

OCTOBER 26, 1987

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## New Transamerica reinsurer to have capital of \$185 million

LOS ANGELES—Transamerica Insurance Group plans to enter the treaty reinsurance business after its acquisition of a unit of Clarendon National Insurance Co.

Transamerica has reached an agreement to acquire Commercial Risk Underwriters Insurance Co., a Clarendon unit. After the acquisition, Commercial Risk will be renamed Transamerica Reinsurance Co. and will be capitalized with about \$185 million.

Continued on next page

# Bear market bruises

## Hit to insurer surplus not likely to trigger another tight market

By JAMES M. BURCKE

Last week's stock market collapse will not force the commercial property/casualty insurance market to tighten suddenly, even though the plunge cost insurers about 10% of their surplus during Monday's frantic trading alone, many observers say.

While some insurers, brokers and analysts say huge losses on Wall Street like Monday's record 508-point dive in the Dow Jones 30 Industrials may have a "psychological" effect on insurers that will help constrain insurer competition, others say lower rates are inevitable because insurers are still sitting on a glut of capital.

In fact, several insurers announced last week that they would dip into surplus to buy back their shares despite the hit they absorbed on their own stock portfolios.

Insurers' initial reaction to the downturn "will be shock and horror, but I think when it all settles out, the impact will be minimal," said Michael Smith, an analyst with Shearson Lehmann Bros. in New York.

He added that he suspects several insurers got out of the market before the plunge and, thus, were relatively unscathed.

Others contend that it is too early to predict how the property/casualty industry will react, especially in light of the 557.4-point tumble in the Dow since Oct. 13 (see chart).

Many say that rates and capacity will not be greatly impacted by last week's slump because only about 10% of property/casualty insurers' admitted assets—or about 40% of the industry's total surplus—is invested in equities.

According to year-end 1986 statistics supplied by the Insurance Services Office Inc. in New York, property/casualty insurers' investment in common stocks totaled \$37.55 billion, compared with admitted assets of \$371.4 billion and a surplus of \$94.3 billion.

In comparison, 57.2% of insurers' total assets—or about \$214 billion—was invested in the bond market, primarily in tax-ex-



empt and Treasury instruments.

Larger insurers, however, are more likely to invest in equities, several market observers pointed out.

According to an A.M. Best Co. examination of insurers' portfolios as of Dec. 31, the 100 largest property/casualty groups carried stocks equal to 15.1% of total assets and 62.2% of surplus. However, some insurers dispute Best's figures because they include investments in affiliated companies.

But observers generally agreed that no matter whose statistics are used, Monday's stock market crash alone cost the property/casualty industry about \$10 billion, or about 9.5% of its surplus of \$105.6 billion as of June 30. Estimates of the entire week's

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## Life/health insurers expect little impact

By DONNA DIBLASE

Major life/health insurers expect last week's stock market plunge to have little or no effect on group health and life insurance pricing.

Most say that equities represent only a very small percentage of their investment portfolios—as little as 2% to 3%—and therefore, a bear market will have little effect on their surplus and, thus, their products.

In fact, some insurers recently have adjusted their portfolios to contain more cash or bonds instead of equities.

As well as foreseeing little direct effect on group health insurance availability and rates, life/health insurers do not expect the downturn in the stock market to affect the profitability of the guaranteed income contracts they have sold, since few of their assets are invested in the stock market.

"We don't expect any impact on the pricing or availability of these products," said Joel Kamer, vp and group insurance actuary in the group benefit financial services division of Boston-based John Hancock Mutual Life Insurance Co.

"For a number of years, we haven't invested in common stock. We've invested primarily in bonds and mortgage loans. There are some stocks we owned a number of years ago, but we are in the process of turning those back," he explained.

"I think the impact of the market activity is mostly the issue of whether there will be a recession," contends Bruce Butler, a vp, actuary and financial officer in the employee benefits department of Travelers Corp. in Hartford, Conn.

"Classically, what happens in group health when you are heading into a recession is that people tend to utilize health care more for one reason or another. Some think they are in danger of losing their job and health insurance as the economy worsens," Mr. Butler explained.

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# British storm damage to exceed \$800 million

By CAROLYN ALDRED

LONDON—Hurricane-force winds that devastated southern England earlier this month, causing hundreds of millions of dollars of damage, may stall plummeting property insurance rates, London brokers and underwriters agree.

And London reinsurers expect that the losses will lead to stabilized catastrophe reinsurance rates despite new capacity in the reinsurance market.

Insurers and analysts estimate that the windstorm, which hit London and the prosperous southeast portion of Britain with gusts of more than 100 mph, caused damages of at least 500 million pounds (\$842 million).

It is the "biggest natural disaster the U.K. has ever experienced," said Roger Taylor, general manager (U.K.) of Sun Alliance & London Insurance P.L.C., one of Britain's largest primary property insurers.

Hamish Ritchie, chief executive of Lloyd's of London broker Bowring U.K. Ltd., said it was too early to speculate on the amount of damage but admitted that the storm "hit the

stockbroker belt—the most expensive area of Britain."

Although "in the U.S., property rates are coming down 30% to 40%, this (storm) may stop the more aggressive competition coming into London," he said.

The storm damages, however, will not prompt insurers to completely halt rates' current downward path, he predicted.

While the storm "will not affect property rates in the U.S., it will certainly curb any fall in rates in London," said Scott Nelson, assistant general manager with Sun Alliance.

The devastation "compares with hurricanes such as Gloria and Alicia sweeping through heavily insured areas of the U.S." in 1985 and 1983, respectively, said Paul Hodges, an insurance stock analyst with London stock brokerage firm Kitcat & Aitken.

A damage estimate of 500 million pounds is "not a bad guess," he said.

Hurricane Alicia, which struck the Texas coast in August 1983, caused total damage of \$1.27 billion, according to research released earlier this year by the Oak Brook, Ill.-based

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Photo: John Gooch; REX/RDR Productions

The windstorm that hit London and southeast England Oct. 16 with gusts of more than 100 mph uprooted trees, ripped off roofs and downed telephone lines.

## Update

## Transamerica buys reinsurer

Continued from previous page

Transamerica Re will focus on reinsuring ceding companies that have developed underwriting specialties and will assume a portion of Clarendon National's book, a Transamerica spokesman said.

About 28 Clarendon National management and staff members will join Transamerica Re, including President William G. Clark, who will serve as president and chief executive officer, and Executive Vp Edwin M. Millette, who will become executive vp and chief operating officer of Transamerica Re.

The acquisition, which is subject to regulatory approval, is scheduled to close next month.

## Monsanto loses dioxin trial

BELLEVILLE, Ill.—Monsanto Co. must pay \$16.25 million in punitive damages to 65 plaintiffs suing for damages for their exposure eight years ago to a teaspoonful of the chemical dioxin following a railroad tanker spill near Sturgeon, Mo., a state court jury says.

The punitive verdict came on top of a compensatory award of only \$29,000 to a mother and son who owned land near the site of the spill and \$1 each for the remaining 63 plaintiffs.

The verdict came following a 3½ year trial, one of the longest in U.S. history. The plaintiffs sought \$35.4 million in compensatory and \$100 million in punitive damages.

Monsanto said it would appeal. The verdict reflected the fact that compensatory damages were inappropriate, the company added, and that there was no basis for the punitive award.

St. Clair County jury verdicts are routinely among the highest in the country.

Monsanto's risk manager Robert E. Toth said the company has extensive insurance coverage and believes it would apply if the award is upheld.

## Reinsurer awarded \$21 million

CHICAGO—A Cook County Circuit Court judge has ruled that American Reinsurance Co. can recover \$21 million in fraud litigation against Mortgage Guaranty Investment Co. involving lease guarantee reinsurance policies that MGIC purchased in the 1970s.

In a 70-page opinion last week, Judge Harold A. Siegan ruled that two subsidiaries of Milwaukee-based MGIC—Commerical Loan Insurance Corp. and MGIC Indemnity Co.—withheld vital information from American Re when purchasing a reinsurance treaty for lease guarantee insurance written by the subsidiaries beginning in 1970. MGIC is now called WMAC Investment Corp.

The insurance covered commercial lease defaults, which were common between 1973 and 1975, according to the opinion.

Judge Siegan focused on CLIC's failure to provide internal reports to American Re that showed the premium rate for the lease insurance should be 6% of rent rather than the 2.8% that was charged. Judge Siegan found that MGIC and its subsidiaries breached a fiduciary duty owed American Re and were liable under theories of innocent and negligent misrepresentation and also constructive and actual fraud.

Damages are to be paid out of a \$27 million fund the court established. The fund included about \$14 million that American Re owed MGIC under the treaty. The remaining \$7 million of the award represents a portion of the \$13 million in interest the fund earned, which the court split between the litigants.

"This opinion is probably the first since the 1800s that takes the issue head-on and says the duty between reinsurers and insurers is equivalent to a fiduciary obligation," said American Re attorney William Cahill with the Chicago firm of Phelan, Pope & John.

Michael Hassan, an attorney with MGIC's Chicago firm of Lord, Bissell & Brook, said MGIC has not decided whether to appeal.

## Builders fined for collapse

WASHINGTON—The Occupational Safety and Health Administration last week proposed a record \$5.11 million in fines against contractors involved in the construction of the L'Ambiance Plaza Building in Bridgeport, Conn., which collapsed in April.

The cave-in of the twin-tower apartment building on April 23—the worst construction accident this decade—killed 28 workers and injured 10 others.

OSHA Administrator John Pendergrass in May cited disregard for fundamental engineering practices as a direct cause of the catastrophe (BI, May 4). He noted that there were "obvious design deficiencies in a lifting system" but that the system was not tested even after two prior failures.

Mr. Pendergrass said OSHA also found "a pattern of sloppy construction practices" and "an overall sense of employer complacency for essential workplace safety considerations."

OSHA proposed \$2.52 million in fines for San Antonio, Texas-based Texstar Construction Corp., the lifting subcontractor, and

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## Errors &amp; omissions

• Annual dues for membership in the National Risk Retention Assn. are \$750, plus a \$500 initiation fee. These amounts were incorrectly stated in the Oct. 12 issue.

• The AEAI/RIMS Risk Management Forum earlier this month in Monte Carlo attracted 677 registrants. The attendance was misstated in the Oct. 19 issue due to a typographical error.

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## Insurer told to halt payment of bankrupt firm's claims

By MEG FLETCHER

NEW YORK—In an unusual move, Allis-Chalmers Corp. is advising its insurer of retrospectively rated policies not to pay workers compensation or liability claims on occurrences preceding the company's June 29 petition seeking relief under bankruptcy laws.

The Milwaukee-based company won't consent to lifting a stay on pre-petition claims against it, as most bankrupt companies do, and has advised the insurer that the stay prevents the insurer from paying the claims.

If the insurer paid the claims, it would increase Allis-Chalmers' retrospective premium payment liabilities, which are covered by letters of credit. Allis-Chalmers is hoping to negotiate lower payments for the claims as part of its reorganization plan.

The insurer, Fireman's Fund Insurance Co. and two of its subsidiaries, however, are asking the U.S. Bankruptcy Court for the Southern District of New York either to allow it to pay these claims or to protect the insurers from legal actions that state regulators or claimants might file because the insurer won't pay claims.

In the meantime, Fireman's Fund is paying workers compensation claims anyway, but has suspended paying liability claims.

Fireman's Fund's concern that it could be sanctioned under states' unfair claim settlement practices statutes and regulations if it does not promptly pay claims is a realistic fear, said most regulators contacted by Business Insurance.

Allis-Chalmers has purchased retrospectively rated workers compensation and general liability policies from Fireman's Fund and its subsidiaries since 1981. The liability policies, with annual limits of about \$5 million, covered general liability and auto liability risks of Allis-Chalmers and its subsidiaries.

Allis-Chalmers advised Fireman's Fund that it believes that the bankruptcy court proceedings prevent the insurer from paying claims on occurrences preceding its June 29 bankruptcy filing, Fireman's Fund says in an Oct. 13 complaint filed with the bankruptcy court.

Fireman's Fund and Allis-Chalmers have agreed that Fireman's Fund can pay claims relating to occurrences after the bankruptcy filing.

The insurer's complaint names the Allis-Chalmers companies in bankruptcy as defendants as well as more than 200 claimants with workers compensation or liability claims that the policies may cover.

The complaint also names as defendants workers compensation administrators in 47 states and the District of Columbia and insurance department regulators in 27 states.

The complaint was filed on behalf of Fireman's Fund Insurance Co. in Novato, Calif., and two wholly owned companies—Associated Indemnity Corp., also in Novato, and National Surety Corp. in Chicago. The complaint was filed by Thomas W. Dressler, an attorney with Sonnenschein Carlin Nath & Rosenthal in Chicago.

A claimant already has filed a complaint with the

Continued on page 129

## Insurer CEOs identify concerns

By DOUGLAS McLEOD

NEW YORK—The efficiency of insurance product distribution, the impact of AIDS and federal tax law changes are among the greatest concerns of insurance company chief executives, according to a recently released survey.

The survey also produced some surprises, among them that reinsurance collectibility was at the bottom of the list of insurance executives' top 10 concerns.

The survey, commissioned by accounting firm Coopers & Lybrand in Hartford, Conn., was conducted by telephone in August and September by Louis Harris & Associates.

It includes the views of 250 property/casualty and life/health insurer chief executive officers and 232 outside insurance company directors.

The CEOs and directors were asked to describe their reactions to a variety of issues as "very concerned," "somewhat concerned," "not very concerned" and "not at

all concerned."

The top 10 issues confronting insurers today, according to the CEOs, and the percentage of CEOs who were very concerned about them are:

• The efficiency of product distribution, about which 50% said they were "very concerned."

• The impact of acquired immune deficiency syndrome, 48% very concerned.

• Recent or impending adverse changes in the tax law, 46% very concerned.

• Federal intervention in insurance regulation, 44% very concerned.

• Taking advantage of new information technology in the industry, 41% very concerned.

• Upgrading the caliber and sophistication of the company's management team, 39% very concerned.

• Remaining competitive in a world of full-service financial services companies, 38% very concerned.

• Effectively matching assets

and liabilities, 27% very concerned.

• Vertical diversification into delivery of health care, 11% very concerned.

• Collectibility of reinsurance, 10% very concerned.

The survey noted that three of the top four CEO issues require a "reactive management stance," while only the first, relating to product distribution, can be addressed pro-actively.

Outside directors' concerns were similar to those of the CEOs, although they ranked them in different order. The directors ranked their top concern as the impact of AIDS; followed by remaining competitive, tax law changes and federal intervention in insurance regulation.

CEOs changed the order of their top priorities somewhat when asked which will be most important in five years. The CEOs expect that their greatest concerns then will be the impact of AIDS, tax law changes and—in a tie for third

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## Greenberg sees trouble for insurers

By DOUGLAS McLEOD

NEW YORK—Despite the recent improvement in its results, the property/casualty insurance industry is still facing formidable problems, warns Maurice R. Greenberg, president of American International Group Inc.

In addition to whatever fallout may result from last Monday's stock market crash (see story, page 1), the industry faces ongoing difficulties with uncollectible reinsurance, loss reserve deficiencies, tax and accounting issues and U.S. tort and regulatory systems, Mr. Greenberg told an audience at a seminar sponsored by Coopers & Lybrand last Tuesday.

Taken together, these problems do not paint a "rosy picture" of the industry's prospects, which makes the recent downward slide in some commercial insurance prices all the more bewildering, Mr. Greenberg said.

Among other things, Mr. Greenberg assailed recent tax law changes and proposed new accounting rules, and he called on the insurance industry to consider the idea of federal regulation of insurers writing commercial lines.

The Insurance Services Office Inc. has estimated that industry reserves were still deficient at year-end 1986. According to ISO, loss reserves on general liability lines were deficient by about 15%, or \$5 billion, as of Dec. 31.

Despite this, the 1986 Tax Reform Act requires insurers to discount their loss reserves for tax purposes

to account for future investment income to be earned between the time the reserve is established and claims are actually paid.

"The industry has not had a brilliant record forecasting reserves, so we are going to end up discounting inadequate reserves," Mr. Greenberg said.

In addition, generally accepted accounting principles could be revised to require insurers to discount loss reserves for book purposes in the same way they must for tax purposes.

Such a revision of GAAP may become more likely if the Financial Accounting Standards Board adopts a proposed rule that would limit insurers' ability to record a deferred tax asset, which could result from discounting for tax purposes but not for book purposes.

To give the industry a false sense of security by bloating income statements with gains from discounting "is just a fool's game," Mr. Greenberg said of the possibility that discounting could be required in GAAP statements.

"It's bad enough to pay taxes on that basis. We should not delude ourselves into trying to take income on that basis," he said.

FASB also is circulating an exposure draft of another proposed rule that would require life insurers to include realized capital gains in pre-tax operating income rather than reporting such gains on an after-tax basis separately from the operating gain or loss.

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# 20 years of growth

## Professional risk management emerges

By LINDA J. COLLINS

Risk management has come into its own during the past two decades, evolving from the simple purchase of insurance to a multifaceted discipline that ranks among the most important management functions at a company.

While there were some truly professional risk managers in 1967, when *Business Insurance* published its first issue, most businesses still employed "insurance buyers" or "insurance managers," whose primary role was to purchase insurance for their employer.

"From our viewpoint, we were still insurance buyers," recalls Norman B. Chanzis, director of risk management for American Standard Inc. in New York. "The discipline of risk management was just beginning to emerge," he explained.

"The risk management industry was almost exclusively insurance-driven in the mid- to late '60s. If we could solve it through insurance, we did so first," said Charles M. Armstrong Jr., manager of

corporate risk management for Xerox Corp. in Stamford, Conn.

"Now, that is the last thing we do. First we try to mitigate or eliminate the risk, and if we can't do so, we then attempt to finance the risk...through insurance, self-insurance or non-insurance," Mr. Armstrong said.

"The field of risk management has advanced considerably in practical application. In theory, in 1967, risk management included all aspects of risk management, but in practice, most risk managers were only dealing with insurance," stressed risk management consultant Warren G. Brockmeier, vp of The Wyatt Co. in Chicago.

"A lot more emphasis is placed today on quantification techniques, and risk managers are much more aware of the time value of money, the ultimate cost of risk and the various ways losses can impact on corporate entities. They are more attuned to dealing with figures, numbers and dollars and not as concerned as they once were with policy language and conditions," Mr. Brockmeier explained.

In the late 1960s, what is now called the Risk &

Insurance Management Society Inc. was still dubbed the American Society of Insurance Management, and the "chief concern" of those insurance managers "was placing insurance, getting the right broker and right insurance companies," recalled David Warren, an independent risk management consultant in Orinda, Calif.

In fact, RIMS did not change its name to reflect the growth of risk management until 1975 (see story, page 42).

When ASIM changed its name to RIMS, it "showed that risk managers perceived themselves as having a different role," observed Robert Dorgan, executive vp of Continental Corp.'s Brokerage & Special Operations Group in New York.

The name change to RIMS "was symbolic of the progress from insurance manager. Their job transcends that; it is the management of risk," said Richard J. Rice, senior vp of Johnson & Higgins in New York.

"The growing prominence of RIMS served as self-promotion for risk managers, and its national

*Continued on next page*

## OSHA, market cycles lead milestones of 20 years

By ALISON KITRELL

Risk managers rank the formation of Occupational Safety and Health Administration as the biggest risk management story of the past 20 years, but they also consider the ups and downs of the commercial property/casualty insurance market as among the events dominating risk management for the last two decades.

In a survey conducted by *Business Insurance*, a panel of risk management readers voted the enactment of the Occupational Safety and Health Act of 1970, which gave the U.S. Labor Department broad powers to regulate safety in the workplace, as the most significant risk management event of the last 20 years.

When asked to rank the 10 most important events of the past 20 years, 10 respondents voted OSHA the most-important event since 1967, while five ranked it second, six ranked it third, three ranked it fourth, five ranked it fifth, one ranked it sixth, one ranked it seventh, three ranked it eighth, two ranked it ninth and one ranked it 10th.

In calculating the results, *BI* assigned a value of 10 points for each first-place vote, nine for each second-place vote, and so on, with a 10th-place vote worth one point. OSHA garnered 269 points to lead the list of stories.

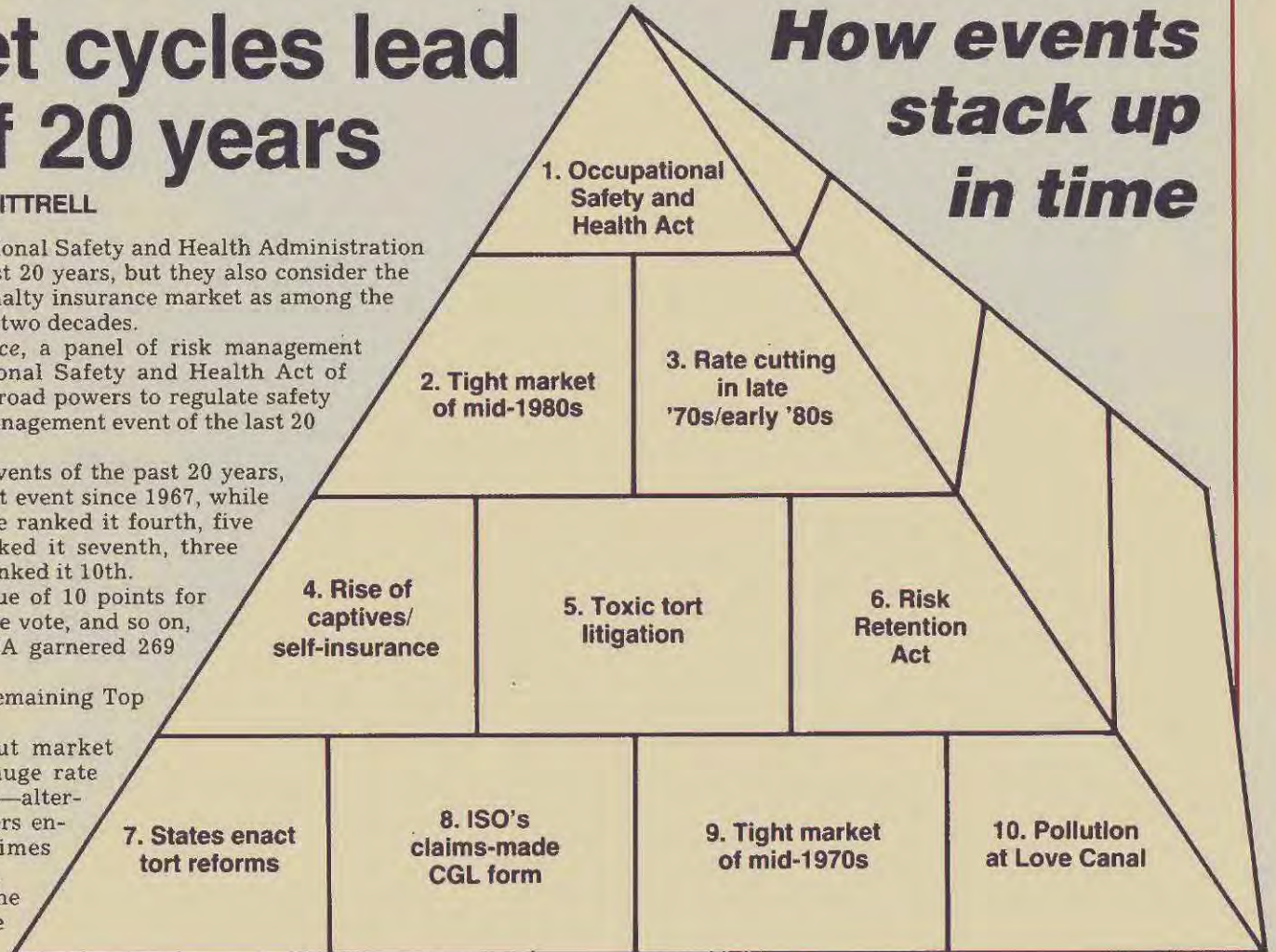
However, two major trends dominated the remaining Top 10 events.

First, risk managers were concerned about market cycles, in which tight markets—marked by huge rate hikes, little capacity and stringent conditions—alternated with very soft markets—in which insurers engaged in competitive price-cutting, sometimes lowering rates to ridiculous or dangerous levels.

As a result, buyers unwilling to try to ride the roller-coaster were forced to find alternative

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## How events stack up in time



## A guide to *BI's* 20th anniversary risk management issue

This issue of *Business Insurance* looks back on the many innovations and developments affecting risk management since *BI's* first issue in October 1967.

As a special feature, the *BI* staff selected 20 people responsible for risk management innovations over the past two decades to predict what will occur in their areas of

expertise over the next 20 years. These essays begin on page 45.

Also, we have created "time capsules" that summarize interesting risk management stories from each

of the past 20 years. These excerpts begin on page 18 and appear throughout the issue.

Other stories in this 20th anniversary issue include:

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A message from <i>BI's</i> publisher.....	Page 12
The origins of <i>Business Insurance</i> .....	Page 14-15
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## Risk management

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 conventions began to bring large numbers of people together to exchange information and techniques," pointed out Robert L. Degner, vp of commercial insurance marketing for Transamerica Insurance Group in Los Angeles.

The interchange of ideas at these meetings today "is unbelievable compared to the old ASIM days," Mr. Degner added.

*Business Insurance* also was credited by some observers with aiding the development of the risk management profession by giving risk managers a chance to see what

**'Accepting a lot of risk was such a foreign idea that everyone just bought insurance. They looked at everything policy by policy rather than as a whole. It was very piecemeal,' says Ralph F. Perry Jr., vp of risk management for Amfac Inc.**

others were doing and to voice their concerns.

Twenty years ago, "the risk manager was the insurance buyer. Two factors that helped to change that were RIMS and the publication of *Business Insurance*," said J&H's Mr. Rice "If there is a sainthood

for members of professional societies, both should be in it."

"I think *Business Insurance* did quite a bit for the professionalism of the field. (At first) I didn't think insurance managers would open up and discuss their problems, but you sort of became a forum for

ideas and good reporting," said risk management consultant Joseph H. Albert, president of J.H. Albert International Insurance Advisors Inc. in Needham Heights, Mass.

"The startup of *Business Insurance* coincided with the growth of the risk management industry. Crain (Communications Inc.) was forward-looking in starting it," said risk management consultant George Betterley, vp and principal of the Tillinghast Division of Towers, Perrin, Forster & Crosby in Boston.

While risk management was in its infancy in 1967, professional risk managers did exist during that

period, observers were quick to point out.

In the late 1960s, when "risk management in its current state was just beginning to evolve...there were some companies with very sophisticated risk managers, but in general...their role was almost completely transfer of risk: buying insurance," said Peter T. Pruitt, president and chief operating officer of broker Frank B. Hall & Co. Inc. in Briarcliff Manor, N.Y.

"There were a handful of very astute people who were at the forefront of issues," stressed risk management consultant C.C. (Bud) Griffin, chief executive officer of Warren McVeigh & Griffin Inc. in Newport Beach, Calif.

"They were forming self-insurance programs, assuming large deductibles" and developing or discussing the development of risk management programs and captive insurers, Mr. Griffin added.

However, for the most part in 1967, "accepting a lot of risk themselves was such a foreign idea that everyone just bought insurance," said Ralph F. Perry Jr., vp of risk management for Amfac Inc. in San Francisco. "They looked at everything policy by policy rather than as a whole. It was very piecemeal."

Twenty years ago risk managers/insurance buyers were generally either recruited from brokerage or insurer ranks or were employees from within a company's own accounting or personnel departments who were assigned the task of purchasing insurance without prior experience in that area.

"Some of them were treasurers or purchasing department personnel or were recruited from insurance companies. Most of them just lost the straw pull and had to buy insurance," quipped Linda L. Ruthardt, director of risk management for manufacturer Barry Wright Corp. in Newton, Mass.

"Going back, many risk managers came from the insurance industry or from within the company's accounting department," recalled Georges Balcer, risk and insurance manager for Consolidated Bathurst Inc. in Montreal.

In 1967, "most risk managers grew up out of the insurance company or brokerage ranks," Mr. Betterley said.

While some employers still appoint inexperienced people from within their ranks to risk manager and many risk managers are still being recruited from the insurance industry, "a growing percentage have chosen risk management as a career field and have gotten degrees in business, finance or risk management," Mr. Betterley pointed out.

Mr. Betterley said that the new breed of risk manager is "much more involved and a participant in the negotiations and underwriting decisions than they were in 1967."

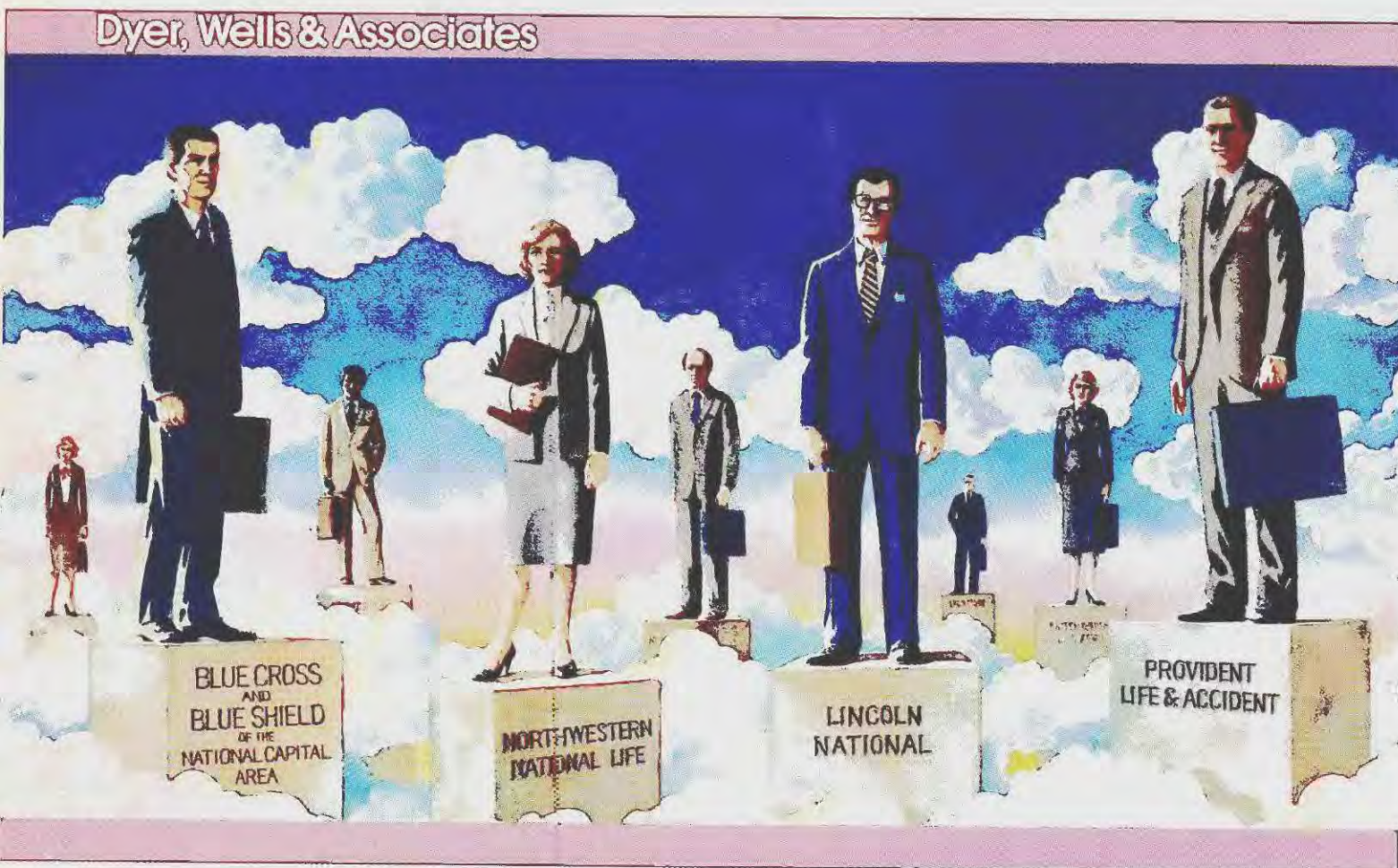
Ms. Ruthardt said the Insurance Institute of America's Associate in Risk Management program, which conferred its first designations in May 1967, was a boon to the risk management profession because "it gave us a common language and common ways of thinking of things."

"The A.R.M. program was a very significant step forward. At the time it started, graduates just received a diploma, but the institute was pressured by risk managers until it offered a designation," Mr. Warren said.

"There are a number of schools with majors in risk management today," he said. "In 1967, I don't think any of them were around. People who were insurance managers in those days were never even trained in insurance in school," Mr. Albert said.

Risk managers entering the business now "have better educational

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## Risk management

Continued from page 4  
backgrounds and are more interested in obtaining insurance degrees. They are also more interested in interacting with their peers and others within the industry and spend a lot of time trying to find out about their profession," Continental's Mr. Dorgan commented.

But the evolution from insurance buyer to risk manager was gradual, industry representatives explained. Risk managers began to expand their focus beyond first-dollar insurance coverage, and as they left or retired from their positions, their employers began to look for more experienced or educated people to fill those roles.

"It was an evolution rather than a revolution," said broker Charles L. Ruoff, senior vp of Fred S. James & Co. Inc. in New York. "The risk manager's role moved

**'Nothing has had such a dramatic impact on the (evolution) of risk management as the development of a whole list of risk financing mechanisms, says James V. Davis, chairman of Advanced Risk Management Services.**

from associating risk and insurance to focusing on risk—all risks, not just those that could be transferred to insurers."

Mr. Albert characterized the field of risk management as "a ball rolling down the hill in the 1970s and picking up speed. . . Today the objective of every risk manager is to buy as little insurance as they need. The technique in the late 1960s was to buy insurance."

"Slowly creeping into the discipline was a new breed of people who were truly managers of risk. When you talked about transfer of

risk and risk retention, they understood," recalled broker John P. Gallagher, executive vp of Arthur J. Gallagher & Co. in Rolling Meadows, Ill.

But the transformation came slowly, "not with a bang," Mr. Gallagher pointed out.

One of the major reasons for the evolution from insurance manager to risk manager was that, for the first time, several viable alternatives to first-dollar insurance coverage were available.

"Nothing has had such a dramatic impact on the (evolution) of

risk management as the development of a whole list of risk financing mechanisms. The status of risk managers has risen within their own corporations because of this array of alternatives," said James V. Davis, chairman of Corroon & Black Corp.'s Advanced Risk Management Services division in Nashville, Tenn.

As risk managers walked into the offices of their companies' financial managers and showed them how those alternatives could save the companies significant amounts of money, "in terms that they understood," risk managers elevated their importance in the eyes of their superiors, Mr. Davis explained.

"Sophisticated methods of self-retention of risks" were coming into the marketplace in the form of "captives, self-insurance, pools, retrospective rating, cash-flow programs and paid-loss retros," said Frank B. Hall's Mr. Pruitt.

Risk managers were starting to approach the area of "risk funding with some intelligence and understanding," Ms. Ruthardt agreed.

Risk managers have since become the "front-line innovators in financial protection. They have gotten over looking at insurance as the primary way to take care of a risk," stressed Alaska Insurance Director John L. George in Juneau, a former risk manager.

In turn, businesses began to put more emphasis on risk management because of the increasing economic impact of their liability exposures.

Twenty years ago, "property loss control was a much more important aspect of risk management compared with liability and workers comp," Mr. Warren explained.

The change "came as the dollars rose, as liability suits and claims became more frequent and larger and as business interruption became more costly. It increased the attention management gave to risk managers and increased their stature" within their companies, Mr. Warren pointed out.

"Larger risks and greater exposures to such things as environmental impairment liability and asbestosis caused company directors and senior managers to look at risk management, because they saw that the people involved in handling these risks could have significant impact on the bottom line of the corporation," agreed Consolidated Bathurst's Mr. Balcer.

"Both internal and external factors affected the change in focus: management's growing cognizance of its exposures and the impact of those exposures on company profit and loss statements, and the outside impact of new legislation and of the industry going through its first major swing in prices in the mid-'70s," explained broker Robert J. Dolan, senior vp of Rollins Burdick Hunter Co. in Chicago.

The increasing severity of the property/casualty underwriting cycle and its impact on pricing and coverage availability have illustrated the importance of a good risk management program, boosted the use of alternative financing devices and further enhanced the value of risk managers in the eyes of their employers, observers agree.

"The tight market of the mid-'70s accelerated the trend toward self-insurance, and the last one accelerated it further," said Corroon & Black's Mr. Davis.

Businesses "have been through two dramatic cycles and a certain amount of premium has left the business and gone into risk alternatives," said Horace Holcomb, senior vp of Alexander & Alexander Inc. in New York, noting this trend is likely to continue. "I think more and more people will turn to alternative forms of insurance if the industry cannot demonstrate more pricing stability."

The most recent hard market made "top management more aware of the problems associated with using insurance as the sole source of protection. The violent swing of that cycle was a shocker, and risk managers don't want that shock anymore," said J.H. Albert's Mr. Albert.

"The instability of the insurance marketplace combined with an inability to predict how long and deep cycles will go has been the biggest challenge for risk managers" to date, said Fred S. James' Mr. Ruoff.

Risk managers who responded successfully to that challenge have improved the image of the profession tremendously.

"Every hard market increases senior management's perception of the importance of the risk management function. In the last hard market, many companies went out

Continued on page 8

# Leadership



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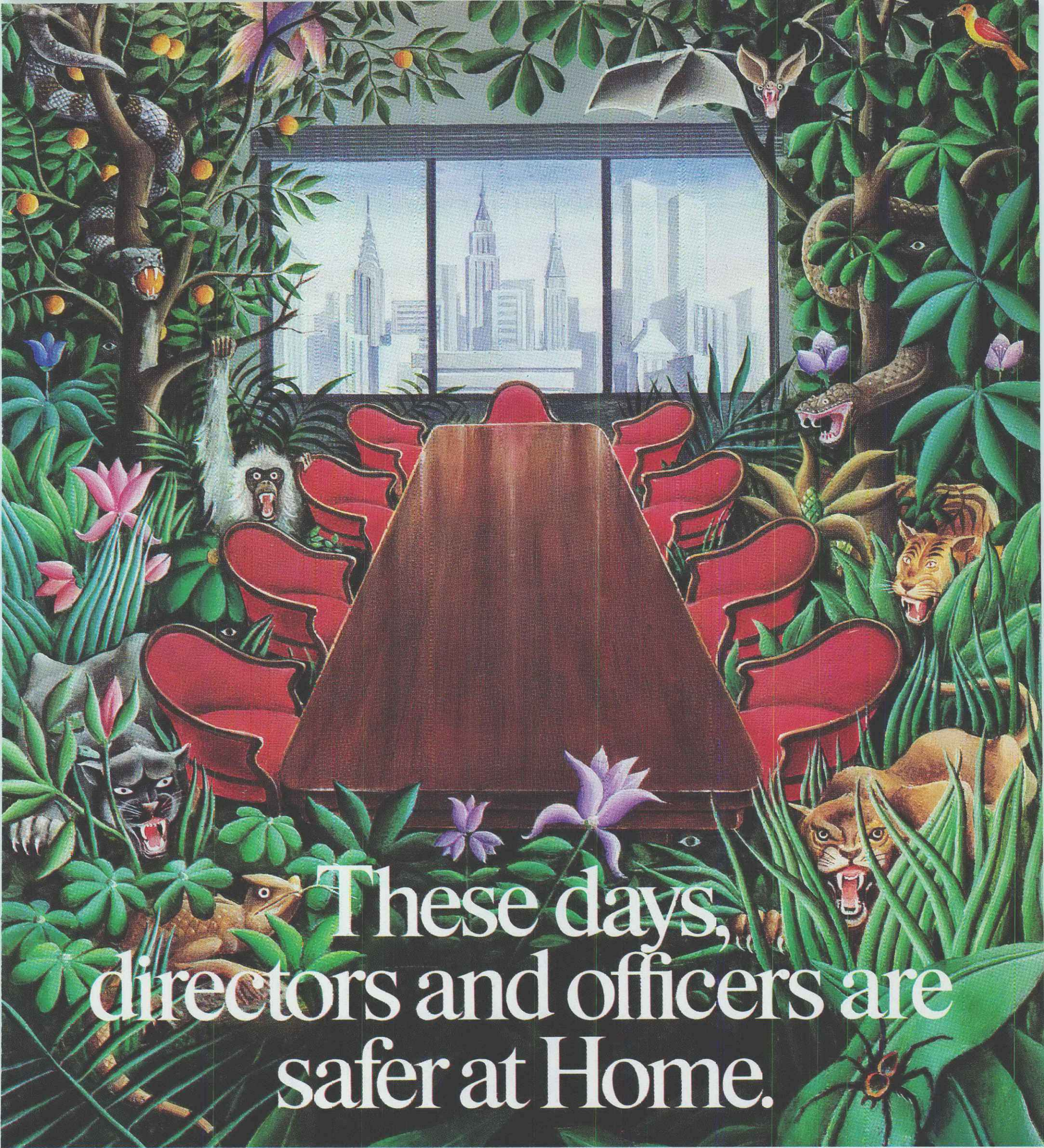
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## Home Insurance

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## Risk management

Continued from page 6

and hired more professional, capable risk managers," said Mr. Griffin of Warren McVeigh & Griffin.

"Managements now have a better appreciation of the need for risk management, of the cyclical nature of markets and of those risks for which the insurance mechanism does not respond," agreed Tillinghast's Mr. Betterley.

Corporate executives also have recognized that if their companies do not have good risk management programs, their personal assets, as well as their business' assets, may be at risk, one broker pointed out.

"The risk manager has become a very important position within firms because those responsibilities have extended into the boardroom in areas like directors and officers liability and fiduciary liability," Mr. Holcomb said.

The increasing professionalism of risk managers has rubbed off on insurers and brokers as well, according to industry representatives.

As risk managers have become more sophisticated and better educated, they have "created a demand for brokers and underwriters to be more capable than they ever were before," said Robert Clements, president of Marsh & McLennan Inc. in New York.

"The level of competence, professional skill and training in the industry is incomparably higher than it was 20 years ago," Mr. Clements said.

There are "not a lot of creative people in the insurance business. Sometimes they need someone to kick them in the seat of the pants and get them to think creatively. Risk managers have more creativity in them," observed Mr. George, Alaska's insurance director.

As risk managers have grown in professional stature, brokers have "gotten more sophisticated right along with them," said Frank B. Hall's Mr. Pruitt.

Because risk managers now put more thought into the construction of their insurance programs, "brokers have had a greater obligation to be innovative and responsive to their clients' needs, and the insurance marketplace has had to be more responsive to both" risk managers and brokers, RBH's Mr. Dolan pointed out.

This responsiveness has come in the form of expanded services, sources say.

"Brokers have gotten away from simply placing insurance to almost pure risk management services. When brokers approach me these days, they talk about the services they can provide," said American Standard's Mr. Chanzis.

Today, insurance brokers have to be able to provide risk managers with "a wide array of support services—both engineering and analytical—to get the opportunity to work with them. Brokers are managing captives, creating alternatives to the purchase of insurance and providing broader financial management services than ever before," agreed Xerox's Mr. Armstrong.

When risk managers moved toward "more sophisticated approaches to risk, we needed to change to address our clients' needs," stressed Mr. Ruoff of Fred S. James.

"We had to acquire many different new skills, in such areas as loss control, claims servicing, feasibility studies and actuarial projections, all geared toward our clients' needs," he said.

Today, risk managers also frequently take a place at the negotiating table with insurers and brokers.

In the late 1960s, the "insurance relationship was different from the buyer's point of view," J.H. Albert's Mr. Albert said.

**'Brokers have gotten away from simply placing insurance to almost pure risk management services. When brokers approach me these days, they talk about the services they can provide,' says American Standard's Mr. Chanzis.**

The insurance manager's relationship with a broker was often more personal than businesslike, and insurance managers often simply gathered facts and left the buying decision to top management, he said.

"In the 1960s, brokers wanted to be in the middle and keep insurers and risk managers away from each other. In the 1970s buyers resented that and began to form close relationships with insurance companies," said Continental's Mr. Dorgan.

"It has now developed into a

three-party arrangement, with everyone talking to each other."

"Twenty years ago, underwriters very rarely got together with insureds. Most of the contact was between the broker and the insurer, and the broker insulated the underwriter from the insureds," said Bill Manning, senior vp-casualty for CIGNA Corp.'s Special Risks Division in New York.

"Now risk managers sometimes get involved in the negotiations, and they certainly want to meet everyone," Mr. Manning said.

"It was unusual for the risk man-

ager to be a party in broker/insurer negotiations in the late 1960s. Now risk managers are routinely brought in as full partners in this relationship," agreed J&H's Mr. Rice.

Risk managers are also far more concerned about "insurance company insolvency. Today, this is not just left to the brokers," said Patrick Gallagher, vp of Arthur J. Gallagher & Co. in Rolling Meadows, Ill.

And liability loss control has become increasingly important to risk managers over the past two decades, although property loss controls were already in place in the late 1960s.

"On the property side, insurers were equally demanding back then" that policyholders practice good loss control procedures, Xerox's Mr. Armstrong said.

However, "Continuing change in the social, economic and technical climate created a movement in the

late 1960s that has continued today" for protecting workers, the public and the environment, said David P. Curley, assistant vp of engineering for Aetna Life & Casualty Co. in Hartford, Conn., and chairman of the National Safety Council.

In 1970, the Occupational Safety and Health Administration "came into play and began mandating some emphasis in that area. It also gave risk managers some leverage in requesting that safety measures be taken by management," said American Standard's Mr. Chanzis.

Risk managers' concern for loss control was also prompted by the fact that businesses were assuming or retaining more of their risk.

"As companies realize they can accept a greater share of the risk, there will continue to be a greater emphasis on loss control.

"There has to be," said Amfac's Mr. Perry.

Continued on next page

# American business has one word for our safety programs:

Continued from previous page

"Because of the increased exposures faced, increased court judgments, new laws and environmental issues, there is a much greater emphasis on controlling liability losses," Mr. Armstrong said.

"Many insureds have gotten into some risk retention where they are participating in the value of their losses. They now need information to help them manage their losses," said Jack E. Gardner, second vp-risk management information services for Travelers Corp. in Hartford, Conn. Businesses are now "allocating their losses back to their operating divisions," he added.

Advances in computer technology have made it much easier for risk managers to monitor and control their losses.

In the late 1960s, risk managers "had virtually nothing outside of electric calculating machines and reams of paper. Most computer

**'Somewhere in the last 10 years, risk managers decided they could lobby. Before that, they were still relying on their individual industry trade associations to do that,' says Linda L. Ruthardt of Barry Wright Corp.**

runs from insurance companies were really garbage, with very little about the cause of a loss or the type of injury that occurred—only raw numbers," said Wyatt's Mr. Brockmeier.

"Technology has been responsible for quite a bit of advancement in terms of quantification techniques," he said.

In 1967, "insurance companies had the data, if the risk manager was resourceful and persistent and had a cooperative underwriter, but it was not always available in a meaningful form," Tillinghast's

Mr. Betterley agreed.

The computer has helped risk managers maintain records of losses, broken down by profit centers, to evaluate risks, promote safety management and finance expected losses, Mr. Perry explained.

It also assists risk managers in compiling information for insurance inspections, he said.

Risk management in the 1960s "was a job of negotiating and management skills with no tools to speak of," Mr. Warren pointed out. He predicts that "computer tech-

nology will continue to play a very measurable role in risk management. It's the quantitative tool we've needed to gather information and calculate."

As risk managers have become responsible for more duties within their organizations, they are also increasingly making their presence known to legislators and regulators on several issues, most notably coverage availability problems.

"Somewhere in the last 10 years, risk managers decided they could lobby. Before that, they were still relying on their individual industry trade associations to do that," explained Barry Wright's Ms. Ruthardt. "Legislative land was someplace where other people played."

"We have formed liaisons with the Insurance Services Office, the National Assn. of Insurance Brokers and the National Assn. of Insurance Commissioners, and we certainly have developed our image

in testimony before Congress and in our lobbying work for tort reform," American Standard's Mr. Chanzis pointed out.

"I believe risk managers have contributed significantly to the progress that has been made towards achieving a comprehensive solution to the liability insurance crisis," said Florida Insurance Commissioner Bill Gunter in Tallahassee. Risk managers have demanded tort reform "and other measures designed to reduce the cost of liability insurance," he said.

"Risk management has taken on a new, broader (role), including influencing policymakers, as the cost of claims continues to spiral," Mr. Gunter said.

However, state regulators point out that risk managers are more active on a national rather than a state level.

"They are doing more federally than in the states, and they also appear to be more active with the National Assn. of Insurance Commissioners. They are making their voices heard and their interests known," said Richard D. Brock, administrative assistant to Kansas Insurance Commissioner Fletcher Bell in Topeka.

"In Alaska, risk managers are not a major lobbying force, but on a national basis, the Risk Retention Act is fair testimony to their lobbying ability," Mr. George said.

Risk managers are still not "nearly as effective as they should be on a state level. They have enormous potential clout if they would exercise it," said David H. Rodgers, chief deputy insurance commissioner of the Washington Insurance Department in Olympia.

"There is more awareness among legislators than there was 10 years ago about risk managers and their role, but legislators are not hearing from risk managers, in our opinion," Mr. Rodgers added.

Meanwhile, some observers predict that the increasing diversification of corporations is likely to have a big impact upon risk managers and risk management programs.

"What we see every day is the gobbling up by one corporation of another. Unfriendly takeovers wreak havoc with effective risk management programs, and predictability and stability scarcely exist anymore," said Transamerica's Mr. Degner. He added that during acquisitions many firms negotiate "like two mastiffs wanting to fight."

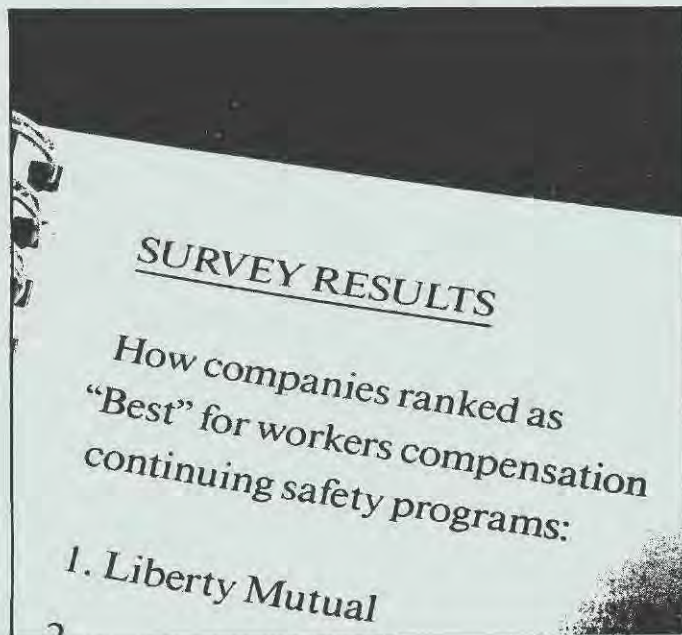
A fallout of this is that "risk managers are being forced to forsake long-term strategies for short-term strategies. Corporations are only concerned with short-term profits, because if they invest in the long-term, they become a takeover candidate," Wyatt's Mr. Brockmeier stressed.

This trend might increase the responsibilities of risk managers in terms of performing "due diligence studies for acquisitions, mergers, sales and consolidations...to determine what risks are being assumed and retained and what liabilities might be hidden," Mr. Betterley observed.

In the future, risk managers will look at insurance "more from a financial point of view, and insurance will be called risk financing," said David A. North, executive vp of Gallagher Bassett Insurance Services in Rolling Meadows, Ill. He predicted that risk managers may decide to finance risks through the purchase of bonds or other mechanisms.

But, risk managers "have to be more knowledgeable of forms and policies, aware of price and market availability. They have to be more today than they ever were before, and in the 1990s, they will have to be even more," said Oklahoma Insurance Commissioner Gerald Grimes in Oklahoma City.

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75<sup>th</sup> ANNIVERSARY-1987

# Opinions

## BI targets insurance buyers

For the first of our two 20th anniversary issues, we reprint below excerpts from the first BI editorial in the Oct. 30, 1967, issue. Some of the terminology, like "insurance man," sounds unusual to us today, but the statement of our editorial mission is as true now as it was 20 years ago.

THE INSURANCE INDUSTRY has always had an abundance of publications aimed at the seller of insurance—the hundreds of thousands of agents out in the field and the insurance company officials at the home office—but it's been short on publications edited for the man who pays the bills—the corporate buyer of business protection.

Our reader is charged with protecting the assets of his company—whether they be his firm's employees or property. He administers, under the title of employee benefits director, insurance manager, risk manager, financial vp, treasurer and other top management personnel, such coverages as group life insurance, profit-sharing and pension plans and property and liability insurance.

Our man, however, is responsible for more than buying insurance; it's also his job to reduce hazards and to initiate loss prevention programs throughout his company. There are not many departments he doesn't at one time or another come in contact with, and as product liability grows stricter with each court decision, he's in at the very earliest stages of new product planning.

It will be our purpose to provide our readers with a fortnightly package of the latest news and developments affecting the buyer of business insurance.

We've already learned that buyers are quite concerned about the growing lack of capacity in most world markets—and they've voiced some strong opinions about what insurers can do to help allevi-

ate the problem.

The fall has always been the season of conventions, and in this issue we've given coverage to quite a few. It won't be our intention to provide running stories of all of the meetings put on by all of the insurance groups and associations, but to pick our spots and give coverage to the speeches and panel sessions of interest to buyers.

An important facet of our news reporting is Washington. Our sister publication, Advertising Age, has always taken great pride in its top-notch Washington coverage, and we will strive to develop the same literate, knowledgeable reporting. Our Washington editor will provide summaries of important congressional hearings—of which there promises to be quite a few—as well as keep a close eye on key departments of the federal government where insurance legislation starts.

Up to now we've emphasized the news side of our publication. But we're also very proud of our feature section, which we call Perspective. In it our columnists—all prominent insurance managers, employee benefit directors and consultants—will have an opportunity to discuss, in a somewhat more leisurely fashion than in our news section, some of the important problems and challenges of the day.

We've given ourselves a big assignment, we know. But with the help of insurance buyers, brokers and insurance company officials, who form the nucleus of our readership and whom we've asked to keep us posted on developments at their companies, we hope to provide a continuing parade of ideas which *Business Insurance* readers can adapt to their own operations.

## Letters

The following are a sampling of letters to the editor published in the last 20 years involving risk management issues. They were selected for their timelessness, punch and humor.

June 17, 1968

To the editor: I take exception to the use of the word gambling in reference to insurance.

Although both insurance and gambling are considered risks, they differ in that gambling is a speculative risk while insurance is a pure risk. The difference is this: in a speculative risk there is the chance of both loss and gain. In a pure risk, such as insurance, there is only the chance of loss.

**Steven B. Steinberg**  
Insurance Manager  
Eugene Kardon Enterprises  
Philadelphia

Jan. 21, 1974

To the editor: The risk manager today truly lives in a hostile environment. He is faced with a substantial threat from both federal and state governments with regard to current and proposed legislation. In its most destructive form, this legislation would substantially reduce his ability to perform his function.

Forthcoming programs and legislation with regard to health care, pensions and HMOs will have serious impact on the risk manager's ability to efficiently utilize benefit dollars for the best interests of all involved.

Further, recent legislation and/or administrative actions in some jurisdictions have placed many burdens on the risk manager with regard to the non-insurance or self-insurance of corporate assets.

Equitable and reasonable regulation hopefully will allow the private sector to have flexibility with regard to efficient financial utilization of funds for the benefit of all those concerned, which, in effect, provides a means by which the corporation can better fulfill a socially

responsible role.

**Sheldon H. Staubitz**  
Director of Insurance  
Chemetron Corp.  
Chicago

Nov. 17, 1975

To the editor: A number of articles appearing in various insurance publications use the present plight of insurance companies as the reason for allowing sizeable rate increases.

True, some rate relief is needed, but there is no reason to panic and allow those whose poor management got them into their dilemma to stick the general public across the board.

Not too long ago, insurers refused to go along with regulators who insisted that investment income (realized on reserve funds which were actually the property of insurers and claimants in the guise of unearned premiums and claims reserves anyway) be used in rate computation. Now, the worm has turned, and they expect the policyholder to pay more to cover the losses they incurred gambling on Wall Street. No, no, a thousand times no, we all say.

We also believe a blow should be struck against the insurer who stalls on claims, resists payment and ends up paying more in a court of law because of their hard-headed chiseling attitude. We suggest that all sizeable claims be examined by regulators.

If any insurer could have settled a claim, let us say, for \$50,000 but refused, and then paid \$150,000 months or years later due to inflation, jury trends, etc. it should be allowed to use only the first figure of \$50,000 in computing its claim experience when applying for rate increases. This would eliminate slow claims payment and resistance to just and proper settlements.

We do not want to see any properly managed insurer penalized, but do ask that the incompetent, the haggler, the chiseler and all such black sheep be al-

lowed to simmer in their own stew pot.

**Justin S. Lencke**  
Marianna, Fla.

Feb. 9, 1976

To the editor: Your Dec. 19 issue has several articles relating to liability insurance problems.

One thing is evident: Regardless of whether the risk is a city, a ski area or a hospital, the problem is not where the attention is being focused. It is not the insurance industry that is at fault, it is the legal system and public morality, which today accept the *reward* rather than compensation philosophy.

Recently in Washington, D.C., a jury returned a \$250,000 verdict in a case where the amount at issue was \$108. Sure the jury was wrong, but what about the lawyer who turned down a more than reasonable settlement offer because he was banking on just such a jury? It is the lawyers who value the case on what a jury might bring, rather than what is reasonable and proper compensation. That has played havoc with liability insurance.

...Let's not lose sight of the cause of the problem.

**R.K. Rappold**  
Assistant Secretary  
Peoples Drug Stores  
Alexandria, Va.

Feb. 11, 1980

To the editor: My wife, who seldom reads business publications, while passing my desk at home happened to notice your Jan. 14 cover article, "Love Canal: Hooker Battles Insurers for Pollution Coverage."

Subsequently over lunch she said to me in great puzzlement: "I don't know much about insurance, but on what grounds could a prostitute claim damages for pollution?"

**Arnold C. Franco**  
Franco & Son Insurance Inc.  
New York

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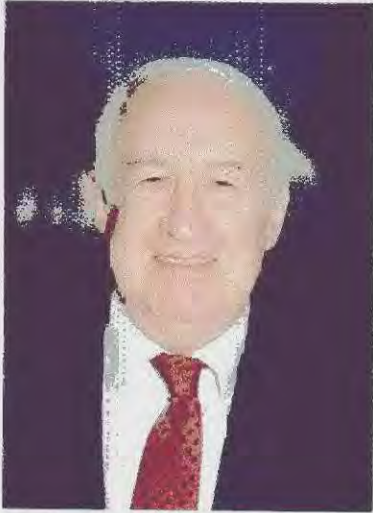
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# From the publisher of *Business Insurance*



Mr. Malecki

By ALFRED MALECKI

It is perhaps more than coincidence that the risk management movement and *Business Insurance* have had parallel growth during these past 20 years.

Since the first issue of *BI* appeared in 1967, the editorial concept has been the same: to focus on the professional interests of the corporate risk manager and employee benefits manager, regardless of title.

This concept has proven itself. The success of *BI*, in terms of reader acceptance and interest, is certainly due to the fact that unlike other insurance newsmagazines, we included the core of the market: the payer of the insurance premium dollar.

Early on, buyers and their brokers received timely market intelligence that helped them make more informed decisions.

While at first few would reveal financial details about their insurance programs, for many years now we have been in the forefront in putting dollar signs in our news stories relating to coverage limits, losses, claims and settlements.

The MGM Grand hotel fire in 1980 had hardly been doused when *BI* reported property and liability insurance details.

Our editors also were the first to publish insurance details after the 1981 Kansas City Hyatt skywalk collapse.

And, *BI* was the only publication to obtain the details of the 1984 agreement allocating liability

among the makers of Agent Orange in that famous settlement.

These are a few outstanding examples of what independent and aggressive insurance journalism can do to inform its audience.

Over the years, *BI* also has reported on changing risk financing methods. We saw the importance of the captive insurance company movement and traveled to captive domiciles around the world.

All the while, *BI* has kept its finger on the pulse of the insurance marketplace, in the United States and London, enabling risk managers to learn of market fluctuations and prepare for them before they impacted expiring policies.

And, long before others recognized the importance of reinsurance to the policyholder, *BI* alerted

its readers to how vital reinsurance is to the price, availability and security of the insurance product.

On the 10th anniversary of our publication, we created the Risk Manager of the Year Award, to recognize outstanding achievement in the field of risk management and to bring more corporate recognition to the profession.

Employee benefits executives also benefited from our fast news reporting of important innovations and developments in their field. In one of our early issues, we published an article about a benefits innovation, cafeteria benefits, then virtually unknown. Today this established concept is better known as flexible benefits.

We were among the first to tout the importance of communicating employee benefits. In 1972, we established an annual awards competition for excellence in employee benefit communications and followed with annual conferences.

Many of our readers were protected from unsound health funding plans after we followed up on a letter we received alerting us to the self-funded multiple employer trusts that were being promoted to small employers to fund health insurance plans. We found that these operations often were underfunded but that the organizers had discovered a regulatory loophole allowing them to operate without oversight by either the Department of Labor or state regulators.

The reports in *BI* led to investigations and the loophole was closed, with state regulators gaining more regulatory control.

*BI* also warns its readers about property/casualty insurance scams. Unfortunately, there's hardly an issue in which we do not have to report such scandals.

While insurance buyers rely on regulators to weed out quick-buck artists, not all regulation is welcomed by corporate consumers. Our Washington bureau and our reporters covering state capitals keep our readers informed of pending legislation, giving them time to help shape the legislation and at the very least prepare for its enactment.

*BI* also has followed the product liability explosion, taking strong and reasonable positions on needed tort reforms while cautioning insurers to avoid the hyperbole of inflated and unsubstantiated claims and anecdotal horror stories advanced by some. Our Washington Editor, Jerry Geisel, debunked the much touted, yet never substantiated, lawnmower-used-as-a-hedge-trimmer story.

*BI* is becoming more international since opening its London bureau in 1981, engaging many overseas correspondents.

*BI*, in its editorial viewpoint columns, observes, counsels and constructively criticizes. It plays a vital role in crystallizing opinion and contributing to better practices. We have pressed the industry on matters of concern to buyers, yet often defended it from thoughtless and politically inspired overregulation.

*BI* is looking forward to its next 20 years. We believe they will be even more exciting to report on as innovations and technological advances further fuel growth of risk management, employee benefit management and the businesses that serve their needs—the arena which we have pledged ourselves to serve. ■

*Alfred Malecki has been with Business Insurance since it was founded in 1967, first as advertising director and since 1970 as publisher.*

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# BI filled a void with its first issue in 1967

Until 1967, there was no high-frequency publication serving only the interests of the corporate insurance buyer.

*Business Insurance* was the idea of G.D. Crain Jr., who founded Crain Communications Inc. in 1916. Mr. Crain, who was a reporter and publisher for more than 50 years, observed that none of the insurance trade publication reported news of interest to the corporate insurance buyer.

In 1967, Mr. Crain, together with Sidney R. Bernstein, president of the company, appointed three Crain executives to start a bi-weekly publication titled *Business Insurance*.

Mr. Crain's son, Rance, became the newsmagazine's first editor; Mike Hartenfeld, then business

manager of the company, became its first publisher; and Alfred Malecki was appointed advertising director.

The editorial focus of *BI* was fixed on matters concerning insurance, risk management and employee benefits from the corporate buyer's point of view, regardless of his or her title.

"When Crain executives began interviewing potential advertisers regarding the new periodical, they were greeted with equal amounts of enthusiasm and skepticism," recalls Mr. Malecki, who was named publisher of *BI* in 1970.

"On the one hand, many concurred that there was no buyer-oriented newsmagazine in the insurance field. On the other hand, the skeptics argued that there

would not be enough significant news to fill the biweekly's pages."

The first regular biweekly issue of *BI*, published Oct. 30, 1967, was mailed free to 34,000 people involved in the purchase of insurance, both property/casualty and employee benefits. Starting with free circulation is typical for a specialized publication.

"Right from the start we were never found wanting for news, and advertisers quickly joined to make *BI* an interesting periodical that found rapid acceptance by the risk and employee benefits community," Mr. Malecki says.

"In our early years, perhaps because we were not indoctrinated by traditional insurance thinking, we elucidated much information that had not been previously pub-

lished," Mr. Malecki says.

G.D. Crain Jr., who passed away in 1973 at age 88, lived long enough to see his idea of a newsmagazine for corporate buyers of insurance become a success.

"In 1973, we published almost 1,000 paid advertising pages—a goal which he then thought had been unattainable," Mr. Malecki says. In 1968, *BI*'s first full year of publishing, the newsmagazine carried 442 advertising pages.

In 1973, *BI* helped create another Crain newsmagazine, *Pensions & Investment Age*, whose reports on pension and tax-exempt fund investments had previously been covered in *BI*.

"In 1980, we took *BI* weekly from its every-other-week frequency," Mr. Malecki says. "This

enabled us to react much faster to news developments, making the publication even more indispensable to its growing audience."

Weekly publication also expanded the amount of news *BI* could report. New columns were added, including the Ticker page and stock reports. Important meetings and seminars were reported more quickly, generally just days after they were held.

Today, compared with an initial free circulation of 34,000, *BI* has close to 50,000 subscribers, with 75% of that circulation representing paid subscribers. And, the universe of readers has grown to include agents and brokers, insurer executives, consultants, attorneys, claims administrators and others who provide advice, products and services to risk and employee benefit managers.

In 1987, *BI* expects a record year, publishing 3,364 pages, including 1,850 advertising pages.

In its 20-year history, *BI* has had five editors: Rance Crain, Richard Bjorklund, Stephen D. Gilkenson, Susan Alt and, since May 1980, the present editor and recently appointed associate publisher, Kathryn J. McIntyre.

Rance Crain is now the president of Crain Communications Inc., which publishes 25 different periodicals, including Advertising Age, Automotive News and weekly business magazines in Chicago, Cleveland, Detroit and New York City. Mr. Gilkenson is now a group publisher at Crain Communications. Mr. Bjorklund and Ms. Alt left the company.

The editorial staff of *BI* has grown to 29 from seven in 1967. And, its reporters are not only in the original locations of Chicago, New York and Washington, but now also in offices in Dallas, London and Los Angeles.

The six offices give geographic spread to *BI*'s reporting, and the Washington and London offices also put *BI* close to people who make news every day: federal lawmakers and regulators in Washington and insurance market leaders in London.

A worldwide network of foreign correspondents also has been developed to report on international news.

The now 14-person advertising department at *BI* is headed by advertising director Don Walsh, who has been aboard since 1974.

A four-person communications and conference department is headed by Ronnie Drachman, who joined *BI* in 1971.

In addition to weekly news, *BI* throughout the year publishes 13 directories in its weekly issues. Among them is the annual Agent/Broker Profiles directory, which since its first exclusive ranking of the largest North American agents and brokers in 1972 has grown to rank the 100 largest U.S. agents and brokers and the 20 largest worldwide brokers.

Other directories and rankings added over the years cover reinsurance intermediaries, surplus lines brokers and insurers, third-party administrators, risk management consultants, employee benefit consultants, captive managers and others serving risk and employee benefit management.

In addition, *BI* publishes two separate directories: The Directory of Corporate Buyers of Insurance, Benefit Plans and Risk Management Services; and, for the first time in December, The Directory of HMOs and PPOs.

*BI* also sponsors an annual employee benefits communications conference and is involved in other activities related to risk management and employee benefits. ■

# "If you're a Royal producer, more power to you."



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Our financial strength has earned us a Best's rating of A+ and a Standard & Poor's claims-paying ability rating of AAA. This kind of news to our agents is right in line with Future One.

But perhaps Future One's most far-reaching recommendation is that companies focus attention on producers who provide a "good fit." Dedicated sources is how we refer to these professionals. Dedicated to a mutual relationship that means quality business from them, quality products and service from us.

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*George Ansbro*

George W. Ansbro, Chairman and Chief Executive Officer

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# BI's first front page

Insurers debate whether to pay  
Detroit business interruption claims

see page 44

CPCU's meet . . . pages 14, 22  
Dallas ASIM . . . . . page 27  
Alaska floods . . . . . page 26  
Your bargaining  
power . . . . . page 33

## business insurance

for buyers of employe, property and liability protection

35¢ a copy; \$8 a year

October 30, 1967

### New Ford pact includes prescription drug and national medical plans

DETROIT—Increased life and health insurance benefits, fattened pension payments and the first national prescription drug insurance plan are included in the benefits package of a new three-year contract agreed upon by negotiators for Ford Motor Co. and the United Auto Workers.

For the first time, Ford workers will enjoy uniform hospital and medical benefits under a national account plan controlled by Michigan Blue Cross-Blue Shield.

For 160,000 hourly Ford workers, those benefits are the sweet frosting on a contract cake considered the most costly in auto industry history.

On top of wage increases, pegged at about 6% annually for a three-year period, Ford granted improvements in layoff benefits that give a worker with seven years' seniority a full year's income at 92% of his normal take-home pay.

ANALYSTS SAY the settlement, reached in the 46th day of a strike costly for both Ford and the union, is weighted toward wage hikes eagerly sought by the UAW rank-and-file. The gain is large enough, some observers say, that it will push up the level of wage gains in contracts yet to be concluded.

It also poses some major bargaining challenges for General Motors Corp., Chrysler Corp. and American Motors Corp., all lined up to renew UAW contracts.

Both the hefty wage gains and the richer layoff benefits, which UAW President Walter Reuther labels "guaranteed annual income," may prove snags to bargaining yet to come in the industry. In GM's case, such non-economic issues as the number of representatives accorded the union are reported to be potentially troublesome subjects of the upcoming talks.

BENEFIT EXPERTS for the auto companies guess, though, that for such matters as insurance and pensions, the Ford settlement has set a pattern for all the auto industry contracts. Said an official of one of the com-

panies yet to bargain, "I don't expect benefits to be a stumbling block in any other negotiations."

Of the benefits embodied in the Ford-UAW pact, only prescription drug insurance is entirely new.

The drug plan, shuffled by bargainners to the third year of the pact, won't go into effect until October, 1969, but at that time it will become an important benefit for workers with high prescription bills.

It provides that all active UAW members and their immediate family members may buy prescribed drugs from pharmacies participating with the program for \$2 for each prescription. The balance of the cost will be covered by payments to the pharmacist from Blue Cross in many areas and from John Hancock Mutual Life Insurance Co., Ford's life insurance carrier, in a smaller number of states. The present plan excludes re-

(Continued on page 7)

### Sunken ship had no U.S. insurance

NEW YORK—The Panoceanic Faith, an American freighter which sank in heavy seas 870 miles south of Kodiak, Alaska, this month, was not covered by insurance in the U.S. market, Business Insurance learned.

"The American market is not too enthusiastic about old ships," said a marine insurance source, explaining that this was probably why domestic coverage could not be arranged. The ship was built in 1944.

It was understood that coverage for the Panoceanic Faith, valued at \$1,000,000, was provided by Lloyd's and other British insurance companies.

Bound for Yokohama, Japan, from San Francisco, the vessel was loaded with a cargo consisting of 10,200 tons of fertilizer. "This type of cargo is generally not insured," the source continued.



McKenna Denise Reuther Bannon

Smiles and goodwill abound as the principals in the United Auto Workers and Ford Motor Co. contract talks shake hands after having agreed to a three-year pact. It still must be ratified by union members. Chief negotiators include Sidney F. McKenna, director of labor affairs at Ford; Malcolm L. Denise, Ford vice president for labor relations; Walter P. Reuther, UAW president; and Ken Bannon, UAW director of the Ford department.

### Maxwell thinks Keeton scheme may be 'solution' to auto problem

PHILADELPHIA—A constitutional amendment may be required if this state were to adopt an automobile compensation system similar to the Keeton-O'Connell plan, said David O. Maxwell, state insurance commissioner.

Mr. Maxwell told the annual conference of the Delaware Valley Chapter of the American Society of Insurance Management. "The present state constitution prohibits any limitations on recoveries for personal injury or damage except in workmen's compensation cases." Limitations under the Keeton-O'Connell proposal would be \$10,000.

"I would not say I favor the proposal in all its manifestations, but we have this matter under serious consideration because there is a need for a solution to existing automobile liability problems," the insurance commissioner said.

HE SEES THE Keeton-O'Connell plan, even with its defects, as a solution to the problems facing the auto insurance industry and the public.

Currently before the Pennsylvania Senate insurance committee, Mr. Maxwell said, is a bill to control cancellation and non-renewal of automobile insurance policies.

He said his department recently sent out questionnaires to companies and brokers in Phila-

delphia and Pittsburgh to evaluate the position of property insurance for riot-vulnerable areas. The target date for returning the questionnaires is Nov. 15.

ONE SOLUTION to the problem, he said, could be the Boston (Continued on page 7)

### NAIC approves reserve fund

ATLANTA—The executive committee of the National Assn. of Insurance Commissioners voted unanimously to endorse a proposed amendment to the Internal Revenue code that would provide tax deferrals for reserve funds set aside to pay riot and other catastrophic losses.

James L. Bentley, president of the NAIC, and over 30 state insurance commissioners, who attended the special meeting on Oct. 20, moved that the proposal be sent to the insurance advisory panel of the President's Commission on Civil Disorders, headed by Gov. Hughes of New Jersey.

This was the first time direct

action was taken on the proposal, which Mr. Bentley had outlined in earlier speeches (see story on page 22).

Specifically, the fund will allow insurance companies to take money from gross income and deposit it in a fund on a tax-free basis, provided it is used to cover catastrophic losses, such as riots.

A spokesman for Mr. Bentley said he expected the proposal would reach Congress before January, although the status of the tax incentive plan now rests with the insurance advisory panel of the President's Commission on Civil Disorders.

## Retain the McCarran-Ferguson Act

In an attempt to address problems which have beset the insurance marketplace, legislation has been introduced to repeal or modify the McCarran-Ferguson Act. Since its enactment in 1945, this Act, which grants states the right to regulate insurance, has been surrounded by myths and misconceptions. These misunderstandings have led some to believe

that current insurance problems can be resolved by repeal or reform of the McCarran Act. We disagree. Instead, we believe that repeal or modification would aggravate, not lessen, recent problems. It would result in less competition and higher costs to both insureds and insurers. Fewer insurers would be able to develop or offer needed coverages.

We believe this to be the case for several reasons. First, we feel that there is no evidence to support any connection

between the McCarran-Ferguson Act and recent problems of unavailable or unaffordable insurance.

Next, we believe that state regulation has proven effective. It enhances a regulator's awareness of local conditions and allows needed changes to be made with greater flexibility and sensitivity to local concerns.

Furthermore, we suspect that a total repeal of the McCarran Act could result in a dual regulatory system of overlapping,

confusing and conflicting authority among state and federal governments.

We also believe it is tort reform and court reform, not repeal or reform of the McCarran Act, which will ultimately address the problems of unavailable and unaffordable insurance. Our industry should accept its share of responsibility for these problems and dedicate itself to exposing the myths and misconceptions concerning the insurance mechanism and its relationship with our court system.

## Insurance Agents & Brokers Professional Liability

Insurance professionals can look to Shand Morahan for reliable liability protection for themselves. We have offered a continuous market in Agents and Brokers E&O since 1970. Coverage is written on a claims made basis and is offered to the named insured while acting as an insurance agent, broker, managing general agent, surplus line broker, excess line broker or life insurance agent.

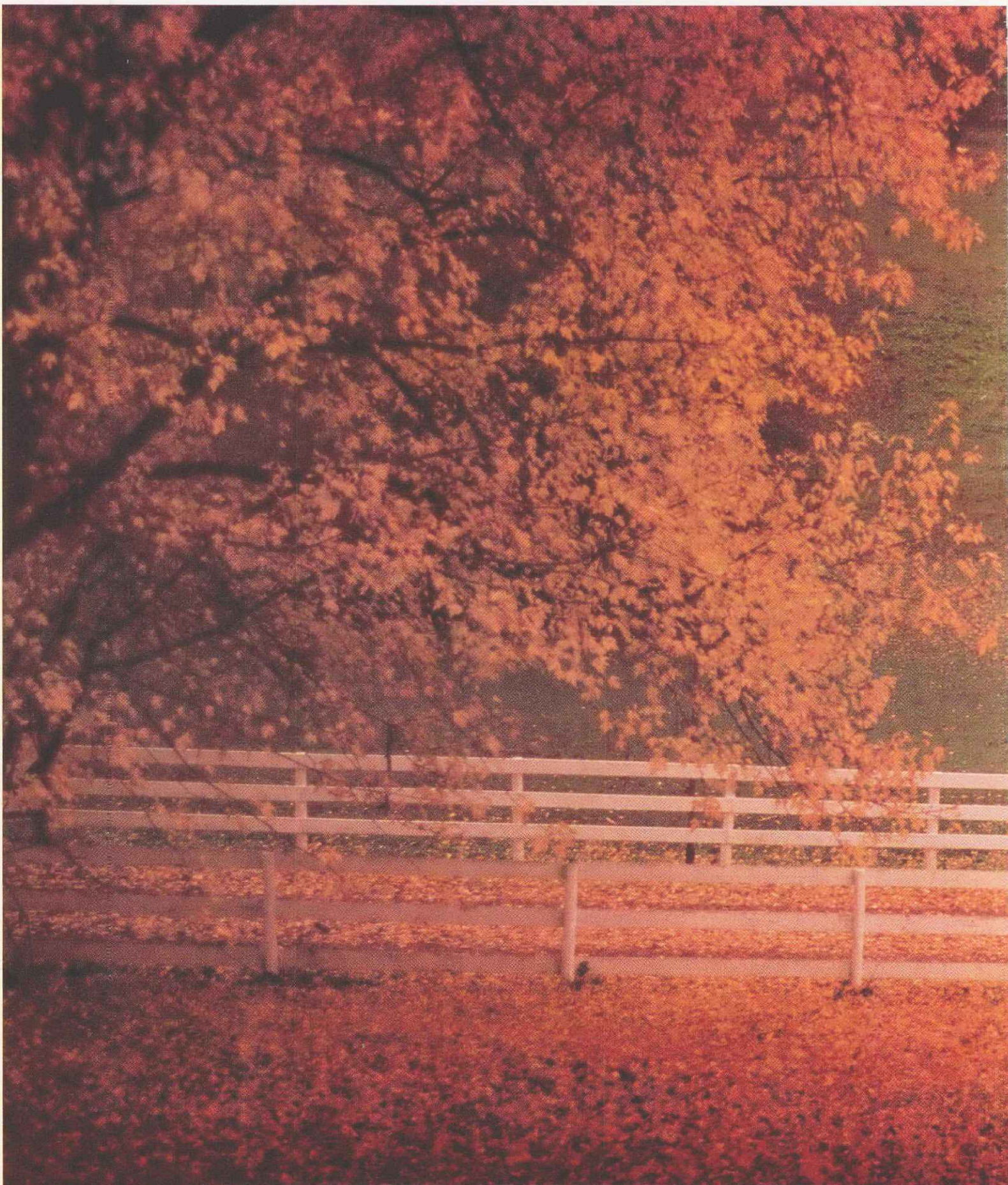
The policy covers acts, errors or omissions in such professional services as notarizing, mutual fund sales, premium financing, insurance consulting, appraising, incidental claims adjusting and public relations activities. Limits of liability up to \$3 million are available.

We are particularly interested in medium-sized firms producing \$10 million to \$100 million annually in premium volume.

