustrate the legal interpretation and significance given by the court in Texas Gulf to the phrases "in connection with the purchase or sale of a security," and "materiality." Actual purchases and sales do not have to be proven: it is sufficient if it is reasonable for investors to rely on the statement or omissions of corporate officials.

**THE COURT CONSTRUED** "material" as that information which a reasonable investor or speculator would deem to be important in deciding whether or not to sell, buy or hold securities. The results of the very first core drill in November, 1963, by Texas Gulf were deemed "material." An "insider" was expanded to include anyone, director, officer, employe, or associate who has "access to the inside information." In addition the opinion opens the door to possible liability for tipping, and the SEC promptly charged Merrill Lynch in August, 1968, with violations because it "tipped" certain favored customers (funds) of a decline to be reported in Douglas Aircraft earnings—information it received confidentially as an "insider" in connection with a pending securities registration.

Professor Alan R. Bromberg, the author of a legal treatise on Rule 10(b)-5, concluded in a recent article, "Corporate Information: Texas Gulf Sulphur and Its Implications" (22 *Southwestern Law Journal* 731,754):

"Perhaps the most popular aspects of the decision for plaintiffs' lawyers will be the broad statement of information—equalization policy and the stress on accuracy in press releases. Close behind will be the holding that tipping is a violation, the holding that a press release has sufficient 'connection' with securities to be within 10(b)-5\*\*\*, the intimations of liability which may result for tipper and tippee, the apparently low threshold of materiality, and the discounting of good faith as a defense. Lawyers for the defense bar will

*Continued on page 40*



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# perspective

Continued from page 38  
find little consolation in the court's opinion."

**THIS BACKGROUND** helps explain the continuing demand for d&o coverage. It offers a feasible means of indemnity for these exposures. The indemnity has become more essential because of a lessened reluctance by courts to pierce the corporate veil and invoke personal liability against officials. The Federal securities laws do this readily by referring to "any person"—corporate or individual. The sanction of these laws applies to those responsible for corporate activity as well as the company. These laws, the Texas Gulf, and subsequent decisions logically manifest a social environment in which corporate stockholders are "investors" instead of "entrepreneurs."

It seems that the rise in coverage cost results from an unquenchable demand for policies (with higher limits) together with a similarly accelerating list of reported claims under outstanding policies. Furthermore, this is a catastrophe form of coverage; aggregate limit is large in relation to paid premium, and there is insufficient underwriting experience upon which to rely for pricing. Underwriting becomes a matter of collecting a large dollar aggregate and "risking" that a "Hurricane Betsy" will not wipe out all premium in a relatively quick period.

Perhaps this explains the persistent timidity of the myriad of large domestic companies to enter the market. They have opted not to do so, in spite of frequent exhortation from leading brokers. Their reluctance to participate serves to support current costs to the extent that the available supply for underwriting continues restricted to a variety of direct and indirect arrangements with Lloyd's of London.

**SOME DOMESTIC** underwriters indi-

cate that their attitude toward corporate directors and officers liability underwriting stems from contemporary experience with various professional and personal type malpractice policies. They equate these coverages with d&o. Judicial decisions holding architects, doctors, dentists and accountants responsible for personal liability have developed their own unique fecundity. Many of the judgments in these decisions have been insured. As a result, this coverage has become more expensive, underwriting more selective, and markets have contracted.

The article in *Business Insurance* claimed d&o underwriting to be a profitable business, and asserted underwriters "have pulled in \$9 million in d&o premiums and have paid out \$148,000 in claims." The \$9,000,000 figure is surely incorrect. Talking with Stewart, Smith representatives, one learns that this brokerage firm, the leaders in the field with the largest dollar volume of premium outstanding, has itself written approximately \$30,000,000 in premium with earned premiums nowhere near reaching this amount.

Underwriting representatives are quick to point out that a dollar sum for claims paid to date just isn't a realistic figure. They rightly insist that a more appropriate figure deals with reserves which they have been compelled to set up to provide for formally reported claims. These reserves exceed several million dollars to date.

Because of the nature of the litigation involved, several years may be expected to lapse between receipt of official notice and the final outcome of the lawsuits. Reserves, of course, are not customarily the ad damnum figure, but merely a reasonable estimation by an experienced claims attorney of what a claim might be worth.

**BUT THESE FIGURES** fall short of revealing the true panorama. Underwriters'

representatives flinch themselves at the fact that a claim has been received from one out of every ten outstanding policies. The bulk of pending claims deals with 1966 and 1967 policy years, and there is a noticeable trend toward more claims in recent years. This trend obviously matches the expansion of personal liability rationale carried out by judicial precedents, such as the Texas Gulf case.

At this juncture it does not seem valid to posit that d&o underwriting has become a bonanza for insurers. While reluctantly accepting any acerbity in present prices, I do offer a few suggestions for cost control to interested buyers in their negotiation.

Select a competent and knowledgeable broker. Experiment with varying price quotations for different coverage arrangements, various deductibles, and limits. Be flexible. Consider agreeing to waive specific types of liability that give apprehension to underwriters in your particular case, e.g. anti-trust, mergers, government contracts, etc. and weigh any relative price reduction against your own exposure estimate. Determine if any price saving results from a separate maximum coverage limit for legal expenses as distinguished from the liability, itself.

Finally, carefully review the need of each prospective individual insured. Underwriters, while groping for a rationale to use for premium evaluation, have insisted on relying, in part, on a "head-count" or number of positions to be covered. A relationship between head-count and the actual exposure for underwriters is indirect, at best. But corporate buyers are prone to want to include many corporate officials—"don't leave anybody out!" For some it's a "fringe benefit." For others it may be done to avoid embarrassment. However, the rubric ought to be to get coverage for those who actually bear substantial risk of personal liability. Such persons are primarily

the members of the board of directors, the principal officers, and other employees who carry significant responsibilities, such as division managers, chief accounting and chief financial officers.

**ONE ALSO NEEDS** to bear in mind that the policies in no way limit permissible, voluntary corporate indemnity pursuant to statute, by-law, or article. Perhaps the chief beneficiaries of the coverage are those individuals (the board members and principal officers) who become insureds under the individual policy, and who thereby derive an indemnity protection for exposures not reimbursable from the company.

The implications of the Texas Gulf decision and current legal trends provide a continuing admonition to consider carefully the advantages of d&o coverage. Evidence indicates the prevailing prices for policies bear a reasonable relationship to overall policy claims, the projected losses to underwriters, and the uncertainties of the coverage. Prudent negotiation will benefit a prospective buyer in controlling policy costs.

*Ware Adams is a member of the Illinois Bar and practices in Chicago. He graduated from Yale University and Northwestern University Law School. He began his legal career as a law clerk for the Hon. E. J. Schnackenberg of the United States Court of Appeals, Seventh Circuit, and then practiced for several years with a Chicago firm. He joined Marsh & McLennan at the company's headquarters in Chicago in 1965 and participated actively in questions presented by directors and officers liability coverage. Following his stay at Marsh & McLennan, Mr. Adams worked briefly with the corporate law department at the International Harvester Co. before embarking on his own practice.*

## Should the benefit program be a profit center?

by Bion H. Francis,  
manager of benefits planning,  
Colt Industries, New York

Four years ago, the "prime rate" of return on loans made by corporations with the highest credit rating was 4.5%. At that time, pension funds commonly earned in the vicinity of 3.5% to 4.5%. Actuaries assumed an interest rate of 3% to 4% on pension funds in working out the cost of pension plans. The actual rate of return was therefore usually about enough to cover the return assumed by actuaries, with possibly a small excess.

There has been a sharp change in this situation. Today, the "prime rate" for loans with the highest credit rating is 8.5%. If actuaries still assume 3.5% to 4.5% this means that corporations may be earning 4% to 5% on pension funds above the rate assumed by actuaries. It is not uncommon for large corporations to have a pension fund in the order of \$100 million. With a fund of this size, excess interest of 4% to 5% could mean earnings of \$4 million to \$5 million in excess of what has been assumed by the actuaries.

Even for a company of large size, earnings of this amount may be more than the earnings of some operating divisions. In fact, if you use profit margin of your company to compute the sales volume needed to produce this amount of profit, the figures may be startling. At a time when corporate raiders are using every possible device to improve corporate performance, the possibilities inherent in the funds held for the benefit programs should not be overlooked.

**YOU MAY OBJECT** that the pension funds do not belong to the employer. Why

should the employer try to earn an additional 4% or 5% on the pension fund? If he earns it, he can not take it out.

However, the employer does profit on the higher earnings in a real manner. There are two possibilities:

- The actuary may assume a high interest rate, say 6% to 8%. This would reduce sharply the cost of the pension plan and this assumed rate could be covered by investments at today's rate of return.

- As an alternative, the actuary could assume a more conservative return, say 3% to 4%, on the retirement fund. If the company then earned 8% on a fund totaling \$100 million, the excess earnings of \$4 million to \$5 million a year could be used to reduce the contributions required from the employer to the pension fund for the following year.

**THIS REDUCTION** in the required pension contributions would result in an increase in corporate profits which would be just as real as the corresponding amount of earnings from an operating division.

Which of these two methods should be used? If there is pressure to increase profits, there may well be a temptation to assume a high rate of return on assets in the benefits funds. This could reduce substantially the computed cost of the pension plan. After all, we are earning 8% or 9% right now, aren't we?

Before deciding, it might be well to consider the effect of the business cycle on the cost of the pension plan. In a depression, the effective demand for money is low. Moreover, the government and central banking systems usually operate to reduce interest rates in order to stimulate business. As a result, the rate of return on investments usually drops sharply at a time of

depression. During the depression of the '30s, for example, interest rates on annuity funds were commonly at 2% or 3%.

**ALSO, IN DEPRESSION**, the demands on pension funds increase. Older employees are being let go and pension funds are drawn upon to cushion the impact of unemployment. The net result of all this is that the cost of pension plans increases sharply at exactly the time when employers can least afford this increase in cost.

This is the way in which the cost would work out if we assumed a high rate of return on pension plans. Presumably, this rate of return could be obtained on pension funds at a time of prosperity and high interest rates. In a following period of depression, however, interest rates would drop and any deficiency in interest earnings would have to be made up by the employer.

On the other hand, if we assume a low rate of return, and earn more than this return in a period of prosperity, the excess earnings would then be available to reduce costs. If this excess were all used to reduce costs in the following year (possibly also a period of prosperity) there would still be a sharp fluctuation in cost with the high cost probably coming when the company could afford it least.

**HOWEVER**, Opinion Number Eight of the American Institute of Certified Public Accountants was intended, among other things, to eliminate sharp fluctuations in the cost of pension plans. When there are excess earnings, the credits from this excess should, under the operation of this opinion, be spread over a period of years. If this period is long enough, the effect of the opinion would be to smooth out pension costs and to eliminate a sharp rise in

a depression period.

This gets back, in a way, to the concept of using the benefit program as a profit center. In other words, we should assume a conservative interest rate. Actual earnings in excess of this assumed return should be used to increase corporate profits, preferably with the increased earnings spread over a period of years.

In doing this, obviously it is important to get as high a rate of return as possible. This may not be as simple as it appears. It can be a shock to look at a portfolio of high-grade bonds accumulated over a period of years, including many bonds having high interest rates—and then to find that this portfolio has earned nothing in the past few years. The reason for this has been the recent drop in bond values.

**A SATISFACTORY** return on investments is not automatic. High grade bonds do not necessarily mean safety. All investments involve risks. A satisfactory return is something which we work for. There are many investment people who should be working on this, but are not doing so.

You may object that this is not a field that a corporation should be in. Is there any way in which this can all be avoided? One possibility is to structure pension and benefit programs in the form of employee savings plans and money purchase pension plans. This can be done in such a way that benefits from a high rate of return on pension funds (and losses from a low rate of return) go to employees. This can be done in such a way as to protect employees from inflation, and to protect employers from high fixed expenses and contingent liabilities.

This is a subject of some importance. Private pension plans in the United States are well in excess of \$100 billion. If we consider that the average assumed rate of return is 3% to 4%, the excess interest which can be earned now on these funds is in the neighborhood of \$4 billion to \$5 billion a year. This is available to increase corporate profits if, in effect, we treat the benefit program as a profit center.

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# Giles on law...

Continued from page 33

Her comment was that the coating was dangerous to man, beast and birds. The woman also says that she has kept the birds preserved in plastic in her freezer since their death on Jan. 12. "I froze them in case I need them for the court case."

Here is an excellent lesson in care in preserving the evidence which most insurance people could well emulate. No need to put the papers in the deep-freeze.

\* \* \*

**THIS IS ON** the burden to prove medical coverage.

The District of Columbia court of appeals has concluded that under a policy providing that a subscriber was not covered for a period of

10 months for any condition which preexisted the contract, the insured presents a *prima facie* case by proving the existence of the contract, the hospitalization and unpaid bills, and it is then incumbent on the insurer to come forward with competent evidence to show that the hospitalization was for a preexisting condition.

However, the ultimate burden remains with the insured to prove that the hospitalization comes within the provisions of the contract. (*Group Hospitalization, Inc. v. Foley*, June 3, 1969.)

\* \* \*

**CAN AN UNPAID** volunteer Boy Scout worker who was injured by debris blown by a tornado, collect unemployment insurance under the Minnesota workmen's compensation law? The court says "no."

The plaintiff, who was the

mother of a scout, contended that the benefits accruing to the boy from the Boy Scout organization were of substantial value and are a return to parents for their unpaid services to the organization, and as such bring the parties within the purview of the workmen's compensation law.

The court said that the volunteer was not a person who performs services for another for hire. The various scouting opportunities would have been available to her son, whether the mother helped with the dinner or not. The mother rendered no service pursuant to a contractual obligation. (*Minn. Sup. Ct. Preese v. Boy Scouts of America*, 4/25/69.)

\* \* \*

**THE STATE OF** New York has just been ruled legally responsible for the actions of a woman who tried to kill her three children

after having been released from a mental hospital on an experimental drug.

