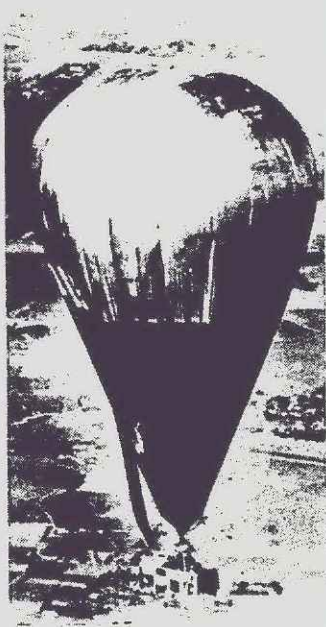


Special risks report

A 150-rabbit deductible? Animal liability on a talking gorilla? Buying a specific product liability insurance policy as part of the price of a manufacturer's product? Solutions like these to special risks spice up the day-to-day business of insurance, challenging risk managers, brokers



and insurers to combine traditional insurance ingredients for a different result and sometimes to whip up a totally new program. A special risk, though, isn't always as exotic as filming a horror movie, teaching a gorilla to talk or floating across the ocean in a balloon. An amusement park, a skateboard park and a star football player are pretty special too, the underwriters say. Our report on special risks, beginning on page 13, details how insurance experts fill tall orders from producers and performers, researchers and adventurers, farmers and entrepreneurs and collegiate and professional sports teams. We think it's special reading, with just a dash of fun.



Congress gives OK to pregnancy benefit

WASHINGTON—Most employers will be forced to revamp their benefit programs in the next six months to provide coverage for pregnancy on the same basis that they cover other sicknesses or disabilities.

That sweeping change is the result of last-minute action by Congress this month that gave final approval to landmark legislation that outlaws sex discrimination on the basis of pregnancy.

President Carter has supported the bill and his approval seems assured.

Passage had been in doubt until the closing moments of Congress when a House-Senate conference committee settled differences over a strict anti-abortion clause in the

measure.

The American Civil Liberties Union, a key supporter of the measure, said the bill was one of the most important pieces of benefit legislation passed during the current congressional session.

Sen. Harrison Williams (D-N.J.), the chief sponsor of the bill, said the legislation will have "great meaning for the 42 million working women of America."

Some employers already have changed their benefit plans either in anticipation of the legislation or in response to state court decisions requiring equitable pregnancy benefits.

For example, employers in New York were forced to revamp benefit plans after a state court of ap-

Continued on page 75

Liberal Ill. benefits continue cost spiral

By MARY ELLEN MCKEE

CHICAGO—"It's about to choke," says Douglas F. Stevenson, former chairman of the Illinois Manufacturers Assn., of the workers compensation system in Illinois.

Most insurance companies echo the sentiment.

Despite rate increases of more than 80% since passage of a liberalized workers compensation law in 1975, insurance companies are back asking for another 25% increase, due mostly to poor loss experience and partly to a rise in the average weekly wage on which benefits are based.

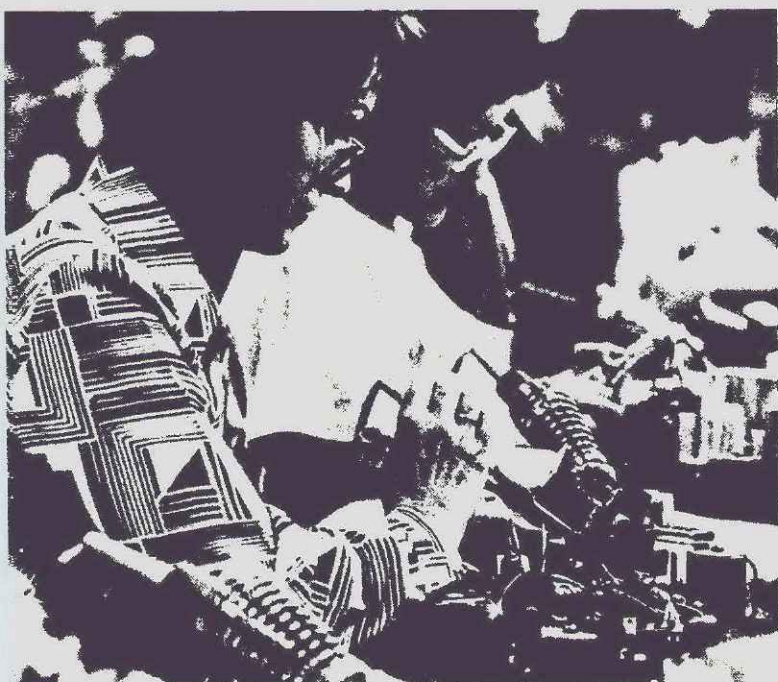
The 25% rate hike was denied by insurance director Richard Mathias because the Insurance Services Office did not submit sufficient information or statistics to determine whether the increase was excessive, inadequate or un-

fairly discriminatory. But a decision on the request, opposed by an unusual coalition of employers and labor unions, is now in the hands of a hearing officer who will rule on the request after a public hearing in November.

Now there are reports that the 25% increase will be withdrawn and a request for a rate increase as high as 35% may replace it. The adjusted increase is said to include new loss experience data that surfaced over the more than eight-month lag period when insurance companies were waiting for action to be taken on the original request.

Illinois is a highly industrial state and a bellwether in providing liberal workers compensation benefits. The liberalized 1975 law was designed to bring the state into compliance with the recommendations of the National Commission

Continued on page 78



Employers in Illinois face a new workers compensation insurance increase of more than 25%.

business insurance

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

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Week of October 30, 1978

Insurers gain bigger voice over exchange operations

By ELLIS SIMON

NEW YORK—To the dismay of some members of the New York insurance brokerage community, the drafters of the constitution and by-laws of the New York Insurance Exchange have decided to give underwriters a greater voice in operation of the exchange than brokers.

Some brokers are also concerned that the 13-member drafting panel, which is dominated by insurance company executives, is insisting on operating in closed sessions despite an opinion from a New York public information agency that the committee is a public body subject to the state's

Why is the committee drafting the constitution for the New York Insurance Exchange meeting behind closed doors? Editorial, page 6.

open meetings law.

At its October meeting, the committee agreed that the Insurance Exchange's board of governors would be composed of five underwriting members, three broker members and four public members.

New York insurance superintendent Albert B. Lewis, who chairs the committee, explained that committee members felt that underwriters should have a greater

voice in administration of the exchange since they were putting up the risk capital.

"If I put up \$3 million (to start a syndicate) should someone with no investment have the right to tell me what to do?" asked Donald Kramer, president of Kramer Capital Consultants. Mr. Kramer, a member of the committee, was an architect of the exchange concept and a major force behind the passage of legislation creating the exchange.

However, Robert Sanford, president of Smyth, Sanford & Gerard, warned, "To the degree that they (the committee) diminish the influence of brokers in the administra-

Continued on page 77

Product liability

Tax break called psychological

By JERRY GEISEL

WASHINGTON—Business groups believe the product liability tax breaks approved by Congress moments before recessing this month may offer more psychological comfort than meaningful financial relief.

While generally applauding Congress for its first, if limited, step in the domain of product liability, business organizations agree that more substantive legislation is needed.

"We're pleased that Congress did

Congress gives final approval in the tax cut bill to company contributions to IRAs in a move with dramatic implications for small firms. Page 79.

something. We're encouraged that at least something got passed," said Randy Stayin, assistant general counsel for the Special Committee for Workplace Product Liability Reform. "But we feel the legislation isn't nearly enough."

The product liability legislation came in the form of two amend-

ments which were introduced on the Senate floor by Sen. John Culver (D-Iowa) and attached to the complicated tax cut bill. The amendments were later approved by a House-Senate conference committee and included in the bill sent to President Carter for his signature.

The first amendment requires the Treasury Department to issue regulations making it clear that a business can set aside a reasonable amount of after-tax income as a reserve against possible product liability claims without being

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The people column
page 82

Carter's death shocks A&A; architect of aggressive posture

By SUSAN ALT

NEW YORK—William L. Carter's unexpected death Oct. 21 after a successful triple coronary bypass operation in Dallas sent shockwaves through Alexander & Alexander and the entire brokerage community.

Mr. Carter, 58, was an early architect of A&A's aggressive acquisition posture and phenomenal internal growth, orchestrating the firm's broad-based expansion into a wide range of financial services related to its insurance brokerage business. He's been widely characterized as a dynamic personality who was a tireless worker, demanding of himself and others, making things move and shake.

To his credit is A&A's exceptional record of generating new business, on top of its existing ac-

counts. This internal growth contributed significantly to A&A's surpassing of Johnson & Higgins as the nation's second largest insurance broker last year.

Alexander & Alexander also has a good track record for grooming managers to take over top spots, a fact which led Ken Soubry to relinquish his post as chairman to Mr. Carter just last year. Mr. Soubry and Mr. Carter were the same age, however, and there's a good chance that Mr. Soubry will at least temporarily take up where Mr. Carter left off, picking up any loose ends and reassuming responsibilities he held as chairman since 1963. He has remained very active during the last year, as chairman of the executive committee.

That there is a huge gap left by Mr. Carter's death is undeniable,

but A&A prides itself on having enough management depth to take such a blow in stride, an enviable achievement that both insiders and outsiders view as a tribute to Mr. Carter's planning in concert with Mr. Soubry.

A lifelong resident of Dallas, Mr. Carter died in his home town several weeks after the bypass surgery. Although all reports had indicated he was recovering speedily and that the operation had been a success, he apparently developed a blood clot in an extremity, which killed him when it swept into his bloodstream.

Mr. Carter was president and managing partner of Dallas-based Harris-Moore & Associates Inc. when it was acquired by A&A in 1970. He immediately became president of A&A's Texas operation. He quickly made his mark within the parent company, becoming president in 1972 and spearheading the firm's rapid growth alongside Mr. Soubry.

John A. Bogardus Jr., A&A's president, is seven years younger than Mr. Carter and Mr. Soubry, and is likely to be moved up to chairman of the firm within the near future. His likely successor as president is Tinsley H. Irvin, executive vp and a director who has been on the board since 1970. Mr. Irvin has been a member of the executive committee for three years, and directs the firm's human resource management group.

During Mr. Carter's tenure as a top officer of A&A, the firm's growth rate jumped from 10% a year in the early 1970s to between 15% and 20% a year in 1975 and thereafter. A&A's new business, it is estimated, will account for about \$28 million this year, of the firm's total revenues which are expected to climb to the \$250 million range. This is double the estimated \$14 million of new business garnered during 1975.

Mr. Carter was buried Oct. 24 in Dallas. He is survived by his wife, one son and two daughters, all of Dallas.

Continued on page 78

Firms plead for time to revise benefit plans

WASHINGTON—Business groups are imploring the federal government to give employers more time to amend their benefit plans before final regulations go into effect on how much companies can reduce benefits for workers over 65.

Speaking before a Labor Department hearing this month, George Pantos, counsel for the ERISA Industry Committee, a benefits lobbying group representing many of the nation's largest companies, recommended that benefit regulations not go into effect until 180 days after the regulations are published.

This six-month phase-in period is needed to give firms sufficient time to identify benefit areas requiring changes, evaluate alternatives, amend plans and inform employees of the changes that are going to be made, Mr. Pantos contended.

Other business groups, such as the American Retail Federation, urged an even longer lead time—two years—before employers are required to comply with final rules. The retailers noted that many smaller firms have yet to learn that the government has issued guidelines restricting benefit cutbacks for older workers.

Currently, the final regulations are supposed to be published before the end of the year and they would go into effect Jan. 1, 1979.

This month's hearing was to give employers and other interested groups the opportunity to comment on those proposed guidelines and make recommendations for the government to consider when it gears up to draft final regulations.

The current guidelines (BI, Oct. 2) call for limited cutbacks in long term disability, medical and life insurance benefits for workers over

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for your information

James acquired major consultant, move seen as 'evolutionary' step

CHICAGO—Observers see the move by Fred S. James to acquire three more brokerage firms and a major West Coast employe benefit consulting firm as evolutionary in nature.

James, the nation's fifth largest insurance broker, acquired Olanie, Hurst & Hemrich, an employe benefit consulting firm with offices in Los Angeles and San Francisco; Patterson & Associates Inc. of Washington D.C., which will be combined with the Arlington, Va. offices of James, and Mitchell, Gaines & Henry Inc. of Atlanta, which specializes in insurance for the trucking industry.

According to chairman James H. Vaughn, James plans to issue approximately 590,000 of its common shares, with a current market value of \$13.5 million for all of the outstanding shares of these four firms.

Acquisition of the employe benefit consulting firm, says Leonard M. Wilson, a stock analyst for Drexel Burnham Lambert Inc. who specializes in insurance brokerage firms, represents an "evolutionary move" on the part of James.

"James will immediately be put into touch with the expertise necessary to accelerate penetration into the employe benefits field," Mr. Wilson explained.

One way that a brokerage firm can expand and grow is to make the service capacity grow, said the stock analyst. By adding Olanie, Hurst & Hemrich, James expands the kind of service it can offer its clients.

The acquisition of the three brokerage firms is a move allowing James to grow geographically, in numbers and to pick up some expertise about insuring the trucking industry.

Calif. fines excess broker \$25,000

SAN FRANCISCO—The California Insurance Department has levied a \$25,000 fine against Sayre & Toso, the excess and surplus lines brokerage subsidiary of the Mission Insurance Group, for diverting \$740,000 from a premium trust fund into commercial paper and other investments.

The incidents were said to have occurred around October 1975 and involved premiums and returned premiums held on account for numerous clients, California insurance department officials said. State law requires that trust fund accounts must be maintained in cash, explained chief counsel Angel Khachadour.

According to deputy commissioner Robert Mackin, the affected funds were not entirely connected with excess/surplus lines operations. The violation was similar to an incident involving Swett & Crawford, a Continental Corp. earlier this year. Swett & Crawford was fined \$50,000.

Repeal antitrust exemption: FTC

WASHINGTON—A top Federal Trade Commission official urged that the law exempting insurance companies from federal regulation be repealed.

Albert Foer, FTC assistant director for special projects, said there appears to be "no justification" for continuing broad federal antitrust immunity for insurers.

"It is clear that the current immunity from the federal antitrust laws... serves no legitimate federal or state regulatory purposes," Mr. Foer said.

Georgia OKs reduced rate hike

ATLANTA—The Georgia comptroller general has approved a 6.9% increase in workers compensation insurance rates here effective this month, less than one-third of the increase than had been requested by insurers estimating the cost of new benefits enacted this year.

Johnnie L. Caldwell said the increase to \$110 from \$95 in the weekly benefit for fatal injuries, total disability and permanent partial disability justifies only a 5.5% increase. The increased benefits for the loss of a limb, the addition of a wage loss option and the physical impairment option for weekly benefits warrant only another 1.4% increase in rates.

The National Council on Compensation Insurance, in filing for a 20.7% increase in rates, failed to recognize that certain insurer expenses do not increase proportionately as benefits increase, he said. In addition, the National Council did not properly consider investment income, the cost-saving features of the new law—including changes in rating back injuries and a direct payment method—and the savings that can be achieved through prudent administration of the new law, he charged.

Ohio to review work comp law

COLUMBUS, Ohio—The house committee on labor and commerce of the Ohio legislature has hired a lawyer to review 120 workers compensation system reform measures enacted here two years ago in response to complaints of possible wrongdoing in the state monopoly system. The reforms, including further computerization and other streamlining procedures, have cost \$5 million already. Columbus attorney Jerry M. Hultin's \$50 hourly fee will be added to the cost, notes the local newspaper, the Columbus Evening Dispatch.

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the benefit beat

LA teachers win vision care as benefits improved

Los Angeles city public school teachers have won a substantial increase in employee benefits, including a new vision care program.

Warren Lund, risk supervisor for health risks for the district, said the vision program will not become effective until Jan. 1 since an insurer has not been selected. "The vision plan will provide for examinations, lenses and frames every 12 months, subject to a \$10 deductible," he said.

The new benefit package also increases the psychiatric benefits that are currently offered to L.A. public school teachers by Blue Cross and Blue Shield. "What we are going to do is to beef up that coverage a little bit," he asserted. While the current plan provides a maximum of \$15 for a visit with a maximum of \$50 a year, the new package provides \$20 a visit with a \$100 maximum a year.

The school district's current health coverage includes two HMOs, Kaiser and Ross-Loos. They will be adding psychiatric benefits for the first time, according to Mr. Lund.

Dental insurance coverage for the teachers was also improved in the new package. Mr. Lund said that it is being boosted from 80% reimbursement to 100% of reasonable and customary charges, subject to a \$750 calendar maximum for most dental services and \$1,000 lifetime maximum for orthodontia.

Life insurance is being raised from its current level of \$5,000 a year in term insurance to \$20,000 a year. Northwestern National Life of Minneapolis is the insurer.

A third HMO, Maxi-Care of Torrance, Calif., will be added as an option on Jan. 1.

Dental plan

The Northrop Corp. of Los Angeles selected Delta Dental Plans of California to administer its dental insurance program, replacing The Travelers. A company spokesman said the Northrop plan has a schedule of benefits with a \$750 maximum, although the program does not cover orthodontic care.

Moore self-insures

A new self-insured health plan incorporating cost containment measures is in effect for 12,000 non-union employees of Moore Business Forms Inc. of Glenview, Ill. Administered by Aetna Life & Casualty, the plan replaces nine different benefit plans that had been placed with various companies, including Blue Cross/Blue Shield.

The U.S. subsidiary of a Canadian firm, Moore Corp. Ltd., hopes to save \$400,000 annually in reduced administration costs with the new consolidated self-insured plan, said compensation manager James P. Weichert.

errors & omissions

• Michael G. Crasnick, 29, was named to the newly created position of corporate claims manager at Boston-based Stop & Shop Companies Inc., because the company had recognized the need for several years to monitor internally and externally the claims function. The Oct. 16 issue inaccurately said Mr. Crasnick's position was created as a result of the company going self-insured for workers compensation and liability.

The non-contributory plan includes such cost containment measures such as full payment under basic benefits for surgery performed outside the hospital as well as in the hospital; the cost of a second opinion on the need for non-emergency surgery; pre-admission testing, and recuperation in a convalescent facility. Under major medical benefits, 80% of the cost of the services of a home health care agency are covered and there is a \$50 deductible per year per covered individual to a family maximum of \$150 before major medical benefits are paid. No estimates of the savings to be realized under these provisions have been made.

Other basic benefits under the plan, which offers a \$1 million lifetime maximum, are full payment for 365 days in the hospital in a semi-private room; surgical and other hospital charges while confined; outpatient accident expenses; maternity related care, and 45 days in a drug or alcoholism treatment center.

Major medical benefits, payable after the deductible is satisfied, include 80% of the cost of hospital confinement exceeding 365 days; doctor visits in the hospital, home or offices; outpatient hospital treatment; rental of medical equipment; prescription drugs; diagnostic x-ray and laboratory tests, and

prescribed appliances, such as artificial limbs.

Half the cost of outpatient treatment of mental disorders are covered to a \$500 maximum per individual per year.

Legal plan

The Indiana Legal Services Plan is the first group legal insurance program in the state to receive regulatory approval. An usual feature allows coverage to continue if an employe leaves the sponsoring employer.

Benefits taxes

President Carter has signed legislation that prohibits the Internal

Revenue Service from imposing any new taxes on employe benefits. The legislation was sparked by Congressional concern over IRS statements that benefits—such as free travel for airline employes—should be taxed in the interest of fairness.

• *Benefit Beat keeps insurance managers, employe benefit managers and brokers informed of changes in programs around the nation. We'd like to know if you've made any changes or know of any important developments. Write Greg David, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611 or call 312-649-5279.*



HMO? Health Maintenance Organization. It is a health care plan that offers employers and employees an alternative to existing group insurance programs.

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By making HMO membership available to employees, employers may receive benefits of their own—improved morale, lower absenteeism, and less rapidly rising costs.

Prudential has a managerial role in four HMOs—the South Shore Health Plan and Central Essex Health Plan in New Jersey, Prucare in Texas, and the Rhode Island Group Health Association. These HMOs have already helped thousands receive the health care they need.

Prudential is in the business of serving people. When an idea comes along that can help people, the Rock puts its weight behind it. HMO—an alternate health care plan you can feel right at home with.



Prudential

Group Insurance

Tougher D&O defense pays off, Wyatt study finds

CHICAGO—A tougher stance by insurance companies in defending directors and officers claims appears to be paying off.

The latest Wyatt Co. survey of corporate experience with directors and officers liability insurance reveals that the average cost of defending a D&O claim increased to \$277,549 this year from \$205,865 in the last Wyatt survey in 1976.

At the same time, the number of claims closed without payment rose sharply to 62% of all claims (111 of 179) from 56% (76 of 135) two years ago. The result, says study author Warren G. Brockmeier, is that the average total cost of a D&O claim, adjusted for inflation, is now just over \$1 million. That figure does not differ significantly from the inflation-adjusted figure for 1976, says the director of risk management services for The Wyatt

Co., despite a 19% surge in the number of D&O claims.

Other highlights of the firm's fifth annual D&O study include:

- Directors and officers liability claims outnumber fiduciary liability claims by 5 to 1, but fiduciary liability insurance often costs 40% of a comparable D&O policy.

- The average premium today on a D&O policy is approximately the same as the premium was in 1974, although premiums in 1974 were declining while today they are increasing.

- The D&O markets continue to be competitive with no major changes in the insurance companies providing the coverage.

The Wyatt study, collecting information on fiduciary liability insurance for the second time, found that 77% of the corporations buy-

ing D&O insurance now also purchase the fiduciary coverage, up from 52% in 1975. Only 16% reported no insurance arrangements to handle possible fiduciary claims under the pension reform law of 1974, down from 32% in the last survey conducted just two years after ERISA's enactment.

Companies reported 27 fiduciary liability claims, or one-fifth of the directors and officers claims. Median premiums ranged from \$1,544 for \$1 million of coverage for a company with under \$10 million in assets, to \$12,494 for \$10 million limits for a company with assets between \$250 million and \$400 million, to \$50,000 for \$25 million in insurance for a company with more than \$2 billion in assets.

Mr. Brockmeier observed that those figures are 40% of the premium charged for D&O insurance

for similar limits. It is possible that fiduciary liability premiums will decline, he suggested, as insurance companies develop more experience with the policy.

The usual deductible under a fiduciary policy is \$1,000 and premiums increased approximately 20% between 1976 and 1978.

The average premium for directors and officers insurance for all the companies participating in the survey increased only 13% last year, a small move considering the huge increases in the costs of other liability policies during the same period.

Most of the increases were shouldered by companies with higher policy limits as underwriters reacted to claims of more than \$5 million. These increases were in the neighborhood of 40%, the

study says.

Mr. Brockmeier observed that premium increases appear to be justified in view of the 19% surge in D&O claims. "This does not mean that a policyholder should accept the first quotation received," he urged risk managers. "There is good reason to shop a bit as shown by the wide range of premiums."

Median D&O premiums in the Wyatt survey ranged from \$1,938 for \$1 million of insurance for a company with \$10 million in assets, to \$35,587 for \$20 million in coverage for a company with assets between \$250 million and \$400 million, to \$100,167 for \$50 million limits for a \$2 billion concern.

Wyatt found the most frequent limit on D&O policies is now \$10 million, up from \$5 million in the 1976 survey. Twenty percent of the participants are insured for more than \$15 million, up from 18% in the 1976 report. The highest limit was \$65 million, with eight companies reporting \$50 million or more of coverage.

The D&O markets remain competitive with the largest single source of primary coverage—the American International Group companies—providing insurance to 28% of the participants, its market share down slightly from 1976. The Swett & Crawford Group continues as the second leading supplier with 14% of the market (down from 16%), while Lloyd's insures 13% (down from 15%). Crum & Forster increased its share to 12% from 8%, thereby jumping ahead of CNA which continued to provide primary D&O insurance to just over 10% of the companies in the Wyatt study.

On excess coverage, AIG significantly improved its market share while passing Lloyd's. AIG units now provide 30% of all excess D&O coverage, up from 20% in 1976. Lloyd's dropped to 26% from 34%. Crum & Forster with 15%, up slightly from 1976, and Swett & Crawford with 9%, the same as 1976, are the third and fourth leading sources of excess coverage.

Although the greatest number of claims under D&O policies stem from stockholders (40%), the majority arise from miscellaneous causes. This is interesting, Mr. Brockmeier observes, since "directors and officers insurance has been sold on the basis of providing insurance against stockholder suits."

The study revealed a slight decrease in the number of claims brought by a government agency or prior owners of acquired companies, while suits by former employees and stockholders increased slightly.

Sixty percent of the companies taking part said their claim was covered by the D&O insurance while 23% said it was uncertain whether the insurance company would honor the claim. "In spite of criticism of the vagueness of coverage under D&O policies," Mr. Brockmeier says, "it appears that the D&O policy is equally as certain in its coverage as corporate by-laws or indemnification agreements."

Like the 1976 survey, Wyatt found the larger a company, the more likely it is to have had a directors and officers claim. Other factors heightening the potential for claims are unprofitable results, diversification and public ownership.

Seventy-eight percent of all participants now purchase D&O insurance, up from 71% in 1976 and 65% in 1975. Of companies not purchasing D&O insurance, more reported they didn't either because they were unable to find an insurer or because the price was too high.

How to get on top of everything that's happening in risk management.

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A group of risk management specialists at a J&H computer network terminal: Richard E. Meyer, New York; L. John Goldberg, Philadelphia; James P. Lang, Los Angeles; and John E. Schroeder, Boston.

A record bridge for Old Man River.



Illustration courtesy Frankland and Lienhard, Consulting Engineers.

At 1,222 feet, the main span of the new Mississippi River Bridge near New Orleans will be the longest cable-stayed bridge span in the Western Hemisphere.

This immense structure, more than two miles long, will soar to a height of 133 feet over the navigation channel. It will be poised on six piers that, alone, cost over 42 million dollars. The main pier is the largest ever placed in the Mississippi... a giant 201 x 84 foot caisson that was sunk through 90 feet of water to penetrate another 100 feet into the riverbed.

Pier construction on such a massive scale — battling scouring currents, bad weather, and

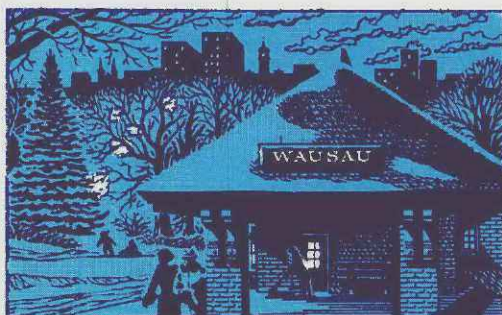
Our Builder's Risk Coverage helped span the gap.

heavy river traffic — called for the utmost in construction skill. That's where joint-venture contractors Massman Construction Co. and Al Johnson Construction Co. came in. Putting together the builder's risk insurance coverage called for an insurer with plenty of capacity, a thorough understanding of construction problems, and willingness to get totally involved.

That's where we came in.

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A Wausau Story from



the Partnership People

editorial opinions

Behind the closed doors

THE COMMITTEE OF 13 has held four meetings behind closed doors to decide what it wants in the constitution and bylaws of the New York Insurance Exchange.

The committee, of course, is dominated (literally and figuratively) by insurance company representatives, much to the dismay of insurance buyers and insurance brokers who would prefer to have a better balance so their interests are at least adequately represented.

Business Insurance wanted to attend and was told by insurance commissioner Al Lewis it could do so. We appreciated the opportunity and looked forward to covering one of the most interesting developments in many years.

Although Edith Lichota—the sole representative of commercial insurance buyers on the committee—and David Winton—the representative of the brokerage community—wanted *BI* to be present, they were out-voted by those more accustomed to doing all their business behind closed doors.

A New York state agency averred in a formal opinion that we should be allowed to attend meetings of the committee, although Commissioner Lewis obtained his own legal opinion indicating he had the power to tell us to leave.

Aside from our obvious discontent at being hobbled on a story of major importance, we can't help but question the motives of those who voted to shut us out.

We're not the only ones raising our eyebrows, either. Is it possible the exchange could end up being merely a lucrative vehicle for self-dealing by insurers?

The exchange would be far more likely to gain broad-based support from outsiders if the committee's business were conducted in the open, if everyone could handily see that all issues were being thoroughly aired.

The committee, in all fairness, did agree to provide us with the minutes of all meetings. But surely we all know that minutes of meetings only tell half a story, if that much. There's no substitute for being there.

Does the insurance underwriting community have something to hide?

We wonder why Hank Greenberg and his fellow insurance execs don't want us around. They voted as a group, presenting

a united front. As a result, we believe the rules and constitution of the exchange may also reflect the pressure they can bring to bear. Voting for secrecy in tandem with AIG's Mr. Greenberg were T. Bowring Woodbury (representing John Cox) of INA, Joseph Murphy of Continental Group, and H. P. Kamen (representing Dick Shinn) of Metropolitan Life, along with Tom Bonaros of Utica Mutual, and Harold Eckmann of the Atlantic Cos. Rounding out the vote were those individuals having vested interests in voting the way the insurance industry votes: Don Kramer of Kramer Capital Consultants, Jerome Kretchmer representing New York City's political powers and Charles Havens of the Reinsurance Assn.

One outcome of the vote to keep meetings closed is already evident. John Dunne, who heads the state senate's insurance committee has his dander up. He's already saying that there are some sensitive issues being dealt with behind those closed doors and as a result his committee intends to scrutinize the ultimate exchange constitution and bylaws v-e-r-y carefully.

We're all in favor of an exchange, but we don't like seeing the new market developing in the shadow of those who'd like to see the insurance business done in the same old close-to-the-vest, conservative ways it's always been done in the U.S.



"Guess it's just the nature of an actuary... doesn't like to leave anything to chance..."

letters

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

Where are the figures?

To the editor: An article on Risk Manager's E&O coverage (Oct. 2) indicated there is lagging demand for the risk manager E&O policy. Mr. Abe Snyder, assistant vp at Capacity Managers International, apparently believes the problem stems from confusion and uncertainty about the policy.

His belief could be accurate, but I wonder if the lagging sales is rather an inability of the marketers to create a need for the product. I have, to date, seen no statistics revealing the number of claims or the dollar losses associated with risk managers E&O which would have been covered under the newly marketed policy. Perhaps this statistical data is available, in which case I'm sure agents and risk managers would appreciate having it available.

Simply stated, risk managers may be taking a more rational wait and see posture and not overreacting and recommending to its management the need for a \$5,000 to \$8,000 expenditure for a risk they are not convinced presents a serious exposure.

Charles T. Colarullo
Corporate Risk and Insurance
Manager, Data General, Westboro,
Mass.

Loss control reply

To the editor: It was disappointing to see an insurance industry journal with the stature of *Business Insurance* carry the article (Oct. 2) purporting to show the lack of loss control services provided by our industry and based wholly on a "survey" by the author.

The "survey," conducted by Daniel Otremba while a student at the University of Arizona, was based on responses from 19 insurance companies, 42 loss control field personnel and 18 customers—hardly a representative sampling. A detailed discussion of the conclusions reached by the "survey," which has drawn widespread criticism from the safety profession since first published as a longer article earlier this year, would be pointless in a short letter such as this.

However, it should be noted that according to the recently released "A Nationwide Survey of the Occupational Safety and Health Work Force" (National Institute for Occupational Safety and Health, July, 1978) "The (occupational safety-and-health-related services) resource most used by all industrial sectors is that of the insurance carrier, which provided services to 78.4 percent of the firms."

This is far ahead of any other group, including safety councils

(43%), government agencies (33.6%), professional societies (17.7%) and private consultants (13.7%).

Of course, this survey was professionally conducted and based on 3,300 respondents, not 18.

John L. Jablonsky
Vp, Engineering & Safety Service,
American Insurance Assn., New
York, N.Y.

An omission

To the editor: It appears that in the article by Warren, McVeigh, Griffin (Oct. 2) which discussed architects liability, a glaring omission was made in that Thomas F. Sheehan Inc. of Park Ridge, Ill., was not mentioned as a major underwriter of this coverage.

Most of us are familiar with Thomas Sheehan's work over the years and certainly now that he has his own company his status will continue to grow.

Knight H. Berman
President, I. Berman Co. Inc.,
Montgomery Ala.

A correction

To the editor: In your Aug. 21 issue a story concerning workers compensation self-insurers bonds reported that our company is beginning to write these bonds.

Your source of information, John F. Millikin of Alexander & Alexander in Chicago, was incorrect. We do not write these bonds. We did, for one agent, write these bonds which are fully collateralized and reinsured for two Indiana trucking firms. This was a special arrangement but it is not in any way expected that we will entertain any such submissions.

It would be helpful if you would let it be known that ADI does not now—and will not in the future—write W.C. self-insurers bonds.

Richard M. Smith
Vp, The American Druggists' Insurance Co., Cincinnati, Ohio

A wake

To the editor: I have read the September 18 issue and I am not sure whether I am reading about a wake. Having been employed in the excess and surplus line business most of my working life I fail to comprehend the gloom and doom expressed by some presidents and vice presidents your staff interviewed.

Perhaps the problem I am unable to resolve is the reference to "excess and surplus lines." Many years ago the firms that were involved in E&S business were referred to as specialty insurers. The term implied that the insurers

Continued on page 8

business insurance

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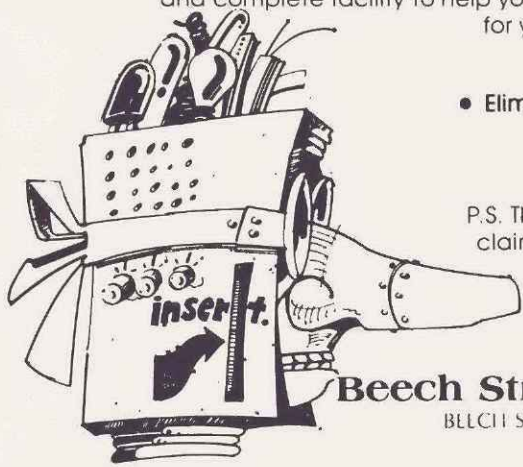
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letters

Continued from page 6

worked around the perimeter of the normal marketing concepts providing coverages that others avoided. The "others" were known as "standard" carriers.

For a variety of reasons, foremost being the profitability of the E&S markets, these "standard" carriers created "pups" to write E&S business and still remain respectable in the eyes of their agents. Frequently, the "standards" took the E&S route with non-admitted "pups" to get around such requirements as prior filing and approval of rates.

The problem with this class of E&S carriers is that invariably they operate as surcharged rate markets rather than experienced E&S markets. Even in those cases where the personnel are experi-

enced in the E&S field, the insurers may not permit the underwriters to function so their expertise might be put to some useful purpose.

It is my feeling that those of us who have operated in the E&S field who represent true E&S are not faced with the dire predictions developed through the articles in your publication.

Hermann P. Schlander
 President, Property Insurance Brokerage, Pasadena, Calif.

Excess brokers

To the editor: I take some issue with the so-called "facts" reported relative to "premium data on the 10 largest excess/surplus lines brokers in six leading states."

Your figures, in my judgment, leave something to be desired in terms of accuracy. You indicate a listing of the 10 top E&S brokers in New York in terms of annual premium volume for excess and surplus lines. I seriously question your figures. If they are accurate, in terms of volume indicated in both the admitted and nonadmitted markets, then I think our firm, as well as two or three of our competitors, can very well fit into the top five and certainly within the top 10 firms. I certainly can think of two other firms, as well as our own, which fall well within the \$4,000,000 plus category. Presumably this would leave others somewhat down the line.

I seriously question why you did not do your homework with all, repeat all, excess and surplus firms to secure a completely comprehensive survey on the overall volume in this market. As president of our newly-formed N. Y. S. E&S Brokers' Assn., I suggest that you do a very comprehensive survey of all facilities before you release any figures. Those figures appearing in your 9/18 issue are seriously subject to question; hence you will find any subsequent so-called "data base" you are providing to the marketplace under similar question.

Gerard J. Nolan
 President, Parkington Associates Ltd., New York

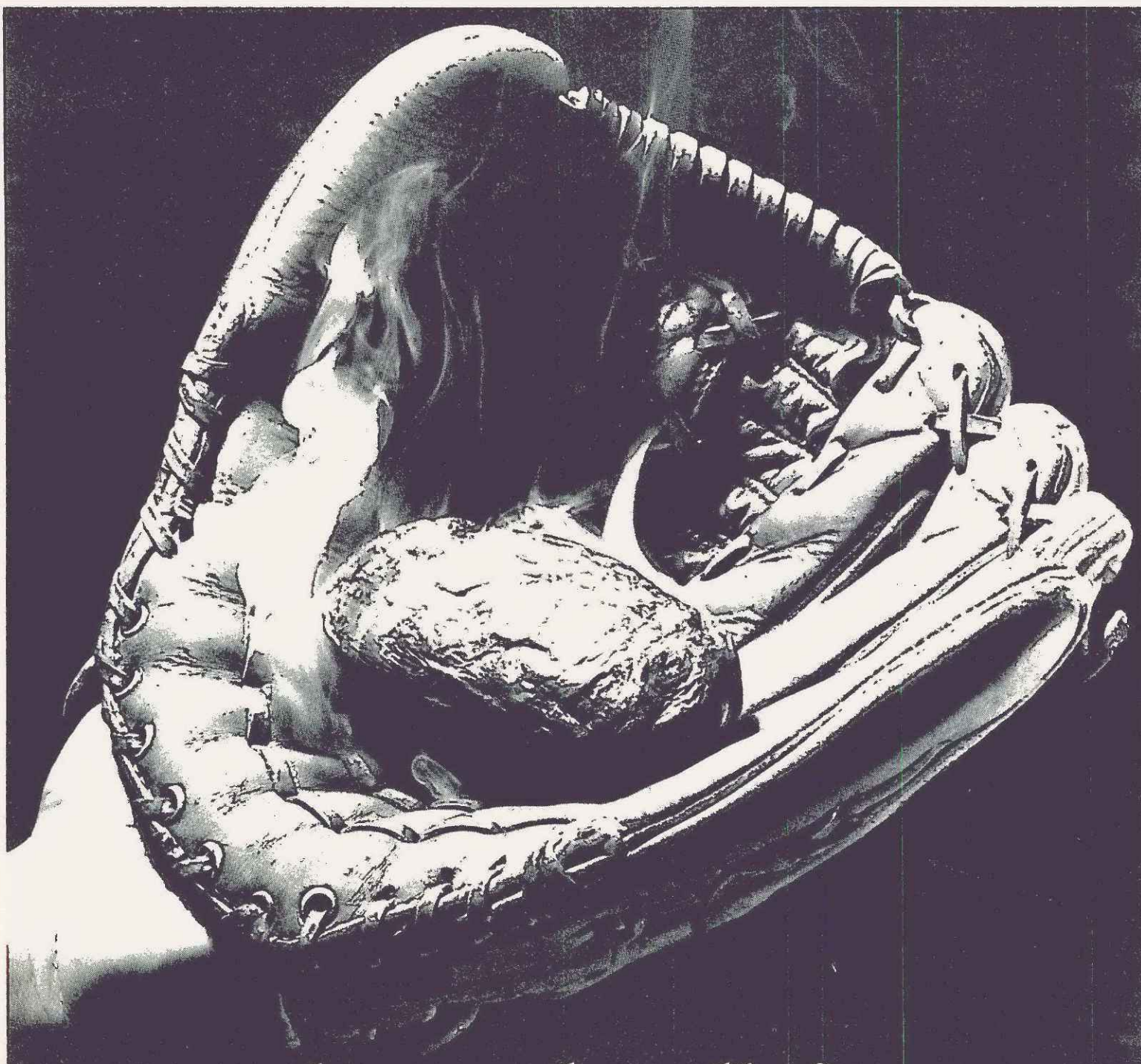
As the story in the Sept. 18 issue said, the ranking of excess surplus firms was based on the excess policy filings made with state insurance departments. It did not include premium volume in both the admitted and non-admitted markets. In addition, Business Insurance attempted to compile a directory of excess/surplus firms. Sixty four firms participated, not including Mr. Nolan's firm. Participation required the firms to reveal their gross revenues and percentage of income from excess/surplus lines.

San Diego crash

To the editor: In your issue of Oct. 2, you made two very misleading statements on the San Diego air accident. The pilot of the Cessna was a "student" to the same extent that one doing graduate work at a university is a student. He had a commercial pilot's license with 450 hours of flying time logged and was "studying" for his instrument rating. His FAA certified "instructor," also in the aircraft, had over 5,000 hours of flying time to his credit.