## Miscellaneous E&O Coverages

Shand Morahan offers a range of E&O coverages for a variety of professions and exposures. These include Franchisor Liability, which covers claims arising from acts, errors or omissions by franchisors and their employees; Electronic Data Processing E&O is available for EDP professionals in firms involved in computer services, programming, systems analysis, software design, training and consulting.

Liability coverage is also available for Manufacturers' Product Engineering/Design E&O exposures of industrial product manufacturers and their employees. Our Specified Professions policy provides E&O protection to a range of professions including management consultants, printers, publishers, public relations firms, property managers, advertisers, claims adjusters and others not covered under our other professional liability policies.



Season after season,  
responding responsibly and professionally  
in an ever-changing liability environment.

Finally, society's attitudes toward the insurance and tort systems are vital in correcting the problems that exist. A better understanding of the nature and dynamics of these systems and the valuable roles they play in society is equally important in establishing a framework for a lasting solution to our current problems.

Should the McCarran Act be repealed or modified, we envision several potentially adverse consequences: (1) denial or limited access to rating services'

resources, (2) market instability, (3) less competition, (4) reduced product development, (5) loss of standardized form and data development, (6) higher costs to consumers, (7) higher actuarial and operational expenses, (8) a more constricted market, (9) restricted entry into the market, (10) withdrawal by some smaller and mid-sized underwriters, (11) territorial re-trenchment, and (12) even more expensive and protracted litigation.

For the surplus lines market, where

approximately three percent of the property and casualty premiums are written, a dual or federal regulatory structure could result in mandated forms and controlled rates. Both would restrict or eliminate the flexibility necessary for surplus lines insurers to write those risks which standard insurers can not or will not write. In effect, the surplus lines market would find it difficult, if not impossible, to continue to serve its essential and traditional role as a "safety valve" for the standard market.

Shand Morahan, therefore, advocates and supports efforts to prevent the repeal or amendment of the McCarran-Ferguson Act. If you would like additional information on this issue or to obtain a brief guide on writing to your legislators, please let us know. As always, we welcome your comments, thoughts and questions. Simply write to: Joseph J. Prochaska, Jr., Chairman and Chief Executive Officer, Shand Morahan & Company, Inc.

## Non-Profit Organization Directors & Officers

Shand Morahan has recently introduced an indemnity insurance policy to protect directors and officers of non-profit organizations. These include hospitals and clinics, retirement homes, mental health centers, professional societies, trade associations, foundations, libraries and museums, country clubs, churches, and cultural or fraternal groups.

Coverage is written on a claims made basis and extends to past, present and future directors and officers. The policy may be broadened to apply to both non-profit and for-profit subsidiary operations, with coverage for prior acts available on an optional basis.

Some non-profit organizations are not eligible under this program. These include governmental entities (other than libraries and museums), utilities, cooperatives, and condominium/homeowner associations.

## Association Errors & Omissions Liability

Coverage under this policy is targeted toward non-profit trade associations and professional societies outside of the medical field. The coverage protects not only directors and officers, but the organization as a whole, its employees, and all committee members. This policy may also be broadened to apply to subsidiary operations.

Aside from errors and omissions protection, coverage also extends to personal injury and publishers' liability. The policy is written on a claims made basis, and prior acts coverage is available on an optional.

Shand Morahan is capable of serving the needs of a broad range of non-profit organizations and we welcome your inquiries concerning this growing area of business.



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### Time capsule: 1967

Continued from page 18

The company believes that it can absorb any directors and officers liability claim without purchasing coverage.

And, the spokesman said that current D&O policies are "ambiguous, expensive and drastically limit the protection they provide" (BI, Oct. 30, 1967).

The soon-to-be-established National Commission on Product Safety is certain to consider the advisability of a federal product liability law.

A bill to establish the commission has been passed by both houses of Congress, and in hearings on the bill J. Herbert Hollomon, acting undersecretary of the Department of Commerce, told the Senate that he would urge the

commission to give a top priority to a study of federal legislation on product liability.

Mr. Hollomon explained that state laws on product liability vary greatly, resulting in a complicated legal situation for many manufacturers (BI, Nov. 13, 1967).

Insurers, corporate buyers and insurance agents are complaining about the new comprehensive general liability policy.

Buyers complain that the policy leaves too many holes in coverage, compared with the CGL policy that it replaces. Arlington Beck, insurance administrator for the Weatherhead Co., called the policy "regressive" and urged insurers to "get it changed to meet the insureds' needs; no ifs, ands or buts."

Agents also objected to wording of the new policy, including the substitution of the term "occurrence" for the old definition of accident.

Insurers also admit there is some confusion about some of the wording in the new policy (BI, Nov. 27, 1967).

The New York Court of Appeals has ruled that a back ailment suffered when a traveling salesman rushed to put on his pants is not a work-related injury.

The state's highest court voted 4-to-3 to reverse a lower-court decision and denied workers compensation benefits to the salesman, who claimed his injury was caused when he fell over backward while rushing to put on his trousers. He had claimed the injury was job-related because he was in a hurry to get on the road for his employer.

"The very same sort of accident could have as easily occurred at his home or at any other place," the court said in its majority opinion (BI, Dec. 11, 1967).

A Lloyd's of London underwriter and a Lloyd's broker say that risk managers may find better coverage for their companies if they travel to London and negotiate the coverage directly.

"London underwriters sometimes want to see the whites of the insured's eyes," marine underwriter Harold Hill explained.

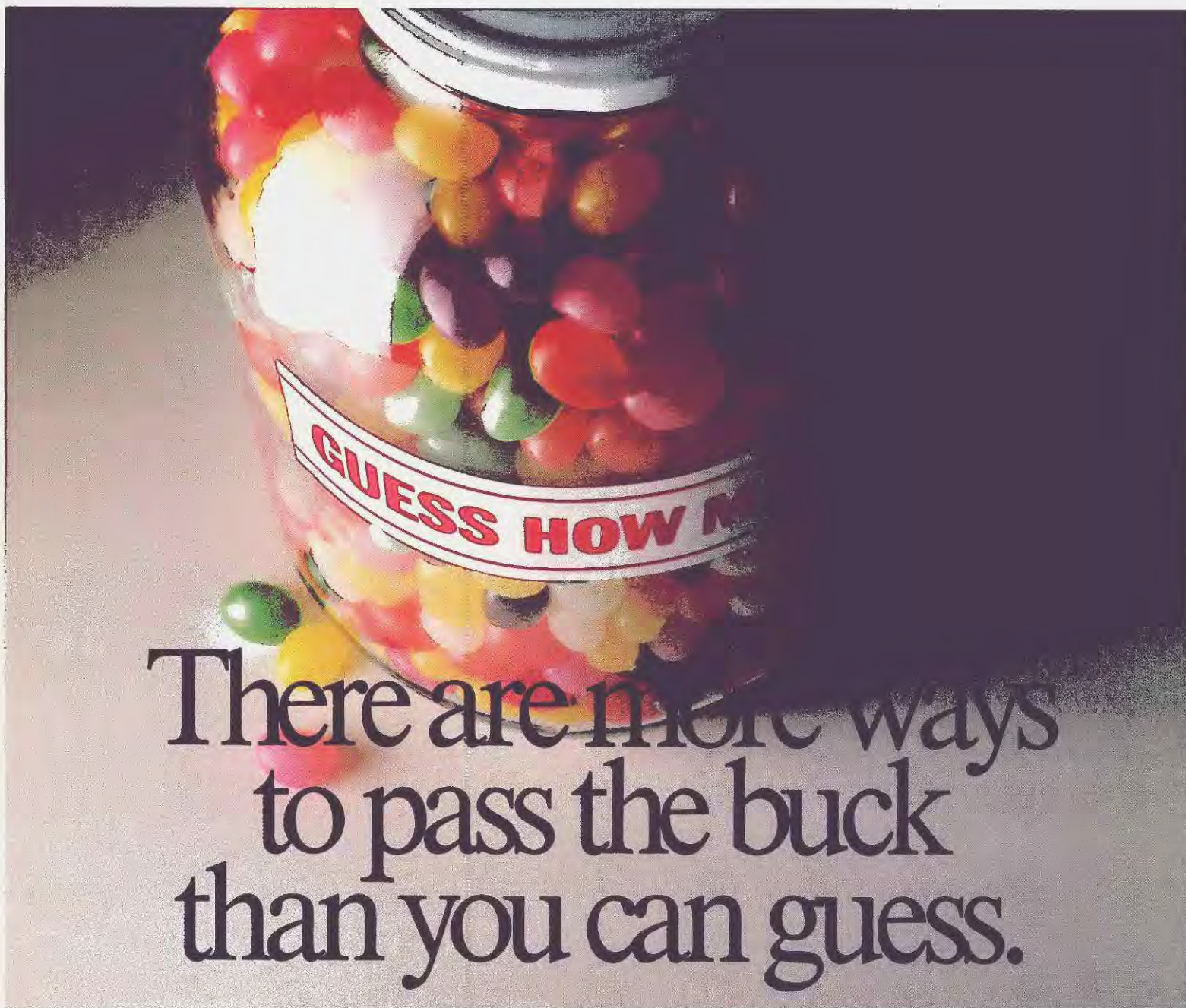
Richard N. Bowes, director of Willis, Faber & Dumas Ltd., urged risk managers to develop personal, longstanding relationships with underwriters and brokers in the London market and cautioned against unbridled "shopping" of coverage. "Moving from one insurer to another for the sake of a reduced rate may be fine when results are satisfactory, but when they are bad, the market seems to disappear as if by magic, and any new terms can be expensive," he said (BI, Dec. 11, 1967).

The rising cost of medical malpractice claims are causing an increase in rates for physicians and surgeons professional liability coverage in 30 states and the District of Columbia.

The highest increase will be in Arizona, where rates will increase 50%, according to the National Bureau of Casualty Underwriters Adjustments. Rates will decrease 10% in New Hampshire, the only state to see a drop.

In explaining the increases, the NBCU said that losses and expenses in physicians coverage have amounted to \$140 for each \$100 in premium from 1959 through 1963.

In addition, the NBCU has set up a new classification of doctors who will pay even higher rates: anesthesiologists, neurosurgeons, obstetricians/gynecologists, orthopedists and plastic surgeons (BI, Dec. 11, 1967).



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# Corporate liability expanded by courts

By STEPHEN TARNOFF

Businesses and their risk managers have faced increasing legal headaches over the past 20 years as the risks associated with product liability and workers compensation expanded.

Numerous court decisions have expanded the liability of businesses by permitting more suits by third parties and by allowing workers to sue their employers outside the workers comp system.

Business also have come up short in another area of the law, as courts have ruled that they cannot deduct premiums paid to captive insurance companies. In addition, court rulings allowing businesses to deduct contributions to reserves for future workers compensation payments have been taken away by legislation.

However, a number of court decisions dealing with toxic tort litigation have granted broader coverage to policyholders in disputes with insurance companies.

The following are some of the more celebrated and important court decisions affecting risk managers and businesses over the past two decades:

## Tort/product liability

• *Sindell vs. Abbott Laboratories*. In March 1980, the California Supreme Court ruled that women claiming they were injured because their mothers took the anti-miscarriage drug DES could sue manufacturers even though they did not know the specific manufacturer of the drug allegedly causing the injuries.

The court, by a 4-3 margin, ruled that liability should be divided among all manufacturers of the drug based on market share (BI, March 31, 1980).

The case involved a class-action suit brought by Judith Sindell against 11 drug companies. She alleged that between 1941 and 1971, the defendants were engaged in the business of manufacturing, promoting and marketing DES used by her mother and the mothers of the class members.

"If plaintiff joins in the action the manufacturers of a substantial share of the DES which her mother might have taken, the injustice of shifting the burden of proof to defendants to demonstrate that they could not have made the substance which injure plaintiff is significantly diminished," the court commented.

"It's a curious situation," said Hugh Moore, who represents one of the DES defendants in the Sindell case. While no other state appellate court in the last seven years has adopted the Sindell ruling, some courts, including courts in Washington and Wisconsin, have adopted variations on the theory, Mr. Moore said.

In addition, some states like Missouri and Ohio have rejected the theory, he said.

Other courts are continuing to address whether Sindell or a variation applies in mass tort cases. In addition, courts generally have rejected its application in asbestos litigation, said Mr. Moore with the Chicago firm of Lord, Bissell & Brook.

"The war goes on," he added. "It's still very much a live issue."

• *Borel vs. Fibreboard Paper Products Corp.* The 5th U.S. Circuit Court of Appeals ruled in 1973 that several asbestos manufacturers had a duty to warn insulation workers of the hazards of asbestos.

The case involved Clarence Borel, an industrial insulation worker, who sued various manufacturers of insulation materials that contained asbestos. He

charged that he contracted asbestosis and mesothelioma as a result of his exposure to the defendants' products over a 33-year period.

"Borel was the first case which extended strict liability into the failure to warn area to ultimate users of the product," said Dennis Markusson, who until this year was an attorney for Manville Corp.

Mr. Markusson, with the Denver firm of Montgomery, Green, Jarvis, Kolodny & Markusson, said that during the last decade, failure to warn about the dangers of products has become the cutting edge of product liability law in contrast with earlier years, when the focus was on suits alleging design and manufacturing defects.

In addition, the decision is significant because it raised to a new

height the medical and scientific knowledge required of manufacturers about their products, he said.

• *Beshada vs. Johns-Manville Corp.* This 1982 ruling involved six consolidated personal injury and wrongful death actions brought against manufacturers and distributors of asbestos products on the basis of their failure to warn of asbestos' hazardous nature, among other things.

Among the defenses raised by the defendants was the "state-of-the-art" defense, which said that based on available medical and scientific knowledge, no one knew or could have known that asbestos was dangerous when it was marketed.

The New Jersey Supreme Court held that the state-of-the-art-de-

fense is inapplicable to strict liability cases based on failure to warn and was only applicable in negligence cases.

Since the ruling, however, the state Supreme Court appears to have backed away from the decision, some observers say. For example, in *Feldman vs. Lederle Laboratories* the court apparently limited the applicability of the Beshada ruling to asbestos products and not pharmaceuticals.

"Beshada as a tort case had significant impact," said David Novack, with the Short Hills, N.J., firm of Budd, Lerner, Gross, Picillo, Rosenbaum, Greenberg & Sade. The ruling also represents the first in a series of cases to say that asbestos litigation is unique and will be treated differently by

courts, Mr. Novack said.

"At the moment, Beshada is still the law in New Jersey as far as asbestos goes," said Alan Darnell, with the Woodbridge, N.J., firm of Wilentz, Goldman & Spitzer, who represented plaintiffs in the case. "It is a watershed case."

Mr. Darnell estimated that perhaps 10 states have adopted Beshada with respect to asbestos or other substances. And, even if rejected elsewhere, it has caused courts and lawyers to consider important issues in strict liability.

## Workers compensation

• *Johns-Manville Co. vs. Contra Costa Superior Court*. This 1980 ruling was the first to hold that an employee could sue his employer

*Continued on next page*



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Continued from previous page

outside of the workers compensation system for aggravation of his initial disease because of the employer's fraudulent concealment of the condition and its cause.

The suit was brought by Reba Rudkin, who worked for Johns-Manville Products Corp. for 29 years and was continuously exposed to asbestos during that period. He subsequently developed pneumoconiosis, lung cancer or other asbestos-related diseases.

Among the arguments by Mr. Rudkin were that Johns-Manville knew since 1924 that long exposure to asbestos or the ingestion of it is dangerous and that the company concealed the knowledge from him and advised him it was safe to work in close proximity to asbestos.

Johns-Manville contended that, under the California Labor Code, workers compensation is the exclusive remedy against an em-

ployer for injury or death.

"We conclude the policy of exclusivity of workers compensation as a remedy for injuries in employment would not be seriously undermined by holding defendant liable for the aggravation of this plaintiff's injuries, since we cannot believe that many employers will aggravate the effects of an industrial injury by not only deliberately concealing its existence but also its connection with the employment," the California Supreme Court said.

"Nor can we believe that the Legislature in enacting the workers compensation law intended to insulate such flagrant conduct from tort liability," the court said.

"We think (the ruling is) important," says Steven Kazan, with the Oakland, Calif., firm of the same name who represented Mr. Rudkin in the case. "It's really the first time the Supreme Court in California approved a massive invasion of

the workers compensation exclusive remedy provision outside the area of dual capacity."

• *Blankenship vs. Cincinnati Milacron Chemicals Inc.* This 1982 decision involved eight current or former employees of Cincinnati Milacron who sued the company seeking compensatory and punitive damages for their exposure to various toxic chemicals while employed by the company (BI, April 26, 1982).

The workers alleged that their exposure rendered them sick, poisoned and chemically intoxicated, which caused pain, discomfort and emotional stress.

They also alleged that Milacron failed to correct conditions that led to the exposure, failed to warn them of the dangers and failed to provide medical examinations as required by law, despite the company's knowledge that certain occupational diseases were being contracted. The workers contended

the actions were intentional, malicious and in willful and wanton disregard of its duty to protect the health of its workers.

The suit was dismissed by the trial and appellate courts because workers compensation was the exclusive remedy. However, the state Supreme Court reversed, finding that neither the Ohio Constitution nor the state's workers compensation act expressly extended the grant of immunity to actions alleging intentional tortious conduct by employers against their employees.

The court found that because an employer's intentional conduct does not arise out of employment, state law did not give employers immunity from civil liability for their intentional torts.

"This holding not only comports with constitutional and statutory requirements but it is also consistent with the legislative goals which underlie the Workers Compensation Act," the court said.

Following the decision, the Ohio Legislature passed a law limiting the amount of money claimants can receive from employers for intentional misconduct and also made it more difficult for employees to sue their employers.

"It was a significant case," said William E. Clements, who represented plaintiffs in the case. "It provides a second or additional remedy to victims of intentional misconduct by their employer."

• *Kaiser Steel Corp. vs. United States.* In a decision that at the time had vast implications for employers, the 9th U.S. Circuit Courts of Appeal in 1983 affirmed a lower court ruling that Kaiser Steel Corp. was entitled to a tax deduction for workers compensation reserves it established to pay workers compensation claims (BI, Oct. 11, 1982; Oct. 17, 1983).

The decision found that Kaiser had met the two federal requirements governing tax deductions under the "all-events" test:

✓ That all of the "events" governing the fact of Kaiser's liability for workers compensation losses occur during the tax year.

✓ That the amount of liability be determined with "reasonable accuracy."

The main issue was the second prong of the test: whether Kaiser had determined its liability with "reasonable accuracy."

The government argued that Kaiser's liability for workers compensation claims should be "fixed, definite and determinable by objective facts" before it could claim a deduction and that the accuracy of reserves must be proved on a case-by-case basis.

U.S. Circuit Judge Charles Merrill came down solidly against the government, pointing out first that the law requires only that reserves be estimated with "reasonable accuracy," not that they be fixed, definite and determinable.

Despite the decision, however, the victory for employers was short-lived as Congress effectively nullified the decision when it passed the Tax Reform Act of 1984. Under the Act, Congress ordered that taxpayers can only take deductions for self-funded losses as they make the payments.

Marc Levey, who represented the government in the litigation at the trial level, said the decision was very important because of the dollars involved, the impact that it had on risk managers and because it led to a change in the tax law.

"It was a decision that paved the way to significant changes in the Tax Reform Act of 1984," said Mr. Levey, now with the New York firm of Carb, Luria, Glassner, Cook & Kufeld. "It changed the way risk managers looked at accruing reserves for self-insurance."

"It was significant enough to Congress to pass legislation to alter the ruling," said Paul Dawes, who represented Kaiser. He is with the San Francisco firm of Thelen, Marrin, Johnson & Bridges.

#### Insurance coverage

• *Keene Corp. vs. Insurance Co. of North America.* Possibly the most important insurance coverage decision in the past 20 years was this 1981 decision by the U.S. Court of Appeals for the District of Columbia involving the trigger of coverage for asbestos-related diseases.

The decision provided sweeping coverage to policyholders, ruling that all insurers were liable if they were on a policyholder's risk from the time a victim suing the policyholder was exposed to asbestos through the time a disease appears, usually decades later.

Up until the decision, the debate had focused on whether insurers on the risk when a victim was exposed to asbestos or when a disease

Continued on next page



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## Landmark court decisions

Continued from previous page

was manifested were liable. But, the Keene decision included both triggers and included the intermittent latency period.

Since the decision, a number of courts have ruled similarly, not just in asbestos cases, but in cases involving other toxic substances and in property damage cases.

"It is now widely cited and accepted in property damage cases," said Eugene R. Anderson, whose firm, Anderson Russell Kill & Olick, represents Keene. "It's being applied very broadly. It is deeply imbedded in all environmental cases and all property damage cases."

Despite its influence, the effect of the decision has not been unanimous and some courts have rejected its application.

### • *In re Asbestos Insurance Coverage Cases.*

Perhaps the most celebrated insurance coverage case of all involves five asbestos defendants and scores of their insurers now continuing in a school auditorium in San Francisco.

Divided into phases, the most important dealt with the trigger and scope of coverage for asbestos-related diseases under comprehensive and excess general liability policies, and the duty the insurers have to defend policyholders.

In a 107-page decision handed down in late May, Judge Ira A. Brown Jr. went beyond the Keene decision to hold that producers can recover from all insurers that wrote liability insurance for them from the time a person was exposed to asbestos through the time a victim files a claim or dies.

In addition, Judge Brown ruled that every policy triggered by an asbestos-related bodily injury claim must respond in full to a claim and that policyholders do not have to pay a proportionate share of defense and indemnification costs for periods when they were self-insured or uninsured.

But in a portion of the decision that favors insurers, Judge Brown held that under pre-1966 policies insurers are not liable for defense costs after policy limits have been exhausted (*BI*, June 1).

According to an attorney for a policyholder in the case, Judge Brown's decision is significant because of the multiple plaintiffs and many insurance companies involved and also the amount of coverage at stake.

In addition, the fact that comprehensive evidence on the medical aspects of asbestos, the drafting history of the com-

prehensive general liability policy and the conduct of the parties were presented at the trial also contributes to its significance, said Tom Freeman with the San Francisco firm of Brobeck, Phleger & Harrison, which represents Fibreboard Corp. in the litigation.

"The case has just got to have—and I hope it has—a pretty powerful persuasive force around the country," Mr. Freeman said, adding that it could be persuasive in other areas of insurance coverage litigation in addition to asbestos.

### Captives

• *Carnation Co. vs. Commissioner.* In a 1978 decision affecting captive insurance companies, the U.S. Tax Court ruled that Carnation Co. could not deduct the premiums paid to its offshore captive.

A judge ruled that premiums paid to Carnation's Bermuda captive did not constitute insurance. Carnation, therefore, could not claim a tax deduction for premiums paid to the captive and could not classify the payments received by its offshore captive as foreign source income (*BI*, Jan. 8, 1979).

The decision was the first and perhaps most important of what became virtually unanimous holdings by courts that such payments were not premiums and thus not deductible.

Carnation had purchased a three-year blanket property insurance policy from American Home Assurance Co. in September 1971 providing coverage for up to \$500,000 per occurrence with a \$10,000 per-loss deductible.

American Home reinsured 90% of the coverage with Carnation's Bermuda subsidiary, Three Flowers Assurance Co. Ltd. Three Flowers paid American Home a 5% commission on the net premium ceded and reimbursed American Home for premium taxes.

As a condition of reinsuring Carnation's business with its captive, American Home required Carnation to provide capitalization of Three Flowers up to \$3 million if needed to cover losses over the \$120,000 initial capitalization.

The Tax Court judge found there was no risk shifting, therefore no insurance transaction, for the portion of risk ceded by American Home to Three Flowers.

This decision was subsequently affirmed by the 9th U.S. Circuit Court of Appeals in March 1981.

"In that particular field of course, it was very significant," said J. Patrick Whaley, with the Los Angeles firm of Musick,

Peeler & Garrett. "It meant that any premiums paid to insurance subsidiaries would not be deductible."

The case is also significant because "it proved to be the controlling precedent in the United States for this issue at least in the U.S. Tax Court," Mr. Whaley added.

In addition to the preceding cases, which were called significant by numerous observers, attorneys also cited the following cases as having significant impact on risk managers:

• *Bell vs. Industrial Van Gass Inc.* The California Supreme Court decided in 1981 in a workers compensation case involving the "dual capacity" doctrine that an employee had a cause of action against his employer and a customer on the basis of their role as manufacturers of defective products that injured the employee.

• *Ayala vs. Philadelphia Board of Public Education.* This ruling, a 1973 Pennsylvania Supreme Court decision, abolished the doctrine of governmental immunity in the state and the distinction permitting suits against public entities only if engaged in a "private" vs. a governmental function.

• *Nga Li vs. Yellow Cab Co. of California.* A 1975 California Supreme Court decision, this ruling was the first to adopt pure comparative negligence where there was no statutory history to that effect in the state.

• Two conflicting hazardous waste decisions reached earlier this year: *Maryland Casualty Co. vs. Armco Inc.* and *Continental Insurance Cos. vs. Northeastern Pharmaceutical & Chemical Co. Inc. (NEPACCO).*

The NEPACCO decision by the 8th U.S. Circuit Court of Appeals held that cleanup costs are property damage and can be recovered under comprehensive general liability policies. It also held that property damage occurs at the time hazardous wastes are improperly released into the environment, not when the cleanup costs are incurred (*BI*, Feb. 9).

The 4th U.S. Circuit Court of Appeals in the Maryland Casualty case ruled July 6 that cleanup costs are essentially preventive and not "damages" under comprehensive general liability policies and therefore cannot be recovered (*BI*, July 27). Earlier, the 4th Circuit in *Mraz vs. Canadian Universal Insure Co.* held that response costs under the Superfund Act are not property damage recoverable under the policies, and that the trigger of coverage is the date the environmental contamination is first discovered, rather than when the hazardous substances were released. ■

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## Time capsule: 1968

A recent Supreme Court decision upholding a California law that allows the state to regulate and tax non-admitted insurance companies probably will not affect corporate buyers, a risk manager says.

Waller B. Smith, insurance manager for United Airlines, says the intent of the ruling is to protect individuals from fly-by-night mail-order insurance companies.

The National Assn. of Insurance Commissioners is drafting model legislation that would exempt most large corporations from such legislation (BI, Jan. 1, 1968).

Uniform coverage overseas is the dream of the people who purchase insurance for the foreign operations of Caterpillar Tractor Co., the second-largest exporter in the United States. Caterpillar spends

an estimated \$5 million in insurance premiums for its 25 manufacturing plants in 11 foreign countries (BI, Jan. 15, 1968).

An "efficiency survey" authorized by California Gov. Ronald Reagan has determined the state could save \$250,000 per year by streamlining its Insurance Department operations (BI, Feb. 26, 1968).

The cost to insurers of a company involved in the manufacture and sale of the drug thalidomide could reach \$6 million.

In an out-of-court settlement, "very substantial" damages will be paid to 62 children born with various malformations allegedly caused by the drug, which the children's mothers took during pregnancy. As part of the settlements, the children and their families will take no further legal action against its manufacturer, Distillers Co. Ltd. (BI, March 25, 1968).

A Utah jury has awarded \$715,456 in damages in a civil liability suit filed against United Airlines following the crash landing of a jetliner that killed 43 people.

The jury awarded \$632,000 to the widows of three men who died in the crash and \$83,456 to four people who were injured. Ninety-one people were aboard the plane at the time of the crash (BI, March 25, 1968).

Atlantic Insurance Cos. suffered the largest single net loss in its 126-year history in 1967.

The loss, involving the stranding of the oil tanker Torrey Canyon in the English Channel, resulted in a net claim to Atlantic of \$300,000 (BI, April 8, 1968).

Rioting in almost 100 cities nationwide in the wake of the assassination of Dr. Martin Luther King Jr. has resulted in pressure from insurers for additional riot coverage charges on fire and extended coverage policies. The "riot loading" is averaging 2% to 4% in the 12 states that already have approved the charges.

However, insurance departments in Missouri and Maryland have rejected the insurers' request for a riot surcharge (BI, April 22, 1968).

The lack of capacity in the petrochemical field was highlighted recently when Koppers Co. was refused renewal coverage by Insurance Co. of North America after London reinsurers balked at the risk. The reluctance of the London market to accept reinsurance of such risks is blamed for the drastic lack of capacity.

Koppers, a chemical manufacturer, found coverage through the Oil Insurance Assn., the only remaining oil coverage pool (BI, April 22, 1968).

Marsh & McLennan Inc. stockholders have approved a bylaw to allow the broker to buy directors and officers liability insurance.

The authorization of D&O coverage follows a change in Delaware corporation law in 1967 to allow broader indemnification in D&O cases (BI, May 6, 1968).

As more companies become involved with data processing, either renting or buying the equipment, risk managers are looking for ways to protect that investment. The St. Paul Insurance Cos. became the first insurer to offer EDP coverage, in 1961, and now at least six insurers offer the specialized policies (BI, May 6, 1968).

War and riot coverage rates for  
Continued on page 30

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## Time capsule: 1968

*Continued from page 28*  
 cargo risks have been raised in the United States and London for the first time since 1956.

The American Institute of Marine Underwriters raised its basic rate for protection against war, strife, riot and civil disorder by 2.5 cents per \$100 of cargo value, and the Institute of London Underwriters hiked its rate by 1.25 cents per \$100 (BI, May 20, 1968).

Damage is estimated to be at least \$65 million—and may top \$100 million—in Japan's worst earthquake in 16 years.

At least 45 people were killed, 230 injured and four reported missing after the May 16 quake, which registered 7.8 on the Richter scale (BI, June 3, 1968).

Lloyd's of London will show its first operating loss in its 280-year history when its 1965 results are released, Lloyd's says.

The loss for 1965 is caused by claims from Hurricane Betsy (BI, June 17, 1968).

The Arkansas Supreme Court has struck down the doctrine of governmental immunity in that state. In its decision the state's high court said that city governments can be sued for damages caused by the negligence of their employees (BI, June 17, 1968).

An increasing number of U.S. corporations are taking a closer look at the idea of setting up captive insurance companies.

Experts say that since companies already are accepting high reten-

tions or deductibles, they are less leery of the self-insurance aspects of a captive and more interested in benefits such as improved cash flow (BI, July 1, 1968).

Trade unions are flooding Congress with mail in support of an occupational safety and health bill, which would give the secretary of labor the power to set up and enforce safety standards for industries engaged in interstate commerce (BI, July 1, 1968).

Richardson-Merrell Inc. has run out of liability coverage for claims from 1960 through 1962 related to thalidomide and another drug it marketed during the 1960s.

There are about 60 suits and claims related to thalidomide pending against the company (BI, July 15, 1968).

The first suits seeking damages from municipalities as a result of the riots that followed the death of Dr. Martin Luther King Jr. have been filed. Most suits are subrogation claims from insurers, claiming the cities did nothing or too little to prevent or contain the rioting.

One of the first to be sued was New York, which has more than 170 claims totaling more than \$12 million (BI, July 29, 1968).

The U.S. government, in an unprecedented move, has created a federal reinsurance program for flood and riot losses.

Under the new law, each state must establish a FAIR plan—Fair Access to Insurance Requirements—to qualify for federal reinsurance (BI, Aug. 12, 1968).

An executive of General Motors Corp. says recent suits indicate the expansion of theories of liability against the auto industry.

For example, he discussed a suit against GM involving the collision of a 1968 Buick with a 1967 Ford that ruptured the Ford's gas tank. The suit alleges that the designs of the Buick's front end and the Ford's rear end were defective (BI, Sept. 23, 1968).

For the first time, membership in Lloyd's has been opened to Americans and other "foreigners," and many are already signing up. Lloyd's financial requirements for overseas members are at least \$96,000 in U.K. securities and personal wealth of at least \$240,000, entitling a person to join two syndicates (BI, Oct. 7, 1968).

The New York Insurance Department is urging a file-and-use law, under which the state would not have to approve rate changes before they took effect.

The department believes that the type of competition fostered by such a law would help keep rates down. Such a system already is in use in California, Florida, Idaho and Georgia (BI, Oct. 21, 1968).

The theory of strict liability, in which a manufacturer can be sued for a defective product regardless of fault or negligence, has made product liability law the fastest-growing area of liability law, delegates to an American Trial Lawyers Assn. seminar were told.

Professor Thomas Lambert Jr. said that product liability "is second in importance only to the 'fender-bumper,'" (BI, Oct. 21, 1968).

Allied Chemical Co. has withdrawn from the Factory Insurance Assn. and the Oil Insurance Assn. after an agreement could not be reached on how much to reduce premiums in return for assuming a deductible. Allied was said to be offering to accept a deductible of \$1 million per occurrence for its new property insurance program (BI, Oct. 21, 1968).

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# BI puts spotlight on top risk managers

By KAREN HUELSMAN

While recipients of the *Business Insurance* Risk Manager of the Year award derive satisfaction in a job well-done, they are more delighted that the award heightens the awareness of risk management throughout the industry.

Winners of the award from years past say the recognition has followed them wherever they go.

Since 1978, *Business Insurance* has asked independent judges to review nominations for outstanding performance in the risk management profession. Each year, *BI* has recognized a risk manager for his or her creativity in tackling problems.

A Risk Management Honor Roll was added in 1981 to recognize other innovative and successful risk managers in a variety of industries.

Most recipients said they valued the recognition by their peers and the members of the insurance industry because the risk management profession has so few vehicles for such notice.

Donald Nelson, honored in 1986 as Risk Manager of the Year after he successfully negotiated a three-year guaranteed cost insurance program at ARA Services Inc. in Philadelphia, a services management company involved in institutional food and vending business, says the award heightens awareness of the profession, an awareness he thinks is lacking.

"I have always enjoyed risk management work, so I got a lot of personal satisfaction from the award," Mr. Nelson recalled.

"But I still think risk managers get too stereotyped as technicians. I don't think it is looked upon as a key corporate function" in the business community at large.

However, as several other recipients remarked, Mr. Nelson pointed out that the award was a definite morale booster for his staff. "They're always bragging about it," Mr. Nelson said.

The importance of the award lies in its "recognition that there are practitioners out there (in risk management) who have really become experts," said Howard Weber, who has spent 30 years at Minnesota Mining & Manufacturing Co. in St. Paul, Minn., and was the first person to receive the award, in 1978.

The award spotlights the broad scope of risk managers' duties and how those duties vary from industry to industry, according to Mr. Weber.

"Risk managers do so many different things from company to company. It's not like a controller's job, which is fairly similar from industry to industry."

Mr. Weber said the Risk Manager of the Year title carried clout even in its initial year. "Because the award was new, it got immediate attention from the industry."

"The Risk Manager of the Year award creates an instant mini-fame in what remains a relatively small community," observed Eckhart Russell, who was honored in 1982, when he was risk and insurance manager of Alcan Aluminium Ltd. in Montreal. Mr. Russell is now a vp-client services with Johnson & Higgins Willis Faber in Montreal.

"This remains the only one that really counts," Mr. Russell said about the award.

Although local groups may select professionals for recognition, none has the international impact of the Risk Manager of the Year award, Mr. Russell said.

"It was particularly important here in Canada, because I was the first and only winner from outside the United States," Mr. Russell noted.

The most recent winner, Edith Lichota, senior vp in charge of risk management at Irving Trust Co. in New York, agreed that the profession is still maturing and does not provide many avenues for recognition.

"This was not just my award," Mrs. Lichota said. "It indicates an

**The award 'creates an instant mini-fame in a relatively small community,' says Eckhart Russell.**

increased acceptance of risk management as a profession... as part of the management in a major corporation."

She said she received many calls and letters of congratulations, as she expected she may, but some contacts surprised her. "I heard from many women who said they were pleased to see a woman get it," Mrs. Lichota said.

"And some women wrote very emotional letters expressing their feelings of frustration. They saw some signs of encouragement in this award."

Harold Lang, who received the honor in 1985 when he was risk manager for Leaseway Transportation Co. in Cleveland, echoed Mrs. Lichota's thoughts on the "unsung hero" syndrome.

"I don't think of myself as being any superstar," he said. "There are many fine risk managers out there who deserve just as much notice."

Mr. Lang says that whenever he

attends a professional meeting, someone feels a sense of deja vu around him. "People at the RIMS conference last year were always saying, 'Don't I know you from somewhere?'" recalled Mr. Lang, referring to the Risk & Insurance Management Society Inc. conference in Las Vegas last spring.

"Among my peers, it commands immediate respect," he said about the award.

Mr. Lang is now director of insurance and risk management for Kohler, Wis.-based Kohler Co., an international manufacturer of plumbing fixtures. Mr. Lang said he was asked to join the organization through personal contacts and because he had experience in international insurance programs.

*Continued on next page*



Mr. Lang



Mr. Nelson

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Continued from previous page  
But, he said, the award "certainly never hurts."

Duane Allen, who received the honor in 1981 when he was risk manager for Hanna Mining Co. in Cleveland, echoed his colleagues' opinions. "So many more people recognized my name in a deal" after he received the award, Mr. Allen said.

When the steel and iron business with which Hanna was involved began to fall off, Mr. Allen said his job offered him little opportunity to devise new and creative risk management programs.

So, in 1984, he and a partner formed Applied Risk Services Inc. in Laguna Hills, Calif., which spe-



Mr. Allen

**'I think the award has had a positive effect on our insurance program,' says John O'Connell, now president of Holy Cross Shared Services Inc., who received the honor in 1983. 'We are recognized in the market.'**

cializes in risk management consulting and captive management.

Although Mr. Allen said the award cannot be credited with launching his new career, he said it "opened doors" for him. "I had a fairly high profile before, but it really enhances your reputation."

Today, Mr. Allen is the president and sole principal of Applied Risk Services. The business has "evolved to fit what I see as the needs of the client" regarding reinsurance, consulting and captive formation, he said.

When Thomas V. Hallett was

named the 1980 Risk Manager of the Year, he was working at General Motors Corp. in Detroit, for which he had chopped the cost of worldwide property insurance 67% over a two-year period.

Mr. Hallett joined broker Frank B. Hall & Co. in Tarrytown, N.Y., in the fall of 1980.

These days he is "wearing two hats"—one as vp and director of risk management and the other as chairman of Risk Science International in New York, Hall's environmental consulting subsidiary.

"I had been involved with RIMS

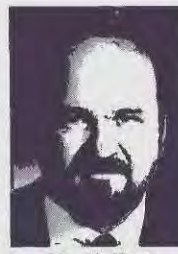
before, but the Risk Manager of the Year award really commands the most attention," Mr. Hallett said.

He also was one of the judges in the first year of the Risk Manager of the Year program. In that role, he stressed the importance of keeping the selection process strictly professional.

"We didn't want to just focus on large corporations," he said. "We didn't want it to turn into an Academy Awards situation."

Those who have remained with the organizations they were with when named Risk Manager of the Year also say the spotlight of the award is slow to fade.

"I think the award has had a positive effect on our insurance pro-



Mr. Hallett

gram," said John O'Connell, now president of Holy Cross Shared Services Inc. in Notre Dame, Ind., who received the honor in 1983. "We are recognized in the market."

Mr. O'Connell says he finds plenty of challenge and opportunity for growth in the organization in which he now oversees self-insured and self-administered health care benefits for more than 13,000 employees.

Mr. O'Connell, who calls his promotion last year from executive director mostly a title change, says his risk management program has evolved to include more loss control programs for medical employees and advising other religious orders on risk management issues.

In addition, Holy Cross Shared Services has started a second captive insurance company under Mr. O'Connell's direction. He formed The Havican Insurance Co. in Vermont in 1986 to provide directors and officers liability coverage and prior acts coverage for all employees—including doctors.

Richard Inserra, at age 35, was on the fast track at American Can Co. in New York when he was named 1984 Risk Manager of the Year—the youngest person ever to receive the honor.

In 1986, when American Can sold its packaging unit to Triangle Industries Inc. of New York, he was immediately offered the post of vp-risk management at Triangle.

Mr. Inserra knew Triangle management was aware of his expertise and public recognition.

"They came to look for me," he said. "It sure was a big deal to me," Mr. Inserra said of his award. And he said other professionals are impressed when they hear that a panel of 10 independent judges chooses the recipient.

Mr. Inserra said the fact that his staff at American Can had nominated him for the award made him feel "like a winner already."

When he served as a judge the year following his award, he realized the amount of effort invested in the selection process. "I appreciated the award that much more."

1979 Risk Manager of the Year Edward Erickson found himself with responsibilities for a more diversified operation when his company, American Broadcasting Cos., was acquired by Capital Cities Communications in 1986.

When Mr. Erickson was featured in *BI* in 1979, he had just cut the cost of ABC's insurance program by more than \$500,000. He said he stayed as director of insurance for Capital Cities/ABC because of the challenge of developing new insurance programs that market conditions present.

He is continuing to try to hold losses down by moving to self-insuring for more risks, such as libel and slander in broadcast and print.

Reflecting on his selection as an outstanding risk manager, Mr. Erickson said he is often asked about the award. "Sometimes I'm surprised at people's memories," he said. "This still brings me a great degree of pride."

*Nominations for the 1988 Risk Manager of the Year award and the Risk Management Honor Roll are due Nov. 23. To request a nominating packet, contact Business Insurance at 740 N. Rush St., Chicago, Ill. 60611-2590, or call 312-649-5398.*



Mr. O'Connell

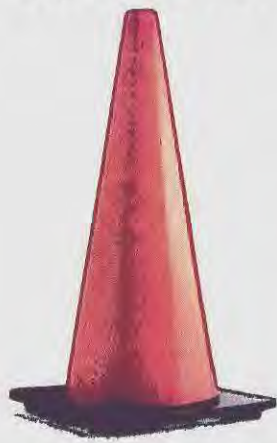


Mr. Inserra



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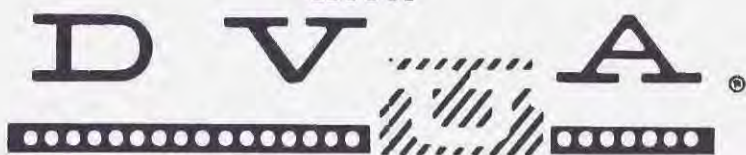
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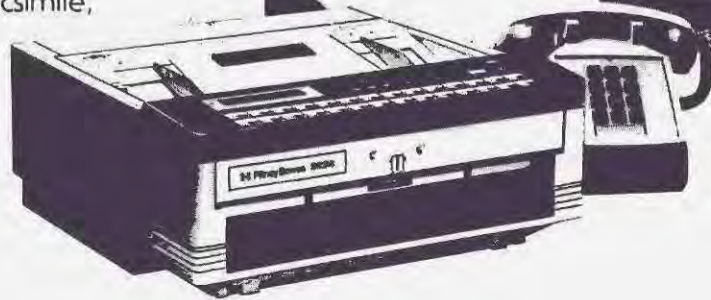
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## Time capsule: 1969

1969 has begun with the naming of the first U.S. members of Lloyd's of London.

Seven Americans have joined the ranks of the previously all-British society of underwriters. All seven said they joined the prestigious society because they believed it to be a good investment (*BI*, Jan. 6, 1969).

Risk and insurance managers north of the border have formed a national Canadian risk management association.

Four groups of risk managers recently joined to form a federally chartered group, the Canadian Assn. of Risk Managers. The Canadian group includes more than 300 members from the Montreal, Toronto, Calgary and Vancouver chapters of the American Society

of Insurance Management (*BI*, Jan. 20, 1969).

Corporate insurance buyers have become more knowledgeable, relying less on the advice of their brokers and making more decisions themselves, according to a long-time risk manager.

Fred Berry, who retired after 16 years as corporate insurance manager for Alton Box Board Co., said that especially at large corporations, risk managers are educating themselves about insurance in general and about the specific needs of their companies so they can make more informed purchasing decisions (*BI*, Jan. 20, 1969).

Property/casualty insurance premiums are up between 10% and more than 100% because of inflation and the current tight market.

In response to the huge hikes, some risk managers are accepting higher deductibles or implementing extensive loss control programs, corporate buyers say (*BI*, Feb. 3, 1969).

A Supreme Court ruling that the federal government can block insurance company mergers under some circumstances cheers buyers.

The ruling says the McCarran-Ferguson Act does not protect insurance company mergers if the prospective partners have given untrue information to shareholders in proxy statements. That pleases buyers, who had worried that mergers among insurers would result in decreased capacity (*BI*, Feb. 17, 1969).

Almost one-fourth of the members of the American Society of Insurance Management who responded to a recent survey said they favor federal regulation of the insurance industry.

Some 24% of the respondents support federal regulation, 66% oppose federal standards and 10% are undecided.

In addition, 32% of the respondents said the state workers compensation system is doing an inadequate job (*BI*, March 3, 1969).

Sen. Philip Hart, D-Mich., plans to introduce a bill to establish a federal insurance guaranty association to protect consumers against insurer insolvencies.

The bill calls for establishment of an agency similar to the Federal Deposit Insurance Corp. and will call for a premium of 25 cents per \$100 in written premium to support the pool (*BI*, March 17, 1969).

Student unrest on U.S. campuses is posing a problem for university risk managers.

At universities that have insurance for the damage caused by striking and protesting students, risk managers are finding it difficult to retain the coverage. Some universities are forced to absorb such losses, which can run into the tens of thousands of dollars (*BI*, March 17, 1969).

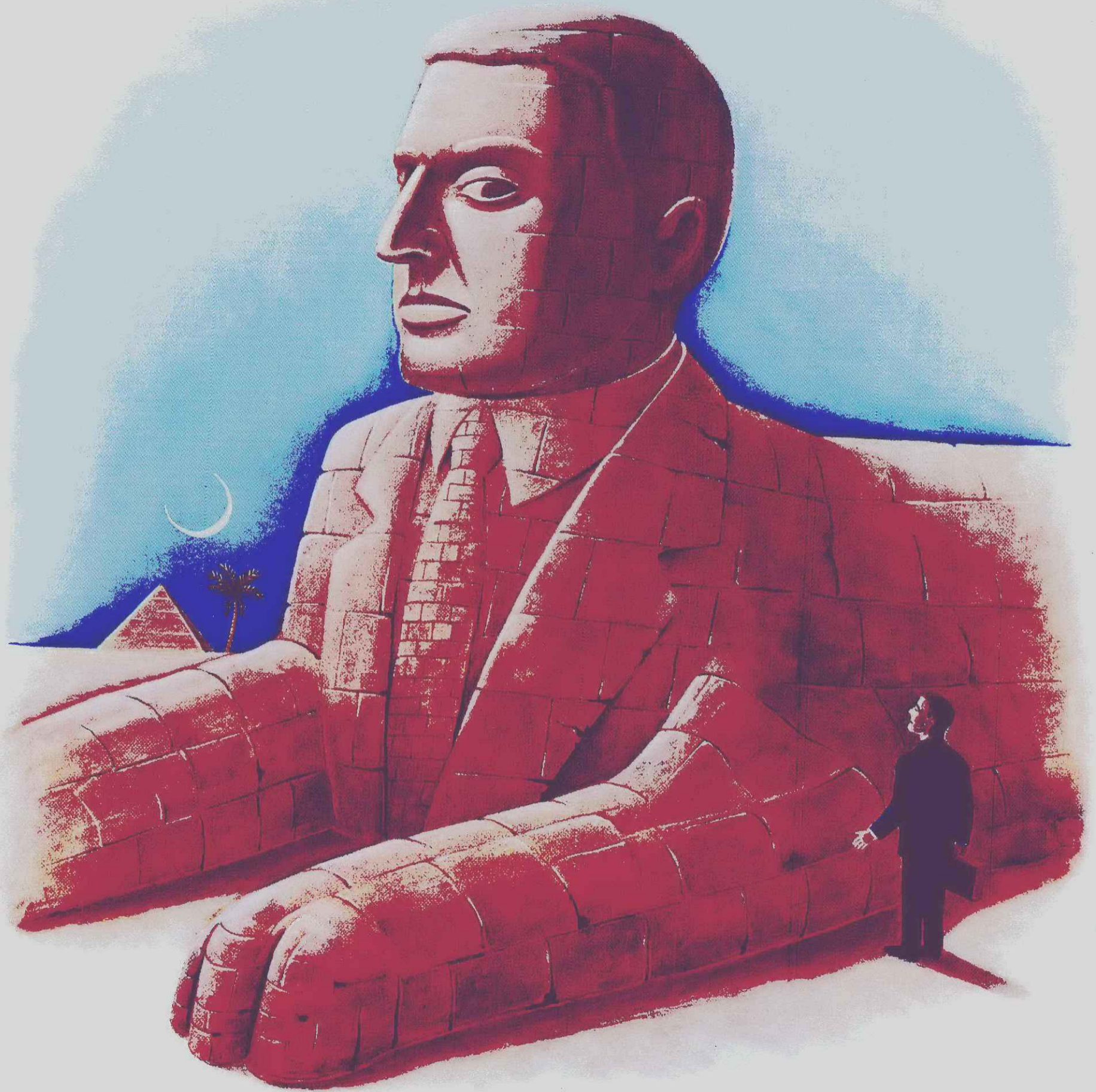
A special insurance policy covers the life of a cuddly koala bear that has become a star of TV commercials.

A \$5,000 animal mortality policy has been issued by Fireman's Fund American Insurance Co. to cover a koala owned by the San Diego Zoo while the bear films commercials for Qantas Empire Airways Ltd. (*BI*, March 17, 1969).

U.S. Aviation Insurance Group is the main insurer in the worst disaster in aviation history, the crash of a Viasa DC-9 jetliner in Venezuela. The death toll in the crash could reach 160, about half of

Continued on page 36

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## Time capsule: 1969

Continued from page 34

whom were on the ground. The primary insurance was written through a group of Venezuelan underwriters, who traditionally retain very little of a risk, and USAIG was the sole reinsurer for both hull and liability. The hull was insured for about \$4 million (BI, March 31, 1969).

Workers compensation premium volume increased to \$3.2 billion in 1968, a jump of 11%, according to the National Council on Compensation Insurance.

The NCCI also reported that, in general, rates decreased country-wide (BI, March 31, 1969).

A lawyer specializing in medical malpractice law predicts that malpractice verdicts may reach \$5 million in three to five years.

New York attorney Albert Averbach also said about 10,000 new malpractice suits will be filed within the next 12 months (BI, April 14, 1969).

Broker Alexander & Alexander Inc. is preparing to become the third U.S. broker to go public.

A&A, the third-largest U.S. brokerage firm in terms of fees and commissions, is offering 290,000 shares to the public and an additional 10,000 shares to employees of the firm (BI, April 14, 1969).

A student who dislocated his neck in a school accident and has been confined to a wheelchair has been awarded more than \$191,000 by a British court, the highest personal injury award believed ever granted in Britain.

The award against the school included \$35,800 for loss of earnings, \$49,500 for nursing costs and \$60,000 for general damages (BI, April 14, 1969).

A U.S. Court of Appeals has reversed its earlier ruling that American Tobacco Co. was liable in the death of a lung cancer victim.

In its ruling, the court said the victim's death was caused by smoking three packs of Lucky Strike cigarettes a day for 30 years. But, the court said American Tobacco was not liable because it could not have known that smoking would cause lung cancer (BI, April 28, 1969).

The state of Missouri has acted to close a "mini-mutual" insurance company as the result of a *Business Insurance* expose.

The state attorney general has acted to close the Farmers & Merchants Mutual Fire Insurance Co. after *BI* disclosed that the company exceeded its charter limitations to write commercial insurance programs outside the state (BI, May 12, 1969).

The Supreme Court has issued two decisions that make it easier for stockholders to sue the officers of companies.

In one case, the court upheld a ruling that officers and directors can be liable for damages to stockholders even if the officers did not profit directly from stock transactions but gave out false or misleading information. And, the high court refused to review another court ruling that laws against insider trading also apply to foreign companies whose stock is traded on the New York Stock Exchange (BI, May 26, 1969).

The National Flood Insurance Program is off the ground. The venture involves 77 companies pooling \$40 million, with the insurers jointly sharing expenses and losses (BI, Aug. 15, 1969).

\*\*\*  
The first insurance code in the Bahamas has taken effect, driving captives to Bermuda and other domiciles.

The Bahamas' omnibus insurance act adds capital and reporting requirements and gives the government new regulatory powers. The act is seen as a sign the government is tightening controls over foreign insurers (BI, Aug. 18, 1969).

Losses at Lloyd's of London and the transfer of surplus funds from insurers to holding companies have put a new squeeze on capacity.

At Lloyd's, losses and higher rates are drying up capacity, while at home, \$1 billion in underwriting surplus has been transferred from insurance companies to holding companies. However, many experts

predict that an easing of the market is coming (BI, Sept. 29, 1969).

\*\*\*  
The city of Hartford, Conn., has proposed that its insurer figure investment income in determining its profits and losses.

The city says that if Aetna Life & Casualty Co. will not figure its investment income in its profits and losses for the purpose of setting rates for the city, it is prepared to take the case to the state insurance commissioner or even to court (BI, Oct. 13, 1969).

\*\*\*  
In its most recent report, Lloyd's of London reveals a loss of \$44 million on its 1966 accounts. As a result, Lloyd's says it is raising rates and imposing tighter underwriting on buyers worldwide (BI, Oct. 13, 1969).

\*\*\*  
After signing basketball star Lew Alcindor to a \$1.4 million contract, the Milwaukee Bucks

purchased a manuscript insurance policy to protect the contract of the 22-year-old Mr. Alcindor. Negotiations on the policy, with limits rumored to be in excess of \$600,000, were secret (BI, Oct. 27, 1969).

\*\*\*  
The current tight money market has caused insurance buyers to pay premiums more slowly, lose interest in retrospectively rated plans and consider self-insuring or taking higher deductibles.

In fact, some sources say that in the current climate of high interest and tight money, some buyers are purposely holding onto their money until their premium payments are past due (BI, Nov. 10, 1969).

\*\*\*  
Movie star James Garner has revealed that Lloyd's of London canceled cast insurance on the movie "Grand Prix" after underwriters discovered that Mr. Garner was doing his own driving in the movie.

Mr. Garner said there was an \$8 million limit on the policy, which was canceled one month before completion of the movie (BI, Dec. 8, 1969).

\*\*\*  
Frank B. Hall & Co. Inc. has become the fifth national U.S. broker to go public. Hall is offering 350,000 shares to the public and is retaining 75,000 shares for sale to employees. Fred S. James & Co. and Alexander & Alexander Services Inc. went public earlier in the year, while Corroon & Black Corp. went public in 1929 and Marsh & McLennan made an initial offering in 1962 (BI, Dec. 22, 1969).

\*\*\*  
A paper products manufacturer in Montreal has been hit with a 300% rate increase during the past two or three months. The rate increase is for coverage for ocean shipping of some pulp and paper products (BI, Dec. 22, 1969). ■



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## Tort reform

*Continued from previous page*  
 tended to be on all personal injury suits.

For example, many states capped the amount of non-economic damages that could be awarded, while others altered the doctrine of joint and several liability—a legal theory that can force a defendant to pay an entire damage award even if it is only slightly at fault.

In all, some three dozen states passed tort reform measures in 1986, a third of which contained a broad spectrum of changes.

And this year, state tort reform is continuing, though at a less torrid pace. About 20 states—including some that enacted previous reforms—have passed tort reform bills in 1987.

And state legislators aren't the only ones deciding on reform. California voters in 1986 passed Proposition 51, which eliminated joint

and several liability for non-economic damages.

Some believe that states now will want to study the reforms they have enacted before moving on to other areas.

"The window for tort reform is narrowing. A lot has been accomplished, and now states want to evaluate and digest what has happened," said Mr. Nutter. "This is a time of re-evaluation of the legal system."

At the federal level, manufacturers aren't much closer to their goal of enactment of product liability legislation than they were 10 years ago when their lobbying efforts first began.

But that failure can't be blamed on a lack of effort. Dozens of congressional hearings have been held on product-liability legislation with seemingly almost as many proposals introduced.

The early product liability reform bills got nowhere largely due to their complexity and because they were perceived to be too heavily weighted in favor of manufacturers.

"The early bills tried to cover too much. You can't have bills dozens of pages long," observed Victor E. Schwartz, a partner with the Washington, D.C., law firm of Crowell & Moring and counsel for The Product Liability Alliance, a coalition organized in 1981 to

**'Early bills tried to cover too much,' says Mr. Schwartz of the Product Liability Alliance.**

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develop a business consensus on federal product liability legislation.

Finally, in 1985, there was, Mr. Schwartz recalls, a vigorous "deflowering" of product liability legislation.

After months of consideration, the Senate Commerce Committee in June 1986 approved and sent to the Senate floor a slimmed-down, but still significant reform bill, which included such provisions as eliminating joint and several liability for non-economic damages and a 25-year statute of repose for capital goods.

But the bill was withdrawn from the Senate floor after Sen. Ernest Hollings, D-S.C., threatened to filibuster.

And the possibility that business groups could win quick Senate action on product liability legislation in 1987 received a crushing blow during the November elections when the Democrats captured control of the Senate and Sen. Hollings, an outspoken opponent of product liability reform, became chairman of the Commerce Committee.

Faced with a Senate committee chairman who would do his utmost to derail legislation, business leaders this year concentrated their efforts—so far unsuccessfully—at trying to win House approval of a federal product liability bill.

While that effort continues, many believe it will be a long time before Congress passes a federal product liability bill.

"We are not much further along in the federal product liability fight than we were 10 years ago. But that does not mean the effort will not be successful—though it may take another 10 years," said Crum & Forster's Mr. Cheek.

"Business is committed to federal product liability legislation. They are going to stay the course until a bill is passed," predicts Tom O'Day, associate vp in the Washington office of the Alliance of American Insurers. ■

# Tort reform more successful in states

By JERRY GEISEL

For much of the last 20 years, employers and professional organizations have been battling for tort reform, a battle that still is being fought in the halls of state legislatures around the country and in Congress.

At the federal level, numerous unsuccessful battles have been waged for federal product liability reform legislation.

At the state level, tort reform advocates have been more victorious, successfully lobbying for numerous legislative changes including no-fault auto, medical malpractice liability and product liability reforms.

At both the federal and state levels, though, the pressure for tort

reform almost always has been strongest when insurance availability tightened and rates climbed in the liability insurance market.

After nearly 20 years of battling for tort reform, few will say that today's tort liability system is much of an improvement compared with the situation in 1967, although some say without tort reform the system would have been much worse.

Indeed, some experts say that the legal climate for defending personal injury suits has deteriorated in the last 20 years.

"The legal system is worse—if only for the lack of consistency from state to state," observed Leslie Cheek III, senior vp for federal affairs in the Washington office of Crum & Forster Inc.

The first drive for tort reform at the state level began in the late 1960s and early 1970s when a strong push developed for enactment of no-fault automobile insurance laws.

That drive, stimulated by escalating premiums, was aimed at ensuring that more compensation dollars flowed to the most seriously injured.

Under the theory of no-fault, victims of minor auto accidents waive their right to sue. In return, victims are guaranteed payment for medical expenses for major accidents.

In all, more than a dozen states enacted no-fault auto statutes before the movement ran out of steam by the mid-1970s.

The major reason no-fault laws

were not widely embraced was because they failed to hold down automobile premiums. This failure was not because no-fault was an unsound concept, but because the state laws were riddled with loopholes.

"It was faulty no-fault," recalled J. Robert Hunter, president of the National Insurance Consumer Organization in Alexandria, Va.

The principal problem with state no-fault laws, Mr. Hunter said, was the so-called thresholds—the amount of damages a victim needed to incur before he or she could file suit—were set too low in many states. In New Jersey, for example, a victim who had incurred just \$200 in damages could sue.

The result was a system that offered unlimited compensation, but

didn't keep minor cases out of the courts, Mr. Hunter said.

Not surprisingly, rates in states with no-fault laws continued to rise and no-fault advocates were put on the defensive.

"People said: 'No-fault doesn't work.' But the reality is no-fault never got a fair chance," Mr. Hunter said.

Just as the auto no-fault drive began to crumble, soaring premiums and shrinking capacity in the medical malpractice insurance market propelled liability reform proposals to the forefront of the state battle grounds.

In an effort to hold down damage awards and make it more difficult to sue a medical professional, states tried a variety of approaches. Some states, like California, placed caps on awards for non-economic damages. Others made it easier for physicians and hospitals to set up their own insurance companies—what became known as 'bedpan mutuals'—while some states established joint underwriting authorities.

In all, about two dozen states enacted some type of medical malpractice reform before state enthusiasm for reform legislation came to an end in 1977 as the availability of malpractice insurance improved and competition returned to the commercial insurance marketplace.

But the medical malpractice crisis was scarcely over when a new crisis emerged: product liability.

Insurers, who once hadn't considered product liability much of an exposure and priced coverage accordingly, suddenly became alarmed at what they said was an avalanche of suits and a sharp rise in court awards.

While some of the insurers' contentions were later found to be exaggerated, the premium increases that manufacturers were hit with were very real. Premium hikes of 500% to 1,000% were not uncommon during 1976 and 1977 and sometimes product liability coverage was not available at any price.

Manufacturers, looking to reduce their exposures and bring down the cost of product liability insurance, organized coalitions in every state to seek legal reforms from their legislatures.

Those coalitions, which began to organize in 1977, typically sought a package of reforms. Those reforms included cutting off an accident victim's right to sue after a product reached a certain age—usually about 10 years—and protecting manufacturers from liability if their products were altered or modified without their permission or if their products complied with government safety standards.

Legislators responded to the outcry from manufacturers. Between 1977 and 1979, 22 states enacted product liability reform measures.

But as conditions in the commercial-insurance market improved, the enthusiasm for state product liability reform waned. Just four states enacted reform measures between 1979 and 1982, when the state product liability reform drive died.

"The easy affordability of product liability insurance took the steam out of the movement," recalled Franklin Nutter, president of the Alliance of American Insurers in Schaumburg, Ill.

But in 1986, tort reform—once again stimulated by a crisis in the commercial liability insurance market—took off again, though this time in a different direction.

While previous tort reform drives were narrowly focused on auto, medical malpractice and product liability, in 1986 the focus

Continued on next page

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Continued from previous page knowingly pollutes the environment. Lloyd's of London also has taken that position.

The Insurance Rating Board is preparing final wording for the policy exclusion and will file the wording with state insurance departments. Mutual insurers, through the American Mutual Insurance Alliance, are expected to

follow suit (BI, May 11, 1970).

At least one insurer is offering an "inflation guard" on commercial property insurance policies that automatically increases the value of the coverage by 1% to 2% every three months.

The "inflation guard" endorsement, which is being marketed by Hartford Insurance Group, is de-

signed to protect property owners from being left with inadequate coverage because of the exceedingly high inflation rate. The endorsement is available on three-year commercial property policies in increments of 1%, 1.5% and 2%. If, for example, the policyholder chooses a 1% increment, the face value of the policy will increase by 11% during the three years, while

the premium will increase 5% (BI, May 11, 1970).

Despite the fact that employees of Theodore Hamm Brewing Co. can choose between a beer break and a coffee break, the company has an excellent safety record.

Hamm's lost-time injury record averages from three to six per million man hours worked, which is

much better than the brewing industry's record of 17.68 per million man hours. Hamm's officials say they cannot recall an accident ever resulting from an employee who chose to savor the house drink during a break or lunch (BI, May 11, 1970).

Kent State University has no liability insurance to cover the deaths of four students and the injuries of six others who were shot by National Guardsmen during disturbances there May 5.

School officials explained that as a state university, the school comes under the state's doctrine of sovereign immunity. Any claims filed would be handled by the state, officials say.

No claims have been filed yet. The university also has no coverage for an ROTC building that was burned by students (BI, May 25, 1970).

A research committee supported by several large insurance companies has suggested that an American version of Lloyd's of London may help ease U.S. capacity problems.

The committee's report stressed that underwriting methods used by such a "centralized facility" would be compatible with current underwriting methods and that the facility would be a supplementary source of capacity for U.S. commercial risks.

However, corporate buyers contacted about the suggestion were uncertain whether it would ease capacity without driving up prices (BI, June 22, 1970).

A British court is expected to award as much as \$15 million in damages to more than 300 children who suffer from limb deformities that were caused when their mothers took the drug thalidomide during pregnancy. Insurers are still not sure how much of the cost they will bear.

One marketer of the drug, Distillers Co., already has paid \$2.5 million to thalidomide victims. As part of the litigation, a trust fund is being set up for 250 children, which may call for an additional \$12.5 million.

Although the lawsuit over damages appears to be winding down, the litigation over insurance coverage is expected to last until at least 1971 (BI, Aug. 17, 1970).

The U.S. government and underwriters at Lloyd's of London apparently share hull coverage for a Pan American 747 that was blown up by Palestinian hijackers in Cairo.

Apparently, part of the loss is covered by a war risk policy written in the London market, and part is covered by the federal government under a program of war risk indemnification for airlines flying the jumbo jets internationally.

The federal government apparently got into the market for war risk coverage after airlines complained that the London market no longer would fully cover 747s flying to the volatile Middle East (BI, Sept. 14, 1970).

Enormously high court verdicts are sending medical malpractice premiums through the roof.

For example, an insurer that writes coverage for almost half of the physicians in New York state raised premiums 55% in 1969 and 70% in 1970, and physicians pay at least \$2,000 per year in malpractice premiums. Doctors in high-risk specialties in California pay even more—\$7,500 to \$12,000 a year.

Experts say that most of the premium increase can be traced to steadily and rapidly increasing damage verdicts being returned by courts in medical malpractice lawsuits (BI, Oct. 12, 1970).



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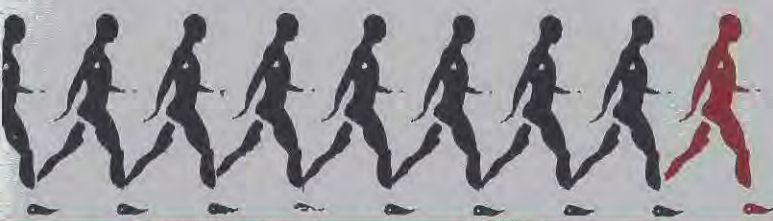
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# Lexicon of risk management grows along with profession

By LINDA J. COLLINS

As insurance managers evolved into risk managers over the last two decades, the lingo used in the profession has also changed.

Terms like risk retention groups, risk purchasing groups, paid-loss retros and claims-made forms were foreign concepts to the insurance manager of the late 1960s.

In addition, 20 years of advances in computer technology have made the term "risk management information system" an essential part of a risk manager's vocabulary, along with the concomitant computer jargon.

But the most significant change in risk management lingo in the last 20 years is the shift to the term "risk manager" from "insurance

manager," many observers stress.

"The 'management of risk' became the focus in the '60s," according to Robert J. Dolan, senior vp at Rollins Burdick Hunter Co. in Chicago.

In the late 1960s, insurance managers started to "talk about formulating a risk management policy and risk management manual," said George Betterley, vp and principal of the Tillinghast Division of Towers, Perrin, Forster & Crosby in Boston.

However, "Acceptance of the term risk manager was fairly gradual," explained David Warren, an independent risk management consultant in Orange, Calif. "Its use started in the early 1960s in a small way and gained more and more acceptance in the 1970s. A lot of people (initially) objected to the term 'risk manager' because that's what they thought the head of a company did."

"There were people who thought we shouldn't change our name. They thought 'risk manager' was wishy-washy or lofty," added Linda L. Ruthardt, director of risk management for Barry Wright Corp. in Newton, Mass.

In fact, it was not until 1975—when the American Society of Insurance Management became the Risk & Insurance Management Society—that the title of "risk manager" won widespread recognition.

With the shift in risk managers' focus from the purchase of insurance to the management of risk came their more aggressive exploration of a number of alternatives to first-dollar insurance coverage—and new nomenclature.

While some forward thinking risk managers had already begun to explore these options, "deductibles, self-insurance and retentions came into focus" in the late 1960s, recalled Norman B. Chanzis, director of risk management for American Standard Inc. in New York.

Risk managers began to apply "the EAT formula—eliminate, assume or transfer"—to their company's risks, Mr. Betterley said. They explored the use of "aggregate deductibles," "disappearing deductibles," "Chinese retrospective plans" and "chronological stabilization insurance," Mr. Betterley added.

In short, risk managers began to explore more "sophisticated methods of self-retention of risks," said Peter T. Pruitt, president and chief operating officer of Frank B. Hall & Co. Inc. in Briarcliff Manor, N.Y.

According to Charles M. Armstrong Jr., manager of corporate risk management for Xerox Corp. in Stamford, Conn., "A greater interest was being shown in cost-plus casualty insurance programs—retrospective adjustments. Risk managers started to talk about paid-loss retros and retentions."

And broader coverages such as comprehensive boiler and machinery policies, difference-in-conditions policies, all-risk policies and umbrellas began to be offered, explained Joseph H. Albert, president of J.H. Albert International Insurance Advisors Inc. in Needham Heights, Mass.

There began to be a "movement of coverage from named perils to all-risk" in the late '60s, RBH's Mr. Dolan agreed.

The highly protected risk classification for property risks was gaining popularity among underwriters, several industry representatives pointed out.

Some insurance managers were  
*Continued on page 44*

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## Time capsule: 1970

The insurance on the new Boeing 747 airplanes is "vertical coverage," meaning that each of the three major underwriters has a quota share of the risk from the first dollar on up. All prior airplane coverage has been "horizontal," meaning that one insurer's liability starts after the limits of the prior insurer's liability have been reached.

The three major aviation markets—U.S. Aircraft Insurance Group, Associated Aviation Underwriters and the London market—all are participating on the 747 coverage already written for Pan American and Trans World Airlines, the first two airlines to fly the big Boeing jets. American Airlines, which will start 747 flights next month, is still negotiating its coverage (BI, Feb. 2, 1970).

A fire at the Columbia Pictures ranch in California caused between \$1 million and \$3 million in damage and destroyed several Western movie sets.

The blaze swept across three or four acres of the ranch, destroying Western street scenes with false-front buildings that were used as sets for the movies "High Noon" and "Cat Ballou." There were no serious injuries in the fire.

Columbia says the losses were covered by a \$12 million fire policy with 17 insurers participating. The policy was brokered by Bayly, Martin & Fay International Inc. in New York (BI, Feb. 16, 1970).

The National Council on Compensation Insurance estimates that workers compensation premiums increased 11% to \$3.5 billion in 1969.

The NCCI says the average rate level nationwide is up 3.3% as a result of 51 separate rate revisions filed in 40 separate jurisdictions.

The NCCI also has announced a new facility, the National Workmen's Compensation Reinsurance Pool, developed by the NCCI to provide complete reinsurance for insurers writing workers compensation assigned risks. Since it opened Jan. 1, 318 insurers have subscribed to the pool (BI, March 16, 1970).

Insurance managers are finding a new problem: workers compensation noise claims. Especially troublesome are claims related to hearing loss caused by long-term exposure to noise.

While work comp statutes were designed to compensate workers for only sudden accidents, the laws have been interpreted recently to compensate workers for many occupational injuries, including long-term exposure to noise. And that is presenting a whole new area of liability, risk managers say (BI, March 30, 1970).

A House subcommittee has voted in favor of a strong occupational health and safety bill that basically would leave employers with the legal obligation to provide a "safe and healthful workplace."

The bill was drafted by the Democrats, and Republican members of the Subcommittee on Education and Labor boycotted the vote.

Observers predict that even if the bill makes it through the full House Labor Committee and the House Rules Committee it will face a very tough fight in the full House.

The Senate Labor Subcommittee is expected to pass a similar measure to the full Senate, where observers say the bill also will face stiff opposition (BI, April 13, 1970).

Representatives of labor have charged that employers inaccura-

tely and deceptively reported workplace accidents.

In a recent field hearing of the Senate labor subcommittee, labor leaders charged that the 1969 workplace injury and death toll actually was twice as high as re-

ported by employers.

A group of steelworkers from New Jersey told the Senate panel: "You have guys with crutches or with their arms in slings being brought to work so that your lost-time report is not a true picture of the accident rate" (BI, April 27, 1970).

A New York City official has

proposed that manufacturers be assessed a "product safety tax" that would be used to fund a system to compensate victims of product-safety-related injuries.

Bess Myerson Grant, New York's commissioner of consumer affairs, found qualified support when she made her suggestion at an American Management Assn. briefing. Insurance buyers said the proposal

might help ease soaring liability insurance rates. However, many cautioned that such a system, although a good idea, would be very difficult to implement (BI, April 27, 1970).

All U.S. liability insurers have decided to exclude from pollution coverage any U.S. corporation that  
*Continued on next page*

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## Time capsule: 1972

The capacity crisis appears to have been put to rest in 1971, but other problems remain to be dealt with in the new year.

Risk managers responding to a survey by *Business Insurance* generally agreed that the capacity problems of the last few years have eased considerably. But, many said they still are working on renewals, considering setting up captives and worrying about the impact of federal legislation on employee benefits (*BI*, Jan. 3, 1972).

Levels of asbestos fibers in the air previously considered safe can cause serious lung disease, according to a Harvard University study of 195 workers in a New England shipyard (*BI*, Jan. 3, 1972).

Los Angeles-based broker Bayly, Martin & Fay Inc. has been acquired by The Sperry & Hutchinson Co. for \$20 million in cash.

Bayly, Martin & Fay is one of the 10 largest commercial brokers in the United States, with revenues of \$10.2 million for the year ending June 30, 1971. Sperry & Hutchinson, primarily known for its S&H Green Stamps, has been diversifying in recent years into business, consumer services and interior furnishings (*BI*, Jan. 17, 1972).

A recent Bahamian crackdown on Bahamas-based insurance operations has eliminated 255 "unsatisfactory" insurers, or 74% of the insurance companies registered on the island before 1970.

Bahamian officials say that the fact that so many companies did not survive under the new law is proof that the law was needed to clean up the insurance industry there (*BI*, Feb. 28, 1972).

The directors of the American Society of Insurance Management Inc. have voted to retain the group's name and not change it to the Risk & Insurance Management Society Inc.

Proponents of the name change said the new name more accurately reflects the makeup and mission of the group and would eliminate the term "American" from the title to reflect the group's Canadian membership. Opponents said ASIM already had established itself as a recognized name and authority in the field (*BI*, May 8, 1972).

Sources at the U.S. Department of Labor say the department is leaning toward a system of self-inspection to assure compliance with the Occupational Safety and Health Act.

A self-inspection system to reduce workplace deaths and injuries could be implemented as early as next year, the sources say. Such a plan would please the federal government and business interests because it would be less costly to administer than a system of governmental inspections.

However, union leaders have said that allowing businesses to conduct self-inspections rather than having a system of regular government inspections is unacceptable (*BI*, May 22, 1972).

A New York-based shipping concern has become the first firm to file to form a captive insurance company in Colorado.

Overseas Bulk Ships Co., a subsidiary of Overseas Ships Holding Co., has filed a letter of intent to incorporate a captive subsidiary, to be called OSG Insurance Inc. (*BI*, July 3, 1972).

Broker Marsh & McLennan Cos. Inc. is the largest U.S. broker, with 1971 revenues of \$151 million.

In its first Agent/Broker Profiles issue, *Business Insurance* reports

that M&M also has 6,090 employees, meaning that it has about 40 employees per \$1 million in revenues. This ratio of employees to revenues was repeated through most of the other top brokers, including No. 2 Johnson & Higgins, with revenues of \$75 million to \$100 million; No. 3 Alexander & Alexander Inc., with revenues of \$57.8 million; No. 4 Frank B. Hall & Co. Inc., with revenues of \$44 million; and No. 5 Fred S. James & Co. Inc., with revenues of \$33.3 million (*BI*, July 31, 1972).

\*\*\*  
Republicans are scurrying to rework a \$20 million liability package to protect the city of Miami Beach during the GOP national convention set for later this month.

The city has been unable to get riot and civil commotion coverage, and apparently is pressuring the Republican Party, which already has liability coverage, to get the coverage (*BI*, Aug. 14, 1972).

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Lloyd's of London underwriters and United States Aircraft Insurance Group share "vertical" liability coverage in the crash of a United Air Lines Boeing 737 that killed 45 people and injured at

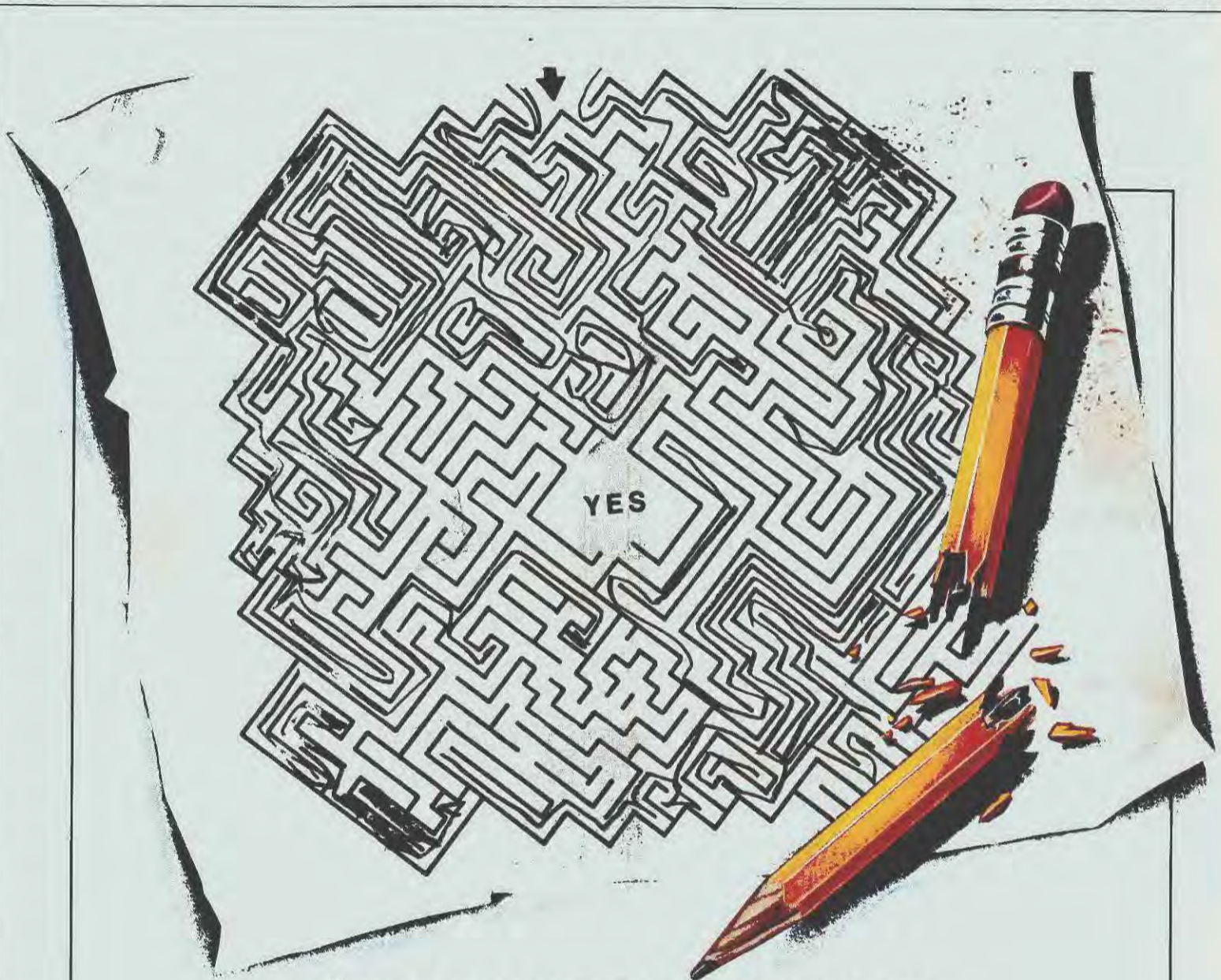
least 16 others. The crash occurred when the jet smashed into a group of homes while landing at Chicago's Midway Airport.

