

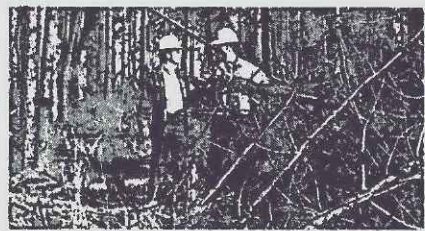


U. of Michigan page 26

The risk manager for this venerable institution masterminds a property and liability program covering exposures as varied as those of a small city. A key part of his plan is the permanently-funded self-insurance pool.

Lumbermen page 8

The Northern Woods Logging Assn. is moving to establish Maine's first group self-insured work comp program, enabling previously-uninsured logging firms to cover their exposures.

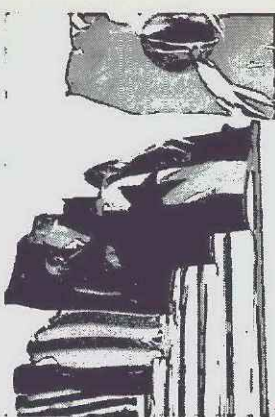


Product page 42-44

Product liability with a new twist—how to prevent it—is the focus of a spotlight section based on an annual conference on this subject.

OPIC page 39

The federal government, namely the Overseas Private Investment Corp., finally detailed its plans to have a pool of private insurance companies take over nearly \$4 billion worth of federally-underwritten political risk insurance policies, on foreign investments. This is about half of OPIC's current book, and does not include any of the agency's war risk coverage.



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Week of September 2, 1974

business insurance.

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Pension law to spark major benefit plan redesign

By SUSAN ALT

CHICAGO—Federal pension reform is expected to have a minimal short-term impact on private pension plans, except for added administrative burdens.

But the law's long-term effect will almost surely be substantial, to the extent that new private pension plans probably will not be initiated by employers and pension benefits will become secondary as overall benefit plans are redesigned by employers.

These broad predictions came out of a comprehensive briefing on the new Employee Retirement Income Security Act of 1974, held by Hewitt Assoc., employe bene-

fit and actuarial consulting firm.

Peter E. Friedes, chief executive of Hewitt, described the new law as "somewhat inflationary" in that employers are going to need more people to administer plans according to the regulations, meaning higher costs not directly linked to increased productivity.

"THE ESTABLISHMENT of new pension plans is discouraged" by the law, "due to more administrative requirements and the possibility of having large unfunded vested liabilities show up on the employer's balance sheet," Mr. Friedes declared.

Although most companies have

moved in recent years to liberalize eligibility and vesting provision of their pension plans, Thomas H. Paine of Hewitt noted, some plans could face big cost increases when the law becomes effective Jan. 1, 1976.

"Over 80% of all pension plans and over 70% of all profit-sharing plans currently have eligibility requirements which comply with this standard (age 25 with one year service or three years' service with 100% vesting)," he went on to say. "Companies with more stringent enrollment requirements, however, could face a big cost increase," the Hewitt managing partner concluded.

And in the vesting area, "The

only plans which will be strongly affected by the new regulations will be those few with no vesting provision or those with very conservative provisions, such as age 55 and 15 years' service," he predicted. "But even that kind of company would probably see its pension costs go up modestly, normally about 10%," Mr. Paine went on to say.

AS A RESULT of predicted rises in Social Security, coupled with this new law, Mr. Paine projected a number of long-term changes in private pension plans, including:

- a slowdown in the increase of retirement benefits, with a leveling off of pay replacement levels;
- an increase in the number of pension plans with provisions integrating benefits with Social Security levels;
- increased emphasis on death benefit provisions in pension plans;
- concentration of fixed benefit plans on higher-paid employes;
- a trend toward capital accumulation plans such as profit-sharing and savings or thrift plans as alternatives to fixed benefit pension plans;
- a shift to fixed-contribution pension plans and away from fixed benefit plans.

Hewitt does not expect that the new pension law is the final word on pension reform, Mr. Paine noted. He looks for three areas of potential legislative activity relating to pensions, including future amendments requiring immediate vesting and portability. (See related stories, pages 12 and 38.)

A major requirement of the new law is the employer's liability for unfunded vested liabilities in the event of plan termination, Mr. Paine went on to note. Previously, when a plan terminated, an employer was liable only for the amount in the pension fund. But, he further stated, under the new law the company is liable for the full amount of un-

Continued on page 37

Insurance is not adequate to cover fire's destruction

BERKELEY SPRINGS, W.V.—Approximately eight insurance companies, among them Royal Globe, Fireman's Fund, Farmers and Merchants, Mutual Fire, Municipal Mutual, Grangers Mutual and a number of local agencies are involved in losses resulting from the blaze which destroyed an entire city block and killed 13 persons Aug. 25.

A representative of the Royal Globe Insurance Co., insurer of the Washington House Hotel where the fire originated, said the building's \$100,000 property insurance policy won't cover reconstruction costs.

"You'd have to say it was underinsured," the representative commented.

The four-story, 150-year-old building is owned by the Rev. Cyril Fowler. The hotel had 120 rooms.

THE FIRE originated in the basement of the hotel and flames shot up an elevator shaft which acted as a flue, according to the state fire marshall. The cause of the fire is unknown.

Eleven local businesses, including a restaurant, barber shop, drug store, jewelry store and appliance store were also destroyed by the blaze which raged for four hours after it started at 3 a.m.

All the businesses were insured, according to the Royal Globe representative, "But as to the amounts of the individual policies, the General Adjustment Bureau is still compiling those figures," he said.

Officials at the Morgan County sheriff's department estimated the loss at "close to \$1 million."

Pension law restricts corporate use of captives for group benefits

WASHINGTON — Congressional concern over potential "self-dealing" abuses has resulted in a pension reform bill that may cripple the future use of captive insurance companies as insurers, or reinsurers, of pension or welfare benefits for their parent companies.

The Employee Retirement Income Security Act of 1974, as sent to the White House last month, requires that no more than 5% of a captive's premium income may be derived from insuring the parent firm's employe benefits.

The regulated benefits include life and health insurance premiums, as well as income from pension annuity contracts.

THE RESTRICTIONS also apply to insurance companies insuring the benefits of any subsidiary corporations they may control.

Congressional sources told *Business Insurance* that while many of the existing insurance company-subsidary benefit insurance arrangements are run at close to cost with no big profit for the insurer, "the potential for abuse was believed to be so great we had to control it."

Internal Revenue Service regulations now require that the assets of tax-exempt employe benefit trusts be used solely for the benefit of employes and not for the profit or advantage of sponsoring companies.

The captive insurance regula-

tions are part of a series of stringent self-dealing bans imposed by Senate conferees at meetings to hammered out the final compromise bill.

The American Society of Insurance Management is studying the matter, a spokesman said, and has not yet arrived at any conclusion as to its impact. Very few firms are believed to use captives to insure or reinsure employe benefits at this time.

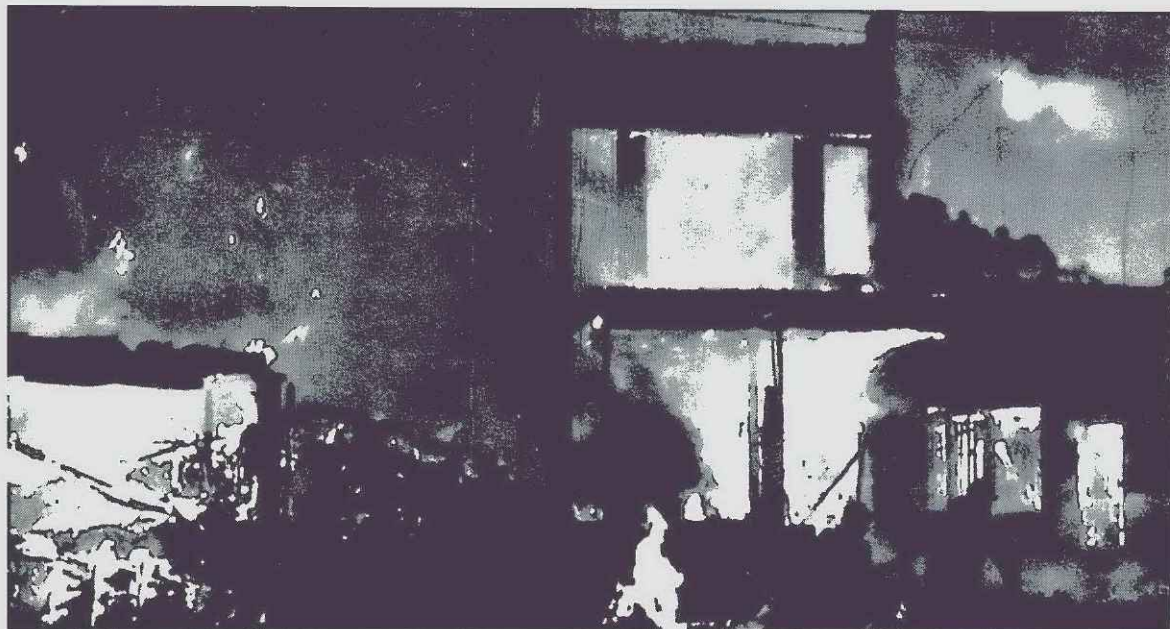
However, the ASIM spokesman said the society is concerned that the law would "unduly restrict a

risk manager's freedom of action in the future."

THE BAN ON the use of captives for this purpose would become effective Jan. 1 1975, but employers are given three years to phase out any existing arrangements that exceed the 5% premium limit rule.

The captive insurance rule is a second major jolt for insurance managers to come from the final days of the pension reform's progress through the Congress.

Continued on page 2



Thirteen persons perished in a West Virginia blaze which destroyed a city block.

Wide World photo.

Pension reform...

Continued from page 1

The earlier shock concerned a proposed freeze on future integration of pension benefits with Social Security benefits.

Section 1021(g) of the bill would have placed a freeze on integration of benefits at levels set in 1971 until July 1, 1976, during which time a Congressional study group was to study the entire question of Social Security integration.

WITH MANY benefits managers seriously eyeing integration as the best way to adjust for rapidly rising Social Security benefits, news of the "freeze proposal" triggered a telegram, telephone, and letter-writing blitz that swept the Congress in the hours immediately preceding final passage of the bill.

The result of the pressure was a last-minute decision to drop the section entirely from the bill.

