

# business insurance

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

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Sen. Robert Taft Jr. (R-Oh.) and Eliot Rosenberg, president of Retort Inc., were among the speakers at the Liability Reform Conference.

## Witnesses tell of business liability woes

By PAUL R. MERRION

WASHINGTON—The prophets of product liability doom got their first chance to formally present their arguments to the nation's lawmakers at hearings held by the Senate Select Small Business Committee Sept. 8 and 10.

It could have been dubbed "Product Liability Week" in Washington as about 250 people turned out each day for the hearings and a concurrent liability reform conference sponsored by an ad hoc unit of the Sporting Goods Manufacturers Assn., held Sept. 7 and 8.

Nearly 50 businessmen and rep-

resentatives of trade associations, the insurance industry and lawyer groups told the Small Business Committee everything from hor-

**See pages 12 and 59 through 63 for more news on product liability hearings and discussion of tort reform in Washington.**

ror stories to hard facts about the product liability situation.

Despite the pro-consumer pressures of an election year, the committee gave a very warm reception to each of the witnesses as they told of exploding insurance premiums, a skin-tight product liability insurance market and the

spectre of bankruptcy for firms too small to self-insure.

The point of the testimony was driven home for the senators when Howard Bruns, president of the Sporting Goods Manufacturers Assn., put a Washington Redskins football helmet on the witness table and announced: "Next year may be the last year for the Super Bowl."

He told the committee that 20 out of 28 professional teams use helmets made by Riddell Co., which lost a spectacular \$5.3 million product liability suit earlier this year even though it was never proven that the high school athlete who broke his neck was wearing a Riddell helmet.

The impact of that judgment will raise insurance premiums far beyond what can be passed on to the consumer, he told the committee, which may mean the end of football's number one event.

"That will affect more people in this country than a nuclear exchange," quipped Sen. Gaylord Nelson (D-Wi.), chairman of the committee.

And the Democratic senator from Iowa, John C. Culver, who is usually considered a pro-consumer member of the committee, was one of the few senators who showed up for most of the two morning hearings. He was especially interested in the progress of the Interagency Task Force on Product Liability.

He asked Edward O. Vetter, Undersecretary of Commerce and chairman of the task force, if he realistically expects to make the December 15 deadline for the final report to the White House Eco-

nomics Policy Board.

Mr. Vetter said yes, with the help of research performed by various trade associations, there would be enough data available to make some specific legislative proposals.

Sen. Culver pressed his point further, saying, "I'm usually not impressed by interagency this or interagency that. I've found that it's often an excuse for not doing any work. Is there really a powerful administration push behind this effort?"

Mr. Vetter said that yes, thanks to growing publicity about the problem, there was considerable pressure being applied to get the job done.

Those who testified were almost unanimous in their assessment of the problem's origins, although they differed on what to do about it.

Legislation has already been introduced in both the Senate and the House that would make it possible for machine makers to count-

ersue employers if their negligence contributes to an accident. This approach is supported mainly by machine manufacturers who want to see workers' compensation become the sole remedy for an injured worker.

However, some witnesses criticized this tack, saying that you cannot reduce litigation by adding more litigation. "It may become known as the Lawyers' Full Employment Act," one witness said.

The legislators heard ample testimony about the rate of increase in product liability premiums. Witness after witness told how his company had seen product liability premiums double, triple and quadruple or more, culminating in policy cancellation although the firm's own loss experience was respectable.

The implications for American business, especially small business, were spelled out repeatedly for the committee:

"The product liability crisis, if

*Continued on page 59*

## Baker Intl. shifts risk management gears; taps A&A

By MARIE KRAKOWIECKI

ORANGE, CA.—Baker International Corp. awarded its entire property/casualty insurance account to the Houston office of Alexander & Alexander effective October 1, *Business Insurance* earned.

A&A competed with Johnson & Higgins' Los Angeles office for the large account. The change is understood to reflect a new risk management philosophy for Baker International, where Berry L. Griffin took over as corporate risk manager last March 15.

Baker International, which has large offshore oil drilling exposures, was formed by the merger last year of Baker Oil Tools Inc. of Texas and Reed Tool Co. of Los Angeles. A&A has been broker for Baker Oil Tools, while J&H was broker for Reed Tool.

When the two companies were joined, their respective brokers each made presentations to win the entire commercial account. The negotiations were said to have taken place over a seven-month period.

Some sources close to the deal said Sept. 14 that details had not been finalized, but one broker in

Texas revealed that Baker International had given official notice of the award, and that the A&A national accounts people were all "celebrating" winning the account.

The Baker account was characterized as a major piece of business, estimated at between \$12 million and \$15 million in annual premiums and generating up to \$500,000 in brokerage commissions, at least for the way it was designed before the new program was conceived by A&A. Figures for the new program were not available.

Mr. Griffin, travelling on business, could not be reached.

Aetna Life & Casualty Co., will play a major role in underwriting the new program. Although A&A plans to ask the entire insurance community to respond, Aetna will be the lead underwriter.

"The management of Baker's risks offshore will require a combination of markets and worldwide underwriting," said a source close to the brokers involved. The entire account responsibility will be in A&A's Houston office, but coordination of the program's component parts would be spread to other A&A offices, notably Los Angeles.

*Continued on page 2*

## Air crash hull loss paid in three hours

LONDON—Three hours after a British Airways Trident jet collided head-on with a Yugoslavian DC9 charter jet in the worst mid-air crash in history, British Airways received a check for 3 million pounds sterling, (\$5.22 million) the insured value of the

plane's hull, from Lloyd's of London.

"It was the fastest settlement in history," a Lloyd's spokesman told *Business Insurance*. Lloyd's paid the claim on behalf of the London insurance market, which shared in the underwriting of the British Airways plane.

The DC9's hull was insured for \$6.5 million with Dunav, a Yugoslavian insurance company and reinsured in the world market.

British Airways had liability insurance coverage to a limit of 25,000 pounds per passenger, also obtained in the London market. Reinsurance for the liability, according to the Lloyd's spokesman, was spread worldwide.

A total 176 persons were killed in the collision of the two planes northeast of Zagreb, Yugoslavia at 31,000 feet Sept. 10. The British Airways plane, headed for Istanbul from London, carried 63 persons; the Yugoslavian charter jet carried 113, most of them West German tourists.

Five flight controllers from Zagreb's Pleso Airport were arrested after the crash on grounds of "justified suspicion they are personally guilty" for the disaster, a Yugoslavian official said.

The collision was the worst mid-air crash since July 30, 1971 when a Japanese Airlines plane collided with an Air Force jet, killing 162 persons.

## SAFETY/SECURITY REPORT

Annual report on asset conservation problems and methods appears on pages 9 through 54. Topics include:

- Site security at nuclear power plants
- Ten multinational corporations prevent and minimize kidnap threats with movies
- Safety programs at Newhall Land & Farming Co.
- Continuing problems at Washington's infamous Watergate complex
- Stolen art: booming business for thieves and a growing headache for gallery owners and museum managers
- Preparing for the pols at Madison Square Garden
- Packing 75,000 fans into Seattle's Kingdome
- Preventing false arrest problems at Alexander's
- Testing service guards data on six million students
- Hotels and motels shudder over security risks in the wake of a \$2.5 million award to rape victim Connie Francis
- DuPont Corp.'s heritage of concern for safety

Utilities form task force—p. 2

# Utilities take action on insurance problem

NEW YORK—Electric utility companies are having some special problems in purchasing liability insurance, and a liability insurance task force has been formed to study them and propose alternatives.

The task force is an offshoot of the 87-member insurance committee of the Edison Electric Institute (EEI) here, which is the principal association of the nation's investor-owned electric utility companies.

Howard E. Higgins Jr., manager of insurance and property taxes of Tampa Electric Co. and the chairman of the EEI insurance committee, said the task force was formed in response to decent premium insurance increases, higher deductibles and policy form restrictions that electric utility companies had been faced with.

Mr. Higgins said there was not an overall figure available which reflects premium increases, but he noted that one company in the Northeast reported a 600% liability

premium increase in one year.

His own firm had a premium two-and-a-half times higher than the one it paid the year before, with a deductible one-and-a-half times larger, he said.

Policy form restrictions on electric utilities vary, but Mr. Higgins gave a few examples of other problems which are arising. "In the past, we've been able to buy pollution control coverage, and coverage on brownouts and blackouts. To my knowledge, today, no one is able to purchase this kind of liability insurance."

Utility companies that have dams at their facilities sites are facing special difficulty in getting liability insurance now, particularly after recent dam collapses like the one that occurred in Teton Falls, Idaho, the insurance committee chairman said.

The task force chairman is R. K. Ball of Pennsylvania Power & Light Co. Other members include

R. E. Hinds of Florida Power & Light Co.; William G. Huges of Southern California Edison Co.; J. D. Reece of Georgia Power Co.; J. L. Vandagriff of Texas Power & Light Co.; F. P. Williams of San Diego Gas & Electric Co.; and H. F. Gerety of GPU Service Co.

The group was formed in July, and had met twice by early September to study solutions to excess comprehensive general liability, automobile liability, workers' compensation, fiduciary liability, and D&O liability.

Mr. Higgins said the task force will meet a third time before the EEI's October meeting.

## Cheshire elected

Elected chairman of the board of the American Society for Industrial Security is Dennis A. Cheshire, who served as president of the society in 1975-76. He succeeds Ernest J. Criscuoli Jr., who is manager of security, safety and distribution services at General Electric Space Division in Valley Forge, Pa. Mr. Cheshire is manager of industrial security for the Fort Worth Division of General Dynamics Corp.

# A&A wins Baker . . .

Continued from page 1

American International Group is said to have been one of the lead underwriters for the offshore portion of the risk formerly brokered by Johnson & Higgins. The Los Angeles office of J&H would not comment on the deal, which it said was "not finalized yet." Elmer Dickinson, president of AIG subsidiary, American Home Assurance Co., a leading insurer of offshore oil drilling risks, could not be reached for comment.

One source told this magazine that American Home's move, which received unfavorable publicity during the annual Risk & Insurance Management Society's annual conference this year, was a factor in J&H's losing the Baker International account to A&A.

In April, American Home Assurance Co. sent out provisional cancellation notices to holders of liability policies covering workers' compensation and U.S. longshoremen and harbor workers' exposures, and then rescinded them in May. (BI, May 17).

A&A's Houston office did not confirm this. However, a source close to the oil drilling industry commented, "When you have an oil patch type of exposure, you cannot afford to have just one underwriter who will decide to send 30-day cancellation notices." He did not specifically refer to AIG in that context. Nor did he rule that firm out as a possible

underwriter.

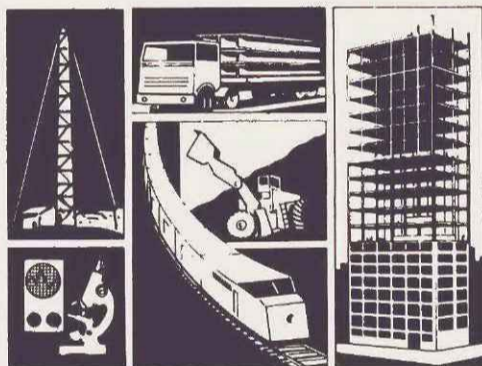
A&A tailored its winning presentation to Baker International around exposures that reflect where the firm is going in the next 10 years.

Part of the new risk management philosophy at Baker International involved in the altered property/casualty program will be a greater self-assumption of risk, the broker said.

## Losses \$101.7 million

Underwriting losses in Florida on workers' compensation insurance in 1975 were \$101.7 million according to George F. Reall, president of the National Council on Compensation Insurance. "The continuing increase in claims is jeopardizing the ability of insurers to provide coverage," he said.

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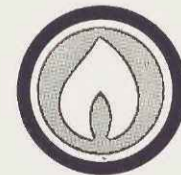
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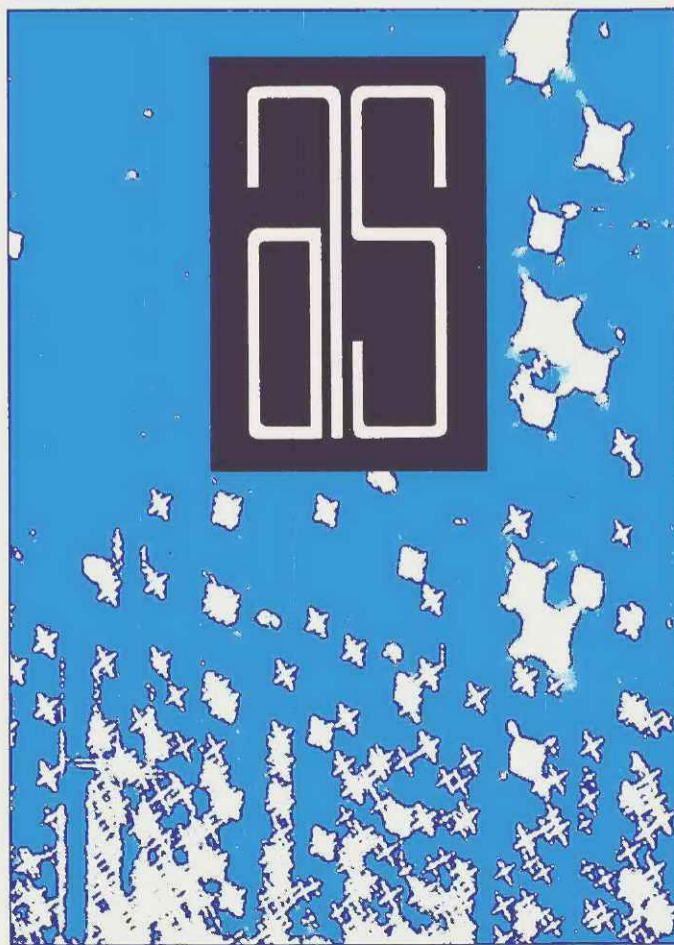
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## the benefit beat

## Aims to control costs with claims screening plan

**GARRETT CORP.**, Los Angeles, and the Automobile Club of Southern California have selected System Development Corp.'s claims administration system (CAS) to process their group employment insurance claims. "We aim at improving our claims services," a Garrett Corp. spokesman said. He added he hopes the administration computer system will lead to firm control of payment patterns. The spokesman said he expects the computer system to be implemented by early 1977. CAS provides computer administration of medical, dental and vision care claims, using an automated on-line, real time system with video display terminals at each client's location. Security Pacific National Bank, Los Angeles, which installed the first West Coast CAS last year, is now processing claims for 14,000 bank employees and retirees, plus 30,000 dependents. Counting its two new customers, System Development Corp., Santa Monica, Ca., will process health care claims for more than 200,000 people in the West.

**THE INTERNAL** Revenue Service granted favorable tax treatment to an arrangement that guarantees employees a minimum level of retirement income by buttressing a profit-sharing plan with a defined benefit plan, consultants Towers, Perrin, Forster & Crosby report. Revoking an earlier unfavorable ruling, the IRS issued ruling 76-259 which allows funding on a tax-qualified basis for pension plans which provide benefits equal only to the amount—if any—by which the promised minimum retirement income is greater than the benefit actually produced by the profit-sharing plan. This type of pension, called a "floor plan" works like this: If, upon retirement, an employee is promised a benefit of \$400 a month and his profit-sharing account is worth \$350 a month, then the pension would pay a benefit of \$50 a month. However, if the profit-sharing plan pays the full \$400 or more, the employee gets no benefit payment from the pension plan. TPF&C points out that the IRS requires such a floor plan to specify the actuarial basis for converting the profit-sharing account balance into an annuity and the date for making that determination. It also must satisfy one of ERISA's three benefit accrual requirements. The offset from the profit-sharing plan in such an arrangement may not exceed the vested portion of the employee's profit-sharing account balance.

A "CARELESS" description of benefits caused one company in British Columbia to pay benefits "it never intended to provide," according to William Read, vp of William M. Mercer Ltd., Vancouver, B.C. The unnamed company's failure to communicate details of the pension plan led to a successful legal action by an employee who was awarded damages and the costs of the trial. Mr. Read admonished: "Since one cannot be so careful in communicating the terms of complex benefit plans, brief and accurate announcements are generally the best."

**CANADIAN GENERAL** Electric Co. is making personal accident insurance available to its employees as an optional supplement to the firm's group accidental death and dismemberment coverage. The supplement is provided by Travelers Insurance Cos. CGE handles some of the administrative details of his plan in order to keep the premiums at levels "considerably low-

er" than they would be if the individual employee bought the coverage directly from an insurance company. All CGE employees already have company-paid coverage, but can now increase their protection through this supplementary plan, which carries a maximum limit of \$250,000. The insured is covered for accidents suffered on or off the job, while on business travel or personal trips, while in the plant or office or home. The insured is also covered while absent from work due to disability, pregnancy, or during lay-off, if payments are maintained.

**SOME 400,000** members of the United Steelworkers of America (USWA) in the basic steel in-

dustry received third-year contract improvements in August under settlements negotiated in 1974 with 10 major steel companies, the union announced. The settlements featured outstanding fringe benefit improvements (most of which were effective in the contract's second year) including dental coverage and substantial pension benefit improvements. Among benefit improvements which went into effect last month were five dollar boosts in each of the various categories of weekly sickness and accident benefits and longer vacations. Workers who retired on regular pensions since the 1974 agreements, this year received automatic pension improvements under cost-of-living provisions that mark a breakthrough in this area

for major labor contracts, the USWA said

A **NEW** benefit emerged from negotiations between the major tire producers and the United Rubber Workers union: Chiropractic coverage, with up to \$120 in yearly benefits. Back injuries are commonplace, the union explains, because of strenuous lifting in the tire plants. Other benefit increases include life insurance limits raised to \$11,500 from \$9,500. The normal retirement pay base was lifted to \$11 from \$10 per month per year of service the first year, to \$11.75 the second year and to \$12.50 for the third year of the contract. Employees who retired before April 1 are entitled to another \$1 per month for each year

of service in pension benefits. New surgical procedures were added to the union's dental coverage. Total cost of the settlement is \$3.20 per hour in raises and increased benefits over three years.

**HOURLY-PAID** employees of Burlington Industries will be eligible to participate in the firm's Retirement System, formerly only for salaried employees, as of January 1, 1977. The voluntary pension program is funded by both employer and employee contributions. Prior to this move, hourly-paid employees were only allowed to participate in a company funded profit-sharing program, which was established in 1963. Benefits are payable upon retirement, death, disability or work severance. ■

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## R.B. Jones Insurance.

# 150 Cal. cities told of non-renewals this summer

SAN FRANCISCO—The cost to insure municipalities throughout California has skyrocketed by 96% for 267 cities since fiscal 1973-74, and total premiums paid for liability insurance now exceed \$30 million a year.

More importantly, reports the League of California Cities in a "confidential bulletin" sent to city managers and city clerks, the availability of such insurance has practically vanished.

Two major insurance carriers which had long specialized in providing such insurance and which had handled the bulk of the business have withdrawn from the market. At least 150 California cities received non-renewal notices July 1, the report revealed.

"California," points out Myles W. Smith, regional manager here for the Insurance Information Insti-

tute, "has a reputation for doing things on a grand scale and the state's public entity liability problems are probably the worst in the U.S."

In the last fiscal year alone, Mr. Smith adds, there has been a 63% increase in premiums for this line of coverage, with every indication that California cities are being quoted comparable increases this year.

Currently, according to the League of California Cities, 106 of the state's municipalities bid their insurance and 93 do not. Furthermore, 123 cities received quotes last year from only one agent or broker.

The League also reports that 204 cities have been with the same agent or broker for more than four years, with 151 of the cities purchasing all of their insurance

through the single agent.

In terms of statewide coverage of municipal liabilities, Industrial Indemnity is "uncertain" as to whether it will abandon the municipal market, this magazine learned. INA insists it will "have nothing to do with insuring local government entities" and Aetna, Continental, St. Paul, Home, USF&G and Safeco refuse to participate in the market. Hartford has indicated a "willingness to negotiate policies" while Fireman's Fund, to date, has accepted only 10 California cities, the report noted.

California Insurance Commissioner Wesley J. Kinder, to date, has taken no formal action in the area of municipal insurance but has indicated "deep concern" over the fact that non-availability has forced some cities in the state to

seek coverage from non-admitted carriers.

"Municipal liability," Mr. Smith insists, "has become a problem nearly everywhere in the U.S."

Colorado, in 1972, legislated a change from the sovereign immunity doctrine. As a result, by the first of 1976 the city of Boulder found its total insurance bill had increased from about \$1 for each person in town during 1975 to nearly \$2.60 per resident for 1976, he added.

A number of California city managers now are suggesting that if residents demand more and more services from their municipalities "they must be willing to accept more of the risks which those services tend to create or produce."

Trial attorneys, on the other

hand, argue that public entities "should not be permitted to seek broader immunity but should be required to accept the same kind of responsibilities that private citizens must face.

"Instead of talking about the Tort Claims Act," one prominent San Francisco trial lawyer insists, "management executives of municipalities should educate employees to act in a more prudent manner and be consistently aware of the potentials for litigation and claims inherent in what they do as municipal employees."

The other argument, Mr. Smith comments, is that "cities are required to provide services to the public that no private business is ever asked to engage in. What's more, cities just do not have the option of discontinuing a service simply because it has produced a number of liability claims."

San Francisco, Los Angeles and San Diego have been self-insured for a number of years. Sacramento, the state capitol, self-insures the first \$250,000 and purchases excess coverage up to \$20 million.

Sacramento went to self-insurance after its premiums increased 193% in three years.

Shasta County, in Northern California, is now considering self-insurance, with excess coverage for any single loss of more than \$100,000 or when total losses in a single year exceed \$300,000.

Pasadena self-insures up to \$50,000, but the city manager of the small neighboring city of San Marino insists that "what's fine for Pasadena, just would not work for San Marino, where \$50,000 is a full quarter of our city budget."

Executives of Industrial Indemnity, determined to get out of the market, explain to municipal clients being cancelled that "no insurance company ever enjoys finding that a certain class of business has become so unprofitable that the only possible response is to stop writing that business.

"Dollar losses paid or incurred," Industrial Indemnity insists, "are behind our decision. General liability insurance has been a major claims drain for insurance carriers everywhere."

Industry executives in San Francisco agree with Mr. Smith's complaint that "municipalities, historically, have done very little about risk management or loss control, in contrast to the almost monumental efforts in this area by industry."

"Safety engineers at any given factory," Mr. Smith contends, "work diligently with loss prevention specialists from the factory's insurance carrier, to define potential hazards and to reduce or eliminate such hazards.

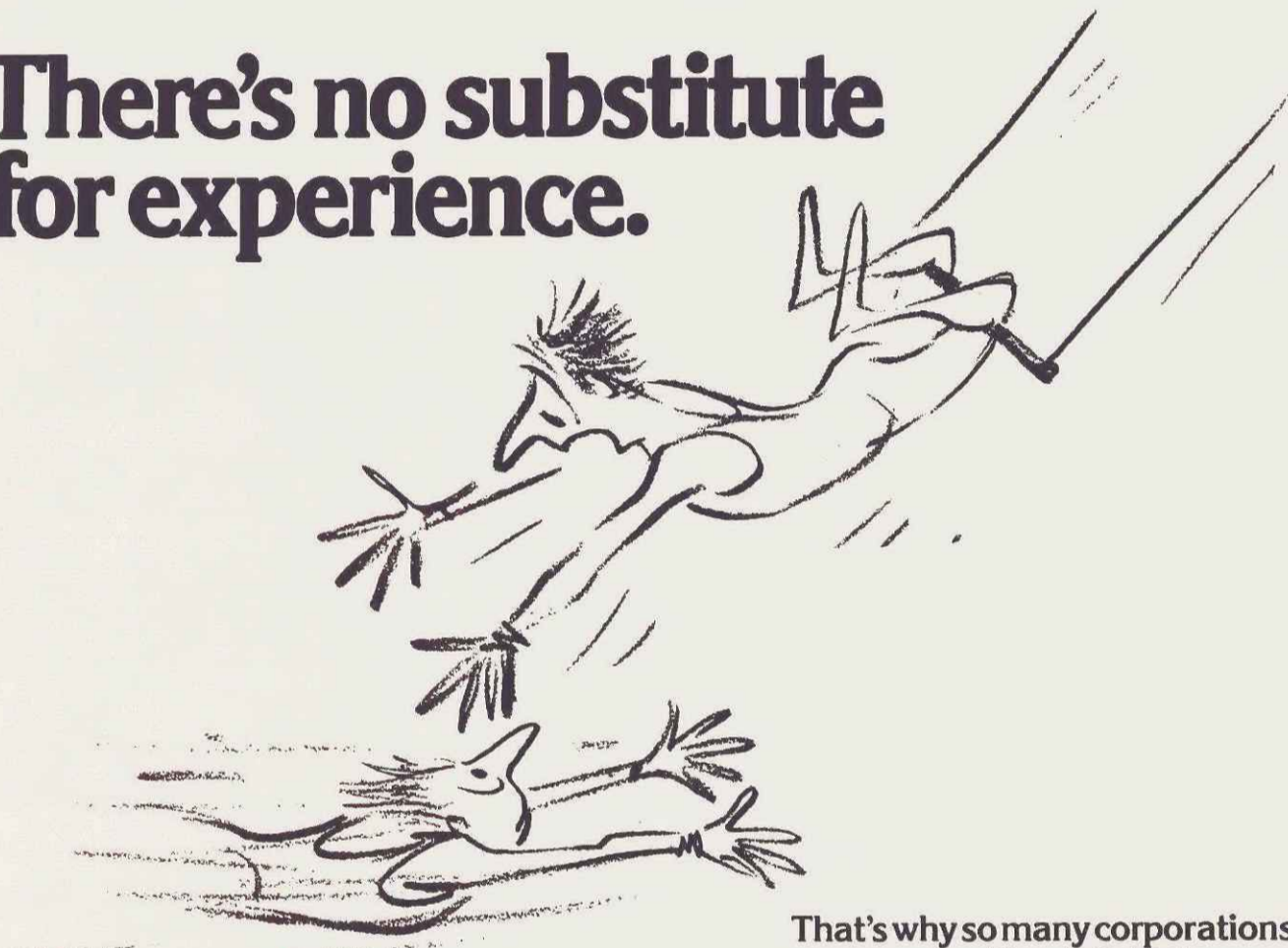
"Even the largest manufacturing plant," Mr. Smith said, "is a relatively finite piece of property usually with a fence around it. One knows what one is dealing with.

"Contrast the manufacturing plant with the hundreds of miles of streets or roads and the thousands of intersections in a major city or county. Add to that the hundreds of municipal employees spread across the community in a variety of agencies, all having contact with the public in myriads of ways."

Mr. Smith cites a report of mid-April, 1976, telling of 41 claims filed against Contra Costa County since early last November, when the county became self-insured for the first \$500,000 of liability claims.

A proposal to hire a risk manager is now being prepared for the Contra Costa County Board of Supervisors by the assistant county administrator.

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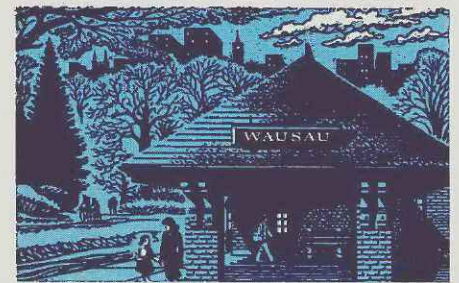
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# SAFETY/SECURITY REPORT

## Regulation of site security for nuclear plants to toughen

By MARIE KRAKOWIECKI

ROCKVILLE, MD.—The Nuclear Regulatory Commission is about to tighten its rules for physical security at nuclear power plants.

The improved security measures, first proposed in 1974, reflect growing government concern about threats of terrorism and industrial sabotage at nuclear facilities.

Particularly worrisome is the possibility that fringe elements might try to steal radioactive materials to fashion homemade bombs.

Between 1969 and 1975 the NRC reported 99 threats of violence against commercial nuclear facilities and 76 additional threats against federal nuclear power generators.

Heightening the controversy surrounding potential terrorism and sabotage at nuclear sites was the Memorial Day weekend "emergency security alert" that the NRC slapped on its licensees this past May, based apparently on a tip that an attempt would be made against a nuclear site.

To everyone's relief, nothing happened after the plants were put on alert. What most people may not know is that all of the nuclear power plants were left to respond

to the security alert in whatever way they saw fit.

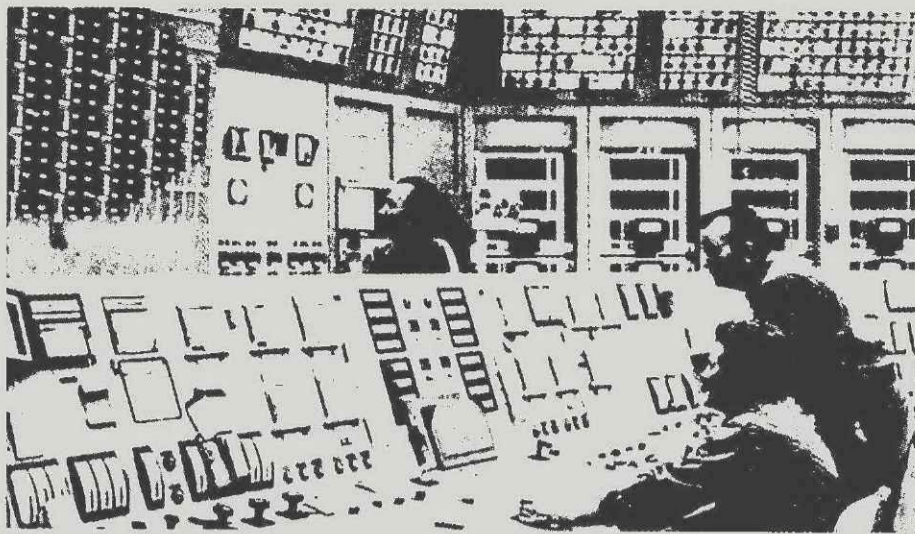
Ralph J. Jones, chief of the materials protection standard branch of the NRC's office of standards development, told *Business Insurance* that the NRC did require plants to have contingency plans. However, the NRC did not specify what measures such contingency plans should include.

Therefore, the licensees had complete discretion about what to do when they were put on the security alert in May. Many of them simply responded by bringing their entire guard forces on duty.

The NRC is now at work preparing specific pre-planned security actions it will require its licensees to take in the event of a similar emergency, Mr. Jones said.

The commission has done several threat analysis studies on terrorism and sabotage, but Mr. Jones said it is "impossible" to either quantify terrorism and sabotage or assign a probability to them.

At Stanford University, researcher Patricia Owens did a risk analysis of an armed group sabotaging a nuclear power plant that had a perimeter security system, but her figures dealt with dollar



losses. She estimated them to be about \$100,000 per reactor year.

Mr. Jones said the NRC runs cost/benefit analyses before it sets down any new security requirements for nuclear power reactor plants.

He remarked that the NRC, which deals only with commercial nuclear facilities, has an advantage in cost considerations over the Energy Research and Development Administration (ERDA), the comparable agency which has responsibility for security at federal nuclear facilities.

If the NRC decides a particular security measure is needed, it can write a regulation requiring that measure, and then force all private licensees to pay for implementing that regulation. But ERDA has to wait for appropriations from Congress to pay for any security improvements it wants to install on U.S. nuclear facilities.

A special report issued by the General Accounting Office (GAO) in July urged Congress to appropriate enough money to ERDA so it could implement the kind of security which would help protect federal nuclear facilities against terrorists.

"Congress should favorably con-

sider requests of the administrator of (ERDA) for funds to improve physical security systems at its facilities where special nuclear material is held," the GAO said. The summary of the classified document noted that for fiscal 1976, ERDA had requested \$56.5 million and Congress had appropriated only \$22.8 million. The GAO warned of nuclear risks at ERDA sites:

"Such (nuclear) materials, in the hands of malevolent individuals or groups, could be used in an explosive device or as a radioactive poison. As such, they are a potential object of terrorist groups or criminals in this country or of agents of other countries."

According to *Power Engineering* magazine, the total cost per site of a top security system which would meet the criteria of the new NRC regulations would be somewhat less than \$870,000.

In its 15th annual report to Congress, the U.S. Arms Control and Disarmament Agency (ACDA) called for improvements in safeguards at nuclear power plants. In a section devoted to physical security, it noted that the United States has begun drafting an international convention on the subject,

with particular attention to security of nuclear materials in international transit.

The ACDA recently launched a research effort to improve the technical quality of safeguards intended to stop the diversion of material in the civil nuclear fuel cycle to military use.

The ACDA effort is being launched in cooperation with ERDA. However, the agency is aware of the important role that commercially-owned nuclear sites (licensed by the NRC) have in the overall security picture. A representative of ACDA told this magazine that risk managers having questions about the agency's research with ERDA could direct them to the ACDA.

The ACDA annual report (which President Ford received in July) also noted that a group of experts from 11 countries and the Euratom atomic energy community revised their recommendations on physical security of nuclear materials by making them more explicit in order to prevent theft of nuclear materials.

Part of the NRC's new regulations for physical security at nuclear power plants includes a requirement that licensees submit written documents outlining their security organizations.

These documents create new security problems, however, because if terrorist groups gain access to them, they would provide virtual blueprints of reactor sites. Mr. Jones at the NRC said his agency has been discussing with the National Security Council, how the documents should be guarded. At this point, no decision has been reached on how the documents will be stored.

Because accounting for strategic nuclear materials is an inexact science, at best, each year there are tons of what the nuclear industry refers to as "MUF" (Materials Unaccounted For). MUF are not necessarily lost materials, but are just an indication of the margin of error in current recordkeeping methods.

Critics have complained, however, that this margin of error in recordkeeping is bad because it could be the cover for a certain amount of pilferage of radioactive materials.

Mr. Jones said the NRC is presently working on some new concepts involving a computerized method of "shift inventory," which would solve the question of pilferage of critical materials by employees and thus tighten the physical security at reactor sites.

Using computers, the NRC hopes to start taking inventories of MUF which would be finished before every shift of workers would be allowed to leave the plant. That way, if any irregular MUF showed up in the inventories, they could be traced to the employees on a certain shift. Mr. Jones said the nuclear agency would expect to

Continued on page 10

## New dimension in corporate security

# Films convey best reaction to kidnap

By ELISABETH M. WECHSLER

CHICAGO—Two X-rated films that probably won't get wide distribution at the box office but will undoubtedly captivate their audiences deal with the possibility that some viewers may be kidnapped by political terrorists.

Producers of the two-part drama, *Anatomy of Terrorism*, include Motorola Inc., based in Schaumburg, Ill., and nine other large multinational industrialists who desire anonymity.

Each contributed "in the six figures" to finance Executive Decision and Personal and Family Security, according to Lloyd Singer, president of Motorola Teleprograms Inc., Schiller Park, Ill. This firm executed the technical aspects of the film, relying on input from the safety directors at the 10 sponsor companies, federal agencies and interviews from former hostages.

Mr. Singer estimates that the films are in use by over 100 international companies. They are shown to operating and top management personnel in the U.S. and to subsidiary divisions out of the country, he explained.

"In some cases, they are shown to the families as well," he said. "In almost all cases, the security director is the buyer and the person who shows the films."

Building an awareness of the problem of terrorism is the proj-

ect's objective, according to Mr. Singer. "We're trying to get away from emotional responses. We're advocating an organized response."

*Anatomy of Terrorism* is concerned with preventive measures. Two other films in the works are *Hostage Behavior* and *Hostage Negotiation*, which will detail what the individual, the corporation and the family should do if a kidnapping occurs.

Although South America is the geographical backdrop for the films, the message is designed to apply to any of the world's trouble spots.

The films, which cost \$400 each, are accompanied by a 300-page Executive Protection Manual costing another \$100. The manual covers "everything from body-

guards to security checklists," Mr. Singer said.

Each film and its manual is registered. "A company must be cleared by a panel of sponsors. If there were questions about its ownership, the sale would be refused," he continued.

No marketing of the films has been done since they first became available in January. The word gets around, Mr. Singer, explained, "through the professional grapevine of security directors."

George J. Frye, corporate director of security at Motorola Inc., believes that the films "very definitely work."

*Anatomy of Terrorism* explains the mentality of the urban guerilla and the technique of kidnapping

foreign business executives to put pressure on their own government.

Among the list of do's and don'ts highlighted in the films are:

- Avoid a conspicuous lifestyle. An American riding in a chauffeur-driven limousine could be a target.
- Trade off punctuality for safety.
- Reroute trips to and from the office.
- Keep your personal life to yourself.
- Phone someone at the office before you leave home so that they'll miss you if you don't show up.
- Don't inform your secretary where you're going to lunch.

Continued on page 10



Building an awareness of the problem of terrorism is the objective of the two-part film, *Anatomy of Terrorism*.

## Nuclear regulation . . .

Continued from page 9

apply the computerized shift inventory system to plutonium reprocessing plants.

The NRC is "very wise" to insist on "redundancy" in security at nuclear sites, a former special agent for the Federal Bureau of Investigation said. Philip Sheridan, now a consulting specialist in security for nuclear plants, said the NRC's use of a primary system of security was backed up by various other levels.

This redundancy, according to Mr. Sheridan, who works for the M&M Protection Consultants subsidiary of Marsh & McLennan Inc., is an effective deterrent even to such security threats as former employees who have a knowledge of the plant's security system.

For instance, in Pennsylvania, where a mentally disturbed form-

er employe managed to scale the fence at a nuclear power plant, the intruder was picked up by "back-up levels" of security and prevented from becoming a real problem.

**Planning for effective redundancy in security can be complicated; if certain security measures are taken, they can then pose safety hazards to employes at nuclear sites, for example.**

"We would like to have all the doors to a nuclear plant locked, but we can't do that. People have to be able to get out in an emergency," Ralph Jones of the NRC explained. Alarms at critical doors are used instead, he said, and the NRC has to be very careful that no other physical security measures it implements create a safety problem.

Labor considerations have other

ways of affecting security measures the NRC tries to take, too. In one of its original proposals for tightened physical security, the NRC wanted to have employes of the licensees drive trucks onto plant sites. This particular proposal drew so much fire from the Teamsters' Union that it had to be changed, Mr. Jones said.

The new NRC security regulations and government concern for security measures against potential terrorists and saboteurs has been matched by an increased public awareness of the need for tight security at nuclear power plants.

M&M's Mr. Sheridan notes that in the past decade he has become aware of a great increase in private industry's management awareness of the need for better security. He gives a lot of credit to corporate risk managers for tuning top management in to that need.

"Ninety per cent of my work is at the request of the company risk manager. They're constantly ask-

ing 'how safe are we' and are prompting their companies to tighten up their systems.

"I find that many risk managers even want to go further than the NRC in demanding tighter security measures," Mr. Sheridan said, noting that the public has demonstrated its own pre-occupation with the nuclear security problem through such events as California's June primary referendum, Proposition 15.

"The controversy lends itself to re-evaluation," the nuclear security expert summed up.

### Assn. gets dividend

Bay Counties General Contractors Assn. received a \$60,000 workers' compensation dividend from Republic Indemnity Co. of America through insurance broker Albert M. Bender Co. Inc., San Francisco. "Safety consciousness" was cited as one reason for the dividend.

## Films . . .

Continued from page 9

• Add physical security features to your residence such as bars across windows, barbed wire on top of fences, floodlights, alarms. Both an inside and outside dog are recommended, as well as well-constructed wood doors with peepholes.

• Hire servants only after police security checks have been performed.

• While riding in a car, never stop for anyone, and always keep the doors locked and windows rolled up. Always check out places of safety along your normal routes for use in an emergency.

• Drive around or through road blocks and be prepared to run into another car if necessary: Your car is expendable, but you're not.

• Think about the worst that could happen and plan accordingly. If you need a particular medication, keep a week's supply with you at all times.

The second set of films concerns Crisis Management Response to Incidents, which Mr. Singer described as "more sophisticated." The films recommend selection of a multiple disciplinary team to handle the crisis triggered by a political kidnapping, including legal, security, public relations, personnel and insurance functions within the corporation.

Mr. Singer would not say if the films or support materials recommend the purchase of kidnap insurance. "We're more interested in raising the questions," he said, adding that there's very little history of the problem to provide guidelines.

The new films, scheduled for completion in January 1977, recommend against trying to flee or fighting captors.

"A potential victim first must realize that it can happen, to reduce the trauma when it does happen," Mr. Singer said of a terrorist encounter. A hostage has a good chance of surviving because he is more useful alive than dead to the terrorist who usually is concerned with making a political point.

"The terrorist wants publicity for his political goal (and) is trying to leverage limited resources into maximum returns," he continued.

"So the victim must adapt mentally. He must think, 'If I do not resist, I'm going to be safe. I shouldn't take this personally. I'm just a symbol to them—of a country or a corporation. I'm probably going to be embarrassed and suffer loss of privacy, but I must establish reasonable communications with my captors.'"

The filmmakers claim that about 400 businessmen and American diplomats have been seized by terrorists in 48 countries in recent years.

As an executive of a foreign company and as a wealthy foreigner, you must consider yourself a potential target, one film warns.

### Ennia opens in U.S.

Netherlands-based Ennia Reinsurance N. V. opened a liaison office in New York. The first task of the operation will be a comprehensive study of the U.S. insurance industry in the U.S., according to Peter J. Tol, vp and head of the new office. Ennia Group, The Hague, writes life and general insurance as well as international reinsurance. Most of its market is in The Netherlands, United Kingdom and other Common Market countries.

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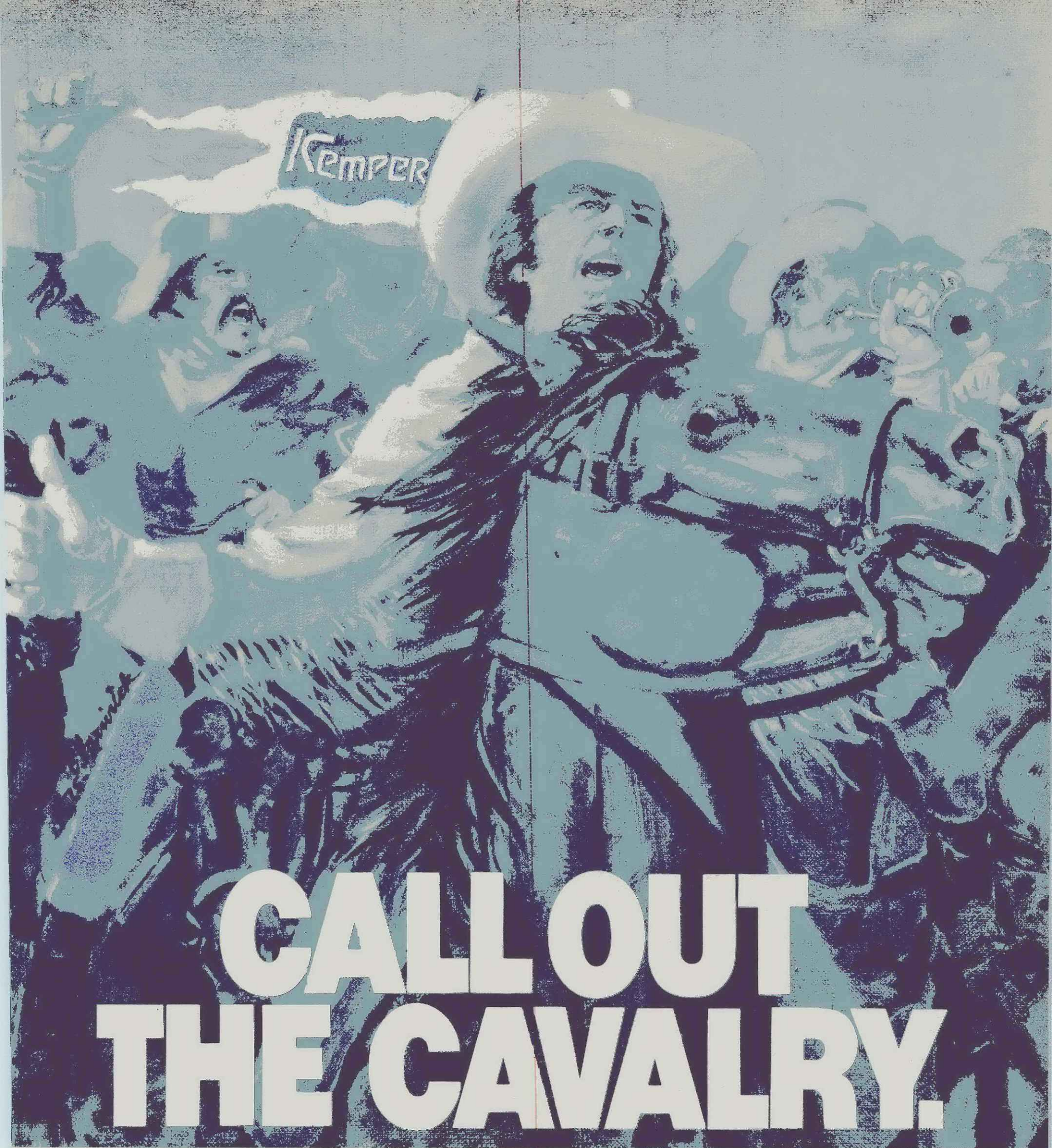
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# Kansas lawmakers considering tort bill that may become a model law

WASHINGTON—A special committee on product liability of the Kansas state legislature is now considering a bill that may become a model bill for reform of the tort law at the state level.

Details of the bill, Kansas Senate Bill No. 852, were discussed at the liability reform conference here sponsored by the Multi-Association Action Committee (MAAC) on Sept. 7 and 8.

"If you really want to understand the product liability problem, you have to understand the law today and learn what defenses have been taken away," said Alvin D. Herrington, product liability counsel for Cessna Aircraft Co. and a principal drafter of the bill that would replace several of

those defenses.

"Whatever the cause of the product liability problem, whether caused in whole or in part by the consumer-oriented society, or by the plaintiffs' attorneys operating on a contingent fee basis, or by juries unreasonably awarding outlandish sums to plaintiffs, or by the growing tendency in our society to believe that if someone is injured or disabled someone else should pay, or by the changes in the law of products liability, or whatever the causes, the problems can only be solved by means of legislation," Mr. Herrington said.

"We cannot re-educate society as a solution, not expect the courts to reverse their trend of taking

more and more. Again, the only possible solutions are legislative," he said.

Several participants at the MAAC conference expressed support of the Kansas bill, and some said it should be used to form a model bill that the trade associations participating in the conference could take back to their state legislatures.

Among the bill's more important provisions are:

- A six-year statute of limitations on product liability suits, beginning when the product is first sold for use.

- Limitations on the manufacturer's duty to warn, to achieve a more "common sense" interpreta-

tion of that duty. "Manufacturers should not be liable for failing to warn users of their products of obvious dangers, nor to anticipate every conceivable type of misuse which is possible and to warn the user, nor to foresee the product being used in an unintended manner and to warn against any risks in such use," Mr. Herrington believes.

- Restoration of the "state-of-the-art" defense, in which a manufacturer is not liable if his product was designed and made in accordance with the generally recognized principles in effect at the time.

- Recognition of compliance with government standards as a defense, where the government regulates the design and manufacture of a product.

- Elimination of liability when a product is altered or modified.

- Elimination or limitations on punitive damages. In order to punish the manufacturer, the burden

of proof is the same as in criminal cases; that is, proof beyond a reasonable doubt.

- Limitations on non-economic damages, such as awards for pain and suffering, to 30% of the award for economic losses.

- Elimination of the ad damnum clause, which stipulates the amount of punitive and actual damages being claimed, unless the actual damages are less than \$10,000.

- Admission of evidence of amounts received by the plaintiff from other sources, to reverse the collateral source rule, which does not permit admission of payments received for hospital and medical bills, disability benefits, loss of income, and other payments from sources other than the defendant.

In addition, juries would be advised if a surviving spouse has remarried in a death lawsuit and that no federal or state taxes must be paid on a damage award.

- Periodic payment of judgments greater than \$50,000, so that the defendant does not have to pay in one lump sum. The bill also provides for termination of those payments when the injured party or plaintiff dies.

- Limitation of attorneys' contingency fees. In judgments greater than \$25,000, the court shall set the lawyer's fee, up to a maximum under a schedule contained in the bill. A maximum of 50% would be allowed on the first \$50,000, 40% on the next \$50,000, 20% on the next \$100,000, 10% on the next \$100,000, and 5% on any amount in excess of \$300,000. ■

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See The Pro Behind The Proposal

## Insurers pay for trucker's arson fire

SAN FRANCISCO—Insurance policies issued by Atlas Assurance Co., Los Angeles, and Home Insurance Co. will pay off the \$500,000-plus Associated Freight Lines arson-fire loss of its truck terminal here.

However, no insurance will reimburse former school teacher John Pifer for the \$1.5 million business loss suffered during a nine-week strike by 15 Teamsters' Union Locals in California and Nevada. (*Business Insurance*, June 28.)

That loss, not recoverable because Associated carried no business interruption insurance, is blamed by Mr. Pifer, who started the trucking firm at age 26 with \$2,000 of his California Teachers' Pension Fund resources, for his decision to sell the company he built into a \$10 million-a-year in volume operation.

The Las Vegas terminal and Nevada operation was sold, for \$1.5 million, to Emeryville, Ca.-based Systems 99 trucking company. The San Francisco terminal, destroyed by the arson-fire on May 27, as well as terminals at Cotati and Ukiah, have been permanently closed.

The company, which cut its claims loss ratio to 0.73%, less than half the average of the trucking industry, has been sold to about 30 of the top management personnel who formed LBD Inc. to raise a purchase price of \$1,100,000 plus \$850,000 for 175 trailers, 125 power units and 75 other trucks in the Associated fleet.

Dud. Morgan of Whitney & Baird, San Francisco insurance brokerage firm which arranged Associated's initial coverage by Atlas and Assurance, praised the effort to save the company and assured the new management "there will be no difficulty in providing the same insurance coverage."

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# Safety motivation and equipment upkeep are Newhall's control keys

By JOANNE GAMLIN

VALENCIA, CA.—There's no way to get away from it. Safety has got to be a haunting concern for an executive charged with keeping losses low to non-existent on something like "The Great American Revolution," which is billed as the only steel roller coaster in the nation featuring a 360-degree vertical loop rising more than 90 feet in the air.

Opened in May of this year by the Magic Mountain amusement park in northern Los Angeles County, "The Great American

Revolution" is sufficiently failsafe in the mind of Edward Sweeney, assistant secretary of Newhall Land & Farming Co., the park's owner, that it is the first place he leads visitors.

## SAFETY/SECURITY REPORT

Mr. Sweeney, who formerly worked for Price Waterhouse & Co. as a CPA, estimates that he spends about 80% of his time in the realm of insurance and loss control. The man who oversees ac-



Magic Mountain's "ultimate" roller coaster and other park attractions provide sobering loss control material.



counting, purchasing and cash control for the Newhall Land & Farming Co., Mr. Sweeney maintains his offices on the grounds of the

amusement park, not far from the screams and hubbub of the "ultimate" roller coaster and a high decibel musical show.

A carefully trained and safety-motivated workforce, about 20% of whom are teenagers, and scrupulously maintained equipment compose the framework of his unremitting effort to keep losses low.

Another factor in the success of his loss control program, said Mr. Sweeney, is the fact that the first layer of his general liability coverage has been self-insured since September, 1975.

"The self-insured general liability program has limits of \$10,000 per occurrence with no aggregate," he explained during an interview with *Business Insurance*.

He believes that when it dawns on attorneys that the five-year-old amusement park is self-insured for general liability to this extent, they conclude Magic Mountain is more apt to fight than to settle and they back away. These attorneys figure correctly, he added.

"We have had only one case tried in our history and we emerged the victor," he disclosed.

Mr. Sweeney, who works closely with Werdy Hamilton, his insurance administrator who is studying risk management, can rapidly reel off a clutch of numbers to support his contention that his loss control program works, and works well.

"At Magic Mountain, we estimate a 5 cents-per-guest cost versus about 11 cents at other California amusement parks," he said, explaining that the 5 cent figure represents the total number of claims in a year divided by attendance figures. The park registered about 2.4 million customers in 1975.

Five years ago when Mr. Sweeney joined the newly-launched park, the comparable figure was an alarming 25 cents, he noted, explaining that Magic Mountain was acquired by Newhall Land & Farming Co. in 1971 in a sort of rescue gesture.

Today the amusement park is thriving, its attendance rising at three times the projected rate of 10% a year. Through July, 1976, the park posted a 27% jump in attendance, for instance. The 100-acre park constitutes the major share of the recreation segment of the business of the parent firm a public company which posted \$87,141,000 in revenues for the year ended Feb. 28, 1976.

Another figure which Mr. Sweeney likes to point to is Magic Mountain's loss ratio for workers' compensation. He said it stands at 27% for the first six months of this year, a dramatic improvement from a loss ratio figure of 100% in 1971.

The fact that every building in the park is sprinklered and HPR rated keeps a rein on property losses. Arkwright-Boston Manufacturers Mutual Insurance Co. underwrites fire and property coverage for Magic Mountain.

Still, the basic reason why loss figures don't haunt the executive at night is the park's persevering

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effort to keep machinery and personnel in exemplary shape. "Safety in an amusement park begins with equipment," Mr. Sweeney asserted. "Everything, first of all, should be automatic. The Great American Revolution, for instance, is computerized so that when one train slows down, the train behind it does the same.

"The Great American Revolution, moreover, boasts all solid state circuitry so there is less chance of electrical failure," he went on, noting that the roller coaster's lap bars are considered first rate.

**In essence, he said,** the secret of minimizing mechanical difficulties lies with designing rides so that the worst thing that can occur is a minor incident.

Nevertheless, it is people who make amusement parks bounce and it is people who are crucial to a concentrated safety effort, continued Mr. Sweeney.

He explained that new employees are introduced to park safety with a two-hour orientation course. Following that, they are led to classrooms for audio/visual presentations in color of safety procedures.

"This is our third summer for audio/visual program," he recounted, noting that the graphic technique was borrowed from the parent company's employee benefit program.

On-the-job training then ensues with the foreman for a particular ride picking up the safety training for his particular piece of equipment. Training never ceases, according to the assistant secretary.

"The key to the entire safety effort is persuading everybody to work together," he said, punctuating his view that this is what is happening at Magic Mountain.

Hiring young people aged 16 to 17 can be an advantage, too, he argued. Because it is their first job and because such jobs are painfully scarce these days, such teenagers tend to be more conscientious than folk just a year or two older, he believes.

"I'd call myself a behaviorist," pointed out Bill Shideler, safety director, who joined in the interview. "Working with employees under age 18 gives me a chance to work with raw material." He noted, nonetheless, that minors are generally employees in lower risk assignments such as merchandising and booths.

Marijuana offenses have not presented any overpowering headaches, he added, pointing out that his security staff often coordinates

its work with the Los Angeles County sheriff's office. Hard drugs are an unprobed problem area, however.

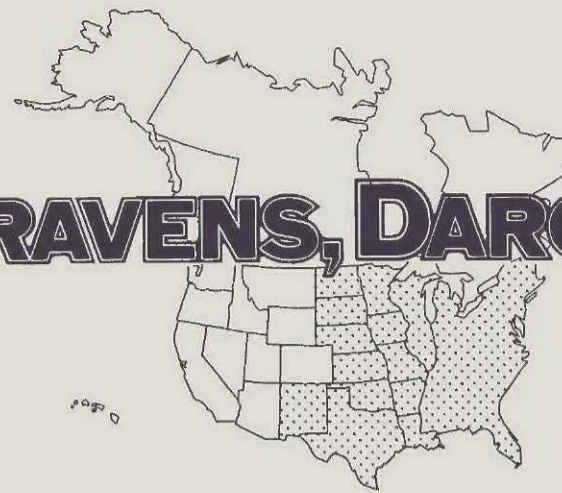
As for fire danger, the fact that every building is HPR rated and sprinklered means that fire damage can be confined to the \$400 to \$500 range, Mr. Shideler observed. For the parent company, property coverage was recently consolidated into a single policy underwritten by Aetna.

Wendy Hamilton pointed out that slips and falls are the most commonplace cause of public liability claims and that their average cost ranges between \$200 and \$400, easily within the self-insured area.

Magic Mountain works on a formula of investigating all claims and paying those for which it believes it is responsible, she said. "Although we deny more claims than we pay, I sense that we are gaining a reputation for being fair. This is what we want." ■

# CRAVENS, DARGAN

PACIFIC COAST



Some different approaches to surplus lines.



## Move safety academy to Houston, Tx.

HOUSTON—The International Safety Academy moved its headquarters and conference center to Houston, effective September 1. The ISA had been located in Macon, Ga. since 1969. It provides safety management and loss control training through conferences, seminars and workshops.

Recent conferences run by the ISA and of interest to safety professionals and members of industry and the insurance field include basic safety management, loss control management, environment health management, machine guarding and accident investigation, and behavior modification through advanced and tested reinforcement techniques.

The International Safety Academy is a division of ESIS Inc., an INA Corp. subsidiary which provides risk management services to government and industry.

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## editorial opinions

### Bureaucratic muddles

IT BECAME EVIDENT in late August that the horrific administrative and enforcement problems brought on by the passage of a federal pension reform law weren't getting any smaller. When James D. Hutchinson resigned as the Labor Department's chief administrator of ERISA, he headlined internal problems and interdepartmental haggling over what power would go to what bureaucrats responsible for making pension reform work.

We urge speedy and responsible legislation to solve the joint jurisdictional problems which Mr. Hutchinson found so frustrating. Otherwise, a law which could have been beneficial for the private retirement systems, for employers, and for employes could turn out to be the death of a major American employe benefit system altogether.

Employers swimming in added paperwork following the passage of the pension law have a right to expeditious handling of their reports and filings for exemptions and clarifications. The enforcement mechanism in this case, requires immediate organizing to control the disputes raging among the three federal agencies all fighting for enforcement power under the law.

### Air bags cut losses

WITH A FERVOR not seen since the great seat belt battle the major automakers are currently fighting a crucial decision pending with Transportation Secretary William T. Coleman Jr. that would require a passive restraint device, namely air bags, in new automobiles by 1979.

The issue has raged on and off ever since air bag technology was perfected in 1969. Originally, the Transportation Department's National Highway Traffic Safety Administration said it would require passive restraint systems by 1972, but that date has come and gone and now Mr. Coleman has pledged to make up his own mind on the matter by the end of 1976.

It is probably one of the most important decisions to be made in Washington this year.

The air bag issue is of concern to all risk managers, for it goes beyond the loss control problems of firms with large fleets of vehicles—and drivers—to be protected and insured.

The cost of auto insurance, both fleet and personal, is following the same trend as the cost of an emergency room visit, an x-ray or a three week stay in the hospital. The skyrocketing price of crash replacement parts is also a factor, but the cost of repairing human injuries seems to set the pace.

The automakers are currently saying that air bags are too expensive. Their estimates average around \$200, roughly the cost of a vinyl roof or an FM radio. Air bag advocates, including a former executive of General Motors, put the cost at \$139, and if the bags reached full volume production, less than \$100.

Whether the cost is \$100, or \$200 or even, for the sake of argument, \$300 per car, it is not high enough to outweigh the savings in hospital and doctor bills that would eventually be realized if people who inevitably will sit on their seat belts are prevented from going through their windshields.

Studies by the Insurance Institute for Highway Safety, a pro-air bag group, show that almost two-thirds of the drivers of new cars do not use their seat belts. And in Ontario, Canada, which passed a mandatory seat belt use law last year, the number of drivers wearing belts has returned to previous levels after rising sharply when the law went into effect.

Nationwide Insurance Co. has said that air bags would save \$32.70 per car per year in premiums for personal injury, medical payments and family compensation, while property damage premiums would increase only \$1 to \$1.50.

The Transportation Department has calculated that 8,800 lives would be saved annually using air bags alone.

In a way, air bags are like sprinklers. They do cost a lot of money. And day after day, they sit there and do nothing. But in the event of an accident they prove their worth by cutting losses to a minimum.

Just as fire insurers offer lower rates for sprinklered buildings, Allstate Insurance Co. will give a 30% discount on auto insurance to anyone who can get hold of a car with air bags.

Secretary Coleman has said he wants input from the public before he makes his decision. A recent round of hearings in Washington rehashed all the previous arguments, and testimony was heard from several people whose lives were saved because they were driving air bag-equipped cars.

We urge Mr. Coleman to start requiring air bags—or other passive restraint devices, if proven equally effective—in new cars by 1979. A few letters from individuals with professional understanding of the value of loss prevention might also influence the Secretary as he makes his decision.

### Guarding the goods

AS A STORY IN this issue points out only too clearly, guard services have to be evaluated and reviewed carefully, and regularly. Security guards have become a common sight in factories and nearly all public places. But the uniformity of their appearance isn't always an indication of the uniform high quality of their services.

At the infamous Watergate complex in the nation's capitol, no major security changes have been made since the notorious break-in was discovered some years ago. And it was the security guard at the Watergate who became a hero for foiling the well-laid plans of those wanting to implant illegal "bugs" at the Watergate office of the Democrats.

But Watergate's problems apparently haven't ended there. The complex's tenants and residents have been victimized by repeated break-ins and robberies. The building's management have considered establishing a more tightly-controlled in-house security guard operation, instead of using a contract guard service, in order to correct some problems.

A privately administered guard service can often be more effective because tougher security checks can be run on persons applying for guard positions prior to employment.

A plant guard force is custodian of often enormous property values for two-thirds or more of each week. Those properties, if subject to a large loss while guarded by an unmotivated or untrained security agent, can often put a business on the bankruptcy trail.

It pays for a risk manager to scout carefully for any deficiencies in security guard personnel or performance.

## letters

Letters are welcome. Address letters to the Editor of Business Insurance, 740 N. Rush St., Chicago, IL 60611.

### A risk man's role

To the Editor: Literary history records that early one morning in a Victorian spring, Thomas Carlyle's manservant entered the room and said "Mrs. Margaret Fuller has announced that she accepts the Universe," to which Carlyle replied "Gad—she'd better!"

This story came to mind after reading the article by Steve Valovic and Richard Kostyrka concerning asset reports. In a very competent manner they defined a major objective of risk management, gave evidence that they have done a good job minding the store by having a sound asset reporting program and then seemed hesitant to take that one further step which would show them to be risk managers and not just insurance managers. Of course, one may be maligning them since one has only their article to go on. Moreover, risk managers tend constantly to reinvent the bicycle and what one thinks is there may be no more than a chimera. Nevertheless, perhaps the subject will bear a new look.

Tangible assets have always been considered a hedge against inflation and no doubt they are. Even if the economy goes through a period of galloping hyperinflation the manufacturing plant will still be there, capable of production when the currency has gone completely to pot. Nevertheless, this seems to be an oversimplification because inflation destroys assets as well.

It is argued that this destruction comes about simply because standard methods of depreciation create a false profit picture. Assets acquired over the years are depreciated on one basis or another to comply with IRS requirements and book values are reduced annually, finally reaching zero. This pleases everybody since the zero or negligible book value of the plant and its contents permits a larger share of its revenue to become available for the stockholders.

But sooner or later assets have to be replaced and not just because of a fire or some other hazard. When this occurs, replacement must be made in today's inflated currency whereas depreciation will have been effected in yesterday's currency. When the value of the currency shrinks rapidly, as it has done in the United States for the last several years, standard depreciation methods will have been found to be inadequate since the replacement cost in the depreciated currency will be much higher than the original book value. Hence, the new S.E.C. reporting requirement

Continued on page 18

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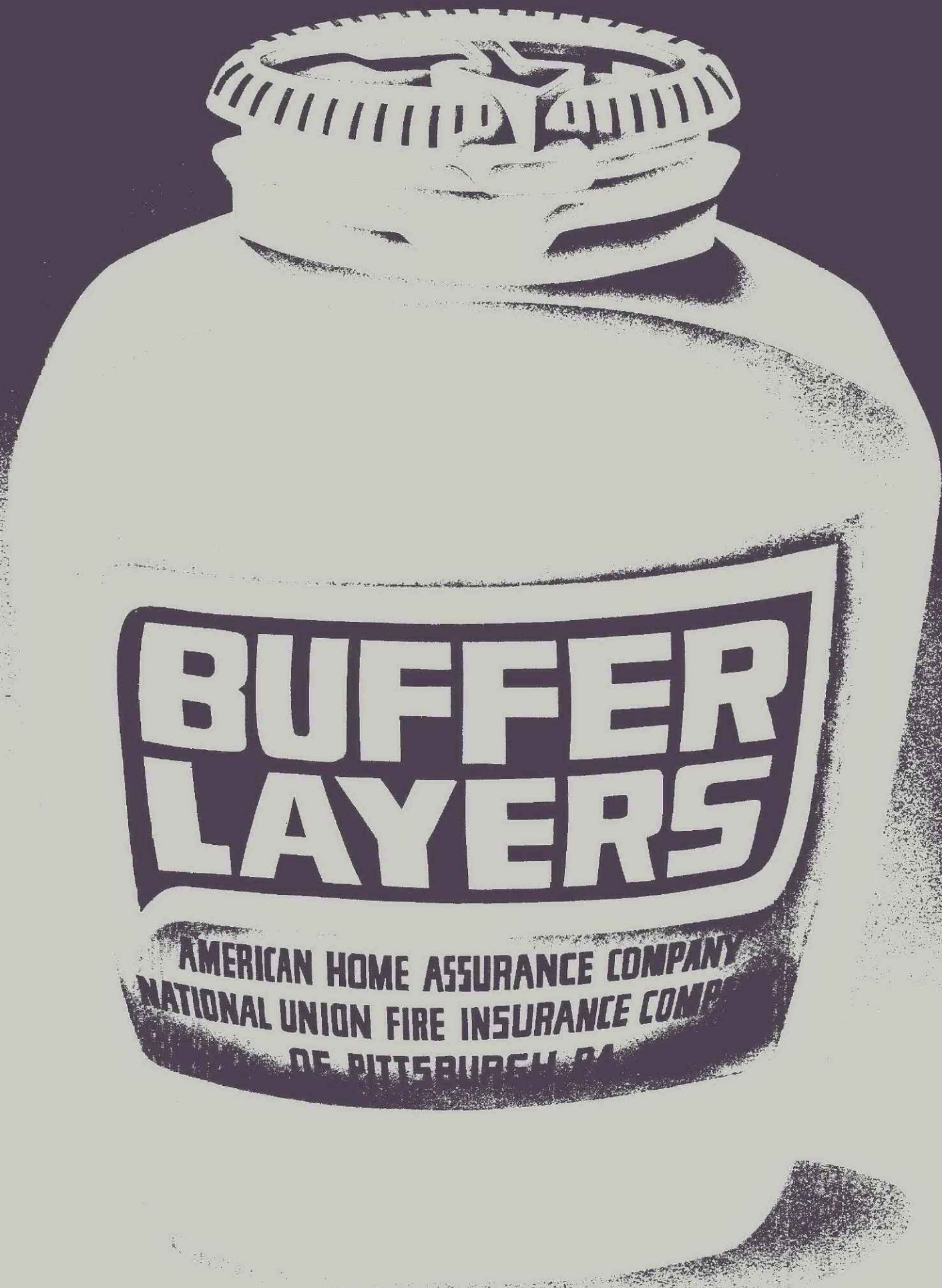
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## Letters

Continued from page 16

seems to make a lot of sense so far as it goes.

There is also another way of looking at this. Suppose, for example, the annual inflation rate in 1972 was 10% but the results of the company showed an after tax profit of 9% on its assets. If the inflation factor is taken into account then there may effectively be a net loss. If it is not taken into account, the profit and loss account may well show an imaginary net profit. If a dividend is paid from this apparent net profit, then far from distributing profit to stockholders, the company will actually be sharing out some of its capital.

Is this some kind of phantasm which can safely be ignored? Perhaps, but quite recently one has seen a couple of statistics which seem significant. One of them said that in the late sixties the average annual inflation rate in the United States was 8%. Another observed that during the same period few companies showed after tax profits of more than 8% on their assets. Consequently, one has the feeling that many so called profits during this period were illusory.

The risk manager is likely to be the one person in a company who can see this clearly since at least once annually he must reassess the replacement cost of the company assets. If he is smart, as Steve and Richard have been, he needles his company into compiling an assets inventory and sees that it is kept up to date by introducing a system of recording retired assets and listing new acquisitions. With the aid of the computer this is a comparatively simple thing to do, although time consuming and perhaps expensive to set up in the first instance. However, such a program can be a multi-disciplinary effort involving depreciation for tax purposes, personal property taxation and other requirements.