Under "vertical" coverage, each insurer has a quota share of the loss from the first dollar, rather than "horizontal" coverage, in which one insurer's liability begins when the limits of another insurer's liability are exhausted. In this case, the liability coverage is shared up to \$100 million, with Lloyd's having 65% and USAIG having 35%. United will cover the losses for the hull, estimated at \$3 million, because it is below the airline's deductible (*BI*, Dec. 18, 1972).

A United spokesman said the airline and its insurers have set up an extensive advance payment program for victims and survivors (*BI*, Dec. 18, 1972).

\*\*\*  
Workers compensation in Pennsylvania soon will cover occupational diseases as well as occupational injuries.

Under a new law, employers must cover the insurable liability for occupational diseases, except those related to coal mining, which are covered by the federal government. Employers may get their coverage from private insurers or state insurance funds, or they may self-insure (*BI*, Dec. 18, 1972).



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# Business Insurance cartoons are worth a thousand words

March 11, 1985

Cartoons first began appearing on the editorial pages of *Business Insurance* in 1975. The early contributions were light, amusing, syndicated panel cartoons similar to those found in the pages of "The New Yorker."

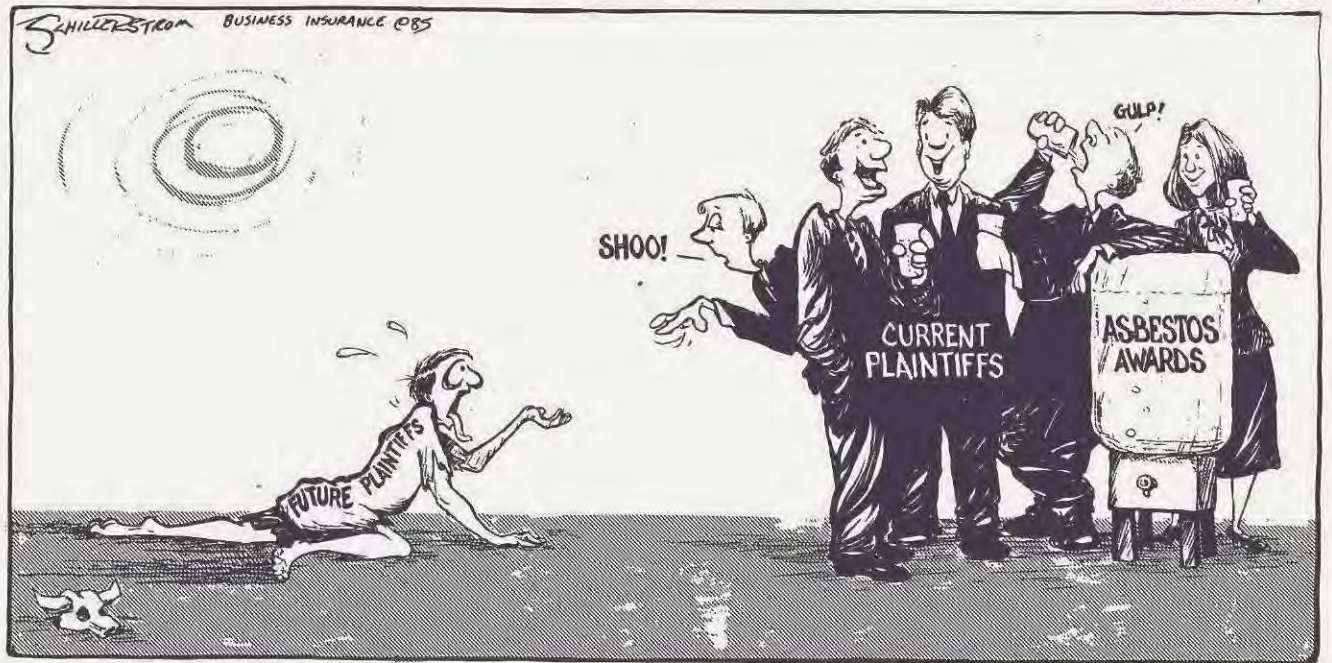
1978 heralded the first of many staff-generated editorial cartoons. *BI*'s first staff cartoonist was Milt Priggee, who moved on to The Journal Herald in Dayton, Ohio, and, from there, to the Spokane Spokesman Review in Spokane, Wash.

Roger Schillerstrom began as editorial staff cartoonist in 1982 and retains that distinction to this day.

Occasionally, editorial cartoons are meant to amuse. They also are meant to draw focus on an issue, enlighten, and—if the stars are in the right alignment—persuade the reader.

*BI*'s editorial cartoons have chronicled the trials and tribulations of the insurance industry: the struggles of the New York Insurance Exchange; hazardous chemicals in the workplace; the responsibilities of risk managers; congressional insights and oversights; the melodrama of asbestos litigation; and on and on. While the illustrations could fill a book, space is limited to only one page. Enjoy.

—By Roger Schillerstrom



"I DON'T UNDERSTAND WHY THEY'RE COMPLAINING ABOUT THEIR BACKS!"  
 June 30, 1986



# Future cycles to be less severe: Economist

While cycles have swirled through the property/casualty insurance industry for decades, the latest were the most pronounced.

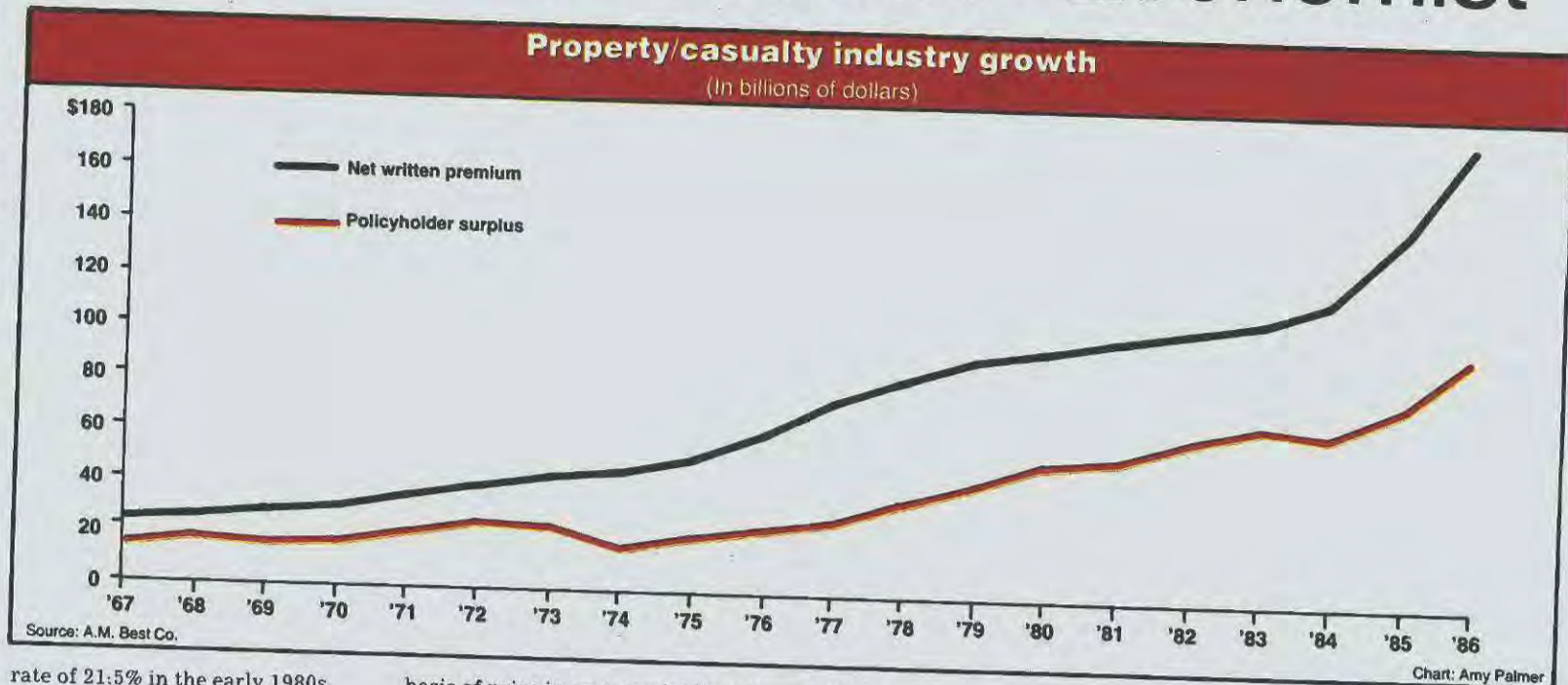
While the combined ratio has risen and fallen for the past 20 years, it peaked in 1984 at 118% (see chart, page 86).

And although net premiums written that year increased 8.6% to \$118.6 billion, policyholder surplus fell 2.7% to \$63.8 billion (see chart).

The hard market began that year and continued through 1986, presenting unique challenges to risk managers, who rose to the occasion with a variety of approaches, including captives and self-insurance, that many believe will leave the insurance industry forever changed (see story, page 86).

Several factors converged and culminated in 1984 to create the worst industry results since the 1906 San Francisco earthquake, said Sean F. Mooney, senior vp and economist at the Insurance Information Institute in New York. Fortunately, he added, "it's outside normal probability ranges" for this combination to simultaneously appear again.

The first factor, said Mr. Mooney, was the explosion in litigation and subsequent high jury awards. The second was high interest rates, which hit a peak prime



rate of 21.5% in the early 1980s.

The third was the deregulation of commercial lines, a process that took place over a 30-year period, but rapidly accelerated during the 1960s and 1970s, said Mr. Mooney.

This led to the cutthroat price competition the early '80s, he said, adding, "The 1980s was the first time the industry competed on the

basis of price in commercial lines."

Before then, because of regulatory statutes that required insurers to receive rate approval from state insurance departments, insurers were "really competing on products and services as opposed to price."

"This was the first time they used price as a major competitive

tool," he said. "It takes a while to kind of work that through, so you get a little mature when you use price as a competitive tool."

The same cutthroat competition is unlikely to recur, Mr. Mooney believes. "The first time you go through it, you really commit economic suicide. The second time, you get a little bit wiser."

The industry's troubles are comparable to the airline industry's 1978 deregulation, which also led to intense competition.

On the other hand, Mr. Mooney pointed as a model to U.S. car manufacturers that compete without driving one another into bankruptcy.

—By Judy Greenwald

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## Market cycles

Continued from previous page

noted William R. Shirley, risk management director.

But umbrella liability, he said, has been another story. "That's been a rocketing up and down thing," he said. "It's just horrendous."

"That's where I've had the biggest frustration," agreed Mike Glapion, corporate risk director at Harvest States Cooperatives in St. Paul, Minn.

While the ups and downs of the cycle are not in risk managers' control, their own loss control programs and their relationships with underwriters are under their control. As a result, risk managers have moved to forge better ties with insurers and improve their loss control programs.

Everyone in a company must understand that a loss can have a far greater impact than it used to, commented Ed Smith, vp-insurance and risk management at Atlantic Aviation Corp. in Wilmington, Del.

Effective loss control and claims administration programs are necessary because they determine the cost of insurance, said Mr. Glapion.

As Beverly Enterprises has increased its retentions, it has also paid more attention to loss control, adding seven or eight loss control specialists over the past two years, Mr. Kovacs said.

When looking for an insurer, "loss prevention services is our No. 1 consideration," commented Henry J. Guidry, risk manager at Cajun Electric Power Cooperative Inc. in Baton Rouge, La.

Tandem Computers Inc. in Cupertino, Calif., which is in the "rather unique" situation of being essentially loss-free, accomplished this record by emphasizing loss control, said Risk Manager Katy Mariner.

Risk managers are also working to develop good insurer relationships.

For instance, when the market hardened, "we had more face-to-face meetings with our underwriters," said Scott Paper's Ms. Carangi. "Hopefully that will give us some stability with our carriers. It's something that we'll continue in the soft market."

Providing the underwriter with up-to-date information is vital, stressed Atlantic Aviation's Mr. Smith. "I try to tell them everything."

John Ross, risk management director at Household International Inc. in Prospect Heights, Ill., says the most valuable thing he has given his company is 22 years of experience and a recognizable name among insurers and brokers. He said if an underwriter has to choose between one of three accounts and he doesn't know the other risk managers, it "might help."

"The main thing that we've done is not to jump around from carrier to carrier," said Cajun Electric's Mr. Guidry. "We've stayed with the carriers that specialized in the utility business and been successful there. We have not jumped around shopping for price."

"Generally speaking, I think having long-term relationships with an underwriter makes a difference. It did help us in the hard market," said Transamerica's Ms. Tornese. Rates did increase, but policies were not canceled, she said.

But, Virginia S. Loughner, assistant vp-risk management, at Colorado National Bankshares Inc. in Denver, said she is somewhat dubious about the value of remaining loyal to underwriters.

"It's not much of an advantage beyond a certain point," said Ms. Loughner, noting the personnel in insurance companies change and that she has not seen many cases where loyalty has helped the policyholder during a difficult market. And, she said she has heard many complaints of cases in which a policyholder sticks with an insurer only to be canceled.

"In my experience, there hasn't been a lot of truth to that conventional wisdom," said Ms. Loughner.

In addition to communicating with insurers, risk managers say they simultaneously try to improve communication with senior management.

"We've spent a lot of time educating senior management," said Beverly Enterprise's Mr. Kovacs.

In this last hard market, said Ms. Loughner, "I communicated more than I ever had before, and they were really interested in what I had to say." For the first time, insurance costs rated a separate line in the company's annual report, she said.

Continued from previous page

Norad Reinsurance Co. Ltd. in Bermuda in 1975 and formed Bryn Mawr Assurance Corp. in Vermont earlier this year.

While captives are no longer a newfangled risk management tool, they continue to be formed. Rorer's Mr. Lewison, for instance, noted his company started a captive, R.G. Insurance Co. Inc. (Bermuda) Ltd., on Oct. 1 with \$5 million in capital.

Initially, the captive will be used to insure the Rorer's domestic product liability and general liability risks, although it will eventually write other types of coverage.

Ponderosa had ruled out forming its own captive as "risky and difficult," but has considered helping to form an association captive, said Mr. Scott. "The interest wasn't as great as I thought it might be," he said, though joining a risk retention group remains a possibility.

The 1986 amendments to the Risk Retention Act will make it more conducive for companies to find alternative funding mechanisms, commented Lucille Gallagher, vp-risk management at Monfort of Colorado Inc. in Greeley, Colo.

Ms. Gallagher, whose company already has a Colorado-domiciled captive, added, "I don't think insurance buying is ever going to be the same" because of the alternatives now available to buyers.

Florida Progress' Mr. Julien warned, however, that while risk retention groups "sound great, the mechanism of implementation are probably more difficult and more cumbersome

than the average risk manager realizes." Risk managers should get involved with risk retention groups "only if they understand all the ramifications."

General Electric's Mr. Rupners, whose company is active in A.C.E., X.L. and Corporate Officers & Directors Assurance Ltd., another Bermuda-based group captive that writes directors and officers liability insurance, said these approaches are all a "step in the right direction." Their creation "shows with a little sense, we can do a lot of things," he said.

"They're putting a little bit of a brake on" the cycle, as well as sending the message that buyers can do the job as well as insurers in some instances, said Mr. Rupners.

For the city of Westminster, Colo., the right approach was the 1982 creation of the Colorado Intergovernmental Risk Sharing Agency, a pool now with 99 members, said Pierette E. Ray, the city's risk management officer.

The pool can obtain insurance that would be unavailable to its individual members, she noted. "The biggest problem is there are so few underwriters—primary or excess—who really understand public entities," said Ms. Ray. But with CIRSE, "We've created our own solution, so to speak."

Risk managers agree the accelerating movement toward self-insurance means the commercial insurance market will never be quite the same again.

"I don't think we would go back into the conventional market," said Charles DuPuis, risk management director for the New Jersey Turnpike Authority in New Brunswick, N.J.,

which self-insures its workers compensation insurance and much of its liability insurance.

An awful lot of working-layer business has been lost by the traditional marketplace, said Florida Progress' Mr. Julien, adding, "I think a good deal of that is not going to go back."

"I don't think insurance companies will ever be back to where they were before this cycle took place," agreed National Car's Mr. Krefall.

Pointing out that many companies stopped buying coverage from commercial insurers during the recent hard market, Judith Tornese, director of risk management at San Francisco-based Transamerica Corp., said, "I think some of these facilities are here to stay."

Yet, risk managers point out that no matter what risk retention steps they take, they still must cope with markets that write excess and umbrella coverages.

While over the years, Beverly Enterprises has retained a growing amount of risk, there are "things we just can't do," said Mr. Kovacs. "You're not left with a whole lot of options," he said, noting his company cannot absorb a \$40 million to \$50 million loss. "To some extent, the marketplace will control you."

Westwood, Kan.-based United Telecommunications Inc. has successfully managed the cycle as far as property insurance is concerned, while its low-level casualty business is retrospectively rated and relatively unaffected by the cycles,

Continued on next page

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## Brokers laud buyers' efforts to tame cycle

Brokers give high marks to risk managers' efforts to even out property/casualty underwriting cycles.

"I think the risk management community has done an awful lot to shield their companies" from the cycle, said Jim Stone, president of Jardine Emett & Chandler Illinois Inc. in Chicago.

"Risk management was born about 20 years ago and today it has a major impact on the costs of major corporations," he added.

Noting the increase in self-insured retentions and paid-loss retrospectively rated insurance programs, Mr. Stone said, "I think they've done a bang-up job."

"I would say for most of the risk managers I've met have done an excellent job in the changing cycles with the long-term programs they've created," said Howard Kaye, co-president of Walter Kaye Associates Inc. in New York. "I just feel there are many risk managers who have done as well as they can do creating stability, and for the most part, they have done very, very good jobs."

Risk managers know when to use self-insurance, captives and the other approaches open to them "and it fits in very well with the different cycles," Mr. Kaye said. They know too, he said, when to push, and when to adapt to the conditions they face.

Risk managers' skill in managing the cycle has been particularly noticeable in the last cycle, said William Bradford, senior vp at Johnson & Higgins in New York. "In years prior to 1985, people just lived with it," he said.

Risk managers have become more flexible in recent years in adapting to the cycle, agreed William F. Poe, chairman of Poe & Associates Inc. in Tampa, Fla.

They were quick in responding to changes in the cycle and in finding alternatives outside the traditional insurance marketplace, Mr. Poe said. In previous years, he said, "I think they were a little more bound to the traditional tools that were available to them."

"The past 20 years have certainly seen an awful lot of improvement in the approach of risk managers," said Samuel Alcorn, senior vp at Bayly, Martin & Fay International Inc. in Fort Worth, Texas.

Noting the growth in captives and self-insurance and improvements in loss projections, budgeting and systems maintenance, he said "I think they've adapted very well to all phases of the cycles. I think they've come a long way."

—By Judy Greenwald

## Market cycles

Continued from previous page

Many risk managers accomplish this during a hard market by a combination of increasing self-insured retentions, lowering policy limits and using captives. But, they still have to pay much higher prices for the insurance they do buy.

"I don't know of anyone who's really successful in maintaining coverage at a reasonable price" in a hard market, said William M. Scott, risk manager at Ponderosa Inc., in Dayton, Ohio, which increased its retentions and decreased its liability insurance limits over the past several years.

"We've been able to shield the company (from the cycle) quite successfully, but we've paid for it," sometimes with rate hikes of 400% to 1,000%, commented William McAllister, insurance manager at PNC Financial Corp. in Pittsburgh.

Times-Mirror Co. has increased its retentions or lowered limits to help alleviate premium increases, said Ralph E. Gentry, director of risk management for the Los Angeles-based media company. "It smooths out the cycle."

However, such a strategy increases the possibility that uninsured losses will offset any premium savings, Mr. Gentry explained.

"That makes sense for a large, financially stable company," he added, though that would not be the case for a company that is either highly leveraged or in financial trouble.

The purpose of insurance is to introduce an element of predictability into an unpredictable situation, but the pricing of insurance has become so unpredictable that "it no longer fulfills the purpose for which it was originally created," complained Stephen Scammell, risk management director at GAF Corp. in Wayne, N.J.

"Insurance is no longer a good vehicle to fund risk in my mind," Mr. Scammell added. "I don't trust the insurance industry."

"Risk managers are taking on more and more risk themselves to cope with the cycle," said Louis J. Drapeau, manager of insurance and risk management at The Budd Co. in Troy, Mich., which self-insures much of its property/casualty risks.

Self-insurance can help mitigate the cycle's impact, agreed Dairy-men's Mr. Boston.

The only time a company should think in terms of an insurance program is for its catastrophic exposures, said Denis Julien, corporate risk manager at Florida Progress Corp. in St. Petersburg, Fla.

"Over the years, we've simply retained more and more risk and protected ourselves with insurance for true catastrophic incidents," agreed James E. Kovacs, director of risk management at Beverly Enterprises in Pasadena, Calif., a health care services company.

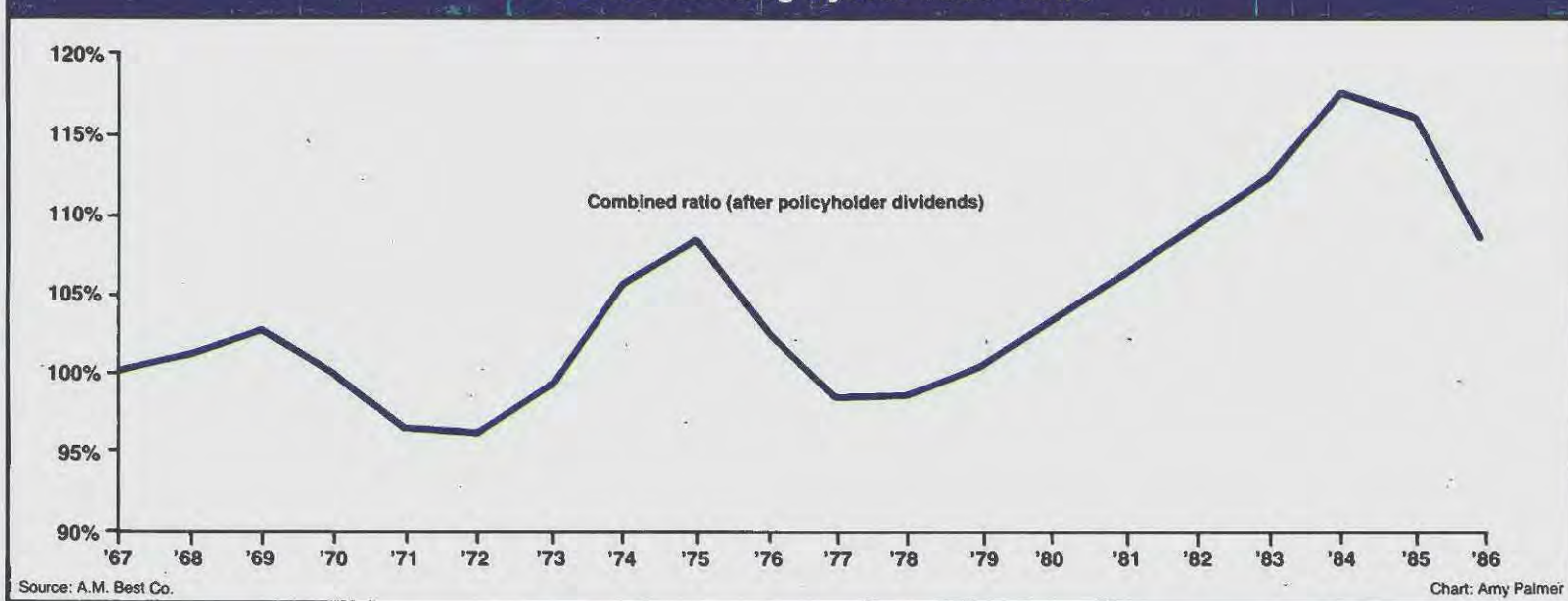
"You don't find a lot of companies buying a lot of insurance," said Rolland L. Krefall, director of insurance at National Car Rental System Inc. in Minneapolis, which self-insures its automobile liability coverage in most states. Even smaller companies are seeking ways to limit their use of insurance to catastrophic coverage only, he said.

Risk managers say captives, which first became popular in the early 1970s, are a valuable tool in riding out the market tides.

"We've utilized our captive insurance company to try and level things out and keep our coverages in force for the last two hard market conditions," said William J. Warren, director of corporate risk and insurance at Berwind Corp. in Philadelphia. Berwind established

Continued on next page

### The underwriting cycle: 1967-1986



# Risk managers ride out cycle's ups and downs

By JUDY GREENWALD

Risk managers say they essentially have adapted to the property/casualty underwriting cycle over the past two decades by attempting to avoid it.

They have lessened their dependence on the topsy-turvy commercial insurance industry with a wide variety of approaches, including higher retentions, the formation of captives, municipal pools and, in the past two years, the creation of huge policyholder-owned offshore insurers, like A.C.E. Insurance Co. Ltd. and X.L. Insurance Co. Ltd.

In addition, buyers now are forming risk retention groups to insure their liability risks under the aegis of the 1986 amendments to the Risk Retention Act.

However, despite these innovations, risk managers still cannot completely ignore the ups and downs of commercial insurers.

"Obviously, we're unfortunately in a reactive position," said Ints Rupners, consultant-casualty reinsurance at the General Electric Co. in Fairfield, Conn. "The market is the one that sets the tone."

"Our job is to try and smooth out the impact of these cycles," said Bob Harney, director of risk management at Hoffman-La Roche Inc. in Nutley, N.J.

The property/casualty insurance industry has been cyclical since at least 1920, notes Sean F. Mooney, senior vp and economist at the Insurance Information Institute in New York. In the past 20 years, the soft market of the early 1970s was followed by a hard market in 1977 and 1978, which in turn was followed by a soft market in 1979. That soft market lasted until mid-1984, when the market suddenly hardened (see chart, page 86).

The market is now softening yet again (BI, Oct. 12).

Most risk managers' attitude toward the cycle is to accept its inevitability and make the best of it, though not without a certain degree of frustration.

"I guess we have learned that for every good part of the cycle there will ultimately be a bad part," said William R. Boston, director of risk management at Dairymen Inc., a Louisville, Ky.-based agricultural cooperative.

"The risk manager has got to take advantage of the soft market, and yet you know that the bad times are coming," he said. "You save money at one end and give it back very quickly."

Knowing the market will turn still does not make the hard market easy to deal with, says Mr. Boston, citing "the unusual and unwarranted premium reductions and even coverage extensions that you get in the soft market. It's very painful to give those back, even though you know deep down you should not have had them in the first place."

It is also disruptive to even an enlightened management, he said. "It almost makes you look like you're really at the mercy of the market, which many times you are," he says, adding that a risk manager can manage the cycle, but cannot escape it.

"I'd say I've adapted very well," says Kathleen G. Carangi, risk manager at the Scott Paper Co. in Philadelphia. The hard market is spent dealing with the immediate problems and concerns that emerge, she says. "In a soft market, I can get creative."

"I feel that's what keeps our job interesting and makes us valuable to our corporations. I don't think that the cycle is easily solved, and I don't expect it to be solved. I've

come to accept it, and just look for the best ways to deal with it."

"I guess the reaction is that it could always have been worse," says Terry R. Mculder, property and risk manager at Teleflex Inc., a diversified products manufacturer based in Limerick, Pa.

Risk managers agree that while they cannot eliminate the cycle, they can strive to make the best of it.

"We try to cushion ourselves so that the cycles don't have so much of a dramatic effect on us," said Tom Lewison, risk management director at Rorer Group Inc., in Fort Washington, Pa., a pharmaceutical company.

*Continued on next page*

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## Time capsule: 1971

*Continued from previous page*  
reaction of the crew to an engine failure on takeoff from Miami International Airport (BI, Aug. 16, 1971).

\*\*\*

The chairman of the Lloyd's of London Underwriters Assn. says that ship hull insurance rates will have to rise 20% in the next year to make the line profitable again.

Experts estimate that insurance premiums currently account for between 30% and 60% of the operating costs of a 200,000-ton tanker (BI, Aug. 30, 1971).

\*\*\*

There is no directors and officers liability insurance to cover the directors of Leasco Corp. who have been held liable for damages to former stockholders of Reliance Insurance Co.

A federal judge ruled the computer leasing company made a material omission on its registration statement with the Securities and Exchange Commission when it offered to acquire Reliance in 1968.

A source close to the company said Leasco had been unable to arrange D&O coverage because the company was young, and young firms either cannot get the coverage or can get it only at prohibitively high rates.

However, an insurance source that writes D&O cover said Leasco's problem was not really the age of the company. "The problem with Leasco, and many of the younger companies, is that they are trying to be conglomerates. And conglomerates concern us because of all the diversification of companies," the insurer said (BI, Sept. 13, 1971).

\*\*\*

The U.S. Justice Department has subpoenaed the financial records of several U.S. corporations with captive insurers in Bermuda.

At least eight U.S. companies have been ordered to furnish information about their Bermuda captive operations to a federal grand jury. The Justice Department declined to comment on the reason for the probe, though some sources suggest that the government is attempting to determine whether the increasingly popular offshore companies are violating any regulations (BI, Oct. 11, 1971).

\*\*\*

Lloyd's of London underwriters have added another exclusion to their directors and officers liability policies, making it clear that directors and officers are not covered against suits for polluting air or water.

The four U.S. insurers that write D&O coverage also are expected to add the exclusion on all new and renewal policies.

Some insurance sources commented that such suits already would have been excluded from D&O coverage because they almost certainly would entail fines and penalties, which are not covered. But, many sources offer this latest move by Lloyd's as further evidence that, as one critic said, "D&O has always been semi-meaningless" (BI, Oct. 11, 1971).

\*\*\*

Bermuda officials say they are just now undertaking the first official head count of captive insurance companies on the island.

There never has been a specific count of captives because all foreign companies are registered under one category, regardless of their business. Estimates of the number of captives on the island range from a conservative guess of 80 to 100 to a more liberal guess of 150.

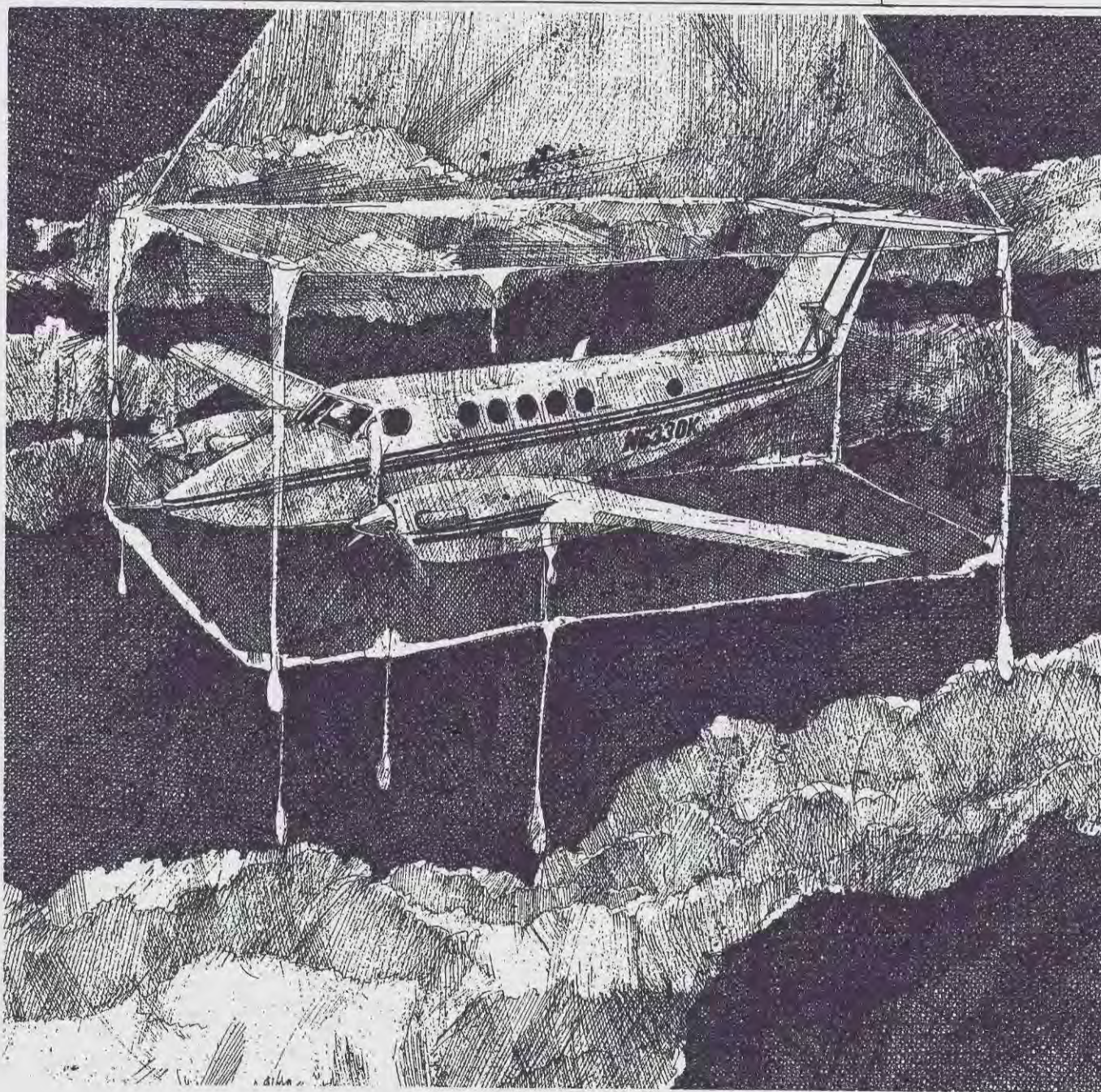
However, Bermuda's registrar of companies did say that 30 new captives have been formed in the past 12 months (BI, Oct. 11, 1971).

\*\*\*

There appears to be no end in sight to the skyrocketing premiums for excess liability coverages.

Industry observers say that excess umbrella liability underwriters currently are charging 25% to 35% of general liability premiums and 30% to 40% of commercial automobile premiums, and rates will continue to increase.

Factors cited as contributing to the increases in rates, which began about 1968, include losses from Hurricane Betsy; increases in class-action and pollution liability suits; the advent of jumbo jets, huge cargo vessels and massive industrial complexes; and the mergers of some large insurance companies, which tended to result in diminished capacity (BI, Dec. 6, 1971).



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**Time capsule: 1971**

A large portion of the billion-dollar losses in the Los Angeles earthquake probably is uninsured, according to observers.

Municipalities and private citizens bore a large share of the damage in the recent quake, and insurance experts note that neither group is likely to buy earthquake coverage because the cost of the coverage is so high. Many private homes were damaged or destroyed in the hard-hit bedroom communities of Los Angeles, and many cities suffered substantial damage

to roads, dams and other structures.

Apparently, though, there was coverage for at least some of the commercial losses. Some companies said they had added earthquake coverage endorsements to their policies, and others had self-insured against such a loss. However, many companies, like most homeowners and cities, had no coverage for their losses (*BI*, Feb. 15, 1971).

Lloyd's of London has filed suit

seeking to nullify a directors and officers liability insurance policy with limits of \$10 million taken out by Penn Central Co. in 1968. Lloyd's charges that Penn Central lied on its policy application.

Lloyd's takes the action in the wake of several allegations of misconduct on the part of Penn Central officials. But, industry observers also note that this suit is a kind of test for D&O coverage in general. The suit renewed criticism from some experts that D&O coverage is worthless because it ends up not offering much actual coverage (*BI*, March 1, 1971).

Pan American World Airways

has filed suit against its insurers—underwriters at Lloyd's of London, several U.S. insurers and the U.S. government—seeking \$24 million in actual losses, accruing interest and other damages in the loss of the Boeing 747 blown up by terrorists in Cairo six months ago. Pan Am has not yet received any payment from its insurers.

The problem arises because Pan Am has two policies: an all-risk policy and a war risk policy. The insurers on the all-risk policy say the war risk policy should pay, and those on the war risk policy say the all-risk policy should pay (*BI*, March 29, 1971).

The intent of the new Bahamas insurance law is to force out less-reputable insurance companies that had given the island a bad reputation in the insurance field.

At the time the new law took effect, in June 1970, there were 503 insurance companies listed on the registry of records. Some voluntarily left, some were axed and about 108 remain.

Bahamian authorities say they expect the remaining 108 to meet the requirements of the new law. The government plans to complete the licensing process, which involves a detailed study of the applicants, by next month (*BI*, April 12, 1971).

Corporate insurance buyers are overwhelmingly in favor of Congress adopting national standards for changes in the auto victim reparations system, according to a survey by *Business Insurance*.

The respondents also would like to see a modified no-fault system, with direct payments to injured parties up to a certain amount, and victims retaining the right to file suits.

And, most of the respondents say that any no-fault programs should not differentiate between commercial and private vehicles (*BI*, July 5, 1971).

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**No risk managers were named by President Nixon to the workers comp commission.**

There are no risk managers among the 15 people named by President Nixon to the National Commission on State Workmen's Compensation Laws.

*Business Insurance* had urged the appointment of a risk manager to the commission to give input about how changes in the law would affect the total risk management picture for employers. And, the risk managers' professional organization, the American Society of Insurance Management, had nominated a risk manager for the post (*BI*, July 5, 1971).

The state of Illinois finally has a state insurance guaranty fund, although the fund comes too late for the approximately 300,000 policyholders and claimants affected by the 29 insurance company insolvencies in the state since 1959.

The guaranty fund covers all insurance companies except those that write health and accident coverage, and all companies that write business in Illinois will be required to contribute to the fund, according to state insurance officials.

Illinois is now the 27th state to have such a fund (*BI*, Aug. 2, 1971).

An appellate court has upheld what is believed to be the largest wrongful death judgment in the country—a payment of \$1.8 million to the parents of a 15-year-old boy who died when a foreign transport plane crashed into the building where he was working.

The boy's 17-year-old brother also died in the June 1969 accident when a Dominicana Airlines DC-4 cargo plane crashed into the auto paint shop owned by the youths' father in Miami. A lawsuit in the older son's death is pending.

Underwriters at Lloyd's of London are the insurers for the airline, which was sued for \$4 million by the parents. Aviation investigators ruled that the crash, which also killed the four crewmen aboard the plane and four other people on the ground, was caused by a confused

Continued on next page



## Hines

*Continued from previous page*

transfer transactions affected relatively smaller numbers of placements, increasing premium investments in long-tail casualty coverages will make unlimited broker commitment a subject for negotiation. Brokers who offer to service placements without considering future time commitments will be vulnerable to dangerous operating losses; risk managers who agree to pay fees for whatever time it takes to service derivative claims will be exposed to precarious, uncertain future expenses. These disparate positions cannot be resolved without friction.

Risk managers will employ competition to test their skills in resolving future contention, just as they have used competition to verify their past accommodations to conflict. During the years ahead, competition will include buyer calls for direct insurance price and service support quotations from insurers that traditionally only work through brokers.

Buyer searches for competitive price and performance promises that reach beyond the typical array of brokers plus selected direct underwriters will foment enormous conflict. Some broker-committed insurers will refuse to participate in these departures from tradition; others will find means to deal directly with buyers.

Some brokers will repudiate relationships with risk managers and insurers that engage in such a perceived affront to the values of the trade; other brokers will regard such clashes with convention as opportunities to provide new products and services. Brokers that adapt will find new solutions for new problems by demonstrating an ability to organize capacity and service strategies more effectively than direct-dealing insurers and more productively than risk managers with internal staff.

Risk managers that build large diverse staffs are certain to provoke hostile reactions from many brokers who will see these indigent developments as permanent threats to their revenues. When it is in the risk manager's best interest, brokers will cooperate by helping to construct effective departments capable of dealing with loss control, claims management and information retrieval plus comprehensive analytical and planning services. Collaborators will prove risk management cannot be transformed into routine, stereotyped functions that endure alone in major corporations. There must be external interaction with brokers to help nurture creativity and to provide monitoring vehicles to relate performance to standards of excellence. Taking the position they do not wish to do anything for the risk manager that the risk manager can do better for himself will cause brokers to invent new coverages and to use insights gained from observing risk management departments to design useful, cost-effective new services.

As current trends expand the purview of the risk manager to include evaluation of and protection against speculative as well as fortuitous risks, brokers will discover ways to collaborate in the accretion of the risk manager's responsibilities. While brokers' and risk managers' duties have been confined to concern for pure risks where there is only a chance of loss, both are beginning to understand how evolving concepts of risk theory are advancing skills to measure and to cover risks involving gain or loss.

Early applications of broker-risk manager cooperation in the implementation of speculative risk management can be observed in placements of retroactive insurance. By assessing potential gains and losses

from protections against claims that already have happened, brokers and risk managers, working together, have constructed useful coverages at attractive prices to meet relevant income statement and balance sheet contingencies. There will be many extraordinary future examples of this type of cooperation that must, of course, be related to insurer willingness to accept venturesome transfers.

The relationship between the risk manager and the broker will continue to be dynamic, changing and always subject to ambivalence—ambivalence related to historic polarity of cooperation and conflict. The principle of polarity is

**There must be interaction with brokers to nurture creativity and provide monitoring vehicles.**

one of the most fundamental in human nature, for emotional forces always appear in opposite pairs. To find polarity in the functional connection of risk manager and broker is neither surprising nor a departure from what can be observed in all human attachments. The more

the broker cooperates with the risk manager, the more the broker fears he will create his greatest enemy—risk manager self-sufficiency. And the risk manager sees cooperation with the broker as equally menacing, for it fosters what he wants most to avoid—total dependence upon the broker.

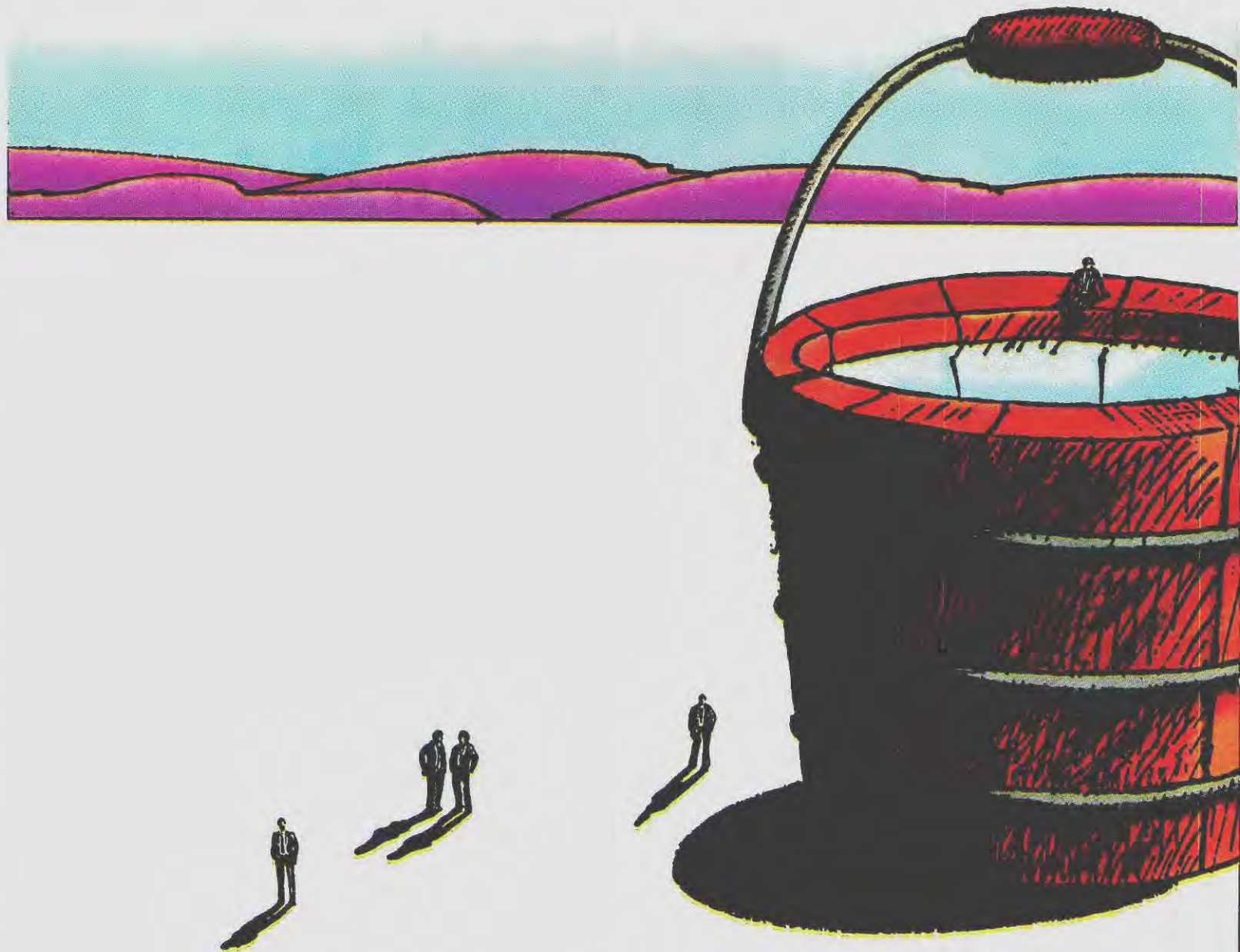
But risk managers and brokers see exaggerated conflict as unproductive—in fact, antithetical to the need both have to succeed. Neither can achieve their established goals without expressing trust and commitment, the cement of cooperation. While there will always be issues that divide and distort the values of cooperation, there is no

way the risk manager or the broker can meet their expectations or fulfill their obligations when conflict dominates interaction.

Working together accomplishes the highest purpose available to risk managers and brokers—the opportunity to successfully manage risks for the benefit of the companies they both serve and the society they both value.

Risk advances all human endeavor, stimulated by conflict and assuaged by cooperation; relationships between risk managers and brokers epitomize how best to contain risk and to adapt to the ambivalence that promotes creative performance. ■

# Our well is never dry.



Continued from previous page  
required to cover property risks compared with total commercial property/casualty premiums.

Of course, the predominant cause for the dramatic premium gain of casualty insurance was the unprecedented growth of social inflation, attributable to incredibly expensive applications of tort law. Actions to neutralize these adverse developments were replete with examples of cooperation between brokers and insurance managers. Their teamwork designed the broad contract language that permitted transfers of new risks like pollution, directors and officers, fiduciary and performance liabilities, risks that tormented all major enterprises in the United States.

When the implications of these new risks were exacerbated by the plague of economic inflation and concomitant high interest rates, brokers and insurance managers were able to find effective antidotes to mitigate the burdens. Remedies included paid-loss retrospective programs, fronting arrangements supported by promissory notes, deferred premium payment opportunities and many other imaginative tactics invented to conserve cash flow.

It is important to emphasize that the acquiescence of insurers was essential to all industry progress.

**Captives brought about the sophistication of brokers and risk managers.**

However, the risk manager, working with the broker, tempered the impact of the twin scourges of social and economic inflation.

Their energetic, concerted efforts also defied impediments to financial results occasioned by periodic, sudden and very steep upswings in insurance prices. By working together to establish self-insurance arrangements, retroactive insurance alternatives and captive insurance companies, risk managers and brokers created strategic plans to partially assuage the adverse impact of costly, unexpected price demands.

The creation of captives, more than any other development, brought about the sophistication of brokers and risk managers. Both were required to understand reinsurance utilization, financial analysis, probability theory, reserving practices and information systems; both had to appreciate and apply their new knowledge in order to make captives work.

And the applications of valuable new knowledge forced development and evaluation of risk management alternatives that changed the structure of risk management departments and broker organizations. Risk managers looked to fellow staff managers within their own companies to gain a better perspective about the financial and operating meaning of their new knowledge, so that intelligent risk management decisions could be made.

Brokers used their fresh insights to modify their firms from orientations concerned almost exclusively with gathering and organizing insurance capacity to businesses capable of offering a wide range of new services able to function for or to consult with the well-informed risk manager. By offering comprehensive loss control, claims management and information retrieval services, brokers made it possible for risk managers to unbundle risk transfer transactions from ancillary services whose costs always seemed obscured by combined price constructions. Opportunities

for choices to bundle or to unbundle are prime examples of the advantages broker-risk manager cooperation generates.

All progress born of collaboration was preceded by, indeed included, the stress of conflict—that abrasive force from which constructive change is wrought. Perspective of how conflict contributed to progress in the past can be gained by speculation about a few issues likely to confront risk managers and brokers in the future.

The years immediately ahead will surely require re-examination of the way brokers are compensated. Risk managers probably will resist too much movement from commissions, which offer unlimited broker attention, to fee-for-service arrangements that bill time and expense for all services rendered. While fee-for-service recompense had great appeal to buyers when "long-tail" risk

Continued on next page

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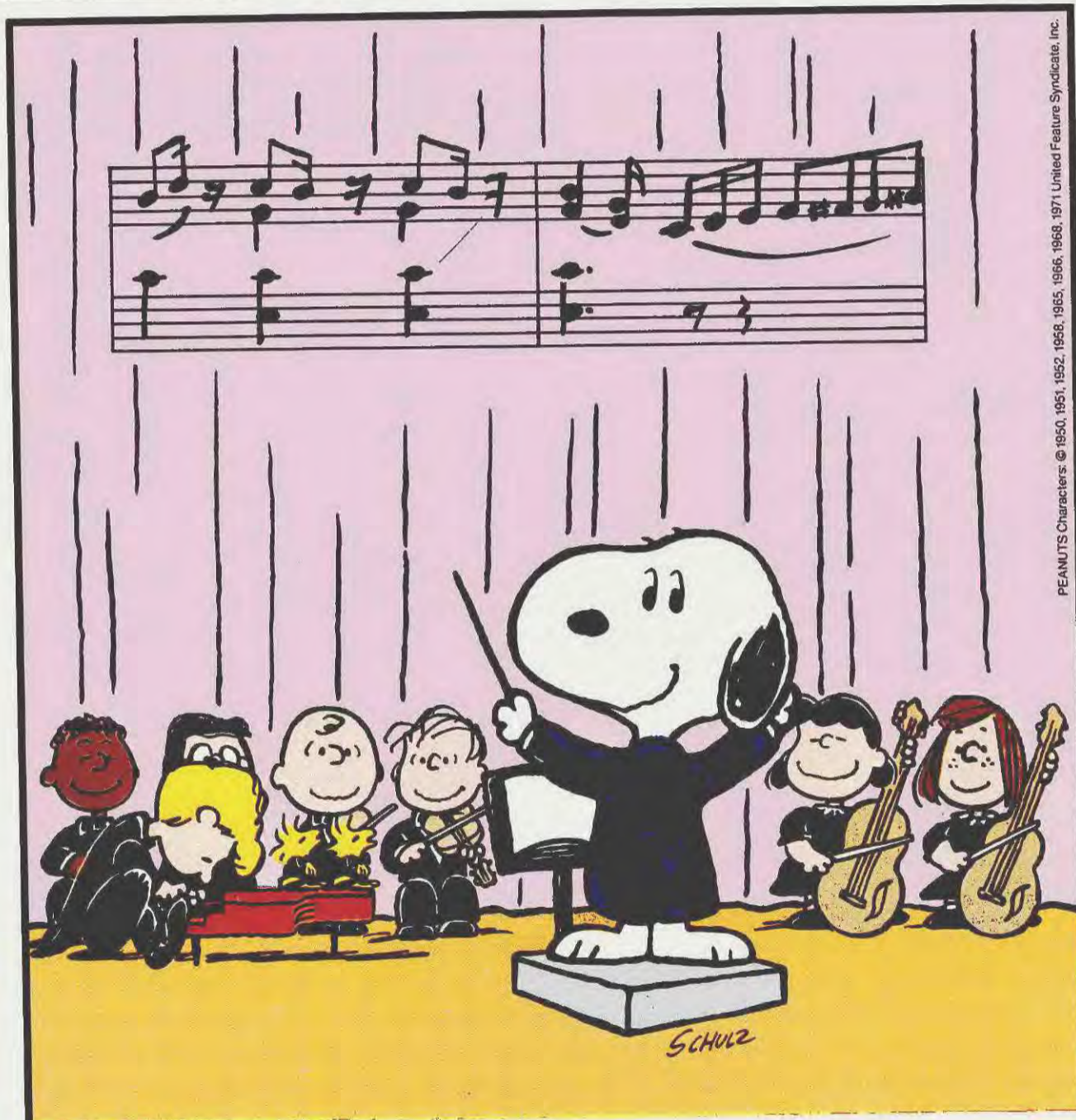
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Continued from previous page

America, some offshore islands and other parts of the world, this market has a better record in the area of insurance solvency than most other territories—notwithstanding the number of insurance companies that have operated in London over the past 20 years. The other great strength that the London market has is that it has a unique collection of differing underwriting talents within close proximity.

The imaginative ability of the brokers to put together significant amounts of capacity in one city, the unquestioned expertise of the underwriters on almost all classes of business anywhere in the world and the willingness to look at claims in a reasonable and pragmatic manner must, surely, continue to make London an important insurance center.

With the proviso that the paperwork must be cut down and complacency does not set in, London should have a very bright future. Based on the experience of the last few years, complacency is most unlikely to appear!

The London insurance market is well aware of the growing competitiveness of commercial insurance buyers. One hopes that they will also recognize that insurance is not a product that can be bought and sold like any commodity and will recognize the unique abilities of the London market to provide a profes-

One of the great strengths of the London insurance market is that it has a unique collection of differing underwriting talents within close proximity.

sional product over a long period of time.

If any market is to be a factor in affording coverage to the commercial insurance buyer in the future, there must be a continuing growth in the capital base. Underwriting organizations such as Lloyd's can only do that when the returns are more attractive than alternative investments. An insurance market without underwriting profit will cease to provide the capacity required. Cutbacks in the worldwide capacity in the past two or three years prove that only too well.

London is, and will remain, a market for the commercial insurance buyer who appreciates that price is not the sole criteria to judge an insurance product.

Insurance policies are a promise to pay and London is at its best when decisions are not made on a short-term basis. ■

## Brockmeier

Continued from page 68

frequently be called upon for precisely the same reasons of objectivity and expert knowledge that motivated buyers and financial executives to engage consultants as auditors 20 years ago. The major difference will be that in the past the consultant was viewed by the broker as a stranger poking his nose into a private relationship. In the future brokers should welcome consultants as reputable resources with the skills to help untangle complex webs of differing retentions, limits and policy forms.

What will the consulting firms of the future have to do to meet the requirements of their clients? They will have to:

- Staff with highly skilled professionals. Actuaries, lawyers, accountants and MBAs will be recruited, and the brightest and best of the graduates of specialized

The consultant was viewed by the broker as a stranger poking his nose into a private relationship.

educational programs in risk management and actuarial sciences will go with consulting organizations as their first employer. Persons with experience in hands-on risk management, underwriting, claims administration, loss control or insurance brokering will still be valued members of consulting staffs, but the demands for innovative concepts and rigorous academic stimulation will make risk management consulting a field for the young, not the person set in his or her ways.

- Establish clear professional standards. The Society of Risk Management Consultants is making some headway, but has a long way to go. Consultants, in their own interest and the interest of their profession, must press for rigorous licensing examinations, professional codes of conduct and unique status in the eyes of the insurance regulatory agencies.

- Understand and comprehend. The consultant of the future must master not only insurance and risk management, but gain in-depth knowledge of the industry being served.

- Above all, recognize that their primary function is not auditing, is not number crunching, is not interpreting insurance policies and is certainly not writing voluminous reports—it is identifying and solving problems.

Problems involving management and control of the risks of fortuitous loss will exist, no matter what the economic environment, the insurance market conditions or the organizational structuring or restructuring in vogue. Consultants must be capable of dealing with those problems, and those that are can see their practices multiplied manyfold during the next two decades. ■

## Blick

Continued from page 72

provide limited pollution coverage and policy wording could be developed by ISO that would be accepted by the courts, the sellers and the buyers of insurance. Risk managers almost universally rejected the blanket exclusion proposal.

Insurance buyers still feel that "sudden and accidental" pollution coverage can be more accurately defined by ISO and included (without additional charge) in the new commercial general liability policies.

Perhaps the most striking example of risk managers' influence on policy design and phraseology has occurred within the last three years. ISO, after expending a great deal of time and effort, circulated two new drafts of the commercial general liability policy that were to replace the old occurrence CGL policy: a revised occurrence format and a new standardized claims-made policy.

These first drafts were rejected by producers and buyers alike, and even some of the insurers supporting ISO voiced objections to portions of the proposed policies.

What followed can be described as chaos.

For almost two years, changes in intent and in various policy wordings were circulated and debated continually. Hearings were conducted by various regulatory authorities—which resulted in further changes—until finally the majority of regulators approved the revised

Continued on next page



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## Blick

Continued from previous page  
policy formats. However, for various reasons, the claims-made policy remained particularly objectionable to most insurance buyers and generally now is used only for the more troublesome risks.

In general, the marketplace has rejected the concept of universal claims-made insurance because it is not perceived to be a legitimate transfer of risk for the premium charged.

Today's risk manager faces further new challenges with regard to grants of coverage because attempts now are being made to further erode the current liability policy forms by attempting to pose separate limits for defense costs. You may be certain that the insurance buyer's voice will again be raised strongly to object to the reduction in coverage that has traditionally been included.

## Risk managers must become more involved in the development of policy wordings.

It is expected that risk managers in the future will attempt to be heard on the subject of revising the definition of gross earnings included in the current business interruption policy to more easily track the accounting profession's definition of the term. Risk managers also will have input on the liability and physical damage insurance portions of short-term automobile rental agreements.

The risk manager of today and tomorrow must become more involved in the development of policy wordings to assist in the crea-

tion of a stable insurance marketplace.

This needed stability should be based on a clear understanding of just what defined risks are being transferred to clearly assess the true costs of such actions and to evaluate alternatives.

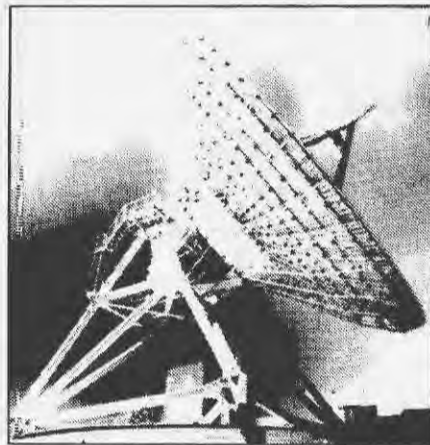
While risk managers generally do not espouse the need to create their own suggested policy forms, they should continue to maintain a forum to present their viewpoints and concerns prior to the publication or actual production of any insurance document that may impact their ability to manage their organizations' risks. ■

## Carey

Continued from page 74  
is currently being validated.

The problem with aerosols was one of classification. Not all aerosols present the same degree of hazard. In order to adequately protect against the warehouse storage hazard presented by this commodity, the aerosols had to be accurately classified. Again, such classification was only possible with costly, large-scale testing methods. Scientifically sound small-scale testing methods were devised using specially designed testing equipment to measure both radiant heat and convective heat. These testing methods, which usually only involve a single aerosol can, should provide data that can be used to make more tailored property loss control recommendations.

These examples are indicative of the direction in which loss control technology must move to meet the challenge of changing requirements. In succeeding years, the pioneering testing methods I've described will continue to be refined. Such focus on loss control techniques will help assure the stability and continuity of an effective property loss control program. Lower loss costs, including lowered expense from self-retained losses, and lower insurance costs will be the result. ■



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# Risk managers, brokers need to cooperate despite conflicts

By Harold H. Hines Jr.

**T**HE RELATIONSHIP between risk managers and brokers has been ambivalent, full of reciprocal feelings of cooperation and conflict. Their interaction deserves study, because risk manager-broker connections are fundamental to the development of decisions that determine the structure of insurance transactions and related service support mechanisms.

History shows how deeply the risk manager's struggle for respectability has affected the broker. Thirty years ago, the risk manager led an isolated corporate existence on the borderline of risk decision making, a fact not entirely due to resistance in his own company or to the business practices of brokers.

Risk managers, then known as insurance buyers, questioned whether their function was a professional discipline or an audit ex-

ercise, whether their mission was to make a substantive contribution to the progress of their companies or simply to record risk transfer documents and perplexing insurance price changes.

For many years, a clear verdict about the corporate citizenship of this young vocation was not forthcoming. Higher management often circumvented insurance buyers, preferring to consult brokers about complex insurance placement and price performance problems. The gap between early buyers' routine duties and current risk managers' comprehensive responsibilities was wide and, as time has revealed, difficult to bridge.

Foundations for the connective links between then and now were forged by three compelling factors: price fluctuations, corporate growth and social inflation.

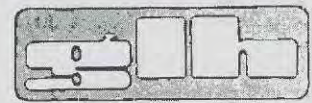
Of these unmistakable influences, price vicissitudes caused by the vagaries of insurance economics were the most significant. Top operating and financial management, surprised and confused by regular periods of rapid price escalation, began to look to their insurance buyers as the only appropriate parties to search for remedial actions. Managements demanded that their buyers avoid unexpected, damaging cyclical increases in the cost of protection.

As corporations grew larger and more complex through capital for-

*Harold H. Hines Jr., who died in 1984 at the age of 59, contributed many articles to Business Insurance that analyzed interrelationships in the world of risk management and commercial insurance. At the time of his death, he was president and chief executive officer of Rollins Burdick Hunter Co., a unit of Combined International now called Aon Corp. He served as president of Ryan Insurance Agency Group, which was acquired by Combined in 1982, and president of Marsh & McLennan. This article is reprinted from the October 1981 issue of Business*



Harold H. Hines Jr.



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## Hines

Continued from previous page  
 mations and mergers, higher managements asked buyers to gain price advantages usual to economy-of-scale purchases. They wanted their buyers to seek unit cost reductions and to verify automatic extensions of coverage to newly acquired, unrelated operations.

When the pace of social inflation quickened, American companies were suddenly confronted with huge unproductive expenses that threatened profit margins and upset competitive strategies. Management, again, turned to their buyers for solutions, asking that fixed and variable insurance and self-funded loss costs related to casualty burdens be reduced.

Slowly but surely, an accumulation of aggravations produced profound responsibility shifts from the external broker to the internal

**Buyers met the challenges of their gradual acquisition of decision-making power with bursts of creativity, which fostered many of the significant insurance industry innovations of the past few decades.**

buyer, which has had far-reaching effects on the commercial property/casualty business. Buyers met the challenges of their gradual acquisition of decision-making power with bursts of creativity, which fostered many of the significant insurance industry innovations of the past few decades.

The long quest for professional identity bound buyers together in constructive communication and fellowship. From the shared experiences of early buyer meetings grew an important trade association, first known as the National

Insurance Buyers Assn., then as the American Society of Insurance Management and now called the Risk & Insurance Management Society.

These name changes were very significant, reflecting the evolution of responsibility from insurance buyer to insurance manager, and then from insurance manager to risk manager.

The associations' names underlined the buyers' search for significance and acknowledged the buyer's emerging professionalism as a manager—as one who directs

rather than responds. Consecutive name modifications finally established the insurance manager's involvement in all risk decisions, including complex evaluations that preceded insurance choices.

The steady expansion of functions, confirmed by the status change from insurance buyer to risk manager, is a conspicuous example of American management's ability to achieve results by broadening and differentiating skills. What began in the trial and error of early buyers' on-the-job learning ultimately became the effective application of sophisticated risk theory. Today's risk managers use valuable analytical processes to quantify and to qualify risk decisions in ways that promote corporate achievement and in forms easily explained to operating and financial management.

The progression from buyer to risk manager threatened brokers, who met unwanted change with

understandable fear. Provocations for such psychological reaction related to sharing knowledge that was once privileged, to relinquishing access to hierarchy communication that formerly afforded security and to accepting frequent performance reviews that were previously rare.

In past decades, brokers maintained business through close ties with top management. Is there any reason why the broker's inability to relate directly to top management should not have generated insecurity? Long ago, brokers controlled contact between purchases of insurance and related service support systems, and the insurers that provided both. Why should risk manager probes for insurer information and interaction not have disturbed brokers, whose jurisdiction over transactions was once sacrosanct? Formerly, it was unusual for corporations to change alert brokers who delivered well-researched quotations. Who can argue that it was unreasonable to experience trauma when unfamiliar criteria were used to measure accomplishment?

Brokers' resistance to the metamorphosis of the risk manager was not irrational and disconnected; it was a legitimate reaction to what brokers considered objectionable change. While enlarged risk manager responsibility and authority engendered broker anxiety, they also created remarkable adaptations that altered and improved the way brokers conducted business. They mostly ordered, but occasionally muddled, adjustments brokers made to factors that prompted the vocational advance of risk managers and altered the U.S. commercial property/casualty distribution system profoundly.

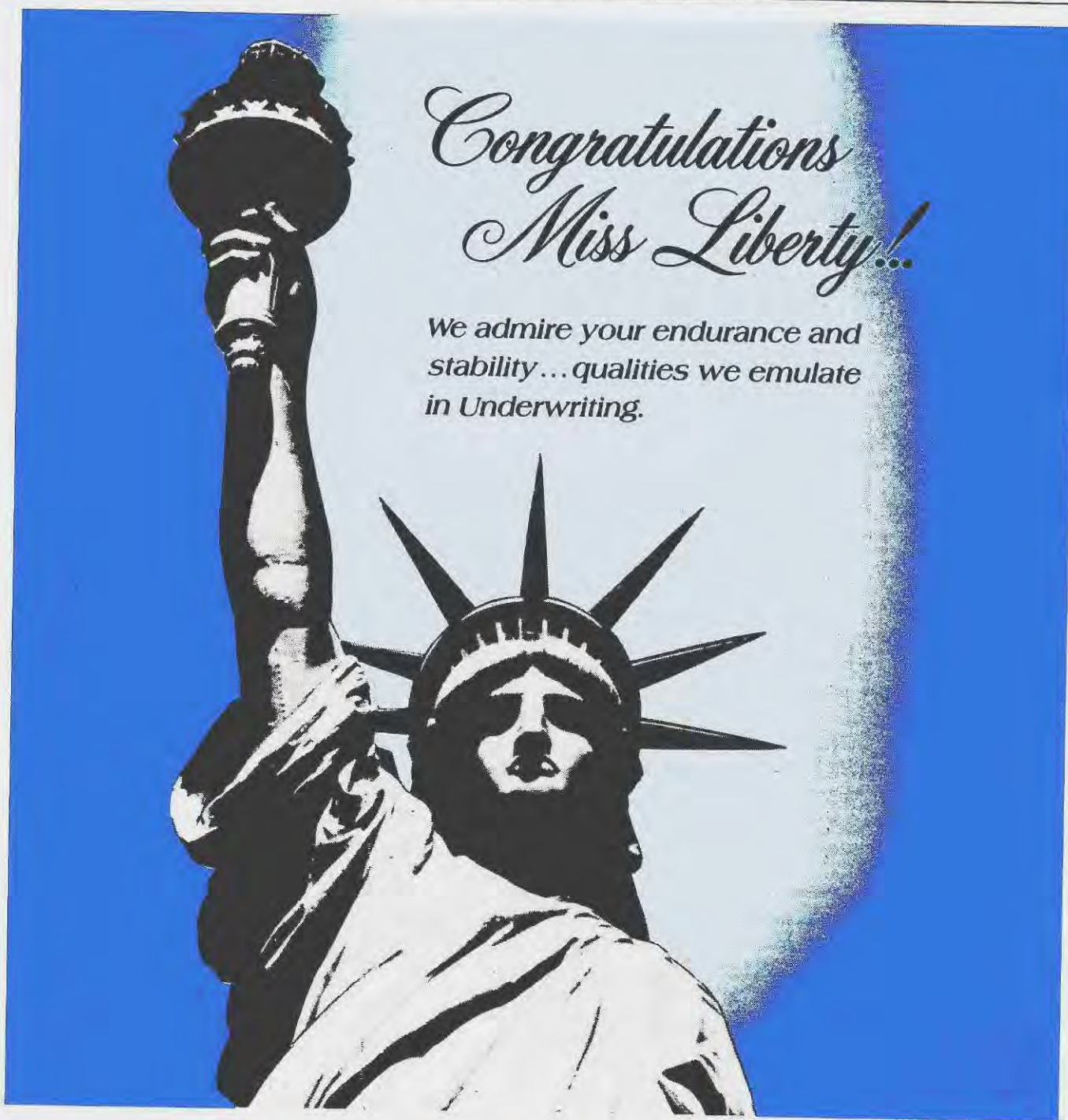
Small and medium-sized local broker enterprises dedicated to serving expanding American enterprises were merged and consolidated into large national and regional firms, capable of solving problems created by economic growth, insurance price instability and social inflation. The transformation of the broker mode from cottage industry to big business was as far-reaching as the risk manager's mutation; in fact, it exactly paralleled the buyer's persistent advance.

Risk managers and brokers achieved their advancement independently, yet the progress of each was linked to the other, as each made it possible for the other to deliver required results. Out of the conflicts nurtured by change came necessary cooperation that made it possible for both to fulfill their widening obligations to the enterprises they served together. Their harmonized responses to the post-World War II rapid expansion of American business illustrate the efficiency of broker-buyer interactions.

By working concurrently they caused modifications in new and old plant and equipment so that aggregate values, subject to a single loss, were reduced and the ever-present influence of catastrophes was limited. Especially close collaboration was prompted by the severe property insurance crisis of the 1960s, which caused the availability and the price of property coverage to menace the operating results of many industries.

Concurrent actions of broker and buyers won time concession from insurers in order to implement improvements in the physical characteristics of old and plants. There is clear evidence these common efforts ameliorate the aggregate hazards of the industry; in fact, the substantial physical improvements, during that time of crisis, influenced the quality of risks underwritten today. The relative quantity of

Continued



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## Lichota

*Continued from page 46*

stabilize commercial markets, supplement their capacity, broaden terms and conditions as required by the circumstances, suppress the violence of market cycles, establish more predictable coverage expense levels and maintain its own records as to the adequacy or inadequacy of premium flows.

Above all, the development of a truly global perspective will be both the means and the end to developing international risk management. Insurance and reinsurance markets are international links connecting the business and affairs of all the world. Those insurance markets, and the alternative mechanisms developed to stabilize and enlarge them, have similar basic characteristics and limitations no matter where they are located. They also have very localized problems peculiar to their domestic environment.

## Schwartz

*Continued from page 50*

how a particular decision will affect the insurance system. We need to discuss policy as much as precedent.

We have seen examples where these approaches have been successful. For example, in the *Feldman* case the Supreme Court of New Jersey retreated from the "absolute" liability rule of the *Be-shada* case and "limited" it to asbestos. Recently, the Supreme Court of Michigan re-established the fault principle for design liability for products. An organization called the Product Liability Advisory Council, located in Detroit, has and can do "wonders" for modern "court" tort reform in filing amicus curiae briefs in key cases. These briefs can show the courts proper paths and keep the tort system from losing a sense of balance.

The need for legislative action is

**In the 1870s, it was cheaper (from a defense perspective) to kill somebody than to merely injure him.**

reduced to the extent that the courts are responsive to such briefs. It is also true that as courts return to a more "incremental" development of tort law, the need for legislative action will be abated.

The new "tort reform" attempts to re-establish the fault principle, avoid economic inefficiency and increase predictability. But it may not work in a few substantive areas; in selective situations there will be movements to abandon the tort system altogether. There are certain types of problems for which there is no "traditional" solution.

An example is where we know the type of product that injured an individual, like asbestos, but we do not know who manufactured that specific product. On one hand, allowing a plaintiff a claim against a party who did not manufacture the product violates a fundamental principle of justice—one should only be responsible for harms he or she causes. On the other hand, dismissing the claims of every injured person against a group of manufacturers who were at fault may be unfair, if the only "glitch" in the plaintiffs' proof is focused on who made the product.

Unfortunately, this is not a problem that can be resolved by courts; imaginative legislative thinking is needed.

Another place where non-traditional approaches are needed is with respect to vaccines that have vital benefits, but create certain known risks. Compensation systems may be the answer to that situation.

It is also essential that such systems are self-contained and do not permit persons to go back into the

*Continued on next page*

**Above all, the development of a truly global perspective will be both the means and the end to developing international risk management.**

The international risk management community of the future will combine understanding of global and local markets with an active participation in local affairs to assure that each part of a multinational enterprise is favorably perceived by its host country and is protected to the maximum extent possible from both fortuitous loss and unpredictable insurance markets. ■

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## Schwartz

*Continued from previous page*  
tort system through some hidden (or open) passage. Finding one's way back into the tort law out of a compensation system can wreck that system. One can see that process destroying the integrity of our workers compensation system in some states today.

I do not see our country abandoning tort law and turning to total no-fault compensations systems, such as has been established in New Zealand. In the United States, for the foreseeable future, tort law will have a place. Tort law can be one of the best incentives that we have to promote safety: safe products, safe medical practices and safe conduct. As long as tort law stays within principles of individual responsibility and fault, it can be a help and not a hindrance in our society.

Tort law falters when courts push it beyond its intended purposes and try to convert it to a compensation system. Courts may have seen the light on this issue and will modify excesses; if they do not, legislatures reflecting the public views on the subject will do it for them. ■

## Greenberg

*Continued from page 56*  
down beyond a certain percentage. I hear no complaints by those in the regulatory system regarding rate decreases. The silence is deafening and this silence will add to the woes of the industry.

The biggest crisis that this industry has to confront is itself and how it is going to regulate itself in a way that will provide society and business in this country with reasonable prices that are consistent with profit for the industry. Successful self-regulation must take place, enabling the industry to continue to serve the society while stopping the unpredictable roller-coaster pricing that is the result of a behavior pattern that is inherently bizarre.

The insurance industry can live with any system, but it has to price for the system society selects. However, everybody has to assume some part of the payment. The insurance industry is an intermediary and can not be expected to cover the expenses by itself.

Reform is beginning and, although still in the infant stages, the future will bring about its development. Similarly, new products will continue to be born as the insurance industry responds to the needs that accompany modern technological advancement.

There will be a crisis in the coming years, but from this crisis there will come solutions. I am not pessimistic that we will not survive; a great many won't, but a great many will. ■

## Cox

*Continued from page 57*  
they will lose sight of their purpose and, as a result, different companies will evolve. Fiduciary responsibility to public shareholders is different than to present shareholders, and it can be expected that these companies will over time lose their original heritage.

Some will be liquidated because they are no longer needed. A viable alternative will be created that will be superior to the company created as an interim solution.

Finally, there will remain companies that will be part of the accepted worldwide insurance marketplace. They will be permanently established.

When looking back in the year 2007, most of the leadership of the industry will recognize and accept these facilities and remember not from whence they came. A student

of history will recognize and remember that the only really new thing in the insurance industry is us, the people, as we pass through it in time. ■

## Denning

*Continued from page 50*  
detect patterns that could lead to an opportunity for reduced losses. Of course, the old problem of workers who have abnormal numbers of losses is controlled by the requirement that all workers carry a permanent I.D. card which, among other things, maintains a complete report of all chargeable accidents.

Settlement of cases is a very different process than the "lottery" system of 20 years ago, which involved litigation in front of unpredictable juries. Tom's attorney provides the court with a structured data base of all the evidence and facts for the company's posi-

tion. Legal theories as well as factual information are included. The court uses its computer (LEM, or Litigation Equity and Management) to carefully review both positions. If a compromise is logically available, LEM will find it. If not, it will seek answers to the few questions that are open. If needed, a focused trial on these few points will occur. The process, because of its speed and limited reliance on juries, produces far more consistent and fair results. Many cases are settled with no human intervention.

Tom checked the last of the graphical projections developed and glanced at his watch—1:45 p.m.

"Whew," he sighed leaning back in his chair awaiting Mr. Big. Surveying the room he suddenly realized that there were no other chairs. Being the only human in the department, he had not given any thought to the chairs being recently removed for new uphol-

stery.

Well, he would simply have to conduct the meeting standing up—an efficiency style needed in the 1980s when risk management departments of eight to 10 people were common and people efficiency a concern. ■

## Jackson

*Continued from page 64*

There have been justifiable criticisms that the London market has been slow in issuing policy documentation which, unfortunately, is inevitable when so many underwriters are involved on a given account. Policy preparation must be improved. A further inevitable consequence of paper movement is that changes are needed in the flow of money, both premiums and claims. In this day and age, it makes no sense for it to take so long for premiums to reach underwriters. Likewise, claims

payments must be speeded up.

Lloyd's has a very good and hard-earned reputation for the reasonable way in which claims are considered by underwriters. Over many years, London has earned a reputation for being a good place to insure or reinsure due to its generally pragmatic and not overly pedantic approach to claims.

If the London market is to continue to be able to play a major role in the underwriting of commercial insurance wherever the business may originate, we must make the most of its unique strengths. London, with Lloyd's and some strong company markets surrounding it, has a first-class reputation as far as the security behind the insurance policy is concerned.

While insurance companies have been going out of business with increasing frequency in North

*Continued on next page*



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# Loss control ready for challenges ahead

By John J. Carey

**C**HANGE. Woven into the fabric of society, it serves as a catalyst for the development and proliferation of new products, materials, manufacturing techniques, etc. Such change impacts every aspect of industrial and commercial enterprise, bringing with it new challenges in property loss control.

The effectiveness of property loss control within such a dynamic environment is directly related to the

ability to meet changing customer requirements on a consistent basis. The basic objectives—to minimize property loss and to provide service at a reasonable cost—remain constant, but the manner in which these objectives are achieved is changing dramatically.

Traditionally, the insurance buyer has been asked to conform to existing loss control technology. Occupancies have been viewed in the light of how they burned, with little emphasis placed on the spe-

cific commodity, its value and damageability. This approach worked effectively when fewer and more-basic commodities were the norm.

The proliferation of new and increasingly complex hazards, however, calls for a different approach. It is a customer-driven approach tailored to satisfying specific requirements. Goals are established and, where necessary, equipment is developed to meet them. Occupancies that could generally be pro-

TECTED in the same manner, may, in fact, be protected differently, if the customers identify different levels of "tolerable" fire damage.

An example of how this process works is the approach to high-challenge warehouse occupancies. Looking at the problem from the traditional approach, the best that usually could be expected for such occupancies was that conventional sprinklers would contain the fire within a given area until the arrival of the fire department. When

approached from the customer needs perspective, however, the goal became not simply containment, but rather minimization of water damage, fire extinguishment and system affordability.

The early suppression-fast response (ESFR) sprinkler addresses all these needs. Nearing production, this sprinkler head will revolutionize property protection for high-challenge fires. This does not mean, however, that work on more effective sprinkler technology is complete. On the contrary, due to the changing nature of the hazards customers seek to protect, research into new applications and modifications of this technology continues.

Another important aspect of managing change within our industry is the ability to learn as much as possible about the product and occupancy to be protected. Until recently, the main diagnostic tool was the full-scale fire test. Again, using a warehouse as an example, storage conditions would be

**The insurance company that started business on a handshake and a promise, is one of the most trusted names in commercial insurance today.**

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Like the spirit of innovation and leadership that motivated company founders to find new and more cost-effective means of managing their own insurance. Their "net cost approach" for risk management was developed more than 50 years ago. A continuing team effort with agents and brokers allows this same approach to control costs for thousands of policyholders today.

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Mr. Carey

that same spirit of innovation is evident today as Industrial is recognized not only as the leading insurer of workers compensation in the West, but as one duplicated and the specific commodity under study would be burned. Technology simply did not exist to accurately predict with small-scale testing the burning characteristics of most products stored under warehouse conditions.

While full-scale testing provides accurate data for an individual commodity, it is expensive. Consequently, there has been a tendency to apply test results to an entire commodity group. However, storage commodities within a given group are becoming increasingly diverse and it is not unusual for the different types to evince a variety of hazards.

