Trusts retrench in wake of court decisions

By GREG DAVID

CHICAGO—Three of the first and most aggressive self-funded multiple employer trusts this month agreed to end their self-funded benefit operations as state officials intensified efforts to regulate the trusts.

Employe Security Benefit Assn. of Bellevue, Wash., and Common Market Employe Benefit Assn. of Phoenix agreed not to solicit new members while they search for an insurer. Continental Employe Benefit Assn. will now insure its members with a Washington state insurance company.

State insurance officials report a significant decline in self-funded trust activity following two court decisions in favor of state regulation and a flurry of cease-and-desist orders from state insurance departments.

However, other trusts say they have restructured their business in an effort to comply with the court decisions. And at least two trusts appear likely to pursue their fight against state regulation in the courts.

The self-funded multiple employer trusts provide medical and death benefits and file with the U.S. Labor Department as employe benefit plans under the Employe Retirement Income Security Act (ERISA). They argue that ERISA's preemption of state insurance laws protects them from state regulation.

But the Labor Department has not accepted jurisdiction over any trust and intervened in a Kansas court case to argue Employe Security Benefit Assn. (ESBA) was not covered by ERISA since it solicited individuals.

Two federal courts have also ruled that two trusts are not covered by ERISA. In Arizona, the court focused on the origin and control of the trust by the administrator and decided VIP Insurance Trust of Phoenix was not an employe benefit plan under ERISA.

And a federal judge in Kansas found that ESBA was merely a scheme to escape state insurance regulation. That decision directly affects trusts that solicit individuals and are similar in structure to ESBA.

But the Kansas court also set up a test for an employe benefit plan focusing on the profit motive of the organizers and the solicitation of new members. Few self-funded trusts appear able to pass the test.

Employe Security Benefit Assn. has agreed with the Washington insurance department not to solicit any new members, according to ESBA attorney Lee Brooke. The trust is now searching for a carrier.

"My main interest is in the payment of claims and in servicing our members until we can find a licensed carrier," Mr. Brooke said. ESBA involves about 8,000 individuals and employers and provides benefits to

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Federal preemption urged

Varying state laws dismay benefit panel

By SUSAN ALT

CHICAGO — Benefit managers working for corporations with employes in many locations "are rapidly going insane," offered one benefit manager when asked about the multiplicity of state and federal benefit regulation.

Although hopefully a bit exaggerated, the response expresses the confusion of the *Business Insurance* Employe Benefit Board over conflicting and multiplying regulations on benefits. State laws mandating certain benefits, court rulings and the possible preemption of state insurance regulation by the federal pension law have resulted in a trying and uncertain picture for benefit managers.

Setting out to discover the Benefit Board's preferences for state or federal regulation of benefits didn't clarify much either. At first glance, 85 leading benefit managers nationwide appeared to be solidly in favor of federal regulation of benefits as the only viable alternative to the mind-boggling politics and differences among the rules in 50 states.

The apparent preference of corporate benefit directors for federal regulation—and simplification—of benefit standards flies in the face of risk managers' views. Just last month, a survey of *Business Insurance's* Editorial Advisory Panel disclosed that 70% out of 101 risk managers questioned would stick with state insurance regulation.

Eighty of the panel participants said they favor federal standards under ERISA. One panelist said he wants to return to the days of yesteryear, with neither state nor federal regulation; two brave souls who don't mind wading through sheaves of paper said they'd prefer continued state rule. Two managers said they don't know which would be better.

At second glance, however, their preferences weren't quite so black-and-white. After a series of questions about state regulation of employe benefits, we asked benefit managers whether they'd rather have a uniform federal statute outlining basic benefits to be pro-

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Week of October 17, 1977

business insurance

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

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Carter tax plan targets life and legal benefits

By JERRY GEISEL

WASHINGTON — A special Treasury Department task force has proposed a sharp reduction in the tax-free portion of employer-paid group term life insurance, *Business Insurance* learned.

The proposal, which is part of the Carter administration's soon to be announced tax reform package, would force employes to pay tax on group term life insurance above $25,000. Currently, employer-paid premiums on the first $50,000 of insurance coverage are tax-free to employes.

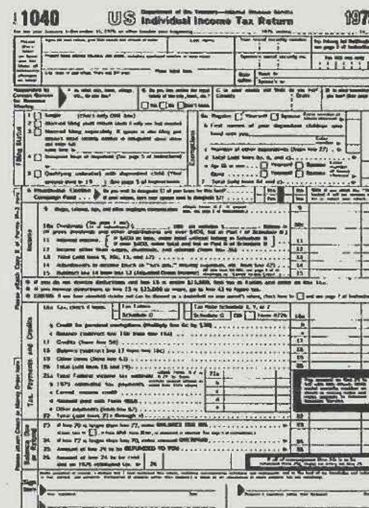
The slashing of the tax-free portion of employer-paid group term life insurance is part of a series of Treasury recommendations that will change the deductibility of benefits.

Those proposals include:

- Reducing the ceiling on pension benefits high salaried employes would be eligible for. A limit would be placed on the amount a company could contribute for the benefit of employes who own big chunks of company stock.
- Repealing the tax preferences Congress enacted last year in which employes don't have to pay taxes on benefits received for employer-paid group legal insurance.

The Treasury Department also has proposed changing the rules governing the integration of pension benefits and Social Security, according to the Wall Street Journal. Treasury officials, however, declined to discuss the issue or to detail the possible changes.

While the tax package now sitting on President Carter's desk doesn't make any specific references to taxation of captives, Treasury officials generally ap-


1040 US Individual Income Tax Return 1975

prove of August's IRS ruling that companies cannot deduct as business expenses premiums paid to an offshore insurance company wholly owned by the parent.

"Reserves for self-insurance are generally without specific legislative blessing and are not permitted for tax purposes," said a Treasury administrator. "I'm not sure why that kind of reserve ought to be permitted in the Bahamas if they are not permitted onshore."

As a result, little sympathy could be expected from the administration in overturning that controversial IRS ruling.

But in the area of product liability, the Treasury official offers a ray of hope, noting that the administration would not stand in the way of proposed legislation in Congress that would give tax deductions for product liability self-insurance reserves.

A senior Treasury Department official, who confirmed life in-

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Some at Lloyd's won't cover punitive awards

By JOHN H. MILLER

LONDON — Several leading Lloyd's underwriters are excluding punitive damages from their liability policies, although other syndicates have adopted a wait-and-see attitude.

The punitive damage issue in London has been pushed to the forefront by the action of the Insurance Services Office and some U.S. insurance companies to exclude punitive damages from their liability policies.

"Punitive damages are being excluded from my policies as of now and I think it will stay that way now that the U.S. market has taken this position through the ISO," said one leading non-marine underwriter who deals with a wide range of product liability and other business.

Charles Skey, chairman of the Non-Marine Underwriters Assn. at Lloyd's, said leading market specialists would meet soon to look at the clauses covering punitive damages.

"At the moment decisions are being taken on an ad hoc basis depending on just what type of risk is involved and we are trying to find out what course underwriters wish to adopt," Mr. Skey said.

"The general view is that it is

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Benefit levels stabilize as costs increase, consultant's survey shows

PHILADELPHIA — While the cost of employe benefits keeps going up, the amount of benefits such plans provide is stabilizing. So concludes Hay-Huggins' 1977 noncash compensation comparison.

"Plans whose benefit amounts are based on current pay levels, such as basic death benefits and pensions, have experienced relatively little change in the past year, since benefit increases follow automatically with salary increases," the Philadelphia actuarial organization reported in its monthly bulletin.

"Many plans whose benefits are based on the cost of services, such as medical care, have been amended to increase the benefit amounts and the benefit limits," the newsletter noted.

The private survey analyzed the benefit practices of 468 participating companies. Distribution of the complete study is restricted, for the most part, to these employers.

Stability of pension plans represents a marked change from the past few years, noted Hay-Huggins vp Dave Hewitt: "Pension plan managers had to make big changes to comply with ERISA and they probably made little changes, too, so they are now caught up."

Mr. Hewitt added that ERISA involves so much administration time that benefit managers haven't had time to plan for new provisions.

Inflation is another hindrance to increasing benefits, Mr. Hewitt said. "We're reaching a saturation point in keeping up with inflation. Companies are reaching the point where they can't increase benefits the way they have done in the past."

Efficient financing and management of benefit plans were recommended by Mr. Hewitt as ways in which companies could cope with rising costs.

He also stresses the importance of integrating private pension benefits with Social Security payments. Pension costs will eventually prove too great if benefits duplicate Social Security payments, he added.

Many firms reported switching from integration based on average salary to integration based on amount of Social Security benefits. Under this plan, called offset integration, as employer contributions to Social Security rise, contributions to private pension plans would decline, Mr. Hewitt explained.

A major weakness of existing pension plans has been their inability to provide for cost-of-living adjustments and Mr. Hewitt warned that if this problem is not resolved the federal government could step in.

Some companies are offering partial solutions based either on a percent of the increase in the consumer price index or a set limit in the percentage of a cost-of-living adjustment, he said. However, such provisions are costly, equalling 15% to 20% of total pension plan costs, and only 7% of firms participating in the survey offered adjustments.

While pension benefits remained stable, some changes were reported in the medical insurance area. Most of these, however, took the form of increased benefit limits due to rising health care costs, Mr. Hewitt said. In some cases, however, employers provided more of the cost of medical insurance than they have in the past.

A major shift was noted in employer attitudes toward health maintenance organizations (HMOs). While the 1976 survey found that, for the most part, employers were only willing to offer the HMO option when required to do so by a federally qualified HMO, this year there was more enthusiasm for the health care alternative.

Also found by the survey was a trend toward formalization of informal benefits, such as uninsured short-term disability. Spelling out the benefits lets the employe know where he stands and enables the employer to deduct for these if they are part of a benefit plan, Mr. Hewitt explained.

Greater increases in employe benefit values were found for industrial firms and service organizations, compared to financial companies. At the $30,000 salary level, benefits were increased by 7% for service organizations, 5% for industrial firms and 3% for financial companies.

However, benefits as a proportion of salary remained highest at financial companes. At the $30,000 level, benefits represented 35% of salary with financial companies, 34% of salary with service organizations and 33% of salary with industrial firms.

The survey also found that benefit values rose by a greater proportion for low-salary as opposed to high-salary workers. For industrial firms, benefit values increased by 11% at the $10,000 salary level, but by only 4% at $100,000. ■

Ford case on captive postponed

DETROIT—Ford Motor Co.'s case against the Internal Revenue Service over the nature of payments by its foreign subsidiaries to its captive for insurance has to be settled by January or come to trial.

The IRS was granted a 90-day continuance in tax court here on Oct. 3. The government claimed it is "still studying our settlement offer," said Ford's attorney John S. Nolan.

Mr. Nolan could not disclose the terms of the settlement offer because "the government hasn't accepted it."

The continuance was granted "with the understanding there will not be another extension," Mr. Nolan said. Ford petitioned in April 1975 for a redetermination of the IRS notice of deficiency served the previous January regarding the 1970 tax return of Ford and its affiliated companies.

The IRS determined that $5.7 million paid by foreign affiliates to Ford's captive Trans Global Insurance Ltd. (now Transcon Insurance Ltd.) constituted a self-insurance program. The IRS deemed the payments to be constructive dividends paid to Ford and not deductible from the accumulated earnings of the foreign subsidiaries.

The recent IRS ruling that payments by domestic subsidiaries to a U.S. company's wholly owned foreign subsidiary insurance company are not insurance premiums is further complicating the case. Though the ruling dealt specifically with domestic subsidiaries buying insurance from the captive, an IRS spokesman told *Business Insurance* the reasoning of the ruling also applies to foreign subsidiary payments to a captive.

"We wonder if the ruling will apply in our case," Ford's attorney said.

errors & omissions

Wrong insurer

A story in the Oct. 3 issue incorrectly named American Home as the insurer in a $3 million award involving Southwestern Bell Telephone Co. The correct insurance company in the case is The Home Insurance Co. A jury awarded $3 million to two former employes of the AT&T unit after it found that the company slandered them. The amount of the award covered by insurance is in dispute.

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—the benefit beat

FASB delays new pension accounting rules

NEW FASB rules on accounting for defined benefit plans will not be issued this year. The Financial Accounting Standards Board said additional time is needed to evaluate the almost 700 comment letters received in response to a draft of the standards. The rules essentially would require four new financial statements from pension plan operators. They are net assets available for benefits, changes in net assets available for benefits, accumulated benefits payable and changes in accumulated benefits. Pension plan sponsors and consultants have argued the new rules will add to the cost of running a pension plan without aiding employes.

WEYERHAEUSER CO. in Tacoma, Wash., and Safeway Stores Inc. in Oakland have signed up System Development Corp. (SDC) of Santa Monica, Calif., to set up a computer program to handle employe benefit claims. Claims were formerly handled on a manual basis at both companies. Weyerhaeuser Co.'s computer program will start January 1978 and will handle hospital, surgical and medical claims for the corporation's 11,000 salaried employes, according to Richard Spitznass, director of employe benefits. A Safeway spokesman said that the SDC computers will be used to process medical and dental claims of some 30,000 employes and their dependents. No definite starting date of the program has been established, the spokesman said.

Mr. Spitznass of Weyerhaeuser said that the SDC program will mean that claims coming in one day will be processed by that company on that day and that checks will be mailed out the following day. Video terminals will be installed in Weyerhaeuser headquarters linking it to SDC's computer data center in Santa Monica via phone lines. "We will have a one-day turnaround in terms of processed claims compared to six weeks during periods of high volume when claims were handled manually," he explained. He said his staff will decrease by seven employes as a result of the program but that a slight boost in claims costs is also anticipated.

The Safeway spokesman said that the SDC program was adopted to streamline claims handling. The giant food retailer began studying the concept about a year ago; it then investigated competitive systems and settled on SDC.

UNITED MINE WORKERS called for a restoration of medical benefits that were cut in July as the union and the Bituminous Coal Operators Assn. began negotiations on a new three-year contract. Mine workers now must pay the first $250 of each medical bill; prior to the July rollback in benefits, there was no deductible. Benefits were slashed because of the precarious financial situation of the 1950 and 1974 benefits trusts due to losses in anticipated income. Although the UMW didn't submit its wage demands, as negotiations opened the union is believed to be seeking a wage boost to $100 a day; coal miners now earn about $340 a week. In addition, the UMW has called for the introduction of eye and dental benefit plans. Sick leave benefits would be boosted to 75% of weekly salary; miners now receive about $100 a week when they are unable to work due to illness. The union also wants several new holidays including the day after Thanksgiving, Good Friday and Christmas week; pay for work performed on holidays would be four times higher than regular salary.

CEILINGS ON contributions and benefits for profit sharing and pension plans have been increased again as a result of inflation. The limit on a contribution to a profit sharing plan is 25% of pay or $28,175. The maximum on annual pension benefits is now $84,525.

CERTAIN PENSION benefit plans will be given at least one month after the date for filing the annual report in which to distribute their summary annual reports to plan participants and beneficiaries, the Labor Department announced this month. Pension plans covered by ERISA which qualified for the annual report extension announced by the department on July 19 may have up to 9.5 months after the end of the 1976 plan year to file their annual reports with Labor. Without an extension, these plans would be required to distribute the summary annual reports to participants and beneficiaries nine months after the end of the 1976 plan year, which is before the annual reports are due, said Ian Lanoff, administrator of the pension and welfare programs. Mr. Lanoff, however, added a word of caution noting that "this action affects only pension plans that have qualified for the extension." Other pension and welfare benefit plans still will be required to distribute summary annual reports nine months after the end of the 1976 plan year.

THE PBGC has officially asked Congress to raise the premium for termination insurance to $2.25 a year per employe from $1 per employe. The increase, which was presented to House and Senate committees that are holding hearings on ERISA, is needed because pension plans have been terminating at a much higher rate than was anticipated. PBGC's deficit for single employer plans already has hit $61 million, said Matthew M. Lind, PBGC acting executive director. Congressional approval in the form of a current resolution is needed before the increase can become effective. The increase would take effect Jan. 1, 1978 under the PBGC proposal.

ILLINOIS BLUE CROSS has begun a breast cancer screening program for its own employes as the forerunner of programs that will be offered to large employers and union plans in the state insured with the Blues. The programs, which will be expanded to include blood pressure testing, checks for cancer of the colon and the Heimlich maneuver for choking victims, is part of a preventive emphasis at Illinois Blue Cross.

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Broker finds insurer for Michelin dealer plan

By ELLIS SIMON

NEW YORK—After a three-year off-and-on search Michelin Tire Corp.'s commercial division has found a carrier to write a general business insurance program for its 2,000-plus dealers.

The package, which includes workers' compensation, product liability, general liability, machinery, automobile theft and property insurance, was placed with Proprietors Insurance Co. of Delaware, Ohio, by the New York office of Bayly, Martin & Fay Inc.

Proprietors Insurance Co. is a specialty carrier primarily offering group coverage to bowling alley operators. Founded in 1970, the firm did $14 million in direct premiums and $3 million in reinsurance business during 1976. Current surplus is around $6 million. The company is admitted in 43 states and applications are pending in other states where the Michelin program will be offered.

Officials at Bayly, Martin & Fay's New York office said premiums generated from the program could reach $20 million annually, even with less than 50% participation.

While historically group insurance programs have not been successful due to limited participation, a company survey of Michelin retailers yielded an exceptionally favorable response, said Phil DeRosa, Michelin insurance manager.

An aggressive loss prevention program is a central feature of the Michelin dealers program. The insurer will not provide coverage for a dealership unless it passes an in-depth risk inspection, explained Bayly, Martin vp Steven J. Chapas.

> 'This is the first time we can compete on giant accounts. We can't afford a no from the carriers.'
>
> –Steven Chapas
> Bayly, Martin & Fay

However, tire dealers failing the review are allowed to implement prescribed steps to bring their establishments up Proprietors' standards, he added.

The group program was initiated on Sept. 1 and is currently available in 22 states. The package will be available in the 48 continental states by March 1.

Although it is too early to predict the program's success, Proprietors Insurance Co. president Robert R. Pierce noted that already 100 Michelin dealers have requested inspections from the carrier.

Mr. Pierce added that as the inspections continue, a risk profile will be set up which will include mandatory and recommended safety requirements for inclusion in the program.

Michelin had planned to initiate a similar program two years ago using Firemen's Fund, but that carrier withdrew due to adverse economic conditions at the time, Mr. DeRosa said.

The tire manufacturer has a close relationship with its dealers and although it does not offer them financial assistance, the company looks for ways to reduce its dealers' operating expenses and increase their profitability.

Originally, Michelin had worked with Johnson & Higgins on the group program, but that brokerage firm was unsuccessful at finding a carrier, Mr. DeRosa said.

When Bayly, Martin & Fay was given an opportunity to find an underwriter for the program, several key people in the New York office were assigned to the project, Mr. Chapas said. The job required finding an underwriter with the capacity for nationwide coverage and the desire to write such policies, he explained. That was not an easy task in a limited market.

However, the Michelin company's enthusiastic sponsorship of the program played an important role in finding a carrier, because an underwriter must feel that he can write the coverage profitably and Michelin's support makes it easier to sell the program to dealers, Mr. Chapas added.

The Michelin dealership program could be one of the biggest catches in Bayly, Martin's campaign to increase its share of the New York market.

Besides the dealers program, this year the New York office has landed Michelin's commercial division casualty coverage and the policies for Metromedia Inc.'s television and radio properties, which are worth an estimated $300 million. The two accounts represent annual premiums of $200,000 and $400,000 respectively.

While the Los Angeles-based firm ranked eighth nationally in 1976 with premium volume of $306 million, its New York office did not play a major role in the overall operation until last year.

Since then, several heavyweight account executives have been added to the New York staff, which has been enlarged from 60 to 100. Mr. Chapas himself came over from Johnson & Higgins.

Despite this activity, Bayly, Martin does not want to become a giant among the city's brokerage houses. Rather, it seeks to play "Avis" to the larger firms' "Hertz" by following a "we try harder" philosophy in servicing medium to jumbo accounts, explained New York office manager Andy Potash.

"This is the first time we can compete on giant accounts," said Mr. Chapas. "We can't afford a 'no' from the carriers. If we strike out with the big boys now, we're set back three to four years. If we lose a big account because of poor servicing, we're also set back three to four years. We have to do it better." ■

Maritime workers' benefits upped

WASHINGTON — Maximum workers' compensation benefits for maritime employes covered under the federal Longshoreman's and Harbor Workers' Act have been raised to $367.22 per week; the old weekly maximum benefit was $342.54.

The new rate covers injury occuring after Oct. 1, 1977. The increase affects about one million maritime workers.

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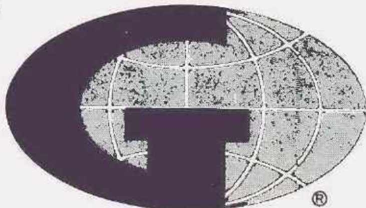

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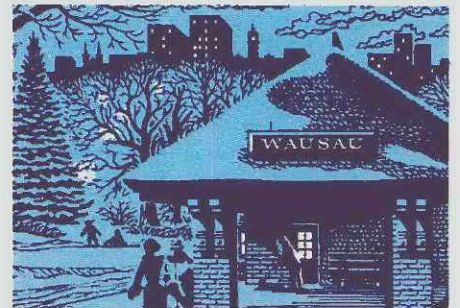

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Huge liabilities loom

Delay multi-employer coverage, asks PBGC

WASHINGTON — Faced with the chilling possibility that about 40 multi-employer plans may fail soon, federal pension officials testified this month that Congress must enact legislation to prevent a catastrophic collapse of plans.

The Pension Benefit Guaranty Corp., the federal agency established by the pension reform law to guarantee benefits, called for a change in the law requiring PBGC to begin next January its guarantee of pensions of workers in multiemployer plans.

PBGC officials, including acting executive director Matthew M. Lind, told several Congressional committees that the Jan. 1 deadline must be extended—perhaps for up to two years—to stave off a ruinous string of pension plan collapses once PBGC guarantees of multi-employer benefits become mandatory.

The PBGC's plea for an extension was backed up by the agency's study, released earlier this month, which said that about 2% of all multi-employer plans covering 385,000 workers are "experiencing extreme financial hardship," and have a "high potential" for termination in the next five years. That could leave the government with a staggering $350 million in unfunded liabilities.

In addition, the study reported that another 10% or 200 multi-employer plans are "experiencing financial hardship" and also might fail, though not necessarily in the next five years. That round of failures could cost PBGC $3.5 billion.

To pay for those huge potential losses, PBGC might have to jack-up the current 50-cent annual premium per worker for a multi-employer plan to as much as $40 or $50 per worker for termination insurance, the study implied.

That soaring increase could, in turn, trigger a new round of terminations by plans unable to afford skyrocketing rates.

A long-term answer is needed to the problem of sick, collapsing plans taking down healthy plans with them, PBGC officials acknowledged.

But finding that solution will take time. In the meantime, a stop-gap measure is needed to delay PBGC's mandatory coverage of multi-employer plans while a comprehensive proposal is considered, the officials say.

One of those interim measures (S. 2125), introduced by Sen. Harrison A. Williams (D-N.J.), would delay by up to 18 months the time in which PBGC begins paying benefits for terminated multi-employer plans.

But action is needed soon, PBGC officials told the Senate Human Resources Committee, which is considering the measure, as the Jan. 1 deadline looms closer and closer. ■

Soda association backs program

PHILADELPHIA—The National Soda Dispensing Equipment Assn. has endorsed participation by its membership in a MarketDyne International safety group insurance program.

The package being offered to the soda fountain equipment manufacturers group's 200 members provides general liability, fire and theft protection. While product liability coverage is excluded from the program, association members can purchase it separately through MarketDyne, explained assistant vp Hank Holtzman.

Pacific Employers Insurance Co. is underwriting MarketDyne's safety group insurance programs. Both firms are subsidiaries of INA.

The safety group program is tailored to the needs of medium-size businesses and organizations belonging to trade associations.

