

# 10<sup>th</sup> anniversary

## A special report

To mark the 10th anniversary of *Business Insurance*, our editors interviewed more than 50 risk managers, employee benefit specialists, brokers, insurance company executives and consultants for this special report on the developments of the past decade. Our special section on where we've been and where we're heading is on pages 11 to 31.

## Retrospective/Prospective

To help assess the past decade and the decade ahead, *Business Insurance* asked many of the early contributors to its Perspective pages to return for this special issue with their views on what's changed and what's ahead for risk management, employee benefits and this magazine. Our expanded Retrospective/Prospective section is on page 47 to 49.

## Risk Manager of the Year

We think it's appropriate on our 10th anniversary to announce a major new venture: *Business Insurance's* annual Risk Manager of the Year award. A panel of distinguished judges will make this award, which we hope will be evidence of our commitment to the risk management profession. You'll surely want to be involved. See riskWatch, page 18, for details.

# Horror story ads untrue? Can't prove mower, claims assertions

By JERRY GEISEL

WASHINGTON — That legendary product liability case in which a man picked up his lawn mower to trim a hedge, was injured and successfully sued the manufacturer may be just that—a legend.

There is no evidence that the incident ever happened.

In addition, the assertion made by several insurance companies that an estimated one million product liability suits are being filed annually appears to be an exaggeration; documentation is again lacking.

Crum & Forster Insurance Cos., which ran ads in *Time*, *Newsweek*

and *Business Insurance* in September mentioning the lawn mower case, has withdrawn that ad until it can find proof that the case really occurred.

*Aetna Life & Casualty Co.*, which has just begun a \$5.5 million, 18-month ad campaign suggesting ways to curb "soaring insurance costs," already is changing copy in an ad that read:

"Product liability cases alone have increased from 50,000 a year in the 1960s to almost a million a year."

"At this point, we know that number is absolutely not correct," said an Aetna spokesman. "We

picked up a figure in common currency that had been used and quoted at least a half a dozen times and probably more. We have pulled that entire ad until that footnote (mentioning the million cases figure) can be corrected."

"We've really been hung by that figure," said Douglas J. Alspaugh, Aetna's director of advertising.

*Business Insurance* began tracing the origin of the lawn mower story after Benton & Bowles, the New York advertising agency that created the Crum & Forster ad, contacted this magazine for help in verifying the story. Legal groups had previously asked Crum & Forster for help. *Continued on page 66*

Week of October 31, 1977

# business insurance

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

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# Task force advocates tort reforms, captives to solve liability 'problem'

By JERRY GEISEL

WASHINGTON — The federal Interagency Task Force on Product Liability recommends a sweeping set of tort reforms, federal chartering of captives and tax deductions for self-insured reserves to cope with the nation's severe product liability problem.

The task force's final report sidestepped the politically controversial issue of whether tort reform should take place at the state or federal level.

But it recommends a modified 10-year statute of limitations, compliance with government safety standards as a defense against liability and the reduction of damage awards to the extent a plaintiff contributed to an injury.

The task force also recommends that captive insurance companies be federally chartered, federal income tax deductions be allowed for premiums paid to the captives and tax deductions be permitted for self-insured reserves. These conclusions were reached after more than a year of intensive study by the task force and three private contractors.

The proposals are contained in the last chapter of a massive 500-page final report, which is expected to be released officially during the second week of November. *Business Insurance* was able to obtain a draft of the final report in late October.

As in the briefing report released late in 1976, the task force does not view the current product liability insurance situation as a crisis. But it did find that claims and premiums have increased so sharply that product liability "presents a potential disruptive threat effect on the economy."

In order to ease this potential threat to the economy, arrows of reform are aimed at one of the key factors responsible for product liability problems—emergence of the theory of strict liability.

Strict liability seeks to compensate victims without considering the age of products or the degree to which a plaintiff's own negligence contributed to an accident.

It was this atmosphere of increasingly strict liability that prompted insurers to begin jacking up rates, unsure of what defenses

The long-awaited ISO closed claims study shows that insurers pay out on two-thirds of all product liability claims. See page 2 for a full report.

remained to prevent liability, the task force said.

Reforming the tort system so that insurers have more certainty is one way of putting a dent in the problem, it concluded.

The first target of reform is the basic standard of responsibility. The task force found no quarrel with the contention that a manufacturer should be strictly liable if a product is not manufactured according to specifications.

But upholding the strict concept of liability may not be sound long

range policy when the defect is one of design or failure to warn, the task force said.

On the issue of establishing a statute of limitations, the task force equivocated. It found merit in a 10-year statute after which liability would be limited, not eliminated.

A manufacturer still would have to pay a victim's actual economic losses even though 10 years had expired if the injury were caused by a defect at the time the product was sold, but not discovered until the time of the injury.

While going along generally with the need for a new statute of limitations, the task force threw cold water on a state-of-the-art defense based on prevailing industry standards.

A state-of-the-art defense would have an adverse effect on risk prevention, the task force believes. "Manufacturers could sit back and not worry about product liability as long as they followed the custom they themselves set," the report argued.

The task force also straddled the fence on whether compliance with government safety standards should be a defense against liability. In general, though, the report concluded that if a legislative standard were objective and up-to-date, strict liability should not apply.

Misuse of products has possibly given birth to what have become known popularly as "horror stories," cases where plaintiffs won *Continued on page 68*



Photo: Kathryn McIntyre Roberts

"For me?" smiles Russell Schuck of IBM, left, the president of the Council on Employee Benefits, as he receives a key to Kansas City from mayor Charles Wheeler at the close of CEB's fall conference. It was one of the light moments during the two-day conference that delved into heavier subjects including controlling health care costs and quality, the crisis in the Social Security system and linking pension benefits after retirement to inflation. A full report, including a glance inside the exclusive group of benefit managers, begins on page 51.

The people column  
page 70

# Insurers pay out on two-thirds of claims, ISO study reveals

By KATHRYN McINTYRE ROBERTS

NEW YORK—The insurance industry is paying out on two-thirds of the product liability claims it settles, says the long-awaited closed claim study from the Insurance Services Office (ISO).

Insurers paid on 66% of the product liability claims involving bodily injury and 67% of those involving

property damage which were closed during the eight-month period studied from July 1, 1976, through March 15, 1977.

Twenty-three insurers, who write "most of the product liability insurance in the U.S.," submitted 24,452 survey forms on product liability claims closed during the study period. The collective pay out: \$257 million.

That figure has been trended for claims severity as have others in the report, but ISO said it could not trend the statistics for claims frequency. "The incidents that occurred in the past and were settled today may not provide a completely accurate measure of what is taking place today," ISO admitted.

The inch-thick report analyzing the survey results is intended as a "snapshot view of several aspects of the product liability situation at a recent point in time," the introduction explains.

The survey, ISO hopes, will provide the detailed information necessary to "make a quantitative analysis of the causes of the (product liability) problem and to provide insight for action which might be taken to alleviate the situation."

The report will be useful in evaluating legislative proposals for tort reform, the rate making and statistical organization of the insurance industry says, as well as provide a "definitive reference document to help formulate answers to the most commonly asked questions..."

Perhaps one of the most commonly asked questions is "how much are product liability claims costing?" The survey found that within the last year they were costing an average of:

- \$13,911 per claim for those involving bodily injury. Bodily injury accounted for 83% of the claim payments.
- \$3,798 per claim for those involving property damage. Property damage accounted for 13.4% of claim payments.
- \$26,004 per bodily injury incident and \$6,871 per property damage incident, higher than per claim costs because a single event may result in claims against more

than one defendant.

More than two-thirds of the payments, however, were under \$1,000 and the bulk of overall payment was spent on the few larger cases.

Insurance covered 97% of the bodily injury and 89% of the property damage settlements, the insurers said. Payments not covered by insurance were either within the deductible, in excess of the coverage or the liability was not insured.

But in only three bodily injury and four property damage cases did liability exceed available policy limits and about 98% of all claims had liability less than 10% of the policy limits.

Most claim payments were made under comprehensive general liability and SMP (company package) policies. Over 99% of the claims paid fell under primary policies, but excess policies covered 5% of the total pay out.

The theories of liability invoked, the allegations made and how claims have been settled have been detailed in the ISO report, described as the most extensive data base of product liability claims information ever compiled.

Strict liability, negligence and breach of warranty were each invoked about one-third of the time according to claimsmen reporting the main theory of liability used in settlement or award of 10,014 incidents involving bodily injury.

Claimants were most successful in winning some payment when charging breach of warranty, securing payment 83.7% of the time compared with 79.1% for those claiming strict liability and 75.4% for those claiming negligence.

(That 80% of the claimants in this particular report won payment while overall the insurers reported closing only two-thirds of the claims with payment is a result of claimsmen knowing the theory of liability used more often when payment is made than when it is not, ISO explained.)

The highest average payment (\$38,258) was won by those citing strict liability, the report says, while negligence charges brought an average of just \$23,081 and breach of warranty \$18,786.

Though consumer modification of the product is often cited as the cause of accidents leading to product liability awards, ISO's survey found only 8% of the bodily injury and 5% of the property damage claims paid involved modification of the product. However, these claims, ISO noted, had significantly higher average payments, involving 12% of the dollars paid for bodily injury and 11% of the dollars paid for property damage.

Insurance Services Office  
Product Liability Closed  
Claim Survey:

A Technical  
Analysis of  
Survey Results

Highlights

The cover of the highlights booklet of the ISO report.

The allegation in the product liability claim affects the final payment, the survey found. Charging that the design failed to provide a safety device forced the highest average payment (\$44,926), followed by alleging insufficient labeling or warning (\$41,694) and faulty design creating a dangerous situation (\$33,895).

Other allegations frequently made but commanding lower average payments included defect in manufacturing and failure to test or inadequate testing.

The defenses most often presented, the survey found, were that the product was not defective and that there was no breach of warranty. The various defenses were effective between 60% and 80% of the time, the survey showed, which ISO interpreted to mean "each defense is used only when it has serious merit."

For the majority of claims, no suit was filed, the insurers reported. Only 4% of the claims involving bodily injury and 3% of the property damage claims went all the way to court verdict.

The survey showed that as claims progressed through the legal system, the average payment generally increased. The lowest average payment for claims involving bodily injury was the result of binding arbitration (\$1,262). When no suit was filed, the insurers settled the claims at an average payment of \$1,317. But claims settled without a suit represented only 7% of the total payment made for bodily injury claims.

Nearly three quarters of the dollars paid for bodily injury claims was forked over to claimants after their suits were filed but before they went to trial. The average payment then was \$38,953.

Settlements reached during trial accounted for just 10.5% of the total payment made during the study period but on the average cost \$32,762 each. When the award was made at court verdict, the average bodily injury claim cost climbed to \$116,177.

Property damage claims, however, were settled 33% of the time and most inexpensively when no suit was filed. The average cost was \$1,515. Binding arbitration cost insurers an average of \$2,024 per property damage payment. Costs climbed as the suit progressed through the legal system as with bodily injury claims, but the costs were much lower: \$13,648 on the average when settled after suit but before trial and \$27,302 when the verdict was reached.

For each dollar of loss, insurers paid an additional 35 cents defending bodily injury claims and 48 cents defending property damage claims, the survey showed. On the average, insurers said it cost \$3,500 to defend a product liability claim involving bodily injury, with the cost ranging from \$25 when no suit was filed to \$2,500 when the case went all the way to court verdict.

After reviewing claims experience by type of insured, ISO con-

Continued on page 69

## Shirt-Sleeve Forum

### What is a CPCU?

#### By Dinner Levison

(Asked in the financial district)

Marilyn Turner, Insurance Broker,  
220 Bush Street, San Francisco:

CPCU stands for Chartered Property & Casualty Underwriter. It's a symbol of professionalism in property-liability insurance. Linda Chiang and I just earned that designation, bringing the total number of CPCU's on the Dinner Levison staff to twelve. And incidentally, our boss, Robert Nevins, has been elected President of the National Society of CPCU's. We're all very proud of him.



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# Motorola pension changes to cost \$12 million

**MOTOROLA INC.** plans to change its pension and profit sharing plans next year for 34,000 workers at an estimated cost of \$12 million over this year's bill of \$23 million. Currently only 12,000 workers are covered by a pension plan, which is voluntary, contributory and available to those earning more than \$7,500 annually. Manager of employee benefit planning Bill Badgett, in Motorola's Schaumburg, Ill., offices, said the new plan will be non-contributory and eligibility will be one year's service. The current annual retiree benefit at age 65 of 45% of the employee's cumulative contributions to the plan (5% of his annual pay that exceeds \$7,500) will be changed. Under the new formula, the annual benefit for a worker with 35 years of service will be 40% of the first \$20,000 in salary and 35% of salary that exceeds \$20,000—based on the highest consecutive five years out of the last 10 years—minus 50% of Social Security.

Planned changes in the profit sharing plan, if Motorola participants approve, will increase company contributions and employee options. Currently employees may contribute 2% to 5% of pay to the fund with an annual maximum of \$200. Under the new plan an employee may contribute 1% or 2% of pay up to \$1,200 or just \$200.

Company contributions will be increased to 24% from 20% of net profits before taxes after deducting 5% after-tax return on net worth.

Next year Motorola intends to allocate its contributions on a point system instead of just basing it on employee contributions. The employee would receive one point for each dollar he contributed and two points for each year of service. The new plan will also allow employees to contribute up to an additional 5% of salary to the fund, though the money will not affect company contributions. Motorola wants to institute these changes to "provide reasonable retirement for everyone and make profit sharing an effective motivator for everyone at all salary levels," Mr. Badgett explained.

**PAY 'N SAVE Corp.** in Seattle has moved to an administrative services only contract to provide medical, dental and disability benefits for 4,500 employees. Employee benefits manager Roger L. Sims said Pay 'n Save will certify the claims, with processing handled by Bankers Life of Des Moines. The company decided against stop-loss coverage and expects to save \$450,000 a year by moving to the ASO arrangement. The company's group term life insurance is also underwritten by Bankers Life under a cost-plus arrangement which adds to Pay 'n Save's cash flow savings.

**TAX REFORMERS** in the Carter administration have recommended the maximum annual benefit from a qualified defined benefit pension plan be reduced from \$75,000 to \$60,000. The changes are part of the proposed tax reform package being considered by the President Carter. (Most of the proposals were detailed in *Business Insurance*, Oct. 17). The proposal also calls for slashing the maximum annual contribution to defined pension plans to \$15,000 from \$25,000 and eliminating the cost-of-living adjustment in the ceiling. Employees covered under both defined benefit and defined contribution plans could receive 100% of the maximum instead of the current 140%. The Treasury has also proposed that pension plans which integrate with Social Security benefits be required to provide a minimum benefit.

**THE PBGC's** request for an increase in the termination insurance premium for single employer plans to \$2.25 per participant was rejected by the Senate Finance Committee. Committee staffers said the rejection was based on a belief that the increase from \$1 per participant was too small and that PBGC would have to return repeatedly for additional hikes. The committee, however, agreed to extend by 18 months the date when PBGC will be required to insure retirement benefits for workers covered by multi-employer plans. PBGC officials fear as many as 40 multi-employer plans are in danger of collapse and are only waiting for termination insurance to become effective. That could lead to huge increases in the premium for multi-employer plans.

Mandatory coverage would not begin until July 1, 1979, rather than Jan. 1, 1978, under the panel's plan.

**MANDATORY HEALTH** insurance has not increased longevity in Canada, says the chairman of the health administration department of the University of Toronto. Dr. Eugene Varyda said that contrary to popular belief, "people are not living longer; rather, more are surviving the first year of life."

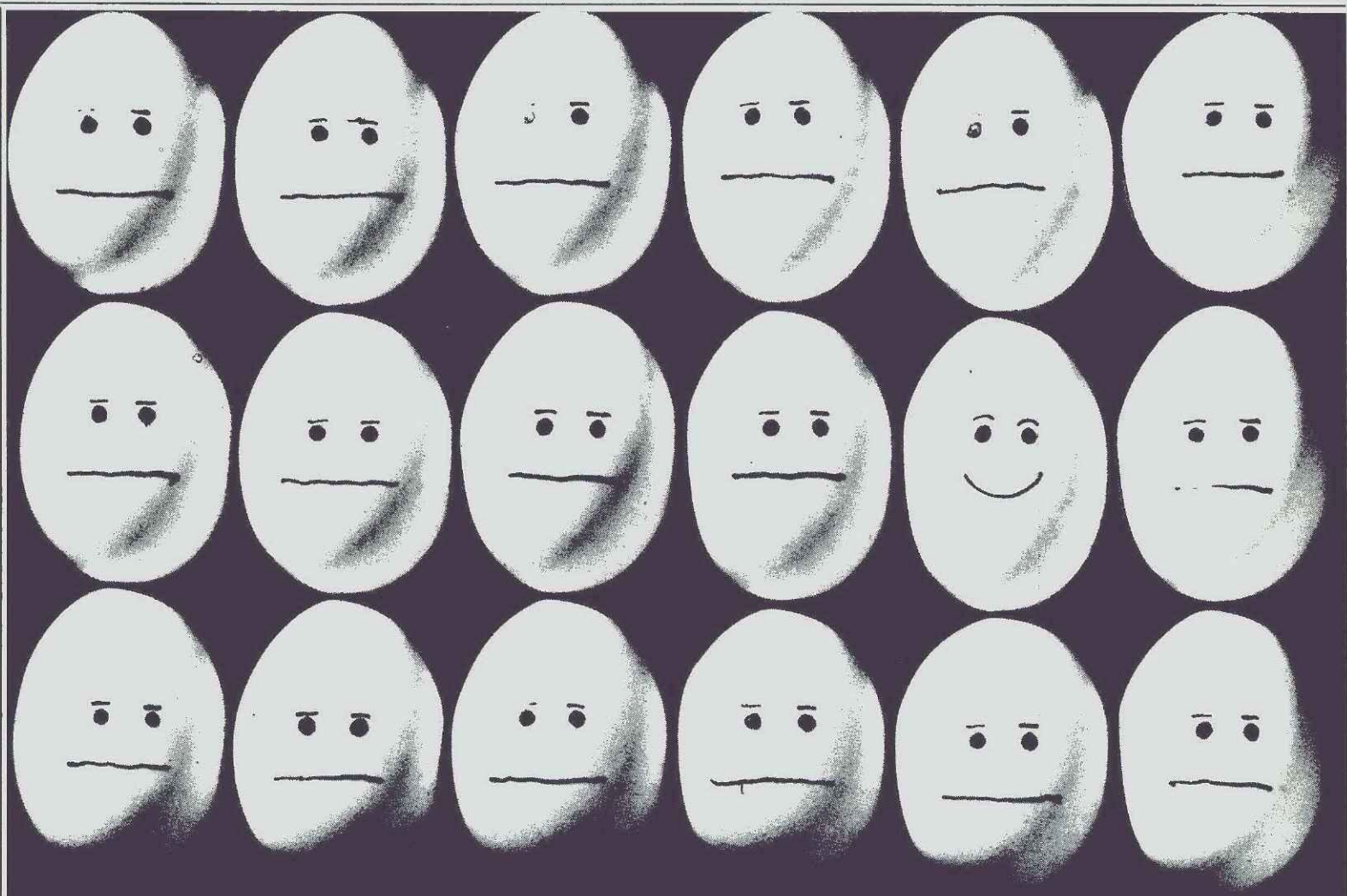
**AT&T'S RECENT PACT** with its three big unions will boost wages and fringe benefits 31.2% over the life of the three-year pact. The Council on Wage and Price Stability, an executive agency that monitors major settlements, said wages will account for 25% of the increase

and fringe benefits will add another 6.2% to the cost of the agreement. In addition, the council was able to estimate in dollars and cents just what some of the improvements in fringe benefits will cost AT&T. Implementing the new Supplemental Income Protection Program which provides workers laid off due to technological change with up to \$250 a month, will cost 12 cents an hour over three years. Improvements in long-term disability benefits, life insurance, dental plan benefits, basic and extraordinary medical plan benefits and introduction of new maternity benefits will cost about seven cents during the first year of the contract, assuming a 6% inflation rate.

**DON'T LET** a national health in-

surance program be developed without your corporation's views being considered, warns the Johnson & Higgins benefit newsletter. After attending a hearing on national health insurance in New York, Johnson & Higgins expressed surprise that no corporations or benefit managers took part in the deliberations.

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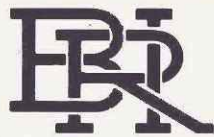


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## Nationwide to end N.J. commercial lines

By ELLIS SIMON

SYRACUSE, N.Y.—Nationwide Mutual Insurance Co. announced that it will discontinue underwriting commercial insurance in New Jersey even though commercial lines have been profitable in that state.

Discontinuance of the 7,600 commercial policies in force in New Jersey is part of a larger move involving Nationwide's withdrawal from the automobile and fire business in the state and the phasing out of its New Jersey agency force.

Nationwide has lost \$35 million during its 25 years of operation in New Jersey. Most of this loss

was on automobile insurance.

Even though the commercial lines operated in the black, this business is being phased out because it would be too costly to maintain an agency network just to serve commercial accounts, said Ted Rabuck regional commercial manager in Syracuse, N.Y.

Without an in-state organization to serve them, Nationwide's policyholders would be better served by a company maintaining a service facility within the state, explained Bob Culp, vp for property and commercial insurance at Nationwide's home office in Columbus, Ohio.

Nationwide's commercial lines generated 1977 New Jersey premiums of \$5.2 million, Mr. Rabuck said. This included \$2,353,000 in commercial auto coverage, \$1,533,000 in commercial liability and \$1,288,000 in commercial fire.

Most of the clients were select risks operating small businesses which would be part of the "Main Street market," he explained, adding that numerous carriers offer such lines in the state.

Phaseout of the commercial policies will occur on the policies' 1978 premium due dates, Mr. Rabuck said. Company officials plan to meet in the near future with key agents and commercial customers to explain the situation and offer assistance, he added.

Group insurance accounts in New Jersey plus commercial insurance on properties held by out-of-state and national clients will not be affected by the withdrawal, said Mr. Culp.

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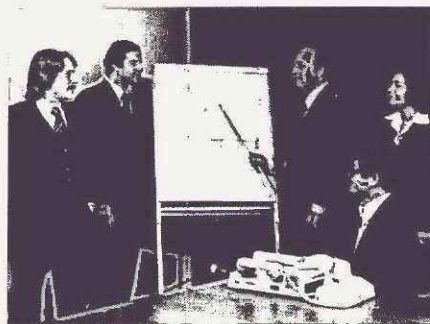
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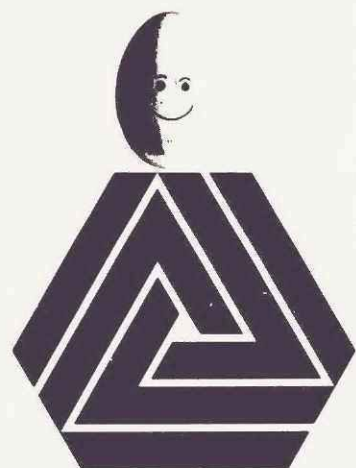
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## errors & omissions

• MOAC was incorrectly identified as Marine Office—Appleton & Co. in a story Oct. 3. The former name of Appleton & Cox was dropped a year ago when the Continental Corp. division became Marine Office of America Corp.

• Keenan & Associates was incorrectly spelled in the Oct. 3 issue. The correct spelling is Keenan not Kennan.



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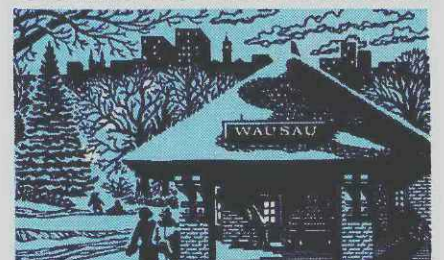


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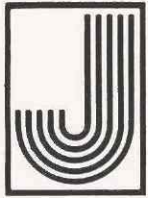
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## Conference committee

# Battle appears likely over retirement ban

WASHINGTON—A major battle appears likely when a Senate and House conference committee meets to iron out differences in bills raising the mandatory retirement age to 70.

The House version (H.R. 5383) would ban any mandatory retirement of federal workers, who now must leave government service at age 70. The Senate bill (S. 1784), which was passed Oct. 19, would leave the law regarding federal employees as it is.

"The Senate will have a tough time swallowing complete elimination of mandatory retirement in the federal sector," a staffer

warned.

A stiff fight also is expected over whether to restore the workers excluded from the higher mandatory retirement age in the Senate bill.

The Senate agreed to allow colleges to retain mandatory retirement at 65 for college professors. In addition, the Senate also voted to allow companies to require executives who would have an annual private pension of more than \$20,000 to retire at age 65.

Under the Senate bill, the higher mandatory retirement age would go into effect Jan. 1, 1979. The House version calls for a six-month phase-in period after the bill is enacted into law.

Under both measures, however, current collective bargaining agreements that set the mandatory retirement age at 65 would not have to be revised to comply with the legislation until Jan. 1, 1980.

In addition, the measures would exempt workers in some fields such as air traffic controllers, where age is considered a vital factor affecting ability. ■

## U.K. police chiefs eye store theft

LONDON—Police chiefs in Britain are making a concerted drive to reduce theft losses which are hitting department stores to the extent of \$600 million a year.

They are appealing to store owners to be on their guard against pilferage and have issued a government circular which sets out methods of stopping fraudulent employees.

Risk management techniques are being adopted in stock control systems, so that goods can be identified from the time they are delivered to a warehouse up to the point of sale to the ordinary buyer.

Government minister Merlyn Rees declared, "Security ought to be a regular item on the agenda of all corporate board meetings, for the waste of money and resources caused by crime in commerce and industry is horrifying and much of it is preventable."

He points to a case where a soft drink and brewery corporation lost nearly \$2 million a year through fraudulent use by its employees of container stocks. ■

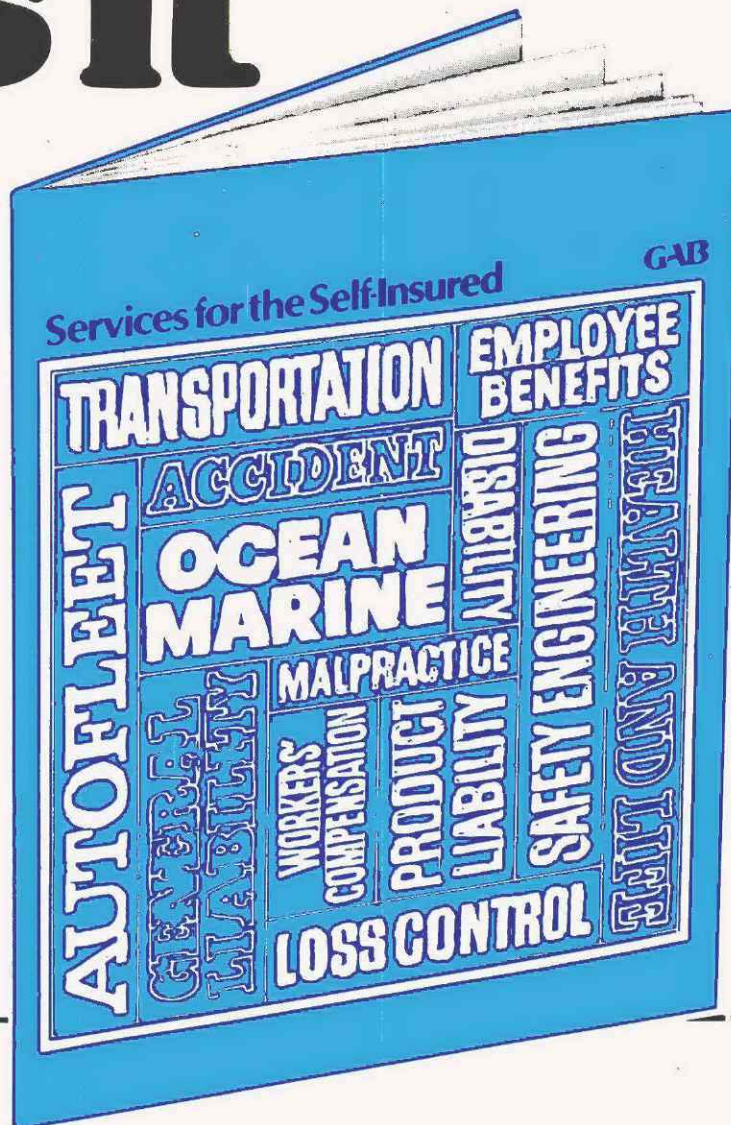
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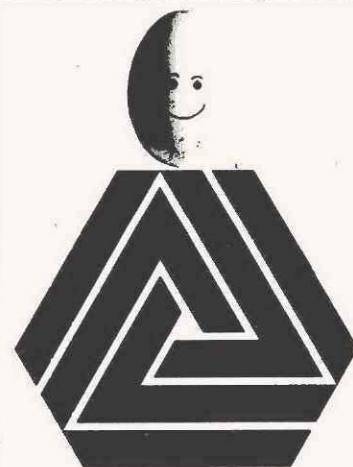
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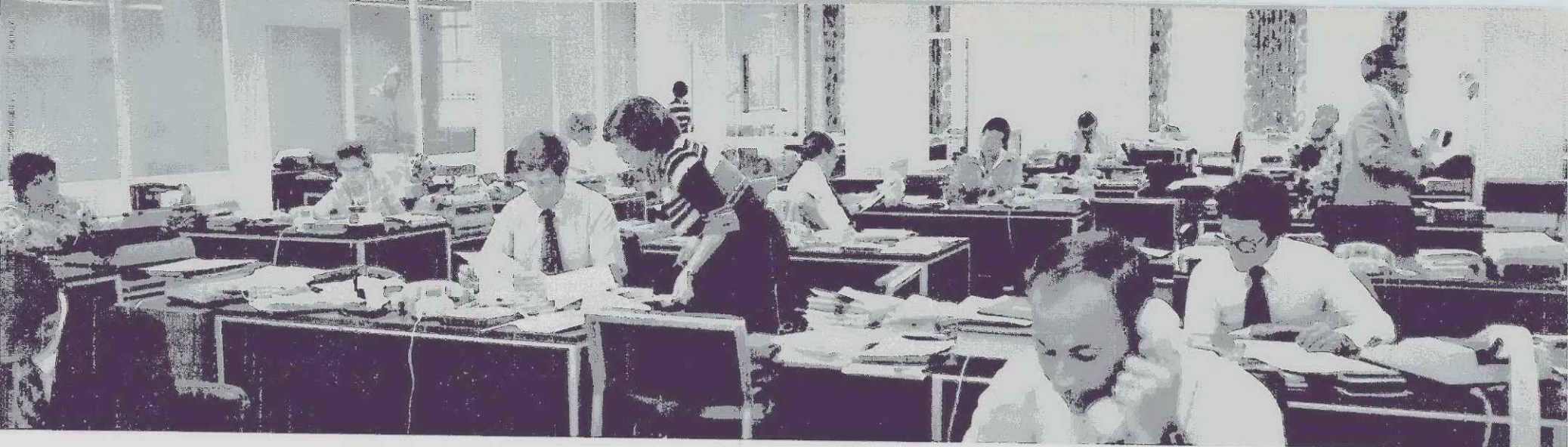
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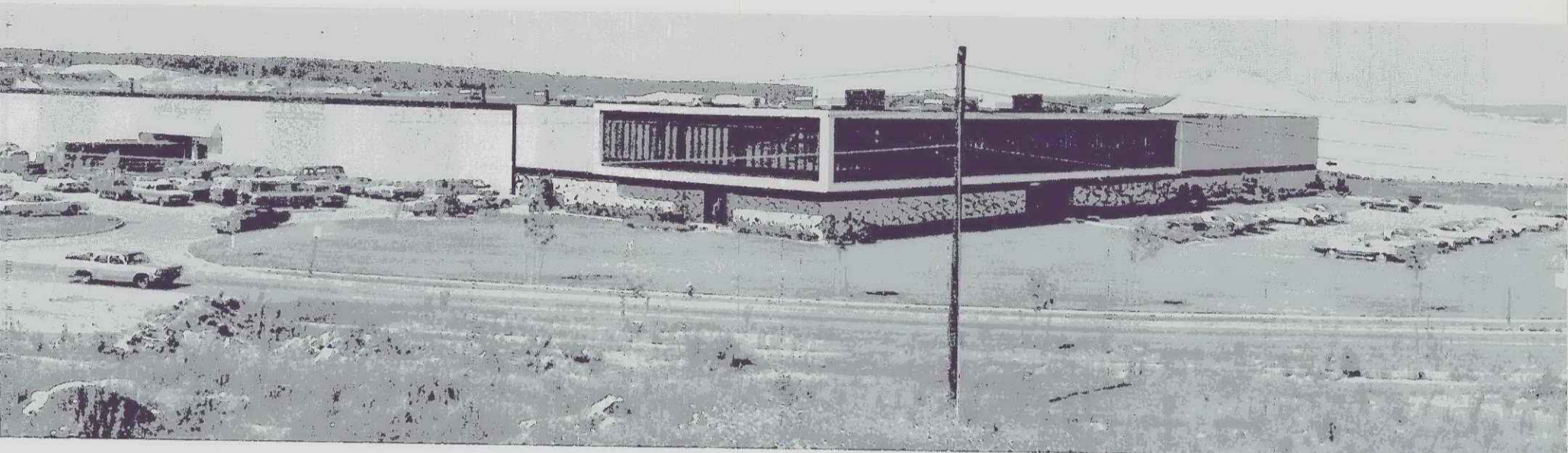
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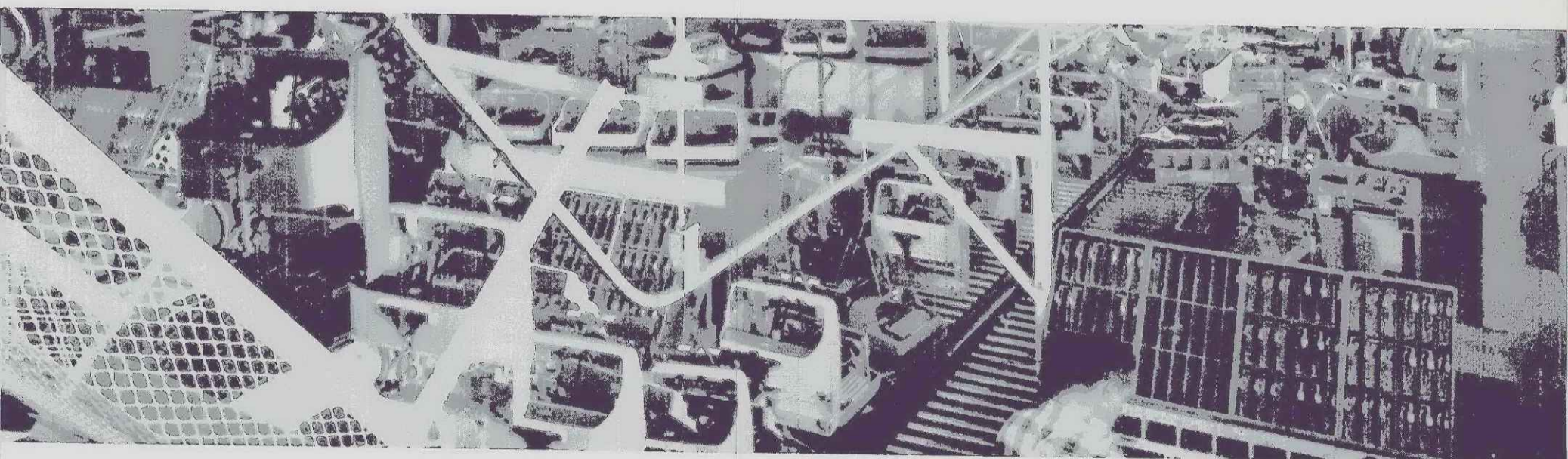
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## editorial opinions

# 14 million words later . . .

THERE WERE those who told us in 1967 it couldn't be done. There were those who said we wouldn't be able to find enough timely, interesting news to write about risk management, insurance buying and employee benefits to fill the pages of *Business Insurance* issue after issue.

In retrospect, we're glad those prophets guessed wrong. As a matter of fact, we can say with some satisfaction and delight that there's seldom been a time when some "hot tips" didn't end up being pushed aside because there were more stories to be done than there were people to research them. That's the name of the game in the newsgathering business—and, we might add, the risk management, insurance and employee benefits business. We never fail to find excitement in finding news to be followed and ferreted, polished at the copy desk and published in the next issue.

Contrary to what many long-timers in the insurance business told us 10 years ago, we've found a lot to write about. There've been some notable changes in our chosen field, enough to enable us to say with confidence that, no, it doesn't take forever to witness change in the insurance industry.

Proof of the thrill our editors have gotten from the business we cover is in our product. An astounding 14 million words later there are still more stories demanding our attention than we have time or space to cover.

To those who asked our publisher and editors 10 years ago—in all sincerity, we're sure—whether *Business Insurance* would fail simply because there was already enough information available to buyers of insurance, services and benefits, we'd again have to say, no. Our readers didn't think so. Managers have hungered for more well-focused data, then and now, and the demand hasn't let up since.

### The exuberant early issues

Our stories in the first issues of *Business Insurance* beginning on Oct. 30, 1967, were endowed with exuberance and motivated by an unbounded curiosity about how the insurance industry works, how the buyer buys and how the risk manager manages. Tempered with a healthy dose of skepticism acquired from many foregoing years as news reporters, *BI's* editors set out to make readers aware of the methods and advantages in progressive management of insurance and benefits.

The exuberance and curiosity haven't dissipated. Neither has the kick we get out of putting together a good story that draws plenty of response and, we hope, praise.