The Cessna had not "missed its landing approach pattern" but was executing a planned training maneuver under the positive control of the FAA tower. The PSA aircraft was not under the positive control of the tower but had elected to land visually.

W. R. Le Strange
 President, AVEMCO Insurance Brokerage Inc., Bethesda, Md.



how to handle it.

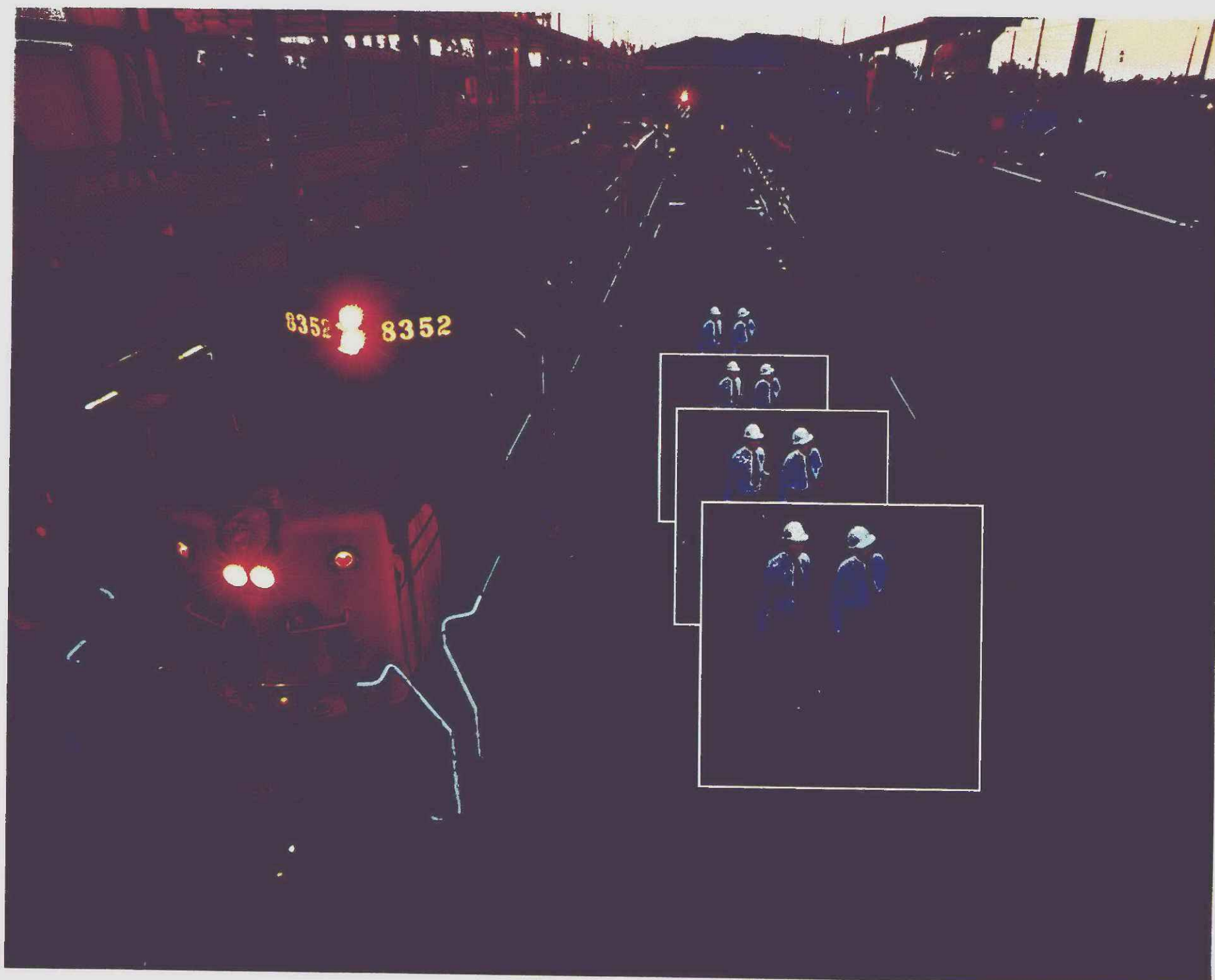
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Ideal plans new unit modeled on Kemper

NEW YORK—Ideal Mutual Insurance Co. has established a holding company known as Optimum Corp., to be owned 51% by Ideal and 49% by other investors, confirmed Edward P. Lalley, president of Ideal.

The arrangement is modeled after Kemper Cos.' structure, with the objective of providing a vehicle for additional financing to aid Ideal Mutual's growth over the long term. Optimum is capitalized at \$5 million, \$2.6 million of which

is from Ideal and \$2.4 million of which is to be contributed by outsiders, including investment bankers, employee stock ownership plans or other organizations with pools of funds.

Although Optimum won't be used to underwrite any insurance business, it may be used to invest in up to 20% ownership in companies that underwrite insurance or are in related financial services.

said Mr. Lalley. By having Optimum own 20% of another firm or group of firms, Ideal would be able to consolidate another firm's earnings into Ideal's financial statements.

Mr. Lalley suggested that Optimum could, for example, invest \$1 million in each of five established captive insurance companies, participating more heavily that way in

the growing profit center insurance business. "We already have one (trade association captive) that we've invested in, and Ideal is writing the policies," he told *Business Insurance*.

Ideal Mutual originally joined other participants in the Corporate Insurance & Reinsurance Co. Ltd. (CIRCL) with the idea of acting as a fronting company for smaller companies not eligible to participate

directly in CIRCL's programs. Mr. Lalley said that Ideal has not lined up any companies so far to work with in this manner, although Ideal is currently working with three companies interested in such an arrangement.

One of the three companies is a small steel fabricating firm and another a manufacturer of capital equipment, he said.

All three firms have annual sales of under \$100 million, since that is the minimum size requirement for companies interested in joining CIRCL.

Insurance covers huge Calif. award

SAN FRANCISCO—A medical malpractice award of \$7.6 million to an 18-year-old girl is expected to be covered by insurance.

A jury awarded Laurie Necochea what is believed to be the largest malpractice award in U.S. history. The girl became a quadriplegic six years ago when an overdose of radiation damaged the girl's spinal cord.

Mt. Zion Hospital and the University of California Medical Center were the two principal defendants in the case. A doctor who worked for the medical center was absolved by the jury.

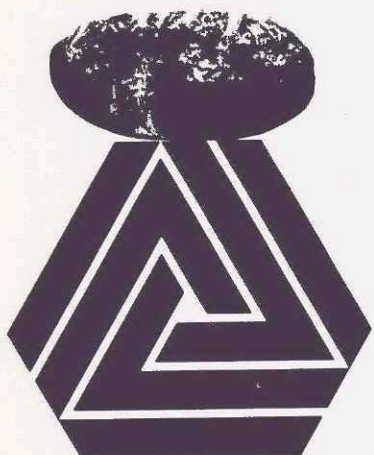
The hospital is a member of the California Hospital Association (CHA) and a participant in its group malpractice plan, according to spokesmen for Mt. Zion and the CHA.

The primary layer of the CHA group medical malpractice plan is underwritten by the Truck Insurance Exchange, part of the Farmers Insurance group, according to these sources. Lloyd's and other companies insure the excess layers.

Attorney Robert Glynn, who represents the University of California Medical Center, told *Business Insurance* that his client's primary medical malpractice coverage was underwritten by Hartford Insurance Co.

However, he said that Hartford's aggregate had been used up and so the insurers involved in the award are American Re and the Harbor Insurance Co., part of the Swett & Crawford Group.

Further legal moves in the case are likely, the attorney said.



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Ford faces \$11.5 million award in Lincoln crash

LOS ANGELES—A jury here this month ordered the Ford Motor Co. to pay \$11.5 million to a 27-year-old man injured in a 1970 accident involving a Lincoln Continental.

James Hasson, then a 19-year-old college student, suffered permanent brain damage in the accident.

The verdict is comprised of \$7.5 million in compensatory damages

and \$4 million in punitive damages. It is believed to be second in size in California only to the \$128 million verdict originally handed down against Ford in Santa Ana last February. In that case the auto maker was alleged to have deliberately fitted Pinto automobiles with poorly designed gas tanks that ruptured upon light impact.

In the new case, Mr. Hasson was permanently injured when he was

driving his father's Lincoln Continental in Los Angeles and the car's brakes failed. Ford was accused in the case of defectively designing and manufacturing the Lincoln.

Plaintiff attorneys David Harney and William S. Hart argued that the auto manufacturer was at fault because the brake failure stemmed from heat-induced vaporization of the brake fluid. The attorneys said

that Ford should have warned dealers of the need to have the fluid replaced periodically.

H.R. Nolte Jr., vp and general counsel for Ford, said that the company will appeal the verdict.

"Although we regret the occurrence of this tragic accident, we believe that the jury's award is contrary to the weight of evidence and is so unreasonable that it will not be upheld," he said. "Furthermore,

punitive damages may be assessed only in cases involving intentional injuries or conscious and willful disregard of the safety of consumers. We don't believe these factors were present in this case. The imposition of punitive damages is unjustified."

Plaintiff attorney David Harvey told *Business Insurance* that the verdict represents the second time the case was tried. The first time in 1973 the verdict was only \$1.1 million, but Ford won a new trial on the basis that the judge in the former case neglected to instruct the jury on the issue of contributory negligence.

In the new case, the jury found in its 9 to 3 verdict that Mr. Hasson was not at fault in causing the accident. It attributed 100% of the fault to Ford.

Mr. Hasson's disabilities today consist of sight and hearing losses; disuse of his left hand; epileptic seizures; hypersensitivity of the skin of his left side, and other physical deficiencies.

In addition, he has a metal plate in his head and a tube that drains fluid from his brain to his abdomen.

Mr. Hasson, who before the accident had planned to become a doctor, now plans to study psychology so that he can work with other accident victims.

D.C. disability tightening set

WASHINGTON—The House and Senate this month gave final Congressional approval to legislation designed to crack down on disability retirement abuses by District of Columbia police officers and firefighters.

The legislation would require city employees to obtain yearly medical statements from the District of Columbia Board of Surgeons certifying that they still are disabled.

The board of surgeons also would be required to determine the percentage of impairment at the time of retirement. For example, an injured employee who was 40% disabled might only receive 40% of salary.

At one time so many city employees were retiring on tax-free disability benefits (88% of police officers who retired in one recent year did so), that Sen. Thomas Eagleton (D-Mo.) labeled the D.C. retirement system as a "premier ripoff."

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"We've achieved these savings because we can now evaluate the merits and validity of each claim through a variety of methods. ESIS supplies us with, among other things, highly detailed reports on every claim. If knowledge is power, now we have it: the power to maintain solid control over all of our

claims settlements.

"Two other benefits: First, with the data supplied by ESIS, we can make accurate projections on how much risk we should retain each year. And second, in that costly area of worker's comp, our employees are much more aware that the city is running a tight ship."

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SPECIAL RISKS REPORT

Catering to a demanding crowd

Renowned Lloyd's of London isn't the only specialty insurance shop where off-beat cravings for insurance are satisfied. And giant Marsh & McLennan isn't the only broker which serves up rarely requested insurance policies.

There are other chefs and maitre d's of insurance in America who can concoct and deliver insurance of the strangest varieties. *Business Insurance* reporters discovered in preparing articles that give a taste of the unusual in commercial insurance.

Ignoring the run-of-the-mill, the reporters researched the insurance needed on such assets as livestock and such investments as sporting events. Pigs, by the way, are virtually uninsurable, partly due to their propensity for obesity. Sporting events don't evoke cheers in underwriting circles either, though the reception varies depending on whether it's on the equipment for a balloon trip across the ocean, a star football player's salary or a skateboard park's liability.

But American as well as London insurers are having a picnic with special risks.

American Life Stock Insurance Co. of Geneva, Ill., insures appropriately enough livestock risks. The risks the company will underwrite roam from guaranteeing to reimburse the owner of a valuable horse if it can't reproduce to insuring the life of a precious animal, complete with a beserk clause in the event the animal goes hopelessly crazy while being shipped.

An Albuquerque brokerage firm president was able to dish up the insurance vital to lifting Double Eagle II off the ground and guiding it on its historic crossing of the Atlantic, all through American companies.

Reaping the repasts of American markets is not to ignore the manna that will flow from London.

Lloyd's didn't blink at a tall order from a performer who wanted to insure against losing her claim to fame as the world's tallest dancer should she suffer a height-shrinking injury, reports London

If it's not fish tales, it's bunny tales



The Time: Several years ago.

The Place: A Hollywood studio.

The Scene: A science fiction movie in which the entire cast consisted of rabbits. (They had taken over the world, by the way).

The Problem: The movie—called "The Rabbits" of course—required 500 rabbits, 300 of which were trained to respond to simple commands such as "turn right," "left," or "run." Rabbits (even those that have taken over the world) are subject to diseases which can wipe out large numbers of the creatures. If anything happened to the rabbits the studio would incur \$100,000 in extra expenses.

The Solution: A 150-rabbit deductible.

The Explanation: As a loss control measure, the studio isolated 150 rabbits on a standby basis. Lloyd's then provided a \$100,000 extra expense policy costing about \$3,000 with a "150-rabbit deductible" since untrained rabbits are easily obtained and would naturally follow any group of trained rabbits.

The Result: The movie was made although it didn't become a box office hit.

The Story: Courtesy of Jack E. Groleau of Bayly, Martin & Fay in Los Angeles, who brokered the policy.

correspondent John Miller in discussing Lloyd's more exotic insurance spreads.

Not to belie big as beautiful, Marsh & McLennan knew where to call to get quick delivery on an order for animal liability on a talking gorilla when the standard mar-

kets were bare. It seems not only the university where world-famous Koko is being trained but also underwriters were worried that the communicative ape might put her foot elsewhere than in her mouth.

It's not only the obviously un-

usual that can cause a loss ratio to flop. Firemen's Fund, in conjunction with the agency of Albert G. Ruben, readily cooks up insurance for the entertainment industry. But neither the West Coast insurer nor the newly acquired Alexander & Alexander agency could have

guessed that a new Woody Allen film would be so much trouble just because it's being shot in black and white, as an article on "Manhattan" details.

Though so far less troublesome to underwriters, a stock request for insurance on an orchestra going overseas entails some extra attention to detail. A traveling orchestra needs crime insurance on the cash in the various currencies it must have on hand to pay its day-to-day expenses.

Moreover, insurance experts are always whipping up something new. There's a Virginia Beach insurance broker who has designed a policy for universities and colleges to reimburse them for the cost of an athletic scholarship which must be paid even when a student is hurt and can't play the game.

The new policy, to be underwritten by aggressive American Home Assurance Co., is similar to the kind of protection offered professional sports teams with players who have commanded multi-year, no cut contracts that guarantee their salaries even when they may be benched by an injury for coming seasons.

Professional sports team owners also buy insurance to protect them against the loss of their entire team in, for example, a tragic airplane crash.

The ingredients of these insurance programs covering collegiate and professional sports teams, are detailed in stories in the following pages of *Business Insurance's* special risks report.

Participatory sports call out hard-to-fill orders too. Amusement parks aren't the thrill of the century to insurance companies. Skateboard parks leave a particularly bad taste in the mouths of most underwriters. While Lincoln Insurance Co. is the only company willing to write skateboard parks, the operators are forming their own insurance companies.

Special risks require, these articles show, a book of recipes for insurance that will satisfy the demands of the hot dog crowd as well as the connoisseurs.

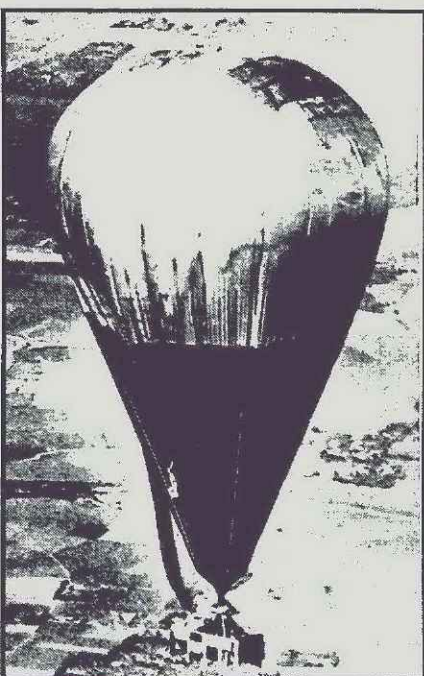


Photo: Wide World

The flight of the Double Eagle II across the Atlantic wouldn't have been possible without a flight of the crew's insurance broker. Page 31.



Photo: Wide World

With the growth of multi-year, no-cut contracts, insurance policies for pro athletes are growing. Page 15. Meanwhile, a Virginia broker hopes to tackle injury problems for colleges. Page 29.

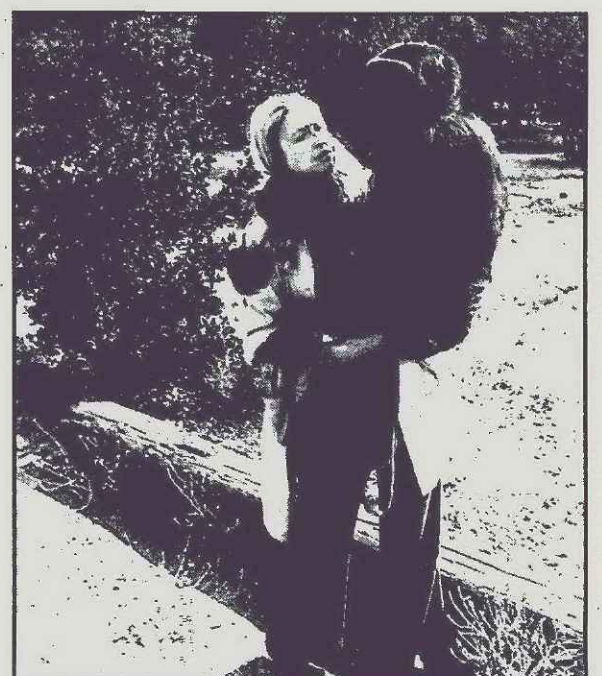


Photo: Stanford University News Service

Stanford University is understandably proud of Koko, the first gorilla that can swing through sign language. The university has its own special insurance package for Koko. Page 14.

Koko: Her word's not enough when it comes to liability signs

KATHRYN J. McINTYRE

SAN FRANCISCO—Stanford University is understandably proud of a graduate student's research project that has resulted in the first gorilla swinging through sign language with nearly the dexterity an ape has for leaping through jungles.

But lest the scientific breakthrough also entail the young gorilla swinging through the hallowed halls of the prestigious university and breaking up campus facilities, the university requires that the scholarly gorilla Koko be insured against animal liability.

Not surprising, the standard markets weren't interested in taking on a gorilla, not even one that knows 351 words in the American Sign Language and who uses them with amazing lucidity, reported Marsh & McLennan account executive John J. Laurin.

Though Koko probably could have assisted Mr. Laurin in presenting the risk to an underwriter, presuming the underwriter could communicate in the language of the deaf, Mr. Laurin turned the risk over to excess and surplus lines brokers Markel Services of Richmond, Va.

Markel placed \$300,000 of animal liability insurance, covering bodily injury and property damage that might be done by Koko, with Great Southwest Fire Insurance Co. of Scottsdale, Ariz., which is part of the Century Group. The only exclusions in the policy are for punitive damages and assault and battery. There is also a \$250 deductible on property damage. The annual premium: \$330.

First placed in July 1977, the claim-free policy was renewed this year. A new classmate, Michael, is also now insured under an identical policy for another \$330.

So far Koko has limited her destructive outbursts to minor inci-

A&A merges with Concord

EL PASO—Alexander & Alexander of Texas Inc. has acquired the Concord Insurance Agencies here. Alexander & Alexander of Texas is a unit of Alexander & Alexander Inc., the nation's second largest broker. ■

SPECIAL RISKS

dents, such as tearing up sponges, which definitely fall within the deductible of the policy. And she's sufficiently remorseful when caught in such acts. Confronted with torn bits of sponges and asked what it meant, she responded, "Trouble."

A gorilla learning sign language speaks of an outstanding achievement by Koko and her teacher, psychology graduate student Penny Patterson. Previously research in communication with apes has focused on chimpanzees.

The Gorilla Foundation Inc., established to fund the research project and supported by the National Geographic Society, had considered also buying animal mortality on Koko. But the quote out of London was a premium of 10% of Koko's value. At one estimated value of \$20,000, the premium would have been \$2,000 and it was decided that was too much money.

Still, one wonders how anyone can even set a value on a communicative gorilla with the personality of Koko. And what would Koko have to say about this anyway?

M&M's Mr. Laurin hasn't met his insurance charges Koko or Michael yet. "We've just talked on the phone," he joked. ■



Photo: Stanford University News Service

At a press conference recently, Koko's answers were interpreted for reporters by her teacher, Penny Patterson.

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More growth predicted as no-cut pacts grow

More risks score for sports insurance

By JERRY GEISEL

SPECIAL RISKS

WASHINGTON—When Washington Bullets superstar Phil Chenier injured his back and was lost for last year's National Basketball Assn. season, many Bullet fans thought their team's hopes of winning a championship were dashed.

But unexpected superlative performance by other veteran Bullets offset the loss of Mr. Chenier and in June the Bullets vanquished Seattle and was crowned champions of the NBA.

Just as other players were compensating for the loss of Mr. Chenier on-the-court, off the court a veteran insurer—Lloyd's of London—was compensating Bullet owner Abe Pollin for Mr. Chenier's

salary under the terms of a special disability insurance policy.

Insurance policies that reimburse a team owner in case one of his star players is injured, such as the one Mr. Pollin purchased from Lloyd's, no longer are a rarity.

The tremendous salaries paid to many professional athletes, the proliferation of "no-cut" contracts and more cross-country travel have put more risks on the scoreboard and sparked a drive by owners to cover those risks through the purchase of specialized insurance policies.

Despite these factors, sports dis-

ability insurance policies may still only be in their infancy, predicted an attorney who has represented several superstars. The real growth in such policies will occur as more and more athletes sign no-cut contracts in which their salaries are guaranteed over a number of years even though an injury may prevent the player from competing.

Finding out the exact details on how owners are insuring against the loss of their players can be as difficult as a team trying to overcome a two-touchdown lead.

Most teams that *Business Insurance* contacted either didn't return calls or declined to provide more than an outline of their coverage. For example, Bill Veeck, owner of

the Chicago White Sox, revealed that he has purchased disability policies that reimburse him if certain players are injured off the field. But he declined to identify the insurer, the players covered or the amount of premium paid.

But underwriters, brokers and attorneys involved in professional sports coverage offered some clues and the picture of coverages that emerged from conversations with these experts is as complicated as the Dallas Cowboys playbook.

There are more than 100 different rates for sports disability policies, said Robert Bradshaw, president of Robert Bradshaw Inc. and managing director of Management Guaranty Co. Ltd. of Bermuda.

Mr. Bradshaw, who also is a



Photo: Wide World

Washington Bullets are covered under insurance policies taken out with Lloyd's of London.

Lloyd's wholesaler and is estimated to have placed more than 80% of sports insurance ever written, said policies now offered range from reimbursing an owner if a pitcher missing his starting rotation because of injury to providing catastrophic coverage to protect an owner if his team perishes in a plane crash.

Although there are policies tailored to fit almost every need, Mr. Bradshaw said teams in the National Football League usually opt for two types of policies.

The most basic policy is for accidental death or dismemberment. This type of policy is designed to give an owner the cash he needs to build a new team if players were killed in a plane crash. The basic rate for such a policy is \$1.72 per \$1,000 of benefits.

The second type of policy covers players, usually superstars, who have multi-year contracts in which benefits are paid although injury may prevent an athlete from playing.

Such no-cut multi-year contracts still are rare. Most multi-year contracts that are announced in the newspapers as a new season begins are really a series of one-year contracts, according to Vince

Continued on following page

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Pro insurance . . .

Continued from preceding page
Lombardi Jr., assistant executive director of the National Football League Management Council. After one contract ends, the new one goes into effect only if a player is healthy and makes the team in summer camp.

Although estimates vary depending on who you talk to, most experts agreed that no more than 10% of NFL players have signed true multi-year, no-cut contracts.

While the number of players who have such contracts may be small, the dollar amounts and the poten-

tial liability involved is huge. O.J. Simpson, for example, the highest paid player in professional football, earned more than \$700,000 annually when he played for the Buffalo Bills.

Owners can purchase insurance to cover their contractual liability for multi-year contracts, Mr. Bradshaw explained. Buffalo Bills president Ralph Wilson, for example, is widely believed to have purchased a policy in the London market that provided benefits in the event that Mr. Simpson was injured and O.J. sat out most of the 1977 season

with a knee injury.

Policies that cover professional athletes on multi-year contracts usually only go into effect at the start of the player's second year of the contract. The first year typically is self-insured.

Rates for such policies vary depending on factors such as the age of the player and his past medical history. Although Mr. Bradshaw cautioned that it was only a "rough ball figure" the rate to cover permanent total disability on a professional football player would be \$12.60 per \$1,000 of exposure. The rate to cover temporary total disability would be considerably higher, he added.

Players not covered under multi-year contracts in the NFL, however, do have some financial protection in the event of injury. The athlete is guaranteed his salary during the year of his contract. If the player misses all or part of the last game of the season due to injury that occurred in practice or on the field and then fails the physical and summer camp the next season even after undergoing recommended surgery or rehabilitation, the team must pay the player half his salary up to a maximum of \$37,500.

This so-called "Article 10" benefit, named after the provision in the 1977 bargaining agreement between the owners and the players association, is thought to be self-

insured, according to several experts. Pro basketball and hockey contracts call for similar benefits for injured athletes.

Athletes, however, competing in individual sports, such as tennis and golf, have had trouble securing insurance for temporary total disabilities in the U.S. market.

Part of the problem is that it is very hard to define what an injury is, observed C. Vernon Sprately III, a Richmond, Va., attorney who represents about 10 professional golfers. "A professional golfer may have a sprained back and can't go on the tour, but that doesn't preclude him from doing something else," he said.

But thanks to a new insurance policy developed by Virginia Beach insurance agent Edward Phillips of the Pembroke Realty & Insurance Agency, golfers may have eagled and tennis players aced their temporary disability income problems.

Under the policy, which Mr. Phillips is trying to get American Home Assurance Co. to underwrite, golfers and tennis players would be paid up to \$6,000 a month after a 90-day waiting period.

Benefits would be paid up to 21 months as long as the disability prevented the professional from returning to the courts or links. Once the player returned on the tour, he or she would receive 75% of the disability benefit or \$4,500. The second month the benefit would be \$3,000 and the third month, \$1,500.

It doesn't matter how much the professional earns during those three months, benefits still will be paid. "We want to place the athlete in a position where he can't lose by trying," Mr. Phillips said.

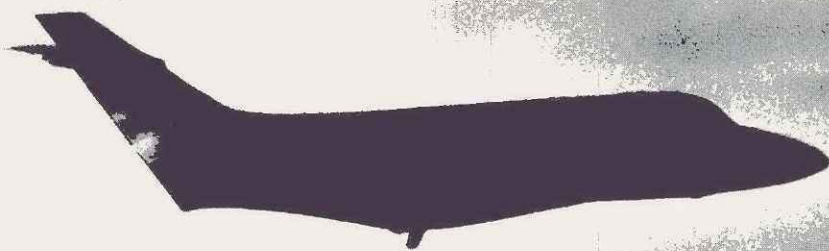
However, the policy would not cover an injury that was related to a pre-existing condition. The annual premium for the \$6,000 a month policy is \$1,080. For a policy in which the monthly benefit is \$1,500, the annual premium would be \$270, Mr. Phillips said. ■

Lawyer blasts insurance firms

WASHINGTON—The new president of the Assn. of Trial Lawyers of America accuses the insurance industry of creating an "elaborate game plan" aimed at deceiving the public in the name of tort reform.

Michael Colley, ATLA president, told a legal seminar here that insurers have peddled contrived cases and "horror stories" with the deception of the public as the ultimate objective. ■

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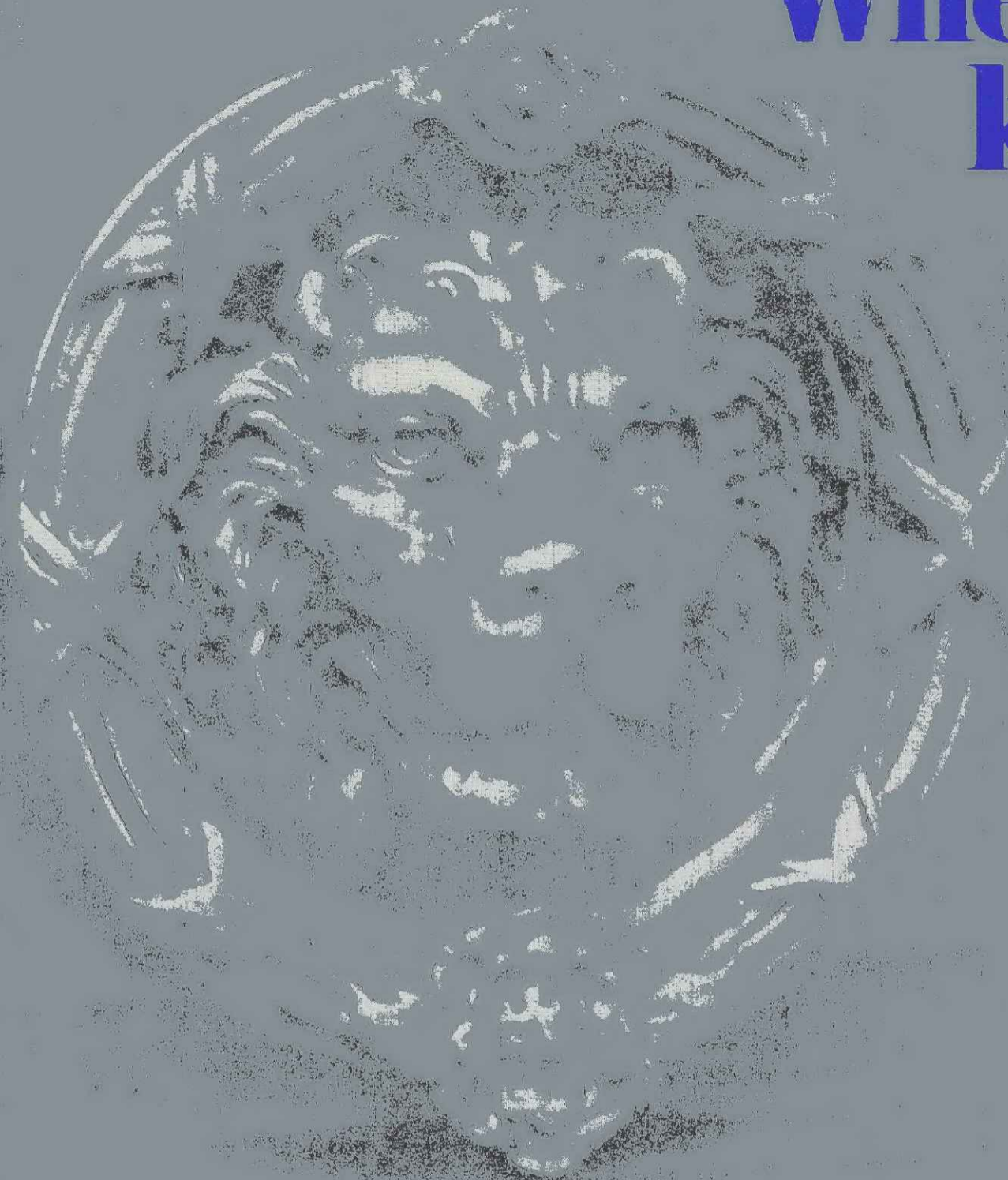
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When opportunity knocks

Symphony's insurance hits the note

By KATHRYN J. MCINTYRE

CHICAGO—When the Chicago Symphony Orchestra goes on a world-wind tour, a complete insurance package accompanies the 110 members and eight administrators to prevent a melodious trip from ringing sour.

Leonard Smith, controller of the Orchestral Assn. here, observes that "tours in this country are no trouble" under the association's insurance program arranged by Marsh & McLennan and nicking 2% of the symphony's budget. Similarly, Mr. Smith doesn't detect any problems with securing the needed insurance for an overseas tour.

Still, it took M&M's Bill Kearney about four hours spread over three weeks to assemble a complete insurance program for the recent seven-country tour of Europe by the renowned orchestra. At risk were not only 160 trunks full of instruments, performance clothing and music, but also the cash carried for the trip, the personal luggage of the orchestra members, the members' health and some duty charges, Mr. Kearney explained.

The orchestra's equipment, valued in the millions of dollars, is covered by Fireman's Fund Insurance Cos. for a premium approximating \$24,000. An equipment floater for the overseas tour was provided.

Already in charge of the melody of the insurance score, Fireman's Fund—the world's largest entertainment risk insurer—also picked up the crime policy. Mr. Kearney admitted that the crime policy, needed to cover the \$44,000 in cash in seven different currencies carried to cover the per diem expenses of the orchestra members, would have been "kind of tough" to play solo. But the money was securely sealed in a portable vault and the crime insurance policy premium was only \$60.

Insurance on the personal baggage of the traveling troupe was underwritten by Continental Casualty. But this type of insurance is available only as part of a package policy that also provides death, accident and sickness benefits, supplementing the group's workers compensation and medical programs. The standard \$30 premium on an individual was increased by \$7 for protection of a spouse or children also on the trip. ■



Photo: Wice World

Woody Allen quips that his latest movie will be presented in part by Fireman's Fund.

Movie may turn insurer red

SPECIAL RISKS

NEW YORK—Shooting a Woody Allen movie in black and white is developing risks of a different color for United Artists and its insurance company, Fireman's Fund.

The movie, a new romantic comedy tentatively titled "Manhattan," is encountering extensive reshooting because New York movie labs are unable to process ordinary black-and-white film.

Executive producer Bob Greenhut said he estimates he'll be submitting a \$140,000 extra expense claim as a result of the problems he's run into.

"Normally you run into one problem on a picture," he told *Business Insurance*. "It seems we're averaging one problem a week with the development of the film.

There was only one laboratory in

New York City which would agree to process the Woody Allen film on a daily basis. Processing black-and-white film "seems to be a lost art," Mr. Greenhut complained. The veteran producer of 25 films encountered similar problems on "Lenny," his last black-and-white film.

Although the insurance money will help, it won't solve all Mr. Greenhut's problems. In some cases spoiled scenes were simply dropped and elsewhere other takes were substituted for the lost shots.

The \$4.83 million film produced in association with Mr. Greenhut's Rollins & Joffe is insured for

"monetary losses for which the production company can't budget," said Edward E. Hamby, assistant vp at Fireman's Fund.

United Artists has a portfolio contract with Fireman's Fund written through the Albert G. Ruben Co. Inc. of Los Angeles, brokers for most of the entertainment industry. Individual films are insured according to the amount budgeted for them and the exposures, Mr. Hamby said.

In the case of "Manhattan," Fireman's Fund claims personnel are currently investigating, the executive continued.

Whatever the cause, Woody Allen said the claims "are going to cost them (Fireman's Fund) a lot of money. We're considering billing the picture as 'Presented by Rollins & Joffe, in association with Fireman's Fund,'" he quipped. ■



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Photo: Michael Volker

The image of skateboarding is so bad that insurers want premiums of up to 20% of gate receipts.

Skateboard parks go bare or careen toward captives

By MARGARET LeROUX

NEWARK, Calif.—In the lingo of skateboarding, ripping is what you do as you're whizzing through the bowls and snakes, the banks and serpentine courses, of the concrete skateboard parks that have sprung up across the U.S. in the past two years.

According to the park owners, ripping is what the insurance industry is doing to them with extremely high prices for low limits of liability coverage.

There is only one insurance company, Lincoln Insurance Co., a subsidiary of the Scottish York Insurance Co. of Wilmington Del.,

SPECIAL RISKS

that will underwrite liability coverage for owners of skateboard parks.

Rather than ante up approximately 15% to 20% of their gate receipts for a \$500,000 policy, at least half of the 300 or more parks in the U.S. are going bare while about 50 of them have formed captives.

"Lincoln is the only game in town and they've been making some pretty stiff demands," said Jim Lewy, head of J.F. Lewy Insurance of Newport Beach and

agent for the International Skateboards Assn. (ISA). The association is made up of owners of 200 parks in the U.S. and Europe.

Among Lincoln's requirements is an irrevocable letter of credit for the amount of the premium (ranging from \$11,376 to \$23,626), "enough to discourage anyone from starting up a park," said Sally Anne Miller, executive director of the ISA.

The Assn. of Skateboard Park Operators (ASPO) is completing arrangements for a Bermuda captive that will provide 30 to 40 parks with \$500,000 liability limits for approximately \$10,000 each. The captive will be reinsured for \$1 million with annual aggregate stop-loss at \$100,000, according to Al Osterloh, head of Osterloh & Durham of Van Nuys and the man setting up the captive.

Already in operation is the Virgin Islands captive of the Continental Skateboard Assn., called Baron's Mutual Insurance Co. It provides 18 member parks with \$300,000 to \$500,000 limits of liability for \$8,000 to \$25,000, depending on gross gate receipts.

Baron's is managed in the Virgin Islands by Lloyd's broker Ian Taylor and does not have reinsurance.

"We set this thing up because of the high cost of insurance," said Jim Egide, president of the association and owner of Rainbow Skateboard Park in Sacramento. "To get reinsurance, we'd have to come up with a premium totalling 70% to 80% of our gate receipts."

Some in the skateboard and insurance industries consider the non-reinsured captive "very shaky," but Mr. Egide defended Baron's as a provider of coverage for parks that do a minimum volume of business.

"Baron's allows the park that does \$50,000 to \$100,000 annually to have coverage... A lot of owners have all their money in the parks; they can't afford the sizeable premiums Lincoln is quoting," he said.

The Baron's captive has been in existence for a year and recently lowered premiums 40% based on a loss experience "of practically zero," its president said.

Both Baron's and the ASPO captives have loss control procedures including inspection by a skate-

Continued on following page

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Skateboarding . . .

Continued from preceding page
board professional and requirements of safety gear to be worn by anyone skating in the parks, according to Mr. Egide and Mr. Osterloh.

Membership in one of the skateboard associations is another requirement of both captives. The ISA, for example, provides members with a list of safety factors that should be taken into consideration in the design and construction of parks.

The issue of safety is the crux of the insurance problems of skateboard park owners. The sport has an image of speed, risk and daredevilry. Anyone who's jumped aside to avoid being run over by a skateboard speeding down the sidewalk or taken a spill while trying out wheelies in the driveway can attest to the dangerous potential of 2.5 feet of wood and wheels.

"It's the injuries suffered on the streets that we're paying for," the owner of a Northern California skateboard park complained. "When the insurance companies think of skateboarding, all they can see is some kid running into a telephone pole or the side of a car."

A Lincoln Insurance Co. spokesman conceded that skateboard parks "bear the stigma" of injuries that occur elsewhere. Based on 140,070 skateboard injuries treated in hospital emergency rooms in 1977, the Consumer Product Safety Commission ranked skateboards seventh on the list of hazards published by its National Injury Information Clearinghouse.

But Lincoln recently re-evaluated the loss experience of skateboard parks and decreased deposit premiums by 35%. The parks' incurred losses to earned premiums ratio dropped from 147% in December 1977 to 57% in June 1978, according to Baird Smith of Calgaro Insurance Agency of San Diego, agent for Lincoln's insured parks in California.

Lincoln operates in California on a surplus lines basis.

Based on the decrease in losses, Lincoln lowered its minimum premium from \$20,000 to \$11,376 and included in new policies accident and medical coverage above any group medical coverage an injured skater might carry.

Mr. Smith said improved incident reporting by park management and requirement of safety equipment—helmets, kneepads, elbow pads and gloves—have resulted in fewer losses.

And despite the dangerous image of skateboarding, there have been very few major accidents in skateboard parks to date. "The largest claim I know of is a major back injury that we have a substantial reserve on," Mr. Smith said. "We're not supposed to credit luck in the insurance industry, but so far the skateboard parks have been very lucky," he added.

"The resiliency of youth," plays an important part in the low level of skateboard injuries, the agent observed. "All the major injuries I've seen have been incurred by adults."

The popularity of skateboarding has spawned companion industries such as consultants to work with park owners in the design and construction of parks that are safe as well as challenging.

David Snaith, head of Foxfire Associates, which are southern California consultants to the skateboard industry, noted that "in the design we try to make sure of things like keeping the runs from flowing into each other."