When total premiums exceed losses and administrative expenses, Pacific Employers pays a dividend to policyholders. Policyholders who have the best safety records benefit the most from this, he said. ■

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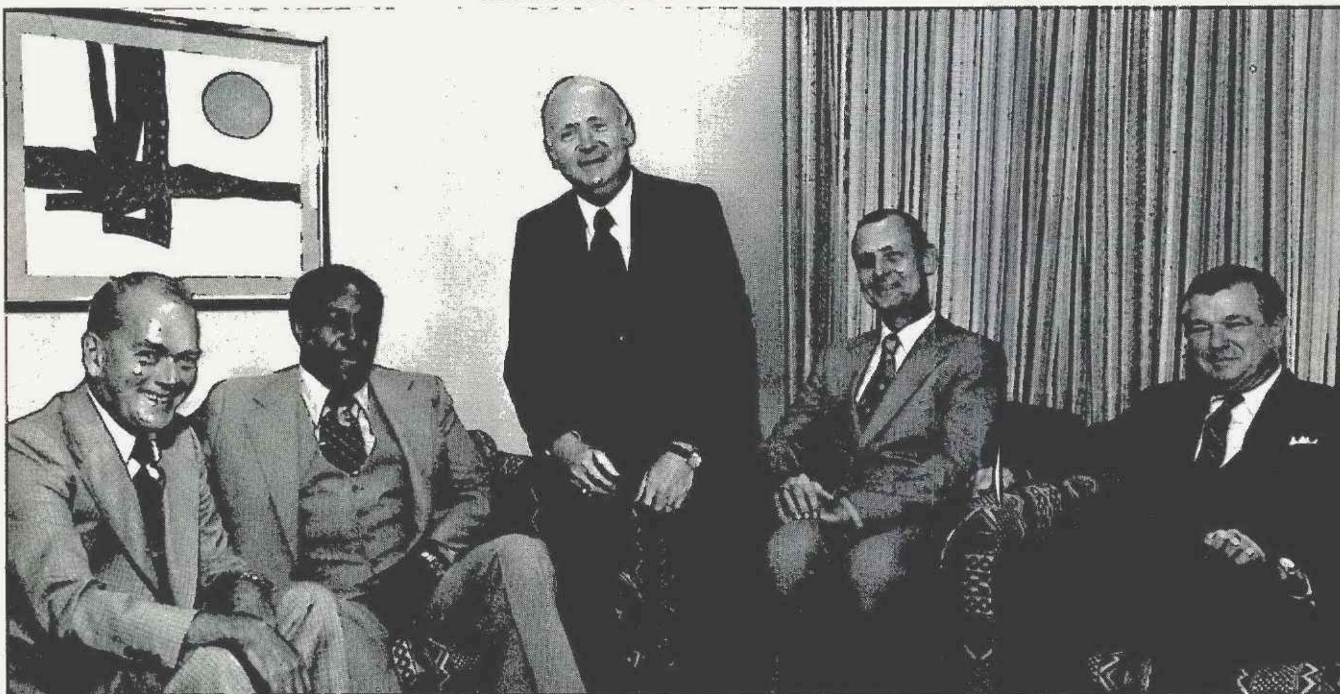

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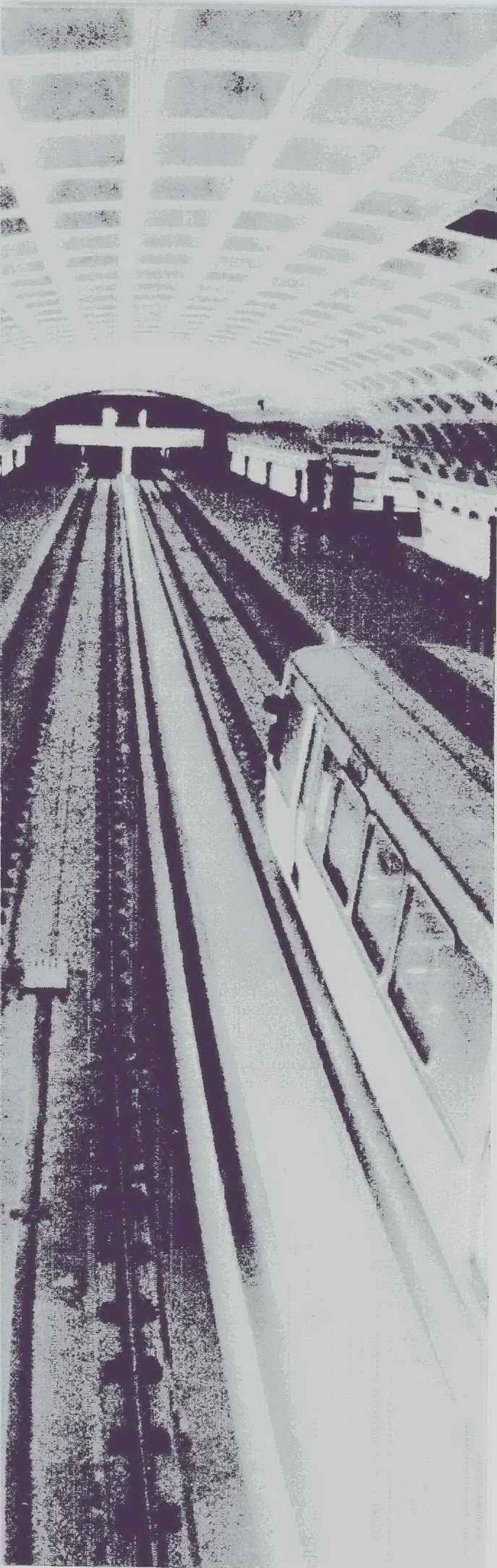

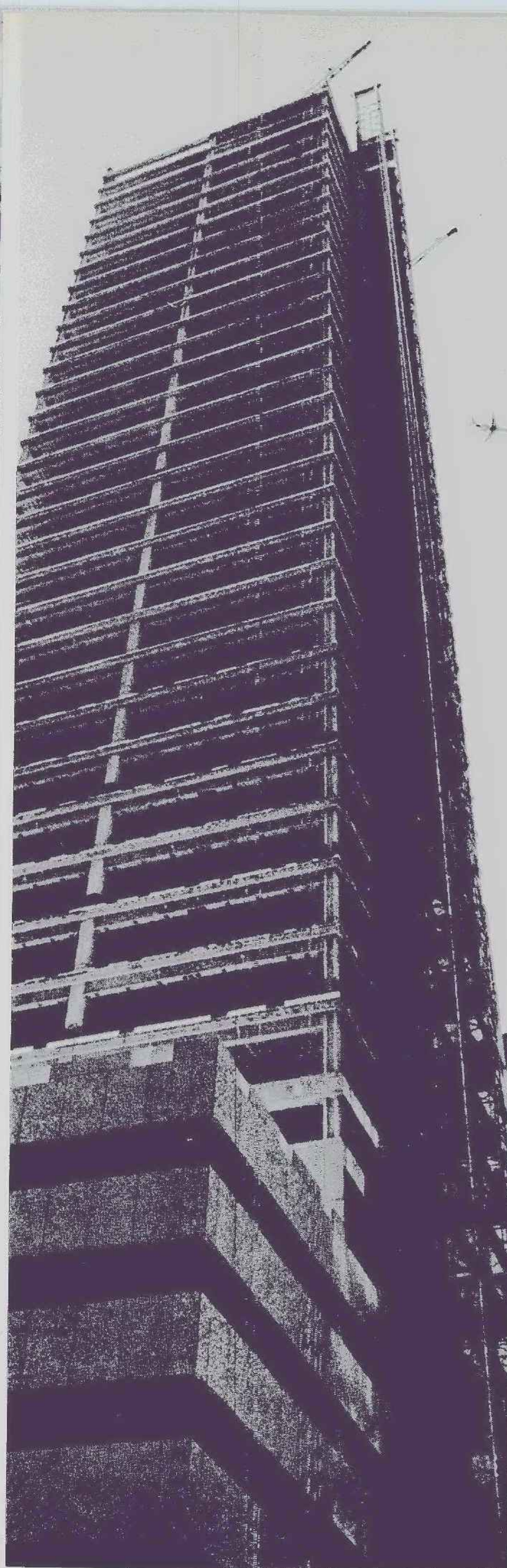

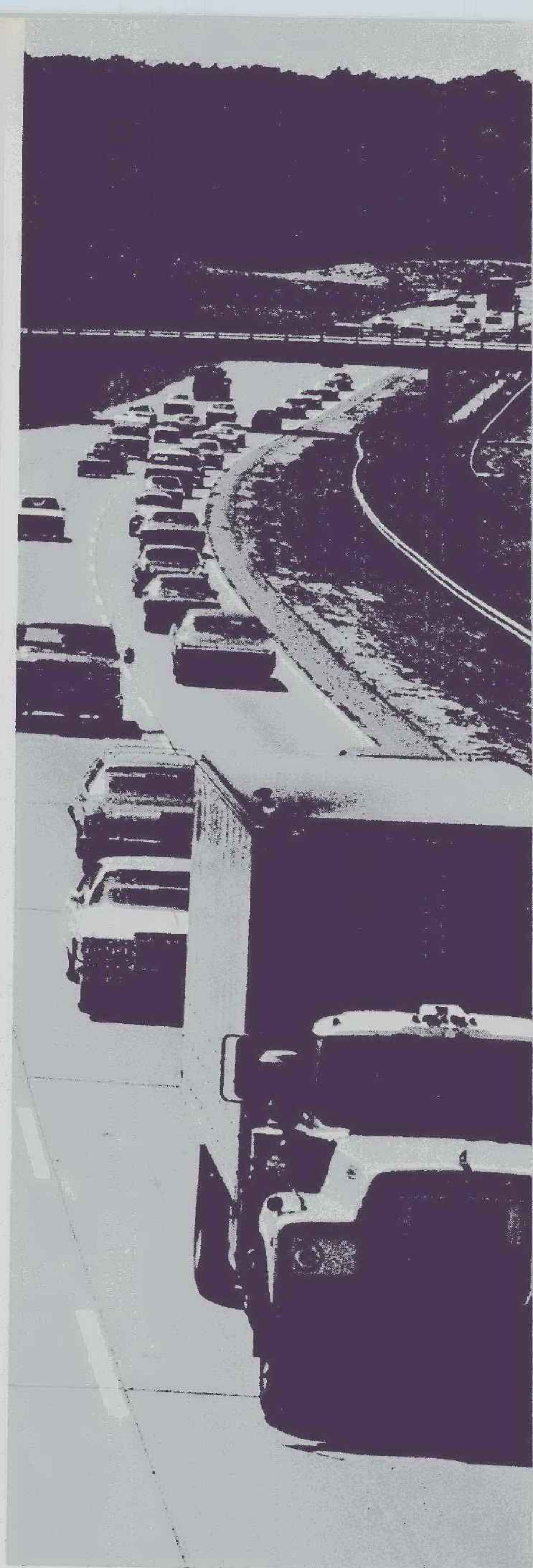

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editorial opinions

Underwriting: Harold Hines's better idea

UNLIKE MANY PEOPLE who call for change but have few suggestions for a better way to do things, Harold Hines of Marsh & McLennan recently propounded some radical alternatives to the way underwriting is done by insurance companies.

Some of his ideas were contained in a story in our Sept. 19 issue that might have gone unnoticed by our readers. But Mr. Hines's statements are worth thinking about. If nothing else, they may tell buyers of insurance a lot about the way insurers will be doing business a decade from now.

Even more important, they hint at the techniques corporations themselves can use when embarking upon a program of self-insurance. They even hint at some ways Marsh & McLennan and some other large brokers might be establishing computerized data bases and departments of skilled specialists to perform the underwriting tasks for insurers who haven't adapted to a changing underwriting environment.

The way Mr. Hines sees it, underwriting requires more perfect knowledge in order to speed the process and make more profit for the insurer. To accomplish this, he suggested that computers be used much more extensively than they now are for storage and retrieval of relevant claims data, loss data, economic data, pricing and model-building.

It's Mr. Hines's contention that underwriting—even insurance sales, for that matter—need not be a face-to-face process. Even these last remaining parts of what is always touted as a highly personalized service business can be effectively subjected to the disciplines of mass production, using centralized skilled staffs of people whose individual tasks are clearly and narrowly defined and who perform within clearly established control guidelines. He thinks insurers should use economists, analysts, computer scientists and actuaries to study each risk to be underwritten, each one contributing part of a final decision and rating.

There's a good side and a less attractive side to these suggestions offered by Mr. Hines. For one thing, if the insurance industry would heed his suggestions and revamp its underwriting practices, policyholders too would benefit from less "hysterical overreaction" by the industry to generic classes of risks such as product liability, we believe.

By having better data, stored in computers for retrieval when underwriting decisions need to be made, buyers of insurance might be less apt to point an accusatory finger at underwriters for being unfair in their ratings.

On the other hand, the revisions Mr. Hines suggested would mean a sort of dehumanization of the insurance business, with even less opportunity for a buyer of insurance to take his risk and his data to an underwriter to negotiate face-to-face the terms under which a policy will be provided. But this isn't very common, anyway.

For our part, though, we think the latter result would be a small price to pay for greater efficiency and even fairness in underwriting, particularly when difficult casualty risks are involved.

Captive and self-insurance review Jan. 9

EVOLUTION. Out with the old and in with the new. There's no better time to initiate change than when we ring in a new year, so that's exactly what we're doing in our January 9, 1978, issue.

For 10 years, *Business Insurance* has published a special issue containing hundreds of informational items entitled Info for Buyers, consisting of literature that readers could send for. The response has been invigorating, with the number of requests for material increasing each year that we've published the Info directory until this year over 38,000 requests for material were processed.

There are editorial topics crying out for special issue treatment, however, and our first issue in January will hereby become the annual Captives and Self-Insurance Review.

We'll continue to publish Info items throughout the year in each issue of *Business Insurance*, maintaining the same service to our readers that we've always provided.

For example, we'd like all the companies involved with services for captives or self-insurers to send in Info items that will appear in the Jan. 9 Captives and Self-Insurance Review. (Other items are invited too.) Readers of that issue will be able to use a coded card to send for Info materials appearing therein.

As has been our long-time practice, we'll continue to periodically re-use Info materials that have been submitted by providers during the calendar year in which they've been sent to us. Those companies submitting brochures, pamphlets and other informational literature for our readers should let us know if their materials become outdated, or if they're no longer available.

After 12 months we clean out our files and you'll have to re-submit your materials for the Info column if you want them kept on the active list.

In the Captives and Self-Insurance Review, the editors plan to take a close look at efforts by organizations nationwide to solve their insurance problems by using alternative risk funding methods. Beyond just the overview of activity in these areas, we'll discuss with risk managers and benefit executives their successes and failures with captive insurance companies and self-funded programs; we'll investigate the problems they've had in transition, the surprises they may have encountered along the road to self-sufficiency.

Readers with suggestions and ideas for stories we should have in this new special issue, or who'd like to contribute articles about their own experiences with captives or self-funded programs are invited to write Susan Alt, Editor, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611 or call 312-649-5278.

letters

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

Warner-Lambert replies

To the Editor: We are writing to object most vigorously to the lead editorial article, "Can safety become a criminal matter?" in your Sept. 5 issue. Your article is filled with inaccuracies and incorrectly implies that Warner-Lambert failed to follow accepted accident prevention practices.

Of the numerous factual inaccuracies in your article, we particularly object to the statement that there were ". . . repeated warnings by the fire department. . . ." To suggest to your readers that we would ignore even a single warning from the New York City Fire Department is a gross misstatement of fact and seriously jeopardizes our reputation in the insurance community.

In fact, our facility had undergone numerous prior inspections by various local and national governmental agencies, none of which ever warned this company of an explosion hazard. Furthermore, immediately following the explosion, John T. O'Hagan, the New York City fire commissioner, held a press conference in which he stated:

"We inspected the plant in April of this year and the only violations that we found at that time were minor ones. For example, the exit signs. There were no violations directly associated with the cause of the explosion. . . .

"Where we have known products or known materials such as say, flour, there are requirements for dust collectors and enclosed motors and so forth. This obviously on the basis of past experience did not indicate to anyone, including chemists, that this was that magnitude of a hazard to require this type of protection."

Moreover, only two months prior to the accident, Warner-Lambert's fire insurance carrier inspected the American Chicle facility. Not only did it commend Warner-Lambert for the quality of overall plant maintenance, but it also specifically found conditions in the department involved in the accident to be safe and in full compliance with acceptable industry standards.

It is grotesque to ask, as your editorial does, "Wouldn't an in-

Continued on page 33

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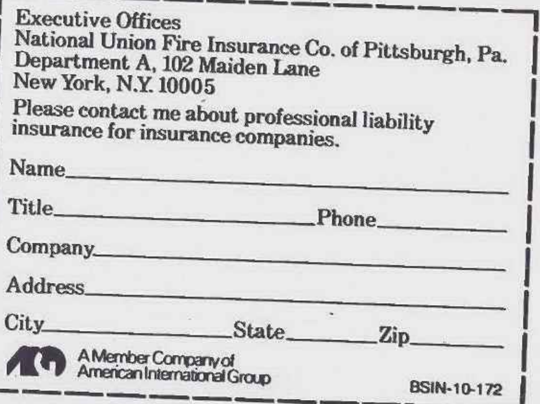
Including punitive damages, wherever permitted by law.

Insurance companies need this broad coverage just as much as doctors need malpractice insurance.

After all, it would really be ironic if an insurance company lost a lot of money just because it didn't have insurance.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Labor acts to reduce pension paperwork

WASHINGTON—Vowing to reduce the amount of paperwork required of pension plan managers, Secretary of Labor Ray Marshall this month announced plans to streamline and strictly enforce the Employe Retirement Income Security Act (ERISA).

As reported earlier, the annual report form 5500 next year will have to be filed only with the Internal Revenue Service. Previously, form 5500 had to be filed with IRS and Labor at different times of the year, causing confusion and unnecessary paperwork.

Form 5500 itself will be modified in several key ways:

- Question 8 (question 20 on form 5500-C) would be eliminated, ending the requirement that a new plan description, form EBS-1, be filed within 60 days of every material modification to a plan. Instead, the change would be reported annually on form 5500 and a summary description of the change would be sent to participants with their annual summary report.
- Question 13(i) or 13(h) on form 5500-C would eliminate the requirement that plans list assets at book value.
- Question 13—columns (b) and (c) would be eliminated so that plans no longer would report their aggregate purchases and sales during the year.

In the columns place, would be a separate question to reveal rapid turnover of plan holdings. That question would ask for the total costs of acquisitions for common stock, excluding brokerage commissions.

These proposals, which already have been approved by the Treasury Department and Labor, soon will be published in the Federal Register for public comment.

Turning to the role of ERISA in protecting the rights of plan participants, Secretary Marshall admitted the picture at the beginning of the year was pretty dismal.

"Files generally were unavailable, often stored in boxes in warehouses. . . . There was a long correspondence backlog, with some letters actually dating back to 1974."

Since then, Mr. Marshall said at a press conference this month, "we have turned ERISA around." The correspondence backlog has been eliminated. Anyone writing to the Labor Department about ERISA, regardless of the complexity of the subject, will receive an answer within 60 days.

In addition, most of the plan descriptions filed under ERISA are now available for public inspection on microfilms. Right now, 83% of plan descriptions are available in retrievable form.

To step up enforcement of the law, Mr. Marshall said, is a requirement that the program's field staff spend 60% of its time on enforcement and only 40% on technical assistance. ■

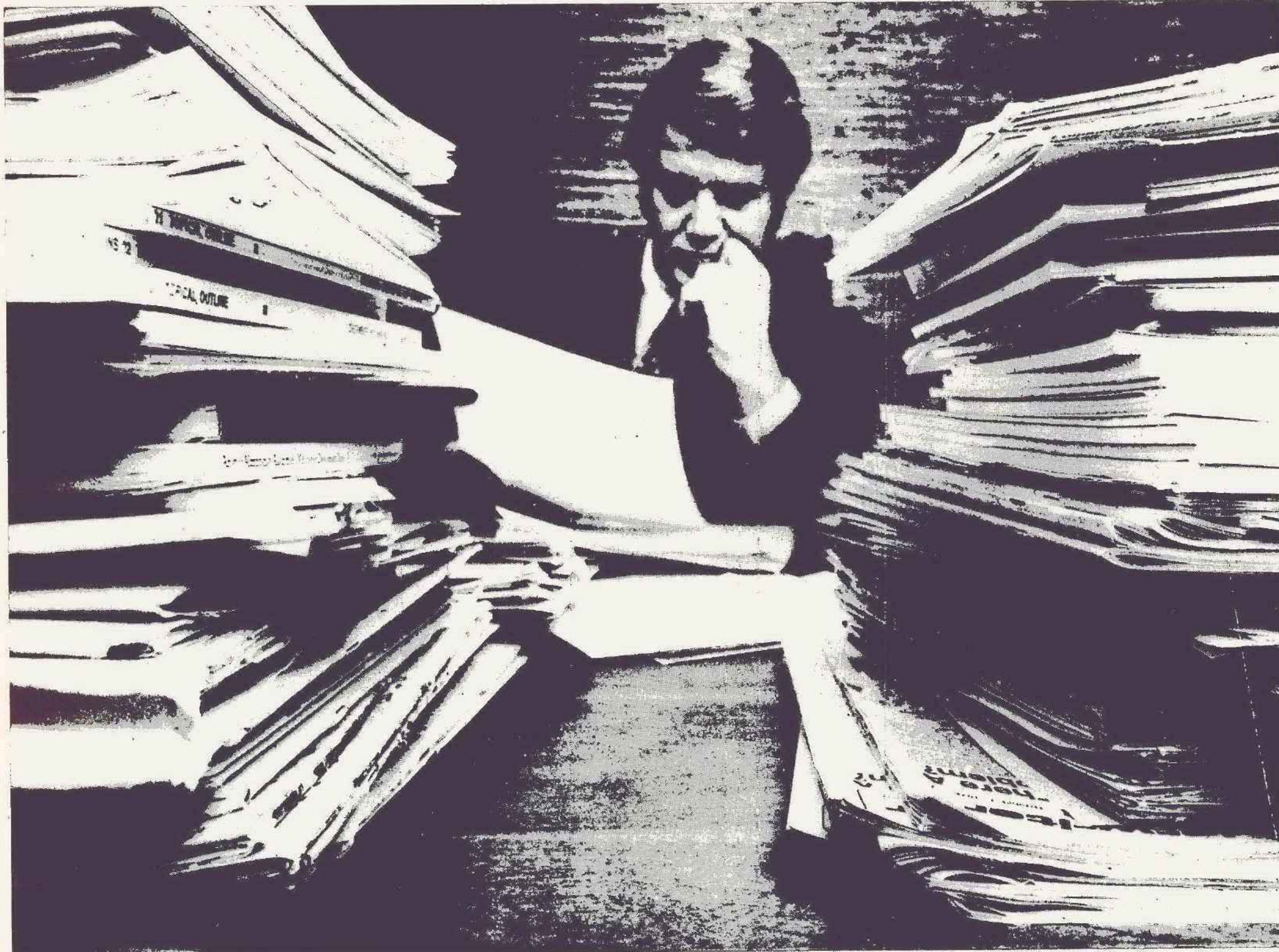
Equitable policy to cover centers

MINNEAPOLIS—If the planned sale of nine shopping centers from Dayton Hudson Corp. to the Equitable Life Assurance Assn. of the U.S. goes through, property and liability insurance on the malls will probably be transferred to a master policy covering all Equitable property, according to a spokesman for the insurance carrier.

When Equitable acquires a property, its coverage comes under a blanket policy the company has on all property, said Equitable spokesman Lynn Snowdon. This blanket coverage take effect as soon as the property passes into Equitable's control, she explained.

It is up to the previous owner to terminate any policies previously covering the property, Ms. Snowdon added.

Bill Cain, director of insurance and risk management for Dayton Hudson, would not disclose coverage limits and premium costs on the nine malls, explaining that they were covered under the company's entire insurance program. However, the two principal carriers, Industrial Risk Insurers and Arkwright Boston, have been told that they will lose this part of the business should the sale go through, Mr. Cain said. ■



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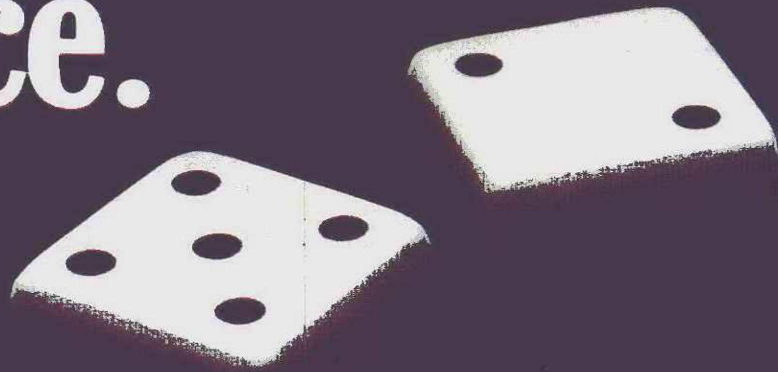

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Of course, your client can buy all these guarantees and services. But he doesn't have to. NWNL will provide as many or as few options as he wants. And no more.

So if you're looking for a funding vehicle that combines high yield and contract flexibility with the sweet security of guaranteed principal, place your bet on NWNL.

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Sex bias, retirement age, state laws

Court to decide 3 pension cases

By JERRY GEISEL

WASHINGTON—The Supreme Court has agreed to decide whether women can be required to contribute a bigger portion of their salaries to pension plans than men.

The case involves five female employes of the Los Angeles Water and Power Department who have sued the city for forcing them to pay a 15% larger contribution than men into the department's compulsory retirement fund.

Under the pension plan, a woman earning $1,000 a month pays $25.49; a man earning the same amount pays $22.20.

The city contends that studies show women live longer than men. As a result, women receive pension benefits over a longer period of time than men and should be required to pay more into the fund.

The women, who have filed a class action suit on behalf of all female employes of the water and power department, maintain the fund perpetuates sex discrimination and is in violation of the Civil Rights Act of 1964.

A federal appeals court ruled earlier that the different contribution requirements were based on sex, not on differences in female and male life expectancy, and therefore were illegal.

In another pension case, the Court heard oral arguments this month in a case involving a former United Airlines employe who contended that United's compulsory requirement policy at age 60 is a violation of the 1967 Age Discrimination Act.

By the time the court reaches a decision, however, Congress may have passed legislation raising the mandatory retirement age to 70.

Finally, the Court agreed to review a lower court's decision that federal labor policy prevents states from passing laws to protect workers against pension plans that collapse.

The justices said they would study a ruling by the Eighth Circuit Court of Appeals that such a Minnesota law is preempted by the National Labor Relations Act. That federal act protects bargaining agreements from state interference, the appeals court said.

The case goes back to 1963 when the White Farm Equipment Co., a subsidiary of White Motor Corp., took over the operations of the Minneapolis-Moline Corp. at two farm equipment plants in Minneapolis and Hopkins, Minn.

At that time, a company pension plan between Minneapolis-Moline and the International United Auto-workers, Aerospace and Agricultural Implement Workers was in effect.

When White closed the Minneapolis plant in 1972, it attempted to end the underfunded pension plan at both plants. The union, though, was successful in keeping the pension plan alive until 1974 when the collective-bargaining agreement expired.

In the meantime, however, the Minnesota legislature passed a law mandating full funding of pension benefits whenever an employer no longer operates a place of employment or pension plan.

White challenged the law, but a federal court in Minnesota ruled the law was valid and ordered White to pay $19.1 million into a pension fund for its former employes.

The appeals court, however, reversed the decision. As a result 1,000 White workers in Minneapolis retired with pension benefits up to 60% less than they had anticipated. The Hopkins plant, which is still operating, has a new pension plan. ■

Life insurers pay $24 billion

NEW YORK—Americans received $24.6 billion in benefit payments from life insurance policies and annuities during 1976, reports the American Council of Life Insurance. This was an increase of 9.2% over the previous year's $22.5 billion in benefit payments.

Death payments was the largest category, with $9.6 billion in benefits paid, the council said. Other types of benefit payments were policy dividends, $5.6 billion; surrender values, $4.1 billion; annuity payments, $3.9 billion; matured endowments, $976 million and disability payments, $458 million. ■

Are You Insured For Inflation?

Unless you've *just* completed a plant building project or major purchase of production machinery, you're in for a shock!

Building costs are up 100% and equipment costs are up 80% in 10 years. In the last 5 years, building costs are up 50% and equipment is up 45%.

Hopefully double-digit inflation has been slowed, but the effects have left most businesses underinsured. It's too late to check the adequacy of coverage when a loss occurs—but be assured, your insurer's adjusters will—that's part of their job.

A Marshall and Stevens appraisal of your assets for insurance requirements is the starting point to adjust for inflation for your protection. Our service segregates the values for rate-making purposes and provides the detailed records *so vital* to your "Proof of Loss."

And, Annual Valuation Service of Marshall and Stevens provides an economical method of keeping abreast of inflation in the future. Sorry—but there's no end in sight!

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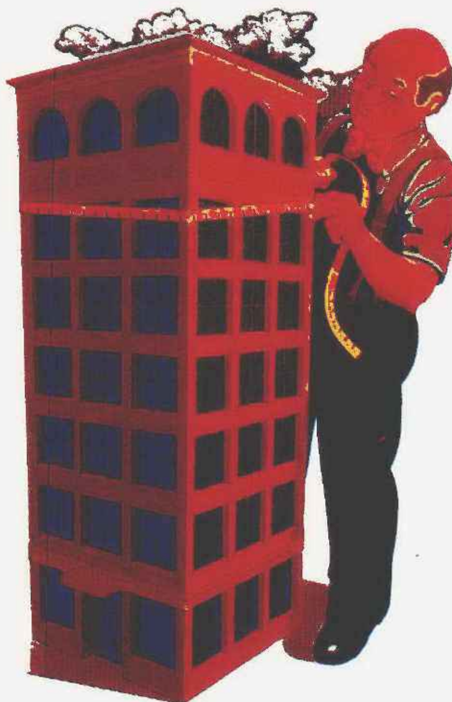
Our Alpha 1000 is that kind of system. And more.

A system that fits you. Today and tomorrow.

Common sense told our engineers that no one wants to pay for more protection than he needs. So we've designed Alpha as a flexible, modular system you can tailor to your precise size



and performance requirements. Small and inexpensive enough for a single building, or large enough for several buildings around town or in the area.

Security management may be planned as an integral part of your Alpha system, without wasteful equipment duplication. Beginning with intrusion alarms, your complete security "package" can also provide remote door lock control, access control card readers and closed circuit TV surveillance.

For fire protection, you can start with a basic fire detection and alarm system, then add "event commands" to provide control of fire doors, elevator capture and smoke control. Guard tour

Advantage is avoiding 2 minimum premiums

Integrate worldwide programs, urges Pearce

VANCOUVER, B.C.—It's not only possible, but practical, to have a single, totally integrated worldwide insurance program for an international company.

"Foremost, you have to look at your program on a worldwide basis. I disagree with those who say a company should have a segregated U.S. and foreign program. I think the reason most companies have separate policies is because they've let the foreign insurance environment dictate their risk management philosophy," says Alan Pearce, formerly risk manager for Aminoil U.S.A. and now with San Francisco-based Foremost-McKesson Inc.

The advantage of having a single worldwide program, Mr. Pearce told the Institute of Risk Management Consultants, is "the synergism. With two master policies, for example, you have two minimum premiums, at least."

Only last month, Mr. Pearce achieved a 40% premium savings on Aminoil's domestic casualty insurance program by going to the London market and negotiating a single worldwide program to cover Aminoil, which has assets of over $1 billion.

Aminoil's domestic (U.S.) risks had previously been insured in the U.S., with foreign risks underwritten by the London market. Aminoil now pays "about $150,000" for casualty coverage of $49 million, excess of a $1 million per loss retention, Mr. Pearce told *Business Insurance.*

Johnson & Higgins "did a fantastic job" in putting the new program together for Aminoil, identifying specific markets and playing a key role in the worldwide risk placement, said Mr. Pearce. J&H had formerly handled the international segment of Aminoil's account for 30 years, but won the entire package as a result of its work on all of Aminoil's excess casualty business. J&H provided a team to arrange the program, including a specialist in marine insurance, a specialist in casualty and an expert on the London markets.