As trends developed, our editors were quick to spot them and alert the many managers who entrusted to us the task of reporting and recording the events which have served to shape an increasingly important discipline. Early on, we knew part of our task would be to debunk the myths of the insurance business and to make a mysterious batch of subjects and jargon understandable.

Criticism hasn't hurt, either. Helping mold *BI* into the important news medium it is today were the tough critics and staunch supporters who offered a continuous stream of sug-

gestions about how we should be covering a whole range of things, what we've done right and what we've still got to improve.

Paralleling the progress of *Business Insurance*, the American Society of Insurance Management (now known as RIMS) saw its membership rolls leap upward. Over the years risk management has gained status as a professional corporate management specialty, evidenced by general business press and even consumer press coverage of subjects previously left primarily to *Business Insurance*. We'd like to think we've contributed to the visibility of risk managers and benefit managers as long-time advocates of their recognition and importance.

### Our fierce independence

Our fierce independence from any group within the industry that supports us with advertising dollars has earned us both friends and enemies over the years. At times we've advocated causes unpopular with some readers, but we've proudly stood by the philosophy that we can best serve all facets of the insurance and benefit business by directing our attentions to financial executives and corporate managers who are the "consumers" of insurance and related products and services.

Never have we lost sight of the obligation taken on 10 years ago to provide the best, most detailed and accurate information possible about human and physical asset conservation.

As we look back at 10 years of hard but satisfying work, we see that some of the subjects we cover haven't changed much . . . captive insurers, benefit cost containment, health care inflation, product liability, skyrocketing premiums. If the forces at work within the corpus of risk management haven't changed, it's clear that solutions to problems have. Risk management has proved to be a microcosm of organizational problem-solving, bringing to bear all the skills built by people who've taken the time to learn a lot about many different subjects, who can draw upon broad knowledge to be innovative financial managers.

It is those people and their variations on the theme of risk management that we look forward to talking with and writing about in the future.

### Thanks for your help

We are thankful to those who've given us much thought-provoking material over 10 years. Your ideas have been our lifeblood, as have the events within the insurance industry that gave rise to new solutions. It's good to view the insurance industry not as a generator of problems, but as a catalyst for change. Without the underwriters, brokers and other suppliers about whom our readers often grouse, there wouldn't be any need for professional risk managers.

On this, our 10th anniversary, we express our heartfelt thanks to our tens of thousands of loyal friends and readers and our hundreds of advertisers for making it all possible.

## letters

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

### Hospital captives

To the editor: In view of the very widespread reaction to the articles highlighting the reimbursement difficulties of malpractice captives (Oct. 3), I thought it would be helpful to bring to your attention and to the attention of your readers changes in relationship to this problem that have occurred since that date.

First and most importantly, in material disseminated to intermediaries by a telegram dated Oct. 14, 1977, the required compliance date for captives only has been extended from November 1, 1977, to March 31, 1978.

Second, I think it is important that the present position of Medicare be presented. Based on conversations both with Medicare and with the Blue Cross Assn., that position may be summarized as follows: Both Medicare and the Blue Cross Assn. (as a principal intermediary) recognize the serious problems created by the present language of the Provider Reimbursement Manual in the area of the limited purpose insurance company that is a related organization to a provider. A new instruction regarding such captives is presently being studied by Medicare.

When this instruction has been issued, related organization captives that are able to come into full compliance with the new instruction by March 31, 1978, will be recognized as being eligible for retroactive reimbursement of paid premiums in accordance with provisions which will be contained in the new instruction.

This reflects a very reasonable and practical action and attitude on the part of Medicare and the Blue Cross Assn. and should go a long way towards resolving present uncertainties.

William H. Gill

Consultant, Risk Management Services, The Wyatt Co., Chicago, Ill.

### Punitive damages II

To the Editor: Your editorial on punitive damages, (Sept. 19) especially the last paragraph, fails to deal with the realities of the circumstances under which lawsuits include claims for so-called "wanton, willful and malicious" acts.

Continued on page 63

# business insurance

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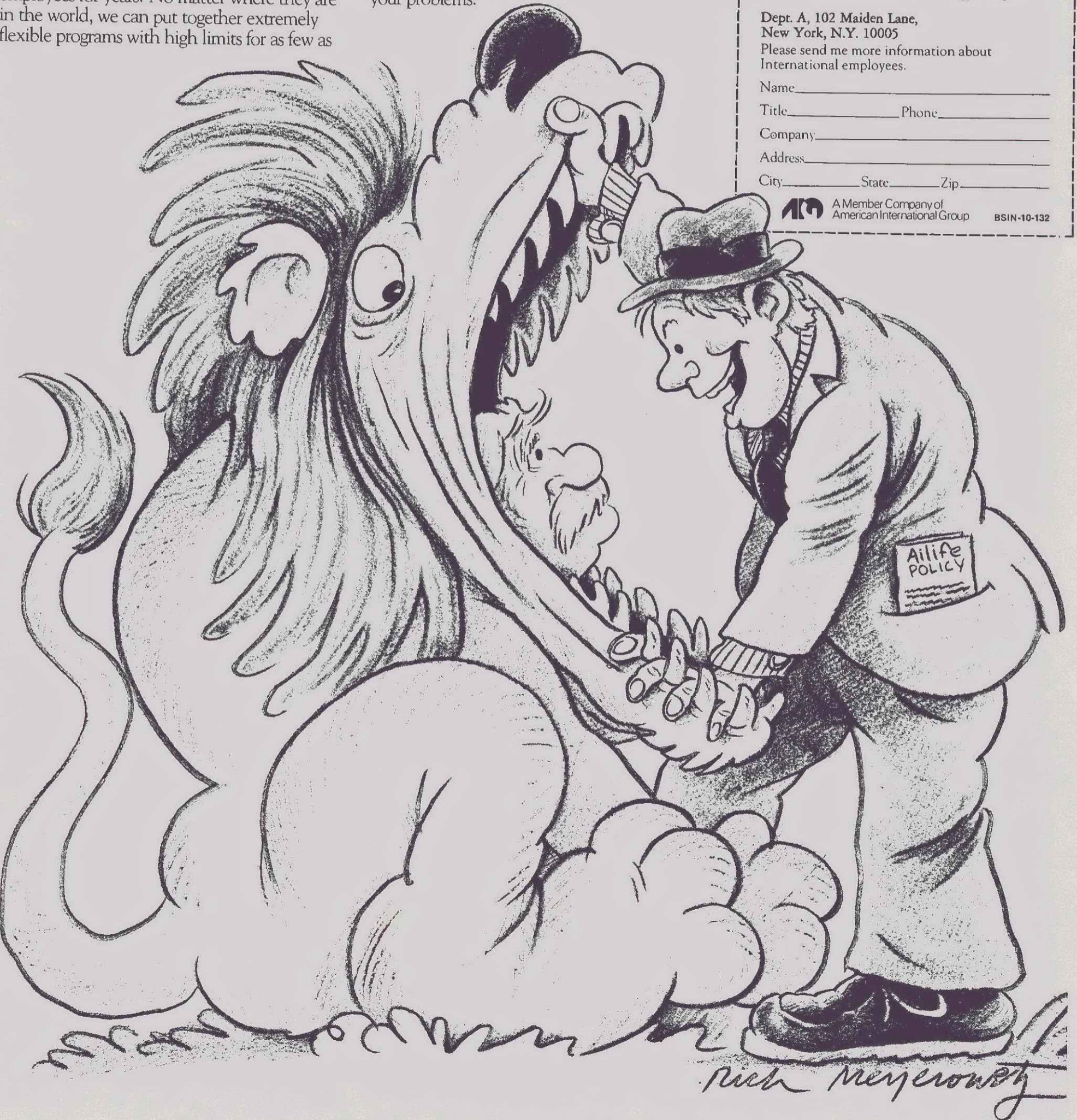
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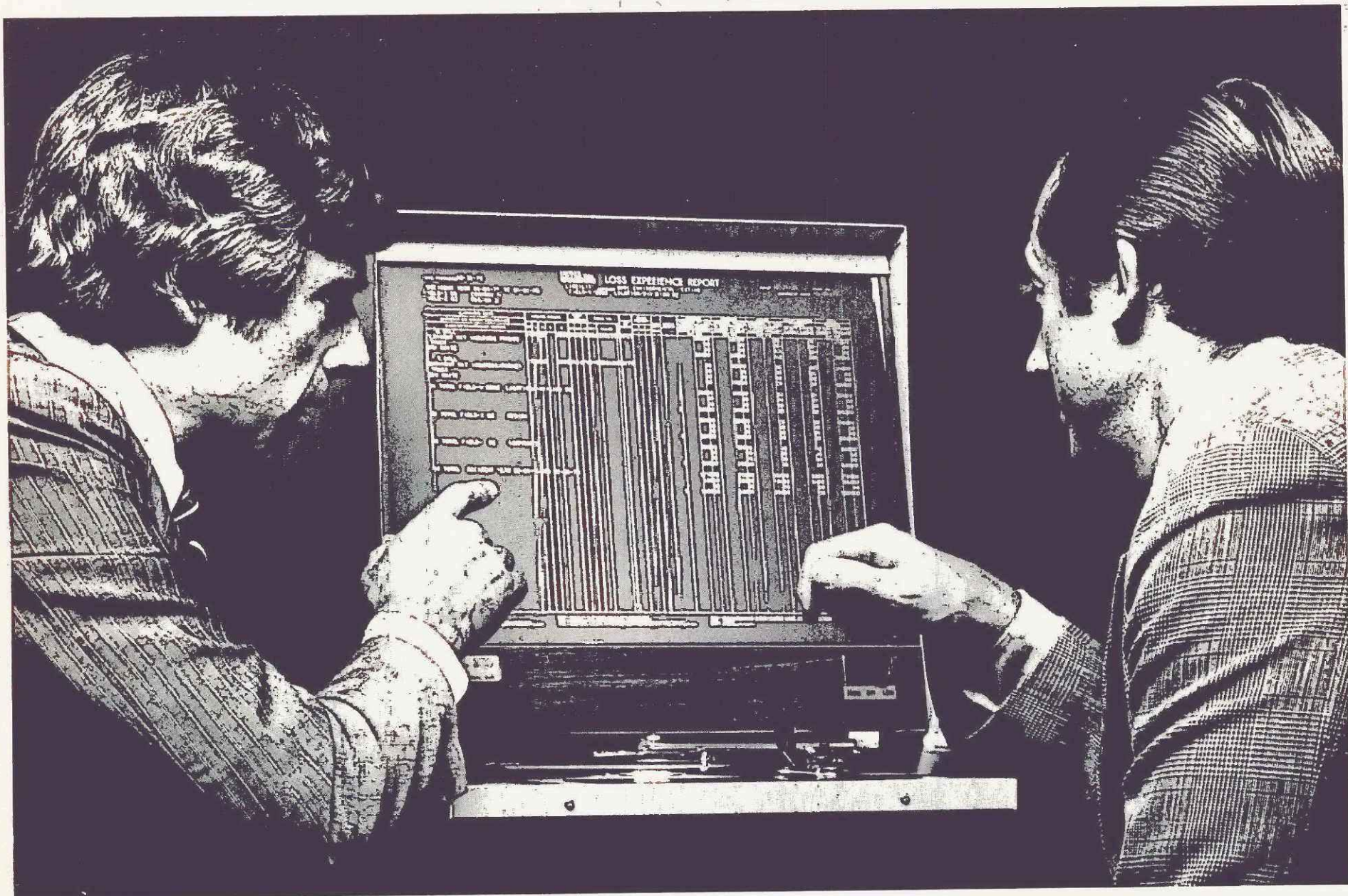


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# 10<sup>th</sup>

## anniversary issue

### Risk management: Decade of growth

More status, sophistication;  
but is that all there is for you?

By GREG DAVID

Ten years ago the person in charge of insurance at United Airlines was given the title director of insurance and was placed in charge of a corporate division. That position was United's equivalent to a light colonel in the army.

The director of insurance didn't have a reserved parking place and he didn't eat in the executive dining room.

But in the past decade, United, like many other corporations around the nation, upgraded the insurance function. The head of a corporate division was put in charge of a department, a promotion to full colonel.

The insurance director was given a reserved parking place and the right to eat in the executive dining room where there is invaluable access to top executives.

"These are subtle things," says Waller Smith, who was United's insurance director for most of the past decade, "but they are damned important in corporations." Today, after his retirement from United as a full colonel, Mr. Smith is a part-time consultant for Rollins Burdick Hunter.

The increased recognition—both inside and outside corporations—of the key role risk managers can play is one of the most striking changes in the field in the past decade, agreed risk managers, brokers, consultants and other observers interviewed for *Business Insurance's* 10th anniversary.

Continued on page 29

To mark its 10th anniversary, Business Insurance editors set out to assess how risk management, employee benefits and the insurance industry have changed in the past decade. More than 50 risk managers, brokers, consultants, insurance company executives and other observers were interviewed in preparation for this special section—a look at where we are and where we're heading.

### Employee benefits: Fringe to fortune

They're not fringes anymore  
when benefits reach 44% of pay

By ELLIS SIMON

"You can't call them fringes anymore." Not when non-cash compensation may equal 44% of a low-wage employee's pay and might run into the tens of thousands of dollars for top level executives. Employee benefits have grown tremendously over the past 10 years, becoming an area of concern from top management to the lowest person on the product line.

Government has gotten involved as well, setting up rules to guarantee that benefits promised become benefits delivered.

It costs a company like J. C. Penney between three and four times as much for employee benefits today as it did 10 years ago even though the firm's total employment rose by only 75%, said manager of benefits Jim Messinger.

The public sector has also been affected by this growth. New York state taxpayers pay \$3.5 billion annually to fund benefits for state and municipal workers, said Joseph Metz, executive director of the Permanent Commission on Public Employee Retirement and Pensions Systems.

Rising costs and improved benefits that go along with them reflect a shifting in attitudes which began several decades ago. Pensions are recognized as a right, rather than a gratuity, said Larry Bader, vp and actuary with William M. Mercer Co. "You can't call them fringes anymore," he said.

The bargaining power of unions, which pushed for benefit improve-  
Continued on page 27



Waller Smith says the broker is no longer the person who merely buys and delivers the policy.



Felix Kloman says the risk management and insurance industry are much more open than they were a decade ago.



Robert Reeves says brokers and insurance company staff today are often attracted by risk management salaries.



Alan Pearce attributes part of the turnover problem to the failure of corporations to recognize their own risk managers.

### Job market: Young talent is in demand

Head hunters get involved;  
demand leads to turnover

By REBECCA A. FANNIN

"You get all these job offers. I get one a month," said Robert Reeves, who recently joined the Hospital Corp. of America in Nashville as vp-insurance at only age 33.

"A head hunter approaches me with a job in the \$35,000 range at least once every two to three months, said 28-year-old Alan Pearce, recently named risk manager for Foremost-McKesson in San Francisco.

These two risk managers and others like them are in demand more than ever. They're

both talented, young and experienced. They have the skills to not only purchase insurance, but control and analyze risks and thus reduce insurance costs—new qualities that corporations are seeking in risk managers. Business is attracting good risk managers with higher salaries and titles to match the additional responsibilities they are assuming. Still, corporations are having trouble filling the positions because the supply of skilled and experienced risk managers is small.

Some businesses have turned to executive  
Continued on following page

# Job market . . .

Continued from preceding page  
search firms to help them find competent people, but sometimes even the head hunters don't have much luck.

"It's hard to find a good risk manager," said Robert Bentley of Bentley & Evans, a search firm in New York. "I'm finding them very slowly."

"There's now a much greater emphasis on analysis and planning in risk management," he said. "But there are comparatively few trained in this area."

Although Mr. Bentley said a greater pool of talent has been created with the recent surge of college graduates in risk management, he noted that "they are not ready for this type of job."

"It's good that they are being trained but they still need five to 10 years of experience," he added.

Those few that do have skills and experience though are finding that they can change quickly to more prestigious and higher paying jobs.

A high turnover results because of the limited supply of good risk managers and the increased demand for them, according to Mr. Reeves at the Hospital Corp. of America.

Also causing the high turnover, according to Foremost-McKesson's Mr. Pearce, is that some companies don't realize the importance of the risk manager until that person leaves. "You're almost forced to leave to get the salary that you want. So you leave and get more money elsewhere," he said.

Mr Pearce said another prob-

lem risk managers face is that once they "straighten out a company's program they work themselves out of a job. It becomes just maintenance after a few years."

Despite the complaints, though, risk management positions have improved dramatically during the past 10 years.

"Ten years ago, a \$30,000 salary was a big deal," said Ron Judd, executive director of the Risk & Insurance Management Society. Mr. Judd said he's heard of risk managers who have been placed at salaries up to \$75,000.

A good risk manager usually earns a salary of \$55,000 to \$60,000 in a company with sales of \$500 million according to Mr. Bentley.

Risk managers are also finding that their positions are an avenue to the senior financial position, according to Richard Ives who heads the search firm Richard K. Ives in San Francisco. "That po-

sition was formerly a dead end," he said.

Mr. Judd agreed, citing the 40 to 50 risk managers who have been promoted to vps during the past 10 years. Mr. Judd didn't know of any risk manager-vps 10 years ago.

Charyl Peske, the city of Milwaukee's first risk manager, noted that risk manager's salaries have increased along with other insurance industry jobs.

"In 1965," she said, "the insurance industry was notoriously low paid. But over the years, it has moved closer to similar jobs in other industries."

Mr. Reeves also noted salary trends in the insurance industry, pointing out that risk managers used to be attracted by broker's salaries but today more brokers and insurance company people are becoming risk managers.

Risk managers justify their big salaries by the additional respon-

sibilities they have accepted.

"As we manage more and more funds, the salary goes along with that," said Paul York who was recently named manager of corporate insurance at National Semiconductor Corp. in Santa Clara.

"Risk managers have become some of the better-paid people in industry," noted Mr. Reeves. ■

## 10<sup>th</sup> anniversary Head hunters discover a new area

The demand for capable risk managers has grown so much during the past several years that executive search firms have been employed.

Richard K. Ives & Co. in San Francisco and Bentley & Evans in New York are among those recruiting risk managers.

"It wasn't until two to three years ago that this type of search began to become significant," said Mr. Ives of the West Coast firm. Bentley & Evans began recruiting risk managers seven years ago and has placed anywhere from three to six risk managers a year.

The head hunters learn who is qualified to fill a position in a variety of ways.

Mr. Bentley said he calls other risk managers and brokers to find out who can fill the opening. "For instance I might call a property and casualty broker at Marsh & McLennan because he would probably know."

The idea of searching for risk managers is so new that the firms must become acquainted not only with the techniques of risk management but also who's good in the field. Sometimes they seek help from the Risk & Insurance Management Society.

Bonnie Binkley, who heads a job referral service at RIMS, said she was contacted by Mr. Ives when he was trying to fill a manager of corporate insurance slot at National Semiconductor Corp. in Santa Clara.

Ms. Binkley gave him Paul York's name, who was hired.

Ms. Binkley said she keeps two files of risk managers—one for those actively looking perhaps because they were fired or the company went broke and one for those who are actively seeking a creative challenge.

More than 40 job openings are currently listed for the more than 140 applicants on file.

An executive search firm begins the hunt by researching the client, the company philosophy and the job opportunity, according to Mr. Ives.

Although Mr. Ives said every search and client is different, he mentioned some guidelines he uses.

"I look for someone intelligent who is exposed to various corporate risks, not just property. He must have good judgment and a record of accomplishments also," he said.

Mr. Ives' clients range from companies with sales of \$50 million to sales of over \$1 billion. At Bentley & Evans, the clients are on the average manufacturers with sales of over \$500 million. ■

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It wasn't until 1974, when we acquired our first 6 US offices, that we became established in the

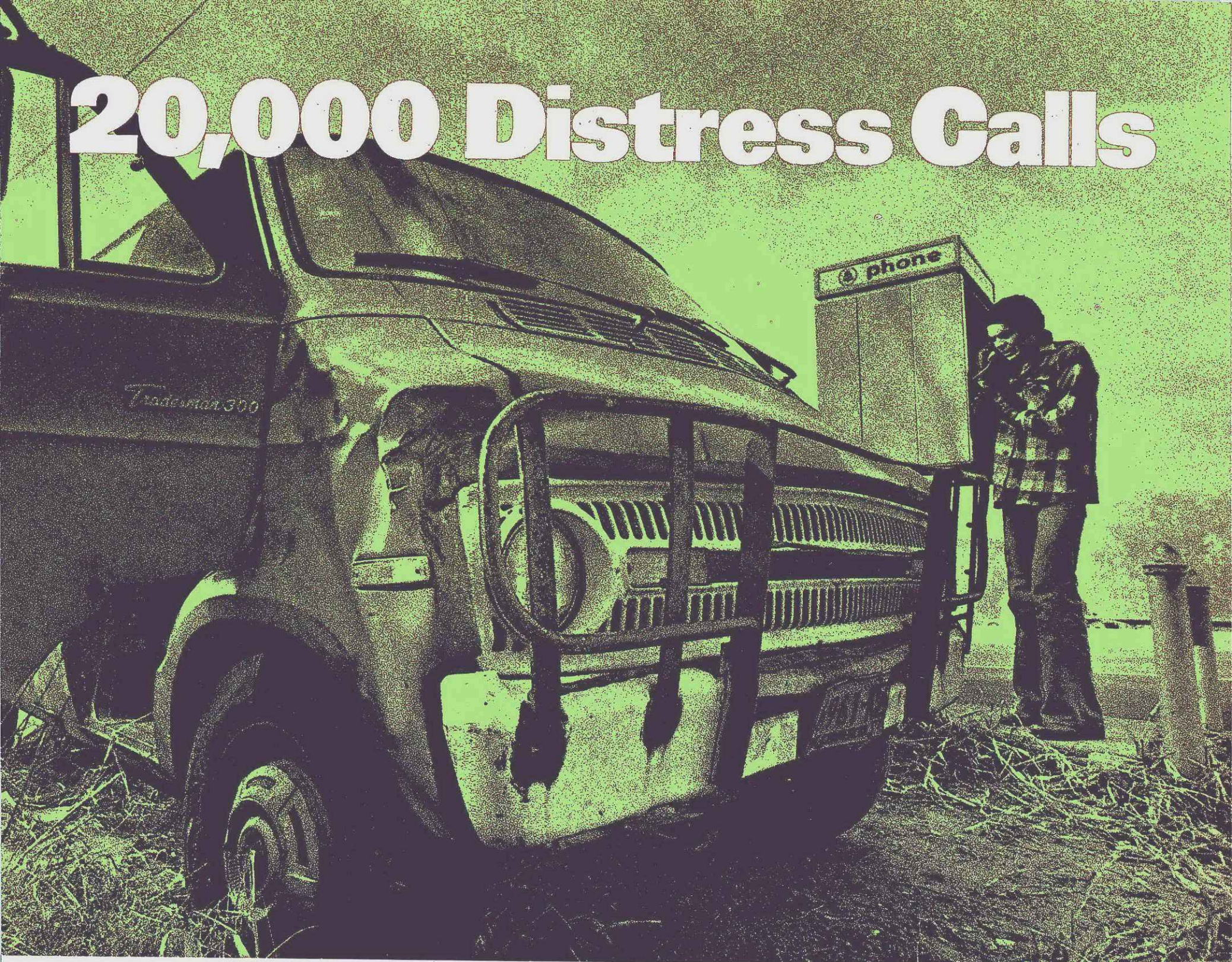
domestic marketplace. Since then, we've been the fastest growing broker in the country and now rank in the very top echelon of US brokers, with offices in major commercial centers coast to coast and in Hawaii.

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# New breed gallops on a faster, broader path

By REBECCA A. FANNIN

A new crop of insurance managers is growing. They are often in their late twenties and are skilled more in management, less in insurance.

Their training meets changing corporate needs—the control of risks and insurance costs as well as the purchase of insurance.

Several years of insurance experience is no longer a qualification to become a risk manager. It's more important to be a good manager who can shift an insurance department to risk management.

Today's risk manager often gains his experience while still at college, where the student can specialize in risk management studies.

Universities are playing a ma-

major role in educating younger risk managers, even placing them in reputable risk management slots.

Ten students have been placed in risk management positions within two to three years by Dan Anderson, a risk management professor at the University of Wisconsin at Madison.

"Typically a risk management department wouldn't hire a college student, but a lot has happened in the past couple of years that encourages me," Mr. Anderson said.

He added, however, that "corporations should hire still more students. They can train students faster than someone with experience and then they can save money."

Paul York and Robert Reeves are two risk managers who

## 10<sup>th</sup> anniversary

moved up rapidly at a young age. Both were educated in insurance as well as management.

Mr. York's first job was as assistant risk manager for Dairymen Inc. in Louisville. He landed it with help from Dr. E. J. Leverett, a risk management professor at the University of Georgia where Mr. York received his MBA with a specialty in risk management.

"We had a head start from

Dr. Leverett. He had us do consulting work for a year with some fairly good-sized companies before we graduated," Mr. York said.

Mr. York's experience at Dairymen was "well, well worth it" and helped him get his next job, as manager of corporate insurance for National Semiconductor Corp. in Santa Clara at the age of only 29.

A "healthy and substantial salary increase" followed his additional responsibilities. His salary is now "quite high," Mr. York said. He also noted that he had received a 17% increase in salary while he was at his first job for approximately two years at Dairymen.

Mr. Reeves was named vp-insurance at Hospital Corp. of America in Nashville at 33 years

of age, after he had worked in insurance-related fields for only nine years.

He worked his way up in several insurance-related positions at Ashland Oil Co. in Kentucky as claims representative, administrative assistant, insurance administrator, insurance manager and eventually risk and insurance manager.

The changing concept of the insurance manager perhaps can best be seen from the vantage point of younger risk managers who have been hired for their management skills.

Alan Pearce, 28, who was recently named risk manager at Foremost-McKesson Inc. in San Francisco, said he got his first risk management job almost "by mistake."

He was offered a job as assistant risk manager at Anderson Clayton & Co. because the treasurer of the company had read his master's thesis on captives written for his MBA at the University of Texas. He had only taken one insurance course in college.

From there, Mr. Pearce moved to risk manager at American Oil Co. and Aminoil U.S.A., two subsidiaries of R. J. Reynolds, before joining Foremost-McKesson, where his salary is "more than four times his first job's salary."

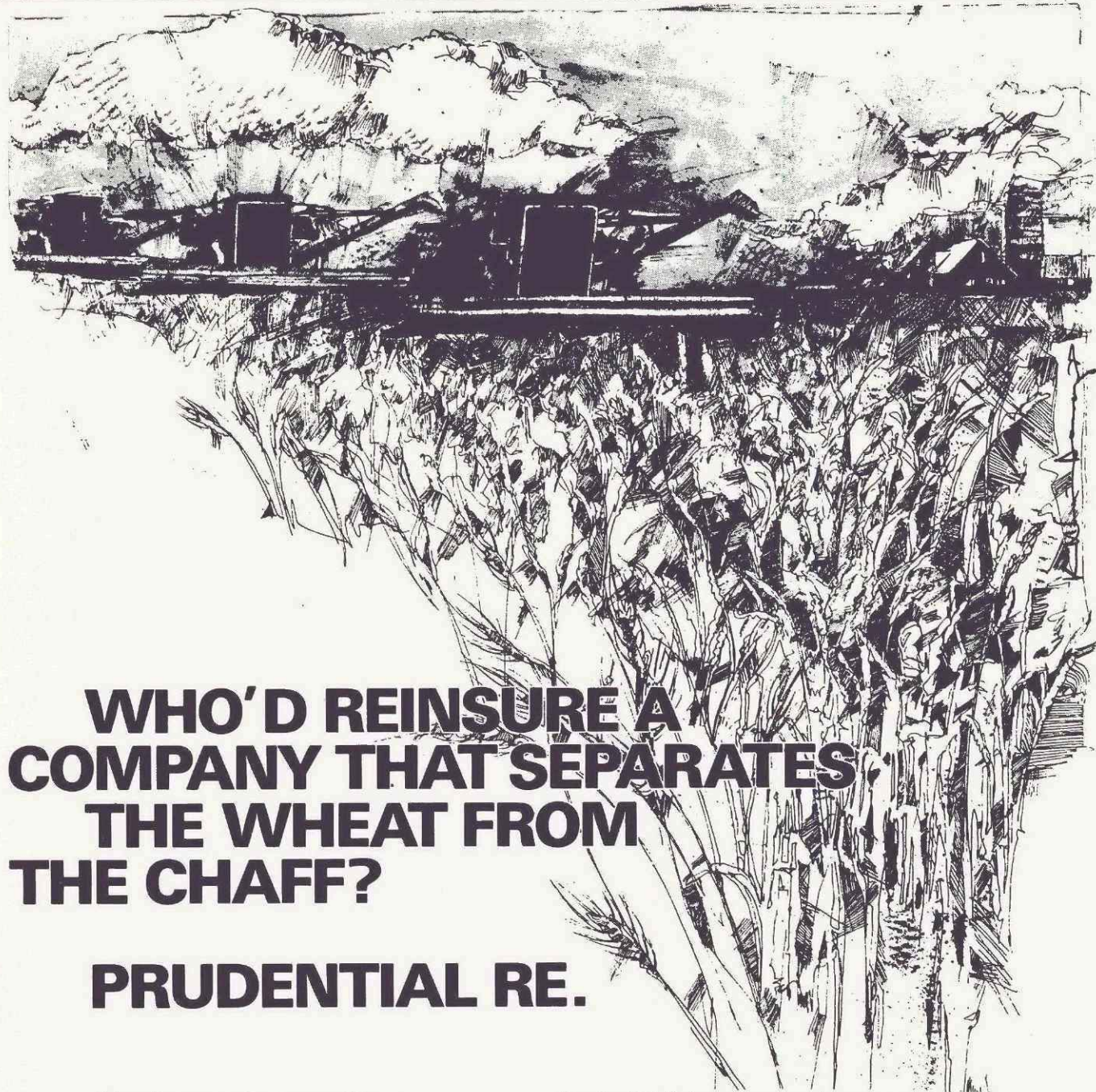
Charyl Peske also moved up quickly to become the city of Milwaukee's first risk manager at age 29.

Although Ms. Peske pointed out that she had not trained specifically for risk management, she said it was more important to be a good manager than have years of insurance experience.

"I'm first a manager and then a specialist of risk," she said. "A risk manager has to have a well-rounded background because it is a wholistic discipline. It's a centralized position. You have to research, analyze and get feedback."

Ms. Peske was an archaeology and comparative arts major in college but she gained insurance knowledge through a variety of insurance-related positions.

Ms. Peske's first job was policy clerk typist for Industrial Risk Insurers in Chicago during 1965. Although her pay was "very low—only \$110 a week," her salary, like many other young risk managers, increased dramatically. She now earns between \$22,800 to \$27,000. ■



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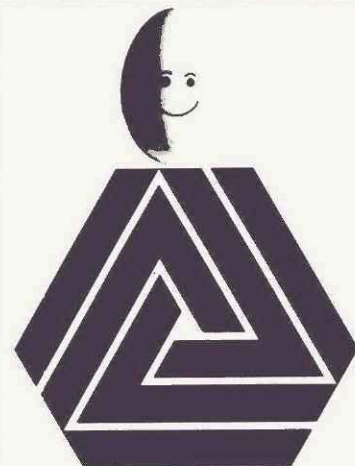
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- Does your policy by definition exclude employee benefits liability losses?
- Does your policy include outside persons as insured fiduciaries?
- Does your policy contain a limited retroactive acts exclusion?
- Has your policy been purchased without the advice of competent legal counsel who has rendered an opinion in writing as to which contract he felt offered the broadest coverage?

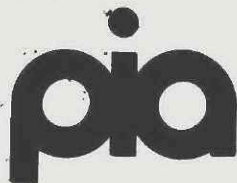
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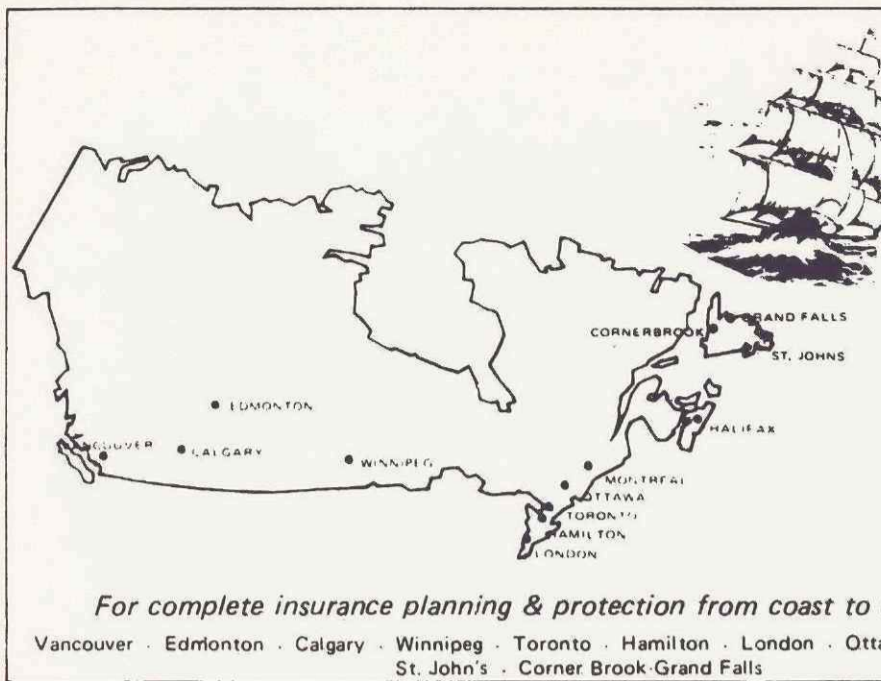
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If you own your own business, recent changes in the tax law open great new financial opportunities for you. **New Financial Planning Opportunities for Owners of Closely Held Corporations** will show them to you. It is your one-stop guide to every aspect of the Tax Reform Act of 1976 that affects your closely held business, your lifetime financial planning and your family income. If you are a financial or insurance consultant, these are opportunities your clients will want to use.

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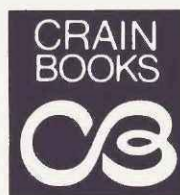
**New Financial Planning Opportunities for Owners of Closely Held Corporations**, by Bertil Westlin, gives you all this information and much more. It is the first full analysis of the tax code for closely held interests since passage of the Tax Reform Act, and will be an indispensable guide to increased savings on your tax dollars.

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## riskWatch

By SUSAN ALT

### Risk Manager of the Year: A way to honor excellence, creativity

Risk Manager of the Year. An honor to be proud of. To compete for.

*Business Insurance* believes there are countless worthy individuals among our readers and is instituting this annual Risk Manager of the Year award as witness to our commitment to risk management and everything it stands for. The award will also stand as testimony to the creativity and excellence of those people who practice the art.

Excellence in the practice of any profession is difficult to quantify and to qualify. Nonetheless, because *Business Insurance* strongly believes that those who strive to excel should provide an example and an inspiration for their counterparts in other organizations, the publisher and editor have decided to establish this award. Our first winner will be named in the spring of 1978.

Judges will include eight or 10 respected individuals from within the risk management and insurance fields. Their names will be announced at a later date.

Readers are encouraged to nominate risk managers with whom they have worked or with whom they are familiar enough to be aware of exceptional creativity, dedication and skills. Risk managers may nominate themselves if they see fit, although personal modesty may result in most nominations coming from superiors, friends and business associates of deserving managers. In any case, we'll not publicly disclose the source of any nomination at any time.

Brokers, underwriters and consultants are welcome to submit nominations.

Nominations are open and will be accepted through Dec. 31 of this year. At that time, all nominations will be turned over to our distinguished panel of judges.

The person you nominate can be young or old; there's no minimum number of years that the winner must have practiced risk management.

Given the diversity of tasks and responsibilities or risk managers, criteria for this judging haven't been easy to determine. Measuring the skills, creativity and effectiveness of a risk manager is elusive even for those who specialize in scrutinizing corporate risk management programs.

Criteria for assessing extraordinary performance in the line of duty and exceptional application of skills by a risk manager include 10 broad guidelines:

- The risk manager should have technical expertise in the fields of risk management and insurance, indicating a solid grasp of operational aspects of the job.
- Our winner will have tackled and solved one or more major problems for his or her organization.
- This outstanding achiever will have been innovative in the application of the diverse tools of risk management and insurance.
- This manager will have effectively shielded his or her employer from unpleasant surprises.
- An exceptional risk manager will have used the insurance markets creatively and effectively.
- The "total" risk manager who deserves to be recognized as a leader and a pacesetter worthy of emulation will have established and implemented a truly effective risk management program within the organization.
- He or she will have a working knowledge of the principles of management and the skill to have applied these principles effectively within the organization and/or within the risk management department.
- The person our judges select will have accomplished for the organization the best and most effective program at the optimum cost over the long term.
- Our risk manager will have established a workable intelligence system within and without the organization, culminating in access to a flow of information about everything that's happening which impacts on risk management.
- This person's activities will have fostered the advancement of the risk management profession.

To nominate a candidate:

• Send a signed letter on your business letterhead to *Business Insurance*, Risk Manager of the Year, 740 N. Rush St., Chicago, Ill. 60611, giving the name and pertinent details about your nominee. Among those facts should be career statistics, a discussion of your candidate's present job and the responsibilities it encompasses.

• Along with this letter, send a nominating statement of not more than ten (10) pages addressing our criteria for choosing the Risk Manager of the Year, explaining why and how your nominee meets or exceeds these standards, with as much documentation as possible.

# It's a different industry a tough decade later

By JOANNE GAMLIN

When it comes to grading industries in terms of the shock waves they have endured in the turbulent last decade, the insurance industry would automatically move to the head of the class.

