

# Miners ask coverage of benefits under new law

By RICHARD L. GORDON

WASHINGTON—The Anthracite Health and Welfare Fund, with 15,000 retired coal miners drawing \$30 a month pensions, this month became the first multi-employer pension plan to seek benefit insurance coverage from the new Pension Benefit Guaranty Corp. (PBGC). The anthracite miners' fund became awash in red ink in recent years as the anthracite coal industry dwindled to only 15 employers with 2,700 active miners, compared with 220 employers and 80,000 miners in 1946. The fund was expected to seek federal assistance even

before the Employee Retirement Income Security Act, which created the PBGC, was signed into law.

The law, however, leaves it open whether PBGC will cover vested pensions in the event of plant shut downs.

Because the law requires that multi-employer pension plans begin paying premiums only on Jan. 1, 1978, terminations prior to that date will be reinsured by PBGC only at the discretion of its board of directors.

In any event, PBGC at best would make good only on the \$30 a month pensions the retired miners are now receiving, even though these have been reduced in recent years from around \$100 a month as the financial condi-

tion of the fund grew worse.

Anthracite officials seem to be aiming at only a partial termination of the pension plan, however, and United Mine Workers officials said that might mean an improvement in benefits for miners still actively employed.

PBGC officials said it appeared the mine fund trustees want to keep the plan operating for these still-active miners, leaving to PBGC the cost of pension payments for miners who retired from now-vanished coal companies which no longer contribute to the fund.

The fund finished 1973 \$2.5 million in the red, PBGC  
*Continued on page 2*

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# business insurance

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Darling & Co., a Chicago-based rendering firm, is insured through Factory Insurance Assn. for losses suffered when its main chemical plant was virtually destroyed by a series of explosions and resulting fire, which killed one and injured seven. Damage was initially estimated in excess of \$1 million.

**Aims to compete with U.S., Norway pools**

## London readies oil risk pool plan

LONDON—British insurance companies are expected to announce shortly the formation of an oil risks pool in Britain.

The project is well under way and its potential structure has been determined. A British oil risks pool will enable the U.K. market to compete effectively with similar pools in the U.S. and Norway.

The intention is to make certain the capacity exists for insuring highly expensive refineries, oil storage centers, and the petrochemical units which are an essential part of modern fuel technology.

Mr. Ernest Bigland, managing director of Guardian Royal Exchange, revealed the progress of the pool when he told an insurance conference in London:

"The British insurance industry intends to provide the necessary capacity to handle these very big risks, particularly oil risks. They are so big that it is no longer possible to cover them through the traditional market. It will be necessary to form certain pools, through which we will be able to provide the sort of cover required."

Inquiries in the company market in London show that several major insurance groups have been engaged in the preliminary talks. The establishment of a management unit to administer the pool is under immediate consideration and the appointment of a chairman for the new pool will be made shortly.

Lloyd's is reported not to have been engaged formally in the talks, though its position will be taken into account, particularly on reinsurance.

The scheme is being put forward in the non-marine company market because of new technological developments in many countries, especially in light of growing oil production in the North Sea and other parts of the world.

It is realized that the marine market, both at Lloyd's and in the companies, has already been able to provide the capacity for the offshore oil risks, such as rigs and pollution, which it would traditionally cover.

Mr. Bigland told the conference, "The market is quite determined to provide the sort of cover necessary. I hope that between the oil industry and the insurance industry we will find the solution." ■

## D&O insurers likely to deny liabilities under pension law

By SUSAN ALT

CHICAGO—Corporations filing claims under D&O insurance policies for losses incurred by directors and officers as a result of their roles as fiduciaries of corporate benefit plans can expect strong arguments from their insurers, *Business Insurance* learned. They may even face outright denials.

Insurers are preparing to use a variety of arguments to dispute the validity of D&O claims involving the dual-capacity of directors and officers.

AT THE SAME time, insurers are hurriedly working to draw up separate insurance policies and specific endorsements for traditional liability policies to cover the exposures of benefit plan trustees and fiduciaries, whether or not they are directors or officers of the corporation.

Behind the new look at D&O coverage is the Employee Retirement Income Security Act of 1974, which vastly broadens the statutory liabilities of anyone who is a benefit or pension plan fiduciary. The fiduciary provi-

sions of the new law become effective Jan. 1, 1975.

Under the new law, anyone with direct or indirect influence over the management of a benefit plan is considered a fiduciary. This would include top corporate officers and directors, even though they might not be designated trustees of the benefit plan.

DIRECTORS' and officers' liability insurance underwriters are very concerned about the new exposures this poses for them, termed in some quarters as "real blockbusters."

"The potential (for losses) under the new pension reform act is simply tremendous," said Warren T. Geary, vp of Chicago-based Scarborough & Co., one of the nation's leading D&O underwriters working with the London market.

It may take at least a year, or as long as five years, a leading national brokerage firm believes, for clear decisions on what is and is not covered under D&O insurance presently written.

It now appears that insurers will draw up separate forms, and/or specific endorsements to go along with D&O policies covering pension trustees and fiduciaries. They are, of course, planning to charge very substantial additional premiums for the new coverage, reflecting what most believe to be enormous new liabilities. Estimates of cost for this additional coverage range from a minimal 10% extra all the way up to "double the normal D&O premium" in some cases.

"PRIOR TO THE pension law, we, as a D&O carrier, responded favorably to include the pension trust under the policy. Now we're into a different area that's brand new," stated Joseph T. DeAlessandro, senior vp of American Home Assurance Co., a domestic D&O underwriter. "Many of the pension trusts are not part of the straight corporate structure. Normally, as such, under the D&O cover, I would suggest there might be a gap."

Whether there is really a gap is the key question. Some corporate risk managers believe that there is already coverage under D&O for directors and officers who serve in a dual capacity as pension or benefit plan trustees

and fiduciaries.

Sources in the London market reportedly have said that "there is a potential liability (for insurers) under the standard D&O policy but we aren't willing to accept it as a clear responsibility on our part at this point."

One insurer said "it's not fair" to expect carriers to accept broad new risks under present policies, with no specific wording and no additional premium.

*Continued on page 12*

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#### Inflation's impact

Multinational corporations were warned by an international insurance expert to bring insured values into line with overseas inflation. **Page 10.** Other stories from the ASIM fall conference in New York appear on **pages 32 through 35.**

#### Cities & counties

A session on governmental risk management at the University of Delaware disclosed that most cities and counties still don't have full time risk managers, though more time is devoted to managing insurance. And competitive bidding is still mandatory for most entities. **Page 15, 28, 36.**

#### Going up?

Insurance industry officials are calling for higher premiums, citing the need to keep pace with inflation and offset heavy losses. Risk managers and insurance commissioners aren't entirely agreed about the need, or the desirability, of rate adjustments. **Page 52.**

#### Pension reform

A benefits expert examines the specific cost impact of the pension reform law, the first in a series of six articles to run consecutively probing the effects of numerous provisions in the wide-ranging legislation. **Page 54.**

# Plan asks pension coverage . . .

Continued from page 1

was told. Presently its continued existence depends on subsidies from the United Mine Workers union that have grown to between \$200,000 and \$250,000 a month.

**THE FUND BEGAN** 1973 with a balance of \$2,931,000 which diminished to \$349,000 at the end of the year. Contributions from mine operators, based on a 90 cent per ton royalty, totaled \$3,224,000 during the year, but pension benefits cost \$5.5 million, the fund told PBGC.

Other benefit expenses reported for 1973 were \$20,000 in death benefits, \$25,000 for silicosis research and training, and \$8,500 for medical rehabilitation.

The employers still active in the fund in 1973 were B-D Min-

ing Co., T/A Beaver Brook Coal Co., Blaschak Coal Co. Inc., Buckley Coal Corp., Cass Contracting Co., Cunningham Coal Co., Gilbertson Coal Co. (old), Gilbertson Coal Co. (new), Glen Burn Colliery Inc., Gowen Coal Co., Greenwood Mining Co., Honeybrook Mines Inc., Jedda Highland Coal Co., Lehigh Valley Anthracite Inc., Old Forge Coal Co., Reading Anthracite Co., Reidinger Coal Service Inc., Silverbrook Anthracite Inc., and The Sun Coal Co. Inc.

The major contributors to the fund were Reading Anthracite \$668,000; Jedda Highland, \$656,000; Greenwood Mining, \$400,000; Lehigh Valley, \$253,000; and Glen Burn, \$222,000.

The anthracite fund filing "caused quite a stir" around PBGC, said one agency official,

because of the important precedents that will be set before this case is settled. Particularly sensitive will be how to apportion the employer liability among the remaining, hard-pressed coal mine operators.

**ACTION ON MORE** than 200 other termination filings is pending before PBGC, which came into existence Sept. 2 when President Ford signed the pension reform law. About 175 of the filings involve plans that terminated before Sept. 2 and therefore do not involve questions of employer liability.

This employer liability feature, one of the most controversial items of the entire pension reform law, places a federal lien against the assets of companies sponsoring pension plans

which terminate and receive PBGC financial assistance to meet their obligations.

The precedent setting decisions in these areas are not likely to be made until PBGC's permanent executive director is named and an advisory committee to the corporation is established.

The top officials of the anthracite fund are Frank J. Galgay, executive secretary; Joseph J. Faucio, vp, Greenwood Mining; and William J. Savitsky, a member of the United Mine Workers international executive board.

The fund is represented by the Washington law firm of Arnold & Porter. A partner in that firm, Harry Huger, is the union-appointed trustee of the United Mine Worker Welfare and Retirement Fund. This larger fund covers the bituminous coal industry and is unrelated to the anthracite fund.

## Franklin joins Crain as finance director

James F. Franklin, formerly assistant to the chairman of Arvey Corp., has joined Crain Communications Inc., Chicago, in the new post of director of finance and administration.

Prior to his four years with Arvey, where Mr. Franklin handled investments and acquisition studies, he was with Bell & Howell and Texas Instruments. Mr. Franklin graduated from Princeton University; and received an MBA from Stanford University.



James Franklin

## Just as good as money?

DANVILLE, CA.—A \$25 million suit filed recently in Contra Costa (Ca.) superior court charged that American Express Co. failed to live up to an aired promise—made by actor Karl Malden—to replace stolen traveler's checks "within 24 hours."

Lawrence Griffiths, of Danville said he bought \$1,200 worth of traveler's checks from a local bank on June 7. The checks were stolen the next day.

Although he informed American Express immediately, he still hasn't been reimbursed, Mr. Griffiths claimed. He claimed \$25 million in punitive and exemplary damages, plus \$10,000 for lost vacation time as well as \$1,200 from American Express, actor Malden and the bank.

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1960 27 71 69,726 35,370 10,690 14,431 10,000 26,445 25,003 60.0	1970 27 60 77,740 41,027 10,747 15,569 23,000 20,540 27,413 66.0	1971 27 71 80,170 40,507 21,645 17,122 20,502 32,400 24,935 62.1	1972 27 71 104,554 61,261 89 22,039 18,255 23,227 34,327 23,102 60.1	1973 27 71 107,809 61,251 26 24,793 19,023 23,935 30,250 25,493 62.1	Totals and Average Ratios .....
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# Ad agencies changing legal status, but it's not affecting insurance

CHICAGO—Advertising agencies which have decided to change their legal status as corporations in recent months are not increasing their insurance coverage or making any other major risk management revisions because of different exposures, *Business Insurance* found.

A survey of the four ad agencies that changed their status in the last year disclosed that little or no change in risk control programs is anticipated by three of the agencies.

Three agencies have bought up publicly-held shares of stock in the past year, and have, in effect, "gone private." They are Clinton E. Frank Inc., Chicago, McCaffrey and McCall Inc., New York, and Wells Rich, Greene Inc., New York.

Another agency, Tatham-Laird & Kudner of Chicago, was a privately-held corporation which changed to a partnership.

Initial indications were that such legal revisions would have an impact on agencies' insurance because Tatham-Laird, for one, substantially increased its liability insurance coverage for the partnership. But this impact is far from universal, the survey disclosed.

"WE MIGHT decrease our directors' and officers' liability coverage," said Bernard F. Eagan, assistant treasurer of Clinton E. Frank Inc., "because we feel there's less risk exposure now that we're a privately-held corporation."

Mr. Eagan added, however, that the company's total liability coverage of between \$5 million and \$10 million would probably not be changed.

"I don't see why going from a public to a private corporation would affect our insurance coverage," Frederick Jacobs, treasurer.

## Workers to sue employer on benefits

MADISON, WIS.—The Wisconsin supreme court has paved the way for a \$25 million class action against Allis-Chalmers Corp. concerning a group life insurance program.

The decision permits two retired employees, John Schlosser and William E. Brown, to file suit against the big farm machinery and electrical products firm based in West Allis, Wis.

The two men, who worked in A-C's legal department, claimed that the company established a group life insurance program for nonunion employees in 1930 but that it broke the agreement in 1972 when it reduced the coverage.

The litigants alleged that many salaried employees were under the assumption that insurance coverage would continue after retirement but, after the reduction in coverage, were charged \$1 per month per \$1,000 to make up the difference.

A-C contested the filing of a class action on the grounds that it was improper and did not meet the "common or general interest" provision of the statute covering such actions. ■

urer of Wells, Rich, Greene Inc. told this magazine.

He declined to explain further, saying the firm is currently in registration with the Securities and Exchange Commission.

MCCAFFREY and McCall Inc., which changed to a private corporation earlier this year, plans no change in the amount or type of coverage as a result, according to Richard Passanant, assistant treasurer. He added that his company "never had directors and officers' liability insurance."

Harry C. Anderson, president of

Corporate Policyholders Counsel Inc., observed that "normally an ad agency doesn't have the scope of insurance problems that a manufacturing company, for example, might have. Their primary liability is errors and omissions and that would stay with them, regardless of the business entity.

"The type and amount of insurance is based on the exposure to risk and this doesn't change just because the legal status of the company changes. It depends on the nature of the business," Mr. Anderson went on to say.

He did speculate that perception about the amount of liability insurance needed might be different in the case of a partnership. "Although officers legally bind a corporation the way partners bind a partnership, there may be more awareness about individual liability with a partnership," Mr. Anderson explained further.

"It's like looking down the barrel of a gun with personal liability," said C. S. Oszak, an insurance broker with Conkling, Price and Webb Inc., who handles the Tatham-Laird & Kudner account. "Nothing changes fundamentally—that's true—but if a man is worth \$1 million he may be exposing more of his assets than he wants to in a partnership," Mr. Oszak said.

THAT IS THE main reason for Tatham-Laird & Kudner substantially increasing its coverage since the formation of the partnership, according to John J. Valverde, treasurer. He declined to comment further on changes in his firm's insurance coverage, however.

Another reason a company with changed legal status might add to its coverage, Mr. Anderson conjectured, is if it were under insured in the first place. "Maybe it was deficient as a private com-

pany and the change in legal status caused management to review its insurance situation."

Mr. Oszak remarked that in the case of Tatham-Laird & Kudner under-insurance was not a factor in the company's increase of its coverage. "But psychological as well as real liabilities which the firm's executives believed they would face in the change-over" were factors in the decision, he said.

The three companies which reverted to private status did so primarily to cut costs and to avoid reporting to anyone but their own directors.

Tatham-Laird & Kudner returned to partnership status from a privately held corporation, according to Mr. Valverde, "because partners tend to be more involved than officers—which is good for business—and also because previous tax advantages favoring corporate status have less benefit now." ■

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# Railroad retirement subsidy plan is vetoed by Ford, revived by Congress

WASHINGTON—A \$7-billion railroad retirement reform bill ran into a White House bent on fighting inflation this month and the result was the first veto of the Ford Administration.

Congress, which had overwhelmingly passed the bill, easily overrode the President's objections and reapproved the measure, which calls for a \$285 million a year federal subsidy until the year 2000.

President Ford strongly criticized federal aid to support railroad retirement benefits, however, and placed the blame for the industry's financial needs on unfunded benefit increases.

"This condition arises largely because benefits have been in-

creased 68% since 1970 without requiring the beneficiaries of the system, railroad employees and employers, to pay the added costs," the President said.

"AT A TIME when the taxpayer is already carrying the double burden of taxes and inflation, legislation such as this is most inappropriate," he said.

The Ford administration had been insisting that any reform of the railroad system should be based on funding from within the industry.

"I believe it is our obligation to the general taxpayer to see that the problems of this system are overcome by the industry and people it serves," President Ford

told Congress, "those who have benefited from it in the past and will continue to receive its benefits in the future.

"Other industries—other parts of the transportation industry—pay for their pension systems. There is no justification for singling out the railroads for special treatment."

From a benefits administration point of view, the White House charged that the new law will do nothing to simplify the already complex benefit computation structure for railroad workers.

"The provisions of the benefit formula are so complex that they would be extremely difficult to administer and virtually impossible to explain to the persons

who are supposed to benefit from it," the President said in vetoing the bill.

"Now is the time to simplify the benefit structure of the Railroad Retirement System, not make it more complex."

CONGRESSIONAL supporters of the bill told *Business Insurance* that the White House's only alternative—an increase in railroad payroll taxes or a cut in benefits—would have been unacceptable.

They also argued that the bill will have the effect of cutting some benefits for future railroad retirement participants, although the bill did not cut benefits for those already receiving them or already vested.

Sen. Charles Percy (R-Il.) said deep cuts in benefits for railroad workers would be unfair because it was the federal government that created the financial problems that brought the entire sys-

tem to near bankruptcy.

The senator was talking about the dual benefits issue—which arises because railroad service and non-railroad service are computed separately in determining what the Social Security component of a railroad retirement benefit will be.

Benefits accrue more quickly in the early service years due to frontloading in the Social Security formulas, and railroad workers receive a larger Social Security benefit because of the two separate calculations than would result if the service were calculated only once.

THE REFORM BILL eliminates this dual benefits cost, borne by the Railroad Retirement System, for future retirees. But railroad labor and management groups won a compromise from Congress which will continue this extra benefit for those now retired or vested.

The \$285-million annual subsidy is meant to pay for the phase-out of these benefits.

James L. Cowen, chairman of the Railroad Retirement Board, said the bill will lead to some increasingly complex benefit calculations for retirees and older railroad workers. He added that his agency will probably have to hire more people for his staff, which now numbers 1,700.

"I don't know how else he can handle it," said one House staff man, a veteran in the railroad retirement area.

Just what that will cost, Mr. Cowen said, is unknown. But railroad retirement's administrative costs are appropriated through Congress from the general revenue and paid for by the general taxpayer. ■

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## Lloyd's to pay \$1.6 million malpractice

SAN FRANCISCO—Lloyd's of London, as the carrier of malpractice liability insurance for Alameda County, will pay \$1.6 million to former Oakland teacher's aide Mrs. Bobby J. Gandy, 44 totally disabled and hospitalized since an Aug. 29, 1972 goiter operation at Alameda County's Highland Hospital.

The payment results from a pre-trial settlement approved by Alameda County superior court judge Leonard J. Dieden.

San Francisco attorney Bruce Walkup and El Cerrito lawyer Jack C. Runnion had filed suit for \$5 million damages, claiming Alameda County, as operator of Highland Hospital, was liable for Mrs. Gandy's disability.

ACCORDING TO Mr. Walkup, "the operation for goiter was prolonged and tissue in Mrs. Gandy's windpipe was damaged. Post-operative care was defective because the injured windpipe was not properly treated and the result was anoxia, an insufficient supply of oxygen to the brain."

The resultant brain damage allegedly made Mrs. Gandy "spastic, mute and subject to frequent seizures for the rest of her life."

Of the award, \$1 million will be deposited in the Bank of America as the conservator of Mrs. Gandy's estate after which she will go to a convalescent home.

Judge Dieden approved the following aspects of the settlement: attorney fees of \$500,000 and \$7,992 in litigation costs; \$67,000 for Mrs. Gandy's eight children and her parents; and a waiver of Alameda County's lien for her medical expenses of \$40,000. ■

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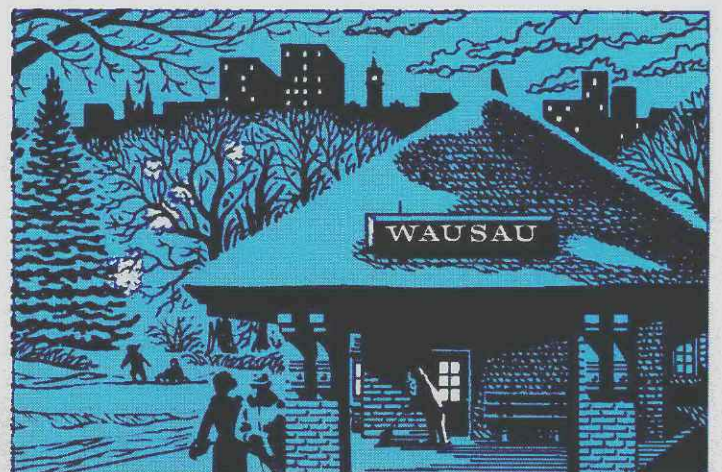
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### Come to the source

**Employers Insurance of Wausau**  
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Between 18,000 and 20,000 persons are covered by WGA insurance plan.

NEWPORT BEACH, CA.—Craig Collings, executive assistant, insurance, for the Western Growers Assn. believes that if organizations such as his are serious about the concept of service they must adopt a professional approach to insurance.

He means that such organizations should make it their business to offer a wide variety of insurance coverages.

The 49-year-old Western Growers Assn. (WGA) supplies its approximately 540 member firms—the members are large growers, mostly corporations, who cultivate row crops such as lettuce, celery and strawberries—and their employees with insurance in three vital areas: product liability, workmen's compensation and accident/health.

But Mr. Collings, whose background is tilted toward the property/casualty side, having worked in those areas for Litton Industries and Hughes Aircraft, doesn't see any solid argument why blanket property coverage should not be added to that lineup.

"LARGE MODERN packing sheds, specialized farm equipment, cold storage plants and other high-cost facilities are the property exposures of our grower members," he explained.

"The blanket property project is down the road a piece, of course. But I am putting the question under immediate study."

Because most of the WGA's members have some kind of individual property coverage, he says the aim of his program would be to create policies with broader coverage at tempting, group rates.

Mr. Collings was, until last May risk manager for U.S. Financial Corp., San Diego, a real estate construction and financing firm now in Chapter 11 proceedings.

He foresees the WGA offering coverage in general liability, boiler/machinery and group disability in the more distant future. Still further down the road, however, the whole scene changes even more. The insurance director perceives no insuperable obstacles to WGA's self-insuring many of its diverse coverages.

**PREMIUMS** collected from the WGA—it is the oldest and largest association of growers specializing in row crops in the United States—amount to about \$6 million a year. That figure will shoot up in 1975, observes Mr. Collings, not so much because rates will increase but because new members are constantly being sought and signed up. At present, between 18,000 and 20,000 persons are covered by the three WGA insurance programs.

Product liability coverage, written only to cover the shipment of commodities, is the most novel of the three existing programs. Ur-

## Growers group looking to . . .

the association's sole broker, the policy guarantees to refund 50% of the market value of a commodity that is condemned by the Federal Drug Administration or comparable state regulatory body.

"Thus if a carload of lettuce is dumped by order of the FDA, the grower will automatically be reimbursed for half of the market value of the lost shipment," elaborated Mr. Collings. He noted that this feature was the inspiration of M&M's local agri-business department, headed by Edward Griffin.

Shipments are lost in this manner only rarely, he added.

**ANNUAL PREMIUMS** for the coverage are moderate. The WGA rates vary from 2.5 cents per ton for the first 4,000 tons of a commodity shipped, up to 5 cents per

ton for shipments in excess of 31,000 tons.

"It works out to about \$100 a year for the grower who transports 4,000 tons of lettuce a year," he said, estimating that the WGA group coverage shaves about 25% off the ordinary cost of such protection.

He figures the loss ratio to be in the vicinity of 40%.

Although the workmen's compensation and accident/health programs don't offer such inviting protection, the policies do include cost plus dividend features, according to Mr. Collings.

Employers Insurance of Wausau is the comp carrier. While California has always had health and safety standards for its vast acres of farmland—agriculture is, after all, the major industry in California—Mr. Collings said that

Cal/OSHA is now enforcing most of these regulations such as machine guarding on farm equipment and first aid standards for field workers.

For example, Mr. Collings noted that each crew of field workers must certify that one of its members is knowledgeable in first aid.

"FARM LABOR CAMPS must meet fire safety standards, and so must buses that transport workers to the fields."

M&M, works closely with Employers Insurance of Wausau to insure that WGA members comply with existing and new regulations. "Engineers of M&M have held regional seminars on safety in the whole arena of agriculture," added the insurance executive.

**Some  
straight  
talk about  
The Maryland's  
Direct Bill System.**

# ... more covers for members

It was because of the WGA that Marsh & McLennan opened offices in Salinas, Fresno, Bakersfield and El Centro, he says. The association is the largest agricultural client of M&M in California, Mr. Collings noted.

Mr. Collings acknowledged, at the same time, that adding a second broker is not ruled out for the future, especially if blanket property and group disability coverages are hitched up to the existing programs.

The association's biggest insurance area is accident/health coverage, where Connecticut General has been the underwriter since 1972.

The action at present can be summed up in the assertion that "we have just taken over the administration of the 10 different A/H programs we operate.

"After considerable study, we decided that my new staff of three persons—an employe benefit administrator and two clerical assistants—could better tailor the accident/health policies to the demands of the unions and employer groups that are covered," Mr. Collings said.

He noted, "we have an IBM system capable of doing the job too."

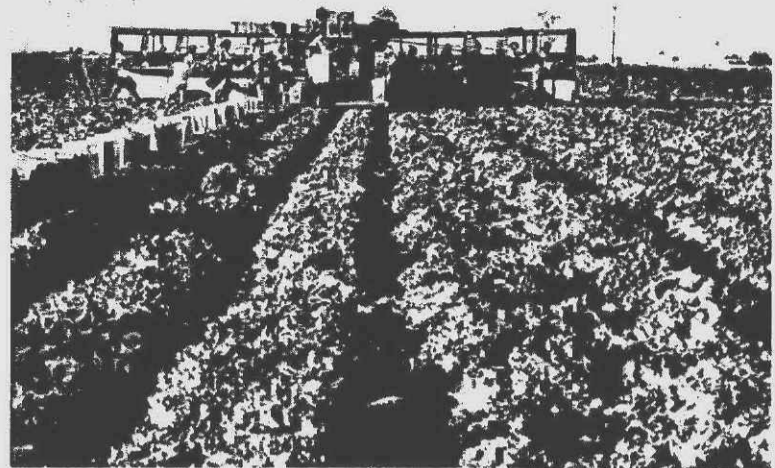
**SAVINGS DERIVED** from internal administration, he implied, were not ignored. Mr. Collings estimated savings to the association should average 15% to 20% a year in the future.

All but two of the 10 A/H policies are tied to contracts negotiated by local affiliates of the Western Conference of Teamsters or the AFL-CIO. Mr. Collings is

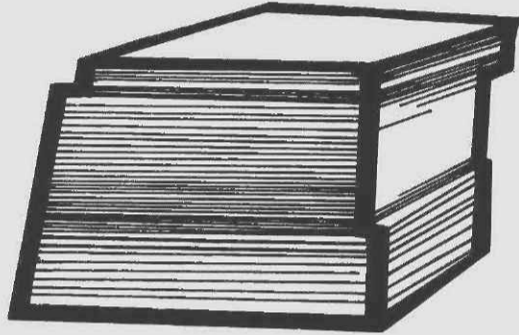
eager to point out that at least one of the two union programs comes with benefits that he insists are superior to those described in policies for management personnel.

"The program for the vacuum coolers, for instance, is a real Cadillac," he asserted. "For one thing, it embraces coverage for vision and dental care, including orthodontia, within a comprehensive, first dollar package that is paid by the growers."

He explained that one reason the vacuum coolers are privileged is that they provide the indispensable link between the fields and the railroad cars for such rapidly spoiling crops as lettuce. These workers receive, cool and load the vegetables onto railroad cars which then whisk them off to points around the nation.

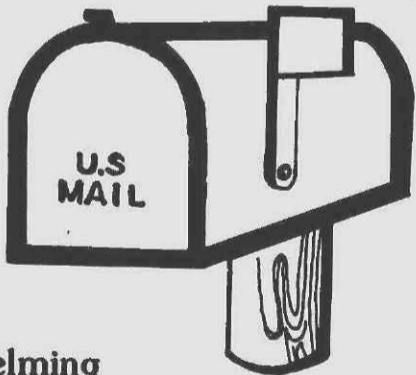


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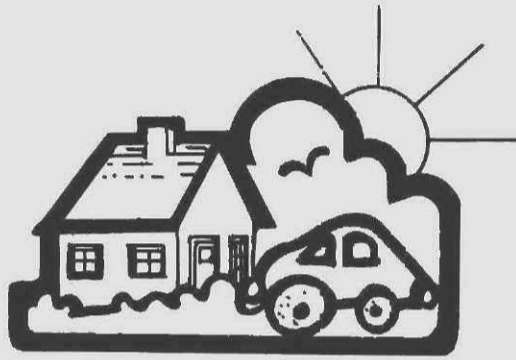


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## Group health stalemate at airline talks

MIAMI—A stalemate on health insurance and pension issues has brought strike talks to a standstill between National Airlines Inc. and its machinists' union, according to the union president.

After meeting since July 18, four days after the strike began, federally mediated talks were called off on Oct. 4 by William Usery, director of federal mediator services, after his recommended settlement was turned down by both sides, according to Adrien Bisailon, president of local 368 of the International Assn. of Machinists and Aerospace Workers (IAM & AW).