This story results from the annual meeting of the Institute of Risk Management Consultants covered by Business Insurance Editor Susan Alt. Other conference stories include:

- **SOME D&O exclusions are justified, says Wyatt's Warren Brockmeier. Page 14.**
- **INSURERS MUST begin concentrating on controlling losses, not other costs, says Ideal Mutual's Edward Lalley. Page 15.**

The lead underwriter at Lloyd's is Peter Green, who heads the Janson, Greene Ltd. syndicate that lends its name as lead on many of the world's biggest petroleum and oil-drilling risks.

Among the problems Mr. Pearce views as critical in any international risk management program are these:

- The inability to communicate freely with officials at facilities around the world because of the distance. This problem, said Mr. Pearce, only serves to reinforce the need for a risk manager to develop counterpart risk managers at each overseas location.
- The general lack of public fire protection facilities, which "isn't all bad—this gives the impetus to management to establish good internal fire protection systems."
- Lack of medical services in hospitals.
- The inability to obtain replacement equipment locally often creates difficult business interruption exposures. "We once had to identify all critical equipment in a foreign country, locate substitute equipment or import a replacement ahead of time, so a business interruption wouldn't last the many months" it took to obtain an all-important import license once a replacement had arrived where it was needed, recalled Mr. Pearce.

"Many risk managers and others are deluded into thinking the international insurance environment is a lot more complex than it actually is," said Mr. Pearce. International laws and insurance requirements do make it more complex than doing business in the U.S., but he sees a lot of opportunity in the complexity.

For example, in order to circumvent the problem of insubstantial premium discounts for self-retention, Mr. Pearce advocates vertical participation on an international risk to achieve lower premiums. Because coverage is subject to tariff rating in many countries of the world, only modest premium adjustments are available, "so you intentionally understate your values and participate in your risk vertically.

"In essence, the insured becomes a partner with the insurer on a loss, a coinsurer. You save proportionally on premiums with this method, although taking a deductible of $500,000 or $1 million often doesn't achieve the same savings," said Mr. Pearce.

There's also a way to participate in a risk and achieve the same savings by using a captive, he pointed out. He tells the story of a case involving Brazil, where there is controlled reinsurance through the state-owned facility. But it's long been a custom in Brazil to place some reinsurance in the government pool with London through Hogg-Robinson, a leading Lloyd's broker. "So this particular risk manager with a Belgian company told me he worked directly with Hogg-Robinson to get his company's captive on the reinsurance slip, to achieve participation in the risk."

But Mr. Pearce also revealed that the best-laid plans to accomplish some control over insurance on facilities abroad can run into snags. He told risk management consultants how he achieved savings on some increasingly-expensive coverage for Aminoil's Kuwait refinery.

Johnson & Higgins had found out that Kuwait was depending on the London market for its facultative and treaty reinsurance of all primary coverage placed with the three state-owned insurance facilities.

"So it was our idea that instead of the insurers proposing to us a

Continued on following page

monitoring, voice messages to instruct building occupants, and fire department intercommunications can also be added.

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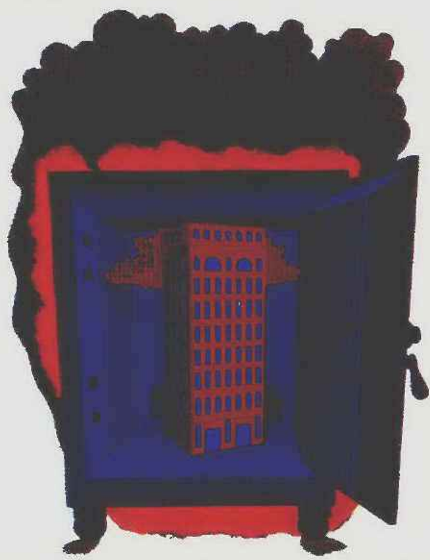

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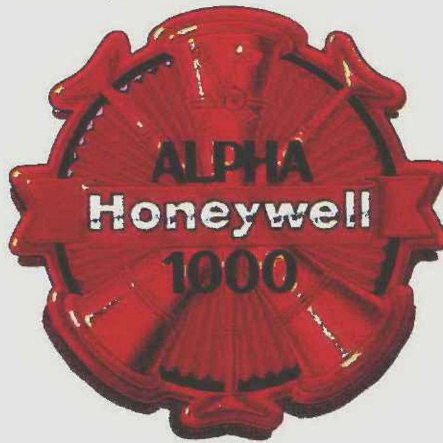

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Pearce . . .

Continued from preceding page

reinsurance rating scheme (which determines the premium cost of the primary coverage), why not go to London and negotiate a reinsurance plan direct? We did that and got about a 10% reduction in rates from the previous year," said Mr. Pearce.

When the time came to renew the Kuwait program, Mr. Pearce sat down with its three Kuwaiti insurers "and in effect told them what the rates would be."

The reaction was not what he expected, however. The insurers expressed outrage that Mr. Pearce took matters into his own hands. "They accused us in so many words of trying to subterfuge their system and contacted our Kuwaiti directors (of the joint venture refining operation.)"

All was not lost, though, as Aminoil's management backed Mr. Pearce. At that time, he had explored the alternative of using a captive as well as the reinsurance rating plan in London. "They came back the next day and accepted our reinsurance plan, and also our captive if we decided to go that route. In the end, this saved us $120,000 on insurance for one $110 million refinery facility," Mr. Pearce beamed.

Political risk insurance, Mr. Pearce continued, is of questionable value. "I question the value of the coverage when you're dealing with London because if the situation becomes even a little bit unsavory, they'll cancel," he said in reference to London's insistence on having a cancellation clause in every political risk policy written.

"In fact, I don't particularly like either of the markets available" for the coverage—the Overseas Private Investment Corp. in the U.S. or Lloyd's of London.

He advocated a thorough internal analysis of the risk, country-by-country, with steps taken to keep the risk of expropriation within manageable bounds through proper reinvestment and other acts showing good faith.

Aminoil deployed economists from a corporate department to prepare each year a detailed report of every facet of political risk and exposure in each country where facilities were located, said Mr. Pearce. Following up the analysis, Mr. Pearce said it's best to prevent political risks by creating a dependency relationship between the U.S. parent and the host country. ■

VANCOUVER, B.C.—In the wake of the most recent IRS ruling on the use of captive insurance companies, there will "definitely be an acceleration of the trend toward getting captives into writing more outside business," said Alan Pearce, risk manager for Foremost-McKesson Inc.

Foremost-McKesson's captive has just started to accept outside reinsurance business, said Mr. Pearce, by participating in the United pool operated by American Risk Management, Foremost's captive management company. The captive's book of business now includes about 23% non-parent risks, said Mr. Pearce, nearly all in the commercial property area but with a small portion—perhaps 5%—in non-U.S. casualty risks, mostly European.

Some D&O exclusions 'justifiable'

VANCOUVER, B.C. — Insurers of directors and officers liability risks have been justified in moving to exclude coverage for emerging risks such as losses growing out of bribes and political payments by corporations.

This is the feeling of Warren G. Brockmeier, director of risk management consulting services for Chicago-based Wyatt Co. He told the annual meeting of the Institute of Risk Management Consultants here that he thinks it is an "unfair judgment" to say D&O insurers have continually added exclusions to the policies they underwrite "just to keep the coverage as near to zero as possible."

Looking back at the big D&O legal cases in recent years—including the Texas Gulf Sulphur, Bar Chris, Penn Central and Mattel Inc. cases—he pointed out that the lawsuits and resulting insurance payouts involved actual wrong doing, not just poor business judgment by directors and officers.

"I have some sympathy with the D&O insurance industry when it moves to exclude coverage for unethical acts and self-serving acts," said Mr. Brockmeier, "because I don't think the insurance should properly address its coverage to these kinds of acts anyway."

In the few years since D&O insurance has become widely purchased by corporations, there has been the development of an "unwritten exclusion" in the policies which encourages some policyholders not to even bother submitting their D&O claims, he said.

Essentially, the underwriters have indicated that if policyholders want to present every claim, they're free to do so, but it will be at the risk of subsequently having the coverage cancelled by the respective insurer. Thus, Mr. Brockmeier said, some policyholders choose to pay their own D&O claims in order to keep the insurance.

"This was the case in a situation where a large campaign contribution had been made to Richard M. Nixon's presidential campaign and lawsuits were filed as a result of the disclosure.

"I hope this doesn't become widespread, but it certainly indicates that there is some merit to evaluating the importance of the claim" as to whether it should be paid by the policyholder or submitted to the carrier, Mr. Brockmeier advised.

What little claims activity there has been against fiduciary liability coverage seems to have been in employe benefit liability for back benefits or discrimination, Mr. Brockmeier pointed out. Thus, Wyatt suggests fiduciary and employe benefit liability be combined in a single policy with one insurer.

Although the question is sometimes raised about whether corporate middle management personnel should be included as named insureds under fiduciary and D&O coverage, Mr. Brockmeier said he hasn't found any indication in court decisions where middle management needs to be covered under these policies because of the prospect that a court would impose liability on a corporate administrator.

However, he said, there is a possibility that middle managers may be named in employe benefit actions or industrial relations actions. This eventually should be carefully considered by purchasers of this coverage, although "we see no reason to extend the mantle of coverage under D&O down to them." ■

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Insurers should target underwriting: Lalley

VANCOUVER, B.C.—Insurance companies that have traditionally put the most time and effort into controlling the "frictional costs" of administration, underwriting and overhead must now change direction and put much more emphasis on controlling losses, said an insurance company executive here.

Edward P. Lalley, president of Ideal Mutual Insurance Co., told a meeting of the Institute of Risk Management Consultants that "in the casualty area, for every dollar spent for insurance, 75 cents goes into the loss and the rest to the frictional costs. We've been spending most of our time on the 25% in the past. Now we must turn our attention to the 75%. We need to spend more time reducing losses."

In a wide-ranging presentation and discussion, Mr. Lalley also predicted that the number of companies servicing corporate captive insurance firms will "continue to develop, despite the minor difficulties" posed by the latest Internal Revenue Service decree on captives and recent accounting rule changes making accrual reserving nearly impossible.

By corporate captive servicing, Mr. Lalley explained that he was referring to programs insuring U.S. risks with an established insurance company, which in turn reinsures a substantial portion of the underwritten risk into a captive insurer owned by the policyholder.

Because of the recent IRS ruling making official the tax agency's position that premiums paid to captives aren't legitimate deductions, Mr. Lalley believes there will be much more activity in the group-owned captive business. According to persistent reports, he said, "there are at least 60 such groups in various stages of development."

In fact, when Ideal Mutual is approached by companies with $50 million a year in sales and less seeking advice on how to solve product liability problems, he said he tells them "to look to their trade associations for help in establishing condominium captives or industry captives."

Ideal Mutual would "try," said Mr. Lalley, to work with condominium captives if such multiple-ownership insurers were set up by smaller companies, either within the same industry or by firms unrelated in their types of operations.

"The reason why I suggest an industry effort is that it's easier to get together. An aggressive trade association director will work very hard on this. Besides, you have the common risk. But it's entirely possible that companies without homogeneous risks can get together, too."

Ideal Mutual's development over the next several years will definitely include investment in loss control services, an area where Ideal presently provides no services. "We are indeed going to spend some money on loss engineering and loss adjustment in the next two years," Mr. Lalley revealed. "We're getting to the size now where we owe that to our policyholders."

There's not much chance for passage of currently proposed federal bills allowing corporations to deduct their contributions to self-insurance reserves for product liability losses, Mr. Lalley predicted. "The feedback I get on the (Culver and Mikva) bills is that the biggest barrier is going to be the IRS, that they would vehemently oppose it."

But industry should swing its support solidly behind those bills in Congress, Mr. Lalley urged. "There's no way conventional insurers can meet the current need for insurance in this country."

Although Mr. Lalley had said earlier that he doesn't see any increased willingness by insurers to provide "fronting" arrangements for corporations having a high self-insured retention (SIR) but no captive insurance company, he said insurers would "certainly, absolutely" be willing to write excess coverage over self-insured programs if the Culver bill were to pass.

U.S. reinsurance markets should soon be feeling the impact of an inflow of European money into the country, Mr. Lalley noted. ■

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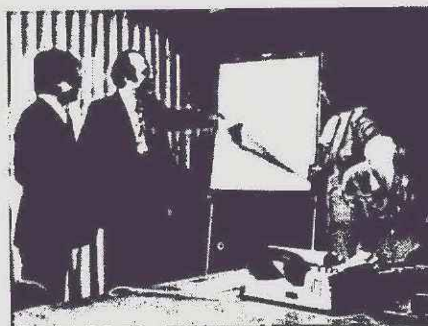

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N.J. bank wins lawsuit; insurer ordered to pay $1.75 million

PARAMUS, N.J.—The Fidelity & Deposit Co. of Maryland was ordered this month to pay a $1.75 million award, plus interest, to a Paramus, N.J., bank for losses on illegal loans approved by two bank officials more than 10 years ago.

The decision by U.S. District Court Judge Lawrence Whipple, requiring that the Midland Bank & Trust Co. be reimbursed for its losses, ended a dispute between the bank and the underwriter which dated back to 1969.

Midland Bank & Trust Co. had made loans totalling $2.4 million to several Greek shipping firms during 1966 and 1967. The loans were approved by bank president John Pensec and Peter Moraites, bank counsel for admiralty law and a member of its board of directors.

When the borrowers defaulted on the loans, it was learned that Pensec and Moraites, a former speaker of the New Jersey assembly, made the loans for more than the authorized amounts, did not receive proper documentation from the shipping firms and misrepresented loan information to bank directors and regulatory agencies, said Thomas E. Stagnitti, current president and chief executive officer of Midland.

Moraites and Pensec were indicted in 1970 for concealment of the unsecured loans. Pensec was convicted in a jury trial and Moraites pleaded guilty to the charges. Both were sentenced to 16 months in prison.

Midland Bank & Trust filed a claim on Dec. 30, 1969, seeking reimbursement for employe-caused losses under its bankers blanket bond policy which was written by Fidelity & Deposit. The bond provided for $750,000 in primary coverage and $1 million in excess coverage, Mr. Stagnitti said.

However, Fidelity & Deposit denied the claim, saying that the loss was not covered by the policy since Moraites, as a bank director, was not an employe.

The bank argued, and the court concurred, that Moraites's status as bank counsel for admiralty law made him a bank agent and, therefore, an employe.

Mr. Stagnitti explained that a decision in the case was delayed by an extensive series of depositions, pretrial motions and pretrial hearings.

Attorneys for Fidelity & Deposit were unavailable for comment on why the company fought the claim or whether it will appeal the court ruling.

Since the incident, Midland has withdrawn from making ship loans, Mr. Stagnitti said, adding that there have been no occurrences of employe fraud since or prior to the case.

Midland Bank & Trust Co. currently has its blanket bond policy underwritten by Continental Insurance Co. Although he would not reveal the policy limits, Mr. Stagnitti said they were considerably higher than for the Fidelity & Deposit policy. The premium for the new policy was only slightly higher than the previously held coverage, he added. ■

Illinois work comp refunds in dispute

CHICAGO—Illinois employers may not get $25 million in refunds on their workers' compensation premiums after all.

The Insurance Services Office is challenging the authority of the state insurance director to order the funds, which was based on a hearing officer's finding that companies have charged too much for administrative expenses.

ISO is also contesting the size of the 7.6% reduction in premiums ordered for new policies by insurance director Richard Mathias.

Mr. Mathias ordered the premium reductions and refunds last summer after insurance authority Spencer Kimball found that companies incorrectly increased the amount of premium allocated to administrative expenses when instituting an 88% rate hike to pay for expanded benefits.

That hearing by the Illinois department was ordered after a group of contractors filed suit in state court alleging the rate increases were excessive. Mr. Kimball found that the increases due to expanded benefits were ordered by the legislature were justified.

Joseph Kieg, a Chicago attorney representing ISO, said the companies believe a 6.8% reduction—not a 7.6% reduction—is justified under Mr. Kimball's findings. The difference, he noted, amounts to $4.5 million a year in premiums.

Robert Gosrow, chief actuary for the Illinois department, said it was possible that the dispute between the department and ISO on the size of the reduction will be resolved by the end of October.

At the moment, ISO companies have appealed the director's rate reduction order in state court. However, an agreement between ISO and the insurance department on the size of the reduction might eliminate the appeal.

ISO companies are willing to give refunds for the companies that filed the original suit, Mr. Kieg said, once the size of the reduction is determined. However, the companies intend to pursue their contention that refunds may not be ordered for all companies in court, he said. ■

Society to speak for administrators

WASHINGTON—A new professional society will represent the interests of professional benefit plan administrators.

The Society of Professional Benefit Administrators named Steven E. Schanes, the first director of the Pension Benefit Guaranty Corp., as executive director. The society now has about 50 members.

The society will represent the administrators' interests before government agencies considering ERISA, national health insurance and the multiple employer trust problem.

The group will also work to obtain errors and omissions coverage and develop an industry code of ethics.

Membership fees, which depend on billings, range from $250 to $2,000 a year. Associate memberships are available for $200.

A newsletter and information exchange are planned. Further information may be obtained from the society's Washington office at 451 New Jersey Ave. SE, Washington, D.C. 20003, telephone 202-543-6365. ■

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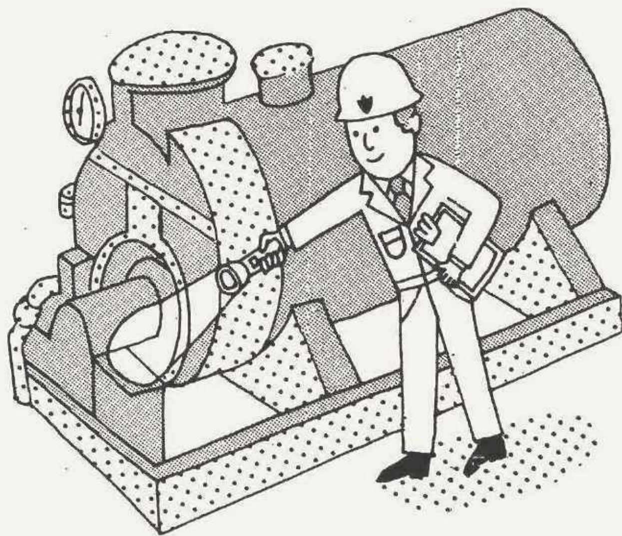

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ADT offers discounts on smoke detectors

NEW YORK—The recognition that employe safety is not "just a nine-to-five consideration" has prompted ADT to begin marketing its smoke detectors to corporations and government agencies for resale to their employes.

ADT plans to sell the detectors at a discount to risk managers and security directors of most of the Fortune 500 companies, said ADT spokesman Edward L. Hansen.

The emphasis on home as well as work safety occurred as ADT acquired Electro Signal Lab, a manufacturer of home smoke detectors. ADT previously manufactured and marketed its detectors only to commercial customers.

ADT's expansion into a home fire safety program recognizes "a more inclusive view of safety—that home safety is part of the corporate social responsibility," Mr. Hansen said.

Although the program is "just getting off the ground," there's been a "lot of interest" in the program, he added.

The program's introduction comes at a time when home fires are causing more per capita deaths in the U.S. than in any industrialized nation," according to U. J. Brualdi, ADT director of product marketing.

Mr. Brualdi said "many of the 12,000 fire deaths that occur in this country each year probably could have been prevented by the presence in the home of a reliable electronic smoke detector."

The Safewatch unit, the photoelectric detectors that ADT is marketing for homes, best responds to the typical smokey conditions of home fires, Mr. Brualdi said, adding that most fire deaths occur from smoke and toxic gases rather than flame and heat.

The Safewatch unit retails at $39.95 but will be sold to private industry and government for $25 to $30, who must buy a minimum of 100 units.

Included in the home fire safety program are the detector itself, posters that warn of fire problems in the home and memos to employes about the program and the importance of home fire safety. It also includes envelope stuffers and order blanks for inclusion with employe pay checks.

A 12-minute sound and slide presentation on home fire safety, a newsletter and pictures are also available. ■

Kentucky to probe restaurant fire rates

FRANKFORT, Ky.—The state decided to find out why restaurants are in the same fire insurance rating category as other retail stores despite the higher risk their cooking and other equipment poses.

The action was prompted by a letter from Hulin Bundy of the Hayes, Foster & Utley Insurance Agency in Louisville, who pointed out that the huge loss in the Beverly Hills Supper Club tragedy would affect future premiums of drug, hardware and dry goods stores because they are in the same premium and loss classification.

Insurance commissioner Harold McGuffey presented the issue to the Kentucky Insurance Regulatory Board, which voted to ask the Insurance Services Office for an explanation.

Mr. Bundy said restaurants historically have been such poor fire insurance risks that many companies refuse to write any coverage on them, even when the premises are equipped with automatic fire-extinguishing systems.

"Obviously, the Beverly Hills fire has ruined the FAIR plan (for high-risk business), but that fire has also ruined the loss experience for every store in the state," Mr. Bundy said.

The loss experience of an insurer determines rates when policies are renewed if they are renewed.

The board also asked the insurers' group to submit a list of rates, benefits and explanations for 20 industry and business groups. ■

Panel adds exceptions to retirement

By JERRY GEISEL

WASHINGTON—A Senate panel has approved legislation prohibiting mandatory retirement before age 70, but only after adopting several key exceptions.

Under intense pressure from universities and school boards, the Senate Human Resources Committee voted 8 to 5 to exempt college professors and public school teachers from the legislation. They still could be required to retire at 65.

In addition, the committee agreed to exempt executives between 65 and 70 who would have an annual private pension of more than $20,000 upon retirement.

The measure, (S.1784) which was approved on a voice vote, would go into effect Jan. 1, 1979, but current collective bargaining agreements that set the retirement age at 65 would not have to be revised to comply with the legislation until Jan. 1, 1980.

The House already has passed a similar bill (H.R. 5383). That measure, however, only calls for a six-month phase-in period. In addition, it does not exempt teachers or highly paid business executives.

The House version would ban any mandatory retirement of federal workers, who now must leave government service at age 70. The Senate bill would leave the law regarding federal employes as it is.

Both bills, however, would exempt workers in some fields such as air-traffic controllers, where age is considered a vital factor affecting a worker's ability.

The administration approves raising the mandatory retirement age, though President Carter is said to favor at least a one-year phase-in period.

A Senate vote on the proposal probably won't be until early next year. After the Senate approves the measure, which is considered likely, the differences that have emerged in the House and Senate versions of the legislation would have to be resolved in a joint conference committee. ■

New firms

Four firms have been accepted for membership in the Texas Surplus Lines Assn. They are Ordway-Saunders Co. of Amarillo, Tex.; Professional Liability Agency Inc. of Houston; Specialty Insurance Managers Inc. of Austin and Specialty Underwriters of Texas Inc. of Houston.

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Colorado court defines medical fault

DENVER—The Colorado Court of Appeals has ruled that a surgeon's failure to remove a sponge from inside a patient is, by definition, negligent. The decision sets a precedent for Colorado and means a physician has the burden of overcoming the presumption of negligence in such cases. The defendant may establish by a preponderance of evidence that he wasn't negligent to overcome a plaintiff's claim against him.

No coverage

JUNEAU—State attorney general Avrum Gross of Alaska has sued 40 doctors who are practicing medicine without purchasing mandatory liability insurance. The doctors who are named in the suit represent about 10% of all physicians in the state.

Delaware HMO

DOVER—Blue Cross and Blue Shield of Delaware, along with the DuPont Co., are investigating whether New Castle County needs a health maintenance organization. A federally funded study by the Delaware Institute of Hematology concluded last year that a HMO was not feasible for the county. But a later survey recommended that DuPont, the county's largest employer, consider setting up a HMO.

Pregnancy

COLUMBUS—The Ohio House is considering legislation that would require employers to help pay medical costs for pregnancies of many of their workers. A coalition of labor unions and political organizations has been formed to seek passage of the controversial measure this fall.

Insurance coverage

DENVER—The state may take into account a person's insurance coverage in determining his ability to pay for hospitalization in a state institution, the Colorado Supreme Court ruled.

In a 4-3 decision, the high court upheld a ruling by the Colorado Court of Appeals which had been appealed by Marvin Schleiger.

The case arose when Schleigers' daughter, Pamela, was hospitalized at the Colorado State Hospital in Pueblo. The hospitalization was covered under a group insurance policy held by Mrs. Schleiger through her employer.

The state hospital determined the actual costs of the hospitalization were $5,240 but that if the Schleigers had been uninsured, they would have been liable under rules that say charges for care are based on the patient's ability to pay, the court said.

Pregnancy benefits

AUGUSTA—The Maine attorney general's office is dropping lawsuits against schools that have refused to treat pregnancy as a temporary disability.

Meanwhile the Maine Human Rights Commission is asking the attorney general to continue one of the 23 such cases already in court and take it to the state supreme court as a test of the law.

The Maine Teachers Assn. is considering suing the Human Rights Commission over its interpretation of the state's human rights law. The teachers want pregnancy to be treated as any other disability. To treat it otherwise would be sex discrimination, the reasoning went, because only women can get pregnant.

The court cases involve schools that do not allow teachers to use accumulated sick leave when they are out because of pregnancy.

Work comp

BATON ROUGE—Employers in Louisiana probably will have to pay $15 million more a year in workers' compensation insurance premiums, but it will mean a $40 weekly increase in maximum benefits to injured workers.

John W. Dingman, director of the Southern Compensation Rating Bureau, which handles the placing of workers' compensation policies with insurance companies, said he would ask the state insurance rating commission for a 15% increase in workers' compensation premiums.

He said the increase is needed because those drawing workers' compensation for work-related injuries will find their benefits jumping from the present maximum of $95 a week to a maximum of $135 a week.

"This is part of a law passed by the 1975 state legislature," Mr. Dingman said, "mandating that the maximum weekly benefits would be 66⅔ percent of the average weekly wage in the state. The Louisiana State Department of Employment Security has figured that average weekly wage rate at $202.60, so two-thirds of that is $135 a week."

Overpayments

CHARLESTON, W. Va.—The state Workmen's Compensation Fund has overpaid claims amounting to approximately $800,000, according to the chairman of a legislative committee which is looking into the fund's troubles.

About half of the estimate can be documented, said Del Larry Wiedebusch, D-Marshall. The remainder is based on an evaluation of the fund's operations.

According to Mr. Wiedebusch, efforts are being made by the Workmen's Compensation Department to collect the overpayments. ■

Product liability awards to rise?

NEW YORK—Product liability awards in Europe and Japan will continue to escalate, eventually reaching levels in the U.S., predicts Frank A. Orban of The Research Group Inc. in Charlottesville, Va.

Mr. Orban, executive director of TRG International, a Research Group unit, pointed to a recent $225,000 award in Great Britain as the forerunner of future developments.