Sen. Jacob K. Javits (R-N.Y.), ranking minority member on the Senate labor and public welfare committee, acknowledged the lob-

bying effort on the Senate floor just before the Senate passed the bill 85 to 0 last month.

"We have been told that this will greatly increase the funding cost of private pension plans, something I am sure none of the senators would like to see occur," the senator said.

"Personally, I am not sure that those who tell us that their funding costs will be substantially increased because of the two year freeze provided in the provision are correct in their analysts.

"If there are substantial increases in costs, I believe that they will arise from the belief of the private pension plan actuaries involved that once this freeze occurs there will be no further integration of Social Security and private pension plans hereafter.

"THIS CERTAINLY was not the intent of the two year freeze that we included in the bill," he said.

At the same time Congress moved to drop the integration freeze, it also acted to add some

tougher language to the pension benefit guaranty insurance sections of the bill.

Drafters of the legislation had reportedly created a "loophole" for companies interested in terminating their plans by extending benefit insurance protection retroactively to July 1 while the employer liability features of the bill, designed to discourage plan terminations and protect the financial status of the new insurance corporation, become effective only when President Ford signs the pension reform bill into law.

THE NEW language in the bill makes it clear that the Labor department, which runs the pension benefit insurance agency, will take a very hard look at plans terminated during this "loophole" period before agreeing to make good on vested, but unfunded, benefits of the participants.

The bill now states that no benefits will be paid to plan participants unless the corporation finds "substantial evidence" that the plan was terminated for "reasonable business purposes and not for the purpose of obtaining the payment of benefits by the corporation. . . or for the purpose of avoiding the (employer) liability."

The employer liability gives the pension benefit guaranty corporation the right to impose a lien against 30% of a company's assets if the company terminates an underfunded plan.

IN SUMMARY, the bill provides new rules for vesting, participation, funding, reporting, fiduciaries and disclosure to participants.

Vesting—Three alternative formulas: 100% vesting after 10 years; graded vesting with 25% after five years, 50% after 10 years, and 100% after 15 years; rule of 45, with 50% vesting after five years, or if later, when age plus service equal 45, then increasing 10% each year until 100% is reached.

Participation—Age 25 with one year service, or three years for plans that provide immediate 100% vesting. Certain pension plans may exclude from participation employees who are within five years of normal retirement age.

Funding—Mandatory funding of annual costs plus 30 year (for single employer plans) or 40 year (for multi-employer plans) amortization of unfunded accrued liabilities. Forty year amortization for liabilities existing on this

regulation's effective date. Experience gains and losses to be amortized over no more than 15 years for single employer and 20 years for multi-employer plans.

Reporting—An annual report to the Labor department within 210 days of the end of the plan year; a plan description within 120 days of the plan's adoption or the effective date of the act plus an updated description every five years; a copy of the plan description supplied to participants; and a description of plan changes within 60 days after they are made.

Specifically required of pension, but not welfare plans, is a list of all terminated plan members and details of their vested benefits and the former participants' Social Security numbers; notification of any change in status, such as merger or termination; an audited financial statement annually, an actuarial report on asset valuation 30 days prior to any merger or consolidation; and at least every three years, a certified actuarial report on the condition of the fund.

FIDUCIARIES—An expanded definition to include persons having "any discretionary authority or discretionary responsibility in the administration" of a plan together with an expanded list of prohibited transactions because of the possibility of self-dealing abuses.

Disclosure to participants—A plan description within 90 days after an employee joins the plan, or 120 days after enactment of the law, supplemented by updates detailing any plan modifications; a new summary plan for partici-

pants at least every five years; an annual report detailing plan assets and liabilities; and, upon request, a statement of an employee's accrued benefits, or for a terminated employee, a statement of his vested benefits and rights.

EFFECTIVE DATES—Participation and vesting for new plans issued the first plan year after enactment of the bill; for existing plans, the plan year beginning after Dec. 31, 1975. Funding for new plans must meet regulations for the first plan year after enactment, but for existing plans the date is the plan year beginning after Dec. 31, 1975. Collectively bargained plans have until the end of the existing contract, but no later than Dec. 31, 1980. Reporting and disclosure regulations become effective Jan. 1, 1975. Fiduciary standards become effective Jan. 1, 1975, with a three year phase-out for some banned activities.

Termination insurance—Benefits are payable retroactive to plans terminated since June 30, 1974 for single employer plans. Insurance is effective for multi-employer plans on Jan. 1, 1978, although the Labor department may elect to provide it in the event of multi-employer plan terminations before the date.

The bill also sets up limitations of both benefits and allowable contributions. The pension benefit ceiling was set at \$75,000 a year. The annual contribution limit for both pension and profit-sharing plans is \$25,000 a year or 25% of annual compensation. The above rules become effective for plan years beginning on or after Jan. 1, 1976.

Pension reform ready after years of battle

WASHINGTON — President Ford is expected to sign into law the Employee Retirement Income Security Act of 1974 in White House ceremonies on Labor Day.

The massive pension reform package comes to the White House with the almost-unanimous support of the Congress 12 years after President John F. Kennedy first established a Cabinet-level task force to investigate the private pension system.

The House of Representatives last month approved the final compromise bill 407 to 2. The Senate vote was 85 to 0.

MUCH OF THE historic pressure for pension reform can be traced back to the up-and-down business cycle of the nation, and the disappearance from the national scene of two artifacts of American pop culture—the Studebaker and the Packard.

Packard closed its doors in the late 1950s. The Studebaker shutdown came later, in 1964, after the Kennedy Administration task force had been formed.

The auto company failures drew public attention for perhaps the first time to the pension losses that accompanied the plant closures.

The collapse at Studebaker, headquartered in South Bend, In., "was the straw that broke the camel's back," according to a UAW official in Washington.

The closing left about 1,700 Studebaker workers without pensions and reduced the benefits received by those employees near the retirement age.

Specialized steel companies, many located in Pennsylvania, began closing their doors with regularity in the 1960s and the business steadily went to foreign concerns.

By 1974, the United Steel Workers, through Rep. Joseph M. Gaydos (D-Pa.), representing another big steel district, told Congress that 71 pension agreements with steel worker locals were cancelled in 1973 alone. Most of the cancelled plans involved fewer than 500 workers.

Sen. Jacob K. Javits (R-N.Y.) introduced his first pension bill in 1967, reintroduced it in 1969 and 1971, and in 1972 was joined by Sen. Harrison A. Williams (D-N.J.), chairman of the Senate labor and public welfare committee.

The Senate backed up the committee with \$1 million to conduct the full scale studies and hearings that led to the passage of a Senate pension reform bill in September, 1973.

Five months later, the House passed its version of pension reform in late February of this year. In another five months, the compromise bill arrived at the White House.

GUIDE TO FEATURES

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State of Maryland

Department of Transportation

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Sealed proposals, in duplicate, for the administration of a Rapid Transit Coordinated Insurance Program will be received at the Office of the Director of Engineering and Construction, Room 31, Mass Transit Administration, 1515 Washington Boulevard, Baltimore, Maryland 21230, at any time prior to 2:00 p.m. on Monday, September 30, 1974.

The program consists of establishing and administering a coordinated insurance and safety program for design and construction of the Phase I Baltimore Region Rapid Transit System. A description of the proposals desired is included in the "Request for Proposals — Rapid Transit Coordinated Insurance Program" which may be requested on or after August 14, 1974, through the Manager of Contract Administration, Room 31, Mass Transit Administration, 1515 Washington Boulevard, Baltimore, Maryland 21230, Telephone 301/539-6281, Extension 349.

Proposers will be required to comply with all applicable Equal Employment Opportunity laws and regulations. The contract resulting from this solicitation is subject to a financial assistance contract between the Mass Transit Administration and the U.S. Department of Transportation. The Administration reserves the right to refuse or reject any proposal, in whole or in part, and/or waive technical defects if, in its judgment, the interest of the Administration so requires. All proposals and data submitted to the Administration become irrevocably its property.

Walter J. Addison
Mass Transit Administrator

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New risk manager rethinking all programs

Johns-Manville sues supplier in liability case

By SUSAN ALT

DENVER—The quiet of Johns-Manville Corp.'s headquarters office, looking serenely upon hazy-blue jagged Rockies in the distance, belies the flurry of activity surrounding the many problems which typically spring up around a fast-growing company.

And in the small but stylish office of J-M's new risk manager, Richard W. Zeitler, the problems are apparent: Losses of more than \$10 million caused by a giant European fire earlier this summer which resulted in the total loss of a French manufacturing facility. Litigation over damages caused by pipe product failures. A growing workmen's compensation challenge for the risk manager of a firm involved in asbestos mining and processing, polyvinyl chloride plastics production, fiber glass manufacture, and talc mining.

Mr. Zeitler, who joined J-M only last April, has his hands full. For one thing, Johns-Manville is involved in several unusual situations.

IN MARCH, the firm filed an extraordinary \$13 million suit against United Aircraft Corp., to recover damages arising out of the sale of allegedly defective plastic pipe. J-M bought the rights to produce the pipe from United Aircraft, and was subsequently sued by customers who claimed the pipe failed.

The "Flextran" pipe, used for sewer conduits, was produced before 1971.

Johns-Manville seeks to recover the amount it paid to United Aircraft for the production rights, plus the damages J-M has had to pay (and may have to pay in the future) to its customers.

The company is presently a defendant in three lawsuits and has a number of outstanding claims alleging material damages from pipe defects. In its annual report, J-M said it had always settled six claims, and was aware of eight additional alleged failures.

The impact of this case on the insurance department is interesting. Mr. Zeitler, when queried on this matter in a recent interview, told *Business Insurance* that all losses and damages in this case exclusive of the damage to the pipe itself will be covered under the product liability portion of Johns-Manville's comprehensive general liability insurance policy. The primary policy is underwritten by Travelers Insurance Co., with limits of \$100,000 per occurrence and a \$250,000 aggregate. J-M also has excess coverage with The Home Insurance Co. Since the bulk of these plastic pipe claims are large, "our excess insurer is very much involved in this case."

The company isn't commenting on how much is expected to be recovered from United Aircraft. Nor is Mr. Zeitler commenting on the amount of coverage afforded by his excess carrier.

THE ANNUAL report notes: In the opinion of the company, product liability insurance will adequately cover a substantial portion of the costs, the amounts of which presently are not ascertainable, relating to claims resulting from pipe failures, except for the cost of supplying pipe to replace pipe found to be defective.