The company and the union are close on the wage issue, but no progress at all has been made on the health insurance and pension disputes the union leader said.

The union wants an increase in the health insurance plan to cover the first \$3,000 of hospital expenses. The machinists' plan now provides \$50 per day for hospital expenses. The machinists' plan now provides \$50 per day for hospital care up to a maximum of \$750. Mr. Bisailon said the company has refused to change the plan.

National Airlines' 1,525 machinists also want their monthly pension benefits raised to \$15 for each year of service, and they want a smaller penalty for early retirement. Retirees now lose 24.5% of their benefits if they leave one year before the retirement age of 62, he explained.

National Airlines has "furloughed" 7,100 of its 8,000 employes for the duration of the strike, according to R. W. Dunn, vp of finance at National.

## COB mandated

Coordination of benefits is mandated under Florida law as of Oct. 1. The new statute permits a policyholder to collect benefits under both a group accident/health policy and an individual policy providing similar benefits, up to an established maximum. "Where coordination of benefits exists, total benefits payable cannot fall below 100% of the allowable expenses a policyholder incurs," Florida's insurance commissioner, Thomas D. O'Malley, said. The new law prevents a company from reducing payments or refusing to pay medical, surgical or hospital expenses merely because similar benefits are covered under an individual policy.

# labor beat

## Improved medical, disability benefits important feature in TBTA contract

By JUDI TALIT

NEW YORK—After weeks of heavy negotiations amid threats of potentially crippling citywide strikes, the Triborough Bridge and Tunnel Authority and the Bridge and Tunnel Officers' Benevolent Assn., which operates bridges and tunnels, agreed on a three-year contract that calls for a multiphasic health testing benefit and improved disability benefits.

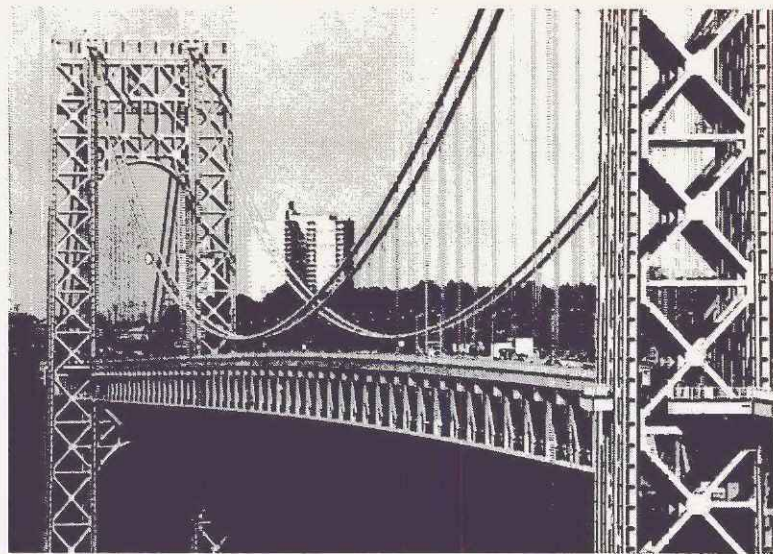
Under the new contract, multi-

phasic examinations will be provided when an officer has had excessive absences. The benefit becomes part of a medical surveillance program in existence for the past three years. Bridge and tunnel workers have high exposure to motor vehicle pollution fumes.

Disability benefits, also an issue in the strike threat, were also resolved under the agreement. The TBTA had been willing to pay up to 70% of the expenses included in the disability pension,

upping it from the previous 66⅔%. But, one point of contention resolved was the six-month waiting period.

Under this agreement, the full cost of the medical surveillance program, including testing on facilities and at the medical lab will be absorbed by the Authority. Over the past three years, the focus of this program headed by Dr. Stephen Ayers, was the connection between respiratory ailments and bridge and tunnel officers. It was established through



Toll takers at New York bridges achieved health benefit gains.

the program that "75% of those tested has respiratory ailments," the officers' union president, An-

thony Mauro told *Business Insurance*. The new three-year program will focus on the relationship of heart ailments and bridge and tunnel workers.

Mr. Mauro contends that 11 out of every 100,000 people in New York City die from heart disease. "One out of every hundred of my men dies from it," he said. "That's equivalent to 300 policemen dying every year. Last year the average age of these guys dying was 40. And no one knows why. A six-month wait for one of these guys could be fatal."

THE UNION president put the blame for job illness on the air filter system in the toll booths. "It just funnels the bad air into the booths," he contends.

Because of the high incidence of illness in this union, disability benefits were an important issue in the dispute. Under the new contract, the six-month waiting period was lowered to 150 calendar days for accident and/or sickness benefits. Benefits were increased to 70% of a member's biweekly earnings instead of 66⅔% "which was impossible to collect unless it was proved that the disability was from a heart or lung ailment or injury on the job," the union president said.

Under the new accord the definition of total disability has been improved to provide long term disability benefits. "After 24 months of the period of disability, the employe may engage in other employment and continue to receive long-term disability benefits less earnings from such other employment, providing he remains disabled from employment as a bridge and tunnel officer."

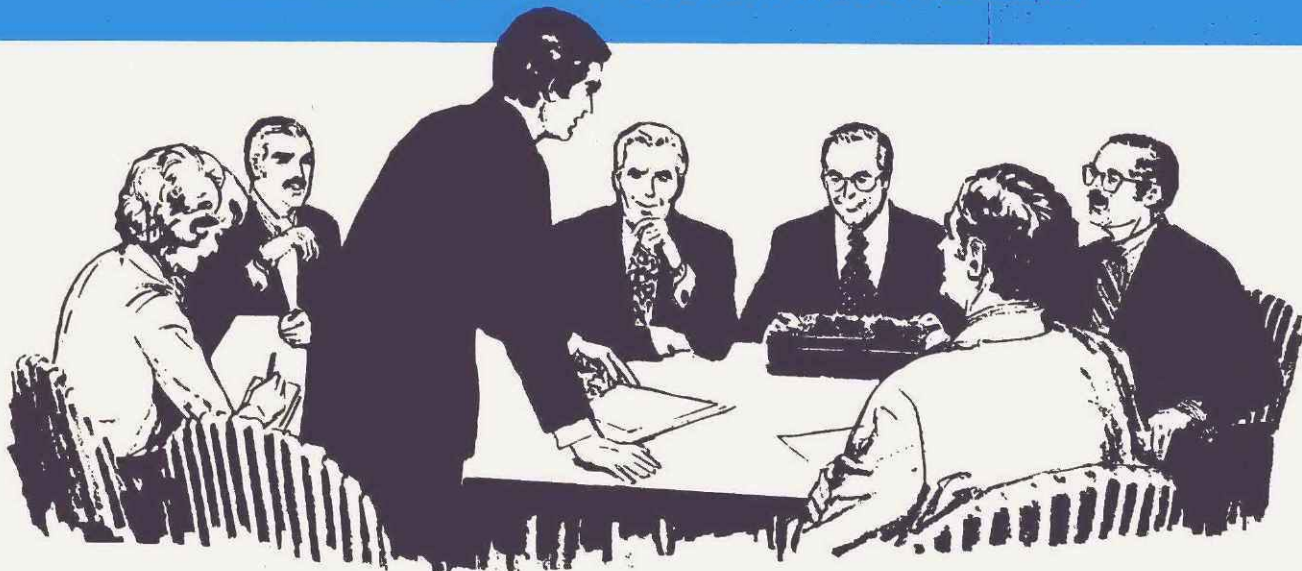
In addition, officers are now entitled to six sick days. Up to six days of absence, the officer is not penalized. However after six days of absence, a doctor's note is required from everyone except on Saturdays, Sundays and holidays. "When doctors notes are required and not produced, the Authority will not pay," it was noted.

Other benefit issues settled in this agreement included a cost of living clause, an increase in welfare fund contributions and vacation relief officers.

### RCA insures with FCIA

RCA Corp., New York, will insure its export sales of U.S. made products during the next year with a master policy with the Foreign Credit Insurance Assn. (FCIA). The policy is the largest ever issued by FCIA in the electronics field, a company spokesman said. The policy will insure RCA against commercial and political risks affecting the foreign buyer's willingness to pay off indebtedness. By insuring nearly all its export sales under the overall policy, RCA will realize "a substantial premium savings," the FCIA spokesman said.

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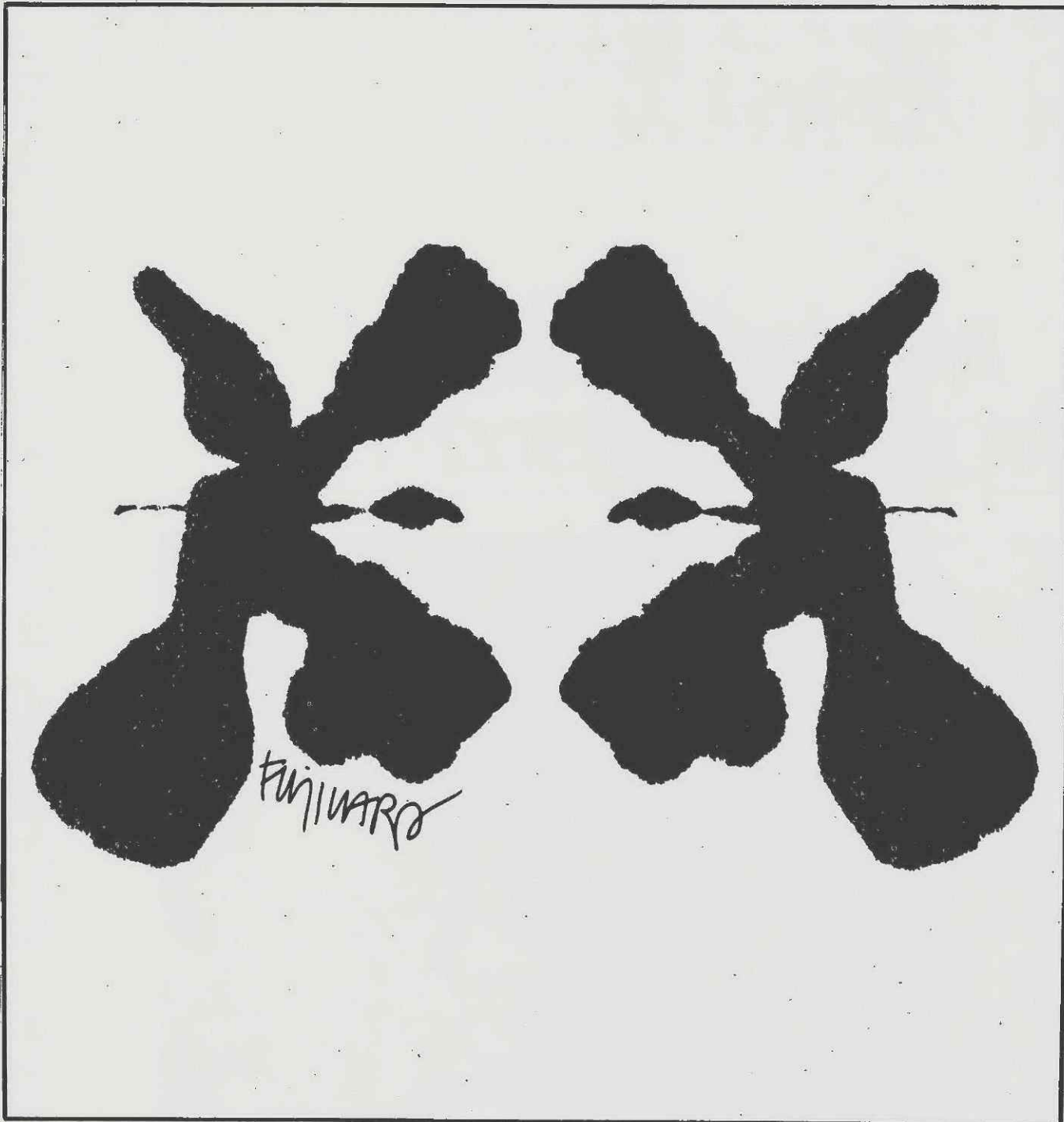
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There's an original way of looking at everything.

# Multinationals warned, bring values into line to reflect overseas inflation

NEW YORK—"With 100% co-insurance clauses on practically all fire policies overseas, I would hazard a guess that anywhere from one-third to one-half of the risk managers in this room are associated with companies which are underinsured today."

That was the word from William A. Crowley, secretary of AFIA Worldwide Insurance, speaking at a joint seminar sponsored by the American Society of In-

urance Management (ASIM) and the Insurance Information Institute (III) here earlier this month.

As many as half of all U.S.-based multinationals could be dangerously underinsured, he warned while addressing the overall problem of insuring a multinational.

(Other stories from the ASIM seminar on pages 32 through 35.)

"We are faced with double-digit inflation in the United

States, but in many countries abroad the rate of inflation is much higher than ours," he said.

**HIS ADVICE** to the risk managers present was: "Don't get caught short. Be alert to this problem. My advice to you is to get bulletins out to all of your overseas subsidiaries reminding them of the seriousness of the problem and be sure to bring their values into line."

Despite this gloomy warning, Mr. Crowley assured risk managers of a favorable insurance market for overseas operations, despite poor loss experience in the early 1970s.

"My overall impression of the way this business is going in the foreseeable future is that there will be a general toning up of the muscles in the industry, elimination of excess weight and concentration on better trained people, better managers, better systems. You will have a firm, stable foreign market," Mr. Crowley promised.

However, the facultative reinsurance market may be tightening up, he said.

"There is sufficient capacity to meet the needs of most risks in the world market," he said. But he went on to express concern about the "extremely high values on chemical risks, jumbo jets or products liability on pharmaceuticals."

As part of effective cash management programs, risk managers may also expect insurance companies to stress prompt premium collection, said the speaker.

"**WHILE PREMIUM** income has risen, the collection ratio between premiums billed and outstanding is also on the increase at a time when claims are increasing at a tempo greater than premiums. Delays are inevitable, but companies must find ways to maximize their cash flow by ever-increasing efforts to collect premiums on a timely basis," Mr. Crowley advised.

The international risk manager faces intricate tasks and problems besides the condition of the foreign insurance market. Differing social, political and economic factors involved in the countries where corporations have facilities are problem areas facing the international risk manager, he noted.

The heart of the problem, according to one panelist, is the difference in interests of the multinational and its nation host.

"It is how the risk manager maneuvers the compromises that determines his effectiveness in multinational operations," said David Warren, a partner with the San Francisco consulting firm of Warren, McVeigh, Griffin & Huntington.

Risk managers must go beyond "the too-common attitude of looking on insurance and its related components as items of cost which should be reduced," he advised. That involves risk managers' awareness of his management's operational, economic, political and social goals.

**SEVERAL COMPLEX** technical areas must be mastered by the international risk manager, Mr. Warren said. He should understand "the organization's financial position and link the cash flow activities of the risk function with the larger flows of the organization. It means coordinating the income, expense and tax deduction features of insurance premiums and losses with the tax manager. It means, if your organization sells products with a sensitive public relations aspect, that products claims adjusting should be coordinated with sales and public relations personnel. And, it means understanding the political consequences of insurance buying practices in distant countries."

Other issues raised by risk managers marked their concerns. They asked which currency premiums and losses should be paid in, the impact of changing valuations of rates of exchange, the applicability of U.S. tax laws in various situations and cash flow.

## ANOTHER MESSAGE FROM THE PRESIDENTS

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The two presidents speaking are (left) Roger C. Brindamour, President of R. B. Jones of California Inc., and Charles R. Morrell, President of R. B. Jones of New York Inc. Their message is one more part of the R. B. Jones philosophy.

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### Consultants elect officers

CARMEL, CA.—The Institute of Risk Management Consultants elected Harry C. Anderson, Corporate Policyholders Counsel Inc., president for the coming year, replacing George Betterley, Betterley Assoc.

David Warren of Warren, McVeigh, Griffin & Huntington was elected vp, from his previous position as secretary. Peter D. Norman, P. D. Norman & Assoc. of Toronto, is the new secretary. H. Felix Kloman, Risk Planning Group of Darien, Ct., is the new treasurer.

- |          |             |            |                |             |           |           |          |         |
|----------|-------------|------------|----------------|-------------|-----------|-----------|----------|---------|
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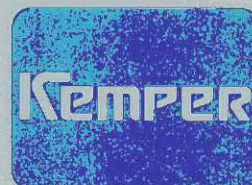
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for the long ride.**

# New look at D&O . . .

Continued from page 1

The fact is, insured clients will most likely be faced at the next D&O policy renewal date (if not sooner) with what insurers call "an opportunity" phrased much like a demand that the insured make a choice among three options:

- accept a specific exclusion in the D&O policy for any liabilities incurred by directors and officers under the pension law;
- buy a separate insurance policy covering all benefit plan fiduciaries and trustees for liabilities under the law;
- continue to use the D&O policy to cover the liabilities, by means of a buy-back provision involving a rider to the policy or specific endorsement for an additional premium.

"I believe they (insured corporations) will have to take an

exclusion the next time the policy comes up for renewal if they don't want the endorsement" at additional premium, said a leading D&O authority.

**CORPORATIONS** seemingly could argue with their insurers about liability losses claimed under D&O covers. "It seems to me that in this (loss) is the trustee or fiduciary of a pension plan in his capacity as officer or director of the company, then there is a good chance he could claim coverage under a D&O policy," reasoned Warren Brockmeier, director of risk management services for Wyatt Co.

"Naturally," he went on, "this would be subject to the exclusion in the policy of any individual receiving personal profit or advan-

tage to which he is not entitled, and the companion excluding barring dishonesty or fraud. But, beyond that, the policy might apply," he said.

Mr. Brockmeier advised, however, that any director or officer should see that the D&O policy is broadened with an endorse-

ing directors and officers of the corporation—would be covered by fidelity bonds. Mr. Brockmeier dismissed this coverage as inadequate, because it covers only dishonest acts, not mistakes of judgment, and not negligence. "It only solves half the problem," he said. "So even though

**The furor over pension fiduciary liabilities under D&O is being likened to the D&O pollution liability issue of several years ago when the Environmental Protection Act defined statutory liabilities of directors and officers. That argument resulted in specific exclusions in most D&O policies for such liabilities.**

ment that any actions taken as trustee of a pension or benefit plan "shall be construed to be actions as a director or officer."

Some risk managers have speculated that possibly pension plan fiduciaries and trustees—includ-

ing directors and officers of the corporation—would be covered by fidelity bonds. Mr. Brockmeier dismissed this coverage as inadequate, because it covers only dishonest acts, not mistakes of judgment, and not negligence. "It only solves half the problem," he said. "So even though

One argument that insurers will use to deny liability under D&O for directors and officers

who serve as trustees or fiduciaries is that "the policy covers the corporation and its subsidiaries, in most cases, depending on the form used. The pension plan or benefit plan is a separate entity, and under the policy definition of director and officer there is no coverage for their involvement in that separate entity," said a D&O underwriter.

"**AT THIS POINT** we are neither acknowledging nor denying liability under our policy. This is under discussion right now," the underwriter added.

A competitor, however, grudgingly acknowledged that insured officers and directors "have a fairly strong case" that they are acting in their capacities as directors and officers of the corporation when serving as trustees or fiduciaries of benefit plans.

"I think you could see a rash of suits against trustees and corporate officials" as a result of the diminution of assets in pension plans in recent months, coupled with the outlook for an unstable economy, said Thomas F. Sheehan, president of GATX Insurance Co. and an authority on D&O insurance. He advocates that a company purchase separate coverage for this exposure.

But would a D&O policy as presently written cover the liabilities of directors and officers who are fiduciaries with broader liabilities for pension and benefit plans under the new law? Or would the claim be denied? "I wouldn't put it that strongly," said Mr. Sheehan. "It depends on how the policies have been issued. The benefit plans must be named assureds, because the D&O policy doesn't cover them as separate entities. The insurer has a defense in that the claim is not flowing out of a director's or officer's capacity within the corporation. That party must prove that these were within the scope of his duties as a director or officer."

**HE POINTED OUT** the clause in the D&O policy form filed by American States Insurance Co. that coverage is for claims against officers "solely by reason of their being such" directors or officers.

Despite insurers' contentions that they're going to charge extra for this specific new coverage, and that there is no automatic coverage for benefit trustees under D&O policies, several carriers reluctantly conceded that "competition" in this field, and some strong defenses by corporate policyholders, could force them to admit that this is really a non-issue and that coverage is present, at least for directors and officers, under policies already sold.

An underwriter who asked to remain anonymous told this magazine that in the past he has routinely included pension plans as additional insureds on D&O covers, when requested, for a premium that generally was about 5% to 7% of the D&O premium.

"Whether the law really extends (trustees') responsibility, or directors' and officers' responsibility as fiduciaries is the question," he posed. "I don't think the new law adds that much responsibility. I think if a director or officer covered under a standard D&O policy is also a trustee or officer of a pension plan, his corporate liability is covered."

He cited an example: "Let's say a comptroller of a company is also a director of the company and is covered under a D&O policy. Also at the direction of the corporate board he serves as a trustee of the pension plan. I think any actions that he's accused of as a trustee would be protected under the D&O policy." ■

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	(THOUSANDS)													
	10	25	50	75	100	300	500	1000	3000	5000	5010	5050	5100	5300
Auto B. I. Per Person	EXISTING	EXISTING	EXISTING	EXISTING	EXISTING	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA
Auto B. I. Per Occurrence	EXISTING	EXISTING	EXISTING	EXISTING	EXISTING	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA
Auto P. D. Per Occurrence	EXISTING	EXISTING	EXISTING	EXISTING	EXISTING	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA
General Liability B. I. Per Occurrence	EXISTING	EXISTING	EXISTING	EXISTING	EXISTING	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA
Aggregate Products B. I.	EXISTING	EXISTING	EXISTING	EXISTING	EXISTING	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA
General Liability P. D. Per Occurrence	EXISTING	EXISTING	EXISTING	EXISTING	EXISTING	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA
General Liability P.D. Aggregate	EXISTING	EXISTING	EXISTING	EXISTING	EXISTING	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA
Personal Injury (e.g. Libel, Slander, etc.)	EXISTING	EXISTING	EXISTING	EXISTING	EXISTING	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA
Blanket Contractual B. I.	EXISTING	EXISTING	EXISTING	EXISTING	EXISTING	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA
Blanket Contractual P. D.	EXISTING	EXISTING	EXISTING	EXISTING	EXISTING	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA
Advertising Liability	EXISTING	EXISTING	EXISTING	EXISTING	EXISTING	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA
Care, Custody & Control	EXISTING	EXISTING	EXISTING	EXISTING	EXISTING	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA
Aircraft (Non-owned)	EXISTING	EXISTING	EXISTING	EXISTING	EXISTING	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA
Watercraft (Non-owned)	EXISTING	EXISTING	EXISTING	EXISTING	EXISTING	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA
Malpractice (Incidental Medical)	EXISTING	EXISTING	EXISTING	EXISTING	EXISTING	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA
Worldwide	EXISTING	EXISTING	EXISTING	EXISTING	EXISTING	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA	UMBRELLA

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# Cities remain tied to insurance committees, bid system for covers

NEWARK, DE.—To bid or negotiate, that was the question considered by participants in a governmental risk management seminar at the University of Delaware.

"Though we can't emphasize strongly enough that insurance should be the last consideration in a good risk management program," Professor Nestor Roos, seminar chairman noted, it often is an undeniable fact of life in government.

"Insurance is the last vestige of the patronage system," Prof. Roos said. And the way most municipalities or counties have historically obtained insurance, by accepting the lowest bid or negotiating with agents, brokers or insurance companies, gives validity to the professor's charge.

For years it has been the practice of municipalities to seek the advice of an appointed insurance committee when purchasing coverage, Prof. Roos explained. "The fact that these committees were made up of insurance agents and brokers who were only too happy to then sell the city their own particular type of coverage was by no means a coincidence," he added.

**THERE HAS BEEN** some change in this trend as cities have become more sophisticated in their approach to risk management, but a number of seminar participants acknowledged they are still tied to either the insurance committee or lowest bid system when purchasing insurance.

"We have no choice in the matter; by state law we have to take the lowest bid," Henry H. Anderson, risk manager, state of Ohio-public works, said.

Gerald Surfus, risk manager, County of Los Angeles, told seminar participants he was able to avoid the bid approach on the opinion of the county counsel that insurance is a service, not a commodity; thus bids don't have to be accepted on it.

Los Angeles County has also replaced the insurance committee with a risk management advisory committee made up of

## Limit control of regulator over Blues

MONTPELIER, VT.—The Vermont state supreme court handed down a decision strictly limiting the authority of state banking and insurance commissioner James Guest over Blue Cross and Blue Shield, largest health insurance organizations in the state.

In its decision, the high court struck down several "supplemental orders" Mr. Guest had issued last year.

The orders had directed the companies to halt sex discrimination, not favor holders of group policies, and make their boards of directors more open to the public.

The ruling said that Mr. Guest had the power to approve or disapprove rate increases but not to regulate internal policies.

"The commissioner's regulatory authority," the opinion continued, "should not obtrude into the place of management."

Mr. Guest said he intends to seek clarification of his authority over Blue Cross and Blue Shield from the 1975 state legislative session convening here in January. ■

government risk management personnel, a professional safety inspector, an insurance broker, professional risk managers from industry and a professor of insurance. "This gives us a good base on which to judge insurance programs," Mr. Surfus said.

"Unless you understand that insurance is a form of credit, you can't use it effectively," Felix Kloman, president, Risk Planning Group Inc., Darien, Ct. noted in the seminar session. "You're defeating your own purpose if you insure anything but low frequency, high severity risks," he added.

Mr. Kloman told government representatives they should be aware of what's available before

going to the insurance market.

For example, some of the larger insurance companies are willing to write direct coverage, eliminating the need for a broker in some cases. He urged seminar participants to look into available services such as retrospective rating, cash flow plans and ASO an agreement whereby the government body pays the claims and the insurance company does the paperwork.

**PROFESSOR ROOS** advised seminar participants to establish a written insurance procurement policy before going to the market. "It gets the political money off your back and gives you a method of getting quality brok-

ers and insurance companies," he said.

Steps in procuring good insurance coverage outlined at the seminar include:

- In placing legal notices, don't advertise that you're willing to buy insurance; word the notice as an invitation to receive offers and retain the right to accept or reject them.

- Give underwriters complete information on the risk; don't withhold data. "In these times of public suspicions about the honesty of government bodies," Lucien Cantin, manager, insurance and safety, metropolitan Dade County, Miami, Fl., told the seminar, "the conscientious risk manager will follow a policy of full and complete disclosure."

- If you intend to renew a policy with the present underwriter, let the company know well in advance. "Companies will respond," Mr. Cantin said, "with favorable credits or services."

In Orange County, Ca., insurance procurement is done following a written program with the following stipulation:

"The purchase of insurance is unlike the purchase of tangible items or service requirements in general, but most nearly resembles the contracting for professional service . . . Accordingly, a purely competitive price basis cannot, be the criterion used since other factors must be considered."

Agents or brokers who wish to deal with Orange County must establish their qualifications based on a questionnaire.

Where there is a wide market for the coverage being sought by the county, it provides specifications and qualified agents or brokers may submit proposals. However, they are limited to one or more specific companies or markets. Preference is given to county-domiciled agents and brokers. ■

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# Doctor's consent forms for research 'inadequate'

WASHINGTON—A legal group, which recently charged a cancer specialist with improper research methods, may have triggered a Senate investigation into consent forms used by the National Institute of Health (NIH), according to a spokeswoman for the Center for Law and Social Policy here.

The issue at stake is whether physicians who treat patients as part of a research study must present a complete consent statement form to the participating patient which details the nature of the treatment and explains that it is part of a research study.

Dr. Fisher, a University of Pittsburgh surgeon who headed a two-year, NIH-funded research study on the treatment of breast cancer, was charged by the center with failing to adequately inform his patients that their method of treatment would be one of three determined by random selection.

"There's nothing wrong with the fact that the method was determined by random selection—that's a proper research technique," Lois Schiffer, an attorney for the center's project on women's rights explained. "What was improper, in our opinion, was that participating patients were not adequately informed that they were part of a study and that this was one of the techniques," she added.

Ms. Schiffer said that the center a non-profit, foundation-funded organization, has not yet decided whether to file a suit against Dr. Fisher or the NIH.

**DR. FISHER FLATLY** denied at a recent news conference that the consent forms he used were inadequate. "I could swear on the Bible . . . that I have spent hours with my patient and their families explaining to them what the research was all about," he said.

"Written consent forms are the creatures more of lawyers than doctors and it is correct that the written forms were not detailed nor as complete as the oral discussion which sometimes lasted several hours between the doctor and patient, and patient's husband or family," Dr. Fisher added, in a written statement read in part at the news conference in Pittsburgh.

The center agreed with Dr. Fisher that oral counselling is sufficient, but only if the attending physician and a witness sign a statement summarizing the ses-

sion and keep it on file. In this case, Ms. Schiffer said, "none of these signed summaries have been kept, or at least NIH won't show them to us."

The charges against Dr. Fisher, and by association, NIH's research methods, caught the attention of Senator Walter F. Mondale, who requested complete information

on informed consent procedures from the Department of Health, Education and Welfare, (HEW) according to Ms. Schiffer.

No one on the Senator's staff could comment on whether or not he plans to hold Congressional hearings on the matter.