Sydney Squire, judge of the court of claims, awarded the children a total of \$228,000 for damages. The judge ruled that the State of New York failed to use reasonable care and to act in conformity with standard and approved psychiatric and medical practice in not providing the mother with an adequate supply of her pills when she was discharged from Marey State Hospital, near Utica.

At issue was whether the state was liable for the antisocial behavior of Mrs. Janet McCord, a chronic paranoid schizophrenic, whom it discharged on convalescent care because she had reacted so well to a drug, Proketazine, which the hospital had given her experimentally.

When the after care center of

the hospital ran out of the "Polly" pills, the patient made several attempts to get them, but failed. Since the pills were experimental, they could only be obtained from the hospital's research department, not its pharmacy, and the pills finally arrived two days after the patient attempted to kill the children.

No damages were awarded to the father which the court found had breached his duty to return his wife to the hospital.

\* \* \*

**IF A CLAIMANT** under workmen's compensation refuses to submit to a surgical operation recommended by doctors, can he still get an award?

The supreme court of Arkansas says that under its workmen's compensation statute, the commission has discretionary authority to make an award of benefits when the claimant refuses to submit to an operation and that the commission did not exceed its authority in fixing the award at 60% disability, despite the absence of direct evidence fixing disability at any percentage between the extremes of 100% and 20%. (*Ouachita Marine and Industrial Corporation v. Morrison*, 440 S.W. 2nd 216.)

\* \* \*

**WE LIKE CLEAR** statements. Here is one from North Carolina on interference with contractual relations.

The elements of the tort or wrongdoing are the following: First, that a valid contract existed between the plaintiff and a third person, conferring some contractual right against the third person; second, that the outsider had knowledge of the plaintiff's contract with the third person; third, that the outsider intentionally induced the third person not to perform his contract with the plaintiff; fourth, that in so doing the outsider acted without justification; and fifth, that the outsider's act caused the plaintiff actual damages. (*Beane v. Weiman Co.* 168 S.E. 2nd 233.)

\* \* \*

**A RECENT OHIO** decision holds that the traffic control signal is part of the roadway, and if the city knows of a defect in the signal, it is liable to a motorist which was injured in a collision at an intersection. The court observed that traffic control signals in this day of swift travel by high-powered cars are as necessary to orderly travel in urban areas, as the surface of the road itself. To say that a non-operative traffic signal at an intersection of city streets is not a nuisance, but that a chuck-hole at the same intersection is a nuisance, would be an overtechnical distinction. (*Ohio Sup. Ct. Frankhauser v. City of Mansfield* 7/9/69.)

\* \* \*

**CAN A MOTHER** whose son is killed by a policeman, as the son speeds away in a car he stole, recover from the policeman. The Missouri court says yes and observed that Louisiana cases hold that deadly force cannot be used to arrest a misdemeanant and that deadly force can only be used to prevent a "great crime." A man's life may not be taken on the spot by a police officer without substantial justification. This slaying cannot be justified as punishment for stealing the automobile or fleeing arrest, since the maximum punishments therefore would be ten and one-half year's imprisonment, with parole eligibility after three years, and a \$500 fine. (*U.S.D.C. E. La. Sauls v. Hutto* 7/23/69.)

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# Fight is over how much Social Security should increase: U.S. aide

WASHINGTON—The fight over Social Security in the Congress will not be over whether or not there will be an increase in benefits, but over how much and how best to pay for it, a top official at the Social Security department told *Business Insurance*.

Liberal Democrats are going to be asking for increases in benefits ranging to as high as 50%, he pointed out. And Republicans, who will be extremely conscious of their hopes of taking over control of the House in the upcoming 1970 election, will be trying hard to make President Nixon's request for a 10% hike look meaningful.

By saying that he would ask Congress for a 10% increase in benefits, President Nixon has already come a long way toward facing political realities from his

earlier proposal that benefits be hiked 7% and Social Security taxes 10%. The President had hoped to use the difference to help him show a budget surplus in the fiscal 1970 budget.

ADDING TO the pressures for a benefit hike in excess of 10% is the fact that the Social Security trust fund is "overfinanced by a substantial amount." So much so is it overfinanced that the department recently said that benefits could probably be increased by 10% without any hike in Social Security taxes.

Thus President Nixon's plea for an increase in Social Security taxes along with his proposed benefit hike, is certain to prompt Liberal Democrats to argue that as long as

he is planning a tax increase anyway, benefits can certainly be raised much more than 1%.

President Nixon has asked Congress to increase the amount of wages taxable under Social Security from the current \$7,800 level to \$9,000. This would cost the employer an additional \$57.60 a year for every employe who makes \$9,000 a year or more.

The increase, however, would not be effective until Jan. 1, 1972, while benefit raises would go into effect in April 1970.

MR. NIXON tried to ease the appearance of the stiff increase in the taxable wage base by cutting back slightly on the rate at which presently scheduled increases in Social Security taxes will take ef-

fect.

Currently, the employer and employe each pay 4.8% on wages subject to Social Security. Instead of jumping to 5.2% in 1971 and 5.65% in 1973, the rate would increase to only 5.1% in 1971 and 5.5% in 1975. The ultimate maximum rate of 5.9% would still be reached in 1987. This would save the employer \$9 for every employe making \$9,000 or more in 1971.

Mr. Nixon's proposed 10% benefit increase would be an across-the-board rise, providing higher benefits to all beneficiaries. In addition, he has called for a cost-of-living benefit adjustment that would be made once a year based upon increases in the labor department's consumer price index.

While the fight over Social Security benefits is expected to be heated, most observers think that it will be mild compared to the fur that is expected to fly when the subject of Medicare comes up.

MR. NIXON has proposed ac-

celerating a scheduled increase in the Medicare tax rate from a current 6% of payroll to a maximum 9% next year, instead of reaching the maximum in 1987.

Because of rapidly rising health costs and increased utilization of the Medicare fund is dangerously low. Mr. Nixon has already had to increase the deductible in part A of Medicare from \$44 to \$52 and is currently faced with the prospect of boosting the Medicare Part B premium to at least \$10 (\$5 from the treasury, \$5 from the beneficiary) a month from the current \$8.

Such increases are bound to be viewed as frustrating any Social Security benefit increases. And, proponents of a system of national health insurance are making no bones about the fact that they hope to use the upcoming hearings concerning the troubled Medicare program as a platform from which they will make their first serious bid for their program.

## Farmers ask to shop for work comp

YAKIMA, Wash.—Farmers and stockmen go along with the idea of insurance for employes but they want to choose the insurer, a Farm Bureau spokesman told the Washington legislative council's subcommittee on agriculture and labor.

"We accept the principle of insurance for all but feel the employer should have the right to shop around," Clarence M. Wilson told the committees.

The committees held a hearing here to evaluate the state's new industrial insurance program for farm workers. It became compulsory April 1 in the state's tree-fruit and hops industries.

M. L. Monson, Selah cattle feeder, asked if current employer rates of 8¢ per workman hour would change by 1975 and was advised that a safe employer's rate could drop, but the average probably would remain the same. He also spoke for permitting the farmers and stockmen to select their insurers.

He was told there are about 22,000 employers in all phases of agriculture in Washington, and if they were brought into the program, it would be helped financially.

Among others who testified were Thomas Villanueva of Toppenish, director of the United Farm Workers' Co-operative, who said he would like to see workers insured as soon as they start instead of having to wait until they earn their first \$150.

## Work comp pay prompt

SACRAMENTO—California's department of industrial relations has released its fifth semi-annual report on "promptness of first payments of workmen's compensation insurance benefits."

The report reveals continued improvement in the promptness of payment record of major insurance carriers and a superior record by major carriers as compared with self-insurers.

An injured worker in California now receives his first benefit check in an average of 16 days. This compares with an average of 19 days in 1967.

The report reveals that of those insured with one of the major compensation carriers get their initial check in 14 days.

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# Postal officials crack down on insurance cheats

CHICAGO—Following the disclosure of a secretly held Federal indictment by an Alaskan grand jury against an alleged phony insurance operation, a top Federal official told *Business Insurance*

that U.S. postal inspectors are working closely with insurance industry executives, several foreign governments and others who are eager to curtail fraud in the insurance industry. Among the

foreign sources he cited are those in England, Switzerland, Mexico, the Bahamas and several European and South American governments.

The official said that emphasis has been put on charging mail fraud in connection with phony insurance operations because most state insurance laws do not provide criminal penalties for wrongdoing.

He observed that in the so-called surface or unrecorded lines—such as marine and aviation coverage—there is little or no regulation. "Take an airplane that lands all over the country in all kinds of states with different regulations," he explained. "Each insurance commissioner or director says, in effect, 'It's not for me to regulate the insurance covering that plane.' And the same thing goes for boats."

He, too, observed that writing coverage with large premiums attracts the phony insurance operator.

He added, however, that the biggest problem "is the 'raping' of insurance companies. These companies that go broke don't get that way so much so by being badly managed as they do by having their assets stolen," which he said can be done in a number of ways.

**AS AN EXAMPLE**, the Federal official told how an insurance company called Multi-State Insurance Exchange was "raped."

The president of that Wisconsin-based insurance company, which is now defunct, has been indicted and found guilty of mail and wire fraud. Although his case is now in the hands of Federal appeals judges, Charles Hoffman Jr. has been sentenced to 10 to 15 years in prison by Federal district court judge Richard B. Austin.

A judgment for \$225,000 was also obtained against Charles Hoffman by the Illinois department of insurance although that is now on appeal and pending before the Illinois supreme court.

But Charles Hoffman was acquitted on several hundred state fraud charges in 1968 by Judge Reginald Holzer of the Cook

**Suspicious? Call a postal inspector**

CHICAGO—A top postal inspector here advised readers of *Business Insurance* who are suspicious of an insurance company—no matter where the company is based—to call the postal inspector's office here or in the nearest major city.

The telephone number is area code 312, 353-2820. The address is the Chicago Post Office, Postal Inspection, 433 West Van Buren, Chicago 60607.

County criminal court.

**ACCORDING TO THE** Federal official, the Multi-State case started some time in the early 1950s when Charles Hoffman supplemented his television-repairman income by learning the art of selling insurance while working part-time for the Cosmopolitan Insurance Co., an Illinois insurer that has also since been declared insolvent.

Some time late in the 1950s, Charles Hoffman purchased the charter of the Rural Mutual Insurance Co., which was then an inactive Wisconsin mutual, and changed the name of the company to Multi-State Insurance Exchange. At the same time, he set up the R.C.D. Agency, through which all Multi-State policies were sold.

As chief executive and owner of both the insurance company and its exclusive agency, Charles Hoffman profited by sales commissions and the operation of the insurance company, prosecutors contend.

Multi-State wrote insurance primarily for high-risk auto drivers, although it got into other areas of coverage and had many claims involving all types of people and businesses. Its reserves in trust accounts were considered dangerously close to the unsafe level by insurance department officials during the period in which it operated. And according to one

former director of insurance for the State of Illinois, such a situation should not exist if the substandard insurance company is charging the going premiums for high-risk drivers.

**IN 1964**, it was decided that Multi-State had inadequate claim reserves and the company went under. However, in the meantime, Charles Hoffman Jr. emerged as the chief stockholder of Progressive General Insurance Co., another Illinois insurance company that was later declared insolvent.

But Multi-State, prior to going under, purchased \$500,000 in reinsurance from Progressive General, which the Federal authority contends was the first blow delivered that eventually "raped" Multi-State.

With his mutual operation in Wisconsin defunct, Charles Hoffman scrapped the R.C.D. Agency and set up a new sales outlet named Automatrix, an exclusive agency for Progressive General coverage, which was also a largely high-risk auto driver insurance operation.

As with the Multi-State-R.C.D. Agency setup, the Automatrix and Progressive General coupling created another two-way profit machine for their owner, prosecutors have contended.

**THE REINSURANCE** arrangement between Multi-State and Progressive General was the first step in the siphoning off of funds from Multi-State, but the second and ultimate blow was the sale of Multi-State.

After buying reinsurance from Progressive General for Multi-State, Charles Hoffman then arranged for the transfer of \$585,000 of Multi-State's money to a Georgia bank—but only after another Georgia bank refused to accept the money.

Then, the same Hoffman sold Multi-State, which had policies and claims outstanding, to Rufus McClarty, an Augusta businessman. The purchase price for the \$585,000 of Multi-State's business was \$333,000.

There are \$22 million in claims against Multi-State and Progressive General that have not been honored. According to the Federal official, there are 28 insurance companies that were licensed to do business in Illinois, as was Progressive General, that are now insolvent—far more cases of defunct insurers than in any other state in the U.S.

**THE MOST** common form of inadequate reserves for a phony insurance operation is a trust account—or more than one—that doesn't represent to policyholders what it is supposed to in liquid assets, the Federal official told *Business Insurance*.

"A trust account that represents plots in a grave yard doesn't help anybody who has a claim against a company," he said. State insurance departments haven't been looking into what actually is represented in an insurance company's assets before, but they are beginning to now, he added.

The Federal official also said that some improvement has been made in the efforts by the Federal government, the National Assn. of Insurance Commissioners and other insurance groups to get criminals out of the insurance business.

He said that the Bahamas government is now cooperating in efforts to investigate insurers based there. But he confided that phony insurance operations will probably be shifting from the now  
*Continued on page 45*

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# General Mills captive has earned \$1.5 million since founding in '63

NEW YORK—After having been introduced as "the epitome of the successful captive insurance manager," Harry L. Davis, insurance manager for General Mills Inc., had a job to do here one recent morning.

Mr. Davis spoke before a seminar dealing with the creation and management of captive insurance companies. His subject was the property captive. His qualification was the fact that he has worked with one since General Mills established theirs seven years ago.

The system, he told the audience with certainty, has worked for the Minneapolis-based firm. Furthermore, he said nothing to acquit himself of the introductory label. In fact, he noted that Gold Medal Insurance Co., the General Mills subsidiary, had reported earnings of almost \$1.5 million since it was formed.