But consultants and extra safety features are expensive and the skateboard industry has attracted a lot of investors on a shoestring.

"Most park owners are quick buck artists," observed ISA agent Mr. Lewy, "expecting to get rich overnight with minimum investment. They can't afford the \$15,000 insurance premium because they really can't afford the \$200,000 for concrete."

Park owners cause their own insurance problems, Mr. Lewy charged. "They won't provide accurate claims and loss information or give truthful answers about the kind of coverage they have."

Despite the efforts of the ISA and other skateboard associations to promote the sport as a safe and healthy leisure activity, the risks make the parks unattractive to the insurance industry.

"Let's face it," said ASPO's Mr. Osterloh, "skateboard parks are not a risk everyone's dying to write."

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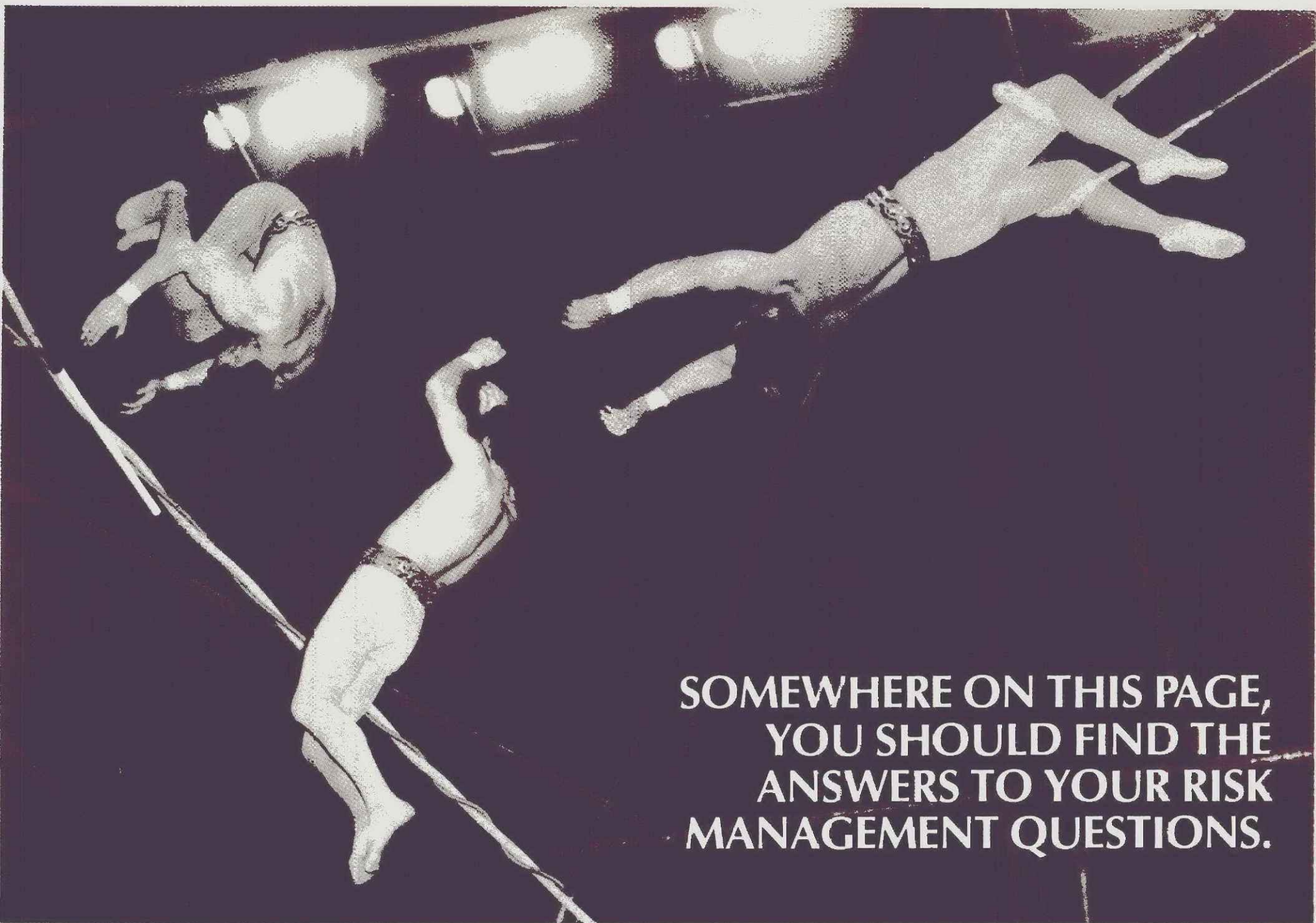
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One reason for using IRA rehabilitation to close a case as quickly as possible is a simple recognition of human nature. An injured worker's basic desire to get back to work can sometimes slacken over a period of time. The other reason is, of course, that a significant amount of money can be saved for the insurance company or self-insured.



Names haven't been changed

\$2 million E&O policy stands atop 'Backstairs'

By JOANNE GAMLIN

HOLLYWOOD—Early next year NBC will take viewers "Backstairs at the White House" through the story of a mother and daughter who served as maids to presidential families for over 50 years.

Backstairs at the production set the story is insurance brokered by Marsh & McLennan and underwritten by entertainment specialist Fireman's Fund Insurance Co.

The eight-part special is about the private lives of presidents from William Howard Taft to Dwight Eisenhower. It is based on the

SPECIAL RISKS

story of Lillian Rogers Parks and her mother, Maggie Rogers, which Mrs. Parks recounted in a 1961 book.

To ensure good ratings, "Backstairs" boasts a star studded cast including Leslie Uggams as Mrs. Parks and Olivia Cole as her mother, as well as household names like William Conrad, Julie Harris, Celeste Holm, Robert Vaughn, Cloris Leachman, Lou Gossett, Barry Sullivan and Paul Winfield.

To insure a successful shooting, the producers took out a \$5 million cast policy to cover 15 performers for accidents or illness, says production manager Max Stein.

"Because of the size of the cast, there are 15 actors/actresses being covered compared to five or six performers who are insured under a typical cast policy," he told *Business Insurance*.

Mr. Stein's desk features a sign emblazoned with the famous Harry Truman motto "The Buck Stops Here." As one might expect, it served as a prop in scenes involving the plain-spoken president.

"Backstairs at the White House" took out a \$1 million policy to protect the props, set and wardrobe. The \$400,000 set contained a large number of rented antiques discovered during a four-month search by the show's staff.

A \$1 million extra expense coverage protects against incidents that lead to a production shutdown and a \$1 million third-party property coverage covers accidents such as one car hitting another.

Errors and omissions coverage is an integral element of the company's program considering the sensitive nature of the program. Jacqueline Kennedy was so disturbed when Mrs. Parks' book was published in 1961 that Mrs. Kennedy required all White House employees to sign a pledge they would never write memoirs, a pledge later ruled illegal by the courts.

"We spent a lot of time clearing the names used in the script," Mr. Stein explained. The E&O coverage has a \$1 million primary and a \$1 million excess layer to cover libel, plagiarism and misuse of the names of real people.

All the policies are insured by Fireman's Fund with low deductibles. Mr. Stein wouldn't reveal the cost of the coverage, but said he and producer Ed Friendly were happy with the cost and the star performance of M&M account executive David Stebbins.

Marsh & McLennan dealt with Albert G. Ruben, now a part of Alexander & Alexander, because Ruben is the exclusive worldwide agent of Fireman's Fund entertainment insurance.

"Backstairs," filmed during an intense production schedule which began last year and filled 61 of 71 possible shooting days during the next three months, was directed by Michael O'Herlihy, Gwen Bagni and Paul Dubov. Mr. Friendly characterized the series as a "behind-the-scenes story of the permanent residents, the servants, the views of the first families that molded our history during 52 tumultuous years."

Mr. Friendly's most recent production was "Peter Lundy and The Medicine Hat Stallion."

Six short weeks

Wayne S., a 29-year-old assembly line worker had been a paraplegic for 14 months, as a result of an automobile accident, when his case was referred to IRA. An IRA rehabilitation specialist found that Wayne wanted to return to work and that his previous job could be done in a sitting position, except for the need to pick up parts across the plant floor. IRA convinced his employer to have another worker replenish the parts twice a day. Wayne went back to work, full time, just six weeks after the initial interview, saving the insurance carrier over \$100,000.

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Amusement park thrills aren't happy rides for 8 underwriters

By ELLIS SIMON

SPECIAL RISKS

NEW YORK—Amusement park underwriters do not expect a high-speed roller coaster to come crashing to the ground, killing 50 people, but there are enough incidents of lesser magnitude to make amusement park liability a tough ride.

Frequency, rather than severity, represents the greatest casualty exposure for amusement parks, agree underwriters, managing general agents and risk managers. Often incidents involve a small child tripping on the grounds and compensation is made on the spot in the form of an afternoon of free rides, said Ken Olson, underwriting manager in CNA's Kansas City branch.

However, a large number of small claims requiring insurance company settlement could quickly eat up any underwriting profits. For instance, any insurer handling 1,000 broken leg claims in a year would not only pay out from \$3,000 to \$10,000 per claim, but would face higher claims administration costs than for a catastrophic loss, said Sal Nociforo, assistant vp for National Union/American Home.

More severe incidents do occur. Three persons died this summer when a cable car derailed at Six Flags over Missouri. However, in a great number of fatalities, "there's only so much that carnivals and amusement parks can do to prevent them," said William Brecht, senior vp at Empire Fire & Marine Insurance Co. of Omaha.

There is often contributory negligence in these terrible accidents, he said, giving the example of a person who rocks a ferris wheel chair, causing it to come loose. "If people followed what the signs said, we'd have fewer accidents," he observed.

However, Mr. Brecht added that if the courts find "the slightest bit of negligence by the parks, we're going to get hit." Further, it is difficult to pass liability on to a manufacturer because they often are unable to obtain insurance or are foreign manufacturers, he said.

Safety, maintenance and attitude of park management are the most important factors in underwriting amusement risks. "A poor operator is a bad insurance risk," said CNA's Mr. Olson.

Constant loss control and servicing is a large part of the secret of successful amusement park underwriting, he said. CNA inspects over-the-road shows several times a year, looking for life, health and safety code violations and monitoring set-up techniques.

"Most operators we stay with are cooperative and the ones who don't take our recommendations don't stay with us very long," added Mr. Olson.

National Union's Mr. Nociforo cited the quality of help as another safety factor in judging over-the-road shows. While some operators retain full-time set-up personnel who travel with the carnivals, others often "go into a town and use local kids," he said.

Mr. Nociforo added that National Union makes an engineering inspection of amusement risks prior to or at the time it receives a retainer.

Corporate insurance buyers also stressed the importance of safety and maintenance in an amusement park risk management program. Insurance officials at Cedar Point (Ohio), Knotts Berry Farm (California) and Marriott Corp., which operates the Great America theme

derwriters, the managing general agency that is the AIG unit's exclusive producer.

However, National Union's profitability results partly from higher rates than its competitors, which Mr. Bingham said the insurer is able to charge because of its reputation as a quality company.

Approximately eight insurers write liability coverage for amusement parks and carnivals in the United States. National Union, Empire Fire & Marine, CNA and Firemen's Fund are considered the leading firms.

For the most part, the insurers have exclusive contracts with

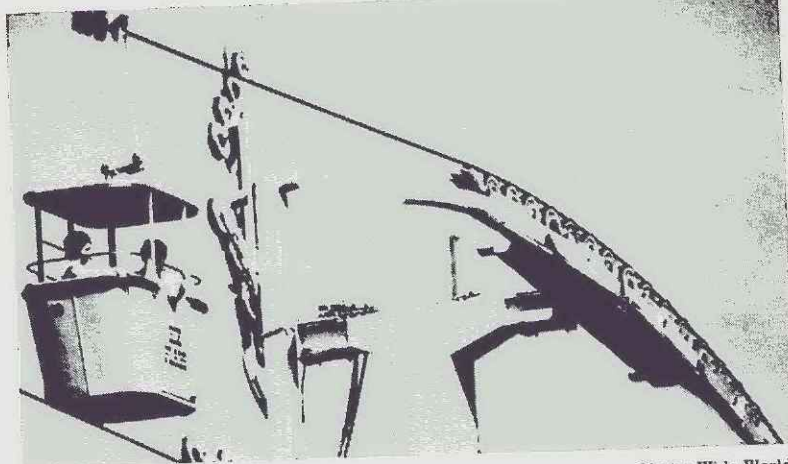


Photo: Wide World

Two riders await rescue after an accident at Six Flags near St. Louis resulted in the death of three persons.

managing general agents for the amusement business. In addition, to National Union's relationship

with Amusement Business Underwriters, CNA gets its business exposure. *Continued on following page*

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Parks . . .

Continued from preceding page
clusively through Haas, Wilkerson and Woberg of Kansas City while Mendel Kaliff of San Antonio is exclusive producer for Empire Fire & Marine.

Casualty rates have increased in recent years and some underwriters feel increases are likely to continue. Over the past five years, rates have increased a minimum of 50% and in some cases have doubled, said Mr. Bingham. Mr. Brecht said the average increase since 1974 has been 40%.

More extreme has been the experience of Cedar Point, which saw liability rates almost double in three years, according to assistant treasurer Jim Batley. However, Mr. Nociforo said the large theme parks generally have had good experience and enjoy more competitive markets than the smaller parks and traveling carnivals.

Not only are carnivals generally paying a greater part of their income for liability insurance, they do not enjoy the profits that allow fixed amusement parks to plow money back into improving safety, noted Mr. Brecht. In addition they are under increasing pressure from the states to meet stricter standards.

Amusement parks operating untried rides also face more difficulty with casualty insurance programs. "It is difficult to talk underwriters into writing unproven rides. They'll take a longer look at them than they do the average run-of-the-mill ride," said Mr. Bingham.

Marriott Corp. uses rides that have been tried elsewhere because of this, said insurance analyst Ron Summerville.

Property insurance markets for amusement parks are more competitive than casualty insurance. Mr. Summerville reported property rates for his firm's two amusement parks are in line with the rates paid for coverage on Marriott's hotel properties.

Guy Teeter, director of administration for Knotts Berry Farm, said markets were tighter last year than this year, but he has always been able to discover a market.

Amusement park insurance managers must be concerned with large property values. The largest rides cost as much as \$4 million. At Cedar Point, Mr. Batley's concerns include 56 rides, 50 restaurants, 40 gift shops, 16 live entertainment acts and an African Jungle Safari with live lions and tigers.

Since Cedar Point is located on a peninsula jutting into Lake Erie, it

has considerable exposure to windstorms. A roller coaster was built at a spot where several years earlier a tornado touched down. High winds occasionally force closing of several thrill rides.

Cedar Point also operates a ferryboat connecting the amusement center with Sandusky, Ohio, and it insures rides in transit from manufacturers or en route to rehabilitation.

Antiques, such as steam locomotives and 19th Century carousels add to the property woes of the amusement park risk manager. Knotts Berry Farm carries boiler and machinery coverage for its narrow gauge railroad, but Mr. Teeter said a locomotive would be difficult to replace because few narrow gauge steam engines are in existence.

He added that Knotts Berry Farm's carousel is isolated from other buildings to reduce exposure to fire loss. ■

Product liability isn't a thrill

WICHITA, Kan.—Chance Manufacturing of Wichita, Kan., is one of the largest manufacturers of amusement park rides in the United States. Since 1974 it has not been able to find product liability insurance at any price.

The Chance firm is not alone. Liability insurance prices have "gotten out of sight," according to William L. MacMillan Jr., executive director of the American Recreational Equipment Assn. Some manufacturers still have coverage, but may have "cut insurance right off," he said.

"What would you do if premiums exceeded your profits?" he asked.

As a result, liability insurers for carnivals and fixed amusement parks often wind up picking up the tab in cases where product safety has been an issue, said William Brecht, senior vp at Empire Fire & Marine Insurance Co. This is common where rides

have been manufactured overseas and brought into this country by a small distributor, he added.

The ride manufacturers are mostly small and medium firms and few in number. Chance, for instance, has annual sales of between \$6 million and \$7 million. As a result, there is neither the financial strength nor premium volume to justify a group captive, said Mr. MacMillan.

According to Harold Chance, chairman of the firm, ride manufacturers are brought into the case in almost every ride accident, but are rarely ordered to make a settlement. A large judgment against an uninsured ride manufacturer could force a plant to close, but neither Mr. Chance nor Mr. MacMillan are aware of any firm that has suffered this.

"If it happens, I guess you have to give them the key to your place," added Mr. Chance.

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SEE OUR AD ON PAGE 8

Livestock insurers need more than just horse sense

By REBECCA A. FANNIN

NEW YORK—Life insurance for an animal? Fertility coverage to guarantee that valuable horses and cattle give birth to healthy offspring? A berserk insurance clause to cover an animal's death in the event it goes crazy while in transport? Sound bizarre?

It's serious business for livestock owners who invest thousands of dollars into animals to make profits from breeding, racing and shows.

Raising livestock is no hobby. Investments are large and risks are great. A Triple Crown winner like Seattle Slew is valued at \$12 million. Easy Jet, a stallion that can breed 300 mares a year through artificial insemination, is worth \$15 million.

Protection of high-valued ani-

mals is a gamble. Livestock are more prone to odd and unpredictable accidents and losses than are more normal capital investments in buildings and equipment.

The unimaginable loss is commonplace. For example:

- A group of cattle smothered when their nostrils and throats were clogged up by a barrage of mosquitoes that had been pushed inland by freakish weather.
- A standard bred horse valued at \$1 million broke a bone in his foot at the most prestigious trotting horse race and later failed to pass a test for fertility. A claim of \$800,000 was paid for loss of the horse's services in breeding.
- A load of cattle was squeezed too tightly into a truck after being transported to Hungary to raise the quality of that country's livestock.

Pigs, birds just don't rate

NEW YORK—Livestock underwriters never know what kind of animals they'll be asked to insure next.

Every animal from spiders or rabbits used for research to trained bats used in horror movies have been insured. Even a pair of trained dolphins who perform at Sea World in San Diego have been insured for loss of income to the zoo if one or both of the animals should die.

But the underwriters know what they won't insure. Pigs are on the underwriters black list. Pig insurance is risky because the animals tend to over-exert themselves, get ulcers and get fat.

The Rhulen livestock agency found out that placing insurance on wild bird shipments is a no-no. The agency had a loss on every shipment of birds from their tropical climate into the U.S.

Two Herefords pushed the sides out of the truck while it was still on the airfield and several animals escaped and had to be shot. Meanwhile, the airfield was shut down for four hours. Several planes cir-

Special risks

cluded in the meantime, including one with the ready-to-perform Budapest Symphony Orchestra on board.

• Cattle in transport to another country for breeding have contacted hoof and mouth disease and were destroyed. The average loss of each cattle was approximately \$1,000.

Few insurers or brokers are willing to deal with such bizarre risks. Those few who are willing know animals as well as they know insurance.

The domestic livestock insurance group is replete with specialized names: American Life Stock Insurance Co., Frelinghuysen Livestock Managers Inc. and the Rhulen Agency Inc. Better-known insurers who underwrite livestock risks are The Hartford Insurance Group, Fireman's Fund Insurance Co. and three of the American International Group companies.

National broker Johnson & Higgins is heavily involved in livestock risks, having placed insurance for Secretariat and Riva Ridge, both Triple Crown winners.

Most of the domestic insurance companies, however, transfer the bulk of risks to Lloyd's of London through reinsurance arrangements.

The only known underwriters that accept a larger percentage of a risk rather than fronting it are American Life Stock, the Hartford and Fireman's Fund. Specialized livestock insurers said Fireman's Fund role in livestock underwriting is minimal.

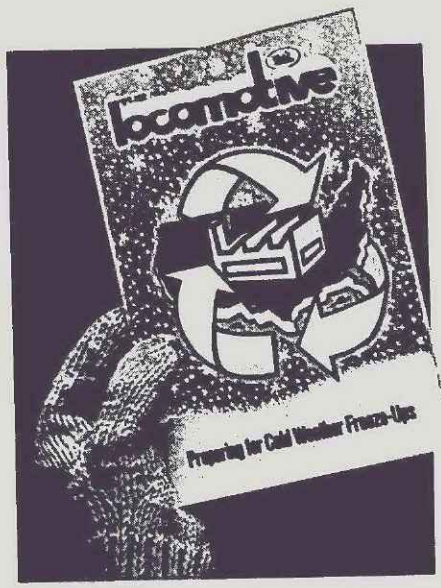
Frank Harding, president of American Life Stock in Geneva, Ill., said his company accepts 70% of the total risks in-house and reinsures approximately one-third of its total volume. American Life Stock accepts most of its business through its own agency, Harding & Harding.

A large percentage of business placed in the three AIG companies—American Home Assurance Co., Birmingham Fire Insurance Co. and Commerce and Industry Insurance Co.—“winds up in London,” according to Walter Rhulen, president of the Rhulen Agency that places business in AIG.

Three other domestic insurance companies, Central National Insurance Co., Monarch Insurance Co. *Continued on following page*

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Animals . . .

Continued from preceding page
Co. and Victoria Insurance Co., also reinsure a "good piece of the business in London," said A.D. Vita, president of Frelinghuysen Underwriting Managers. Frelinghuysen is underwriting manager for these three companies.

Insurance rates for animals are pre-determined according to the age of the animals and its use.

For a horse racing over hurdles, rates are \$9 for every \$100 of value. The rate for a hunter/jumper horse would approximate \$5.50 per \$100. Rates drop to \$4.50 for a breeding horse and approximately \$4 for a pleasure horse.

Using age as a variable, an animal's insurance rate is highest when youngest. For instance, \$6 is the rate for a foal 24 hours to 7 days of age. That rate would steadily drop by weeks and then by months until it reaches a \$4.50 rate at 90 days of age.

Insurance rates for calves are adjusted even steeper when the animals are young since their risk is higher than for foals.

Insurance policies for animals are tailored to the unique risks. Many livestock owners, however, prefer not to purchase insurance unless their animals are particularly valuable.

Full mortality insurance is the best-known to those livestock owners who purchase insurance. This coverage is similar to a life insurance policy. It indemnifies the owner when an animal dies either from accidental or natural causes.

A named-peril policy that covers death resulting from fire, lightning and windstorm is normally purchased by owners of stables and feedlots.

Another modification of the mortality coverage used commonly for horses covers euthanasia if necessary from fractures or insufficient medical treatment.

More unusual are in-utero policies, which indemnify an owner if a mare should abort or if no fetus is produced. This type of policy is popular among purchasers of mares in foal to high-priced stallions since the new owner has based his purchase price on both the mare and its foal.

Guaranteeing a stallion's fertility is a popular policy when an owner sells the horse to a syndicate. The owner is at risk until three veterinarians examine the horse's fertility and guarantee that the horse is an acceptable breeder. After the test, all risk of later infertility is passed on to the syndicate members.



Photo: Wide World

Affirmed (center) heads for Derby finish line.

Affirmed kept brokers running

NEW YORK—While Triple Crown champion Affirmed was winning horse races this spring, an insurance broker, agent and underwriting manager were scrambling to keep the horse's insurance equal to its climbing value.

Affirmed's insurance coverage ballooned from a \$1 million limit at the beginning of the year to \$6 million by late spring.

The Triple Crown winner's insurance placement was not typical of other placement for racing horses, whose entire insurance is normally placed by one broker into Lloyd's.

Affirmed's insurance was placed in chunks of \$1 million and the placements were rotated among three parties.

The first order of insurance for \$1 million was presented by a New York broker to Frelinghuysen Underwriting

Managers. The placements then rotated from a Kentucky agent who placed the second million, back to Frelinghuysen for the third million and again to Kentucky for the fourth million.

The final \$2 million of insurance was placed directly by the New York broker.

Affirmed's insurance was widely spread, mostly among Lloyd's insurers who generally accept less than \$500,000 of a horse liability risk. The placements by both the Kentucky agent and the New York broker were placed directly into Lloyd's.

Frelinghuysen, who accepted a \$2 million piece of Affirmed's insurance, insured \$500,000 of the risk through a binding agreement. The remaining \$1.5 million was presented to a Lloyd's broker for placement in Lloyd's and other companies.

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SEE OUR AD ON PAGE 8

Slopes, trampolines

Recreation boom exercises some falls for cities

By MARY ELLEN McKEE

CHICAGO—Most municipal risk managers agree on one point: The booming increase in recreational facilities—baseball parks, soccer fields, tennis courts—popping up across the nation has caused no significant increase in the number of liability claims.

Does this mean that risk managers live a headache-free work week? Not quite. One risk manager's nightmare is another man's dream.

Robert M. Bieber is troubled by the use of toboggans on county-owned property. "We've put up large signs warning participants about the dangers of tobogganing. We've done everything short of

putting up high fences around these areas—a possibility we've not entirely ruled out," said the risk manager for the county of Westchester in New York.

What Mr. Bieber has done to remedy the situation is limit the number of people that can use these areas. Now only members of a club which has a contract including an indemnification clause covering any member under the club insurance can use the areas.

A thorn in the side of the risk manager for Charlotte, N.C., is the trampoline. Jim Spivey's jurisdiction experienced an unusual amount of claims due to accidents on the trampoline this fall.

"A risk manager has two alterna-

special risks

tives when trying to correct a problem. He can totally avoid anything that is harmful which is a useful technique, to a point," said Mr. Spivey. However, it does not enable the principals to do what they want to do which is something Mr. Spivey believes is the responsibility of a risk manager.

According to Mr. Spivey, stringent safety measures are the key to cutting rising liability claims caused by trampoline injuries. "You must first realize that young people actively engaged are going to get hurt. What we have to do is minimize the chances and the ex-

tent of the injury," said the risk manager for Charlotte.

Training is one way to do this. Mr. Spivey meets with someone actively involved in the sport in question. They discuss the nature of the sport and some of the worst things that could happen when engaging in the sport. Rules are then set up to avoid these situations and are immediately given to participants and supervisors.

Dr. J. P. Robitaille, the new superintendent for the Albuquerque school system, would probably take issue with Mr. Spivey on this point. The Albuquerque schools have banned the use of trampolines on the grounds that they are "a weak instructional piece of

equipment," according to the superintendent.

Trampolines interject an uncontrollable force on the individual involved in the activity, he believes. Since control is taken out of the hands of the individual, Mr. Robitaille banned the trampolines saying that the potential hazards outweigh the constructive uses.

Robert Walters, risk manager of the County of San Diego and Joseph Gaidys, risk manager for King County (Seattle), see "new fangled" playground equipment as a vulnerable area for increased claims.

Mr. Gaidys has countered that problem by lowering slides and monkey bars to five feet. "This way you lower the hazards and yet still keep the children occupied," he said.

Lately, Mr. Walters has been spending many of his off-work hours going into the neighborhood parks encouraging people to steer away from fantastic equipment on the playgrounds. "Most of the parents of the children using these facilities grew up with swings and slides. They expect their children to occasionally get hurt on the old standards. It is the rocket ship variety of equipment, with its seemingly complex construction, that leads parents to blame the equipment for injuries incurred by their children," said the King County risk manager.

No matter what particular problem a risk manager may experience, says Mr. Walters, affecting attitude changes on the community level is essential.

Senate confirms new OPIC chief

WASHINGTON—The Senate this month confirmed J. Bruce Llewellyn as president of the Overseas Private Investment Corp. (OPIC).

Mr. Llewellyn has been deputy commissioner of the New York City housing and development administration. He operates a \$40 million food store chain, which is the largest black-run retail business in the country.

Mr. Llewellyn had been asked by the Carter Administration to assume the OPIC presidency in July 1977. But several weeks later, eight of his 16 stores were looted during the New York power failure so Mr. Llewellyn was unable to join OPIC then.

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Furthermore, we firmly believe that being the leader carries with it an obligation to use our vast experience to help busi-

ness and industry avoid needless waste of resources and energy.

As part of this ongoing program, recent issues of *The Locomotive* have been devoted to specific areas of risk reduction, for example: "Avoiding Air Conditioning Failures at Start Up," "Flood Recovery - An Action Plan," "The Case for Dismantled Inspections," "Transformers - What Price Reliability?" And many, many more.

The Locomotive with

its timely and valuable input is offered free to all risk managers and key plant personnel. We believe you will discover that *The Locomotive* can be effective in helping you maintain your risk management program. Simply write us on your letterhead stationery and tell us to whom you would like a free copy of *The Locomotive* sent quarterly.

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SEE OUR AD ON PAGE 8

Stalking an insurance plan to meet the cat's meow

SAN FRANCISCO—Lining up insurance on a business going to the dogs isn't as bad as it may sound, if the business is Petaxi Inc., a special transport, rescue and sitting service for animals.

Serving the south San Francisco area, Petaxi handles 1,200 animals a year—birds, cats, dogs and horses—taking them to the vet or groomer when they need attention, sending them off from the airport on exotic journeys, tracking them down when they've gone astray and helping them out when they've landed in trouble.

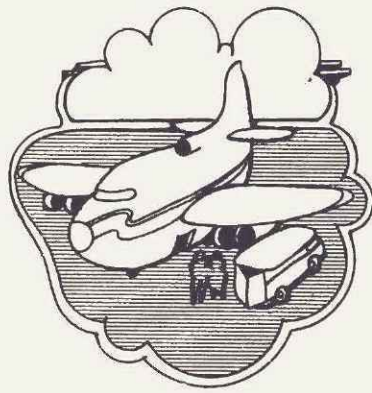
With such a finicky and unpredictable clientele to care for, Petaxi owner Jay Lee has to consider business risks ranging from an employee suffering a gouge at the sharp claws of a snotty feline to an innocent bystander falling under the weight of a rambunctious colie. (Heaven forbid that the likes of

Morris and Lassie would do such things.)

Even though customers sign a release holding harmless the company and its employees in the event of the loss, injury or illness of a pet in Petaxi's care, Mr. Lee has bought insurance against such an event should the agreement fail to hold up.

There's also specialized equipment, used to handle the animals, that has to be protected against loss or theft and automobile insurance required on the two vans used to transport the animals.

St. Paul Fire & Marine Insurance Co. answered a request from Marsh & McLennan last year to take on Petaxi as an insured. San Francisco account executive John J. Laurin this year recommended that Petaxi increase its operations



Petaxi brochure

liability to \$1 million of combined single limits protection with a \$250 deductible, up from the \$300,000 of insurance purchased by the fledgling company last year. After all,

the company has been growing "by leaps and bounds," he observed.

St. Paul also picked up the workers compensation exposure for the company's five employees, charging the kennel workers rate of \$2.90 per \$100 of payroll.

Three thousand dollars worth of equipment, excluding the vehicles but including cages, hoists, kennels and food, is covered under a property policy with a \$250 deductible underwritten by St. Paul. Petaxi also bought a \$5,000 bond from Peerless Insurance Co. when it started working for the city of San Francisco.

The operations liability, workers compensation and property insurance plus the bond roll over a \$3,000 insurance bill for Petaxi, with the operation's liability insur-

ance eating up two-thirds of the cost. But Mr. Laurin observed the liability insurance cost for the animal service company isn't excessive when compared with the cost of the same insurance for other commercial ventures. "And there wasn't any surcharge," he added.

Petaxi is also buying insurance to cover the pets while in transit with an extension for coverage to their destination point, which could be half way around the world. But the St. Paul hasn't rated the insurance yet for a \$1,000 limit on each pet.

So far, Petaxi hasn't filed a claim against its insurance program, although another driver smashed into the back of a Petaxi vehicle recently. But that's on the other driver's insurance and no one, not even a mouse, was injured in the Petaxi van. ■

Insurance priority low

NEW YORK—Here's a thought to give risk managers nightmares.

"A lot of performing artists might not have workers compensation or general liability," says George R. Walden, head of the New York office of Albert G. Ruben. "Insurance takes such a low priority."

Unabashedly promoting his services, Mr. Walden said, "They should find someone who can place it. There really are a lot of problems and we provide a service here for the promoter and entertainer."

As the largest broker of entertainment risk insurance and now part of Alexander & Alexander, Ruben taps Firemen's Fund often enough to make it the world's

special risks

largest entertainment underwriter.

"Not many companies are willing to entertain this business," Mr. Walden observed, declining to name his markets. But Fireman's Fund assistant vp Ed Hamby proudly acknowledged that his company holds top billing among entertainment underwriters, biggest in motion pictures and television productions, but also playing the concerts and tours.

In addition to protecting the performers, Ruben places insurance for 160 concert promoters. ■



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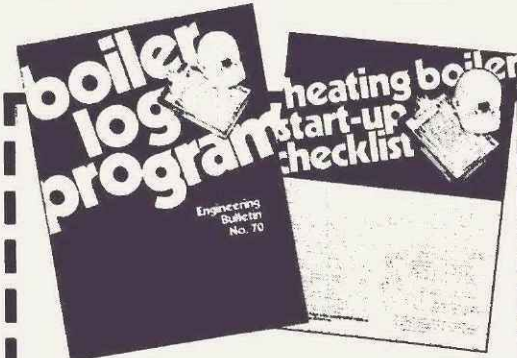
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start-up precautions, maintenance and operation. Most accidents to low pressure, fire tube heating boilers involve overheating and burning. Over half of these are in the area of operating or protective control malfunctions. Many of these accidents occur because of a lack of operator training and improper maintenance of this equipment.

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Program, designed and tested by our national staff of over 900 inspectors and engineers, have been routinely distributed to our insureds for years. They are just two more ways Hartford Steam Boiler is providing building blocks for establishing and maintaining an effective in-house risk management program. For free copies, simply fill out and send us the coupon.

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Photo: Wide World

Colleges must continue to provide scholarships even though a player cannot compete because of an injury.

Virginia broker hopes to tackle athletic injuries for colleges

By JERRY GEISEL

VIRGINIA BEACH, Va.—When a college football player is injured and can no longer play, the team not only loses a player, but the school is also tackled with a blow to its financial resources.

That's because under National Collegiate Athletic Assn. rules, a university or college must continue to pay tuition and related expenses to a student on an athletic scholarship even though an injury may prevent the student from ever playing college football again.

But an insurance broker from the resort city of Virginia Beach has developed an insurance policy

SPECIAL RISKS

that he says gives schools a new line of defense to hold back the cost of injuries.

Edward K. Phillips of the Pembroke Realty & Insurance Agency Inc. here says his policy, which is being underwritten by American Home Assurance Co., is the application of risk management to athletics.

"The policy enables an athletic director to trade in an unknown—the number of injuries to athletes on scholarship—for a known—a fixed insurance premium," he ob-

served.

Mr. Phillip's insurance policy, which took three years to develop, is as easy to understand as a run up the middle. If a college player is injured and cannot return to action following a one-year rehabilitation period, the insurance policy will reimburse the school or athletic fund for the injured student's scholarship.

For example, if a freshman fullback were injured during the fall semester and had to stop playing football, the school would be reimbursed for the cost of the student's scholarship during his sophomore, junior and senior years.

If a school wants to cover all its scholarship athletes in Mr. Phillip's disability program, the rate is \$4.50 per \$1,000 of scholarship value multiplied by the remaining semesters of exposure. The rate for football coverage only is \$5 per \$1,000 of scholarship value.

For example, the premium on a second semester freshman quarterback with a \$1,000 per semester scholarship would be \$22.50. The premium, though, would dip to \$18 at the start of his sophomore year reflecting one semester less of exposure.

Since the policy has just been unveiled, it is too soon to measure how the market will respond. But Mr. Phillip's faith in the policy is as strong as a coach's belief in a team filled with veteran lettermen.

"I wouldn't be surprised if more than 50% of schools with intercollegiate athletic programs purchased the policy over the next few years," Mr. Phillips predicts. "The potential is limitless."

One school, the University of Miami, already has paid a \$500 deposit toward buying a policy to cover the school's 66 football players and six swimmers on scholarships.

"It makes economic sense to have this policy," says David Highmark, Miami's athletic business director. "We're paying peanuts for fantastic benefits." The annual premium (\$4,279.50) is less than Miami would have to pay to cover the annual scholarship expense for an injured athlete who could not resume his athletic career.

But famous football star Elroy
Continued on following page

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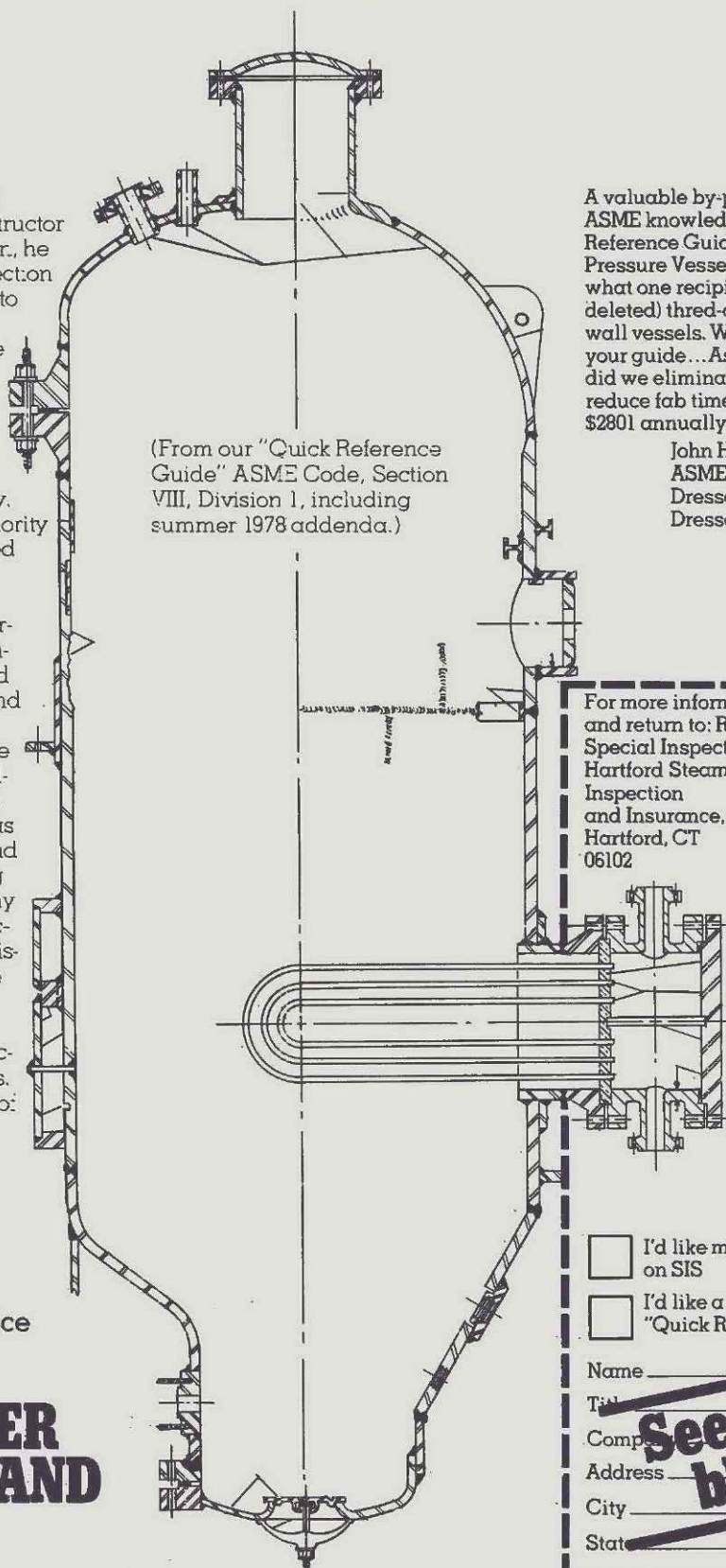
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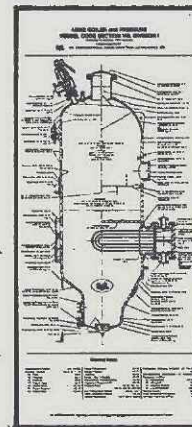


(From our "Quick Reference Guide" ASME Code, Section VIII, Division 1, including summer 1978 addenda.)

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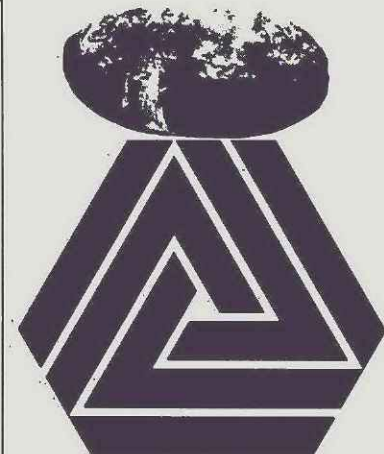
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Colleges . . .

continued from preceding page

Hirsch, now athletic director of the University of Wisconsin-Madison, questioned if the policy would be a good investment for state schools where tuition bills still are relatively low.