No one has to be a veteran in the field to tell you "things ain't what they used to be."

"I think we've had a tremendous change in the character of the industry over the last 10 years," observed Sam Alcorn, national vp with Bayly, Martin & Fay Inc. in Los Angeles.

Taking the reinsurance sector first, Mr. Alcorn noted that 10 years ago reinsurance was a limited market and a very stabilizing influence on the primary insurance industry. During the intervening years, he said, reinsurance has been transformed into a toughly competitive, broadly based industry. At the same time reinsurance lacks its old power of deciding which primary carrier will survive because markets are available somewhere for reinsurance.

Richard DeRosa, head of Mission Insurance Group Inc. in Los Angeles, said that another change in

out by Dr. Snider.

Moreover, Dr. Snider doesn't foresee the pace of change will ease. Government intervention will continue, he believes. Indeed, if the proposition is accepted that American society is undergoing broad social and economic change, he said he discerns no reason why that rate of change should slow or do anything but accelerate.

Yet while Dr. Snider is not sanguine about the ability of the private insurance industry to respond to the surprises of the future, he did express optimism about one aspect of the industry: captives. They are set up to deal with risks as they exist, he said, so "captives may lead the way to adaptation to life as it is."

Over the last 10 years, of course, it has been largely the primary property/casualty carriers that have shouldered the brunt of the revolution described by Dr. Snider. Emboldened by the steadily rising stock market of the 1950s and 1960s and the idea that they could live on investment profits alone, carriers became exceedingly adventuresome.

They began cutting rates in the late 1960s and early 1970s, often

## 10<sup>th</sup> anniversary

a recovery phase last year. Nonetheless, 1976 will still be regarded as the third worst the business has ever experienced. Surveying the current scene, Best's estimates that during the fourth quarter of last year the industry recorded an underwriting loss of \$50 million or only about one-sixth of the loss of the preceding three months. Experience continued to be bad in such major segments of the property/casualty field as general liability and workers' compensation.

As the figures suggest, among the significant changes visited upon the industry in the last 10 years has been the switch from modest to deep business cycles, meaning a shift from short but shallow downturns to longer and more devastating adversity.

If there is one change of the last decade that has caused more consternation among insurance officials than the up-and-down economy it is what Mr. DeRosa called "social inflation."

Under the umbrella of social inflation he includes the swollen plaintiffs' bar and the general propensity to litigate everything disputed. On the property side he included the huge increase in arson cases.

Referring to the same phenomenon, Douglas H. McComber, executive vp of Industrial Indemnity in San Francisco, mentioned "the doctrine of entitlement" which makes people feel they're entitled to more than they've ever had in the past.

"The judicial system has taken it upon itself to some degree to lead in the transfer of money from those who have it to those who haven't," he elaborated.

He said the only way the insurance industry can deal with the situation is with rate hikes.



Rate hikes are the only way the insurance industry can deal with the impact of the doctrine of entitlement.

—Douglas McComber

the reinsurance field is the development of the facultative reinsurance market.

"It has grown very materially in the last 10 years," he said. "A lot of this business in the past would have gravitated to the Lloyd's market."

Mr. DeRosa pointed to the large number of domestic companies that have formed reinsurance departments and the entry of the large mutual life companies in the reinsurance market.

Other experts singled out changes in the brokerage business. Not only have brokers succumbed to the urge to merge in a big way, but they have launched a wealth of new services in self-insured programs and employe benefits.

But the most dramatic increase in the brokerage business in the last decade has been the excess and surplus field.

"When *Business Insurance* came out, we probably had perhaps 10 excess/surplus line brokers actively pursuing business in the state," said one California insurance veteran. "Today, virtually everyone I knew 10 years ago who worked for an excess/surplus line carrier has shifted into that line of business."

However, it has been the property/casualty primary insurance carriers who have felt the sharpest impact from the decade of future shock. H. Wayne Snider, professor of insurance and risk at Temple University in Philadelphia, said the social, political and economic changes of the last 10 years constitute a revolution that has altered the insurance industry "in a revolutionary fashion."

Increasing intervention by the federal government in the private insurance industry, the growing importance of captives and the increasing willingness of industry to retain significant portions of risk through captives or through other alternatives to conventional insurance are the shock waves singled

in the belief, said Frank E. Raab, president of Allianz Insurance Co. in Los Angeles, that "they could operate at over a 100% combined ratio and make more profit on investments than they lost on the deal.

"But the problem," he continued, "is that you cannot draw a line and say, 'I shall write at 101%.' It quickly gets up 110% without your batting an eyelash. Underwriting is not a science, it is an art."

When the Wall Street bull market fizzled in the late 1960s primary insurers found themselves facing the results of careless underwriting.

Never before in the history of the insurance industry had an anemic stock market coincided with poor underwriting results, said Mr. Raab.

The early 1970s, he said, was an era of rate cutting, when the motto of most primary carriers was "production, production, production and to hell with underwriting."

Yet as the hard facts concerning their financial situation sank in, Mr. Raab said property/casualty insurance carriers reacted by slashing expenses and removing authority from their branch offices.

"I even heard of some companies saying 'no more raises for X number of years,'" he said. "So what happened to the good men? They were lost along with much of the youth that would have opted for a career in insurance."

Underwriting losses by 1975 had ballooned in the property/casualty field to \$4.2 billion. Primary carriers which had been operating on a surplus to premium ratio of 2 to 1 in the mid 1960s were found to be working on a 4 to 1 ratio in the mid 1970s, according to Mr. DeRosa of Mission Insurance Group.

The property/casualty sector of the industry began to move into

"Then we run into the problem of can everyone afford to buy the insurance to protect themselves," said Mr. McComber. The situation "is a social problem which will take a lot of work by the government and others" he argued and reform of the tort system is the first place to look.

Sam Alcorn of Bayly, Martin & Fay noted another change which might be called consumerism. He said that over the last decade, state insurance departments have moved from focusing

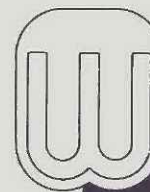
on the financial side of insurance companies to looking first at the pocketbook health of the consumer.

"If your number one concern is that the carriers remain solvent, you grant rate increases. If you are concerned about the consumer, however, you are inclined to say, 'heck, tighten the screws and be tough on the companies.'"

Another type of change, said  
Continued on page 24

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# Insuring Co

Confronted with increasingly complicated risks and exposures, together with a rise in insurance costs, business organizations today are seeking new approaches to insuring their assets.

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

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By any standard, today's business organizations are more complex and have more difficult-to-meet insurance needs than at any time in the past.

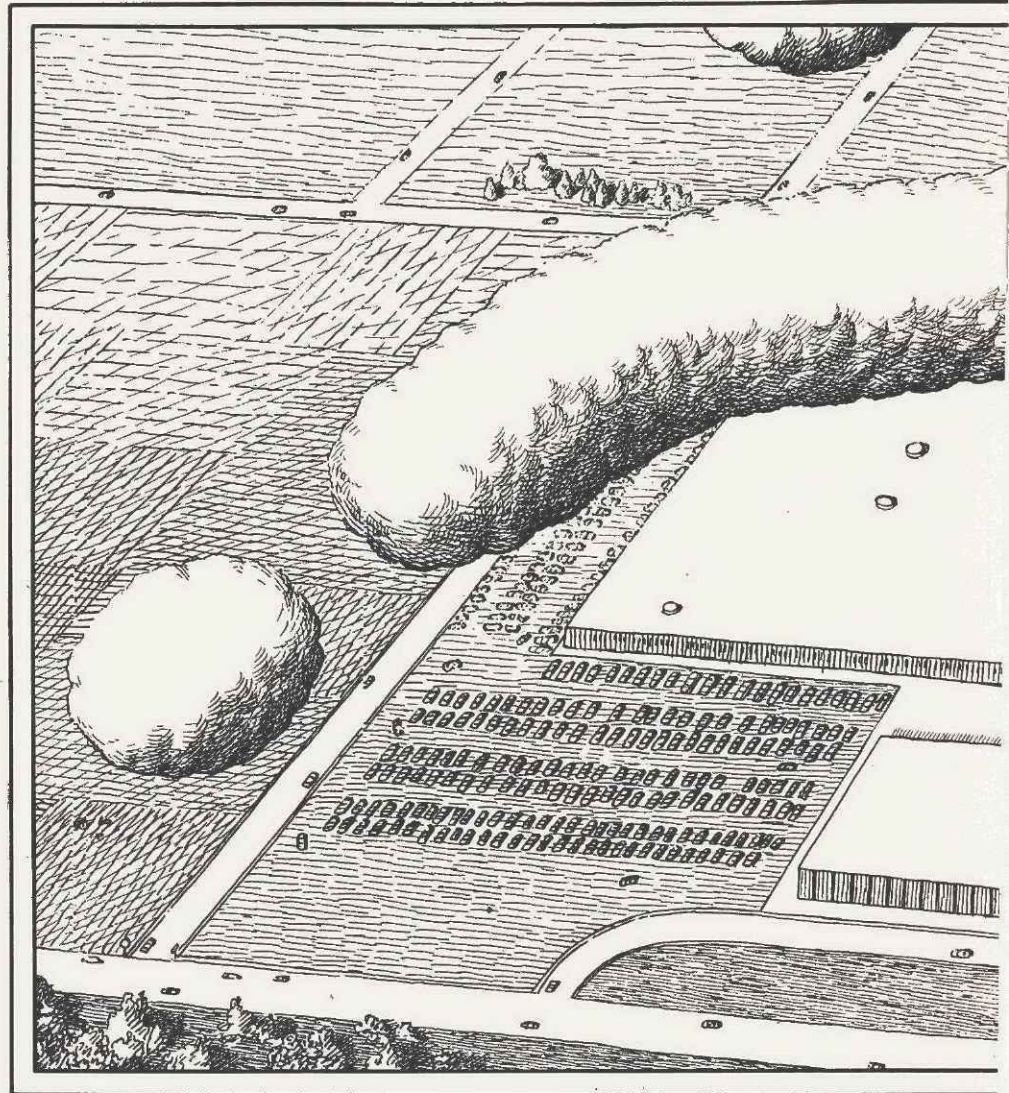
Typically, a modern company offers a variety of products and services, with a number of offices, factories and warehouses at widely separated locations. Its markets are international and its distribution patterns complex. Its exposures to risk of loss are correspondingly widespread.

For some firms, the dollar magnitude of potential losses can have a significant impact on corporate profitability, and the mounting cost and complexity of insurance coverage has reached the point where it can add substantially to the cost of doing business.

Under these circumstances, corporate risk managers and financial executives are seeking new alternatives in structuring programs to protect their companies' assets.

## The importance of risk retention

In today's markets, insurance coverage often hinges upon the retention by the insured of some

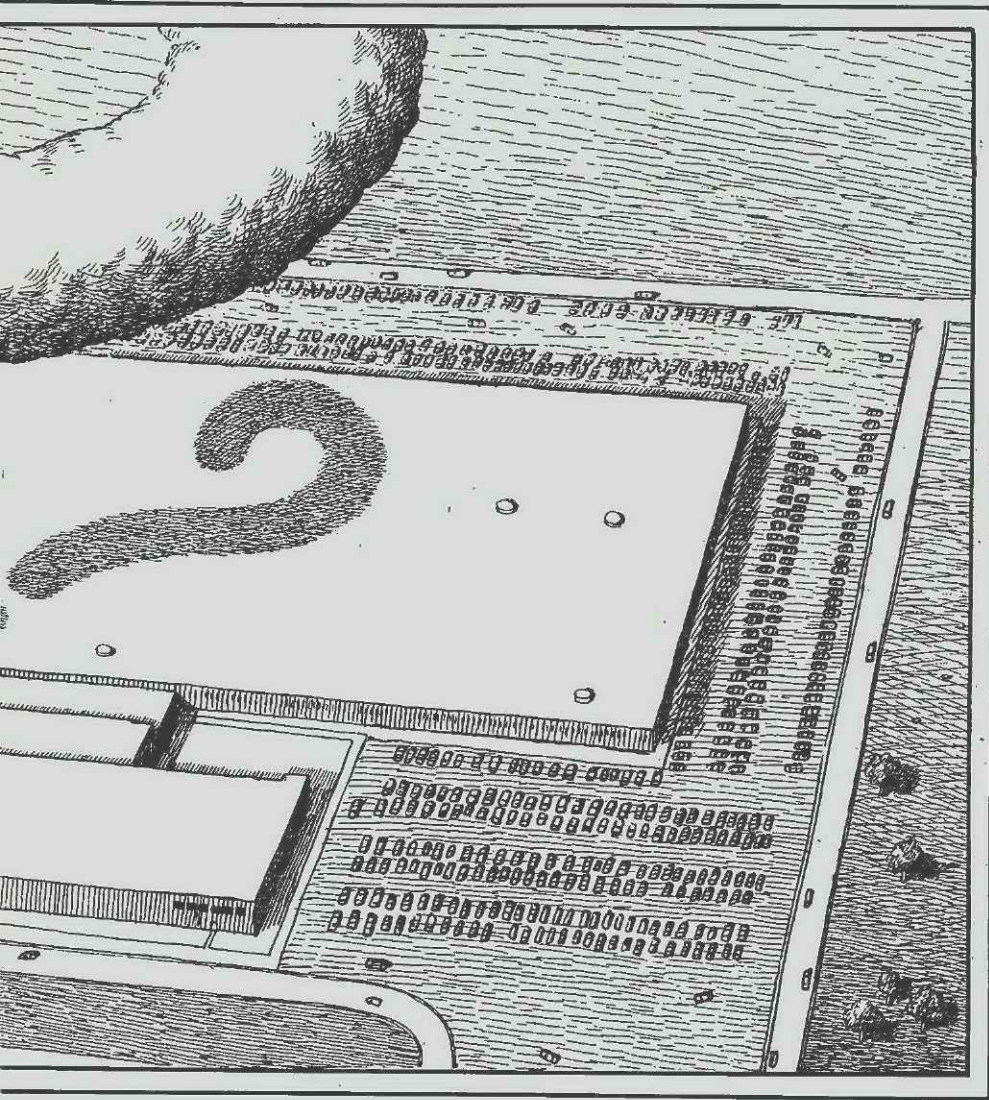


part of the risks involved—whether through high deductibles or outright self-insurance. Many companies find that the higher cost of insurance in itself justifies increased risk retention. Determining what part of what risks might be self-insured is one of the most important single moves a company can make toward efficient overall protection.

Those risks with high loss frequency but low severity are good candidates for partial or complete retention. The company's capacity to finance risk retention must be considered in every case, with large exposures above certain limits often placed with an insurance carrier.

Any program of risk retention should also make provision for the services usually furnished with insurance coverage. They include loss control, claims handling, record keeping, rehabilitation, salvage and subrogation (the right of the company to succeed to a claimant's rights after satisfying the

# Complex Risks



claims). Such services, which may be financed through funds saved on premium payments, can be furnished internally or provided by an outside supplier.

If a corporation is able to handle sizable risks, it might also consider the formation of a company-owned "captive" insurance or reinsurance company, with services provided in part from the outside.

## A comprehensive approach

The range of corporate insurance needs frequently includes both standard risks, for which insurance usually can be readily obtained, and high risks, which can be more difficult to place. Generally speaking, a company with a wide range of risks might find it advantageous to treat all of its exposures together. Working through an insurance broker or agent, the company can then approach insurance carriers with a comprehensive picture of

its overall needs and invite them to propose solutions that best fit the firm's requirements.

This could result in all coverages being placed with the insurer that offers the best proposal.

Alternatively, the difficult-to-place risks may have to be handled by "layering"—placing coverages in layers with different carriers. In unusual high-risk situations, all or part of the coverages may have to be placed with surplus lines or excess lines carriers.

Many firms face complex alternatives in meeting their insurance needs. Comprehensive analysis of all available options by risk managers and financial executives, working closely with agents and brokers and the insurance companies they represent, can generate the most cost-effective solutions.

As an objective discussion of the insurance needs of business today, INA has prepared a booklet entitled, "Insuring Complex Risks: Some Professional Considerations." Copies may be requested by writing INA Corporation, 1600 Arch Street, Philadelphia, Pa. 19101.

\* \* \*

The Insurance Company of North America was founded in Independence Hall, Philadelphia, in 1792. Today INA and its affiliated companies operate around the world with major interests in property and casualty insurance, marine and aviation insurance, life and group insurance, reinsurance and risk management services.

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## The industry . . .

*Continued from page 21*

Robert L. Degner, executive vp of Fred. S. James & Co. of California, is that computers have become an around-the-clock tool for brokers and insurance companies.

"We almost live and die by those little green sheets that come out with the results on them," he pointed out. As a result of the relatively new, heavy reliance on computers, the insurance industry, including the big brokerage firms, has evolved into a sort of "instantaneous business," Mr. Degner said. "We have also turned into a kind of commercial marital bed . . . major carriers will become very active in a field . . . try it for a length of time . . . and they will react quickly and then withdraw from that class of business if it doesn't suit them."

Mr. Degner went on to mention the new generation of insurance people. He said that affirmative action programs have had a marked impact on the industry, leading to the hiring of many more young women and minorities.

"It is a total new breed," he said, "and one of the healthiest things that I see for the future."

Mr. Raab pointed out that a change in insurance company operations, a move eagerly adopted by Allianz, is a shift toward specializing in underwriting only in certain geographic locations. He explained that Allianz, which will probably start doing business outside of California next year, will carefully pick and choose the areas where it underwrites. Moreover, it will probably emphasize workers' compensation in one area and property in another.

He doesn't believe Allianz is alone in such specialization.

As for the future, many problems that are prominent now will persist, observers say, such as the capacity problem. Mr. Raab noted that a leading financial magazine said that \$5 billion will be needed by 1985 to support an increase in premiums to \$140 billion in the U.S.A. alone.

Other executives stress the 'social inflation' dilemma. Mr. DeRosa, for example, said that one result of social inflation is the difficulty experienced by management in evaluating the impact of the problem on their balance sheets, particularly in regard to the appropriate loss reserves.

The net result of all this is a tendency toward rate lag, he said. "In today's or tomorrow's environment, we cannot afford any kind of rate lag."

Dr. Snider observed that for whatever reason, the commercial insurance industry has not been able to respond adequately to the shocks of the past.

"Government stepped in and will continue to step in to an ever greater degree," he predicted, citing the FAIR plans.

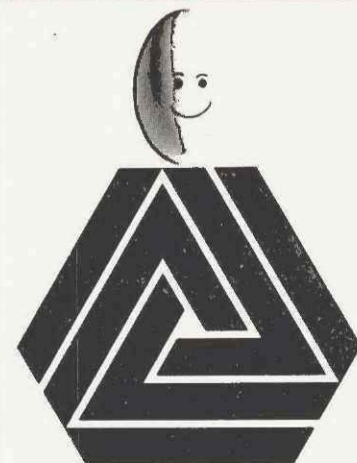
"If our history has shown us anything, it is that the private insurance industry has not responded rapidly enough to the demands for change," he said. "A new commercial insurance industry may arise out of the captive movement since they are set up to deal with the risks that do exist. There are no alternatives." ■

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# BI made its mark(et), observers say

By GREG DAVID

A little over 10 years ago Felix Kloman, then a vp at one of the nation's largest brokerage firms, had a visitor with an idea for a new business magazine. What did Mr. Kloman think about a new publication written for the buyers of commercial insurance?

The visitor was Rance Crain, the first editor of *Business Insurance* and now president and editorial director of Crain Communications, publisher of *BI*, *Advertising Age* and other business magazines.

"I thought it was a fantastic idea," recalls Mr. Kloman, now a risk management consultant and president of Risk Planning Group in Darien, Conn.

About the same time, G. D. Crain, the founder of Crain Communications, discussed the concept with Waller Smith, the head of insurance at United Airlines.

"I doubted whether there was an adequate market," Mr. Smith remembers. "I wondered whether there were enough Waller Smiths around the country.

"Mr. Crain asked about the brokers and companies. I said they were only interested in reading about who went where," continued Mr. Smith, now retired from United and a consultant with Rollins Burdick Hunter in Chicago. "Fortunately, I was wrong."

There is a more open attitude about insurance today, says consultant Kloman, "largely due to the information and misinformation in *Business Insurance*. In the early days, in dealing with the closed-mouth attitude in the insurance industry, *Business Insurance* often had to go with part of the information and hope someone would correct it."

Risk management as a profession has much greater recognition within companies today, observes Waller Smith. "I think *Business Insurance* has played a hell of a role in this," he continued, by making insurance interesting to people who are not insurance technicians.

"Many people say you misquote them or what they say is taken out of context," he explained. "I don't think you do that deliberately. But you have applied the techniques of journalism to insurance. As a result a lot of non-technicians are reading *Business Insurance* and other publications are more aware that insurance can be an interesting, dynamic subject."

Ron Judd, executive director of the Risk & Insurance Management Society said, "*Business Insurance* has done a hell of a lot for us. Until *BI* came along our recognition by the trade press was pretty miserable."

At times it was difficult to get two inches on RIMS in the trade press, Mr. Judd remembers. Now other publications are doing whole sections on risk management.

"Everyone is competing for the market you've made," he concluded.

But Robert C. Goshay, a professor on leave from the University of California and now head of the Marsh & McLennan product liability council, believes *Business Insurance* has given short shrift to one important risk management development. Within corporations, says Dr. Goshay, the startling development has been the emergence of "defensive risk management" or loss prevention. *Business Insurance* has not adequately covered the me-

chanics of loss control in the last 10 years.

"There's not much sex appeal in discussing the various ways of loss control," he explained. "So after you write about large losses, you write about Leslie Dew moving to Bermuda."

William W. Dintleman recalled the impact of an article he wrote

# 10<sup>th</sup> anniversary

in the early years of *Business Insurance*. Mr. Dintleman was insurance manager at the Falstaff Brewing Co.; now he's a broker with Associated Underwriters in St. Louis.

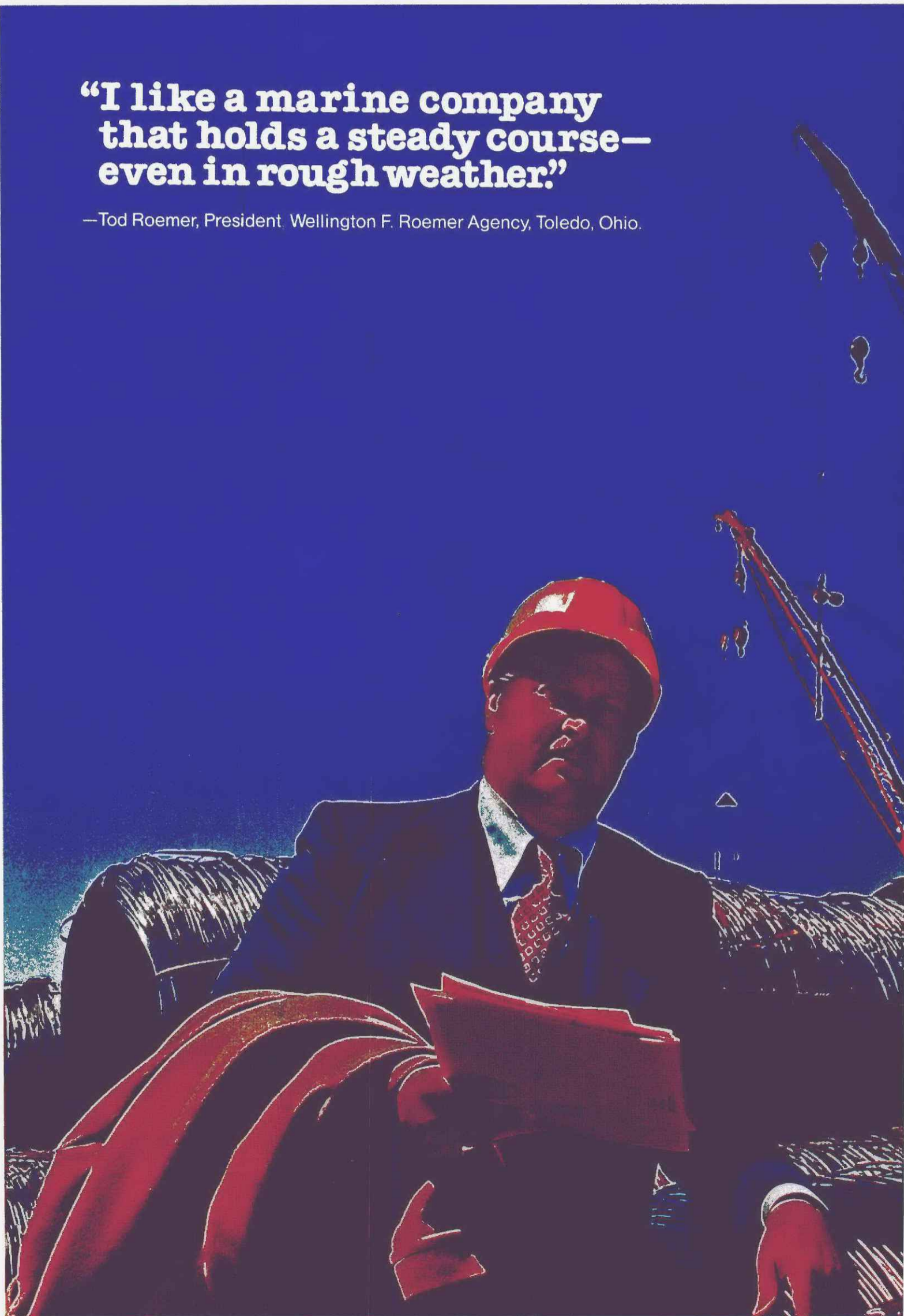
Mr. Dintleman wrote that he didn't care whether his insurance company made money on his account, although he hoped the

insurance industry in general showed a profit. He challenged the widely held belief that an insurer would give more consideration in hard times to an account on which it had been able to make money.

"Insurance companies and many risk managers didn't like the article," he said. "But I think the past three years, when companies without any losses couldn't buy insurance, have proved me right." ■

## "I like a marine company that holds a steady course—even in rough weather."

—Tod Roemer, President, Wellington F. Roemer Agency, Toledo, Ohio.



# Fringe to fortune . . .

Continued from page 11

companies and competition among companies to attract quality personnel have done much to bring about these changes.

However, the change also reflects corporate awareness of employee needs and the need to create a good working environment, said Jay Albert, director of pension and bene-

fit planning for the W.R. Grace Co.'s industrial chemicals group.

"With costs skyrocketing, the individual employee is unable to meet the burden of a two to three-week hospital stay or retirement funding," he explained.

A poor benefits program is a source of discontent among employees, said John Bauer, vp of

professional development at Daniel International, a Greenville, S.C.-based construction firm.

As a result, employee benefits has become a major concern for corporate and government administrators. "More attention is paid to every element of benefit programs than ever before," said Mr. Messinger.

Michael B. Jones, a partner with Hewitt Associates, said the past 10 years have been increasing acceptance of long-range employee bene-

fit planning.

Companies are taking a hard look at their programs, he said, with decisions being made on such questions as whether employee benefits are a "necessary evil" or a reflection of a social responsibility.

Long-range planning is gaining importance because in early years benefits developed in a "reactive fashion," Mr. Jones explained. "There was a 'follow the leader' environment and benefits grew up which didn't suit organizational

# 10<sup>th</sup> anniversary

goals."

Not only has planning become more sophisticated, but the people working in the benefits field have become more knowledgeable.

New state and federal regulations plus the large sums of money being spent made it important that benefit managers know what they are doing, said Charles G. Dixon, assistant vp at Mercer. Management of benefit programs can not be left to an old personnel manager with little background in the field, he added.

Mercer's Mr. Bader noted that once a company begins to take benefits seriously, it realizes benefits must be viewed as part of the total employee compensation package.

Professional involvement has grown outside the corporate offices, as well, he said. The number of actuaries has tripled in the last 10 years and accountants, lawyers and stock analysts have taken increasing interest in the employee benefits field.

### So has Uncle Sam.

ERISA has had greater impact on employee benefits than any other development during the past 10 years, said Dave Hewitt of Hay Huggins. The changes in benefit provisions, management and financing brought about by ERISA have "overwhelmed" the field, he added.

About 95% of all benefit program changes have occurred over the past three years and almost all of them have been brought about by ERISA, said Los Angeles actuary Dan McGinn.

ERISA has made it easier for employees to collect on pensions, but it has also raised pension costs through strict vesting and eligibility requirements, improved benefits for early retirement and other reforms. It has also burdened pension administrators with what Mr. Hewitt called "administrative overkill."

"ERISA probably slowed the development of benefit ideas," said Blackburn H. Hazelhurst, principal actuary with San Francisco-based Hazelhurst & Associates, "Its impact has not yet been fully felt in plan design."

Some companies have had to change the objectives of pension and profit-sharing plans as a result of ERISA. At J.C. Penney, the pen-

Continued on following page

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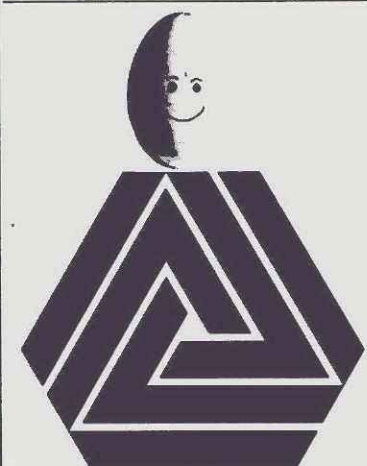
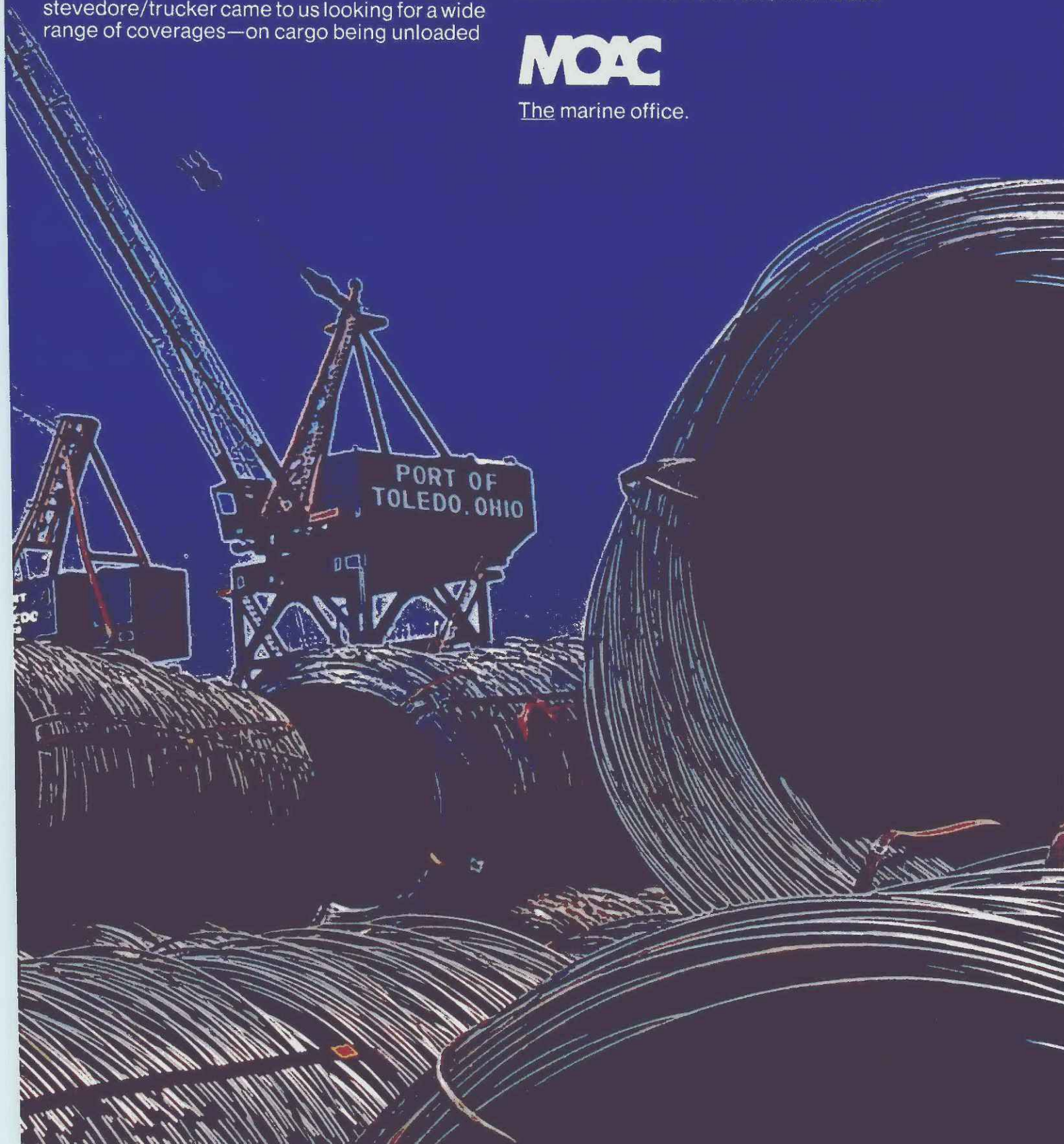
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## Fringe to fortune . . .

Continued from preceding page  
 sion plan was previously geared to retirement needs while the profit-sharing plan was geared to more immediate uses, said Mr. Messinger. Now both plans have similar objectives and vesting time for the pension plan has been reduced, he said.

In addition, Penney's pension costs escalated significantly as a result of ERISA's 1,000-hour rule which made many part-time employees eligible for plan participation.

Daniel International had to redefi- ne its profit-sharing plan, making eligibility available to all salaried personnel so the plan would not be discriminatory, Mr. Bauer said. As a result, the plan was diluted.

One of ERISA's biggest impacts may have been its making top corporate officials aware of the impor-

tance of their benefit programs, noted Mr. McGinn. "Before ERISA, once a plan was set up the company usually let it drift," he said.

ERISA has placed fiduciary responsibility more directly on plan sponsors and managers, noted Mr. Hewitt. They must be more cautious with investments, he added.

While ERISA created the Pension Benefit Guaranty Corp., a government agency which pays pension benefits in the event that a plan fails, PBGC can attach up to 30% of a company's net worth to reimburse itself for paying those benefits.

This additional liability has made pension plans a more carefully considered factor for companies making acquisitions, Mr. Albert noted. An acquisition being considered for \$10 million to \$20 million could

have several million dollars in unfunded liabilities, he explained.

"ERISA has made actuaries more concerned about the appropriateness of the actuarial assumption," said Peter Biggins, Xerox's manager of corporate benefits and personnel policy.

Public pension plan financing practices have also been improved with state legislatures adopting measures to insure that benefit improvements are not passed without corresponding increases in funding. Such a law was passed recently in Kentucky, said Ted Crosthwait, investment adviser with the Kentucky Teachers Retirement System.

Since ERISA, actuarial assumption have tended to be more conservative, noted Mr. Jones. He explained, however, that on the surface, assumptions seem more liberal since companies are putting up less money.

Higher assumptions for interest earnings on the funds have eased the up-front requirements of plan spon-

'Ten years ago insurance companies were more trusted than they are now.'

—Michael Jones,  
 Hewitt Associates

sors, he noted. Where 10 years ago a plan manager could expect to see a return on investment, of between 4% and 4½%, the rate of expected return is now between 6% and 7%, he said.

Investment practices have changed, as well. When the stock market was booming during the late 1960s, common stock was popular with investment managers. However, in more recent times interest has been shifted toward bonds and

other less volatile securities, Mr. Albert noted.

Plan sponsors are no longer looking for exceptionally high rates of return, said Mr. Hazelhurst. Money managers watch actual fund earnings and performances as they relate to broad indexes like the Standard & Poor's 500 stocks and similar indexes in the bond market, he explained.

Even though companies no longer look upon benefit funds as profit-making centers, the fact that investing does yield a return has made it more attractive for companies to self-insure group insurance plans.

Several actuaries and benefit managers noted shifts away from using insurance premiums for funding of these benefits to establishment of trust funds and other self-insurance mechanisms.

"Ten years ago, insurance companies were more trusted than they are now," Mr. Jones explained. Insurance company underwriting practices are looked upon more carefully by companies and the growing trend has been to self-insure while using insurance companies for ASO (administrative services only) contracts, he explained.

The group insurance field has seen development of several new types of benefits including dental coverage, vision care, prescription drug and prepaid legal services. In some instances, state regulations have required companies to increase group benefits, most notably calling for maternity disability in 24 states, Mr. Dixon noted.

Health care packages have become more comprehensive, said Mr. Hewitt, noting the growth in major medical programs and the higher coverage limits provided. "They're more than keeping up with costs," he added.