The report's footnote goes on to say: The issuer of the insurance policy which is primarily involved in these claims has stated that in its opinion certain kinds

of losses representing a substantial portion of the amounts claimed will not be covered by the policy and has filed suit seeking a declaratory judgment as to its obligations under the policy.

HOWEVER, Mr. Zeitler did say that a settlement agreement has been reached with Home, whereby Home will respond for certain specific damages, although the extent of coverage is not as broad as that afforded by the primary insurer.

"In the future products liability is going to play a much bigger part in this department," Mr. Zeitler says of his role as risk manager. He attributes this to consumerism, which in his mind

is the key to increased actions by customers against suppliers, in the industrial and commercial field as well as consumer products market. "Complaints and claims involving users of products used to be worked out in a business relationship, across a desk, but now the customer sues the supplier in many cases," he says, alluding to the claims against J-M and J-M's own moves against United Aircraft.

And, he adds, "Like other companies, we are running into more and more of these cases because of our diversification efforts."

Johns-Manville, a company with sales of over \$900 million and assets of over \$725 million, was once known almost exclusively

as a construction materials supplier. Now the company's revenues are derived from five major businesses, including construction materials, pipe products and systems, insulations, industrial specialties, and mining and materials. J-M is also a land developer, with leisure-living resorts in Sun Valley and one starting up outside Denver, where the company will also build a sprawling worldwide headquarters complex. J-M has for several years been on the acquisition trail, and completed two purchases just last year. Johns-Manville spends a hefty \$8 million a year for commercial insurance, despite a healthy self-insurance bent in recent years.

Mr. Zeitler has taken a special interest in casualty risks and coverages, and plans to review the firm's entire liability program within the next year, "to make certain it is adequate to cover new risks emerging from old operations plus the risks involved in our new acquisitions." J-M's present liability program has not undergone major revision in many years.

"I THINK workmen's compensation is going to generate more attorney-involvement for businesses in general. The field has been stagnant, and attorneys and claimants are looking forward to the possibility of higher awards because of dra-

Continued on page 4



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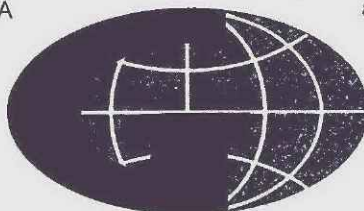
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Manville . . .

Continued from page 3

matically increased work comp benefit levels. We are self-insured (for workmen's compensation) in a lot of our operations, but the recently-acquired companies for the most part have insured programs. This insured part of our total work comp program, therefore, has grown appreciably." It is underwritten by Travelers.

"As a long-term objective we have to come to grips with the need to go to a totally self-insured program, possibly using a captive for excess coverage, particularly in the area of occupational diseases," Mr. Zeitler reasons.

Johns-Manville is in multiple businesses which appear to pose heavy occupational disease risks, including talc and asbestos mining, fiber glass and polyvinyl chloride plastic manufacturing, and insulation production.

One of Mr. Zeitler's goals is to develop a specific liability and work comp experience-rating plan for each operating division of Johns-Manville, something he previously did for East Coast-based Lone Star Industries as risk manager. It involves developing a self-insurance system with rates to apply to each operation using past and projected loss data. "You take past losses for no more than three years back by location, by division, and by group. This is a long term goal because data that I need to put this together has to be systematized, and is not all available yet."

J-M NOW DOES most of its insurance business through Marsh & McLennan, and has for many years, but the new manager's personal philosophy "leans toward using more than one broker," primarily for the exchange of ideas that comes from

working with a variety of people.

A \$10 million fire in June caused the total loss of a Johns-Manville manufacturing facility in France. The plant was insured, mainly under local subscription policies. The event sparked a fast rethinking of foreign fire prevention efforts.

"We are in much the same position as ITT was several years ago" (following the ferocious fire which destroyed its Longuenesse, France facility), says Mr. Zeitler. "Our fire was at an un-sprinklered facility and caused a total loss. The plant is now being rebuilt, and is engineered to HPR standards," he adds. "As with ITT, this has necessitated a lot of rethinking about upgrading foreign properties to American standards (of fire protection)."

"In my opinion, the question shouldn't be 'How much premium will be saved?' when the time comes to evaluate fire protection and sprinkler programs. The

question should be, 'Can I afford to be out of business for six months and potentially lose a market?' And that's a decision for the operations managers of the facility and the corporation."

J-M's domestic fire insurance program includes coverage for the firm's hundreds of millions of dollars in buildings, machinery and equipment through Arkwright Boston, part of the Factory Mutual System, with a \$25,000 deductible per occurrence, coupled with manufacturers' output coverage with Affiliated FM.

AN IMPORTANT part of the J-M insurance manager's job, Mr. Zeitler believes, involves reviewing leases, agreements, construction contracts, etc. for clauses transferring risks. "If we're leasing a premise from an owner, where we're not entirely in control, and the lessor attempts to be named as an additional insured under our contract, thereby

transferring the risk to us—asking us to accept liability for risks that are rightfully his to retain—we are risking a large loss," Mr. Zeitler explained.

Another area of his responsibility is "making certain a warehouse owner who's purchased his own fire insurance has included the proper waivers of subrogation rights in the contract with us, the lessee. Otherwise, we'd be paying the premiums as part of the rent, plus we could be paying for the loss if we didn't require the waivers in the contract," he notes. ■

Policies not keeping up with inflation

HARTFORD, CT.—Determined to warn its business property policyholders of rising replacement costs and possible inadequate coverage due to spiralling inflation, the Hartford Insurance Group embarked on a one-year campaign called the "Inflation Fighters" to update customers' policies.

"The insurance industry must come to grips with the effects of inflation. We are determined to get across the idea that policies must be reviewed each year to make sure that they are keeping pace with replacement costs," said Hartford's executive vp, DeRoy C. Thomas.

One report cited a rise of 7% in non-residential construction costs last year alone.

"MANY POLICYHOLDERS will have vastly inadequate coverage" if inflation continues, Mr. Thomas explained.

This is the first time "in the nation's peacetime history that a 10% annual rate of inflation is being projected for an extended period of time," he added.

This campaign may spark updating business property insurance policies value up to 2% each quarter, on 8% in a year, the firm noted.

Part of the strategy includes a handout to Hartford agents. The "costimator" contains tables estimating replacement costs by state, as well as by the type of construction and year the structure was built," it was noted.

"USING THE costimator as a guide, an agent can check the current levels of coverage," Mr. Thomas explained. The agent can also "go over the coinsurance clause and make other recommendations which will aid the policyholder in reaching a decision about his total insurance needs."

The costimator, however, "is not designed to help evaluate the amount of insurance on all properties, but it can be used for the average or intermediate-sized risk," the vp said.

More than \$200 million in business property insurance coverage was underwritten by Hartford last year. ■

Fire losses up

An estimated \$297 million in fire losses was reported for the month of June by the Insurance Services Office. This shows an increase of \$74 million over last year's figure. The estimate is based on individual company reports of insured losses, the office noted. In taking company reports of insured losses and allowing for additional uninsured losses, ISO said it is able to put together what it considers a reasonable estimate of the total fire losses.

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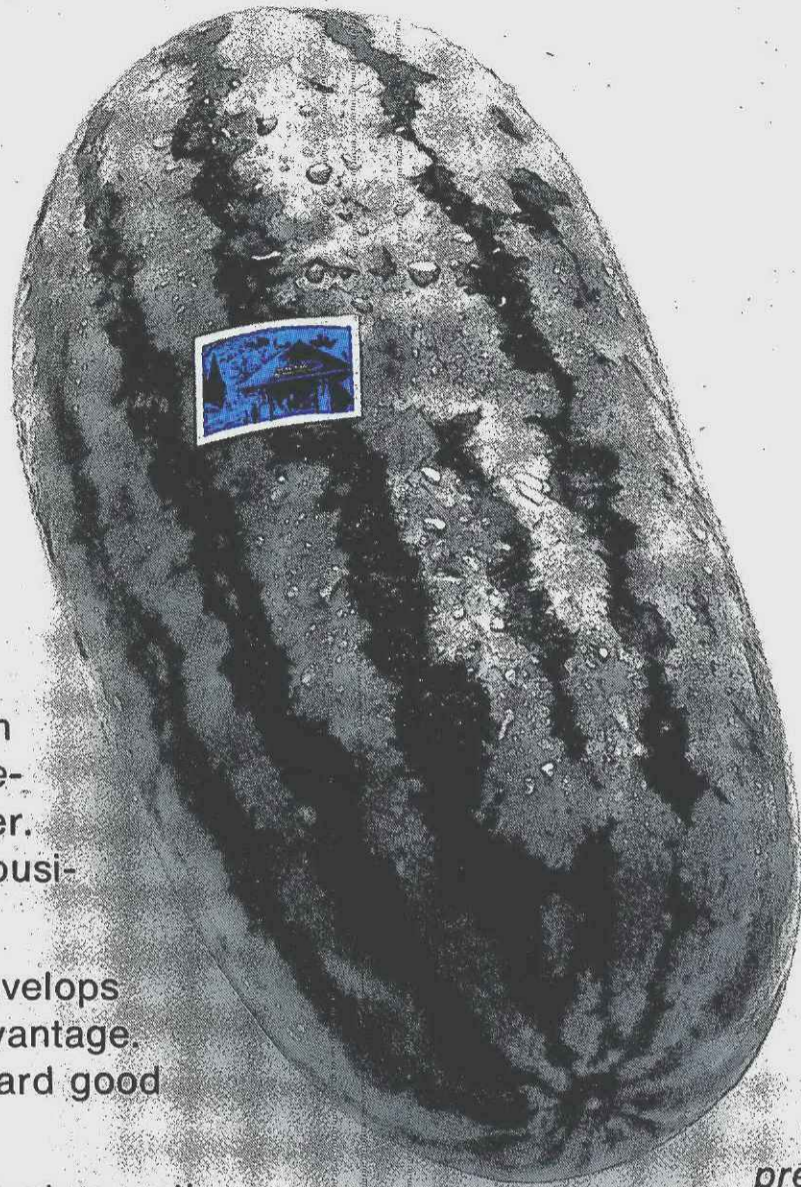


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Here's how we were put to the test recently. Employers Insurance of Wausau was a long-time workmen's compensation insurer for the Valspar Paint Corporation. When the firm was purchased by the Minnesota Paint Company, we immediately solicited *all* of the compensation coverage for the combined entity.