The Common Market is likely to enact directives by 1979 which will introduce strict liability. ■

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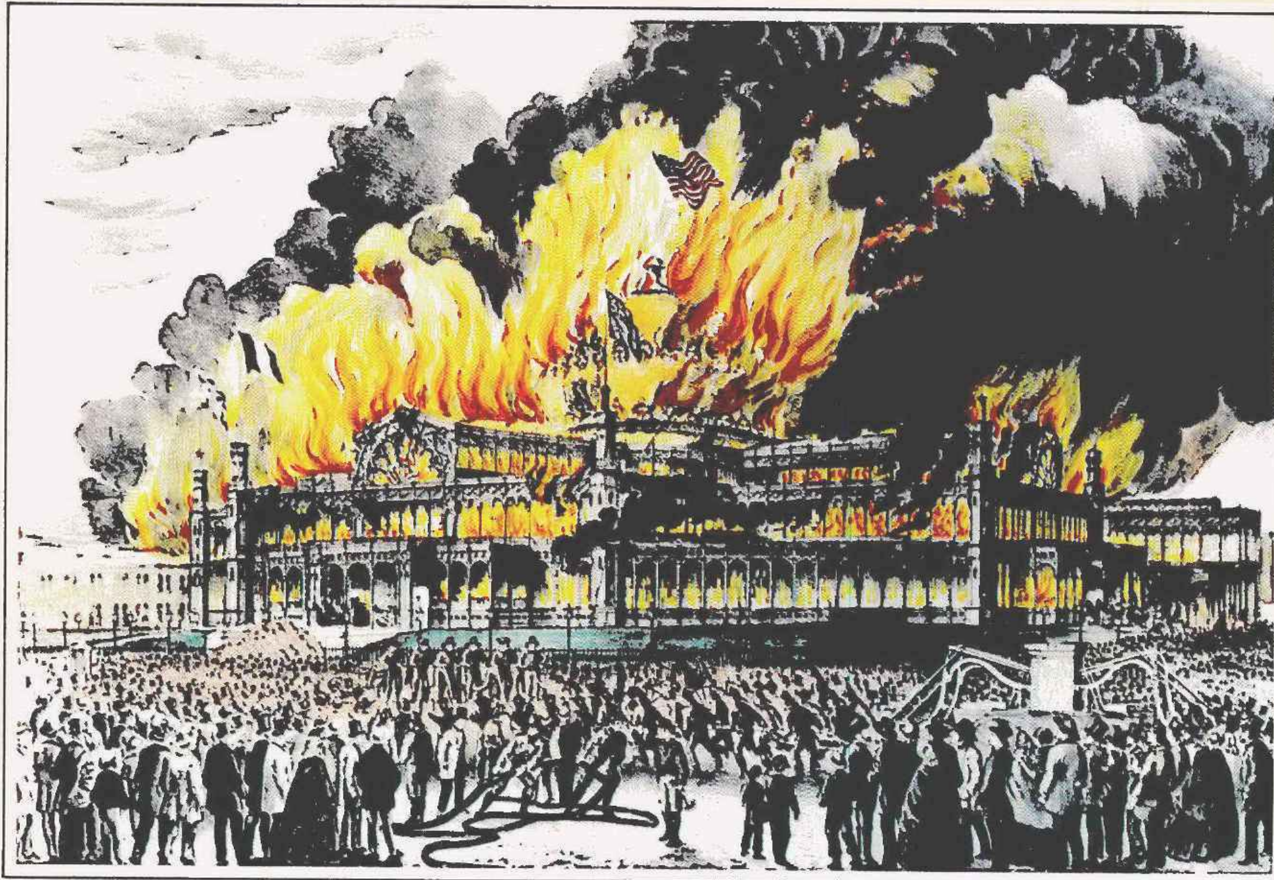

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PERSPECTIVE

Self-insurance, computer claim system saves bank $500,000, speeds work

By David V. Chandler, vp
Security Pacific National Bank
Los Angeles

IN JANUARY 1976, Security Pacific National Bank shifted to self-insurance (or more accurately self-funding) for its employe medical and dental plans. It was not our first experience with the self-insurance concept at the bank; we have self-funded our short-term disability and pension plans for a number of years now.

It was, however, a large self-insurance program to be undertaken by the bank. Some 20,000 employes would be covered; with dependents considered, some 75,000 claims would be handled each year.

This was not a decision we made lightly. We first studied the pros and cons in considerable detail. The pros were quite straightforward. There is a substantial savings possible with self-insurance. By eliminating the overhead, profit and commissions that go into an insurance company's premiums, a company should be able to pay all claims at a lower out-of-pocket cost than the premiums it would otherwise pay.

The cons to self-insurance were more complex to analyze and for us proved to be overrated. These cons were articulately presented by the insurance companies and generally fall into the categories of risk, tax uncertainty, legal exposure, initial costs and claims administration difficulties.

Risk, while very carefully studied, was not really a factor with the bank, due to our size and the actuarial predictability of the medical claims for the 20,000 employes involved. I personally believe that risk is a most important consideration for small companies with limited cash flow or ability to financially back the plan in the event of unpredicted claims. Really, there are no cost penalties. If an insured company has an unpredictably high incidence of claims, after all, its premiums are sure to go up the next year.

The tax uncertainties resulted primarily from the questions about taxes on payments or "premiums" paid to our fund and the taxability of investment income. First, we determined income from trust funds may be tax exempt and, since the Tax Reform Act of 1969, there has been no limitation on this exemption (through the use of an IRS code 501(c)(9) trust). Second, section 514 of ERISA in effect exempts self-insured plans from the taxes and regulations imposed by the states on insurance premiums.

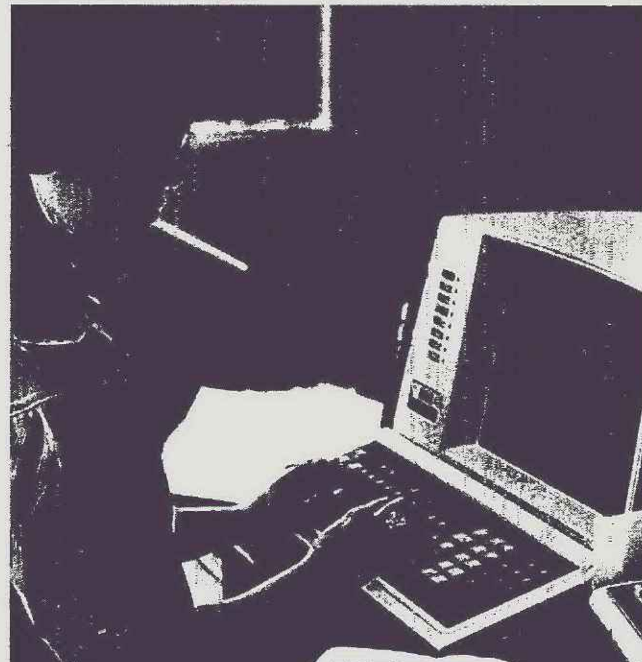
We elected to fund the plan using a 501(c)(9) trust because we saw significant advantages. We obtained a return of reserves from the insurance company for claims incurred but not yet reported. This amounted to approximately $1.5 million transferred directly into the trust, where it earned tax-free income which remained in the trust to pay benefits. The question remained, however, how large should or could the trust be, given our objective of sufficient funding to protect both participants and management.

Obviously, the IRS would interpret too large a trust as tax avoidance, but there were no specific guidelines stating what constituted "too large" a trust. We finally decided on an amount equivalent to three to five months' liabilities, which we regarded as both reasonable and prudent.

We considered the risk of legal exposure at some length. Our investigations convinced us that the risk was directly related to the philosophy of payment. Our philosophy has always been to pay a claim unless it was clearly excluded by the plan and to apply the same criteria to everyone—clerks, as well as vice presidents.

Of course, implementing this philosophy required a competent plan administration. Hence, we established a formal appeals structure. Any plan participant may appeal first to the claims supervisor, then to the head of the employe benefit program and finally to the benefit review committee. This structure minimizes the risk of an erroneous or capricious decision and is in complete compliance with ERISA.

We also took steps to ensure that the plan was clear and unambiguous. We accomplished this by writing the plan document in simple English. The provisions were essentially the same as before, but now everyone could read and understand them.



Claims personnel simply enter information at a computer terminal and verify the information on the video display terminal. A typical display is shown below.

PAYMENT INFORMATION

SOCIAL SECURITY NUMBER ..../.../..... EMPLOYEE FIRST NAME .... RELATIONSHIP ....
DIAGNOSIS .... CAUSE CODE ......
ASSISTANT SURGEON .... ANESTHESIA .... X-RAY ....
FACILITY CODE .... HOSPITAL DAYS .... NURSING HOME DAYS ....
MISC MEDICAL .... YEAR ...... CREDIT RESERVE ....

CLAIM TYPE	LOSS DATE	LAST DATE	REASON/NUMBER	AMT. CHARGED
....	.../.../...	.../.../...	....	....
....	.../.../...	.../.../...	....	....

AMT. PAID	OVERRIDE	PROVIDER	PAYEE
....	....	....	.....
....	....	....	.....

NAME ....
ADDRESS ....
CITY .... STATE .... ZIP ....
DOCTOR'S TAX I.D. NUMBER .... AREA ...... SPECIALTY ......

One of the most telling arguments the insurance companies advance against self-insurance is the complexity of claims administration. Insurers assert that their administration of claims is likely to cost less by virtue of trained, experienced staff organized for the job. We had tested this assertion some years before and decided to administer medical claims ourselves. Even though we administered claims manually, we found that our costs were less than those charged by the insurance company—and we could provide more personal service.

We decided, however, to analyze all the claims administration options available to us under a self-insured plan. We considered an administrative service contract with an insurance company, a third-party administrator and a self-administered, automated system. And we compared the costs of each with our current costs (self-administered medical claims and insurance company-administered dental and COB claims). The results at the time of the study were:

Current Costs	A.S.C. Costs
$470,000	$392,000

Third-Party Costs	SDC Automated System Costs
$304,000	$255,000

While there was a significant cost advantage in using an automated system, other business priorities prohibited spending the time and money to internally develop such a system. Instead, we decided to use the SDC Claims Administration System, a fully developed system offered by System Development Corp. of Santa Monica, Calif. As we operated the system on an SDC computer rather than a bank computer, we avoided the heavy investment of developing our own computer system, as well as the difficulties of maintaining the computer, our computer files and the programs.

Continued on following page

ERISA's dual jurisdiction pain is too much to bear

By Kenneth Keene, FSA
Senior vp and director
Johnson & Higgins
New York

MANY THINGS, as we all know from our personal and professional lives, spring out of compromise. In most cases, the compromises are successful ones, sufficiently satisfactory for all concerned.

In the employe benefit field, however, one compromise sticks out like a sore thumb—a compromise leaving a negative satisfaction quotient for its two component parts and for the hordes of people it affects. This is the dual administration of ERISA by the Department of Labor and the Department of Treasury (IRS).

The primary intent of the 93rd Congress in passing ERISA was to ensure greater benefit security for the 30 million workers covered by 600,000 corporate pension plans. But, alas, it seems that neither Congress nor the two Senate and the two House committees involved in the passage of the law were able to cut the Gordian Knot and decide upon a single agency to administer the act. The result—an unwieldy, inefficient setup intended to handle a thicket of very complex law.

Since the birth of ERISA three years ago, recurring problems generated by dual administration have plagued plan sponsors, administrators, consultants, accountants, actuaries and others. For example, there were delays in announcing the procedures to be followed in completing the annual report (Form 5500), the EBS-1 and the summary annual report. Announcement dates for releasing regulations became postponement dates instead, due to delays in processing and lack of agreement by the Department of Labor (DOL) and IRS.

The annual report (Form 5500) has been a particularly nightmarish experience for plan administrators. In fact, until recently the DOL and IRS had separate deadline dates for filing Form 5500 for 1976. Last May, the IRS allowed for an extension; the DOL did not. Apparently, though, this two-date system proved even more confusing to plan administrators. The DOL reversed its decision, allowing an extension, provided one was granted by the IRS! Copies going to each agency, in combination with a multiplicity of plans, have generated enormous amounts of paperwork and considerable confusion.

Form 5500 is just one example of duplication of material for compliance purposes. Many of the separate forms which have to be filed for the DOL, IRS and even PBGC contain much the same information. The result of completing and filing all these separate forms with so much duplicative material is a waste of time and space for retention, affecting both the plan administrators and the federal agencies that receive them.

The quicksand of dual jurisdiction has also buried any hopes for regulatory efficiency in the granting of exemptions in prohibited transactions. This ultimately affects the $200 billion in private pension fund assets. Out of 800 requests, less than 400 were processed by Sept. 2, 1977—the third anniversary of ERISA. The delay is partly because the IRS and the DOL could not agree on what standards and procedures to apply to the requests for exemption.

Duplication of reporting requirements is one type of duality. Another type is the duplication of staff at the two agencies, which is surely misuse of personnel that could be better utilized in a streamlined operation.

Apparently, others concur that dual administration has caused awkward and unacceptable problems. Various congressmen, industry leaders and ex-government officials have spoken out against it and two bills that would alleviate the problems were introduced in the last session of Congress.

Here are three alternate solutions to the dual jurisdiction impasse:

- Place entire administration with either the IRS or the DOL.
- Clearly delineate non-overlapping responsibilities between the IRS and the DOL.
- Create a new single agency to administer ERISA.

The first alternative was proposed earlier this year by the Labor Department's Advisory Council on Employe Welfare and Pension Benefit Plans. The council recommended that the DOL be given all authority for the interpretation, administration and enforcement of ERISA. This would exclude cases which are concerned with federal taxation, which would remain with the IRS.

Continued on following page

PERSPECTIVE

A national health plan: What will it really mean?

By Peter Downes
Manager of Insurance
American Trading & Production Corp.
Baltimore, Md.

SOME TIME AGO I quoted a remark by Harry Wey, President of the National Assn. of Insurance Brokers, to the effect that the advent of a National Health Insurance Plan might create the biggest bureaucracy of them all. Having had my fill of bureaucrats lately, I viewed the prospects with loathing. And then I got to wondering how the National Health Services in Britain are faring. Are they afflicted with a mindless bureaucracy which takes no account of pain and suffering and treats people as ciphers? They are, brethren, they are! What is more apparent, however, is a problem which also seems to be looming on the American health care horizon.

I well remember the introduction of the National Health Program in Britain and indeed was glad to be able to benefit from it at the time. Medical visits to the doctor were no problem, teeth were regularly attended to, our first child was born in University College Hospital in London and had the very best attention and when the child became seriously ill a year or so later nothing was spared to enhance her recovery. I recall talking to an elderly general practitioner in my home town around the time the plan was introduced. He welcomed it and thought that public health standards would rise because there would be no fear of economic consequences. Perhaps he was recalling the Depression years and the bills he never collected. And I recall also the earnest young men and women studying for the diploma examination administered by the Chartered Insurance Institute, who hoped for a long and useful career in the public service.

There were some dissentient voices but they seemed to be relics of another age for whom social position and wealth were the governing factors in the provision of health care. For them it was enough that the indigent could depend on charity. If there were arguments that looked to the future and the problems which would arise, then we failed to hear them.

A copy of the London Daily Telegraph recently came my way and it reported a story that has some bearing on the subject. The incident was reminiscent of the sit-ins and love-ins that plagued American social life a few years ago. Mrs. Rita Ward, however, conducted a "lie-in." This 36-year-old woman suffered from gallstones and according to this account became afflicted with constant pain some 18 months previously and had been waiting for an operation throughout that period. On being informed by the bureaucracy that it might well be another 12 months before the operation could be performed, Mrs. Ward took matters into her own hands. Early one morning she went to the Northhampton General Hospital, undressed, got into an empty bed and announced her intention of staying there until the operation had been performed.

This, of course, is just an isolated case that has made the headlines but as such represents the very tip of the iceberg. From personal contacts and in a multiplicity of publications one learns of widespread dissatisfaction with the National Health Services. Facilities are inadequate and often outmoded and there is just not the economic wherewithal to provide unlimited health care. Nevertheless, the Health Services do provide for emergencies which may be fatal if left unattended, but the mere existence of excruciating pain is not an emergency and thus people like Mrs. Ward must wait their turn, however many years hence that might be.

The bureaucrats, of course, were livid about the whole thing. Indeed, so far as they are concerned there are no problems until people like Mrs. Ward create them.

— Speaking Out —

There are a host of regulations which deal with every conceivable kind of situation and if public opinion demands that resources be distributed in a different manner, then this becomes a political matter and not an administrative one.

It was my thought that this incident foreshadowed things to come in the United States. Already there are economists and physicians who constantly proclaim that the dollars available for health needs are not limitless and indeed this is self-evident. Of course, it has always been true to say that the availability of money has tended to govern the level of health care in the United States for any individual. The wealthy can purchase the very best of services while Blue Cross and Medicare patients make do with what they can get. In Britain, where economic resources are strictly limited, they do not actually practice triage at this time but they seem dangerously close to doing so.

Similar choices seem to be in the offing on the American scene. For instance, a political decision was made effective July 1, 1973, that each person in the United States suffering from terminal renal failure and who was in need of an artificial kidney or transplant would be provided with free medical treatment. In 1973 it was estimated that some 9,000 people were dying from the disease and that if the program was introduced the cost would run to $1 billion and would serve 50,000 persons by 1985. In actual fact, the program cost over $1 billion in 1976 and it is estimated that the cost will rise to $3 billion by the late 1980s. By that time it is expected that 50,000 patients will indeed be undergoing treatment and that the program will be stabilized except in terms of cost.

Bearing in mind that economic resources are limited, what is the marginal utility of spending $3 billion annually on kidney dialysis? May it not be argued that it would be more beneficial to the greater number to spend an average of $100 each on 30 million people or $1,000 each for three million? Of course, if there were unlimited funds to spend there would be no problem but here we have already a case where funds are limited and the difference between life and death can be measured solely in terms of hard cash. And this will not be the last of such cases but merely the first of many. For example, it has been said that in not more than 20 years from now artificial hearts will be available and that the initial cost of supplying them will be $20 billion a year based on present values. Can a National Health Insurance Plan afford such an item?

It is doubtless true to say that the nation does have a moral commitment to continue treatment where it is already being provided. However, when it gets to the point that there is a limited supply of funds and no practicable way of raising more, who is going to make the decision to curtail a program or not introduce it at all? Such restriction or curtailment will then be tantamount to saying "if they cannot afford to pay, let them die." Can you envisage a Congressman, searching for votes in the present political climate, explaining to his constituents just why he voted to "murder" people?

Until now such decisions have been made by default but the man in the street deplores this "do-nothing" attitude and looks to a National Health Plan from which he expects great things. As we did in England back in 1948 and regardless of economic realities, he will expect the plan to cope with everything he may encounter and he too will be dissatisfied with the limitations which will be imposed upon him.

Crystal ball gazing is a hazardous business, but I think our man in the street will probably find that the cost of a National Health Insurance Plan will almost certainly rise annually in a geometrical progression, that capital investments will tend to be few and far between, that existing facilities will tend to deteriorate, that doctors will tend to be no more than unionized employes of the Health Service, that the quality of medical services will tend to lessen and that medical research will be reduced. ■

ERISA . . .

Continued from preceding page

In favor of this alternative is James Hutchinson, formerly head of the DOL's Pension and Welfare Benefits Program.

The second alternative is the subject of Senate Bill 901 introduced last March by Sen. Lloyd Bentsen. S. 901, which was approved by the Senate Finance Committee on Aug. 5 and which now goes before the Human Resources Committee, would divide ERISA administrative responsibilities between the DOL and IRS. The bill places fiduciary enforcement, including prohibited transactions, within the DOL's jurisdiction. Participation, vesting and funding matters would rest with the IRS. A single annual report would be filed with one agency, a move already taken by the two departments—1977 annual reports need only be filed with the IRS.

The third alternative has been proposed by three of the architects of ERISA. Reps. John Dent and John Erlenborn introduced H.R. 4340 last March. This bill would establish a single agency to administer ERISA—the Employe Benefit Administration (EBA), which would be assigned to a federal department or agency chosen by the President. EBA would establish a three-member board of directors comprised of the Secretaries of Labor and Treasury and a Presidential appointee. This board would choose one of its members to serve as its head.

In a speech to the Senate on Aug. 3, Sen. Jacob Javits proposed several ERISA amendments—one of which is to consolidate ERISA administration into a single agency. The senator stated that "dual jurisdiction has interfered with the effective administration and enforcement of ERISA." He proposes that a Pension Security Administration (PSA) be set up, to become operational Jan. 1, 1980. PSA would be directed by a five-member board appointed by the President. It would take over all DOL and PBGC functions. A panel would be established to determine which IRS functions would be included, although Sen. Javits thinks at least qualification, minimum standards and determination of contributions should become a part of PSA duties.

The one-agency concept is supported by two former ERISA administrators, Steven Schanes and William Chadwick, formerly of the PBGC and the DOL Pension and Welfare Benefits program, respectively.

The one-agency method seems to be the best avenue both in solving today's problems and as a necessary element in establishing an overall federal policy covering employe benefits. If neither element is satisfactorily resolved and if an allocation of agency jurisdiction is attempted, the split will "set" and become permanent.

Thus, for the long term, a single-agency approach, whether EBA or PSA or some broader agency, would probably prove the most workable and efficient.

Eris (not to be confused with ERISA), for those believers in Greek mythology, may be the goddess of discord who caused the Trojan War, but it's doubtful she ever intended to go this far.

•

Kenneth Keene, Johnson & Higgins top benefits specialist, will be a regular contributor to Business Insurance. This is the first in a periodic series of columns focusing on retirement programs.

Bank . . .

Continued from preceding page

SDC's Claims Administration System is an automated, on-line, real-time system designed specifically for administration of health insurance claims. It consolidates all claims adjusting functions into one work station: an on-line terminal with a video display.

We operate six of these terminals at our offices linked via satellite to an IBM computer at SDC. Using these terminals, our claims adjusters have instant access to each insured person's complete up-to-date claims file. They can enter charges and other claims data, such as dates and diagnosis, into formats displayed on the video screen.

The computer at SDC edits and audits this data using our plan rules, subtracts the proper deductible amounts, calculates the proper payment amounts, updates individual history records and keeps a running tab of various claims statistics. Upon command to the computer, checks, letters and daily reports are printed each morning for the previous day's processing.

We had SDC modify certain programs to meet our unique plan and reporting requirements. We were determined, for example, to generate only reports that gave data useful for managing the plan. We saw no need for the unnecessarily voluminous standard reports we had been receiving from the insurance company.

We knew that conversion to an automated system would be a big step, but we could see tremendous improvements in service, as well as cost advantages. At the time, we were sometimes three to four weeks behind on our manual medical claims processing.

We also saw that we would be facing a huge backlog of claims when the insurance company turned over the unpaid claims (and reserves). The automated system appeared to be the best way to provide prompt service to our employes.

To minimize conversion problems, we took delivery of the system in November 1975, two months before we self-insured our plan. First, we used the system for just the medical claims from the Los Angeles area. Then, in steps, we added the medical claims from the rest of the state, the dental and COB claims. Finally, in April, we added our out-of-state subsidiaries. At that point, we were completely self-insured and self-administered.

Our operating results in the first year have more than met our expectations. From a cost standpoint, we saved more than $500,000—the difference between the premiums and operating expense we would have paid and the claims and operating expense we actually paid. Equally important, the program has functioned smoothly. We experienced almost none of the problems we had been warned of.

There have been no legal actions, for example. Indeed, the benefit review committee has only heard two cases since we became self-insured—even though employes are encouraged to use this avenue. Nor have there been the complex cases we had prepared for. We had set up a contingency fund for medical consultants to evaluate such cases. The incidence has been so rare that our fees for these consultants in 1976 were less than $1,000.

We also greatly improved service to our employes. Today, our backlog of unpaid claims is virtually non-existent. Now, we can process a routine claim and have a check in the employe's hand within a week. This is even true of the complex by-report surgery claims, since we have adopted a policy of paying the employe 80% of such a claim immediately and then further evaluating the report quickly.

One advantage of self-insured status is prompt attention to even the most complex claim, so the employe does not have to wait weeks or months.

Along with this improved service to employes has come sharp reductions in claims administration costs. Our staff has been reduced almost by half—from 19 to 12—even though we added dental and COB claims and we cover our subsidiaries. A recent cost analysis revealed that our current claims administration costs are within 5% of the costs we had projected two years ago.

All in all, then, the pros of self-insurance have proven to be pros, but the cons have indeed proven to be overrated. ■

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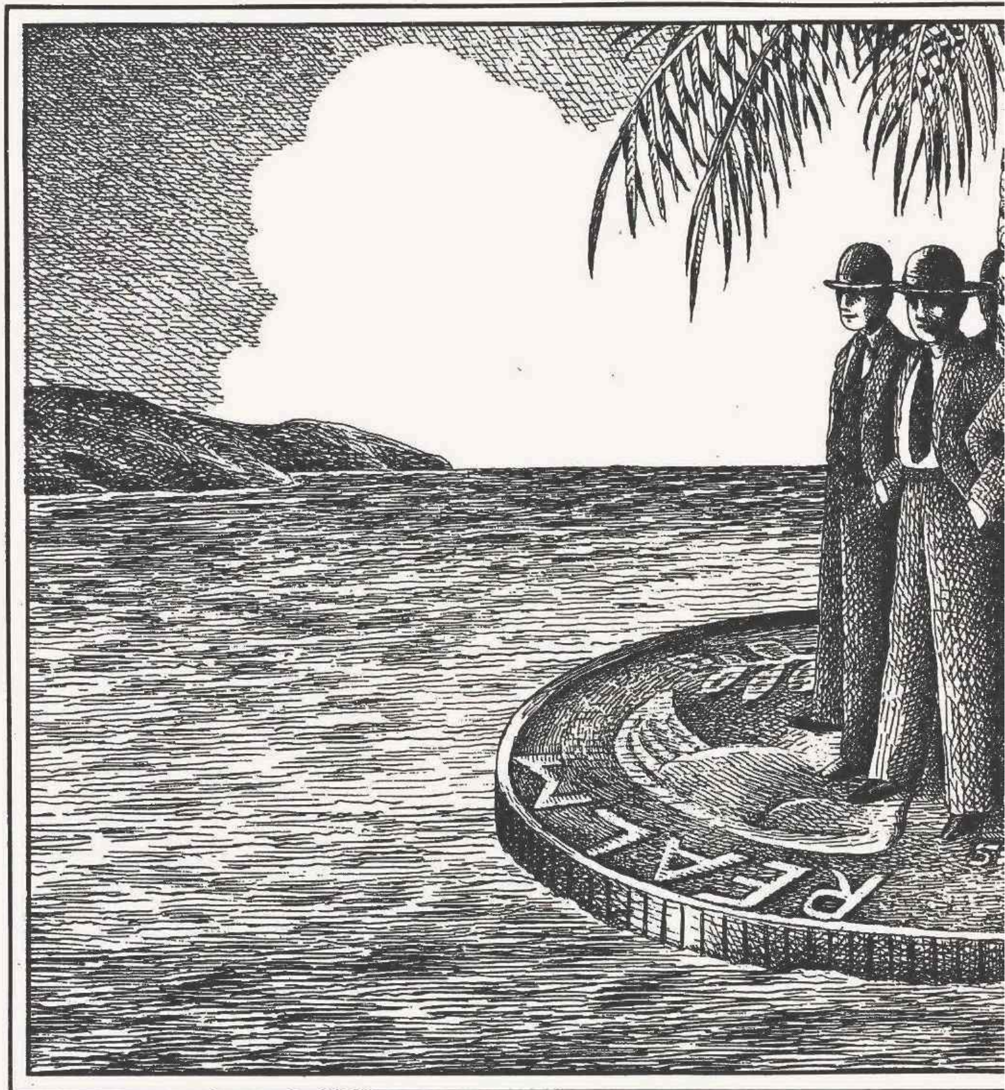
Captive

Financial as well as insurance considerations have led some companies to form wholly owned subsidiaries to insure selected risks of the parent corporation.

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



Under professional risk management, the retention by a company of a portion of some risks which might otherwise be covered by standard insurance policies has become increasingly common. The ultimate extension of this self-insurance concept is the creation of the insurance subsidiary—the so-called "captive" insurance company.

While a captive may be formed by a group of organizations facing similar hazards, most are created by a single firm solely to provide itself and its affiliates with selected kinds of insurance. Usually a captive will retain the more predictable portions of risks up to given limits, as well as risks difficult to insure in commercial markets because of cost or other factors. Furthermore, the relatively high cost of insurance abroad may make overseas operations well suited for captive handling. And a growing number of captives also write outside risks unrelated to the parent organization.

The principal advantage is that premiums may be lower. Moreover, a captive may earn income from invested funds, including premiums and loss reserves, which otherwise would be held and invested by an outside insurance company. Such funds may be used to finance other overseas operations of the parent company.