This, if you like, is tending the store, an obviously very necessary function. But if one can assume that the argument put forward here is correct what does the risk manager do about it? Does he just sit on his hands and say that this is not within his job description or should he try to get his story across?

Actually, Steve and Richard have already answered these questions when they talk of "protecting . . . the productive capability of the firm so that business can function at a level desired by its management." If the risk manager can demonstrate that the productive capability of the company is in fact being impaired by an unwitting distribution of capital, then he has a duty to act on it. Certainly, he may find on investigation that a reserve for the replacement of assets has already been established. On the other hand, it may demand a reassessment of management objectives, which, of course, will be well beyond the scope of the risk manager's job.

Therefore, in answer to the question "Do risk managers have a role in asset reporting?" the answer seems to be "Gad—they'd better!"

**Peter Downes**

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

### Deserves support

To the Editor: In your editorial entitled, "A License to Steal" appearing in your August 23 edition, you discuss a very controversial subject—the "coordination of benefits" provisions which appear in the contracts of most group insurance policies. These provisions are probably controversial only be-

cause they are misunderstood by most employers, employees, etc. Perhaps they are even misunderstood by *Business Insurance*.

You claim that your editor "shouldn't ever have been billed" by Blue Cross of Greater New York. My question is even more basic—why was your editor ever insured by Blue Cross? Obviously your editor chose to be insured under *Business Insurance's* group policy (as an employee) and also as a dependent under the spouse's group plan. This is obviously some duplication of coverage and is the exact occurrence to which "coordination of benefits" is directed.

There is a very simple answer to why Blue Cross paid the major portion of the bill under these circumstances. They are not allowed to coordinate their benefits with that of other plans. Therefore, to assure that the eventual result is the same as if coordination was permitted, Blue Cross pays the full amount due under

their policy and *Business Insurance's* carrier only pays the excess up to 100% of the eligible charges. Do you really think this is wrong? A magazine of your stature should know better than to make the bland and over-generalized statement, "... carriers . . . seldom . . . check to see if they should be paying these (duplicate) claims." The claims departments spend a great deal of effort in administering the COB provisions equitably and properly and it is an error to backhand their fine efforts on the basis of one example.

Coordination of benefits is a very technical concept which is very difficult to explain in simple terms but which is a valuable cost saving device.

**Vincent W. Donnelly**

Fairfax, Va.

### Insurer failings

To the Editor: As a construction contractor insured, I thoroughly

enjoyed and appreciate the contents of your "Sue the Bastards" editorial in the August 9 issue of *Business Insurance*. It is obvious to anyone suffering the costs of defending against unreasonable claims that something must be done to correct the "system".

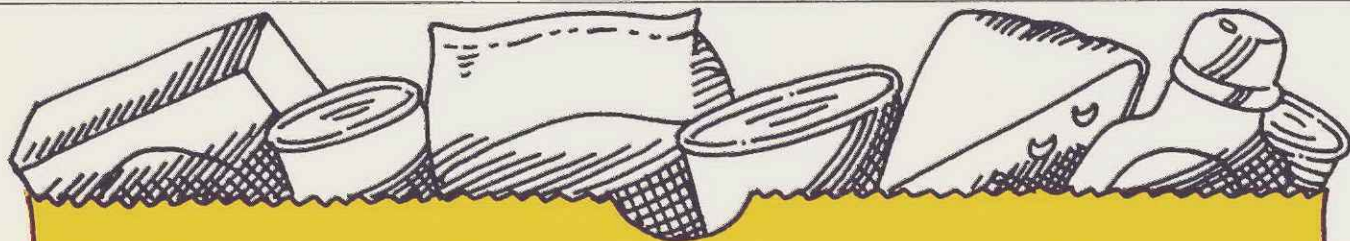
I was disappointed that your editorial did not mention any of the failings of the insurers, as I firmly believe that their attitudes often contribute very substantially to the attitude of the courts or referees and the awards granted. Specifically, I would cite the too-often-indifferent claim handling by either the insurance companies or their legal representatives. It too often appears that the defense assumes the loss and its penalties to be a fait accompli and either delays too long to investigate, presents an indifferent or mediocre defense too often ill-prepared, or is too prone to settle without the knowledge or consent of the insured who ultimately pays the bill along with

his class in the insurance rating structure. I cite immediately current compensation claims and awards to the asphalt rakers in the construction industry in New Jersey, a very unreasonable claim and a precedent-setting award. In our own instance, much too often do we receive a form letter from the legal representative of the insurance company asking to meet on the courthouse steps one-half hour before examination or trial of the claim in question—certainly not proper preparation for cases.

Although I recognize that your publication is principally oriented towards encouraging the purchase of proper and adequate coverages, the insurer often being the beneficiary, it does seem proper that the insurers be criticized for their often careless handling of claims, thereby becoming substantial contributors to the social malaise.

**Charles R. Leo Jr.**

President, Ward Pavements Inc., Haverstraw, N. Y.



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# Watergate's headaches weren't all political

By PAUL R. MERRION

WASHINGTON—The most famous attempted burglary in history did not bring about any changes in security precautions at the fashionable hotel, condominium and office building complex here called Watergate.

It was slightly more than four years ago that five men connected to the Committee to Re-Elect the President were caught breaking into the headquarters of the Democratic National Committee.

The break-in was an "amateurish" job, according to Frank Wright, assistant vp for Watergate Rental & Property Management, the firm that manages the non-residential part of the complex.

"I don't know how anyone could have known there wasn't a break-

in," he said, explaining that the men broke the locks on the doors rather than picking them. Their entry was discovered when a security guard noticed that a latch on a door in the basement had been re-taped to prevent it from locking, after he had already discovered and removed the tape earlier in the day.

Although that intrusion did not lead to changes in the Watergate's security protection, a series of problems with the private guard service over the last few months has led the building's managers to think about setting up an inhouse security force.

"Our problems with security have been with the guards themselves," Mr. Wright said. "We've talked about setting up our own security force because most con-

tract firms are the same."

In recent months, a bank in the building has been robbed "a few times," and a jewelry store there has been robbed once, he said.

One of the security guards assigned to an area of the building called Les Champs, which houses several boutiques and specialty stores, had been pilfering from some of the shops but was not caught and convicted until he attempted a burglary at the offices of the Federal Reserve Board, which is also in the Watergate, according to a salesclerk in one of the shops. He is now in prison, she said.

Mr. Wright said most thefts in the building have occurred in offices that were not locked, and involved only petty cash ranging from \$30 to \$100.

A tenant in the office building,

however, told this magazine that Watergate "had some very messy security problems," leading him to install new locks on office doors. So far, that office has escaped burglary while several adjoining offices have been "cleaned out top to bottom," he said.

The salesclerk in the Les Champs section rated the building's security force as "good, but not excellent," because some of the guards are excellent while others are known to have stolen merchandise.

Burglar alarms are installed at the discretion of individual shop-owners, she said, and the shop-owners make a point of not telling the security guards whether one is installed so they will not know which shops are safe to enter.

Theft insurance is purchased by

the individual stores and firms in the office building, Mr. Wright said.

Setting up an inhouse guard operation to replace International Security Corp., the building's current guard unit (which has had the contract since before the break-in at the Democratic National Committee headquarters), is mainly a matter of overcoming the organizational details, Mr. Wright said.

"Sooner or later we probably will" set up an inhouse security force, he said, adding that it may happen as soon as this fall.

The current tentative plan is to set up the building's own cleaning service at the same time, which is now also contracted out.

"I'm not sure we can save money by doing it," Mr. Wright said. "The only reason for doing it would be an improvement in the quality of service we'd get." He also said he hoped an inhouse security force would give the building's management better control over the hiring of guards.

The guard firm now provides 24-hour protection, with three guards on duty at night and two or three guards on duty during the day, Mr. Wright said.

He said one option the building's management firm is considering is hiring the best guards from International Security. "But the problem is finding someone to organize the whole thing," he said. ■



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## No seat belts may mean negligence

BOULDER, CO.—If mandatory seat belt laws are adopted in most states, violation "would constitute if not negligence at least evidence of negligence," said an attorney for the Motor Vehicle Manufacturers Assn.

"But the defendant will still have to prove in every case that the plaintiff's injuries, in whole or in part resulted not from the crash, but from the plaintiff's unrestrained flight around or out from his seat in the vehicle," said Edward Good, senior attorney for the Assn. He addressed his remarks to the Eighth Annual Institute on Motor Vehicle and Traffic Law meeting in Boulder, Co. last month.

"While no consistent pattern of court decisions has developed, it's clear that the question of whether the vehicle occupant was wearing his seat belt and what happened because he was not, will become an issue in more cases in the future, as awareness of the effectiveness of the belts as safety devices becomes more general," he said.

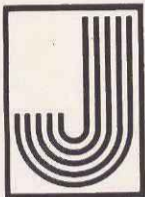
The courts in 14 states have indicated a defendant may prove a plaintiff was remiss in not using his seat belt and thus suffered injuries he otherwise would have escaped, Mr. Good said. "On the opposite side, 16 states have barred seat belt defense either by status or by judicial decision and 20 states have no position on the issue.

"In such a case, there is a dual burden for the plaintiff to convince the court that use of a seat belt is part of the conduct and behavior expected of a reasonable man, and of demonstrating to a jury the relationship between the injury suffered and protection afforded by seat belts," he pointed out.

The reasonableness of seat belt use will become more apparent as the public becomes aware of statistical proof of belt protection, he predicts. ■

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- How to minimize premium increases in **Workers' Compensation: Some Professional Considerations** in the wake of rising costs and proposed federal legislation is available free as part of INA's series on insurance topics. Write INA, Dept. R, 1600 Arch St., Philadelphia, Pa. 19101.

- GAB Business Services, published its free 1976 edition of the **Home Safety Guide** containing energy conservation and fuel handling safety recommendations. Hazards and an emergency checklist are included. Write J. W. Weatherstone, Marketing and Products Division, GAB, 123 William St., New York, N.Y. 10038.

- The latest court decisions regarding **Premises Liability: What Is Your Liability** have been compiled in layman's language. Injuries occurring on roads, streets, paths, tracks are included. Cost is \$5.00; write 5725 Fremont Pike, Box 181, Stony Ridge, Oh. 43463.

- The **Insurance Consultants' Society** is offering its free brochure which includes information on risk management services and data. The brochure also offers a list of all its members. Write Rimco, Suite 180, 10300 North Central Expressway, Dallas, Tx. 75231.

- A reprint of a speech delivered by Bernard J. Daenzer, CPCU, president of the Howden Swann Corp., entitled **A Look Into the Future**, is now available. It contains highlights of Mr. Daenzer's address at the CPCU International Seminar, Mexico City, October 1975. The reprint delves into the possibility of failures, the affect of inflation, as well as specific recommendations that segments of the industry can utilize in planning for the next five years. Copies can be obtained by writing to Anthony C. Bova, senior vp-marketing, Wohlreich & Anderson, 55 John Street, New York, N.Y. 10038.

- A brochure on **Fire** insurance coverage is available from American Home Assurance Co. and National Union Fire Insurance Co. of Pittsburgh, Pa. For a free copy

write to Product Info, Corporate Communications, American International Cos., 102 Maiden Lane, New York, N.Y. 10005.

- Improved cash flow through analysis and design of employe benefit, pension and profit sharing programs is the focus of **Employer/Employee Benefits Counsel**, published by Blair, Follin, Allen & Walker Inc. The brochure explains why employers can no longer afford to consider benefits as fringes. For a free copy write to: Brian Sinclair-Whitely, Group Management Services, P.O. Box 1280, Nashville, Tn. 37202.

- Stewart, Smith, Mid America Inc. is offering a brochure on its free **Fair Employment Practices Liability** coverage. This policy indemnifies the insured employer for loss resulting from actual or alleged violations of Title VII of the Civil Rights Act of 1964, the Equal Employment Opportunity Act of 1972, the Equal Pay Act of 1963 and/or equivalent state or local fair employment practice laws. The coverage is for legal expenses. For a free brochure write William R. Jacques, Stewart, Smith, Mid America Inc., 141 W. Jackson Blvd., Chicago, Il. 60604.

- A 48-page booklet entitled **Qualified Plan Concepts** gives an overview of group and individual pensions, including information about ERISA, Social Security and sales ideas. For a free copy, write to Mr. K. R. McCaffrey, Director of Group Marketing, General American Life, 1501 Locust St., St. Louis, Mo. 63103.

- Anchor Corp.'s **An Investor's Handbook**, describes the types of financial services it offers. The brochure explains free services available to Anchor Group shareholders as well as the financial counseling, products and services which the firm and its affiliates provide. For a free copy of the brochure, write B. West, Anchor Corp., 40 Parker Rd., Elizabeth, N. J. 07207.

- A guide to the review and purchase of guaranteed **Insurance Company Investment Contracts** (for pension and profit sharing plans) is available from Reed Shaw Stenhouse. It includes a checklist with all the major pitfalls that need to be considered when evaluating alternative proposals. For a free copy, write to: Robert Pawelko, vice president, Reed Shaw Stenhouse, 230 W. Monroe St., Chicago, Il. 60606.

- **Product Technology Newsletter—Flame Resistant Plastics**, published by Arthur D. Little Inc., gives a background of recent developments in flame resistant plastics, including how flame retardants can affect plastic products and processing. For a free copy, write to Irving J. Arons, product technology section, Arthur D. Little Inc., Acorn Park, Cambridge, Ma. 02140.

- **The Group Annuity Investment Contract**, published by Lincoln National Life, describes the con-



# Cargo Lo

Seventy percent of all dollars paid for marine insurance claims go for preventable cargo losses—losses which modern cargo packing and handling methods could have avoided.

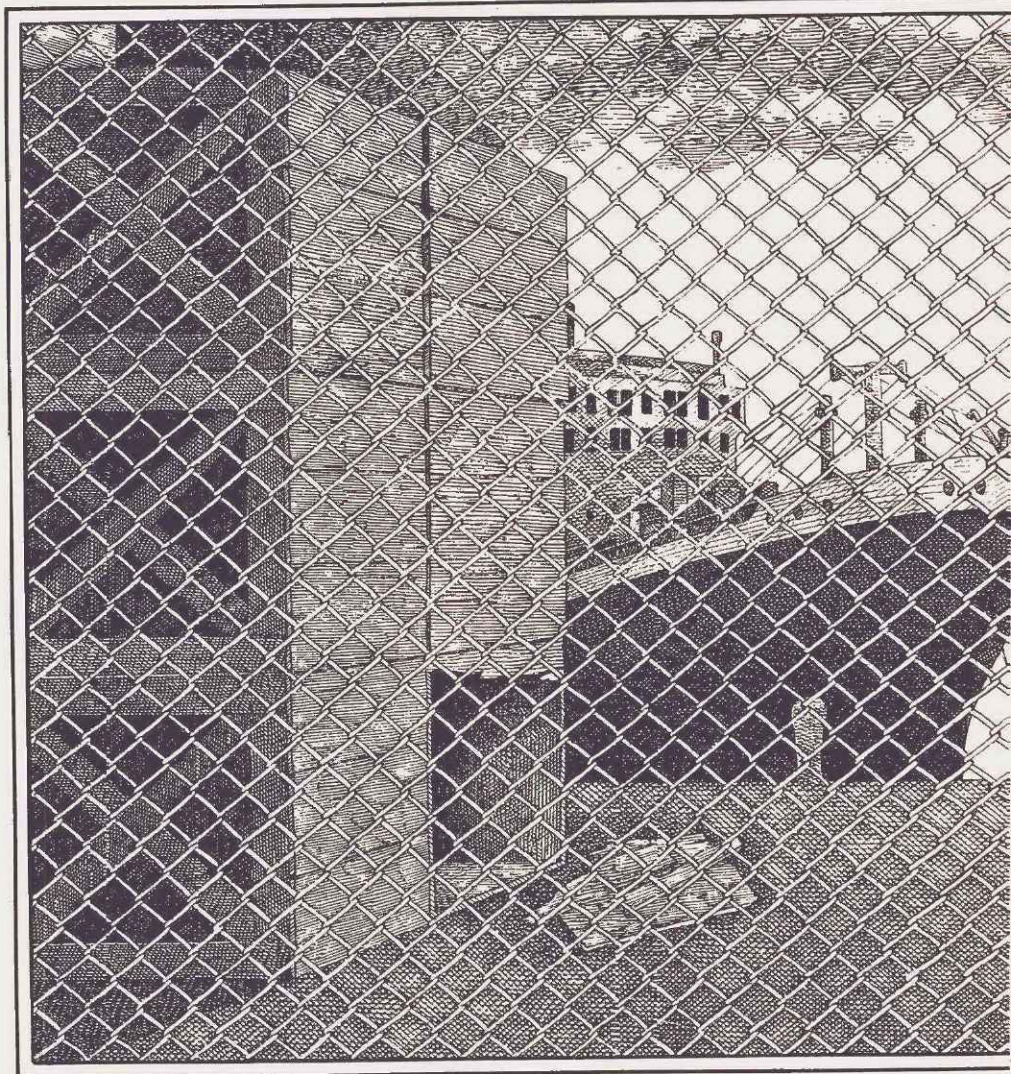
A brief review by INA of an insurance topic of interest to business executives.

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Cargo shipping techniques have advanced rapidly in recent years. Cargo containers which can be transferred among ships, barges, trucks and rail cars have made possible new standards of speed and efficiency. Barge-carrying cargo ships have taken the process a step further. At the same time, a host of innovations in cargo packing, handling and stowage have promoted safety and security.

Yet despite these advances, losses to cargo in domestic and overseas transit remain high. In fact, some seventy percent of all marine cargo losses today are preventable. If only half of these losses could be eliminated through better shipping practices, American business would derive millions of dollars of savings annually.

Less time and money spent in tracing, locating and making adjustments on lost, damaged or stolen merchandise is only part of the benefit a shipper can expect through a professional approach to packing and handling cargo. Pleased customers and repeat orders are



also important. And a reduction in insurance claims is likely to lead to reduced premium costs.

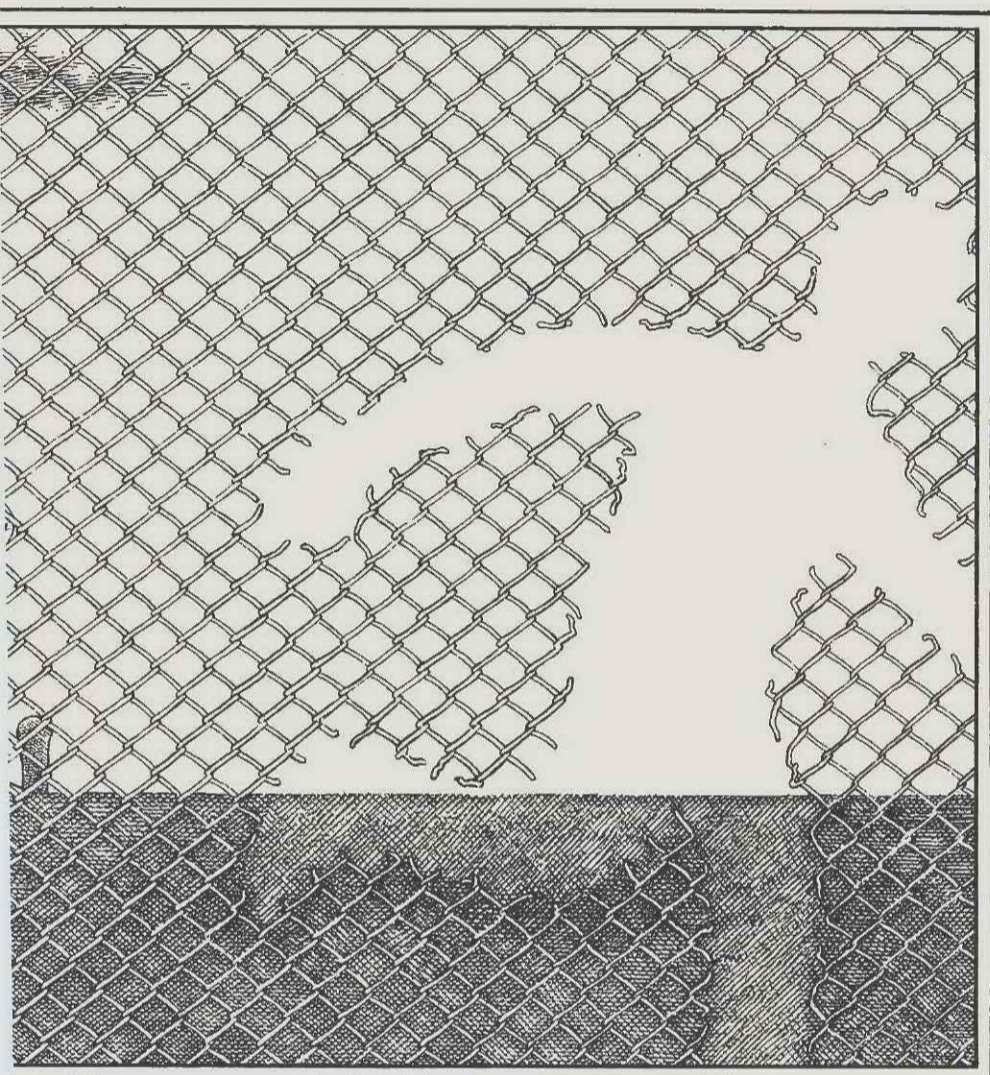
## How to discourage theft

Almost half of preventable losses are due to theft and pilferage. One important countermeasure is simply prompt pickup and delivery. The longer cargo lies around on piers, in terminals and in trucks, the more it is exposed to theft.

Collapse or deterioration of flimsy or used boxes or bags, thereby exposing the contents, is a sure way to attract the attention of pilferers. New, well-constructed packing is essential, reinforced if need be by strapping, banding and corrugated fasteners.

The use of various-sized boxes, crates and pallets to consolidate small parcels into single load units can be a deterrent. Unitizing and palletizing make cargoes less accessible, as does the use of intermodal containers.

# Loss Control



Such techniques as shrink or stretch wrapping further contribute to package security.

And advertising may pay, but not when directed at thieves. Descriptive labeling, illustrations or prominent display of trademarks and well-known company names on the shipping package or container make a thief's job easier. Coded markings should be used, with the codes changed frequently.

Handling and stowing faults—including breakage, leakage and crushing, contact with oil and other cargo, and contamination—account for 38% of all preventable losses. Cargo handling in the ports of the world ranges from highly experienced to totally unskilled. Rough seas, heavy traffic and bad roads can subject cargo to every imaginable kind of motion, vibration and impact.

Another 14% of preventable loss is due to water damage. Rain, high humidity, condensation and sea-

water can reduce otherwise stable cargo to a mass of soggy, stained, mildewed or rusty merchandise.

## Pack for the toughest leg

The first rule for shippers, therefore, is to pack for the toughest leg of the entire journey from origin to destination.

Professional cargo packing and handling is a complex, constantly advancing business with numerous firms offering a wide range of specialized services. In addition, insurance companies writing marine insurance can furnish consultative and technical services in packing and cargo handling for sea, air and land transport, including loss control programs tailored to meet the individual needs of policyholders.

As a fuller discussion of cargo loss control as it relates to marine insurance, INA has prepared a brochure entitled, "Ports of the World: A Guide to Cargo Loss Control." Copies may be requested by writing to INA Corporation, 1600 Arch Street, Philadelphia, Pa. 19101.

\* \* \*

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## No money for more security: Museums

# Stolen art works are like gold for cashing in on a booming business

By JANE WINEBRENNER

Imagine a scene: Two television writers are pacing aimlessly across the shag carpeting of a chrome-and-leather furnished executive suite. Both are in the uniform of silky shirts open

## SAFETY/SECURITY REPORT

to the fourth button and gold chains around their necks—in two days they will be out of style. They are sweating rivets because the new fall television season will be-

gin in a month:

"We have to use the art theft story: we're running out of time."

"The characters are too unbelievable—an art cop who recovers stolen paintings because he loves art, really. And that New York City private eye, who's gonna buy that in 1976?"

"If you want reality watch 'Hollywood Squares,' we've got a good story here—art thieves, ransom demands, suffering museum directors, suave insurance brokers..."

"It's a long-shot but it just might work."

NEW YORK—Just a nice little story perhaps, but with the excep-

tion of the television writers, the cast of characters is very much alive and doing battle against the very real problem of the booming art theft business in the United States.

In 1975 there were 9,460 thefts in the United States and 6,990 of them in New York City alone. The International Assn. of Art Security's Art Central file in New York, which collects the data from Interpol, the American Insurance Assn., the Art Dealers Assn. and various journals, estimates the total value of the stolen art at \$100 million last year. That's \$25 million

more than in 1974, a 27% increase.

Unlike television or potboiler novels, however, art thieves are not caught in the closing minutes or last pages. While the theft rate has risen at least 27% in each of the last four years Art Central has collected data, the art recovery rate has slipped from a weak 5% to a faint 2%.

In the last decade, art has become a hot property, appreciating in value faster than gold and jewelry. "Art is definitely what is happening. It's no longer an aesthetic value; now it's a monetary value. Art has become dollars and cents," New York Police Detective Robert Volpe said.

Compounding the problem has been sloppy inventory control in museums in the past and an unwillingness to admit problems existed. When Detective Volpe first took over the NYPD's art investigations five years ago he had to seek out cases because no thefts were reported. Some museums are

just now beginning to identify or "fingerprint" their art objects so they can be returned.

Alan Baer, president of the International Art Registry Ltd. and executive director of the International Assn. of Art Security, feels museum directors have been "anti-quoted" insofar as security.

"Some directors don't publicly report losses because they're embarrassed and second, they feel that by notifying any authority they will encourage other burglars. That's absurd in 1976; as a consequence, they cause many of the problems in theft," according to Mr. Baer.

Mr. Baer tells of the recent theft of a painting from one of the largest museums, the Metropolitan Museum of Art in New York City. The Met never reported the theft but when the painting was recovered in August of this year they tried to reclaim it. Fortunately, they got their painting back.

"We are trying to get museum people to understand that they are dealing with something very fragile and cannot be replaced," Mr. Baer said. "You would think they would realize that best of all, but there's a kind of innocence among them."

Museum directors, on their part, are caught between cutbacks in budget and the need for more security. At the Detroit Institute of Arts, money shortages forced the museum to close off sections of the galleries.

The Brooklyn Museum in New York has to close floors because they don't have enough guards to adequately secure the museum. The Brooklyn museum has had its budget cut for the last five years because it receives much of its money from New York City. To make matters worse, in many museums private endowments also have drifted away.

Several museums reported they had no problems with rising premiums or art thefts. One Midwestern museum said its premium had actually gone down in the last year to its present \$20,000 figure. Of course, the collection, valued at \$20 million, was underinsured to keep down costs. Most museums do not insure their permanent collections.

Wallace Bradway, registrar of the Art Institute in Chicago, said they have had very few losses and added he feels rumors of big premium hikes are "just a myth."

At the Brooklyn Museum, however, the reality is a 218% increase in premium cost in one year, from \$17,980 to \$39,350. Insurance carriers told the museum's broker, Reid and Carr Inc., that liability rates in his area have gone up by that much, according to the vice chairman for administration and treasurer, Thomas Donnelly.

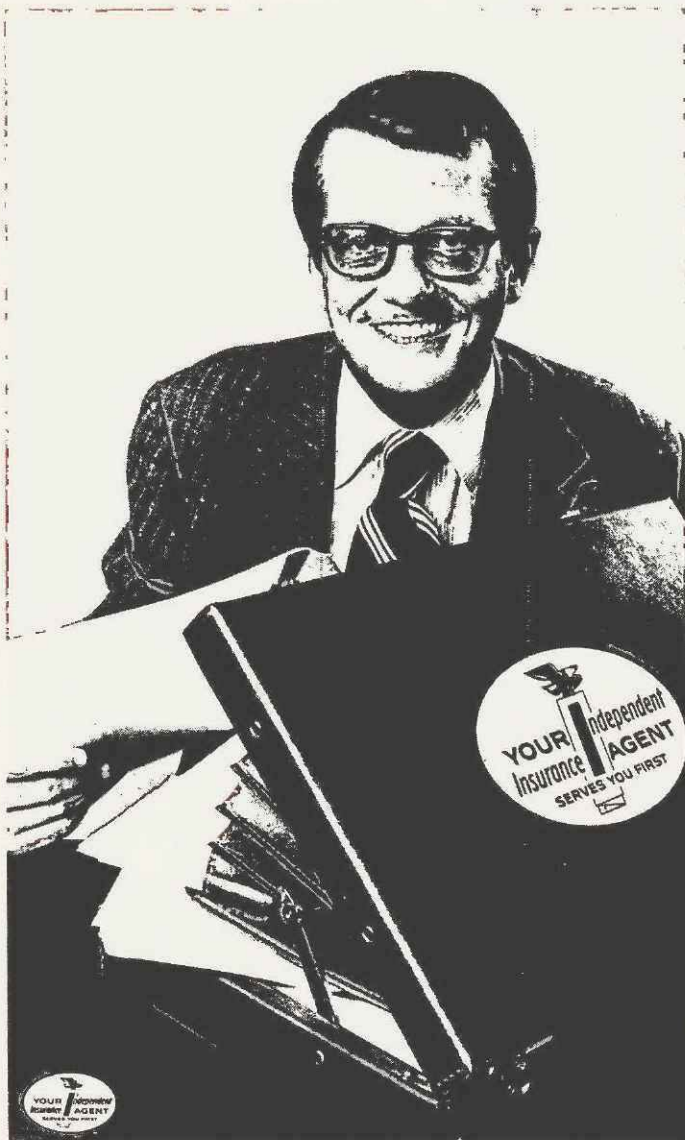
Enter the insurance brokers. Despite the increase in theft, several brokers said there is no capacity crunch or problem in placing all-risk art insurance.

Huntington T. Block—his name would not have to be changed for our imaginary TV script—has found that in the last five years thefts have increased among his 100 museum and gallery clients but adds, "There have been more incidences of theft, but it is also true that the general public is more aware of the thefts."

In determining values for insurance purposes, museum staffs are consulted and sometimes major dealers specializing in a particular art form are brought in. The main factor is how much it would cost to replace a stolen or damaged object, no matter how much the museum or dealer paid for it originally. As a consequence, museums must constantly reappraise their collections.

Continued on page 30

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# Tales of thievery . . .

Continued from page 28

"Rates increase because values increase," Mr. Block said. "A Picasso worth \$100,000 several years ago now is worth \$200,000." He considers the Frick in N.Y.C., the National Gallery of Art in Washington D. C. and the Art Institute in Chicago among the best secured U.S. museums.

Meanwhile, in the entertainment center of Los Angeles, Carl G. Allen, an insurance specialist for museums, exhibitions and collectors who is affiliated with Fred S. James & Co., explained that a museum's premiums are not determined by its individual security systems or hardware, but rather by the overall acceptability of the risk. "Either it is a sound underwriting measure or it is not. Rating is not affected directly by security measures... The record of losses is considered—how they happened and whether or not it is the museum's own fault," Mr. Allen said.

Mr. Block said he looks for "total value, the probable maximum loss and the 100% fire contents rate. I also ask for a detailed security report."

Making their entrance on cue are the security/protection agencies and a private eye. Of course, if this were a television drama, the plot would revolve around the private eye, working with a trusty sidekick and a wisecracking but loyal secretary.

Instead, William Coleman, a private eye and art security consultant in New York City, works with security agencies and museum directors to solve security problems—"button up a museum," as they say in the trade. Now head of his own consulting firm, William Coleman Associates Inc. for the last two years, he was assistant security director of the Metropolitan Museum of Art in New York. Before that, he was with Army counter-intelligence.

The biggest problem is money. Like everyone and everything else these days, museums generally have been coming up short in endowments and municipal allocations.

"Museums are spending more and more money on security because they have to," Mr. Coleman said. "No one wants to think how much security is going to cost when other costs are skyrocketing. How much security depends on how well-endowed the museum is; oth-

ers just have to do the best they can."

A standing joke in the museum field is that the best security would be to put the visitors behind cages and glass and wheel them past the exhibits. Short of this, Coleman believes the most effective is "to integrate a system of many devices, properly su-

pervised at both human and electronic level with a proven response system." Most security specialists seem to agree that while museum guards are valuable as a deterrent to theft, it does not follow that armed guards are a better deterrent.

The specialists disagree with the thief who took a Renoir painting from the Brooklyn museum 19 months ago and returned it intact this summer, but only after

scrawling on the wrapper:

"The museums in the U.S. need armed guards it won't be long before armed robbery's of art museums are happening believe me I know!"

Ron Schmidt, assistant vp and director of security at Pinkerton's Inc., said his company does not recommend armed guards but will assign them at the "client's insistence."

According to Ned Trainor, sales manager at Holmes Security in

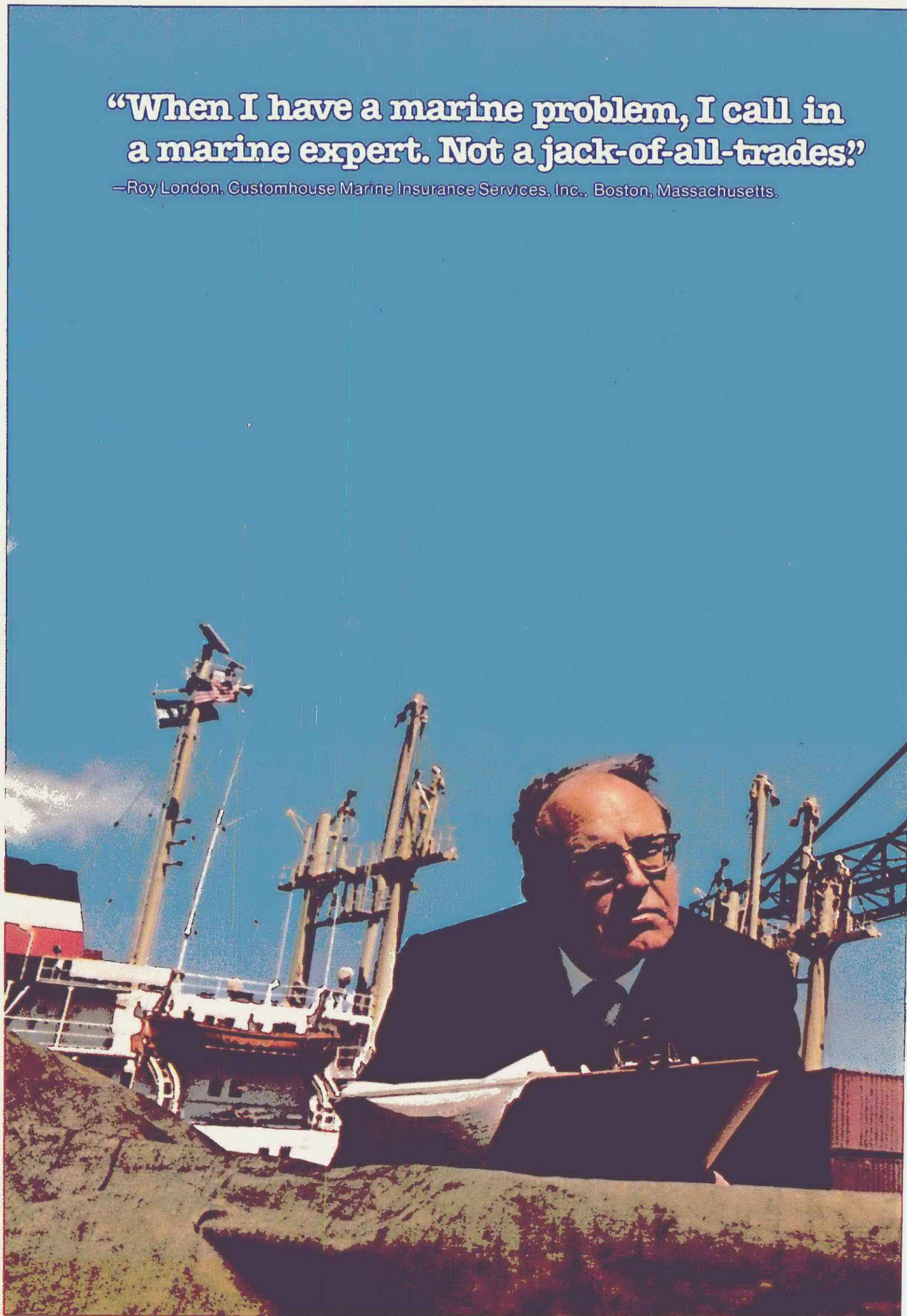
New York City, arming guards is still used too much. "Armed guards aren't necessarily smarter than unarmed. In a crowd a gun won't do any good at all," he said.

Mr. Trainor, a former safety and loss control manager at Travelers Insurance Cos. and ex-folk singer, feels alarm systems and trained personnel are a much better answer.

The most commonly used alarm systems are sonic alarms triggered by motion in the air or noise in a

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microphone; foil alarms where an electric contact is broken; electric eyes; and pressure sensitive mats underneath the museum floor.

**One advantage** of physical security systems over armed guards is that the chance of bloodshed is decreased. Some experts believe arming guards forces the thieves to arm themselves and kill the guards for a successful theft.

The issue of museum security is a delicate one and few persons are

willing to tell their trade secrets. Some of the more well-known methods are having guards make random museum checks rather than using an obvious clockwork inspection. Also used are repetitive training of museum personnel, plexiglass coverings, closed circuit television, communication devices and careful placing of art objects.

At the Philadelphia Museum of Art, two-way radios are used between guards according to Security

World magazine. Around-the-clock communication between guards, headquarters and the security chief is possible and reliable because of a repeater station in the museum that picks up and relays transmissions from the two-way radios.

Perhaps even more vulnerable to theft is the shipping, packaging and storing of art objects: "A beautiful way to steal" because the theft often is not discovered until well after the fact. For this reason,

Carl Allen has arranged for a special expert to live with a well-insured exhibit now traveling through the Soviet Union.

The security costs depend on how much a museum is willing to spend as well as the museum's location, the unions involved and size of the museum. In mid-town Manhattan, the costs are "astronomical" according to Ned Trainor. Total costs run "thousands of dollars."

A preliminary security inspec-

tion costs about \$25 an hour according to Mr. Trainor and can take from one to two weeks to complete the inspection. At Pinkerton, the cost is \$400 a day plus expenses for a detailed report. Mr. Coleman declined to name his price saying any figure "would be used as a measure."

Part of Mr. Coleman's job is "to break the system"—test it to discover the museum's vulnerable points. To do this he makes random visits, inspects personnel practices and other devices "left up to the readers' imagination" as he puts it.

Of course, if all the efforts of the security associations, security consultants, protection agencies and museum directors fail, get ready for the thieves' final chase scene. No system is fool-proof. ■

### New facilities

Modernized facilities highlights the new quarters for the National Safety Council's Safety Training Institute in Chicago, located at 444 N. Michigan Avenue. Three training rooms, accomodating 30 to 60 students, have closed circuit television equipment, rear-projection and multi-media audiovisual capabilities.

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# Art cop believes thefts tie into organized crime

NEW YORK—If all efforts to "button up a museum" pop, then make way for the art cop.

Detective Robert Volpe of the New York Police Department labels himself as the only policeman in the United States specializing in art recovery and art theft investigation and one of fourteen international specialists.

Somewhat of a media celebrity in New York, he is the NYPD's artist-in-residence. After 10 years as an undercover agent and five years in art investigations, he may best understand the art theft situation in the United States.

He feels there are indications that organized crime, with all its money, is involved either in the sale or transportation of stolen

art, or both. An international syndicate of some type is involved because of the far-flung places at which stolen art turns up. While some of the thieves are amateur, their connections in unloading the art don't appear to be.

For example, a recent rash of Oriental and Persian rug thefts resulted in the rugs eventually turning up in the Middle East. Other art objects have made their way to Switzerland, South America and in the Western United States where there is a large amount of new money, but not a large amount of art sophistication according to Mr. Volpe. Graphics and antiques can be thrown right back into that market soon after they're stolen,



Robert Volpe

while better known paintings and sculpture may show up in private collections a year or two after they are stolen.

Ransom demands may be increasing—they certainly receive the most publicity—and there is fear that art may soon be subject to terrorist-type demands by such groups as the Irish Republican Army or Palestinian Liberation Organization. It is a "frightening" development if it occurs because there is no adequate protection against it.

Det. Volpe is totally against paying ransom demands because "it only breeds further theft." So far, no art has been destroyed in ransom demands.

Det. Volpe calls the Special Investigations division of the NYPD both his true love and occupation. Two years ago a biography was written about the 33-year-old detective who has had several one-man art shows in Manhattan.

But it is the "big, flashy thefts" that are turned into cash, as private eye Bill Coleman puts it. The thefts that really hurt a museum

are those that involve less well-known objects which can be dumped in the art market easily. They "just disappear" with no ransom demands and no publicity.

It is not always the glamorized cat burglar or the theft ring with split-second timing that is the culprit in art thefts; sometimes it is the museum's own personnel. "I recommend good background screening, fingerprinting employes, good management practices and supervision. This is the same situation as any industry that produces marketable items," Mr. Coleman said.

So if you want to rob a museum, rest assured, there are dedicated public and private eyes watching you.

## Eye fatigue big factor in accident rate for industry

ATLANTA—Poor illumination and resultant eye fatigue contribute to 25% of the industrial accidents, according to James H. Jensen, manager of the General Electric Lighting Institute.

Insufficient lighting is solely responsible for 5% of all industrial accidents each year, he told participants at a seminar here in June sponsored by the American Society of Safety Engineers.

Lighting problems have a greater effect on workers over 45 years old, and they account for 45% of the work force in the U.S. he said. Visual acuity drops off with age as well as resistance to glare, he added.

"Of all the aspects of environment, there is evidence that lighting is one of the most important to people: A University of Newcastle study, indicated that of 12 environmental factors, lighting rated number one, Mr. Jensen said.

He suggested re-examining the Occupational Safety and Health Administration (OSHA) recommendation of one-half foot candle for safety lighting in certain areas.

Tests have shown that when workers are adapted and accustomed to a given light source, they have no particular difficulty recognizing standard safety colors down to as low as five foot candles. But at the one-half foot candle level, there is difficulty in identifying colors under some light sources, he commented.



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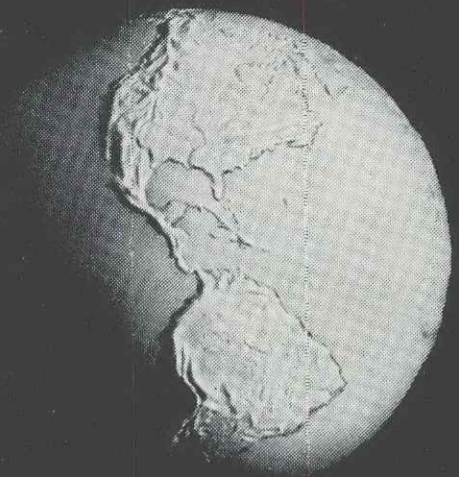


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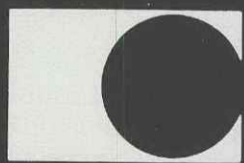
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# Democratic Convention no picnic for Garden

By MARGARET LeROUX

NEW YORK—After eight years of playing host to every kind of public event, from circuses to boxing matches and even rock concerts, you'd think security personnel at Madison Square Garden would be ready for anything... except, maybe, the Democrats.

"The Democratic National Convention was unlike any other event we've had at the Garden, Tony Avalone, vp-operations, said in an interview.

Nevertheless, by the time the 20,000 delegates, alternates, journalists and various other onlookers converged on the Garden in mid-July, a carefully planned, elaborate security system was in effect. Details of the security plan, hammered out in the months after the Democratic National Committee se-

lected New York as the convention site, fill three thick volumes in Mr. Avalone's office.

"Our role was that of professional coordinators," the security chief explained. "We know our building." The coordination involved the Secret Service, some 1,200 New York City police, approximately 200 undercover men and women.

## SAFETY/SECURITY REPORT

During the sessions 100 Madison Square Garden security personnel were on call; during non-session hours 45 were on duty patrolling and at fixed posts throughout the Garden.

"The main problem with a convention is you have people com-

ing and going constantly," Mr. Avalone explained.

Since the area is on the fifth floor of the building, with access only by escalator, "it took a lot of directing just to keep traffic moving smoothly," he said.

To get inside the Garden during the convention, a person had to have credentials, colored tags which identified him or her and stated what areas he or she had access to.

To thwart counterfeiters, the tags were issued for one day only; delegates and news personnel had to pick up new tags which were a different color each day.

Delegates, press and dignitaries were channeled through separate entrances and had to pass through metal detectors similar to those at large airports.

Uniformed guards at the en-

trances checked handbags, totes, camera cases, etc. and shined a flashlight on each person's credential tag.

"That was another counterfeit check," Mr. Avalone explained, "the portion of the tag that identified the person had the Democratic National Committee emblem written in it also. It only showed up in special light, however."

The months of planning apparently paid off. There were virtually no security problems.

"It couldn't have gone better if I had written the script," Mr. Avalone said. "We had anticipated so many things happening, when they didn't it was almost like the calm before the storm."

"Every night we'd have a critique to see if any group (of security personnel) had any prob-

lems during the session," he continued. "It would be one, two a.m. and we'd be sitting around discussing the session and everyone was saying 'I didn't have any problems.'"

"You could tell things were going well by the desperation in the voices of the reporters who called us every day asking, 'hasn't anything gone wrong yet?'" Mr. Avalone chuckled.

"The convention might have been dull by entertainment standards," he noted, "but that's what made it a success as far as security is concerned."

The Republicans gave security personnel assigned to the Kemper Arena in Kansas City, Mo. more of a run for the money.

"The Republicans made changes in the schedule for political reasons," said Cecil Buttrey, Kansas City branch manager of Burns International, which handled all phases of security for the GOP convention.

"The Democrats were more inclined to set a procedure and stick to it, no matter what the political ramifications," Mr. Buttrey, who was an observer at the New York convention, added.

Security measures to control access to the convention at the Arena differ from those at Madison Square Garden. A metal fence surrounded the building giving it the appearance, one reporter observed, "of an armed camp."

There were no metal detectors at the entrances to the auditorium, Mr. Buttrey explained. "There wasn't room for them." Uniformed guards conducted hand searches instead.

At both conventions, the biggest headache for security personnel was keeping the aisles cleared. In Kansas City where uncommitted delegations were the targets for flocks of news personnel and television cameras, this was almost a lost cause.

"In clearing delegates from the aisles, we found that our female security guards were at an advantage," Mr. Buttrey said. "If some big guy is making a scene, a female guard can defuse the situation easier than a male."

"But with the press, women female guards didn't have any advantage," he added. "We found that if the press wanted to get at a delegation, it didn't matter who was trying to stop them."

Not even the security guards got very close to the candidates and their entourages. Their protection was the responsibility of the Secret Service.

Access from the sides and front of the GOP podium was a lot easier, according to Celestine Sibley, a reporter for the Atlanta Constitution. She clambered over the desks of television reporters to get an interview with a dignitary at the edge of the platform.

"In New York you couldn't even get a note passed to the podium," Ms. Sibley said.

She undermined security checks at committee meetings in hotels during the Democratic convention by pinning a laundry tag on her coat, the reporter said, "and no one stopped me. But I didn't try to get into Madison Square Garden that way," she added.

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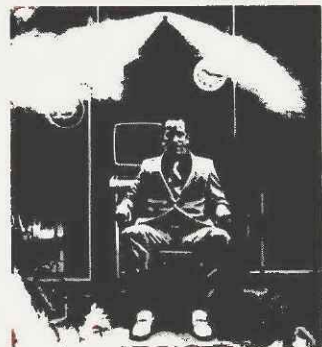
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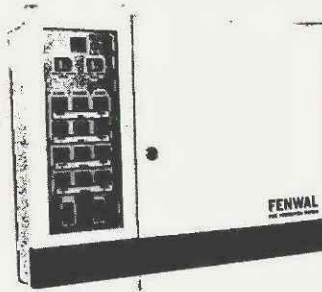
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# Security force runs the show better at rock concerts or sporting events

NEW YORK—Though the decibel level may be harder on their ears, security personnel at Madison Square Garden find rock concerts and sports events easier to manage than a political convention.

"At a sports event or rock concert, we're running the show from a security standpoint," Tony Avalone, vp of operations for the Garden said in an interview. The Democratic National Convention required coordinating thousands of security personnel, from the Secret Service and New York City police to outside security firms hired for the convention.

Not that other events at the Garden don't provide unique security problems. "Each event is treated as a separate security set-up," Mr. Avalone said. "Hockey crowds aren't like circus crowds, so we

gear up accordingly."

Rock concerts often result in physical changes to the Garden's exterior for security purposes. The plate glass doors at the entrance are faced with plywood to protect both the doors and the crowds pushing through them from injury.

Wooden sawhorse type barriers are used to ring the building before a rock concert begins. "We try to prevent non-ticket holders from getting into the lobby," Mr. Avalone said. Pairs of security guards are stationed at the entrances to the Garden. One checks tickets, and the other checks out the ticket holders.

"This is a touchy matter," Mr. Avalone said. "You have to be dis-

creet. You can't shake someone down to check for concealed weapons."

Guards are permitted to conduct purse or bag searches at the entrance to the Garden and also to confiscate any bottles or cans.

Inside the Garden uniformed guards are positioned at fixed posts and there are also roving patrolmen who cover hallways and lavatories.

"We try to break the supervision down so that whatever problem an individual guard may run into, there's a supervisor in his immediate area," the vp explained. "With 150 guards employed by the Garden, if they're all doing their own thing they would be more apt to make a wrong deci-

sion."

Madison Square Garden's security force is supplied by Local 177 Uniformed Security Guards. The union has had a contract with the Garden for 25 years.

The security guards have the power to make an arrest. When an incident resulting in an arrest occurs, New York City police are called and the guard becomes the complainant, representing the Garden, Mr. Avalone said.

Performers sometimes create their own security problems, Mr. Avalone noted.

Performers who linger on after the show are more likely to have trouble getting out of the Garden without incident than those who leave immediately, before the street outside is filled with exiting fans, he said.

Getting into the Garden without notice isn't difficult, the vp said. "We've moved people in trucks, vans, even armoured cars. . . . It's

the performers who insist on arriving in limousines with an entourage that present security problems."

The most unusual security situation he's encountered, Mr. Avalone related, occurred at a religious rally last year, sponsored by followers of the Rev. Sun Myung Moon.

"They had given out 100,000 tickets for the rally and the Garden only seats 20,000. That had us worried. We had to close the building before the rally started and there were still about 2,000 people outside trying to get in."

However, as soon as the Rev. Moon came onstage and started speaking, "it was like a mass exodus," the vp continued. "As many people were trying to get out as were trying to get in."

The security forces' fears of rioting at the doors weren't realized. "The event went down like a piece of cake," according to Mr. Avalone. ■

## Workplace inspections are down

WASHINGTON — Workplace inspections by the Occupational Safety and Health Administration were down slightly in June from the number reported a year ago.

Inspections totaled 5,859 in June, compared with 7,370 in June 1975.

However, OSHA logged more inspections in the first half of this year than it did during the same period in 1975. There were 44,235 inspections this year, compared with 42,658 a year ago.

These figures, which include first-time, repeat and follow-up inspections, show that the greatest decline occurred in the number of initial inspections. There were only 2,945 first-time visits in June 1976, compared with 4,599 for the same month a year ago.

A further breakdown of the inspection figures reveals that more inspections are resulting from employe complaints than in the past. There were 1,096 such inspections last June, a dramatic jump from 591 visits in June a year ago.

At the same time, the number of general inspections declined to 3,439 versus 5,294 last year, while the number of inspections arising from accidents remained nearly the same, 161 in June 1976 compared to 160 in June 1975. ■



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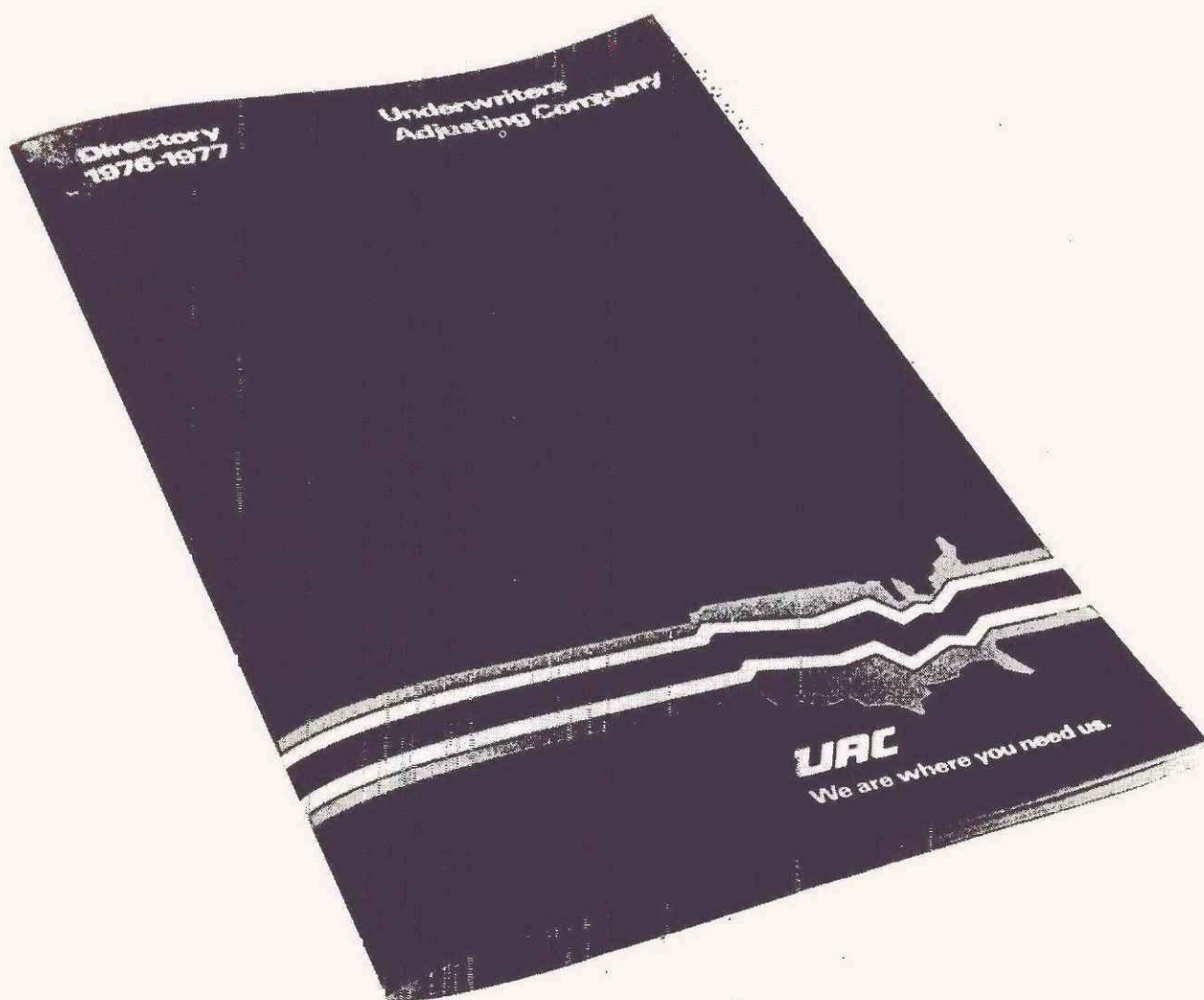
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# agent/broker topics

## Survey reveals 20% gains forecast

# Inflated premiums, especially for casualty, boost business

By ELISABETH M. WECHSLER

CHICAGO—A hefty sampling of agents and brokers in North America reveals that commercial casualty coverage is the fastest growing area of their business, almost double the response for commercial property business.

Group benefits trailed most personal lines as an area of growth, according to the first *Business Insurance* survey exclusively for agents and brokers.

Response to the one-page questionnaire was phenomenal: Over 46%, or 156, completed the form, which was mailed to the 335 agencies and brokerage firms listed in the annual *BI* August 9 directory of agents and brokers.

These agents and brokers are generally optimistic about their 1976 gross revenues. The median, or typical respondent, indicated an expected growth rate of 20% this year over 1975.

Only four respondents stated that they expect their gross revenues to decline in 1976. Five questionnaires did not provide an estimate of expected gains, and two firms predicted their gross revenues would be flat for the year. The most frequently given growth rates were 10%, 15% and 20%; the lowest increase forecasted was 5% and the highest increase was 150%.

Less consensus is apparent on the source of that anticipated growth. New accounts, increased business from existing accounts, inflated premiums and acquisitions/mergers received almost equal weight as the key to this year's prosperity, the survey found.

Inflated premiums showed a slight edge as the current source of growth for agents' and brokers' gross revenues. New accounts and

increased business from existing accounts tied for the second slot. Trailing somewhat behind the other choices were acquisitions and mergers as a means of achieving significant growth in 1976 revenues.

A wide range of firm sizes is provided in the survey sampling. The median size agency reported 1975 gross revenues of \$430,000. The largest category (shared by two brokers) indicated gross revenues of \$10 million in 1975.

About one-fourth of the respondent firms had gross revenues up to \$250,000, the survey showed. The next quartile of sizes ranged from \$251,000 to \$430,000. The third quartile started at \$431,000 and ended at \$750,000 in 1975 gross revenues.

The top 25% responding spanned revenue sizes from \$751,000 to \$10 million.

Twenty companies surveyed did not indicate their 1975 gross revenues. The most frequent revenue level given was \$600,000.

Some 40%, or 133 respondents, stated that commercial casualty coverage was the most promising area of growth for the year.

In contrast, only 23%—or 76 agents and brokers—indicated that commercial property coverage was among the fastest growing areas of their business. (It should be noted that many questionnaires indicated more than one answer for this category.)

Property and casualty business in the personal lines was favored by approximately 10% of the respondents as the area of biggest growth for 1976.

Commercial clients' group benefits rated a surprisingly low 14% preference as a leading contributor to growth among the questionnaires.

At the bottom of the list of fast-growth categories was personal lines' life and health insurance garnering a mere 9% of the survey responses.

Other important areas of growth discovered in the survey findings were: Risk management services, excess and surplus lines, aviation, bonds, deferred compensation for the corporate market and packaged commercial accounts.

Respondents were queried in more depth about their participation in excess and surplus lines markets, however, the questionnaire results were somewhat inconclusive.

Nearly all the agents and brokers (95%) indicated that they use excess and surplus lines markets to place their clients' coverage. Only six respondents, or 4% of the sampling, indicated they do not participate in those areas of coverage. One percent did not answer.

However, the extent to which they participate or plan to in the future is rather low: Almost half (69 respondents) stated that they use excess and surplus lines markets for 5% or less of their total business. Although 85% indicated that they plan to increase their use of these markets, a typical response was: "Probable answer is more but I wish it to be less." Another explained he uses excess and surplus lines markets "only when needed."

One agent or broker commented that his use of excess and surplus lines markets comes "as our first line carriers refuse to make markets available."

Another question that produced a broad range of answers concerned the commissions earned on the following areas of an agent's or broker's business: Commer-

## Profile of typical survey respondent based on questionnaires from 156 agencies and brokerage firms

- Achieved \$430,000 in 1975 gross revenues.
- Predicts an increase of 20% for 1976 revenues.
- Points to commercial casualty coverage as the fastest growing area of its business.
- Derives 64% of its business from commercial accounts generating more than \$10,000 a year in premiums.
- Receives commissions of 15% on its commercial property and casualty business, 5% on group health and 10% on group life.
- Participates in excess and surplus lines markets, but only as needed and then for less than 5% of its business.
- Expects its 1976 growth to be spread evenly among new accounts, increased business from existing accounts, inflated premiums and acquisitions/mergers.

## Average commission rates reported for four categories of commercial business

Commission ranges	Property	Number of companies responding		
		Casualty	Group health	Group life
1-5% .....	1	3	26	16
6-10% .....	7	25	20	19
11-15% .....	64	88	11	7
16-20% .....	68	23	5	5
21-25% .....	0	1	2	1
26-30% .....	0	0	0	2
over 31% .....	0	0	0	7

cial property, commercial casualty, group health or medical, group life and "other."

The median commission indicated for commercial property coverage was 15%, with a whopping 37% of the sampling selecting that figure as their rate earned. Commission rates in this category ranged from a low of 3% to a high of 20%, which incidentally was another frequently given answer. Some 21% of the questionnaire respondents stated that their commission rate on this line of cover-

age was 20%.

Commercial casualty commissions closely paralleled the range of answers given for property coverage. The median again was a commission of 15%. The response ranged from a low of 2.5% to a high of 22% for casualty insurance commissions.

The typical commission for group health or medical coverage was 5%, which may explain this area's slower growth rate among respondents. Over 40% of the questionnaires stated that they receive

*Continued on page 36C*

# Banks still battling for inroads to insurance sales

By PAUL R. MERRION

WASHINGTON—The battle against banks encroaching on the territory of independent agents and brokers is being fought on many fronts.

In the courts, in state and federal legislatures, and in the agencies that regulate financial institutions, strong resistance is being mustered that might reverse the expansion of new bank services.

At the same time, "banks are here to stay," as the representative of one agents' trade association admitted, and the fight may reach a stalemate once the type of insurance services a bank can offer are defined and, perhaps, limited to some extent.

Insurance selling by banks has gone beyond the simple offering of credit life, accident and health insurance when someone takes out a loan.

Under the 1970 amendments to the Bank Holding Company Act, the range of insurance lines that an agency subsidiary of a bank

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holding company can sell has been greatly expanded. And ever since those amendments were passed, agents' trade associations have spent millions of dollars fighting what they believe is unfair competition.

Those opposed to banks and other financial institutions selling insurance fear the "tie-in" power that a bank might have when it is lending money to a potential insurance customer.

Although leaders of the fight against the banks admit there are few instances of abuse on record, they fear the subtle pressures that may be put on a borrower to go

along with buying insurance.

The problem, as independent agents see it, is that anyone buying a house is going to need basically two things: a mortgage and homeowner's insurance.

The same goes for someone taking out a loan to buy an automobile, or to finance a construction project: Making banks a "one-stop financial center" means people won't be making a second stop at an insurance agency, the agents say.

In the last few months, there have been several major developments in the battle, and the future holds promise of continued skirmishes:

- In Louisiana, a circuit court judge in June ruled that three of the Federal Reserve Board's regulations on the selling of insurance were invalid.

- The Federal Reserve Board, in response, has sought a rehearing with respect to one of the disputed regulations, but has suspended processing all applications to sell insurance under all three

regulations.

- The Comptroller of the Currency, which regulates federally chartered banks, proposed a regulation in July that would forbid banks from channeling commission income to bank officers.

That action could have a "backdoor" effect of prohibiting insurance selling by banks in many states that prohibit the banks themselves from receiving commission income. Some bank holding companies bypass the problem by giving commission income to the holding company's shareholders. But many low-paid bank officials in small banks depend on the extra income that selling insurance provides.

Five Texas banks have sued the Comptroller to stop the proposed regulation.

- In California, Governor Jerry Brown signed a strongly supported bill last month that puts a three-year moratorium on the retail selling of property and casualty insurance by banks and bank holding companies.

An attorney for the Independent

Insurance Agents of America (IIAA) said this is the 19th state to take such action.

- In Congress, banking committees in both the Senate and the House of Representatives are being lobbied by agents' trade associations, and there are good prospects that some legislation favorable to agents' views will surface next year.

Sen. William Proxmire (D-Wi.), chairman of the Senate Banking Committee, has a bill called the Bank Competition Act already in the hopper, and hearings were held at the end of last year and the beginning of this year. While the bill is pending in committee, action is virtually impossible before Congress recesses next month, and it will have to be re-introduced next year.

At the House Banking Committee, a staffer noted that testimony on the problem was heard earlier this year by IIAA and the National Assn. of Mutual Insurance Agents (NAMIA), but the issues

*Continued on page 36C*

# Banks inching toward insurance . . .

Continued from page 36A

they raised were not incorporated into any legislation this year.

However, she said, "There will be full oversight hearings on the Bank Holding Company Act in the 95th Congress."

Compared to other troubles facing the insurance industry, such as its general financial condition and acute problems in medical malpractice and product liability insurance, the intrusion of banks, bank holding companies and other financial institutions into the private domain of agents and brokers may seem to some like just a rumble on the horizon.

"It's such a small part of our business we haven't even thought about it," said a marketing executive at CNA Insurance Cos. "There are so many more serious issues, this is a luxury item."

Executives at two other major insurers, St. Paul and Fireman's Fund, said no marketing studies had been done on the future of selling insurance through financial institutions.

"I think we're represented by a number of banks in the Midwest," said one. "But most credit insurance is underwritten by small companies."

The other executive's opinion was that "most companies say it's against the American agency system."

That view, of course, is also shared by the agents' trade associations, to the point that the judge's ruling in the Louisiana case was considered a defeat even though it invalidated three Federal Reserve Board regulations.

Both sides, the Fed and the

IIAA, have called for a rehearing of the complex case, because both plaintiff and defendant feel they've lost important ground.

The court invalidated provisions that allowed the sale by bank holding companies of any kind of insurance for the holding company and its non-bank subsidiaries, insurance sold as a matter of convenience to the purchaser, and general insurance sold in towns with less than 5,000 inhabitants.

Although an IIAA attorney said, "In the larger context, we've won quite a bit," the trade group has requested a rehearing because the court gave its approval to the selling of insurance under four contested circumstances:

- Damage insurance on property used as collateral for a loan.

- Liability insurance when packaged with property damage

insurance on collateral property.

- Insurance that is directly related to the provision of a financial service by a subsidiary of a bank holding company, such as when a mortgage servicing unit sells insurance on the loans it handles for the parent company's bank.

- Property insurance for a bank subsidiary of a bank holding company.

An IIAA lawyer said the court will decide whether to rehear the case within 30 days. The suits began in 1971 with hearings at the Fed, and an administrative law judge ruled in favor of the agents' groups involved: The Alabama Assn. of Insurance Agents, the Georgia Assn. of Independent Insurance Agents and the National Assn. of Insurance Agents, all branches of the IIAA.

However, the Fed overruled the administrative judge's decision, which resulted in the battle at the circuit court.

An IIAA attorney vowed: "We'll go to the Supreme Court if we have to."

However, a spokesman for another agents' trade association said: "I really hope they don't go to the Supreme Court with it. If we get an unfavorable decision I wouldn't want it written in gold. I'd rather have it in brass and work through the legislatures." ■

## Not all banks want to sell insurance; 2 backed out

WASHINGTON—While agents lobby and litigate to turn back the intrusion of financial giants on their sales territory, there are some bankers who have tasted the battle and are willing to call it quits.

"We could perceive what's coming out of Washington," said John Irwin, assistant treasurer of NVNB Corp., "and what we thought would come was more of an unfavorable atmosphere."

So the Charlotte, N. C., bank holding company sold its insurance agency subsidiary last year after owning it for 10 years.

Besides the regulatory atmosphere, there were financial considerations as well. "I'm not sure that what the bank holding company made in the insurance business was good," Mr. Irwin said. "There's more money to be made elsewhere."

He said NCNB Corp. is "in a lot of things, the whole spectrum of finance," and in recent years it became evident that "conditions are not favorable for making a hell of a lot of money" with an insurance agency.

And in nearby Winston-Salem, N. C., the Wachovia Corp. sold all 14 branches of its insurance agency subsidiary to Alexander & Alexander on April 30, 1976.

The agency grew out of insurance departments in the Wachovia Bank and Trust that go back 80 years, according to W. G. Sizemore, senior vp of the bank holding company, the Wachovia Corp.

In 1970, the bank became a national bank and formed a bank holding company. At that time, because national banks were not permitted to sell general insurance, the agency was spun out and made a subsidiary of the holding company, Mr. Sizemore said.

But recent federal rulings that put specific restrictions on the amount of non-credit-related insurance that could be sold made it clear that the subsidiary should be sold.

"We wouldn't be able to comply with the Fed's ruling without major surgery," Mr. Sizemore said. "Rather than modify a good general agency, we decided to sell it."

Originally, the Fed had said insurance sold as a convenience to customers of the bank could not constitute a "significant" portion of the aggregate premium income. Later, "significant" was defined as more than 5%, according to Mr. Sizemore. He said a "high percentage" of the subsidiary's premium income was not credit-related and therefore defined as "convenience" insurance. ■

### Agreement to merge

Two actuarial consulting firms—Tillinghast & Co. Inc., Atlanta, and Nelson & Warren Inc., St. Louis have agreed in principle to merge Jan. 1, 1977. The new firm, Tillinghast, Nelson & Warren Inc., will provide consulting services in life property/casualty and employee benefits.