Although the rates for all participating schools will be the same, Mr. Phillips says he wants to cover teams with the best conditioning programs, a disciplined coach and an outstanding trainer.

Mr. Phillips calls a team's trainer the "guardian angel" for the underwriter of the program. "The trainer has the whole risk right in the hand."

Mr. Phillips says even the best surgeon's work may be in vain without the exhortation of a trainer who can "get the kid to pay the price of rehabilitation, to bite the bullet and go through the pain barrier that does exist in these injuries and go back and play again."

The disability policy will cover on-the-field injuries as well as injuries that occur during practice ses-

SPECIAL RISKS

sions or during supervised exercise programs. However, injuries arising out of pre-existing conditions will not be covered.

Injuries must be reported within 20 days of occurrence. Claims will be evaluated by the team physician and a physician appointed by the insurer.

If the two physicians cannot agree about the validity of a claim, the two doctors would select a third physician to arbitrate the claim. The third physician's decision would be binding on all parties.

In developing the policy, Mr. Phillips showed all the determination of a wiry halfback trying to find a hole.

The idea for the policy came from Sam Huff, the premier middle linebacker of the 1950s and early '60s for the New York Giants, and now a Marriott Corp. vice president who arranges for sports teams to stay at the firm's hotels.

"Sam, who had gotten to know a tremendous number of athletic directors, explained how the injuries and the increased cost of scholarships was just killing athletic directors," Mr. Phillips related. "The athletic directors said they needed some way to take care of this problem."

In order to get an underwriter to consider a collegiate scholarship

disability program, Mr. Phillips began to collect injury statistics from college athletic departments around the country.

"I went to about every underwriter in the country who had ever done any kind of disability insurance program and laid out the program," Mr. Phillips said. "A lot of people said: 'Sure, we're interested. We think we are going to write this.' But when it came down to underwriting not a damn one would do it."

Finally in July, American Home Assurance Co. agreed to take a look at the program and gave initial approval to act as underwriters, Mr. Phillips said.

Ironically, Mr. Phillips lost a wrestling scholarship when he was a student at the University of Maryland in the early 1950s. However, he was able to get a job with the trainer that turned out to be worth a lot more than the scholarship.

AIG to compete with Lloyd's

NEW YORK—In the arcane world of special risks, Lloyd's of London traditionally has provided the lion's share of coverages. If you wanted to insure, for example, Betty Grable's legs for \$1 million, London was the place to go.

But Lloyd's now may be facing some serious U.S. competition. American Home National Union has set up its own special risk department and now is aggressively soliciting unusual risks.

American Home had been writing special risks on a limited basis. But the AIG unit decided to establish a special risk department to coordinate its activities as well as expand into certain unusual risks, such as cast and non-appearance insurance, according to Ed Snyder, manager of the special risk department.

One special risk area whose po-

tential has not been tapped yet is non-appearance coverage, said Mr. Snyder. This type of insurance may reimburse, for example, a television or movie company for production expenses if a star actress or actor is unable to perform because of death or disability.

Recently, American Home supplied a \$1 million policy to a movie company to reimburse it for its production expenses if the star actor was unable to appear and the filming had to be canceled.

Fortunately, the actor showed up, the filming completed on time and "I was able to breathe again," Mr. Snyder quipped.

One of the more unusual special risk policies American Home offers is for felonious assault. This policy is designed to protect company employees who may be crimi-

nally assaulted while performing their jobs, for example a bank guard who is shot while trying to stop a robbery.

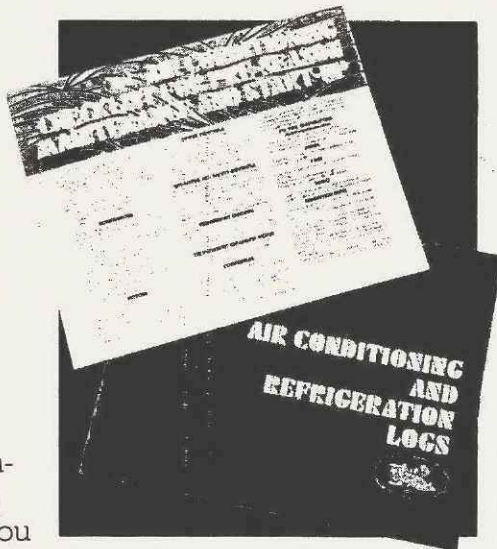
American Home currently insures more than 20 professional sports teams. Coverage can be arranged for a team that wants to insure all its players against a catastrophe such as an airplane crash in which all the players perished.

Although Mr. Snyder, a 18-year veteran in the special risk field, can't promise coverage on everything, he said nothing is too unusual that he won't give it a look.

For example, American Home currently is negotiating coverage with a sculpting firm. The company wants protection in the event that its sculptor injures his hands or arms and no longer can design products and the firm suffers a serious loss of business.

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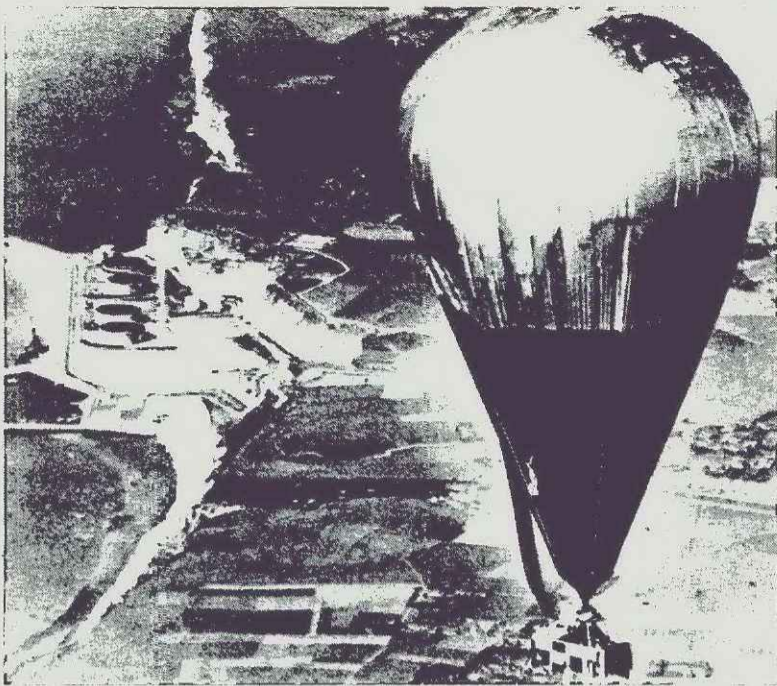
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Ballooning risks don't deter broker from floating coverage

By JERRY GEISEL

ALBUQUERQUE, N.M.—The spectacular flight of the balloon Double Eagle II across the Atlantic in August might never have taken place if the crew's insurance broker hadn't taken his own more prosaic flight around the U.S.

Strange as it might seem, four months before the epic 3,210-mile flight began the balloonists found themselves entangled in the snare

of product liability.

Hander Inc., the manufacturer of the two transmitters that were to be used to keep track of the balloon's position, insisted that the balloonists purchase a \$1 million product liability policy to protect the corporation before Hander would sell the vital communications equipment.

Hander feared that if the balloon plunged into the ocean and the transmitting equipment failed, making a rescue attempt impossible, the company might be the target of a product liability suit by the crew's families.

With product liability threaten-

Photo: Wide World
Double Eagle II soars over France insured for \$500,000 in the event of a poor landing.

SPECIAL RISKS

ing to puncture the flight, crew member Maxie Anderson, president of a copper and uranium mining firm, turned to his company's insurance broker for a lift in finding coverage for Hander.

John Koller, president of Irick & Koller Inc. of Albuquerque, decided to first float the idea of a product liability policy for the balloon's transmitters with The Travelers, which supplied business insurance for Mr. Anderson's company.

Mr. Koller flew to The Travelers home office in Hartford to discuss the Double Eagle II's insurance needs. "At first The Travelers underwriters scratched their heads and said, 'Gee, this is kind of crazy,'" Mr. Koller recalled.

But Mr. Koller pressed for coverage. He allowed The Travelers executives to listen to a 45-minute tape recording between the balloonists and their flight director.

"The tape indicated all the safeguards, the consultations with meteorologists, the equipment being used, in short all the fantastic planning that was going into the trip," Mr. Koller said.

Impressed with the case he made, Travelers said it would supply liability coverage if Mr. Koller were unable to find another market.

Travelers, however, suggested that Mr. Koller talk to Aviation Office of America (AOA), a Dallas-based aviation insurance wholesaler, about obtaining the product liability coverage for Hander.

Mr. Koller flew to Dallas to discuss the Double Eagle II with the Dallas broker. AOA scoured the market and arranged for a \$1 million product liability policy to cover Hander's transmitters with U.S. Fire Insurance Co. The premium on the policy, which provided first-dollar coverage, was \$3,225, a price Mr. Koller described as "eminently reasonable."

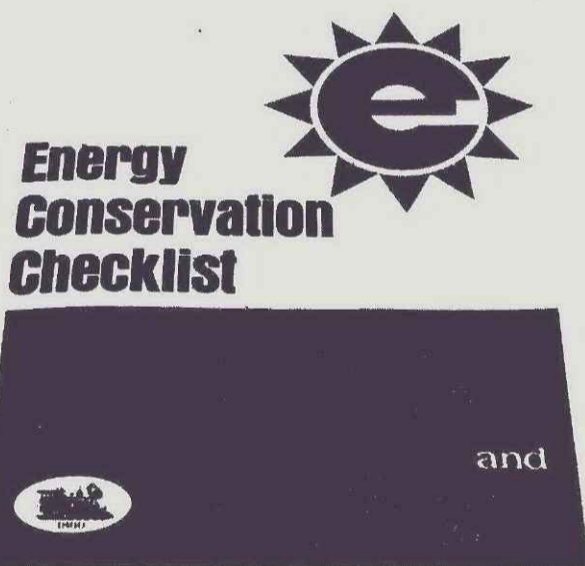
With the balloonists having safely floated over product liability turbulence, general liability coverage was the next cloud the balloonists had to clear.

Normally, a hot-air balloonist might only need minimal liability protection. Landings usually are in

Continued on following page

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Larry Newman, Maxie Anderson and Ben Abruzzo (left to right) raise their hands in triumph after a successful landing in France.

Photo: Wide World

Ballooning risks . . .

Continued from preceding page the open country where damage to property or people is unlikely.

But Mr. Koller observed that if the Double Eagle II were successful in crossing the Atlantic Ocean and made it to Paris, it could be reasonably anticipated that a throng of people would be waiting below to watch the historic landing.

However, once a balloon goes down, it goes down, and control becomes almost impossible. The balloonists feared that as the crowd scurried below to get a better view, the Double Eagle II might plow into them causing injuries and, as Mr. Koller put it, "a tremendous lawsuit."

Furthermore, property liability protection was necessary in the event the balloon crashed into a French street, severely damaging stores and autos.

SPECIAL RISKS

AOA came through again and secured a \$500,000 combined single limit policy, also underwritten by U.S. Fire, to cover bodily injury and property damage. The premium was \$1,429.

With coverage for the flight over the Atlantic and for the landing in France arranged, Mr. Koller turned his attention to obtaining a transportation policy to protect the Double Eagle II when it was being transported in July by truck from Albuquerque to its launch pad in Maine.

"On such an historic project, there always is going to be some vandal who might want to try to scuttle the voyage by damaging the balloon," Mr. Koller observed.

So the three balloonists thought it would be prudent to protect the Double Eagle II while it was being transported.

A transportation hazards policy was arranged—this time through The Travelers—which provided \$125,000 of coverage against damage caused by collision, earthquake, flood, theft, fire and vandalism during the balloon's trip by truck across the U.S.

The premium on the transportation policy, which carried a \$1,000 deductible, was \$1,170, a sum less than what some Manhattan motorists pay for their auto insurance.

The balloonists, who aside from Mr. Anderson included Larry Newman, head of a hang glider company, and Ben Abruzzo, a resort developer did not purchase hull insurance to cover the Double Eagle II as it sailed across the Atlantic.

"That kind of insurance probably would have been impossible to obtain," Mr. Koller said. If the balloon had been forced down at sea the crew figured its loss as the cost of the operation.

But, of course, the Double Eagle made it safely across the Atlantic and landed in a farmer's field in France. Mr. Abruzzo told reporters at a National Press Club interview that the crowd that was waiting for the Double Eagle II to land did about \$1,000 damage to the French farmer's crops.

Mr. Abruzzo gave the farmer a check for \$1,000, which was gratefully accepted, he said. Mr. Koller said he expects U.S. Fire to reimburse Mr. Abruzzo for the claim.

Meanwhile, fresh from success across the Atlantic, Messrs. Anderson, Abruzzo and Newman, are talking about an around the world balloon voyage, something that never has been tried except in the science fiction of Jules Verne.

Around the world balloon insurance coverage might appear to be a lofty goal, but Albuquerque insurance broker Mr. Koller believes obtaining coverage may not be an out-of-sight problem.

Maryland OKs work comp hike

ANNAPOLIS—Workers compensation rates will go up an average of 25% next January, state insurance commissioner Edward Birrane announced this month.

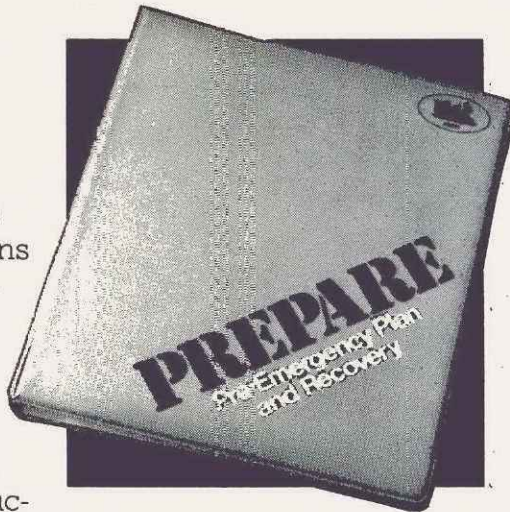
Premium rates will be increased 16.7% for manufacturing companies, 34.4% for contracting firms and 22.3% for other employers.

Commissioner Birrane said the rate hike is necessary because of "inflationary factors."

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Note: Program available only to insureds.

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gathering, classification, and periodic updating of all pertinent data. When properly maintained, PREPARE can result in a quick, effective response and recovery from an otherwise crippling accident.

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Fireproofing history finds landmark solution

SPECIAL RISKS

PHILADELPHIA—Can a company insure an architectural landmark that happens to double as the new office space for its employees without being buried in paperwork and problems?

"Of course," says David Johnson who discovered the unusual setting for the Pennsylvania Manufacturing Insurance Assn. transaction of business. "Being an insurance organization helped—at least we knew the importance of proper fire protection for this kind of building."

Any business in the market for an historically registered, white marble structure designed by an architect in the 30s should follow the example of PMA when insur-

ing the building: follow the recommendations of the fire carrier.

That, however, was easier said than done. The Improved Risk Mutuals, the insurer for the PMA building, strongly recommended that the company install an automatic fire detection system which is zoned and centrally controlled.

What do you do when you have to protect a 200,000-square foot building with a central rotunda rising nearly 50 feet without detracting from the finely crafted historic interior?

ADT's teletherm system solved the PMA problem, said Mr. Johnson vp of administration for the insurance association.

Over 3,000 detectors (measuring two inches deep and two inches wide) are used in the system which is divided into 19 protection zones covering the building's eight floors. "Sensor units have been placed in all closets and storage areas in the building to afford maximum protection, without detracting from aesthetics," Mr. Johnson added.

The detection system operates on a "rate of rise" principle, according to Mr. Johnson. An alarm goes off whenever an abnormally rapid rise of temperature is detected anywhere in the building.

In the event a rise in temperature does occur, a warning signal is sounded at the control panel in the lobby and at the central ADT station. The panel attendant will signal fire fighters, an indicator near the door will pinpoint the fire zone for arriving fire fighters and all the alarms in the problem section of the building will go off.

Meanwhile, evacuation is handled through constant voice communication between the control panel and the employee designated to handle fire safety and evacuation in that particular area.

Other recommendations by The Improved Risk Mutuals, weren't as costly as the teletherm system, but were important enough to be done before all the PMA employees moved body and soul into the elaborate building on Ninth and Chestnut Streets in Philadelphia. Included were:

- All oil-filled external transformers were checked for acidity, color index and dielectric strength.

- Two 100 hp compressors for the air conditioning system were torn apart and inspected thoroughly.

- Two diesel auxiliary generators were installed to provide emergency power for lighting and elevators in case of a power failure.

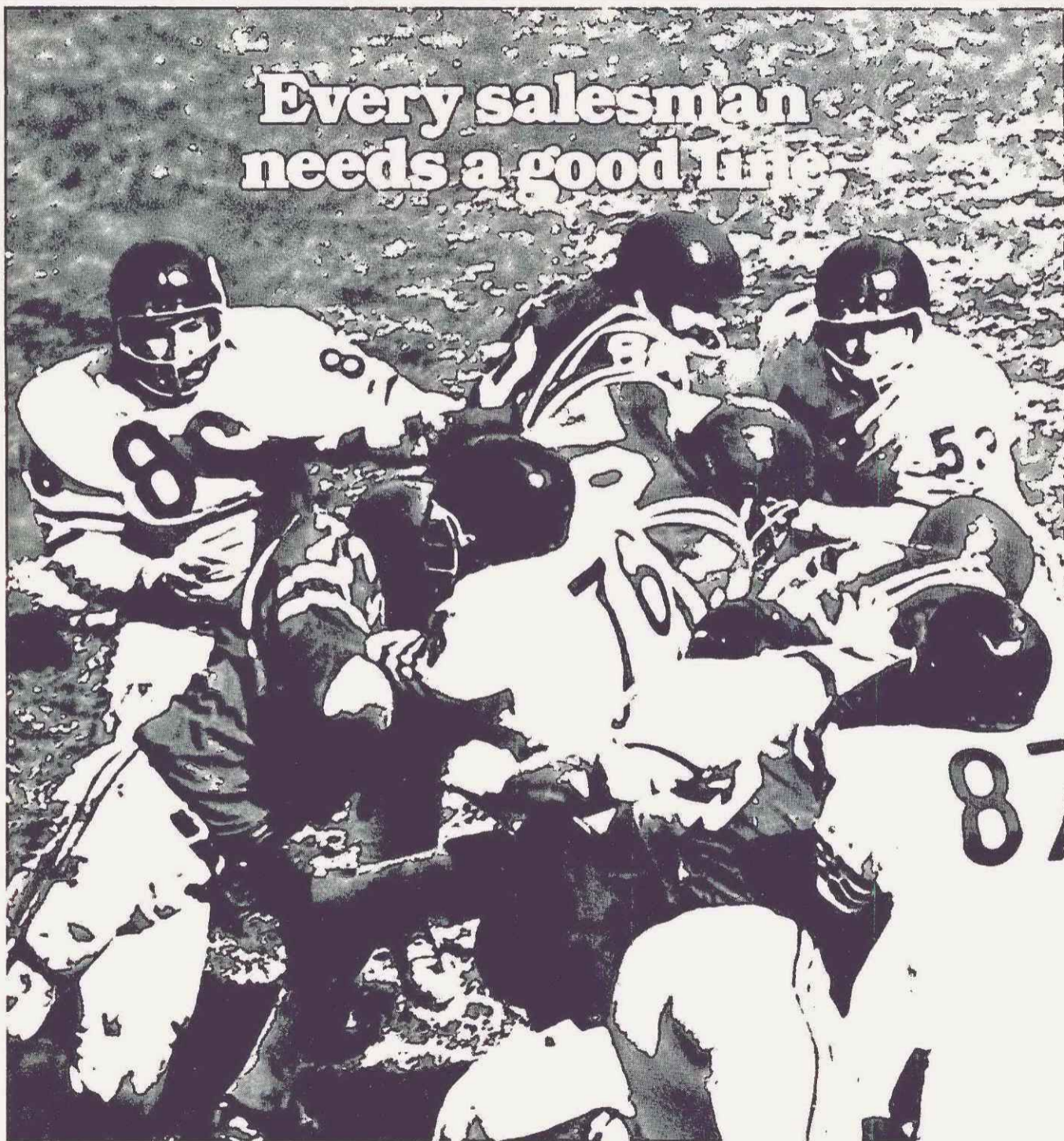
- A fire extinguishing system was installed on all ducts in the cooking area of the cafeteria.

- Hydrostatic testing of the entire piping system was conducted and repairs were made.

The neo-classic building is insured under the fire and extended coverage policy for \$15 million with a 10% coinsurance provision and limits of 2.4 cents for every \$100 for fire coverage, 1.4 cents for extended coverage and 4.8 cents for special extended coverage.

General liability for the building is self-insured up to \$5 million per occurrence.

"Insuring an architectural landmark is a snap," boasts Mr. Johnson, "Find a sound building, protect it properly against fire damage, be aware of loss control and then sit back and enjoy the dividends of working in an historical setting."



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FTC ruling: Bane or Pat Boone?

NEW YORK—The recent Federal Trade Commission ruling holding Pat Boone personally liable for a product he endorsed raises new questions about whether celebrities need liability protection.

The FTC charged the singer is liable for consumer refunds for allegedly false and deceptive claims Mr. Boone made while endorsing Acne-Stat.

Historically, protection for celebrities who endorse products has come from indemnification clauses in contracts, which indemnify the star for any financial responsibility the star might bear.

Insurance for celebrity endorsements hasn't been used for financial protection, chiefly because insurance is not known to be available.

Talent agencies that provide celebrities for commercial endorsements have no set formula concerning how to protect their stars.

Sandra Joseph of Jack Wormser Associates, which links stars with advertisers, said their agency has always inserted indemnification clauses into contracts.

International Creative Management, another talent agency, also provides an indemnification clause. "If other talent agencies don't provide this, then they should," said Norman Reich, vp at ICM.

However, talent agents Herb Tannen & Associates of Los Angeles don't provide celebrities this protection.

The largest talent agency, William Morris, declined to comment about protection it offers its clients because the agency has "received so many calls since the Boone case."

National Media Group, the advertising agency for the acne prod-

special risks

uct Pat Boone endorsed, has adopted a more cautious approach since the FTC ruling.

National Media plans not to get involved with advertising for products that may present a particular liability problem, a company source said.

Large advertising agencies J. Walter Thompson and Leo Burnett haven't provided indemnification clauses in contracts with stars and don't seem very concerned.

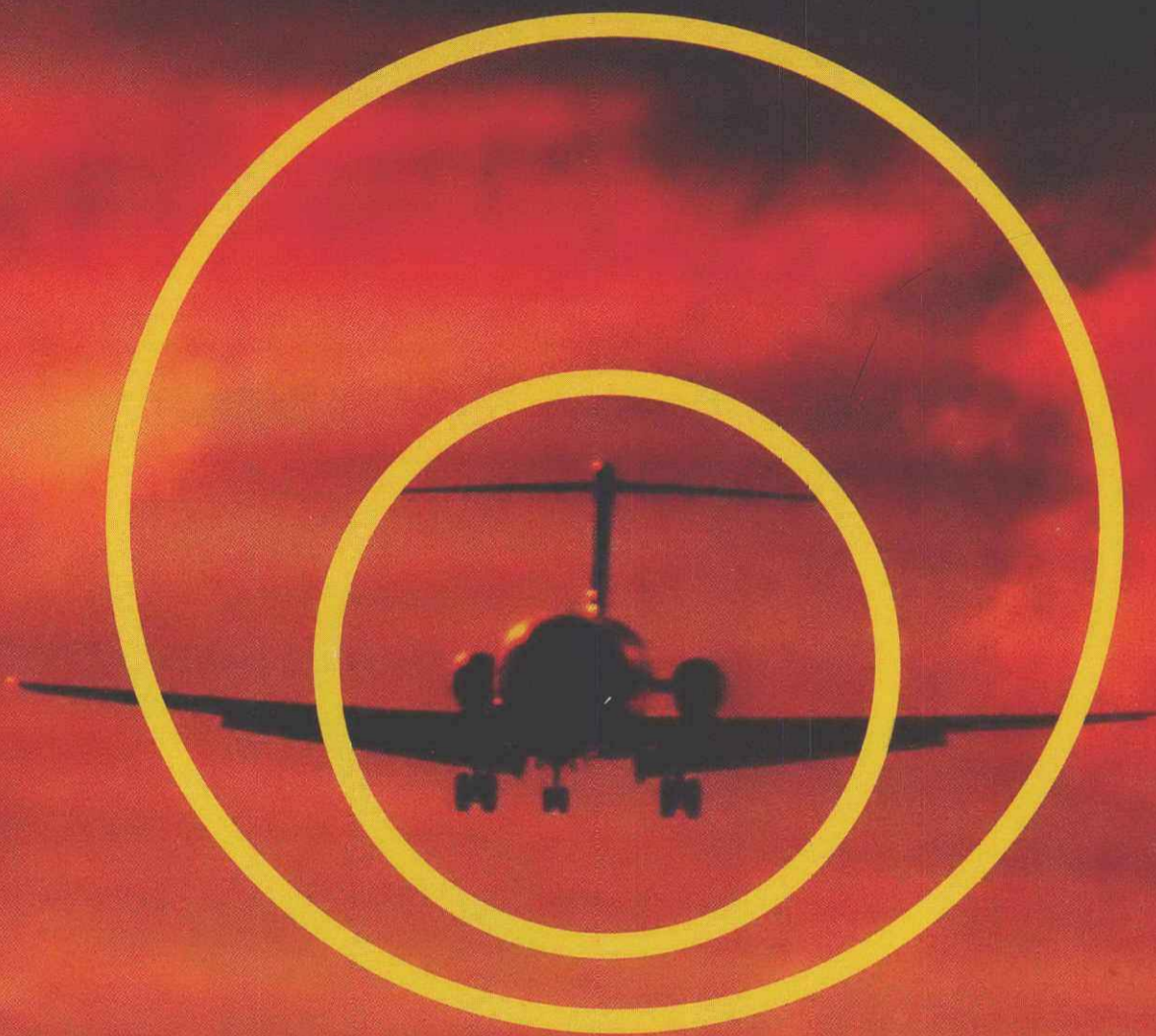
The ad agencies said the impact of the Boone decision will be limited because Mr. Boone was not a standard celebrity endorser. The singer had a financial interest in the product and naturally would then assume part of the financial responsibility in consumer refunds if they occurred.

Nevertheless, Steve Salorio, head of the legal department at J. Walter Thompson, said that his agency is "asking questions" about how to handle any liability of celebrity endorsers.

"There's no dramatic trend yet toward including indemnification clauses in contracts," Mr. Salorio said. "But you're not professional if you ignore it."

Michael Breslin, senior vp of Leo Burnett, said his agency doesn't provide indemnification agreements because their existence would imply that the ad agency was concerned that the star was lying about the product's usefulness.

"An endorser has to believe the product will do what it says," Mr. Breslin said. "We won't use celebrities that need protection." ■



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Veteran Lloyd's underwriter reports

Serious slips underwrite showbiz hoopla

LONDON—Lloyd's still has full capacity for speciality risks, says top underwriter Bert Stratton, who reckons that \$4 million to \$5 million in premiums a year is going through his side of the market for this purpose.

Known in the underwriting room for his ingenuity in covering \$1 million risks on singers, sportsmen and super-paid executives, he stresses that there are other major lines which go through other books as well.

But for "Lucky to be Alive" lines, in which he has built up his own expert folio, he feels there is every chance he will be in demand for a long time to come.

Exposures are now running as high as \$10 million, which is what he's been asked to quote for a U.S. test pilot who is shortly to undertake a risky mission on a new jet-aircraft version.

"We'll be getting the reply back on that shortly," the 49-year-old underwriter says.

Shuffling papers on his past exploits in his quiet office near the bustle of Lloyd's of London, he set out the widespread of perils that he has covered in his time.

Some are "fun" risks, such as insuring an 80-inch showgirl Ricky Covette against losing her claim to be the tallest woman dancer in the U.S. in the event an injury reduced her height to below six feet or her weight below 154 pounds.

That was a specific policy for \$50,000, at a premium rate of 0.5% and he was never called on to pay out.

But some are serious risks, like the coverage he can give for top executives against injury or death when they are in the middle of vital business deals.

And some bridge the narrow gap between publicity stunts and purposeful operations very successfully.

He once insured film star Liz Taylor's eyes for \$1 million for a premium of \$2,500 and thought little of it.

It was a sudden phone call from Paramount Film Corp. that prompted it. Beautiful Liz had to have

special make-up on her eyes for a scene in the film *Ash Wednesday*, just as she did on a separate occasion in *The Taming of the Shrew*. She feared she might be blind if anything went wrong and hinted she would walk off the set unless she was covered against this possibility.

Fortunately, Mr. Stratton was able to determine that the make-up had been used on other artists quite successfully, so he took the risk without hesitation.

"That was serious business; even though it had publicity value," he says. "But I see nothing wrong in insuring a publicity stunt as long as there's a genuine insurable interest in it."

SPECIAL RISKS

Take the cases of two strippers whose agents claimed had insured their breasts at Lloyd's for \$1 million a time. That was indeed the true figure on the slip, but it was only the upper limit.

The real insurance was against loss of earnings if they were hurt in an accident and suffered bodily damage to their figures.

It was a genuine business risk, with the form carefully specifying that any compensation would be related to their true loss of earnings, based on their previous three years of tax returns with an absolute maximum of \$1 million.

"Sure, any promoter nowadays could seek a \$10 million cover on such a risk if the film star's well enough known and he'd probably get it without difficulty" speculated Mr. Stratton.

Naturally he never spoils a good publicity idea by limiting its risks unduly, but he wants to dispel the idea that showbiz insurance on sex-goddesses has a ready market at Lloyd's that outweighs its more practical purpose. So in dealing with sportsmen and other popular personalities he finds there's usually good reason for large scale cover.

That is how, for example, he came to provide cover on Brazilian soccer star Pele for \$3.6 million

when he was starring with New York Cosmos.

The player was a natural crowd-puller. So N.Y. Cosmos sought protection at \$60,000 a match against his absence through sickness or injury.

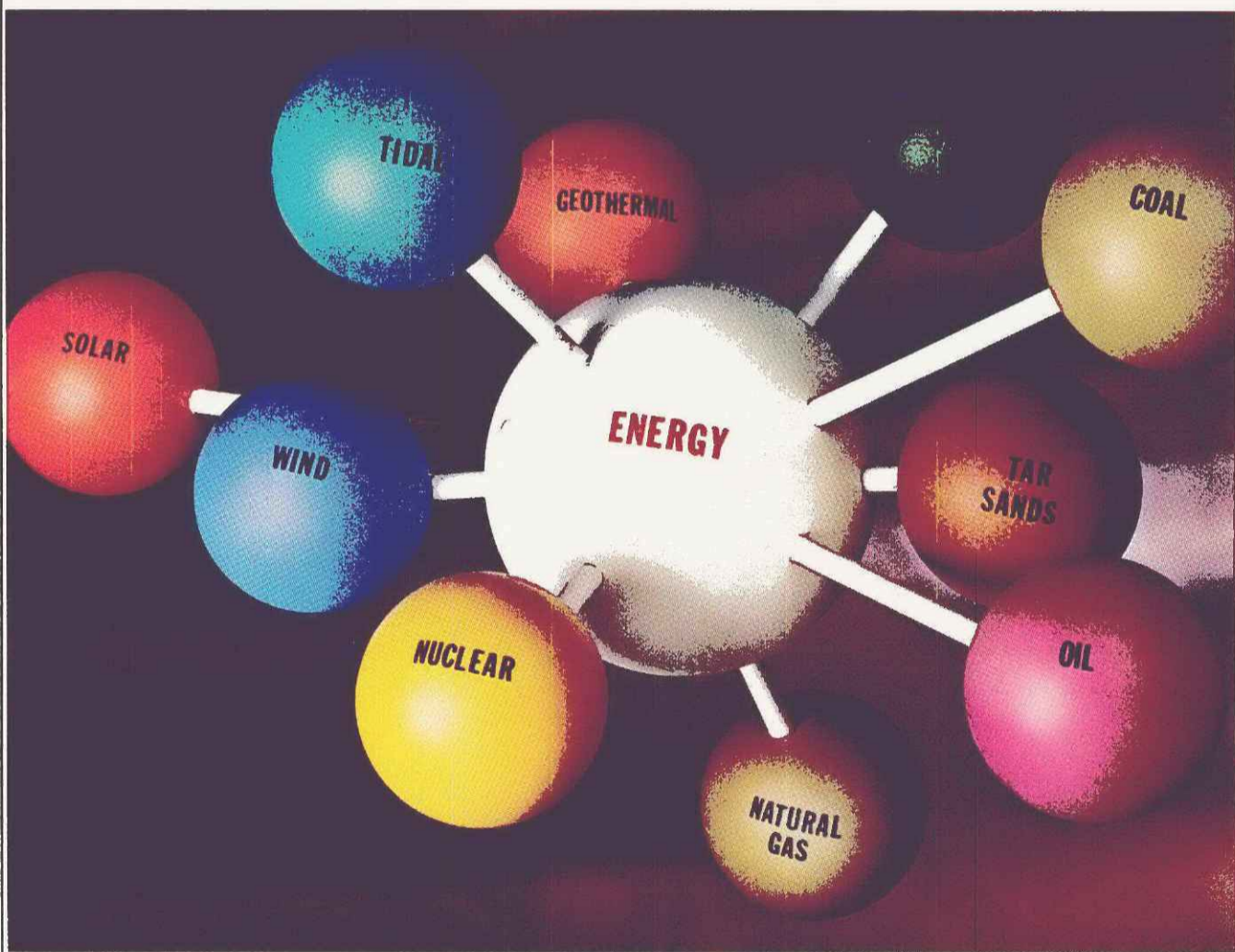
"The premium was about \$220,000 for two years and I think we paid once," said Mr. Stratton.

At times he is not so lucky, but in general he believes that specialty risks at Lloyd's can produce profitable lines of business, as when he covered boxer Leon Spinks for \$150,000 premium on a \$3 million risk against injury prior to one of his major fights.

They are frequently led by him when it comes to unusual quotations, with about 30 to 40 other syndicates ready to sign the slip as well.

But he spreads the cover into the U.S. market on many occasions by co-insurance with many pools, including the American Accident Reinsurance group.

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Fire losses decrease

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Lloyd's broker finds no gamble in contingency risks

By JOHN H. MILLER

SPECIAL RISKS

LONDON—Insuring Betty Grable's legs may have made history once for Lloyd's of London, but the recent publicity given the famous policy is bringing wry comments from underwriters here.

AIG is using the example of the \$1 million policy for the actress's legs as part of its campaign to lure business to the new New York free trade zone. AIG says it can now insure million-dollar legs "as easily as Lloyd's of London," a claim that ruffles some here.

The top men at Adam Brothers, who run a unique contingency risk service for the market, have come to the rescue. And the publicity blurb that surrounded the story at the height of her fame comes into better focus.

"Betty Grable probably never was a special risk at all," says Peter Nottage, the firm's managing director, who handles masses of speciality risks every year. "It was probably just an ordinary accident policy covering life and limb with a \$1 million capital sum payable in the event of death and dismemberment. This could have followed a standard policy form that any accident underwriter can write.

"It's easy for a publicity man to take one benefit out of context and state quite truthfully that the artist's legs were insured for \$1 million. Naturally we can't be sure this was so, but there's certainly nothing difficult in writing such a pol-

'When structuring abandonment insurance it's fatal to attempt to specify perils. The aim is to broaden coverage, not restrict it. You can't think of every contingency, so don't try to do so.'

—Peter Nottage

icy," he continued.

"The more difficult task, although perfectly feasible, would be to structure a policy to offer indemnity on a provable loss basis rather than an agreed capital sum."

To explain his attitude, Mr. Nottage offered to construct a special policy on behalf of the *Business Insurance* staff in the U.S.

Would they like to be covered against being trampled to death by a herd of elephants rushing down Main Street and tell their friends they have this unique risk protection?" he asked.

"If so, I'll do it," he promised. "But in fact, it will merely be an adaptation of a standard personal accident policy, offered on a rou-

tine form by hundreds of underwriters.

"The risk, of course, is already covered under the standard policy. But who's ever heard of a headline which read: 'Betty Grable insured for \$1 million against being killed by elephants?'"

To stress his own approach to speciality risks, Mr. Nottage takes the emphatic view that contingency insurance is a serious form of cover which goes "right outside standard risk lines."

"It aims to 'custom build' a policy to fit an insurance problem, rather than trying to use a standard policy to cover a risk for which it's not designed," he said.

What kind of coverage falls within this class? Abandonment of events or non-appearance coverage form a large part, and have produced some bizarre losses.

Mr. Nottage explained: "When structuring abandonment insurance it's fatal to attempt to specify perils. If you forget to specify one obscure peril, then by the perversities of life that is the one which will probably turn up, you'll have an unhappy client.

"The aim is to broaden the cover, not to restrict it, when abandonment risks are placed. You can't think of every contingency, so don't try to do so."

His associate, Geoffrey Fox, put it in similar businesslike terms.

"The perils insured are basically the same as those already offered in a multitude of printed forms which can be found in the Lloyd's Policy Form Book," he agreed.

"But when you are dealing with someone who only has a contingent interest, such as the man organizing a convention at a hotel instead of the owner of the building, then a totally unexpected event can come along which in their darkest mood nobody would ever have dreamed up. So we cover cancellation of the event due to any cause beyond the control of the insured party. We try to provide a policy with the absolute minimum of exclusions."

He cited an Australian aboriginal children's choir booked to give a series of concerts and insured on a "non-appearance" coverage. Their tour was cancelled when the elders of the tribe heard of the death of a paramount chief. They suspected that he had been put under an "evil eye" spell by another tribe, so the men took off to start a tribal war. The show collapsed as their women and children took off.

Continued on following page

Can sufficient incentive be provided for such costly and long-term investments?

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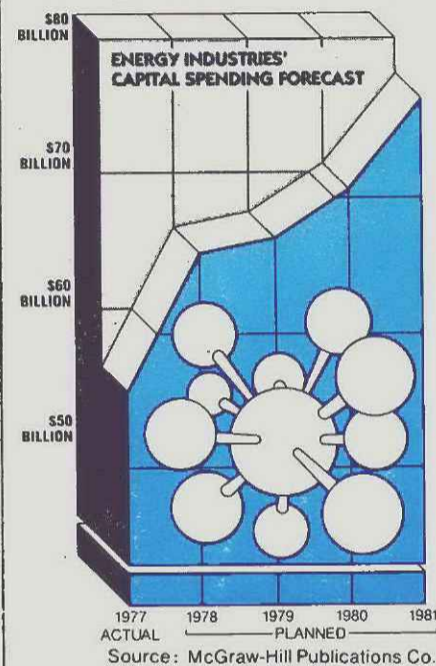
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Adam Brothers . . .

Continued from preceding page
after them.

Then there was an international football match scheduled to take place in Ireland, which had to be cancelled due to an outbreak of hoof and mouth disease in England, from where many spectators were likely to come.

Everybody knows that this disease does not affect humans. But the Irish government feared animal sickness could spread if the virus might be brought into their country on the feet of the football supporters and banned the game.

And there was the concert pianist who, on arriving at a concert hall for the performance, trapped his fingers in his auto door and was unable to perform.

"All these are real risks, but would probably not have been written into a named perils pol-

icy," Mr. Nottage said.

Adam Brothers Contingency Ltd. is proud to call itself "brokers' brokers." Never do they serve a client direct.

This has been the tradition of the firm for many years under its chairman J. Phillip Hine, who is over 70 but still puts in a full week in the office. His sons Jeremy and Harvey also work there.

"The variety of contingency risks which can arise from time to time can create difficulties for many brokers or underwriters," Mr. Nottage said. "A broker handling a general account may only see a contingency risk once a month or even less and each one might be quite different from the previous one. He might present it to an underwriter who has never seen such a risk before. Obviously nobody can build up a book of business in that way. So we offer our services to other brokers who may have sudden inquiries from their regular clients about speciality risks and have built up direct relations with many of them over the years, but never with their insured's.

"If I feel it desirable to see the insured, I go along as a consultant to his regular broker. That way, we maintain a very happy relationship with all the parties."

By specializing in its class of business, the firm of Adam Brothers has built up a book of the unusual one-off risks and has gathered its own unique records going back many years. It was started in 1882 by two Scot ship-owners who set up their own marine insurance business. In the past 40 years, it has specialized more and more as brokers for contingency risks.

