

Suits evoke liability furor over birth control IUD

By MARGARET LeROUX

NEW YORK—A. H. Robins Co. Inc. is insured for at least part of the liabilities and damages which may arise out of the sale and use of its Dalkon shield intrauterine birth control device.

And although Robins won't comment on the insurance involved, *Business Insurance* learned that Aetna Casualty & Surety Co. underwrites the Robins policy which may be called on to cover any future product liability settlements. Out-of-court settlements are almost sure to follow the flurry of litigation being initiated in the wake of a growing controversy over the effectiveness and safety of the

Dalkon shield.

A. H. Robins manufactures the device and has supplied it to the market for general use since 1970. The shield was once touted as a superior contraceptive.

Now the firm is defendant in lawsuits seeking more than a half-million dollars in damages, filed by two Kansas women who became pregnant while wearing the IUD.

Robins is also the target of a class action suit filed in a New Jersey district court by gynecologists and obstetricians charging the company with "deliberate misstatements and calculated failure to disclose information about the Dalkon shield."

The Kansas suits will be the first against Robins to go

to trial, with litigation scheduled for Nov. 19 and Dec. 9 in Sedgewick County district court, Wichita. In one case the woman completed a full term pregnancy, said Bradley Post, a Wichita attorney representing the plaintiffs. In the other case a therapeutic abortion was performed.

In charging the Robins Co. with "willful and negligent misrepresentation and fraud in advertising, sales and promotion" of the Dalkon shield, both actual and punitive damages are being sought, Mr. Post said.

"I imagine Robins has liability coverage," Mr. Post commented, "but I doubt if they have coverage for punitive damages."

Continued on page 11

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Week of September 16, 1974

business insurance

the national newsmagazine for buyers of employe, property and liability protection and financial services

Regulator outlaws sale of 'reverse retro' policies

By ELISABETH M. WECHSLER

LOS ANGELES—The California insurance commissioner recently cited Frank B. Hall & Co. for irregularities in selling certain types of insurance to Western Air Lines and fined the nation's fourth largest insurance broker \$1,000. Hall did not contest the Aug. 13 ruling.

Specifically, the department's citation charged that two supplementary and contingent liability

policies sold to Western by Hall "did not relate to any insurable interest of the insured" and that they were "in the nature of gaming agreements." The policies were designed, in effect, to pay the same benefits to Western whether past accident experience was good or bad.

Mebus Bartling, Hall's executive vp for finance and aviation, declined to disclose the names of the underwriters involved, but did indicate they were non-admitted

insurers (to the state of California). According to a spokesman for the California insurance department, one underwriter was in the London market and the other was a leader company for a group of small U.S. insurers.

"At the time we didn't feel we were doing anything illegal either for ourselves or for our client," Mr. Bartling said. As Hall's representative for the Western account, he informed the airline that this type of coverage was

available in the first place.

Business Insurance received a copy of the citation and consent order, signed by Frank B. Hall & Co., anonymously in the mail.

HALL'S LIABILITY coverage of Western Air Lines worked this way: In addition to a \$2.34 million basic hull and liability policy, Hall provided Western with two supplementary contingent policies. One policy provided from \$0 to \$500,000 in ascending, graduated

benefit payments for losses paid under the basic aviation coverage. The other policy provided from \$500,000 to \$0 for the reverse schedule of incurred losses.

For example, the first policy provided \$500,000 in benefits to Western for \$300,000 or less in incurred losses on the basic hull and liability policy; \$375,000 in benefits for losses from \$300,001 to \$450,000; \$187,500 in benefits for losses from \$450,001 to \$600,000; and no cash benefits for losses over \$600,000.

The second policy provided exactly the opposite schedule of benefits for an increasing scale of incurred losses.

An attorney in the insurance commissioner's office, who asked not to be named, said that in the department's opinion these supplementary, so-called Chinese retro policies, for Western Air Lines did not involve insurable risks but were, "in effect, wagering contracts."

"In some cases it can be difficult to determine what an insurable risk is," the attorney said. "But in this case it was clear that

Continued on page 52

Engine trouble responsible for Boeing 707 disaster?

Crash causes loss of 88 lives, \$5 million jet

By JUDI TALIT

NEW YORK—Associated Aviation Underwriters (AAU) is the primary insurer of the Trans World Airlines Boeing 707 that crashed into the Ionian Sea off Greece Sept. 8. It is believed that all 88 passengers and crew members were killed in the crash.

The National Transportation Safety Board is on the scene checking the cause of the crash. An early report disclosed by the NTSB said the crash may have been caused by a rocking of the wings which may have induced the left inboard engine to be ripped off the aircraft.

A Pan American Airlines pilot saw the plane going down, and he said one of the engines was on fire.

The possibility of sabotage has not been ruled out by the NTSB. The board is looking into that angle now.

LONDON SHARES some of the hull and liability coverage with AAU. However, AAU retains the greater portion of the coverage, a source there said.

The insurer confirmed that TWA has liability limits of over \$100 million, a typical amount for major airlines doing heavy domestic business.

The value of the hull was not

disclosed. However, airline industry sources noted that the Boeing 707 was an older plane, which would probably cost \$5 million to \$7 million, depreciated from the original \$10 million value.

Under international law there is a legal liability limit of \$75,000 per passenger claim. This would mean that TWA could incur close to \$6 million in claims from survi-

vors of the crash victims regardless of whether the airline was negligent. By international agreement, there is a no-fault system.

Also known to be on the scene investigating the crash are the Airline Pilots Assn., TWA personnel, Boeing, the Federal Aviation Administration and officials of Pratt & Whitney, manufacturers of the aircraft's engines. ■

Oxy takes property, casualty cover to Hall

LOS ANGELES—Occidental Petroleum Corp. named Frank B. Hall broker for its property, liability and workmen's compensation policies said to generate premiums of over \$10 million a year, *Business Insurance* learned.

The giant account had been handled by Marsh & McLennan and reportedly had been one of the largest, if not the single largest, account in M&M's Los Angeles office.

The three policies cover foreign as well as domestic operations. The limit on the property policy is said to be over \$1 billion. Sources would not disclose the limit on the liability policy.

The account was moved, according to Bud Grier, executive vp of Hall, "because we were

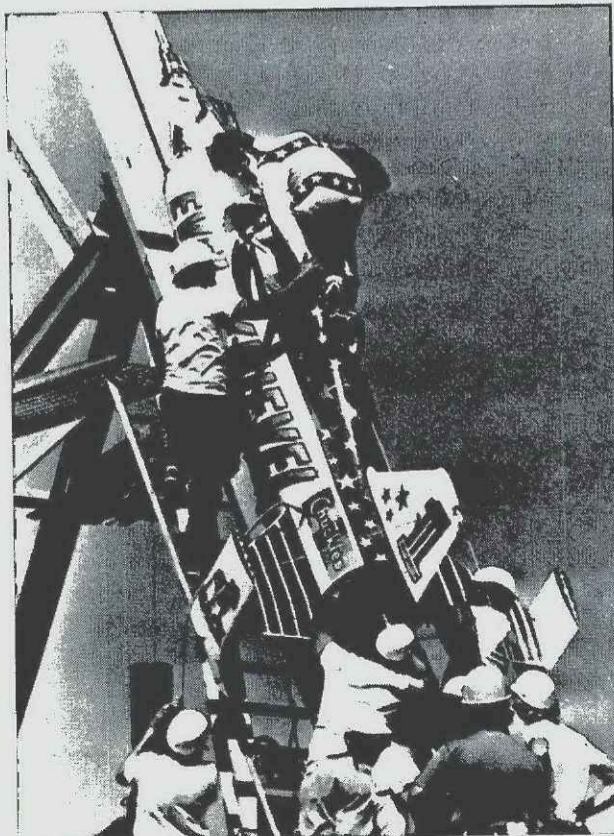
able to design a new concept which Occidental liked."

Rate decreases played little or no part in the change, he said.

HALL IS KNOWN to have assigned a team to work full time on the Occidental account, which sources say generates premium commissions of over \$1 million a year.

Charles Harrington, formerly assistant vp, claims, at Marsh & McLennan, was named vp, claims, for Hall at about the same time the account change occurred.

Mr. Harrington told this magazine, however, that his move, made in early August, was totally unrelated to the account transfer. ■



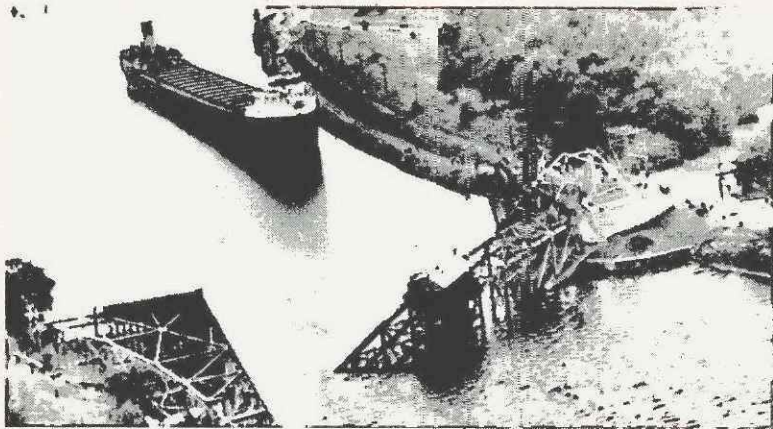
Kneivel had to put up big cover before big stunt

TWIN FALLS, ID.—Motorcycle stuntman Evel Knievel's Snake River Canyon jump spectacular Sept. 8 required him to provide over \$1 million in liability insurance.

Daredevil Knievel attempted to ride a rocket-powered motorcycle, the Sky Cycle across the 1600 foot wide, 540 foot deep canyon near here. His ride was cut short, however, when the drogue parachute opened prematurely, slowing the craft enough to prevent it from reaching the canyon's other side. Mr. Knievel released the main chute in time to land safely at the bottom of the canyon. The jump was designed to be the climax of a long career of jumping over everything from 19 Mack trucks to the Caesar's Palace fountain in Las Vegas.

Permission to hold the event was granted by the Twin Falls County commissioners after Mr. Knievel agreed to put up a \$1 million policy against the aggregate third-party liability, with \$300,000 for

Continued on page 52



Ship rams bridge, canal out

PORT ROBINSON, Ontario—Bethlehem Steel Co. is thought to be largely self-insured for any property, liability and business interruption losses arising out of the shutdown of the St. Lawrence Seaway following destruction of a key bridge Aug. 26 by a Bethlehem-owned freighter.

Following the accident, loss to the freighter was estimated at \$1 million, with replacement cost of the bridge put at \$15 million.

The ship, The Steelton, rammed the Welland Canal bridge during

daylight, and in good weather; when the bridge apparently was only raised half-way. The cause of the collision, and the extent of liabilities of parties involved, are still being investigated by seaway authorities. Litigation will likely follow inquiry reports.

Bethlehem Steel, in Bethlehem, Pa., declined to comment on the situation or losses incurred, pending further investigations.

The bridge accident rendered the seaway inoperable, so that by Sept. 4 some 23 vessels were

tied up at the lower end of the seaway, and another 13 vessels were stymied at the upper end, all unable to get through the seaway. The Steelton, a 16,000 gross ton capacity ore carrier, is also out of service. It is only one of six ships Bethlehem uses on the Great Lakes. Four other Bethlehem ships are also stalled as a result of the bridge crash, and cannot reach the company's main steel plant. The bridge is expected to take at least three weeks to repair. (The seaway reopened Sept. 9.)

BETHELEHEM'S insurance and self-insurance practices are not known among other steel companies or in the marine insurance industry. Bethlehem is reportedly the only major steel company not participating in the American Iron & Steel Institute's insurance committee. Bethlehem declined repeatedly to confirm or deny reports that it self-insures a large part of its protection and indemnity exposures, with an excess insurance policy underwritten by the London market for catastrophic losses.

Under Canadian law the limit of The Steelton's (and the owner's) liability is about \$2 million, "provided she is not found at fault," explained a seaway official who is managing the inquiry. The bridge collision and seaway shutdown is the first such incident in the 43 year history of the waterway linking the United States and eastern Canada.

THE STATUTORY limit of liability, if the ship is not at fault, is determined on the basis of 1,000 gold francs per gross deadweight tonnage of the ship, which for The Steelton is figured at about 5,700 tons. There are three gold francs to every dollar, in terms of current world markets.

May claim \$12m in currency loss

British bank insured if it proves criminal act

LONDON—Insurers are faced with a \$12 million potential claim over the \$80 million banking loss suffered by Lloyd's Bank of London following irregular foreign currency trading in Switzerland. The loss is one of the biggest in banking history.

It could prove to be a big problem for the insurance market at Lloyd's, which normally never covers speculative trading in world currencies or stock markets, or any forms of gambling. (Lloyd's of London is unrelated to Lloyd's Bank.)

The casualty insurance policy for Lloyd's Bank International was placed by Alexander Howden and Swann in both Lloyd's and the company market in London. It is a bankers' blanket bond type of policy, with a fidelity clause which would probably cover deliberate neglect or fraud by any bank officer.

BUT BECAUSE of recent worldwide bank failures, some involving massive currency deals on the futures market, there is doubt whether trading losses will be covered unless criminal intent can be proven.

This is an insurance issue which will have to be settled after lengthy study of the situation. Lloyd's Bank, one of Britain's biggest banks, disclosed Sept. 2 that there had been unauthorized foreign exchange dealings at the Lugano, Switzerland branch of its subsidiary, Lloyd's Bank International.

Recently, Franklin National Bank of New York lost vast sums in similar deals, as did two German banks, including Herstatt, and a Swiss bank. (*Business Insurance*, May 24 and July 8.)

Lloyd's Bank of London, which has cash reserves of \$1.2 billion, can absorb the loss within its own funds and stay fully solvent. But it will almost certainly seek to claims on its insurance, if possible.

Insurance sources pointed out

that a new insurance dimension is involved if trading losses are recoverable under bankers' bond policies, because world currency deals can now run into a profit and loss situation of billions of dollars at any time. These losses could have a tremendous impact on the insurance markets.

THE LIABILITY limit under the policy placed for Lloyd's Bank International is only \$12 million, covering burglary and other criminal acts. But the principle behind the insurance risk has to be resolved.

Sources close to the Lloyd's non-marine syndicate involved in the risk expect the claim will have to be closely examined to clarify the position.

Reports from Switzerland indicate that the Swiss Banking Commission has ordered a full investigation to determine whether criminal acts were involved in the currency trading loss.

Two officers of the Lugano branch of Lloyd's Bank International have been suspended from duty and are helping banking officials in the inquiries.

GUIDE TO FEATURES

Info for Buyers	9
Washington Watch	14
London Line	21
Opinions	24
Labor Beat	30
Perspective	41
Giles on the Law	47
Dates for Buyers	60
People	60

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in this issue

Drug liability

Liability insurance for pharmaceutical producers is a sensitive subject, a survey disclosed, **page 10.**

Pension law

Employers are hustling to comply with the Oct. 2 deadline for pension termination insurance premium payments, **page 12.**

Trustee protection

The Dallas County Hospital Board purchased new coverage for hospital directors, officers, trustees, **page 28.**

Digital Equipment

Fast-growing computer-maker has a multitude of insurance policies, and many recent changes, **page 34.**

Ocean marine

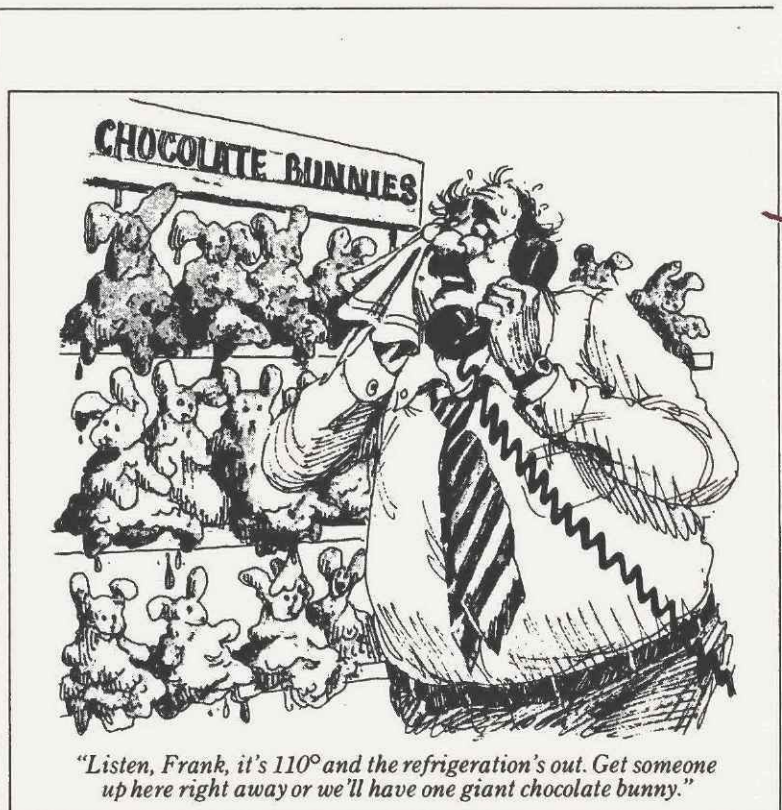
Statutory shipowners' liabilities are being scrutinized with an eye to future revisions, **page 54.**

Wickes Corp.

Wickes' insurance programs are finally consolidated into master policies, and now the firm is headed into insurance mass marketing, **page 56.**

Denver's Ideal

Cement producer Ideal Basic Industries saved \$93,000 on insurance premiums last year, thanks to Ed Heeren's hard work, **page 58.**



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Pension law opens way for group legal plans

By RICHARD L. GORDON

WASHINGTON—Congress and organized labor may have wrested control over the development of prepaid group legal plans from the hands of the state bar associations by means of certain provisions in the pension reform measure signed into law on Labor Day.

The American Bar Assn. for months has struggled with its conservative wing about "ethical" restrictions which could bar lawyers from participating in closed panel prepaid legal plans.

The closed panel plans, favored by most labor groups, involves contracting for legal services with a defined group of lawyers.

OPEN PANEL plans, favored by many in the bar associations, would allow a group legal beneficiary to obtain services from a lawyer of his own choice.

Section 514 of the Employee Retirement Income Security Act is designed, according to the bill's sponsors, to eliminate bar association interference with attorneys who wish to participate in closed panel plans.

The section in general preempts state and local government officials from legislating in the pension and welfare fund area, but was expanded in conference to specifically cover prepaid group legal plans as well.

Sen. Jacob Javits (R-N.Y.), in floor debate on the pension bill last month, tried to make the bill's intent perfectly clear when he said, "the state, directly or indirectly through the bar, is preempted from regulating the form and content of a legal service plan, for example open versus closed plans, in the guise of disciplinary or ethical rules or proceedings."

THE JUSTICE department already has cracked down on a state bar association proposal for an open panel plan in California. (*Business Insurance*, Sept. 2.)

Justice warned the bar association that it had "serious antitrust objections" to its plan because it discriminated against closed panel plans and made the creation of other open panel plans

Health covers paying record benefits: HII

NEW YORK—Private health insurance companies are paying out a record \$2 billion a month in benefits to the public this year, according to a spokesman for the Health Insurance Institute (HII). This estimate does not include government payments through Medicare and Medicaid.

The previous record, established in 1973, was \$1.3 billion in health insurance benefit payouts for the year.

THE MAIN REASON for the increase is the spiraling cost of hospital care, Benno Isaacs of HII said.

"Normally, hospital care costs rise at a rate of 7% or 8%," Isaacs said. "But after the freeze on wages and prices was lifted last spring, costs increased by more than 15%."

Aside from increased salaries for health care personnel, outlays for expensive equipment have been the main cause for higher hospital operating costs, which are in turn passed along to the patient. ■

difficult.

Prepaid group legal plans were swept up in pension reform because they are lumped with other types of benefit arrangements as collectively bargainable issues under the Taft-Hartley Act.

The pension reform bill's new fiduciary and disclosure requirements were extended to cover these type of benefit plans, as well as pension plans.

When the legislative drafters moved to push state agencies out of the pension regulation area, they also moved them out of the welfare fund area, including group legal plans.

"We (the federal government) had to occupy this entire field," an aide close to the legislation told *Business Insurance*, "because the subject was so 'sexy' that

some of the states could enter the field and run amuck."

State regulations on top of federal regulations, it was feared, could be the straw to break the pension or welfare fund manager's back, the aide said.

Congressional concern with prepaid legal plans did not surface in the Senate bill, passed in September, 1973, but the House bill included language taking group legal plans out from under state insurance commissioners when it was passed last February.

CONCERN OVER the bar associations' role in the group legal area surfaced only after the House had acted, when the American Bar Assn., meeting in Houston, recommended a change in legal ethics rules that would have made it very difficult for an

attorney to practice in any prepaid plan other than one specifically approved by the local state bar association.

Organized labor then pushed again for some language that would limit bar association control of group legal plans.

"In view of what was clearly afoot from conservative lawyers," one well informed Capitol Hill source said, "we thought they had a good point." The conference committee then expanded the preemption language to take in bar associations.

The state court system, in most instances, supervises the lawyers in that state, and the preemption would prohibit the courts from taking action against a lawyer charged by a bar association with "ethical" infractions for participating in a closed panel plan.

The entire bar association position on group legal plans, and particularly closed panel plans, may change however.

IN CALIFORNIA, the state bar association is expected to consider revamping its proposal in an attempt to meet Justice department antitrust objections.

The American Bar Assn. itself is reconsidering its February rules on the subject and is expected to take up the subject again at its annual meeting next February.

An ABA official told *Business Insurance* that it's unclear at this point how a court would apply the preemption rules, despite efforts on the floor of the Senate and House to explain, for the record, just what Congress had in mind for group legal plans and bar associations. ■

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Policewoman awarded back benefits in pregnancy disability settlement

CHICAGO—A local policewoman was awarded \$3,500 in retroactive disability payments from the police pension fund because of pregnancy. She is the first member of the force to receive off-duty disability pay for this reason.

The city's corporate counsel recommended six months ago that pregnancy be considered a legitimate reason for disability benefits (*Business Insurance*, April 1). But Bonnie L. Doyle, 32, was the first to apply and was only granted her benefits Aug. 27 by the seven-man pension board.

Mrs. Doyle was entitled to half pay, \$588 a month, from March 1 to Sept. 1, the period in which the board ruled she was disabled.

Her delivery on April 1 was by caesarean section which accounted for the longer disability time period. Birth by this method is considered major surgery, according to a spokesman for the pension board. The police force normally considers six to eight weeks after childbirth a reasonable recovery period for a mother.

THE EIGHT-YEAR police veteran's award was delayed by the case of another policewoman who had filed a complaint with the Illinois Fair Employment Practices Commission for disability benefits. Her request was scheduled to be heard at the Aug. 27 board meeting, but she failed to appear and later withdrew her claim. No rea-

son for the decision was given.

Mrs. Doyle, who received her settlement in one payment, said she was "of course pleased." She said she plans to return to work within a couple of months.

Richard Jones, secretary of the police pension fund, said the board's decision to award disability benefits to Mrs. Doyle was based "strictly on the policewoman's physical capabilities" and not on such other considerations as taking time off to care for the baby. A medical examination is required each month to determine whether or not the person is physically fit to return to work, Jones said.

Mrs. Doyle has applied for two additional months' leave of ab-

sence without pay since her disability eligibility expired Sept. 1 and since her decision not to return to work yet is a personal one.

AN APPLICATION for disability benefits can be submitted to the pension board after the six months' medical leave has been used up. Sworn police are entitled to six months' medical leave with full pay. When an illness or injury exceeds six months, they are allowed to withdraw disability benefits under the pension fund at half pay. In March, the city attorney ruled that pregnancy should be considered a non-duty disability for policewomen, with benefits granted accordingly.

Previously, policewomen were required to take a leave of absence in the fifth month of pregnancy. They received only \$45 a month until they returned. Mrs. Doyle's case was the first

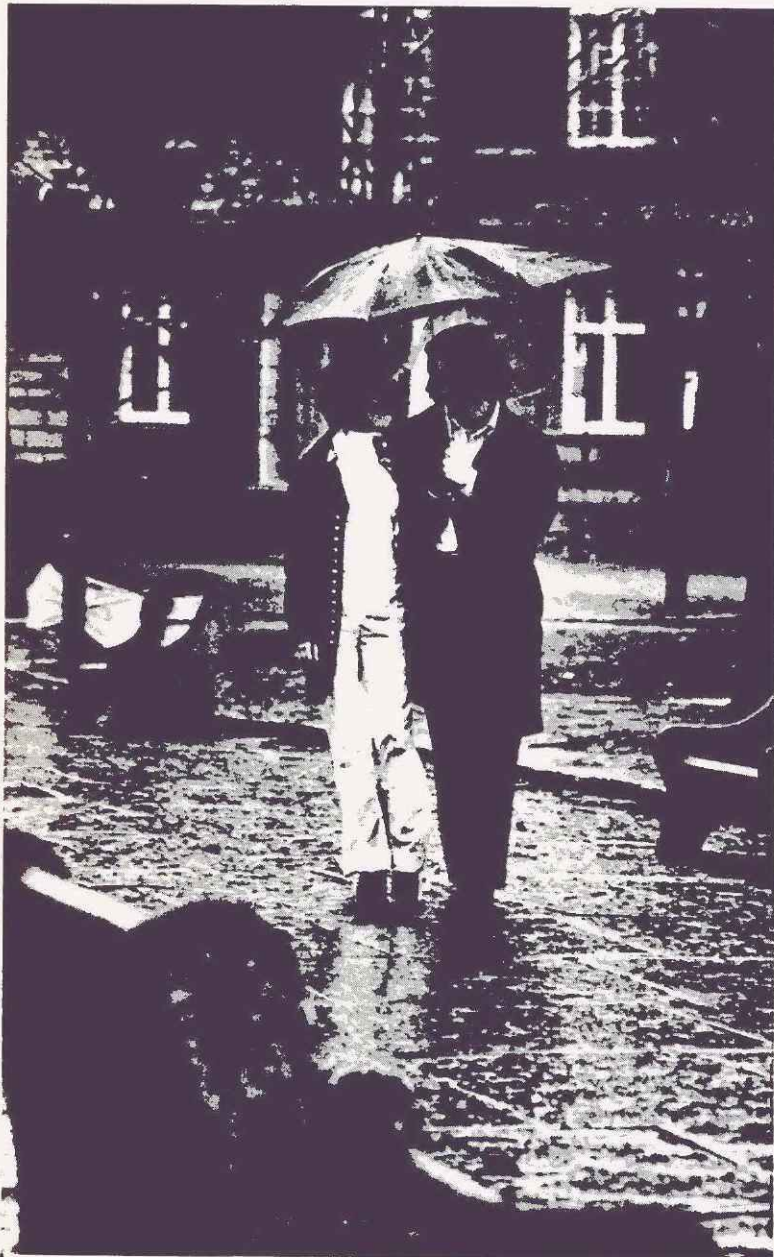
application under the March ruling. Assigned to the Maxwell St. youth unit, Mrs. Doyle went on the department's medical roll for maternity leave for the prescribed six-month leave at full pay on Sept. 1, 1973.

The March opinion was based on federal cases and rulings by the Equal Employment Opportunity Commission. These rulings state that pregnant women cannot be forced to take maternity leaves from their jobs at arbitrarily-established dates. Their lost work time must be compensated just as any other employe would be paid for time off due to illness or injury.

MR. JONES said he doesn't expect a flood of applications from policewomen as a result of the Doyle case.

"A member of the force would have to apply to the pension board for disability payments if he or she felt unable to return to work after the six-month medical leave expired," he said. "If the board's physician, after examining the applicant, concurs with the request, then the policeman or policewoman would be considered eligible to receive disability benefits—regardless of the type of physical disability."

Sources in the department noted that five other policewomen also are pregnant. It is expected that they will become eligible for maternity leave and subsequent disability benefits. ■



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LA chapter ASIM plans conference

LOS ANGELES—The Southern California chapter of ASIM has scheduled its annual all-day conference for Sept. 26 here, with a highlight luncheon speaker discussing the current problem and impact of high interest rates.

Phil A. Barnett, senior vp of California Federal Savings & Loan, plans to look at how high interest rates affect risk managers and their corporations. James McCullough, manager of insurance for Union Oil Co., will join Robert Vivian of Allendale Insurance Co. in discussing the insurance capacity problem.

Other speakers at the session will include a specialist in engineering administration for national accounts at Aetna Life & Casualty Co., looking at consumer product safety; and the chief of the local division of industrial safety for the state speaking on Cal/OSHA. ■

It doesn't always pay to have insurance

LONDON—Obviously it pays to insure valuable art collections. But one British collector found a unique benefit from *not* having theft cover on three of his paintings valued around \$1 million. They were stolen recently from his home in Launceston, Cornwall County.

Within days police "leaked" the information to the press that the paintings were, by chance, not covered by insurance. The hunch that this might reach the attention of the thieves was proved right.

So, apparently thwarted, the robbers gave up the idea of trying to "ransom" the paintings for the insurance cash, and secretly returned them without one cent exchanging hands.

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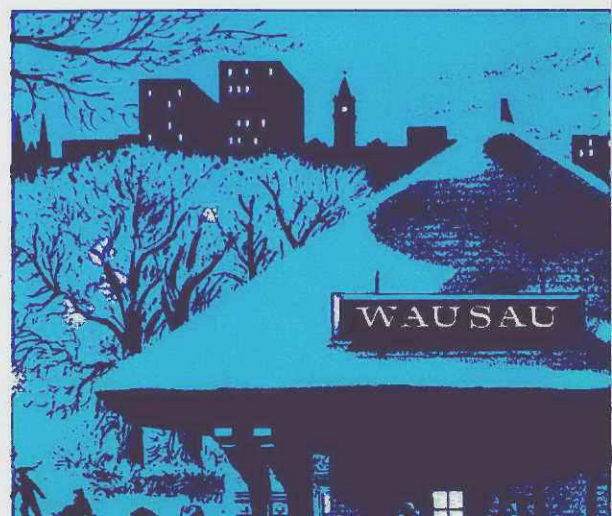
was also responsible for premature aging of the client's cellular plastic foam product. And that aging had been another chronic headache . . . one the client's quality control personnel had been battling.

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Marine insurers told inert-gas system could cut number of tanker explosion

BERLIN, West Germany—Marine underwriters suffered losses totalling \$68 million from tanker explosions in the past year, according to John A. Potts, chairman of the hull loss prevention committee of the American Institute of Marine Underwriters. He spoke at the International Union of Marine Insurance conference here Sept. 8-13.

Tankers losses included: Giovanna Lolli Ghatti, (Feb. 25, 1974), \$26 million; Golar Patricia, (Nov. 5, 1973), \$24 million; Andros Aeries, (May 7, 1974), \$9 million; Elias, (April 9, 1974), \$2 million; and Ionnais Carras, (March 21, 1974), \$7 million.

Citing an average of 14 tanker explosions per year for the past

15 years, Mr. Potts emphasized the need for requiring inert-gas systems for tankers.

"There has yet to be reported an explosion involving a tank vessel that had installed and operated a recognized gas inerting system," Mr. Potts stated.

OTHER AREAS of discussion at the conference included improvements in cargo loss prevention and a weakening trend in the world hull insurance market.

John E. Greene, vice chairman of the institute told the session of four developments in cargo loss prevention in the U.S.: improved port security, improved customs procedure, improved enforcement and improved regulatory

organization.

By controlling access routes, requiring signed driver logbooks and establishing photographic records of drivers, vehicles and documents, American port authorities have tightened security at terminals, Mr. Greene noted.

New U.S. customs regulations which require that a customs officer supervise the breaking of the seal on any container for inspection and stand by until it has been resealed have been other factors in improved security, he added.

Mr. Greene also informed the session that security teams had been formed in 15 U.S. cities under the direction of the justice and transportation departments.

The teams are made up of federal, state and local law enforcement agencies as well as shipping industry representatives.

THE WEAKENING trend in the hull insurance market was attributed to "extreme competition among brokers fostered by a present excess capacity," high interest rates and "reinsurance arrangements which in some cases, border on the frivolous," in a report by the American Institute of Marine Underwriters.

"A serious imbalance" is being created by the peak risks now on the hull book, the report noted, and in the face of present market conditions, underwriters are unable to build reserves against threatened catastrophic losses.

The institute's hull report also noted the continuing shift in loss payment patterns toward catastrophic insuring. Total and major partial losses paid last year by the chief American hull underwriting organization "accounted for only 3% of the number of payments made, yet consumed 48% of its premium," the report stated.

While the number of major casualties from all causes was down from 64 to 55 for the year, the dollar volume was up 21% from the previous year.

Worldwide inflation has seriously aggravated repair costs the report stated. A tabulation compiled by the U.S. Salvage Assn. Inc. showed that the repair cost level for the Atlantic coast area, excluding New York and Boston, increased 65.5% from 1968-73. In New York and Boston the increase totalled 96.6% last year, over 1968 levels. In the Gulf area, the increase was 65.7%; in the Pacific it was 88.7% and the Great Lakes region showed a 90.7% increase in repair cost levels.

IMPROVEMENTS in the licensing and training of officers head the list of steps to be taken for better hull loss prevention, according to Mr. Potts.

In granting officer licenses, most countries do not differentiate between ordinary seagoing vessels and the newer jumbo-sized vessels, Mr. Potts noted. Likewise, "there are very few countries where deck and engineer officers are subject to either

periodic checks on their capability or tests for renewal of their licenses," he said.

He called on the conference to support the Intergovernmental Maritime Consultative Organization in its efforts to establish international standards for training and certification of ship's officers.

Mr. Potts emphasized the need for international traffic control. Worldwide statistics have shown, he said, that 64% of collisions occur within the entrance or confines of a harbor.

Expansion of the size and speed of vessels such as the high-speed (35 knots) container ships and the very large liquefied natural gas carriers' have increased the need for comprehensive traffic control in heavily travelled routes and harbors.

HEW sets terms with review teams

WASHINGTON—The Health, Education, and Welfare department said it will enter into agreements with two new Professional Standards Review Organizations (PSRO), committees of doctors to review medical practices in given geographical areas.

The PSRO review function now applies only to doctors' services rendered to Medicare and Medicaid patients in an attempt to contain costs in those areas. PSRO activities are expected to be expanded greatly under any national health insurance plan.

The new PSROs cover the Greater Sacramento (Ca.) region and the state of New Mexico.

Self-insurers meet

The Massachusetts Self-Insurers Assn. will hold its fourth annual seminar Oct. 16 in Newton, Ma. The seminar will put most emphasis on workplace safety. One keynote speaker will be Harold E. O'Shell, director of the international safety academy in Macon, Ga. His subject will be loss control for medium-sized companies. Contact Alvin Sims, seminar chairman, in Boston at 617-542-2437.