**OUTLINING** General Mills' case history for those attending a two-day seminar sponsored by John Liner Letter-Insurers Press and presented by Management Seminars Inc., Mr. Davis said the company's motives for forming the captive were "purely economic."

The insurance manager explained that General Mills first became interested in such a captive in 1959. After an initial flirtation with the idea, the firm pigeon-holed its thoughts and it was not until after General Mills liquidated its feed line that the project came up again. That was in 1962.

"General Mills liquidated its feed line and found itself with \$60 million on its hands and looking for places to put it," Mr. Davis said. A study was made, the corporation was drawn up the same

year and in February, 1963, Gold Medal Insurance Co. wrote its first policy.

**IN ORGANIZATION**, the gathering was told, Gold Medal is a "pure captive." General Mills is its only customer.

It was capitalized with \$500,000, the minimum under Minnesota insurance laws. Although it was originally licensed as a fire company, the subsidiary began writing multiple forms of insurance for General Mills in 1965. A domestic captive as opposed to an off-shore operation, it is licensed to do business only in Minnesota. This does not restrict it from doing business with General Mills

operations in other parts of the country, however, since the parent is a Minnesota corporation.

"We chose Minnesota as our domicile for several reasons," Mr. Davis said. Among them, he noted, were the relatively non-restrictive investment laws and the fact that the company does its corporate business there.

**THE COMPANY** operates as a nonadmitted carrier in other states and in fact insures very little property in Minnesota, the manager noted. He added that Gold Medal has few employees per se ("except for the Indian chiefs") and instead buys employe services from General Mills.

General Mills, although primarily known as a manufacturer of food goods, has become quite diversified in recent years. Among its subsidiaries that are insured through the captive is the company that manufactures the popular youth and adult game, Monopoly. "We also own a model rocket plant and all its insurance problems," Mr. Davis noted.

Gold Medal insures General Mills and its subsidiaries for many of the coverages companies of its size normally carry.

"**WE WRITE FIRE**, business interruption, earthquake coverage . . .," he said, beginning a long list. "Perhaps I should say what we don't write."

Among the coverages the insurance captive does not write for its parent is liability. "The opportunity for saving money here is minimal," he said, adding, "you must also be admitted in other

states where you do business."

In addition, he noted, liability coverage requires enormous amounts of work. Gold Medal does not write fidelity covers or employe benefits either, the latter for essentially the same reasons it does not write liability.

**SINCE IT BEGAN** operating, the captive has written three insurance treaties, one domestically and two abroad, Mr. Davis reported, adding that "92% of the ultimate risk rests abroad." The company, he revealed, reinsures "99% of losses in excess of \$50,000."

The captive's investments are managed by New York investment counselors who have been given broad powers. A Minnesota bank is custodian of the funds. Gold Medal also has a six-member investment committee which makes periodic reviews of the

*Continued on page 47*

## Crime . . .

*Continued from page 44*

well-known locations to such areas as the Channel Islands off England, particularly the island of Guernsey, and the country of Switzerland.

**HE PREDICTED** that many more mail fraud indictments involving insurance operations would be forthcoming shortly.

The Federal official said that Federal bankruptcy laws should apply to insurance companies. If such laws were changed to provide no exclusion for insurance companies, then the officers who "rape" companies could be tried under Federal criminal charges.

As it now stands, with regulation under state control and insurers exempt from the Federal bankruptcy laws, state insurance departments are limited as to how they can deal with the officials of an insurance company that has been drained of its assets, he said.

"If the Federal bankruptcy act were revised so that we could bring Federal charges against these people, then the Federal courts could assign the commissioners or directors of insurance for the states as the trustees of the remaining assets of the company," he explained. "That way we could get these people in jail and out of the insurance business."

In addition, the Federal official felt that state insurance laws should be more uniform. "Although I'd be against putting more power in the hands of the Federal government, I don't see why the insurance laws of all the states can't be more uniform," he concluded.



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# benefit tax slants

## House-passed tax bill no cinch; in for close committee scrutiny

By JOSEPH S. ROBINSON

NEW YORK—The House-passed tax bill is in for some tough sledding. There'll be closer committee scrutiny—more conferences—ironing out the differences, etc. It's hard to predict right now what will come of it this year. Here's why:

First the Senate finance committee (after completing its hearings and listening to a host of witnesses) must meet and decide what it thinks the tax bill should contain.

Then comes floor debate. It's tough to guess how long this will last. Ultimately, the Senate will put through its version of the bill—hopefully.

NEXT, any Senate-passed tax bill will have to be reviewed by a joint House-Senate conference committee where differences between the two bills must be thrashed out and resolved.

All this, of course, takes time. There are still varied views in many vital spots. Here are just some of the areas where opinions are still divided:

• **Changes in the controversial depletion allowance:** Those in the know feel that the oilmen—if pushed—will go along with the 7.5

percentage point proposed cut in the depletion allowance.

• **Tightening up of tax exempt foundations:** Some Congressmen say that a crackdown on foundation earnings could backfire because these institutions engage in important research, finance many worthwhile projects and serve other useful social welfare goals.

• **Taxing municipal bond interest earnings under certain circumstances—i. e., if it exceeds a certain percentage of an individual's total income.** The consequence of this proposal, say the critics, is to discourage bond issues for important urban area needs—e. g. housing, schools, etc. Constitutional question is also at stake.

• **Revision of the capital gains rules:** Some legislators want to hold the line on the six-month holding period for long-term capital gains treatment. Further, they do not want the 25% maximum tax on capital gains changed—they prefer to limit its use to a maximum amount in any tax year. Their proposed maximum is \$140,000 for married couples filing jointly, and \$85,000 for single individuals.

There are a number of other disputed features of the tax package such as depreciation allowance, interest on investment income, tax changes for single people, etc.—all of which must get a

thorough going over before final agreement is reached.

\* \* \*

**CORPORATIONS** sometimes vote a widow of a deceased officer a sum of money as a gesture of appreciation. A U. S. court of appeals ruled such gratuitous payments are not deductible by the company because it was not a necessary business expense. There should be a prearranged binding of this nature. (Allen Industries, Inc., Ct. of App. 6th Cir.)

\* \* \*

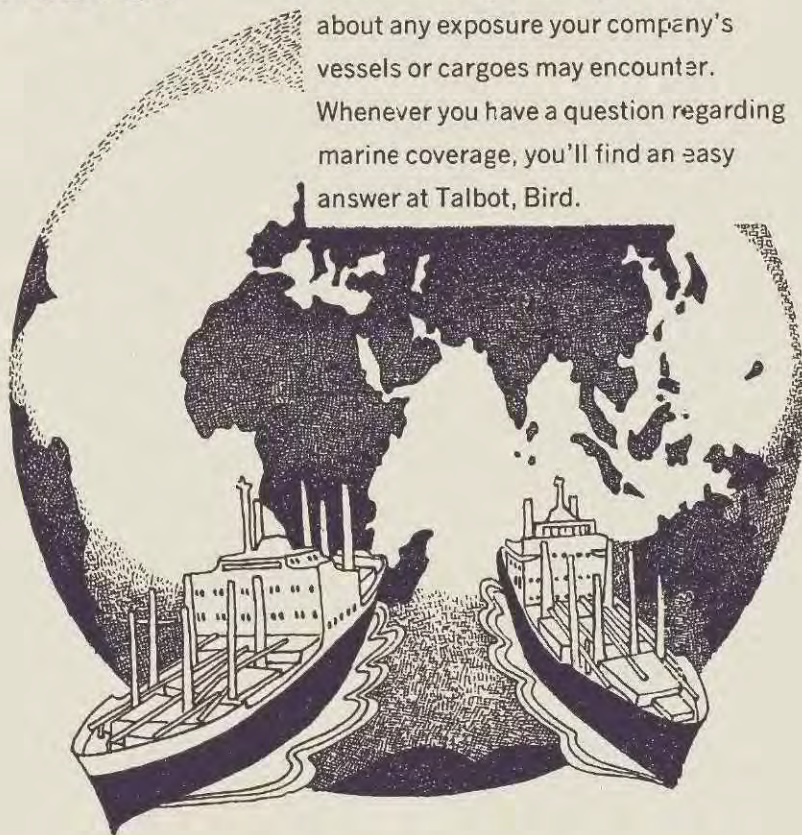
**AN EMPLOYER** can take an income tax deduction for its nonrefundable contributions to a trust that provides group health and life insurance benefits for retired as well as active employees. So says Internal Revenue in Rev. Rul. 69-478.

\* \* \*

**A SOCIAL SECURITY** innovation in the form of automatic benefit increases geared to the cost of living is urged by President Nixon (see separate story). In asking for a 10% increase in Social Security payments, the President said his proposal would do away with the practice of having a new Social Security bill pass through the Congressional wringer every other year.

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## Travelers to oppose Conn. group cover rule

HARTFORD—The Travelers Insurance Cos. will go to court for the right to sell group insurance in Connecticut.

State insurance commissioner William R. Cotter has rejected the companies' application to sell automobile, home, life and other protection through mass-merchandised group plans.

(Members of groups would enjoy lower premiums because of anticipated cost savings).

**MR. COTTER** ruled that the application violated a new Connecticut law restricting sale of mass merchandised insurance to groups of more than 700 and requiring at least 70% group participation.

Harold LaCroix, Travelers vp, told *Business Insurance* the firm would challenge the commissioner's ruling on two grounds: That the Travelers program for mass merchandising in Connecticut is outside the new law's scope; and that the new law is unconstitutional anyway.

The exact course of legal action is yet to be determined, but some kind of petition or appeal is to be submitted shortly to a Connecticut court.

**SINCE THE ISSUE** involves a state regulatory agency, Mr. LaCroix continued, trial could be anticipated within three months.

Travelers and other Hartford-headquartered companies have undertaken mass merchandising programs in a number of states for factory workers, professional workers, labor unions and other groups, as previously reported here.

Estimated savings on auto insurance, for example, would be

about 15% for participating group members, Travelers contends.

The new Connecticut law was strongly urged by independent and mutual insurance agents, fearful of losing commissions in event of group insurance sales catching on.

**THE TRAVELERS** legal department's interpretation of the law brought up these questions.

It is contended, for example, that the Travelers group sales plan would not be affected since the law's definition of group insurance is not applicable.

(The law defines a group as more than 700, some 70% buying a group insurance plan and all charged the same premium rate.)

But insurance spokesmen in Hartford assert that the provisions were designed to sabotage group sales since this would deprive thousands of people in small company setups or organizations. They say, too, that the blanket premium rate—charged regardless of driving records and other liability criteria—would force costs so high that the entire program would emerge impractical.

Travelers would open its plan to groups regardless of size or percentage of subscribers. Rates would be set according to liability.

### A&A sets merger

Alexander & Alexander said it has agreed to merge with Hutchinson, Rivinus & Co., a Philadelphia- and New York-based broker, effective Oct. 1. Hutchinson had gross income of about \$2 million for 1968, compared to A&A's gross income for the year of about \$21 million. The merger is the thirteenth for A&A since 1967.

# Sec. Shultz defends five-man board in Federal safety, health measure

WASHINGTON—"The piecemeal scope of Federal authority" has limited the effectiveness of current industrial safety efforts, the Secretary of Labor said late last month in plugging the Administration's occupational safety and health bill.

The bill, which would establish a "separate, independent" board to develop safety and health standards, has been greeted by a lack of enthusiasm from most industrial safety men. Safety experts interviewed by *Business Insurance* thought the board would be both ineffective and costly.

But Secretary of Labor George P. Shultz contended that "the es-

tablishment of a separate board with standards-setting and violation-determining powers, with the Labor Department exercising administrative functions, provides for a balanced governmental structure.

"REGULATORY activities in the field of occupational safety and health can profit by such a separation of responsibilities. This is, of course, an application of the check and balance principle," Secretary Shultz declared.

The labor official emphasized the Administration's "concern for the need for careful attention to due process in the procedural aspects of the provisions of the bill.

"Our bill's standards-setting and enforcement provisions are designed to be definitive and fair—fair in the sense that no standard should be promulgated or enforced without due process. To assure fairness we drafted the bill with the utmost concern for public hearings and opportunities for judicial review," the secretary told the select subcommittee on labor.

**THE BILL** calls for two sources of standards, he said. One source, the national consensus standard, is one that has been adopted by a nationally-recognized public or private organization under a consensus method. "The consensus

method requires that the views of interested and affected parties be considered," Secretary Shultz stressed.

The second source of safety and health standards under the measure involves the development of standards by the five-man board. He said a formal hearing is held by the board after due notice, and any interested person affected by the standards may seek review by the U.S. court of appeals for the District of Columbia within 30 days after the standards are promulgated.

Due process, said Mr. Secretary Shultz, "is also assured in the enforcement provisions of the bill. In an ordinary enforcement proceeding under the act, the secretary would be required to prove at a formal hearing before the board the existence of a violation.

**"THE BOARD** would make its findings and issue any necessary

orders only after the formal hearing. At this point an aggrieved party may also seek review of the board's order in the U.S. district courts."

In cases of "imminent danger," where the department seeks an *ex parte* temporary restraining order, the bill limits the duration of such orders to five days, Secretary Shultz explained. "Any further injunctive relief can be obtained only after notice and opportunity are given the employer so that he may present the court with evidence in his behalf. Also during any five-day order the board is required to begin a formal hearing on the alleged violation."

The secretary said due process is also extended by the bill to the states. The bill provides that judicial review of the Labor Department's decision to reject or withdraw approval of a state plan may be obtained in the U.S. court of appeals.

## \$1 million bomb loss self-insured

SAN JUAN, P.R.—A Woolworth store here, which was destroyed by incendiary bombs last month, was self-insured, according to a company spokesman.

The bombing and resulting fire did damage estimated at "in excess of \$1 million." However, Woolworth's must cover the contents only since the leased building is the responsibility of the owner, the spokesmen explained to *Business Insurance*.