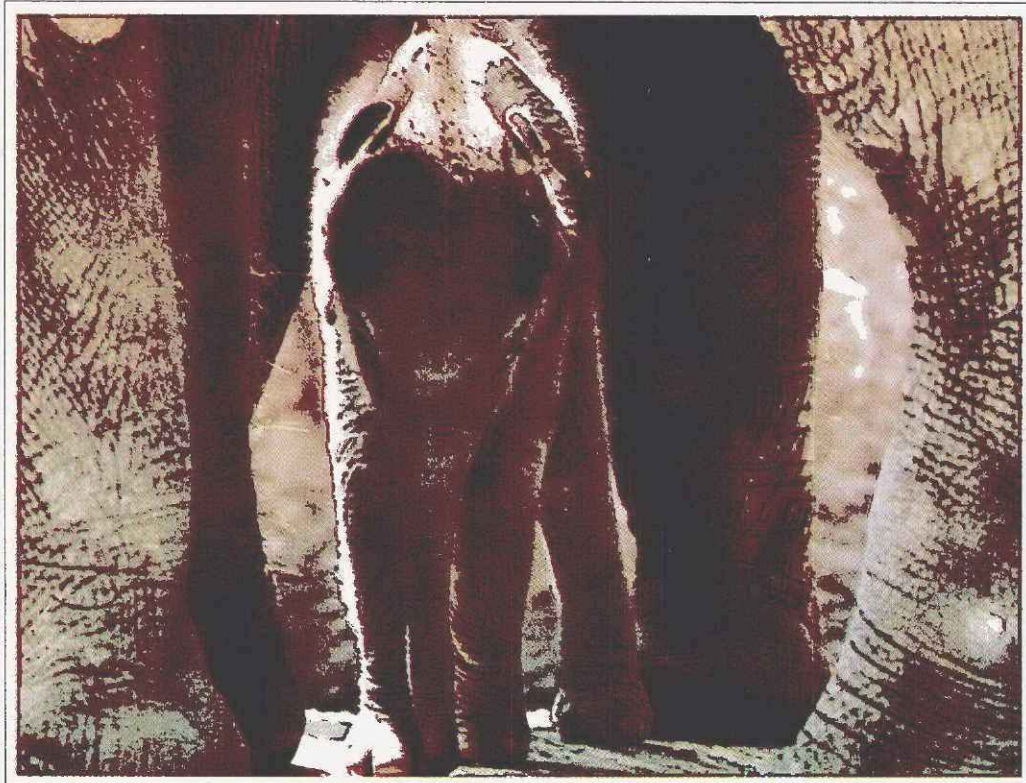
Hospital and surgical plans with no internal limits are becoming predominant, said W. R. Grace's Mr. Albert. A typical large company would offer a plan providing a high percentage of "reasonable and customary" coverage, while allowing the patient to stay in a semi-private room, he explained.

However, in California group insurance is shifting away from "reasonable and customary" coverage to fixed benefit schedules, Mr. McGinn said. Group benefits are being reduced, in part, because the rising costs of malpractice insurance has resulted in increased medical charges, he explained.

"Group insurance premiums are going out of sight. In one Los Angeles group, family coverage costs \$180 per month," Mr. McGinn said.

Health maintenance organizations (HMOs), an alternative which could provide lower health care costs, have gained some acceptance among benefit managers. While benefit managers and consultants interviewed had high hopes for HMOs, they said it is still too early to tell whether they will achieve their desired savings.

Mr. Hewitt of Hay-Huggins noted, however, that during the past three years, HMO premiums have risen only half as fast as conventional health care plans. A study of HMO memberships found that after several years members had fewer health care needs and lower absenteeism due to illness than a comparable group of conventionally insured workers, he added. ■



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# Decade of growth . . .

Continued from page 11

But the decade has also ended with several major disappointments, they added, and the debate continues over whether risk management is a dead-end job.

There were hardly any "risk managers" 15 years ago, said William W. Dintleman, formerly insurance manager for Falstaff Brewing Corp. and now a broker with Associated Underwriters in St. Louis.

Falstaff hired Mr. Dintleman in 1963 as an insurance assistant with the understanding that he would be promoted to insurance manager when he received his CPCU.

Eighteen months after he was hired, the Wall Street Journal published a story on the growing trend among companies to hire insurance specialists. Mr. Dintleman recalls that his boss was pleased to be ahead of the rest of the world.

"Insurance used to be part of someone else's job," Mr. Dintleman said. "Now it's a profession."

The risk manager today is recognized by others in the corporation, observes Robert Rich, director of insurance for Gold Kist Inc. in Atlanta. Risk management is now a concern of top corporate officers, agrees H. Felix Kloman, a consultant who is president of Risk Planning Group in Darien, Conn.

Ten years ago senior management compared the insurance job in their companies to their own purchase of life or auto insurance, said Waller Smith. The skill of the risk manager didn't have much affect on the type of program or losses then.

But the combination of lawyers ferreting out new theories of liability in an effort to expand corporate responsibilities and inflation's impact on property values changed that, Mr. Smith continued.

"A number of companies were caught with their pants down," he said, and top executives finally realized that the skill of the risk manager could affect the company's bottom line.

Concern about the expertise of the risk manager was evident as Mr. Smith neared retirement. "The personnel director and the executive vp started talking about CPCUs and associate of risk management degrees," recalls the former United insurance director, words those executives had never heard a few years earlier.

"The risk management profession has evolved greatly," said Mr. Rich of Gold Kist, "but it's still in

its infancy." Nevertheless, there is a greater acceptance of the risk management philosophy as opposed to the old philosophy of merely purchasing insurance, adds consultant Mr. Kloman.

Robert Goshay, professor of business at the University of California and now director of the Marsh & McLennan product liability council, notes that risk management's new sophistication is evident in the management of captives.

"Some of the early captives were not very sophisticated," Dr. Goshay said. "Now insurance and risk capital is really being managed by industrial corporations."

Dr. Goshay sees development of "defensive risk management" as the most striking change in the past 10 years. The impact of the Consumer Product Safety Act and the Occupational Safety & Health Act

led to the "formalization of programs and the recognition of loss prevention/loss control," he said.

Felix Kloman believes increased openness in the insurance industry is one of the most significant changes in the past decade. Not only are people more willing to talk about their own programs, he pointed out, but brokers are much more willing to disclose financial information about themselves.

One result of this new attitude is that risk management techniques used only in New York 10 years ago are now much more widely known, says the consultant. "People in Iowa now know about captives, for example," said Mr. Kloman.

Gold Kist's Mr. Rich cited changes in the marketplace as a major development of the past decade. Ten years ago corporations were confronted with a crunch in the property market, he said, while today corporations face a crunch



The most striking development in the past decade is the 'recognition of loss prevention/loss control.'

—Robert Goshay

in the liability market. Costs, of course, are on a completely different plane, he added.

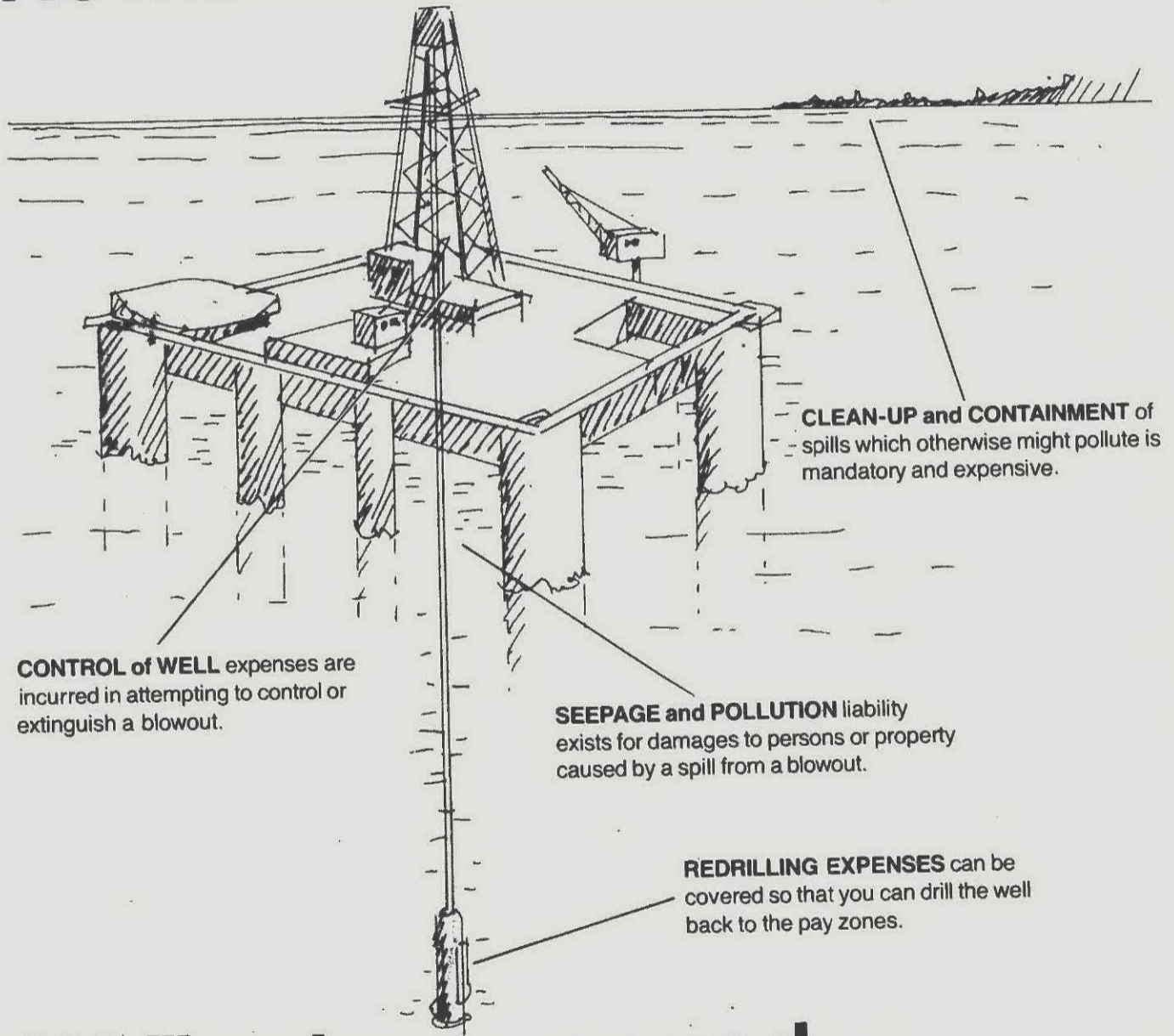
The present seller's market means only a few people are underwriting each line of insurance, observes Dr. Goshay. Insurance is now priced to include double digit inflation at the same time corporations are increasing the pressure on their own staffs to hold down costs to cope with inflation. "Thus risk managers are given goals they think are impossible to obtain," he said.

Brokers also had to become more professional as risk managers developed proficiency and stature, said Mr. Dintleman of Associated Underwriters.

Previously, the broker was the person who bought and delivered the policy, recalls Mr. Smith. "There are still too many people who are that kind of broker," he offered, but acknowledged that by and large brokers have put their own houses in order and are now providing risk managers with ser-

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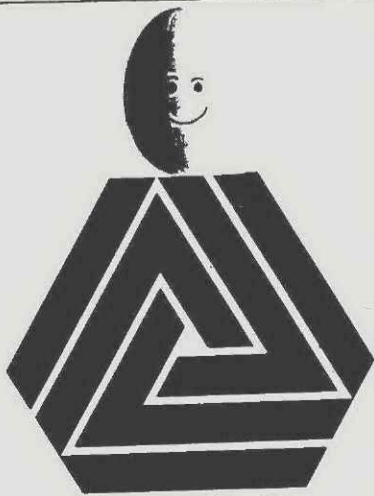
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# Growth . . .

Continued from preceding page  
vices on a continuing basis.

Ten years ago an insurer would order a company to install sprinklers before providing coverage, said Dr. Goshay. Now the broker handles the studies, recommends the changes and sells the risk to the insurance company, he noted.

The broker is not the exclusive contact between the risk manager and the insurance company anymore, says Mr. Rich. Today insurance companies would rather talk directly to the risk manager, which he hailed as one of the decade's major advances.

The Risk & Insurance Management Society's growth parallels the increased importance of its members. Executive director Ron Judd says the society has grown to 2,600 corporate members today from 1,600 corporate members 10 years ago. The budget has zoomed to \$1.2 million from \$100,000. Mr. Judd joined RIMS 10 years ago, just before the first issue of *Business Insurance*.

The "millennium" for RIMS in terms of recognition occurred at this year's New York conference when state insurance commissioners attended for the first time, Mr. Judd wryly notes.

But the decade has had its disappointments. Mr. Rich charges too many risk managers have not continued their education and are still relying on agents and brokers rather than digging out information for themselves.

Waller Smith is frustrated by the failure of people who make products to face up to their responsibilities. Everyone blames lawyers and juries for the current problems, he argues, ignoring that juries are composed of individuals whose cars break down the day after the warranty expires or who can't get a decent meal in a hospital.

Dr. Goshay says a decade ago risk managers believed they would soon be sending their brokers out to purchase insurance and then negotiate a fee for the broker's services. But the commission system has hung on to the dismay of many risk managers, he said, and appears likely to remain, especially in the growing excess market.

Consultant Felix Kloman disagrees. There is more disclosure of commissions than ever before, he said, and most of the large brokers, with the exception of Johnson & Higgins, will negotiate their commission if asked.

"I think there has been real progress in this area," he said.

But the strides of the last decade have not caught up with one of the most personal issues facing risk managers: Can their positions lead to higher corporate offices?

"Most risk management jobs are dead-end jobs, although there are exceptions," said risk manager-turned broker William Dintleman. "After nine years (at Falstaff) I found I was doing the same things over and over."

That the risk manager, with eight or 10 exceptions, hasn't found it possible to move up the corporate ladder is the most discouraging aspect of the past decade, contends Dr. Goshay. "The professionalism of the past decade did not involve a career path," he maintains.

Risk management is still considered a staff-technician assignment, he said. Although a new crop of risk managers holding MBA degrees has developed, those degrees aren't from the training grounds of top management such as Harvard, Chicago or Stanford.

But Mr. Kloman insists that risk management is going to be one of the most exciting careers of

the next decade. The chief executive officer of a large Chicago corporation told him recently that his company wanted a young risk manager who would be willing to stay with the company and eventually become an officer.

The new crop of risk managers are generalists, not specialists, Mr. Kloman said. As a result they are able to integrate the risk management philosophy into the corporate philosophy.

"Too many older risk managers weren't able to integrate their technical insurance expertise into the overall corporate philosophy," he added.

Young risk managers will need MBAs or law degrees to take advantage of the new opportunities, he counseled.

Gold Kist's Mr. Rich believes the risk manager must sell himself and his work to his own operation.

"I believe risk management will become one of the top executive level positions," he concluded. ■

## BI's John Street is unmasked

Eight months after *Business Insurance* began covering the risk management and employe benefits field, John Street reviewed John Kenneth Galbraith's latest work, "The New Industrial State."

Mr. Street discussed Mr. Galbraith's view that the nature of the American economy had changed significantly. Those views had major implications for risk managers, Mr. Street wrote in a July 1, 1968, article.

"Risk management may have to concern itself with all fortuitous loss rather than restricting its horizon to insurable loss. If this approach is undertaken successfully, risk management will become a more important function of management.

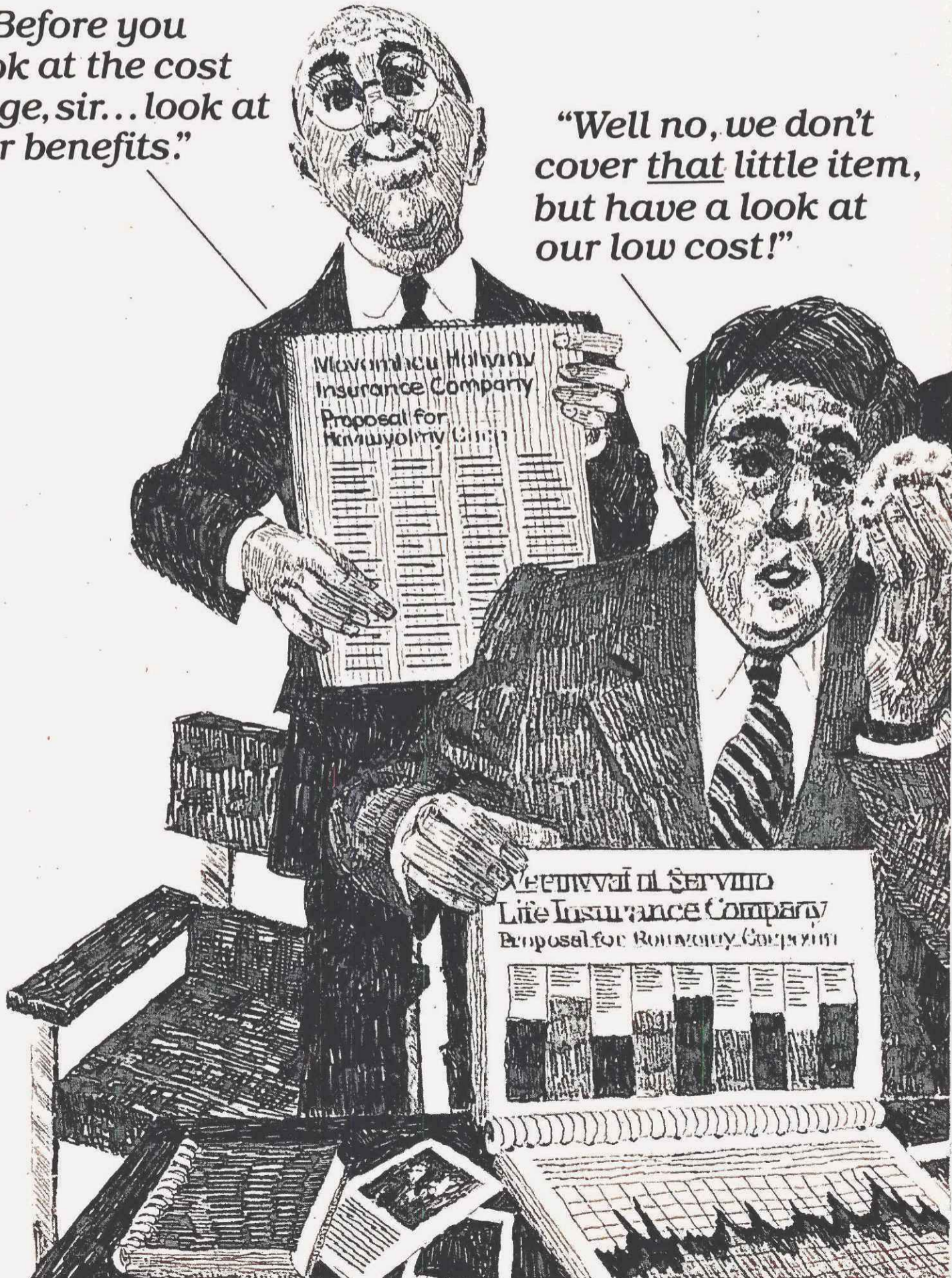
"Insurance and its ancillary functions will still be essential, but planning, loss control and self-assumption of risk will assume far larger proportions."

Actually, John Street is H. Felix Kloman, then vp at one of the nation's largest brokerage firms and now a consultant. Mr. Kloman was told he couldn't write the article under his own name. His firm couldn't be associated with anything controversial.

In the more open atmosphere that prevails today, John Street said in a recent interview, brokerage firm officials are encouraged to write using their own names. Sometimes they even disagree with their own management.

"Before you look at the cost page, sir... look at our benefits."

"Well no, we don't cover that little item, but have a look at our low cost!"



# Melancholy refrains to dominate next decade

By JERRY GEISEL

The beat goes on.

As *Business Insurance* begins its second decade, risk managers and employe benefit specialists will be trying to stay in tune with the familiar and melancholy music of higher costs for difficult to obtain coverage.

Few risk managers or employe benefit managers see dramatic changes on the horizon. That view may be a reflection of the need to adjust and assimilate the momentous changes in the last 10 years.

Changes will occur, but they will be more of an evolutionary rather than revolutionary nature. And the outlines of most of those changes already can be discerned today.

"More government regulation

seems to be the wave of the future," says Bernard Schoen, assistant vp for Johnson & Higgins in New York.

"Government and government regulation will dominate the pages of *Business Insurance*," adds Jerry Lane, director of insurance for McDonalds.

A likely area for government intervention is employe benefits. "The government is going to re-define what is taxable and what is not," says Mr. Schoen of Johnson & Higgins.

When that happens companies will reexamine their benefit programs and strive for new ways of compensating employes so the employes will not incur taxes on those benefits, adds Mr. Schoen.

Many benefit managers believe the expansionary wave of employe benefits will ease in the

## 10<sup>th</sup> anniversary

decade to come as companies struggle to pay for the cost of existing benefits.

"Fringe benefits will diminish as a percentage of total pay—they have got to," says Edith Lichota, assistant treasurer of the Carborundum Co. in Niagara Falls.

Spiraling energy costs in a slow growth economy where capital needed for expansion becomes increasingly difficult to obtain will make it imperative to

keep a lid on benefits, Mrs. Lichota believes.

This isn't to say, of course, that no new fringes will emerge. One possible new benefit could be corporate tuition assistance programs for employes wanting to take another crack at the books, speculates Gerald Kraemer, benefits manager for AMF Corp. in White Plains, N.Y.

'When' not 'if' is the word benefit managers use to describe the introduction of national health insurance. Yet few benefit managers are able to gauge the impact of national health insurance because of uncertainty over the shape that program will take.

"A national health program that provides a minimum level of assistance offers a very different set of implications than a program that covers all types of

illnesses," says one insurance manager.

Rising medical costs will continue to be a mounting headache and few experts in the field are optimistic that effective restraints can be applied.

"I don't know if there is a hell of a lot that can be done," says Mr. Kraemer. More outpatient care to avoid those costly hospital stays and greater use of HMOs offer the best hope for controlling costs, he says.

As part of the trend toward professionalization in the field, colleges and universities will expand their course offerings in employe benefit management, says Mr. Schoen.

In the casualty area, captives will continue to be the vehicle or tool to insure risks at a financial-savings. "I'll be looking to captives to survive in this world as far as the insurance element," says Mr. Lane of McDonalds, reflecting the feelings of other risk and insurance managers.

With more companies electing the captive or self-insurance route, there will be a burgeoning demand for claims professionals to move into risk management, says Herbert Jacobson, claims and insurance manager for the Washington Suburban Sanitary Commission in Hyattsville, Md.

Corporate moves into self-insurance and captives will put the last nail in the coffin for the rapidly disappearing type of insurance manager whose job consisted on checking when policies came up for renewal and placing orders through a broker.

"We are going to need people who can discuss intelligently and give answers to a board of directors on questions such as how do you form a captive," says Mr. Jacobson.

In the troubled area of product liability, some insurance industry executives see longed-for light at the end of the tunnel.

"We are going to see action, but it is going to take time before a large number of states pass reform legislation," says D. R. Schmidt, senior vp at Employers Insurance of Wausau.

Other trends on the horizon will be the growing numbers of medium-size firms uniting, usually under the aegis of a trade association, to give them better leverage in the marketplace, says Hunter Long, a vp at Frank B. Hall Co.

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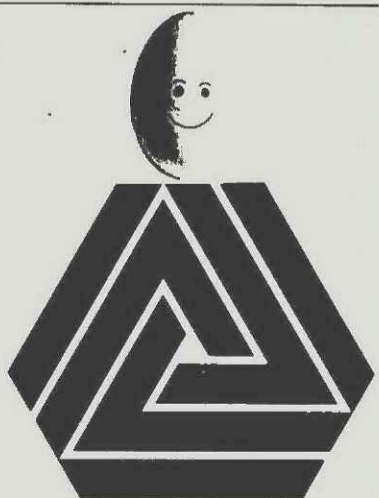
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# Defense wins more, but awards up

CHICAGO—The defense is winning personal injury suits more often in Illinois, but it is costing more to lose.

Statewide, the defense won 51.9% of the jury verdicts during the recently completed 1976-77 term in Illinois courts, up from 49.8% of the cases in the 1975-76 term.

But gross awards totaled almost \$27 million in the 952 trials, up from \$21.4 million in the previous term. And the average statewide verdict jumped 32% over the previous term, \$61,068 compared with \$46,126.

Illinois Jury Verdict Reports, the statistical arm of the Illinois Insurance Information Service, recently released these statistics detailing results of personal injury trials in Illinois for the period Sept. 1, 1976, through Aug. 31, 1977.

The figures are broken down into three categories: Cook County, which includes Chicago; downstate Illinois, which represents all of the state excluding Cook County, and the average of downstate and Cook County figures.

**In Cook County**, juries gave 52.7% of their verdicts to the defense. Last year, the defense won only 50.6% of the cases in Cook County. But gross awards in the 699 cases totaled \$18.4 million for the recent term. In the previous term awards totaled \$17.4 million and included a single product liability award of \$1.6 million.

The average award in Cook County for the recent term was \$58,187, the second highest average on record and up from the previous term's average personal injury award of \$49,582.

Thomas F. Reynolds, general manager of the Illinois Insurance Information Service, noted that the majority of verdicts for the defense in Cook County is "remarkable . . . in view of the fact that plaintiff lawyers in Cook County usually permit only what they consider their strongest 'prime' cases to progress to final verdict."

In downstate Illinois, the defense split jury verdicts 50-50 with the prosecution. Last year the defense won only 47.2% of the personal injury jury verdicts. But gross awards for the recent term totaled \$8.5 million, more than double last year's total of \$4 million.

There were only 36 more verdicts in the recent term than last, but the gross award total was boosted by two giant awards: one \$1.5 million work injury award and one \$1.8 million product liability award.

**The figures are based on statistics that are accurate for Cook County**, Mr. Reynolds noted in his report. "Downstate data are not equally complete but are sufficiently complete to give a firm statistical platform. . . ." he said.

Mr. Reynolds observed that inflation has certainly contributed to the increase in the size of jury awards. "Illinois is not exempt from the national courtroom tendency to consider all losses, however much contributory negligence may be involved, as compensable to the extent of 'any' insurance company's 'deep pocket,'" he added.

Pointing out litigation trends in Cook County, the largest judicial complex in the country, Mr. Reynolds said "malpractice litigation shows signs of falling out of favor

of rapacious trial specialists. Product liability shows signs of becoming increasingly a problem."

For example, the report notes that 30.4% fewer malpractice suits were filed in Cook County during the recent court term than last term, 777 compared with 1,116 in the

1975-76 term. The defense won 74.1% of the malpractice cases tried in the recent term, up from 65.5% in the previous term.

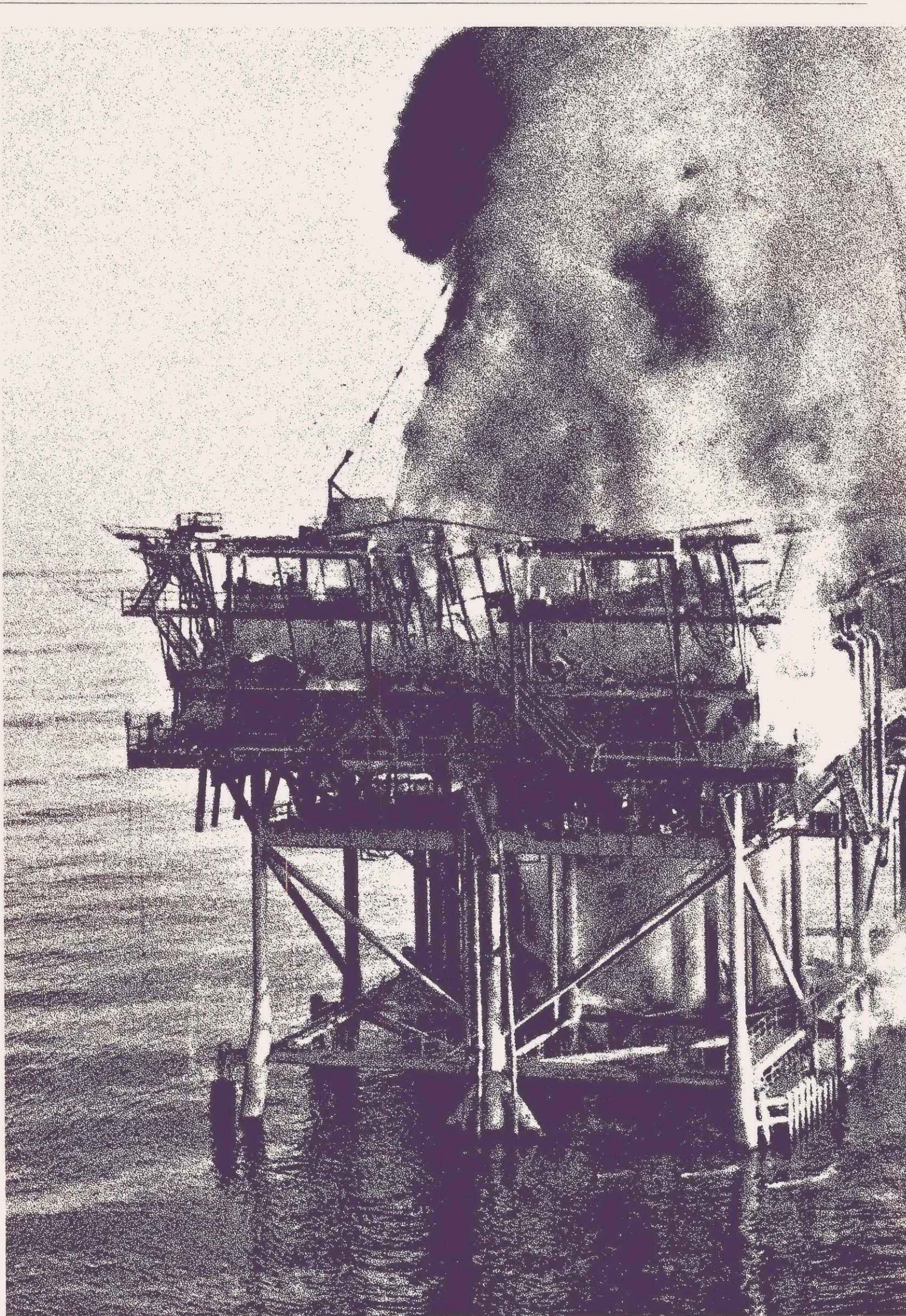
Awards in Cook County malpractice cases totaled \$2.2 million in the recent term, down from \$2.5 million in the 1975-76 term. The

average verdict, however, was up to \$308,109 compared with \$224,546 in the 1975-76 term.

Meanwhile, product liability suits filed in Cook County during the 1976-77 term totaled 911, up 7.1% over the previous term. The defendants won 72% of the product lia-

bility cases in the recent term compared with 59% of the cases in the 1975-76 term, but gross awards and the average verdict skyrocketed.

Product liability awards in Cook County totaled \$8.1 million in the recent term, almost double the \$4.6 million awarded in the 1975-76 court term. The average verdict was \$545,589, more than double the 1975-76 average verdict in Cook County of \$253,673. ■



## Storm losses

Damage of \$17 million resulted from two storms which struck the Midwest on Sept. 30 and Oct. 2, the American Insurance Assn. estimates. The bulk of the damage, \$15 million, was caused by the storm that hit parts of Tennessee, Kentucky, Illinois, Indiana, Ohio and Virginia.

# Top U.K. underwriter quits joint hull panel

By JOHN H. MILLER

LONDON—Top U.K. marine underwriter Ted D. Rainbow quit the British markets joint hull insurance committee after delivering a fighting speech on world competition at the Inter-

national Union of Marine Insurance conference at Montreux, Switzerland.

This move comes at a time when there is a fierce battle in many countries to get their share of the small amount of new business and has plunged the U.K.

market into a state of perplexity.

Mr. Rainbow is one of the key advocates of strong discipline within the insurance world if it is to survive the present depressing underwriting losses.

The joint hull committee represents both Lloyd's and marine

insurance company interests in the U.K. in a bid to present a united front to world marine insurance buyers. Only six days before his resignation, Mr. Rainbow told nearly 500 delegates to the I.U.M.I. meeting, "Hull business dragged itself out of the un-

profitable mid-sixties by a degree of cooperation between underwriters that led, aided perhaps by good loss ratios on supertankers after the notorious initial disasters, to a two or three-year period where they made a reasonable profit in relation to their high risks."

As chairman of the I.U.M.I. ocean hull committee, he went on, "you've expected me to play a part in fostering harmony and cooperation among hull underwriters of the world, but for a number of reasons that has proved to be a very difficult task."

Mr. Rainbow pointed to the emergence of new marine insurers with little experience of shipping risks in many countries and to the desire to put investment possibilities before future problems of heavy claims, as reasons why competition between marine insurers in the various markets may cause harm to the market.

But it came as a complete surprise to many when he announced he was leaving the London joint hull committee on which he has served for the last 10 years. This committee is supposed to represent the concerted views of all sections of the U.K. market.

The last time there was any trouble on the committee was when A. Henry Chester, a prominent Lloyd's underwriter, resigned as deputy chairman in March last year after a big controversy over rating issues.

The committee was to have reached understandings on how renewal terms would be offered to shipowners. It emerged that the Y. K. Pao shipping group of Hong Kong had received especially good offers from some insurers as an inducement to come back to the London market.

The reasons for Mr. Rainbow's decision are uncertain. But he is well-known in world insurance circles as an apostle of "strong discipline" if marine insurance is to survive and be profitable.

He feels many insurers are unaware of the long-term costs which marine risks can provide, sometimes running as long as 10 years after the business was initially placed.

He is still marine underwriter for the Commercial Union group in its share of world business and will be remaining in his post as chairman of the I.U.M.I.'s ocean hull committee. ■

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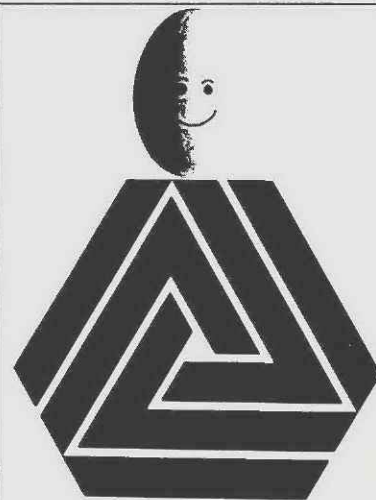
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# Britamco isn't operating yet, says Dew

HAMILTON, Bermuda—Britamco Ltd., the newly-formed underwriting agency subsidiary of Gulf Oil's Inco Ltd., isn't actively operating yet but should be "flourishing in 1978," said Leslie R. Dew, managing director.

Britamco hasn't finalized any of its anticipated agency arrangements with outside insurance companies, said Mr. Dew, although he noted that discussions are underway with

a number of insurers interested in using Britamco as underwriting agent.

Inco's intention when it established Britamco was to have Britamco act as underwriting manager for Inco as well as for other insurers, including worldwide companies in need of Mr. Dew's expertise and captive insurance companies expanding beyond parent company risks.

"It was never our intent," asserted Mr. Dew, to establish Britamco as underwriting agency primarily working with captive insurance companies.

Britamco reportedly has been approached by several large captive insurers, however, seeking to expand their underwriting to non-parent risks in the wake of the Internal Revenue Service's official

ruling on the non-deductibility of premiums paid to subsidiary insurers.

"It can be no secret to anybody that Bermuda captives have a lot on their minds right now," said Mr. Dew. Despite the lack of documentation, he supposes there are still "a large number" of captives writing exclusively parent company business.

Mr. Dew hasn't yet decided

whether or not to accept captives as Britamco clients, he said, "although there is no reason why we shouldn't consider offering perhaps a program for other captives."

Problems arise, however, when captives interested in underwriting non-parent risks want to limit their book of business to certain kinds of risks, which Mr. Dew apparently doesn't appreciate. He believes Britamco should be given broad underwriting authority to handle a variety of risks backed by substantial surplus. He noted that Britamco writes "a very broad book of business" for Inco, covering marine, non-marine, property and liability.

Any captive wanting to use Britamco, he suggested, would need "adequate capitalization" of at least \$5 million, with a healthy surplus. "But much more important than that, they would have to intend to create the image of establishing an independent operation" reaching far beyond the restricted business that captives have traditionally handled, he said.

## Calif. cities tap Beamer as consultant

SAN FRANCISCO—More than 100 California cities have named Risk Management Group headed by Gordon Beamer to help them form Joint Powers Agreements or JPAs for self-insured workers' compensation, liability, health and other risks.

Of the total number of cities, seven from Marin County have already formed a JPA, Mr. Beamer said. The Marin County JPA was set up last July.

Most of the cities are small, he said, noting that the majority approached the Risk Management Group last summer and that his staff is now doing research that should lead to the launching of the municipal JPA in early 1978. The technical formation of a JPA is simple, he said, although putting the community operation into shape and signing up underwriters is more time-consuming.

Risk Management Group works on a fee basis.

One of its oldest group clients is the cities of San Diego County which has been working with the Risk Management Group for some time.

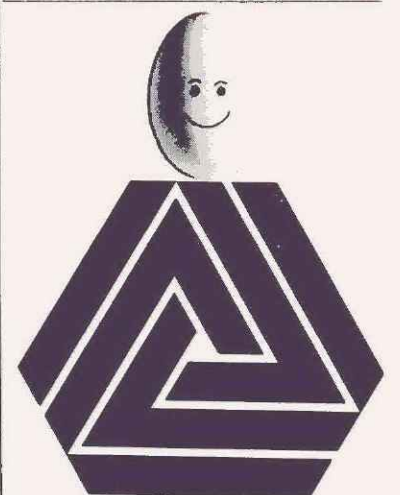
"The JPA there should be operational within 60 days," Mr. Beamer said. "It is only a matter of saying 'go.'"

