

New DBCP suits; tests to continue

By REBECCA A. FANNIN

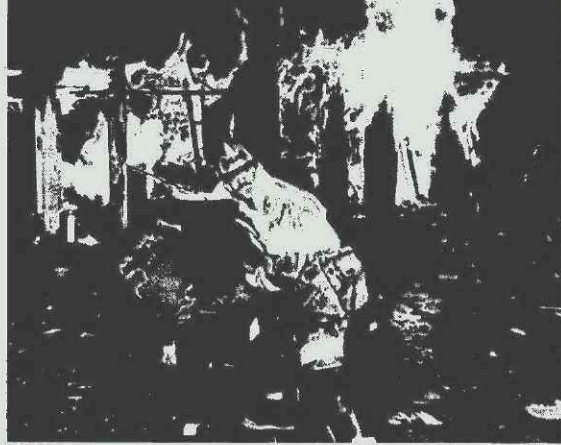
NEW YORK—Workers who have become sterile from exposure to DBCP, a pesticide used to kill worms in vegetable fields, have filed "less than 20" workers' compensation claims and two lawsuits so far against producers or processors of the chemical.

The only legal action thus far has come from workers employed at the Occidental Chemical plant located in Lathrop, Calif.

There, test results have concluded that 14 of 27 men handling the pesticide were sterile or had low sperm counts.

The workers themselves can't sue under workers' compensation laws, but the wives of the workers can sue, according to Sylvia Krekel, an occupational safety specialist at the Oil, Chemical & Atomic Workers International, the union that discovered the hazards at Occidental.

She said third-party suits can be brought by the
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Wide World Photos

KC flood damage

Firemen battle a blaze in Kansas City's Country Club Plaza after flood waters ruptured a gas pipeline, touching off several explosions. Damage was estimated at \$50 million; one-third may be covered by insurance. See Page 13 for a full report.

Little cost impact seen from retirement bill

By ELLIS SIMON

NEW YORK—Eliminating mandatory retirement or raising the mandatory retirement age will probably have little impact on the cost of employee benefit programs.

By the end of this year, President Carter is expected to have on his desk legislation that would raise the mandatory retirement age for private employees from 65 to 70 and would eliminate mandatory retirement for federal workers.

One measure, H. R. 5383, was passed in the House late last month by a vote of 359-4. A similar bill, S. 1784, has been approved by the Senate Human Resources committee. And in a poll released Sept. 26, the Harris Survey reported that 88% of Americans oppose mandatory retirement.

Keeping people employed until age 70 is likely to lower pension costs, since the payout period would be shortened, experts report. Corporate medical insurance costs would be unaffected, since Medicare becomes the principal source of health care coverage after age 65.

However, life insurance and disability costs would rise due to increased risk in these areas for older persons, the experts believe. Even here, costs could be controlled by following the practice of firms that
Continued on page 60

The inside story

Product liability score card

The second *Business Insurance* score card, detailing the status of product liability reform legislation around the country, appears on Page 26. Several new states have been added and others updated. We'd appreciate your help in keeping the score card up-to-date. If you know of any new developments, please call our Washington editor, Jerry Geisel, at 202-638-5300 or write him at 1253 National Press Building, Washington, D.C. 20004.

Bike path

Government risk managers whose jurisdictions are creating bicycle sidewalks or lanes along streets and highways should take note of the liability problem and apply the brakes. There is a better way, say the experts. For the answer, see "Bike paths near streets can skid liability skyward" on Page 43.

Editorials, perspectives

Blue Cross' recently announced efforts on cost control are commendable. But isn't it too little, too late? See editorial, Page 14.

Self-insured reserves are one answer to the product liability problem with many benefits and few drawbacks, writes Robert Goshay, head of Marsh & McLennan's product liability council. See perspective, Page 25.

Hospital problems

A new rule from the federal Bureau of Health may throw a monkey wrench into hospital efforts to solve medical malpractice insurance problems with captives. And new demand for hospital risk managers will tax the pool of risk management professionals. Reports on hospital risk management are on Pages 46 to 51.

Elsewhere

- SENATE OKAYS the pregnancy benefits bill, but gives employers more time to comply. Page 2.
- DISPUTE LOOMS over whether insurance will cover \$3 million award against AT&T unit. Page 4.
- TWO MAJOR trade groups select brokers for key insurance studies. Page 10.
- MANY CLAIM firms waste your money, say two independent consultants. Page 17.
- VICTIMS OF the disastrous Kentucky night club fire charge ISO is liable. Page 20.
- STEVE SCHANES has his fingers all over the employee benefit pie. See riskWatch, Page 60.

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business insurance

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Appeals court upholds state benefit regulation

By GREG DAVID

BOSTON—A federal appeals court here ruled that states have the right to require employers or union plans to provide certain benefits if those benefits are financed by purchasing insurance.

But employers or union plans that self-insure benefits are protected from state regulation by the preemption clause of the Employee Retirement Income Security Act (ERISA), the court said.

Business Insurance learned that the U.S. Labor Department has also decided that states may regulate insurance contracts, even if those regulations impose burdens on employee benefit pro-

grams. It is the first time the Labor Department has interpreted ERISA's preemption of state insurance laws narrowly.

The appeals court upheld a New Hampshire law which requires group insurance contracts covering persons living and working in the state to include coverage for mental illness.

The law was challenged by James Dawson, administrator of the Northern New England Carpenters Fund which provides medical and death benefits for members in three states. The fund, financed by employer contributions, chooses the benefits which are provided through a retrospectively rated insurance contract.

Mr. Dawson argued that ERISA prohibits states from requiring his union plan to provide coverage for mental illness. ERISA section 514 prohibits any state regulation of employee benefit plans. The law also affirms the right of states to regulate "the business of insurance," although it goes on to provide that states may not "deem" an employee benefit plan to be an insurance company.

"We're disappointed in the result," said George Pantos, a Washington attorney who represents the ERISA Industry Committee (ERIC). "However, the decision offers some solace to companies that self-insure."

ERIC filed a brief before the
Continued on page 52

Small firms up deductibles

By KATHRYN McINTYRE ROBERTS

CHICAGO—Self-insuring employe health plans is working for large corporations, so why shouldn't some variation of it work for the smaller employer?

Partial self-insurance of health plans through a high deductible does work for employers of two or more persons, say its advocates.

Groups of around 100 are considered optimum candidates for the program under which the employer assumes anywhere from the first \$500 to \$2,000 or more of his employees' medical bills and

buys major medical insurance to cover costs above the deductible.

Cost containment, cash flow, tax breaks and lower acquisition costs are cited as the advantages of the program compared with fully insured plans under which employers of fewer than 200 are generally stuck with pool rates.

Variouly referred to as high front-end deductibles, partial self-insurance or medical reimbursement coupled with major medical coverage, the approach is catching on with the continued rise in health care costs.

The Guardian Life Insurance

Co., one of the most active in the market, is doing about a third of its health business on high deductibles and says recent experience has been "phenomenal."

Chicago office manager Edward P. Phelan said that 18 months ago brokers wanted quotes on a high deductible plan about 25% of the time. "Today, 90% of the cases are asking for a quote on a high deductible and the other 10% we offer the high deductible quote automatically," he observed.

Phoenix Mutual Life Insurance Co., another major underwriter of the coverage, said more
Continued on page 55

More time allowed to comply

Senate OKs amended pregnancy bill

By JERRY GEISEL

WASHINGTON — The Senate voted overwhelmingly to require benefits for pregnant women, but

only after adopting an amendment that will give employers more time to comply with the measure.

That amendment, introduced by Republican Sen. Orrin G. Hatch

of Utah, would give employers six months from the time the bill becomes law to include pregnancy in their employee benefit plans.

If passed by the House and signed by President Carter, the measure (S. 995) would overturn last year's Supreme Court decision that employers were not required to offer disability pay to pregnant employees under the civil rights laws prohibiting sex discrimination.

The Senate vote was 75-11. Under the proposal, employers offering disability plans would be required to include pregnancy in their plans on the same basis as any other sickness. An employer, however, that does not provide a paid sick leave program would not have to pay pregnancy disability benefits.

The bill would prohibit paid sick leave programs that limit benefits for pregnancy to a shorter period than other disabilities. An employer could not, for example, limit disability benefits for pregnancy to six weeks while providing up to 26 weeks of benefits for other illnesses.

At the same time, medical and hospital plans would have to be revamped if they covered pregnancy on a different basis than other sicknesses. An employer, for example, could not limit hospitalization coverage to \$500 for pregnancy-related expenses while paying up to 80% of expenses for other illnesses. Benefits must be provided equally, under the proposal.

However, companies without disability or medical plans would not be required to institute those plans under the pregnancy bill.

Other amendments by Sen. Hatch to limit the scope of the Senate bill were soundly defeated or withdrawn. Those amendments would have extended the compliance period to one year and allowed employers to limit disability pay to six weeks for normal pregnancies.

Although business groups such as the National Assn. of Manufacturers and the U.S. Chamber of Commerce expressed satisfaction that the Senate voted to extend the phase-in-period, they were disappointed that other proposed revisions failed to carry.



Williams

Hatch

"The primary thing we were looking for was a cap on the number of weeks of disability an employer would have to offer for pregnancy," said Annette Fribourg, NAM's director of human resources and equal opportunity. "We felt six weeks was a reasonable figure."

As attention shifts to the House, where the bill is pending in subcommittee, a new battle will begin to place a time limitation on when employers have to pay benefits as well as stretching the compliance period to one year, said Bill Knapp, a staff attorney with the Chamber of Commerce.

Neither the Chamber nor NAM believe the struggle to revise the measure to make it less costly to employers is a lost cause.

"We're not giving up on the basis of the Senate (action)," said NAM's Ms. Fribourg. "There still is a long way to go," noting that the bill now must clear a House

subcommittee and committee as well as be approved on the floor.

In addition, the two branches of Congress will have to resolve differences that have emerged in the Senate and House versions of the bill.

The most vital difference involves the thorny issue of reducing employee benefit plans to pay for the cost of including pregnancy in the plans.

As the bill now is written in the House, employers with disability and medical plans would be permanently prohibited from reducing their plans to pay for pregnancy benefits.

In the Senate, however, a one-year freeze was adopted in which an employer could not lower benefits to pay for pregnancy benefits. After that, an employer would not be restricted from altering benefit and disability plans.

As was made clear during debate on the Senate, the measure would only preempt state law where state law was inconsistent with the federal proposal.

However, a state could require an employer to have a disability plan or it could set a specific limit on the benefits to be provided as long as the law met the minimum standards of the federal legislation, according to Sen. Harrison Williams, the New Jersey Democrat who is the author of the Senate bill.

Thus, employers could be forced to comply with different state legislation requirements on pregnancy benefits.

The House employment opportunities subcommittee is expected to act later this month.

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Prudential signs up 3 Calif. school districts

PRUDENTIAL LIFE Insurance Co. has been named to provide group life, medical and dental coverage for the Hacienda-LaPuente Unified School District in California effective Oct. 1. Prudential replaces Blue Cross for medical coverage and The Travelers for the dental coverage. A spokesman for Kennan & Associates in Torrance, the broker, said that the school district would save between \$82,000 and \$250,000 in the move. The school district employs 2,500 persons; annual premium comes to \$2.2 million. The Prudential also signed up the Lowell Joint School District and the Walnut Valley School District in California for life and medical coverage.

ARIZONA public employees are now covered by a Metropolitan group insurance program. The \$5 million annual program covering 30,000 employees includes life, long term disability and accidental death and dismemberment insurance. Previously, the various government bodies in Arizona sponsored their own coverages. Under the new program, all employees have a flat \$5,000 life, AD&D and LTD coverage under the new program, a spokesman said.

NO FURTHER CUTBACKS in medical and health benefits to mine workers and their families will occur under an agreement between the United Mine Workers and the Bituminous Coal Operators Assn. that provides the pooling of income and assets of the 1950 and 1974 benefit trusts. Those trusts provide health and medical benefits for 821,000 beneficiaries. Without the agreement a reduction in benefits would have been necessary for workers under the 1950 benefit trust; that trust now has a deficit of \$17.5 million. The 1974 trust, however, has assets of \$13 million. At the same time, trustees for the fund announced an agreement to secure between \$8 million and \$9 million in loans to cover shortages in the 1950 pension trusts and avoid a reduction or delay in this month's pensions' checks to 81,000 miners. Previous cutbacks in medical and health benefits, however, will remain in effect. During an earlier rollback of benefits, beneficiaries were made responsible for the first \$500 for each medical and hospital bill. Previously there was no deductible.

LEGISLATION TO DELAY by up to 18 months the date on which the Pension Benefit Guaranty Corp. (PBGC) begins paying benefits under terminated multiemployer plans has been proposed. Mandatory coverage of multiemployer plans under ERISA's termination insurance program had been scheduled to begin Jan. 1, 1978. In introducing the proposal (S. 2125), Sen. Harrison A. Williams (D-N.J.) said that without the delay in the start of coverage, PBGC reserves might be severely drained by paying benefits to participants in the large number of multiemployer plans that may terminate. "If the PBGC suddenly has to assume large termination insurance payments next year, it will have to raise the premiums it charges to multiemployer plans," Sen. Williams said. And that could trigger a new round of terminations by plans unable to afford skyrocketing rates. Sen. Williams' proposal is seen as a stop-gap measure designed to give PBGC the breathing space it needs to work out a solution to the problem of trying to protect plan participants — without weakening already shaky plans through high premiums.

PENSION PLANS in Canada are marked by several major differences from plans in the U.S., says a recent special newsletter from Kwasha Lipton, the New Jersey-based consulting firm. Canadian pension plans must be approved at both the provincial and federal level, unlike the U.S. where all pension regulation is at the federal level. However, a plan must only be registered in the province where the greatest number of employees are located. There are no minimum eligibility standards in Canada and many Canadian programs are less liberal than their U.S. counterparts. Although most Canadian firms have 10-year vesting, most also include an age requirement. Like U.S. plans most Canadian plans are integrated with the social security

system. Canadian plans must not exceed \$60,000 or 70% of the average pay in the final three years of employment.

THE U.S. LABOR Department is no longer "sanitizing" advisory opinion letters involved in rulings under ERISA. Previously, the Labor Department removed the name of the person or company requesting an opinion on an ERISA interpretation. The letters are used to help employers and consultants evaluate trends in enforcement of ERISA.

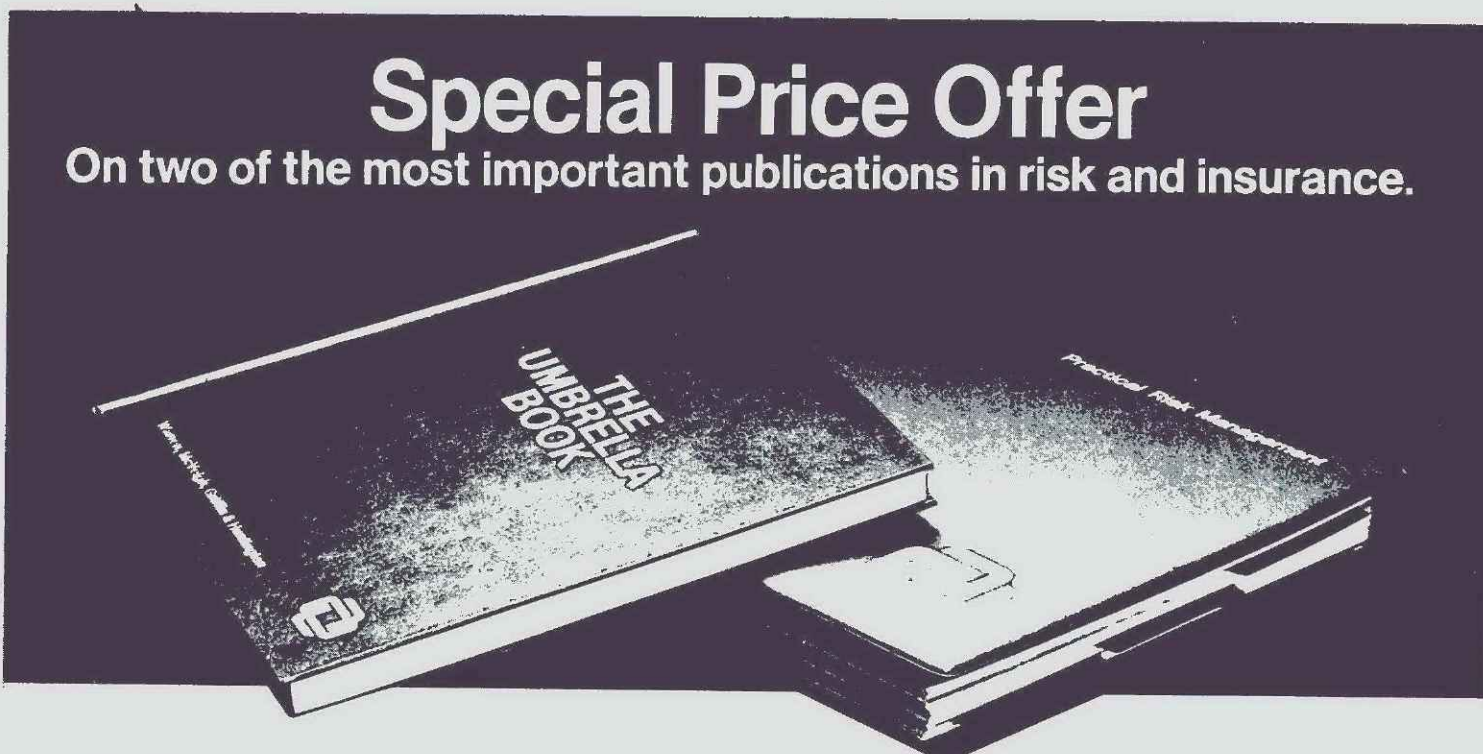
REWARDS FOR kicking the nicotine habit is a new benefit at Kennan & Associates, a California insurance agency specializing in benefit programs for school dis-

tricts. The firm pays each employee who stops smoking for one year \$100; spouses who stop smoking for one year receive \$50. The company says that there have been fewer trash fires and carpet burns since the reward went into effect. Kennan & Associates also hopes the reward will lead to better health for its employees.

CANCER COVERAGE is available for association members from CNA Insurance's Continental Casualty Co. A product of the mass marketing division, the cancer-only coverage has a maximum benefit of 250,000 and annually costs less than \$50 for an individual and less than \$100 for a family. Available to those under 60 who have not had cancer in the last 10 years and to

those 60 to 69 who meet additional requirements, benefits include: \$1,000 for miscellaneous hospital expenses; \$100 consultation fee and \$50 a day in-hospital indemnity of which \$30 a day is exempt from coordination of benefit clauses. The 89-day period before the extended benefit is payable need not be consecutive.

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



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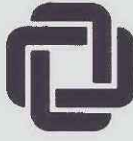
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AT&T unit, American Home

Dispute looms on coverage for \$3 million award

By REBECCA A. FANNIN

NEW YORK—Southwestern Bell Telephone Co. and its insurer, American Home Assurance Co., reportedly disagree whether insurance will cover a \$3 million award against the phone company.

The company was found guilty of slandering two former employees, James Ashley and the late T. O. Gravitt, with an improper investigation that indirectly caused the mental illness and suicide of Mr. Gravitt. The jury awarded \$1.5 million to Mr. Gravitt's widow and estate jointly and \$1.5 million to Mr. Ashley.

The two employees had sought \$39 million in damages.

Punitive and compensatory damages were awarded in the slander case. The disagreement about what Southwestern Bell's policy will cover relates to punitive and actual damages, according to a highly knowledgeable source.

Earlier this year, American Home excluded punitive damages when renewing some excess liability policies but has since attached this protection again.

Southwestern Bell, an American Telephone & Telegraph unit, reportedly is self-insured for \$2 million and has an excess liability policy with American Home.

American Home declined to comment on the policy limits or whether a disagreement had oc-

curred between the underwriter and phone company.

"There's a fleet of papers to review and the case is too fresh to discuss," said Frank Bianco, an excess underwriter at American Home.

In a formal statement, American Home said, "We are still reviewing the Southwestern Bell claim and can make no further comment until the review is completed."

"The underwriters aren't making any decision until they review the case," agreed Jerry West, who brokered the policy at Marsh & McLennan.

Confusion about the policy presumably could also have arisen because punitive damages

should not have been awarded at all, one lawyer argued.

Exemplary damages can only be awarded if malice was found in a slander case, according to James Ingram, a law partner of Hubert Green, Bell's lawyer. But he said malice wasn't found properly since the jury didn't establish whether the slander was made public.

Southwestern Bell plans to request a mistrial since whether the slander was made public was not determined. It also will ask that the award relating to Mr. Gravitt be set aside.

"The Gravitt malice issue won't stand up because there was no determination that a director or officer had slandered

Mr. Gravitt," Mr. Ingram said. He added that only a Southwestern Bell official has the "authority to bind the company" in slander charges.

The suit arose after Bell investigated Mr. Ashley and Mr. Gravitt because of rumors it heard about sexual improprieties at its San Antonio office. Bell said it suspended and later fired Mr. Ashley as a result of the investigation.

Mr. Gravitt's name was mentioned twice during the investigation, the company said, but he didn't become a target of the probe until after Mr. Gravitt's suicide.

The jury ruled that this investigation resulted in slander, which led to Mr. Gravitt's mental illness and his suicide.

Southwestern Bell also filed a counterclaim of \$28,101 against Mr. Gravitt's estate and \$18,927 against Mr. Ashley. It claimed that Mr. Gravitt billed the phone company for charter flights he didn't take and that he used company money to redecorate his home and submitted false expense accounts.

The company also claimed that both Mr. Ashley and Mr. Gravitt submitted false expense accounts. In addition, the phone company said Mr. Ashley conspired to charge Southwestern Bell for charter flights that Mr. Gravitt didn't take.

The jury ruled against Bell on all claims but the expense account claim. The company was awarded \$1,771 on this claim by the jury.

The jury cleared AT&T, parent of Southwestern Bell, of all charges.

The suit has stirred much publicity in the three years it took to reach trial. Both Mr. Ashley and Mr. Gravitt complained about Bell's "corporate rapacities," including slush funds, wire-tapping, payoffs, dishonest rate-making and corporate living at public expense. ■



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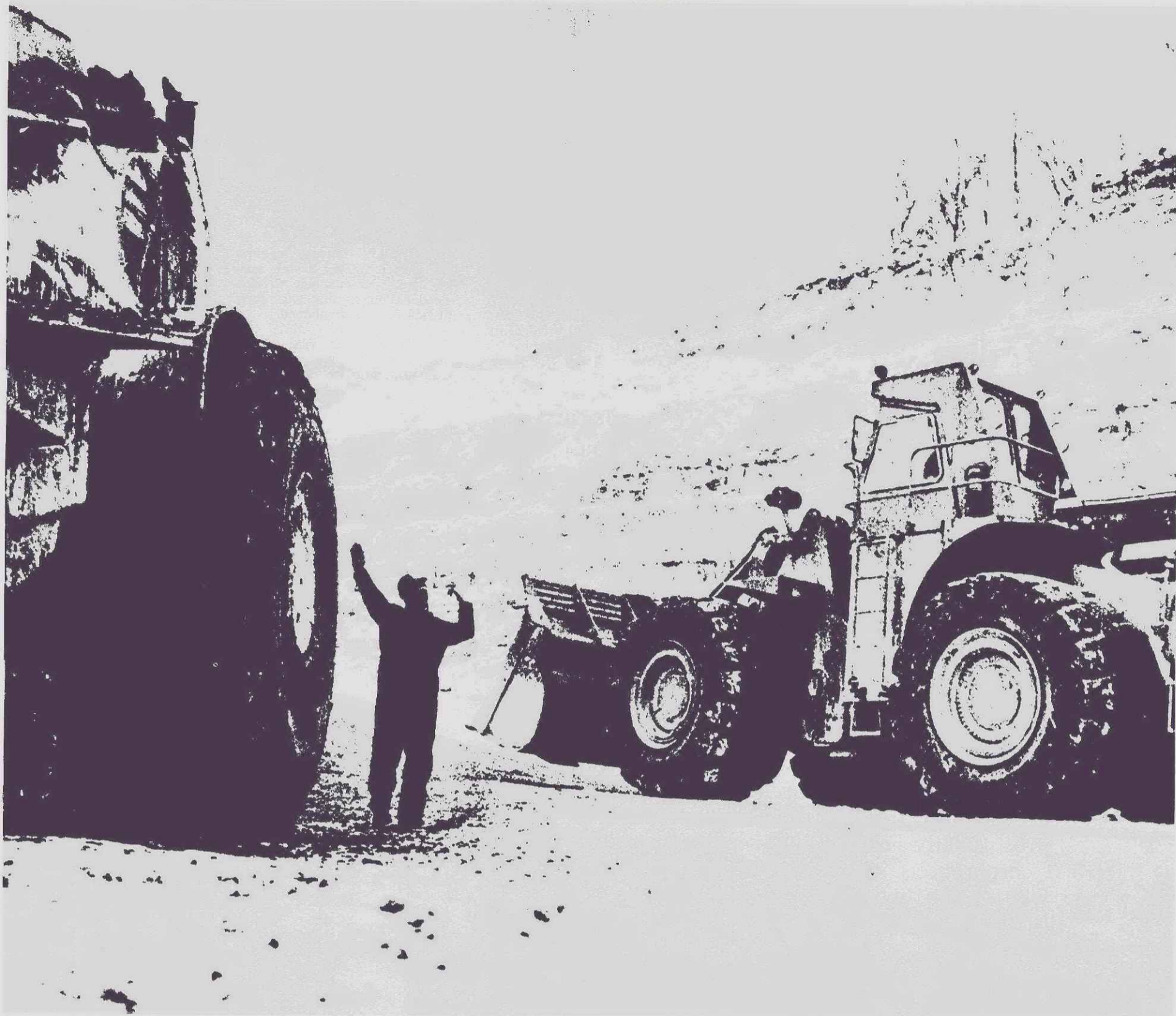
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Employers Insurance of Wausau
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Tennessee bank policy covered kidnaped daughter of executive

By ELLIS SIMON

MARYVILLE—A Tennessee banker's daughter who was kidnaped from Vanderbilt University was covered by a kidnap/ransom policy that the bank had for its key personnel and their families, a bank executive says.

The policy, placed with the St. Paul Companies, would have reimbursed the bank for ransom money losses provided the incident is handled within the policy rules, said Bank of Maryville executive vp Brad Sayles.

The bank used its own funds to pay the \$150,000 ransom demanded for the release of 19-year-old Annette Adams, daughter of bank president W. C. Adams.

She was abducted from the Nashville, Tenn., campus Sept. 7. Most of the funds were recovered four days later when Miss Adams was released and her two assailants were captured near Morganton, N.C.

Insurance is only part of Bank of Maryville's defense against such incidents, Mr. Sayles said. The bank has detailed, written procedures for coping with such emergencies, he explained.

Mr. Adams, who was out of town when the kidnaping occurred, said the system worked so well that by the time he returned to the bank the ransom had already been taken care of by other bank officials.

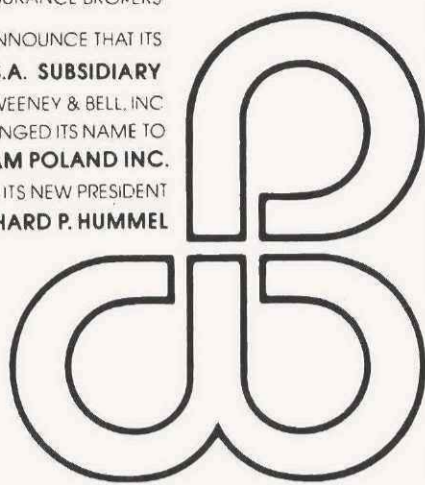
While he declined to give much

detail about these plans, Mr. Sayles did say that bank officials and their families do not follow set schedules and routes when traveling between their homes, the bank and shopping areas.

Many businesses in eastern Tennessee have established similar security plans for their people and interest in this area has stepped up as a result of the Adams kidnaping, he noted.

Another step taken by the bank was seeing that currency was available in several denominations to meet unusual demands from kidnapers, Mr. Sayles added. In the Adams case, the bank was able to come up with the requested denominations.

However, if the bank could not come up with the funds and the incident did not come under the policy's coverage, the burden for coming up with the remaining money would have fallen to the Adams family, Mr. Sayles explained.



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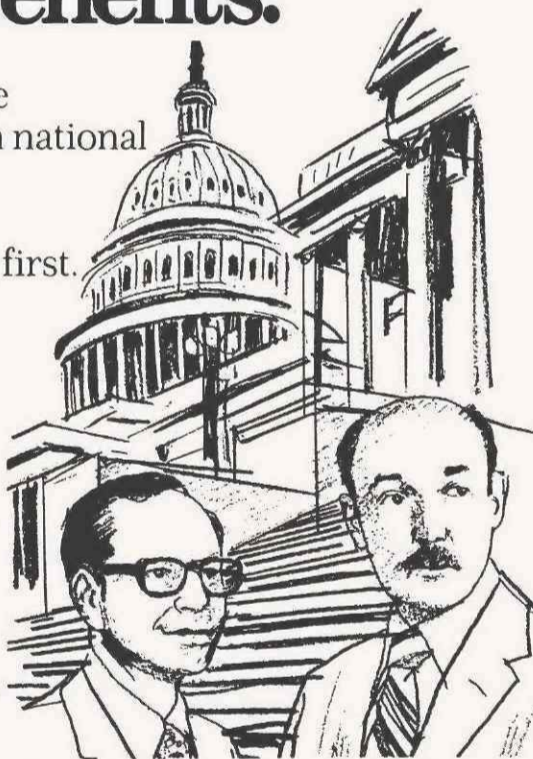
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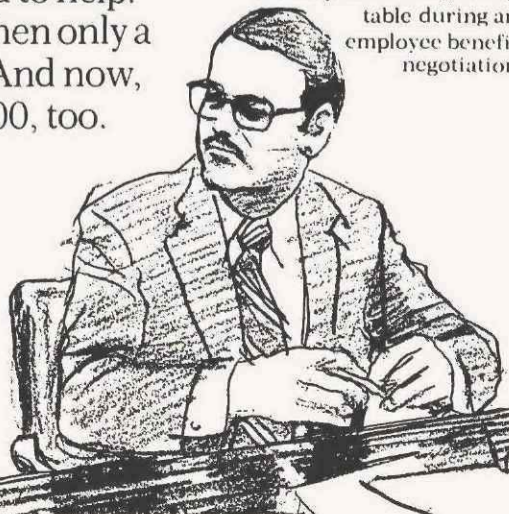
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Murray Becker and Art Gribbin, J&H technical consultants on ERISA, have been tracking the complicated legislation since its birth.

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



Calif. firm says it can cover checks

By GREG DAVID

BURLINGAME, Calif.—Paid Prescriptions says a temporary cash flow problem was the reason \$750,000 in checks bounced just after the Labor Day weekend.

"There are sufficient funds now available for all checks," said vp for government programs John Kenny.

Mr. Kenny said the failure of several large Paid Prescription clients to forward their payments during the Labor Day weekend resulted in the overdrafts. The claims servicing organization bills its clients after it processes checks for the pharmacists.

From 5,000 to 7,000 checks were involved in the Labor Day computer run, Mr. Kenny said, totaling \$2.5 million. Union Bank /Mid-Penninsula in Palo Alto returned checks worth \$750,000, according to the vp.

A letter to pharmacists from Paid Prescriptions chairman Howard Sosbee claims that Paid Prescriptions is financially sound despite "the self-serving rumors propagated by Paid's competitors. . . . Our year-end audit is underway by Haskins & Sells and it is expected to show the strongest financial position Paid has even achieved. . . ."

Mr. Kenny said Paid had disposed of almost all the government business it acquired when Health Applications Systems went out of business earlier this year.

"There has been a drastic decrease in gross revenues and a decrease in our employes," the vp said. "That makes people wonder. But we have come back to our solid, substantial commercial market."

Mr. Kenny said many were concerned by the last Paid Prescription financial report which listed substantial liabilities from its government contracts. But those liabilities have been disposed of, he said.

The servicing organization's fiscal year ended Aug. 31 and the auditor's report is due in six to eight weeks.

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The cost of accidents has skyrocketed.

Medical expenses have spiraled. Repair costs, wage losses, and legal fees have all increased.

And this directly affects everybody's auto insurance bill.

The average increase you can expect is about 20%. In some states it could be even greater.

In the same way, the higher cost of your homeowners insurance reflects the higher prices insurance companies have to pay to replace a damaged roof, broken window, or a whole house.

And businesses are paying more for their commercial insurance due to the rising costs of labor, buildings, and equipment.

Insurance, after all, is simply a means of spreading risk.

Insurance companies collect premiums from many people and



compensate the few who have losses.

The price of insurance must reflect the rising cost of compensating those losses and the work that goes into doing that. And that's why your premiums have been going up.

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These fires are set for many reasons, but primarily to collect on the insurance.

The insurance companies, with the cooperation of the police and fire departments, are doing everything they can to take the profit out of arson.

And a National Fire Prevention and Control Administration now has been set up by the federal government.

Despite these efforts, more insurance dollars are being paid out for crooked fire losses. So premiums have to go up to cover them.

Insurance, after all, is simply a means of spreading risk. Insurance companies collect premiums from many people and compensate the few who have losses.



The price of insurance must reflect the costs of paying for those losses and the expenses of handling them.

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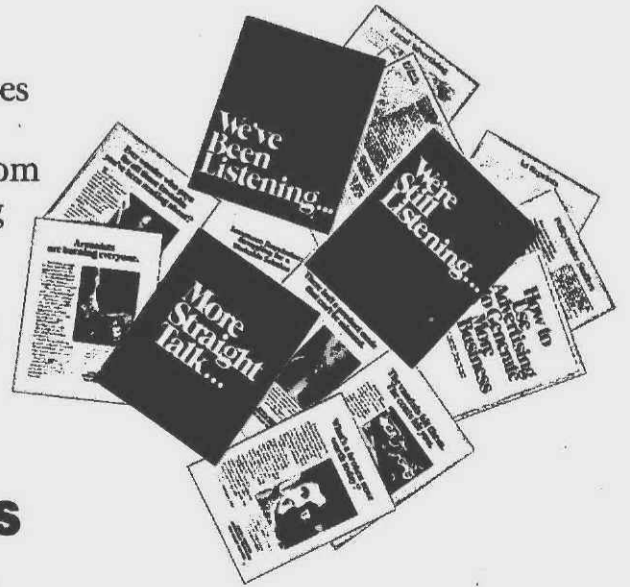
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2 big trade groups set major studies

By JERRY GEISEL

WASHINGTON—Two big trade associations have awarded contracts to major brokers to conduct sweeping surveys to find the best solution to their members' insurance problems in the troubled area of product liability.

The Motor & Equipment Manufacturers Assn. in Teaneck, N.J., representing 700 companies that produce parts for the country's multibillion dollar automotive industry, has selected Johnson & Higgins to perform a rigorous analysis of members' claims experience over the last five years. Formation of a captive is viewed as a likely result of the survey.

In Washington, D.C., the Rubber Manufacturers Assn. (RMA), with more than 170 members in-

'If these studies are handled properly, God knows where it could go.'

—John Rathmel

cluding industrial giants such as Firestone and Goodyear Tire Cos., has given its stamp of approval to a Rathmel & Co.-Fred S. James Co. proposal to analyze that industry's product liability problems. Rathmel, which is concluding a merger with Fred S. James, won the rubber account in a hotly competitive battle with Marsh & McLennan and Coroon & Black.

If these industry-wide surveys result in successful trade associations programs such as block bidding, a legion of other associations are likely to follow the lead of these two respected and influential groups with their own studies and programs.

"If these studies are handled properly, God knows where it could go," said president John

Rathmel, referring to the dozens of trade associations itching to launch their own programs. But those associations also want solid evidence that group programs work before taking the leap themselves.

As has been the case in one industry after another, motor and equipment manufacturers have been hit with soaring premiums and out-of-sight deductibles.

With rates showing no signs of easing, MEMA earlier in the year conducted a "preliminary" survey of their members' insurance problems.

More than 300 members responded and their message was much the same: Premiums had climbed to staggering levels—as much as an 1,800% increase in

one year—but no major losses had occurred, said Jim Conner, MEMA's director of members services.

The survey results suggested to MEMA's product liability committee that a captive might be the answer to those endemic insurance problems.

But MEMA still wanted advice from a major broker if a captive was really the best route to follow as well as guidance on the extent of coverage a captive might offer.

Johnson & Higgins was selected to provide answers to those questions. "We checked around and from what we could tell J & H has as much or more experience than anybody else, particularly in terms of managing captive insurance companies," said MEMA's Mr. Conner.

The contract that Johnson & Higgins snared has two key components. First the big New York broker will survey MEMA members to find out what individual companies losses have been product-by-product each year over the last five years. The survey also will probe current product liability premiums as well as find out the extent to which members now are forced to self-insure.

Based on the survey results, Johnson & Higgins will determine if a captive can put the brake on premium rates. And if the answer is yes, Johnson & Higgins will submit guidelines for structuring and operating the captive and recommend the type of coverage that would provide maximum benefits to participating companies.

Even if members elect not to join the captive, the survey will help motor and equipment manufacturers gain some badly needed leverage with their underwriters, Mr. Conner said.

"A company can say, 'Here is statistically valid claims data for the last five years for the product I make. And no claims have been made. So why am I paying 100% more?'" Mr. Conner said.

The RMA survey will be divided into three phases. Phase one will involve the structuring of a specially developed survey form to provide information.

In the second phase, the data base is analyzed. Based on that information, Rathmel-James will recommend the appropriate insurance program in the area of product liability. "We'll let the data tell us what to do, rather than come in with preconceived notions," said Mr. Rathmel.

If, for example, a captive is seen as the best answer, Rathmel-James will be able to tell the RMA what the program will cost, the premiums that will be charged and the amount of capital needed to get the program rolling. Phase three is implementation of the program.

When asked why Rathmel-James won the contract over Marsh & McLennan and Coroon & Black, Mr. Rathmel said: "They (RMA) quickly saw we knew our business at depth and that we were actually doing it (performing industry-wide surveys)."

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American home gets Korean OK

NEW YORK—American Home Assurance Co. has received approval to expand its operations in South Korea. American Home previously was allowed only to provide insurance for foreigners in Korea in dollars. Now the company may write all lines of general insurance for Koreans and for joint ventures. It may also write insurance in Korean currency.

American Home is the only non-Korean insurance company to be granted the expanded license up to this point.

Insurance to cover one-third of KC flood losses

By ELLIS SIMON

KANSAS CITY, Mo.—The weather forecasters said it was likely to occur once every 1,000 years; 1977 happened to be the year.

A flood was the last thing on the minds of most merchants at Country Club Plaza and other commercial districts in the Brush Creek and Blue River Valleys, so when 14 inches of rain forced the waterways to overflow their banks by as much as 20 feet Sept. 12, few of the victims had flood insurance.

At least 25 persons died as a result of the deluge and about 2,000 were left homeless. Total flood damage was estimated at between \$50 and \$60 million, including \$8 million to public property, according to deputy city manager Glen Hopkins.

However, insurance is expected to cover only \$18 million, about one-third of the total loss.

"It's not a flood area," said Jasper Marino, senior vp at the Reed Shaw Stenhouse brokerage firm, explaining the limited number of flood policies. Marino, a life-long resident of Kansas City, said Brush Creek had not overflowed in his 46 years there.

Country Club Plaza, a 1.2 million square foot shopping center which is one of the oldest and most famous in the country, was reported to have suffered the most extensive losses.

While structural damage was minimal, almost half of the center's 155 stores have been temporarily closed due to flooding, according to Lee Fowler, a spokesman for J. C. Nichols & Co., the real estate firm which owns the plaza.

Most of the stores should resume operations by Thanksgiving, he added.

Nichols did not have flood coverage for Country Club Plaza and its losses, which probably run under \$1 million, will be paid for out of operating expenses, Mr. Fowler said. The real estate company does not have plans for purchasing flood coverage for the center because a second flood is still believed to be unlikely, he added.

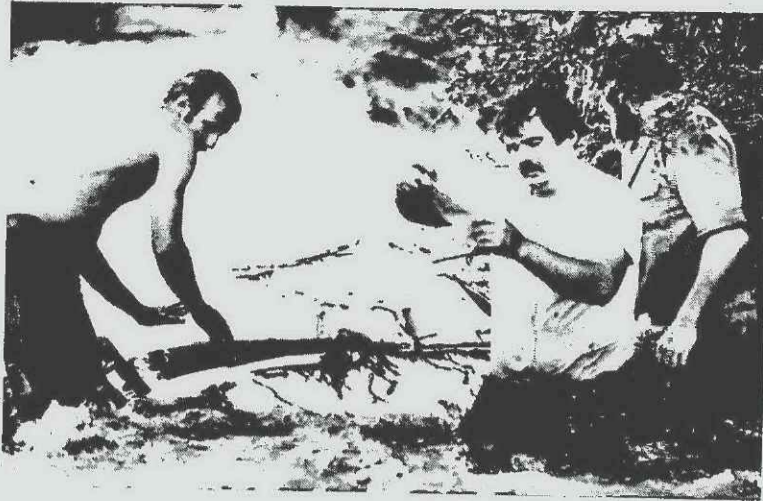
Very few of the flood-damaged stores will be able to collect on insurance. Only one, the Bennett Schneider Bookstore, was reported to be protected by the National Flood Insurance program, which has been available in Kansas City since 1971.

However, the bookstore's policy is for only \$10,000 and probably will not cover its losses in their entirety, said Richard Sloan, vp at Fred S. James Co., the brokerage firm that placed the store's policy with the National Flood Insurers Association.

About six stores at the center were able to collect on the fire and explosion policies, since they were damaged as the result of a ruptured gas main. Some other stores, including the Jack Henry's men shop, were believed to have coverage through inland marine, all risk and difference in conditions (DIC) policies.

Hall's Department Store and Swanson's, an exclusive women's clothier, were both covered under DIC policies placed with Factory Mutual Systems, according to Roy Vickrey, risk and insurance manager for Hallmark Cards Inc., which owns the two stores.

Mr. Vickrey said loss figures have not yet been determined because the stores are trying to sell many items at salvage.



Two men look for victims of the Kansas City flood that caused \$50 million in damages.

Wide World Photos

Swanson's and two other stores at the plaza were storing 10,000 customed-owned furs that were damaged by the rising waters. Losses and responsibility are difficult to determine, because each fur was stored under different insurance arrangements, Mr. Vickrey said. Some were covered under homeowners policies and others were insured by the stores, he explained.

Two major industries in the Blue River valley, Armco Steel Corp.'s Union Wire Rope division and a General Motors Chevrolet assembly plant, also suffered flood damage.

A spokesman for Armco said its offices and some manufacturing areas were under as much as three feet of water and two

days production was lost. However, Armco would not release damage estimates or information on its insurance coverage.

The GM assembly plant was under between one and one and one-half feet of water, a plant spokesman said. The plant was shut for one week, resulting in the loss of production of approximately 3,200 cars. The plant is believed to be self-insured, but company officials were unable to confirm this.

In addition, 500 1978 Monte Carlo and Malibu model cars valued at between \$2.5 and \$3 million, were inundated by the flood. However, it has not been determined whether the automobiles were on GM property or a lot belonging to the Jack

Cooper Motor Transport Co. at the time of the flooding.

Ray Hobson, safety and claims director for Jack Cooper, said his company's loss and damage policy, placed with Liberty Mutual, would be adequate to cover the loss if the responsibility lies with the trucker.

Exactly how many businesses can collect on policies other than National Flood Insurance has yet to be determined, said W. D. Swift, vp of the American Insurance Assn.'s property claims department.

It will be another two to three weeks before all commercial claims are in. Damage covered under fire, DIC, inland marine and other policies will probably run around \$6 million, he said.

Automobile policies will pay out about \$8 million for 4,000 damaged cars. NFIA's share will probably come to about \$2.5 million, he added.

There were 1,358 flood insurance policies in effect in the greater Kansas City area at the time of the flood, according to NFIA claims manager Bill Kennell.

As of Sept. 21, only 300 losses had been reported on these policies, with claims being split almost evenly between residential and business policyholders, he said.

Most NFIA policies in the city were held by residences and businesses near the Missouri River. A major flood occurred on the Missouri and Caw Rivers in 1951.