But the new parent organization said, "Not so fast — let's keep different insurance companies on different parts of the business and see how they perform. *Then* we'll decide if we should place all

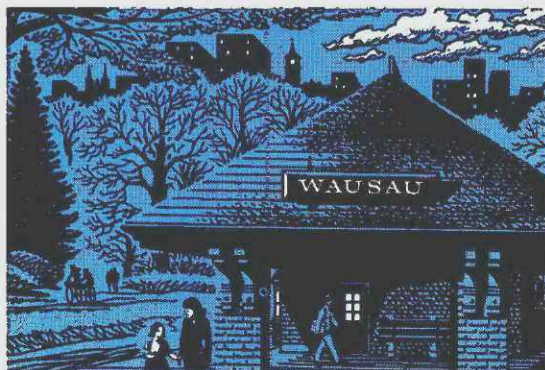
of the insurance with one company."

A year went by. Then two. And at renewal time, Employers of Wausau was awarded the entire account. On the basis of service. And the policyholder's confidence in our ability to *prevent losses and reduce their insurance cost in the long run.*

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labor beat

Top mine safety official hit with worker wrath for being 'ineffective'

WASHINGTON—The top federal mine safety official is in a fight for his job with a tough-talking United Mine Workers union that marched to the Interior department here this month to demand his ouster.

The target of the mine workers' wrath is James Day, a 44-year old attorney and former Central Intelligence Agency employee, who was appointed administrator of Mining Enforcement and Safety Administration (MESA) in August, 1973.

Mr. Day is to mines what John Stender is to the Occupational Safety and Health Administration. "We cover everything, above and below ground, all the way to sand and gravel pits," said a MESA official.

MR. DAY'S appointment is still awaiting confirmation by the Senate labor and public welfare committee, whose members, significantly, don't seem to be in a hurry to take up the matter.

Sen. Richard Schweiker (R-Pa.), up for reelection this year, has been the only labor committee member so far to come out publicly in favor of Mr. Day's removal. He told a group of mine workers this month that President Ford may dump Mr. Day in favor of a labor-supported candidate.

There is concern about Mr. Day's appointment among both Republican and Democratic members of the Senate labor and public welfare committee, said a spokesman for Sen. Harrison A. Williams Jr., the committee's chairman.

Although only Sen. Schweiker has taken a stand against Mr. Day, "no one has come out in support of Mr. Day," the spokesman said.

A spokesman for Mr. Day denied that there has been any

move by the Ford administration to change top leadership at MESA. "All we've had is support from the secretary of the Interior," the spokesman said.

THE MINE WORKERS' march on the Interior department came in the midst of a special five-day "memorial" called by the union in memory of miners killed in mine accidents.

Mines across the nation were shut down by the memorial,

which is permitted under terms of the United Mine Workers contract. The contract allows the mine workers five more memorial days off the job before it expires this November.

(One side-effect of the memorial shutdown is that the United Mine Workers welfare and retirement fund, already strapped for cash, will be deprived of about \$6.4 million in income. The fund's revenues come entirely from an 80 cents per ton royalty

on each ton of coal mined. Normal weekly production would have been about eight million tons. Normal income for the month of August is about \$26 million.)

Mr. Day was employed by the CIA from 1956 to 1960 and then was in private law practice until 1970, when he was appointed director of the office of hearings and appeals in the Interior department.

THAT OFFICE heard appeals from coal mine operators objecting to fines levied on them under terms of the Federal Coal Health and Safety Act of 1969.

The mine workers have charged Mr. Day with being an ineffective "political hack." The political tag comes from Mr. Day's service on Sen. Barry Goldwater's (R-Az.) campaign staff in 1964 and former President Nixon's campaign staff in 1968.

The mine workers accuse Mr.

Day of being lax in enforcing MESA provisions, of actually proposing amendments they say would "gut" the law, and point to 800 mine fatalities since the 1969 coal mine act was passed.

They also charge that the Interior department has collected only about \$5 million of some \$27 million in fines levied by MESA inspectors.

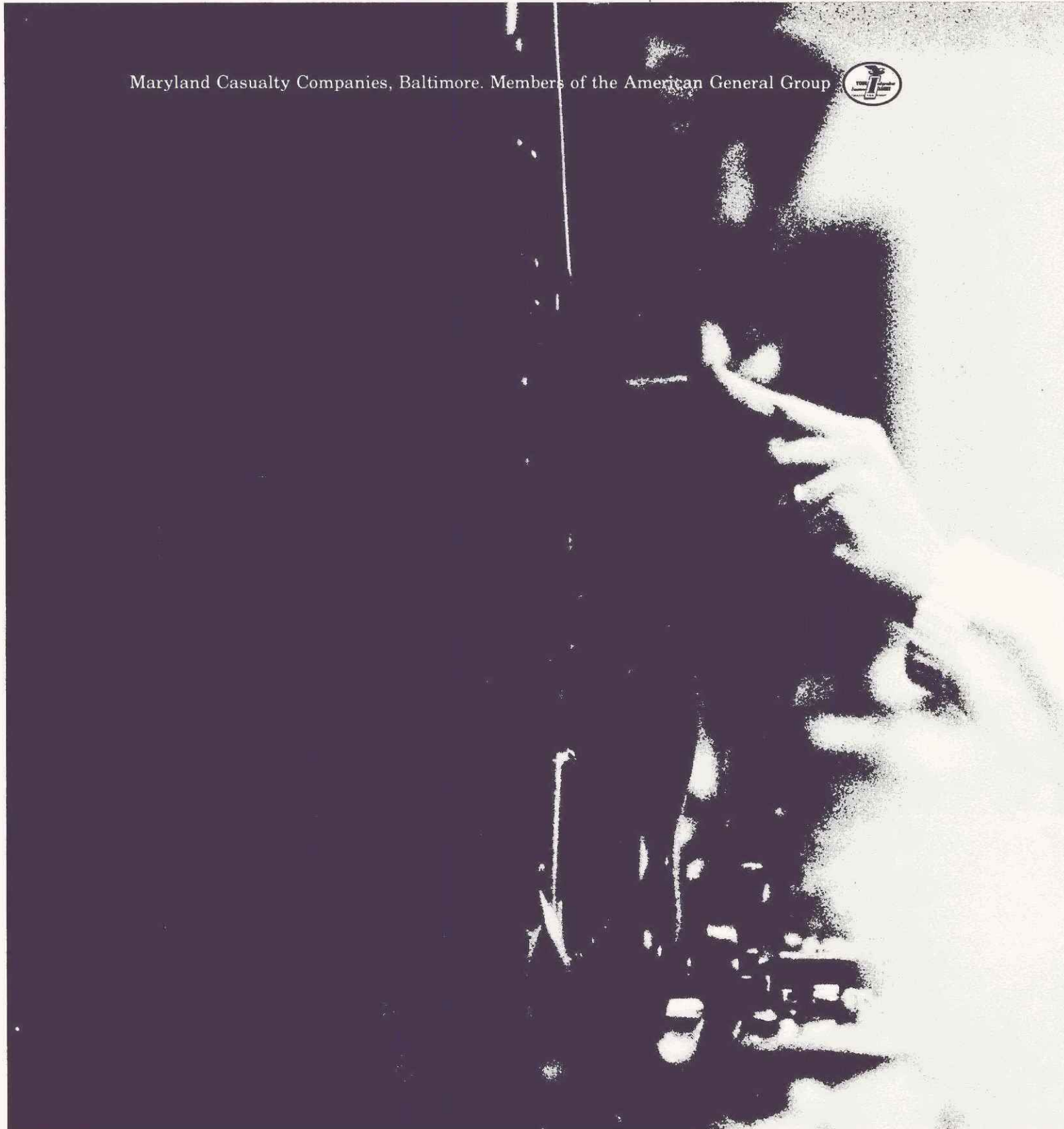
"To us that's a disgrace," said a union official. "There's no incentive for mine operators to heed the law when fines go uncollected."

Mr. Day's office disagrees with where the mine workers are placing the blame for these problems.

"They're saying Mr. Day and MESA are failing to collect these fines," said a MESA official. "We're not a collection agency. We can do nothing except urge the Interior department's Solicitor's office to get these fines paid."

Continued on page 7

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on page 46

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Labor beat . . .

Continued from page 6

"Mr. Day said the first thing he wanted to do was something about this assessment problem, but it's true that it is sometimes cheaper for the mine operators to fight the claims in court than purchase the new equipment that the safety rules require," the official said.

The Bituminous Coal Operators Assn., representing the bulk of coal mine operators, had "no comment" on the entire controversy when contacted by this magazine.

MR. DAY'S office vigorously defends the record of their safety enforcement activity, citing 2,800 federally ordered mine closures for safety reasons so far this year, compared with 1,900 for the same period last year.

Deaths from accidents in underground mines have declined

every year since 1970, when 206 were recorded. A total of 99 deaths in underground coal mines were recorded in 1973, "the lowest in the history of the United States," according to Mr. Day's office.

The rate of disabling injuries has also been declining, MESA says, from around 54 per million man hours worked in 1973 to a figure of around 34 per million man hours so far this year.

The mine workers and some Capitol Hill sources close to the situation told *Business Insurance*, however, that there is dissatisfaction over too much "talk" and not enough tough enforcement action.

The union is expected to make a big issue out of safety in contract negotiations this fall, and if there is a strike, as now appears very possible, the safety issue could become more and more visible.

The impact of recent strip mining legislation, making in-

creased underground coal mining much more likely, together with the coal "crunch" that would result from a long strike this winter, may well be enough pressure to convince the Ford White House to sacrifice Mr. Day for peace.

The mine workers union, for its part, said they have no candidate in mind to take Mr. Day's place.

"It seems to us that the first priority is to get rid of Mr. Day," a union official said. ■

Brokers acquire firm

A Newark, N.J. insurance agency, Lewis M. Gabbe & Co., has merged with Alexander & Alexander Inc. insurance brokers. The Gabbe agency will become integrated with the Newark and New York offices of Alexander & Alexander. Mr. Gabbe, formerly president of the agency, was named a vp of Alexander & Alexander.

Railroad not assuming responsibility for blast

WENATCHEE, WA.—Damages from the railroad tank-car explosion here August 5 that killed two persons and injured 70 others will be "well over \$5,000,000," according to state insurance commissioner Karl V. Herrmann.