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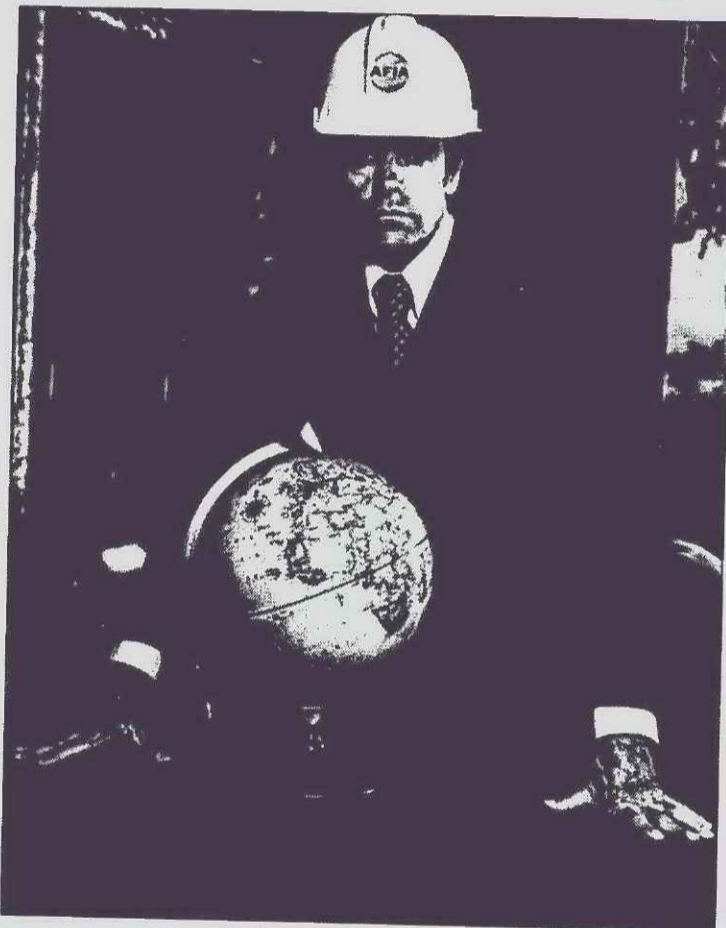
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# Calif. cities face \$1 million retention

By MARGARET LeROUX

OAKLAND—Self-insured retentions of \$1 million, more reliance on the excess and surplus market and more involvement with buffer layer underwriters are in the very near future for California public agencies.

"Within five years you'll all have self-insured retentions of \$500,000," said James A. Bradley, executive vp of I-West Insurance Managers, surplus lines brokers, at a meeting of the Public Agency Risk Management Assn. (PARMA) here recently.

"No one wants to write the first layer for public entities in California," Mr. Bradley said. Sometimes there are seven or more participants in the first \$500,000 excess layer of a \$500,000 retention, he said.

The surplus lines broker told public agency risk managers that the city of Sacramento was quoted a premium of \$190,000 for the first \$500,000 excess of \$500,000 retention. "That was the best quote and they got it two weeks before expiration of their liability policy," he said.

"The problem is there is no leader . . . no one company controls more than 20% of public entity business in California," Mr. Bradley said. He estimated that 90% to 95% of excess business from California municipalities in the last five years has gone to wholesale brokerage firms. That business represents \$1.2 billion premium dollars to the 250 wholesalers in the state, he said.

To make public entity risks more attractive to the excess and surplus market, risk managers should be more involved with loss control, said Robert J. McGrath, vp at Fred S. James & Co. in San Francisco.

"Good loss control can mean more savings in self-insurance for public agencies," he said. "Get specific with your safety and loss control measures. 'This will present your risk a lot better to primary underwriters,' he recommended.

Mr. Bradley advised public entity risk managers to "be a little more imaginative . . . have more understanding if we propose a different approach to the excess and surplus market." He also told PARMA members to "fight the impulse to do it yourself when it comes to claims administration and subrogation."

These areas are "fraught with danger," the surplus lines broker said. "Public entities who do this have a lot of trouble getting excess coverage."

The reinsurance market situation for California public entities isn't exactly bright according to Edward W. Tuescher, assistant vp for Towers, Perrin Forster & Crosby, reinsurance brokers.

"There is no reinsurance market for primary medical malpractice and no market for errors and omissions below a \$1 million self-insured retention," he said.

Exclusions in public agency liability coverage abound. Dams, airports, public transit systems and seaports are some examples, Mr. Tuescher said.

"There is a lot of go-away pricing in the excess market for California public agencies," he continued. "The high level excess carriers don't want to get into a lot of California public entity business."

"A lot of excess companies use hypothetical pricing and that's what they base their quotes on," Mr. Bradley said. "It has no bearing on primary pricing or

retentions."

"A lot of control on certain layers is by reinsurers," Mr. Tuescher added.

"I can't explain why excess prices are what they are," Mr. Bradley said. "Excess underwriters can no longer justify the pricing structure for public entities."

The surplus lines broker ("I prefer the term wholesaler") noted that there have been no paid losses yet in excess of \$1 million for California public entities.

"You have clout," he told PARMA members. "You don't have to pay the prices being asked."

He predicted within 18 months PARMA and its members would be able to influence new markets.

The brokers were asked if a pool for liability coverage estab-

OAKLAND—In the three years of its existence PARMA (Public Agency Risk Management Assn.) has grown from an informal gathering of 15 insurance and claims administrators to an organization representing more than 115 California public entities.

"We've grown in sophistication as well as size," Robert W. Bowman, the group's founder and current president said. Hired as claims administrator for the East Bay Municipal Utility District (EBMUD) three years ago, risk management programs Mr. Bowman put into effect resulted in his promotion this year to risk manager.

Information such as a claims statistical form and a brokerage selection process are available to PARMA members. For information about the organization contact Mr. Bowman, 2130 Adeline, Oakland, Calif. 94632; phone 415-835-3000.

lished by California public agencies would affect the price situation.

"If the numbers were right, it might make a difference," Mr.

McGrath said, "but I don't think underwriters are ready to accept it yet."

The problems inherent in pools, Mr. Bradley pointed out,

"are those who want pools are the ones having trouble; the ones who have solved their insurance problems aren't interested."

The surplus lines and reinsurance brokers told PARMA members the key to their approach to those markets is their retail broker. They stressed the importance of a good working relationship between the agencies and their brokers.

Mr. Bradley told the audience to require their broker to identify his wholesaler and also reveal the details of his errors and omissions coverage.

The brokers told PARMA members it is becoming more common for public entity risk managers to meet with underwriters.

"I think it should be done more often," Mr. Bradley said. "It would be fun to see an underwriter tell the insured face to face that his premium's being increased."

## MEMO FROM MARSH & MCLENNAN



## Isn't that doll in the middle worth the price of a smoke alarm?

Fire takes 12,000 lives a year in the United States. Even more unsettling is the fact that the vast majority of serious home fires strike during sleeping hours, when all of us are virtually defenseless against fire's early-warning signals.

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# Insurers can improve, say their clients . . .

By MARGARET LeROUX

SAN FRANCISCO—"The relationship between the insured and his insurer is too legalistic," says William J. Fitzpatrick, first vp of Loeb Rhoades & Co. "There is too little cooperation between the insurance industry and the industries covered by fidelity bonds in solving the broad-based problems that spawn losses."

Mr. Fitzpatrick cited the need for "an individualized, straightforward, continuous contract which your clients understand." He described the current fidelity bond policy as "an insult to a client who is paying you hundreds of thousands of dollars, or possibly millions, for this contract and receives a policy that looks like it came out of a vending machine."

The insurance industry is in the business of selling lawsuits, "because you fail to sit down, businessman to businessman and come to a meeting of the minds before a policy is sold," he argued.

"In the case of the securities broker's blanket bond, the contract is not even written by either party," he continued, "nor is it the result of a meeting of the minds. . . . There are no worthwhile definitions in the policy and the people who draw these forms pro-

*Continued on following page*

Business people want more cooperation and communication from the insurance industry in the immediate future. But insurers see the need for more capital, surplus and underwriting profits of 5% before taxes as priority goals. These contrasting views of the challenges facing the insurance industry were expressed in two days of seminars at the Chartered Property & Casualty Underwriters annual meeting in October.

The story at left reports what representatives of the securities, banking, machine tool and lodging industries told the insurance industry they want from it. The story at right reports the response the following day from insurance company executives and a regulator.

# . . . while the insurers recount their woes

SAN FRANCISCO—Predicting premium volume of \$120 billion for the property-casualty insurance industry by 1985, financial analyst Shelby Cullom Davis told insurers the industry will need \$2.5 billion additional capital and surplus to support that premium volume.

"The industry will have to demonstrate consecutive underwriting profits to attract interest in their securities," Mr. Davis said.

"Chief executives of insurance companies must raise their sights to underwriting profits of 5% after taxes to attract capital investment."

John R. Cox, president of Insurance Co. of North America (INA), blamed the industry itself for problems caused by lack of capital. "A properly run insurance company doesn't need to rely on capital investment," he said. "The problem is our own inability to evaluate costs. If we did it right and charged the right prices, we wouldn't have the need for safety margins of capital ind surplus."

"The biggest discipline we face," Mr. Cox said, "is loss of a share of the market if we can't get our price."

Glenn B. Morris, president of Equitable General Insurance Co., agreed with the need for emphasis on underwriting profits and noted the industry's image problem. "We must stop crying when we're losing money and bragging when we're making it," he said.

California insurance commissioner Wesley Kinder chided the insurance executives for not responding to the buyers' need for information. "The industry has done very little to respond to consumer complaints," he said. "The public has no detailed information on how rates are set."

The insurance executives commented on the future of their industry. "I see a shift from the agency approach to independent agents for commercial lines," INA's Mr. Cox said. He also predicted a consolidation of 50 or more medium-sized insurance companies with premium volume of \$300 million to \$600 million.

However, he noted, "this will result in more capital being withdrawn from the industry."

"The outlook for the small, regional insurance companies is good," Mr. Davis said, "if they know their market and are tops in their specialty."

"The regional and specialty companies will be with us forever," Mr. Cox said.

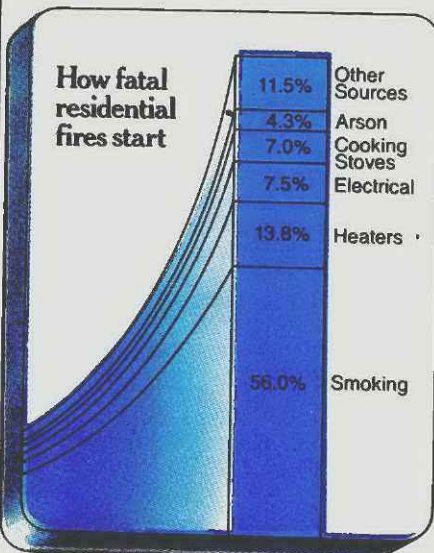
The insurance executives agreed that the product liability market will not turn around without the aid of legislative reform. "I'd like to see a statute of limitations on discovery of losses," Mr. Cox said.

## Research director

Robert Cooper has been appointed research director of the International Foundation of Employee Benefit Plans.

either case, when the detector is activated, the unit sends out a piercing signal to alert you that danger exists.

Detection at this time can often



Source: National Fire Protection Association

mean the difference between life and death. The sooner your family is warned, the more chance they have to escape. The sooner help arrives, the more likely it is that family possessions, frequently irreplaceable, will be saved.

We're not promoting a particular brand; Marsh & McLennan doesn't make or sell smoke alarms. Our overriding concern is keeping your family from being harmed and your possessions from being lost.

### Our first-hand experience with fire.

Through our association with commercial and industrial properties in the area of loss control and prevention, we have seen what can happen when practical safety procedures are not observed. We have learned how much easier it is to prevent personal injuries and property loss-

es than it is to try to rectify the results of a catastrophe.

Well-managed businesses have long recognized this need on a strictly practical basis: a little planned effort can lead to substantially less time lost through accidents, and far fewer claims. Not surprisingly, good hazard control programs can also lead to lower insurance rates.

Unfortunately, what is so commonplace in business is too often neglected at home. It could be a fatal mistake, which we urge you to correct—today if possible. Your family deserves it. Consider it simply an extension of the security you strive to provide in so many other ways.

### Doesn't this seem to make good sense?

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We have seen the tragedy of fire, close-up, too often not to try to do what we can to prevent it in

the future. For our part, if this "Memo from Marsh & McLennan" saves a single life, it makes it all worthwhile.

Loss control and prevention is a specialized field that has been recognized as such by Marsh & McLennan for many years, and in our organization functions as a separate division. Our goal—and we think it should be yours—is to take positive action in advance so that losses, and all the consequent complications, are far less likely to occur.

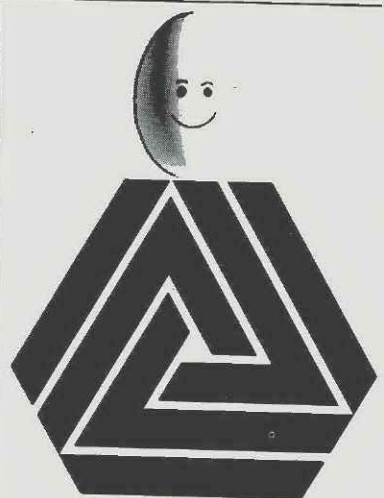
*We will be glad to send you, free of charge, a list of manufacturers of smoke detectors that have received Underwriters Laboratories approval, along with a "Steps To Take If Fire Strikes" reference chart for your home. If you also think your business would benefit from our loss control programs, let us know and we will send further information. Write to Dept. 300- Marsh & McLennan, Incorporated, 1221 Avenue of the Americas, New York, N.Y. 10020*

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## Clients' view . . .

Continued from preceding page  
definitions in the policy and the people who draw these forms provide none."

Insurance companies rely too much on their attorneys, Mr. Fitzpatrick said. "It is natural for an attorney to advise against entering a claim and to allow the courts to resolve the matter. It is not natural for a businessman

to come to such a conclusion. Good businessmen avoid courts. They turn to them as a last resort."

Because insurance companies have allowed lawyers to reign supreme in the area of making the contract and in handling claims, he concluded, "insurance companies and their clients spend far too much money each year in courts trying to find out just what coverage was actually purchased by the client."

Marvin Tepperman, legal counsel for the Hyatt Corp., voiced concern that insurers tend to want to settle fidelity cases, although his company would rather subrogate in some instances "where we want to make an example of an employee."

"However, in slip-and-fall cases where the hotel prefers to

quickly settle guests' claims, the claims adjusters' tendency to reject claims goes against our policy of how we treat our guests," he said.

Philip J. Gomez, president of Western Gear Corp., charged that "we see no signs of early or intensive investigation by insurance companies when claims arise."

"We find that there's too much tendency for insurance companies to say 'you're covered' and not investigate."

The increase in the cost of liability insurance in the machine tool industry "has begun to rival the costs of labor and materials," Mr. Gomez said. He noted that liability premiums for his business had increased sevenfold since 1971, while the firm's sales volume has increased only 125%.

His solution to premium problems was to establish a captive in the Cayman Islands, Mr.

Gomez said. "The insurance industry is going to have to join the rest of business—we simply have to get more output at less cost."

The chairman of Lloyds Bank California, Stanford S. Grady, told CPCUs he surveyed a number of banks and brokers and found large premium increases for bankers blanket bond coverage with no regard for individual experience. "Our premium went from \$280,000 with a \$100,000 retention in 1967 to \$1.8 million with a \$250,000 deductible in 1977."

Although Lloyds Bank had gone seven years without a claim filed under its fidelity bond, "when we filed the first one thereafter, it was denied by return mail," the chairman said.

The insurer was far from speedy in quoting new rates on the policy when it was up for renewal, he complained. "We were quoted a premium at 4 p.m.

the day our policy expired."

Mr. Fitzpatrick of Loeb Rhoades also noted a lack of cooperation from the insurance industry. "Historically, when a sizable number of claims start to mount because of certain weaknesses, the insurance industry has not called upon the securities industry, pointing out problems and suggesting corrective steps. The reaction is usually to pull the coverage, reduce the coverage or drive up the premiums to almost unrealistic heights."

Recently blanket bond coverage on employees was drastically reduced while premiums were almost tripled, on a take-it-or-leave-it basis, the Loeb Rhoades vp said. "No one in the securities industry was ever consulted or even made aware of the contemplated action or the causes for it."

The insurance industry is also suffering from a people problem, said Mr. Grady of Lloyds Bank, in not attracting bright young talent. "It's ludicrous for someone handling a \$5 million claim to be paid \$15,000 or \$16,000," he argued.

The Lloyds Bank chairman offered a solution to the insurance industry's capacity problem. He invited insurers to "steal a page from the bankers . . . and go to debt financing."

"There is hardly a bank that doesn't do it; the insurance industry is slow to go to debt financing," Mr. Grady said.

Malcolm Forbes, editor of Forbes Magazine and the moderator, told insurers, "You people are at the center of why inflation is intractable."

"There is a need for insurance companies to get together with their clients and come up with a solution to problems of social inflation," the publishing executive said, "even if it's a stop-gap solution, instead of telling your customers 'Go jump in the lake.'"

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## Spotlight on benefits

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

We're also planning a special look at how employee benefit consulting firms work.

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

### Joint venture

The John C. Weghorn Agency Inc. and the H. Malcolm Teare Agency Inc. have formed a joint venture to provide Weghorn brokers with facilities in personal lines and specialists in profit sharing, estate planning and disability plans. Wendy E. Jones has been named consultant for the joint venture—Teare/Weghorn Organization.

# Seminar mulls how to avoid captive ruling

By MARGARET LeROUX

SAN FRANCISCO—Talk of captives—especially the recent IRS ruling limiting tax deductions for premiums paid into captives and how to get around the decision—was on everyone's lips at the recent Chartered Property & Casualty annual meeting here.

One expert on captives advised taking as an equity partner a captive management firm by giving the firm 5% to 20% ownership in the captive in exchange for management services.

The proponent of this approach was Michael Murphy, director of American International Reinsurance Co. of Bermuda. Other of his suggestions of how to circumvent the IRS ruling included accepting outside business on a pro rata basis, a pooling of business by a group of captives and a 50-50 partnership between U.S. and foreign subsidiaries to insure foreign risks. The foreign subsidiary's premiums are not under the IRS jurisdiction until dividends are remitted to the U.S. company, he said.

The tax deductibility of premiums paid into captives hasn't been lost because of the IRS ruling, Mr. Murphy said. "That issue will ultimately be determined in the courts." He said the decision reached in the Ford Motor Co.'s lawsuit on the deductibility of premiums paid into its captive would carry more weight than the IRS ruling.

Justin N. Tierney, vp of Frank B. Hall & Co., reminded seminar participants that the IRS ruling doesn't apply solely to overseas captives. "I disagree with those who say the ruling doesn't apply to captives set up in the U.S." referring to Colorado captives.

"The ruling states that it's the character of the business being done that determines the deductibility," Mr. Tierney said. "That sounds to me like it does apply to captives set up in the U.S."

Another seminar at the meeting on considerations and techniques for using captive insurance companies was presented three times to standing-room-only crowds.

At that seminar, Charles L.

Ruoff, vp of Fred S. James of New York noted "the important thing to recognize is that tax advantages are not the sole reason for setting up a captive."

"Prior to the ruling, IRS agents were ordered to audit captives," he said but whether or not they did was up to the individual agent. "Now, however, this flexibility is not there," Mr. Ruoff said.

S. Peter Law, vp of U.S. Industries Inc. and another seminar participant, said the IRS ruling "would give some impetus

to making captives active profit centers, writing business other than solely parent company business."

Dennis Busti, vp of American

**Coverage of the Captive Insurance Cos. Assn. semi-annual meeting begins on page 59.**

Home Assurance Co. said the insurance industry views captives as "an opportunity to offer products we couldn't have offered before."

Claims handling, fronting and engineering services are among those products, he noted. "We see captives as viable alternatives."

Companies considering setting up a captive should recognize that "insurance companies have a lower rate of return than other forms of investment," said U.S. Industries' Mr. Law.

William H. Eyre, executive vp of Intere Intermediaries Inc., said that the Bermuda captives are important from a reinsurance standpoint. "We're looking forward to seeing capacity added to

the worldwide market by the Bermuda companies," he said.

Philip J. Gomez, president of Western Gear Corp., said at another seminar that despite the IRS ruling, his company would continue its Cayman Islands captive, established to fund product liability risks.

"The IRS ruling is not justifiable; it makes no economic sense," Mr. Gomez said.

He told the CPCUs it was the non-availability of product liability insurance at any price that led to the captive. ■

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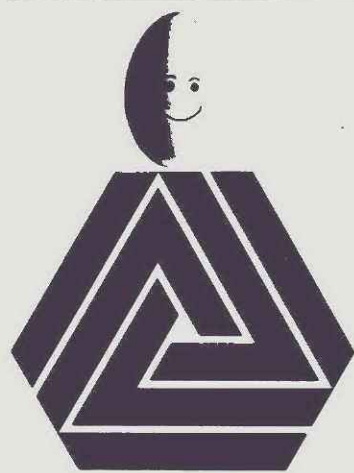
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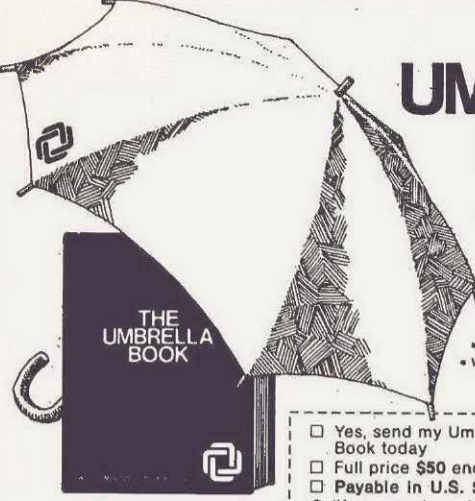
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## Lloyd's to up capacity by \$1 billion: Daenzer

SAN FRANCISCO—New premium capacity of \$1 billion and 5,000 new names will be added to Lloyd's of London in 1978, says Bernard J. Daenzer, president of the Howden Swann Group.

Mr. Daenzer also told agents at the 81st annual conference of the Independent Insurance Agents of America here in October that coverage for gradual pollution of land, air and water is available in the excess and surplus market.

With the U.S. markets increasing premium writings at an annual rate of \$10 billion . . . "it is my belief that Lloyd's underwriters will still have to budget their premium capacity and hope for many more names in 1979,

1980 and on a continuing basis," Mr. Daenzer said.

He noted that more overseas companies are sharing in reinsurance and excess and surplus markets. As of June 30, 1977, 90 overseas companies had qualified themselves with trust funds to write those lines.

Bermuda was cited by the Howden Swann executive as another source of excess and surplus capacity. "I estimate their policyholder surplus at \$250 million and in many cases there are parental guarantees over and above policyholder surplus. These companies could well support a billion in premium income or more."

He also noted that life insurance companies are supporting specialty business through reinsurance capacity and that approximately 25 domestic companies are contributing capacity through their subsidiaries admitted in one state but non-admitted in others.

"The current cycle in specialty classes is extremely good with such strong demand and very healthy pricing structure," Mr. Daenzer said. "The top grade E&S firm can be very selective as to which company is brought into the field."

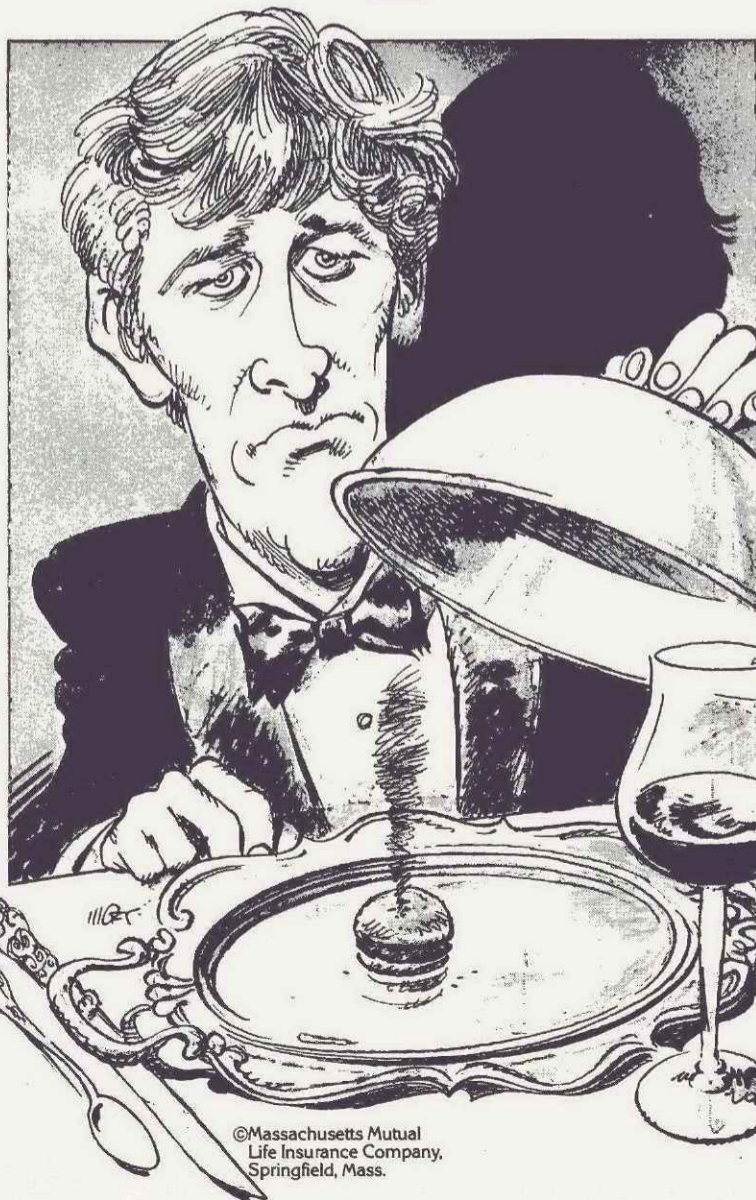
The pollution coverage had been available in the 1966 CGL policy, Mr. Daenzer reported, but the 1973 version included a restrictive endorsement that pollution had to be both sudden and accidental in order to be insured.

"Now that the market has been organized," he said, professional agents are plugging the gap. The coverage includes a "tough technical inspection like a marine survey, which is borne by the company if the insurance is placed," he explained. Coverage for cleanup costs is included.

Mr. Daenzer also enumerated key points in marketing kidnap and ransom insurance which he said now generates world premium income of more than \$100 million. He told agents always buy the broadest possible form; blanket all personnel of all corporations as insured persons; make sure the cover is worldwide; cover relatives, and include accident benefits for death and dismemberment. The policy should also include threats to kill or injure.

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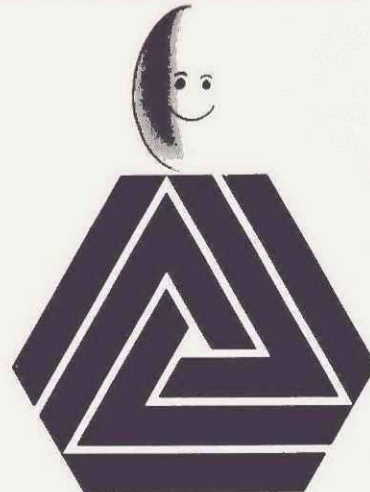
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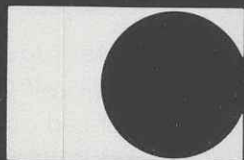
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## Profit sharing plan contributions decline slightly, new study shows

DEERFIELD, Ill.—Employer contributions to profit sharing plans declined slightly in 1976, according to this year's study of 547 companies by Hewitt Associates and the Profit Sharing Council of America.

The average employer contribution to profit sharing plans in 1976 was 9.6% of an employee's pay, down from 1975's average of 9.9%. Eighteen companies reported no contributions in 1976, 486 reported an employer contribution and 40 did not answer the question.

The 486 firms contributed \$809 million last year to plans covering more than one million participants.

Deferred profit sharing plans comprised 81% of the total plans reporting contributions for 1976.

Cash plans were 3% of the total and plans with both cash and deferred features added up to 16%.

More than two-thirds (70%) of the companies with profit sharing plans have fewer than 500 employees. Employer contributions for plans at companies with over 5,000 workers are significantly smaller than for plans at smaller firms.

Interestingly, 78% of companies with deferred profit sharing plans do not offer any pension plan. Yet, the contribution for deferred plans without a pension (9.2% of pay) is only slightly larger than for deferred plans at companies that also offer a pension plan (8.85% of pay.)

Companies using profit sharing

plans with little or no deferral are more likely to have a pension plan than totally deferred plans. Fifty-five percent of companies with a combination of cash and deferred plans also offer a pension plan; 86% of the companies with a cash-only plan also offer pension arrangements.

Cash plans not offering a pension plan contributed the highest percent of pay to the profit sharing plan (29%), followed by combination plans not offering a pension and combination plans with a pension (both 16%), combination plans with a pension (12%), combination option plans without a pension (12%) and combination option plans with a pension (10%). The lowest contribution came from profit sharing plans also offering a pension (7%).

The survey shows relative stability in profit sharing contributions between 1973 and 1976, with the average fluctuating only between 9.58% and 10.11%.

Thirty-five percent of the companies determine the contribution solely at the discretion of the company. Twenty-three percent use a set percentage of profits to determine contribution, while 18% use a percentage of profit above an amount reserved for stockholder equity.

Employee contributions to profit sharing plans are voluntary in 80% of the plans, mandatory in 11% and partly voluntary in 9%.

The trend first noted in 1975 toward long-term fixed income investments continued in 1976 with 34% of the average fund in those investments up from 22% in 1974 and 29.5% in 1975.

Banks still manage the largest percentage of assets (42%), while the percentage of funds managed by insurance companies was up to 9.2%, a gain of 4.1%.

Copies of the study and further information are available from Hewitt Associates, 102 Wilmot Road, Deerfield, Ill. 60015.

### Group life sales

Sales of group life insurance in August totaled \$9.04 billion under new or revised contracts. That total was down slightly from the \$9.4 billion recorded in the same month in 1976. Sales of ordinary life insurance for August climbed to \$20.4 billion.

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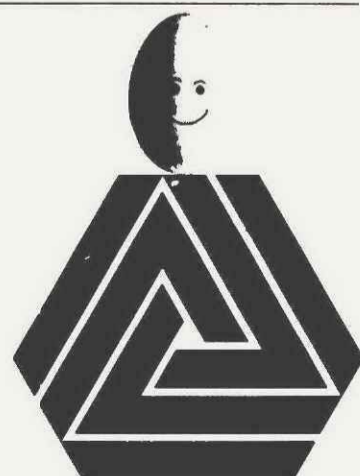
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# retrospective/prospective

## 10<sup>th</sup> anniversary

# The changing status of women will change your corporation

By Peter Downes

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

I AM ALWAYS intrigued by the thought of what life will be like 10, 20 and 30 years from now. In my trade I am not overly concerned about whether there will be product liability insurance or new restrictive laws forbidding this and that. I shall cross those bridges when I come to them. While acknowledging this fascination with the future, I have nevertheless come to the conclusion, to paraphrase Henry Ford, that "futurology is bunk!" By futurology, I mean speculative thought relating to future societies.

The libraries are full of texts devoted to this cause ranging in quality from "The Coming of Post-Industrial Society" by Daniel Bell to Alvin Toffler's "Future Shock" which has been appropriately labeled by some as "Future Schlock." This kind of text properly belongs on the bookshelf by Jeanne Dixon's manderings.

### Two main schools

Nevertheless, a large number of thinkers have given thought to the future and they seem to fall into two main schools, the Armageddonists and the Utopians. Characteristic of the former type is the writer who says that 100 years from now there will be no technology. By that time all the known fuels will have been used, all the metals will have been mined, land will be so exhausted and polluted with chemicals that it will grow little or nothing, the world population will have grown to bursting point and in the words of old Thomas Hobbes, the lifetimes of men and women will be "nasty, brutish and short."

To my mind this viewpoint is pervaded with a Malthusian odor. Of course, there are limiting factors. For example, there is only so much living space on the globe and only so much fuel, water, and land.

Such factors must be taken into account in the long run, but as John Maynard Keynes was wont to say, in the long run we shall all be dead. In the meantime, the Armageddonists seem to assume that we have already acquired all the knowledge there is to know and that in the future humanity will lack the will to cure its problems.

### The Utopians

The Utopians on the other hand point to a glowing future in which science and technology will have indeed overcome world problems, notwithstanding any limiting factors. But their prophecies overlook a multitude of things and particularly people. For example, in non-technological societies, as food sources dwindle and populations swell, will there be wild grabs for *lebensraum* at the expense of more favored nations who are capable of employing science and technology to cure their ills? Utopians do not care to think of things like this.

Both kinds of futurologists seem to have the same failing: They overlook the existence of people as they are. Hence, their predictions of specific events are no better than exercises in fortune telling and futility and indeed represent just another form of escapism. I believe this to hold true even in so minor a matter as predicting where the risk management field is heading.

I believe nevertheless that it is practicable to define the future by those social changes whose causes we can identify and whose courses we can project forward. Or as I put it in another context, we can examine the myths which sustain us and how they are changing. It is these changes which will determine the context, within which the risk manager of the future must operate.

This is not an especially difficult thing to accomplish. Probably the most difficult thing about it is persuading oneself that changes are occurring. We all tend to be

conservatives at heart and we hope that yesterday's familiar, comfortable belief will remain the same today and always. But changes do occur.

Perhaps the most significant change in any myth during this century has been that relating to women, a movement which we have come to know as women's liberation. Some 2,300 years ago Plato wrote that women should share equally in the education and occupation of men on the ground that there is no fundamental difference between the sexes to justify a difference of occupations. From Plato's day to this, nobody has improved on this statement.

### Women's liberation

Nevertheless, things did not begin to move visibly until this century. According to some, the single largest force resulting in the liberation of women was the development of rubber technology. Until it became practicable to manufacture and distribute cheap contraceptives, women could not effectively control their own destiny. Prior to this, those few who did succeed in doing so in any measurable degree became less than women. All this was pointed out by Walter Lippmann in his "Preface to Morals" back in 1929.

Both Plato and later Karl Marx in his "Communist Manifesto" of 1848 observed that as soon as woman should become liberated the institution of marriage must of necessity change. Because he was constructing an ideal republic, Plato advocated common marriage in which no child would know its parent. Marx likewise thought there would be common marriage but never defined what he meant by the term.

It is obvious that there has been a change in the marriage habits of our present society. We are told that fully half of the marriages made in the U.S. fail within a year or two. But, in social life as in any other human activity, when a system does not work people look

around to find one which does. In relation to marital affairs it is still too early to say how this will be worked out, but perhaps one should take careful note of a practical matter which will have its effect during the next couple of decades: a massive shortage of housing which young people will be able to afford. Recently published figures show that less than 10% of the American working population can afford a new home at this time. Contractors and developers are likewise saying that they can no longer economically build cheap housing or rental apartments.

### Social pyramid

There is one further significant change in the making resulting from women's change of status. I envisage the social structure as a pyramid. The tip of this pyramid does not change shape and there is only room for a limited number of persons within it. Fifty years ago these persons were entirely male, but before too many years it will be shared more or less equally by both sexes. If it can be assumed that only the best move towards the tip of the pyramid, we shall have the less efficient being squeezed out. In general, therefore, we can hope for a much higher quality of intelligence to cope with future problems.

Unfortunately, this has a corollary. As Norbert Wiener once said, those at the base of the pyramid will have no skills worth selling and in their frustration they may attempt to tear down the whole edifice in order to obtain what they think is rightfully theirs. There appears to be many indications that attempts are being made to do this now. For example, we see countercultures of one kind or another attacking the establishment. Another aspect of this is the trend towards uniformity and the employment of a monstrous bureaucracy to impose rules and regulations demanding our conformity.

It was said a long time ago that we should take no thought for tomorrow, for tomorrow will take care of itself. However, nothing was said about not taking thought for today and the analysis of social change is an essential part of this. To put it another way in terms of the risk manager, as paradoxical as it may seem, we have already arrived at where we are heading because the future is here and now. ■

# Communicating pension plans: 1947 to 2007

By Howard L. Peck

Retired partner,  
Hewitt Associates

ANNIVERSARIES are supposed to be times for looking back and looking ahead. As one who was mixed up in the communication of employe benefits for a fair number of years, I'll try a little of each. First, the backward look.

The fall of 1947. Oscar W. Hypothetical, president of the Hypothetical Manufacturing Co., installed a pension plan for (in the language of the day) "his" employes. When the document was approved by the IRS, he thought the job was done.

Then it was suggested that the plan needed to be communicated to the employes. Oscar proposed a notice on the plant bulletin board; but someone outlined the advantages of "getting out" a booklet and Oscar agreed.

When the grateful employes received the booklet they found the front cover decorated with a line drawing of an elderly (but handsome and robust) couple descending the gang-plank of an ocean liner. At the end of the gang-plank, waiting to greet them beneath waving palms, was a gaggle of grass-skirted beauties. The booklet title said something about "dreams come true."

On the inside front cover was a large photo



Howard Peck, now retired as a partner in Hewitt Associates, was an early contributor to Business Insurance on issues in the employe benefit field. In this article written for BI's 10th anniversary, Mr. Peck looks at benefit communication yesterday, today and tomorrow.

of Oscar and a message addressed "To Our Employes" and bearing a facsimile of the president's impressive signature.

The message was full of words like "I am pleased to announce," "reward for long and faithful service," "the Board of Directors has graciously approved," "the Company family" and "when the time comes," "golden years free from financial worries," etc.

As the employes read on they learned that the plan provided a monthly retirement benefit at age 65 of \$1.25 for each year of service (maximum 30 years). Early retirement was permitted at age 62 with the benefit "actuarially reduced."

The booklet wasn't very long. It didn't have to be. There were no complicated vest-

ing formulas to explain because there wasn't any vesting. There were no disability provisions, no survivors' benefits.

Of course, the booklet did point out that you could lose your benefits if you were fired for "conduct detrimental to the business," drinking on the job, or fighting in the plant.

Thus, in many cases, were benefits communicated 30 years ago.

### Today

Today, Oscar Jr. heads the company (now renamed "Hypo Systems Inc."). The benefit program and its communication have expanded greatly. The communication effort includes a coordinated and handsomely

packaged set of booklets ("summary plan descriptions"), an audio-visual program, a comprehensive computerized individual statement, periodic surveys of employe attitudes and information, report meetings, etc., etc.