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## Agent/broker survey...

Continued from page 36A

a commission of 5% for group health policies; answers ranged from a 1% commission up to 25%.

Perhaps one of the survey's most surprising results is found among the range of commissions for group life coverage: A low of 1.5% up to a high of 75% were shown as the commission rates earned. The median commission for group life was 10%.

Other commission rates indicated were: Surplus lines, 10% to 20%; highly protected risks, 10%; personal lines, 12%; bonding, 30%; surety, 26%; and aviation, 10% to 11%.

Several respondents added comments such as "no meaningful figure; varies 3% to 5%" to their answers about commission rates. One questionnaire stated: "Do not keep this data." This response became more curious when compared to the agent's or broker's 1975 gross revenues: It turned out to be one of the largest firms in the sampling, with gross revenues of \$8,870,000 in 1975.

In spite of the broad representation of agency and brokerage firm sizes, the survey indicates that respondents derive a majority of their business from larger commercial accounts.

The median respondent receives 34% of its business from clients generating over \$10,000 a year in commercial premiums. Moreover, the typical agency respondent derives 21% of its gross revenues from accounts bringing in over \$50,000 a year in premiums. By contrast, the survey found that only 7% of the median respondent's commercial business came from accounts providing \$500 a year or less in premiums.

The most frequently mentioned percentages of commercial business in the largest size category, annual premiums of more than \$50,000, were 10%, 5% and "zero," respectively. Still, a healthy sprinkling of questionnaires indicated that the amount of their business from this size client was 20%, 25%, 50%, 15% and 40%, respectively.

In the second largest size range, \$20,001 to \$50,000 a year in commercial premiums, the most common answers were 10%, 20%, 15%, 5% and 25%. Several respondents checked zero percent. The median percentage of business in this size category was 15% of the agency's gross revenues.

The distribution of percentages of commercial business was almost identical for the two middle size categories, ranging from \$5,001 to \$20,000 a year in premiums. Most survey respondents indicated that the percentage of their business from these size clients ranged between 5% and 25%.

One of the broadest size categories representing a percentage of an agent's or broker's business was the range of annual premiums between \$501 and \$5,000 a year. Several respondents indicated relatively high percentages of their business came from this size range; some 25% stated that this size

category was responsible for more than 30% of their business.

At the other end of the scale, 25% of the sampling indicated that this size range (\$501 to \$5,000) contributed zero to 5% of their commercial business a year.

For the range of \$500-a-year or less in commercial premiums, a significant number of agents and brokers revealed that they have virtually no business in this category. Nearly 30% of the questionnaires said that they derive no business from this category.

No correlation could be found between the respondent agency's 1975 gross revenues and the size of its commercial clients. Roughly as many large agencies, for example, derived the biggest chunk of their business from small commercial accounts as they did from the larger size clients. ■

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Volunteer Firemen's Insurance Services Inc., York, Pa. and Robert S. Maxam Agency Inc., Stirling, N. J. have combined forces to service clients in Pennsylvania, New Jersey, Delaware and parts of Maryland. Both agencies specialize in coverage for fire companies, fire police, ambulance corps, rescue squads and related organizations. The Maxam Agency will retain control of sales and service within its own area. Volunteer Firemen's will transfer its commitments to Maxam.

# Brokers in West are divided over what's gained from group clients

By JOANNE GAMLIN

LOS ANGELES—Brokers and insurance companies are deeply divided over the question of whether association insurance business can be profitable enough to be aggressively pursued.

For the positive side, count Bayly, Martin & Fay and Penn General Agencies, both of Los Angeles, and Fred. S. James of Chicago, also the Fireman's Fund Insurance Cos. and CNA.

For the negative side, chalk up Emmett & Chandler, Los Angeles and Albert M. Bender Co., San Francisco. Also add Safeco Insurance Cos., Seattle.

"We have had some association accounts for as long as 20 years,"

asserts Samuel Alcorn, national vp, Bayly, Martin & Fay, dissenting from a fiercely-held view from the negative side that association business is simply too jumpy and unstable to be profitable on a long-term, consistent basis.

Mr. Alcorn told *Business Insurance* that any broker who harbors an ambition to succeed in the association business should begin with some carefully-conceived guidelines.

"First of all, a broker has to understand the philosophy and needs of an association," he advocated. "Equally important, the firm must be selective."

Noting that association business is not that much different from

major commercial clients in that some accounts court price while others search for service, Mr. Alcorn pointed out that BMF prefers associations with strong executive directors, chiefly because these people are most apt to command the respect of an ever-rotating board of directors.

"We strive to be very honest in our dealings with associations," he elaborated, noting that BMF is currently pitching a sizeable association.

Yet if a trade group approaches BMF and is sized up as "unsound," he said his firm will walk away. Eight years ago, he recalled, gas station operators suffering from an extraordinarily high rate of turnover, fell under that label.

Still if this kind of business can be handled entirely by mail, it may be profitable, he said, adding: "There has to be enough income per unit to pay for the services demanded."

Guidelines laid down by BMF dictate that the firm attempt to insure no more than 40% to 45% of any association. Biting off a larger piece of business, he maintained, results in the sort of indigestion that comes with trying to absorb association members that are either too large to be in a group program or too ineptly managed to be desirable risks.

Mr. Alcorn noted that he normally estimates "bad apples" at about 10% of the membership of a typical association and "jumbos" at approximately 15%.

BMF's guidelines also emphasize a trade group's willingness to establish strong safety standards. The firm offers to work with any group to set up reasonable safety

regulations; any group members who then defy these standards are told to seek insurance elsewhere.

Meticulously followed, will this formula yield healthy profits? Yes, Mr. Alcorn insists, but not in the first or second year the broker has the account. By the third year, however, he said a good profit should be a reality.

He said that about 5% of Bayly, Martin & Fay's national volume is derived from association business.

Penn General Agencies, too, likes the commission dollars generated by trade groups. Bill Nietschmann, vp-sales/marketing, pointed out that Penn General, in particular, likes local and regional associations.

"You have better control with these groups," he said, "and control in handling this kind of business is mandatory."

In general, he said that Penn General will pursue trade groups when two conditions prevail: The prospective association is receptive to Penn General's loss control and claims management services and the association members acknowledge they can obtain insurance in the group plan that equals or exceeds that which they can get as individual entities.

Mr. Nietschmann added that the relationship between the association and its members must be solid for the account to attract Penn General's interest.

"If the relationship is good, the account will boast stability," he argued.

Fred. S. James has actively sought association business for several years, winning several national trade groups as clients. In California, the firm counts the Western Home Furnings Assn. in its fold, for instance.

Fireman's Fund and CNA are among the handful of insurance companies presently going after association business enthusiastically. A spokesman for CNA said the company at present favors local and state groups, although that appraisal could change in six months.

For the nay-sayers, perhaps the most persuasive argument was articulated by Bruce Maines, executive vp and chief operating officer, Safeco.

He related the tale of Safeco's disillusioning three-year plunge into trade group underwriting, an effort which was launched with high hopes and ended with an admission of failure. Entering the market four years ago, he said Safeco created a sizeable department specializing in association business and run from the company's Seattle headquarters.

"We wanted to cut out for ourselves a specialized market," he recounted, "and to underwrite it and safety engineer it."

"In return, we based our assumptions on the belief that they—the association members—would become more conscientious in loss control efforts."

However, such a posture toward losses never materialized, Mr. Maines said, observing: "This is the single ingredient we never succeeded in cultivating."

He went on to point out that during Safeco's experiment with underwriting trade associations, loss experience was an unrelenting problem.

Moreover, additional benefits to the insureds, such as dividends, were never enough to entice the interest of top quality risks, he said. Consequently, most of the association members who did sign up for group insurance programs were undesirable in one way or another.

"In the end, we found we could not make a successful penetration into this market," he bluntly asserted. Mr. Maines noted that be-

Continued on page 36E

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# More suits seen for mng. general agents

PORTLAND, OR.—More and more managing general agents are being named in lawsuits by policyholders against companies and agents, a trade leader told a group here.

"This reflects the general 'sue everyone in sight' tendency which is continuing to force insurers to raise E&O premiums," Donald S. Dreher, president of the American Assn. of Managing General Agents (AAMGA) told the organization's western regional meeting in late August.

Mr. Dreher, a CPCU from Billings, Montana, said insurers were raising errors and omissions insurance premiums as a response to the threat of managing general agents being involved in costly lawsuits.

Led by Mr. Dreher and convention chairman Vern Gilbert of Beaverton, Oregon, 60 managing general agents representing 11 states discussed their common experiences in obtaining errors and omissions coverage.

Other topics covered included

## Association...

Continued from page 36D

fore completely bailing out, Safeco took one more hard look at the insurance industry and concluded that "no pattern of success" existed anywhere.

That pessimism is shared by two brokerage firms, Albert M. Bender Co. and Emmett & Chandler.

"It is an extremely difficult business," declared Bernard Mizel who heads Albert M. Bender Co.

"If you don't have a one-on-one relationship that enables you to act as counselor, you'll never develop the kind of rapport that will permit you to remain on the books."

Acknowledging that his firm has several associations on its books, Mr. Mizel maintained that these accounts have presented intractable problems, stemming mainly from a lack of understanding of insurance by trade group members.

"Even good associations will beat your brains out," he contended.

Nevertheless, Mr. Mizel conceded that association business can be profitable if it is written via the mails or if it is made up of special programs that are written on a certificated basis.

For Emmett & Chandler, it is the basic nature of association business that is the stumbling block. A spokesman cited the group's rotating boards of governors, "each with a new host of insurance 'friends,'" as proof of the business's inherent instability.

Furthermore, he noted that in his experience insurance carriers are currently turning their backs on writing association business due to fear of unsettling their surplus-to-premium ratios.

## Hansen joins Miller

LOS ANGELES—Herbert C. Hansen, a firm which has been in the business of analyzing and evaluating insurance brokerage firms, has been merged into Russell R. Miller & Co., and has become the Southern California arm of the latter firm.

Richard Fischer who was president and owner of the Hansen firm, has been named to be in charge of the new Herbert C. Hansen division of the Miller organization.

In addition to San Francisco and Los Angeles, Russell R. Miller & Co. has offices in Chicago and London.

the need for protective wording in company-agent contracts, premium volume reduction by companies, and countersignature hold-harmless agreements.

In informal talks, participants at the meeting compared their agency production figures and individual increases in management costs by category. Most revealed premium increases for the first six months of 1976 that were between 30% and 100%.

The managing general agents said they are still finding markets to take care of the business sent to them by independent agents despite the heavier burden on surpluses and the further strain on a thin market that the increased premiums are causing.

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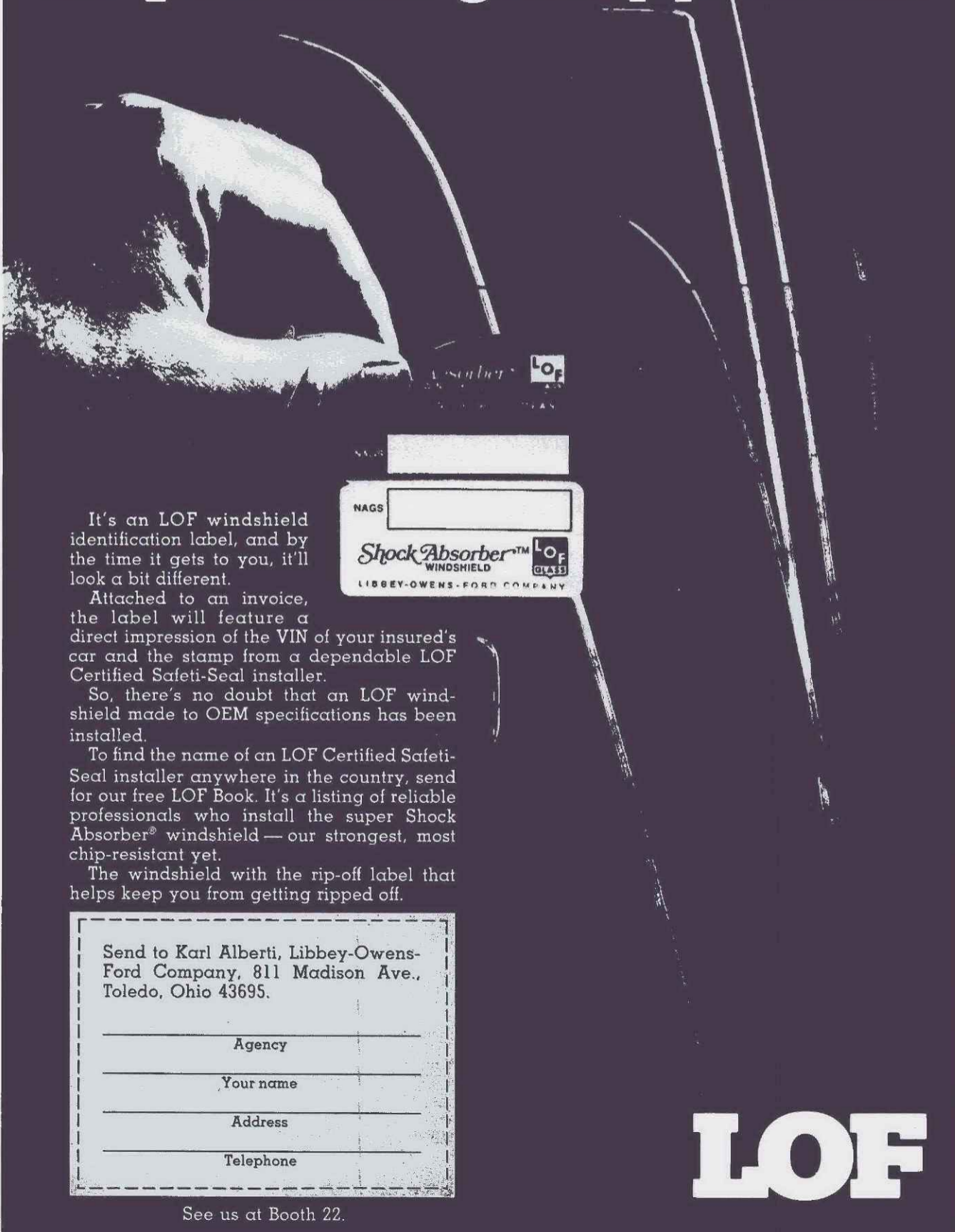
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# Increased work load is resented in wake of slashed commissions

By HARRIET KING

SEATTLE—Brokers and agents seem resigned to commission cuts, although managers of some small firms say they've complained bitterly. A few managers grumble that "The cuts are bad enough. But carriers are also demanding that we double or triple our work load."

"Whatever commission reductions we've received have been justified and we can live with them," says an agent with the large brokerage firm of LaBow Haynes Co., which has 95% of its volume in commercial business. "Maybe 50% of our business is large lines and we negotiate them anyway.

"But the unwillingness of underwriters to grant large or package credits has increased our premium volume so much that it means our income is increasing.

"We estimated at the beginning of the year that inflation in volume and rates would increase our premium volume 18%. I think that in retrospect, a more accurate guestimate is 35%," says the broker.

"On large liability, we're seeing premium increases of 25% to 100%. So we might voluntarily take a lower commission rate if we see an insured's premium go from \$35,000 to \$60,000. A 20% commission on \$35,000 is \$7,000 but a reduction to 15% on an in-

flated \$60,000 premium is still more—\$9,000," he says.

"But our work load has doubled or tripled, so there's less general office efficiency today. Because of the market conditions, everybody is asking for quotations and insurance companies, therefore, we can't get renewals out on time. If a company has 1,000 accounts, it ordinarily renegotiates and renews 800 without quoting the premium in advance.

"Today, on 800, we have to refigure the premium and quote it beforehand. Plus, there are another 800 persons asking for figures in a shopping-around situation because they fear they may not get renewed.

The LaBow Haynes broker adds:

"We've hired more people to handle the work and we've all had to work harder and longer for new accounts. To counteract, we've rated out policies—and we didn't do that before," he says.

"We've been through one set of rate increases and another is just about finished. So we'll continue to have this remarketed condition. There won't be any change in our competitive situation for a year—maybe in May we'll see some change. Maybe companies will become more competitive after they see their annual reports, after they've looked over first quarter results for 1977. There won't be a turnaround until there's some evidence that the rates are redundant, until companies realize they're getting good underwriting profits on current rates."

Stew King with Aircraft Insurance Specialists, says: "The trend seems to be a reduction of commissions—especially on borderline

risks. Some commissions have been reduced by one-third. Four years ago, when I wrote coverage for a low time pilot on a sophisticated airplane, I was making \$150. Today I'm making \$100.

"We're bitching like crazy at the moment. But the market is tight right now and there's absolutely nothing we can do about it. If it continues this way, our approach will have to change: We'll decide that the borderline business can go somewhere else. Or the method of charging will change—maybe we'll have to go to a broker fee system. It costs 10% of your gross to stay in business—and that's if you run a real clean shop. We can't continue to have commissions pared." Mr. King says a few years ago, there were 28 companies writing aviation insurance, and today there are only 12 in the market.

Bruce Hunter with Hunter Leroy Inc., says, "There's a definite, unhealthy trend afoot to pare commissions. But we're getting some compensation back through profit-sharing.

"When companies notify you on a rate change, they send a new commission schedule annually—or anytime they like for that matter. We haven't dropped any types of coverage because of commission cutting—and being a broker, you can always charge a fee, as some are."

There are not many internal efficiencies an agent or broker can take to offset pared commissions except for some small things to speed up processing time, like accurately making out applications the first time, brokers note. "That way, they won't send it back and ask questions that should have been answered initially," says Mr. Hunter.

"But you can't make real efficiencies without spending a lot of money to do it. A computer that would do an adequate claims-handling job would cost \$1,500 a month," he adds.

"Plus, the companies today want more underwriting information, so we have to take time to get back to the customer. We consequently have to hire more people or forego going after new accounts. It's like a bad cold that won't go away," he says.

"I heard one broker say his commissions are cut in half and he's doing three times the amount of work. He's doing more rewriting and underwriting and everything else," says Mr. Hunter.

Don Davis, office manager of Dawson & Co. says: "At least premium rates are going up, a partial offset to commission cuts. But our people are on salary so cuts affect the company, not them.

"I've tried to talk to the local management of insurance companies about the cuts—but they hide behind their home office. I think a few managers do have some discretionary leeway."

When companies want to cut a commission "they make an appointment and come over. Only occasionally have I felt that there was negotiating room," says Mr. Davis.

To offset this, "We have to operate more efficiently. We've centralized billing and do less manual clerical work. We're getting more on computers, although we haven't bought new computers directly because of this," says Mr. Davis.

Another broker notes: "As in most business, we're seeing our gross profit reduced constantly. Most recently, it was adjustments on package policies for big firms. You can never keep commissions where you want them.

"I know that there's been a lot of flack about this, but there's not much we can do about it. We have to have the money to operate, that's the name of the game." ■



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# Commission cuts a hot topic for agents/brokers

By MARGARET LeROUX

NEW YORK—The commission issue is one that divides not only underwriters and agents, there's also some disagreement among agents and brokers over the trend toward reducing their share of commercial insurance premiums. Some agents and brokers welcome the trend; others deplore it.

"There's a lot of concern about commissions among agents," John Prios, president of the Independent Insurance Agents Assn. of New York Inc. said. "The trend in recent years has been downward even though premiums are up."

The association considers the problems serious enough to warrant appointment of a special committee to study the commission issue "to determine the adequacy or inadequacy of them," Mr. Prios said. The committee had its first meeting earlier this month.

Although commercial agents say they haven't felt the cuts as sharply as their counterparts in the life insurance business, several agents reported commission cuts from 10%-20% on workers' compensation and liability programs.

Group plans and franchises are prime areas for commission cuts, "because here the bulk of the savings to the insured is commission to the agent," Robert DiMateo CPCU, vp at E. T. Claus & Co. Inc., Buffalo, N.Y. said.

"Commission levels are approaching their minimum," Fred Jarvis, president, U.S. Fire, a Crum & Forster subsidiary said. "The trend toward reducing commissions has been going on for years and is now slowing down," Mr. Jarvis said.

"Any reductions now are spotty—certain products in certain areas," Mr. Jarvis continued, "the major thrust is over."

Other large commercial underwriters denied any cutting of commissions on a large scale.

A spokesman for Hartford said the company "looks at each agent's record . . . any cuts are on an individual basis."

External pressures rather than the insurance company are causing some commission cuts, Peter Standbridge, vp, Kemper Insurance Cos. said.

"Individual state insurance departments as well as the National Assn. of Insurance Commissioners are looking at commissions."

"Not all underwriters want to cut commissions," Mr. Standbridge continued, "We feel we get our money's worth for every commission dollar paid."

Some agents favor commission cuts in certain instances.

"I don't object to commission cuts with the premium rates the way they are today," Howard Miller, vp, Brokerage Resources, stated.

For example, take a basic \$10,000 liability premium with an agent's commission of 15%, Mr. Miller explained. "On renewal it's not unusual for that premium to be increased to \$25,000. Is it fair that the agent's 15% share should automatically be increased to \$3,750 just because the premium is increased?"

**E. T. Claus'** Mr. DiMateo noted that "as an agency we'd rather the insurance companies doubled the premium and take a commission cut instead of the tripling or quadrupling of premiums we've seen lately."

He pointed to product liability where premiums in some cases have jumped from \$1,000 to \$10,000 or more. "That's something I can't sell, so what difference does the commission make?"

"A good agent has to be paid what he's worth," John Nordstrom, president, Nordstrom Larpenteur Agency Inc., Minneapolis, said. The agent's profitability is his strongest point in fighting commission cuts, he explained.

"If his bottom line is good, he's debating on strong ground," Mr. Nordstrom stated.

Brokers noted some instances where they're willing to negotiate commissions.

"In some cases where premiums are in excess of \$50,000 and there has been an increase of 20%-30% on renewal, we may negotiate the commission with the underwriter to reduce the cost to the insured," Mr. DiMateo said.

Most underwriters and brokers see a trend toward elimination of commissions in the future, with

agents operating on a fee for service basis.

"We feel it makes more sense," Mr. DiMateo said, "If we're satisfied we can service an account for \$2,000, we're not comfortable with doubling that amount just because premiums have increased."

At Brokerage Resources Mr. Miller agreed. "Doesn't it make more sense to determine how much money you should earn based on your numbers rather than rely on the insurance companies figures?"

"A broker should not rely purely on commissions," he added, "it's much too arbitrary."

Supporting the fee for service concept, Frederick J. England Jr., CPCU, executive vp, Hastings-Tapley Insurance Agency Inc., Cambridge, Ma. said, "We should acknowledge the situation that it's the customer we're working for."

Agents and brokers should determine beforehand how much it's going to cost to service an account, Mr. England said, "and go to the customer as a lawyer or accountant would. Then you have the freedom of buying insurance at net prices" without the constrictions of commission negotiation.

Going to a fee basis "is not appropriate for the smaller producer," Mr. Jarvis noted. "It breeds vicious competition among agents who feel free to take the price out of their own hide and sell services for amounts below what they can afford."

A fee for service basis could cost the smaller policyholder more money, Mr. Standbridge said, "Now such a policyholder gets the advantages of services provided large insureds by paying a per-

centage of his premium in commission." On a fee for service basis, small policyholders would lose out.

Mr. Nordstrom pointed to legal barriers to a fee for service system. "Some states prohibit fees; others have regulations regarding fees."

Mr. England proposed a solution for brokers servicing small accounts: a binding contract between them and the underwriters.

"Both sides should know from the front end what they'll do," he explained, "as the situation is now the agent is vulnerable. When the market is good, he bargains his commission up; when the market is bad, the insurance companies force commissions down."

A binding contract, Mr. England suggested, "would level things off." Agents could take into account inflation's effect on their operating costs he said.

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# Pacific Northwest loner, healthy and happy, reinforces regional foothold

By HARRIET KING

SEATTLE—In the mid-1960s, the owners of a successful regional brokerage stubbornly decided to buck the trend—they wouldn't be swallowed by a large national broker which was eager to get a Northwest foothold.

They sold instead to the next generation. Today, in spite of the inroads made by the national firms, Parker, Smith & Feek's gross premium income has jumped 400% to nearly \$10 million. It's now the Northwest's largest "independent" or privately-owned brokerage.

And Keith Douglas, president, feels a strong regional broker can offer advantages a national can-

not, especially as the broker becomes more important in today's changing insurance and social climate.

"We're small enough that we can gather the principals of our firm and make a major decision within 24 hours if need be," says Mr. Douglas, as he notes he has no far away home office to confer with, or subsequent red tape.

"We have good face to face communication daily and rap sessions two or three nights a week after work," he adds. The firm has five equity partners although Mr. Douglas says there's room for a sixth, seventh or more.

Mr. Douglas joined the firm in 1967 as vp, fresh from LaBow

Haynes, a large regional broker now owned by Kemper. "We had a chance to merge with one of the big eight. But the president (the late Charles Parker) wanted to perpetuate his firm rather than sell out. It was a healthy organization with a fine book; its profile was the top, quality accounts and 95% of them were right in the Seattle marketplace," says Mr. Douglas. The firm was established in 1937. "The original partners specifically wanted to develop younger people to carry through with new programs.

"Mr. Parker gave me the opportunity—almost complete latitude—without a written contract, to reconstitute the firm. So I proselytized a handful of the best people I knew



Vic Parker

or could find from various parts of the country," says Mr. Douglas. "If it didn't work, that would be it, we had tried."



Keith Douglas

Mr. Parker's son, Vic, now one of the five partners and a vp, recalls, "Dad stated that a strong group of bright, highly motivated people working together could do it, his rationale for choosing Keith.

"The success today reflects on the people Keith has brought together. The output is the product of a highly motivated group of self starters from different areas of the country. They related as a team—Keith doesn't permit an individual to take credit for production of accounts. We don't break out commission income, for instance, because four to six people may be wandering out or in just one company's front door on a given day," says Mr. Parker.

Since the late 1960s, Seattle has undergone a building boom and as companies grew larger and their dealings more complex, "some of our accounts have grown like Topsy," says the young Mr. Parker.

The company also grew because "of aggressive marketing. And once you get to this point, you can never relax," says Mr. Parker. "You can't stand still," adds Mr. Douglas. "Many of us would like to slow down a little as we get older, but you can't. We've got to remain competitive, to give the best service around."

Sixty percent of his business relates to construction and suppliers, through surety, property, builders risks, umbrella policies, etc. Nor is there a slack in construction properties. Trident, a nuclear submarine base, is being built in Puget Sound, plus activities continue on the North Slope and elsewhere in Alaska. There are schools, hotels and bank buildings.

"In one way or another, we've been involved with the major buildings of the last decade—the Seattle Center, the Monorail, Coliseum, Seattle First National Bank Building, Bank of California, Financial Center, Norton Building, etc. "Construction business was always part of the old partners' business—but it has become more sophisticated in the last decade," says Mr. Douglas.

In addition to construction, the firm is "heavily" into manufacturing particularly electronics, retail accounts, product liability, property management, and transportation, with the exception of ocean marine. "We'd like to handle ocean marine and have some expertise, but since the retirement of Alaska Steamship Lines, we haven't been active in the field," he said.

Personal lines account for less than 5% of his business. "That's the way we want it, more from lack of time than anything else. It takes as much time to pursue as large commercial accounts. But we don't discourage it—we handle it for our clients—because we follow the total account concept:

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of trouble if we can. We want to deal with successful businessmen. There's no reason we can't respond to his entire insurance needs, rather than tell him to go here and there for various pieces of coverage."

Business at Parker, Smith & Feek has grown for many reasons—inflation, higher rates, etc. "Plus two decades ago, no one thought of going to London for items such as broad form property damage, all risk or umbrella policies," says Mr. Douglas. "It was also illegal then to write some coverages (except for government projects), such as instrumentality of transportation coverages which include bridges, tunnels, etc. The penetration of all risk builders insurance is in much greater depth today—and instead of being illegal, it is required in many cases."

Mr. Douglas stresses that the firm has succeeded because of its emphasis on service. One such aspect is the monthly reports that the firm circulates among clients, an information service. "It's an education and communication tool rather than promotion of the firm. We report on things that we're faced with that clients should know, such as pension plans, changes, the need for contractors to have adequate surety bonding, conditions in the surety market, HMO laws and their impact on employee benefits, estate planning tips.

"We want to help our clients do things they should be doing anyway," says Mr. Douglas. "It relates back to our management philosophy of don't tell clients what they want to hear, but tell them what we think they ought to know. Clients expect us to inform them; they rely on us to pass on the word on recent issues.

"We develop the reports in house—this is rather unique for a firm our size," he adds. "Most brokers who send out mailings subscribe to a service out of New York. Our reports come out about every three weeks, as topics come up.

"The objective of the reports is not to sell a hot policy—the reports do not relate to a particular product; it's a broad service. But it has gotten us some tangible results from unusual places. It may spark an idea. Someone will call and say 'what do you mean by this?' They may call on a particular topic but may not realize another aspect of the subject, like pension reform. Before you realize it, you're looking at other aspects of that person's account."

Another service aspect added this summer has been to develop risk management/loss control capability for the firm's potential self insured clients. For this position, Parker, Smith & Feek hired Robert E. Spencer, corporate risk manager at Golden Cycle Corp., a large conglomerate based in Seattle. He also has been active in the Risk Management Society of Seattle and on the Advisory Panel for *Business Insurance* magazine. "He has familiarity with excess markets and with the market place," says Mr. Douglas.

"Our job is to help clients analyze alternatives. Because of the conditions of the insurance market—a shortage of products and the growth of some of our accounts—we have to look in other areas. We want to perform a real loss control function using computers, funding, cash flow studies, loss prevention engineering.

"We're already in square one," says Mr. Douglas. "The account is spending a bundle and he's ready to accept alternatives. Bob is an alternative specialist. He evaluates the client's needs and resources to determine whether the risk management capability is reasonable."

Adds Vic Parker: "The yard-

stick on whether it's needed or not varies from account to account: a retail chain would have a different need than a contractor who is subject to shock loss and wild gyrations of his economic curve. So there are no hard and fast guidelines on where Bob should be involved. I've seen cases where it looked like a solid case for self insurance but upon examination it was actually a good buy for a fully insured program."

Currently, one of the types of examinations Mr. Spencer is performing is for a client who has a self-insured workers' compensation program; he's examining whether the client should add casualty and crime.

Although Mr. Douglas says that he himself may be the initial contact when someone calls and inquires about risk management, "Mr. Spencer is the vanguard. He is designing the program and making the determination of whether

that person should even explore self insurance. Mr. Spencer then depends on in house capability to determine excess coverages, how much to buy, retention levels and where to go for backup computer services and loss handling—the data processing. He'll then make a presentation in black and white.

"In effect, he soon becomes a major focal point of new business, he becomes a producer, he's a viable part of the organization. He is no longer just in his area of risk management," says Mr. Douglas. Adds Mr. Parker: "The vastness of the job may be a problem as well as an attraction. We do need control and not just a shotgun approach.

Other changes have come, too, at Parker, Smith & Feek, as the need for brokerage service change.

"In the last 12 months, we've added a life department. We used to handle this in our own production. We've also restructured our employee benefits department—

mainly to better handle ERISA. Before, we had a man on Taft Hartley trusts full time—he now works for us on a consultant basis. Now, we have a full time employee on negotiated trusts with fire and casualty accounts. One reason is that Taft Hartly didn't have the fire and casualty exposure.

"And in the near future," continues Mr. Douglas, "we'd like to expand on surety. This would involve adding a new person. We've added one so far and will add another person by spring."

Clearly, he says, the role of the broker is increasing, not decreasing. "I hear a lot of company executives talking and periodicals writing that in the future the broker will be in real trouble. But I wonder if they're relating to firms like ourselves or to some guy sitting in a small office and writing home mortgages?

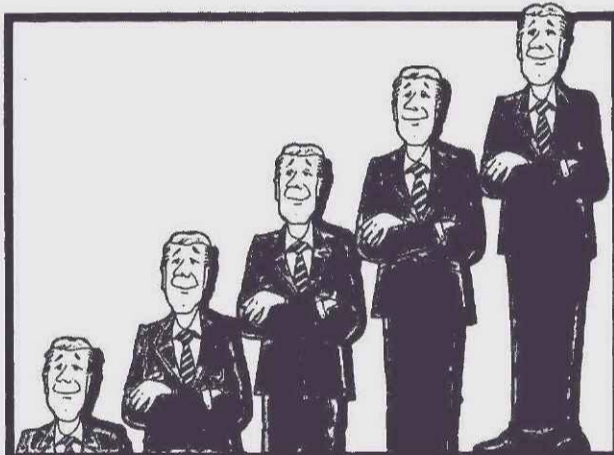
"A classic example occurred in the last couple of days," says Mr.

Douglas. "A tooling manufacturer, established in 1919 with products distributed in the U.S. and abroad, wanted to build a sophisticated new plant in the Seattle area. He called and said 'what is the situation on our product liability?' I said there is no problem although you had a rate increase.

"He said he was asking because his mortgage banker is asking, the guy who writes his long term loan. The mortgage banker was asking because a bank examiner asked about the man's product liability insurance. He wanted evidence that the tool company was carrying it before they granted a long term loan.

"With instances like this, it doesn't show that our services are becoming less important. School districts, too, are becoming more sophisticated in insurance requirements; they're becoming more demanding and may even specify the form. Lending institutions are becoming the same way."

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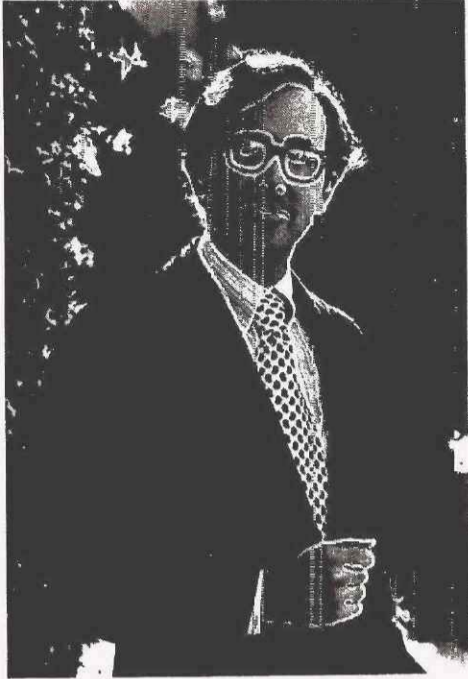


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# THE SELLING OF A BROKERAGE: 1976

## As Russell Miller sees it . . .



By RUSSELL R. MILLER  
Russell R. Miller & Co. Inc.

IN THE LAST TWELVE MONTHS my firm was approached by two substantial insurance brokerages both of whom had over \$1 million in annual commission income. The owners of the firms contacted us to see if we could structure the sales of their companies. At first glance both seemed like desirable transactions. However when some digging was done into the financial structure of the companies quite a different picture emerged.

In one case the broker turned out to be in such serious financial shape that even before a minimal report could be completed the company folded and the Department of Insurance brought an action against the principal owner.

In the other case almost all the business was derived from sub-brokers. The firm was offered for sale at a price, say \$1 million, and by the time several months had passed the owners were begging for someone to take them over and they would pay them to do it. Shortly thereafter the firm collapsed, and a major insurance company was left holding the bag for at least several hundred thousand dollars in return premiums.

The point of the two stories is that many agents and brokers have measured the value of their agency based on the commission income. They have assumed that their value was directly in proportion to commission income and that market value was the oft repeated 1 or 1½ times commissions. As the examples show, commission income of itself is merely a measure of the size of a firm and says nothing about profitability. It is a shock to many to find out that the largest publicly held companies are no longer as interested as they once were in the acquisition of smaller firms unless there is a specific reason.

Some of the best national firms have properly stressed that the days of willy nilly acquisitions are over. The things that happened from 1969 through 1972, when there were high multiples for publicly held shares and the public companies needed vast geographic dispersion to put together truly national firms, is no longer true. The public houses now look toward acquisitions on a very business like and sound basis and are interested only if the seller offers some top quality personnel, specialty expertise, geographic dominance or excellence that is not already present in the acquiring firm, or a record of performance that surpasses that of the possible buyer. In sum, then, buyers are extremely careful and reasonable about their approach to acquisitions.

The chief executive officer of one of the top U. S. brokerages recently asked when discussing a possible substantial acquisition, "Why do I need more commission income?" What he meant was, if he could compete in the marketplace with his existing staff, why should he buy someone when there was a good chance he could get the business without buying. This same philosophy was highlighted recently when one of the nation's most substantial regional houses was put on the block for sale and no U. S. company even made a bid on it.

What should a good agent do then to make himself a desirable seller for either a private or public buyer? The main criteria is to show a history of performance. This is normally illustrated by a pre-tax income pattern that should range on an adjusted basis to be about 20% of all income. In other words, if the firm's revenues are \$500,000 the seller ought to be attaining on a regular basis at least \$100,000 before taxes and before extraordinary bonuses and other adjustments which private houses make to lower their actual pre-tax income

to an almost negligible taxable sum.

The prospective seller ought to be able to show a history of compound growth that averages in the 15% range per annum. This would roughly measure favorably with the public houses.

They should also show a commission per employe range which indicates a constant upgrading of the clientele and hence a higher commission number for each employe as the firm is more productive.

This latter statistic is often used in evaluations. A study that will be released late this month by the Western Assn. of Insurance Brokers, covering over 50 western brokers, shows that private, metropolitan, agents and brokers, on the average have a lower productivity per employe than the national houses. In the Western Assn. of Insurance Brokers' study the figure settles in the range of \$27,500 per employe. The recent *Business Insurance* study of average commissions of the six largest U. S. brokers ranged from \$31,823 per employe to \$39,015. In a published study done by Russell R. Miller & Co. Inc. of the 10 largest privately held California brokers the average figure was \$28,590 with the high being \$38,750.

What the statistics mean to a potential buyer is that if they are going to acquire an additional firm they want the acquisition to make them stronger.

Another measure that is looked at is the average commission of the selling firm, not so much as an absolute number, because of itself it is not particularly meaningful, but a pattern is important. The same Western Assn. of Insurance Brokers' study shows that the average commission rate for the 50 metropolitan and suburban brokers and agents has dropped in the last year from between 4% to 7% across the board. That doesn't seem too meaningful as an abstract range, but in concrete terms it is very meaningful.

Assume that we use the same example as earlier of an agency with \$500,000 in revenues. If they had a 5% cut in commissions off the top that would amount to a \$25,000 cut. Further assume that the 5% cut is carried down to the bottom line so that our same agency who had a pre-tax profit of \$100,000 now only has a pre-tax profit of \$75,000. Now the 5% cut on the top line becomes a 25% catastrophe on the bottom line.

The examples illustrate that the most meaningful thing a probable seller can do is prepare well in advance for the sale. A firm recently came to our company to examine the proposal of a publicly held broker that was making them an offer. The seller had a plan it had been following for

the last five years of growth and profitability. When it came time to sell they were able to put together a very strong transaction, both from their side, but in addition offering a very strong company to the buyer. They received a healthy sales price.

The watchword then should be, prepare ahead of time for a possible sale by putting your firm into the leanest and most profitable condition over a period of time. Be able to demonstrate some special expertise, quality of management and personnel, and effectiveness with your clientele. Of course today especially, a demonstrated ability to market the product on a satisfactory and long term manner is extremely important if not absolutely essential.

Many clients have found that by having a profile prepared comparing the firm to the public and private marketplace is very helpful. Many times our company has prepared agents by marshalling the criteria and how they stack up to them so a packet can be presented to possible sellers. This seems to enhance values substantially.

A number of firms have recently turned to us for an annual evaluation, not only to find out what the realistic market price of their privately held firm is, but also to keep them in line by having an outside specialist come in and look at them. In a sense this gives them an annual "physical checkup" so that they can continue on a regular basis to set performance marks and then measure themselves against those performance marks. They then are ready when and if an opportunity arises for sale. Additionally, such reports are used for estate or partnership or stock transfers.

In summary, although the hey days of acquisitions are well behind us there are acquisitions being made on a very business-like manner where the parties will end up much happier than in the old days of indiscriminate acquisitions. A good new relationship takes work on both sides to prepare for, and execute. The well prepared firm will find that taking the time to do it is worth many, many thousands of dollars when the final transaction is made and in the meantime be extremely useful for the careful ongoing running of the company. ■

Russell R. Miller & Co. founded in 1971 specializes in evaluations, and assisting in the purchase, sale, merger and acquisition of insurance related companies. The firm's corporate office is in San Francisco with a branch in Los Angeles which is headed by Richard Fischer. The firm has just conducted and correlated a survey for the Western Assn. of Insurance Brokers which will be published later this year covering the statistics of over 50 brokers and agents.

## Overview: Merger/Acquisition environment

By DAVID HALES  
President, Hales & Associates  
Chicago, Ill.

AS WE ENTER INTO THE final quarter of 1976, I thought you might be interested in an overview of the current merger/acquisition environment on a national scale and how we see that environment affecting the insurance brokerage business in the future.

It is rather interesting to note that the consolidation activity on the part of the public brokers and financial institutions that reached its peak in 1972 when 92 transactions were completed has waned considerably. In 1973 we picked up data on 65 announcements. In 1974 the number dropped to 52. We noted 37 in 1975, and so far this year, we have seen only 23. We are talking here only about deals done by the 15 publically owned brokers, not the private firms.

Prior to 1969, there were only two publically owned brokers—Corroon & Black that went public in 1929 and Marsh & McLennan that sold shares to the outside world in 1962. However, since Fred S. James also took the big step in May of 1969, 13 others obtained a public market. Why did they all do this? There are a number of reasons, but

the primary one was to create a market for shares that would be issued to obtain geographical diversification through merger.

Since the end of 1968 and to the present time, the 10 largest public companies independent of other control have acquired a total of 316 firms. This activity was led by Alexander & Alexander with about 80, Fred S. James with 56, then Frank B. Hall with 45 and Marsh & McLennan with 44. Corroon & Black followed with 33 deals including 10 made by Synercon which was subsequently acquired by Corroon. R. B. Jones completed 24 deals, E. H. Crump 13 and Rollins Burdick & Hunter 10. Reed Shaw Osler, the Canadian broker, completed 10 deals in the U.S.

Now, you might ask the question—what does all this history have to do with valuation of insurance brokers today, especially in states where there have not been many public broker acquisitions? Actually, quite a bit. Values paid by the public brokers have obviously influenced values paid by privately owned firms because the public market is an alternative.

Before then, and amazingly, even today, some people value insurance brokers at a multiple of commissions, which is really meaningless. That's something you back

into—you don't start there. The old "one-and-a-half-times" bit just doesn't fly any more with a smart businessman.

So, how does one set value in the current environment? First of all, let's take a look at how the public brokers do it.

When a public firm wants to make an acquisition for stock, it is important to

them that the transaction not only does not cause dilution but actually adds to earnings per share.

Let's use an example. Suppose we are talking about several years ago when the multiples were a lot higher than they are today. Let's set up a hypothetical company

Continued on page 36L

### Relationship between the current market value of the public brokers and their gross revenues.

Company	Approximate Market Capitalization at Current Prices (in Millions)	Estimated 1976 Gross Revenues	Market as Multiple of Gross Revenues
Marsh & McLennan	\$ 780.0	\$330	2.36
Alexander & Alexander	208.8	150	1.4
Rollins Burdick Hunter	46.1	34	1.35
Corroon & Black	78.6	58	1.35
Frank B. Hall	152.8	116	1.3
Fred S. James	84.3	85	1.0
Reed Shaw Osler	100.4	112	.9
R. B. Jones	7.3	22	.33
	\$1,458.3	\$907	1.6

# Most firms follow a set procedure when an agent has license revoked

By MARIE KRAKOWIECKI

NEW YORK—The agency director of a large insurance company was zipping through the morning mail when his eyes quickly scanned something official-looking from the state insurance department.

"The license issued John Street, Hyde Park, N.Y., to represent your company as an agent under Section 13 of the Insurance Law is revoked," read the letter from the department's disciplinary division. It stated the effective date the license was revoked, but the reason it cited was a little unclear. It made John Street sound vaguely immoral:

"... it has been concluded, as a result of a hearing accorded him, that he has demonstrated his untrustworthiness to act as an insurance agent within the contemplation of the insurance law," it read.

"In view of the action taken, he will have no authority to represent your company as an agent in this state. . . ." The agency director finished the letter to the end, finding out the date that untrustworthy John Street could no longer be his company's agent. He was also informed that an acknowledgement of the communication from the department was "required," that John Street's license, if in the company's possession, must be returned to the insurance department, and that it should be addressed to Joyce Creedon, chief of the licensing unit.

"John Street" is a pseudonym, of course, named after one of the streets in the insurance ghetto of lower Manhattan where many large underwriters from all over the country have their New York offices.

But the wording of the letter itself is real, just as the situation and agency problem the letter describes is also real.

The licensing division of the New York state insurance department in Albany said about 75 agents in New York have their licenses revoked in any given year.

How does a brokerage firm or the agency division of an insurance company handle the problems that arise when one of its agents has his license yanked for some sort of shady dealing?

George Zevnick, a vp at the Guardian Life Insurance Co. of America in New York and the firm's official whom the state insurance department would contact concerning disciplinary actions against an agent, explained that Guardian, like many insurance companies, has a set procedure to follow if it finds out one of its agent's licenses has been revoked.

"The first thing we do is terminate the contract of such an agent," Mr. Zevnick said. Then the company would conduct a mail audit of all the policyholders who had been serviced by the agent in question.

This mail audit permits the company to find out if the status of the policyholder's contract is the same as the status last reported by the agent to the company.

If the company does succeed in pinpointing a problem, such as a premium defaultation, ("if there is a fault, we are liable," Mr. Zevnick noted) it will in turn go to its bonding company after making good any amount due a policyholder. Transamerica is Guardian Life Insurance Co.'s bonding company for cases involving revocation of agents' licenses.

Like Guardian, many large in-

urance companies have a standard operating procedure when their agency contracts divisions find out about disciplinary action by the state against one of their company's representative agents.

In some instances, the agency division may even beat the state to the punch in discovering irregularities in the activities of a specific agent, and may dismiss one before ever getting an official notice of a license revocation.

At Massachusetts Mutual Life Insurance Co., for instance, a member of the agency contracts division said the usual order of affairs is that a complaint will come in from a policyholder if an agent has been operating unsatisfactorily.

As soon as it receives any policyholder complaint about a particular agent, it makes an audit of his activities. If sufficient proof of his untrustworthiness is found, the company terminates the agent, stating its reason, then washes its hands of him.

The next step is to make a written audit of the accounts of all the policyholders that the terminated agent did business with. Massachusetts Mutual's audit department handles this aspect of the business, getting written confirmations that both the company and the policyholder have the same proper outstanding account of premiums paid to the agent.

The firm's general agent, who contracts the agents directly, han-

dles much of this aspect, Massachusetts Mutual explained.

Depending upon the way a life insurer or a mutual insurance company handles its agents, the disciplinary measures to be taken against an agent may be handled either directly in the agency division of the company, or through a general agent system such as the one used by Massachusetts Mutual.

Aetna Life Insurance Co. is another big concern which uses general agents to handle such problems. Walter Smith, one of five general agents for Aetna in New York, said his routine procedure upon receiving a notice of an agent's license revocation from the state was to discontinue and cancel all business with the agent.

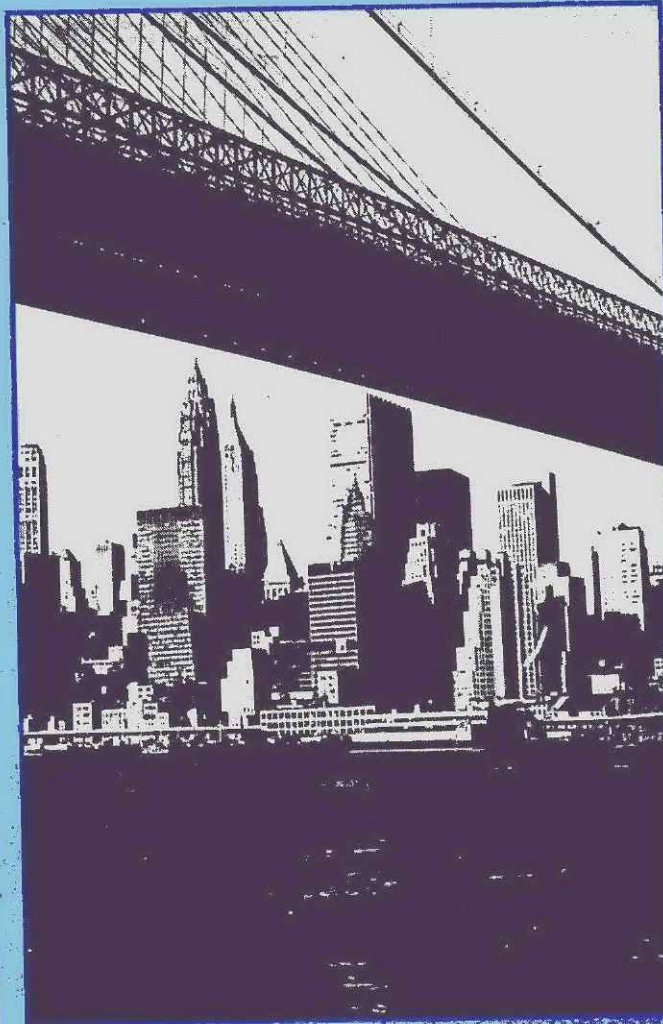
Then, if any of the policyholders serviced by that agent were found to have any problems with their accounts, a full-time Aetna staffer is assigned on an individual basis to iron out the difficulties.

The amount of paperwork which can be generated even by the single revocation of one agent's license can be prodigious; one agent in the New York department's files, for instance, was licensed with 17 different companies in the state, all of which had to set in motion their internal operations to deal with his license revocation.

In some cases, when an agent has his license revoked by the state, it is the death knell for the brokerage operation which with he may have been connected. A company like Associates Insurance Agency in Rochester, N. Y., for example, was forced out of business because it was a partnership, one of whose sublicensees had his license revoked. With the revocation, the partnership ceased.

The bulk of the cases for the current year on file in the New York insurance department appears to deal primarily with agents representing life accounts for large insurance companies.

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# Merger/Acquisition climate...

Continued from page 36J

trading at \$42 per share and expecting to earn \$1.40 per share. Thus, the P/E ratio would have been 30 times earnings. It wants to realize 150% of its own per share results on each share it issues to acquire another broker or \$2.10 per share. Saying it another way, its policy is to swap stock at  $\frac{1}{2}$  of its own multiple which would be at 20 times. To illustrate, suppose the private broker has revenues of \$500,000 and pro-forma after tax earnings of \$50,000. At 20 times, the price would be \$1 million and 23,809 shares would be delivered at \$42 per share. The transaction would bring the acquirer \$2.10 per share issued. As a multiple of commissions, that's two times.

But, let's come back to the reality of today and look at the same deal, changing the multiple to reflect current price structures. Let's assume that the company now has earnings per share of \$2.80 (15% compound growth over five years from \$1.40), but the stock price is now \$28 per share which is a P/E ratio of 10.

We have our vendor earning \$50,000 after taxes on a pro-forma basis, and he wants the same \$1 million for his business. While our hypothetical buyer could afford to issue shares worth that in 1972, he obviously can't in 1976. Why not? His stock price has dropped to a point where, if he did, he would have to issue 35,744 shares at \$28 per share. That would bring him \$1.40 per share issued and he is already earning \$2.80 so it would be very dilutive.

What is the buyer willing to pay? Suppose he is willing to trade at his own multiple, which is 10 times earnings. Then, he would issue \$500,000 worth of stock at \$28 which would be 17,857 shares, bringing him his \$2.80.

However, if the price of buyer's stock drops to \$25 and the vendor requires the same \$500,000 in current value, the shares to be issued would have to increase to 20,000 which would bring the acquirer a dilutive \$2.50 per share issued. If the price increases to \$32, the \$500,000 in value can be delivered with 15,625 shares which would bring \$3.20 per share issued.

So, relating value to a multiple of commissions five years ago develops a comfortable two times while today it would be a strained one-times. Therefore, the price fluctuations of the public brokers are very important in determining their viability as acquirors, except in those cases where vendors with wisdom are willing to take the risk of price fluctuations and agree to a set number of shares on the premise that the shares are probably undervalued and will increase in worth by the time they want to

sell them and/or are permitted to do so.

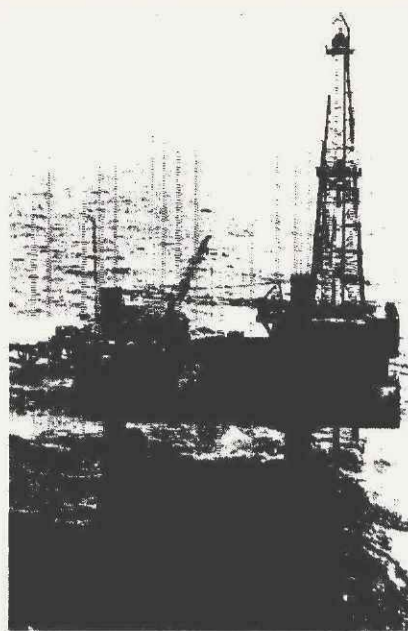
One further point regarding value as a multiple of commissions. Five years ago we might have been looking at two or more times commissions as what appeared to be a sensible deal. Today, it's more like 1.25 times in the average situation and that is hard to swallow. But, let's take a look at the relationship between the current market value of the public brokers and their gross revenues, using an estimate of their 1976 revenues. (See chart on page 36J.)

Obviously, Wall Street does not establish value on the basis of revenues. The professional investor sets worth based upon his opinion of future earnings and discounts those earnings based on the same kind of factors we will be talking about shortly, i.e., the value of money and operating risk factors. There are other factors involved in the public marketplace, of course, including dividends paid, the number of shares available to the public investor (float), general market conditions, etc.

We see that nine public brokers are trading at 1.6 times their combined estimated revenues for 1976 but there are two companies that distort this composite—Marsh & McLennan, the biggest, and R. B. Jones, the smallest. If you take them both out, the other seven brokers trade at a combined 1.21 times commissions and other revenues.

So, you can see why the public balk at the traditional and historical 1.5 to 2 times commissions formula. They naturally feel that a regional, privately held broker should not be worth more than they are worth. Of course, one could argue that the market capitalization is for partial purchases on the open market and 100% of a company would require a premium of at least 25% over market. Quite true, but even then, the brokers would have a theoretical relationship between revenues and value of 1.5 times.

So, we have a situation where the consolidation in the industry has slowed down materially, not only because of lower stock prices but also the national brokers are by and large where they want to be geographically and they are increasing their share of the commercial market materially. Right now, some estimate the above companies have about 25% of the commercial property-casualty market. You may have read in *Business Insurance* where a spokesman for a leading insurance company estimates that nine brokers will have 45% of this market by 1980. So, the environment has changed from a sellers' market to a buyers' market. At the same time, I really don't have to point out that there are un-



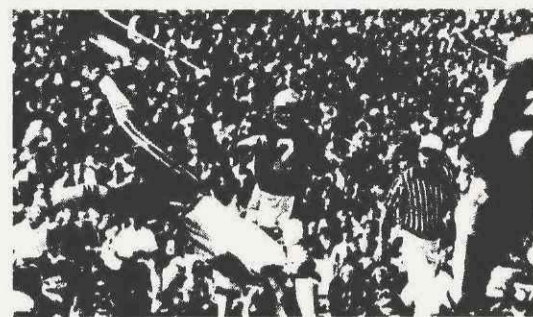
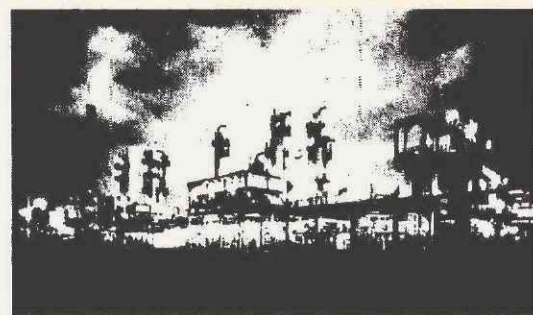
Public broker's clients include a diverse cross-section of industries and institutions.

usual strains on underwriting markets causing many smaller brokers to seek affiliations with larger ones having a greater degree of expertise in dealing with the problem.

What is the going rate for insurance brokerage acquisitions and how is worth calculated? We saw how the public do it. How should you do it?

When we provide an opinion as to fair market value, we use several tests of value and then weight them according to the specific situation. The tests of value are 1) the present value of the future estimated after-tax earnings, discounted for the value of money and for risk in the specific business 2) return on investment—earnings related to the out-of-pocket investment made as compared with alternative opportunities 3) possible worth to specific public brokers 4) industry multiples and 5) comparables. All of these tests require a high degree of informed judgment with respect to pro-forma earnings, risk factors and the availability of a public broker buyer and what that broker might be willing to pay.

I would like to illustrate what we believe is the most important of these valuation tests: Present value of future earnings. We usually give this one about 50% weight. Let's make some assumptions. Say we have an agency now doing \$200,000 in gross revenues and we feel it can grow at 12% per year as long as the producers stay with it after a deal is completed. We think it can earn an after-tax profit margin of 12.5% after adjusting for payroll of principals and some expenses. We'll value money at 6% and risk at 9%. Using these cha-



racteristics, we take the earnings out five years and then the fifth year discounted into perpetuity. Without getting into all the mathematics here, we get a value this method of \$233,524.

Now, that works out to 9.54 times pro-forma earnings and, incidentally, to 1.17 times revenues. The return on investment test with a 15% return requirement produces a value of \$235,788. And we've already seen where most of the public brokers would trade at a little less than parity or around 9 times earnings, to develop about \$225,000.

This kind of calculation is where you begin as it develops a base price. At this point, you play around with various types of leverage—terms and tax relief. Perhaps you want to depreciate the renewals. Perhaps you want to separately negotiate for a covenant not to compete. Done properly, these can give you the opportunity of taking a partial tax deduction for some of the value. And an installment contract greatly increases your chance for a greater return on investment.

Incidentally, we have often heard it said that an installment contract with, say, 29% down and the balance over five years or so allows the buyer to acquire using the vendor's own money. This is not so. The buyer undertakes an obligation to make future payments regardless of the earnings. True, he intends to use the vendor's earnings to make the payments but that's really no different than if the price is discounted and all paid up-front. In any event, the buyer bears the risk and the vendor obtains financial security to the extent that the buyer has financial stability. ■

# Fingers do the walking when scouting prospects

By JOANNE GAMLIN

NORTH HOLLYWOOD, CA.—The trusty old Yellow Pages are where it all begins for Jerry L. McCord, the personable head of an insurance brokerage firm, McCord & Holdren, which projects gross revenue for 1976 at \$2.8 million, up sharply from \$1.9 million in 1975.

"I go to the Yellow Pages when my firm is seeking new business, searching for industries with problems or in high risk positions," he elaborated. "I want something unusual, some industry with a problem that I feel I can resolve."

Mr. McCord, who with his partner, William W. Holdren, executive vp, founded McCord & Holdren Inc., in May 1975, said that the next step in acquiring new business involves setting up a market.

"I develop enough information on an industry to enable my staff to sell an insurance company on the idea of providing a market for this industry," he said. "Then I go out and find my insureds."

This leads to a process Mr. McCord calls "pre-heating" the mar-

ket. What this is, he said, is a carefully calculated advertising program at the conventions and in the trade magazines of the industry where McCord & Holdren hopes to pluck new business. He said that mailers, as well as a newsletter, produced by the brokerage firm to report legislative information relevant to the industry, are employed in the "pre-heating" phase of acquisition.

"Finally, when the group of insureds we are courting became convinced we are specialists in their industry, we call on them."

It is precisely this system, which he said is ridiculed by other brokers, that has enabled McCord & Holdren to grow at more than 50% a year for the last five years, the broker insisted. What makes the system function, however, is the fact that about 70% of the firm's commercial business is done with trade associations.

"Trade groups, such as the Western Movers Safety Assn. and the California Building Material Dealers Assn., are the main source of commercial accounts," related Mr. McCord, noting that 97% of his firm's business is derived from

commercial, rather than personal, business.

In stalking trade group accounts, Mr. McCord explained that his firm wants to find problems, troubled situations which he feels confident his carefully selected staff can resolve.

The eleven-year-old firm this year is employing over 100 workers for its projected \$2.8 million in gross revenues. It generates this money flow internally, without any sub broker business. Mr. McCord contends that no broker can control his business if he indulges in this.

"Although my number of employees works out to one worker for every \$28,000 in commissions, which is low, I am not concerned as long as we are growing at the present rate," he continued.

"Our single most important problem is the orderly absorption of growth."

Whatever the exact rate, the firm's growth springs in large part from six branch offices in California, they are in Fresno, Sacramento, San Jose and Tustin. Phoenix and Seattle have the two out-of-state branches. The Wash-

ington state office is large.

A cross-section of services, led by employee benefits and loss control, is provided by McCord & Holdren Inc. The former, for instance contributes about 5% of the firm's gross revenues and is promising enough to prompt the establishment of a benefit administration department.

Loss control, directed by four employees, is sufficiently significant to the brokerage house to impell the hiring of a full-time fleet man. It is his job to aid corporate accounts in the hiring and training of drivers and in programs of preventive maintenance and driving awards.

Mr. McCord pointed out that one distinguishing feature of his organization, which hires only technical producers, is the licky-split time it can move an insurance policy to a waiting account.

"I can come up with proposals in 24 hours," he declared. "That is, I can get an account set up as to rating, underwriting, appraisals, inspection proposals and policies in one full day's time."

An additional payoff for the brokerage firm is that is thus

avoids the difficulties of collecting premium payments to relay to underwriters, a headache that often plagues other, larger firms.

"For an organization that is really professional in its approach, there is no competition," added Mr. McCord who calls himself a "super achiever."

With such a stance, the reader could be pardoned from suspecting that the broker is harboring hopes of attracting a lucrative acquisition offer.

Such conjecture would be wide of the mark, however. For the truth is that McCord & Holdren was merged, as a wholly owned subsidiary, into Integrated Resources, Inc., N. Y., a financial services firm, in July, 1972. But last October, it moved to have the merger rescinded.

"The plan did not work out, particularly in regard to accounts that had moved East during the early 1970's," he recounted. By the mid 1970's, he said these same businesses were returning to their home ground in California, and with this movement, the realization was dawning at McCord & Holdren that the firm might prosper better alone. ■

# F.B. Hall's loss control effort aims at attitudes

NEW YORK—"The problems with smaller brokers are not much different from ours. The big broker just has more of the same. The difference is that smaller brokers are dealing with smaller clients and to get premiums, they have to have a large number of clients; it's harder to service a large number."

The big broker in this case is Frank B. Hall and its vp and manager of loss control is Don Wilderoter. In a recent poll by *Business Insurance*, insurance buyers and risk managers ranked Frank B. Hall's loss control services as better than others and significantly better than those of smaller agents and brokers.

Mr. Wilderoter explained that at Hall, the emphasis is on shaping management's attitude towards safety and loss control. Without management concern, safety problems keep recurring—somewhat like treating the symptoms of a disease without diagnosing and curing the disease.

Trying to convince corporate management that safety is a part of the production process, not something separate, can take "four to five years to whittle away at hardened, old-line thinking," Mr. Wilderoter said.

Hall has 18 loss control engineers throughout eight regional offices in Florida, New York, Boston, Seattle, San Francisco, Houston and Los Angeles. The engineers are responsible for all facets of loss control except fire prevention and property conservation. The only time work is subcontracted out is when a "tricky industrial hygiene situation" comes up, which is not very often.

All the Hall loss control employees have degrees in engineering or engineer-related fields and all but two of them have come from loss programs of insurance carriers. Mr. Wilderoter, formerly in major risk loss control at Aetna Casualty, started Hall's loss control program in 1963 as a one-man operation.

A great deal of loss control's appeal is sheer economics. Mr. Wilderoter tells Halls' clients that they have to reduce losses by 15% to 20% a year just to stay at the same premium level as previous years. "This is fairly easily proven statistically."

He said clients are now realizing that the cost of not doing something is far more than doing it. Where once it would have been economically infeasible to provide pre-employment physicals or employe safety education, the cost of workers' compensation insurance, product liability and health care costs make these a "vital necessity" now.

By far, the fastest growing area in loss control is workers' compensation followed by product liability control. But the areas that are up and coming in the loss control field are industrial hygiene and acoustical engineering because "things not thought to be hazardous before now are discovered as hazardous."

If economics doesn't sell management on loss control needs, then brokers have a "salesmanship job." Some clients prefer hard-nosed recommendations and then the broker "sometimes has to get pretty blunt." Other clients are "wishy-washy" and prefer not to be told in such blunt terms. "Salesmanship undergoes constant change and just because you might sell it one way to a buyer doesn't mean you never vary your ap-

proach."

Mr. Wilderoter also notes that the size of the client has no relation to the degree of difficulty in servicing their loss control programs. A small, concentrated industry such as foundry or steel operations require much more servicing than large office-oriented businesses for example. "And just the fact that they need a lot of servicing doesn't mean it is difficult to service. It depends on the attitude of management," he said.

Because Hall's loss control program is not sold separately from the total insurance account, Hall is "selling our ability to underwrite" but if the client wants unusual services he may have to pay more money. ■

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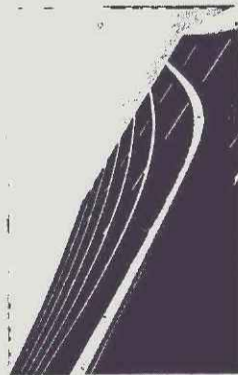
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\*Engineering News-Record, May 20, 1975

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# Ever know anyone who added an old dent to a new claim and then complained his insurance cost too much?

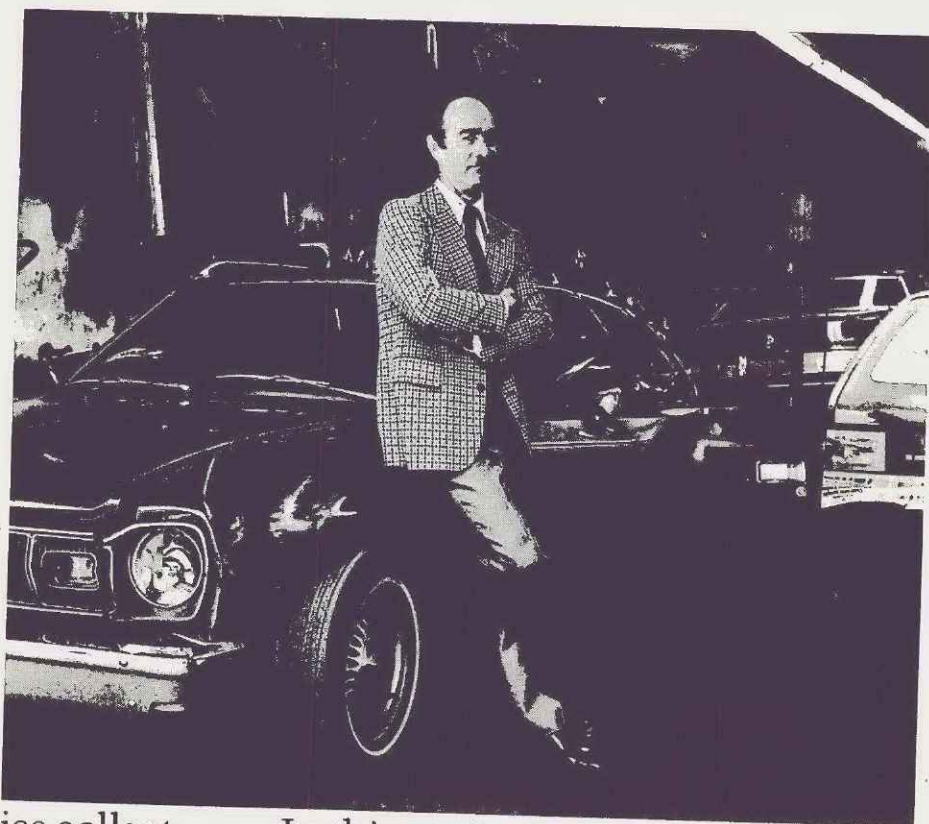
**A**dding a few extra dollars to an insurance claim may seem like harmless padding, until you see what it does to insurance costs.