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- Leasing Fleets — Cars &/or Trucks: (Long & Short Term)
- Garage Keepers Legal Liability

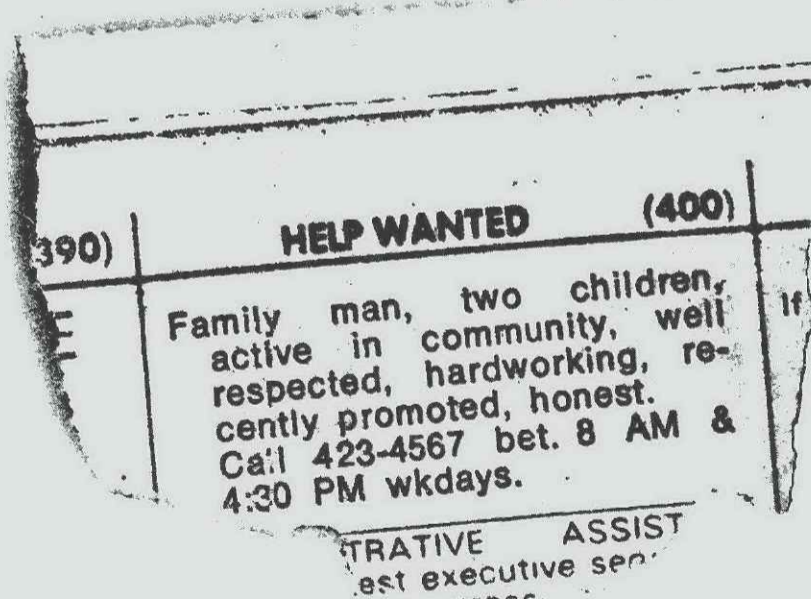
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editorial opinions

Too little, too late

THE NATIONAL Blue Cross Assn. established a series of cost control measures to which member Blue Cross plans must subscribe or they'll lose their affiliation.

Blue Cross isn't being dictatorial about imposing these measures on the 69 plans around the country, as much as the plans themselves voted unanimously at the recent Blue Cross annual meeting to require implementation of the measures.

Thus, Blue Cross will be dutifully scrutinizing claims from now on to detect fraud and abuse, to weed out cases of unnecessary surgery and to improve coordination of benefits.

Blue Cross, which describes itself as the largest non-governmental health care provider in the world, deserves kudos for this effort.

But there's another side to the coin. We've been hearing for a number of years that Blue Cross was already doing everything within its power to control health care costs and insurance payments. The new cost control efforts almost sound like an admission that Blue Cross was somewhat lax in its earlier programs.

Moreover, Blue Cross released a list of seven laudable steps that its member plans will be taking. It may sound like Monday-morning quarterbacking, but we can't help but ask where Blue Cross was during the past three years of raging inflation in the health insurance sector.

Looks like too little, too late, now that the government, corporate managers and other types of inspectors are breathing down the neck of the health care industry.

Applause for Exxon

EXXON CORP. deserves applause for its support of risk management education and research. Unsolicited, Exxon treasurer Allan C. Hamilton recently sent a check for \$5,000 and a very nice letter to Temple University's dean of the school of business administration, earmarked for the university's graduate risk management program for 1977-78.

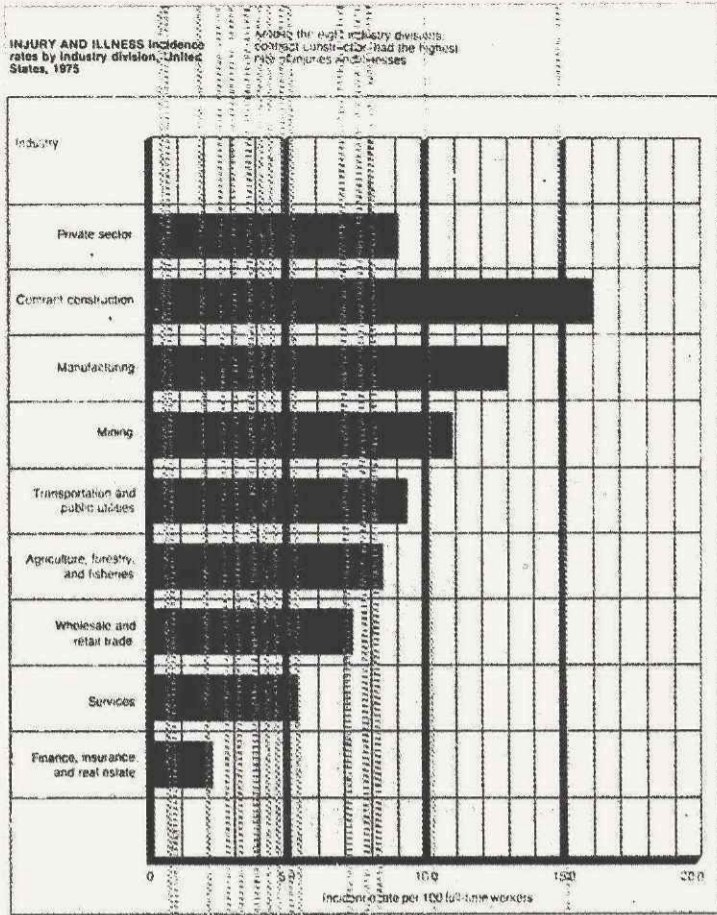
Wayne Snider, an aggressive educator in the field and dean of the risk management and insurance programs, was nonplussed, and overjoyed, at the fortuitous event.

He called us with the news, wanting publicity for such generosity. We feel Exxon's action is deserving and hopefully will set an example for other companies.

Buckling up

BUCKLING SAFETY belts is too much trouble for U.S. drivers.

The National Highway Traffic Safety Administration said that recent surveys showed only about one in every five drivers bother to fasten seat belts, down from the 21% of drivers a year ago who buckled their belts.



All the slogans in the world won't make people wise up. But one thing that would provide an incentive would be for all the employers whose auto insurance policies cover employees driving on business to announce that any employee in an accident without the seat belt securely fastened won't be covered by the company's insurance.

Considering the enormous amount of money being spent on commercial auto policies and for self-insured auto claims, you'd think there would at least be a small printed reminder in every fleet car that the driver has an obligation to fasten his seat belt.

Employee benefits

WITHIN THE general area of employee benefit management, there is no shortage of subjects deserving of attention: HMOs and their use by corporate employers, attempts to amend the federal pension law, cost containment in health care delivery, national health insurance, prepaid legal plans and pregnancy benefits.

Employers faced with growing expenses for employee benefits already totaling about 30% of payroll now fret over additional cost burdens in the benefit sector. Inflation coupled with heavy utilization of hospital services alone add up to a mounting financial problem for many employers.

All these subjects, and more, will be examined in depth in our annual Employee Benefits Issue on Dec. 12.

If you'd like to contribute an idea or two about your experiences to our issue, please call or write Susan Alt, Editor, *Business Insurance*, 740 N. Rush St., Chicago, Ill. 60611 (312) 649-5478.

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.

Punitive damages

To the Editor: In your article Sept. 5 on punitive damages you made mention of eleven states not permitting insuring against punitive damage awards in most cases. I would appreciate your giving me a listing of those eleven states and indicating the kinds of cases in each where punitive damages are not allowed to be paid to insurers.

Louis Lange, Jr.

Sr. vp, R.B. Jones Corp. Kansas, Mo.

According to the Insurance Services Office, four states do not allow coverage for punitive damages unless the coverage is mandated by statute and those cases are limited. They are Massachusetts, Louisiana, Nebraska and Washington. In seven other states it is against public policy to provide coverage for punitive damages, except in cases of vicarious liability. That is, for example, when an employee of the insured has been negligent and the insured had no knowledge of it, the insured can be covered for punitive damages. The states with this approach are Colorado, Kansas, Missouri, New Jersey, New York, Florida and Virginia.

Captive information

To the Editor: Your editorial "Why Has OIL Capped the Information Flow" raises in this risk manager's opinion a very serious question in the organization and use of captives.

Each edition of *Business Insurance* dutifully reports the formation of some captive that will serve in either (or both) a capacity or cost function to alleviate some insurance problem. Whether this be an association of individuals, of corporations or a corporation, we can be assured of one thing: Unless the captive becomes insolvent, we will probably never hear of it again.

The formation of a captive as an alternative to any insurance problem is usually made on the vested interest of a professional captive manager. Investigative reporting of our trade publications can alert us to some of the problems and failures of captive usage, but until we risk managers as a

Continued on page 16

business insurance

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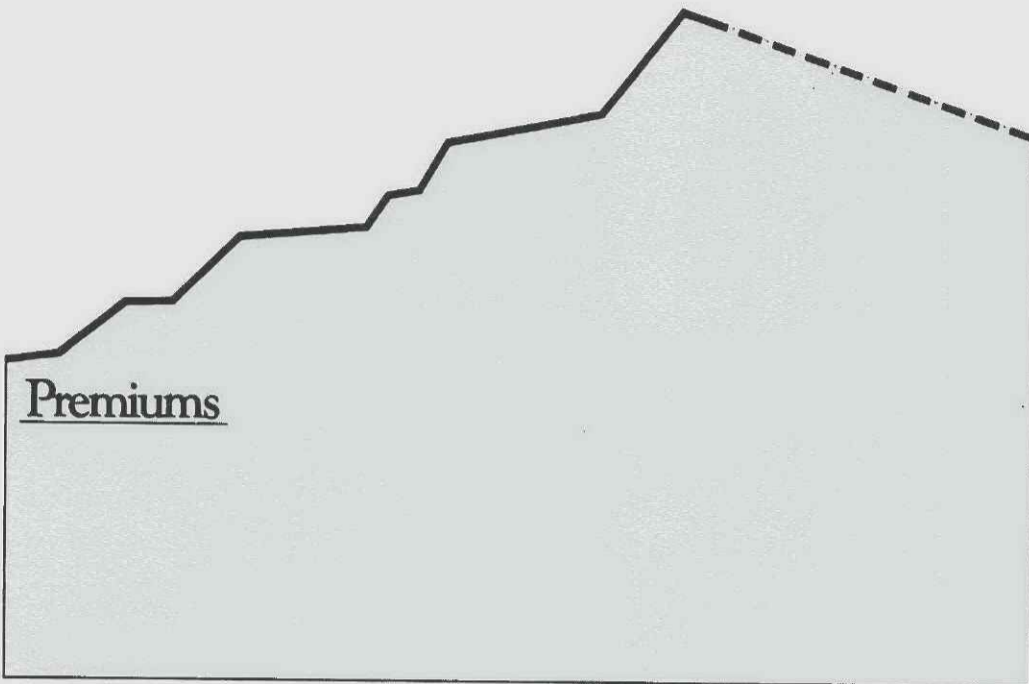
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The cost of hospital liability insurance is coming down. How far down depends on you.



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letters

Continued from page 14
profession "bite the bullet" and freely report the status, success as well as failures of these captives, we are "copping out" in any recommendation of a captive alternative to our management.

Paul Griffing

CPCU, director of risk management, C. Brewer & Co. Ltd., Honolulu

Oops!

To the Editor: Thank you for printing my letter in your issue of Sept. 5. However, our agency is the GSA Agency not CSA and we are in Garland (pop. 130,000) Tex., not Oakland.

There are two Oakland communities in Texas (pop. 20 and 95) and I'd hate to be accused of hiding out in some obscure hamlet or of misrepresenting my location should any personnel people come looking for me.

D. J. Smith

Partner, GSA Agency, Garland, Tex.

Oops!

Loggers

To the Editor: I found your article on loggers (Aug. 8) to be very interesting. I want to point out that not all loggers were cancelled in Maine.

The Northern Woods Logging Assn. is alive and well as it enters its fourth year as a group self-insurer for workers' compensation.

The average 55% loss ratio has been accomplished due to the tremendous cooperation between the association members and our safety and claims personnel that operate in the woods at the members' job sites. The association has a safety committee and holds safety seminars.

While there has been an influx of applications from the safety group that has been cancelled, potential members are screened and informed of the safety requirements.

Alvin J. Sims

President, Self-Insurers Management Corp., Boston, Mass.

ISO

To the Editor: While the field offices still do a fine job, I wonder if the New York contingent of ISO should not be required to change their name. Perhaps "Insurers Services Office" would be more descriptive. ("ISO excludes punitive damages," Sept. 5.)

As a risk manager, I frequently found myself receiving copies of legal actions which included punitive damages because an insurer failed to respond to letters from attorneys for the claimant, or did not offer a settlement figure the claimant found acceptable. While the latter position was usually correct, it nevertheless brought on lawsuits that often contained a request for punitive as well as indemnity damages. Obviously, insurers cannot be permitted to delete coverage for actions which are brought about by their own failures or negotiating decisions.

Similarly, insureds cannot be at the mercy of claimant's attorneys who can include a request for punitive damages in virtually every suit based on everyday negligence. They would be required to pay for supplementary defense in many unjustified situations and, as usual, the small insureds would suffer most. Larger insureds will simply

speed their conversion to self-insurance or force removal of the deletion clause because of their buying power.

All risk managers, agents and brokers should urge their state insurance departments to take the approach of South Carolina and they should do so immediately.

William W. Dintleman

Associated Underwriters Inc., St. Louis, Mo.

Visiting nurses

To the Editor: Your article on Blue Cross (Sept. 5) mentions possible unnecessary use of hospitals.

A visiting nurse program in a community can often make it possible for a patient to receive adequate care at home, with guidance and help of the nurse.

Where insurance can cover home nursing calls as an alternate to hospital care, we should be able to utilize hospital facilities better and

reduce the cost of health services.

Richard Pugh

Consulting engineer, Williamsburg, Iowa

Kudos

To the Editor: Tom Sheehan of GATX Insurance Co. may thank you independently for your excellent write-up of his new professional liability policy (Sept. 19). However, let me express my appreciation for the deftness you displayed in handling a most difficult and detailed subject.

Harry A. Vaughan

Vaughan, Thain and Spencer Inc., Hinsdale, Ill.

Risk to unborn

To the Editor: I am writing to request more information on the *Business Insurance* article (Sept. 5) by Rebecca A. Fannin regarding "Employers' Liability Risk to

Unborn Raises Newest Safety Issues."

I need to know if there is a list of chemicals that endanger fetus development. If such a list has been published, we would like to have a copy to distribute to laboratories to check whether we do have, in our company, any of those chemicals that might cause problems in later life for a child whose mother worked for our company during pregnancy.

Gar L. McInnis

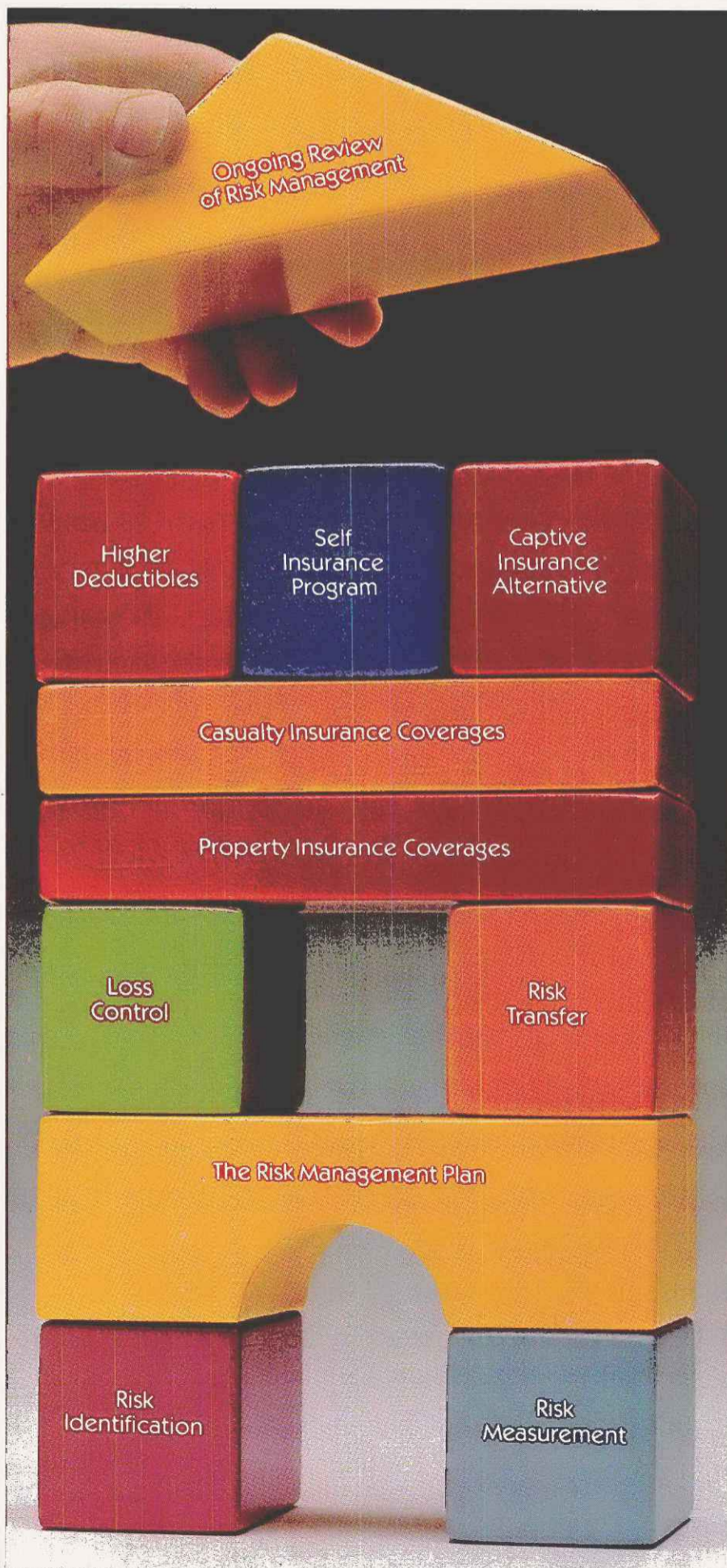
Risk manager, Department of Public Utilities, City of Colorado Springs, Colo.

The "Employment Safety and Health Guide," a 384-page book, lists hazardous substances in the workplace and OSHA standards in shortened form. It retails for \$5 and can be ordered by writing to the Commerce Clearing House, 4025 W. Peterson Ave., Chicago, Ill. 60646.

Regulation of benefits

What do employe benefit managers think of the current debate over whether the federal government or the states should regulate benefit plans? And what are companies doing to meet the pending legislation on pregnancy benefits?

The answers will be in our next employe benefit board survey Oct. 17. Watch for it.



MEMO FROM MARSH & MCLENNAN

How your company may be able to obtain 'more insurance,' without necessarily buying more insurance.

What's insurance all about anyway? Just one thing: shielding your assets from unexpected losses. For this protection and peace of mind, you are willing to plan for and pay a specified sum that you consider a fair price for this removal of risk.

Errors are made when you lose sight of the fact that protection is the goal while insurance is merely one means to attain that goal. It follows then that "more insurance" is not necessarily the most advantageous way to achieve a higher level of protection.

The risk management concept

The idea is to start thinking in terms of managing the multitude of risk situations, search-

In-house operations have problems too

Many claim firms waste money: Consultants

By MARGARET LeROUX

SAN FRANCISCO—Many risk managers aren't getting their money's worth from claims adjusting services and those who handle claims in-house may not be using the most cost-efficient methods, according to two former insurance industry claims adjusters.

Bernard P. Engels and Harold L. Headman now head Risk Analysis & Research Corp. (RAR), a consulting firm specializing in evaluation of claims management services.

One of their clients, they found, was spending money needlessly because its claims adjuster was pricing services according to per-

centage of paid losses, "a reverse incentive for the adjuster to keep a lid on claim costs," Mr. Headman said.

"We look at different approaches to a contract with a claims adjusting service," he continued. "Considerations such as prior claims experience, number of claims filed in a given period of time, sales volume, gross revenue, whatever is the best way to get dollar for dollar service."

A lot of the evaluation of a claims service is actually simply reading through claim files.

"The file should speak for itself," Mr. Headman said. "Anyone should be able to look at it and know everything about that claim . . . everything that has

happened with it."

A good claim file will be in diary form with complete, up-to-date copies of correspondence, bills from physicians and other information vital to settlement.

Reserves are another important factor. "There should be a reserve schedule," the RAR executive continued. "Especially in a workers' compensation case. If there's no schedule, the adjuster is guessing. And if so, he's probably more wrong than right."

There should be a company philosophy on reserves for claims, not indications of "stair-stepping of reserves, frequent changes, each one increasing the reserve before the case is closed,"

he said.

Besides examining individual files, the firm studies files according to type, Mr. Engels said. "For example, we review all claims that would be considered major." He also recommends reviewing files of claims close to the major range. "If it's \$10,000 then look at all claims from \$8,500 to \$10,000."

Claim files should also be evaluated according to periods of time, Mr. Headman said. "If I look at all claims filed 30 days ago, I'd want to see evidence in the file that they'd been seen; for claims filed three or six months ago, there should be indication that some action has been taken."

Since file examination is done on

the premises of the claims adjusting service, a lot of additional information can be gained by observing office procedures and personnel, the two RAR executives said.

"If there are files stacked all over the place, not in filing cabinets, there's going to be a problem in finding them and finding information in the files," Mr. Headman observed.

"If there's not enough clerical staff, there's going to be a problem with turnaround time for claims correspondence," Mr. Engels added. Another thing to be considered is case load of individual adjusters. There are industry norms of what one person can adequately handle."

"You can learn a lot by just listening," Mr. Headman said. "Do employees answer the phone politely or growl into it? Is there a personnel turnover problem? All these factors will affect the quality of service you get from a claims adjuster."

Claims service evaluation is a very new field, the two RAR executives said. "Our approach differs from that of a brokerage firm or insurance company that does claims audits for its clients."

"We've seen a continuing picture of self-protection" by brokers and insurance companies in claims audits, Mr. Headman said. "If claims audits aren't favorable . . . they're frequently rewritten to make them more palatable to top management."

"There are more claims processors than actual claims managers; more paper-pushers than do-ers," Mr. Engels said. "And no one's going to tell the buyer his claims are being handled by a firm that hasn't the time or qualified staff."

Mr. Headman and Mr. Engels together have more than 50 years claims administrative experience.

RAR was the result of a claims survey Mr. Headman did for Design Professionals Insurance Co., an industry-owned professional liability insurer for architects and engineers. Design Professionals is the parent organization of RAR. ■

New lobbyist

Ronald W. Vinson has been named vp for Washington relations by the Insurance Information Institute. Mr. Vinson had been an administrative assistant to the Georgia insurance commissioner.

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ing always for the most efficient method of attaining the necessary protection. The concept of risk management in today's complex business and legal environment requires more than conventional insurance responses.

In simplest terms, risk management entails identifying risks, assigning value to them, anticipating losses and making objective decisions about what steps to take before losses occur, so that they have the least impact on the operation of your business.

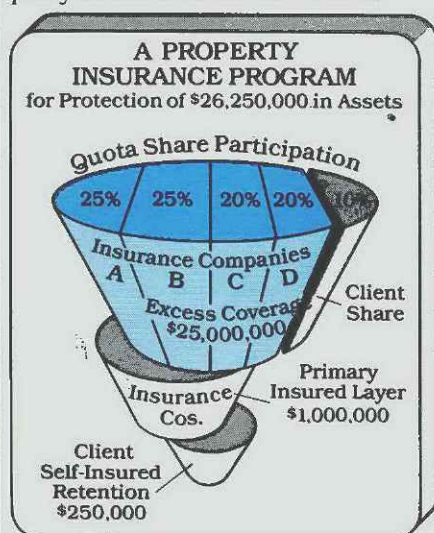
Linked to this, of course, is the need to implement a meaningful loss control program which will help to prevent or reduce the incidence and severity of losses.

Two principal options are open

First of all, risks may be transferred in the conventional insurance manner. The important thing to remember here is that this decision is made only after a thorough review and examination when it is concluded that this is the correct response in the particular case under consideration. It should not be a reflex action.

Secondly, risks may be assumed by your company, either in whole or in part. A higher deductible is an obvious way for a company to assume a portion of the risk and thereby reduce the cost of purchased insurance—yet still retain adequate insurance protection against catastrophic loss. An

established self-insurance program is another way for a company to assume its own risks,



while diverting the money earmarked for premiums into a separate fund to cover projected losses.

The optimum plan may very well contain elements of both (see chart) but only with expert analysis can one approach the optimum with confidence.

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For a more complete examination of this and related subjects, simply send for your copy of: "The Risk Management Concept—Insurance Plus." Write to Dept. 100-BI, Marsh & McLennan, Incorporated, 1221 Avenue of the Americas, New York, N.Y. 10020

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Not just a pension alternative, Metzger says

Profit sharing plans can motivate

By ELLIS SIMON

NEW YORK—Corporate profit sharing programs should be viewed primarily as tools to motivate workers to increase their productivity, rather than as an alternative for providing retirement benefits, according to Bert L. Metzger, president of the Profit Sharing Research Foundation.

Too much time has been spent worrying about ERISA regulations instead of ways that profit sharing can lead to productivity gains, he told some 60 participants in a conference on "Sharing the Gains of Productivity."

The seminar was sponsored by the Work in America Institute Inc. and the National Center for Pro-

ductivity and Quality of Working Life.

Employee productivity directly influences benefits in profit sharing plans since the size of the payout is linked to corporate profits. "If there is no profit, there is no payout," Mr. Metzger said.

This differs from traditional defined benefit pension plans which operate on fixed schedules.

Since increased productivity usually results in higher profits, profit sharing plans act as incentives for workers to increase their output. "Profit sharing is the ultimate incentive plan," Mr. Metzger added. "It does not measure productivity in an actual sense, but rather as that productivity is accepted by and paid for by the mar-

ketplace."

Contrary to "myths" held about profit sharing, the system can work with large corporations and in a union environment, Mr. Metzger argued. In a study of 38 major firms having such plans, he found that profit margins and rates of return on investment were on the average higher than for the Fortune 500 companies.

While he admitted that a successful profit sharing plan could eliminate the need for a union by improving a company's labor relations, Mr. Metzger noted that 24 of the 39 firms participating in the survey were unionized to some degree. In 19 of these companies, union members participated in the

plans.

Flexibility should be built into profit sharing plans so employees with differing financial needs can choose between immediate and deferred payment, Mr. Metzger said.

"Profit sharing is not a gift. It is sharing the rewards of productivity among the shareholders, management and employees." It is an earned award and employees should have input into how it is distributed, he added.

Plans which provide for immediate or rapid vesting can better serve to motivate employees, Mr. Metzger noted. An increasing number of profit sharing plans are moving toward immediate vesting, he said, adding that about one-third of the 300,000 plans in effect

in the United States have some form of this option available.

Profit sharing is not a panacea for all employee motivation problems, Mr. Metzger said, but in most applications it has been at least moderately successful and can be used in conjunction with other incentive systems.

Two such programs—the Scanlon Plan developed by Joe Scanlon, a steel worker in Indiana, and Improshare, an incentive plan developed by consulting industrial engineer Mitchell Fein—were also featured at the conference.

"The Scanlon Plan is not an incentive system. In fact, it is not a plan. It is a process by which all employees of an organization can manage all resources of the company more effectively and efficiently," said Dr. Carl Frost, professor of industrial organizational psychology at Michigan State University.

The "process" is based on getting employees to meet company expectations and vice versa, Dr. Frost explained. It calls for informing employees of company history, objectives and problems; employee responsibility and participation in in-plant affairs; competent management that is willing to let its decisions be scrutinized, and bonus payments based on the workforce's contribution to improved plant or company performance.

Richard Ruch, a vp at Herman Miller Inc., a Michigan furniture manufacturer employing the Scanlon Plan, said productivity gains resulting from the plan have enabled the firm to reduce prices on several of its products. The plan has also helped bring about employee suggestions which, since the plan was implemented in 1950, have saved the firm \$500,000 with no capital outlay involved, he noted.

In addition, many of the suggestions have improved plant safety and have made the company's products safer, helping to keep product liability and workers' compensation insurance rates stable, he said.

The Improshare incentive plan is based on getting workers to realize that increased productivity is in their best interests, explained Mr. Fein, the plan's inventor. Too often, workers feel raising productivity will result in layoffs, he said.

Under Improshare, incentive payments are tied to the performance of an entire department in a factory rather than to an individual, he continued. As a result, peer pressure influences workers to step up their output, Mr. Fein said.

Gains are measured by comparing productivity levels to historical averages, and the increased profits are split evenly between labor and management, he added.

Increased productivity should result in increased job security, Mr. Fein said. "You can't expect a worker to raise his output and then be laid off. The company should obtain more business."

Dennis Pitts, superintendent for Raybestos-Manhattan's friction materials plant in Crawfordsville, Ind., said implementation of Improshare has resulted in less down time for machinery, fewer rejected parts, improved worker attitudes and cost savings of \$650,000.

In 1976, the plant broke even for the first time in three years and it is expected to turn a profit in 1977, he added. ■

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Report condemns supper club owners

Fire, victims target ISO in \$1.5 million lawsuits

By JERRY GEISEL

SOUTHGATE, Ky.— A motion has been filed in federal court to name the Insurance Services Offices as a defendant to the \$1.5 billion in lawsuits filed in last May's Beverly Hills Supper Club fire disaster.

The motion charges that ISO agents and officials of the Kentucky FAIR plan, a state-regulated insurance pool that provided the club with the bulk of its property coverage, noticed "certain defects in the construction and wiring of the property while inspecting the huge club to determine insurance rates.

Although the ISO inspections turned up evidence of "poor access

to firefighting, defective wiring" and other structural violations, ISO did not require the owners of the supper club, the 4-R Corp., to correct the defects.

The motion contends that the ISO had an obligation to demand that the defects be repaired before issuing insurance as well as to inform patrons that they were entering a club with numerous safety violations.

ISO officials denied that they had a legal duty to press for repair of the defects or issue a public report listing the electrical and safety violations.

"We are not a regulatory authority," said Joseph Smith, manager of the ISO office in Louisville.

"Our inspections are solely for the purpose of establishing fire insurance rates. Our authority is to follow schedules and make the appropriate charges for the deficiencies found."

The motion coincided with congressional hearings in Cincinnati into the May 28 disaster that claimed 164 lives and with the release of a state of Kentucky report which contended the club had many violations of state and federal fire safety standards.

Highlights of the report, which was released officially by Kentucky Gov. Julian Carroll before a House consumer protection and finance subcommittee hearing at the University of Cincinnati, include:

- Patrons of the club were not notified until more than 20 minutes after employees first discovered the fire.

- Aisles and ramps in the Cabaret Room, where most of the victims died, were jammed with tables and chairs which proved to be a "major impediment" for patrons trying to escape.

- While more than 1,300 persons were in the Cabaret Room on the night of the blaze, the room should have contained no more than 536 to meet existing fire and safety codes.

- Although mandated by a 1971 county grand jury, the club owners did not instruct employees in evacuation or emergency procedures.

- The electrical wiring was in-

adequate but was installed nonetheless even though one of the club's owners and the electrician knew it did not meet electrical code specifications.

Other violations listed in the report include lack of a sprinkler and alarm system, uncharged fire extinguishers and the use of non-flame retardant finishes on interior furniture.

At the same time the report was made public, Gov. Carroll blasted the state's fire office for not inspecting the club and seeing that safety violations were corrected.

"How could any agency, particularly one so directly involved, day to day, with the protection of human lives, have become so apathetic about its charge," (failing to conduct periodic safety inspections), he asked.

The report noted that the fire marshal's office "did not implement a proper inspection program which would have revealed the code violations." Gov. Carroll has since suspended state fire marshal, Warren Southworth, and two other state officials for "ineffective general enforcement of the law."

In addition, Gov. Carroll accused former fire marshal John Calvert of ignoring 10 safety violations brought to his attention after the club was rebuilt after an earlier fire in 1970.

Although the state of Kentucky cannot be sued under sovereign immunity laws, victims could sue state officials who acted negligently. If Kentucky chooses to defend its employees who are sued, state law allows the state to pay damages of up to \$50,000 to the victim.

But Gov. Carroll reserved his harshest words for the club owners. "There was a shocking amount of complete and total disregard by the owners of Beverly Hills for the safety of the Beverly Hills club," he said.

"How many lives might have been saved had not the owners conspired . . . to build with inferior materials, to subvert legal requirements," he asked.

Gov. Carroll said the club owners may have committed criminal acts, referring again to the state report in which an electrician is quoted saying the club owner refused to allow him to correct an electrical violation because it "was too expensive."

Gov. Carroll's charge drew a protest from lawyers defending the club owners. Those attorneys, previously, had attempted to block the release of the state report and to prevent all parties involved in lawsuits connected with the fire from discussing the case.

As reported earlier, the 4-R Corp. reportedly had only \$1.3 million in liability protection. CNA was believed to have provided a \$100,000 to \$300,000 layer and American State's Insurance Co. of Indianapolis was said to have offered coverage for a \$300,000 to \$1.3 million layer.

As the hearings in Cincinnati drew to a close, Gov. Carroll said the state's General Assembly will review all Kentucky laws relating to fire codes to see if they are adequate.

Committee members, however, have not decided if a federal fire code is needed. ■

Wyatt consultant

W. Scott Rich, 53, will join the risk management services division of Wyatt Co. in Detroit on Nov. 1 as a consultant.

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Record 14 tanker losses reported

NEW YORK—A record 14 tankers were reported as total losses during the first six months of 1977, according to figures released by the Tanker Advisory Center. However, this record and increased partial losses is not expected to have a significant impact upon hull insurance premiums in the U.S. and London markets.

Tanker casualties, both partial and total losses, numbered 468 during the six-month period, the center reported. The figure was an 11% increase over the same period in 1976 and reversed a trend of declining casualties which dated to at least 1973. The 468 vessels involved in these incidents represent 11.1% of the worldwide tanker fleet of 4,229.

Fatalities resulting from these mishaps numbered 93, the highest since before 1973, and 51 persons were injured. Oil spills occurred in 28 of the incidents resulting in a loss of 175,342 tons, believed to be a new record.

Arthur McKenzie, director of the tanker advisory center, predicted that 1977 will be one of the worst years on record if rates for the first half of the year continue during the second half.

Since the majority of vessels involved are insured elsewhere, the American market has not felt these losses to any great extent, said Robert G. Lowry, vp of MOAC (Marine Office—Appleton & Cox), a subsidiary of the Continental Group.

John Busby of Marsh & McLennan added that the worldwide tanker recession has made coverage for these vessels a highly competitive business. Lloyd's wants to write as many of these premiums as it can since it is a profitable area, but competition prevents it from raising rates, he added.

Fires and explosions accounted for half of the 14 total losses, weather damage accounted for four losses, strandings were responsible for one and the remaining two losses were due to miscellaneous causes.

Contact with non-moving objects or being struck while at anchor accounted for 153 partial casualties, with damage to machin-

ery accounting for 99 partials, weather damage and strandings each accounting for 41, fires and explosions for 26, collisions for 17 and the remaining 91 partials due to miscellaneous causes.

Tankers built between 1956 and 1970 had a higher casualty rate

than ships built before or after that period. There was a greater proportion of mishaps among vessels ranging in weight from 20 to 99 tons than for lighter or heavier ships.

Liberia, nation of registry for

nearly one-fourth the world's tanker fleet, incurred the greatest number of casualties, 179 or 17.4% of its fleet of 1,028. Proportionally, Cyprus incurred the greatest damage with eight of its 22 ships, 36.4% of its fleet, affected.

Other countries whose fleets ex-

perienced higher than average casualties were Venezuela, three of 13 ships or 23.1%; Greece, 68 of 326 ships or 20.9%; Australia, three of 15 ships or 20%; Great Britain, 65 of 354 ships or 18.4%; the U.S., 37 of 294 ships or 12.6%, and Panama, 20 of 178 ships or 11.2%.

The Soviet Union reported the lowest casualty rate with only three of 226 ships affected or 1.3% of the fleet.

"A marine company should pull with you even if others pull out."

—John Rolfe, President, Leslie Wright & Rolfe Limited, Vancouver, B.C.



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Risk managers need to control deductibles

NEW YORK—The risk manager's need to bargain with underwriters and gain control of self-insured deductibles, which are rapidly growing, were highlighted at a meeting of the New York chapter of REIMS.

Risk managers could gain control

if they compile their own loss information, negotiate with underwriters to gain higher premium credits and even change deductibles at any time, speakers at the conference said.

"It's a question of how much pressure you can apply to get the

highest credits," said John Bugalla of Marsh & McLennan. But risk managers "don't think out what they need for premium credits and they don't get enough credit," he added. He noted that his biggest problem with casualty insurers is in the primary credit area.

It's possible for a larger risk with a \$1 million deductible to get 50% credit, Mr. Bugalla said, but the credit obtained becomes a "matter of negotiation with the risk manager who had a favorable loss ratio."

"Risk managers shouldn't take

the word from their underwriters on the deductibles they want," agreed John Lyon of the Philadelphia Manufacturers Mutual Insurance Co.

"I don't think half of you ever argue about the deductible because you don't know what's in your plant to cause losses," Mr. Lyon said, noting that loss data should be worked out with the plant engineers.

"Underwriters tell you the deductible you should assume by a book and the manager isn't in any position to dispute," he added.

To develop flexibility when selecting a deductible, said John Kaiser of Johnson & Higgins, risk managers need good, accurate loss records for the past five years and they need to update these losses for inflation and major increases in their line of business.

Mr. Kaiser advised that risk managers should consider their company's income maintenance, cash on hand and net worth when selecting a deductible. They should then discuss with their financial officers what impact the deductible will have on earnings with regard to expected losses, unexpected losses and uninsured losses. The officer's willingness to accept risk should also be considered.

The company avoids paying the underwriter's overhead cost when using a higher deductible, said Mr. Kaiser, and allows risk managers to use a defensive tactic, reserve a market or open new markets and obtain a very broad coverage from underwriters for the portion not self-insured.

Mr. Kaiser also noted that a risk manager could change his deductible anytime if the financial situation or absorbed losses changed. "Don't hesitate to change it," he said. "You don't have to wait for the policy to expire."

S. Peter Law of U.S. Industries said underwriters are expecting corporations to assume more retentions because of the underwriter's surplus problem and because the "companies are running scared of the severity of claims that they don't know how to rate."

"They don't seem to want to be in the business, just the service end," Mr. Law said. ■

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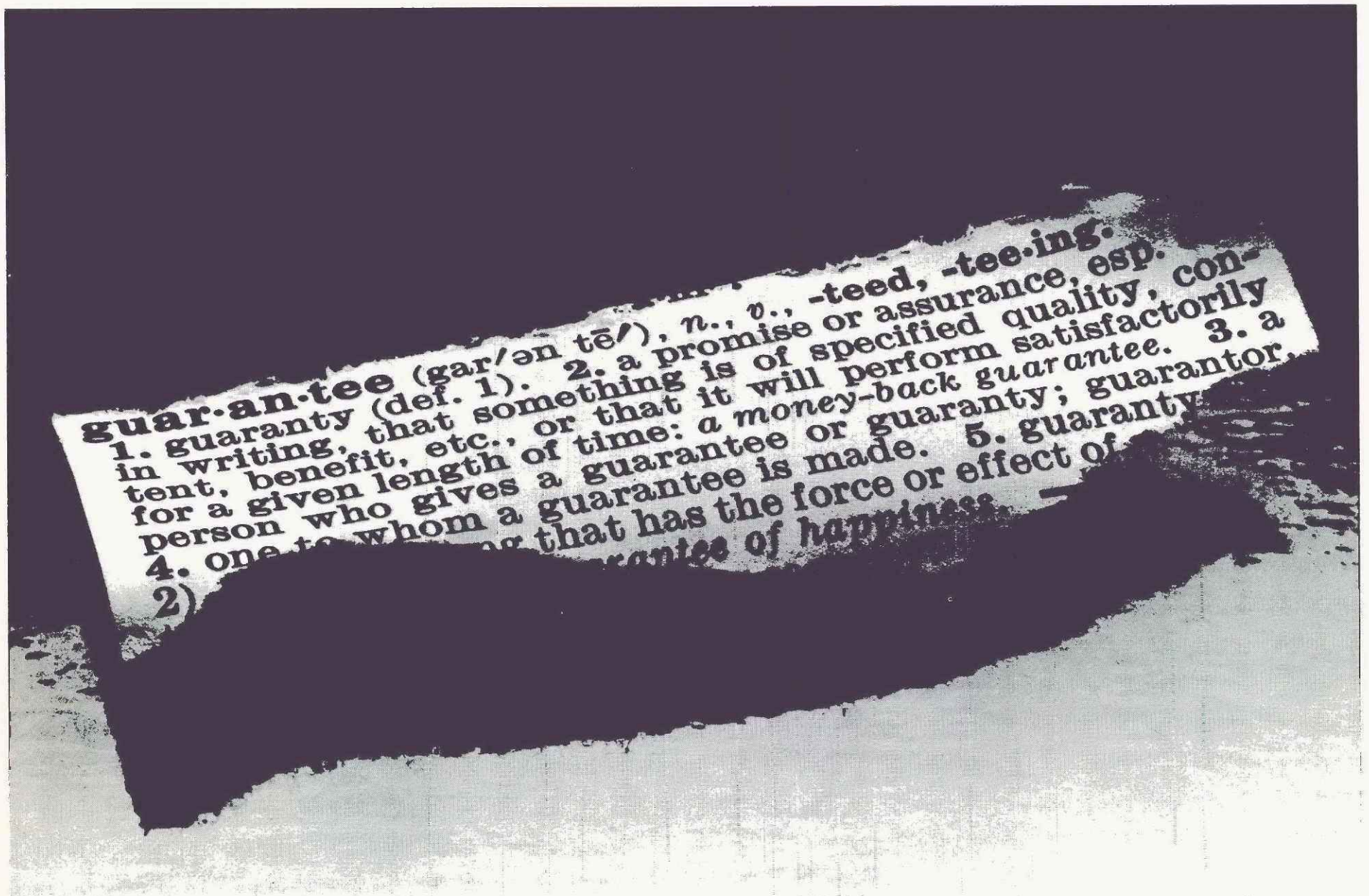
**Coming
Oct. 31**

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

Life purchases

Purchases of group life insurance for July totaled \$8.6 billion, says the Life Insurance Marketing and Research Assn. The group insurance total for July 1976 was \$6.1 billion. Purchases of ordinary life insurance totaled \$17.8 billion in July, compared with \$6.5 billion for the same month in 1976.

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For more facts circle 60 on reply card

Tax breaks for self-insured reserves offer benefits, won't hurt revenues

By Robert C. Goshay

Executive Director
Product Liability Council,
Marsh & McLennan Inc.
San Francisco

SEVERAL BILLS are pending in Congress to amend the Internal Revenue Act to permit corporations to deduct as business expenses contributions made to self-insurance reserve trusts (SIRT's), established for the purpose of paying product or general liability losses.

If enacted, a corporation's decision to retain the general liability or product liability risk would result in the same tax treatment as the transfer of the risk through insurance. Under one bill, the amount which can be contributed into a SIRT is limited to 3% of gross sales of that product, which is allegedly the amount "comparable" to what most seriously affected manufacturers are paying for product liability insurance coverages. Funds contributed could be used only for the product liability payments and withdrawals or any use for any purpose other than product liability loss payments would be subject to substantial penalties.



GOSHAY

These bills, particularly the product liability bill, arose because the lack of availability and the high cost of liability insurance is seen as an increasing threat to some sectors of the economy, particularly small businesses. The choice of such business without insurance is bleak: pay-as-you-go, or establish some kind of a reserve fund with after-tax dollars.

Neither is really feasible as a loss financing choice. What the product liability bill does is to allow tax deductible contributions to trusts, the proceeds from which can only go to pay product liability losses. The other bills are extensions of the same idea to a broader number of coverages. At present, none extend to property risks.

These bills attempt to introduce an asymmetry in the tax laws pertaining to the business decision to retain losses versus the decision to insure against losses. Where insurance against liability loss is unavailable or not affordable, the lack of equity in the tax treatment of the (forced) decision to retain the loss is apparent. If a loss occurs with pay-as-you-go financing, potential disaster to earnings, especially those of a small business, is far greater than can be realistically compensated through tax relief in the form of, for example, loss carry-forward and carry-back provisions.

Fiscal considerations

The success of these bills in Washington (several state legislatures are considering such bills too) will be determined primarily by fiscal considerations and other broader factors.

Fiscally, the bills will not have a negative impact on governmental revenues. Quite probably they will have a favorable impact. For governments, the fiscal tradeoffs are between the tax effect of the three alternatives which businesses can take: the amount of insurance premium which businesses may choose to spend if they choose to insure; the amount of uninsured losses which appear as a business expense if they choose to self-insure, and the amount of funds which businesses contribute to SIRT's if they choose to self-insure. If all three alternatives are of equal amount, then the fiscal impact is nil.