A spokesman for Burlington Northern said the firm is not "assuming liability or responsibility" for the blast, which occurred at noontime in the BN "Apple Yard" along the Columbia river just south of the city.

The spokesman said the railroad's main losses would be in the 70 cars destroyed and another 40 "damaged but salvageable" cars in the yard.

The possibility of sabotage still is being pursued, it was reported.

Dick Nickell, Chelan County sheriff, said his office had talked to several witnesses "who think they heard something . . . maybe shots" in the vicinity of the rail yard moments before the explosion.

However, a spokesman for DuPont de Nemours & Co., which manufactures Monomethylammonium nitrate, the chemical solution in the car that exploded, said the chemical could not have been set off by rifle shots or even blasting caps.

The spokesman described the chemical as "a flammable solid in an aqueous solution" that is used in combination with other chemicals to make water gels, a new type of commercial explosive. Known as "P.R.M. Solution", the chemical is inert by itself, he said.

Like BN, DuPont said that "it is too soon to assign liability" for the explosion that dug a hole 80 feet long, 60 feet wide and 35 feet deep.

THE INSURANCE Information Institute estimated 15 homes near the explosion were "heavily damaged" while 85 others had windows blown out.

The Cedargreen Food Corp., which has a cold-storage facility 200 yards from the sight of the explosion, estimated that 4,000,000 pounds of frozen peas, carrots and lima beans worth \$75,000 were destroyed.

A spokesman for that firm said \$600,000 damage was caused to the storage facility itself.

The tank car that exploded was made of a stainless-steel tank encased by 10 inches of insulation and an outer steel shell.

BN said similar tank cars have carried explosive materials such as gasoline and petroleum products. ■

Travelers in Japan

Travelers Indemnity Co. of Hartford was licensed to write general insurance in Japan. This move "will enable us to issue policies in The Travelers name to U.S. and other clients who have interests in Japan. It marks an important step in the expansion of our international facilities," Morrison H. Beach, chairman of the board and president of Travelers Corp., said.

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State lumbermen to self-insure under new law

JACKMAN, ME.—A number of previously uninsured lumber contractors will now be covered under Maine's first group self-insured workmen's compensation program, recently approved by the state's industrial accident commission.

Last October, the state legislature passed a law granting the formation of such groups. Northern Woods Logging Assn. motivated the legislation. The association's reward just came with approval to form the state's first plan.

Association members include 50 lumber contractors with between three and 50 employees, who cut wood on paper-company property, providing pulp and lumber.

Many of the members were previously uninsured. Although

the state of Maine has stringent workmen's compensation laws, it was not mandatory that an employer purchase this coverage until June 28.

Historically, the logging industry is dangerous. Statistics show that 25% of loggers injure themselves each year. Premiums for workmen's compensation coverage are high. Many small contractors have not been able to afford insurance. Thus, many workers suffered severe injuries, high medical costs and no compensation.

UNDER THE association's new plan, tougher safety programs will be introduced. A nine-man safety commission has already been appointed.

The cost of the group's safety program may be substantial. But

as one industry source explained, "I'd rather pay more money for a better safety program than have to pay after an injury." The problem, he added, is not the rate of injury, but the severity. It is rare that a logger comes out of an accident with anything less than a lost limb or paralysis.

This is the first coordinated industry effort to secure a safety program. Until now, no one has shown the concern. The association was optimistic that increased safety measures could improve its experience, lowering premium costs.

Self-insurers' Management Corp., a Boston-based concern, was in on the association's discussions from the beginning, five months ago. It came as no surprise when the firm was called on to administer and service the plan when it

was approved.

It has already established a field office in Jackman to service the program. The firm will handle safety engineering claims and collect computerized loss control data.

FIRM PRESIDENT, Alvin Sims, told *Business Insurance* that although the plan is self-insured, catastrophic coverage is provided through Reserve Insurance Co. The policy has an excess aggregate enabling the group to absorb up to \$75,000. Above that limit, the insurance company pays up to \$2 million, raised under the new plan from a \$1 million limit.

"The normal manual premium is approximately \$425,000 per year for the group now, but we're taking on new members" which may lower the costs considerably.

Mr. Sims added that he expects membership to double within the next year.

The premium covers the cost of the "catastrophe coverage, the service fee and claims payouts. The reserves are then invested and investment income is held on behalf of the members," Mr. Sims added.

Under the state's law, the maximum workmen's compensation benefit is two-thirds of the average weekly wage or \$87.50. Payments are made to the employee for life if the injury is severe. In case of death, the widow receives benefits until she remarries. Children are compensated until age 18.

NORTHERN WOODS Logging Assn.'s plan administrator, Marc Morin, was optimistic about the new plan. He said, "it's going to work out beautifully, although we don't have much experience" in this area.

His function is to direct the premiums and pay out administrative expenses. He explained that under this plan, costs may be considerably lower. This will not be evident, however, until at least the first quarter. He said, "costs could be quite a bit lower. We could run it with one man and one secretary."

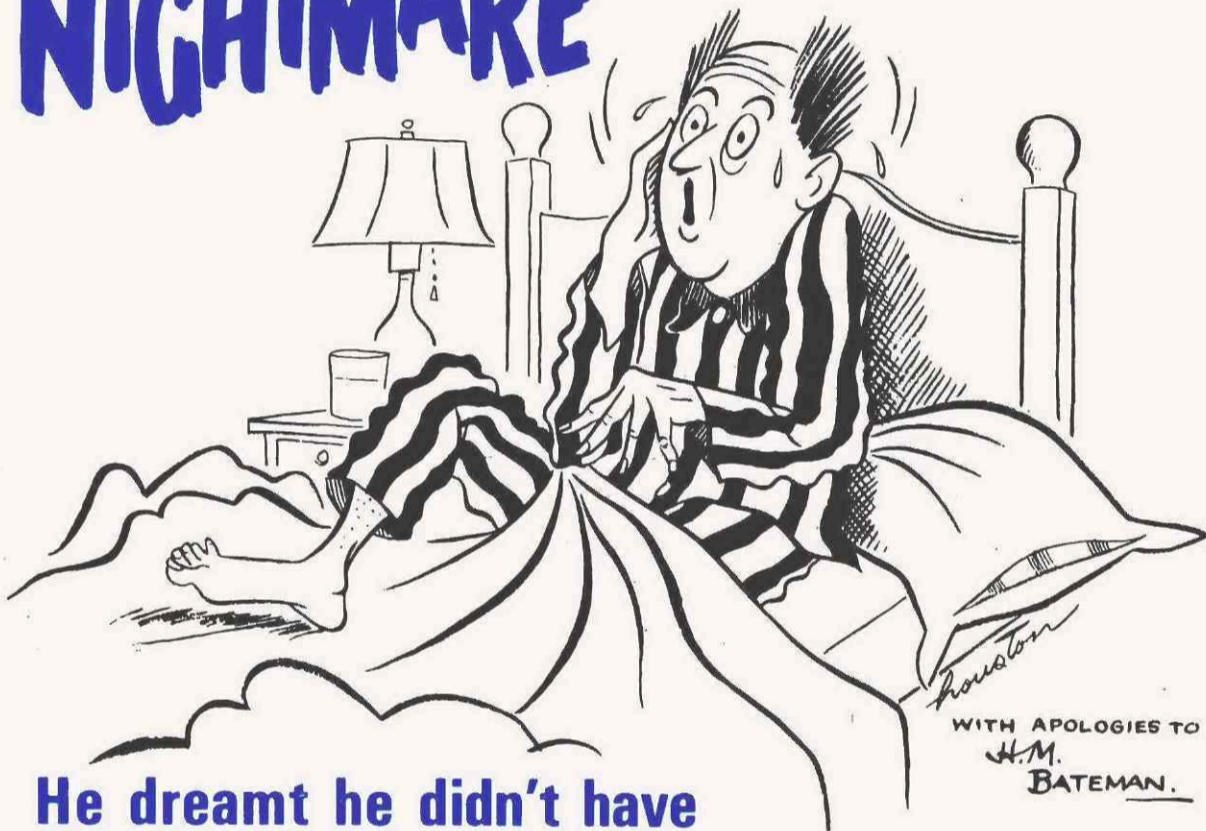
Under state law chairman of the Industrial Accident Commission must approve a plan such as this. John Keaney, chairman, signed it but is still not sure whether the plan will work. He said, "we're in virgin territory now and we don't know how it's going to work out."

THE CONCEPT of the plan is a positive one, he added. "Like any group insurance, it will permit organizations with similar type operations to join together and take one type of policy in workmen's compensation. This group realizes that to be effective they will have to have an exceptional safety program."

He assumed that the loggers would experience lower rates under the program. "They avoid the assigned risk surcharge of around 8%."

Frank Hogerty, Jr., the state's superintendent of insurance, is optimistic though uncertain how the plan will work out. He said, "It helps in the long run these people who have difficulty in maintaining lower rates. It's so new, it's hard to imagine how it will work out. We're hoping for the best. It may be beneficial to those employers who have high rates. Small contractor rates are very high. This may give them a lower rate of experience. Only time will tell." ■