All the materials and activities are carefully checked against the requirements of ERISA and are liberally peppered with the prescribed caveats.

What of the future? Some time around the year 2007 we can expect Oscar III to take over the reins from Oscar Jr. It is impossible to predict what media and techniques will be employed to communicate with the participants in that era's multi-faceted benefit/compensation packages. But perhaps it is

Continued on page 48

# retrospective/prospective

## 10<sup>th</sup> anniversary

# State-run workers' comp systems still preferred

By Carl J. Vogt

Manager, Workers' Compensation  
General Tire & Rubber Co.



Carl J. Vogt, head of workers' compensation for General Tire & Rubber Co., was an early observer of the workers' compensation scene for Business Insurance. Here he looks at the present situation on state vs. federal control.

JERRY LEWIS told one of his friends that his gift, a movie of Jerry's wedding, was the best gift he had ever received. When his married life got a bit hectic, he would go into his study, view the wedding in reverse and walk out a free man.

The decade just past was a whirlwind in all areas of business insurance which, by the way, is the name of a publication which has now been in existence that length of time. If you were to start with this issue of *Business Insurance* and read back to the first issue, you would have an accurate history of the events in this vital segment of our complex society. The commentaries and editorials would furnish insights which point the way to a solution.

My very sincere accolades to *Business Insurance*.

My niche in this broad spectrum of insurance is the economic health and return to gainful employment of a worker who is injured in the course of employment. Tremendous strides have been made in the decade past in each of these areas for the injured worker. The present, no-fault method of providing wage replacement and medical benefits for our injured employes has constantly changed since its inception at the turn of the century.

### Inflation's impact

The states have periodically upgraded the benefit schedules through legislation, but by 1970, the benefit levels had failed to recognize the post-war accelerated spiral of inflation. The Occupational

Safety and Health Act of 1970 (OSHA) created a national commission to investigate the state's workers' compensation acts. This commission concluded in 1972 that the states' primary responsibility for the program should be preserved, but significant improvements were necessary. Many recommendations for improvement were made; some of them labeled essential. The states were given a grace period of three years until 1975, when a review of the states' record of compliances was to be undertaken by a new presidential commission.

In the five-year period since this report, two major thrusts have occurred. The states have made tremendous strides in legislative improvements to equal or approach the essential recommendations promulgated by the national commission and bills have been introduced in Congress that would effectively remove the responsibility for the program from the states and place it with the federal government.

In August Donald Elisburg, assistant secretary of Labor for employment standards, told the International Assn. of Industrial Accident Boards and Commissions in Kansas City that he administered

three workers' compensation programs: the federal Employee's Compensation Act, the Longshoremen's and Harbor Workers' Compensation Act and the Black Lung Benefits Act.

### Gigantic bureaucracy

The fact that one man administers three such gigantic benefit programs is frightening. No one person has the capacity to administer three such vital programs. The FECA alone covers more than three million workers. I find it difficult to imagine how an aggrieved, disabled federal worker could lodge an effective complaint to the administrative head of such a program, especially if the aggrieved worker is located 1,000 miles from the office in Washington, D.C.

On the other hand, I do know that it is commonplace for an Ohio worker in the same quandary to sit down with the administrator of the Ohio Workers' Compensation program, Robert Daugherty, and discuss his grievance. The same avenue to the administrative head is open in many other states including Kentucky, Pennsylvania, Indiana, Georgia and others.

Mr. Elisburg emphasized that changes are constantly being made in the system. Some 33 recommendations by the Employment Standards Administration are under consideration or have been implemented. This is totally commendable, but it is equally evident that the federal government has not evolved and perfected a system that would set an example for the states.

### Serious delays

It is exceedingly alarming that some cases involving the Longshoremen's and Harbor Workers' Compensation Act have run as long as 360 days at the appellate level, causing serious problems for claimants waiting to receive benefits. A benefit dollar delivered to an injured worker on time to substitute for his usual paycheck has much more value than at a later date. At that later date, his life-style could be demolished because rent, car payments and food demand a continued income.

The recent unfavorable publicity in the Readers Digest by Kenneth Tomlinson, "Workers' Compensation—a License to Steal?" highlights the lack of control in the federal workers' compensation administration. The Washington Post recently reported that senators who had been polled indicated the workers' compensation bureau was the source of the greatest dissatisfaction.

This leads me to conclude that even though the states still have a distance to go to bring their programs up to an acceptable level, the injured worker is better served by the system now in effect in the states.

This system places the responsibility for the program at the local level, which is readily accessible to the individual and which can respond more personally to his complaints.

## To answer 2 basic questions

# Information, widely known, is a buyer's vital need

By Bion H. Francis

WHAT KIND of insurance do we need now? How much should we pay for it? Ever since the basis for modern insurance was worked out by mutual bargaining between shipowners and underwriters at Lloyd's, these two questions have remained at the heart of the process.

In their bargaining on this, shipowners and underwriters alike had one great advantage—they both had the same background and the same intimate knowledge of hazards and operating conditions in the field of shipping, which was their primary concern.

But with the coming of the Industrial Revolution, the size and complexity of insurance hazards increased sharply. Where possible, mutual bargaining as a method of determining insurance rates was replaced by the spread of risk over thousands of similar hazards.

But spread of risk, while suitable for limited insurance needs, was more difficult to apply to a world of giant corporations. How do you spread risks of the order of AT&T or General Motors over thousands of like corporations? They simply don't exist.

### Return to the past

To meet their need for insurance, modern corporate giants have returned, to some extent, to the principles of mutual insurance bargaining developed at Lloyd's. But among the things this calls for is information—detailed information



Bion H. Francis was an early contributor to Business Insurance's perspective section when he was insurance manager for Crucible Steel in Pittsburgh. Now retired, he examines risk managers' need for up-to-date information.

about markets, policies, costs and information about what the other guy is doing.

So one of the things a risk manager needs most to do his job properly is the equivalent of a modern newsmagazine, developed for application in the field of insurance. That need was seen and met when *Business Insurance* was started 10 years ago.

BI's job has not been easy. Changes in the insurance field have come rapidly. These changes have not merely been physical changes. Consider what has happened in such fields as product liability and malpractice insurance. There have been changes in social viewpoint so great as to damage or to threaten the fabric of our society and the way in which we do business.

In this, our insurance resources have frequently been a front line of defense. How well the job has been done depends frequently upon how quickly the danger is recognized and how well and quickly our insurance resources are mobilized—

which again depends in part on the availability of information.

I sometimes think that, in a sense, insurance is an expression of the brotherhood of man, worked out on a hardboiled dollars-and-cents business basis. Where else can you find the ability to mobilize billions of dollars to aid the victims of catastrophe?

### The profit motive

You may object that this is something which is done for a profit.

So what? Some of the most important features of American life have been done—and done well—because one result was a profit for someone.

In fact, if our nation ever changes in such a way that it is no longer possible for American industry to make a profit, the result will be a serious blow to the strength of this nation.

This applies to insurance as well. The

protection provided by insurance depends upon the ability of the insurance industry to mobilize billions for protection. The ability to do this will vanish if the insurance industry ever comes to feel that it is no longer possible to offset losses and to make a profit.

But our insurance industry is now strong and a leader in world insurance. And so, with insurance provided by the American insurance industry, with standards of protection and programming worked out by American risk managers and with the necessary information publicized by the insurance press, led by *Business Insurance*, American industry has the advantage of having available to it an efficient and low cost insurance operation.

Mr. Francis, a regular contributor to this magazine for nearly a decade, was formerly director of the insurance division of the American Institute for Economic Research, head economic analyst of the Federal Home Loan Bank Board, pension consultant for the Savings Banks Assn. of Massachusetts, the Massachusetts Bankers Assn. and the Savings Banks Assn. of New Hampshire. He served as insurance manager of Wellington Sears, West Point Manufacturing Co. (now West Point-Pepperell), Olin Industries Inc., Olin Mathieson Chemical Corp. and Crucible Steel Co. Also among Mr. Francis' accomplishments was a stint as corporate director of employe benefits of Crucible Steel Co.

# retrospective/prospective

10<sup>th</sup> anniversary

## After stumbling, this magazine's come a long way

By John P. Olsen

Director, insurance and safety  
Ingersoll-Rand Co.



John P. Olsen, director of insurance and safety for Ingersoll-Rand Co., was one of the earliest contributors to Business Insurance's perspective section. In this article he looks back at the magazine over the past 10 years.

WHEN THE *Business Insurance* editors asked for a 10-year anniversary comment from one of the original contributing editors, my initial reaction was whether it was just 10 years ago the magazine began. In some ways it seems at least 20, but in others, just like last year. I suppose it is a little of each when reflecting on those initial contributions to the first issues of *Business Insurance*.

When (and it was, in fact 10 years ago) I sat down with the then-editor Rance Crain to discuss the contributions, except for an advance proof issue of the magazine there really wasn't a clue as to what to expect. Even the more enthusiastic supporters of the new enterprise expressed doubt at that time there would be sufficient news worthy of printing that would permit the magazine to continue over any relatively long period of time.

Perhaps a bit naive, my initial impressions were that as a lawyer and contributing editor this would represent an excellent opportunity to research the law and to write on current legal issues in-

corporating all the legal mumbo-jumbo including the use of citations, footnotes, etc. I tended to visualize this as a law review-type exercise with all the frills.

But that this was not to be, was clearly evident when an article I had written (on product liability, of all subjects) appeared minus the legal fringes (i.e., citations, footnotes, etc.) thanks to a not-too-understanding editor's pencil. The point was clear—*Business Insurance* was going to deal with some highly complicated subjects, but also remain readable, understandable and hopefully even interesting, albeit dealing with some rather dull subjects.

It didn't take long to see its tone or to

pick subjects that were both current and controversial and to gear the comments in language most lawyers studiously avoid.

Reviewing some of the circa 1968-1969 articles, it is interesting to see the attention given to such issues as product liability, insurability of punitive damages and, of course last but not least, directors and officers liability coverage. In a way, however, the research for some of the articles really contributed to my knowledge of the subject, although some of my detractors are quick to state it only brought me a degree of infamy. Ironically the supervising and handling of 150 pending product liability claims has prevented

any contributions of recent date to *Business Insurance*.

One of the early criticisms of the magazine was its accuracy (or inaccuracy). I would think that most of its staunchest supporters would agree that during those early days it tended to err. Most will have to agree that there has been a major improvement in this area. To those who might disagree with this statement I would only add that most of the critics may have a direct interest in the particular article or story. There is no question in my mind, at least, that they have not only progressed to a very commendable level but, like it or not, their views are seriously considered throughout the industry.

I am only mindful of one slightly embarrassing situation which occurred to me recently on a trip to London where, when sitting down with a lead Lloyds underwriter and discussing a delicate (to say the least) renewal, he presented me with an issue of the magazine with my quotations on a major loss. Fortunately, in this case the story was accurate.

I think it is reasonable to conclude that *Business Insurance* is now the single most influential publication in the insurance business. ■

### Peck . . .

Continued from page 47

safe to assume that there will be something roughly equivalent to today's summary plan description.

If that is the case—and if the present trend toward consumerism and uninhibited disclosure continues—we can project certain features of the Hystemco (new name) retirement plan booklet in 2007.

On the front cover there will be no picture of happy cruiseship passengers. Instead the eager employe will find there the following words:

**WARNING:** The Secretary of Human Effort (formerly Labor) has

determined that this plan may be injurious to your peace of mind.

Inside the booklet there will appear the following:

The E.P.A. (Employee Protection Agency) gives this plan a rating of C-

The plan has been approved by:

The IRS

Ralph Nader

Consumers Union

(Approval does not constitute endorsement.)

In the opinion of counsel, this plan meets the requirements of ERISATCA (Employee Retirement Income Security and Total Candor Act of 1994 as amended and re-amended).

The following page will carry an introductory message, not from Oscar III but from

an Anonymous Administrator:

Dear Fellow Payrollers,

Frankly, this isn't much of a plan. Our intentions were good—but you know how it is.

We intended to establish a normal retirement benefit of 96% of final pay after ten years of service. But the actuaries told us that would mean we would have to curtail our sabbatical year in space plan for you folks with three years of service. We know you wouldn't hold still for that, so we were forced to go back to 92% of final pay (plus Social Security, of course, and with the usual 10%-a-year escalation after retirement).

Also, we wanted to lower the normal retirement age to 40, but then we discovered that the average new employe doesn't get

out of graduate school until the age of 32½. That wouldn't have left enough time to earn the full benefit, so we'll have to make do with age 45. Sorry about that.

I'm supposed to tell you that the plan document provides that the employer can terminate the plan at any time. You know as well as I do that doesn't mean a damn thing. If we tried a stunt like that the unions would be all over us like flies.

We hope you can understand the stuff that follows. We tried to get the lawyers to keep their mitts off it. Mostly we succeeded. But if there is something you don't understand, let us know. We'll call a special meeting of the Board of Directors for you, as required by Section 3A(q) IIIa(Q) of ERISATCA.

Cordially,  
Your Friendly Administrator ■

### Risk Management Notes

## General, auto liability tail difficult to establish

By Warren, McVeigh & Griffin

Risk Management Consultants  
San Francisco

IT IS WELL KNOWN that claims incurred for injuries in automobile and general liability cases are often not completely paid out for many years. What is not generally known is the rate at which claims are paid out. We do know that medical malpractice claims have the longest "tail" with only about one to two percent of the total incurred claims actually paid in the first year following occurrence.

General and auto liability claims are difficult to pin down since the variability is great between different kinds of liability and also from state to state. One commendable attempt to develop some information in this field developed from a study made by a major brokerage firm of the records of a number of large insurance carriers as reported on their annual statements to insurance departments in several major industrial states.

This study found that the percentages

of incurred losses actually paid in the years following the occurrence were as follows:

Year	Auto	General
1	18%	7%
2	39%	12%
3	20%	10%
4	10%	13%
5	5%	15%
6	3%	13%
7	2%	11%
8	1%	9%
9	1%	6%
10	1%	4%

Because of the many variables, these figures must be considered only approximations for any particular case. However they indicate the general payout rate and provide a better basis for decision making than assuming that all are paid out

in the first year.

Sometimes the risk manager will want to know what is the effective cost in the first year of losses incurred. If we use these payout tables and an 8% value of money, the present value of cost to an organization for general liability incurred losses is 81% of the total amount incurred. For auto liability it is 84%.

For example, assuming this payout rate and an 8% value of money, if a company has \$100,000 of incurred general liability losses in one year, this would be the same as if he actually paid \$810,000 in that year.

#### Earthquakes

If you have no property on the Pacific Coast, don't overlook the earthquake hazard. In 1974 earthquakes were felt in 22 states and reported to the National Earthquake Information in Golden, Colorado, as follows:

Alaska	52	New York	1
Alabama	1	Ohio	2
Arizona	2	Oklahoma	2
Arkansas	3	Oregon	1
California	41	South Carolina	1
Colorado	1	Tennessee	1
Georgia	1	Utah	6
Hawaii	14	Virginia	1
Illinois	3	Washington	3
Missouri	4	West Virginia	1
Montana	2	Wyoming	9
<b>Total</b>	<b>143</b>		

## Calling consultants

*Business Insurance* readers are asking for more nuts-and-bolts material on how actual risk management and employe benefit problems have been solved.

The individuals in the best position to report those solutions are consultants. So, *Business Insurance* would like to begin a new feature on our perspective pages called "consultants corner."

What we'd like—without disclosing the name or identity of the client, of course—is as many details as possible on the problem and how it was solved. Hopefully, these case studies can help risk managers and employe benefit executives as they face similar problems in their own corporations.

If you'd like to contribute a column, or have any questions, write Susan Alt, Editor, *Business Insurance*, 740 N. Rush St., Chicago, Ill. 60611, or call 312-649-5278.

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## Says James exec

# Insureds determine claim service quality

By REBECCA A. FANNIN

PHILADELPHIA—Insureds determine the quality of claims service by their own interest and cooperation in filing a claim, says Ivars Zvirbulis, manager of claims and self-insurance for Fred S. James & Co.

Speaking at the Delaware Valley chapter of RIMS, Mr. Zvirbulis said, "The service you receive depends upon your input because the adjuster is only as interested in a claim as the insured."

Mr. Zvirbulis said improved service can even begin at a field level when the secretary types the claim

letter. "An adjuster has little incentive if a name has been mistyped or if a report has been delayed."

For a serious claim, the insured's input should include an in-house investigation, which should be shared with the adjuster.

Such an investigation should answer the five journalistic questions—who, what, when, where and why. "There are no unimportant facts," he said.

A product liability claim, for example, should contain the manufacturer's name and address, when the equipment was installed and whether the product was faulty, Mr. Zvirbulis noted.

It's also important to know if the equipment has been changed and if so, whether the injury occurred while the new part was attached, he said. The claims manager also needs to know who recommended the equipment change.

"And the list continues," the claims manager said, adding that the necessary listings are "endless."

Mr. Zvirbulis also suggested that more input from insureds is needed when they feel their claims investigator is not competent. They should contact the claims manager about the investigator, he said as he emphasized his belief that it's the insured's input that counts.

Mr. Zvirbulis admitted that the insured's proper role in filing claims is "easier said than done. Carriers don't want the insured overly involved because they don't want to lose control."

There's also the possibility that the insured's involvement could "jeopardize excess insurance," he said.

Conflicts could be avoided though, he added, if the insureds could encourage brokers to intervene between risk managers and carriers. "They could, for instance, request additional information or act as interpreters," he said.

Mr. Zvirbulis also advised companies to add claims managers to staffs.

A claims manager is worth the expense, he noted, because he could be responsible for evaluating loss data and recommending changes. Lost time, workers' compensation claims, disability, adequacy of reserves and current status of legislation could be reviewed, he suggested.

"Improved claims service can be measured in dollars and cents," he concluded. ■

# Before you invest thousands in dental benefits, invest 13¢ in learning more about them.



James Y. Marshall  
Council on Dental Care Programs  
American Dental Association  
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Chicago, Illinois 60611

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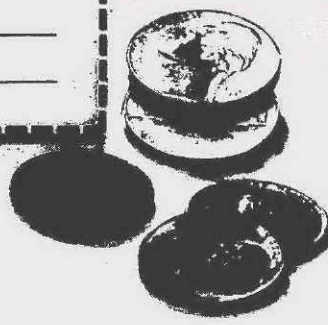
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with whom you consult?

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## Some tips on disability

WASHINGTON — When purchasing disability income insurance, it's always a good idea to check the policy's definition of disability, says the Health Insurance Institute.

Most policies say you're disabled if you cannot return to your old job or to one for which you "are reasonably fitted by education, training and experience," the institute reports.

Others define disability as occurring only if you can't perform "gainful employment." This means a railroad engineer might lose his disability income if he recovered enough to be a night watchman but declined to enter this line of work. ■

# Ration medicine? 4 specialists zero in on skyrocketing costs

By KATHRYN MCINTYRE ROBERTS

KANSAS CITY—Continued increases in medical costs, currently clipping at 15% a year, will ultimately force rationing of services, predicted one panelist discussing health care costs and quality control during the recent fall conference here of the Council on Employee Benefits.

Employe benefit managers got more than that doomsday prediction—itself thought provoking—to ponder. Controlling the development of new technology, keeping health plans insured, and gaining access to records and examining them for standard performance were suggested by panelists as means to controlling health care costs and quality.

A provider, carrier, consultant and employer each made his pitch and protest about health care costs and quality during the first day of the two-day conference attended by employe benefit managers from some of America's largest and trend-setting corporations.

While the axes ground, a few sparks flew in the face of other panelists and the employe benefits managers listening.

## A provider's view

Dr. Kenneth Platt, medical director of the Colorado Foundation for Medical Care, warned the participants, "We're going to be faced with rationing of the (health care) system." Recent cost increases "obviously can't continue," he said.

He dropped the blame for inflated health care costs at everyone's doorstep. Employers, he charged, have piled "benefit on benefit—it's cheaper than increasing salaries." Labor was singled out for always "looking for more."

Government contributed by pumping billions of dollars into the system—\$32 billion this year—through Medicare and Medicaid.

And his own profession, Dr. Platt admitted, is at fault for embracing new technological developments which are "increasingly expensive but benefiting a smaller proportion of the patient load."

He suggested a "technological evaluation committee" to analyze the cost-to-benefit ratio of each new development. For instance, he said, some now say that coronary units, which have flourished in hospitals around the country, are "not worth

their salt."

Dr. Platt also targeted the public with a propensity for adopting the "more is better" attitude and demanding "the best" care available in every situation, no matter how hopeless. Employe benefit managers later asked "who decides it's hopeless?"

"Get involved on boards and learn to say no" to purchases of the latest equipment, the physician counseled. "Base your decisions on need and not competition" among area hospitals for new hardware.

The vibrant and animated physician, who someone later said sounded like Paul Harvey, threw cold water on the concept of preventive medicine as a path to reducing health care costs. "What is it?" he

asked. "How do you get people to quit smoking?" Preventive medicine is a "hollow shell," he concluded.

Health maintenance organizations (HMOs) aren't doing the job either, he said. "How do you maintain health without changing someone's lifestyle?"

He granted that HMOs have injected some competition into the system and for that they have "some validity."

But there are not enough HMOs to serve the population, he observed. In Denver, he noted, the population is growing faster than the HMOs and "the bulk of the population will not be covered by HMOs."

What's left, he suggested, are two  
*Continued on following page*

## CEB Report

*Business Insurance* associate editor Kathryn McIntyre Roberts spent two days covering the fall meeting of the Council on Employee Benefits. In addition to the story on this page, the CEB report includes:

- Employers should voluntarily provide cost-of-living adjustments in pensions, says a consultant. **Page 55.**
- Your foreign pension plan could have problems without you knowing it. **Page 55.**
- The Social Security system's problems will be solved this year, says the agency's commissioner. **Page 56.**
- The tax reforms of 1976 mandate another look at estate planning. **Page 58.**
- We're moving toward a shorter work week, says a UAW official. **Page 58.**
- Exactly what is the Council on Employee Benefits? The answer is on **page 57.**

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# Medical costs . . .

Continued from preceding page  
federal thrusts at containing health care costs and controlling quality: Health system agencies, which are planning boards, essentially rationing plants and technology, and PSROs (professional standards review organizations) which study utilization and quality.

He conceded that PSROs are expensive, but he suggested the dollars spent are producing results. His foundation has the contract for the Colorado PSRO and in the first year it showed a \$3.70 return for each dollar expended, he said. After a great deal of work had already been done, he said, it still showed a \$2 return for every dollar spent in its second year.

Still, he seemingly dismissed the effectiveness of these moves when he maintained, "What you and I are facing is an ultimate rationing

of the system." He told the employe benefit managers, "You have to join with the profession, the carriers, government, labor and the public" to figure out how to do it. He offered three alternatives, none of which he appeared to personally endorse but rather feared:

- By lottery. You would draw a number for your place in line for an operation. Though "the most democratic," Dr. Platt said it is also subject to abuse by those with political power.

- Financially. "The wealthy get it, the poor get subsidized and the middle guy gets it if he can."

- By society. "Society makes the decision who lives or dies based on his value to society."

HMOs are a step into the rationing future, Dr. Platt maintained, because in an HMO "you're asking the doctor to ration the system."

## A carrier's view

Walter J. McNerney, president of the Blue Cross Assn., claims to be "in the trenches" of the battle against rising health care costs and in controlling quality. "We're poised delicately between doctors and hospitals and employers and employes," he explained.

He may have tipped the scale when he counseled benefit managers to "resist the never-never land of self-insurance and ASO (administrative services only contracts). You need a large middle man to have an impact on the community. Also, you can't stand employe heat on hard decisions."

Employe benefit managers' eyes bulged and jaws dropped upon hearing that. Later, more than one said he did not appreciate a Blue Cross representative telling him his health plan financing options were limited.

Mr. McNerney observed that previously concern in health benefits

has been "focused on cost, but creeping in is quality." Dealing with these, Mr. Nerney said, one is tackling "complex services and a large problem" requiring an "evolutionary process" of solution.

His thoughts: "HEW (Health, Education and Welfare) needs to get on track," providing more leadership. Hospitals need "to become better organized." Quality is a product of a well administered hospital.

Quality is also dependent on planning, the Blue Cross president argued, because if there are too many hospital beds they will be filled anyway. "Get on boards, do something about excess beds," he told the conference participants.

Cost and quality can't be controlled from Washington, or any central point, Mr. McNerney held. "At the local level we have all the ingredients to make it work: the institutions, the carriers and the planning agencies. We need to animate them, and here the employer plays a critical role."

Employers won't solve cost problems through self-insurance or by "throwing it to the individual" in the form of high deductibles and co-insurance, he said. "The individual is powerless—it's a cop-out."

Employers should instead "select a good carrier, and work with it. Get into COB (coordination of benefits), second opinion surgery, dual choice, pre-admission testing. . . . Stick with your carrier on par and non-par hospitals," he said.

Use consultants, Mr. McNerney suggested, but only in "an ad hoc provocative role—provoking you to get into it." He warned against allowing consultants to "get into too much detail," lest they become part of the health care hierarchy or "replicate current capacities."

## A consultant's view

Dr. Henry C. Damm, principal associate of the consulting firm Damm & Associates, provided a direct counterpoint view to Mr. McNerney's. He profiled his firm's concept for controlling health care costs and quality: monitor health care services and compare services rendered with standards that recognize "health outcomes."

Damm & Associates' efforts in this area were described in a *Business Insurance* article July 11.

"Purchasers need data to know the services received are the best for their dollar," Dr. Damm said. Surgical procedures, for instance, can be rated for their risk-to-benefit ratio, he explained. "I don't know what's necessary or unnecessary surgery," Mr. Damm said, but the "net effect of the procedure" can be measured.

For example, Dr. Damm continued, if a hysterectomy—a procedure with a death rate of 1 in 60 or 1 in 70—is recommended when the only two indications for surgery are the woman is over 35 and complains of low back pains, then you have "an adverse risk-to-benefit ratio procedure."

## An employer's view

Identifying the employer's grip on costs as "loose at best," TWR director of compensation and benefits Dan Hoden complained "control of quality is untouched—but essential."

Employers have "done a very good job of hands-on control with funding," Mr. Hoden said, and a "pretty good job" of designing benefits considering the pressures from competition and unions.

Though employers are becoming involved in the health care delivery system by sitting on local hospital boards and offering health maintenance organizations to their employes, Mr. Hoden charged that in quality control "we've abrogated our responsibility to the providers." The result: "We're getting poor results for our dollar."

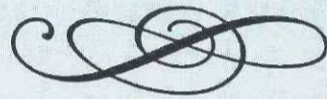
Mr. Hoden said the following statistics depict an unacceptable situation from a purchasers viewpoint:

- One of 25 patients incur another unnecessary problem.
- Twenty percent to 30% of all surgery is unnecessary.
- There is no evidence that as doctors prices go up, quality increases.

Mr. Hoden, however, defended his fellow employe benefit managers. "We've never had the responsibility and therefore the training to control quality." He suggested it's time employe benefit managers "define, measure and control quality."

"We need an information gathering system. . . . We need data from carriers and hospitals to understand what we've been experiencing. . . . We need it to compare what is possible with what we've been getting. We need the cooperation of the insurance companies, hospitals and physicians." ■

## Business Insurance Employe Benefits Communications Awards Competition



### Award of Excellence presented for outstanding achievement in communicating an employe benefits program

On April 11, 1978, at a luncheon during the Risk and Insurance Management Society's annual conference, *Business Insurance* will present awards for outstanding achievement in communicating employe benefits programs. Awards will also be presented to consultants.

The competition officially opens on **January 1, 1978 for entries to be received** in the New York office of *Business Insurance* (note address below).

There are four categories of communication which will be judged by an independent panel selected by *Business*

*Insurance*. The categories involved are: **Booklets . . . Personalized Correspondence . . . Audio-Visuals . . . Total Communications Program**. The competition is open to all companies and is not limited by the number of employes.

For more information about the competition, to obtain entry forms or to submit your employe benefits program, call . . . Ronnie Drachman, Awards Coordinator, 212/986-5050 or clip the coupon and send it to us as soon as possible.

Note: Entries will not be received after February 28, 1978. If your entry will be delayed, for any reason, please let us know.

### Employe Benefits Communications Awards Competition

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# Adjust pensions for inflation, consultant urges

**KANSAS CITY**—Employers should voluntarily amend their pension plans to protect retirees against inflation's bite or the government will require it, says vp and actuary Preston C. Bassett of consultants Towers, Perrin, Forester & Crosby.

He admits, however, that the move will be costly.

Pension plans are poorly designed and inadequately funded to provide for the income needs of retirees in an age of inflation; Mr. Bassett maintains, presenting a social need for change.

When such a need exists, he said, it will be filled "one way or the other. If private industry doesn't do it, someone else will—probably government." And government, he observes, generally acts "in an inefficient manner and usually not to our liking."

Employe benefit managers listening to Mr. Bassett's thoughts on cost-of-living increases in pension plans after retirement at the recent Council on Employee Benefits conference here didn't find the alternative of voluntarily adopting these measures to their liking either. They granted that the prospect looms in the future but said they would rather wait for the inevitable than bring it on themselves.

They didn't argue with Mr. Bassett's notation that ERISA author Sen. Jacob Javits's (R-N.Y.) endorsement of cost-of-living increases for retirees is foreboding. But still, they said, they would rather continue providing ad hoc increases at their pleasure in the meantime.

But ad hoc pension increases,

## International pitfalls eyed

**KANSAS CITY**—Your foreign pension plans could be suffering actuarial problems without your knowing it.

G. Ashley Cooper, a consultant with Hewitt Associates, lists six potential actuarial pitfalls a foreign plan can fall into:

- Peculiar methodology which may be practiced or required.
- Inconsistency with corporate objectives and financial philosophy.
- A totally unknown degree of conservatism in the actuarial techniques.
- Unusual asset valuation procedures.
- Hidden features in the methodology.
- Inconsistency with practices in the U.S. and other countries.

There "are no simple, cut-and-dried solutions to these actuarial problems," Mr. Cooper told benefit managers attending the fall conference of the Council on Employee Benefits. Methods have been adopted by multi-national corporations to deal with the problems, he said.

They include applying pressure to the local actuary to revise his methodology to fit corporate policy, having a second valuation processed either in the foreign country or in the U.S. and having valuations processed in the U.S.

When employe benefit managers are examining their foreign plans, Mr. Cooper suggested they will find the following trends overseas affecting costs: Social Security increases, adoption of final average pay and even full pay formulas, escalation of benefit formulas, inadequate integration with government benefits, greater prevalence of ancillary benefits, shorter vesting and pressure for cost-of-living adjustments. ■

Mr. Bassett said, are not sufficient to assure adequate income for retirees or deter Congress from legislating cost-of-living increases. Voluntarily filling this need with formalized plans can, he suggested.

Arguing with Congress that such changes will cost too much will be no more successful than in the past when employers fought ERISA, minimum wages and unemployment compensation on the same ground, he predicted.

Private pension plans will have to accept the responsibility for providing an adequate retirement income for the life of each participant, Mr. Bassett said, because Social Security is already providing its share and personal savings can't do it.

To protect employes fully, Mr. Bassett suggested, the unknown benefits would have to be funded

in advance. Not only does the current practice of granting periodic cost-of-living adjustments for the retired not ease their uncertainty about their income, it also does not permit sound financing, the actuary said.

Though others may argue that it is "hopeless to fund cost-of-living increases because of their uncertainty," Mr. Bassett counters that "actuaries continually deal with uncertainties." And either way, the cost remains the same and only the timing changes, he observed.

Mr. Bassett sent the employe benefit managers to their "local actuary," to determine the cost of this benefit change. But he did offer the following example:

A typical company maintains a pension benefit that is 1.2% of the average of the five highest con-

secutive years of pay out of the last 10 years, times years of service. Full benefits are payable at 62 and normal retirement is at 65. The plan provides for a continuation of 50% of the participant's pension to a surviving spouse.

The plan is 50% funded with an annual cost of 13% of payroll. If the plan were amended to provide pension increases in proportion to changes in the cost of living after retirement and the increases averaged 5% a year, the cost would jump to 24% of payroll from 13%—an 85% increase.

"Providing post-retirement cost-of-living increases is expensive," Mr. Bassett conceded. But there are methods for limiting the increases, he said.

If the benefit increase were limited to 3% a year in the above example, the pension plan would cost

18% of payroll, an increase of 38%. If cost-of-living increases were delayed to age 68, but at 5% annually, the cost would be 20% of payroll. Combine a 3% limit with an effective age of 70 and the cost increase would be to 15% of payroll from 13%.

Mr. Bassett acknowledged there is "considerable justification" for arguing that corporate initiative in this area will actually hasten legislation because it will create a demand for additional steps with even more generous benefits.

But Mr. Bassett maintained, "I believe some type of cost of living increase will become an integral part of our private pension system. The tough questions are how far industry should go now on a voluntary basis, and whether we will be able to slow down, or defeat legislation in this area." ■

# IN 1918 AMERICA FACED AN ENERGY CRISIS



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6. Clean fire when the demand for steam is small, and while cleaning have the draft damper partly closed.

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# Social Security chief predicts solution to 'crisis' this year

KANSAS CITY—Congress will act this session to solve the financial crisis threatening the Social Security system, predicted Social Security commissioner James B. Cardwell at the recent Council on Employee Benefits conference here. This year's deficit will reach \$5.6 billion, the highest in the three straight years the system has operated on a deficit, the commissioner said. Unless remedial action is taken, the trust funds used to make up the deficits will run dry by 1983. The separate disability trust is destined for an even shorter life. It will run out of money by 1979, despite "the very tough definition of disability," Mr. Cardwell said. Later, employe benefit managers

commented the definition of disability may be tough but they charged local administration of disability benefits is lax with no additional review as the system calls for. When an employe is collecting disability payments under Social Security, it makes it "difficult for us to deny them disability under our plan," observed one benefit manager.

Addressing the CEB conference on the "Current Crisis in Social Security," commissioner Cardwell quipped, "I see some comfort in discussing the 'current crisis'. The last time I was here (two years ago) it was just a catastrophe." He denied, however, that there is any crisis. "The crisis today is

simply another in a series of changes that we must confront and resolve. And it will be resolved," he said.

Though the ultimate question is "how much are the American people willing to pay?" Mr. Cardwell said, "our immediate concern is the short term deficit," a product of recent unemployment and inflation.

A House Ways and Means committee bill provides measures for making the system actuarially sound through the turn of the century, Mr. Cardwell said.

The bill does reject some of the Carter Administration's more controversial proposals for overhauling the system, Mr. Cardwell observed, such as the use of general



Kathryn McIntyre Roberts

Council on Employee Benefits president Russell Schuck and CEB secretary-treasurer Carl Lazaroff take a breather from conference work.

revenue funds for Social Security when unemployment exceeds 6%.

The committee bill would allow the system to borrow money when its reserves fall below 25% of one year's payments. Currently the system is operating with reserves of 44% of one year's payments and

would prefer reserves of 50%, Mr. Cardwell said.

Instead of increasing the taxable wage base to \$100,000 for employer contributions as the Carter administration suggested, the committee bill would raise the taxable wage base for employes and employers alike to \$27,900 in 1981, Mr. Cardwell said.

The administration wanted a higher taxable wage base for employers than employes to avoid the washout in financing that would result from increasing the employe's taxable wage base and thus his benefits.

The Ways and Means committee also rejected the Carter proposal that widows and widowers would both have to prove dependency in securing benefits. The Supreme Court decision that neither has to prove dependency will cost the system "a half-billion the first year and grow thereafter," Mr. Cardwell noted. Ways and Means did accept a decoupling provision, he said.

And Congress "seems ready to face up to integration of Social Security with Congressional and Civil Service retirement plans," the commissioner suggested. He admitted he's not sure action will be taken this year.

Such a move would help the system in the short run, Mr. Cardwell said, and make a "nominal difference" in the long range.

Kansas City Mayor Charles E. Wheeler, who voiced concern over the rising cost of employe benefits when welcoming CEB to Kansas City, objected to the proposal. Charging that it would be unconstitutional for the federal government to "inflate another government's budget," the mayor said Kansas City's bill for Social Security would be \$3 million.

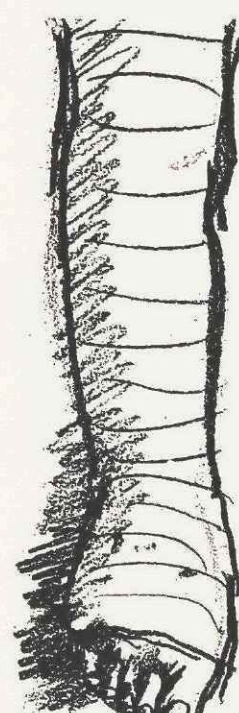
Mr. Cardwell responded that figure assumes the city would continue its present level of pension funding while picking up a Social Security bill too. Regarding the constitutional issue, the commissioner told the mayor—who is also a doctor and a lawyer—"your view is shared by many constitutional lawyers."

On raising the mandatory retirement age, Mr. Cardwell observed though Health Education and Welfare Department secretary Joseph Califano is opposed to it, "others will not let go."

Raising the mandatory retirement age will reduce Social Security costs as the system is confronted with an aging population that lives longer and can work longer.

Mr. Cardwell noted that today three workers support one retiree but by 2030, just two workers may have to foot the bill for each retiree.