It might be that a fiscal effect would arise from differences in the timing of the ex-

penditures or losses in the alternatives. If all firms self-insured without using SIRT's, then an accumulation of funds in advance of losses would not occur. This would increase current profits, taxable income and governmental revenues. Conversely, if all firms choose to insure, then funds would be accumulated (on a before-tax basis) and current profits, taxable income and governmental revenues would decrease. Differences in timing can accelerate or decelerate governmental revenues, but the fiscal effect probably cancels itself with regard to the alternatives of SIRT's versus insurance, assuming the amounts of contributions and premiums are equal. The bills do not encourage the other alternative, self-insurance without the use of SIRT's.

More important, the amounts involved in the alternatives are probably not equal, and the result of the SIRT legislation will be favorable in the fiscal sense. The insurance purchase alternative involves the burden on business of the overhead and related expenses of the insurer. Thus there is greater expense in the aggregate than there is with the self-insurance alternative even without the use of a SIRT. Self-insurance, with its lower transactions cost, increases taxable income of the self-insuring firm and hence tax revenues.

Also, pay-as-you-go financing under self-insurance does not include prefunding of certain losses. Prefunding of losses is inherent in the insurance financing of product or general liability contingencies. Aggregate reported profits of business are thus higher, as are taxable incomes and tax revenues.

SIRT's vs. insurance

Comparing the alternative of SIRT to the purchase of insurance also suggests that governmental revenues will increase. Contributions by business to SIRT's will probably be less than insurance expenditures. First, business contributions to SIRT's are irrevocable, and can only be used in payment of product



Utica Mutual Insurance Co.

liability losses (or for whatever purposes legislation authorizes the use of SIRT's). Businessmen will undoubtedly use the amount of insurance premium which would have been spent as a gauge of the proper amount to contribute to a SIRT. Business has no incentive to contribute more than that amount. The natural conservatism of business suggests that the SIRT contributions will be less than insurance premiums for the same risk, especially when such contributions are irrevocable.

Second, the actual cost of losses will probably be less with the establishment of SIRT's. It is an axiom of the insurance business that

Continued on following page

Speaking Out

Risk managers must understand politics, myths

By Peter Downes

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

IT HAS LONG been my view that good risk managers should be apt students of politics. In their risk management capacity they may not particularly care who is elected to what office, but in general they should have a good notion of political trends in order to prepare themselves and their corporations for the fallout that will follow. The careful student will note not only what is being said in the legislatures, but also what is being said by the opposition outside the legislatures as well as what is being done by the bureaucrats and the judges.

A short while ago Maryland Gov. Mandel was found guilty of corrupt practices. The governor immediately issued a statement saying that he felt he had done nothing wrong and that he had done nothing which might have injured any member of the public. As his case will be appealed he may be proved right, but the incident started a train of thought. I asked myself, just what is it that is happening in American social and political life to cause cases like that of Governor Mandel to be brought to trial in the first place?

For the past 200 years in the United States, politics and corruption have been almost synonymous and, by and large, politicians could get away with almost anything they chose to do. Suggestions of reform were shrugged off with "you can't fight City Hall" or a similar bromide. Occasionally, there was a Teapot Dome scandal but in general cor-

ruption continued unabated and the lucky ones would extend their deepest sympathy to those unlucky few who were unfortunate enough to be indicted.

Any thought of political corruption at this time immediately brings to mind the downfall of the Nixon regime. Many writers have jumped on the merry-go-round and we have seen numerous books describing some aspects of the event. Most of them need never have been written, but one at least did have some merit. This was "Breach of Faith" by Theodore H. White.

It was his thesis that Nixon and his colleagues destroyed many of the myths which help sustain the U.S. and that this in turn brought about their downfall.

Value systems

I do not know who Mr. White's political science teacher was, but I would lay odds that at some point in his career he read the same books I did—notably one by R. M. MacIver called "The Web of Government." Professor MacIver took pains to point out that myths are not mere fairy tales but "value impregnated beliefs and notions that men hold, that they live by or live for."

This seemed to answer my question. The inherent corruption of many politicians was not the primary reason that caused them to be dragged into court, although it was the reason for many convictions. On the contrary, I think that the main reason for their indictment is that the myths which formerly gave them immunity have been eradicated.

This seems possible, for have we not seen the destruction of many "value impregnated beliefs" during the last decade or two? But, is it not also true that myths are always

changing with outmoded ones being dropped and new ones taking their place? Of course they are and it becomes rather amusing to examine some of them.

One myth still apparent within the lifetime of many of us was that women could never be the equal of men. One recalls the patronizing way in which it was often said that in certain cases women could do as good a job as any man. In similar vein a myth still held by a large residue in the United States is that its black population is inferior.

Holders of such views now appear quite ridiculous and this itself is often an indication that the supporting myths are dying if not already dead.

A new myth now in the making concerns equality. Equality is one of those indefinite sort of words which can be made to mean anything one chooses. For the longest time equality meant equality of opportunity. Every child born in America has the same opportunity. It was a very nice myth, firmly believed by many, but it applied only to white males and mostly those who were Anglo-Saxon Protestants.

A new myth

This myth has fallen away, but another is taking its place which says that equality really means uniformity. The myth has not yet taken final shape, but the arguments seem to be pointing in two directions. On the one hand it says that the portion of the population which can do so has the duty of supporting certain needs of the entire population. On the other hand, if it is impracticable to supply such needs to the entire population, then nobody should be permitted to have these needs satisfied.

Some of the actions and arguments supporting this myth are obvious enough. For example, in the insurance world generally considerable pressure is being exerted to acknowledge childbirth as a disability which the population at large will have the duty of financing. In some jurisdictions, automobile insurance policyholders are obliged to pay premiums for persons on welfare, or contribute to the cost of poor risk drivers who nobody in their right mind would wish to insure. The latest drive is a movement to eliminate zone rating and to impose uniform premiums on a statewide basis.

And, of course, there is a strong movement to make health care a uniform benefit for the entire population. Again, in the fields of malpractice and product liability we see not only demands for God-like perfection but a concerted drive to redistribute wealth.

Outside the field of insurance we are more likely to observe the idiocies which make the headlines, like the bureaucrats who banned a mother-daughter banquet at a school. President Ford countermanded the order and the bureaucrats complained that he was out of touch with reality.

May it not be said that these absurdities indicate that this myth is already on the way out? Unfortunately not, since these examples merely indicate the logical extremes to which the principle of uniformity is being pushed. They conceal numerous examples of bureaucratic activities which are now accepted as a matter of course, over which people cannot be bothered or cannot afford to fight and which never become the subject of headlines.

What has all this to do with risk management? Well if you have to ask you are not a risk manager—not really!

PERSPECTIVE

Product Liability Score Card

State	Statute in effect	Bill pending	Cleared house	Cleared senate	Dead for 1977	S/L ¹	State of the art	Failure to warn	Standards ²	Alteration	Remarks
Ala.					X						Bills will be introduced in next session Jan. 1978
Alaska*					X						No action taken on bill to reduce awards by plaintiffs negligence.
Ark.					X						Study committee established.
Calif.*		X		X	X	X					Other more comprehensive bills still are in committee.
Colo.*	YES ³		X	X		X	X		X		Bill would have allowed evidence of collateral awards.
Conn.*	Yes		X		X	X					Bill gutted in house. Died on senate calendar.
Fla.*	Yes			X	X	X					Measure cleared senate, but died in house committee.
Ga.**	Yes	X			X	X	X	X	X	X	Four bills in house committee. No action until 1978.
Hawaii*					X						Bill would have allowed evidence of collateral awards.
Idaho					X						Bills killed or withdrawn in committee.
Ill.**		X				X	X	X	X	X	Hearings this summer. Action in 1978.
Iowa**					X	X	X	X	X	X	Comprehensive bills carry over to 1978.
Ind.*			X		X	X					Bill killed in senate. No action until 1978.
Kan.**	Yes	X			X	X	X	X	X	X	No action until study committee completes report.
Ky.					X						No regular session in 1977; bills planned for '78.
La.**					X	X	X	X	X	X	Bills died in committee.
Mass.**		X			X	X	X	X	X	X	No action expected until 1978 session.
Md.**					X	X	X	X	X	X	Comprehensive bill died in committee; New bills expected in Jan.
Mich.**		X				X	X	X	X	X	Public hearings held in July and August.
Minn.*	Yes	X	X		X	X			X	X	Bill watered down from original. Late opening date of legislature doomed bills.
Miss.**	Yes				X	X		X	X		No action until interim committee completes report.
Mo.**					X	X	X	X	X	X	Conference committee failed to resolve differences in s/l bills.
N.C.**			X	X	X	X			X	X	Bill on general file. No action until 1978.
Neb.*		X			X	X	X				Bill died in senate on 8-8 deadlock.
N.H.*			X		X	X	X				Weak bill passed by senate but not taken up by house.
N.Y.*				X	X	X					Bill crushed by house. No action until 1979.
N.D.**					X	X					Hearings continue this month in state senate.
Ohio*		X	X			X			X	X	Bills expected to be introduced by senate.
Okla.					X						Third state to pass p/l legislation; 8-year s/l.
Ore.*	YES ³		X	X		X		X	X	X	Senate judiciary vote expected soon.
Penn.**		X				X	X	X	X	X	Interim study committee.
Tenn.											All 13 bills died without clearing committee.
Tex.**					X	X	X	X	X	X	First bill to pass during current tort reform movement.
Utah	YES ³		X	X		X	X	X	X	X	Establishes an interim study committee.
Vt.	?	X			X						Establishes an interim study committee.
Va.		X									Resolution to establish special committee died on calendar.
W. Va.			X								Bill died on legislative calendar.
Wash.**			X		X	X				X	23 bills introduced, no action until next year.
Wis.**		X			X	X	X	X	X	X	

Notes:

*Bills as amended in committee or on floor
 **Bills as introduced.

1 Statute of limitations
 2 Compliance with standards
 3 Bold face Yes indicates bill enacted in 1977

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SIRT . . .

Continued from preceding page

loss costs are minimized when the insurer has complete knowledge of the defendant's industry, intimate knowledge of the loss situation and is able to expedite the settlement. These conditions dominate the operation of the SIRT, since the business is the primary recipient of notice concerning the potential loss, has knowledge of the industry and is in a position to expedite settlement. These conditions should reduce loss costs. Both reasons operate to increase taxable income of business and thus governmental revenues.

Contributions by businesses to SIRTs will probably be considerably less than 3% of sales, which is envisioned in one bill, S 1611. A 3% figure is not at all representative of the revenue loss to government (less the tax factor). In any event, whatever is contributed into SIRTs will represent a reduction in taxable income, less whatever would have been deductible as an insurance premium expenditure or as uninsured losses.

Finally, with respect to fiscal impact, business can deduct any amount spent on insurance premiums as an expense in determining taxable income. There is no limit per year; there is no limit over time. Under the SIRT bills, however, no more than 3%

of sales per year can be contributed on a tax deductible basis. Further, no more than 15% of sales may be accumulated in a SIRT over time. Thus, in comparison to the purchase of insurance and its tax effect, the SIRT bills are more restrictive and should, therefore, produce more taxable income and government revenues.

The bills have an additional benefit. While they do allow large business to self-insure on a before-tax basis, the bills also assist in providing insurance protection for smaller businesses. Some of these, of course, may choose the SIRT approach, providing themselves with "umbrella" insurance coverages for losses greater than resources of the trust. But there is another way protection is provided for small businesses. Many businesses purchase insurance simply to realize the tax deductible expense of the premium; a "trading" of dollars occurs under various formulas designed to reflect the tax deductibility provision and the payment of expected losses. Through the encouragement of self-insurance, insurance companies will lose some of their large clientele, and they, in turn, will be encouraged to accommodate underwriting opportunities elsewhere. That "elsewhere" is the smaller business community, the class most seriously needing product liability protection.

The bills should encounter rather minimal opposition. Certainly the insurance

companies should not be opposed, since the alternative may be compulsory joint underwriting pools. Larger brokerage firms, although they find some threat in the bills insofar as they encourage self-insurance, also find the possibility of self-insurance administration services being sold, as well as the commissions on the excess coverages for the SIRTs. Smaller business should benefit from the "freed capacity" of the insurance industry; producer groups servicing these clientele benefit from being able to place coverages.

Minimal opposition might be encountered from state insurance regulators, who fear that consumers may regard the SIRTs as quasi-firms of insurance companies. State legislators, too, may balk at the prospect of SIRTs decreasing premium tax revenues, despite the view expressed here that the SIRTs will probably increase general revenues and that insurers will underwrite other risks in replacement for the loss of business to self-insurers using SIRTs. More important to legislators ought to be that the SIRTs will help protect small businesses from bankruptcy by providing insurance capital, which in turn, can be used to underwrite insurance coverages for those businesses. This preserves taxable entities

and maintains employment opportunities.

In total, the bills reflect, perhaps, a passing crisis in the field of product liability. A few years ago, the crisis was in the field of medical malpractice insurance. Tomorrow, it may be there again or in another field. Noting that the bills reflect a passing crisis does not mean, however, that if nothing is done, the crisis will pass. Uncompensated victims of defective products will result, with attendant social cost. The rate of innovation will decline. The economic interactions are many.

Broadly, however, the bills reflect an increasing inability of the insurance industry to manage itself in the face of rapid change. The industry's archaic methods of communication continue. Underwriting, ratemaking and rating are practiced largely as they were a century ago. Entry and exit from lines of insurance seems totally governed by opportunistic motives and not by imaginative techniques to seek profits which accommodate the needs of consumers.

The tax laws discouraging self-insurance have protected the insurance industry, in effect. The SIRTs introduce a horse race on the scene. The contest cannot help but improve the competitive edge of the insurance industry and the practice of corporate risk and insurance management.

His next assignment could be in your plant abroad.

Today, multinational companies need expert engineering services more than ever. The concentration of values that occurs when industry clusters, the greater size of plants being constructed, the costs of replacement, and questionable fire protection, means that risk managers must place more emphasis on overseas loss prevention and control services.

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Our engineers and inspectors are in overseas countries working daily with insureds and brokers providing the technical expertise they need. Whether it's a Highly Protected Risk, a proposal for de-

velopment or improvement of water supplies or other loss prevention procedures, you can count on AFIA's engineers to do the job the way it should be done.

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neering services, AFIA's engineering services throughout the world can help. It's one reason why 90 of the top 100 U.S. companies with operations abroad insure with AFIA.



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dates for buyers

Oct. 9-12: University Risk Management and Insurance Assn. will hold its annual conference in Lexington, Ky. The split sessions, covering risk management and employe benefit problems, will deal with medical malpractice, trends of transferring risk in a teaching institution, alternate methods of funding, captives, update of property values, museum collections, athletic insurance programs, the liability transfer market, reinsurance for faculty and staff and risk-taking. Cost: \$50 per member. Contact: Charles M. Hundley, University of Illinois, Room B-6, Coble Hall, Champaign, Ill. 61820; phone (217) 333-3113.

Oct. 13-14: Council on Employee Benefits 31st annual conference in Kansas City, Mo. Domestic and international benefits will be covered with special emphasis on employe benefit communications, health care cost and quality control, impact of Financial Accounting Standards Board, inflation's impact on Social Security and private pension plans, mandatory retirement and pre- and post-retirement counseling. Cost is \$100 for members and \$150 for non-members. Contact Carl S. Lazaroff, c/o Goodyear Relief Assn., 1144 E. Market, Akron, Ohio 44316; phone (216) 794-4008.

Oct. 16-19: Canadian Risk Management Seminar to be held in Toronto, Ontario. Topics to be discussed will be: liability problems in Canada, environmental exposures, techniques of property values, employe benefits, contractual exposure, self-insurance and a general problem clinic. Cost: \$90. Contact Ken Kerr, F.I.C., Stelco Hamilton, 100 King St. W., Hamilton, Ontario L8N 3T1; phone (416) 528-2511.

Oct. 17-21: Tucson, Ariz., Governmental Risk Management Seminar and Insurance Short Course sponsored by the College of Business and Public Administration of the University of Arizona. Topics include product liability, risk management, the Federal Disaster Act, rate making and employe benefits, loss-control and safety risk management. Questions mailed to the university prior to the seminar will help identify interests and needs. The Insurance Short Course will introduce the responsibilities of risk management. Cost: \$200 for seminar; \$250 for Insurance Short Course. Contact: Joseph Hrabosky, Coordinator of Business Conferences, Division of Continuing Education, University of Arizona, Babcock Building, Room 1201, 1717 E. Speedway, Tucson, Ariz. 85719; phone (602) 884-1252.

Oct. 19-21: Members of the Surplus Lines Claims Association will hold their annual meeting in Kansas City. The program will tackle current common problems facing the surplus line claim community. Cost: \$50 per person. Contact Nancy Oblinger, Swett & Crawford Group, 4201 Wilshire Blvd., Los Angeles, Calif. 90010; phone (213) 937-5411.

Oct. 25-26: How to reduce your construction insurance costs while improving your coverage. A seminar in Dallas, sponsored by MCI Symposia Inc. in cooperation with RIMCO Inc. Also offered Nov. 2-3 in Boston; Nov. 16-17 in Chicago; Nov. 29-30 in Key Biscayne, Florida; Dec. 14-15 in San Francisco, and Jan. 23-24 in Honolulu. Cost: \$395 per individual; \$345 per individual per company team of three managers. Contact MCI Symposia Inc., 51 Bank St., Stamford, Conn. 06901; phone (203) 359-4166.

Oct. 25-26: Omaha, Neb. "Meeting the challenge of the expanded nation-wide marine definition" will be the theme of three Inland Marine Working Clinics to be sponsored this fall. The sessions will aim to help the underwriter make effective use of the nonfiled lines. Full attention will be given to the following three topics: development of policy forms to meet special exposures, computation of rates and premiums for unusual situations and underwriting for acceptability. A special feature of the clinic will be consultation with an expert on insurance for truck lines. Additional clinics will be held in Philadelphia, Nov. 10-11, and in Ohio, Nov. 17-18. Cost: \$80 per person; more than one person per company \$75. Contact Marine Insurance Handbook Inc., P.O. Box 723, Chicago, Ill. 60690.

Oct. 27: Automobile Insurance Rating and Tort Reform are the subjects of the Sixth Annual All-Industry Day program sponsored by the Orange Empire Chapter of the Society of Chartered Property and Casualty Underwriters. To be held in Costa Mesa, Calif. Cost \$17.50 pre-registration; \$20 at the door. Contact Janet Poth, CPCU, 17421 Amaganset Way, Tustin, Calif. 92680; phone (714) 544-8616.

Oct. 27-28: National Association of Employers on Health Maintenance Organizations (NAEHMO) to sponsor a national conference on HMOs and Cost Containment in Detroit (Southfield), Mich. The conference will examine the impact of federal and state legislation

and the experience of specific companies with HMOs. Cost: \$145 NAEHMO member; \$125 each additional NAEHMO member; \$195 non-member; \$175 each additional non-member. Contact Mary M. Hunter, NAEHMO, 1134 Chamber of Commerce Bldg., 15 S. 5th St., Minneapolis, Minn. 55402; phone (612) 338-4823.

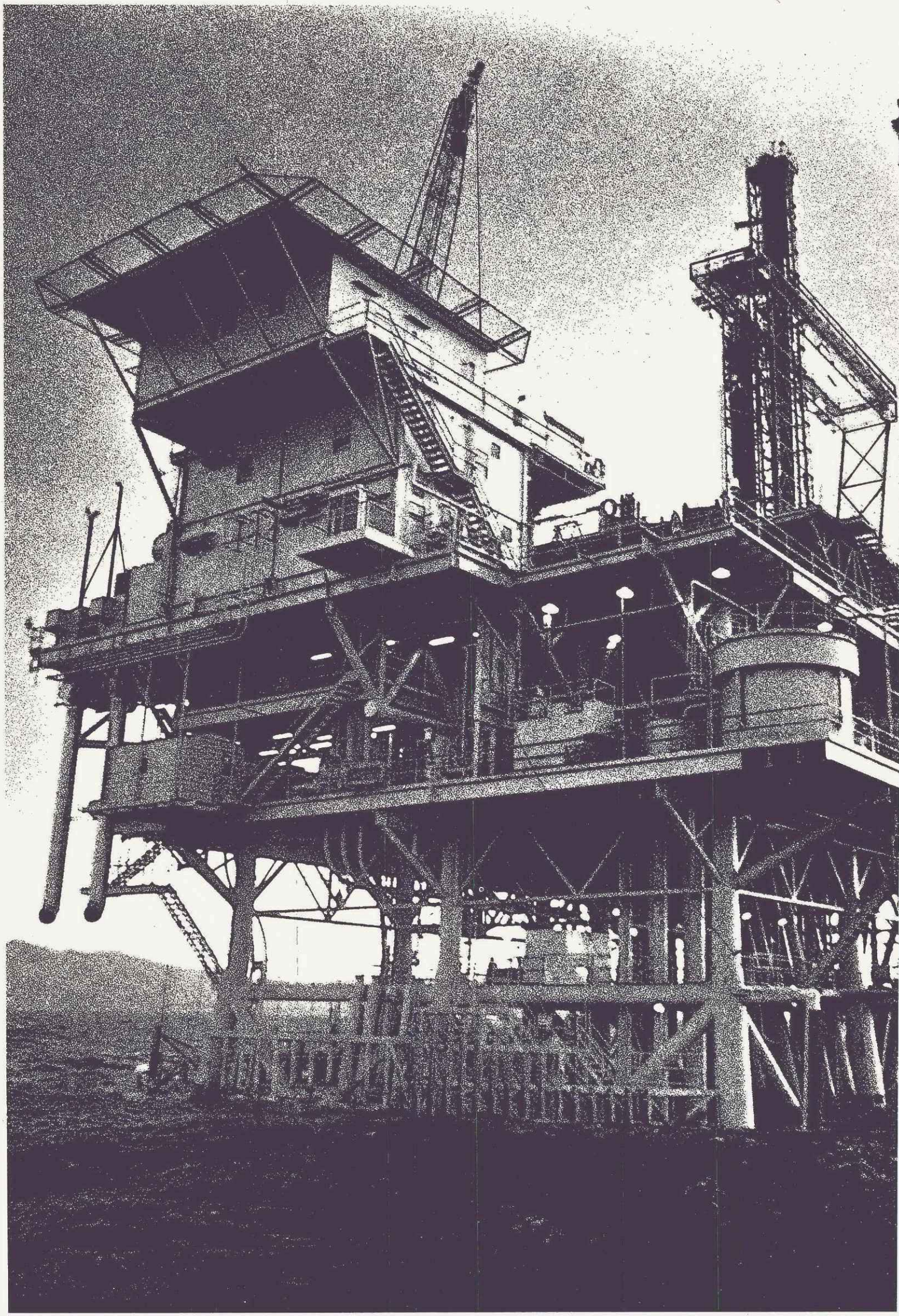
Oct. 31: Meldinger & Associates, actuaries and employe benefit consultants, will conduct its 12th Annual Trust & Investment Seminar in Louisville, Ky. Cost: \$300 per person. Contact: Vicky Morris, Meldinger Institute Inc., 2440 Grinstead Dr., Louisville, Ky. 40204; phone (502) 451-8400.

Oct. 31-Nov. 1: The Association of Private Pension and Welfare Plans is sponsoring its Second Western Meeting in Los Angeles, Calif. The program will center on health care issues and retirement

benefits. Cost: \$175 for APPWP members; \$200 for non-members. Contact Sue Meldrim, Association of Private Pension and Welfare Plans Inc., Suite 909, 1028 Connecticut Ave. N.W., Washington, D.C. 20036; phone (202) 659-8274.

Nov. 7-8: Employe Benefit Communications Workshop, sponsored by Business Insurance magazine, Chicago. A dozen different corporate benefit communications productions will be screened and discussed, focusing on the elements of a prize-winning program; ERISA rules for benefit communication, choos-

ing a consultant, budgeting for benefit communications and the employe and employer view of benefit communications are among the topics to be addressed. Cost for early registration, including meals, is \$285 before Oct. 26 with a 10% discount for additional registrants from the same company. After Oct. 26, registration is \$320 and the 10% discount for additional registrants from the same company applies. Contact: Mary Ann Engelhardt, Crain Education Division, 740 N. Rush St., Chicago, Ill. 60611; phone (312) 649-5241.



Firm markets automated claims system

WOODLAND HILLS, Calif.—Scientific Time Sharing Corp. is in the process of developing automated casualty and employee benefit claims handling systems, which it is aggressively marketing along with its workers' compensation claims system directly

to self-insurers.

This will involve a significant shift for STSC, which currently provides its computerized services to other self-insurance administrators, such as Los Angeles-based Bierly & Associates.

STSC's self-insurance adminis-

tration division has been working with Cypress Management Co. for four years, developing the claims processing system for workers' compensation. Bierly began using the STSC system at the time of its inception in early 1976. Current clients include the

Los Angeles Unified School District, Petrolane, Avery Products, Orange County, Cypress Mines and Coca-Cola Bottling Co. of Los Angeles.

STSC claims its charges are very competitive for computerized claims processing, at about

\$3.50 per medical claim plus 50 cents per check written. Workers' compensation claims cost \$14 per claim and 50 cents per check written.

STSC is also providing its claims handling services to Frank B. Hall for its Adminco program. Five major self-insured and self-administered corporations have requested proposals from STSC on what it would cost to install the computer system in their own claims departments, says executive vp Patrick P. Gehl.

The American Alternative

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These include a large automaker, a large aircraft manufacturer, a machine tool company, a distiller and a large diversified conglomerate, he says.

STSC's claims handling system displays both the frequency and the severity of losses in the form of an illustrative chart called a histogram, broken down by cause of accident or loss and nine other variables. Mr. Gehl claims this offers an advantage over conventional printouts because it enables a user to quickly pinpoint problem areas instead of having to read through lists of incurred and paid claims to determine recurring problems.

STSC has 17 offices in major cities around the country. ■

OPIC eyes changes to add coverage

WASHINGTON — Concerned about lagging U.S. investment in less developed countries, the Overseas Private Investment Corp. is considering an unprecedented set of changes that will dramatically expand the scope and amount of insurance coverage against expropriation, war and revolution.

Those changes, which were announced late last month by OPIC acting president Rutherford M. Poats at the American Mining Congress convention in San Francisco, are now being presented to OPIC's 11-member board. The board is expected to act favorably on the proposals in the next three months.

The most basic proposal would change both the length and extent of OPIC's insurance coverage. Mr. Poats said one proposal would change the duration of the policy from the current 12 years from the start of construction to 10 years from the start of actual production. This would give investors protection over more of the financially critical post start-up phase of overseas operations.

In addition, OPIC is considering eliminating the requirement for a progressive decline in the percentage of OPIC's coverage on large projects. Presently, coverage often shrinks from 75% of the project investment to 50% during the 12-year life of a policy.

Other changes under consideration include expanding insurance against the risk of war, revolution and insurrection. This would be accomplished by negotiating special optional terms of consequential loss protection covering losses other than those for physical damage.

At the same time, compensation in the event of damage caused by war, revolution and insurrection would be increased by not deducting depreciation from the original cost. Depreciation currently is deducted from original cost in computing compensation.

In his speech, Mr. Poats said OPIC has a statutory amendment pending in Congress "that would permit going beyond original cost coverage and providing replacement cost coverage." ■

Business In

When revenue unexpectedly stops for a store or service establishment, a little-known form of business interruption insurance can pay out a fixed amount to compensate for each day lost.

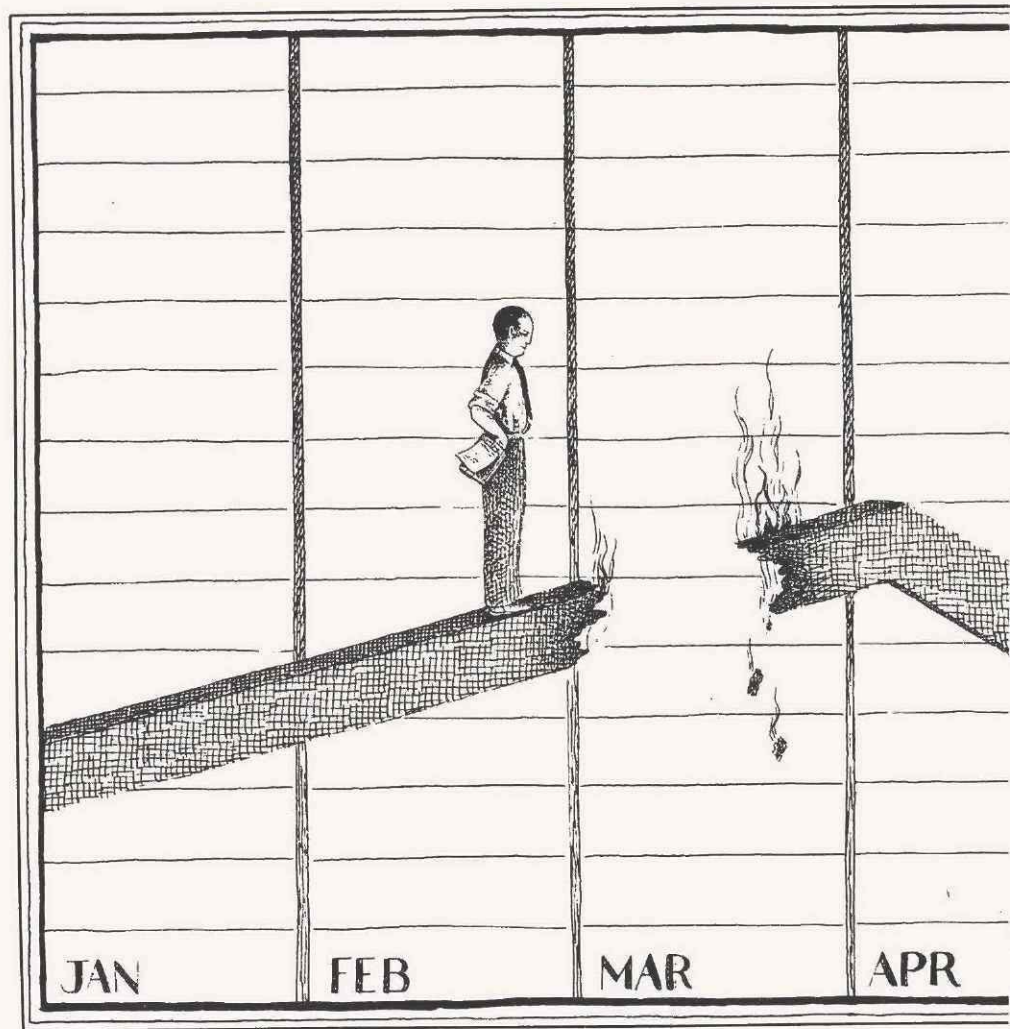
A brief review by INA of an insurance topic of interest to small business owners.



A business enterprise may unexpectedly come to a partial or complete halt for a number of reasons. A store may be burned out. A factory may be leveled by a tornado. A warehouse may be rendered inoperative by water damage from burst pipes.

While damage to property is usually protected in varying degrees by insurance, damage to earning capacity caused by inability to operate is considerably less likely to be covered. But business interruption insurance can be equally vital to the health and survival of an enterprise. During a shutdown caused by property damage resulting from an insured peril, such insurance can provide cash to replace lost operating revenue, assisting the owners in meeting normal expenses including payrolls. Not infrequently, it has made the difference between staying in business and staying closed—permanently.

The most widely used policy for this kind of insurance is the “gross earnings” form. When purchased in the proper amount, this form will provide revenue equivalent to the actual reduction



in gross earnings (minus non-continuing expenses) experienced during a period of business interruption. In settling losses under this form, gross earnings lost in each case must be ascertained as accurately as possible. This involves determining such factors as current earnings, operating expenses and cost of goods—sometimes a complicated procedure.

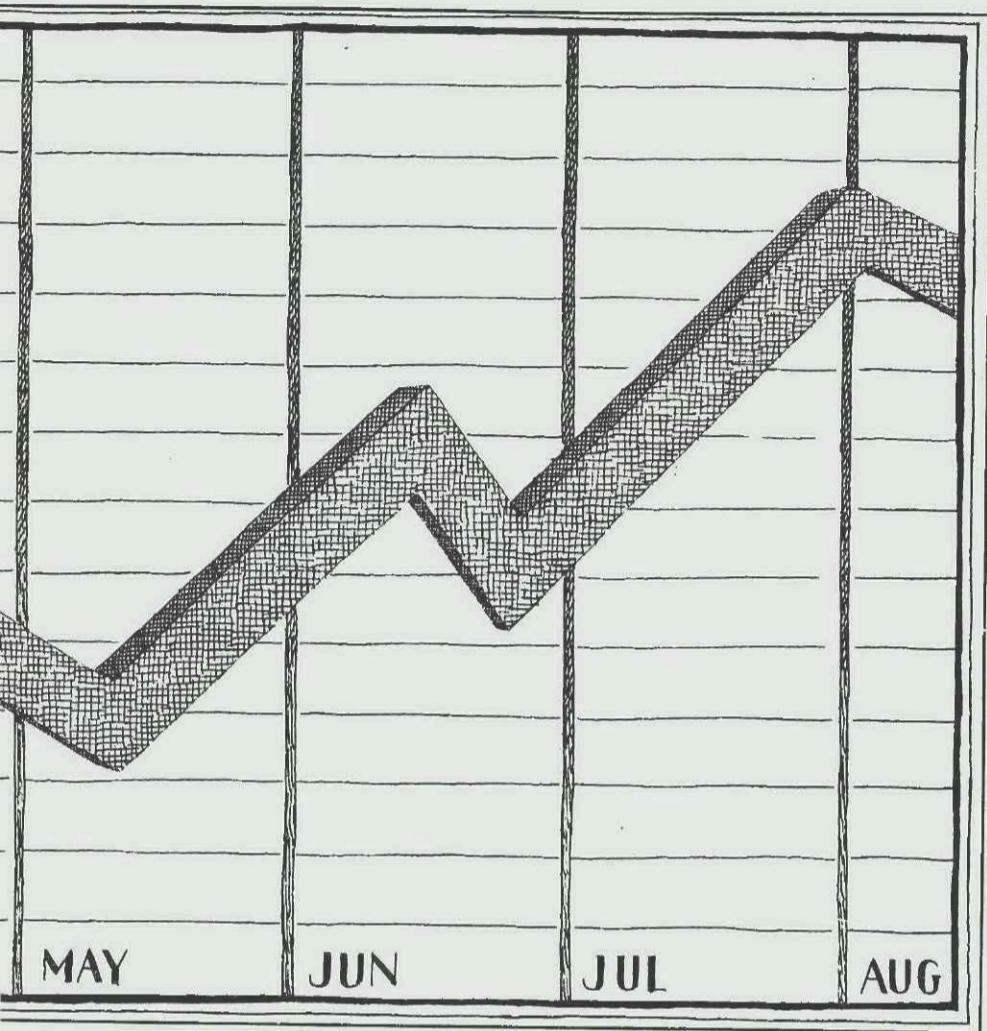
The major advantage of the gross earnings form is that it can compensate for losses actually incurred—provided that those losses can be established and that coverage is kept in close relationship with the current exposure to loss.

There is another form, however, which eliminates any need to determine the amount of the actual loss sustained.

Streamlined loss handling

It is known as the “valued business interruption insurance” form, or simply as the “valued” form.

Interruption



It provides for settlement of losses based on a prior agreed amount for each day, week or month during which a business is closed down. The amount of coverage is specified, as is the length of interruption covered. For example, a policy may specify \$1000 per week (for a complete shutdown) for up to six months. Partial losses are simply paid on a pro rata basis; in our example, a 60% shutdown would mean a \$600 a week payment. In settling partial losses, only the percentage reduction in operations and the length of time needed to repair the property must be determined.

Because of its simplicity, the valued form may be worth consideration by smaller businesses, including those where earnings or other factors cannot be readily determined, as well as by new enterprises generally. A certain amount of flexibility is possible with valued forms, since the amount of insurance provided can vary over specified time periods, reflecting different levels of

business volume.

But the gross earnings form may be preferable in situations where earnings fluctuate widely over the course of the year. In such cases, this method may come closer to providing coverage of the actual loss sustained. With either form, the financial risk of being overinsured or underinsured can be minimized by determining accurately the facts on which the coverage is based.

There are other aspects to interruption insurance, such as payroll coverage and tax considerations, which should be reviewed with qualified counselors before making a decision. Insurance agents and brokers are a valuable source of detailed information and guidance on business interruption coverage.

As an objective discussion of interruption insurance for small businesses, INA has prepared a booklet entitled, "Business Interruption Insurance: 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.

INA insurance products and services are made available through selected independent agents and brokers—professionals with comprehensive knowledge of insurance needs and solutions.

INA

Insurance Professionals

Business Insurance conference

Seminar to explore what ERISA requires in benefit communication

CHICAGO—What does the federal government expect from employers in the way of benefit communications materials supplied to employees?

The answer to that question and others will be discussed at the upcoming *Business Insurance* Employe Benefit Communications Conference here Nov. 7 and 8 by Ron Weakley, director of communication and public service in the pension and welfare benefit programs section of the Department of Labor.

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

Joseph W. Duva, director of employe benefits and compensation for SCM Corp. in New York, will moderate a discussion on how to choose the right benefit consultant to help with a communications project. Examining

the many ingredients in the recipe for success when using a consultant will be John M. Shores Jr., director of personnel and purchasing for Birmingham News Co., and Robert Sjogren, manager of benefit development for Xerox Corp.

Mr. Duva of SCM will also participate in a panel of award-winning corporate benefit managers presenting the details of their benefit communications efforts, their successes and failures and costs of programs. Revealing the secrets of a good benefit communications program along with Mr. Duva will be

Richard Emerich, manager of benefit programs for Mead Corp., Judith Starkey, personnel specialist at Chemetron Corp., and Dennis Kairis, director of employe benefits for Borden Inc.

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

The headaches of the federal pension law and complying with all the plan reports and descrip-

tions that must be submitted to Washington is the property of Barbara Philbeck and Richard Cromer, two consultants from Hewitt Associates.

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

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

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

Early registrants who sign up before Oct. 26 for the conference, to be held at the Continental Plaza Hotel, can qualify for a reduced rate of \$285 for the event, including meals. Additional early registrants from the same company pay only \$256.50.

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

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

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COURAGEOUS... 1977 AMERICA'S CUP DEFENDER/PHOTO BY STANLEY ROSENFELD

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Council schedules product session

KANSAS CITY, Mo.—The Adhesive and Sealant Council (ASC) plans a fall seminar on "Product Liability and Risk Management," at the Crown Center Hotel here Oct. 10-12.

The seminar will include sessions on insurance, the law, corporate responsibility and government relations.

At the seminar dinner on Oct. 10, the speaker will be James V. Davis, executive vice president of Coron & Black Research and Development in Nashville, who will discuss "Economic Stagflation and Long-Range Financial Planning."

For more information or advance registration, write The Adhesive and Sealant Council, 2350 East Devon Ave., Des Plaines, Ill. 60018. ■

HAI selects new chairman

WASHINGTON—The president of The Prudential Insurance Co. of America has been named chairman of the Health Insurance Assn. of America.

Robert A. Beck will fill the unexpired term of Glendon E. Johnson, former chairman of the board and CEO of American National. Mr. Johnson recently resigned for personal and family reasons.

Mr. Beck will serve as HAI chairman until May 1978. ■

agent/broker topics

KC steers its location to consistent growth

By BARBARA JEAN GRAY

KANSAS CITY—Although they sit smack dab in the middle of the country, Kansas City insurance brokers see themselves more as spokes of many wheels rather than the hub of one.

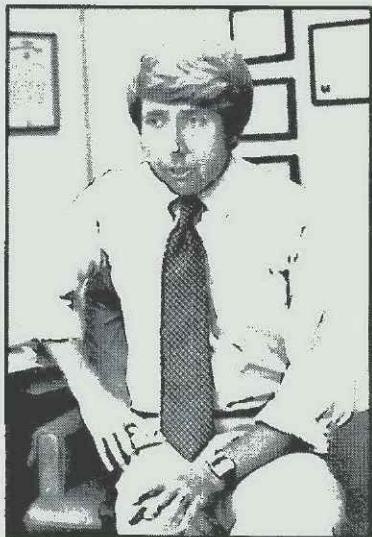
Insurance retailers in this metropolis of 1.3 million people say it is a "branch town" whose insurable fortunes rise and fall with the overflow economy of the conglomerates that branch here. Yet the industrial make-up is large enough and diverse enough to balance the overall tempo. Jumbo accounts are present, but new ones are not stampeding through the city gates in the same number as in other cities like Houston.

The medium-sized account future however is hopeful if not bright, thanks chiefly to Kansas City's two major natural bounties, its geographical focus at the center of the country and its agricultural prominence.

Yet this quietly confident Midwestern city is home base for two major national insurance brokerage firms and has served as the exclusive training ground for the man who is now president of the nation's largest.

Agriculturally speaking, Kansas Citians have every right to be confident. They are keepers of the national cookie jar. Besides being located amid the fertile crop and livestock belt of the Midwest, they live on top of a 3.5 million square foot foreign trade zone, larger than all others in the country put together. This network of thermostatically controlled limestone caves weaves 140 feet beneath the surface of Kansas City and stores foodstuffs among other goods.

The effect on the economy of this underground arsenal of goods bound for international ports has been good, if tangential, according to businessmen. "It has helped, but has not had any effect on the number of national corporations headquartered here," comments James P. Metzler, chairman of R.B. Jones Corp. "I don't think we have had many new nationals become based in Kansas City since the foreign trade zone, but it has had an effect on stimulating the economy of our clients. If our clients' businesses



'I've heard it said . . . that this is a tough insurance town due to stiff competition.'

—Tom Klug,
Woodsmall, Frick & Innis

Who's Who in Kansas City

1. R. B. Jones Corp.
2. Marsh & McLennan Inc.
3. Thos. McGee & Sons
4. Haas & Wilkerson Inc.
5. Reed Shaw Stenhouse Inc.
6. Fred S. James & Co.
7. G. Findlay Reed Inc.
8. Woodsmall, Frick & Innis Inc.
9. Conrad & O'Reilly
10. Financial Guardian Insurance Group

Ranked in order of size, based on local opinions.



'The thing that will keep Kansas City good and healthy in the future is the agriculture business. . . . People have to eat.'

—Herbert Sloan, Fred S. James



'Agriculture is the largest and fastest growing industry here. We have to get more into that area.'

—Jasper Marino,
Reed Shaw

photos by Barbara Jean Gray

are good and grow, we grow."

The competitive tug of war lies not at the jumbo commercial account tier but the medium-sized tier. And since that is by nature the long suit of the smaller broker, it puts even the largest of brokers into the fray for the medium-sized accounts.

"We see some really fine small agents which are equally competitive with the larger ones, depending on the type of business you're going after," observes William P. Kline, president of the 100-person Marsh & McLennan office here.

Which is not to say that jumbo accounts are not important to major brokers. Marsh & McLennan handles part of the Trans World Airlines account now, as it did when L. Patton Kline headed the office, as it did when his father Leonard was chief. TWA, headquartered here with 9,300 employees, is the city's fourth largest employer after the state government, federal government and General Motors.

The office here includes Marsh & McLennan Inc., Wm. M. Mercer, Fairfax Underwriters and national headquarters for the one-year-old

Agri-Risk Services division.

Bill Kline says the former Mann-Kline Agency is pleased with its eight year affiliation with Marsh & McLennan. The national brokerage firm was obviously pleased with Mann-Kline too. So pleased, in fact, that it named the office's then-president, L. Patton Kline (brother to William Patton) president of Marsh & McLennan Inc. in 1974. He had previously spent his entire insurance career here.

Despite the relatively small number of corporate headquarters here (only three of Fortune's 500 large

est industrials roost here while about 250 have local branches) the country's 28th largest city is home for R.B. Jones Corp., generating \$21.8 million in gross revenues in 19 offices nationally and Financial Guardian Group, generating \$8.1 million revenues in 20 offices.

Neither company courts on KC for a large share of its total business. This city means 10% to 15% of total business for Jones, although chairman James P. Metzler estimates that \$7 million is handled by this office, when other national

Continued on following page

Two agent groups in Connecticut explore ways to coordinate plans

MANCHESTER, Conn.—A memo from a group of local agents here sparked a joint meeting to explore cooperative legislative, educational and agency development efforts by the State's Independent Insurance Agents and the Professional Insurance Agents.