It helped to get special coverage for the explorer Wally Herbert in 1969 when he crossed the Arctic on foot and spent the winter in a hut near the North Pole. The expedition was to be financed by royalties from his writings which would not be forthcoming if he failed to complete the trip.

It sought a quote for a tanker group which feared the Panama Canal might be closed by an earthquake.

It arranged bond cover for a shipping line which feared some of its Chinese crewmen might jump ship in breach of U.S. immigration laws.

It quoted for a medallion firm which feared the first U.S. moon landing might be aborted before it could sell its celebrated souvenir.

It obtained a quotation for film makers who feared sudden scientific discoveries might prejudice the surprise fictional ending of the film 2001 before it could be released.

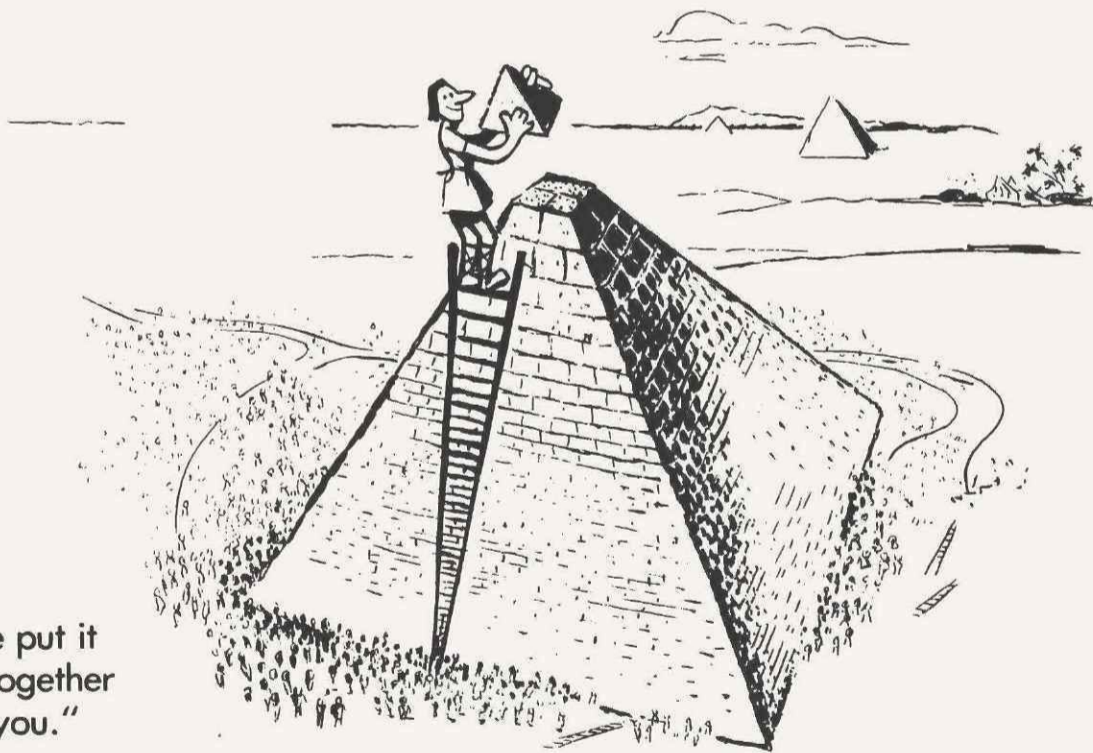
"Just examples of contingency insurance," says Mr. Nottage, who has a wide experience in this field. "But the point is they were all genuine consequential loss problems where the insured stood to lose a substantial sum of money in the event of an unexpected happening. They were not gimmicky policies produced for the purposes of publicity.

"The problems facing both brokers and underwriters when dealing with contingency insurance are basically ones of risk assessment and policy drafting" Mr. Fox explained.

Is Mr. Nottage prepared to make a book on the success of the New York Insurance Exchange?

"I wish it well. But until I've got all the facts about it, I'm not even thinking of making predictions. One thing that even the contingency market always refuses to predict is the success or failure of a new venture."

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French suit on oil spill stirs furor

By JOHN H. MILLER

LONDON—Marine insurers are facing new problems over three lawsuits filed in the U.S. in connection with the Amoco Cadiz oil pollution disaster last March.

Insurers claim the French government has gone beyond international law by participating in one of the suits and they fear heavy damages may be awarded if the courts are persuaded that the tanker owners were to blame for the massive spill.

Over 230,000 tons of oil leaked from the tanker after it went aground off the Brittany coast of northwest France, polluting miles of coastline.

It was expected that the compensation which could be recovered from the owners, Amoco Transport, would be limited to \$16.8 million under the International Convention on Civil Pollution Liability completed by 35 nations three years ago. The actual damage and clean-up costs were certainly much higher.

Now the U.S. courts are being asked to award more than \$1.5 billion in damages against Standard Oil of Indiana, the owner's parent corporation, and three other defendants linked with it.

Peter Miller, a U.K. marine insurer and member of the Committee of Lloyd's, has protested: "France has broken all international understandings by going to the U.S. in this way, for it was never expected that any of the nations who signed the convention would do such a thing.

"It will put insurers in an intolerable position if the French government and other plaintiffs from small towns in Brittany win the case, even if the compensation is scaled down from the large sums being sought," he continued.

"If there is no known international limit on pollution indemnity payments, it will put insurers in a very exposed position and they will be quite unable to prepare suitable rating levels."

Lloyd's is asking the U.K. government to complain to France that it has broken the terms of the long-awaited convention which took six years to come into force.

The U.S. never signed the convention and that is believed why France went to U.S. courts to seek huge damages.

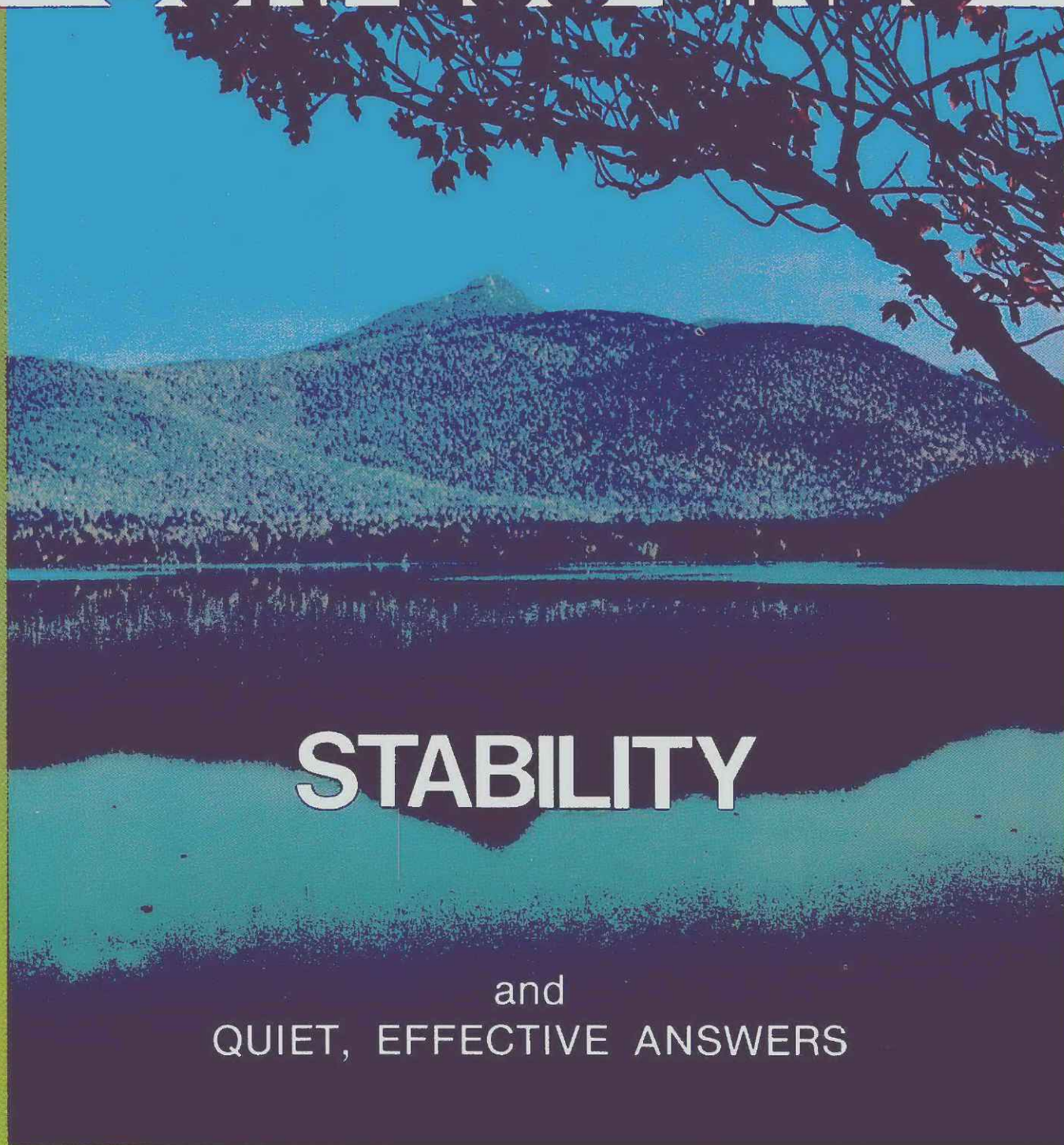
Marine insurers face the same dilemma the aviation market confronted four years ago when normal passenger liability for the Turkish DC10 crash in Paris under international conventions was overtaken by a product liability lawsuit that produced \$62 million in payments in California.

The actions in the U.S. are being brought by three French people on behalf of hotel owners, fishermen and ferry operators who are citing Standard Oil of Indiana in a class action suit in Cook County, Ill. Compensatory damages of \$750 million and punitive damages of \$500 are being sought.

Also cited as defendants are Amoco Transport, Amoco International Oil Corp. and Capt. Claude Phillips, marine manager of Standard Oil of Indiana, which is headquartered in Chicago.

Meantime in New York, the French government through its budget minister has launched an action for \$300 million damages against all the defendants except Standard Oil of Indiana. ■

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PERSPECTIVE

Risk management

Apply it to world politics, Cousteau pleads

The following treatise by Jacques Cousteau appeared recently as a supplement to the *Calypto Log*, the publication of The Cousteau Society Inc. It was submitted to *Business Insurance* by an interested subscriber from upstate New York who is a member of the society.

Along with the suggestion that we run the special report by Mr. Cousteau came another: "Perhaps the Risk & Insurance Management Society could discuss and disseminate this report. This might just be the appropriate time for the private sector of risk management to urge the public sector to create an Office of Risk Management. I see that action as ecologically beneficial and an enhancement of risk management."

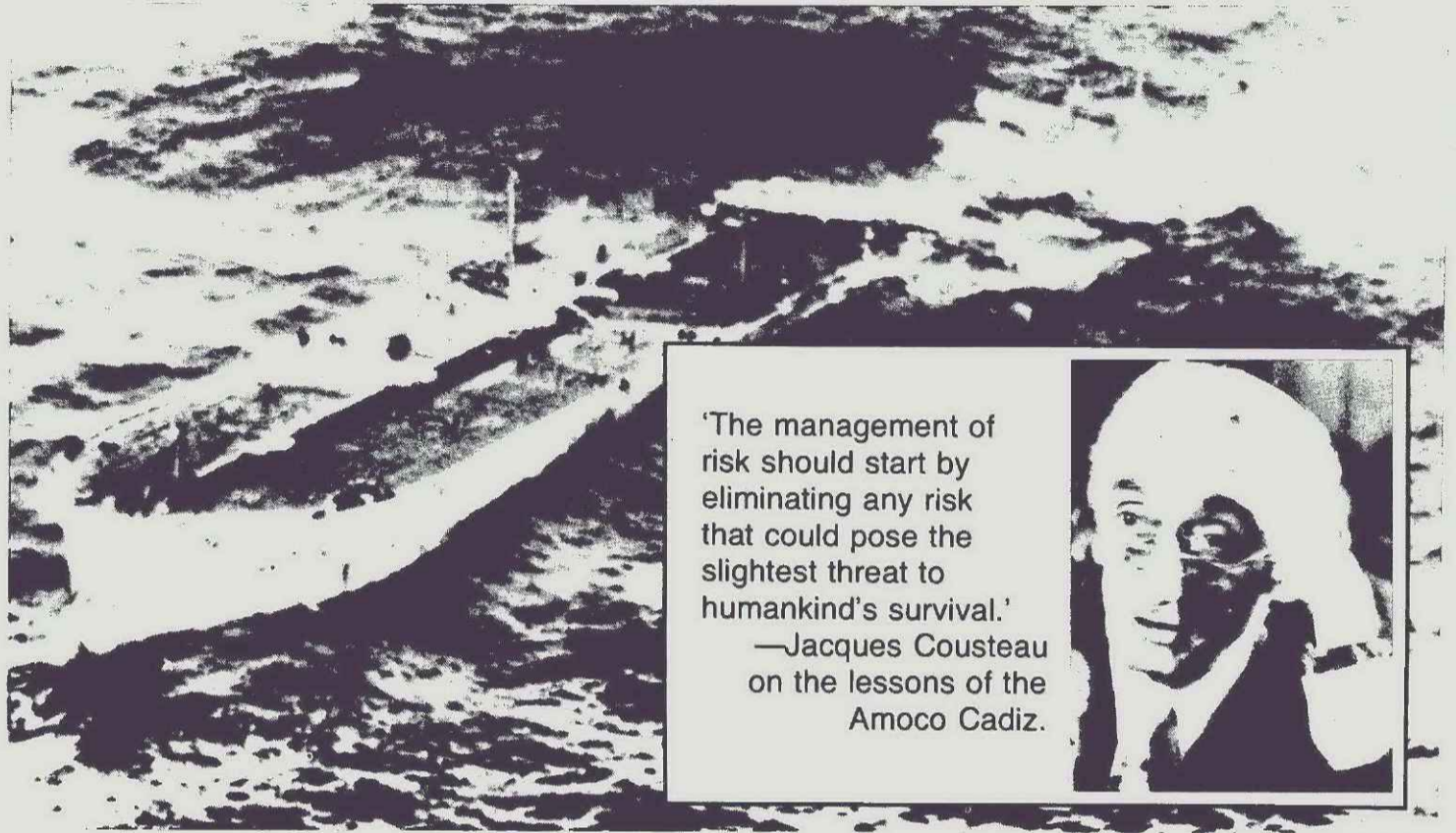
By Jacques Cousteau

THE DISASTROUS WRECK of the Amoco Cadiz has once again emphasized—all human undertakings are fallible. Planes crash. Gas reservoirs explode. Nuclear plants themselves, in spite of their sophistication, are not always sheltered from mechanical or human errors. It is even possible that one day, an irresponsible head of state will use the atomic weapon. Meanwhile, sludge is discharged into the sea, and shiploads of arsenic, dangerous gases, defoliants and tetraethyl lead continue to sink. Every year, larger and larger tankers run aground or are victims of disastrous collisions.

Scientific and technological progress which has helped lessen disease, increased life expectancy and improved our standard of living, must inevitably involve an element of risk. However, we must resolve not to take any risks that would have irreversible consequences. There is a pressing need to introduce into international politics, a new concept: the management of risk.

This management would entail an assessment of the consequences of accidents, not only in the short term, but also for the medium and long term. In effect, as long as human beings continue to have children, they explicitly express their desire to see their species survive and develop.

This management of risk should start by eliminating any risk that could pose the slightest threat to humankind's survival. The next step is to concern ourselves with the management of acceptable risks. In other words, one factor is taking all allow-



'The management of risk should start by eliminating any risk that could pose the slightest threat to humankind's survival.'

—Jacques Cousteau
on the lessons of the
Amoco Cadiz.



Photos: Wide World

able measures to reduce the number and seriousness of accidents and the other factor is equipping ourselves in order to most efficiently combat the consequences of disasters that could not have been avoided. Obviously, it is better to prevent than to cure; but it is also necessary to know how to cure.

The risk of black tides, as emphasized by the Amoco Cadiz disaster, can and should be considerably reduced in frequency and severity by a complete reform of international regulations for maritime traffic—inspired by the existing air traffic regulations.

Ships that carry passengers and toxic or dangerous substances should be equipped with two engines, two propellers, two rudders and two independent steering systems. Tankers and boats carrying liquid chemicals should be forced to have double-bottoms. Their radars, their gyroscopic compasses and their radio communication systems should also be duplicated. Two

qualified navigation officers should be on the bridge at all times, the same way that planes must have a pilot and co-pilot. The conditions required to obtain master's, watchkeeper's or chief engineer's certificate should be subjected to international standards.

At the approaches of coastlines and straights, routes and speeds should be directed by traffic controllers situated on shore, the same way planes have to obey orders from the control tower. In order to suppress the scandalous practice of "flags of convenience," ships must fly the flag corresponding to their true owner's nationality and have maritime insurance, with a standardized minimum cover.

Fines imposed on tankers that discharge oil at sea should be sufficiently high to deter captains from committing this criminal offense. Although it may be debatable, the recent extension of national limits to 200 miles

out to sea—the so-called "economic" zone—would at least have the advantage of allowing these countries to implement the above regulations, and to deny access to their waters to any ships that will not conform.

The tonnage of tankers should also be limited, for example, to 40,000 tons. Super-tankers maneuver with much greater difficulty than smaller tankers and are therefore more vulnerable to accidents.

Finally, the wreck of the Amoco Cadiz has shown that the means of towage were as equally ridiculous as the currently available cleanup equipment for the sea. Technically, the means and equipment exist. Ship owners cut financial corners. Governments passively comply. As a result, the loss of money is greater than would have been the cost of ensuring against such disasters in the first place. It is about time we acted!

Insurance policies expose language risks

By Don M. Stuart

TO THE RISK MANAGER of Company 'X':

Many of us chuckled when we read of the dissidents who tossed three bags of horse manure onto the floor of the British Parliament a short time ago. The demonstration expressed better than any words their opinion of the caliber of some of the debate that had been before the house.

While governmental issues are often singled out for criticism, much of it fostered by those with vested interests in the results, we can find a great deal of horse manure in our everyday activities.

Consider the last rental agreement you, the RM of Company X, had to review, for your company's leasing of a few thousand square feet of office or warehouse space. I recently went through one that was 49 pages in length—some paragraphs taking half a

Don Stuart, who recently retired after a long career as risk manager at Canada Packers Ltd. in Toronto, is keeping his hand in the field as a consultant.

—Speaking Out—

page—a completely ludicrous piece of legal jargon, so voluminously constructed to either totally confuse the poor lessee, or to make it possible for its author to charge a fat fee for its compilation. One has to feel with some certainty that the parties of the first part and second part could name their terms on one side of the sheet, if so inclined.

Or, take any insurance policy you might pull out of its file. How many of you have even read them to know what they say? How many understand every bit of wording they contain?

For example: Losses excluded—"this policy does not cover . . . loss or damage caused by a criminal or wilful act or omission of the insured." Now WHAT DOES "omission of the insured" mean?

Or, look at the valuation clause—"the insurer is not liable beyond the actual cash value of the property." We didn't pay much attention when a contract was written three years ago stating that payment would be for

"actual cash value." Then a typhoon tore the roof off a warehouse, broke sprinkler lines and torrential rains ruined some 200 tons of finished stock, mostly in bags.

What is its "actual cash value"? The adjuster (wrongly in my opinion) said it was material cost plus container plus labor cost incurred plus overhead. He would not accept that actual cash value of finished goods was selling price less only such items as shipping expense not incurred and trade discounts normally allowed. But, if the wind hadn't blown up, the next day at least part of that product would have gone out the door at selling price. Isn't that its ACV???

One can wrestle with this sort of problem after such an event but a policy should have more lucid terminology. (By way of comment, the Factory Mutual policy, and no doubt others, specifically says that in event of loss, payment for "goods manufactured by the insured is on the basis of selling price.")

We risk managers hand the Royal a bouquet and much credit for doing something about their policy form, to make it at least

readable to the insured. An example? The old exclusion clause—"loss or damage to goods occasioned by or happening through their undergoing any process involving the application of heat"—simplified to read—"we won't cover damage to goods caused by the application of heat by an iron, blowtorch or any other process. But we will cover fire that results from this heat. For example, you're not covered if you scorch a shirt while you're ironing. But if the iron sets fire to your home, we'll cover this damage."

How about that old chestnut, "all risk" coverage which we see and hear all around us? "All risk" my foot! "All risk" except for all the exclusions of loss potentials—a list as long as one's arm.

In a more modern arena of coverages, I find it most difficult to comprehend just what is being provided, which is of much use to a company or its executive personnel in the directors and officers liability policy.

I rather wish I could have my own insurance company to run and the incentive which ought to be present to make this product—INSURANCE—the kind of crystal-clear diamond it ought to be.

PERSPECTIVE

Loss prevention: More than "security" but less than total risk management

The following article is excerpted from "Loss Prevention: Controls and Concepts." Author Saul D. Astor is president of Management Safeguards Inc., a national security service with headquarters in New York. The book, which costs \$12.95, is published by Security World Books, 2639 S. LaCienega Blvd., Los Angeles, Calif. 90034.

By Saul D. Astor

IN THE MINDS of many, the very word "security" is its own impediment. It limits the scope of the security function. One reason management often fails to devote time and energy to preventive security may well be the fact that it is a matter of "security."

Security, as such, carries a stigma; the very word suggests police, badges, alarms, thieves, burglars and some generally negative and even repellent mental images. Furthermore, the security role is often regarded as peripheral to the fundamental objectives of the company. Other functions, such as production, sales, operations and finance, make a more obvious contribution of profits. They are seen as more inviting, more important than security.

If the scope and achievements of the security function are to broaden and if the necessary involvement of management and other personnel is to be gained for the development and maintenance of an effective preventive security program, the image of security must be substantially upgraded. And a good way to begin is with a change of language.

Some years ago the term "maintenance engineer" was generally substituted for "janitor." Oddly enough, the personnel doing the job have grown to the new name; things have been done in the name of maintenance engineering which would never have been done by a janitor. And the people attracted to the field of maintenance engineering have been of a much higher calibre than were attracted to janitorial positions.

Similarly, simply using the term "loss prevention" instead of the word "security" can be a giant step toward improving the security image, broadening the scope of the security function and attracting able people. Equally important, involvement and cooperation in a loss prevention effort may be gained from key employees who would shun a security effort.

Many companies across the country have already effected this change in the name of the protective function. And wherever this switch has been made, there has been a new surge of interest on the part of the whole company, a new spate of constructive activity toward the loss prevention objectives. In addition, some excellent people have been attracted to the "new" objective, with a corresponding increase in the salary scale for loss prevention directors.

But a change of name, a spate of interest, new blood and higher pay do not necessarily assure that needed loss-preventive objectives will be achieved on a long-range, sustained basis. Every effort must be made to avoid the traps and mistakes of the past—and to avoid the stereotyped image that so greatly limited the role of security in the past. Loss prevention requires a place in the organizational chart among other functions of top management. That place can be secured by developing meaningful and effective activities of auditing, testing and truly preventing loss—by creating activity that shows results and developing the means to measure these results.

Loss prevention must not fall into the trap of simply "putting out fires." That is no program. It presents no long-range objectives. The goals and objectives of a loss prevention department must be well-defined, measurable and consistent with the objectives of the rest of the company.

Defining the objective

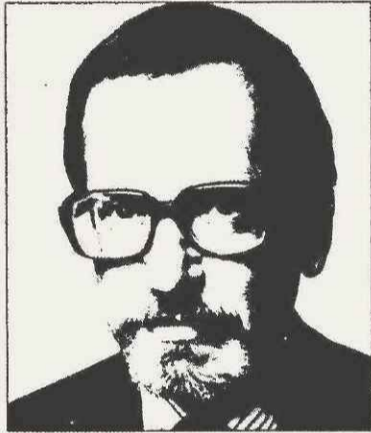
But what losses should a loss prevention

Risk manager as team player: A shortstop?

Saul Astor does not discuss the term "risk management" in his book on loss prevention, but he agreed to Business Insurance's request to discuss how risk management fits into the corporate picture.

By Saul D. Astor

W O E UNTO THE DIRECTOR of risk management (RM) or loss prevention (LP) whose status is clearly middle management and who must confront hat in hand, a host of condescending vice presidents or department heads, each dedicated to his own self-interest. But woe also unto the LP director who meddles obstreperously into the affairs of every operating department of a company. Risk management and/or loss prevention directors are relatively new kids on the executive block. Their status and responsibilities are not yet clear. Their authority is often vague or inconsistent and it is timely



now that their functions and reporting obligations are given clear shape and definition.

The attempt at definition must begin with the recognition that risk management or loss prevention is not truly a profit center. It is not endemic to the manufacture of widgets, the administration of services or the marketing of either. It is part of that management super-

structure which would be superfluous if everyone else were doing his job with intelligence, diligence and integrity. But since these three qualities may be passing into business history, it is now the time to develop the troubleshooter—the business shortstops who won't let the ball get lost in the outfield. The RM or LP manager is a shortstop.

Indeed there may be an analogy between the risk manager and the "expediter" in a production function. The very existence of an expediter is proof of production failure. You do not need an expediter except to react to failure. In part, the existence of an RM or LP manager is

also a reflection of managerial failure.

- If risk management or loss prevention is part of the management superstructure that needs to maintain, above all, an objective overview of the disparate elements of a company, the risk RM or LP director cannot report to any single self-serving element.

- If the very existence of the RM or LP direction is indeed a reflection of other managerial failure, the RM or LP cannot be effective if he is placed in a position where he must, to survive, placate the failing department heads.

Consequently, it is my conclusion that an RM or LP director must have no encumbrances which will mitigate his courage or his access to the president. The RM or LP director cannot function effectively if his job is vulnerable to political infighting. In short, the RM or LP director must report to the president or the president's surrogate, such as the executive vice president.

Defining the functions of the RM or LP department is more difficult than determining reporting responsibility. Since the RM or LP manager is indeed part of the corporate superstructure, he crosses a lot of lines and sees a lot of weakness and he may thus be tempted to venture out of his mission parameters into areas where angels properly fear to tread. Thus, for reasons of limited knowledge or political precariousness, he may engender executive resistance rather than cooperation and the resistance may even seep back into the areas of his legitimate bailiwick, thereby defeating his legitimate efforts.

Each company must therefore clearly define the mission of RM or LP manager and also define the manner in which he is to work. The objective of the RM or LP manager is normally that of effecting correction and reducing vulnerabilities. Thus, for the most part, his work should not be secretive, but rather above board.

The parameters of the RM or LP manager will vary from company to company, depending on product, operations, experience, size, geography and the like. But the RM or LP manager must not intrude on the autonomy of other responsible managers in such areas as payroll costs, capital investments, or marketing. The RM or LP manager is a shortstop; he is not the pitcher.

Given top management support and given substantial access to top management, the RM or LP director will make enormous contributions to a company, providing his mission-parameters are well defined.

department prevent? Should the primary objective be very broad or relatively narrow?

In one company, the loss prevention department had the broadest possible objectives. These included the prevention of losses due to:

- Dishonesty of any sort.
- Inaccurate record-keeping.
- Fire and flood.
- Poor safety practices.
- Poor utilization of equipment and facilities.
- Poor utilization of personnel.
- Inefficient procedures.
- Poor customer relations.
- Bad debts.

And so on, ad infinitum.

The head of this loss prevention department cannot help getting into trouble. First of all, he will get into everybody's hair trying to second-guess everyone in the company on every possible decision. Instead of creating cooperation, he will inevitably generate opposition. Secondly, he cannot possibly develop a systematic control on every conceivable subject; consequently, he cannot do his job without a regiment of assistants—which he does not have and does not really need.

The primary objective of a loss prevention department must be much narrower, limited to the prevention of loss of money, mer-

chandise and materials due to dishonesty or error. That objective is broad enough to keep anyone busy and important enough to justify a reasonable expense.

However, it is one thing to have an objective; it is quite another to achieve it. If security departments of the past had a fault, besides excessively limited goals and responsibilities, it was surely a lack of system—or organization or program, whatever it might be called.

As emergency-oriented trouble-shooters, these departments were so busy trying to "put out fires" that they had little time, motivation or responsibility to systematically prevent the fires from occurring in the first place.

Loss prevention is not troubleshooting. It is a highly organized, reasonably precise methodology of isolating exposure to theft and other losses. It requires the highest degree of planning and programming. It calls for extensive study and analysis of accounting and operating practices. In short, it requires a comprehensive understanding of the company's operations and a clear methodology in meeting the loss-preventive objectives.

True loss prevention is thus two-sided: it is necessary first to define closely the activities of a loss prevention department and then methodically to program those activities.

Loss prevention

There are seven basic activities which a loss prevention department should be actively performing and for which it should be responsible; seven ways of testing for and stopping profit leaks.

These seven functions are:

- Isolating exposure to loss.
- Developing the means to minimize such exposure.
- Auditing the means to minimize such exposure.
- Conducting an internal loss prevention training program.
- Providing watchful patrol and emergency action.
- Investigating suspicious or questionable occurrences.
- Maintaining awareness of newly developed devices and procedures.

Each of these activities is an essential aspect of the developing corporate instinct for preventing loss.



Making security a top management function

Seeking to determine the stature and structure of an average retail security de-

Continued on page 48

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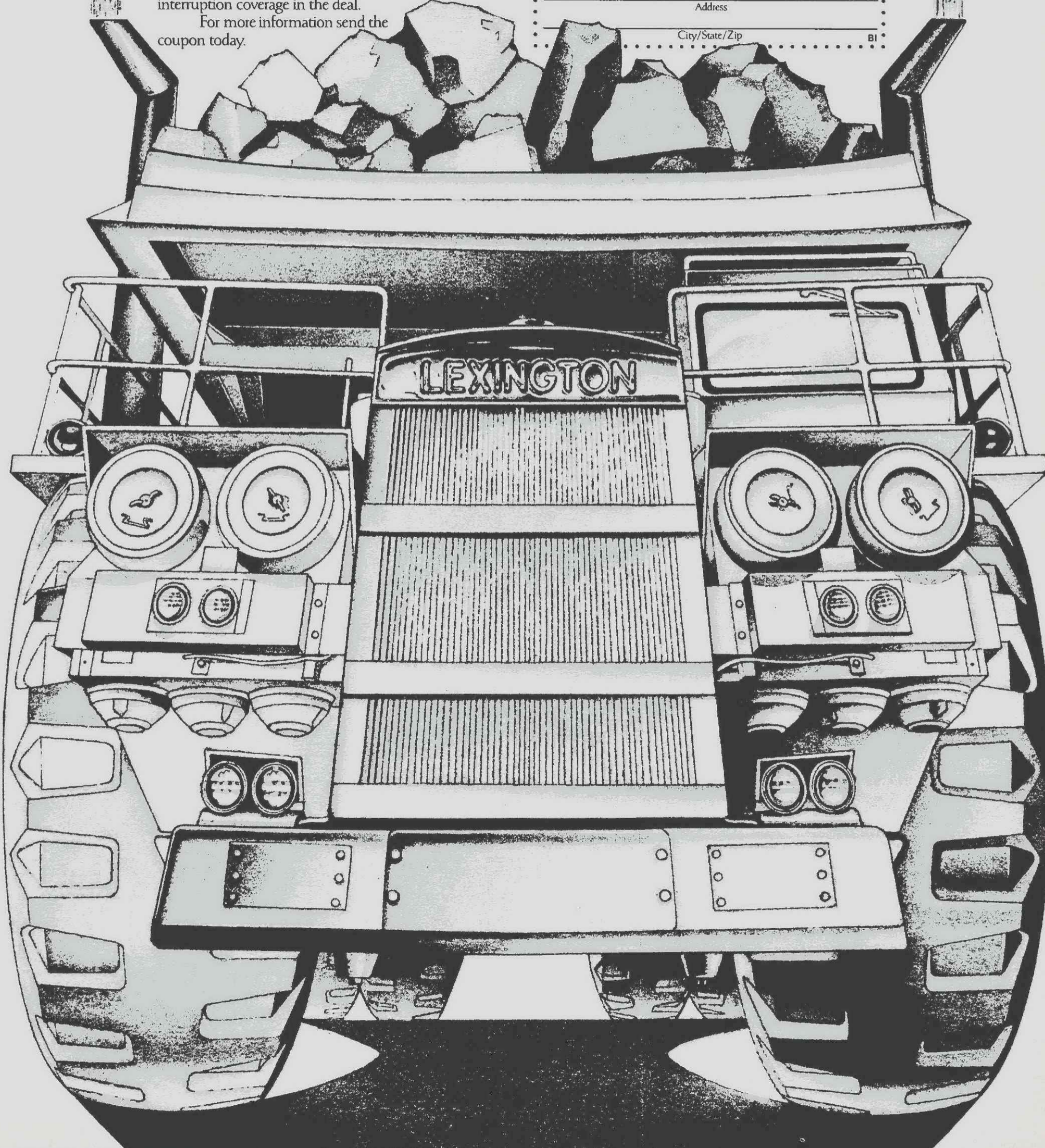
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PERSPECTIVE

Court holds franchise firm liable in ruling extending liability net

By Sidney A. Diamond

THE DECISION of a Connecticut judge in a comparatively unimportant suit for damages resulting from a leaking roof on a school in Hartford may turn out to have an enormous impact on the entire field of franchising. Whether it is a fast-food restaurant, a motel, a softdrink bottling business, or some other type of enterprise, the typical franchise operation depends heavily on the consumer appeal of the franchisor's trademark.

A standard element in almost every franchise agreement is a license to use the franchisor's trademark. The problem in the Connecticut case grew out of the legal requirement that a trademark owner who permits a licensee to use his trademark must maintain control over "the nature and quality of the goods or services in connection with which the mark is used." Failure to exercise supervision over the licensee can lead to the loss of all rights in the trademark, so this requirement must be taken seriously. It is the basic reason for the detailed operating manuals and inspection procedures that form part of the usual franchise operation.

The leaking roof in Connecticut had been installed on a school building by Skyway All-Weather Crete Co. Skyway was the local licensee of Silbrico Corp., owner of the registered trademark All-Weather Crete. The

Sidney Diamond is a New York attorney. This column is reprinted from Advertising Age, a sister publication of Business Insurance.

city of Hartford sued the general contractor which constructed the school and, in the same lawsuit, claimed damages against both Skyway and Silbrico.

According to the city's allegations, Silbrico has licensees for All-Weather Crete throughout the U.S. and Canada; it exercises control over the quality of the product as well as the methods for its application; Skyway followed Silbrico's specifications, but the All-Weather Crete product applied to the school roof was unsafe and defective and the leaks resulted from the defective design, formulation and specifications for the product. Basically, the city of Hartford took the position that the franchisor, by exercising the quality control required by trademark law, became liable for defects in the product supplied by the licensee.

Discussions about the role of trademarks in marketing frequently mention that the trademark owner stands behind his product, that a trademark guarantees the quality of the product and so forth. Extending this to a franchise situation, it could be said that the trademark owner, in a sense, takes responsibility for the licensee's product, which he must do because of the quality control requirements of the trademark law.

Aside from a few suggestions in legal periodical articles, however, this kind of statement has not been taken literally as a warranty, which would create liability for damages. Trademark experts agree that Congress never meant to impose that kind of financial risk on a licensor when it wrote the quality control provisions into the trade-

mark law in 1946.

The Connecticut judge acknowledged that the claim of the city of Hartford was unique. He also recognized its great potential importance "in the light of the contemporary popularity of franchise agreements for the manufacture and sale by licensees of trademarked products."

As the published opinion points out, a trademark owner may extend the marketing area in which he exercises his trademark rights either by expanding his own operations, or by introducing his trademark into new territories through licensees. When the owner chooses the license route, he has a duty to exercise control over his licensees. Licensing without supervision by the licensor is the legal equivalent of abandoning the trademark, which means that the owner can no longer enforce his rights in it against anyone whether it is used with or without permission. The public is involved in this, because the appearance of the licensor's trademark on uncontrolled products is considered to be a practice that is deceptive to the consumer.

The judge then went into the product liability aspect of the claim. According to his analysis, the license agreement between Silbrico and Skyway guaranteed to the public that the roofing product sold under the All-Weather Crete trademark by Skyway was of the same nature and quality as it would have been if sold by Silbrico. The situation thus met the legal test for "strict product liability."

Silbrico tried to get the case against it dis-



The Connecticut court decision may stimulate other attempts to collect damages from licensors, says Sidney A. Diamond.

missed by arguing that the city of Hartford was proceeding on an erroneous legal theory. As we have just seen, that argument failed to convince the judge.

The case is still at an early stage, but if there is a decision against Silbrico after trial, the legal responsibility of a trademark licensor for defective products sold by his licensee surely will be contested again on appeal.

Meanwhile, the published opinion on this preliminary decision may stimulate other attempts to collect damages from licensors for acts committed by their licensees. At the very least, it is likely to lead to an increase in product liability insurance premiums for franchisors and indirectly raise the prices of all franchised goods and services.

Safety . . .

Continued from page 46

partment and to establish the relationship between the security department and top management, the writer's firm developed a questionnaire which was sent to a number of large retail firms. Primarily, the questionnaire sought to determine (1) security's position in the management hierarchy (2) how retail security was staffed and organized to do its job and (3) the major activities of the security or loss prevention departments.

Of 26 replies, 19 were from companies operating department stores. Seven were from a mixture of other types of retail operations, thus constituting too small a sample from which to draw significant conclusions.

Ultimately the sample was limited to 17 department stores or general merchandise retail operations having sales volumes of up to \$300 million per year. One company doing \$800 million and another doing \$3.25 billion were omitted to provide a meaningful and homogeneous sample.

Status in hierarchy

The first conclusion to be drawn from the 17 questionnaire returns was—not surprisingly—that security was not yet a top management function in any of the responding department store companies. Of the respondents, 90% were "security directors," "security managers," or "security superintendents," while the other 10% had other titles.

No respondent was a vice president, though "top management status" would most likely be a vice presidency reporting to the firm's president or chief executive officer. No responding security head answered directly to his firm's president.

Respondents almost unanimously classified their positions as "just under top management." Most security directors were reporting to a vice president, though a few reported to a level below vice president. According to the returns, 66% reported to an operations officer, 15% to a financial officer and the remaining 21% were reporting to a wide variety of other executive titles. Security, it would appear, was generally regarded as a specialized sub-function of store



operations or, perhaps, a sub-function of financial control.

Still, 89% of the responding security directors indicated that, in their opinion, security should be a top management function.

Given that the stature of security in a department store organization is "just under top management" and that almost all security directors think they should be top management, what must security do to move from "just under" to "just over" the next rung of the organization hierarchy?

Staffing as a factor

The major clue provided by the questionnaire as to why security is not yet a top management function appeared in response to the question regarding staff. Responses showed that the average security department consisted of guards, store detectives, an office clerk, a supervisor and (perhaps) some fitting room checkers or package room attendants.

How can such a staff make a contribution worthy of the rank of top management? Is this a staff of professionals and specialists, or a staff of personnel in the lowest-paid categories of the entire company? One respondent wrote, "Security should uncover

systems weaknesses and irregularities and thus serve as management's consultants." But where is the qualified staff to do these tasks?

The same respondent felt that the title of the security department should be "Security and Loss Prevention," and that such a department should develop extensive loss prevention audits and reviews of procedure, training and publicity. The Security and Loss Prevention Department, he said, should conduct reviews and research in all store operations. The new title for the department would, he felt, provide a new surge of interest and involvement among store personnel and more clearly define the activities of the department.

Certainly the task of conducting reviews and research in loss prevention is a top management function worthy of reporting to none other than the president, as this respondent suggested. But could these activities be conducted with present staff? Clearly, most companies had a "law enforcement" staff, not a "loss prevention" staff. And law enforcement and loss prevention are not synonymous.

A veteran railroad security director has said that "The more responsibilities you get under supervision, the more prestige it adds

to your position." Yet 70% of the respondents stated that they did not want additional responsibility—they wanted to be top management, but without increased responsibility.

The other 30% recognized existing limitations and did want more responsibility, particularly in the area of loss prevention and internal audit. One of these respondents wrote, "Security should not be a fire brigade for panic situations, but a tool for far-sighted prevention."

Such men are already close to being "top management."

To reach top management status, then, the security department must expand its objectives; to reach these objectives, it must expand and change the security staff.