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# PERSPECTIVE

## CAPTURING INTEREST OF WORKERS THROUGH SAFETY COMPETITION

"My basic premise is that the methods for effectively managing safety do not differ significantly from those for managing any other function in an organization."

By **MARIE SCOTTI**  
Mgr. Safety & Health  
Maxwell House Division  
General Foods Corp.

THE AVERAGE PERSONNEL manager today in many organizations doesn't realize that all accidents involve people—that safety is a people function and as much of a personnel function as any other facet of personnel work for which the manager is responsible. The Occupational Safety and Health Act of 1970 is driving home to personnel managers the need to include responsibility for providing a safe and healthful working place.

Fourteen years ago we at Maxwell House recognized that in accident prevention work we had to look at all kinds of accidents, not only just those requiring medical attention and disability pay under workers' compensation, but also minor injuries. The number of minor injuries usually exceeds those requiring attention of the doctor and disabling injuries. Therefore, it is in this category that foremen, supervisors and managerial staff can better analyze the cause of these injuries and design their accident-prevention programs accordingly.

This Maxwell House All-Injury Program came into being well before OSHA. The National Safety Council continues to struggle to find a suitable yardstick for measuring safety performance since the inception of OSHA. I might add, the National Safety Council was basing safety awards only on the frequency of disabling work injuries.

The All-Injury Index adopted by Maxwell House still remains one of the few existing programs that industry uses today for measuring all injuries and improved safety performance ratio.

OSHA and the Consumer Product Safety Act will force employers and manufacturers to increasingly utilize the most advanced

techniques of management and technology. These laws will force managers—and their safety and health advisors—to upgrade their abilities or be replaced.

Enforcement of these laws does not require a great volume of government inspectors probing about, either. If an OSHA or CPSA field person doesn't get the goods on an employer, the lawyers and the courts—supported by injured employees or consumer-citizens—most certainly will.

Needless to say, since OSHA and the CPSA create a whole new ball game, we have to also get rid of some old common operating philosophies. For example:

- Superintendents and foremen can no longer say to management, "What do you want—production or safety? Safety isn't an either/or decision."

- Foremen and workers can no longer pass the buck to the safety man on safety matters and say they are his job. Control of hazards must be built into operations on an hour-to-hour basis, and not on an ad hoc basis after incidents occur.

To cope with the future, personnel managers will have to marshal all available talents in a more formal, organized and professional fashion. No more loose, lackadaisical attitudes about correcting the safety issues at hand. We at Maxwell House, are not just promoting safety and health per se. We are talking about good management, which now must recognize certain legal safety and health requirements in making responsible management decisions.

It is unfortunate, but true, that the people—through federal legislation—are forcing professionalism, the hard way.

Each management level must reflect an interest in company safety objectives and set a good example of compliance with safety rules. A person will believe in safety only to the degree he thinks his boss

year period for which data is available.

There is one highly relevant safety matter that must be considered in seeing Greenfield's safety performance in accurate perspective. It concerns responsibility for 22 deaths in a 1971 tunnel explosion near Port Huron, Michigan. Greenfield was managing partner of a joint venture of four contracting firms that constructed the tunnel. Some observers continue to blame Greenfield for the 22 deaths in spite of the efforts of the company to cite facts proving just the contrary.

The whole question of Greenfield's safety performance came under public discussion immediately after the company suffered two fatalities on consecutive days in November, 1975. The projects were unrelated to each other, one being a tunnel in Mt. Clemens, Michigan, and the other a drain project in Dearborn, Michigan. Company management understandably grew increasingly distressed at being publicly pictured as accident-prone and in disregard of



Marie Scotti speaking at the annual President's Safety Award presentation ceremony.

believes in it. Management interest must, therefore, be vocal, visible, and continuous—from top management through division managers and lowest supervisors.

Expressions of management interest in the Maxwell House Division program includes an annual President's Safe Working Award. In 1970 I saw the need and crafted a tool I believed would do the job for the four Maxwell House plants. An inter-plant contest was developed, for a prize to be known as the Maxwell House President's Annual Safety Award. The idea of a competition to stir up employees with a quarterly trophy awarded to the plant with the best safety performance—had been in effect since 1963. But the quarterly trophy was slipping as a motivator; new excitement was needed, something that would reward individual employees as well as the winning plant, something that would convince everyone that management meant business when it said safety and health.

To give all an equal chance in the contest a point system was developed with each plant rated on these factors in 1971:

- (1) greatest improvement in all-injury performance over the previous year;
- (2) nature and extent of participation in on-the-job safety and health programs;
- (3) hazard control surveys to self-audit effectiveness of programs;
- (4) nature, frequency, extent of participation, and effectiveness of off-the-job programs;
- (5) originality of on and off-the-job safety programs;
- (6) effectiveness of housekeeping in the maintenance of working conditions;
- (7) scope of programs affecting employee's family and community, plus plant efforts to stimulate action in other industries, local and state governments.

The contest idea was presented to a vp-operations. Potential benefits to the company were evident. The plan was accepted. Judging would be done by a panel of five high-level division and corporate executives.

The new contest idea was "sold" to the plants by the vp-operations, the plant managers and myself. At each plant, safety coordinators were assigned overall responsibility.

What happened in the plants in the

course of the contest? Improved performance throughout 1971 justified a second contest year, which in turn inspired the 1973, 1974, 1975 competitions.

The current second quarter 1976 results show that all-injury accidents decreased from 540 last year to 246 this year. Man-hours worked per injury increased from 3,129 to 7,198 for the second quarter 1976.

All four Maxwell House plants improved their second quarter 1976 records. There was an increase in man-hours worked per injury from 3,129 in 1975 to 7,198 in 1976 which shows a trend of improved performance.

This contest involves the president of the division and the vp-operations; top management of the corporation serve as judges. This type of high level participation places credibility in the minds of employees in our safety programs and increases the support of all employees in the program. Last, but not least, the contest has improved our safety record.

My basic premise is that the methods for effectively managing safety do not differ significantly from those for managing any other function in an organization. If the results of the safety effort do not meet reasonable expectations, then the effort has probably not been given at least as much attention as the traditional areas of management concern: production, quality, schedules and cost.

In summary, then, effective management of the safety function—just as the management of any other key organizational function—depends upon an integrated effort, which not only makes visible, traceable, and auditable the technical and management requirements, but which also deals in a human way with the human beings who make it all possible.

Marie Scotti is a certified safety professional and is the only woman in the industry to operate at executive level. She has a 20-year track record in safety engineering with General Foods. Ms. Scotti administered the industrial safety program of Maxwell House's Hoboken, N.J. plant when it achieved a four-million man-hour safe working record for the entire food industry.

## SCRUTINIZES SAFETY RECORD AS DEFENSE

By **EDWARD BIDIGARE**

THE MANAGEMENT OF Greenfield Construction Co. Inc., commissioned me in January, 1976, to perform a statistical comparison of the company's accidental injury history with that of industry in general and of its peers in Michigan's underground contracting industry.

My completed comparisons and my conclusions based on these comparisons follow in the body of this report. To the best of my professional knowledge and belief, the studies I conducted lead to the following conclusions:

(1) Greenfield's safety performance has been consistently better than that of its peers in Michigan underground contracting during the most recent four-year period for which data is available, and

(2) Greenfield's safety performance has demonstrably been significantly better than the average for all insured U.S. employers of all types through the most recent ten-

state safety regulations. I was commissioned to establish the facts.

Throughout the study, I have included the latest year for which data was fully available. In most—but not all—cases, the 1974 policy year was the latest for which data available at the time of my study. I call attention to this limitation to explain why the impact of Greenfield's two fatalities of November, 1975, is not reflected in my comparisons.

It should be noted that my comparisons omit the experience of those employers who self-insure for workers' compensation. Self-insurers are required to file reports, but data filed by self-insurers is not required to be made available to the public.

Statistical data used in this report were obtained from the Michigan Workmen's Compensation Rating Bureau, the 1975 edition of Best's Insurance Reports, Greenfield's insurance carriers, and the files of Greenfield Construction Co. Inc.

Experience rating may be used to de-

termine whether a particular employer has a better or worse accidental injury history than other employers.

The idea behind the Workmen's Compensation Experience Rating Plan is a simple one. Based upon consistent and credible loss-cost deviations from those of the average of other similar employers, the individual employer receives credits or debits to the premium he pays, based upon the manual or average rates established, in the case of Michigan, by the Michigan Workmen's Compensation Rating Bureau. That bureau, under direction of the Michigan Insurance Commissioner, also establishes the credits or debits produced by the experience rating plan, and all insurance companies doing business in Michigan must use the rates and experience results so established.

The rates and the rating plan itself are revised each year so as to reflect the latest data and trends. Under this rating procedure, there is developed a premium mod-

Continued on following page

# PERSPECTIVE

## Safety record as a defense . . .

Continued from preceding page  
modification each policy year, based upon accident experience in the latest three completed policy years.

Greenfield's premium modifications for the latest ten years for which data is presently available are as follows:

Policy year	Modification	
	Debit	Credit
1965-66		14%
1966-67		25%
1967-68		26%
1968-69		21%
1969-70		11%
1970-71		20%
1971-72		39%
1972-73		23%
1973-74	32%	
1974-75		3%

In only one of the ten consecutive policy years did Greenfield receive a debit. Despite that single debit, Greenfield's overall ten-year experience was so much better than average that the company saved a respectable \$517,754 in net premium costs for the period, as illustrated in the following computation:

(A) Greenfield's total 10-year premiums at manual rates was: \$3,060,160

(B) Greenfield's actual premium total under experience rating was: \$2,542,406

Greenfield's 10-year savings in workers' compensation premiums was A minus B or:

\$3,060,160  
2,542,406  
\$ 517,754

Comparison #1		
Basis: Premium rate per \$100 of payroll to pay losses and claim expense		
Period: Policy years 1970, 1971, 1972, 1973 (latest available)		
	(A) Payrolls expended	(B) Losses and claim expense
Greenfield	\$18,581,317 *	\$853,803 *
Similar Michigan contractors	\$482,405,114 *	\$25,205,634 *
Premium rate per \$100 of payroll to pay losses and claim expense (B ÷ A):		
	Greenfield	\$4.596
	Similar Michigan contractors	\$5.225
Conclusion:		
Greenfield had a more favorable record than its peers in Michigan underground contracting.		
* Source:		
Greenfield data: Compensation Rating Bureau records, Maryland Casualty Company's retrospective adjustments and Greenfield's records		
Similar contractors: Pure premium exhibits of the National Council on Compensation Insurance (prepared for the Michigan Compensation Rating Bureau)		
February 10, 1976		

This exhibit indicates the financial incentives for good safety performance that are built into the workers' compensation insurance system.

More importantly for the purpose of this study, the \$517,754 net credit earned by Greenfield is evidence that Greenfield's

safety performance over the ten-year period was, in fact, substantially better than average.

Mr. Bidigare has served on various regional committees of the National Council on Compensation Insurance, on the classifica-

Comparison #3			
Basis: Ratio of losses to earned manual premium			
Period: Ten years - policy years 1964 - 1974 (latest available)			
For purposes of this comparison, the reader should be aware that:			
(1) a 60% ratio of losses to manual premium is regarded by the workmen's compensation insurance industry as "permissible". Insured employers with a higher ratio than 60% are considered to have an unsatisfactory loss history			
(2) using a 60% loss ratio as "par" for all insured employers, we can make a valid comparison of safety performances.			
Consider these Greenfield figures for the period:			
	(A) Total earned premiums at manual rates *	(B) Total incurred losses *	(C) Loss ratio (B ÷ A)
Greenfield	\$3,060,160	\$1,369,716	44.8%
Permissible loss ratio for all insured U. S. industry			60.0% *
Conclusion:			
Using 60% as the permissible loss ratio for all insured employers, we see that Greenfield's accidental injury history for this recent ten-year period was 15.2 percentage points better than the average for all insured employers.			
Source:			
Greenfield: Premiums from statements in Greenfield's records and ratio records of Continental National Insurance Co.; Maryland Casualty Co. indicated premiums and losses			
Industry permissible loss ratio: See Michigan Manual Rate Page 9			
February 10, 1976			

tions and rates committee of the Michigan Compensation Rating Bureau, and on the policy forms and rating plans committees of the Mutual Casualty Rating Bureau, New York. Mr. Bidigare was vp-special risk, Michigan Mutual Insurance Co. He is a licensed insurance consultant in Michigan.

## TV SURVEILLANCE GAINING ACCEPTANCE

By JOSEPH COZZI  
Sales Manager  
Jensen Corp., Chicago, Ill.

THE GROWING CRIME rate is a problem that affects every type of business and each year this increase is more staggering and frightening. Last year retailers reported \$6.5 billion lost through theft; auto thefts increased 23%, and financial institutions saw a dramatic increase in forgery and extortion attempts. White collar crimes in industry, of course, continue to cost companies enormous sums of money. Add to this the increase in vandalism, rape and other crimes and it is easy to understand why there is a deep concern in the business community about crime prevention.

In seeking to stem this tide of illegal acts, more and more companies have turned to TV surveillance systems. Where once closed circuit TV was predominantly limited to financial institu-

tions, now retailers, industrial firms, shopping centers and high rise office and apartment buildings make up a growing segment of new installations.

The success of TV surveillance systems in financial institutions has no doubt been the greatest factor in acceptance by other industries. Even institutions without serious loss problems have found satisfying results through the use of TV surveillance.

The Citizen's National Bank of Chicago, for example, installed a TV surveillance system ten years ago. The result the first year was a 60% reduction in losses and an equal increase in convictions. The bank has since added additional cameras on each teller position to discourage any forgery or split deposit attempts.

Elmhurst National Bank, Elmhurst, Illinois, installed a simple lobby and exit TV system four years ago and reduced losses 50%. Recently the bank installed

cameras on each teller line and the system led to the arrest of a multi-million dollar forgery organization.

These are simply two of the endless success stories recorded by TV surveillance systems.

The second obvious reason TV systems have grown in popularity is that like calculators the cost has decreased in recent years. Mini-computers have allowed the system to perform a variety of functions at a fraction of the cost.

A good example of this cost reduction is Lincoln Mall, a 125 store shopping center located in Matteson, Illinois. Desiring to provide added customer protection in the parking lot and to prevent auto thefts in particular, Lincoln Mall installed a TV surveillance system in the winter of 1975. The TV system consists of a 120 hour videotape recorder, three television monitors, four outdoor cameras and a mini-computer, which sequentially switches camera, monitor and recorder activity.

In its first month of operation the system reduced auto thefts 40% while center traffic increased 25%. Several years before, Lakehurst Shopping Center in Waukegan, Illinois installed a similar system for over \$120,000. Lincoln's system cost about one-third that of Lakehurst's and will pay for itself in a year in security salary savings.

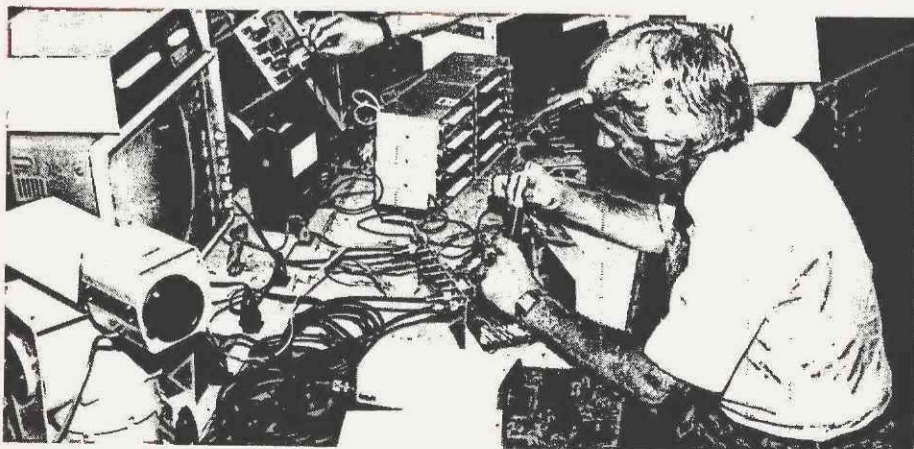
The cost benefits are equally true for industry as well. Mr. Charles Cody, plant manager of Sucrest Corp., a leading food processor, was looking for a way to view and protect the loading areas and parking lot surrounding his facility. Sucrest was spending approximately \$45,000 per year on 24 hour guard service. The company was able

to reduce this expenditure by three-fourths with a TV surveillance system. Equipment in the foreman's office now allows constant observation and control of the cameras during working hours. The plant manager's office is equipped with a sequential switcher, video tape recorder and monitor. Another monitor in the maintenance department provides after hour viewing. The controls in the plant manager's office allow him to maintain control of the cameras, transfer control to the foreman's office, or the maintenance department and to record all camera information continuously for review the next day.

Today a typical TV surveillance system consisting of three cameras, a mini-computer (capable of handling up to eight cameras), and one videotape recorder costs approximately \$4,300. Additional cameras cost \$450 a piece. The cost is quite reasonable when you consider that film cameras, an alternative to TV, cost \$2,000 per camera. The video tape is, of course, reusable (up to 1000 times).

A properly conceived system, in a financial institution, will pay for itself in loss reduction in about two years; while in other businesses the pay off period in salary and loss savings can be less than one year.

New developments in the area of TV surveillance continue to point to wider use and lower cost factors in providing proper protection. The latest advance is a "space compressor" camera which takes pictures of two separate teller positions or doorways, removes the useless middle of the image and brings the desired figures or entrances next to each other on the monitor in large identifiable form.



A Jensen engineer working on reprogramming electronic control equipment.



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# After Kingdome's 75,000 cheering fans, an uneventful event is miracle

By HARRIET KING

SEATTLE—The \$60 million Seattle Kingdome may have one of the best safety records for stadiums big and small nationally in the three months since it has opened: Even during Paul McCartney's Wings Over America concert when 67,000 fans rocked the stadium, no major injury or incident occurred. No less uneventful was a six-day Billy Graham Crusade with crowds ranging up to 75,000 persons.

Nevertheless, Joe Gaidys, risk management officer for the stadium's parent King County, has had his share of problems in molding the kind of insurance program he originally envisioned. "I wish I could have gotten my coverage two years earlier. Since then, the excess market increased four-fold over my first projections," he says. "We found ourselves in a poor climate to come into the insurance market. Six months ago, many companies didn't have the capability to handle large risks and many were also reducing their premium exposure to make cash reserves look better."

Moreover, Mr. Gaidys had fought for a free-standing concrete roof because of its inherent safety features. But the building's first contractor, who later abandoned the project, told the press he was afraid he'd never get the roof up, and if he did, that it would collapse when he removed construction supports. His successor got the roof up without a hitch—it's the world's largest self-supported concrete roof—but by then, many insurers were scared off. (Ironically, now that it's been proven that no normal stress can collapse the roof, the coverage has been "thrown in" without charge as part of the property coverage.)

"I invited agents to tour the building. Frankly, they weren't interested at first because of the publicity," says Mr. Gaidys. "Friends would call and needle me, 'It's your roof... remember, we wanted wood.'"

The stadium is slightly larger than the Houston Astrodome, but a shade smaller and "at least 10 times less expensive" than the New Orleans Superdome. It provides a climate controlled home for professional and college football, major league baseball, professional soccer and a plethora of events which include trade and industrial shows, personality shows, circuses, motorcycle races and rock concerts. The features didn't impress the carriers, however.

"Most companies, back away from new things, which makes it hard for us. But next April when our contracts expire, we'll have a full year of experience behind us and accurate data. Already, it's obvious that our claims projections are too high because of our lack of experience." But Mr. Gaidys says that because of the unsettled market he "wouldn't hazard a guess on whether we can lower the rates next year."

Mr. Gaidys started out at King County several years ago as an insurance buyer but because of his reputation for getting things done right the first time, his responsibilities increased. Claims handling then came his way and his administrator told him "You've made tremendous savings, so take on employe benefits." "I just got that running smoothly when the stadium came along," says Mr. Gaidys.

He was in on the design and construction plans from the outset

working with architects and design engineers to build in insurance enhancing features whenever possible. He, like others, were not as concerned with aesthetics as with safety.

No less concerned with keeping claims and incidents down is sta-

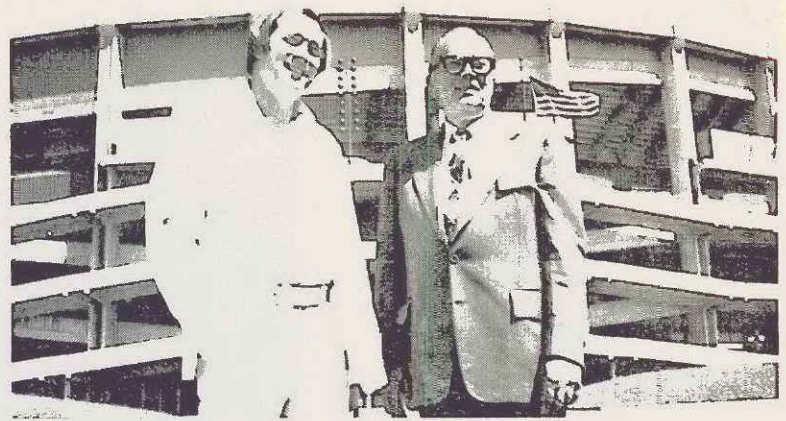
## SAFETY/SECURITY REPORT

dium manager Ted Bowsfield, a former semi-pro baseball player who managed the Anaheim, Ca., stadium before he was lured to Seattle's giant stadium.

"I've never seen any facility quite like this one," says Mr. Bowsfield. "If the need occurs, we

can evacuate 70,000 people in less than 20 minutes. At the recent Wings concert everyone was out of the building in a leisurely 40 minutes."

The Kingdome is also virtually earthquake proof. "It will withstand better than a 7.5 rating on a Richter scale (about the same severity as San Francisco's devastating quake of 1906). It can withstand a 30 second initial shock with aftershocks at 30-second intervals," says Mr. Bowsfield. The stadium sits on what used to be a marsh, anchored to its 35.9 acre site by 1,822 concrete-filled steel piles and 42 wood piles that extend down 60 feet. The building tends to "float" since it is not sitting directly on bedrock. By contrast, the



Ted Bowsfield and Joe Gaidys outside the Seattle Kingdome.

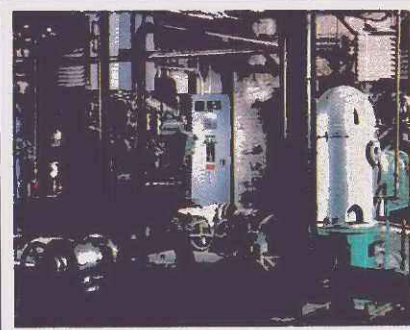
Anaheim stadium and the Dodge stadium in Los Angeles "have severe cracks due to the rigidity of their foundations," says Mr. Bows-

field. The Kingdome is constructed from 443 tons of structural steel and some 53,000 cubic yards of

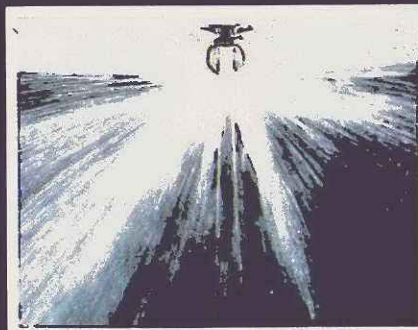
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concrete, which adds to the fire safety of the building—one of its main features. "Allendale Mutual handles our fire coverage as a

highly protected risk," says Mr. Gaidys. "Allendale doesn't take coverage unless it's solid. Their engineers have been here three

times."

Mr. Gaidys initially wanted sprinklers in the stadium arena. But since the diameter of the stadium is 720 feet and the roof rises to 250 feet at its highest point, consultants convinced him that sprinklers really wouldn't work. "We found that before the water hits the floor from an overhead sprinkler system, in an intense blaze the water would turn to steam and rise.

"So we decided on high capacity hydrants that pop up on the floor." During a ball game, they're covered with artificial turf because Mr. Gaidys says there is nothing to burn, no fuel present. But at shows such as RV or boat shows or housewares shows where numerous flammables are present, the hydrants are up and ready for use at all times. Hoses are attached and the fire department can be there in less than a minute from a station in the next block.

Mr. Bowsfield and Mr. Gaidys agree that the best way to keep the exposures down and to minimize potential suits is through good stadium management. Consequently, Mr. Bowsfield instituted strict measures. Before events like ball games and rock concerts, people are "frisked" for bottles or anything else that might cause injuries if thrown or dropped. Concessionaires also cooperate: all drinks are served in plastic or paper cups. Courtesy is stressed, however.

For the recent Wings Over America concert, \$17,000 was spent on police, although Mr. Bowsfield says they probably won't spend that much on security again: "It was our first big concert and we wanted to make sure that it went well. We have an even tougher one, Arrowsmith, a hard-rock concert coming up—kids tend to get rowdier with hard rock—but our security force will still be smaller," says Mr. Bowsfield.

Consequently, "We've had no major claims at all," says Mr. Gaidys. Even at Wings, the only incident was when a young man tried to climb over a fence instead of paying; he cut his hand and Mr. Gaidys received a hospital report on it.

"We're running a lot better incidence-wise than most stadiums," says Mr. Gaidys. He has even delayed a planned staff expansion because his present staff has been able to handle the claims work.

However, Seattle's new American League baseball team begins play next season—and during baseball, Mr. Bowsfield expects that incidents will go up. "You always have the problem of foul balls, fights among fans, thrown bats, etc. Most of these incidents are settled out of court, but they create a lot of paperwork. In Anaheim, the insurance company was kept jumping all the time with baseball," says Mr. Bowsfield.

When an incident occurs, Mr. Bowsfield has a strict procedure that his employees follow. "Even if a person just gets a bloody nose, we get his seat location and take him to the first aid room and get data. We'll ask him if he wants to go to the hospital. If he says no, we'll have our own doctor look at him and if there's any question, he goes.

"We have to do this," says Mr. Bowsfield. "There was a Dodgers case that was a real eye opener. During baseball, a boy was hit when a line drive rickoshayed off his head. He wouldn't go into first aid, so the case was not well documented. The boy died that night. The death resulted in a big lawsuit which the Dodgers lost. Negligence was found because the kid may not have been capable of making a rational decision. We're determined not to have something like that happen here. We won't let them back in their seat unless they come to first aid. Most are cooperative.

"We try to get the person to sign off," he continues. "But whether he does or not, we have the data. Then if a claim is filed, Joe has complete details." Says Mr. Gaidys: "You can picture what a problem it would become if you didn't collect the data. It later would be almost impossible to reconstruct it or even prove if the incident did or didn't happen."

Mr. Bowsfield also says that the stadium has "the most elaborate communications system of any stadium in the country. We use the same walkie-talkies that the police use, so that we can hear

Continued on page 44

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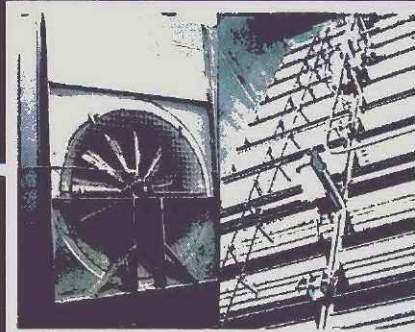
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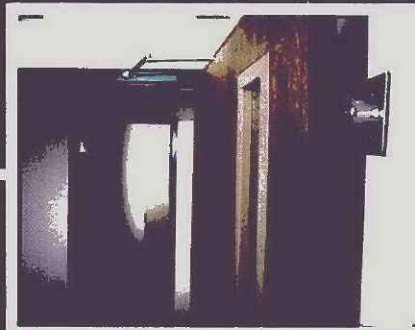
Vent systems automatically adjust to exhaust smoke. Adjacent zones and vertical shafts are pressurized to prevent spread of smoke; provide fresh air.



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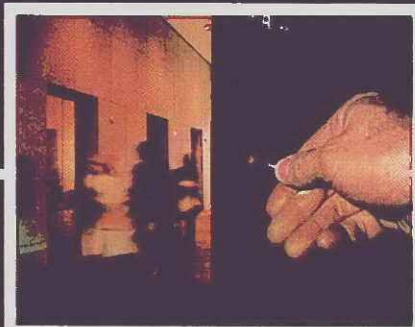
Stairwells, provided with supply of fresh air, assure safe means of movement for occupants and firefighters.



On receipt of alarm signals, fire doors are closed automatically to retard spread of smoke and flame.



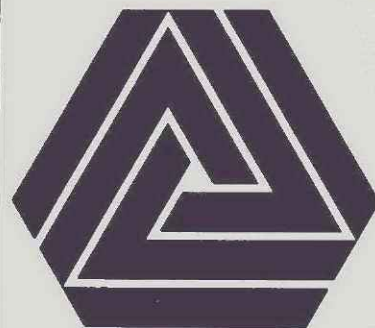
2-way intercom serves as vital communications link between commander and firefighters.



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SEE OUR AD ON PAGE 25

# Seattle's Kingdome . . .

Continued from page 43

through these thick concrete walls. After suffering with those Mickey Mouse units where we could never reach anyone, I vowed that if I ever got the money, I'd get a good system." Each of his 40 walkie-talkies cost \$880 and he's spent \$80,000 on his entire system.

Mr. Gaidys has a \$5 million liability umbrella policy for the county, but he and Mr. Bowsfield say: "We need to take a look at that to see if it's adequate, now that the stadium comes under the coverage." The county self-insures

workers' compensation. Mr. Gaidys also has business interruption, crime and fidelity insurance under his basic property coverage.

**Hartford Steam Boiler** handles boiler and operations coverage. Concessionaires provide \$5 million coverage and hold King County harmless. If an incident requires more coverage, "We have a contingent liability provision in our own umbrella," says Mr. Gaidys.

The stadium also houses a TV station worth \$2.5 million with full network capability. The station

manages the giant scoreboard with its 50-by-60 foot TV screen devoted to replays, pictures of the players, interviews and other attractions designed to augment activity on the field. The scoreboard is augmented by 45 closed circuit TV monitors which carry continuous action to the building's many concessionaire areas.

"But the station is leased out so it is not an insurance problem," says Mr. Gaidys. "My policy has been to reduce our exposures and I can do this contractually."

The stadium's basic property premium comes to \$15,000 including the administration building, parking lot, tours and all non-event operations. But each event

has its own additional insurance cost and coverage. In its first nine months, the stadium will have only 65 event days. But next year, it is booked solid with 160 event days.

**Insurance for the events** is not working precisely the way Mr. Gaidys would like, "one of those gray areas we're still working out," he says. Currently, event producers may supply their own insurance; or, Mr. Gaidys will provide coverage and have it tacked onto their stadium "rent" charge.

With only a few exceptions, Mr. Gaidys would like to have the coverage uniformly arranged by the county, "to simplify my job. There'd then be no battling be-

tween companies on who should pay. If some seating broke down, for instance, and the various insurance companies involved didn't get their reps there immediately, it would later take months to determine the liability," says Mr. Gaidys.

He is the one who has to trace the validity of an insurance contract for each event and that tracing presents some "tremendous difficulties. The Jehovah's Witnesses, for instance, had a convention at the stadium and their insurance was through a New Jersey carrier but the carrier's Seattle office knew nothing about it," he says.

He's also trying to work out some "gray areas" in the liability coverage and currently is having a difference of opinion with his carrier over policy language on riot and civil commotion. "I have a problem and am trying to make some changes," he says. Of course, any damage to the building comes under property coverage, but where the liability picks up is one of those gray areas, he says. "I've devoted the last four days to this question and hope to resolve it soon."

That's about when Evel Kneivel arrives at the Kingdome, too. Often broken but never broke, the renowned daredevil has a planned approach and the audience is not in his way. Also, since he carries his own insurance, says Mr. Gaidys: "Contrary to what you may think, he's not a serious insurance risk!"

## Hits airport security plan approach as loose, leaky

AMHERST, MA.—Procedures used by airports to check for terrorist infiltration on international flights are both "bureaucratic and leaky," claims a business professor who is calling for a new insurance-based organization to cope with airport security.

Sidney B. Sufirin told a group of international executives meeting at the University of Massachusetts that Secretary of State Henry Kissinger's suggestion for an international security force to discourage skyjacking is a concept which could be extended to a self-supporting insurance system.

"I suggest that under United Nations auspices, a voluntary insurance system or company be organized," Mr. Sufirin said. "Its functions would be to institute for its members (insured states) a set of standards covering baggage and passenger examination.

"Premiums would be based on the number of flights, passengers, conditions of terminals, the ability to pay and other relevant criteria. Since the ability to pay would determine a premium, the insurance fund might improve security conditions in poorer countries," he believes.

Countries refusing to adopt the plan could be denied the right to schedule flights to member nations under the Sufirin plan, which would, however, permit member nations to schedule flights to non-member countries to induce them to eventually participate.

Mr. Sufirin said the United Nations' authority would be great enough to close down air travel on insured lines because of insufficient security.

All participants in the proposed insurance-based airport security scheme would work closely with law enforcement agencies.

## The Spirit of Independence

The Wagonmaster



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# Retailer's security programs lead to formation of arrest review board

By MARGARET LeROUX

NEW YORK—In Al Seedman's office of corporate security hangs a framed newspaper clipping that he proudly points out to visitors as proof that his retail security program is an effective one.

## SAFETY/SECURITY REPORT

The clipping is a paragraph from an article in the Village Voice Nov. 10, 1975 and reads: "This one tried to shoplift a bookcase out of Alexander's worth \$20. Tip to shoplifters. Stay out of Alexander's... They always catch you and they always prosecute."

Mr. Seedman, a former detective with the New York City police force, has been director of corporate security for Alexander's 13 department stores in New York and New Jersey for four years.

During that time the company has maintained a "get tough" attitude towards shoplifters and at the same time has avoided the false arrest litigation that troubles many retailers.

Both the security director and the head of Alexander's insurance department, Leon Raff, credit the company's false arrest claims review board with keeping false arrest litigation to a minimum.

The board, a recent innovation of Mr. Seedman's, meets monthly to review incidents that may result in lawsuits. The security director estimates the number at "two or three a month and 90% of them don't end up in court."

Mr. Raff described the board as "excellent, a tremendous control. As a non-security department member I'm able to look at other aspects of the incidents."

In the future, Mr. Raff noted, Alexander's insurer will participate in the review board meetings.

Mr. Seedman looks forward to that participation. "I want the insurance company to see what we're doing to control losses."

Corporate security staff, insurance department personnel and security managers from Alexander's retail outlets are represented on the board. Security officers, too, attend meetings as part of the company's ongoing training pro-

gram.

"They find I'm often more critical about false arrest claims than the people involved," the security director said.

The key to avoiding false arrest litigation, he said, "is to end the situation with the customer in a good frame of mind."

**Acknowledging** it's not always easy to accomplish this in a shoplifting incident, Mr. Seedman said, "I try to make sure our people know not to take a customer's tongue lashing personally."

He stresses diplomacy in handling a shoplifting apprehension.

"The first contact is at the door of the store," the security director said, "our people are trained to

ask the suspect if he has merchandise that he's forgotten to pay for."

The suspect is thus given an out, albeit an embarrassing one. If he refuses, "we take it from there," Mr. Seedman said.

Another of Mr. Seedman's innovations at Alexander's is the creation of the position sales detective. These are personnel who are trained as security guards but who work on the floor as salespeople in departments where shoplifting is a problem.

You can't separate shoplifting from internal theft as causes of inventory shrinkage, Mr. Seedman explained. "We try to stress to the employees that it's up to them to create a climate where stealing is

not tolerated."

Supervisors have to be accountable for the people working under them, he said.

The sales detectives supplement the efforts of the uniformed security guards who staff each Alexander's retail outlet.

"Regular sales people can help be eyes and ears for our security people," Mr. Seedman explained, "but they can't make any apprehensions on their own." Neither can a security officer make a shoplifting arrest solely on the basis of a salesperson's suspicion.

"If the security officer didn't see the shoplifting himself, he can't make an arrest," Mr. Seedman said.

Alexander's security personnel apprehend approximately 20,000 shoplifters a year, Mr. Seedman pointed out. "Better than half of these cases go to court."

**Training for security personnel** "is an ongoing thing," he noted.

Before an officer goes on the floor, he's given training in fundamentals of law, with emphasis on those involving search and seizure and false arrest. New officers are assigned to work with experienced officers until the store manager feels they are ready to be on their own.

The key to retail security and avoidance of false arrest litigation is in the training of security personnel, Mr. Seedman said.

Alexander's trains its security officers inhouse. "No outside guard firm has the capabilities we have," he stated.

Another important point is integrating security with the ongoing management of the department store.

"There's got to be an awareness on the part of the whole company," he concluded. "Security has to be a dynamic, ongoing thing. Once you rely on a single set of procedures, you become stagnant and vulnerable."

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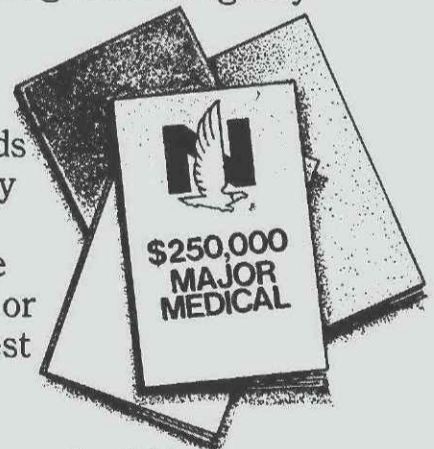
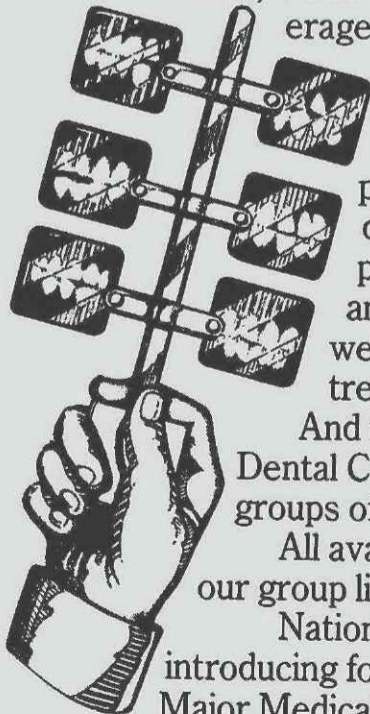
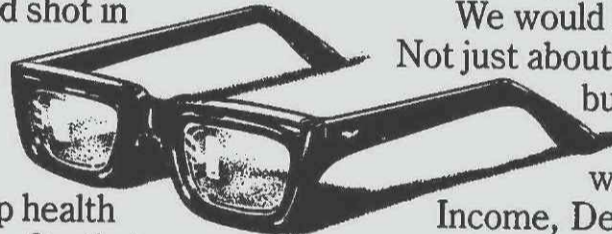
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# Data on 6 million students gets delicate treatment

By TOM WALSH

IOWA CITY, Ia.—This year alone, nearly six million American students will provide the American College Testing Program Inc. (ACT) here with high-

ly personal information that may

## SAFETY/ SECURITY REPORT

help them either gain admission

to a college or medical school or receive financial assistance to meet the growing costs of higher education.

As administrator of the \$1.35 billion federal Basic Education Opportunity Grant Program and

its own highly-successful college and medical school admittance testing program, ACT has accumulated personal data on more than 20 million persons over the last 15 years. With this deluge of data has come the responsibility of assuring its confidentiality, a mandate reaffirmed by Congress in 1974 through the disclosure and access provisions of the federal Privacy Act.

"We've studied the Privacy Act very carefully, and, frankly, it doesn't require us to do anything we haven't already been doing for 15 years," said Shannon Janes, an attorney and a special assistant to ACT's president. "The information we gather is of a very personal nature—the results of a student's academic performance, information on income and assets—and our basic precept is this: If we are going to gather information from people, we have to treat it delicately or no one will buy our services. We've always operated under the principle that the information we have belongs to the students who provide it."

ACT is now in the process of drafting an updated policy paper outlining its systems for safeguarding the highly personal information it has collected. The Washington, D.C. law firm of Fulbright & Jaworski has reviewed the draft, Mr. Janes said, and has assured ACT that its systems conform to the requirements of both the 1974 Privacy Act and recent "Buckley Amendment," which spells out privacy rights of students and their parents.

The Risk Planning Group Inc. of Darien, Connecticut, has also

recently reviewed ACT's exposures, including their efforts to protect the confidential data in their possession. The two-day, on-site inspection in April surveyed all potential risk factors, and a report was delivered to ACT's management in early September.

"I think it says something for our system of security when you look at the tremendous bulk of data we have, the large numbers of individuals we have collected information from, and then see that we've never had a suit brought alleging violation of confidentiality," Mr. Janes said. "We must be doing something right."

The key to ACT's efforts to protect confidential data from falling into unauthorized hands is a password system that "unlocks" the terminals which are used to enter and recall bits of information stored in ACT's computers.

"Only three persons in the company know the key words needed to activate the terminals," Mr. Janes said. "A new word is used every month, and, if for some reason a fourth party needs to be told the password, a new word is used, beginning the next day."

Data access is also controlled through the use of complex start-up procedures for the terminals in ACT's six buildings and warehouses.

"You or I couldn't just walk into an office and start up a terminal and get the information we were after," Mr. Janes said. "A person trained in the operation of these complex terminals needs 15 minutes of hitting the right buttons to gain access to confidential information."

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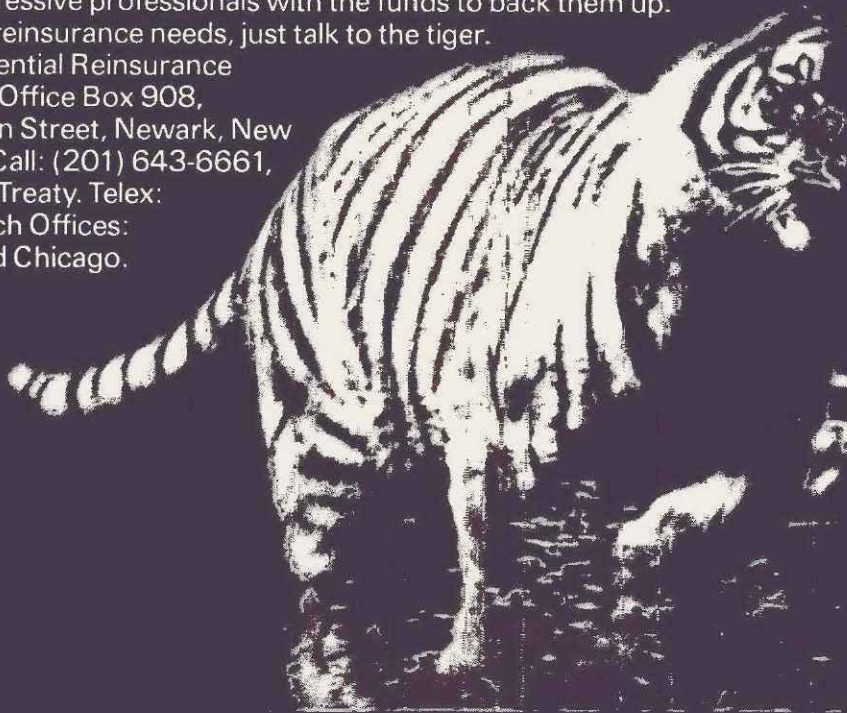
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ACT also has strict regulations governing the proximity of unauthorized persons to areas where confidential data is stored.

"This is a very sensitive area with us," Mr. Janes said. "There's nothing in this company for which you would be summarily dismissed quicker than for jeopardizing confidential data. We dismissed one person from our staff who allowed his wife to sit in the same room he was working in, while he was handling data. She most likely had no use for the information, but he was dismissed immediately."

Normally, authorizations for release of information held by ACT are made by students in writing, most requests ask that test results of financial analyses be sent to a specific college or university. In cases where information is requested by phone, ACT institutes special procedures to be sure the request is both legitimate and of an "emergency" nature.

"When the phone rings and it's a high school counselor who has lost a student's scores or a college financial aid director or even a U.S. Senator who is trying to get a constituent into a certain school, we take down the nature of the request on a form and tell them we'll call them back," Mr. Janes said. "This way, we have some control over making sure we are talking to whom the caller claims to be."

"We can call up the information we have on the student, which includes a lot of personal data. So, when we call back and determine that an emergency situation exists, we'll ask if the student is there with the counselor," he said. "The student will then get on the phone and we'll put him or her through a whole routine of questions, like 'What's your mother's maiden name?', or 'When's your father's birthday.' If the call is surreptitious, at this point the callers will hang up."

"But," Mr. Janes said, "even if we determine that the call is legitimate under our procedures, we'll only tell the caller that a certain student was or was not tested and that he or she achieved a certain score. That's all we tell them; we never provide any demographic information."

The federal Privacy Act, Mr. Janes said, allows ACT to assume that a financial aid director has good reason for calling to seek information about scholarship applicants. ACT, however, still uses the call-back system to help insure the validity of the request.

ACT is not in the mailing list

business, Mr. Janes said, and won't hawk student names.

"There was a college in northern Iowa that instituted a special reading program and was looking for high school students with marginal reading skills," he said. "In a case like this, we don't provide names of students with low reading scores to the college. We send a letter to students who might benefit from such a program and tell them that this program exists. If they want us to send their results to the college, we will."

A bigger security problem for ACT than protecting confidential data is student cheating.

"When we give our Medical College Admittance Tests, we fin-

gerprint and photograph those taking the test," Mr. Janes said. "If someone sends another person to take his test, it's that other person whose going to have to go to medical school; we send the photos to the schools after the students are admitted."

It's not uncommon, Mr. Janes said, for a masked intruder to run into a room where ACT tests are being given and snatch a test booklet out from under a student being tested.

"We've always got 20 to 30 versions of every test," he said. "The version stolen is never used after that. We might also bring back a test we used 10 years ago."

One unusual phone call, Janes

said, has led to a policy that requires the company's letterhead for the office of the president to be kept under lock and key.

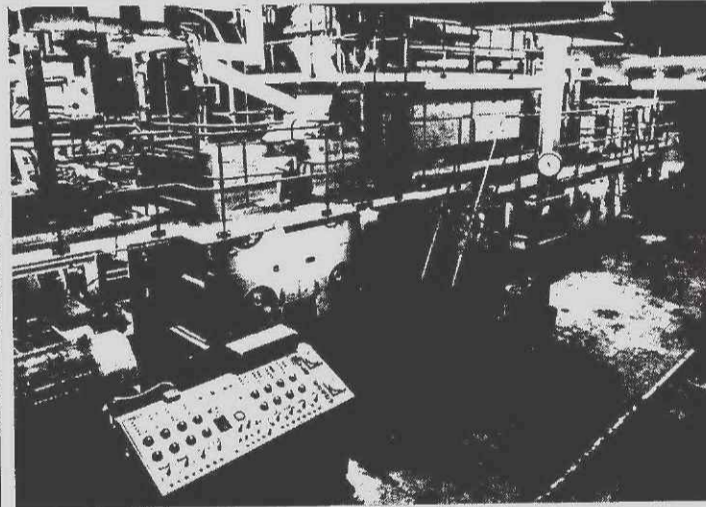
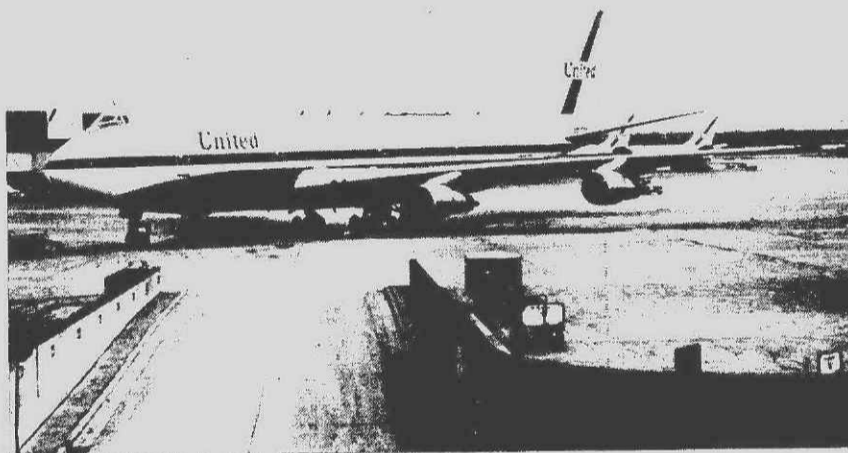
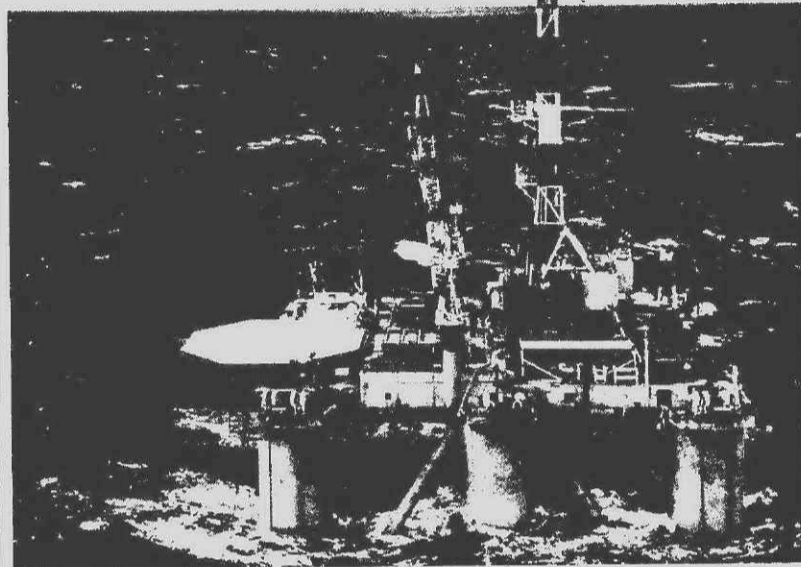
"The president received a call after hours one day from a university president who told him he had received his letter, requesting that a student's test scores be changed," Mr. Janes recounted. "The president realized he had never written such a letter. How the letterhead was stolen, we never found out, but it won't happen again."

The physical security of ACT's buildings and warehouses is handled by a Quad Cities security firm, and the structures are equipped with smoke and fire de-

tectors and a sonar system that detects movement in the buildings. Alarms are wired into local police headquarters, and one ACT executive tested both the precision of the system and the patience of the police when he intentionally activated the alarm.

### Hospital forum

The Ohio Hospital Assn. is offering its third Hospital Risk Management Forum on self-insurance for hospital professional liability. In light of hospitals turning to self-insurance as one alternative, the forum on Sept. 20 will discuss planning and implementing a hospital self-insured plan.



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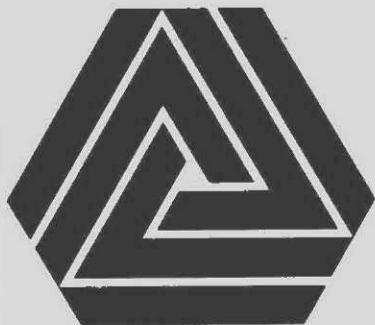
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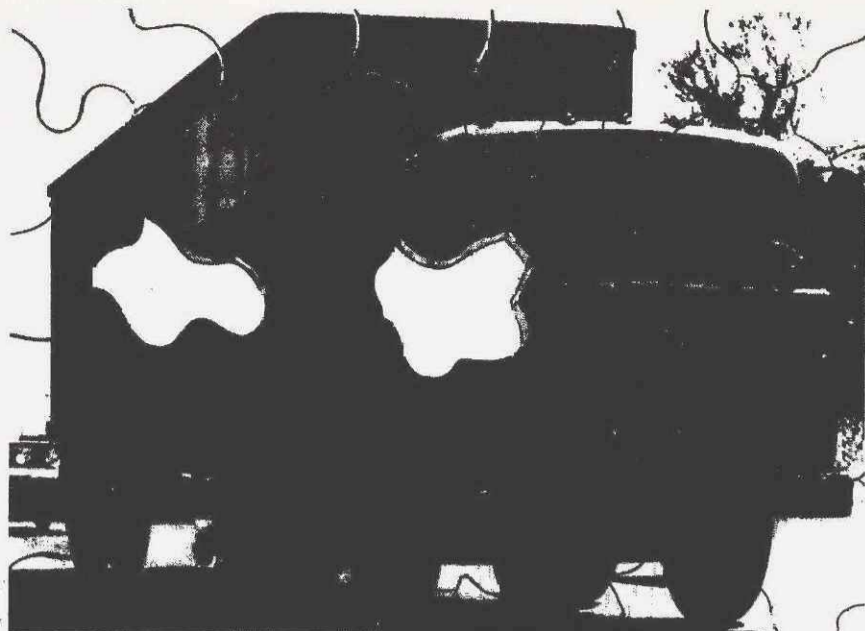


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## Influx of new Lloyd's members to up capacity

LONDON—Capacity for new business is now becoming the big problem at Lloyd's. The problem centers largely on the non-marine market, where there is an upsurge in demand from the U.S. and Canada. Brokers are even having to turn away policy seekers because they cannot find the underwriters with enough capacity to handle some lines.

But observers here believe the likely increase in new members at Lloyd's, which will probably jump next January by more than 2,000, to a total of about 10,500 names, will mean an attractive re-opening of opportunities in many directions.

This is because growth in premium income is related to the financial backing which individual members are able to give to their syndicates in order to ensure the security of future claims.

Huge rises in the insurable values of industrial properties and the consequent hike in claims are being coupled with the rising costs of inflation in a pattern of demand for insurance from many parts of the world which is now clearly emerging.

So even though Lloyd's made \$200 million profit in its last-reported trading year, there is a call for still more capacity to meet future needs, with premium income already soaring towards \$3 billion every year.

Trends on these lines were revealed to *Business Insurance* by prominent members of Lloyd's when its annual returns of premium income and claims were reported recently.

E. Basil Edmunds, chairman of its Non-Marine Underwriters' Association, commented: "For a time we lost business to other parts of the world because we would not insure it on terms that seemed

satisfactory to us. Now it is coming back to Lloyd's on terms better than we quoted previously.

"We are accepting all we can, but we are finding there is a lack of capacity in the non-marine market to meet the demands brought about by enormous industrial installations in many countries.

"There is a tremendous demand from the Third World to cover non-marine risks, and we are currently having to turn away some attractive North American business as well.

"That is why we are hoping that any new members coming into Lloyd's for 1977 will help to boost the capacity of the non-marine market to a substantial extent.

"It's true that non-marine insurance went through a very difficult time last year, both in the U.S. and other areas. But rating structures got better towards the end of the year, and there were fewer catastrophies.

"So my impression is that profits are moving upwards, and that the healthier trends in the general field are so far being well maintained," Mr. Edmunds said.

Peter Miller, chairman of Lloyd's Brokers' Assn., agreed: "There is a flood of business coming from the U.S. and Canada and we regret we can't place more of it at Lloyd's than we are doing at the moment.

"Brokers are looking for more capacity in the non-marine field, for we think much of it is very desirable business."

Surplus capacity is showing up in the marine market, where the economic recession in world trade means fewer cargoes and fewer vessels at risk.

Traditionally, Lloyd's issues its figures on a three-year accounting basis, so that the latest returns cover the trading year 1973 on a profit-and-loss account which has just closed.

The global profit, expressed in sterling of 109.6 million pounds sterling on a premium income of 1.2 billion pounds sterling, represents 9.2% profit, compared with 9.6% for the 1972 trading year.

Non-marine underwriters made 4.8% profit on premium income of 541 million pounds sterling, and marine and aviation underwriters cleared a 12.4% profit on overall premium income of 570 million pounds sterling.

Havelock Hudson, chairman of Lloyd's, declared: "Investment income has been increasing, but it is our underwriting experience that is of prime importance." ■

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The Rhulen Agency, Inc. placed first and received as its winnings the \$1 million account of the International Arabian Horse Assn. and its 23,000 members. The Rhulen Agency's package of Mortality and Club liability insurance was chosen over four other firms. The account was previously held by Johnson & Higgins. The agency is an animal insurance specialist headquartered in Monticello, N.Y. with Oregon and Texas offices. In addition to serving the International Arabian Horse Assn., the Rhulen Agency provides coverage for other nationwide horse associations including the American Morgan Horse Assn.; the Appaloosa Horse Club; the American Paint Horse Assn.; Quarter Horse Racing Owners of America; American Hackney Horse Society and the Peruvian Paso Fino Assn.

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# Home away from home has to be safe, secure

By LINDA MOSKOWITZ

NEW YORK—A jury award of \$2.5 million was recently granted to singer Connie Francis after her rape in a Howard Johnson Motor Lodge, which she charged with failure to provide her with "a safe and secure room."

The settlement is being viewed by hotel industry officials as "only one of many larger awards. And all of them are adding up," said Carroll Willoughby, senior group vp of Ramada Inns Inc. in Phoenix, Az.

The award is not the largest ever granted to a plaintiff in a liability suit against a hotel, but Howard Johnson lawyers are appealing the decision on the grounds that it is excessive. Court officials, though, had described the amount as one of the largest awards ever granted in a rape case.

Liberty Mutual Insurance Co. in Boston is the carrier for the hotel liability coverage, and if it is paid, the loss will be fully insured, according to a Howard Johnson spokesman.

Ms. Francis claimed that a man broke into her room on Nov. 8, 1974 at the Westbury, Long Island motel where she had been staying after giving a performance in the area that was to be part of her projected comeback.

The rapist, who has not been apprehended, allegedly entered the room through the sliding doors that lead onto a patio and threatened the singer at knifepoint.

She charged the Howard Johnson Co. with negligence in providing adequate security to prevent such crimes. A police officer testified at the trial that the sliding doors to the room could be easily opened from the outside "by a little jiggling" when in a locked position. He also testified that four burglaries occurred in the same motel where access to rooms was obtained through the sliding patio doors.

The motel management testified at the trial that new locks were ordered for the doors, but had not yet arrived at the time of Ms. Francis' stay at the motel. Motel officials, however, did not acknowledge that the old locks were faulty in any way.

After a month-long trial, Ms. Francis was granted the award as compensation, and her husband was awarded an additional sum of \$150,000 for loss of consortium for a two and a half month period.

The Howard Johnson Co. is now waiting for a ruling on its appeal. The case will be taken to a higher court if the decision goes against the firm.

The need for increased protection of guests is nothing new to the nation's innkeepers and hotel chain operators.

"It's been four or five years now that the industry has been putting an increased emphasis on security," said William Bohm, director of membership service and research at the American Hotel & Motel Assn. in New York.

One major chain's insurance director thinks "the courts are putting us in a very difficult position. It seems impossible to protect guests to the extent juries expect."

"You can't close the doors of a hotel," he explained. "You can't set up the same system used in a manufacturing plant, where only certain people are allowed entry to the buildings and the entire plant is shut down after working hours.

If too many uniformed security guards are used, "guests may think something is wrong," said Mr. Wil-

loughby.

At Ramada Inns, the trend has been to use extra chain locks and peepholes on all exterior doors, rather than employing more security personnel. These items have been standard in construction of Ramada facilities for the past four years.

Similar steps have been taken at Holiday Inns, where "specially designed deadbolt locks and peepholes on exterior doors" are used.

Ramada Inns have increased obvious use of guards in certain downtown hotels across the coun-

try where "guests won't even go out on the street at night." Armed guards and dogs are used as well in particularly hazardous areas, such as in parking lots of some inner city hotels.

The issue is a problem for the hotels because if security is too obvious, guests may be scared away. Also, if a guest is mistakenly stopped as suspect of criminal activity, "you could be sued for false arrest," one hotel official said, and thus face another type of liability suit.

But, if security is too lax, criminal negligence suits result. "We're faced with a dilemma," this spokesman commented.

The Connie Francis incident did raise some concern in the industry that women would curtail travel plans, for fear of being attacked in their hotel rooms. But, "if there is any reaction, it will be minor and soon blow over," believes Mr. Willoughby.

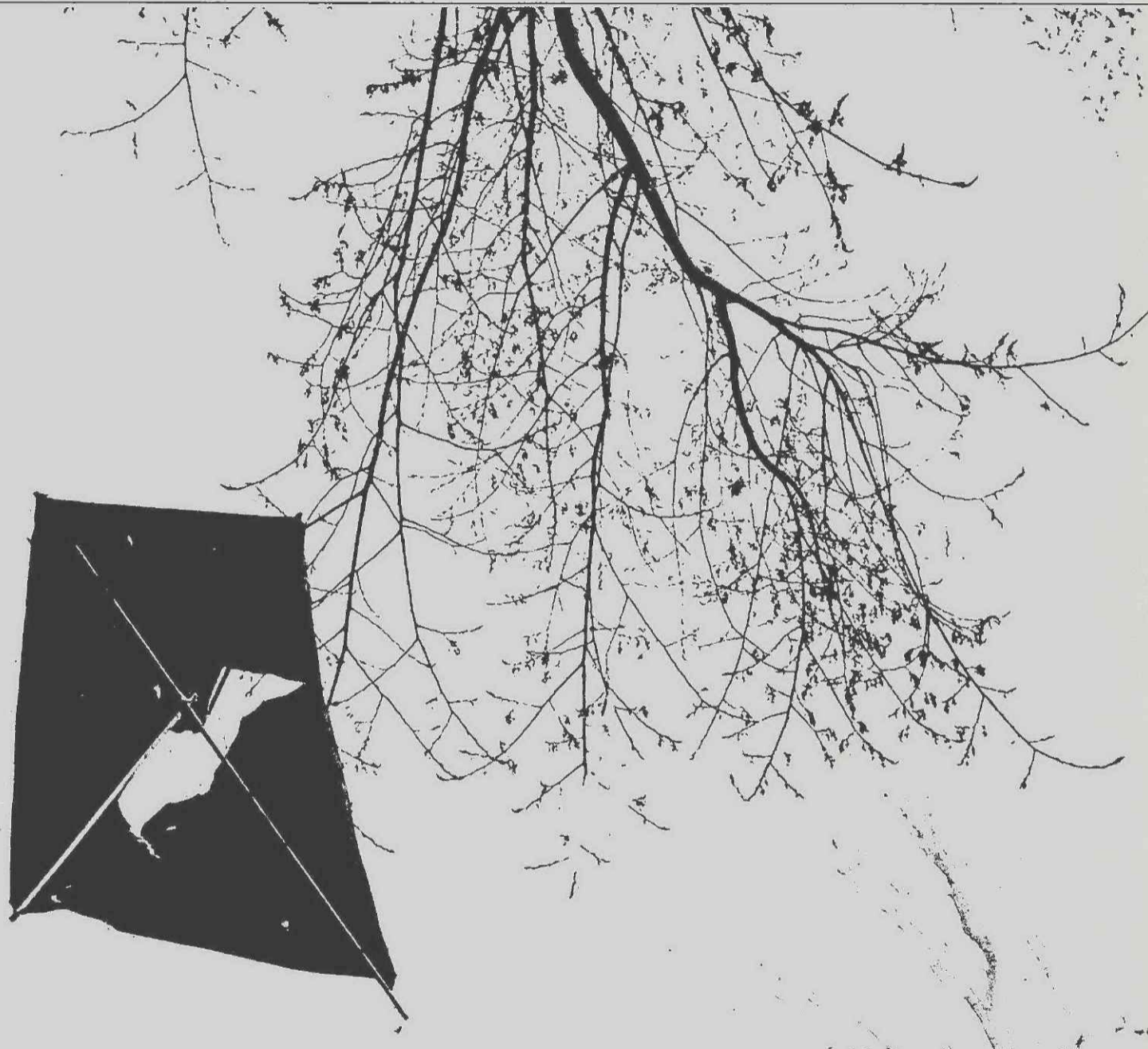
"There are more ladies traveling than ever," he said, especially those traveling for business.

However, the size of the award

granted to Ms. Francis and others who have successfully sued hotels for large amounts, make industry officials wary of future "set-ups" and "fake crimes," arranged by those anxious to collect substantial awards for themselves.

Also, if the trend toward such large liability settlements continues, hotel spokesmen have voiced concern that higher insurance premiums are sure to follow.

And the combined costs of more extensive security programs and insurance rate hikes will eventually be passed along to the guests. ■



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# DuPont on safety: 'We're fanatics'; record best in industry, firm claims

By MARIE KRAKOWIECKI

WILMINGTON, DE.—Eleuthere Irene duPont had a literal way of showing he cared about safety in the workplace. He moved his family right onto the grounds of his young company's factory. They lived there near the banks of the Brandywine Creek near Wilmington in the early 1800's.

On the face of it, the situation

seems unremarkable except for one thing: the factory manufactured black powder explosives. If it blew up, presumably so might the foun-

## SAFETY/SECURITY REPORT

der of E. I. duPont deNemours & Co. and all those he held dear.

Ned K. Walters likes to run

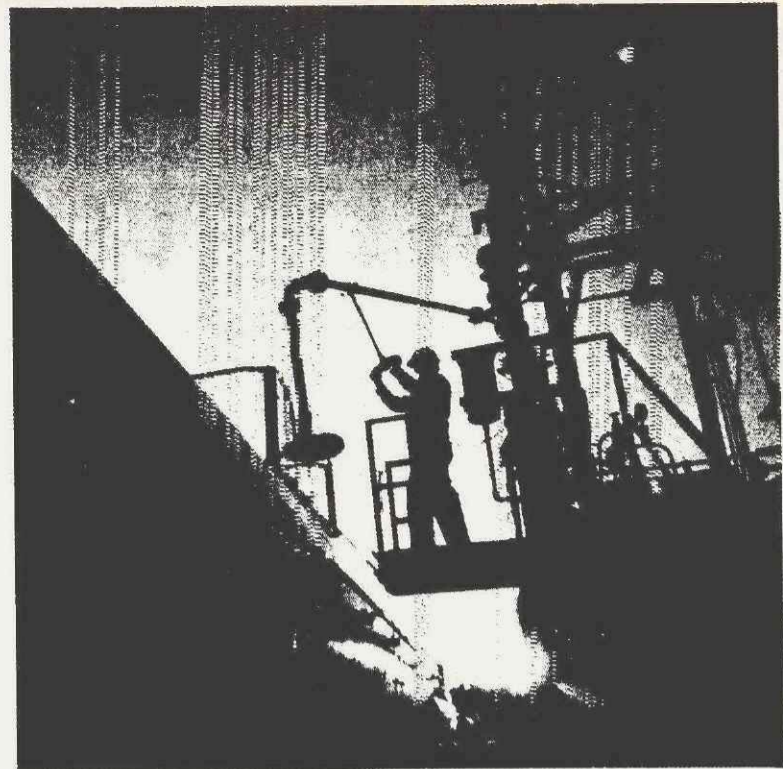
through the anecdote before explaining DuPont Co.'s outstanding safety regime today and its synchronization with the corporate insurance program.

Mr. Walters, head of DuPont's safety and fire protection division, neglected to mention that a fatal explosion actually did take place at the factory in 1818, killing 40 men.

But, Mr. Walters' point in relating the story was well-taken: the DuPont Co. considers occupational safety to be an integral part of its heritage. It continues to place such a high priority on safety in its corporate policy that chairman of the board Irving Shapiro said in May:

"If we cannot make a product without adverse health and safety effects we just are not going to make that product, no matter how profitable it might be—and even if it might slide by government regulations."

DuPont has one of the best, if not the best, safety performance records in the chemical industry. It has an internal safety management program that proved so effective DuPont started marketing its techniques in a separate management consulting capacity to other industrial firms that wanted to strengthen their safety programs.



A worker on the job at DuPont's hydrogen peroxide plant in Memphis, Tennessee. Last year DuPont's frequency for lost-time injuries and illnesses was only one-twentieth that of the chemical industry as a whole.

Because DuPont coordinates its own safety system with a program of heavy self-insurance, this magazine was anxious to explore DuPont's approach and to discuss ways risk managers and insurance managers might set similar programs in motion within their own

organizations.

Ned Walters explained that from an insurance standpoint, DuPont's set-up is somewhat unusual because the corporate insurance manager, Richard R. Balotti, reports directly to him, rather than being responsible to the firm's treasurer or financial division.

Of the 28 staffers who report to the head of the safety and fire protection division Mr. Balotti pointed out, 22 are involved in loss prevention and fire engineering.

"I don't know of any other company where the corporate insurance manager is in the same department as the loss prevention people, but it's a great way to structure things," Mr Walters said, explaining:

"If your insurance manager or risk manager can get an idea of potential exposures by working that closely every day with the engineering staff, it gives him a real advantage in dealing with underwriters.