The executives of both state groups met last month and agreed to sponsor common legislative bills whenever possible, undertake joint educational seminars and support the other's agency development program.

The memo which precipitated the development of this cooperative effort was sent last spring by the Manchester Assn. of Independent Insurance Agents, which urged the two groups to communicate rather than finance opposite lobbying

ventures at the state level, especially since the two groups share much of the same membership.

The Manchester group involves 35 agents, about three-fourths of whom are dues-paying members of both national affiliates, estimated Jon L. Norris, owner of the John L. Jenney Agency here.

The most recent opposing lobbying efforts rating laws, Mr. Norris said. The Independent Insurance Agents of Connecticut lobbied for file and use while the Professional Insurance Agents lobbied for prior approval.

The memo, sent out to both associations as well as other independent agents, set off a string of proposals from both groups to initiate joint meetings on legislative and educational issues.

Dues for the IIAC are assessed per producer. This year a one-producer agency will be charged \$188, a two-producer agency \$355. About half of these funds go to the national organizations, an IIAC executive said.

The Professional Independent Agents assesses its dues per gross revenues of the agency. An agency generating \$25,000 or less pays \$145 this year; one generating up to \$50,000 pays \$165.

The memo was sent out over the signatures of Mr. Norris and Donald Genovesi of the Donald Genovesi Agency, both in Manchester.

A second issue on which the two groups were opposed was the run-off period of renewals for terminated agents.

Continued on page 32P

The inside story

Records

Who owns the records of a mass marketed insurance program? One agent believes that should be spelled out in the contract. **Page 32D.**

Productivity

William Boockford says the almost \$60,000 figure for his firm's revenues per employe isn't extraordinary, just sustained growth. **Page 32G.**

Knitting a pattern

An insurance holding company in Illinois, is knitting small local agencies into a profitable pattern for future growth. **Page 32K.**

Not peanuts

Lee Speir's goal for his Georgia insurance agency isn't peanuts. He wants to saturate the state. **Page 32M.**

Kansas City . . .

Continued from preceding page business is included.

R.B. Jones was founded here in 1889, became a corporation in the '30s and went public in 1970. Although Mr. Metzler is a great grandson of the founder, he was not always with the firm. He had a firm called Metzler Bros. which merged with Jones in 1966.

Two years after Jones went public, Financial Guardian was formed as a result of the merger of locally based Simco and Guardian National of Detroit.

Despite its international status (a Paris office was opened this month) Financial Guardian really doesn't count itself in the same league with the national letter houses, at least not here, says Donald R. Weber, executive vp. "In our marketplace, we don't get too much into the Fortune 500. Let the letter houses play that game. We have very strong ties (to the city) and technical people. Our greatest appeal is for companies with sales of \$5 million to \$10 million. Our bread and butter accounts normally need a lot of help from agents as risk managers. They don't have a technical insurance buying person on staff. I say we'll do a better job than a larger national broker on any account of \$10 million or less."

Among the areas Financial Guardian is beefing up is personal lines. "The only area that's not holding its own for us now is personal lines, which we're committed to develop. We have hired Peter Redlich to develop that. Personal lines now is 15% of our total Kansas City business," says Mr. Weber.

Financial Guardian's role in the metro area is in the process of change, Mr. Weber says. "We have spent less time building our branch here in the last three years than other cities, but we are now gearing ourselves up. In the next two to three years we hope to be the number one factor here."

That should prove interesting, especially as the alphabet houses continue to migrate into this city.

After M&M's entry onto the scene in 1969, Fred S. James arrived in 1974 with the acquisition of the Altman Singleton Agency. Corroon & Black, while having a KC office listed in its annual report for at least three years, has an operation so small it is not even identified by the telephone company's directory assistance operators.

This month Alexander & Alexander opened up shop.

Nordstrom Larpenteur, ranked 11 among U.S. brokers with gross revenues of \$14 million, has had an office here since 1970. The nine person staff here is one of the Minneapolis broker's 32 national offices.

"I have heard it said, but don't know if I believe, that Kansas City is a tough insurance town, due to stiff competition," remarks Tom Klug, vp for Woodsmall, Frick & Innis Inc. Mr. Klug estimates Woodsmall's volume will grow this year by 45% to about \$750,000 in property/casualty commissions alone. An overall figure would include another 10% to 20% for life business as well.

Woodsmall, Frick & Innis is the product of a 1974 merger of the Woodsmall Agency, an independent division of Reed, Shaw Stenhouse; Ralph B. Innis & Sons Inc., also a division of Reed, Shaw and the Western General Agency.

Mr. Klug credits the independently owned firm's recent growth to its property/casualty specialty programs. Among the firm's 31 employees, six more than a year ago, is a full-time research and development manager for these specialty programs. "It's not mass mar-

keting. It may get to be there but it isn't now."

Like several other brokers the young account executive is assured of the economic security afforded by the city's agricultural strength.

Another broker confident of the oblique benefits of the city's agriculture is Jasper Marino, senior vp of Reed Shaw Stenhouse Inc.

"Agriculture is the largest and fastest growing area. We have to get more in that area. I think the place to be for the next 20 years would be on the farm because the prices are right. Also, it's in vogue now to be a farmer."

The firm became Reed Shaw in 1974, after changing hands several times in the past decade. Originally it began as a brokerage firm called Marino Raines. Jasper Marino bought out Mr. Raines and then was acquired in 1969 by a firm called Insurance Consultants Inc. headquartered in St. Louis.

ICI sold the firm to Weil McLain, a Dallas plumbing conglomerate, which after five years spun it off, or more accurately sold it back to ICI, which in the meantime had become Reed Shaw Stenhouse.

The firm is presently zeroing in on the acquisition of jumbo accounts. The vp estimates revenues for the first eight months of the year are up 18%.

The biggest problem facing brokers is the placement of casualty business, Mr. Marino believes. "Hopefully this will turn around, but I don't know that it will ever turn around for the jumbo accounts."

The Reed Shaw office here employs 40 people, the same number as last year.

Echoing the boon of agriculture, Herbert A. Sloan, president of Fred S. James, says, "Probably the thing that will keep Kansas City good and healthy in the future is the agribusiness, although it's not directly related to the insurance brokerage business. It will probably be a little more important to the world. People have to eat."

That office is running about 30% ahead of last year in gross revenues, the executive claims, after experiencing a "flat" year in 1976 when it was in the throes of moving into its offices here in the Crown Center.

The new direction for James is more orientation towards jumbo accounts. "Our former company (the Altman Singleton Agency which was co-founded in 1923 by Mr. Sloan's uncle, Charles Singleton) was not oriented to big business, so we're diversifying. We have been tackling bigger things, larger accounts."

Fred S. James here has 42 or 43 employees, about the same number as last year.

Among the characteristics of the city where he has spent his 32-year insurance career, Mr. Sloan lists its reputation as a sophisticated

insurance city and one where "the competition has been good and ethical and quite often ahead of other cities."

KC spans two states—Missouri and Kansas—he notes. "We have to constantly be aware of that. The filings are different. The rates are different. The licensing is different. It's not a disadvantage, just a factor that has to be taken into consideration."

In addition to the overflow from agribusiness, brokers eye tourism and convention industries for bringing dollars into the city.

"We have a great expansion of motels and hotels," relates Jones' Mr. Metzger. "Kansas City is a convention location because of its geography. We're putting forth capacity for sustaining large conventions, so I see a great surge of expansion in room accommodations and restaurants. I think the city senses that it's on the threshold of a convention boom, although that does not necessarily lend itself to increasing revenues for the insurance brokers."

According to the KC Chamber of Commerce, construction in the metropolitan area was up only 0.1% in dollar value between 1975 and 1976 and off 19% in square footage in the same period of time. These flat figures are the average between increasing residential construction and shrinking non-residential building.

Thos. McGee & Sons, estimated to be the largest independent broker, at one time generated between 50% and 60% of its revenues in construction, according to managing partner Larry Kaminsky. While the firm feels construction will always be a strong part of the business, he says it's diversifying into other areas as well. "We're not trying to make ourselves exclusive."

Revenues for Thos. McGee & Sons were up between 15% and 17% for the first eight months of the year, Mr. Kaminsky said, some of which was due to new accounts.

The 67-year-old firm is now headed by Ed Reardon, a grandson of the founder. Employees total 42, the same as last year, plus the eight active partners.

"Construction is the one area that has to improve," maintains John F. O'Reilly, one of three equal partners at Conrad & O'Reilly. Aside from that industry, "we see Kansas City being an oasis in the national picture." Its industrial base is a potpourri.

His firm, not that heavily into construction, is "not long on any one particular suit," Mr. O'Reilly says.

This year the firm's gross revenues will hit \$1 million with 28 employees, due partially to the August arrangement to acquire the \$300,000 book of the Atlas-Rogovien Insurance Agency from Reed Shaw Stenhouse.

Excluding the acquisition, the revenue increase this year has been due to increased premium, Mr.



Barbara Jean Gray

"In the next two to three years, we hope to be the number one factor in the area," says Donald Weber, executive vp at Financial Guardian.

O'Reilly claims. "We have not been that active in new business procurement. We don't have the people for that. We don't lose them (accounts). We hold on to what we've got."

Kansas City has specialists in areas other than construction. In fact two of the three brokerage businesses (with 100 to 250 employees) identified by the Chamber of Commerce are specialists in mass marketing.

The Strauss Fuchs Organization employs 150 Kansas Citians who generate between \$50 million and \$60 million in premiums on mass marketed programs written nationally. These programs are 60% personal lines and 40% commercial.

Forrest T. Jones & Co. Inc. is also heavily into personal lines mass marketing (80% to 85% is personal versus commercial) and has a payroll of 140 employees.

Both firms generate a vast majority of their business outside the metro KC area.

The third and largest insurance brokerage employer here is R. B. Jones whose 260 employees, the same number as last year, handle both local and national business.

Mass marketing is also done on a smaller scale by other brokers. As part of its overall brokerage business, for example, G. Findlay Reed Inc. owns the Farnex franchise for the metro area on commercial accounts.

"We were into personal lines mass marketing heavily three or four years ago," relates executive vp Gordon Naughton. "Then when the market crunch hit in 1974 we discontinued it and don't plan to re-enter that market. It was unprofitable. We feel we can better provide commercial accounts programs. It's not a question of availability, but the nature of the beast, in personal lines."

G. Findlay Reed, an independent broker, generates 95% of its business in commercial lines and has more than doubled its revenues in the past three years, the vp says. The first eight months are up 27% due to both new accounts and rising premium rates.

"In much of our operations the expansion has come because of our going into the excess/surplus lines to provide product liability." Excess/surplus now means 25% to 30% of gross revenues, according to Mr. Naughton.

Like several other commercial brokers, Reed has "looked at captives, but have yet to start our first. We have been investigating it."

It's not that medium-sized accounts don't lend themselves to captives, says Mr. Naughton. "There are some firms in town that could be set up to have a captive. They are not the jumbo accounts you might find in other cities but they might qualify because of the businesses they are in. It's easier to use a captive or an individual account than for an association."

Among the most colorful broker-

age specialties here is the carnival and auto racing business done by a major independent broker in this city.

Haas & Wilkerson's Neil R. Poupirt estimates that 35% of the firm's commissions and fees are generated by the carnival business, which is scattered nationwide. The firm also brokers auto racing business nationally.

About 60% of the risks placed are in the excess/surplus markets, partially due to the nature of carnival risks.

The independently owned brokerage firm is estimating gross revenues for 1977 of \$3.5 million. Business for the first eight months is up 50%, estimates the executive vp.

And while Haas & Wilkerson observes the advent of a little rivalry in excess and surplus lines, more than one broker placing risks in the regular markets notes there is some easing there too, if not in price at least in availability.

Observes Edward Gilbert of Gilbert-Magill Co., "Standard companies are coming back in, although they're not cheaper. But we are dealing with familiar patterns."

Another trend he identifies is increasing price competition among insurers for small to medium (\$5,000 to \$20,000) commercial businesses.

And, in fact, it is an extreme of this competition which he feels is the major problem facing brokers, that of another possible price war. "What brokers are afraid of is that this cyclical competition will start again and put everyone back in the soup."

Gilbert-Magill Co. is a four-man partnership with gross revenues of \$536,000 in 1976. President Gilbert estimates revenues for the first eight months are up 35% to 40%. The staff is three people larger than last year at 21.

An acute shortage of qualified insurance technicians was labeled as another tough situation facing brokers here. Says Mr. O'Reilly, "We're all stealing people. The agents steal from other agents. The agents steal from the companies. The companies steal from the agents. It's a vicious circle in which none of us have addressed ourselves to the real issue: That there are no new people coming into our business."

At the brokerage level however, Conrad & O'Reilly is taking action by footing the bill for insurance school training. The firm already has five CPCUs among its staffers and the sixth should get her designation soon, Mr. O'Reilly says.

"Females are filling the gap" notes Financial Guardian's Mr. Weber. "There are not enough males in the area. Women also seem to be more technically oriented."

"In the insurance business you run into a problem in finding quality personnel. We feel fortunate to have a good nucleus but as we have to start replacing them, we will have to search far and wide." Mr. Kaminsky concludes.



Barbara Jean Gray

"I think the city senses that because of its location it's on the threshold of a convention boom," according to James Metzler, chairman of R. B. Jones.

Mr. Za Tames The Energy Monsters

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Access to records can spin problems

CHICAGO—Who has access to the records of a mass marketed insurance program?

Is it the broker/administrator who solicited and administered the program? The insurance company that underwrote the business? Or the trade or professional association that comprises the insureds?

Normally the answer is found in the agreements signed by the parties before the program begins. However, in cases where no such provisions have been made, the ambiguity can lead to problems.

One broker/administrator who is very vocal on the need for "open" agreements, known by all three parties and specifying accessibility to the records, is Max Clay, vp of the Planning Corp. He contends that this need is increasing as the number of association insurance programs and the number of mass

marketers competing for that business grow.

Associations have been historically unconcerned about the subject because the necessity to have the records on hand rarely arose, Mr. Clay says. However, as mass marketers become more numerous and more competitive, the possibility that the association might want to have the records to turn over to another broker/administrator increases.

In some cases, the association may learn that the former broker/administrator claims the rights to the records and attempts to continue to solicit the group's members even without the endorsement of the association.

"We have run into the situation frequently lately. The broker who had done the program before did

so with little competition. Now, there are many more competent and able brokers to suggest many drastic improvements. Some of the brokers who did this before got fat and didn't continue servicing. They take it bitterly when the association chooses to switch," he said.

"The association does not know who owns the business until problems develop.

"My criticism is that too many insurance associations and brokers have made too many bilateral agreements that only come forth when controversy arises. My argument is that the association should be party to these agreements right from the beginning. That way, if they go down to the wire, they know."

Mr. Clay's firm, the Planning Corp., is a subsidiary of the Great Lakes Agency Inc. It handles in-

surance programs for about 10 associations. About 60% of the total commissions are generated in commercial lines although the number of programs in life, health and accident are higher.

The Planning Corp. has written agreements with its three largest accounts, including a provision to supply records and other information when asked, the vp reports.

The firm does not have contracts per se, but "I think we'll start using them. Contracts spell out responsibilities. Oral commitments do not provide the same continuity and the individuals who make them may not be around five years hence."

Mr. Clay feels that "any agreement made should be made by the broker, the association and the insurance company. It should be made at the beginning, before the



Barbara Jean Gray

MAX CLAY: "The association does not know who owns the business until problems develop."

business is written. And there should be no agreements not known."

Associations are often in the dark on the subject, the broker claims. If they were aware of the potential problems they would protect themselves in advance, but for many it is already too late or the problem may never arise. "But I don't see why the associations shouldn't have the same rights as any corporation."

Broker/administrators who argue in favor of their retention of the records say they put out money in building the programs, he states. But that's more than amortized in the business it has generated."

Mr. Clay estimates that a mass marketed life accident and health program would take two to three years to show a profit and a casualty program about five years.

His own personal desire is to educate the associations from the beginning and to see that they have access to records at any time. He says he will attempt to get information to the associations individually or through their own trade association, the American Society of Assn. Executives.

Because of their unawareness on this subject, the associations have been taken advantage of, he believes. "I don't think that's right. Why should a broker try to handle business for an association that doesn't want it? If the association had the records, it could take over. The broker could solicit people outside of the group to add to the participating members and thereby form a new group, but then the group won't be part of the association."

He also questions the success of this practice by saying that it was the association's endorsement that was instrumental in getting the members to sign up in the first place.

Mr. Clay contends the matter is a moral one rather than a regulatory one.

A provision that the records of such mass marketed programs be maintained at the offices of the administrator has been included in a model administrator statute on life, health and accident insurance. This was adopted last December by the National Assn. of Insurance Commissioners and has been enacted by Nevada and Arizona to date.

The model bill however does not address itself to the subject of the ownership or accessibility of the records.

Mr. Clay's argument is that the association should be able to lay hands on the records also. "How do they get the records if the broker/administrator refuses to give them up?"

More controversy, including lawsuits, has centered on life, health and accident insurance than on commercial mainly because the former is a much larger industry, the broker states. The principle of record accessibility however applies to both, he feels.

Continued on page 32F

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CPCU survey finds more education, tougher tests backed

PHOENIX—Too many unqualified property/casualty agents are licensed because the requirements for licensing are not stringent enough, according to a consensus of Chartered Property Casualty Underwriters.

That was the most important concern expressed in a national study of agent licensing laws and practices conducted this spring. The research project was under the direction of Kenneth B. Hines, chairman of the central Arizona CPCU chapter and assistant regional manager of the Hartford Insurance Group.

The 15-page questionnaire was mailed to CPCU chapters in all 50 states plus the District of Columbia. Thirty-eight chapters replied, a 74.5% response.

The survey was divided into five sections: the development of licensing laws, current practices, testing, enforcement and the effectiveness of agents licensing statutes.

According to the conclusion of the report, "The overwhelming consensus was that more education was needed prior to the taking of the examination. In addition to increased educational requirements a more difficult state examination was also thought by many respondents to be a necessity. Although such measures would reduce the number of agents passing the exam in the future, the tradeoff of professionalism for numbers is more than acceptable to the majority of respondents. The lack of education was also felt to be a problem area, especially in an industry affected by changes which seem to come more quickly as each day passes."

The CPCUs also suggested an increase in fees for application, testing and licensing to weed out less serious applicants.

The 38 chapter members also expressed a desire for more stringent prescreening on the part of state regulatory authorities. This would be in addition to the evaluations made by sponsoring insurance companies. The report identified "more contact between police, FBI and other authorities . . . not only to check on current applicants, but also to act as a deterrent for agents of low moral or ethical character who might be eyeing any given state as a place to set up business."

The fourth area of potential improvement was more stringent enforcement of penalties for code violations.

Despite listing these areas of potential improvement, the overall feeling was one of "respect for the insurance department and the laws under which they (the chapters) operate," summarized the report. Quick and fair handling of complaints and the actions of commissioners in the best public and insurance industry interest were complimented most often by the respondents.

In more than two-thirds of the responding states there are no length of residency requirements for making applications, taking exams and soliciting business, the questionnaire responses revealed. In fifteen states, there are no prescreening devices by the state regulatory bodies, but most of these require prescreening by the sponsoring insurance companies or only a check "if the application had adverse information."

The survey found that 10 of the 38 respondent states have formal insurance course requirements to secure a license, four have formal education requirements and 27 have

no minimum education requirements.

Previous business experience is required in three states, one of which will honor experience from another state.

Six states require resident license applicants to complete the educational standards of the state of application, while 27 will acknowledge the educational requirements of another state.

Eighteen states exempt CPCUs from the written exam, but 20 do not.

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CPCU survey . . .

Continued from preceding page
 required in all but two states.
 Testing fees of \$1 to \$5 are charged in three states; \$5 to \$9 in six states; \$10 to \$20 in 21 states, and over \$20 in two states. Five states charge no testing fee.
 According to the respondents, an application fee between \$1 and \$5 is charged in four states; \$5 to \$9 in five states; \$10 to \$20 in 16 states; and over \$20 in five states. Seven states have no application fee.
 Company appointment fees of \$1 to \$5 are charged in 12 states; \$5 to \$9 in 16 states; \$10 to \$20 in five states, and over \$20 in two states. One state has no company appointment fee.
 Renewal fees of \$1 to \$5 are charged in nine states; \$5 to \$9 in 14 states; \$10 to \$20 in nine states, and over \$20 in four states.
 Examinations for property casual-

ty licenses are required in all of the 38 states responding to the questionnaire. In 31 states, the exam is prepared by the state, in six by an independent testing service and in one a university.
 In 34 of these states the examinations are administered and graded by the state insurance department, in three by an independent testing service and in one by an educational institution.
 In 25 states, the examinees are anonymous to the graders; in 13 they are not.
 Twenty states have upgraded their exams within the last year; 13 within the last three years, four within the last four years and one within the last ten years.
 In three states the actual exam questions are available to applicants for study with two of these in the

form of a book with possible questions distributed by the department. In one state, they are available from a commercial publisher.
 Licensing exams are administered in written form in all 38 states. In seven of these, they are in essay form; in 13 true/false; in 29 multiple choice; in two multiple option; in six matching, and in five a combination thereof.
 In order to qualify as a multiple line property-casualty agent, applicants in eight states have to pass more than six separate sections of the exam; in four states over five sections; in five states three sections; in eight states two sections and in six states only one.
 The most common sections included are the insurance code and the lines of auto, property, allied lines, general casualty marine and surety.
 Thirty-six states require a passing grade of 70% to 79% on all or part of the exam, one state requires 60% to 69% and one state 80% to

89%.
 In six states, less than 60% of the applicants pass the test; in another six 60% to 65%; in nine states 66% to 70%; in eight 71% to 75% and in four 76% to 80%. In two states the passing ratio is 80% or better.
 Thirteen states allow failures to re-take the exam after 30 days; ten states allow a re-exam immediately.
 In 15 states there is a maximum number of times a person may take the exam; in 21 states there is not.
 In only one state is reexamination required for a license renewal. In 37 states renewal is by fee payment. None of the 38 states participating require an educational refresher.
 On enforcement procedures, 27 states require a hearing prior to suspension or revocation of an agent's license. In 10 states none is required.
 In seven of the states requiring

hearings, there is no time period in which the hearing must be held. In five states it must be "without delay;" in five states within 10 days; in six states within 11 to 20 days; in nine states within 21 to 30 days; in one state within 45 days and in two states within 60 days.
 There is no time limit in which these decisions must be rendered in 10 states. In six states, a decision must be reached within a "reasonable" time; in two states within 15 days; and in 14 states it can be more than 30 days.
 These decisions may be appealed in 35 states. In two states they may not.
 The director or commissioner is responsible for such enforcement in 19 states. In nine states it's the prosecuting attorney's responsibility and in four states the courts or corporation commission.
 The final section of the survey on the effectiveness of agent licensing statutes represents 100 responses rather than 38 because some CPCU chapters had individuals file personal responses directly.
 While the majority felt the laws were effective, they did enumerate some weaknesses. Among them were no continuing education requirement, no re-examination provisions, licenses which were too easy to obtain because of tests that were "too easy," grandfather clauses exempting agent from new requirements and lack of enforcement provisions with "teeth."
 Enforcement provisions, while largely "just and adequate," were seen as unevenly applied.
 The final subjective query was whether regulation would be more effective if given to a federal insurance agency. Although not unanimous, there were few dissenters from the "no" response. "The only area in which there was some leaning toward federal control was that of non-resident agents or retaliatory laws, and even here very few respondents would opt for federal control over the current system," the report concluded.—bjg ■

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Records . . .

Continued from page 32D

In normal brokered business, the client is free to switch brokers at any time. "There is no question of records because the insurance company has the records and the risk manager knows the risk."
 But mass marketing to an association is different. "An association is normally sold to a broker/administrator who will sell the association on the concept of selling one or more programs to the members. The associations get competitive bids. The broker who gets the approval of the association then gets the mailing list of the members and the endorsement of the association.

"The broker may use the association's publications to advertise and attend annual and general meetings to get to know the members. The association is approving these actions, but it does not have any records of the program. The association does not have the records to turn over to a new broker should it decide to switch.

"The board of directors of these associations is responsible to the members. In order to make these changes, they have to have this information. You couldn't go to a corporation and ask for an increase without these statistics."

Mr. Clay and a number of other members of the Professional Independent Mass Marketing Administrators brought the matter up at the organization's recent annual meeting, requesting that a position be taken on the issue.

An executive for the association said he was not aware that such a request had been made.—bjg ■

Boockford & Co.

Broker's exceptional productivity reflects sustained 5-year growth

OAK BROOK, Ill.—Although William Boockford says he doesn't have any magical formula, the \$59,333 revenues per employe his brokerage firm generated last year, does at first glance have somewhat of an unreal quality.

That ratio, based on his 12-person company, is nearly double that of other independents and about 33% larger than the average of national houses.

The gross revenue figure alone is no less notable.

Boockford & Co. generated \$712,000 in commissions and fees in 1976. That was a leap of 91% over the previous year.

Yet in a recent interview, Mr. Boockford explained these block-busting statistics quite matter-of-factly.

"I'm sure inflation put us up 20%. The rest shows the addition of a few large accounts including institutions, municipalities and transportation companies. That's all we want, really."

Boockford's growth last year was not just a one-shot deal. The firm has consistently shown gains of at least 30% for the last five years, or ever since the broker claims he made a "conscious effort" to grow. Though declining to identify net profits, Mr. Boockford indicated they had increased "in proportion" to revenues during that five-year period.

All growth has been purely internal. From the time Mr. Boockford, now 53, took over his father's firm in 1949 until 1968, Boockford & Co. remained a one-producer agency. When he took on his first outside producer in 1968, the firm's gross revenues were \$76,000.

In 1972, with his children grown and with more time available to devote to business, he related, he made the conscious decision to enlarge the five-person firm which that year generated \$230,000 in commissions and fees.

Over the next four years, income climbed to \$371,000. Then, between 1975 and 1976, came the whopping 91% jump.

So far this year, Boockford & Co. is showing a 30% increase over last year, will take on additional office space and will add two, possibly three, more people.

Mr. Boockford believes that 30% growth rate can be sustained "if you write the right type of accounts."

The "right type" he obviously feels are the 20 large accounts added in the last five years to bring total clientele to 700.

Almost all of these jumbos, are self-insured in one area or another, often because of Boockford. "We encourage people toward self-insurance. It's been demonstrably proven that service organizations, if they are well run, will do a superior job to that of insurance companies in claims handling."

The average transaction for the firm is over \$6,000, including premiums, endorsements and everything else.

Over half of Boockford's \$712,000 gross revenues last year were generated in excess and surplus lines, due in part to its commitment toward self-insurance.

From the broker's viewpoint, "We're finding that to be much more stimulating than writing the small risk with the regular company personnel. It's not cut and dried underwriting, follow-

ing an established rate schedule." Though the commission percentage is smaller, less than 7%, he estimated, the dollar figure is almost always higher.

Boockford claims he has been able to pick up accounts by working on fees and commissions by approaching these large accounts with the idea of self-insurance, primarily in the group and life departments. Amazingly, many of these firms have never had the self-insurance concept posed to them even though they had been serviced by national brokerage firms, the independent observed.

"As a matter of fact, we found

that competing with the large brokerage houses is easier than with a really sharp local broker, who has experience and present accounts. The reason is that the national houses can only hire just so many excellent account executives. No matter what back up they have, handling the account is the big determining factor."

Ten percent of Boockford's total income is now in life insurance as sold in employe benefits and the broker said he is "looking forward" to it becoming 20% in the next two years.

Unlike the national houses, di-

Continued on following page



Barbara Jean Gray

Boockford Inc. encourages companies to go into self-insurance, where they will save money, says chief William Boockford.

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Boockford . . .

Continued from preceding page
 Direct writers constitute "excellent competition" Mr. Boockford believes. "They are tough." The only problem there is that "a number of buyers are in a direct writers syndrome and believe there is little need for a broker." According to Mr. Boockford the main problem of direct writers is their high personnel turnover.

In shopping for his own personnel, the broker is more apt to seek experienced people from national brokerage firms or direct writers. He speaks disparagingly of insurance company personnel in general.

Of the four producers now employed at Boockford & Co., one has insurance company background and another direct writer background. Boockford has spent his career with the agency; the newest producer, his son, joined after college graduation. Of his son's employment, said the broker, "he will succeed or fail like any other salesman in the office."

In the past, Mr. Boockford has obviously not hesitated to distinguish between the two. He said he has had to "weed out" two salesmen who didn't work out. "And it's almost impossible to know when you're hiring a salesman to know whether he'll work out or not, not only from a sales angle but also from the angle of integrity. Honesty and integrity are what really hold onto accounts."

In fact, the broker attributes the firm's 98% retention of accounts to those factors, assuming

Mass. agents break even

BOSTON—The average independent agent in this state just broke even on acquiring and servicing personal auto insurance last year.

But agents broke even or showed a profit on homeowners business although one-third of all agents showed a loss in this line.

These are among the findings of a study conducted for the Independent Insurance Agents of Massachusetts recently. Based on responses from 610 of the 1,800 members of the association, the management firm of Temple, Barker & Sloane Inc. of Wellesley found the average agency wrote a total of \$808,000 in personal lines premiums in 1976. This constituted 60% of total agency premium; 40% was personal auto and 20% into homeowners.

The total cost of an auto policy averaged \$46.86 per policy. Those agents writing policies in lower rate or rural territories comprised 27.8% of the total respondents. They scored modest profits. Those agents writing policies for insureds in medium rate or suburban auto territories comprised 65.9% of the respondents and broke even on that business. Agents insuring policyholders in high risk auto territories in urban areas represented 6.4% of the survey and suffered losses.

The independent insurance agents averaged a 12% to 14% commission on these personal lines, according to Wesley E. Harrington, director of industry relations for the association.

A second study investigating other personal lines areas and salaries of agency principals is also planned, he said.

the producer knows the product.

Employe compensation is not an area for cutting expense corners. "I know how to make money and one thing you can never lose sight of is that if you pay less, you get less."

Personnel payroll takes 22% of the company's gross revenues, he estimated. This excludes bonuses, non-contributory profit sharing, pension plans and life and hospitalization insurance, plus his own salary. The average monthly salary of his seven clerical employees is \$1,000.

Of these clerical employees, three work full-time and one, part-time, on personal lines. Because of this high man-hour to low income ratio (personal lines constitutes 3% of volume) Mr. Boockford labels personal lines a "complete nuisance." His per-

sonal lines business is an accommodation for commercial accounts.

"I hope the personal lines goes down to 2% this year. It's so much easier to handle a commercial account, and in view of the effort spent by employees, it puts personal lines in a poor light as far as the profits of the agency are concerned."

"State Farm and Allstate are welcome to it."

The company is changing its attitude toward other less profitable functions of an agency such as claims adjustment and loss prevention. "As an insurance broker, I think our function should be just that, service, but I have always avoided the duplicating of company services."

The quality of these services recently however, is forcing agents to assume them independently, he asserted. "I think the property casualty companies

are in chaos. We're finding so much delay and struggle in having the services performed, that now we're considering putting them in the agency, reluctantly."

The service that Boockford plans to start developing first, "unfortunately," is underwriting. This is out of necessity. "Renewals are coming through two to three months late and endorsements are seven months late.

"Our average acceptance time by an underwriter now is 120 days versus 60 a few years ago. On large accounts, it's almost six months."

The primary layers and those immediately above it are difficult to get especially for professional liability in hospitals, he said. This is because there are only a few markets in the country. In placing these coverages, he noted, "underwriting will go down to the wire.

"If we get into rating our own policies and issuing them, we will

be in a position to give better and faster service."

As for loss prevention, "we don't do much now. We seek hired company personnel or outside services, if needed.

"An evaluation of an account can tell you whether they are safety conscious or not."

The problems of insurance companies emanate from their lowered surplus which in turn forces them to reduce personnel to an inadequate level, the broker stated.

He described the "capacity crunch" as cyclical. "Companies will get the rating back up. We had thought it would come sooner. But by the end of the year, I believe they will be in the black.

"We would love to get back into a buyer's market, although everyone in our business has never made money than in these past two years and been more frustrated."—bjg

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Barbara Jean Gray

PREWITT TURNER: "Our thinking was to bring the talents of M&M to the agriculture industry. . . ."

KANSAS CITY—Last year, the nation's largest insurance broker began exploring a comprehensive property/casualty insurance package for a classification of people who are probably the most productive in the world: North American farmers and ranchers.

Today, the man who proposed the venture to Marsh & McLennan Cos. emphasizes that while the project is still in the experimental stages "we have identified a need."

That "need" according to Prewitt Turner, senior vp of the firm, is a single source to insure all exposures to the farmer and rancher.

Coverage available to this market until now has not been as all-encompassing as Agri-Risk Services is designed to become, Mr. Turner says. "Today, the farmer who would want to buy an all-risk crop policy has primarily one source, the fed-

eral government. He can buy crop hail insurance, but it's like buying fire insurance on a dwelling; it's just one of the numerous exposures."

Among the toughest obstacles being faced by the broker is the lack of data base to formulate premium costs.

"That's just one example of the limitations," Mr. Turner outlined. "Others have to do with the inflationary cost of equipment. A tractor that cost \$3,000 to \$4,000 not too long ago, today could cost \$35,000 to \$40,000 because of inflation and technology. Our industry has not done much to modernize, to take that coverage from a team of mules to today's expenses."

After a year of research, Mr. Turner says, "at best, it can be said that we're aware of a possible area

where deeper thinking can improve the insurance wares available to the consumer."

"We cannot quote any statistics to ultimate premium potential volume, because it's not published in the same sense as if we had decided to concentrate on, say the plastics manufacturing business. You can find out how much wheat is sold, corn is planted, but to translate it into insurance is speculative at best."

The new division is headed by a man who knows farmers well since he is one himself by avocation. Prewitt Turner, however, is not the pistol-packing Marlboro man one might expect to find in this capacity. He wears no spurs on his tasseled loafers. Nor does the Princeton alumnus wear a 10-gallon hat, at least not in the office.

He does pull on his boots, he says,

when he farms his 1,700 acre spread in this state where he grows corn, beans, livestock and hogs. He inherited the farm which was founded in 1819.

He has spent all of his working career in insurance. He joined Mann Kline here in 1956 and remained when the firm was acquired by Marsh & McLennan in 1969. In 1971 he became a sales manager for one of the geographical divisions of the KC office and was named a corporate senior vp in 1973.

So his interest in Agri-Risk Services is personal as well as professional.

The one-year-old division is aiming for the operators and owners of farms and ranches. This differs from conventional agriculture business which often includes grain companies and equipment manufacturers, he explains. And, he adds parenthetically, farmers do not like to be called ranchers and vice versa.

"We're looking at people in agriculture in the sense that I'm not sure they have ever had insurance directed at them before. Our thinking was to bring the talents of M&M to the agricultural industry and making that industry an identifiable entity."

Agri-Risk Services presently consists of a six person staff; two here and four in Toronto. The Canadian office is the M&M acquisition last summer of Agra-Plan, a sole proprietorship dealing exclusively in livestock mortality and related farming areas. Though acquired at the same time Agri-Risk was founded, the timing was coincidental, the vp says.

The encircled ARS letters which is the trademark for the division is also a registered (although not used) brand in the state.

The division is not intended to compete with the agriculture risks already brokered by Marsh & McLennan, Mr. Turner asserts. "Quite the contrary. It's made to provide a facility for the farmer or rancher to have access to design another arm for the M&M offices."

"There is a potent market here for the farmer or rancher that has to be expanded by the owner or investor. The owner and operator are not always the same person, he explains. Although there is some absentee ownership by investors who were disillusioned by the stock market or corporations seeking to diversify, the majority of farms or ranches are still individually owned.

Regardless of ownership, the trend is for units themselves to become larger and more productive per square acre.

Agri-Risk business written to date has been strictly on livestock. "It's nothing new and it's been readily available in high-priced purebred livestock, but our hope is to expand it. The term 'Agri-Risk' obviously means our scope is the agricultural community and for all the needs in property/casualty.

"The areas we're concentrating on now are very well taken care of already in terms of available coverage—insuring livestock, equine, hogs and sheep. One of the disturbing areas is that so much of the premium is going abroad. It's a fact that the majority of mortality insurance on cattle and horses finds its way to non-domestic companies. It does not make much sense to me."

As for the domicile of the insurers on the Agri-Risk business, Mr. Turner says that the re-insurance is foreign. "We have to support our budget with income."

Mr. Turner has spent a good deal of Agri-Risk's first year researching the exposures in agriculture com-

Continued on following page

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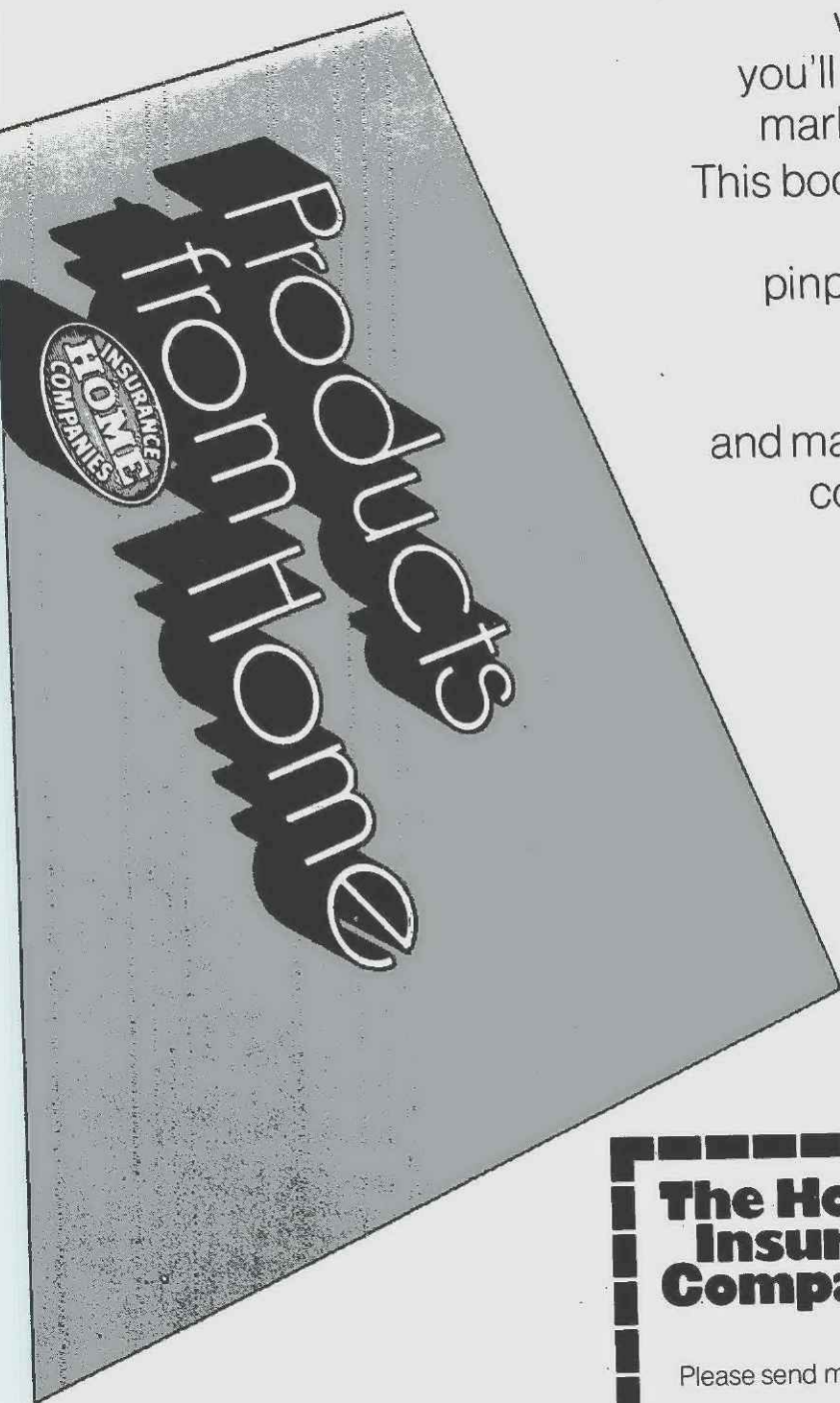
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Continued from preceding page
pared to the current products available to meet those exposures.

"This business, to a degree, has been pretty well taken care of by agents in small towns whose livelihoods met the need of the community. There is still a multitude of those accounts that the city brokers will not acquire. There is some real talent there. I don't have any thoughts that the agents haven't done their job. It's just that perhaps they have not had the time or inclination to collectively bring insurance to the attention of the proper markets."

Agri-Risk's efforts are not intended to be confined to North America but to extend internationally "certainly in the livestock and equine fields. Hopefully, we will have the capacity to utilize the products regardless of locations."

Coincidental to the fact that it's his home, Kansas City is a good place to start up Agri-Risk Services because of the area's high concentration in agribusiness, the vp claims. He cites local statistics that one of every six workers in the greater KC area is directly or indirectly supported by agribusiness.

"Many people don't understand the magnitude of agriculture in this country. We don't do very much well here. We don't make good cars, don't have the productivity of Japan. But given the challenge, this country could feed the world—not necessarily because of genius but basically because of the land and climate—although technology has had something to do with it.

"Agriculture is the only real plus we have in our country's balance of payments." Government figures show that agriculture's net contribution to the U.S. balance of payments rose from \$1.1 in 1966 to \$11.5 billion in 1975.—bjg ■

Referral business is increasing, but causes vary, report agents

CHICAGO—Referral business is on the upswing, a spot check of agents and brokers around the country reveals. The causes vary, producers say, as do their definitions of the term "referral."

"With the construction markets, we're getting more inquiries than we would normally," says Raymond McCarthy, president of Raymond G. McCarthy & Co. Inc. of Verona, N.J. "I don't have the figures, but there's a definite increase due to tight markets and rising prices. People are looking for price because product liability prices have gone through the roof."

Mr. McCarthy estimates that his firm is getting 50% to 75% more inquiries than before and can satisfy the shoppers "occasionally."

The most frequent inquiries come from the contracting and building industries.

Echoes Albert Ridinger, executive vp of Insurance Management Inc. in New Haven, Conn., "In our case, we're getting more and more activity from manufacturers which I assume are product liability referrals. And people are having problems, so they're doing more investigating.

"In most cases, we can help them. In Connecticut, we have a market assistance program and I think the fact that that exists, helps. We will probably have to use it for the first time on two accounts because premiums are unrealistic."

As to what percentage of the new business for the firm is from referrals, Mr. Ridinger answers, "I don't know but I do know that it's higher than it was before. Referrals have doubled.

"So much of our time is spent placing existing business too, and time is spent placing renewals. In many cases, we're treating existing customers as new accounts.

"Today I think the harder selling job is not the customer, it's the companies.

"Because we're well-known, when insurance buyers have a problem, they think of us." Because of this, he explains, it's difficult to tell whether the caller has approached the firm because of a referral from a third party or because of the reputation of the agency.

In Kansas City, Mo., Larry Kaminsky, partner for Thomas McGee & Sons, comments, "The tight conditions have helped us as far as referrals. Because of the rate increases, people think their agents are the only ones coming in at higher rates. In the past, when customers were on the books, they wouldn't think of going out and looking, but they are starting to look."

And, Mr. Kaminsky concedes, if other customers are shopping, it must mean that his customers are shopping too.

A rough guess would be that referrals as a percentage of new business now account for 30% to 40% today, he says. "Prior to that the bulk of referral was not more than 20%.

"Right now the construction and manufacturing classes are the hardest hit as far as availability and rate increase. We're getting to look at them more. If we had a market for trucking insurance, we could write all we could handle," Mr. Kaminsky said.

Thomas McGee & Sons thanks the referring third party personally. "And we try to keep him apprised of what we have done with the information," he said.

James Propis, a sales executive for the Joseph J. Propis Agency Inc. in Buffalo, estimates that 90% to 95% of his business has come from referral—a definite increase in the last five years.

The main reason customers shop around is dissatisfaction with a service aspect of their present agent, Mr. Propis believes. His particular area of specialization is retail shop owners.

Referrals now account for about 80% of the total new business for Frankel Bros. in Cleveland, estimates vp John Frankel. That's an increase of 10% over the past five years.

The major reason for the switch to Frankel, Mr. Frankel hypothesizes, is customer dissatisfaction with their present agent or direct writers.