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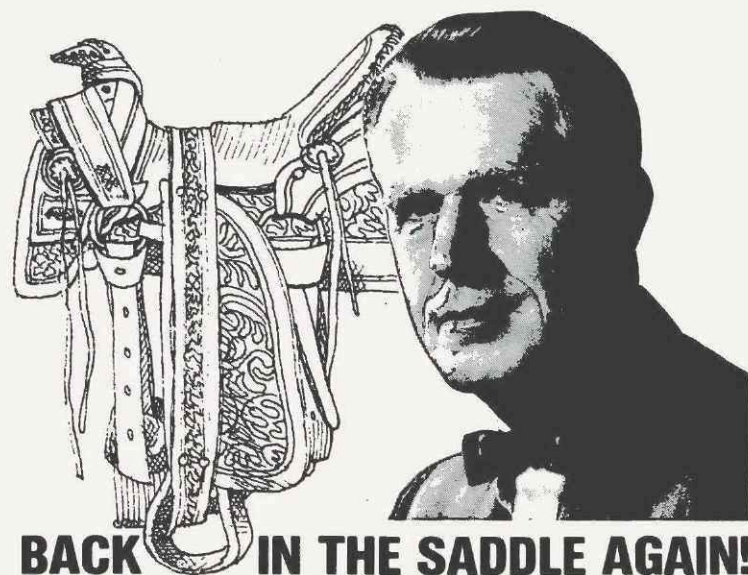
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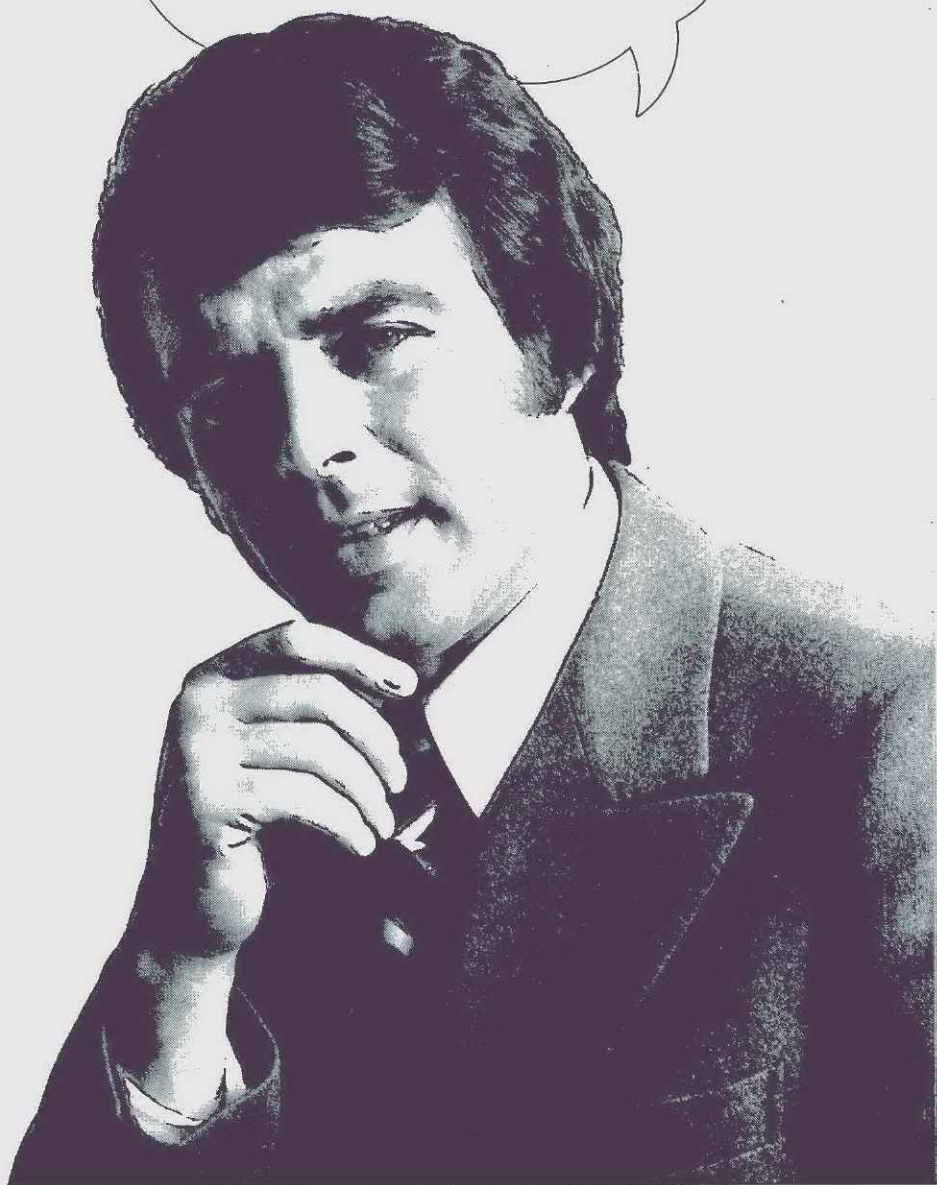
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Court dismisses \$1 million suit by insured against INA

HARTFORD—A Hartford County superior court judge dismissed a \$1-million suit against Insurance Co. of North America stemming from a fatal plane crash in Long Island Sound.

Judge Anthony E. Crillo ruled that the insurance firm was not liable for the business failure of Hartford Airmotive, Inc., which it had insured, as a result of legal action brought after the crash.

Hartford Airmotive had leased

the single engine plane in which Miss Irene Planeta, 25, Cromwell, Ct., died when it crashed near Duck Island in Long Island Sound after a trip from Hartford, on May 28, 1967.

MISS PLANETA was a passenger in the craft which was flown by Robert J. Berube, 20, Hewington, Ct.

Hartford Airmotive and Mr. Berube were among defendants

in a \$500,000 suit brought by the Planeta estate. A Hartford County superior court jury awarded \$131,788 to the estate in November, 1970.

As part of the legal proceedings by the Planeta estate, Hartford Airmotive's property was ordered attached by the court.

The insurance company's slowness in agreeing to defend Hartford Airmotive and failure to release attachments on Hartford Airmotive property forced it out of business in June, 1968, according to the \$1-million court action brought by Hartford Airmotive against Insurance Co. of North America.

info for buyers

To receive literature listed in Info for Buyers write directly to the name and address accompanying each item, mentioning that you saw the offering in *Business Insurance*. Readers are welcome to submit items for possible inclusion in the column. A sample of your literature should be sent to Info for Buyers, *Business Insurance*, 740 Rush St., Chicago, Ill. 60611.

• **The Insurance of Charterer's Risk** is an article that explains the special legal liabilities imposed on those who ship overseas by charter. It covers the special characteristics of charter shipping and the unique liabilities they could incur. For a free copy write the author, Andrew E. Rossmere, at Bleichroeder, Bing & Co. Inc., 127 John St., New York, N.Y. 10038.

• **Flood-damaged autos and farm machinery** can be restored by following the guidelines in a booklet prepared by the American Insurance Assn. With first-step advice for owners and a checklist for mechanics, the booklet tells how to treat all parts of the vehicle, from the motor to the upholstery. The guide has been approved by major manufacturers of autos, trucks and tractors. Areas struck by flood may receive free copies, but for those in other areas the cost is 50 cents. Write American Insurance Assn., Claims Administration, Property Claims Services, 85 John St., New York, N.Y. 10038.

• Obtaining information in products liability cases is made easier with a questionnaire guideline available from Insurance Co. of North America. The questions refer to appropriate chapters and sections of a leading products liability legal reference service. For a free copy and a description of the Consumer Products Safety Act, write Stanley A. Greene, director of marketing, Customer Protection Services Division, INA, 1600 Arch St., Philadelphia, Pa. 19101.

• Shippers, consignees, ocean carriers, port and terminal operators, air terminal operators and insurance underwriters will find **Cargo Loss Prevention Recommendations** in a booklet prepared by the International Union of Marine Insurance. There is a special section on cargo loss prevention for containerized shipments. Copies are \$1.00 and available from the International Insurance Monitor, 150 W. 28th St., New York, N.Y. 10001.

• A handbook for employees, **The Employee and OSHA**, has been prepared by the U.S. department of Labor to answer the questions most often asked by workers. Information on job safety and health, employee rights and responsibilities under the 1970 federal job safety and health law, and the legislation's background is provided in the pocket-sized, 16-page booklet. Order from the Superintendent of Public Documents, Government Printing Office, Washington, D.C. 20402. Copies are 30 cents each, prepaid. Specify the title, plus March 1974, OSHA Publication 2099.

• **Catastrophe Protection for Banks** and other financial institutions is a magazine article reprint written by the president of Wohlreich & Anderson Ltd. He warns insurance managers not to rely on industry insurance guidelines alone. He provides and also discusses a detailed coverages

check-list suggested to supplement guidelines in determining catastrophe insurance needs for financial institutions. For a free copy write Anthony Bova, Wohlreich & Anderson Ltd., 55 John St., New York, N.Y. 10038.

• **Marsh & McLennan International Services** has recently released **Employee Benefits in France and the French System**. The situation is unusually complicated in France because coverages often have limited applications. Reference terms, retirement pensions and other benefit areas are discussed. For a free copy write Marsh & McLennan, William D. Welsford, 7 King St. E, Toronto, M5C 1A2, Canada.

• **Who's Responsible** is a new ten minute color sound/slide presentation that investigates a serious construction accident. A feature of this safety measure is that it allows a place to show your own problem areas. Write for a free brochure: United Safety Services, P.O. Box 27276, San Francisco, Ca. 94127.

• **Self Insurance, Major Financial Tool**, is a new pamphlet offered by the Self-Insurers' Management Corp. It explores and charts the financial benefits of self insurance for companies. For a free copy, write Alvin J. Sims, Self-Insurers' Management Corp., 45 Bromfield St., Boston, Ma. 02108.

• **Creative Property Loss Prevention Engineering** describes a new independent property loss prevention engineering consulting service from RM/i Consultants Inc. for the risk manager, insurance consultant and insurance broker. The service is used to pre-engineer new construction and newly acquired and existing properties to qualify them for highly protected risk or special risk insurance treatment, as well as for self-insurance programs. For a copy write Harvey Sanders, RM/i Consultants Inc., 450 7th Ave., New York, N.Y. 10001.

• The Medical Group Management Assn. has published a **Manual on Insurance**. It provides a clinic administrator with basic information on the concepts of insurance and risk management and it will assist both the fee-for-service and prepaid medical group practice administrator. The major sections include business insurance, insurance for the professional staff and insurance considerations of prepayment. The manual is available for \$6.00 from the Medical Group Management Assn., 4101 E. Louisiana Ave., Denver, Co. 80222.

• **Mass Insurance Consultants and Administrators Inc.** is offering copies of a speech on **Cost Factors and Other Considerations in Welfare Fund Administration**, by Charles S. Mack, chief operating officer. It was given at the International Foundation of Employee Benefit Plans meeting in August, and includes an evaluation of administrative fees. For a copy write Mass Insurance Consultants and Administrators Inc.,



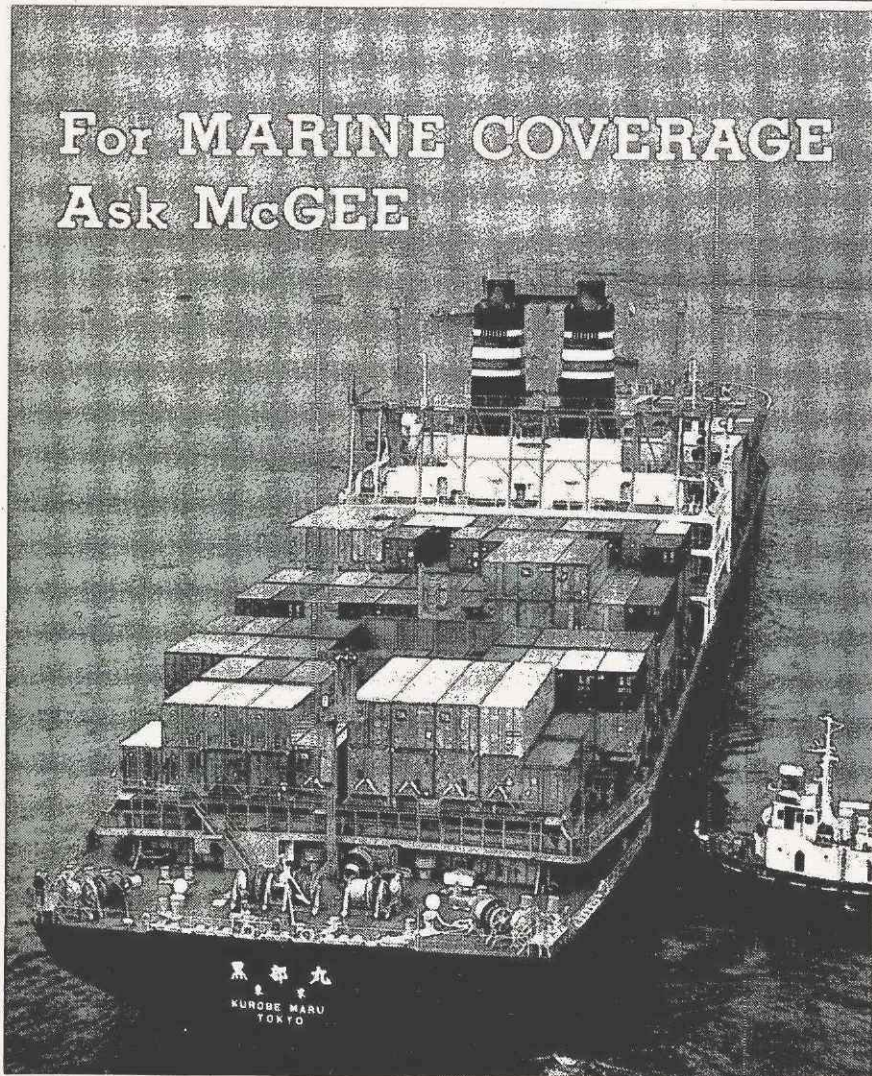
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• A shopper's guide to insurance, **A Series of Tips on How to Shop and Save on Insurance**, written by former Pennsylvania Insurance Commissioner Herbert Denenberg, gives consumers a broad range of information, designed to enable them to purchase insurance and health care knowledgeably and wisely. To obtain the guide send a 9" x 12" self-addressed envelope with 16 cents postage for each guide to Pennsylvania Insurance Department, Harrisburg, Pa. 17120.

• **Computer Fire Detection Systems** is an eight-page brochure, published by Pyrotronics, outlining high hazard fire areas associated with computer facilities and describes how fire can affect operations. It includes a checklist for the operations manager. For a free copy write W. Columbus, Pyrotronics, 8 Ridgedale Ave., Cedar Knolls, N.J. 07040

• You don't have to spend more to spend better, says **Employee Benefit Dollars**, a brochure prepared by Prudential Insurance Co. of America. It suggests different combinations of life and survivor benefits which can be worked out to tailor life insurance protection to employees' true needs. For a copy write Director of Group Insurance, Prudential Insurance Co. of America, 3 Plaza, Newark, N. J. 07101.

• **Practical Risk Management**, written by the principals of Warren McVeigh, Griffin & Huntington, is a loose-leaf monthly guide for the active risk manager. Each issue treats one topic in depth. Practical and innovative ideas are offered and its purpose is to serve as a basic permanent reference. Annual subscription is \$75 of \$20 quarterly. Contact Practical Risk Management, P.O. Box 3998, I, San Francisco, Ca. 94119.

• **Directors & Officers Liability** is a brochure offered by American Home Assurance Co. which explains the exposures of corporate and foundation executives, and cites instances of recent suits against officers of companies. For a free copy write American Home Assurance Co., 102 Maiden Lane, New York, N. Y. 10005

• **Benefacts Inc.** has published a **Total Approach to Communication** brochure which explains how the employer benefits from the employee benefits program when employees fully recognize and appreciate the investment made for them. The brochure provides basic information on individualized intra-corporate benefits communication programs set up by Benefacts on comprehensive multi-media levels. For a copy write Robert Eilerson, vp marketing, Benefacts Inc., Hampton Plaza, 300 E. Joppa Rd., Baltimore, Md. 21204.

• **Directory—Brown Brothers Adjusters** is planned for the convenience of claims managers, insurance managers, agents and brokers. This directory lists every city and town in seven western states: Arizona, California, Hawaii, Nevada, Oregon, Utah and Washington. It gives current day and night phone numbers and mileage to the nearest Brown Brothers Adjusters branches. For a free copy write Vernon Neufeld, Brown brother Adjusters, 545 Sansome St., San Francisco, Ca. 94111.

• **Small Businessman's Liability** is a brochure describing a small business commercial umbrella coverage. This coverage is for

shopowners, light manufacturing concerns and service operations. The brochure is free to agents, brokers and risk managers. Write Dept. 12, American Home Group, 102 Maiden Lane, New York, N.Y. 10005.

• **Weather Insurance** is a brochure published by American Home Assurance Co. which gives general information on precipitation insurance covering outdoor activities, including snow, hail, and rain. For a copy write Department 12, American Int. Group, 102 Maiden Lane, New York, N.Y. 10005.

• **Excess Casualty Insurance**, a new pamphlet from American Home/National Union, describes the excess casualty lines being offered by these companies. For a copy of the pamphlet write Dept. 12, American Home/National Union, 102 Maiden Lane, New York, N.Y. 10005.

Push seal system for cargo loss prevention

NEW YORK—"The guy in charge of the dock is concerned with losses from water damage. Insurance companies are. Adjustors of companies are. Managers of container shipments are concerned. But the foreman, the man loading the containers is not concerned. He is only concerned with the number of shipments he can get out. He is not willing to take the time and use the system."

That is what one Life Industries Corp. employe is finding in marketing a product called "Life Containerseal System," an effort designed to educate shippers in container loss prevention.

Water damage was cited as the second most prevalent cause of

container losses, second only to pilferage.

How many of these losses could be cut through using this system can only be estimated. The system has only been available since April and is still being test-marketed on a limited basis.

UNTIL FURTHER data is collected, it will not be known what the effect this system will have on insurance costs either.

Other companies are marketing sealants, but Life Industries claims that it is the first to offer "a total system".

"Not only does it prevent water damage to valuable cargo, but it also helps avoid the frustrations of losses and loss claims, reduces

costly equipment downtime for repairs, and smoothes the whole chain of relationships between shipper, carrier and consignee," the company professed.

Who is buying? Not many companies, it seems. United States Lines and Atlantic Container Lines have bought the system on an experimental basis. But, it is still too early to tell whether water damage losses have been cut.

Life Industries Corp. has invested substantial funds into this educational project. So far, the company has received, "a very nominal volume of sales, less than \$5,000," one employe said.

Why are people so hesitant to be educated and buy the system? "It's expensive to buy and people are not willing to change what they are doing," it was said.

The total package contains a cleaner, sealant, strips to prevent doors from sticking during curing and a sonic leak locator.

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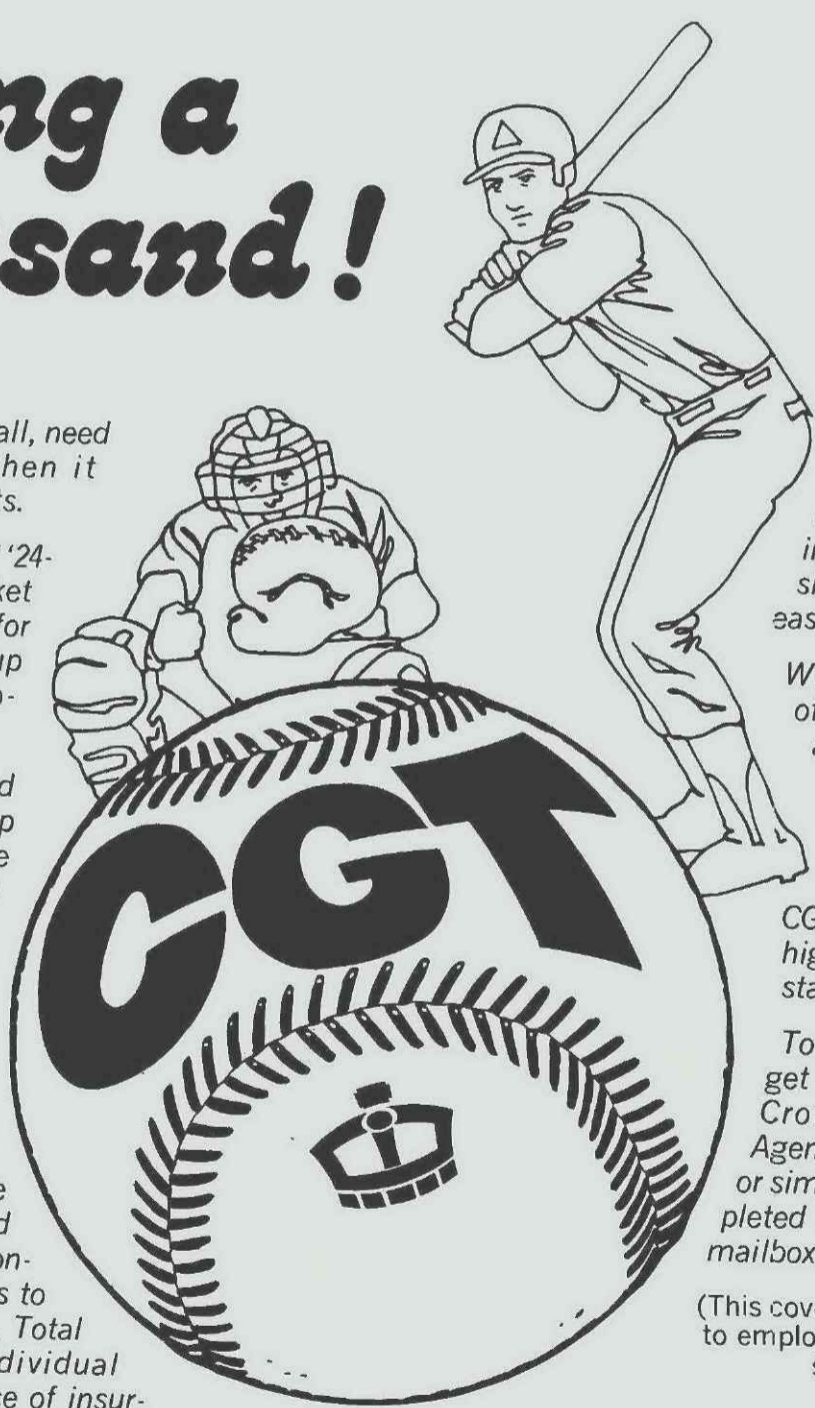
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The cash-value coverage can be elected by the individual employee. It is Crown Life's BI-GOLI-plus, which offers the retiring employee an annuity option as an alternative to the cash-out.

Crown's Group Trust Administration people have great speed on the base paths, with



issue time cut to a minimum, and billing and reporting procedures designed for optimum ease and simplicity.

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Drug liability insurance, in wake of heavy losses, is a touchy subject

NEW YORK—Against a backdrop of heavy losses suffered in recent years by manufacturers of contraceptive devices, product liability insurance for drug companies in general has become a volatile topic, a *Business Insurance* survey of major drug companies and underwriters disclosed.

"It's been our experience that most drug companies insure their disaster potential," a spokesman for Marsh & McLennan noted.

One industry spokesman said \$100 million in drug liability coverage is not uncommon among the large companies, who often self-insure an average of \$1 million.

A spokesman for Aetna Cas-

ualty & Surety Co. who noted his company "underwrites a number of drug companies," said one company carries a \$5 million deductible.

Retention of large deductibles, "depends on the philosophy of management," according to a spokesman for Kalamazoo, Mi.-based Upjohn Co.

"AS A CORPORATION you can take a large liability deductible," he explained, "because unlike a property deductible, it's not needed for immediate replacement; you can fund for it over a long period of time."

A spokesman for Smith, Kline & French Co. said the practice of insuring product liability with a

number of underwriters rather than just one is common.

"Aetna is our primary insurer," the spokesman said, "though we have a number of layers of coverage above what we have with Aetna."

A product liability specialist with Fireman's Fund Insurance Co. who said his company services the market primarily "above the \$10 million level" said that such coverage is afforded contraceptives as well as other pharmaceuticals. "Each risk is considered on its own merits," he stated.

"A company's loss experience over the last several years is the major governing factor for the availability of product liability insurance and the terms for writ-

ing it," the Aetna spokesman noted.

However Ken Boyd, underwriter for Special Risk Facilities Inc., claimed that product liability insurance is more expensive and more difficult to write for companies involved in producing contraceptives.

"With contraceptives you're dealing with something very sensitive—an area involving a potential for life, where there's more likely to be heavy liability involved."

The response of drug companies who manufacture contraceptives contacted by *Business Insurance* confirmed Mr. Boyd's claim of sensitivity.

THE RISK MANAGEMENT department of Johnson & Johnson Co., whose subsidiary Ortho Pharmaceutical Co. manufactures Ortho-novum, a contraceptive involved in lawsuits in the past, (*Business Insurance*, Sept. 14,

1970) has been instructed "not to comment on the matter of liability insurance."

Ditto for A. H. Robins Co., currently involved in litigation over certain IUDs. "We'd prefer not to disclose anything about whether or not we're insured," the company's general counsel said. (See related story, page 1.)

A spokesman for Syntex Inc., whose contraceptives have also sparked damage suits, disclosed that "In the past we've dealt with both Hartford and Aetna." But he added: "I can't see anything beneficial to publication of our insurance information."

Despite the number and severity of losses suffered by drug companies, premiums for product liability haven't increased markedly, a number of spokesmen told this magazine.

"Our recent renewal quote wasn't increased from the last time," the spokesman for Smith, Kline & French said. "There's enough of a market to keep things stable," he added.

The spokesman for Fireman's Fund noted a downward spiral for product liability premiums despite the "dreadful losses."

THE REASON? "Bloodthirsty competition among insurance companies," he reasoned. "They made profits in the last two years, and as soon as insurance companies make a little profit they behave like piranhas."

However, losses suffered by drug companies are climbing, he pointed out. "And when the downward curve of premium costs intersects the rising curve of loss costs a market shortage will result," he predicted.

This will lead soon to a situation where product liability insurance for drug companies will be hard to place at any price, the spokesman concluded. ■

Litton goes direct on fire insurance

BEVERLY HILLS—Litton Industries Inc. transferred its \$1 billion fire insurance policy covering properties in the U.S. and Canada from Fred. S. James and Factory Insurance Assn. to Arkwright-Boston Manufacturers Mutual Insurance Co., a company in the Factory Mutual System.

The change became effective Aug. 1.

Arkwright has the policy on a direct basis, James P. Lang, Litton's insurance director, told *Business Insurance*.

The reason for the change, he said, was a "substantial rate reduction" offered by Arkwright.

Litton has also switched its foreign coverage, which yields premiums of about \$1 million a year, from Johnson & Higgins to Fred. S. James. The underwriter is American International Insurance Co., which remains the same.

Mr. Lang said the reason for the foreign insurance switch was "more concentrated service with people who can speak foreign languages and travel to Europe." ■

Wohlreich expands

Wohlreich & Anderson Ltd., New York, a member of the Howden Swann Group, acquired D.F. Burkhardt & Co., a Cleveland-based brokerage firm specializing in transportation insurance for Ohio and surrounding areas. The move was made in the hope of offering more complete excess and surplus line services for both the firm's clients.



Are insurance premiums running through your hands like money?

If the answer is yes, then you should study the concept of self insurance.

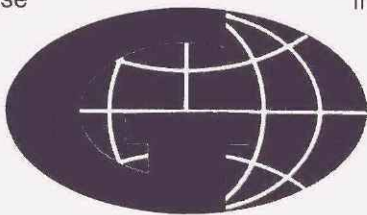
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Contraceptive liability ...

Continued from page 1

A source involved in other claims against the Robins Co. informed *Business Insurance* that Robins is insured by Aetna. However, neither Aetna, ("We are not at liberty to comment on this matter," a spokesman said), nor Robins would confirm this.

The general counsel for Robins said "The company's assets are more than sufficient to meet any contingent liability from litigation, even if every suit filed goes against us for the full amount."

That amount could possibly be in the millions of dollars, according to Carl Valore, a Northfield, N. J. attorney handling the class action suit. A state statute provides for triple damages for "unconscionable advertising," which is charged in the suit against Robins.

There are 21,180 gynecologists and 880 obstetricians practicing in New Jersey. Based on responses to a questionnaire he sent to a sampling of the New Jersey physicians, Mr. Valore reports "95% of them indicated they've had an unusually high number of requests for removal of the Dalkon Shield by patients who have become alarmed about the dangers of it."

THE FOOD and Drug Administration has linked the Dalkon shield with 11 deaths and 209 septic abortions in women who had been wearing it.

In June, Robins agreed to halt the sale and distribution of the device.

Calling the low-pregnancy rate claims originally made by the Robins Co. in ads for the Dalkon shield which appeared in

Underwriters to have role in nat'l. plan: Assn. official

WASHINGTON—The president of the Health Insurance Assn., representing commercial health insurers, predicted this month that any eventual national health insurance package would have a prominent role for private insurers.

Leslie P. Henry, speaking for the American Assn. of Medical Clinics here, outlined two possible roles for private insurers in a national program.

First, he said, "insurers could continue as they are now and, in fact, may have an increased role in underwriting and administration of plans for the entire under 65 population.

"Of course, there would be some modifications. Federal standards would bring a greater degree of federal control."

Or second, "insurers might underwrite and administer basic plans for part of the population—say, the working population—with the government finances coverage for either catastrophic insurance or for the poor or both. Insurers could serve as administrators of the government-sponsored part of the program."

Mr. Henry contended that federal takeover of the private insurance sectors was not seriously proposed in Congressional actions on pensions, workmen's compensation, and automobile insurance legislation.

He believes Congress will be influenced by these precedents in its determination of a role for private health insurers. ■

medical journals "medical hucksterism." Mr. Valore claimed physicians' malpractice insurance premiums will rise as a result of their involvement with the Dalkon shield.

Another damage he contends will result from the bad publicity given the Dalkon shield "is that IUDs in general, as a valid form of birth control, will be downgraded in the eyes of the public."

IN OTHER PARTS of the country, attorneys are working on lawsuits against Robins. Paul Rheingold, a New York lawyer, is attempting to organize the efforts of his colleagues and provide an information exchange among them.

"It's my guess that several hundred suits have been filed against Robins in the last year," he noted. He predicted even more

suits pending, "perhaps even 1,000."

Mary Ramey, an Indianapolis, In. attorney, is handling three cases against Robins. One, seeking a total of \$1 million, alleges fraud in advertising.

Mrs. Ramey's clients are seeking punitive damages against both Robins and DLK Inc., holders of the patent on the Dalkon shield.

John Caress, another Indianapolis lawyer, is handling "about a dozen" cases seeking damages "from \$5,000 to upwards of \$200,000."

The most common damages sought result from perforation of the uterus, which attorneys claim result from the crab-like shape of the Dalkon shield.

Some cases claim severe infection resulted from the use of the Dalkon shield; in others the infection was so severe as to warrant performance of a hysterectomy, Mr. Caress said. ■

ASIM offers input for inflation summit meets

NEW YORK—The American Society of Insurance Management has offered its "collective knowledge and whatever appropriate assistance we can provide" to William L. Seidman, executive director of President Ford's summit conference on inflation.

In a letter sent to Mr. Seidman last week, ASIM president E. William Altstaetter pointed to a study by Swiss Reinsurance Corp. noting that insurance premium volume in the U.S. in 1972 accounted for 7.1% of the gross national product.

"**WE STRONGLY** believe that consumers of an industry which accounts for such a high percentage of our nation's GNP can provide productive input on inflation," said

Mr. Altstaetter, risk manager for Pittsburgh-based Rockwell International Corp.

ASIM, the largest organized group of insurance consumers in the nation, has more than 2,000 corporate members, including 80% of the largest U.S. industrial corporations. Collectively, members spend in excess of \$15 billion on insurance premiums and services annually, while administering employee benefit plans covering over 30 million families.

"One of our primary goals," wrote Mr. Altstaetter, "is to assure a competitive insurance marketplace in the public interest." He said ASIM agrees that inflation is the number one problem facing the nation. ■

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Deadline Oct. 2 for initial premium on pension insurance; few plans end

WASHINGTON — Employers have less than two weeks in which to pay the initial premium for the new pension termination insurance established by the pension reform law.

The first payment is due Oct. 2 from administrators of single and multi-employer defined benefit pension plans, although the insurance bills will probably not be mailed until next week.

Single employer pension funds will be assessed \$1 per plan participant for the first full year's coverage, and multi-employer plans will pay 50 cents per participant, says the Employee Retirement Income Security Act.

The insurance bills will be pro-

rated so that plans operating on calendar years will pay for the remaining four months left in 1974. Funds operating on a July 1 fiscal year basis will pay for the remaining 10 months in their fiscal years ending next June.

THERE WILL, however, apparently be a grace period of about 30 days for late payers the first time around, *Business Insurance* learned. Penalties for late payments on future bills have yet to be set, but they are expected to follow the same pattern as those for late tax payments.

The new Pension Benefit Guaranty Corp., which will receive the premiums and pay pension in-

urance claims, is already coping with over 50 claims from plans terminated during a loophole period created by the new law.

That period lasted from June 30, 1974, to the Sept. 2 enactment date of the bill. Employers who terminated plans in that period did so apparently without coming under the new law's liability feature which says a lien can be placed on 30% of a company's net assets in the event plans are terminated in an unfunded or under-funded condition.

THE EARLY terminations have not included any large plans, according to the new federal guaranty corporation, but two large unions, the United Steel Workers and the United Auto Workers, are already involved.

The steel workers, in fact, expect to have between 50 and 100 plans representing their members seek termination insurance coverage under the new law.

The large number of steel workers plans involved is due in large amount to "creep" provisions written into many of the company-sponsored plans that cover steel worker members.

THIS CLAUSE allows United Steel Workers to continue accu-

ing benefits for a year or more after a company closes down operations where members were actually employed.

One of the early steel worker terminations was filed for two plans at the St. Louis Car division of General Steel Industries Inc. That division ceased operations in August of last year.

The general pension plan, for hourly workers, covered about 1,000 employees. The retirement plan for salaried workers, representing office and technical employees, covered about 175.

Employers contacted by *Business Insurance* indicated they are confused and uncertain about what will happen next after they file termination notices.

Charles Deaver, supervisor of employe benefits for General Steel Industries, said, "We don't know. You ask half a dozen lawyers, you get half a dozen answers."

The General Steel plan for St. Louis Car had a two year "creep" clause in its language, allowing laid-off United Steel Worker members to continue to accrue benefits for up to two years after the plant shut down.

USW officials told this magazine that they believe the plan should still warrant coverage under the new insurance provisions since the law states that plans are not terminated until accrual of benefits halts.

The plan covering United Auto Worker members was at the United States Register Co., Battle Creek, Mi., which closed down its Michigan operations last year after a lengthy UAW strike and moved the plant to Tennessee.

UAW officials said they were unaware that the company had sought coverage under the pension reform act and declined to comment on the matter.