"When Dick goes to London to speak to Lloyd's he knows exactly what we do."

DuPont is largely self-insured for its primary layers of insurance in workers' compensation, property and liability coverages, but it does buy excess layers of insurance, about half from U.S. firms and half in the London market.

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When it is time to negotiate excess renewals, Mr. Walters and Mr. Balotti travel to Lloyd's as a team, and they say their familiarity with the firm's safety procedures really pays off then.

Because Mr. Balotti is thoroughly versed in the specific exposures of DuPont, he is comfortable with the high deductibles and retentions which are the firm's trademarks.

And the higher the deductibles that the company feels comfortable with, based on its ability to identify its own safety problems, the cheaper the rates are on the excess coverage it must negotiate.

"We think we know more about our own business than any insurance company engineer, and besides, we save a buck," Mr. Balotti said. "Insurance companies are for folks who are not self-insured and who need loss protection expertise from the outside. We don't. Ned's folks take care of that."

DuPont established its own Bermuda captive in 1974 to provide insurance for overseas property risks. DuPont launched the captive largely because of the success it had in its safety-oriented self-insurance program. The overseas subsidiaries use some local firms for liability coverages, but they participate in the parent company's excess policies in broad terms, Mr. Balotti said.

For the first hundred years it existed, the DuPont Co. just made black powder explosives and gunpowder, and the dangers associated with those products were very clear.

But as the company grew and diversified into chemicals and chemical processes, the hazards connected with their manufacture increased and became more subtle and complex. And so, too, did the company's need for more effective safety measures.

Based on National Safety Council figures, DuPont says its workers are 15 times safer than the average chemical industry worker. It also cites statistics indicating that cancer rates for its employees are about 50% that of the general population. The only chemical company to have done so for such a long period of time, DuPont has kept a cancer registry of its workers since 1956.

The company was also a pioneer in that it established the first industrial toxicology laboratory more than 40 years ago to study toxic substances, plus industrial hygiene and medicine, and to share its findings.

Ned Walters is sensitive to much of the public's current criticism of the chemical industry (including DuPont) for not doing enough to protect workers against toxic and carcinogenic effects of chemicals.

In a keynote speech he gave to a DuPont-sponsored safety symposium in May, Mr. Walters said much of that criticism is unjust. He also told the DuPont safety supervisors:

"Simply because the public focus may have shifted from accidents to health, we cannot allow ourselves to be diverted from our basic responsibilities.

"We must set priorities and deal with those safety problems which have the greatest potential impact for harm at our work sites."

When *Business Insurance* asked Mr. Walters which safety problems have the greatest potential impact for harm, his immediate response was, "places where flammable materials are handled."

Mr. Balotti expanded that somewhat to include a discussion of controls of "temperatures, pressures and toxicities."

Although DuPont is involved in an ongoing Congressional investigation of worker exposure to po-

tent cancer-causing agents, neither man mentioned low-level worker exposure to hazardous substances as a particular problem area in the company's safety program.

They feel the company's current methodology is sufficient to deal with the problem through its management commitment, design standards, hygiene testing and safety discipline.

A handout from the DuPont Safety Management Services (which is the unit that markets the firm's safety techniques on a consulting basis) says costs in the United States every year related to deaths and disabling injuries from job accidents add up to nearly \$9.5 billion.

But Mr. Balotti says it would be a mistake to characterize DuPont's program as being more concerned with lost-time accident costs than it is with any other aspect of its "total commitment" to safety for its people, protection of the public, and property conservation.

"We're a standards company, and we apply the same principles and practices worldwide. We probably have the best set of standards that exist for fire protection, design of buildings and work practices," Mr. Walters said.

"We're also a disciplined company. For such a large company (132,235 employees) we can do things very rapidly because all our

locations are run the same way. Very few large companies have that capability."

To make sure that all locations stick to the rigid DuPont standards, Mr. Walters' department makes surprise audits to see if the line organization is observing the safety rules.

The results of the audits are a significant factor in the way top management evaluates various departments within the company. "Anyone who can't manage his unit of responsibility will not retain control of that unit," Mr. Walters said flatly. The company will not hesitate to fire people who don't obey its safety rules.

Insurance manager Richard Bal-

otti boiled the program down very simply: "The nuts and bolts of a good safety program are administered at the line organization," he said.

"It's how your plant managers, supervisors and foremen accept the established goals that matters. That's where your safety program either stands up or falls down."

Du Pont's safety and fire protection director is getting involved in at least one new project directly related to dealing with the possible hazards of long-term low-level exposures to certain chemicals.

Mr. Walters revealed that he is  
*Continued on page 54*

**Everybody's FBO.** Russ Miller is the current chairman of NATA, the National Air Transportation Association.  That figures, because he is also founder and president of AirKaman, Inc., a \$20-million-a-year aviation service organization that is all things to all customers at Windsor Locks, Connecticut; Omaha, Nebraska and Jacksonville, Florida. AirKaman offers support services for everything from a single-engine Beech Sundowner to an airline Lockheed 1011.  Russ learned a lot about coping with risks during WWII and the Korean War when he was flying everything from B-24's to F-100's. He wants his widespread operations covered by people who understand the inherent safeguards as well as the risks of his business. That's why he has insured with USAIG since his opening in 1961.  "They are pros. They sometimes seem hard-nosed about a few of our exposures, but that's really because they're interested in our protection. They have always proven fair. And their reaction to claims is immediate."  Two pros working together: AirKaman, everybody's FBO; USAIG, everybody's insurer.

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# Safety takes top spot in U.K. in wake of tough new workplace laws

LONDON—Risk managers in many British industrial centers are studying the effects of severe new laws which make plant safety the cornerstone of business operations.

There is currently such strong pressure to impose heavy penalties for any breach of these rules that insurance companies are coming to the rescue of firms in jeopardy.

One leading U.K. insurance group is offering special facilities to help corporate management check the problems they must face as a consequence of this safety legislation.

Still another insurance company has arranged to cover the legal costs of businessmen who may be prosecuted for failing to observe the Labor Government's safety regulations.

The rules were set out in the

Health & Safety at Work Act which came into force two years ago. But only modest penalties have been handed down by many local judges since then, so there is a demand to make them harder.

Insurers have discussed the rules at several seminars as part of a nationwide drive in which all political parties agreed to cut the number of workplace injuries.

Employers can now be compelled to shut down any part of their plants where safety precautions are not maintained, and can even be sent to jail for two years in cases of extreme carelessness.

Strangely enough, there is nothing new in principle in this. As long ago as 1880, an employer could be sent to prison under Britain's industrial laws for imperiling the health of his employees, or even for neglecting to provide them with proper food.

It is the increasing scope of safety legislation, together with fresh plans for "spot checks" on accidents at industrial plants to find who is to blame, that has created attention.

"The need for a risk management approach to industrial safety is now becoming apparent," Donald F. Carr, of the Stewart Wrightson group, told U.K. insurance brokers recently.

"Brokers have an important role to play in this field, for there have to be satisfactory standards in the safety and loss prevention aspects of business operations.

"I believe that Britain's Health & Safety at Work Act of 1974 will

rank alongside its Marine Act of 1906 as a historic development in the history of insurance.

"If we delve below the surface of this new act, we will all find it has an involvement in liability and products insurance, in engineering insurance, and in fire and burglary insurance people have stood aside for too long from public discussion about it."

Strong views on industrial safety are also held by insurance companies, who realize that risk control can reduce the cost of claims.

Peter James, of Commercial Union's newly-formed risk management division, advised *Business Insurance*: "The prevention of accidents is very much the province of risk control experts, and in my view the Health & Safety at Work Act is the most important piece of safety legislation we have ever faced. Fresh starts have been made toward reshaping the whole range of U.K. laws over plant safety. Both employers and employees will need all the help they can get."

He believes that in the next few months there will be new rules in Britain covering:

- Permitted levels of noise exposure;
- Procedures for reporting plant mishaps;
- Creation of industrial safety committees.

Vital safety regulations inside Britain, may well be extended to the nation's offshore oil industry, with effective consequences for many multinational corporations

engaged in North Sea operations.

The effects of plant stoppages resulting from industrial accidents are being surveyed by insurers, who believe business interruption risks from this cause could be double the loss caused by fire damage.

Indirect costs of accidents within industrial plants as opposed to direct costs are estimated by technical analysts at Aston University, in Warwick County, as ranging in proportion from three-to-one to as high as seven-to-one.

Altogether more than 70 projects investigating various aspects of factory safety are now being pioneered by Britain's government-run Health & Safety Commission.

Penalties in Britain for breach of safety rules have so far been expressed only in terms of monetary fines, although in France there has been a case of a plant manager jailed for two days because one of his employees was killed in a small accident.

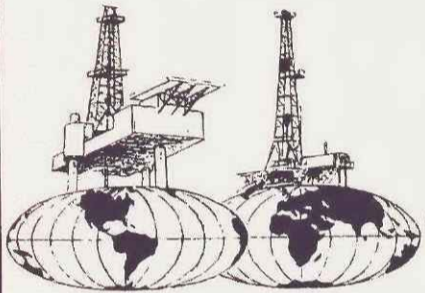
But it is a warning of future trends that has led Harold Walker, the U.K. Government's Employment Minister, to tell industrial executives: "Cases can now be taken to higher courts, and unlimited fines and even imprisonment for some offenses can be imposed. Parliament intends that those who expose people to danger at their work will be severely punished."

So in London the DAS Legal Expenses Insurance Co. is offering policies which will pay up to \$20,000 worth of any legal costs incurred by corporate managements or their employees in defending themselves against cases brought under the new laws.

This will also cover the expenses of consultant engineers and risk specialists who may be called to give evidence at any trial court where penalties may be imposed.

Premiums will vary with individual risks, but will cover directors, partners, managers, senior officers, and all other employees if they are sued. The scheme is operated under the joint control of Phoenix Assurance (UK) and Deutscher Automobil Schutz of Munich, which has led legal expense coverage for many years. ■

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## DuPont . . .

Continued from page 53

on the corporate policy committee of the Chemical Industry Institute of Toxicology (CIIT), which DuPont joined along with 17 other chemical firms.

The CIIT, which is still in a research and development stage, will test commonly used chemicals for which long-term testing has not been completed, and will screen them for possible hazards including carcinogenicity.

An example of a more immediate concerned response by the DuPont insurance manager and safety director to problems involving toxicity was triggered by Allied Chemical's recent bad experience with the kepone pesticide scandal in Virginia.

Mr. Walters revealed that his staff did some rechecking on DuPont's relationship with its suppliers after it observed the mess Allied Chemical got into with its captive supplier of Kepone, Life Science Products Inc.

The recheck did not turn up any similar situation for DuPont, but as Mr. Walters noted, "you'd have to be an idiot not to" check out a potential trouble spot such as the kepone scandal revealed.

The most important part of DuPont's whole safety program, according to Mr. Walters and Mr. Balotti, is the commitment of the company's top management.

"Quite frankly, we're known as fanatics on safety," Mr. Walters said. ■

# Soviets don't want U.S. horning in on insurance

NEW YORK—The Soviet Union spurned attempts by American marine insurers to participate in underwriting shipments made under the U.S.-U.S.S.R. trade agreements, the president of the American Institute of Marine Underwriters said in a press conference.

Thomas A. Fain protested discrimination against the American market on his return from London, where he and representatives from the U.S. Maritime Administration, the Commerce Department and the State Department attempted to negotiate some concessions from Ingosstrakh, the Soviet state insurance company.

"Exactly zero progress was made toward that goal," said Mr. Fain, who estimates that the U.S. marine insurance market has been totally shut out from about \$15 million in insurance premiums (based on \$5 billion in trade) since 1972.

Mr. Fain thinks U.S. firms selling and shipping goods to the Soviet Union could face trouble, particularly in the event of a major loss at sea, because of restrictive insurance practices which prevent them from buying insurance from the American market.

Although he would not mention any names, Mr. Fain said insurance buyers from a number of firms which export goods to Russia have backed up the Institute's position that there must either be open international competition between insurers to underwrite the

business, or else American insurers should be guaranteed at least 50% of the business.

AIMU has not thus far opened a dialogue with insurance buyers at firms like Pepsico or Caterpillar Tractor which have operations in the U.S.S.R., Mr. Fain told *Business Insurance*. However, he said public recognition of the problem is beginning to pick up, notably with the Seattle American Legion having just passed a resolution supporting the U.S. marine insurance market in its position.

Since many of the Soviet's purchases are made on credit due to shortages of hard currency, Mr. Fain said in the past that if a major loss occurred at sea, there would probably be a delay in the claim payment to an American supplier insured by Ingosstrakh.

Insurance buyers would get better service in case of such a loss of goods if they were free to go to the underwriting markets in the United States, Mr. Fain contends.

At the press conference, held in late August and attended by a representative from the Soviet news-

agency, Tass, as well as U.S. journalists, Mr. Fain blasted A. Runov of Ingosstrakh.

In an exchange published by *Seatrade Magazine*, Mr. Runov stated that if the U.S.S.R.-U.S. trade partners agreed to write insurance with the U.S.S.R. underwriter, it can only mean that in this particular arrangement Ingosstrakh is considered to be the most convenient underwriter.

"I strongly suggest that it can and does mean something quite different," AIMU's president re-

torted.

"Where individual businessmen find themselves faced with the choice between dealing with a powerful sovereign state on its terms or not dealing at all, and that state happens to also be an underwriter named in a contract where only the signature line is blank, the question of convenience is settled in advance."

Despite the failure of the recent round of talks with Ingosstrakh in London, Mr. Fain said AIMU plans more negotiations with the Soviets in the fall, possibly in November. ■

## Recognize exposures

NEWTON, MA.—"It can't happen here" is the attitude most people have when it comes to earthquake or flood insurance, even if they are located in areas prone to those disasters.

Howard Kunreuther, a professor of decision analysis at The Wharton School, University of Pennsylvania, did controlled laboratory experiments on insurance and interviews with homeowners and concluded that "most individuals do not view insurance as a means of transferring the risk burden from themselves to others."

Prof. Kunreuther told the American Risk and Insurance Assn. last month that voluntary adoption of disaster insurance is likely to be a slow process. Because people don't view the earthquakes and floods as a real threat "they are likely to assume that the chance of a future disaster is sufficiently low that it is not worth thinking about the losses."

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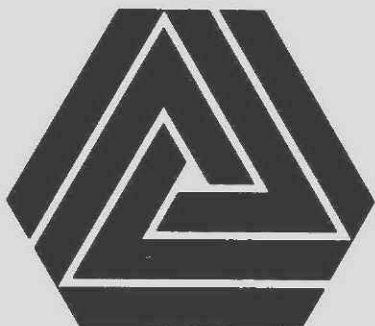
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# Says best use of excess markets requires full facts about the risk

By JANET MROCZEK CORRADO

HOUSTON—The challenge of placing insurance in the excess field is "keeping the markets from farring everything with the same brush," according to John Rathmel.

Mr. Rathmel, president of Rathmel & Co., Houston, said the tire retreaders may have been victims of that kind of prejudice in product liability coverage. "There is a big crunch in the line generally," he said.

The Tire Retreading Institute was faced with a 140% premium increase July 1 of this year from its American carrier. Where premiums had been 7½ cents a tire,

and 2½ cents the year before, the insurer now wanted 19 cents per tire.

Yet, the association's loss experience had not been more than 25% of premium, including expenses and reserves, for the last eight years, Phillip Taft, director of the institute said.

The group's agent, a large international brokerage firm, had talked with 100 American companies and the London market with no takers, Mr. Taft said, when the institute decided to set up a captive company.

It came to Mr. Rathmel for help in obtaining reinsurance, yet the Houston agent placed both primary

and excess coverage in, word has it, the same London market previously contacted by the international brokerage.

He arranged a \$1 million combined bodily injury/physical damage single limit policy with a \$500 deductible for the institute for "far under what they had been offered in the American markets," Mr. Rathmel said.

Besides some high jury awards in product liability cases which may have frightened the American carrier, Mr. Taft believes it "lost its shirt in the stock market," and is unable to separate out individual experience of a risk in the casualty field.

Mr. Rathmel said he "strongly suspected that the insurance company was withholding information because it wanted the rate increase," or perhaps wanted out.

"We don't go into the market until we have the best, most accurate statistics on a risk," he said. "That is a key to success in the excess market."

Mr. Rathmel said the statistics from the insurer "just didn't track. I couldn't deal with them."

Somehow, the institute's attorneys went back to the company "and got some runs that made sense."

Before going to London Mr. Rathmel said he spent 30 hours on the phone "trying to drum up interest" in the American markets. And he was warned, he said, that the London markets had already turned the risk down.

But another key in placing ex-

cess coverage is "finding the right market," he added, "and you never know until you try."

In fact, Mr. Rathmel said he thinks they may have been helped by the fact that they approached the London syndicate even though they had been told that the syndicate already turned the institute down.

He went to London looking for reinsurance for the institute's captive, set up in the Grand Cayman Islands. He was hired, Mr. Rathmel said, not only as a specialist in the use of excess markets, but because he is knowledgeable about captives. (Rathmel & Co. owns 80% of a captive insurance company in Bermuda that writes quota share reinsurance in the international market.)

He approached the London syndicate with a detailed underwriting presentation.

"In order to get anywhere in excess markets, you have to have good, detailed information," Mr. Rathmel said. "The better the presentation you have, the better it is."

Besides detailed loss runs, the presentation included the full background of the retreading institute, its good relationship with members, and the fact that it had already set up its own captive company.

Tire retreaders have government standards they have to live up to, but one of the things that sold the risk was that the institute had its own manufacturing standards that members must meet, and the association's own staff engineers investigate every member every year, Mr. Rathmel said.

The risk was good, he said, but "the story had to be told."

"It looked so good," Mr. Rathmel added, "that the underwriters

didn't want to go excess over the captive company. They decided that the only way they wanted to go was direct."

The deal was closed June 7, and things had to be set for "a bunch of renewals" July 1. Since then the agency has realized \$400,000 in premium income and anticipates much more, Mr. Rathmel said. The program has been "an overwhelming success."

In July and August alone, Mr. Taft said, the institute received about 50 applications for membership because of the insurance. "The word is out that we have the only game in town," he said.

While Mr. Taft wonders why Mr. Rathmel was successful in placing the coverage where others had failed, Mr. Rathmel added one more key to working in the excess markets—a good track record.

"We will get a better reception with a mass merchandising program, for example, than others because of our experience," Mr. Rathmel said. Somebody else may not know what to do with a program once they've sold it.

"We have good contacts with Lloyd's brokers. For years we have been specialists in insuring drilling rigs."

In 1960, Mr. Rathmel said, the drilling rig market was very tight. The American Assn. of Oil Well Drilling Contractors (now the International Assn.) wanted to put together a program it could sponsor.

"We went to every American market we could think of," he said, "and could find no interest. Finally we found Argonaut which would offer the rig coverage if it could write the compensation as well. And we found a Lloyd's broker who was interested in putting up the majority of reinsurance."

It was an American company policy that was issued, Mr. Rathmel said, though about 70% of the coverage was in London.

He said the program was "tremendously successful for years," with over \$6 million in premium at the height of the plan.

Rathmel & Co. also handles many professional liability programs for associations. Among its clients are the American Society for Medical Technology, the American Personnel and Guidance Assn., the National Rehabilitation Counseling Assn., and the State Bar of Texas.

It also placed an errors and omissions program for the Associated Telephone Answering Exchanges, "the only one of its kind in the country to my knowledge," Mr. Rathmel said.

Selling that plan was again a case of preparing thoroughly, getting the hazards in proper perspective, and keeping the market from looking with a jaundiced eye, he said.

Mr. Rathmel calls his agency "a specialty house," in mass merchandising and commercially.

"Our personnel are not encumbered with homeowners and auto policies. We have shied away from personal lines from the beginning."

The agency, which also has a division in Washington, D.C., to handle association business, is divided into two units. One handles property and casualty insurance for commercial accounts, and the other employe benefits for corporate and association accounts.

It has the employe benefits business for most of the associations that are professional liability clients.

"We may have gotten our foot in the door with professional liability," Mr. Rathmel said, "but we also handle employe benefits, which is more profitable than other lines because there is less servicing."

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## Insurance and benefits boost hospital costs

CHICAGO—Hospitals' costs are soaring at the same time that some state agencies and the federal government are trying to put a lid on their revenues, hospital administrators told the Council on Wage and Price Stability in Chicago.

New government regulations designed to limit increases in health costs by controlling the use of hospitals, liberalized workers' compensation laws and rising labor costs are all putting pressure on hospitals' budgets, the administrators said in prepared statements. They didn't all get to make their presentations in person, because they were among the last slated to be heard during the two days of hearings, which ran behind schedule.

"Our employe benefit or fringe package rose from \$478,000 in 1973 to \$964,000 in 1975, representing a 102% increase," reported Donald Wasson, administrator of the 406-bed Victory Memorial Hospital in Waukegan, Ill.

At the same time, he said, mal-

practice premiums soared 612.5% to \$342,000 a year. Fuel oil and natural gas bills rose 118% to \$210,000 a year, and electricity costs increased 33.1% to \$126,000 annually. During the 1973 through 1975 period, Wasson said, his institution's total utility bill rose 49% to \$150,000 a year.

Morris Spector, vp for finance, Michael Reese Hospital and Medical Center, Chicago, said that at his institution, "the current malpractice insurance premium of \$3.9 million adds \$13.73 per day to the bill of every inpatient, up \$12 (14.4%) per day from two years ago. This at a hospital at which our annual malpractice claims average less than \$100,000 a year," said Mr. Spector. ■

## Banks can't be insurance agents in Ca.

SACRAMENTO—In spite of some opposition from the Independent Insurance Agents of California, legislation was adopted to end the licensing of banks in the state as insurance agents.

The bill was sent to Governor Edmund G. Brown, who is expected to sign the moratorium into law.

December 31, 1979 is the date set to end the moratorium, which will not affect insurance carriers permitted to carry out trust business or trust companies controlled by title insurance carriers.

Independent Agents objected to the Senate's amendment to the Papan bill to exempt the directors of banks, bank holding firms or bank affiliates. They can continue to obtain licenses as insurance brokers or agents.

The state assembly agreed to another amendment eliminating a requirement that California Insurance Commissioner Wesley J. Kinder complete a "study of the problem" and report to the legislature within two years from January 1, 1977, effective date of the moratorium.

Mr. Kinder's department, instead, will be asked to hold public hearings throughout California on the effect on California consumers of a continuation of the ban on banks serving as insurance agents.

Democrat Louis Papan, author of the legislation, is an insurance broker in Daly City, Ca. ■

## Insurers' losses down

Property and casualty underwriters lost more than \$1.9 billion on their insurance operations during the first half of 1976, according to the Insurance Information Institute. The second quarter loss of \$525 million compared with a first quarter loss of more than \$1.4 billion. Improvement for the latter quarter is attributed to rate increases which are narrowing the gap with inflation. For the first half of 1975, the industry recorded a statutory underwriting loss of \$2.01 billion and policyholder dividends of \$296 million, which put the total loss on underwriting operations at \$2.31 billion for that period.

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# Pension boosts shove labor costs up for rubber and paper industries

CHICAGO—Both the nation's rubber industry and the West Coast paper industry have been strapped with new contracts that

will jack up labor costs by more than 11% a year. Pension costs will contribute a healthy part of this increase, with rubber industry benefits climbing by 25% and paper industry pensions upped by 11% to 29%.

Rubber manufacturers are saddled with a 36% hike in labor costs over their three-year contracts signed last month between Firestone Tire and Rubber, Goodyear Tire and Rubber and the United Rubber Workers Union (URW).

The total annual increase in payroll expense will be 12½% a year, figures Edward Howard, managing editor for Labor Trends Magazine in Southfield, Mi.

The settlement will affect the 60,000 URW members who work for Firestone, Goodyear, Uniroyal and B. F. Goodrich and is "the best settlement that the rubber workers ever had," says a union spokesman.

B. F. Goodrich and Uniroyal had not yet signed contracts as this issue went to press, but their settlements are expected to closely follow the pattern set by Firestone.

In spite of the rubber industry's expensive settlement and bitter four-month strike, neither management nor the URW really won the 1976 contract battle. The union

won an unlimited cost-of-living escalator for wages, one of their most adamant demands, but the tradeoff was having to accept fixed wage increases below what management had originally offered.

Similarly, the URW won a substantial increase in pension benefits. Goodyear, low man in the industry on benefit payments, will increase pensions by 47% for future retirees. But employers killed off a prominent union demand, the "30 and out" provision which would allow workers to retire at any age after 30 years of service.

What the rubber manufacturers did sign was a hard-nosed compromise; "30 and out" will have to wait until the next contract negotiations, but the URW bargained pension benefit increases up from the \$1.50 a month for each year of service, management's original offer, to \$2.50 a month a year.

In 1973, pensions were set at \$10 a month for each year of service, with Goodyear tagging along at \$8.50. Under the new contract, they will rise to \$12.50 by 1979, after hitting \$11 in the first year and \$11.75 in the second year.

The contract also requires management to pay present retirees an additional monthly benefit of \$1 for each year of service, a 10%

increase over present pensions.

The URW had demanded a lump sum pension supplement for early retirees, but instead the contract revamps the whole supplement program, replacing it with a special early retirement table.

Between the ages of 55 and 62, a worker with 30 years of service can retire with full benefits, which range from \$400 to \$740 a month.

Wages will increase \$1.35 an hour over the contract life, with an immediate increase of 80 cents an hour and hourly additions of 30 cents an hour in the second year and 25 cents in the third.

Firestone will pay a total of \$1.43 an hour over the period by paying an additional 8.8 cents an hour in the first wage boost.

The uncapped cost-of-living escalator will not kick in its first adjustment until April, 1977, one year after the contract is signed. The adjustment will be computed every three months and at an annual inflation rate of 6%, the adjustment would yield extra wages of 69 cents an hour over the life of the contract, according to Goodyear estimates.

West Coast owners of paper and pulp mills are having better luck with their labor costs. They should increase 11% this year and 10.5% the next as a result of contracts negotiated with the Assn. of Western Pulp and Paper Workers.

The contracts have no cost-of-living escalators, no "30 and out" provisions, nor any clauses covering present retirees. The latter two demands are apparently not even seriously discussed in the industry.

What the contracts do have is a hefty 29% increase in pension benefits paid by those companies that use flat rates to compute benefits. Benefits were pushed up from \$12 a month for each year of service to \$15.50.

## J. O'Connell affirms need for no-fault in more areas

NEWTON, MA.—"No-fault" product liability and medical malpractice insurance would allow businesses or professionals to pay for medical expenses or wage losses from injuries caused by a particular product or service and save money on legal fees at the same time.

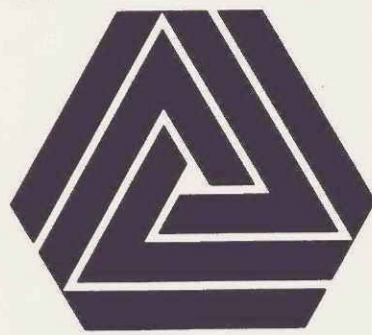
Its proponent, Jeffrey O'Connell, co-author of the "no-fault" auto insurance concept, made his remarks before the American Risk and Insurance Assn.'s annual meeting held last month in Newton, Ma..

Under his proposal, a businessman or doctor could elect all or just certain personal injury risks created by his product or service and pay for out-of-pocket losses for injuries resulting from those certain risks.

According to Mr. O'Connell, the stigma of fault in liability cases would be removed.

"The incentives to substitute no-fault liability in place of traditional liability based on fault would be that, although the businessman or doctor may have to pay more injury victims, he would pay each victim less," Mr. O'Connell explained.

He added that a no-fault liability concept would eliminate payments in most smaller injury cases and cut down what is to be paid in larger injury cases.



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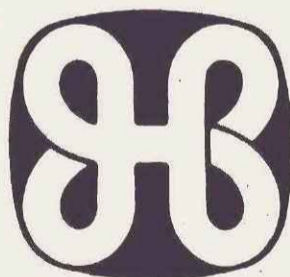
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# Liability hearings . . .

Continued from page 1

not check promptly, will destroy many fine companies," said Ralph Baldwin, president of Oliver Machinery Co. and a leader in the product liability reform effort. "I do not believe it is in the best interest of the United States to wipe out its woodworking machinery industry; metalworking industry and other capital goods industries, and make the country dependent solely on imports, primarily of German and Japanese make."

In addition to the full rundown of symptomatic effects in the insurance area, the committee heard a fairly unified diagnosis of the underlying disease.

The witnesses described a legal system gone amok, in which traditional defenses have been removed while the 1965 Restatement of Torts has been expanded far beyond its original application of strict liability to the food and drug industry, leading to an atmosphere of pragmatic but expensive settlements and dismaying court cases.

The horror-story-of-the-week award goes to Robert J. Bevenour, executive vp of the Nissen Corp., who told the committee of a case in which two people used a lawn mower to trim a hedge by holding it up in the air. An accident occurred and the resulting suit against the manufacturer was successful, an illustration of Mr. Bevenour's point that courts no longer take contributory negligence into account.

He said Nissen (which makes gymnastic equipment, not lawnmowers) is now completely self-insured, "and if the present tort system continues, because of the number of accidents in gymnastics—not product failure—there is no doubt Nissen will be forced out of business by already staggering lawsuits."

It appears that the 1980 Olympics as well as the 1978 Super Bowl are on the endangered list.

The views of the manufacturers and trade groups were virtually echoed by witnesses for the insurance industry.

Speaking for the National Assn. of Insurance Brokers, Marsh & McLennan vp John O'Sullivan told the committee:

"Part of the problem is the difficulty of predicting the continuing impact of interrelated social and legal trends on future claims experience, which directly affects risk acceptance and insurance costs for these small businesses.

"For example, rising consumerism has made the public more 'claims conscious' and at the same time, the courts are moving toward a concept of strict manufacturer liability for any product-related injury, regardless of circumstance," Mr. O'Sullivan said.

"However, recent insurance company underwriting losses (\$4.2 billion in 1975), the bear market of 1974-1975, and the resulting decline of policyholder surplus have also encouraged underwriters to decline coverage or charge high rates," he added.

William L. Martin, vp of the American Insurance Assn., also pointed to the legal system as a major culprit:

"Insurers merely respond to the legal system as they find it: insurance costs are determined by that system. Too often in the past we have attempted to solve burgeoning social problems by tinkering with the insurance system. No amount of tinkering with the insurance system will respond to a disordered legal system. Correct the latter and the former corrects itself."

However, Mr. Martin stopped

short of supporting radical tort reform, as many have called for. "We believe that the liability system has substantial problems which we intend to address, but we are not attempting to throw the baby out with the bath water," Mr. Martin said.

Those who support the current liability system and "those of us who provide lubrication for that system have a common interest in eliminating the abuses in that system," the AIA spokesman said.

"If that common interest is not recognized and responded to fully we can only expect to see the end of a system which has become too expensive for our society," Mr. Martin said.

His words were lost on one witness, perhaps predictably so.

Robert G. Begam, president of  
Continued on page 60

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# Liability hearings . . .

Continued from page 59  
the Assn. of Trial Lawyers of America, said, in essence, that the product liability crisis is a sham created by the insurance industry, in much the same way that the medical malpractice problem and the recent swine flu insurance shortage were drummed up to manipulate the public.

"The product liability 'problem' exists only because manufacturers continue to put out into the marketplace some products which are defective and cause injury and loss

to the consumers," Mr. Begam said.

Calling for a "comprehensive and total investigation of the insurance industry" by Congress, Mr. Begam compared the insurance industry to Edgar Bergen, the ventriloquist, saying: "As long as the threat of excessive claims can be imagined, the insurance industry will be shrieking for relief but, like an Edgar Bergen, through the lips of whatever captive is currently subject to their unusual and unconscionable pres-

ures.

"The ventriloquist pulling the strings is always the same. It is the dummy that changes," said the spokesman for the Assn. of Trial Lawyers of America.

However, when committee chairman Nelson asked why some insurers have refused to provide coverage even at very high premiums, Mr. Begam said, "I don't know. If they claim they can no longer insure at reasonable rates, they ought to tell us why—and they haven't." ■

## Small groups Blues cost to rise 25%

TALLAHASSEE, FL.—Florida's largest health insurance carrier, Blue Cross-Blue Shield, has been granted a \$14.5 million rate increase which is expected to boost health premiums by 25% for small employe groups in the state.

The rate increase was approved by state insurance commissioner Phil Ashler earlier this month. It will affect the rates for some 80,000 persons who buy their coverage through employe groups of less than 25 persons.

These premiums, usually paid partially by Florida employers, will go up about 25%, or the same percentage increase that the average family purchasing coverage directly from the Blues will get as a result of the rate hike.

However, large employer group plans in the state, as well as senior citizen supplemental coverage, will not be affected.

Commissioner Ashler approved the rate increase after department figures showed the Blues were paying out \$1.2 million more each month than they were receiving in premiums. Hospital costs rose 25% in Florida since the beginning of this year at the same time Blues subscribers increased their utilization of benefits by 10%. ■

# Insurers object to law

WASHINGTON—Members of a congressional conference committee were urged to delete a provision from the Toxic Substances Control Act that would compel liability insurers to force their own product safety judgment on insured chemical manufacturers.

The Act, which was passed by the Senate in May, requires a liability insurer who obtains information that a toxic substance or mixture "contributes to an unreasonable risk of injury to health or the environment" to notify the Environmental Protection Agency, "unless such person has reason to believe that the Administrator has

been adequately informed of such risk."

The House of Representatives' version of the Act, passed on August 23, contains no comparable provision.

The AIA objects to the provision because it believes it will force insurers to interpret vague statutory law and will produce an adversary relationship between the insurer and insured manufacturers, according to associate counsel Jim Kimble.

He believes the provision would compromise existing voluntary insurer loss prevention efforts. ■

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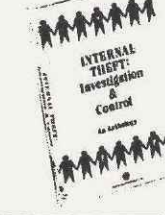
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# Task force begins three product liability studies

WASHINGTON—Work has finally begun on three crucial studies sponsored by the Interagency Task Force on product liability, according to government witnesses at Senate Small Business Committee hearings two weeks ago.

Contracts for the studies were awarded to three private firms in early September, and their findings will be returned in time for the task force to present its final report with recommendations to the White House Economic Policy Board on December 15, said Edward O. Vetter, Undersecretary of the Commerce Department and chairman of the Interagency Task Force.

The Economic Policy Board authorized the formation of the task force last May as recommended by the Commerce Department report on the product liability problem, which came out in April (*Business Insurance*, May 3).

Originally, the Commerce Department recommended a 15-month study to be completed in July, 1977, but the deadline was moved up to mid-December so that the President can include specific product liability reform recommendations in his State of the Union address in January, according to a Commerce Department official at an Insurance Information Institute meeting this summer.

Under this time frame, the studies have been limited to only traumatic injuries suffered by workers and consumers, which means occupational disease will not be included, Mr. Vetter said.

"The task force also thought it best to limit the number of products to be studied intensively, although it believed that data obtained with regard to selected products would be indicative of product liability problems in many other product lines," he added.

Task force chairman R. K. Ball said the group was considering setting up a special insurance company to underwrite coverages for electric utilities.

It sent letters to each of the 87 utility companies on the EEI insurance committee, asking them to help finance a feasibility study on the formation of such a new insurance company.

"We have to be able to come up with something better than we have right now," Mr. Ball said.

"Electric utility companies have always had very good loss experience figures. But we're being penalized for claims made on lines that don't even affect us, like medical malpractice and product liability.

"It's got to stop. One of our companies which paid \$25,000 for liability coverage last year was quoted a rate of \$400,000 this year, and it hadn't even suffered a loss."

The three areas of study are industry, insurance and legal. The private contractors doing the studies are Kinsey Associates (insurance), Gordon Associates (industry) and the Charlottesville Research Group (legal), according to Prof. Victor E. Schwartz, project director and chairman of the working task force, a sub-group of the Interagency Task Force, in a speech Sept. 8 before the liability reform conference sponsored by the Multi-Association Action Committee.

Contracts for the studies were awarded on a competitive basis after the task force published requests for proposals earlier this summer. The number of firms that submitted bids was "not overwhelming," one government official told *Business Insurance*.

The task force was "delighted" to attract Prof. Schwartz, last July said a Commerce Department attorney at the hearing. Prof. Schwartz, of the University of Cincinnati Law School, is co-author of "the most widely used torts course book in the United States: 'Cases and Materials on Torts,'" Mr. Vetter said.

The industry study will attempt to assess what the product liability problem has done to industry and what steps industry has taken in response to alleviate the situation.

Undersecretary Vetter told the Senate Small Business Committee:

"Through the efforts of our staff and outside contractors we will study company practices that are designed to reduce or eliminate product liability claims, such as

quality control, product recall, worker protection efforts and safety devices.

"We will try to determine whether these measures are effective in regard to accident reduction and also whether they may reduce the cost of product liability insurance for the manufacturers that implement them.

"We want to know the number and type of product liability claims that have been opened and filed from 1970 to 1976 and the basis for these claims.

"We hope to determine which type of products have been most frequently subject to product liability claims.

"We also hope to provide some indication of the potential liability of companies whose products have been out in the market place for a period of years."

The insurance study will seek to determine how product liability premiums are established and how changes in the product liability insurance market have affected both small and large businesses.

According to Mr. Vetter, among the specific problems being probed are:

- "Availability—to what extent are manufacturers unable to obtain insurance?"

- "Significant coverage restrictions—are insurance companies implementing these at the present time?"

- "To what extent is reinsurance being utilized in the product liability market and what is the cost of that approach?"

- "To what extent have companies had to shift to surplus lines insurance, and what is the cost of

those shifts?

- "To what extent have manufacturers shifted to self-insurance and have companies that cannot afford to do so taken this step?"

The legal study will examine some of the differences in state tort laws as they affect product liability law. In addition, the task force will "attempt to make a judgment" as to whether the current legal system deprives an injured person of the right to obtain recovery against the manufacturer and whether it "unreasonably" subjects a manufacturer to liability, Mr. Vetter said.

Among the questions to be posed in the legal study, according to Mr. Vetter, are:

- "How do courts determine whether a company properly designed its product?"

Continued on page 62

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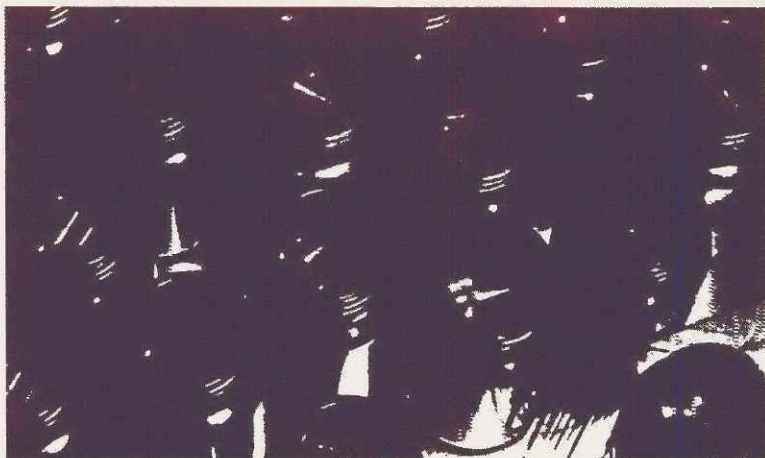
# Task force . . .

Continued from page 61

- "How do courts determine whether an injured party will have his claim barred or reduced because of his own conduct?"
- "How do courts determine whether a company has properly exercised its duty to warn users and consumers about the hazards connected with the product?"
- "How do courts determine whether a company can place on a third party all or part of the amount it must pay the plaintiff?"

In addition, the task force has selected certain industry groups for concentrated study of products with work-place and non-work-place impacts on the liability problem.

Industries to be studied that make products that may injure workers are: industrial machinery, including metal cutting, metal forming, woodworking and textile machinery; industrial grinding wheels; ferrous and non-ferrous castings, especially those used in capital equipment; industrial chemicals, including both organic and inorganic substances, used in products and in the production



The pharmaceutical industry is one of the task force target areas.

process; and other industrial products that have caused liability problems.

Among the consumer products being studied are: aircraft components; automotive safety components, including manufacture and distribution but not installation and repair; medical devices; pharmaceuticals; and other consumer products that have caused liability problems.

Although the task force does not currently have much hard data to rely on, the task force chairman

said, specific remedies, to the product liability problem are being studied as to how they would affect the availability of "affordable" insurance, how they would expedite the reparation process, and whether they would place the incentive for risk prevention on the party best able to use those techniques.

Other criteria for evaluating remedies would focus on whether they would place the cost of compensating accidents on the party or parties who are best able to

should absorb them, and whether the remedies would "unreasonably" deprive an injured person of compensation for a product related injury, Mr. Vetter said.

The task force is considering several specific remedies in the light of these criteria, Mr. Vetter said, including changes in state tort law, suggestions that the statute of limitations should run from the date a product is sold, comparative negligence as a defense, and changes in the damage rules of tort law to allow periodic rather than lump sum payments.

"We are giving particular attention to the utility of joint underwriting associations and reinsurance mechanisms in the product liability area," the task force chairman told the Senate committee.

As to the possibility of direct

federal solutions to the problem, either through a preemptive federal tort law or through a federal insurance mechanism, Mr. Vetter said: "We are trying to avoid jumping to conclusions, especially in the area of federal entry into insurance."

## Fires in Japan

A total 37,316 fires in Japan between January and June 1976 destroyed assets worth 66 billion yen, according to the country's Fire Defense Agency. The figure represented an increase of 560, or 1.5% over the same period the preceding year and also meant that an average 205 fires occurred every day. Building fires accounted for 56.5% of the total or 21,088 followed by fires in forests or fields, 4,602 and vehicles, 130.

## RIMS' early results

WASHINGTON—Preliminary results of a product liability insurance survey conducted earlier this summer by the Risk & Insurance Management Society have provided some of the first hard, multi-industry data on the scope of the problem.

Full results will be published in October after the data are analyzed by computer to isolate specific trends in certain industries and by scrutinizing other variables, a RIMS spokesman said.

The survey went out early this summer to the 2,300 members of RIMS, after consulting with the White House Task Force about the preparation of the questionnaire.

Among the initial findings from the 500 respondents:

- Claims volume in 1975 was 50% higher than in 1971.
- The dollar amount of the claims last year was 3½ times greater than the amount in 1971.
- The number of claims filed last year, without regard to year of occurrence, was four times greater than in 1971.
- There has been a 300% increase in premiums over the four-year period from 1971 to 1975.
- And there has been a four-fold increase in deductibles over the same period.

The preliminary survey results were released Sept. 8 at the liability reform conference here

sponsored by the Multi-Association Action Committee. RIMS also prepared material for the Senate Small Business Committee which held hearings on the product liability problem that week.



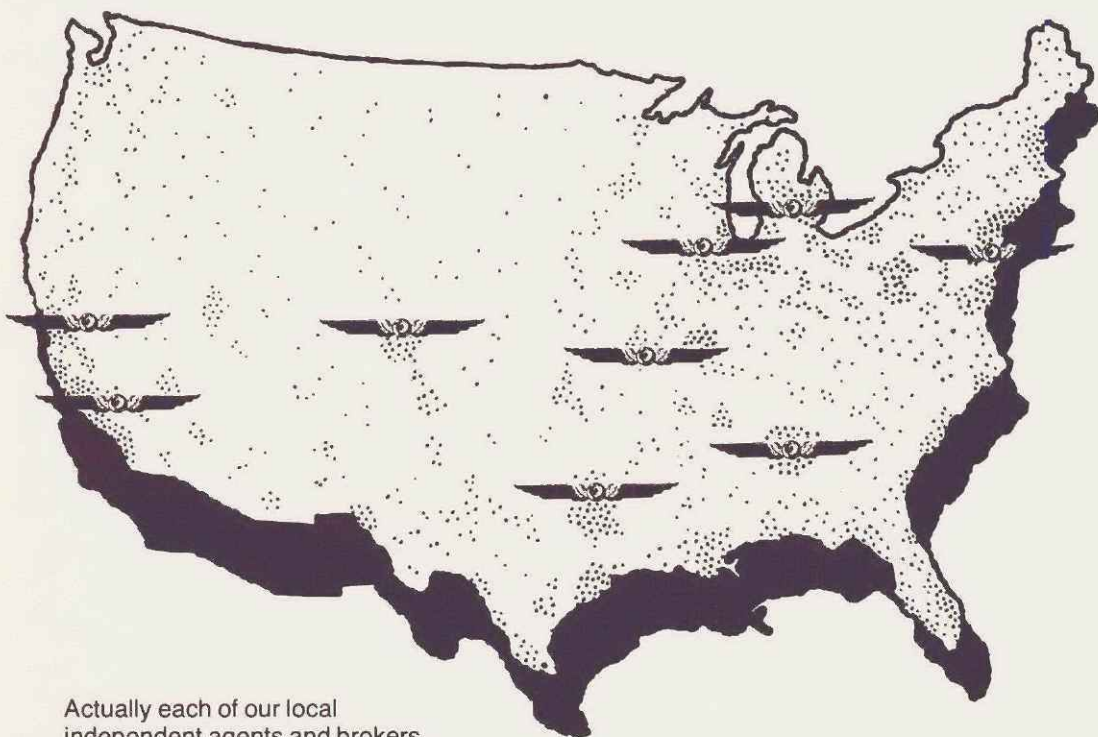
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# New group gets go-ahead to press for reforms on behalf of businesses

By PAUL R. MERRION

WASHINGTON—A new group called the Multi-Association Action Committee (MAAC) has received the go-ahead to coordinate and press for product liability reform on behalf of the three million companies its trade association members represent.

MAAC was launched about two months ago by the Sporting Goods Manufacturers Assn. (SGMA) in Chicago to set up a national liability reform conference that was held here Sept. 7 and 8.

But it was decided at the conference that there is a continuing need for a loosely structured organization to serve as a clearing-house for tort reform efforts and other measures to reverse the product liability crisis.

MAAC will work for product liability reform in seven areas, according to Howard Bruns, SGMA president and general chairman of MAAC:

- Gathering and distributing claims and insurance data from its members.
- Encouraging its trade association members to conduct product liability surveys of their own industries.
- Creating a funding pool. Mr. Bruns said the Washington conference had cost SGMA \$13,000, of which \$3,000 was offset by contributions.
- Giving staff support. He said MAAC was formed with the assistance of SGMA's attorney and two staff people, and their help will be available in the future.
- Preparing a news bulletin to keep members informed of reform efforts and progress.
- Supporting legislation to change the tort system, and other measures that would ease the product liability crisis.
- Serving as a clearing house for product liability reform information.

## Sees difficult period for placing risks

KANSAS CITY, MO.—Placing insurance in the property and casualty voluntary markets will become increasingly difficult in the near future, M. Jay Wanamaker, president of the Independent Insurance Agents of America Inc. (IIAA) predicted recently.

He said his conclusion was based on the premise that companies might not have the surplus position to underwrite all of the business produced by independent agents and brokers.

He also told the Independent Insurance Agents of Missouri that property and casualty premium volume would increase by \$15 billion in the next 18 months. Because U.S. companies may not have the capacity to absorb the increase in premium dollars, foreign markets and excess underwriters will be used increasingly by agents and brokers. Mr. Wanamaker also said American independent agents should learn how to deal with surplus underwriters and Lloyd's operations.

Rate increases in the casualty lines have risen 20% in the last year. Property and casualty companies using agents posted underwriting gains in that same period, Mr. Wanamaker said. A number of companies have reported underwriting improvements in their results in the first half of 1976. ■

mation.

Toward the end of the second afternoon session, Mr. Bruns said to the participants: "The question is, should we or should we not dissolve MAAC?"

As several representatives of the nearly 100 trade associations in attendance gave their views, the answer was clearly in favor of continuing MAAC.

While many had reservations about forming yet another trade association, the need for concerted efforts on product liability reform was enough to justify MAAC's continued existence.

"We all worry about too many associations," said one participant, "but if we could continue as a

committee to agree on methods and rely on the individual associations to carry the ball, I think MAAC should continue."

A similar view was aired by Paul Kipp, vp-government affairs for the Risk & Insurance Management Society: "We should have a common front legislatively but each association should corral its own legislators. The more voices heard, the better it will be." Mr. Kipp later addressed the conference to describe RIMS' efforts in the area of product liability reform.

James Mack, public affairs director of the National Machine Tool Builders Assn., listed several pros and cons of continuing MAAC and concluded that it

should go on, although "there is a need to keep the structure loose."

On the negative side, he said, "different industries have different problems, and many of us already have substantial relationships with members of Congress.

"The appearance of a single entity (for product liability reform)," he said, "may or may not be desirable.

"But to the extent that MAAC's efforts are repetitive, that's good," Mr. Mack said. "And we need to have a clearing house so we know what each other is doing, even if we don't agree."

Ralph Baldwin, president of Oliver Machinery Co. and a representative of the Woodworking Machinery Manufacturers of America, said, "We must continue MAAC as long as it's necessary." He added that legislation to change the tort system won't be passed until "enough companies go out of business so that it becomes important

nationwide," and until the product liability crisis is "publicized enough so that the American people know there is a problem."

Mr. Bruns told the participants that he and about five other people discussed the continuation of MAAC after the first day's session and came to the conclusion that such a group is needed.

He proposed the formation of state action committees to lobby for tort reform on that level, and to hold meetings similar to the Washington conference to educate a wide group of businessmen on the dimensions of the product liability problem.

These state groups should "avoid reinventing the wheel," he said. "MAAC can serve to cross-pollinate these efforts."

When Mr. Bruns asked for people to become state action leaders, he got one volunteer from Florida, and was informed that such groups already exist in Ohio, Michigan, Kansas and 13 other states. ■

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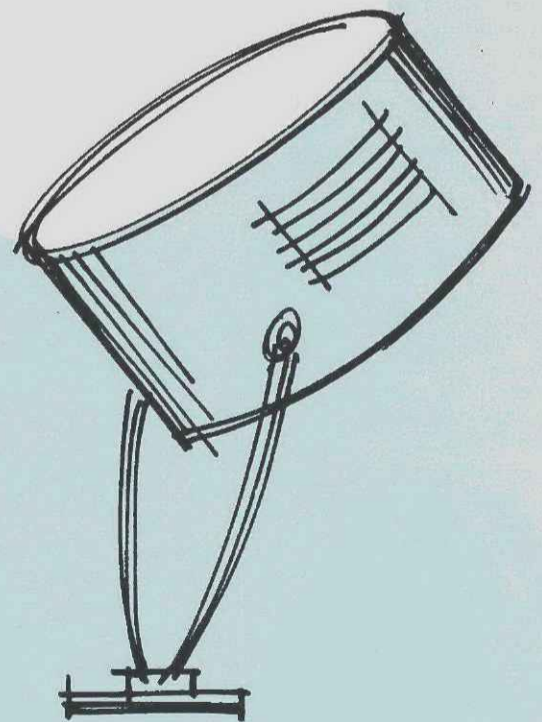
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# GM's latest model applies electronic wizardry to employe health testing

By JANE WINEBRENNER

SAGINAW, MI.—The newest addition to General Motors' product line is not a sleek subcompact with a T-bar roof, but it does come equipped with a computer, an electrocardiogram and three (optional) lab technicians.

Its name, the Comprehensive Employe Health Evaluation System (CEHE), may not conjure up such things as jaguars or cougars, but GM is hoping employers will buy its mobile medical laboratory just the same.

Saginaw Steering Gear Division of General Motors developed the mobile laboratory and computer communication center in January of this year and began selling it to other corporations in August. While Saginaw has received "many interested" inquiries, so far employers have been "just looking" and not buying.

Saginaw's general sales manager Mark McCabe emphasized that the sales program has only just begun and "at the stage we're at right now, we have just been given approval for development." Several other GM divisions, each of which is autonomous and with its own budget, have expressed serious interest in the CEHE system.

With a sticker price of about \$500,000, the semi-trailer and Transmode vehicles hardly are stripped down economy models. But not many economy models offer urine and blood analyses, computerized medical history forms, vision and hearing testing, pulmonary performance measuring, electrocardiograms to examine heart functions, and immediate access to computerized health data. The commercial health screening and testing equipment and computer are included.

According to Mr. McCabe, the CEHE was designed for pre-employment and on-going examinations for those companies with at least 2,000 employes up to 10,000 for maximum efficiency. The self-contained vehicles—which require no outside power, light, ventilation, water or waste facilities—also are useful for companies that have employes scattered across a region, rather than concentrated in one area. The CEHE system also can be set up as a fixed installation for regular examinations at a cost of \$400,000.

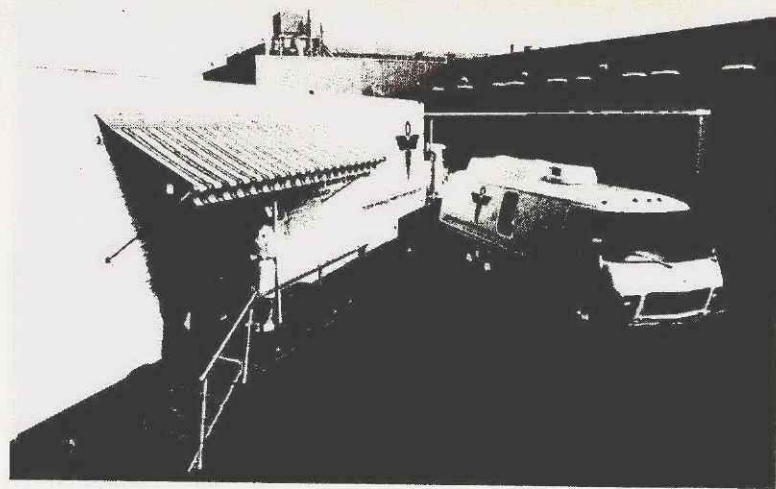
Maintaining the vehicles involves about \$10,000 yearly in fixed costs for supplies, equipment maintenance, travel, insurance and computer operation. For 2,000 employes, three medical technicians are required full-time to run the laboratory; a full-time physician handles the actual physical examinations. If a plant has 10,000 people, six technicians are needed.

In addition to pre-employment physicals, the CEHE system can be used for health summaries on employe groups, type of work performed or occupational environment checks. Work assignments, work environment controls and Occupational Safety and Health

Act records keeping may be handled through the computer print-outs.

"The program is not designed for the benefit of the employe-examinee in ascertaining his general health, but is for the purpose of advising the employer relative to an applicant's employability and an employe's physical ability to perform assigned tasks," Ellis Ivey Jr., general manager of Saginaw Steering Gear Division said. "It has been designed with OSHA physical examination, record keeping, and reporting requirements specifically in mind."

Because only prototype demonstration units have been in operation so far, it is still unknown how the system works in actual day-

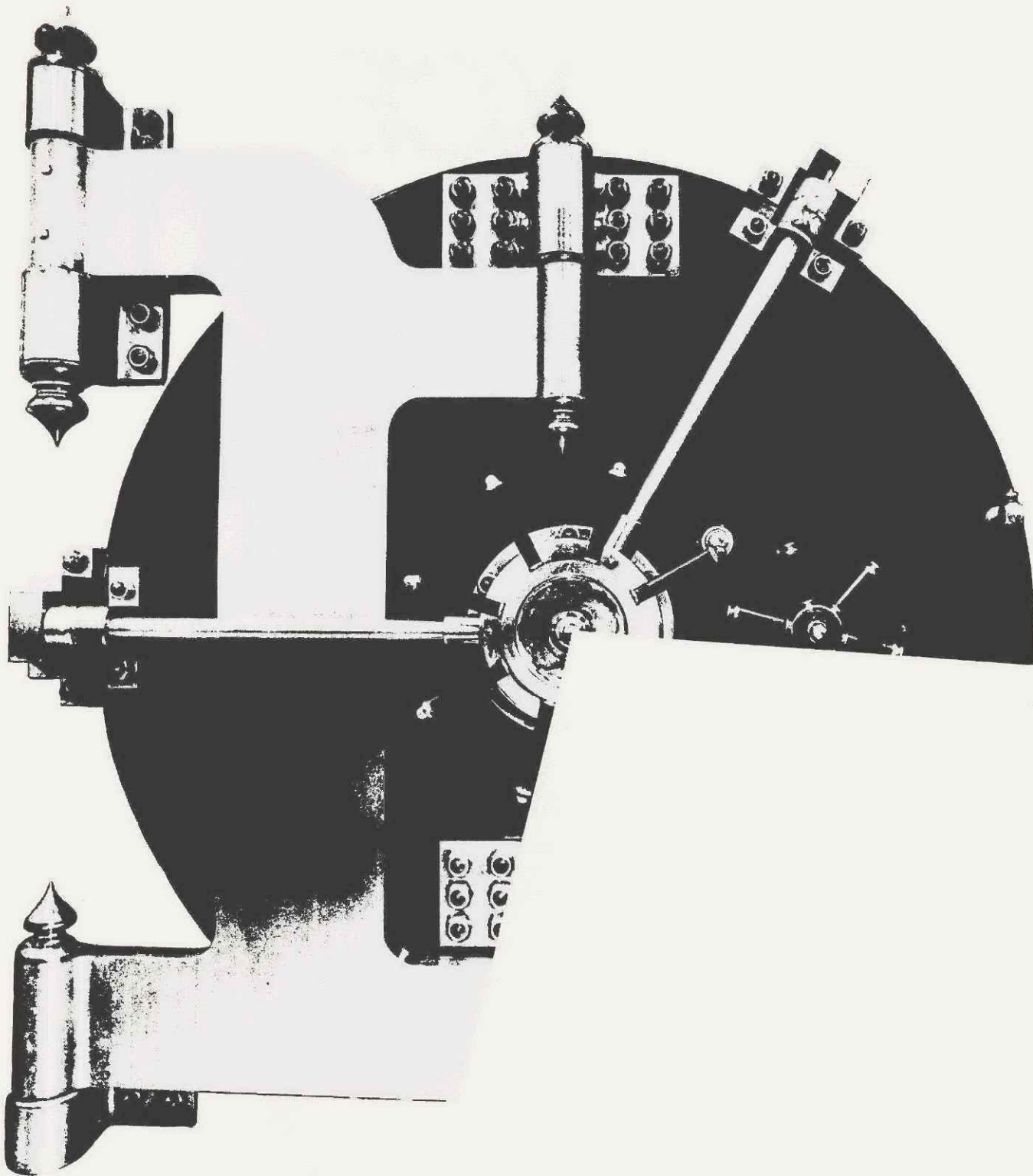


GM's mobile computerized examination facility and laboratory provide industrial medical examinations of employes at plant locations.

to-day use on a widespread basis.

But another possible use has emerged. Mr. McCabe said that several Third World African gov-

ernments have expressed interest in using the mobile laboratories to monitor the health of their general populations.



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Hearing test.



Biochemical laboratory.

What is known about the nuts-and-bolts operation of the CEHE system is that a large open area is needed to accommodate the 45-

foot semi-trailer where the actual physical examination is conducted. The second, smaller vehicle is the laboratory and computer

unit. A telephone line connects the on-board computer to the central computer and data storage facility in Saginaw.

Because all employee health and medical history and information is processed by computer and automatic screening equipment, the system can handle an estimated 25 employees per hour. It also facilitates medical filing. Employees and prospective employees are given a zebra-striped wrist bracelet that the computer scans to identify them—somewhat like a can of spaghetti at computerized supermarkets.

The system is not intended to replace medical first aid centers or special examinations requiring patient preparation and specialization. GM is hoping part of the van's sales appeal will be its ability to be moved from one workplace to another, eliminating the need for duplicate facilities.

According to GM, the cost per

examination is reduced and the work hours lost are minimized. They estimate the cost per physical exam at \$95 for a 2,000-person plant and \$50 for a 10,000-person operation.

GM divisions in Flint, Mi., Indianapolis, In. and Dayton, Oh. may be the first customers of the Saginaw CEHE units. In the Dayton area, for example, Mr. McCabe said there were 35,000 employees but spread out over the town in four GM manufacturing divisions. The mobile unit would circulate throughout the plants.

Saginaw says it will provide training for the purchaser's personnel as well as perform all the central data processing and storage of the computer information. As part of its sales approach, the GM division is offering the complete system as is or customized to fit specific needs—either by using other types of vehicles or installing different or additional laboratory equipment. ■

## Expansion seen for trust funds

PALM BEACH—A Florida attorney warned that protective trust funds set up to relieve the medical malpractice insurance situation may eventually offer competition in other lines of coverage.

"If you don't get back into this area (malpractice), you're going to lose it to the medical trusts or some other form of companies," warned William Gray III, an attorney who help organize Physicians Protective Trust Fund. He addressed his remarks to the annual convention of the Federation of Insurance Counsel here.

The competition, Mr. Gray continued, will eventually force a trust to become a mutual insurance company. "We have the capital now to do it. The only problem is we don't want to do it, because the medical trust is the most flexible instrument to insure doctors."

The rationale behind the mutual company idea is that a trust could use medical malpractice to pay its own way and attempt to make a profit from other coverages, he said.

Based on Mr. Gray's statistics, a malpractice trust can be successful: In the first seven months of operation, Physicians Protective Trust Fund received 1,500 unsolicited applications and is presently the third largest malpractice insurer in the state.

The trust, which has one salesman, writes \$3.5 million in premiums and expects to write \$4 million next year. "We're the only medical trust that has announced to the state that we're not going to raise our rates," Mr. Gray said.

In the first year, the trust had 16 incident reports and no lawsuits. It rejects about 25% of its applicants, according to Mr. Gray.

A claims-made policy with limits of \$250,000 is available from the trust. Its rates are identical to the rates that were in effect Jan. 1, 1975 for the Argonaut Insurance Co.'s occurrence policy.

Eight doctors sit on the board of trustees and six more comprise an advisory board to review applicants.

Mr. Gray noted that many of the smaller protective trusts probably will disappear as the result of one or several big claims. A few will survive, he predicts, as will the state's joint underwriting association for medical malpractice. ■

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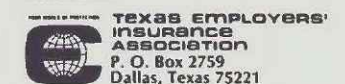
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Industrial Risk Insurers is a consolidation of the Factory Insurance Association of Hartford, Connecticut, and Oil Insurance Association of Chicago, Illinois.

The Spring 1976 Pulse World Bank Directory lists total deposits of all banks in America as \$1,033,023,120,915 as of December 31, 1975. Industrial Risk Insurers' coverage in force worldwide is \$320,000,000,000 or 30.9% of total bank deposits in America.

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## benefit tax slants

# IRS rules on estate tax levy for split dollar plan

By Joseph S. Robinson  
Attorney-at-Law

A RECOGNIZED executive-extra which companies offer to key employees is the so-called split dollar plan, a vehicle by which the lion's share of life insurance premiums is borne by the corporation through, in effect, interest free loans to the executive.

Some tax experts questioned the success of obtaining estate tax clearance on a typical split dollar setup for a controlling stockholder—one who owns more than a 50% interest. But in a recent ruling,

IRS says the employee's estate will not be taxed on the proceeds where the company's rights under the policy are confined to borrowing the loan value or recovering it after the employee dies. In other words, the government won't tax the proceeds in his estate simply because an employee was a majority stockholder. Of course, if the employee failed to assign and turn over his or her interest, then his estate will be hit, as with any other insurance owned by him. (*Rev. Rul. 76-274*).

\*\*\*  
Medical reimbursements require

a "Plan" if a tax deduction is to be allowed. Here's a case in point:

The B. family owned a closed corporation, Bongi Cartage Inc., which did trucking and excavating. The widowed mother of the family made coffee and lunch at the office, for which she received \$10 a week up until she left because of illness. Although the corporation had a group health insurance policy covering its salaried employees, Mrs. B's medical expenses during her last years exceeded the coverage and the corporation picked up a tab for \$60,000, primarily for nursing care.

Bongi Cartage contended that the medical expenses were paid pursuant to a medical reimbursement plan and were properly deductible. The IRS disagreed. While such a plan need not be "formal," or even written, and may discriminate between different classes of employees, it must nevertheless be a plan or program having the effect of a plan.

The court pointed out that except for those medical payments made for Mrs. B., no medical expenses incurred by Bongi Cartage employees were reimbursed by the corporation. Moreover, there were no corporate records that suggested a policy of reimbursement. The absence of any plan or practice of reimbursement was underscored by the fact that while supervisory employees continued to draw their weekly salary during the term they were ill, these employees didn't have their medical bills paid by the corporation beyond the limited coverage provided by the group insurance policy. (*Bongiovanni, T.C. Memo. 1976-131*).

\*\*\*  
**Beneficiaries are obliged to report as income monies which they receive from a deceased employee's company when such payments are made pursuant to an agreement. However, the first \$5,000 is exempt. Query: Are these benefits part of the employee's estate? The tax collector says "Yes" when the employee has the right to control the beneficiary designation.**

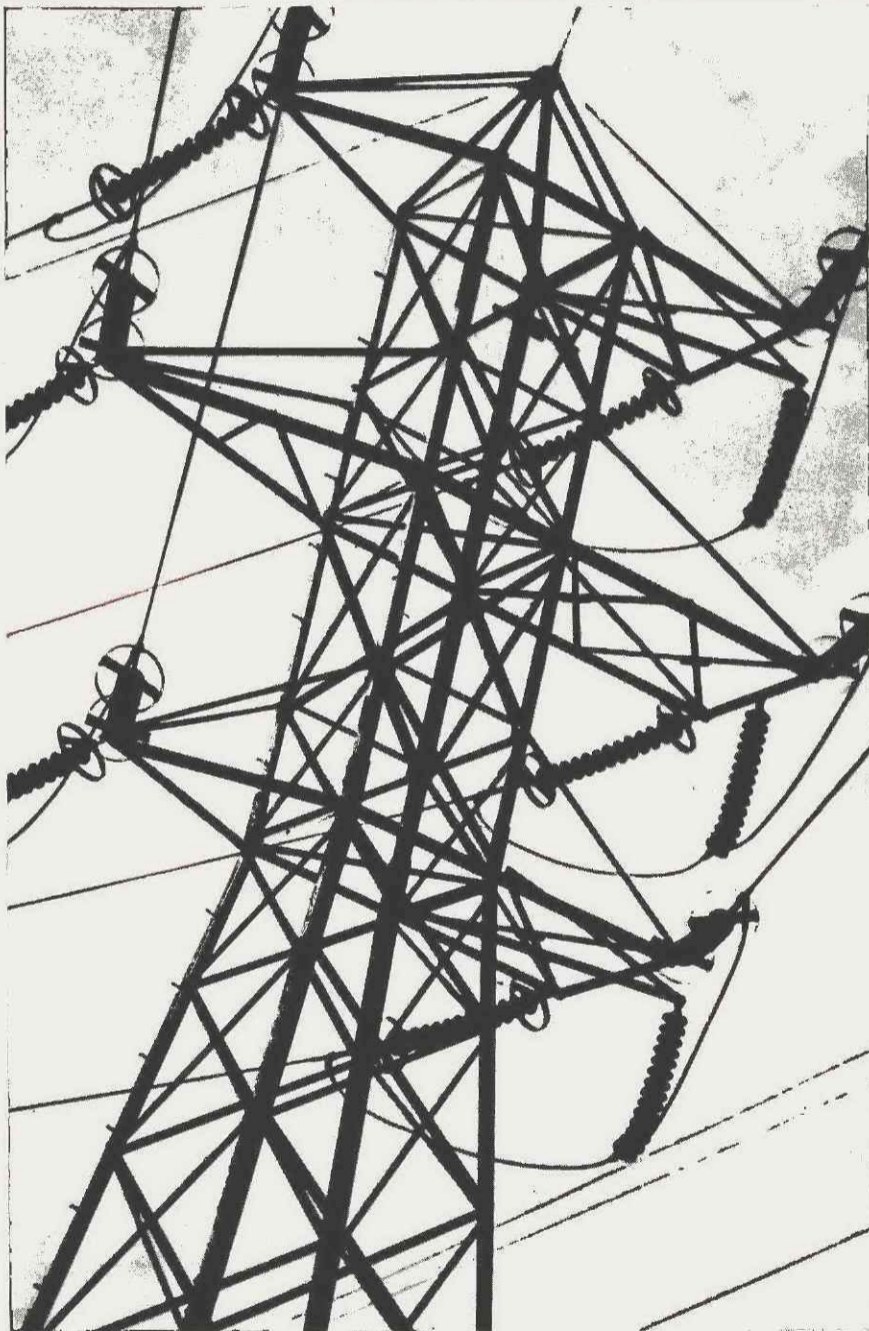
The situation involved a promise by the employer to pay a specific sum to a beneficiary selected by the employee. However, because the latter had the right to change the beneficiary, the benefits were part of his estate. (*Rev. Rul. 76-304*). What's more, even where the benefits are paid over a period of time instead of in a lump sum, a similar result will occur. (*Gaffney, Ct. of Claims, 1976*).