"Of the 80% I would suppose that 20% is because they have not had agent representation, so they are coming from direct writers. Forty percent are really not satisfied with the agent they have. The remaining have probably not had a bad experience, but their present agent cannot place the business." —bjg ■

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Holding firm knits local agencies into a profitable growth pattern

AURORA, Ill.—An agency holding company is well on the way to achieving its acquisition goals in this state.

United Services Agency Inc. is scouring small and medium-sized towns for independent general lines agencies for acquisition. In exchange for the stock or assets of the agency, USA is offering independents growth opportunities and a perpetuation plan allowing the firm to retain its local strength and identity, according to vp Ed Cermak.

USA's short-term goal is a network of agencies generating \$30 million in aggregate premium, Mr. Cermak outlines. Presently, the holding company has bought into six agencies, five it wholly owns and one as a partnership. Together, they represent \$10 million in premium volume.

Negotiations are underway with three more agencies and the firm expects to hit the \$12 million premium mark by the end of the year.

"The strong point of the agencies we've acquired is their local identity. The weak point is their inability to retain markets."

Marketing assistance is one of the services offered by USA. Others include manpower recruiting and training, computer services, financial planning and advisory management services for growth planning.

USA was founded four years ago by Trent A. Shepard who had researched the idea for seven years. In addition to being president of USA, Mr. Shepard is president of the Union Insurance Group, a reciprocal with member companies of the Union Automobile Indemnity Assn. and the Prairie State Farmers Insurance Assn. Mr. Shepard is also chairman of the American Union Life Ins. Co. All are headquartered in Bloomington.

United Agencies Services Inc. is presently a holding company. However, Mr. Shepard says ultimately it will become an operating company and Mid American Financial Corp., which is presently a shell, will become the holding company.

Mr. Cermak, whose responsibilities include directing and managing the member agencies, headquarters in this city about 40 miles southwest of Chicago.

USA is not interested in competing with the big city brokers, the director says, and is not investigating areas in the large metro areas of Chicago and St. Louis.

"We felt there was a need in this local independent agency in the medium-sized and small communities for a planned and sound perpetuation system which would guarantee the principals retirement security and at the same time bring in young aggressive people to carry on what those people have built."

The five owned agencies are Ogilby-McCoy Insurance Agency in Rockford, John Ward Agency also in Rockford, Grimm-Nash-Coleman Insurance Agency in Belvidere, Lyle H. Gift Agency in Peoria and Colton Insurance Agency in Jacksonville. USA is in partnership with the Eisner-Murphy Agency in Champaign.

Each acquisition is different, he explains. "We can do it by an outright purchase or by buying expirations. All vary. The objective is to purchase equity, if not own the business."

There are two contracts involved in the transaction, the purchase agreement and the management employe contract. "Usually we want the principals to stay on for a minimum of three years. They are com-

pensated on a percentage of commission. This way, they have the advantage of building the final sale price, i.e. building greater equity for purchase."

Mr. Cermak says USA has no hard and fast rule on a formula to determine the acquisition price. "Before we talk about purchase price we look at a prior three-year profit and loss statement, preferably audited by a CPA. We also want to look at the growth and profit figure for their five major markets (companies) and also figures on the agency's make up and spread of business."

"From these avenues we can put together a comprehensive overview of the past five years. We're also very concerned about contingencies.

That's the key to a good agency—'Are they making money for their companies?'—also their collection history, bad debt writeoffs and caliber of customers.

"It's too easy to talk one-and-a-half to two times of commission for an acquisition formula. A more valid way is 10 times net profits. This generally applies to larger agencies. In small agencies you'll often find there are no profits. The principals are taking them out."

The vp finds his leads through personal contacts, other agencies and insurance companies. Prior to joining USA 10 months ago, he worked for the Aetna Life and Casualty Co. for 11 years.

In addition to scouting out po-



Barbara Jean Gray
Small and medium-sized agencies in smaller communities need security and young professionals, says Ed Cermak.

Continued on following page

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United Services . . .

Continued from preceding page
potential agencies, he is also on the lookout for personnel to staff those agencies. Among his hunting grounds are colleges as well as agencies and companies.

"Mainly we're looking for sales or managerial people who can step in and run agencies. We're looking for people with proven sales and management experience. We try to fit the people to the agency."

Three individuals have already been placed into the USA member agencies and Mr. Cermak is presently negotiating with a half a dozen others. In all, he has probably talked to a hundred persons. "We try to deal with people in human terms, not as numbers. It's the concept of sinking roots in this rootless society."

And the greatest strength of the local independent agents he's ap-

proaching is that he has roots in his community, Mr. Cermak believes.

"There should be an alternative to the medium-sized agent who wants to go from \$1 million to \$3 million in premium. He has reached a point where he is unable or unwilling to make it on his own. From this point, to get bigger he needs someone with back-up services like personnel recruiting, hiring and training and who can provide management."

A number of agents have no plans for agency perpetuation, he observes. "This typical agent may be in his late 50s and be thinking of retirement. He can sell to a large conglomerate or sell the business, but would like to retain the name. We're not the large national broker who wants to strip assets. We'll guarantee a future which says that

death, disability or the desire to retire will retain the identity of the agency."

Part of the USA concept is to develop all lines of insurance. Many of the agencies he's talking to have not sufficiently developed commercial business, the vp feels. "Many have been overwhelmed by personal lines." USA goals envision a profitable 60% commercial, 40% personal mix. Most of the acquired agencies have had a 50-50 break down of commercial to personal.

"Most casualty/property agencies have really not done a job in addressing group life and health. From a dollars and cents standpoint many of the group life and employee benefit consulting services can be more profitable in terms of net cost and net returns and more profits to many companies."

USA is shooting for a 25% to 30% gross profit in its agency members and a growth factor of 20% premium volume, compounded annually, Mr. Cermak says.—bjg ■

Consultant says

Reducing paperwork termed major goal

SAN DIEGO—Finding new ways to process the "overwhelming" volume of paperwork in the insurance business should be a constant goal for insurance agents and brokers, an agency management consultant advised here recently.

Clyde Harless of the Agency Management Service suggested to the San Diego agents association programs to expedite the paper flow. A work status program includes entering on a daily account sheet the number of items—new orders, claims and cancellations—received each day, entering the daily count sheets

in a weekly summary sheet and entering the weekly totals in a monthly summary recap sheet.

"When this program is implemented, employees will realize that management now knows how much work is being processed at each desk. This is obviously an effective motivation tool," Mr. Harless claimed.

In the service evaluation program the agency manager is provided with a consolidated weekly status report of unprocessed paperwork per individual per department. "Such a report will enable management to react to backlogs before the problem becomes serious.

"When the work status report is compared to the work evaluation summary you can see at a glance exactly how much work has been processed and by whom.

"Service commitments should be established with respect to the maximum time it should take to process any new business endorsements, cancellations, audits, claims, correspondence, etc. If the agency staff does not know what is expected of them, management cannot expect outstanding results.

"Operating at maximum efficiency—according to time studies—it should take approximately 12 minutes to process a normal personal lines transaction and 20 for a commercial lines transaction. Do you know how your staff's productivity compares to this?"

Workflow procedure guides, including the person who is to perform them, should be written out and used by both new and experienced employees, he added.

Mr. Harless also suggested that employees would be more productive if they were informed that they will be compensated depending upon the complexity of their job and its performance according to a formal salary administration program.

The consultant also offered a few money management techniques to improve cash flow.

"Agents spend days, even weeks—plus money for entertaining—to write a new \$10,000 premium account that generates \$1,500 commission income. Using a 75% factor for office expenses and salaries, the agency is left with a net of \$375. One can make substantially more than this.

"Are you pre-billing your clients for the estimated premium—or at least a deposit—if the agency has not received the renewal policy from the company by the renewal date? This will increase cash flow and prevent arrears in earned premium when the policy is issued late and then cancelled. It also keeps your accounts receivable way ahead of your accounts payable.

"Have you thought of switching the policy inception dates of the higher premium policies that have mid-month or later effective dates to the first of the month? This will give you an average of fifteen additional days to earn investment income from that policy premium. It will also improve your accounts receivable collections since a study showed that approximately 70% of bills are paid between the first and the tenth of the month. Remember too that you lose investment income by keeping checks in a safe rather than depositing."

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Speir's goal for Georgia isn't peanuts

By JANET MROCZEK CORRADO

FOREST PARK, Ga.—In 1955, Lee Speir started Speir Insurance Agency with \$36.40 to his name. Premium volume the first year was \$36,000, made from a \$25-a-month office in the back of a TV shop furnished with a borrowed picnic table and typewriter.

Now, the firm located just outside Atlanta is the largest independent agency in the state in revenues and among the top 50 in the country.

In 1976, gross revenue for the Speir agency was over \$2 million. This year revenue could reach \$3 million from the agency's 50,000 customers in the state served by 90 employees.

Lee Speir's success formula is simple: growth by acquisition. The firm has purchased 26 agencies in Georgia outright since 1974, an average of one acquisition every six weeks. And the agency never borrowed a penny to finance the acquisitions; all were bought with internal growth capital.

What started the Speir agency down the acquisition trail? President Lee Speir said he and his brother, chairman Elzie Speir Jr., looked over the insurance industry and the economy in the early 1970s and decided their agency was too vulnerable to the market situation. (Seven other Speir family members also work in the agency.)

"We had a great percentage of our business in a few markets," Mr. Speir said. "We were sitting with four or five companies. Companies were in and out of lines of business so fast . . . and there were changes in underwriting."

The agency was writing about \$2 million at that time and grossing \$300,000 a year. An agency that size can't make any real profit or accumulate enough for a disaster, Mr. Speir said.

"We either had to get large, do things cheaper, faster and better, or be eaten up," he said. "We considered selling and retiring, but the only thing we'd get if we sold was money. My brother and I decided if we're not going to sell, the only thing to do is buy."

Mr. Speir spent over a year and about \$25,000 learning about acquisitions before the first purchase was made.

"I talked to tax people, people who had made acquisitions, CPAs, lawyers," he said. "I paid for it (information) until I got it. I felt it was better to get the information before the fact rather than after."

During that time, the agency also compiled a procedures manual, describing every job, routine and form, so that operations would be standard in every office.

What does Mr. Speir look for in potential acquisitions?

"Profit," he said. "I'm looking for a profit in the book of business for me and my company. There has got to be a way we can build on the book of business."

Mr. Speir has devised his own formula for pricing an agency. "We run a profit and loss statement and arrive at the earnings expense," he said, and look at "what it cost them to run the agency and what it will cost us." Retention is also part of the formula.

Most people in the industry put an agency's price in terms of multiples of commission, Mr. Speir said. One, one-and-a-half, or two times commission are the standard.

"We really don't deal that way," he said, but translated into multiples of commission, "we have

paid from .75 to 3.25 times commission for an agency." The highest the Speir firm has paid for an agency was \$425,000 and the least \$40,000.

"But what we pay for it (an agency) really doesn't concern us too much," he said, "it's what profitability we will have with it."

Mr. Speir said he doesn't care very much about the mix of an agency's business in assessing a potential acquisition. The Speir agency is now about 70% commercial, but "as the marketplace changes, so does the book of business," he said.

"We are really interested in producing good business for ourselves and our companies. As an agent, I don't see any difference between one or the other (personal or commercial lines)."

"I don't think any agency can

be profitable unless it has a good book of personal lines," he added, unless it is a national broker. Personal lines generates a good cash flow and is not as volatile as commercial lines, he explained. Personal lines "gives you a cash basis to write commercial."

The Speir agency is now establishing branch offices throughout the state, so location is important in future acquisitions.

His goal is to saturate the state of Georgia.

"I want to write \$100 million in the state. I think that would be saturation, and I think it can be done." It will take 70 offices, he added, and future locations have been planned out.

When will he reach his goal?

"If times stay as tight as they are in Georgia it will be pretty

quickly," Mr. Speir said. "If times get good, it will take longer."

"You don't have to be a good manager in good times to make a profit. We do better in adverse times. The agencies don't panic."

But there are no plans to expand nationally.

Mr. Speir does most of the agency prospecting and acquisition himself and is no longer an active producer. About a quarter of his time overall is spent on acquisitions, up to 80% when he is involved in a purchase.

The Speir agency is turning its capital over so fast it is not showing a profit, but if he had to draw it out, Mr. Speir estimates the agency would show a 30% to 35% bottom line profit. Because of the rapid growth, revenue per employe is not a meaningful figure, he added.



LEE SPEIR: "I don't think an agency can be profitable unless it has good book of personal lines."

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SEC ruling to list executive perks won't affect us, brokers report

WASHINGTON—Perquisites for personal use will have to be identified as compensation for publicly held companies, the Securities Exchange Commission said in a recent interpretation, but public insurance brokers said the ruling will have little effect on their modus operandi.

The interpretation was issued after a number of inquiries about the reporting of certain benefits or "perquisites," the SEC said, and because recent cases revealed that the issue has not always been clear.

The purpose of the interpretation was to clarify that company benefits for personal use should be identified along with other forms of salary, fees, bonuses and other forms of remuneration in the aggregate remuneration reported.

The SEC listed the following items paid to management which should be reported: home repairs and improvements; housing and other living expenses (including domestic service) provided at principal and/or vacation residences of management personnel; the personal use of company property such as automobiles, planes, yachts, apartments, hunting lodges or company vacation houses; personal travel expenses; personal entertainment and related expenses, and legal, accounting and other professional fees for matters unrelated to the business of the registrant.

Also, personal benefits should be listed including the ability of management to obtain benefits from third parties, such as favorable bank

loans and benefits from suppliers, because the corporation compensates, directly or indirectly, the bank or supplier for providing the loan or services to management. The corporation should also report the use of corporate staff for personal purposes.

The SEC said it is not interested in the reporting of benefits which are directly job-related such as parking places, meals at company facilities and office space and furnishings at company maintained offices.

Asked whether the interpretation would require much effort for compliance and the extent of such perquisites, L. Patton Kline, president of Marsh & McLennan Inc., said, "There is no change for us. We

'We don't have any company owned autos or boats. We have not had them for years. . . . It's not economically sound to have things like autos.'

—William Burch, Fred S. James

have always identified compensation in accordance with the directive. We have always identified total compensation."

Perquisites for personal use have not meant very much to the overall compensation package for M&M executives, Mr. Kline said. "It's a very low percentage. Perks are not a significant part of our compensation."

The ruling will not affect the company's present policy on the

subject.

William Burch, president of Fred S. James & Co. Inc. said, "We don't have them as a practical matter. If acquired firms had such items for personal use, they were told to own them personally."

"We don't have any company-owned autos or boats. We have not had them for years. We had a boat acquired from a company we merged with, but sold it several months ago."

"It's not economically sound to own things like autos."

Corroon & Black's executive vp Richard Miller said, "There is no meaningful affect" on the company.

The percentage of executive compensation in perquisites is "miniscule. We have no servants, no private houses, where corporately paid personnel are involved. We don't pay for personal travel or legal or professional services, only that which is business."

Some people do have corporate cars, he said, but the number is very small and they are a necessity of doing business in some areas.

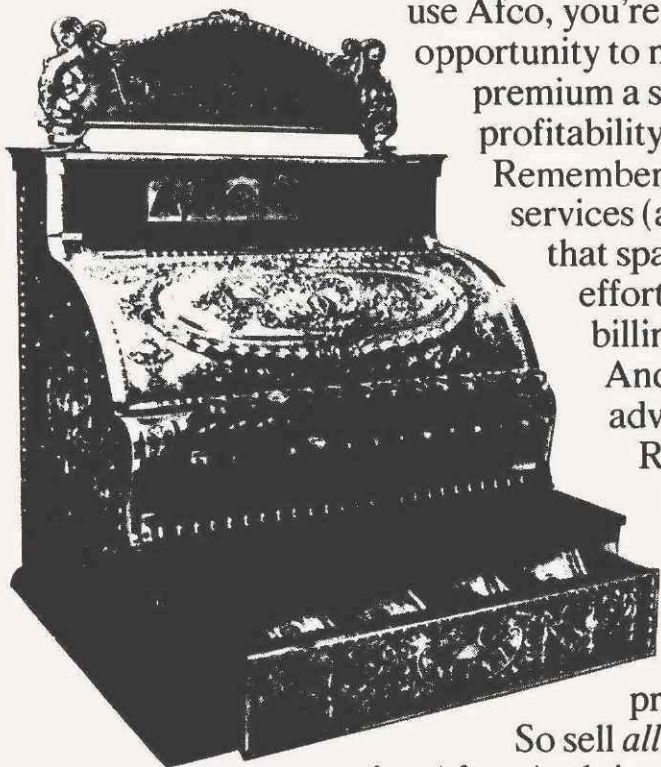
Bayly, Martin & Fay executive vp Samuel Alcorn said, "We have very little in the way of perks. Our main form of a remuneration (beyond salary) is our cash bonus plan which is fully divulged. We see no visible impact. We have never been heavy in this area. We have no company planes, no water craft. On company cars, the employees pay us for these."

For specifics on any possible effects, Mr. Alcorn said, the firm would have to wait to hear from its parent company, Sperry & Hutchinson. Bayly, Martin & Fay is an unconsolidated subsidiary of S&H.

Michael J. Starshak, vp of finance for Rollins Burdick Hunter replied, "We don't include perks at all in our compensation. The interpretation will not mean additional paperwork or requirements to comply. It will have no affect on us."
—bjg

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Agent sues 4 insurers on antitrust

BOSTON—An insurance agent has filed an antitrust suit against four insurers charging violations of the Sherman and Clayton Acts.

James R. McDuffee of the James R. McDuffee Insurance Agency Inc. here has filed suit in the U.S. District Court naming the Aetna Insurance Co., The Hanover Insurance Co., The Travelers Insurance Co. and The Travelers Indemnity Co. as defendants.

The civil suit charges the defendants with boycott, coercion and intimidation in unreasonable restraint of interstate trade and commerce and seeks damages in the amount of \$4.5 million.

No date has been set for the trial.

The James R. McDuffee Insurance Agency Inc. is a division of Century Management Corp. also headquartered here. That holding company formerly had a division called the Century Fire and Marine Insurance Co. which Mr. McDuffee also headed from its inception in 1972.

Few hold key to agency system survival: Howey

By JANET MROCZEK CORRADO

DENVER—"In this business, you find out after the fact whether you have something to sell."

Is there any other business than insurance in which a salesman would go out without knowing in advance what he has on the shelf or the price?

That hypothetical question is posed by Robert Howey, a self-styled evangelist in the independent agency system. These aren't his only complaints about an industry he thinks is in trouble.

He grouses that top quality agents now deal with the same desk underwriter in branch offices as any other agent. "If companies want to honor their top agents they should give them underwriting authority, improve branch office personnel, or set up a special unit in the branch, region or home office for the quality producers.

"A matching of an agent's annual sales plan with the companies' product/market matrix" is also needed, Mr. Howey said.

Mr. Howey thinks companies and agents should also develop performance standards, standard applications, uniform submission guidelines, make volume commitments and examine the method of writing renewal business. Agency services, many of them underused, should also be discussed, he added, and automated systems should not be overlooked in developing innovative programs for top agents.

"The industry is sick," he said. "There is indifference on both the agents' and the companies' parts. There is no mechanism for change, and the industry has been almost totally lacking in leadership."

But Mr. Howey has done more than decry the ills of the agency system from a speaker's platform. He formed Insgroup just over a year ago to act "as an intermediary, or reconciling force between agents and companies to raise the levels of effectiveness of the industry."

He believes the future of the agency system, perhaps even its survival, is in the hands of the small percentage of quality producers and that "companies are beginning to recognize that the top agencies are the key to the future."

Insgroup likes to think of its client agencies, or associates as they are called, as a select group. Premium volume of the 71 agencies in the company ranges from about \$1.5 million to \$30 million, with the average volume at better than \$4 million.

The agencies pay a front-end fee of \$3,500 and a monthly charge based loosely on commission income up to \$500, with \$300 to \$400 as the average monthly charge.

To qualify as an Insgroup associate, an agency must have a loss ratio of 54% or better over a three-year period, a 15% real annual growth rate and be recommended by somebody involved with the company. In addition, all the key people in the agency must sign an "agency position statement," which consists of a set of standards drawn up and monitored by an Insgroup committee.

Insgroup is not a marketing partnership or the independent agent's answer to the large national brokerage firms. It is a vehicle to help companies develop innovative programs and provide agency accountability, Mr. Howey said.

"Insgroup is serving the top agents who want to make a commitment to the future and earn the right to be heard by companies."

The problems of the industry indicate that the independent agency isn't working well, he worries.

"In a year (1976) when State Farm can write as much new business as the entire book of business of the St. Paul Cos., you have to assume there is a market problem."

The list of industry ills also includes low or nonexistent company profits over the last several years, competitive swings, industry fragmentation, agency inertia and the general level of agency ineffectiveness, a lack of insurance company concern about the sales end of the business and insurers' inability to get agency response and effectiveness through the independent agency system.

"There is a lot of insincerity, double standards and ineffectiveness in the agency ranks," Mr. Howey said. Of the 90,000 independent agents in the country "there is only a small but significant number who have been respon-

sible, made money for the companies and plowed money back into their operations."

A study by Stanford Research Institute shows 6% of the agencies that are members of the Independent Insurance Agents of America are responsible for 46% of the premiums produced and only 16% are responsible for 67% of premiums.

Mr. Howey is the first to admit that the problems of the independent agency system are not new. But after years of industry meetings exploring new directions in agency-company relationships, a meeting among executives of 20 property/casualty companies and Insgroup agencies last June produced "new directions for solutions to these problems."

At least one company is already

at work on a new pilot program for its top agents, he said, and other insurers have recognized their quality producers.

Until the June meeting, Insgroup associates "were buying their belief in us, possibilities and hopes," Mr. Howey admits. But he believes that meeting crystallized a few ideas, with insurers realizing the value of their top agencies.

Methods were explored at the meeting for "greater profit consciousness," he said. "The ideal is for a desire on the part of the agents to be profitable for their companies."

That means there must be better profit sharing agreements, Mr. Howey explained. When an agent submits a good piece of business, he should feel sure he is going to make money on it with a contingency commission. Agents can't count on

profit sharing dollars or include them in their budgets now, he said.

There must also be "higher trust levels" among agents and insurers, Mr. Howey continued. If companies are convinced that their top agencies are valuable, those agencies have to be served better.


Another major thrust of Insgroup is development of what Mr. Howey calls a "high performance agency." The project, which is expected to be completed by the end of the year, will provide the most streamlined and advanced techniques for every major operating area in an agency. To develop the systems, an Insgroup consultant is studying the best managers and most efficient agencies in the country in six areas: general management, internal work flow and procedures, financial, production marketing, agency management and legal. ■



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Conn. agents . . .

Continued from page 32A

It was this type of what appeared to be counterproductive efforts which prompted the agents to write the memo, Mr. Norris said.

"The thing we wanted to get across was not criticism for what they had done in the past but emphasis on the minimum communication between the two groups.

"Unfortunately it ruffled some feathers in both groups. But they were not the feathers we wanted to ruffle."

The Professional Insurance Agents of Connecticut is part of a three-state affiliate (with New Jersey and New York) and has a 76-member staff for all three states headquartered in Glenmont, N.Y. This fall it opened an office in West Hartford with Richard Nicoletta as full-time director. The PIA uses a separate professional lobbyist.

In one of its regular bulletins to members, the IIAC said that many agents responded positively to the idea of joint efforts and that the IIAC had named a liaison.

IIAC representative George K. Clarke will meet with PIA representative Joe Gately when Connecticut's legislature sits next February.

Jack Barter, president of the Connecticut PIA said the possibility of a joint meeting was proposed by Walter Shannon, the 1976-77 president of the IIAC. "One of the areas I'm suggesting is perhaps a joint study on red-lining. The commissioner has asked our association to give him a report on that subject. I'm suggesting we do it jointly."

Mr. Barter said he didn't think the effort would lead to a merger of the two groups.

IIAC executive vp Jim Matthews said while he didn't anticipate a total union, "we do feel cooperation on legislative and educational matters" could be beneficial. He said some significant problems or services could be accomplished through these efforts.

The IIAC has a four-person office in Wethersfield, including a staff lobbyist.

Bernie McMahon who has served as legislative chairman for the Professional Insurance Agents in this state said, "There is no basis for tying in the difference between prior approval and open rating with the appointment of a liaison with the IIAC. There have been numerous efforts through the years. I don't see any tie-in between the Manchester request and the reasons for difference of opinion in the last legislature."

The concept of cooperative legislative efforts by these groups is not new. The IIAC says it adopted a

resolution in 1971 to study the possibility of cooperative efforts with the then IMA of Connecticut for matters of education, lobbying, financial and administrative areas and to consider a joint meeting for this purpose.

In an open letter to its members, the IIAC said the mutual agents association "decided (this resolution) would not be in their best interest to continue these discussions and the matter was dropped in early 1972."

Professional Insurance Agents 1977 president, Jack Barter, said PIA "never dropped the ball and have been willing to consider joint efforts."

Immediately following the Manchester memo, both groups sent out communiques to their respective members and both addressed meetings of the MAIA.

In its first response to its 68 local board officers the IIAC defended its legislative stance on various issues such as support of open

competition of rating laws. The letter said that a return to prior approval "would put agents, and in the industry in general, in an unfortunate position, lead to much more restricted markets than we have now and ultimately lead to condemnation from the public and from the legislature, such as has happened in New Jersey and in some other states."

The IIAC letter also stated to its members that "it was your Big I association that helped stave off a joint underwriting association pool by convincing the insurance commissioner that a voluntary pool could work and then working with the industry to organize, develop and implement the market assistance program that we have operated out of the association office, and which has been copied by over a dozen states since then.

"The Mutual Agents Assn. was not involved in this rescue operation, nor in the setting up of MAP, nor in the operation of it, even though we have provided them with copies of our MAP bulletins and MAP application forms on which we added the IMA symbol for distribution to their members in a spirit of cooperation."

The Professional Insurance Agents addressed their members echoing the desire for joint talks. According to their July communique, the association "regretted the passing of the joint producers' council and took the opportunity to call for an immediate re-institution of the council."

The letter also stated that PIA (then IMA) had made other attempts to work cooperatively with the IIAC, specifically at the beginning of 1976 when it "attempted to set up an industry liaison group made up of Roger Dove's company association, IIAC, excess-surplus lines general agents and the life underwriters. As it turned out, only the life underwriters and IMA were interested in pursuing the liaison group concept," the letter said.

The concept of the Big I state affiliate and the PIA affiliate working together in Connecticut "while not precedent-making, is more structured than in other states," according to Alex Picone at the Independent Insurance Agents of America headquarters in New York. "It's a practice you'll see more of because too many people complain the agency approach is fragmented and it would be well to speak with one voice."

To date no independent agents groups have merged with Professional Insurance Agents.

Regarding joint efforts in Connecticut, IIAA president Robert Clayton said, "I think it's great. The more cooperation we can have nationally and in our state affiliates, the better, although there will always be lines where we will be taking opposite positions."

The possibility of merger has been discussed over a period of years, Mr. Clayton asserted. "Some people have said it's good to have two groups. It keeps us on our toes. I don't think there has been a successful merger yet but I would think that some day down the pike, and I don't know when, but if there is one, it will be at the state level and not at the national level."

The executive vp of the Professional Insurance Agents said joint legislative efforts on the state level were not uncommon. "It would be wasteful for both of us not to work together. We both serve the same masters."

As to the possibility of a total merger on the state level, Mr. White said it was "unlikely." If you examine our growth rate we have been having for the last three years—almost 44%—it supports the philosophy that the agents deserve a choice. It says we're filling a need."—bjg

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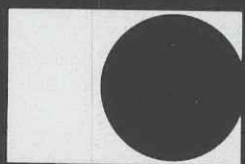
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London line

Lloyd's tightens bank coverage after disappointing profit drop

By JOHN H. MILLER

LONDON—Lloyd's underwriters are tightening up on their bankers' insurance cover after unhappy experiences in the U.S. which have hit this section of the market hard.

They are determined to avoid losses despite the warning of the American Bankers Assn. that fraud and related crimes in this field are still growing.

Charles Skey, chairman of the Lloyd's Non-Marine Underwriters Assn., revealed the grim truth

when he unfolded a \$50 million drop in profits for its latest business under Lloyd's three-year accounting system.

It was, remarkably, the first time the non-marine side of Lloyd's had turned in an actual loss—namely \$9.2 million—since 1967.

And Mr. Skey blamed the financial sector of the U.S. market for this downturn in profit which affected Lloyd's non-marine business in 1974.

Accounts for that year, together with Lloyd's global results for

all its varying lines of business, which in 1974 produced a premium flow of nearly \$3 billion and overall profit of \$142 million, have just been issued in the U.K.

Mr. Skey explained, "Quite apart from the long list of physical catastrophes that hit the non-marine market in 1974, there was a very real impact from the oil crisis and the financial upheavals which followed in many parts of the world.

"Many claims were made by banks as a result of losses in the

wake of massive currency fluctuations. New issues in the U.S. flopped and directors, officers and accountants were sued.

"Title insurance companies had a very tough time, resulting in heavy claims against their London reinsurers. Such losses seldom attract as much publicity as major earthquakes and windstorms. But in the aggregate they can be just as harmful to a market, if not more so.

"It's not surprising that we suffered losses when you realize that the U.S. market itself has just been through three thoroughly bad years. Overall underwriting losses in the U.S. ran into many billions of dollars from 1974 through 1976.

"It's quite impossible for underwriters at Lloyd's to buck a trend like that. But we're taking steps to see these losses don't occur again. Claims from the banks are receding as they check up on their own internal procedures

and obviously rates will get even tighter if security systems are not improved.

"Happily there was a drop in catastrophe losses in 1975 and last year, so that we hope the 1974 results will turn out to be the low point of the current cycle."

He warned that heavy storms in Western Europe had cost insurers about \$350 million last year, but higher rates were being obtained by many underwriters.

Capacity for Lloyd's is improving for next year, with many new people joining its syndicates. But the only problem is to persuade more members to join non-marine business, chairman Sir Havelock Hudson believes.

Even a slight increase in this field will enable it to take on more risks, but traditionally there is a great desire to join marine agencies.

Major figures for Lloyd's show that in 1974 its overall profit of \$142 million reflected a reduced 5.3% return on premium income, compared with nearly \$200 million (9.2%) the previous year. But results so far available for 1975 suggest that conditions are improving slightly.

Improved results

Much improved results from its U.S. business for the first six months this year have been reported by Phoenix Assurance Co., which reduced its losses to \$175,000 (with an operating ratio of 98.7%), from \$5 million lost in the comparable period for 1976 (ratio 107.5%).

Another U.K. company, Sun Alliance, announced that non-marine results in the U.S. are improving but are still not profitable. Hopes that all insurance companies may benefit from a reversal of bad business results in Western Europe, particularly in Germany and Holland, in 1978-79, are being expressed in some financial quarters in London.

Record award

A Dublin jury has awarded \$500,000 damages to John O'Keefe, 32, a teacher who fell on the grounds of an hotel when he tripped over metal beer barrels and became paralyzed for life.

It is the highest award ever made in the Irish courts for personal injury and was based on alleged failure by the hotel to have its forecourt properly lit on the night of the accident.

But awards in U.K. courts, where the jury system was abolished many years ago, are still on moderate levels as they are made by senior judges.

Mrs. Pamela Taylor, 42, of Liskeard, Cornwall County, set a new record in London when she got damages for the death of her doctor-husband in an auto crash. But that amounted to only \$195,000 in total awards for herself and her three children, \$20,000 more than the previous highest judgment for a widow. Judgments in general are still little over \$200,000 for personal injuries in English lawsuits.

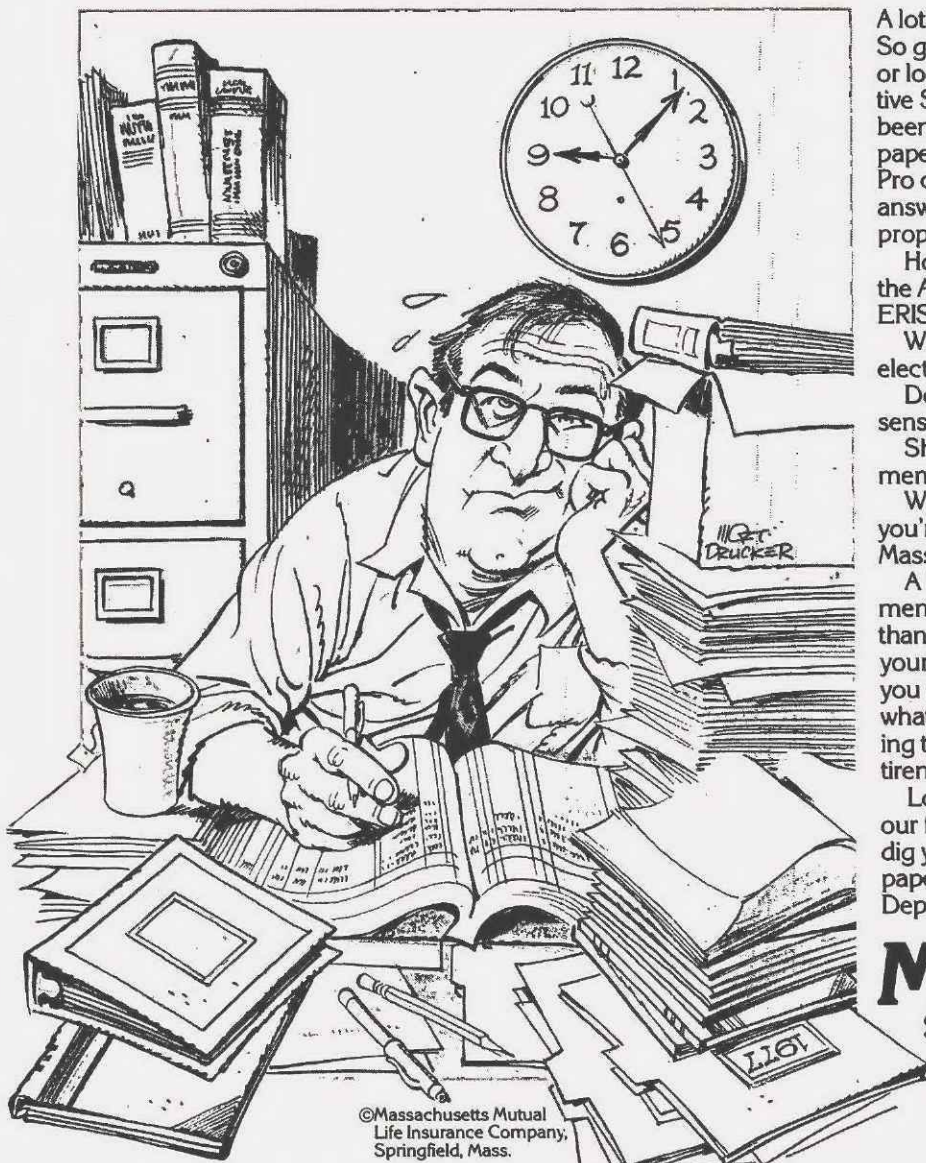
New rules on the limits and forms of compensation may be established after a royal commission set up by the U.K. government to probe civil liability litigation reports this fall.

Fire losses

Fire in the U.S. caused an estimated \$310 million in damages in July, up 13% over the same month in 1976. For all of 1977, fire losses are estimated at \$2.3 billion compared with \$2.1 billion for the first seven months of 1976.

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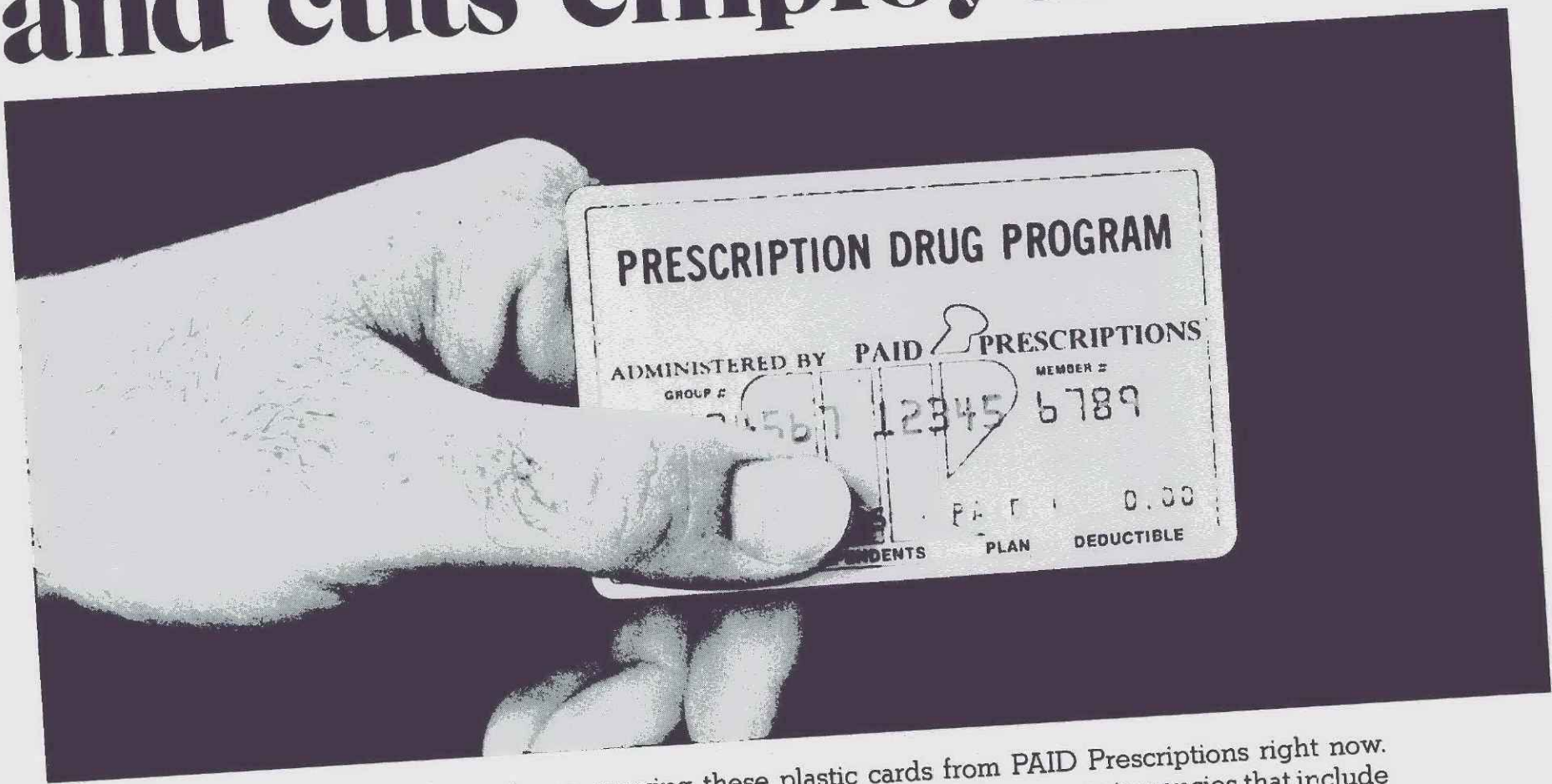
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legal brief

No-fault exclusion termed a deductible

A PROVISION IN a group health insurance policy excluding payment of benefits arising out of a no-fault type injury was ruled to be a deductible rather than excess insurance, according to a federal appellate court ruling. Thus, the court held that the insurance policy did not come within the purview of a state statute requiring the existence of excess insurance to be shown conspicuously on the face of the policy.

Earlie Brown, an employe of the Florida Power and Light Co., was covered under a group health insurance policy issued by Gulf Life Insurance Co. (Gulf). The policy contained a provision which excluded payment of medical benefits arising out of no-fault type injury unless the amount exceeded \$5,000. Brown was injured in an automobile accident and made a claim for \$4,222 against his automobile insurer and received a partial payment of approximately \$1,500 under the "no-fault" benefits provided by that policy.

Subsequently, the automobile insurer became insolvent. Brown filed a claim for the balance with the Florida Insurance Guaranty Assn., but was refused. Brown then filed the claim under dispute here against Gulf for the full amount of his medical benefits. Gulf denied the claim under the no-fault provision. The trial court ruled for Gulf.

On appeal, Brown claimed the "no-fault" provision made the group policy "excess insurance" thus requiring Gulf to stamp that fact conspicuously on the face of the policy as required by the statute. The court rejected the claim concluding that the exclusion was merely a \$5,000 deductible for this type of injury and not excess insurance. *Brown v. Gulf Life Ins. Co.*, District Court of Appeal of Florida, March 8, 1977 per curiam, 343 So.2d 91 (BI/01/S.-\$3).

Defining messenger

This suit was brought under a "paymaster" policy for a stolen payroll. A New Jersey court has held that the insured's job superintendent was a "messenger" under the policy by virtue of his being an employe of the insured and by his having the "care and custody" of the payroll.

Also, the court ruled that the loss was within the policy because of the nature of the insured's business and the fact that employes would often be out in the field on construction and because the superintendent was not engaged in a personal social outing, but was engaged in the insured's affairs.

Deleson Steel Co. Inc. was engaged in the construction of the structural steel framework for an elementary school. As part of his duties, John Speer, Sr., a job superintendent for Deleson, transported the payroll from Deleson's office to the employes on the job site. Mr. Speer parked and locked the company van at the site leaving the payroll under the driver's seat.

He engaged in some supervisory functions and 30 to 35 minutes later found the van broken into and the payroll gone. Deleson was covered under a "Paymaster Broad Form" policy issued by Hartford Insurance Group. The policy covered payroll funds

"while being conveyed by a messenger" of the insured.

A messenger was defined as any "employe who is duly authorized by the insured to have the care and custody of the insured property outside the premises." Deleson's claim for the loss was rejected by Hartford.

The court noted that because the terms "care and custody" were not defined in the policy that it would apply the plain, ordinary and popular meaning of "charge or supervision." Under this definition, the court was satisfied that Mr. Speer had "supervision" and "control over the payroll." According to the court, this

qualified him as a "messenger" under the policy by reason of his being an employe of Deleson.

Furthermore, the court concluded that even though Mr. Speer had momentarily stopped at the job site, "common sense" usage of "convey" included a minor deviation from the reason-

The abstracts published in this column were prepared by Cases Unlimited Inc., Evanston, Ill.

able course of carrying out the delivery. The court thus found that the loss was within the policy coverage. *Deleson Steel Co. v. Hartford Ins. Group*, Superior

Court of New Jersey, Law Division, March 2, 1977, Morrison, J., 372 A.2d 663 (BI/02/S.-\$3).