Labor gives list of loophole pension cuts

A partial list of notices filed on plan terminations during the

"loophole" period includes:

- United States Air Compressor Co., Cleveland, Oh.
- F. Yeager Bridge and Culvert Co., Port Huron, Mi.
- General Steel Industries Inc., St. Louis Car Division, St. Louis, Mo.
- Woonsocket Dying Co. Inc., Woonsocket, R.I.
- Walter Kidde & Co., Dura Corp., Weaver Division, Springfield, Ill.
- General Steel Ind., Casting Division, Granite City, Ill.
- H. K. Porter Co. Inc., Crane Co. Division, Pittsburgh, Pa.
- F. L. Jacobs, Continental Die Cast Corp. Division.
- Gould Inc., UAW pension plan.
- Ascon Corp. Retirement Benefit Plan for Hourly Employees.
- GAF Corp. Floor Products Division, Joliet, Ill.
- U. S. Register Co., Battle Creek, Mi., UAW pension plan.
- Adelphia Steel Equipment Co., Philadelphia, Pa.
- American Ship Building Co., Wilson Marine Transit Division, Cleveland Oh.
- Clipper Brick Co., Detroit, Mi.
- Colorado Fuel & Iron Corp., Roebling Division, Roebling, N.J.
- Consumer Metal Corp., Detroit, Mi.
- Cargill Inc. Commodities Division, Pawnee Rock, Ka.
- J.J. Cress Co. Inc., El Monté, Ca.
- Black Diamond Enterprises Inc., Bristol, Va.
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- Donegal Steel Foundry, Marietta, Pa.
- Esmark Inc., Swift & Co. subsidiary, Swift Dairy & Poultry Co.
- Evans-Aristocrat Industries Inc., Evans Rule Co. Division.
- General Tire & Rubber Co., Aerojet-General Corp. subsidiary Morse (Robt.) Corp. Ltd. subsidiary, Howe Richardson Scale Co. subsidiary, District Sales & Service Office.
- Georgia-Pacific Corp., Vansant, Va.
- Hackensack Cable Corp., Hackensack, N.J.
- Harvard Industries Inc., Harvard Interiors Manufacturing Corp. subsidiary.
- Holzer-Cabot Corp., North Attleboro, Ma.
- ICN Pharmaceuticals Inc., Strong Cobb Arner Inc. subsidiary, Cleveland, Oh.
- International Paper Co., Long Bell Division, Farnville, N.C.

Corporate officials emphasized that the original filing notice required only the barest essential information, and that even some of these filings were incomplete. ■



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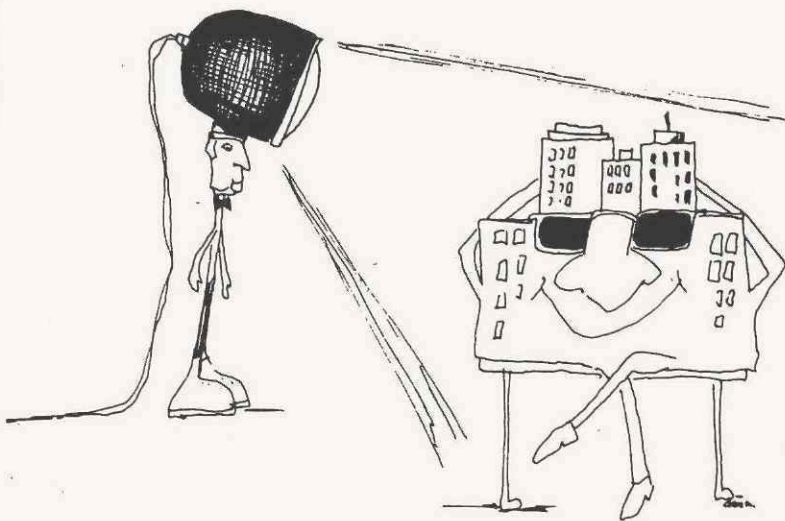
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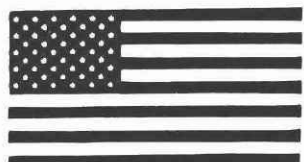
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washington watch

Work on health bill grinds to a halt; major effort required to get moving

By RICHARD L. GORDON

WASHINGTON—It took only 72 hours last month to make it clear to Rep. Wilbur Mills (D-Ar.) that his House ways and means committee was in no shape to make up its mind on national health insurance.

Rep. Mills admitted as much when he decided, after three days of committee meetings, to halt further work on a health insurance bill and send his 24 commit-

tee colleagues home for a Labor Day recess to think about the matter.

The optimistic national health insurance "bubble" that developed shortly after President Ford took office last month quickly burst when Rep. Mills got the ways and means committee down to business.

Business Insurance was told by sources close to the committee that it will probably take a major effort by President Ford, not ex-

cluding some arm twisting, to get the committee moving again this year.

AFTER MUCH wrangling and some very close committee votes, Rep. Mills said, "It's quite evident to me that we are spinning our wheels until we can come up with something that meets the general feelings of the committee."

The committee staff presented a proposal that would establish

mandatory basic health and catastrophic health insurance plans that would have to be offered by all employers to their employees by July, 1976.

Blue Cross-Blue Shield and commercial health insurance companies would underwrite and administer the basic health plan, but would only handle benefits payments and administrative duties for the catastrophic plan.

All individuals not eligible for an employer sponsored plan would be participants in an alternative insurance plan, offering the same benefits, to be run by the states. Individual states would be allowed to invite private insurer participation in this area.

The President could delay the 1976 effective date for up to one year in the event of administrative problems.

The basic health plan benefits package would include unlimited hospital inpatient services, except for mental illness; unlimited

physicians' services; unlimited prescription drugs, blood and blood products, prosthetic devices, and other medical equipment and supplies.

IT WOULD ALSO provide for up to 100 days per year in skilled nursing facilities; 100 visits per year for laboratory and x-ray service, outpatient physical therapy services, podiatrist services, and other home health services.

For children, unlimited routine dental services, excluding orthodontia, would be provided until age 13. Some type of eye examination and eyeglasses benefit would be prescribed by regulation, also until age 13. The same rule would apply for hearing services.

Regulations would also prescribe levels of benefits for preventive care, under the committee staff proposal. That would include family planning services, prenatal and maternity care, and well child care.

The proposal would provide up to 30 days of inpatient psychiatric hospital care a year, and up to 60 days for partial hospitalization for mental illness. Payments for up to 30 outpatient visits at an "approved comprehensive care center" would be provided. For visits to a private practitioner or in other settings, the benefits ceiling would be half the maximum payable at the community center.

THE COMMITTEE staff estimated the premium for this package to be \$220 a year for single persons and \$540 a year for families.

Employers must pay 75% of the premium cost of the program, but that amount would be phased in, under the proposal, beginning at 65% initially. The employer's share of the premium could be increased through collective bargaining.

The actual amount of the total premium would be left to negotiations between the insurance company and the employer.

Unlike the labor supported health security bill, the committee staff proposal provides both deductibles and coinsurance.

Deductibles of \$150 per person for most services are provided, with no further deductible after three members of the family have paid that amount for the year.

After that, a 25% coinsurance feature would become effective, but the ceiling for deductibles and coinsurance would be \$1,000.

DRUGS WOULD be subject to a separate \$50 deductible that would be included in the \$1,000 ceiling on costs by the insured.

Once past the \$1,000 level, the basic health insurance plan would cover all expenses up to \$6,000 when the catastrophic insurance would take over.

The language surrounding this provision, however, promises to spark some tough bargaining. The committee proposal would finance this catastrophic coverage, which has no upper limit, through a payroll tax that private health insurers warn could be the "foot in the door" for a completely federalized health insurance industry.

"If that \$6,000 figure were later reduced to \$3,000, or \$2,000, you'd have a federal takeover of the industry," said a spokesman for the Health Insurance Institute, which represents private health insurers.

The payroll tax would be limited to \$20,000 of income, with a 0.25% rate for employees and a 0.75% rate for employers.

The committee proposed a subsidy system that would ease the financial impact of possibly

Continued on page 15

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Work deaths rise, but rate declines: Council

CHICAGO—Fatal accidents in the workplace rose nearly 1% between 1972 and 1973, according to a report released by the National Safety Council.

About 14,200 workers were accidentally killed in 1973, compared to 14,100 killed in 1972. But the death rate actually declined by about 1% during the period, because of an increase in the total working population.

Disabling work injuries in 1973 totaled 2.5 million, up almost 1% from 2.4 million in 1972. But the NSC noted that "contributing to the increase was an increase in exposure; employment rose over 3%, more than offsetting a slight decrease in average hours worked per week."

10.55 per million man-hours in 1973. The severity rate for all industries averaged 62 days charged per work accident.

Underground coal mining was the industry hardest hit by work injuries, with 35.4 disabling injuries per million man-hours (latest figures from 1972). The transit industry was second with a frequency rate of 27.6, followed by meat packing with 27.5 and air transport with 27.0.

The automobile industry enjoyed the lowest frequency rate for disabling work injuries, totaling only 1.6 per million man-hours. Aerospace followed with a rate of 2.2, and the electrical equipment industry came in third with a rate of 2.5.

WORK INJURY costs in 1973 totaled \$6.4 billion. This sum included \$2.9 billion in wage losses, \$1.6 billion in medical expenses, and \$1.9 billion in insurance administrative and claim settlement costs.

The estimated cost of 1973 work accidents, including the \$6.4 billion in work injury costs, totaled \$14 billion. Fires accounted for \$1.2 billion in losses, and other costs totaled \$6.4 billion.

Workmen's compensation payments in 1972, latest figures reported by the Social Security board, amounted to \$4.02 billion. Medical and hospital costs took \$1.23 billion, and \$2.79 billion went for wage compensation.

The frequency rate of disabling work injuries for all industries reporting to the NSC averaged

Watch . . .

Continued from page 14
higher insurance costs on employers. Should premium contributions increase payroll costs by more than three percent, the government would pay for a portion of the excess, starting at 75%, to be phased out over five years.

The benefit package did not come under serious questioning in the committee, but the methods of financing and its mandatory nature drew much attention.

THE COMMITTEE just barely turned back efforts to make participation in the plan optional, something that both the White House and Rep. Mills oppose, but the American Medical Association favors.

The same vote, if approved, would have allowed employers and employees tax credits to encourage them to buy the coverage, as favored in an AMA health insurance bill.

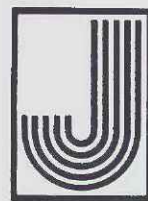
Not even touched on before the committee ended the current effort was a potentially explosive proposal that would have based physicians' fees on a state approved schedule. In order to participate in the national health care system, the doctors would have to follow the schedule, which would be proposed to state authorities by local medical societies.

The proposal would have required that a fee schedule and names of participating physicians be made available to physicians.

As expected, the proposal also said that employers would have to offer the option of a Health Maintenance Organization (HMO) and that medical practices would be subject to the review of Professional Services Review Organizations (PSROs), committees of doctors designed to guard against unnecessary use of medical facilities.

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Hartford, Connecticut

Lawyers question OSHA, consumer product laws

HONOLULU—The constitutionality of the Occupational Safety and Health Act, (OSHA) and the Consumer Product Safety Act (CPSA); proposed amendments to the international agreement for recovery of damages in airline accidents and the probability of a future increase in malpractice suits against lawyers were among topics discussed at the annual meeting of the American Bar Assn. (ABA) here.

The courts have yet to decide whether or not OSHA is constitutional, John M. Hollis, a Norfolk, Va. attorney told a session of the section on insurance, negligence, and compensation law.

"The courts have opined that while the statute imposes a duty upon employers and enforces that duty by criminal sanctions and by creating a right to injunctive

relief, it does not mention any private civil remedy against the employer for violations of the act," Mr. Hollis stated.

However, the courts do appear willing to accept OSHA violations as prima facie or per se negligence in cases founded upon an independent or common law basis, he added.

THE CPSA faces a test in the area of products liability, according to John S. Martel, San Francisco, Ca., another member of the panel session.

"The next months will largely determine the success of the product safety act in both its major preventative thrust as well as its salutary impact on private litigation," he said.

A third member of the panel, Warren Freedman, New York,

cited several legal questions involving OSHA and the CPSA which are still unsettled.

"Is statutory violation of OSHA or CPSA negligence per se, or simply evidence of negligence?" he asked. "Are new causes of action in products liability created by these statutes? What is the legal effect of compliance or non-compliance with CPSA product standards or OSHA rulings?" he also wondered.

At another session, ratification of an amendment to the international Warsaw Pact by the U.S. Senate was debated.

Arguing for ratification, James Landry, general counsel, Air Transportation Assn., Washington, explained that the amendment, called the Guatemala Protocol, contains a no-fault provision which establishes a regime of ab-

solute liability for the airline with no defense except in the case of contributory negligence.

The amendment raises the limit of carrier liability to \$100,000 per passenger, Mr. Landry continued, and also allows any nation to set up a supplementary compensation fund.

IN THE U.S. it has been proposed that such a fund be privately managed and supported by a \$2 surcharge on all overseas tickets. It would offer up to \$200,000 in additional coverage.

Another key feature of the amendment, Mr. Landry noted, stipulates that if the carrier fails to make a timely offer of settlement after proper notice from the claimant, the court has the power to impose on the carrier the costs of the action, including attorneys'

fees independent of the liability limit.

Arguing against ratification of the amendment, Harold V. McCoy, an attorney from Mineola, N.Y. suggested it could be made more "palatable" if the damage limit were eliminated and replaced with a provision that the extent of damages recovery be governed by the law of the particular country where the victim was domiciled.

Mr. McCoy also objected to a proposed \$300,000 maximum recoverable in an accident.

THE AMOUNT, he said, "could be insufficient to pay the hospital or nursing costs of a seriously or permanently injured passenger, nor would the amount represent what the substantial wage earner might realize in a lifetime."

A growing trend toward legal malpractice claims was noted in another presentation by attorney Lyle W. Allen, Peoria, Ill.

Mr. Allen said that state courts are enlarging upon a ruling made by the Supreme Court almost 100 years ago which directed lawyers to employ a reasonable degree of care and skill in the performance of the duties of the legal profession.

The state of California, he said, holds that legal malpractice is the failure of a lawyer to "use such skill, prudence and diligence as lawyers of ordinary skill and capacity commonly possess and exercise in the performance of the tasks they undertake."

An analysis of major claims against lawyers was made recently by a leading insurance company responsible for a large portion of errors and omissions coverage, Mr. Allen said.

THE STUDY found that 43% of its claims against attorneys fall within the time element category which includes missing statutes of limitation and other dates for filing.

"It is nonfeasance rather than malfeasance which gives rise to the greatest frequency of claims," he said.

Approximately 20% of claims come from a failure in the preparation of contractual agreements, the study found. Another 20% arise from the negligent handling of real estate transactions, it also disclosed.

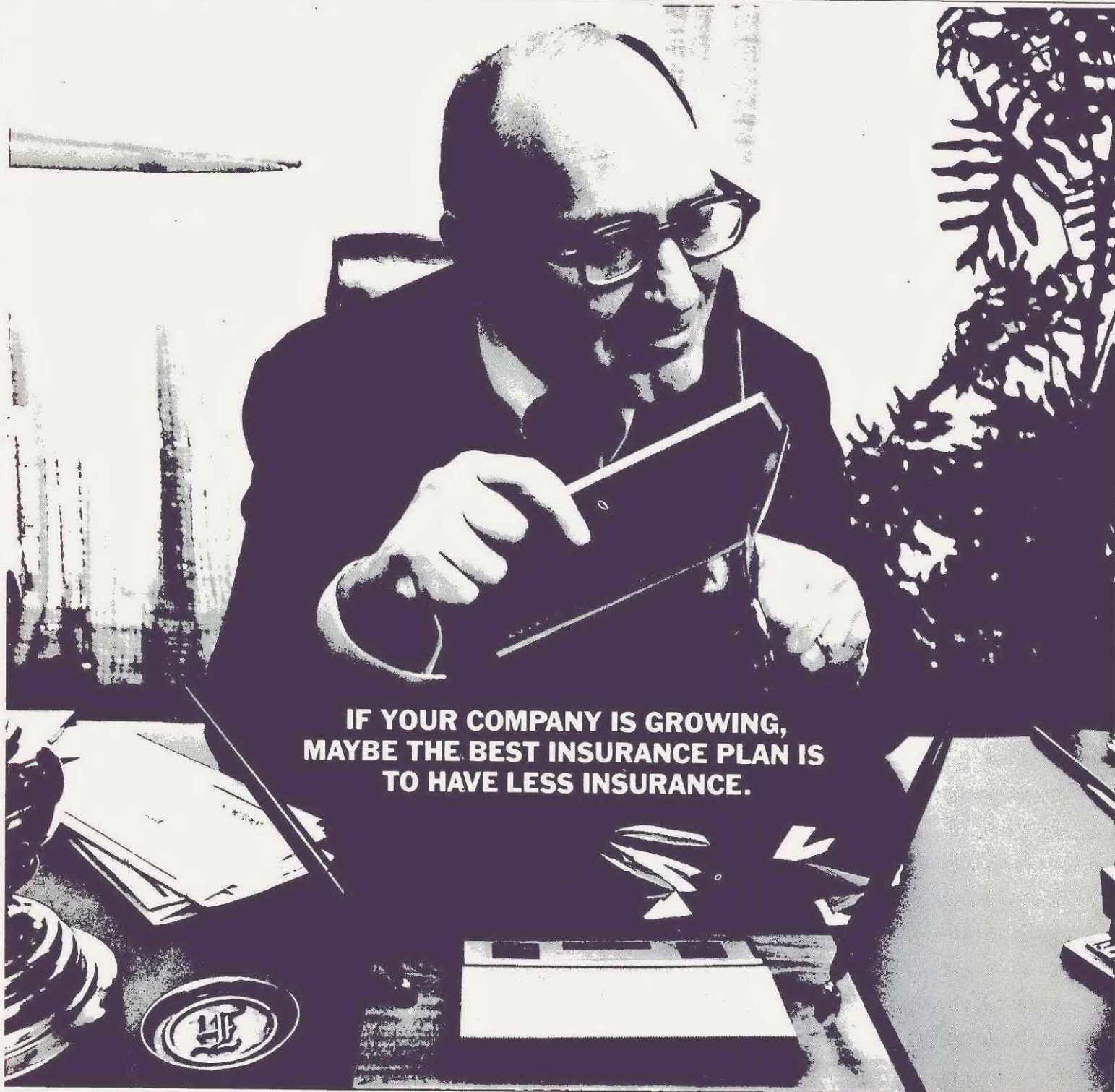
In a paper jointly presented by Kurt W. Melchoir and Jan T. Chilton, both of San Francisco, it was pointed out that the expansion and enforcement of federal securities laws is revealing serious implications in the liability area for directors and officers of corporations.

"What has drastically changed has been the recent interest of a growing plaintiffs' bar in expanding and enforcing those laws through private damage actions," Mr. Melchoir said.

The pair of attorneys concluded that as a first line of defense a director's or officer's duty is to make diligent inquiry of his corporation or take other affirmative action to avoid securities violations and also to make full disclosure of inside information. ■

Globe Aviation to S.F.

Globe Aviation Underwriters recently announced the opening of a new office in San Francisco. Global Aviation is an underwriter-broker for all lines of aviation insurance, and a division of Hutchinson & Green Inc., a brokerage firm affiliate of Syncon Corp. Patricia I. Conti, CPCU, was named manager of the new office.



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WEST HARTFORD, CT.—Town finance director Richard Russo estimated that savings of \$18,000 to \$25,000 were achieved on a new group insurance contract which provides improved coverage for town employees.

Recent competitive bidding resulted in contracts for both group life coverage and major medical with Aetna Life & Casualty, headquartered in Hartford.

Maximum major medical benefits for town employees are being boosted, although no new benefits are contained in the group life policy, which Aetna Life & Casualty now holds.

The major medical policy was turned over to Aetna Life & Casualty by Connecticut General

Life Insurance Co. of Hartford, effective Sept. 1.

Eight companies bid on the town contracts, with Crown Life of Toronto the low bidder for both categories.

CROWN LIFE bid an annual premium of \$163,862 for combined group life and major medical coverage; Aetna proposed a premium of \$180,000.

Edward Alger, town insurance agent of record, recommended agreement with Aetna, noting the cost differential was not sufficient "to warrant a change of carrier on the bulk of the group life premium."

Mr. Alger added that his company, Allen, Russell & Allen,

Hartford, has had "a good working relationship" with Aetna over the years.

Mr. Russo agreed with Mr. Alger, at the same time expressing some reservations over not awarding the contract to the lowest bidder which, he said, may discourage the competition for which town bidding ordinances provide.

Mr. Russo credited the success of the bidding to a new "competitive climate," fostered by recently-enacted ordinances opening competition for insurance coverage on a national basis.

Under the new contract, major medical coverage includes an increase in the maximum claim that can be made by retired persons over 65 or disabled persons under 65; a boost from 90 days to one year in which employees and dependents can accumulate \$100 in medical bills to file claims; and reimbursement for major medical expenses at 80% of accumulated costs. ■

Insurer quotes kidnap costs and coverages

WAUKESHA, WI.—American XS Underwriters, a special risk subsidiary of American Companies Inc., here, has broken an unwritten industry rule by discussing kidnap insurance.

Quoting costs and coverage, Gordon B. Phillips, president of the underwriting agency, shed light on a subject that has been kept under close wraps.

Mr. Phillips admitted in a wide ranging discussion of kidnap insurance that most policyholders are required to maintain silence about the existence of their coverage.

Insurers are reluctant to disclose their roles in kidnap coverage, he added, because they worry about the chance that

widespread knowledge of the insurance might encourage more kidnapping.

An individual or family with gross income of less than \$100,000 a year and with personal assets of less than \$1 million can purchase up to \$1 million worth of kidnap insurance for an annual premium of \$875, he said.

For \$100,000 worth of insurance, the annual premium would be \$250, he said. For \$250,000 it would be \$400 and for \$500,000 it would be \$500, he added.

There are cost variations for different occupations and extra charges for various travel exposures, he said. Each policy contains a deductible clause, he added.

The deductible is \$2,500 on a \$100,000 policy, \$5,000 on the \$250,000 and \$500,000 policies and \$10,000 on the \$1 million policy, he said.

Policies can be extended to cover extortion money and injuries or death resulting from kidnappings, he continued.

COMPANIES GENERALLY are able to obtain key man coverage up to \$5 million, with the deductible based on a percentage of the policy amount, or a flat amount, usually \$25,000, he said. Costs to businesses vary considerably, depending on the risks involved, he added.

Mr. Phillips also talked about kidnap reward insurance, available only to businesses, in amounts of \$100,000 or \$250,000.

Kidnap reward insurance, he explained, indemnifies the insured for money paid to informants if it leads to the arrest and conviction of a kidnapper.

Designed to deter kidnappings, the reward coverage generally can be offered to a firm for a three year, prepaid premium of \$2,400 which would pay for a \$100,000 policy, Mr. Phillips said. ■

OSHA guide to violations is available

WASHINGTON—A frequent business request—a simplified guide to common violations of federal job safety and health standards—is now being made available by the Occupational Safety and Health Administration (OSHA).

There are actually two guides available, one for general industry and one for construction firms. Single copies are available free from any of OSHA's regional offices.

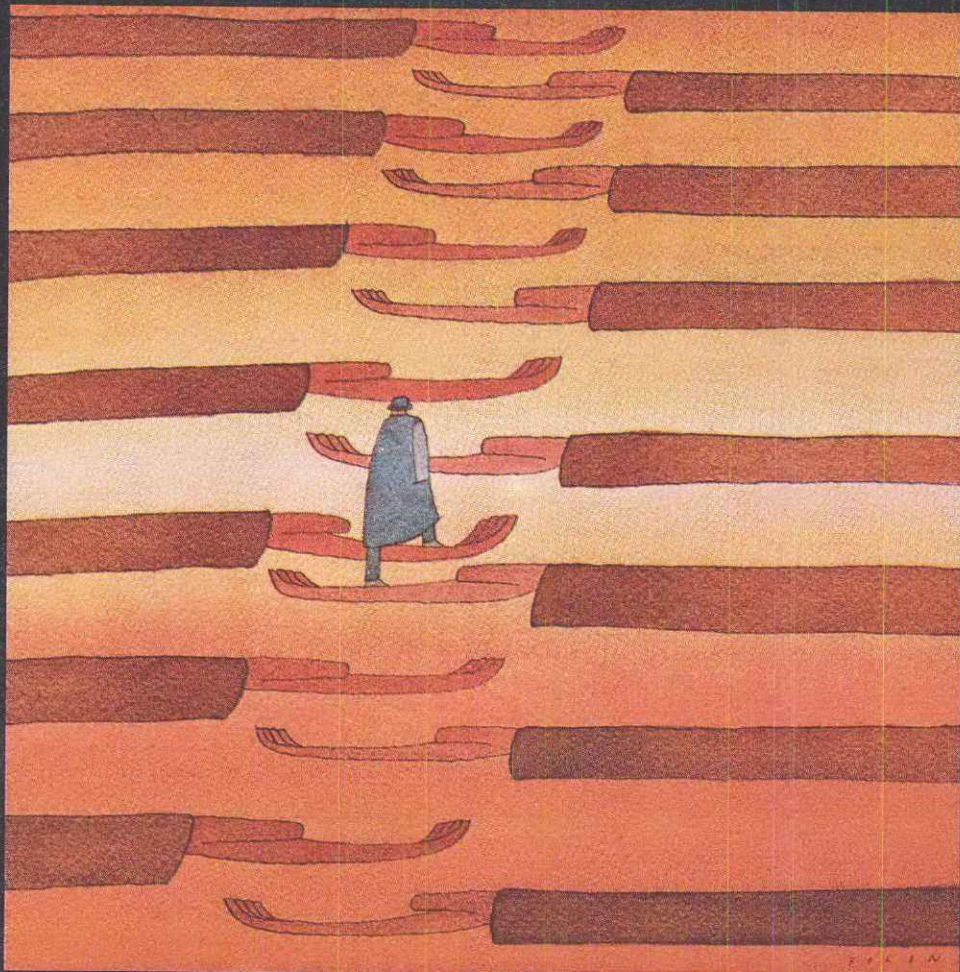
The booklets contain "summaries of most of the common sense rules OSHA inspections reveal are the most frequent source of cited violations."

In addition to summarizing requirements for certain occupational hazards, the booklets list in detail references to particular sections in OSHA standards where the user may find the complete requirements.

To purchase additional copies of the booklets, send orders to the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

"General Industry: Standards Digest" (OSHA 2201) costs 75 cents per copy. "Construction: Standards Digest" (OSHA 2202) costs 65 cents per copy. ■

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london line

Government politics spark renewed interest in private medical insurance

LONDON—Fresh interest is being shown in private medicare insurance in Britain because of the Labor government's decision to confine the country's National Health Service to public users.

Ever since it was created 25 years ago as a part of the nation's "welfare state", there has been an accepted two-tier arrangement by which special fee-paying patients could get rooms even in public hospitals for urgent treatment.

But political motives have led the government to warn that these private facilities, which were introduced to ensure good relations with the medical profession, will be withdrawn in the next two years.

This warning has led to bitter conflicts between leading surgeons and hospital workers, who are threatening strike action to enforce their demands to "phase out" the private-room scheme.

The outcome looks likely to be an extension of private medicare plans, which already cover more than 2.5 million people who were dissatisfied with the facilities of the public health service, especially over long waiting-lists before they could be admitted to hospitals for non-emergency treatment.

One organization, the British United Provident Assn., which draws monthly fees from more than 1 million members, is planning to build new hospitals. Other medicare insurance groups are supporting moves to run their own health services for urgent cases, leaving the public health service to look after routine needs.

TIGHTER RULES for U.K. insurance companies are planned as a result of the collapse of National Life Insurance, which had more than \$50 million committed in funds for 35,000 policy holders, as well as another \$30 million in real estate investments.

Control schemes which were brought in earlier this year (*Business Insurance*, May 27) to ensure the safety of the life insurance industry failed to stop the crisis.

National Life was heavily involved in real estate, which has slumped in Britain in recent months, and talks are still going on to persuade the rest of the insurance industry to help National Life's policyholders.

But there is a natural reluctance on the part of the traditional insurance companies, including some of the U.K.'s major corporations, to divert their own funds to a company which had over-speculated.

Government rules to maintain the solvency of insurance companies are now likely to be even stronger than when Vehicle and General collapsed three years ago with a \$22 million deficiency.

National Life's interests were confined to the domestic field, mainly in life risks and real estate, so the world-wide soundness of the U.K. market in commercial risks is in no way affected.

ACTION IS being taken to tighten up security at London's Heathrow international airport, giving control to Scotland Yard, instead of the present local air-

port police.

Parliament has been discussing legislation to achieve this change, as cargo thefts have been getting heavy, and the threat of terrorist activity is always present.

The British Airports Authority, however, has denied suggestions, apparently emanating from Washington, that the airport is so insecure as to pose a real danger to international airlines.

According to reports circulating in London, the F.A.A. was

quoted recently in the Washington Post as saying that eight major foreign airports could serve as havens for guerrillas. Heathrow was among them.

This comment is so critical of airport security that an official of the British Airports Authority said: "I am unaware of any F.A.A. survey which has named us as being lacking in our security precautions. All security here is under constant review, but it is certainly a major problem to

keep it compatible with running an international airport on a proper functioning level."

Hi-jacking and bomb perils are taken so seriously at Heathrow that periodically, armed troops from the British Army join police and airport civilian guards in anti-sabotage preventive exercises.

DUNDEE, SCOTLAND, is the home of the jute trade and so its local fire brigade has probably more experience in combatting fires in raw jute warehouses than anywhere else in the world.

There was a useful lesson for plant insurers when fire broke out in a jute spinners premises where 770 bales were stacked.

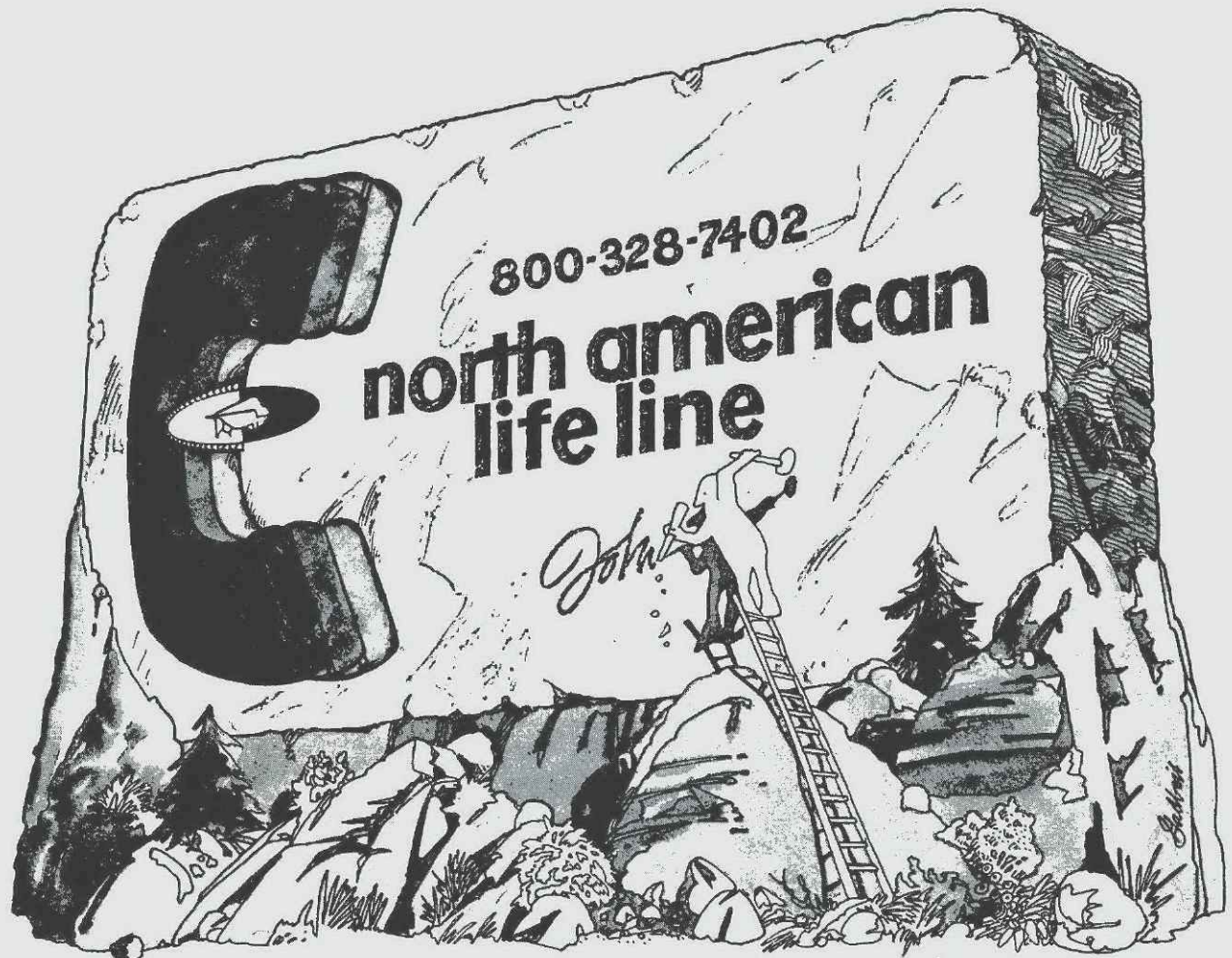
The fire brigade used medium expansion foam to deal with the fire and flame suppression was so effective that most of the bales were saved unharmed. This method was used because water jets can be very effective to quell

the fire, but invariably lead to swelling and bursting of the jute bales. Carbon dioxide extinguishers can be effective in basements, but few warehouses are sufficiently gas tight for this medium.

LLOYD'S BROKERS are hoping for greater aviation business from China, especially in the reinsurance market. It is believed China may want cover for its state airline, which carries a hull value of more than \$300 million, and will also seek passenger liability cover if it starts scheduled services to foreign countries next year. The airline is presently covered by the government-owned insurers, the People's Insurance Corp., which is seeking reinsurance facilities abroad if they prove suitable.

SAFETY MEASURES for ocean diving are to be tested by the British Navy at its Portland, *Continued on page 22*

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Employers can't dodge work safety complaints

WASHINGTON—The Occupational Safety and Health Administration is taking a harder look at employers who fire or otherwise discriminate against employees for complaining about on-the-job safety or health conditions.

OSHA announced last month that Labor department attorneys have filed suit in Omaha, Neb., federal court against a construction firm that fired six employees for complaining about what they considered unsafe dust and high wind conditions on a project site near Sutherland, Neb.

The Occupational Safety and Health Act prohibits employers for discharging or otherwise discriminating against employees

who make safety complaints to OSHA, a state safety agency, or the employer itself.

THE CONSTRUCTION firm, Morrison-Knudsen Co., Inc., of Boise, Id., has rehired five of the discharged employees since the firings took place last October. The Labor department suit asks to have the sixth man reinstated and that all six employees get back pay, other benefits, and full seniority.

Until early this year, OSHA officials in Washington had only a vague idea of how many of these civil actions were pending, but Labor department lawyers now estimate there are about 35 such suits pending in the courts.

The number of such suits filed "is picking up though," OSHA assistant counsel Harold Engel told *Business Insurance*. "All of them don't involve dismissals, however. Many of them involve layoffs or transfers to less desirable shifts.

"There is a lot of fear among employees and, unfortunately, it's justified," Mr. Engel said. "Many employers aren't sophisticated in this area and they get mad and take it out on the employee who complained.

"And the more inspections we make, the more discrimination complaints we get from employees," Mr. Engel said.

In a recent case, Mr. Engle said, an employer obtained from a state safety agency an anonymous complaint and compared the handwriting on the complaint to that of his employees. The employee whose handwriting matched that on the complaint form was fired, Mr. Engel said. ■

EEOC violations pose big exposure: Insurer

NEW YORK—Noncompliance with regulations of the Equal Employment Opportunity Commission is an area of exposure ignored by far too many risk managers, according to Daniel Mosley, president, Central City Services Inc., a bonding and commercial insurance company.

"Most corporations in America are vulnerable in that they haven't thoroughly examined their position with regards to treatment of women and minorities," Mr. Mosley said in an interview.

From his office in the heart of Wall Street, chosen because it offers the minority-run company "high visibility in the financial community," Mr. Mosley noted that the insurance and financial

industries are "the most vulnerable" in the area of noncompliance with EEOC regulations.

He predicted these industries would be the target of a number of lawsuits charging discrimination in the near future.