\*\*\*  
**The IRS North Atlantic region recently issued a filled-in questionnaire to its agents. It's intended for use when auditing taxpay-**

ers with employe benefit plans.

Here are the questions, with the "correct" answers:

QUESTION	ANS.
1. For years ending prior to 12/31/75 have Forms 4848 and 4848 Schedule A been filed?	Yes
2. For years ending 12/31/75 and subsequent, have Forms 5500 been filed?	Yes
3. Has Form 5330 been filed (Excise Tax on Prohibited Transaction)?	No
4. Has the plan received a favorable determination letter?	Yes
5. Were payments made timely?	Yes
6. In the case of Profit Sharing Plans, were accruals properly made for contributions made after the end of the taxable year?	Yes
7. Are there unreasonable compensation issues involved that affect the plan?	No
8. Has the number of participants in the plan decreased more than 20% from the prior year?	No
9. If the plan terminated has it received a favorable determination letter?	Yes
10. Has the plan invested in employer securities or debt obligations?	No
11. Has the plan incurred any acquisition indebtedness income for which it has not filed Form 990-T?	No
12. Is the plan engaged in a trade or business or leasing of personal property for which it has not filed a Form 990-T?	No
13. Is this a Joint Committee Case?	No



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### Insuring the Director, Officer, Trustee and Fiduciary in his Capacity as such!

The position taken by some underwriters of Directors and Officers Liability Insurance has been that certain professionals who are also officers of the corporation are not insured under the Directors and Officers Liability Insurance because they possess professional skills. This is of major concern to insurance brokers. The corporation frequently requires people with professional skills to carry out their duties as officers of the corporation. As an insurance broker, it would be proper for you to question your Directors and Officers Insurance Underwriter as to his position on this matter before loss!

Similar disputes can take place where one person acts in more than one capacity. It is not uncommon for one person to be a director, officer, fiduciary, employee, an employee benefit plan participant and a stockholder. The Department of Labor has issued several helpful ERISA bulletins on this matter.

The standards to apply to measure the adequacy of coverage are:

1. The Director, Officer, Trustee or Fiduciary must be covered for any matter claimed against him in his capacity (position) of Director, Officer, Trustee or Fiduciary.
2. The corporation as Sponsor Employer and Named Fiduciary must be covered for its obligations to plan participants and plan beneficiaries plus for its obligation to indemnify Directors, Officers, Trustees or Fiduciaries.
3. The Trust or Plan must be covered for claims or suits registered against them as legal entities under ERISA; they were not legal entities at common law and hence not a proper party to sue.

It is time for a check-up on your clients insurance policies to more effectively insure these exposures. We offer a complete program of Directors, Officers, Trustees and Fiduciary Insurance, as well as a package plan available in most states for financial institutions covering in one policy all of the enumerated insurance exposures listed above.

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## Settlement of fire case ends subrogation fight

LOS ANGELES—Insurance company litigation resulting from a disastrous September 1970 fire which caused more than \$7 million damage over an area of Southern California extending from Newhall to Malibu has been settled out of court.

The settlement was won by Walter S. Weiss, managing partner here for San Francisco-based insurance attorneys Long & Levit, ending a three week trial before 12 jurors and four alternates in Los Angeles Superior Court.

The 1970 fire involved North American Rockwell, prime contractor for the U.S. Space Exploration program, as well as Newhall Petroleum Co. and Southern California Edison Co. as defendants.

Long & Levit, in a subrogation action, represented 14 insurance carriers with total claims of \$1.6 million. The carriers include National American Insurance Co., the California Fair Plan, Industrial Risk Insurers, Aetna-Cravens Dargan, Factory Mutual, Western Fire Insurance Co., New Hampshire Insurance Co. and the Houston Gen-

eral Insurance Group.

In the settlement, Long & Levit recovered \$800,000, or slightly more than 50% of its clients' total claims.

In the suit, Attorney Weiss contended that the 1970 fire started as a result of high winds, which caused "poorly insulated and poorly maintained" Southern California Edison electrical lines to arc and break, setting the fire.

"The Newhall lines," Mr. Weiss explained, "were strung over property owned by Southern California Edison and were directly under Edison's 220,000 volt transmission lines."

"Edison," Mr. Weiss had told the jury, "was negligent in continuing

to supply electricity to the lines located on its property. The company knew or should have known these lines were poorly maintained and were dangerous.

"The close proximity of the high voltage of the Edison lines, to the Newhall lines, increased by induction of the voltage being carried by the Newhall lines, added further to the loss."

The court action filed by Long & Levit was consolidated for trial with 13 other actions filed as a result of the fire. The principal other action, not filed by Long & Levit, involved a subrogation on behalf of more than 60 insurance carriers with total claims of \$4.7 million. In that action, Southern California Edison was dismissed as a defendant.

The case was settled earlier this year, for a gross recovery of \$1.7 million or some 36% of the loss. Other remaining court actions have been settled for amounts ranging from 5% to 35% of the claims. ■

## U.K. law broadens employer exposure

LONDON—Liability insurance coverages of employers will be expanded because of the Health and Safety At Work Act of 1974, the Financial Times of London predicted.

The legislation has increased the risk employers run of being prosecuted for breaches in company safety practices which resulted in injury or disease to an employee. The law outlines a set of safety-related duties of the employer which were not statutory requirements before.

So employers are now more likely to find themselves sued by workers who are injured, and the majority of insurance companies will be including additions to corporate liability insurance policies

to cover legal defence costs incurred in such prosecutions.

Not only employers will be affected by the new safety and health law, but also employees who are directors or officers and who can be prosecuted personally for safety violations of their companies.

The new additions to the liability insurance will cost employers an additional premium and will cover prosecutions for breaches of statutory duty that are likely to cause injury and disease to workers.

The story pointed out that DAS Legal Expenses Insurance of Bristol already introduced new insurance policies specifically designed to meet the demand for insurance stimulated by the work act. ■

## Loss control plan results in 10% saving

SAN FRANCISCO—A loss control program instituted by Great Southwestern Corp. for its Six Flags amusement park subsidiary has produced a 10% cut in the deposit premium required by Fireman's Fund American Insurance Co.

Fireman's Fund developed the special loss control program and is the only U.S. insurance carrier which now provides specialists to work in the field with amusement park owners and operators.

Great Southwestern's liability policy with Fireman's Fund covers all the Six Flags parks in a single policy developed by William Sunderland, Los Angeles resident secretary, excess and special risks department. Premium has been estimated at \$600,000 a year.

The 10% deposit premium reduction was based on "an exceptionally fine safety record," according to a Fireman's Fund spokesman here. ■

## WHAT BERNARD DAENZER SAID ABOUT RISK MANAGEMENT.

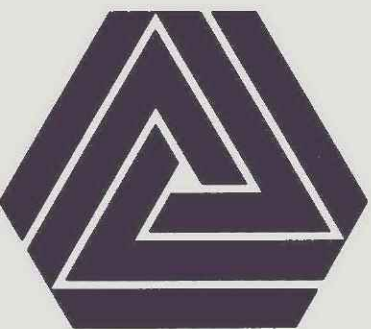
"There is nothing more embarrassing to a risk manager than to build a whole program of insurance and then to discover that it went all wrong because it was built on an improper assumption of facts or on inadequate information. If he really wants to break down this whole idea of the 'insurance survey' or 'financial management of a risk,' or whatever term he uses for his approach to the problem of risk, he must start with an analysis of the three basic functions: (1) risk detection, (2) analysis and evaluation, and (3) decision making.

"The biggest problem is definitely in risk detection, the basic fact-finding procedure."

(Bernard John Daenzer. From his book "Fact-Finding Techniques in Risk Analysis." ©1970 by American Management Association, Inc.)

## WHAT HARTFORD STEAM BOILER SAID ABOUT BERNARD DAENZER.

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## people

## Valovic leaves Kaiser for Stone & Webster

Effective September 20, **Stefan J. Valovic** joined Stone & Webster Engineering Corp., Boston, as assistant insurance manager. He reports to **Joseph W. Chevarley**, insurance manager for the large, worldwide engineering and construction subsidiary of Stone & Webster Inc. Mr. Chevarley declined to specify Mr. Valovic's responsibilities in the newly-created position. Formerly director of insurance at Kaiser Aluminum & Chemical Corp., Oakland, Ca., Mr. Valovic is replaced there by **Emmet F. Monaghan**. Mr. Monaghan comes to Kaiser from Carrier Corp., Syracuse, N.Y., where he was director of general insurance.

\* \* \*

Terra Chemicals International Inc., Sioux City, Ia. hired **Robert K. Dreher**, 32, as financial administrator effective September 15. A major part of his newly-created position involves responsibility for the company's insurance programs, including property/casualty coverage and coordination of safety/loss prevention activities. Mr. Dreher reports to Terra Chemical's treasurer, who previously handled the insurance as-

pects of that position. Other responsibilities of the job are cash flow management, banking relationships, lease administration, property records administration and records retention. Mr. Dreher previously was insurance officer at First Wisconsin Corp., Milwaukee, a bank holding company. Because some of his responsibilities were shifted to the tax department, a replacement is not being sought. **Joseph A. Alberti**, 32, Mr. Dreher's former boss, was appointed First Wisconsin's risk manager in March. He reports to the financial vp and said he will be responsible for property/casualty, workers' compensation and employee benefits insurance for the 44 banking subsidiaries.

\* \* \*

**Stanley M. Williams**, 44, a former lieutenant colonel in the U.S. Marine Corps, was appointed risk manager for Central National Bank, Richmond, Va. on August 16. He reports to the senior vp-financial group and replaces **John Fox Jr.** Mr. Fox was vp and cashier when he had responsibilities for the bank's insurance programs; he is now a vp in the trust de-

partment. Mr. Williams said a top priority is organizing a risk management function for Central National Bank, relying both on his military training in aviation security management and on several academic programs he's taken, focusing on risk management techniques. He is in charge of all insurance pertinent to the bank, as well as loss prevention and safety. When Mr. Williams retired from the Marines, he said he wanted to live in Richmond: "I thought a lot of the techniques and procedures I learned in the military organization could very well apply to other businesses."

\* \* \*

**Robert A. Lazarus**, 29, is leaving Chase Manhattan Bank, New York, where he served as assistant treasurer in charge of international insurance and domestic casualty risk management. Mr. Lazarus is scheduled to join the Dallas office of The Wyatt Co. in mid-October as a consultant. He worked at Chase for one and a half years; prior to that, he was with AIG and Amerace Corp.

\* \* \*

Named vp at Rollins Burdick Hunter Co., Chicago, is **Waller B. Smith**, who retired from United Air Lines Inc., Elk Grove Village, Ill. (BI, May 31). The former director of insurance said his responsibilities involve "relations with the risk management community." The brokerage position became effective on September 1.

\* \* \*

Mobil Oil Corp., New York, ap-

pointed **John F. Ballback**, 33, senior international benefits advisor, effective September 7. He reports to the manager-international benefits policy and planning. Mr. Ballback replaces **David J. Pegg**, who went to American Home Products Corp., New York (BI, May 17). He comes to Mobil Oil from General Foods Corp., White Plains, N.Y., where he was assistant manager-benefits administration. No replacement has been named there yet. In his new job, Mr. Ballback is responsible for plan design development and recommendations for all non-U.S. benefit programs.

\* \* \*

**Robert G. Toal**, 30, joined The Coca-Cola Bottling Co. of New York Inc., based in Hackensack, N.J., as corporate insurance manager on August 2. Mr. Toal previously was insurance analyst at IBM Corp., Armonk, N.Y., and before that was on the corporate staff at R. H. Macy & Co. He reports to the vp-secretary of the corporation in the newly-organized position. Mr. Toal's responsibilities include insurance for the parent company and those subsidiaries operating out of the corporate headquarters at Hackensack. **William Condon** is insurance manager for the Soft Drink Division of Coca-Cola, a major wholly-owned subsidiary. Mr. Toal expects to assume many of his duties when Mr. Condon retires next spring. Other Coca-Cola subsidiaries include: Mogen David Wine Corp., Tribuno Wines Inc., Franzia Brothers Winery, Igloo Corp. and The Delta Queen Steamboat Co. Most subsidiaries had clearly defined insurance programs of their own before they were acquired by Coca-Cola,

and Mr. Toal said he wants to centralize the function as much as possible to achieve a more corporate-wide focus.

\* \* \*

FMC Corp., Chicago, named **James P. Weichert**, 28, staff assistant-employee benefits on August 2. He formerly was supervisor of benefits research at Quaker Oats Co., Chicago. No replacement has been named there yet. At FMC, Mr. Weichert reports to the manager of compensation and benefits. His initial responsibility is in the planning, development and communication of domestic benefits. Mr. Weichert said he later expects to be involved in domestic and international compensation, as well as international benefits. He replaces **Stephen H. Anderson**, 29, who joined Hughes Aircraft Co., Los Angeles, in May as associate benefit manager, corporate industrial relations department. Mr. Anderson reports to the corporate manager-employee benefits and explained that his position is the result of internal reorganization at Hughes and therefore he does not replace anyone there.

### Prime interest

Newly-appointed French Prime Minister M. Raymond Barre has maintained an active interest in insurance and risk management since he served as president of the Association de Genève. That research body sought to bring together prominent European reinsurers and academics interested in insurance economics. M. Barre stepped down from the position as head of the association when he was appointed French Minister of Trade earlier this year.

# HOW?

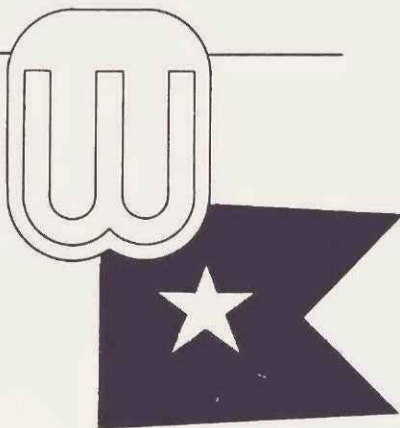
The Commodore Insurance Company recently acquired by The Wetzel Company, Inc. offers special underwriting programs for:

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### HELP WANTED

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A medium-sized manufacturing company, located near Lake Michigan, in western Michigan, seeks a manager for its risk management and employee benefits programs. An applicant should possess at least a bachelor's degree, four years of risk management experience, and working knowledge of employee pension and welfare programs. Those interested in this position should send a detailed resume, with salary history to:

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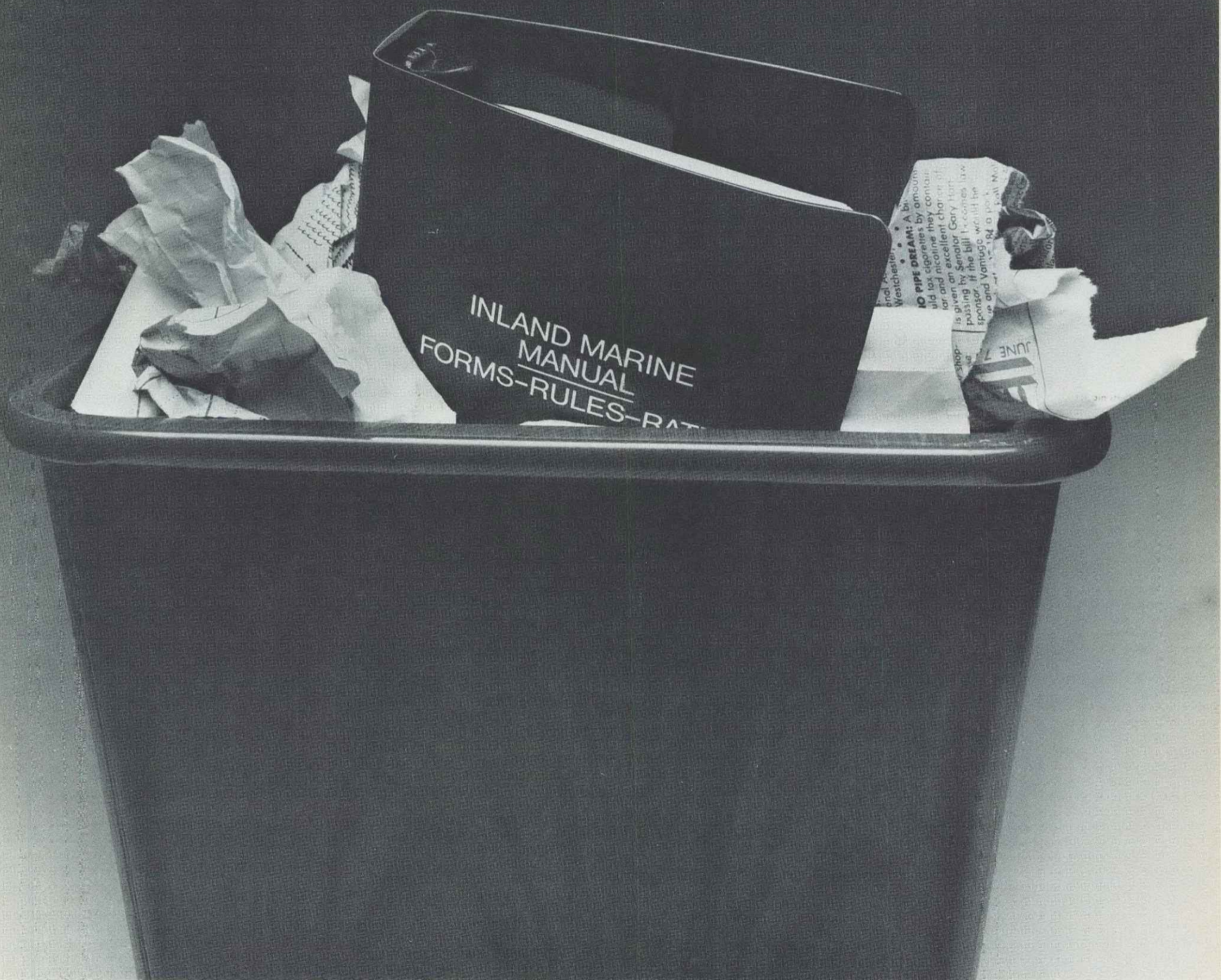
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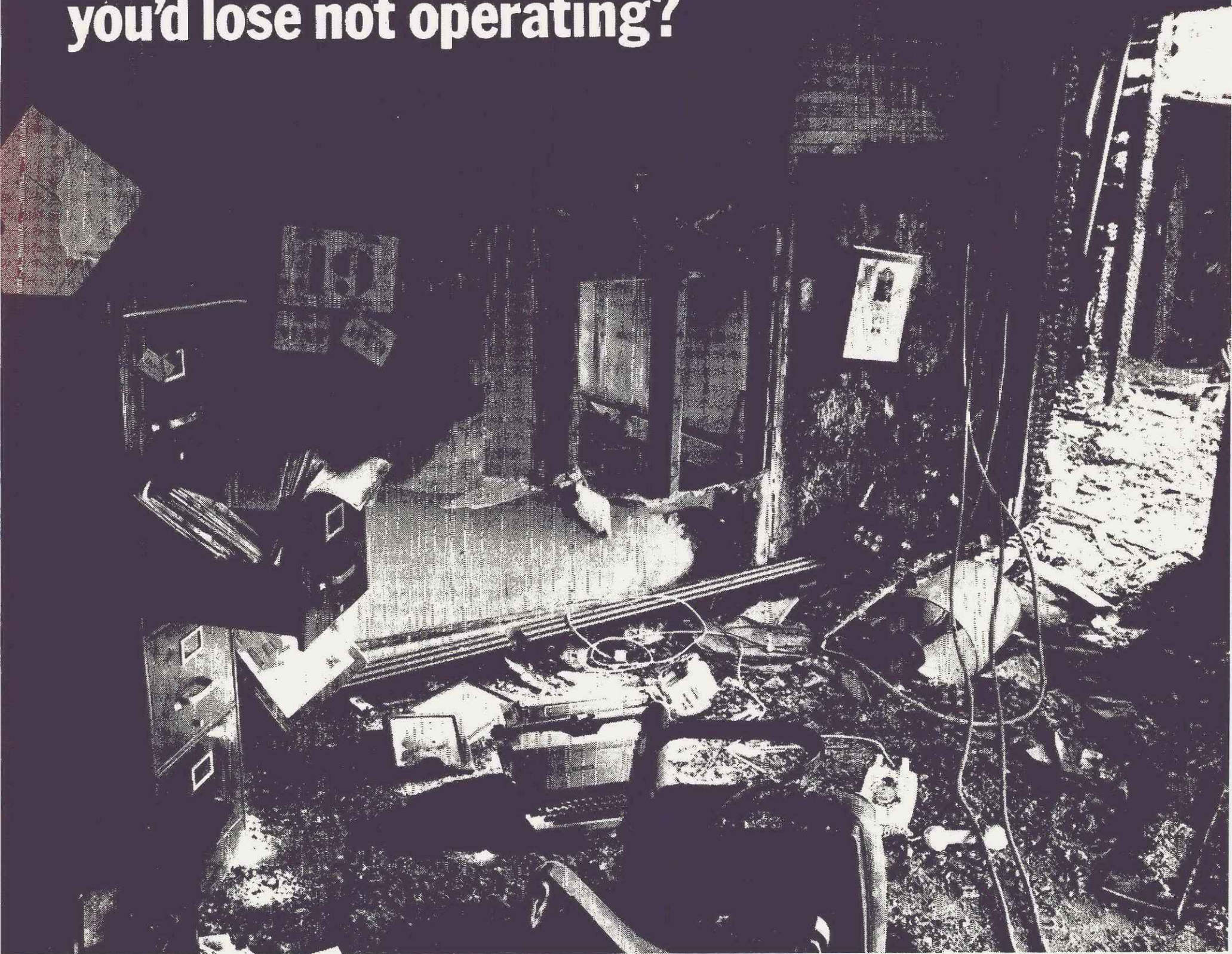
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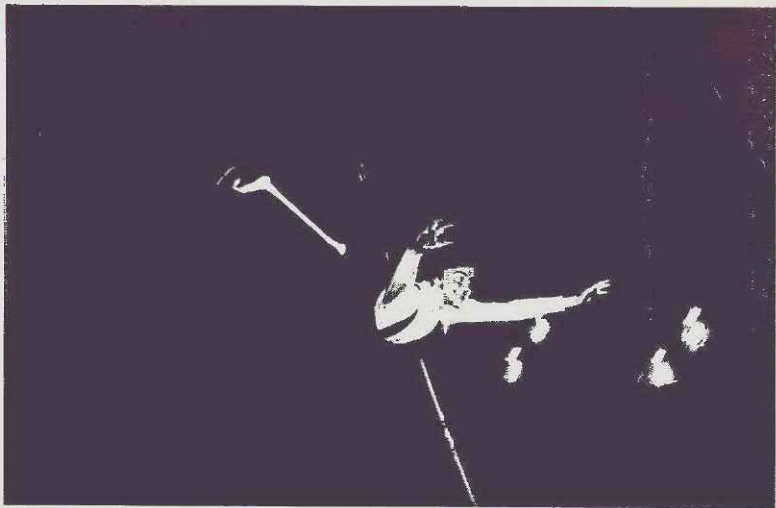
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The show doesn't go on at a circus school if liability cover ends.

## Liability insurer takes center ring in circus closing

By MARIE KRAKOWIECKI

BARABOO, WI.—You may fly through the air with the greatest of ease, but you can't insure your flying trapeze. At least not here in Baraboo.

Circus World Museum, which ran a special school to train young people in the acrobatic stunts performed center stage in the Big Top, says it can no longer find a "reputable" insurance company to provide liability coverage for the school.

So the 150 students who were lined up to take free classes in October in juggling, Arabian tumbling, unicycle riding, rolling globes and yes, the flying trapeze, are being turned away. William Schultz, director of the museum said he was forced to close the school.

Circus World Museum is affiliated with Wisconsin's Historical Society which owns the building. In the past, it got its liability insurance through the Historical Society and a policy written by St. Paul Fire and Marine Insurance Co.

But when Wisconsin switched to a self-insurance program for all state facilities, it was the beginning of the end of coverage for the Circus World Museum's special acrobatic school.

State risk manager Gordon Gronert explained that because the museum is set up as a separate corporate entity, it is not entitled

to be included in the state self-insurance program.

But the Historical Society, which used to provide the museum with coverage, is now part of the state's self-insured program, and it ended the coverage which included Circus World Museum's school.

"We tried to get legal opinions about whether we could include Circus World in the state insurance program, but the lawyers said we couldn't do it," Mr. Gronert explained.

Circus World Museum's Mr. Schultz said that the 43-acre museum was able to negotiate insurance coverage with St. Paul for its regular operations, but could not get satisfactory coverage for the school.

St. Paul provided the school with \$100,000 worth of liability coverage for a \$500 premium. Mr. Schultz felt that was not enough protection. He wanted a \$1 million policy, he told *Business Insurance*.

But he said St. Paul not only refused to increase the limits of the policy, but announced that it would cancel the \$100,000 policy for the school at the end of the year.

Mr. Schultz said that four insurance agencies had searched the liability market for the circus school, but even their combined efforts could not turn up an insurance company willing to underwrite the exposure.

Continued on page 28

## To assure stable market

# Banks told to take more risk

By MARGARET LeROUX

CHICAGO—Bankers must accept a larger portion of the risk involved in blanket bond coverage and pay more for the coverage if they want a stable market. A risk manager, not an underwriter, made this assessment in a discussion of the blanket bond market at the Society of Chartered Property and Casualty Underwriters (CPCU) annual meeting.

"There shouldn't be any banks with less than a \$5,000 deductible," Nick Goia, insurance and risk manager, Pan American Bancshares Inc., told his audience at a seminar, "Turmoil in the Blanket Bond Market."

Bankers are too concerned about

first dollar coverage, Mr. Goia said. "There is a need for risk management in assuming higher deductibles and in claims handling."

Bankers have become more concerned about fidelity claims in light of the new, more restrictive wording of the blanket bond, put into effect by the Surety Assn. of America (SAA) in April.

The new definition of dishonesty, presented to bankers by the Surety Assn. as a rider to the banker's blanket bond this past spring caused bitter feelings in the industry as bankers were told to sign or lose their coverage.

The new wording excludes losses resulting from an employe exceeding his or her authority, vio-

lating instructions from the bank and negligence, according to Albert W. Davis, assistant vp, North American Reinsurance Corp., the seminar moderator.

However, bankers object to the new phrasing of the bond which requires an employe have "manifest intent" to cause his employer to sustain loss.

The intent of the new wording was not to reduce coverage, Mr. Davis contended, "but to re-clarify what was the original intent of the bond."

"It will be a matter for the courts to interpret," he acknowledged.

The rapid growth of the banking industry accompanied by in-

Continued on page 35

Week of October 4, 1976

# business insurance

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

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## Insurer would pay half of Gulf directors' settlement

PITTSBURGH—Half of the estimated \$4 million settlement of eight shareholder suits against 19 former and current directors and officers of Gulf Oil Corp. who were connected with the company's political slush fund will be paid by North River Insurance Co., Gulf's D&O liability insurer, *Business Insurance* learned.

The rest of the out of court settlement will involve cash reimbursements and the relinquishing of stock options. The cash portion will be approximately \$150,000 to \$200,000, with much of it coming

from reimbursements by politicians who were identified as recipients of illegal campaign contributions from the fund, according to sources close to the settle-

The reporting for this story was done by Paul Merrion, Washington, Margaret LeRoux, New York and Jane Winebrenner, Chicago.

ment.

North River Insurance Co., Morristown, N.J., is a wholly owned subsidiary of Crum & Forster.

A North River official, James J.

Meyers, senior vp-claims, said he was not at liberty to disclose the terms of the settlement because the insurer is not a defendant in the case.

Gulf is known to have a \$25 million D&O policy which includes a \$50,000-\$100,000 deductible. (*Business Insurance*, Sept. 8, 1975).

William McGinnis, corporate insurance manager for the oil corporation, declined to comment on the proposed settlement.

C. A. Boyce, secretary of Gulf's board of directors stated that it would be "premature to comment on the proposed settlement at this time."

The part of the reimbursement to be made by defendants in the lawsuits will reportedly come from six former Gulf officials, including former chairmen of the board Bob R. Dorsey and E. D. Brockett, former executive vp William L. Henry, former senior

Continued on page 34

Baker Internat'l finalizes changes ...page 12

## Statistics show flurry of post-ERISA activity

# Employers rush to end benefit plans

By PAUL R. MERRION

WASHINGTON—A staggering number of pre-ERISA retirement plans have terminated in recent months, according to the latest statistics issued by the Internal Revenue Service.

Nearly 7,500 corporate plans, including 4,376 pension or annuity plans and 3,095 profit sharing or stock bonus plans, received acknowledgement of their termination by the IRS in the first six months of this year.

Employers routinely ask the IRS to make an advance determination of the tax-exempt status of a retirement plan when it is established, amended or terminated, although such determination is not required by law.

The IRS statistics reflect this determination letter activity during a certain period. Due to backlogs and other delays, the determination letters are usually issued months or even years after being requested by the employer, so the IRS figures include some terminations that occurred prior to the first half of 1976 and do not include other plans that terminated but did not receive determination letters in that period.

Thus, the IRS statistics are only a rough indication of recent termination activity. Also, it is possible that some plans that terminate may not ask for a determination, and they wouldn't be counted.

The significance of the IRS figures on terminations is that, for the first time, IRS is also issuing

statistics on ERISA plan terminations. Many of the nearly 7,500 pre-ERISA plans that folded may have done so to avoid complying with the new requirements of the pension reform law.

The IRS said a total of 8,039 plans, covering 149,931 participants, established plans in compliance with ERISA and were issued determination letters in the period Jan. 1 to June 30, 1976.

At the same time, no determination letters were issued for the termination of ERISA-type plans during that period.

Defined contribution plans were established in far greater numbers than defined benefit plans. Only 426 of the latter received determination letters while 7,613 de-

terminations received acknowledgement of their tax-exempt status under ERISA in the first six months of the year.

An indication of the delays in processing determination requests is seen in the qualification of 3,288 pre-ERISA plans in the same period, according to the IRS.

It is highly unlikely that an employer would file for an advance determination on a pre-ERISA plan after the pension law was signed more than two years ago.

The IRS also reported the qualification of 4,910 amendments to ERISA plans in the first half of the year. Here again, defined contribution plans accounted for the greater number of determination letters—4,518 versus 392 for defined benefit plans.

# Coast Guard studies bridge-barge collision

MANCHAC, LA.—A barge towing company and the Illinois Central Industries Inc. are involved in a U.S. Coast Guard inquiry to determine who is liable for a barge-bridge accident that resulted in the death of at least one person, the loss of three vehicles and the closing of a main artery of traffic, U.S. Highway 51 between New Orleans and Jackson, Ms.

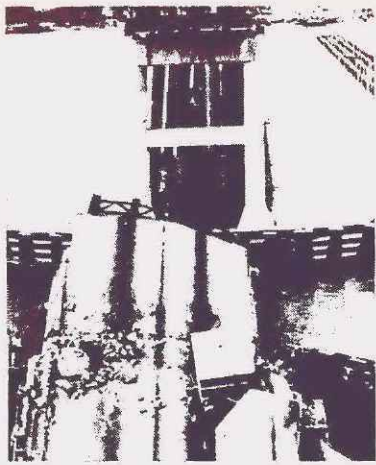
The barge towing company, Sidney Torres-Marine Transport Inc., has a \$1 million liability policy with Gulf Coast Marine Inc., New Orleans, and a \$10 million umbrella liability in the London Market through Corroon & Black. However, the coverage includes a \$250,000 deductible.

Illinois Central, Chicago-based

owner of a railroad bridge that parallels the highway bridge struck by the barge, was named a party at interest in the investigation by the Coast Guard. Illinois Central's risk manager declined comment on the investigation.

The accident occurred when a barge, one of two loaded with shells being towed across the channel connecting Lake Pontchartrain and Lake Maurepas, struck three of the concrete bridge supports, causing a 220 foot section of the bridge to collapse, plunging a semi-trailer truck, a pickup truck and an automobile 50 feet into the water below.

Spokesmen for the Coast Guard said the investigation is looking



A collapsed 220-foot section of the Pass Manchac bridge.

into allegations that the railroad bridge did not hear the tugboat signal and failed to open in time, causing the barge to glance off the railroad bridge onto the highway bridge.

## Husband's claim reduced

# Negligence damages in rape case upheld

NEW YORK—In the first of what may be a long series of appeals by Howard Johnson Co., a Brooklyn federal court judge upheld the \$2.5 million liability award granted to singer Connie Francis in a negligence suit against the hotel firm.

The suit was filed after Ms. Francis was raped in a Westbury, Long Island, Howard Johnson Motor Lodge (*Business Insurance*, Sept. 20).

Judge Thomas C. Platt ruled that changing the award original-

ly granted by the six man jury would be a "usurpation of the jury's duty." The amount granted to the singer's husband, however, for loss of his wife's companionship, was reduced from \$150,000 to \$25,000.

Loss of the performer's potential earnings as a result of the rape was cited by the judge in his decision as justification for the large award. He believed that the experience would "in all probability prevent her from performing for at least 10 years."

Howard Johnson's and the firm's liability insurance carrier, Liberty Mutual Insurance Co., are contesting the award as excessive. No payment has yet been made to the plaintiff and another appeal will be filed.

"In no way is this finalized," said a Howard Johnson spokesman. He added that the case may go on for another year or two.

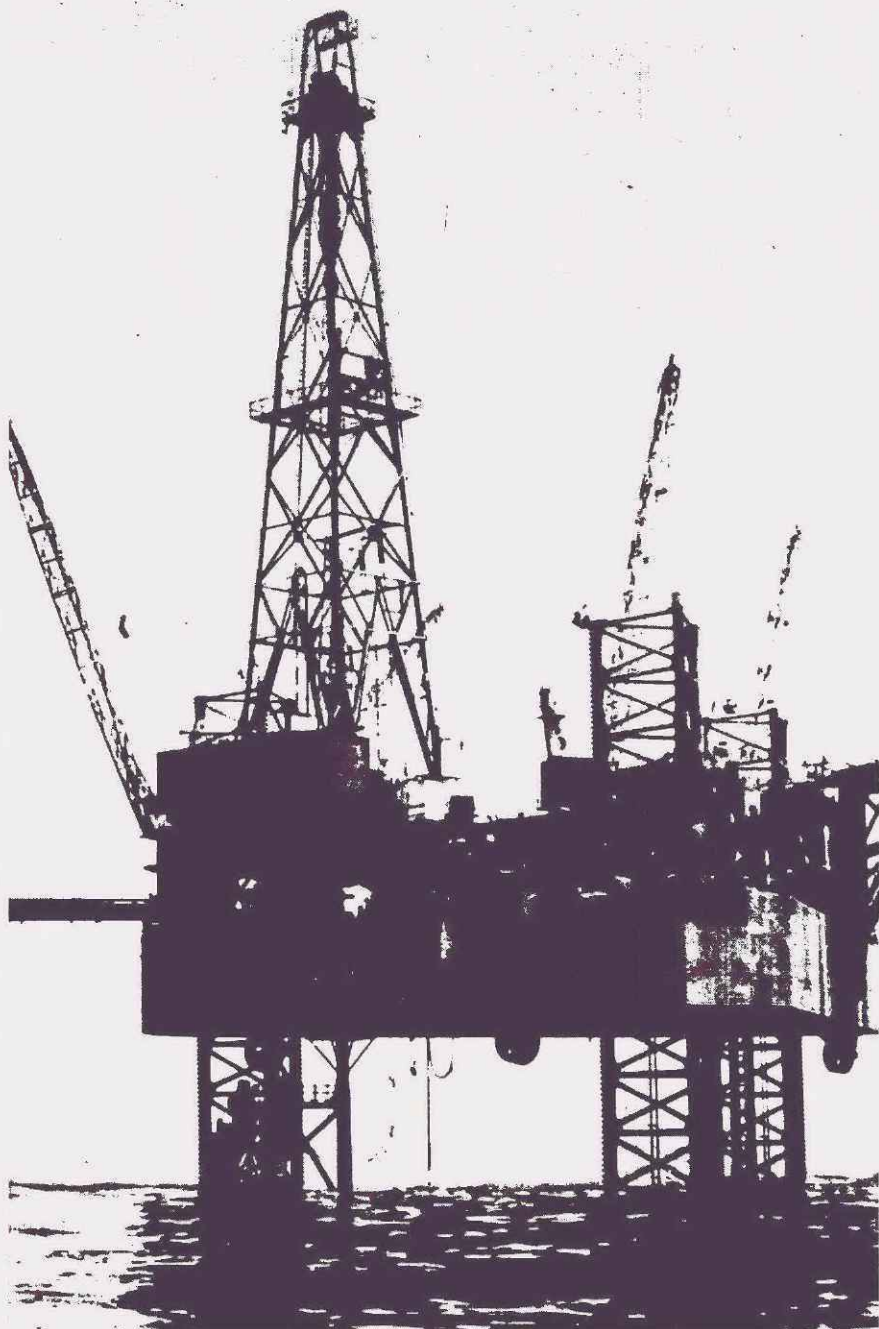
Mr. Francis testified at the trial that a man broke into her room through the sliding doors of her motel room which led onto a patio, and threatened her at knifepoint. The rapist has not yet been apprehended.

Court officials had noted that the award granted to the singer was one of the largest ever awarded in a rape case.

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Similar disputes can take place where one person acts in more than one capacity. It is not uncommon for one person to be a director, officer, fiduciary, employee, an employee benefit plan participant and a stockholder. The Department of Labor has issued several helpful ERISA bulletins on this matter.

The standards to apply to measure the adequacy of coverage are:

1. The Director, Officer, Trustee or Fiduciary must be covered for any matter claimed against him in his capacity (position) of Director, Officer, Trustee or Fiduciary.
2. The corporation as Sponsor Employer and Named Fiduciary must be covered for its obligations to plan participants and plan beneficiaries plus for its obligation to indemnify Directors, Officers, Trustees or Fiduciaries.
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## London line

# Thalidomide makers sue Lloyd's for \$40 million in product liability suit

By JOHN H. MILLER

LONDON—Lawyers are completing plans for a massive \$40 million product liability lawsuit involving Lloyd's underwriters scheduled to start Oct. 4 in the U.K. Supreme Court.

A leading Lloyd's syndicate is being sued by the Distillers Co. (Biochemicals) Ltd. of London over the thalidomide affair which led to heavy pay-outs for crippled children in Britain three years ago. Named as nominal defendant in the writ is Douglas Victor Poole, but in fact he is contesting the action on behalf of underwriters who claim that their top liability is less than \$2 million.

This is because, in their view, the policies involved in the affair covered only one incident, and so are limited in their effect.

But the plaintiff company will try to establish that the cover should protect them against every individual claim for damages brought against them by the parents of 433 U.K. children who were born deformed by the drug after it had been taken by their mothers during pregnancy twelve years ago.

The trial hearing will last three months and will raise many important points in liability issues.

Victims of the British thalidomide tragedy have already won compensation under settlements approved by the U.K. courts in 1973.

Distillers Co. (Biochemicals), which marketed the drug in the U.K., Australia and New Zealand under an agreement with its German manufacturers, agreed to pay damages of \$12 million in a lump sum and another \$28 million to be spread over seven years in annual payments till 1980.

This was accepted as being the proper amount after careful study by lawyers, doctors, and judges of the crippling injuries suffered by the children and the consequent care and attention they will need for the rest of their lives.

Lloyd's underwriters are in no way challenging the merit of these awards, which were clearly essential for the welfare of the children, but are relying on the court to interpret in their favor the terms of the policies which were issued as long ago as 1958.

The policies covered the Distillers Co. (Biochemicals) against any claims for injury or illness caused by any product it sold anywhere in the world.

But they contend that each policy had a yearly limit of \$500,000, or \$2,000,000 for the whole four-year period. The court will have to settle the vital question of whether this means that the overall catastrophe can be interpreted as one single incident, or whether each individual case—and there were more than 400 of them—can legally be claimed a separate incident.

Naturally, at the time the policies were issued, no one anticipated that the scale of compensatory damages in Britain would rise to the levels reached three years ago.

But in fact, new policies are now being worded in such a way that they will take into account the potential catastrophic situations that modern scientific discoveries can present to the insurance market.

\* \* \*

Risk improvements in container shipping have been welcomed by Norman A. Robinson, of the UK's Royal Insurance Co., who points

out that the "time on risk" of many kinds of cargo has been shortened with benefits to insurers as a result of developments in this field.

"The container revolution has led to quicker delivery times and a reduction in the number of times individual packages of cargoes have to be handled," he told representatives of ten leading UK shipping lines in London.

But while this has reduced claims in some directions, the need for cargo security is still essential, as highly-sophisticated criminals now realize the tremendous values of some shipments.

"It's even been suggested that the growing use of containers in the deliveries of cargoes across the world has created a demand for greater expertise among the criminal organizations," he admitted.

The UK insurance market is watching developments in this direction, for discussions are being held with international trade and shipping groups to ensure greater security and fewer claims.

There is also a need, Mr. Robinson pointed out, for containers to be in a soundly-maintained condition so that they do not lead to water damage or loading defects.

Mr. Robinson told the UK Containers Lines Insurance Committee that in his mind the marine market could still play an important part in covering cargo movements, in spite of calls for carriers' liability insurance which might have to be borne by the shipper. For marine all-risks cover had been developed over hundreds of years, he noted, and could give cargo owners various facilities they needed as well as closing gaps in their cover which might be essential to them.

\* \* \*

Marine insurers are being faulted for taking cargo cover at low rates so as to attract bigger premium flow.

John E. Heathcock, chairman of Manchester (North England) Marine Insurance Assn., protested: "Losses on hull risks have diverted attention to cargoes where there appears to be a search for premiums without due consideration for profit. This may only become

evident when the full impact of claims for cargo shipments to Lebanon, Angola, and other troubled areas is ascertained."

He suggested that some risks were being covered at apparently acceptable rates, but then the wordings showed that underwriters were being asked to provide indemnity against every conceivable risk, including those which until now had been considered as normal commercial trading risks.

Claims were being affected in many cases by outdated and inadequate port handling facilities, and by the general decline in moral standards in security.

\* \* \*

British Safety Council director James Tye declared after a U.S. investigative tour: "The British worker is the most safety conscious and best trained in the world. I say this in spite of the enormous efforts being made by U.S. safety campaigners.

Continued on page 4

## The Retirement Plan Proposal:

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# Nevada hits soaring liability rates; goes uninsured

CARSON CITY, NV.—Nevada, once insured for \$10 million, decided last month to "go bare" rather than pay the expensive premiums it was quoted for public liability insurance.

Foremost Insurance Co. of Grand Rapids, Mi. insured the Nevada state government until August 30. But when the policy expired, Foremost would not renew it.

Nevada Insurance Commissioner Dick L. Rottman told *Business Insurance* that trouble had been brewing with the state's liability coverage before the August expiration.

Nevada was insured for \$10 million several years ago, but tight markets in the governmental liability insurance field had driven premium costs so high that the state was forced to cut back its

limits "drastically" to stay within its budget, Mr. Rottman said.

Last year, for example, the policy underwritten by Foremost had limits of only \$500,000, with the state assuming a \$100,000 deductible. For that coverage, Nevada was paying premiums of \$60,000. Rates quoted upon renewal for a comparable amount of coverage were running about \$350,000, based on "tentative proposals" from carriers made to the state's independent agents' association, Commissioner Rottman said.

Insurance for the state government is purchased by a four-member insurance policy committee, of which Commissioner Rottman is chairman.

The policy committee decided that for the present, Nevada must assume for itself the risks of going

without liability insurance, but that Mr. Rottman did not rule out the possibility of buying insurance in the future.

"Right now we're assessing the situation and re-evaluating all the exposures of the state, and re-evaluating all the actions and claims pending against it as well.

"We will go through the risk management process very carefully," the insurance commissioner said. The state does not have a risk manager as such, but Mr. Rottman is the person chiefly responsible for the function.

"In the next 10 days we'll be making a concerted effort to find out what (problems) other Western states are up against" in the liability insurance area, Mr. Rottman said.

"I'm quite sure the state of Oregon has gone bare," he further

noted. (The office of Lester L. Rawls, insurance commissioner of Oregon, said the state is "self-insured" for public liability.)

One of the options open to Nevada would be to set aside reserves for a self-insurance fund, but Commissioner Rottman said that in order to set up such a reserve fund Nevada would have to get the approval of its legislature, which is not scheduled to convene again until next January.

Presently, Nevada still has liability insurance for its aircraft and fleet of cars; Hartford Insurance Co. is carrier for auto liability, and Fireman's Fund writes the aircraft coverages, Mr. Rottman said.

The whole concept of government immunity beyond a certain dollar amount is being challenged, Mr. Rottman said, indicating this

challenge was one of the things he would have to keep careful watch on while Nevada is going bare. The state has what is called a "permissible claim" level of \$25,000 per claim for parties injured by the negligence of the state. That is, on any claimed amount of more than \$25,000, the state simply pleads statutory immunity.

But there are currently two court cases contesting this permissible claim cut-off, Mr. Rottman said. One is before the Nevada Supreme Court, and the other before the California Supreme Court. Their outcome, Mr. Rottman believes, could be crucial to the whole area of state and municipal liability.

The Nevada insurance commissioner, who is taking a wait-and-see attitude on these court cases while he is exploring the risk management implications of going bare, is joined on the state's insurance policy committee by officials Howard Barrett, administration; Michael Milner, commerce; and Preston Tidball, banking. ■

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## London . . .

Continued from page 3

"In the U.K. I think we are leading the world in international co-operation and exchange of information on safety matters. This is absolutely vital in times of advancing technology.

"Processes capable of producing disaster on a catastrophic scale are becoming part of every-day life, and safety must develop into an international science if we are not to suffer tragic consequences."

He is offering the U.S. Secretary of State for Labor information obtained by the British Safety Council on the development of occupational safety training in the U.K. where there have been widespread government moves in the past twelve months to emphasise its importance.

**Aviation insurers** expect to face a \$20 million pay-out over the world's worst mid-air collision in which 176 people died near Zagreb (Yugoslavia) Sept. 10.

Planes involved cost \$6 million each, and passenger liabilities are likely to reach over \$8 million.

But there will be no question of product liability suits, like those which followed the Turkish Air Lines DC10 disaster in 1974 and is costing insurers more than \$100 million because of lawsuits.

Responsibility for the air crash is being placed on air traffic controllers at Zagreb where there is feared to have been an error in directing the planes which hit each other 30,000 feet above the ground.

One was a British Airways Trident with 54 passengers and a crew of nine, and the other a Yugoslav DC9 with 108 West German tourists and a crew of five on board.

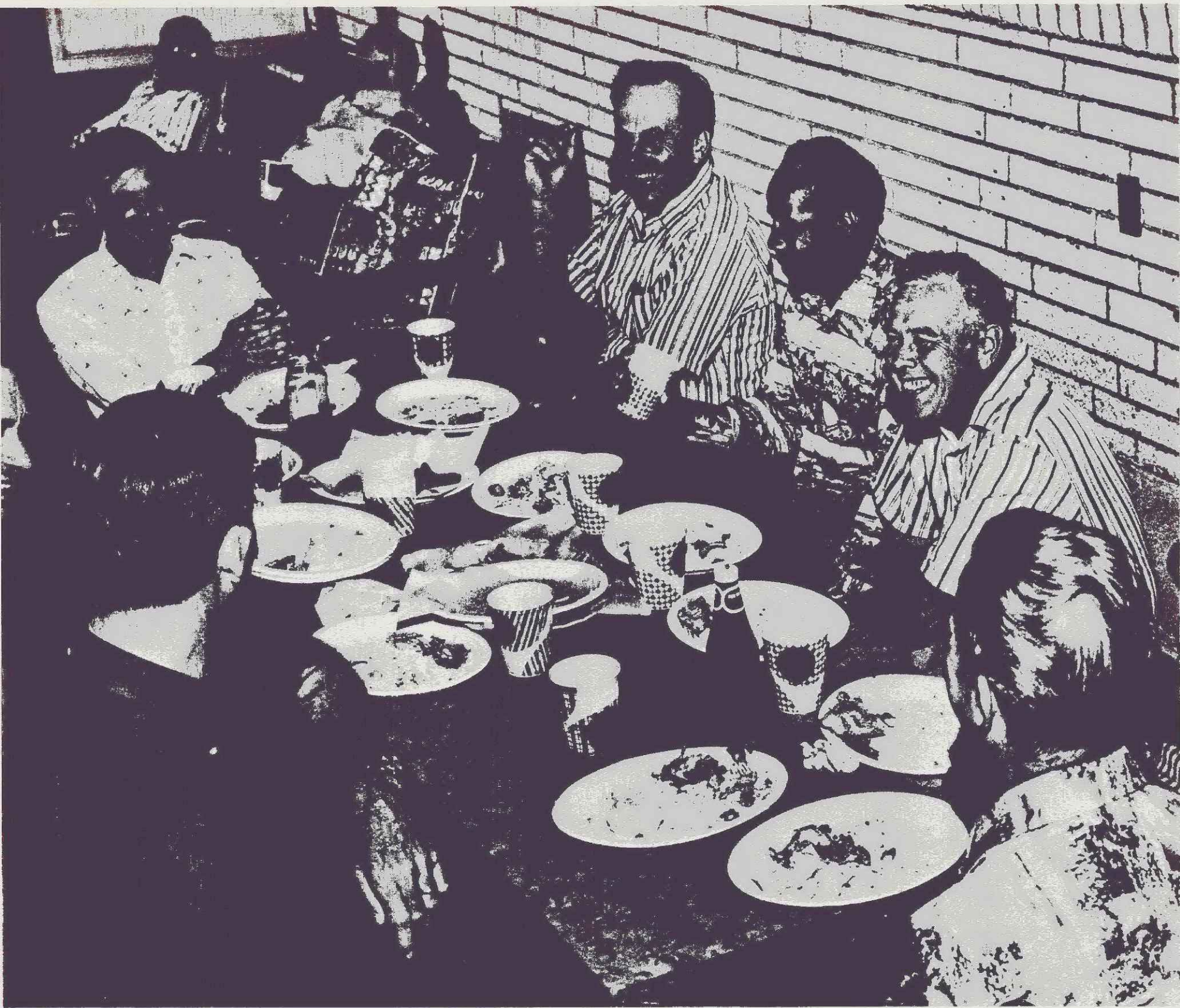
If blame for the collision is proved to lie with Yugoslav air control, there may be efforts by insurers to get compensation from the Yugoslav Government. ■

## Group life figures

Group life insurance in the United States set up under new or revised group contracts totaled \$100.6 billion for the 12-month period from August 1975 through July 1976. This was down slightly from the same 12-month period a year earlier, when \$121.7 billion in group life was purchased, the American Council of Life Insurance said. The New York group used face amount figures from the Life Insurance Marketing and Research Assn.

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This company's safety record is so outstanding, we hesitate to cite it as a *typical* example of accomplishment. Rather, it's the *ideal* of what can happen when a business insurance specialist and the insured work together as *partners* to control insurance losses and costs.

Woodard-Walker's willingness to accept responsibility for safety has a lot to do with this success story.

Leon Walker, Sr., says, "There is

no point in putting a safety man on the job without the only tool he can use. And that tool is the complete backing of top management."

As a result, Woodard-Walker has been credit-rated since 1949. The current modification is down to .34. Which means this policyholder is *saving 66%* of the manual-rate premium for its industry. In other words, their intense safety awareness — and subsequent good record — is the reason they pay only one-third the business insurance costs that some of their competitors might be paying. That's a nice advantage to enjoy in any business.

Employers of Wausau works hard for Woodard-Walker. Woodard-Walker works just as hard on its own behalf. That's the kind of partnership that makes insurance work best. And that's the Wausau story.

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**Employers Insurance of Wausau**

Wausau, Wisconsin

# NHI not needed, says report detailing cost controls

By ANNE MYERSON AYERS

WASHINGTON—In an election-eve effort to stave off calls for national health insurance, the Ford Administration has issued a report that tries to show how the private sector can control health costs more effectively than the government.

More than a hundred innovative cost-cutting projects by unions and corporations are described in the report issued in mid-September by the Council on Wage and Price Stability, an economic watchdog group formed by the President shortly after wage and price controls were lifted in 1974.

The report also provides six detailed case studies of projects that include second opinion programs, self-insurance, health maintenance organizations (HMOs) and pre-

scription drug programs.

No conclusions about the overall effectiveness of these programs are offered in the report, however. "We can't tell whether these innovations will succeed or fail—these are all very fledgling efforts," said William Lilley III, acting Director of the Council.

The report on cost control techniques grew out of a Council report issued last April which analyzed "The Problem of Rising Health Care Costs." That earlier report concluded that the advent of third party health insurance brought about new market incentives that altered cost consciousness in the health care industry, thus depriving it of economic discipline.

Following the April report, the Council decided to find out what

employers and unions, as "the major consumers of health care," are doing to stem rising health costs. It was the Council's view, Mr. Lilley said, that it would be "imprudent and unsuccessful" to try to control health industry inflation with a "simplistic approach."

When asked whether cost control efforts are not merely "band-aids" in lieu of national health insurance, Mr. Lilley revealed the underlying purpose of the study: "I don't think there's any final Administration position yet on how well national health insurance will discipline the economy of the health industry. This goes back to the skepticism about the ability of any national entity to solve a complex problem in a simple way."

"The government is interested in seeing how well the private

sector can bring pressure to lower health costs before the government steps in," he said.

The acting director pointed out that most of the projects examined in the report were begun in 1973 or later. That's why the Council couldn't verify whether the innovations it uncovered will work or not in the long run. But an observer noted that if these programs had been started 10 or 20 years ago, the Administration might not now have to hastily find ways to control health care costs.

Another seeming thorn in the Council report's side is the issue of political pressure from providers. Can an individual union or company withstand those health industry pressures better than the government could? Mr. Lilley maintained that the private sector

is more responsible to "bottom line discipline" than the government, since a dollar saved on health coverage means a dollar more for wages, other benefits, or profits.

Each local situation differs, he said, according to its availability of services, agreements between employers or unions and insurers, and relations with providers. He noted that in every case study, the union or company faced opposition from providers. "Whenever discipline is exerted on the health industry," he said, "it will result in opposition from doctors, hospital administrators, insurance companies, drug manufacturers and pharmacists. Every effort to change will brook that opposition."

Insurance companies, Mr. Lilley said, are "sort of a hybrid situation." They want to control health costs, and thus support reforms that lower utilization rates or reduce charges. But other measures, such as self-insurance or dropping insurance coverage completely, "make them apprehensive," he said.

"The 'rapidly proliferating role' of third party insurance coverage tended to mask the cost and utilization of health care, Mr. Lilley explained; employers and employees then lost control of costs.

Now some companies are dropping insurance entirely. Goodyear Tire and Rubber Co. has bypassed insurers completely by directly paying health costs for its workers. The company has "an elaborate tracking system," Mr. Lilley said, that allows it to slow the rate of cost increases and length of hospital stay in cities with major Goodyear plants.

The Council report is meant to shed light on "the heretofore unappreciated potential of the private sector to combat the problem and possibly exert substantial downward pressure on rising health care costs," and allow an information exchange among innovators and those exploring coverage changes.

The case studies detail both successes and failures. Health maintenance organizations set up by companies and unions, for instance, showed a general "poor track record" according to Mr. Lilley, because of their enormous start-up costs.

But most of the innovations described in the report are already well known to people who administer employee benefits programs. Most of them are controlling hospital utilizations, such as self insurance and claims review programs by Goodyear Tire and Rubber Co. or the creation of the Genesee Valley Group Health Assn., a prepaid group practice in Rochester, New York set up by Eastman Kodak, Xerox, General Motors and other firms.

The members of that BMO spent 7% fewer days in the hospital in 1974, while locals with traditional coverage spent 5% more.

The Council also cites second opinion programs for elective surgery established by the United Storeworkers Union and the American Federation of State, County and Municipal Employees, District Council 37 (both in New York City), which reduced elective surgery by 9.4% for the storeworkers and by 4.4% for District Council 37.

The report doesn't pretend to give the ultimate solution to health care inflation, Mr. Lilley said, but "does reveal an unacknowledged potential of the private sector to exert influence and control in the area of health care cost inflation. Hopefully, this report will trigger more research into the cost-effectiveness or innovative cost control programs." ■

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# IBM uninsured for \$11.4 million award

By LINDA MOSKOWITZ

PROVIDENCE, R.I.—In the largest verdict of its kind, Catamore Enterprises Inc., a jewelry manufacturer, was awarded \$11.4 million in compensatory damages against IBM Corp., which Catamore had sued for breach of contract, fraud, breach of warranty and negligence in the purchase of a data processing system.

The jury award is now being appealed by IBM and a decision is expected soon. IBM does not carry insurance which would cover this kind of liability award.

Catamore contends that IBM violated the sales agreement involving the purchase of hardware and software equipment to be

used in a computerized system for Catamore's inventory control.

In one instance, for example, Catamore claims that IBM agreed to supply the software needed for the system by way of oral agreement. Such equipment was never supplied. IBM denied the existence of such an agreement, according to Thomas J. Christo, attorney for Catamore.

An upgraded form of the hardware equipment ordered by Catamore was allegedly supplied by IBM, which was more expensive than that originally contracted for.

Initially, IBM had sued Catamore for nonpayment of rentals and won a judgment of \$68,453. Catamore then counter claimed and won the large award.

IBM did not comment specifically on the case, but said that they do not expect an increase in these types of liability suits against IBM as a result of this award.

Computer liability cases usually fall into the professional liability category, since as one industry spokesman said "the problem is not so much in the design (of the equipment), but in the misapplication of the system."

What is needed to "stem the flow of litigation" is better education of the sales force and a more candid exchange between the customer and the supplier, according to this source.

Sales people must be aware of the "potential complications from a sales commentary, which could prove to be more binding than was intended," he continued.

At this spokesman's firm, there is a good deal of interplay between the marketing, legal, quality control and product safety departments.

In the IBM vs. Catamore case, Mr. Christo feels it was a matter of the IBM salesman "overselling by lowballing, a common marketing strategy." He sees this as a "vendor problem" which happens quite a bit and is not limited only to IBM.

Salesmen can be pressured by the company to the point where they are unwittingly misleading the customer, he said.

## Blues rates hearings held

HARRISBURG, PA.—The Pennsylvania Insurance Dept. is holding hearings this month on two sizeable rate increases, a 25.7% statewide increase by Blue Shield and an overall 31.6% increase by Blue Cross.

Blue Shield's increase affects 3.2 million community-rated group and non-group subscribers and 65 special subscribers, approximately half of the plan's total enrollment.

Capital Blue Cross is seeking an average increase of 33.9% for group subscribers, 28.2% for non-group subscribers and 35.8% for student non-group subscribers. Experience-rated groups are not affected by the increase.

If approved, Blue Shield's increase would generate an additional \$41.8 million in revenue; Capital Blue Cross's increase would add \$10.2 million to its income.

State Insurance Commissioner William Sheppard will question Blue Cross on the merits of the rate increase request at a public hearing Oct. 15.

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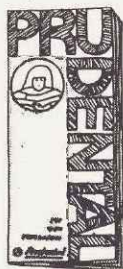


2. Group Survivor Benefits and Life Brochure explains insurance tailored to individual needs.

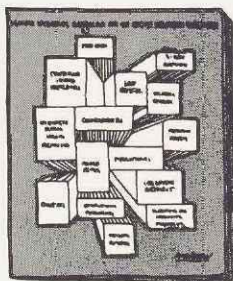


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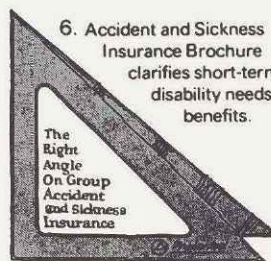
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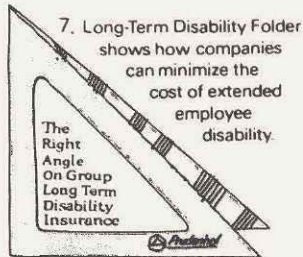


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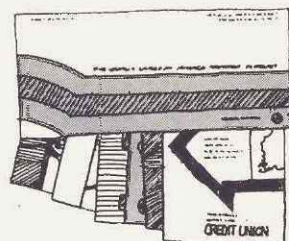
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### 'SECTION 79' INSURANCE

#### New Life Insurance Plan for Executive Catches On

BY ALEXANDER AUERBACH, Times Staff Writer

A new type of life insurance package aimed at corporate officers has become the hottest gimmick in the field of executive compensation.

Called "Section 79" plans (after the portion of the Internal Revenue Code that permits their use), they allow a corporation to effectively pay the whole cost of providing permanent life insurance, including cash values, with significant tax advantages to both the company and its executive.

The concept is still relatively unknown among even in the com-

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- An owner-operator in a qualified situation can use corporate funds to pay for his own permanent life insurance.
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# Equitable restructures method of servicing group benefit accounts

NEW YORK—The Equitable Life Assurance Society is changing its procedures for account management of most of its major group insurance contracts, *Business Insurance* learned.

As a result of a major reorganization of its field operations, all but the very largest of Equitable's group accounts will be underwritten, serviced, rated and managed at four regional zones rather than from the New York home office.

Overall responsibility for the accounts will be spread from one person, John H. Goddard, vp of the group department, to four officers, each of whom will head one of the new zone management teams.

"The authority has been lowered," said Mr. Goddard, who said

the reorganization was made to shorten geographic distances and communication lines between Equitable and its group clients.

It was prompted at least in part by the dramatic growth the firm's group department had experienced in the last three or four years, a growth which brought with it certain problems of servicing.

The group department boom was bolstered by such big wins as \$69 million in labor-negotiated dental contracts from a number of firms including U.S. Steel and American Telephone & Telegraph.

Before the reorganization, Equitable had seven regional sales divisions which had group representatives who provided the initial point

of contact with the clients and brokers. But final responsibility for Equitable's \$2 billion in group accounts lay with Mr. Goddard, and all underwriting and administrative work for "national" accounts was done in the home office.

Under the reorganization, which was "put on paper" in July and which will have its staffers in place and ready to go in October, group representatives from regional offices will still get the data from brokers when Equitable is bidding on a new piece of business.

But instead of sending the information to the home office, the group representative will send it to the zone underwriting office in his or her own zone. The underwriting will be done at the zone

level, and so will the rate calculation and proposal. If Equitable wins the case, the issue work will be done there, too.

"All the 'back and forth' work that you'll have on any large account will be concentrated in one place now. Also, the people who have senior responsibility for the account's functions are all together," Mr. Goddard said.

Equitable thinks the reorganization will improve relationships with brokers by improving the services for each account, and it hopes to win an even larger share of group accounts than it has now.

Probably the change that will most significantly impact a large group insurance contract is that under the reorganization, the client and the client's broker will deal with a single account executive who is familiar with all aspects of the case, and who is headquartered in the same city.

Before, the client contact was

frequently through the local regional divisional officers who not only had responsibility for a large number of existing accounts, but who had to bring in new accounts as well.

The account executives who will be dealing with clients under the reorganization will be responsible for a smaller number of existing accounts, and will not handle any new cases, Mr. Goddard said.

(The account executive system will only affect group insurance clients, not group pension clients, Mr. Goddard pointed out. Although Equitable has reorganized its field operations into four zones for group pensions as well as for group insurance contracts, the day-to-day management of the group pensions probably will not be significantly changed.)

For the group insurance operations, zone headquarters will be located in Los Angeles, serving the Western states; Chicago, serving the Midwest; Pittsburgh, serving the Middle Atlantic and Southern states; and New York, serving the Northeast.

"This change is consistent with the decision announced last year to open our first regional underwriting and contract office in Fullerton, California," Mr. Goddard stated.

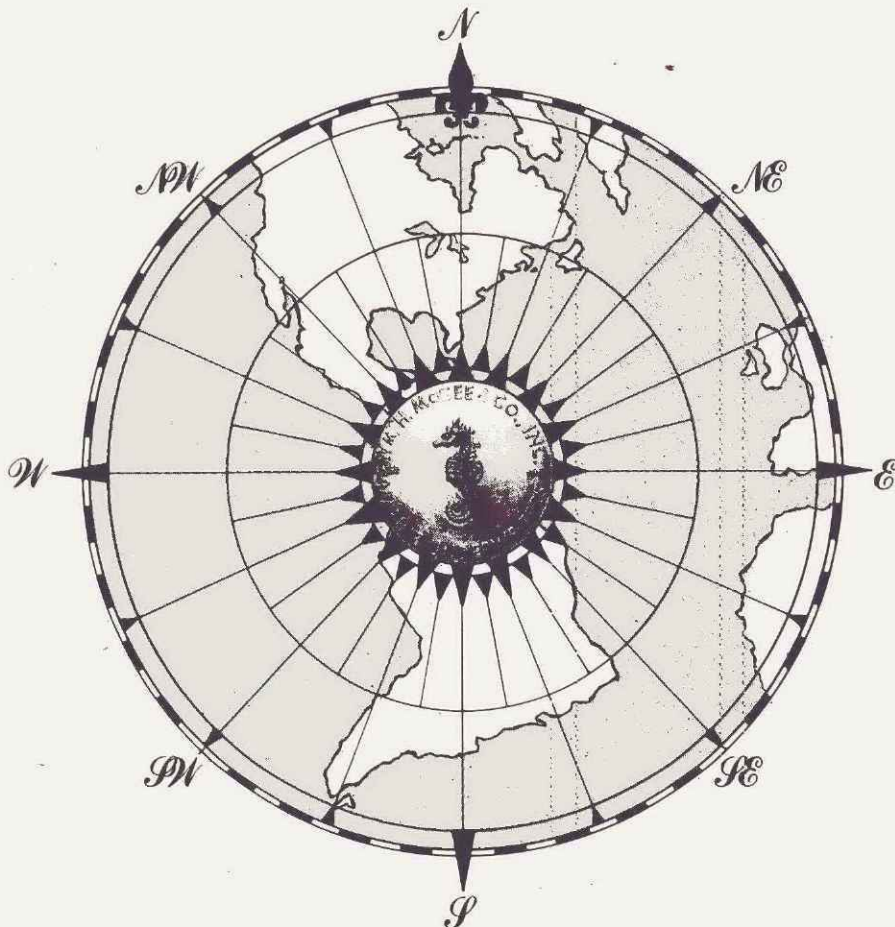
The four vps who will have overall responsibility for each management zone team are John Fuller in New York City for the Eastern zone; Edgar Nordgaard in Pittsburgh for the Mideastern zone; William J. Moran in Chicago for the Midwestern zone; and Robert E. Alberts in Fullerton, Ca. for the Western zone.

Each of these vps will report to Mr. Goddard, but they will be making decisions on their zone accounts that were formerly made by him.

"It was clear to me we needed to push down in the organization the day to day administration of the responsibility for all the group insurance marketing functions," Mr. Goddard said. ■

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## Workers win court battle over pensions

NEW YORK—A joint union and industries board recovered more than \$100,000 in frozen company pension benefits for former employees of a bankrupt Brooklyn laundry, according to the Amalgamated Clothing and Textiles Workers Union.

The ACTWU announced that a two-year court battle it fought in a joint board with Allied Industries resulted in an award from the New York Supreme Court's Appellate Division for nearly 100 former employees of Pilgrim Laundry, which went into bankruptcy in 1974.

The award involved money which was in a company-administered pension plan at the time of the bankruptcy. The money "was in peril," the union said, because "previous owners of the company had pledged the fund as collateral for a bank loan. The bank sought to capture the fund under terms of the loan."

Although the union never had any responsibility for the company pension plan or any control over it, ACTWU vp Louis Simon, who is manager of the joint board, ordered a board lawyer to act on behalf of union members.

Mr. Simon alerted Labor Department officials to safeguard funds for payment of wages and other money due union members, and he sent the ACTWU's controller to the plant to take over the final collections of routemen. ■

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## Baker International finalizes changes

By MARIE KRAKOWIECKI

NEW YORK—The risk manager of Baker International Corp. confirmed he realigned brokers on the property/casualty insurance for the Orange, California-based firm, but he made major clarifications of a report that appeared in *Business Insurance* Sept. 20.