What the center would like to see Dr. Fisher and other physi-

cians conducting research include in consent forms given patients to sign are items supposedly required under HEW regulations, Ms. Schiffer said. Some that she noted:

- disclose the nature of the study and how it will be conducted:
- explain the risks and bene-

fits for any procedures that may be used, as well as the risks and benefits of alternative methods not used in the study; and

- state that adequate medical care and followup will be given if the patient chooses not to participate in the study, thus eliminating the element of coercion in research studies.

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### Bizarre act

PORTLAND, OR.—A discount department store here was ordered by a court to pay \$32,500 to a former employe for damages suffered as a result of a personal search by a security officer. The Multnomah County circuit court jury responded to instructions by Judge Robert E. Jones by awarding Mrs. Henrika Bakker, 47, \$25,000 general damages and \$7,500 punitive damages "to discourage stores such as Baza'r from taking similar action against other employes." Mrs. Bakker, who worked at the store for 12 years, suffered "acute depression" after security officer Elaine Thompson committed assault and battery while searching a sack she was carrying on July 18, 1973. Baza'r spokesman had testified that it was against store policy for employes to carry personal belongings in merchandise sacks in sales areas.



Dr. Fisher continues to head a team involving physicians at 37 clinics nationwide to determine whether a treatment for breast cancer, less drastic than radical mastectomy, can be found effective. Radical mastectomy involves surgical removal of a cancerous breast and surrounding muscle tissue. Dr. Fisher was consulted on the treatment for First Lady Betty Ford, who recently underwent radical mastectomy.

No new patients have been admitted for cancer treatment since the end of August under Dr. Fisher's research study, according to Ms. Schiffer. Only follow-up examinations remain to be conducted, she said.

**IT WAS MERELY** coincidence, though, that the treatment phase of Dr. Fisher's study was completed at the time the center first complained to NIH about the consent forms used, Ms. Schiffer

explained.

Since then, Dr. Fisher complained that the center's criticism has diluted the benefits of the research, in which he said "dramatic results" were shown in stopping the spread of breast cancer for pre-menopausal women by administering powerful anti-cancer drugs.

Leland P. Deck, former insurance manager for the University of Pittsburgh, said that Dr. Fisher has the "same coverage as the

350 other doctors with joint appointments (i.e., teaching and staff) to the university's medical school." All are covered for malpractice liability by Continental Insurance Co. up to \$2.3 million per claim or \$2.9 million aggregate, with \$2 million excess coverage by First State Insurance Co., added Mr. Deck, who is now the university's ombudsman.

**"IF A SUIT** is filed against Dr. Fisher," Mr. Deck said, "I don't

think it would affect the hospital's malpractice coverage. (Furthermore) I don't see any liability here. I interpret the (possible) suit as a charge against NIH practices," he said.

He mentioned that he is a close personal friend of Dr. Fisher's. "What I know about Bernie Fisher is that anyone working with him must be one of the finest physicians around, and the patients receiving treatment have the unique fortune of having one of the best physicians in their area working on them," Mr. Deck said.

Dr. Fisher was unavailable for comment on the possibility of either a suit filed against him or Congressional hearings held on the matter. ■

## AMC union puts teeth in new contract

**DETROIT**—The American Motors Corp. (AMC) settlement with the United Auto Workers (UAW), Local 72, ended a three-week-long strike and gave the union a "pattern-plus contract," a union spokesman said.

The new contract brings the AMC production and maintenance workers up to parity with the Big Three automakers and exceeds that level in the areas of dental coverage and non-economic concessions.

Dental coverage for AMC workers will be basically the same as the International Harvester Inc. plan, which provides more benefits and covers more people than the Big Three plan, according to Joe Hinsberg, manager of pension administration at AMC.

**IN EARLY MEETINGS** with the union, AMC agreed to meet the industry pattern on economic issues, but the company balked on other items, Mr. Hinsberg said. He said these disputes included a change in representation from one union steward for every 35 workers to one for every 250, the level of the Big Three; a change in bargaining rules that would provide for arbitration and make strikes less likely; elimination of the progress-sharing plan, which gives employees 15% of net earnings less 10% of net worth; and the institution of lower start-up rates for new employees, which would withhold 45 cents per hour for the first six months, refunded after the end of the trial period. The company backed down on all these issues, Mr. Hinsberg said.

AMC has not picked a carrier for its dental coverage yet, but the choice will be between four companies that gave information on costs to the negotiators during the talks. The companies are Wisconsin Blue Cross, Aetna Insurance Co. and two others, an AMC spokesman said.

The contract settlement also provides increased insurance coverage for employees. Life insurance will be increased to \$16,000, accidental death and dismemberment will be up to \$8,000, accident and sickness will rise to \$170 weekly and the extended disability will be increased to \$665 monthly. ■

## School district insured

Aetna Casualty Co. agreed to insure the Berkeley Unified School District for \$1 million against theft and vandalism, at an annual premium of \$14,000. The Board of Education in Berkeley has been unable to purchase liability insurance since 1966 when student protests and street violence resulted in considerable property damage loss to carriers.



## Wrigley offers unusual joint & survivor option

CHICAGO—Although the new federal pension reform bill has just required companies to make a joint and survivor option mandatory in their retirement plans, the Wm. Wrigley Jr. Co. has offered it since the early 1950's. Recently, it's gone one step further by introducing a double reduction approach for two of its survivor option plans, according to Howard I. Olsen, director of retirement benefits.

A standard joint and survivor option specifies that a retiree will receive a benefit which is reduced from what is otherwise payable if he or she has not elected the joint and survivor option. The option entitles the surviving spouse to receive the percentage specified

by the option, e.g., 50% of the retiree's benefit for a 50% joint and survivor option.

**THE WRIGLEY CO.'s** double reduction approach allows the retiree to choose a smaller benefit at retirement which the spouse then continues to receive upon the retiree's death. "It's a concept of retirement income based on the retirement of two people instead of one," Mr. Olsen said.

The two new options available are 66⅔% and 50% joint and survivor types, which are offered in addition to the 100% or 50% joint annuitant option that Wrigley has had for over 20 years.

There is no difference between the standard joint and survivor

option and the new option if the retiree predeceases the beneficiary (spouse). However, if the beneficiary predeceases the retiree, a double reduction of the retiree's benefit will have taken place which would not have occurred under a standard joint and survivor option, Mr. Olsen explained.

The Wrigley benefit illustrates these options by looking at a man 65 with a spouse the same age. If he were to elect the 100% joint annuity, his initial benefit would be reduced to 72.5%. Under the 50% joint annuity, the reduction would be 84.1%. Naturally, the reduction under the joint and survivor options, with the double reduction, is not as great: down to 85.1% for the 66⅔% joint and survivor option and to 93.2% for the 50% joint and survivor option.

Apparently, Wrigley retirees believe the joint and survivor option offers more security, Mr. Olsen said. A booklet sent to each prospective retiree two years be-

fore scheduled retirement explains these options, plus another called the "10-year certain option."

The 10-year certain option guarantees that the retiree, surviving spouse, or an heir will receive retirement benefits for 10 years.

**THE COST OF** the options has a negligible effect on the company, Mr. Olsen explained. "The only costs would be administrative." He added that the 10-year certain option would add a small charge to retirement plan costs because the actuarially-computed life span of the average retiree may be too short in individual cases.

Wrigley does not counsel employees on selecting the benefit which is "right" for him or her. "We won't say which choice is best," Mr. Olsen said. "The law is clear and we've got to be cautious about the advice we give employees. Otherwise, the company could be charged with misinformation." ■

## Work comp standards bill will pass says sponsor

WHITE SULPHUR SPRINGS, W. V.—Although insurance industry representatives expressed optimism over the future of the workmen's compensation line, the National Assn. of Casualty & Surety Agents and the National Assn. of Casualty & Surety Executives were told at their annual joint meeting here to expect passage of a federal workmen's compensation standards bill by the next Congress.

Sen. Harrison A. Williams, (D-N.J.), the bill's sponsor, said its enactment would add to the cost of workmen's compensation costs for employers, but estimates of just how much ranged from an approximate 30% increase to a total estimated \$160 billion.

Sen. Williams said he has changed his position on the enforcement aspects of the legislation.

**"WE NEED A** separate enforcement mechanism that is less complicated than the ones currently in the bill," he said. "One feature we are working on is a mechanism that would not totally preempt the states where they fail to follow only one standard," Sen. Williams said.

At a panel discussion before the joint meeting, Fred Drexler, chairman, Industrial Indemnity Co., said the premium volume in the field of workmen's compensation experienced a 15% growth in 1973, with premium volume of \$5.9 billion for that year expected to increase to \$6.5 billion for the current year.

Another panel member, James R. McEldowney of Ancel Earp, McEldowney & Associates Inc., suggested states create special task forces to work with the National Program to Improve State Workmen's Compensation in advancing appropriate legislative proposals.

Mr. Drexler urged a three-pronged approach to the problem of workmen's compensation coverage.

"We must work to ward off federalization of the workers' compensation system," he said, "on another side . . . to improve the systems at the state level. On a third side, we must seek to raise the clearly inadequate rates that we now have and maintain an adequate market." ■

## OPIC aids tea grower

WASHINGTON—A former tea grower in Kenya received nearly \$56,000 as settlement of an inconvertibility of currency claim with the Overseas Private Investment Corp.

The claim arose from the sale of the Marischal Tea Estate. The Kenyan government would allow the owner to take out of the country only the amount of his original investment in the estate, excluding any appreciation on the investment.

In settling the claim, OPIC exchanged the U.S. dollar settlement for 405,000 Kenyan shillings. The Kenyan currency was then turned over to the American Embassy in Kenya for use in meeting local expenses.

OPIC officials said they would be reimbursed for the claim from the Treasury department. ■

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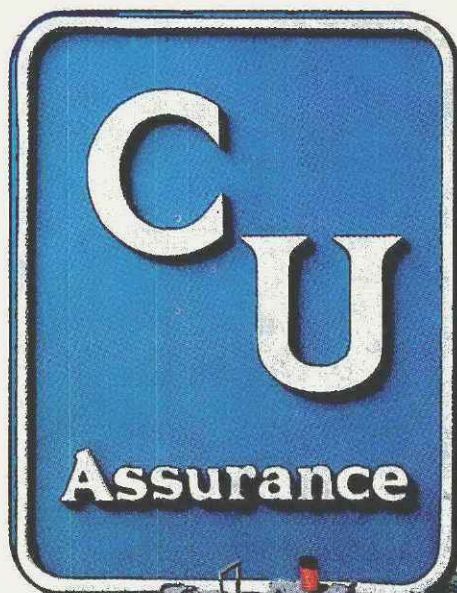
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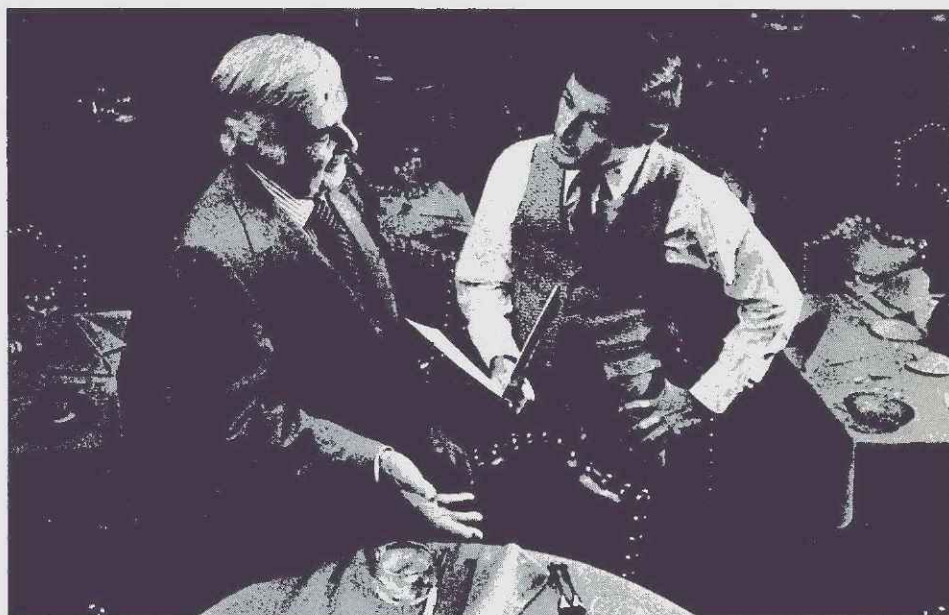
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## St. Paul official warns of endangered market for malpractice covers

DALLAS—The free market for medical malpractice insurance is in trouble, according to Waverly G. Smith, president of St. Paul Fire & Marine Insurance Co.

Speaking at a meeting of the American Academy of Ophthalmology and Otolaryngology here Oct. 10, Mr. Smith said a sharp increase in malpractice claims and an erosion of traditional legal defenses have made medical malpractice insurance a major money loser for the few companies that write the coverage.

"There probably isn't a higher incidence of malpractice today;

it's just that more patients elect to sue today," Mr. Smith said.

The insurance company executive blamed the rise in malpractice claims on impersonal doctor-patient relationships, consumerism, greater patient expectations and changes in court interpretations of negligence law.

"ALL OF THIS has sharply increased your malpractice insurance premiums, almost destroyed the availability of the coverage and increased health care costs for consumers," said Mr. Smith. "The conditions under which

we market and serve this business have deteriorated so much that in 1975 some doctors in some states may be unable to purchase standard malpractice coverage at any price," Mr. Smith told the medical group. "If the malpractice crisis cannot be solved, it may develop that the only source of financial protection for you will be a government system."

Mr. Smith said doctors must act now to avert a crisis. In addition to improving communication with patients and willingly serving on medical peer review groups, he urged doctors to work for remedial legislation: "organize yourselves in every state . . . determine what your local legal situation is . . . then set a course to correct the problems you are facing."

Action on remedial legislation in the following areas was suggested by Mr. Smith.

The locality rule, which states that a doctor is responsible for

following the accepted standard of medical practice in his own community, needs to be strengthened because, "plaintiff attorneys are bringing in paid medical witnesses from all parts of the country. Their excuse is that local doctors won't testify against colleagues." Mr. Smith claimed that these outside experts often are brought in because the plaintiff attorney cannot find a local doctor whose medical opinion agrees with the attorney's legal conclusion.

MR. SMITH URGED also that the statute of limitations must not be extended. "In medical malpractice, many states apply a discovery rule," he said, which means the statute "does not begin to run until the patient discovers the alleged injury." He said this extension places an undue burden on the doctor and the insurance company.

The doctrine of informed con-

sent is another area that needs better legal definition, he said. "In the past the physician was protected from an allegation of malpractice if he could show the patient had consented to the specific treatment or operation and that the patient was competent in the eyes of the law to give such consent."

Mr. Smith claimed that court decisions in many states have expanded the amount of information needed for true informed consent. He said he believes in the theory that the patient should be able to make an intelligent choice of possible treatments or refuse treatment altogether. "But we also believe some reasonable standards should be established by law as to how far a doctor has to go to cover the risks."

The insurance company executive called for joint medical-insurance efforts to solve the problem, pledging that his company would work with any medical group interested in taking action to avoid a crisis. ■

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## Offer cover for volunteer firefighters

JACKSON HOLE, WY.—The Volunteer Firemen's Insurance Services Inc. (VFISI) has expanded its operations into the western portion of the nation with the appointment of the Pioneer Agency Inc. here as state administrator for the specialty coverages offered by the firm.

Although the Pioneer Agency has been offering VFISI policies under this agreement since June, sales have been slow. Only three or four lines of coverage have been placed so far, according to Harry W. Weisbrod, president of the agency.

Mr. Weisbrod attributes this slump in business to a "lack of communication" with Wyoming fire companies, local governments, and other insurance agencies which could act as local sales representatives. A stronger publicity campaign is being organized by the agency to give more exposure to the VFISI policies.

Wyoming is the 11th state to approve VFISI plans. Others are: Pennsylvania, New Jersey, Maryland, Rhode Island, Indiana, Tennessee, Virginia, Delaware, Massachusetts and Connecticut. ■

## City counsel tells employe pension rights

HARTFORD—This city's corporation counsel ruled that a city employe who waived his pension rights may, under certain conditions, revoke that waiver.

In a legal opinion, Alexander A. Goldfarb asserted that if a city employe has only requested that his contribution be withdrawn or transferred—but such action has not yet occurred—the withdrawal of a waiver request is permissible.

Mr. Goldfarb said, too, that an employe does not have vested pension rights until he has had 10 years of continuous employment with the city.

As for the transfer of an employe's pension contribution, Mr. Goldfarb remarked that only those contributions the employe made himself may be transferred.

Contributions the city made may not be transferred, Mr. Goldfarb concluded. ■



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# editorial opinions

## A warning

CALIFORNIA INSURANCE commissioner Gleeson Payne had some good advice for commercial insurance consumers the other day when he warned that "this is no time to be bargain-hunting" for insurance because of the "serious situation" property and casualty insurers are finding themselves in.

Mr. Payne predicted—and he's not the only person we've heard it from lately—that several markets, notably the malpractice and professional liability markets, will severely tighten; that premiums will soar and that there may be serious shortages of coverage in the general liability areas where firms have had heavy losses; that some small, weaker and more adventuresome insurers may go out of business due to insolvency; that insurance company profits will deteriorate dramatically in the second half of this year; and that there may be wholesale acquisitions of smaller property and casualty companies by life insurance firms.

That's a rather substantial mouthful, we know, but we're afraid underwriters and buyers are going to have to swallow it in the months ahead.

The problem is simple enough; insurers, as well as the American housewife, have been hit by inflation. Claim costs and liability judgements are skyrocketing; surpluses have been dangerously eroded by investment losses in the securities markets. We're told by some, in fact, that surpluses have been so shot-through by conditions on Wall Street that many underwriters are on or over writings-to-surplus safety margins. Some of these insurers have already begun to "dump" bad business now on their books.

For commercial insurance consumers there is a special caution in all of this. If you are some of that "bad business," you may be knocking on doors looking for coverage soon. And with all this business on the street it will be tempting for some smaller insurance companies to build of their book rapidly. The danger this presents is obvious.

As Mr. Payne said: "I think a new dimension of business that you people (risk managers and those whose services they use) are going to have to be concerned with in your work is the financial security of the firm you work with."

It's good advice in any time, of course, but now more than ever.

## Ford on no-fault

PRESIDENT FORD'S anti-inflation program is a step or two in the right direction, but he is sidestepping one important issue that would have very definite economic benefits: no-fault auto insurance.

The White House told this magazine early this month that the President believes in the concept of no-fault auto insurance but that he is not in favor of a federal no-fault law. Instead, he prefers that the matter be handled at the state level, a position identical to that held by the Nixon administration, and one that is getting the expansion of no-fault nowhere fast.

The Senate passed its version of a federal no-fault law

last spring, but action in the House has been bottled up for the last several weeks. Action is unlikely until after the election next month, but even then the chances for getting a bill through the House are not considered good.

The support of President Ford could be the difference the bill needs to make it through this session of Congress, one of the bill's principal backers, Rep. John Moss (D-Ca.), believes.

Further, Rep. Moss says passage of the bill could save consumers \$1.5 billion a year. "This saving would help lower the cost of living and thus serve to reduce the present rate of inflation," he said.

In a position that sort of runs contrary to his promise that he "won't play politics" in his fight against inflation, the President apparently won't be taking the no-fault ball on to his side of the court. Games like this reassure us that it's no wonder we're in the fiscal jam we're in.

## Employee benefits

THE LAST TIME we saw a figure reported, employee benefit costs for the nation's largest employers were edging past the 30% of payroll mark. And while the demand in these days of double-digit inflation may be on dollars instead of fringes there's no doubt that employee benefits still and will continue to represent a significant expense of doing business in this country.

On December 9 *Business Insurance* will take a detailed look at the subject of employee benefits. Our look will necessarily be broad, but in digging into the subject we're sure to spot some emerging trends and developments.

The subjects of life and health insurance will of course represent a significant portion of this effort. But fringes go far beyond the more traditional forms of non-cash employee compensation. There's dental insurance now, and group legal. Mass marketed automobile insurance was a hot benefit idea a year or two ago. Where does it stand now? We heard a lot about financial services for employees a few years ago. What's happening on that front? Then there were vacation plans, educational expense allowances and so forth.

Many employers are deferring major changes in health and accident insurance plans, because of the national health insurance prospects. And revisions of pension plans are also stymied somewhat by requirements under the new federal pension law.

But we've heard a lot lately about such growing new areas as financial counseling, supplemental disability income insurance, pre-retirement counseling, and increased use of audio-visual material for benefits communications.

Employers continue to wrestle with the problem of inflation's eroding effect on benefits. Some innovative ideas on how to protect workers' benefits are coming out of the fight. We'll take a close look at how employers are controlling inflating costs, too.

Chances are there are still more new ideas blowing in the wind. We'll be looking for them.

If you think you have something to contribute to this issue, call 312-649-5278 or drop a note to Susan Alt, managing editor, 740 N. Rush St., Chicago 60611.

# letters

This column is a readers' forum. Letters are welcome. Address letters to the Editor of *Business Insurance*, 708 Third Ave., New York, N.Y. 10017.

## Public interest

To the Editor: A recent issue of your excellent magazine carried an editorial entitled "Tragic reminder". While we have seen other articles on this tragedy, your editorial was superb!

We would like permission to use it.

We are working with an association, national in scope, whose membership involves establishments in the tavern, lounge and restaurant industry. The association plans to mail to some 125,000 taverns, lounges, and restaurants nationwide. Your editorial, obviously in the public interest, should be brought before the eyes of these owners of such establishments.

We feel strongly that this broad exposure of your editorial to tavern, lounge and restaurant owners would be a tremendous public service.

Please contact the undersigned as soon as possible regarding our interest in obtaining the rights to use your editorial.

George Riemer.

Alexander & Alexander, Portland, Or.

Editor's note: Permission is granted as long as *Business Insurance* is the attributed source.

## Captives and benefits

To the Editor: Regarding your article entitled "Pension law restricts corporate use of captives for group benefits," this statement and the article indulge in a bit of over-generalization. Hopefully, the following will shed some additional light on the subject:

Increasingly, major U.S. employers are participating with their primary group insurance carriers through reinsurance of group life insurance, health, disability, and annuity insurance. Frequently, this reinsurance is the first step toward broader participation and diversification into the life insurance business, generally, on the part of the corporation.

Typically, the primary carrier provides group life, health, and disability insurance to the employees of the employer under a "guaranteed benefit policy." The employer's captive insurance company assumes, on a reinsurance basis, a portion of this insurance risk which is borne by the primary carrier, in consideration of a reinsurance premium paid by the carrier to the captive out of the carrier's general funds. If, and when, the primary carrier has

Continued on page 24

# business insurance

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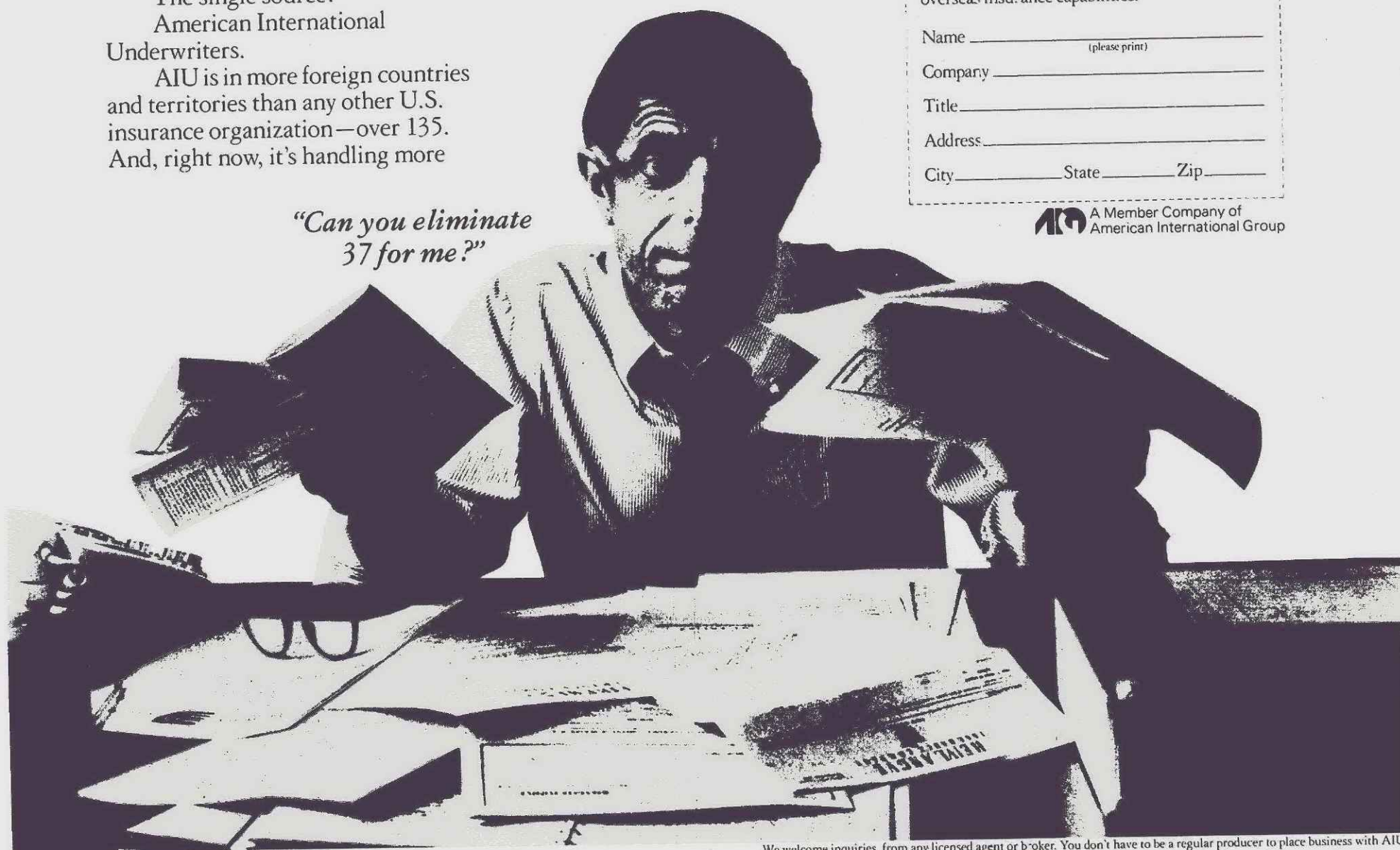
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## Standards expert calls for more product rules

TOKYO—Manufacturers were urged to adopt and use product standards to control the rash of product liability actions and awards, in a speech delivered at the annual meeting of the Japanese Standards Assn. here.

Donald L. Peyton, managing director of American National Standards Institute (ANSI), at the same time noted a growing trend in the U.S. "toward government-industry cooperative development of required standards." He criticized the Consumer Product Safety Commission, however, as the chief exception to this trend for showing "little if any inclination so far to utilize fully the capability of the voluntary standards system."

The "astonished increase in the annual number of product liability suits over the past decade" is forcing industry to give more attention to performance standards, quality control, and liability prevention programs," Mr. Peyton said. He cited figures of less than 5,000 such suits per year 10 to 15 years ago, with current annual product suits already in excess of 500,000, with settlements often in the six-figure range and sometimes going as high as eight figures.

"A SINGLE adverse liability action under these conditions can wipe out a small or even medium sized manufacturer. This is one of the primary reasons for the

increased attention being given to loss prevention programs, standardizations, and quality assurance by industry; insurance carriers; technical, professional and trade groups; and, of course, standards organizations and governments," Mr. Peyton went on to say.

Mr. Peyton said he discounts such factors as court trends toward applying absolute liability and the rapid proliferation of consumer protection laws as reasons for the increase in product liability suits.

He attributed that mushrooming number of suits to "the change in lifestyle coupled with an unprecedented growth in personal spendable income which has occurred in industrialized nations over the past 20 to 30 years."

This has put into consumers' hands "a fantastic array of highly complex products" that present problems both in manufacture and in consumer use or misuse, he continued.

Mr. Peyton believes that manufacturer use of product standards can "contribute significantly to safety, performance, and reliability of consumer products."

**THIS INCLUDES** both standards mandated by government regulatory agencies and standards developed within the private sector voluntary standards system, he said. He went on to note that the distinction between these two groups of standards is becoming blurred, with government agencies adopting private standards and private industry groups enlisting government and consumer representatives to help develop standards.

Mr. Peyton called on industry to develop products standards which reduce or eliminate unreasonable risk of injury "before the (Consumer Product Safety) Commission is forced to act," so that "There will be far less need for mandatory standards." ■

## Insurer offers to join OPIC joint group

SAN FRANCISCO—Attempts to organize a combined U.S. government-private industry association to underwrite political risk insurance on American business operations overseas will be joined and assisted by Fireman's Fund Insurance Co.

Myron DuBain, president and chief executive officer, said "we are definitely interested in working with the Overseas Private Investment Corp. (OPIC) to develop for expropriation and inconvertibility coverages."

OPIC officials have sought such "expression of interest" before taking official steps to create such a joint OPIC/private carrier group and get its operating by next Jan. 1.

"Many aspects of the OPIC proposal require clarification," Mr. DuBain added, "and much work needs to be done on drafting a constitution, by-laws and operating guidelines."