The bombing incident occurred during a celebration marking an armed uprising in 1868 against the Spanish regime in the town of Lares. It is considered one of the most important holidays of Puerto Rican factions advocating independence from the United States.

Incendiary bombs were found and disarmed in three other stores owned or controlled by Americans during the celebration. They were a Lerner shop, a Kresge variety store and a supermarket owned by the Pueblo chain.

## General Mills...

Continued from page 45  
company's investment portfolio.

Loss prevention and control continue to be an important role of the General Mills' engineering and insurance departments, Mr. Davis said. He also noted that the company has retained outside consultant firms to make periodic safety checks in risk areas.

**IN CONCLUDING** his prepared remarks, the insurance manager noted that in addition to the obvious economic results General Mills has enjoyed other benefits. He noted one that is of constant interest to insurance managers, that of simplifying policy language. "We used to write letters to insurance brokers asking them to draw up endorsements and then wait three or four weeks to get them. Now we write the endorsements," he said.

While the property captive picture at General Mills painted by Mr. Davis was extremely rosy, he noted that Gold Medal was not entirely spared of problems. But, he indicated, the weight of these has not been oppressive.

"We have had some problems establishing rates," he admitted when the question came up later. "We have been using the same rates we had in 1963 with our previous carrier, which we modified downward. In a sense, we are getting a little outdated."

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# Conn. bank escapes phony loan deal because 'it looked too clean': Morris

SIMSBURY, Conn.—The Simsbury Bank & Trust Co. may have escaped a \$50,000 loss on a fraudulent loan because "it just looked too clean."

The grand jury in New York has charged that the Community National Life Insurance Co. of Tulsa, its president, two New York companies and three of their officers with a series of acts to defraud banks and other lending institutions by using phony life insurance collateral.

The indictment indicated that the accused parties succeeded in getting some \$300,000 from Cleveland Trust Co., \$96,000 from Chase Manhattan Bank of New York, \$50,000 from Kingston Co. in New

York, \$50,000 from Community State Bank & Trust Co. in Linden, N.J., and \$50,000 from First National Bank of Litchfield.

**AUSTIN MARSH**, of the Litchfield bank, told *Business Insurance* that the bank would have no comment.

"We neither admit nor deny nor anything else," he said.

Thornton B. Morris, president of the Simsbury bank, disclosed that a loan officer of his bank had been approached by an out-of-town party whom he declined to identify.

"On the surface," he said, "it looked like a pretty good loan. They wanted to use the funds to

buy land locally, and go into business locally.

**"BUT WE** didn't like the looks of it. It was too smooth—almost too clean."

The Simsbury bank checked on Community National Life, which would secure the loan by the party's life insurance policies "and we weren't too impressed with what we found."

Mr. Morris said the company is not licensed to operate in Connecticut.

Indicted with Community National were its president, Jimmie J. Ryan, 36, of AIC Corp.; Intercoastal Investors Co.; Satiris Galahad Passoulis, 47; Lionel M. Riefeler, 30; and Sanford Rafsky, 42. ■

# Lloyd's tells losses for '66, gets tough

LONDON—Insurers at Lloyd's are getting tough in their attitude toward world markets for all forms of business coverage. This prediction was made by H. S. Mance, its chairman, when he revealed that Lloyd's had lost \$44 million on its 1966 account.

The reason for the improvement is that the tougher approach is already beginning to show results that will help underwriters, who are getting more forceful in both rate structure and selectivity of business.

**REVIEWING GLOBAL** trends, Mr. Mance said results for marine and transit market showed a loss of \$35 million, representing an 8% loss on premium income, and those for nonmarine showed a loss of \$17 million, equal to 2.31% of premium income.

He felt insurers had not sufficiently anticipated rapid cost inflation or the growing complexity of insurance in a technological age.

Another Lloyd's official, H. Eastwood, deputy chairman Non-Marine Association, said there had been substantial losses on nonmarine business in North America, including the Louisiana oil refinery explosion, the Detroit riots and the fire at the McCormick Place exhibition hall in Chicago.

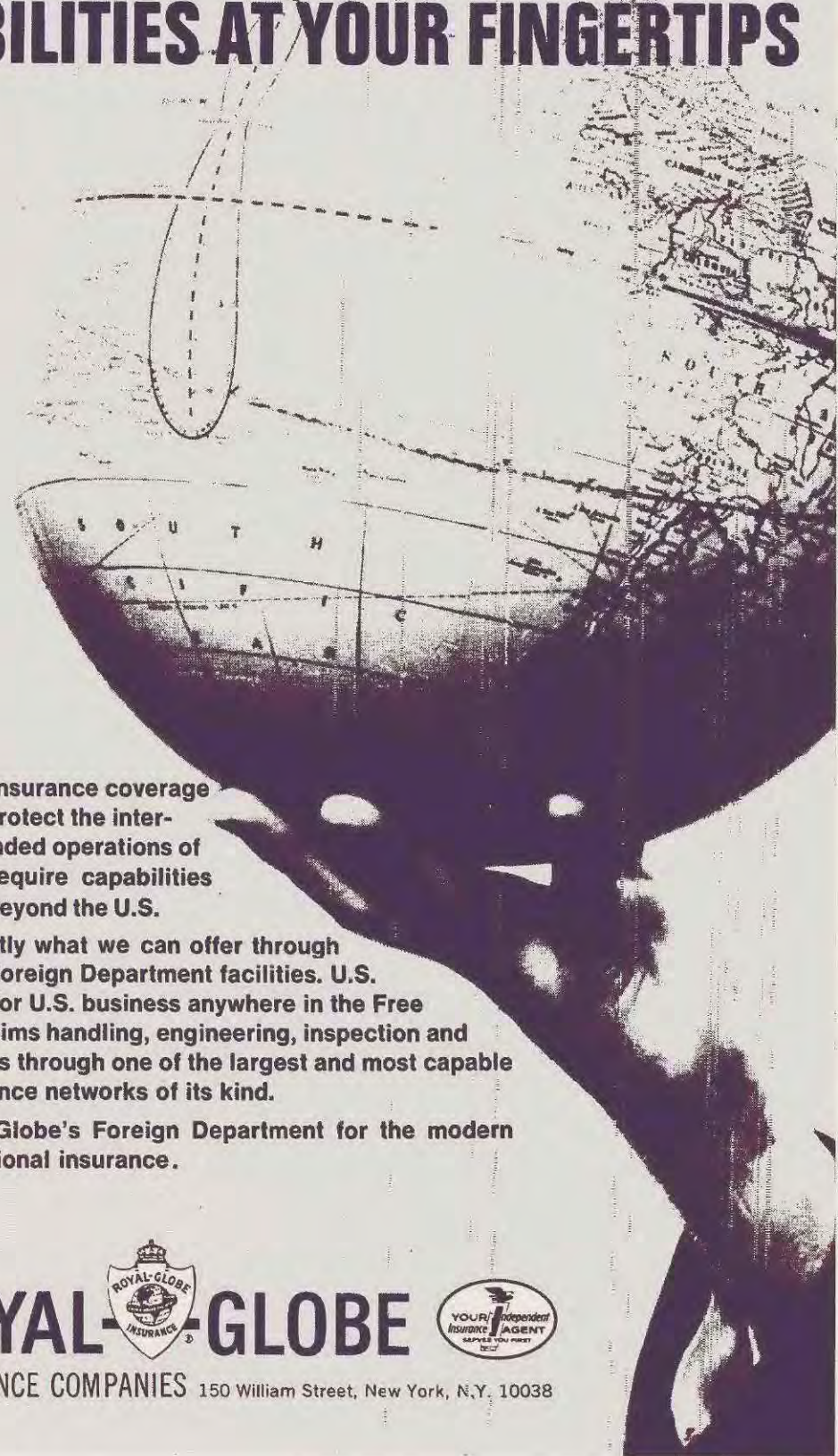
Full effect of substantial rate increases and other measures might lead to a marginal profit in the three-year account period closing December, 1969, and he was optimistic about profits for Lloyd's members and other insurers by end-1970.

O. J. Lewis, deputy chairman Lloyd's Aviation Underwriters Association, said underwriters had not taken complete advantage of higher premium possibilities, but it was time for this potential capacity to be used. His members were ready to face the challenge of insuring jumbo jets.

Marine underwriters at Lloyd's now expect Hurricane Camille to cost them \$25 million.

The overall view is that the outlook for underwriters is genuinely improving, and that they will move into a profit period after a long spell of heavy losses, which has caused anxiety among many Lloyd's members. ■

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## 'Offset' bill OK'd in Cal.

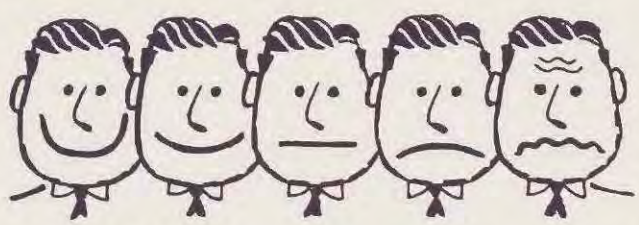
SACRAMENTO, Cal.—Gov. Ronald Reagan has signed into law a California return premium offset bill introduced by Assemblyman John V. Briggs (R.—Fullerton) with sponsorship of the Insurance Brokers Assn. of California.

The law will permit an agent or

broker or surplus lines broker to offset funds due an insured for return premium on any policy against amounts due him from the same person for unpaid premiums on the same or any other policy.

The insurer is authorized by the law to pay such return premiums to agents or brokers. ■

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# Legislators still worried about holocausts of civil nuclear plant

WASHINGTON—About 20 Congressmen and eight Senators are stirring up old fears about the extent of death and destruction a nuclear holocaust at a civilian power plant could possibly cause if something were to be amiss.

The legislators, led by Rep. John Saylor (R., Pa.) and including Sen. Thruston Morton (R., Ky.), are spearheading a movement to create a Federal committee to review and reevaluate the safety of civilian nuclear power in the U.S.

Citing a study by the Atomic Energy Commission made in 1957, the legislators estimate that just one nuclear "incident" at one of the nuclear power plants could kill as many as 3,400 people, injure 43,000 others and do as much as \$7 billion in property damage.

**PEOPLE COULD** be killed up to 15 miles away and injured within 45 miles, according to the study. Land contamination would extend for far greater distances; agricultural restriction might prevail over an area of 150,000 square miles, roughly 5% of the territory of the continental U. S., the report stated.

Rep. Saylor points out that the report was issued in 1957 and speculates that because of the rapid population growth and a huge increase in the size of nuclear power plants since that time, these potential disaster figures are probably now quite underestimated.

"The potential for tragedy is so great that it staggers the imagination," he said recently, adding that nothing he has read since the AEC report was issued "would calm anyone's fears about the awful consequences of a 'mistake' or 'impossible' calamity arising from the operation or misoperation of a nuclear plant."

## N.Y. boosts limits for parking lots

NEW YORK—Garage and parking lot operators here will be required to carry liability insurance amounting to as much as \$300,000, starting Nov. 14, under regulations announced by Mrs. Bess Myerson Grant, the city's consumer affairs commissioner.

Insurance rates here have been set at the discretion of the commissioner depending on various factors. Mrs. Grant said the new regulations had been developed from a series of hearings on garages and parking lots held last month.

Insurance standards for the first time will include legal liability for all operations within a garage or parking lot. These include operation of cars owned by the parking lot operator, in addition to those of his customers.

Under the regulation, lot and garage licensees must carry liability insurance of at least \$100,000 for personal injury to any one person, and \$300,000 for two or more persons, and \$25,000 for damages to property. Operators for the first time will be required to present proof of such coverage, Mrs. Grant said.

Spokesmen for groups representing the garages and parking lots said that lawyers were studying the proposed rules and that a decision on whether to attempt to block the new regulations will be made before an Oct. 14 deadline.

**CONGRESS HAS** a joint committee on atomic energy that is supposed to study problems relating to the development, use and control of atomic energy, Rep. Saylor pointed out. But, he charged, every one of its members is "nuke-oriented."

Because of the similarity of views of these 18 joint committee members on the U. S. civilian nuclear power program, it is hard for an "outsider" to "get a word in edgewise. I know; I have tried," Rep. Saylor stated.

"Already there are 15 operating nuclear plants in the U. S., 31 are under construction, and 42 are planned," he continued. "Looking at the map of the U. S., the heaviest concentration of the plants is

on the east coast. Strangely enough, of the 18 members of Congress on the joint committee on atomic energy, only three represent east coast states.

"Of perhaps more interest," he said, is that "of the total 88 operating and planned plants, 79 are, or will be located in the eastern half of the U. S. This 90% of the potential danger from nuclear plants is represented by 50% of the membership on the joint committee."

**CONGRESS DEALT** with the insurance aspects of civilian use of nuclear power in 1957 with the Price-Anderson Act. The law empowered the AEC to set minimum limits on the amount of coverage

each civilian nuclear power plant must carry. This was established by the AEC at \$150,000 for each megawatt of thermal capacity of the plant.

In addition, the Price-Anderson Act required the AEC to provide liability protection in the amount of \$500 million for each nuclear "incident" over and above the amount of financial protection carried by the facility.