The dilemma? The cost to conduct full-scale tests on each type of a given commodity is prohibitive, yet, in order to satisfy customer needs, accurate information on each type is needed.

The dilemma was solved in our approach to aerosols and electrical cables.

In the case of the latter, the major problem to be overcome was the existence of literally thousands of types of cable construction. To run full-scale fire tests on each would be too time-consuming and costly. The solution? Factory Mutual System scientists developed a scientifically sound, low-cost, small-scale testing procedure that

Continued on page 78

## Industrial Indemnity



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John J. Carey is president and chief executive officer of Allendale Mutual Insurance Co. in Johnston, R.I. Allendale is the largest member of the Factory Mutual System, which is known for its contributions to and advancements of property loss prevention.



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# Regulation will follow its own cycles

By Richard E. Stewart

THE REGULATION of property/casualty insurance, like the regulation of other industries affected with the public interest, is mainly reactive. The regulators may from time to time initiate programs, but usually, even in the programs, they are responding to something happening in the regulated industry. That is not bad; it is just a fact.

What insurance regulation is reacting to now is competition—within the business, from outside providers and from traditional customers. The state commissioners may see it as a jurisdictional tussle with the federal government, but it is less than an open question as to how regulation, any jurisdiction's regulation, will deal with competition.

We can break down the competition question into three regulatory questions. First, do we as a society want price competition in insurance? Second, are we able to deal with problems of the casualty business that dominates insurance and the competition within it? Third, can regulation handle the challenges for solvency regulation that follow from competition and casualty dominance?

As to federal regulation rather than state, replacement of state by federal regulation is rather remote unless the states mess things up entirely, which is also rather remote. The serious, practical choices for both state and federal students of the business have to do with competition, casualty and solvency. On that, times have changed a lot in the last 15 years.

On competition, generally, the die is cast. In personal insurance, leadership is with the low-cost providers. That will surely stabilize competitive swings. Personal insurance is now more sophisticated than commercial when it comes to efficient delivery and service, but that has not always been so and need not be so always.

In commercial lines, competition, efficiency and dependability are the objects of all the innovation in risk management, financing and the unbundling of services during the past 15 years. A squeeze on overheads follows here as anywhere price mysteries dissolve. A few decades of turmoil are ahead in commercial lines on the way to the certain destination.

Regulation is often driven by personal insurance changes, but let's consider how it is apt to react to changes in the commercial and industrial market.

One thing is for sure: Regulation will go more and more to protect insurer solvency and to minimize the effects of insolvency. In fact, the greatest regulatory challenge is the smallest insolvent company, they have the largest departments grown weaker? No; the problem is to grow larger and quite resilient. If we have the traditionally strong inspiration, can we do it? Not with their

record in simpler financial businesses. Can we look to the state guaranty funds or post-assessment rights? Not for this kind of money.

So we come back to the big choice for the states. Will they embrace the inevitable and live with the vicissitudes of an industry shaking out a lot of excess and unstable capacity in order to attain stability in the long run? That takes a lot of patience and a lot of political staying power. Or will the states take a protectionist or paternal attitude to protect the industry from itself? We may laugh at that alternative, but government has done just that, over and over in many industries, feeling superior to the sellers it serves, a small fee for the protected sellers.

Nowhere in our economy is this



Richard E. Stewart, chairman, Stewart Economics  
(Photo: Arnie Adler)

choice more stark than in insurance. Nowhere is it more in the hands of government. And how unprepared government is. The feds know only that they want the best of all worlds, however irresponsibly:

forced competition and monopolistic regulation. The states may end up with futile and servile regulation adopted only to keep the feds out, and eventually embarrassing everyone enough to

bring the feds in.

So the future of insurance regulation is not bright, except for one thing. In this great pluralistic society, we tend not to follow to logical conclusions, especially where they are silly enough. Insurance is a fine example.

So eventually the state commissioners and legislators will opt for competition and innovation. They will do so not because they are visionaries or heroes, but because nothing else will work. They will dare to get federal help where they need it, on such matters as preempting atavistic rate regulation. Thus, they will go on and do the job of insurance regulation about as well and badly as before. But most important, they will be going in the right direction. ■

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William Blick  
of The Allen  
Group Inc.  
(Photo: David Lubarsky)

# Risk managers' views integral in drafting future policy forms

By William Blick Jr.

**D**URING THE LAST 20 years corporate risk managers have become more involved than ever before in the creation and modification of insurance policy forms. In this effort they, individually and as a group, have and still are communicating with a wide variety of people and organizations well beyond the confines of their own company or their own insurer.

It is now relatively commonplace to hear risk managers testifying before committees of Congress, state legislatures and insurance commissioners, as well as partici-

pating in committees and advisory groups that work with insurers' organizations, like the Insurance Services Office, responsible for modification of insurance contract coverages and/or policy wordings. This expanded activity by those accountable for protection of corporate assets has resulted in a greater awareness of the risk that may—or may not—be covered by a particular insurance policy.

The complex business of insuring against loss usually encompasses many people, organizations and written documents. The "ultimate" insurance contract is one that clearly defines exactly what losses are transferred from one party to

another for a defined amount of premium. The problem is that our English language used in this transfer process may be subject to different interpretations of the policy's words and phrases by each of the people completing the transaction.

Thus, the modern risk manager must be vitally concerned with not only the grants of coverage he or she purchases, but the words and phrases used to define this protection. As a group, their collective input is now being sought in advance by those responsible for policy development, and this is true particularly when any reduction of traditionally accepted coverage is contemplated. A clearer understanding of the perceived reasons for making major changes in policy language can help to avoid creating almost automatic adversarial positions when grants of coverage and/or wording are substantially modified.

For example, in the mid-'60s the insurance industry adopted a new comprehensive general liability policy without any appreciable input from the buyers of insurance. In response to this major change in liability coverage, the American Society of Insurance Management—the predecessor to the Risk & Insurance Management Society—authorized a line-by-line review and analysis of the new policy form. In addition to this review, ASIM's committee included certain suggestions regarding coverage extensions that buyers could request from insurers that could result in no diminution of the coverage provided by the former CGL policy. Thus, for the first time, information specifically addressed to risk managers' needs was widely disseminated to the purchasers of commercial insurance.

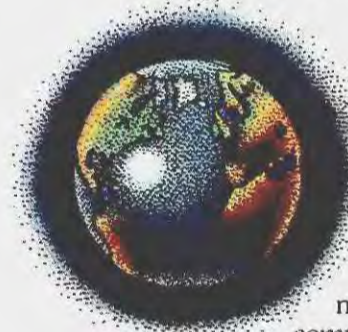
Over the next two decades many of these same recommended coverage extensions became universally accepted and were included in most specifications provided to the insurer at the time of renewal and also for competitive quotations. Risk managers started to exert a profound effect on the insurance contracts generally in use.

Another incident occurred in the mid-'70s when ISO attempted to exclude all pollution coverage from the standard CGL policy. Again, if risk managers were consulted in advance on ISO's proposal, they would have reacted strongly to this reduction of coverage and perhaps their advance input would have changed the final result. It was generally believed that most professional insurance buyers that all parties involved in the purchase of liability insurance understood what "sudden and accidental" pollution meant. The plaintiff's bar and the legal system, pleading the "sudden and accidental" pollution coverage provided by insurance, gradually eroded the pollution losses suffered by judicial decisions.

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# Insurance needs fine-tuning as risk-transfer mechanism

By Eugene R. Anderson

**T**HE PURPOSE of insurance is to insure.

Insurance traditionally has provided a service that has been essential to the development, and is vital to the continuation, of our industrial economy. Businesses, governments and charities need insurance to mitigate unexpected losses. Persons who have suffered injuries and owners of property that has been damaged all look to insurance as a source of needed funds from which to recover their damages.

But can we continue to rely on insurance? Is insurance now, and in 20 years will insurance be, a viable risk transfer mechanism? It certainly is in dire need of repair. Toxic tort litigation and insurance coverage litigation present excellent examples of the current pathology.

• **Item:** Out of every premium dollar that we pay to property/casualty insurance companies to buy protection against bodily injury, fully 75 cents goes to lawyers and insurance companies; only 25 cents or less goes to injured persons. While the tort/insurance system supports the American legal pro-



Eugene R. Anderson, partner, Anderson Russell Kill & Olick.

cession (defense lawyers, too) and a huge insurance industry, it fails to channel the major portion of its benefits to the "real" intended beneficiaries of the system.

• **Item:** The current tort/insurance system represents, in large measure, a "double pay" approach. That is, most of the injured persons who "win" in court already have received medical care and income replacement from one or more of our numerous employment-related or government-sponsored health care and income continuation programs. This country does take care of the sick, sore, lame and disabled—including tort victims—in one way or another, however imperfectly.

• **Item:** Everyone blames someone else for the disastrous state of the tort/insurance system; but no one bothers to look in a mirror.

✓ Lawyers blame the insurance companies for reaping exorbitant hidden profits. These lawyers do not acknowledge that the legal profession takes twice as much out of the tort/insurance system as either the insurance companies or the intended beneficiaries of the system.

✓ Insurance companies blame clever lawyers and "do-gooder" judges for expansive coverage decisions. These insurance companies do not acknowledge that more than 90% of the insurance coverage cases involve one insurance company fighting another.

✓ The major role played by the insurance industry in creating the present tort liability system is a little known chapter in our legal history. The bigger the tort system, the bigger the premiums, the bigger the profits.

• **Item:** The continued power and prestige of the judiciary depends upon the maintenance of the tort/insurance system, under which judges have the power to tell us how to, among many other things, design cars, manage businesses and coach football. Doctors might see a rapid end to the medical malpractice crisis if judges' rulings and opinions were subject to the same liability risks as those imposed upon the physicians by judges.

• **Item:** With the advent of the late, lamented hard market and claims-made policies, the primary property/casualty insurance companies in the United States have abandoned risk taking in favor of money recycling. Since insurers are out of the risk transfer business, why not let banks—experts at money recycling—into the insurance business?

• **Item:** The legal industry, together with the property/casualty

insurance industry (i.e., the tort/insurance system), have more significance in our country's economic life in terms of gross national product than the American automobile industry. Neither insurance companies nor lawyers have any economic motive to make meaningful changes in the tort/insurance system.

• **Item:** The death, disaster, disability disease and destruction business (i.e., the tort/insurance system) has acquired the mystique of a religion and a concomitant exemption from the operation of normal economic rules. Lawyers talk about retaining "rights" and insurance executives speak of the "vital public service" performed by insurance. Both are correct—until one examines the costs.

• **Item:** The societal cost of the uneconomic tort/insurance system is even more diffused than taxes; it causes no one group any sharp pain, nor is there one consumer group that critically examines the costs of the system in its entirety. In contrast, the actual beneficiaries of the system (the lawyers and the insurance companies) have a direct and immediate, joint and several interest in preserving the system's status quo.

Millions of people depend for their livelihood upon a system that is erratic and redundant, and one which heaps most of its rewards on middlemen.

There are more troubled times ahead. The legal profession has attracted the "brightest and best" and now must feed them. The insurance industry's continuing retreat from the business of insurance will inspire judges, lawyers and regulators to find new ways of making the "deep pockets" stay deep and relatively full. Toxic tort litigation will slow down, but will remain with us for another generation. Insurance coverage litigation and its stepchild, insurer insolvency, will flourish for a few more years.

Hopeless? No. But the corrections will be difficult to make and will be a long time coming. The system will, ultimately, right itself because the purpose of the insurance is to insure.

Eugene R. Anderson, a partner with Anderson Russell Kill & Olick in New York, has represented policyholders in numerous coverage disputes with insurers, including Keene Corp. in the historic Keene vs. Insurance Co. of North America litigation. He also is an outspoken critic of the insurance industry's effort to adopt claims-made policy forms for general liability insurance.

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# Reciprocals are viable alternative

By A. Grant Whitney

**E**VEN THOUGH reciprocal exchanges have been in existence for many years, they are still the least known and utilized of all forms of insurance companies. However, as of late, much has happened that indicates this picture is changing.

Due to the many problems that developed during the three-year period from 1983 to 1985, losses of property/casualty insurance companies totaled in excess of \$50 billion, causing many property/casualty insurers to become insolvent and many others to be on the verge of insolvency.

Risk managers, confronted with this difficult period, found it almost impossible in some lines to

secure the proper amount of insurance to protect not only the assets of their organizations but liability insurance sufficient to offset the large and constantly increasing verdicts handed down in the U.S. courts.

This situation literally forced risk managers to immediately search for other means of securing the coverage they must have to properly protect their organizations.

Many organizations established offshore captive insurance companies in Bermuda, the Cayman Islands or the like, believing that this was the answer to their problems.

However, it hasn't proven itself to be so, and many offshore companies are now moving back to the

**Reciprocals are an alternative to stock and mutual insurers for groups considering captives.**

United States.

In the meantime, the Risk Retention Act was approved by Congress, with both the House and the Senate casting an almost unanimous vote for its passage.

This law permits and encourages corporations of like kind to band together and form a captive company—with such a captive insurer in reality being a reciprocal—to

properly insure their needs for the future.

Already, many organizations of like kind have taken advantage of this law. And, as these prove successful in their development, many more will be formed.

Another plus for establishing such a company is that it only needs to be licensed in one state and may operate in all 50. This gives great latitude for buyers to turn to this type of organization instead of confronting the possibility of another period where the property/casualty insurance industry might relive a 1983-1985 foray.

What truly is a reciprocal exchange? A reciprocal has two distinct parts:

- An unincorporated association made up of its members or subscribers.

- An attorney-in-fact, usually a corporation that manages the insurance and business affairs of the association.

Reciprocals are like captives in many ways, for the subscribers receive all the benefits and take all the risks, with every subscriber of the reciprocal being an insurer of every other subscriber. But a reciprocal, unlike a mutual insurer, permits segregation of accounts instead of a pooling of accounts in a general fund. Thus, the big difference between reciprocal and stock/mutual captives is the several—not joint—liability of its members for losses.

The prime requisites of a reciprocal exchange are a multiple-corporate setup and a spread of risks. An organization consisting of multiple subsidiary corporations with a single parent would not be able to use a captive reciprocal. Reciprocal exchanges are not corporations, but unincorporated associations.

It would go against the intent of reciprocal legislation for an association's members to have a common parent.

Under the purest form, individual profit and loss accounts are kept for each member. Each is credited with its premium contribution and share of investment income. Each is charged its assessments and share of management fees, reinsurance costs, operating expenses and losses. When a member withdraws, the balance of his account is refunded.

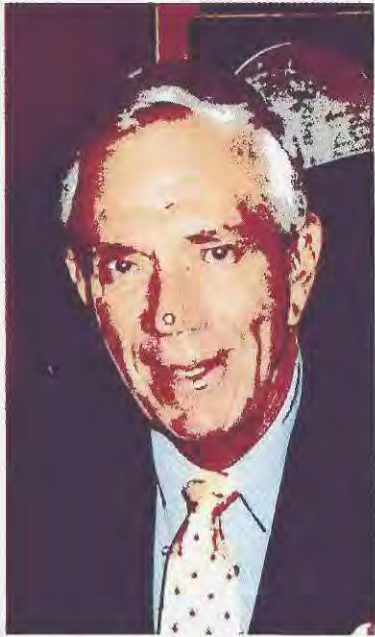
This separation of accounts is one of the fundamental differences between a reciprocal and stock or mutual group captives.

Naturally, the success of a reciprocal depends on its attorney-in-fact, which would have little to lose if the reciprocal fails through having accepted poor business. Therefore, the attorney-in-fact must be chosen carefully.

Reciprocals, even though they are the least known form of insurance companies, are an alternative to stock and mutual insurers for associations or groups considering captives. If properly organized and well-operated, they will be a successful and profitable organization.

Therefore, I would place my vote on a long continuing future for reciprocal insurance. I believe it is in its infancy. ■

*A. Grant Whitney is executive vp of Belk Stores Insurance Reciprocal in Charlotte, N.C., which he founded in 1950. He also established Archdale Mutual Insurance Co. in 1963. He has served as president of the Risk & Insurance Management Society, chairman of the National Assn. of Independent Insurers and president of the Captive Insurance Companies Assn.*



Mr. Whitney



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# Problem solvers will excel in future

By Warren G. Brockmeier

IT IS SAID that actuaries steer their automobiles by looking in the rear-view mirror. While that is not very practical, it's still a good idea once in a while to check where you have been, where you are at and where you are going.

Twenty years ago the major thrust of the risk management consulting profession was in the conduct of insurance program audits, with their virtue being the independence and objectivity that the consultant brought to the audit. A secondary but still important function was the drafting of specifications and evaluation of competing proposals for insurance coverage.

These functions still exist, but to a significant extent they have been eclipsed by other services.

Consultants must be responsive to the needs of their clients. Those needs have grown and evolved through the years. Today they include consultation on risk management administrative procedures, design of risk management information systems, consultation on risk financing alternatives, assistance in the formation of limited-purpose insurance companies and a variety of other risk pooling devices, actuarial services for loss projections, reserve evaluation, cost allocation, claim audits and numerous other specialized services.

From this base of varied and diverse services, involving a team of specialists, the future of risk management consulting will again track with client needs. Those services in demand will probably include:

- Research, information collection and data analysis.

We live today in an information society. Computers, software and communication technology surround us. However, insurance companies and the insurance brokerage firms have not generally made data from their files available to the insurance-buying public.

The need for data for intelligent decision making has already been met to some degree by consultants, who have published surveys, newsletters and other information of value, and have compiled proprietary data bases. This activity will increase, and available information will be augmented by the mandatory release of loss experience by insurers under state regulations in a number of jurisdictions, giving policyholders the right to information on their accounts.

Merely having this data will be futile, unless it is intelligently processed, interpreted and the results applied in a meaningful way. Consultants will play a major role in the development of better information sources in the future.

- Designing for flexibility.

The last 20 years were largely an era of corporate growth and diversification, with words and phrases like "conglomerate," "advantage of scale" and "centralized control" the popular buzzwords.

The recent past has seen a new trend with new buzzwords like

**The window of opportunity to create new and innovative group liability programs has just opened. Consultants will have to be equipped to aid in their birth and development and help in the diagnosis and treatment of those that are ailing.**

"break-up," "spin-off" and "leveraged buyout." There is ample evidence that rigid structures with strong central control over diverse operations are no longer in vogue.

The corporation of the future will look for maximum flexibility in its risk management programs and their administration. Individual profit centers will be given

greater autonomy in the development of portable and self-sufficient programs of insurance, claims control and loss prevention. Multiple broker relationships and reduced central staff will be the norm, so consultants will increasingly be called upon to play a major role in the development of flexible and decentralized programs.

- Involvement in development and implementation of risk retention groups and group purchasing plans.

The window of opportunity to create new and innovative group liability programs has just opened. Consultants will have to be equipped to aid in their birth and development, help in the diagnosis and treatment of those that are ailing and provide such services as claim audits, loss prevention and educational programs and actuarial services to those that are successful.

- Dealing with complexity.

Because of the diversity of insurance products and policy forms, and the rapidity of change of insurance programs, consultants will

*Continued on page 77*



Mr. Brockmeier



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Warren G. Brockmeier is vp for the risk management consulting practice in the Chicago office of The Wyatt Co. Mr. Brockmeier, whose consulting and risk management career spans 39 years, pioneered Wyatt's survey of directors and officers liability claims experience and the D&O insurance market in 1973. Most recently, he was the consultant to the formation of Bankers Insurance Co. Ltd. in Bermuda.



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Continued from previous page  
and disciplines under one corporate banner must be used for the benefit of the client. Each unit must understand that its mission is to operate in the client's best interest.

The trend toward consolidation of brokerage operations in the United States began in the 1960s and set the stage for the process of integrating services. As the smaller regional brokers began to service more diverse clients, they realized the need for additional services and offices and a sharing of the expertise that only a few people had. The result was the large consolidation, and major insurance brokerage firms, including Rollins Burdick Hunter, witnessed tremendous growth in this time period.

As the insurance cycles became ever compressed and more erratic, the need for alternate methods of handling risk also became increas-

**The divisions between benefits, property/casualty, brokers and underwriters are artificial, yet very real. They have produced an information gap that has acted as a barrier to providing further services for the client.**

ingly apparent. Once again, the major insurance brokerage firms in the United States responded by establishing risk management divisions, captive management companies and provided for many of their clients direct access into the reinsurance marketplace. They also set up consulting divisions that developed alternative methods of financing risks and pooling risks among diverse entities. The brokerage community has actively supported the implementation of such financing techniques, such as the Risk Retention Act of 1986.

All this consolidation has led to an increased sophistication in risk management, both on the part of the client and the broker. As brokers become more competitive, they constantly seek out new methods to gain a competitive advantage and provide better service and products for their clients.

We now are seeking to inculcate disciplined understanding of the differences between brokerage and underwriting and the need for separate management, pursuing distinct goals. Under proper and ongoing control each separate skill

can be used to produce a synergistic effect for the benefit of the client. The independence is essential.

For example, there has been a substantial need for better management of corporate assets through utilization of a variety of techniques that have been developed in the insurance industry. While captive utilization is no longer a viable tax management option, other options may be available, such as the use of corporate owned life insurance for the purpose of providing the funds necessary to offset liabilities that remain on the balance sheet and could not be funded with pretax dollars. These techniques have not been widely utilized, because of the present division between the brokerage and underwriting side and also between the financial and benefit side of the clients.

In the past, property/casualty brokers would not normally be familiar with products that directly



Mr. Ryan

impact the financial side of a client's balance sheet. Likewise, the insurance companies offering such products generally do not have access to the proper parties within an organization to adequately present and redesign these products. The divisions between benefits, property/casualty, brokers and underwriters are artificial, yet very real. They have produced an information gap that has acted as a barrier to providing further services for the client.

In this next stage of consolidation, these communication barriers will be removed without altering separate professional missions and distinct markets. Blending of techniques, utilizing the tax benefits and cash accumulation afforded through life products can be valuable in offsetting some of the costs that are incurred by a client on the property/casualty side. And these benefits need not be solely related to insurance; they can be financial benefits that can provide a direct and positive impact of the client's bottom line.

We see this concept of disciplined alliance within a single holding company as being one which, if done properly, can benefit the client. Not only will there be reduced costs associated with a more streamlined operation, but it creates an environment for increased innovation and cross-discipline training. Within an organization such as Aon, numerous avenues also are available to employees. We are able to retain key people and provide them with a diverse and challenging career, with the opportunity to become experienced in different, but related, disciplines as their career needs change. This enables us to produce a depth of talent that will be unmatched in non-integrated organizations.

We see this next state of unification as one that is primarily client-driven. The interfacing of the skills and abilities of each of our five major subsidiaries has led to an efficient sharing of resources, cost reductions and development of other business opportunities. It has been accompanied by an ongoing commitment to recognize the distinct missions of each of our operations. With this discipline, Aon intends to be in the forefront of providing integrated services in a cost-effective manner.

Consolidation can thus be, not a commingling, but rather a disciplined cooperation in the interests of meeting the growing challenges of our clients' needs. ■

*Patrick G. Ryan is president of Chicago-based Aon Corp., a pioneer in integrating the many aspects of underwriting, brokerage and risk management services under one corporate umbrella. Mr. Ryan also is chairman of Rollins Burdick Hunter Co., an Aon unit and the nation's seventh-largest insurance brokerage.*



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# Claims-made form will ensure continuity

By Peter S. Wilson

UNFORTUNATELY, the insurance industry has a reputation for short memories.

By the fall of 1984 and the early part of 1985, the U.S. market was faced with a crisis in the casualty sector resulting in a severe lack of capacity and massive premium increases. This situation was brought about by four years of intense competition and the culmination of disastrous underwriting results. Every major insurer of casualty business in North America was required to strengthen reserves due to past inadequacy and totally review their underwriting strategy.

This action caused underwriters to very quickly realize that the establishment of adequate reserves for incurred-but-not-reported losses was of paramount importance. It also was apparent that past methods adopted for the calculation of these reserves were shown to be entirely unsatisfactory.

As a result of the reserve deficiencies, the risk-taking market realized there was a need for an immediate solution to the problem and the claims-made concept emerged, albeit that this was nothing new since for many years certain professional liability and directors and officers liability coverages have been underwritten on this basis.

The leaders of the underwriting community for North American primary and excess liability policies showed great interest in the claims-made language and produced many positive arguments in favor of this language compared with the traditional—but questionable—occurrence policies. The industry was assisted by the Insurance Services Office, which gave its support with a recommended primary claims-made liability policy form.

The wheels of the American risk-takers were slow to turn, and perhaps the ISO suggestions were not ideal. In addition, insurers



Mr. Wilson

also had to take note of comments made by both the industry's regulators and their policyholders. Hence, little change took place.

Unfortunately, today the memories of the early 1980s competitive market and policy language problems have quickly faded from the minds of many insurers. The threat by some state regulators to force insurers not to change policy language, not to restrict existing coverage conditions and not to increase premiums may be ideal for the policyholder, but from the standpoint of the insurer, one has to question why this attitude prevails.

The commodity many casualty insurers are selling has been a "loss leader," and one wonders how many of an insurer's policyholders would be happy for their "core" products to be sold without profit for any length of time.

The casualty market has had a long history of cycles, which have resulted in a swing from overcapacity and under-pricing to re-

duced capacity and over-pricing. This scenario is not in keeping with the objectives of the product being sold by the insurer. An excess liability policy is designed to allow the policyholder to transfer risk excess of an agreed underlying amount at an economical cost with the knowledge that the insurer is building a premium bank to enable capacity to be maintained and used when the catastrophic losses occur. Therefore, the buyers with major loss exposures need to have assurance from their insurers that they will receive continuity of coverage and limits, plus stabilized pricing.

Many insurers' past track records have no demonstrated continuity of coverage or stability in pricing. This must partly be attributable to the vagaries and misinterpretation of the occurrence policy language.

In London, our underwriting team at H.S. Weavers (Underwriting) Agencies Ltd. was concerned with the problems of dealing with the U.S. legislators, and it was apparent to us that an alternative to the occurrence language was needed in order to ensure a return to profitability in the casualty market. Our excess liability claims-made form was the first to be marketed to the major buyers of umbrella-type coverages in the United States, and I predict that claims-made coverage will be maintained for the foreseeable future, particularly for the buyer looking for true transfer of risk on an excess basis and for those wishing to establish much needed continuity with their insurers.

As a writer of claims-made policies, we recognize that should for any reason we part company with our policyholders either by not renewing the policy or the imposition of an exclusion, then it is essential for us to offer a reasonable discovery period. The conditions available in our current policies do provide our policyholders with this level of comfort insofar as seven years is granted should we not renew, cancel or impose an exclusion in a policy.

The alternative to claims-made coverage is a return to the conventional occurrence-type policy, though I do not foresee this as being a viable proposition for high-risk accounts, particularly those with a heavy product liability exposure. Some insurers may feel these types of risks still can be underwritten on the occurrence form but with a sunset clause. If this is the case, the policyholder is in much the same position as with a claims-made policy containing reasonable discovery conditions.

With these options to consider, a policyholder must seriously look at the long-term financial condition of its insurer as today there are many cases of occurrence insurers not being able to, or wanting to, honor their obligations under policies issued some years ago under which claims are now emerging.

With a claims-made policy the policyholder has the satisfaction of knowing that the premium invested today will be used to pay today's claims. The insurer is also able to evaluate the result of its underwriting account far sooner than with a portfolio of occurrence-type policies, thus allowing premium rates to be assessed in the light of current claims experience and, therefore, leading to greater financial stability of the insurer.

One can only conclude that claims-made is the ultimate solution to a strong financial climate amongst insurers that will, in turn, provide the much-needed continuity of insurance coverage and the maintenance of risk capacity.

*Peter S. Wilson, managing director of H.S. Weavers (Underwriting) Agencies Ltd. in London, is the architect of the 1985 Claims-Made Liability Wording for Excess Business, a form widely used in the London market for U.S. excess liability risks. Mr. Wilson also is a leading underwriter of U.S. liability business in the London market.*

# Lloyd's to remain a key market for U.S. risks

By Robin A.G. Jackson

LONDON has been a major market for commercial insurance for many years, particularly for North American-based business. The amount of business it has written and its influence has varied with the inevitable cycles of the market. Generally, these periods have coincided in respect to both first-party and third-party business.

Following Hurricane Betsy in

1965, Lloyd's for a number of years thereafter played a declining role in the U.S. direct property/casualty scene as Betsy considerably reduced the amount of capacity in London. It was some years before Lloyd's and the London market regained much of the ground that had been lost.

In retrospect, this loss particularly on liability business, turned out to be somewhat of a godsend because it considerably reduced the London market's writings of

umbrella liability insurance, which meant that asbestos losses, for example, were smaller than they would have been had Lloyd's continued to write such a significant share of that business.

While concerns about the U.S. legal system have cooled some underwriters' enthusiasm, I believe it is inevitable that London will continue to play a significant role in the U.S. commercial insurance environment. In the short term, I think that role will be larger in

property insurance than in the third-party liability area. The appalling consequence of the American legal system, particularly with regard to policy interpretation, document discovery and court awards, will inevitably mean that unless the business can be underwritten on forms acceptable to the London underwriters, London will play a smaller role on general liability business.

Specialized classes of insurance such as professional liability, directors and officers liability and bank business will, I believe, continue to be written in London as long as underwriters feel an underwriting profit can be made. With regard to property insurance, notwithstanding most underwriters' concerns about earthquakes and hurricanes, there will remain a market willing to consider most reasonable propositions.

On non-North American business, while, once again, I believe there will be more enthusiasm by underwriters for first-party coverage, it is probable that London will be looking to increase its share of the non-U.S. premium business. Certainly, as far as Europe is concerned, this should be true where the London market's ability to put together imaginative insurance programs should appeal to major buyers of insurance when political problems can be resolved to allow London to compete on equal terms.

The London market will, however, have to make a number of changes in the course of the next few years in the way in which it transacts its business. Much more use will have to be made of modern technology to pass information between brokers, companies and underwriters.

If London is to continue to be a major insurance center for commercial business, the mechanics



Mr. Jackson

must work as well as the up-front negotiations. We must significantly curtail the amount of rather unnecessary paper movement that goes on at the present; for example, changes must be made in the handling of liability claims. On major placements, it is no longer logical for the broker to have to get authority from every single underwriter before the claim can be agreed and settled. The whole claims process must be rationalized.

*Continued on page 76*

*Robin A.G. Jackson, a director of Merrett Holdings P.L.C. in London, is underwriter for Lloyd's of London Syndicate 799, Lloyd's largest non-marine syndicate. Mr. Jackson is the leading underwriter of North American risks at Lloyd's and has spoken extensively in the United States on liability insurance issues and Lloyd's.*

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# Growth, diversification keys to success

By Patrick G. Ryan

AS THE ECONOMY of the United States becomes more global in nature and business continues the two diverse trends of spinning off operations and consolidating, the insurance problems corporate decision makers face become increasingly complex.

As in the past, the insurance industry has responded to the increased demands for responsive service and a worldwide network for coordination of insurance activities of many of their clients. In recent years, however, the dramatic growth of full financial services has created an environment where the distinction between the services and products offered by financial institutions and the insurance industry is blurred. Insurers are facing ever-increasing competition from non-traditional sources such as banks and stockbrokers, mutual fund companies and the direct response industry.

It is still too early to tell how well the insurance industry is responding to the challenge. What is known is that this change is here to stay and insurers as well as financial service providers are positioning themselves to take advantage of the coming opportunities. Insurers are taking steps to compete in this changing marketplace. They are broadening their positions through acquisition and diversification within the wider parameters of financial services. They are examining their product lines and are including investment-oriented insurance products. Those that will succeed, to paraphrase Will Rogers, are those who recognize the change and capitalize on it.

Like others, we at Aon Corp. are positioning ourselves for the future. We bought Life of Virginia, among many reasons, because we believe in the fact that consumers are going to be buying investment-

**In recent years the dramatic growth of full financial services has created an environment where the distinction between the services and products offered by financial institutions and the insurance industry is blurred.**

driven life insurance products. Additionally, we and others are broadening our distribution networks.

In the last six years, through acquisition, we have developed into a leading insurance marketing organization with strong market positions in life insurance, accident and health and speciality property/casualty lines. At the same

time, Rollins Burdick Hunter Co., our insurance brokerage business, has developed a reputation as a dynamic professional organization building a full array of high-quality risk management capabilities. With our acquisition program we have achieved a successful combination of product, service and distribution capabilities that we believe will serve our clients and

customers well in a changing environment.

What then is our view of this consolidation, the impact it has on the operations being brought together and their ability to properly serve their respective markets?

Aon's approach to the issue has been centered on the fundamental belief that the coming together of various insurance-related operations under one corporate banner must be driven by an unyielding attention to the needs of the distinct clients that each of our operations is individually designed to serve. Each must understand its separate mission and maintain an unwavering dedication to the strategic goals necessary to succeed in the defined industry segment within which it operates.

When, and only when, the separate units' strategic goals find themselves aligned in a marketplace opportunity to provide an innovative response to a client's needs will Aon look to an alliance of its units. We believe that this adherence to a disciplined view of separate strategic goals, oriented to success in distinct markets, gives us both an insight into innovative products and services and also the proper tension to avoid misusing any of our capabilities. Both the separate profit strategies and the distinct markets must come into full alignment before we will consider joining the resources of one Aon unit with another.

Thus, in order to be effective, the cooperation among various units

*Continued on next page*



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## Reinsurance will remain an integral mechanism

By N. David Thompson

**T**HE FUTURE of the reinsurance business depends largely on the future of the insurance business of which it is a part.

If the insurance industry further consolidates so that there are a relatively small number of very large insurers and a large number of regional or specialty companies, there will be an effect on reinsurance needs. These insurers don't typically need much in the way of working covers but instead buy high excess or clash covers as well as property catastrophe coverage. However, large capacity needs will still be met by turning to reinsurers.

Overall, this is likely to mean more volatile reinsurance results from this sector of the market as we will be dealing more and more with the large and unpredictable loss event. This will also require more underwriting skill at the reinsurance level than has ever been the case. There will be a premium for first-rate underwriters and other professionals who will be compensated at very significant levels.

At the same time, history demon-

**History demonstrates that this country will always be a fruitful place for insurance niche players.**

strates that this country will always be a fruitful place for insurance niche players. The entrepreneur who brings a better product to a specialized marketplace or who can provide high service in a particular region or line of business will always have a place. Many such companies have high reinsurance needs. Competition for their business is likely to continue to be strong.

The need of reinsurers to spread peak exposures over a broad base requiring worldwide involvement will be no less and probably greater than today because big casualty exposures are becoming more and more common. And large property risks also are becoming more common because of technological changes. We will continue to need worldwide capacity, and this means that the business is likely to become more and more international.

Will reinsurers engage in forward integration? The answer is probably only in special circumstances. Reinsurers don't want to compete with their clients.

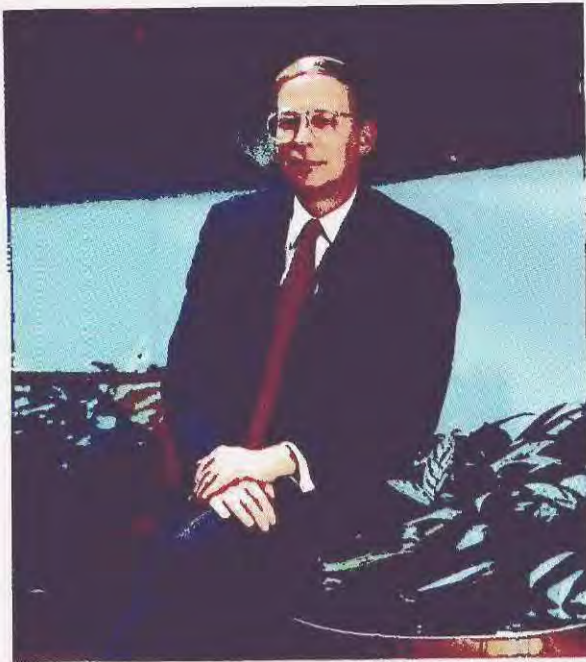
Will the composition of the reinsurance industry change? This, too, is possible as some companies may not be able to weather possible adverse loss development in liability lines. This is especially true regarding environmental claims that represent a big unknown. Also, if the industry fails to solve the problem of earthquake exposure beyond the ability of the private sector to respond, we then may see some old names disappear.

Barring extreme events, the

business will continue to attract new capital whenever the market firms up and to see withdrawals from the industry when results turn bad.

On balance, it is likely to continue with a relatively small number of large companies, but there will still be a substantial part of the market consisting of smaller companies, often subsidiaries of overseas or domestic insurers.

Overall, the reinsurers that survive will have developed highly professional staffs and are likely to be able to offer clients a wide range of services, including claims consulting, engineering and specialized capacity that will help resolve financial needs. ■



N. David Thompson, president, North American Reinsurance Corp.

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N. David Thompson, president of North American Reinsurance Corp. in New York, is a past chairman of the Reinsurance Assn. of America and immediate past president of the National Assn. of Casualty & Surety Executives. Mr. Thompson is a frequent commentator on reinsurance issues.



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# Risk management automation comes of age

By Richard F. Denning



Mr. Denning

**T**OM HARVEY was nervous. Although he had assumed the position of risk manager at Proton Blasters eight months ago, he had never met his boss in person. Communications via telephone, computer links and holographic imaging put people in seemingly close contact with relative ease. However, some events did require face-to-face communication. The approval of the 2007 annual budget and business plan was such an occasion.

The meeting was scheduled for 2 p.m. Tom came into the office at 8:00 a.m.—unusually early. He did have a lot to do. Yet reflecting on the 1980s, he smiled in thinking how his counterparts 20 years ago

had to undertake these studies months before the end of the year and with huge staff commitments. Although they possessed computer data bases, they did not have access to Tom's analytical procedures and flexibility.

Waiting until the last minute to pull together his annual budget was not poor planning on Tom's part. No, he wanted to wait until every bit of actual data became available and could thus be incorporated into the analysis.

Using a module lovingly called the "artificial actuary" (AA), Tom ran this program against his company's loss experience. Naturally, the structure of the data allowed the analysis of every payment and reserve change on each claim. Where experience was limited (for

example, the company had only a small fleet of high-speed helicopters), the AA would supplement the experience with a broader data set. In the same way, a major loss might distort the experience base so the system applied some statistical techniques to limit the impact.

Of course, some actuarial uncertainty was reduced by data system improvements. For example, because of broad financial disclosure rules, Tom had access to the loss reserves maintained by the opposing parties. In addition to loss data, there was a calculation of effective exposures. The variables affecting claims tracked both exposures internal to the firm and factors from the economy in general.

AA had full knowledge of the firm's financial structure and financial reporting conventions. Thus, when it finished the calculations, it produced a summary report of the specific financial impact. In setting these budgets, Tom also used his broker to provide an artificial intelligence service for structuring and purchasing his insurance policies.

Dubbed the "London Connection," this program maintained all the negotiations relevant to the risks of Proton Blasters. Using it, he was advised on the precise way to finance the underlying program and provided with a good estimate on the premium on the excess layers.

Before printing the summary, Tom and AA carried on dialogue concerning his reaction to AA's findings. Tom's human knowledge could override an assumption, and then AA would only footnote his reason for recommending the original point.

With the budget finished, Tom turned to the task of allocation. Each unit was expected to pay for its share of losses, but few companies wanted the confusion and labor associated with tracking losses from month to month. Instead, Tom's department had become a bona fide underwriting unit. It analyzed the trends in each unit and gave them a guaranteed premium program. Theoretically, a unit could opt for self-insurance if it felt the cost was unfair. Since the AA program had access to the most current exposures and loss experience, few units chose to risk the alternative.

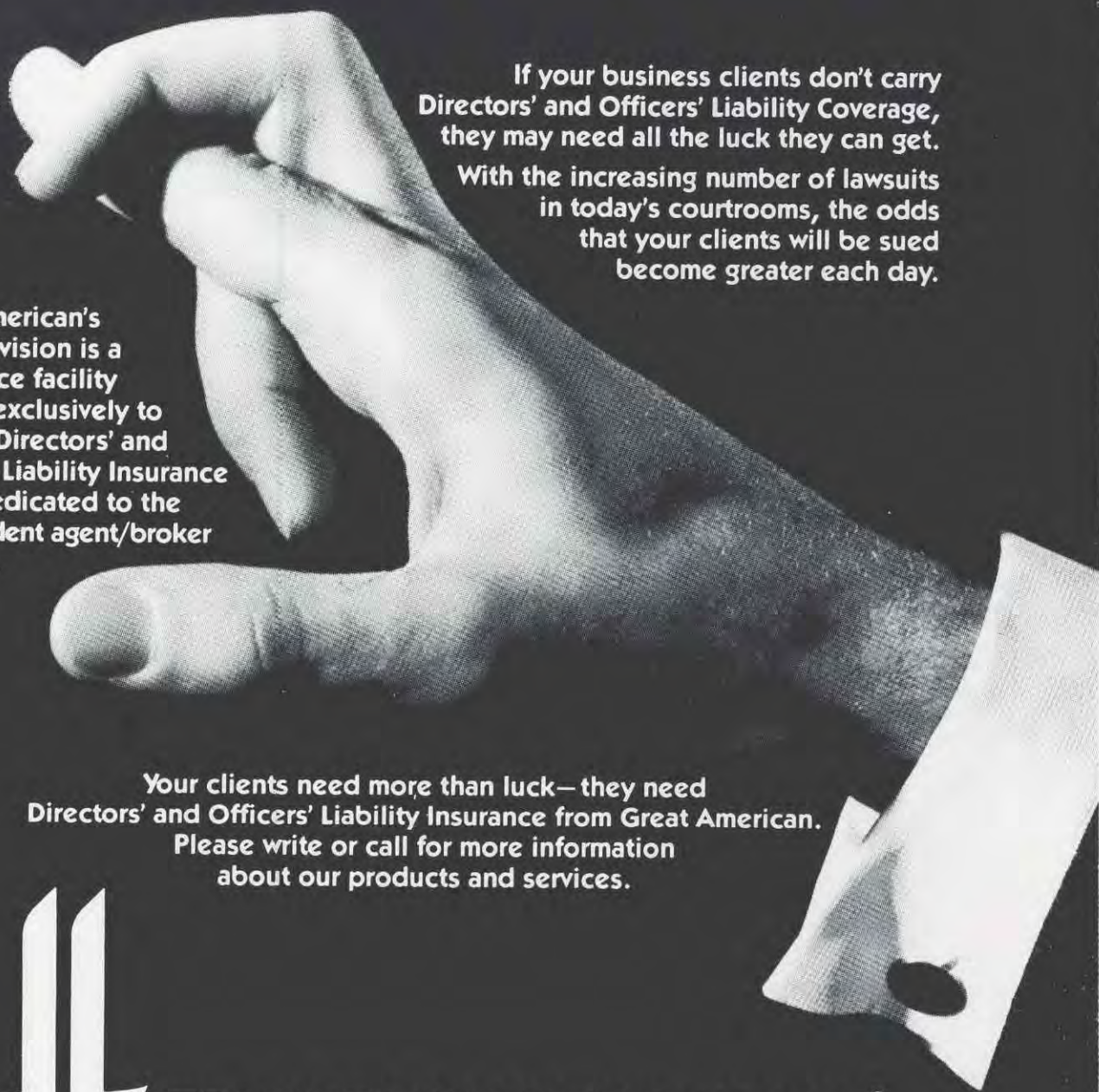
The data base that supported this effort was connected to the overall accounting structure of the firm. Every reorganization, divestiture, etc. was immediately reflected in the allocation program. Month to month results were tracked with the budgets. Units that were tracking either above or below expectations were alerted to the bad or good consequences their experience was going to have next year.

Tom's crucial function was to stop losses before they occurred. In fact, the biggest component in his budget was not for paying losses, but for preventing them. The excess of funds developed by the underwriting allocation program was used to set up programs to stop losses from happening. The record of each loss or serious incident was immediately entered from terminals on the shop floor and every public communication module (what used to be telephones) allowed easy and private access into Proton's data base. In query mode, the system could get good quality input data from even a child. In some cases, the machines themselves provided input on all incidents which might lead to claims. Drunk driving was nearly impossible in 2007!

In the 1980s, computers disgorged more paper than people could interpret. Exception reporting was indeed the exception, not the rule. In Tom's era, another program monitored the day-to-day and week-to-week pattern of incidents and losses. Control was on a department level. And as soon as a significant deviation was detected, a warning was issued. Very powerful pattern recognizing programs continually reviewed the data to

*Continued on page 76*

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*Richard F. Denning, president of Risk Sciences Group in Atlanta, a unit of Crawford & Co., is a pioneer in the development of risk management information systems. He formerly was a vp at Anistics Inc.*

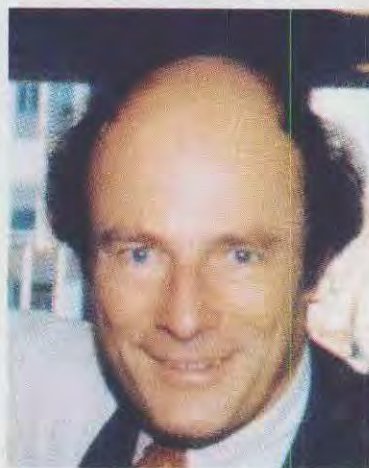
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## Broker's role in industry is deal maker, advocate

By Robert Clements



Mr. Clements

A DISTINGUISHING characteristic of commercial insurance is that the product is mostly merchandised to the buyer's representative rather than through the producer's agent.

This unique system, though it developed largely by accident, has become a great strength that grants economies both to the buyer and seller of insurance and generally promotes efficiency within the industry.

Another distinguishing characteristic of the commercial insurance market is that the magnitude of risk that the purchaser seeks to transfer is normally greater than the risk-bearing capacity of any one insurer.

Thus, great skill is required in assembling the aggregate capacity of multiple insurers and allocating responsibility among them in order to avoid unnecessary costs and to achieve a coordinated, smoothly functioning result.

In all of this, the role of the broker is as problem solver, deal maker and advocate.

In 1901, Henry Marsh wrote to a prospective client: "Your problem is not insurance, it is risk." For the rest of the century to date, the dimensions of risk have expanded at a rate that has constantly challenged the insurance industry to keep up.

Given the ongoing pace of technological change and rising levels of social expectations, there seems to be good reason to anticipate a continuation of this trend. For brokers, the prospects are not discouraging, but in every sense challenging.

Continued growth of opportunity is a likely scenario, but who will benefit cannot be predicted with certainty.

The only certainty is that there will be winners and losers, and the winners will be those with the most highly developed ability to respond to change when necessary and the foresight when possible to initiate change for the benefit of those whose interests they are in business to serve.

Two developing trends are likely to continue:

- Brokers have become a major source of new product development.

As established insurers increasingly recognize the growth potential to be derived from participation in this activity, it will not necessarily require the raising of new insurance capital.

- The national and international characteristics of the brokers make it far less necessary for insurers to duplicate their underwriting skills at multiple locations.

At least in the marketplace for medium and large commercial risks, the trend toward more centralized underwriting is likely to continue.

This will lead to lower overhead, as the cost of duplicating office networks in wrung out, and even more importantly, it will lead to better underwriting, as industry specialization leads to less ambiguous policy forms, more finely tuned pricing and, most desirable of all, increased stability in the market. ■

*Robert Clements is president of Marsh & McLennan Inc. in New York, the world's largest insurance broker. Mr. Clements' contributions to commercial insurance brokerage services include the genesis of A.C.E. Insurance Company Ltd. and X.L. Insurance Co. Ltd.*

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# Alternative facilities to be accepted

By John R. Cox

**T**WENTY YEARS ago, the insurance industry was in the early stages of a fundamental change in its underwriting mechanics.

The concept of gross-line underwriting—where an insurer issued its paper in large amounts of capacity because it had predetermined reinsurance facilities that reduced its exposure on a proportional basis, many times from the first dollar—was emerging. This replaced the technique wherein the underwriter assumed the risk totally for his own account, protected only for unpredictable catastrophic events.

For a multitude of reasons, summed up by the fact that reinsurers experienced horrendous re-

sults, this came to an end in 1984-85.

Enter the broker/investment banker-initiated capital formation designed to replace this underwriting capacity. These were different from the recent vintage, which were motivated by cost-reduction, tax-saving facilities. These companies were created much like those 100 and 200 years

ago. They were to provide protection when none was available. The capital was provided by those needing coverage, not by risk venture facilities seeking a better return on their investment than was currently available in the investment arena.

Some cogent facts pertaining to these companies are:

- They have significant perma-

nent capital.

- The owners are sophisticated investors.

• They are not encumbered by regulations which of necessity in the United States are designed to protect innocent purchasers of insurance. There are no innocents in these facilities.

• The coverage is claims-made. The longer the companies exist, the more difficult it is to replace the time gaps lost by changing markets.

• The limits offered are in excess of what can be achieved in any traditional market. When limits are piecemealed, variations in coverage take place.

• The companies created have professional insurance management.

**The concept of gross-line underwriting emerged 20 years ago, replacing the technique wherein the underwriter assumed the risk totally for his own account, protected only for unpredictable catastrophic events.**



Mr. Cox

• They started with a clean sheet. They do not write involuntary business. They do not have to participate in guaranty funds. They do not have the high social overlay of premium taxes, large workforces who have imbedded benefits or a history of contracts outstanding wherein the courts continue to add new legal responsibilities for things that were never contemplated or charged for.

• Limited purposes allow efficient, low-overhead, responsive environments to be created.

So then, where will they be 20 years from now?

Some will cease to exist because

*Continued on page 76*

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# Industry must learn from its past

By Maurice R. Greenberg

IT IS DIFFICULT to try to project the future of the insurance industry: 20 years is a long time. A lot has happened over the last two decades, and the next 20 years will bring changes as well.

In the past decade, the insurance industry survived a crisis, barely escaping with its skin. However, the remnants of that crisis are neither fully appreciated nor sufficiently dealt with.

First, the subject of a great deal of uncollectible reinsurance is yet to be addressed, and this problem is very large for some companies.

Secondly, the reserve adequacy of the industry is about 6% deficient, according to Insurance Services Office statistics. I think the percentage is even higher—at 8% or 9%.

Finally, the Tax Reform Act of 1986 is very costly to the insurance industry. It is going to deprive the industry of a significant amount of cash that will go out in taxes on a statutory basis. Even those companies with large net operating losses will feel the pressure, chewing through that very quickly. As 1988 arrives, the industry will be confronted with the reality of the financial costs of the new tax law.

In light of the circumstances surrounding the recent past, it is amazing how quickly the industry has either forgotten or simply erased from its memory the sicknesses that are still floating around, acting as if it is well when it is not.

I think that the health of the industry itself is questionable. There are companies within the industry that are healthy and thriving, but as a whole sickness is prevalent.

One of the major ailments hindering the industry is the \$2 billion dollars in insolvency that it must absorb in 1987. That number will continue to rise in 1988 and 1989 as more insolvencies occur.

In the face of this financial drain, it is bewildering to think about entering into a fresh wave of rate-cutting. I have to predict that the future will bring with it an inevitable crisis that will force the industry to seek outside advice on how to get itself back on more solid ground.

However, I am not sure that the regulatory process today is capable of dealing with the problems that the industry is facing and, in fact, a new innovative methodology for regulation may be required.

In order for the industry to overcome these natural and cyclical forces, it has been suggested that some type of outside commission be created to study possible reform measures that might be helpful if implemented. Unfortunately, these types of committees are rarely established until a crisis actually hits and the best minds are put to work.

Currently, the system for insolvency makes no sense. A company can lose its business to a rate-cutter that knows nothing about the business. They then go broke, and the company that lost the business to them has to pay for the insolvency. This method hardly fits any system of free enterprise that makes any sense. It seems to me that the buyer should be aware of where he places his business and

**In light of the circumstances surrounding the recent past, it is amazing how quickly the industry has either forgotten or simply erased from its memory the sicknesses that are still floating around, acting as if it is well when it is not.**

the broker should have a greater sense of responsibility.

Unless we have discipline in the marketplace, we will continue to have these roller-coaster behavior patterns. Clearly one of the reforms that must occur is one that will diminish the obligation of solvent companies to bail out those that, for whatever reason, get themselves into that position.

When you fail as an insurer, all healthy insurers pay the price and that is not right.

I don't know whether state regulation can effectively handle the situation, either. Perhaps, separating the regulatory process into two different systems is a recommendation worth examining.

On one level, personal insurance and small risks that fall within the

realm of state legislation could be state supervised, while those risks that involve interstate commerce might be regulated by something on the order of a Federal Reserve Bank, where top individuals in different disciplines work together to reduce the incidents of bankruptcy.

I predict that the next decade will bring forth a debate on how to accomplish this, probably resulting in the development of a system that will be far more scientific than the one that now exists.

After this hard market, which was only yesterday, many states were up in arms about price increases and many enacted flex rating mechanisms aimed at controlling prices from going either up or

*Continued on page 76*



Mr. Greenberg



# KNOWLEDGE

Maurice R. Greenberg is president of American International Group Inc. in New York, whose member insurers are recognized for their innovations in underwriting commercial insurance.



Mr. Kloman

years. Here again the environment within which the insurance world works is in flux.

• **Assumption No. 4**—The Law in Flux. Despite the chorus of complaints from the insurance industry about our tort liability system, it appears unlikely that major tort reforms will be enacted. So long as we live in a society that tolerates a "lottery" mentality toward life, we simply will not be able to change the great gambling game that is our system. Yet, pressures are building and here again the flux will make it difficult for insurers to respond aggressively.

The flux will create a national game as claimants continue to experiment with claims, as in the words of Randall Cooper and Peter Schaeffer, "to see which claims will stick, until enough precedents are set."

This, unfortunately, is in the nature of our system—a constant probing search for the deeper

**Recognition that a single set of regulations cannot serve the wide variety of risk-financing organizations will lead to new international regulations for the captives or finance companies domiciled outside traditional jurisdictions.**

pocket, the pot of gold.

Projections or possible alternative futures, rather than "predictions," can be drawn from the current status of captive insurance companies and the foregoing assumptions. These assumptions predicate an economy and society in which no clear mandates or patterns are likely to appear in the near future. Yet, with all of the factors stalking the risk-financing marketplace, "more of the same" is probably the *least* likely outcome. The following more radical projections, then, may well fall far

off the mark but they may help stimulate thought and discussion:

• **Projection No. 1:** By 1997, some captives will have become the core of new financial services groups for individual or group corporate parents. This projection contemplates fewer but stronger captives (with the total number down to, perhaps, 1,500 worldwide). Some of these financial services will include:

✓ Providing a "third market" for risk-financing transactions directly among and between corporations and captive insurers.

✓ The management of worldwide funds in movement and investment.

✓ Serving as a bank or banks in various jurisdictions.

✓ Management of international data.

We already have seen the signs of this movement toward the broad financial service area with the large automobile companies. Dr. Umberto Agnelli, vice chairman of Fiat S.p.A., speaking at the 17th annual International Insurance & Risk Management Conference earlier this month in Venice (*BI*, Oct. 19), suggested:

"In this day, the term 'financial services' implies a universe consisting of financial activities as such, insurance business and banking activities, all of them increasingly interconnected. This, in fact, is a universe in which the integration between once separate specialties is already fully operational, since it is obviously a lot easier to engineer agreements between a finance company and an insurance company than it is between two different industrial companies."

This projection anticipates that captives may well be the keys to cooperation among all forms of insurers and their customers.

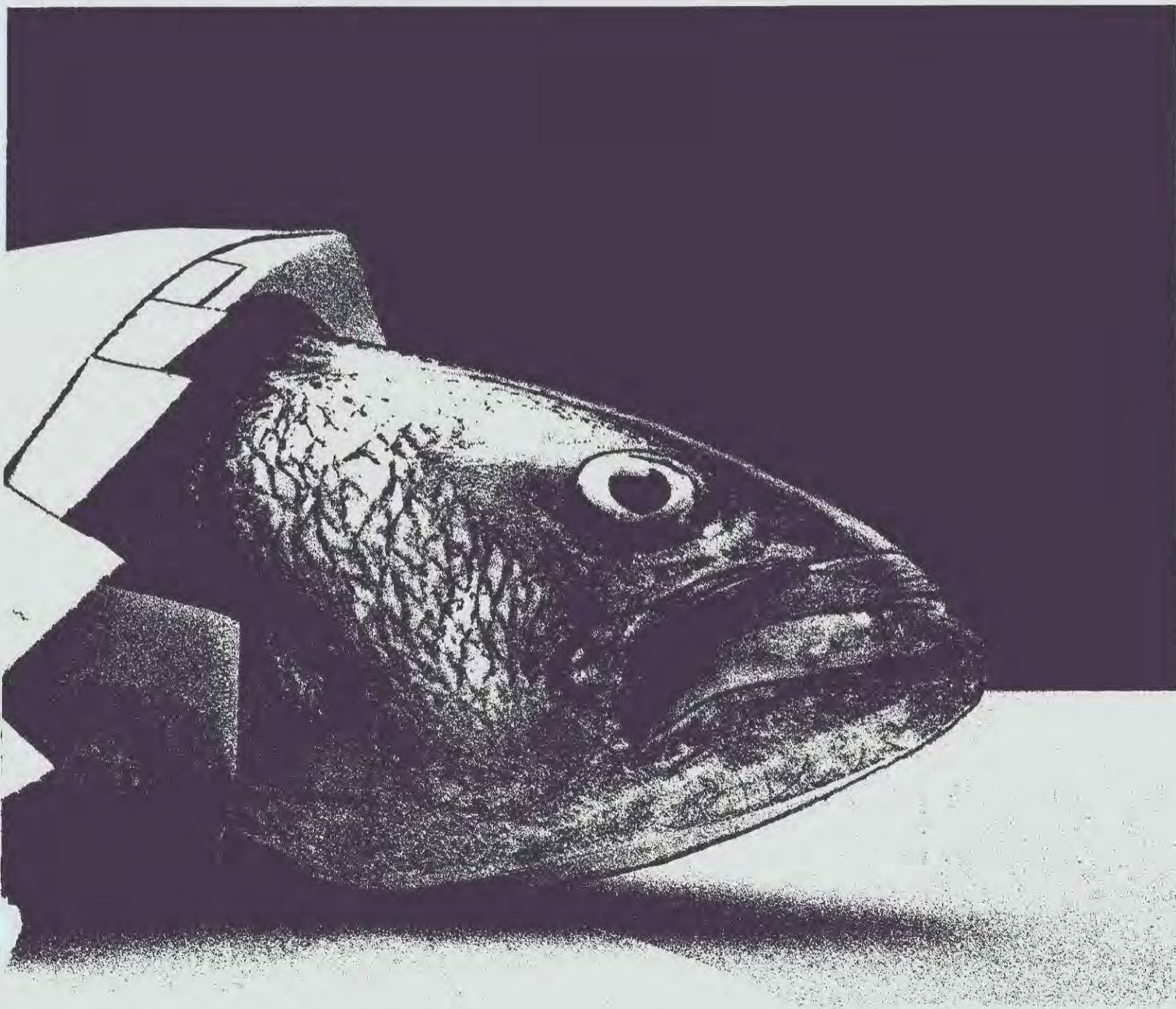
• **Projection No. 2:** Major multinational corporations face major potential loss exposures that are currently "unfundable" through conventional insurance mechanisms. Such exposures as environmental impairment and cleanup liability, earthquake damage and political risks will require some form of catastrophe funding. Captives, again, may serve as the liaison with not only the conventional market (direct insurers and reinsurers) but, perhaps more importantly, with governments as reinsurers or co-insurers.

• **Projection No. 3:** With the tremendous amounts of money that are being invested in group life and health financing and with the growing interest in funding over and above existing social security schemes throughout the world, a radical expansion of captives into the funding of life and health insurance, on both a group and individual basis, is not improbable. If they indeed become skilled financial service organizations, with investment skills that can generate returns of 50 to 100 basis points better than conventional funding organizations, this projection may well be a reality by 1997.

• **Projection No. 4:** The growing recognition that a single set of regulations simply cannot serve the wide variety of risk-financing organizations will lead to development of new international regulations for the captives or finance companies that currently are domiciled outside traditional jurisdictions. It is possible to foresee international regulations set up through the auspices of the International Monetary Fund or the World Bank to provide greater freedom of access for captive insurers or finance companies to all countries subscribing to these new rules.

While each of these projections contain a degree of plausibility, it will be interesting to review them a decade from now. We are almost certainly going to be surprised—that is the nature of things—but I suspect that we still will be able to recognize in 1997 the captives of 1987 as the core of a major worldwide risk-financing force. ■

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THE TEAM WORKS

H. Felix Kloman is up and principal at the Tillinghast Division of Towers, Perrin, Forster & Crosby in Darien, Conn. Mr. Kloman has been consulting on captive insurance company formation for more than 20 years. He established the International Captive Insurance and Reinsurance Forum in 1977, held in Bermuda each March.



Kevin M. Ryan, president, National Council on Compensation Insurance.

# Work comp system will face expansion, more regulation

By Kevin M. Ryan

**I**N THE NEXT 20 years, workers compensation will undergo basic changes that will be far more traumatic than those of the past 20 years.

In order to understand the basis of my forecast, it helps to examine the key characteristics of workers compensation: what has happened in the last 20 years and what will happen by the year 2007.

In 1967, workers compensation costs were roughly 1% of payroll. The build-up of future payment obligations—loss reserves—was equal to one year of premium, while the commitment for payout

of losses implicitly contained in the average policy was 2½ years.

From 1967 to 1987, workers compensation costs rose to 2% of payroll and loss reserves climbed to almost two years of premium. At the same time the payout under the average policy increased to four years.

Assuming that predicted rate changes through 1990 are achieved and that there is a long-term average cost increase of 2% per year in excess of wage inflation, we estimate that by 2007 workers compensation costs will be 3% of payroll and reserves will be 2½ years of premium. The length of payout will increase to somewhere be-

tween four and five years.

On the basis of these trends, here are the three most significant changes that I foresee in the future of workers compensation in the next 20 years:

- Expansion of the system. Driven by an increasing demand for some form of national health insurance, the workers compensation system will be expanded to include non-work-related medical coverage.

Pressure to develop an all-inclusive, national medical insurance program will continue to build as costs in this area escalate at an alarming rate. Workers compensation costs have gone from 1% of payroll in 1967 to 2% of payroll in 1987, making it a predominant conduit of medical costs in an expanding system.

As methods are proposed, the positive characteristics of workers compensation will become the basis for an acceptable alternative. Having proven itself as a supplier of benefits to the public, the workers compensation system will be called upon in the mid-1990s to provide coverage for an expanded definition of work-related injuries.

- Greater regulatory intervention. Underwriting cycles will become extended and more severe. There will be greater regulatory presence in the areas of price, solvency and market conduct.

The size of workers compensation reserves has grown from a year's premium in 1967 to a predicted 2½ years' premium in 2007. This "long tail," combined with the difficulty in accurate loss reserving, will accentuate underwriting cycles.

The pressure of bad times can also create an understatement of results, which again intensifies the severity of the cycle. As loss reserves approach 2½ times the size of premium, the safety margin inherent in the workers compensation business will shrink considerably and surplus will decrease to only 20% of the volatile loss reserve liability. This will result in heightened solvency concerns and regulatory reaction against cancellation and market availability problems.

- Alternate insurance mechanisms. In addition to self-insurance, alternate insurance markets will grow and compete with traditional insurance mechanisms.

Because the retention of premium before full payment of loss will be extended beyond the current four-year average, the investment trust aspects of workers compensation will provoke intense competition from the financial services community, once money managers perceive the pension-like aspect of workers compensation as an investment opportunity.

Clearly, there are many challenges awaiting us in the next 20 years.

We at the National Council on Compensation Insurance are positioning ourselves to better meet these future demands on the workers compensation system. ■

*Kevin M. Ryan is president of the National Council on Compensation Insurance in New York, a non-profit workers compensation insurance ratemaking organization supported by the property/casualty industry. Before joining the council in 1980, he was vp and partner of Milliman & Robertson. Mr. Ryan also served as deputy director of the Illinois Insurance Department.*



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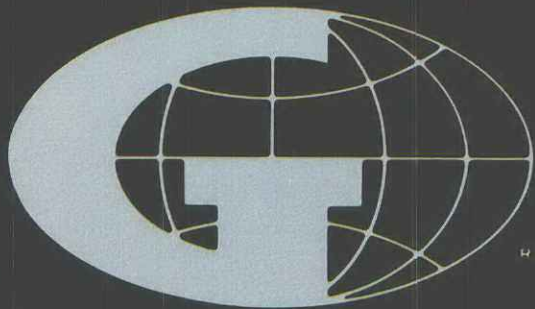
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# Captives' role in industry to increase

By H. Felix Kloman

**A** FORECAST OF the future of captive insurance companies in the next decade begins with some reflections and a set of assumptions that reflect a personal bias, followed by four "projections."

When *Business Insurance* was first published in 1967, who would have imagined that captive insurance companies would, in a single decade, expand at so rapid a rate, be aggressively underwriting liability coverages, be accepting outside risks in a vain attempt to keep the tax assessors at bay and be on the verge of becoming the primary source of medical malpractice insurance? Who, in 1967, would have remotely anticipated Internal Revenue Service Ruling 77-316? Yet, by 1977 all of these events had taken place.

As *Business Insurance* celebrated its first decade, who would have imagined that, by 1987, major U.S. corporations would have invested hundreds of millions of dollars in capital in group excess insurers like A.C.E., BICL, CODA, FIRM and X.L., among others, in response to the worst "hard market" ever experienced? Who would have imagined the passage of a Risk Retention Act designed to circumvent the standard insurance marketplace for liability coverages? Yet again, the unimaginable actually occurred.

Looking ahead to 1997-2007 is too far away—the only reasonable extrapolation of the past is the conclusion that the scene will be dramatically different in 10 years' time. The rate of change is simply too great and the factors affecting captives too many to be able to predict the future with any sort of certainty. A simple linear extension of the present is almost certain to be dead wrong! Could captive insurance companies indeed take over 50% to 75% of the commercial insurance marketplace (as malpractice captives have in the last decade) or could captives disappear in a "South Sea Bubble" demise? Either outcome is possible.

Therefore, given the inevitability of surprise, perhaps the best course is to consider some of the general trends that will affect risk financing, captive insurance companies and the conventional insurance market in the next 10 years:

● **Assumption No. 1**—A commercial market in flux.

Captives are, after all, a reflection of various insufficiencies in the commercial insurance marketplace. Whether these are cost, coverage or capacity, they have forced buyers to create captives as logical financing alternatives.

At the same time, the U.S. commercial insurance market is admittedly undergoing a period of exceptional transition. The inability to dampen materially the self-destructive market cycles perhaps is the core of the problem. Market fragmentation (close to 3,500 competing companies), lack of coherent leadership, serious questions about solvency (underreserving and dependency on weakened bond portfolios), and a seeming inability to address the high cost of distribution and operation are all factors that put the market in flux.

The industry appears to be unable to see and correct its own insufficiencies, preferring rather to erect a regulatory "Maginot Line" to prevent potentially more efficient outsiders from the fertile risk-financing territory. This line is not holding. New competitors already have outflanked it in a blitzkrieg that could shatter all

traditional relationships.

Captives are a leading force in that flanking movement. Banks and other financial service conglomerates are others. So long as we find it hard to differentiate between competitors and customers, this market flux will continue. A new and more coherent risk-financing rationale is unlikely to appear for at least five to seven years. Thus captives probably will continue to be a force in the commercial market.

● **Assumption No. 2**—Regulations in flux.

As we move to an information-based economy, from one that has been capital-based, we are learning how to tailor products and services for specific customers and increasingly more narrow market

**The insurance industry is saddled with a regulatory structure that is too monolithic.**

segments. Yet, the insurance industry in the United States is saddled with a regulatory structure that is too monolithic for all the permutations that are required in this new market economy.

Captives themselves are an outgrowth of the resentment against capricious and arbitrary regulations that may have little or no meaning for certain commercial

buyers. The real reason for offshore domiciles has been regulatory, not tax. Witness the rapid growth of Vermont, the home of more than 100 captives.

Vermont, and some other states, have recognized that, for certain types of buyers, more flexible regulations are not only possible, but necessary. Here again, we are in flux. The next decade probably will see the demise of the 50-state regulatory structure for the insurance industry, replaced by federal law or at least a federal option. It probably also will see the end of a McCarran-Ferguson Act that has outlived its usefulness. Many new jurisdictions will pass captive legislation and a federal provision is not beyond contemplation. Major developed countries also will be

forced to come to grips with the "offshore phenomenon," if only because it may be such an important insurance market segment.

The effect of all this deregulation and re-regulation will be future flux and future market instability until the new regulations take hold.

● **Assumption No. 3**—Taxation and flux.

How is an insurance company to be taxed? When are corporate risk-financing costs tax-deductible? To what extent should tax codes stimulate the development and maintenance of more extensive contingency reserves to protect an organization against the increasing volatility of the modern economic world? The Tax Reform Act of 1986

*Continued on next page*

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# Tort law, if modified, can be a help to society

By Victor E. Schwartz

"TORT REFORM" is in the eye of the beholder.

For more than 100 years in the history of the United States, specifically from 1875-1975, "tort reform" focused on removing both judge-made and legislatively created obstacles that blocked seriously injured persons from winning lawsuits. For example, in 1875, an injured person totally lost his right to bring a lawsuit if he was "the slightest" bit negligent—this was the contributory negligence defense.

It took almost 100 years for courts (and legislatures) to change from the contributory negligence defense to a more balanced comparative fault approach. Under comparative fault, the negligence of the plaintiff serves to reduce, not bar his claim.

The "steps" were gradual and incremental. First, courts said that the contributory negligence defense did not apply when defendant had acted "recklessly." Later,

courts developed the doctrine of "last clear chance," which meant that the contributory negligence defense would not apply if the defendant had the last opportunity to avoid the accident. It was not until the 1970s that comparative fault statutes and judge-made law had widespread application.

In the period from 1875 to 1950, the assumption of risk defense was harshly applied; it, too, totally barred the plaintiff's claim. The defense would be strictly applied against workers in factories and bar their claims for a multiplicity of serious injuries. Gradually, this defense also was modified. Today, it has been abandoned in some states and in others applied more fairly: for example, where a plaintiff truly knows about a precise risk and voluntarily encounters it.

The common law of the 1870s often did not allow a claim if a person died. In other words, it was cheaper (from a defense perspective) to kill somebody than to merely injure him. When legislatures modified this rule with so-



Mr. Schwartz

called "wrongful death" statutes, they included arbitrary caps of \$10,000 or \$20,000 for total economic damages and no damages for emotional loss. Gradually, these caps were raised and ultimately abandoned by state legislatures,

but the process took decades.

If one analyzes the thousands of decisions eliminating common law restrictions on recovery between 1875 and 1975, one can find a consistent theme in many cases: the development of a full-fledged operation of the fault principle. Barriers that insulated an "at fault" defendant were broken. Along with the change in the substantive tort rules, there was a development in damage rules that went along with the fault principle. A person could recover damages caused by a defendant even though the person already had been compensated by another source; a defendant "wrongdoer" could not benefit from the fact that the plaintiff already had been paid by somebody else (the collateral source rule). There was a full development of imposing damages for pain and suffering; damages would be recognized beyond those economic losses that were "out of pocket." It is important to realize that these damages, too, were weaved with fault.

A second major point about this first period of "reform" is its gradualness. Changes were not made overnight, but incrementally by careful and deliberate "restitution" of precedent.

"Tort reform" today is not thought of as a process that facilitates an individual's right to sue, but one that places some "balance" in the tort system and, in some instances, restricts one's ability to bring a successful claim. While the precise date might be one of dispute, 1975 is a reasonable approximation of "the turning point" from old to new "tort reform."

There are at least two principal reasons for the turning point.

First, the turning point came about because some courts began to go beyond the fault principle and impose liability though there had been no objective fault on the part of the defendant. This occurred principally in the area of product liability, but other areas of tort law also were affected. For example, some courts give lip service to the fault principle, yet imposed liability on defendants who acted in accordance with reasonable practice. Examples of this phenomenon can be found in the medical malpractice area. Other examples of erosion of the fault principle occurred when courts permitted people who misused products to recover damages or allowed recovery where basic causation was not, in fact, established.

A second principal reason for the change in perspective on "tort reform" is that courts made many of these changes suddenly. One day a defendant would only be liable if it were at fault; the next day it would be no-fault. One day a plaintiff would have to prove who injured him; the next day such proof was unnecessary. This was not the way courts had done tort business in the past.

Of key importance in all of this is the fact that these changes were applied retroactively. In my judgment, change that is far-reaching and sudden should be left for legislative deliberation.

The instability created by this second change had its mark on the insurance system: Uncertainty precipitated liability crises. While changes in the financial markets helped bring about some insurance crises, they occurred more sharply in the property/casualty field because the basic borderlines of liability became totally unstable.

With few exceptions, modern "tort reform" has not meant a return to the old restrictions of the common law. For example, "reformers" are not arguing for return

of the contributory negligence defense. To the contrary, a basic theme of reform is to establish individual responsibility as the hallmark of the tort system. Thus, a key element of product liability reform is that a defendant should not have to pay damages when it had no objective fault in causing an accident.

The theme of individual responsibility is also sounded by tort reform efforts to end or minimize joint and several liability, where one person has to pay for conduct that is truly the responsibility of another. The modern "tort reform" agenda also seeks more economic efficiency so as to avoid "double payments" of damages wherever possible. And, most tort reform groups believe that some reasonable controls should be placed on punitive damages.

To date, successful tort reform efforts have occurred at the state level. In the past few years, key changes have occurred in California, New Jersey and Texas, as well as many other states. The changes have generally involved modification of joint and several liability rules, maintenance of the fault system, stabilizing punitive damages and, occasionally, some outer limits or "caps" on the amount that may be awarded for pain and suffering damages.

Efforts at the federal level have been principally in the product liability area. Thus far, they have not been successful. Nevertheless, it is a fact that product liability (as contrasted with most other areas of tort law) is imbued with interstate commerce. Having a crazy-quilt pattern of 51 ever-changing product liability laws and rules has:

- Fostered forum shopping.
- Given mixed signals to those who must plan for safety.
- Jacked-up lawyer costs.
- Goaded insurance crises.

These adverse consequences and the fact that individual states cannot totally address them suggests that ultimately a federal product liability law will be enacted. This year liberal Democrats as well as Republicans support this view and have helped develop H.R. 1115—the Federal Uniform Product Safety Act—and move it forward.

This is an area where the business community must stay "together" and not tire. In that regard, it is interesting to note that Ralph Nader's current theme in speeches to the plaintiffs' bar is to "keep up the fight and not relent."

"Tort reform" also can occur in state courts. Courts can restore the balance needed in the system. Unfortunately, defense lawyers have not always brought a "total picture" to the attention of the judges on the various state supreme courts as they go about making tort rules. Some defense attorneys have cast their arguments too narrowly, focusing on precedents and legalisms. It has become a fact of life that some state supreme courts have acted as if they were legislatures. Since this is true, we must treat them as such. This means that our briefs need to show the macro-economic impact of decisions. We need to discuss openly and fully

*Continued on page 76*

Victor E. Schwartz is a partner in the Washington, D.C., law firm of Crowell & Moring and counsel for The Product Liability Alliance, a non-profit business coalition supporting product liability reform. From 1976 to 1979, he chaired the Federal Interagency Task Force on Product Liability, which studied the issue for the U.S. Commerce Department.

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# Lifelong commitment to learning vital



Dr. Overman

By Edwin S. Overman

ALTHOUGH MUCH has been accomplished by insurance and risk management education, the future will cause a shift in emphasis. The late Dr. David McCahan, former professor at the Wharton School at the University of Pennsylvania and longtime president of The American College, which launched the Chartered Life Underwriter designation in 1926, provided perhaps the best definition of the term, "education":

"Education involves the impartation and acquisition of knowledge, with primary emphasis upon the reasoning process. Education emphasizes *thinking*—a grasp of the 'whys' of a subject. As a consequence, the goal of education is

long-range and implies the continuous mental growth of the individual."

In the past, people thought of education as *concluding* with an undergraduate or graduate degree, or with a professional designation. Many persons are deceived by the notion that their academic credentials confirm they are "educated." The truth of the matter is that anyone who terminates the educational process—who quits learning upon leaving university or school—is giving in to a life of limited usefulness, limited satisfaction and limited happiness. They contribute to their own bewilderment and feeling of insecurity in a fast-moving world. It is unfortunate and misleading when the Ph.D. is referred to as a "terminal" degree.

The late Dr. Solomon S. Huebner, founder, first chairman and long-time director of the examining bodies of the CLU and Chartered Property Casualty Underwriter designations, expressed the danger when one assumes that education is a goal to be reached rather than a process to be pursued:

"Those who cease to study will soon cease to learn. Those who cease to learn will soon cease to grow. Those who cease to grow will soon begin to regress. Those who begin to regress will soon cease to be enthusiastic. And those who cease to remain enthusiastic about their careers—about their lifetime profession—are doomed to a life of obsolescence and disillusionment."

The future of insurance and risk

management education suggests a continuous and ever-expanding process to widen the mental horizons of practitioners. Leading practitioners in this field in the future, managers and technicians alike, will of necessity become lifelong students in their chosen discipline. Through the ever-expanding process of reading, formal discussion and writing in their field of study, they will become increasingly capable of synthesizing logic with intuition, of integrating new knowledge with existing understanding and to see "relationships" between various concepts or data rather than as simply isolated events. Lifelong learning provides the ability to visualize ideas, to comprehend and analyze concepts and to express thoughts in logical and clear terms.

A major strategic goal in educating future practitioners in insurance and risk management is to polish and perfect the ability to communicate. Any manager or technical specialist in any field must be able to communicate effectively with colleagues, managers or subordinates alike, so that ideas, discoveries, reports, questions and responses will not be misunderstood. Sound ideas poorly communicated are all but useless.

But how does one develop the quality of clear-minded thought and expression? How indeed do we acquire an instinct for simplicity and clarity in writing and speaking? The ultimate in confused communication was reported when a stranger to New York wished to attend a symphony and asked a passer-by, "How do I get to Carnegie Hall?" The New Yorker responded with, "practice, practice, practice." Although amusing, this reply nevertheless offers a clue to how we learn to communicate more effectively. Lifelong practice, through *reading* and through *oral* and *written* expression, provides the best means for honing and perfecting communication skills.

Insurance and risk management education in the future will place a high premium on those practitioners who continue their studies. Extensive reading of the published literature, classroom and seminar participation which emphasizes full and open discussions and written, essay-type examinations, term papers or summary reports and the writing and publishing of articles in professional journals and in the trade press will all provide practitioners with life-long opportunities to acquire and share knowledge.

Insurance and risk management education in the future will require professional practitioners to broaden their perspectives in order to comprehend this increasingly complex field of study. Thus, broad-gauged, interdisciplinary studies will become the rule rather than the exception. Comprehension gained in the related disciplines of law, finance, accounting, mathematics, statistics, engineering, economics, management, philosophy and ethics, as well as the acquisition of sophisticated research techniques, will supply the broadening knowledge needed to

Continued on page 48

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Edwin S. Overman, president emeritus of the Insurance Institute of America Inc. in Malvern, Pa., retired in June after serving 34 years with the institute. Before his retirement, he spent 21 years as the principal spokesman for the professional educational organization for the property/casualty insurance industry and has written numerous books and articles on the subject.

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### Overman

Continued from previous page  
accompany future studies.

A comprehensive and structured program of study over many years will provide the understanding of important relationships existing between insurance and risk management on the one hand, and those related disciplines on the other. This broadened understanding of these fields will prepare practitioners to participate more fully in expanded social concerns and social responsibilities.