The plan, essentially, calls for a two or three year experiment, with joint underwriting to be underway by 1975. OPIC has not sought a "binding" commitment from U.S. carriers. ■

## Letters

*Continued from page 22*  
losses under the primary insurance contract, it pays them out of the carrier's general funds. Depending upon the terms of the reinsurance agreement, e.g. quota share, excess of loss, aggregate stop loss, or extended liability, the reinsurer (captive) then settles up with the primary carrier on its share of losses and expenses.

Under a "guaranteed benefit policy," at no time are any of the general assets of the primary carrier, or any of its reinsurers, earmarked, for the specific or exclusive benefit of any employees of the policyholder. The Employee Retirement Income Security Act specifically provides, that in the case where a "guaranteed benefit policy" is issued to an employee benefit plan by an insurer, the assets of the plan shall not include any assets of the insurer.

Consequently, the act does not seem to restrict corporate use of captives for group benefits, in the typical situation, under a reinsurance agreement.

Where the primary insurer is a "party in interest" wholly owned by the employer, this captive is specifically exempt from the prohibited transaction rules provided premiums for insurance plans covering employees of the employer do not exceed 5% of total premiums. At first glance, this 5% would seem to be a restriction, but for practical and administrative reasons, few employers put their captive life insurance company in the position of a "party in interest." A captive which acts as a reinsurer clearly is not a "party in interest" or a "disqualified person" as those terms are defined in the act.

Finally, the act provides for establishment by the secretary of labor of an exemption procedure under which an employer may obtain a ruling clarifying and affirming that a proposed insurance or reinsurance arrangement with a captive insurance company is exempted from the prohibited transaction rules.

Charles E. Hiatt  
Consulting actuary, Malibu, Ca.

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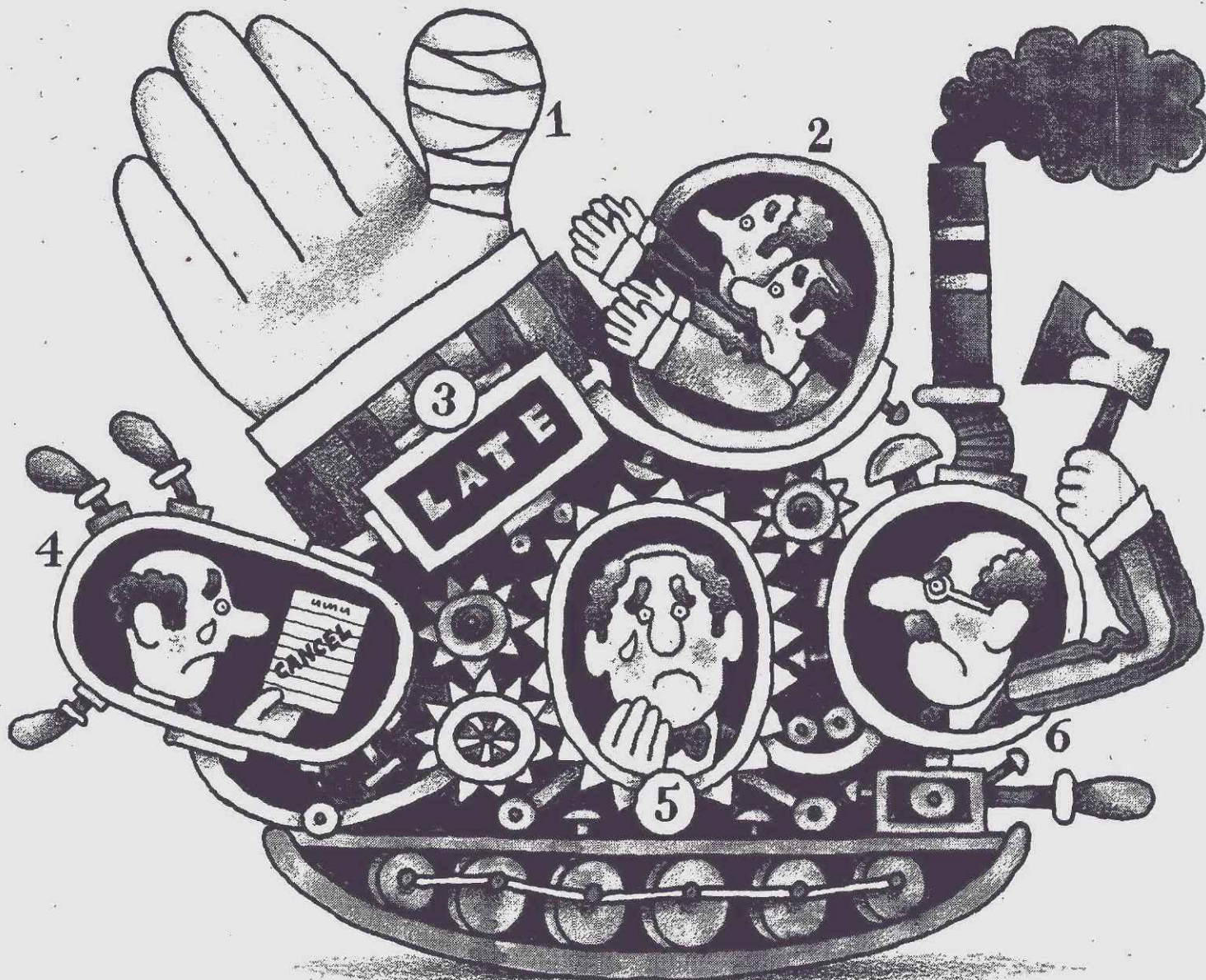
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• A brochure describing the **Insurance Institute of America's Program in Risk Management** is now available. The program's main aim is to teach the use of a logical process when making risk management decisions; the program ties risk management to the mainstream of general management principles. For a free copy write: Director of Risk Management Education, Insurance Institute of America, Providence and Sugartown Roads, Malvern, Pa. 19355.

• **Risk Management by Mandate** provides a chronology of federal safety and health legislation from the beginnings of workmen's compensation laws through the enactment of the OSH Act of 1970. Included are chapters on consumer and product liability and environmental and health risks. Copies are \$5.95 plus shipping and handling. Write: Management Research & Development Institute Inc., 321 E. William St., Wichita, Ka. 67202.

• To provide supervisors and others with a basic understanding of alcoholism and to help them recognize some of the warning signs, the Kemper Insurance Cos. are offering a free booklet, **Detour Alcoholism Ahead**. This booklet and several others on the same subject are available in quantities of up to 50 copies free by writing Public Relations, Kemper Insurance Cos., Long Grove, Il. 60049.

• **Executive's Digest** is a summary of timely articles of special interest to business people. The summaries are very brief and most are in the nature of inspiration or conversation pieces. The digest is published regularly and is available without cost by writing Cambridge Assoc., 137 Newbury St., Boston, Ma. 02116.

• **A Guide to Property and Liability Insurance on Churches** is designed for the governing body of a church, synagogue, temple, mosques or other place of religious assembly a guide to a complete insurance program for a well run organization and to assist in its maintenance and safety programs. Single copies of the guide are available free by writing Insurance Information Institute, 110 William St., New York, N.Y. 10038.

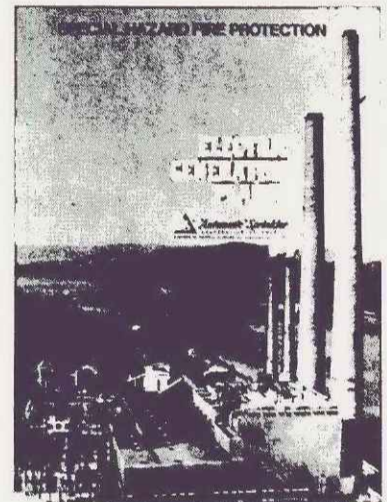
• **Comprehensive Health Insurance**, underwritten at Lloyd's of London for the first time, has been released by Illinois R. B. Jones Inc. This is a descriptive brochure about a new accident and health plan. For a free copy write T. Cath, Illinois R. B. Jones, 175 W. Jackson Blvd., Chicago, Il. 60604.

• **Yes You Can Buy Earthquake Flood Crime Insurance** explains the higher limits of coverage available under the Flood Disaster Protection Act of 1973. Available from the Insurance Information Institute, the leaflet is designed to inform property owners of earthquake, flood and crime insurance. The price is \$2 per 100 copies. Write Insurance Information Institute, 400 Montgomery

St., San Francisco, Ca. 94104.

• The third edition of **Retrospective Rating** is now available. The book, by John R. Stafford, is about retro fundamentals and construction and includes many illustrated step by step plan D calculations. The edition has been expanded 30% and costs \$6.75. Write J&M Publications, Dept. F, P.O. Box 338, Palatine, Il. 60067.

• Fire protection for electric generating plants is described in a brochure from "Automatic" Sprinkler Corp. **Special Hazard Fire Protection-Electric Generating Plants** covers both ordinary and special hazards associated



with the turbine/generator, boiler, fuel supply, transformers and other vital plant systems. For a free copy write: Manager of Marketing Services, "Automatic" Sprinkler Corp. of America, P.O. Box 180, Cleveland, Oh. 44147.

• Johnson & Higgins has recently made available a bulletin entitled **How a Flexible Investment Attitude Can Increase Your Total ROI** (return on investment.) This bulletin examines the importance of flexibility in corporate investments at a time when guaranteed long term returns are most attractive. For your free copy write Jay B. Lesiger, Communications Div., Johnson & Higgins, 95 Wall Street, New York, N.Y. 10005.

• **Errors and Omissions for Architects and Engineers**, released by Illinois R. B. Jones, is a question and answer brochure which discusses claims and specific needs for this group of people. For a free copy write T. Cath, Il. R. B. Jones, 175 W. Jackson Blvd., Chicago, Il. 60604.

• **Retrospective Rating** is a primer by John R. Stafford. It teaches the fundamentals of retro and includes several fully illustrated step-by-step retro plan D calculations. The cost per copy is \$5.50. For complete information write J&M Publications, P.O. Box 338, Palatine, Il. 60067.

• The Walter Kidde & Co. Inc. has a 12-page brochure which illustrates and describes intrusion systems and components as well as fire alarm systems. Intrusion control systems include ultrasonic and infra-red light detection devices. For a free copy of **Intrusion/Fire Alarm Systems and Components**, write Advertising

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• Western Drinking Fountain has a 40-page catalog describing **Western Safety Equipment**. The catalog describes more than 150 eye-washes, deluge showers, and eye/-face wash units. There is a complete section on accessories and dimensional drawings are included. For a free copy of the catalog write Western Drinking Foundation, P. M. Lindley, Director of Advertising, Box 47, Glen Riddle, Pa. 19037.

• **How to Insure Trust Departments Properly**, a reprint of an article by Bernard J. Daenzer, president of Wohlreich & Anderson Ltd., has been made available by the company. The article discusses errors and omissions coverage for trust departments and includes several examples of recent large losses along with the results of a bank trust department survey. For a free copy write Anthony Bova, Wohlreich & Anderson Ltd., 55 John St., New York, N.Y. 10038.

• **Today's Appraisals and the Valuation Revolution**, available from Marshall & Stevens Inc., contains facts on new tools and techniques of today's professional appraiser. It suggests revolutionary methods which can be used by today's management teams to gain tighter control on ever-changing values for insurance and other purposes. Complete listing of commercial appraisal services provided by the company and world wide associates is included. For a free copy write John Heath, Jr., Marshall & Stevens Inc., 1645 Beverly Blvd., Los Angeles, Ca. 90026.

• Yosemite Great Falls Insurance Cos., based in San Francisco, is making available a **Marketing Guide** which briefly outlines what the company has to offer in various states, as well as by type of coverage written in personal lines, commercial and casualty lines, commercial property and ocean marine lines. For a free copy write Richard A. Evans, Vice President, Yosemite Insurance Co., 717 Market St., San Francisco, Ca. 94103.

• The National Assn. of Independent Insurance Adjusters has printed the **1973-74 Blue Book of Adjusters** for industry claim/loss executives. The directory of membership contains a complete listing of association officers, committees and member firms. It also lists separately provisional members, international associate members and contains an alphabetized listing of all firms. A free copy of the book may be obtained by

writing the NAIIA, 175 W. Jackson Blvd., Chicago, Il. 60604.

• **Nutshell—A Monthly Digest of Employee Benefit Publications**, is published by Deferred Compensation Administrators Inc. This monthly service contains digests of articles, from more than 75 publications, dealing with employee benefits. For a free sample copy of the digest write Nutshell, 1645 Cargill Bldg., Minneapolis, Mn. 55402.

• **Employee Benefit Trends and Practices in the Far East** has been released by Marsh & McLennan. The pamphlet describes factors to be considered in designing employee benefit programs in the Far East and a brief review of the international employee benefit situation. For a free copy write William Welsford, Marsh & McLennan, International Benefits Services, 7 King St., East, Toronto, M5C, 1AC, Canada.

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Last year, Business Insurance's Info issue included over 200 listings of available literature and drew over 30,000 requests for the pamphlets, brochures and kits.

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## Duties without the title

# Government entities hesitate on question of full time risk managers

By MARGARET LeROUX

NEWARK, DE.—Professional risk management has not found a home in government.

As evidenced by those attending a recent governmental risk management seminar at the University of Delaware: of the group of 45, three actually had the title of risk manager; four were either directors of insurance or had insurance in their title. Nestor Roos, professor of insurance at the University of Arizona, one of the seminar's sponsors said the representation was not unusual; according to a survey by the Inter-

national City Managers Assn. (ICMA), only 73 municipalities or counties in the U.S. have a risk management department.

Because some government entities have yet to accept the concepts of risk management, it was a mixed group including purchasing agents, accounting supervisors, finance directors, claims officers and administrative assistants who attended the seminar.

Though they may not have the title, the seminar participants have the responsibilities of the risk management function and carrying them out in a political environment presents a challenge.

"Dealing with department bureaucrats who think you're just trying to steal some of their power when you inquire about their risk exposures, loss control or insurance coverage," is the biggest problem facing the head of a county risk management department.

"IT'S DIFFICULT to convince them you're working on their behalf . . . in their best interests," he complained.

Getting her programs across to a township council whose approval she needs but whose understanding is difficult to achieve is

a hurdle facing Marion D. Fenton, assistant to the township administrator, East Brunswick, N.J.

"You just can't go in and tell the council we're going into self-insurance, for example," Mrs. Fenton explained. Few members of any municipal councils or county governing bodies have any background in risk management.

Vincent J. Carfagna, supervisor of debt and insurance, city of Rochester, N.Y. noted, "In planning a risk management program, you're looking at things from a five or 10 year perspective, while the city manager or even the voters are concerned with the current financial picture."

"You have to justify the costs," he continued, "and it's difficult to make a 10 year savings through a self-insurance plan significant to the taxpayer this year."

Melissa Ulrey, insurance buyer for the city of Columbus, O., noted though her job isn't political, the city finance director, to

whom she reports, was elected on the promise to clean up the finance department.

"I don't see how you can avoid politics," she commented.

At the mention of finances most of the seminar's participants looked pained. "If I only had the budget I had in industry," one municipal administrative assistant sighed.

RONALD SHOCK, staff executive assistant, Maryland Port Administration, explained the entire finance function was removed from his department and shifted to the state treasurer's office, on orders of the governor.

"We're no longer able to go to the insurance market ourselves," he said, "and unfortunately there is no one with a risk management background in the treasurer's office."

Mr. Carfagna added, "Most of us are concerned with risk management on a parttime basis, as part of our other responsibilities."

"After this seminar," he concluded, "I could make a good case for the necessity of a fulltime risk manager for the city, but our budget doesn't justify the salary of one."

This lack of sufficient time or authority to do the job was cited by most of the participants as a common problem.

Renate Sheldon, safety administrator for the city of Newark, De. said that although safety is her main interest, she's accumulated responsibility for property and liability coverage and the workmen's compensation program for the city's 200 employees.

"Whenever something goes wrong in the city, they call me," she quipped.

Another obstacle to an efficient risk management program for municipalities was described by Miss Ulrey.

The various insurance coverages for Columbus aren't centralized she explained. "It seems as though each department is working on its own." The possibility of having excess coverage in one area and no coverage in another is all too likely, she added.

"What scares me is something coming up involving an exposure we didn't even know existed." ■

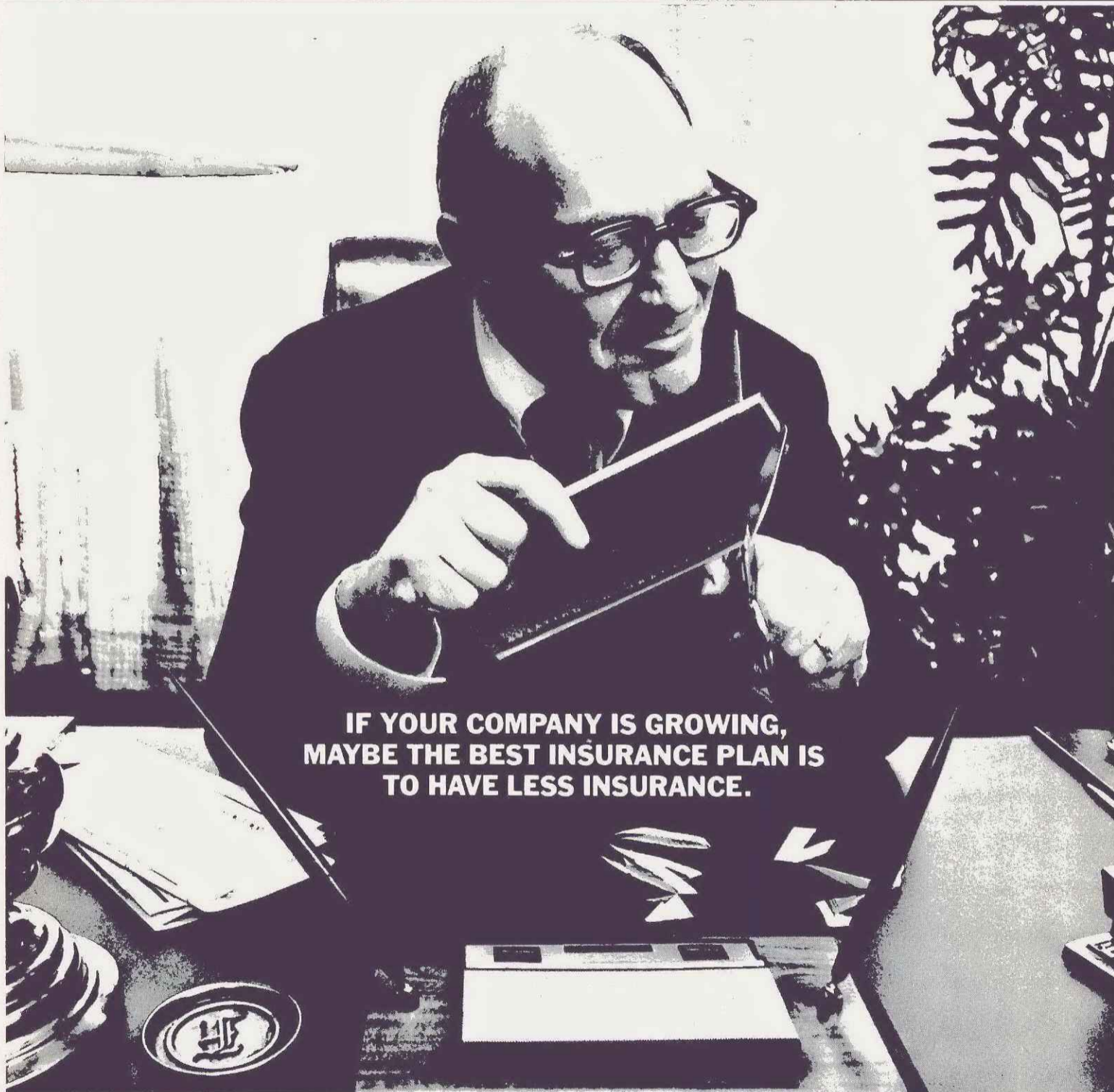
## See product cover rates going up

PORTLAND, OR.—In spite of being "hard hit" by losses resulting from consumer lawsuits over product defects, insurance carriers say they won't abandon manufacturer and distributor product liability coverage. But they will raise loss limits or deductibles as well as demand higher rates, according to Richard O. Barrett, of Aetna Life & Casualty Co., Hartford, who spoke at a two-day conference workshop sponsored by the local chapter of the American Society of Safety Engineers.

The coverage will continue to be sold "essentially because major business firms denied such coverage would simply place all their other commercial insurance with those carriers who do provide product liability protection," Mr. Barrett said.

"The simple process of defending a policyholder in a product safety court action can cost one to five times the yearly product liability premium," he added.

According to Marvin Ellis, safety engineer for Industrial Indemnity Co., major carriers of product liability insurance "lost in excess of \$5 million in the first six months of this year." ■



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# Dual option HMO regulations to be ready in first quarter of 1975

NEW YORK—"Despite the advent of national health insurance, Health Maintenance Organizations (HMOs) are here to stay," concluded speakers at the opening employe benefits session of the American Society of Insurance Management (ASIM) fall conference at the Americana Hotel here Oct. 7.

Dr. Paul Ellwood, president of Interstudy, a Minneapolis-based HMO consulting firm called HMOs "the industrial revolution of the health care field," evolving from a "West Coast phenomena" to "a viable alternative method of health care" in all states except Montana and Delaware.

Dr. Frank Seubold, acting associate director, Bureau of Com-

munity Health Services, Dept. of Health, Education and Welfare answered ASIM members' questions on sections of the HMO act dealing with mandatory dual option and employers' responsibilities in offering employes an HMO plan.

**DUAL OPTION** means employers with 24 or more employes who currently offer health benefits will be required to offer participation in an HMO plan, if such an HMO plan exists in the area, though the cost to the employer need not exceed the cost of the current benefit plan.

These sections of the Federal HMO regulations are expected to be released "within about five

weeks," Dr. Seubold told the session.

The regulations will be published in the Federal Register as a notice of proposed rule making, Dr. Seubold said, after which there will be 30 days for public comment and revision. The final regulations should be ready "in the first quarter of 1975," he added.

One ASIM member expressed concern about retired employes participation in HMOs. "The dual option will not be required for retired employes," Dr. Seubold said.

Another risk manager asked if health care for employes purchased under a trust fund would be included in the dual option

regulations. "Though the writers of the act didn't take into consideration how many trust funds provide health care," Dr. Seubold replied, "the answer is yes—and the burden is on the employer to offer the HMO."

**THE METHOD** of determining the cost of health benefits for employes is up to the employer, Dr. Seubold said, advising that employers retain these determinations for their own protection. He told them the burden would be on the HMO to seek out the employer rather than vice versa. "But don't worry," a California ASIM representative interjected, "once the federal legislation is finalized, you'll be flooded with offers."

Currently there are 179 HMOs operating in the U.S., Dr. Ellwood told the session and "at least half of them expect to be certified by the federal government in 1975."

He described for the ASIM rep-

resentatives "how HMOs will make your life different: Instead of buying an insurance policy, you'll be buying medical care for your employes," he said. To protect the employes against an HMO's failure, he added "make sure the HMO has indemnity coverage." "Your concern is not whether the HMO will fail," he noted, "but whether your employes will be covered in case it does."

Dr. Ellwood expressed disappointment with what HMOs have done so far with prevention and health education. "The promise in HMOs lies in prevention," he said, "unfortunately that's something medical schools don't teach and doctors don't practice." When it's more profitable to keep people out of hospitals, he added, "that's where the money will flow and that's where the action will be."

**DR. ELLWOOD** said he prefers HMO plans in which doctors assume the responsibility for hospitalization. "The name of the game is substitution of out-patient treatment for hospitalization," he said, suggesting that physicians' fees in an HMO plan be contingent on infrequent hospitalization.

"You can use your HMO plan to reduce hospitalization," the doctor said. He gave an example of a Minnesota group health plan where the number of people hospitalized and the amount of time spent in the hospital were reduced by 50%, compared to the state average.

"If you're not getting less than 950 days of hospitalization per 1,000 people in the HMO plan, you're not getting anything different from a conventional health insurance plan," Dr. Ellwood said. "An HMO should be providing an average 600 days of hospitalization per 1,000 people in the plan."

**THE INHERENT** structure of an HMO plan provides a safeguard against "getting ripped off by the plan," Dr. Ellwood told ASIM members. The medical records kept on patients by an HMO plan provide potential for a quality assurance program, he continued. "Find out how an HMO plan checks on quality when you're negotiating."

Dr. Ellwood criticized "business passivity in allowing health costs to rise." He noted employers are doing themselves a disservice by seeking strict federal controls on HMOs.

"HMOs are a businesslike way of providing health care, based on competition between HMO plans and community health services," he said. "The more liberal the competition, the better the prices and quality of health care." ■

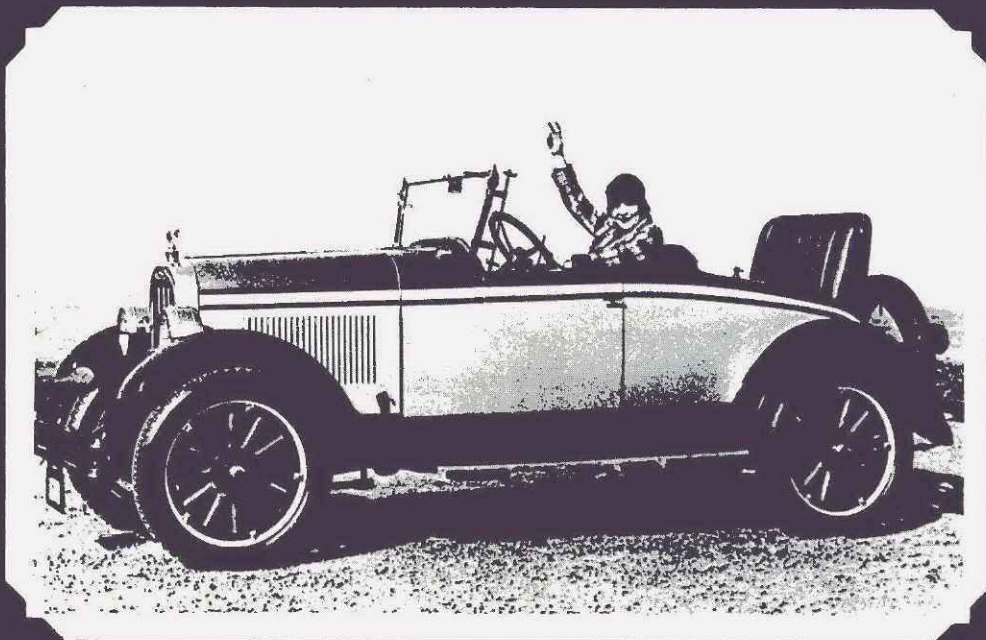
## Z-A sets competition

CHICAGO—A search to find the outstanding small business leader in the U.S. was announced by the Zurich-American Insurance Cos.

Z-A is asking all independent insurance agents to nominate people for its second annual Albert Gallatin award, based on business success and community service.

Nominees must be the head of an independently-owned business that employs less than 250 people or has less than \$10 million in gross revenues annually.

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# Move to no-fault for products liability and malpractice predicted

NEW YORK—Large product liability judgments are making it increasingly difficult for corporations to absorb insurance costs, a defense attorney said here.

Noting that corporations are "faced with the Hobson's choice of prohibitive insurance payments of astronomical deductibles," Eugene M. Purcell, of Maplewood, N.J., predicted that product liability, as well as malpractice, "will eventually follow automobiles into an enactment of no-fault.

"The inflationary factor which is presently in our everyday life is not confined to the supermarket," Mr. Purcell told a seminar sponsored by the American Society of Insurance Management and the Insurance Information Institute.

I am sure you are all aware of the magnitude of the judgments being rendered by juries in product liability cases presently.

"THE INSURANCE companies required to pay those judgments are altering rates accordingly," he said.

Turning to the defense of product cases, Mr. Purcell said that one of the major stumbling blocks is the lack of proper education of trial counsel on how the product is manufactured, or how the malpractice might have occurred.

He cited a medical malpractice case in which the attorney "attempted to try a law suit involving an operation without ever having seen the inside of an operating room.

"So it is with product safety and the defense of those actions,"

## City workers get pension benefits hike

MILFORD, CT.—The city of Milford, following more than 18 months of bargaining, reached agreement on a pension plan for municipal employees, to provide an annual pension of 1% of the first \$4,200 of an employee's average pay during his five highest-paid years and 2% of the excess past \$4,200, multiplied by the number of years of service. The plan is applicable to about 100 employees.

In effect, an employe retiring with 20 years of service, whose average salary during his five highest paid years was \$12,600, could get an annual pension of \$4,200.

**EMPLOYEES CAN** retire with full benefits as early as age 60, provided they have 15 years of Milford municipal employment. Retirement at 50% benefits is allowed after 10 years of service. Previously, Milford municipal pensions had been granted only at age 60 after 20 years of service.

In addition, the plan provides for voting, allowing an employe the right to early retirement and postponing collection of benefits until a later time, when money continues to accumulate.

The new pact, between this New Haven suburb and the Milford Employees' Assn., is applicable to all municipal workers except fire, police, public works and board of education employes. ■

Mr. Purcell said.

"When a man has his hand taken off by a punch press it is impossible to explain to a jury how the incident could have happened in the manner explained by plaintiff when the person attempting to put forth that argument has never seen the press running."