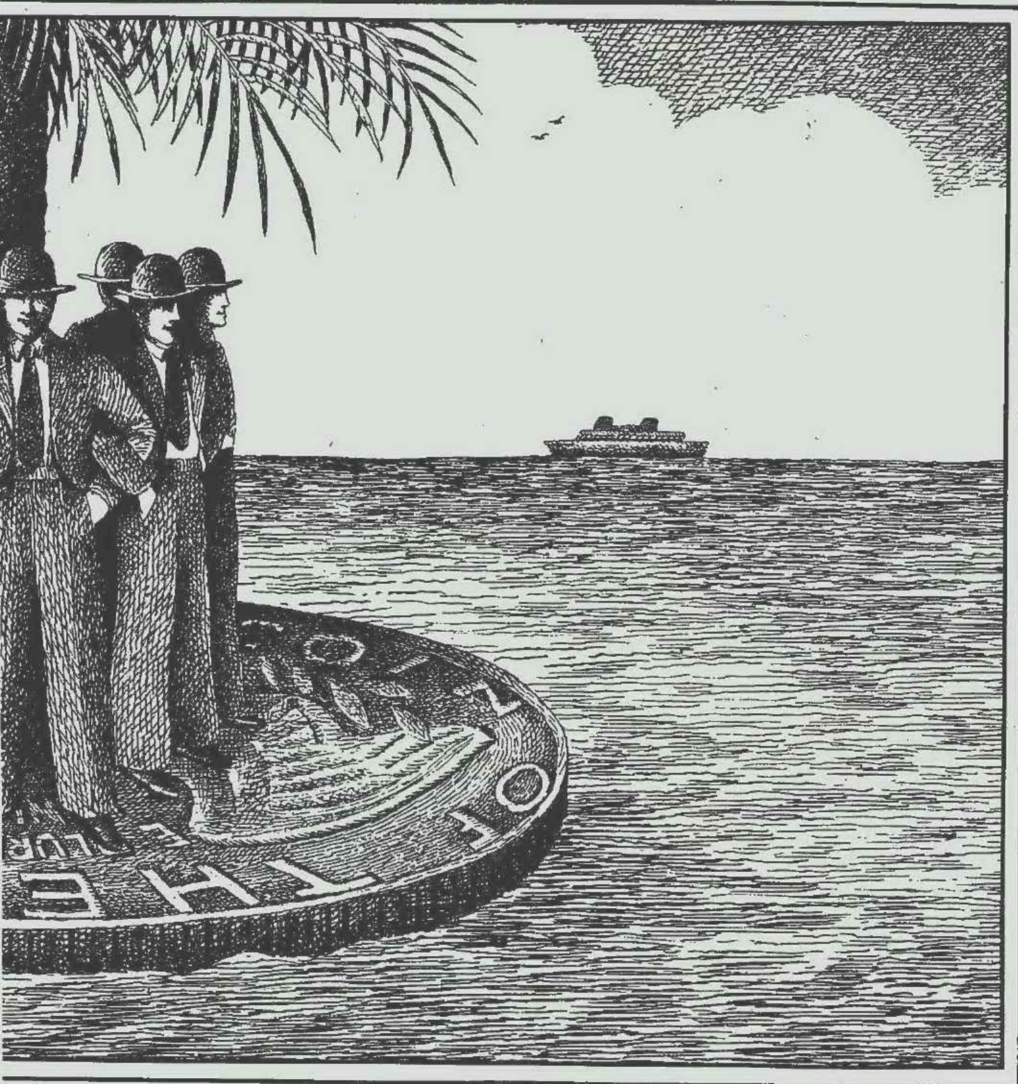
The importance of reinsurance

Since no captive is likely to have the resources to underwrite any major risk in its entirety, reinsurance is usually essential. In practice, most captives retain the primary levels of the risks they accept—for example, the first $100,000 per occurrence of a liability risk—with commercial excess insurance and reinsurance taking care of exposures over those levels.

The availability of reinsurance to captives also can be an important factor in reducing costs, since reinsurance rates are typically lower than those of primary insurers.

There are over 400 captives in existence today, nearly all founded in the last few years. Since a

Insurers



company should have extensive insurance needs to contemplate a captive (one rule of thumb is a minimum of $500,000 in annual premium volume), captives are usually formed by large companies, often with international operations.

When is a captive feasible?

But creating a captive is by no means automatically indicated for any given company, no matter how large. Under the direction of sophisticated corporate risk management, an in-depth feasibility study should precede any decision. Among the factors involved are the capital and surplus funds a captive would require; the choice of risks it would underwrite; its maximum risk retentions; and arrangements for obtaining reinsurance and excess risk coverage.

A captive may also need to purchase a number of outside management services, including loss control, claims handling, accounting, risk analysis, underwriting and administration. The cost of such services should be carefully compared with anticipated initial premium savings and projected profits.

Finally, there are tax considerations. Bermuda and other offshore locations have become popular domiciles for captives, partially because of the locally favorable tax treatment. However, U.S. tax implications have yet to be resolved with respect to the treatment of premiums paid to an offshore captive for domestic risks or for the handling of retained captive funds.

With all aspects of a proposed captive, legal counsel and professional tax advice are essential.

Insurance brokers and agents, as well as insurance companies, are often instrumental in the creation of captives and can be an invaluable source of guidance. As an objective discussion of captive insurance companies, INA has prepared a booklet entitled, "Captive Insurers: Some Professional Considerations." Copies may be requested by writing INA Corporation, 1600 Arch Street, Philadelphia, Pa. 19101.

* * *

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AMA coverage

Business Insurance Washington editor Jerry Geisel attended the week-long American Management Assn. fall conference on risk management and employe benefits. In addition to the stories on this page, his reports include:

• END OF mandatory retirement could bring surgery on sick pay plans. **Page 29.**

• EMPLOYERS WILL continue to bear the health care cost burden, says Borden's benefit director. **Page 29.**

• NEW TYPES of underwriters are needed to meet today's needs, says a company executive. **Page 30.**

• INCOME SECURITY may become a major demand of labor unions. **Page 30.**

Says Utah senator

Want product liability laws? Compromise

PALM BEACH, Fla.—Business leaders are going to have to learn the fine art of compromise if they hope to get product liability reform measures passed in state legislatures around the country.

That advice comes from a man who ought to know—Fred W. Finlinson, the 35-year-old state senator from Utah and author of the first product liability reform bill to pass this year.

"If you can't get a whole loaf, then shoot for a half loaf. And if that doesn't work, try to get a slice," Sen. Finlinson said, referring to the late president Lyndon Johnson's advice in getting bills through Congress.

That compromise strategy also worked in Colorado, Sen. Finlinson said, the second state to pass a reform bill. Business groups in the state originally had pressed for a proposal that would have eliminated a manufacturer's liability seven years after a product was made.

Implacable opposition to that provision soon developed, however. Rather than see the entire bill scuttled, a compromise was hammered out in which the statute-of-limitations following the manufacture of a product was dropped.

In its place, though, a key amendment was adopted by the legislature which shortened the time allowed to file a claim following injury from six to three years.

Aside from learning how and when to compromise, product liability reformers have to do their homework long before the legislative battle begins, said Sen. Finlinson.

For starters, businessmen and women have to get to know their state representatives. "A state legislator may be the most unknown representative in America," Sen. Finlinson said. "Yet they have an enormous impact on our lives."

In short legislative sessions, it is vital to have product liability bills printed and discussed before the session begins. At the same time, bipartisan support should be lined up, particularly in legislatures where the house and senate are controlled by opposing political parties, Sen. Finlinson said.

Once the session begins, learn to count. If the votes are on the table for passage, press for a vote. "Don't let a bill be talked to death," Sen. Finlinson said.

If support is lagging, find out what amendments will make the measure more acceptable to the opponents. If the bill can't pass, have the issue referred to a special committee on product liability.

"The important thing is to keep the momentum going," Sen. Finlinson said.

The passage of Utah's comprehensive product liability bill last March already has begun to offer the business community a measure of relief. Several insurance companies have given assurances that rates for product liability coverage will be reduced soon.

If all states adopted a measure similar to Utah's, which includes a six-year statute of limitations from the initial sale and defenses based on alteration or modification of product and compliance with government standards, the number of product liability claims could be reduced a hefty 65%, Sen. Finlinson estimates. ■

Captives to expand, says Blades exec

PALM BEACH, Fla.—The latest development to hit the ever-changing captive scene in Bermuda has been the expansion of "senior" captive insurance companies.

A senior captive simply is a captive that has matured beyond insuring only the risks of its parent, with the financial strength to insure the risks of others, B. A. Yeargan, vp of Blades Management Group in Bermuda, told a self-insurance seminar.

Hard-to-place gap and buffer layer liability risks, in particular, lend themselves to underwriting by senior captives, Mr. Yeargan said.

The Internal Revenue Service ruling which said a U.S. parent company cannot deduct as business expenses premiums paid to an insurance company entirely owned by the parent may result in a "great flurry of 'pure captives' wanting to become 'senior captives,'" Mr. Yeargan said. Premiums paid into a senior captive possibly still could be written off, increasing the tax attraction of a senior captive doing outside business, Mr. Yeargan indicated.

For those contemplating starting a Bermuda captive, Mr. Yeargan had some bad news—costs are continuing to increase. Attorneys and auditors are asking about $250 a year more for their services and the Bermuda government has increased the annual registration fee to $1,500 from $1,000. ■

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End to forced retirement may bring surgery

PALM BEACH, Fla.—Paid sick leave programs may be in need of some vital surgery if Congress raises the mandatory retirement age and more employes work past age 65.

"You could see that an employe over 65 might spend more time off the job than on the job because he or she is not physically able to work," said Bernard Schoen, an assistant vp at Johnson & Higgins in New York City.

To prevent fringe benefits costs from jumping out of sight as mandatory retirement curbs are lifted, employers should adopt a provision in their benefit plans which would require employes over 65 to retire if they are disabled for more than three months, Mr. Schoen said.

The raising of the mandatory retirement age also will substantially boost costs for group life insurance programs. But there may be a savings in medical care costs if employers include deductibles for benefits received under the federal Medicare program.

Pension plan costs also might be somewhat reduced. A cost savings could be achieved if service credits are not given for employment past 65.

That would mean, for example, an employe who is entitled to an $800 monthly pension at 65 and works three more years, would still only receive $800 monthly at age 68, he said.

Under such a non-accrual system, a corporation could save money since the number of years it would pay benefits would be reduced by three years.

Mandatory retirement aside, Mr. Schoen said there has been a definite shift away from defined benefit pension plans and back to defined contribution plans, though he was unsure as to the exact cause of this trend.

Turning to efforts to cut benefit costs, Mr. Schoen noted that second surgical opinion programs, while still retaining tremendous potential, have so far failed to live up to their original promise.

"If we could get second surgical opinions, these programs would work," he said. But the difficulty is employes don't make the effort to see a second doctor.

One major insurance company, he noted, found that only nine employes out of a workforce of 15,000 bothered to seek a another opinion under its second surgical advice program.

Other ways of reducing costs include the raising of deductibles, though this has not emerged as a real trend yet. Other possible trends include the reintroduction of deductibles on surgical schedules and the elimination of co-insurance at lower levels.

Finally, companies are making a greater effort to eliminate the overlapping and duplication of benefits that frequently occurred as benefit programs expanded enormously during the late 1960s and early '70s. ■

Firms will still shoulder health costs

PALM BEACH, Fla.—Business will continue to pay the bulk of health care costs in the years ahead, one of the nation's top benefit directors warned.

Speaking on future benefit trends that management considers feasible, Dennis Kairis, director of employe benefits at Borden, Inc. in Columbus, Ohio, said that the shift from employes paying part of group health care programs to management paying nearly all the costs means future big health bills will be placed right on business's front door step.

And judging by the outcome of the 1975 negotiations between General Motors and the United Autoworkers Union, the outlook for employes assuming a greater part of the health cost burden does not look promising, he said.

During the preliminary negotiations, General Motors had insisted that workers share in part of the cost of health care. "We were astounded to learn that the largest supplier of General Motors was not U.S. Steel or Goodyear Tire, but Blue Cross and Blue Shield," Mr. Kairis said.

"We sat back and waited. They (General Motors) lost the battle. And if General Motors can't win the battle, neither can we. Businessmen must pay the bill."

While that battle may have been lost, the war on rising health care costs is far from over.

To try to keep the lid on health care costs, management will increasingly have to turn to "super benefit professionals." Clerks will be replaced by someone who is a tax expert and financial wizard who is comfortable with terms like HMOs, ASOs and self-insurance, Mr. Kairis said.

In addition, management will devote more attention to second surgical opinion programs and make more of an effort to participate on hospital boards and community health planning agencies.

To cope with another sudden big ticket item—pension plans—Mr. Kairis said management will seek in their place cash value programs, such as savings plans, which do not have past unfunded service liability. ■

Who is insured

Nearly 150 million individuals, or two out of three people in the United States, were insured by legal reserve life insurance companies at the beginning of this year, reports the American Council of Life Insurance.

Topflight salesman. *Bob Connell spends less time traveling and more nights at home than most traveling salesmen. Yet he holds the company record for annual sales. His company is American Hospital Supply Corporation and Bob has been their No. 1 sales representative for 25 years. □ Bob does most of his traveling by airplane—his own. He has accumulated an Instrument rating, Commercial ticket and 4,300 hours since learning to fly in 1962. About 90% of those hours were on business. 240 of them hard IFR. That Beech Baron is the seventh aircraft he has owned. □ Bob's territory includes the unforgiving topography of western New York and northern Pennsylvania. To him, a good airplane, well equipped, is not enough. □ "Unrelenting attention to details like flight planning, weather briefings, preflights, my own proficiency, close communications with controllers and Flight Service Stations. These," he says, "are open secrets to safe flying." □ Bob Connell is a pro both in selling and in flying. For the past 14 years that same thoughtful care has led him to insure his aircraft with the insurance pros. USAIG. Seems natural, doesn't it?*

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Better underwriting needed: Insurer

PALM BEACH, Fla.—A new type of underwriter, one who is creative and imaginative, is needed to meet the changes that have rocked the insurance industry in the 1970s.

"Not so long ago, a person could become an underwriter only by possessing a reasonable amount of intelligence," said D. R. Schmidt, senior vp of Employers Insurance of Wausau.

Prospective underwriters' knowledge of economic conditions, changing social attitudes and the political climate was not tested. As a result, candidates coming into the field needed little more than the ability to scan lists of risks classified as ineligible or prohibited to determine whether an application was accepted or rejected.

Mr. Schmidt, in a keynote address on major changes in current underwriting practices at a American Management Assn. fall conference on risk management, pledged that "those days are gone forever . . . never to return."

Any company which doesn't practice the selection of underwriters as carefully as practicing the selection of risks, is undermining its ability to serve the insuring public, he said.

So, before underwriting practices change, the quality of underwriters must be upgraded. The underwriter of the '70s, must be able to successfully walk across the highwire of helping policyholders achieve maximum protection at reasonable cost while keeping the insurance company that employs him or her at maximum financial strength.

But the insurance industry itself needs to get its act together. Rigid rules which do not permit responses to unique situations must be scrapped.

The failure to make underwriting rules more flexible will result in more government-sponsored insurance mechanisms, Mr. Schmidt warned. "And that is something we can all do without."

The industry's disasterous stroll down the investment highway also must be redirected. During that calamitous venture in a stock market gone sour, insurance companies lost sight of their primary objective: to make a profit from underwriting.

Turning to buyers of insurance, Mr. Schmidt called for a team concept in which suppliers and providers work together, not at the expense of each other.

That team concept can be set in motion by greater use of deductibles—not to shift the loss burden of the industry to its customers—but rather to make that burden lighter, Mr. Schmidt said.

"Buyers should be aware that insurance is pure only when it protects against disaster, not inconvenience. No business entity should insure losses it can absorb as operating expenses."

If a business assumes a higher deductible, underwriters might be able to provide broader coverage and remain on risks they might otherwise cancel.

In the emotionally charged area of product liability, Mr. Schmidt called for underwriters to focus more on potential exposures, rather than base underwriting decisions solely on past history.

"Those who have had difficulty in the past (obtaining product liability coverage) could very well have taken positive steps to eliminate the causes of yesterday's losses," he said.

It is up to the underwriter to probe deeply in matters of quality control, advertising and warranties to see if a customer has reduced his exposure to losses. ■

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Pay security demands to be increased

PALM BEACH, Fla. — If the U.S. economy continues to plod along on a slow-growth pattern, the issue of income security will assume greater importance at the management-union bargaining table.

"I suspect the replacement level of income that workers will strive for in times of economic insecurity might range from 75% to 90%," said David Bronheim, a senior analyst at the Futures Group in Glastonbury, Conn., in his keynote address to the employe benefits program at the American Management Assn. conference.

As workers demand and increasingly win contracts limiting layoffs, more attention will be directed at the quality of the workplace itself.

"Once a man no longer fears being fired, maybe his concern about noise levels and toxic substances will change drastically," Mr. Bronheim said.

At the same time, the "graying" of the workforce as mandatory retirement curbs are lifted means existing health and safety programs in factories may have to be changed substantially.

Accident prevention programs, for example, may have to be restructured to offer greater protection for older workers, Mr. Bronheim said.

Big changes also loom ahead in the area of workers' compensation. This country's "strange moral judgments" which provide one level of compensation if a worker is hurt in a factory and another level of compensation if the injury occurs at home seem likely to disappear in the future.

The current system of sick leave too seems ripe for change, Mr. Bronheim said. Right now, sick leave often is used for personal needs. A simpler system in which employes are given several days off annually for short-term leave appears likely. ■

Plastic firms eye captive for industry

LOS ANGELES—An industry-owned captive which would provide reinsurance for general and product liability claims might be established next year by the nation's plastic processors.

An industry survey conducted by Plasti-Pak Management Co., an affiliate of Moselle Insurance Co. of Los Angeles, found an overwhelming interest in the field for establishment of such a program, said Merritt Moselle, president of the two organizations.

Plasti-Pak was retained by the Affiliated Plastics Group to conduct the feasability study. Mr. Moselle's brokerage firm specializes in insurance coverage for the plastics industry.

While the survey found more than ample interest in establishing an industry-owned captive, Plasti-Pak has not yet obtained sufficient information to determine loss potential, Mr. Moselle said. That data is being compiled at present and the final study should be complete by the end of the year, he added.

Moselle explained that should the industry decide to set up its own captive, it will be strictly for reinsurance purposes. Both offshore and Colorado locations are being considered as sites for the captive, but Mr. Moselle said the study is leaning towards offshore.

Plastics molders have had difficulty in obtaining primary coverage because insurance companies have not been successful in obtaining reinsurance for them, he added. Seventeen percent of the plastics processors have no product liability coverage at all, noted Charles Leighton, chairman of Affiliated Plastics Group.

Plastics processors differ from many other industries in that they do not produce a specific product, such as a ladder or piece of furniture, said Mr. Moselle. Plastic parts have end uses ranging from medicine to aviation, he added.

Therefore, "the exposure is greater. Many molders don't even know what the part they molded will be used in," he said.

Loss control would be a major component of the industry program. Mr. Moselle said the industry captive would develop a loss control manual with standards for design, labelling, fitting of raw materials with proper end products and other safety functions. In addition, molders would be urged to become more aware of the end uses of the products they make, he said. ■

Coming Oct. 31

How has risk management changed in the past decade? What's happened in the field of employe benefits? Where is the field of commercial insurance headed? Those are some of the questions the editors of *Business Insurance* are asking in preparation for the 10th anniversary issue of BI. Watch for it Oct. 31.

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Unique benefit communication seminar deadline is approaching

CHICAGO—A unique opportunity to improve your benefit communication program is just around the corner.

The first *Business Insurance* Employe Benefit Communications Conference is scheduled for Nov. 7 to 8 at the Continental Plaza Hotel in Chicago's Gold Coast area.

Corporate managers, brokers and benefit specialists attending the conference will have an opportunity to learn the details of some of the best benefit communications programs in the country. They will also view and judge for themselves as many as a dozen audio-visual communications presentations from among the many submitted to *Business Insurance* this year for its annual communications competition.

Joseph W. Duva, director of employe benefits and compensation for SCM Corp. in New York, will moderate a discussion on how to choose the right benefit consultant to help with a communications project. Examining the many ingredients in the recipe for success when using a consultant will be John M. Shores Jr., director of personnel and purchasing for Birmingham News Co., and Robert Sjogren, manager of benefit development for Xerox Corp.

Mr. Duva of SCM will also participate on a panel comprised of award-winning corporate benefit managers presenting the details of their benefit communications efforts, their successes and failures and costs of programs. Revealing the secrets of a good benefit communications program along with Mr. Duva will be Richard Emerich, manager of benefit programs for Mead Corp., Judith Starkey, personnel specialist at Chemetron Corp., and Dennis Kairis, director of employe benefits for Borden Inc.

Rounding out the roster of distinguished corporate employe benefit managers who will be speaking at the two-day meeting are Lee A. Carlson, manager of salaried benefits and policies for Bendix Corp., and George Craig, manager of indirect compensation for Green Giant. Mr. Carlson will discuss the motivation behind having top-notch corporate benefit communications. Mr. Craig tackles how to have good communications programs without breaking the bank.

The headaches of the federal pension law and complying with all the plan reports and descriptions that must be submitted to Washington is the property of Barbara Philbeck and Richard Cromer, two consultants from Hewitt Associates.

What do employes really think of corporate benefit communications efforts? You'll have a good idea after hearing William W. Winpisinger, president of the International Assn. of Machinists, and James H. Mayes, director of publications for Standard Oil of Indiana, air their views.

Experts at producing outstanding communications programs will help their listeners deal effectively with information, language and media problems. A noted film producer, John Mackenzie of Internal Communications Corp. in New York, will discuss the use of audio-visual media for benefit programs. Other panel members are John Kearney Jr., vp of employe communications at Kwasha Lipton Inc., Paul Sanchez, consultant with Towers, Perrin, Forster & Crosby Inc., and Donald Ward, director of employe benefits for Medtronic Inc.

Audience involvement is the key feature of three sessions of the conference. Those attending will judge the effectiveness of audio-visual programs that are screened. Herbert Zeltner, president of his own marketing and communications firm in New York, will moderate and lead a critique of each effort to inform employes of their benefits.

Early registrants who sign up before Oct. 26 can qualify for a reduced rate of $285 for the event, including meals. Additional early registrants from the same company pay only $256.50.

The registration fee after Oct. 26 is $320 per person, with additional registrants from the same company to be charged $288 per person.

For registration and hotel information, contact Mary Ann Engelhardt, Crain Education Division, 740 N. Rush St., Chicago, Ill. 60611, or you can telephone 312-649-5241. ■

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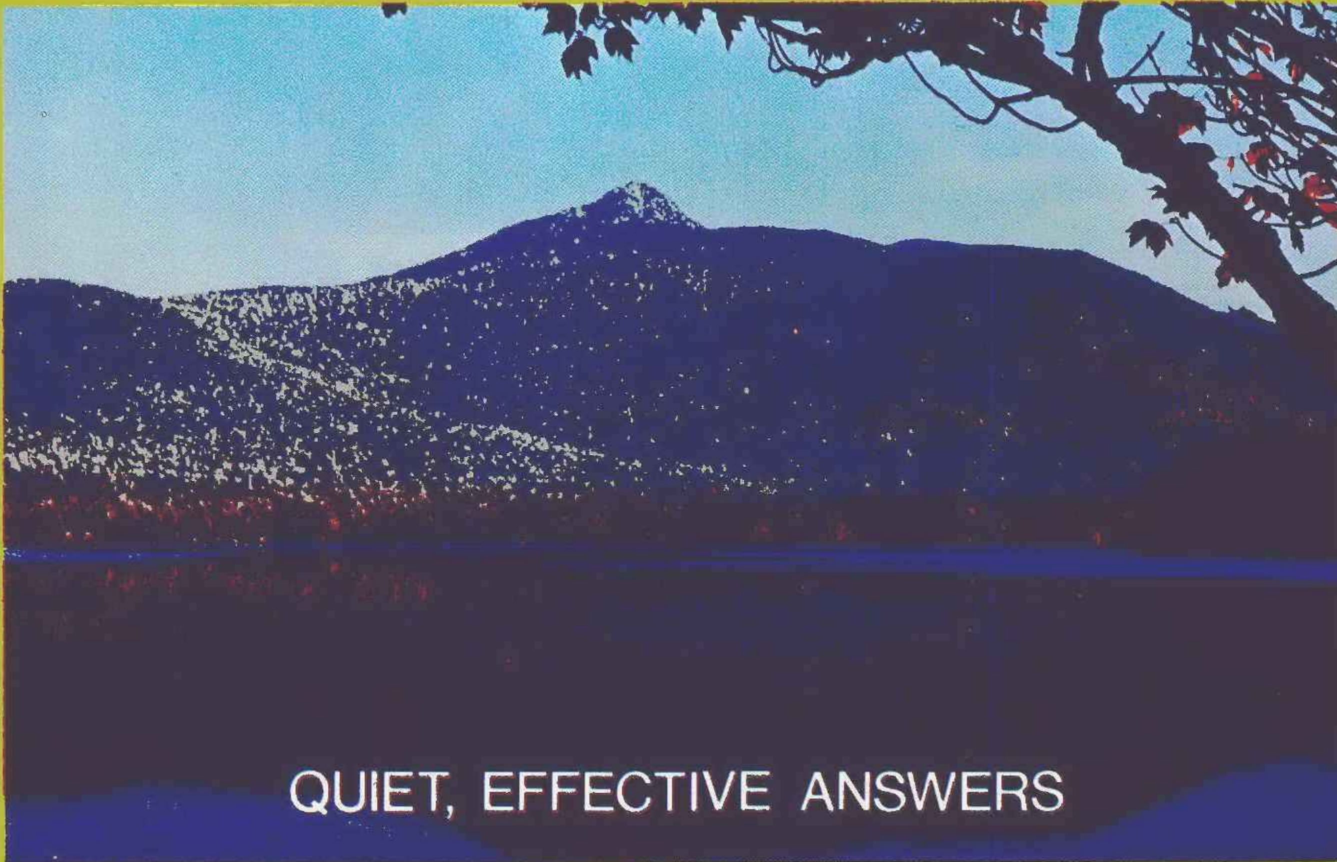

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U.K. booklet explores risk management

LONDON—Risk managers in the U.K. have got together through their association AIRMIC (Assn. of Risk & Insurance Managers in Industry and Commerce) to publish an information book which sets out the nature of their work.

Intended mainly for smaller companies, it has been prepared by Ron A. Muckleston, group risk management adviser and insurance manager for Inco Europe Ltd.

Advising executives on the value of risk management for many business activities, Mr. Muckleston says, "Efficient management should automatically include the management of risk. It is a term which was coined in the U.S. and quickly became a common topic for discussion throughout the western world.

"Elimination of most hazards and risks is either impossible, uneconomic or socially unacceptable because of related factors like redundancy or maintenance of standards of living.

"A more acceptable solution is to take appropriate steps to reduce the risk to proportions which can be handled conveniently within the overall management philosophy."

Mr. Muckleston, who also handles training and education courses in the U.K. on behalf of AIRMIC, has set out the major philosophies and practical examples of such work in the book, where he explains:

"Risk management is an essential discipline for any successful management team, no matter how large or small."

AIRMIC is sponsoring large scale distribution of the book he has written. Further information can be obtained by writing Mr. Muckleston's office at Inco Europe in Millbank, London. ■

ISO counsel

George E. DeWolf Jr. has been named senior vp and general counsel of the Insurance Services Office. He has been vp and counsel.

letters

Continued from page 8

vestment in safety have been better and cheaper than the lives lost. . . ." Warner-Lambert has an exceptional safety record and this would have been evident to you had you bothered to try to learn the facts about Warner-Lambert, its safety record and its regard for its employes.

We consider these criminal indictments to be outrageous. We are confident that, when all the facts have been reviewed at a full trial, our company and the four executives who were indicted will be fully vindicated. Although a tragic accident did occur, a full review of the facts will show that the accident was caused by a totally unforeseeable cryogenic phenomenon, which could not have been predicted by safety experts.

Under our system of law, an indictment is merely an accusation to be tested at a trial on the merits. But the opportunity for a fair trial is almost meaningless when editorials such as yours irreparably damage the accused's reputation before the first witness is sworn.