THE AVERAGE risk manager doesn't know enough about EEOC regulations, Mr. Mosley said, citing lack of communication between upper level management and the risk management department as the heart of the problem.

"Risk managers need to be involved in corporate policies at all stages—the conceptual level, the contractual level and in their implementation," stated the president of the two-year-old insurance firm whose clients have included the Chase Manhattan Bank, Continental Can Inc. and Ambrose August-fer.

Mr. Mosley suggested risk managers should be sure that their companies are in compliance with EEOC regulations and that steps to see that the entire organization is committed to a policy of compliance.

"This commitment must be translated into specific quantitative goals," he said, "For example, in the number of minority hires per year, promotions per year and dollar deposits in minority banks." ■

London . . .

Continued from page 21

Dorset County, naval base in the hope of achieving "saturation depths" which will benefit salvage and oil-rig corporations.

Naval divers will wear newly-invented armor suits which allow greater movement than is possible with conventional ultra-deep-sea equipment.

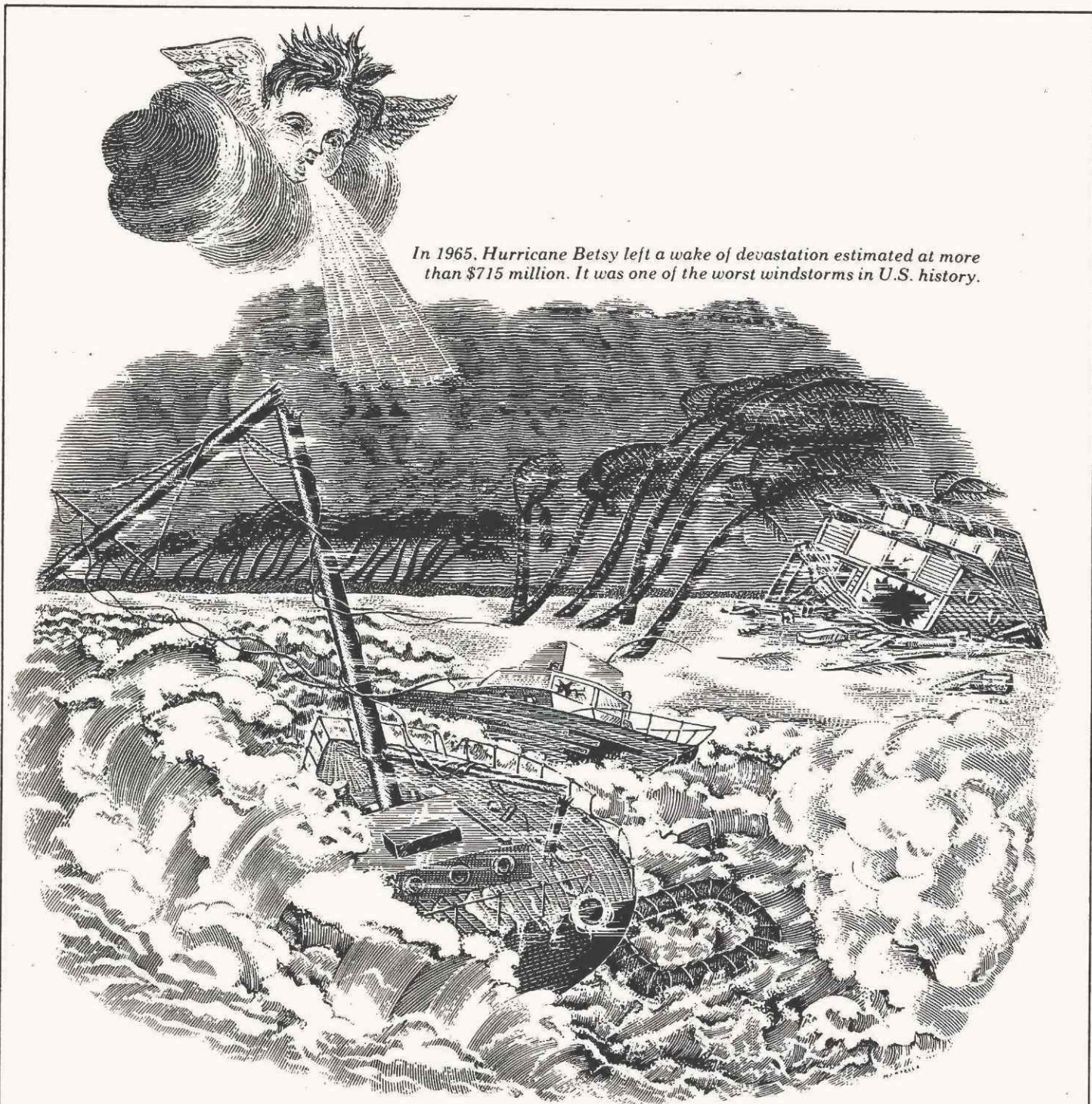
The suits have been constructed by a U.K. firm which believes they will be safe at the extreme depth of 1,000 feet and will still allow divers to surface quickly without the need of spending hours, even days, in a decompression chamber.

U.S. SCHEMES for employers to pay for all or part of employee insurance on personal possessions like autos will increase in the future, says Fritz Gerber, chief general manager of Zurich Insurance Co., who sees these new group plans as the first stage in wider future fringe benefits.

For these might include not only payment of insurance premiums, but also monetary aid towards rent and other domestic responsibilities, he suggested.

He comments in the Swiss Credit Bank's quarterly bulletin: "Insurers will in the future have to make even greater efforts to recognize market requirements. A new aspect is opened up by the tendency in the U.S. for the personal insurance requirements of individual employees, such as cover for autos, household goods, etc. to be met by insurance taken out by the employer. Premiums are deducted direct from salaries and paid to the insurers.

"Should this trend prevail, far-reaching changes would be unavoidable. The next step might be for other recurring obligations such as rent, purchase instalments, mortgage payments, and even contributions to savings and investment schemes covered by life insurance, to be financed in this manner. Long term, this might open up interesting possibilities." ■



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Marriage on the Rocks

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editorial opinions

Communicating

THE EMPLOYEE Retirement Income Security Act of 1974, signed by President Ford during rose garden ceremonies on Labor Day, has been hailed as a mammoth piece of legislation that will, among other things, protect the pension rights of 30 million American workers.

That may be an understated description for employe benefits managers, for the new legislation is certain to bring new duties and responsibilities for corporate executives in benefits management.

One area that is going to require some swift response from benefits managers falls under the general heading of communications. Specifically, administrators of pension or welfare plans are required to provide participants and/or beneficiaries with seven things:

- A "summary plan description" that's written in a manner calculated to be understood by the average plan participant. This must be provided within 120 days after the effective date of the plan, or 90 days after an individual becomes a participant.

- This must be updated every fifth year, or every tenth year if there have been no amendments.

- A summary of any "material" modifications of the plan within 210 days after the end of the plan year.

- A copy of the statements of assets, liabilities, receipts, disbursements (a fair summary of the plan's annual report, in other words) 210 days after the plan's year-end.

- Various copies of the plan's description, annual report, bargaining agreement, trust instrument or other plan documents within 30 days after written request.

- A statement of total pension benefits accrued and the time and amount of vesting must be provided upon written request at least once a year.

- A statement as to a terminated vested participant's benefits and rights within a proscribed period after the end of the plan year in which such participant terminated must also be provided.

To be certain, the new regulations go far beyond any that business or industry has voluntarily subscribed to in recent years—and they are over and above other reporting requirements mandated by the law, reporting requirements that must be fulfilled with the U. S. departments of Labor and the Treasury.

During the long and tedious debates surrounding drafting and re-drafting of this measure, we've heard chortling by benefits managers to the effect, "How do you write a 'summary plan description' in a manner calculated to be understood by the average plan participant?" In fact, it was only a little more than a year ago when a Labor department official, who was queried in similar fashion as to how a benefits man could comply with the new D-1S form calling for a simple summary plan description, responded by saying, "Frankly, I don't know."

Chances are the Labor department still does not know and won't be much help now. But the Employee Retirement Income Security Act is now law. The ball is in a new court.

Criminal sanctions may be imposed on persons who willfully violate the reporting and disclosure provisions of the act. That means that a corporation's top management could be culpable. The pressure will be on employe benefits executives to see that the law is complied with.

It will be some time, of course, before all implications of the act are digested. But it behooves benefits managers to raise the fork to their mouths and begin chewing.

Subtle provision

ONE OF THE more subtle provisions of the new pension reform law appears to support the contention of the Justice department that certain restrictions on group legal insurance plans being pushed by some lawyers' groups may run into serious antitrust objections.

Under the provision, which is really unrelated to pension benefits but does deal with jointly-managed welfare plans, limits that were recommended by the American Bar Assn. last February on lawyers' participation in so-called "closed panel" insurance programs will almost certainly be prohibited. (A closed panel plan permits a subscriber to take all his legal problems to a group of salaried full-time lawyers who do not have outside clients, closely akin to health maintenance organizations in the health insurance area.)

The recommendations adopted by the ABA would have made it difficult—if not impossible—for closed panels to operate, and would have thus defeated many of the advantages and economies of group legal plans. Under a provision of the new pension law, however, any state law that interferes with a labor union's right to bargain with an employer for any kind of legal insurance plan it chooses would be invalidated.

The provision will presumably put some cement to the Justice department's feelings that such moves by the ABA and others could restrict competition. We're not sure how it sneaked into the retirement income security measure, but better here than nowhere. The legal delivery system is subject to the same abuse and waste known for years to the medical field, and an ounce of prevention now is worth. . . .

Red faces?

OFFERED WITHOUT comment:

Earlier this year the Labor department inspected an 11-story Washington, D. C., office building used by the Occupational Safety and Health Administration. More than 300 "hazardous conditions" were uncovered during two days' inspection. Among them: A cabinet for a fire-extinguisher had no door handle and was sealed shut with paint; no emergency lighting system on the stairway between several floors; a below-ground room connecting the building and the garage had trap potential—both doors to the room could be locked from the outside.

letters

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

Social Security

To the Editor: Your editorial, "Now let's reform Social Security" (Aug. 19), is great! But tell me why the ultimate answer isn't based on supply and demand, eventually requiring that eligibility for pensions or Social Security be raised to a higher age (except for those unable to work) so that more people will be contributing to GNP and fewer of us eroding it, which will be the case more and more as more and more are either in school (to age 25) or retired (age 57 and up).

R. G. Tyrrell Sr.

Elmirma, N.Y.

Umbrella liability

To the Editor: In the August 5, 1974 edition of *Business Insurance* there was an editorial opinion titled "Tragic reminder." It was an extremely interesting editorial and points up the need for companies of all types to carry high limits of liability on their general liability insurance.

The Cincinnati Insurance Co. is very active in writing commercial and personal catastrophe liability policies. We'd like your permission to reprint this editorial to distribute to the agents that represent us. They could then use this reprint for their insureds pointing out the need for umbrella liability.

Your permission to reprint this editorial would be sincerely appreciated.

Fred Kolish

Manager, special risks, The Cincinnati Insurance Co., Cincinnati, Oh.

Editor's note: Permission granted.

HMO expertise

To the Editor: Our firm(s) have been reading with great interest the wide range of articles on Health Maintenance Organizations published by *B.I.* The articles run the gamut from fact to fiction.

Your Aug. 5, 1974 article, "Predict Slow Progress for HMOs, Also Expected to Bring Woes for Insurers", contained a comment from Mr. Doug Halbert, Aetna Life & Casualty, which expressed his concern over the lack of expertise in the HMO field. We share his concern.

Our organizations are totally HMO oriented. We have established 11 operational HMOs in the past 22 months; all are self funded. We have also conducted

Continued on page 26

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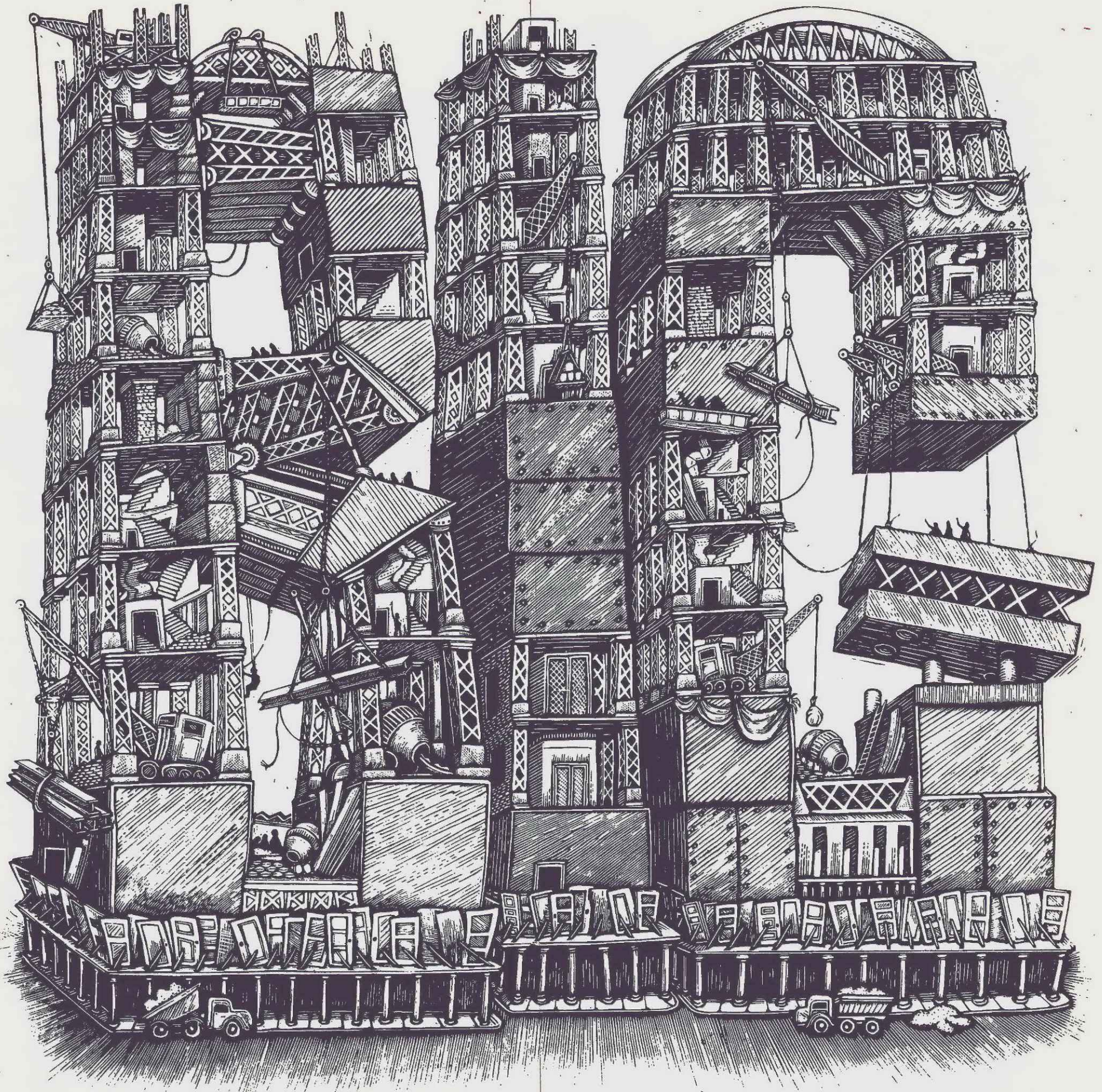
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Mauck steps down . . .

CHICAGO—Illinois insurance commissioner Fred Mauck stepped down from his post September 16 and Robert B. Wilcox has been appointed by Governor Daniel Walker to assume the office.

Commissioner Mauck said he will return to private law practice. Mr. Wilcox is leaving his job as vice president and general counsel for Marsh & McLennan Inc. to take the commissioner's post.

Letters . . .

Continued from page 24

36 three-day conferences on HMOs since October of 1972 and published 12 articles on the subject. The purpose is to overcome a lack of expertise in the HMO field and to train and inform carriers, agents, competitors, physicians and consumers.

Before a carrier establishes a position on HMOs we would certainly recommend their investigation of the HMO program from HMO and not insurance experts. A classic example of expertise was demonstrated by an (insurance) HMO expert from New York who came to our offices in Newport Beach fully informed about "capitulation" in an HMO.

William J. Kenyon

Senior field representative, National Health Care Systems Inc., San Francisco, Ca.

Outdated statistics

To the Editor: We have read with interest your July 22nd edition of *Business Insurance* and we are appreciative of the recognition given to Reed Shaw Osler Limited. That report does, however, contain certain references and outdated statistics.

Reed Shaw Osler Limited formally merged with A. R. Stenhouse & Partners Ltd. of Glasgow, Scotland in June of 1973 effective October 1, 1972. We provided you with available details on financial operating results on a comparative basis where available for our fiscal period ending September 30, 1973 which reflected the results of the merger. For the first time in our published results for 1973, we reported actual world-wide premium volume figures for the current year only. The 1972 statistics for premium volume and number of employees as reported on page 87 is based on the information submitted in 1973 reflecting the position of Reed Shaw Osler prior to the merger.

Recently RSO also merged with Insurance Consultants, Inc. of St. Louis, Missouri. It was our intention that we would have one corporate listing in your magazine which would encompass Insurance Consultants Inc. and this was accomplished through your cooperation. Based on information submitted, an analysis of a revenue/employee ratio was calculated indicating that our company ". . . registered a whopping gain in the number of employees per million dollars worth of gross revenues, with a ratio of 62 now versus 52 only a year ago." Your conclusion that the increased ratio ". . . may be attributable to Reed Shaw's aggressive acquisition activity in 1973 and so far in 1974." is only partially complete since the employee count includes Insurance Consultants, Inc. personnel while the gross revenue figures for that company are not reflected.

D. J. Sydor

Assistant secretary, Reed Shaw Osler Ltd., Toronto, Canada

In his retirement announcement, Mr. Mauck dispelled rumors that Governor Walker asked him to step down. "For some time I have wanted to return to the private sector, and the governor was advised of this," he said.

"(Governor Walker's) determination to make the department of insurance 'consumer oriented' has permitted us to make basic, fundamental changes in the department in order to give real service to insurance consumers," he added.

Mr. Wilcox said it was too early for him to know what changes, if any, he would make in the insurance department. But he noted that he had "a great deal of respect" for Mr. Mauck and the department he is inheriting.



Fred Mauck

Former Ill. insurance commissioner

. . . and has this to say

CHICAGO—"There is more apparent power in the director of insurance than there is real power. If you review the state insurance code, the power given under one section is removed under another section."

Illinois insurance director Fred A. Mauck gave this retrospective view of his office's authority in a recent interview with *Business Insurance*. Mr. Mauck is leaving his post Sept. 16 when Robert B. Wilcox, a vp of Marsh & McLennan, inherits the title of director.

"I must conclude," Mr. Mauck said, "that those who talk about the power of the insurance director are representatives of the insurance industry who know in reality that this power is severely restricted and limited."

One example of the Illinois director's token powers is found

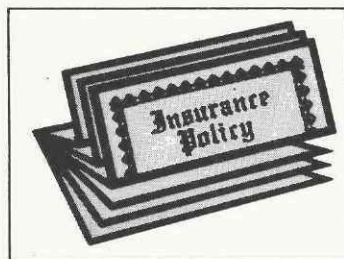
in the state's unfair trades and practices act, Mr. Mauck noted. "When read carefully, one section says a company cannot be held responsible for any actions of its agents or representatives unless company officials actually know of the act or ratified the act.

"THIS IS AN incredible provision for me," he said. "It wipes out the common law principles of agency where the principal is held responsible. The companies know as long as they stay clean they can't get hit for what their agents do out in the field.

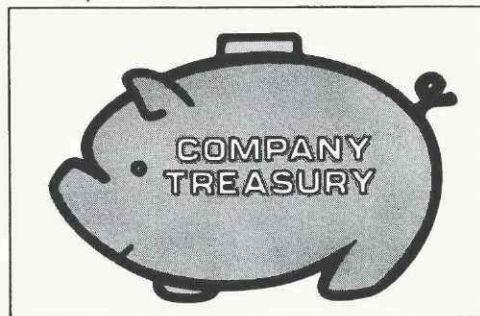
"It would be a far more effective enforcement device if the companies were held responsible for what their agents did."

Mr. Mauck said he believes the department is doing "as effective
Continued on page 27

Regular insurance vs.



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Continued from page 26

a job as can be done under the state insurance code." But he added that "it's time to have an entirely new insurance code." It should provide the policyholder the right to obtain a refund if he has been overcharged by an insurer, plus treble the refund amount as damages.

This way, Mr. Mauck pointed out, the consumer not only regains what he's entitled to, but receives additional money to pay for the time and effort put into righting a wrong.

This code provision, giving the insurance buyer "direct rights," would also be a boon to the director, Mr. Mauck said. Under the current code, the director must intercede on behalf of wronged insureds by ordering the insurance company to issue a refund.

"It would produce a better marketplace in terms of essential fairness and equity," he added. The post of insurance director,

which Mr. Mauck has held since February, 1973, is "like any other job," he said. "You can make as much or as little of it as you want to. If you're going to insist upon absolute impartiality and essential fairness, and if you're going to decide all issues on their merits, then you're going to bite off an awful lot. You in fact bite off a job that demands an awful lot of time, energy and concentration."

MR. MAUCK said his biggest accomplishment as insurance director has been "reorganizing the direction of the department. This carried with it many new programs which are now well-established programs of the department."

The Illinois insurance department became more active in regulating insurers, Mr. Mauck explained, by examining claims handling while auditing insurance company funds.

"Field examinations typically involve auditing to see whether re-

serves are adequate," Mr. Mauck said. Current examinations also investigate whether claims are handled fairly.

The McKinsey & Co. report, a study of insurance company examinations sponsored by the National Assn. of Insurance Commissioners, "recommended that all states handle examinations this way," Mr. Mauck pointed out. But few states' field examinations now include a study of claims practices, and "if the states don't move quickly to implement McKinsey's recommendations they may lose their right to continue regulating."

The states will probably retain their traditional responsibility for the regulation of insurance companies, Mr. Mauck added.

"There is nothing inherently superior about federal regulation over state regulation, or vice versa," he noted. "The question becomes the kind and quality of regulation, regardless of the government entity doing it." ■

Nov. 11 issue to focus on various services

CHICAGO—Risk management and insurance services will be the focus of a spotlight issue of *Business Insurance* Nov. 11.

Among the topics to be covered in stories for this issue are:

- loss control engineering services, including safety engineering and fire protection programs;
- captive insurance company management services;
- workmen's compensation administration services;
- group benefits administration services;
- OSHA consultation services;
- risk management consulting services;
- electronic data processing and recordkeeping services.

With loss control becoming a

bigger part of risk management, partly as a result of increased self-insurance of property and casualty risks, onsite engineering services seem to be more in demand. Such services are being offered by some leading property underwriters as well as brokers and independent engineering firms.

CLAIMS AND LOSS administration services are playing a larger role in both benefits management and workmen's compensation. Self-insurance of these areas, too, has boosted demand for administrative services offered by insurers, brokers and service firms.

These administrative services often involve an even narrower, specialized data processing function which is becoming a new area of concentration for suppliers of information-handling equipment.

Risk management audits and help on specialty risks and coverages are the calling cards of a growing number of independent risk management consultants working on a fee for service basis.

Readers who wish to contribute information and ideas for this spotlight issue on risk management and services should contact *Business Insurance* managing editor, Susan Alt, 740 Rush St., Chicago, Ill. 60611. ■

Conference to zero in on marine issues

HOUSTON—The Houston Mariners Club has scheduled its ninth annual marine insurance seminar for Oct. 6 through 8 at the Houston Oaks Hotel.

Since its inception, this seminar has become one of the major marine insurance conferences in the country, with an international roster of speakers and an international audience.

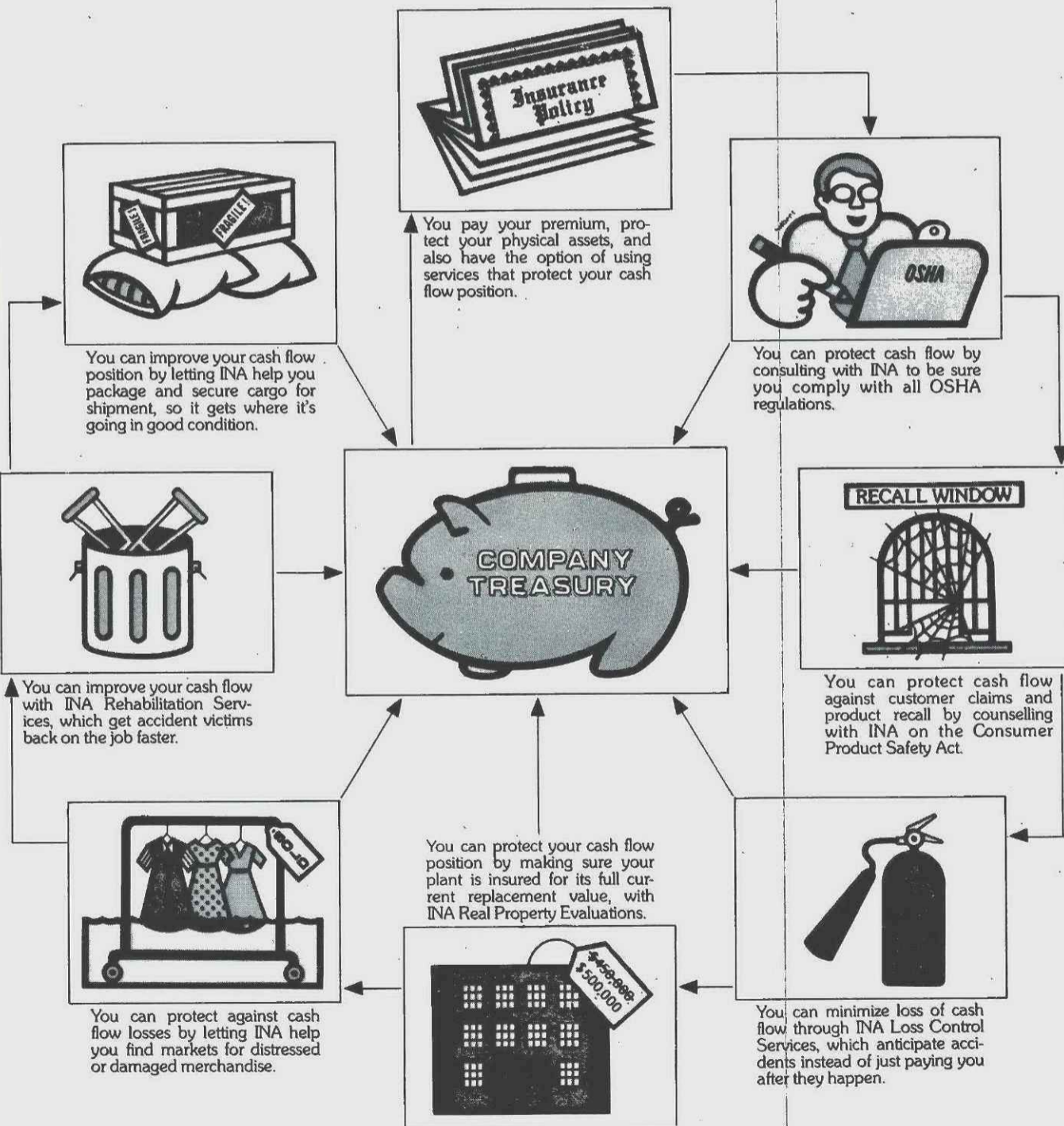
This year the meeting will focus on maritime law as well as current trends in marine insurance and industry problems. Speaking on recent developments in the law of container carriage will be George B. Freehill, senior partner of Freehill, Hogan & Mahar, a New York law firm. Developments in maritime personal injury law is a topic to be addressed by Edgar F. Barnett, partner in a Lake Charles, La. law firm. Warner F. Brock, an attorney from Houston, will discuss the plaintiff's view of marine operations.

INSURANCE TOPICS include a look at three years of claims experience for the Water Quality Insurance Syndicate of New York, a summary of the present state of North Sea development and a speech by Roy D. Jackson, president of OIL Insurance LTD. of Hamilton, Bermuda on plans for insurance for offshore drilling operations.

John Armstrong, vp of INA will speak on insurance for the fishing industry, and Marcel J. Koster, president of U.S.P. & I. Agency Inc., New York, will take a look at major marine property and indemnity problems.

The registration fee is \$60, and can be sent to J. H. Baldes & Co. Inc., P.O. Box 22003, Houston, Tx. 77027. ■

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Emerging need for better protection for trustees

Hospital board buys new \$1 million D&O policy

DALLAS—A \$1 million policy covering hospital directors', officers' and trustees' liability (DOT) was purchased by the Dallas County Hospital District Board, *Business Insurance* learned.

The policy, underwritten by the Argonaut Insurance Co. through a local agency, was purchased through the Texas Hospital Assn.

Premiums for the Dallas board are \$2,000 for three years. This is the minimum rate and will insure the first 12 directors and officers. For additional board members the rates are \$125 each for the next eight members, and \$60 each for the next 10. Coverage up to \$2 million is 140% of the \$1 million policy premium, ranging

up to 160% of the \$1 million policy premium for \$5 million worth of coverage. There is no deductible. (See related story, page 55.)

DOT LIABILITY insurance is described by Argonaut as "... designed to protect directors, officers and trustees of hospitals against direct loss to themselves while performing in their individual or collective capacities in the hospitals.

"The policy reimbursement clause provides protection to the hospital for obligations assumed in its bylaws or other agreements to reimburse trustees and officers for personal losses through legal actions against them," Argonaut explained.

In addition, the hospital administrator is covered under the policy regardless of whether the person is classified as a director, officer or trustee.

The Texas Hospital Assn., which is the Texas state branch of the American Hospital Assn., annually pays out more than \$20 million in insurance premiums for a variety of policies covering its members. The association obtained the DOT policy on a competitive bid basis.

Situations which could incur the liability of a hospital director, officer or trustee are often not included in standard hospital professional liability policies, according to sources familiar with the coverage. Examples include:

- failure to preserve qualifications for tax exemptions;
- failure to set hospital policy in connection with community health needs;
- failure to act on an apparent conflict of interest situation involving a fellow board member;
- improper selection or supervision of an administrator;
- discrimination in admission standards;
- failure to obtain government funding;
- failure to maintain an adequate insurance program.

THESE EXCLUSIONS, however, from most policies, are covered under the Argonaut DOT policy.

It is generally felt in the insurance field that directors' and officers' liability insurance has slowly become a necessary form of protection for large institutions, particularly hospitals, where malpractice exposures have increased as well, due to an increased number of suits, and rising liability judgments.

A spokesman for the Argonaut Insurance Co., one of several companies offering this insurance, claimed that the number of DOT policies sold has had its biggest increase within the past five years, although the policy has been available for at least 10 years.

Another Argonaut spokesman attributed the policy's recent popularity to "an increased consciousness of suits in the hospital industry" and an awareness of the number of potential situations in hospitals which may give rise to suits.

The "poor financial situation of hospitals," is another reason the spokesman believes D&O coverage is in greater demand today. These economic problems stem partly from the hospitals' difficulty in collecting payment from Medicare, Medicaid, Blue Cross and other health benefit plans, according to this spokesman. Charitable contributions to hospitals, once an important source of income, have also declined in recent years. Thus, hospitals are potentially less able to withstand the financial impact of liability awards.

OSHA names investigative committee

WASHINGTON—A special committee to investigate procedures for the ranking, labeling, and handling of hazardous industrial materials was named by the Occupational Safety and Health Administration (OSHA).

The 15-member panel includes four representatives from employers. They are:

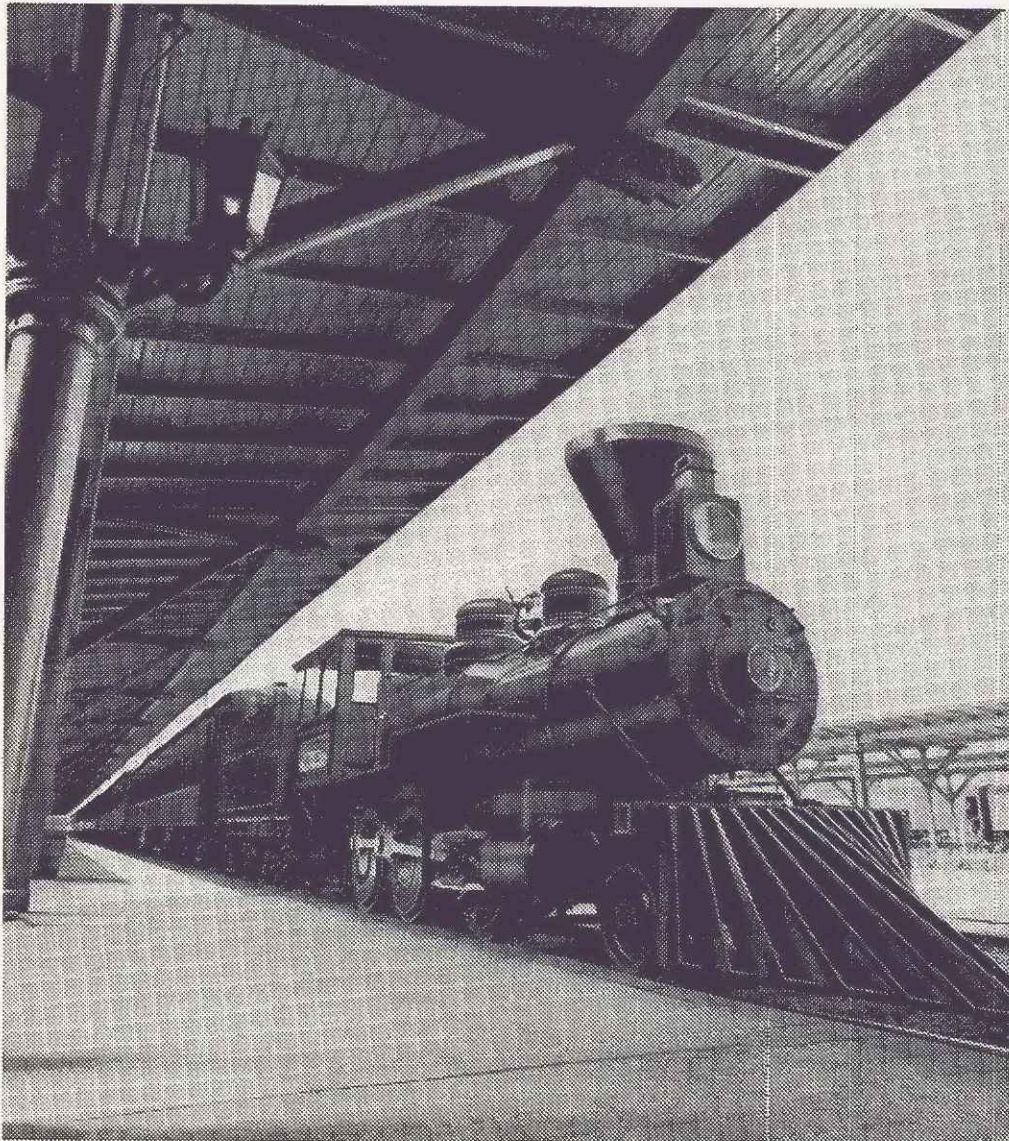
- Richard B. Berman, director of labor relations for the Chamber of Commerce.
- Dennis P. Bridge, manager of environmental control, PPG Industries, Pittsburgh, Pa.
- Merdaunt P. Redford, director of safety, Norfolk Shipbuilding & Drydock Co., Norfolk, Va.
- C. Boyd Shaffer, director of toxicology, American Cyanamid Co., Wayne, N.J.