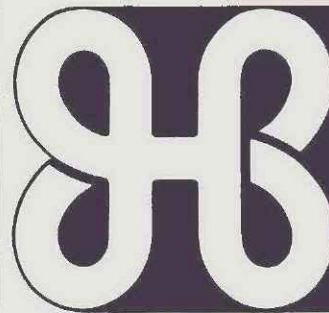
Two other "stumbling blocks" in defense of a product case cited by the attorney were (1) the nu-

merous and ever-increasing number of standards set up by governmental and independent agencies, and (2) the aid that courts are giving consumers "in dipping into the treasuries of our corporate mass producers.

"A JURY must realize that the standards set up by OSHA, as well as any applicable state standards, should only be taken into consideration in the deciding of the case," he said.

"These standards," he added, "are not the norm in the industry but are the pinnacle of what is being strived for and the lack of achieving them is not necessarily negligence."

Court interpretation of these standards, however, "have put real teeth into their meaning," he said. ■



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## Ansul Solves Fire Protection Problems



# Safety acts give risk men a 'big stick' with bosses

NEW YORK—Risk managers and safety personnel who for years have had to battle with their managements over the economics of loss prevention now have "the big stick of federal law" in the Occupational Safety and Health Act, a risk management executive told a meeting here early this month.

"I am certain that OSHA and the ability to tie safety to compliance with the law has helped many risk managers to gain the time and attention required of the company president to get a policy statement issued," said S. Peter Law, vp-insurance, U. S. Industries Inc.

Mr. Law spoke before a seminar sponsored jointly by the American Society of Insurance Management and the Insurance Information Institute.

He said that despite certain flaws, both OSHA and the Consumer Product Safety Act are "significant and constructive" laws. Both laws, he said, "represent a challenge to industry and an opportunity to the risk manager."

**HOWEVER, HE** added, effective loss prevention must start at the top and corporate policy is frequently the manifestation of the top corporate executive's interest and leadership.

"Many risk managers have direct responsibility in their company for loss prevention, but even for those that don't, loss experience is an important consideration in the performance of their job," he said.

"Safety personnel for many years have had an uphill fight.

Although in some cases the economics of loss prevention are demonstrably clear, all too often they are not, and in the absence of economic prodding it was customary to get no action.

"Now the risk manager has the big stick of federal law," he added, referring to OSHA and CPSA.

Some risk managers, the U.S. Industries vp said, have been able to "capitalize on management's apprehension over an OSHA inspector's first visit by "pointing out the need to demonstrate good faith."

"Inspectors are human and it was argued that the extent to which they lowered the boom might be mitigated if we could at least show we are trying," Mr. Law said. "That meant not only posting the posters and maintaining the injury records, but (1)

organizing and writing a safety program, (2) investigating accidents, (3) improving housekeeping and (4) instituting on-the-job training.

"These are little things that cost little," Mr. Law went on, "but are so hard to inspire some 'production-oriented' managements to institute, and may be far more significant in preventing accidents than machine guarding and many other physical improvements that do cost money."

**MR. LAW** observed that OSHA has also led to an upgrading in the quality of loss prevention engineering provided by some insurance companies and service organizations.

"To the extent risk managers have had to depend on such services as a consequence of not

having the in-house expertise, the influence of OSHA has sharpened the tools available to reduce accidents," he said.

OSHA and CPSA, Mr. Law reminded the audience, were designed to "ameliorate the grim statistics" of fatalities and injuries resulting from unsafe practices in the nation's workplaces and from the "use, misuse or abuse" of household and recreational products.

Mr. Law admitted, however, that during the first three years of OSHA less than three per cent of the nation's businesses had been inspected, and he blamed this poor performance partly on budgetary considerations which he said have stunted administration and enforcement of the law.

"Additionally," he said, "the fulcrum of each law is the establishment and enforcement standards. Particularly as applied to accident prevention rather than health, setting standards is far from a science, allowing much room for legitimate controversy."

**HE ALSO CITED** "a tendency to get carried away and impose standards that, from industry's point of view, may be frivolous, or ridiculous, or a needless irritant."

Citing statistics that show a few months prior to the Consumer Product Safety Act, 40% of companies had no product safety program and that 53% had no written corporate policy on the subject, Mr. Law said, "I feel certain CPSA is going to change this posture and the risk manager can play a useful role in it."

Further, he said, health standards "may be more scientific in origin, but there is, unhappily, much more to be learned than is currently known."

"In some instances, the effects of exposure to a material take so long in developing a disability that the establishment of cause and effect takes years to determine," he said.

Mr. Law suggested that the overall cost impact of improving the health of the worker, the safety of the consumer, and the quality of life for all "may not be as severe as it is portrayed."

He pointed to an estimate by the Brookings Institute that indicates health, safety and environmental costs will boost inflation only by .4% annually over the next 10 years. ■

## Ask Ford to name task force head

NEW YORK—The national president of the American Society of Insurance Management (ASIM) has written President Ford to ask that an executive director be named to implement recommendations of the National Commission on State Workmen's Compensation Laws.

The commission advised in 1972 that a successor commission be established to assist states in reforming workmen's compensation laws, but it was not until May 1974 that an inter-agency task force was formed; however an agency executive director has yet to be named.

E. W. Alstaetter, ASIM president asked President Ford to name a director "to mold and direct the task force into a dynamic element for change and social improvement in the workmen's compensation area." ■

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# Product safety begins at home, CPSC official tells risk managers

NEW YORK—Product safety must begin at the manufacturing level with "strict quality control procedures" that prevent defective products from ever reaching the consumer, a government official declared here early this month.

"Once a substantially hazardous product gets on the market in large numbers," said Frederick E. Barrett, executive director of the Consumer Product Safety Commission, "it's rather like Humpty Dumpty. With all our best efforts and with the full cooperation of industry, there is absolutely no guarantee—rather the contrary, I think—that all the pieces are going to be put back together."

Mr. Barrett made the remarks at a seminar sponsored jointly by the American Society of Insurance Management and the Insurance Information Institute.

"Better designed products, with exacting pre-market testing for safety," should also be a goal of manufacturers, the CPSC head said.

"SUCH TESTING should not only be of the product as it was meant to be used, but also of the product as it is likely to be misused; testing of the product not only to see how durable it is, but also to see whether it becomes hazardous as it wears out," he noted.

In the long run, it is far less costly (and certainly less damaging to the image) to anticipate problems rather than try to deal with them after the fact," Mr. Barrett said.

"The safety of products they produce must become a principal concern of manufacturers. Your

## Florida rule on newborns is clarified

TALLAHASSEE — Disability policies having hospital, medical or surgical coverage for newborn children must include benefits for sickness or injury, congenital defects, birth abnormalities or prematurity, according to state insurance commissioner-treasurer Thomas D. O'Malley. He recently issued a clarification of the state's new law requiring all family disability policies to provide coverage for newborn children from the moment of birth.

Mr. O'Malley said that while a policy is in force, coverage for each newborn child must be provided for at least 31 days after birth. If additional premium is required to continue coverage after the mandatory 31 days, the company must notify the policyholder of its availability and charge for the extra coverage. Companies cannot require proof of insurability after the 31-day period as long as the necessary premiums are paid on time, Mr. O'Malley said.

## Establish Paris office

Factory Mutual Insurance Co. announced establishment of a branch office of Affiliated FM Insurance Co. in Paris. The company, licensed for direct insurance in France and for reinsurance assumed throughout Europe, will write property lines and function as co-insurer for builders' all-risk, installation risks, machinery breakdown and DIC coverage.

influence can be of major assistance both in convincing manufacturers that such concern is vital and in helping them to develop viable safety procedures," Mr. Barrett told risk managers.

"It is in their interest. It is in your interest. It is in our interest. And I am sure that the American consumer will have few objections."

The Consumer Product Safety Commission, under provisions of the Consumer Product Safety Act of 1972, has the responsibility of protecting the public against unreasonable risk of injury from consumer products.

However, Mr. Barrett said that the commission's philosophy has been one of reasonableness and

flexibility, rather than ruthlessness, in its efforts to enforce the law.

Using a variety of data sources, the commission has been able to pinpoint what products are most frequently associated with injuries, what products cause the most severe injuries and within what age groups these injuries most often occur.

"BY COMBINING these three factors and assigning a weight to each, the commission last year developed the Consumer Product Hazard Index, a ranking of products that gives us a broad idea of where the major problems lie," Mr. Barrett explained.

If a product ranks high on

the index and the commission concludes there is "an unreasonable risk of injury associated with this product, it can issue a mandatory safety standard." This usually refers to a generic product, such as standards for power lawn mowers, rather than by specific brand name, he said.

Before issuing such a standard the commission first asks for advice from qualified persons and groups by announcement in the federal register.

Occasionally, Mr. Barrett said, there is a need for immediate action on a hazardous product. Several items, carbon tetrachloride, various hazardous toys and hazardous cribs among them, have been removed from store shelves under the authority of the federal hazardous substances act, which is administered by the commission.

Recall of products for repair, replacement of products, or consumer refunds may be mandated

as a consequence of reports to the commission, by manufacturers, distributors and retailers, of injuries resulting from their products.

IN ONE CASE, where there was imminent risk of serious injury or death, the commission used its power to go to district court and ask for "appropriate and immediate remedies to get the product out of the marketplace and warn consumers of the danger," Mr. Barrett said. He referred to a hazardous "trouble" light that posed the danger of shock which was hurriedly recalled early last month.

In all of these cases, Mr. Barrett said, one of the biggest problems faced by the commission involved education and information: how to inform consumers about specific products which are potentially dangerous and, in general, how to generate more consciousness about product safety. ■

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# Consultant advises risk managers to seek pooling plans to fund risks

NEWARK, DE.—“Pooling is an area where we’ll see the most development in funding risks in the future,” Felix Kloman, president, Risk Planning Group Inc., Darien, Ct. told a seminar session on governmental risk management here recently.

Held at the University of Delaware Oct. 7-11, the seminar explored new liabilities—errors and omissions for government employees—and new methods of handling exposures, such as self-insurance rather than the traditional insurance method.

Mr. Kloman urged seminar participants to “look into the possibilities of mutual aid plans with police and fire departments of adjacent communities,” as a

start. “Check to see if state funds or pools are available to your municipality,” he added.

Michigan, Florida, Maine and New York all have approved self-insurance pools for workmen’s compensation payments, Mr. Kloman told the group, “the cash flow savings potential of pools or reserve funds is immense,” he noted.

**AN ADVANTAGE** to joining a risk pool, Mr. Kloman said, is that “it provides a sufficient data base upon which you can make predictions of what could happen in the future.”

Self-insurance or risk retention is a new concept to most municipal governments, Mr. Kloman

continued. A variation on the pooling or reserve fund is the chronological stabilization plan, which “would protect the money in the fund from raiding by other departments.”

Internally, a method of funding risks is to allocate some of the loss cost back to the departments where losses occurred, Mr. Kloman said.

“It’s critically important to put some of the onus of the loss back on department heads . . . it provides an incentive to prevent loss in the future and makes the department head or supervisor aware that loss control is his problem too,” Mr. Kloman stated.

Assumption of risks is a major challenge facing municipalities,

Mr. Kloman said. “You’ve got to be careful in delineating between self-insurance and non-insurance, however,” he added. “A retention plan should be voluntary; you shouldn’t be surprised when something happens.”

Throughout the seminar speakers reiterated the importance of a written management program or manual for governmental bodies. “You should have a written statement of your goals and objectives as well as the limits of liability,” Gerald Surfus, risk manager for County of Los Angeles, Ca. told the seminar.

**OBSTACLES FACING** self-insurance plans include the possibility that the psychological attitude of elected officials may be averse to the assumption of a major risk, Mr. Surfus said. “On the other hand, there’s a debilitating aspect to the purchase of insurance in that it creates a false illusion of safety,” he added.

The erosion of the governmental immunity doctrine has uncovered new liabilities for municipalities, Mr. Kloman said. Prime among these is errors and omissions.

At the same time the insurance market for E&O coverage is becoming “very tight,” C. C. “Bud” Griffin, risk management consultant from Los Angeles, Ca. informed the seminar.

Participants in the sessions agreed. “Can’t get a quote on it,” Robert F. Rung, director of purchasing, Buffalo, N. Y. said of E&O coverage.

Clarence Richard, risk manager, Lafayette, La. noted, “We’re losing markets on it.”

“Errors and omissions coverage is a real problem in California,” Mr. Surfus added.

Another liability government risk managers should consider, Mr. Kloman said, is compliance with the Equal Employment Opportunity Act.

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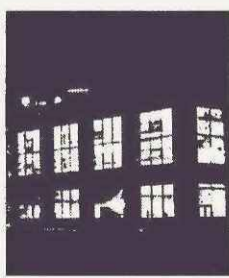
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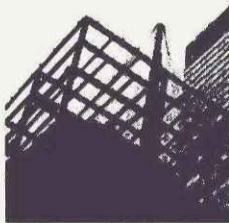
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# Pinkerton's the professionals

**“THERE'S A** legal liability to create and carry out an affirmative action program,” he said. Though almost all of the seminar participants acknowledged that their municipalities or counties have affirmative action plans none of those attending had direct responsibility for carrying out the program.

With the increasing use of computerized data, security of information is another exposure new to government risk managers.

“How many of you have microfilm back-up of property records?” Mr. Kloman asked. Without such back-up protection, a serious loss would assume catastrophic dimensions, he warned.

What it all gets down to is “control as the keystone of the risk management process,” Mr. Kloman noted.

## Seminar to analyze risk cost aspects

AMARILLO, TX.—Four insurance authorities will analyze aspects of risk management costs at a conference for risk managers and financial executives being held Nov. 6-7 here, sponsored by the Institute of Risk Cost Control, an affiliate of Corporate Systems Corp.

Scheduled speakers are Bruce D. Evans, assistant professor of the graduate school of management at the University of Dallas, William S. McIntyre, president of the risk consulting firm of RIMCO, John A. Lindquist, risk manager for Anderson Clayton & Co., and Guyon Saunders, president of Corporate Systems Corp.

Topics to be covered are methods of evaluating risk management performance, reinsurance, techniques for controlling insured and self-insured risk costs, and use of information systems to monitor risk costs.

The conference registration costs is \$285 for three nights' lodging.

## Bananas self-insured

Hurricane damage to the Castle & Cooke banana production facilities in Honduras will be covered by “substantial” self-insurance funds and will not adversely affect short or long term earnings, D. J. Kirchhoff, president told the San Francisco Security Analysts meeting recently. Castle & Cooke is the largest importer of bananas, with a third of its volume from Honduras. Mr. Kirchhoff said 70% of the hurricane damage will be “only temporary and quickly and inexpensively repaired.”



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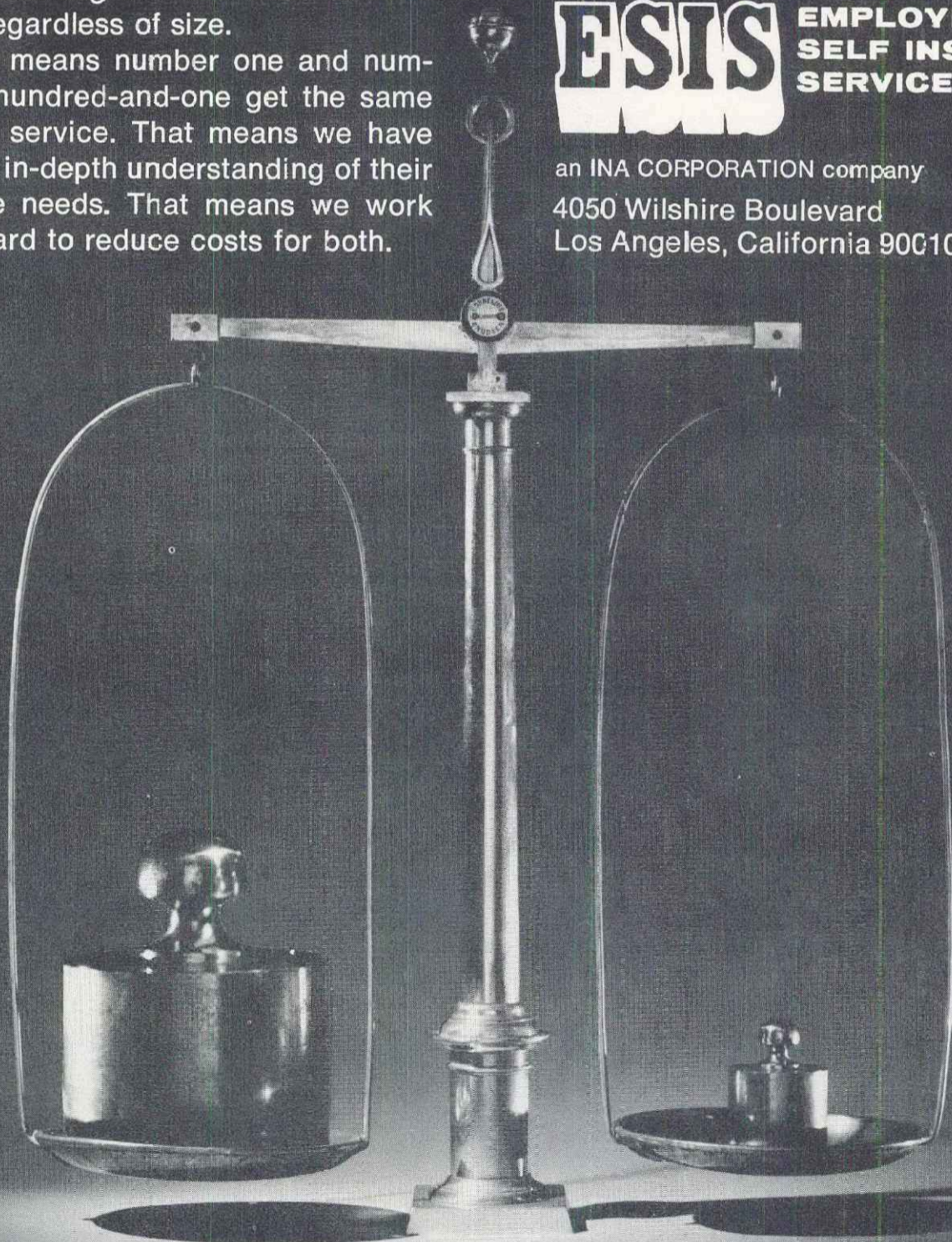
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## business insurance

## PERSPECTIVE

## Are restoration costs, new hazards covered for valuable papers?

By WILLIAM H. RODDA  
President, Marine Insurance  
Handbook Inc., Chicago, Illinois

MANY BUSINESS AND professional organizations would be put out of operation if their records were destroyed. Plans, drawings and specifications of architects and engineers; case histories of doctors, dentists and hospitals; records of deeds and other public documents in the custody of public officials and governments; customers accounts of merchants; client records of lawyers and insurance agents are but a few of the papers and records that are vital to the continued operations of their owners.

The term "valuable papers" insurance perhaps is deceptive. Business and professional men may not think of their records as being valuable papers. A more descriptive name probably would be "destruction of records" insurance. The need for this special kind of insurance arises because of the restrictions in the traditional insurance policies applying to loss of records. These restrictions have been modified only to a minor extent in the "package" or "broad form" insurance policies.

The standard fire policy reflects the traditional reluctance of insurance companies to cover the intangible values represented in paper. It states, "this policy shall not cover accounts, bills, currency, deeds, evidences of debt, money or securities; nor, unless specifically named hereon in writing,

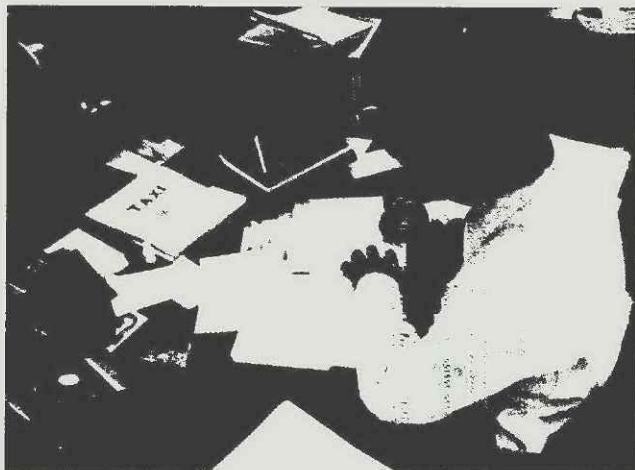
bullion or manuscripts."

The forms which have been added to fire and extended coverage policies for many years have not done much better. The valuation provisions relating to books of account, drawings, card index systems and other records limit the insured's recovery in case of loss to the cost of blank books, blank pages or other materials, plus the cost of labor for actually transcribing or copying such records.

There would be no payment for the cost of research that might be necessary in rebuilding the records. The only amount payable in addition to the cost of blank books would be the cost of copying the records from other sources, if actual copies of the records did exist.

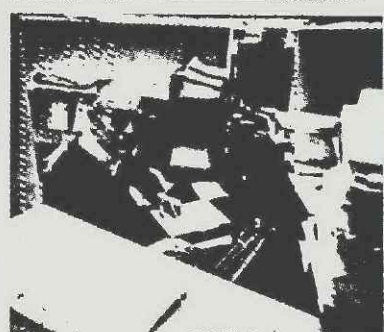
THERE ARE SOME automatic extensions of coverage to valuable papers under the new "package" policies but these are only token extensions. Their principal deficiency is in the dollar amount of coverage which is granted. This is limited to \$500.00 under the commercial and office forms of the special multi-peril policy programs, and to 1% of the coverage but not exceeding \$5,000.00 under the institutional form of this program.

The coverage granted within these modest dollar limits is good. It applies to valuable papers and records consisting of books of account, manuscripts, abstracts, drawings, card index systems, film, tape, disc, drum, cell or other magnetic recording or storage media for electronic data process-



## VALUABLE PAPERS

If records are destroyed, duplicate sets are invaluable. If they must be reconstructed from outside sources, the process will be costly, and care should be taken that this is covered under an insurance policy.



ing, and other records. This includes the cost of research and other expense necessarily incurred by the insured to reproduce, replace or restore such valuable papers and records. This wording is sufficiently broad to include the new electronic records. It also would cover the expensive research and development that might be needed to reconstruct architectural and engineering records, or to restore the institutional records in a hospital, or a government office that handles such records as deeds. The unsatisfactory feature is the low dollar amount

of insurance.

Some of these newer forms are as restricted as the old forms of fire insurance. The physicians and surgeons floater form, for example, limits recovery to the cost of blank books, cards, or blank tapes or other electronic media. The theft coverage of the broad form storekeepers endorsement and of the mercantile robbery and safe burglary endorsement excludes entirely the loss of manuscripts, books of account or records. These exclusions are important in today's

Continued on following page

## Contractor risks grow in wake of NY case

"Being named on an owner's insurance policies is no longer enough to prevent the ever present threat of subrogation. It is necessary . . . to seek other protection."



By DONALD W. BERRY  
vice president  
C. B. Lilly Inc.

HERE IS NEWS from New York's highest court, the court of appeals, for those who have thought that being named as an insured on a property insurance poli-

cy barred subrogation by the insurer. The recently decided case is *Tishman v. Carney & Del Guidice*.

The facts look simple enough. At the time of the fire, U.S. Fire and Royal Indemnity each had 50% under builder's risk policies issued to: "Paul Tishman Co. Inc., its subcontractors, et al." Each paid about \$3,000 to Tishman, subrogating against subcontractor Carney & Del Guidice on grounds of negligence and an agreement to indemnify. The defense, of course, was that Carney & Del Guidice was itself an insured.

The court of appeals memorandum is brief, and does two things:

- Agrees with the majority at the appellate division (which had held for the insurers).
- "Merely" adds that "defendant's insurable interest under the fire insurance policies here in question was limited to its property interest in the building under construction, i.e., the tools, labor, and material furnished or owned by the defendant." (These were not involved in the fire.)

The fascinating thing about the insurable interest statement, "merely" added, is that the majority at the appellate division did not think insurable interest was an issue. The dissent did, but the majority said, "The dissent raises and demolishes an issue not presented in the case, namely, whether the defendant had an insurable interest."

With what, then, was the court of appeals agreeing, before delivering the coup de grace to Carney & Del Guidice's "interest" in the damaged property? Without denying that defendant had an insurable interest, (it said such issue was not presented), the majority at the appellate division had to find that the policies did not insure the defendant. It paid the policies "insured only the structure for loss by fire or other included risk. These policies did not insure the assureds against liability to others. Had this been the coverage of the policies, the defendant would have been protected and the cases cited in the dissent would have had application."

WITH THESE WORDS, the appellate division destroyed the usefulness of builder's risk policies and installation floaters as a means of preventing litigation among the insured owner, general contractor, and subcontractors. Its decision encourages litigation among such parties, and it is reasonable to expect that claims will proliferate. Being named on an owner's insurance policies is no longer enough to prevent the ever present threat of subro-

gation, so it is necessary for the contractor to seek other protection. He can either ask for specific waivers of subrogation from the insurers (query: does not Tishman itself suggest that these might be invalid?) or for a grant of liability coverage under the policies, or for specific releases from the other insureds (query: how long will the courts continue to sustain such exculpatory clauses?) None of these is a wholly practical and familiar means of satisfying the legitimate aspiration of contractors to be free of claims for damage to property upon which they must enter in order to work.

Of the objections to liability insurance, perhaps the most important is that whereas the builder's risk policy is purchased with the value of the property, and maximum probable loss, in mind, the general liability market, including umbrella liability underwriters, is simply not geared to recognize and price the exposure represented, for example, when an electrical contractor takes a job in a \$50 million petrochemical complex.

Reading the opinion of the majority at the appellate division, one must wonder if it did not err on three important respects;

- Although the insurance policies did not insure Carney & Del Guidice's liability to others, nor all of their possible liability to Tishman, it did insure their interest in the property which was the subject of the insurance. If that interest materialized in

Continued on following page

## business insurance

## PERSPECTIVE

## Records . . .

Continued from preceding page

society because the purpose of a burglary or robbery may be the theft of documents or records.

What is the answer? First, the professional person or merchant should consider whether he needs coverage for the reconstruction of his records. Second, he should analyze the insurance available under a valuable papers and records policy to see if it does cover all of his exposures.

What makes records worth the special coverage of a valuable papers insurance policy? It is the fact that research or development work of some kind must be done to reproduce them. There is no need for account books or other papers if copies exist in some form from which the information can be reproduced without trouble. The coverage of the usual fire insurance form would be adequate because it covers the cost of blank books plus the cost of labor for actually transcribing or copying such records.

**THE INSURED WHO** has extensive records that would have to be copied from other sources after destruction in a fire should make certain that his coverage does include the cost of transcribing his records. The \$500.00 coverage of the special multi-peril policy would not be adequate for the copying of extensive records. An insurance company might contend that the SMP policy provides only \$500.00 of coverage for any copying or reproduction of records. The fire policy form may be broader in this respect than the SMP policy.

The architect needs valuable papers coverage for his plans and specifications that are in the development stage and that have not been reduced to reproduction form. The doctor and dentist need the coverage for their case histories. Patients' histories would have to be reconstructed by further consultation with the patient, or from information supplied by other doctors, or from hospital records. Lawyer's case material might have to be built up from a repetition of research in law libraries. If records can be copied, there is no need for the special coverage. If they have to be built up from outside information or research, then there is a need for coverage applying to that work.

How good is the coverage of the valuable papers and records policy? It is excellent for the type of records for which it was designed twenty years ago. It needs clarification for some types of records and for some new situations.

The amount of insurance under the policy should be established with care. The insured may tend to underestimate the cost of reestablishing the material. This is especially true today when labor costs are escalating at a rapid rate. It should be noted that this policy does not cover money, travelers checks, money orders, or securities.

**THE ORGANIZATION** that intends to cover tape and other data processing records should get a clarification of the description applying to "valuable papers and records." The definition does not specifically mention tape, disc, drum or other magnetic records. This can be accomplished by a full description of the records in the policy.

The valuable papers and records policy as usually written limits the coverage on property away from the insured's premises to 10% of the amount of insurance or \$5,000.00, whichever is less. This may not be adequate for off-premises coverage for an organization that has work in process in several points, or whose business requires that documents be in transit between several different locations. The amount of off-premises coverage can be increased where needed.

An exclusion that should be modified for some policyholders is that applying to "loss due to any fraudulent, dishonest or criminal act by any insured, a partner therein, or any officer, director or trustee thereof." Of course, it is not likely that an insurance company would agree to cover the dishonest or fraudulent acts of actual insureds or persons who actively own a business, but there can be unusual circumstances that would justify a modification of the wording. In one case, a person who held title of vice president in an employment

erasure of electronic recordings, except by lightning." Undoubtedly insurance companies would charge an extra premium to cover the electrical damage to electronic recordings, but coverage should be available for an erasure or modification of the records by some accidental occurrence. Such coverage probably would exclude damage from a mere mistake in programming or handling, or from a malfunction of the equipment. This might be handled by a deductible applying to such a loss. A deductible could be clear cut, whereas it

fiscation by a government if the insured has papers or records in transit from overseas or at overseas locations.

A valuable papers and records policy provides for two methods of coverage. First is a kind of blanket coverage. The records are described in general and there is usually a dollar limit per item. For example, a doctor's policy would specify a limit in dollars for each patient's case history. There is also a total limit of liability for this kind of coverage under the policy. The doctor, for example, might have two thousand case histories insured for \$100.00 each, which would give a total insured amount of \$200,000.00. This seems like a lot of insurance, but the rates are generally low enough to encourage full coverage. This blanket coverage provides good insurance for items that can be reconstructed by research or from outside information.