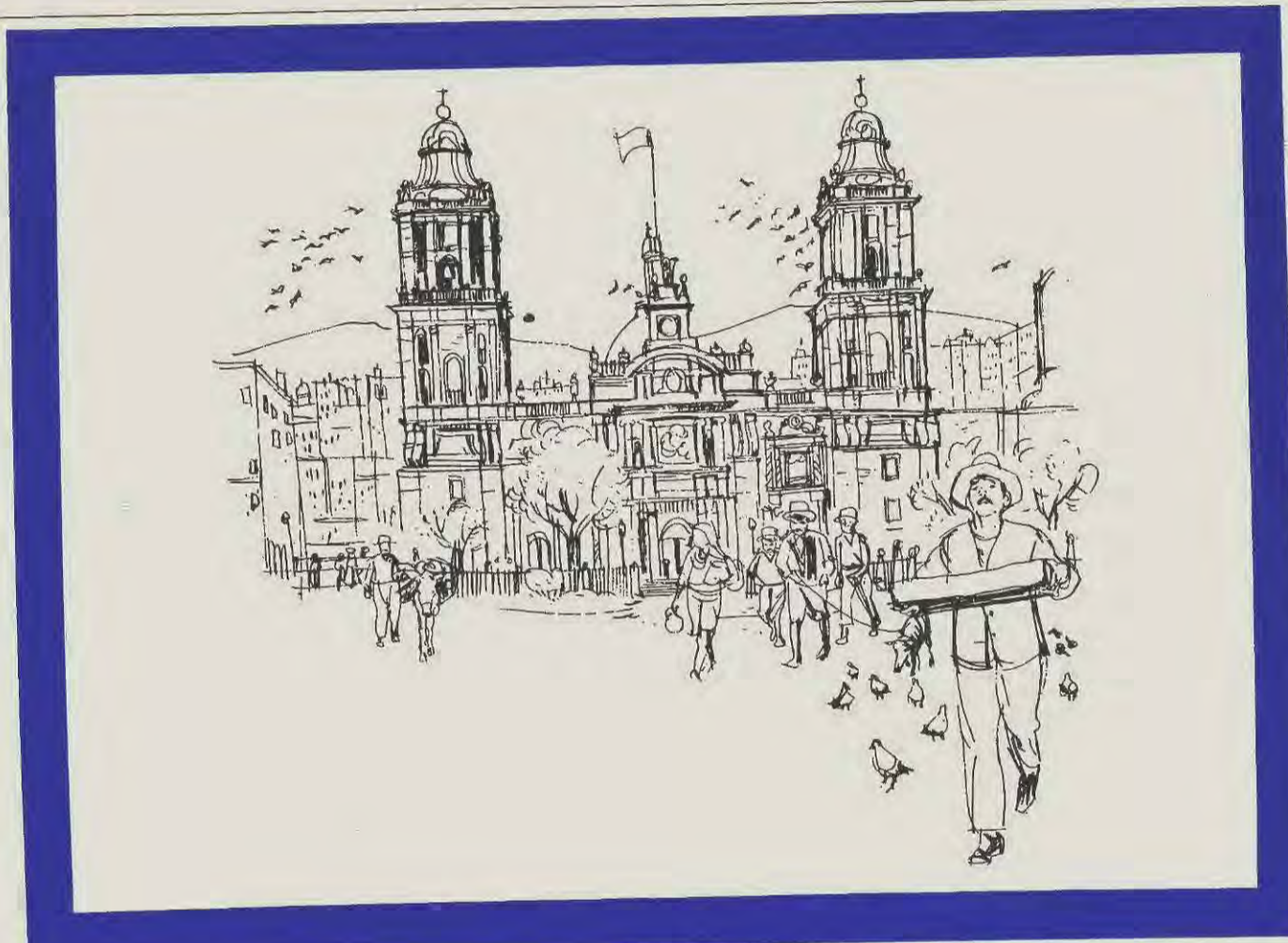
The joint committee on atomic energy report on the 1957 bill suggested that Congress might consider the appropriation of additional funds in the event of a nuclear incident that causes damage in excess of \$500 million.

The review committee proposed by Rep. Saylor and others would conduct an "intensive probe" into the atomic energy program, "with the specific objective of ascertaining whether the existing civilian nuclear program is responsive to the public need, assessing the validity of the assumption upon

which the existing program is built, and determining what changes should be made in the program."

Resolutions proposing such a review committee have been introduced by legislators year after year, and are "systematically ignored by the (joint) committee," Rep. Saylor charged.

"The situation painfully reminds me of the tragedy and shame of the Congress with respect to coal mine health and safety legislation. Unfortunately, it takes major coal mine disasters to spur the Congress into action. Considering the number of lives at stake in the proliferation of nuclear plants around the country, I pray the Congress and especially the members of the joint committee on atomic energy will not wait for a nuclear plant disaster before it does something to reassure the nation as to the safety of civilian nuclear plants," Rep. Saylor said.



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# AGC's construction strike pool administered by Bermuda insurer

WASHINGTON—A recent report by the Associated General Contractors that construction strike insurance is now being offered through a Bermuda-based Lloyd's of London syndicate was not altogether correct, the construction trade group has told *Business Insurance*. The plan is being administered by a Bermuda-based insurance company, but the insurer has no connection with Lloyd's.

Moreover, the concept is not a pure insurance setup, a spokesman for the AGC said. Rather, it is a "pooling of funds idea whereby reimbursements are made to contractors according to need."

The erroneous report was first brought to the attention of *Busi-*

*ness Insurance* by Garrett Redmond, an assistant vp of Fireman's Fund America in San Francisco. Referring to the "Bermuda-based Lloyd's of London syndicate," Mr. Redmond wrote:

"CAN THIS be correct? Surely all syndicates composed of underwriters at Lloyd's are based in London and write business only through accredited Lloyd's brokers."

Mr. Redmond's letter was followed by a communication from John C. Boden, manager of Arch Insurance Co. Ltd., the Bermuda firm originally associated with Lloyd's in the report. Mr. Boden noted that no such connection exists.

The matter has been the cause

of some embarrassment to Associated General Contractors.

"There was a little confusion there," a source with the AGC said the other day. "Originally we had developed a plan for construction interruption insurance and had approached a Lloyd's syndicate with it. However, the costs they quoted for administering the fund were a little high and in turn we were referred to Arch.

"WE JUST found out the other day ourselves that Arch isn't affiliated with Lloyd's," the source explained. "I think the confusion was the result of the fact that we merely developed the plan and then turned it over to outside counsel, who was asked to find

someone outside the U. S. to administer it for us. After the plan was developed we wanted to stand in the background because we couldn't afford politically to be associated too closely with the plan. We have to deal with the AFL-CIO, too, you know."

The construction insurance pool concept has been challenged by one AFL-CIO local during negotiations, in southern California. Operating engineers there have sought to prevent such a plan, contending that they are, in effect, "government supported" because they can be purchased as a tax-deductible policy. Also, the union says, insurance premiums are "recoverable as a business expense under government contracts."

In the meantime, the AGC reports that "close to 1,000 applications to join the pool have been received from U. S. contractors." Funds will be channeled to Arch Insurance Co. Ltd., which in turn will administer the activities of the pool for "a very small percentage," an AGC man said. ■

## TOVALOP ...

*Continued from page 1*  
land, South Africa, and Argentina. The aim is to top 80% of world tanker tonnage in the next two years.

The pool was officially announced in London Sept. 24 by International Tanker Owners Pollution Federation, of Mincing Lane, E. C., which issued this release:

"The agreement whereby tanker owners will compensate governments with a maximum of \$10 million per tanker per incident for their clean-up expenses in the event of an incident involving pollution will become operative Oct. 6 noon, Greenwich Mean Time.

"Under the TOVALOP plan (Tanker Owners Voluntary Agreement Concerning Liability for Oil Pollution) each tanker owner who is a member undertakes specific obligations with respect to compensating national governments in the event of an oil spill for their clean up costs to a maximum of \$100 per gross registered ton of the vessel, or \$10 million per tanker per incident, whichever is less.

"The agreement provides also that a tanker owner who has taken action to clean up any discharge of oil that threatens to pollute, or actually does pollute, coastlines will be reimbursed for the cost of such clean up."

Maritime governments are now being officially informed of the tanker agreement. ■

## Lloyd's has cover

In a story on trade show insurance appearing in the Sept. 15 issue of *Business Insurance*, it was stated that the basic policy can be extended to cover cancellation for any reason—snow, riots, epidemics, strikes, blackouts—with the exception of the inability to raise money to put on the show. This coverage is written by Lloyd's of London. Fireman's Fund, which writes the basic coverage, does not handle the broader form.

## Shell ...

*Continued from page 1*  
close to the situation said it would "appear" that the oil company will not be dealing exclusively with Lloyd's on excess in the future.

"It's a serious matter of costs," the source said. "They're not really giving us a hard time. They're just saying 'take it or leave it.'"

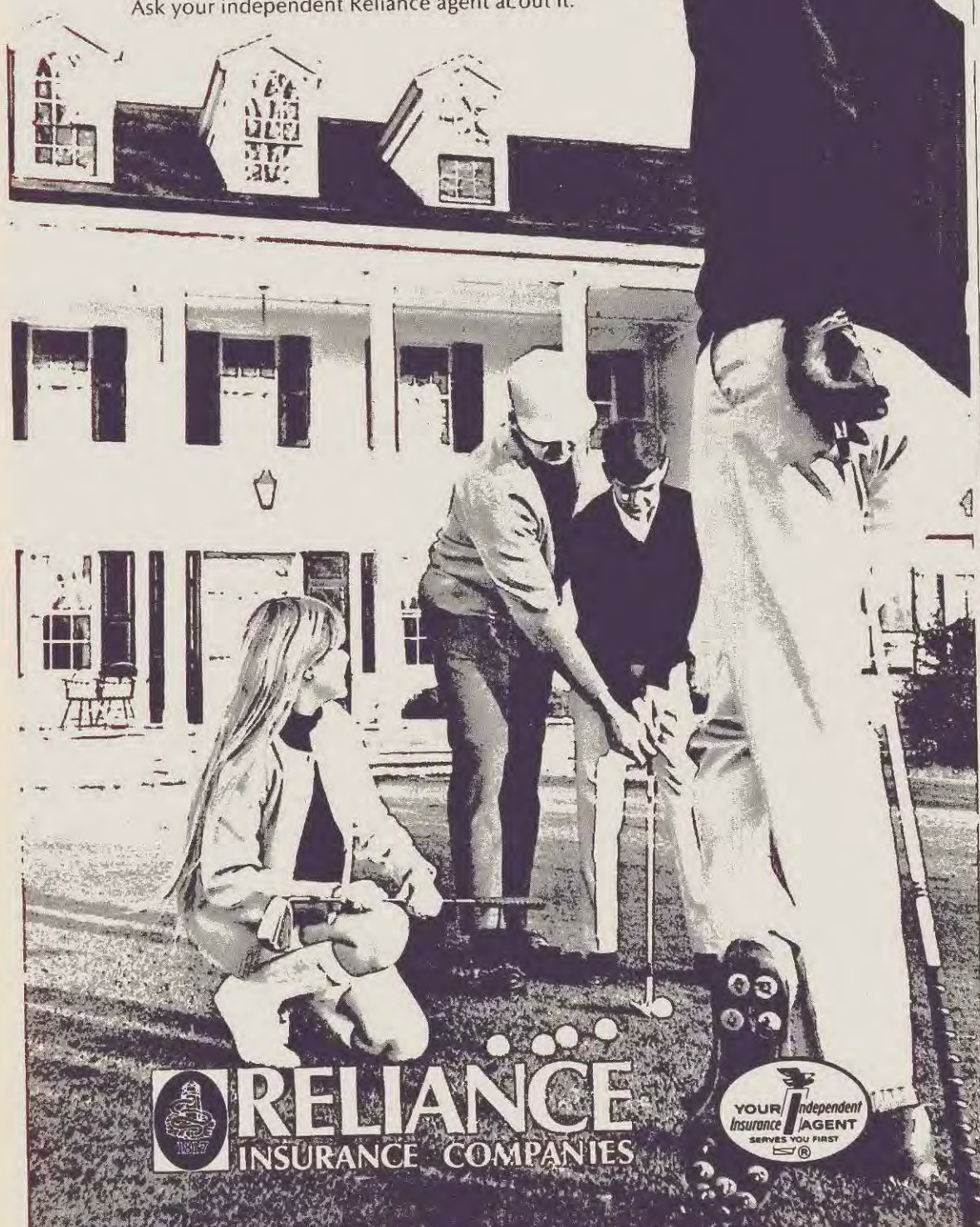
He added that the present contract with Lloyd's is on a three-year basis but that Lloyd's is opting for a one-year pact upon renewal. ■

## Travelers wins bid

The board of education of Rocky Hill, Conn., has accepted the sole insurance company bid—from Travelers Insurance Cos.—on a retirement plan for 48 employees. Travelers had bid \$7,287 for the retirement plan. Board spokesman, Ralph Roberts, said the plan provides the same benefits as the one the town offers other employees and will cost the board less, since it would have to provide \$8,800 to participate in the town plan. Other Rocky Hill town employees will also pay a small percentage of the cost, while the school plan is to be absorbed entirely by the board.

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# Lloyd's underwriters face capacity problems with vigor and confidence

LONDON—A survey taken by *Business Insurance* in the Lloyd's insurance field shows that capacity fears are being faced vigorously by all its leading members.

Natural confidence in the future is buttressed by improving claims returns, as well as by the belief that inflation and other world-wide challenges have been met.

Basic facts are that Lloyd's lost \$44 million in 1966, and more than \$90 million in 1965, after profits had begun to slip in 1964 to a low margin.

**STATEMENTS BY** leading Lloyd's personalities express their favorable reaction to its future prospects after its heavy losses in 1965 and 1966.

H. S. Mance, overall chairman of Lloyd's, said: "The British market, and the world market generally, suffered heavy losses in those two years. Insurers had not sufficiently anticipated the acceleration in inflation of costs, or the growing complexity of the present technological age.

"Some insurers have acted as if the rapid growth of a premium fund is a sure sign of profit. This makes for a competitive element which has made it more difficult for Lloyd's to get the rate increases essential in an inflationary situation.

**"BUT MATTERS** are now very different, and insurers at Lloyd's and elsewhere are once again tough and realistic in both their rate structures and selectivity," Mr. Mance said.

"The capacity of the market depends not only on the number of members, but also on the premium limits they choose to underwrite, and the number of classes of business they accept.

"It is very encouraging that in both these respects existing members consider that now is the time to expand.

"The number of increases in premium limits, and entry into additional classes of business for existing names, has been higher than ever before.

**"RATE INCREASES,** rather than risk exposure, are now playing the bigger part in the rise in premium income, which topped \$15 million in 1967, compared with \$10 million in 1964.