EMPLOYEES WILL be represented by officials of the United Auto Workers, Teamsters, International Chemical Workers, and United Rubber, Cork, Linoleum and Plastic Workers unions.

Government agencies represented on the panel are the Transportation department's office of hazardous materials, the Environmental Protection Agency, Consumer Product Safety Commission, and the National Institute for Occupational Safety and Health.

The panel's three public members are Dr. Robert B. Beckman, dean of the University of Maryland's college of engineering; Miles E. Woodworth, specialist with the flammable liquid field services of the National Fire Protection Assn.; and James C. Robertson, Maryland state fire marshal.

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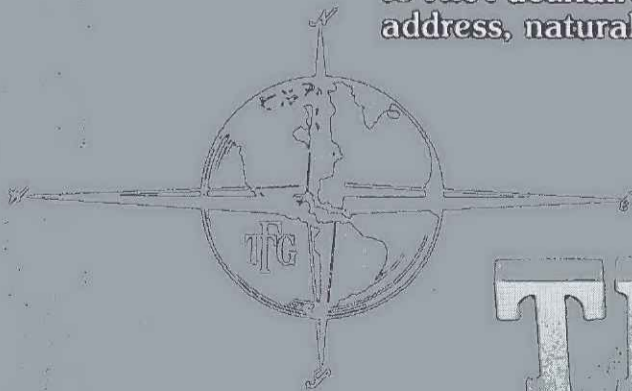
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labor beat

Teacher's unions unable to keep pace with other industry groups

By JUDI TALIT

Business Insurance.

NEW YORK—Collective bargaining is a relatively new phenomenon for teachers. It has been only ten years since the state of Michigan first allowed teachers to bargain collectively, and more than one-fifth of the 16,000 school districts across the country are still denied that right.

"About half the states are still struggling to bargain collectively," an American Federation of Teachers (AFT) spokesman told

It is little wonder that the benefit picture varies across the country, running the full gamut from complete, fully-paid plans to no benefits at all in many Southern states.

THE MYTH of substantial teaching benefits is being debunked, as teacher groups are unable to keep pace with other unionized industry groups. Inflation is hitting middle class teachers hard. In many areas, teacher

benefits are so low that teachers are eligible for food stamps, the union said.

This fall, more than 400 local school districts in New York state, and 3,000 to 4,000 locals across the nation will be negotiating for new benefits.

Hot issues for teacher groups stem from the spiralling inflation. Many teachers are demanding a cost-of-living clause as standard language in contracts.

At least 50% of the teacher associations are provided with

group life insurance and major medical coverage. For those groups, benefit issues being contemplated include vision care and dental plans.

Most issues being brought up come from locals trying to equal one of the better benefit plans for teachers in New York City. New York City teachers have a fully-paid dental, optical, prescription drug, major medical, life insurance and accident and sickness disability package.

NEW YORK STATE school districts are pushing for a similar package. Some 750 districts are asking for inflationary compensation, as well. They are asking for at least an 11% pay increase to keep pace with rising costs.

Except for school districts in New York, Pennsylvania, New Jersey, Michigan and parts of Illinois, the benefit picture is "fairly grim," the AFT spokesman said.

"Teachers are falling further and further behind. Benefits have never been close to other unionized industries. Generally, this is attributed to a lack of bargaining power of about half the teachers in the country," he continued.

In an attempt to increase teacher power in the state of New York, the American Federation of Teachers merged with the National Education Assn. (NEA). Legislative power was increased and 50% more money for benefits was provided, since the state supplies that amount for public education.

There has been further talk about merging the groups on a national level. But, last spring, talks broke down when internal political differences between the two groups became compounded.

Under the possible merger agreement, NEA wanted to remain independent. The AFT wanted the group to become part of the AFL-CIO. The NEA wanted to elect officers by secret ballot. The AFT wanted the vote to remain open. NEA wanted a minority quota for high official positions. The AFT did not want any quotas.

IF THE GROUPS merged, which seems unlikely at this point, "it would seem to have a tremendous impact. But, I don't think that is realistic. It would definitely increase the power of teachers. But who is to say that this power would be geared to benefits?" a spokesman for the NEA asked.

An AFT spokesman argued that this extra power would definitely go to the benefit area.

"On a national level, the impact on Congress would be enormous. If it were national, the member growth would be about three million. Then teachers could fight together and have 50% more money to work with for benefits. When we merged with NEA in New York it gave the state more money for benefits, and 50% more for teachers to negotiate with," he added. ■

N. J. approves 13.7% rate reduction

TRENTON, N.J.—Commercial property owners in this state will save approximately \$25 million on fire and extended coverage next year as a result of rate reductions approved by the Insurance Services Office.

Costs will be reduced approximately 13.7%, New Jersey's insurance commissioner said.

The rate change will apply to about 250 companies in this state who write fire coverage. Only a few companies that write specialty business will be exempt.

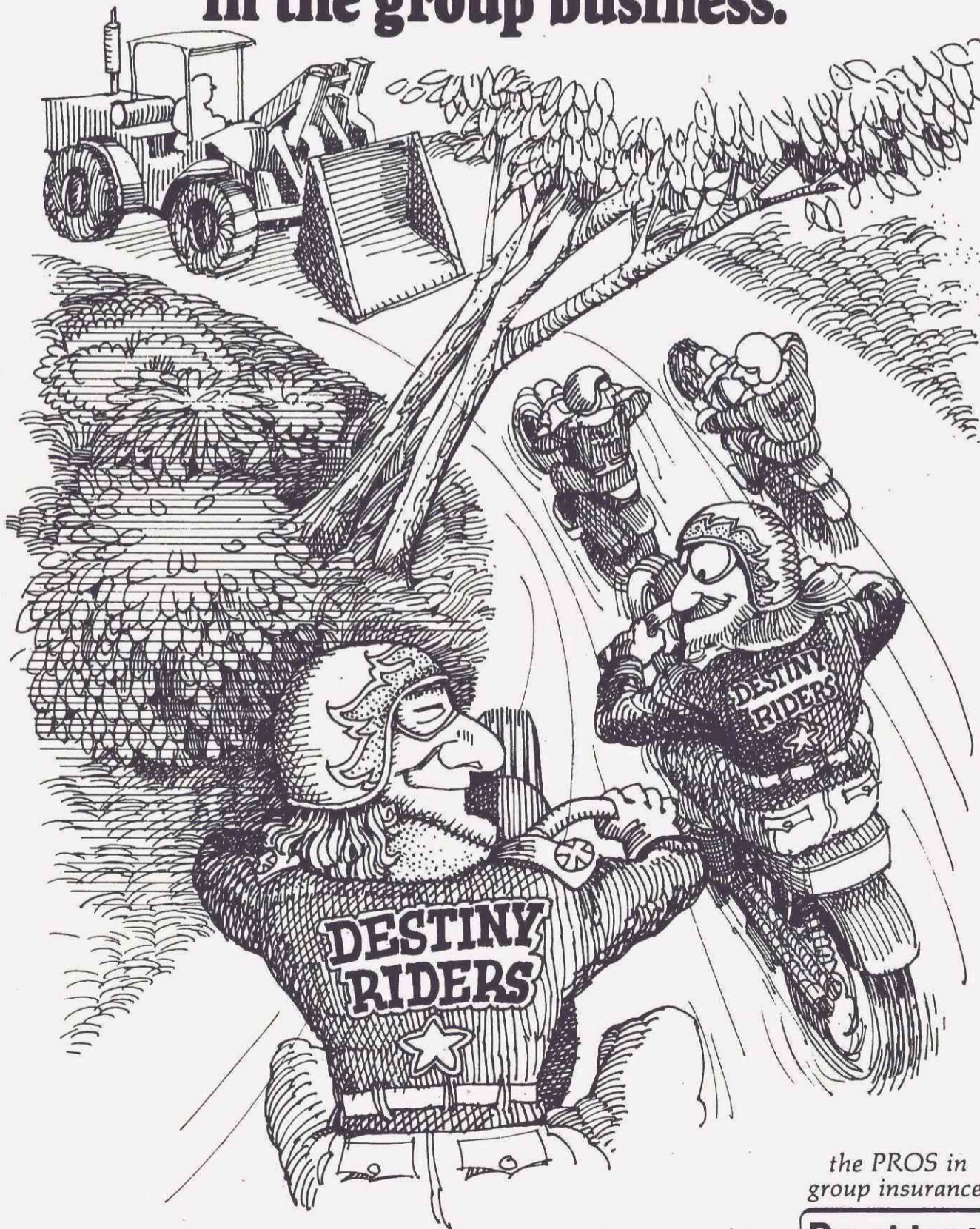
Certain surcharges tagged on to the fire coverage reflecting condition of property will be removed. An extra 25% premium on each \$100 of coverage was usually tagged on to the fire coverage. The removal of such additional expenses will further reduce the rates four per cent, bringing the fire coverage reduction to a total of 14.2%, according to commissioner Sheeran.

Extended coverage rates will be reduced about 10.8%. This coverage generally includes protection against windstorms, explosions, riots and other perils.

The commissioner made it clear that these figures are only an estimated average.

One example cited by the commissioner was fire insurance rates on general merchandise warehouses. These rates will go up 5.3%. ■

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University insurance control turning into a specialty job: Pitt's manager

By JUDI TALIT

PITTSBURGH, PA.—The risk management concept on college campuses is changing. Over the past few years, a new breed of insurance professionals has emerged. And they have some very different and definite ideas on handling university insurance problems.

One of the "new breed" is Leland P. Deck, insurance manager for the University of Pittsburgh for the last four years.

"Insurance problems were mushrooming" during his stay at the university, Mr. Deck said in a recent interview with *Business Insurance*.

It was a time of student unrest. Insurance companies were suddenly reluctant to sell universities fire insurance and premiums skyrocketed.

Universities were harried for a solution. The answer? Hiring an insurance manager, a specialist.

"NOT ONLY are the universities going out and hiring insurance pros, but in the last five years there have been some group efforts by joint group action to save money on insurance costs," Mr. Deck said.

When underwriters wouldn't renew universities' group fire insurance, some of the institutions solicited Felix Kloman, a consultant, to set up a property pool. The plan was all ready to go. But, the underwriters reluctantly changed their minds. They would write the coverage—at a higher price.

Costs were rising so rapidly that several universities, Penn State, Pitt and Temple, set up a mutual insurance company in the state. But, that year, 1970, "there was an improvement in the insurance market," and plans were halted.

"Each insurance manager at every university probably spends \$10 million on insurance premiums," Mr. Deck estimated. Premiums are taking a 5% chunk out of the budget, too much to spend on insurance.

"Pitt spends \$10 million in

premiums for fire/casualty and employe annuities. One million dollars of that is for fire/casualty and \$9 million for employes."

He suggested a solution to high expenditures. Self-insure with high deductibles. But, Mr. Deck explained, to do this successfully, the insurance manager must be a pro. "He must be able to handle all the claims under that amount."

Another trend that is coming to the university front is true competitive bidding. At least, that's how it is at Pitt.

"Historically, the broker was on the trustee board. So, university people were quite skeptical" about them, Mr. Deck contended.

"You can't expect him (the broker) to serve your interest

when your interests are different from his," he continued. Broker/client interests are not always incompatible, he said.

"A single broker getting bids from different underwriters is not a true competitive bid. That is why we use all the major brokers. Just this year, we bought coverage through Marsh & McLennan, Fred. S. James and Johnson & Higgins," Mr. Deck said.

"A LARGE amount of money shouldn't be spent on insurance."

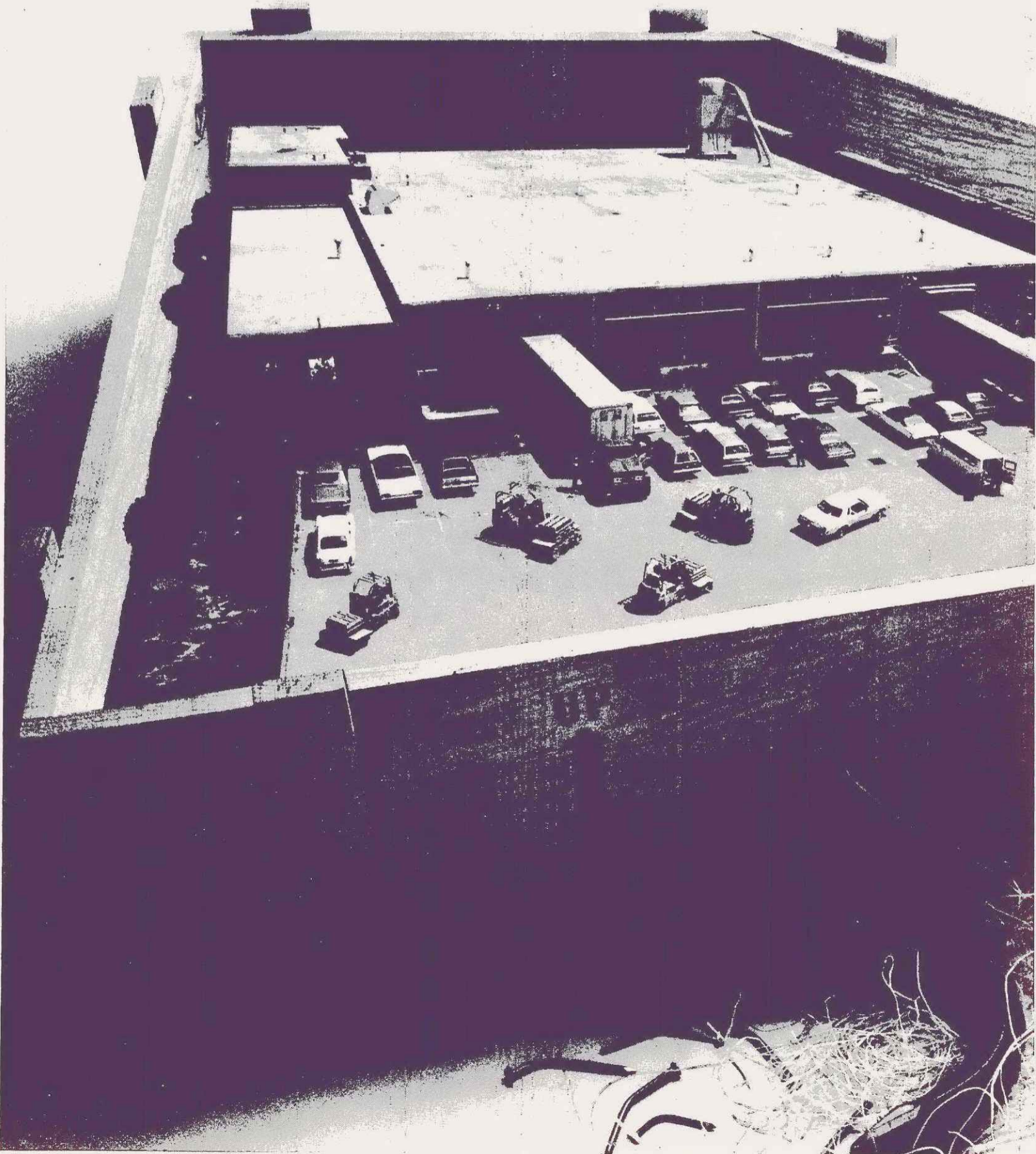
It is important to have an open communication with other university insurance managers to see how they're coping with similar problems and how they're cutting costs.



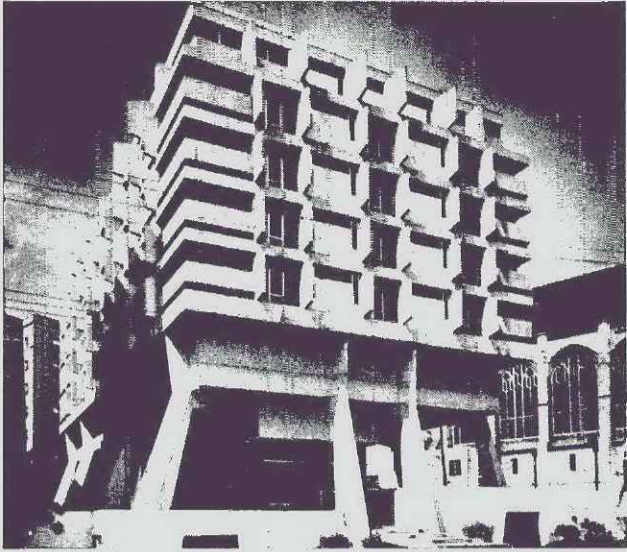
Michel L. Benedum Engineering Hall

Pitt has one of the largest medical schools in the country and the campus also houses a dental school, nursing school and public health school—all vulnerable to malpractice suits.

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Classified Section
on page 59
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Library and Information Sciences Building



Cathedral of Learning

So, it came as no surprise when Leland Deck told *Business Insurance* that the university's highest

area of risk was malpractice.

However, Mr. Deck made it clear that "our losses have not gone up"

in quite a few years.

There is a clear-cut trend toward litigation. People are

more apt to sue than they were years ago, he contended.

The dental school is more than 100 years old and "we never had a claim until this year. We had 10 this year," he noted.

OVER THE LAST 16 years, Pitt's loss ratio was good, despite a number of incident reports and letters from lawyers. But, the insurance companies upped the premiums, not on actual losses from suits, but on the number of incident reports filed. An unfair practice, Mr. Deck thought.

"We never had a loss in excess of \$10 million" since the university opened up in 1787, Mr. Deck said proudly.

But, the university's loss ratio didn't stop spiralling insurance costs for the malpractice coverage. When premiums grew to \$304,000 Pitt decided to self-insure the risk.

"Against Pitt as a defendant, we are self-insured for the first

\$100,000 per claim with a \$500,000 aggregate," Mr. Deck said.

The self-insurance fund has now grown to over \$1 million. "Over the last three years we haven't had a loss. I set aside 85% of what the premium would have been and now it has really grown."

The resident physicians at the seven teaching hospitals are not covered by the university. They are insured by the hospitals up to \$2.3 million. There are demands in the works to raise the limit to \$4 million.

"I WISH THERE'D be a way for universities to also self-insure the physicians. But, we can't be insurance companies," the insurance manager said.

Underwriters "don't see that insuring a medical school is a better exposure than a family physician," he said.

Why is a medical school a better risk? Because there is constant peer review of all practicing medical students. There is low patient exposure. Doctors spend less than 25% of their time actually seeing patients. And, the best doctors go to teaching hospitals, Mr. Deck argued.

The university just raised its malpractice limits to \$5 million from \$2.5 million as a result of litigation fever. This was done through obtaining three additional layers of coverage.

The insurers who have a piece of the action include Continental Insurance Cos., Lexington Insurance Co. and First State Insurance Co.

Umbrella coverage was purchased because "there are some gaps" in the coverage, Mr. Deck explained.

The entire philosophy behind the university's insurance department over the last four years has been "to put our house in order, increase our coverage to fit the needs of the day, convince insurance companies that we're a good risk and use more than one broker."

Mr. Deck will soon be leaving the insurance department to become the ombudsman for the university. He was optimistic that the philosophy of the department would not change with the change in personnel. ■

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More cover for newborns, alcoholism

HARTFORD—Some 1.1 million group members of Connecticut Blue Cross will get broader coverage Oct. 1 for treatment of alcoholism and for sick and injured newborn children.

The increased coverage was mandated by state legislative action earlier this year.

John J. Kennedy, vp-marketing, said there will be no boost in existing rates.

CONNECTICUT Blue Cross contracts currently call for up to 45 days of coverage for alcoholism treatment, but the patient must be in a hospital to qualify.

The broader coverage, Mr. Kennedy said, will encompass treatment in facilities specifically designed to care for alcoholism—such as Hartford's Combined Hospitals Alcoholism Program in the Jones Home.

Coverage for sick and injured newborn is expected to assist families hit with sudden, unexpected expenses.

Such coverage has been provided in special riders, but, as of Oct. 1, will apply to the entire group membership, he added. ■

Risk man at razzle-dazzle computer firm hustles

By MARGARET LeROUX

MAYNARD, MA.—Seeking a change from the pace and pressure of managing the insurance department of a New York corporate giant, Howard Austin left Continental Can Co. Inc. in 1969 for the peace and quiet of a New England setting.

Peace and quiet? The company he joined, Digital Equipment Corp., scarcely reflects the environment of its main office, nestled amid the pines in rural Massachusetts.

In the past five years, the company's sales have skyrocketed to \$265 million, nearly triple the 1969 revenues. Fiscal 1974 sales took another giant leap to \$421.9 million, a 59% increase over the previous year.

After five years on the job as



Howard Austin in his office at Digital Equipment Corp.

corporate insurance manager, Mr. Austin is as enthusiastic about his position as he was on the first day.

At Digital he's been able to "really roll up my sleeves and get

involved," and the task facing him—building a corporate insurance department from the ground floor—took a lot more than sleeve rolling.

Before he came to the compa-

ny, Digital's insurance was handled on a parttime basis by an accountant, Mr. Austin said. The main manufacturing plant, an old textile factory adjoining a mill pond, for the company which specializes in small computers, was covered by five separate policies.

"It was just a matter of pulling it all together," he noted.

Today almost all of the insurance for Digital Equipment Corp., whose two minicomputer families are very popular, and whose manufacturing plants and sales operations are located in 24 countries employing more than 17,000 persons, is "manuscript forms contract," as Mr. Austin calls it.

It was a matter of "going out and looking for good, solid proposals," Mr. Austin explained, "being demanding, yet complete-

ly honest," with brokers and underwriters. He's found that having a manuscript form and asking for a proposal based on this is more successful than asking, "What have you got to offer?"

DIGITAL HAS property and business interruption coverage with Factory Insurance Assn., Mr. Austin said. The property damage policy has a \$230 million limit and business interruption, part of a blanket policy, has a \$161 million limit. Both policies have deductibles of \$25,000.

All Digital's manufacturing plants have highly-protected-risk status, he noted. "We used our influence to arrange reinsurance on an HPR rating for the manufacturing plant which opened in Ireland last year," Mr. Austin said, "The Irish themselves don't have an HPR setup yet."

An umbrella casualty policy, with Liberty Mutual Insurance Co. covers up to \$50 million per occurrence, he explained, "because of our aircraft exposure."

The company owns a fleet of three helicopters and two fixed-wing planes which fly on a scheduled basis between the U.S. and Canadian manufacturing plants and Logan Airport in Boston.

We also have travel accident coverage, a minimum of \$100,000 and a maximum of \$200,000 with INA Life Insurance Co.," Mr. Austin assured his interviewer who was whisked to the Maynard offices in one of the company helicopters.

OTHER COMPANY insurance policies include:

- Automobile liability coverage for the company's fleet of 1,700 vehicles with Liberty Mutual Insurance Co. The company's good safety record has resulted in a 15% drop in the unit cost of auto liability insurance since 1972, even though the number of operating vehicles has greatly increased, according to Mr. Austin.

- Directors' and officers' liability insurance is with Sequoia Insurance Co., Menlo Park, Ca., with a \$5 million limit on the coverage.

- A combined manufacturers' output and difference in conditions policy, (MOP-DIC) is with Federal Insurance Co., with "a quarter of a million dollar deductible for flood and earthquakes," Mr. Austin said.

- Boiler and machinery insurance with Commercial Union Insurance Co., and a crime and fidelity policy with Federal Insurance Co.

Digital utilizes a number of insurance brokers, Mr. Austin noted. Among them are Marsh and McLennan Inc.; Johnson & Higgins Inc., who are the employe benefits consultants on a worldwide basis; Mathews, Muchay & Southerland, Dublin, Ireland, advise on the Irish operations and the C. T. Browning firm are consultants for the balance of the European outlets.

IN JANUARY the company organized a captive insurance company, Computer Insurance Co. Ltd., located in Bermuda, to handle property, cargo and foreign liability insurance. Johnson & Higgins Ltd. manages the captive and Mr. Austin is an officer of the company.

Benefits for Digital's U.S. employes are managed by John Hancock Insurance Co., Mr. Austin said. Some features of the program are a major medical plan that provides 80% of the cost up to \$50,000 and hospital room and board paid in full for up to 120 days.

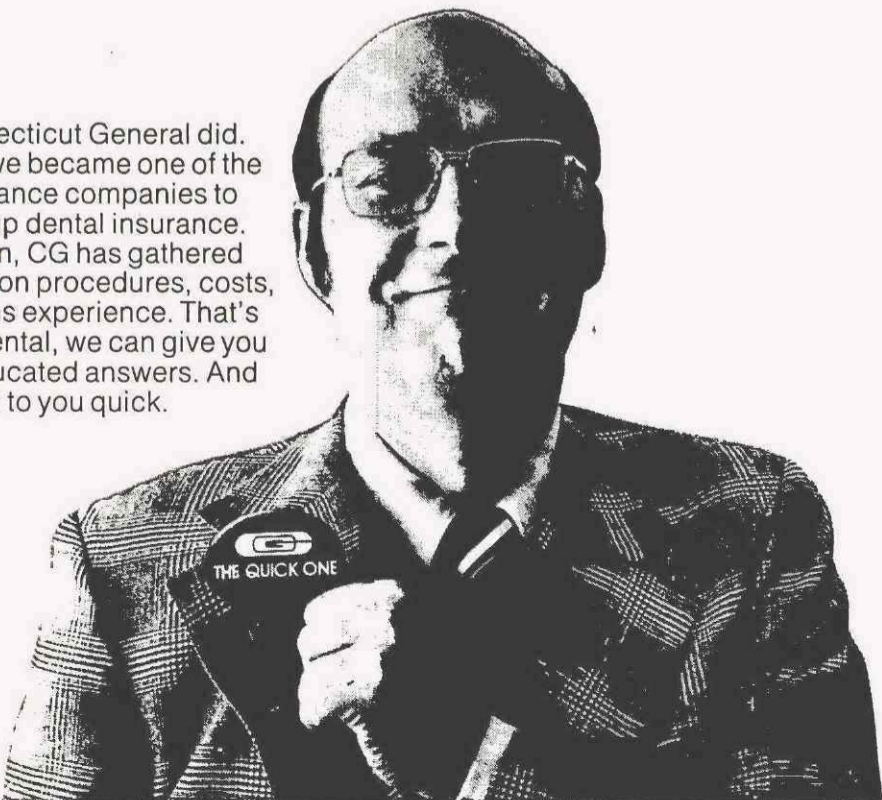
Continued on page 36



John St. George, Group Office, Chicago

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A recent survey says many big firms have hard-nosed questions about what insurance carriers should do for them.

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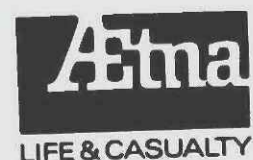
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Computer . . .

Continued from page 34

Maternity leaves are treated as regular sick leaves at Digital, and a pregnant employee's position is protected until the end of her leave of absence. Employees who opt for adoption can be reimbursed for adoption costs under the Digital benefits program.

Digital's long-term disability program is administered by Union Mutual Insurance Co. "We self-insure short-term disability," Mr. Austin said.

"Our safety on-the-job experience has been excellent," he explained. The company provides items such as safety shoes and eyeglasses and pays 50% of the cost of replacement.

The safety and loss prevention department, part of the corporate insurance department, administers a plant emergency organization that includes a company-

owned fire engine, purchased from the Maynard fire department and renovated by the company.

"We have 18 people trained as fire fighters," Mr. Austin commented, "and we've assisted the Maynard department at times in fighting local fires."

TO MANAGE A benefit program for Digital's overseas employees, Mr. Austin believes, "You've got to go to the country and discuss (benefits) with the people there; not only the legal, but the expected benefits."

This philosophy has given him perspective on the problems of foreign operations, as well as a heavily stamped and thoroughly-filled passport.

On a day-to-day basis, the overseas benefits program is administered by the company's international headquarters in Switzerland.

Basic to the management of Digital's insurance department is a supportive staff, and manage-



ment, Mr. Austin noted. His assistant, Ronald Lamb, who came to Digital from EG&G Inc., shares the load.

"I don't believe it's good to be-

come so specialized that we can't fill in for each other if there is a need to," he said.

Though he officially reports to the company's assistant treasur-

er, Mr. Austin noted, I'm at liberty to see anyone in the organization whenever I want."

His philosophy that "insurance is the last resort; risk management is all-important," has led to innovations in company procedure. The most recent included supplementing inspection reports of company facilities with a complete photographic story.

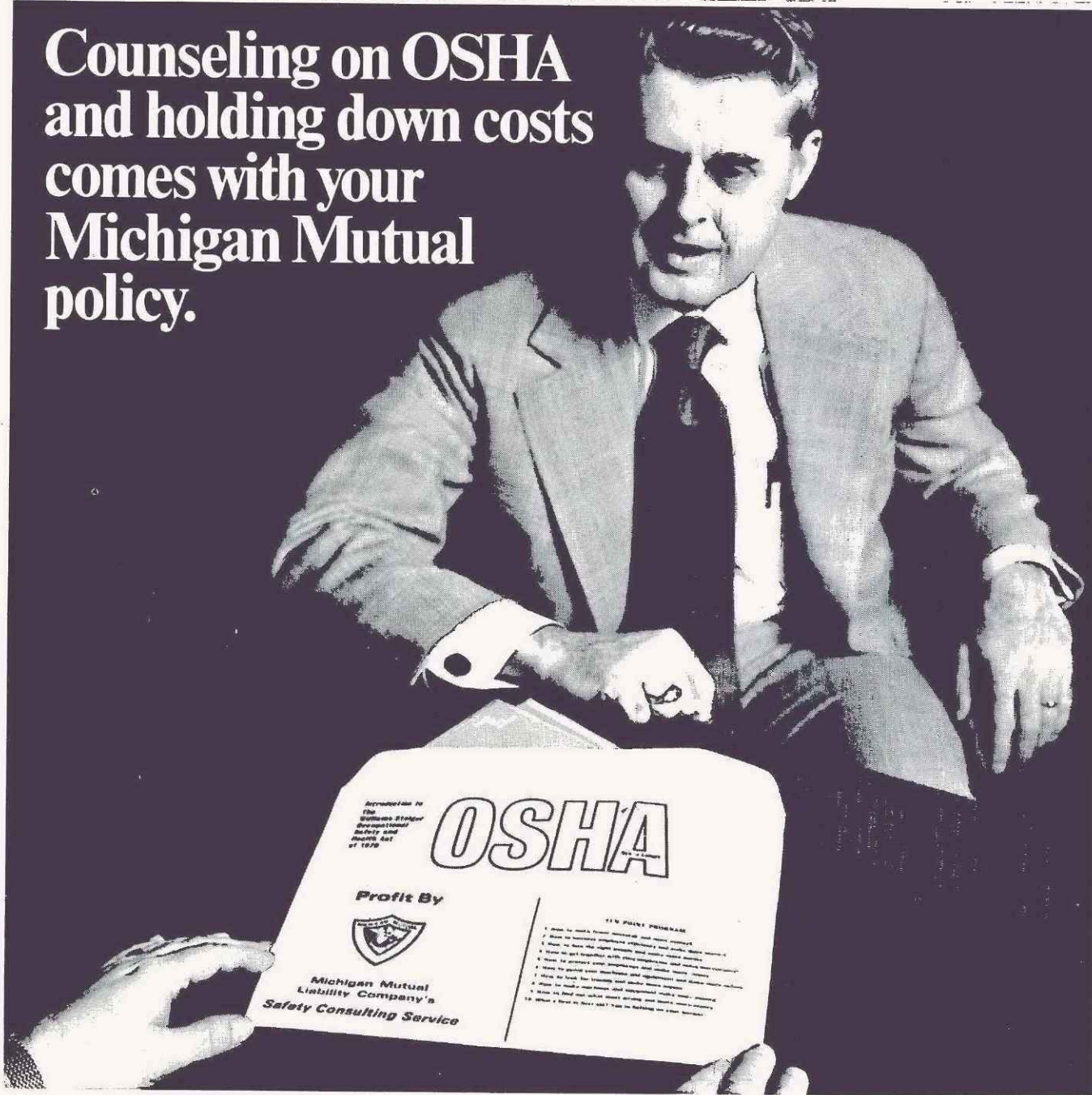
NOT ONLY plant facilities, but their environments—access roads, landscaping, even the area locale—are photographed, Mr. Austin explained. "This gives us a much more complete study of a facility than a written report alone could," he believes.

Another program starting soon will be a defensive driving course for operators of company vehicles.

With a new plant recently acquired in Marlborough, Ma. "our large systems manufacturing will be done there," along with a land purchase for expansion in New Hampshire and a pilot operation being set up in Phoenix, Az., there seems ample outlet for Mr. Austin's enthusiasm and energy.

"The only problem I have," he quipped, "is keeping up with our rapid growth."

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See growth in commercial insurance

NEW YORK—"Commercial insurance is expected to grow substantially faster than residential insurance during the next decade."

That was just one prediction of expected trends in an insurance market forecast from Chase Econometrics Associates Inc.

A quarterly report published by the Chase Manhattan Bank subsidiary, offers an up-to-date economic forecast for a 10 year period, through its Insurance Forecasting Service.

An upsurge in assets was also predicted for the next decade.

It should "continue growing at an above average rate in the property liability sector throughout the capital expenditures boom of 1975-76."

"THE FORECASTED annual growth in property liability premiums written is approximately 10%, slightly higher on an annual basis" than the previous decade, the report disclosed.

Property liability premium growth was predicted to be "uneven, with a far greater portion of this growth expected in the first half of the decade than in the second half."

Annuities, accident and health insurance were noted to be the fastest area of growth in the life insurance market.

Another area analyzed in the Chase Econometrics report was the rapid growth of some life insurance companies.

Reasons were cited for their rapid growth include: merger activity; emphasis on group as opposed to individual products; and concentration in particular growth markets.

Insurer in joint venture

Continental Corp., parent holding company of The Continental Insurance Cos., and the Alte Leipziger group, a leading German insurer, agreed to exchange shares in an arrangement for mutual assistance. Continental will acquire 10% of the shares of Alte Leipziger in exchange for Continental stock valued at more than \$2 million.

Stockbroker plans to push insurance sales

NEW YORK—In a move to expand its financial services, Blyth Eastman Dillon & Co. Inc. (BEDCO), a securities brokerage firm, decided to market life insurance, variable annuities and accident and health insurance through a recent arrangement with the Insurance Co. of North America (INA), an affiliated company.

This is not the firm's first effort to sell insurance. BEDCO previously had an arrangement with Connecticut General to sell life insurance. However, two years ago, when the agreement was made, BEDCO was skeptical. The firm only licensed 10-15% of its sales force to sell insurance. Not much profit resulted.

"Brokers have not had great success in selling life insurance. It's taken longer to get into this market competitively. It's a different product line. We need product knowledge," said Don Baier, head of BEDCO's financial services department. That is why the firm took on INA. INA owns 36% of Blyth Eastman Dillon.

THE BROKER is now using a different approach. The thrust of this project with INA will be variable annuities as well as life insurance.

"Variable annuities is a better business for us because it is closer to our business in form," Mr. Baier explained.

An increased number of sales representatives will be selling life insurance. More than 200 representatives have been licensed already, totalling one-third of the entire force.

INA and BEDCO representatives are actively seeking business from clients. Both personal and business lines are being marketed.

What has been the response of BEDCO clients?

"It varies, depending on the relationship between the client and the representative," Mr. Baier explained.

Insurer fined \$35,000

NEW YORK—General Fire and Casualty Co., a locally-based fire and casualty insurer, also a wholly-owned subsidiary of the Greyhound Corp. paid a \$35,000 fine for violation of the New York state Holding Companies Act, according to Benjamin R. Schenk, state superintendent of insurance.