Security authority

While 80% of the respondents indicated that they developed budgets and submitted them for approval, they had only limited authority to purchase special equipment. Most could spend from \$100 to \$500 without consulting a superior and a few could spend up to \$1,000.

If loss prevention were a top management function, the ability to expend money from an approved budget should be the prerogative of the loss prevention head. If loss prevention is an important vector in profit-making, the loss prevention chief must have the authority to make appropriate expenditures for the equipment and services he needs. He is the pro; if he is not competent enough to be given a free hand within his budgetary restrictions, he should not hold his position. Given an approved budget, the effective security or loss prevention executive should—and should be able to—use allocated sums without asking "May I?"

It is unfortunately true that a small minority of companies only "go through the motions" of approving the loss prevention budget, then require the security executive to "re-fight" virtually every allocation before he can make the expenditure. Such poor management is usually a reflection of bad company practices. In such cases, the growth-seeking security executive will relocate at the first advantageous opportunity, making way for a less interested, more passive replacement.

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Commercial buyers next?

Gallagher sells cities 'protected' self-insurance

WILLIAMSBURG, Va.—Arthur J. Gallagher & Co. has signed up about 100 municipalities, churches and institutions for its liability program that incorporates self-insurance and aggregate retentions across several different kinds of exposures.

The next step is to sell the idea to commercial enterprises, said Gallagher's Jim Toner and Tom O'Connell at the annual conference of the Institute of Risk Management Consultants.

Gallagher calls its program "protected self-insurance," capping the risk by purchasing aggregate stop-

In just 16 months, the Virginia Hospital Assn.'s reciprocal insurance exchange has more than doubled its surplus, its director tells risk management consultants. Page 54.

loss coverage underwritten by Lloyd's for clients. The firm believes the program provides "the ultimate" in coverage for organizations that can afford to self-insure but want to protect themselves against self-insured losses in a single policy year under several liability policies that would result in a bigger loss than the organization was prepared to handle.

Thus, only a single retention is imposed for occurrences that might involve losses in more than one exposure area, such as property, liability and workers compensation, or that might involve losses at more than one location.

Typically the exposure areas that can be combined into a single plan include direct loss on buildings and contents, time element loss, auto physical damage, contractors equipment, aircraft hull, blanket crime and builders risk, comprehensive general liability, professional errors and omissions, incidental malpractice, auto liability, aircraft liability, workers compensation and medical payments for auto and premises accidents.

Gallagher has sold the program to 15 or 20 municipalities and some church and other institutional risks, as well as to about 60 Catholic dioceses around the country, said Mr. Toner.

Gallagher uses Lloyd's to underwrite the programs because it "has never found a domestic market willing to write the coverage as broad as we want," observed Mr. Toner.

Losses excluded from the programs are those of a degenerative nature, maintenance losses, standing timber and crops, war risk, nuclear damage, boiler and machinery, shrinkage, hospital malpractice and inverse condemnation. Underwriters have also imposed lower annual aggregate limits on several other areas such as flood and earthquake and professional errors and omissions including police professional liability.

Retentions under this program generally run a minimum of \$100,000 for all areas, with specific excess over that up to \$500,000 for property, \$150,000 for workers compensation and \$200,000 for auto and comprehensive general liability, with a buffer layer used for auto and general liability from \$200,000 up to \$1 million.

Gallagher, the nation's 11th largest brokerage firm, has a connection with Lloyd's through its president, Robert Gallagher, who is a member of Lloyd's.

2 brokers create firm

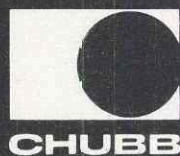
SAN FRANCISCO—Two former Clifton & Co. vice presidents have established Bulkley & Hagan Insurance Brokers. The firm will specialize in commercial property and casualty lines.

The offices of Bulkley & Hagan are at One Market Plaza San Francisco, Calif. 94105.

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Hospital insurer passes tests, revives market

WILLIAMSBURG—In just 16 months, the Virginia Hospital Assn.'s reciprocal insurance exchange has more than doubled its surplus and increased its assets to a healthy \$5 million.

It also has signed up 58 hospitals in the state, saving them a total of \$1.5 million, according to the estimates of Stuart D. Ogren, executive director of the association.

Investment income, he says, will total about \$375,000 this year, enough to pay most of the operating expenses of the reciprocal.

Moreover, he told the Institute of Risk Management Consultants at its annual meeting here, the Virginia reciprocal has jumped into workers compensation insurance

for hospitals and is looking to write property and boiler and machinery business in the future as well.

Underwriting standards, he pointed out, are extremely stiff. "We have dropped one hospital from our rolls and have refused to write others," he acknowledged.

Hospitals presenting greater risks than the norm either pay more for coverage, reduce their level of risk or have to seek other markets, Mr. Ogren said. Hospitals with approved, full-time risk management programs can qualify for premium reductions of as much as 20%. Three participants have qualified for this reduction.

The Virginia Hospital Insurance Reciprocal has encouraged other insurers to return to the malpractice business in Virginia, aggressively bidding for business, he said.

"Of course, several hospitals have played one company against another. Our bid to one hospital was over \$100,000 below the initial St. Paul bid. After being made privy to our bid, The St. Paul Co. came back and reduced its initial bid to the extent that the hospital saved an additional \$120,000 for one year's premium," he related. ■

Cozy ties a big hurdle?

WILLIAMSBURG—In the health care field, as in the world of corporations, cozy relationships between trustees and insurance brokers can often be a barrier to even the best-laid risk management plans.

"Conflicts of interest? Yes. Prudent buying? No! Politics is politics whether in Washington, D.C., or in Foxtrot Memorial Hospital," says Stuart D. Ogren, executive director of Virginia Hospital Assn.

These cozy relationships presented a difficult problem when Mr. Ogren set about establishing a captive insurance company to underwrite malpractice and general liability insurance for the group's hospital members.

"If I were asked to isolate the single most difficult problem in launching a captive, I would in all candor have to tell you that it rests with hospital trustees who are tradition-bound, are insurance brokers themselves who've been writing the hospital's business, or who are friendly with brokers not wanting to give up that annual 15% commission," Mr. Ogren charged. ■

New firm offers services to HMOs

NOVATO, Calif.—Pro-Care Planning, a firm that aims to provide services to health maintenance organizations (HMOs), has been formed by Paul R. Roberts, who was formerly an HMO consultant with the U.S. Public Health Service.

Located in Novato just north of San Francisco, Pro-Care Planning hopes to increase the general awareness of HMOs, provide ethical consulting services and provide accurate information on the new health service vehicle.

Pro-Care will offer services in eight different areas, Mr. Roberts said. These include private sector capital investment activity and public sector financing decisions as well as HMO marketing analyses, HMO financial analyses and HMO provider relations. ■

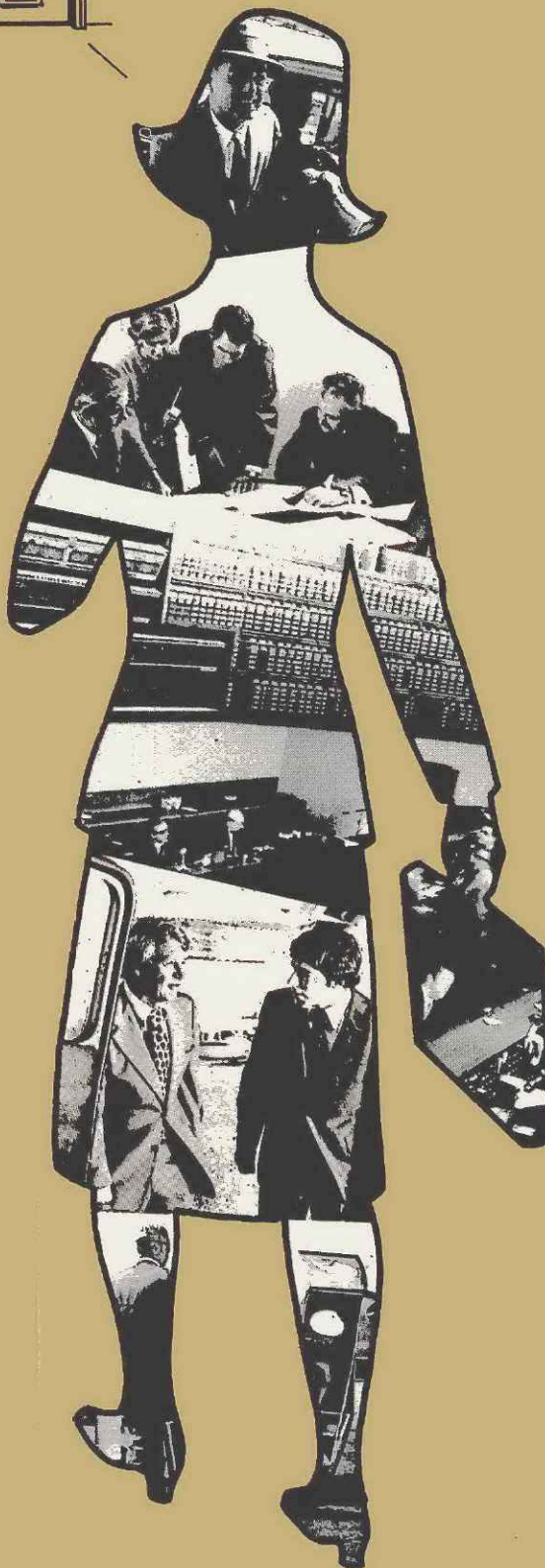
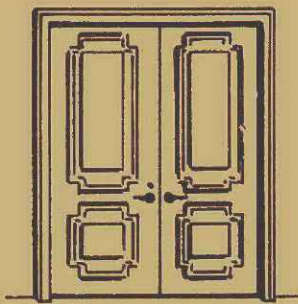
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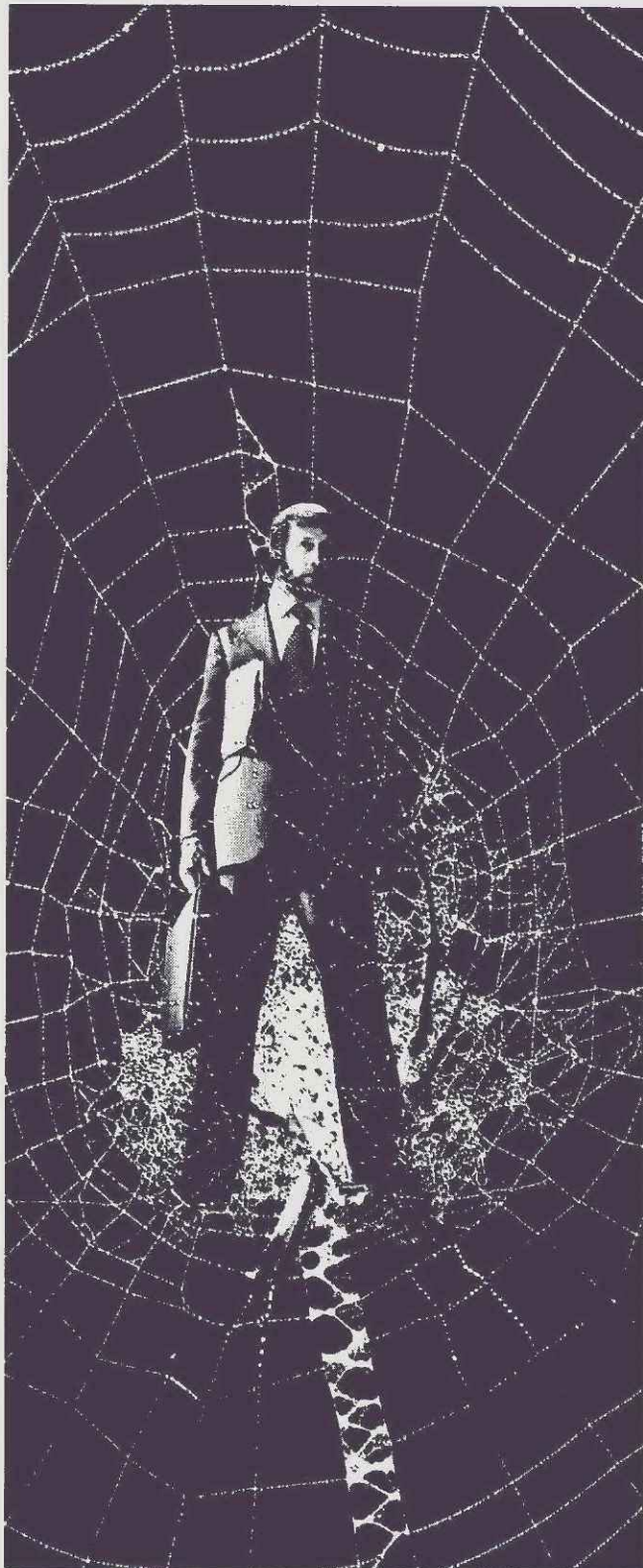
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London line

Lloyd's ups financial test for U.S. names

By JOHN H. MILLER

LONDON—Lloyd's is moving with the times in raising its membership requirements from nearly \$200,000 to \$265,000 for U.S. and other overseas names and from \$150,000 to \$200,000 for British nationals.

But the changes will not be effective until 1980, so they can have no impact on the 3,000 people who are expecting to join Lloyd's next January.

The hike will be minimal for U.S. applicants. When the rules were last toughened during 1974, to come into force in April 1975, they required \$240,000 on exchange rates

current at that time.

There is also "a mini-class" of membership for British citizens of \$100,000 which restricts them to below-normal premium levels but generates local interest in Lloyd's among a wider range of the population.

Current assumptions are that capacity at Lloyd's will shoot up by another \$1 billion next year to more than \$5 billion, with the influx of new names that will raise its membership to above 17,300 effective Jan. 1.

Lloyd's chairman Ian Findlay warned this summer that capacity would have to be kept under scrutiny by the Committee of Lloyd's,

but that there was no immediate intention to curb underwriting opportunities.

It is becoming clear that there is still a demand for non-marine capacity, even though marine and aviation syndicates feel their own classes are full.

Lloyd's operates a proportional system in which the basic show of wealth of \$265,000 allows overseas names to write up to \$300,000 worth of premium business a year. Greater wealth (nominally up to \$470,000) allows members to write up to a maximum limit of \$700,000 a year.

But while the actual show of wealth does not have to be pro-

vided in cash, it is usual for syndicates to require a monetary deposit from their members before they start writing business for them in any particular year.

Consumer safety

New rules for consumer safety come into force in the U.K. on Nov. 1. Department stores or other traders can be banned from supplying goods which are thought to be unsafe and can be told to issue warning notices to the public if any of their products turn out to be suddenly unreliable.

Stores will also have to label goods with special symbols if gov-

ernment authorities feel this is necessary for the protection of buyers and the names and addresses of manufacturers, as well as first-aid instructions for use in case of emergency, will also have to be displayed.

Quality control procedures can be imposed by consumer protection representatives if they feel this move will help to reduce mishaps.

Paying for police

Marine insurers are being asked to finance global police investigations into increasing activity by international criminals.

The plan has met with a mixed reception in the U.K. insurance market, where some underwriters believe cargo frauds take place so far away from Britain that they will be hard to detect.

But others argue that they are losing an estimated \$35 million a year through this form of crime and that any steps to halt the frauds will be worthwhile.

Delegates from the U.S. and 30 other countries were given details of the proposal when they met at the annual congress of the International Assn. of Airport and Seaport Police in London.

Eric Ellen, police chief for the important Port of London, told them: "We must take greater steps to investigate these huge losses of goods in transit. Intelligence reports from our members reveal that much of the frauds have to be met by the London-based insurance market."

"Because the fraudsters are so clever, they make it hard to pinpoint in exactly which country their plot has been hatched, but losses are growing all the time," he claimed.

Transit congestion in ports in the Middle East and West Africa are aiding the growth of this crime.

Reinsurance syndicate

Insurance brokers C.T. Bowring, who are planning to link their Lloyd's operations with Marsh & McLennan, have joined other international insurers to form a new reinsurance operation in Singapore with over \$100 million capital.

It will be run partly by the Insurance Corp. of Singapore, which will have 30% interest with the rest supplied by the Pohjola group of Finland and the National Insurance Co. of New Zealand and the Bowring group.

The East Asian area has already been closely watched by Bowring, which has business interests in Japan, Hong Kong, South Korea, Australia and New Zealand.

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San Diego settles claim on fire for \$750,000

SAN DIEGO—A compromise settlement of \$750,000 has been reached between the city of San Diego and its fire insurer, The Maryland Casualty Co., over the fire last February that destroyed a 63-year-old building containing the San Diego Aero-Space Museum.

At the same time, a settlement on the Old Globe theater, a structure built in 1935 as part of the Pacific International Exposition of that year, was made for approximately \$135,000, according to a spokesman for The Maryland Casualty Co., which also insured the theater. The Old Globe went down in flames on March 8. At the time, Robert Walters, former risk manager for the city, said that the 420-seat edifice, noted for its summer Shakespeare festivals, was insured for 90% of its actual cash value with a \$10,000 deductible.

A city spokesman indicated that the \$135,000 settlement was reached without much argument.

The February fire not only destroyed the Electric Building but also wiped out much of the Aero-

Space Museum, which housed internationally known vintage aircraft such as the Japanese-Zero and World War I biplanes.

Museum director Colonel Own Clark told *Business Insurance* that the fire damage to the museum has been settled for approximately \$341,100 from two insurers, Industrial Indemnity and Atlas Assurance Co. Each insurer paid about \$170,550, said the colonel.

He had earlier told this magazine that the museum had been insured for only about 10% of the value of the articles it contained.

The museum will reopen February 22, he said, with articles that represent every era of aviation. ■

Videotapes cut losses, earn dividend

LEMON GROVE—A loss control program involving videotapes of actual working practices helped EDCO Disposal System here obtain a \$40,000 dividend from its workers compensation insurer.

Harry Gordon, San Diego manager for Employe Benefits Insurance Co., the firm's insurer, said the dividend translated to a 26% return on premium.

"Our loss control consultants accompanied EDCO people as they made their routes and videotaped their job performances, capturing on tape their actual safety practices, both correct and incorrect," said Mr. Gordon.

He said that instant replays were then shown to EDCO personnel so that they could analyze for themselves what had to be corrected to improve their safety habits.

EBCI recently awarded another "record high safety dividend" to the California Sheet Metal & Air Conditioning Assn. (SMACNA). The dividend was represented an average return of 33.4% of workers compensation premiums for qualifying members of the EBCI safety merit group. ■

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info for buyers

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

• The Machinery and Allied Products Institute has prepared a 33-page booklet **Company Programs to Reduce Product Liability: Some Matters to Be Considered**. The institute says this booklet is the product of 17 years of MAPI involvement in the growing problem of product liability. Single copies are available for \$5 for institute members and \$8 for non-members. Write Machinery and Allied Products Institute, 1200 Eighteenth St. NW, Washington, D.C. 20036.

• **Thirty Percent of What?** is the title of a reprinted article that refers to the fact that an employer's liability in a terminated ERISA qualified pension plan can be measured by 30% of the fair market value of the company's net worth. For a free copy of the article, which appeared in the January 1978 issue of *Financial Executive*, write Standard Research Consultants, Standard & Poor's Bldg., 345 Hudson St., New York, N.Y. 10014.

• Standard Research Consultants is offering reprints of an article by Alex Howard on **Any Best Valuation Method in Buy-Out Agreements?** For a free copy write Standard Research Consultants, 345 Hudson St., New York, N.Y. 10014.

• Concerned about your **earthquake exposure**? A brochure and description of earthquake risk analysis and loss control services is published by Seismic Engineering Associates Ltd. The brochure outlines the company's capabilities in serving as special consultants in this area of risk management. For a free copy write Margaret Kuebler, Administrative Assistant, Seismic Engineering Associates Ltd., 1010 Westwood Blvd., Los Angeles, Calif. 90024.

• Do you know if your home meets the standard for fire prevention? **Protect Your Home from Fire** is a

checklist from Kemper which may help you make this determination. For a free copy write Communications & Public Affairs Dept., Kemper Insurance Cos., Long Grove, Ill. 60049.

• **Dwelling Approximator: Pro-**

tect Your Home for All It's Worth! is designed as a quick method to estimate replacement costs. It is a promotional brochure from Kemper, providing a worksheet and floor plan to help agents help policyholders determine if their home is insured to replacement value. For a free copy write Communications & Public Affairs Dept., Kemper Insurance Cos., Long Grove, Ill. 60049.

• Have you been hit with more than your share of OSHA citations and increasing hearing loss compensation claims? If so, Clayton Environmental Consultants, a technical services unit of Marsh & McLennan, may have the solution to your problems in its **hearing loss program**. The program combines the talents of loss prevention specialists, medical personnel and environmental consultants to ensure a sound, effective and economical approach to a company's hearing loss problems. For a free

brochure outlining the program write Richard Powals, coordinator of business development, Clayton Environmental Consultants, 25711 Southfield Road, Southfield, Mich. 48075.

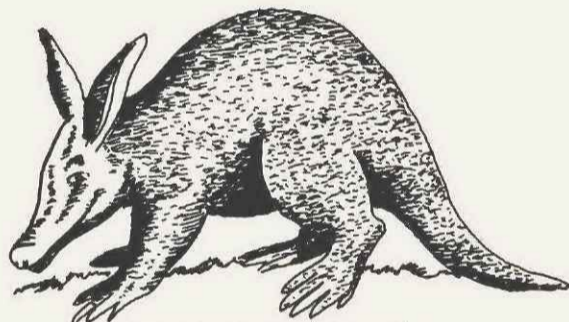
• Stewart Smith has developed a new coverage program providing **liability insurance coverage to law enforcement officials** in response to the present market crunch. For a free brochure describing the program write Cay Mann, Stewart Smith, 125 S. Wacker Dr., Chicago, Ill. 60606.

• **A Study of Current Collection Practices** takes a look at current practices and procedures used by Taft-Hartley trust funds when collecting negotiated contributions and employer compliance to written agreements covering those collections. The information was compiled from 369 International Foundation of Employee Benefit Plans trust funds responding to a

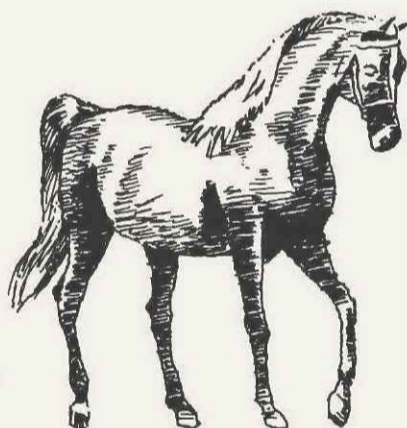
survey conducted in the latter half of 1977. Foundation members can order the book for \$4.50 or \$4 per copy for five or more copies; non-members prices are \$7.50 and \$7. International Foundation of Employee Benefit Plans, P. O. Box 69, Brookfield, Wis. 53005.

• Employees on strike or laid off and social misfits are posing an increasing **incendiary problem** for U.S. plants and facilities. Fortunately the in-plant targets that are most vulnerable to these special threats have been identified and specific proven methods for protection are available. Factory Mutual has conducted a special analysis of these incendiary targets and has prepared a list of steps that a plant can take to reduce the hazard. This information is detailed in a five-page sheet. For a free copy write Resource Center for Loss Control, Factory Mutual System, 1151 Boston-Providence Turnpike, Norwood, Mass. 02062.

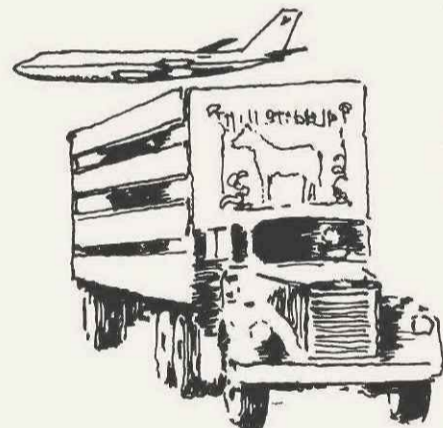
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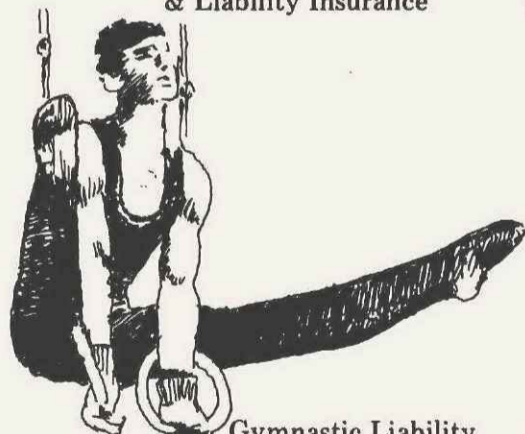
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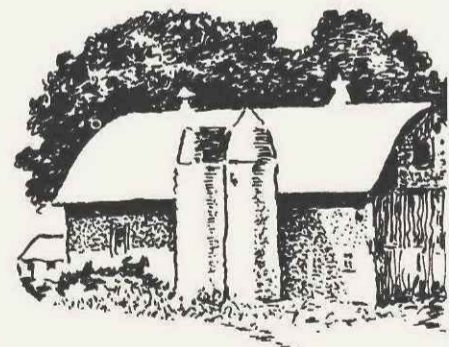
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Photo: Kathryn J. McIntyre

Despite some reports, Richard Barnes says Colorado won't allow a captive to accept any third-party business.

Barnes won't fight expanded captive role

By KATHRYN J. McINTYRE

DENVER—Colorado insurance commissioner J. Richard Barnes will not oppose any amendment to the Colorado captive insurance law that would allow a Colorado captive to insure third-party business.

"I won't take the initiative on third-party business, but if two or three captives wanted to sponsor a bill, I'd help. I wouldn't fight against it," Mr. Barnes told attendees of the fall meeting of the Captive Insurance Cos. Assn. held here recently.

A meeting in the Centennial State to discuss the concerns and directions of captive insurers provided the appropriate setting for a particular focus on the only active domestic domicile for captives.

An about-face by the Colorado

insurance division on the issue of third-party business—it now maintains that even reinsurance of risks unrelated to the parent is forbidden—is in response to the perceived threat of an Internal Revenue Service challenge to the tax deduction for premiums paid to a Colorado captive, Mr. Barnes indicated.

Though the revenue ruling addressing the issue of tax deductions for premiums paid to captive insurers deals with only an offshore captive, few persons now argue that the ruling would not be equally applicable to Colorado captives. And an IRS staffer told *Business Insurance* early this year that the reasoning of the ruling would apply in domestic as well as foreign situations.

Commissioner Barnes, however,

said he had been led to believe "by IRS people that the IRS will not take an adverse position on Colorado captives."

Moreover, a few months before the infamous revenue ruling on captives was issued in August 1977, a Colorado captive's transactions were audited by the Denver district office of the IRS, noted Ben F. Durham of Coopers & Lybrand later. "The IRS said the company was a bona fide insurance company and the premiums were deductible," he related. But another issue, regarding the establishment of reserves by the captive in light of its business being included in the parent company's consolidated tax return, is being appealed to the IRS, he added.

Attorney James Cameron of the New York law firm Baker & McKenzie also suggested that the IRS

ruling on captives was "an effort to slow you down from offshore captives. It gets you onshore where your income is taxed and they think there is something less insidious to an onshore company." Still, he suggested "there's no logical difference to treating onshore and offshore captives differently."

Commissioner Barnes apparently now fears that is true. Noting that the Colorado captive law was designed "to meet IRS objections," Mr. Barnes conceded "if they've changed, we need to."

The insurance commissioner's reference to third-party business caused some confusion, however, especially when Colorado attorney Joseph H. Thibodeau asserted later, "The Colorado act permits reinsurance of unrelated entities, so the legislation which is invited is for direct third-party business."

But Mr. Barnes told *Business Insurance* that he does not believe the law permits Colorado captives to reinsure risks unrelated to the parent company.

One captive which had requested permission to accept reinsurance from an international reinsurance pool was turned down flat by the insurance division, chief examiner Lloyd Engstrom confirmed. The division also does not know of any of the 29 Colorado captives reinsuring any unrelated risks, he said.

The act does say that captives may accept reinsurance, Mr. Engstrom continued, but the insurance division interprets that to apply only to the risks of the parent company or related affiliates which are insured first with commercial insurers and then reinsured with the Colorado captive. "It was included to permit fronting," he observed.

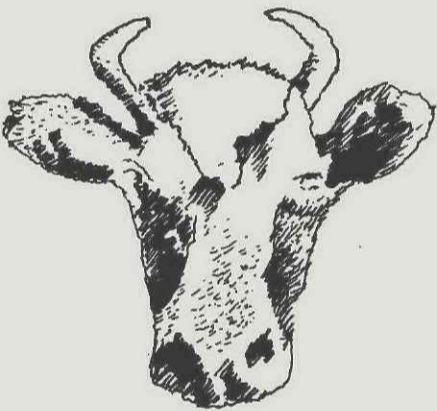
If Colorado captives are at some time permitted to assume unrelated risks, "we'd want to take another look at their capital structure," Mr. Engstrom predicted.

Currently there are no hard and fast premium-to-surplus rules for Colorado captives, he said. But generally the insurance division considers, "two-to-one very desirable, one-to-one is even better and at four-to-one we start getting concerned," he said. Each case is looked at individually, he added, to consider other circumstances, such as the net retention.

While some may be dismayed with the insurance division's strict interpretation of the reinsurance aspect of the law, Colorado captive

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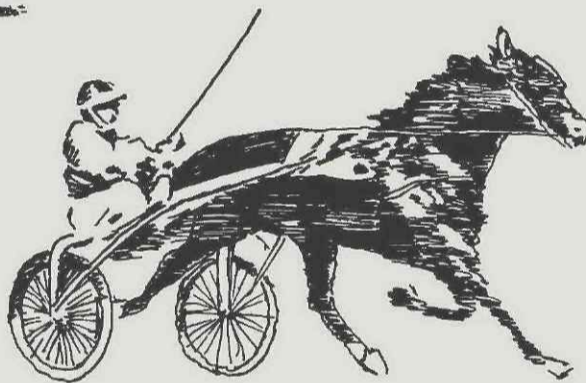
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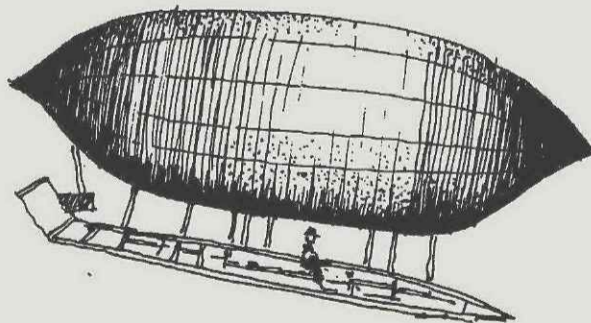
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Colorado captives . . .

Continued from preceding page
manager James A. Jaeger of Frank B. Hall Management Co. revealed the division is more lenient regarding the premium volume requirements. "It's frequently misunderstood, but you don't really have to write \$500,000 in premiums as a wholly owned captive or \$1 million as an association captive," he maintained. A captive merely has to show that it could write that much business. In addition, once a company has satisfied the Colorado insurance division that it needs a captive for one type of insurance that is not available under reasonable terms in the commercial marketplace, other lines of insurance or risks can be added without passing a similar test, he said.

Everyone involved in Colorado captives makes a special point of promoting the Rocky Mountain

domicile. And Mr. Barnes made an extra effort during his dinner address to reassure the assembly of risk managers and captive experts that there wouldn't be any chilling of Colorado's current warm reception of captive insurers, especially as a result of the creation this year of an advisory insurance board.

Though the board has policy making power, Mr. Barnes maintained that considering the economic impact of the captive industry in Colorado—generating \$56 million in payroll and \$22.5 million in bank deposits—no one would want to discourage the formation of more Colorado captives. Furthermore, "the board does not have the authority to reverse too many of my decisions," he stressed.

The creation of the board was not

an effort to control Mr. Barnes' influence over captives either, he explained. Rather, it was an effort by state politicians to get a foot in the door of his office after failing to convince the voters that his job should become a political appointment. Mr. Barnes is the only civil service insurance commissioner in the country. In most states the position is an appointed one and in a few it is an elected office.

Mr. Barnes guaranteed that any advice or policies issued by the insurance board will be well founded, considering that the five members, in addition to himself as chairman, are knowledgeable in insurance.

According to the provisions establishing the board, he said, two members must be employed in the insurance industry, two must not have been employed in the industry for two years and the fifth must be knowledgeable in insurance. The current composition of the board yields two CLUs, one CPCU, two Ph.D.s, three doctors of jurisprudence and a number of masters degrees, he reported.

The one message Mr. Barnes stressed most of all, and which was seconded by other speakers on Colorado captives, was "Colorado captives will continue to grow." The commissioner added a personal pledge: "I intend to stick around. And as long as I'm here, we'll welcome captives."

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CICA

The Captive Insurance Cos. Assn. is a trade group organized to provide a forum for companies which have created captive insurance companies.

Organized in 1971 by seven risk managers attending the annual Risk & Insurance Management Society meeting in Montreal, CICA has blossomed with the growth of the captive insurance company movement. Its membership jumped to 126 from 84 in the last year.

That growth was possible after CICA last year repealed its 100 companies membership limit without setting a new one. Charter CICA member Howard T. Weber of 3M Co. recalls the original limit was set "somewhat facetiously."

Recently 300 membership directories, for the use of members only, were printed and CICA vice president for membership Duane E. Allen of Hanna Mining expects to "run out of these in a couple years."

CICA meets twice a year, with its fall meeting open to invited guests and its spring meeting held exclusively to members, among whom are some of the most respected risk managers in the country.

Any insurer that was originally incorporated to insure the risks of its sponsor or the sponsor of a captive, is eligible for membership with annual dues of \$200 plus a \$100 initiation fee. Captives which have developed into third-party insurers are also members, including Bush Universal's Midland Insurance Co. and Armco's Bellefonte Insurance Co.

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CIRCL dumps Gen Re in underwriting dispute

DENVER—The Corporate Insurance & Reinsurance Co. Ltd. (CIRCL) terminated its agreement with General Reinsurance Corp. under which General Re acted as underwriting manager for CIRCL, which is now working with numerous insurers as underwriting agents.

An end to the General Re-CIRCL relationship was confirmed by Duane E. Allen, a director of CIRCL and chairman of the organization's underwriting and rating committee.

General Re's tenure was short and apparently quite turbulent. Friction was created when General Re didn't want to underwrite and rate certain risks, such as for directors and officers liability and professional indemnity, and some members of CIRCL didn't think they'd get fair ratings on lines that General Re was underwriting.

In the end, General Re declined to let other insurers participate as underwriting agents alongside it, demanding exclusive underwriting authority. That was the end of the contractual arrangement, although General Re continues to be the underwriter for at least one CIRCL participant on excess workers compensation insurance.

General Re didn't want members of CIRCL meddling in its affairs as the rate-setter; the firms wanted control over rates, even though CIRCL's rules provide for an appeal procedure when rates are thought to be too high, said Mr. Allen. Moreover, CIRCL's bylaws

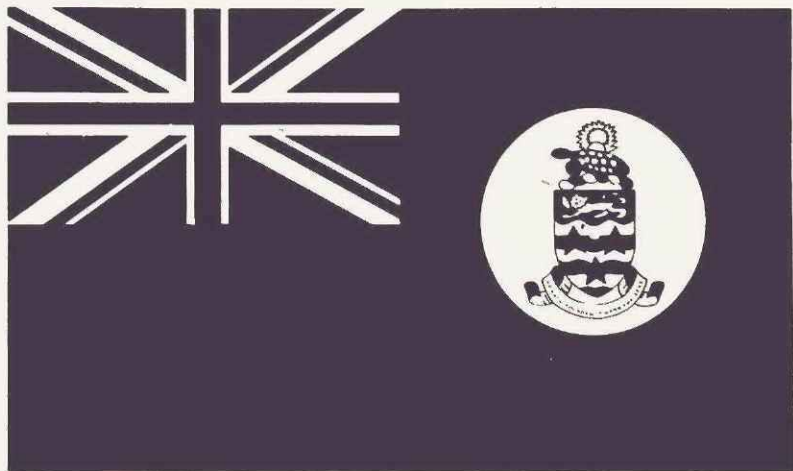
don't prohibit the use of independent underwriters by the members.

At the end of the all-or-nothing battle, General Re ended up with only a small slice of CIRCL's underwriting pie. The termination of CIRCL's underwriting agreement with General Re effective June 1 was duly reported to the ad hoc committee on captives in Bermuda. Substituted was a new system of using "selected, respected lead underwriters approved by the underwriting committee" of CIRCL, with each underwriter taking 10% minimum of the risk underwritten to avoid the problem of fictitious prices being set, said Mr. Allen.

Among the underwriters now being used by participants of CIRCL are CNA, Liberty Mutual, Prudential Re and Kemper Re. Inso, the Gulf Oil captive whose underwriting arm boasts ex-Lloyd's expert Leslie Dew, also has agreed to work with a CIRCL participant.

Rouse acquisition

Rouse Insurance Inc. of Columbia, Md., acquired Albert H. Cohen Co. of Arlington, Va., renaming the agency Rouse Insurance Agency of Va. Inc. and moving its office to Fairfax City, Va. Former Cohen president Jack Neumann was named vp of the new agency. Rouse is a 25-year-old independent agency licensed in 16 states, the District of Columbia and Ontario, Canada.



Mr. Roger Corbin, President will be attending the N.A.I.I. annual meeting in San Francisco — November 12th to 15th, 1978

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Corporate connection smooths claims handling: risk manager

DENVER—One of the most important steps in the management of a good claims administration program is to select "focal points" in the organization handling claims for a corporate client, designating specific individuals within the claims handling company responsible for servicing the account.

This is the view of Jim Perino of Rockwell International Corp., who says it's important to have one person to go to when there's a question or a problem. That person can then go to the local office of the claims handling firm for the answer or to correct the problem.

"This can make your job easier

by quantum leaps," he advised risk managers attending a session on claims administration at the fall meeting of the Captive Insurance Companies Assn. here.

However, Bob Pierson of Hospital Corp. of America disagreed with Mr. Perino's approach. He has one contact person at Underwriters Adjusting Co., the firm he uses, but he "would rather have direct contact with the senior claims person in the local office" when there's a problem or a question about procedures.

George Zacharkow, president of Underwriters Adjusting Co., injected that UAC works both ways,

but that it is "generally in the product liability area where we have customers ask for a key contact person to deal with on a regular basis."

When the corporation contracting for outside claims handling is a multi-state, multi-product operation, added Mr. Perino, "you just can't call the local guy in Paducah" and say you want to talk with him in your office the following day, because he doesn't have the authority or the resources to meet the request. "It's really essential to have a key contact person who can make decisions and mobilize resources," especially if you have a large volume of claims being administered.

Hospital Corp. gives UAC the right to select defense attorneys for cases in litigation, although HCA has veto power over UAC's choices, said Mr. Pierson.

Another risk manager said his company is going to use regional defense counsel, thereby reducing the number of defense attorneys. But there are several potential problems with using regional counsel, noted UAC's Mr. Zacharkow, including the potential for courts or juries in smaller towns or cities to be resentful of "the big city boys" if they're brought in from out-of-town.

Moreover, a large volume of claims, noted Rockwell's Mr. Perino, always includes "a lot of junk claims," which might make the regional counsel idea unworkable because of the higher cost involved in disposing of claims which should be rapidly investigated and thrown out or settled.

For a self-insured company, or one using its own captive insurer, incident reports are the key to loss control. Both Hospital Corp. and Rockwell continue to push for more incident reports so they'll have a better handle on potential claims and losses.

"We'll get 25,000 or so incident reports this year," said Mr. Pierson of Hospital Corp. He believes HCA's risk management department should be processing about 35,000 to 40,000 incident reports per year. About 2% are set up as potential claims to be investigated and tracked.

"We hold seminars to tell people we need these reports," he added. "We tell them we don't look unfavorably on a hospital that files more incident reports; rather we like it and tend to look positively on hospitals that are filing more reports to us."

Rockwell's Mr. Perino pointed out that one difficulty in assuring that reports of incidents reach the right person in the risk management department lies with the reporting channels.