We appreciate the point you were attempting to make in your editorial opinion. However, we object to your unfairly casting our company in such an unfavorable light, particularly when the opinion is based on erroneous statements of fact.

E. Mench
Insurance manager, Warner-Lambert Co., Morris Plains, N.J.

A clarification

To the Editor: In August, one of your reporters contacted me for background information on excess and surplus lines markets and captive insurance company involvement in this area. On Sept. 19 your issue pertaining to these subjects appeared. The article on page 18 was well written and, perhaps by coincidence as quotations were not attributed to specific sources, the latter points in that article expressed the opinions I stated to your reporter.

In the article on page 35, titled "ARM sets major move into excess," I must point out the incorrect and misleading aspects beginning with the nature of the article itself.

First of all, the American Risk Group did not announce the formation of a new off-shore facility. The fact that a select group of insurance companies under our management formed a new reinsurance company almost two years ago, for reasons not outlined in the article, has been known to the market for the same length of time.

Secondly, that company was identified as "United Insurance Co. located in Shannon, Ireland . . . and capitalized at $100 million." United Insurance Company is not domiciled in Ireland. Furthermore, to my knowledge, no insurance company domiciled in Ireland has a capitalization of such considerable proportions.

Finally, the quotes directly attributed to me were either incorrect or taken entirely out of context. Misleading inferences and conclusions were drawn which indicate insurance companies under our management are going to solve casualty market capacity problems other than their own.

Arthur H. Deters, CPCU
Executive vp & director, Armrisk Inc., Englewood Cliffs, N.J.

Note: United Insurance Co. Ltd. is domiciled in Grand Cayman. It owns Universal Insurance Co. Ltd., of Ireland, based in Shannon. United's capitalization is over $5 million, says ARM, and the company is managed by Transnational, a separate entity from ARM or International Risk Management Ltd. but owned by the same principals of the Fred Reiss Group. United was established so that it is much like the Hopewell pool, to be used primarily for underwriting reinsurance business mainly through Universal. The reinsurance business handled by United/Universal is generally outside business, not related to the captive insurance companies or the corporations owning captives managed by ARM. United/Universal isn't writing any buffer layer casualty business and doesn't plan to write this business in the foreseeable future, contrary to the impression our story left.

Punitive damages

To the Editor: Your editorial (Sept. 19) on punitive damages is correct in theory and I agree that insurance against "willful or wantonly negligent acts" may not be in the public's interest. However, the problem is that while a company can act to prevent such acts, it can not prevent a court from allowing a punitive award when there is no justification for one.

With so many suits seeking punitive awards and with the wild awards that are made by juries and let stand by the courts, there has to be some form of protection or anyone can get hit with an uninsured award simply because it is called punitive.

If there was ever a time when punitive coverage could have been dropped it was years ago when if a punitive award was made it was justified. The way cases are going now with most lawyers trying to fatten their awards and fees with punitive claims, I suspect that it is the increase in these claims that has influenced this move to exclude coverage rather than a belated conscientiousness for the public's good.

It seems if a change is to be made it should be to exclude from coverage punitive awards resulting from willful or wantonly negligent acts, rather than throwing the baby out with the bath and excluding coverage completely.

R. K. Rappold
Asst. secretary, Peoples Drug Stores Inc. & Subsidiary Corporations, Alexandria, Va.

. . . A coup?

To the Editor: Your hearty approval of ISO's punitive damage exclusion was certainly a coup for the plaintiffs' bar and those carriers who want a quick and easy escape from a serious problem faced by their insureds. In today's "alice-in-wonderland" court climate, it is simply unreal to believe that juries have the capacity to use this criminal sanction with the restraint and consistency required to achieve its intended purpose.

I am proud of our safety record in the product area and our efforts have made the current product liability crisis more tolerable at Airco. Despite our concern for safety, we have seen punitive damages sued for in nearly 50% of the product cases in the past two years.

It is only a matter of time before some jury, caught up in the emotion of a trial, will say that we failed to be "reasonably prudent", the criteria espoused in your editorial.

Our legal system is in danger of failing its purpose because of the present chaotic conditions in the courts. Reform and restatement of the punitive damage concept is of vital importance to the survival of the system.

This is a task the legislators and courts must face up to.

I would urge you to reconsider your position and devote some time, effort and money toward encouraging the legal reforms which MUST precede treatment of punitive damages as a criminal fine or penalty

Continued on following page

If we didn't own ourselves, maybe we wouldn't be the top broker/consultant in Fortune's survey of employee benefits.

A recent *Fortune* magazine survey* asked corporate employee benefit program executives to rate eleven national broker/consultants on their capabilities.

Here's what the *Fortune* study reported:
"Top 500" corporations—Johnson & Higgins rated first.
"Second 500"—J&H, first again.

At J&H, we think the quality of what we do is a result of how we're set up to do it.

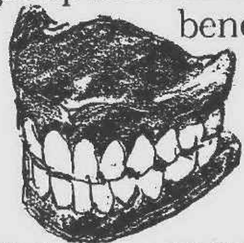
We are the only privately-held company among the major broker/consultants. Because we own ourselves, we can shape our services so they'll help you most.

J&H cross-trains its consultants in both group insurance and pension or savings-type benefits for maximum responsiveness.

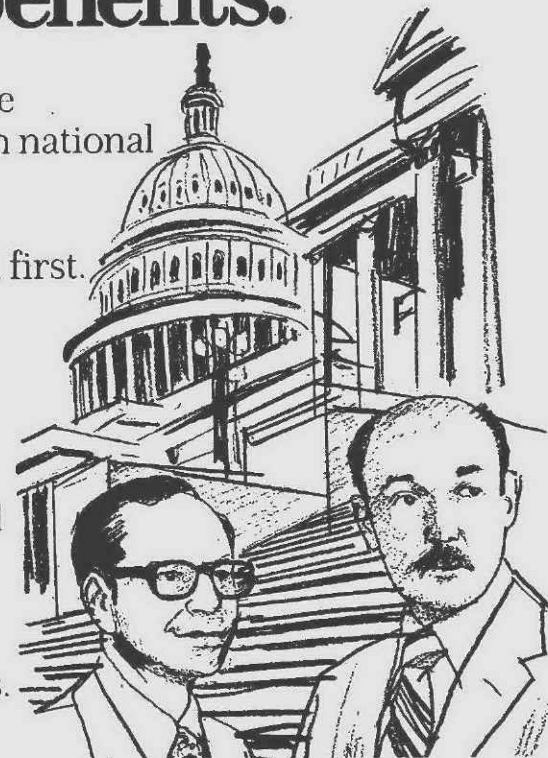
J&H insists on complete objectivity. We work with commercial carriers and Blue Cross-Blue Shield organizations and self-insured arrangements, too.

J&H staffs in depth. We have more actuaries than most insurance companies, for instance. And specialists assigned exclusively to analyze ERISA.

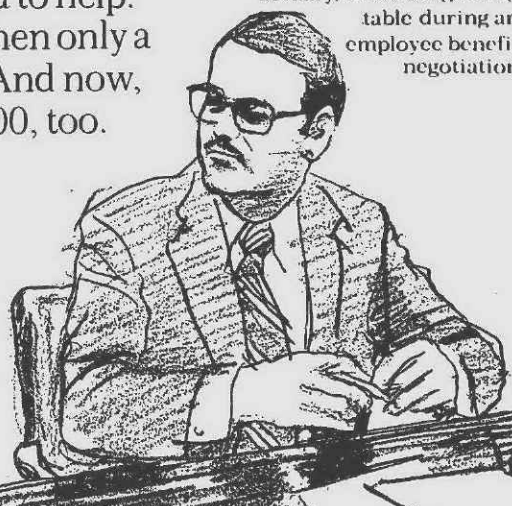
In short, we think we have everything needed to help. Especially the experience. J&H began consulting when only a handful of corporations offered any benefits at all. And now, we're first with the *Fortune* 500. And the Second 500, too.



The first nationwide dental insurance program with local cost variations in scheduled allowances was created by J&H for a giant employer.



Murray Becker and Art Gribbin, J&H technical consultants on ERISA, have been tracking the complicated legislation since its birth.



J&H's John Feldtmose, chief actuary, at the bargaining table during an employee benefit negotiation.

*"How Major Industrial Corporations View Employee Benefit Programs."

Johnson & Higgins
The private insurance broker/benefit consultant
We answer only to you.

EMPLOYEE BENEFIT AND ACTUARIAL CONSULTING,
RISK AND INSURANCE MANAGEMENT SERVICES THROUGHOUT THE WORLD

letters

Continued from preceding page
from the insurance standpoint.

W. E. Morrison
Insurance manager, Airco Inc., Montvale, N.J.

. . . Who will defend?

To the Editor: Your Sept. 19 editorial concerning punitive damages completely overlooked the problem created by the fact that practically every suit alleging legal liability asks for punitive damages. In other words, attorneys habitually allege that the defendant was so negligent as to cause him to be assessed punitive damages.

This being the case, the insured whose policy excludes punitive damages will find it necessary to obtain an attorney in every single lawsuit which calls for punitive damages merely to defend himself against this allegation, no matter how frivolous. For this reason alone, it seems that the ISO's position will be as untenable as was its decision to remove the storekeepers liability coverage from the marketplace.

I agree that punitive damages should not be insurable, but neither should the plaintiff benefit from them, since they constitute a punishment as surely as does a jail sentence. However, until all jurisdictions bar the insurance industry from protecting an insured against them, punitive damages constitute an exposure which should be insurable, at least with respect to defense costs.

George R. Nash
Vp, Andrews, Nash & Trouville, Los Angeles, Calif.

. . . Vicarious liability

To the Editor: Re: Punitive damages, Sept. 19 editorial. I concur with your statement that a company must take upon itself the responsibility of being reasonably prudent in the operation of its business and that this includes an obligation to refrain from recklessly hurting others. I also concur that insurance coverage should be excluded for a company's irresponsible acts.

There is one area, however, which ISO, the insurance companies and your editoral appear to ignore—the area of vicarious liability.

I believe a company should be allowed to protect itself against vicarious liability to which it might be subjected when an agent or an employe acts totally against instructions, corporate policy or outside the scope of his or her employment.

Gerald W. Raschke
Assistant vp, Associates Corp. of North America, Dallas, Tex.

Bekins

To the Editor: Mr. (Alfred W.) Dusebout's comments (Sept. 19) on Bekins' insurance subsidiary require clarification. Far from being "financially ailing" when he joined Adams, Clay in April 1976, the subsidiary's net profits for 1975 exceeded $75,000 and for the first five months of 1976 were over $100,000. Increased overhead, caused by his creation of a number of new executive positions and the complete turnover of key personnel which he "orchestrated" were prime contributors to the ultimate loss for 1976 of $43,000.

The impact of the management change was even greater on insurance costs for the Bekins companies. Among many omissions, Mr. Dusebout fails to mention the loss of Adams, Clay's market for and the virtual termination of their external package program, an $800,000 refund in claim payments to Associated International Insurance Co. to preserve the internal and external market for movers' and warehousemen's coverage and his decision to broker the Bekins portfolio through Marsh & McLennan rather than through Adams, Clay as he advised your reporter.

A serious problem in the creation of a "captive" broker or any captive service organization is the fact that it removes control of costs from profit center management and provides a convenient burial ground for administrative mistakes through the assessment of costs to other subsidiaries.

A lesson can be learned from the fact that although Bekins' overall revenues increased 15% during the first six months of 1977 over last year, profits were down 55% for the same period.

Don Creighton Jack
Long Beach, Calif.

Polygraphs

To the Editor: We read with great interest your comments regarding management's use of polygraph in riskWatch, Sept. 5. As a pioneer and leader in the field of commercial polygraph testing, we feel compelled to address ourselves to the Chubb management statement:

"A well managed firm does the job, creates a strong personnel department and gets the best possible controls. The polygraph is costly, not completely accurate and not even mandatory under the law. We're not concerned if you hire a crook, if your management is strong, you'll keep the crook where he won't hurt you."

The vast majority of the pre-employment screening which Dale performs from coast-to-coast is for exceptionally well managed firms with strong personnel departments. The single most important factor in our opinion in keeping them strong and maintaining integrity in hiring is the very use of the polygraph technique.

Polygraph is, indeed, the least expensive, quickest, most honest, precise, effective method known for determining applicant integrity and minimizing risks at the employment office.

We agree that polygraph should not be mandatory under the law, but does this mean that if not required by law, a service or product should not be implemented.

The closing Chubb remark which is the most ludicrous of all, advises, indeed encourages, their insured to go out and "hire a crook" but cautions for strong management to "put the crook where he won't hurt you." Imagine, if you can, where in your firm you could knowingly hire thieves and be secure in the fact that such a plague could be contained or confined in a harmless area.

History has proven that in those areas where pre-employment polygraph was diminished or stiffled by state legislation, other more costly and less accurate investigative aids were substituted.

The case for polygraph is being made in thousands of employment offices each day. Management certainly recognizes polygraph as a valuable tool in sound business operation.

Harvey Yaffe
President, Dale System Inc., Garden City, N.Y.

New claims service

International Service Corp. has established an independent adjusting business on St. Croix in the Virgin Islands. International Services Corp., a subsidiary of INA Corp., provides risk and insurance management services outside the U.S. and Canada. The St. Croix office will be headed by Michael J. Dries.

Innovation is the mark of a competitive design.
And so it is at The Atlantic Companies.

ENTERPRISE . . . 1977 AMERICA'S CUP CONTENDER /PHOTO BY STANLEY ROSENFELD

At the Atlantic Companies we take pride in our innovative insurance plans, well-harbored resources, quick and thorough service, and prompt and ungrudging claims settlements. That's the seafaring tradition in which we provide the very adaptable Atlantic Mutual or Centennial "Safeguard" package for covering businesses large and small. Our "Safeguard" is tailored for your business by selected independent agents and brokers.

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Merck finds way to handle chemicals safely

By REBECCA A. FANNIN

RAHWAY, N.J.—While many drug and chemical companies struggle to keep workplaces free from dangerous chemical exposures, Merck & Co. Inc. rarely has a workers' compensation claim from unsafe exposures.

Accidents do occur at the billion dollar drug company, but Merck has been successful in identifying potential hazards before they become liability problems, according to Jack Snyder, the director of corporate safety and industrial hygiene. Sometimes, Merck develops its own standards before the Occupational Safety & Health Administration acts.

"Every chemical exposure has different elements in it—like the different ingredients of a candy bar," said Mr. Snyder. "There's a different way of handling each one and we just base the solution on what the problem is."

Mr. Snyder estimated that Merck deals with 150 chemicals of the 400 chemicals that are regulated by OSHA.

Worker safety is an open topic at Merck. The workers at Merck's headquarters here are flashed news about plant safety via a big neon sign that cites the last lost time injury. The company publishes a safety magazine called Merck Safety, which summarizes work-related accidents and the cause of the accident. It is distributed to top-level management and line supervisors at the company's 25 U.S. and 41 overseas plants.

As a growing number of chemicals have been identified as harmful to the worker, Merck has subsequently shifted the focus of its safety program.

Its recently created industrial hygiene laboratory is working to identify subtle worker hazards, such as potential effects from chemical exposure. This is a move away from protecting workers from recognized hazards with safety devices, protective clothing and physical checkups.

"There's been a great deal of research in the early '70s about chemical exposure. There's so much new data that we want to re-evaluate where we are," Mr. Snyder said.

The lab will analyze environmental samples for contaminants that are submitted to them by safety managers at varied plant locations.

The lab, composed of a technician and a laboratory supervisor, tests the sample and reports results to the plant site safety staffs, who compare them to safe limits set by the company or OSHA.

According to David Kirk, corporate industrial hygiene coordinator, the lab analyzes several thousand samples a year.

While Mr. Snyder said the creation of the lab "surely had something to do with" the liability that is developing for occupational hazards, he added that Merck is "just making a more concentrated effort to understand what its exposures are."

The lab's first project was a survey for asbestos in office and laboratory buildings. The search found three problem areas, all in equipment rooms of Merck plants. Here, asbestos in insulation material was flaking off. No one was exposed to the asbestos, though, and Merck solved the problem by spraying a material that penetrated the asbestos and stopped the flaking.

The new laboratory has also sampled benzene, used in four Merck plants in the U.S. and one in Europe. Benzene handling was reviewed and the company reduced its own safe limits of exposure to the chemical to one part per million for every eight hours of worker exposure. The government later adopted this same exposure limit.

To help the laboratory identify hazards, it is equipped almost entirely with electronic and optical instruments, replacing classical wet chemistry, which was widely used in industrial hygiene work until a few years ago.

The laboratory places emphasis on collecting samples that represent the worker's actual exposure. "To collect sufficient qualities of air at the proper times in the right places and in particular ways," David Kirk said, workers actually wear portable pumps that pull air from the workplace through a collection device.

Despite all the precautions, Mr. Snyder says the safety program is "adequate but always needs improvement. You're never satisfied that you have done everything. If you are, then you might as well quit." ■

Photo courtesy of Merck

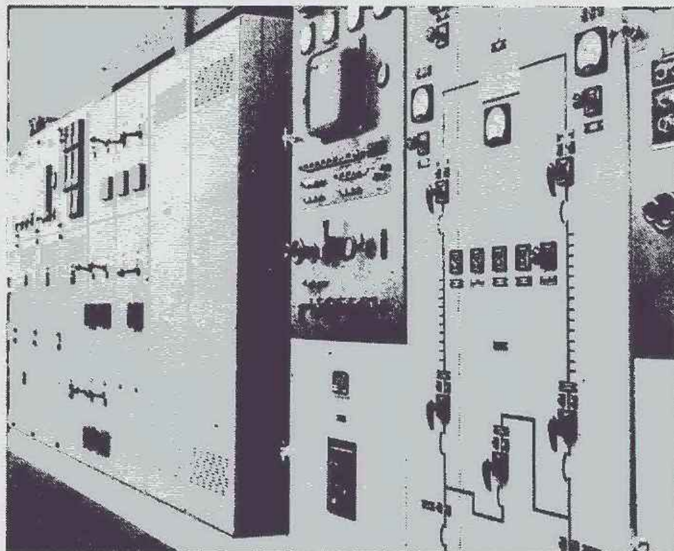
Safety worker takes an air sample at a Merck plant in Pittsburgh. The sample will be sent to the company's industrial hygiene center for analysis.

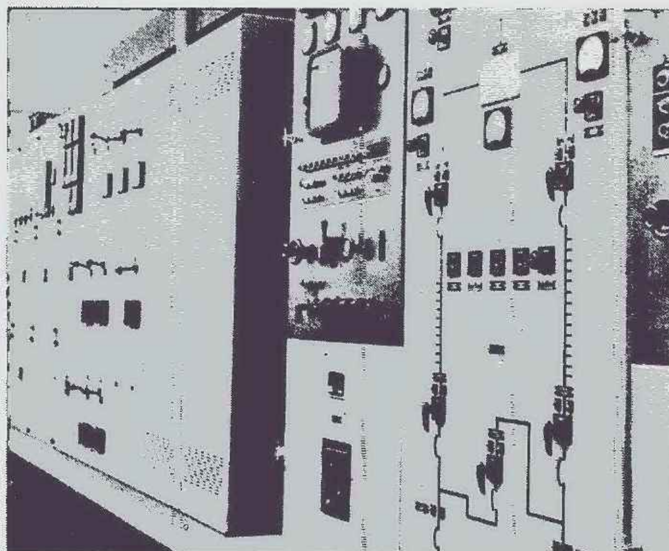
Heart deaths most common

Cardiovascular-renal diseases, including heart disease, hypertension and stroke, were responsible for half the deaths among persons with ordinary life insurance in the U.S. in 1976, according to the American Council of Life Insurance.

A FENWAL-PROTECTED SWITCH ROOM 5 MINUTES BEFORE A FIRE.

THE SAME SWITCH ROOM JUST 8 MINUTES AFTER THE FIRE.





In the 13 minutes between photo 1 and photo 2, several important things have happened.

9:43 AM: A battery exploded and flames quickly spread to nearby packing material.

9:43.5 AM: Fenwal's modular Fire Suppression System sensed the danger.

9:43.7 AM: The System then instantly released its extinguishing agent – Halon 1301. There was no need to wait for personnel to evacuate since Halon 1301, when used in a properly designed system, is harmless to people.

9:44 AM: The Halon snuffed the flames out dry and many thousands of dollars worth of equipment was saved.

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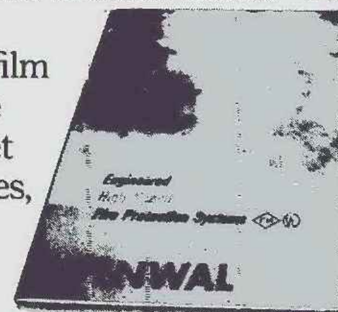
Without Fenwal protection, a fire like this could have caused days of expensive business interruption. It happens all too often in companies just like yours. And despite the most stringent precautions, some businesses *never* recover.

Fenwal has pioneered modularly designed high speed Fire Supression Systems for a lot of different environments. And Fenwal-trained field engineers can lay out and install one that will grow as you grow.

We've designed and installed more of these systems than any other manufacturer. And we also make a full line of thermal, smoke and ultraviolet Detection Devices and Control Panels.

We have visual proof our Supression Systems work better. In a film called: "The Fireaters."

To view this film or to receive a free copy of our booklet on suppressing fires, write to Fenwal Incorporated, Ashland, MA 01721. A Division of Walter Kidde & Co., Inc. Or call (617) 881-2000.



For installation and around-the-clock service, see our local distributors listed in the Yellow Pages under "Fire Protection."

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Nobody in the world has more experience in fire and explosion protection systems.

Labor to urge protection for spouses

LANOFF

CHICAGO — The Labor Department will ask Congress to strengthen the rights of spouses to pension benefits, pension and welfare plans administrator Ian Lanoff said here.

Speaking at a pension conference sponsored by Pensions & Investment magazine, Mr. Lanoff said women have been "the worst victims of break-in service rules and lack of vesting practices of some benefit plans."

He said one solution to this problem is provided in a bill by Rep. Elizabeth Holtzman (D-N.Y.) which would guarantee the surviving, nonworking spouse the vested benefit the employe would have been entitled to upon retirement.

Mr. Lanoff said Labor is developing cost estimates to determine the impact of the proposal.

He said Labor would also examine the potential problems which would be created if the Pension Benefit Guaranty Corp. must cover terminated multiemployer pension plans starting Jan. 1, 1978.

Labor will also be working to develop a more coherent compliance strategy with the Internal Revenue Service, he said. "It makes no sense to any of us to be looking at the same plans or duplicating each other's efforts."

Resolution of the problems imposed by this dual jurisdiction, Mr. Lanoff noted, is one of four areas he has worked on in his first few months in office. Reorganizing ERISA administration, he said, is the second item on President Carter's reorganization proposal.

He said a tentative proposal, similar to the one in a bill sponsored by Sen. Lloyd Bentsen (D-Tex.), would give participation, vesting and funding responsibility to the IRS and prohibited transactions and fiduciary duty enforcement to Labor.

Mr. Lanoff indicated there has been no "serious look at a new, separate independent agency," although Sens. Harrison Williams (D-N.J.) and Jacob Javits (R-N.Y.) favor establishment of such an agency.

That idea is "realistic" for the 1980s, he said, "but we can't wait until the 1980s to solve some of the problems that face us today," such as the backlogs in prohibited transaction exemption applications and regulations.

Mr. Lanoff said since he has taken office 257 final rulings on exemptions have been issued out of a total of 384 issued since ERISA went into effect.

Despite this, Mr. Lanoff noted, there are still 300 additional applications which have not been acted upon and Labor receives an additional seven or eight a week.

Mr. Lanoff also cited release of the controversial final regulations for summary plan descriptions. "We do not want to receive summary plan descriptions as lengthy and complex as the underlying plan documents," he said.

Mr. Lanoff said the employer should not get in trouble if the summary is "accurate, but not complete."

Meanwhile, another Labor Department official said that portability of benefits and faster vesting are "inevitable changes" that will come to the private pension system.

"It is not too early to consider potential changes" in ERISA, said assistant secretary Francis X. Burkhardt, although "it may be that the industry, the government agencies involved and the public need more time to absorb the significant changes brought about by the 1974 law."

Mr. Burkhardt said critics of ERISA wrongfully attack the law on dubious evidence that it has stifled the growth of the private pension system and has led to overly conservative investment practices by managers of pension funds.

"I submit that the real task of this administration is to look beyond this smokescreen to more far reaching questions facing our national pension program," Mr. Burkhardt said.

Pensions & Investment Magazine is published by Crain Communications, the parent company of *Business Insurance.* ■

A question the Mass Mutual Pro thinks you should ask before you accept just any Employee Benefit proposal:

Will it be short on coverage?

Yes and no.
Because it can vary from business to business. And within a business. So when someone hands you a canned proposal and says it's a bargain, watch out! You see, a canned proposal doesn't answer important questions such as:

Should you give the people in Peoria the same coverage as the people in Providence?

Does your group life schedule provide maximum benefits to you as an employer?

Are you wasting time and money trying to keep your plan up to date?

With Mass Mutual, it's different. When you're handed a proposal, you'll find a Mass Mutual Pro behind it.

A Pro who is well aware of the statutory requirements in your state.

A Pro who will tailor coverage to accommodate a company with as few as ten employees or as many as a thousand or more.

A Pro who can intelligently comment on the impact of the new H.M.O. in your area.

A Pro representing the elite company in the business of retirement, life, health and disability benefits.

Look behind the proposal.
Look to your Mass Mutual Group Representative.

Mass Mutual
See The Pro Behind The Proposal

© Massachusetts Mutual Life Insurance Company, Springfield, Mass.

3 insurers deny backing legal plan

NEW YORK—The director of an open panel prepaid legal plan, in an apparent attempt to gain plan sponsorship, listed three insurance companies as sponsors even though the companies had not intended to make grants.

Aetna Life & Casualty and Metropolitan Life Insurance Co. have met with project director Elias C. Hoppenfeld to make it clear that they weren't interested in providing grant money. Union Labor Life has also denied that they contributed or intended to grant money.

The project, as reported by *Business Insurance* Sept. 19, was set up to research the cost and use of open panel prepaid legal plans. It planned to enroll two million participants in three states who would receive benefits at no cost for a one-year period. Insurance companies and other sponsors were to foot the bill. They could then use the data obtained during the research period to establish fee structure.

At least one union, the Taxi Drivers Union local 3036 in New York, has also denied that it intended to enroll union members in the program.

Mr. Hoppenfeld, who set up the program through Blue Crest Plans Inc. of New York, faces government agency action and a Suffolk County Bar Assn. suit, according to a knowledgeable source.

The bar is filing suit against Blue Crest because it contends that only nonprofit private corporations can provide legal benefits under New York state law. Blue Crest, however, says it was only administering the plan, not providing benefits, according to the source.

Participants enrolled in a closed panel are obligated to choose certain lawyers, but under open panel they are free to make their own choices. ■

dates for buyers

Oct. 25-27. Risk Management/Self-Insurance for Hospitals, Key Biscayne, Fla. This seminar, which offers new approaches to liability protection, is sponsored by Aspen Systems Corp. and will cover medical malpractice as well as other exposures faced by medical care facilities. Also to be held in Albuquerque, N.M., Jan. 18-20. Cost: $325 per person; two or more persons from same institution, $285. Contact Registrar, Aspen Systems Corp., 20010 Century Blvd., Germantown, Md. 20767; phone (301) 428-0700.

Oct. 27-28. Professional Liability of Trial Lawyers: the Malpractice Question. Sponsored by the ABA National Institute, Section of Insurance, Negligence & Compensation Law, to be held in San Francisco. The seminar will explore the answers to such questions as to what extent should a lawyer be liable for alleged errors of judgment. What are the potentially actionable conflicts of interests for lawyers in litigation practice? What are the underwriting risks? Cost: $175, ABA members; $200, non-members; $25, law students. Contact: ABA National Institutes, American Bar Association, 1155 E. 60th St., Chicago, Ill. 60637; phone (312) 947-3950.