Professional practitioners, throughout the entire field of insurance and risk management, will

**Professionals will be challenged to take on a far greater sense of social responsibility in the next decade.**

be challenged to take on a far greater sense of social responsibility in the next decade and beyond. As a result, these practitioners will occupy key roles and cause major improvements in this industry, in the realm of our national economy and in our society as a whole.

With respect to this industry, greater attention must be given in the future to a *more balanced emphasis* between risk financing on one hand, and risk control or loss prevention on the other.

Over the past several decades, a preponderance of insurance industry leaders have come from the field of *finance*. To a large extent, this explains why far greater emphasis was placed on risk financing rather than on risk control. Stated differently, most insurance executives have been more concerned with money matters—cash flow, investment income and premium growth, for example—than with ways and means to reduce the frequency and severity of losses.

As my colleague at the Insurance Institute of America, Dr. George Head, has written:

"Senior insurance management in the future will come to realize that risk control will prove to be much more cost-effective than risk-financing. Tomorrow's insurance and risk management professionals, therefore, will need to branch out far beyond their insurance roots into various *engineering aspects* of risk control. They will come to realize that control over losses is a major *humanitarian concern* which transcends money savings and profit making.

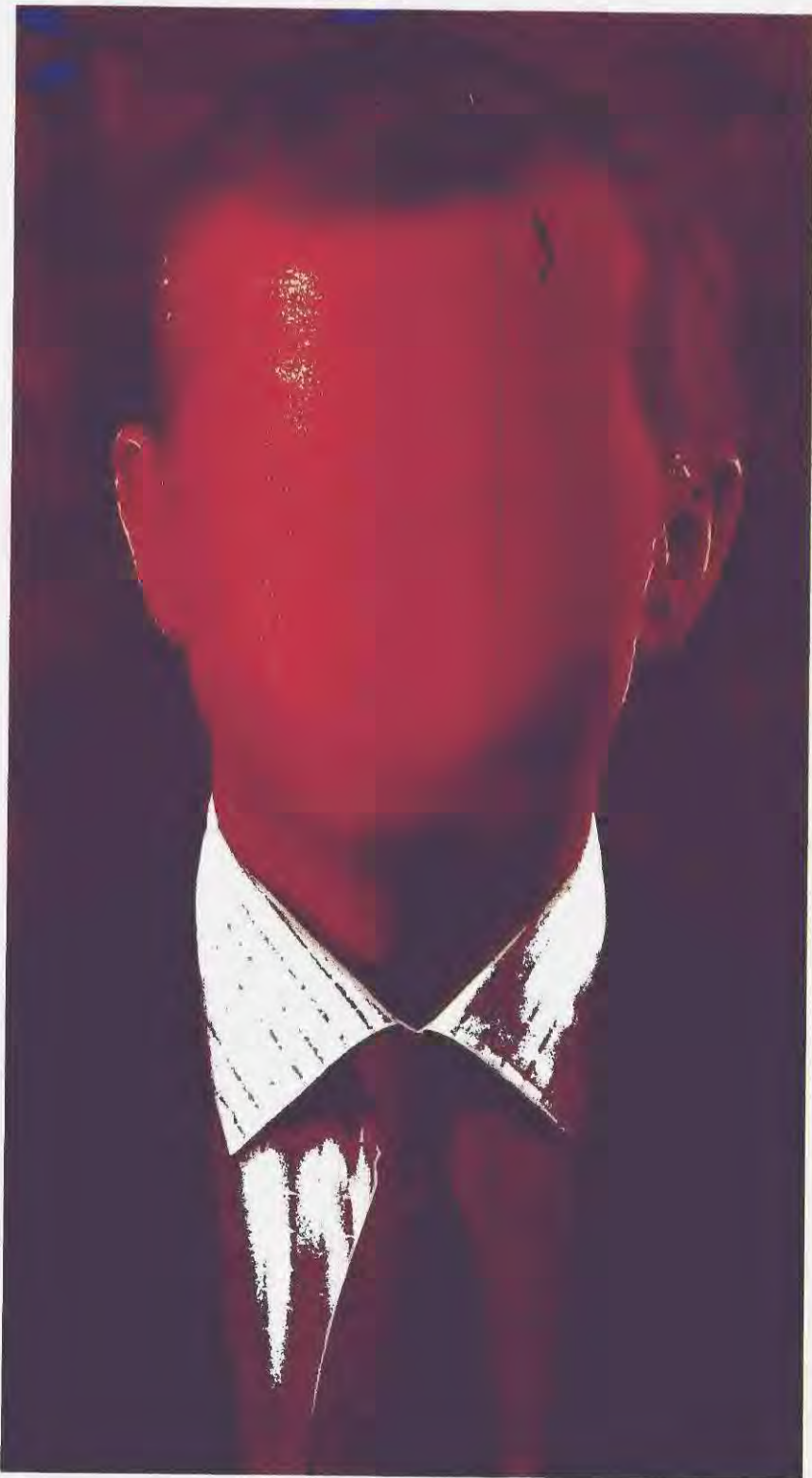
"They will need to undertake interdisciplinary studies in engineering, chemistry, physics and other subject areas which provide the source for stopping losses from occurring. Such knowledge and implementation will serve to avert much human suffering as well as provide major cost savings to the economy. Avoiding human suffering and reducing the net drain on society's resources become an increasing social responsibility of modern corporate citizens which include insurance and risk management professionals."

Responsible corporate citizenship in the future will recognize that *no risk is an island*. Traditionally, we have concentrated too exclusively on the loss exposures facing a single firm. The interrelationships of various, disparate firms in a complex society will demand a broader outlook. Social responsibility requires that risk management become concerned with the impact of decisions on other firms and on society as a whole. An example that is reported frequently in the media shows the way a single firm's waste disposal decisions adversely affect other firms and the lives of citizens. It is likely that operating strictly within the law will not be sufficient for the future. It will be necessary to operate in the public interest—a higher standard, perhaps—than that technically demanded by the law.

What we can expect to come about in insurance and risk management education in the future is an expansion of interdisciplinary studies. Financial expertise will, as George Head has suggested, merge with the so-called hard sciences: engineering, physics and chemistry. Even more importantly, perhaps, responsible corporate citizenship will promote the fields of psychology and business ethics. The recognition that the aim of insurance and risk management is the alleviation of human suffering will cause practitioners not only to develop new skills and greater understanding but also to use those skills and understanding in the service of humanity.

The awareness and practice of altruism and ethical decision-making will elevate the function of insurance and risk management to the level of the recognized and honored professions. Moreover, it will provide future practitioners in this rapidly changing field with the greatest source for genuine fulfillment and satisfaction: a life devoted to the service of mankind. ■

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# Risk managers to make views known

By Ron Judd

**T**O GET TO the bottom line first, the growth of risk managers' influence on public and government policies has been just short of incredible.

Twenty years ago, when the American Society of Insurance Management consisted of an executive director, two full-time staff members, two part-time staff members and a lot of dedicated volunteers, it was difficult to make progress in this area.

Our monetary and staff resources were extremely limited, but not our enthusiasm. We did represent the society at National Assn. of Insurance Commissioners meetings and made the first efforts to set up liaison meetings with firms in the industry, the Insurance Services Office and regulatory bodies. Risk managers who attended and voiced opinions spoke, but the industry was not listening—yet.

On occasion a point was scored.

On rare occasions, risk managers were asked to participate on committees or advisory bodies that influenced regulation or legislation.

To my knowledge, and I may stand corrected, there were few—if any—courses in universities on how to "buy insurance."

The Associate in Risk Management program was yet to hand out its first diploma. News coverage of risk management and the society was virtually non-existent. *Business Insurance* was still a gleam in the eye of a man named G.D. Crain Jr. Existing insurance industry publications rarely, if ever, carried articles on views of the ASIM and, most assuredly, the words "risk management" never appeared in the business press.

With the advent of *Business Insurance*, the risk manager finally had a forum that was interested in a risk manager's point of view. The early years were turbulent, but we were both on the same course.

The society's magazine, *National Insurance Buyer*, was pretty much viewed as a "house organ." Our conference drew fewer than 500 people to Los Angeles in 1967.

From this beginning, ASIM, with dedicated volunteers, moved slowly forward and became the Risk & Insurance Management Society of today.

So where are we now?

It is rare today for the NAIC to appoint a committee or advisory body on commercial insurance without RIMS representation.

Staff and members have testified before federal and state legislative committees.

Our product liability study in the late 1970s was an important factor in decisions made at the highest levels of the federal government.

Those who said "absolutely not" to a request to hold a liaison meeting now meet regularly with risk managers.

Liaison meetings with the industry are part of RIMS' ongoing activities. They include brokers, insurance companies, consultants, trade and professional associations



Photo: Arnie Adler

Ron Judd, executive director of the Risk & Insurance Management Society

and others with whom we have mutual interests and concerns.

Legislative accomplishments include forming coalitions to develop and enact legislation like the Vermont captive law and most recently the Risk Retention Act of 1986. The society has become an adviser to many groups seeking alternatives to the insurance process. These things were accomplished through volunteers and a very dedicated staff.

In education, the results have been equally rewarding. Today, one can receive a doctorate in risk management from the University

of Georgia. Numerous universities offers master's degrees in risk management.

The first diploma for the Associate in Risk Management program was presented in 1967. There are now thousands who proudly bear the designation A.R.M. The program has been accepted around the world. In fact, several countries are now interested in adapting the A.R.M. program for use locally.

As noted earlier, in 1967 it was difficult to find a publication that mentioned ASIM or risk management. Today RIMS has excellent press relations. It started with coverage by *Business Insurance* and progressed to recog-

nition by other trade press. Consumer media became aware of risk managers about 1976. A highlight of the evolution of risk management and its influence was a special "adventorial" section that year in *Fortune* magazine.

Last year, we made the front page of *The New York Times*. The issue was one that affected all consumers of insurance. RIMS' stance, on behalf of the consumer, in opposing introduction of the new commercial general liability claims-made policy was a benchmark in the history of the society.

Our conference has progressed to a point of being the largest insurance industry gathering in the world. In Las Vegas, Nev., earlier this year, we drew a record attendance of brokers, agents, insurers, consultants, regulators, legislators etc. Delegates from 20 to 25 nations are the norm.

RIMS today is known and functions worldwide.

Earlier this month RIMS, in cooperation with Assn. Européenne des Assurés de l'Industrie (AEAI), completed another record-breaking Risk Management Forum in Monte Carlo. It was the fourth in a series of meetings that have been held in cooperation with our European "sister" associations.

In 1986 the first risk management forum by RIMS was held in the Asia/Pacific region.

These events are a result of groundwork accomplished in the 1970s to encourage and assist the formation of risk management organizations in other countries of the world.

This was and is not a totally altruistic effort, for many RIMS members operate worldwide. And, of course, foreign-based companies increasingly operate here. The needs of "corporate insurance consumers" took on a global dimension. Buyer concerns needed to be voiced with the insurance and regulatory environment of individual countries. This is best accomplished through local risk managers in their respective countries. We have been extremely successful. There are now risk management associations in 18 countries and two are in the process of formation.

Collectively, we have now formed an association of associations, the International Federation of Risk & Insurance Management Associations (IFRIMA). While still in its infancy, its potential is excellent. In many ways, it is now at the stage ASIM was in 1967.

Twenty years from now, RIMS will have written a new chapter in its influence on public and government policies by nurturing the growth of IFRIMA, while keeping RIMS in the forefront here at home. ■

*Ron Judd earlier this year marked his 20th anniversary as executive director of the New York-headquartered Risk & Insurance Management Society Inc., the largest organization of risk managers in the world, and its predecessor organization, the American Society of Insurance Management.*

## 20 leaders predict future developments

The last 20 years have been filled with risk management innovations. But what will the next 20 years bring? What types of innovations should risk managers expect both in the world of risk management and in property/casualty insurance?

The *Business Insurance* staff selected 20 people who have left their mark on risk management and commercial property/casualty insurance to prognosticate what will transpire over the next 20 years and what changes must be made before the year 2007.

In addition to Ron Judd, executive director of the Risk & Insurance Management Society Inc., the other business leaders who provide a glimpse of the future on the following pages include:

**Edith F. Lichota:**  
Developments in international risk management... Page 46

**Edwin S. Overman:**  
The future of insurance education... Page 47

**Victor E. Schwartz:**  
The future of tort reform... Page 50

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# Risk managers have chance to shape world

By Edith F. Lichota

THE RISK management professional stands with one foot in the present and the other headed out into the future. It is in the nature of the discipline that we deal in the here and now with all the problems of coverage, capacity, loss control, cost-benefit analysis and budgets. But, we must be simultaneously identifying and evaluating the problems of the future and positioning ourselves to deal with them.

This is a great profession for a practicing futurist, and one prediction I would be willing to make is that it will become more, rather than less, so. In the future, there will be more conscious effort expended by risk managers to foresee what is coming, be prepared to deal with it and, most important, take positive steps to affect the form and impact of anticipated change.

In addressing future developments in international risk management, one thing seems certain: as companies become more internationally oriented, their risk managers will have to be able to function with a global perspective. My observations over the past several years suggest that a global perspective will make the risk manager of multinational organizations an emerging expert in a whole range of applicable specialties. Suddenly, the environmental, regulatory and cultural climate of every other country where it does business will have a great bearing on the business decisions taken by the parent—no matter where the parent is located.

International risk managers should not be passive observers of the world in which they must perform their functions. It has been said that any good secretary, if allowed to do so, could quickly improve the efficiency of the office in which she—or he—is employed.

The analogy carries over: A good risk manager will identify the problems inherent in his or her efforts to identify, transfer, control or finance risks. A more important part of the risk manager's job in the future will be taking an active part in changing the underlying conditions that cause those problems.

In the July 1987 issue of "Emphasis," Gerald C. Coletta observed that "the concept of 'total' risk control... will become an important management tool..." I would carry this one step further and substitute risk management for risk control. The risk management concept is fairly well-recognized in the United States, but it is much less developed in many other countries. As a result, the contributions that a competent risk manager can make to a corporate employee are often neither recognized nor realized. The multinational risk manager will promote the concept of "total" risk management to serve the broadest possible role in his or her own company, to encourage the growth and development of the discipline elsewhere and to modify the environment in which he or she must function. "Total" risk management is an important management tool; I expect the

multinational risk manager of the future to employ it fully.

Countries and cultures are vastly different. Ideas and objectives vary widely depending on those differences. In a global economy, the goal is to function effectively in spite of the differences. International risk management will play a vital role in assimilating the differences and resolving risk management issues in a manner consistent with the circumstances.

Fortuitous losses adversely affect national economies. Large fortuitous losses adversely affect their national economies in proportion to their size. No country can afford to ignore the impact of exposure to major losses because they have the capacity to undermine economic and also political stability. As risk

management develops on a more global scale, its contribution to anticipating losses and structuring remedies in advance of catastrophe will be recognized as significant on a macro basis. Risk management will be too important to be ignored; its prominence as a management tool will be assured; and its impact on regulatory decision making should be correspondingly increased.

Of course, with prominence and authority comes related responsibility. The users of commercial insurance will have to recognize what they can and cannot expect the marketplace to provide. They may have to exercise restraint in using commercial coverage to assure its continued availability. They may have to help commercial

underwriters develop the products and services the user community needs, and they may have to assure that sufficient premium volume is generated to support the capacity to supply these products and services.

The corollary to the foregoing is that the competent risk manager, like any other competent professional, will also be in a position to influence the shape of his or her world.

Where there is insufficient or unresponsive capacity, the risk manager has a clear responsibility to develop a more adequate supply of necessary services and coverage. The implementation of alternative funding mechanisms will enable the risk management community to

Continued on page 75



Mrs. Lichota

## What Do You Do When Insurance You In The

Edith F. Lichota, senior vp-risk management at Irving Trust Co. in New York, has chaired or served as a member of numerous international risk management and insurance committees as well as domestic risk management organizations. She is chairman of Bermuda-based Bankers Insurance Co. Ltd. and was named the 1987 Business Insurance Risk Manager of the Year.

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## Lexicon of risk

*Continued from page 42*  
 even purchasing electronic data processing policies to cover their companies' mainframe computer systems, Mr. Albert said.

In addition, some risk managers were beginning to form captive insurance companies as a new tool to manage costs, and their use blossomed in the 1970s.

"The buzzword of the day was a new risk financing approach called a captive insurance company. These were single-parent property captives," said Charles L. Ruoff, senior vp of Fred S. James & Co. Inc. in New York.

"The more sophisticated risk managers were forming captives offshore for tax advantages," agreed John L. George, Alaska's director of insurance in Juneau.

"In 1967, it was considered a neat deal for a risk manager to have a captive," said C.C. (Bud)

**'In 1967, it was considered a neat deal to have a captive,' says Mr. Griffin.**

Griffin, chief executive officer of risk management consultant Warren, McVeigh & Griffin Inc. in Newport Beach, Calif.

And "if you could differentiate between types of captives, you were thought of as really sophisticated," added Ms. Ruthardt.

In the late 1960s and early 1970s, insurers and brokers started to offer "unbundled" services such as claims administration, loss control and data processing.

"In the late '60s, unbundled services began, but they really came into play in the '70s," said Horace Holcomb, senior vp of Alexander & Alexander Inc. in New York.

Risk managers who set up self-insurance programs could "buy claims services from outside sources that were formerly only offered by insurers. A lot of insurers were also offering services through separate subsidiaries," said Bill Manning, senior vp-casualty, special risks division of CIGNA Corp. in New York.

And in the late '60s and early '70s, risk managers were becoming aware of the increasing exposure their companies faced for directors and officers liability, product liability and environmental impairment liability as claims and settlement costs began to climb.

"Directors and officers liability was a big issue and (the coverage) was gaining popularity in the marketplace," said Mr. Armstrong.

"D&O and fiduciary liability coverages were just beginning to be used at that time," agreed Mr. Chanzis.

"In the mid-'70s, the product liability crunch caused more businesses to look closely at liability coverage. . . Environmental impairment liability and products liability were starting to impact on them," said RBH's Mr. Dolan.

"Most state guaranty funds were established in the 1970s," said Gerald Grimes, Oklahoma's commissioner of insurance in Oklahoma City.

In fact, the rapid acceleration of liability costs over the past two decades has been responsible for two of this era's most widely used buzzwords—the "deep-pocket theory" and "tort reform."

Partially in response to the increase in litigation in the mid- to late 1970s, risk management loss control programs began to take more sophisticated forms.

Risk managers began to use such terms as "human factor engineering"—what affects the body internally and externally—"systems safety" and "ergonomics," said David P. Curley, assistant vp-engineering for the commercial insurance department of Aetna Life & Casualty Co. in Hartford, Conn., and chairman of the National Safety Council in Chicago.

And in response to record numbers of insurer and reinsurer insolvencies in the mid-1980s, risk managers are now talking about "market security."

"Security of markets is a growing concern for the industry as a whole, since within recent years an unprecedented number of insurance companies have experienced major financial trouble," said RBH's Mr. Dolan.

Finally, risk managers have delved increasingly into the world of finance over the past several years, as they have begun to perform such tasks as "financial modeling," "trending" and creating "feasibility studies" assisted by computers, observers say. ■

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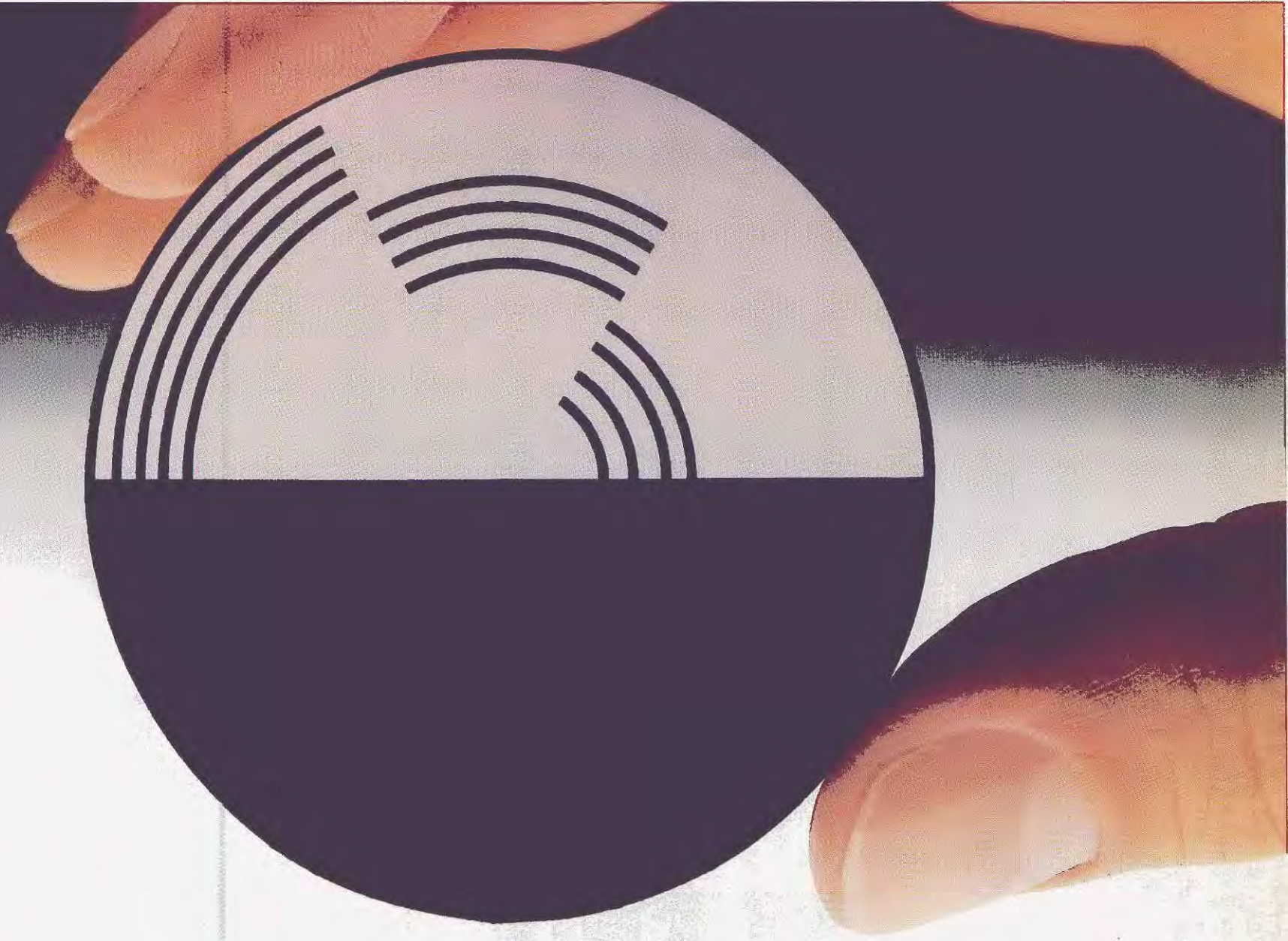
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## Time capsule: 1973

Risk managers say that changes in the comprehensive general liability policy that take effect today will have a greater impact on small and medium-size companies than on large corporations. That is because large corporations, because of the volume of their business, usually can negotiate manuscripts or very flexible policies.

However, risk managers cautioned that all insurance buyers should study the differences between the 1966 CGL form and the revised one. And, they are reserving judgment on the new form until they see how it works in actual practice (BI, Jan. 1, 1973).

Lloyd's of London underwriters are the insurers for the bulk of the largest personal injury award in U.S. history—\$4.025 million awarded to a 13-year-old boy who was paralyzed from the neck down in a schoolyard injury in July 1970.

Although there are several defendants and insurers involved in the case, Lloyd's will be liable for \$3.9 million as the insurer of Mount Zion Hospital in San Rafael, Calif.

A Superior Court jury in San Francisco handed down the award for Kelley Niles, who was injured in a fistfight during a supervised summer recreation program sponsored by the city of San Rafael and the San Rafael school district. Both the city and the school district will pay \$25,000 (BI, Feb. 12, 1973).

The war risk coverage on a Libyan Arab Airlines Boeing 727 that was shot down by Israeli fighter planes last month had been allowed to lapse just days before the incident, which killed 106 people.

Aviation insurance sources said the coverage had lapsed five days before the plane was shot down, because the Libyans felt the coverage was expensive. Apparently, Libya's nationalized insurance industry will have to pay for the aircraft, which is valued at about \$7 million. Israel said it will compensate the families of those killed in the crash (BI, March 12, 1973).

Mattel Inc. has sued 23 insurance companies, charging the companies failed to pay \$8 million of \$10 million in business interruption losses.

The suit charges the insurers have withheld payment because Mattel has refused to comply with appraisal of damage provisions of the policies involved the claim, which results from a 1970 fire that destroyed a Mattel warehouse in Mexico. Mattel claims the appraisal clause is intended to apply to the fire insurance losses, not the business interruption losses (BI, March 26, 1973).

Product liability lawsuits have increased 400% in five years—to an estimated 500,000 in 1972 from 100,000 five years earlier. Reasons for the increase include the spread in judicial application of the doctrine of strict liability, which is now recognized in more than half the states (BI, April 23, 1973).

The ultraconservative John Birch Society says the Occupational Safety and Health Act is a step toward fascism and has mounted a major campaign against it.

According to a John Birch Society pamphlet: "OSHA has been carefully designed to create a climate of terror—terror which can be used selectively for political purposes—to turn businessmen into criminals, to cast them as ogres who have no interest in safety, to deny their civil rights and eventually those of everybody. . . . The real purpose of OSHA—as of so many federal

June 18, 1973).

There apparently is no property or liability coverage on losses from a fire at a nightclub in New Orleans' French Quarter that killed 38 people.

Although the contents of the Upstairs nightclub were insured on a surplus lines basis in overseas markets, there was no property coverage on the second-floor club and no liability coverage. Insurance sources in Louisiana say that it is difficult and expensive to get coverage for buildings such as the Upstairs, which was an unrestored, run-down building in a "high risk" area of the historic French Quarter (BI, July 2, 1973).

Consolidated Mutual Insurance Co. reportedly is the insurer for the largest hotel robbery ever in New York City, the theft of \$203,000 belonging to the British rock group Led Zeppelin (BI, Aug. 13, 1973).

Hearings are expected to begin this fall before a Senate committee on a bill to make it easier for employers to comply with the Occupational Safety and Health Act.

Employers and their lobbying groups have expressed great dissatisfaction with OSHA, saying it is very burdensome for them to meet all the requirements of the current law. In response to their requests for changes, a group of senators introduced the Occupational Safety and Health Act Amendments of 1973. The bill is pending before the Senate Labor and Public Welfare Committee, which is expected to begin hearings after the current congressional recess ends in early September (BI, Aug. 27, 1973).

Britain's Labor Party says that it will press for nationalization of the British insurance industry, except Lloyd's of London, if it regains

control of Parliament in 1975.

Labor Party leaders say that nationalization of the non-Lloyd's section of the insurance industry would result in more efficiency and lower prices. Lloyd's is excluded from the plan because it does relatively little domestic life and auto insurance, which are major targets of the nationalization.

The Labor Party's plan is sure to meet stiff opposition from the Conservative Party, which currently controls Parliament, and from the centuries-old insurance community in Britain (BI, Sept. 24, 1973).

A recent survey shows that directors and officers liability insurance is growing in popularity, with almost half the responding companies having the coverage.

The survey of 633 U.S. corporations by The Wyatt Co. reveals that 46.8% of the companies have D&O coverage, most with liability limits of \$5 million (BI, Oct. 22, 1973).



# You can't prevent disaster.

# Federal laws impact risk management

By DEBORAH SHALOWITZ

WASHINGTON—The Risk Retention Act of 1981 and its 1986 amendments are the two federal laws that have had the greatest impact on risk management over the last 20 years, observers concur.

The most recent legislation, passed just last year, made it much easier for businesses, trade groups and professional organizations to set up special multiple-owner insurance companies to cover all liability exposures except workers compensation. The act also allows companies to band together to buy insurance on a group basis.

"Clearly, the Risk Retention Act is the most far-reaching piece of legislation enacted over the past two decades affecting risk man-

agement," says Tom O'Day, associate vp of the Alliance of American Insurers in Washington, D.C.

"To the extent that (the law) provides a means of group self-insurance," the Risk Retention Act "is probably the most significant enactment" of the last 20 years, agrees Leslie Cheek III, vp of federal affairs at Crum & Forster Corp. in Washington.

And while Jon Harkavy, director of governmental affairs for the Risk & Insurance Management Society Inc. in New York, said that it's too early to pass final judgment on the act, he added that it could have a "dramatic impact on the way insurance is delivered."

Risk management experts also note that a host of other laws passed in the last two decades have

and will continue to have a significant impact on risk management. These laws include:

- The Resource Conservation and Recovery Act of 1976 and the Hazardous and Solid Waste Amendments of 1984.

- The Comprehensive Environmental Response, Compensation and Liability Act of 1980 and the Superfund Amendments and Reauthorization Act of 1986.

- The Tax Reform Acts of 1984 and 1986.

- The Motor Carrier Act of 1980.

- The Occupational Safety and Health Act of 1970.

- The Housing and Urban Development Acts of 1968 and 1970.

The original Risk Retention Act of 1981 was developed by the Com-

merce Department's Task Force on Product Liability and Accident Compensation in response to the product liability insurance crisis of the mid-1970s.

At first, the National Assn. of Insurance Commissioners objected to the proposal and what they saw as usurpation of their authority to regulate the industry.

But after some modifications, the NAIC and some of the other groups lobbying against the bill dropped their opposition.

Jim Anderson, director of governmental affairs for the National Assn. of Wholesalers-Distributors in Washington, said the 1981 law has been "extremely helpful" to the NAW, which formed a purchasing group that is co-sponsored by 96 of the NAW's affiliated com-

modity line associations and buys insurance for 2,200 companies.

However, the 1981 law was not widely used, partly because the tight market eased and also because it limited risk retention groups to write only product liability insurance, observers say.

"The almost non-existent use made of the '81 act" can partially be explained by what happened in the marketplace, explained Mr. Cheek. In 1982, the commercial insurance market dropped its prices and risk retention groups could not match them, he said.

"Between 1981 and 1986, only a small number (of risk retention groups) were formed because in the soft market there wasn't really a need to establish alternative mechanisms," recalled Michael Mullen, an attorney with Crowell & Moring in Washington, who served as counsel to the Senate Commerce, Science and Transportation Committee in 1981.

The amendments expanding the Risk Retention Act also were prompted by a crisis in the commercial market as professionals and businesses could not secure affordable liability coverage in the mid-'80s.

In testimony before Congress, "there seemed to emerge... a kind of a consensus that broadening the Risk Retention Act would be a useful way to open up additional insurance opportunities" to satisfy these needs, related Mr. Mullen, who in 1986 served as counsel to a group of commercial insurance buyers that formed the Committee for Risk Retention.

However, when the legislation was introduced, the NAIC opposed the concept just as it did the original Risk Retention Act of 1981. "They felt that their regulatory authority was threatened," explained Mr. Mullen.

But while the NAIC mobilized opposition to the legislation, strong support for the concept in the Senate Commerce Committee continued.

The turning point came in the spring of 1985, when the NAIC decided not to stand in the way of the bill, once again presenting a list of suggested amendments to make it more palatable to state regulators, noted Mr. Cheek.

The NAIC amendments, which eventually were adopted, clarified the authority of the state insurance commissioners to obtain information, initiate investigations and impose sanctions on risk retention and purchasing groups.

The new Risk Retention Act "makes it more likely that the business lost to the commercial marketplace won't return as it has in past downturns in the (insurance) cycle," Mr. Cheek said, adding that once people have organized risk retention groups, "they're not going to want to undo all of their efforts."

The act is likely to enhance the role of the risk manager in yet another way: "When you've got your own money at risk, it gives you an even greater incentive to prevent loss and therefore is likely to enhance the role of the risk manager," he said.

But the expanded legislation still must clear a few more hurdles before it really catches on, says Brady Young, a consultant in the Darien, Conn., office of the Tillinghast Division of Towers, Perrin, Forster & Crosby Inc.

The authority of individual states to regulate risk retention and purchasing groups must be clarified, as does the definition of where a purchasing group is "located."

"Beyond that, there still has to

*Continued on next page*



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## Federal laws

Continued from previous page  
be wider acceptance among the insurance risk management community of these alternatives."

And, he said, "there has to be an expansion of the infrastructure to support" risk retention groups—such as reinsurers, consultants, claims service providers and even insurers unbundling services.

"A good reinsurance partner is an essential ingredient" for a successful risk retention group, agreed Ron Boggs, a consultant at The Wyatt Co. in Chicago.

He predicts "the most rapid development of risk retention groups will probably be at the bottom of the next cycle."

Currently, between 20 and 25 risk retention groups are licensed and only 12 to 15 are actually issuing policies, Mr. Young said, predicting that the number will grow to approximately 100 by 1990. But

he expects premiums paid to risk retention groups will account for only 3% to 5% of the total market by the end of this decade.

Purchasing groups, however, "are another ball game," Mr. Young stressed.

By 1990, he predicts there could be as many as 400 to 500 purchasing groups in operation, accounting for as much as 10% to 15% of U.S. commercial premiums.

Purchasing groups will be formed more readily than risk retention groups, he explained, because they are less complicated and create less risk for members.

But as purchasing groups gain popularity, they could spur the creation of risk retention groups through a "natural evolution" that might occur as people become more comfortable with being in the insurance business, he added.

It is difficult to determine how much benefit has been derived from the purchasing group aspect

**Superfund laws  
'opened up corporate  
liability to such a  
dramatic extent,'  
says Mr. Harkavy.**

of the Risk Retention Act, Mr. Boggs said, because insurers view them now as simply another way to sell insurance.

In the future, Mr. Boggs said he would like to see policyholders have "more of a voice in programs," because right now most purchasing groups are run by and marketed by insurers.

Two federal laws, the Resource Conservation and Recovery Act of 1976 and the Hazardous and Solid Waste Amendments of 1984, imposed strict financial or insurance requirements on companies that

handle hazardous waste and increased the number of companies subject to Environmental Protection Agency regulations.

This is "one of the most important pieces of legislation affecting risk management" in the last 20 years because "it's affecting many businesses that were not before affected by environmental regulation," according to Mary P. Morningstar, corporate counsel of Risk Science International, a Washington-based environmental risk management consultant.

Businesses affected by some of the new regulations include convenience stores, gasoline and service stations, rental car companies, hospitals and hotel chains and others that operate their own fleet of delivery trucks, she noted.

Under the EPA rules, a company that treats or stores hazardous waste must secure insurance for sudden or accidental environmental impairment covering all of its

facilities with limits of at least \$1 million per occurrence and \$2 million aggregate.

A company that also disposes of hazardous waste must, in addition, buy non-sudden EIL coverage with limits of at least \$3 million per occurrence and \$6 million aggregate.

Also under the EPA requirements, an insurer must give a company at least 60 days' notice of cancellation of an EIL policy.

As an alternative to insurance, a company that treats, stores or disposes of hazardous waste can demonstrate that it has net working capital and tangible net worth of at least six times the amount of liability coverage required.

The EPA rules also allow states to develop their own pollution liability requirements over the federal minimum. So far, 11 states have their own requirements.

Under HSWA—published last April and expected to become final in May 1988—companies with underground tanks storing either hazardous waste or petroleum products must buy insurance for on-site cleanup with limits of \$1 million per occurrence and an aggregate limit based on the number of tanks at a site.

Alternatively, a company must demonstrate that its net worth is at least 10 times the annual aggregate amount of insurance it would be required to buy.

The proposed regulations also require all underground storage tanks to be tested for leaks. And, all underground storage tanks must have a leak detection system acceptable to the EPA.

Another provision in the HSWA expanded the RCRA's authority to include businesses that generate between 100 kilograms and 1,000 kilograms per month of hazardous waste.

A technical specialist at Risk Science International estimated that 100 kilograms of hazardous waste is less than half of a 55-gallon drum.

Under the Comprehensive Environmental Response, Compensation and Liability Act of 1980—commonly known as Superfund—a company became jointly and severally liable for the cleanup of any hazardous waste landfill to which it had contributed in the past. And, under the Superfund Amendments and Reauthorization Act of 1986 any past or present owner of a Superfund site can be held liable for cleanup costs.

These laws "opened up corporate liability to such a dramatic, dramatic extent," noted Mr. Harkavy of RIMS, because it made companies such as banks, investment firms and real estate developers that simply purchase property for investment purposes liable for cleanup costs if the property was ever used as a hazardous dump.

Superfund also contains another provision that affects risk managers: The Emergency Response and Community Right To Know Act of 1986.

Under the provision, known also as Title 3, any company under the jurisdiction of the Occupational Safety and Health Administration that uses potentially hazardous substances must develop material safety data sheets on those substances and submit them to a state commission and a local committee.

By July 1988, and annually thereafter, the company also must submit a chemical inventory form describing the maximum annual amount, average daily amount and location of each chemical the company has at its facility.

Title 3 also imposes separate reporting requirements for a company that has 10 or more full-time employees and uses toxic chemicals in excess of a federally mandated threshold.

Ms. Morningstar pointed out that under Title 3, citizens have the

Continued on next page

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Continued from previous page

right to sue a company for violating any part of the statute and the requirements are enforceable both civilly and criminally.

Tax bills also have had an impact on risk managers.

Because of the Tax Reform Act of 1986, shareholders of many offshore group captives are now liable for current-year taxes on the captives' income from insuring U.S. risks.

Previously, such group captives were treated as "non-controlled foreign corporations" as long as they met certain tests, including that each shareholder own less than 10% of the captive's voting stock.

"No one really knows what the impact" of this provision will be, said Fred Howard, treasurer and tax counsel with Johnson & Higgins in New York. But, he said captives "remain desired vehicles... in spite of the obstacles that are thrown in their way."

The Tax Reform Act of 1984 prohibited companies from taking tax deductions for reserves to pay self-funded losses known in the current year, but not payable until the future. Under this law, deductions can be taken only at the time a claim is paid.

This was a "particularly significant tax bill in that it set back loss financing" opportunities for risk managers, Mr. Harkavy said.

This provision overturned a major court victory risk managers had won in 1983 when the 9th U.S. Circuit Court of Appeals in San Francisco ruled that Kaiser Steel Corp. could deduct reserves to pay uncontested workers compensation claims if all events governing the fact of the employer's liability occurred during the tax year and the amount of the liability could be determined with "reasonable accuracy."

The 1984 tax bill also reduced the use of excess foreign tax credits to offset taxes due on offshore captives' income related to U.S. risks.

Previously, if a company had excess foreign tax credits generated by paying a higher tax rate in a foreign country, these excess foreign tax credits could be used to offset the U.S. tax due on the untaxed foreign-source income.

The Motor Carrier Act of 1980 also imposed strict insurance requirements for haulers of hazardous and non-hazardous materials.

The regulations specify three categories of damages to which the insurance is intended to respond: public liability, which includes bodily injury claims; property damage; and environmental restoration, which includes removal and mitigation of damage to human health, fish and wildlife.

These requirements have "created serious affordability problems for small trucking companies and serious capacity problems for the insurance industry," noted Mr. Cheek.

Meanwhile, existing state laws required insurers to write coverage for any operator with a state license, regardless of the safety record or loss experience. Accident records could be used only for rating purposes.

"The net effect has been to force the (insurance) industry to write coverage for all comers and to thwart the congressional intent, which was to substitute financial responsibility (requirements) for active federal safety regulation," said Mr. Cheek.

He maintained that "the theory of the act was you could cut back enormously on the expenses of safety inspectors because insurers would weed out" the dangerous drivers. However, because of state laws mandating insurers to cover all drivers, this was not possible.

Other federal laws affecting risk managers include:

**The Motor Carrier Act of 1980 specifies damages for which trucking companies must be insured: public liability, property damage, and environmental restoration, which includes mitigation of damage to humans, fish and wildlife.**

- The sweeping Occupational Safety and Health Act of 1970, which forced employers to comply with dozens of new safety and health regulations and report to the government on the safety and health of their worksites.

Under the act, OSHA is empowered to issue health and safety standards and regulations, inspect worksites and penalize employers in violation (*BI*, Sept. 14).

- The Housing and Urban Development Act of 1968, which contained two provisions directly affecting buyers of property insur-

ance. Its real significance, though, was that it represented "the first real movement of the federal government into the coverage voids created by natural perils and man-made perils," said Mr. Cheek.

For example, with flood insurance arose the classic adverse selection problem—those that buy policies almost certainly will suffer losses, so there is no spread of risk. Further, flood insurers were hit with a sea of claims from the same policyholders year after year.

To prevent the cycle from continuing, the government enacted a

national flood insurance program that "could be said to be the first government venture into risk management," said Mr. Cheek, who at the time was a legislative assistant for the House sponsor of the bill.

Congress agreed to provide stop-loss insurance for insurers, but, in return, local governments had to enact zoning ordinances that would prevent new construction in a 100-year flood plain.

The flood insurance program is a cooperative venture between the federal government and the private insurance sector, with insurers operating under contract as servicing carriers. However, all losses under the program are ultimately paid by the federal government. Policies are sold by independent agents and direct-writing insurers.

Even today, this law remains "very effective in preventing the development of flood-prone land in both river valleys and among the Barrier Islands off the Atlantic

coast," noted Mr. Cheek.

Another provision of the housing act, the Urban Property Protection, Rehabilitation and Reinsurance Act of 1968—commonly known as the riot reinsurance act—responded to property insurers' refusal to cover inner-city businesses because of the late 1960s civil rights riots.

Under the program, which ended two years ago, the federal government reinsured against any losses caused by rioting.

- Under the Housing and Urban Development Act of 1970, businesses and homeowners can buy primary crime insurance from the federal government if they are located in a state in which the insurance commissioner has declared a shortage of such coverage.

This ongoing program consistently is a money-loser that the Reagan administration has been trying to abolish for years, said Mr. Cheek.

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## Time capsule: 1974

Despite the Internal Revenue Service decision to disallow tax deductions of premiums paid to single-parent captive insurance companies, U.S. corporations remain interested in captives.

Since 1971, when captives burst on the scene, an estimated 350 to 400 offshore captives have been established, most of them in Bermuda. And, contrary to the predictions of many experts, interest in captives does not seem to be diminishing.

Despite the IRS decision on tax deductions, many corporations find that captives offer other financial advantages, such as improved cash flow. And, international companies use captives to facilitate an overseas risk management program (BI, March 4, 1974).

Two international insurance experts from Lloyd's of London said that property and casualty rates have gone as low as they will go, and predicted a hardening in insurance rates during the coming year.

The experts noted that casualty insurance rates have fallen an average of about 15% recently, especially during 1973. They said rates were likely to rise for general liability coverages, and especially for professional liability coverages.

They also said that property insurance rates appear to have bottomed out and probably will increase by the end of 1984, especially for North American risks (BI, March 4, 1974).

The crash of a Turkish Airlines DC-10 that killed 345 people is sending ripples through the airline insurance community.

Lloyd's of London and the London market have the majority of the coverage for the aircraft hull, insured for \$20 million. Passenger liability claims are expected to add an additional \$10 million to \$20 million in losses in the Paris crash, the worst in the history of aviation. In addition, the possibility exists of liability suits against the plane's manufacturer, McDonnell-Douglas Corp., because the crash occurred when the plane lost its cargo door.

These huge losses—including the property loss on the plane itself and the liability losses—are likely to have a severe impact on aviation rates and conditions, experts say (BI, March 18, 1974).

The growing importance of the risk management function in U.S. companies may bring the disclosure of insurance and risk management data in corporate annual reports.

Walter Woodward, president of the American Society of Insurance Management, said that the impact of insurance—and the importance of the risk management department—has increased significantly in recent years.

He explained, "What we've seen here is the evolution of risk management in the corporation, and with risk management's growth in authority and responsibility, as well as its impact on corporate profit and loss statements, it may only be a question of time before it takes its place in the corporate reports" (BI, April 15, 1974).

High inflation and the growing sophistication of corporate risk managers are building interest in cash-flow insurance plans.

The main advantage of cash-flow insurance plans is that they keep a corporation's money in its own coffers for a longer period of time, allowing the funds to earn interest for the company or letting the company avoid having to pay high interest rates on money borrowed to pay premiums.

In addition, more companies are considering and implementing higher deductibles and self-insurance plans as a way of keeping their insurance costs down (BI, April 29, 1974).

Although they were formed to insure the risks of their parent companies, more and more captives are writing outside books of business.

Bermuda-based captives particularly are actively seeking outside commercial business, according to experts in the captive field. Captive owners, finding success in in-

sureing their own risks, are expanding into the general insurance business.

And, the interest in forming captives appears to be undiminished, according to industry observers (BI, May 13, 1974).

Competition is forcing premiums down and limits up on directors and officers liability coverage, observers say.

More insurance companies have entered the field of D&O coverage, increasing competition and forcing rates to drop somewhat, even among the Old Guard. Even those insurers that are not dropping rates are being forced to increase limits on the coverage, industry sources agree.

However, those insurers that have offered D&O coverage for many years caution buyers that the new competitors may not have the expertise and experience to underwrite in such a highly specialized field (BI, May 13, 1974).

It appears that a federal workers compensation bill will not reach President Nixon's desk this year.

Action on the bill will be delayed, observers say, because of the sweeping nature of the legislation itself, the tight congressional calendar and the uncertainty on Capitol Hill because of the Watergate investigation and impeachment hearings.

The proposal, which has been in-

troduced in identical bills in the Senate and the House, would require state workers compensation programs to cover all public and private employees, cover all injuries and illnesses arising out of employment and provide for disabled workers or survivors to receive two-thirds of an employee's weekly wage in benefits (BI, May 27, 1974).

The House Ways and Means Committee is launching an assault on one of the major tax breaks for captive insurance companies.

The committee, which has been studying treatment of foreign income, has tentatively agreed to get rid of "subpart F" tax exemptions,

Continued on next page

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know-how and benefits expertise to fit all the pieces together into a comprehensive program that meets your business goals. From 45 offices nationwide,

Continued from previous page which affect the tax treatment of captive income from insuring U.S. risks.

Rep. Wilbur Mills, D-Ark., even suggested setting a minimum tax on the foreign income of U.S.-controlled overseas subsidiaries, including captives, but that suggestion was dropped in the wake of a strong lobbying effort by U.S. multinational corporations. But in general, the panel appeared to agree with Rep. Mills, who said he was "sick and tired" of hearing about multinationals making large foreign profits and paying little or no U.S. income tax on those profits (BI, June 10, 1974).

Major U.S. corporations are re-

porting significant rate increases for their property/casualty insurance coverages.

The rate hikes, caused by continuing inflation and the growing frequency of claims, appear to be averaging about 10%. The steepest rate hikes are in workers compensation, product liability and boiler and machinery insurance and certain fire coverages.

However, buyers report that directors and officers liability premiums are remaining the same, or in some cases, even dropping slightly (BI, June 10, 1974).

A.H. Robins Co. Inc. has insurance for at least part of the liabilities and damages that will arise from lawsuits over the company's

**Medical malpractice capacity may evaporate if reforms are not implemented, Mr. Smith said.**

Dalkon Shield intrauterine contraceptive device.

Sources say that Aetna Casualty & Surety Co. underwrites the coverage that will respond to product liability suits regarding the device, which Robins has manufactured and distributed since 1970. Robins currently faces lawsuits seeking more than \$500,000 in damages

filed by two Kansas women who became pregnant while using the Dalkon Shield.

In addition, a class-action suit has been filed against the company in New Jersey by a group of obstetricians and gynecologists who charge Robins with "deliberate misstatements and calculated failure to disclose information about the Dalkon Shield" (BI, Sept. 16, 1974).

The average total cost for a directors and officers liability claim is \$566,500, according to a recent survey.

The second annual D&O survey conducted by The Wyatt Co. reveals that the average award in a D&O claim is \$385,000, and de-

fense costs average \$181,500, based on responses from 1,321 U.S. corporations.

The survey also shows that the most common types of D&O claims involved antitrust violations, conflict-of-interest charges, irregularities in securities issue and misleading representations made in conjunction with corporate acquisitions (BI, Oct. 14, 1974).

The market for medical malpractice insurance is drying up and may blow away, according to an executive for one of the few companies that still write the coverage.

Waverly G. Smith, president of St. Paul Fire & Marine Insurance Co., whose subsidiary St. Paul Mercury Insurance Co. writes medical malpractice coverage, said that the market has reached a crisis stage. He noted that St. Paul Mercury recently stopped underwriting the coverage in Maryland when it could not get approval for a rate increase.

Mr. Smith said malpractice capacity may evaporate completely unless reforms are implemented, including prevention of malpractice damage suits through defensive medicine, reliance on arbitration rather than trials in malpractice claims, changes in malpractice policies such as institution of one-year rating and legislative action such as standardizing consent forms (BI, Nov. 25, 1974).

The American Society of Insurance Management will change its name to the Risk & Insurance Management Society Inc., effective Jan. 1, 1975.

Members voted for the name change to more accurately reflect the purpose and scope of the organization and to remove the term "American," with its implied geographic limitations.

The society had been called the American Society of Insurance Management since 1955, and before that it was called the National Insurance Buyers Assn. (BI, Dec. 9, 1974).

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# Captives evolve over 2 decades

By DOUGLAS McLEOD

HAMILTON, Bermuda—Captive insurance companies continue to thrive, though in vastly different forms than their predecessors of the 1960s and 1970s took.

Originally set up to insure the property risks of their parent and affiliated companies, captive insurance company formations have long since been aimed mainly at insuring tough liability exposures for their owners.

Single-parent, or "pure," captives initially fueled the captive movement, but the movement now includes multiple-owner captive insurance companies.

And, the offshore captive movement, formerly driven in part by tax benefits, has witnessed the evaporation of those benefits and now faces increasing competition from domiciles in the United States and from risk retention groups formed under the federal Risk Retention Act.

Industry experts point out that captives in their various incarnations have wrought numerous changes in the practice of risk management.

And, while the industry faces yet another new set of challenges, such as a loss of tax benefits and the expansion of the Risk Retention Act, many experts expect captives to continue as useful risk management tools.

"Its doom has been predicted so often that the real news is that it has survived and prospers today more than ever before," observed Richard J. Rice, senior vp and

**'After 15 years of real development, you've got a big business,' says Stuart H. Grayston.**

director with Johnson & Higgins in New York, referring to the captive movement.

"It's a success story. After 15 years of real development, you've got a big business," said Stuart H. Grayston, president of Bermuda-based Hanna Insurance Management Ltd.

"They've generated a lot of cash for the parents, and those that didn't go running off into the wrong kinds of business did very well," he said.

Today, there are approximately 21,000 captives in the world (BI, March 30). Premiums paid to captives in 1986 totaled \$8.5 billion and their capital and surplus totaled \$9 billion, according to estimates by the Tillinghast division of Towers, Perrin, Forster & Crosby.

Although the captive industry's boom came in the 1960s and 1970s, observers trace the first captive formations to at least the 1940s, and possibly earlier.

Among the most significant developments in the movement's evolution, experts note, were:

- 1962 tax law changes, which awakened U.S. corporations to tax advantages to be gained by operating offshore captive insurers.

- The growth of property insurance captives in the late 1960s, particularly with the severe restrictions in the commercial property insurance market that followed Hurricane Betsy in 1965.

- The exodus of captives to Bermuda from the Bahamas in the late 1960s after the Bahamian government imposed new insurance regulations.

- The formation in the late 1960s of Oil Insurance Ltd.—a forerunner of many association captives formed later—whose oil company members were driven by the need to insure huge North Sea oil rig exposures.

- The growth of liability insurance captives beginning in the early 1970s in response to a hard casualty market cycle.

The rate of liability captive formations gradually outstripped that of property captive formations.

Concurrently, more and more U.S. corporations had come to regard risk management as an important corporate goal, observers pointed out.

U.S. companies "recognized that risk management was more than just buying insurance," said Arthur H. Deters, vice chairman of The Reiss Organization, a pioneer in captive development.

- Bermuda's tough questioning in 1975 of a medical malpractice captive proposed by Harvard University teaching hospitals.

The Harvard University captive insurer decided to form in the Cayman Islands, putting Cayman on the map as a captive domicile. This captive has since moved to Bar-

bados.

- Revenue ruling 77-316 of 1977, in which the Internal Revenue Service ruled that the parent of a wholly owned captive insurer cannot take tax deductions for premiums paid to its captive on the grounds that the captive wrote nothing but related risks and therefore the coverage provided by the captive did not constitute insurance.

This was "the beginning of the end of the tax holiday," Mr. Grayston noted.

Subsequent revenue rulings and tax law changes—culminating in the 1986 Tax Reform Act—have stripped single-parent captives of virtually all of their previous tax benefits.

"If you take away the tax advantages, there had better be some really compelling qualitative reasons for having a captive," observed James V. Davis, chairman and chief executive of Corroon & Black Corp.'s Advanced Risk Management Services unit in Nashville, Tenn.

- The rush by many single-parent captive insurers in the wake of the IRS ruling to write non-parent related business to support claims for premium deductions.

The growth in third-party underwriting continued through the soft market cycle of 1979-84 and led to tremendous underwriting losses for many captives and insolvency for some (see story, page 99).

- The creation of captive laws in the United States, attracting captives onshore.

- The advent in 1985 and 1986 of huge policyholder-owned offshore insurance companies, such as A.C.E. Insurance Co. Ltd. and X.L. Insurance Co. Ltd., formed to provide excess liability limits no longer available from restricted commercial insurance markets. The formation of many other group insurers designed for particular industries or specific lines of insurance soon followed.

"A.C.E. and X.L. are two of the real success stories in terms of what can be done," Mr. Davis observed.

However, he added that the test of these group insurers will come as the commercial insurance market becomes competitive again, presenting group captive members with a choice between stability and price competition.

- The 1986 expansion of the federal Risk Retention Act, which allows groups of companies to pool their risks in risk retention groups or to band together in purchasing groups to buy coverages from commercial insurers.

Although questions remain over the degree to which insurance departments may regulate the groups or their insurers, the expanded Risk Retention Act is generally seen as a challenge to offshore captive domiciles.

Industry experts agree that captives have played a valuable role in filling their parents' insurance needs and that single-parent captives performed their function economically while tax benefits were still available.

However, experts differ over some of the effects of the captive movement and the continued viability of single-parent captives.

One significant byproduct of the captive movement has been the accelerating trend among corporations to assume more of their own risk, noted D. Hugh Rosenbaum, vp and principal with the Tillinghast Division of Towers, Perrin, Forster & Crosby Inc. in Darien, Conn.

"This was the period when they finally bit the bullet and took higher retentions," Mr. Rosenbaum

said of the period of captive growth in the 1970s and 1980s.

Mr. Davis, however, maintained that other loss-funding devices—including paid-loss retrospectively rated plans, compensating balance plans and qualified self-insurance programs—produce the same result.

"The trend toward taking larger retentions came about because more and more firms realized that in one way or another they were self-insured," Mr. Davis said.

While some captive experts argue that captives have made risk managers more aware of parent company losses, the movement also has sparked a debate over whether captives have diverted risk managers' attention from safety and loss control.

Mr. Rosenbaum said that some experts contend that risk managers now concentrate too much on risk finance and the profitability of their captives while neglecting the basic tasks of risk assessment and control.

While noting the explosive growth of group captives in recent years, captive experts also differ about the continuing usefulness of single-parent captives.

Mr. Rice and Brian R. Hall, president of J&H Ltd., a J&H captive management unit, noted several risk management benefits to be gained through the use of a captive, including:

- Allowing a risk manager improved access to information about overseas subsidiaries' operations.
- Allowing the risk manager to fine-tune the rates that could be considered adequate for the parent company's exposures.
- Gaining direct access to reinsurance markets.

The growth of captives also enlarged the scope of the risk manager's job, Mr. Hall noted.

"The risk manager has become far more visible because of the role he plays in the maintenance of (the captive's) assets," he pointed out.

Mr. Davis conceded that one plus of captives is that they represent a dedicated source of cash to pay losses, but he said that corporate management has to ask itself how much it wants to pay for that advantage.

Without the tax benefits, single-parent captives do not represent the cost-effective mechanism they used to, he said.

Mr. Davis said that one of the major benefits of captives to the risk management community has been the psychological one of turning a cost center into a profit center.

"A lot of senior managers react to that very positively," he observed.

He added, though, that this perception has been "a figment of their imagination," and that many self-insurance programs could produce the same beneficial financial results, but without the balance sheets, business plans and separate corporate existence of the captive insurer.

Many risk managers have prepared "dummy" financial statements on their self-insurance programs to demonstrate what the programs have saved, though a captive is still "just a lot sexier," he said.

Mr. Davis also disputed the assertion that captives give corporations ready access to international reinsurance markets.

Many reinsurers turned out not to be interested in dealing with relatively thinly capitalized captive insurers, Mr. Davis noted. And some reinsurers that did business with such captives became insolvent, he said.

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# Captives found trouble writing unrelated risks

By KATHRYN J. MCINTYRE

A logical step from success as a captive insurance company appeared to be writing commercial insurance or reinsurance for unrelated parties.

It didn't work out that way for most captives.

Created to underwrite the risks of their parent or affiliated companies, captives generally were very successful as long as they stuck to the business they knew and could control. When they went into full-fledged commercial insurance and reinsurance underwriting in the late 1970s and early 1980s, most captives failed miserably.

These new commercial companies, mostly based in Bermuda, often did not attract the experienced underwriters needed to select risks successfully. Also, the business offered to these new entrants was often substandard.

Worst of all, even captives that recruited good underwriters were underwriting a large volume of business at the beginning of the most competitive insurance cycle in the history of the insurance business. Even the best business ultimately produced underwriting losses.

There are, however, some captives that survived and are still underwriting commercial insurance. The largest: GTE Reinsurance Co. Ltd. in Bermuda.

Among the captives that eventually dropped out of commercial underwriting either due to large losses or other reasons are:

- Walton Insurance Co. Ltd., a subsidiary of Phillips Petroleum Co., which started writing commercial reinsurance in 1974.

Walton withdrew from commercial underwriting in January 1983 after suffering large losses. Phillips took a \$65 million aftertax charge in 1982 related to Walton and pumped \$55 million into the company in October 1983. Walton staff is running off its business.

- Mentor Insurance Ltd., a subsidiary of Ocean Drilling & Exploration Co., which started writing unrelated business in the 1970s, and stopped in January 1985.

Mentor was ordered liquidated by the Bermuda Supreme Court in March 1986. The insurer's insolvency could be as large as \$505.6 million, according to its liquidators. The liquidators are suing ODECO and others, seeking to cover the insolvency, and are predicting they will be able to begin paying claims in 1992.

- Cambridge Reinsurance Co. Ltd., a subsidiary of National Sea Products in Nova Scotia, which stopped writing in April 1984.

Cambridge Re, which filed for liquidation in April 1985, is insolvent by almost \$64 million, its liquidators say.

- Insko Ltd., a subsidiary of Gulf Corp., which in 1977 hired former Lloyd's of London Deputy Chairman Leslie Dew to expand its unrelated risk underwriting, stopped writing in November 1984, after the 1984 merger of Gulf with Standard Oil Co. of California. Insko's staff is running off the business.

- Ancon Insurance Co. Ltd., a subsidiary of Exxon Corp., which stopped writing in October 1984 after Exxon determined that five years of underwriting unrelated risks did not produce the anticipated profit.

The company now is being managed by Johnson & Higgins.

- Horizon Insurance Co. Ltd., a subsidiary of Cargill Inc., which started writing commercial insur-

ance in 1978, and stopped all unrelated reinsurance underwriting in September 1985.

- Transcon Insurance Ltd., a subsidiary of Ford Motor Co., which started writing unrelated risks in 1974, greatly curtailed its unrelated risk underwriting in 1979, re-entered on a selective basis, and then completely withdrew in December 1985.

It is being managed by J&H.

- Arion Insurance Co. Ltd., a subsidiary of Canadian Pacific Steamship Co., which announced in January that it had stopped underwriting in Bermuda after deciding to purchase a 6.2% ownership in The Charter Reinsurance Co. Ltd. in London.

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## Time capsule: 1975

Insurers are warning corporate buyers that 1975 will be a year of tight capacity for commercial insurance.

After suffering enormous underwriting losses, skyrocketing inflation and the loss of surpluses to the bear market in 1974, the insurance industry says buyers can expect significant rate hikes for coverages "across the board," and less capacity and stricter conditions in many lines (BI, Jan. 13, 1975).

International Telephone & Telegraph Corp. plans to transfer more than \$127 million to boost the surplus of its Hartford Insurance Group unit.

ITT executives explained that the transfer of funds was made to bolster Hartford's surplus, which has been depleted because of the severe decline in the securities market. Insurers generally maintain a 4-1 premium-to-surplus ratio, but before the ITT contribution, Hartford had been writing at a ratio of 6-to-1 (BI, Jan. 13, 1975).

Congress is investigating possible federal solutions to the medical malpractice insurance crisis, which has been characterized by extremely tight capacity and high rates.

The Senate health subcommittee will hold hearings on at least two bills aimed at easing the crisis.

One bill, introduced by Sens. Edward Kennedy, D-Mass., and Daniel Inouye, D-Hawaii, would establish a voluntary federal malpractice insurance program along modified no-fault lines.

The other bill, filed by Sen. Gaylord Nelson, D-Wis., would establish a voluntary federal malpractice reinsurance fund that would initially pay liability claims of more than \$25,000. Sponsors say no federal tax funds would be needed to support either proposal.

Legislation also has been filed in the House asking the National Academy of Science to study the malpractice crisis and suggest solutions by July 1. And Caspar Weinberger, secretary of health, education and welfare, said HEW is investigating the possibility of a federal reinsurance pool (BI, Jan. 27, 1975).

St. Paul Fire & Marine Insurance Co., which insures about 48,000 doctors, will begin writing medical malpractice insurance on a claims-made basis and stop issuing occurrence-based policies (BI, Feb. 10, 1975).

Premiums are set to take off for aircraft hull and liability and aircraft production liability coverages in the wake of disastrous hull losses in 1974 and concerns about the outcome of liability claims.

Insurers say hull insurance rates will rise 5% to 10%, but third-party liability rates are likely to jump 15% to 25%. And aircraft products liability rates will soar—in some cases doubling—even after 1974 rate hikes of as much as 30% to 50% (BI, March 10, 1975).

The Financial Accounting Standards Board has issued final rules, effective July 1, that make it more difficult for corporations to list as expenses the amounts charged to "accrued reserves" for future self-insured losses (BI, April 21, 1975).

Physicians in Missouri, Maryland and Michigan are setting up mutual liability insurers to provide medical malpractice coverage to members of the state medical societies, many of whom have had trouble finding coverage.

In addition, several states are studying the possibility of setting up joint underwriting associations

to deal with the rapidly disappearing medical malpractice insurance market (BI, June 2, 1975).

The recent insolvencies of Signal Insurance Co. and Imperial Insurance Co. has sent shock waves through the insurance community.

The California insurance commissioner earlier this month ordered the companies to stop writing new or renewal business effective Sept. 10, saying the insurers were insolvent under California law. The commissioner said Imperial was insolvent because it had inadequate reserves, and that since Imperial is the primary asset of parent Signal, it, too, is insolvent.

Clients and brokers for the insurers said the news of the insolvencies was a surprise, and sent them scurrying to find alternative

markets (BI, Sept. 22, 1975).

A defense attorney specializing in product liability cases predicts that insurers will switch to claims-made coverage for such risks.

John T. Coleman of the law firm Baker & McKenzie in Chicago said insurers are concerned about how to establish rates for damages in the future and how to deal with disputes about which coverage applies in product liability suits (BI, Oct. 6, 1975).

Five lawsuits against Mattel Inc. have been settled out of court for \$30 million, by far the largest directors and officers settlement ever. The settlements involve class-action lawsuits filed in 1973 and 1974 charging securities law violations.

Three groups of underwriters of D&O coverage for Mattel—Lloyd's of London and the London market, International Surplus Lines Insur-

ance Co. and Uniguard Insurance Group—will pay a total \$13.8 million of the settlement (BI, Nov. 17, 1975).

A U.S. Tax Court ruling in a petition filed by Ford Motor Co. is expected to have a major impact on the future of captive insurance companies.

The case, generally considered a landmark for captives, involved a petition filed by Ford as the result of a \$6.6 million assessment by the Internal Revenue Service on premiums paid by Ford's foreign subsidiaries into its Bermuda-based captive, Transcom Insurance Co. Ltd.

The IRS claims that "payments from foreign subsidiaries (to captives) are receipts of dividends to the domestic corporation advanced to the offshore company," because by insuring risk in a wholly owned captive, the economic loss remains in the corporate family.

One risk manager explained the significance of the case for the future of captives, saying, "For companies using captives to insure non-U.S. operations, the outcome of the Ford case is vital. If the IRS position prevails, it would deny the corporate existence of subsidiary insurance companies" (BI, Dec. 1, 1975).

The recent growth in medical malpractice lawsuits and awards has added significantly to the cost of insurance for physicians and hospitals this year, and will add to health care costs for everyone, according to the Health Insurance Assn. of America.

The HIAA says the phenomenal increase in malpractice claims and awards has "resulted in malpractice insurance costs to physicians and hospitals in 1975 of \$1.5 billion, a 25-fold increase from \$60 million in 1960" (BI, Dec. 29, 1975).

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# Natural, man-made disasters wreak havoc

By CAROLYN ALDRED

Earth, wind and fire remain the most destructive forces against which risk managers must defend, though man's technological progress in the past 20 years has created other losses that approach the cost of the worst natural disasters.

In 1967, underwriters around the world were still reeling from the aftermath of Hurricane Betsy, which ravaged the Gulf of Mexico in 1965, destroying dozens of offshore drilling rigs and causing billions of dollars in damage.

And, since then, all but one of the 10 largest insurance losses as ranked by Swiss Reinsurance Co. have been caused by natural disasters.

The two most costly, according to Swiss Re's statistics, were a hailstorm in Munich, West Germany, in July 1984 that caused \$985 million of damage and Hurricane Frederick in the United States in September 1979, which cost insurers \$752 million.

Other storms that have shaken the world's insurance market and caused huge property losses in the last two decades, according to Swiss Re, include:

- Hurricane Alicia, which devastated the Texas coast in August 1983 causing \$675 million in damages, according to original estimates. However, recent estimates nearly double that amount to \$1.27 billion (*BI*, March 16). Only about 20% represent commercial losses, sources say.

- Flooding in Europe in April 1983, which caused \$600 million in damage, mostly in France.

- Hurricane Elena, which battered a stretch along the Gulf of Mexico from Florida's panhandle to New Orleans in August 1985, causing \$543 million at original estimates. That amount has been increased to \$622 million by recent estimates.

The only man-made disaster to appear in Swiss Re's 10-worst insurance losses is that of Three-Mile Island, where total cleanup costs, liability and property damage caused by the 1979 nuclear accident totaled \$440 million, Swiss Re's statistics show.

The 1979 nuclear accident at Three Mile Island in Pennsylvania shook the world—and nuclear lia-

bility insurers.

General Public Utilities Corp., the parent company of Metropolitan Edison Co., operator of the Three Mile Island plant, had a \$300 million property insurance policy with American Nuclear Insurers, although cleanup costs were expected to top \$400 million.

On the liability side, it was not until early 1985 that GPU announced that "almost all liability claims" stemming from the accident had been settled (*BI*, Feb. 28, 1985). The settlements were paid from \$140 million in nuclear liability coverage GPU had purchased from American Nuclear Insurers and Mutual Atomic Energy Liability Underwriters.

Among the liability settlements was a \$25 million class-action set-

tlement approved by a federal judge in 1981 (*BI*, Jan. 17, 1983).

That class action was brought on behalf of 600,000 individuals and businesses located within 25 miles of the plant.

In addition to those settlements, GPU and its former directors and officers liability underwriter, City Insurance Co., agreed in 1983 to pay more than \$20 million to settle a shareholder suit against GPU (*BI*, April 18, 1983).

Pollution also has caused some of the biggest commercial insurance losses in the last 20 years, starting with the Torrey Canyon, a tanker that ran aground off Britain in 1967, spilling oil over half the beaches in Southwestern England.

"At the time of the Torrey Canyon incident there was no machinery available for paying oil pollution compensation," said one London broker. Most of the Torrey Canyon cleanup costs were, therefore, paid by the British government, he added.

"The Torrey Canyon incident directed people's minds to oil pollution. It had never been considered a problem before," said Stanley Dekker, a director of West of England Shipowners Services Ltd., a London-based protection and indemnity club.

In March 1978, more than a decade after the Torrey Canyon incident, the supertanker Amoco Cadiz, laden with 230,000 tons of crude oil, ran aground in the English Channel, spilling tons of oil over the coastline of Brittany in France.

As a result of the devastating damage caused to Brittany's beaches and to fish and oysters in the area, claimants are seeking a total of \$2.2 billion in damages in a continuing lawsuit filed in Chicago in 1978.

In April 1984, U.S. District Judge Frank J. McGarr ruled that the tanker's owner, Chicago-based Standard Oil Co. of Indiana, now called Amoco Corp., negligently failed to maintain the supertanker and is liable for damages from the accident (*BI*, April 23, 1984).

Although most people believe the court will award less than the \$2.2 billion claimed, the Amoco Cadiz likely will be the most expensive sea spill in history, observers say.

"The damages trial finished this summer and the judge has promised to give judgment before Christmas," said John Hawkes, a director of A. Bilbrough & Co. Ltd., manager of Amoco's liability insurer, London Steamship Owners' Mutual Insurance Assn. Ltd., a P&I club.

Final damages are expected to be between \$150 million and \$330 million, London sources say.

Amoco had \$50 million in liability insurance at the time of the accident. However, more than \$30 million already has been paid out in legal costs, which are included in the coverage limits, Mr. Hawkes pointed out.

The Amoco Cadiz, together with two other oil spills in the English Channel that year, had a profound effect on the marine liability insurance market, said Mr. Hawkes.

"The International Group of P&I Clubs realized a maximum liability limit of \$50 million was not enough to cover an oil spill of this kind and raised the cover available to \$300 million in 1979," he said, noting that the limit of \$300 million is still written today.

"The International Group can readily find that cover available in the market because there have not been any major spills since 1978," he added.

More recently, pollution has become a major liability on land.

*Continued on next page*



## Disasters

Continued from previous page

In December 1984, more than 2,000 people were killed in Bhopal, India, when poisonous gas leaked from a pesticide manufacturing plant owned by Union Carbide India Ltd. In addition, an estimated 300,000 people may be suffering latent injuries, the effects of which may not be known for several years.

Shortly after the disaster, the Indian government began making compensatory payments of 10,000 rupees (\$500) to each family that experienced a death and 2,000 rupees (\$100) to every person who had been seriously injured.

However, payments were suspended a few days later and a mass of litigation began to apportion liability between U.S.-based parent Union Carbide Corp. and the Indian government.

The Indian government, acting on behalf of victims, last year rejected Union Carbide's proposed settlement of \$350 million.

And, after a U.S. District Court judge dismissed from U.S. courts all litigation stemming from the disaster (BI, May 19, 1986), the Indian government filed suit in September 1986 against Union Carbide in Bhopal District Court seeking \$3.12 billion in compensation for Union Carbide's alleged failure "to provide the required standard of safety" at the Bhopal plant.

Union Carbide paid \$1.13 million for a \$200 million excess liability insurance program that covers the Bhopal incident, but may have no insurance for defense costs (BI, Dec. 31, 1984; Dec. 24, 1984).

An endorsement to the lead excess policy of \$5 million underwritten by Royal Indemnity Co. says as of March 1, 1984, the Royal policy and all underlying primary insurance is to cover indemnification costs only, and that all expense costs are to be self-insured by Union Carbide.

In a 1986 pollution disaster, a fire at Swiss chemical manufacturer Sandoz A.G.'s warehouse in Basel, Switzerland, resulted in a mixture of toxic chemicals washing into the Rhine River following efforts to extinguish the fire.

The incident caused a major international dispute as to how dam-

ages should be paid to countries and enterprises bordering the polluted river (BI, Dec. 29, 1986).

On Dec. 19, 1986, ministers representing France, West Germany, Luxembourg, the Netherlands and Switzerland met in Rotterdam, the Netherlands, to discuss liability for the pollution of the river.

Sandoz originally estimated the damage at around 100 million Swiss francs (\$65.2 million), however, this has since been revised downward as insurance claims have been presented.

Last month, Sandoz agreed to pay a settlement of 46 million French francs (\$7.5 million) to cover all claims from France and French residents (BI, Oct. 5).

Discussions are continuing with German, Luxembourg, Swiss and Dutch claimants and the total damages now are not expected to exceed 50 million Swiss francs (\$32.6 million), a Sandoz spokesman said.

Sandoz's primary liability insurance, with limits of 1 million Swiss francs (\$652,000), is led by Gerling Konzern Allgemeine Versicherungen A.G. of West Germany. Its excess layer, believed to have limits of close to 500 million Swiss francs (\$326 million), is led by Winterthur Swiss Insurance Co.

Although liability for the Sandoz spill was the subject of an emergency international meeting of state ministers, damages for that incident are likely to be tiny compared with cleanup costs at Rocky Mountain Arsenal.

In November 1985, a federal judge in Denver ruled that Shell Oil Co. and the U.S. government were liable for up to \$1.9 billion in costs related to cleaning up Rocky Mountain Arsenal, a 27-square-mile Army installation northeast of Denver that has been used to manufacture and store chemical weapons, including nerve gas, since 1942 (BI, Nov. 25, 1985).

The ruling followed Shell's admission that it was a generator of hazardous waste at the site, where it had produced pesticides from 1947 through 1982.

The site is considered to be one of the most polluted in the country, with estimates of the cleanup costs ranging from \$357 million to \$8 billion.

Meanwhile a declaratory judgment action Shell filed against more than 250 insurers that pro-

vided the company with liability coverage from 1947 to 1983 began Oct. 12 (BI, Oct. 12).

Two of the largest insurance losses stem from the failures and successes of modern technology.

A technological mistake led to a record payout of \$300 million in 1980 by marine insurers for three ships that were supposed to carry liquified natural gas, but never left dock with their cargo.

About \$240 million was paid by the London marine market and \$60 million by the U.S. and Scandinavian markets to El Paso Co. in Houston for its loss on three unusable ships designed to transport liquified natural gas (BI, Aug. 11, 1980).

The ships were designed to carry liquified natural gas, but cracks in the ships' polyurethane foam insulation, discovered during tests on the first completed ship, made them all unusable for the highly explosive cargo.

Each ship cost more than \$100 million to build.

The insurance payments were made under two policies: \$210 million under a builders risk policy purchased by Avondale Shipyard in New Orleans and \$90 million under an owners interest policy purchased by El Paso Co.

The \$300 million in payments were made in installments—an initial payment of \$90 million, followed by three annual installments of \$70 million each.

However, the success of modern technology caused an even bigger loss at Lloyd's on policies insuring the value of computer leases written in the mid-to-late 1970s.

Throughout that period Lloyd's syndicates insured a flood of U.S. computer leasing companies. However, in 1977 International Business Machines Corp. announced the arrival of two new computers, faster and cheaper than the models available at the time.

When leases on existing computers were not renewed as a result of surging demand for the new IBM machines, the resale value of the computers was far below the anticipated lease revenue, a loss that was insured by the policies written by Lloyd's syndicates.

Initially the total losses to Lloyd's were estimated at more than \$300 million from policies written for ITEL Corp.'s leasing operations alone. However, in Jan-

uary 1982 the company said its maximum potential liabilities relating to Lloyd's insured computer transactions were \$100 million.

Computer leasing losses eventually incurred by Lloyd's totaled \$400 million, said a Lloyd's spokesman.

In June 1982, a final agreement was reached whereby Lloyd's paid claims directly to the owner/lessor of the computer instead of ITEL.

The insurance loss that probably led to the most litigation in U.S. courts resulted from a devastating fire at the MGM Grand Hotel in Las Vegas, Nev., which killed 84 people and injured about 600 others in November 1980.

MGM had only \$30 million of liability insurance at the time of the fire. However, in an unusual move, MGM purchased \$170 million in retroactive liability insurance—back-dated to 20 days before the blaze—to cover the costs of the fire (BI, Feb. 9, 1981).

The policy, brokered by Frank B. Hall & Co. Inc., was more than enough to cover a January 1983 settlement with fire victims of \$75 million. However, the insurer on the first \$35 million retroactive layer, Union International Insurance Co., refused to pay, resulting in a mass of litigation that continued through 1985.

In March 1983, MGM sued Hall, Union International—a Hall subsidiary—and about 20 other insurers on the first \$95 million of back-dated coverage (BI, March 21, 1983).

In June 1983, Union filed a countersuit against MGM, Del E. Webb Corp., a general contractor at the MGM site at the time of the fire, and Del Webb's 11 insurers (BI, June 24, 1983).

On March 29, 1985, 11 days after the trial began in Las Vegas, MGM claimed victory after accepting a \$75.9 million settlement (BI, April 8, 1985).

Under the settlement, Hall and Union agreed to pay \$36 million over a two-year period. Union had already paid \$11.5 million to cover MGM's defense costs.

More than 15 insurers that participated in the first, second and third layers of back-dated coverage, along with 12 of Webb's insurers, contributed the other \$40 million of the settlement.

Meanwhile, a final settlement between MGM and its property insurers was not reached until 1986.

MGM had \$215 million in property damage insurance at the time of the fire and claimed property losses of \$211 million.

Eight months after the MGM fire, another hotel disaster unleashed another torrent of litigation into U.S. courts.

On July 17, 1981, two 32-ton, concrete and steel walkways collapsed at the recently completed Kansas City Hyatt Regency Hotel and fell four floors to the hotel lobby in the nation's worst structural building collapse. The death toll was 114, and at least 200 others injured.

Hyatt Corp., which managed the hotel, had \$201 million in liability insurance at the time of the accident, including a \$1 million primary policy written by Occidental Fire & Casualty Co. of North Carolina, and a \$25 million excess policy written by Northbrook Excess & Surplus Co.

In addition, Hallmark Cards Inc., which owned the hotel through subsidiary Crown Center Redevelopment Co., had \$101 million in coverage, led by a \$1 million primary policy and a \$10 million first layer excess policy written by Commercial Union Insurance Co. and a \$50 million excess layer written by American Insurance Co. (BI, Dec. 30, 1985).

The coverage litigation began in 1981, when Hyatt filed suit asking a state court to decide which insurers should indemnify it and

in what order they should pay.

Eventually, in July 1986, a state appeals court upheld a February 1985 decision by Jackson County Circuit Court Judge Timothy D. O'Leary that ruled Hyatt's excess liability insurers should pay two-thirds of all losses incurred by Hyatt, Hallmark and Crown, while Hallmark's insurers should pay one-third (BI, Aug. 4, 1986). Total liability losses: approximately \$122 million.

Aviation losses have ranked among the most costly disasters in the last 20 years.

The worst single-aircraft aviation loss in history is the 1985 Japan Air Lines Boeing 747 crash, which killed 520 people and injured four people (BI, Aug. 19, 1985).

Boeing Co. and its aviation underwriters agreed to pay 82.5% of the liability losses while JAL's liability underwriters agreed to pay the remaining 17.5% (BI, June 8).

Altogether, underwriters believe the final liability cost of the JAL crash could exceed \$345 million.

Boeing's share of the loss is covered under a \$1 billion aviation product liability program. Boeing retained 25%, or \$25 million, of the first \$100 million layer, which was led in London by aviation underwriter David Dann of the R.J. Kiln syndicate, and followed by the British Aviation Insurance Co. Ltd. and underwriters in the United States, France and London.

A \$400 million excess of \$100 million layer and a \$500 million excess of \$500 million layer also were led by David Dann.