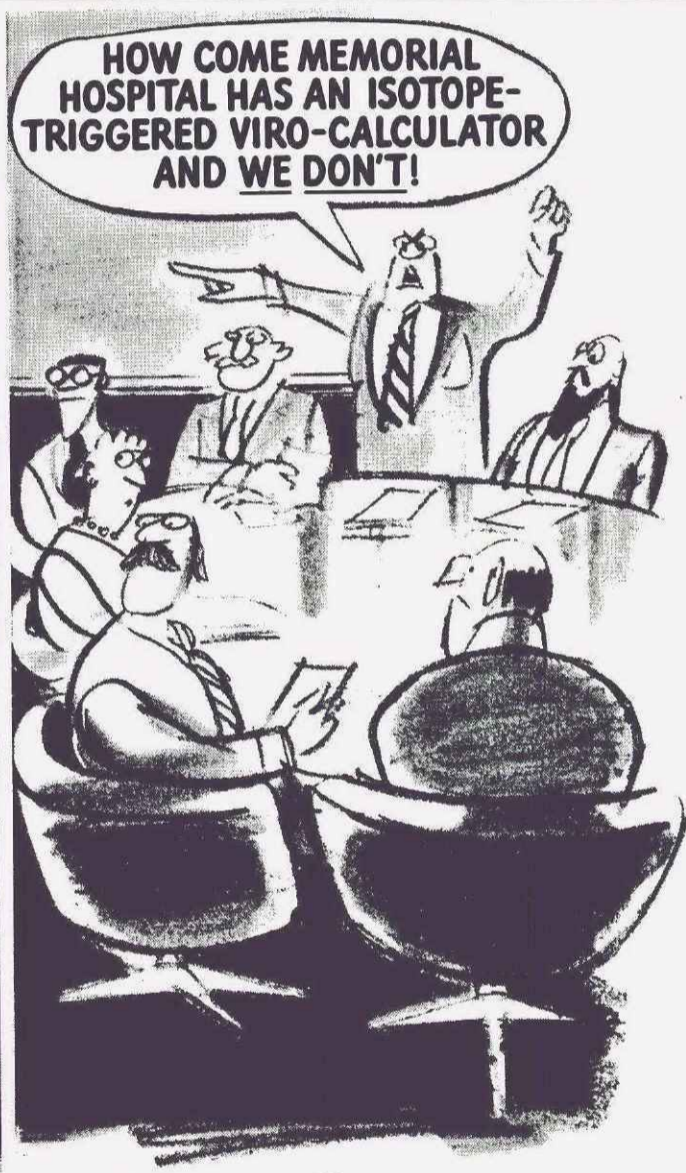
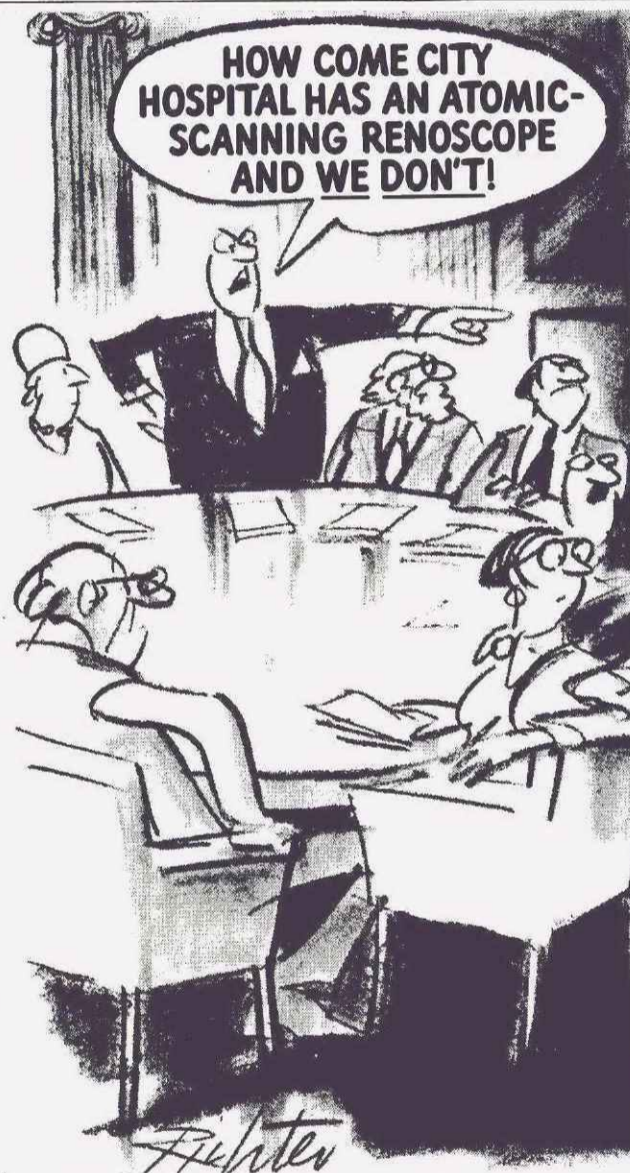
Scope of coverage

Suit was brought to recover benefits under a group accidental death and dismemberment policy. The Tennessee Supreme Court ruled such insurance policies are not group life insurance policies within the contemplation of a state statute requiring conversion and extended benefit privileges following termination of employment.

The plaintiff here was employed by ITT until Feb. 2, 1972,

and was covered under both a group life policy and a group accidental death and dismemberment policy issued by Equitable Life Assurance Co. The plaintiff died as a result of an accident on Feb. 19, 1972. The group life policy allowed conversion to an individual life policy within 31 days after termination of employment and also provided that life insurance benefits would be paid if death occurred within the 31-day period.

The group accidental death policy expressly provided that coverage ceased automatically upon termination of employment. A state statute required a 31-day conversion privilege and extended benefits for group life insurance policies. Equitable paid the group life claim, but rejected a claim for benefits under the group accidental death policy. The courts below had held that the mandated conversion privilege also applied to the group accidental death



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The supreme court pointed out that the ultimate issue was whether accidental death and dismemberment insurance was "group life insurance" under the statute. The court concluded that the definition of life insurance in the statute under question did not embrace accidental death insurance. According to the court, accidental death insurance fell "clearly within the definition of disability insurance . . ."

The court emphasized that the distinction was that life insurance primarily insured human lives, while accidental death provided coverage only in case of disability or death by accident. Because the conversion statute, by its terms, was limited to group life insurance, the court concluded that group disability insurance was not to be included in the conversion privilege. *Equitable Life Assur. Co. of U.S. v. Odle*, Supreme Court of Tennessee, March

14, 1977, Fones J., 547 S.W.2d 939 (BI/03/S.-\$3).

Liability policy

In this action the insured brought suit against the Cotton Belt Insurance Co. Inc. under a liability policy covering the operation of nine tractors. The insured sought to recover a judgment in a death action and to be reimbursed for all expenses incident to that litigation. The U.S. Court of Appeals for the Fifth Circuit ruled that at the time of the accident the insured had an enforceable insurance contract and the agent and its manager were not liable.

The court noted that the trailer which was involved in a fatality-causing accident was acquired by the insured before the policy was obtained and was acquired directly in exchange for a trailer which was mistakenly listed in the policy. Consequently, the Fifth Circuit concluded that insuring the new

trailer as opposed to the old trailer did not increase the risks accepted by the insurer. Failure to list the trailer by correct number was an oversight, according to the court, which qualified as a mutual mistake.

Thus the court concluded that the policy would be enforced in accordance with the intention to insure the new trailer. Inasmuch as the insurer, acting through a general agent, intended to insure the trailer involved in the accident as one of the nine trailers in operation and neither the local soliciting agent nor the general agent were shown to have exceeded their authority in binding the insured to insure the trailer or to have increased the risk of liability beyond that which the insured had intentionally assumed, the court ruled that the local soliciting agent was not liable to the insurer. *Smith Trucking, Inc. v. Cotton Belt Ins. Co.*, U.S. Court of Appeals for the Fifth Circuit, Aug. 5, 1977, Bootle,

J. (BI/04/0.-\$3).

Punitive damages

Here an insured brought an action against the Aetna Life Insurance Co., which had discontinued payment of total disability payments under a group disability policy, to obtain benefits under the policy and punitive damages. A Florida appellate court ruled that punitive damages could not be awarded for a breach of an insurance contract unless the insurer had committed a willful and independent tort separate and distinct from the breach of contract.

An insured's right of action based on the insurer's failure to pay periodic indemnity or benefits under a disability policy is limited, the court stated, to installments which have accrued at the institution of the action.

The court pointed out that an exception could be applicable if there was a repudiation of the en-

tire contract by the insurer. But an insurer's refusal to continue total disability benefits on the ground that the insured is not totally disabled was not, the court emphasized, a "repudiation of the entire contract" even if the insurer was mistaken as to the insured's disability. *Aetna Life Ins. Co. v. Smith*, District Court of Appeal of Florida, Fourth District, April 15, 1977, Alderman, J. 345 So. 2d 784 (BI/05/0.-\$3).

(Copies of the entire decision of cases described may be obtained by sending a check for \$3 made out to Cases Unlimited to Legal Briefs, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611. Please list the number for each opinion requested, which is at the end of the brief.) ■

RIMS sets conference on government

COLUMBUS—"Government Intervention in Risk Management" is the topic for the 11th annual conference of the North Central Region of RIMS.

The meeting will be Oct. 12-14 at the Faucett Center for Tomorrow at the Ohio State University Campus here. Open to non-RIMS members, the cost including meals is \$75 for RIMS members and \$85 for non-RIMS members.

Heading the program will be speeches by Andrew A. Malgard, director of economics for the U.S. Chamber of Commerce; Teresa Stuchiner, a partner at Kwasha Lipton; J. Carroll Bateman III, and William B. Saxbe, former senator from Ohio and U.S. attorney general.

General sessions for the first morning will be followed by special individual seminars on both risk management and employee benefit subjects. Some sessions will be open only to members of RIMS. A spouses program is also being planned.

Among the chapters in the region are Detroit, Cincinnati, Cleveland-Akron, Pittsburgh and Louisville. ■

Corroon edges M&M on growth

CHICAGO—Corroon & Black edged out Marsh & McLennan by 0.2% in per share growth rate according to a recent ranking of top growth companies in *Financial World* magazine.

Of 350 firms nationally, Alexander & Alexander ranked 39th with a per share increase of 23.0% in the last 10 years. A&A ranked 39th among the total number of firms this year compared to 31st last year.

Corroon & Black ranked 138th with a per share growth of 14.2% since 1967. C&B took 138th place versus 135th last year.

Marsh & McLennan's per share earnings grew 14% in the last 10 years and this performance took 140th place. In 1976 M&M was ranked 121st. ■

Nippon licensed

Nippon Fire & Marine Insurance Co. Ltd.'s branch in the U.S. is now licensed to write all lines of insurance in New York State. The company, which had been writing marine insurance in New York, California and Washington, is expanding its activities to meet the needs of its Japanese clients in the U.S. The Nippon Fire & Marine activities here are managed by The Travelers Insurance Co.

Unnecessary duplication of expensive technology is fueling a rampant inflation.¹ The hospital bill—and the health insurance which pays it—is now one of the fastest-rising costs in our whole economy.²

Can we slow it down? Aetna believes so. If doctors were to assign patients to *any* of several hospitals nearby, expensive equipment could be shared. Specialized facilities, staff, even beds would be more efficiently used.³

Establishing state commissions to set limits on hospital expenditures could help, too. In Maryland and Connecticut, such commissions have been at work since 1974. They've lopped some big numbers off hospital budgets,⁴ without reducing the quality of care.

And Aetna is encouraging local medical societies to monitor doctors' use of hospitals. Was the length of stay appropriate? Was admission necessary in the first place?⁵ If all of us involved continue to raise such questions, insurance costs *can* be controlled. Don't underestimate your own influence. Use it, as we are trying to use ours.

Aetna wants insurance to be affordable.

¹ Consider the cost of the CAT scanner, the latest thing in diagnostic machinery. (The CAT—Computerized Axial Tomograph—takes pictures of cross-sections of the body.) If every one of the 6,000 general hospitals in America bought a CAT, the initial investment alone would cost us all nearly *three billion dollars*.

² Ten years ago, health care costs consumed about 6% of the gross national product. Today it is close to 9%. Center stage in this inflationary drama is the hospital bill, which has doubled in the last five years!

³ This principle could eliminate many wasteful situations. In Philadelphia, for instance, 16

hospitals have open heart surgery programs. But according to a government study, only five used them enough to be considered efficient. Waste applies to much simpler equipment, too, like beds. The government estimates there are at least 100,000 unnecessary hospital beds empty each day, at a cost of \$2 billion a year.

⁴ As much as \$45 million saved in Maryland alone, in 1975.

⁵ Most medical societies have a "Professional Standards Review Organization" created for just this kind of review for Medicare and Medicaid patients. Aetna believes the potential savings justify such review of all patients.



info for buyers

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

- The Through Transport Club has recently published an illustrated, eight-page brochure to explain its insurance services for air cargo operators and air freight forwarders. Designed for **brokers and air through transport operators**, this is the first in a promotional series, each of which will deal with a different category of through transport operation for which the club offers membership. The remainder of the series will be published later in the year. For a free copy write Through Transport Club, 14-20 St. Mary, London, EC3A 8DA, England.

- The Ansul Company has produced a 16-page, color, promotional booklet outlining the curriculum of its **Fire School**—how it operates and what to expect when any of your employees enroll. According to the premise of the school, a graduate should be able to cope with a large percentage of common industrial fires. For a free copy write Sara M. Lambrecht, The Ansul Co., Marinette, Wis. 54143.

- The International Foundation of Employee Benefit Plans has published the **proceedings of its 1977 Communications Institute**. The 76-page book contains edited presentations by 10 speakers. Cost for foundation members is \$4 per copy (1-4 copies) and \$3.50 per copy (5 or more copies). Write International Foundation of Employee Benefit Plans, P.O. Box 69, Brookfield, Wis. 53005.

- **Rangeguard Kitchen Fire Extinguishing System (#937)** discusses the mechanical operation and capabilities of the system in a 2-page promotional booklet. For a free copy write Marketing Manager, Automatic Sprinkler Corp. of America, P.O. Box 180, Cleveland, Ohio 44147.

- **The Service Director**, published by Brown Brothers Adjusters, lists the location and 24-hour telephone numbers of the company's 49 offices in the seven western states. Write Vernon Neufeld, Brown Brothers Adjusters, 545 Sansome Street, San Francisco, Calif. 94111.

- **Cost of Risk Finance Plan** describes the program of Corporate Systems for forecasting and allocating the cost of risks among divisions, profit centers and cost centers of a corporation. The plan also includes a retrospective experience adjustment. For a free copy write Marvin Gwinn, Corporate Systems, P.O. Box 2827, Amarillo, Tex. 79105.

- **Turnaround Service for Auto Appraisals** includes trained auto appraisers and portable telecopiers as described in a brochure from J. W. Weatherstone, Marketing and Products, GAB Business Services Inc.,

123 William St., New York, N.Y. 10038.

- **The Facts About Equifax** explains "who we are, what we do and what we don't do." Equifax, formerly Retail Credit Co., provides insurance and claims adjustment services. For a free copy write Hal Arnold, Corporate Public Relations, Equifax Inc., P.O. Box 4081, Atlanta, Ga. 30302.

- **A Products Liability Position Paper** prepared by the Defense Research Institute is available for \$1 a copy. The 52-page booklet is available by writing The Defense Research Institute, 1100 West Wells St., Milwaukee, Wis. 53233.

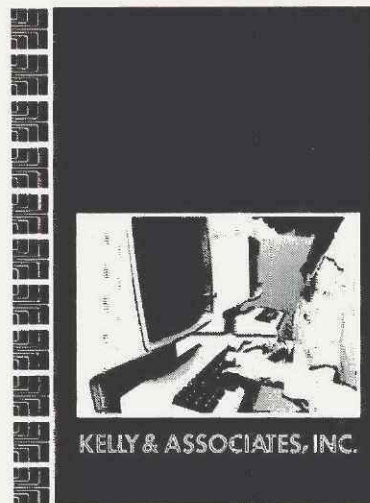
- The American Society of Assn. Executives' **Comprehensive Liability Insurance Program** is detailed in a publication that compares the errors and omissions policy with standard directors and officers liability policies. Copies of the policy and applications are included in the packet. A free copy is available by writing Neil R. Pouppir, H & W Underwriters, 3101 Broadway, Kansas City, Mo. 64111.

- Being an agent is a fulltime job. So is being an appraiser, according to a booklet from Industrial Appraisal Co. designed for insurance agents and brokers. For a free copy write William Moorhead, Industrial Appraisal Co., 222 Boulevard of the Allies, Pittsburgh, Pa. 15222.

- **Customized Programmed Maintenance** with Johnson Controls Inc. is described in a color brochure to help companies get the most out of their building systems. Temperature, heating, filter, safety, security and sound system maintenance are some of the topics explained. For a free copy write George Huhnke, Johnson Controls Inc., P.O. Box 423, Milwaukee, Wis. 53201.

- Walter Kidde & Co. has developed a two-page data sheet on its **High Performance, Compact Dry Chemical Extinguishers**. For a free copy write Advertising Manager, Walter Kidde & Co., 675 Main St., Belleville, N.Y. 07109.

- **Advantages of Self-Funded Health Plans** is a promotional brochure that outlines the benefits of



KELLY & ASSOCIATES, INC.

those plans into two general categories—financial and design. For a free copy write Kelly & Associates Inc., Department 1K, 233 East Erie St., Chicago, Ill. 60611.

- Security systems for protecting people, business and industry are the subject of **ADT Series 7000** from ADT Securities Systems. The booklet describes the services available from ADT, the nation's largest protection company. For a free copy write H. L. Reed, manager, Advertising and Publicity, ADT Securities System, One World Trade Center, Suite 9200, New York, N.Y. 10048.

- A consulting service providing property/casualty loss prevention services for risk managers, insurance consultants, brokers, architects and sprinkler companies is detailed in **Creative Property Engineering** from RM/i Consultants Inc. For a free copy write Harvey Sanders, RM/i Consultants Inc., 49 S. Main St., Suite 200, Spring Valley, N.Y. 10977.

- **TCA—Total Claims Administration** describes Metropolitan Life Insurance Co.'s service which takes over all the clerical claim functions normally performed by the policyholder. Included in the service are maintenance of in-force records of covered employees, verification of coverage for claims, processing and payment of claims and benefit explanations. For a free copy write A. D. Sileo, Group Insurance & Pensions Marketing, Metropolitan Life, 1 Madison Ave., New York, N.Y. 10010.

- A report entitled **International Benefit Planning Concepts** is available from Kwasha Lipton Inc. The report discusses, among other things, "true" third country nationals, the difficulty of predicting in advance which employees will become a third party national and how long they will remain in that category. For a free copy write Dept. M, Kwasha Lipton Inc., 429 Sylvan Ave., Englewood Cliffs, N.J. 07632.

- **Ansul Fire Protection Products Guide**, a 13-page booklet, features descriptions and application information on all types of hand, portable and wheeled extinguishers, pre-engineered extinguishing systems, custom systems and fire extinguishing agents. For a free copy write to R. D. Evanson, manager, Marketing Communications, The Ansul Co., 1 Stanton St., Marinette, Wis. 54143.

- A 103-page booklet from the Kemper Insurance Co. is titled a **Primer of Boiler and Machinery Insurance**. An educational volume on the basics of boiler and machinery insurance, the publication describes the objects insured, the types of protection available and the accident prevention and inspection services most underwriters of this insurance provide as a service to the policyholder. The booklet is \$3 a copy. Write Communications & Public Affairs Dept., Kemper Insurance Cos., Long Grove, Ill. 60649.

EMPLOYEE BENEFITS

A Reading List

Library/Information Center

International foundation of employee benefit plans

- The International Foundation of **Employee Benefit Plans** has compiled a **bibliography** of source materials from its publications and cassette tape subscription service. Listings date from the passage of ERISA in 1974 and are divided into 33 subject sections. Single copies of the articles are free. For a free copy of the bibliography write Library/Information Center, International Foundation of Employee Benefit Plans, P.O. Box 69, Brookfield, Wis. 53005.

- Underwriters Laboratories Inc.'s **1977 Catalog of Standards for Safety** is a quick reference guide to UL's 380 published Standards for Safety. It lists published standards alphabetically according to title and also in numerical order using the UL Standard number designation. It includes UL's proposed standards. For a free copy write UL at 333 Pfingsten Road, Northbrook, Ill. 60062, Attn: National Standards Stock.

- **When Fire Strikes . . . Kidde Halon 1301 Systems** is an eight-page brochure from Walter Kidde & Co. describing the company's system as an answer to the overwhelming need for fast-acting fire extinguishing where water damage could exceed the loss from a fire. For a free copy write Advertising Manager, Walter Kidde & Co., 675 Main St., Belleville, N.Y. 07109.



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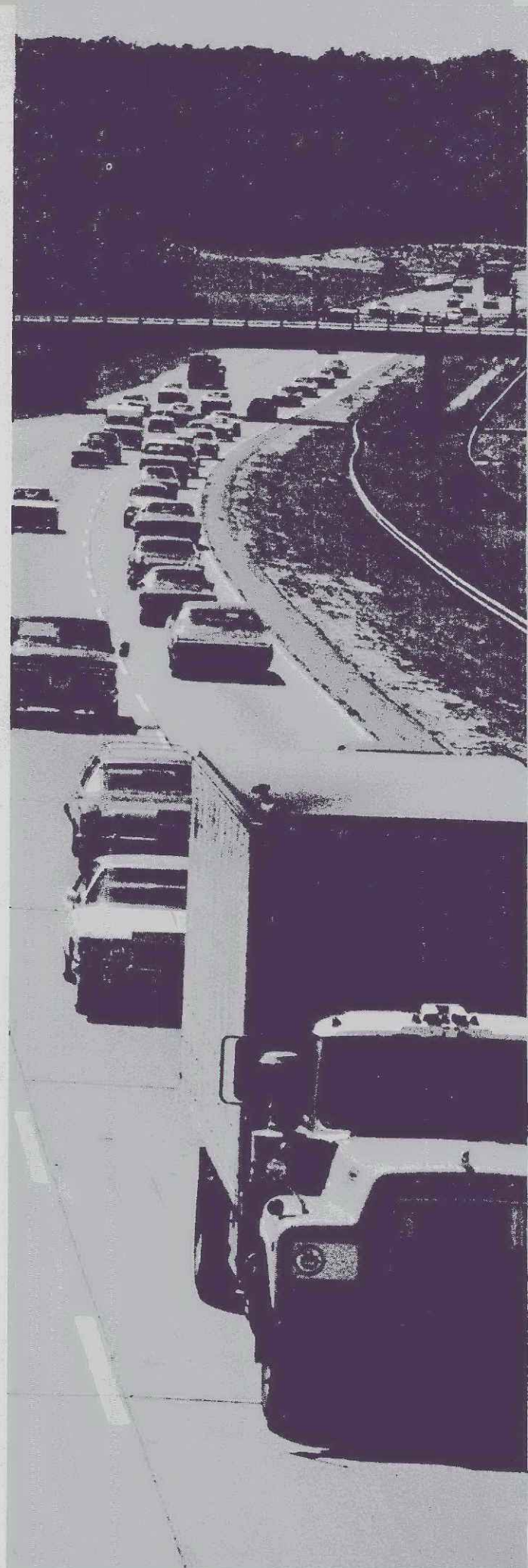
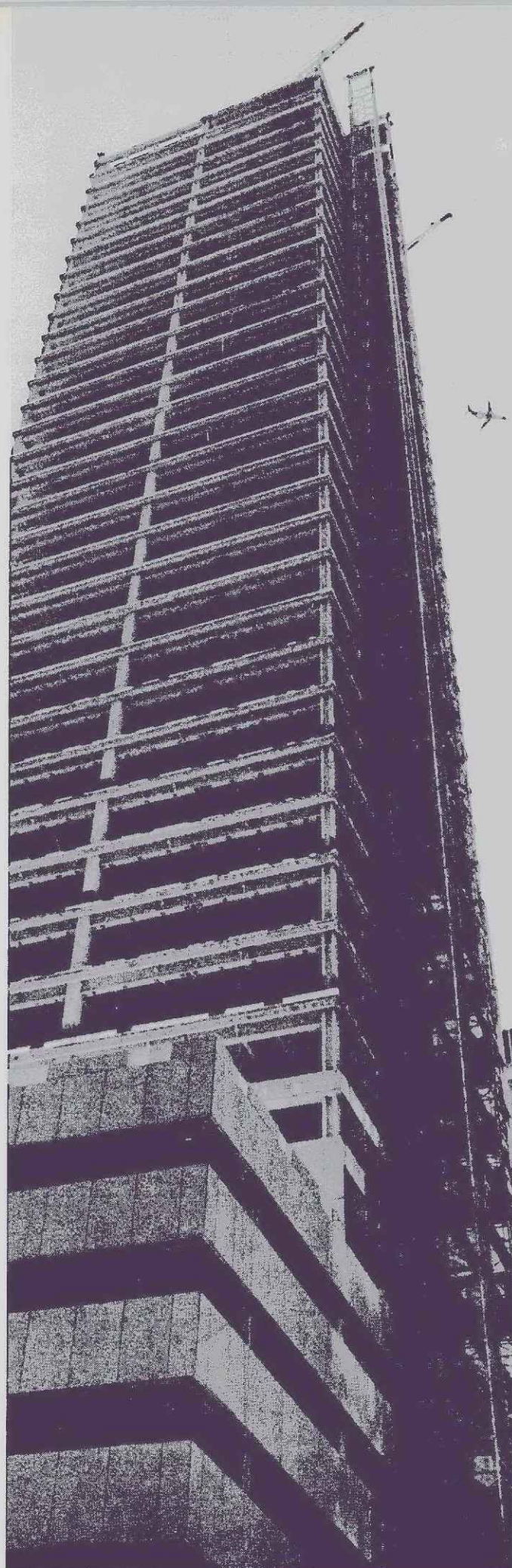
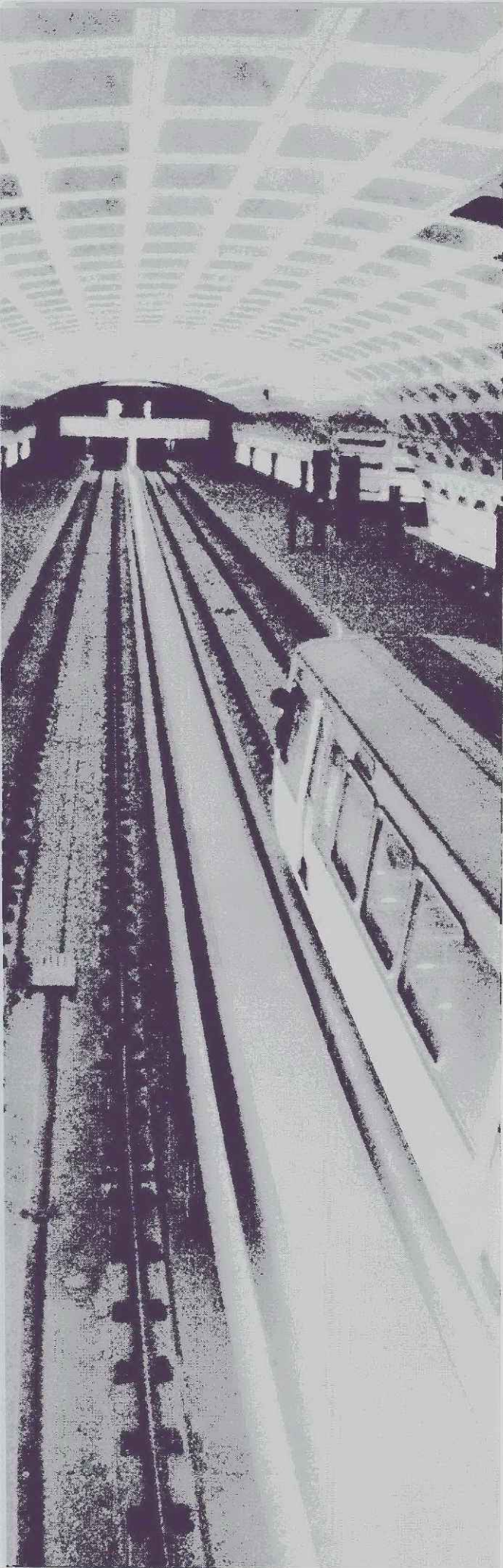
New York: New York, N.Y.—(212) 349-3020
D.C. Area: Columbia, Md.—(301) 997-1272
Michigan: Southfield, Mich.—(313) 569-3188
Mid-America: Chicago, Ill.—(312) 454-0696

New England: Boston, Mass.—(617) 723-5770
New Jersey: Livingston, N.J.—(201) 994-0896
Ohio: Cleveland, Ohio—(216) 241-2917
Pennsylvania: King of Prussia, Pa.—(205) MU 8-3532

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benefit tax slants

Military service now counts for pensions

By JOSEPH S. ROBINSON
Attorney-at-Law

THE RE-EMPLOYMENT rights law requires employers to reinstate those who had to leave their jobs to serve in the military. What's more, returning veterans are entitled to seniority and the rate of pay they would have normally received were it not for their absence because of military service. The Supreme Court now holds that benefits under company pension plans are similarly protected.

Here's the story:

Mr. Davis was a permanent employe of Alabama Power Co. when he went into military service dur-

ing World War II. When he returned from the war he met the eligibility requirements for re-employment rights and resumed his employment with the company in 1945. He continued working until he retired in 1971.

In 1944, while Mr. Davis was in military service, Alabama Power established a pension plan, financed entirely by the company, under which the amount of an employe's pension depended in part on years of "accredited service" accumulated both before and after the establishment of the plan. The plan defined "accredited service" as "service rendered to the company" as a full-time regular employe, includ-

ing periods on paid leave, but excluding military service and other periods on unpaid leave.

In computing the amount of Mr. Davis's pension, Alabama Power refused to count his 30 months of military service as "accredited service."

The Supreme Court rejected the company's contention that pension payments should be viewed as compensation for services rendered. Instead, pension payments are, in the court's words, "predominantly rewards for continuous employment with the same employer," even though they have some resemblance to pay for work performed. Therefore, because the law clearly en-

titled Davis to have his 30 months of military service counted toward his continuous employment with the company, it also entitled him to have those 30 months counted for the purposes of the pension plan benefits. (*Davis, U.S. Sup. Ct., 6/6/77*)

Thrift plans

According to a recent study conducted by the Bankers Trust Co. of New York City, employe savings and thrift plans remain a popular fringe benefit.

In the typical employe thrift plan, the employe agrees to have a fixed amount withheld from

his paycheck and put into a special fund. The employer also makes a contribution, often on a matching dollar-for-dollar basis. The total amount is then invested, usually in highgrade stocks and/or bonds, or often in company stock. Depending on the terms of the plan, the employe may make withdrawals from his account after a certain period of time (the vesting period), or upon retirement.

Tax advantages accrue to both employer and employe. The company can take a current write off for its contribution, while the employe pays no income tax on either company contributions or the earnings on his own and company contributions until a distribution is made to him.

Planning payouts

Employe benefit managers are often asked to assist retiring employes as to the best way—tax-wise—to collect their pension benefits. While most employes prefer to "take the money and run," tax considerations may dictate otherwise.

Under Section 402 (e) of the Internal Revenue Code, the tax on a lump-sum payout is figured by dividing the amount by 10, determining the tax for a single individual on the one-tenth of the total sum and multiplying that tax by 10. This oversimplification is for a non-contributory plan and applies to post-1973 participation or to all participation if the retiree elects under the rules not to use capital gain computation for pre-1974 accumulations.

Under Section 1348 of the Internal Revenue Code, there is a 50% maximum tax rate on "personal service income." The Tax Reform Act of 1976 extended the maximum tax rate that had previously applied to "earned income" so that it now specifically covers amounts received as a pension or annuity.

However, it also specifically does not include amounts received as a lump-sum distribution under Section 402(e). That section defines a lump-sum distribution as a total distribution of an employe's retirement plan account within one taxable year of the receipt.

Thus, if the account is paid in two years, it will not qualify for the special treatment under Section 402 (e) but it will qualify as personal service income under Section 1348.

To put the options in capsule form, a retiree may (under proper conditions) have these three alternatives:

- He may take the lump sum and elect not to use capital gains for pre-1974 accumulations.
- He may take a lump sum in one year and elect to use 10-year averaging.
- He may take half of his account in one year and the balance in the following year.

With a lump-sum distribution's tax determined entirely by 10-year averaging, the approximate break point—the point at which a person will save income tax by taking his money in two installments—is \$750,000.

For any distribution less than that amount the Section 402 (e) method will be better. Considerable savings will be possible, however under the installment route where really large payouts are involved.

Keep in mind that the tax favored annuity payments spread out over the lifetime of the retiree, may still be preferred for those who seek the safety of a guaranteed income. ■

New lobbyist

Marialee Neighbours has been named government affairs representative on the West Coast of the Alliance of American Insurers.

"MULTUM IN PARVO!"

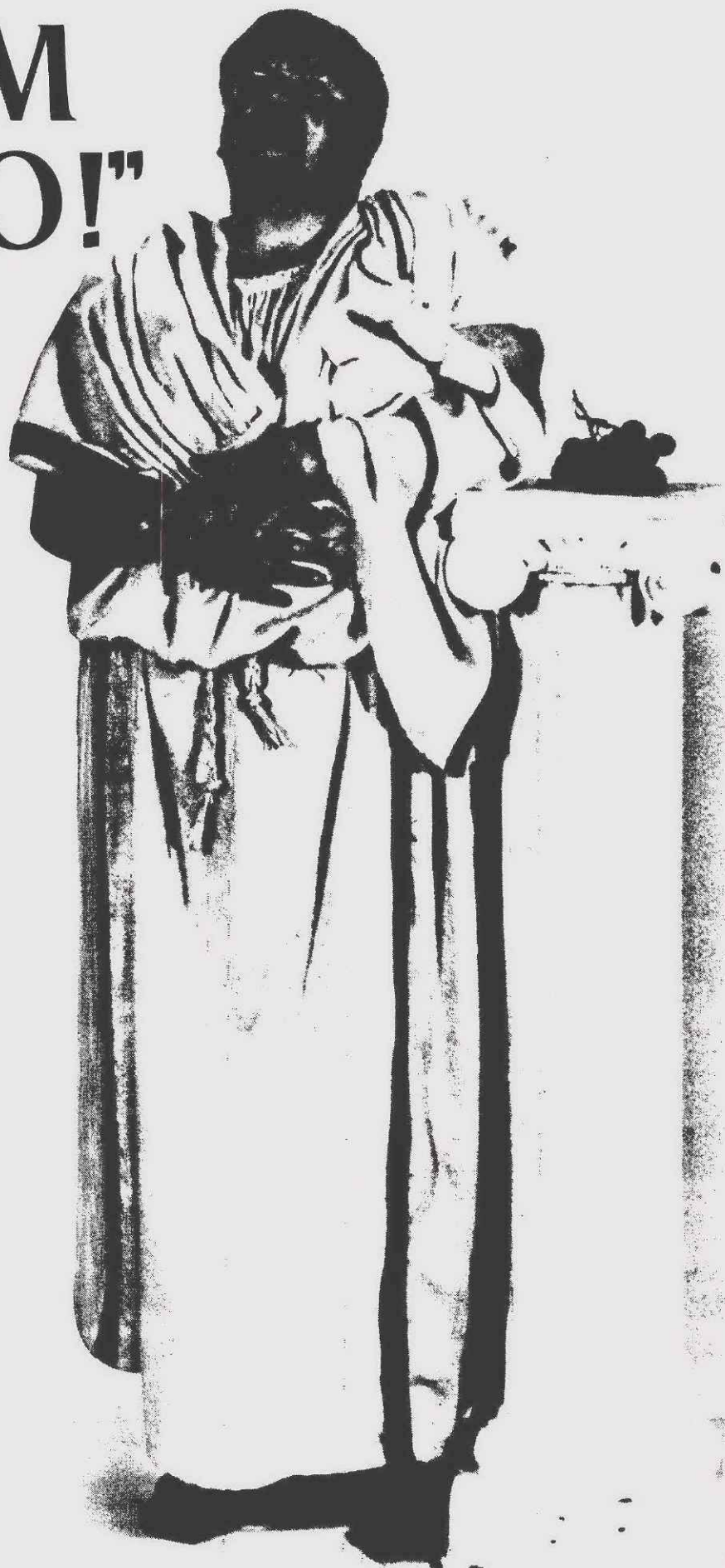
Loosely translated — "A Great Deal In A Small Package!" — an excellent description of the Crown Employee Benefit Package.

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THE INSURANCE BUYER'S ERISA QUIZ

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- Does your policy limit coverage to wrongful acts of insureds only?
- Does your policy provide defense costs within the limits of liability?
- Does your policy limit loss to damages by definition, and exclude non-pecuniary claims?
- 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?

If the answer to *any* of the above questions is "Yes," the chances are you have probably purchased the wrong policy. And the real problem is that you will probably never know until you have an uninsured loss.

How do you know you have the right fiduciary liability policy? There's only one way — to *compare*. Remember — *all policies are not created equal*. While all contracts may appear to be similar, there can be substantial differences in their terms and conditions — differences which can be very significant — and costly. And, unfortunately, it's impossible to compare policies without a thorough understanding of the law. (ERISA)

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around the states

California product liability bill falters

SACRAMENTO—Backers of a product liability reform measure received a setback when the house judiciary committee voted to hold the bill (S.B. 712) instead of sending it to the assembly floor. Stiff opposition from trial lawyers is being blamed for the setback.

Under the proposal, which was introduced by Sen. David Roberti, a product liability suit would have to be filed no later than 10 years after the time the product left the manufacturer's control.

The bill earlier cleared the state senate by a 22-4 margin. The decision to hold the proposal in committee kills any chance of enacting reform legislation this year.

Mandatory retirement

SACRAMENTO—Gov. Edmund Brown last month signed into law two bills that will end mandatory retirement for most employes.

Under one measure, (A.B. 586) employes can continue to work past age 65 unless his or her employer can demonstrate to a state agency that the employe no longer can meet the demands of the job.

The other bill (A.B. 568) covers employes in the public sector. State and local government workers can continue to work past the prior retirement age of 67 unless a state

Work comp rate hike 'only' 11.2%

SAN FRANCISCO — Although the California workers' compensation insurance rating bureau is requesting an 11.2% increase for 1978, the amount is less than what had been projected because of a new state law affecting cumulative injury claims.

The filing projects a 10.3% average rate increase or \$187 million for private industry and 19.8% or \$37 million for public agencies. With the projected increase California employers will pay an estimated \$2.2 billion in premiums for workers' compensation insurance in 1978.

The increase would have been greater—19.9% or \$361 million for the private sector and 49.2% or \$91 million for public agencies—if the cumulative injury legislation had not been passed, said Leo Souza, president of the rating bureau.

The new law changes the method by which cumulative injury claims are allocated to insurance companies. Previously the costs of such claims were apportioned among all the insurers who provided coverage during the years the injured worker was employed on the job causing the injury.

In the future the cost of such claims will be borne only by those insurers providing coverage during the last years before the filing of the claim.

"Insurance companies and the State Fund have been paying claims on policies that were written as long as 20 years ago," Mr. Souza said. "Those policies were issued at the rates in use 20 years ago which did not anticipate these later claims or the higher benefit levels now in force and as a result, the premiums were inadequate."

With the enactment of the new law, rates for 1978 will be calculated to cover only those claims that will be reported in 1978. ■

agency finds they are not competent to work. The law, however, does not cover police and fire officers.

Advance payments

DES MOINES—The Iowa supreme court has ruled that the absence of a specific advance payment statute does not bar the trial court from incorporating an advance payment to a claimant into a judgment.

The court did not, however, address whether an advance payment by an insurance company to the claimant on behalf of its insured will be construed in later litigation as an admission of liability. The

trial court in this case refused to allow the plaintiff's attempt to introduce the advance payment as evidence during the trial.

Boiler & machinery

TOPEKA—The Kansas insurance department rejected a 47.8% rate increase requested for boiler and machinery insurance which would have increased premiums by \$13 million.

Commissioner Fletcher Bell said the rate hike was based on national trend factors which did not apply to Kansas. Although Kansas filings have been based on nationwide statistics, Mr. Bell said recent experi-

ence in the state should be used to determine boiler and machinery premiums in Kansas.

Fire policies

JUNEAU — Alaskan insurance commissioner Richard Block rejected a 5.3% increase in commercial fire insurance and a 9.1% increase in extended coverage. Mr. Block said the decision came after the department reviewed the favorable financial results of the top 10 companies writing fire insurance.

Colorado bills

DENVER—Colorado enacted leg-

islation requiring insurance companies to send notices of intent when canceling, not renewing, or decreasing coverage in professional liability and product liability in insurance policies.

Another bill prohibits ad damnun clauses (specifying an amount of damages) in professional liability lawsuits.

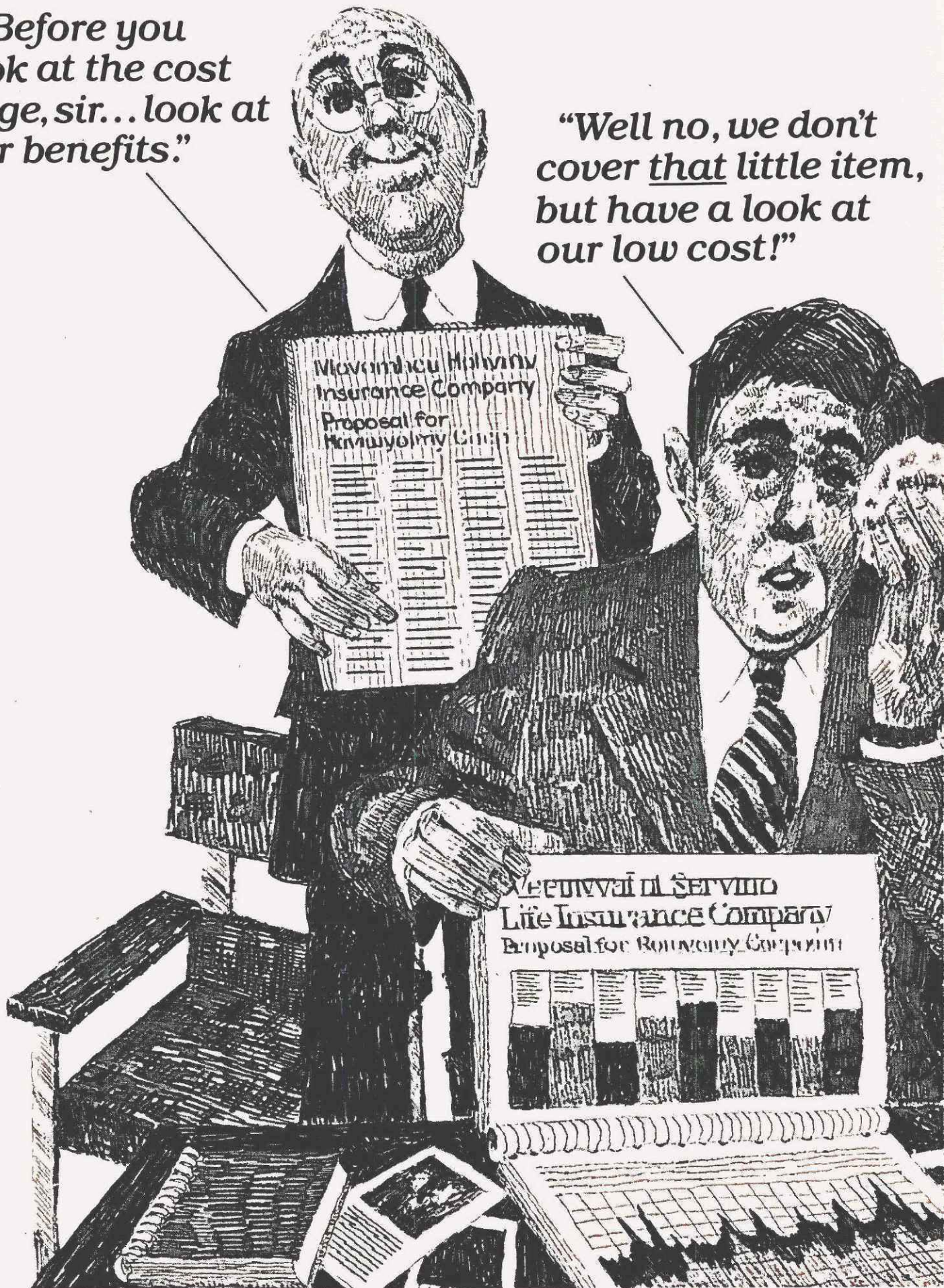
Malpractice coverage

SPRINGFIELD — Illinois Gov. Jim Thompson signed legislation that may provide hospitals with coverage for medical malpractice judgments over \$100,000. The bill establishes an 11-member board to investigate the malpractice situation.

If the board finds it necessary, it can activate the program to cover losses of participating hospitals over \$100,000. The members of the program will then be required to reimburse the program for the payouts. ■

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Bicycle riders must be taught how to ride safely with automobile traffic, experts contend.

TOSRVPHOTO

Bike paths next to roads can skid liability skyward, experts warn

By KATHRYN McINTYRE ROBERTS

CHICAGO — Government risk managers whose jurisdictions are creating bicycle sidewalks or lanes are advised to apply the brakes to these projects.

Transportation planners and engineers warn that specified bicycle areas along streets and highways that segregate bicycles from cars interrupt organized, established traffic patterns and make bicycle-car collisions more likely to occur.

With that in mind, they say, it's just a matter of time—and bicycle miles—before a government that creates such bikeways finds itself liable for the accidents that result.

Governments should instead widen roads, improve road should

ers and teach bicyclists how to ride safely so that bicycles and cars can coexist, the planners and engineers recommend.

Bike paths isolated from traffic, such as those winding through parks and wooded areas, need only proper construction and maintenance to reduce the government's liability exposure, the experts say.

So far bikeways of neither category have generated many claims. Insurers aren't balking at the risks either, once they've decided to insure a government entity.

Risk managers say they are aware of the risks in creating bike sidewalks and lanes along streets and highway, but maintain the risks must be assumed.

"We have 180,000 people and 110,000 registered bicycles," said Madison, Wis., risk manager Dennis Tweedale. And he guessed there are an additional 60,000 unregistered bikes in his city.