**THERE IS ALSO** provision for specific insurance on items that cannot be reconstructed or that are irreplaceable. Valuable documents are examples. These items are listed specifically with a complete description and with a value applying to each item. This is similar to the way in which fine arts are insured. This requires that the values be agreed upon in advance between the insured and the insurance company. A qualified appraiser is usually employed for the purpose of determining what the proper values are. Then in case of loss, the insurance company pays the agreed value for each item that is lost.

This latter type of coverage is desirable for museums or dealers that have large numbers of valuable documents or other papers. It may also be appropriate for governmental offices or officials where the actual records could not be replaced or reconstructed.

The special nature of the documents and records in business, professional and government offices, and in libraries and in museums, justify a close look at probable loss if such papers were destroyed. The valuable papers and records policy with its available modifications can provide the broad insurance that would be needed for rebuilding the records to their former conditions.

"How good is the coverage of the valuable papers and records policy? It is excellent for the type of records for which it was designed twenty years ago."

agency stole employment application cards, apparently for the purpose of setting up his own business. Liability for the loss was denied by the insurance company even though the title of vice president appeared to be honorary rather than actual and the person's position was really that of a general manager.

**IT SHOULD BE** pointed out that this policy does not cover any loss due to the theft of information by employees or others. It covers only the destruction or loss of the records. However, destruction by employees would be covered unless excluded by the reference to the insureds, partners and officers described above. Actual theft of the records themselves, as distinguished from theft of information, would be covered, subject to any other limitations or exclusions in the policy which might apply to the occurrence.

Another exclusion that may need to be modified for an insured having electronic processing is that excluding loss, "due to electrical or magnetic injury, disturbance or

might be difficult to define exactly where a mistake or malfunction was to be distinguished from an accidental occurrence.

A similar observation can be made regarding the nuclear and radioactive exclusions. Any plant that handles nuclear materials or radioactive material might find it desirable to have a modification of the nuclear and radioactive exclusion.

The provisions of what is usually called "war damage exclusion" include some phrases that apply to governmental action that is not related to war damage. Excluded is loss due to "seizure or destruction under quarantine or customs regulation, confiscation by order of any government or public authority, or risks of contraband or illegal transportation or trade." An organization that is dealing overseas has great difficulty in meeting all of the requirements of every foreign government. There might be a confiscation by a foreign authority under circumstances that would be perfectly proper and legal under United States laws and customs. It might be desirable to extend coverage to loss from con-

## Tishman ruling's impact . . .

Continued from preceding page

the form of liability for its destruction, that was valid insurable interest. Failure to recognize this led to the court's conclusion that the defendant had "picked up the wrong fork" when it relied on the property insurance rather than a liability policy.

- It deprives industry of a convenient and effective means to prevent the possibility of claims and litigation among the small community, (owner, architect, contractor and subcontractors), concerned with the erection, maintenance and preservation of a specific piece of property.

- It tends to place emphasis on the property insured rather than the interest insured, a reversal, surely, of the thinking that has pervaded some of the leading property insurance cases.

Did either the majority at the appellate division or the court of appeals really come to grips with insurable interest? As noted by Justice Capozzoli, who dissented at the appellate division, Insurance Law (New York, 148) provides:

"No contract or policy of insurance on property made or issued in this state, or made or issued upon any property in this state, shall be enforceable except for the benefit of some person having an insurable interest in the property insured. The term 'insurable interest' as used in this section,

shall be deemed to include any lawful and substantial economic interest in the safety or preservation of property from loss, destruction or pecuniary damage."

The words of the court of appeals that limited the insurable interest of Carney & Del Guilice to "tools, labor and material furnished or owned" deny that Carney & Del Guidice had a lawful substantial economic interest in the preservation from loss of the entire project, arising from its exposure to claims made by the owner or others working on the project or by subrogation of their insurers.

**THERE IS NO** contractor who hopes to be in business a year hence who is not acutely aware of subrogation exposure.

In "Commentaries on the Revised Insurance Law of New York," the authors, Kaplan and Gross, discuss the then-new Section 148, noting that the definition of insurable interest in property was thought by the drafting committee to be "in accordance with the decisions of the highest court of this state." One such decision used by Kaplan and Gross as an example, was given by the court of appeals in 1887. *National Filtering Oil Co. v. Citizens Insurance Co.* 106 N.Y. 535, is quoted:

"They (prior decisions by the court of appeals) decide that an interest, legal or

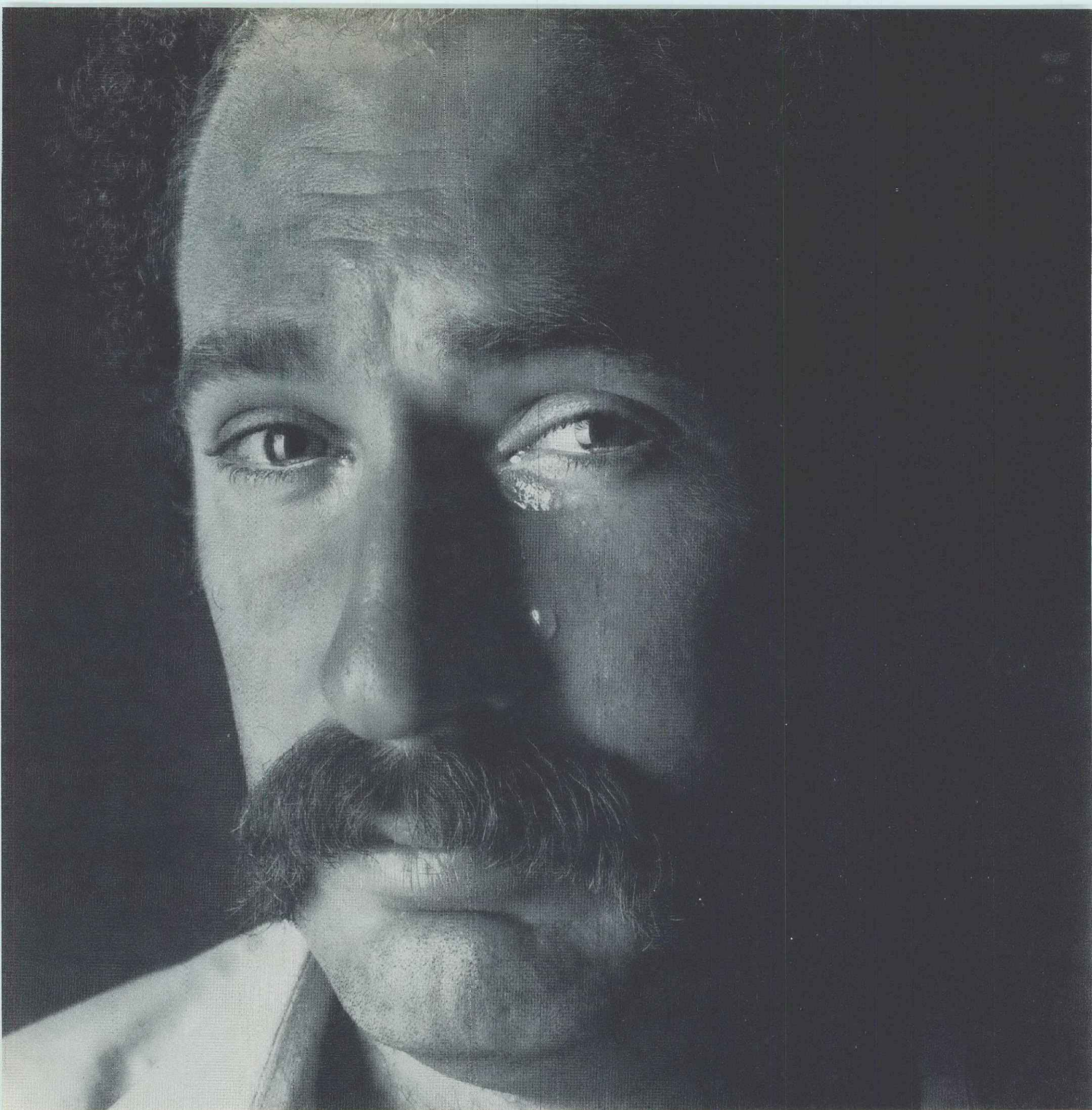
equitable, in the property burned, is not necessary to support an insurance upon it."

In Tishman, the court has narrowed its conception, at least so far as contractors are concerned, despite there being no doubt that Section 148 was intended to broaden the meaning of insurable interest and make it inclusive of interests that might previously have been thought to be not included.

The purpose of Section 148 and comparable statutes, and of the fundamental concept of insurable interest, is to prevent wagering contracts conducive of the destruction of life and property. What an unfortunate twist it is to so construe the matter that a contractor must now doubt that he has an insurable interest (in New York he will know that he does not) in the property upon which he must enter in order to work—as though he might have some wagering interest in its destruction!

Will the Tishman dictum be adopted in other jurisdictions? The possibility must certainly be considered. Until further developments, however, it is incumbent on insurance people to take cognizance of its impact.

Donald W. Berry is vp of C. B. Lilly Inc., an insurance consulting firm in Glen Rock, N.J. A CPCU and a past president of the New York chapter of ASIM, Mr. Berry was insurance manager at Borden Co. prior to joining Lilly in 1969. Mr. Berry has served on the American Management Assn.'s insurance planning council.



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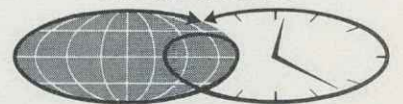
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## Standards expert calls for more product rules

TOKYO—Manufacturers were urged to adopt and use product standards to control the rash of product liability actions and awards, in a speech delivered at the annual meeting of the Japanese Standards Assn. here.

Donald L. Peyton, managing director of American National Standards Institute (ANSI), at the same time noted a growing trend in the U.S. "toward government-industry cooperative development of required standards." He criticized the Consumer Product Safety Commission, however, as the chief exception to this trend for showing "little if any inclination so far to utilize fully the capability of the voluntary standards system."

The "astonishing increase in the annual number of product liability suits over the past decade" is forcing industry to give more attention to performance standards, quality control, and liability prevention programs," Mr. Peyton said. He cited figures of less than 5,000 such suits per year 10 to 15 years ago, with current annual product suits already in excess of 500,000 with settlements often in the six-figure range and sometimes going as high as eight figures.

"A SINGLE adverse liability action under these conditions can wipe out a small or even medium sized manufacturer. This is one of the primary reasons for the

increased attention being given to loss prevention programs, standardization, and quality assurance by industry; insurance carriers; technical, professional and trade groups; and, of course, standards organizations and governments," Mr. Peyton went on to say.

Mr. Peyton said he discounts such factors as court trends toward applying absolute liability and the rapid proliferation of consumer protection laws as reasons for the increase in product liability suits.

He attributed the mushrooming number of suits to "the change in lifestyle coupled with an unprecedented growth in personal spendable income which has occurred in industrialized nations over the past 20 to 30 years."

This has put into consumers' hands "a fantastic array of highly complex products" that present problems both in manufacture and in consumer use or misuse, he continued.

Mr. Peyton believes that manufacturer use of product standards can "contribute significantly to safety, performance, and reliability of consumer products."

**THIS INCLUDES** standards mandated by government regulatory agencies and standards developed within the private sector voluntary standards system, he said. He went on to note that the distinction between these two groups of standards is becoming blurred, with government agencies adopting private standards and private industry groups enlisting government and consumer representatives to help develop standards.

Mr. Peyton called on industry to develop consumer products standards which reduce or eliminate unreasonable risk of injury "before the (Consumer Product Safety) Commission is forced to act," so that "There will be far less need for mandatory standards."

## City buys first E&O cover for mayor and councilmen

LAFAYETTE, LA.—The city of Lafayette has purchased the first errors and omissions policy for municipal officials to be written in the state of Louisiana, according to city risk manager Clarence Richard.

"As far as I can gather, this is the first such policy written," Mr. Richard said. "We've not heard of any other such coverage in the state."

The policy, written by International Surplus Lines Insurance Co. has a \$1 million annual aggregate loss limit and includes a \$5,000 deductible for each occurrence. It covers the mayor, the five members of the city council as well as persons appointed to town boards, Mr. Richard said.

**THE POLICY** supplements the general liability policy the city has with Maryland Casualty Co.

Mr. Richard said the impetus to seek out errors and omissions coverage came from an article in *Business Insurance* (July 8, 1974) describing the liability coverage for city employees being sought by the Texas cities of Dallas and Port Arthur.

The Lafayette risk manager said he clipped the article and sent copies of it to the city finance director and mayor, who approved his proposal.

"We've recently changed our form of city government from a trustee setup to a mayor and city councilmen and there are plans to enlarge the council in the near future," Mr. Richard explained.

"Since we're still a bit on shaky ground as to who's responsible for what, I thought errors and omissions coverage would be a good idea."

## Court rules \$4 million award fair

SAN FRANCISCO—A \$4 million damage award, made last year to a 13-year-old boy who was left paralyzed and mute from injuries suffered in a fight during a high school baseball game, recently was upheld by the California court of appeals.

The court ruled that evidence supported the conclusion of a San Francisco superior court jury that "negligent acts" by Mt. Zion Hospital, Dr. David Haskin, the city of San Rafael and the San Rafael School District resulted in permanent injuries to Kelly Niles, son of San Francisco radio personality David Niles.

The court also decided "substantial evidence" supported the \$2.4 million award for Kelly Niles' "total economic loss" and that an additional \$1.6 million general damages was not excessive.

Mt. Zion Hospital and the physician were ordered to pay \$4 million and the city and school district were assessed a total of \$25,000. All were insured by various liability carriers and all had appealed the earlier verdict.

Kelly Niles suffered internal bleeding and a fractured skull in a school grounds fist fight on June 26, 1970. Witnesses testified he was examined at Mt. Zion by Dr. Haskin, sent home and then returned to the hospital after he became worse.

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# AIA calls for combination state and federal actions for efficient no-fault

CONCORD, N.H.—“Based on our association’s work in all 50 state legislatures for nearly six years, we have now concluded that the most effective way to achieve a genuine and efficient no-fault auto insurance system is through a combination of state and federal actions,” president of the American Insurance Assn. (AIA) declared at the New Hampshire Insurance Seminar here earlier this month.

“Our experience convinces us that national standards no-fault legislation is the answer to two sets of problem questions,” T. Lawrence Jones told the group. “One is how best to correct the deficiencies, waste and inequities of the fault system. The other is how best to achieve this desired social change for the nation as a whole before everybody gets too much older.”

Mr. Jones said that achievement of substantial no-fault reform as a national policy, has been “slow and agonizing.”

“DURING THE last six years, all of the states have considered no-fault auto insurance laws at least once. Only 15 of them have passed genuine no-fault bills which substitute—in part, at least—the right to collect for the right to sue.”

The speaker emphasized that the lack of enactments does not imply a lack of effort.

“Twenty-three states have tried three times or more to enact no-fault—and failed. Entrenched opposition has blocked no-fault in California every year since 1967. Rhode Island has lost on six attempts. New York finally succeeded on its seventh. This year, no-fault has been actively considered by 26 states, the Virgin

## Medics pay 69% more for insurance

HARTFORD—Inflation and higher judgments have resulted in sharply increased premium costs for malpractice insurance for physicians in Connecticut. The boost is averaging 69%.

Some 3,000 physicians covered under a group policy written by Aetna Life & Casualty Co. have been notified of their first increase since the group plan began four years ago.

Written for the Connecticut State Medical Society, new rates (effective Oct. 1), are carrying annual premiums ranging from \$678 for a general practitioner to \$5,258 for a surgeon.

Aetna has group policies for similar organizations in Vermont, Delaware, West Virginia, Montana, Utah, Wyoming and Washington.

THE 69% HIKE is described by Pierce M. Enes, director of multiple account sales for Aetna Life & Casualty, as “moderate,” compared to rate increases accorded physicians in other states. For his part, Dr. Isadore Friedberg, head of the Hartford County Medical Assn., is concerned over the need of the professional ranks “to practice defensive medicine.”

“And that,” he says, “is costing the public lots of money. To protect myself, I have to order more tests or follow-up visits than I really may think necessary.” ■

Islands and the District of Columbia. Only four bills have passed,” the speaker claimed.

AIA contends that no-fault auto insurance is a reform in the public interest and “delay in converting from a fault to no-fault system means that well over a million auto accident victims a year receive no compensation from their auto liability insurance, and that tens of millions of motorists are denied savings on their auto in-

surance premiums.”

Mr. Jones pointed out that New Yorkers are saving about \$110 million this year in auto premiums because of no-fault. “Too bad they had to wait so long,” he said.

No-fault laws across the country are diverse and coverage often inadequate. Fortunately, he said, there is an alternative, “in the form of legislation prescribing minimum national standards for

state no-fault programs.”

He pointed out some reasons why the AIA has endorsed this approach, specifically as expressed in the National No-Fault Motor Vehicle Act, in the form it was passed by the U.S. Senate Commerce Judiciary Committees.

“IT OFFERS A legislative package in the near future which, on the strength of the record so far, apparently cannot be matched by the states acting on their own,” he said.

In addition, “states would retain regulatory authority over auto insurance and freedom to treat individual problems in the development of their no-fault

plan,” Mr. Jones continued.

“The cost of auto insurance would be reduced from what it would be under the ‘fault’ system,” he said.

Finally, “constitutional rights and relationships would be preserved,” he concluded.

“We find these compelling reasons to support national standards no-fault legislation. It provides the incentive to the states to accomplish auto insurance reform better and faster than they are now doing. It preserves their freedom of determination. And, it offers a superior auto insurance product to the American public,” the insurance executive concluded. ■

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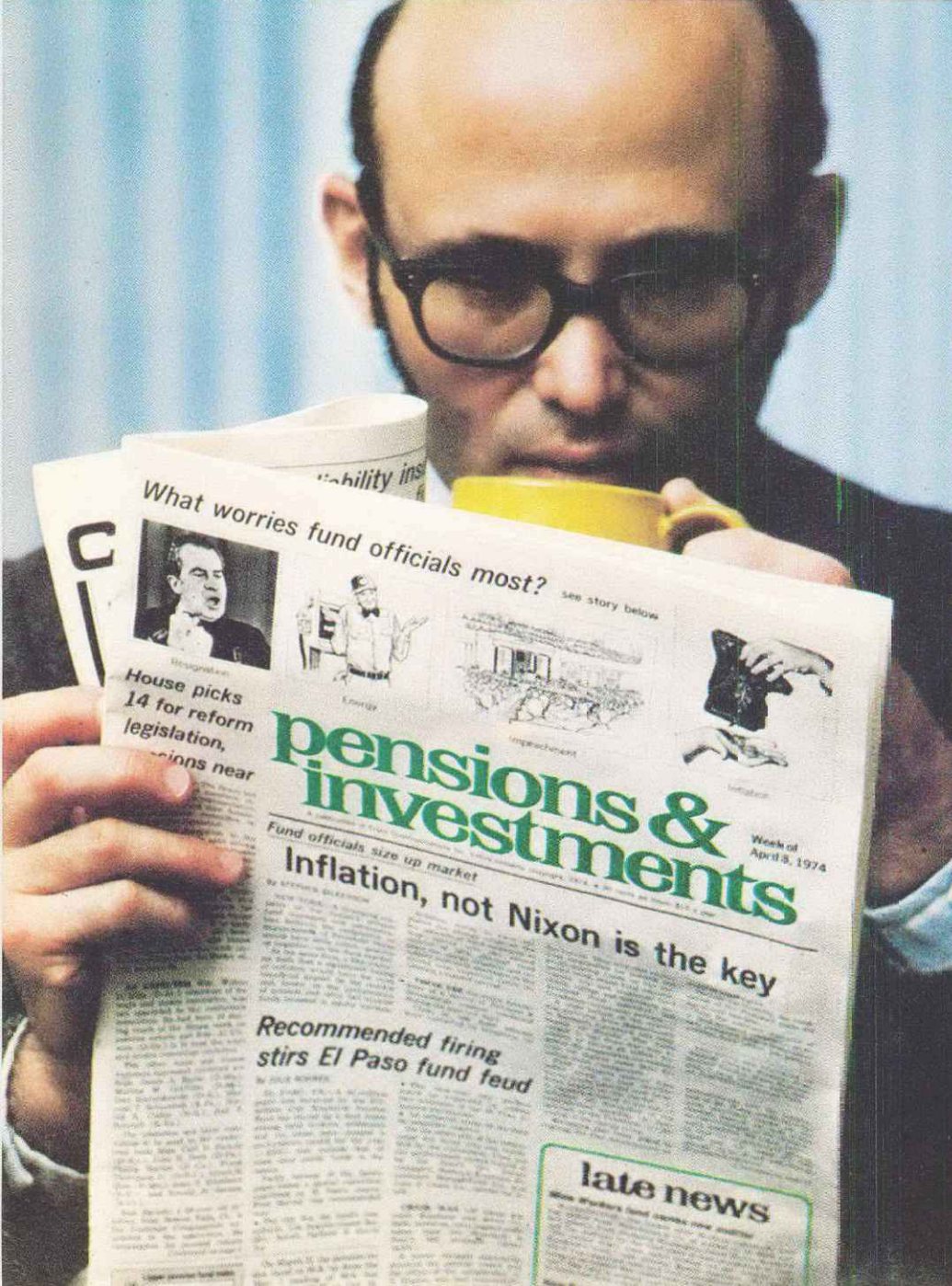
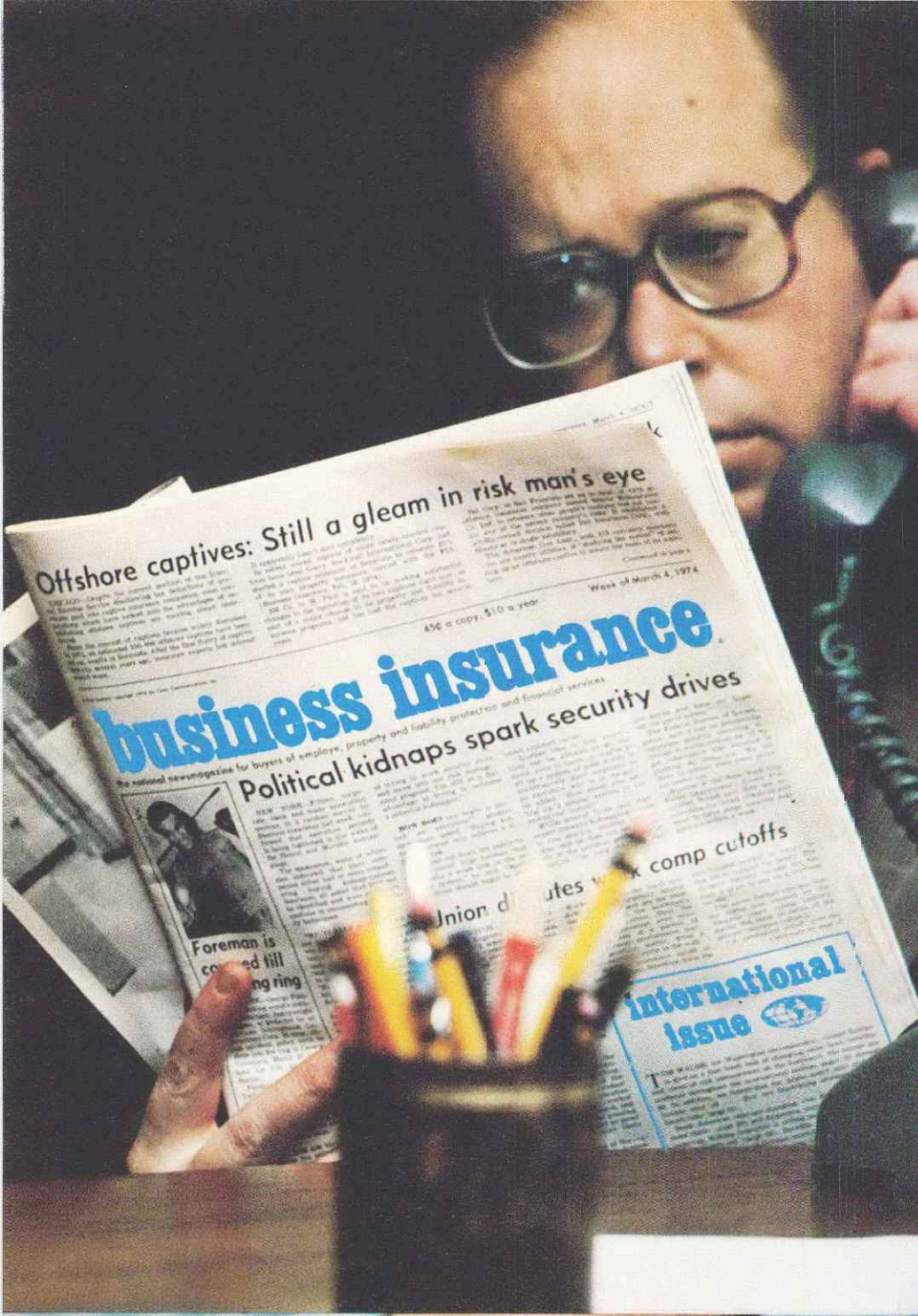
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# The Monday morning ritual.

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## **Business Insurance: the newsmagazine corporate consumers of insurance read.**

The people responsible for protecting hundreds of billions of dollars in property assets and nearly 50 million people need help. They get it every other Monday when Business Insurance arrives. Business Insurance helps because it goes where the news in insurance, employee benefits and asset conservation programs is made. And reports back to its 36,000 readers quickly, accurately and without bias.

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Each week, Ad Age monitors scores of advertising campaigns and reports on the most important, the most significant and the most unusual. Because to marketing people, advertising is the tip-off to what their competitors are doing.

One marketing man called Ad Age one of the few legal ways to gather marketing intelligence. Which is one of the many reasons 67,000 subscribers in both advertising and marketing positions follow the Ad Age ritual every Monday morning.

## **Pensions & Investments: the newsmagazine pension fund officers read.**

Every other Monday morning, Pensions & Investments briefs pension fund administrators/managers responsible for investing the largest pool of private capital in the world... \$300 billion. More than 25,000 readers turn first to Pensions & Investments for the latest developments in world money markets, corporate happenings, legislation and regulation, and other matters affecting pension, profit-sharing, endowment and foundation funds.

Pensions & Investments is still in its first year. But because it gives fund administrators/managers what they need — lively, timely and authoritative coverage of the world — it's already become a Monday morning ritual.

## **Automotive News: the trade paper Henry Ford II reads.**

In the auto industry, the ritual occurs in the loftiest places: in the offices of Ford's Henry Ford II, G.M.'s Edward Cole, Chrysler's Lynn Townsend, AMC's William Luneburg to name a few. Each Monday, Detroit's titans (as well as 53,000 other readers who are industry executives) turn to Automotive News, the one publication that covers the industry from top to bottom. Because no other publication has the depth of coverage of Automotive News, no other publication has the influence in the industry of Automotive News.

**The Crain effect.**  
When we publish, things start to happen.

## Urge ocean carriers to assume more liability

TORONTO, CANADA—Several factors seem to be combining that would force ocean carriers to assume more liability for goods shipped.

The so-called Hague Rules, which limit the carriers' liability, are widely considered to be out of date, and Ronald Langlois, a Canadian delegate on the Hague Rules revision committee in April, has called for action and for much more input from the private sector.

He suggested that the 1961 revision of the rules be adopted immediately and that the period of responsibility of the carrier be extended to the entire period the goods are in his custody, including loading and discharge.

However, there also is a school of thought that says modern intermodal movement has made the present system of liability obsolete. Most who think along these lines want the ocean carrier, often a container consortium, to assume complete liability for the entire door-to-door movement of a container.

**THE CARRIERS** themselves want claims to continue to be based on fault. Establishing fault is time consuming, expensive and difficult, particularly for goods shipped by container.

Mr. Langlois said few shippers would disagree on the need for a change in the Hague Rules. "The carriers should adapt. The

writing is on the wall, because the existing keepers of the liability system, the U.K. and the U.S. will soon be outnumbered," he declared.

However, Eric Dale, president of the Canadian Board of Marine Underwriters, said putting all the liability on the carrier, regardless of fault, may result in too-high costs for the shipper, particularly for those shippers that exercise great care in packing their cargo.

"Marine insurers would like to see an increase in the carrier's liability that increases the care a carrier takes of the cargo, but not so much has to add significantly to insurance costs."

He said underwriters want the shipper to retain freedom of choice and control over placing of insurance. He suggested that would be better for the shipper, because in claims matters he would be dealing as the placer of the insurance. ■

## Private comp insurer to compete with state

SACRAMENTO—The California State Builders Exchange recently adopted a new type of workmen's compensation insurance plan and, for the first time, recommended a private insurance carrier to its members.

The exchange, which will administer the program, negotiated a comprehensive service agreement for a group merit dividend workmen's compensation plan, to be underwritten by Employee Benefits Insurance Co. (EBI), now headquartered in San Jose, Ca.

Rich Dittmar, executive director of the exchange, said the organization's executive board had unanimously approved the addition of EBI's program to "offer an alternative approach to handling

workmen's compensation based on an individual firm's safety record."

A number of big companies wanted a private underwriter to compete with the state's program, Doug Helm, of EBI, explained. "Under the state's program, no matter how good your loss record was, you never got a bigger dividend than the group's record as a whole. This works counter to a loss control program," he added.

**BECAUSE OUR** program is merit-rated, it offers an incentive to control losses," Mr. Helm said. Both the state's and EBI's programs operate side by side, he explained.