"The market has had to adapt itself to technological change the world over, such as oil pollution and jumbo jets.

## Canadian firm gets highest fine

TORONTO, Ont.—A Toronto manufacturing firm has been found guilty of violating the Industrial Safety Act and fined \$3,000—the highest penalty ever imposed under the act.

Judge Crawford Guest ruled that Toronto Metal Spinning Ltd. was to blame when an employee had his arm mangled in a machine May 8.

Eldon Laflamme, 17, had to have his arm amputated below the elbow as a result of the accident.

An industry safety officer testified the accident was directly attributable to lack of a guard on the machine, and another officer said the company had received three previous warnings to install a guard.

"Lloyd's underwriters are constantly improving their technical knowledge so that risks can be rated on the potential hazards, rather than by relying on past experience of a situation which is constantly changing, and which has obscured the dangers from inflation," he said.

"Great changes in the industrial scene call for much greater underwriting skill than ever before," Mr. Mance added.

**R. C. J. GORDON,** chairman of Lloyd's Underwriters Association, said: "Marine-market losses in 1966 are due to several factors, including rising cost of repairs through world inflation. But it has now made significant steps to

increase premiums towards those needed to make a profit after allowing for catastrophes, inflation, and the alarming increase in crime."

H. Eastwood, deputy chairman Lloyd's Underwriters Non-Marine Association, observed: "We are participating with other sections of the insurance industry in all measures being taken in the field of fire and crime prevention."

O. J. Lewis, deputy chairman Lloyd's Aviation Underwriters Association, commented: "Aviation hulls were an exception from the general improvement in premium rates last year, but there are now signs of an improvement starting in rating that class of business."

# dates for buyers

**Oct. 16-17,** Council on Employee Benefits, New York Hilton Hotel, New York, N. Y.

**Oct. 17,** Northern California Chapter of the Society of Chartered Property and Casualty Underwriters, All-industry day, Hilton Hotel, San Francisco, Cal.

**Oct. 20-22,** American Management Assn., Modernizing the pension plan, American Management Assn. Bldg., 135 W. 50th St., New York, N. Y.

**Oct. 22-24,** American Management Assn., Modernizing the group insurance plan, American Management Assn. Bldg., 135 W. 50th St., New York, N. Y.

**Oct. 23-24,** Management Seminars Inc., How to create and manage a captive insurance company, Rice Hotel, Houston, Tex.

**Nov. 5-7,** American Management Assn., Corporate risk management in a tight money/insurance market, Drake Hotel, Chicago, Ill.

**Nov. 5-7,** American Management Assn., Inflation—its impact on benefits and cost, Drake Hotel, Chicago, Ill.

**Nov. 18-20,** National Fire Protection Assn., 1969 fall conference, Denver Hilton Hotel, Denver, Col.

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# Insurance in Thailand 30 years behind U.S.

NEW YORK—Employee insurance programs, such as group life and medical coverage, have gained a fairly secure toehold in Thailand, but "in many ways the insurance business there is like it was in the U.S. 30 years ago."

This is the assessment of Don Albee, American International Assurance Co.'s vp for the Far East country. Mr. Albee was in New York to explain the insurance picture to key benefits people with American companies that have interests in Thailand.

"The Thais have not yet given wide acceptance to the importance of fringe benefits as an inducement to get good help," Mr. Albee said. However, he added, with the possible emergence of labor unions (they are not yet allowed in the country) and the examples being set by some companies who are getting better help

through added benefits he expects this to change rapidly. Even, he said, more rapidly than benefits changed in this country since the depression.

**THERE ARE** about 50 domestic and eight foreign insurance carriers in Thailand, which is slightly larger than Spain, Mr. Albee noted. American International has had an operation in Thailand for 20 years.

"We are presently writing about 60% of the life insurance in Thailand," Mr. Albee asserted, adding that American International is writing such coverage on Thais at the rate of \$4 million a month.

However, he said, only a minute portion of his company's business there is in the employee benefits area, although the company is the only one writing group health



Don Albee

plans at the moment.

"**WE'VE ONLY** written three so far," he said with a smile, but indicating that this was an accomplishment. Two of these are with local companies and the third is with Esso, which has an operation in the country.

Group life plans, on the other hand, are doing better. About 20 companies insure employees with American International, the vp said. In addition to some local

companies and Esso, at least two other American firms with interests in the country—Chase Manhattan Bank and the Bank of America—have group plans for their Thai employees, Mr. Albee said.

The typical group life policy averages about \$5,000, Mr. Albee said, adding that the amount goes about "three or four" times as far as it would in the U.S. Premium rates, however, are between 5% and 10% higher than in the U.S.

**MEDICAL COVERAGE**, on the other hand, is relatively inexpensive to the employer in Thailand, Mr. Albee noted. "A company can buy a hospital plan for his employee that will cover almost everything for about \$15 or \$20 a year. Hospital costs in Thailand," he added, "are dirt cheap."

"Group life programs cover mostly salaried employees where they exist and are mostly noncontributory, Mr. Albee explained. Group medical plans are also available only to salaried employees for the most part, but these are generally provided on a contributory basis.

"Employee benefit programs are just beginning at this point," Mr. Albee said, noting that this is also due to the fact that until now the Thais have not been the type of people who look ahead to possibilities or inevitabilities, such as illness and death.

"But," he reiterated, "this is changing rapidly, especially with those who are more educated than others. They are looking for employment with companies that provide benefits for their workers."

## Mutual fund investment benefit offered employees

CHICAGO—A payroll-deduction benefit plan that would enable workers to purchase mutual fund shares for as little as \$5 a week is being offered by Continental National American Investor Services, an affiliate of CNA Financial Corp. The program became available Aug. 1.

Bruce Hutchins, sales vp, told *Business Insurance* that a group explanation of the plan will be given to all employees of subscribing companies and private counseling sessions will be held with those interested in investing at their places of employment.

Mr. Hutchins said that the plan offers employees of smaller companies the opportunity to obtain benefits similar to those administered by huge corporations. "We're not limiting the plan to certain size groups," he said. "It's just that it will be easier to break into that area."

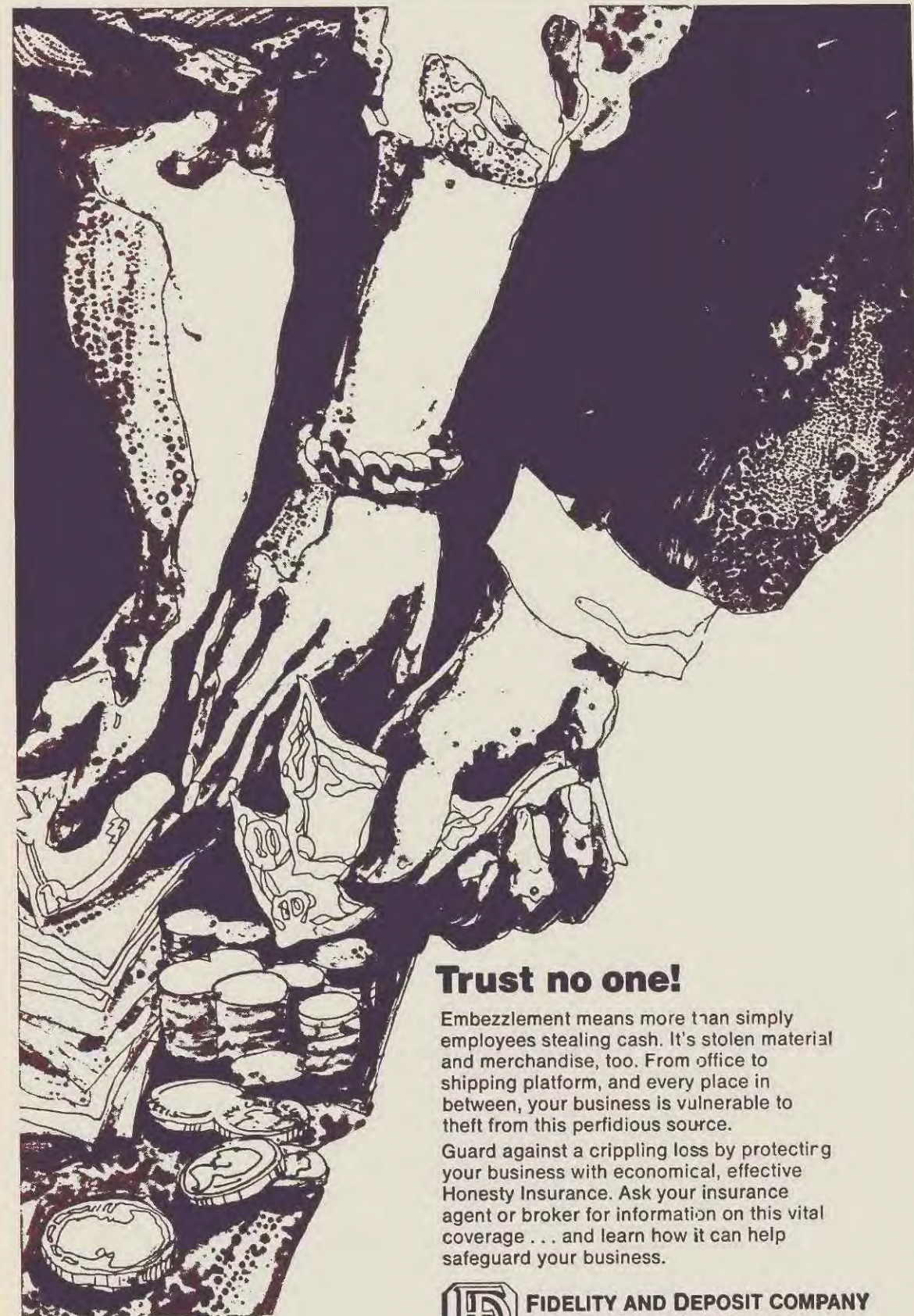
"**WE PLAN** to get to know the employees' present benefits so that we can explain what the employer is already giving them and counsel them on the advisability of their joining the investment program," he said. "This is a plan

in which not everyone should participate."

The service provides for \$5-a-week deductions as a minimum for a participant paid on a weekly basis. No maximum limit is stipulated.

Money will be invested in any of the funds offered by CNA Investor Services, as designated by the employee. Some of the funds to be made available are: Manhattan, Liberty, TMR Appreciation, Keystone Funds (offering nine), Oppenheimer, Dreyfus and Supervised Investors (offering three). "We have other funds," Mr. Hutchins said, "but we recommend these from an economic standpoint because the fewer we work with, the less it costs us."

The minimum investment figure, usually \$50 to \$250, charged by most funds will be waived under the new plan due to lowered costs stemming from mass enrollment and payroll deduction. The funds previously named have stated minimums of \$20 or less per transaction. The company hopes to enroll as many as 10,000 new investors during the first year and is presently working with several companies on presentations.



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# Workmen's comp costs cut when insurer gives its safety advice

MORGAN HILL, Cal.—Acquisition by Boise-Cascade Corp. of Aristocraft Travel Products here brings to light an almost classic story of how an industrial firm's insurance costs can be "substantially" reduced by close teamwork between producer, policyholder and insurance company.

When Irving B. Perlitch began manufacturing travel trailers in a converted Morgan Hill chicken coop some ten years ago, insurance problems were the farthest from his mind.

But as his then modest business venture developed and blossomed into California's leading travel trailer manufacturing operation, problems of insurance not only arose but became increasingly complex.

**THE PERLITCH** firm is based at a 20-acre site here, not far from San Jose. The business has grown from a 10-man operation to an organization that since 1959 has seen personnel increase to 550.

With the increase in personnel, facilities, equipment and production, the insurance needs grew correspondingly.

"More widespread operations," Mr. Perlitch pointed out, "led to broadened exposure and increased workmen's compensation costs. The problems and the costs had been spiraling upward."

In May, 1959, Mr. Perlitch and his insurance agent, Dale Cooksey of Cooksey, Battersby and Macbeth Insurance, San Jose, had placed Aristocraft's workmen's compensation insurance with Industrial Indemnity Co. at San Francisco.

**ARISTOCRAFT'S** experience modification rating (the insurance man's method of comparing the accident and claim loss record of a business with the records of all other businesses in the same category) was 145%.

"In effect," Mr. Cooksey said, "Mr. Perlitch was paying 45% more than the average insurance premium rate for trailer makers. However, this was a tough risk to place. Most carriers at that time wouldn't touch this kind of business. But Industrial agreed to write a policy."

Safety engineers for the San Francisco-based Industrial Indemnity analyzed Aristocraft's manufacturing operation, in an effort to track down the cause of the high insurance costs.

Three basic problems were isolated: inadequate guarding of woodworking machinery and saws; a high frequency of minor accidents resulting in costly lost time trips to a physician; and a serious lack of "safety consciousness" among plant workers.

**THE ENGINEERS** and Mr. Cooksey then developed a two-phase program.

"Although expensive initially," Mr. Cooksey explains, "we all believed the program would be well worth the cost, in terms of future lower net insurance costs."

## Arkansas rates hiked

A 6.4% increase for commercial automobile insurance went into effect this month in Arkansas, according to the Insurance Rating Board. Commercial auto increases included 4.8% for bodily injury and property damage combined, 18% for garage and 17.9% for physical damage other than collision. There was no change for commercial collision rates.

The first part of the program was preventative.

Machine safeguards were installed. Strict regulations were established (and enforced) on employee use of body protection equipment, such as hard hats and goggles. A company safety committee was created to maintain safety standards.

**INDUSTRIAL** Indemnity visual safety aids were posted in the plant and technical job safety guides were issued to all of the employees.

"In short," Mr. Cooksey pointed out, "our accident prevention staff helped the Aristocraft management raise the level of safety and the safety consciousness within

the plant."

The second stage of the program was remedial, as well as preventative.

To correct the high accident frequency, a full-time nurse was hired, to provide on the spot treatment for all minor accidents. This substantially reduced lost time visits to a physician.