Oct. 31-Nov. 1: The Association of Private Pension and Welfare Plans is sponsoring it Second Western Meeting in Los Angeles, Calif. The program will center on health care issues and retirement benefits. Cost: $175 for APPWP members; $200 for non-members. Contact Sue Meldrim, Association of Private Pension and Welfare Plans Inc., Suite 909, 1028 Connecticut Ave. N.W., Washington, D.C. 20036; phone (202) 659-8274.

Nov. 1. The American Institute of Marine Underwriters will conduct a seminar to provide an overview of ocean marine cargo insurance in the U.S. Topics will include broker/agent and underwriter functions, marine cargo insurance coverages, loss prevention, approaches to rating, claims settling and subrogation and the impact of foreign restrictive insurance measures. Cost: $35. Contact Mr. John P. Jennings, Public Relations Director, American Institute of Marine Underwriters, 14 Wall St., New York, N.Y.; phone (212) 233-0550.

Nov. 1-2, Product Liability for Claims Personnel sponsored by the Department of Engineering & Applied Science of the University of Wisconsin—Extension. Objective of the meeting will be to provide an understanding of recent changes in product liability with an emphasis on claims handling. Speakers will be from the legal, insurance and engineering fields. Cost: $175. Contact Richard A. Moll, Program Director, Dept. of Engineering, University of Wisconsin—Extension, 432 N. Lake St., Madison, Wis. 53706; phone (608) 262-2061 (program information), or 262-1299 (enrollment).

Nov. 7-8: Employe Benefit Communications Workshop, sponsored by Business Insurance magazine, Chicago. A dozen different corporate benefit communications productions will be screened and discussed, focusing on the elements of a prize-winning program; ERISA rules for benefit communication, choosing a consultant, budgeting for benefit communications and the employe and employer view of benefit communications are among the topics to be addressed. Cost for early registration, including meals, is $285 before Oct. 26 with a 10% discount for additional registrants from the same company. After Oct. 26, registration is $320 and the 10% discount for additional registrants from the same company applies. Contact: Mary Ann Engelhardt, Crain Education Division, 740 N. Rush St., Chicago, Ill. 60611; phone (312) 649-5241.

Nov. 7-10. Seminar, Frontiers of Risk Management, to be held at the University of Dallas. Two main themes will dominate: use and understanding quantitative data and communicating with top levels of management. Cost: $325; RIMS deputy members, $295. Contact Professor Bruce Evans, Executive Director, Risk Management Institute, Irving, Tex. 75061; phone (214) 438-1123, ext. 360.

Nov. 7-18. Motor Fleet Accident Investigation Workshop offered by the Traffic Institute, Northwestern University. The workshop is adapted for insurance claims investigators and legal or fleet safety representatives responsible for accident reduction or investigation. There will be lectures, training exercises and supervised field projects. Participants will learn how to use a traffic template to diagram an after-the-accident situation map that accurately shows the final position of vehicles, roadway debris and tire skidmarks. Other areas of study will be vehicle dynamics and damage analysis, tire examination, lamp analysis and photographic techniques in recording accident facts. Cost: $425. Contact Thad Aycock, Workshop Supervisor, Traffic Institute, Northwestern University, 495 Church St., Evanston, Ill. 60204.

Nov. 13-16. Regional Bank Security Seminar to be held by the American Bankers Assn. in Washington, D.C. This is the first such seminar and is designed to develop an awareness within banking of potential internal and external security threats. The program will cover robbery, check swindles, embezzlement and other acts of employe infidelity. There will be a presentation on crisis-management planning techniques regarding extortion, kidnaping and bomb threats. Cost: $245. Contact Linda Estep, Registrar, Insurance and Protection Division, American Bankers Assn., 1120 Connecticut, Ave. N.W., Washington, D.C. 20036; phone (202) 467-4047.

Nov. 13-17. 16th Hemispheric Insurance Conference in Santo Domingo, Dominican Republic. Private insurers will meet around the theme "Contribution of Insurance Firms to the Development of Countries." Cost: delegates (insurance companies), $75; observers (insurance brokers), $250. Contact Lynn DeBlois, International Insurance Advisory Council, Chamber of Commerce of the United States, 1615 H St. N.W., Washington, D.C. 20062; phone (202) 659-6072.

Spotlight on benefits

Business Insurance will focus its spotlight on employe benefits in a special issue on Dec. 12. Our editors will look at how employers are using HMOs, how dental insurance programs are working, the status of legislation that would change ERISA, what benefits are actually costing corporations and changes taking place in employe benefit management.

And we'll update last year's reports on prepaid legal and the Blue Cross discount.

We're also planning a special look on how employe benefit consulting firms work.

So for a comprehensive report on benefits stay tuned for Dec. 12.

Stable.

In 75 years of property casualty insurance, Grain Dealers Mutual has achieved a position of stability and solvency unique in its history. The reason for Grain Dealers' stability is Grain Dealers' selectivity. From the beginning we've adhered to the principles of selection—in the risks we insure and the independent agents through which we work. Being selective has made us successful and our independent agents prosperous. For our insured it's meant competitive policies at lower rates. When you think of property casualty insurance, think of Grain Dealers Mutual. The stable one.

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If this ad gets enough people to act, your insurance may become a better buy.

"When anything goes wrong for me... somebody is going to pay!"

"They owe me!"

Insurance rates are at record levels. Some types of coverage are becoming unaffordable.

Now then. Insurance companies are required to see that there is enough money on hand to cover losses as they occur. So rates are based on expected claims.

And frankly, rate increases could go on forever if the public is willing to pay for them.

But at The St. Paul we think people ought to know the score. Because ultimately they pay for high claims costs.

So we're running advertising like this. Hopefully, it will inform the public and encourage them to take a long hard look at what is happening and then take action.

And if that happens, insurance rates might just stabilize. That would be a nice change.

You can help. Get one of our Enough is Enough booklets from your local Independent Agent or broker representing The St. Paul.

It's full of information on the causes, the pro's and the con's of some possible cures for high insurance rates.

At The St. Paul we feel Enough is Enough.

How do you feel?

So who is this "somebody?"

It's "somebody" with plenty of money, an unending ability to pay.

This "somebody" has the responsibility to provide an extra *reward* to a person for his misfortune.

And "somebody" makes it easy for us as jurors (and even the judges) to overlook just who it is that's wrong, and base our decisions on the assumption that *any* injury or loss (real or imaginary) deserves payment. And maybe a substantial bonus as well.

So who is this benevolent "somebody?" It's *you!*

This growing "they-owe-it-to-me" attitude may be just fine with you. But if you want it to be America's standard, be prepared to pay the bill. In the form of higher taxes, higher prices for goods and services, higher medical costs. And, yes, higher insurance rates. So, keep your checkbook handy.

Because insurance is merely a means of spreading risk among many. So,when claims and settlements go up, rates can only do the same.

This complex social issue and its impact on insurance rates cannot be resolved without an informed public. Since you are the ultimate paying party, you most certainly have the right to be informed.

If that's your wish, send for our "Enough is Enough" booklet. It's full of information on the issue, along with action steps to help you register your views where they count.

Enough is Enough.

Write The St. Paul for your "Enough is Enough" booklet. Or contact an Independent Agent or broker representing The St. Paul. He's in this, too, and wants to help. You'll find him listed in the Yellow Pages.

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info for buyers

To receive materials listed in Info for Buyers, write to the name and address accompanying each item, mentioning that you saw it offered in *Business Insurance*. Readers are invited to submit educational and promotional material for possible inclusion in the column. All items that are free and of interest to our readers are eligible; those available at a modest cost will be considered. Send a sample to Info for Buyers, *Business Insurance*, 740 Rush St., Chicago, Ill. 60611.

• **Product Liability: A Candid Assessment** is a 37-page staff recommendation from the Research Institute of America Inc. Aside from putting the product liability question in perspective, this report also covers preventive measures to reduce risks and Washington's role in product liability. Price is $10 for members for 1-6 copies; for non-members, $25. Write The Research Institute of America Inc., Dept. 111, Mt. Kisco, N.Y. 10549.

• Are you considering **self-insurance?** A promotional brochure from Jeff Brougher, consultant for Thompson, Graham & Co. Ltd., may answer your questions. For a free copy write Jeff Brougher, 188 S. Madison Ave., Greenwood, Ind. 46142.

• The 17th edition of **"Statutes Affecting Liability Insurance"** is now available from the American Insurance Assn. The book, which covers 13 topical subjects, includes all laws enacted through March 1977, as well as a table of time limitations within which actions for personal injury, property damage, wrongful death and medical malpractice may be started in each state. Price is $6 for member companies and $8 for non-member companies. Write Publications Dept., American Insurance Association, 85 John St., N.Y., N.Y. 10038.

• **Corporate Insurance in Brazil** is an English language brochure prepared by Argos-Cia. de Seguros. The brochure contains a general discussion of the insurance market in Brazil and specific coverages available through the company. General lines insurance and employe benefits are covered. For a free copy write William E. Namacher, Managing Director, Argos-Cia. de Seguros, Largo Sao Francisco, 34-2. Sao Paulo, ESP., Brazil.

• **Self-funding your employe benefit medical plan** . . . an economical cash flow alternative to insurance is a brochure explaining self-insurance in simple terms. A free copy is available to corporate managerial personnel. Write Brian T. Sinclair-Whitely, vp, Blair, Follin, Allen & Walker Inc., P.O. Box 1280, Nashville, Tenn. 37202.

• **A Computer Security Bibliography,** which cites 135 computer security sources and includes summary descriptions of more than 100 of them, is available from the Computer Security Institute. For a free copy of the 12-page booklet write John C. O'Mara, Computer Security Institute, 43 Boston Post Road, Northboro, Mass. 01532.

• To help estimate replacement cost and determine if a home is insured to value, Insurance Company of North America has included a self-valuation form in its 12-page promotional booklet: **The Underinsured Home: Some Professional Considerations.** For a free copy write INA, Dept. R, 1600 Arch St., Philadelphia, Pa. 19101.

• For an overview to Canadian pension plans focusing on jurisdiction, plan design, taxation, funding, reporting and disclosure and discrimination a newsletter has been released from Kwasha Lipton—**Pension Plans: The Canadian vs. the U.S. Approach.** For a free copy write Dept. M., Kwasha Lipton, 429 Sylvan Ave., Englewood Cliffs, N.J. 07632.

• **Product Liability Litigation,** by Arthur D. Little Inc., describes how lawyers and others involved in litigation can use the consultant's services as expert witness and technical support in product liability actions. A few case histories are presented. For a free copy, write Irving J. Arons, Product Technology Section, Arthur D. Little Inc., Acorn Park, Cambridge, Mass. 02140.

• **The 3M Spoiler** is a six-page brochure detailing the light water aqueous film-forming foam extinguisher 3M claims can prevent Class B (flammable liquid) fires. For a free copy of this promotional brochure write Dave A. Glass, Bldg. 223-6SE, 3M Center, St. Paul, Minn. 55101.

• **How to Complete IRS and Department of Labor Reporting Forms for Pension, Profit Sharing and Funded Deferred Compensation Plans** is the lengthy title for those who must complete the even lengthier IRS and Labor department reports. The booklet contains an analysis of those plans that must be reported to those departments and instructions for completing individual forms. Copies are $8.95 and are available from New England Mutual Life Insurance Co., c/o F. J. Malone, second vp, 501 Boylston St., Boston, Mass. 02117.

• A brief promotional brochure describes the risk management services of **SWS Risk Management Services** (Scott Wetzel Services Inc.). Staff personnel and its loss control engineering are among the features covered. For a free booklet write Robert Benton, sales director, Scott Wetzel Services Inc., P.O. Box 418, Bremerton, Wash. 98310.

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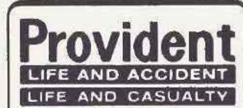

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While ERISA continues to be in the spotlight, there are many other benefit subjects about which information is needed.

In an attempt to sort out the new from the old, the editors of Business Insurance are now preparing a special Employe Benefits issue to appear on December 12, 1977.

They will hit the hot topics such as cost containment in the health insurance area • the status of national health insurance proposals • HMOs and how employers are using them • a status report on ERISA amendments. There will also be updates on prepaid legal plans • pregnancy/disability changes • Blue Cross discounts • TRESOPS • and dental insurance programs.

The issue will include information about the real cost of benefits, the positioning of the employe benefits manager on the corporate organization chart and other topical subjects.

Business Insurance is read by the employe benefits decision makers in over 18,000 U.S. corporations and by the consultants and brokers who serve these companies. If you're in this market with products and services that are of interest to these influentials, the *December 12 Employe Benefits issue* of Business Insurance is the place for your advertising message.

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National Union offers to insure insurers from policyholder suits

NEW YORK — The National Union Fire Insurance Co. has introduced a policy to protect insurance companies against punitive damages and increasingly larger judgments in policyholder suits.

For $1 million coverage, rates range from $25,000 for smaller companies to $100,000 for larger companies. Policy limits are available up to $5 million. Insurance companies must retain $100,000 of the risk.

National Union's offer to underwrite punitive damages comes as some insurance companies have deleted the coverage and as some companies are learning that their reinsurance may not cover punitive damages.

The Insurance Services Office has filed nationwide on behalf of its members to exclude punitive damages from all liability policies effective Nov. 1. American Home Assurance Co., National Union's sister company in AIG, excluded punitive damages when renewing some excess liability policies earlier this year.

Some reinsurers also have "specifically excluded punitive damages while others are remaining silent about the issue," according to Dennis Busti, vp with National Union.

Even though insurance companies have been hit with substantial court damages, including a $2.6 million award against Mutual of Omaha Insurance Co., Mr. Busti said the risk is insurable.

"The policy is designed as a catastrophe cover. We can build up a pool of premiums and that will cover the small number of claims we receive," he said.

"Punitive damage awards are not frivolous. Insurance companies should be afforded this protection," he added. This professional liability policy covers losses in claims handling and adjusting, engineering safety inspection and loss control operations. It is available for property, casualty and life insurers.

If National Union prices and underwrites the risk properly, Mr. Busti said, the company will make a reasonable profit. But he admitted it's hard to say now what profits will be since the underwriting and pricing are particularly subjective.

Such a policy for insurance companies has never been written. "We've scrounged the whole world over to find out if anyone else is writing the risk and no one else is," said Mr. Busti.

National Union has received 60 applications for coverage and has written three accounts since it started offering the coverage a month ago. Among those applying are a few insurance companies that have faced large awards, according to Bob McDonald, an underwriter.

When deciding whether to accept a risk, National Union requires an insurance company to have $300,000 in written premiums and good claims handling experience. It also requires that a company be in the business for six years and be rated by Best's. ■

Punitive . . .

Continued from page 1

still terribly difficult to say what is the best interest of the public and the insured," he added. "If necessary a new clause will be phrased to give effect to the exclusion of punitive damages from appropriate types of non-marine cover, but nothing will be effectively known until we have had our internal meeting and even then it will be up to underwriters to make their own decisions."

But the aviation market is even more uncertain how to react to U.S. moves to exclude punitive damages. So far there have been no moves to withdraw any of its important facilities for airlines. And brokers heavily involved in U.S. business emphasize that there can be no definitive ruling since each syndicate will decide for itself whether to exclude punitive damages.

"You'll be doing a disservice to the insurance buyers if you suggest there will be a definitive position," said one Lloyd's source.

Aviation underwriters have not had any punitive damage claims successfully lodged against them. Relatives of victims in the crash of a Turkish Airlines DC-10 outside Paris sought punitive damages, but the cases were settled out-of-court without reference to the issue.

With the competitive situation in the aviation markets, it is not likely that Lloyd's would exclude punitive damages if coverage of punitive damages in aviation liability cases was offered elsewhere.

Some at Lloyd's suggested that eventually there could be some distinction drawn between small firms that could suffer seriously from punitive damage awards by juries and large firms where the intention of such awards was to penalize business carelessness.

It is also possible that special coverage for punitive damages might be offered by some U.K. insurers if they feel it is commercially worth their while as long as the practice is not barred by state law.

Most Lloyd's underwriters are still watching the situation very carefully and will not commit themselves on the future possibilities for their U.S. clients. ■

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Tax proposal . . .

Continued from page 1

surance proposal, said the administration could not justify a tax preference on a benefit going to "moderately well off people" who are able to pay for their own group life insurance coverage.

"One cannot justify that kind of tax preference for that (middle and upper) income tax bracket," he said. "Compensation is compensation and it ought to be taxable . . . and it should not matter in what form it is paid."

The Treasury official said that while it would be in the public interest to have legislation on the books that would provide a tax incentive for employers to provide a minimum of life insurance protection, a $50,000 limit is beyond that public interest.

At the same time, Treasury has proposed to eliminate the tax preferences for employer-financed prepaid legal insurance which Congress enacted last year.

Prepaid legal

Under the Treasury proposal on prepaid legal, employes would be taxed on employer contributions to the plan and the value of benefits received in the plan.

Treasury officials expressed concern that if tax preferences are allowed to stand for group legal insurance, a plethora of other employer-paid group plans might be established, significantly narrowing the tax base.

While the American Council of Life Insurance declined to comment until the proposal is officially announced, other insurance executives sharply criticized Treasury's proposal.

"This (the proposal) is another irritant. The government is trying to stick it to the people that are paying the taxes," said Marvin Blum, vp of IMC Corp. in Richmond, Va.

Mr. Blum warned that once government starts taxing employer-paid benefits, it may find it difficult to draw the line. If taxes are raised on group term life insurance and imposed on group legal, other employer provided benefits, such as medical plans, may be next in line for government taxes.

Experts in the field don't believe, however, that slashing the group life tax break will have a major impact on that kind of insurance by businesses for their employes.

"Our overall feeling is that it (reducing the tax break) is going to cost (employes) more," said a spokeswoman from Hewitt Associates, a Chicago-based consulting firm.

"But it is not going to have an impact. People are going to need life insurance. Employers are going to continue to provide it," she said. It just means the middle-class worker would have another tax burden to shoulder.

$50,000 limit

Other experts in the field questioned Treasury's contention that the current $50,000 limit on group life insurance is something that benefits the well-to-do.

"This is not something that is a benefit of the rich," said Thomas Wahlrobe, a consultant in the Wyatt Co.'s Washington, D.C., office. He noted that many group life insurance plans, in which the employer foots the premium bill, often pay two or three times salary.

For example, an employe earning $15,000 annually, might receive $45,000 in insurance protection under an employer-paid plan. The Treasury proposal would force that employe to pay taxes on that portion above the $25,000 level.

Other insurance executives also questioned the administration's commitment to slashing the group life benefit.

"Don't you see, Treasury is throwing up a trial balloon," said a spokesman for a major Eastern insurance company. "They (administration officials) will leak details to the press, see what catches the most flak and then drop those parts of the program that are subject to the most withering criticisms."

Still, some insurance observers caution that the Treasury proposal must be viewed in the proper perspective.

Added cost

The premium on $25,000 worth of group term life insurance is about $20 a month, said Marvin Blum of IMC Corp. Thus an employe's taxable income only would be increased by about $250 a year.

"I know of few corporations that have prepaid legal plans for their employes," said Mr. Wahlrobe of Wyatt. "But it will keep more from being implemented."

While the dollar amounts may be small, it has been suggested that the proposals might set the stage for a revenue hunting raid on other employe benefits.

But a spokeswoman from Hewitt Associates disagrees with this theory, noting that by targeting newer programs such as group prepaid legal insurance that have not taken root, the administration has indicated its reluctance to attack established "time-honored" employe benefits.

Treasury officials expect the tax package to be released at the end of October. It is uncertain when Congress will begin consideration of the complicated and far-reaching proposal. ■

Product liability interest

COLUMBUS—Only eight readers of the Columbus Dispatch are interested enough in product liability legislation to respond to a reader poll on the subject.

The Dispatch ran two articles, one in favor of product liability reform legislation by an insurance broker and the other opposed to changes by the president of the state trial lawyers association. The newspaper then asked for its readers' opinions.

Only eight responded. Seven favored a bill pending in the legislature which would impose a 10-year statute of limitations. One favored some reform but opposed a statute of limitations.

The editor of the articles said the public did not appear terribly interested in product liability.

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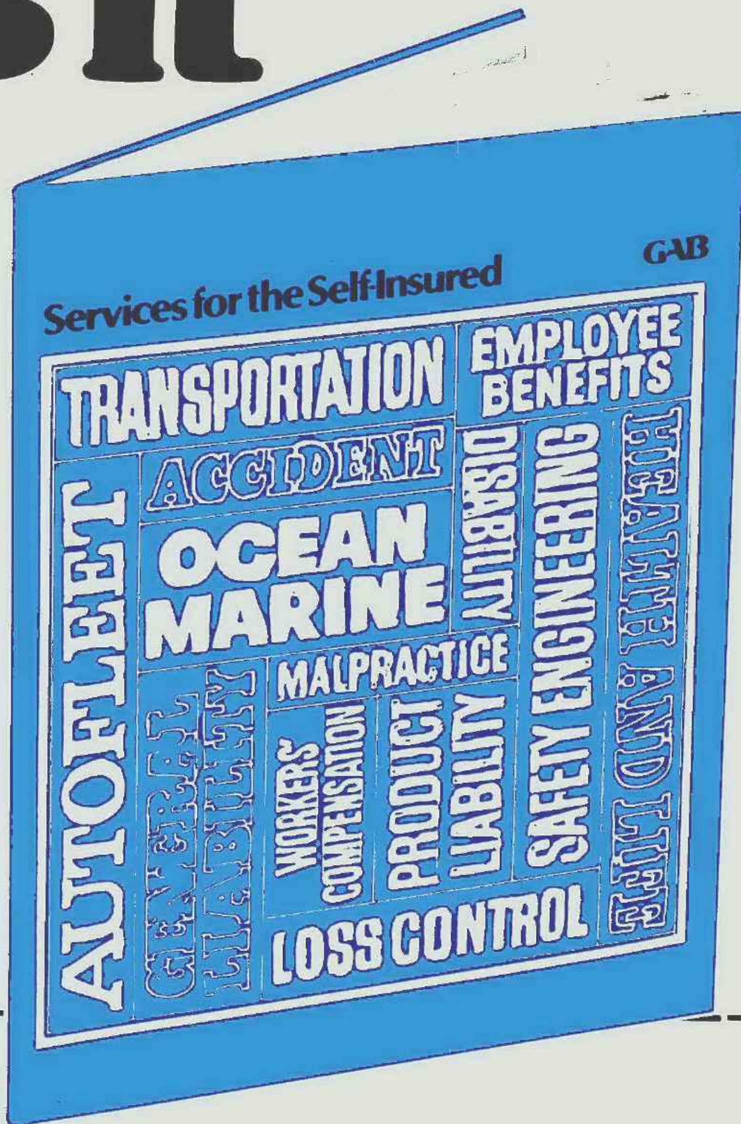

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Benefit board . . .

Continued from page 1

vided under all employer-sponsored plans. Panelists split nearly 50-50 on this issue (44 voted yes, 37 voted no and four didn't know), causing us to wonder if benefit managers realize that the time is coming when benefit standards are likely to be established by either a federal body or 50 regulatory bodies.

Other high points of the survey findings included:

• Benefit managers overwhelmingly believe that the federal pension law should preempt benefit regulation by state insurance commissioners.

• Supplemental benefits mandated by various states in recent years have indeed created compliance and cost problems for corporate employers, adding more of an administrative burden than a financial one.

• Three-fourths of the firms represented provide only the benefits to their employes that are required under state regulations, not providing supplemental benefits to all employes nationwide when a new benefit is required in one location.

• There's strong opposition to congressional bills which would require disability and medical benefits to be provided equally to pregnant women employes, with only 20% of the panelists expressing support for the proposed measures.

• Fully 41 corporations out of the 85 represented already provide some disability benefits for pregnancy-related illnesses, although 18 of those provide limited coverage and often impose six-week maximum time limits on the coverage when pregnancy or maternity is involved.

• Benefit managers for only 10 companies said they believe they are already in full compliance with the proposed bills on pregnancy benefits, but another 40 said they're taking steps to investigate alterations in their plans so they can comply with the law if and when it is passed by Congress.

The case for federal rule

Probably the most succinct and reasoned explanation for favoring federal government regulation of employe benefit plans rather than sticking with state insurance commissioner regulation was submitted by the benefit manager for a leading chemical company.

Federal regulation, he said, would:

• Avoid administrative costs associated with state-by-state fragmentation.

• Maintain equitable treatment for all employes of multi-state employers.

• Retain unfettered bargaining conditions under federal labor laws.

"Benefits are compensation, and compensation has many facets," this benefit chief continued. "There are trade-offs, equalizers and other similar coverages involved, in most cases. State laws are incompetent to cope with all these complexities, or to determine compensation."

The benefits

The bulk of panel members favoring federal regulation of benefits under ERISA cited such reasons as "less confusion and duplication," "uniformity," "consistency," "standardization" and "simplicity" for their convictions. Nine said federal regulation would cost less than the complex and ever-changing regulations in 50 different states. Four others, concerned that all employes across the country should be treated equitably, believe federal regulation would most clearly accomplish this "equalized impact."

Only seven of the 85 panelists believe the state insurance commissioners have any power right now to regulate benefits; the other 78 said they believe ERISA preempts all state supervision in this sphere.

Such state-mandated benefits as alcoholism treatment, outpatient psychiatric care, maternity care and acupuncture are causing administrative and financial burdens for 63 of the benefit managers. A surprising 22, however, asserted that state changes hadn't posed any problem. Of the 63 who complained that new state rules have caused hardships, nearly all said administration became more of a problem while only 32 said a financial burden resulted from the changes.

Twenty-three of the firms are generous enough to provide the full range of benefits for their employes nationwide, extending even supplemental benefits mandated by particular states to all workers at all locations. The majority (62), however, alter only those plans directly affected by a change in state law, providing lesser benefits to workers in other unaffected states.

A Fortune 500 diversified manufacturer now provides full benefits to all locations. "But can't keep it up . . . we can't have a plan that's the best of all laws," asserted the benefit manager.

Pregnancy benefits

Pregnancy disability benefits were controversial as expected. Seventeen benefit managers favor the bills now in Congress which would require maternity care and maternity leaves to be treated like other illnesses and disabilities. A whopping 80% of the Benefit Board participants opposed the pending legislation, but several said in written comments that they oppose only the provisions requiring maternity leaves to be considered disabilities. These fence-sitters favor equal health benefits for pregnancy and maternity-related illness.

Pregnancy-disability benefits are already provided by many corporations, although there are often limitations on the number of weeks full disability payments will be made, six weeks being the typical limitation. Benefit Board members noted that 41 of their companies already treat pregnancy illnesses and maternity leaves as disabilities qualifying for benefit payments.

Only 20 companies have taken action to provide pregnancy-disability benefits since the New York Supreme Court ruled that such pregnancy had to be treated like any other disability under disability benefit plans. Most of those firms limited the improvements to New York state only.

Except for the 10 corporations that feel they are already in full compliance nationwide, the remaining 55 have done nothing, either in New York or anywhere else, holding off on any action until the outcome of the ERISA preemption issue and/or federal pregnancy-disability legislation is clear.