The biggest benefit as a result of this arrangement goes to larger companies, Mr. Helm explained. The reason is that the larger the premium, the lower the retention. Retention is what insurance companies keep for risk-taking, administrative fees, and taxes, he said. "Larger accounts benefit from merit dividend programs. For example, an account under \$10,000 has a 50% retention. A \$200,000 account has a 16% retention. A flat dividend program hurts this type particularly if it has a good loss record."

In addition to the merit dividend plan, EBI will provide a full time safety consultant and program coordinator for the exchange, as well as a monthly computerized loss analysis for each member and a monthly newsletter on workmen's compensation, laws, rates and changing trends in the building industry. EBI thinks that its techniques in training, orientation and care of machinery have "significantly" reduced accident rates for business clients.

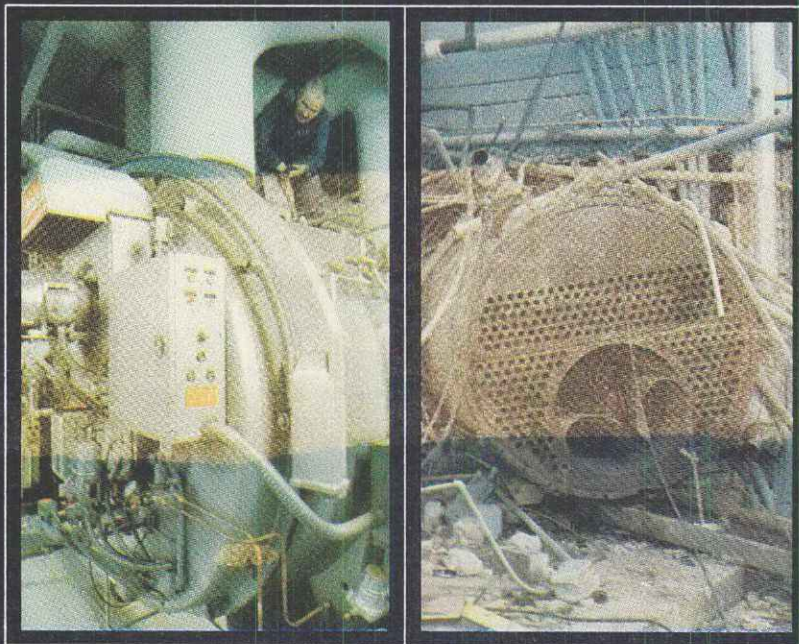
**"THE ANSWER** to problems uncovered by the federal and state Occupational Safety and Health (OSHA) laws," James L. Cinney, EBI safety consultant assigned to the exchange, declared, "is not criticism of OSHA enforcement or the penalties imposed by the new laws, but on the growing response to education and training by workers and first line supervisors."

Mr. Helm said he believes 80% of all accidents happen because of "employee attitudes (including the supervisor's) and 'housekeeping,' that is, keeping the work areas cleared and functional." The best way to solve the problem is by identifying what the problem is and by training supervisors on their attitudes and job hazard analysis, he said. ■

### Export credit insured

The Oshkosh Truck Corp., Oshkosh, Wis., has insured short and medium term credit sales to foreign buyers with a \$2 million policy, underwritten by the Foreign Credit Insurance Assn. (FCIA). The policy, negotiated through Rollins, Burdick, Hunter Co., Chicago insurance brokers, will aid the company's expansion of export sales of heavy-duty trucks according to Charles Walker, assistant treasurer. A \$100,000 deductible is included in the policy. The FCIA policy insures the truck corporation against commercial and political risks of payment default, a company spokesman said. Oshkosh Truck Corp. reported 1973 sales totaling \$28 million for domestic and foreign operations. The company has a manufacturing facility in South Africa and an assembly arrangement in Australia.

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# Charge state Blues 'performing poorly'

ST. PAUL—Minnesota's Blue Cross-Blue Shield Health Service Plan came under attack this month in a state senate report that charges it is "essentially unregulated" and performing "poorly."

The report was distributed by the senate subcommittee on health care costs, chaired by state senator George R. Conzemius, the Democratic assistant majority leader, and aims much of its criticism at state insurance commissioner Bert Heaton.

The report charged that the insurance commission failed to review Blue Cross-Blue Shield rates and permitted reserves to pile up in excess of what is needed to insure payment of claims.

The Minnesota report echoes complaints raised in Pennsylvania by then Insurance Commissioner Herbert Dennenberg that Blue Cross-Blue Shield has become a "financial arm on the hospitals."

**MINNESOTA BLUE** Cross-Blue Shield officials denied these charges and complained that the Senate report is "inaccurate and creates misunderstanding."

The Senate report pressures Insurance Commissioner Heaton to review Blue Cross-Blue Shield rate increases in group rates, and, if necessary, disapprove them.

Mr. Heaton told *Business Insurance*, "I really don't want to discuss it right now. When we get the time to prepare a proper response, we'll talk about it."

A spokesman for Minnesota Gov. Wendell Anderson, an incumbent Democrat seeking reelection this year, said the Governor has every confidence that Mr. Heaton "has acted properly."

"Heaton is a very meticulous guy; low visibility, but a tough guy," the spokesman said. He added he doubted the recent Blue Cross report would become an issue in the campaign.

Blue-Cross-Blue Shield officials, in fact, argued that the legislative report selectively picked information designed to make its programs look inefficient.

**THE SENATE** report cited 1972 data which showed that Minnesota Blue Cross-Blue Shield paid out 77.8 cents on the premium dollar, compared to a national average of 91.8 cents per premium dollar for Blue Cross-Blue Shield's national average.

Blue Cross-Blue Shield officials said the report failed to point out that the 1972 figures included Blue Shield results. Blue Cross took over Minnesota Blue Shield not long before 1972 and was retaining more premiums in order to build up the reserves of what had been a depleted Blue Shield financial reserve.

The report specifically identified the state of Minnesota's Blue Cross-Blue Shield program for public employes as one which had undergone a 50% increase over the past four years.

Clem Oliver, director of employe benefits for Minnesota, said, however, that he was "very satisfied" with the state's health insurance plan, noting that probably 20% of that increase was due to legislatively required improvements in all group health insurance plans. He said there also had been a premium refund.

Mr. Oliver said, "Our program is comparable to the federal government plan, but at lower rates."

He said the state's experience with premium retentions by Blue Cross-Blue Shield has been very good. For the 12 month period ending Sept. 30, 1973, with actual

claims paid through April 30, 1974, Blue Cross retained only 2.4 cents on the premium dollar, he said.

That figure was the average of 2.1 cents on the dollar for actual state employes, and 2.73 cents on the dollar for premiums paid to cover the dependents of state employes.

The Blue Shield figures were somewhat higher, he said, with the average at 5.26 cents retained per premium dollar.

Minnesota Blue Cross-Blue Shield itself has revealed that for the first six months of 1974, its retention rates has improved to only 10.3 cents on the dollar, or a pay out rate of 89.7 cents per dollar.



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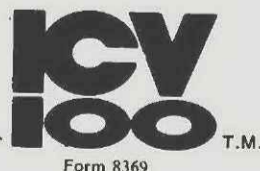
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## Members told present policy would not be renewed

# Propose new coverage for medical society

NEW YORK—A comprehensive new professional liability insurance policy to include long-term coverage, a premium stabilization fund and active involvement of the insureds with the administration and loss control is in the works for the Medical and Chirurgical Faculty of Maryland, according to a Johnson & Higgins spokesman, insurance brokers for the medical society.

The 4,200 physician members of the Maryland society were informed their present policy with St. Paul Fire and Marine Insurance Co. would not be renewed upon its expiration Dec. 31, 1974 (*Business Insurance*, July 8).

The new coverage proposed in specifications recently issued by

Johnson & Higgins "will provide for greater cost stability and result in a longer term program than conventional professional liability insurance, the spokesman noted.

A major factor in the proposed policy is to utilize the medical society's ability to educate the physicians to the problems leading to malpractice lawsuits, the spokesman continued. "We would want to take full advantage of Maryland's excellent peer review system," he added.

**THE PHYSICIANS** would also be actively involved in the administration of the policy including claims handling.

Experience rating and the cre-

ation of a premium stabilization fund are new features in professional liability coverage, the Johnson & Higgins spokesman said.

He explained that by auditing the medical society's loss experience on an annual basis and retaining any balance in reserve instead of returning premiums to doctors, a stable fund will be created.

Future premium rate increases could eventually be paid from the fund instead of by members of the medical society, the spokesman said.

"We're looking for a long-term master contract," he said "with broad coverage up to a \$5 million limit."

This can be facilitated by writ-

ing certificate policies rather than individual ones, the J&H spokesman continued. For the first year of the new policy, "I expect premiums to run to about \$5 million, he noted.

**ANOTHER FEATURE** of the proposed new policy is a common anniversary date for all the insureds.

The policy would also include a contractual right for the insurer to increase premiums annually. "A 15% increase would be appropriate, considering inflation," the spokesman commented.

The insurer would be required to give full financial disclosure on premium rating, the spokesman said, and there would be a device

in the policy for insuring marginal risks and rejecting unacceptable ones.

A provision for utilizing local facilities for claims handling is also included in the specifications for the new liability coverage.

The broker noted the master policy should also include owners, landlords and tenants exposures, coverage for fire and water damage; legal liability including non-owned auto coverage and defendants' reimbursement; an equipment floater and excess personal umbrella liability.

Five insurance companies have expressed interest in the new policy proposed for the Maryland medical society, the Johnson & Higgins spokesman said. "We're still working out the details; nothing's final yet, but we expect the program will be ready to roll by the end of the year."

The "extremely favorable relationship between the medical society and the state insurance department have forged a proper climate for a new approach to medical liability insurance," the spokesman continued.

The proposed new coverage has been approved by the Maryland insurance department, he added. ■



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## Pa. licenses INA to sell group legal

PHILADELPHIA—Pennsylvania recently licensed the Insurance Co. of North America to sell group legal services insurance in the state.

The insurance pays for lawyers fees both before and during a trial. Defendants in civil and criminal actions are covered, as well as plaintiffs in consumer suits.

INA is offering the plan to labor unions and other employee groups of 200 or more on a group participation basis. The insurance company said it is also licensed to sell group legal protection plans in California, North Dakota, South Dakota, New Mexico, Nevada, Utah, New Hampshire, Missouri and Oregon.

Legal services insurance has been offered by INA for two years now. Yet no one has bought a policy although negotiations are under way with several potential clients, according to an INA spokesman. All aspects of the plan are negotiable, including premiums, coverages and limits, the spokesman said.

INA has three basic plans that it is offering, however, with premiums of \$6.50, \$7.50 and \$8.50 per employee per month for limits of \$1,000, \$2,000 and \$3,000, respectively.

Each plan allows for a lawyer's fee of \$40 per hour in most categories. Consumer actions and consultative services provide payment up to \$30 an hour, and felonies up to \$50 per hour.

Civil cases have a primary and excess coverage. Plaintiff actions in consumer cases and bankruptcies are also covered.

Criminal actions that are covered include felonies, misdemeanors, juvenile offenses and serious traffic offenses.

Other coverages include investigative services and expenses, divorce and judicial separation cases, child adoption, consultative services and document preparation. ■

## Pension expert spots gaps in fiduciary cover

CHICAGO—At least one insurance and pension expert questions the value of fiduciary liability insurance for pension plan trustees under the terms of the new federal pension reform law.

A. Charles Howell, vp and group pension actuary for John Hancock Mutual Life Insurance Co., Boston, told an audience of ASIM members and financial executives here at a local ASIM chapter meeting that "one wonders about the value" of insurance against a liability suit when the insurer retains the right of action against the fiduciary, the insured party, in the event of misfeasance, as specified in the Employee Retirement Income Security Act of 1974.

Mr. Howell highlighted the provisions of the law which will immediately impact on employers' pension plans. He noted that the provision of the law that parties in interest cannot deal in employer company stock over a maximum level of 10% of plan assets "will bite into a significant number of plans which have invested heavily in the employer's shares."

**SOME PENSION** executives are questioning the Constitutionality of the act's provision that employers are retroactively liable for past promised pension benefits, Mr. Howell stated. He speculated the provision will be tested in the courts. "But quite a number of lawyers I've talked with seem to think the law would hold," he added.

Because the reporting and disclosure provisions of the law are very complex, Mr. Howell believes "there is likely to be a simplified system (of reporting) set up for companies with fewer than 100 employees." He disclosed that federal authorities have already indicated to life insurance companies that they would be willing to consider such a simplified procedure for smaller groups. Mr. Howell indicated that federal officials are presently working on such a reporting system, and that the simplified plan

## Health plan requests hike for groups

HARTFORD — Connecticut Medical Service (CMS) asked the state insurance department to authorize a rate boost ranging from 36% to 77% on its Century contracts.

If approved, the new rate plan would become effective Jan. 1 and provide some \$15.7-million in additional CMS revenue.

Under the proposal, monthly group premiums would be increased from \$4.20 to \$6.25 for an individual; from \$10.75 to \$15.30 for a married couple; and from \$13.40 to \$18.25 for family coverage.

Direct payments, made on a quarterly basis, would increase from \$18.10 to \$32.10 for an individual; from \$39.85 to \$62.50 for a married couple; and from \$46.35 to \$71.10 for a family.

CMS president R. Bruce Thayer Jr. noted that the health plan had its last rate boost in April 1971, when the state insurance department authorized an increase of up to 34% for a variety of contracts. The Century plan covers 900,000 persons. ■

could be disclosed in early 1975.

Employers are unlikely to make any substantial changes or improvements in their defined benefit pension plans over the near term, because of uncertainty about liabilities under the new pension law, Mr. Howell said. "We believe that for the short term, at least, employers will tend to look more at defined contribution (money purchase) plans," he noted. Employers who need to improve present plans to keep up with the economy may turn to savings plans, he added.

"But over the longer term, we will probably have to come back to defined benefit pension plans" to keep pace with inflation, Mr. Howell predicted. ■

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# Rate increase dispute hits the speaker's circuit

By MARGARET LeROUX

NEW YORK—Insurance industry representatives seeking to communicate the need they foresee for premium rate increases on property and liability coverage

have taken to the speaking circuit with the message.

Opposition to rate increases by risk management representatives, legislators and state insurance commissioners, too, is being voiced in public forums. The result has been

a fiery, if long-distance battle between buyers and sellers at conferences and conventions throughout the U.S. in recent weeks.

Though the premium rate increase dispute isn't exactly new, B. P. Russell, chairman and chief executive of Crum & Forster touched off the latest series of skirmishes in a speech before the National Assn. of Insurance Agents. "Major shortages of insurance facilities," coupled with "a capacity crunch" and "more insolvencies in a shorter period of time than ever before in the history of the property/liability insurance business" would result if premium rates are not increased, he said.

Mr. Russell didn't make any rate increase predictions, but insurance consultant Philip H. Dutter, McKinsey & Co. recently noted 30% to 35% rate increases could be expected in the near future.

Since the financial backbone of the insurance industry is its surplus, made up of stocks and bonds, the "slow stock market crash" and the bond market "in a shambles, has dramatically weakened the industry," Mr. Russell told the convention.

"DOUBLE-DIGIT inflation backslashing into the cost of claims and losses," Mr. Russell added, has heightened the seriousness of the situation.

Underwriting losses of \$497.8 million and a \$2.75 billion drop in policyholder's surplus were reported by the Insurance Information Institute for the first 6 months of 1974. (*Business Insurance*, Sept. 30). The institute termed the losses "the worst on record for a six-month period."

"The skyrocketing jump in prices has made most of the business on our books underrated, underpriced and headed for more underwriter loss," Mr. Russell said. "Rate increases that reflect to-

day's rate of inflation; increased premium levels; that's the only answer," he concluded.

His solution did not sit well with an officer of the American Society of Insurance Management (ASIM). Speaking at a Southern California risk management conference, D. E. Sullivan, ASIM first vp charged that Mr. Russell's suggestion of increased premium rates was "inconsiderate, unwarranted and verging on irresponsibility."

With many premiums paid in advance, "the industry is deriving unparalleled income from pre-paid or unearned income," Mr. Sullivan claimed.

"IF COINSURANCE does apply and if interest on pre-paid income is calculated into the rate making structure, it would appear that consideration should be given by the industry to reduce insurance premium rates on most lines now," he added.

Replying to the ASIM officer's charges, Mr. Russell observed, "I honestly wonder if he read my entire address; it's hard for me to believe he could have said what he did if he read it."

Mr. Russell reiterated that double-digit inflation is the culprit. The data base for determining rates "doesn't relate to what we're up against," he told *Business Insurance*.

Robert Tullia, president, Home Insurance Co. said he was "amazed there is a controversy," over rate increases.

For the past three years the property/casualty business registered an underwriting profit, Mr. Tullia explained, but "there was tremendous competition and prices are lower than they should have been."

WHEN THE rates in effect now were set, "we never anticipated this kind of inflation," Mr. Tullia continued, "A business allegedly

'for profit' can't continue to absorb the losses we have."

Hartford Insurance Group president Herbert P. Schoen reiterated his statement made earlier this year at a meeting of the Texas Assn. of Insurance Agents that "the impact of inflation must be reflected in insurance rates."

Rate increases must be carefully explained to the public, Mr. Schoen said or the result will be pressure on the government to prevent companies from raising rates.

"A good regulatory climate can make a big difference, if regulators respond to the evidence before them and act promptly on rate increase requests," T. Lawrence Jones, president of the American Insurance Assn. observed recently in an address before a Cincinnati insurance group.

However, the climate he seeks is not likely to be found in West Virginia.

SAMUEL H. WEESE, West Virginia insurance commissioner challenged statements that rate increases are needed in a panel discussion at a joint meeting of the National Assn. of Casualty and Surety Agents and the National Assn. of Casualty and Surety executives Oct. 7 in White Sulphur Springs, W. V.

The commissioner said he frequently wonders whether the property/casualty business "is mature enough to handle open competition rate regulatory systems."

Speaking on the same panel, New York state Sen. John R. Dunne, chairman of the select committee on insurance rates, regulation and recodification of insurance laws, said he seriously questioned the political feasibility of substantial increases in rate levels. Prospects for increased rates particularly through the open rating system are bleak, the legislator said.

George N. Bernstein, Federal Insurance Administration, another panel member, urged industry spokesmen to state their cases without obeisance to so-called consumer interests and to regulators.

"Regulation of insurance should be a negative force, a form of policing," Mr. Bernstein said. "It is not the purpose of regulation to help the industry."

Projecting double-digit inflation for the next two years, McKinsey's Mr. Dutter, a fourth panel member said, "We could be talking about a rate increase of 30 to 35% just to get up to a minimum level of profitability."

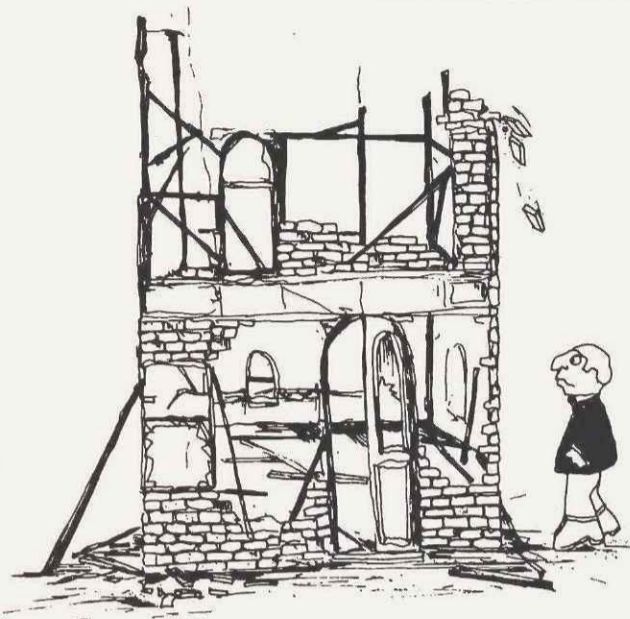
"Increases of that magnitude are going to be hard for the public to swallow," Mr. Dutter said, "and therefore hard for regulators to support."

THE CONSULTANT pointed out that the urgency of finding solutions to industry survival will bring about more substantive cooperation among industry executives agents and state insurance regulators.

INA president Charles K. Cox, who also addressed the casualty and surety conference went one step further. "I am willing to commit INA to any serious effort to bring our industry together."

"I have heard all the arguments against unity," Mr. Cox continued. Though it is argued no one voice can speak for all insurance companies, "I am aware that the outside world doesn't see it that way."

"To them we are all one insurance industry," Mr. Cox concluded, "and that's how we are going to have to respond." ■



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## Possible ban of two U.S. pesticides may have worldwide repercussions

LONDON—Lloyd's and other insurers are watching moves by the U.S. Environmental Protection Agency (EPA) to ban two pesticide products produced by the Shell group.

Efforts to stop the sale of Aldred and Dieldrin, the two products involved, can have repercussions in many countries where they are accepted as chemically safe materials.

The Shell group carries extensive product and business liability coverage, which is placed internationally in both Lloyd's and the company market.

Shell is sufficiently satisfied about the safety of these products to accept a large range of deductibles, but, the sums covered are so large that there is a wide spread over various markets.

Any bid then to challenge the nature of their contents naturally produces watchful interest in the insurance world, even though the Shell group itself maintains they are completely safe.

The two products facing EPA action have been in use worldwide for more than 20 years. They have World Health Organization approval and are on sale in 50 countries for both crop treatment and industrial purposes.

According to reports circulating in the U.K., Aldred and Dieldrin are alleged to contain carcinogens and the EPA is about to issue a ruling regarding their use.

Shell is expected to challenge any decision, as it maintains its own tests prove they are safe, and backs this up with support from health authorities in other countries.

The London Financial Times says: "The ban on Aldred and Dieldrin, if imposed by the EPA, could cost Shell \$20 million a year in lost sales in the U.S. It would have much wider repercussion for the whole agrochemicals industry. The decision could cause other regulatory bodies throughout the world to review the uses of the pesticides."

In Britain a Shell International Chemicals division spokesman told *Business Insurance*: "If we thought we were selling a product that had undesirable side effects we would stop it straightaway. But we do not accept that these two materials are harmful in any way, if we have to meet any restrictive action in the U.S., we feel our operations in other countries should continue normally. We do our own monitoring, and are satisfied with its results."

The U.S. complaint against Aldrin and Dieldrin is apparently based on the fear that there is a potential cancer risk in the two chemicals which could remain in the soil after spraying.

\*\*\*

**PENSIONS ARE** playing an important part in British political life at the moment, just as they have recently in the U.S. Labor politicians are promising the benefits of "inflation proof" pensions if they get back into the new government.

But critics of the scheme say it is unrealistic and maintain it will take until the turn of the century for it come into full operation, in spite of Social Secretary Barbara Castle's promise to start pension reform moving by 1978.

Conservative leaders under Edward Heath prefer to press for better company pensions, together with a state-run scheme to help those employees who are with firms too small to embark upon major corporate benefits.

If the Labor idea is adopted, it will hike present retirement pay from Social Security funds substantially above the existing rate of \$24 a week for a single person, and \$40 for a married couple.

But it will also demand much

higher contributions from both corporate management and employees to swell aid from public funds.

Payments will be adjusted regularly in accordance with national average earnings, in order to keep pace with inflation. Under the present arrangement pensions from public funds have risen retrospectively after the cost of living has increased.

Opponents of Labor thinking claim that this will actually cause

inflation to rise substantially, and so affect the national economy more than if corporate management were allowed to run their own pension schemes without undue state control.

\*\*\*

**ADVICE ON** the use of acrylic sheeting in building projects is given in a U.K. government report on the \$5 million holiday resort blazes which completely destroyed the Summerland pleasure complex in the Isle of Man last year (*Business Insurance* Aug. 27, 1973.)

The report comments: "Until more information is available about the behavior of acrylic sheeting for cladding purposes, its use for such purposes should be confined to situations in which the hazard it might present is minimal.

"When acrylic sheets are used for roofing or cladding, the edges should always be protected against the risk of ignition, un-

less this risk is otherwise obviated."

The report removes any suggestion that Orogasm, supplied by the U.K. plant of the Rohm & Haas Co., Philadelphia, Pa., could have played any primary role in the development and spread of fire within the building.

The fire was started when three schoolboys set fire to a kiosk in the pleasure complex as a misguided prank. The fire spread all parts of the building, including the wooden flooring and acrylic sheeting, with such speed that the building was completely devastated.

Overall construction design errors are blamed for the spread of the fire, with no blame attached to any specific construction materials. Britain's Fire Protection Assn. is now urging that architects should have extensive training in fire protection systems before they are allowed to practice. ■



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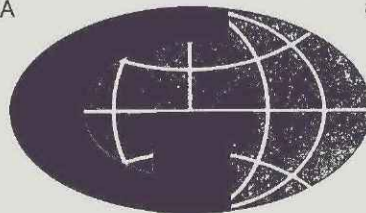
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# Employers will feel cost impact of pension reform

By ROBIN G. HOLLOWAY

*Editor's note: This is the first of a series of articles on the impact of the Employee Retirement Income Security Act of 1974. Others will look specifically at vesting, funding, fiduciary standards and termination insurance provisions in terms of their impact on private pension plans, administrators and trustees.*

THE EMPLOYEE Retirement Income Security Act of 1974 is long and complex; most companies are just beginning to realize the extent to which they will be affected. On the whole, no substantial employer will be immune from the cost impact of the act, which will be felt in three ways:

- Additional costs for increased

employe participation and, in some cases, larger benefits;

- Additional costs of maintaining the plan, resulting from the need to provide more information to employes and government agencies, to formalize informal plans and to insure unfunded vested benefits;

- Additional costs from the change in an organization's cash flow, prompted by the virtual elimination of unfunded pension plans for rank-and-file employes and the significant reduction in the range of permissible pension contributions.

**FOR THE AVERAGE** employer, these new costs will not raise pension expenses more than 15%. For some firms, however, the pension costs may double. These are

firms with restrictive eligibility clauses, poor vesting, or major administrative problems.

The act requires that all pension plans provide vested retirement benefits under a schedule at least as liberal as one of the following:

- 100% vesting after 10 years of service (service before age 22 may be excluded);
- 25% vesting after five years of service, graded to 100% after 15 years (service before age 22 may be excluded);
- 50% vesting after either: (1) age plus service totals 45, or (2) after 10 years of service, whichever occurs first, plus 10% for each year of service thereafter.

These vesting provisions will result in cost increases from zero to 33%, but more typically they will be less than five per cent.

The act contains other provisions affecting the employer's ability to restrict employe participation in the pension plan that will have major cost implications.

Employes must be brought into a pension, profit-sharing or thrift plan by the time they reach age 25 and have completed one year of service. This means plans that have had restricted eligibility may face significant cost increases to bring them into compliance.

**IN ADDITION**, there can be no maximum age restriction for participation in a defined contribution pension, profit-sharing or thrift plan. And for a defined benefit pension plan, employes hired more than five years before the plan's normal retirement date must be included. Companies that traditionally hire a large number of older employes may find pension costs significantly increased by this requirement.

New service requirements may also add to cost. Any employe who works 1,000 hours a year is eligible for participation in a plan and, once a member, cannot be removed until the hours worked in any one year fall below 501.

Furthermore, the IRS will issue regulations relating to plan participation rights of seasonal or part-time employes whose regular employment is far less than 1,000 hours. This appears to mean that employes who regularly hire seasonal employes (e.g., canners or distillers) can no longer exclude them from pension plans.

For all employes—part-time and full-time—service before a break in service cannot be canceled automatically but must, for the most part, be restored. The added cost for some companies (e.g., government contractors whose work flow depends on contracts) may be significant.

It is difficult to estimate the cost impact of these changes because many employers will change their employment policies (e.g., respect to rehiring after breaks in service).

**SEVERAL OTHER** provisions also may add to costs:

- Benefits cannot be canceled if an employe goes to work for a competitor;

- "Bad boy" clauses are prohibited;

- Benefits cannot be canceled simply because an employe does not claim them within a specified period of time;

- Employes who are 50% or more vested must be permitted to withdraw their own contributions upon termination without forfeiting benefits resulting from company contributions.

Because of the act, the cost of installing and administering plans will be greater than before.

An annual insurance premium,

initially set at \$1 per plan participant for single-employer plans and 50 cents for multi-employer plans, is payable to Pension Benefit Guaranty Corp. by employers with a defined benefit plan.

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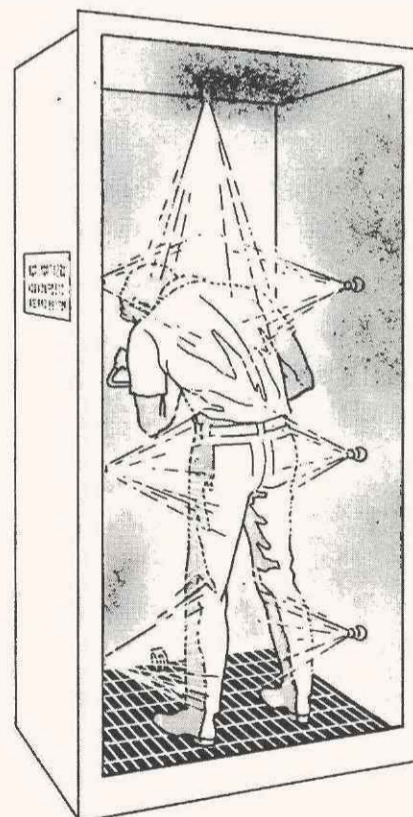
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ly healthy employer who terminates a pension plan cannot avoid providing all the vested benefits earned under his plan.