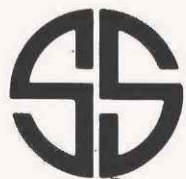
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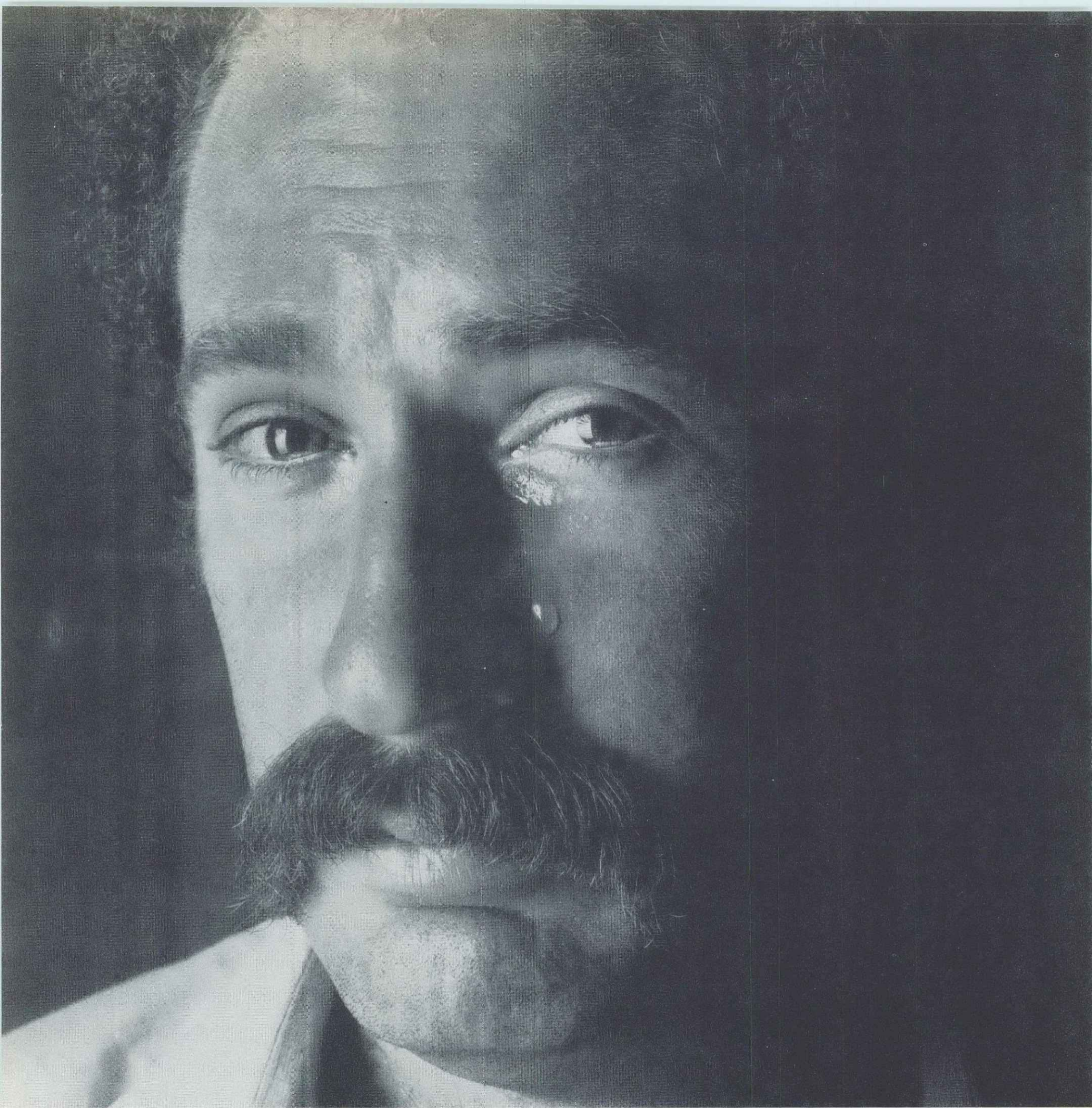
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Kidnap bill rejected by committee

SACRAMENTO— Legislation which would have banned any California corporation from using any of its assets for payment of ransom in kidnapping cases has been rejected by the assembly committee on criminal justice.

The bill, prompted in large part by the Patty Hearst kidnapping and the payment by the Hearst Corp. of large sums of money for food distribution demanded by the SLA, had been approved earlier by the senate.

Opponents to the measure had contended that the language of the bill, in effect, would have banned the use of corporate funds for the purchase of kidnap insurance. ■



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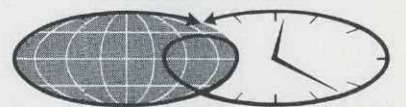
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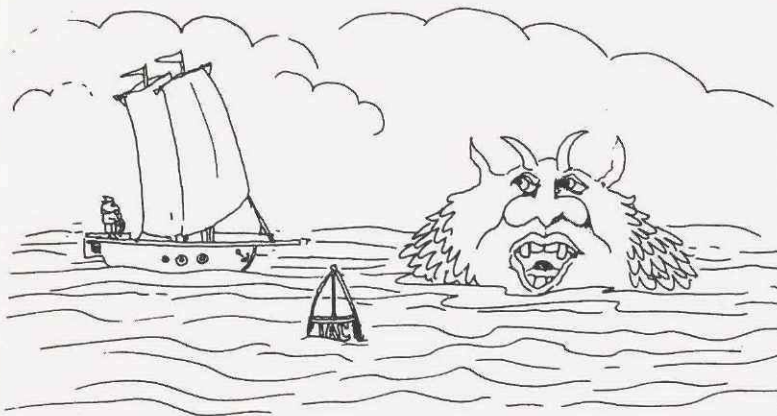
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- An article entitled **FIPP**, financial institution protection policy, describes in depth the new comprehensive chattel mortgage policy now available for financial institutions. This article, by Bernard J. Daenzer, president of Wohlreich & Anderson Ltd., discusses the three sections of the new chattel mortgage wording, which covers filing and non-filing of chattel mortgages, lenders single interest in respect of automobiles and other chattel mortgages, as well as physical damage to chattels repossessed by the assured. For a copy write Arthur Fullan, Manager-Financial Institutions, Wohlreich & Anderson, 55 John St., N.Y. 10038.

- **Washington Information: National Health Insurance** is a complete information service on the subject of national health insurance which includes monthly newsletters, special bulletins to keep subscribers informed on fast-breaking activities, summaries of House ways and means committee and Senate finance committee NHI testimony, etc.

Subscribers are provided with a loose leaf binder including summaries of the major proposals and other basic resource documents. For subscription information write Washington Information: National Health Insurance, 399 Howard Blvd., Mt. Arlington, N.J. 07856.

- **McDonnell Aircraft Co.** has recently begun a document reclamation service for firms whose business records have been accidentally soaked by defective sprinkler systems, floods, broken water mains, sewers, fire suppression efforts, etc. For a copy of the brochure explaining this service write Charles F. Bealke Jr., McDonnell Aircraft Co., Box 516, St. Louis, Mo. 63166.

- A technical bulletin illustrated by photographs and engineering drawings describes the new UL listed **Grinnel Duraspeed Cleaning** sprinkler that is recessed and enclosed into a ceiling to provide an attractive, unobtrusive fire safety system. Included are typical application, details of its operation and specifications. Write Grinnell Fire Protection Systems Co. Inc., 10 Dorrance St., Providence, R.I. 02903.

- **Stewart, Smith** has available their new brochure describing the improved **Public Officials Program** available to public entities, its officials and employees. Coverage as described in the brochure, provides protection for loss resulting from actual or alleged wrongful acts committed by the insured. For a free copy write Stewart, Smith Mid America Inc., 141 W. Jackson Blvd., Chicago, Il. 60604.

- **Human Resource Information Systems** is a report by Towers, Perrin, Forster & Crosby on HRIS, a computer-based system for collecting, storing, maintaining, and retrieving information pertaining to an organization's human resources. In particular, HRIS can be used in developing pension, incentive and employee benefit plans, employee benefit statements, governmental reports and actuarial evaluations. For a free copy write Miriam Goldfine, Towers, Perrin, Forster & Crosby, Three Penn Center, Philadelphia, Pa. 19102.

- **Self-Funding Through the Universal Health Care System** is an eight-page brochure describing the self-funding concept and the "health card." For a free copy write William Alcott, Universal Health Care Inc., 2281 Mack Ave., St. Clair Shores, Mi. 48080.

- The Property Loss Research Bureau has made available its latest audio training kit. The seven-minute cassette tape presentation, with an instructor's guide, uses a dramatic situation to illustrate the need for maintaining control in a property loss adjustment. For more information write the training and communications department, Property Loss Research Bureau, 20 N. Wacker Dr., Chicago, Il. 60606.

- **Royal-Globe Insurance Cos.** have issued **Insure to Value**, a

brochure describing the dangers of not insuring business property to current value. Included in the brochure are graphs showing percentage comparisons of increases in the cost of construction of ordinary masonry buildings, frame buildings, protected steel frame buildings and increases in cost of equipment. For a free copy write Joseph Venturelli, Corporate Communications Department, Royal-Globe Insurance Cos., 150 Williams St., New York, N.Y. 10038.

- **Dependent Life** is a brochure published by Teledyne Life Insurance Co. which explains how employees can participate in this program on an employee-pay-all voluntary basis via payroll deduction, paying \$3.50 monthly for \$10,000 decreasing term insurance for a spouse with \$2,000 level term on eligible children, with a no-cost conversion plan if the employee leaves the job. For a copy write Arthur Severe, Teledyne Life Insurance Co., 1901 Ave. of the Stars, Los Angeles, Ca. 90067.

- **Zurich Instant Price (ZIP) System** describes Zurich-American's new highly automated system of computer-calculated quotations for top security multi-peril package policies. This system can provide on-the-spot quotations in the agent's or client's office expediting rating, quoting, policy typing and overall policy insurance. For a free copy of this brochure write Zurich-American Insurance Cos., Wayne L. Perk, Communications Department, 111 W. Jackson Blvd., Chicago, Il. 60604.

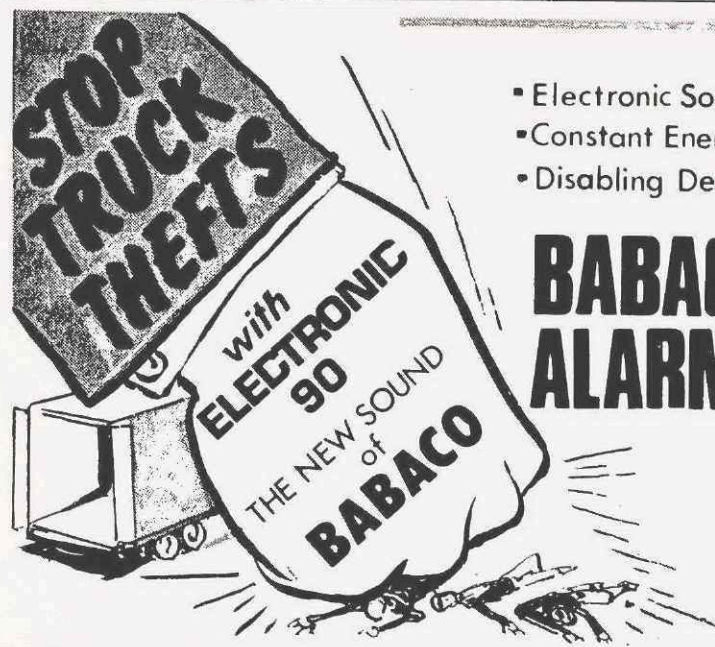
- An eight-page brochure on the **Kidde & Co. Hanlon 1301** fire extinguishing system is available for those interested in tape storage room and EDP equipment protection. For a free copy of **Hanlon 1301** write Advertising Manager, Walter Kidde & Co. Inc., 675 Main St., Belleville, N.J. 07109.