In that story, sources were reported as saying that Baker was awarding its entire property/casualty insurance account to Alexander & Alexander, and that Johnson & Higgins had lost out on a big piece of the business.

The risk manager, Berry L. Griffin, was traveling on business and could not be reached for comment at the time.

Mr. Griffin, reached Sept. 23, said in a phone interview from one of Baker International's Houston subsidiaries, that he made the following changes in the program:

- Alexander & Alexander was awarded the casualty and marine portions of only the Baker International corporate account.
- Johnson & Higgins won the domestic property coverages and all of the international insurance coverages.
- Johnson & Higgins won Baker International's employe benefits coverages. It also won the employe benefits of a subsidiary, Reed Tool Co., an account which A&A formerly managed.

Mr. Griffin said information given by sources on the original story was premature because details of the broker realignment

had not been finalized that week.

However, he said the sources' statements that Baker International would be following a new risk management philosophy were correct.

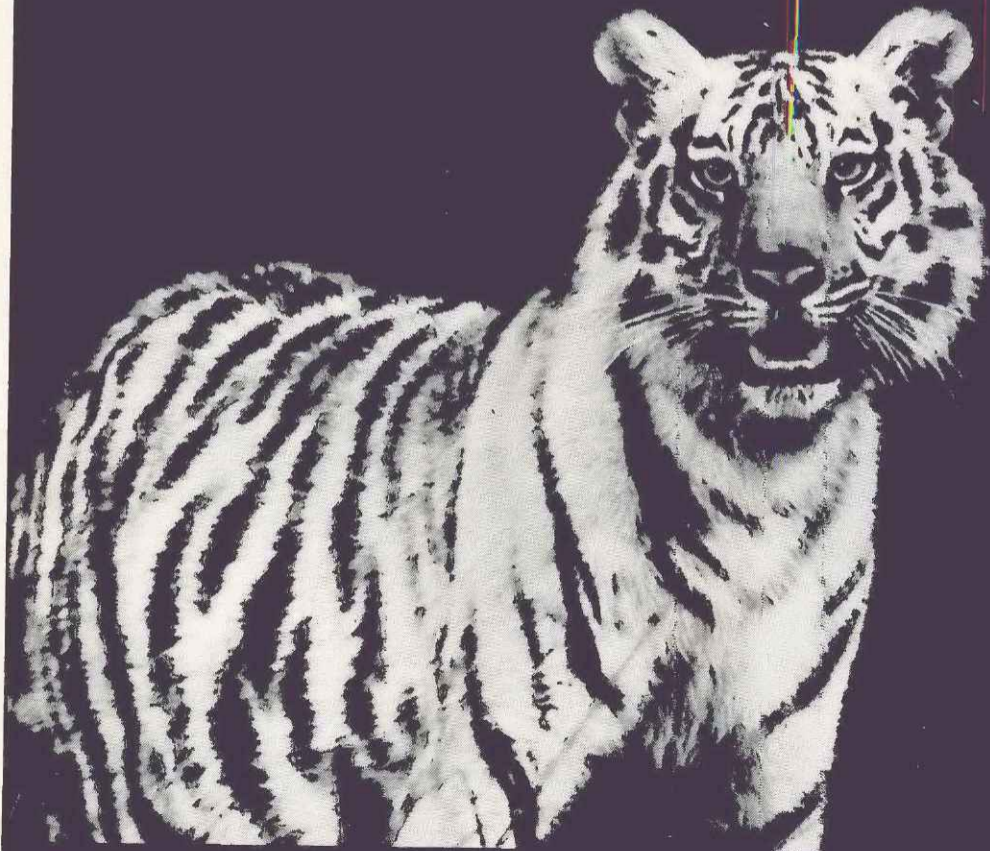
Baker International Corp. was formed by the merger of Reed Tool Co. of Houston and Baker Oil Tools Inc. of Los Angeles, and Mr. Griffin became risk manager in a newly-created position on March 15.

Before the merger of Reed Tool and Baker Oil Tools last year, A&A had been broker for Reed Tool and J&H had been broker for Baker Oil Tools. In the Sept. 20 story, these broker affiliations were transposed.

When the two companies were joined, both A&A and J&H made new presentations to win the insurance coverages for Baker International. The negotiations took place over a seven-month period, and were finalized late last month.

Although no figures were available for the new program, sources estimated the worth of the property/casualty portions of the Baker International business at between \$12 million and \$15 million in annual premiums, generating up to \$500,000 in brokerage commissions.

Mr. Griffin did not change those estimates when asked to confirm the original report, nor did he change reports that Aetna Life & Casualty and American International Group (AIG) would play major roles in underwriting the coverages through A&A and J&H respectively. ■



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# Equal employment rules may cause problems with fidelity bond claims

NEW YORK—An apparent conflict between Equal Employment Opportunity Commission (EEOC) regulations governing hiring practices and exclusions in fidelity bond coverage was among several issues discussed at a fidelity loss seminar here recently.

Sponsored by the New York chapter of the Risk & Insurance Management Society Inc., the seminar featured a panel discussion of fidelity bond coverage by two brokers, a consultant and two insurance managers.

The EEOC conflict refers to questions employers are prohibited from asking prospective employees concerning past arrests.

"But if you later have a loss and discover the person causing it had been arrested before you hired him, most likely the underwriter will deny the claim," according to Sanford E. Beck, divisional vp, Management Safeguards Inc. "Underwriters will claim you should have known about the risk involved in hiring such an employee."

"Should I inform our underwriter if an employee is arrested for something not related to his job, for example shoplifting?" a risk manager asked the panel.

Kenneth M. Padgett, second vp, The Chase Manhattan Bank point-

ed to a federal regulation requiring federal banks to report any attempted defalcation.

"Be careful not to categorize the acts of the employee to avoid a libel suit," Mr. Padgett warned. "Tell what happened and that this action might result in a claim."

"Be sure of who you're accusing," advised James M. Henry, insurance manager of Henry M. Stevens Inc. "You could become involved in suits for false arrest and defamation of character."

The panel addressed revised definition of dishonesty attached to bond endorsements by the Surety Assn. in March.

Two elements are necessary for a loss to be covered under the new

wording, Mr. Padgett explained. "There must be a manifest intent by the employee to cause the employer a loss and there must be financial gain either by the employee or by a third party or organization."

Discussing internal controls for fidelity losses, the panel agreed that for the internal audit department, even a little knowledge about the extent of insurance coverage is a dangerous thing.

"You're walking a tightrope," Mr. Padgett said. "If you tell your auditors you have coverage, they may be lax; if you say you don't have coverage, they may be reluctant to tell you when something's wrong."

"The best thing is to handle it

on a conservative, confidential basis," Mr. Henry believes.

Fidelity losses in the computer area are no different than any other area, said William Mahoney, vp of Marsh & McLennan. "The computer just makes the loss go a lot faster."

"The basic problem in the computer area is the inability of management to understand the computer," he continued. "Management has to figure out what the computer is supposed to be doing for the company."

The panel briefly considered fidelity losses caused by non-employees, such as security guards, messenger services or temporary employees.

"Require a hold harmless agreement or a certificate of their own fidelity bond coverage when dealing with these services," Mr. Beck urged.

Another aspect to fidelity bonds that has application where white

collar crime is involved, Mr. Beck explained, is the discovery provision.

For example, if an executive is caught manipulating funds, it's not uncommon for him to be told to return the money, promise not to do it again and the matter is dropped, he said.

"But suppose the same executive hits the company for a couple hundred thousand dollars six months later. The insurance company will deny the claim because coverage ceased, according to the bond, when the insured first learned of the executive's dishonesty."

To protect themselves, corporations should follow a policy of prosecuting employees caught in dishonest acts, panel members said.

"The bond is silent regarding the insured's prosecuting dishonest employees," James Harrington, assistant vp, Johnson & Higgins, said. "All corporations should have a written policy to prosecute." ■

# Controversial bill to allow self-retention

By JOANNE GAMLIN

SACRAMENTO—Senate Bill 2054, permitting California cities to form joint powers agreements for the purpose of purchasing insurance, awaits signature by Gov. Jerry Brown.

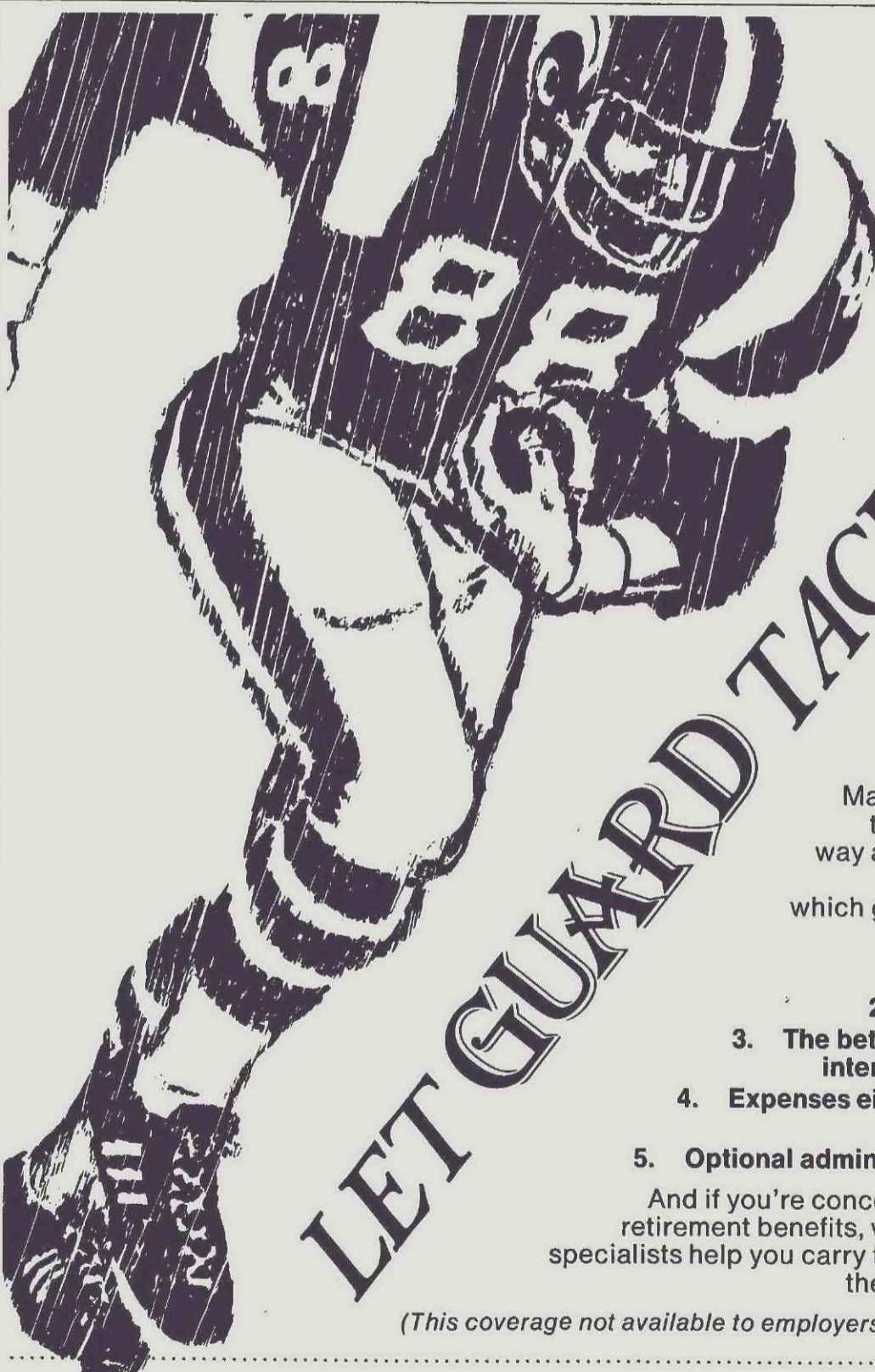
Insurance Commissioner Wesley J. Kinder, however, told *Business Insurance* that it is his department's recommendation that the governor veto the bill. "Our chief objection is that the conflict between the state government code and the state insurance code has not been resolved," he said.

The bill, introduced by the Contra Costa county senator, would exempt joint powers agreements among political subdivisions from regulation by the state insurance department. Proponents of the bill, namely the cities of Contra Costa county, are said to be moving toward the formation of a joint powers agreement (JPA).

The bill was inspired by the efforts of these cities to form a JPA for the purchase of insurance against all losses exceeding \$100,000 per occurrence. The cities were following the advice of a study done by Warren, McVeigh, Griffin & Huntington, which also proposed that the cities form a central pooled fund to take care of losses which fall in between their individual retentions and \$100,000.

The problem with S. B. 2054 has always been that while the state government code allows governmental units to go into self-insurance, the insurance code does not recognize the insuring of one entity by another or the creation of reciprocals, explained a spokesman for the insurance department.

"It is our contention that these concepts are removed from the idea of self-insurance," he continued. "And it is our fear that claims could go unpaid if governmental units go into self-insurance without specific funding provisions." ■



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## editorial opinions

# Are the Blues instruments of price fixers?

OHIO ATTORNEY GENERAL William J. Brown told the President's Council on Wage and Price Stability Sept. 10 that vigorous antitrust enforcement and increased competition in the health care industry (including the health insurance field) could save literally billions of dollars in health care costs yearly.

Mr. Brown cited studies by a Federal Trade Commission economist as an indication of the major impact greater competition would have on health care costs. Dr. Warren Greenberg of the FTC has found that in the 1930s, before the existence of the now-dominant provider-sponsored Blue Cross and Blue Shield plans, private health insurers aggressively sought to reduce the costs of insured medical care. The private insurers, Dr. Greenberg has said, actively negotiated lower prices for health care and conducted pre-utilization reviews to eliminate unnecessary medical services and hospitalization. But they no longer have this power.

Attorney General Brown believes the health care delivery system is full of monopolistic and restrictive practices that suppress or eliminate competitive forces in the health care industry. He believes that there must be vigorous antitrust action against physicians and medical groups which effectively thwart the progress of health maintenance organizations (HMOs), which provide more efficient delivery of health care.

In addition, physician-dominated and medical association-dominated Blue Shield plans are under attack for price fixing and should continue to be actively investigated, Mr. Brown said.

Before 1975, the last major government antitrust case in the health care industry was 23 years ago. Ohio broke this long period of inactivity when it filed suit against the Ohio State Medical Assn., charging that it was using its wholly-owned Blue Shield subsidiary to fix prices for physician services, and otherwise restraining trade in Ohio's \$5 billion health care industry.

At the federal level, the FTC is also investigating the nation's 70 other Blue Shield plans to determine the extent of their control by local medical societies.

Ohio's principal theory in its case against the state medical group is that the society used its control over the Blue Shield plan to prevent Blue Shield from using its bargaining power to reduce or control the costs of physician services.

The Ohio Medical Society is moving to have the case dismissed for a variety of reasons, one of which is based on exemption from federal antitrust laws under the McCarran-Ferguson Act. We believe this is another good argument in favor of repealing McCarran-Ferguson; we can do without this kind of shelter.

More recently, Ohio filed suit against two other medical groups and some individual physicians for conspiring to prevent a union-sponsored HMO from opening its doors. HMOs, as insured fee-for-service systems, are viewed as potentially providing healthy competition in the health care field and essential pressure on the industry and on physicians to control costs.

Employers, as powerful consumers of health care services through group insurance programs, should be mindful of Mr. Brown's call for more competition in the health care field. Employer vigilance over HMOs is needed in order to prevent physician boycotts which would mean the failure of alternative, often more efficient, delivery mechanisms.

And the charges against Blue Shield cannot be ignored. Employers concerned about controlling benefit outlays had best start asking their insurers what they are doing in the area of claims cost control.

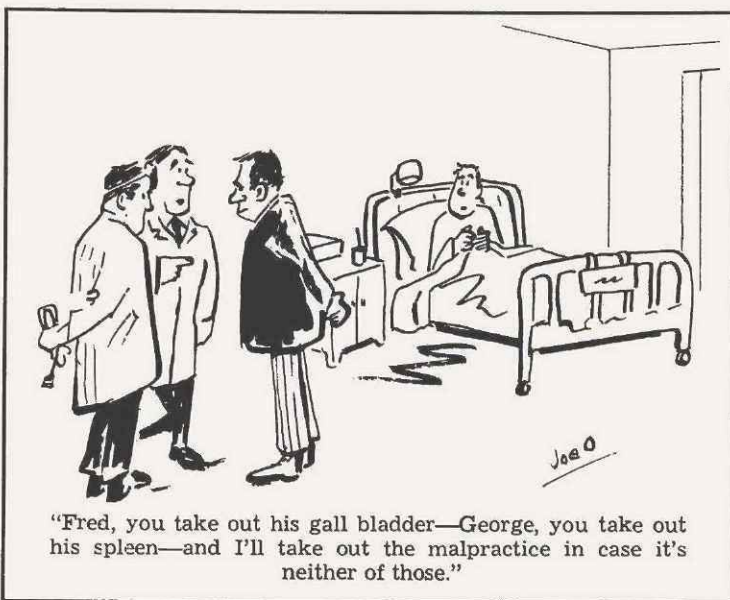
## Naked came Nevada

NEVADA IS "going bare." Nothing wrong with that, of course. There just wasn't enough money in the till to pay the soaring premiums being charged for the state's public liability insurance.

But the use of the term by the state insurance commissioner disturbs us. In current usage, "going bare" seems to imply that the policy is allowed to lapse, while the person or organization previously insured doesn't make any concrete plans what to do in case of a loss. Such planning, to us, recognizes that the risk itself hasn't disappeared; it's just been retained so that losses will have to be covered on a pay-as-you-go program.

When there's a conscious process of planning for management of these risks and losses, we believe self-insurance is a better term. It's alarming to see doctors, hospitals and now public entities apparently acting in a whimsical manner by gambling that they won't be sued or charged with any liability.

That's a big gamble. We think it's irresponsible for any organization or individual to operate on the principle that "It can't happen to me." We sincerely hope that when Nevada's Commissioner Rottman or anyone else speaks about "going bare," they're really going self-insured, taking the necessary steps to assure that any and all legal liabilities can be handled responsibly.



## letters

Letters are welcome. Address letters to the Editor of Business Insurance, 740 N. Rush St., Chicago, Ill. 60611.

### Finding alternatives

To the Editor: A recent Business Insurance editorial commented that buyers of insurance are speedily finding alternatives to traditional kinds of insurance, especially hospitals which must find malpractice coverage somewhere. In fact, this is no new development but something insurance buyers have been doing for more than a century.

Examples would fill a book but perhaps just a few will be sufficient to make the point. In 1861, Lloyd's introduced the first standard collision clause which could be added to hull coverage at an additional premium. Coverage was granted for 3/4 collision liability placing a heavy burden on shipowners for the remaining 1/4. In addition, there was also a need to insure liability for loss of life, bodily injury and excess liabilities which underwriters would not provide. As early as 1854 some shipowners got together and the first protection and indemnity club was formed, its successor being the Britannia Steamship Insurance Assn. which is still in existence. Other clubs quickly followed.

Closer to home, some buyers felt that their particular trade did not warrant the insurance costs being mulcted by commercial insurers. Rightly or wrongly they felt that their particular industry or trade was being called upon to support others which were much more hazardous. As a result they formed mutual societies, many of which have survived to become commercial insurers themselves. Some are recognized by their names such as Hardware Mutual, Bakers Mutual and Lumbermen's Mutual. Liberty Mutual started life specializing in insurance for pharmacists. And of course, the grand-daddy of them all is the Factory Mutual System, the oldest member company of which dates from 1835, if I recall correctly.

During the 20th century insurance commissioners happened on the scene and started making life miserable for everybody. Time and again an insurance buyer would require some special form of coverage unavailable locally because commercial insurers did not know how to write it and even if they did the insurance commissioners would not let them. The buyer's broker would thereupon submit the case to a surplus lines broker who would procure coverage from London or elsewhere. Some insurance commissioners, aided and abetted by local carriers, eventually caught on to this and intro-

Continued on page 18

## business insurance

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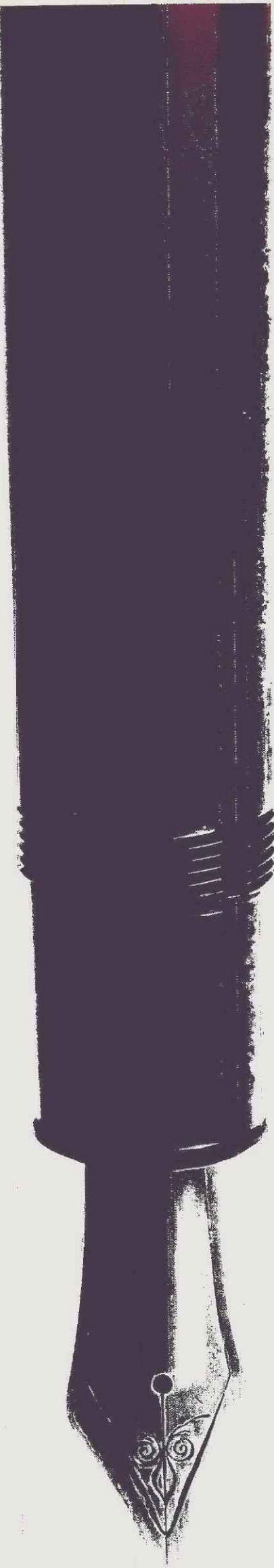
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## letters

Continued from page 16

duced a host of rules and regulations in an effort to limit the use of this device. The professional buyer promptly bypassed the system by dealing with the London brokers directly, and they in turn accommodated the buyers by setting up Canadian offices to handle this class of business.

It is clear, therefore, that what the hospitals are doing now with their captives is no more than what has been happening for the longest time. But has the insurance industry given any thought to the problem? Probably not, nor will they until buyers have found suitable solutions. Then they may do what they have always done in the past, which is that they will study the solutions carefully, then introduce close copies and finally spend a huge advertising budget to persuade everybody that it was their idea in the first place.

Who was it that said that those who fail to learn history are doomed to repeat it?

**Peter Downes**

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

### Agent broker statistics

To the Editor: Re: Agent-Broker Profiles, Aug. 9, 1976 Issue. While there may be no direct correlation, I feel it would have made a more valid and useful set of statistics in your article if the percentage of agency income attributable to life, group life, accident and health, etc. had been given. In the case of some of the larger agencies, this (overall volume) category might also include other actuarial services afforded.

Many of your articles are helpful in the challenge of managing a ¼ million-dollar agency, growing hopefully toward a million; this article in particular demonstrates the high overhead in larger agencies. I feel the figures would be more useful with a breakdown of income by percentage, between life and casualty categories, as suggested.

**Edward F. Bishop**

E. F. Bishop Agency Inc., Providence R.I.

### 'Sue the bastards'

To the Editor: Our compliments to *Business Insurance* for its forthright editorial in the Aug. 9, 1976, issue concerning the uncontrolled escalation of awards emerging through our tort legal system.

We are greatly concerned over this issue. California appears to be leading the national "parade" on this subject.

The California Citizens' Commission On Tort Reform, and independent organization, is now underway with its effort to evaluate problem issues requiring correction in the total spectrum of tort liability, including punitive damages. I am pleased to be a member of this commission. The chairman is Mr. H. Bruce Palmer, whose address is: 2400 South Flower Street, Los Angeles 90007. Hopefully you will find this effort desirable to monitor.

**Darwin S. Liggett**

Senior vp, corporate services, Pacific Mutual Life Insurance Co., Newport Beach, Ca.

To the Editor: I was very impressed with your editorial "Sue the bastards" in your August 9, 1976 issue. I feel strongly, as you do, that it is time for reform and the best way to accomplish this is to educate the public so that they, along with us in the industry, can push for new legislation. Toward this objective, I would like to have

at least 25 copies of your article which I will send to our key personnel and to our local legislators.

Perhaps, with some concerted effort, we can get the ball rolling to reform our legal system in regard to insurance.

**C. P. Pascale**

Controller, Nationwide Insurance Co., Syracuse, N.Y.

To the Editor: We agree with you!

What do we do now, Coach?

The insurance industry has sat back for too long a time just accepting all of the ills of the rest of society as being necessarily on the shoulders of the insurance companies.

We have been sat upon and spat upon for far too long.

While we should look at the big companies to lead us out of the wilderness, we hear not words of wisdom—but only silence.

Can't we get the industry—and those related to it—to stand up

straight and speak their mind and actively fight some of these evils?

Count me in on any ballgame that you want to start in that direction!

**Robert W. Kassel**

President, Hallmark Insurance Co., Madison, Wi.

To the Editor: Your editorial was both timely and informative, and I must admit that I agree with all of your recommendations.

**James R. Mochel**

Mochel Agency Inc., Downers Grove, Il.

To the Editor: I would like to take this opportunity to commend *Business Insurance* for the strong stand taken in the editorial section of the August 9, 1976, issue against the abuses of unrestrained litigation in the liability area.

**Gerald W. Wilkins**

Manager of Corporate Insurance, Oklahoma Gas & Electric Co., Oklahoma City

### 'Uphill into the wind'

To the Editor: During the Depression it was said that one could tell the PhD's by the way they raked leaves uphill and into the wind. After reading Paul L. Joskow's thesis "Cartels, Competition and Regulation in the Property-Liability Insurance Industry," I can see another "uphill into the wind" leaf raker.

He suggests that the American agency system be replaced as inefficient and costly. First of all, the bulk of his thesis is concerned and costly. First of all, the bulk of his thesis is concerned with weighty formulae concerning economies of scale, methods of sales, expense ratios, and profitability. Without a PhD in mathematics one finds it difficult to understand this mishmash.

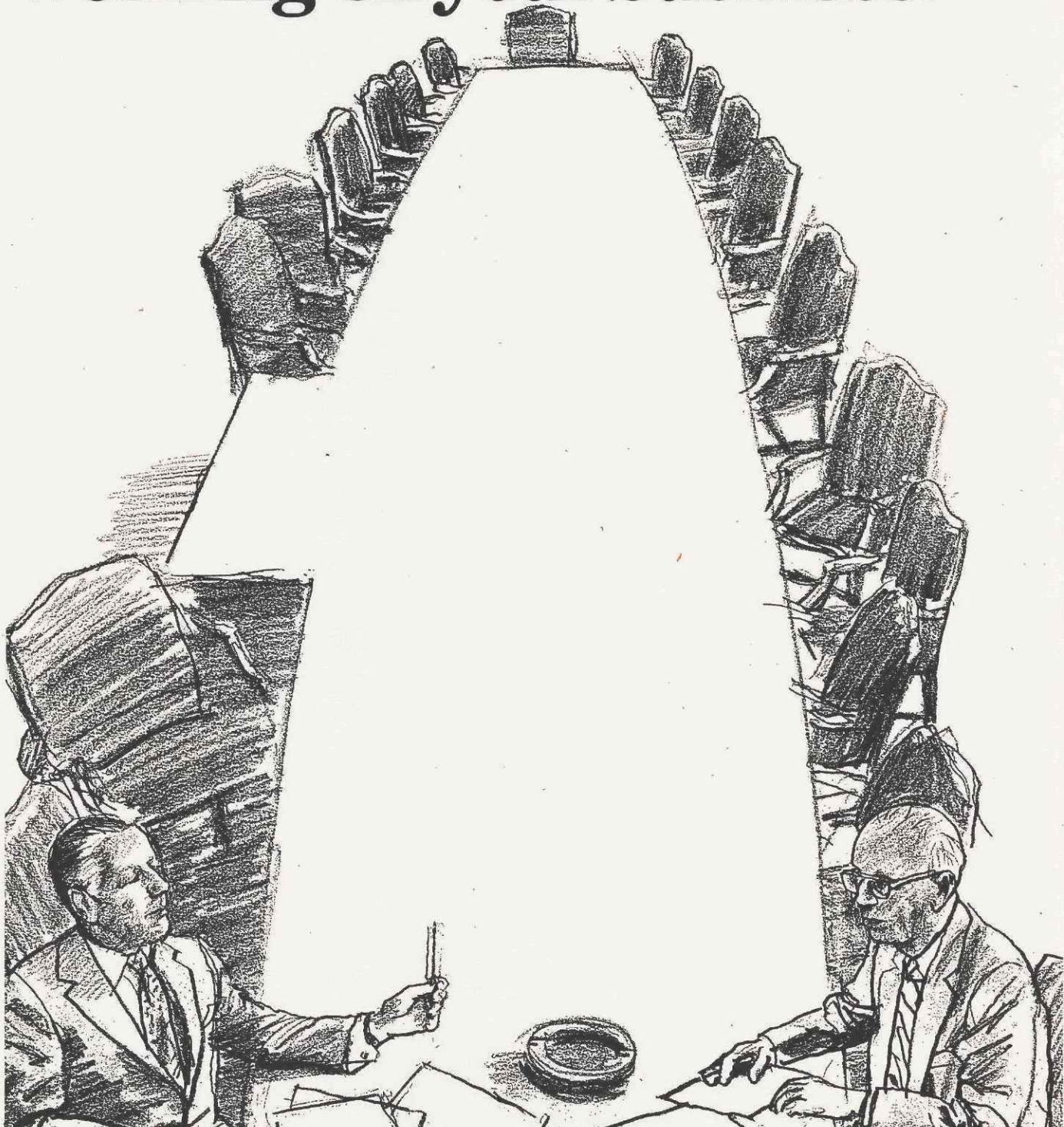
Mr. Joskow would replace the agency system with direct writers citing GEICO as a very successful example. I wonder whatever hap-

pened to GEICO?

As a member of the agency fraternity I know that the agent and broker have long been catalysts. We make things happen. We change insurance company thinking. The myriad "brokers' clauses," developed during a hundred years of marine insurance, were not suggested by insurance companies. The past 20 year surge of packaging, blanketing and dicing was developed by agents and brokers unabated by a reluctant insurance industry.

One is horrified to think of a monolithic system of direct writers. Commerce would suffer. What would take the place of the objective, for the most part, advice offered by competing agents and brokers? Will it appear "deus ex machina" from the insurance companies? I doubt it. What will happen to direct writer expense ratios when they seek to replace what is not offered by agents and brokers? The small insurance buyer will

# If we didn't own ourselves, maybe the people who run our business wouldn't be out working on your business.



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have to rely on costly visits or writing to insurance companies to obtain the information he now gets from agents or brokers. Lots of luck!

Of course, insurance consultants would flourish because it is simply ridiculous to imagine a situation where business would be left to deal directly with a thousand insurance companies. A middleman will have to interpret what is offered by the insurance industry.

Our present system is not perfect but American business has benefited tremendously from the expertise of agents and brokers who have developed insurance programs to accommodate many varied situations. Today, where the ability to "put a risk together" can vary in cost by 100% to 200% and leave the customer scratching his head, it is hard to see where anyone has ever come close to a quid pro quo.

Let's hope the demise of the American agency system isn't hast-

ened by the ilk of Joskow who would buy his insurance in the same manner as his refrigerator or lawnmower. Please save us from that!

**John G. Watkins Jr.**  
vp, Quinlan Insurance Inc., Newport Beach, Ca.

### More on captives

To the Editor: I have enjoyed your newsmagazine for some time now and find it keeps pace with the ever-changing insurance field.

I have read much, in the past, about captive insurance companies but to date have not seen anything of interest on captive insurance agencies, an area of concern to me. I noticed, in a past issue, an article concerning Best Western Motels and its new captive agency. I am interested in more detailed information on captive agencies, their development and problems.

**Richard T. Wickert**  
Champaign, Il.

## Lloyd's specialist wants oil industry to ease its self-insurance practices

MONTE CARLO—If the oil industry expects to be able to insure maximum probable losses for North Sea and other properties worth \$1 billion or more, it might have to give up some of its current self-insurance practices, a London underwriter suggested here.

During a panel discussion on changes in world production of energy and the consequences for the insurance industry, Peter Green, a marine underwriter from Lloyd's who specializes in offshore risks, said the market needed a broad premium base in order to have the capacity for high-value oil industry exposures.

Mr. Green said the oil industry itself might help to provide that premium base by returning to the

market part of the exposures they now self-insure through captives like OIL Ltd.

"Today the insurance market is struggling, not very successfully, to cover North Sea production platforms which originally were estimated to cost upwards of \$100 million, but whose final values will be \$500 million or more.

"But from talks I and others have had with oil company managers it is clear that within the next few years there will be structures, either floating, standing on the sea bed, or totally underwater in various parts of the world with values reaching \$1 billion and possibly within the next 10 years, double even that awe-inspiring fig-

ure," Mr. Green said.

He said he believed there could be several units of such value, and that offshore, no matter how large the insured value went, the only maximum probable loss percentage that should be considered is 100%.

Mr. Green said that oil industry people "are hard traders" who often succeed in buying insurance at "less than the right premium" or who self-insure because the insurance market appears insensitive to their needs.

"But today, whether in New York, London or wherever else the oil companies have their headquarters, I sense there is a desire for a new approach and some new thinking, born perhaps out of the pressing necessity to obtain insurance cover for projects now coming off the drawing board which will become realities in the next five years," Mr. Green said.

"Without a broad base it is not possible for the insurance market to build a large capacity. This fact is, I feel, recognized by our oil assureds, possibly more than ever before.

"They realize that if we are to provide the limits which I have mentioned they must broaden our base by returning to the market a major part of the business they now self-insure," Mr. Green told the panel.

"Clearly it is ridiculous for us to expect them to insure from the first dollar. Administrative problems, if not cost, would make such an approach impracticable. But a full participation above a self-insured retention, or what is called the vertical approach rather than the present horizontal or layered insurance plan, should be acceptable to both parties, and would give us the premium so vitally required to broaden the base on which we can build the capacity."

Mr. Green remarked that although Lloyd's has a heavy financial involvement as direct writers of oil industry business, it would severely restrict its commitments without the participation of reinsurers.

He added, "The problems of insuring these huge values are so complex and the thinking and study behind the creation of the proper insurance plan so time consuming, that inevitably the leaders in the direct market bear a heavy responsibility to those who follow, whether directly or as reinsurers, and who cannot hope in the time available to analyze the problems as deeply as the leaders."

In addition to delivering his prepared remarks, Mr. Green also hinted that only those oil companies which agree to cut back on their extensive self-insuring will be able to get cooperation from the insurance industry when they try to get coverages for high-value risks in the future, according to a participant at the conference.

The panel discussion was held during "September Rendezvous 1976," which was the 20th annual meeting of about 1600 international reinsurance people, the participant said.

### Fire losses

Fire in the U.S. caused an estimated loss of \$275 million in July of this year, the same total loss as a year ago, according to the Insurance Services Offices (ISO). Fire losses in January, \$338 million, according to ISO statistics, were the highest reported so far in 1976.

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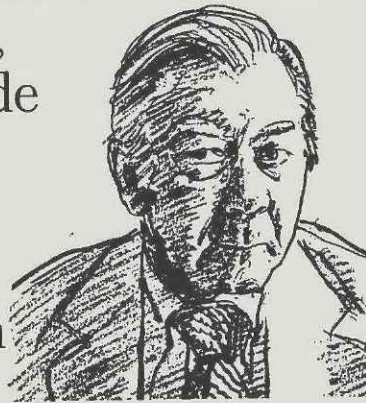
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of the J&H Los Angeles office.

# Sports car racers lack screaming fans because of high liability cost

DENVER, CO.—The roar of engines was not matched by the roar of spectators as 245 sports cars competed at the Daytona Beach Speedway in late August. There were no crowds to cheer the winners at the two days of races sponsored by the Sports Car Club of America (SCCA) because the liability insurance premium that includes coverage for an audience was too expensive.

Admitting spectators to a race can add more than \$3,000 to the liability premium, according to SCCA's broker, K&K Insurance Agency, Ft. Wayne, In.

The premium for a basic \$1 million liability policy for a national race can cost \$3,936 if spectators are admitted, a spokesman

for K&K said. If it's a closed race, however, the premium can be as low as \$558.

In addition, SCCA buys medical and disability coverage for drivers, mechanics, pit crews and other personnel that is rated on a per car basis. In a large national race the per car rate is \$19.22. If spectators are admitted to the race (and thereby included in the coverage) the per car rate goes up to \$36.38.

The policy indemnifies SCCA against claims resulting from injuries to race participants and spectators and property damage caused by the race cars. It also includes concession and grounds liability.

SCCA must post the premium before the race begins and for some of the smaller regional clubs, the anticipated return from the gate isn't enough to offset the additional insurance cost of admitting spectators, Ron Zimmerman, national director of the club said in an interview.

SCCA is insured by American Home Assurance Co. and Foremost Insurance Co. The organization had been insured with Lloyd's of London since 1956, but in 1975 made the switch to domestic insurers, Mr. Zimmerman said.

The club annually sponsors some 120 regional and 60 national races, more than half closed to spectators.

"A good share of our races are



Expensive insurance premiums often bar audiences from sports car races.

for the enjoyment of the drivers," Mr. Zimmerman, said. "They're amateur events, low-keyed not geared to spectator enjoyment."

The largest national event is the Road America race held this year in July at Elkhart Lake, Wis. with 500 entries and approximately 50,000 spectators.

At the other end of the spectrum are regional races in Texas, "some of them run on old airport runways where there are no permanent race facilities," Mr. Zimmerman said.

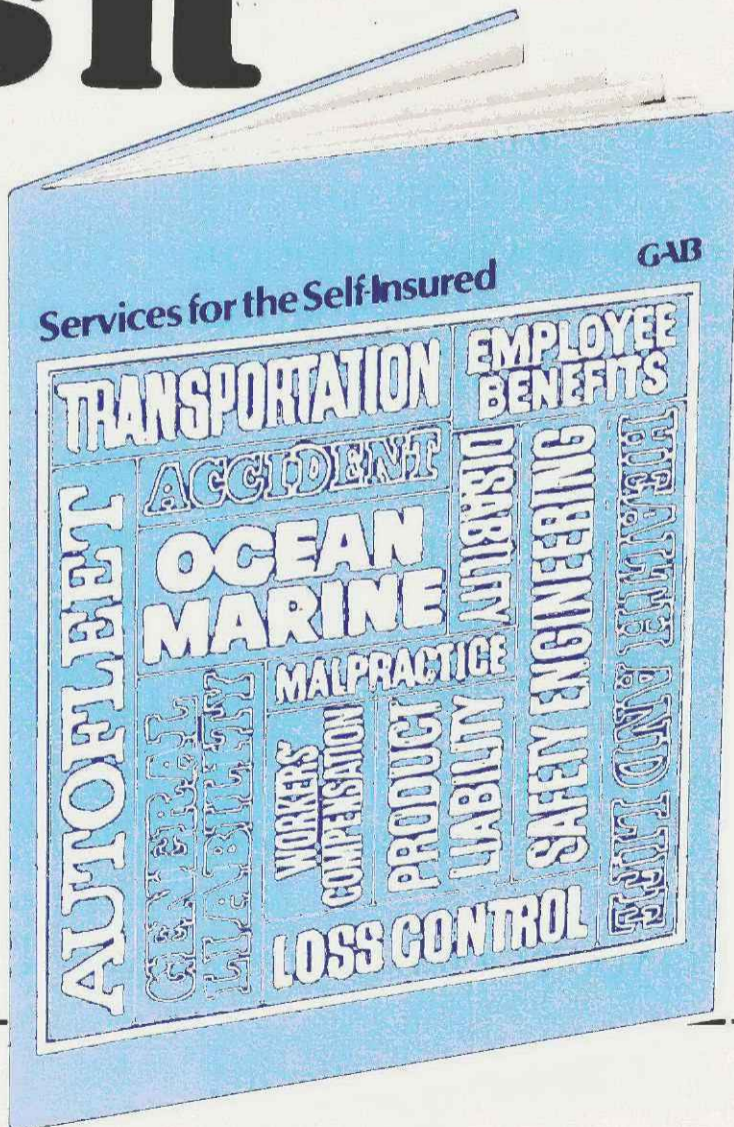
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## 'Don't cover kidnapping', insurers told

MONTE CARLO—Refusal by international underwriters to insure kidnapping and ransom might well be the best deterrent to these crimes, an official of INTERPOL told a conference of reinsurers here in September.

Jean Nepote, general secretary of INTERPOL cited the British government policy of prohibiting ransom payments as the reason for the absence of kidnap attempts by terrorists in that country.

"We might well ask whether insurance against such risks in fact constitutes an incentive to kidnapping, leading kidnapers to believe that their ransom demands will be met without hardship or loss to anyone..." Mr. Nepote said.

The INTERPOL official also strongly criticized insurance companies who negotiate with persons involved in thefts of works of art.

In Avignon after a burglary netted thieves 119 paintings by Picasso an insurance company ran a newspaper advertisement which said, "We are prepared to seek contact and negotiate with the person or persons now in possession of the painting."

Insurance companies are certainly aware that the person or persons whom they are willing to negotiate are either the thieves themselves or their accomplices or receivers of stolen goods, he said.

"Nonetheless they sometimes conduct such negotiations and agree to keep the police entirely out of the picture, provided the property is returned," he said. "We cannot help thinking that such practices deprive the police of near-perfect opportunities to identify and apprehend criminals and that they contribute to general deterioration of law enforcement and criminal justice systems."

When insuring against the theft of works of art from private galleries, exhibitions or private homes, security requirements should be stringent, the INTERPOL official stated. The insurer should make an inventory of the works of art before issuing the contract and should obtain photographs of them and a list of their main characteristics.



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St. Paul Guardian Insurance Company/St. Paul Insurance Company of Illinois/Property and Liability Affiliates of The St. Paul Companies Inc., St. Paul, Minnesota 55102.

**legal brief**

**Crime policy covers dishonesty loss for documented inventory thefts**

THE SUPREME JUDICIAL Court of Massachusetts upheld an award of nearly \$35,000 to a trustee of a bankrupt company under a blanket crime policy for loss sustained through the dishonest acts of employees. The court was satisfied that there was proof of loss independent of inventory computation which the policy excluded as a means for establishing loss.

This case involved a large stock of capacitors and resistors placed into storage and kept under lock and key by the Viatron Computer Systems Corp. (Viatron). Viatron carried a "blanket crime policy" issued by Liberty Mutual Insurance Co. (Liberty), which contained an "inventory exclusion" clause. There were two keys to the storage area and only Viatron's trustee and certain employees had access to them. Viatron's purchasing agent and materials control manager testified that he had assisted in placing the goods in storage. From copies of purchase orders, invoices and other documents, he was able to state the quantities and unit prices of the missing goods. The trial court awarded judgment to Viatron.

On appeal, Liberty argued that the only evidence to support the loss claim was that of an inventory exclusion clause. The supreme judicial court acknowledged the validity of the rationale behind this exclusion clause, namely, to "protect the insurer against claims based on erroneous or falsified computations." But the court emphasized that once "there is independent proof of loss sustained through dishonest acts of employees, inventory computations are admissible as corroborative evidence."

While there was no direct evidence of acts of employee dishonesty in this case, the court believed that there was evidence that items of property disappeared from a locked enclosure to which only employees had access and that such evidence did not consist of an "inventory computation." Consequently, the court concluded that Viatron had established independent evidence justifying recovery under the policy. *Popeo v. Liberty Mutual Insurance Co.*, Supreme Judicial Court of Massachusetts, March 1, 1976, Baucher, J., 343 N.E.2d 417 (BI/02/0.-\$3)

**Excess insurers**

In a case of first impression in the state, the California Court of Appeal ruled that a primary insurer under a comprehensive liability insurance policy, after payment of the primary coverage, had no further duty to provide an insured's defense without the right of reimbursement from the excess carriers. The court held that where there was no express statement in the excess liability policies that the excess insurers would not defend the insured on any claims under the policy, an obligation to defend would be implied.

This action between insurance companies arose out of a blowout of a Union Oil Co. well in Santa Barbara in 1969. Union carried a comprehensive liability policy with Aetna Casualty & Surety Co. (Aetna) which contained a liability limit of \$50,000 per occurrence. Harbor Insurance Co. (Harbor) issued a policy for excess liability insuring 50% of any loss after the \$50,000 to a limit of \$475,000. Lloyd's of London provided Union with insurance for the other 50%,

also amounting to a possible \$475,000 liability, and, in addition, provided \$21 million in excess insurance. Aetna's policy contained separate paragraphs for liability and defense in which it contracted

**The abstracts published in this column were prepared by Cases Unlimited Inc., Evanston, Ill.**

"with respect to such insurance as it afforded by this policy" to defend any suit even if such was groundless.

After paying out \$50,000 in set-

tlements of claims against Union, Aetna advised the other insurers that it had fulfilled its duty to defend and then asked to be relieved of that duty. The excess insurers refused. Reserving its right to contend that it had no further duty, Aetna continued to defend Union. In this suit Aetna sought equitable subrogation against the excess insurers and a declaration that its duty to defend ended at the exhaustion of the policy limits. The trial court rendered a decision in favor of Aetna.

The court of appeal concluded that the excess insurers' contention

that Aetna's policy was ambiguous and thus should be construed against it constituted a "strained construction" of the policy and should be avoided. The court stated that "the law imposes an implied obligation to defend where it is expressly and clearly omitted from the particular risk." Finding no clear statement in the excess insurers' policies that they would not defend against any claims, the court concluded that both "as insurers have a co-existing and equal obligation to defend as representatives and on behalf of the insured Union, with reference to all of the excess claims." *Aetna Cas. & Sur. Co. v. Certain Underwriters, Etc.* Court of Appeal of California, Second District, March 30, 1976, Beach, J., 129 Cal. Rptr. 47 (BI/04/O.-\$3)

**Aircraft liability insurance**

The Supreme Court of Minnesota ruled that the phrase "logged flying time . . . as pilot in com-

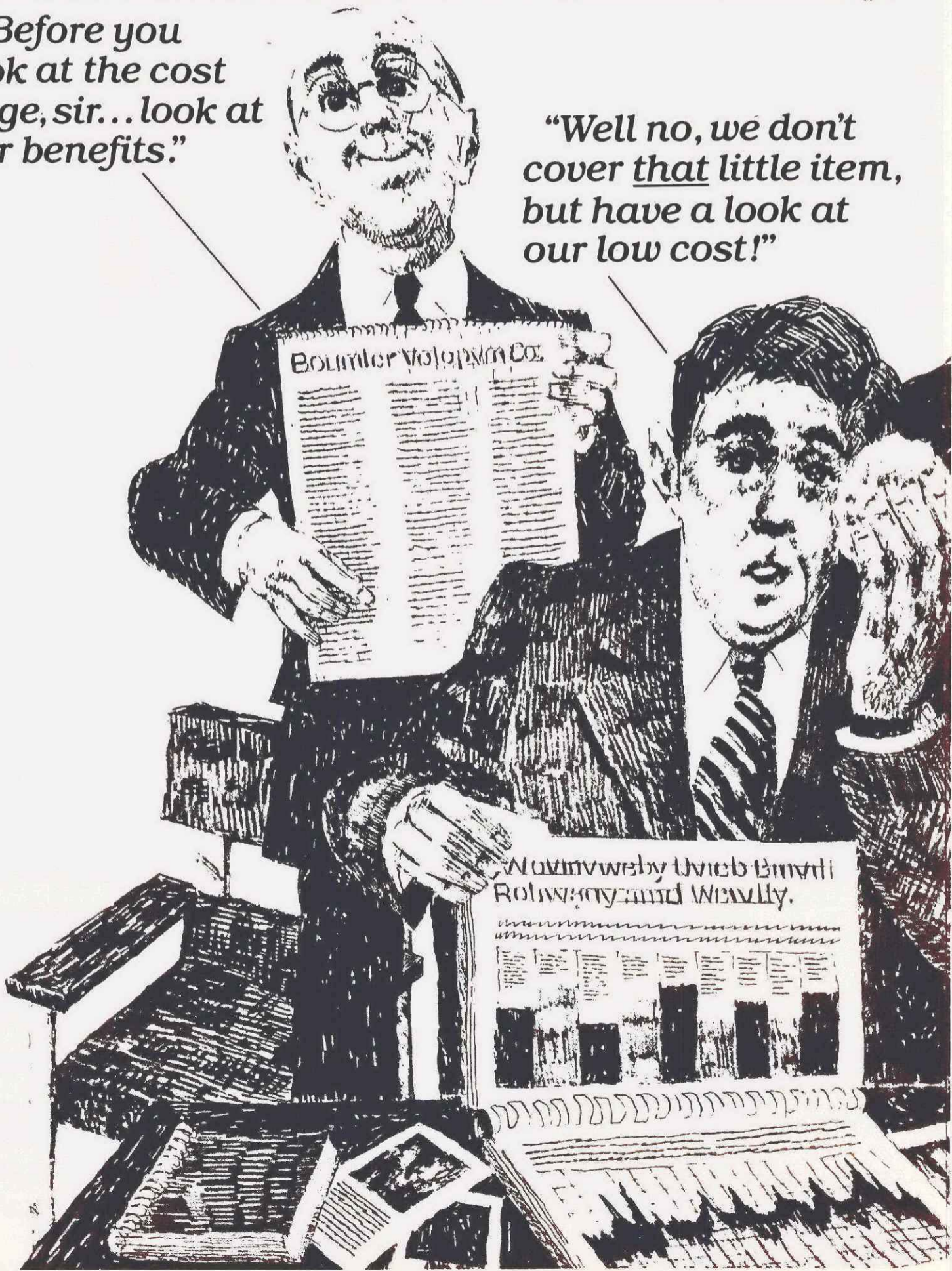
mand" used in an aircraft liability policy was ambiguous, and extrinsic evidence could be received to aid the court in construing it. Where the insurer failed to define the phrase "logged flying time . . . as pilot in command" in its policy and failed to specify the method of computation to be used, the court concluded that it could interpret the term in accordance with the custom and practice of the aviation industry.

According to the court the evidence in this action, including testimony on the custom and usage in the aviation industry regarding the application of a certain amount of a co-pilot's time toward pilot-in-command time, as well as FAA regulations governing such a practice, supported the determination that at the time of the crash the co-pilot was qualified for coverage under an open pilot warranty endorsement.

The supreme court also ruled that an "employee exclusionary

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

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



clause" in an insurance policy could not preclude recovery by or on behalf of employes of a named insured or of an additional insured when the employe seeking recovery for damages, or for whose heirs such recovery was being sought, was not an employe of the particular insured seeking protection under the policy. This doctrine would apply, the court stated, whether or not the policy contains a severability-of-interest clause. *Utica Mut. Ins. Co. v. Emmco Ins. Co.*, Supreme Court of Minnesota, May 28, 1976, Todd, J., 243 N.W.2d 134 (BI/05/O.-\$3)

#### Workers' compensation

The Supreme Court of Alaska ruled that in the absence of "substantial evidence" the statutory presumption of work-related injury would be applied to the bizarre murder of a bartender. Thus, the court concluded that the bartender's surviving widow was en-

titled to benefits under the Workmen's Compensation Act.

Raymond J. Gomes was shot and killed in the morning of July 11, 1972, at the Beef & Bourbon Restaurant in Anchorage where he was employed as a bartender. The restaurant had just closed for the night and Gomes was cleaning up behind the bar when an unknown assailant broke in the door. Also present was Mrs. Gomes and a cook. No words were spoken nor was any money taken during the attack. Mrs. Gomes was awarded benefits by the Alaska Workmen's Compensation Board which had determined that Gomes was killed while at work. The Board concluded that under the Act a presumption existed that Gomes was covered. A trial court affirmed the award.

The employer appealed contending that substantial evidence had been established to overcome the Act's presumption of coverage. In essence, the testimony relied on

by the employer was that of a police officer who had offered the opinion that Gomes was the victim of a planned "execution" that would have been carried out no matter where he was found. But the officer admitted that he did not know why Gomes was killed. The court believed that "substantial evidence" to rebut the presumption of coverage is "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion."

In this case, the court did not believe that the officer's testimony presented by the employer rebutted the presumption placing the burden upon the window to prove that the murder was work related. "At most," the court stated, "Officer Rice's testimony may be considered as evidence establishing a likelihood that Gomes was killed by someone who was deliberately endeavoring to kill him."

According to the court, this did not establish that Gomes was not

killed because of his employment. Consequently, the court upheld the award to the widow. *Fireman's Fund American Insurance Cos. v. Gomes*, Supreme Court of Alaska, January 16, 1976, Boochever, C. J., 544 P. 2d 1013 (BI/01/S.-\$3)

#### Liability insurance

This suit was brought by an insurer to determine the respective rights of the parties under an architects and engineers professional liability policy. The Court of Appeals of Michigan ruled that if an owner informs an architectural and engineering firm, during the period of a liability insurance policy, that design faults had been discovered in parking ramps designed by the firm and that the firm would be held responsible, a "claim" has been made against the firm so as to require the insurer to provide liability coverage.

The architectural and engineering firm had entered into a construction contract in 1967 to de-

sign parking garage ramps for the owner. In mid-1970, it became evident both to the firm and the owner that major structural repairs would become necessary because of extensive cracking in various parts of the structure. At that time a representative of the firm verified and detailed the structure. At that time a representative of the firm verified and detailed the structural damage to the owner. The owner, in turn, informed the firm that they would be held responsible for the cost of repairs.

On Jan. 13, 1972, the firm forwarded to its insurer a letter that the owner had written on Dec. 8, 1971, formally advising the firm that the owner intended to hold it responsible for the cost of repairs. The insurer then informed the firm that there would be no coverage because the claim was not made during the policy period.

The court of appeals disagreed with the insurer concluding that the assertions made by the owner to the firm during the summer of 1970 constituted a "claim" against the insurer within the terms of the insurance policy. *Continental Cas. Co. v. Enco Associates*, Court of Appeals of Michigan, December 3, 1975, released for publication February 17, 1976 (BI/05/Au.-\$3)

(Copies of the entire decisions described in this column may be obtained by writing to Business Insurance, att. Managing Editor, 740 N. Rush St., Chicago, IL 60511. Please enclose a \$3 check made out to Cases Unlimited Inc., for each case, and specify the code number of the opinion, which is at the end of each brief.)

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#### 'Dog gone' shame; settle for \$10,000

NEW YORK—A West Islip family won a \$10,000 settlement from the Town of Islip and its liability insurer, Royal Globe Insurance Co. for its pedigreed sheepdog, mistakenly put to death by a dog warden.

The sheepdog had sired \$6,000 worth of pedigreed puppies and had commanded considerable amounts in stud fees.

The dog had been seized by its home Oct. 29, 1974, labeled "abandoned" and put to death, despite a town regulation that strays be held for at least seven days for possible claiming by owners.

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# PERSPECTIVE

## RESTRICTED MARKET FOR EXCESS WORK COMP

### Insurers cutting back on all writings and excess work comp no exception

By **BERNARD M. BROWN**  
Vice President  
Risk Planning Group Inc.

**A**N ATTITUDE STUDY conducted last year by Time magazine and the Risk & Insurance Management Society projected that self-insurance of workers' compensation exposures would be used increasingly in the future by corporations wishing to conserve cash and reduce their overall workers' compensation expenses. Of course, it is impractical for all but the largest of organizations to totally self-insure these exposures, which suggests that most organizations will seek some form of excess of loss catastrophe protection. Unfortunately, one of the current major obstacles to implementing such a self-insured program is the state of the excess workers' compensation insurance market.

A few years back, 1971-1973, excess workers' compensation insurance was much easier to obtain and, in fact, some insurers and reinsurers were rushing to set up departments to develop this business. Now, because of the general underwriting and investment losses which the property and liability insurance industry has suffered since 1973, and the unprofitability of workers' compensation business in particular, insurers are cutting back on all of their writings, and excess workers' compensation insurance is no exception.

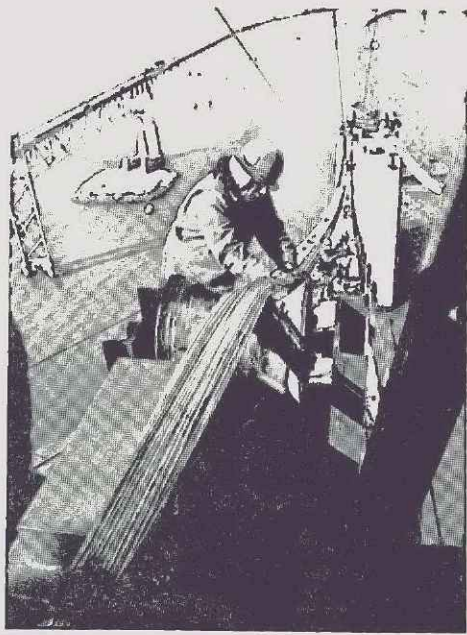
The increased benefits mandated by many states have aggravated the problem since many insurers wish to avoid an underwriting area which only promises larger future losses. Moreover, as any underwriter who deals regularly with excess of loss covers is quick to point out, inflationary forces impact excess of loss insurance and reinsurance disproportionately because it becomes much easier for the client to exceed his self-insured excess or aggregate retention.

One manifestation of this particular aspect of the problem is the fact that most insurers and reinsurers are now seeking at least a \$100,000 self-insured retention for excess coverages, whereas it was common to obtain quotes based on \$50,000 self-insured retentions as recently as six months ago.

Two basic types of excess insurance are available in the commercial market: Specific and aggregate. Specific provides coverage above the self-insured retention up to an agreed upon amount for each occurrence. Aggregate provides a ceiling on total losses over a one or two year period up to the limit of liability. A combination of specific and aggregate coverage might be written for any particular self-insurer.

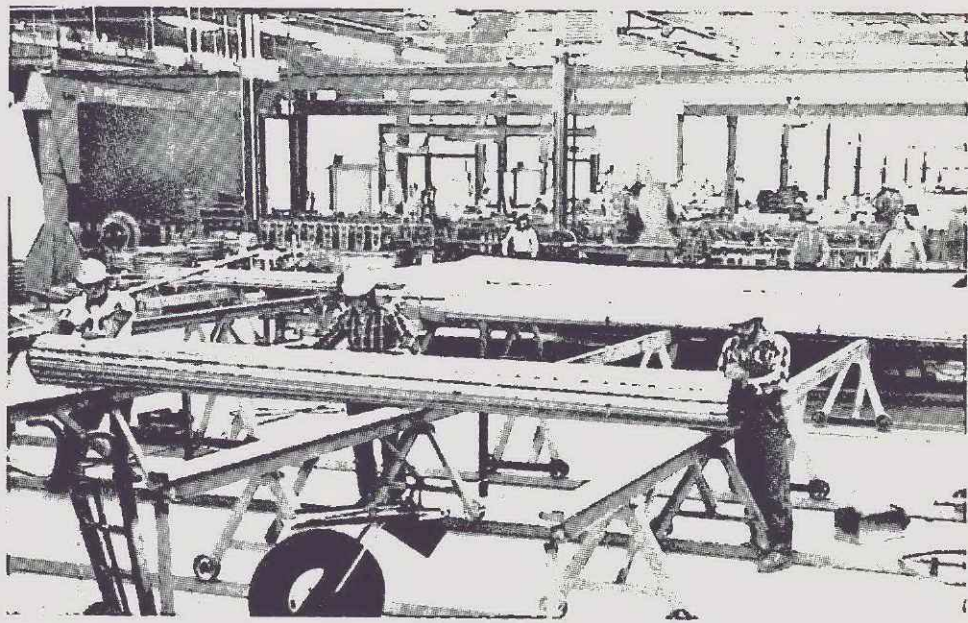
In a recent survey conducted by Risk Management Reports, a bi-monthly publication of Crain Communications, questionnaires were sent out to 33 underwriting organizations listed in the Insurance Marketplace (13th edition), published by the Rough Notes. Each of these organizations had previously indicated that they provided a market for workers' compensation excess insurance. Usually, the questionnaires of Risk Management Reports are well received and the response rate is high.

However, in this instance, the response rate was extremely low. Moreover, two respondents stated quite candidly that they were willing to describe their organizations' services but requested that Risk Management Reports not publish the name of their companies as they did not want the readers to gain the impression that their firms were actively soliciting workers' compensation excess insurance. How times have changed since 1971-1973!



While the following list is no doubt incomplete, the organizations listed below have recently at least indicated some interest in writing workers' compensation excess insurance or I am aware that they have recently written such coverage for a self-insurer. Since the situation with regard to excess workers' compensation is so fluid, I would appreciate receiving any additions or deletions to the following list:

Aetna Insurance Co. (Connecticut General)  
American Re-Insurance Co.  
Drake Insurance Co. of New York (Howden Swann Group)  
Employers Reinsurance Corp.  
Employers of Wausau  
General Reinsurance Corp.  
Jersey International Inc.—Underwriting Managers  
Lexington Insurance Co. (American International Group)  
Midland Insurance Co.



### Workers' compensation coverage

Some regions of the country and certain kinds of industrial risks have earned a reputation as posing unattractive workers' compensation risks which insurers are reluctant to underwrite except at high premium cost.

Safety Mutual Casualty Corp.  
Sayre & Toso Inc. (Mission Equities Corp.)  
Underwriters at Lloyd's, London

As is true with some other types of insurance, various jurisdictions have gained a reputation for their unattractiveness to excess workers' compensation underwriters. In general, the South, Southeast, and parts of the West are probably the best areas to consider workers' compensation self-insurance, and the various excess markets indicate that they are most receptive to applications from these parts of the country. Alaska, New Jersey, Connecticut, District of Columbia, Maryland, Pennsylvania and Michigan have been mentioned as states that are very undesirable.

Looking to the future it appears that the excess workers' compensation market will continue to be restricted, or, at least, very expensive for those who can obtain the

coverage. In one sense, it is somewhat discouraging that the insurance market is not responding to the real need of corporations to protect against catastrophic losses. After all, excess coverage of any type more nearly embodies a true risk transfer mechanism and represents the type of product that the insurance industry should be ready and willing to offer its customers.

Mr. Brown is a vp of Risk Planning Group Inc. He graduated with a B.B.A. degree from The College of Insurance in 1971 and received his M.B.A. from Harvard University in 1974. A member of The Society of Chartered Property and Casualty Underwriters (CPCU) he has also completed all examinations leading to the designation of Chartered Life Underwriter (C.L.U.). In 1971 he received ASIM's (now RIMS) annual award as the outstanding student of risk management at The College of Insurance.

### Fair market value's place

## ASSET VALUATION IN INSURANCE

By **JOHN C. LITCHER**  
Vice President, Retired  
American Appraisal Co.

**O**N OCTOBER 29, 1970, the California Supreme Court, in the case of Jefferson Insurance Co. vs. Fong Hong May, determined that for insurance purposes within the state of California, fair market value and actual cash value were synonymous. For some time thereafter it became almost impossible to read an insurance article or listen to an insurance address that wasn't using this happening as subject matter.

It seemed, to this writer at least, that everyone was exaggerating the situation way beyond its deserving place, so I took up the theme in addresses and later in an article which appeared in the April, 1974 edition of *Business Insurance*. In truth, my attitude was one of devil's advocate suggesting that in no way could this court speak universally on the subject and I further doubted that the opinion would actually be followed, even within the state of California.

There were many reasons for my thinking on the subject, but basically I was utterly opposed to the decision being so all-inclusive. I was completely aware of some

three or four cases preceding this one in various parts of the country, but in all of them the broad rule of evidence was applied, merely stating that all avenues of value had to be considered when examining a particular case. I was not aware, nor am I now, of any previous decision that not only ruled on the problem at hand but also attempted to set the pace for all cases in the future—confined, of course, to a particular territorial jurisdiction.

Following my outburst on the subject, I was contacted many times with queries as to experience in this realm since the Jefferson decision, relying, of course, upon experiences in my capacity working with insurance appraisals and problems of insurance valuation for American Appraisal.

Let's just say this, while admitting and leaving room for any contrary experiences others may have had: My own feeling at the time was that what had happened was just a puff of wind and not a gale, and I have continued to feel just that way. Granted, there was discussion of the matter, and, yes, I am aware of five requests for appraisals—three from California and two from without—all having their impetus from this decision, but truly none of them were noteworthy.

As I recall three of the inquiries were

from carriers or adjusters desiring fair market value information in conjunction with rather small losses. In none of these cases were we required to provide insurance value—just fair market value, that is.

"The highest price in terms of money that the property would have brought if it had been exposed for sale in the open market by a seller who was willing but not obliged to sell allowing a reasonable time to find a buyer willing but not obliged to buy, both having full knowledge of all uses to which the property was adapted and for which it is capable of being used."

We have no idea as to the outcome of the negotiations by the carriers but somehow carry the thought that the purposes behind the appraisals were merely to establish outer limits of fair market value versus actual cash value for use in the negotiations. The other two instances covering property not located in California were merely requested so our clients would be familiar with the ranges of fair market value should they be confronted with this premise by their adversaries.

It goes without saying that such meager experience in the five year interval since the decision can in truth be considered

Continued on following page

# PERSPECTIVE

## Fair market value . . .

Continued from preceding page

something less than a "huff and a puff".

I would be reticent to depart from a discussion on this subject without openly admitting that fair market value can be a part of the deliberations. Since I am a part of the appraisal institution, I am aware that fair market value advocates exist, but I would say that the trouble is they only wish to use the fair market value approach for insurance when it is beneficial to their immediate needs when purchasing insurance. This will generate less premium in the case of a total loss, but on a partial loss only when coinsurance is a threat to their cause because they feel entitled to complete repairs regardless of premium base.

As long as it's fair market value versus actual cash value we are discussing, let's look again at the standard (more or less) definition of fair market value we quoted previously and see if it can fit a claimant-versus-carrier situation into the dictates of the definition.

First of all, we wouldn't even be talking about the same property, for fair market value would include land and actual cash value would not. True, it is possible to value both as a unit, and then value the land separately and subtract. However, this method isn't all that satisfactory as immediately you are dealing in the theoretical since a vacant lot does not actually exist. Beyond this, here are a few other considerations:

1. How often has a recently burned building been exposed for sale in the open market by a willing seller to a willing buyer for a reasonable time?

2. How often is a claimant a willing

seller to the carrier—excluding acts of arson, of course?

3. Isn't the carrier a willing buyer only because of the existence of a fire insurance policy or contract to which they are a party and then only to the extent of the limits of such contract?

Conversely, let's look at the insuring of other than real property for a moment, examining certain areas that do make a case for fair market value.

In this area, the used or secondhand market, which is representative of fair market value, has a marked influence. Although an insurance company would rarely offer used machinery per se in payment of a loss, it could offer its equivalent in cash.

A so-called blue book or price list, statistically guaranteeing replacement of "like kind and quality" indicates a stable market and becomes a strong influence on cost of reproduction new less depreciation or actual cash value.

The important words here are stable market, coupled with the fact that the subject unit is no longer being manufactured in "like kind and quality".

No insured is expected to search the world over for a used machine as a replacement, but if he can walk into a reasonably nearby used machinery dealer and find enough of his model to be assured of the same condition, this fact, and the going price, certainly cannot be overlooked.

Normally, the used market would not be stable enough for process machinery. Categories where it is always a measure include automobiles and trucks construction equipment, farm implements, office machines, and a few others, depending upon the time and place.

Let's take an example—a 10 year old machine tool with a cost of reproduction new of \$10,000 and 25% deterioration or physical depreciation, which would be replaced new with a different more improved machiner of perhaps greater capacity and utility, which obviously could not be of "like kind and quality". Stable used markets offer the subject machine at around \$1,500. Certainly, an insured could not expect to collect the \$7,500 cost of reproduction less depreciation using the previously stated 25% depreciation for this unit. Perhaps not the net \$1,500 either, as he might have a justifiable claim that his destroyed machine was in better condition. The adjustment is likely to end up somewhere between these two extremes.

Economic conditions or change can create a temporary surplus, again bringing fair market value thinking into prominence. This is true today with smaller machine and woodworking tools and also with printing presses and linotypes, principally due to the advent of offset printing and other automatic methods being introduced.

In addition, time and location can affect the situation. Examples, though anything but recent, do still make the point. Immediately after World War II, an extreme countrywide surplus of machine tools developed and the used market, hence fair market value indeed became an important factor in insurance valuation determination. The Korean War soon followed, reversing the situation and the used market, since it was no longer stable and perhaps didn't even exist, could no longer be a basis of consideration.

As to location, some years ago General Motors suffered a catastrophic loss to their transmission plant at Livonia, Michigan. In attempting to retool as quickly as possible, practically every used machine tool in the area was purchased and prices increased considerably on those that were not. Obviously this temporary situation did not present a case for fair market value, but the limitation was confined to the Detroit area.

In case my wanderings have affected

conciseness, I would like to summarize with three major points:

1. Fair market value might indeed be the focal point on a particular insurance loss, but it is not proper to infer that all future losses demand the same treatment.