**THE NURSE** also carefully interviews each employe to assure that no one is assigned a job incompatible with his physical capabilities.

Effect of the program soon became evident. By 1963, the company's experience modification rating was down to 82%, a 63% improvement over the 1960 rating.

Mr. Perlitch was thus saving in two ways, his insurance agent said, "with reduced rates and with substantial dividends."

For the first nine months of last year, Aristocraft's workmen's compensation insurance costs were \$53,540 lower than they would have been had the experience modification rate remained 145%.

**THE COSTS** were \$40,835 less than if the rating had been 100%, or the average for the industry.

Another \$28,131 was saved during this period by schedule rate credits (merit rating that modifies the basic workmen's compensation rate in California to reflect use of accident prevention equipment and techniques).

Overall insurance costs were reduced even further when Industrial Indemnity presented Aristocraft with a \$15,000 dividend check last year.

Today, Mr. Perlitch's net rate is

35¢ less per \$100 of payroll than it was in 1960 while the rates for the trailer manufacturing classification have gone up \$3.72 per \$100 of payroll during the same period.

**INDUSTRIAL** Indemnity executives now hope to have Aristocraft's experience modification rate even lower by the end of the 1969 policy year.

With new facilities for both Fiberglas materials and houseboard construction being added at the Aristocraft site here and a new plant, in Frankfort, Ind., this goal presents what Mr. Cooksey calls "a very real challenge to us all."

The premium the first year Industrial wrote the compensation, incidentally, was approximately \$2,000. Last year the EAP was \$100,000.

Since 1959, four of Industrial's top engineers have been assigned to the Aristocraft account.

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# Pensions outpace mutual funds in net accumulation of stock: SEC

WASHINGTON—Stock acquisition of noninsured pension funds in the second quarter of the year dipped to the lowest point in the last four quarters, according to figures released by the Securities & Exchange Commission. But pensions still outpaced mutual funds in stock accumulation.

Pension funds acquired \$1.08 billion of common stock (purchases were \$3.875 billion against sales of \$2.795 billion) in April-June of this year, down from \$1.32 in January-March, \$1.325 in October-December of 1968 and \$1.195 in July-September of 1968. The latest quarter's figures surpassed the \$995 million in stock purchases of April-June 1968.

The SEC noted that even though net accumulation was lower, pension fund activity in the market registered a new high, with an annual "activity rate" of 23.1%.

("ACTIVITY RATE" is defined as the average of purchases and sales divided by the average market value of stockholdings at the beginning and at the end of the period, stated at annual rates.)

SEC figures showed that mutual funds reversed their first quarter performance when they were net sellers, and acquired \$1.1 billion of common stock in the second quarter. They purchased \$6.3 billion of stock and sold \$5.2 billion worth for total transactions of \$11.5 billion (as compared to a record \$12.1 billion in the fourth quarter of 1968).

Life insurance companies, SEC said, acquired on a net basis \$415 million of common stocks in the second quarter—exactly the same as in the first three months of the year. Property and casualty insurers increased their net stock purchases by \$430 million.

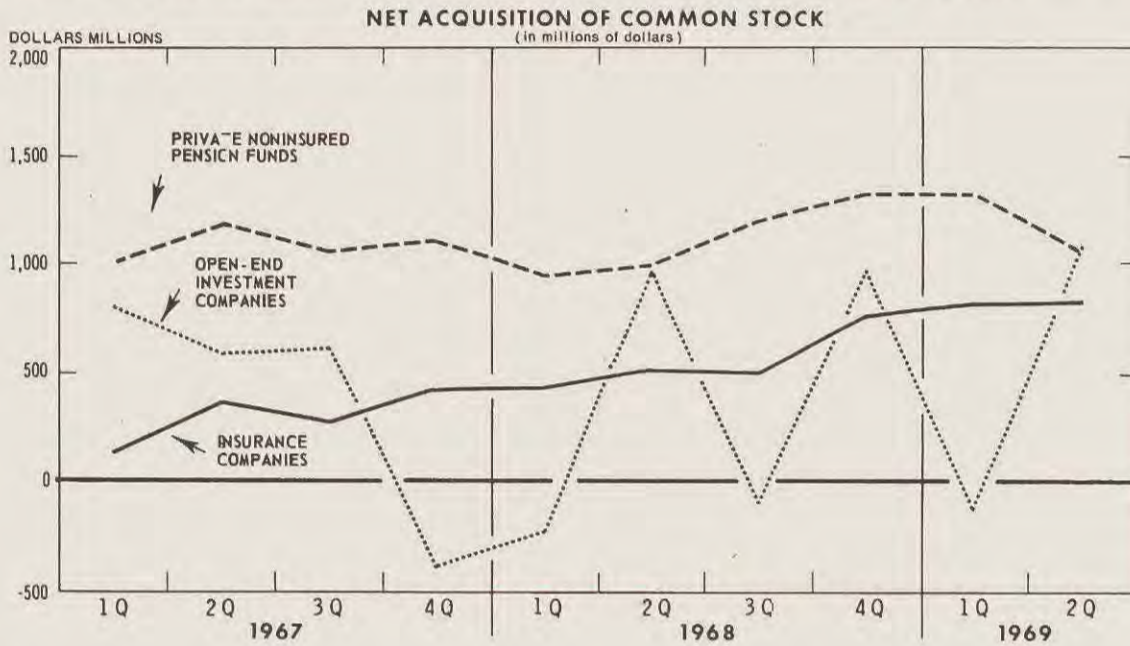
THE NET purchases of both life and property insurers, by the way, were at all-time highs.

Life insurers' activity rate of 28.1% was below the peak rate of last year, the SEC said. But it noted that property insurers have "significantly increased" their market activity—21% in the latest quarter as against 17.5% in the first quarter 1969.

Of the four institutional investor groups, SEC said, property insurers have shown the greatest increase in trading activity over the past year.

Overall, the dollar volume of institutional trading during the second quarter totaled almost \$21 billion—comprised of purchases of \$11.9 billion and sales of \$8.9 billion.

Net purchases were \$3.02 billion, up \$1 billion from the first quarter of the year.



## Zenith sets mutual funds

LOS ANGELES—Zenith Funding Corp. has set up payroll deduction mutual fund plans for ten employers, with an average of 15 employees each.

"The response has been tremendous, not only from the companies but from the employees. For most, it is the first time that anyone has ever offered them an opportunity to invest," according to Maxwell L. Rubin, chairman and chief executive of Zenith.

Mr. Rubin feels the mutual fund payroll scheme is "just one more step in the marriage of the insurance and mutual fund industries."

ZENITH FUNDING began its program in July, and so far about 90% of employees in each firm have signed up, Mr. Rubin said.

He said Zenith has set up programs for as few as three participants. "And a worker can have as little as \$20 deducted for fund shares," Mr. Rubin added.

Zenith, according to Mr. Rubin, has broker-dealer arrangements with a list of mutual funds. "We give each employee complete information on the funds. He then selects the fund and decides just how much he wants taken out regularly," he stated.

Participants, Mr. Rubin noted, aren't tied to long-term contracts. "They can drop out of the plan any time. If, for some reason, a worker runs into an economic situation that makes it necessary for him to drop out, he simply tells his employer and that's it. He still owns the shares that he has already purchased."

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# Captive firm with mail-order and credit life lucrative, says Dolan

NEW YORK—There is gold to be had in a captive life insurance company operation, especially when the captive's parent has a successful retail mail-order business. Furthermore, a major factor in that success can be credit life insurance.

That, generally speaking, was the observation of an executive of Gamble Alden Life, a wholly-owned subsidiary of Gamble-Skogmo Inc. The Chicago-based company is involved in a variety of operations and markets, almost all of them basically in merchandising and perhaps best known to consumers as the Gamble-Alden mail-order house.

According to Louis E. Dolan, vice chairman of the company's life insurance subsidiary, Gamble Alden Life has enjoyed prosperity since it made its debut in January, 1961, as John Alden Life Insurance Co. He outlined the firm's success story for insurance buyers and industry representatives attending a two-day captive insurance seminar here.

**"DURING THE** four years following its incorporation, John Alden Life acquired from zero, entirely by mail, insurance-in-force of roughly \$18 million, of which \$16.5 million were whole life policies and the balance term insurance," Mr. Dolan told his captive audience.

"It was at this point that John Alden Life became a 'captive' life company of Gamble, when, in December of 1964, Aldens and John Alden Life were acquired by Gamble-Skogmo," he went on.

"During 1965, its first year as a captive, John Alden Life had achieved insurance-in-force of \$53 million, or almost triple that of the year before," the vice chairman related, noting that it was at this point Gamble's management came up with its "big idea."

In addition to its own 30,000 employees, Gamble's execs figured, the company has thousands of merchandise suppliers, with their many more thousands of employees. It also has more than 3,000 franchises, who together with their employees furnish a "captive" market for the captive insurance company.

**"MOREOVER,"** Mr. Dolan continued, "with the huge credit business done by Gamble & Skogmo, credit life insurance seemed to be a natural adjunct." (He noted that the company presently has more than \$250 million in outstanding receivables.)

"Last year, the company changed its name to Gamble Alden Life Insurance Co. and by the end of the year had life insurance-in-force of \$606 million," Mr. Dolan said, adding that the geometric rate of expansion is reflected by comparison of total premiums in force. "In 1967, Gamble Alden Life had a total of \$5.3 million; in 1968 it was \$8.1 million; this year it will be \$10.25 million," he said.

It was at this point Mr. Dolan noted that one of the markets—credit life insurance—was "the key factor" in the company's rapid growth.

"Credit life is sold on both revolving charge accounts and installment sales contracts," he explained. "The insurance coverage pays off the account balance in the event of the death of a Gamble's customer, up to as much as \$5,000. And so," he noted, "the congeneric aspect or relation of merchandising and insurance emerges into view."

**"THE ACCEPTANCE** of this

product is, however, the crucial thing, both to Gamble's and the customer," Mr. Dolan continued. "The amazing statistic is that, to date, in excess of 92% of eligible Gamble customers have purchased credit insurance. As a result," he added, "the single premium coverage on installment purchases became so profitable that we reduced the premium rates and extended coverage to the spouse as well. Our rates have been well below the state maximum because of the phenomenal acceptance or, in insurance concepts, because of the broad spread of the risks."

Mr. Dolan noted also that no small part of Gamble's success

with credit life is due to the fact that a store manager's bonuses are directly related to the number of credit life policies his salesmen sell.

"In management terms," he went on, "the success of one line permits expansion in another; and the credit life business permits the life company to expand more readily to sales of permanent insurance lines that require several years to become profitable, and still show a very respectable statutory gain from operations."

**GAMBLE ALDEN** Life, he revealed, will begin experimenting with credit property insurance this month in two of its merchandising divisions. The line, he said,

is "a natural supplement to credit life insurance. Whereas the latter insures the life of the account holder, the credit property insurance will insure the merchandise purchased by Gamble's customers, so long as any unpaid balance remains in the account for the merchandise purchased. Our own projections on this new coverage suggest even greater profitability than has thus far been realized on the highly profitable credit life insurance," he said.

Questioned later about credit property insurance, Mr. Dolan admitted it would probably be in the experimental stage for some time before mass marketing. Some questions—such as what part of a customer's balance applies to a product for which he claims a loss—have not been solved as yet. Credit property insurance will not apply to thefts, however, at least not for the time being, Mr. Dolan further explained.

Commenting further on the growth of Gamble Alden Life, Mr. Dolan noted that in 1964 "it was near the bottom of the insurance companies of the nation. Today (as of May, 1969)," he said; "that picture has changed considerably as Gamble Alden Life has moved up to become the 238th largest insurance company in the U.S. in terms of insurance-in-force." He added that the company is now licensed to do business in 29 states and all the provinces of Canada, and now has applications pending in most other states with approval expected soon, with the possible exception of New York.

The Gamble Alden Life story, however, does not end there. The company, Mr. Dolan noted, now finds itself involved in a romance with another newly created Gamble's subsidiary, Gamble Alden Securities Inc., whose sales reps are licensed to sell securities of

*Continued on page 56*

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# Captive . . .

Continued from page 55  
the parent company and over 400 mutual funds. Sales counselors were combined with the insurance company salesmen and now all have dual licenses enabling them to offer total financial planning, including personal lines insurance of all kinds.

"MANAGEMENT," he explained, "made the decision to establish a division of the company to administer group insurance programs including life, health and accident," adding that a

"ready market for an attractive employe benefits insurance program existed with the managements of the various Gamble's subsidiaries and divisions, and also with the many merchandise source companies who, in turn, have large numbers of employes.

The life captive last year also created a new subsidiary, Gamble Alden Agency Inc., with the objective of developing a dually licensed sales force to market Gamble Alden Life products, securities and property and liability insurance on a brokerage basis. Another function of the agency company, he noted, is to serve as a broker in purchasing Gamble's

corporation insurance coverages in property and liability lines. "Moreover," he added, "the agency may even serve as a vehicle for self-insurance in these lines, as annual premiums total in the millions of dollars on Gamble's properties located in 46 states and all the provinces of Canada."

In addition, Mr. Dolan told the captive seminar, the agency is currently offering, "on a brokerage basis only, employe automobile insurance on a payroll deduction basis." As of this month, he explained, a complete insurance package for franchise operators is also being offered. The package includes physical damage, business interruption, liability insurance and life and health insurance. Homeowners insurance will also be offered on payroll deduction in the near future as well, he said, adding that employes of Gamble's franchises will be eligible eventually.

Mr. Dolan noted that employe acceptance of these programs has been "most gratifying."

"Offering the insurance coverages at very competitive rates on an annual rate basis with nationally known carriers, and on a payroll deduction basis, affords the employe a real benefit. ■

# RR retirees to lose group life insurance

NEW HAVEN—Some 1,200 retired employes of the former New York, New Haven & Hartford Railroad will lose their company-paid life insurance on Oct. 31.