- The booklet **Puzzling Out Benefits in Europe** outlines facts which should be vital to the management of every company, large or small, with operations in Europe. It should be of greatest interest to those concerned with international operations: financial officers and others responsible for personnel, employee benefits, compensation and remuneration in general. For a free copy write Insuroper Secretariat, 45 Blvd. Bischoffsheim, 1000 Brussels, Belgium.

- **Marsh & McLennan** has made available a booklet titled **Employe Benefits in Portugal—the Changing Scene**. It describes and analyzes the present employee benefit situation based on the results of a survey of over sixty companies. For a free copy write William Welsford, Marsh & McLennan, International Benefit Services, 7 King St., East, Toronto, M5C 1A1, Canada.

- **Risk and Insurance** is a college level text which contains special chapters on risk management, international insurance, insurance law, interpretation of insurers financial statements, selection of insurers, etc. This 768-page book is available for \$10.50 by writing M. R. Greene, c/o College of Business Administration, University of Georgia, Athens, Ga. 30601.

- The Overseas Private Investment Corp. has published a booklet on Yugoslavia and the opportunities it offers for new market development. Titled **A Profile of Yugoslavia for U.S. Investors**, the brochure sketches the nation's history, political organization, social structure and geographical makeup. Subjects



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covered in the brochure include Yugoslav investment laws, transfer of profits, repatriation of investment and various management responsibilities and functions. For a copy write OPIC, 1129 20th St. N.W., Washington, D.C. 20527.

- **No Time For Bugs** is a booklet containing humorous case histories illustrating the right and wrong ways to handle medical situations. It was originally published by Time Insurance Co. for its own policyholders, but is now widely available. Its objective is to show readers how they can hold down medical expenses and inconveniences, particularly where hospitalization is required. For a copy write Communications Department, Time Insurance Co., 515 W. Wells St., Milwaukee Wi. 53203.

- **There's Money for You in IRM Commercial Inland Marine Lines** describes how agents have earned big commissions on IRM Commercial Inland Marine sales. It explains sales opportunities in various types of inland marine coverages. For a free copy write William Scholz, Improved Risk Mutuals, 15 N. Broadway, White Plains, N.Y. 10601.

- **Self Insurance and Captive Subsidiary Concepts**, a book by Robert J. McReil, covers the general progression of insurance from the fully-insured programs to the self-insurance concept and the final step, the captive insurance company theory. The price of the book is \$7.95 and is available from Self Retention Programmers Inc., 108 E. George St., Milford, Pa. 18337.

- Fire Protection Co. has come out with a 28-page illustrated brochure entitled **Halon Vapor and its 10-Second War Against Fire**. It reviews in depth the Halon qualities in automatic fire protection. The brochure is informative and profusely illustrated. For a free copy write R. C. Elder, Norris Industries, Fire & Safety Equipment Division, P.O. Box 2750, Newark, N. J. 07114.

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

- **The Occupational Safety & Health Act, Where It's At and Where It's Headed**, has been published by The Research Institute of America Inc. The study is designed to provide the smaller businessman with all the information he needs to comply with OSHA requirements. An index of all sources of information and a full table of contents is provided. The report is available at \$7.50 a copy and can be obtained by writing Dept. 111, Research Institute of America, Mount Kisco, N.Y. 10549.

- The Atlantic Cos. have produced a companion booklet to a previous publication, Meeting Occupational Safety & Health Act Regulations. The new booklet, entitled **Meeting Occupational Safety & Health—Revised Record Keeping Requirements**, covers accident, illness and other records that OSHA requires an employer to keep. A summary and updated corrected copy of

the OSHA record-keeping law and actual examples of completed required records are parts of this free booklet. For a copy contact J. Robert Adams, Secretary—Engineering, The Atlantic Cos., Atlantic Bldg., 45 Wall St., New York, N.Y. 10005.

- For a brief description of commercial credit insurance and its applications to commercial companies, read **Play It Safe With ACI**, published by American Credit Indemnity Co. For a free copy write Menza Wright, American Credit Indemnity Co., 300 St. Paul Place, Baltimore, Md. 21202.

- Alexander & Alexander offers a 10-page brochure outlining the professional capabilities and client services of its consulting actuarial division. For a copy write R. Scott Taylor, Alexander & Alexander Inc., 1185 Avenue of the Americas, New York, N.Y. 10036.

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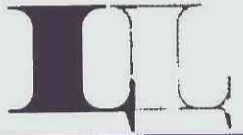
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LA explosion damage may run to \$8 million; trucker is insured

LOS ANGELES—Insurance sources estimate damage from the August 17th explosion that leveled part of a block of commercial buildings in an old industrial section of downtown Los Angeles will range between \$6.5 million and \$8 million.

"Virtually all of the damage is covered by standard fire policies," said Richard G. Laird, branch manager, General Adjustment Bureau, an office which is representing about \$2 million of the estimated loss.

Mr. Laird told *Business Insurance* he believes there will be no problem either for the businesses damaged by the blast or for the underwriters that originated policies protecting the structures.

The reason, he explained, is that most of the businesses affected by the explosion held fire insurance and business interruption coverage with more than a single underwriter.

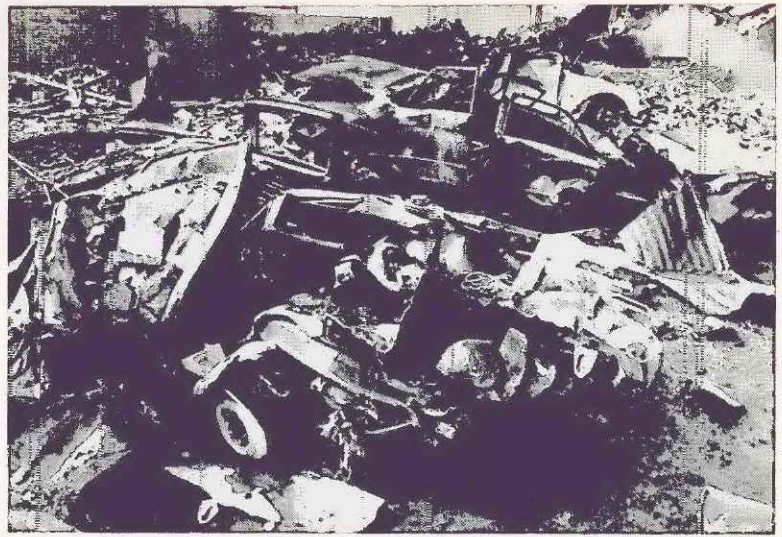
"AS A RESULT, I do not think that any carrier will be hit for more than \$1 million," estimated Mr. Laird, pointing out his office is dealing with 15 to 20 companies with offices in the devastated area. They hold standard fire policies with such underwriters as Hartford Fire Insurance Co., Fireman's Fund American, Pacific Indemnity and U.S. Fidelity & Guaranty.

A trailer loaded with several thousand pounds of benzoyl per-

oxide, a chemical sensitive to heat and said to self-ignite at 176 degrees, is thought to have been the probable cause of the blast.

It was parked for a day and a half in the warehouse area of the Interamerican Star Trucking and Warehouse Corp., the owner of the truck. Authorities theorize that prolonged exposure to the sun may have triggered a powerful chemical reaction. However, a fire department official noted that the chemicals can react adversely to a variety of factors and substances other than the sun.

Sources at the trucking/warehouse firm said the company has "adequate insurance protection" against property losses suffered in the explosion, and against any



Autos smashed into twisted debris by an explosion in L.A. Wide World

potential liability claims which may arise. However, the company is not acknowledging any liability for the explosion and

resulting fire, nor is anyone at the firm making any comment about the cause of the blast or total damage suffered as a result.

ONLY FOUR persons were injured in the explosion and resulting fire which occurred in the evening. Of these, only one was seriously hurt.

Still the blast was forceful enough to have been mistaken by some observers for an atomic bomb and by others for a serious earthquake.

Claims by the alphabet bomber, now thought to be identified and jailed, that he had a role in the explosion have been discounted by the police. The bomber has admitted planting the explosives that killed three people and injured more than 30 at Los Angeles International Airport August 6 (*Business Insurance*, August 19).

New pension laws likely to emerge in 1975

CHICAGO—"Congress is not likely to close the matter of pension reform in 1974," says Hewitt Assoc., employe benefit consultants.

Thomas H. Paine, managing partner of the firm, looks for future legislative action on three pension fronts:

- mandatory immediate vesting;
- control of investments;
- reductions in maximum benefits and contributions to qualified plans.

THE FIRST of these areas Mr. Paine sees as "an extension of the theme which says that the money in a company's pension fund is, in effect, the property of those covered by the plan."

As part of the trend toward immediate vesting and portability, Mr. Paine believes "we should anticipate requirements that benefits must be vested in the event of death as well as termination."

N.C. agency merges

James J. Harris & Co., the largest insurance agency in Charlotte, N.C. with 45 employees, announced that an agreement in principle was reached to merge with Marsh & McLennan Inc. As a subsidiary of Marsh & McLennan, James J. Harris & Co. will continue to operate under present management. The transaction will involve an exchange of an undisclosed number of shares of common stock of Marsh & McLennan Corp., Marsh & McLennan's parent corporation. The agreement is subject to the approval of both companies' boards of directors.

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| | (THOUSANDS) | | | | | | | | | | | | | |
|---|-------------|----|----|----|-----|-----|-----|------|------|------|------|------|------|------|
| | 10 | 25 | 50 | 75 | 100 | 300 | 500 | 1000 | 3000 | 5000 | 5010 | 5050 | 5100 | 5300 |
| Auto B. I. Per Person | | | | | | | | | | | | | | |
| Auto B. I. Per Occurrence | | | | | | | | | | | | | | |
| Auto P. D. Per Occurrence | | | | | | | | | | | | | | |
| General Liability B. I. Per Occurrence | | | | | | | | | | | | | | |
| Aggregate Products B. I. | | | | | | | | | | | | | | |
| General Liability P. D. Per Occurrence | | | | | | | | | | | | | | |
| General Liability P.D. Aggregate | | | | | | | | | | | | | | |
| Personal Injury (e.g. Libel, Slander, etc.) | | | | | | | | | | | | | | |
| Blanket Contractual B. I. | | | | | | | | | | | | | | |
| Blanket Contractual P. D. | | | | | | | | | | | | | | |
| Advertising Liability | | | | | | | | | | | | | | |
| Care, Custody & Control | | | | | | | | | | | | | | |
| Aircraft (Non-owned) | | | | | | | | | | | | | | |
| Watercraft (Non-owned) | | | | | | | | | | | | | | |
| Malpractice (Incidental Medical) | | | | | | | | | | | | | | |
| Worldwide | | | | | | | | | | | | | | |

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Compromise bill directs OPIC to end direct writing by early 1980's

WASHINGTON—The Overseas Private Investment Corp. (OPIC) will end its direct insurance writing activity by the early 1980's and then confine its new business activities to reinsurance, according to a compromise bill approved by Senate and House conferees this month.