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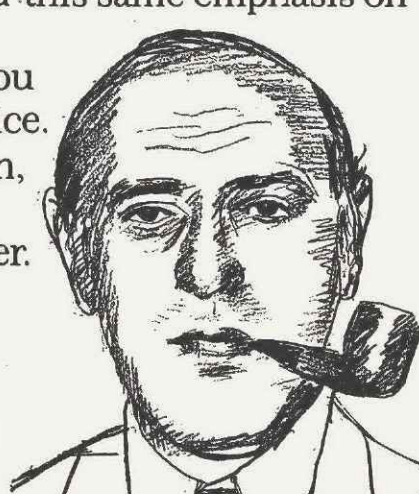
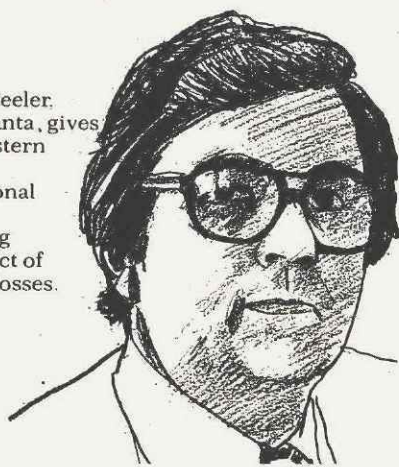
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## Note from Kansas City

# Prestigious, exclusive: A look inside the CEB

By KATHRYN McINTYRE ROBERTS

**KANSAS CITY**—Want to become a member of the Council on Employee Benefits?

So do a few hundred others and they're on a waiting list.

The party line is that membership has to be limited to a "workable number" to insure "frank exchange and open development of ideas." Right now membership is 159 companies.

Glancing over the membership roll, one realizes it's weighted heavily toward the upper echelon of Fortune 500 companies, sprinkled with a few insurance companies, consultants and a state civil service department and a state pension division.

Prestigious and exclusive, many say.

Limiting CEB membership is particularly important, the rank and file say, for a successful spring conference which is open to only card-carrying CEBs. Then members meet in small groups of 30 to 40 and share their latest hassles, fears and, perhaps most importantly, successes.

A new program that was described as working in one company has more than once been carried home to top management at other companies.

CEB, however, opens its fall conference to the public. This year, 87 non-member delegates attended, some of whom have participated in the fall conference for many years but have never been invited to join CEB.

Respectfulness, not bitterness, is apparent though. They note that as a member of CEB, "You work,

participate, or you are out."

Nearly 300 persons attended the 31st annual CEB conference held this year in Kansas City's renowned Crown Center Oct. 13 and 14. One-hundred seventy-one delegates representing 118 of the member companies, non-member delegates and the press met just beyond an atrium that sported a waterfall and indoor forest.

The day-and-half program was filled primarily by speakers, among them the commissioner of Social Security and the president of Blue Cross Assn. as well as other experts representing the most influential in the employee benefits field.

Though plagued by the same syndrome as other large meetings

—attendance dwindles by the end of the day—the tenor of the two-day conference was maintained at an enthusiastic pitch. A crowning highlight was perhaps the presentation of a key to the city to CEB president Russel F. Schuck of IBM Corp., compliments of Mayor Charles E. Wheeler.

The mayor, who is also a doctor and a lawyer, impressed the conference participants with his understanding of the problem of rising health care costs and his interest in the meeting—including his presence at their elegant reception Thursday evening.

The luncheon earlier in the day upheld the event's infamous reputation. Apparently concerned that

the delegates not be too overwhelmed by the problems of the day, CEB presents a luncheon gag.

This year the speaker was introduced as a potential Carter administration appointment to a government commission. Participants settled back for some heavy observations on the never-ending stream of regulation pouring out of Washington.

A few minutes into the speech people started to sit up and twist their heads to hear better. "I can't understand her," one complained. But she had a southern accent, "like everyone in Washington these days," and at first listeners assumed her drawl was distorting her diction.

But as those at the head table

began to crack smiles, a few snickers were heard and a wave of recognition spread across the room: This woman, with a completely dead-pan expression, was pulling the audience's collective leg.

She was an artist in double talk and could slide a string of words more confusing than pig-Latin into a sentence without breaking her cadence or intonation.

The benefit managers were amused, but the *Business Insurance* reporter trying to take notes was red-faced.

So was Ford Motor Co.'s Paul Ryder, chairman of the conference, when he couldn't talk straight as he tried to reintroduce for the record the slippery-tongued luncheon speaker. ■

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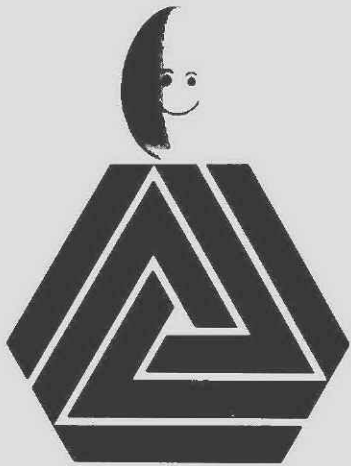
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## 25-hour week seen

# Economy will force new limits on work week, UAW aide says

KANSAS CITY—In 30 years we'll be working an average of 25 hours a week, predicts Howard Young of the United Auto Workers.

Reduced work time is the wave of the future because the goods and services we will need and our available resources will limit the output of our workers, he told a skeptical audience of employe benefit managers attending the fall conference of the Council on Employee Benefits here.

The output we want won't grow as fast as the total labor force, the special consultant to the UAW president suggested. In addition,

we have consumer involvement in running the machines we need, he noted.

He mentioned automatic elevators and direct-dialing for long-distance calls as examples of the consumer doing the jobs himself. "If several hundred million do that, the output is moved from labor to the consumer," he explained.

"It used to be that what you put in was what you got out," Mr. Young said, but in the future "labor will become less of a consideration in output."

With that, Mr. Young said, we

"shouldn't create work simply to create an allocation mechanism." Unless we adopt "more radical alternatives," Mr. Young predicted "we are going to move to reducing work time in the work force."

That is what the UAW has begun, he explained, with its personal holiday plan under which workers are required to take off five days scattered throughout this year and seven days next year.

They must be paid for this reduced work time, Mr. Young reasoned, because it's "one sector leading the parade."

The UAW bargained for this formula for more paid time off, Mr.

Young explained, because it wanted to create more jobs to spread the allocation of output, it didn't want to shut the plant down and wanted a viable mechanism that could grow.

Close to 20,000 workers are out every day, he said, "and presumably there are 20,000 people working who'd be on welfare or unemployment" otherwise.

Asked if the program isn't inflationary, Mr. Young answered if it hadn't been this "it would have been something else that would have cost money. This feature is no more inflationary than any other."

Although spotlighting the personal holiday plan in his speech, Mr. Young later said the UAW is also interested in profit sharing and employe stock ownership plans. Bargaining issues for 1979 already identified include the impact of inflation on retirement income and health benefits, he said. ■

## Consultant urges review of your will

KANSAS CITY—Any will or trust agreement dated prior to January 1977 must be reviewed in light of the Tax Reform Act of 1976, counsels Chester L. Chambers of Philadelphia-based estate planning consultants Chambers Associates.

The new law has removed just about all tax shelters, he warned. Its provisions regarding marital deductions and the maximum exemption must be understood to be balanced to the executive's advantage, he said.

"It's an outrage that attorneys with wills dated before January 1977 have not brought their clients in," Mr. Chambers clamored during a presentation to employe benefit managers at the fall conference here of the Council on Employee Benefits.

Between the new maximum marital deduction of \$250,000 or 50% of the estate, whichever is more, and the new estate tax exemption of \$175,625, an estate of \$425,000 could be tax free in 1981 under the new rules.

With this in mind, few of the employe benefit managers were taking notes for themselves or the employes whose concerns they deal with day-to-day. They were, however, taking notes for the handful of top executives back home who could benefit from Mr. Chamber's recommendations.

He noted, for instance, that in order for deferred compensation to qualify for the marital deduction, it is necessary for the beneficiary to have control of the funds.

Mr. Chambers also pointed out an odd twist to estate taxes. If the employe and the beneficiary die in a common accident, it is assumed for tax purposes that the employe died last—therefore no marital deduction.

"Put a statement on record that upon a common accident, it will be assumed the employe died first," he advised.

Regarding profit sharing funds, Mr. Chambers recommended an employe be given the maximum number of alternatives for payout so that he can choose the one most advantageous to him. Again, the beneficiary of profit sharing funds should be given the power to decide who gets the unpaid money to qualify for the marital deduction.

Regarding the transfer of ownership of a life insurance policy to the beneficiary during the individual's lifetime to reduce estate taxes, Mr. Chambers cautioned, "It's a gift tax entrapment."

The total premium is a taxable gift every year, he explained. ■

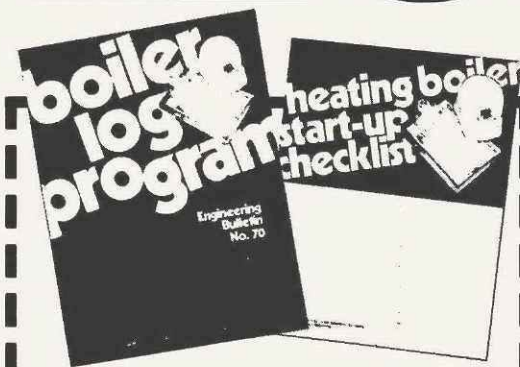
## Most report disability plans

WASHINGTON — Most American workers today have insurance to help replace their lost income if they become disabled and cannot work, says the Health Insurance Institute.

According to the institute, more than 64 million have some form of short-term disability income insurance which provides regular payments for up to two years if needed.

There are another 19 million with long-term disability insurance which will continue payments for longer than two years, often through age 65 or for life if necessary. Overall, there are some 97 million people in the U.S. civilian work force. ■

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# Stress non-tax benefits of captives, expert urges

By SUSAN ALT

ST. PETERSBURG, Fla.—Any company that establishes a captive insurance company in the wake of the recent IRS ruling disallowing deductions for premiums paid into a captive must be very sure that it can adequately demonstrate the non-tax benefits of having the captive, said a leading international tax expert here.

Marianne Burge, a partner in Price Waterhouse & Co., told several hundred people attending a meeting of the Captive Insurance Companies Assn. that risk managers will now have to be more confident than ever that they can articulate "the other benefits" besides tax-related advantages of establishing a captive.

By taking in non-parent risks, said Ms. Burge, "it is entirely possible that the ruling would not apply." But, she added, it's impossible to say exactly what percentage of outside risks would need to be included in a captive's book of business for it to be viewed by the IRS as a legitimate insurance company and not just part of the "economic family" of the parent organization.

"That would be up to the individual agent," said Ms. Burge, noting that outside business at least gives the captive and its parent firm a better chance of arguing with the IRS that premium deductions are reasonable. The presence of non-parent risks

## Some regions are healthier

WASHINGTON—People in the southern and western regions of the U.S. have a poorer health record than those in the northeastern and north central states, reports the Health Insurance Institute.

Based on data from the National Center for Health Statistics, the institute says that the average person in the West had 21.5 days of restricted activity because of illness or injury in 1976. The next worst record was held by people in the South, 18.7 days; followed by the North Central, 17.1 days; and the Northeast, 16.3 days.

Persons in the West had the highest level of bed disability, 8.1 days a year, while the South followed with a 7.6 day average. The Northeast averaged 6.7 days while the North Central region's 6.2 day average was lowest.

in the captive would mean the IRS agent auditing the firm wouldn't be bound by the latest ruling to automatically disallow the premium deduction, she said.

Making it even more difficult to figure out how much outside business is enough to make a captive a bona fide insurer in the eyes of the IRS, said Ms. Burge, is the agency's definition of an insurance company as a concern whose "predominant" activity is issuing insurance contracts.

"This certainly makes it sound like more than 50%" of a captive's business would have to be with entities outside the parent's economic family, she noted, adding that this is only her personal judgment and not the final word.

Although the IRS's ruling didn't represent any change in the agency's view of captives, it

Other stories from the Captive Insurance Companies Assn. fall meeting include:

- **TEN** companies vote to proceed with a group-owned captive. Page 60.
- **CAPTIVES** should beware reinsurance risks, says General Re executive. Page 61.
- **SCRUTINIZE** pool managers, says Bellefonte executive.

does represent "an escalation of the service's seriousness" about captives, said Peter Lederer, a lawyer with Baker & McKenzie who specializes in legal services for corporations with captives.

Mr. Lederer said he'd like to see companies with captives stand their ground and fight with the IRS over the issue of premium deductibility, rather than fold up and run. "I tend to think that if one simply gives in to this

IRS action, it is somewhat of a perversion" of our system of laws, he argued, since only Congress has the right to make laws, not administrative agencies.

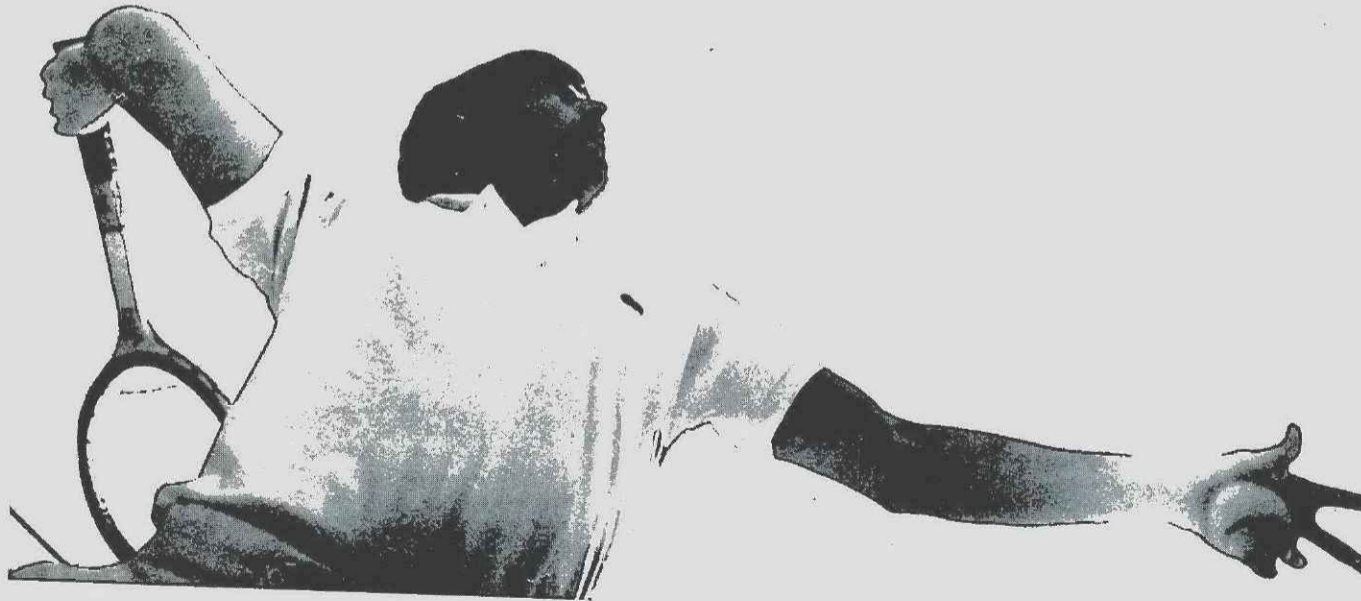
"The next year will decide what the attitude of U.S. business is going to be" on this issue, said Mr. Lederer. "It would be unfortunate" if corporate managers were simply scared away from continuing to use their captives.

Although group pooling appears to be an obvious alternative

to captives wholly owned by a parent company, Ms. Burge advised risk managers with captives to "be sure that the rating mechanism (of any group owned captive) provides for the transfer of risk," since it is essential that companies participating in such captives actually have funds at risk in such an arrangement.

Because the IRS ruling said captives are not bona fide insurers, it appears they may be eligible for a refund of the excise taxes paid to the federal government, but Mr. Lederer said he doesn't think every company with a captive should go out and file for a refund. Such an action, he suggested, "might prejudice your position (in the event of an IRS audit) if you acknowledge the general validity of the ruling."

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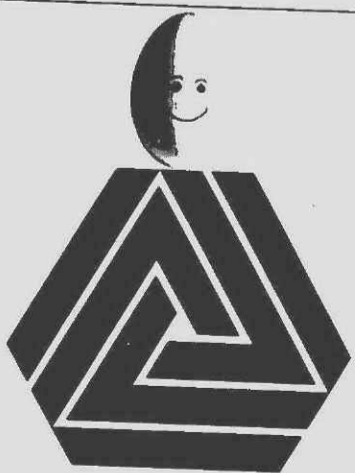
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## End of 1977 start predicted

## 10 firms OK group-owned captive

ST. PETERSBURG, Fla.—Ten companies voted here to proceed with plans for a group-owned captive insurance company in Bermuda that will underwrite buffer layer liability insurance. The companies intend to have the captive in operation by the end of the year.

Each of the 10 companies has a captive insurance subsidiary to be utilized in this program. (*Business Insurance*, Sept. 19.)

A report recommending the action was done by William Mortimer and was recently completed for about 30 interested companies. Only 10 of the firms having captives are actively interested in going ahead with Captive Insurance & Reinsurance Co. Ltd.,

known as CIRCL, which will have a maximum participation of 25 companies.

Richard S. Thompson was chosen to be Bermuda manager of CIRCL as well as president of the company. Mr. Thompson is manager of Cargill's two Bermuda captives, as well as manager of Hanna Mining Co.'s captives.

The law firm of Appleby, Spurling & Kempe was retained as Bermuda counsel, and Price, Waterhouse & Co. will act as auditors of the operation. Mr. Mortimer will continue to act as U.S. coordinator and advisor.

Baker & McKenzie was chosen as general counsel. The Bank of Bermuda was chosen to be the

local servicing bank, although a U.S. bank has not yet been chosen for a U.S. facility. Also to be determined in coming weeks is the investment manager of reserve funds.

General Reinsurance Corp. will act as a lead underwriter on CIRCL's reinsurance slip, also reinsuring a portion of CIRCL's risks.

CIRCL will reinsure risks ceded by captives in the layer between primary insurance and excess insurance, extending from \$500,000 of loss up to \$5 million of loss, depending on the needs of the policyholder involved. A prerequisite for participation in CIRCL is that a company pay

\$100,000 in premiums, or 10% of indemnity limits, whichever is lower.

The intention is for CIRCL to be a non-controlled foreign company with less than 10% of outstanding stock owned by any one participant, which will establish CIRCL as a legitimate risk-sharing operation offshore.

Among the companies now planning to use CIRCL as a market for buffer layer liability coverage are 3M Co., Ideal Mutual Insurance Co., International Harvester Corp., Hanna Mining Co., Archer Daniels Midland Co., Charter Oil Co., Emery Industries Inc., Firestone Tire & Rubber Co., General Tire & Rubber Co., and Owens-Illinois Inc. Only two of

these firms have obtained top management approval for plans to utilize CIRCL, so the other eight are tentative but are likely to join CIRCL.

Each firm initially contributed \$5,000 for the study investigating this alternative to the purchase of buffer layer coverage in the traditionally volatile markets. Edward P. Lalley, president of Ideal Mutual and chairman of the group of companies involved in the project, said the whole point of this exercise is to supplement the conventional insurance markets, not to compete with them or supplant them.

The annual management fee is expected to be \$20,000 to \$30,000 in the first year, based on estimated volume of CIRCL, with the fee thereafter based on the amount of activity and amount of premiums flowing through CIRCL. Expenses will probably run about 3% of premiums the first year, and 1% to 2% in following years.

Though the present plan is for CIRCL to underwrite buffer layers only, Mr. Lalley said that consideration is being given to a request by four of the 10 participating companies that CIRCL also provide primary liability coverage.

And while liability insurance is the only line CIRCL will provide initially, Mr. Lalley did not rule out the possibility that CIRCL would also reinsure property coverage at some future time. "That's in the wings," he said.

The four companies interested in obtaining primary coverage from CIRCL are all in consumer products industries, a field well-known for having substantial trouble obtaining product liability insurance in the current environment.

In fact, "it was the product liability problem that motivated the study and continues to keep all of us interested" in CIRCL, said Mr. Lalley.

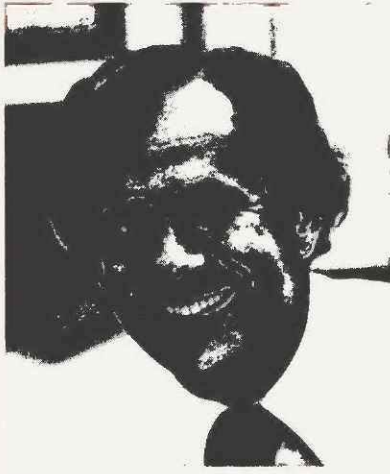
Ideal Mutual, which has a Bermuda captive itself, might conceivably use CIRCL to provide additional capacity with which to underwrite liability coverage for companies that might not be large enough on their own to participate in CIRCL, collectively reinsuring their risks in CIRCL and thereby fulfilling the minimum premium requirement.

CIRCL will have authorized capital of \$10 million. The company will retain 10% of the risks taken from captives, reinsuring another 10% with General Re and the remaining 80% back to the captives under a treaty arrangement.

Policies will be re-rated annually based on experience and exposure. They will be non-cancellable by CIRCL shareholders within the first five years. Any firm wanting to pull out of CIRCL must give at least one year's notice. Policies will be cancellable by CIRCL only for non-payment of premium, breach of contract or bankruptcy. In the event of cancellation by either party, there will be a retrospective premium assessment which could total as much as 100% of the most recent five years' premiums.

Premiums are to be paid monthly by shareholder-owners, which must fulfill these standards: \$100 million net equity, a Dun & Bradstreet rating of 5A1 or, if an insurance company, a Best classification of VII or better. Any company choosing to participate in CIRCL must place its insurance with the company within two years.

CIRCL is expected to have over \$5 million in premiums in its first year of operation. ■



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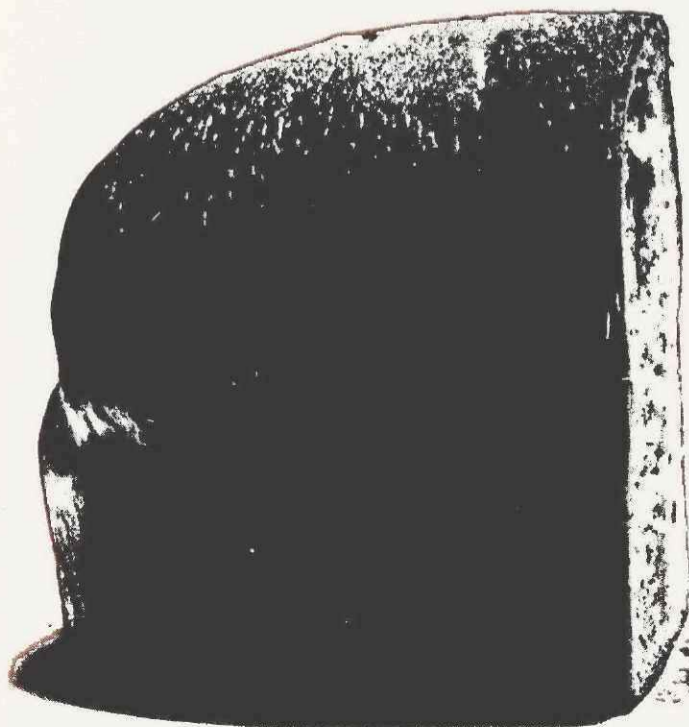


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# Non-U.S. treaty business can trip captives

ST. PETERSBURG, Fla.—Captive insurance companies that are seeking to broaden their business into reinsurance of other companies' policies were warned here to watch out for worldwide, non-U.S. treaty reinsurance business and for U.S. property reinsurance business.

James F. Billett, vp of General Reinsurance Corp., told a meeting of the Captive Insurance Companies Assn. here he believes these areas of the reinsurance business are "losers."

Reinsurers, Mr. Billett noted, lost five times as much over the last three years on a composite basis than primary insurers did.

Reinsurers taking on worldwide risks as part of non-U.S. treaty business stand to lose a nickel or a dime on every premium dollar they collect, predicted Mr. Billett. Similarly, U.S. property business is "too competitive, with too many players and not enough margins," he said.

"Competition for property business is at a peak. I think the property business will remain profitable only until the wind blows, that is, when a natural catastrophe hits."

Captive insurers out to pick up reinsurance volume also need to watch out for "capacity" business, collecting only fractional premiums for pyramiding losses on coverage of over \$10 million for any single loss, said Mr. Billett. He is wary of these catastrophic coverages because the premiums are very low for high limit coverage, the losses tend to be capricious and the risks are "marketed" by corporations and by brokers who place them with insurers at low cost to the policyholder. "Brokers go out after deciding what they want to pay, then they find the players. I wouldn't take a piece of this business on a bet," he said.

Reinsurance markets are loosening as European companies are entering the U.S. reinsurance field, said Mr. Billett of the outlook for reinsurance availability. "And several life companies not now in the reinsurance business are considering capitalizing reinsurance ventures," he revealed.

But he warned that because the "rules of the game are changing fast," companies ready to jump into the business had better beware of tort law changes, social and economic changes, emerging liability exposures, value increases and other factors.

Among the latest trends Mr. Billett of General Re sees are:

- Primary insurers are still backing off from the working layers of insurance.

- At the same time, reinsurance companies "seem to be more willing to get involved in the lower levels of losses."

- "There is more of an effort by underwriters in the marketplace to select out those good risks that have been tarred with the brush of a bad classification."

- Buyers are more sophisticated.

- Brokers are becoming more realistic. "We have no more handshakes and a lot more handcuffs," Mr. Billett said of the shift away from gentlemen's agreements about coverage and toward the formalization of all contractual agreements.

If he were a manager of a corporation wanting to take its captive insurer into the reinsurance markets, Mr. Billett said he would prefer "to get a piece of a primary U.S. treaty, rather than get into a facultative deal, because of the predictability of losses in the treaty and the chance to make a nickel" as opposed to the high risks in facultative deals.

Moreover, he asserted, with facultative deals there might be a chance of making more of a profit—but there's also the chance of losing \$5 on every dollar invested.

Group owned captive insurers are "the sequel to the Factory Mutuals, particularly on the casualty side," said Mr. Billett, viewing them as part of a natural evolution of mar-

kets. "Because many casualty insurers are saying that loss control won't work in the liability area, policyholders are answering in the same way as property owners did when told years ago that sprinklers wouldn't work. They are setting up their own group insurers."

"But they'll never move into the markets with substantial capacity," said Mr. Billett, even though group owned insurers will serve to keep deductible levels moving upward.

The impact of the IRS ruling (77-316) should not cause companies with captive insurers "to rush into accepting business, but to cede more business and pass more of the parent's risks out to reinsurers to get a legitimate deduction," urged Mr. Billett.

"This doesn't defeat the purpose of the captives," he added.

"We'd like to see captives con-

tinue to do what they were designed to do and not get into areas they don't understand and aren't equipped to handle," Mr. Billett said of the influx of captive capacity in the reinsurance markets. "We suggest there may be a high price to pay when a captive writes outside business to protect the parent company."

The vast majority of captive insurers, he noted, haven't established knowledgeable underwriting staffs to handle this new venture, even though underwriting expertise is a necessity when getting into the reinsurance business. Mr. Billett also cautioned captive insurance company operators about their remuneration systems for management firms: "Pay is better based on underwriting profit and not solely on volume of business underwritten."



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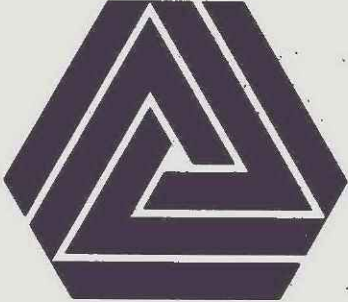
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# Beware pool agents, captives warned

ST. PETERSBURG, Fla.—Companies with captives eager to take their subsidiary insurers into the general insurance business have spawned an alarming growth of operators seeking to exploit this market, said the top executive of a successful captive-turned-general insurer.

Robert Lee, president of Armco Steel's Bellefonte Insurance Co., expressed his wariness about "the large number of new managing agents that have come into the field to exploit the capacity of captives."

"I think there are more promoters than there are captive companies," he told a well-attended meeting of the Captive Insurance Companies Assn. here.

He cautioned risk managers to be sure they fully understand all the implications of "the serious

business" of taking a captive into the general insurance field where it will underwrite non-parent risks. "Be sure management recognizes that this is a risk business and that you're in it for the long run," he said.

**Bellefonte** (pronounced bellfont), formed as a captive insurer in the early 1950s, required an initial \$15 million investment by Armco in 1970 when the company "went commercial." Armco has a \$60 million investment in the insurance company today.

One problem with a captive can arise, Mr. Lee said, if corporate management doesn't research for itself the problems and outcomes inherent in being a general insurer.

"I've seen some very fine reports done by outside firms" on the feasibility of taking a captive into out-

side business, "but the one failing as I see it is that the management of a corporation doesn't 'live' the plan and isn't fully committed to it," he said.

Even though participation in pools appears to be the easiest way to take a captive into the non-parent underwriting business, Mr. Lee also advised caution in this area. "I would certainly caution you to be very careful when you get into a pool, especially one not managed by insurance company people. There's a big difference between a pool managed by company people and one managed by a non-participating management team," he said.

Bellefonte has had good experiences and bad experiences with pooling arrangements over the years, said Mr. Lee. He said the typical experience with a pool

is that "you don't hear much or have any active role in managing the pool, you get an accounting once in awhile and everything looks good, but all of a sudden everything can turn sour."

When Bellefonte examines a captive insurer with which it plans to work, ceding business back to the captive, Mr. Lee said he looks at such things as limits on the captive's exposure to loss and its investment program to determine soundness. "We encourage the captives to which we cede business to limit their per-loss exposure to not more than 1% of capital and surplus. And we want a good investment program, with no investments in land, for example," he said.

"We also want a long term commitment from the captive's parent

—not a long term commitment on the contract itself, but we need to know that captive will be around to handle the runoff."

Bellefonte has very successfully made the transition to a general insurer, Mr. Lee said. This is at least partially attributable to the fact that Bellefonte's expansion coincided with Armco's planned diversification into financial services.

This year the insurer will write over \$300 million in premiums, keeping about \$180 million for itself and ceding the remainder to reinsurers. "We are on our way to becoming a major profit center of Armco Steel," said Mr. Lee. ■

## Bellefonte is considering new division

ST. PETERSBURG, Fla.—Bellefonte Insurance Co. is "seriously considering" establishing a risk management consulting division separate from its insurance operations, president Robert Lee disclosed here.

This would be in addition to Bellefonte's plans to move its insurance underwriting headquarters to Dallas, where it will establish an operation specializing in providing insurance programs for corporations.

In the past, Bellefonte hasn't had the legal structure or the facilities to provide the servicing necessary to work directly with corporate risk managers, but the "thrust into corporate insurance activity with the Dallas setup will carry us deeper into this field," Mr. Lee told risk managers attending the Captive Insurance Companies Assn. meeting here.

Although Bellefonte's corporate headquarters and reinsurance operations will remain in Middletown, Ohio, direct insurance operations are to be based in Dallas, where Bellefonte expects to double the size of its commercial insurance staff now numbering about 100 people.

Bellefonte will probably establish insurance operation branches in Middletown and in Atlanta.

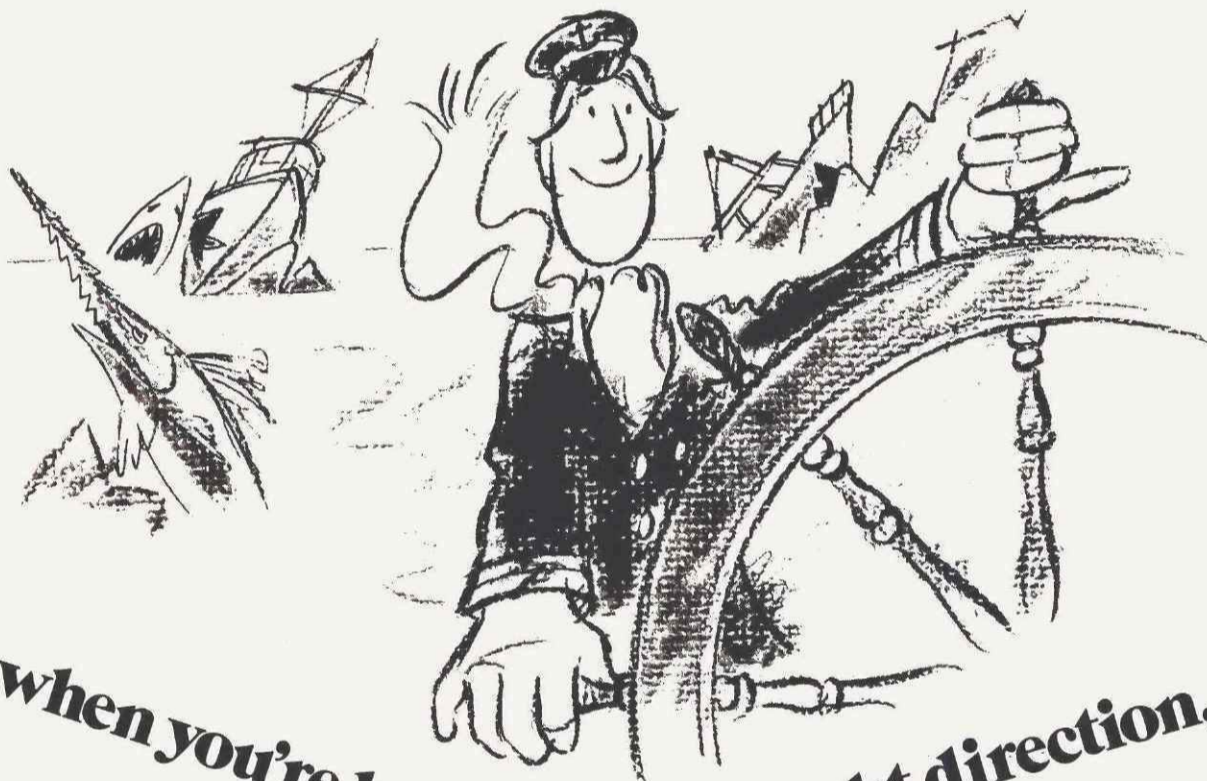
The new operation in Dallas is designed to market packages of commercial insurance in a major way to large commercial clients, of the Fortune 1,000 type. Bellefonte underwrites insurance for approximately 50 to 100 major corporations at the present time, and expects to "substantially increase" this volume of business and the number of commercial clients it works with.

"With this type of client we would hope to do their entire casualty program, or entire property program and possibly both," said Mr. Lee.

Nearly all of the direct commercial business Bellefonte now does is brokered and the firm expects that most if not all of the new commercial business will also be done through brokers. The insurer, however, said it is "not averse" to working direct with risk managers, although most business involves a broker as intermediary. ■

### Surety group

The Surety Assn. of America began accepting as members foreign bonding companies, approving an affiliate membership for The Guarantee Co. of North America, based in Montreal. The surety group aims to broaden and promote understanding and use of construction bonds in countries now relying solely on bank guarantees of letters of credit. Demand for construction bonds on overseas projects has been increasing, said Elver T. Pearson, general manager of the Surety Assn.



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# letters

Continued from page 8

I can understand and agree that deliberate harm to another party may merit your view that punishment decreed by the courts should be suffered by the offending party and not transferred to the insurance company. (Even on this point, however, you do not treat a corporation thus being deprived of insurance protection when an employee's deliberate act takes place without implied or expressed approval by the employer).

However, if you have seen as I have summons and complaints involving normal general damages which ask for substantial higher punitive damages on business situations in which there simply could not be any "wanton, willful and malicious" elements, I believe you would rethink what you have expressed in the editorial.

Perhaps the courts or the jury should disregard such irresponsibility on the part of the plaintiff's attorneys; however, lacking assurance that such will be the case, we believe that corporations and individuals should be sheltered from the threat of a punitive award of that nature.

I am sorry to see you publicize your position on this very sensitive subject which, because of the wide reading of your publication, may carry undue weight in what undoubtedly will be an ongoing dialogue, notwithstanding ISO's expressed position.

Arthur H. Kindler

Kindler & Laucci, San Francisco, Calif.

## ... An exception

To the Editor: Thanks to a friend, your Sept. 19 issue convinced me to start a subscription to *Business Insurance*.

Despite my enjoyment of *BI*, I do take issue with your editorial on excluding punitive damages from insurance coverage. Punitive damages are intended to serve both as a punishment for the offender and as a warning to others who may be contemplating similar behavior. I agree that in most cases where punitive damages are imposed the circumstances warrant their inclusion as part of the plaintiff's award. In fact, I submit that more often than not punitive damages amount to little more than a slap on the wrist and in the majority of instances the offender

should not be recompensed.

However, our courts have become so consumer oriented that even insurance companies are being assessed punitive damages in suits by policyholders. Suffice it to say that with rising premiums and cancellations of poor risks, the insurance industry doesn't possess a very affable reputation. This feeling on the part of consumers most certainly contributes to the imposition of punitive damages in those instances which are marginal in terms of "gross neglect." Frequently, an insurance company is being penalized for what is at worst tantamount to an "error in judgment."

Clearly there are instances which justify the imposition of punitive damages to advance both of the above goals. Yet the more one's behavior approaches the ever-elusive line of demarcation; the more difficult it becomes to justify an award of punitive damages in every case. This is especially true

when one considers that certain kinds of behavior which were totally acceptable in the not-too-distant past are now being attacked by the current wave of consumerism. No "seller" is immune.

Therefore, the possibility of being assessed punitive damages for behavior considered "proper" is a risk which companies presently face and will continue to face due to the vicissitudes of human nature. It is for this reason that punitive damages should be included in insurance coverage.