JAL's hull and liability insurance was written by Tokio Marine & Fire Insurance Co. Ltd. on behalf of the Japanese Aviation Pool. About 57.5% of the risk was brokered by Willis Faber to London and other world reinsurers, led at Lloyd's by aviation syndicate 90, better known as the Ariel Syndicate.

The world's largest aviation hull loss was an Air India 747 jetliner that exploded off the Irish coast in June 1985, killing 307 passengers and 22 crew members (BI, July 1, 1985).

Although Air India has received \$98.5 million for the hull loss—plus another \$3.5 million for a spare engine carried on board—from its aviation insurer, General Insurance Corp. of India, final reinsurance claims stemming from the disaster will not be settled until 1988 (BI, Sept. 14).

The cause of the explosion—which was rumored to have been caused by a terrorist bomb—remains a mystery and, as a result London reinsurers are in arbitration to decide whether GIC's "all-risk" aviation reinsurers or war-risk reinsurers should pay GIC.

Both sets of reinsurers have paid 50% of the loss each to GIC until the arbitration is concluded.

One of the most devastating marine losses in the last 20 years occurred on Jan. 8, 1979, in Bantry Bay, Ireland, when a fire destroyed the French oil tanker Betelgeuse, owned by Total Compagnie Francaise, and the oil terminal at the port, with the loss of 50 lives.

The total liability and hull loss was settled out of court for "in excess of \$100 million," a London market source confirmed.

The following year, on March 27, 1980, another marine disaster struck when a North Sea oil rig platform, the Alexander Kielland, capsized in a gale killing 123 men on board (BI, April 7, 1980).

A lawsuit filed in the U.S. District Court in Cleveland seeking \$2 billion from Phillips Petroleum Co., owner of the rig, and Phillips Petroleum Co. Norway, was dismissed in February 1983 (BI, Feb. 21, 1983).

Claims eventually were settled for a total of \$64 million, a Lloyd's spokesman confirmed. ■

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## Time capsule: 1976

Corporate risk managers are reporting increases in premiums as high as 400% during recent months in various lines of coverage.

In a survey by *Business Insurance* of the 59 risk managers on its new Editorial Advisory Panel, 85% said their companies had experienced premium increases in recent months. The average increase among those companies was 73.7%. But hikes were as high as 400%, which was the increase in excess liability rates reported by a computer company that spends \$4 million annually on insurance.

However, half the risk managers whose companies had experienced rate increases said they felt insurers were justified in raising premiums (*BI*, Jan. 12, 1976).

A group of about 30 small manufacturers have formed a lobbying group for changes in the tort law system.

The new group, called RETORT, or Reason & Equity in Tort, was formed by the manufacturers after they experienced difficulty getting adequate product liability insurance. Among the group's suggested reforms are changes in the U.S. workers compensation law to give machinery makers recourse against machine users in cases when equipment is altered or misused after it is purchased; a workers compensation plan that would compensate an injured worker from insurance carried by both the employer and the machine manufacturer on the basis of comparative negligence; and the formation of review boards to handle preliminary screening of all product liability cases before they are filed (*BI*, Jan. 26, 1976).

The surpluses of 10 property/casualty insurers dropped to less than \$2 billion at the end of September 1974 from \$4.9 billion at year-end 1972, according to a study by Blyth Eastman Dillon & Co. Inc.

The study also reveals that the ratio of premiums to surplus was 1.6-to-1 for the 10 insurers at year-end 1972 but increased to 3.8-to-1 by the end of September. Blyth Eastman said this means that many insurers are operating with dangerously low levels of surplus (*BI*, Feb. 9, 1976).

The U.S. Commerce Department recommends a 15-month, comprehensive federal study of the product liability insurance crisis.

The department says that although there is an obvious problem for companies trying to get adequate product liability coverage at reasonable rates, there is little hard data on the causes of, and possible solutions to, this problem.

If the proposed study is approved by the Economic Policy Board, its final report would be issued by July 1977, according to the recommendation (*BI*, May 3, 1976).

After 14 years as a corporate entity, the well-known Merrett Syndicate at Lloyd's of London wants to become a family affair again.

Stephen Merrett, the 36-year-old son of the syndicate's founder, is arranging a \$6 million deal to regain control of the syndicate from the Italian consortium that now owns it through a U.K. subsidiary. Mr. Merrett says he wants to repurchase control of the syndicate because mergers during the past 14 years have made the corporate ownership too big and unwieldy. With 1,400 members, the syndicate is one of the largest at Lloyd's, and it handles a substantial amount of U.S. business (*BI*, May 3, 1976).

Acting Federal Insurance Administrator J. Robert Hunter has

warned the insurance industry to clean up its own act quickly or face federal action.

Mr. Hunter told the Independent Insurance Agents of Wisconsin that although insurers' financial situation is improving, he fears they may be implementing excessive rate increases. He said such excessive rate hikes just add to the inflationary spiral that caused many of the financial problems for insurers—and other businesses—in the first place.

He said that if the insurance industry does not correct its faults—such as data inadequacies at the state level—and instead show high profits while a crisis continues in medical malpractice, product liability and other lines, the federal government might be forced to act to assure fair and adequate cover-

age (*BI*, May 31, 1976).

A top Justice Department official is calling for reform of the McCarran-Ferguson Act, which for more than 30 years has exempted the insurance industry from antitrust laws.

Jonathan C. Rose, deputy assistant general in the antitrust division, said that changes in the McCarran-Ferguson Act would bring about the benefits of greater competition and less regulation for both insurers and consumers. The antitrust division has been studying changes in the law as part of an overall effort to ease restrictions on heavily regulated industries, such as trucking, air and rail transportation and insurance (*BI*, June 14, 1976).

Some large hospitals in Indiana, after receiving huge increases in their medical malpractice coverage, may be paying more in premi-

ums than the value of their policies.

Following a rate hike of 344.6% for hospital malpractice coverage announced by the Insurance Services Office, Indiana hospitals with more than 444 beds buying a policy with an aggregate limit of \$300,000 will be paying more than that in annual premium.

In response, the Indiana Hospital Assn. is studying the feasibility of setting up its own captive insurer (*BI*, July 26, 1976).

At least 150 cities in California received notices of non-renewal of their municipal liability insurance after two major insurers withdrew from the market.

And, the cost of municipal liability insurance will increase substantially for those cities trying to find new coverage and for other California cities.

During the last fiscal year, municipal liability insurance premi-

ums in the state rose an average of 63%, and every indication is that they will increase at least that much this year, according to industry sources (*BI*, Sept. 20, 1976).

A broad national effort has developed to push product liability reform through Congress and state legislatures.

The effort involves both the insurance industry and manufacturers and has resulted in the creation of two national ad hoc groups: the Multiple Assn. Action Committee and the National Product Liability Council.

However, observers say that differences among the interests involved may hamper efforts for comprehensive reform. For example, while most groups feel that the situation is critical, some worry that hasty action would create more problems than it would solve. Others worry that the federal solu-

*Continued on next page*

# B/M BASICS: IRI

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**Time capsule: 1976**

Continued from previous page  
 tion being pushed by the majority of those involved in the reform effort is unconstitutional and that a state-by-state effort would be better. In general, observers say, the wide variety of suggestions being put forward for product liability reform may hurt the chances of any of those suggestions (BI, Nov. 1, 1976).

The problems of rapidly rising rates and shrinking capacity that risk managers have been facing in recent years in the primary insurance market are now showing up in the excess and surplus lines market. And, inflation is adding more problems for risk managers in their latest battle.

Surplus lines experts report that pricing is extremely volatile and big rate increases are the norm, as many of the problems of the primary market spill over into excess/surplus lines. And, although the experts say things will get better, they add that they do not expect that improvement to come in the near future (BI, Nov. 15, 1976).

A 25% increase in the membership of Lloyd's of London assures greater capacity for the worldwide operations of Lloyd's during 1977.

More than 2,400 new names will be joining Lloyd's syndicates during the next year, bringing the total number of names to more than 10,000 and providing additional capacity.

However, many at Lloyd's note that much of the added capacity will be eaten up by inflation. Because of inflation, experts estimate that the actual gain in capacity at

Lloyd's from the 25% increase in membership will be only 12% to 15% (BI, Dec. 13, 1976).

The Interagency Task Force on Product Liability in its report to the White House's Economic Policy Board has concluded there is no nationwide product liability crisis.

Reporting on the results of its three-month study, the task force said there is no "nationwide multi-industry product liability crisis," and it made no major legislative or policy recommendations.

The task force did acknowledge that product liability insurance rates are high and that some businesses, especially small ones, are having trouble finding the coverage at all.

However, it estimated that "less than 0.1% of American businesses have a serious affordability-availability problem" (BI, Dec. 27, 1976).

Carnation Co. is challenging a ruling by the Internal Revenue Service on the deductibility of premiums paid to the company's captive, and the outcome of the case is expected to have a profound effect on the captive industry.

The IRS notified Carnation in March that it was disallowing tax deductions for nearly \$1.76 million in premiums Carnation paid to its captive in 1972. Carnation filed for a redetermination, and the case is expected to come to trial.

Captive experts say the case will make clear the IRS position on the tax issues, and that will have an obvious impact on the future of the captive industry (BI, Dec. 27, 1976).

# 1967—year of short skirts, long hair, peace and war

By HOLLY SEGUINE

Ah, 1967... the Vietnam War, peace marches, race riots, mini skirts, flower power, Black Power, Expo '67, long hair and hippies.

A strange compendium of catchwords, to say the least. But that was 1967: a year of contrasts and conflicts.

Perhaps nowhere was that more apparent than in the United States. While the Vietnam War escalated under the administration of President Lyndon B. Johnson, anti-war protesters marched on Washington, D.C., and on college campuses across the United States. Often, these marches ended in stormy clashes between demonstrators and the police.

Some members of Congress also joined the ranks of the anti-war faction, including Sen. Eugene McCarthy, D-Minn., who threw his hat into the 1968 presidential race. A primary plank in Sen. McCarthy's platform was vehement opposition to President Johnson's war policies.

In stark contrast to the peace marches were race riots that erupted across the nation. The worst of these conflicts occurred in July in Detroit. Riots raged for five days and nights. An estimated 64 people died, 350 were injured, 3,800 were arrested and 5,000 were left homeless. Some 3,000 businesses were looted, and hundreds of millions of dollars in damage was reported.

More riots occurred in Newark, N.J., where 26 people died and many more were injured.

Black activist Stokely Carmichael continued to promote the term "Black Power," which he coined in 1966. While the term "Black" is used regularly in 1987, it was virtually non-existent in 1967. The term "Negro" was the common reference in 1967 in all facets of the media.

But not all the nation was caught up in violence.

Hippies, a.k.a. flower children, were a peace-loving, pot-smoking—and usually unemployed

—group of young people rebelling against "the establishment" and most things represented by the "older generation."

The term hippie was a derivative of the word "hip," meaning aware or knowledgeable.

Hippies sported long hair and loose-fitting clothes and expressed a free and easy-going attitude. Their lifestyle included avant-garde arts, communal living, mysticism and psychedelic drugs.

The use of drugs became more popular among other young people as well. The psychedelic era was in full swing.

The Beatles' legendary album "Sgt. Pepper's Lonely Hearts Club Band," released in 1967, was a mirror of youth culture. Songs such as "Lucy in the Sky with Diamonds" and "A Day in the Life" were criticized by some for their apparent allusions to drug use.

Reflecting the voice for the nation's youth was a radical magazine called "Rolling Stone." The first edition, which included a picture of the late Beatle John Lennon, hit the newsstands on Nov. 9, 1967, and cost 25 cents.

The same magazine now costs \$1.95 a copy and caters to the "yuppie" crowd, featuring ads for expensive stereo equipment, designer athletic shoes and other materialistic trappings of the young and upwardly mobile.

Newspapers are not the only commodities subject to inflation. In 1967, \$3.27 would buy a case of beer, a two-pound can of coffee cost \$1.19 and a Cadillac Coupe de Ville went for a mere \$4,895. First-class postage was 5 cents a letter. And, how about a mink stole for \$222?

The fashion rage for women in 1967—as in 1987—was the mini skirt. At the center of the year's fashion scene was British model Twiggy, whose name was an apt description of her appearance.

Coincidentally, another publication that hit the newsstands in 1967 was "Weight Watchers" magazine.

In advertising, a massive campaign was launched by the British government to make the public aware of the new and strict drunk driving law—the British Road Safety Act of 1967. The campaign cost approximately 350,000 pounds.

In another area of the media, television, programming in 1967 ranged from westerns, to situation comedies to dramas. Among the most popular American shows aired worldwide were "Bonanza," a western depicting the continuing saga of the Cartwright family; "Bewitched," a sit-com about a modern-day witch married to a mortal; and the drama "Perry Mason."

Other popular shows of the day included "Batman," an action/adventure spoof; "The Big Valley," another

western; "Lost in Space," a science fiction serial; and "Green Acres," another situation comedy.

Films also showed a wide diversity of topics and styles. Movies released in 1967 included "Dr. Doolittle," a whimsical musical about a doctor who "talked to the animals"; "Camelot," another musical depicting the legend of King Arthur; "The Graduate," the story of a college graduate confused about the direction his life should take, which became a classic of the day; "Bonnie & Clyde," which recounted the escapades of two bandits of the 1930s; and "Guess Who's Coming to Dinner," another classic about a black man and white woman who seek to marry—which was Spencer Tracy's final work. The Oscar-winning actor died in 1967 at the age of 67 after a long and outstanding career.

Vivian Leigh, another veteran of stage and screen, also died that year at the age of 54. Ms. Leigh was perhaps best remembered for her role of Scarlett O'Hara in "Gone with the Wind."

The literary world also lost some great artists in 1967. Among them were poet Carl Sandburg, born in 1878, who depicted the Midwest in verse, and poet and short story writer Dorothy Parker, born in 1893, who coined the phrase, "Men seldom make passes at girls who wear glasses."

Tragedy also struck space programs in the United States and the Soviet Union. On Jan. 27, U.S. astronauts Virgil Grissom, Edward White II and Roger Chaffee were killed in a launch pad fire at Cape Kennedy, Fla., during a test of an Apollo spacecraft. Later that year, Soviet cosmonaut Vladimir Komarov died when his spacecraft crashed on re-entry.

But the Soviets also made advances in spaceflight in 1967, most notably the docking of two unmanned spacecraft in orbit in October.

In other scientific advances, South African surgeon Dr. Christian Barnard performed the world's first human heart transplant.

And, doctors and scientists at Stanford University in Palo Alto, Calif., reported the creation of synthetic DNA, or deoxyribonucleic acid, a basic material in the chromosomes of the cell nucleus in all living matter, which contains the genetic code and transmits the hereditary pattern.

For those seeking recreation and entertainment in 1967, there was the world's fair, Expo '67, which was held in Montreal from April 28 through Oct. 19. The city of Montreal constructed two islands in the St. Lawrence River to hold most of the exhibition.

Canadians had extra cause to celebrate that year: It was their country's 100th anniversary.

It was an especially exciting year for Canadian hockey fans, who watched the Toronto Maple Leafs and the Montreal Canadiens battle for the Stanley Cup. Toronto took the title four games to two.

In professional football, the Green Bay Packers dominated the field for the second consecutive year after trouncing the Kansas City Chiefs 35-10 in Super Bowl I in January 1967. After winning the 1967 National Football League title over the Dallas Cowboys, the Pack went on to defeat American Football League champion Oakland Raiders in the Super Bowl II on January 1968.

In college football, a young halfback named O.J. Simpson led the University of Southern California Trojans to a 14-3 Rose Bowl win over the Indiana Hoosiers, scoring both touchdowns.

And in college basketball, still another Los Angeles school made news. UCLA 7-foot-1-inch tall center Lew Alcindor—now known as Kareem Abdul Jabbar—led the Bruins to the NCAA championship, their third in four years.

Philadelphia took top honors in the National Basketball League, defeating San Francisco in championship play four games to two.

And, in major league baseball's World Series, the St. Louis Cardinals, led by Orlando Cepeda, beat the Boston Red Sox in seven games.

Elsewhere in the world, stormy political confrontations took place. In May, the eastern region of Nigeria declared itself the independent Republic of Biafra. In June, during a six-day war, Israel defeated the Arab states occupying most of Egypt's Sinai Peninsula and Gaza Strip, Jordanian territory west of the Jordan River and the heights of southwestern Syria. In November, two British territories, Aden and South Arabia, became the independent People's Democratic Republic of Yemen. In December, King Constantine of Greece fled to Rome after failing to oust a military junta.

So ended 1967—its conflicting web of events laying the groundwork for the years to come.

**Hippies were a peace-loving, pot-smoking—and usually unemployed—group of young people rebelling against 'the establishment' and most things represented by the 'older generation.'**



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# Claims-made form clamor dies down

By MICHAEL BRADFORD

Insurance buyers were troubled when the Insurance Services Office Inc. streamlined the comprehensive general liability policy in 1966 and only a little miffed when the CGL was fine-tuned in 1973, but a brouhaha that lasted for years was ignited when ISO began tinkering with the form in the 1980s.

Since around 2000 B.C., when the Phoenicians created the first policy forms that covered ship and cargo risks, no format change has created as much a stir as ISO's revamping of the CGL policy form during the mid-1980s and the subsequent development of the claims-made general liability form.

Today, though, all is quiet on the policy form front. Like the insurance cycle, the controversy over changes to the industry's claims-made form has come full circle.

The controversy over claims-made coverage fizzled late last year when it became apparent that insurers were choosing not to use the form for most types of general liability coverage.

"The use of the claims-made form for general liability coverage is rapidly becoming a non-issue," said Thomas Bloom, president of McAlear Associates Inc. in Grand Rapids, Mich. Mr. Bloom was an outspoken critic of implementing the claims-made form when the controversy was in full swing.

"With respect to general liability, ISO's claims-made form is not selling," said Eugene Anderson, a partner in the New York law firm of Anderson Russell Kill & Olick in New York.

Insurers have largely rejected the claims-made form for general liability risks but still use the form when covering long-tail liability risks. Professional liability coverages and "hazardous" risks such as chemical exposures have been written on a claims-made basis since the mid-1970s.

But, the fact that insurers have not embraced the form makes no difference to ISO, says Jake Marran, a senior vp with the organization in New York.

"The fact that it hasn't received considerable use doesn't concern ISO," he said. "It's out there for the type of accounts" that should be covered on a claims-made basis.

The advent of claims-made coverage can be traced to the early 1970s, when state legislatures began passing laws mandating simplification of insurance policies. Most states required that policies be written in a format that could be understood by someone with a ninth- or 10th-grade education, according to Mr. Marran.

The first coverages to reflect the simplified language were automobile and homeowners insurance, he said.

"When that project was completed, some legislators started looking to commercial insurance," Mr. Marran noted. That was a much heartier challenge, because commercial insurance often is written for businesses that have operations in several states.

Courts and legislators began to demand that commercial policies be more alike, regardless of where they were written, he explained.

And, lawmakers were concerned that policy conditions, like occurrence triggers, were not well-defined.

"The project started in 1979 to do the whole commercial world," said Mr. Marran. At that point, ISO set out on its commercial lines policy and simplification project,

which included its reworking of claims-made coverage.

In 1982, the first drafts of new claims-made and occurrence policies were distributed for reaction from insurers, policyholders, regulators, producers and others.

After feedback had been gathered, the policies were revised and new versions issued in 1984 with an effective date of early 1986.

The form was so controversial that members of the *Business Insurance* Risk Management Board voted ISO's push for the new form as one of the top five risk management stories for three consecutive years: 1984, 1985 and 1986.

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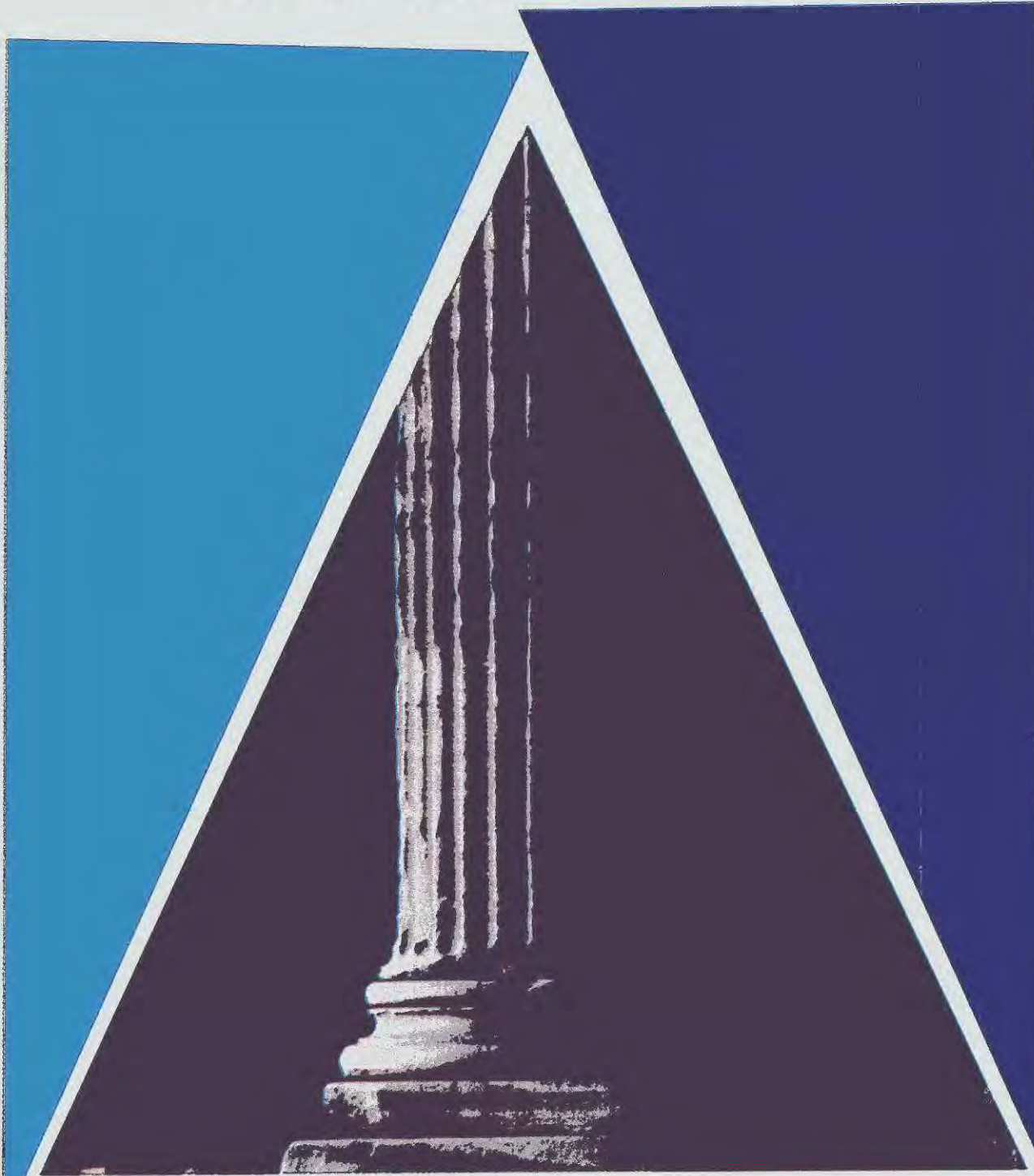
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## Policy forms

*Continued from previous page*

Revisions to the claims-made form were extensive, and most risk managers and brokers eventually stopped protesting the new form.

Although the claims-made form was eventually approved in all states except New Jersey, Massachusetts, New York and Vermont, few insurers use the policy for general liability coverages.

Mr. Bloom pointed out that "the only market sticking to claims-made exclusively is London." Lloyd's of London and H.S. Weavers (Underwriting) Agencies Ltd. have both introduced their own claims-made forms in recent years, and those markets refuse to write North American non-marine liability risks on anything but the new forms.

In the United States, some insurers, such as The St. Paul Cos. and Hartford Insurance Group, drafted their own claims-made forms.

Fred Themmes, senior underwriting officer for general liability lines at St. Paul, said his company's claims-made form is not in wide use, either.

He pointed out that the current market softening means competitors are more enthusiastic about offering coverage on an occurrence basis.

Mr. Bloom said the controversy regarding claims-made coverage was much deeper than just an argument over policy wording.

"It was never just a claims-made vs. occurrence issue," he explained. "They did a lot more things to the form other than change the occurrence trigger."

"It is the first time a form change has narrowed coverage and the first time there has been widespread resistance," Mr. Anderson said.

Mr. Marran of ISO called claims-made coverage "one of the most misunderstood types of coverage out there."

The only difference in claims-made and occurrence coverage is

the definition of when an occurrence is triggered, according to Mr. Marran.

Under the ISC claims-made form, coverage is triggered if a claim is made during the policy period. Extended reporting features allow some claims to be made later.

An occurrence policy responds to a claim made at any time if it relates to an incident that occurred during the policy period.

Some earlier forays into claims-made coverage also generated con-

**Mr. Bloom says  
'the only market  
sticking to claims-  
made exclusively  
is London.'**

trovery.

Mr. Themmes explained St. Paul and other insurers in the mid-'70s shifted many professional liability

policies from occurrence to manuscripted claims-made coverage.

"We changed hospitals and doctors professional policies to claims-made" in 1975, he said. The next year, other professionals—such as lawyers, insurance agents and real estate agents—also were buying professional liability coverage on a claims-made basis, Mr. Themmes pointed out.

The changeover met with some resistance, he said, but it was not long before claims-made coverage became the norm for such risks.

But, the insurer's move cost it some premium income, Mr. Themmes noted.

St. Paul lost some business when legal associations that had professional liability programs with the insurer found other companies that were still offering occurrence forms in the mid-1970s, he said.

Another controversial section of the ISO CGL form concerned the cost insurers must bear in defending a policyholder involved in  
*Continued on next page*

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claim disputes. The issue of defense costs within policy limits was a hotly debated one when ISO first proposed its changes to the claims-made form.

But when the controversy cooled, an insurer's cost of defending a policyholder remained outside the limits of a buyer's insurance coverage.

"Defense costs have always been supplementary to policy limits," said Mr. Marran.

Under ISO's CGL form, primary

insurers are responsible for all defense costs outside of policy limits until the limit is exhausted by indemnity payments.

The evolution of the CGL form was fairly unexciting until the 1960s, with the groundwork laid by the Phoenicians lasting for centuries, Mr. Marran observed.

Through the years, policy forms that survived court challenges were usually left alone by ISO and insurers, he said.

"It became the custom not to change the wording of a policy as it

became disputed," Mr. Marran remarked.

"But in the late 1960s and early '70s, we started to see decisions from the courts that went against the traditional interpretations of the policies. The courts made it plain that they weren't too happy with the way policies were written. They saw them as too complicated for the average person to understand."

In 1967, ISO offered the CGL as a separate form providing coverage of a broad range of risks to policy-

holders.

Previously, the CGL was available just an endorsement to some policies, such as owners, tenant and landlord policies.

Insurance buyers had some concerns about the CGL form, which first substituted the terminology "occurrence" for "accident." Buyers complained that the new CGL eliminated coverage and contained confusing terminology. For example, they said the new form provided for coverage only at the time an injury occurs, rather than

when the accident first occurs, as was the case under previous policies (BI, Oct. 30, 1967).

Buyers also complained that they were not covered for emotional injury under the new CGL form.

Agents also objected to the wording of the new policy, including the substitution of the term "occurrence" for the old definition of accident.

In 1967, the organization clarified policy language that specified defense costs would be supplemental to coverage limits and applicable until the policyholder's coverage limits were exhausted.

The clarification ended some confusion concerning an insurer's duty to defend claims against policies written after 1966.

A recent court case found that the same language also applies to policies written before 1967.

In the case of *Zurich Insurance Co. vs. Raymark Industries*, the Illinois Supreme Court held that the insurer does not have unlimited duty to defend the policyholder after coverage limits are exhausted, even for coverage written before the 1967 clarification (BI, Sept. 21).

The case concerned the insurer's duty to defend asbestos claims and when insurance coverage was triggered by such claims.

The court ruled that "when an insurer has properly exhausted its policy limits by the payment of judgments and/or settlements, it is no longer obligated to defend any actions against Raymark, whether such actions are pending at the time of exhaustion or commenced thereafter."

Risk managers had some concerns about the changes in ISO's CGL form in 1973, but "it was no big problem," recalled Mr. Marran, who was the multiperil underwriting officer for the Eastern region at Fireman's Fund American Insurance Co. at that time.

"It was a fairly orderly and smooth transition," he said. "In terms of the changes, it wasn't a lot. It was a non-controversial thing."

Melissa Brown, manager of ISO's commercial casualty division, agreed. "Basically, it represented a routine cleanup clarification in the wake of the 1966 revisions," she said.

The 1973 revisions, among other things:

- Clarified the definition of "occurrence," noting the term meant continuous or repeated exposure to conditions rather than just an injurious exposure. The revision was needed to make clear that the 1966 revision intended to cover "not just the boom claims but also injurious conditions over a period of time," Ms. Brown explained.

- Clarified that the limits provided under a three-year policy were annual limits, not the total amount of coverage available over the three-year period.

- Included the sudden and accidental pollution endorsement in CGL policy language. Previously, insurers were required to staple the language of the endorsement onto policies.

While insurance buyers have endured confusion and concern over changes to liability forms, they have not had to worry much about what was happening to contracts concerning workers compensation coverage.

The National Council on Compensation Insurance reports that apart from simplifying the language in its forms, there have been no major policy format changes in the last 33 years.

Robert Plutzker, policy forms attorney for the NCCI in New York, said a 1984 format change "put the policy into plain English. It didn't really change any coverage, it just put the language in layman's terms." ■

# I N S U R A N C E

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## Time capsule: 1977

The owners of a wrecked oil tanker have both hull and liability insurance for the worst oil pollution spill ever, but a legal battle is evolving over the shipper's liability.

The ship, the Argo Merchant, ran aground off Nantucket Island, releasing 7.5 million gallons of industrial oil. The ship's Liberian owner, Thebes Shipping Co., has both hull and liability coverage.

Thebes has been sued by local fishermen for damages totaling \$60 million but is attempting to negate any liability by invoking a 125-year-old maritime law that makes shipowners responsible only for amounts equal to the value of the remains of the wrecked ship (BI, Jan. 10, 1977).

The opposition of the insurance industry may prompt revision of a product liability bill in the Senate, even though the bill has earned the praise of small businessmen.

A spokesman for the American Mutual Insurance Alliance called the bill, which would authorize the Small Business Administration to provide reinsurance to primary insurers of small businesses unable to get liability insurance, "one of the least undesirable of many options which have been suggested." Sources say that because of opposition, they expect the bill to be revised substantially (BI, March 21, 1977).

The largest aviation claims in history are expected to result from the March 27 collision of two Boeing 747 jumbo jets on a runway in the Canary Islands. Almost 600 people died in the crash, making it the worst air travel disaster in history.

Both airlines, KLM Royal Dutch Airways and Pan American World Airways, had hull insurance totaling \$63 million on the planes. It will be the largest hull loss insurers ever have had to pay for a single crash.

However, that amount is likely to pale in comparison with the liability claims for deaths and injuries, which observers predict could exceed \$400 million (BI, April 4, 1977).

The nationwide drive for tort reform at the state level as a way of dealing with the product liability insurance crisis has resulted in the passage of a comprehensive bill in Utah that establishes a 10-year statute of limitations from the date a product was manufactured and prohibits asking for a specific amount of damages in a product liability suit.

Nebraska and Colorado are on the verge of voting on product liability measures, and similar bills have been introduced in at least 30 states (BI, May 2, 1977).

The first round of what promises to be a long legal battle

has gone in favor of 16 drug companies that marketed DES, a drug once prescribed to pregnant women to prevent miscarriages that now is being blamed for the health problems of the women's daughters.

The suit was brought in Wayne County, Mich., by 144 daughters of women who had taken diethylstilbestrol during pregnancy. Since the majority of the daughters could not identify the manufacturers of the drug their mothers took, they sued the 16 firms they claim had dominated the market.

A county court rejected the theory of industrywide liability, ruling that the specific manufacturer must be identified to be sued. An appeal is planned (BI, May 30, 1977).

Two \$21 million damage suits already have been filed on behalf of people killed and injured in the huge Beverly Hills Supper Club fire near Cincinnati, and lawyers warn that these suits are only the beginning.

At least 161 people died in the blaze at the club, which apparently was caused by a short circuit. Observers say the insurance held by the owners of the supper club appears to be inadequate to cover suits seeking damages that may reach hundreds of millions of dollars (BI, June 13, 1977).

Oregon has become the third state to pass a tort reform measure this year, advancing the drive to ease the crisis in product liability insurance. Utah and Colorado also have enacted tort reform legislation.

Proponents of tort reform are buoyed by the recent success in Oregon and say that state legislators and the public finally are beginning to accept that the court system must be reformed to restore balance. However, opposition forces, especially trial lawyers, have stepped up the battle to defeat tort reform efforts (BI, Aug. 8, 1977).

The Insurance Services Office Inc. is filing nationwide for exclusion of punitive damages in all liability coverages.

Although the majority of ISO members on five committees voted in favor of the exclusion, slated to take effect Nov. 1, some insurers will continue to offer the coverage.

For example, Hartford Insurance Group is not planning to exclude punitive damages. Other insurers say they will generally support the exclusion with some exceptions.

ISO also acknowledges that some state insurance departments may balk at excluding punitive damages from insurance coverage (BI, Sept. 5, 1977).

The Internal Revenue Service has formally ruled that U.S. parent companies and their U.S. subsidiaries cannot deduct as a business expense insurance premiums paid to a wholly owned captive insurance company subsidiary.

The IRS has held this position for some time, but the is-

suance of this formal ruling appears to close the door to such tax deductions (BI, Sept. 19, 1977).

Some recent ads being run by insurers are powerful, but they may be less than truthful.

In one ad, an insurer cites the case of a man who picked up his lawn mower to trim his hedge, was injured and successfully sued the manufacturer of the lawn mower. However, the insurer is unable to prove that there ever was such a case.

The other ad says that 1 million product liability suits are filed each year. However, even the insurer involved says that is an exaggeration and is changing its ad (BI, Oct. 31, 1977).

The federal Interagency Task Force on Product Liability recommends tort reform, federal chartering of captives and tax deductions for self-insured reserves as ways of dealing with the product liability insurance problem.

The tort reforms suggested by the task force included a modified 10-year statute of limitations, compliance with government safety standards as a defense against liability and reducing damage awards by the extent to which the plaintiff contributed to the injury. However, the panel avoided addressing the question of whether tort reform should be on the state or the federal level (BI, Oct. 31, 1977).

Workers compensation costs continue to climb, and some employers are beginning to weigh their options.

Major benefit improvements have driven up the cost of workers compensation programs twice as fast as the cost of living: In 1975, the last year for which figures are available, employers spent \$8.9 billion to insure or self-insure workers compensation programs, a jump of 12% from 1974, according to the U.S. Department of Health, Education and Welfare.

In the face of such sharp increases, more employers are considering the possibilities of self-insuring their workers compensation risks (BI, Dec. 12, 1977).

Industry leaders predict increased competition and a leveling off of premiums for property/casualty insurance in 1978, though they caution that it will take substantial rebuilding of surplus to recover from the losses of the last few years.

Insurers say that most lines of coverage, with the exception of workers compensation, are producing a profit. But, they stress that the profit is being used to build up surpluses that were drained during years of heavy losses and poor economic performance in general.

Insurance industry experts warn that although most insurers are again in the black and there is more competition than had been evident in recent years, there will be no dramatic impact on rates in the near future (BI, Dec. 26, 1977).

## Time capsule: 1978

A group of 16 asbestos manufacturers has reached an out-of-court settlement of \$1.84 million in a series of suits filed by construction workers injured by handling asbestos. The payments will be made to the workers or their survivors.

The suits, which were filed more than five years ago, claim that the asbestos manufacturers knew asbestos was dangerous at least 30 years ago but did not inform workers.

The asbestos makers claimed that they implemented safety measures as soon as they were aware of the potential danger of asbestos.

Most of the manufacturers have primary insurance to cover their portion of the settlement. Only Johns-Manville expects the settlement will penetrate into its excess layers of coverage (BI, Jan. 23, 1978).

About \$40 million has been paid so far to settle claims against Farm Bureau Services Inc. resulting from the accidental substitution of the poisonous fire retardant polybrominated biphenyl, or PBB, for a nutrient in dairy cattle feed distributed in Michigan.

Settlements have been reached in almost 80% of the 955 claims filed, and the Farm Bureau estimates that by the time all the claims are settled, the payments will reach \$50 million. The Farm Bureau is equally sharing the cost of the claims with Northwest Industries Inc., which accidentally substituted the PBB-contaminated material for the nutrients (BI, Jan. 23, 1978).

The Committee of Lloyd's has suspended Lloyd's of London syndicate 762, known as F.H. Sasse & Others, because it exceeded its surplus capacity, wrote too much insurance and could not meet its year-end financial audit.

Although all claims against the syndicate, which wrote a large number of U.S. commercial risks, are expected to be paid, it remains unclear whether a major reinsurance facility will ultimately pay for millions of dollars in losses (BI, Feb. 6, 1978).

A California Superior Court jury has awarded a record \$128 million—of which \$125 million is punitive damages—to an 18-year-old severely injured in an accident involving a 1972 Ford Pinto.

The plaintiffs had charged Ford Motor Co. with placing the Pinto's gas tank in a position where the automaker knew it would be likely to rupture upon light impact (BI, Feb. 20, 1978).

Insurers, brokers and risk managers are outraged by a proposal by the New York Insurance Department that would severely restrict fronting arrangements. The opponents claim such a move would hurt legitimate captive insurance companies.

The department's proposal, which is aimed at reinsurance arrangements between licensed insurers and unlicensed insurers, would prohibit fronting arrangements when the reinsurer is affiliated with the corporation whose risks are being insured. It also would prohibit fronting when there is a prior arrangement to reinsure the risks with a specific, unlicensed reinsurer.

This would severely hurt captives, many of which reinsure their corporate parent's risks from a licensed insurer (BI, March 20, 1978).

Continued on next page

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Continued from previous page

The Insurance Services Office Inc. has killed the exclusion of punitive damages from liability insurance policies in the wake of consumer complaints and severe insurance industry division on the issue.

The punitive damages endorsement, which had been filed nationwide in November 1977 and approved in 33 jurisdictions, was withdrawn late last month. And, at least three insurers that had included the endorsement in their coverages are eliminating it retroactively (BI, April 3, 1978).

The New York Insurance Department, faced with a barrage of opposition, is backing off from its controversial proposal to restrict fronting.

The department says it now feels that the remedy was stronger than needed to correct the problems that exist, and it plans a more moderate approach. However, department spokesmen were unable to give details of what new plan would be put forward (BI, April 17, 1978).

A California Superior Court judge has reduced a record \$125 million punitive damage award against Ford Motor Co. to \$3.5 million in a case involving the crash and explosion of a 1972 Pinto.

The judge said the jury award was "excessive as a matter of law." The judge also awarded \$2.5 million to the victim of the crash, making the total award \$6 million rather than the \$128 million the jury had awarded (BI, April 17, 1978).

Ford Motor Co. has recalled 1.5 million Pintos and 30,000 Mercury Bobcats that allegedly have fuel tank defects that may cause fatal fires in the event of rear-end collisions.

The recall follows a tentative conclusion by the National Highway Traffic Safety Board that low-to medium-speed collisions involving the cars may result in massive fuel leaks, greatly increasing the chances of fire.

Ford denies that the cars are hazardous but said it was recalling the models to "end public concern" (BI, June 26, 1978).

After a long labor, The New York Insurance Exchange has been born.

The New York General Assembly passed a bill setting up a panel to draft a constitution and bylaws for the "American Lloyd's" by Jan. 1, 1979. The constitution and bylaws must then be submitted to the state legislature, and if neither house votes to reject the proposal within 45 days, the exchange may begin operations April 1, 1979.

New York insurance brokers, who fought hard for the creation of the exchange, are delighted. But existing U.S. insurers and reinsurers, as well as some brokers and wholesalers, say they are reserving judgment until they see the constitution and bylaws (BI, July 10, 1978).

Industry observers are reporting that it is a buyer's market for excess and surplus lines insurance once again.

During the recent hard market, buyers having trouble placing their risks in the primary market were taking whatever coverage they could get—at whatever cost—in the surplus lines market. But now that the primary market has become much more aggressive and competitive, buyers are finding themselves in the driver's seat again with excess/surplus insurers (BI, Sept. 18, 1978).

The merger of mega-broker Alexander & Alexander Services

Inc. with R.B. Jones Corp., the nation's ninth-largest broker, will strengthen A&A's position in the Midwest and improve the marketability of Jones' closely held stock.

If the deal is approved, it would be the largest-ever acquisition of an insurance broker (BI, Sept. 18, 1978).

The Internal Revenue Service says that premiums paid by a U.S. company to an offshore group-owned or industry captive are deductible as business expenses, as long as they are "reasonable" and based on "sound actuarial principles."

In its analysis of a case that involved the petroleum industry's Bermuda-based captive, Oil Insurance Ltd., the IRS concluded that premiums paid are tax-deductible (BI, Oct. 2, 1978).

A class-action suit filed in Los Angeles seeks \$1 billion in damages from 15 major U.S. asbestos manufacturers, claiming the manufacturers conspired to conceal and distort information on the hazards of asbestos.

The suit was filed on behalf of 5,000 workers in two Southern California shipyards. In an unusual twist, the suit seeks "restitution of profits," claiming the companies have been "unjustly enriched" by the profits of their continued manufacture of asbestos and, thus, are indebted to the shipyard workers for \$1 billion (BI, Nov. 13, 1978).

A new multiline reinsurance company, Aneco Reinsurance Co. Ltd., is planning to tap the lucrative captive market.

The Bermuda-based reinsurer says it is interested in reinsuring the business of captives in its bid to become a major world reinsurance power. It also plans to retrocede some of its reinsurance business to captives, company officials say (BI, Nov. 13, 1978).

Five young former executives of General Reinsurance Corp. have launched Trenwick Reinsurance Co. Ltd., a Bermuda-based reinsurance facility.

The new reinsurer's officers say Trenwick will market its services primarily to captive insurance companies expanding into third-party business (BI, Nov. 27, 1978).

All parties are denying liability for claims involving New York state's Love Canal, a case that may evolve into one of the most complicated liability cases ever.

Observers say that lawsuits may eventually total \$2.65 billion, following the leakage of toxic industrial chemicals from an old landfill in the Love Canal section of Niagara Falls, N.Y.

The landfill was used as a dumping ground by Hooker Chemicals & Plastics Corp. from 1947 until 1952, when it was donated to the city as a school site. Although no lawsuits have yet been filed, Hooker has denied responsibility. And, Hartford Insurance Co., liability insurer for the city and the school district, has gone to court seeking to absolve itself of responsibility (BI, Dec. 25, 1978).

Commercial insurers are engaging in extreme price-cutting, slashing premiums by an average of 15% and by as much as 40% for some of their bigger customers.

Some industry observers are concerned that this new round of competition and rate-cutting will result in the same kinds of problems that plagued the industry during the last soft market in the early 1970s. That period of low rates and high levels of competition resulted in a very hard market: a few years later, when coverage was difficult and costly to place (BI, Dec. 25, 1978).

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# Computer age dawns for risk management

By MICHAEL BRADFORD

Risk management's "paperless revolution" rages on, with the number of converts to computerization continuing to grow.

Although the automation revolution is 20 years old, there remains a vast area to be conquered. Despite the computer's now commonplace presence in American society, some experts say that only 10% to 15% of the risk management departments in the United States are fully automated (BI, July 13).

In the early 1980s, only the largest corporations had risk management information systems. But now that the systems are cheaper, simpler and take up less space, they are showing up in all sizes of risk management departments.

Today RMIS vendors are scrambling to court risk managers with an array of information systems. But the race to put information at the fingertips of risk managers did not begin so swiftly.

The first shot in risk management's paperless revolution was fired 20 years ago, when an insurance agent in Amarillo, Texas, developed a batch reporting system for one of his clients.

In 1967, Guyon Saunders' commercial clients at Ordway Saunders Co. began asking if it were possible to consolidate all their property/casualty claims information into one data base. He told them it was not and set out to build such a system.

The first systems were put together for the agency's clients, and provided them with three or four monthly reports on property/casualty claims. But when Mr. Saunders saw the market potential, he searched for investors to fund a start-up company named Corporate Systems.

It wasn't long before Corporate Systems began to attract big-name clients with its primitive batch reporting system, which ran on cumbersome, "dumb" terminals connected to a mainframe. Its first customers outside Amarillo included Texas Instruments Inc. and Southland Corp., both of Dallas.

One of the stumbling blocks faced by Corporate Systems and the other vendors that began to appear on the RMIS scene was thrown up by insurers who were reluctant to release policyholder data.

Getting insurers to release data related to their policyholders' accounts was a struggle, recalls Scott Gilmour, vp of marketing at Corporate Systems. "It was tough until the mid-'70s," he recalled.

Eventually, he explained, vendors were able to convince insurers that the information would help policyholders control losses and that would, in turn, reduce claims payments.

"By about 1975, we had most of the major insurers sending data of some type," said Mr. Gilmour.

In the early years of the RMIS, monthly reports were about the best a risk manager could hope for to chart losses and claims payments. That lasted until risk managers' appetites for more information began increasing in the mid-'70s.

"That's when things really started happening," said David A. Tweedy, a risk management consultant with D.A. Betterley Consultants Inc. in Worcester, Mass. "Risk managers came into their own," he noted, and the importance of gathering information for tasks like calculating deductibles and retentions began to grow.

From that point, systems took a big leap forward when remote network links put minicomputers in touch with mainframes.

As risk managers began to get a taste of what computers could do, they got greedy, according to Richard Hall, executive vp of Anistatics Inc. in New York, an RMIS vendor subsidiary of Alexander & Alexander Services Inc. "But they got greedy in a good sense of the word," he added. "As soon as they found out what the systems could do, they wanted more and more."

Before risk managers had keyboards on their desks, it was difficult to get the information they

now can call up with a keystroke. "They wanted to push a button and get all this," said Mr. Hall. "Most risk management departments are understaffed," he noted, "and when they see a resource that can help them improve productivity, they want more of it."

Putting risk managers on-line meant they could get solid data in a timely manner, said Mr. Tweedy.

In the late 1970s, Corporate Systems introduced a real-time network that allowed risk managers

to make and receive instant changes to data in the mainframe.

Vendors agree that the real-time environment was a breakthrough in RMIS technology.

Despite the changes in information systems and their growing adaptability, the RMIS remained for the most part a tool of large corporations into the 1980s.

In the early 1980s, computerized risk management began coming of age. In fact, by that time most of the risk managers working for the

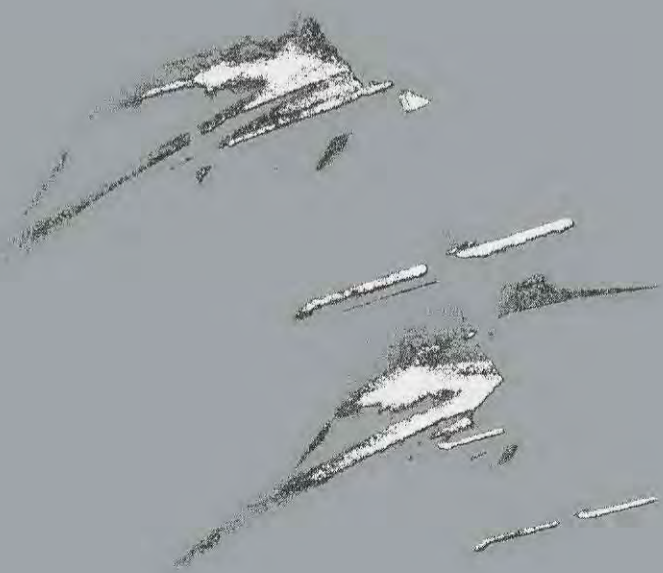
largest U.S. corporation were enjoying the benefits of computerization (BI, Feb. 21, 1983).

And by the mid-1980s, risk managers at smaller companies were also benefitting from the new technology.

In 1983, a *Business Insurance* survey of risk managers found that information systems were popping up in risk management departments across the country (BI, Nov. 21, 1983).

Continued on next page

# Risk M



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Continued from previous page

The survey found that 38%—or 20 of the 52 risk managers who responded—had computer terminals in their offices. Another 16 surveyed had plans to put them there by year-end 1985, meaning 70% of the respondents would be computerized at that point.

Of the 20 risk managers with terminals already in their offices:

- Seven linked them to an in-house mainframe.

- Five companies were linked to an independent vendor's mainframe.

- Five others used both terminals linked to a mainframe and stand-alone personal computers.

Of that five, four of those mainframes were located in-house and one tapped into an insurer's mainframe.

- One company used a terminal linked to its insurer's mainframe.

- Two companies used a micro-computer or personal computer.

Since the 1983 survey, personal computers also have boomed in popularity.

The computerization of risk management has not only changed the way risk managers do their jobs, it has also changed some of their responsibilities.

"It has brought risk managers into a more financial orientation," said Mr. Hall of Anistics. "If you

think about it, most financial organizations, like banks, are highly automated," he said. "Financial managers at those organizations have been used to computer systems for quite awhile."

But only in recent years have risk managers had access to such number-crunching potential, said Mr. Hall.

Susan Werner, director of risk management at Hardee's Food Systems Inc., says computers "changed the way we have conducted our business and structured our insurance."

She explained that Hardee's used its Sisdat+system developed by Risk Sciences Group in Atlanta

to make "an educated decision" to retain a significant amount of risk. "That was an immediate savings of half a million dollars."

The system also allowed Hardee's to track the incidence of injuries from slips and falls, leading eventually to the use of different floor materials in some restaurants. "By analyzing the data, we reduced our exposure by getting new floors down," she explained.

And she pointed out that the company's RMIS led management to decide to remove slicing machines from restaurants to eliminate cuts and lacerations. Hardee's now plans to buy meat pre-sliced, and expects to realize a significant

savings.

"Anybody that's really using it—you won't take that terminal off the desk. I guarantee you that."

Although many risk management departments are made up of veterans who took their jobs before the computer revolution began, vendors do not portray them as a group unwilling to embrace the new technology.

However, some do have sort of a "computer fear." Mr. Tweedy said some risk managers are afraid their jobs may be in jeopardy because of the all-efficient computer system.

"Some are very fearful that their jobs will be taken away," said Mr. Tweedy. "I think that is unfounded. The computer can be used as a helpful tool" that can solidify a risk manager's worth to his firm, he added.

He said most risk managers, whether veterans or rookies, still need "a lot of education in using the tools that are there."

Graduates from universities with good risk management programs appear the most interested in computer systems, said Mr. Gilmour. Many are coming out of school with risk management and computer skills and "that is very helpful to a company like us," he remarked.

Mr. Tweedy said of the newer generation of risk managers: "I just love 'em. They're very interested" in RMIS.

It's not only the risk management department that has to make adjustments when automation becomes a part of the daily routine.

Austin Hocklander, vp-insurance and claims with Yellow Freight Systems Inc. in Overland Park, Kan., said: "It takes some adjusting from management. They get very accustomed to seeing the same things on paper."

Top management has to become accustomed to the fact that certain information is stored in the computer and ready for instant recall, said Mr. Hocklander.

Largely self-insured Yellow Freight recently upgraded its RMIS capabilities by writing a program in-house that will allow it to perform more services like tracking loss histories by type, location and cause.

"One of the biggest benefits of the system will be the conservation of time on the part of the claims-handling and clerical staff," said Mr. Hocklander.

Vendors say the challenge since 1967 has been to collect and manage mountains of data and the next two decades will be devoted to developing systems that use risk management information as a tool to determine a company's total cost of risk and help make corporate financial decisions.

Systems are being developed that will track all expenses connected with a company's risk, said Mr. Gilmour, including costs like consulting expenses, various expenses related to self-insurance and others. "All of that can be part of a risk management information system."

"You would be amazed, when you go out to Fortune 500 and 1,000 companies, how many of them have no recognition of what the total cost of risk is," he said.

Mr. Tweedy said the RMIS of the future may be more integrated with other management information systems. For example, the risk manager may have access to the computer system used by his insurer and broker.

A problem system designers have to work on, however, is the inability of most computer systems to communicate efficiently with each other, said Mr. Tweedy. "We've got to depend on the technicians to enhance the communications abilities of the computers," he said.

"That needs to be corrected," said Mr. Tweedy. ■

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# Lloyd's of London survives changes

By CAROLYN ALDRED

LONDON—Lloyd's of London will celebrate its 300th birthday next year, making London the oldest and most established insurance center in the world.

And despite undergoing radical changes in the last 20 years, the London market, particularly Lloyd's, has surfaced intact from a sea of scandals and regulatory reform.

"The London market is a much more international market, and more reinsurance-orientated than it was 20 years ago," said David Hough, secretary of the Lloyd's Insurance Brokers Committee.

The market is also much bigger than it was 20 years ago, "even though it is under much greater competitive pressure as an insurance center now," he added.

For example, in 1967, premium income at Lloyd's totaled 602 million pounds (\$1.48 billion at Lloyd's exchange rate for 1967 results). In 1984, the year just closed under Lloyd's three-year accounting system, premium had increased more than tenfold to nearly 7 billion pounds (\$10.4 billion at Lloyd's exchange rate for 1984 results). Its 1987 gross premium capacity is 10.3 billion pounds (\$17.3 billion at current exchange rates).

Also, in 1967 the membership of Lloyd's totaled just 6,379, compared with 31,484 members today.

And, in 1967, all Lloyd's members were male and British.

Foreign men were not admitted as Lloyd's members until Jan. 1, 1969.

British women had to wait yet another year to become members, while foreign women were not admitted as Lloyd's members until Jan. 1, 1971.

Today, there are 2,699 American names providing about 10% of the market's capacity.

In another move toward sexual equality at Lloyd's, member Lilliana Archibald, a director of Adam Brothers Contingency Ltd., became the first woman broker to place insurance with a Lloyd's syndicate in 1972.

The following year, Lloyd's member Sylvia Horsey of the Corinthian Motor syndicate became the first woman to work for a Lloyd's syndicate in Lloyd's underwriting room. Then, on Jan. 1, 1974, women brokers who were not members of Lloyd's were allowed to work in Lloyd's underwriting room.

In the meantime, while Lloyd's was opening its doors to foreign members and women, its walls on Lime Street began to echo with stranger disturbances.

A series of spectacular losses suffered by Lloyd's syndicates in the 1970s were to lead to a complete upheaval of Lloyd's constitution (see story, page 101).

One of these losses involved policies written by Lloyd's syndicates in the late 1970s insuring the value of U.S. computer leases.

The losses stemmed from a dramatic drop in the value of leased computers when International Business Machines Corp. introduced more technologically advanced models. Subsequently, when leases were not renewed, the resale value of the leased computers was far below the anticipated lease revenue, a loss insured by the syndicates.

Losses from the computer-leasing policies eventually totaled some \$400 million, a Lloyd's spokesman confirmed.

The United States also was the source of another scandal to hit Lloyd's in the 1970s.

In 1976, the Sasse syndicate at Lloyd's faced massive losses after an avalanche of claims, far exceeding premiums, poured in from substandard property and fire risks written in the United States under binding authority given to 44 underwriters or producers of U.S. business, including Den-Har Underwriters of Florida and Deslauriers, Wilkin & Associates Inc. of Canada.

By 1980, members of the Sasse syndicate had filed a lawsuit against Lloyd's, the Sasse Turnbull underwriting group and the Merrett Dixey Syndicate, which took over the management of Sasse in 1978 in the hope of recovering more than 20 million pounds (\$47.8 million at 1980 exchange rate) in losses from the Den-Har and other Sasse binders (BI, Feb. 11, 1980).

In an out-of-court settlement in July 1980, the Committee of Lloyd's agreed to indemnify Sasse syndicate members 9 million pounds (\$21.5 million at 1980 exchange rate) for the 1976 underwriting year and 7 million pounds (\$16.7 million at 1980 exchange rate) for the 1977 underwriting year, a Lloyd's spokesman confirmed.

In 1979, against a backdrop of these and other huge losses, Lloyd's Committee established a working party to look into how the market could best regulate itself.

The working party was chaired by Sir Henry Fisher, then president of Wolfson College in Oxford, and its findings formed the basis of the parliamentary Lloyd's Act of 1982 (BI, June 30, 1980).

The Fisher Report, published in June 1980, recommended:

- The creation of a new, widely based Council of Lloyd's to govern the insurance market using new rule-making and disciplinary powers to be granted by an act of Parliament.

- The abolishment within five years of the financial ties between Lloyd's brokers and underwriting agents, which create unacceptable conflicts of interest that could hurt Lloyd's policyholders and names, the report said.

- At that time, 45.3% of the underwriting capacity at Lloyd's was managed by broker-controlled underwriting agencies.

- The registration of agents and brokers to be renewed every five years.

Throughout 1981 and 1982, the Lloyd's Bill, a private members bill designed to reform self-regulation of the marketplace, wound its way through Parliament.



Photo: Janet Gill for Lloyd's of London

**Amid the modern environment of Lloyd's new building, the Lutine Bell still is rung to signal important news.**

Meanwhile, the government was laying the foundation of the Insurance Companies Act of 1982, which would consolidate previous legislation governing insurance companies other than Lloyd's.

And in 1981, the Insurance Brokers Registration Act of 1977 came into effect with the establishment of an Insurance Brokers Registration Council. Under the act, anyone wishing to call themselves an insurance broker had to be registered with the IBRC. Furthermore, the act:

- Set down minimum standards for directors of brokers.
- Introduced investment controls.
- Demanded annual audited returns.
- Introduced compulsory professional and indemnity insurance for brokers.

The London market was rapidly undergoing a period of regulatory reform, in particular at Lloyd's.

In June 1982, shortly before the Lloyd's Act was passed, Peter Green, then-chairman of Lloyd's, was heralding "an era of immense change" for Lloyd's (BI, June 28, 1982).

However, in the autumn of 1982 a chapter in Lloyd's history began that temporarily blemished that "new era."

The clouds began to gather when U.S. broker Alexander & Alexander Services Inc. announced the acquisition of Lloyd's broker Alexander Howden Group P.L.C. for \$299.9 million in September 1981 (BI, Sept. 23, 1981).

In July 1982, A&A conducted a fair-value audit of Howden following rumors that millions of pounds in Howden underwriting funds were missing (BI, Sept. 6, 1982).

By September 1982, A&A had budgeted \$35 million to cover shortfalls at Howden subsidiary Sphere Drake Insurance Co. Ltd. Later that same month, A&A filed suit against four Howden directors alleging they misused \$56 million of Howden assets (BI, Sept. 27, 1982).

It was initial investigations into the Howden affair in 1982 that led to the discovery of an unconnected affair involving losses of millions of pounds from syndicates managed by PCW Underwriting Agencies Ltd.

By October 1982 Lloyd's was investigating \$40 million of quota-share reinsurance transactions placed by PCW, and W.M.D. Underwriting Agencies Ltd.—both owned by Lloyd's broker Minet Holdings P.L.C. (BI, Nov. 8, 1982).

In addition, Lloyd's so-called "baby syndicates" were also coming under scrutiny. These small syndicates, whose names were often directors of Lloyd's companies, were attached to larger ones and seemed to receive a better book of business than their bigger sister syndicates.

Some members of Parliament called for the Lloyd's Act, which allowed self-regulation at Lloyd's, to be rescinded before it took effect on Jan. 5, 1983. The politicians claimed Lloyd's should be regulated by the British Department of Trade and Industry in the same way that insurance companies were (BI, Dec. 6, 1982).

However, after discussions with the Bank of England and the government's trade secretary, the new Lloyd's Council approved the appointment of a non-Lloyd's member as chief executive of the council to oversee the implementation of self-regulation at Lloyd's.

The post of chief executive, filled in 1983 by Ian Hay Davison, former managing partner of international account-

ants Arthur Andersen & Co., was a new position designed to help the new Lloyd's Council implement the 1982 Lloyd's Act (BI, Dec. 20, 1982).

Also in 1983, Peter North Miller, chairman of Lloyd's broker Thomas R. Miller & Son (Insurance) Ltd., was elected as the new chairman of Lloyd's (BI, Nov. 14, 1983).

Meanwhile, the reforms introduced by the Lloyd's Act continued with the abolishment of baby syndicates in 1983 (BI, Oct. 3, 1983), the adoption of rules giving Lloyd's brokers five years to divest their managing agencies (BI, June 13, 1983), and the adoption of standard accounting requirements for Lloyd's syndicates (BI, Oct. 15, 1984) among others. In addition, Lloyd's Council had greater disciplinary powers to supervise the marketplace.

By November 1985, Mr. Davison had announced his intention to resign, effective May 1986. The announcement followed a decision by Lloyd's to conduct an inquiry into the structure of Lloyd's and the role of the chief executive.

In Mr. Davison's book, "A View of the Room: Lloyd's—Change and Disclosure," published this year, the former chief executive says his resignation "was meant" to show that "despite a major three-year program of reform, the constitutional structure of the Society of Lloyd's remained defective for its principal task: the regulation of the market (BI, July 6).

Mr. Davison's resignation, and the continued rumblings of the PCW and Howden affairs, led to further calls from members of Parliament for government regulation of Lloyd's.

Lloyd's had not been included as one of the markets to be regulated by the newly formed Securities and Investment Board because of the self-regulatory apparatus it had recently adopted and because its principal business was property/casualty insurance, not investments.

However, some Labor Party members argued that although policyholders had been unharmed by some of the recent scandals, Lloyd's members had been affected (BI, Dec. 9, 1985).

In January 1986, the British Department of Trade and Industry set up a working party to study Lloyd's self-regulatory system established by the Lloyd's Act of 1982.

Sir Patrick Neill, vice chancellor of Oxford University, was appointed to chair the inquiry (BI, Jan. 20, 1986).

The Neill report was published 12 months later, listing 70 recommendations for changes to be implemented at Lloyd's, one of the most radical being abolition of the working members' control of Lloyd's. Four of the 16 working members elected by Lloyd's members in the market were to be replaced by four nominated non-members of Lloyd's who must be approved by the governor of the Bank of England (BI, Jan. 26).

As a result of the Neill report, the council now consists of 12 working members, eight nominated non-members and eight non-working members of Lloyd's.

Other Neill committee recommendations are being implemented gradually into the Lloyd's market.

Meanwhile, in April, Lloyd's put forward a massive market settlement plan to end the PCW affair, whose losses by then were an estimated 235 million pounds (\$378.4 million) (BI, April 13).

As part of the plan, Lloyd's offered to contribute 45 million pounds (\$72.5 million) from its Central Fund and cover any underwriting losses related to the former PCW syndicates exceeding the current estimate.

Thirty-seven other organizations—including 26 members agencies, accountants, law firms and brokers—agreed to contribute 55 million pounds (\$88.6 million). They included Sedgwick Group P.L.C., Alexander & Alexander Services Inc. and PCW's parent company Minet Holdings P.L.C.

Under the settlement, the 1,547 PCW members belonging to the PCW non-marine syndicates were to pay 34 million pounds (\$54.7 million) to help fund the syndicates' losses, as well as relinquish their rights to sue Lloyd's.

By the end of June, 96% of members of the loss-riddled syndicates had accepted the settlement offer (BI, June 29).

The following month, on July 15, in simultaneous police raids in Britain and France, fraud squad officers arrested five former officials of the Alexander Howden Group P.L.C. and its affiliates in connection with the transfer "of millions of pounds" from Howden and its subsidiaries prior to 1982 (BI, July 20).

Charged with fraud in connection with the purchase of a Swiss Bank with funds allegedly diverted from Howden and its subsidiaries, were: Alan J. Page, formerly chief financial officer at Howden; Jack H. Carpenter, a former Howden director; and former Lloyd's underwriters Ian R. Posgate and Colin Hart.

Kenneth V. Grob, arrested at his home in the South of France, was later extradited and charged in London with stealing "1.135 million pounds (\$1.9 million at current exchange rates) belonging to members of Lloyd's syndicates 126/129 or Alexander Howden Insurance Brokers Ltd." (BI, Sept. 14).

With its problems apparently behind it, Lloyd's remains the London insurance market's most dominant force as it sails into its 300th year.

The new Lloyd's building, opened by Queen Elizabeth II in November 1986, was designed by Italian-born architect Richard Rogers, who also designed the Pompidou Center in Paris. The 12-story barrel-vaulted glass atrium building where underwriters now work has become one of London's most fashionable buildings (BI, Aug. 31).

In another move toward the 21st century, the London market is introducing an intermarket electronic network system, which will cut down on paperwork and the time it takes to place policies and pay claims (BI, June 29).

# U.S. brokers gain foothold in London market

By STACY SHAPIRO

LONDON—Some of the biggest changes in the London market in the last 20 years can be traced back only as far as 1978, when American brokers started to merge with Lloyd's of London brokers.

"Lloyd's in days gone by would not have allowed foreign companies—not just U.S. companies—to buy Lloyd's brokers," said one Lloyd's broker.

But today, about 50% of Lloyd's business is derived from the United States, much of it through U.S.-owned Lloyd's brokers.

In the late 1970s, U.S. domestic sales were slowing down and American brokers began looking for opportunities to expand their worldwide operations, according to Geoffrey Hodgson's book, "Lloyd's of London."

By 1978, Marsh & McLennan Cos. Inc. wanted to buy the largest Lloyd's broker at the time, C.T. Bowring & Co. Ltd., and Frank B. Hall & Co. Inc. was interested in Lloyd's

broker Leslie & Godwin Holdings Ltd.

However, the Lloyd's Committee was worried that if a substantial number of Lloyd's brokers were to become subsidiaries of publicly owned American brokers, "the committee's ability to regulate the market might melt away altogether," said Mr. Hodgson.

As a result, in early 1978, Lloyd's Committee passed a rule that insurance interests outside Lloyd's should not own more than 20% of any Lloyd's broker.

"The Americans were furious," said Mr. Hodgson. "The 20% rule went down very badly indeed in the United States."

Frank B. Hall was the first company to dodge the 20% rule in June 1978 when it bought all of Leslie & Godwin's capital. Hall set up a subsidiary for all of Leslie & Godwin's Lloyd's brokerage business and owned 25% of that subsidiary, while the other 75% was owned by Rothschild Investment Trust.

It was only when Marsh & McLennan bought Bowring for around \$556 million in

the first half of 1980 that any Lloyd's broker was 100% owned by an American broker. The institutional shareholders and the British Insurance Brokers Assn. welcomed the bid, so Lloyd's did not oppose the purchase, according to Mr. Hodgson.

Since then, other American/Lloyd's broker mergers have occurred:

- Alexander & Alexander Services Inc. bought Lloyd's broker Alexander Howden Group P.L.C. in early 1982.

- Lloyd's broker Hogg Robinson Group P.L.C. went into partnership with Republic Steel Corp. of Cleveland in 1981 by buying Penn General Agencies and renaming it Republic Hogg Robinson Inc. Hogg bought out its partner in 1985 to become the sole owner of RHR (BI, July 15, 1985; June 28, 1982).

- Jardine Insurance Brokers Group, the British subsidiary of Jardine Matheson & Co., bought Bache Insurance Services Inc. in March 1982 and changed Bache's name to Jardine Insurance Brokers Inc. Jardine's also

bought Emett & Chandler Cos. Inc. in 1986 and renamed it Jardine Emett & Chandler Inc. (BI, May 26, 1986; June 28, 1982).

- Lloyd's largest brokerage group, Sedgwick Group P.L.C., bought U.S. broker Fred S. James & Co. Inc. in 1985 from James' parent Transamerica Corp. Under the terms of the merger, Transamerica transferred 100% of James—including Lloyd's broker Wigham Poland Holdings P.L.C.—for 39% equity interest in Sedgwick.

- Lloyd's brokerage group Willis Faber P.L.C. purchased Lloyd's broker Stewart Wrightson Holdings P.L.C. this year.

Willis Faber also continues its longstanding informal partnership with Johnson & Higgins Ltd., although J&H bought Lloyd's broker Carter Brito e Cunha Ltd. in May and renamed it Johnson & Higgins Ltd.

In addition to these ties, Minet Holdings P.L.C. is 25% owned by broker Corroon & Black Corp. and 26% owned by The St. Paul Cos. Inc. ■

## Time capsule: 1979

The U.S. Tax Court has upheld the position of the Internal Revenue Service in a dispute concerning Carnation Co.'s premiums paid to its captive insurer.

The Tax Court ruled that premiums paid to Carnation's Bermuda captive for underwriting Carnation's risk did not constitute insurance and, therefore, Carnation could not claim a tax deduction for premiums paid to the captive and could not classify the payments received by its offshore captive as foreign source income.

However, just two weeks earlier, the IRS and Ford Motor Co. had reached a settlement in their dispute involving premiums paid by Ford's foreign subsidiaries to the company's Bermuda-based captive. In that settlement, the IRS charged Ford with earning as a commission 5% of the premiums paid by the foreign affiliates to the captive. Originally the IRS had charged Ford with earning as commission the total amount of premium paid to the captive by its foreign subsidiaries (BI, Jan. 8, 1979).

The Commerce Department's model product liability bill has drawn the enthusiastic praise of business groups. Under the bill, wholesalers generally are exempted from liability, product alteration is a defense against liability, manufacturers are responsible for only the "useful life" of their products, claims must be filed within three years of injury, products are presumed not defective after 10 years, the state-of-the-art defense is strengthened, determination of punitive damages is up to a judge, and damages for pain and suffering are capped at \$25,000 (BI, Jan. 22, 1979).

A class-action suit filed on behalf of Vietnam veterans who claim they were injured by the herbicide Agent Orange could result in huge product liability claims against the manufacturers of the chemical.

The suit claims that the herbicide, which was used as a defoliant to kill trees and clear ground cover in Vietnam and contains dioxin, causes cancer.

A lawyer for the plaintiffs says that if it is found that the herbicide causes cancer, the three chemical companies named in the suit—Dow Chemical Co., Hercules Inc. and Northwest Industries Inc.—could face liabilities "far in excess of their net worth combined" (BI, Jan. 22, 1979).

The accident at the Three Mile Island nuclear plant will be the worst commercial nuclear accident in history. American Nuclear Insurers paid out more than \$600,000 in emergency claims in the first several days following the accident at the plant; that amount is almost as much as the total liability payments for the country's 73 nuclear plants over the past 22 years. And, experts say that the \$600,000 will be dwarfed by the liability and property damage claims that ultimately will be brought (BI, April 16, 1979).

Regulators in Illinois and Rhode Island have seized the assets of the financially troubled American Reserve Corp.'s two main insurer units in those states.

A few days earlier, regulators had ordered the subsidiaries—American Reserve Insurance Co. of Providence, R.I., and Reserve Insurance Co. of Illinois—to stop writing new and renewal property and liability insurance in all 50 states (BI, May 14, 1979).

Workers comp rates in Florida will be cut 15% in July in the first test of the wage-loss concept.

Under the recently signed work comp reform law, Florida workers injured on the job after July 1 will only be compensated for the actual wages they lose. Workers will, of course, receive benefits for any period that they cannot work at all. But, once they can go back to some job, workers with permanent partial disabilities will have to show that they can't earn 85% of what they made before they were hurt.

The new Florida law also raises benefits, overhauls administration of the work comp system, places limits on insurers' profits, makes claimants pay their own attorney's fees and forces employers to provide rehabilitation services (BI, May 28, 1979).

A complex maze of liability litigation is likely following the crash of an American Airlines DC-10 in Chicago that killed 274 passengers and two bystanders, making it the worst U.S. aviation disaster.

Involved in the possible dispute over liability, which experts say could reach \$200 million, are the airline, the manufacturer of the aircraft and suppliers of components. These parties may be involved because the crash occurred when some malfunction—caused perhaps by faulty design, manufacture or maintenance, or simply by wear and tear—caused the engine to fall off the left wing during takeoff (BI, June 11, 1979).

Both Illinois and Florida are considering forming insurance exchanges similar to Lloyd's of London and the recently created New York Insurance Exchange.

In Illinois, a bill to create such an exchange was passed unanimously by the state Senate, which supports the idea as a way to bring money and jobs into the state. However, insurers in Illinois are more wary, and would like to see whether New York makes a success of its exchange.

The Florida Legislature also has passed a bill calling for the formation of an insurance exchange—but only after its economic feasibility is established by the insurance commissioner (BI, July 9, 1979).

The support of the Carter administration, coupled with the efforts of an alliance of business, consumers and trial attorneys, may revive a proposal to allow companies to pool their product liability risks through federally chartered insurance cooperatives, or risk retention groups (BI, Sept. 3, 1979).

Many U.S. corporations' assets in Iran are underinsured against expropriation, a special concern as relations with Iran continue to deteriorate.

The Department of Commerce says that, at the end of last year, U.S. firms had holdings in Iran valued at \$389 million.

Still, those assets appear to be poorly protected against the possibility of seizure under the government of Ayatollah Ruhollah Khomeini. Insurance sources say there is little expropriation coverage written in Iran (BI, Nov. 26, 1979).

Insurers say they may stop writing liability coverage for general admission rock concerts after 11 people were trampled to death before a concert by The Who in Cincinnati.

The fans were killed when 7,000 general admission ticket holders stormed the glass doors outside Riverside Coliseum. And, insurers note that having general admission rather than reserved seating for rock concerts aggravates problems with crowd control and safety.

Fireman's Fund Insurance Co. underwrote two spectators liability policies for the concert (BI, Dec. 10, 1979).

Marsh & McLennan Cos. Inc., the largest U.S. broker, has dropped plans to implement a profit-pooling agreement with Lloyd's of London broker C.T. Bowring & Co. Ltd. Instead, M&M plans to buy Bowring's parent outright with stocks and cash.

Bowring and Lloyd's are not pleased with the offer, however. The M&M plan appears to violate a Lloyd's rule that forbids more than 20% foreign ownership of any Lloyd's broker, and Bowring Group has issued a statement opposing M&M's unilateral merger offer (BI, Dec. 24, 1979).

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# Loss control taking humanistic angle

By MARK A. HOFMANN

The corporate loss control function is becoming as much a humanistic discipline as a technical one, observers say.

"American industry has been swinging around to where they mean it when they say our people are our most valuable resource," says Max Morton, manager of the wellness center for Adolph Coors Co. in Golden, Colo.

"There has become more of an emphasis on human issues, and most of it has come out of the chief executives' offices," Mr. Morton says.

In the mid-'60s, when technicians rather than managers generally were responsible for loss control, the widespread attitude was that people should bend to processes, rather than making processes fit people better.

But over the last 20 years, loss control managers have changed the way they look at problems, says Frank Bird Jr., president of the International Loss Control Institute in Loganville, Ga., and author of "Management Guide to Loss Control."

Loss control developments have been marked by an "increased recognition of the role ergonomics plays in accident causation," he says.

Employers are paying greater attention to "selecting the right materials and equipment to meet the needs of people" rather than trying to force people to meet the needs of the machines, he adds.

Mr. Bird says loss control has shifted from safety engineering to safety management since 1967. He cites the "tremendous growth in the recognition, evaluation and control of health exposures on and off the job" as an example of how safety management works.

More and more, Mr. Bird says, managers have come to accept that a body of knowledge exists that can be applied to control acci-

**'American industry has been swinging around to where they mean it when they say our people are our most valuable resource,' says Max Morton, manager of the wellness center for Adolph Coors Co. in Golden, Colo.**

dents.

Although the loss control systems of 20 years ago did indeed help prevent accidents, they were primitive and unsystematic compared with today's techniques, he says.

Now, he explains, managers can carry out comprehensive safety audits that would have been impossible 20 years ago.

The spread of computers has aided the development of safety audits, Mr. Bird says, by allowing better tracking of the variables that affect workplace safety and health.

Via computer, loss-control officials can interrelate the accident-causing factors that exist at any particular time and devise strategies to minimize risk.

Willem N. Top, managing director of the Rotterdam International Safety Centre—one of the largest fire safety training centers in the world—in the Netherlands, is even more blunt: "The biggest changes are taking place between the ears," he says.

Upper-echelon managers have come to realize that they must get personally involved in loss control and safety if their losses are to be minimized, he explains.

Tony Perez, a director of First Insurance Group Inc. in Hato Rey, Puerto Rico, agrees with that philosophical emphasis. The biggest change over the last 20 years, he says, has been an increased "awareness by leading companies that the real cause of loss is lack of management control."

Managers also are beginning to

see a correlation between loss control and quality control, Mr. Perez adds.

In addition, the demographic shifts of the past 20 years have prompted changes in loss control, says James McNamara, corporate loss prevention manager for ARA Services Inc. in Philadelphia.

"People don't stay with the same company and work at the same job with the same supervisor for 40 years anymore," Mr. McNamara says. "The old tried-and-true inspections, manuals and the like don't do the job any more."

Mr. McNamara, who specializes in workers compensation, says loss control officials must both prevent accidents and contain costs, and cites two human resources developments that demonstrate the progress of the past 20 years.

Employers are relying more on physical abilities testing, he says, helping assure that workers will be able to carry out the job assigned to them. And, if employees are injured, more and more employers have developed return-to-work programs.

Coors' Mr. Morton agrees that the creation of more sophisticated return-to-work programs is one of the more important developments of the past two decades.

Increasingly, companies are taking steps to keep their employees healthy as part of their loss control efforts, he says.

Coors, for example, has operated an employee wellness center since 1981 in which employees are offered exercise programs, nutritional counseling, smoke cessation clinics and stress management programs.

Changes in the makeup of the workforce have added to the number of injury prevention programs offered, Mr. Morton notes.

Mr. Morton warns, however, that the full impact of corporate health promotion strategies has not yet been measured.

The increased emphasis on conserving human resources has been accompanied by equally impressive advances in property loss control measures, observers say.

David V. Carlson, marketing vp at Hartford Steam Boiler Inspection & Insurance Co. in Hartford, Conn., cites the ability to carry out sophisticated safety inspections without shutting down operations as one of the chief changes in property loss control over the past 20 years.

Just as more sophisticated medical diagnostic techniques have reduced the frequency of some exploratory surgery, Mr. Carlson points out, more sophisticated loss-control diagnostic methods have reduced the frequency of plant shutdowns for loss-control inspections.

For example, infrared photography can be used to inspect electrical switching gear without shutting down facilities, Mr. Carlson says.

And, acoustical monitoring devices can be used to ascertain problems in turbines and rotating refrigeration compressors without down time, Mr. Carlson adds.

"It's like using an EKG," he says. Previously, the units had to be shut down and taken apart for inspection. Now the units are taken off line only when the moni-

toring indicates that there is a serious problem.

Another improvement in loss control technology is the use of computers to create fire diagrams, which can take weeks to prepare by hand, Mr. Carlson noted.

In addition, computer models can be updated almost instantaneously, whereas manually produced fire diagrams were in some cases outdated even before they were completed, he says. For example, the laying of a pipe or installation of a piece of machinery during the diagram's preparation could render it worthless.

Douglas Brandeis, an analytical engineer with Duke Power Co. in Charlotte, N.C., also considers sophisticated mathematical modeling and increased reliance on computer-aided analytical techniques two of the more significant changes in loss control. Mr. Brandeis' responsibilities include protecting the utility's generators, both conventional and nuclear, against fire.

By using computerized mathematical modeling that tracks the growth and development of a fire, the utility has been able to assess how large a fire a generating unit can sustain as well as develop more effective loss control strategies, according to Mr. Brandeis.

In addition to more sophisticated computer techniques, Mr. Brandeis cites advances in fire detection and fire-control devices as examples of loss control improvements over the past 20 years.

Detection devices relying on infrared, electronic and ionization technologies have grown increasingly sophisticated in pinpointing trouble, he says.