Detailed record-keeping in a number of areas will undoubtedly add to costs. Rules governing eligibility and breaks in service are a case in point. Moreover, if a company employs part-time or seasonal employees or if layoffs are common, the record-keeping problem will be significant.

Even more paperwork will be involved in complying with disclosure requirements. All plans must make an initial filing with the government (including those with fewer than 26 employees) and all plans must refile when amended.

**THE DATA** required are similar to the old D-1, D-1A and D-1S reports, but promise to be much lengthier and far more detailed. On an ongoing basis, all plans must make an annual filing with the government (including those with fewer than 100 employees). This filing will be similar to the old D-2, but will require more information and must be certified by both an accountant and an actuary.

Then, too, extensive information about plan provisions must be given to employees. Virtually all current employee booklets will have to be amended or replaced to comply with the legislation.

A new provision requires em-

ployers to give employees information annually on the financial operation of their plans. This will necessitate the drafting, preparation and dissemination of an annual financial report to all plan participants.

**MOREOVER**, employees now have the right to request a statement of their accrued benefits and vested status once a year. It is likely that most large companies will choose to provide this information in annual computerized employee statements. But even those companies that already follow this procedure will have to modify current statements to provide additional information required by the act.

Finally, each terminating and laid-off employee must be given a statement of his benefits rights. This information must be summarized annually and sent to the Social Security administration.

To comply with the disclosure

requirements, most companies will have to increase staffing in their employee benefits area. Beyond this, the complexity and scope of the act will undoubtedly necessitate additional outside legal, accounting, actuarial and consulting advice to assist in amending existing the annual tax deductible formal plans and preparing disclosure material.

It is clear that for many employers the additional cost of the new administrative requirements will be greater than the cost of the benefit improvements.

Many firms may have to completely restructure their personnel and benefits departments to handle the new burdens.

While the new funding regulations don't actually increase costs, they may appear to do so because of their impact on cash flows.

Formerly, employers were allowed wide latitude in determining the annual tax deductible contribution made to a pension

plan. The new legislation narrows this range and makes it difficult for employers to reduce or eliminate contributions.

Furthermore, the requirement that informal plans be formalized will convert many plans currently funded on an out-of-pocket basis to formal, prefunded plans.

**THESE FACTORS** will tend to modify the cash flow for pension plans for many companies. Just as the accountants have narrowed the range of the pension expense item under APB Opinion 8, The Retirement Income Security Act has narrowed the range of permissible contributions.

In conclusion: To date, most companies have focused on the insurance premium and vesting provisions of the act, which is not surprising because these are the most visible provisions and the cost of complying with them will be a burden for some employers.

But, for many companies, the

major cost impact of the legislation lies in compliance with the less-publicized benefit provisions and, to a large extent, in simply performing the additional administration tasks required.

For some companies, the change in the cash flow will be the most important impact of the legislation.

No matter which factors increase pension costs for a particular company, the fact remains that virtually all substantial employers will be affected.

*Robin G. Holloway is a principal of Towers, Perrin, Forster & Crosby. He joined the firm in 1970 after working as an associate actuary with the Equitable Life Assurance Society. Mr. Holloway is a fellow of the Society of Actuaries and a member of the American Academy of Actuaries, the International Assn. of Actuaries, the New York Actuaries Club and the American Pension Conference.*

## She wanted to be in the movies

**SAN FRANCISCO**—Straight Arrow Books Inc., publisher here of "A Connoisseur's Handbook of Marijuana" was sued in Superior Court for \$2.8 million damages by Lillian Haddad who thought her picture would be "used in the movies" but ended up, instead, in the book on marijuana.

The suit was filed by Lillian's mother, Emily Fagell, who claimed her daughter was approached in Golden Gate Park five years ago when Lillian was seven, by a photographer "who asked if she wanted to be in the movies."

"She was thrilled at the idea," explained Marvin E. Lewis, attorney for Mrs. Fagell, "so Lillian said yes and the photographer began taking pictures. Four years later a photo of Lillian, with a cigarette butt in her mouth, was published in the book on marijuana."

Adjacent to the picture, according to the suit, was a caption: "The danger of illegalizing marijuana . . . is that you make criminals out of the most sensitive, intelligent people in the country." The caption carried the name of poet Allen Ginsberg.

Straight Arrow, the book publishing division of Rolling Stone magazine, was accused by Mr. Lewis of "disgracing" Mrs. Fagell and her daughter.

Allan Rinzler, president of Straight Arrow Books, described the court action as "one of those nuisance suits we get occasionally."

## LA broker now in NY

Emmett & Chandler, Los Angeles-based insurance brokerage, opened a New York office, specifically to strengthen the firm's growing national accounts organization. Oren E. Lane, chairman of the brokerage firm, also noted that the East Coast branch will enhance the firm's expanding captive insurance activities. Managing the New York office is Robert O'Connor, vp, formerly with Liberty Mutual.

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# Cite ways to avoid soaring malpractice expenses

NEW YORK—"A most effective way to avoid expenses associated with malpractice is to avoid malpractice, itself," proposed the president of the United Hospital Fund of New York.

Testifying before the committee on insurance of the New York

state senate, Joseph V. Terenzio, offered some solutions to the rising costs of malpractice insurance in this state.

"The enormous costs of settlements and lengthy litigation often associated with complaints of malpractice can be mitigated if once

a potential source of malpractice is cited within an institution, a concentrated effort is made to make all corrections and changes necessary to eliminate the source of complaint," he stressed.

There are specific measures an institution can take to avoid malpractice suits, and malpractice itself, he contended.

"**INSTITUTE SAFETY** programs. A good program of preventive maintenance, disaster planning, early warning devices, and safety committees should be instituted," he advised. "Institutional administration, engineering, housekeeping, medical and nursing service, the governing board, the community and other applicable groups should be represented," the president stressed.

Institutions must "institute ade-

quate professional quality control," he added. "Immediate implementation of PSRO regulation is essential. Though there is much controversy with respect to the issue of PSRO, I believe it provides an enormous opportunity to the physicians of the country to regulate their professional activities. It seems to me that this would be a giant step towards avoidance of malpractice."

Staff members must be educated, as well, Mr. Terenzio contended. "Educate members of the institution's staff to the rights and responsibilities of patients as well as practitioners," he said.

Finally, "make health care safety and quality a community issue. Have it talked about in community groups. Get people concerned about it. Inform the community that good health care is their right

and their responsibility," he stressed.

Pointing out the obvious rise in consumerism, Mr. Terenzio explained the main issue growing out of this trend. Patients' rights "is fast revealing itself to be a main theme in the rhapsody of American health reform."

**IN HIS TESTIMONY** before the committee, Mr. Terenzio cited some findings of the secretary's commission on medical malpractice. Included were:

- Inform the patient of his condition and what is happening to him. If there are dangers involved in a proposed medical procedure, let him know.

- If the physician feels that full disclosure might frighten and injure the patient, make sure some immediate family member is made aware of the patient's condition.

- Make medical records available. Unavailable records may cause needless litigation and increase expense and difficulties. A patient has the right to see records that describes his condition.

- Adopt standards for human subjects in medical research.

- Extraordinary precautions should be developed to safeguard those individuals not legally competent.

- Governmental guidelines should be created to safeguard all persons participating in medical research regardless of the source of funds which support the investigation.

- A regular system of compensation for injured research subjects should be developed.

- Consumers should be involved in health care decision making. ■

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## Bids save public library \$9,000

**HARTFORD** — The Hartford Public Library has saved nearly \$9,000 on insurance premiums this year by putting its insurance business out for bids, a member of the library board disclosed.

Attorney Arthur L. Spada, who had initially proposed the competitive bidding procedure, said that the library's new premium for fire and casualty coverage is running about \$5,300 lower than last year's premiums—and about \$9,000 below original cost estimates for 1974-1975.

"What gave me a great deal of satisfaction during these times of rising costs and inflation (was that) we were able to reverse the trend and save the city taxpayers considerable money," Mr. Spada remarked.

The library has a total of \$5-million in fire and casualty coverage for its books and branch library buildings.

The policy was previously divided between two companies, Hartford Insurance Group and Lexington Insurance Co., under the Connecticut Fair Plan, which spreads high-risk policies among several insurers.

This year, the library's insurance agent, sought bids from eight companies; four responded. Of the four, one bid came in at about the 1973-1974 level, two were substantially below the 1973-74 level and one—Aetna Insurance Co.—"came in unusually low," according to Mr. Crimmings, head librarian.

Aetna, known as "Little Aetna" was awarded the policy on the basis of its bid, he added. ■

# Rush to self-insurance may be foolhardy, risk consultant warns

LONDON—Current emphasis on self-insurance as a profitable alternative to buying insurance could be very dangerous for many businesses throughout the world, warned a U.S. risk management consultant here recently.

Edward W. Siver, a risk and insurance advisor based on St. Petersburg, Fl., told a conference sponsored by The Financial Times of London that "retention of any risks other than those representing predictable, digestible, operating expense type losses is very dangerous for 90% of the business firms throughout the world." Mr. Siver contended that "the rank and file business firms must continue to rely on the insurance transaction as the keystone of their respective risk management programs."

Mr. Siver acknowledged that risk retention is, indeed, "one of the ingredients in a balanced risk management program," but warned its use should be carefully related to the fiscal and physical size and distribution of the firm.

"The majority of business firms should concentrate on managing their funds to achieve profits within their own area of specialty and leave the profits in risk-taking to the professional underwriter," Mr. Siver advised.

**MOST PUBLISHED** material on the subject of self-insurance "tends to put far too much emphasis on the assumption of retention methods of risk treat-

ment," Mr. Siver declared.

"I fear that, for many, the primary risk management objective is to avoid the conventional insurance transaction. The ultimate achievement seems to be to devise a scheme to obviate the professional underwriter," the consultant went on to note. He said he does not consider the term risk management to be a synonym for self-insurance, "any more than I see it as interchangeable with the term insurance management. I see it as an agreeable compromise."

Among the predictions of future changes in risk management that Mr. Siver cited were:

- Far greater emphasis on loss control. "Management is quite aware that the long term cost of avoiding loss is more efficient than any scheme for recovery after a loss. By and large, it is less costly to prevent loss than to pay for loss," Mr. Siver stated.

- Better opportunity to make risk management programs more responsive. "The existence of computers allows almost instant reporting of the statistical data which is critically important for monitoring purposes and to allow for immediate remedial adjustments."

- More involvement in risk management by brokers. Mr. Siver believes many brokers will offer professional risk management services, "including the placement of insurance coverage for a fee rather than receiving their income in the form of an in-

visible commission."

- Insurance companies offering alternative to pure insurance. "In addition to conventional insurance coverages, they will offer separately, loss control, claims processing, reinsurance, and other services which their clients may require."

- "INSURERS MAY develop a single policy for property loss and a single policy for liability loss—a sort of super policy." Mr. Siver predicted that rather than buy separate policies to insure various losses of property against various perils, "the super policy may cover all property against all risks of loss, subject only to named exclusions and deductibles."

- Increased recognition of the cash flow concerns of large clients. Insurers will begin to offer a variety of so-called cash flow plans, Mr. Siver forecast, "which will serve to remove a long-standing objection by insurance buyers (to having) cash tied up unnecessarily in the form of advance premium payments and liability reserves."

- A continuing trend toward group marketing. More firms in the same industry and with common risk and insurance problems will band together to purchase their insurance as a group and from a single insurer, looking to more competitive rates, reduced administrative expenses, and greater underwriting efficiency, usually through a trade association or professional society, he said.

- Greater numbers of captive insurance companies. "Up to now, this has been principally a large-firm technique but the utility will spread to smaller firms," Mr. Siver said, noting that in some cases firms may band together and organize a mutual company of a reciprocal company to solve special problems.

**MR. SIVER URGED** small business owners to take up the practice of good risk management in order to survive. Noting that the customary procedure in a small business is for the firm to plan and implement insurance programs on the basis of decisions made by the financial vp, corporate secretary or treasurer, Mr. Siver declared that the single most important ingredient in any risk management program is regular communication between those

## Foundation elects new 1975 officers

TORONTO—Harold H. Melnick, chairman of the superior officers council of the New York City Police Department was elected president for 1975 of the International Foundation of Employee Benefit Plans. Charles B. Jackson, president of the benefits administration firm of M. A. Cornell & Co. in Los Angeles was elected secretary-treasurer.

Among the 13 directors elected to the foundation's board were several corporate benefits managers, including Nicholas G. Polizzi, secretary-treasurer of Polizzi Construction Co. in Coral Gables, Fl. and Joseph D. Young, manager of insured benefit plans for Cincinnati-based Kroger Co. ■

persons who run the business and those persons who run the risk management program."

Mr. Siver frequently recommends that his clients establish a risk management committee, including (where possible) the corporate officer responsible for insurance, a line officer from operations, director of safety or loss control, legal counsel, director of personnel and the risk manage-

ment consultant, if there is one.

"The committee should meet regularly, either monthly or bi-monthly," Mr. Siver advised. "This meeting schedule avoids a chronic problem with most programs . . . the tendency to consider changes or modifications only after an emergency or problem exists rather than to have pre-empted these circumstances by advance, corrective action." ■

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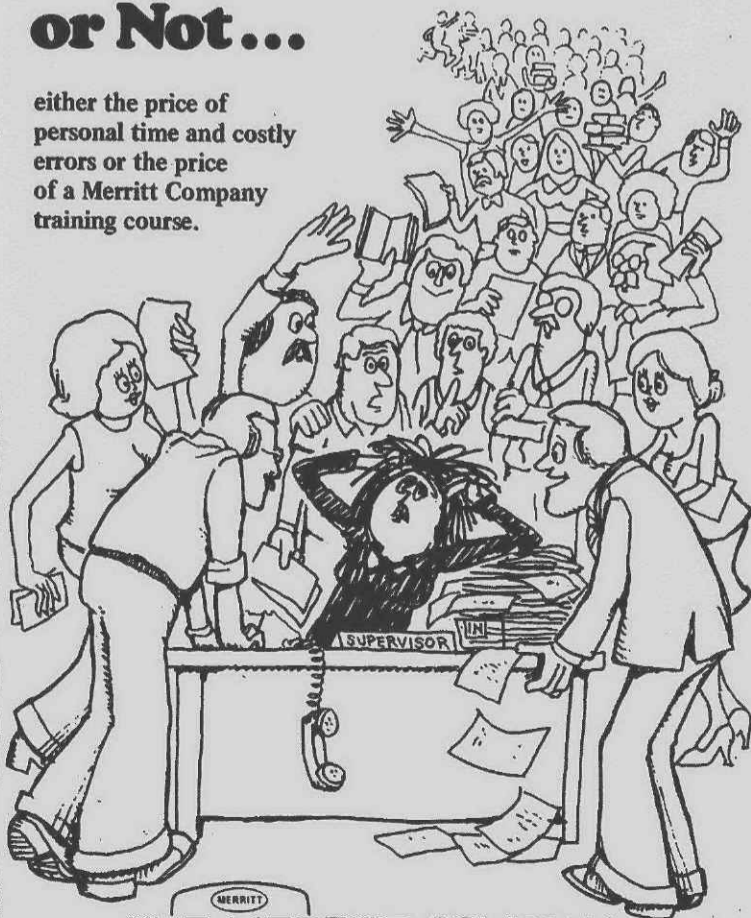
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# people

## Otis names Duncan new safety chief

Donald A. Duncan was promoted to corporate safety director for Otis Elevator Co., New York, replacing William J. Niederhauer, who retired in June after 21 years at Otis. Mr. Niederhauer plans to teach college-level safety courses during retirement. Mr. Duncan will take on all safety responsibilities previously handled by Mr. Niederhauer. Mr. Duncan has been with Otis since 1968, and was formerly the production supervisor for management development and safety for five elevator plants.

Robert J. Ryan was appointed manager of corporate insurance for AMAX Inc., New York, succeeding Raymond A. Severin who is retiring. Mr. Ryan was formerly corporate insurance administrator, and has been with AMAX since 1971. Mr. Severin will temporarily continue to advise AMAX on insurance matters.

Edward A. Wallace was named manager of insurance for the Richmond, Fredericksburg & Potomac Railroad Co., Richmond, Va. The position is newly created. Mr. Wallace will report to the assistant to the president. Mr. Wallace will continue to serve as assistant corporate secretary.

Hal B. Barnes, 55, manager of taxes, insurance and properties for Dallas Power & Light Co., died Oct. 5. He was with the utility for 28 years in various capacities. He was a past president of the Dallas-Fort Worth chapter of the American Society of Insurance Management. Mr. Barnes is being replaced by B. F.

Arnecke, who was formerly manager of insurance and claims for the utility.

The Wisconsin department of administration hired Gordon Gronert as its chief of risk management for the entire state, a new position. The position was created because of a change in the sovereign immunity rules for governmental entities, and the need to have someone evaluating new exposures for the state. Mr. Gronert was formerly assistant executive secretary of the Independent Insurance Agents of Wisconsin. Before that, he was risk manager for an insurance company.

Fred Crouse was named manager of corporate fire protection for Crown Zellerbach Corp., San Francisco. The position is newly created, said Martin Seaney, risk control and insurance manager. Mr. Crouse will be responsible for administration of corporate fire protection, and the development of policies for the control of fire losses. He was formerly in the San Francisco office of Kemper Insurance Co., as engineering manager-fire protection for the Northwest region of the country.

William J. Collins was named insurance manager for Consolidated Edison Co. of New York Inc. The position has been open for several years. He is responsible for all property/casualty programs and the utility's self-insured workmen's compensation system. Mr. Collins has been with Con Ed for 20 years, and for the last three years was assistant insurance manager.

## Paying claim could open can of worms

LAS VEGAS—The question of whether Nevada is liable for damages to a boy injured in a boat accident on Lahontan Reservoir will be studied further by the state board of examiners. Bruce Colton was floating on a rubber raft struck by a boat in June, 1973. The reservoir is under the jurisdiction of the state.

The insurance company for the motor boat driver agreed to make a \$7,000 offer, and recommended the state chip in \$3,000. But the board of examiners voted to hold off any action until the attorney general's office files a motion to dismiss the suit in district court.

The board wants a court ruling whether the state is liable in this type of accident. After the decision the board will reconsider the claim. Secretary of state William Swackhamer, member of the board, said paying the claim could "open up a can of worms for the future," because the state may be paying part of the insurance company's obligation. Several years ago a water skier who was injured when he hit a stump in Lahontan was awarded a half-million dollar judgment.

## And grown men cried

Stocks of fine brandy worth more than \$17 million have been destroyed by fire at the storage depot of the renowned Martell liquor company at Cognac, in southern France. They were insured with a syndicated of over thirty insurance companies, including British and German groups. Blazing liquor ran into the Charentes river as it poured from wooden casks that had caught fire, and altogether 800,000 gallons of cognac were lost.

## dates for buyers

Nov. 6: The American Pension Conference will present Donald S. Grubs, chief of the actuarial branch of the Internal Revenue Service, who will answer questions raised by Title II of the pension reform act. For reservation information write J. Adrian Link, American Pension Conference, 358 Fifth Ave., New York, N.Y. 10001.

Nov. 6-7: The American Society for Industrial Security will hold a workshop on public utilities security. For more information, write ASIS, 2000K St., N.W., Washington, D.C. 20006.

Nov. 7-8: The National Fire Protection Assn. traveling seminar on highrise fires will be in Dallas, Tx. John T. O'Hagan, New York City fire commissioner and chief of the department, will be one of the instructors. Write F. James Kauffman, NFPA, 470 Atlantic Ave., Boston, Ma. 02210.

Nov. 8: The Insurance Information Institute will sponsor a seminar on the impact of inflation on the insurance industry, in Portland and in other northwestern states at later dates. For information contact Gene Phillippay, UP, (503) 233-6682.

Nov. 11: A film of a hearing before the Occupational Safety and Health Review Commission is the basis of an instructional seminar sponsored by the American Society of Safety Engineers to be held in Chicago (and in other cities at later dates). Participants will learn how to prepare for and participate in OSHRC hearings. Those interested should contact ASSE, 850 Busse Highway, Park Ridge, IL 60068.

Nov. 12: Professional liability—an overview of medical malpractice today is the theme of a seminar luncheon sponsored by the Society of Chartered Property and Casualty Underwriters, in Chicago. Waverly G. Smith, president of St. Paul Mercury Insurance Co., will be the main speaker. Write George M. Egbert Jr., Wohlreich & Anderson Ltd. Inc., 10 S. Riverside Plaza, Chicago, IL 60606.

Nov. 13-15: Herbert Chasman, dean of the school of advance career studies, The American College of Life Underwriters, will discuss "Business uses of life and health insurance" at the 38th annual meeting of the Institute of Home Office Underwriters in Boston. For more information write the Institute of Life Insurance, 277 Park Ave., New York, N.Y. 10017.

Nov. 14-15: A look at the Employee Retirement Income Security Act of 1974 is the theme of a conference to be held at the Shoreham-Americana Hotel in Washington, D.C., sponsored by the Assn. of Private Pension and Welfare Plans Inc. For more information write Ms. Vicki Dungan, Conference Coordinator, at the APPWP, Suite 909, 1029 Connecticut Ave., NW, Washington, D.C. 20036.

Nov. 18-20: The American Management Assoc. will hold an advanced course on employee benefits, in Chicago. Discussion topics include the benefits function within the corporation, considerations in controlling group insurance costs and EDP utilization for benefit administration. Write the AMA, 135 W. 50th St., New York, N.Y. 10020.

Nov. 20-23: International Foundation of Employee Benefit Plans is sponsoring a public employees fringe benefit conference at the Fairmont Roosevelt Hotel in New Orleans. The purpose of the conference is to provide a forum for meaningful information and dialogue on all issues affecting public employees fringe benefits. Write the foundation, P.O. Box 69, Brookfield, WI. 53005 (414-786-6700).

Nov. 21: The 60th annual meeting of the Self-Insurers Assoc. will be held in New York. Richard Schubert, undersecretary of the department of labor, will speak on the interagency task force. For reservations write the association, Rm. 2910, Graybar Building, 420 Lexington Ave., New York, N.Y. 10017.

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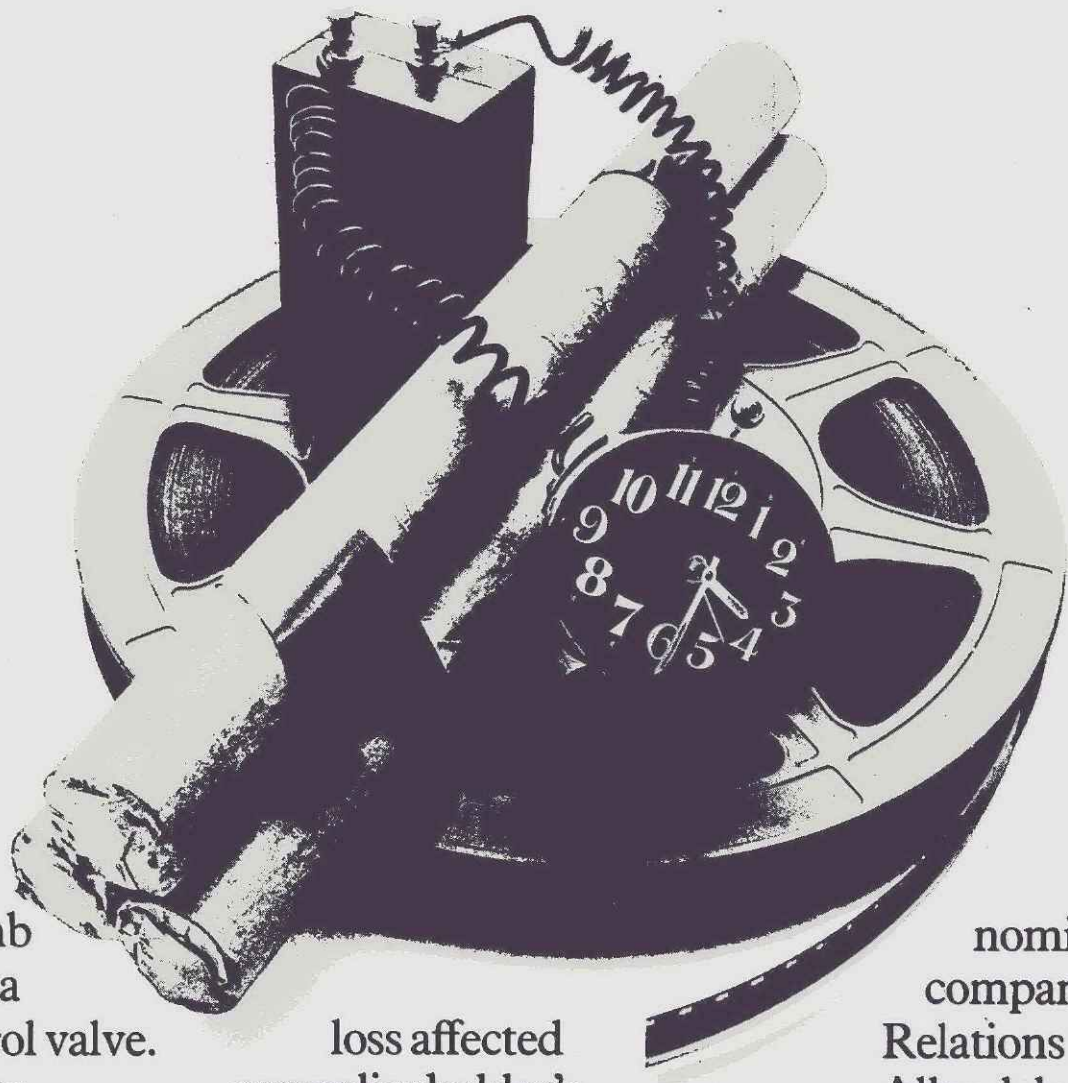
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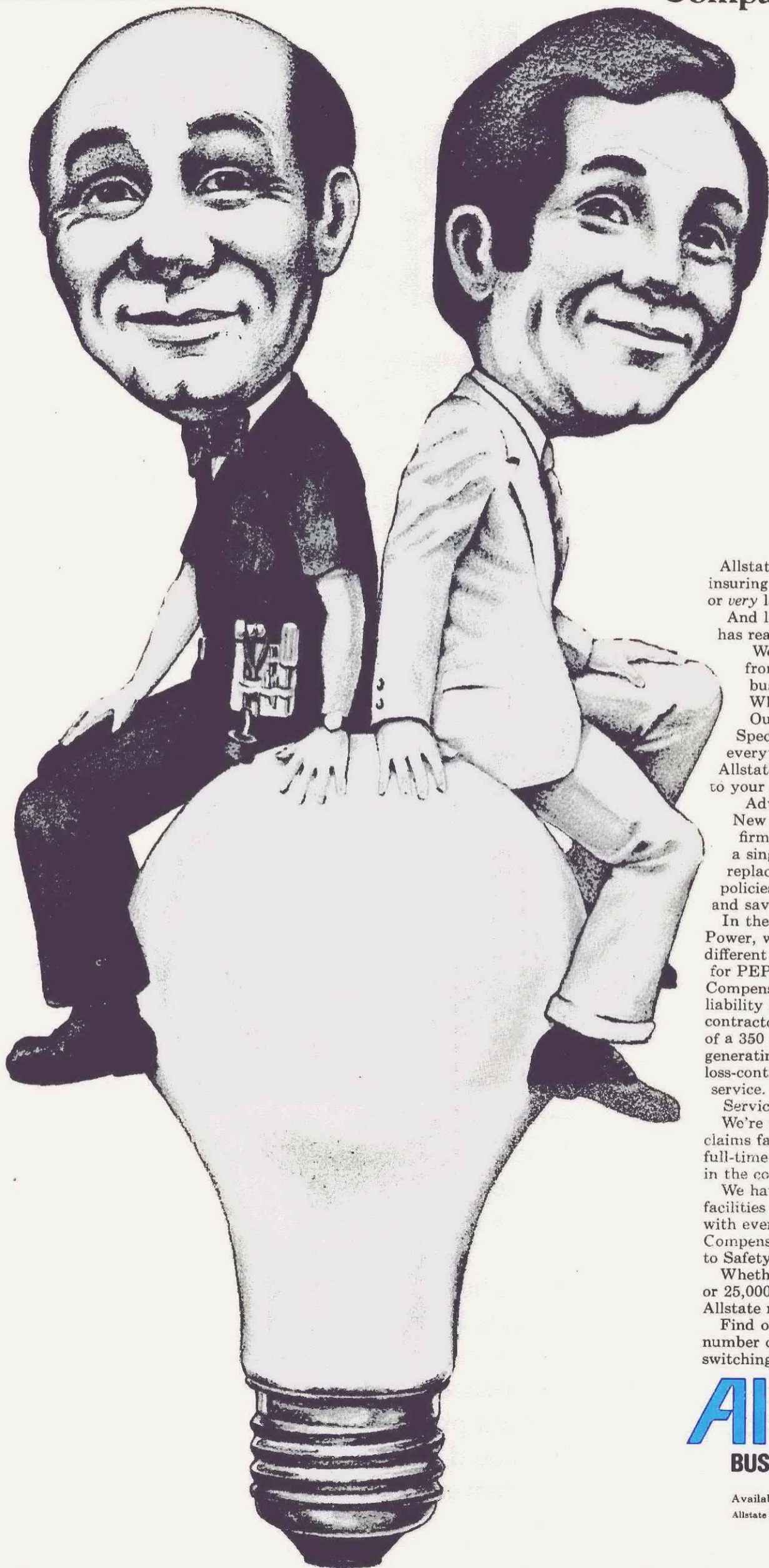
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