I wonder whether your argument would be the same for maritime insurance which presently covers fines or penalties for the violation of various customs or immigration laws. Certainly this type of payment is contrary to public policy.

While I agree wholeheartedly with half of your conclusion, "The risk of being hit with a punitive award is one that should be prevented..." I believe that because

of today's increased consumer awareness, there are instances where this risk properly should be insured.

Francis John Kreysa

Attorney, Potomac, Md.

## ... more problems

To the editor: I read the editorial opinion titled "Punitive damages should be excluded" with a great deal of interest, not only as a 30 year veteran of this insurance industry, but also as a member of the general public who will be subject to this new tremendous exposure should ISO succeed in having punitive damages excluded from all liability policies.

I would like to emphasize that point in particular, that this will be excluded from all policies. We are not only talking about the manufacturer who fails to use a little common sense in designing his

product, but also you personally in driving your automobile. I see two major problems arising from the exclusion of punitive damages which will have a tremendous impact on the processing of cases through the courts, let alone the final judgments and bankruptcies which would follow.

You are absolutely correct when you say we should not condone any willful or wantonly negligent acts and that these should not be insured. Unfortunately, when these types of decisions are placed in the hands of the jury, they will render a verdict in two categories: one for damages and one for punitive damages. If the punitive damages are not covered by the average individual's automobile policy, then he could be conceivably wiped out.

Our laws now are designed so that if a person does go through a red light, he gets a ticket. If he causes damages to person or property, they have a recourse in court to recover

Continued on following page

Quiet

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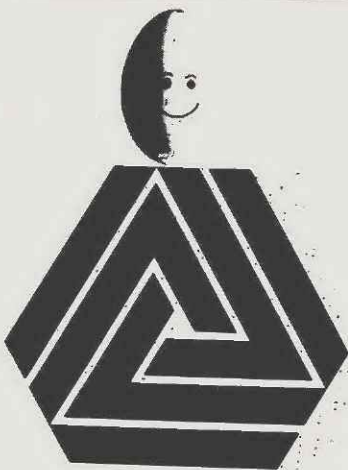
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## letters

Continued from preceding page for those damages. There is an absence of any law, at least that I know of, which allows a person to be punished for running a red light, beyond that fine. If we now place that authority into the hands of a jury to set their own standard of punishment, we can see utter chaos down the road.

The other major problem that I see with punitive damages being taken out of the liability policies, whether they be at the personal level or the corporate level, is the chaos that develops in attempting to arrive at a settlement either out of the courts or in the courts. Punitive damages being excluded from the liability policy has to be the greatest thing as far as the law fraternity is concerned because it gives lawyers the greatest weapon in

winning cases, whether they be justified or not. That is the old principle of divide and conquer.

Punitive damages for willful and wantonly negligent acts definitely should be punished, but unfortunately, ISO has not taken that out of the policy. They are taking out all forms of punishment and this alone will cause a tremendous amount of punishment on the consumers of the country and surely will end in utter chaos.

**James L. Fuehrmeyer**

Schwartz Bros. Insurance Agency Inc., Chicago, Ill.

### Stop loss

To the Editor: The article in the Sept. 19 issue of *Business Insurance* concerning self-funded health care plans and "stop-loss" insurance was timely and very interesting to our firm. As the West Virginia affiliate of Assurex International, we as well as some of

our Assurex partners have established ASO capabilities for self-funded plans. We have found our efforts to be particularly rewarding to clients who are health care providers, having written several major health care institutions within our state.

We agree that the growth of ASOs and self-funded health care plans is inevitable. We also think, however, that our continued success depends on our ability to cultivate markets among the excess and surplus lines carriers for "stop loss" insurance to avoid tying these important coverages to any particular life insurance carrier.

**B. Frederick Becker**

McDonough, Caperton Shepherd Goldsmith, Charleston, W. Va.

### Oregon's way

To the Editor: The state of Oregon, department of general services, viewed with great interest your ar-

ticle entitled, "New Jersey to study state run pool." The state of Oregon became self-insured for general liability insurance after enabling legislation was passed during the 1975 legislature. The pool was expanded to include vehicle liability in 1976. These actions were taken after commercial markets indicated a desire for increases in excess of 100% in general liability.

Third party claims are now handled by professional adjusters within the Oregon state department of justice.

The self-insured liability pool program was expanded during the 1977 legislative session to allow all "public bodies" at their option to participate.

Indicators to date, reveal that this self-insurance pool will be highly successful.

**Bernice W. Teeter**

Administrator, Dept. of General Services, State of Oregon, Salem, Ore.

## dates for buyers

Nov. 3-4 (Chicago). Nov. 10-11 (Atlanta). Nov. 17-18 (Houston). A series of two-day seminars sponsored by RIMCO Inc. on hospital malpractice liability coverage for hospital administrators, controllers, attorneys, risk managers, claims administrators and medical practitioners. CEU credit will be given (1.3 units). Topics to be covered: alternatives to first-dollar insurance, elements of effective risk management, establishing a risk management program, how doctors can get involved and financial and legal considerations. Cost: \$385 per individual; \$355 per individual on company team. Contact RIMCO Inc., Risk Management Consultants, Lock Box 98176, Chicago, Ill. 60693; phone 800-527-5690.

Nov. 7. Florida's first Insurance Industry Day sponsored by the Society of CPCU of Florida in Tampa. Two panels will present contrasting views—the public-consumer viewpoint vs. the insurance industry viewpoint. Topics will include automobile legislation, affordability and availability of insurance, insurer public image, insurer solvency and the future of the insurance industry in Florida. Cost: \$25. Contact Frank R. Muolo, CPCU, Public Relations Director, 8320 14 Way N., St. Petersburg, Fla. 33702; phone 813-879-6660.

Nov. 9-10. Self-Insurance Seminar sponsored by Laub Group Inc. and T/N & Associates Inc. to be held in Milwaukee. Risk managers and legal experts will discuss property and liability, health insurance and employee benefit programs. Cost: \$60. Contact Philip K. Vollrath, Public Relations Consultant, Zigman-Joseph-Skeen, 700 N. Water St., Milwaukee, Wis. 53202; phone 414-273-4680.

Nov. 9. National CLU seminar in Peoria, Ill. Topics will be "An Estate Planner's View of the Tax Reform Act" and "Life Insurance and the Irrevocable Trust — Effective Estate Planning Tools." Cost \$22. Contact C. Jack Cardwell, CLU, #1 State Farm Plaza, Bloomington, Ill. 61701.

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

Nov. 16. Greater Detroit Chapter of CPCU to hold its 27th annual "All Industry Day" in the Detroit Renaissance Center. The title of the program is "Marketing of Insurance Coverages: Three Points of View." Cost: \$18 per person. Contact Richard Heskin, Greater Detroit Chapter of CPCU; phone 313-553-2121.

# "Companies don't need product liability insurance."

## These could be famous last words.

Every product manufacturer is exposed to product liability claims.

The Consumer Product Safety Act of 1972 has been interpreted by the courts to mean that the manufacturer can be held liable for damages without proof of negligence . . . if the consumer was using the product in a normal fashion.

There is no sign that the consumers or courts will ease up on filing lawsuits or exacting penalties.

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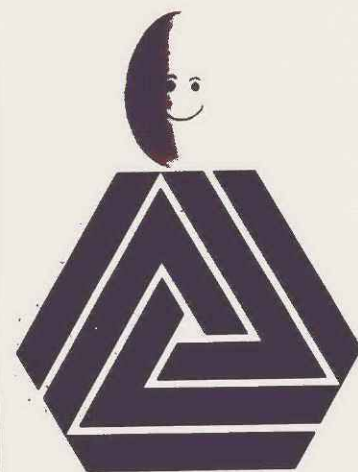
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SEE OUR AD ON PAGE 3

# Security is more than fences, seminar told

NEW YORK—Corporate management must realize that security involves more than putting a fence and guard booths around a factory and requiring everyone to wear badges.

At the 1977 International Security Conference, held here in late October several security experts expressed the belief that a successful security program requires good employe attitudes and support from management in addition to physical security measures.

Many problems which are identified as security problems are not really security problems, said security consultant James W. O'Neill.

## Computer fraud total is growing

NEW YORK—Every two hours \$500,000 is lost by computer fraud or embezzlement. Every minute, \$3,800 is lost.

Those are figures Richard Rose, senior vp of Management Safeguards, Inc., provided the International Security Conference here.

The electronic age has brought new risk control problems but most companies aren't responding by instituting safeguards because they're "afraid they don't know enough about computer exposures," Mr. Rose said.

"They backed off the existing controls they had in the manual systems because they didn't know computer technology. Then they left the controls in the hands of the technicians and who says they're sacrosanct?" the consultant asked.

Mr. Rose said companies had "better get in the war" against computer crimes because "they've already lost the battle with billions of dollars."

But he admitted that loss prevention is a "tough concept to sell. It's like telling a person to go to a physician when the person feels good. When you get a disease, then you wish you had tried to prevent it."

A computer security system may not be the "perfect mousetrap," he added "but you should get your feet wet and get started on a plan of attack" to control theft. Mr. Rose suggested that companies analyze their computer operation by a flow chart. Then they should say to themselves, "If I were the thief, how could I beat it?"

Outlining six computer exposures, Mr. Rose singled out input documentation as the most vulnerable area. "Most frauds attack input since here you don't have to know how the computer works."

To show how simply inputs could be changed for financial gain, Mr. Rose told of a meat slaughtering and process business that used computers for customer orders. The company that shipped the meat to customers changed the meat grade designation to an inferior quality through a symbol change in the computer and then sold the meat at a lower price. Customers then gave a kickback to the shipping company, which cost the company \$400,000.

The shipping company had complete control over entering provisions for meat pricing and grading in customer orders. Mr. Rose said one safeguard against this occurrence is never "vest any control in just one individual."

Output reports as well are vulnerable areas. Theft or damage to the computer equipment itself is another exposure.

"Good management makes security problems less severe," he added, security programs can not succeed if employes have poor attitudes or morale.

"If a company doesn't let employes feel they have a way to address grievances, it will have a greater exposure to industrial espionage and other security problems as a result," said Jan Reber, president of Security Perception Unlimited.

A successful security program reflects upon the leadership of a company, said Mr. O'Neill: "If management doesn't recognize security for what it is, they can't expect employes to do so."

Management should develop an attitude of: "I wear my badge, you better wear yours," said security consultant Roy L. Wesley, a former

security director with Grumman Aerospace Inc., a Long Island-based defense contractor.

At Grumman, employes were required to participate in a security education program which consisted of an orientation and indoctrination program to make them aware of security expectations, he noted.

Companies must educate their employes to know what dangers security violations lead to and motivate them to report when something unusual happens, said Mr. Reber.

Employes must understand the goals of security and support them, even though corporate security often rubs against the grain of most Americans since it restricts their movement, noted Mr. O'Neill. Yet, he urged that management and security officials respect human dignity in their programs.

Security should be treated like any other management problem, he continued. If, for instance, a hospital has a problem with nurses being raped in the parking lot, management should analyze such factors as parking lot access, lighting, alarms, patrols, etc., he explained.

Management must recognize that whatever is done in terms of setting up a security program should contribute to company goals of making a profit, Mr. O'Neill said.

"Don't build a fortress if a plasterboard wall will do the same thing," said Mr. Wesley.

"You want to make the risk so great for the would-be evil-doer that he avoids taking the risk," explained Mr. O'Neill.

Messrs. Wesley and Reber, who spoke to the conference on proprie-

tary information protection and industrial espionage countermeasures, offered suggestions in these areas.

Employes are often unwitting participants in industrial espionage campaigns, said Mr. Reber. Sometimes the trap could be as bold as inviting someone to Las Vegas and paying his gambling debts in exchange for proprietary information, he noted.

Mr. Reber urged security managers to make employes aware of the consequences of participating in such schemes—whether on an involuntary or voluntary basis.

A system of control and accountability should be established for proprietary information, said Mr. Wesley. If a document is confidential, it must be identified as such and records should be kept on its origin, reproduction and distribution, he noted.

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# Lawn mower . . .

Continued from page 1

Forster and ad agency Benton & Bowles for evidence the incident occurred.

As best as *Business Insurance* has been able to determine, the lawn mower story was first told by Alvin D. Herrington, a member of the law firm of McDonald, Tinker, Skaer, Quinn & Herrington in Wichita, Kan.

Mr. Herrington said he read a newspaper account of a case in which two persons picked up a lawn mower. One person injured

his hand and sued the manufacturer for damages.

Mr. Herrington does not remember when he read of the case, though he believes it was the end of 1975 or the middle of 1976.

Nor does he recall the name or location of the newspaper in which the article appeared. He does not have a copy of the article. "I don't cut out all the little articles I read," he said.

## Herrington's memory

Mr. Herrington also said he discussed the lawn mower story with someone he met at a hearing of the Kansas state legislature. Mr. Herrington no longer can remember that individual's name who had read the same article.

Mr. Herrington said he feels "real badly" that he does not have the article as proof. "But I don't know what I can do about it. I'm not discussing a case I didn't read about somewhere. I did not make up a case. I didn't fabricate it."

Mr. Herrington had also told the lawn mower story to Robert J. Bevenour, executive vp of Nissen Corp. in Cedar Rapids, Iowa.

Mr. Bevenour then retold the story when he testified before the Senate Select Committee on Small Business in September 1976, though he added several details that Mr. Herrington said he did not tell him.

Mr. Bevenour said the incident occurred in California where two men picked up a lawn mower and attempted to trim a hedge. An accident occurred and the resulting suit against the manufacturer was successful.

The American Insurance Assn.,

the Alliance of American Insurers, and the Outdoor Power Equipment Institute, a trade association representing manufacturers who produce 90% of the lawn mowers sold in the U.S., have not been able to track down the incident.

*Business Insurance* reported Mr. Bevenour's remarks in a story on the committee hearings. *BI* did not pursue the story at that time.

The Insurance Information Institute (III), a public relations and educational organization supported by property and liability insurance companies, picked up Mr. Bevenour's remarks from *Business Insurance*.

The III made no effort to confirm the accuracy of Mr. Bevenour's claim before mentioning the case in its December 1976 insurance backgrounder: "Product Liability, The Gathering Storm."

This omission was a "violation of our standing rules" to check the veracity of information coming from secondary sources, said Charles Clarke, executive vp of the III.

III officials were unable to explain why that rule was disregarded in this case.

The insurance backgrounder, which was distributed widely to the press, was the basis for the Crum & Forster ad. The III no longer includes the lawn mower story in its backgrounders.

## DBCP guidelines needed more study: Researchers

NEW YORK—Worker exposure to the pesticide DBCP was probably unsafe and researchers shouldn't have recommended safety guidelines without more study, one of the researchers concedes.

Meanwhile, the Dow Chemical and Shell Oil companies admit they knew the insecticide could harm worker's reproductive ability but but that they never warned them.

DBCP has been blamed for the sterility of 90 employees at three plants handling the pesticide, including an Occidental Chemical Company plant at Lathrop, Calif. and a Dow plant in Magnolia, Ark.

Although a safety standard was set in 1961 based on findings that DBCP caused damage to rats and other animals, a professor of occupational and environmental medicine at the University of California said the federal standard was "probably too low."

In 1961, worker exposure was limited to one part per million based on research published that year by professor Charles Hines and others.

Since the discovery of sterile workers from DBCP exposure, the Occupational Safety and Health Administration has limited the exposure to 10 parts of the pesticide per billion parts of air during an eight-hour day and no more than 50 parts per billion during any 15-minute period.

As early as 1957, studies had shown that DBCP exposure caused damage to the testes and other organs, chemical company representatives said at a San Francisco hearing conducted by Donald Vial, California director of industrial relations.

All this time, DBCP labels warned against breathing and skin contact but did not say why.

A Dow representative, Etyl Blair, said that children are told not to play in the streets but are not given a list of ways they can be hurt.

But the argument was dismissed by Peter Weiner, Vial's chief counsel, who said, "I say to you that in 1976, at least, you had a duty, as a corporation, to pass on the data that these possibilities exist."

While Shell's industrial hygiene director, Howard Kusnetz, said his

The origin of the one million product liability claims figure is more difficult to trace. The III included that figure in its 1976 edition of "Insurance Facts."

Mr. Clarke of the III said the figure was obtained from several sources, but relied primarily on speeches given by officials of the American Insurance Assn. in which the million suits figure was used.

American Insurance Assn. President T. Lawrence Jones, in a speech given in New York on Sept. 24, 1975, said: "The strict liability concept ignited an explosion of product liability lawsuits, from 50,000 in 1960 to 500,000 in 1970 to perhaps a million today."

The author of the Jones speech, Ronald Krauss, AIA vp of communications, said he obtained the estimate from a presentation given by Jerry Maatman, vp and director of corporate planning and research for Kemper Insurance Cos., several years ago at a loss prevention seminar at Newark College of Engineering.

## Kemper official

A Kemper spokesman said Mr. Maatman put the estimate at 500,000, not 1 million suits and that he had relied on published reports in making that estimate.

Mr. Maatman could not be

reached to confirm this or to find out where he may have obtained the figure.

"I should have called that guy (Maatman) and said: 'Where on earth did you get that million estimate?' and let him tell me if he knew," Mr. Krauss said. "I didn't. It is done. That's it. Nothing is going to change it."

Though the American Insurance Assn. and the III no longer use that figure, some insurance company advertisements have continued to use the \$1 million claim.

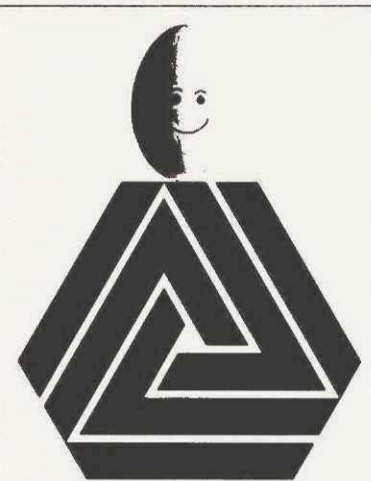
Those ads have aroused the ire of trial lawyers who have asked for proof of the figure. When asked for his reaction to the ads, Tom Davis, president of the American Trial Lawyers Assn., said: "Hell, (insurance companies) can advertise most anything they want. Free speech. You can get up and lie."

Mr. Krauss of the AIA, though, insists there was no attempt to mislead anyone. "There was no Machiavellian purpose or attempt to mislead anyone or exaggerate a problem with what turned out to be inaccurate figures. We thought it was an accurate estimate based on a reliable source."

Mavis Walters, vp for government and industry relations at the Insurance Services Office, has estimated recently "that the total incurred claims for all U.S. insurers of product liability for policies written last year (1976) may be in the range of 60,000 to 70,000."

Crum & Forster released the following statement: "Our recent advertisement entitled 'There Isn't A Product Made That Can't be misused—' was intended to illustrate that the misuse of products is one of the causes of the large increases in premiums for product liability insurance.

... We found that after the ad had been published, that although the rotary lawn mower case had been referred to by reputable industry sources in testimony given before the Senate Select Small Business Committee, by a wire service and by the New York Times, there apparently is no actual reported case involving that fact situation. We also discovered that the reference to one million product liability claims filed in 1976, reported by industry sources was incorrect. For all these reasons we stopped using this ad."



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

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

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

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

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

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# Task force report . . .

Continued from page 1

damage suits even though they used products in ways not intended by the manufacturer, the task force found.

To end those horror stories, as well as restore balance in the legal system, the task force recommended adoption of a comparative responsibility system. In a case where a plaintiff misused a product in a foreseeably negligent manner, his damages would be reduced to the extent that he was responsible for the accident.

While the contingency fee has been frequently labeled as the cause of the enormous jump in product liability cases, the task force had no criticisms of that form of payment. Lawyers, however, who bring frivolous lawsuits should be forced to pay defense costs, the report said.

Although punitive damages have not played a substantial role in product liability hikes, they could assume increasing importance in the future, the task force noted. To keep awards reasonable, the task force suggested that a judge, not a jury, determine the amount of punitive damages to be paid.

## Work comp

Finally, the task force advised that "serious legislative consideration" should be given to making workers' compensation the sole source of recovery in industrial accidents. Before this could take place, however, a systematic improvement in workers' compensation benefits would be necessary, the report said.

In introducing its suggestions for legal reforms, however, the task

force side-stepped the politically controversial issue of where the reforms should take place: at the state or federal level.

That issue has been left to "policymakers to determine in light of the content of this report as well as other information that is available on the topic of product liability," the task force said.

Turning its attention to insurance mechanisms, the task force recommends that captive insurance companies be federally chartered.

In a surprising declaration of support, the task force noted that captives provide a means of reducing insurance availability and affordability problems for some companies beset by product liability insurance problems. Captives can offer the advantages of a more efficient insurance underwriting and administrative operation and a closer attention to loss control, the task force said.

Charter requirements would be drafted to facilitate the formation

of captives set up by trade associations.

In addition, the task force proposed that parent companies be allowed to take federal income tax deductions for premiums paid to a captive, a view that flies in the face of the recently issued Internal Revenue Service ruling.

## Small firms

Captives wouldn't provide a practical answer to all product liability problems, particularly the problems of smaller companies, the report said. For those smaller firms, a product liability reserve fund might be more practical, the task force suggested.

Under a self-insurance reserve system, a company could deduct from its federal taxes funds paid into an account to cover product liability losses, much as premiums paid for product liability insurance are tax deductible.

Standing in the way of such re-

serves is the IRS tax code which does not consider contributions to the reserves to be tax deductible.

It might be time to change the tax code to permit such deductions, the task force said. But the task force acknowledged that practical problems such as determining what is a reasonable deduction for a product liability reserve would have to be licked before reserves could be established.

## No crisis

In reaching its conclusion that there is not a product liability crisis the task force noted:

- There is no widespread problem of product liability insurance being unavailable. That is in contrast to other insurance policies such as flood and crime insurance which simply could not be obtained at any price before the government sponsored federally subsidized programs.

- Product liability problems have not been the direct cause of business failures. The task force was unable to document a "single verified case of business failure solely and directly caused by product liability problems."

- No evidence can be found that product liability suits have had a significant effect on restraining development of worthwhile, new products by industry.

- Although the cost of product liability insurance has increased sharply in the last three years, it still amounts to less than 1% of sales in target industries studied by the task force.

- Product liability cases, contrary to recent claims by several insurance companies, have not soared from about 50,000 in the 1960s to more than one million today. The best estimate of the number of claims filed in 1976 is between 60,000 and 70,000, a small percentage of cases crowding court dockets, the task force reported.

## Disturbing trends

While product liability problems may not have reached crisis proportions yet, the task force did find some very disturbing trends in the cost of coverage and the number of claims filed.

For some consumer products, such as pharmaceuticals, the increase in product liability protection has skyrocketed. In 1971, according to a telephone survey performed for the task force by Gordon Associates, pharmaceutical manufacturers paid \$1.52 per \$1,000 of sales for product liability coverage. By 1976, coverage costs zoomed to \$10.84 per \$1,000 of sales.

Overall, the telephone survey found that product liability premiums increased a staggering 280% between 1971-1976, with a whopping 210% of that increase occurring in the last two years alone. Similar increases also were reported by trade association surveys.

The telephone survey also found that the number of pending claims per firm jumped from 3.5 in 1971 to 18.8 in 1976. During the same period, the amount of damages sought in pending claims leaped from \$434,075 to \$3,526,992 per firm.

In addition, statistics from the federal court system indicate "an unquestionable increase in the number of product liability lawsuits being filed." The number of such cases has more than doubled between 1974 and 1976. •

## Blues merge

Blue Cross Assn. and Blue Shield Assn. will merge their executive staffs and operate under one chief executive. The move, to be effective Jan. 1, 1978, is to promote efficiency in the two organizations. The two associations plan to retain their present separate boards of directors.

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

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# ISO claims study . . .

Continued from page 2

cluded practically no one is "immune from the threat of product liability." Manufacturers were found to account for 87% of the total product liability pay out. Finished products were concerned in claims involving injury 92% of the time.

Within manufacturing, most claims with payment were against food and similar products (2,479), though the highest average payment was charged against ordnance and accessories (\$60,242), followed by the primary metals industries (\$59,255), machinery except electrical (\$54,379) and rubber miscellaneous (\$54,352).

Wholesalers and retailers suffered 1,646 paid claims, but the average cost per claim was just \$2,425.

In product liability claims involving property damage, manufacturers were hit with 2,108 paid claims at an average cost each of \$5,267; 50% higher than the overall average.

An analysis by type of product could be misleading, ISO warns, because in most areas the sample size is too small and the mix of companies participating in the survey cause a bias in the type of products included. Two large aviation product insurers, for example, are not represented.

## Food vs. non-food

ISO did compare the distribution of claims and their cost between food and non-food items and found while food accounted for 55.7% of the claims paid, non-food items were responsible for 98.1% of the dollars paid.

The majority of incidents leading to bodily injury claims involve the purchaser of the product, but purchasers receive only 28.7% of all the dollars paid. Employees injured in the course of their work represent only 10.6% of the parties paid for bodily injuries, but they receive 42% of the payment dollars and the highest average payment for a bodily injury (\$97,884).

Of the employe incidents, 24% involve a worker with six months or less of experience on the job, ISO found. These workers get 17% of the dollars paid to injured workers.

Claimsmen responding to the survey said that when negligence of the employer is involved, they believed full recovery or contribution from the employe would have

been sought in over half of the cases with payment if it weren't for the sole remedy rule.

ISO concluded that 24% of the total dollars paid for product losses are involved in cases of possible employer negligence.

On the property damage ledger, commercial locations represent 58% of the total payment dollar though they account for only 29% of the incidents. Thirty-eight percent of the incidents occur in the home but those realize only 15% of the dollars paid.

## Permanent disability

Summarizing statistics regarding injuries, ISO found only 9% of the bodily injury incidents paid concerned permanent disability or death. But these severe cases commanded 63% of the dollars paid out in bodily injury cases.

As would be expected, the average payment increased with the degree of disability, from \$8,258 for no disability to \$255,378 for permanent total disability. The average payment in the event of death was \$132,871.

Bodily injury as a result of fire collected the highest average payment (\$149,101) though fire accounted for only 2.3% of bodily injury claims paid.

Fracture, poisoning and laceration were frequently cited injuries, each affecting a 15% portion of the parties with payment.

Property damage claims paid were most frequently the result of leakage. Collapse, grounds for just 3.3% of the claims paid for property damage, commanded the largest average payment (\$17,728).

Comparing payments with actual economic loss, ISO found that for bodily injury, payments tend to be greater than the economic loss: 10 times more in 10% of the claims paid and twice the loss in half the claims paid. However, 5% of the claimants who win a settlement receive half or less of their eco-

nomie loss.

Economic loss experienced by those who receive payment for bodily injury averages 23% medical costs, 72% lost wages and 5% miscellaneous expenses.

More than half the claims paid for property damage equal the economic loss, with a large portion paid below the actual loss.

## Time factors

Analyzing the time factor in product liability, ISO found:

- Within 12 months of the occurrence, 86% of the bodily injury and 90% of the property damage claims have been reported. These eventually represent over half the dollars paid for bodily injury and three quarters of the dollars paid for property damage.

- Within two years of occurrence, 76% of the bodily injury and 85% of the property damage claims are closed, but four years after first report, 36% of the dollars that will be paid for bodily injury and 33% of the property damage costs have not been paid.

- Eight years after manufacture, 4% of the incidents involving bodily injury, and representing 10% of the ultimate pay out, have not yet occurred.

- On the average, bodily injury claims take 17 months to close and property damage claims 13 months.

- The average payment dollar is for a claim which takes 60 months to close in the case of bodily injury and 50 months to close in the case of property damage.

Copies of the "Insurance Services Office Product Liability Closed Claim Survey: A Technical Analysis of Survey Results," are \$10 each and may be obtained from the Accounting Division, Insurance Services Office, Two World Trade Center, 19th floor, New York, N.Y. 10048. Free copies of ISO's six-page booklet highlighting the survey results are available from the ISO Product Distribution Division, 160 Water St., New York, N.Y. 10038.

# People column . . .

Continued from page 70

Cos. Inc. in Houston for three years.

\* \* \*

**George Chesney** has joined Western Air Lines in Los Angeles as compensation and benefits analyst, a new position. He is responsible for implementation of health maintenance organizations and reports to Ron Westland, director of compensation and benefits. Mr. Chesney previously was salary administration manager at Pacific Mutual Life Insurance Co. at Newport Beach, Calif., for five years.

\* \* \*

**Larry Bofenkamp** has joined Weyerhaeuser Co. in Tacoma, Wash., as director of compensation. He reports to Pete Whittall, director of employe relations. Previously, he was manager of compensation and benefits at Kaiser Engineers Inc., a subsidiary of Kaiser Industries Inc. in Oakland. He had been with Kaiser Industries for six years.

\* \* \*

**Wave Davis**, 48, has been named manager of chemical material safety compliance at Goodyear Tire & Rubber Co. in Akron. He is responsible for administering the toxic substance control act enacted Jan. 1, for the company's 60 plants. Mr. Davis said his duties will probably broaden out into general chemical safety. Mr. Davis, who was formerly a section head in chemical development services at Goodyear, reports to J.F. Hutchinson, vp for product

quality and safety.

We'd like to report on staff changes in your risk management or employe benefits department. Just drop a note to Rebecca A. Fannin, Business Insurance, 708 Third Ave., N.Y., N.Y. 10017 or call 212-986-5050. We'd also like to receive pictures of those involved.

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Continental Casualty Co.  
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Fireman's Fund Insurance Co.  
Hartford Insurance Group  
Home Insurance Co.  
Insurance Company of North America

Liberty Mutual Insurance Co.  
Lumbermens Mutual Casualty Co.  
Maryland Casualty Co.  
Pennsylvania Manufacturers' Association Ins. Co.  
Reliance Insurance Co.  
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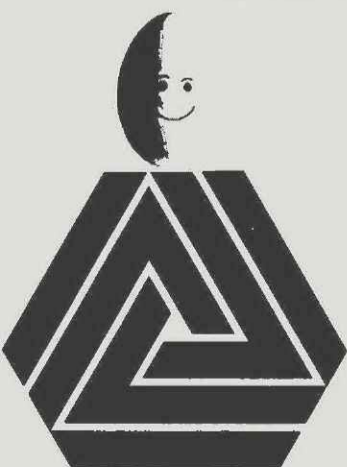
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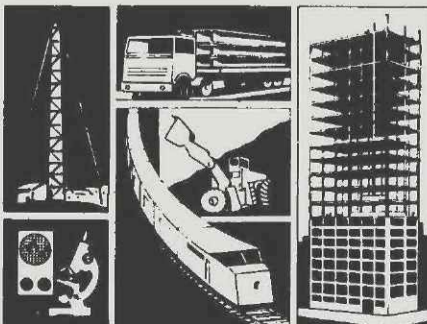
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## people

# Hertz names Van Gelderen a vp; McElwee to Smyth Transportation

L. Warren Van Gelderen, 54, has been named staff vp, casualty and general insurance for the Hertz Corp. in New York. Previously he had been senior vp for American Reserve Corp. in Chicago. Prior to that, he was zone claim manager for Allstate Insurance Co.

James M. McElwee, 40, has been named to the newly created position of vp of insurance of Smyth Transportation Corp. and its trans-

portation divisions. Mr. McElwee has responsibility for insurance and claims and reports to Charles Dake, executive vp. From 1973 to 1977 he was vp of Adams, Clay Insurance Brokerage Co. and chief operating officer of Consumer Claims Agency, Bekins subsidiaries. Before that, he served as director of safety and claims for Bekins for one year. Smyth Transportation's principal operating divisions are Smyth Van Line Inc. and Smyth Worldwide Movers Inc.

Three positions have been created in the risk management and employee benefits department at United Technologies in Hartford. The positions have been filled by former employees of Otis Elevator, a United Technologies subsidiary in New York. W. M. McDonald, 33, has moved from risk manager of Otis, where he worked for 18 months, to risk manager-foreign administration at United Technologies. James S. Koustsaes, 37, has also been transferred to United Technologies as manager of domestic claims. Previously, he was supervisor of claims administration at Otis for one year. Also joining United Tech-

nologies is Nedra Sorrentino, as supervisor of employee insurance administration from group insurance administrator, a position she held three years. At Otis, Peter B. Joyce, 29, has been promoted to risk manager, filling Mr. McDonald's spot. Mr. Joyce previously was supervisor of insurance administration at Otis.

Virginia Hollahan, 23, has been given additional responsibilities as safety director, a new position at Acme Printing Co. Inc. in Chicago. Before June, when her position was effective, Ms. Hollahan was a personnel assistant in charge of group benefits, duties she will retain. Ms. Hollahan has been with Acme for 3½ years.

Jimanne Kubiak, 36, has joined Baroid Petroleum Services, a division of NL Industries in Houston as manager of insurance. Her duties include property, casualty and workers' compensation insurance. She reports to T. M. House, controller. Previously, Ms. Kubiak was insurance representative at Transco

Continued on page 69



McElwee

## We'd like Info for Buyers items for our new format

Business Insurance needs items to include in our regular Info for Buyers column which will appear in each issue of Business Insurance during 1978.

Though we won't have our regular Info for Buyers issue next year, BI will carry expanded Info sections in each of its special issues in 1978, starting with the Jan. 9 Captives and Self-Insurance Review. We're also accepting information on other topics for the Jan. 9 section.

**WARNING:** None of the Info items used during 1977 will be automatically repeated in 1978. If the materials are up-to-date and still available, please submit them again.

Send us a copy of the material or brochure including the price and the person to write. Deadline for the Jan. 9 issue is Dec. 15.

Remember, informational materials can deal with the entire spectrum of subjects we cover: property and liability insurance, employee benefits, safety, loss control, claims administration, self-insurance, international risk management, security, fire protection, excess and surplus lines, agent and broker services, etc.

Send all correspondence to Merrill Saltzman, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611.

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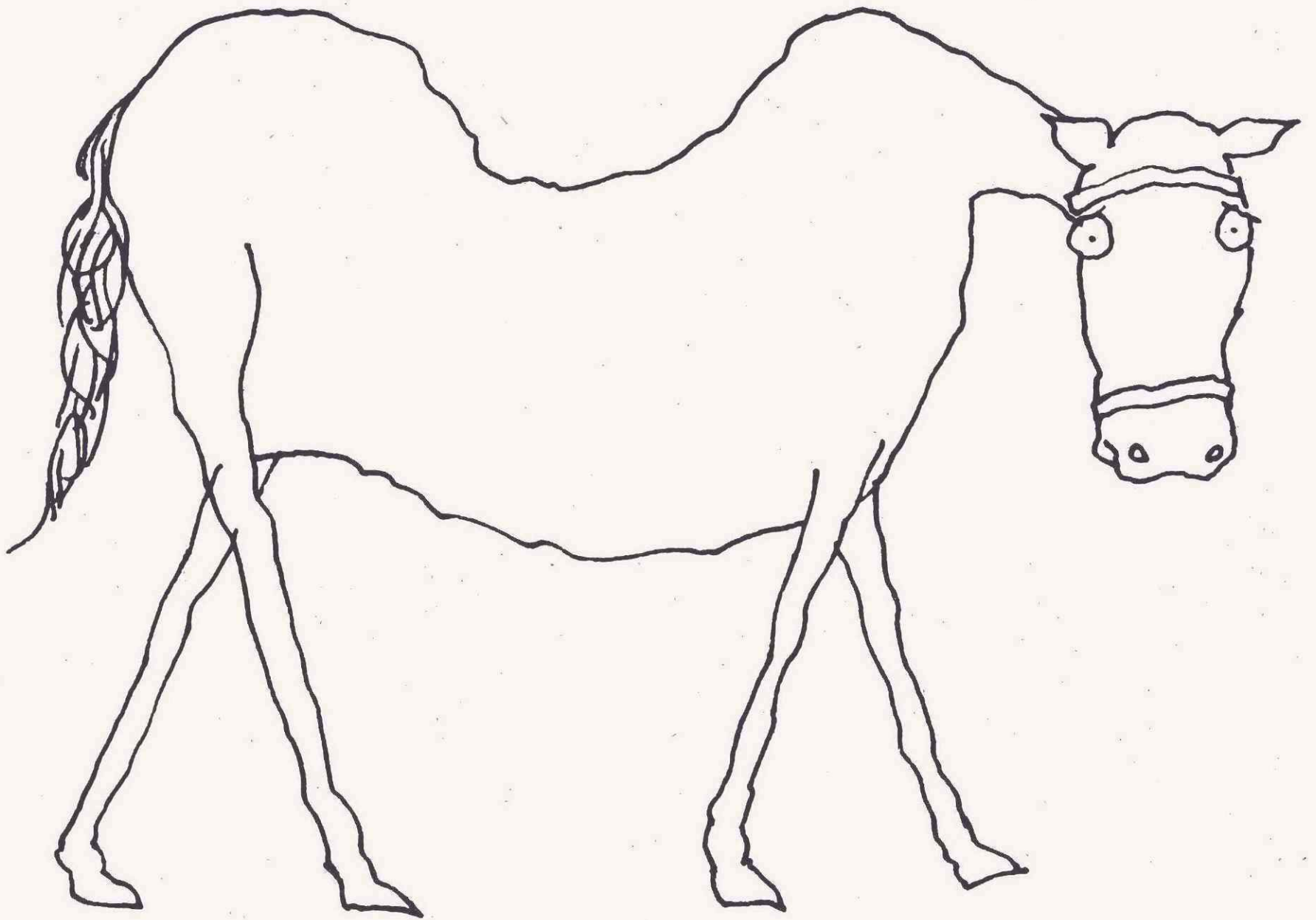
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We congratulate ourselves for having the privilege to edit our newsmagazine for such an important and influential audience of financial, risk, insurance and employe benefit executives.

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