"On all non-products reports—such as general liability, auto, and work comp—we don't even want to see incident reports at headquarters. We use the infamous computer to track those. But in the product area, we have a focal point within the company (a person with whom reports should be filed directly) and you have the field person cutting across all other channels" to get the report in to this claims manager, Mr. Perino told his colleagues. ■

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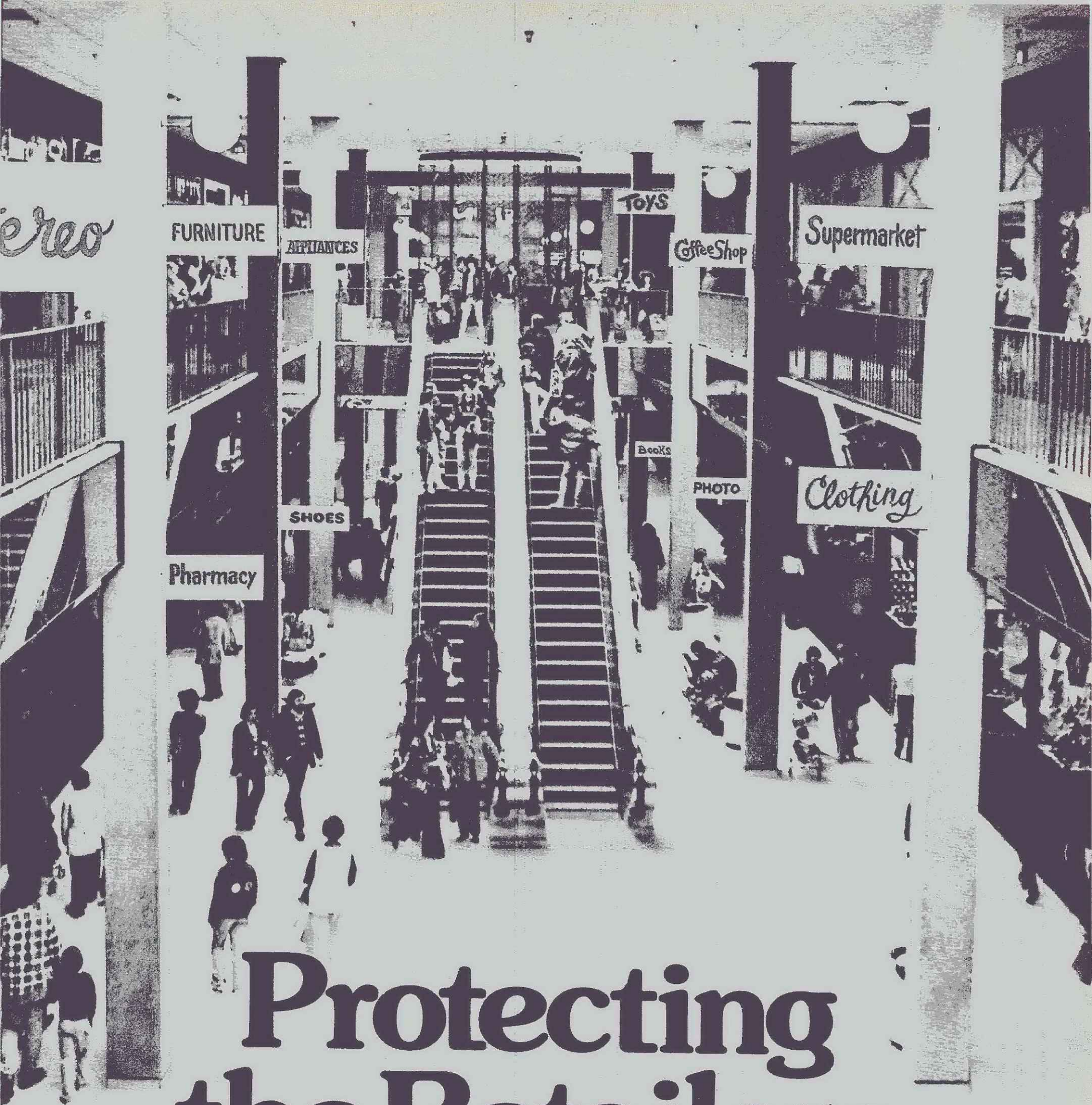
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DENVER—The tax ramifications of using a captive to insure a corporation's risks sometimes appear to be endless. As soon as a corporation thinks it has sufficiently designed the program to stand up to Internal Revenue Service challenges, a tax attorney spots another crack the IRS could probe.

James Cameron of the law firm Baker & McKenzie in New York obviously shocked some attendees of the Captive Insurance Cos. Assn. meeting here recently when

he alerted them to an apparently often ignored crack.

He warned that a captive could face an accounting nightmare as a result of diversifying its business to satisfy the IRS that it is a bona fide insurance company worthy of providing the parent corporation with a tax deduction for premiums paid.

For example, a captive participating in an international reinsurance pool to diversify its business should be aware of a sticky provision of the Internal Revenue Code. It requires that to the extent that treaty reinsurance premiums collected by an offshore captive are for the insurance of U.S. risks, the income should be reported as Subpart F income on the parent company's tax return. Subpart F income is treated as a dividend to the U.S. shareholder and is currently taxable.

"You may not be able to determine this easily," Mr. Cameron granted. "If you're reinsuring out of London, you won't necessarily know the source of the risks."

But all is not so bleak, he indicated, for either wholly owned or group-owned captives.

There are ways for a corporation to hold its aces in the face of IRS displeasure with tax deductions for premiums paid to captives. Cases testing the IRS position are before the tax courts, one favorable precedent is on the books and association captives are sitting smug with a favorable IRS ruling, however muddled it may be in Mr. Cameron's opinion.

To protect itself, if, for instance, a parent firm fears it will lose the tax deduction for premiums paid to a wholly owned offshore captive under revenue ruling 77-316, Mr. Cameron suggests it consider reinsuring claims yet to surface from questionable years as a group. "Thus, if you lose the tax deduction for the earlier years, this increases your chances for taking the tax deduction in the current year."

However, both deductions can't be taken, he added.

A company uncertain of its position with the IRS should also consider "protecting a right to a refund of the excise tax paid on those premiums," Mr. Cameron says.

The excise tax actually doesn't have to be paid on premiums paid to a captive in the classic configuration, says revenue ruling 78-227, which presumes there is no insurance and no tax deduction for the premiums paid (BI, Oct. 16). But a company that decides to pay the excise tax in conjunction with taking the tax deduction for the premiums, and is later denied the tax deduction for the premiums paid, "may not be in a position to claim a refund of the excise tax," Mr. Cameron warns.

Corporations have to realize that "the time for asking for a refund of the excise tax, which is generally three years, may pass before the IRS comes to audit them," the attorney counsels. One alternative is to file a protective claim for a refund to keep the possibility open, he says.

Cases testing the IRS position are before the tax courts, but Mr. Cameron does not offer any predictions on how they may be decided. In addition to the Ford case, apparently being settled out of court, and the Carnation case, pending a tax court decision, Mr. Cameron noted that Ingram Corp. and Toyomenka (America) Inc. are also in legal battles with the IRS over tax deductions for premiums paid to their offshore, wholly owned captives.

A tax court decision on any of these cases won't necessarily settle the issue, Mr. Cameron cautions. "If the service loses, it will appeal," he predicted, "and if the corporation loses, the IRS may want to try

and settle it out of court so there would be a court ruling in its favor."

So far, the best case yet in the taxpayer's favor is the 1962 Peter Theodore case in which the tax court permitted tax deductions for insurance premiums which the IRS had disallowed, Mr. Cameron says.

Mr. Theodore, he explains, insured the taxicabs he owned with a mutual insurance company in which he thus obtained voting rights ranging from 74% to 89% and ownership ranging from 86% to 93%. "In spite of these high percentages," Mr. Cameron points out, "the tax court held it was a mutual and permitted the deduction of the premiums paid."

Though group owned captives are feeling somewhat secure since revenue ruling 78-338 sanctioned deductions for premiums paid to a group owned captive in one set of circumstances, Mr. Cameron doesn't find the ruling to be entirely laudable.

The ruling, he observes, notes that no shareholder owns a controlling interest in the insurance company. "But it doesn't explain what controlled means. There is no test for control. Is it 10%, 35% or 50%?" he asks.

Furthermore, "after deciding the company is not controlled and that there is risk distribution and risk shifting, the ruling goes on to say the premiums have to be reasonable in amount and based on sound actuarial principles. That seems to be reaching farther than they would with a commercial carrier," he says.

The point, he believes, is the IRS is trying to "protect itself from a situation where a group would arbitrarily charge higher premiums for the insurance."

Captives shun investing in exchange syndicates

DENVER—Proponents of the New York Insurance Exchange will apparently come up empty handed if they try dripping into captive insurance company coffers for investments in the American Lloyd's.

Risk managers and captive managers aren't expressing any interest in participating in syndicates of the new exchange, which supporters say could be in business as early as the statutory date of April 1, 1979, but more likely in the fall.

An investment pitch by advocates of the exchange to CICA members at their fall meeting here was robustly sidestepped by risk managers and other insurance experts.

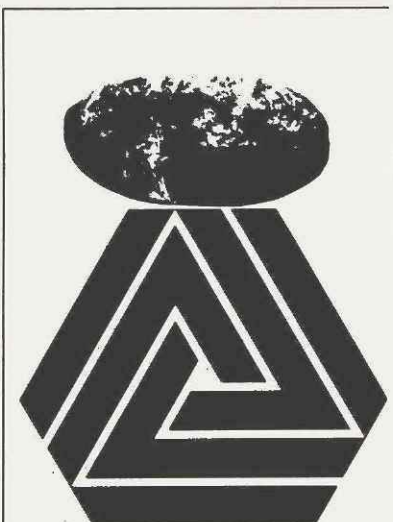
Granting that "it's great to go for less regulation," which is one object of the exchange, Blades Group president Joe Blades puzzled, "But I can't understand why you can do anything better for a captive in the insurance exchange than it can do for itself in Bermuda." Blades is already offering captives reinsurance business, he noted.

Exchange backer Joseph Fahys of Marsh & McLennan answered, "It's not better than Bermuda, it's another way." As a new market, the exchange will create new capacity, Mr. Fahys maintained.

Consultant Joseph A. Destein, president of his own newly formed Risk Sciences Group, agreed with Mr. Blades that Bermuda already offers captives enough opportunities to expand their business through various reinsurance facilities. "As a general matter, I don't see any activity a captive could do in the New York Insurance Ex-

change that it couldn't do in Bermuda at a lower cost and with a tax advantage," the former Anistics president said.

The tax implications of a Bermuda company investing in the New York exchange were also questioned. Howard T. Weber, director of insurance at 3M Co., observed that the profits earned on a Bermuda captive's investment in the exchange would be subject to the U.S. 30% withholding tax.



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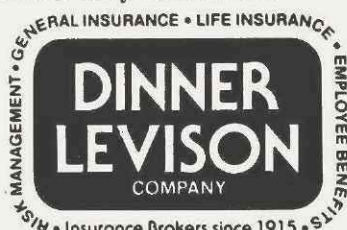
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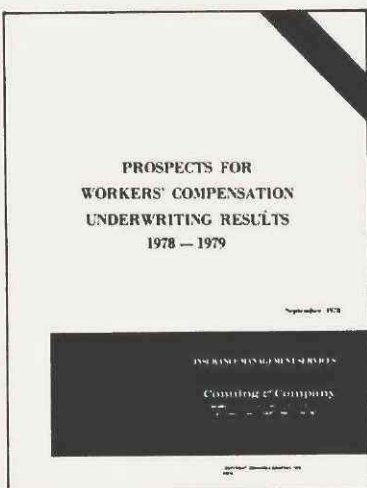
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dates for buyers

NOV. 3. RIMS and the U.S. Chamber of Commerce sponsor a seminar on **Achieving Solutions to the Product Liability Dilemma** at the Dunfey Hotel in Atlanta. The morning session is designed to explain how to influence legislators while afternoon sessions feature a panel discussion on product liability and workshops amplifying the morning's topics. Cost is \$95. Contact Risk & Insurance Management Society, 205 E. 42nd St., New York, N.Y. 10017; phone 212-557-3226. The seminar will be repeated in San Francisco **Nov. 30**.

NOV. 8. The Northern California chapter of CPCU will sponsor its 30th annual all-industry day at the Hyatt Regency Hotel in San Francisco. Seminars will cover such topics as workers compensation,

self-insurance, property manuscript, reinsurance, captives, liability for offices and directors and fair employment practices. Contact Richard W. Smith CPCU, Johnson & Higgins, 601 California St., San Francisco, Calif. 94108.

NOV. 9-10. **Self-Insurance and Risk Management Services** is a seminar to be presented by Practical Risk Management in Los Angeles. Emphasis will be placed on the practicalities of implementing, controlling and monitoring an effective property, liability and workers compensation self-insurance program. Moderators and panel members will be drawn from the professional staff of Warren, McVeigh & Griffin, risk management consultants. Contact Practical Risk Management, Suite

205, 1700 Montgomery St., San Francisco, Calif. 94111; phone 415-433-6979.

NOV. 14. Insurance Distaff Executives Assn. will present a management seminar in Chicago exploring the **role and work of a manager and career and personal development**. Cost is \$25 for IDEA and NAIW members and \$35 for non-members. Contact Melanie Higgins, Chubb & Son Inc., 222 South Riverside Plaza, Chicago, Ill. 60606; phone 312-454-4372.

NOV. 14. **Effective Business Writing for Insurance Managers** is the name of the seminar being offered by The College of Insurance in New York. The instructor will be Paul E. Sussman, director of Education Systems Consultants and

currently the president of the New York chapter of the American Society of Training and Development. Cost is \$95. Contact The College of Insurance, Management Program Department, 123 William St., New York, N.Y. 10038; phone 212-962-4111.

NOV. 16. **New York Insurance Exchange and The Free Trade Zone** is the topic of a seminar to be offered by the Chicago chapter of CPCU at the Bismarck Hotel in Chicago. Edwin S. Overman, president of the American Institute of property and liability underwriters will moderate a panel discussion on the subject. A luncheon honoring the 1978 CPCU designees will follow the seminar. Guest speaker for the luncheon is Robb Kelley, president of Employers Mutual Casualty Co. in Des Moines and a past president of the national society of CPCUs. Contact John Magnetta, Employers of Wausau; phone 312-366-5500.

NOV. 16-17. **The Practicing Law Institute** is offering a program that will consider the current status and feasibility of ESOPs and TRASOPs as possible methods to provide employee benefits and meet corporate objectives. A faculty of attorneys and government representatives will also compare ESOPs and TRASOPs with other types of employee stock ownership plans and will analyze recent legislation and regulatory developments. The program will be repeated in San Francisco, **Dec. 14-15**. Cost is \$185 for program with a course handbook; handbook only is \$20. Contact Practicing Law Institute, 810 Seventh Ave., New York, N.Y. 10019; phone 212-765-5700.

NOV. 30-DEC. 2. Union Planters National Bank is bringing back the **fidelity bond claim seminar** due to popular demand. The seminar, which will be held at Rickey's Hyatt House in Palo Alto, Calif., will examine **executive fidelity, bond claims and related matters**. Seminar participants will be shown how to file and pursue a claim, possible consequences of the claim, the insurers part in the claim, legal strategies if your claim is not paid and steps to reduce fidelity bond claims. Cost is \$495 which includes seminar, meeting materials, lunch and dinner Thursday evening. Contact Union Planter National Bank of Memphis, James A. Cook Jr., Special Assistant for Financial Affairs, 67 Madison Ave., Memphis, Tenn. 38147; phone 901-683-1985.

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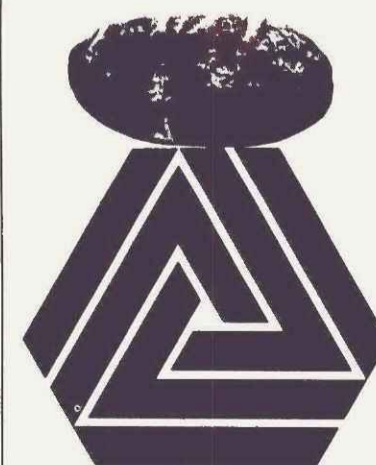
Oil spill bill dies

WASHINGTON—Legislation that would have established a \$200 million liability fund to pay the cost of cleaning oil spills died when the House and Senate failed to resolve differences in separately passed versions of the bill.

The fund would have been used to immediately cleanup damage caused by a spill. The spiller would have been required to reimburse the fund except in very limited cases.

The legislation would have set liability for vessels at the rate of \$200 a gross ton. Facilities operating on the Outer Continental Shelf would have been liable for all cleanup costs and up to \$50 million in damages.

Despite the setback, Congressional staffers expect similar legislation to be introduced next year. ■



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SEE OUR AD ON PAGE 8

Benefit crystal ball downplays auto, legal plans

By KATHRYN J. McINTYRE

WASHINGTON—Worried about when you'll have to offer employees group auto or legal insurance, a company sponsored HMO and day care for employees' children?

You can quit pacing the floor. The top benefit managers in the country say these benefits, the flexible benefit structure and a four-day, 40-hour work week won't be widespread in corporations even by 1990.

But don't put your feet up on your desk yet. By 1990, the benefits these same managers predict will be routine—no mandatory retirement, more liberal pensions, pre-retirement counseling, physical fitness facilities and dental and fully paid medical insurance—will cost your corporation between 55% and 60% of payroll.

These are the results of a survey conducted by Exxon Co. of benefit managers who are members of the Council on Employee Benefits. Highlights of the survey results, which Exxon will release only to the survey participants, were presented at the fall meeting of the CEB in Washington, D.C., this month.

The survey results revealed that CEB members are accurate forecasters of developments in their field.

When they were surveyed last spring, for example, they believed Congress would mandate that their companies provide benefits for pregnancy as they do any other disability, which Congress mandated during the closing hours of the current session of Congress.

In shelving the flexible benefit structure as a program that won't be widespread even by 1990, the managers still predicted they would have to adopt the benefit structure before other corporations in the country. The managers noted in their predictions that various health care costs containment benefit features would soon be in force.

Exxon took on the project of surveying CEB members on the future of employee benefits in preparation for development of a "coherent package of benefits," explained Frank C. Chadwick, Exxon's manager for employee relations. The company wanted to look at a "probable scenario out to 1990 of benefits to give us a perspective on where people think it's going and relate that to our people."

One-hundred-and-one benefit managers participated on the first round of surveying and 76 replied to second round of questioning on the 20-page survey of 148 questions.

Looking just down the road, the

There are programs corporations can support to reduce benefits costs, benefit managers are told. Page 70.

managers said dental insurance, benefit statements identifying the cost of the benefits and treating pregnancy as a disability will be routine by 1980.

Already 61% of the companies responding offer dental insurance, half of them identify the costs of the benefits to their employees and 41% said last spring they treated pregnancy as any other disability. But the managers estimated their companies are ahead of the trend by five to seven years, except for disability benefits for pregnancy, which are to be mandated.

The benefit managers listed a

host of benefits they expect to become the norm between 1980 and 1985, including pre-retirement counseling, a stop-loss on medical costs to employees, second opinions on surgery, nursing home coverage, flextime, a work week of 37.5 hours or less, six weeks of vacation at 30 years service and an additional floating holiday. The CEB members expect their companies will be three to five years ahead of the country in incorporating these benefits in their programs.

It will be at least 1985, however, before any mandatory retirement age is prohibited, the benefit managers predicted, but by 1990 company benefit plans will include fully paid medical premiums, maximum integration with Social Security, liberalized life insurance, liberalized pension formulas,

physical fitness facilities, national health insurance with comprehensive coverage and contributions to the Social Security systems based on the employee's full wage.

Forty-one percent of the respondents noted they already pick up

the full tab on health insurance costs, but 27% stated they will "never" accept the full bill. Twenty-seven percent also predicted there never will be maximum integration with Social Security.

Continued on following page

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The CEB

The Council on Employee Benefits, representing 164 major U.S. companies, brings together the most prestigious group of U.S. benefit managers. Its purpose is to "stimulate the development and improve the administration of sound, progressive benefit plans."

Intent upon maintaining a small enough group to allow for personal exchanges of information at the private spring CEB meeting, the group expanded its membership by only five companies recently and will admit a new member now only when another member leaves.



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Exxon report . . .

Continued from preceding page
rity, though regrettably, while others commented that the action is a "number one priority" or else "the lower paid will get more in retirement than they did working."

The benefit managers expected their companies to fall back with the pack in the speed with which they add these benefits to their programs, except for liberalizing their pension plans, which presumably will be an attempt to encourage early retirement in the face of no mandatory retirement age.

At least 60% of the benefit managers agreed these benefits will be adopted by 1990.

The benefits and developments the managers don't expect to see by 1990 include group auto and legal insurance, even if the employees were willing to pay for it, flexible

benefit programs, company sponsored HMOs, taxes on benefits, child care centers, Social Security payments at 68, a four-day 40-hour work week, full indexed annuities and a tax on Social Security benefits.

Projecting the cost of benefits by 1990 based on these predictions, Exxon estimated benefits will cost 56% of payroll by 1990 in most companies and perhaps 60% of payroll "for the more liberal companies who are members of CEB," Mr. Chadwick said.

The latest figures from the U.S. Chamber of Commerce indicate that benefits cost 37% of payroll.

"But the survey is descriptive," Mr. Chadwick observed. "It's what the benefits managers think will happen, not should happen. Now we need to talk about what would be best." ■

Firms can reduce costs, official says

WASHINGTON—Business need not feel helpless about cutting rising health care costs. There are public and in-house programs corporations can support and implement to make a difference, suggests Massachusetts public health commissioner Jonathan E. Fielding.

Pointing to an almost 5% decrease in the rising cost of hospital care in Massachusetts since state hospital rate control was instituted in 1976, Dr. Fielding urges industry to support state regulation of hospitals. "We survived a gubernatorial veto thanks to industry support," he told the CEB meeting here.

Additionally, the public health commissioner recommends that private industry support federal legislation to control health care costs. "The will isn't there in every state so we need a federal cap on operating and capital costs," he argues.

When corporations push their employees to sit on hospital boards, planning agencies and Blue Cross/Blue Shield Boards in an effort to bring business management to the health care industry, Dr. Fielding stresses the employees shouldn't then be left to their own devices. "Talk to them about what's reasonable to approve."

In-house, companies should analyze their health insurance programs to be sure claims are being rigorously scrutinized and that contracts provide for cost control procedures, he suggests. Preventive medicine programs for employees, such as blood pressure programs and paying employees not to smoke cigarettes, could save a health plan 10% to 15% by cutting high risk cases, he says.

Admitting that it will be hard for companies to institute co-insurance and deductibles in existing health plans, Dr. Fielding thinks "you can make some trades with new benefit demands," to bring these cost control features to benefit designs. ■

Work locally, execs urged

WASHINGTON—The director of the National Health Policy Forum here warns benefit managers, "All the action on health care cost containment can't come from Washington. The feds are looking to the states and you should too. Look at what you can do on a local level."

Some tools for controlling health care cost increases already exist, says Judith K. Miller, naming the health planning and the HMO laws. The problem is the tools haven't been used yet to produce the highest benefit.

The woman whose business is to bring private industry leaders to top federal officials to talk about health policies doesn't want to discourage benefit managers from speaking up in Washington, however. "I sense a tremendous interest in Washington to listen to you and look to you for answers," she told the CEB meeting here recently.

Washington officials are seeking out the opinions of private industry, she said, noting that the Washington Business Group on Health, the Chamber of Commerce and the Business Roundtable are all respected spokesmen for the "buying authority" of the companies they represent. ■

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In Nassau County insurance plan

N.Y. probe bares political broker fees

NEW YORK—A politically appointed insurance agent serving Nassau County and two townships within the county shared more than \$300,000 in commissions with 74 politically connected agents and brokers who did "little or no work" to earn their fees, a state investigation charges.

The payments were made over a four-year period by agent Richard A. Williams of Hicksville, N.Y., who was broker of record for the county and the towns of Hempstead and Oyster Bay. Recipients included two state legislators, the mayor of a municipality within the county and a Republican Party district leader.

One of the state legislators received \$48,862 over the four-year

period from Mr. Williams for serving as a "trouble-shooter," although he did not perform work on the county and township accounts, the state Commission of Investigation alleges.

According to the report, Mr. Williams made the payments to other agents and brokers whose names were on a list prepared by the chairman of the Nassau County Republican Party. The names on the list were party supporters recommended by local district leaders.

The Nassau Republican Party Committee, chaired by Joseph Margiotta, determined how the money would be split among persons on the list.

Between 1974 and 1978, the

agents and brokers on the list received \$308,034 or 23% of the \$1,335,006 commission earned by the Williams firm for work on behalf of the county and two townships. Premiums for the period totaled \$9,395,997.

Most of the brokers who received the patronage payoffs were claimed to have performed surveys of the county's physical plant. However, the state report noted that most of the reports were oral presentations made to Mr. Richards and that the inspections duplicated the work of Douglas MacLeod, the county's insurance manager.

Mr. MacLeod told *Business Insurance* that the physical inspections were not always duplications

of his department's work. He cited two instances where persons on the list prepared reports used to update coverage value and one where a fee-splitting recipient prepared a protection study for a county garage housing \$10 million worth of self-insured county vehicles.

Mr. MacLeod added that eliminating the fee-splitting would not necessarily result in a reduction in Nassau County's insurance costs. Mr. MacLeod was not involved in the selection of the Williams Agency as broker of record nor in the selection of persons who would split commissions with the Hicksville firm.

Political patronage in selection of municipal brokers of record is

not a universal practice. Westchester County risk manager Robert Bieber recalled that when he served as risk manager for the City of Yonkers (N.Y.) he ended a politically oriented "insurance advisory committee" of brokers who controlled the city's business.

Mr. Bieber went with one of the major brokers in New York City at a savings of \$68,000 and threatened to go to the newspapers if the city leaders rejected the new program in favor of the committee.

Westchester County selected its current broker by inviting interested firms to meet a set of criteria established by an advisory panel of local corporate risk managers, Mr. Bieber said. The three firms that best met the qualifications were then asked to go into the markets and the one that developed the best program was eventually selected, he explained.

The findings on Nassau County commission fee-splitting practices prompted the state insurance department to propose regulations that would require agents to show that they performed work for fees received on municipal accounts and to disclose fees from governmental accounts to the insurance department and the public entity.

Insurance superintendent Albert B. Lewis told *Business Insurance* that disclosure of who received municipal insurance commissions and how much will allow voters to see whether their insurance dollars are being spent efficiently and encourage bids from brokers who could do a better job.

"Individuals who negotiate commissions will have to make public statements about the commissions and if they can't stand behind these statements, they shouldn't have the business," Mr. Lewis said.

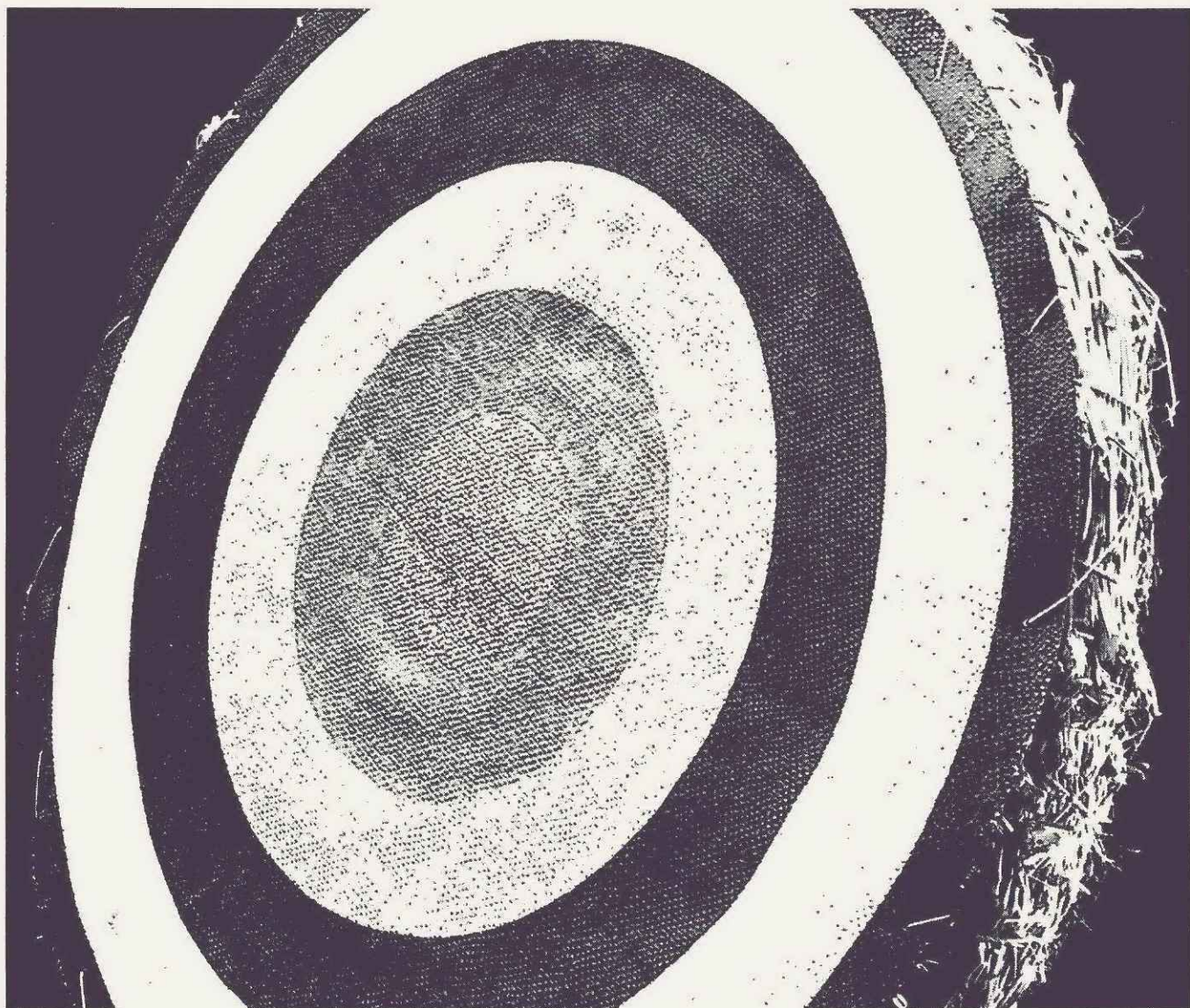
Arson becomes major crime

WASHINGTON—Congress this month gave final approval to legislation that makes arson a major crime in the FBI's uniform statistical crime index.

Arson is currently listed as a minor crime and as a result the 11,000 jurisdictions included in the FBI crime index are not required to report arson incidents to the FBI.

Sen. John Glenn (D-Ohio), who introduced the legislation, said by classifying arson as a major crime public awareness of the problem will increase and law enforcement officials will be encouraged to take stronger action.

Sen. Glenn's bill now goes to President Carter for approval.



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SEE OUR AD ON PAGE 8

Insurers argue university rates aren't too high

By REBECCA A. FANNIN

ATLANTA—Despite facing risk managers weary of premium increases without justifying losses, insurance company executives said universities are difficult because of high severity losses.

But university risk managers at their association's annual meeting said large losses have been too scarce to justify the 1,000% rate hikes they've seen.

Insurance executives said the universities have difficult, low frequency, high exposure risks. Gilbert B. Kerr, vp of commercial lines at the Commercial Union Cos., told the risk managers that "some of you have the coverage you have because the insurers don't know all the existing exposures."

Mr. Kerr noted that insurers have difficulty underwriting university research projects, for instance, because of the high severity of loss history in some areas and the lack of loss history to use as a basis for rates in other areas.

The growing number of lawsuits in athletics and multiple exposures that universities have are troublesome, noted James E. Kassel, vp of Hartford Accident & Indemnity Co.

Mr. Kassel listed several large university exposures: college sponsorship of liquor parties, of skydiving, hang gliding, scuba diving; alleged discrimination in enrollment, and athletic injuries blamed on the universities for providing faulty equipment.

The location of universities, "islands of affluence in crime-ridden areas," is another risk, Mr. Kassel said.

Weary of the insurance industry's attitude, risk managers are increasingly searching for alternatives. Captive insurance companies are one hot topic now.

Harvard University pioneered the move toward university captives when in 1975 it set up a captive in the Cayman Islands for hospital and professional liability insurance for the university's affiliate hospitals.

In 1976, the captive was expanded to write the university's comprehensive general liability.

The University of Minnesota is the only public institution with a captive. The university's captive, Ruminco Ltd. in Bermuda, writes a \$2 million per occurrence comprehensive and \$2 million per occurrence professional liability policy. The annual aggregate limits are \$2 million for personal injury and \$5 million for professional liability.

Excess insurance of \$8 million is written by General Reinsurance Corp.

Minnesota's captive doesn't use a fronting company. The university's risk manager, Orville J. Hauge, said General Re was willing to provide excess insurance even though the captive assumes first dollar coverage because claims are handled by St. Paul Fire & Marine.

St. Paul has been the university's insurer since 1935 and retains a portion of the excess coverage.

Policies written by the captive

INA acquires N.Y. insurer

PHILADELPHIA—Insurance Co. of North America, a subsidiary of INA Corp., has acquired The Stuyvesant Insurance Co., a New York property/casualty company licensed in all 50 states.

Prior to the acquisition, substantially all of Stuyvesant's insurance operations had been transferred to its former parent.

University of Illinois saves over \$2 million by self-insuring. Story Page 74.

are on a claims made basis and manuscript form. Mr. Hauge said the captive also provides much more comprehensive coverage.

He noted the university chose the captive route rather than self-insurance because of the political difficulties of reserving for potential losses in light of other university budget needs.

Rutgers University has recently taken a large self-insured retention of \$250,000 per occurrence for its general liability and workers compensation. That move saved the university \$150,000 in premiums, said Stanley Tarr, director of risk management.

Although Rutgers' largest loss

was \$30,000, the university experienced a rate increase of 1,250% during the last 24 months. Rates for the university's comprehensive general liability increased from \$25,000 in 1975, to \$80,000 in 1976 and to \$280,000 in 1977.

Mr. Tarr said he would use the planned joint university captive to provide the university's buffer layer from \$250,000 to \$1 million, where rates have been especially acute.

The University of Michigan is another activist seeking captive and self-insurance alternatives. William Ryan, Michigan's insurance and risk manager, has studied the alternative methods since 1975 and recommended use of a captive because of the university's difficulties in maintaining medical professional liability coverage and other

insurance liability.

When the university's underwriter was told of the planned captive, the insurer proposed that a trust fund be established to provide income to the university on the portion of medical malpractice

deposit premiums not paid or reserved for losses. Michigan uses the trust fund for its medical malpractice coverages.

Nevertheless, the University of Michigan is continuing to study the captive insurance alternative.

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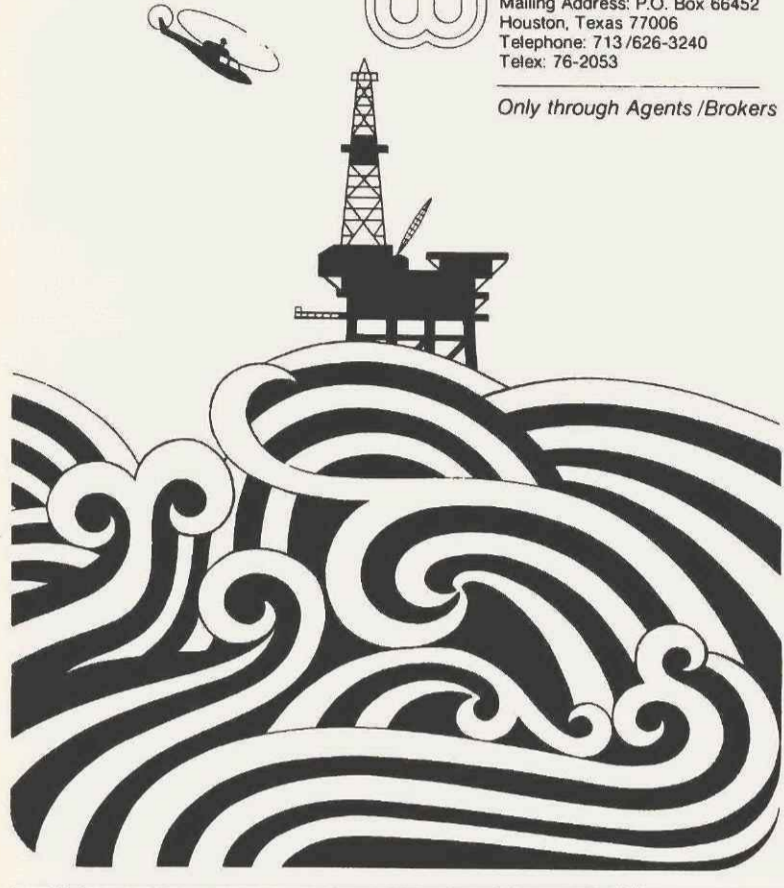
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University rejects 'investment' for savings by self-insuring

ATLANTA—The University of Illinois saved \$2.3 million by self-insuring its public and professional liability risks after commercial insurers refused to provide coverage at an acceptable cost.

Director of insurance James Gallivan told the annual university risk managers' conference that the university paid \$62,500 for \$1 million per occurrence public liability coverage for fiscal year 1975-76. Professional liability coverage of \$500,000 cost \$543,250, but the claims were handled by the insurer.

In June 1976, Mr. Gallivan received two bids for coverage on both public and professional liability that weren't very welcome.

The first offered claims and loss control services on a cost-plus basis, requiring a premium of \$1.42 for every \$1 in claims payment or defense cost.

The second was no more favorable. The university would have been required to assume a professional liability of \$2 million per occurrence and \$5 million per year. The policy provided only \$1 million in coverage a year and carried a premium of \$786,299, including claims and loss control services.

Through lengthy negotiation with a third insurance company, the university developed a third option, a retrospective rated plan that required a deposit premium of

\$6.6 million for two years coverage. With favorable loss experience, the minimum premium would have been \$4 million for two years, Mr. Gallivan said. Unfavorable loss experience would be charged on a cost-plus basis up to a maximum premium of \$12 million for two years with a maximum coverage of \$15 million per year, Mr. Gallivan said.

This plan was presented to the university's financial officer, Mr. Gallivan said, but the university was unable to come up with the \$3.3 million deposit premium for one year.

Instead, the University of Illinois set up a self-insurance program in August 1976 with funding at \$1 million for all claims. A firm was hired to handle claims investigation services.

Based on recommendations by an actuarial firm, the university increased its funding for self-insurance to \$4.3 million for fiscal year 1977-78. The funding was \$2.3 million less investment than required with the retro plan.

Another advantage of self-insurance, Mr. Gallivan noted, is that the university retains the entire fund for claims and expense

and benefits from investment income of the reserve fund.

Three funds were established for the self-insurance program. The funding requirements for public liability were 14% or \$580,000 for public liability, 32% or \$14 million for a hospital trust fund and 54% or \$2.3 million for medical professional.

Less than 7% of the allocated funds were committed to expenses, claim payments and reserves for pending claims; 93% of the funds were reserved for incurred but not reported claims.

Claim experience for the university during 1977 has resulted in one of the most favorable years for some time, Mr. Gallivan said. But he noted that the discovery of unsuspected claims in malpractice in the next few years may change that assessment.

No claims in either hospital and medical liability or public liability were paid during 1977.

Mr. Gallivan said it is too early to accurately predict the ultimate experience for the first two years of the self-insurance operation but he expects it will be sufficient to cover the liabilities. ■

J&H investigates captive for Eastern universities

ATLANTA—Eleven Eastern universities have employed Johnson & Higgins to conduct a feasibility study for setting up a captive insurance company to write buffer layers.

The study has not been completed, but it is expected that the captive will write a buffer layer of insurance above a \$250,000 self-insured retention and below a \$1 million umbrella layer. The captive study should be finalized by De-

ember.

Although the universities studying the captive approach have agreed to silence about who might join the captive, *Business Insurance* learned that Columbia University and New York University are interested in participating.

Rutgers University would also join the captive. Rutgers' director of risk management Stanley Tarr spearheaded the move toward a captive.

"I've been so devoted and excited about this concept (of starting a captive)," Mr. Tarr said. "We might not have the strength of numbers, but we will do something. It may not be a captive, it may just be a cooperative gesture."

"The insurance product is overpriced and our probabilities of loss are so slight that a captive would be worthwhile," Mr. Tarr added. ■

County forms risk pool

ORANGE, Calif.—A new joint powers authority called the Orange County Cities Risk Management Authority has been formed here.

Rod Sackett, director of management services for the city of Orange, said that the JPA, which has been in existence since early July, will ultimately cover liability, workers compensation and employee medical insurance.

Only liability risks are presently covered but workers compensation coverage will be in operation in five to six months, he said.

Six cities—Orange, Westminster, Cypress, Laguna Beach, Irvine and Tustin—are currently members.