But 40 corporate benefit managers have taken at least some preliminary steps toward implementing changes if they become necessary, either through legislation or under state rules. They've contacted their insurance companies for information about potential changes and the costs of adding pregnancy medical and disability coverage (23), they've touched base with their insurance brokers and/or consultants for help, revised their group benefit/insurance budgets to reflect possible forthcoming changes (8 each) and they've instituted internal studies on potential employe benefit plan changes (31). ■

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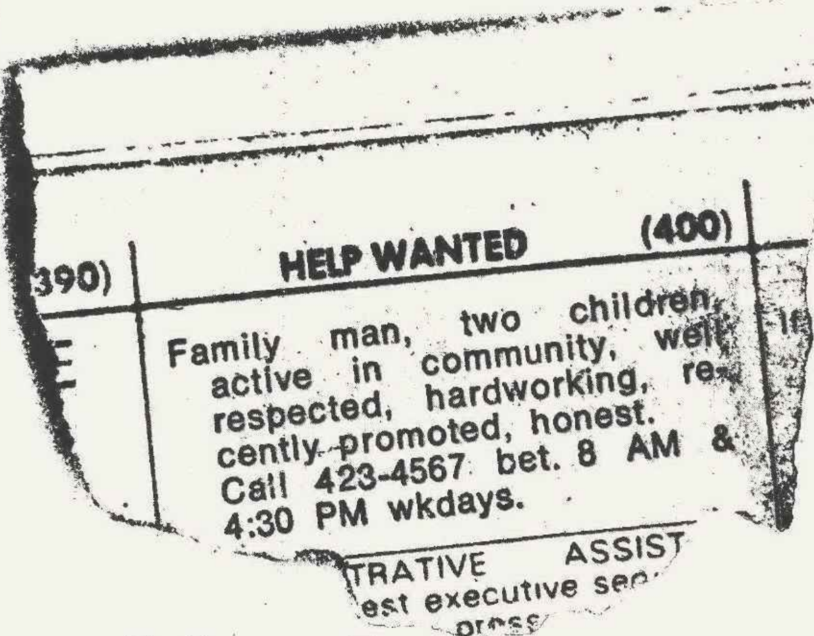

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Monday, November 7

- Good Communications = Personnel Profit—Lee A. Carlson, Manager of Salaried Benefits and Policies, The Bendix Corp.
  ERISA Headache #1: How to Cope—Barbara Philbeck, Communications Consultant and Richard Cromer, Partner and Consultant, Hewitt Associates.
  You Be The Judge: I—Herb Zeltner, President, Herbert Zeltner Marketing & Communications.
- Overview: Outstanding Communications Programs—Susan E. Forster, Manager, Welfare Plans, Mead Corp.; Joseph W. Duva, Director, Employe Benefits and Compensation, SCM Corp.; Judith Starkey, Personnel Specialist, Chemetron Corp.; and Dennis A. Kairis, Director, Employe Benefits, Borden Inc.
- Flipside: What Employes Think—William W. Wimpisinger, International President, International Association of Machinists and James H. Mayes, Director of Publications, Standard Oil of Indiana.
- You Be The Judge: II—Herb Zeltner gives you another chance.
- Aftermath: Moving Beyond Legal Requirements—Larry Ewing, Partner and Consultant, Hewitt Associates.

Tuesday, November 8

- Big Brother: Friend Or Foe—Ron Weakley, Director of Communications and Public Service, Pension and Welfare Benefit Program, U.S. Department of Labor.
- Choosing A Consultant: A Marriage Made In Heaven Or . . .Joseph W. Duva, Director, Employe Benefits and Compensation, SCM Corp.; John M. Shores Jr., Director of Personnel and Purchasing, Birmingham News Co.; and Robert Sjogren, Manager, Benefits Development, Xerox Corp.
- Doing The Job Without Breaking The Bank—Eugenie Bodenhoff, Director, Benefit Planning, Hunt-Wesson Foods Inc.
- Evolution: Humanizing Your Communications—John Mackenzie, President Internal Communications Corp.; John Kearney Jr., Vice President, Employe Communications, Kwasha Lipton Inc.; Paul Sanchez, Consultant, Towers, Perrin, Forster & Crosby Inc.; and Donald Ward, Director, Employe Benefits, Medtronic Inc.
- You Be The Judge: III—Herb Zeltner gives you your last chance to rate corporate audio-visual programs.

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Trusts terminate . . .

Continued from page 1
20,000 persons.

Common Market reached an agreement with the Arizona insurance department in mid-October to stop soliciting new members and to submit to state regulation, according to deputy insurance director Frederick C. Berry.

The trust will accept contributions and pay claims until Jan. 1 while it looks for a carrier, Mr. Berry said. If no insurer can be found, the state will place Common Market in receivership. In return, Arizona will not pursue efforts to revoke the licenses of the trust organizers, Frank Barry and Al Haney, if all the participants' claims are paid.

Officials of Common Market could not be reached for comment. Arizona does not know how many individuals are in the trust, Mr. Berry said.

Continental insured

Continental Employe Benefit Assn. will now be insured with Protective American Life Insurance Co. of Bellevue, Wash., said trust organizer Donald Kuhre. "We couldn't deal with all the harassment," he said.

Continental provides benefits to almost 8,000 individuals, according to Mr. Kuhre.

Protective American Life's major medical policy was the prototype for the package marketed by self-funded ESBA, Continental and several other trusts.

ESBA, Common Market, Continental and Protective American Life were major subjects of the first story in *Business Insurance's* eight-month investigation of self-funded multiple employer trusts.

Despite financial problems with some insured multiple employer trusts, state officials believe their regulation of insurance companies can protect policyholders. Participants in self-insured trusts, however, have little protection in the present regulatory vacuum.

State insurance officials in several states report significantly less activity by self-funded trusts. Montana has not been contacted regarding a trust in six weeks, said insurance department counsel Charles Erdmann, a marked drop from earlier this year.

More and more trusts are withdrawing from the market in Texas, according to R. B. Ashworth of that insurance department.

Eleven of the 13 trusts ordered to stop soliciting in Florida have agreed to cease-and-desist orders, said Florida's Don Dowdell. The two trusts that have indicated they will continue to seek new business are National Business Conference Employe Benefit Plan of Portland, Ore., and Employer-Employe Trust Assn. of Golita, Calif., he said.

Bruce Shulte, organizer of National Business Conference, said he will not comment on his plans until he has "his day in court." The Oregon insurance department is suing the trust in federal court there as an unauthorized insurer.

Mr. Shulte denied his trust was similar to ESBA. But he confirmed an earlier *Business Insurance* report that the trust's benefit package originated with Protective American Life. He would not say how many people are covered by the trust.

According to documents obtained by *Business Insurance*, the trust's claims and contributions are now handled by a marketing and enrollment center in Park Ridge, Ill., run by George V. Duczak.

Mutual Medical

Mutual Medical Employes Benefit Assn., another self-funded trust, is also planning to dispute state insurance department regulation, according to organizer R. A. Newby. Mr. Newby said he may file suit against the Labor Department to overturn an advisory opinion letter issued saying Mutual Medical was not an employe benefit plan and therefore subject to state insurance regulation. Mutual Medical, based in Santa Ana, Calif., covers about 2,000 individuals.

Meanwhile, two other trusts say they have restructured their business to comply with court decisions and the Labor Department's brief in the Kansas decision.

Mark Killebrew, head of Protective Benefit Assn., said his trust no longer solicits individuals and is seeking a carrier for those persons. PBA has 7,500 individual and employer members covering approximately 15,000 individuals.

Mr. Killebrew is president of the National Assn. of Trust Administrators, formerly the National Assn. of Multiple Employer Trusts.

Litigation

The National Assn. of Trust Administrators is considering intervening in lawsuits to push for a clarification of what is covered by ERISA and what is not, said Claude J. Dorais, a Beverly Hills attorney who represents the association.

Thomas Wilke, administrator of Insurance and Prepaid Benefits Trust, said his trust has been reorganized to comply with the court decisions. Five separate trusts have been formed to create commonality of interest among members of each trust, by placing all manufacturers in one trust. Benefits committees of participants have been formed and Mr. Wilke's firm has been hired on a flat fee as administrator rather than on a commission for persons enrolled.

IBT has about 6,000 members concentrated in Southern California, Mr. Wilke said.

An official with the Labor Department in Washington said several trust representatives have asked how they can structure their trusts to fall within ERISA and its preemption of state insurance regulation.

The department responds that it has not yet taken a position on employer-based multiple employer trusts. Labor says it is working on the problem.

The department is also exploring the possibility that commissions on recruiting plan members is a violation of the fiduciary regulations in ERISA, the official said. This argument could be used as an ERISA application of the Kansas court test, which says that solicitation is one factor that separates an ERISA regulated employe benefit plan from a scheme designed to escape state insurance regulation. ■

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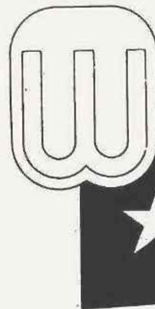
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Taking the Risk out of Business

RBH to acquire California firm

CHICAGO—Rollins Burdick Hunter announced it has acquired the California brokerage firm of Strong & Co. Inc.

Strong & Co. with offices in San Francisco and San Jose provides property/casualty and employe benefit services to industrial and commercial clients. It also works with professional association benefit programs and professional liability programs.

Strong & Co. will become part of Rollins Burdick Hunter of Northern California Inc. The present management headed by Dwight V. Strong will remain.

Terms were not disclosed. ■

riskWatch

By REBECCA A. FANNIN

White collar crime costs billions, but are risk managers concerned?

Muggers, burglars, robbers, rapists. That's what most of us visualize when we think of crime. Rarely do we think of a criminal in a white collar much less a suit and tie. But the facts are that criminals in business suits are costing us more than criminals in the streets.

We don't know exactly how much they're costing us—business and the public—since good statistics are lacking. But we do know that the estimated dollar amount is staggering. Estimates range from a conservative U.S. Chamber of Commerce figure of $40 billion to $210 billion from the late Sen. Philip Hart of Michigan.

Fannin

No matter what amount you prefer, businesses are collecting a mere $25 million to $30 million from insurance to cover losses from white collar crime. The reason? Most companies simply don't have adequate insurance for losses from kickbacks, commercial bribery and payoffs. According to Jules Kroll, president of Kroll Associates, a New York firm that investigates white collar crimes for more than 100 clients, 80% of his clients don't have enough insurance for these risks.

Mr. Kroll blames the risk manager for the gaping holes in coverage. "The risk manager has grown up in the first and third-party claim area. They treat these risks as a caboose, an afterthought. They just don't have the in-depth familiarity about white collar crime risks."

■ Sorry risk managers, but I tend to agree. I remember too well a Risk & Insurance Management Society meeting where white collar crime was discussed at my lunch table. If the conversation of my neighborly risk managers is any clue, then expense account cheating must account for the bulk of white collar crime they perceive at their corporations. And insurance for these crimes must be unheard of since not one risk manager spoke of protection against criminals in pin-striped suits.

With kickbacks, commercial bribery and payoffs becoming more common in our business lives, risk managers should tune in, especially those working for retail industries, hardest hit by white collar crime. That's because their controls are 10 years behind the times, said Sandy Beck, vp at Kroll Associates and a public adjustor. Closely following the retailers are the construction industry and financial institutions. Also among the most susceptible firms are industries having foreign subsidiaries.

■ Corporate executives at these subsidiaries may be led down the criminal path because of a shortage of purchasing and reporting controls, lax foreign government regulations and a feeling that they can get away with it because they're a long distance from the parent company. Witness a vp for a garment manufacturer with sales of $160 million to $170 million who was sent to the Far East to head a new foreign subsidiary. The vp was given control over all dollars sent to the pilot operation, amounting to $11 million to $12 million. In just 18 months the executive had embezzled $2.3 million. According to Mr. Beck, the vp used almost every type of fraud—bribing foreign corporate officers, improperly reporting income to the U.S., sidetracking raw materials and using exchange rates to his advantage.

The good news was that he became an instant millionaire; the bad news was he was caught! But the worst news came for the corporation, whose insurance only covered $500,000 of the $2.3 million lost.

The corporation was underinsured because "no one sat down and asked what additional exposures would result from the new subsidiary," Mr. Beck said.

■ White collar criminals are far from hardened. They're just "plain, old ordinary folks that see an easy way to make their problems a little lighter," Mr. Kroll said. Corporate management pressures aren't likely to ease, and neither are white collar crimes. The penalties white collar criminals receive aren't likely to deter much theft, either. Even if a criminal steals millions of dollars, the maximum penalty he can receive in New York, for instance, is three months in jail or a fine of $500. The stiffest regulator, Colorado, imposes five years in jail and/or fines of up to $15,000.

With white collar crime on the rampage it's up to the risk manager to mount the defensive, analyze the corporation's risks and buy some added protection.

People . . .

Continued from page 50

firm for three years. Also appointed to the benefits department is **Phillip B. Seelinger, 43,** who was named manager of retirement plans. He will administer Levi's pension, profit sharing and stock purchase and investment plans in the new position. Mr. Seelinger also reports to Ms. Buckelew. Mr. Seelinger said his position was created because of the company's growth. With 20 years experience in retirement plan consulting, Mr. Seelinger was most recently a senior consultant with Peat, Marwick, Mitchell & Co. for three years. **Reese Smith,** 34, also joins Levi Strauss, reporting to Ms. Buckelew as employe benefits controller, where he will handle financial audit and systems functions. Previously, Mr. Smith was an independent consultant in design of financial control systems. Before that, he worked for the Metropolitan Atlanta Rapid Transit Authority for four years.

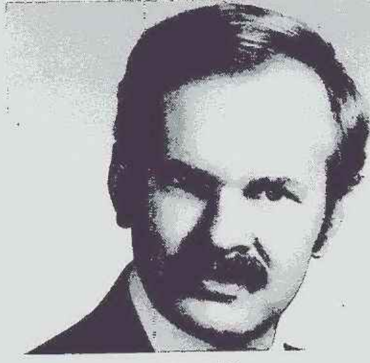
* * *

Ben Barber, 32, has been named manager of safety and loss prevention for the Tribune Co. in Chicago. Mr. Barber previously was a corporate safety and health administrator at Baxter Travenol Laboratories in Deerfield, Ill., where he hasn't been replaced. He reports to Bill Sullivan, who was recently promoted from manager of insurance to manager of the insurance department, replacing Sven Thomsen. Mr. Thomson is now director of risk management at Borg-Warner Corp. in Chicago.

* * *

Richard M. Curtis, 37, has been appointed manager of employe relations for FMC Corp. in Chicago, where he will oversee employe relations for all salaried FMC employes and for hourly employes in certain plant locations. Mr. Curtis joined FMC in 1975 as manager of employe relations for the company's Chicago-based machinery group, which ceased to exist on June 1 with the reorganization of the company into nine business groups. Previously, he was employed by Westinghouse Electric Corp., serving in a variety of positions including personnel manager, labor relations manager and employe relations manager at various locations.

CURTIS



GLASS

James R. Glass, 35, has been appointed manager of insurance at Mine Safety Appliances in Pittsburgh. Mr. Glass is responsible for management of the company's casualty, property and group insurance programs. He reports to Stephen Karas, director of the tax and insurance department. Mr. Glass was previously employed by Air Products and Chemicals Inc. in Allentown as insurance analyst. Prior to that he was division statistical manager for Liberty Mutual Insurance Co.

* * *

Gene H. Heskett, 26, has been hired as risk management assistant for the Hanna Mining Co. in Cleveland, effective Nov. 1. In the new position he will concentrate on loss prevention and claims administration while handling special assignments in the international mining and shipping company's insurance program. He will report to Duane E. Allen, assistant treasurer. Mr. Heskett has an MBA in insurance from Ohio State University and has spent the past three years as a procurement officer at the USAF Arnold Engineering Development Center in Tennessee.

* * *

Walter Wilson, 52, has been promoted to manager of the insurance division of the Kennecott Copper Corp. in New York City. Previously, he was assistant manager for 17 years. Mr. Wilson is responsible for risk management, employe benefits, casualty, property and marine insurance. He reports to Anthony Ellis, vp, finance.

* * *

Gary Pew, 32, has joined Southern California Edison in Rosemead, Calif. as insurance analyst. He replaces **Michael M. Kaddats** who resigned last summer to join Warren, McVeigh & Griffin, Newport Beach, Calif. Mr. Pew formerly worked as an insurance analyst for City Investing Co. in Beverly Hills, Calif. In his new position he reports to William G. Hughes Jr., manager of insurance.

•

We'd like to report on staff changes in your risk management or employe benefits department. Just drop a note to Rebecca A. Fannin, Business Insurance, *708 Third Ave., N.Y., N.Y. 10017 or call 212-986-5050. We'd also like to receive pictures of those involved.*

Chicago area agency finds safety man

CHICAGO—Chicago's Regional Transportation Authority (RTA) has found someone to serve as its safety director.

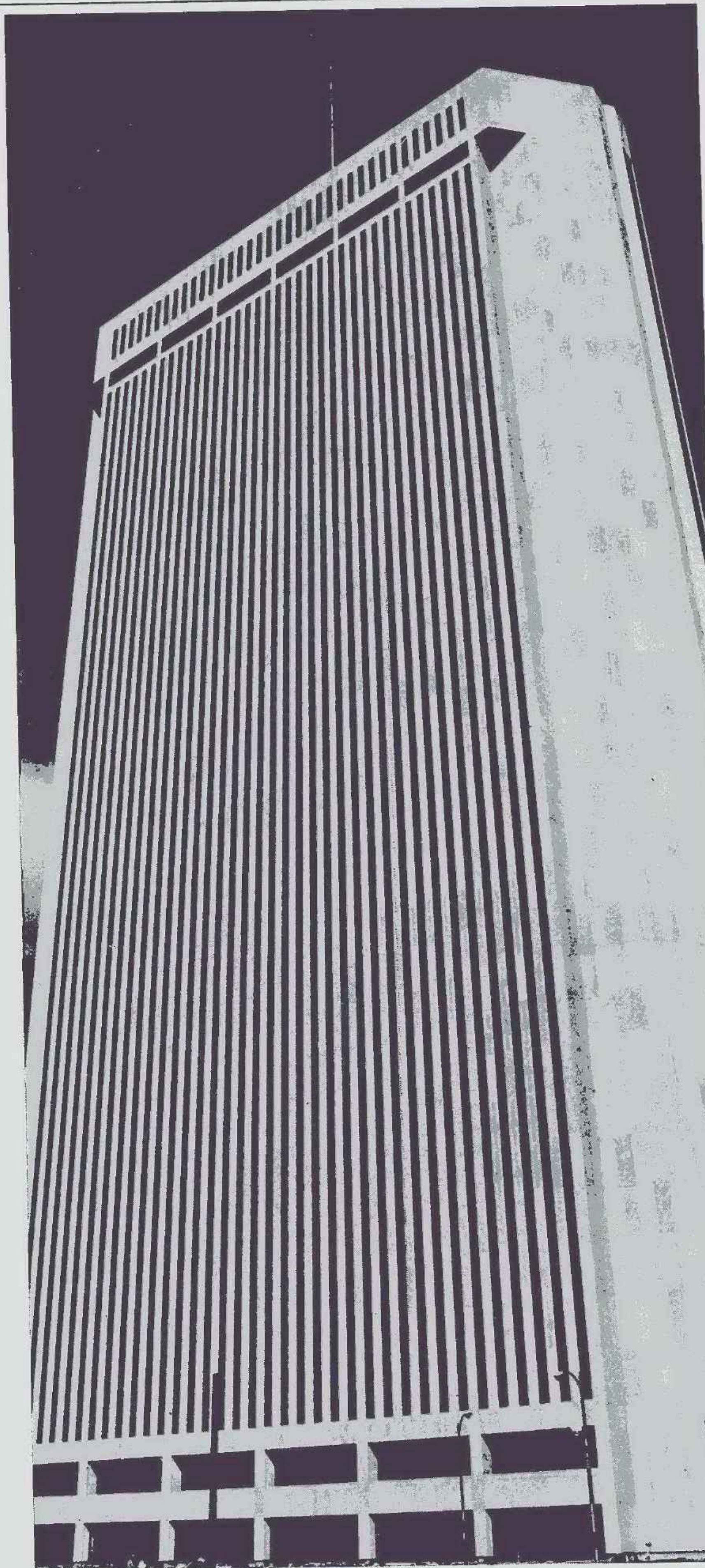
Donald S. Buck, formerly a safety official for the federal government, was hired recently at $30,000 a year to head the RTA's newly created department of safety.

Business Insurance reported in mid-September that the six-county transportation authority said it couldn't find a suitable person to take the job, though at that time it had interviewed only "four to six" persons, a spokesman said.

The National Transportation Safety Board recommended in January 1976—after a commuter train crash that killed one and injured more than 300—that the RTA take a more effective role in safety of commuter transportation in the region. In February, two Chicago Transit Authority elevated trains crashed killing 11 persons.

However, according to the RTA's chief operating officer Leo J. Cusick, the new safety director will first concentrate on examining the suburban Chicago bus systems regulated by the RTA and establishing a coordinated safety program for them.

The new safety director will study the Chicago Transit Authority and commuter railroad system later, Mr. Cusick said, because "the CTA already has an established safety program and so do the commuter railroads." ■



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Electronics firm selects Paul York

Paul York, 28, has been named director of corporate insurance at National Semiconductor Corp. in Santa Clara, Calif., replacing Johnathan Chapman, who left the company. His duties include property and casualty insurance, pensions and benefits. He is also in charge of safety but will give up this duty when a safety manager is hired. Previously, Mr. York was corporate insurance manager for approximately two years at Dairymen Inc. in Louisville, where he hasn't been replaced.

* * *

George Phillips, 56, has been named director of insurance at Morton Norwich Products Inc. in Chicago. Previously, he was corporate risk manager for North American Philips in New York, where he hasn't been replaced.

* * *

Joining the Potter & Brumfield division of AMF Inc. in Princeton, Ind., is **Charles LaBolt**, 38, as manager of compensation benefits. He reports to Jim Price, director of personnel and industrial relations, in his newly created position. Mr. LaBolt previously was general supervisor of salaried personnel at Clark Equipment Co. in Battle Creek, Mich. for 10 years.

* * *

At Levi Strauss & Co., three recent appointments have been made in the benefits department. **Sarah Williams**, 27, has been named manager of health and welfare plans in a created position. She is responsible for administration of all medical benefits, life insurance, disability and other welfare benefits plans. Ms. Williams reports to Claire Buckelew, assistant director of employe benefits. Ms. Williams's experience in benefits plan administration has been with the Clorox Co. in Oakland for two years and with Mercer & Co., a benefits consulting

Continued on page 49

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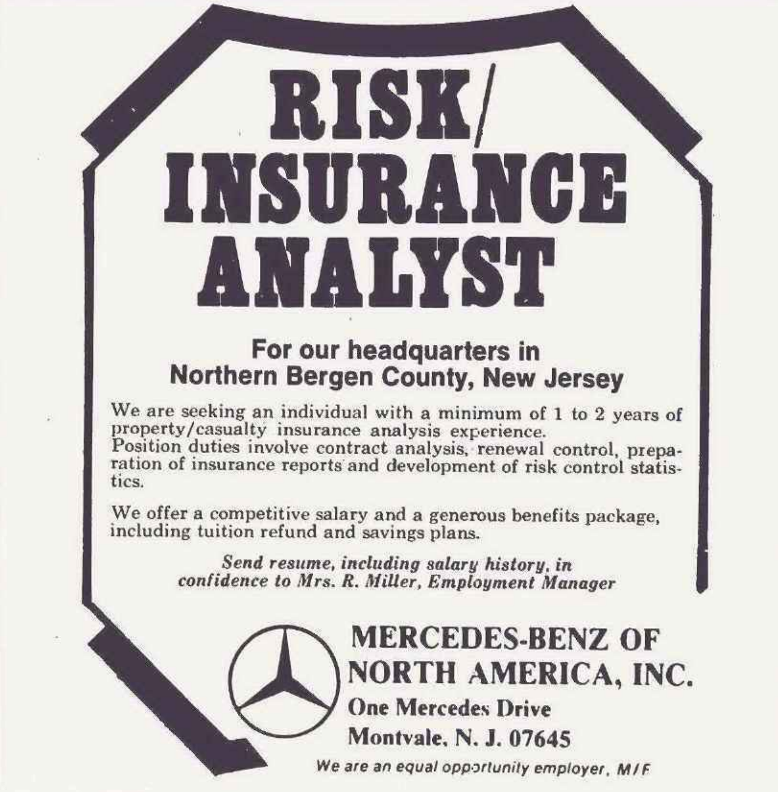

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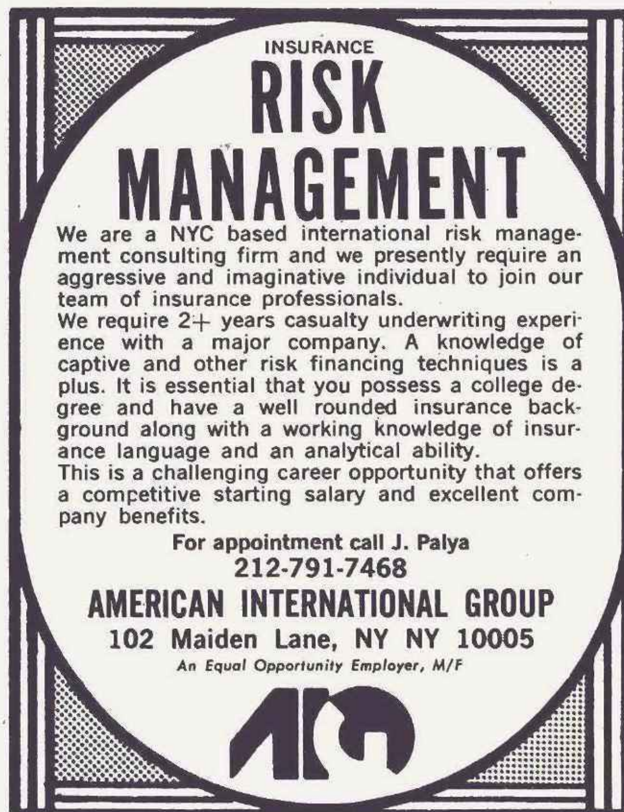

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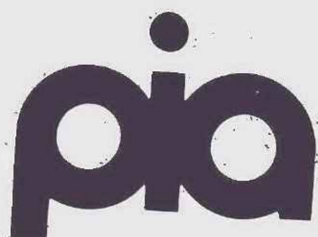

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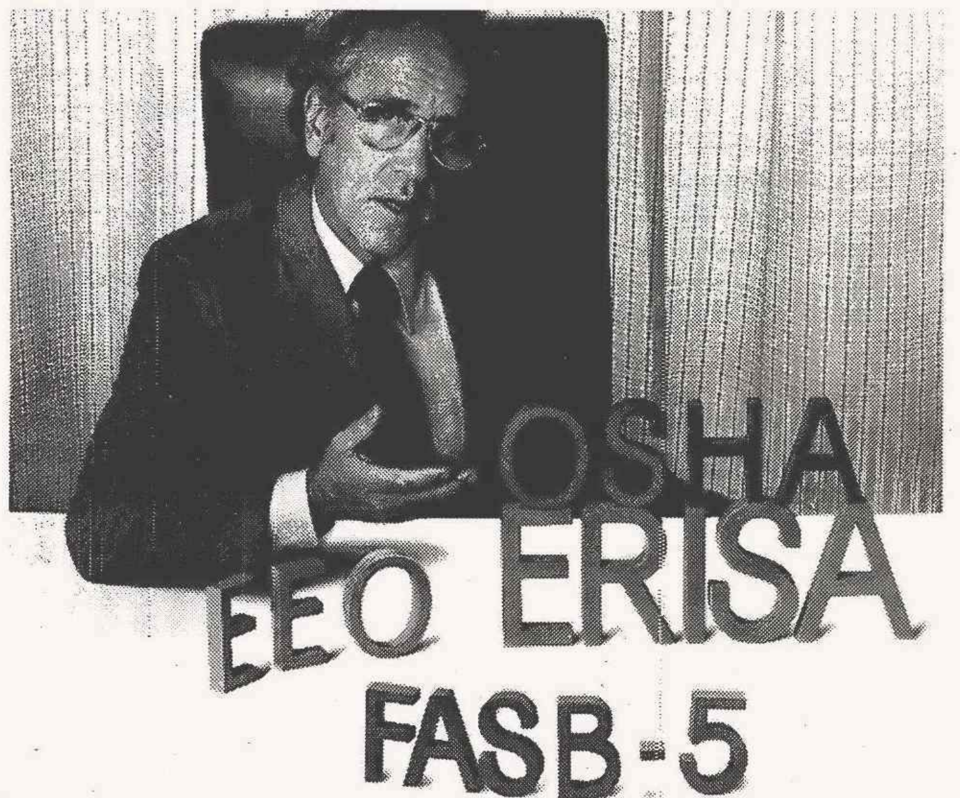

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