"We have to control bicycles," he said of the city's decision to construct 20 miles of bicycle paths paralleling major streets and to mark bike lanes in other areas.

Widening streets as the planners and engineers recommend is beyond economic reality, Mr. Tweedale suggested. "We think we are creating a safer environment given there are so many bicycles out there," the risk manager of self-insured Madison concluded.

Not so, says John Forester, an industrial engineer and author of "Cycling Transportation Engineering," the first book on the subject. The 40-year veteran bicyclist is vehemently opposed to segregating bicycles from automobiles on the roadways.

"The rules of the road specify the relationship between the drivers of vehicles and bicycles are vehicles, practically if not legally," Mr. Forester said.

"By and large the rules say the person turning right gets on the right and the one turning left gets on the left. Faster vehicles are to overtake slower vehicles on the right," he continued.

"The bikeway effect is to put cyclists on the right of motorists under all conditions. . . . So a considerable portion of highway maneuvers are made more difficult. And the cyclist left turn, motorist right turn and the cyclist overtake are impossible," Mr. Forester concluded.

Granting bikeways increase turning and crossing maneuver collisions, Mr. Forester said bikeways would still be reasonable if motorists overtaking bicyclists on the highway were the majority of collisions.

"But no more than 5% of all collisions are motorists overtaking bicycles, while at least 87% of all bicycle-car collisions are turning and crossing maneuvers," Mr. Forester said, citing studies conducted by Kenneth D. Cross of Anacapa Sciences in Santa Barbara.

And a survey of the League of American Wheelmen showed the safest riding they do is commuting, mingling with the normal traffic, Mr. Forester noted. The most dangerous riding the avid bicyclists said they have done is on bikeways—2.6 times more dangerous than the roads.

"Anytime the government produces a facility that on the basis of the figures is more dangerous, it ought to be liable for the accidents there from," said the instructor of cycling engineering at the University of California's Institute for Transportation, "especially if it (the bikeway) is compulsory or if bicyclists are encouraged to use it."

In 35 states, Mr. Forester said, bicyclists must use the bikeway if it is there and in all states they must use the bike lane if it is designated.

To illustrate the liability exposure of bikeways, Mr. Forester recalled these incidents on the West Coast:

• A bicyclist returning home from work on a bikeway was hit by a motorist turning right. The motorist's insurer, the city and the county shared the liability. "I think the motorist's insurer was a sucker," Mr. Forester observed, maintaining the insurer could have refused liability.

Continued on following page

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Bike paths . . .

Continued from preceding page

• Three experienced bicyclists were riding a bikeway separated from the highway by berms. The two bicyclists in the lead heard a crash and turned around to find their companion in a heap with her bike. She doesn't know what caused her fall, but they speculated her peddle hit the berm which had started up again after a break for a driveway. "No one saw the accident," Mr. Forester noted, so they couldn't prove liability, this time.

• A toddler was run over by a bicyclist riding a bikeway. The parents didn't sue because they thought the bikeway was a good thing.

• After a round trip on a 2.2-mile-long bikeway, and avoiding collisions he said only an expert could have handled, Mr. Forester said he found it "a thousand times

more dangerous than the road. I'll never do that again." The county which constructed the bikeway has decided to no longer require bicyclists to use it because it discovered an 88% increase in bicycle accidents per mile compared with before the bikeway was there. However, prior to its creation not many bicyclists rode the street, Mr. Forester admitted.

He conceded that segregated bicycle lanes could be safer if the bicyclists walked their bikes across each intersection. "But who's going to do that?" he asked.

Instead of creating these special lanes and sidewalks, Mr. Forester said governments should work on streets and highways to make them safer for bicyclists and motorists to coexist.

A nationwide survey by Mr. Cross, to be released this fall,

shows that although few accidents are the result of cars overtaking bicycles, 25% of all bicycle fatalities occur when cars overtake bikes on narrow, two-lane roads in suburban areas. The causes were identified as non-existent or inadequate headlights on the bikes at night, rough shoulders, more traffic on the road than it was designed for and hurried and drinking drivers.

Rather than creating bikeways along these roads, Mr. Forester said, the government should widen the road. "Why waste money for one kind of road when you can improve it for everyone?" he asked.

That's the approach Portland, Ore., is taking. Bicycle program manager Tom Hanstedt said they are "fine-tuning the transportation network." That includes reversing sewer grates, which if placed improperly swallow bicycle tires, flat patching potholes, repairing railroad crossings and cleaning up gravel and glass that accumulates

Coverage for bicyclists?

Bicyclists can't find third-party liability insurance. National bicyclists' clubs would offer the insurance to their members, as British clubs do, if they could buy it, John Forester said.

Avid bicyclist and cycling transportation specialist, Mr. Forester explained, "There is a risk that bicyclists might injure others. A bicyclist might even kill another bicyclist."

But the only coverage a bicyclist can obtain is under his or her homeowners policy and the limits are inadequate, Mr. Forester maintained.

Any underwriter who is interested in providing the product "should contact me," Mr. Forester said.

along roadways. "We're looking at the highway network and putting in lanes with adequate widths to accommodate

the bicyclist and the motorist," Mr. Hanstedt said. For example, a 13-foot to 14-foot wide lane is needed for 35 mph traffic.

Educating the public on how to safely bicycle in traffic is imperative, both Mr. Hanstedt and Mr. Forester agreed. Portland has been granted federal funds to conduct such an educational program.

Mr. Forester, who was born in England and learned to bicycle there, suggested, "We have to do away with the kind of bicycle education given in this country. All they teach them is to stay away from cars and that doesn't work."

Bike trails through parks or along abandoned railroad beds are good recreation facilities, Mr. Hanstedt observed, "but still the city is liable." To protect itself, he said the bike path should be constructed following standard design and be maintained.

Those maintaining recreational bike paths report good experience. Racine County in Wisconsin maintains 20 miles of paths running over Wisconsin Electric Power Co. land. Though the county self-insures its liability risks, the lease with the power company required the purchase of insurance.

St. Paul Fire & Marine is writing the coverage at \$2 million bodily injury/\$100,000 property damage for an annual premium of \$725. "We haven't had any problems," said Kathryn Holub, executive secretary to the county executive.

The Wisconsin department of natural resources maintains 90 miles of bike paths through its parks and the state is responsible for another 30 miles of bikeways on University of Wisconsin campuses. But in both the parks and on campus, the bikeways are entirely removed from the streets.

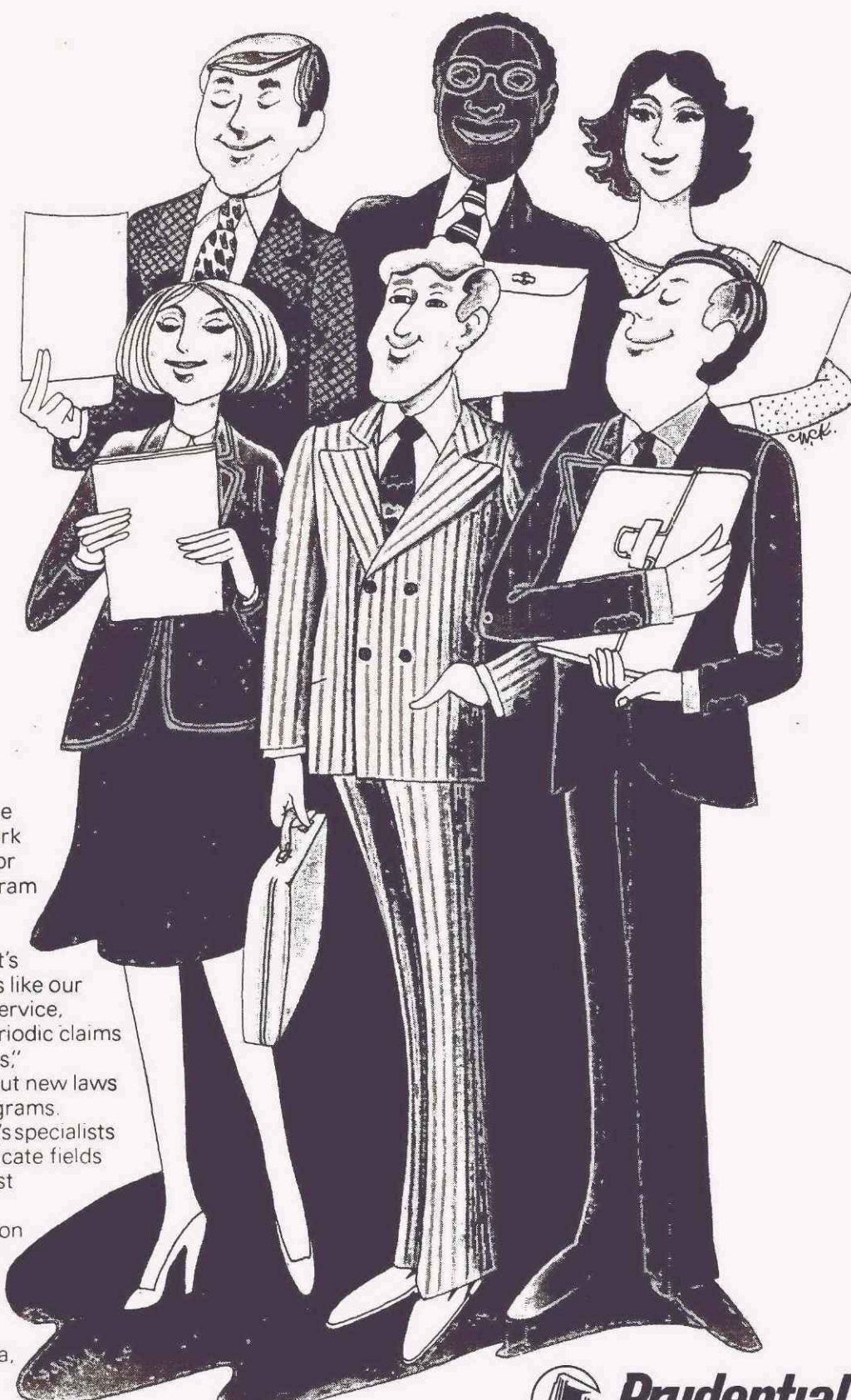
The state, which self-insures against liability, has seen two claims but neither resulted in payment because the bicyclists were found to be most responsible for their accidents, assistant risk manager Bill Johnson said.

Despite what the planners and engineers say, roadside bike sidewalks and lanes are being created. At this point insurers such as St. Paul Fire & Marine see "little additional liability if any" when coverage for them is included in the general liability policy.

Wisconsin Dane County risk manager Robert Tieman found his insurer accepted the county's bikeways as another premises risk under the general liability insurance policy.

Those interested in developing a comprehensive bicycle program may contact Tom Hanstedt, bicycle program manager for the City of Portland, 400 S.W. 6th, Room 546, Portland, Ore. 97204. John Forester, author of "Cycling Transportation Engineering," may be reached by writing Custom Cycle Fitness, 782 Allen Court, Palo Alto, Calif. 94303.

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Conference coverage

Business Insurance editor Susan Alt covered a seminar on hospital risk management problems sponsored by the First National Bank of Chicago and Wyatt Co. in Chicago. Among the stories on pages 46 to 51 from that malpractice conference are:

- **HOSPITALS** are going to have a hard time finding qualified risk managers. **Page 48.**
- **DON'T SELL** used hospital equipment warns one risk manager. **Page 48.**
- **FIRST NATIONAL** Bank of Chicago is moving in an unprecedented direction with a captive. **Page 49.**
- **CONSULTANTS** for risk management are not the best choice for a hospital. **Page 50.**
- **THREE HOSPITALS** that are self-insured report how and why they did it. **Page 51.**

New federal rule may stymie hospital trend toward captives

By SUSAN ALT

CHICAGO—The federal Bureau of Health Insurance (BHI) has thrown a permanent monkey wrench into hospital efforts to solve malpractice insurance problems by using captive insurance companies.

In regulations effective Nov. 1, hospitals won't be allowed cost reimbursement of premiums paid to "limited purpose insurance companies," as BHI calls captives. No amount of lobbying by the American Hospital Assn. and other interested parties has convinced the BHI to change its mind on the rule.

"This scares me to death," says James L. Groves, risk manager for

the American Hospital Assn. "They've taken the issue of captives and practically put them down the drain."

BHI's reimbursement regulations contain a new section (2162) that says any hospital self-insuring partially or fully, or any hospital that is a member of or insured by a captive, has until Nov. 1 to retroactively meet the regulations prohibiting reimbursement for funds put into captives.

This rule extends even to captives owned by several hospitals. More problems are created because BHI doesn't allow a hospital to exercise any kind of control over a supplier set up by the hospital to

service it. These suppliers, which essentially are efforts by hospitals to vertically integrate, fall under Chapter 10 of the reimbursement rules.

"The rub comes because many captives owned by hospitals or groups of hospitals have members on their boards of directors," and this can be construed to be a form of control that isn't permitted, said Mr. Groves.

Moreover, many of the captives have bylaws stating that the board must include some or all members of the captive.

Mr. Groves told *Business Insurance* he estimates there are now about 40 to 45 captive insurance companies in operation belonging to hospitals. Included are about 10 state hospital association captives, three state insurance pools and about three captives established by individual chains or groups of hospitals, such as the University of Minnesota group, the University of Pittsburgh group and the Fairview Hospital Group in Minneapolis. The remaining 24 or more, he believes, are owned by multiple hospitals.

Roughly half of all the hospital captives being used are domiciled offshore, Mr. Groves estimated.

Another problem with the BHI rule on hospital-owned suppliers is that reimbursement for money put into the supplier is allowed only for the actual costs sustained by the supplier, said Mr. Groves. This would mean only losses actually paid by a captive, for example, would be reimbursed to hospitals by the government.

The BHI has told Mr. Groves and several other parties who've queried that the way to avoid this problem is by putting all the assets from the captive into an irrevocable fund trusted by a bank. However, Mr. Groves has been told by insurance commissioner J. Richard Barnes of Colorado that this wouldn't be allowed under that state's insurance law, since the insurer would in effect be devoid of assets.

Mr. Barnes said he talked with the head of the BHI on Sept. 14 about the report that they would require the assets of captives to be put into trust. "And I discussed with Mr. Tierney the procedures and degree of control we have over Colorado captives. He said this is exactly the type of protection he was looking for. He said they were changing their position, now that they realized that these are qualified and properly regulated captives. I have not yet received a letter from him on this," Mr. Barnes said. Mr. Tierney, he said, indicated that this exception would not be made for offshore captives.

Blue Cross, a major federal Medicare intermediary with jurisdiction over interpretation of the reimbursement rules, has also indicated to Mr. Groves that it "probably" wouldn't recognize an offshore fiduciary/trustee, so that the funds transferred into any trust would also have to be placed with a U.S. bank.

"At the moment I think a fronting arrangement (using an insurance company) would work," as an alternative to captives, Mr. Groves said. "But BHI might even veto this when they find out about what's being done" to circumvent the rules.

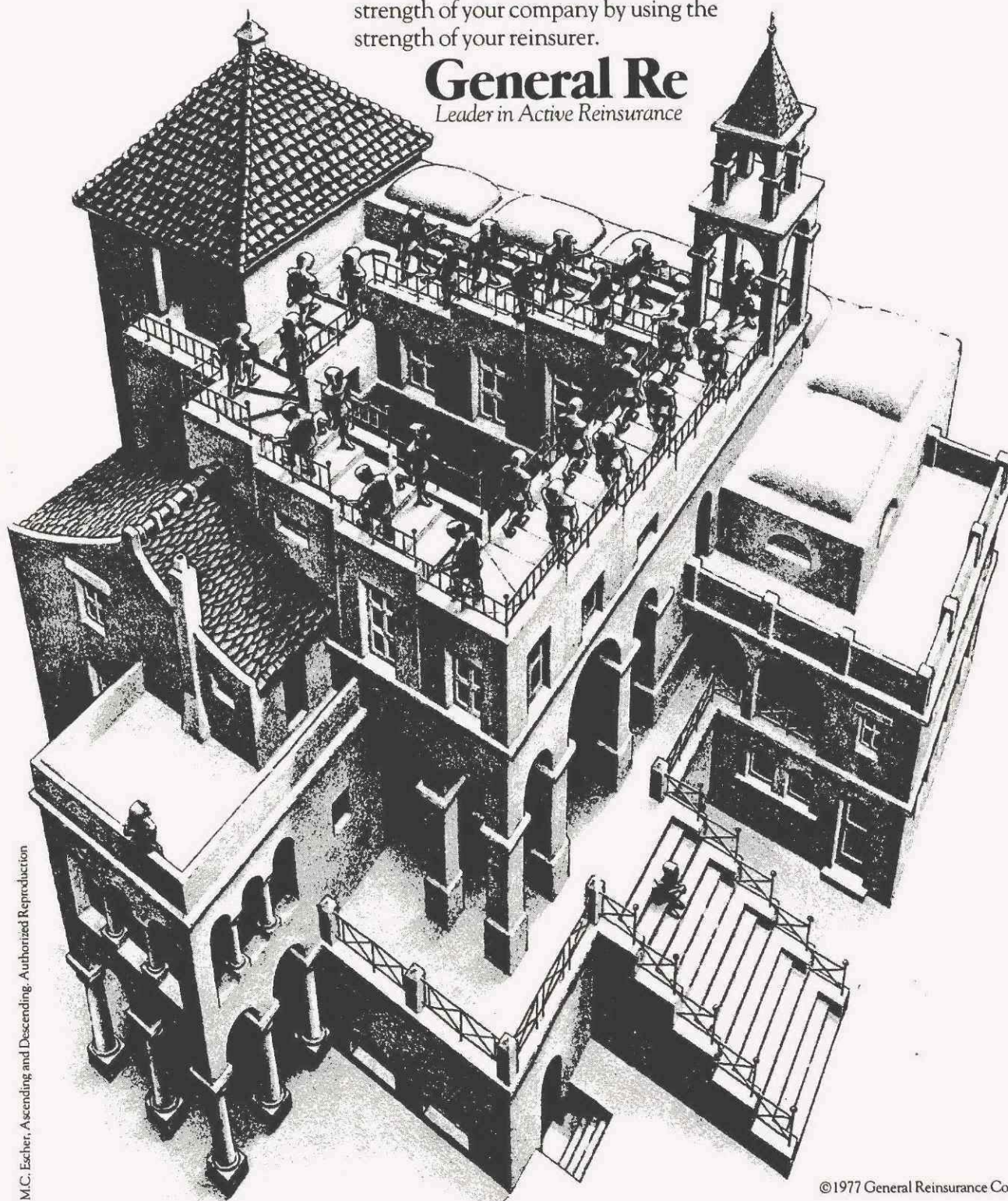
He also doubts whether there are enough insurance companies around that are willing to act as fronts for self-insured hospital programs to fill the sudden need. ■

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Now, after a decade, with nearly 260 issues published, we who started it all, wish to thank our loyal readers and advertisers for their participation in our success. It has been an exciting partnership, one that will expand and flourish in the years ahead. In a field which has undergone many changes in the past ten years, there are still bigger things to come. The editors of Business Insurance will be there to report on the whys and wherefores of these changes.

As part of our birthday celebration, we will be reviewing the most exciting and significant risk management/insurance/employe benefit events of the past ten years. We will also try to predict where the field is headed. All this and a nostalgic look at where we were ten years ago will be part of this special Tenth Anniversary Issue of Business Insurance, to be published on October 31, 1977.

So come and celebrate with us. Our 'guests' will be over 36,000 subscribers (including pass-along readership—nearly 100,000 readers), all involved in the business of loss prevention, risk financing and employe benefit management as well as the industry which supplies products and services to it. It is an audience that is information-hungry and receptive to your advertising messages. To be part of our celebration be sure to make your advertising reservation by October 18th... a date to remember!

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Hospital risk management push to tax ranks of professionals

CHICAGO—Many hospitals are going to have a hard time finding qualified risk managers now that the push is on to have such specialists, according to James L. Groves, risk manager for the American Hospital Assn.

Speaking here at a medical malpractice seminar, Mr. Groves noted that even if only 5,000 of the 7,123 hospitals in the nation decide to hire risk managers, no one will be able to find a good person "just like that."

An AHA study completed June 1, he said, showed that 20% to 25% of all hospitals are already partially or fully self-insured, necessitating a full-time risk manager to implement and coordinate safety, loss prevention, incident review and claims management.

But another AHA study of about 500 hospitals showed only about 10% now have a person responsible for risk management or having the title of risk manager.

Mr. Groves cited a Blue Cross Assn. study done within the last year that found risk manager salaries outside the hospital field between \$30,000 a year and \$60,000 a year. "Be prepared to pay," he

told hospital administrators in the audience.

Federal, state and university hospitals probably would not be among those rushing to hire risk managers, Mr. Groves believes, since many governmental bodies and universities already have full-time risk managers implementing programs in the hospitals.

"Hospitals hiring risk managers are too often going to insurance company claims departments and hiring a claims person as risk manager because they think risk management is nothing more than settling claims. They've lost one big battle already," he warned.

Instead, hospitals should "start with an assistant administrator,

give him the title of risk manager, form a committee and give it the title of risk management committee," he urged. "A hospital risk manager should probably come out of the health care system."

The AHA recommends that the risk management director be a staff person, not a line manager, said Mr. Groves. "The risk manager has to work among department heads, moving back and forth and getting them to do what he wants. He should not be the one to implement that which he recommends."

Mr. Groves said his feelings on this subject result from the instances he has seen in which a hospital safety director—who was a line manager, but not very high

up the ladder—was put in charge of risk management. That person ended up not having enough authority to get anything done. But a staff risk manager reporting to an assistant administrator of the hospital at least can go to his superior, who has the authority to give orders when needed.

"We haven't yet figured out a good job description for a hospital risk manager," said Mr. Groves. "It's very difficult to say exactly what the risk manager does as part of his function. This is very localized and tailored to each hospital."

When Florida passed legislation two years ago requiring every hospital to have an in-house risk management program, he remarked, "every insurance agent in the state of Florida responded by running out and having new business cards printed up which showed him to be a hospital risk management specialist."

There were probably 300 to 400

"instant" experts, he warned administrators, "but the problem was that there weren't more than a handful of qualified risk management consultants available."

The upshot of this was that a lot of hospitals were incorrectly directed by these instant specialists to concentrate on the area of claims handling, only one of the areas where better risk management was needed.

Compounding the shortage of risk managers is a new law in Virginia that hospitals must show evidence of a risk management program by January 1978 before licenses are approved or renewed.

A federal hospital regulatory body (the Bureau of Health Insurance) also now says it will define risk management standards to be incorporated into the Medicare reimbursement rules, said Mr. Groves. Confusing the situation still more will be the Joint Accreditation of Hospitals (JCAH) statement on risk management. ■

Selling old equipment can backfire

CHICAGO — Hospitals thrust themselves into the mainstream of the product liability problem whenever they sell their used equipment to other hospitals, a common practice in the health care industry.

"And if you thought the malpractice problem was bad, wait until you get caught in the product liability problem," warns James L. Groves.

He strongly recommended that hospitals not put themselves in the position of becoming part of the stream of commerce, which occurs when they sell an old or used machine to another institution. "I would suggest that hospitals junk their equipment when they're ready to get rid of it. This suggestion will probably give your financial executives a stroke when they hear it, but the product liability risk is one you should avoid" when possible, the American Hospital Assn. risk manager said.

Another problem facing hospital risk managers that is particularly in need of attention is the anesthesiology audit. "There must be periodic reviews of the medical staff by a risk management committee," said Mr. Groves, "since hospitals seem to have a major problem in this area."

He noted that his conversations with hospital administrators around the country in recent months have convinced him anesthesiology is a hotbed of potential claims problems. In the wake of several major legal cases involving crossed gas lines in surgery and emergency rooms, Mr. Groves said he has heard administrators comment that they, too, have had problems similar to those in which costly suits were filed. ■

New office

The Continental Insurance Cos. has opened an international branch office in the company's Toronto office. The international section will be under the direction of John C. W. Thompson.

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Bank eyes captive for hospitals with self-insured trust funds

CHICAGO—First National Bank of Chicago is moving in an unprecedented direction with a plan to establish an offshore insurance company for its hospital trust clients.

The insurance company would be owned by the individual trusts and would underwrite excess liability insurance for the hospitals, *Business Insurance* learned.

Such a captive for a select group of bank trust department clients has not previously been tried.

Earle G. Miller Jr., from First Chicago's trust department, disclosed at a seminar on medical malpractice sponsored jointly with Wyatt Co. that "we are exploring the possibility of providing direct access to excess coverage" for hos-

pitals whose self-insurance trust funds are placed with the bank.

Mr. Miller told the hospital administrators in his audience that the bank as trustee could "be helpful in providing and arranging excess coverage for the trust."

He later told *Business Insurance* that the bank has held discussions with J. H. Blades & Co. of Houston about the possibility that it would act as exclusive underwriter for the excess coverage needed by hospitals whose self-insured trust funds are with the bank.

Currently, said Mr. Miller, First Chicago doesn't have any hospital self-insurance funds for which it acts as trustee and investment manager, although the bank is aggressively seeking his business.

The idea of an offshore insurance company owned by the bank's clients, however, is an alternative and all indications are that the group-owned captive will proceed quickly in the coming months.

Mr. Miller fully expects to have the captive established and underwriting coverage for at least some of these hospitals by Jan. 1, he said.

The captive would be a stock company, whose shares would be purchased with hospital trust funds administered and invested by the bank.

Six hospitals and two hospital groups are currently negotiating seriously with First Chicago to implement this program, Mr. Miller

said, representing potential premium flow of \$6.5 million to \$7.5 million for excess coverage in the first year.

During his presentation, Mr. Miller said hospital self-insurance trust funds would necessarily be invested differently from pension funds, with "substantially less" money in common stocks and a portfolio balanced at about one-third stocks, one-third bonds and one-third short term cash equivalents.

The discussions of the captive involve possible attachment points for the excess coverage of \$3 million or \$5 million, with limits extending possibly as high as \$18 million or \$20 million.

The hospitals in the group represent 4,000 beds and are based in the Midwest and Southwest.

No management company for the captive has yet been chosen, Mr. Miller said, adding that the place of domicile is also yet to be determined.

Use the top excess firms, broker warns

CHICAGO—"If you get involved with excess insurance companies that are new in the business, watch out for what we call the 'fast-buck operators,'" Robert P. Quinn of J. H. Blades & Co. warned hospital administrators at a malpractice seminar here.

Organizations seeking excess coverage should check into the track record and financial stability of the carrier they intend to use, said Mr. Quinn. He noted that there are about 25 "reputable" excess insurance underwriters in the markets both here and abroad.

Among them he listed 13 including INA, American International Group, Hartford Insurance Group, Employers Reinsurance Co., American Reinsurance Co., Bercanus, Lloyd's of London, Chubb & Son, Interstate, the British insurance companies, Aetna Life & Casualty, General Re and Northeastern.

He advised hospital administrators to take care in filling out their application forms for excess coverage honestly and completely and to make sure every pertinent detail is complete. "We bounce back about six out of every 10 applications because they're not filled out properly," he said.

Among the things he scrutinizes when assessing a hospital's risks for underwriting and rating, he said, are contractual agreements and hold harmless clauses in contracts; outpatient clinics; leased concessions; product liability exposure in hospital restaurants; exposure to personal injury lawsuits; the additional liability exposures for non-profit hospitals; fund raising events; any loss or claims studies done for the hospital fire inspection reports and safety reports; internal security; record keeping systems; informed consent forms and their use; progress notes on patient cases; the effectiveness of the risk management committee, and the presence of a hospital public relations program.

"A good public relations program makes the risk more attractive," said Mr. Quinn. "Good PR pays off. I think hospitals do a lousy job as a general rule" of informing the public about their community concerns and making themselves part of community activities.

ISO creates research dept.

NEW YORK — The Insurance Services Office named Emilio C. Venezian to head its new research department. The ISO said the research department is designed to provide sophisticated long-range research.

Mr. Venezian spent the last 16 years with the Arthur D. Little Inc. consulting firm in Cambridge, Mass. Most of his work has been devoted to the formulation of corporate and public policy in the insurance and health care fields.

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Consultants are not the answer, says UC aide

CHICAGO—Any hospital that tries to delegate its risk management responsibilities to "one of the many risk management consultants now floating around" won't be any better off than before the professional liability crisis.

These are the tough words of Mark D. Olson, director of medical-legal affairs for the University of Chicago hospitals and clinics.

An internal self-insurance program alone won't help, Mr. Olson told his audience of hospital administrators and finance directors at a two-day medical malpractice seminar here, sponsored by First National Bank of Chicago and Wyatt Co.

The risk management program, coupled with a reliable incident reporting system, must be developed and managed internally by the hospital, he said.

"You simply must understand the risk management problem yourself," he said, cautioning hospital officials not to delegate the tasks to outside consultants.

"I've never really understood," he continued, "why administrators are reluctant to fund an internal risk management and claims management function" with the \$10,000 or \$25,000 that's necessary. "There's no reluctance to hire consultant upon consultant upon consultant to come in and tell you about what needs to be done."

He also called on hospital executives to use the effective legal weapon of a tough defense against malpractice lawsuits. "Too often we are the victims of economic settlements. Some cases should be defended vehemently and shouldn't even be settled for peanuts, even if

'I've always said the contingency fee system is one of the best things our legal system has.'

—Mark D. Olson,
University of Chicago

it is cheaper to settle" than it is to try the case, said Mr. Olson, a lawyer himself. By settling, he added, "you are only rewarding inappropriate behavior."

A tough stance on defending all claims, he contended, "will discourage claims."

He pointed out to hospitals that many cases only involve errors and

errors aren't usually legally compensable.

Hospitals with self-insurance funds become even more aware of the importance of defending themselves against claims, he said. "Every payment made out of that self-insurance fund of yours becomes an incentive" for plaintiffs' lawyers to come back for more, he believes.

Although some people think the contingency fee system is a negative part of our legal system, it also has its positive aspect, said Mr. Olson. "I've always said that the contingency fee is one of the best things our legal system has. A good defense means the plaintiffs' attorney doesn't get paid and there's nothing more discouraging to a lawyer than not getting paid for his work."

Since November 1975, he said, the University of Chicago has been fully self-insured for professional liability, with no excess coverage. Because nearly all of the doctors practicing at the U of C hospitals are employees of the university, however, the institution has somewhat greater control over procedures followed in problem cases, Mr. Olson acknowledged.

In the last three years, Mr. Olson has closed 58 or 60 cases, he said, only three of which involved substantial payments. Over half of the others were closed without any payment at all, with the remainder closed for modest payments.

Among the lessons that Mr. Olson said he has learned with U of C's claims management program is that the person responsible for managing the incident reporting system must have the authority to disseminate information to all appropriate departments of the hospital, especially the finance and billing department.

"The billing mechanism may trigger a malpractice claim," he noted, if a bill is sent to an already-disgruntled patient after there's been an accident or incident in the hospital which complicated treatment.

In many cases, a patient's complaint toward the hospital can be mollified by a simple bill adjustment or by removing any extra charges necessitated by the accident.

The billing department can compound a problem, but often the billing department doesn't even know there's been a problem or that it's a potential malpractice case, he said.

Hospital administrators, regrettably, often don't even know what's going on in their hospitals in terms of incidents, accidents and quality of care, said Mr. Olson. He blamed this on the load of paperwork administrators get bogged down in. ■

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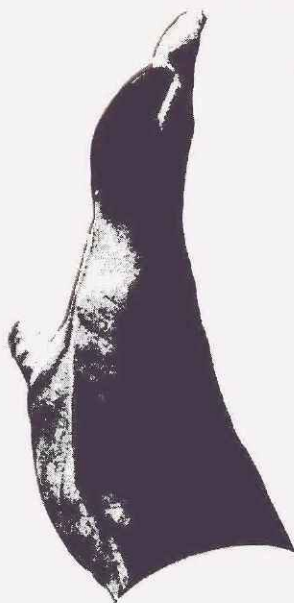
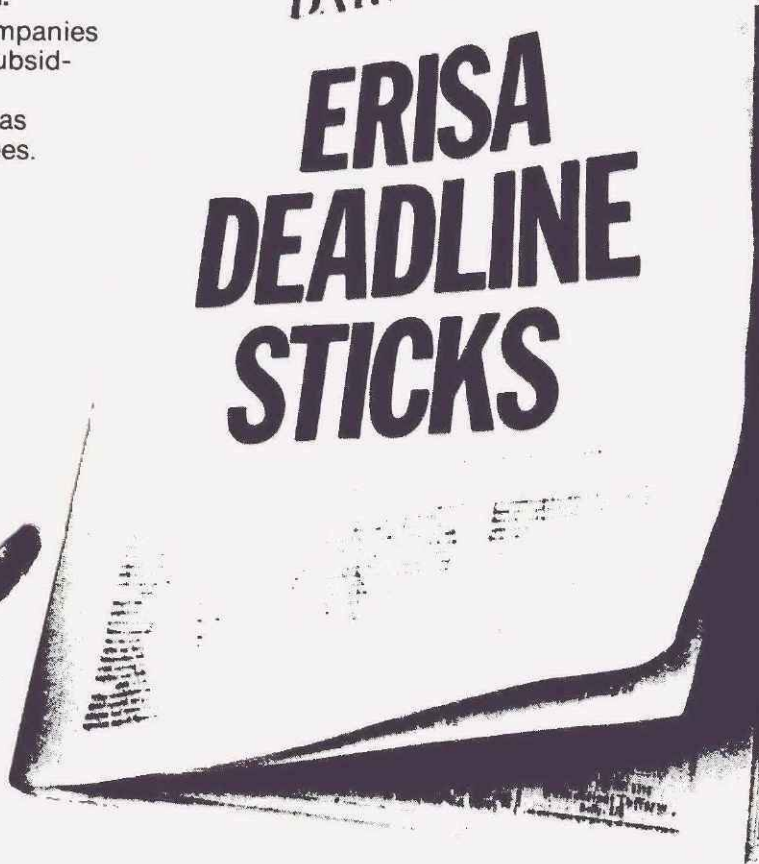
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Spotlight on benefits

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 on how employee benefit consulting firms work.

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

Size doesn't seem to matter

3 hospitals find self-insurance move smooth

CHICAGO—Three major hospital operators who've gone self-insured have made the transition relatively smoothly, their administrators said here.

Riverside Hospital in Columbus, Ohio, went self-insured several years ago when a radiation therapy "crisis" problem arose and "closed all insurance markets to us," said Fred Smithwick Jr.

The hospital, with more than 1,000 beds and teaching programs, had already seen its premiums climb 800% to 900% and was in the process of doing a study that eventually would lead to self-insurance.

Riverside found that premiums would run over \$1 million for coverage from the state malpractice pool with low limits considered inadequate. Thus, said Mr. Smithwick, the hospital began paying about \$1 million a year into its own self-insurance fund.

At the same time, the institution began searching for an actuarial consultant to determine how much should actually be paid into the fund. "It took us about three weeks to find Wyatt Co." in Chicago, he said.

Considering "our size, we embarked on a national search for a full-time risk manager, who we eventually found only about 200 miles from home, but this was after three months of looking and several thousand dollars spent. At the end of that time, we had received 200 resumes. Only four applicants were qualified out of that group," said Mr. Smithwick.

He was able to hire his top candidate, Steve Salman, from Health & Hospital Corp. of Marion County, Ind. The hospital is extremely pleased with the new risk manager's performance after four or five months, Mr. Smithwick added.

Riverside had no problem with the effect of its self-insurance plan on its bond indentures because the hospital's insurance broker had included the right language in the agreements several years before. "This makes a good case for getting your broker involved in your operations," he said. The agreements provided that in the event insurance should become too costly, self-insurance of hospital risks would be permissible at the hospital's option, said Mr. Smithwick.

The future of claims for Riverside looks promising, said Mr. Smithwick, noting that two malpractice cases had been closed in the past 15 days and neither one requiring any payment.

James E. Waterkotte, administrator for a small, 300-bed hospital in western Illinois, has two particularly vulnerable exposures to liability: renal dialysis and cobalt therapy treatments.

"We are now going bare on the first \$1 million in losses, using a self-insurance trust for \$4 million in losses over that," said Mr. Waterkotte of Blessing Hospital. "We have acquired comprehensive general liability and auto liability coverage in the regular markets, so we are only self-insured for professional liability."

It was only when Blessing's \$180,000 annual premium for this package three years ago jumped to \$687,000 the day before renewal that self-insurance was studied as the answer. That premium was for \$1 million per occurrence and \$9 million aggregate coverage.

Because the hospital treats many Medicare patients, it is on a 50% cost reimbursement basis. "Therefore, we had to make sure that our self-insurance was cost reim-

bursable. Our plan has been approved by Blue Cross of Chicago (the intermediary)," said Mr. Waterkotte.

Blessing's losses over a five-year period prior to going self-insured were very low, he added.

Blue Cross allowed Blessing Hospital to get full reimbursement of the funding done prior to Wyatt Co.'s actuarial determination of the proper annual funding level.

The Sisters of Charity of Houston operate 14 hospitals in six states, with a total of about 4,300 beds, said Carrol Aulbaugh. The religious order's 1972 program of insurance, lasting for three years, included coverage for \$50,000 per occurrence and \$300,000 aggregate.

The hospital group had already

established a trust fund to fund the deductibles under the insured plan, so when Argonaut declined to renew, the fund was all ready to go, he said. But the Sisters of Charity didn't particularly want to be self-insured and tried desperately to secure insurance until October 1976 with no success.

"Then we surveyed the market," said Mr. Aulbaugh, to determine the proper funding level, and found it to be about \$1,200 per bed, putting that amount into the self-insurance trust.

But from July 1975 to October 1976 the hospitals went bare, according to Gerald Fuhrman, also with the Sisters of Charity in Houston. After a long search, the

order found a broker who understood the hospital's problem and the markets for insurance.

"The key was to find a lead underwriter on the front end" of the excess insurance program, said Mr. Fuhrman. Employers Reinsurance underwrote the front end layer of \$5 million excess of the group's retention "and the rest of the markets fell into line" in October 1976, providing six layers of coverage up to \$25 million.

The Sisters of Charity of Houston have an \$8 million retention, both for single losses and aggregate. The hospitals are paying \$1.3 million for \$17 million worth of excess coverage over the retention, Mr. Fuhrman said.

"We are now in the process of

renewing and we are keeping the annual aggregate at \$8 million but we're bringing the single loss retention down to \$5 million and co-insuring a middle layer of \$6 million, taking 50% of losses in that layer over the \$5 million per occurrence retention and over the \$8 million aggregate," he revealed. The premium will fall to \$835,000, Mr. Fuhrman said.

For claims administration, the Sisters of Charity chose Aetna Life & Casualty's new claims servicing division for self-insureds, having had experience with Aetna on workers' compensation. The hospitals also contracted with Corporate Systems Corp. in Amarillo, Tex., for claims and incident reporting and analysis.

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State regulation . . .

Continued from page 1

appeals court supporting Mr. Dawson's contention that ERISA preempted the New Hampshire law. ERIC, representing 80 of the nation's largest corporations, has been in the forefront of those arguing that conflicting state benefit rules impose unwarranted costs and are prohibited by ERISA.

Other cases on the preemption question are also winding their way through the federal courts. A district court has ruled California's Knox-Keene law regulating all health insurance organizations not covered by the insurance code is preempted by ERISA. The case is now before an appeals court.

Hawaii's prepaid health care law, which establishes minimum benefits and may be a model for

national health insurance, is pending before a district court.

The appeals court, in upholding a lower court decision in favor of the New Hampshire law, drew a distinction between direct regulation of employe benefit plans, which is preempted by ERISA, and indirect regulation, which it found is not preempted by ERISA.

Court's ruling

To argue that ERISA prohibits state regulation of insurance contracts because they affect employe benefit plans, wrote the three-judge panel, "would nullify all state insurance laws concerning group insurance when the group policy is issued to an employe benefit plan.

"We do not find . . . that Con-

gress meant to so restrict a state's authority to regulate insurance," the court continued.

"It certainly supports a narrow preemption for insured plans and a broad preemption for self-insured plans," said one insurance lawyer working in the preemption area. "One problem that may result will be a real dichotomy between insured and self-insured plans that didn't exist before."

Mr. Pantos argued that there is not a strong distinction between direct and indirect regulation of employe benefit programs. "We think that mandated benefits is direct regulation," he said.

Mr. Pantos observed that the court notes the problem that varying state benefit rules create for multi-state employers "but never answers it." The Council of Employee Benefits estimates varying state regulations cost its members more than \$200 million

a year.

The court, however, appears willing to extend ERISA's protection from state regulation to employers' or union plans that use either administrative services only or retrospectively rated insurance plans. Taking a broad view of what constitutes self-insurance, the court said the union funds "for all practical purposes are self-insurers . . . since the funds reimburse the insurance company for all claims."

Labor Department

One expert called the court's analysis of what is insurance and what is self-insurance "a gross misunderstanding."

The Labor Department was asked to intervene in the New Hampshire case by Mr. Dawson and ERIC, according to a Labor attorney in the solicitor's office. The department has previously

issued opinions saying California's Knox-Keene law and the Hawaii prepaid health act are preempted by ERISA.

But in an Aug. 11 letter to ERIC, undersecretary of Labor Robert Brown said the department would not intervene since it agreed with the lower court ruling upholding the law.

"It is the solicitor's opinion that unlike the Knox-Keene act in California or the Hawaii prepaid health care act, both of which we have viewed as preempted, the New Hampshire statute does not regulate employe benefits plans directly and therefore is not preempted," Mr. Brown wrote.

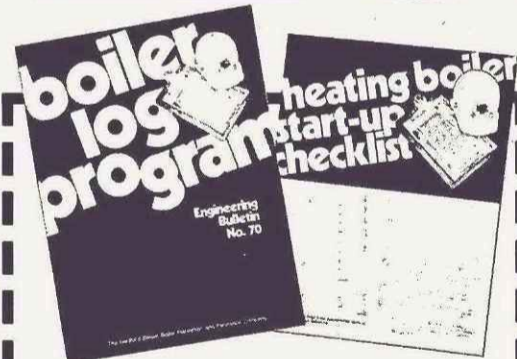
Mr. Pantos said ERIC may raise the preemption issue during Senate oversight hearings on ERISA in mid-October. "As a general policy, we still feel strongly that there should be no whittling down of the preemption provision of ERISA," he said.

Pending legislation in Congress to require disability pay for pregnant women may also become involved in the preemption issue, several sources told *Business Insurance*. The measure passed by the Senate does not preempt state law as long as state regulations are not in conflict with the federal law.

Thus a state could impose its own standards on disability plans or benefits for maternity care as long as those standards went beyond the floor requirements in the federal law.

But an effort is expected in the House to amend the law, preempting any state laws on pregnancy as a disability. Both ERIC and the powerful American Council of Life Insurance favor that amendment. ■

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New trusts a concern to Williams

WASHINGTON—One of the principal authors of the Employee Retirement Income Security Act has expressed concern at emergence of self-funded multiple employer trusts.

Sen. Harrison Williams (D-N.J.) said that he hopes the U.S. Labor Department will be "successful in drawing some lines concerning the differences between employe benefit plans intended to be covered by ERISA and protected from conflicting or multiple state regulation . . . and schemes that are designed to look like employe benefit plans but are really risk pooling arrangements seeking to avoid state insurance laws."

The senator said, however, that he would give "careful consideration" to legislation to exclude the self-funded trusts from ERISA if the Labor Department and the courts are unable to resolve the problem.

Sen. Jacob Javits (R-N.Y.), another major sponsor of ERISA, has expressed similar views.

Meanwhile, Illinois issued cease and desist orders against three trusts soliciting in that state. The trusts, subjects of previous *Business Insurance* stories, are Continental Employe Benefit Plan of Lakewood, Colo., Employee Security Benefit Assn. of Bellevue, Wash., and United Health & Retirement Assn. of Oklahoma City.

Insurance director Richard Mathias said the three trusts agreed to the cease and desist order.

Earlier in September, Georgia issued a cease and desist order against Policyholders Group Trust. Florida issued cease and desist orders against 13 trusts. ■

High deductibles . . .

Continued from page 1

and more employers who are finding fully insured plans too expensive are turning to high deductibles. Midwest regional group manager George Lyon said records were set last year for the product and this year is running at the same pace. Business would be better if it weren't for competition developing and the impact of inflation on rates, he noted.

More marketing

Next year Phoenix Mutual plans to better market the product and improve its services to the employer who is new to the claim paying function, Mr. Lyon said.