In addition, sprinkler systems have evolved into specialized forms, reducing the time needed to bring a fire under control. As an example, Mr. Brandeis cited an automatic sprinkler head that spews very large drops of water, which was designed specifically to combat high-temperature fires, he says.

Advances in fire-prevention techniques also have improved corporate loss control in the past two decades, according to Wendell Couch, director of loss prevention for the Memphis, Tenn.-based Holiday Corp. and outgoing chairman of the American Hotel & Motel Assn.'s fire and safety committee.

The development and widespread use of plastic piping in sprinkler systems during roughly the past five years is the most important development in hotel fire safety in 20 years, Mr. Couch explains.

Plastic piping allows pre-existing structures to be equipped with sprinkler systems more quickly, easily and cost-effectively than metal piping systems did, he points out.

The concurrent development of fast-action sprinkler heads, which are activated automatically by temperatures of 135 to 165 degrees Fahrenheit, also made the use of plastic piping systems more practical because rapid response to heat decreases the chances of the plastic melting, he added.

According to Mr. Couch, the use of access cards, rather than keys, to open hotel guest rooms is the past two decades' has improved hotel security by making break-ins more difficult.

In the field of general safety, Mr. Couch cites the improvement of slip-and-fall prevention techniques, such as chemical etching that makes floors more slip-resistant without reducing aesthetics, as a critical loss-control development.

In addition, Mr. Couch says the

development of special shoes designed for kitchen work has curbed employee injuries.

James Bowman, a fire and safety consultant for E.I. Du Pont de Nemours & Co. in Wilmington, Del., says there has been an increased emphasis on "process management" in manufacturing, whereby all aspects of the manufacturing process are analyzed by a team of employees to root out potential loss exposures.

For example, the release of a cloud of poisonous gas from a Union Carbide Corp. pesticide manufacturing plant in Bhopal, India, in late 1984 forced manufacturers to re-examine their processes, Mr. Bowman said, particularly those involving hazardous substances.

Mr. Bowman stresses, however, that despite technological advances during the past two decades, there is no single formula that guarantees safety.

"Ninety-nine percent of safety is back to basics," Mr. Bowman comments.

At Armstrong World Industries, a housing materials manufacturer based in Lancaster, Pa., Senior Safety and Health Specialist D. Earl Bowder sees the changes in loss control methods of the past two decades more in terms of improvements to existing systems than in terms of technological breakthroughs.

"Sprinkler systems have been the backbone of our fire safety systems for years," he says.

"We're trying to get better at what we're doing by better recognizing hazards and keeping hazards under control so we can operate without risks," Mr. Bowder adds.

For example, Armstrong now uses Halon gas as a fire extinguisher because it presents "no life safety risks," unlike carbon dioxide, which can choke people, he explained.

In addition, the fire area is evacuated before extinguishing agents are used, he says.

John L. Crisp, Armstrong's general manager of risk and insurance management, also views advances in loss control as evolutionary rather than revolutionary.

As an example, Mr. Crisp cites refinement of employee safety educational programs through the use of videotapes to make loss control knowledge more accessible.

But, the growing accessibility of knowledge through electronic data processing spawned over the past two decades has led to new challenges in risk management and loss control, according to Burke Stinson, a district manager for American Telephone & Telegraph Co. in New York.

Software theft has become a major problem in part because society will not act severely enough against computer vandals, he asserts.

"Computer hackers are viewed as sort of sweet young kids. But what they do isn't cute or impish," he asserts.

Mr. Stinson says the creation of increasingly effective computer security systems has been one of the most important loss control developments of the past 20 years.

"We have to ensure that security around data banks and software is sophisticated enough to assure that unauthorized intrusions are flagged, tracked and punished," he says.

Mr. Stinson warns, however, that the security systems must be constantly refined as data processing systems become increasingly sophisticated. "Technology has outstripped the safeguards," he explains.

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## Time capsule: 1980

Courts in California and New York are studying 140 insurance policies covering Hooker Chemical & Plastics Corp. to decide who is liable for the 500 claims arising from the pollution of Love Canal that seek more than \$10 billion in damages.

The insurers that underwrote the coverage over a period of 16 years are involved in a maze of litigation with Hooker, which owned the site and operated it as a landfill from 1947 until 1952.

After state environmental officials found carcinogenic chemicals leaking into the soil from the site, more than 237 families in the New York state community abandoned their homes (BI, Jan. 14, 1980).

Lloyd's of London has called in Scotland Yard to help investigate the \$84 million loss of the oil tanker Salem.

Lloyd's believes that the tanker's \$60 million oil cargo was sold secretly to South African interests before it sank off the Senegal coast Jan. 17. If this is the case, Lloyd's suspects the tanker actually was scuttled to hide the theft. Shell International Oil Group, which had purchased the oil, also has launched an investigation.

The tanker's cargo was 100% insured in the London market, with Lloyd's taking about 60% of the risk. Lloyd's also had 75% of the \$24 million in hull coverage; the rest was written by Norwegian insurers (BI, Feb. 4, 1980).

The Supreme Court has ruled that workers cannot be fired or reprimanded for refusing to accept dangerous tasks, though employers do not have to pay them.

The court upheld a regulation by the Occupational Safety and Health Administration that allows employees to refuse to perform a task when they perceive a "real danger" of death or serious injury and there is not time to go through normal complaint channels.

However, employers may withhold wages for the time not worked (BI, March 3, 1980).

A California Supreme Court ruling that women can sue DES manufacturers as a group has opened the door to the theory of industry-wide liability.

In the case, women are suing all manufacturers of diethylstilbestrol, which was given to pregnant women to prevent miscarriage but allegedly caused cancer in some of their adult daughters.

Most of the daughters cannot identify the specific manufacturer of the drug their mother took.

The California decision is the first that allows the women, under those circumstances, to sue all companies that manufactured the drug during the time their mothers were pregnant.

The decision says that when a specific manufacturer cannot be established, all manufacturers must divide the liability based on their market share (BI, March 31, 1980).

Johns-Manville Corp. is suing 27 of its excess insurers over its asbestos liability coverage.

Johns-Manville, the nation's largest asbestos supplier, filed the suit 11 days after a Texas jury awarded \$2.6 million to the widow of an oil refinery worker who died of lung cancer caused by asbestos exposure. It was the largest jury award ever in an asbestos product liability case.

In its suit, Johns-Manville asks the court to determine how the 27 insurers should respond in the cases pending against the asbestos firm and whether the claims should be handled under the expo-

sure theory or the manifestation theory (BI, April 7, 1980).

New rules announced by the Occupational Safety and Health Administration give employees access to the medical records their employers have on file if there has been workplace exposure to toxic substances or harmful agents.

Under the new rules, employees may examine and copy an employer's records of toxic substance exposure, and unions also may examine the medical records with the written consent of the employee (BI, May 26, 1980).

Insurers and state officials are trying to untangle the web of liability questions surrounding the eruptions of the Mount St. Helens volcano in Washington. Total claims from the disaster are expected to top \$1 billion.

Washington's insurance commissioner has instructed insurers to adopt liberal guidelines in determining coverage for the disaster, although insurers are still debating what is covered and what is excluded (BI, June 2, 1980).

C.T. Bowring P.L.C. shareholders have approved the sale of Bowring to Marsh & McLennan Cos. Inc. for 44 million shares of stock and about \$314 million in cash. M&M shareholders also have approved the deal.

This removes the last obstacles from the controversial merger, which marks the first foreign ownership of a Lloyd's of London broker's parent firm. However, a soon-to-be-released study of Lloyd's rules will determine how much of the Lloyd's brokerage division can be retained by M&M (BI, June 2, 1980).

The first of more than 1,000 asbestos product liability suits to come to trial in Los Angeles has resulted in a \$1.2 million compensatory award against Johns-Manville Corp. and Raybestos-Manhattan Corp. However, no punitive damages were assessed in the case.

Johns-Manville and Raybestos-Manhattan are expected to request a new trial and judicial review of the \$1.2 million verdict (BI, June 9, 1980).

The first damage trial resulting from the 1979 crash of an American Airlines DC-10 in Chicago is about to go to a federal court jury.

The suit, which seeks unspecified compensatory damages, was brought by the widow of a man killed in the crash. It is the first to be tried under an agreement by defendants American Airlines and McDonnell-Douglas Corp. that they will not contest the question of compensatory damages if plaintiffs agree not to seek punitive damages (BI, June 23, 1980).

If the Fisher Working Party's recommendations for changes at Lloyd's of London are accepted, a host of traditions would be ended.

The Fisher report suggests, among other things, that the financial ties between Lloyd's brokers and underwriters be broken, that U.S. brokers be free to own Lloyd's brokerage subsidiaries and that there be codified rules and new disciplinary procedures to better control the Lloyd's market (BI, June 30, 1980).

Despite strong end-of-the-session lobbying efforts, Congress did not pass the Risk Retention Act before the legislators recessed for the November elections.

The measure was stalled when Sen. Howard Cannon, D-Nev., combined it with legislation establishing a quasi-public company to

promote foreign travel to the United States. But, the risk retention bill, which would allow manufacturers to pool their product liability risks, could be taken up again when Congress returns after the elections (BI, Oct. 6, 1980).

Attorneys predict a landslide of toxic shock syndrome lawsuits against manufacturers of tampons.

At least 14 suits alleging tampon involvement in toxic shock syndrome, a potentially fatal illness, already have been filed against Procter & Gamble, maker of Rely tampons. Other tampon makers are named in other suits (BI, Oct. 13, 1980).

The U.S. Supreme Court has allowed industrywide suits by victims of DES.

The high court let stand a California court decision that allows the daughters to sue all of the companies that manufactured the drug during the time period their mothers took the drug.

However, the ruling applies only to those who cannot identify the manufacturer of the drug their mothers took. Those manufacturers then must divide liability based on their market share. To avoid liability, a defendant must prove that it could not have been the manufacturer of the product (BI, Oct. 20, 1980).

A federal appeals court has ruled that liability insurance policies written during the years when workers handled asbestos are the only source of coverage for recently discovered asbestos-related diseases.

In its decision in *INA vs. 48 Insulations Inc.*, the court accepted the exposure theory of liability in long-latent injury cases, rather than the manifestation theory. Under the theory of manifestation, all insurers on a risk from the time of exposure to the time of discovery of injury would be liable.

The decision, the highest court decision so far on the theories of liability for long-latent diseases, could have strong implications for other product liability suits involving long-latent illness, observers say (BI, Nov. 3, 1980).

Lloyd's of London will use its reserves to meet \$36.5 million of the losses of the Sasse syndicate, leaving syndicate members liable for only \$15 million of the \$51.5 million in losses on U.S. and Canadian property risks in 1976-'77.

Lloyd's is attempting to recover some of the money through litigation against the syndicate's reinsurers. Hearings in that litigation are set to begin next year (BI, Nov. 3, 1980).

Liability coverage of \$30 million may not be enough to cover claims resulting from the fire at the MGM Grand Hotel in Las Vegas that killed 84 people.

The first class-action negligence lawsuit filed seeks \$175 million in damages on behalf of about 375 Mexicans staying at the hotel.

The Las Vegas hotel had property insurance with limits of between \$215 million and \$250 million (BI, Dec. 1, 1980).

The U.S. House of Representatives passed the \$1.6 billion "Su-

perfund" hazardous waste cleanup bill, which already has been approved by the Senate. The measure, the Comprehensive Environmental Response, Compensation and Liability Act, is expected to be signed by President Carter soon.

The bill would allow the government to act quickly against dump sites that pose a pollution threat to nearby communities and then recover the costs from the companies ultimately found responsible. The measure will be funded largely by an excise tax on chemical companies (BI, Dec. 8, 1980).

Lloyd's of London underwriters have paid a \$1 million life insurance policy on former Beatle John Lennon, who was murdered last week outside his apartment building on New York's Upper West Side.

The policy, which was paid within 24 hours of the murder, was taken out by Mr. Lennon's record distributor, Warner Bros., to cover losses resulting from "non-appearance" (BI, Dec. 15, 1980).

The proposed merger between Alexander & Alexander Services Inc. and Sedgwick Group Ltd. will form the world's largest insurance brokerage with estimated revenues of \$672.6 million.

While its revenues will be slightly smaller than the revenues of newly merged Marsh & McLennan Cos. Inc. and C.T. Bowring, its insurance operations will be larger, industry observers say. Completion of the A&A-Sedgwick share exchange merger is not expected before 1982 (BI, Dec. 22, 1980).

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# Tight market triggers hybrid rating systems

By MEG FLETCHER

Until last year, state regulation of most property/casualty insurers' rates over the past 20 years showed a clear trend toward open, or competitive, rating and away from a more restrictive prior approval approach.

However, the recent unavailability of insurance for hard-to-place lines reversed that trend. Several states responded to the tight commercial liability insurance market by limiting open rating or adopting hybrid approaches.

And, some predict state regulators may further restrict open rating if federal legislators repeal the McCarran-Ferguson Act.

Property/casualty insurance rating has become "greatly" deregulated in the past 20 years, said Richard E. Stewart, chairman of Stewart Economics Inc. and former New York insurance superintendent.

"It was an insurer-driven change, but it takes two to tango," and consumers' response was essential to the change, he said.

States typically require rates to be adequate, reasonable and not unfairly discriminatory, but they differ in how they regulate insurers to achieve that end.

Twenty years ago, nearly all states except California required—were administered as if they required—prior approval of rate changes for all lines of property/casualty insurance, excluding workers compensation, said Carole Banfield, vp of government relations at the New York-based Insurance Services Office Inc.

Under that system, proposed rate changes had to be filed with, and approved by, a state before an insurer was permitted to use them.

In addition, at that time, 30 state or regional fire insurance rating agencies were nearing the end of a period of consolidation that cul-

minated in the formation of ISO in 1971, which is the largest rating organization in the United States.

In most states, ISO files advisory rates that members and subscribers may use as filed rates or as a basis for deviations supported by their own experience. In some states, ISO files rate changes on behalf of member companies or provides statistical and actuarial data to companies that want to file their own rates.

Ms. Banfield pointed out that during the 1970s, there was a movement away from prior approval to a "file and use" approach, under which insurers file a rate and must observe a waiting period before using it but are not required to obtain advance regulatory approval.

More than half of the property/casualty insurance premiums nationwide, excluding workers compensation premiums, eventually were written in states following "file and use" or "use and file" approaches, which were typically administered as open, or competitive, rating, she said.

From an insurance buyer's point of view, there were few disadvantages to competitive rating, because "competition works to drive down prices," Ms. Banfield said, noting that ISO supports open rating but does not lobby for it.

Insurers liked open rating because it allowed them to adjust rates quickly to reflect changing market conditions. However, there may be a tendency for insurers to allow prices to be driven too low to adequately compensate for their losses, Ms. Banfield explained.

Until the mid-1970s, regulators were primarily concerned with whether consumers were being charged excessive rates, said Oklahoma Insurance Commissioner Gerald Grimes.

However, the development of captives by professional groups

**'It was an insurer-driven change, but it takes two to tango,' says Richard E. Stewart.**

such as doctors and lawyers, whose main concern was keeping rates low, changed regulators' focus to whether rates were sufficiently adequate to meet future obligations, he said.

By mid-1986, 20 states either expressly sanctioned open rating for all ISO lines or were administered as though they did, Ms. Banfield said. Those states were Arizona, Arkansas, California, Colorado, Idaho, Indiana, Kentucky, Maryland, Michigan, Minnesota, Missouri, Montana, New Mexico, North Carolina, Oregon, Utah, Vermont, Virginia, Wisconsin and Wyoming.

About a half-dozen other states were administered as open rating states for one or two lines of insurance, primarily personal lines.

However, there has been an "abrupt" change within the past 18 months, according to Ms. Banfield.

"A legislative reaction to the perception of excessive rate changes in the market" caused at least six states "to retreat from competitive rating in one way or another" and drop open rating for all lines, Ms. Banfield said.

The 14 states that now formally sanction open rating by law are Arizona, California, Colorado, Idaho, Indiana, Kentucky, Maryland, Michigan, Minnesota, Montana, Utah, Wisconsin, Wyoming and Virginia, as long as the state insurance commissioner determines that liability insurance is available and affordable.

However, some additional states allow open rating primarily for personal lines.

New York in 1986 adopted a hybrid of the prior approval and open rating approaches for most types of commercial liability insurance called flex rating.

The hybrid was needed because file-and-use "succeeds too well in soft markets and collapses all too completely in hard markets," explained Richard Hsia, deputy director of the New York Insurance Department.

With New York's flex rating system, "rate changes within broad flex bands can still be made on a file-and-use basis, with only rate changes above or below such bands requiring prior approval before the proposed change can take place," he explained.

Open rating "allowed insurers to change rates and change their minds mindlessly," Mr. Hsia said. "What we are trying to promote is fair and full competition" with "long-term thinking by everyone."

However, Mr. Stewart of Stewart Economics said flex rating will not bring price stability because the commercial insurance industry "has too many pricing points ever to control."

"Flex rating is not a middle ground between open competition and prior approval, because there can be no middle ground. It is a choice, and history has made it for us," he said at a joint ISO/Insurance Information Institute conference earlier this year.

A spokeswoman for the National Assn. of Insurance Commissioners said other states that have adopted flex rating for some lines of insurance are Maine, Minnesota, Missouri, Oklahoma, Oregon, Vermont and Washington.

Recently, a few states have chal-

lenged ISO's filing of advisory rates on behalf of insurers. For example, beginning in January in California, ISO can provide only projected loss costs, and individual insurers must factor in their own expenses and investment income (BI, June 29).

"We have determined that advisory rates are simply not compatible with California's competitive rating system," said California Insurance Commissioner Roxani M. Gillespie in a statement.

"When times are tough, insurers tend to adopt the ISO advisory rate, rather than use their own expense or loss experience to develop rates. The result has been some horrendous price increases to consumers," she said.

Currently, ISO is providing only loss cost information for a few states, including Kentucky and Illinois for all lines and about a dozen states for some personal lines, ISO's Ms. Banfield said.

The trend toward deregulation during the past 20 years applies almost entirely to rates, not forms.

The importance of standardized forms continues "so your statistics will mean something," Mr. Stewart said. Also, court interpretations of standard wording provides predictability and gives an insurer a sense of control.

And, standardized wording is important to insurers and reinsurers writing high layers of coverage to avoid coverage gaps that a court may require them to fill.

Workers compensation always has been treated separately from other property/casualty lines because "it is a social program" and "its pricing mechanism is entirely different," explained Kevin Ryan, president of the New York-based National Council on Compensation Insurance. The NCCI is a ratemaking organization that collects and utilizes statistical data to make and file manual rates that represent the average for particular job classifications.

Despite pressures, "the workers compensation insurance rating law has remained remarkably similar to the model originally recommended" by the NAIC in 1947, said Michael Camilleri, the NCCI's senior vp and general counsel.

The work comp ratemaking system in the majority of jurisdictions is a prior approval pricing system, or is administered as such.

In many states, once a regulator has approved rates, insurers may deviate from them. But most state rating laws require insurers to justify in advance that a deviation is reasonable because the insurer's experience is different from that of other insurers, Mr. Camilleri said.

During the 1960s and 1970s, "many groups pressed for change in the workers compensation ratemaking process on the theory that this would generate increased competition," he said.

In 1972, a national commission's recommendations led to higher workers compensation benefit levels, which resulted in higher costs to employers, explained Steven Millikan, vp and director of workers compensation at the Schaumburg, Ill.-based Alliance of American Insurers.

During the 1980s, at least 10 states adopted competitive rating laws in an effort to lower workers compensation insurance costs.

The NCCI and the Alliance agree that competitive rating laws for workers compensation insurance have been passed in Georgia, Illinois, Kentucky, Maine, Michigan, Minnesota, Oregon, Rhode Island, Vermont and Maryland. But while the NCCI also includes Arkansas and New Mexico on that list, the Alliance does not, based on its in-

terpretation of those states' laws.

Most of those laws were passed between 1981 and 1984. The law changes were followed by only short-term decreases in rates, which put a damper on the movement (BI, Jan. 14, 1985).

The NCCI's Mr. Ryan believes that the emergence of competitive rating for workers compensation insurance is not an example of deregulation. "There has been virtually no deregulation in the past 20 years," he said.

However, there has been increasing involvement on the part of outsiders such as state attorneys general in the ratemaking process, he said.

In addition, the NCCI is making greater use of other economic indicators, including demographic and employment statistics, to explain its rate-making data.

While ratemaking issues of all lines have been discussed primarily at the state level, the debate has broadened into one of national significance because of congressional proposals to repeal or modify the McCarran-Ferguson Act, which exempts insurers from federal antitrust laws, except in cases of coercion, intimidation or boycott.

Repeal or modification of the act could affect not only insurance rating bureau operations but also state regulation of property/casualty insurers.

If McCarran-Ferguson were repealed, rating bureaus probably would be restricted to publishing only loss data, to which individual insurers could apply their own expense and investment income data, observers say. However, some proposals that are under consideration in Congress would ban any sharing of data (BI, July 6).

"I think we can find that the industry can function in an antitrust environment," said Mr. Stewart of Stewart Economics.

Insurers already are doing so in New York—which already has imposed strict state antitrust laws—so insurers would be able to comply with antitrust laws on a federal level, he said.

However, small insurers may complain, as they have historically, that it costs too much for them to perform rate calculations independently.

But repealing or modifying McCarran-Ferguson could have an even more significant impact on insurance industry practices and a state's ability to regulate them, according to a letter Assistant U.S. Attorney General Charles Rule sent last month to Rep. Hamilton Fish Jr., R-New York, vice chairman of the House's Subcommittee on Monopolies and Commercial Law.

Mr. Rule indicates that if McCarran-Ferguson were modified, insurers' practices would be protected by the "state action doctrine" only in those states that actively regulate insurers. The legal doctrine essentially requires a state to use its regulatory power or lose it.

If McCarran-Ferguson were modified or repealed, insurance regulators in some states with loose rate regulation would "very possibly" introduce more rate regulation, such as prior approval requirements, to ensure that the state action doctrine protects their right to regulate insurers, ISO's Ms. Banfield said.

Modification or repeal of McCarran-Ferguson "may result in more regulation and less competition," she said. "That's ironic," because those who support repealing McCarran-Ferguson are seeking greater competition in the insurance marketplace, she pointed out.

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## Time capsule: 1981

Business is vowing to renew its battle for tort reform as a way of dealing with product liability problems, but it is unlikely the effort will meet with more than modest success, some say.

Trial lawyer groups are fighting tort reform efforts as well mounting defenses against those reforms that already have been enacted. The lawyers charge that tort reform efforts unfairly restrict consumers' rights to recover for injuries caused by defective items.

However, business groups say product liability problems are worse than ever. They note, for example, that the number of product liability complaints filed in U.S. District Courts was up 26.4% in 1980 compared with 1979, and damage awards are increasing (*BI*, Jan. 12, 1981).

Companies with billions of dollars of claims against Iran say they will continue to try to attach Iranian assets if the arbitration system set up by the recent hostage agreement does not hold up.

There currently are about 380 lawsuits in U.S. courts seeking to attach \$3 billion in Iranian assets as compensation for expropriations and losses during the violence of the Islamic revolution. The companies involved say they do not know enough about the arbitration agreement yet, and some still are considering challenging the action of former President Carter that nullified suits against Iran. (*BI*, Feb. 2, 1981).

MGM Grand Hotels Inc. has purchased back-dated liability policies that could add as much as \$170 million to the coverage for losses in the fatal fire at the MGM Grand Hotel in Las Vegas.

The coverage, which was placed by broker Frank B. Hall & Co., is dated Nov. 1, 1980—20 days before the fire that killed 84 people. Before buying the additional coverage, MGM had only \$30 million in liability coverage, far too little to cover losses. (*BI*, Feb. 9, 1981).

A New York appellate court has ruled that DES victims can sue drug manufacturers that acted in concert to market the product, even if the specific manufacturer of the drug that caused the victim's injury cannot be identified.

The decision is the first to apply a concert-of-action theory in a case involving diethylstilbestrol, a drug given to pregnant women to prevent miscarriages that later was linked to cancer in their adult daughters (*BI*, March 2, 1981).

A U.S. Circuit Court of Appeals has ruled in favor of the Internal Revenue Service in the dispute over Carnation Co.'s tax deductions for premiums paid to its captive.

The appellate court upheld a Tax Court decision that denied Carnation the advantage of claiming tax deductions for premiums paid and claiming income for its offshore captive insurer.

Industry observers say this decision is a significant setback for companies seeking to apply to their captives the tax advantages of traditional insurance arrangements (*BI*, March 16, 1981).

Although neither American Airlines nor McDonnell-Douglas Corp. will reveal details of the agreement, it appears that insurers for American will pay the majority of the losses in the 1979 crash of an American DC-10 in Chicago.

The two companies apportioned liability for the crash, which killed 273 people, based on the portion of the responsibility for the crash that was related to McDonnell-

Douglas' alleged faulty design and to American's poor maintenance of the aircraft. Insurance industry sources say that American will be responsible for all the hull claims and 75% of the liability claims (*BI*, May 4, 1981).

Under Vermont's new captive law, companies are allowed to form the kind of pools for product liability coverage that would be allowed under the long-delayed federal Risk Retention Act.

The Vermont law is the first to create the domestic captive insurer category of industrial insured, which would allow pooling (*BI*, June 8, 1981).

Only the owner and the operator of the Hyatt Regency hotel in Kansas City, Mo., appear to have any-

where near the liability coverage that will be needed to pay claims resulting from the July 17 collapse of skywalks at the hotel.

Even if investigators ultimately find designers or builders responsible for the tragedy that killed at least 111 people and injured about 200 others, their coverage will not come close to the estimated \$100 million in claims that will result.

The general contractors involved in the 1-year-old hotel had \$10.5 million in coverage, and the architects, engineers and subcontractors had less than \$10 million each, sources say. (*BI*, July 27, 1981).

Although the Major League Baseball strike has ended, the dispute over strike insurance is heading into extra innings.

Underwriters still are considering whether to reimburse baseball owners for their losses for the seven days of games that were canceled between the July 31 strike

settlement and the end of last week, when the insurance would have run out. Although a pact was reached July 31 in the 50-day-old strike, the players had not ratified the deal before the end of the policy period (*BI*, Aug. 10, 1981).

In a decision that contradicts most recent rulings, a U.S. District Court in Boston says that the date of diagnosis of asbestos-related injury should determine coverage.

This adoption of the manifestation theory of liability provides maximum insurance protection for the defendant, asbestos manufacturer Eagle-Picher Industries (*BI*, Aug. 31, 1981).

Oregon is about to become the first state to use open rating of workers compensation insurance.

Although Minnesota was the first state to pass an open rating law requiring work comp insurers

*Continued on next page*

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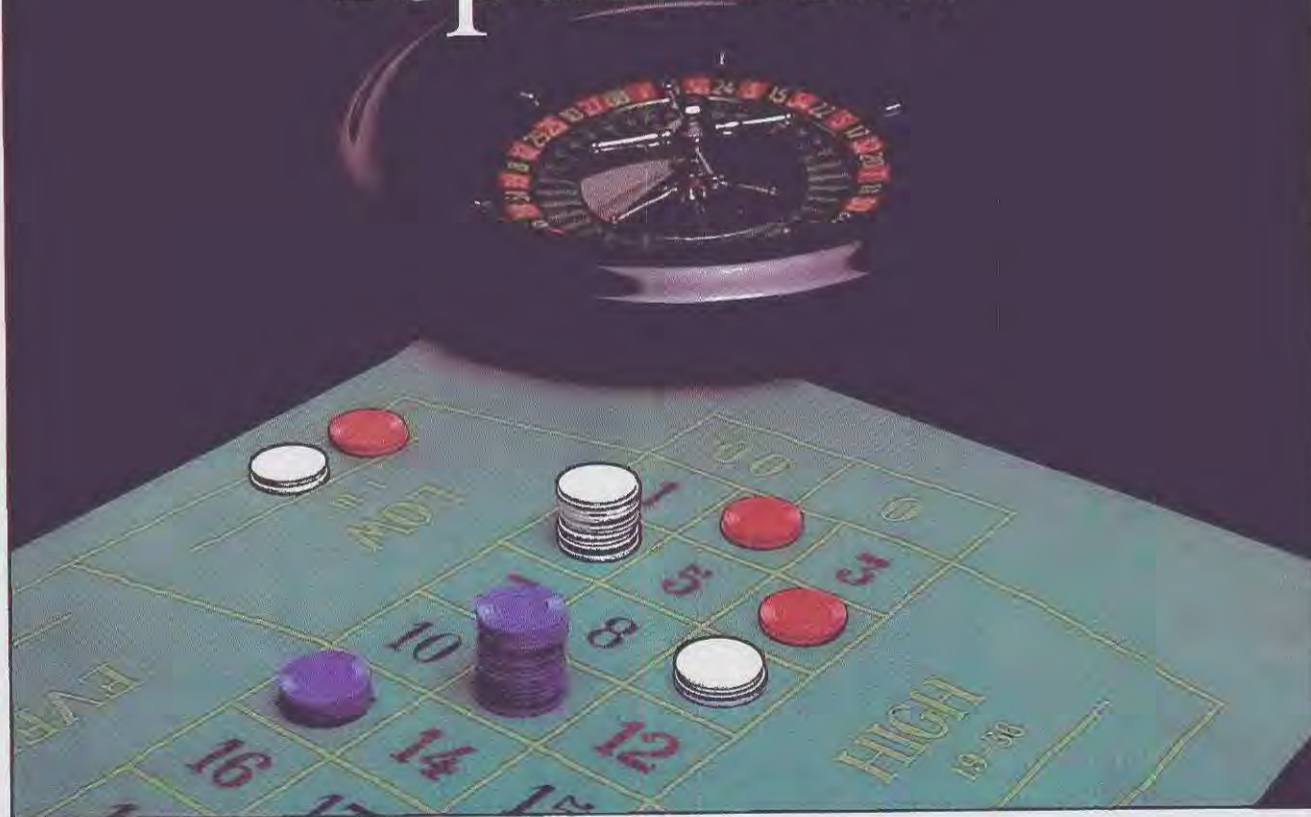
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**Time capsule: 1981**

Continued from previous page

to compete on price, that law will not be fully in effect until mid-1983; Oregon's law takes effect next July.

Oregon officials said they took the action to try to bring down workers compensation rates, which are among the highest in the country (BI, Sept. 14, 1981).

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Although both insurers and manufacturers are pleased by Congress' passage of the Risk Retention Act, they are divided about what its effect will be. Buyers say the new law will bring more competition, more accurate rating and, possibly, lower rates. But insurers say that few risk retention groups actually will be formed and so its impact will not be significant (BI, Sept. 21, 1981).

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After the breakup of its ill-fated romance with Sedgwick Group Ltd., Alexander & Alexander has taken Alexander Howden Group Ltd. as its London mate.

Eight years after the two companies first talked about combining, they have reached an acceptable \$295 million tender offer for Howden (BI, Sept. 28, 1981).

\*\*\*

In the broadest asbestos liability decision yet, a District of Columbia Court of Appeals has applied the triple-trigger theory, meaning that all insurers of a manufacturer from the time a claimant was exposed to a harmful product through the appearance of the injury are liable for damages.

In *Keene Corp. vs. INA*, the court also said the policyholder, even if self-insured during any portion of the period, is not liable for any of the damages (BI, Oct. 12, 1981).

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Insurers for Hyatt Corp., facing \$3 billion in claims arising from the collapse of the skywalks at the Kansas City Hyatt Regency hotel, are suing the insurers of the other defendants.

Northbrook Excess & Surplus Lines Insurance Co., Hyatt's first-layer excess insurer, filed a suit to determine the role of insurers for the hotel's owner, Hallmark Cards Inc., and subsidiary Crown Center Redevelopment Corp.

One of Hallmark's primary insurers, Commercial Union Insurance Co., says it has taken no action because Hyatt's management contract provided that it take responsibility for all liability once it began running the hotel (BI, Nov. 23, 1981).

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The Illinois Insurance Exchange is off and running. Its three underwriting syndicates bring a total of \$9 million in initial capitalization, and three or four additional syndicates are expected to join by year-end (BI, Nov. 30, 1981).

# Financial guarantees old concept, but new applications are sprouting

By JUDY GREENWALD

The financial guarantee industry is at once very old and very young.

On the one hand, its origins can be linked to the surety business, which is hundreds of years old.

But, on the other hand, the modern financial guarantee industry traces its roots only as far back as the 1970s.

Today's financial guarantee insurance can be divided into two sometimes overlapping segments:

- Credit enhancement coverage, in which insurers guarantee an investment-grade municipal or corporate debt issue and assign it their own Triple-A rating. Most of this segment, the larger of the two, consists of insuring municipal bonds.

- Residual value insurance, limited partnership bonds and educational loan insurance.

The first municipal bond policy, observers say, was written in 1971 by New York-based American Municipal Bond Assurance Corp., now known as AMBAC Indemnity Corp., to guarantee a \$650,000 revenue bond issued for the Greater Juneau Borough Medical Arts Building Co. in Alaska.

But by 1979 only about 3% of municipal bonds were insured.

"In the beginning, using municipal bond insurance was considered a stigma, because only those people who had problems got insurance," explained H. Russell Fraser, AMBAC's president and chief executive officer.

Many point to the investor fear induced by the Washington Public Power Supply System's \$2.25 billion bond default in 1983, the financial crises faced by savings and loan institutions in the early 1980s and Chrysler Corp.'s financial difficulties during the same period as significant turning points in the growth of municipal bond insurance.

By 1985, issuers were racing to the market to avoid the impact of then-pending tax legislation that set a per-state cap on the tax-exempt volume of private activity bonds. That year, municipal bond insurers insured 23%, or \$47 billion, of a record \$203.9 billion in new issues.

By 1986, with the tax law in place and interest rates low, the volume of municipal bond issues was down, but insurers nevertheless insured 19%, or \$27 billion, of 1986's total issues of \$140.2 billion.

This year, municipal bond insurers are expected to insure

approximately 20% to 25% of the roughly \$100 billion in bonds issued, which would be less than half of 1985's level. And some observers expect the level to decline even further.

However, industry observers generally are optimistic about the eventual growth of this segment of the financial guarantee industry.

"There's been a continuing need for municipal financing," said Leon J. Karvelis Jr., executive vp of Municipal Bond Investors Assurance Corp.

And Mark H.S. Cohen, first vp-finance and administration at Bond Investors Guaranty Insurance Co., said as risk structures and types of bonds become increasingly complex, investors will continue to turn to municipal bond insurers for the assurance that the insurers' Triple-A ratings convey about their investments' safety.

The non-municipal bond segment of the financial guarantee industry can be traced to 1979, when a residual value-type product led to a \$388 million loss suffered by Lloyd's of London syndicates that had issued policies to computer leasing companies guaranteeing the value of their leases.

After this rocky start, however, this segment of the financial guarantee market, like the municipal bond segment, took off in the early 1980s, when its growth was encouraged in part by the competitive property/casualty insurance market, which led many insurers to write financial guarantees.

The Tax Reform Act of 1986, however, proved to be a stumbling block in this sector of the market as well. Coverage for limited partnerships, many of which were used by investors as tax shelters and constituted an important part of the market, were particularly hard hit.

Cliff Brown, senior vp at Continental Guaranty & Credit Corp., an underwriting management company created by Continental Insurance Co., said "pure economic" limited partnership deals continue to be made, although it has "slowed down quite a bit."

He remains optimistic about the long-term viability of the market. "I think it'll come back again," he said. "What's in a down cycle today is often in an up cycle tomorrow"

But according to Kenneth J. Pinkston, who heads the financial guarantee division of Corroon & Black Corp.'s Brokerage Services Group, which at one time was quite active in financial guarantee business, "It's been a very frustrating business for us."

# REINSURANCE

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# Women find opportunity in risk management

By LAURA MAZZUCA

Back in the era of *workman's* compensation and advertisements seeking "Girl Fridays," women often found that their career options in the insurance and risk management fields were limited to secretarial or administrative positions.

Then, changes such as the severity of market cycles, an increased emphasis on consumerism, more tort litigation and increasingly large and numerous claims awarded by generous juries, spurred the growth of the risk management field at a time when women were becoming a force to be reckoned with in the workplace.

The result is that women today are strongly represented—including in positions of authority, in the field of risk management, its female practitioners agree.

The risk management field is "far more gender-blind than most fields. . . and it has grown from virtually a clerical task to a discipline to a profession," said Edith F. Lichota, senior vp of risk management at Irving Trust Co. in New York and the *Business Insurance* 1987 Risk Manager of the Year (*BI*, March 30). Mrs. Lichota was the first woman to receive this award in the 10 years it has been presented.

"There are incredibly great opportunities for women in the risk management field today," said Barbara Fein, vp of risk management for Nu-Med Inc. of Encino, Calif.

Risk management is an area in which women are "getting closer to parity with men" in salaries and benefits, as well as in attaining "professional recognition amongst their peers," Ms. Fein said.

The fields of "insurance and risk management seem to be more open, and more positions are available to women," agreed Judith Tornese, director of risk management and administration at Transamerica Corp. in its San Francisco headquarters. "Insurance in particular is begging for good people of either sex."

Risk management is an accessible career ladder for women because it is a relatively new field and because it began to develop at a time when women were just beginning to become a significant component of the workforce. Because of that, ambitious women "didn't have to get past a layer of

men," Mrs. Lichota explained.

"Most of the people of my generation backed into risk management because we had no choice," said Mrs. Lichota, who began her risk management career in the mid-1960s with a small company in Ohio. In those days, risk management duties were generally handled by a company's purchaser of insurance, she explained.

Today, "the more you know about a whole variety of disciplines, the better prepared you will be to practice the risk management profession," Mrs. Lichota said. "You get a pretty good start in college, but a lot of it is hands-on work."

In her position at Irving Trust as senior vp, Mrs. Lichota oversees traditional risk management and insurance for the bank, as well as product and service development, contingency planning and security planning. She oversees a staff of 24.

She observed that there is "a fairly high percentage of women in the profession," judging from attendance at Risk & Insurance Management Society and other meetings where "it looked as if the women were in greater numbers than the men."

Ms. Fein has been in the risk management field for the past 10 years, and she worked at a brokerage for almost 10 years before that. She received the Associate in Risk Management designation while she was an account manager with a brokerage to provide better service to her clients.

Ms. Fein noted that she was one of only three women present when she attended her first local RIMS meeting in November 1977.

Today, Ms. Fein is the president of the Los Angeles RIMS Chapter, and 30% of the chapter's membership now is women. She also is one of two women on the RIMS national executive committee.

Ms. Fein switched from the brokerage side of insurance to the risk management field because "major brokerages were not the most opportune places for an ambitious young woman," she said. "The insurance business was, and still is, very slow to recognize women, and I was hungry—I wanted to

be more than someone's 'girl.'"

Ten years ago, only the largest corporations had their own risk managers, but that lack of knowledgeable people in risk management was actually a helpful stepping-stone for women who were willing to learn the specialty, according to Ms. Fein.

"Most business people don't like to talk about insurance, so anyone who came into a company (with that knowledge) had a natural entree," Ms. Fein observed.

Ms. Fein has held her present position as vp of risk management at Nu-Med for the past four years. The company is a for-profit health care organization that owns nine acute care and six psychiatric care hospitals, as well as many ancillary care businesses.

As part of her job, Ms. Fein negotiates and designs risk management programs, is involved in malpractice litigation, oversees work comp for more than 5,000 employees, and sets up benefits programs.

Ms. Fein finds that her brokerage experience has helped her in risk management because "brokers can't tell me funny stories about what they could and couldn't do," and because of the connections and knowledge of the insurance industry that she gained from that experience.

If there is any obstacle to women in the risk management field, it is the lack of female role models, rather than prejudice, Ms. Fein said.

"The dynamics of RIMS as a group is spreading the word" about career opportunities for women in the risk management field, according to Ms. Fein.

Ms. Tornese's advancement in the risk management field at Transamerica reads like a Horatio Alger success story. She started as a secretary in the risk management department in 1971, and worked her way up to analyst, risk manager and ultimately director of risk management.

With the financial backing and moral support of Transamerica, she earned her Chartered Property & Casualty Underwriter designation and was recently promoted to director of administration.

Ms. Tornese credits her former supervisor, Herbert Cunningham, as being instrumental to her success. "He was my mentor during those years," she said, stressing the importance of having a mentor, as well as serving

as a mentor to newcomers.

Ms. Tornese supervises six staffers in the risk management department. She is responsible for purchasing insurance, claims handling, risk management and safety and loss control. As director of administration, she also is responsible for an additional five staffers in that department.

Ms. Tornese, a deputy member of RIMS since 1973, is currently the society director of her local chapter, the Golden Gate Chapter in San Francisco, and chairman of the national RIMS board nominating committee.

Ms. Tornese believes it is easier for women to get into risk management today than it

was in the early 1970s, because there is a "better attitude in business regarding the contributions women have made."

But Mrs. Lichota warned that aspiring risk managers—female or male—must work hard to achieve success in the field.

"I've been in the business a lot of years, and I

didn't get here when I was five years out of school," she said.

Ms. Fein also believes that women must take the initiative in promoting themselves and fellow women in the field. "You have to have a sense of obligation to a profession that's given a lot to you."

And, whether male or female, newcomers to the risk management field must be willing to work hard and have the ability to set priorities and recognize important issues, Ms. Tornese stressed. Also important is "commitment. . . to the field, and wanting to make a contribution," she said.

Other required attributes are energy, perseverance and creativity. "You must always be willing to change, because this business is changing constantly," she said.

But perhaps most important for a successful career in the risk management field is a skill not taught in school: "The ability to get along with people," Ms. Tornese said. "You can be the brightest and most technically astute person in the world, but if you don't get along with people, they'll put you in a room with a computer."



Ms. Fein



Ms. Tornese

## Time capsule: 1982

Air Florida has up to \$500 million in coverage for injury and death claims in the crash last week of a Boeing 737 jetliner into the Potomac River, sources say.

At least 76 people died when the Tampa-bound jet crashed as it took off from Washington's National Airport. The hull loss was valued at \$12 million, and sources estimate the liability claims could range from \$25 million to \$40 million (*BI*, Jan. 18, 1982).

In at least two states, courts have found unconstitutional parts of tort reform that bar product liability suits in cases where injuries were caused by old products.

Successful challenges were mounted against tort reforms in North Carolina and Florida, as manufacturers see part of the legal wall of protection against product liability problems crumble (*BI*, Feb. 1, 1982).

If the World Airways DC-10 that skidded off an icy runway at Boston's Logan Airport Jan. 23 is declared a total loss and insurers pay the agreed value of \$48.5 million, it would be the largest single aircraft hull loss ever.

The airline also has at least \$350 million in insurance to cover the hull loss and liability claims resulting from the accident. Some 194 passengers and 12 crew members survived the crash, and two passengers—a father and son—are missing (*BI*, Feb. 1, 1982).

A.H. Robins Co. Inc. and Aetna Casualty & Surety Co. are going to

court in May to decide how a decade of primary and excess liability insurance should pay for claims related to the Dalkon Shield intrauterine contraceptive device, which Robins manufactured.

Robins says Aetna must defend and pay bodily injury and wrongful death claims arising out of use of the IUD during one or several policy periods. But, Aetna says it is not obligated in cases in which a claimant's injury was diagnosed or discovered after the last day of the last policy period. Aetna provided continuous primary and excess liability coverage to Robins from March 1968 to February 1977 (*BI*, Feb. 22, 1982).

The U.S. Supreme Court has refused to rule on a federal court decision that broadened liability in asbestos suits, appearing to end hopes for a uniform judicial interpretation of coverage theories.

The high court refused to rehear the ruling of a District of Columbia appeals court in *Keene vs. INA*, which said that all insurers on the risk from the time a worker was exposed until the injury was diagnosed are liable—this has become known as the triple-trigger theory.

Other courts have said that liability is triggered by exposure to asbestos, or that it is triggered when the disease is manifested (*BI*, March 15, 1982).

The U.S. House of Representatives will consider a bill that would allow employers to take tax deductions for self-insured loss reserves

Continued on next page

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## Time capsule: 1982

Continued from previous page

and for premiums paid to captive insurance companies.

The measure would alter the Internal Revenue Code to allow the deductions and, if it becomes law, it could revolutionize the way companies fund risk, according to its backers, a coalition of risk management interests known as the Loss Reserve Deduction Committee (BI, April 26, 1982).

A Nevada judge's stern criticism of the safety of the Jeep CJ-5 could add ammunition to scores of product liability suits pending nationwide against American Motors Corp.

The judge ruled April 19 that the design of the 1975 Jeep was defective and ordered AMC to pay \$4.1 million in compensatory and \$1 million in punitive damages to a man injured in a Jeep accident. (BI, May 3, 1982).

Analysts are looking with increasing concern at the sharply lower first-quarter operating results and poor cash flow being reported by major property/casualty insurers.

Insurers are reeling from huge winter storm losses and the continued effect of a buyers' market, and analysts are concerned that insurers soon will be paying out more in claims than they are taking in in new premiums and investment income, resulting in a negative cash flow.

In a survey of 20 insurers by *Business Insurance*, after-tax operating income declined by 11.6% to \$808.2 million in the first quarter of 1982 from the first quarter of 1981. And, the average combined ratio rose to 108.4% in 1982 from 103.2% in 1981's first quarter (BI, May 24, 1982).

The insurance industry would like to introduce a new comprehensive general liability policy that would require all risks to be written on a claims-made or a claims-discovered basis with a definite aggregate limit.

The first revision of the CGL since 1973, the proposed form would put some controls on potential long-term losses from still-undiscovered risks. The form, written and released to the industry by the Insurance Services Office Inc., assigns coverage to carefully defined time periods and limits (BI, July 12, 1982).

A New York bankruptcy court will establish important precedents in handling mass health injury litigation through reorganization if Manville Corp.'s Chapter 11 petition is upheld.

Manville follows UNR Industries Inc. in seeking relief under the Federal Bankruptcy Act from its mounting claims related to asbestos injuries and deaths. Manville currently faces 16,500 asbestos lawsuits and expects an additional 32,000. This will be the first time those claims will be a vital part of a bankruptcy proceeding (BI, Sept. 6, 1982).

In 1982, for the first time since 1977, no comprehensive product liability tort reform legislation was passed in any state. And none is likely to be passed the rest of the year.

Business groups say part of the slowdown is because reform measures passed during the early years of tort reform were in sparsely populated, conservative states where business has a lot of clout. In more urban, liberal states, anti-tort reform forces like labor and consumer groups are stronger.

In addition, they say the commercial insurance market for product liability coverage has eased and business lobbyists are concentrating now on federal legislation (BI, Sept. 20, 1982).

Alexander & Alexander Services Inc. has reversed itself and decided to sue former directors of Alexander Howden Group P.L.C. over their alleged misuse of \$56 million in funds belonging to Howden, which A&A acquired this year.

A&A had offered to settle the dispute quietly in return for a French villa, several valuable paintings, a Panamanian company and shares of a petroleum company. But, after A&A

discovered that the directors had overstated the value of these assets, it canceled the agreement and sued for full recovery of the funds. The former Howden directors being sued include prominent Lloyd's of London underwriter Ian Postgate (BI, Sept. 27, 1982).

The decisions in lawsuits resulting from the recent Tylenol tragedy may set liability precedents, legal experts say, especially over the issue of whether Johnson & Johnson is liable for deaths and injuries of people who took the poisoned drug even if the lethal potassium cyanide was added after the product reached retailers' shelves.

Seven people in the Chicago area were killed when they took cyanide-laced capsules of Extra-Strength Tylenol, and officials have few leads in the poisonings (BI, Oct. 11, 1982).

A Missouri Circuit Court judge has said that Hallmark Card Inc.'s insurer should pay at least one-third of claims arising from the collapse of skywalks at the Hyatt Regency Hotel in Kansas City.

In his ruling, the judge rejected arguments by Commercial Union Insurance Co. and broker Marsh & McLennan Cos. Inc. that the CU coverage was excess to coverage held by Hyatt Corp., which operates the hotel. Hallmark owns the hotel through its subsidiary Crown Center Redevelopment Corp.

So far, \$32.4 million in claims have been paid in the skywalks collapse, which killed 114 people and injured at least 200 others in July 1981 (BI, Oct. 18, 1982).

Arkansas regulators are becoming increasingly concerned about the shuffling of assets among Baldwin-United Corp. subsidiaries, as they investigate the affairs of two Arkansas-based life insurance companies owned by Baldwin-United.

The regulators are attempting to determine what restrictions should apply to the holding of stocks, bonds or paper of an insurer's affiliates as part of its admitted reserves. They also must determine whether such assets should be valued at market or book value (BI, Nov. 1, 1982).

## Time capsule: 1983

Tylenol maker McNeilab Inc. is suing its insurers to recover at least \$110 million in product recall and business interruption expenses incurred to remove its Extra-Strength Tylenol from the market.

Eight excess and umbrella liability insurers and one all-risk property insurer are named as defendants in a suit filed by McNeilab in U.S. District Court. The suit asks the court to decide whether there is coverage under excess liability and product liability losses for costs associated with the recall of Extra-Strength Tylenol.

Excess and umbrella liability insurance policies generally exclude recall expenses, and business interruption coverage is triggered by damage from perils that typically do not include voluntary product withdrawal (BI, Jan. 10, 1983).

Liability costs will total about \$100 million in the collapse of skywalks at the Hyatt Regency Hotel in Kansas City, Mo.

This is the amount of state and federal out-of-court class settlements reached among Hyatt Corp., Hallmark Cards Inc. and plaintiffs in the disaster, which killed 114 people and injured at least 200 others. Hyatt managed the hotel and Hallmark owned it through its subsidiary Crown Center Redevelopment Corp (BI, Jan. 17, 1983).

MGM Grand Hotels is suing its broker, Frank B. Hall & Co. Inc., and 21 insurers to force payment on the first \$95 million of \$170 million in back-dated liability insurance on the 1980 fatal fire at the MGM Grand Hotel in Las Vegas. The dispute continues over the back-dated coverage for the hotel,

which had far too little liability insurance to cover claims from the blaze (BI, March 21, 1983).

The Insurance Exchange of the Americas in Miami is now open and writing coverage.

President and Chief Executive Officer Alan Teale says the exchange is bustling with activity since its April 4 opening. The exchange, which has more than \$100 million in underwriting capacity, is providing a new market for international insurance and reinsurance buyers (BI, April 11, 1983).

The Caribbean island of Barbados is the newest domicile for captive insurers.

The Barbados Exempt Insurance Act of 1983, passed less than three months ago, creates tax-exempt status for foreign insurers and, according to island officials, offers advantages over laws in Bermuda, the Bahamas and the Cayman Islands (BI, May 9, 1983).

A national homebuilders group is fighting Delaware's insurance commissioner over the right to operate a risk retention group. The Home Owners Warranty Corp. is asking the Delaware regulator to rule that the group's captive insurance company, HOW Insurance Co., is a bona fide risk retention group under the 1981 federal law. (BI, May 30, 1983).

Gulf Oil Corp.'s Bermuda captive, Inscos Ltd., is no longer underwriting marine insurance for unrelated parties or reinsurance for Gulf-related marine and property risks.

Inscos's board of directors voted late last month to close Inscos's marine insurance underwriting operations immediately. And, earlier in May, Gulf decided to assume the first \$25 million of its property and maritime risks as a self-insured retention. The risks had been insured by licensed insurers and reinsured with Inscos (BI, June 6, 1983).

The broker and the insurer involved in the coverage for the 1980 MGM Grand Hotel fire are asking a court to void part of the once-touted retroactive coverage.

Broker Frank B. Hall & Co. Inc. and its subsidiary insurer, Union International Insurance Co., are asking a Nevada court to void the first \$35 million of the back-dated coverage Hall arranged for the

MGM Grand after the fatal blaze. They charge that the hotel breached its agreements with them in its \$75 million settlements with victims (BI, June 13, 1983).

Dow Chemical Co. says that bad publicity, litigation costs and escalating insurance premiums have forced it to stop producing Bendectin, an anti-nausea drug prescribed for pregnant women.

But plaintiffs, including a lawyer who recently won a \$750,000 verdict for a 12-year-old girl whose mother allegedly took Bendectin and who suffers from birth defects, say Dow is simply trying to limit its liability. Dow responds that Bendectin, which has been found safe by the federal Food and Drug Administration, is just a victim of litigious times (BI, June 20, 1983).

Although it has been more than four years since the revolutionary government took control, few U.S. businesses have received payment for their expropriated Iranian property and assets.

An international tribunal set up as part of the deal that freed 52 American hostages in January 1981 so far has authorized awards of more than \$78.1 million to corporations and individuals seeking to recover property lost in the revolution. That represents only a small part of the estimated \$4 billion in pending claims (BI, Sept. 5, 1983).

Although Korean Air Lines and its insurers are liable for claims from survivors of the KAL jet shot down by the Soviets, uncertainty about why the plane wandered into Soviet air space is bringing other defendants into the picture.

For example, one suit already filed includes as defendants the Boeing Co., which manufactured the ill-fated jet; Litton Industries, which made the plane's inertial navigational system; and the estates of three KAL crew members who also died in the crash.

Attorneys for the plaintiffs say their allegations in the suit hinge on whether the plane left its course because of mechanical malfunction, pilot error or a calculated decision to conduct reconnaissance or to shorten its flight to Seoul, South Korea (BI, Sept. 12, 1983).

Two victories for self-insurers were chalked up recently in Delaware and San Francisco.

In Delaware, state regulators are losing their battle to restrict the risks that can be covered by product liability risk retention groups. In a case involving the right of the Home Owners Warranty Corp. to operate a Delaware-based risk retention group called HOW Insurance Co., a federal judge called "untenable" the position of the Delaware insurance commissioner that state rather than federal law determines the definition of product liability that applies to risk retention groups.

In San Francisco, a U.S. Circuit Court of Appeals said employers self-funding their workers compensation risks in nine Western states can take tax deductions for reserves to pay uncontested work comp claims (BI, Oct. 17, 1983).

Standard & Poor's Corp., the New York-based debt-rating company, now is rating insurers' claims-paying abilities, giving risk managers an alternative to A.M. Best Co. for information about the financial health of insurers.

Risk managers can check the rating of a U.S. or overseas insurer without charge by calling S&P's rating desk in New York. (BI, Oct. 24, 1983).

A major lawsuit is being advanced by a group of more than 130 U.S. industrial companies to prove that owners, operators and insurers of hazardous waste sites, rather than site customers, should pay for government-ordered cleanup of the dumpsites.

Major corporations, including Union Carbide Corp. and Ford Motor Co., are pressing the suit against the owners, operators and insurers of a waste site in Indiana. The suit seeks reimbursement from the defendants for much of the \$2.9 million the plaintiffs have agreed with the Environmental Protection Agency to spend to clean up the site. (BI, Nov. 14, 1983).

The Factory Mutual System is abandoning its 140-year-old premium deposit plan, which required buyers to pay up to five times their annual premium cost in advance for a three-year policy.

Instead, the four Factory Mutual insurers, which specialize in highly protected risks, will allow policyholders to pay annual premiums based on standard rates and receive a 15% annual dividend (BI, Dec. 19, 1983).

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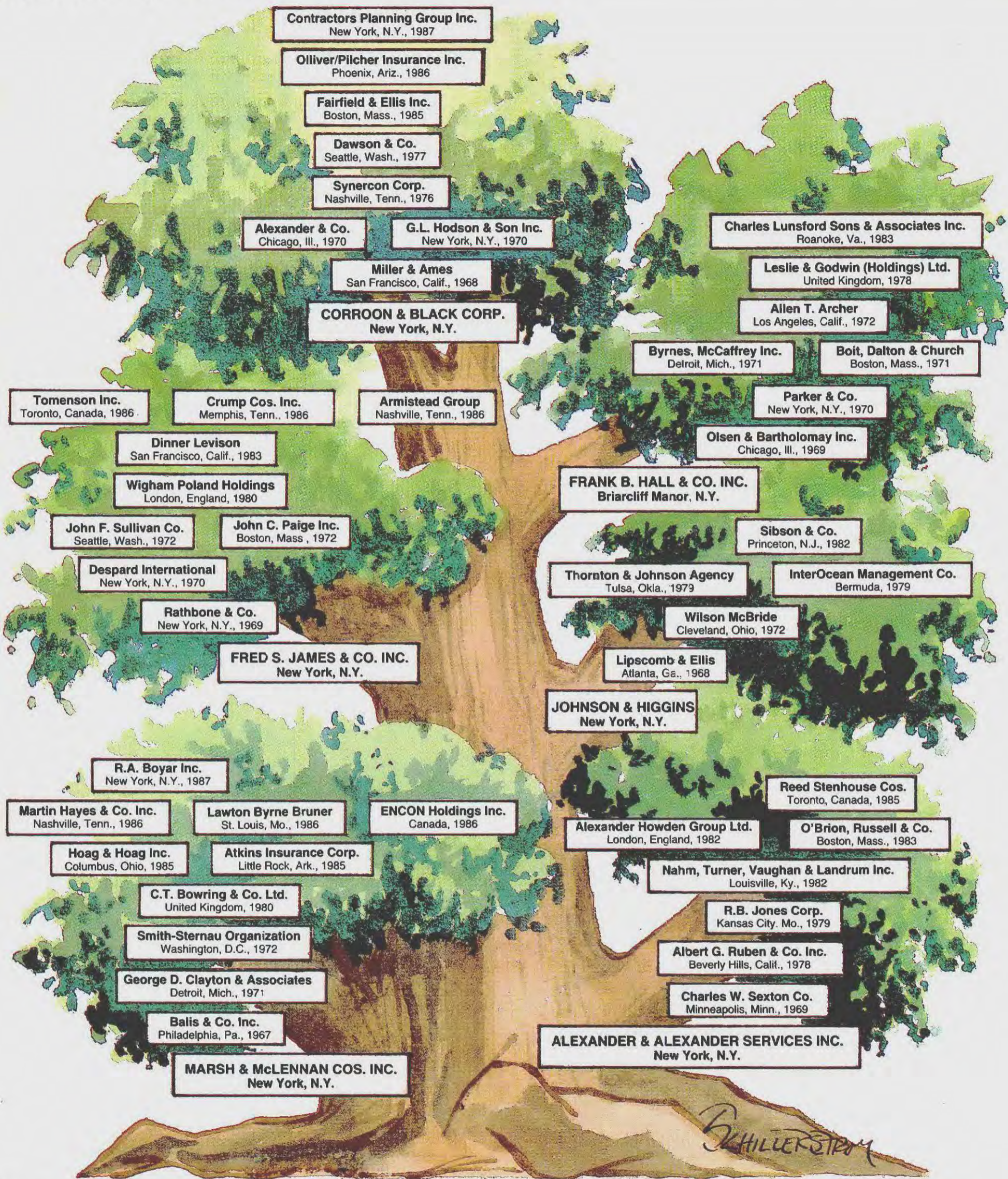
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# Brokers' family tree grows with acquisitions

The numbers have changed substantially, but the names remain the same.

In 1971, the first year that *Business Insurance* published its annual ranking of top U.S. brokerages, the same six brokerages appeared on the top of our chart as topped the 1986 ranking published this June.

However, in 1971, only 40 U.S. brokerages produced more than \$1 million in gross revenues. And the top brokerage, New York-based Marsh & McLennan Cos. Inc., which in 1986 had more than \$1.8 billion in gross revenues, reported only

\$151 million in gross revenues in 1971.

With the exception of New York-based Johnson & Higgins, the top brokerages attribute much of their growth over the last 20 years to acquisitions. J&H has made a few acquisitions during the past 20 years in what it considered to be strategic geographic areas, but its management favors growth through internal expansion.

Briarcliff Manor, N.Y.-based Frank B. Hall & Co. Inc. grew rapidly in the late 1960s and early 1970s through several regional brokerage acquisitions. Hall, which has undergone

financial problems associated primarily with discontinued underwriting subsidiaries and subsequent litigation, has slowed its acquisition activity in the 1980s.

Marsh & McLennan, Alexander & Alexander Services Inc., Fred S. James & Co. and Corroon & Black Corp.—all based in New York—have been active throughout the past two decades in the acquisition of agencies and brokerages of all sizes and of other related operations. These acquisitions represent some of the most significant during the period.

—By Linda J. Collins

## Time capsule: 1984

Major property/casualty insurers are still debating the merits of the new claims-made general liability form proposed by the Insurance Services Office.

Some insurers, including the Hartford Insurance Group and CIGNA Corp., say they have reservations about the new form and are concerned about switching to claims-made.

But other insurers, including St. Paul Cos. and Travelers Indemnity Co., say they are satisfied with the new policy. ISO plans to file the form for approval with state regulators later this year (BI, Feb. 6, 1984).

The loss of two satellites totaling \$182 million will force satellite insurance rates sky-high, according to brokers and insurers in the United States and London.

The loss of the Westar VI and the Palapa B2 probes, which occurred on a recent space shuttle mission, has helped drive the loss ratio for the satellite launch market to close to 200%. Sources agree insurers will have no alternative but to raise rates dramatically (BI, Feb. 13, 1984).

Airlines are facing rate hikes of up to 70% as they renew their hull and liability aviation insurance.

That is the experience of airlines that already have negotiated their renewals. And, London aviation insurers say that rate hikes may go even higher as more renewals are completed (BI, March 26, 1984).

New York state insurance regulators are

meeting with officials of Marsh & McLennan Cos. Inc. to try to determine whether a brokerage employee used client premium funds to purchase \$2 billion in government bonds.

M&M, the nation's largest brokerage house, announced last week that an M&M trader had accumulated a bond position "in violation of authorized trading limits" that will result in a \$120 million pretax loss (BI, April 16, 1984).

Monsanto Co. and Dow Chemical Co. are paying a total of 65% of a \$180 million class-action Agent Orange settlement.

Under the terms of the settlement agreed to by the manufacturers of the herbicide and attorneys representing Vietnam veterans who claim they were injured by the substance, Monsanto will pay 45.5% and Dow will pay 19.5% of the \$180 million.

The money will be used to form a trust fund to compensate an estimated 40,000 to 60,000 Vietnam veterans and their families. In agreeing to the settlement, none of the chemical manufacturers admitted liability (BI, May 14, 1984).

The Tax Reform Act of 1984 will have a sweeping impact on risk management issues.

The act, approved by a congressional conference committee last month and now on its way to President Reagan, will prohibit companies from taking tax deductions on reserves to pay self-funded losses known in the current year but not payable until the future. It also will increase the taxes due on the income of offshore captive insurers (BI, July 2,

1984).

At least 14 asbestos producers and 14 insurers have conditionally agreed to sign a settlement to resolve coverage claims among themselves and to establish a central asbestos claims facility.

But, three major asbestos producers—Raymark Corp., Keene Corp. and GAF Corp.—have said they will not sign the agreement, and other companies have not yet decided whether to participate (BI, July 30, 1984).

Yet another federal court has ruled that corporations cannot take tax deductions for premiums they pay to their captive insurance companies.

A U.S. District Court in Kansas ruled that Beech Aircraft Corp. could not deduct about \$1.7 million in premiums it paid to its Bermuda-based captive during fiscal year 1973. As in previous decisions, the judge said such an arrangement does not constitute a real transfer of risk, because the risk is retained within the same "economic family" (BI, Sept. 10, 1984).

Exxon Corp. has ordered its three reinsurance operations under Exxon Insurance Holdings Inc. to stop accepting new or renewal business as of Oct. 1.

The company said the decision was part of long-term corporate strategic planning. The decision removes from the business of commercial reinsurance underwriting Bermuda-based Ancon Insurance Co. S.A., Ancon Insurance (U.K.) Ltd., and the ANEX Syndicate on the New York Insurance Exchange (BI, Oct. 8, 1984).

A U.S. District Court judge has ruled that

the federally mandated warnings on cigarette packages do not protect cigarette manufacturers from suits by smokers claiming smoking damaged their health.

The decision opens the way for a lawsuit to be heard against cigarette makers Liggett Group Inc., Philip Morris Inc. and Loews Corp. The decision on the cigarette warning also will remove one possible avenue of defense for other tobacco firms facing similar suits (BI, Nov. 19, 1984).

One of the first Bermuda-based captives writing commercial insurance, Gulf Corp.'s Inco Ltd., is closing its doors.

Gulf announced that Inco has stopped writing both Gulf-related and non-related risks effective Nov. 16. Non-related risks produced 62%, or \$46.5 million, of Inco's 1983 net premiums of \$75.5 million. Inco, which had a policyholder surplus of \$94.8 million at year-end 1983, was the fourth-largest captive in Bermuda. Inco's office and staff in Bermuda will be retained to handle the runoff business, a process that is expected to take from three to five years (BI, Nov. 26, 1984).

Liability appears to be spread among at least 50 direct insurers and an unknown number of reinsurers in the poisonous gas leak at the Union Carbide Corp. plant in Bhopal, India.

Apparently, Union Carbide had a worldwide liability policy with at least \$200 million in limits that would respond to the disaster, which left at least 2,220 people dead and 20,000 injured. The participation of many insurers on the liability coverage means that most had only a small share of the risk, sources say (BI, Dec. 17, 1984).

## Time capsule: 1985

The New York Insurance Department has seized Ideal Mutual Insurance Co.

The department says Ideal Mutual is \$155 million short of meeting its liabilities as of Dec. 31, 1983. The insurer, however, says it has \$12 million in policyholder surplus after meeting liabilities of \$148.9 million, and adds that an actuarial report certifies that its loss reserves are adequate.

As part of the New York action, Ideal's Illinois affiliate, Optimum Insurance Co. of Illinois, also is in voluntary rehabilitation in Illinois (BI, Jan. 14, 1985).

The already reeling environmental impairment liability insurance market took another severe blow with the announcement by Shand, Morahan & Co. Inc. that it no longer will write EIL coverage.

Shand, Morahan decided to stop writing the coverage altogether just one month after it announced that a lack of reinsurance would force it to cut back the EIL limits it could offer.

In addition, sources say that The Home Insurance Co. no longer is writing EIL coverage, although Home officials declined to comment (BI, Jan. 28, 1985).

Manville Corp.'s recent \$111.8 million settlement with three excess insurers brings the asbestos producer's available coverage for asbestos bodily injury claims to \$426 million (BI, Feb. 11, 1985).

A state court judge has issued the final order apportioning insurance coverage in the 1981 skywalk collapse at the Hyatt Regency Hotel in Kansas City, but at least one insurer is planning to appeal the order.

The judge ruled that excess liability insurers for Hyatt Corp., which operates the hotel, must pay two-thirds of all the losses incurred by Hyatt and by Hallmark Cards Inc. and its subsidiary Crown Center Redevelopment Corp., which own the hotel. Hallmark's excess insurers must pay the remaining one-third of losses in the disaster, which killed 114 people and injured at least 200 others (BI, March 11, 1985).

Sedgwick Group P.L.C., the largest Lloyd's of London broker, and Fred S. James & Co. Inc., the fifth-largest U.S. broker, are joining forces.

The acquisition will give Sedgwick the U.S. presence it has long sought and give James, currently a subsidiary of San Francisco-based Transamerica Corp., the vast overseas network it lacks (BI, April 8, 1985).

MGM Grand Hotels is claiming victory in the \$75.9 million settlement of litigation over the \$170 million in back-dated liability insurance covering the 1980 fire at the MGM Grand Hotel in Las Vegas.

MGM notes that the settlement amount exceeds the \$75 million MGM paid to fire victims under a 1983 agreement, though it does not cover all of MGM's costs stemming from the fire litigation (BI, April 8, 1985).

At least \$204 million in damage claims have been filed against Jewel Food Stores after more than 10,000 confirmed cases of salmonella poisoning were linked to milk processed at a Jewel plant.

Ninety-two lawsuits have been filed in the salmonella outbreak, which was cited as the primary cause of death in two cases and a contributing factor in two others by health officials in Illinois, where most of the cases occurred. Jewel is covered under the liability insurance program of American Stores Co., which bought Jewel last year (BI, April 29, 1985).

American Financial Group's bailout of Mission Insurance Group Inc. has caused the midterm cancellation of thousands of policies issued by American Financial Group subsidiary Transport Indemnity Co.

Because its assets are being used to shore up Mission, Transport Indemnity has been forced to cancel thousands of excess property and casualty policies (BI, May 6, 1985).

The New York Insurance Department is seeking a court order to liquidate Union Indemnity In-

surance Co., a subsidiary of broker Frank B. Hall & Co. Inc. The department says the insurer was insolvent by \$138 million at year-end 1984.

The liquidation petition follows two department examinations that found Union Indemnity substantially understated loss and expense reserves and liabilities for unauthorized reinsurance in 1983 and 1984 (BI, June 17, 1985).

The European Community has adopted a directive on product liability that requires member countries to impose strict liability standards on manufacturers and distributors. But, it allows the member nations to decide individually whether their product liability laws will allow the state-of-the-art defense or caps on liability awards (BI, Aug. 5, 1985).

Lloyd's of London underwriters are planning to introduce their own claims-made excess liability form, a move that could send the London market into chaos.

Lloyd's underwriters have said they will not accept the claims-

made form recently unveiled by H.S. Weavers (Underwriting) Agencies Ltd. Instead, Lloyd's plans to develop its own claims-made form and have it ready to use at Jan. 1 renewals (BI, Sept. 23, 1985).

State guaranty funds are levying record charges against property/casualty insurers to cover policyholders' claims in the wake of a rash of insurer insolvencies.

California and Florida alone are assessing insurers licensed in their states \$85 million, which was the amount assessed by all guaranty funds put together in 1981, the previous record year. And 1985 assessments in Maryland, Georgia and Illinois bring the total 1985 assessments in just those five states to \$118.5 million (BI, Dec. 9, 1985).

A.C.E. Insurance Co. Ltd. is issuing policies after having raised about \$260 million in capital from more than 20 corporate sponsors and non-sponsor policyholders.

A.C.E. was incorporated earlier this year in the Cayman Islands (BI, Dec. 23, 1985).

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## Top stories

Continued from page 3

markets or financing methods for their company's risks.

The other major concern, which many observers say contributed significantly to recent hard markets, was the enormous growth in litigation and resulting huge awards and court-expanded theories of liability and coverage.

This litigation explosion and the havoc it wreaked on the insurance industry brought about the push for tort reform, the passage of the Risk Retention Act and the move toward claims-made coverage as a way for insurers to limit their liability.

Risk managers selected as the No. 2 story of the past 20 years the hard property/casualty insurance market of 1984-1987. This story tallied 256 points and also captured the most first-place votes: 12.

The soft market of the late '70s and early '80s marked by cash-flow underwriting, in which insurers cut rates dramatically to generate more cash to invest at high interest rates, is seen by many as a primary cause of the recent hard market. And, the respondents ranked the soft market as the third-most important story, with a point total of 232.

The movement of buyers away from the traditional insurance market to self-insurance and captive insurers as a way to find capacity at reasonable prices—which was a response to the commercial insurance industry's wild swings—ranked as the No. 4 story with 212 points.

The fifth-most-important story of the last two decades, according to the BI panel, was the astounding growth in the number of personal injury claims filed against asbestos, chemical, pharmaceutical and other companies, which created huge losses for insurers and helped bring about the tight market of the mid-'80s. This tidal wave of lawsuits garnered a total of 208 points.

The passage of the Risk Retention Act of 1981, which allowed buyers to form risk retention and purchasing groups for product liability coverages, and the expansion of the act in 1986 to allow the groups to fund all liability risks

except workers compensation, drew a total of 190 points, making it the No. 6 story.

Last year's grassroots push for tort reform, which was a response to the growing number of liability suits and the consequently shrinking market for liability coverage and which led to the passage of tort reform legislation in 35 states, was the seventh choice, with 148 points.

The insurance industry's response to its growing liability, the Insurance Services Office Inc.'s new claims-made and occurrence comprehensive general liability forms, ranked eighth, with 133 total points.

Coming in ninth with 125 points was the tight market of the mid-1970s, which created particular problems for buyers of medical malpractice and product liability insurance.

The 10th-place story was the massive pollution of Love Canal in New York and the resulting nationwide drive to clean up pollution that ultimately led to the passage of the Superfund legislation in 1980. The panel of readers gave this series of events a total of 106 points.

In their comments, the risk managers returned again and again to the question of how market cycles have changed the risk management profession.

For example, Richard E. Davis, insurance manager for Southern Illinois University in Carbondale, said: "We have taken over 50% of our exposures out of the commercial market. (We are experiencing) increased use of self-insurance and more reliance on governmental immunity."

Robert E. Marginot, chief of risk and insurance for the Loudoun County, Va., says that in the risk management environment today, "alternate risk-treating devices are required to be utilized. Conventional insurance contracts are not available or the cost is prohibitive in some third-party lines."

Donald J. Fatcher, director of risk management for Insilco Corp. in Meriden, Conn., says he finds "more emphasis on risk-financing, alternate facilities, etc. The cyclical nature of the insurance market gets more attention."

The risk management professionals who responded to the *Busi-*

## Top risk management stories of past 20 years

Story	Number of votes										Total points
	1st	2nd	3rd	4th	5th	6th	7th	8th	9th	10th	
Occupational Safety and Health Act	10	5	6	3	5	1	1	3	2	3	269
Tight market of mid-1980s	12	1	8	0	2	5	4	1	3	1	256
Rate cutting in late '70s/early '80s	3	12	4	4	3	1	2	0	1	1	232
Rise of captives/self-insurance	8	3	2	4	1	5	2	4	4	2	212
Toxic tort litigation	5	5	3	2	4	5	4	2	1	2	208
Risk Retention Act	2	4	0	8	5	2	2	6	5	2	190
States enact tort reforms	2	1	3	3	3	7	2	3	1	2	148
ISO's claims-made CGL form	2	4	3	3	1	1	1	4	2	1	133
Tight market of mid-1970s	1	3	4	3	2	1	3	1	1	1	125
Pollution at Love Canal	1	5	3	0	2	1	0	2	1	2	106

ness Insurance survey also feel that the changes brought by the quick and sometimes devastating cycles of the last 20 years will continue to dominate the profession, as risk managers remain leery of traditional insurance and look increasingly for other ways to protect their corporate assets.

Robb Hubbard, principal of insurance and risk management services for consulting firm Williams & Co. in Sioux City, Iowa, predicts that the next 20 years will bring "more reliance on 'non-traditional' funding mechanisms, even though the insurance marketplace is more 'open' (with mechanisms like) risk retention groups, and the specialization of services."

Michael J. Dowgiewicz, vp of Manufacturers National Bank of Detroit, predicts "a shift in premium volume of 20% to 40% away from the traditional commercial insurance market to non-traditional alternatives, such as group captives, syndicates and Risk Retention Act insurance programs."

The respondents also noted the changes to their profession that have been brought about by increasing litigation.

For example, Robert E. Frountelker, property and casualty insurance director for Consumers Power Co. in Jackson, Mich., said that for risk managers today, "there are more loss exposures to consider, i.e., Superfund and pollution cleanup mandated by government, asbestos and other worker and product exposures, increases in litigation activity, and the inability to insure many exposures."

And, many would agree with J. Alvin Middleton, manager of risk and claims for Cove Shipping Co. in Mobile, Ala., who predicted the litigation trend will continue. Mr. Middleton said the next 20 years in risk management will bring "more litigation stemming from an overabundance of lawyers."

In addition to the Top 10 events, other stories that received first-place votes were:

- The passage of no-fault automobile insurance laws in states across the country between 1969 and 1972, which received two first-place votes.

- The 1969 California Supreme Court ruling that an auto manufacturer and dealer can be held strictly liable for an accident resulting from a serious defect that injures someone other than the purchaser or user of the car. This story received one first-place vote.

- The effort launched, with limited success, in the mid-1970s by businesses and insurers to enact a product liability reform law, received one first-place vote.

- The ruling in *Keene vs. Insurance Co. of North America* that produced the "triple trigger" coverage theory—that all insurers of an asbestos defendant, from the time of a victim's exposure through manifestation of an asbestos-related disease, are liable for claims, received one first-place vote.

- The formation, in reaction to the recent tight commercial market, of several policyholder-owned offshore insurers received one first-place vote.

- The 1987 order to liquidate Mission Insurance Co. and several

affiliates, which marked the failure of a two-year effort to bail out the insurer and which many observers say may be the largest insurer liquidation in U.S. history, received one first-place vote.

In addition to the 10 top stories, several other stories garnered significant numbers of points. Those stories with more than 50 total points were:

- The recent formation of offshore policyholder-owned insurers.

- *The Keene vs. INA* ruling.

- The 1980 California Supreme Court ruling in DES litigation that all companies in an industry can be sued for product liability if the individual manufacturer cannot be identified.

- The passage of no-fault auto laws.

- The 1969 U.S. Supreme Court ruling that directors and officers can be held liable to shareholders for giving false and misleading information, even if the executives did not personally profit.

- The passage of the Tax Reform Act of 1986, which eliminated tax advantages for certain group-owned captives and imposed new tax liabilities on property/casualty insurers.

- The 1985 murder conviction of three Chicago-area executives in the death of a worker exposed to cyanide on the job.

- The California Supreme Court ruling on strict liability for auto manufacturers and dealers.

- The 1977 Internal Revenue Service ruling that companies cannot deduct premiums paid to single-parent captives.

# Risk managers watch role grow with times

By ALISON KITTRELL

When asked what has changed about his job since he started as a risk manager, Mike Klein, corporate risk manager of Penn State University and a 12-year risk management veteran, says succinctly that there is "more of everything."

And the risk management professionals who responded to a *Business Insurance* survey about how far their profession has progressed in the past 20 years and where they expect it to go agree with Mr. Klein: They say they have more responsibilities, more headaches, more clout, but also more prestige, more education and more tools, and they expect that growth will continue.

No longer, they say, is the risk management department a kind of poor relation, to be kept in a corporate closet. As the cost and complexity of protecting a corporation's assets have grown during the past two decades, so has the position of the risk manager. And, so has the need for sophistication and increased knowledge.

First, most agree that the major function of the profession has grown from simply buying insurance to actually managing complex corporate risks.

Ben C. Francis, personnel and risk manager for the Santa Clara Valley Water District in San Jose, Calif., says, "There was no risk management when I started (in the early 1960s). Today, risk management considerations are a part of doing or not doing business."

"My job today is risk management," agrees the risk manager for a higher educational institution who wishes to remain anonymous. "We are self-insured in everything except property. My office is totally involved in claims handling, loss prevention, funding and many of the things related to running an insurance company."

The director of risk management for a chemical distributor and manufacturer, who also wishes to remain anonymous, agrees that the responsibilities of the profession have grown: "Today, a successful risk manager must be a member of the

**'The position has evolved into more sophisticated involvement in the financial and legal areas, resulting in an ever-increasing impact on (a company's) financial health,' says Mr. Graham.**

executive management team, have industry knowledge of corporate affairs and be an expert in finance, legal and insurance matters."

"There are larger risks to analyze, more complicated risks, more litigation, strict liability, a key role in management decisions," adds the director of risk management for a manufacturing company with \$641 million in sales.

And the risk manager for a utility with \$2 billion in sales says he is "involved in more areas, i.e., benefits, loss prevention and claims. There is more executive concern with overall impact of costs, exposures, D&O, etc."

Several risk managers mentioned the growing sophistication of the profession as it takes a larger position in the corporation overall and as it continually searches for better, safer and more cost-effective means to protect that corporation.

For example, Robert J. Graham Jr., corporate risk manager for Smith International Inc. in Newport Beach, Calif., says, "The position has evolved into more sophisticated involvement in the financial and legal areas, resulting in an ever-increasing impact on the financial and emotional health of the corporation."

And, Orlan N. Jenkins, manager of claims, insurance and safety for Mistletoe Express Service in Oklahoma City, said that in his 14 years of experience, his job "requires much more sophisticated record-keeping on losses and more

knowledge of state-to-state legal requirements in law suits. . . Underwriting is much more sophisticated, requiring much more data to secure coverage."