2. While it is possible that fair market value can be the major influence in a building or construction loss, experiences in this regard are indeed rare.

3. Fair market value is a prime consideration when dealing with certain machinery losses when new replacement machinery is not of "like kind and quality" and a stable used market does exist on used machinery of "like kind and quality", but don't forget the word stable.

About 20 years ago, I closed an address with the following statement regarding actual cash value, and I am convinced it still holds true today:

"Except for very unusual cases, the generally accepted standard for determining actual cash value is cost of reproduction less depreciation. However, insurance does not contemplate a profit; and if the settlement based upon cost of reproduction less depreciation indicates the insured to be profiting, then some other factor must obviously become part of the judgment."

John C. Litcher joined American Appraisal Co. in 1954 as manager of the insurance department. He has been in the insurance industry for 45 years, with experience ranging from nine years as a local and general agent and broker; 15 years with a major insurance company serving in branch and home offices with positions of field representative, head

underwriter, assistant branch manager and agency supervisor; to manager of the insurance and continuous service division of American Appraisal up to his retirement in December 1976. He currently serves as a consultant to the firm.



## Risk management notes

# CHECK COVERAGE FOR PROPERTY OF OTHERS

By WARREN, McVEIGH,  
GRIFFIN & HUNTINGTON

risk management consultants  
San Francisco—Newport Beach

MANY PROPERTY insurance policies will cover not only your own property, but property of others for which you may be legally liable or for which you may have assumed liability by contract. Sometimes you may not even be aware that the policy provides such coverage since the insuring agreement appears in a remote part of the policy, either in "extension of coverage, property of others" or a "trust and commission clause."

Though this is normally a desirable addition of coverage, it puts some obligations on the insured and has consequences which may not always be appreciated until after a loss has occurred. Some significant aspects of this coverage are the following:

1) The property of others must be similar to your own insured property; that is, if your policy covers buildings and contents, coverage will not extend to contractor's equipment of others.

2) Value of property of others to which coverage applies must be reported on some policies. If overlooked, you may suffer a coinsurance penalty following a loss to your own property, even if the other party's property is not damaged.

3) Coverage under property forms is not usually as broad as legal liability forms because the property forms cover only certain named perils whereas liability is virtually all-risk.

4) Direct damage only is insured. Consequential losses are not covered but could be under liability forms.

5) Coverage usually applies only to actual

cash value rather than replacement cost.

For reference, here is the wording of the coverage extension as given in the standard building and contents form No. 18:

"C. PROPERTY OF OTHERS: (Applicable only when an 80% or higher coinsurance clause applies.) When an item(s) of insurance under this policy covers any kind of personal property owned by the named Insured, this policy shall also provide, at the option of the named Insured and as an additional amount of insurance, up to 2% of the amount of insurance applicable to each such item, but not exceeding \$2,000 under each item, to cover, for the account of the owner(s) thereof other than the named insured, personal property, similar to that described in the item, belonging to others while in the care, custody or control of the named Insured and only while on the described premises."

It goes on to say that the value of property of others need not be reported and the coinsurance clause does not apply.

This is not the case with the building, equipment, stock and blanket form #78-DNS, which has this extension of coverage:

"PROPERTY OF OTHERS: To the extent that the named insured shall be liable by law for loss thereto or shall prior to loss have specifically assumed liability therefor, any item of this policy covering on personal property shall also cover property of the kind and nature described in such item, at the location(s) herein indicated, held in trust, or on consignment or commission, or on joint account with others, or left for storage or repairs.

The coinsurance clause then requires limits of coverage to the specified percent of the "value of the property described." Underwriters may well claim that value

or property of others is included with the value of property described.

### Personal auto

Few large organizations carry insurance for auto physical damage. There are also good reasons for many individuals to self-insure this risk.

A 16-year old boy damaged the family car so badly in a collision that its value fell from \$2,150 to \$425. The parents decided that, even though they were insured, they would not report the loss to the insurer, but would claim a casualty loss deduction on their income tax. The law says that a deduction may be claimed for a casualty loss "not compensated for by insurance or otherwise." However, the IRS and the U.S. District Court in Maryland disallowed the deduction because it could have been reimbursed. If they had carried no insurance, they could have claimed the deduction.

Anyone in a substantial tax bracket should note that an uninsured auto collision loss is tax deductible, whereas the premiums he pays for collision insurance are not. Thus, the higher your tax bracket and the lower the value of your car, the more reason there is not to carry collision insurance.

### Builder's risk

A builder's risk policy covers building materials and supplies "... all while in or on the described buildings, structures, or temporary structures, or in the open (including within vehicles) on the described premises or within 100 feet thereof." An apartment building was under construction and some of the building materials were stored in the basement of a nearby building which was 82 feet away from the

premises.

A loss occurred which the insurer denied because the materials were not in the open within 100 feet.

The insured said they were covered because it didn't matter whether they were in the open or not as long as they were within 100 feet.

The lower court held for the insurer; but on appeal, the decision was reversed in favor of the insured, contending that the policy wording was ambiguous and therefore to be construed in favor of the insured. This is case 223 S.E. 2d 441.

### Claims notices

Most insureds are aware that notices of liability suits must be tendered promptly to the carrier but some do not realize that giving the notice to the broker is not the same as giving it to the insurer. A broker is not necessarily the agent of the insurer, though an insurance agent is. This distinction was of vital importance in a recent case.

A city in Illinois received a summons which was promptly forwarded to the broker apparently mailed the summons to the insurer but it was never received. As a result, default judgment was entered against the city and the insurer refused to pay on the basis of inadequate notice.

The court ruled that the policy provision requiring immediate notice was not complied with by the insured and therefore the insurer was not liable. This is the case of Lynn vs. Village of West City, 345 N. E. 2d 172.

You might want to check your claims reporting procedures. Do they go directly to the insurer or his agent? Do you have a record of the insurer's receipt such as a registered mail receipt?



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## School calls it quits . . .

*Continued from page 1*

What makes the lack of insurance particularly galling to Mr. Schultz is that the circus school has a very good safety record.

"We never had a single accident in the four summers and three winters we operated," he said. "The Circus World Museum's acrobatic school was a pretty safe place to be in."

James Cowan of the Madison, Wisconsin Cowan Insurance Agency was the main agent trying to get coverage for the circus school, Mr. Schultz said. Also working on the case was the Harland, Klipstein Agency, also in Madison, and two Baraboo firms, Joseph Burke Insurance Co. and the Lange, Wilkinson & Osbourne Agency, he said.

Although the last students from the circus school finished up in

August before Mr. Schultz closed down the uninsured program, he said some of the "kids will be on national television in November." The school's acrobatic teaching techniques were so well thought of, he said, that a Boston children's television program called ZOOM came in and filmed two of the students for a show.

Although two of Circus World's "graduates" did go off to join the circus, Mr. Schultz said the main point of the free training at the school was to provide a showcase every year so people of the state could see how acrobats are trained for circus work.

Circus World Museum's problems with liability coverage for the school it sponsored were apparently not its first unusual arrangements for insuring circus acts, one Wisconsin insurance source said.

Until 1973, one of the state's biggest Fourth of July attractions was a fireworks display and parade held every year in Milwaukee. To provide a flourish to the Milwaukee parade, Circus World used to load up a train in Baraboo full of circus acrobats.

The train would chug along from Baraboo to Milwaukee, with its human carload performing stunts all along the way. Milwaukee's Joseph Schlitz Brewing Co. used to sponsor the circus train, and paid for liability insurance coverage for the performers on it, the source said.

Mr. Schultz said he could not remember the insurance details of the arrangements, but that the Schlitz Co. did indeed sponsor the event while it lasted. The train's arrival in Milwaukee would be one of the most popular attractions of the holiday.

Mr. Schultz said it was "too late" for the circus school even if some insurance company would come forward now and offer to provide liability insurance coverage for the students.

"I just wouldn't start it up again," he said with a sigh.

"When you've worked with kids for four years, when you've had such a perfect program where everyone gave freely of their talent and money, well, it was really something. But to try to start the whole thing all over again? No. It's too much." ■

## Limits rise for group plans

NEW YORK—Almost all group major medical insurance policies now provide guaranteed benefits of at least \$10,000 in case of accident or injury, according to a nationwide survey by the Health Insurance Assn. of America.

The survey found that 98% of people insured through group major medical policies have the \$10,000 minimum benefit level, while 67% have benefits of at least \$50,000. It also found 39% who have benefits of \$250,000 or more.

Insurance companies are reimbursing a larger portion of covered expenses in the policies covered by the study, and insureds have been paying a smaller percentage of their total bill (coinsurance) than they did a decade ago.

The HIAA said: "The percentage (of those insured) having a coinsurance percent of 20% or less it has been above 85% since 1966 and above 90% since 1970."

The number of people insured through group major medical policies grew from 58 million in 1966 to around 91 million under age 65 in 1975. ■

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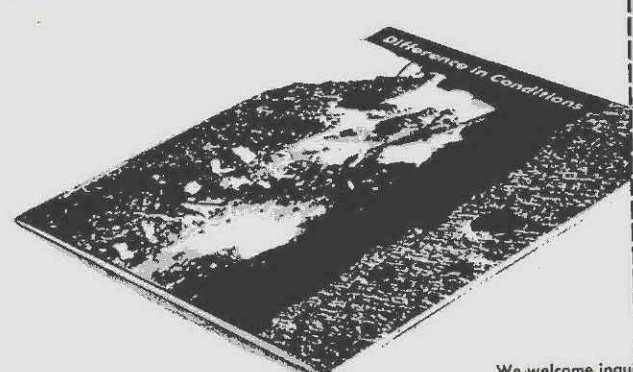
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# Satellite relays are key to marine loss control

PARIS—Satellite communications systems and stringent traffic controls for super-size liquid natural gas (LNG) vessels can have "a substantial impact on safety at sea and on prevention of damage or loss—hull loss in particular" John A. Potts, director of the American Institute of Marine Underwriters told an international marine conference recently.

Speaking at the annual conference of the International Union of Marine Underwriters (IUMI), Mr. Potts said that studies conducted for the U.S. Federal Maritime Administration have shown that satellite marine communications could save as much as \$88 million in one year for a hypothetical fleet of 300 ships. An individual vessel could save between \$100,000-\$300,000 per year, the studies indicated.

Mr. Potts described two solar-powered satellites, Marisat I and II which in the past seven months have been placed in stationary orbit 22,240 miles above the Atlantic and Pacific Oceans, calling them "the first major breakthrough in maritime communications since the invention of the wireless radio some 80 years ago."

The two satellites can provide service to more than two-thirds of the world's major searoutes and more than 90% of the present offshore oil and production areas, he said.

In the case of a disaster at sea, the satellite system could relay an "SOS" or "Mayday" distress signal so that in a fraction of a second, a computer on the mainland could determine the exact location of that ship before sending

others to its rescue.

In the case of engine trouble, Mr. Potts continued, an engineer onshore could use information sent by satellite to pinpoint the problem. He could then relay in facsimile form, diagrams and instruction needed to repair it. "Such timely communications might have prevented the total loss of the \$40 million Olympic Bravery," he noted.

If the satellite communication system was connected with a weather-gathering agency such as the U.S. National Weather Service, it could provide navigators with up-to-the-minute information; ships could skirt troublesome areas and thus minimize hull and cargo loss, Mr. Potts pointed out.

He said that the high cost of the shipboard components of the Marisat system, \$50,000, plus sub-

stantially higher transmission costs have apparently retarded industry acceptance of the updated technology.

"Will the traditionally conservative shipping industry adopt a communications system that is at first glance more expensive than conventional methods?" Mr. Potts asked. "I suspect that in time, they will find such an improvement and savings... we will make the quantum leap from Morse Code to satellite communications."

Mr. Potts also advocated stringent traffic controls for super-size LNG vessels, citing regulations at the ports of New York and Boston as models for other world ports.

There are now 20 LNG carriers in the 125,000 cubic meter size (roughly that of a 120,000 deadweight ton supertanker) on order in U.S. shipyards at a total cost of \$2.2 billion.

In view of the high values of these ships and their cargoes, plus the P&I insurance their owners will have to carry, he told the IUMI, "It is obvious that most of us... will be involved in either direct insurance or by way of reinsurance."

It is necessary that all possible safety factors must be incorporated in the construction of the LNG's, Mr. Potts continued, "being an unproven type of vessel and considering the potential dangers inherent in the carriage of liquid natural gas in these quantities."

"However, all of the built-in safety factors may not prevent a serious casualty if the vessels are involved in collisions or groundings entering and leaving ports,"

he said.

It is essential that traffic control systems be determined and rigidly enforced, the AIMU director said. He noted the controls in effect at the ports of New York and Boston, which include the following:

- Initial intention of the arrival of an LNG vessel must be made to the captain of the port at least 72 hours in advance of the vessel's arrival and again immediately prior to arrival.

- LNG-laden vessels may enter and transit port only during daylight and may proceed within the ports only if visibility is two miles or more.

- The captain of the port at his discretion, will close any channel to be used by LNG vessels to ongoing traffic so as to prevent meeting situations.

- The U.S. Coast Guard will provide escort both ahead and astern of the vessel during all periods of movement.

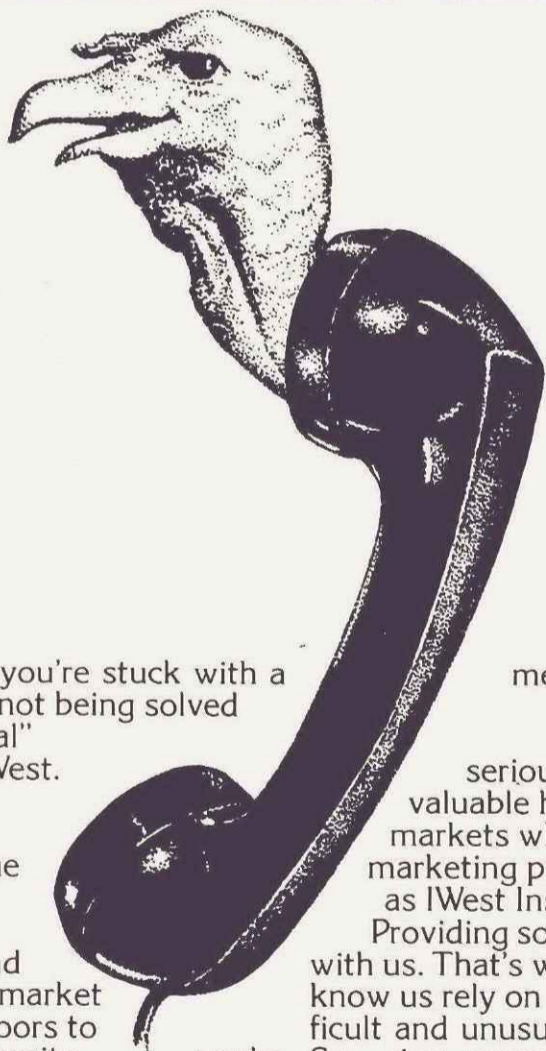
- Venting gas to the atmosphere is not permitted in port.

- If the vessel is at anchorage a live bridge watch shall be maintained. A round of bearings fixing the vessel's position shall be taken hourly followed by a report, on the hour to the captain of the port, noting anchor holding operations normal or any significant change in position or deviation from the norm. ■

## New Boston office

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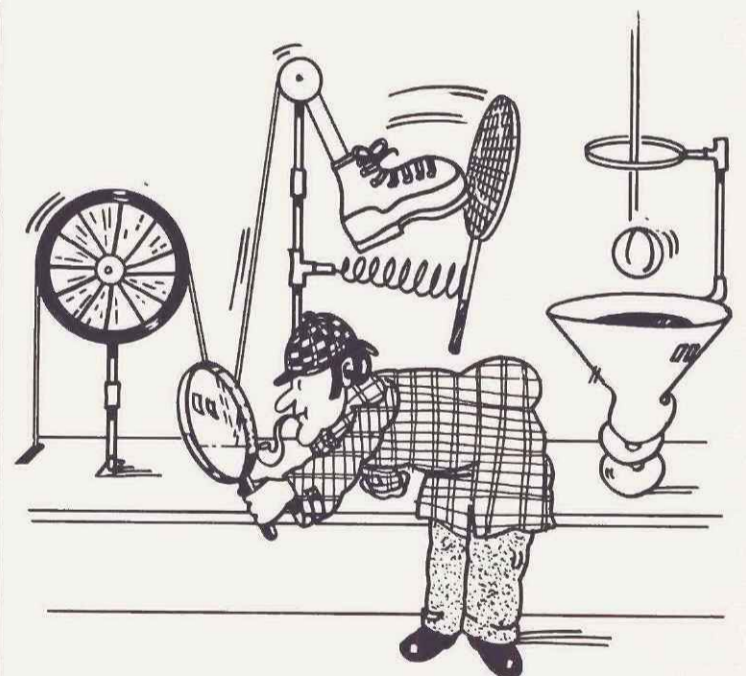
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# Captive blocked from soliciting doctor clients

LOS ANGELES—Los Angeles Superior Court has granted a temporary injunction blocking Multi-hospital Mutual Insurance Co. (MMI), a Bermuda-based malpractice captive, from further solicitation of business in California.

MMI had obtained a temporary restraining order against interference with the captive by Insurance Commissioner Wesley J. Kinder. (*Business Insurance*, August 9, 1976). However, that order has now been removed by the court.

Preparation for a trial some time in 1977, arising out of a civil complaint filed by the commissioner's office, is proceeding by both MMI and the four Southern California hospitals named in the lawsuit and by the California insurance department.

MMI has filed a notice in Los Angeles Superior Court that they intend to appeal the temporary injunction which prohibits any further solicitation of business in the state. In addition, MMI has filed a petition for a writ of mandamus, contending that Superior Court has no jurisdiction over the lawsuit in which it is involved.

Wallace W. Scales, staff counsel for the insurance department, predicted that a year or more of discovery will be needed before a trial can get underway in California.

Al Moore, an attorney with the law firm of Weissburg & Aronson, which is representing MMI, told *Business Insurance* that he has al-

ready obtained depositions from Commissioner Kinder and Mr. Scales and that he does not believe the insurance department can prove its charge that MMI, an unadmitted company in the state, was actually soliciting business.

It is MMI's position, he said, that when it was conveying information about itself to hospital doctors, it was simply relating facts, and nothing more.

However, Commissioner Kinder said that since 200 or more doctors have signed up with the captive,

"I find it difficult to believe they possessed the divine inspiration to reach this entity (without solicitation)."

The Commissioner said the captive was operating in violation of sections 1760.5 and 1761 of the California insurance code.

Dennis Klimmek, deputy attorney general, said that along with the California statute that forbids an unadmitted insurance company from soliciting business in the state, there is a law that prohibits the aiding and abetting of an unadmitted insurer.

"This law will have a strong place in our lawsuit against MMI," he predicted.

The lawsuit filed by the commissioner's office names in addition to MMI, these four hospitals: Daniel Freeman Hospital, Inglewood; Memorial Hospital Center of Long Beach; Anaheim Memorial Hospital; and Queen of the Valley Hospital in West Covina.

Donald C. Carner, executive vp of Memorial Hospital Center of Long Beach, is president of MMI.

The four hospitals are among 43

hospitals in 11 states insured by MMI, which offers hospitals up to \$10 million per occurrence liability on a \$1 million primary and \$9 million excess basis. Physicians who practice in these hospitals can receive coverage of up to \$1 million per occurrence and \$3 million annual aggregate.

Ebasco Services Inc. manages the captive, which receives its excess coverage in the London market through Edinburgh General Insurance Co., Winterthur Swiss Insurance Co., Wallbrook Insurance Co. and Mutual Reinsurance Co. ■

## Fla. banks are exploring self-insurance

MIAMI—The Florida Bankers Assn. is surveying its members to explore "self-insurance alternatives" to the troubled fidelity bond insurance market in that state.

The association is sending out questionnaires to the 750 banks in that state and depending on the response, a feasibility study to "exercise self-insurance options, including a captive insurance company will be undertaken."

Florida was ranked sixth in the nation for bank fraud losses in statistics released by the Justice Department for the first six months of 1976.

The large number of fidelity losses has restricted the availability of banker's blanket bond insurance in that state to the point that most of the major insurers won't underwrite any new business in the state, one risk management source told *Business Insurance*.

"And when policies come up for renewal, they've included much higher deductibles with no change in the premiums," said Nick B. Goia, insurance and risk manager for Pan American Bancshares Inc., in an interview.

Banks formerly having low deductibles, or even ones as high as \$25,000, were presented with \$50,000 deductibles on renewal, Mr. Goia said, but there was no corresponding decrease in premiums.

For smaller banks, such deductibles are unacceptable, he said.

The risk manager pointed out that the rapid growth of the banking industry in Florida contributed to its high fidelity loss ratio.

"We're going to have to explore the alternatives," he said, stressing the need for stronger emphasis on risk management by medium and small size banks. ■

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So don't take any unnecessary risks. Our staff is ready to work with you and your agent and broker to discuss and define your individual risk management service needs. For more information or to arrange an appointment, contact Jack Kennedy, CU Risk Management, Inc., One Beacon Street, Boston, Mass. 02108. Tel. (617) 725-6013.

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## Gulf D&O settlement...

Continued from page 1

vp Fred C. Deering, former vp and secretary Herbert C. Manning (who is still employed by Gulf) and former general counsel Royce Savage.

Howard Spector liaison counsel for the eight shareholder lawsuits, told BI that the payments in the settlement will not be made through the Gulf corporation. Litman, Litman, Harris and Spector in Pittsburgh is in charge of litigation for the plaintiffs.

"It will come from outside the company," Mr. Spector said of the directors' reimbursements to the corporation.

At the time the lawsuits were filed, claims arising out of illegal political contributions were not excluded from D&O policies.

However, Lloyd's of London began excluding these claims from

coverage earlier this year. (BI, April 19).

Warren Brockmeier, director of the Risk Management Consulting division of the Wyatt Co. said, "It is my understanding that the reimbursement by the individual defendants would also be covered by a corporation's D&O policy."

"That's the purpose of D&O insurance," Mr. Brockmeier continued, "to make the corporation whole."

**Directors' and officers' liability insurance** has two distinct sections, one to cover corporate reimbursement of directors and officers, the Wyatt Co. official noted. "In this case, though, the corporation cannot indemnify the corporation, but there's no valid reason why the second part of the policy covering the personal obligations of the di-

rectors and officers wouldn't respond," he said.

"I think the D&O insurance may respond in both cases," Mr. Brockmeier concluded, "that is, for both the corporation's and directors' costs" in such a case.

Gulf's board of directors approved the out of court settlement at a meeting on Sept. 23. The details of the settlement were scheduled to be presented in federal court here by Sept. 30 before Judge Joseph Willson.

The court will determine whether the settlement is fair and reasonable and then Gulf's shareholders must be notified of the substance of the agreement.

Shareholders will have an opportunity to comment on and raise objection to the settlement before it receives final approval by the court.

One insurance industry source expressed regret that the lawsuits were being settled out of court. "There are so many questions

raised by this case," he stated. "Wouldn't it make a lulu of a court decision?"

An oil industry risk manager stated that he doubts whether the Gulf settlement will set any precedents for D&O claim settlements in the future. "It's kind of a unique situation," the risk manager said.

The federal court released from liability 13 other defendants in the consolidated lawsuits.

**Claude C. Wild Jr.**, Gulf's Washington lobbyist who is said to be chiefly responsible for making about \$12 million in contributions to foreign and domestic politicians over a period of 13 years was among these defendants.

Another defendant in the suits, Price Waterhouse & Co., Gulf's external auditors, is not a party to the settlement and is expected to be dropped from the suits.

The eight shareholder suits involved in the settlement arose when Gulf was forced to admit it

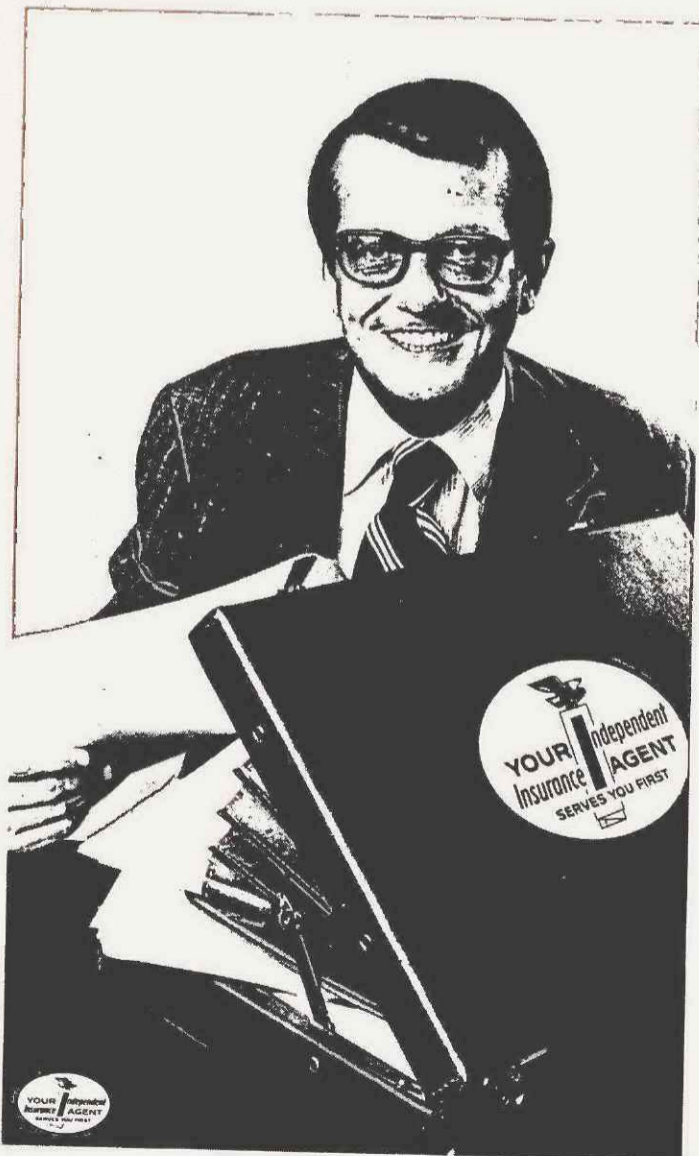
made illegal campaign contributions between 1960 and 1973. The suits charge that the defendants were either a part of the scheme or failed in their duty to oversee the company's operations.

One other shareholder suit against former and current Gulf employees is still in litigation, since it was not consolidated with the other eight lawsuits.

Joseph Gebhardt, attorney for the plaintiff, the Project on Corporate Responsibility, a Washington-based public interest group, said he will file objections to the settlement if it attempts to dispose of his \$1.6 million suit.

The suits were filed separately in the spring of 1975 by eight shareholders on behalf of the corporation. They are: William Schlenky, Alfred Apfel, David Levin, Samuel Koenigsberg, Abraham Wechsler, Edward Milberg, Leonard Benckenstein and Fred Harenstein.

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## Taxi drivers look to form own captive

TORONTO—Taxi drivers in Canada are trying to form their own captive insurance company because the high premiums they are charged by liability insurers are eating into their profits.

"The insurance companies are putting us out of business," complained C. W. Guest, president of the Canadian Taxi Assn. Co.

Mr. Guest said the average cabbie is now paying between \$1,500 and \$1,600 a year for personal liability coverage "It's beginning to make it unprofitable" to drive a cab with premiums like that.

The association, whose membership totals nearly 2,000 cab drivers, has taken the initial steps to set up a captive insurance company to be domiciled in Toronto, Mr. Guest said.

Some reinsurance treaties with Lloyd's of London were obtained, he added, along with more reinsurance in the U.S. markets through the help of an agent. But in mid-September, Mr. Guest said, progress was stalled in getting the captive legally established.

One of the biggest problems is raising the \$1 million reserve fund which the Ontario Department of Insurance will require the association to have before it can get apply for a license under which the captive must operate.

"What we're really looking for is a fronting company," Mr. Guest said. If the association could find a fronting company, it would take back \$20,000 or \$30,000 of the risk itself, he said.

That would mean the captive wouldn't get started at all, but Mr. Guest said the members wouldn't mind as long as they had some way to buy reasonably priced insurance.

"If we can't get a fronting company, then we'll ask each taxi driver to contribute \$500 until we have all we need for the reserve fund," Mr. Guest said, not sounding very hopeful about the association's chances of raising \$1 million that way.

So far, he said, the association has received letters from about 200 cab drivers in Kingston who said they would be willing to make the personal \$500 contribution.

The Canadian Taxi Assn. Co. heard during its efforts to start the captive insurer for its members that some of them thought insurance coverage was so overpriced that cab drivers had decided to drop liability insurance policies altogether, and are "going bare" in their jobs as drivers.

## Banker's bond . . .

Continued from page 1

creasing losses in the fidelity area precipitated the need for new wording in the blanket bond, Mr. Davis said.

He quoted American Banking Assn. statistics showing an increase from 39,912 bank branch offices with total assets of \$451 billion in the U.S. in 1965 to 72,801 branch offices with assets of more than one trillion dollars in 1975.

During the same 10 year period, fidelity losses, both insured and uninsured, increased from \$20 million to \$188.7 million.

**Lending procedures** of banks "probably caused more losses than any other factor," Mr. Davis observed. He also cited the loss of control by banks that diversified into holding companies, poor internal audit procedures and the lack of prosecution of individuals who commit fidelity insurance crimes.

"Insurance companies weren't fast enough in identifying new fidelity exposures of banks," Mr. Davis said. He criticized the insurance industry for "creating an all-risk monster that can't be priced properly."

"Ever since the early 1970s the insurance industry has lost money on fidelity business," Mr. Davis said. "The average underwriting loss for companies writing fidelity business last year was 106%."

Aetna Casualty & Surety Co., the largest fidelity bond underwriter which wrote \$31.4 million of fidelity bond business had a loss ratio of 84.5% in 1975, Mr. Davis said. The loss ratio includes commercial fidelity.

Hartford Casualty Insurance Co. wrote \$22.7 million in fidelity business in 1975 and had a loss ratio of 135.8% and Insurance Co. of North America, (INA) posted a 110% loss ratio on \$22 million in fidelity premiums.

Fidelity & Deposit Co. of Maryland which wrote \$19 million in fidelity business had a loss ratio of 128.7%, and Continental Insurance Co. wrote \$14.7 million in fidelity business and had a loss ratio of 105.5%.

## Ca. company self-insures

EL MONTE, CA.—Hoffman Electronics Corp. has named Tabulating Consultants, -Inc., Burbank, Ca., as the administrator of its now self-insured group health care plan, including major medical and dental coverage. The plan, covering 1600 employees, was formerly insured by Pilot Life, a Los Angeles based underwriter, which had had the plan for six years. L. W. Wright, director of industrial relations, said that he anticipates that about \$70,000 will be saved by switching to a self-insured program. "We wanted better control and communications and faster services," he elaborated, noting that under the new program, Hoffman can design its own insurance forms, which he considers an advantage because he believes his company can devise more comprehensive forms than can the insurance industry. Tabulating Consultants was selected as administrator, according to Herbert Schaffer, vp-marketing, because of its on-line, computerized claims administration system. Alexander & Alexander directed the search for an administrative firm. Hoffman Electronics is a \$65 million company in the navigation and communications equipment field. ■

"Insurance companies and banks don't know how to reserve for fidelity loss situations," Mr. Davis charged. Fidelity losses are increasing in number and amount. With the tendency of banks and underwriters to litigate, resulting in long-tail claims, underwriters are becoming more and more concerned with their reserves according to him.

"This had led to the capacity problem for banks," he added.

Reinsurers too, Mr. Davis said, "are scared to death" over potential losses in the fidelity insurance business.

The banking industry's desire for a stable fidelity market is shared by the insurance industry, the reinsurer noted. He defended the SAA's new wording in the blanket bond as one means of achieving stability. ■



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# Risk managers advocate personal involvement in placing tough risks

By MARGARET LeROUX

CHICAGO—If you've got a tough risk to market, go to the market yourself, was the message of three risk managers speaking at a seminar at the 32nd annual meeting of the Chartered Property and Casualty Underwriters here late last month.

"It should be a truism that no producer can know an account as well as the risk manager employed by the account," Paul Kipp, insurance manager, U.S. Gypsum stated. A producer will never be entrusted with confidential information to the same degree as an in-house risk manager, Mr. Kipp said. Or, he continued, will he be exposed as completely to knowledge of the operation of the account as its risk manager.

Mr. Kipp used as an example marketing coverage for five more carriers his company operates in the Atlantic Ocean.

"In considering this risk an underwriter will ask questions the

producer will not immediately know the answer to and will have to come back to me for the answer." By participating, "You have a chance to ask the underwriter why he asked the question and what he is trying to learn," he said. "When you know this, you can give him a much better answer than if his initial question was carried to you by the producer."

The most direct way of answering questions about a risk "and the questions raised by the answers to the questions," Mr. Kipp continued, "is to sit across the table from the underwriter."

"Let's face it," he added, "underwriters do tend to discount information they receive from producers. That is not an indictment of producers. It's just a recognition of human nature."

Mr. Kipp noted some guidelines for marketing a casualty program.

Brokers should be provided with two sets of specifications, includ-

ing a review of coverage specifications and suggested changes, both proprietary and non-proprietary, Mr. Kipp said.

"Our ground rules for selection of a market are that the existing broker gets first choice; other brokers are asked to name markets in order of preference. No two brokers approach the same market," he said.

We expect that the broker understands our right to work directly with the underwriting, claim and loss control departments of the underwriter, with or without him, at his election, Mr. Kipp said.

The high cost of primary layers of coverage led the risk management department at Transamerica Corp. to try out the London market on their own, without the accompaniment of their brokers, Herbert L. Cunningham CPCU, director of corporate administration told the seminar.

"We weren't talking price, just concept," he explained, "so we

found the London insurers more accessible." Most London underwriters require the presence of a broker before they will speak with an insurance buyer.

Transamerica uses brokers for the indemnity portion of insurance contracts, "We purchase all the services directly from the underwriters," Mr. Cunningham said.

Though there is close cooperation with the broker during the initial marketing process, "We go in with the idea we're purchasing a policy for 60 years. Our intent is to stay with the underwriter for a long time," he added.

Brokers are used on a fee basis—"that way I don't hesitate to ask the broker to go to New York to talk with an underwriter, for example," he continued, "you can't always do that when you're dealing on a commission basis."

After unhappy experiences with uncooperative underwriters, Fuqua Industries achieved the ultimate in risk management participation in the market. The company formed a Bermuda captive for its casualty risks. Robert S. Spencer, vp-insurance and president of Fuqua Insurance Co. Ltd. described what led up to the decision to activate the captive.

In recent years insurance companies became more rigid in their underwriting. They fell back on the traditional route of dealing with the local underwriter, letting him buck it up the line through the branch, the regional office and eventually the home office, Mr. Spencer said.

"I find this method of operation completely unacceptable, though I have been unable to change it," he said. "For one thing it eliminates responsibility for any decision. The local underwriter cannot or will not tell you why the

premium cost is to be arbitrarily increased 75%."

"Even though you get all your ducks in row early early enough to allow for thoughtful consideration, the final decision arrives moments before an expiration. It leaves you with no options," Mr. Spencer continued.

"I do find that in my underwriting capacity I am not quite as positive in attitude as I am when I'm wearing my risk management hat, but at least I can talk to myself and get some answers," he added.

He urged risk managers to consider a captive as "just one of a number of funding mechanisms... don't form a captive for tax reasons."

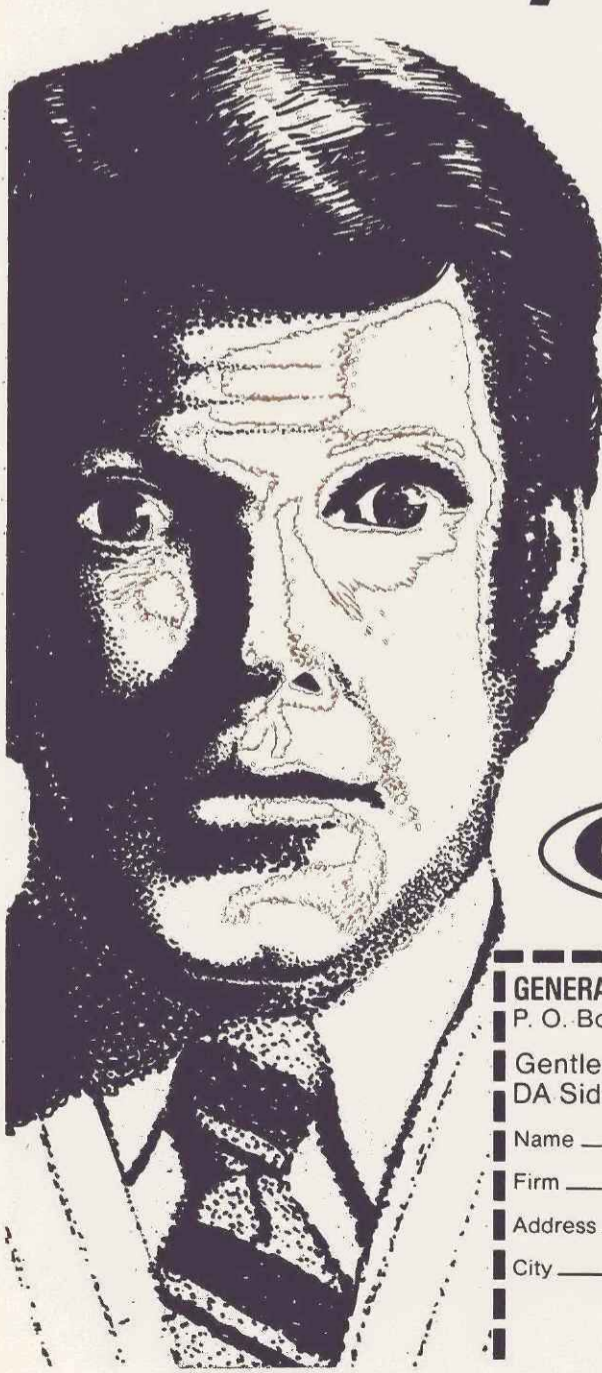
## Urges agents to go abroad

NEW YORK—American agents and brokers have an opportunity to place more of their business overseas in the immediate future, predicts M. Jay Wanamaker, CPCU, president of the Independent Insurance Agents of America.

Tightening of certain U.S. markets, coupled with a projected \$15 billion growth in property and casualty premiums in the next two years, may force American independent agents to seek markets outside the country, he told a convention of Mississippi insurance agents.

London, Japan, Germany and Switzerland were cited as potential markets for the increased business. Mr. Wanamaker pointed out that there will be more paperwork involved and more underwriting to satisfy the requirements of foreign insurers.

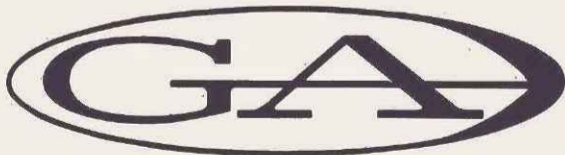
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# Wants reinsurer formed to finance insolvencies

CHICAGO—Formation of a reinsurance company to guarantee protection against insurance company insolvency was one part of a three point program suggested by a State Farm Insurance Co. official to effect response to the solvency problem.

Speaking at the 32nd annual meeting of the Society of Chartered Property and Casualty Underwriters (CPCU), Jean C. Hiestand said that the reinsurance company, formed by the insurance industry could supplant state guaranty funds.

Mr. Hiestand endorsed a proposal by Georgia Insurance Commissioner John Calwell whereby a central organization composed of industry and regulator representatives would provide cash to shore up failing insurance companies.

Stringent safeguards would be necessary to avoid constitutional problems if company-supplied funds were to be used to rescue competitors, Mr. Hiestand noted. The organization could also provide "a reservoir of expertise and would engage in research to improve regulation for solvency."

The insurance industry should also consider a proposal to require that policyholder obligations of insurance companies be covered by

marketable securities and that such assets be segregated in policyholder security accounts, Mr. Hiestand said. The proposal represents "a means of reducing to an absolute minimum the loss to policyholders and the public.

The State Farm spokesman acknowledged that it may be necessary to include a modest federal enactment to permit the functions of the proposed reinsurance company.

"A program is needed . . . and it must be something more than minor patchwork," he concluded. "The access-to-assets legislation must be enacted in every state as soon as possible to avoid potential disaster from a very large insolvency."

# Defends rate hikes, short policy terms

CHICAGO—Shorter policy terms, more expensive premiums and higher deductibles will continue as the insurance industry seeks a means to prevent future capacity problems, John E. Fisher, CPCU, CLU, president, Nationwide Insurance Companies told the 32nd annual meeting of the Chartered Property and Casualty Underwriters.

"Ratemaking needs to be prospective as well as retrospective" Mr. Fisher said. "Insurance pricing systems should be related to factors that cause price changes, rather than being dependent on hindsight statistics.

In addition, insurers must have greater control in the setting of rates, the insurance company executive continued, "In 33 states insurers must seek prior approval of increases. We must work towards the file and use or open competition approaches to pricing regulation."

Other internal corrections the insurance industry can make, he said include shorter policy terms to adequately price risk in an inflationary environment and higher deductibles to create savings and make premium more affordable.

Require insurance-to-value, Mr. Fisher said, and place a reasonable ceiling on benefits. "Unlimited benefits provided for by limited and retrospective premium amounts lead directly to capacity problems."

The executive also stressed the need for reforms in the tort system, as it applies to liability. ■

## IIAA officers

Robert T. Clayton, CPCU, Milwaukee, Wis., was elected president of the Independent Insurance Agents of America (IIAA) at the 80th annual convention in Toronto. George T. Frazier, Hope, Ark., was named president-elect and Frank L. Smith, Tucson, Az. and Lee R. Meyer, CPCU, Meridian, Ms. were both elected vp.

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• An illustrated safety equipment catalog with a metric guide and a special OSHA requirements section is available free from **General Scientific Equipment Co.** Safety products accessories and charts to aid in selecting equipment are included in the 120-page catalog. For a copy write: General Scientific Equipment Co., Limekiln Pike and Williams Ave., Philadelphia, Pa. 19150.

• **Preplanning for Emergencies** is a 22-page, illustrated manual from Improved Risk Mutuals to help organizations maintain their ability to prepare for both the prevention and control of fire emergencies. Contains two inspection checklists and much useful basic fire prevention information. For a free copy, write to W. Scholz, Improved Risk Mutuals, 15 N. Broadway, White Plains, N.Y. 10601.

• **Management Guide on Alcoholism and other Behavioral Problems** outline procedures of Kemper Insurance and Financial Cos., and should provide a resource for companies considering adopting controls for alcoholism, drug abuse and emotional problems. It is not designed as a model program, but defines one company's methodology. For a free copy write to: Communications & Public Affairs Department, Kemper Insurance Cos., Long Grove, Il. 60049.

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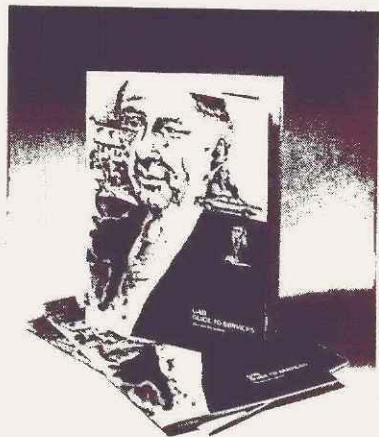
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# Osteopaths worried about losing insurer

CHICAGO—Members of the American Osteopathic Assn. may lose their malpractice coverage as of January 1, 1977. The insurance is presently handled through Pacific Indemnity Co., a Los Angeles-based subsidiary of Chubb & Son Inc.

A spokesman for the AOA, which has a national membership of over 12,000 physicians, commented that the pending malpractice cancellation "came as a complete surprise to us."

Pennsylvania Insurance Commissioner William J. Sheppard has voiced concern over the possible move which could affect approximately 800 doctors in the state of Pennsylvania.

"Pacific administrators are apparently unwilling to write malpractice insurance for doctors unless there is virtually no chance that they will be required to pay out on negligence claims," Mr. Sheppard said.

The Commissioner learned of these developments through "unofficial channels."

No formal insurance policy exists between Pacific Indemnity and the AOA, according to John Cowperthwaite Jr., assistant vp at Chubb & Son. Instead there is a "letter of commitment" between the two parties regarding the malpractice coverage.

This letter is due to expire in the near future, Mr. Cowperthwaite explained, and the insurance company has "indicated intentions not to renew the programs" for the AOA. However, no specific dates of cancellations or

## Cites good port controls on LNG risks

PARIS—The ports of Boston and New York have established controls designed to prevent accidents with high value liquid natural gas (LNG) vessels, and a leading marine insurance hull loss expert suggested they could serve as a pattern for other world ports. He also described the first satellite communications system for maritime use.

At the annual meeting of the International Union of Marine Insurance (IUMAI) which met in Paris in September, John A. Potts, president of the Marine Office-Appleton & Cox Corp. said that in the United States alone, 20 LNG vessels are under contract at a total cost of \$2.2 billion, and others are being built in France and Japan.

He warned that despite built-in safety factors, serious casualties could result if the vessels are involved in collisions or groundings in entering and leaving ports.

Mr. Potts described New York and Boston traffic control systems which other world ports could imitate to cut back on hull losses.

They included 72-hour advance notice of arrival of an LNG vessel to port; transit only during daylight with a 2-mile visibility range; Coast Guard escorts; closing of LNG channels to ongoing traffic; schedules which give a minimum 48-hour notice of intra-harbor vessel movement; loaded draft limitations; continuous radio guard; prohibition of venting gas to the atmosphere in port; and a live bridge watch.

related plans have been announced by the carrier.

The insurance committee for the AOA is presently reviewing alternate means of insurance for its members. Formation of a captive insurance group is "probably not going to be the number one option" at this time, one AOA spokesman said.

Official confirmation of the Pacific Indemnity move has been requested by Commissioner Sheppard's office. The Commissioner "vowed to do all in his power to dissuade Pacific from imposing 'severely restrictive marketing practices which would be totally unacceptable to this department and the general public.'"

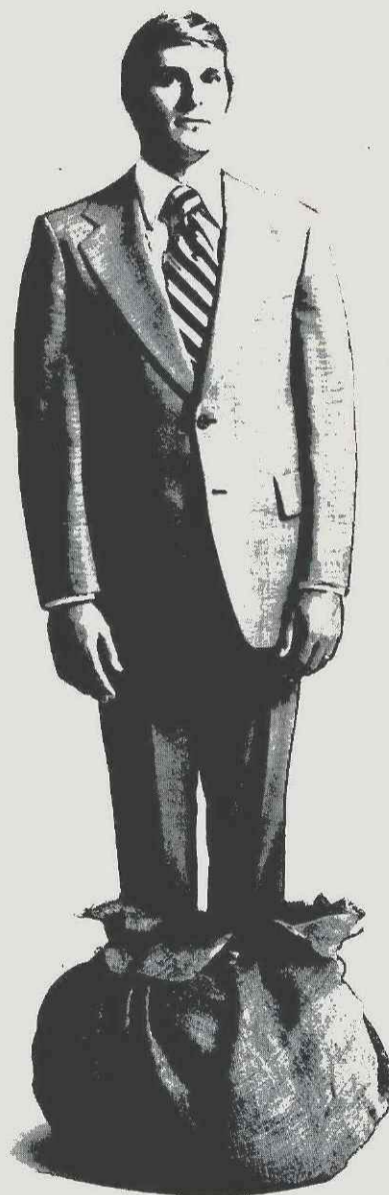
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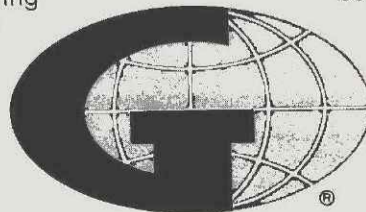
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# More physicians are disregarding insurance

CHICAGO—One of eight doctors currently does not have malpractice insurance, according to a nationwide poll of 1,000 doctors conducted by the American Medical Assn.'s Center for Health Services Research and Development.

Also, 35% of the 419 responding doctors are considering going without malpractice insurance, the AMA found.

"Not surprisingly, physicians in high risk specialties, whose malpractice premiums in some states now run upwards of \$30,000 annually, are most inclined to consider the no-insurance route," the AMA poll disclosed. "Half of the surgeons (49%), 44% of the ob/gyns (obstetricians/gynecologists), and, perhaps surprisingly, 41% of

the psychiatrists, replied that they are considering 'going bare'" said the AMA.

The number of physicians polled was later doubled and the same percentages resulted, an AMA spokesman said. The Center for Health Services which conducted the poll is planning a further analysis of doctors "going bare" in the malpractice liability area.

**Regionally** physicians in the Pacific states, including California, favor dropping malpractice insurance by a much higher rate—51%—than the 30% of physicians in other states. This reflects the national pattern of malpractice suits already filed. One out of four doctors in the Pacific and Moun-

tain states said they had been sued for malpractice in the last three years while 16% of Northern doctors and 12% of Southern doctors said they had been sued.

Among those physicians now without malpractice coverage, the AMA noted that "a small but indeterminate number of these physicians probably are retired."

When the AMA asked physicians if they have considered dropping malpractice coverage the response was Yes, 35%; No, 63% and 2%, no answer. Obstetrician/gynecologists had been sued most often (35%) while 22% of surgeons and 20% of family practitioners reported being sued. The poll also showed that the age group with the highest incidence of suits was the 49-65 bracket with 29% having legal actions taken against them in the last three years. Only 3.5% of those under 35, 9% of those over 65 and 17% of those physicians between 35-49 had suits brought against them. ■

# Chicago suits against doctors dipped in July

CHICAGO—New medical malpractice filings in Cook County, Ill., which includes Chicago, dropped this July for the first time while the defense in malpractice actions continue to win verdicts by a two to one ratio.

Both the size of awards and the average verdict amount dropped in 1976 from \$3.8 million in awards in 1974-75 to \$2.5 million in 1975-76. The average verdict size dropped substantially from \$639,454 in 1974-75 to \$224,546 in 1975-76. The figures were gathered by the Illinois Jury Verdict Reports, the statistical arm of the Illinois Insurance Information Service.

The data, drawn from 958 trial results representing almost 100%

of Cook County litigation, also show in the Chicago area, product liability "transcending malpractice as a crisis area for reserves and judgments, again with no estimate available or obtainable on pre-trial settlements which are considered certain to be materially greater than judgments."

New products suits filed in Cook County increased 30.9% over the last court term, climbing to a total of 872. While the total awards decreased in 1975-76 to \$4.5 million, the large 1974-75 figure was due to a \$5 million air crash verdict. The average verdict amount minus this large award, increased from \$109,502 in 1974-75 to \$175,673 in 1975-76 according to the report.

**In all averages**, the average verdict per successful plaintiff was lower in the 1975-76 term: In Cook County from \$66,000 to \$49,500; and Downstate Illinois from \$39,500 to \$35,500.

According to the insurance report, some court officials "attributed the diminution (in malpractice suits) to a reaction to the success of one physician who filed a counter suit in a malpractice action and won an \$8,000 verdict against plaintiff and plaintiff counsel."

Settlement statistics in jury cases are difficult to assemble (but the report states that there was an 11.3% increase in 1975-76 malpractice suits over last year in the "cast reserves required of the carriers whose insureds were named defendants in 1,054 Cook County actions this year."

In Downstate Illinois, malpractice actions continue to play a minor role in case summaries. Cook County figures are provided through the Cook County Verdict Reports, published by Max Sonderby.

The prime trial areas for plaintiff lawyers was in some Downstate counties rather than Cook. In Rock Island for example, 83% of verdicts reported in favor of plaintiffs, compared to 50.6% in Cook County. ■

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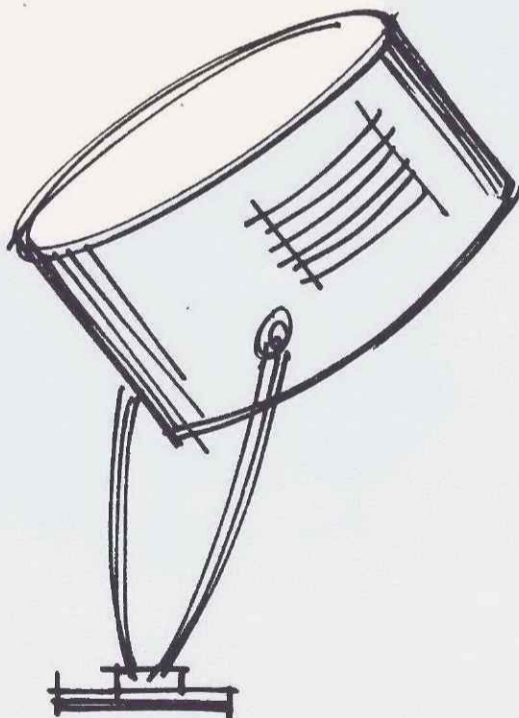
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# City taps Met Life to handle retirement benefits

BRISTOL, CT.—This city named Metropolitan Life Insurance Co. as manager for the assets of part of its general public employees' retirement fund, effective September 1.

The return on fund assets managed by the Met will be distributed to employees as part of a defined retirement benefit plan; the plan will pay retirees eligible for Social Security an annual sum equal to 1% of annual average pay up to \$4,800 plus 2% for amounts in excess of \$4,800 multiplied by years of service.

For workers who retire before becoming eligible for Social Security, the benefit is 2% of annual average pay times years of service.

Metropolitan Life expects to get annual average employer contributions of \$500,000 on the five-year contract.

Hooker & Holcombe of Hartford, Ct. is the actuarial consultant hired by Bristol to administer the plan benefits. The account is one of Metropolitan Life's pension reserve accounts (PRA) which feature certain guaranteed returns.

Peter Marston, Metropolitan's national director of group pensions, explained that the PRA is a type of group annuity which does

not follow the traditional guaranteed interest contract (GIC) arrangement of some defined benefit plans.

The investment contract offers Bristol a 7.5% guaranteed rate of return through the fifth year for all money contributed during the first two years of the contract.

For all contributions made in the third, fourth, and fifth years of the contract, the PRA guarantees a 6.5% rate of return annually through the fifth year.

However, Mr. Marston said the

underlying feature of the PRA plan are not those minimum guarantees but rather that interest is credited to the account at the actual yield of the general account.

Many GIC contracts, he pointed out, offer higher guaranteed rates of return, but if the account performs better than those rates, the contributing employer does not get back an amount that reflects the better money rate.

Under the PRA, however, although the minimum guarantees are lower than the traditional GIC plan, there is no ceiling on the

amount the contributing employer can expect to get back if the money market rates on the fixed income investments were high during the life of the contract.

"This is a fully participating contract," Mr. Marston explained. He said its concept is similar to that of a variable annuity, but with a floor (minimum return).

The floor, which is 7.5% and 6.5% as described above, will be raised to 8% for employers who are transferring assets to Metropolitan from another fund plan.

Mr. Marston said, or for contributions of \$500,000.

The account newly-won from Bristol does not appear to involve any transferred assets, but Metropolitan Life is hoping to get contributions that will add up to \$1 million, it was learned.

Aetna Life & Casualty competed with Metropolitan to win the general retirement fund account from the city, according to a Connecticut source, but reportedly lost out because it would not offer return rate guarantees on the insured plan over a five-year period. ■

## Self-insured hospitals tell plan needs

COLUMBUS, OH.—Hospital risk control programs should be formalized and claims management should be handled by the hospital to control malpractice losses according to an Ohio Hospital Assn. poll of self-insured hospitals.

The survey, designed to identify managerial techniques necessary for risk control, also found that one administrative person should be responsible for the hospital's reporting system. The reporting systems themselves should be self-correcting, with careful monitoring of individual situations so patterns can be ascertained and corrected.

The Malpractice and Accident Prevention Program (MAPP) at the Ohio Hospital Assn., which conducted the survey, released its finding in its October newsletter.

Hospital administrators recommended that there be in-hospital claims management because of the time factor when handling claims review or analysis and investigation.

A hospital peer group should be established enabling physicians, nurses and administrative personnel to review and correct within their disciplines. Sometimes called called patient safety/professional liability committees, such groups should not be combined with a hospital's safety committee activity according to the MAPP study.

A hospital safety committee should be concerned mainly with the actual physical environment and employe and visitor safety. In evaluating any hospital program, one measure is the claims reduction. According to the newsletter, one Ohio hospital experienced a 71% reduction in claims in 12 months, after the program was implemented.

Where hospital risk control is involved, there should be an educational effort including patients, hospital personnel and physicians. Some hospitals also have developed "clearly identified, realistic and verifiable criteria" for medical staffs. ■

# Psssst



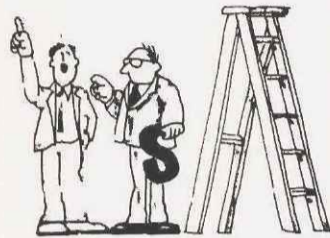
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## people

### ABC benefits appointment announced

American Broadcasting Cos. Inc., New York, announced two appointments to its benefits department. **Margaret Gagliardi**, 27, was named manager, employee benefit and personnel policies planning and **Rosemarie Daw** was promoted to manager, employee benefit administration. The two will report to Thomas J. Gorey Jr., recently named director of compensation and benefits (See *Business Insurance*, April 19). Ms. Gagliardi, formerly personnel staff consultant, will be responsible for design, development and analysis of all employee benefit programs and Ms. Daw, formerly supervisor, employee benefits, will be responsible for administration of all ABC's employee benefit plans.

**George Willis**, 44, joined Cadillac Fairview Ltd. as manager, risk and insurance, reporting to the executive vp and chief financial officer of the company. Mr. Willis was secretary, surety division of the Insurance Bureau of Canada. At Cadillac Fairview he replaces **Rory Roberts** who joined Char-

bonneau & Associates Ltd., insurance brokers in Toronto.

**Richard Martin**, 56, was promoted to senior vp-human resources and administration at Tanner Cos., Phoenix, Az. He is responsible for all risk management and human resource programs and reports to the president of the company.

**Al Houck** was named risk manager for the city of Santa Ana, Ca., a new position. Mr. Houck was formerly risk manager and claims manager for ESIS, part of the Insurance Co. of North America (INA) for two years. Prior to that, he was vp for Transnational Insurance Co., Los Angeles, a property/casualty company which is now defunct. In his new position, Mr. Houck's duties include operation of the city's self-insurance program in liability and workers' compensation and loss control. He reports to the director of personnel.

**Patricia Slater** was named corporate insurance assistant for Beneficial Standard Corp., Los Angeles, replacing **Sancy Stanton** who resigned to join Alexander & Alexander, Los Angeles. Ms. Slater, who reports to John M. Degnon, director of corporate insurance, was formerly in the corporate insurance department at Teledyne, Inc. Her duties at Beneficial Standard Corp. include all phases of the corporate insurance program and employee benefits.

### dates for buyers

Oct. 18-19: The Wharton School, University of Pennsylvania—Risk management of foreign investments and operations in lesser developed and advanced industrial countries is the subject of a seminar held in New York. Among the scheduled topics are financial and business risk analysis, political risk monitoring and strategies in management. Cost is \$350 fee per person plus \$50 registration fee per organization represented. Write Wharton Registrar, New York Management Center, 360 Lexington Ave., New York, N.Y. 10017.

Oct. 18-20: U.S. Dept. of Commerce—The National Fire Prevention and Control Administration will focus on the "dynamics of fire prevention" at the Hyatt House Hotel, Los Angeles International Airport. Building design, inspections, enforcement and implementation of fire prevention programs will be

discussed by government officials, researchers, and fire organization officials. For more information, contact Peg Maloy, National Fire Conference, National Fire Prevention and Control Administration, P.O. Box 19518, Washington D.C. 20036.

Oct. 18-21: National Safety Council—The National Safety Congress and Exposition, held in Chicago, displays the newest developments in safety related products and services. Headquarter hotels are: The Conrad Hilton, industrial and exposition sessions; Pick-Congress, traffic, labor and motor transportation; Midland, Youth; and Towers for School and College. Cost is \$30 for registration. Contact the National Safety Council, 425 North Michigan Ave., Chicago, Ill. 60611.

Oct. 20-22: Profit Sharing Council of America—An up-date on ERISA requirements and profit sharing developments for profit-sharing companies will be held at the Continental Plaza Hotel in Chicago. Of special interest to employee benefit managers are sessions on today's work attitude, communicating incentive aspects of profit sharing, profit sharing trends, ERISA today, and tax and financial retirement problems. Cost is \$175; contact the Profit Sharing Council, 20 N. Wacker Drive, Chicago, Ill., 60606; 312/372-3411.

Oct. 20-22: Management Centre Europe—Larges: International insurance conference will be held in Copenhagen to review and examine the major problems affecting the industry internationally. The European Economic Community, world insurance market surveys, banking, security and the marine market are some of the scheduled topics. The conference will be at the Sheraton Hotel. Contact Mike Johnson, International Management Assn., avenue des Arts 4, B-1040 Brussels, Belgium.

October 21-22: Pittsburgh Chapter of the Risk and Insurance Management Society—The 10th Annual North Central Regional Seminar will examine legislating the risk manager's environment. The live, economic and social changes affect-seminar will be held at the Sheraton Inn on the Mall in Monroeville, Pa. For further details contact Anthony Burlando, Joy Manufacturing Co., Oliver Building, Pittsburgh, Pa. 15222.

Nov. 8-10: Risk Management Institute—Expense projections, quantitative methods in risk management and communicating risk management are the topics of a program at the University of Dallas. Risk managers, risk management consultants, brokers and loss control managers are among the seminar's faculty. Cost is \$270 for RIMS members; \$295 for non-members. Contact Prof. Bruce Evans, executive director, The Risk Management Institute, Management Laboratories of America Inc., University of Dallas, Irving, Tx. 75061.

## Not enough facts for liability crisis

WASHINGTON—Lack of insurance industry statistics makes it impossible to know whether there is a crisis in product liability insurance, the National Assn. of Insurance Commissioners (NAIC) said last month.

Speaking at the first meeting of the Advisory Committee on Product Liability, which was formed in early September by the Commerce Department to help the Interagency Task Force on Product Liability, an NAIC spokesman said: "Definitive statistics and data have not yet been produced by the insurance industry to indicate the existence of an underwriting crisis."

The NAIC is currently collecting state surveys on rates and loss experience, according to the spokesman, Ned Price, who is the senior member of the Texas State Board of Insurance as well as chairman of the Advisory Committee at which he spoke.

At its semi-annual meeting last June in New Orleans, the NAIC postponed making a decision on a proposal that would have required insurance companies to separate product liability data on their annual reports to the insurance association.

Mr. Price said a quick solution to the product liability problem would be unwise until the dimensions of the problem are more clearly defined.

"I would like to emphasize that this is not a simple issue or a problem to be addressed in emergency legislation," Mr. Price said. "To attempt overnight, remedial, undeveloped answers would indeed, create a product liability problem."

The Sept. 20 meeting of the Advisory Committee brought together for the first time nearly all of the 18 representatives of groups affected by availability of product liability insurance, including manufacturers, wholesalers, retailers, the insurance industry, insurance regulators, the legal profession, labor and consumers.

The committee was set up to ad-

vised Commerce Undersecretary Edward O. Vetter, chairman of the Interagency Task Force on Product Liability, on solutions to the product liability problem. Mr. Vetter said the advisory committee will review the recommendations of the task force, which are due this December.

Mr. Vetter also took a cautious stance at the meeting, saying that the committee would first decide whether reform of the tort system is desirable and only then would the panel decide how it should be reformed.

"Is there really a product liability crisis? Should manufacturers do better about warning about equipment? How are insurance companies pricing coverage? These issues are still out on the table," the task force chairman said.

Three additional members of the advisory panel—representing labor, consumers and an economist—are yet to be named by Mr. Vetter, but the others include:

W. Thomas York, president, AMF Inc.; Ralph Baldwin, president, Oliver Machinery Co.; Fred C. Secrest, executive vp, Ford Motor Co.; Frederick Juer, president, Worth Bat Co.; Richard D. Wood, chairman of the board, Eli Lilly & Co.; and Joseph McEwen, president, Modern Handling Equipment Co.

Also: William M. Brooks, senior partner, Brooks Burke Surgical Supply Co.; Lloyd Hackler, president, American Retail Federation; John Koch, attorney; Melvin Block, attorney; and Paul Rheingold, attorney.

The insurance industry representatives are Edward J. Noha, chairman of the boards, CNA Insurance Cos.; and Robert Clements, senior vp, Marsh and McLennan Inc.

Other representatives include Jack Sheehan, legislative director, United Steelworkers of America; Dr. Clare G. Johnson, physician and attorney; Judy Braiman, Empire State Consumer Assn. Inc.; and Vincent Graham, vp, Sears Roebuck & Co.

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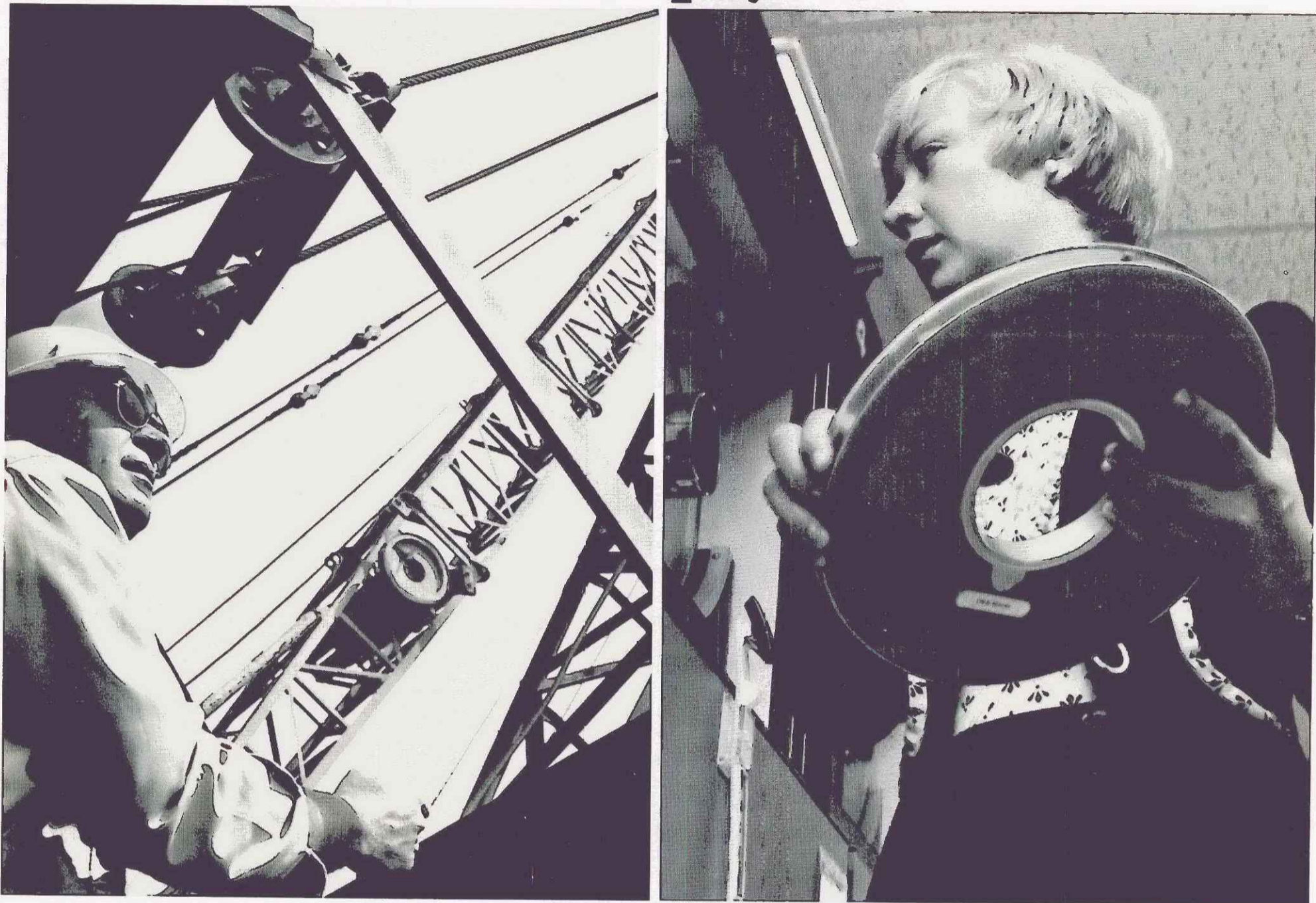
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