"My impression is that use of this program is increasingly widespread," said Robert Burmeister, vp of employe benefits at Martin Boyer Co. in Chicago. He suggested the program is appropriate for groups of 50 to 250. The Guardian sets its sights for groups of 50 to 100 and up and as Phoenix Mutual will write a plan for as few as two persons.

"With the cost of group health insurance increasing so substantially, employers are looking for ways to get involved in claims disposition," Mr. Burmeister suggested. Since most claims are in the \$500 to \$1,000 range, he said, some cash flow is generated too.

The premium for major medical coverage over an employer assumed deductible of \$500 and up is "substantially less than for first dollar coverage," the vp noted. A third-party claims administrator charges less than the insurance company retention, he added.

Martin Boyer, one of the largest Midwest third-party administrators, has eight or 10 clients with such a program. "The oldest is three years old and we haven't lost any," Mr. Burmeister said. "They appear to be satisfied."

Some doubts

The program is not without its critics.

"We see it occasionally, but we don't offer it on a standard basis," Prudential vp George W. Lett of group insurance for the Mid-America region said.

"There are some problems, specifically in the consistency of cost to the employer. His cash flow will gyrate widely," he suggested. "We don't find it to be that advantageous to the employer on the bottom line," he concluded.

A medium-sized Chicago law firm covering 80 to 100 persons under such a plan for three years recently changed back to a lower deductible program.

The firm had originally adopted the high deductible plan because "premiums were going out of sight" for its fully insured plan, a partner said. A \$50 to \$200 deductible was chosen for each employe depending on status and the firm assumed the balance up to \$1,000.

"The attractiveness of the program was in the tax advantage," said the partner. But after three years, with the major medical premiums going up, it appeared the overall cost would have been the same as with a fully insured plan, he explained.

"But only three years of experience is not enough time to decide if the self-insured trust and tax advantage would be good enough to make it better," he offered.

Guardian has found few of its policyholders opt to establish a formal 501(c) (9) trust since

their payments for covered benefits within the retention are tax deductible anyway.

A recurring criticism of the high deductible plan is that its premium is going up as fast as for a fully insured plan. Phoenix Mutual's Mr. Lyon admitted the premium increases have been proportionally about the same as for insured plans, but he maintained the premium is still lower than for full insurance.

Although larger plans are independently rated, Phoenix Mutual uses book rates for groups of two to nine persons. The single rate is \$22.80 per month over a \$500 deductible and the family rate is \$60.30.

Guardian group vp William W. Mauke said, "We just underpriced it in the beginning." He explained the problem was the "leverage factor," that is, increases in health care costs affect primarily the insurer and not the insured.

Stop loss coverage

A procedure that cost \$2,000 last year was picked up by the employer and employe under the \$2,000 deductible. But if this year the same procedure costs \$2,400, the insurer, not the employer, gets hit with the full inflationary impact.

As an alternative to increasing the premium, Guardian automatically offers the policyholder the option of increasing his deductible.

For the employer looking at 100 lives with a \$1,000 per person deductible, \$100,000 of liability may seem frightening. Employers Reinsurance Corp. of Kansas City said it has responded to market demand for stop loss coverage with its "self-insured deductible excess" reinsurance.

Employers Re will stop an employer's losses anywhere from a third of his total liability on up, depending on the richness of the benefits. For example, if a semi-private hospital room is fully covered by the plan, Employers Re won't come in until 42% of the total liability has been paid out.

The premium is 2% of the major medical insurance deductible

per employe. The reinsurer began writing the coverage two years ago and has four times the business now that it had a year ago. "There's a tremendous demand," said a second vp Roy O. Darby.

Employers Re also requires the employer meet certain conditions for the coverage, among them that the claims are administered by a "qualified" third-party administrator. Coordination of benefits is a major concern to the reinsurer.

Estimating liability

The employe must participate in the cost of health care, either through a deductible or co-insurance, for Employers Re to quote on the stop loss reinsurance. "The philosophy of utilization deterrence is destroyed without employe participation in the cost," Mr. Darby explained.

Employers Re stop loss on a partial self-insured program isn't necessary for the "high income business," Mr. Darby agreed. But the small business, with less income to rely on during a bad year, finds it more attractive, he observed. "It depends on the financial capability of the group," he explained.

Guardian's Mr. Mauke isn't convinced stop loss for the partially self-insured is necessary. "Realistically speaking, the employer's liability is 25% to 33% of his total liability," Mr. Mauke said. "We think you don't need it. The computer printout (a monthly experience report provided by Guardian) is the best protection. If the employer thinks it's getting out of hand, we'll change the plan," he explained.

The employer's liability is also reduced to the extent employes share in the major medical deductible. A higher than customary employe deductible is often adopted with these plans as well as coinsurance at 20% of the employer's deductible.

Benefits are generally competitive with fully insured plans, the experts say. Though pregnancy coverage has routinely been excluded, it is available. The Guardian, for instance, offers a standard medical reimbursement plan with a blank page to be filled in with the chosen employe deductible, benefit pay-

ment schedule and other tailor-made provisions.

Corporate Policyholders Council consultant Mel Banks suggested the concept of high deductible plans "is basically good for the smaller employer who isn't experience rated, with 100 to 150 employes and good experience. . . . It's a good alternative to fully self-insuring which generally requires \$750,000 in annual premiums."

The Chicago consultant cautioned, though, that "it has to be weighed heavily against the existing product."

Both Guardian and Phoenix Mutual, who introduced their

high deductible programs in the early 1970s, claim to have pioneered the product. They do take different approaches to it.

Mr. Mauke said Guardian first marketed its Guard-M plan (self-insured medical reimbursement with administrative services, covered by a major medical policy) in San Francisco in 1970-71. Now some of its West and Pacific Northwest offices sell it almost exclusively. Mr. Mauke assumes the product is most attractive to employers there because health care costs in that region of the country have out climbed those elsewhere.

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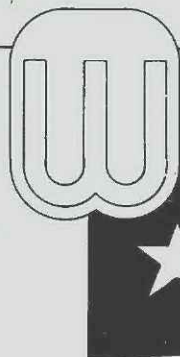
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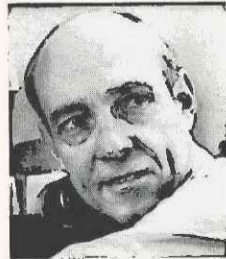
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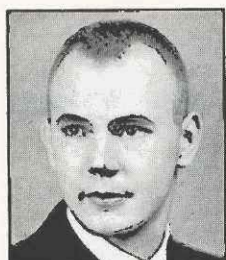
Barbara Philbeck



Paul Sanchez



John M. Shores, Jr.



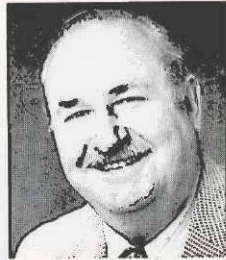
Robert Sjogren



Judith Starkey



Donald Ward



Ron Weakley



William W. Wimpisinger



Herbert Zeltner

business insurance

EMPLOYEE BENEFIT COMMUNICATIONS CONFERENCE

November 7-8, 1977
Continental Plaza Hotel,
Chicago

Monday, November 7

8:00 am-9:00 am—Registration. Pick up your Conference materials and get ready for two days of fast-paced, information-filled, stimulating conference sessions. Each day's eye-opening sessions begin promptly at 9:00 am.

9:00 am—Welcome. Alfred Malecki, Publisher, Business Insurance and Susan Alt, Editor, outline the purpose behind this first-of-its-kind Conference and tell you what you can expect over the next two days.

9:10 am—Good Communications = Personnel Profit. Lee A. Carlson, Manager, Salaried Benefits and Policies, The Bendix Corp., tells why good benefit communications is good business; the many ways employers gain from having a good communications posture; and the dangers of undercommunicating. Is there such a thing as overkill?

10:00 am—ERISA Headache #1: How To Cope. Barbara Philbeck, Communications Consultant and Richard Cromer, Partner and Consultant, Hewitt Associates, show you how many companies are meeting and exceeding ERISA's requirements for summary plan descriptions and summary annual reports. Sparkling visuals and incisive comments give you insight into effective ways of meeting your communications obligations.

11:00 am—You Be The Judge: I. Herb Zeltner, President, Herbert Zeltner Marketing & Communications, shows you several corporate audio-visual benefit communications programs,

analyzing how they meet basic requirements, and asking you to rate their communications effectiveness. He gives you his ratings based on their effectiveness in meeting professional communications criteria. Match wits with the expert.

12:30 pm—Luncheon.
2:00 pm—Overview: Outstanding Communications Programs. A panel of corporate employe benefits managers highlights all elements of their own programs—the media utilized, how changes and updates are made, and how they apportion their funds. Each has been a winner or a judge in the Business Insurance Employe Benefits Communications Contest.

Panel members are: Susan E. Forster, Manager, Welfare Plans, Mead Corp.; Joseph W. Duva, Director, Employe Benefits and Compensation, SCM Corp.; Judith Starkey, Personnel Specialist, Chemetron Corp.; and Dennis A. Kairis, Director, Employe Benefits, Borden Inc.

3:20 pm—Flipside: What Employes Think. William W. Wimpisinger, International President, International Association of Machinists, and James H. Mayes, Director of Publications, Standard Oil of Indiana, tell you what employes really think of benefit communications—what employers do right, what they do wrong and how, in the employes' view, benefit communications could be made clearer and more effective.

4:00 pm—You Be The Judge: II. Herb Zeltner puts you on the judge's bench once more as together you review and evaluate several corporate audio-visual benefit communications programs. See

how close you come this time to matching the expert's ratings.

5:30 pm—Reception. Take a well-earned break to chat informally with your fellow Conference participants.

6:30 pm—Dinner.

7:30 pm—Aftermath: Moving Beyond Legal Requirements. Larry Ewing, Partner and Consultant, Hewitt Associates, discusses how we move on now that the legal requirements have been taken care of—how to meet the demands created by employes' new awareness; how to better organize materials; areas which are the communication specialist's rather than the lawyer's, and how to put more emphasis on what people *want* to know rather than on what they *have* to know.

Tuesday, November 8

9:00 am—Big Brother: Friend Or Foe? Ron Weakley, Director of Communications and Public Service, Pension & Welfare Benefit Programs, U.S. Department of Labor, tells you what the government expects of benefit communications programs. Here is your chance to see how the regulator is doing to meet the objectives he sets for you—ask the "hot" questions you want answered.

10:00 am—Choosing a Consultant: A Marriage Made In Heaven Or... This expert panel moderated by Joseph W. Duva, Director, Employe Benefits and Compensation, SCM Corp., examines the many ingredients needed to arrive at choosing the right consultant—whether you need a small firm or a

large one, and how to evaluate whether they can transport you to the heights of communications effectiveness they claim. Panel members are: John M. Shores, Jr., Director of Personnel and Purchasing, Birmingham News Co. and Robert Sjogren, Manager, Benefits Development, Xerox Corp.

11:00 am—Doing The Job Without Breaking The Bank. Eugenie Bodenhoff, Director, Benefit Planning, Hunt-Wesson Foods, Inc., shows you how to set a benefit communications budget, outlining typical ways funds can be allocated to achieve maximum effectiveness at minimum cost. You get many money-saving, time saving ideas.

12:00 noon—Luncheon.
1:15 pm—Evolution: Humanizing Your Communications. A panel of communications professionals discusses ways you can relate on a personal level with your employes' needs and desires for straightforward benefit information and communication understanding. Panel members are: John Mackenzie, President, Internal Communications Corp.; John Kearney, Jr., Vice President, Employe Communications, Kwasha Lipton Inc.; Paul Sanchez, Consultant, Towers, Perrin, Forster & Crosby Inc.; and Donald Ward, Director, Employe Benefits, Medtronic Inc.

2:15 pm—You Be The Judge: III. Herb Zeltner gives you your last opportunity to match your benefit communications judgment against his. See how you've sharpened your perception of effective communications as your review these last several examples of corporate audio-visual programs.

4:00 pm—Adjournment.

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Please enroll me in the Business Insurance Employee Benefit Communications Conference. I understand that the Conference fee is \$285 if received by October 26, 1977; the fee increases to \$320 after that date. (Additional registrants from the same company earn a 10% discount off these rates.)

Registration fee includes admittance to all scheduled Conference sessions and functions, resource materials including a workbook, planned meals and cocktail reception. (Hotel accommodations and travel

arrangements are not included and must be made separately. Registrants automatically receive hotel reservation forms with their conference confirmation.)

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High deductibles . . .

Continued from page 55

Guardian has found an employer's first reaction to paying claims under a high deductible is, "I don't want to be in the insurance business," Mr. Mauke observed. The Guardian agrees, he said, and couples its administrative services to the program. Employers or third-party administrators are not permitted to handle claims.

Guard-M provides the administration and claim review for the medical reimbursement plan. It won't pay the claims, but it reviews them and recommends to the employer the payment to be made.

Each month the employer receives a monthly summary of benefits paid. A recommendation for funds to be held for incurred claims is also made.

Administrative services fees are based on the number of employees, with the cost decreased after the first year. For example, a group of 100 to 200 is charged \$1.85 per month per employee the first year and 90 cents in later years. Claims review charges are 6% of the amount recommended for payment.

Cost containment

Mr. Mauke is most enthusiastic about the program's potential for containing health care costs. He can remember when health insurance covered a maximum hospital cost per day of \$12—just 24 years ago.

Guardian recommends an employer institute a high employee-paid deductible, perhaps \$200 to \$500, depending on salary.

Though when employers first hear of it they often say they fear mutiny, many come around in later years, Mr. Mauke said.

Limiting the coverage for hospital care instead of covering an open-ended cost of a semi-private room is also recommended by the Guardian. The employer can then annually decide if he wants to increase coverage for a day in the hospital rather than immediately being charged a premium for rising hospital care costs.

Adopting a surgical schedule instead of covering reasonable and customary charges is recommended by the Guardian too.

Guardian began writing high deductibles at \$1,000. Now, Mr. Mauke said, \$2,000 is becoming the norm. Guardian's deductible is per covered person for each cause. Above the deductible, Guardian picks up the full tab. "We were the first to come out with 100% major medical cov-

erage," Mr. Mauke said, as well as a conversion feature.

Phoenix Mutual writes its major medical plan over an all-cause annual deductible of generally \$500. It's also writing more programs with a \$1,000 deductible, Midwest manager Mr. Lyon observed.

The Phoenix Mutual plan differs from Guardian's in that major medical coverage comes in at 80% after the deductible for the next \$2,000 before picking up the full tab for covered expenses. Phoenix Mutual also allows its policyholders to administer claims within the deductible themselves.

Considering the expanded use of high deductibles, Mr. Mauke said, "It's coming around. Competitors (offering full insurance) make it difficult.

"The industry still hasn't got the message that it's doing it wrong."

Twelve dollars a day? ■

. . . And for completely self-insureds

CHICAGO—Employers Reinsurance Corp. has written aggregate and specific excess reinsurance for employers self-insuring group health plans longer than it has offered stop loss for the partially self-insured.

It is one of the few reinsurers that will write the coverage without also underwriting the highly profitable life insurance for the group, said second vp Roy O. Darby. If you ask, Employers Re will certainly refer you to one of its three life insurance affiliates.

Mr. Darby outlined Employers Re programs for brokers, actuaries, consultants and insurers attending a company-sponsored seminar here recently. "This was for education, not solicitation," Mr. Darby stressed afterwards.

Employers Re generally writes aggregate excess for self-insurers at 125% of expected losses. If an employer expects annual losses to be \$400,000, with a 125% attachment Employers Re covers losses exceeding 500,000. The reinsurance is written for 50% of expected losses, generally at 90% reimbursement. In this example, the reinsurance would be for \$200,000 in excess of \$500,000 in losses.

Mr. Darby said no one has had losses exceeding the reinsurance limits.

Annual expected losses are calculated for the group on experience, taking into account inflation and utilization rates. The composite funding rate is typically \$40 to \$100 per employee per month, with or without dependents, Mr. Darby said.

Since the annual expected loss varies with the number of employees, Employers Re doesn't make any aggregate reinsurance payment until the end of the year. Ninety percent of the reinsurance is written on a claims-paid basis as compared with an incurred-loss basis.

An attachment of 125% to 135% of expected losses is reserved for those with good claims experience. The attachment point can be as high as 200% of expected losses depending on the group's experience and the risk manager's preference.

The annual premium can range up to 3% of expected losses at a 125% attachment, Mr. Darby said.

Employers Re views the market for aggregate excess as an employer self-insuring health benefits for 300 to 2,000 lives with expected losses ranging from \$100,000 to \$2 million. An employer with expected losses exceeding \$2 million annually will often need to buy only specific excess reinsurance, Mr. Darby observed.

Under this arrangement the employer retains, for example, the first \$15,000 of loss on each cause. Generally the specific excess will pay at 90% up to \$50,000 and full coverage is available from \$50,000 to \$1 million.

If an employer buys both specific and aggregate excess, which sometimes is desired, the retention under the specific policy is applied to the aggregate when a loss occurs.

Employers Re requires policyholders to report changes of 15% or more in the number of employees. In such cases, the contract can be renegotiated.

The reinsurer is also opposed to an employer changing benefits drastically. Since the excess reinsurance is experience rated, drastic changes in benefits can render the experience invalid for rating purposes.

As with other excess insurers writing over a self-insured program on other lines, Employers Re is very concerned about who the third-party administrator is.

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DBCP liability . . .

Continued from page 1

Occidental workers against plants that manufactured the chemical.

The Occidental plant only blended the chemical with other materials to make pesticides. About 75 plants in the U.S. have been buying and blending the chemical. The major producers of the chemical itself who can be sued as a third party are Shell Chemical Corp. plants in Mobile, Ala., and Denver, Colo., and a Dow plant in Magnolia, Ark.

Although warnings about use of the chemical were issued as early as 1961, the government or the chemical plants did not restrict the chemical's use sharply until just recently.

The restrictions came only after Occidental workers discovered themselves that they were sterile. By comparing notes at lunchtime, the workers found out that none of their wives were having children. They brought it to the attention of union leaders who, with one sterile worker, persuaded the other workers to undergo fertility tests.

Following the discovery, production of DBCP was voluntarily stopped at both Dow and Shell. The discovery also prompted the Occupational Safety and Health Administration to issue temporary standards to DBCP exposure.

Eye and skin contact are prohibited under the standard. Employee exposure to DBCP must be limited 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.

A Federal investigation of the DBCP matter is focusing on protective measures taken in the manufacturing and processing plants.

Workers at a Dow plant in Magnolia, Ark., have said that they could smell the chemical and that they sometimes waded in an overflow of DBCP and water.

They also said they did not wear safety equipment when it was very hot. But they maintained they would have been more careful if they knew of the dangers.

Dow never told its workers about the chemical dangers even though the company knew of the 1961 study, which raised the issue of DBCP dangers. The 1961 study warned that the smell of DBCP in

tute for Occupational Safety and Health.

The number of workers affected at Dow and Shell plants has not been determined. These companies with the aid of NIOSH are still testing most workers by means of sperm counts, blood tests and physical examinations.

But at a Dow plant in Arkansas, 62 of 86 Dow employees have been found to have abnormally low or nonexistent sperm counts. At the company's Midland, Mich. plant, tests results of more than 200 workers have not been finalized. At a Shell plant in Denver six of nine workers were sterile or had abnormally low sperm counts.

"It's extremely premature to say how many claims will be filed," according to Tom Sinclair, a Dow spokesman. "We probably have a problem though," he added.

Mr. Sinclair said legal action is difficult to predict since the medical community still hasn't said what is a normal sperm count. ■

Construction insurance seminars are scheduled

NEW YORK—A seminar on reducing construction insurance costs while improving coverage will be offered in six cities by MCI Symposia Inc. The program is geared for persons responsible for insurance coverage and costs in the construction industry and covers topics ranging from automobile coverage, general liability workers' compensation and professional liability to builders risk, funding of risk programs, claims and loss assumption.

Dates and locations for the program are as follows: Oct. 25-26, Marriott on LBJ, Dallas; Nov. 2-3, Parker House, Boston, Nov. 16-17, O'Hare Hilton, Chicago; Nov. 29-30, Sonesta Beach, Key Biscayne, Fl.; Dec. 14-15, Hyatt Regency, San Francisco, and Jan. 23-14, Kahala

Hilton, Hawaii.

Fee for the symposiums are \$395 per person or \$345 per person for companies sending teams of three persons.

For registration and additional information write MCI Symposia Inc., 51 Bank St., Stamford, Conn. 06901. ■

New office

John H. Crowther Inc., an excess and surplus lines specialist, has opened a new office in Boise, Idaho. It is the firm's sixth location. Bill Fee has been named manager of the new office. Prior to his assignment, Mr. Fee has been serving as manager of the Crowther office in Bismarck, N.D., a position he has held since March 1976.

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Forced retirement . . .

Continued from page 1

reduce insurance coverage for older employees and eliminate disability for workers over 65.

How extensive the impact of allowing people to retire later will be is anyone's guess, however. The reason—early retirement has been in vogue for several years, with the trend becoming so predominant that in 1976 90% of new Social Security recipients did not receive full benefits because they took early retirement.

Impact of inflation

Yet, continuing inflation could reverse this trend, as people choose to work longer as a hedge against having to cope with rising prices while living on fixed income.

"To the extent that people take advantage of not having to retire immediately, (raising the mandatory retirement age) would lower the cost (of pension plans) because even though they'll be getting more years service and receiving possible raises, their benefit periods would be shorter," explained Robert D. Krinsky, senior vp and actuary with the Martin E. Segal Co.

It is cheaper to keep an executive on at \$100,000 a year than to retire him with a \$65,000 a year pension and hire a replacement for \$70,000 a year, added Harrison Givens, vp and actuary with Equitable's group pension department.

Larry Bader, vp and actuary at William M. Mercer Inc., noted that companies could experience even further savings if they chose not

to contribute additional pension funds for persons staying on beyond 65.

It would be a company's right to make such a decision, since the proposed mandatory retirement law does not conflict with provisions of the Employee Retirement Income Security Act.

The Senate bill does not require employers to credit years of service beyond the normal retirement age, adjust the size of payments at the time of employment, or pay benefits to retirees while they work beyond the normal retirement age, the Labor Department said in a letter to Sen. Harrison Williams.

Because a person becomes eligible for Medicare benefits at age 65, company health care plans would not face rising costs of having to insure older workers. Availability of Medicare for these workers means companies could provide less in actual benefits to them.

However, firms could choose to provide supplemental coverage for persons working beyond 65 at relatively high premiums, noted Mr. Bader. Many firms already do this for their retirees and for these companies there would be no additional costs, he explained.

Life, disability

Businesses face their greatest benefit cost problems in providing life and disability coverage for older employees. Risk increases with age in these areas and having workers over 65 will mean higher premiums.

"To the extent that life insurance

stays in force, there will be increased costs," said Mr. Krinsky of Martin Segal. But he added that companies do not have to provide for life insurance coverage after 65, and many start reducing benefits when an employee reaches 55.

Johnson & Higgins vp Bob Laible said it makes sense for companies to reduce life insurance coverage on older employees since the greatest need for this protection is when the employee's family is young.

Even greater than the life insurance exposure could be the risk associated with providing disability coverage for workers over 65. Mr. Laible said the risk on disability for persons over 65 is so great that carriers may not wish to write coverage for persons above this age.

Mr. Givens added that it might be more beneficial for companies to retire older workers who become disabled and put them on pension than to provide long-term disability.

While one can anticipate what benefit areas should realize savings or added costs due to workers staying on longer, predicting how large the savings or costs will be is much more difficult.

Mr. Carter noted companies would have to predict how many workers reaching 65 over a five-year period would be willing to stay on and then the firms would have to take into account mortality rates for ages 66 to 70.

The impact will differ from industry to industry. Many company benefit managers have yet to determine what impact it will have upon their firms and therefore were reluctant to discuss the subject until the full impact of the changes becomes known.

Implications

However, Vic Zink, director of employe benefits and services at General Motors, said Congress does not understand the full scope of the issue. GM employes retire at different ages, depending upon the physical strain of their jobs, he explained.

Therefore the company has several retirement plans and how the new law would affect them is uncertain. "We may not have to change them, but we will have to look at them," Zink said, urging that the law's implications be carefully studied now, "rather than after, as with ERISA."

Bill Knapp, a labor relations attorney with the U.S. Chamber of Commerce, a group opposed to raising the retirement age, added that while benefit plans may now choose not to cover a person past 65, with the new law, "I can't see where unions will let companies not pay contributions."

Rita Galgano, pension administrator with General Telephone & Electronics, favors the new law, explaining that it is better to deal with a national standard than with differing state regulations.

Ms. Galgano said the new law probably would have little impact upon the cost of benefit plans because of the preference for early retirement.

Yet, Blackburn H. Hazlehurst, principal actuary of Hazlehurst and Associates Inc., said even though a significant number of people retire early, raising the mandatory retirement age could induce some to stay on longer.

Sustained inflation could reverse the trend toward early retirement, because of the toll that rising costs take on people living on fixed incomes, Mr. Givens said. "When people regard inflation as a fact of life, it will change their retirement planning."

Cost of living adjustments built into pension plans could provide inflation protection for retirees, keeping early retirement as a viable alternative, Mr. Hazlehurst noted. ■

riskWatch

By GREG DAVID

Steve Schanes pokes his fingers all over the employe benefit pie

In the early 1970s, three key cabinet members met to decide the Nixon Administration position on pension reform legislation pending in Congress. That there would be reform was clear, but these three men—powerful John Connolly of Treasury, Maurice Stans of Commerce and James Hodgson of Labor—would have a lot to say about what the final bill contained.

Maurice Stans had one overriding goal at that meeting: If there was going to be pension reform, something had to be done for the millions of Americans not covered by a company-supported pension plan. Mr. Stans carefully maneuvered—in the subtle trading that characterizes those sorts of meetings—to win Labor support for his plan. He needed Mr. Hodgson to counter Treasury concern over the revenue loss.

Mr. Stans won, and that's one of the reasons we got 10-year vesting, termination insurance and individual retirement accounts as part of ERISA.



David

Mr. Stans' top assistant at that meeting, and in all the Commerce work on pension reform, was assistant secretary for policy Steven E. Schanes. In 1974 Steve Schanes was named the first director of the Pension Benefit Guaranty Corp. There, according to one former aide, "he really put his stamp on the PBGC as a people-oriented agency."

Now 53, Mr. Schanes heads his own five-person ERISA consulting firm based in San Diego: Schanes Associates. But that's just the beginning. Every time Congress considers amending ERISA, especially the vexing problem of dual jurisdiction, Steve Schanes grabs a flight to Washington to testify with the other members of the "old boy network" of Washington pension specialists.

He is also head of the Assn. of Private Pension and Welfare Plans committee that has drawn up a national health insurance scheme, is exploring the problems involving HMOs and examining health systems agencies. And he's deeply involved, more often behind the scenes, in trying to resolve the sticky problem of self-funded multiple employer trusts.

ERISA, national health insurance, HMOs, health systems agencies, self-funded multiple employer trusts—are there any other issues in employe benefits?

Employe benefits isn't the only thing Steve Schanes has done. For two years in the early '70s he was U.S. tuna commissioner. "What do you want to know about fish?" he joked when I told him I was writing this column. While at Commerce he drew up a plan to reorganize the government, which he presented to a meeting of the Nixon cabinet. He makes two cracks about that meeting. First, one of the ideas he dismissed was revenue sharing. So much for Schanes on reorganization. Second, he says he's got a picture of that meeting—"me and all those guys who went to jail."

But employe benefits is Steve Schanes' main arena. He's well-connected from his Washington days, so his views carry weight. And they are solicited. Once he had to cut short a telephone conversation because "the White House is calling." I was impressed; he said "it happens all the time."

The self-funded multiple employer trust controversy is a good example of how Mr. Schanes works. He was initiated into the mess when he was asked to try and save Hospital Welfare Assn. He decided the best course was to terminate the trust, a decision now under attack in a lawsuit. But the end of HWA didn't end his involvement in the benefit trust controversy. He is meeting with Congressional aides and Labor Department officials to get action to end the regulatory vacuum without creating a new set of problems.

The national health proposal his committee developed is a wide ranging and thoughtful document—if politically tough to swallow. It would provide coverage for everyone, including the unemployed and the poor, set a minimum standard for benefits, more or less abolish the workers' compensation system and dismantle the veterans administration hospitals. "The VA proposal is the real attack in the proposal," he says.

Steve Schanes is also working to determine how employers can best utilize HMOs. He is concerned about conflicts between ERISA and the HMO act administered by the Department of Health Education and Welfare. "What happens if an HMO goes broke?" he asks. "Is the employer liable as a fiduciary?" Good question.

I can't predict what the next major controversy in employe benefits will be. But I'll bet Steve Schanes will be on a plane to Washington when it breaks, trying to solve it.

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People column . . .

Continued from page 62 and Tustin, Calif.

Mark Heneson, 31, has been named corporate benefits specialist at Digital Equipment Corp. in Maynard, Mass. Mr. Heneson is in charge of pension administration with emphasis on design and implementation of domestic plans, actuarial valuation and government required reporting and disclosure. He replaces **Gary Chicoine**, who is now responsible for international corporate benefits. Mr. Heneson formerly was a senior consultant for employee benefits for almost three years at Peat Marwick Mitchell Inc. in New York.

Raymond E. Knipe, 50, has been promoted from director to vp of personnel planning at Smithkline Corp. in Philadelphia. He is responsible for employee compensation, benefits and human resources planning and development programs. Mr. Knipe joined the company in 1949. He was director of benefits and planning for eight years and director of personnel planning for approximately two years. He reports to **George Heaberg**, corporate vp of personnel.

Robert M. Johnston, 30, is the new risk manager at Keebler Co. in Elmhurst, a suburb of Chicago. Mr. Johnston was formerly safety director of Pettibone Corp. in Chicago where he was responsible for managing property/casualty risks as well as safety and health concerns. At Keebler he is responsible for managing the company's risks except the safety and employee benefit functions. He reports to treasurer **Arnold Bland**. **Robert R. Dibble**, formerly risk manager for Keebler, left to join CNA as director of risk management.

Don Shelton has been hired as director of insurance at Twentieth Century-Fox Film Corp. in Los Angeles. He is replacing **Wayne Bergstrom** who resigned last spring to become risk manager of Vetco Inc. in Ventura, Calif. Mr. Shelton, who started his new job on Oct. 3, reports to treasurer **Lyle Marshall**. For the last three months Mr. Shelton had been director of insurance and risk management at Royal Industries where he replaced **Dick Smith**. Mr. Smith resigned earlier this year to join Petrolane Inc. in Long Beach, Calif. Royal Industries is searching for a replacement. Prior to joining Royal, Mr. Shelton was insurance manager for nine years at Vornado Inc.'s West Coast division.

Dick McElligott has been named the first risk manager for Stanislaus County, Calif. He reports to the county administrative officer. Mr. McElligott formerly worked for **Fred S. James** in Newport

Actuaries name education chief

CHICAGO—Warren R. Adams, professor of actuarial science at Drake University, has been named director of education for the Society of Actuaries.

Mr. Adams' new position is designed to provide professional assistance for the group's education program. Mr. Adams will also serve as a contact with colleges and universities interested in expanding or developing an actuarial program.

At Drake in Des Moines, Mr. Adams was director of the university's insurance center.

Beach, Calif. However, prior to that, he was risk manager for the county of Orange, the county of San Diego and Riverside county, all in California.

Al Houck, formerly risk manager for the city of Santa Ana, Calif., has been appointed risk manager for the city of Modesto, Calif., a new position. Mr. Houck reports to the city manager's office. He was with the city of Santa Ana for a little more than a year. Prior to that, he spent nine years with Traders General Insurance Co. of Dallas, which has been merged; 12 years with Indiana Lumbermen's Mutual, which also has been merged, and five years as a vp with Trans National Insurance. No one has yet been named to replace him at Santa Ana.



JAMES W. WEBB

Republic Steel Corp. in Cleveland is changing its insurance department to focus on risk management and has hired **James W. Webb, 29**, as supervisor of insurance serv-

ices in a new position. Mr. Webb will assist risk manager **Joe Cline**. Prior to joining Republic Steel, Mr. Webb was assistant insurance manager for 18 months for Budd Co. in Troy, Mich., where he has been replaced by **Ed Laginess**. Mr. Laginess was formerly a claims supervisor for Budd Co.

William A. Armstrong, 36, has been promoted to director of compensation, benefits and administrative services at Foremost-McKesson Inc. in San Francisco. The position was created in a reorganization of the department. Mr. Armstrong's responsibilities include overseeing profit sharing, retirement supplements, insurance benefits, employee information systems and office administration. He reports to **James I. Johnston**, vp, personnel. Previously, Mr. Armstrong was manager of salary-administration and insurance benefits for two years. He has been with the company for

five years.

Joseph Kane, 44, has been named risk manager for the Huntington Beach Union High School District in Huntington Beach, Calif., a new position. Mr. Kane had formerly worked as safety analyst for the city of Santa Ana for 3½ years. He said he set up the city's program in self-insured workers' compensation and liability while he was there. The Huntington Beach Union High School District went self-insured in workers' compensation on July 1, he said.

We'd like to report on staff changes in your risk management or employee 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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people

FMC taps Morrissey for benefits

Kenneth J. Morrissey, 35, has been appointed manager of employe benefits for FMC Corporation in Chicago. He will be responsible for employe benefit planning, design, communication and interpretation of existing programs. He reports to William J. Kirby, vp-personnel. Mr. Morrissey joined FMC in 1972 as manager, recruitment and employe services for the company's former New York-based fiber and film group. Two years later, he was appointed manager, employe relations for FMC's Philadelphia-based Chemical Groups which was phased out when the company reorganized in June into nine operating groups reporting directly to corporate headquarters. Previously, Mr. Morrissey served as manager, employe relations for the West Allis Manufacturing Operation of Allis-Chambers Corp. in Milwaukee.

* * *

Gerard P. Howland, 50, has been named corporate employe benefits manager at UOP Inc. in Des Plaines, Ill. In the newly created position, Mr. Howland is responsible for group employe benefits domestically and internationally. Mr. Howland said the position was created because the company saw a growing need for "strong leadership in the total employe compensation package." Mr. Howland reports to Lawrence Cripe, director of employe relations, in his position. Previously, Mr. Howland was manager of pensions for United Airlines for 11 years.

* * *

Stewart M. Fuhrmann, 30, has been named corporate insurance manager for Foster Wheeler Corp. in Livingston, N.J. Mr. Fuhrmann will coordinate insurance for all Foster Wheeler subsidiaries and Foster Wheeler Energy Corp. in his position that was effective Sept. 15. He replaces Jesse Pogones who left the company. Previously, Mr. Fuhrmann was an attorney for Foster Wheeler.

* * *

Pam Rainey, 29, has been named assistant risk manager for Dillingham Corp. in Walnut Creek, Calif. She replaces a man who is retired and who worked in Honolulu, Dillingham's former headquarters. The position, which represents an internal promotion for Ms. Rainey, will be effective in mid-October. She is currently risk manager for California Liquid Gas Co. in Sacramento, a subsidiary of Dillingham Corp. She reports to Jim Runyan, director of risk management. Ms. Rainey has been with California Liquid Gas Co. for 1½ years. Prior to that, she was with Marsh & McLennan in San Francisco. California Liquid Gas has not yet named a replacement.

* * *

William Boettcher has been named risk manager for the Santa Ana Unified School District in Santa Ana, Calif., a new position. Mr. Boettcher reports to Pat Browning, controller. He was formerly claims manager for Royal Globe Insurance in Tucson, Ariz.,

Continued on page 61

classified advertising

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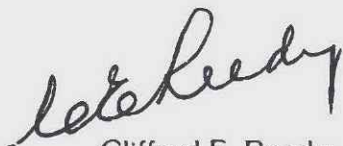
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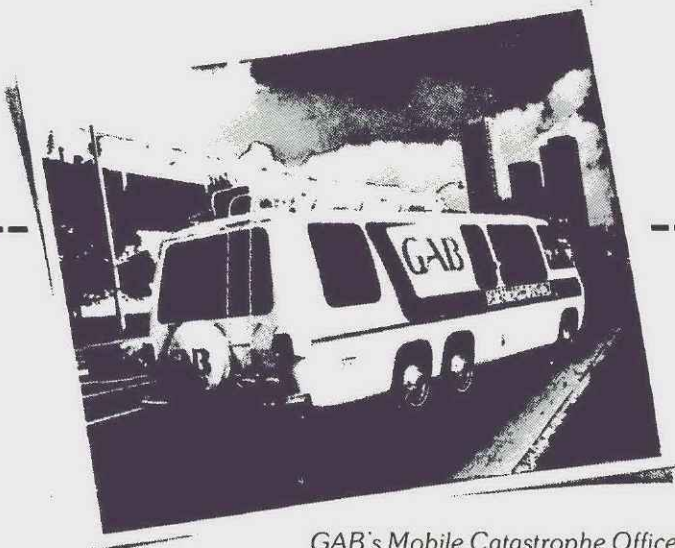
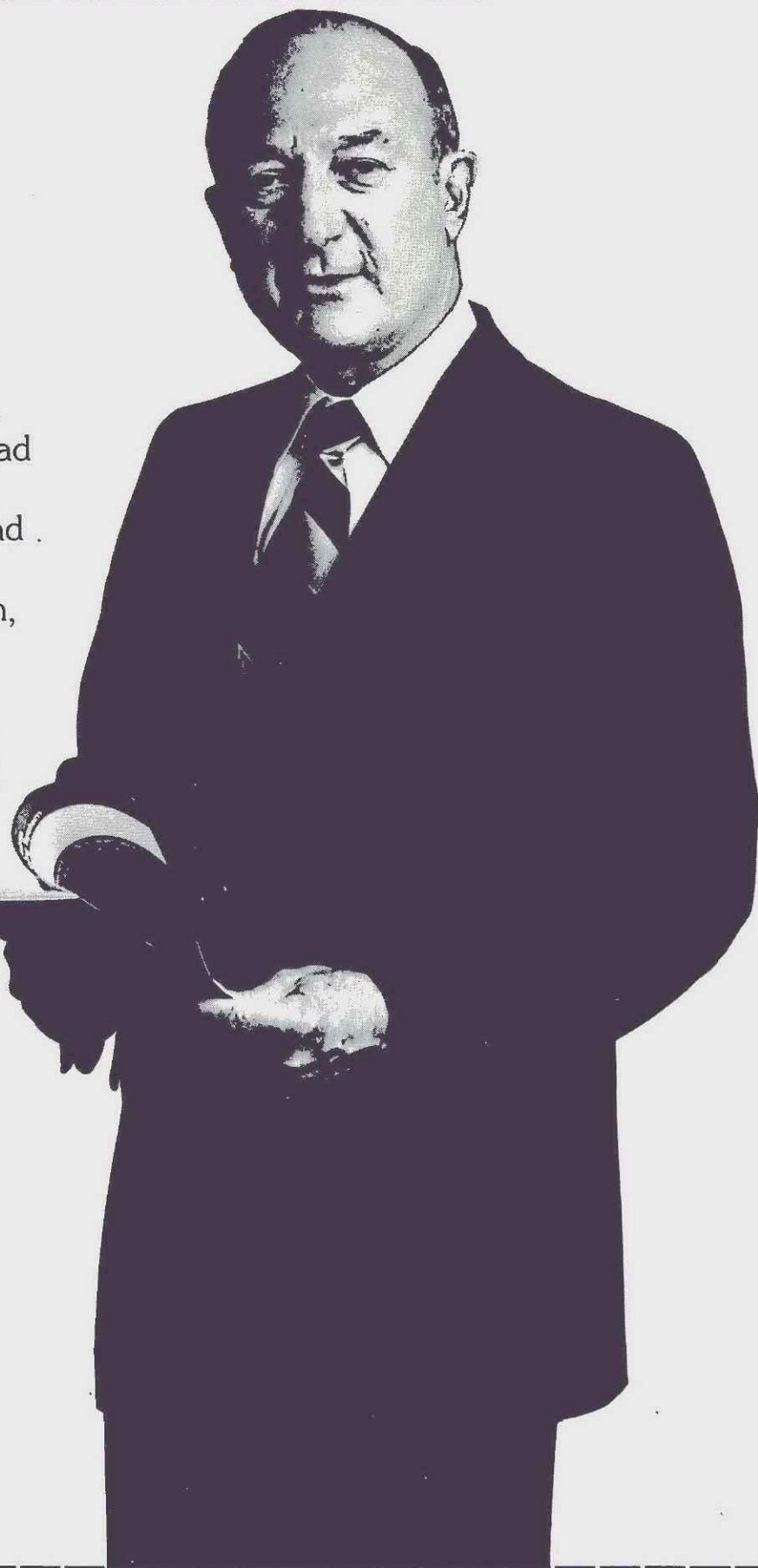


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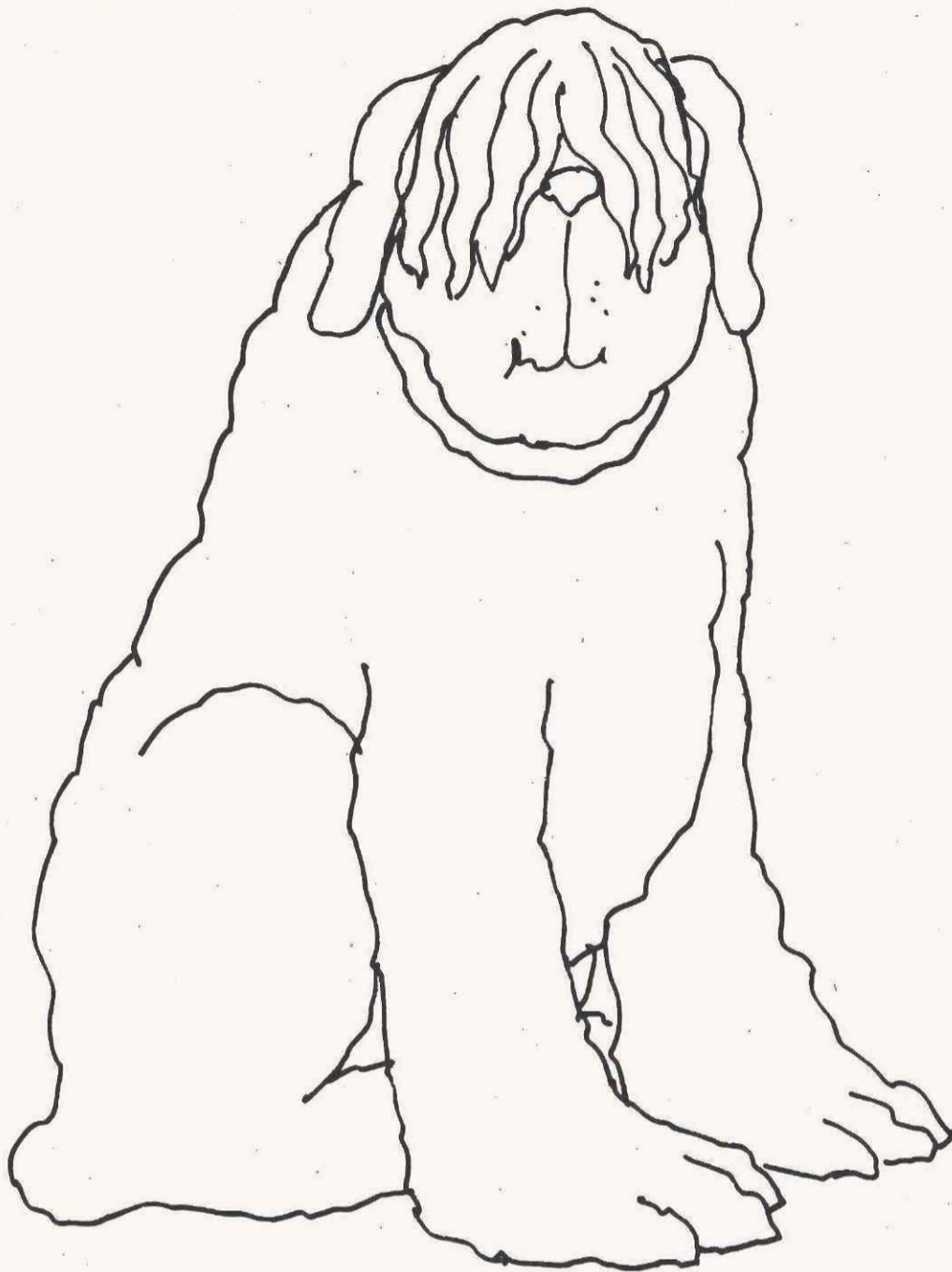
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