Two other cities, Santa Ana and Los Alamitos are interested, said Mr. Sackett, noting it is hoped all 26 cities in the county will join at some time.

"Five of the cities have a retention of \$100,000," he told *Business Insurance*. "The city of Orange has a \$250,000 retention, four of the cities have \$5 million in excess of the \$100,000 retention."

He said that Orange and Irvine have a \$5 million retention in excess of the \$5 million.

Risk manager for the new JPA is Ross Oliver, former risk manager for The Signal Cos.

Mr. Sackett said that the JPA is taking a look at LTD. ■



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Pregnancy benefits . . .

Continued from page 1

peals ruled that pregnancy had to be included in disability plans on the same basis as any other sickness.

While some plans may already be in compliance with the new law, the vast majority of benefit plans will have to be overhauled because they either provide inequitable pregnancy benefits or do not even include pregnancy as a benefit, said a spokeswoman from Hewitt Associates, the national consulting firm based in Lincolnshire, Ill.

A Hewitt survey published last year of 150 firms found that of 30 major companies that had changed their disability plans between 1975 and mid-1977, 43% still failed to provide pregnancy benefits.

The measure would require employers offering disability plans to include pregnancy in their plans on the same basis as any other sickness. An employer, however, that does not provide a paid sick leave program would not have to pay pregnancy benefits.

The bill also will outlaw paid sick leave programs that limit benefits for pregnancy to a shorter period than other disabilities. An employer could not, for example, limit disability benefits to six weeks for a pregnancy while providing up to 26 weeks of benefits for other illnesses, as some plans now do.

More significantly, medical and hospital plans will have to be revised if they cover pregnancy on a different basis than other sicknesses.

Medical plans

An employer, for example, could not limit hospitalization coverage to \$500 for pregnancy-related expenses while paying up to 80% of expenses for other illnesses. Benefits must be provided equally under the proposal.

However, companies without medical or hospitalization plans will not be required to begin such plans under the pregnancy bill.

As soon as President Carter signs the bill, it will be illegal for an employer to refuse to hire or promote a woman because she is pregnant or to force a woman to take maternity leave if she is able to continue to work.

One hundred eighty days from the law's effective date, employers will have to begin to provide equitable disability, medical and hospital benefits to pregnant employees. This six-month phase in period was the result of strong pressure on Congress by business groups such as the National Assn. of Manufacturers.

Although the measure had cleared the House and Senate by huge majorities, the proposal almost died in a conference committee over the politically volatile issue of abortion.

The original House passed bill included an amendment by Rep. Edward Beard (D-R.I.) that employers would not be required to pay benefits to a pregnant woman who decided to have an abortion. The Senate was firmly opposed to such a restriction.

Ever since the bill passed the House in July, staff members of

INA subsidiary

INA Corp. has formed a new property/casualty subsidiary in Ireland to provide coverages for American-owned industrial and commercial interests in Ireland and to serve the Irish brokerage community. The managing director of the Insurance Co. of North America (Ireland) Ltd., headquartered in Dublin, is Michael A. Byrne, formerly manager of Munster Insurance Ltd., in Limerick.

the Senate Human Resources Committee and the House Education and Labor Committee have been meeting to work out a compromise.

Several attempts at compromise failed. One source said Senate conferees were in a weak position because House members were willing to let the bill die unless the bulk of the tough anti-abortion language remained in the final measure.

On the day prior to adjournment, the conference committee accepted a compromise worked out mainly by Sen. Williams that gave the House members most of what they had been seeking.

Under the compromise, an employer would not have to provide medical and hospital benefits to a worker who had an abortion unless the woman's life was endangered

by the pregnancy.

However, the employer would be required to provide health insurance coverage to a woman whose abortion resulted in medical complications.

6-year battle

Employers, though, would have to provide sick leave or disability benefits to an employee who has an abortion even where the abortion was not needed to save the woman's life.

Furthermore, the bill doesn't prevent employers from voluntarily providing full benefits for any employee who has an abortion.

Passage of the bill caps a six-year legal and Congressional battle. A class-action suit filed in 1972 by 43 female employees of General Electric Co. charged that GE discriminated against them on the basis of sex by excluding pregnant female employees from the firm's disability plan.

GE forced its female employees to take unpaid maternity leave at the end of their sixth month of pregnancy. At the same time, the GE plan paid benefits to men who took time off to have hair transplants.

A lower court agreed with the plaintiffs that the GE plan was discriminatory against women. However, in December 1976 the Supreme Court ruled that the GE plan was legal because it made a distinction of a disability (pregnancy), not on the basis of sex.

After the Supreme Court decision a drive began to overturn the ruling as well as to prohibit discrimination in medical and hospital benefit plans. The GE case only involved a disability plan.

The Senate passed the pregnancy bill in September 1977 and the House followed suit this July. President Carter is expected to sign the legislation since Administration officials testified on behalf of the bill during congressional hearings last year.



Sen. Harrison Williams of New Jersey forged the abortion compromise that cleared the way for the passage of the pregnancy benefits bill.



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Product liability . . .

Continued from page 1

slapped with a special tax.

The second amendment would permit businesses to carryback a product liability loss for up to 10 years. The current carryback limit is three years. This change in the tax code would go into effect Oct. 1, 1979.

Loss carryback

A loss carryback permits a company which has been the victim of an uninsured product liability award to obtain a refund on taxes paid in the past year, providing the company has a net operating loss in the current year.

Increasing the carryback period will help some businesses, said Paul Kipp, president of the Risk & Insurance Management Society and insurance manager of U.S. Gypsum Corp. in Chicago. "But it won't solve a lot of problems since there is a very limited need for that kind of relief," he added.

Robert Goshay, executive director of Marsh & McLennan's Product Liability Council in San Francisco, said the carryback provision won't be very helpful. "Increasing the length of the carryback period is not going to help the small business that has a liquidity problem



Sen. John Culver believes the threat of an accumulated earnings tax may have deterred some firms from reserving for product liability claims.

caused by a product liability loss."

On the other hand Mr. Stayin of the Special Committee for Workplace Product Liability Reform thought an increase in the carryback period will help those businesses that suffer a catastrophic loss and earned profits in the last 10 years.

Sen. Culver's second amendment calls on the Treasury Department to issue regulations to make it clear that businesses can set aside a reasonable amount of after-tax income to pay for product liability claims.

Present law

However, businesses would not receive tax deductions on money put into the reserve and they would be taxed on any income generated by the reserve.

In order to encourage businesses to distribute after-tax income in dividends, the Internal Revenue Service has authority to slap businesses with a special tax on retained earnings beyond what is reasonably needed to meet a firm's expenses.

However, the tax is not imposed if the businesses can prove the accumulated funds are needed to pay for such expenses as debt retirement, litigation and investment in new equipment.

The tax code, though, does not specifically spell out that product liability claims are an expense that a business can reserve for without being hit with the excess accumulated earnings tax.

According to an aide to Sen. Culver, some businesses may have been inhibited from setting up funds to pay for product liability claims for fear of being hit with the accumulated earnings tax.

"We wanted to remove any uncertainty by making it clear that a company can set aside a reasonable amount of after-tax income for product liability without being subject to the accumulated earnings tax," the aide said.

Treasury's questions

A Treasury Department official, while understanding Sen. Culver's concern over the excess earnings provision, questioned the need for Congressional legislation requiring Treasury to draw up regulations.

The official pointed out that he believes there is no question that the existing statutes permit a business to accumulate a reasonable reserve to pay for product liability claims.

The Treasury Department official observed that he had never seen a case where a company had been required to pay a tax on the

earnings it had accumulated to meet product liability expenses.

And Marsh & McLennan's Mr. Goshay said the excess accumulated earnings tax has not been a deterrent to businesses that want to retain funds to meet legitimate business needs.

While debate continues on the significance of Sen. Culver's proposals, the spotlight now shifts to what Congress will do in the next session in the area of product liability.

Mr. Goshay feels "not much" is going to happen because Congress is going to have to devote an enormous amount of time sorting out the implications of the tax cut bill. "Specific product liability legislation won't be quickly coming," he reasoned.

One Capitol Hill staffer observed that with the passage of Sen. Culver's legislation there will be the feeling in Congress: "We've done enough. Let's go on to something else."

But Jim Mack of the National Machine Tool Builders Assn. said a major effort will be made to get product liability relief by concentrating on several fronts.

Mr. Kipp of RIMS said there still is an urgent need for legislation that will allow companies to deduct from their federal income tax funds paid into a product liability reserve.

Sen. Culver attempted to attach such legislation to the tax bill, but his last-minute maneuver failed when the Senate parliamentarian ruled the Iowa Democrat's amendment non-germane.

Malpractice rates reduced

TOPEKA, Kan.—Doctors and hospitals in Kansas insured against medical malpractice by companies that use Insurance Services Office rates will be spared large increases in their claims-made policy premiums under a rate reduction filed by ISO.

About 10% of the doctors and hospitals in Kansas will be affected.

The decrease in rates for doctors, effective Oct. 1, are 44.4% for new Kansas doctors and 17.6% for current Kansas doctors. Dec. 1, hospitals will get rate reductions ranging from 45.3% to 56.6%.

Still, premiums paid by most of those affected will merely "stabilize or continue to increase as the coverage afforded by their claims-made policies continues to increase with each renewal period," observed insurance commissioner Fletcher Bell.



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N.Y. exchange . . .

Continued from page 1

tion of the exchange, they will diminish broker interest in the exchange."

"The only thing the brokerage industry wanted and continues to want is equal representation. We don't want to dominate or be dominated," said Tom Clark of Johnson & Higgins, president of the Insurance Brokers Assn. of the State of New York.

The five-three split between underwriting and brokerage members of the board of governors is not an important concern, observed Johnson & Higgins vp and director David Winton, provided the four public members of the board are "truly public." Mr. Winton was the sole broker representative on the Committee of 13 at its October meeting, serving as an alternate for Marsh & McLennan chairman L. Patton Kline.

Public members

It is anticipated that the four public members of the board will hold a balance of power between the underwriters and brokers. However, the committee has not yet determined whether the public members will be selected jointly or separately by the underwriting and brokerage board members.

Separate selection of public members by the underwriter and broker representatives to the board would be "terrible," Mr. Kramer said. "To have people characterized as 'my man' or 'your man' defeats the purpose."

If the constitution is drafted so that the public members are not neutral, "I'm against it," Mr. Winton said. If the public members were split two-two, it would result in a "permanent schism" on the board of governors, he added.

The four public members should be "absolutely high level neutral people," Mr. Winton urged. "They should be four Eisenhowers."

Because the committee is so heavily weighted in favor of underwriters (eight members are insurance company representatives), it would have been difficult to promote equal broker and underwriter representation as a just solution, Mr. Winton said.

However, he added that he could understand the insurance company position that brokers could come to dominate the exchange through formation of a larger number of syndicates than insurance companies form.

The committee decided that none of the five underwriter members of the board could be brokers or come from syndicates managed by brokers. It also agreed that none of the three broker governors could come from a brokerage firm owned by an underwriting syndicate or an insurance company.

Sustaining brokers

Only sustaining member brokers will be able to elect the three broker members of the board of governors. Sustaining members will pay a membership fee tentatively set at \$10,000, according to Mr. Lewis, and will be able to clear business on behalf of other brokers.

The committee also created an "associate member" broker class. Associate members will pay a membership fee tentatively set at \$1,000 and will be able to clear business only on their own behalf. The committee also created the "non-member affiliate" designation so brokers not licensed in New York could have access to exchange facilities through a sustaining broker but not conduct business on the floor.

As Mr. Kramer foresees the exchange's operation, associate

members would tend to use sustaining members to clear business for them since the sustaining members will have better knowledge of the underwriting floor, control a larger amount of business and therefore be in a better position to negotiate.

However, he said associate members will still come to the exchange floor, but with less regularity than sustaining brokers. When the exchange gets into full operation, Mr. Kramer sees it having 60 to 70 sustaining members, with several hundred associate members.

Some brokers have expressed concern with the difficulty of obtaining information about the exchange and that broker representation on the Committee of 13 is limited to one member.

"We'd like to see (the committee) more out in front because our fu-

ture is involved," said Bert Linder, executive vp at Schiff Terhune International. "Clients ask us what's going on and London people ask us. But Marsh & McLennan (the only brokerage firm with a representative) is the only source we have to find out what's going on."

"This is a major development and everyone is sitting by," he complained.

Closed meetings

Part of the difficulty in obtaining information stems from the committee's decision to bar members of the press and public from attending its meetings. Although minutes of the meetings have been made available to reporters, the committee members said the press would inhibit discussion.

The issue first arose at the committee's September meeting when a *Business Insurance* reporter was asked to leave following objections to his presence raised

by committee member Charles W. Havens, president of the American Reinsurance Assn.

Following that meeting, *Business Insurance* obtained an opinion from the New York State Committee on Public Access to Records stating that the Committee of 13 was a public body and that its meetings should be open to the public. However, Mr. Lewis obtained an opinion from an insurance department counsel that the Committee of 13 was an advisory body and therefore not subject to the state's Open Meetings Law.

The committee voted at its October meeting to exclude members of the press and public. Only Mr. Winton and Edith Lichota, representative of RIMS, voted to keep the meeting open. Reporters from *Business Insurance* and two other publications were then asked to leave as were representatives from Chubb & Son Inc. and The Home Insurance Co.

John Dunne, chairman of the

New York State Senate Insurance Committee, disagreed with the insurance department's interpretation that the committee was serving as an advisory body. "Under no circumstances did we see this as an advisory committee. With a blue ribbon committee like that, they're just not there for the exercise."

Mr. Lewis has said he intends to seek a joint legislative resolution in January that would bypass a 45-day waiting period before the constitution and by-laws would take effect. The constitution and by-laws would become effective provided that neither house of the legislature votes to veto them.

However, Sen. Dunne said the legislature "will certainly not surrender its prerogative here."

The last regular monthly meeting of the committee is scheduled for Nov. 17. Mr. Lewis said public hearings on the proposed draft will follow within 21 days and the draft and any minority reports will be publicly available then.

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Illinois work comp . . .

Continued from page 1

on State Workmen's Compensation Laws. As such, the workers compensation situation in Illinois is under careful scrutiny, since what happens in this state may act as a gauge for what happens in other industrial states.

The increase in benefits has drawn cries from both insurance companies and employers doing business in the state. After the law was passed, employers threatened to leave the state because of the astronomical premium rates and insurance companies threatened to pull out of the workers compensation market or severely restrict underwriting because of extreme loss ratios.

Illinois's maximum weekly benefit is now \$304, the second highest in the nation following the liberalization of the law. An effort by employers to limit further increases in the state's workers compensation costs was the most controversial issue in the legislative session following the major overhaul of the law, but the effort failed.

Three years later, employers are not moving out of the state, says IMA's Mr. Stevenson, but they are shifting the major portion of their production to neighboring states with a less liberal benefits structure. "They don't want to lose business in Illinois, but they need a break in the rates," Mr. Stevenson explained.

Self-insuring

Other companies are self-insuring their workers compensation program. According to the Illinois Industrial Commission, there have been a total of 862 employers that have been approved for self-insuring their workers compensation program since 1975 when the new law was passed.

In a period of less than four months this year, the Industrial Commission has approved 28 employers to self-insure their workers compensation programs. This figure, said a Commission spokesman, indicates that more and more employers are seeking self-

insurance as a means to adequately cover workers compensation and escape the skyrocketing premiums.

Shortly after the new law was passed, 10% of the state's workers compensation carriers pulled out of the market and other insurers restricted their workers compensation market.

Today the number of insurers that pulled out of the market because of the new law is stabilized at 10%. Robert Heisler, deputy director of the department of insurance, said that these insurers simply pulled out of the market because they had absolutely "no expertise" for writing workers compensation. "They weren't large carriers and they wrote the business as a facility or as an accommodation," Mr. Heisler added.

The number of applications in the assigned risk pool, however, support the claim that insurers are still restricting their markets in 1978. The pool has experienced tremendous growth in the past three years with the number of risks increasing to 21,000 in 1977 from 14,000 in 1976 and 545 in 1974. For the first six months in 1978, there have been 9,716 applicants accepted in the pool.

This figure, says Mr. Heisler, doesn't represent a decrease in the pool, but it does indicate that there is a slight leveling off occurring. "There is still growth, it just isn't as rapid as the first few years when insurance carriers had to grapple with a new law," the deputy director said. "Companies, the longer they remain in the market, will gain experience to help them arrive at solutions to curb high loss ratios," Mr. Heisler said.

Insurers disagree

Not many insurance companies would agree with Mr. Heisler because 1977 loss ratios and loss ratios for the first six months of 1978 do not indicate better loss experience.

"An insurance company loss ratio can tell you a lot about writing workers compensation in Illinois," according to Claus Metzner, associate actuary for Aetna Life & Casualty Co., a substantial writer of workers compensation in the state. The company experienced a net earned premium ratio of 92.6% and a standard earned ratio of 82.3% for the first six months of 1978. This is compared to a 90% net earned premium ratio and a standard earned premium ratio of 84.5% in 1977. This is a far cry from the 62% loss ratio, which the Aetna actuary considers an acceptable loss ratio.

Based on these figures, Mr. Metzner said, it is safe to say that, at least for Aetna, writing workers compensation in Illinois "is as bad as it has ever been."

Jerry Shatola, assistant general

counsel for CNA Insurance, seconds that opinion, saying that CNA experienced a 1977 loss and expense ratio of 115% last year. This means that the company lost \$15 for every \$100 of business written. "And the outlook for 1978 is not a bright one with loss ratios that are as bad if not worse than last year's figures," Mr. Shatola said.

Legislative relief

According to the assistant counsel for CNA, the company is watching the situation very closely with the hopes that legislators will take steps that will make it feasible for insurance companies and employers to provide proper benefits to the employee without running such tremendous losses.

USF&G is experiencing a 100% earned to incurred loss ratio writing workers compensation in the Chicago area.

And Kemper, a major workers compensation carrier, experienced \$15.6 million incurred losses with a 66% loss ratio in 1977. The company, however, refused to give loss ratios for the first six months in 1978 or comment on the outlook, for insurers in view of current market problems in Illinois because they feel it would be "imprudent" to discuss the situation in view of the rate request now on file.

James Holland, director of the workers compensation division at Travelers Insurance Co., said that the company experienced an earned to incurred loss ratio of 90% in 1977 and that 1978 figures do not trail too far behind last year's figures.

"Travelers, however, is optimistic about writing workers compensation in Illinois," said Mr. Holland. "The industry is still feeling the effects of the massive changes of the law in 1975. With those changes, insurance companies had no past experience with which to deal with a very liberal benefits law. They were starting from scratch." The market is just beginning to stabilize, said Mr. Holland.

Irving Greenfield, an attorney representing the AFL-CIO in the workers compensation matter, said that "you cannot correct an outrageously unfair" law without considerable cost.

The key to the situation in Illinois, the Chicago attorney said, is not placing the entire blame for the problems arising from the change in the law on the shoulders of labor alone.

"Insurers and companies are trying to find a scapegoat for their problems rather than adjusting their costs wisely and correcting the methodology of premium rating in administering the new law," according to Mr. Greenfield. "Cost is never a very popular thing, but insurers and companies operating in Illinois are going to have to live with it."

Older workers . . .

Continued from page 2

65. Benefit managers previously had indicated their desire to slash benefits for older workers.

The biggest area of concern at the hearing was long term disability benefits. The government suggested that disability benefits could stop at age 65 for an employee who became disabled before reaching age 60. For workers who become disabled after 60, disability benefits could continue for up to five years or until the employee reached age 70.

Mr. Pantos warned that the government's proposal could force about a 25% increase in employers' long term disability costs. He recommended that employers be allowed to cut off long term disability benefits when normal retirement and unreduced Social Security benefits become available at age 65.

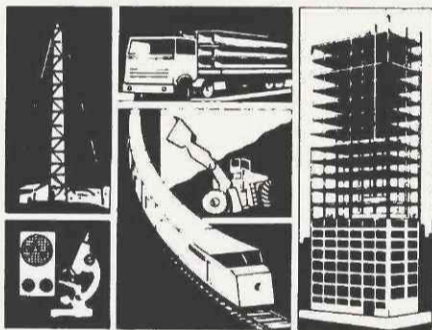
Jean R. Packard, speaking on behalf of the Douglas County (Neb.) board of commissioners, said employers should not be required to pay any disability benefits for workers over 65. She said this kind of benefit would be so expensive to provide that some employers might have to cut back on other benefits to pay for it.

All business groups that testified asked the Labor Department to clarify the current ambiguity on whether salary increases after age 65 must be considered in determining pension benefits.

Harrison Givens, vp and actuary at The Equitable, said that in view of the legislative history behind the law that raised the mandatory retirement age to 70, it was "preposterous" to believe that employers should have to give credit in retirement plans for salary increases after 65.



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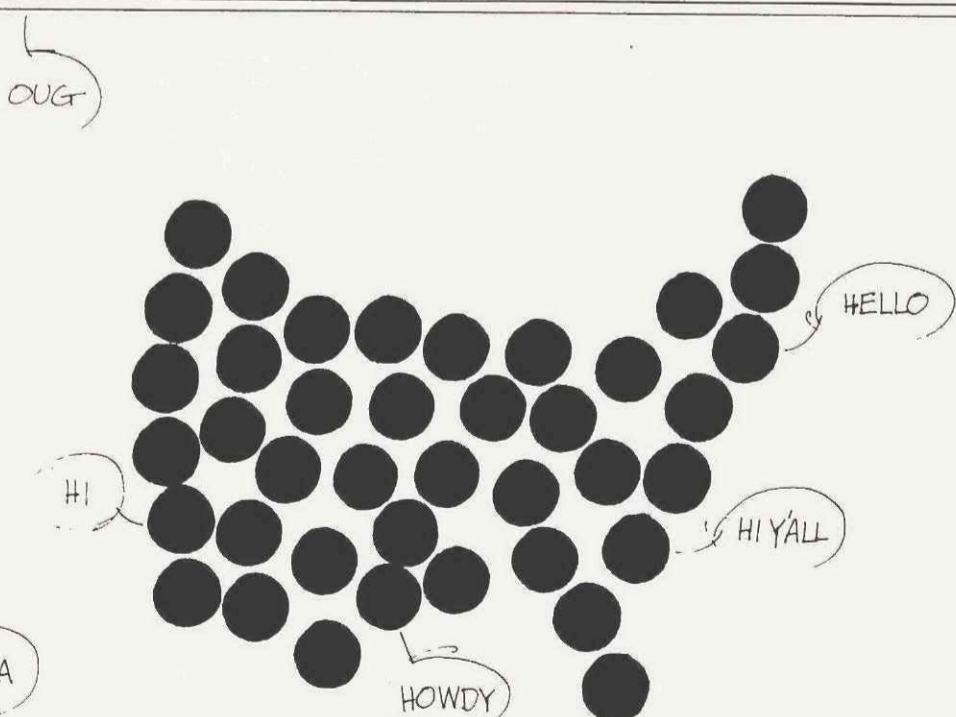


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New retirement plan option benefits smaller employers

WASHINGTON—Thousands of small businesses that have been staggered with the complex reporting and disclosure requirements imposed by the pension reform law now have a new far less costly pension option.

Congress this month gave final approval to legislation proposed by Sen. Lloyd Bentsen (D-Texas) that would allow employers beginning next year to contribute up to \$7,500 annually to an employee's individual retirement account instead of setting up costly corporate retirement plans.

"This will provide an opportunity for thousands of smaller firms to have a less costly means of setting up a pension," said David Allen, an aide to Sen. Bentsen. "This will provide a substantial reduction in the paperwork and red tape associated with conventional plans."

Benefit experts, however, believe the appeal of Sen. Bentsen's employer-funded IRA system probably will be limited to very small firms—those with less than 20 employees.

Larger employers will be less enchanted because of the administrative burdens an IRA system would have for them. "Why should a company with say 10,000 employees, set up 10,000 IRAs when it can maintain one pension plan?" wondered Richard Sears, partner at the consulting firm Kwasha Lipton.

The new retirement plan option, part of the complicated tax cut bill approved in the final hectic hours of this session of Congress.

Allowing corporations to contribute to employees' IRAs gives businesses, especially smaller firms, the means to provide retirement benefits without going through the red tape and burdensome reporting requirements associated with the pension reform law.

"The intent of the legislation was to give businesses an option to set

up a very simple plan," said Mr. Allen. "Under this approach, all the employer basically has to do is make contributions into the IRA. If they find ERISA an unreasonable burden, now they have a way to set up a simple retirement plan," Mr. Allen said.

Under current law, an employee can contribute up to \$1,500 to his or her own IRA. However, employers may not contribute to a worker's IRA and workers covered by a company-sponsored retirement plan may not establish an IRA.

Sen. Bentsen's legislation would now allow corporations to contribute \$7,500 or 15% of an employee's compensation, whichever is less, into each employee's IRA.

If the employer, however, contributes less than \$1,500, the employee will be allowed to make a tax deductible contribution to boost the total amount into the IRA to \$1,500.

But if the employer contributes more than \$1,500, a worker would not be allowed to make contributions that year into the IRA.

Sen. Bentsen's legislation would allow employers to set up and contribute to employees' IRAs beginning next January. However, President Carter must first sign the tax bill before the bill will become law.

While the IRA legislation was given final congressional approval, conferees reconciling House and Senate tax bills rejected a proposal approved by the Senate that would have given workers limited tax deductions for contributions into their employer's retirement plan.

The proposal, introduced by Sen. Robert Dole (R-Kan.), was rejected because it would have resulted in a large loss of revenue for the Treasury Department. "We're talking about a loss of hundreds of millions of dollars," Mr. Allen said.

In another benefit area, the conferees accepted a Senate proposal to prohibit discrimination by self-insured plans set up to reimburse

employees for medical and accident expenses.

Currently, taxes are not imposed on amounts received as reimbursement for medical bills under self-insured accident or health plans. This exemption will be eliminated unless the plans are designed so they don't discriminate in favor of top corporate executives and employees.

In addition, the conferees agreed to let the current law stand on individual deductions for medical and dental expenses.

The law allows a taxpayer to deduct all unreimbursed medical and dental bills for his family if those expenses exceed 3% of adjusted gross income. In addition, the current law allows an itemized deduction for one-half of the cost of medical insurance premiums up to \$150 without regard to the 3% test.

The House had earlier voted to repeal the separate deduction for medical insurance premiums up to \$150. As a result, medical insurance premiums, the cost of prescription drugs and other qualifying medical expenses could only be deducted if they exceeded 3% of adjusted gross income.

Finally, the conferees agreed that where employees are covered under "cafeteria plans" the employee will be required to pay income taxes on employer contributions that finance benefits that are currently taxable.

Supporters of cafeteria plans—which allow employees to choose from a number of benefit options—had lobbied for more liberal tax treatment from Congress. ■

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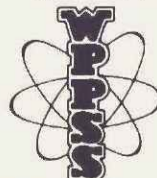
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Captives a potential target of NAIC excess lines panel

By ELLIS SIMON

NEW YORK—Captive insurance companies could come under the scrutiny of a task force created by an NAIC subcommittee to study the growth of non-admitted markets and the adequacy of a 1962 model law designed to govern them.

Although the NAIC regulatory information subcommittee did not specifically mention captives in its charge to the task force, Missouri insurance director Jerry B. Buxton, the subcommittee's chairman, said he considers captives to fall into the category of excess/surplus insurer.

However, California insurance commissioner Wesley J. Kinder, who will chair the task force, would not elaborate on whether the task force will look into problems relating to captives.

Mr. Buxton did not cite specific abuses by captive insurers that require a legislative or regulatory remedy, but he said he saw the pos-

sibility of captives being formed at the instigation of an international swindler out to defraud insureds.

Pennsylvania insurance commissioner William J. Sheppard, a member of an advisory committee to the task force, pointed to associations organizing captives to write workers compensation coverage and voiced concern about whether adequate protection of workers could be guaranteed.

Association captives encounter problems when they are unauthorized, non-admitted insurers and try to solicit business from their members, said James Ryan, NAIC's non-admitted insurers officer. Although unauthorized companies can accept business brought to them, they may not solicit, Mr. Ryan explained.

This also prevents them from performing or having performed insurance services at their request, such as claims administration, in states where they are unauthorized, he said.

In California, an unauthorized Bermuda-based company unsuccessfully sought to have legislation passed last year that would have permitted it to directly solicit medical malpractice business from doctors.

The historical lack of regulation on the islands that have been used as a base for captives and other non-admitted insurance operations has been the biggest concern of regulators, Mr. Ryan said. The fact that insurance companies can be established for little money and with few rules make regulators wary, he added.

Direct writing captives are of greater concern than those which use fronting companies, said Pennsylvania's Mr. Sheppard. "In cases where the captive can write direct, it's often setting up a self-insurance program with no letter of credit and you can have an undercapitalized company writing tremendous amounts of insurance."

Where fronting companies are employed, adequate letters of credit must be provided by the captive for the fronting company's

protection, since the fronting company is 100% liable for all practical purposes, Mr. Sheppard added.

Another concern cited by Mr. Sheppard was the lack of knowledge on how much business is actually written by captives. Because of the lack of information on premiums, direct writing captives can avoid payment of premium taxes, he noted.


While a New York insurance attorney noted that there have been questions raised about captives evading payment of state surplus lines taxes, he said the practice was not limited to captives.

According to Mr. Buxton, the creation of the task force was prompted by the tremendous growth in use of the excess/surplus markets in recent years. A recent article in Best's Review reported that for four large excess/surplus states premium increased by an average of 419.5% between 1974 and 1977.

Because of this growth, it may be necessary to revise the 1962 model Unauthorized Non-Admitted Insurers Act, he explained. Concerns include proper reporting of business in the non-admitted markets, accuracy of surplus lines tax returns and protection of the public, he said.

Mr. Buxton also raised the question of whether many of the lines now being written in the excess/surplus markets could be profitably written in the admitted markets.

"It may be that when we look at this nothing needs to be done or minor strengthenings are all that's needed, but when one phase of the industry is growing tremendously and it hasn't been inspected by the NAIC, it's time to take a look at the business," he observed.



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Legg adds insurance duties in promotion at Boise Cascade

Lorraine Legg was named director of insurance for Boise Cascade Corp. in Boise, Idaho, replacing **Clay Carlson** who retired in July after 44 years with the company. Ms. Legg has been with Boise Cascade for eight years and in her new position retains her previous title and responsibilities as vp and general manager of Boise Cascade Credit Corp. As director of insurance she reports to the corporate treasurer and as head of the credit company she continues to report to the corporation's executive vp of finance. Ms. Legg is an attorney with a financial and legal background in the company.

W. Thomas Nordin has been named risk management administrator for the East Bay Municipal Utility District in Oakland, Calif., replacing **Robert W. Bowman**, who joined the Southern California Joint Powers Insurance Authority in Los Angeles county. Mr. Nordin was formerly a partner in American Custom Homes and prior to that was an insurance and claims coordinator in the insurance department of Standard Oil of Ohio in Cleveland.

Meanwhile, **Cynthia Bengtson** has been named plan secretary for Atlantic Richfield's pension and savings plans. Ms. Bengtson was formerly a pension administrator for the Western Marketing Corp. in Los Angeles and prior to that was a pension legal assistant for Kindel



John W. Robson

& Anderson, a law firm.

John W. Robson has joined Anheuser-Busch Inc. as manager of the corporate risk management and insurance department in a reorganization of that function. Mr. Robson reports to assistant treasurer **Gerald C. Thayer**. The previous head of the insurance department, **Richard J. Herre**, has been named manager of insurance-property lines. **Leo F. Koch**, former assistant manager of the insurance department, has been appointed manager, insurance-casualty lines. New director Mr. Robson joins Anheuser after five years at PepsiCo as assistant insurance manager.

Kathleen Smales has been named benefits planning advisor for Atlantic Richfield Co. in Los Angeles, a new position. Ms. Smales was formerly a benefits administrative advisor for Anaconda Corp., which has been acquired by Arco.

There are two new staffers and a number of new assignments in the benefit department at PepsiCo Inc. in Purchase, N.Y. On the international side, **Charles W. Rogers** has been hired as director of international benefits. He previously was an international benefit consultant for Alexander & Alexander and replaces **Richard M. Hornigold**, 45, who joined Johnson & Higgins as vp in the international department, specializing in employee benefits. In domestic benefits, **John Byrne** retired as manager of employee benefits and this function was split into insurance and pensions. **Judith Pence** has been promoted to manager of group insurance from employee benefits assistant. The new pensions manager is **Andrew Huston**, who previously was employed by Johnson Controls in Milwaukee. Ms. Pence and Mr. Huston report to director of domestic benefits **Margaret D. Moore**.

New at GAF Corp. in New York is **Thomas F. Ryan**, 42, as casualty insurance administrator. Mr. Ryan is primarily responsible for workers compensation, general liability and automobile liability. Mr. Ryan, who had been out of work due to illness, most recently was employed as an assistant vp for insurance and safety for Allied

Maintenance Corp. in New York. Mr. Ryan was replaced there by **Fred Bistrong**, who recently left the company. Mr. Bistrong's duties have been absorbed by other insurance staff members.

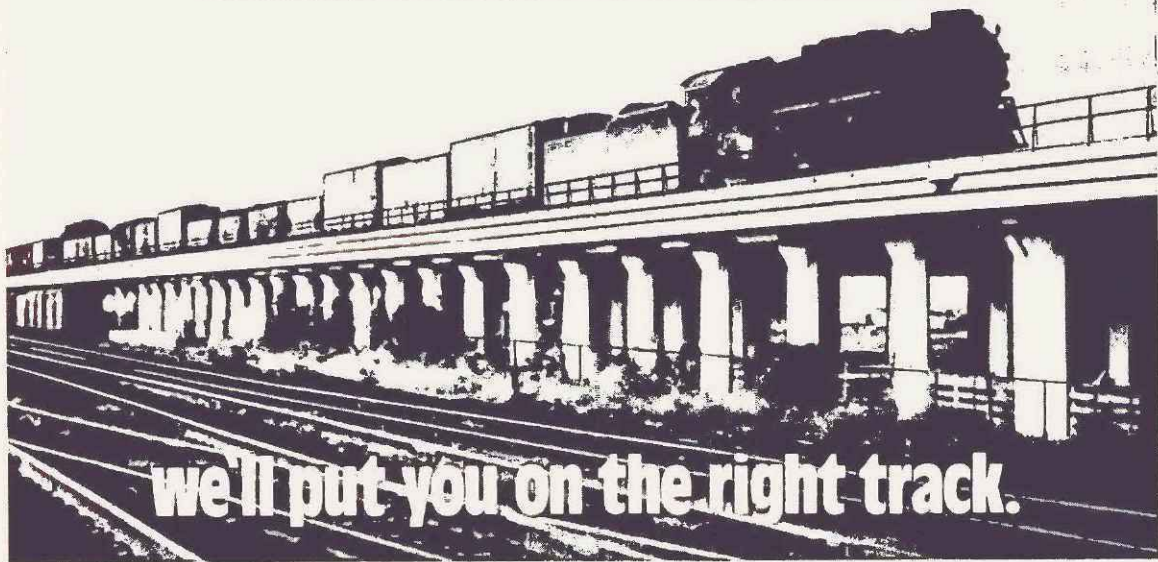
In a new position at Hershey Foods Corp., **James D. Harrington**, 25, has joined the company as risk and insurance analyst. He reports to **H. Lee McConnell III**, risk and insurance manager. Mr. Harrington most recently was employed by Murdoch Insurance Agency in Harrisburg, Pa.

Michael R. Becker, 33, has joined Northwest Industries Inc. in Chicago as assistant director of insurance, a new position reporting to **Richard Welsch**. Mr. Becker previously was manager of insurance for Quaker Oats Co. **Michael T. Kirwan**, 38, has been promoted from manager of insurance administration to replace Mr. Becker at Quaker Oats. Mr. Kirwan reports to vp and controller **Donald G. Wittmer**.

After graduating in May with a dual bachelors degree in finance and insurance at Temple University, **Susan Ellen Shafer**, 21, has become risk manager for Temple, a newly created position. She's in charge of the new self-insurance trust for medical malpractice as well as day-to-day risk management activities. Ms. Shafer reports to **George A. Reese Jr.**, director of employe benefits and risk management.

Carolyn Polkinghorn, 32, has joined Green Giant Co. as insurance manager. She reports to **Brian L. Foltz**, corporate risk manager and replaces **William C. McNelis**, who has joined Federated Insurance Co. Previously, Ms. Polkinghorn was insurance administrator for Control Data Corp. We'd like to report on staff changes in your risk management or employe benefits department. Just drop a note to **Rebecca A. Fannin**, Business Insurance, 708 Third Ave., N.Y., N.Y. 10017 or call 212-986-5050.

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

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

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

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

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

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

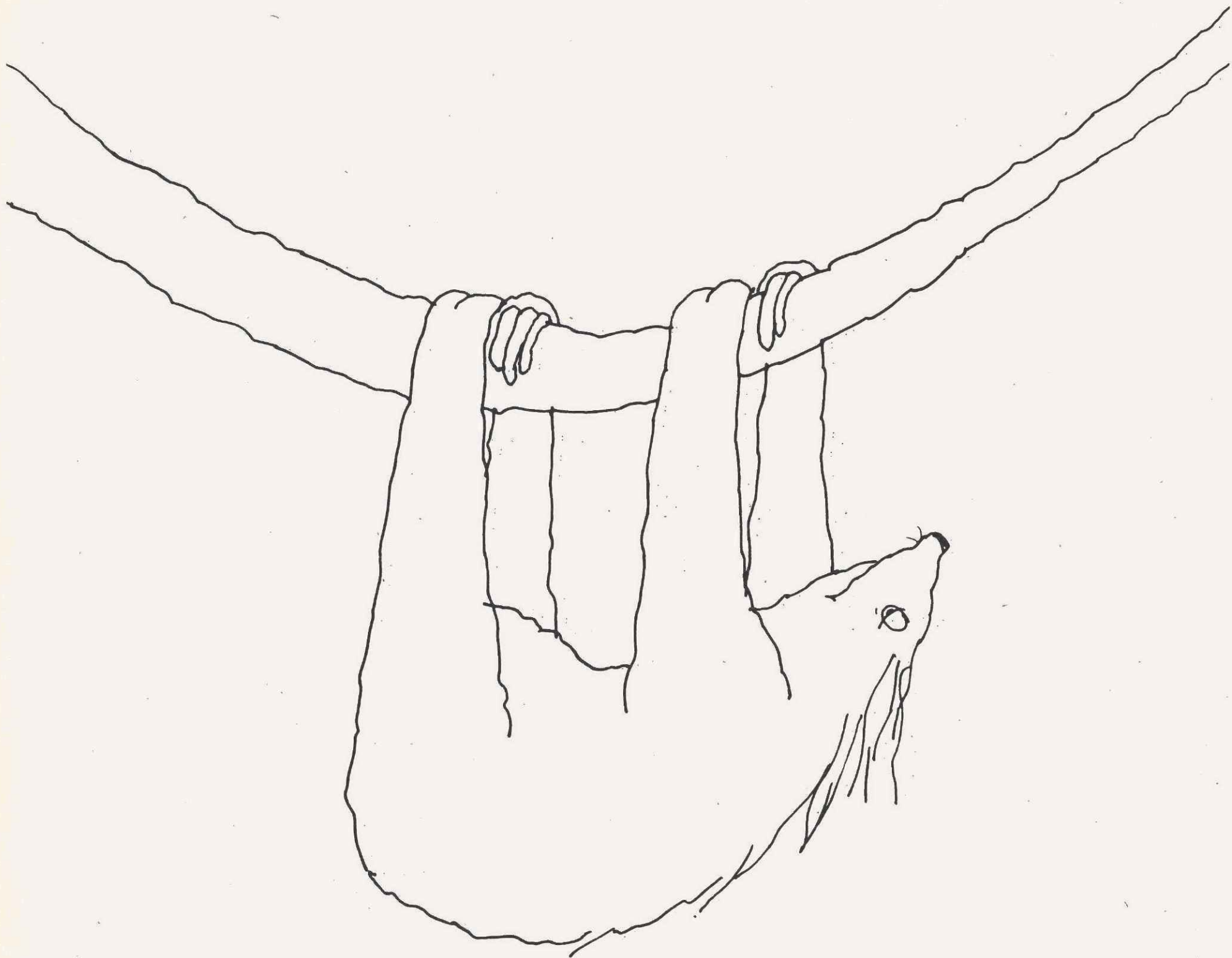
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