General Fire admitted by stipulation that it "afforded Greyhound an undue extension of credit" and permitted it "to exercise an undue measure of control over General Fire in the settlement of insured claim losses" so that General Fire "appeared to have relinquished its own separate identity to its parent," violating section 68-g(1) of the Holding Companies Act.

The insurance company also admitted by stipulation, to violations of other sections of the state insurance law referring to reserving and expense classification requirements.

An insurance department report stated that General Fire had shown a pattern of deficient reserves from 1968-1971 because it deferred collection of "substantial amounts" of premiums from Greyhound subsidiaries until near the time when the claims were settled.

BEDCO "hopes that this market will eventually generate important commissions" for the firm, he continued.

THE BROKER has even taken on a specialist in its Los Angeles office. John Kane, an executive from Life of North America, was recently hired to promote the marketing of large amounts of insurance in that region. The firm said it is too early to tell

how this would work out. Mr. Kane was only hired two weeks ago.

Other brokerage firms have been gearing up operations in this area since New York Stock Exchange approval was given to sell insurance some two years ago.

Bache & Co. Inc., E. F. Hutton & Co. Inc., Thomson & McKinnon Auchincloss Inc., Paine Webber Jackson & Curtis and A. G. Edwards & Son have all been marketing insurance through arrangements with other underwriters. Travelers, Connecticut General and INA were mentioned as some insurers getting into this area.

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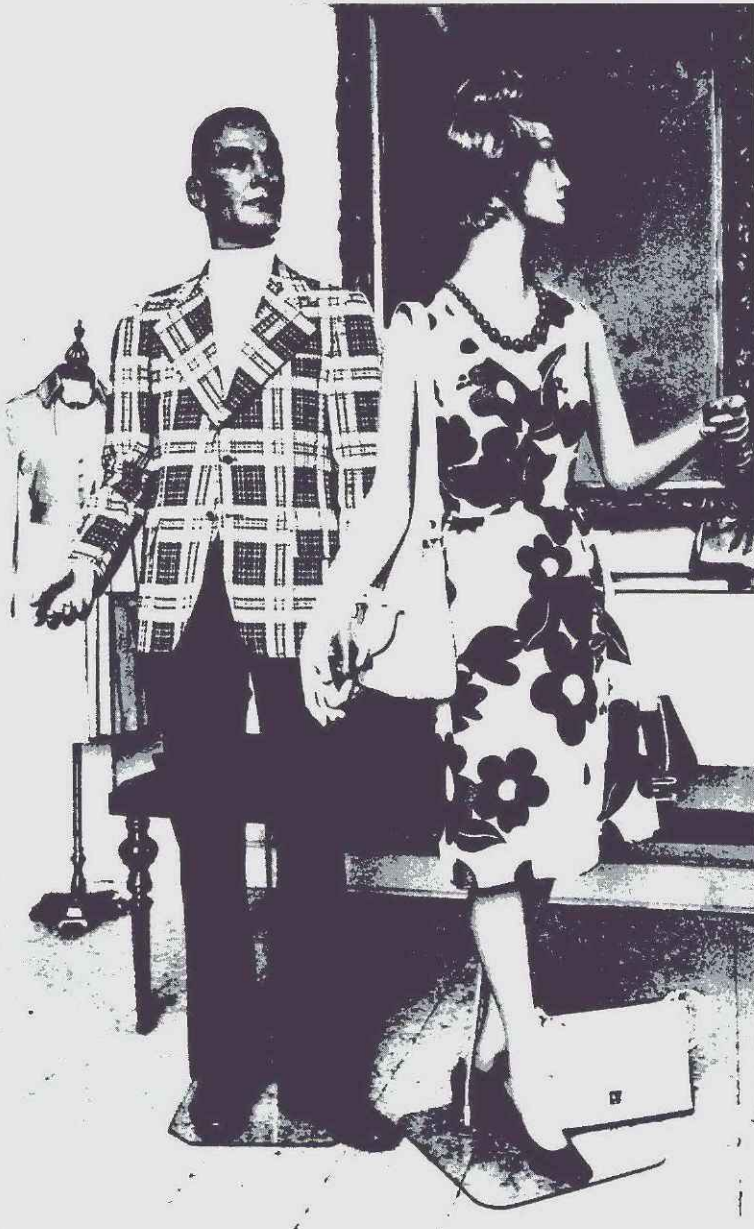
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Stockbrokers' covers for clients eyed by Congress

By RICHARD L. GORDON

WASHINGTON—Congress may receive another insurance headache before it adjourns this year, this one about who should be required to buy insurance coverage through the Securities Investor Protection Corp.

SIPC is the joint government-industry insurance pool created in 1970 to provide coverage to stock market investors who had been losing both cash and securities in the collapses of brokerage houses.

The 1970 law required all members of SIPC to buy its coverage and required all persons and firms registered as brokers or dealers with the Securities & Exchange Commission and who are members of a national securi-

ties exchange to belong to SIPC.

The insurance premiums are collected through assessments of 0.5% of each member's gross revenues from the securities business, which resulted in revenue of \$22.8 million for SIPC in 1973.

The SIPC board, however, decided to close some loopholes and force the inclusion of new types of securities businesses into buying its coverage, a proposal that has already produced industry resistance.

The targets of the SIPC move are groups exempt from SIPC membership under the 1970 law: brokers or dealers who sell mutual fund shares, variable annuities, or those who render investment advisory services to investment companies or insurance company separate accounts.

The SIPC board's decision to

ask Congress to eliminate these exemptions is an endorsement of a task force study of SIPC operations completed this summer.

The study said, "The current exclusions from SIPC membership and from assessable gross revenues tend to work inequities in the assessment process. Apparently, those exclusions are based, at least in part, on the theory that the firms and types of business excluded present no danger of loss to public customers, hence it would be inequitable to assess those firms and types of business expressly excluded as they would neither require nor derive benefit from SIPC protection.

"THIS THEORY," argued the task force report, "overlooks the very real danger that any broker who accepts funds for the pur-

chase of securities may commingle or misappropriate those funds."

Although revenues from the sale of mutual fund shares are not assessable by the SIPC, the corporation has paid out about \$170,000 to satisfy about 40 claims from customers of firms in liquidation.

Wiping out the membership exclusions would also force some broker dealers, who have no customers to protect, to purchase SIPC insurance.

SIPC officials argue that brokers such as specialists, floor brokers, and firms doing exclusively institutional business, while they have no customers protected by SIPC insurance, nonetheless pay for the coverage.

"This was based in part on the philosophy that those who earn their livelihood from the securi-

ties market should contribute to the building of the SIPC fund," the task force report said.

BIG INSTITUTIONAL investors are not covered by the insurance since they normally operate on a cash-on-delivery basis and seldom leave either securities or cash in the custody of a brokerage firm.

Frank J. Wilson, senior vp of the National Assn. of Securities Dealers, told the SIPC board that there is "no evidence whatsoever" that mutual fund/variable annuity underwriters ever failed under circumstances which resulted in customer loss.

"It is estimated," he said, "that the elimination of the current exemption from SIPC membership would require at least 720

Continued on page 39

SIPC won't seek more coverage

WASHINGTON—No increase in coverage limits for securities investors will be sought this year by the Securities Investor Protection Corp., despite a recommendation that it do so.

The insurance now covers losses of up to \$50,000 for cash and securities suffered by any investor whose brokerage firm fails. There is a \$20,000 limit on cash claims, however.

The SIPC task force studying its operations had recommended that coverage be increased \$125,000 per customer for cash and securities losses, with a \$50,000 cash claim limit.

SIPC officials told *Business Insurance* they would ask Congress to increase the insurance limits only if similar increases in coverage were provided for savers at banks or savings and loans.

Two other federally-established insurance underwriters operate in those areas: the Federal Deposit Insurance Corp. (FDIC) and the Federal Savings and Loan Insurance Corp. (FSLIC).

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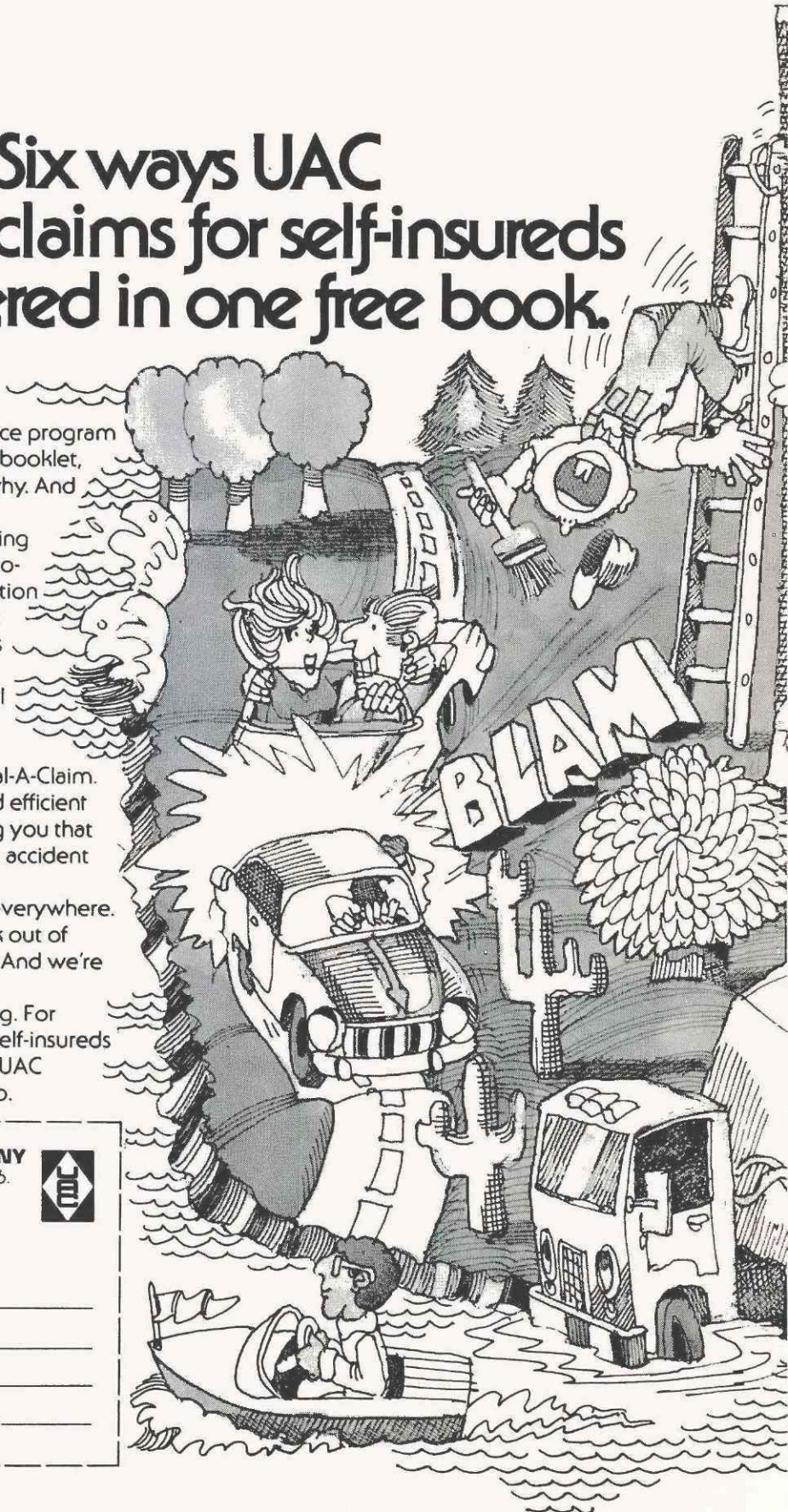
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Continued from page 38
broker-dealer members of the NASD to join SIPC, most of whom would have to bear the not-insignificant expense of obtaining a fidelity bond in addition to other fees attendant to SIPC membership."

The impact of forcing SIPC coverage on these firms would be unfair, he said. "While some of the broker-dealers who would be affected by the recommendation are large, well capitalized insurance companies, the large majority of them are small mutual fund retailers."

This, he said, would be contrary to the Senate's interest in keeping small broker/dealers in the securities markets without unnecessary administrative burdens.

THE SIPC task force, in another matter, also urged that financial responsibility rules be extended to some firms that deal exclusively in municipal securities, but

because they are broker-dealers, are also members of SIPC. These firms are now excluded.

These financial responsibility rules allow the SEC to require brokers to maintain reserves with respect to customers' deposits or credit balances.

"The public interest," said the task force report, "and SIPC's interest in those firms whose customers it may have to protect, demand that all SIPC members be made subject to at least minimum standards of financial responsibility."

SIPC is also interested in getting from Congress the authority to levy, by rule or by law, a penalty in addition to interest charges, to compel prompt payment of assessments for SIPC coverage.

In areas unrelated to purchase of SIPC insurance, the task force report spelled out several steps it thought should be taken to speed up settlement of claims against brokerage firms being liquidated.

Specific among them were suggestions that SIPC be given authority to return securities to claimants who find they are not in their accounts with the brokerage firm.

IN MANY cases, that would mean SIPC purchase of securities on the open market to make good on the claims, but that was viewed as preferable in light of complaints from claimants who had received cash in lieu of lost securities and faced capital gains taxes because of that transaction.

The recommendations also included one that would give SIPC authority, at its discretion, to directly pay claimants without any judicial proceedings in cases where claims totaled less than \$250,000.

SIPC officials said that more than half of SIPC's 105 liquidations have involved small brokerage firms that would have been in this category. ■

Health costs out of control: HEW chief

WASHINGTON—The American people are "in real trouble on the health care front" if the health industry is not more successful in holding down galloping cost increases, Health, Education, and Welfare secretary Caspar W. Weinberger warned this month.

Recently compiled health care cost statistics indicate trouble for employers paying for health care and could even jeopardize the development of a broad national health insurance plan.

During May through July of this year, the first three months following expiration of mandatory health cost controls, medical care price increases on an annualized basis ran one third ahead of increases in the general

cost of living as measured by the Consumer Price Index, HEW said.

Increases in the price of medical and health care outstripped the CPI by over 40%.

"**THESE WERE** the highest cumulative increases for three months since before the economic stabilization program was instituted in August 1971," said Secretary Weinberger.

"Continued health cost inflation will inevitably place an unexpected burden on employers and employees as well as state and local government who will incur higher health insurance premiums and taxes during a period when the rate of inflation for other goods and services remains high," he said.

The secretary noted that "a prime contributor to the extraordinarily high inflation rate for medical care services was semi-private hospital room charges which are moving up at an annualized rate of almost 25%."

PHYSICIAN FEES increased at an annual rate of nearly 20%. "This is the highest rate ever recorded for a three month period since physician fee monitoring was instituted on a monthly basis," according to Mr. Weinberger.

"Continuation of these increases will seriously jeopardize the breadth of health insurance that this nation can afford to underwrite on behalf of its people," he warned. HEW said 25 million Americans are not covered by an health insurance, and over half the population is covered inadequately.

Secretary Weinberger noted that in May 1974 meetings following cessation of economic controls, health leaders pledged to him that they work to hold down costs.

"I hope their persuasion will be far more effective in the future," he said. ■

Control data sets foreign plant covers

MINNEAPOLIS—Control Data Corp. finalized insurance programs on its newly-constructed Bucharest, Romania manufacturing plant being operated as a joint venture with the Romanian government.

Robert E. Abrahamson, Control Data's corporate insurance manager, said he recently returned from a trip to Bucharest where he arranged insurance protection through ADAS, the Romanian state insurance company. Casualty and property difference-in-conditions coverages were arranged by Marsh & McLennan and Alexander & Alexander, respectively, he added.

The property coverage has no deductible and is described by Mr. Abrahamson as "high" in cost, "relative to what we could arrange in the U.S." He went on to add that premiums for coverage through the state monopoly are "as much as 40% to 50% higher" than what could be arranged in this country as part of a package.

No limits have been set on the coverage at this time, he noted. The 70,000 square foot manufacturing plant, scheduled to start operations last month, will produce a low cost printer. ■



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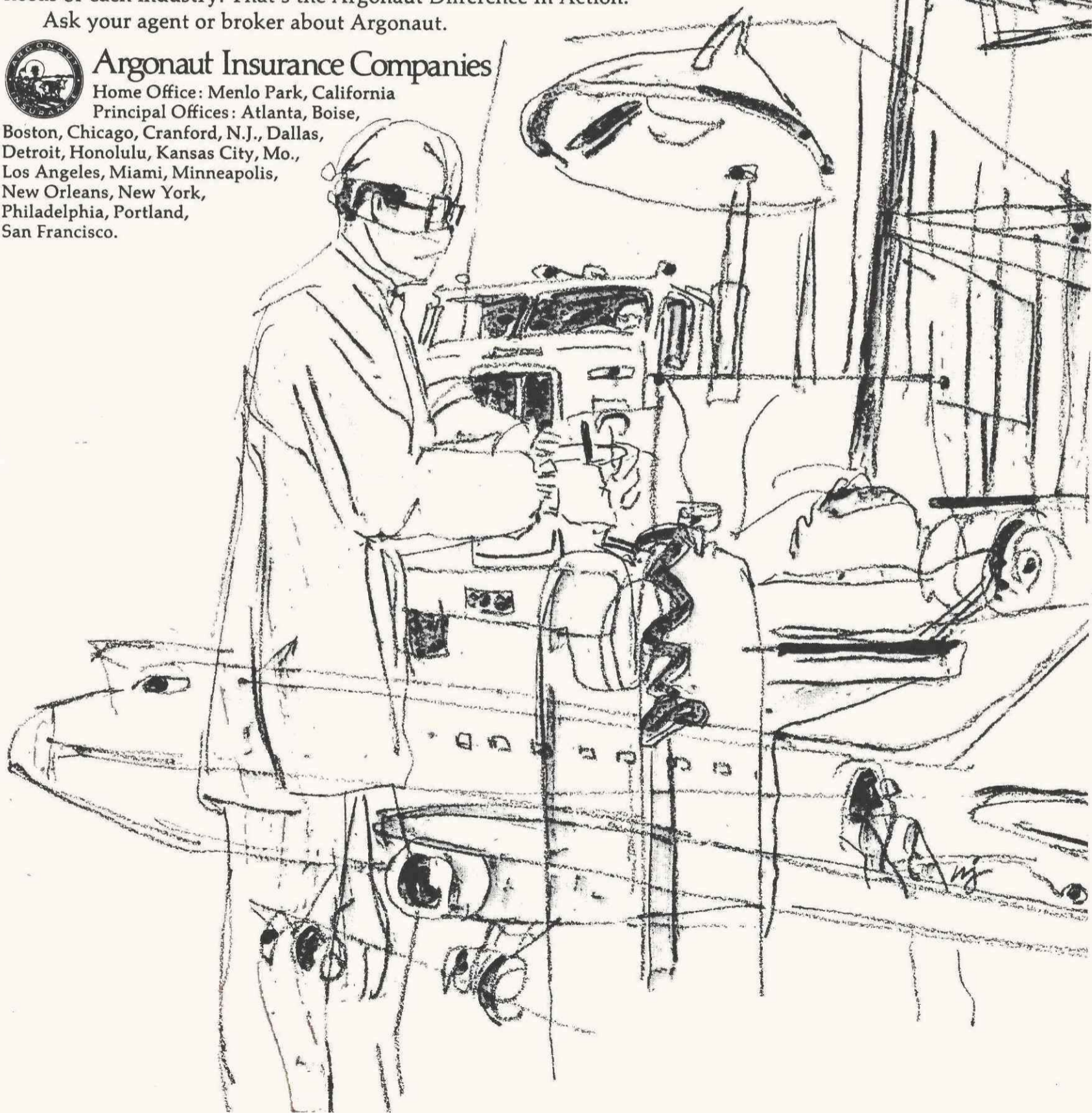
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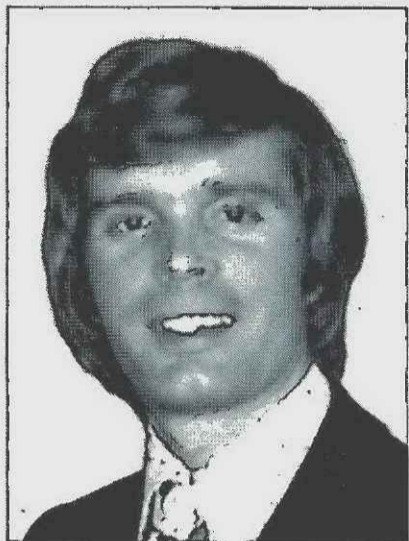
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business insurance

PERSPECTIVE



By RONALD B. COOLLEY
attorney-at-law
Chicago, Illinois

Producers should study technical defenses possible in liability suits

"Although 'standard' defenses in product liability suits involving complex products are losing potency, technology-related defenses are available, and if properly presented, can provide a basis for the court to rule for the defendant."

courts the technical realities involved in product liability suits. To present these considerations properly, particularly in a technically complex case, the defendant should consider seeking the assistance of legal counsel having a technical education as well as experience with technical matters in a legal environment.

THIS ASSERTION can best be understood from a brief look at the present product liability situation. An example of the trend of judicial decisions darkening the future of the defendant is a recent Texas court of civil appeals' decision.¹ That court awarded one million dollars to a driver paralyzed in an accident caused by a defective steering wheel. The plaintiff claimed that a coupling mechanism connecting two parts of the steering wheel shaft was defective. The court permitted as expert testimony the opinion of the plaintiff's mechanic that the design of the mechanism was unsafe and that a longer sleeve would have prevented the failure of the mechanism.

The defendant manufacturer attacked the plaintiff's position and asserted that evidence showing the mechanism could have been designed to avoid the alleged

failure was not sufficient to establish liability; that the defendant is under no duty to design a product which eliminates all possibilities of a product being rendered unsafe by intervening causes; and that the plaintiff's "expert witness" did not possess the qualifications to express opinions on the issue of design defects. The court overruled each of these defenses in holding for the plaintiff.

Although the decision by the Texas court may seem harsh, a recent Illinois appellate court decision² suggests what the judiciary may be seeking from the defendant. The Illinois case involved a plaintiff killed in a rock slide while leaving a strip mining machine. Plaintiff had sought unsuccessfully in the trial to prove that the defendant's initial design was defective by presenting evidence of design changes made by the defendant after the accident. The appeals court allowed this evidence, reversed the lower court's ruling, and held for the plaintiff.

In its decision the court provided the defendant with some insight as to defenses available but not argued. The court stated that a defense to a charge of feasibility of alternative design includes considera-

tions of economy, effectiveness, practicality, and technological possibilities viewed in the context of the current state of the art.

These and other recent cases illustrate that, although "standard" defenses in product liability suits involving complex products are losing potency, technology-related defenses are available, and if properly presented, can provide a basis for the court to rule for the defendant. Evidence that the injury was caused by a factor other than a defect in the product will justify a verdict for the defendant.

EVIDENCE OF TEST results or scientific analysis of the product is of substantial importance in determining the product's character as not being dangerous or defective. Proof of exercise of care in the design and manufacture of a product has been held to indicate the likelihood or possibility of the product's freedom from defect. Evidence of compliance with technical requirements of a statute or regulation, while not determinative, has been viewed as indicating freedom from negligence.

The technological aspects of such defenses should not be underestimated. To

Continued on following page

Risk identification in nuclear power plants



By EUGENE F. JOHNSON
assistant vice president
Rollins Burdick Hunter Co., Chicago, IL.

"A spectacular nuclear accident could crystalize public opinion, as did the Hindenburg. Ultimate results of forced abandonment of nuclear technology would be economic chaos, not only to the utilities, but the nation."

from the time of the second explosion to the settling of the ship's frame upon the ground, an era of lighter than air transportation had ended.

Whether an act of sabotage or an unforeseen accident created the holocaust of that May evening in 1937 is not known. What did become apparent was public reaction, in view of risk weighed against benefit, halting further development of that particular technology.

TODAY, THE electrical utilities and Atomic Energy Commission find themselves much in the same position as those developers of dirigibles. A spectacular nuclear accident could crystalize public opinion, as did the Hindenburg. Ultimate results of forced abandonment of nuclear technology would be economic chaos, not only to the utilities, but the nation.

The need for electricity has moved from the novelty stage of Edison's incandescent bulb to a way of life. By the year 2000, our electric generating capacity will have to

increase eight-fold to meet projected demand. Our options for alternative power sources at this time have become too expensive or exhausted. Nuclear power, with the risk entailed, offers the best solution to meet national need.

Currently utilities are committed to schedules that call for placing new nuclear power plants into commercial operation at an average rate of one new plant a month during the 1970's and two to three new plants a month through the 1980's. By then the United States will obtain 21% of its electrical need from nuclear power and 53% by the year 2000.

Many times, engineering developments in an evolving technology will forge ahead before risk impact is evident. This is exemplified of late in rack storage and high rise fires. Often, in over reaction to newly recognized risk impact, a redundancy in protection controls is applied.

Recognizing the potential risk in operating nuclear power plants, the AEC has developed stringent licensing procedures

to guard against such impact. It is the purpose of this licensing to confirm "that it has information sufficient to provide reasonable assurance that a facility of the general type proposed can be constructed and operated in the proposed location, without undue risk to the health and safety of the public."

THE FORMAL beginning of the licensing process occurs with application for a construction permit by the utility. This requires submission of a preliminary safety analysis review to the AEC. Principal components of this report consist of: a description of the proposed site, the reactor, auxiliary systems, facilities and reactor building, along with discussion of potential hazards.

Issuance of a construction permit does not impose on the AEC an obligation of eventual approval for operation of the facility when construction is completed. It only implies, by issuance, that there is a reasonable probability that the nuclear power plant will be found acceptable. A final safety analysis report and inspection upon completion of construction, is required to secure an operating license.

With such a stringent requirements in effect a utility cannot afford to make unwise decisions. A typical nuclear power plant construction program, from preliminary site studies to commercial operation,

Continued on following page

business insurance

PERSPECTIVE

Defenses . . .

Continued from preceding page

educate a court and jury properly in matters such as the meaning of test and product design data, effectiveness, the state of the art, and production methods requires a thorough understanding of technical matters and careful preparation.

DEFENSES SO INTIMATELY related to matters of technology require that the attorney have sufficient technical expertise to gain command over the subject matter of the suit. To recognize and develop such defenses, the subject matter of a product liability case must be dissected and thoroughly analyzed. The defense attorney having a background allowing him to conduct or supervise this necessary analysis will be at a distinct advantage both in prosecuting evidence on behalf of the party he represents and in cross-examining experts or pseudo-experts who testify on behalf of the opposing party. Irving Goldstein in his book "Trial Technique" states:

"The ability to prepare the facts properly and fully in a case depends entirely upon the scope and extent of the general knowledge which the trial attorney has acquired. Unless that knowledge is broad enough to enable him to recognize the kind of preparation necessary to be made on all phases of the facts in his case he must fail in such preparation."³

In order to prepare a product liability case involving technical defenses properly, the trial attorney should have or should seek the active assistance of associate counsel who has the requisite technical knowledge. An attorney confronted with complex and detailed test reports and scientific analyses accumulated by his own client or presented by the opposing party must thoroughly understand the underlying technology in order to present the evidence properly or probe the weaknesses in the opposing party's presentation.

The complexity in design of many modern products and the related technological defenses in future product liability suits necessitate the use of a technical expert both in preparation for trial and as an expert witness during the trial. Noel C. Stevens in his book "Successful Cross Examination Strategy" states that:

"The lawyer who presumes to cross examine any professional expert had better know more about the specific problems involved in his case than the expert does."⁴

Where expert testimony is of significance, the attorney must be very knowledgeable in the technology related to the product causing the alleged injury. Effective presentation of a party's case frequently requires substantial interplay between the expert and the attorney and a thorough understanding by each of the role which the other is to play in presenting complex matters in a format sufficient for judge and jury to comprehend.

ALTHOUGH THE expert can begin to assist the attorney in acquiring the necessary knowledge, for an attorney to begin this process with little or no technical education or experience and expect to assimilate sufficient technical knowledge to conduct an expensive product liability suit is a dangerous approach.

One of the important periods in a product liability suit is the pretrial discovery stage, when information necessary to formulate defenses is gathered. A critical time in the discovery stage is when the attorney confronts the opposing party's expert in order to obtain information concerning the defective product which is vital in the preparation of the defense. This information is used in trial preparation and frequently dictates one's trial strategy.

The failure of some attorneys to grasp significant technical details prior to this critical time can be disastrous. A failure to question the opposition's expert effectively often results from the fact that this discovery occurs early in the suit when the attorney has had little time to be educated

by his expert. If the attorney does not have a technical background and a familiarity with the product, he cannot expect to have sufficient knowledge to conduct the discovery procedures properly.

Once beyond the discovery stages, the trial commences and the attorney must convincingly present the technical realities to the court by way of these defenses. The demanding nature of a trial requires that the attorney, or one of the attorneys, have a full understanding of the technological issues that may arise. An attorney with a broad technical background can follow the technical lines of testimony and maintain control over the courtroom proceedings.

In addition, such an attorney provides the expert witness with a teammate who can understand the terminology used in

analyzing the subject matter of the trial, and who can interpret the law for the expert in order to allow him to present more probative and convincing testimony.

DURING THE TRIAL the attorney must also interpret several technical issues and discussions for the jury. The attorney may interpret the jargon used during the trial by the various experts into terms understandable by the jury. Through an attorney who has a technical background the defendant can be confident that its technical defenses are presented in the most convincing manner to the judge and jury.

Modern products and consequently modern product liability suits will be ever more complex. The large verdicts regularly awarded to plaintiffs in product liability cases should alert the manufacturer to the necessity of seeking new avenues of defense and to the desirability of technically oriented defenses. The defendant manufacturer should give serious consid-

eration to its future role in product liability suits, and the utilization of attorneys with technical backgrounds in these suits should be emphasized if the recent trend of decisions is to be brought in line with reality. ■

¹ Product Safety & Liability Reporter, "Defective Design In GM Car Steering Is Basis For \$1 Million Judgement" (Washington, D. C., October 12, 1973) p. 774.

² *Sutkowski v. Universal Marion Corp.*, 5 Ill. App. 3d 313, 281 N.E. 2d 749 (1972).

³ Irving Goldstein, "Trial Technique" (Chicago: Callaghan, 1935) p. 4.

⁴ Noel C. Stevenson, "Successful Cross Examination Strategy" (New Jersey: Executive Reports Corp., 1971) p. 1004.

Mr. Coolley is a practicing attorney-at-law in Chicago. He graduated from the Univ. of Iowa law school, with distinction, in 1972. He has a bachelor's degree in aerospace engineering from Iowa State Univ., and an MBA from the Univ. of Iowa.

Nuclear . . .

Continued from preceding page

can require upwards of ten years. At stake for the utility is not only millions in capital outlay but a potential time loss in meeting projected power load demand.

Utility options, as to application of nuclear technology are not limited. The state of the art is such that viable economic alternatives exist within the framework of AEC regulations. Variations in siting, construction and reactor concepts provide this capability.

The need for AEC documentation, demonstrating that adequate safeguards have been taken, can provide utility management, as a by-product, an objective view of the whole risk. Maximum credible loss potential can be measured, on the basis of early risk identification and analysis, to allow not only "reasonable assurance of safety", but for most economical application of avoidance and risk reduction techniques. With completion of construction, an appraisal of risk in light of maximum credible loss, will determine the maximum amount to be assumed by the utility along with need for transfer of

risk to insurance carriers.

This need to minimize risk in the construction and operation of nuclear power plants is providing a new dimension to the application of risk identification and analysis. The insurance industry and field of risk management will profit by the application of these innovations. Adaptation can provide to other industries a method by which accidental loss can be recognized and stated in a more definitive manner for analysis and control.

Specialization of engineering services has, within the insurance industry, often resulted in application of tunnel vision approaches to risk control. Such limitations fail to grasp the total risk spectrum in relation to cause and effect.

BY EARLY RECOGNITION of risk, hazard is defined. Through analysis, control is developed so as not to overdesign or underdesign to obtain desired performance. Total risk protection service, an instrument of risk management, provides a continuity to all engineering disciplines in development of controls.

In Akron, Ohio there exists a structure so vast that clouds form within it and occasionally a light rain falls within. This structure, big enough to house seven foot-

ball fields, was constructed as a hangar to serve the promising era of dirigible transportation. Today this building is living out its old age, a comparative white elephant, the victim of risk found unacceptable.

A nuclear accident has the potential to not only destroy life and property, but in its wake could create white elephants of a major national energy source. The nuclear power industry has acquired twenty years of operating experience along with an outstanding safety record. A major portion of this successful operating record can be attributed to the early application of risk identification and analysis. The need for vigilance has not diminished but will increase with the expected short-fall availability of nuclear-trained personnel. ■

Mr. Johnson, assistant vp, Rollins Burdick Hunter Co., Chicago, serves in the company's fire engineering division, research planning and engineering department. Mr. Johnson joined Rollins Burdick Hunter in 1966. He is a CPCU and an associate in risk management of the Insurance Institute of America, member of the American Society of Civil Engineers nuclear structures and materials manual section committee dealing with general structural aspects of nuclear plant site-selection.

RISK MANAGEMENT NOTES

Warn insureds: Read your policy

By WARREN, McVEIGH, GRIFFIN
& HUNTINGTON
risk management consultants
San Francisco—Newport Beach

AN INSURED IN GEORGIA carried a policy covering burglary and submitted a claim. The full amount of the claim was denied because the policy did not have the coverage expected by the insured since the former broad policy had been renewed with a more limited form.

The insured admitted that he had not read the policy but relied on the agent's statement that full coverage existed. Because of the agent's statement, the insured sued for the full amount of the loss and received a judgment by the state court in Georgia.

The insurer then appealed and the court of appeals reversed the decision stating "the representation alleged to have been made by the agent of the insurer, whether prior or after the loss to the effect that the insured was 'fully covered' can amount to no more than an opinion as to coverage or a legal opinion as to the effect of the contract, which does not give rise to actionable fraud . . . There was no relationship of principal and agent between the in-

sured and the agent of the insurer and thus no fiduciary relationship . . . nor does the expression of an opinion as to coverage work as an estoppel, even against the agent who voiced it, or against his principal." The judge further stated that "the insured was not only free to examine the contract, he was under a duty to do so, and if he had done that he would have observed just what coverage is provided to him."

The case is that of *Parris and Sons Inc., v. Campbell*, 196 SE 2d 334. We suspect this is a case which could be interpreted either way by different courts. Some jurists have held that it is impossible for a layman to understand an insurance contract. Nevertheless, there are many points which can be determined and all insureds should read their contracts—or at least as much of them as they can understand.