The group had been covered by group life insurance by the New Haven, which is now part of the Penn Central Railroad.

Since the New Haven merged with Penn Central last Jan. 1, the estate of the bankrupt New Haven had continued to pay premiums for retired employes, who range from age 66 to 96.

PAYMENT OF retired employes' insurance premiums was not part of the merger agreement, Business Insurance was told.

Richard Joyce Smith, a trustee of the bankrupt line, who continues as an estate trustee, said in a letter to former employes, "The estate may not assume on a continuing basis the cost of contributions heretofore made to maintain this coverage."

Mr. Smith added that since the Penn Central takeover, the estate had continued its half of insurance payments "for an appropriate interim period," to enable retired employes to have sufficient time to convert their insurance under privileges available to them through the group insurance plan.

Last payment by the estate will be made Oct. 1 for that month's coverage. ■



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## Indictment . . .

Continued from page 7

leged Insurance fraud, Federal authorities said.

Others named in the indictment as victims of the alleged scheme to defraud policyholders are four insurance salesmen, all of whom sold insurance for British Frontier.

They and the states in which they sold British Frontier insurance are, according to the indictment and Federal authorities, C. MacChamber, of Idaho; John M. Chervenak, Texas, Oklahoma and Missouri; Charles Woodward, Illinois; and Russell Grace, Texas. Federal authorities also allege that the British Frontier insurance operation duped many other brokers and agents, along with their policyholders.

THE INVESTIGATION of the defendants and British Frontier that led to the indictment was put into high gear after W. W. Fritz, director of insurance for Alaska, made a routine check of the Nasau-based insurer.

Mr. Fritz said that the Alaska department of insurance became aware of British Frontier after seeing the company's name on an agent's report.

Acting on the results of his investigation, Mr. Fritz said that he issued an order that said no more insurance could be sold by British Frontier in Alaska, because, for one reason, the company was not authorized to underwrite risks in Alaska.

The Alaskan director of insurance also said that he contacted U.S. postal authorities in Chicago after consulting with insurance department officials in Nevada and Arizona.

The head of the nonadmitted insurers office of the National Assn. of Insurance Commissioners, Joseph A. Humphreys, pointed out that generally insurance operators who defraud policyholders try to sell coverages that have premiums of \$1,500 or more a year, because a few such sales make a sizeable annual income.

He added that it would be almost impossible to estimate the amount of insurance written by British Frontier, but that some reports are now available on a confidential basis from various insurance departments in the U.S.

He did not think that Business Insurance's estimate of \$10 million in premiums was out of line. ■



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# TV camera expedites Camille settlements

SAN FRANCISCO—The newest technique for investigating insurance claims was put to its first major test along the Mississippi Gulf Coast in the aftermath of Hurricane Camille.

Adjusters for Fireman's Fund American Insurance Companies used a portable television camera-recorder to help process the claims of an estimated 5,000 policyholders who suffered Camille damage.

Fireman's Fund, which has headquarters here, was the only insurance company on the scene using videotape in claims adjusting.

**THE COMPANY** established a special catastrophe office at Biloxi and rushed adjusters from California, Oregon and New Hampshire to help process claims.

A total of 16 adjusters were on the scene when the special office began operations only a week after Camille passed the coastal areas. Later an additional seven adjusters were flown in.

Early estimates placed Fireman's Fund losses at between \$8 and \$10 million gross.

Thomas Rodgers, home office general adjuster from Atlanta, supervised the operation.

"**THE FIRST** day of operation," Mr. Rodgers said, "more than 900 notices were logged in. This mushroomed to 1,700 by the end of the third day and we were the first to have Camille claims approved for payment by the American Insurance Association's storm advisory office."

With the portable television unit, adjusters recorded on videotape the general condition of the hurricane area and specific damage to properties insured by the company.

The tapes will be kept for permanent documentation or will be re-used as claims are closed and paid.

The company scored another insurance industry "first" by using television for industrial news reporting.

**A SEGMENT** of tape was flown here to provide the insurer's management with "a virtual eyewitness account of the scope of destruction, extent of damage to insured properties and the progress in adjusting losses."

The videotape system used was a compact Sony "VideoRover" VTR unit that included a portable battery operated camera recorder, monitor equipment, extra tapes

and battery charger.

The complete system was assembled and air-lifted to Mississippi on 24 hours' notice.

A microphone attached to the tv camera permitted the adjuster to record his comments on the videotape while he filmed a scene.

Patrick McGowan, audio-visual manager for the company, spent five days recording storm damage and interviews with agents.

The videotape will be compiled into a documentary for claims and underwriting training programs. And the videotape unit in the Biloxi office will be kept on hand as long as the office remains open, expected to be at least three months.

# London adds up Camille losses

LONDON—Underwriters in Britain are still analyzing the effects of Hurricane Camille. Claims are obviously still coming in, and will continue to do for a long time, so that even the experts refuse to predict its final impact on the market.

The boldest estimates so far are that the London market as a whole may have to bear liabilities of close on \$40 million.

But this may be placing them too high at the moment, to judge by inquiries among both members of Lloyd's and the big British insurance companies that have to face the problem.

**AT LLOYD'S**, which will largely have to deal with marine and other exceptional claims, the latest feeling is that the Camille bill

facing its members will reach between \$15 million and \$20,000,000.

It is only those with memories of the long-delayed effects of Hurricane Betsy who instinctively feel, like one top London underwriter, that it may rise to \$25 million.

On top of this, however, is the bill facing the two or three British major insurance firms that are involved in such claims as damage caused when Camille swept inland.

They certainly fear, more than a month after the catastrophe, that their liabilities alone will run into the \$10 million to \$12 million category.

**THIS IS** based (by the British Insurance Assn.) on revised estimates from the U. S. of the exten-

sive damage caused.

So that if the experts' long-term forecasts are right, Camille will certainly cost the British market \$30 million and may rise to \$40 million.

Insurance firms are already gearing themselves, and so are the various Lloyd's underwriting syndicates, to meet a heavy bill.

This comes just when Lloyd's members are hoping they have turned the corner from bad times, and have a chance of making a profit after the double-losses of \$44 million in 1966 and \$90 million-plus in 1965.

**THEIR OPTIMISM** is based on a sharp turn-round in the claims ratios since those two disastrous years that badly hit its six thousand members and brought natural fears about capacity.

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### Insurers, Getty Oil report Camille toll of \$26 million

NEW YORK—Hartford Insurance Group, Aetna Life & Casualty, Travelers and St. Paul Fire & Marine have reported their estimated losses from Hurricane Camille.

Hartford said its net loss will hit \$8.5 million; Aetna posted losses of between \$7 million and \$8 million from some 3,000 claims; Travelers estimated losses at about \$7.5 million; and St. Paul reported Camille losses of \$1.3 million.

Getty Oil Co. estimated physical losses from Camille at its terminal facilities in Venice, La., at \$2 million. A "significant" portion of the losses are covered by insurance, Getty said.

## Funds . . .

Continued on page 10

a long run return of 9%, of which growth accounts for only 5% or so, is this apt to be very disappointing in a speculative environment when people are used to hearing stories of 20% a year?

Does this mean therefore that

5% future return on bonds and 9% combined return on stocks really means that bonds are apt to go up and stocks are apt to be sold by disappointed speculators, so that really what one should be doing today is really buying bonds? This is just the devil's advocate kind of question reading from this figure. Any comment on that?

**Dr. Zinbarg:** Well, I can tell you personally that I sold all of my stocks and bought bonds. I think bonds are an extremely attractive buy from a cyclical point of view at the present time. I really don't agree that the average investor really expects 20% per annum or anything like that. I think he may talk as if he expects it, but over at Prudential we use as one

method for evaluating the level of stock prices a set of assumptions one of which is that investors expect on average about 8.5% annual rate of return. Without going into details over at least the last 10 years this assumption has worked out very well as I think investors really do on average in aggregate look back at what has happened over time; sure they would like 20% but I don't think they really expect it.

**Mr. Dreher:** I have a somewhat different view. I think that the knowledgeable investor is more likely as time goes by to first take a longer time span than a year or three years or five and also that he is likely to look for performance relative to market. In a market climate such as we have this year the man who is not losing money has done an outstanding job.

Whereas in the market climate of 1967 a man who had 15% did not do a very good job in managing an equity portfolio. I think it is necessary to set investment objectives in relation to that period of investment activity within which the comparisons are being made.

Over the weekend I was reading an interesting article in Forbes which was analyzing the performance of mutual funds. I would recommend it to all of you as an interesting analysis of what a group of mutual funds has achieved and I think you can draw some analogies. You can interpret this information about mutual fund performance to get a better awareness of how a cross section of pension funds managed by other types of portfolio manager might produce performance. It's necessary as this article points out to look to the performance in the up period of the market and down markets separately in order to evaluate the achievement of the portfolio manager.

Also it is my impression that an additional stress and a proper stress is being placed on consistency of performance. Because of the political and human elements involved in this whole area I find it disturbing—and I know our clients do—to contemplate that 50% up and 50% down performance from one year to another. You might make a mathematical case that significant fluctuations up and down in performance over a period of time would produce a greater asset accumulation and therefore be desirable, but it is damn tough to take the pressure and continue to be convinced that you are right in that down period.

I think consistency of performance relative to meaningful mar-

ket indices or tests of other fund performance is being given increasing weight. To come back and say something about Ed's comments I think that the degree to which let us say the prudent investor is willing to settle is certainly a lesser degree of excess over the average than some people have talked about.

Getting 50% or 100% more than the market average just doesn't work, because if very many people did that for much time they would have a corner on all of the assets. The real world suggests to me—and I confessed that I don't have data on this, we are trying to accumulate it—that premium over an average of somewhere in the 15% to 35% range is about all that investors of this type of fiduciary fund are entitled to expect from the best of portfolio managers.

**Mr. Zinbarg:** I would like to underscore that too and indicate that 15% to 35% means not percentage points but if the average return is 9% then someone who does 12% over a long period of time is doing an amazingly good job, and anyone who tells you that it is relatively easy to do 15% or 16% per annum, or anything like that is just snowing you because we are talking about probability. The odds are just infinitesimal that anybody is going to have such a performance. ■

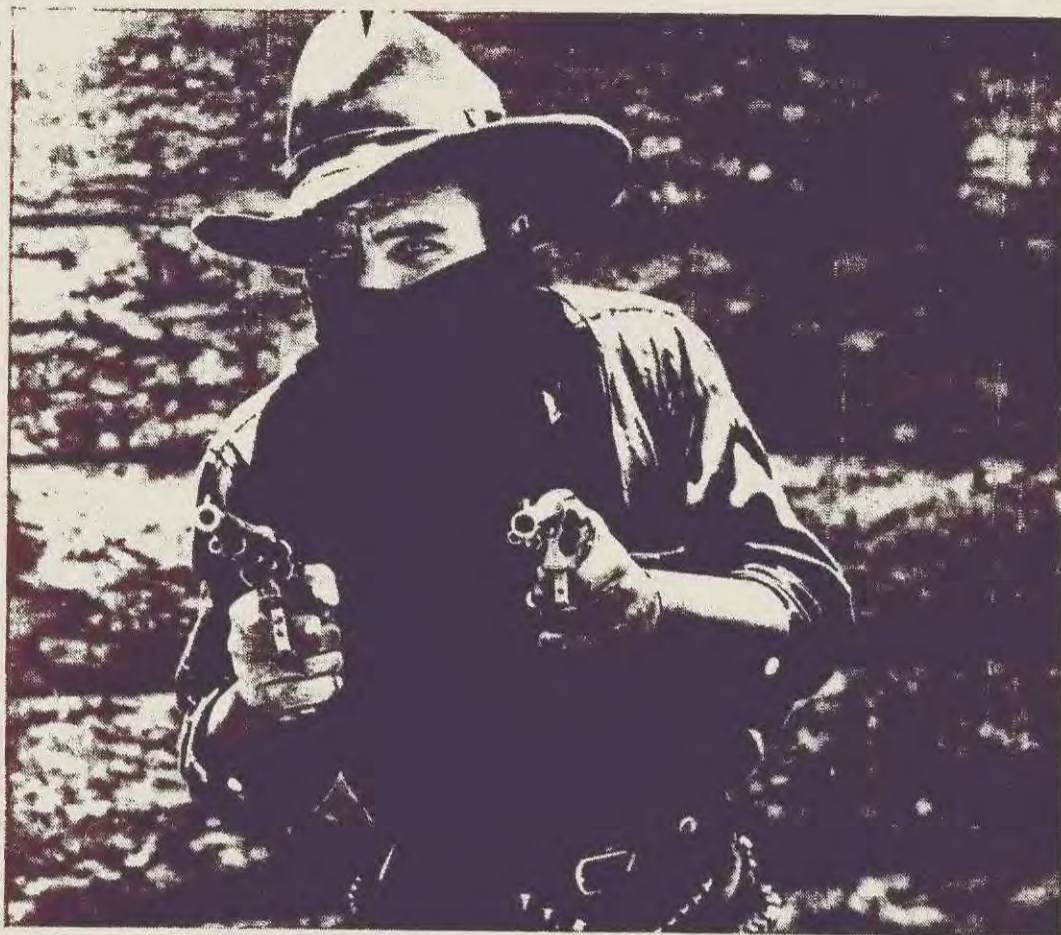
## Canadian auto group sets captive

VANCOUVER, B.C.—Conway Parrott, president of the British Columbia Automobile Assn., has reported the 176,000-member association will have its own insurance business by Jan. 1.

Mr. Parrott said the step, approved by a majority of members at a Vancouver meeting, means "insurance in the long run will be less expensive because we are a nonprofit organization and we appeal to a better-than-average motorist."

The new service will be known as the B.C. Motor Insurance Co. and will operate under an act of the Legislature adopted in 1964. The BCAA previously acted as an insurance agency for Employers' Mutual Casualty Co.

The American Automobile Assn. is also moving to establish an accident insurance firm, AAA Life Insurance Co., *Business Insurance* reported in its July 7 issue. ■



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