With the growing sophistication and responsibility, the risk management professionals agree, has come more respect and prestige, especially in the eyes of a corporation's senior management.

The cost of managing risk has become a major expense for most companies, and they are starting to sit up and take notice in the board rooms.

Don LeMond, risk and insurance manager for the state of Missouri and an eight-year veteran of the profession, explains: "Risk management has become more sophisticated as it has sloughed off the 'insurance buyer' image. There is much more acceptance by other managers as risk management influences their decision-making process."

"Because of the added exposures, there is more recognition, more 'Can we do something?' vs. 'Do it,'" says Arnold R. Olsen, director of insurance coverage for the state of Delaware and a 17-year veteran of the industry.

Eben L. Jones, director of insurance and risk management for Rollins Inc. in Atlanta, agrees that in his more than 10 years as a risk manager, his function has changed the most in terms of "the visibility by senior management and the importance of our actions to the bottom line and corporate survival."

There is "more status, more influence, greater demands and broader responsibilities," adds the senior vp of a financial institution who has 25 years of experience in risk management.

And, 11-year veteran James B. Anderson, director of risk management services for Tampa General Hospital in Tampa, Fla., sums up the change by saying: "Today, risk management has decision-making authority in most corporations, and top management does listen and react in a timely way to recommendations."

Continued on next page

# Reinsurance market growth 'incredible'

By DOUGLAS McLEOD

NEW YORK—Longtime reinsurance executives talk about their business as if it were a small town that grew into a major metropolis.

The market that today includes scores of U.S. reinsurers and intermediaries was a relatively small community as recently as the 1960s.

"When I broke into the business in 1963, I would have been hard pressed to name 15 to 20 domestic markets that I could go to," reflected Ronald J. Taylor, president and chief executive of G.L. Hodson & Son Inc., a Corroon & Black Corp. unit. "The proliferation has been incredible."

Ward B. Gordon, chairman and chief executive of New York-based Intere Intermediaries Inc., likewise recalls only about one dozen pro-rata property reinsurance markets in his early years as a broker.

"We knew everybody in the business by their first name," he said. "Everybody."

That changed in the 1970s, when high investment yields, a weak dollar and other factors drew huge sums of new—many would later say "naive"—capital into the reinsurance marketplace.

This influx of capacity also laid the groundwork for what many reinsurance executives now consider one of the industry's major failures: the fierce rate competition that resulted in disastrous underwriting losses and the withdrawal or insolvency of many reinsurers in the 1980s.

The industry has only recently begun to recover—financially and professionally—from the soft market, observers say.

"In the 1970s and early 1980s, everybody and his uncle got into the business, and there were a lot of unrealistic and unstable players out there," said Michael G. Fitt, chairman and president of Employers Reinsurance Corp. of Overland Park, Kan.

"We are now getting back to a more stable and select group of reinsurers," Mr. Fitt said. "Most of the fringe players are out."

Despite the market shakeout, the U.S. reinsurance industry is far larger than it was two decades ago. According to figures cited by the Reinsurance Assn. of America, the net premium volume written by U.S. reinsurers in 1967 was estimated at less than \$2

billion. By 1986, reinsurers' net premium volume had grown to \$13.6 billion, according to statistics compiled by the RAA.

While the industry's latest down cycle has been its most severe, veteran reinsurance observers note that such cycles are hardly new.

The early 1960s were terrible years for the casualty reinsurance business, then suffering from inadequate pricing and large losses, Intere's Mr. Gordon said.

Property reinsurance markets also were deteriorating when a string of tornadoes swept across a wide swath of the Midwest in the spring of 1965. Hurricane Betsy followed in September of that year, wreaking havoc on insurance and reinsurance markets.

"That was the time the reinsurance industry was last tested as to what two big knocks could do," Mr. Gordon observed. "It had the market reeling. Everybody was talking to themselves."

One result was a drying up of retrocessional capacity and an increase in net-line underwriting.

"It took a lot of time to pull it back together," he noted.

Conditions changed in the 1970s as the market was inundated with a variety of new players, all attracted by the prospect of above-average returns on investment.

A declining dollar first attracted foreign reinsurers and insurers, who built up U.S. branch operations, observers note. Domestic insurers also formed new assumed reinsurance operations.

And, captive insurance companies, spurred by U.S. tax law changes, became big players in the reinsurance market in the late 1970s.

New entrants into the reinsurance business in the early 1970s were enticed in part by the relatively high investment gains possible at the time, according to Mr. Gordon.

"Sound familiar?" he asked.

Many new players also were attracted by the ease with which they could enter the market, said Richard F. Gilmore, president and chief executive of Mercantile & General Reinsurance Co. of America in Morristown, N.J. "All you needed was a shingle, an office and somebody called an underwriter. And I emphasize 'called' an underwriter."

A "big, fat facultative market" developed to support the large casualty lines ceding insurers were underwriting, and many rein-

surers writing facultative business gravitated toward automatic facultative and treaty reinsurance, Mr. Gordon explained.

The phenomenal interest rates of the late 1970s encouraged insurers and reinsurers to focus on long-tail liability risks, which allowed them to hold onto premiums—and reap big investment gains—over longer periods, Mercantile's Mr. Gilmore noted.

High interest rates also allowed the cutthroat competition that developed.

"It encouraged everybody to do anything on the underwriting side and think they were not going to lose enough to waste the investment income," Mr. Gilmore observed.

The result was the "bloodbath" of the early 1980s, in which the industry racked up losses far worse than any before, he said.

Many reinsurers—particularly fringe players representing some of the naive capacity of the 1970s—became insolvent or withdrew from the market, severely shaken.

Shocked by its losses, the market turned in late 1984 and over the next three years exacted huge price increases and coverage restrictions from ceding insurer clients.

While industry sources report some softening in pricing lately, many of the changes wrought by the hard market are still apparent.

For example, reinsurers have moved away from pro-rata toward excess-of-loss casualty treaty contracts, which provide a clearly defined attachment level and can shield the reinsurer from the effects of inadequate primary insurance rates, noted Michael W. Cashman Sr., president of E.W. Blanche Co. Ltd. Partnership in Minneapolis.

Where a high rating from A.M. Best Co. would have been sufficient proof of a reinsurer's financial stability 25 years ago, most major brokers now maintain in-house cadres of analysts to assess reinsurer security, G.L. Hodson's Mr. Taylor pointed out.

"That was unheard of in the shops I worked in in those days," he recalled.

Other legacies of the 1970s boom and the 1980s bust still pervade the industry.

The latest cycle has witnessed an erosion of the principle that reinsurers follow the fortunes of their ceding company clients, Mr. Cashman noted. "It developed into less of an understanding kind of relationship into more of a litigious, adversarial relationship."

However, Mr. Gordon maintained that this has been true only for a small portion of the market and that the majority of insurers "quietly and steadily go their way" with their reinsurers.

"You don't hear many stories about this. You hear about the 10% to 15% of the market that always churns," he observed.

Reinsurers also are still fighting to build experienced underwriting staffs.

The huge expansion of the business in the 1970s brought in large numbers of underwriting executives who did not adequately understand the business, observers note.

For example, the growth of the facultative market made "overnight" reinsurance executives out of former excess and surplus lines underwriters, Mr. Gordon said.

"We are still weeding them out," he noted. "There were times when the talent didn't match the need," Mr. Taylor said. Many executives were "thrust into positions they were unprepared for."

The problem still has not been completely solved, said Mercantile's Mr. Gilmore. "I think we still have a lot of people out there who could use a whole lot more education, training and experience than they've got."

While the debacle of the early 1980s shook many marginal players out of the market, there still are far more reinsurers and brokers than there were 20 years ago.

G.L. Hodson's Mr. Taylor noted that an official of a major U.S. reinsurer told him two or three years ago that the company dealt with 54 producing reinsurance brokers. "That's a staggering number to me."

Most reinsurance executives agree that the growth, despite the problems it created, has not been a bad thing.

The proliferation of brokers has created competition, which in turn has encouraged a more aggressive, innovative approach than was the norm two decades ago, according to Mr. Taylor.

"I think we are just a more knowledgeable group of people than we were then," he said. "Competition has forced us to be better."

"Reinsurance has played a huge part in the growth and development of the U.S. insurance industry," Mr. Gordon agreed. "It's a much better business in the last analysis. It's hard to give up the club atmosphere, but I think it's healthier and better overall." ■

## Risk managers' roles

Continued from previous page

To help them meet their growing responsibilities and expanding roles within their companies, risk managers say they are finding new tools, especially computerization. And they are seeking and getting more education.

The risk administrator for a paper distributor with \$180 million in assets says that, even in his 2½ years in the business, he has noted that there is more "knowledge and sophistication required, (more) use of computers, (more) financial expertise required."

Richard M. Inerra, vp of Triangle Industries Inc. in New York, with seven years in the profession, says the job has become "more analytical and financially driven than in the past. More information is used because it is available via data bases on personal computers."

"The availability of computers to assist in decision-making" is one of the major differences noted during his 21 years as a risk manager by the director of risk management for a forests products company with \$3.8 billion in sales.

And, the risk manager of a real estate and holding company with four years' experience says that the business has become more sophisticated because of "the tools to work with, primarily computers and the appropriate software."

The risk management professionals who responded to the BI survey are just as optimistic about the continued growth of their profession as they are optimistic about how far it has come.

Now that they have achieved a position of respect and authority within the corporate world, they have no intention of going anywhere but forward.

Dennis C. Doherty, risk manager for Hennepin County in Minnesota and an 11-year veteran of the industry, says he expects the next 20 years to bring "an acceleration of the past, a growing recognition of the inter-relationships between organizational and behavioral factors involved in both business and fortuitous risks."

"I see the departments growing larger and managing more," agrees the risk manager for a manufacturing company with \$100 million in assets. And, the 15-year veteran adds, "With larger departments comes specialization within the departments."

Ralph F. Perry, vp of Amfac Inc. in San Francisco and a risk manager with 18 years' experience, predicts "continued emphasis on large risk-taking by major insureds and a broader acceptance of the risk management principles—particularly risk evaluation, risk avoidance and risk reduction."

And Carrol E. Henkel, division risk manager for High's, a division of the Southland Corp. in Laurel, Md., expects the next 20 years to bring "increased recognition of risk management in protecting assets to maximize profits and its value in overall applications."

In short, the risk managers think they have come quite a way in the last 20 years. And, they add, they have only begun the journey. ■

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## Time capsule: 1986

State regulators say the Insurance Services Office Inc. will have to make major changes in its proposed claims-made commercial general liability policy form if the form is to be accepted nationwide.

ISO had hoped the form would be accepted for use in all states by Jan. 1.

To date, 12 states have rejected ISO's revised form, eight have formally accepted it and five others have laws permitting the use of the form unless the insurance department specifically rejects it.

The remaining states have not acted on the form (BI, Jan. 13, 1986).

\*\*\*

The Winter Carnival in St. Paul, Minn., is cool again, now that it has found insurance for its main attraction.

After a monthlong search, the carnival has \$1 million of professional liability insurance to cover the architects of what the carnival claims will be the world's largest-ever ice castle. Without the coverage, the architects would not have allowed the carnival to use their plans for the 15-story structure (BI, Jan. 20, 1986).

\*\*\*

Last week's explosion of the space shuttle Challenger is likely to result in relatively few claims for insurers because no satellites were aboard the shuttle and the U.S. government will indemnify shuttle contractors for at least part of their liability losses in the disaster, which killed seven astronauts.

However, the explosion is likely to have a profound impact on the market for satellite launch insurance, which already is reeling from extremely high losses over the last two years (BI, Feb. 3, 1986).

\*\*\*

Two U.S. senators are proposing an expansion of the federal Risk Retention Act to make it easier for businesses to band together to self-insure liability risks and buy liability insurance on a group basis.

The Republican senators, John Danforth of Missouri and Robert Kasten of Wisconsin, will soon introduce legislation to expand the Risk Retention Act, which currently applies only to product liability coverage, to all commercial liability lines except workers compensation. The 1981 act lets businesses self-fund product liability as a group and buy product liability coverage on a group basis, without having to meet numerous state requirements (BI, Feb. 24, 1986).

\*\*\*

New excess liability insurance facilities are being developed to supplement the capacity offered by the recently formed A.C.E. Insurance Co. Ltd. and Tortuga Casualty Co.

In addition, brokers Marsh & McLennan Cos. Inc. and Johnson & Higgins are jointly trying to organize a group of U.S. property/casualty insurers to establish a line slip to write limits of \$75 million excess of \$25 million to underlie the \$100 million excess of \$100 million already available from the Caymans-domiciled A.C.E.

And, M&M and Morgan Guaranty Co. are helping in the formation of a new Bermuda-domiciled insurer, to be called X.L. Insurance Co. Ltd. (BI, March 17, 1986).

\*\*\*

New York-based Midland Insurance Co., which was insolvent by \$34.6 million at year-end 1985, has consented to a liquidation order filed by the New York Insurance Department.

The liquidation comes after the insurer's parent, Katy Industries of Elgin, Ill., had written off its investment in the insurer and efforts to find a buyer had failed. The insurer, which is licensed in all 50 states, was a victim of the competitive market, according to New York regulators (BI, April 14, 1986).

\*\*\*

West Virginia's governor has signed a law that should ensure the availability of professional malpractice coverage to physicians, health care providers and others in the state.

The new law is the amended version of an earlier bill that insurers said would restrict their ability to underwrite and that had caused some insurers to say they would stop doing business in the state. Those insurers have agreed to continue writing in West Virginia under the new law, which eliminates a prohibition against non-renewals but retains a prohibition against cancellations, caps non-economic damages in medical malpractice cases at \$1 million and modifies somewhat the doctrine of joint and several liability (BI, June

2, 1986).

\*\*\*

Proponents of California's successful Proposition 51 tort reform initiative say their victory last week is a mandate for civil justice reform, but opponents say it is just a narrow statement by voters that they want lower insurance rates.

Proposition 51, which was approved by a margin of more than 2-to-1, repeals the application of the doctrine of joint and several liability to non-economic damage awards in third-party liability lawsuits. Although the initiative affects all cases yet to go to trial, the courts will determine its effect on cases currently on trial (BI, June 9, 1986).

\*\*\*

At least seven insurers are not writing new commercial property or liability policies in Florida, after passage of legislation that would freeze rates, force liability premium refunds this year and authorize 1987 rate rollbacks to 1984 levels.

The bill also includes tort reform measures and gives the Florida Department of Insurance greater authority to control rates.

Insurers say the legislation will cause them to lose money just as profits are beginning to return to the industry, and risk managers fear that the law will force even more insurers out of the state, further drying up capacity (BI, June 16, 1986).

\*\*\*

**Proponents of California's Proposition 51 say their victory is a mandate for civil justice reform, but opponents say it is just a narrow statement by voters that they want lower insurance rates.**

The Senate Commerce Committee has approved and sent to the Senate floor a comprehensive federal product liability bill, and observers say the measure has a chance of passage in the Senate.

The bill, which makes several tort and product liability reforms, was passed after only three weeks of debate and votes but after several years of lobbying by business groups (BI, June 30, 1986).

\*\*\*

July commercial property/casualty insurance renewals are suffering from the proverbial good news/bad news syndrome.

The good news: Unlike the first of the year, rates are stabilizing and there is sufficient capacity for primary general liability and all forms of property insurance except earthquake coverage. Even a few pockets of competition in these lines are appearing.

The bad news: Rates are still going up and capacity is still far short of demand for most excess liability insurance coverages and special risk lines, including professional liability, directors and officers liability and municipal liability insurance (BI, July 14, 1986).

\*\*\*

A total of 39 states have adopted the Insurance Services Office Inc.'s revised claims-made commercial general liability policy, although six states still bar its use entirely and five others have or are likely to restrict its use.

But insurers so far appear to be forcing the use of the form for primary coverage only on the most hazardous and largest businesses.

When higher limits of excess coverage are sought, however, insurers—especially surplus lines insurers—are more likely to require a claims-made form, observers say (BI, July 21, 1986).

\*\*\*

With massive insurance rate increases propelling insurer profits to record highs, is now the time to invest in property/casualty insurance stocks?

Stock analysts say yes: Property/casualty stocks should outperform the overall market over the next year or two.

"At these price levels, we're pretty much recommending them across the board," says David Seifer, vp at First Boston Corp. in New York (BI, Aug. 4, 1986).

\*\*\*

Forced to action by the crisis in liability insurance, 34 states have enacted tort reform measures.

The measures, which are designed to reduce liability exposures and make insurance more available and affordable, represent an unprecedented movement toward reform of the civil justice system.

Of those 34 states, however, experts say that only nine have passed significant reform legislation. And in one of those nine states, Florida, insurers are protesting the linking of reforms to insurance rate rollbacks (BI, Aug. 18, 1986).

\*\*\*

The merger of Fred S. James & Co. Inc. and The Crump Cos. Inc. will make the new entity the fourth-largest U.S. broker.

And, Lloyd's of London broker Sedgwick Group P.L.C., which owns James, will significantly narrow the revenue gap between itself and Alexander & Alexander Services Inc., the world's second-largest broker. Sedgwick is buying Crump for \$307 million (BI, Sept. 1, 1986).

\*\*\*

The proposed tax reform act will make it more expensive to operate offshore group captive insurance companies, but experts are not sure whether the added expense will quell interest in the captives.

The tax bill, which was approved last month by a congressional conference committee, includes a provision that would make shareholders in offshore group captives liable for current-year taxes on the captives' income from insuring U.S. risks. Currently, U.S. shareholders that own less than 10% of an offshore group captive's stock can defer taxes on the captives' income until it is actually paid to shareholders (BI, Sept. 15, 1986).

\*\*\*

A federal judge has denied McNeilab Inc., a unit of Johnson & Johnson, coverage under its excess liability insurance program for costs related to the 1982 recall of Extra-Strength Tylenol capsules. McNeilab is expected to appeal.

The judge ruled that the excess coverage did not include the estimated \$100 million cost of recalling the capsules after several Chicago-area people died after taking capsules laced with cyanide. The judge said that Johnson & Johnson should have purchased recall coverage (BI, Sept. 22, 1986).

\*\*\*

Experts are predicting a surge in the growth of domestically chartered group-owned captives in the wake of expansion of the Risk Retention Act and the tight insurance market, coupled with changes in tax law making offshore captives less desirable.

Groups already are beginning to mobilize to take advantage of the expansion of the act, which has been sent to President Reagan for his signature. The new law allows special multiple-owned captives, called risk retention groups, to operate nationwide to provide all casualty coverages except workers compensation to group members (BI, Oct. 20, 1986).

\*\*\*

Democratic control of the U.S. Senate could kill the chances for approval of federal product liability reform legislation, Washington observers say.

The expected ascension of Sen. Ernest Hollings, D-S.C., to the chair of the Senate Commerce Committee is likely to deal a crippling blow to the chances for federal product liability reform.

The 55-45 Senate majority won by Democrats in last week's elections also could change the outlook for other issues affecting risk and benefit managers, the observers say (BI, Nov. 10, 1986).

\*\*\*

Three syndicates on the New York Insurance Exchange have been declared insolvent by the exchange's board of governors and are facing liquidation.

The board last month found The Heartland Group Inc. insolvent and ordered it to prepare a rehabilitation plan. If the board does not approve the plan, it probably will seek liquidation of the syndicate, officials said.

In addition, The Burt Syndicate Inc. and The First New York Syndicate Corp. have been ordered by a New York court to show cause why they should not be liquidated (BI, Nov. 17, 1986).

\*\*\*

The California Insurance Department is working on an 11th-hour plan to infuse "significant amounts of additional capital" into Mission Insurance Co. to save it from liquidation, according to MIC's parent, Mission Insurance Group Inc.

The department is looking to various parties, "each of whom has an interest in seeing that the liquidation of (MIC) is avoided," MIG said in a statement (BI, Dec. 22, 1986). ■

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Dec 7	Nov 25
Dec 14	Dec 2
Dec 21	Dec 8
Dec 28	Dec 16

## British storm damage

Continued from page 1

All-Industry Research Advisory Council, a research organization sponsored by the property/casualty industry (BI, March 16). Hurricane Gloria, which hit the Atlantic coast from Florida to Maine in September 1985, generated losses now estimated at \$618 million, says AIRAC.

Market estimates of Britain's total insured weather loss for last year's severe weather show insurers were hit with between 250 million and 300 million pounds (between \$421 million and \$505.2 million) in claims, and this month's windstorm "would certainly be double that," said John Austin, assistant general manager of the Mercantile & General Reinsurance Co. P.L.C.

Mr. Austin added that insurers are now worried about the serious flooding that has followed the storm.

The damage caused by this month's windstorm "must be considerably worse" than last year's total winter losses, agreed Peter Foster, group financial director of Commercial Union Assurance Co. P.L.C.

In the first quarter of 1987, CU suffered gross losses of 25 million pounds (\$40.25 million at March 31 exchange rates) and net losses after reinsurance of 15 million (\$24.15 million) as a result of the winter weather, he said.

The initial impact of the damage caused by the storm will hit the top 12 British insurance companies that write the bulk of Britain's property/casualty business, stock analysts say. Among the top U.K. property/casualty insurance companies are Commercial Union, General Accident Fire & Life Assurance Corp. P.L.C., Guardian Royal Exchange Assurance P.L.C., Royal Insurance P.L.C., and Sun Alliance.

However, one Lloyd's underwriter who did not want to be identified believes that the reinsurance market's losses from the storm eventually will be greater than the losses it suffered because of Hurricane Alicia.

Only between 20% and 25% of the U.K. primary insurance market does not reinsure their catastrophe losses, and the remainder of the U.K. market "reinsures at low levels," said the Lloyd's underwriter.

As a result, the hurricane will probably "tighten the softening rates in the catastrophe reinsurance market," he said.

An official with another leading London-based reinsurer agreed. "There were a lot of new players coming into the catastrophe reinsurance market causing rates to drop. We were trying to stiffen people's backs up. Now, hopefully, the weather has done it for us," said the official, who did not want to be named.

"This sort of loss, late in the year, is the very meat and drink of the catastrophe reinsurance market. This is our 'scaremonger' to ward off a softening market," the reinsurer said.

The reinsurer also estimated that the storm probably would cost reinsurers "about 500 million pounds."

Mr. Austin of Mercantile & General Re agreed. "The storm will retain the strength of the catastrophe reinsurance market and help keep rates steady, despite the new capacity coming into the market."

Although 1986 was an excellent year for catastrophe reinsurance, several events in 1987 such as the severe winter weather in the U.K. and flooding in South Africa have helped keep the market firm, he noted.

At least one of the United Kingdom's leading insurers, Sun Alliance, carries no catastrophe insurance.

"Our reinsurance program does not cover catastrophe loss," Mr. Taylor confirmed.

"We took the view two years ago that the costs for limited catastrophe cover offered by reinsurers were not valid when viewed against our huge solvency margin. And we are still content with that policy," Mr. Nelson explained.

Other leading primary insurers have retentions varying between 10 million pounds and 30 million pounds (between \$16.8 million and \$50.5 million), stock analysts agree.

For example, Commercial Union has catastrophe reinsurance above a 15 million pound (\$25.3 million) retention, said Mr. Foster.

Commercial Union's reinsurance is placed in markets in London and Continental Europe, including Lloyd's and Munich Reinsurance Co., according to Mr. Foster.

However, Mr. Foster does not think the hurricane will affect pricing. "It's an exceptional item and exceptional items don't have an impact on pricing," he said.

Perth, Scotland-based General Accident Fire & Life Assurance Corporation P.L.C. carries accident reinsurance above 30 million pounds (\$50.5 million), confirmed General Manager Nelson Robertson.

However, Mr. Robertson does not expect that the amount in claims eventually filed against General Accident will exceed the insurer's re-

ention. Claims against General Accident probably will total between 20 million and 30 million pounds (between \$33.7 million and \$50.5 million), he estimated.

The combined effect of the storm and last week's stock market crash (see stories beginning on page 1) is "bound to have a tendency to decrease capacity rather than increase it," Mr. Robertson warned.

Lloyd's probably will pay out "tens of millions of pounds" in claims as a result of the storm, even though only 25% of its business is U.K.-based, said a spokesman.

However, because most of the storm-related claims against Lloyd's will be reinsurance claims, it will be "some weeks" before a more accurate estimate of the market's losses can be made, the spokesman added.

The storm that ravaged southern England from Bristol to Norwich, as well as the Channel Islands and western France, is reported to be the worst storm in the area since 1703.

Londoners awoke on Friday, Oct. 16, to find hundreds of thousands of the capital's trees uprooted, roofs destroyed, scaffolding torn away and downed telephone lines. In addition, for the first time since World War II, the entire city was without electricity.

"We had 1,200 telephone poles down in (the counties) of Kent and East Sussex alone, and some 2 million meters of overhead wire need replacing," said a spokesman for British Telecom P.L.C., which manages Britain's national telephone network.

British Telecom is "self-insured, and the costs of the storm will be contained within our normal business plan," the spokesman said.

In addition, areas such as Wales that were not hit by the storm's hurricane force winds suffered severe flooding as rains swept across the country afterward.

Four people were killed when a commuter train was washed into the Powys River in Wales after a bridge collapsed in flood waters, a British Rail spokesman confirmed. British Rail, a state-owned company, is fully self-insured.

Although the winds and flooding mainly affected personal property, sizable commercial claims are also coming in, several London brokers said.

For example, Ford Motor Co. Ltd. suffered extensive damage at its main production plant in Dagenham, East London.

"We are currently assessing the damage, and quality control is looking carefully at the damage done to new cars in the compound," a Ford spokesman said.

Ford's property coverage is written by Bermuda-based Transcon Insurance Ltd., a captive insurer.

The total damage Ford sustained is expected to "exceed 1 million pounds" (\$1.68 million), said the spokesman, who noted that the company's deductibles are "fairly substantial."

A 5,600-ton car ferry, the Hengist, owned by Sealink U.K. Ltd., broke its moorings and ran aground in Folkestone, Kent, south of Dover, with a skeleton crew of 22 aboard. Nobody was injured, but the ferry was damaged and has been taken out of service, a Sealink spokeswoman said.

In addition, cars and trucks were damaged on another Sealink ferry, the St. Christopher, which was sailing between Calais, France, and Dover when the storm struck.

"Three freight vehicles overturned and cars were damaged, but nobody was injured," the spokeswoman said. The ferry, which carries 1,400 passengers and 310 cars when full, is also damaged and has been taken out of service for repairs, she said.

Sealink has hull insurance with Lloyd's of London, she said. Sealink would not reveal details of its insurance program, and the spokeswoman said it was too early to estimate damages.

The storm also badly hit Britain's farmers, said a spokeswoman from National Farmers Union Mutual Insurance Society Ltd., which insures 60% of Britain's farmers.

"Every farmer in southeast Britain has been hit by storm damage and loss of income," the NFU spokeswoman said. Power failures hit chicken farmers badly and prevented the milking of cows, she said.

"Glass houses were very badly affected," said the spokeswoman, referring to greenhouses. "There is not a pane of glass left in any glass house we insure, and Britain will probably have to start importing glass in order to replace what was broken."

However, much of the cost to clean up the country by, for example, removing trees from



Photo: REX/RDR Productions

A felled tree testifies to the extensive damage wrought by the storm that hit London and surrounding areas.

highways and railway tracks, is uninsured and will have to be funded by local authorities.

Government ministers decided last week at an emergency meeting to grant emergency aid to districts affected by the hurricane.

It is the first time the emergency plan, known as the "Bellwin rule" has been used since it was formulated in 1983, after Britain's severe winter of 1981-82, said a spokesman from the Department of the Environment.

Under the plan, named after former environment minister Lord Bellwin, local authorities must bear a certain minimum cost, which is decided by the government. Then the government contributes 75% of the remainder of the cost of the local authorities' emergency relief programs, said the spokesman.

However, the government will not contribute to any loss that could have been insured, the spokesman added.

"Where, for whatever reason, a local authority refrains from insuring, it should do so in the knowledge that it will have to bear any financial losses relating from that decision," according to a circular sent to local authorities in 1983.

For example, "expenditure on repair, restoration or replacement of the local authority property or services will not qualify for assistance unless the authority can demonstrate that it was not possible to insure against the expenditure in the normally accepted sense," the circular reads.

Some 90% of Britain's local authorities are insured with London-based Municipal Mutual Insurance Ltd., said Municipal Mutual Assistant Manager John Payne.

"This is without doubt the worst weather experience this company has suffered," he said, predicting that claims against Municipal Mutual will "probably run into tens of millions of pounds."

Although district councils tend to insure most of their properties, "relatively few county councils insure against storm damage. So many schools, for example, will not be covered," Mr. Payne pointed out.

One major area of devastation that was completely uninsured included many of England's oldest trees. For example, Kew Gardens, London's famous botanical garden, lost thousands of trees, and some of Britain's oldest and rarest trees were lost in London's Chelsea Physic Garden.

Lloyd's started a fund last week with a donation of 100,000 pounds (\$168,400) from the corporation's central funds to help finance the restoration of Britain's "national heritage."

"Insurers generally—even Lloyd's—are able to provide only limited and very specific insurance cover for garden stock, and certainly such insurance funds as are available will be inadequate to meet the consequences of this catastrophe," said Lloyd's Chairman Peter Miller.

The fund will be used to help restore gardens administered by the National Trust, a charity that manages property throughout Britain, Kew Gardens and Chelsea Physic Garden, said a Lloyd's spokesman.

In addition, the National Trust, which lost 80% of the trees on its properties in southeast England, has established a separate "disaster fund" to finance the restoration of Britain's devastated landscape, said a spokeswoman.

Also contributing to this story was International Editor Stacy Shapiro.

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## Life/health insurers

Continued from page 1

"I do think that employers will see higher health costs going into 1988" but not as a result of stock market activity, Mr. Butler said.

Equity investments represent a small portion of Travelers' surplus, and its group health insurance loss reserves are backed by bonds, said a company spokeswoman.

Some \$550 million of Travelers' \$36.6 billion in invested assets is in common stock, with the balance in bonds, mortgage loans, cash and short-term securities, she said.

And, Travelers began a 2.5 million-share stock repurchase plan last week, she said.

Minneapolis-based Northwestern National Life Insurance Co. said it will wait to see how the stock market fares before it assesses the effects on group health insurance pricing and availability.

Less than 3% of the insurer's invested assets is invested in stocks, according to a spokesman.

And, Fort Wayne, Ind.-based Lincoln National Corp. reorganized its investment portfolio earlier this year, under the direction of a new chief

investment officer, according to a spokesman.

"Earlier this summer, we started to move more to a cash basis, so now only 3%, or about \$75 million of a total of \$12.5 billion, is invested in securities and equities. I don't know who had the crystal ball," the spokesman said.

Common stock represents 1.6% of Metropolitan Life Insurance Co.'s entire assets, "so the effect on surplus will be minor," said a spokesman for the New York-based insurer.

While noting that it is too early to tell, he added that Metropolitan does not expect any major impact on the pricing and availability of group health, life and disability insurance.

Nationwide Life Insurance Co., with only about 2.5% of its invested assets in equities, also expects little impact on its group life and health products, said a spokesman in Columbus, Ohio.

However, Nationwide did buy some stock during last Monday's market tailspin and has realized a small drop in assets and policyholder surplus in the first 19 days of October.

"I really think, in the short term, pricing and availability is a non-issue," said John Hannon, vp in the group corporate department of The Prudential Insurance Co. of America in Newark,

N.J.

He added that "when economic conditions are good, our business is excellent and when the economy is not good, our business is still good. The benefits business is pretty much not affected by events like this."

"From our vantage point, we expect no real difference or effect on prices and availability," said Peter Moynihan, a senior vp with UNUM Corp. in Portland, Maine.

Only 2% of UNUM's total invested assets is in equities, although equities make up about 18% of UNUM's \$1.2 billion in policyholder surplus, he said.

"In terms of equities, our surplus would be off about 20% since the end of August, but up about 15% from where we were on Jan. 1," he explained.

Analyst Thomas Rosencrants, senior vp at Johnson, Lane, Space, Smith & Co. in Atlanta, said life insurers, with their large bond portfolios, could benefit from last week's turmoil on Wall Street since bonds rallied. However, he also pointed out that one-third of life insurers' assets are invested in real estate, whose value is expected to be hurt by the market turmoil. ■

## CEO survey

Continued from page 2

place—federal intervention in insurer regulation and efficiency of product distribution.

AIDS stayed at the top of outside directors' concerns in five years, but the directors then listed federal intervention in regulation, remaining competitive and tax law changes as the next three most important issues.

The priority given the various concerns also differed somewhat for property/casualty CEOs and life/health CEOs, the survey found.

The top four current concerns for property/casualty CEOs were federal regulation, using new technology, adverse tax law changes and upgrading management.

And, when property/casualty insurers were separated into stock and mutual companies, the stock company CEOs listed efficient product distribution as their current top concern, while mutual company CEOs listed federal regulation.

The life/health CEOs, however, said their current top concerns are AIDS, efficient product distribution, adverse tax law changes and remaining competitive.

CEOs and directors of stock and mutual life/health companies agreed that AIDS is their top worry currently and will continue to be so five years from now.

The study also noted that 50% of life/health CEOs were very concerned about adverse tax law changes, compared to 42% of property/casualty CEOs. The property/casualty group's concern has been triggered by the 1986 Tax Reform Act, while the life/health group's concern is probably due to the U.S. Treasury Department's review of life insurance tax provisions to determine whether the industry has incurred the taxes expected under the Deficit Reduction Act of 1984.

A surprisingly small percentage of property/casualty CEOs reports that a great deal of work has been done analyzing the impact of the Tax Reform Act on pricing, the survey concluded. About 37% reported doing a great deal of work, 39% reported doing some work, 18% reported doing not very much work, 4% reported doing no work at all and 2% were not sure.

The survey also found that:

- Overwhelming majorities of property/casualty and life/health companies expect to reduce commissions to agents in the next five years, though this may not translate into a net decline in agent compensation because of other factors, such as higher property/casualty rates or changing life/health product mix.

- The percentage of property/casualty and life/health insurers offering financial services—such as commercial loans, accepting deposits of funds and investment banking—may decline over the next five years, while the percentage offering retail mutual funds may increase. Life/health companies will continue to be far more active in these areas than property/casualty companies, the survey concluded.

- A majority of property/casualty and life/health executives expect McCarran-Ferguson Act antitrust exemptions for insurers to be retained without congressional amendment to the act in the next year. However, 72% of the life/health CEOs and 63% of the property/casualty CEOs said a change is very likely or somewhat likely within five years.

- Only 11% of the property/casualty CEOs and 14% of the life/health CEOs favored a change.

- A majority of property/casualty CEOs said that federal tort reform legislation is not likely next year, although 70% said it is very likely or somewhat likely within five years. Some 78% favored such legislation. ■

## Allis-Chalmers

Continued from page 2

Wisconsin Insurance Department, "complaining of Fireman's failure to process and pay his claim in light of the disputes described," Fireman's Fund said in its complaint.

Fireman's Fund believes that "numerous" similar actions will inevitably be commenced by claimants unless the court provides relief.

Fireman's Fund has "suspended temporarily" the processing and payment of claims under the liability policies but, "because of the express 'direct and primary' liability provisions of the compensation policies," claims under the workers compensation policies will be paid and processed as if the bankruptcy had not occurred, Fireman's Fund said in its complaint.

The Fireman's Fund units are placed "in the untenable position of being potentially charged with contempt of the federal court stay order or with violations of various state insurance statutes and regulations," said John A. Igoe, Fireman's Fund senior vp, in an Oct. 12 letter sent to insurance regulators along with a copy of the lawsuit.

The Fireman's Fund companies "are caught between a rock and a hard place," agreed John N. Shanks II, chairman of Indiana's Industrial Board, which administers workers compensation claims in the state. "It's a unique situation."

The policies called for Allis-Chalmers to pay an initial premium based on an estimate of anticipated losses and expenses. Periodic re-evaluations of incurred losses would determine whether retrospective premium payments were required, according to the Fireman's Fund complaint.

Allis-Chalmers' performance of its premium payment obligations was supported by a series of letters of credit issued by Manufacturers

Hanover Trust Co. on which Fireman's Fund could draw.

Allis-Chalmers has "undertaken to reimburse Manufacturers for draws under the letters and has secured that obligation by pledges of certain of the assets of their estates," the Fireman's Fund complaint says.

On Aug. 21, Fireman's Fund drew on the LOCs for more than \$11 million, which represented the amount due Fireman's Fund at that time, according to its complaint. Fireman's Fund expects that future draws will be necessary.

In his letter to insurance regulators, Mr. Igoe explained that Allis-Chalmers representatives informed Fireman's Fund that "through a plan of reorganization under the (U.S. federal bankruptcy) code, they will seek to have these claims reduced as to final payment, which they also contend will further limit Fireman's obligations to claimants."

Fireman's Fund held "numerous" meetings with Allis-Chalmers executives regarding the insurer's desire to investigate, adjust, settle or litigate the claims, but the meetings were unsuccessful, Mr. Igoe's letter said.

Fireman's Fund is asking the bankruptcy judge to:

- Declare that the insurer's obligations for claims relating to occurrences preceding Allis-Chalmers' June 29 bankruptcy petition are not affected by the automatic stay.

- Rule that the stay be lifted or modified to permit Fireman's to process, litigate, settle and pay all covered claims. In addition, the insurers want to settle those claims without consideration of the outcome of Allis-Chalmers reorganization plan, which may result in an order for partial payment of those claims.

- Allow Fireman's Fund to include all losses or expenses incurred in connection with the

claims in calculating the retrospective premium Allis-Chalmers owes.

- Allow Fireman's Fund to collect premiums due under the letters of credit.

If the court will not allow Fireman's Fund to pay the claims, the insurer asks the court to:

- Issue a permanent injunction against the claimants, insurance regulators and workers compensation administrators and all other defendants to restrain them from instituting any action against Fireman's Fund related to any failure to process and pay claims during the bankruptcy proceedings.

- Enter a declaratory judgment that Fireman's Fund will have no liability to process or pay claims after Allis-Chalmers ends its bankruptcy proceedings except to the extent that a plan of reorganization imposes such obligations.

- Allow Fireman's Fund to investigate claims to preserve its ability to contest the claims and the cost of the investigation be included in the retrospective premium adjustment.

- Allow Fireman's Fund to draw on the letters of credit to cover the retrospective premium payments due.

The litigation over Fireman's Fund's duties under the policies has raised questions about the security letters of credit provide insurers issuing retrospectively rated policies whose future premium payments are guaranteed by the LOCs.

"This action places in question the efficacy of retrospective and deductible programs, especially those which utilize letters of credit and/or other types of third-party guarantees," Mr. Igoe said in his letter.

Allis-Chalmers' did not try to overcome the legal problems inherent in trying to stop an insurer from drawing on an LOC, but instead contends the insurer has no reason to draw on the letters be-

ing in relation to loss exposure and will cease writing lines of business when rates fall below levels they consider adequate.

AIG will not battle for market share, Mr. Greenberg said.

"Market share has no place in our business. We are not selling potatoes or a simple commodity," he observed. "That's what got the industry in trouble the last time around."

The insurance industry should consider the idea of federal regulation of commercial insurance, he suggested, drawing the distinction between personal lines insurance, an essentially local business, and commercial risks, which may cross state and national boundaries.

However, any federal regulatory scheme for commercial insurers should not include a national insolvency fund, according to Mr. Greenberg.

"Why should we bail out an insurer in the commercial business who has cut somebody else's pricing to the point where he becomes impaired?" he asked. Mr. Greenberg said that commercial insurance buyers should be left to decide whether their insurers are properly capitalized and whether their rates are adequate.

Mr. Greenberg also raised the possibility of the federal government assuming a role in the reinsurance of potentially catastrophic California earthquake losses.

"You need a reinsurer of last resort that has a printing press" that can produce funds needed to cover losses the industry may not be able to handle, he observed. ■

## Greenberg

Continued from page 2

"I consider that also a silly thing to do," Mr. Greenberg said, calling the proposed rules "intrusions that confuse the bottom line results of our business."

Mr. Greenberg argued that insurance company managers rather than accountants should control the rules by which they report on their operations.

"They are the ones who have to live or die by how they run their business, not some accountants in Connecticut," he said.

Mr. Greenberg also observed that the tort liability system in the United States continues to be "a farce"—with courts interpreting casualty policies in ways never intended by insurers—and called on insurers to continue to press for tort reforms.

"The battle seems to have waned in recent months with the recovery—or apparent recovery—of the insurance industry," he said.

Meanwhile, he added, the state regulatory system—charged with safeguarding insurer solvency—hardly turned in a sparkling performance during the industry's last down cycle, failing, among other things, to question some insurers' disastrous rate-cutting practices.

"There was not a regulator that spoke out that I know of, and yet they were all out front when rates rose," he said.

"With prices going down now, I haven't heard one regulator question price reductions."

He said AIG units are constantly reviewing the adequacy of their pricing

# Stock market plunge

Continued from page 1  
 losses were not available.  
 "It looked as though the decline on Monday represented a \$10 billion to \$12 billion decline in surplus for the property/casualty industry," said Barbara Stewart, president of Stewart Economics Inc. in New York. "It could be more, it could be less, depending on whether they have been buying or selling stock."  
 ISO President Daniel McNamara said at a symposium in Chicago last week sponsored

by Coopers & Lybrand that the stock market decline from July 1 through Oct. 21 eliminated "\$10 billion in paper gains" for the property/casualty industry.  
 Sean Mooney, an economist with the Insurance Information Institute in New York, estimated that the industry suffered a \$9 billion hit to surplus on Monday alone and had lost an additional \$2 billion in the stock market between June 30 and Oct. 19.  
 But even losses of this magnitude are not enough to stem the competitive tide that is surging among property/casualty insurers, Ms. Stewart asserts.

"We don't think it will have any impact whatsoever on competitive market conditions," Ms. Stewart said. "If it had been in the magnitude of 40% to 50%, I would have said something different. It's too small to affect the very strong forces going on right now," she said.  
 "There is too much capital in the market, particularly in the markets that are not troublesome, where the business is well-known and has been around," Ms. Stewart continued. "Companies are trying to rid themselves of that capacity. Those forces are so strong, and there is so much capacity, that a 10%-

12% decline in surplus is not going to affect those markets at all."  
 "It has had no major impact on our surplus," said James M. Raley Jr., vp of finance at USF&G Corp. in Baltimore. "As long as surplus stays at present levels, capacity and pricing will stay constant."  
 "I don't think it's going to have that much of an effect on pricing," said Michael Lewis, first vp at Dean Witter Reynolds Inc. in New York, agreeing that insurers have not been hit "that badly" by the stock market downturn.

Continued on next page

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# Storm, stocks may curb U.K. property capacity

By STACY SHAPIRO

LONDON—Insurance capacity for property risks is expected to be curbed in the United Kingdom in the aftermath of falling stock prices.  
 Stock analysts and executives of the United Kingdom's largest non-life insurance companies predict that the market uncertainty, coupled with claims from the severe storm that shook England earlier this month, will stop the recent influx of new capacity into the property insurance market.  
 Any cut in new capacity may herald the end of property rate cutting, they say, though it is too early to tell if property rates will rise as a result.  
 However, the sharp reduction in British insurers' surplus is not expected to have a dramatic effect on insurers' solvency or ability to pay claims, insurer analysts and executives agree.  
 Although most of the major British insurers' surplus dropped by at least 10% last week, the loss will not be "devastating," analysts say.  
 Most British insurers' solvency margins have been very strong and will remain so despite the market plunge, analysts say.  
 In addition, Lloyd's of London is barely affected by last week's stock market uncertainty because only a few syndicates dabble in the stock market, Lloyd's sources say.  
 Syndicates managed by Merrett Holdings P.L.C., for example, hold no surplus in equities, according to Managing Director Ken Randall.  
 In addition, only 1% to 2% of Lloyd's American Trust Fund of \$7 billion is held in stock, said a Lloyd's spokesman, so the drop in the market will not affect Lloyd's standing in the United States.  
 Analyst Peter Rice, a director of Wood Mackenzie & Co. Ltd. in London, said the decline in insurers' surplus coupled with storm damage claims "will serve to alarm companies and show they are not in control of all events. It will, therefore, inhibit competition and will slow down the increase in capacity."  
 "U.K. companies will also be cautious about competing. Property rates in the U.K. may go up if there is another serious storm loss this year."  
 The combined effect of the bear market and the storm "will make people think in more realistic terms," said Nelson Robertson, general manager and executive director of General Accident Fire & Life Assurance Corp. P.L.C. "I would expect capacity to reduce... and get rates on a more realistic level... We all must be worried about the drop in prices, but it won't affect the solvency of the company."  
 "The major companies are in a strong asset position and, although a fall in the equity market impinges on their asset value, it is not serious," said Andrew Goodwin, stock analyst for Phillips & Drew. "However, if the situation gets worse, it could reduce their potential for increasing dividends."  
 "Capacity will be constrained particularly in the U.S.—which is likely to restrain the fall in rates. However, if interest rates go up it could encourage some cash-flow underwriting," which forces rates down, Mr. Goodwin said.  
 Just as insurers started to calculate the cost of the hurricane-force winds that hit England Oct. 16, the value of stocks on the London Stock Exchange plummeted as did stocks around the world.  
 "There were two hurricanes which hit the composite (insurers)—first the one on the ground in London, then the one on the stock exchange," said Roman Cizdyn, insurance analyst at Sheppards.  
 Wood Mackenzie reported that even if stock prices fell 50% and fixed interest investments showed no loss, the five major U.K. insurers would still comfortably exceed their required solvency margins.  
 The insurance company executives to which *Business Insurance* spoke also were not worried about the solvency of their companies or the ability to pay storm damage claims following the market downturn.  
 "At the moment, there will not be a dramatic impact on the solvency of the company," said Peter Foster, group financial controller of Commercial Union Assurance Co. P.L.C. About 1 billion pounds (\$1.68 billion) of Commercial Union's total 3.6 billion pounds (\$6.1 billion) in non-life investments are in equities, which Mr. Foster says is a conservative portfolio in the United Kingdom.  
 About 40% of General Accident's 1 billion pounds of non-life investments are equities, but the insurer is not concerned about the effect of the stock market downturn on the company's solvency, said Mr. Robertson.  
 "It is highly unlikely that we will have to sell our investments to meet storm damage claims," he said.  
 "Even the dramatic falls on Monday and Tuesday in the U.K. market only took us back to where we were at the end of last year," said Scott Nelson, assistant general manager of Sun Alliance & London Insurance P.L.C., whose portfolio is 37% in equities.  
 "The stock market 'has affected us. It's impossible not to," said David Rough, investment manager for Royal Insurance P.L.C., who believes that Royal lost about 200 million pounds (\$336.8 million) from its equity base.  
 "But, they (the stock market prices) are still above the level they started at at the beginning of the year... so we are hardly panicking," said Mr. Rough. Royal will also proceed with plans to be listed on the New York Stock Exchange this year, he said.

**'There were two hurricanes which hit' insurers, says Mr. Cizdyn: the storm and the market crash.**

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Continued from previous page

Mr. Lewis pointed out that several insurers—including Travelers Corp., Continental Corp. and Kemper Corp.—announced major stock buyback programs last week. "They would not be buying back their stock if they were that hard-pressed" for capital, he said.

"As long as major insurance companies are putting out good quarterly earnings, I don't think you have any type of catalyst for change," commented John A. Bogardus Jr., chairman of Alexander & Alexander Services Inc. in New York.

"Many people have adopted a wait-and-see posture," he said. "I don't think anything is going to happen for some period of time. The earliest it could have an effect would be on Jan. 1 renewals, and we are already in negotiations on them, so I don't think it will have a dramatic affect then."

Mr. Bogardus did say, however, that "psychologically," the stock market downturn "could have some effect" on underwriting enthusiasm but that the "stock market would have to go quite a bit lower to have a significant effect on capacity."

"There is no reason to assume that the (stock) market will change the underwriting philosophies of the industry or individual companies," said Richard M. Page, chairman and chief executive officer of Fred S. James & Co. Inc. in New York. He added, though, that "psychologically, it has to be unsettling."

Others, however, say the stock market slump will send a message to insurers that could put a stop to the fledgling competitive cycle.

"Psychologically, life is a lot more uncertain than it was," pointed out David W. Schrepf, chairman and president of Argonaut Group Inc. in Los Angeles, parent of Argonaut Insurance Co. "It probably will have the effect of making a lot of people pull in their horns. It probably will make insurers more conservative."

Now, he added, "insurers can't count on their portfolios being worth what they thought they were. They will be less certain about their investment strategies. If they can't control that, they might be more likely to want to have an underwriting profit."

The stock market slide should help stabilize rates, Maurice R. Greenberg, president of American International Group Inc., told a seminar in New York last week also sponsored by Coopers & Lybrand.

The slump in the stock market is another problem added to a long list facing insurers, including underreserving, uncollectible reinsurance and the new tax law, he said. "Together with other problems, the industry is not in a robust position as would be implied by the rate cutting that has been going on."

ISO's Mr. McNamara told the Coopers & Lybrand symposium in Chicago that "the recent volatile equity markets may lead insurers to reaffirm the need for underwriting discipline and may serve as a brake on the advent of reckless insurance pricing practices."

And, he later said, "The shock of the last few weeks will on balance preclude any precipitous return to a broad, reckless commercial insurance market."

The erosion of surplus caused by the market downturn gives insurers "a reason for pause," said analyst Myron M. Picoult, a senior vp with Oppenheimer & Co. in New York. "The industry may not understand much, but what they do understand is cash flow, and there is no question that there will be some squeeze on cash flow."

"I suspect that many insurance companies may think twice about cutting rates today," said analyst Gloria Vogel, assistant director at Bear, Stearns & Co. in New York. She said that many companies that had invested heavily in equities felt a "strain" on their surplus last week.

Ms. Vogel added that gains in the bond market did not make up for insurer's losses on their common stock portfolios. "The bonds didn't really rally that much. I think everybody got clobbered to some extent."

David Anthony, senior insurance analyst with Fox-Pitt, Kelton & Co. in New York, said the market slump "will help considerably in terms of pricing. It will be a beneficial stimulus to better pricing."

"We think it will definitely ease the trend toward softening," said the III's Mr. Mooney.

Other observers also said that while it was too early to assess what effect the downward slide of the stock market would have on insurance pricing, they hoped that it would promote caution among underwriters.

"We're hoping it will have an impact. I don't think anyone can tell yet," said analyst David Seifer, a vp with First Boston Corp. in New York.

"We're hoping that this is a significant enough hit to capital, or to the ability to increase capital, that the companies will become more conservative and rational," he said.

The impact on insurers "will depend on what happens between now and year-end," said James M. Meenaghan, president of The Home Insurance Co. in New York.

"If the stock market comes roaring back, it shouldn't make any difference," Mr. Meenaghan explained. "If it doesn't come back, individual companies will have to look at what their field managers are telling them about premium growth (guidelines) for next year."

"My hope is that it is one more psychological factor that will cause very aggressive companies to pause. I hope this will happen with all companies and not just those with arithmetic problems. I hope it will bring a bit more conservatism and discipline to the market," he said.

Just as opinion is divided over whether the stock

market's dive will affect rates in the primary market, officials of major reinsurance companies—which observers say currently are less prone to competitive urges than primary companies—also disagree about the effect of plummeting stock values.

"I don't think it will have any effect on the industry whatsoever," said Michael G. Fitt, chairman and president of Employers Reinsurance Corp. of Overland Park, Kan. "If we are banking on a little aberration in the market like this to stabilize prices, then we are in deep trouble."

While Employers Re lost about 10% of the value of its equity portfolio on Monday, it gained that back later in the week. And, by buying blue-chip stocks at depressed levels, the reinsurer may even be ahead, Mr. Fitt said.

He added that reinsurers generally maintain relatively small positions in common stocks.

Several other observers also pointed out that reinsurers generally invest less heavily in equities than primary companies, thus limiting any effect on reinsurers from the stock market plunge.

However, N. David Thompson, president of North American Reinsurance Corp. in New York, said the market plunge may create a more cautious, stable reinsurance market.

But, he added, it may be too soon to make any specific predictions.

No matter what they predict about rates, most observers agree that last week's slump on Wall Street will not create a crisis for insurers like the bear market of 1974, which helped usher in the tight property/casualty cycle of the mid-1970s.

"I don't think it would create a crisis like in 1974, when companies were substantially into equities and interest rates were so high," said Peter T. Pruitt, president and chief operating officer of Frank B. Hall & Co. Inc. in Briarcliff Manor, N.Y.

Mr. Pruitt believes the current market could have a moderating effect on rates. "Companies are not nearly as highly into equities as they were in 1974."

Ms. Stewart pointed out that in 1974, the stock market dipped 25% to 30% at a time when many insurers had "100% of their surplus in equities—and it destroyed them."

While ISO's Mr. McNamara said the stock market slump had not "significantly altered" the industry's premium-to-surplus ratio, Oppenheimer's Mr. Picoult said that the premium-to-surplus ratio for a group of stock insurers he tracks jumped to 2.9-to-1 at the end of trading Monday, compared with 2.4-to-1 as of June 30.

One industry observer, who asked not to be named, said that a rise in premium-to-surplus ratios on the order of that described by Mr. Picoult was possible, especially for large insurers that had invested heavily in equities. However, he added, "they also have the ability to write at these higher ratios."

Most analysts said they did not expect insurers to dramatically shift away from common stock as an investment strategy because of the market downturn.

Property/casualty insurers tend to hold their investments, explained the III's Mr. Mooney. "They are not traders."

However, North American Re's Mr. Thompson said insurers may take a second look at equity investments. "There will be a very much increased awareness of the risks of equity," he said.

Observers also generally agreed that last week's stock market nosedive means that insurers will not be able to tap the market as a source of new funds.

The downturn should demonstrate to insurance company managements that it is now "virtually impossible to raise capital via the equity market," said analyst Thomas Rosencrans, senior vp at Johnson, Lane, Space, Smith & Co. in Atlanta.

ISO's Mr. McNamara predicted that investors' perceptions about the attractiveness of the insurance industry "will not again enhance our success in bolstering surplus by the raising of new external capital over the next few years. In fact, new funds already have fallen off dramatically to \$600 million in the first half of the year, compared with \$7 billion for the entire 1986."

"Until the last few weeks, the need to raise additional capital did not seem to be an issue, but it could again shortly become a pressing priority," he said.

Mr. McNamara also contends that more important to the price of insurance in the future than the volatile stock market will be the impact of the Tax Reform Act of 1986, which requires insurers to discount their loss reserves for tax purposes.

"There is minimal awareness of the impact of the tax law on the surplus position of our business," Mr. McNamara said. "The need for increasing pricing due to the tax law has not seen its way into rates."

Although some predict the stock market's plunge will drive up insurance prices, Mr. McNamara observed: "Rates for commercial casualty should go up, based on reinsurance recoverables, tax law ramifications and underlying inflation on loss costs. I believe they will go up, but less than they should."

Contributing to this article were Associate Publisher/Editor Kathryn J. McIntyre, Agent/Broker Editor Linda J. Collins, Associate Editor Mark A. Hofmann and Copy Editor Karen Huelsman in Chicago; Bureau Chief Douglas McLeod and Associate Editor Judy Greenwald in New York; and Associate Editor Glenn Huntley in Los Angeles.

## Insurer stocks to regain declines, analysts say

By JUDY GREENWALD and JAMES M. BURCKE

Securities analysts continue to tout insurer stocks as a good investment, despite last week's market downturn and a disastrous decline in the value of two imaginary portfolios of insurer stocks.

Both the *Business Insurance* Model Portfolio, a theoretical portfolio created in July 1986 based on analysts' recommendations, and the *BI* Random Portfolio, created at the same time by randomly selecting companies, are solidly in the loss column as a result of last week's market tailspin.

The Model Portfolio, as of Thursday, has a value of \$8,880.13, including dividends and interest, down 11.2% from the original \$10,000 investment on July 25, 1986. Meanwhile, the Random Portfolio, which is used to track the relative performance of the Model Portfolio, had a value of \$8,865.28 as of Thursday, down 11.3% from its \$10,000 starting point.

By comparison, the Standard & Poor's 500 index has risen 4.0% over the same period.

In addition, the value of the Model Portfolio has declined 14.1% from \$10,342.26 on Aug. 14, while the Random Portfolio's worth has fallen 16.0% from \$10,553.07 on the same date (*BI*, Aug. 24).

However, the two insurer stock portfolios have outperformed the overall market during this two-month period; the S&P 500 has plummeted 25.2% since Aug. 14.

Despite last week's market nose-

dive, analysts still are relatively bullish on insurer stocks, generally predicting they should outperform the market as a whole.

Robert Branche, a principal of Branche Research Group in Morrisville, Pa., last week said he "is very bullish" on the entire group. "I think we've already had our bear market," he said.

"I think it is a great place for investors in more volatile industrial stocks to put their money while they are waiting out this market."

"I think that the group is remarkably well-poised to be a good market performer," pointed out Myron M. Picoult, senior vp with Oppenheimer & Co. in New York.

Joanne Morrissey, a principal with Firemark in Morristown N.J., a securities firm that tracks 188 publicly traded companies in the insurance industry, said that the group performed much better than the overall market last Monday.

"Only 13 did worse than the overall market, while 175 did as well or better. That's a doggone good record," she says.

Michael Lewis, first vp at Dean Witter Reynolds Inc. in New York, said that insurance stocks could be "very interesting" as a "defensive play" if the overall market continues to perform poorly.

*Business Insurance does not recommend the stocks contained in the Model Portfolio or the Random Portfolio. Furthermore, Business Insurance editors and reporters do not invest in insurance industry stocks. Readers should contact a reputable stockbroker.*

## Update

### Builders fined for collapse

Continued from page 2

\$2.48 million in fines for TPMI/Macomber, a joint venture of TPM International of Darien, Conn., and B.H. Macomber of Boston, the primary contractor and project manager.

OSHA also assessed three contractors and subcontractors fines ranging between \$1,000 and \$104,000.

The companies have 15 working days to contest the penalties.

### Gulf war risk rates rise again

LONDON—Increasing tension in the Persian Gulf continues to force up hull and cargo war risk rates.

War rates for cargo shipped through ports in Kuwait and the northern Saudi Arabian coast increased Friday to 0.75% from 0.5% of insured value, the London Marine Insurance Market Cargo War Risks Rating Committee reports. The committee issues minimum rates for cargo shipments on behalf of Lloyd's of London syndicates and member companies of the Institute of London Underwriters.

This followed a doubling in hull rates the previous week to 1.5% of insured value from 0.75% for voyages to Kuwait.

### Briefly noted

Due to "unforeseen market forces," Lloyd's of London broker **Crawley Warren Group P.L.C.** has postponed its stock offering on the London Stock Exchange. However, Lloyd's broker **Lloyd Thompson Group P.L.C.** did place 25% of its shares on the exchange on "Black Monday." . . . London underwriters have not been notified of a liability reserve for the Oct. 11 crash of a **Burma Airways** airliner in which 45 passengers and four crew members were killed. The airliner, which crashed as it was landing at Nyang, has \$6.3 million in hull limits and \$50 million of liability limits, said a London underwriter. . . . The federal government has set up a claims office across the street from the Ramada Hotel near the Indianapolis international airport following the Oct. 20 crash of an **Air Force jet** into the hotel lobby, which killed nine persons and seriously injured six others. . . . Maine Gov. John R. McKernan called the Legislature into special session Oct. 21 to consider two emergency bills to help solve the state's **workers compensation crisis** (*BI*, Sept. 21). . . . Sens. John Heinz, R-Pa., and Howard Metzenbaum, D-Ohio, introduced legislation last week that would establish a **new federal fund to guarantee pension benefits** promised by the steel industry. Under the proposal, steel companies could transfer pension liabilities to the fund in return for stock warrants, equity or other assets of the companies. . . . The U.S. Supreme Court denied review of an April 8th U.S. Circuit Court of Appeals ruling that **G.D. Searle & Co.** must reveal to plaintiffs' attorneys how much it has reserved for product liability claims brought against it by women alleging injuries from two intrauterine contraceptives that Searle formerly manufactured.

# Further broker acquisitions, global expansion on horizon

By LEONARD M. WILSON  
Special to Business Insurance

SECURITY ANALYSTS SPEND a good deal of their time trying to discern the shape of the future. Scrutinizing the past to help gauge the future is one sure tenet of the craft. Since 1970 insurance brokerage has seen a long catalog of changes. They may offer insights into the shifts beyond today's horizon to the next decade.

Size alone has dramatically changed the character of insurance brokerage. Marsh & McLennan Cos. Inc. claimed revenues of \$163 million in 1970. In 1987, revenues should reach \$2.2 billion and aftertax profits may be almost twice 1970 revenues. Other public brokers have grown at a similar pace.

Prior to the 1970s, only M&M and Johnson & Higgins could be considered truly national brokers. Now, we count nine brokerages that can be categorized as essentially national in scope. The emergence of new competitors on a national scale coincided with increased concentration from a wave of acquisitions of smaller, privately held brokerages.

Once having expanded to encompass national operations, the brokers elevated the international front to a major priority. J&H was probably the earliest proponent of a global reach, but M&M moved aggressively to expand outside the United States and was emulated by Alexander & Alexander Services Inc. and several other public brokers.

Membership at Lloyd's of London scaled a sacrosanct barrier to integration of retail and wholesale insurance brokerage. M&M and Frank B. Hall & Co. Inc. were the first to seize an opportunity that was opened up by faster communications and travel.

Risk management came of age when the field became professional. Greater sophistication on the buyer's side put increased demand on insurance brokers. Brokers had to develop risk management services.

Self-insurance, gathering momentum, became a widely accepted method of financing risk. To preserve revenue streams, brokers developed self-insurance services, which ran the gamut from analysis of self-insurance



Mr. Wilson Photo: Arnie Adler

options to management of captives.

The insurance pricing cycle evolved from a fairly benign affair with generally predictable boundaries to a rampaging, profit-squeezing maverick. Brokers were faced with the necessity of managing costs and new business with a newly found discipline.

These shifts profoundly altered the landscape of insurance brokerage and have quite likely set in motion the forces for change over the next decade. At this point, we are brushing cobwebs from our crystal ball to discern portents only dimly foreshadowed.

Concentration begets more concentration. We think that the acquisition of private brokers by the alphabet houses will continue. The economics are persuasive for the seller in an environment characterized by increased competition and compelling for buyers seeking to expand market share.

Acquisitions will thin the ranks of the publicly owned insurance brokers. The drive to acquire is a powerful force across the entire U.S. economy. Foreigners have seen their purchasing power enhanced by a depreciating dollar. We can envisage an outcome where only two or three of the public brokers continue as independent entities.

The money center banks, no doubt, will find a way to pry themselves into the insurance brokerage business. Whether the affiliation of an alphabet broker with a major bank confers any functional advantages is debatable.

The property/casualty pricing cycle could become more stable in the years ahead. Inflation and highly volatile interest rates accounted for much of the unpredictability of pricing in commercial lines. With less inflation and a continued long-term decline in interest rates, the ups and downs of premium

rates may be tempered.

Fees will still be a minor portion of total revenues for insurance brokers in the 1990s. The concept of fee for services ought to have appeal to the broker, client and insurance company, but fees have not gained much enthusiasm thus far. Attempts to restructure brokerage compensation in the direction of fees will likely meet continuing resistance.

Data processing will loom ever more important as a tool for serving the client and generating additional services. Eventually, services based on data processing could afford competitive advantages to brokers on the leading edge of technology.

International brokerage activities will focus increasingly on the Pacific Rim, where economic growth promises to be as fast as anywhere in the world. U.S. brokers, aiming to serve multinationals, will need effective capabilities in that region.

Domestic market share for the alphabet brokers should rise from a current estimated range of 25%-30% to 35%-40% by the year 2000. The gains will occur as a result of acquisitions of private firms as well as growth from strong new business production.

Diversification outside insurance brokerage could again prove enticing to managements, not burdened by the memories of the early 1980s and misbegotten attempts to do well outside of insurance brokerage. The diversification moves of the future will be rationalized as consistent with serving corporate clients. Insurance brokerage will remain the dominant source of income.

Excess cash generation could put public brokers in a position of surplus liquidity with an outlet for excess cash a pressing objective. This ties into their susceptibility to another round of diversification outside insurance brokerage.

The alphabet brokers will enjoy steady and pronounced growth over the next 10 years, but may have to be satisfied with slower gains than were achieved in the past 20 years. Even with slower growth, Marsh & McLennan Cos., as a benchmark, may generate revenues approaching \$6 billion and aftertax profits of \$800 million by the year 2000.

Unforeseeable developments notwithstanding, insurance brokerage at all levels will remain one of the most attractive industries from the viewpoint of growth and profitability. In addition, and most importantly, the dynamics of this dynamic business will prove stimulating and challenging to a cadre of increasingly professional participants.



Insurance industry stocks followed the rest of the market and declined record amounts last week. The Business Insurance stock index plummeted 83.1 points to close at 399.9 on Thursday, Oct. 22, compared with 482.9 on Thursday, Oct. 15. None of the 64 stocks that comprise the index posted a gain during the period and only one issue, Baldwin & Lyons Inc., finished the period unchanged. The largest losses were tallied by Frank B. Hall & Co. Inc., down 30.2%; Washington National Corp., down 29.2%; Kemper Corp., down 28.3%; Aneco Reinsurance Co. Ltd., down 27.5%; and Fremont General Corp., down 26.5%. Stocks posting the smallest declines were: Arthur J. Gallagher & Co., down 7.1%; American General Corp., down 8.6%; Poe & Associates Inc., down 10.0%; USF&G Corp., down 10.5% and Aon Corp., down 11.2%. The most active insurance stock was ITT Corp. (Hartford Insurance Group), with 6.07 million shares traded. The BI index, which lost 17.2%, performed on par with major market averages: the Dow Jones 30 Industrials also declined 17.2%, while Standard & Poor's 500 and the New York Stock Exchange composite both dropped 16.7%.

British Issues					
Oct. 22 Companies	Price pence	P/E	Div. pence	Yield %	1 Week
					High-Low pence
Commi Union	380	14.1	17.8	4.7	453-372
Genl Accident	860	8.8	38.3	4.5	1125-840
Gdn Royal Exch	850	10.6	46.5	5.5	1075-858
Royal	430	7.3	21.2	4.9	574-433
Sun Alliance	890	9.8	32.2	3.6	1200-870
<b>Brokers</b>					
CE Heath	488	15.5	34.5	7.0	553-483
Hogg Robinson	188	11.4	9.6	5.1	223-180
JH Minet	381	14.4	12.9	3.3	405-384
Sedg Corp	238	13.7	16.4	6.9	286-230
Willis Faber	340	13.1	14.8	4.3	389-291

Source: Philip Olsen/Alan Clifton, Insurance Industry Specialists Kitcat & Aitken Stockbrokers, London

## BI Industry Stock Report

OCT. 22, 1987

10/16/87 THRU 10/22/87

	Price	Weekly % change	Year to Date % change	Annual		Vol.(000)	\$ Div.	% Yield	P/E	Book value	Mkt/Bk. value
				High	Low						
<b>BROKERS</b>											
Alexander & Alexander Svcs	20.25	-23.6	-23.6	32.00	9.83	795	1.00	4.9	17.9	2.98	6.80
Baldwin & Lyons Inc.	16.00	0.0	-27.3	27.00	6.00	0	0.20	1.3	6.4	16.40	0.98
Corroan & Black Corp.	27.50	-16.7	-15.7	37.50	16.50	550	0.84	3.1	12.8	6.31	4.36
Gallagher Arthur J. & Co.	17.88	-7.1	-31.9	31.00	7.00	110	0.40	2.2	11.8	4.81	3.72
Hall Frank B. & Co.	5.50	-30.2	-62.1	19.00	4.00	490	0.00	0.0	11.8	0.00	N/A
Marsh & McLennan Cos. Inc.	52.75	-17.1	-13.2	72.00	6.50	1934	2.40	4.5	13.1	5.14	10.26
Poe & Assoc. Inc.	9.00	-10.0	-25.0	13.25	9.00	0	0.40	4.4	8.7	0.57	15.79
BROKERS	AVERAGE	-15.0	-28.4					2.9	11.7		
<b>CONGLOMERATES &amp; HOLDING COMPANIES</b>											
Berkley W.R. Corp.	23.00	-14.0	-12.4	37.00	21.75	697	0.28	1.2	6.5	13.72	1.68
Berkshire Hathaway Inc.	3425.00	-15.4	21.5	3792.00	25.00	622	0.00	0.0	23.6	62.53	3.56
CIGNA Corp.	55.25	-15.6	0.5	69.50	8.00	2235	2.80	5.1	7.1	42.01	1.32
CNA Fin'l Corp.	51.00	-16.7	-5.1	66.50	17.00	43	0.00	0.0	10.3	42.71	1.19
General Re Corp.	49.88	-16.4	-10.1	68.88	16.00	3090	1.00	2.0	13.4	23.47	2.13
ITT (Hartford Group)	51.50	-16.8	-3.5	66.38	15.00	6070	1.00	1.9	11.4	44.08	1.17
Sears Roebuck & Co. (Allstate)	36.88	-18.0	-7.2	59.50	10.75	3074	2.00	5.4	8.6	32.94	1.12
Transamerica Corp.	30.50	-21.8	-6.5	51.38	22.00	2898	1.84	6.0	5.6	26.94	1.13
CONGLOMERATES	AVERAGE	-16.8	-2.3					2.7	10.6		
<b>INSURERS</b>											
Aetna Life & Cas Co.	51.00	-14.8	-9.3	68.13	36.00	3768	2.76	5.4	7.2	44.75	1.14
American General Corp.	32.00	-8.6	-13.2	44.75	38.00	1947	1.25	3.9	8.6	27.13	1.18
Amer Heritage Life Inv't	23.50	-17.5	-8.5	34.00	23.75	47	0.96	4.1	11.6	20.37	1.15
Amer Ind'y Fin'l Corp.	10.25	-19.6	-43.1	19.00	11.25	25	0.56	5.5	11.6	20.40	0.50
American Int'l Group Inc.	66.38	-14.3	8.6	83.75	30.00	4651	0.30	0.5	13.2	29.02	2.29
Aneco Reins Ltd.	2.63	-27.5	23.5	4.38	2.42	53	0.00	0.0	13.2	1.93	1.36
Aon Corp.	24.63	-11.2	-6.6	29.88	21.00	729	1.20	4.9	8.6	15.23	1.62
Argonaut Group	33.63	-26.1	60.1	52.13	31.00	241	0.00	0.0	6.5	14.60	2.30
AVEMCO Corp.	18.50	-17.3	-29.5	25.25	13.25	129	0.28	1.5	11.6	6.94	2.67
Belvedere Corp.	4.50	-18.2	-47.9	9.13	4.25	59	0.01	0.2	11.6	6.71	0.67
Business Mens Assurn Co.	35.50	-15.5	37.2	48.25	25.25	941	1.10	3.1	11.6	22.15	1.60
Chubb Corp.	60.00	-11.8	1.3	73.50	52.00	1161	1.88	3.1	8.2	39.52	1.52
Continental Corp.	39.00	-15.2	-12.8	54.88	30.50	1375	2.60	6.7	7.8	41.62	0.94
Durham Corp.	23.75	-14.4	-14.2	34.00	24.75	30	0.92	3.9	15.5	26.15	0.91
Farmers Group Inc.	41.00	-15.5	5.8	51.25	37.75	1380	1.20	2.9	12.4	19.95	2.06
Fireman's Fund Corp.	31.50	-12.8	-10.3	42.75	26.50	1841	0.40	1.3	58.3	23.55	1.34
Fremont Gen Corp.	10.75	-26.5	-33.4	20.50	11.75	189	0.60	5.6	58.3	16.75	0.64
Home Group Inc.	14.50	-12.1	-31.0	24.88	10.50	1104	0.20	1.4	3.2	16.30	0.89
Hanover Ins Co.	27.75	-19.0	-12.6	37.25	28.75	90	0.36	1.3	6.3	20.91	1.33
Hartford Steam Boiler	23.25	-16.2	-1.4	36.63	20.75	283	1.00	4.3	9.6	10.17	2.29
Kansas City Life	26.50	-14.5	2.9	31.50	25.75	0	0.00	0.0	9.6	0.00	N/A
Kemper Corp.	21.50	-28.3	-14.0	38.75	23.00	2293	0.60	2.8	6.8	23.48	0.92
Liberty Corp. S.C.	38.63	-20.8	5.1	53.00	36.50	38	0.80	2.1	15.0	19.96	1.84
Lincoln Nat'l Corp.	41.75	-14.6	-10.0	60.50	35.75	495	2.16	5.2	8.4	44.85	0.93
NAC Re Corp.	22.50	-12.6	-14.3	32.25	21.00	85	0.00	0.0	28.8	18.12	1.24
Nobel Ins Ltd.	10.00	-23.1	-38.5	18.50	9.50	151	0.00	0.0	28.6	9.04	1.11
Northwestern Nat'l Life	23.25	-15.9	-25.0	32.38	23.75	180	0.96	4.1	6.5	33.26	0.70
Ohio Gas Corp.	37.63	-14.7	-2.6	49.25	36.50	287	1.68	4.5	9.2	26.80	1.40
Old Rep Int'l Corp.	23.25	-15.5	-15.1	33.63	23.13	258	0.74	3.2	7.8	19.80	1.17
Oriental Cap Corp.	17.13	-18.0	-36.9	31.00	16.88	89	0.75	4.4	7.8	9.39	1.82
Phoenix Re Corp.	7.75	-22.5	-40.4	14.63	7.50	23	0.00	0.0	7.8	0.00	N/A
Protective Corp.	12.38	-16.1	-31.2	21.25	12.38	150	0.70	5.7	10.7	16.51	0.75
Provident Life & Acc Ins Co.	18.00	-14.3	-26.9	28.75	18.50	248	0.84	4.7	14.1	27.00	0.67
St. Paul Cos. Inc.	45.75	-19.7	13.7	60.00	40.25	1541	1.76	3.8	8.5	29.89	1.53
SAFECO Corp.	29.00	-18.9	8.4	38.00	24.38	1842	0.96	3.3	10.1	19.68	1.47
SCOR US Corp.	10.50	-19.2	-8.7	16.25	9.00	229	0.00	0.0	9.6	8.08	1.30
Seibels Bruce Group Inc.	12.75	-16.4	-13.6	19.00	10.00	167	0.80	6.3	8.4	11.88	1.07
Selective Ins Group Inc.	19.00	-23.2	-12.6	27.50	20.25	141	1.08	5.7	6.0	16.02	1.19
Statesman Group Inc.	4.00	-22.0	-15.8	7.06	3.50	222	0.05	1.3	6.0	5.19	0.77
Tokio Marine & Fire Ins	64.38	-15.7	15.2	103.38	50.75	152	0.19	0.3	54.6	0.00	N/A
Torchmark Corp.	27.25	-14.2	4.8	36.75	23.75	1161	1.00	3.7	9.2	13.01	2.09
Travelers Corp.	39.88	-13.3	-10.6	52.63	31.50	2778	2.28	5.7	8.2	45.03	0.89
Trenwick Group Inc.	11.25	-11.8	-31.8	19.13	10.75	24	0.00	0.0	13.9	13.83	0.81
United Fire & Cas Co.	23.38	-20.7	-29.2	33.00	24.50	18	0.96	4.1	6.9	18.32	1.28
United States Fid & Gty	34.13	-10.5	-14.1	48.75	26.25	1841	2.48	7.3	7.3	20.19	1.69
UNUM Corp.	19.50	-17.5	-27.5	31.38	18.75	698	0.40	2.1	7.3	26.81	0.73
USLIFE Corp.	31.50	-13.1	-27.6	47.63	26.75	285	1.12	3.6	8.1	43.09	0.73
Washington Nat'l Corp.	23.38	-29.2	-26.9	37.88	19.75	256	1.08	4.6	13.7	32.80	0.71
Zenith Nat'l Ins Corp.	14										

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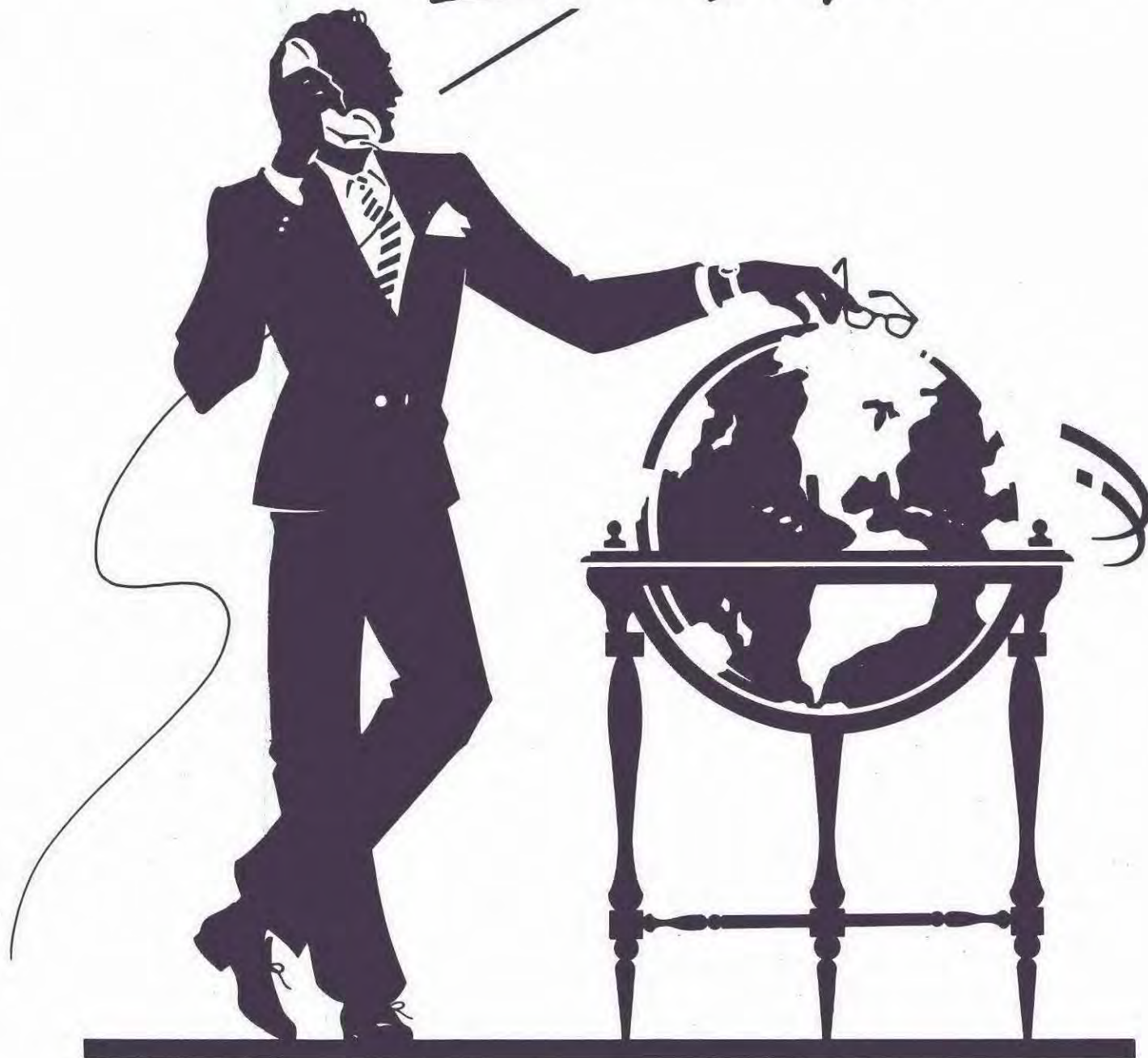
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