The Human Aspect of Safety

A highly significant article on safety appeared in the February 13, 1973, issue of the *Journal of Commerce* written by J. Sharp Queener, manager of the duPont Co. Safety & Fire Protection Division. Not only is Mr. Queener widely experienced and recognized as a leader in his field, but his

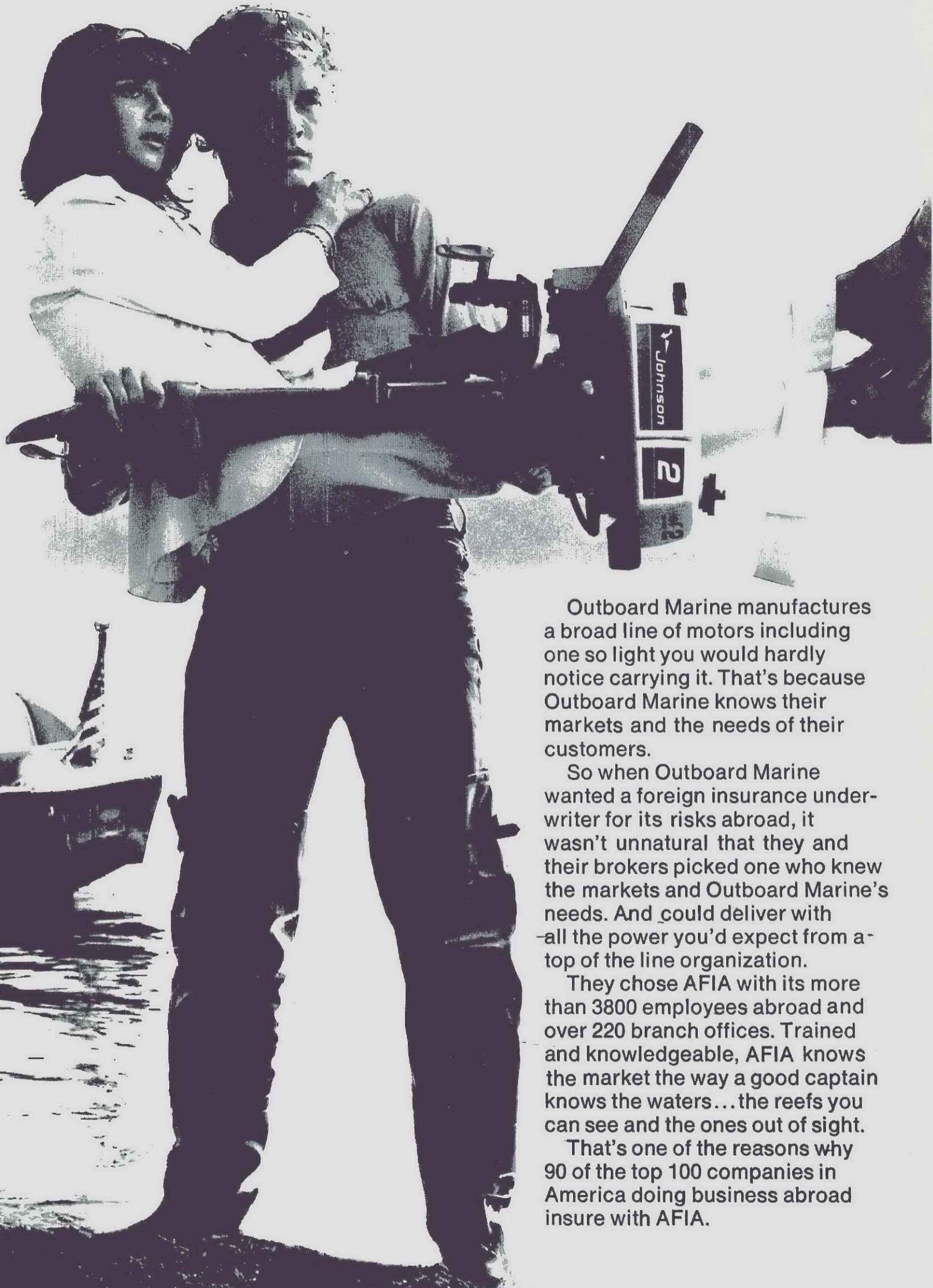
company has achieved the most effective safety record in industry. In 1972 duPont had a rate of 0.16 injuries per million man-hours—a phenomenal record.

He states essentially that the federal OSHA is not achieving the effects for which it was designed and probably never will. He says, "The added cost of doing business under a federal safety act does not show a comparable benefit or contribution to safety." The reason for this is that most injuries are caused by a failure of people, which no legislation can control.

Corroborating his statement is the experience of United States and European companies. The general European approach has been to legislate safety: whereas, prior to OSHA, the U.S. has been voluntary and individual. The record shows that the U.S. performance is considerably better than that of Europe. Possibly even more convincing is the fact that OSHA became effective in the spring of 1971. According to the National Safety Council, 1971 figures showed an increase in injury frequency of 6%.

Mr. Queener states that what is needed is not so much legislation, but more research into what creates effective safety programs and education of employers and employees in what is known. ■

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Dishonesty in banker's blanket bond

HONOLULU—"Mere negligence, poor business judgment or poor banking practices standing alone are not sufficient to constitute dishonesty within the meaning of the banker's blanket bond."

That was the word from one of four panelists exploring the interpretations of fidelity policies at the annual meeting of the American Bar Assn., section of insurance, negligence and compensation law, here recently.

Although interpretations vary from court to court, generally there must be some form of concealment to "evidence a dishonest or wrongful intent" before the employe's conduct can be held dishonest, Charles H. Witherwax said.

"To do otherwise, to hold that bad judgment alone was

dishonesty would in effect be converting the banker's blanket bond . . . to a faithful performance bond which is much broader in scope than the average fidelity bond and is generally held to guarantee not only the honesty, but the competency, efficiency and diligence of the principal," he argued.

The question of dishonesty is one of fact, not law, the speaker contended.

"EXCEPT WHERE personal interest and profit accompany bad business judgment or poor banking practices, it would seem that the majority view is that the question of dishonesty is one of fact and not of law and thus the danger of the surety falling victim to a summary judgment or directed verdict at least in most

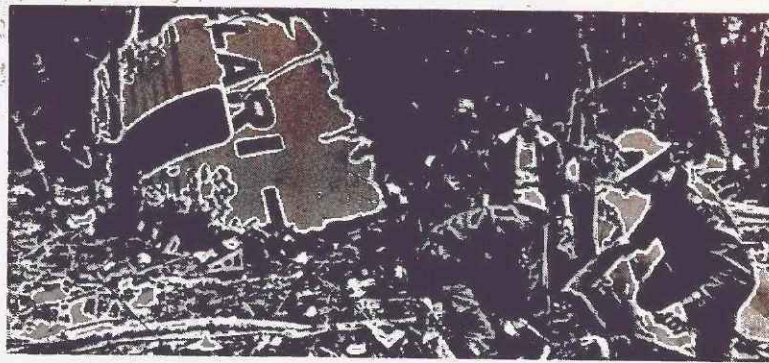
jurisdictions is unlikely."

The courts have been trying to define dishonesty within the meaning of the bond for sometime.

But, they "do not seem on the verge of a breakthrough within the foreseeable future," the speaker said.

Another panelist brought up the question of recovery under the bond.

"It had been my experience that most sureties will pay the losses covered by the risks assumed in their bonds. It is only where the risk is not covered that litigation arises. Claimants are, therefore, limited generally to those who believe payment of the premium entitles them to a right of recovery regardless of what is said in the policy, and unfortunately, the courts sometimes agree."



Firemen search the wreckage of Turkish Airlines DC10 jet.

DC10 engine change

WASHINGTON—The Federal Aviation Administration (FAA) this month ordered immediate changes to the engines on McDonnell Douglas DC10 jumbo jets to correct a potentially hazardous situation.

The FAA had already ordered substantial changes to be made to the cargo door system on the big jets. Defects in the door system may have led to the Mar. 3 crash of a Turkish Airlines DC10 near Paris, France, that killed 345 persons in the worst disaster in aviation history. (*Business Insurance*, March 18.)

The crash raised the possibility that McDonnell Douglas might be hit with product liability suits.

The engine failures involved a fan blade being thrown from the engine. The FAA said that in one instance the blade cut a fuel line and caused a fire.

The engines in question, CF6 turbines, are manufactured by General Electric Co. Not all DC10s are affected by the FAA order.

Must grant paid leave for pregnancy

HARTFORD—The city of Hartford must grant employes paid sick leaves for pregnancy, city corporation counsel Alexander A. Goldfarb has ruled.

Mr. Goldfarb, citing a 1973 state law requiring municipalities to grant paid sick leaves for pregnancy, has ordered city personnel director Robert D. Krause to scrap the existing city policy which says that pregnant women are entitled to unpaid leave-of-absence for as long as their doctors and the city health department deem necessary before delivery and for up to 30 days after a child is born.

Mr. Krause has estimated that it will cost Hartford about \$90,000 a year to grant sick leaves to pregnant women.

Under the state law, a pregnant woman must be granted "a reasonable leave of absence," and must be paid "any compensation to which she is entitled as a result of the accumulation or disability or leave benefits."

THE HARTFORD policy had held to the theory that a pregnancy is not necessarily a disability, and, moreover, that the percentage of pregnant women never resuming their jobs was higher than the percentage of other employes taking leave-of-absence for other illness or disability.

Mr. Goldfarb recommended immediate revision of the Hartford policy which read that if a woman does not return to work within 30 days after her child is born, she is deemed to have resigned; he suggested a 40-45 day limit.

Mr. Krause is changing the limit to 45 days, at the same time noting that individual city department heads have the right to extend the deadline upon request.

Mr. Goldfarb commented that while the Hartford policy was constitutional, the state law should take precedence.

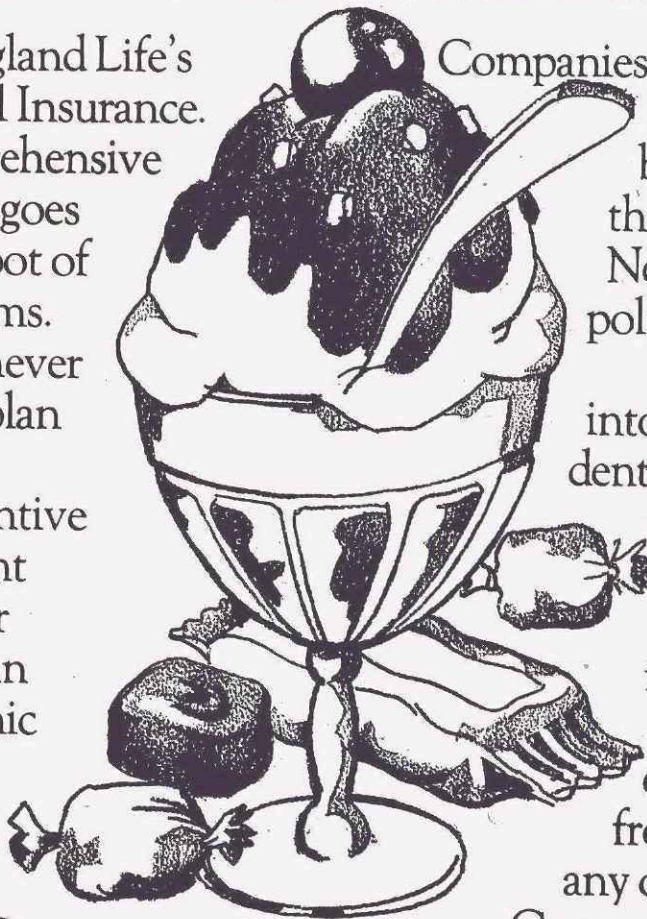
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Giles on the law

Airlines shouldn't restrict physical features of stewardesses, court says

By JOHN W. GILES
Attorney at law

WASHINGTON—In recent years, courts have ruled that airline companies may not penalize their stewardesses for being married, pregnant or over 35-years-old. Recently a federal judge in Washington, D.C. removed yet another restriction—stewardesses may not be penalized for being overweight.

In a 15-page ruling, judge Aubrey Robinson Jr. ruled that Northwest Airlines stewardesses who were grounded or fired since 1965 for weighing too much are entitled to collect back pay from the date of their firing or grounding.

Judge Robinson's precedent-setting order, which also strikes down most other physical requirements Northwest had established for its stewardesses, sets the stage for an appellate confrontation that will affect every major airline in the United States.

If upheld by the federal court of appeals in Washington, Judge Robinson's order would mean that an airline may no longer weigh its stewardesses or even suggest to them that they are too heavy.

The one exception Judge Robinson made was in cases where a stewardess's weight "is such as to render her physically incapable of performing the duties of the job."

Furthermore, Judge Robinson declared illegal Northwest Airlines' policy of forbidding stewardesses to wear eyeglasses in flight.

Nor, he said, may the airline refuse to hire stewardesses because they are too tall, "unless they are taller than acceptable standards for male cabin attendants."

Judge Robinson's order concludes a five-year-old lawsuit brought by 44 Northwest stewardesses on behalf of all their colleagues in the company, which charged that Northwest was violating the Equal Pay Act.

Judge Robinson's order says that stewardesses should have been paid at purser's scale, which most men in comparable positions receive. The scale is up to double what the stewardesses have been making until now.

The judge's order instructs the airline to immediately begin paying stewardesses at purser's scale and to reimburse them in that pay category retroactive to 1968.

In addition, the judge ruled that the airline may not require stewardesses to share rooms in hotels on layovers; he ordered the airline to reimburse stewardesses for each layover they have made since 1968 in which they shared a room at a rate equal to a single room.

Judge Robinson also ruled that the company may not restrict stewardesses' choice of luggage to be carried on the plane, except that it must be in reasonably good condition.

He directed the airline to reimburse the stewardesses for legal costs incurred in bringing the suit and to pay interest on their back pay at 6%.

* * *

IF YOU ARE OPERATING a bank or other financial institution, are you liable if one of your

tellers disregards the demands of a robber, and one of your customers is shot and killed by the robber? This was an action for damages for the wrongful death of a customer of a currency exchange against the exchange and one of its tellers by the customer's widow, who alleged that defendant's negligence in not complying with the directions of an armed robber to give him money or open the door in the teller's cage, resulted in the robber shooting the customer in the head, as he had threatened he would do. The supreme court of Illinois held that since neither

the exchange nor the clerk had a duty to the customer to accede to the demands of the robber, they were not liable for the customer's death. The court pointed out that it is the general rule in Illinois and other jurisdictions that a person has no duty to anticipate the criminal acts of third persons. An exception to this rule exists, however, when criminal acts could be reasonably foreseen.

The cases cited by the plaintiff involved the question of whether facts existed which should have alerted the defendant to a risk of harm to his invitees by criminals. These cases are of little help here

since the instant case presents a question of whether the defendant who is faced with an imminent criminal demand, incurs liability by resisting, not whether he is negligent in failing to take precautions against a possible future crime. The court noted that in the instant case an analysis of the factors leads to the conclusion that no duty to accede to criminal demands should be imposed. The presence of guards and protective devices do not prevent armed robberies.

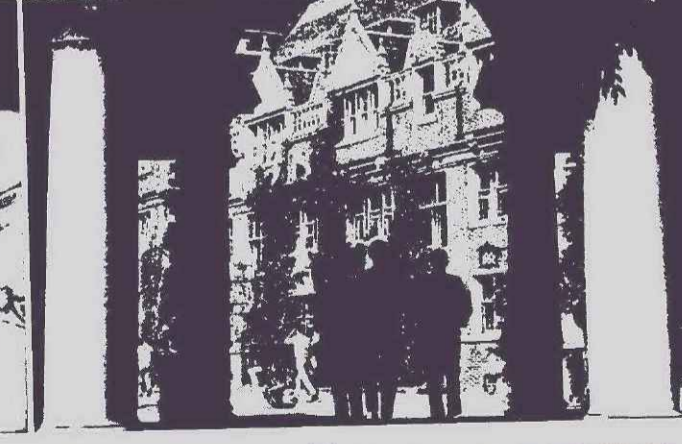
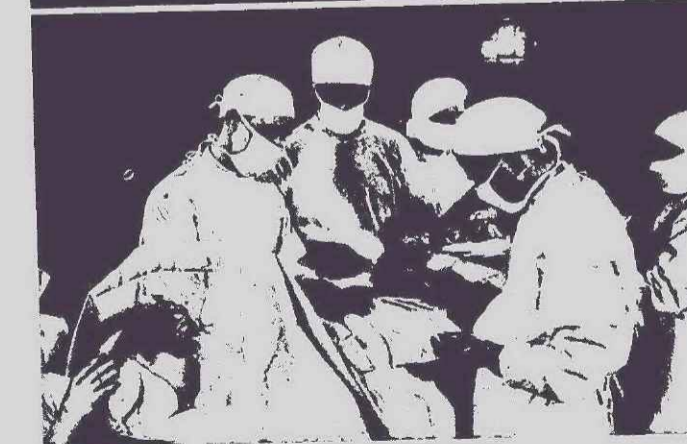
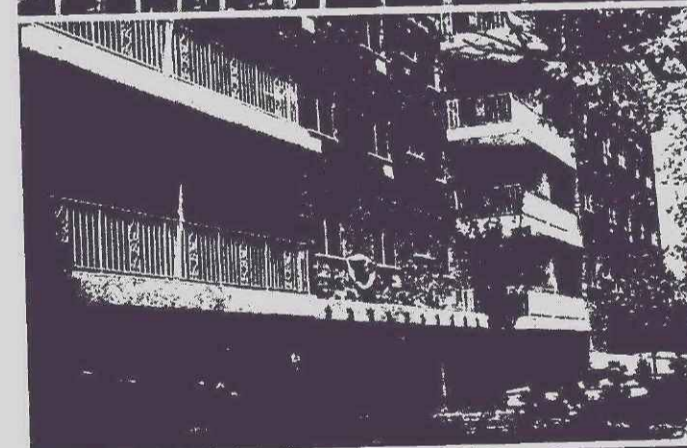
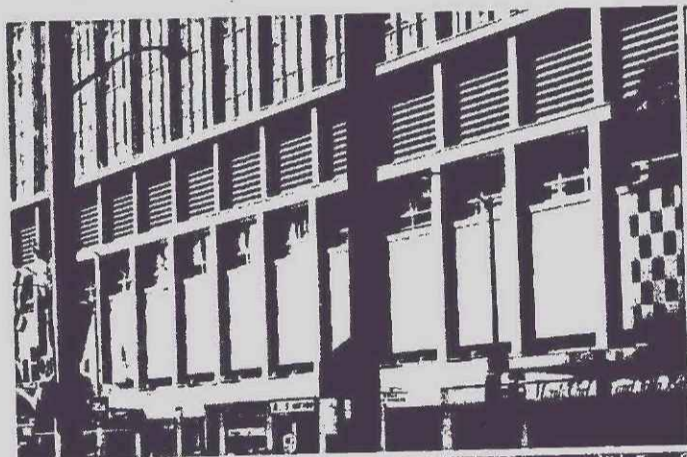
THE PRESENCE of armed guards would not have prevented the criminal in this case from either seizing the deceased and using him as a hostage or putting the gun to his head. Apparently nothing would have prevented the injury to the decedent except a complete acquiescence to the robber's demand, and whether acquiescence would have spared the life of the decedent is, at best,

speculative. The court noted that the demand of the criminal was to give him the money or open the door. A compliance with this demand, would have in turn, exposed the defendant teller to danger of bodily harm.

If a duty is imposed on the currency exchange to comply with such a demand, the same would only accrue to the benefit of the criminal, without affording the desired degree of assurance that compliance with the demand will reduce the risk to the invitee. In fact, the consequences of such a holding may well be to encourage the use of hostages for such purposes, thereby generally increasing the risk to invitees upon business premises. If a duty to comply exists, the occupier of the premises would have little choice in determining whether to comply with the criminal demand and surrender the money, or refuse the demand and be held lia-

Continued on page 48

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Insurance is not a substitute for pollution loss control: Reinsurer

LONDON—Insurers have social responsibilities when they sell pollution risk cover. They must guard against being used by corporate industry as a substitute for safety research, Julius A. S. Neave, honorary president of the Reinsurance Offices Assn. told risk managers at a London seminar.

"We're well aware of the cost of loss prevention of every description, and that insistence on measures to reduce risks may make the cost of cover uncompetitive," Mr. Neave said.

"But the duty of insurers and reinsurers in these circumstances stands out clearly. We must not allow ourselves to be used as a substitute for research, and so let

the sting be taken from the consequences of new industrial processes before enough experiments have taken place to secure safety from pollution.

"The same applies to new products, which may be marketed too quickly in the hope of scooping some great financial reward."

MR. NEAVE told members of the Assn. of Insurance Managers in Industry and Commerce, the UK equivalent of ASIM, that his own company, Mercantile and General Reinsurance, believed that insurers must not allow demands for cover to run counter to public policy.

Other international companies,

he said, such as the Munich Reinsurance Co. and the Swiss Reinsurance Co., also felt public interest was a factor to be respected when granting pollution cover.

Apart from major industries in the U.S., there seemed to be little evidence of any high level of world demand for specific pollution cover, Mr. Neave reported.

"In the direct insurance market," Mr. Neave continued, "there does not yet seem to be a recognized or established lead specializing in the risks of pollution or environmental impairment. The absence of specialization has dangers for both industry and insurers, since cover against liability for the

consequences of pollution might be taken for granted under general public liability policies. Claims may arise, however, which reveal unacceptable hazards, and lead to the need for special policies at high rates of premium.

"IT IS LOGICAL and desirable that specific pollution cover should be available. This will also draw the public's attention to its own involvement with the problem, and insurers, by insisting on prevention measures, will help to improve the hazard in the public interest."

Creation of a technical bureau to bring scientific skills to bear on risk assessments and loss prevention would be a valuable move, especially if industry and environmental authorities joined with the insurance to set up some kind of anti-pollution agency on an international scale, Mr. Neave urged.

Court rules for employer in lung case

HARTFORD—The state supreme court upheld a Connecticut workmen's compensation commission award to a worker at Terry Steam Turbine Co., Windsor, who suffered partial loss of the use of his right lung in an accident.

Wallace J. Balkus was struck in the back by a heavy metal casting with which he was working on May 12, 1968. Several days later, he was hospitalized with a collapsed right lung. The lung collapsed again the following December and part of the lung was removed.

Mr. Balkus was 36 at the time of the accident.

The workmen's compensation commission found that Mr. Balkus had suffered a 25% loss in the use of his right lung and awarded him 50 weeks of compensation pay and \$1,750 in lawyer's fees.

The man appealed the ruling, contending that he was entitled to 195 weeks of compensation pay because not his lung, but his entire body had suffered a 25% disability.

The state's high court, in upholding the workmen's compensation commission ruling, remarked that Mr. Balkus' doctor had testified that while the man had suffered a 25% loss in the use of his right lung, he was not 25% disabled in his entire body.

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Giles . . .

Continued from page 47
ble in a civil action for damages brought by or on behalf of the hostage. The existence of this dilemma and knowledge of it by those who are disposed to commit such crimes will only give future kidnappers additional leverage to enforce their criminal demands. The only persons who will clearly benefit from the imposition of such a duty are the criminals. In this particular case the results may appear to be harsh and unjust, but for the protection of future business invitees, "We cannot afford to extend to the criminal another weapon in his arsenal." There was a dissenting opinion. (*Boyd v. Racine Currency Exchange*—306 N.E. 39 (1973).)

IF YOU DESIGN and install a septic system for a home and it fails to work, thereby reducing the home's value are you liable to the purchaser of the house?

The appeals court of Massachusetts says "No". The action was against the installer and designer of the septic system and it was claimed that the house was worthless because the system did not work and that expenditures would be required to make the system work.

The lower court found for the purchaser but the appeals court held that the purchaser could not maintain a tort action against the installer of the system. The court held that tort liability for negligence by a supplier of defective products extends to negligent manufacture, processing or handling which results in foreseeable physical harm to persons.

In the absence of personal injury or physical damage to property, the negligent supplier of defective products is not ordinarily liable in tort to a purchaser for simple pecuniary loss caused by defective or inferior merchandise. (*McDonough v. Whalen*, 1973—304 N.E. 2nd 199.)

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Ford okays extension of OPIC through 1977

WASHINGTON—President Ford gave White House blessing to the Overseas Private Investment Corp.'s goal of turning its political risk insurance program into a private business.

The President, without ceremony, signed into law a bill extending OPIC's operating authority through the end of 1977.

OPIC writes insurance on overseas U.S. investments in about 90 countries covering convertibility of currency, expropriation and war risks.

THE LAW calls for the gradual transfer of OPIC's investment insurance underwriting to private hands by 1980.

A joint OPIC-private insurer

association is planned to begin next Jan. 1 with the private insurers hopefully taking on at least 25%, and perhaps as much as 50%, of OPIC's inconvertibility and expropriation exposures. (*Business Insurance*, Sept. 2.)

Plans for obtaining private participation in OPIC's war, revolution, and insurrection risks will be developed later in compliance with the laws' directive to achieve 12.5% private participation by Jan. 1, 1976.

OPIC also announced its intention to resume insurance programs in the Republic of (South) Viet Nam and Laos on a "limited" basis.

OPIC's board of directors formulated special risk management

terms to govern issuance of insurance in these countries and has submitted them for review to the Senate foreign relations committee and the House foreign affairs committee.

THE INDOCHINA investment insurance requests must be accompanied by a current assessment of risks and OPIC will insure no more than 80% of the value of the project, unless it is for a small business, in which case the limit could conceivably be raised to 90%.

OPIC will not insure projects in the \$5 million range unless there is "significant" participation by private insurers in covering the risk.

At present, interest in OPIC insurance in Indochina has been light, OPIC officials told *Business Insurance*, with about a half a dozen inquiries received, mostly for projects worth less than \$1 million. ■

Realtors not satisfied with present E&O policy

ATLANTA—Dissatisfied with coverage provided by its current insurers, the Georgia Real Estate Board is seeking a new insurance company to write errors and omissions policies for its 4,000 realtor members.

The board currently has policies with three companies: Fireman's Fund, Cincinnati Insurance Co. and the Chicago Insurance Co., but would prefer a single company for the entire professional liability package, according to L. C. Broome, who handles insurance for the association.

"There's no one I can use all the way through," he said, referring to the three companies. "Each of them has its own quirks." ■

Fireman's Fund, Mr. Broome explained, "prefers writing for those who have property insurance with them, and Cincinnati also wants collateral business along with liability coverage."

A PROBLEM in writing errors and omissions policies for the association, Mr. Broome noted, is the size variation of its member realtor companies, which range from single-man offices to firms with staffs of 500.

The association is seeking a policy with aggregate limits of \$100,000 to \$300,000, he said.

The board has received bids from St. Paul Fire & Marine Insurance Co., American States Insurance Co., and Lincoln National Insurance Co., Mr. Broome said.

He indicated a preference for Lincoln National, because "they've been quite aggressive in the field of E&O coverage." But the company has not yet written policies in Georgia, he noted.

"Lincoln would have to be approved by the Georgia state insurance department," he said. "We're still looking for a good offer and would like to change (from the current coverage) as soon as possible," however, he added. ■

State plans malpractice investigation

NEW YORK—"There is evidence that only about one dollar from every six paid in premiums by doctors return to the consumer in the form of benefits. While the cost of malpractice premiums are being passed to the consumer in terms of higher cost for health care, the consumer receives very little in return when he is actually injured by malpractice actions."

That was just one point state senator John R. Dunne made concerning high health care costs consumers must pay.

Public hearings are planned by the select committee on insurance, headed by Sen. Dunne to "investigate soaring medical malpractice premiums that are contributing heavily to the tremendous cost that consumers must pay for health care."

During the past year alone, malpractice premiums have nearly doubled, the senator said. Certain doctors are paying \$15,000 a year just for the coverage.

Many suggestions to alleviate the problem will be heard at the hearing. Some include binding arbitration of malpractice claims and a form of no-fault malpractice.

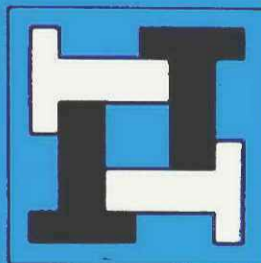
"The select committee has no predisposition as to the best solution, but it is obvious that something must be done quickly before there is a serious breakdown in the delivery of medical services to the public," Sen. Dunne said. ■

Broker in joint venture

Schiff Terhune International, Inc., New York, and C. D. Mallory & Co., a ship chartering firm, have formed a new joint corporation, Mallory-Schiff Agency, Inc. The new insurance facility will offer Schiff Terhune clients increased expertise on marine and shipping lines, as well as provide insurance for Mallory clients.

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Study reveals majority of shipowners believe liability limits 'much too low'

WASHINGTON—A transportation department cargo liability study is revealing, among other things, that the majority of shippers believe that liability limits for shipments by sea are much too low.

The carriage of Goods by Sea Act (COGSA), as part of an international agreement, limits a shipowners liability to \$500 per package, an amount that has not changed for years.

A transportation department survey of shippers indicated there were split opinions of what shipowners liability to shippers should be. Forty-two percent told the government it should be for the actual value of the package; 46% said from \$1,000 to \$5,000

per package; and 12% said \$8.80 per kilo or more.

Shippers who believed the present limit was adequate tended to ship cargoes with relatively low values per pound, said the transportation department.

QUESTIONS on the COGSA liability are just part of a larger government look at cargo liabilities and insurance coverages with a view toward rationalizing the system.

Transportation officials said this was particularly necessary to go along with increased world trade which confronts shippers with confusing liability rules and insurance coverages.

The transportation department

survey figures were revealed in a progress report late last month and are derived from partial returns from a survey of more than 800 manufacturers, retailers and wholesalers, and freight forwarders.

The shippers reported that railroads had the best frequency on paying off claims in 1972, honoring 91% of them. These figures are based on export cargo only, however.

The lowest percentage of claims honored was against air carriers, where 57% of claims were honored, but the claim payments represented only 22% of the value claimed.

More than 50% of all claims filed took as much as 60 days to

recover, the department was told. At the worst, just over 14% of claims filed took more than three months to recover, with the average for this group being 243 days.

ABOUT 43% of the claims were due to visible damage on receipt of goods, according to the preliminary results of the survey. Another 41% was due to theft, pilferage, robbery, hijacking, or short shipments, and a final 15% was due to concealed damage discovered after delivery.

Questions on cargo insurance practices revealed that 25% of the respondents were self-insured, 81% purchased insurance on an open policy, and 59% insured individual shipments. Many respondents used a combination of these practices.

Coverage limits for open policy purchasers were broken down to show about 25% with \$100,000 or less; 30% with between \$100,000 and \$1 million; 20% with \$1 mil-

lion to \$2 million; and 25% with more than \$2 million in coverage.

Deductibles on the open policies were divided with 55% of policy holders having no deductibles; 17% with \$100 deductibles; and 28% with deductibles of more than \$100.

Interstate Commerce Commission records for 1972 showed that 3.4 million claims, seeking \$352 million, were filed by shippers against motor carriers. The ICC reported 2.6 million claims were settled for \$194 million, or 55% of the total claimed.

For railroads, the Association of American Railroads reported 2.14 million claims were paid in 1972, down from 2.28 million in 1969. The value of the claims increased, however, to \$234 million in 1972 from \$210 million in 1969.

THE CIVIL Aeronautics Board began collecting claims information from air carriers with freight revenue exceeding \$3 million in June, 1972.

For fiscal 1973, ending in June, 1973, domestic air freight carriers paid 38,000 claims, which cost them \$6.1 million. The claims sought damages of \$10 million.

International air carriers reported 12,000 claims paid, worth \$3.6 million. The claims had sought \$5.5 million in damage.

The CAB reported the average claims were small: \$158 for domestic carriers and \$281 for international carriers.

The top commodity group susceptible to damage, according to claim reports, was clothing, except fur or fur-trimmed, for motor carriers; motor vehicles for railroads; and wearing apparel, except fur, for air freight carriers.

The Federal Maritime Commission is just attempting to collect claim information from ship operators, according to the transportation department. ■

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Medicare patients can use HMOs

WASHINGTON—The Health, Education and Welfare department (HEW) last month proposed regulations to allow health maintenance organizations (HMOs) to provide medical care services for Medicare participants.

An HMO meeting the statutory requirements can choose to participate in Medicare on an incentive reimbursement basis, under which the HMO and Medicare share in any savings the HMO achieves by providing services at a lower cost than in other medical care facilities in the same geographical areas.

There is no sharing in the program of any losses suffered by the HMO in providing the services.

HMOs will soon be required as an option to be offered by employers to employees in lieu of traditional insured medical programs. It's expected they will also be included in national health insurance program. ■

Consolidate coverage

CNA/Insurance announced it is consolidating in the Continental Assurance Co. its administration of general group accident and health, and life insurance. Up to now, Continental Casualty and Continental Assurance both carried the group coverages, but Continental Casualty will only continue to market group accident and health. It will also retain its business in salary continuance, 24-hour accident lines.

Insured moves to prevent D&O claims

DALLAS—The Dallas County Hospital District Board supplies a list of twenty-six rules of conduct to each of its hospitals for their directors, officers and trustees designed to prevent suits against the institutions and their managers.

The list suggests that these individuals:

- Attend board meetings regularly.
- Exercise general supervision over the corporation's affairs.
- Investigate and audit the corporation's decisions.
- Bring your 'business experience' and 'common sense' with you to decide corporate policies.
- Pursue the warning signs that come to your attention that something is wrong.

- Insist on regular and frequent board meetings.

- Insist on meaningful board meetings with full disclosure of operating results.

- Require the corporation to employ a CPA firm to audit the corporation's records.

- Require the corporation to engage competent legal counsel.

- Require the corporation to set up an executive committee to examine and carry out the board of directors' policies.

- Require reports at the directors' meetings of all committees of the corporation.

- Evaluate officer performance; review the duties of officers periodically.

- Select competent new executive officers.

utive officers.

- Authorize legitimate corporate indebtedness.

- Insist on policy as to retirement of directors, officers and employees at realistic age and health condition.

- Know the directors, officers and corporate organization you are asked to join.

- Adopt and follow sound business policies.

- Avoid self-serving policies.

- Avoid conflict of interest.

- Maintain a good credit standing for the corporation.

- Maintain reasonable capitalization.

- Observe the general corporation business laws.

- Review the adequacy of the corporation's insurance program.

- Review the adequacy of your directors' and officers' insurance program.

- Review the fairness of the indemnification granted directors and officers of the corporation. ■

Extra benefits provide cover for CBS newsmen

NEWPORT, R.I.—While filming the America's Cup trial races here last month, one Columbia Broadcasting System (CBS) technician was killed and another cameraman seriously injured when the helicopter they were using crashed.

Robert Oddo, who was killed when the helicopter took a dive into the water, worked for CBS on a per diem basis. This position did not entitle him to full company benefits, sources disclosed.

HOWEVER, it is standard procedure for all employees traveling for the firm, regardless of employment status, to be covered under the CBS travel accident policy.

CBS sources said that this

coverage, handled through American Home Assurance Co., will pay benefits to Mr. Oddo's beneficiary.

The other employe injured during the crash, Delos Hall, was a full time cameraman for CBS. It is believed that he has already filed a workmen's compensation claim with the CBS insurer, Continental Insurance Co., in the state of Illinois.

It was not known who owned the rented helicopter. The pilot was seriously injured. CBS declined to say whether the owner will be held liable for the crash. Until further investigations determine the actual cause of the accident, no charges will be made. ■

Auto cover markets still good: Buyers

NEW YORK—Despite rumors that the insurance market for vehicle insurance for rental and leasing companies has been tightening up, specialty underwriters and insureds disagree. Some even insist that the market has never looked better.

"I've been looking in the market, as I do every year, and conditions have never been healthier," John Murphy, insurance manager at Avis, said.

The market is small. Very few insurers specialize in this coverage needed for rented and leased vehicles, he added. "It takes some expertise. You have to go in heavy or not at all."

THE LEADING underwriters in the R/L market are Liberty Mutual and INA—listed as the biggest—followed by Allstate and Travelers.

There are always companies trying to get these big premium dollars;—and consequently, "maverick companies are always in and out," Mr. Murphy said.

"Continental Casualty did move out" of this market, he went on to note. Continental had been a major force in this market in the 1950s and 1960s.

One insurer, however, has noticed a slight market tightening.

INA underwrites the auto coverage for one leasing firm, Econocar; as well as other renting firms.

A source said, "six months ago, other companies were freely writing it. There has been a slight tightening up in the last six months."

But, INA is not about to move out of the market. The underwriter is still writing a sizable volume of business; with no plans to curtail the number of policies sold.

ALTHOUGH HERTZ self-insures its fleets, the insurance manager there had some comments at that "The market probably is tight. But, there is always a market for leasing companies insurance; it's just a question of how much money you're going to pay."

Costs for auto collision and liability are not low, according to Mr. Murphy at Avis. Reasons for this include the number of different drivers using the vehicles and use of cars more often for business than a family car.

But, he sees the market improving. "No-fault is a positive factor in the auto market." ■



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Distant goals: More consolidation and mass-marketing

Insurance changes are still underway at Wickes

By JOANNE GAMLIN

SAN DIEGO—The Wickes Corp., diversified lumber and shelter retailer, is harboring a wish that may come as a surprise to a lot of people: Its financial services group is launching plans which could make Wickes another Allstate. The group is just beginning a study into various mass-marketing insurance programs that could be major contributors to Wickes earnings, but at this point are still at the "drawing board" stage.

"We have 264 lumber retail units and 22 furniture warehouse showrooms that are not unlike Sears in that both draw substantial crowds," says J. E. (Jim)

Morton, senior director of insurance and security for the billion-dollar corporation headquartered here. "We have a total of 430 locations in about 44 states."

But that goal, certainly a jolt to those who think of the 120-year-old firm solely in terms of building materials, mobile homes or furniture, is in the future, Mr. Morton is quick to add. And this is only one part of the corporation's overall insurance-related programs, as he outlined them.

HE VIEWS WITH understandable pride the major insurance policy consolidation program he has put into effect since being Wickes insurance director in 1971. That program, which also em-

braces group employee benefit coverages, has succeeded almost beyond expectations, Mr. Morton and Phillip D. Nico, group benefits manager, said during an interview with *Business Insurance*.

"In the first year of the program, from 1971 to 1972, we saved \$500,000 in business policy premiums," asserted Mr. Morton, who joined Wickes in 1967 as an executive in the security department.

The drive to streamline the employee benefit program resulted in "at least \$100,000 in savings," estimates Mr. Nico.

The idea that efficiency could be vastly upgraded while costs could be shaved struck Mr. Morton at the time he was named insurance director. "When I first entered the department, I found a real challenge: Literally hundreds of policies, the result of the break-neck acquisition program the company had been following in the 1960s. For this reason, I made it a first priority to try to bring all the different policies held by our new acquisitions into single master plans."

WHAT THIS meant in property insurance, for instance, was consolidating five separate policies, including HPR, all-risk and DIC into a single master policy. It netted an \$800,000 yearly saving in premium costs.

"We were able to do this at that time because the market was unusually loose," he recalls. "With the help of Frank B. Hall, our property broker, we were able to work out sound, three-year contracts, nailing down the impressive cost reductions."

Another factor which helped secure favorable rates, he adds, was the corporation's headquarters move to San Diego in 1972. Mr. Morton, an attorney who hails from Texas and who was hired when Wickes was headquartered in Saginaw, Mi., is unabashedly enthusiastic about that move. The fiercely competitive and innovative California market, he says frankly, "enabled me to achieve deals I probably never would have been able to make in Michigan."

A prime example of what the rambunctious California market can produce, he noted is the \$40 million limit of liability at any one location, all-risk blanket property policy from Unigard Insurance Co. The comprehensive policy covers all standard risks as well as business interruption and extra expense for Wickes' 18 divisions. The deductibles are \$50,000 on fire and \$100,000 on earthquake and flood. Losses for the first year of this program were \$200,000, the result of two major occurrences.

ACCORDING TO Mr. Morton, Wickes' Behlen manufacturing division, in Columbus, Nb., which manufactures commercial and farm buildings, carries the biggest exposure—\$40 million.

"No program of this type can be successful unless you have the backing of your top executives. This we had, plus an excellent line of communication with the general managers of our various divisions."

A boiler and machinery policy with a \$1 million limit per location is underwritten by Kemper Insurance Co. The broker is Marsh & McLennan, which shares the Wickes spotlight with Frank B. Hall. The policy has a 25% coinsurance provision for



Grand opening of a Wickes furniture warehouse showroom.

business interruption and carries a \$1,000 deductible.

Mr. Morton estimates that the company's total insurable values this year, including business interruption and extra expense, are at \$580 million.

Crime, a typical problem for retailers—and for Wickes, with its lumber sales—is covered by a \$500,000 theft and fidelity policy from Hartford Fire Insurance Co., above a \$5,000 deductible. M&M is the broker.

"The lumber division has its own five-member security staff headed by Aubrey Johnson. Roger Hall is in charge of secur-

ity for the furniture division, and John Norris is manager of the corporate security department," Mr. Morton noted.

SECURITY IS a subject of foremost interest to the insurance director because, for one thing, a program he designed to prevent theft and fidelity losses in the lumber division when he was in the security department won him early recognition at the company.

A general liability policy is underwritten for Wickes by Argonaut Insurance Co. through Marsh & McLennan. It has vari-

Continued on page 57

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(b) No fiduciary shall be liable with respect to a breach of fiduciary duty under this title if such breach was committed before he became a fiduciary or after he ceased to be a fiduciary.

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in sections 405(b) (1) and 405(d), any provision in an agreement or instrument which purports to relieve a fiduciary from responsibility or liability for any responsibility, obligation, or duty under this part shall be void as against public policy.

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Continued from page 56

limits for bodily injury, property damage and medical expenses, the highest being \$500,000 in the bodily injury and property categories. The policy provides first-dollar coverage. Bayly, Martin & Fay brokers the liability coverage for the Wickes forest industries division only.

A \$25 MILLION umbrella liability policy, covering excess layers, is supplied to Wickes by Central National Insurance Co., again through M&M. The deductible for the policy is defined as the primary limit, if applicable.

Argonaut Insurance re-enters the picture as the supplier of Wickes' workmen's compensation coverage. Wickes forest industries, a division in Dinuba, Ca., with a number of individual policies, has a separate workmen's comp policy from Leatherby Insurance Service Co. Marsh & McLennan is the broker for the broad corporate policy.

Automobile liability is also underwritten by Argonaut through M&M, with no deductible. However, Wickes forest industries again comes in with its own policy, this one from Mission Insurance Co. with Bayly, Martin & Fay, San Francisco, as broker.

Other policies of the more esoteric variety, include one for loggers' property damage liability, written by Sayre & Toso Inc., through Bayly, Martin & Fay. This policy has a deductible of \$5,000 and a limit of \$300,000. An aircraft policy for the Wickes forest industries division is underwritten by USAIG through M&M, providing four-pronged coverage for a Bell helicopter used by the division for timberland cruising.

Finally, data processing protection is provided by St. Paul Fire & Marine Insurance Co., through M&M to cover computers and other EDP equipment. Coverage is focused on three locations: Saginaw, Mi.; Wheeling, Il.; and Phoenix, Az. where Wickes subleases a computer to the state of Arizona.

EMPLOYEE BENEFITS, like the corporate insurance side, have been subject to streamlining over the last two and one-half years, relates Phillip Nico, who worked for Delta Dental Plans before joining Wickes in early 1972. The goal of the ambitious program, he emphasizes, is centralizing and standardizing benefits and administration while shaving company costs.

"One reason I left Delta to join Wickes was that I saw it was a dynamic, inventive company," he observes. Yet, as with the property-casualty policies, growth had brought a good deal of challenge, so Mr. Nico immediately set to work on a method of consolidation.

And so far, so good, he indicates. "We have been able to hone approximately 250 individ-

ual employee benefit plans covered by 60 master policies down to about half that number," he says, explaining that Wickes now picks up 100% of the cost of basic life and health coverage for most of its employe groups.

Union Mutual Life Insurance Co. of Portland, Me. has been the corporation's group life and health underwriter for 19 years, repeatedly surviving a routine bidding procedure. "Union Mutual has given us good service," Mr. Nico comments. "Claims, for example, are paid within four working days."

He notes that the number of persons insured, currently about 14,000, has doubled in the last two and one-half years.

A push to upgrade benefits has been taking place along with the consolidation drive. The result is that as of August 1, a number of changes became official, the most significant of which is that now all salaried workers can expect uniform basic life and health benefits.

"WE'VE DESIGNED a similar prototype for the hourly workers," Mr. Nico continues. "It is in effect in seven divisions; we expect to bring the remaining divisions into the uniform plan some time in the future."

Three improvements in the basic life-health program for salaried employes went into effect last month. Intensive care coverage was moved from major medical to the basic medical plan; x-ray and lab benefit limits were

upped from \$50 to \$100 in a calendar year; and the deductible accumulation period for major medical was expanded from 90 days to a calendar year at the same time as a new \$300 maximum deductible per family was added to the program, which pays up to \$25,000 for a single illness.

"FOR THE FUTURE, we are looking at optional plans for employe dependent life and AD&D," continues the executive. A travel-accident plan, too, is under scrutiny.

Long term disability, similarly, is being examined with an eye to potential upgrading. The long term disability program for salaried employes pays 60% of base salary up to a maximum monthly benefit of \$1,500, for instance.

Mr. Morton explains that because the corporate insurance staff consists of only himself, Mr. Nico and five other employes, he relies heavily on the services of brokers and a Los Angeles insurance consultant, Murd, McLaurin & Company, in the area of property and casualty coverages. The group benefits side, on the other hand, turns to such service personnel only when special projects are being cooked up, Mr. Nico explains.

"Altogether, we figure the volume of our insurance operation to be larger than that of many underwriters," says the insurance director.

Wickes is almost as aggressive abroad as it is on U.S. soil,

with activities in Europe, Mexico and Canada. Johnson & Higgins has authority for the insurance covering European facilities.

MR. MORTON says he is thankful he is a lawyer. "Sometimes I wonder how I could function if I did not have a legal education," he asserts.

"It is something I call upon daily, despite the fact that Wickes has a full legal staff. Still, there are endless questions—just look at what is happening in product liability alone that begs for knowledge of the law," he asserts.

Mr. Morton's massive consolidation effort is far from over. Indeed, a single corporate insurance policy is a concept that does not appear to him to be visionary. "We want to keep our staffs small and so one day I can foresee a single property-casualty policy," he predicts with Texas

bravura. One facet of his vision involves a premium pooling system for all of Wickes' domestic divisions.

The notion of Wickes as a second Allstate appears equally possible to him. He points out that the past acquisition of Western Diversified Insurance Co. in Chicago, American Homes in South Bend, In., and Universal Mobile Services Corp., headquartered in Houston, could all play key roles in this effort.

Another big step toward that goal came recently when the corporation made known its intention to acquire World Service Life Co. of Fort Worth, Tx.

No direct connection is currently foreseen linking Mr. Morton's department with the mass merchandising retail insurance effort. But, he indicates, given the imagination of the new financial services group, even that can't be dismissed as impossible. ■

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Correspondents In All Other States

Ideal buys new plans in effort to shave costs

By SUSAN ALT

DENVER—The risk management game plan of Ed Heeren calls for increasing the limits of Ideal Basic Industries' excess umbrella liability coverage, making the company's first overall risk survey, and going to higher deductibles on several policies. It's all part of an effort to keep insurance costs in line, successful in 1973 to the tune of \$93,000 in premium savings from the year earlier.

Mr. Heeren, president of the local ASIM chapter who rose from a junior accountant at Ideal to its risk manager in 1972, is in the process of inviting quotes on \$15 million, \$20 million and \$25 million of excess umbrella liability coverage with an eye to increasing the policy limits from the present policy underwritten by Home Insurance Co. with a \$10 million limit.

Marsh & McLennan handles Ideal's liability package, and is working closely with Mr. Heeren on the new quotes. Ideal's U.S. operations are covered by a primary comprehensive general liability policy underwritten by Hartford Accident & Indemnity Insurance Co. up to \$250,000 for each person and \$500,000 for each occurrence.

BY CONSOLIDATING various liability coverages over the last several years, Mr. Heeren estimates he has saved Ideal some \$36,000 a year. Total liability in-

surance costs for Ideal—including a new comprehensive crime policy, directors' and officers' coverage, and kidnap/ransom coverage—run about \$158,000 a year.

A brand new comprehensive crime policy is underwritten by Zurich-American Insurance Cos., and also covers blanket employee fidelity and loss of money up to \$5 million, with a \$1,000 deductible.

"WE GOT THIS by letting it out to bid last month, and the quotes were based on \$1,000, \$5,000 and \$25,000 deductibles. There was no incentive at all to go to a higher deductible on this policy," concluded Mr. Heeren, a highly organized insurance manager who's been shaping up the scattered risk management operations of Ideal since his position was newly-created two years ago.

"Previously we had a \$100 deductible on a crime policy underwritten by Chubb & Son, and the nuisance claims were driving me up the wall," he cited as the reason a change was needed in crime coverage. "Between the two quoting firms, the actual savings is \$4,700 a year, or \$14,000 savings over three years, from the previous coverage."

Ideal is the largest U.S. producer of portland cement and potash, but is also in numerous other industries following an aggressive expansion program in recent years. The company recorded revenues last year of over \$227 million, and holds real property assets of over

\$438 million. Record capital investment last year went for modernization and expansion of the company's cement production facilities.

"We recently changed our directors and officers insurance from Stewart, Smith to Harbor Insurance Co. as a result of putting the policy out for competitive bids a year ago. Now we have \$10 million coverage with a \$10,000 deductible. Plus, we added the officers and directors of our subsidiaries as named insureds," Mr. Heeren told *Business Insurance* in a recent interview at the firm's headquarters overlooking downtown Denver.

IDEAL SPENDS about \$250,000 a year for fire, boiler and machinery, and business interruption insurance. M&M is broker on the fire and boiler/machinery coverage for Canadian operations but a newcomer to the Ideal account is Alexander & Alexander, added in March, 1974 on the corporate boiler, electrical equipment and machinery policies and the corporate equipment floater.

Van Schaack Insurance Agency, a local Denver broker, is the sole broker on the corporate fire insurance coverage, placed in London. "The cement division has been insured through London for about 20 years, but other subsidiaries were insured by domestic carriers until recently. But I cancelled the insurance with domestic carriers and put it under the corporate program in London," says Mr. Heeren. The coverage has a \$250,000 deductible and a \$10 million limit per loss per location with a \$1 million stop-loss provision.

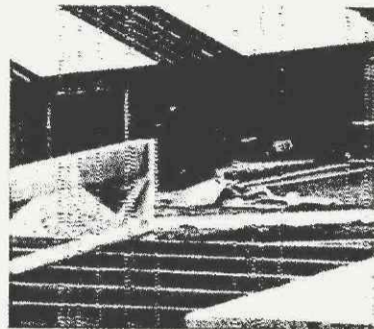
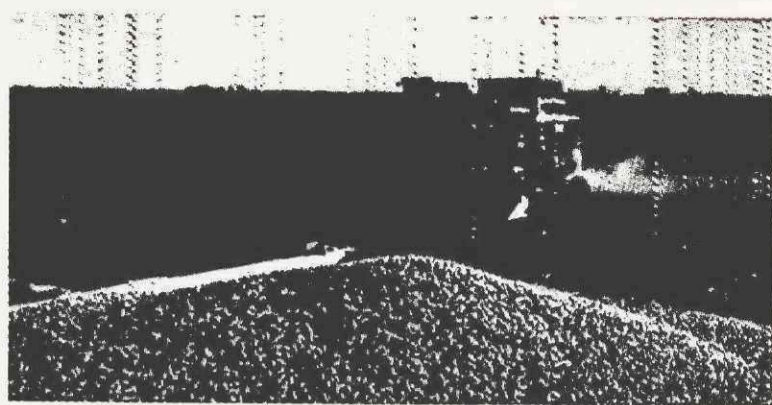
THE CEMENT division is self-insured for business interruption, because the spread of plants makes it unlikely there will ever be a shutdown of a big part of the operation. "But now, because of a cement shortage, we are operating at capacity, and this has made the ugly head of a business interruption risk surface and become more important," Mr. Heeren reasons.

"So we're presently doing a major study of the economics of adding some business interruption coverage. It probably will be a per-day type of loss coverage with a sizeable deductible. We will need catastrophic coverage to insure a plant which might be shut down four to six months."

The Turner Agency in Saskatoon, Saskatchewan handles insurance for the potash mine and limestone operations in that part of Canada. Ideal just took over the potash mine in November of 1973. The fire policy for the operations is with Factory Mutual of Canada, covering above- and below-ground operations, and the buildings.

THE POLICY has a \$37 million limit with a \$20,000 deductible per occurrence. The liability coverage for this operation has a \$1 million limit, and is with the province of Saskatchewan by statute. Boiler coverage is with Mutual Boiler & Machinery Insurance Co. to \$1 million, subject to a \$2,500 deductible.

Ideal also poses some interesting "specialty" risks for Mr. Heeren. The firm owns two aircraft—a Hawker jet and a prop plane—which have policies underwritten by USAIG with premiums totalling \$12,000 a year. Mr. Heeren also handles a bit of ocean marine and cargo coverage for one very large freighter, 10 barges and one tugboat, all under-



Ideal Basic is the nation's largest producer of portland cements, and also mines and refines potash, a vital component in fertilizer. The firm is steadily expanding in production of rock products needed for construction.

written by Lloyd's and the London market. The protection and indemnity policies for these vessels are with Highlands Insurance Co. and Emerald Insurance Co.

NOW THAT MR. Heeren has completed much of his planned consolidating, he will undertake within the next year an overall property and liability risk survey of the entire Ideal system. This entails visiting every mine and plant, going through every phase of the business with operations managers at each location.

Marsh & McLennan also handles the entire employee benefits insurance package for Ideal, although Mr. Heeren added Benefacts, a

subsidiary of Alexander & Alexander, late last year to do a complete new communications program and annualized benefit statements.

Ideal Basic administers all health and life programs internally. Mr. Heeren is directly involved in the design, funding, and communications but not the administration of plans. Pensions are managed and designed by the vp of finance, and the vp and controller.

Health and life insurance are with Capitol Life Insurance Co. Although they are insured plans, Mr. Heeren notes that the way Ideal works with Capitol is bas-

Continued on page 55

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Ideal . . .

Continued from page 58
 cally on a cost-plus basis.

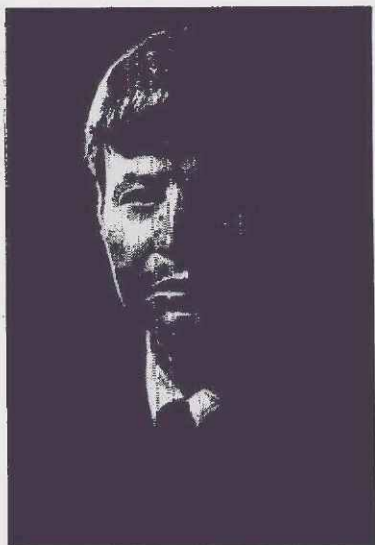
"We recently negotiated into that program a definite cash flow arrangement under which we defer our monthly premium for three months so we have the use of the capital for investment purposes for those three months, Mr. Heeren noted.

DURING 1973, the potash division and all subsidiary operations were consolidated into the overall corporate life and health insurance program. All salaried employees now get coverage up to three-and-one-half times salary to a maximum of \$140,000. Hospitalization covers a semi-private room up to 365 days, and major medical covers up to a maximum of \$100,000.

Cement division salaried workers have accidental death and dismemberment coverage up to \$40,000 under the Capitol Life plan. The cement division also started a dental program in 1965, and Ideal is thinking of expanding it to the potash division's salaried employees next.

Group insurance covers accounted for an expenditure of \$3.3 million last year, not including pensions, Mr. Heeren said.

Although some cement division benefits outstrip the potash divi-



Ed Heeren

sion fringes, the potash division salaried employees have a contributory AD&D plan underwritten by Bankers Life Insurance Co. which Ideal hopes to expand to the cement division. "It has a maximum \$150,000 limit. We also have a travel accident plan for salaried employees with Bankers, covering key employees 24 hours a day, to the extent of \$100,000, and all others up to \$100,000 while traveling on company business," he noted. And, he added, "this plan was also new last year."

Driver income going to determine auto premium

TORONTO, CANADA—How much money a driver earns is going to affect the cost of his car insurance in Canada.

As a result, many motorists in Ontario, Alberta, New Brunswick and Nova Scotia can expect savings averaging 35% on automobile insurance, counsel for the Insurance Bureau of Canada (IBC) said.

The IBC has developed a new system of classifying insurance coverage in those four provinces which makes the income level of an insured driver more important than claims records or driving experience, and links the cost of the insurance more closely to the automobile rather than the individual.

SPEAKING DURING a debate on no-fault car insurance at the 56th annual meeting of the Canadian Bar Assn., E. H. S. Piper said some "will see no reduction in premiums at all or even a minor increase, others will have minor reductions, while still others will have reductions well in excess of the 35% over-all average."

Insurers will pay 80% of the driver's income if he is injured, regardless of who is at fault, Mr. Piper said. And so persons with smaller incomes are a smaller risk, he pointed out.

"The cost of insurance for young drivers will fall dramatically because they will be paid their relatively low economic loss by their own insurer rather than be liable for unknown losses for which today's system holds them responsible."

Mr. Piper said independent

Receive Oil cover

Compagnie Francaise des Petroles (TOTAL) was added to the list of companies receiving the protection of catastrophe coverage afforded by Oil Insurance Ltd., Hamilton, Bermuda, OIL President Roy D. Jackson said. C.F.P. (TOTAL), engages in natural resources operations on a world-wide basis, with emphasis on petroleum.

Cash pay-out figure 'too-high' insurer says

NEW YORK—A report that \$35 million was paid out by Eastern Airlines and its insurers for deaths and injuries after a crash of an L-1011 jumbo jet in the Everglades Dec. 29, 1972, has been disputed by Eastern's primary insurer, Associated Aviation Underwriters. (*Business Insurance*, Jan. 15, 1973).

A spokesman for the aviation insurance consortium here told *Business Insurance* that the figure is "too high." He admitted, however, that there still are a lot of cases pending, which could possibly make ultimate payouts exceed the \$35 million figure.

A spokesman for another of the airline's insurers, United States

Aviation Insurance Group, which is sharing in 25% of the airline's liability losses for the crash, said he thought the figure was accurate.

It has been speculated by some that the \$35 million figure represents total costs to Eastern and the aircraft's manufacturer, Lockheed Corp., as well as expenses incurred by the federal government.

"IT'S A MATTER of record," said one insurance source, "that Eastern has an agreement with the government and Lockheed to make significant contributions which would bring Eastern's (and its insurers') cost down substantially below \$35 million."

The government and Lockheed contributions were reportedly paid because of "other factors" involved in the air disaster besides pilot error, which was the official cause listed by the National Transportation Safety Board which investigated the accident.

One aviation insurance source told this magazine that payments made so far for deaths and injuries have been "less than we expected."

There are reportedly only about 20 claims unsettled at this point. Survivor payouts have ranged from \$150,000 to \$850,000, with the average being about \$300,000.

Eastern Airlines was also fully insured for the hull value of the aircraft, estimated at \$18 million. AAU, USAIG and the London market all shared in that settlement.

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dates for buyers

Sept. 26-27: The first national symposium and workshop on consumer product safety will be held in Portland, Or. Chief sponsor of the symposium is the Portland chapter of the American Society of Safety Engineers. Write Dale Howard, P.O. Box 8345, Portland, Or. 97207 (503-223-7301).

Sept. 26-27: The University of Wisconsin is offering an institute on product liability for claims personnel, to discuss the legal and engineering aspects of products cases to acquaint claims people with the current state of product liability. Write Prof. Moll, Department of Engineering, University of Wisconsin, 432 N. Lake St., Madison, Wi. 53706 (608-262-2061).

Sept. 30-Oct. 2: The American Management Assn. will hold a meeting on captive insurance companies—development and management techniques, in Chicago. Topics include motives for formation, selecting the form of the company and operational problems. Write the AMA, 135 W. 50th St., New York, N.Y. 10020.

Sept. 30-Oct. 3: The National Safety Council's 1974 national safety congress and exposition will be held in Chicago. A program featuring some 200 sessions with over 300 exhibitors is being planned. Write the National Safety Council, 425 N. Michigan Ave., Chicago, Il. 60611.

Oct. 2-4: A workshop on modernizing the group insurance plan will be held in Pasadena, Ca. by the American Management Assn. Subjects include hospital-surgical-medical plans, sickness and accident benefits, and plan simplification. Write the AMA, 135 W. 50th St., New York, N.Y. 10020.

Oct. 7-9: The American Management Assn. will present a session on workmen's compensation: costs, coverages and problems, in Chicago. The effect of the pending national workmen's compensation act will be among the topics. Write the AMA, 135 W. 50th St., New York, N.Y. 10020.

Oct. 7-9: The American Society of Insurance Management will hold its first fall conference at the Americana Hotel in New York. The two-day educational program will be devoted to the HMO Act of 1973. Write ASIM, 205 E. 42nd St., New York, N.Y. 10017.

Oct. 8: Industrial Relations Assn. of Chicago and the school of business at the University of Chicago will hold their 40th annual conference on industrial relations. Fringe benefits and new legislation will be the main topics. Write Conference Office, Graduate School of Business, University of Chicago, Chicago, Il. 60637.

Oct. 8: Richard O. Simpson, chairman of the federal consumer product safety commission, will be the keynote speaker at the Society of Chartered Property and Casualty Underwriters-sponsored Arizona insurance day in Scottsdale, Az. Mr. Simpson will speak on products liability—future shock. For further information contact Mrs. Kathie Wrage, CPCU, Fund American Companies, 3800 N. Central Ave., Phoenix, Az. 85012.

Oct. 11-16: The International Foundation of Employee Benefit Plans will hold its 20th annual education conference in Toronto, Canada. Main topics include national health insurance, fund investment, and the new pension legislation. Write the International Foundation of Employee Benefit Plans, P.O. Box 69, Brookfield, Wi. 53005 (414-786-6700).

Oct. 19-20: The National Fire Protection Assn. traveling seminar on high-rise fires will be held in Philadelphia, Pa. (Also Boston and Dallas at later dates). John T. O'Hagan, New York City fire commissioner and chief of the department will be one of the instructors. Write F. James Kauffman, NFPA, 470 Atlantic Ave., Boston, Ma. 02210 (617-482-8755).

Oct. 20-23: Security World magazine will sponsor an international security conference at the New York Hilton Hotel. Loss-prevention workshops and a showcase of security products will be featured. Write the International Security Conference, 2638 S. La Cienega Blvd., Los Angeles, Ca. 90034.

Oct. 21-23: The American Management Assn. will hold its 37th annual insurance conference at the Palmer House in Chicago. This year's theme—trends in government legislation: the financial and social impact on the insurance and risk management community. Write the AMA, 135 W. 50th St., New York, N.Y. 10020.

Oct. 22: The first in a series of federal pension plan legislation briefing sessions will be held at the Regency Hyatt Hotel in Chicago, sponsored by Hay Assoc. and Huggins & Co. Inc. Sessions will also take place in Atlanta, Philadelphia and New York at later dates. Write Joseph A. Banik, Huggins & Co. Inc., 1401 Walnut St., Philadelphia, Pa. 19102.

Oct. 24-25: Profit Sharing Council of America will hold its annual conference at the Crown Center Hotel in Kansas City, Mo. Write the council, Suite 722, 20 N. Wacker Dr., Chicago, Il. 60606.

Oct. 27-30: A Caribbean insurance conference will be held in Kingston, Jamaica. Organized by persons in the insurance industry from the area, it will encompass all aspects of the industry, including general insurance, life, captives and insurance regulations. Write Conference Secretariat, c/o M.O.M., P.O. Box 183, Kingston 5, Jamaica.

Oct. 27-30: The Health Insurance Assn. of America will feature Caspar W. Weinberger, secretary of Health, Education and Welfare, at its 1974 insurance forum to be held at the Drake Hotel in Chicago. Mr. Weinberger is expected to discuss the latest developments in national health insurance. For more information contact Health Insurance Institute, 277 Park Ave., New York, N.Y. 10017.

people

Flax named risk manager Ryder Lines

Harold L. Flax was named director of insurance for Ryder Truck Lines, Jacksonville, Fl. He was promoted to this position from his previous position as assistant director of insurance, which he has held since joining Ryder in 1969. Mr. Flax was also named director of insurance for I.U. International Pacific Intermountain Express.

James McLees was named to the new position of insurance manager for general liability, property and fidelity for Carter Hawley Hale Stores Inc., Los Angeles, an international retail store operator. He was formerly insurance manager for the County of Orange for four years. A replacement has not yet been named.

Daniel R. McCarthy was named director of risk management for City Investing Co., Beverly Hills, Ca. to replace Peter Mullen, who left the company a short time ago, as reported, to join Fred. S. James. Mr. McCarthy will be responsible for all risk management programs including insurance for liability, property and employe benefits. He was formerly director of risk management for Southern California Edison Co.

Lawrence J. Salerno joined Bethlehem Steel Corp., Bethlehem, Pa. as assistant to the manager of insurance, W. E. Hough. He was formerly corporate insurance manager for Mack Trucks Inc., in Allentown, Pa. He will be replaced at Mack Trucks by **James E. Kovacs**, formerly the assistant insurance manager there.

John J. Fee was named corporate insurance manager for Publishers Paper Co., Oregon City, Or., a division of the Times Mirror Co. He will be responsible for pension and welfare administration as well as general insurance. He was formerly an insurance broker in Portland.

William G. Hughes Jr. was named manager of insurance for Southern California Edison Co., Rosemead, Ca., replacing Daniel R. McCarthy who left to join City Investing Corp., Beverly Hills. Mr. Hughes was formerly assistant

State ASIM hosts session

SEATTLE—The Washington chapter of ASIM scheduled its annual one-day conference meeting for Oct. 17 with morning speakers focusing on the economy and its effect on insurance company rates, the state's new comparative negligence law as viewed by a court judge, and the cafeteria approach to employe benefits.

Afternoon mini-seminars will include employe benefits; products liability warranty clauses; longshoring, harbor and state legal conflicts; umbrella liability coverage; self-insurance and high deductibles; and an update on workmen's compensation.

More information on the all-industry insurance conference is available from John K. Ruppert, P.O. Box 652, Bothell, Wa. 98011. ■

treasurer for SCE.

Craig Collings was named executive assistant, insurance, for the Western Growers Assn., Newport Beach, Ca. This is a newly-created post. He was formerly risk manager for U.S. Financial Corp., San

Diego, which is in Chapter XI proceedings. He is responsible for overseeing ten accident and health programs, as well as workmen's compensation and liability coverage for the 450 ranchers and farmers who are association members and for their employes. ■

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POSITION: The Wisconsin Department of Administration has an opening in Madison, Wisconsin for the position heading up the State's new Risk Management Program. The emphasis of this position is on the reduction of loss through scientific loss control techniques and managerial leadership.

PAY: First annual salary—\$19,596 to \$21,756. Raises to \$25,044.

QUALIFICATIONS: College degree in business administration, finance, fire protection engineering, insurance, law or a closely related field, or its equivalent in relevant experience followed by five years of progressively responsible professional experience having direct responsibility for major components of a risk management program in a large governmental body, private corporation, or consulting firm; at least one year of this experience must have been a highly responsible position having managerial authority and program responsibility. It is desirable that candidates for this position possess one of the following certificates: Associate of Risk Management or Chartered Property and Casualty Underwriter.

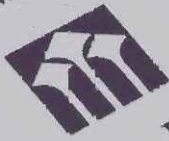
APPLICATION: Applications must be received by the close of business on September 23, 1974.

SPECIAL NOTE: The following schedule has been established to facilitate filling this position as expeditiously as possible. Candidates should take note of the schedule and be prepared to make advance arrangements if necessary.

1. Cutoff date for applications: Close of business on September 23, 1974.
2. Best qualified candidates notified of invitation to attend the Wisconsin Career Executive Assessment Center: September 25 or 26, 1974.
3. Candidates evaluated at the Executive Assessment Center: September 30 and October 1, 1974.

For a job announcement and an application form, call Jerry Bratkovich, Personnel Manager, Department of Administration at (608) 266-0058, 266-8842, or 266-8152. Applications must be returned to the State Bureau of Personnel, 244 State Office Building, One West Wilson Street, Madison, Wisconsin 53702 by September 23, 1974. Use this title on your application: "Administrative Officer 3-Chief of Risk Management".

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NORTHWESTERN NATIONAL LIFE INSURANCE COMPANY
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A. CHARLES BREDESEN III
MANAGER, GROUP HEALTH SERVICES

Want to know more about HMO's? Ask the company that has one.

NWNL was involved in the development of HMOs even before they began attracting national attention. We are co-sponsors of an HMO based in Minneapolis, and we offer HMO options to *our own* employees.

We don't know whether that's unique for an insurance company, but we think it does say something about our attitude towards HMOs. We're one of the few insurance companies in the country actively promoting HMOs, because we feel they will help resolve the current health care problem. And we think we're uniquely qualified with the technical, managerial, and administrative resources necessary to

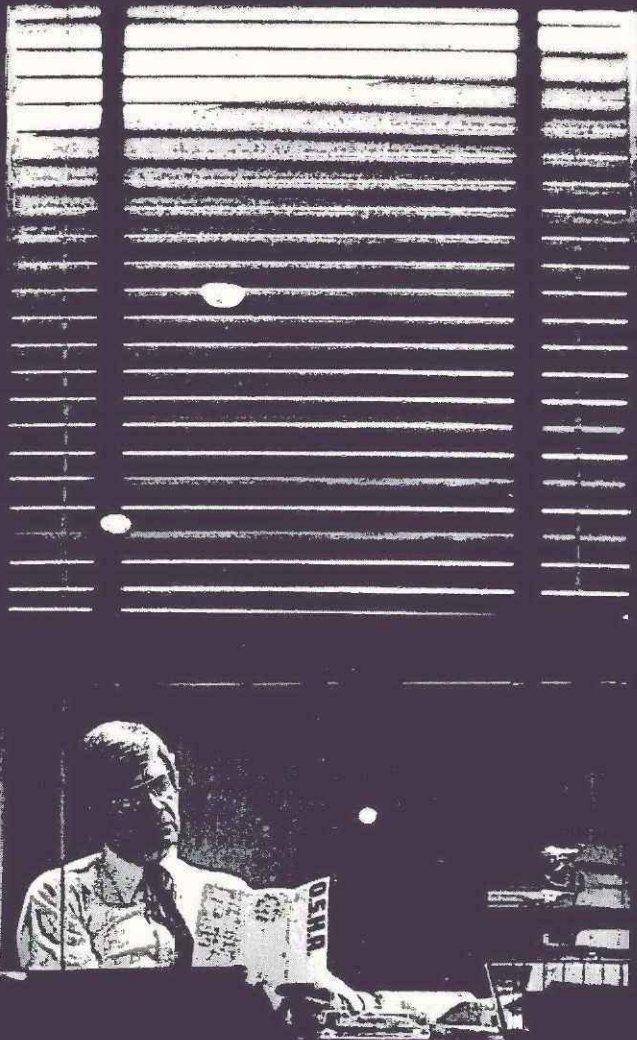
put together a workable combination of HMO and indemnity coverage.

Questions? We'll do our best to answer them. We don't claim to have all the answers, but we *can* show you case histories of how HMOs have worked for nationwide companies like Pillsbury and Cargill as well as several small local employers.

Just write: Charles Bredesen
Northwestern National Life
20 South Washington
Minneapolis, Minnesota 55440



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