The bill will extend OPIC's operating authority until the end of 1977. Its current authority ends this year.

OPIC is the government agency which provides insurance against expropriation, inconvertibility, and war risks to encourage U.S. firms to invest in developing countries.

The compromise bill also eliminates a controversial Senate provision that would have placed potentially damaging limitations and restrictions on OPIC's reinsurance activity.

AS APPROVED in the Senate, the bill would have required any insurer seeking reinsurance from OPIC to accept an annual deductible equal to 50% of the amount of the insurer's highest exposure.

For example, if a private insurer purchased reinsurance with a face value of \$50 million in three separate countries and for \$100 million in a fourth country, the deductible under the Senate formula would have been \$50 million.

The conferees instead adopted more flexible House language that will require OPIC to negotiate to increase "to the maximum extent possible" the deductible to be borne by the direct insurance

UAW wins benefits for forced leaves

DETROIT—Pregnant workers forced to take maternity leaves are entitled to unemployment compensation benefits, a federal judge ruled after a class action suit was filed here by the United Auto Workers.

The judge declared the practice of denying benefits under the Michigan Employment Security Act "unlawful" if women are forced out of work solely because of mandatory maternity leave contracts and policies.

The judge ordered the Michigan Employment Security Commission to reopen the claims of all employees who were denied jobless benefits since April 5, 1972 solely because of maternity leave policies.

Those who were denied benefits between June 30, 1965 and April 5, 1972 still have the right to press claims, the judge emphasized. ■

Buy benefits agency

The Elliott Insurance Agency Inc. of Kansas City, Mo. was recently acquired by Financial Guardian Insurance Agency Inc., also headquartered in Kansas City. The Elliott agency, marketers of employe benefit programs, pension and profit sharing plans, will be used to expand the pension and profit sharing operations of Financial Guardian. William F. Dwyer, a principal and associate of the Elliott agency, will direct the mass marketing department of employe benefits for Financial Guardian.

writer.

OPIC officials had feared that the Senate language would upset ongoing negotiations designed to get private insurers to assume more of OPIC's existing risks with OPIC in turn becoming the reinsurer for those risks.

CONGRESS IS expected to agree that OPIC will write no new direct expropriation or inconvertibility policies after Dec. 31, 1979, and no new direct war risk policies after Dec. 31, 1980.

A suggested but not mandatory, series of phase-out guidelines is included in the bill for gradually reducing OPIC's direct insurance writing role between now and the final phase out date.

Beginning Jan. 1, 1975, OPIC is to attempt to get 25% private participation in all new expropriation and inconvertibility direct coverage. That figure moves up to 50% for new contracts signed after Jan. 1, 1978.

For war risks, the first target is 12.5% private participation after Jan. 1, 1976, and then up to 40% after Jan. 1, 1979.

OPIC is to report to Congress its reasons if it is unable to meet these guidelines. The legislators will be able to survey the progress made before voting to extend OPIC's operating authority for another period of time.

OPIC will be allowed to write up to \$600 million a year in reinsurance over its new three year

operating period, according to the bill.

The ceiling of \$7.5 billion for direct insurance commitments remains in tact under the compromise bill.

THE DEBATE over OPIC was especially sharp this year with critics such as Sen. Frank Church (D-Id.) and Sen. Mike Mansfield (D-Mt.) noting that OPIC's biggest customers were Fortune 500 type corporations and calling the government insurance program "socialism for the rich."

Partially as a result of that, the new legislation directs OPIC to give preferential treatment to investment proposals of businesses with \$2.5 million in net worth or \$7.5 million in total assets, more definite language than in the existing law.

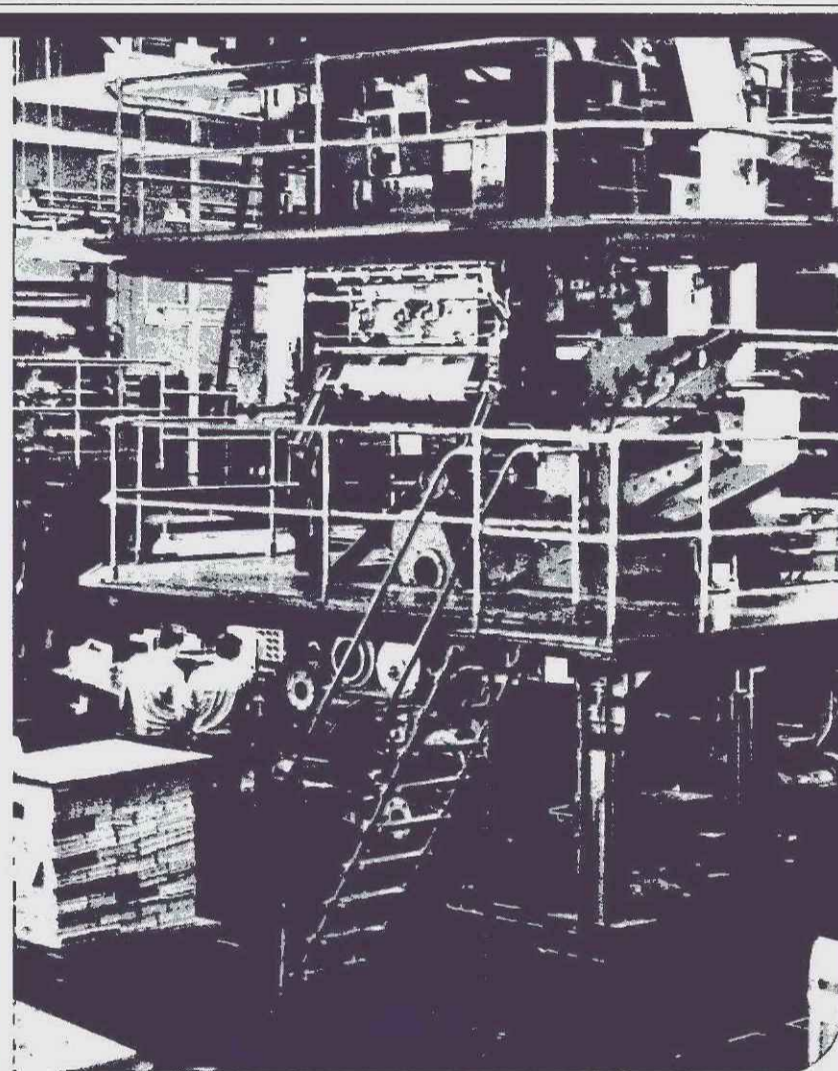
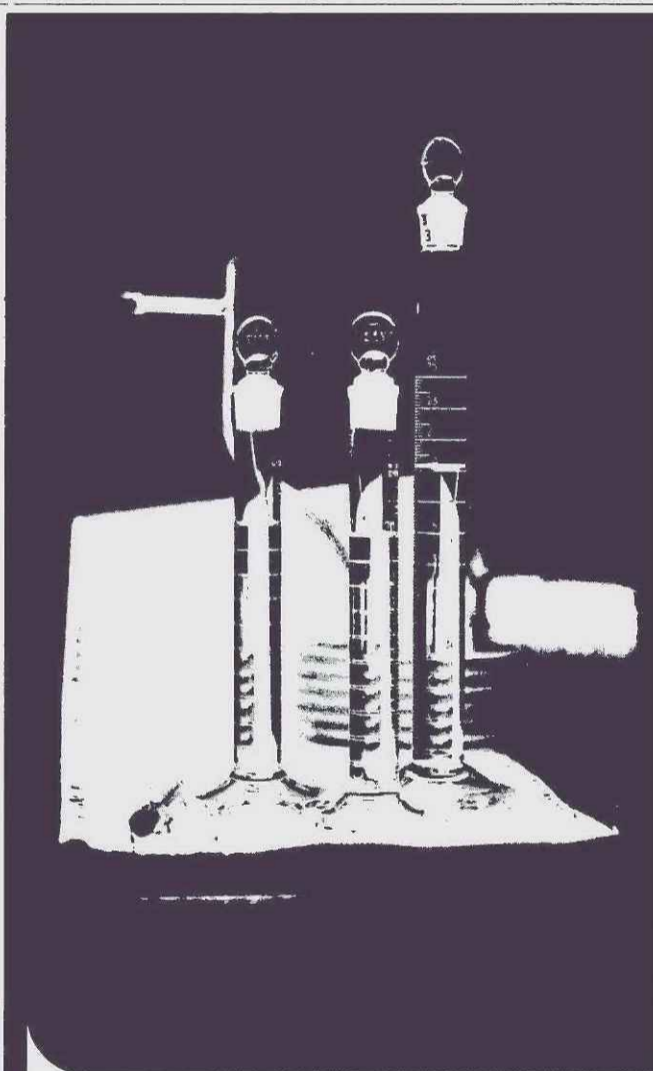
OPIC officials and spokesmen for critics such as Sen. Church have indicated satisfaction with the compromise bill. ■

OPIC to consult with Congress re Indochina

WASHINGTON — Senate and House conferees stopped short of giving the Overseas Private Investment Corp. authority to insure U.S. investment in Indochina in compromise legislation this month extending OPIC's life another three years.

The House foreign affairs committee had recommended that OPIC "prudently" exercise its insurance authority in that area, but that has been scrapped in the face of Senate opposition.

Congress wants OPIC to consult with it before writing Indochina insurance and they want "significant", private participation in any eventual insurance contracts.



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St. Paul seeks increase for malpractice cover

RALEIGH, N.C.—St. Paul Fire and Marine Insurance Co. is requesting approval of a rate increase—averaging 82%—for medical malpractice insurance in North Carolina.

Current rates for doctors' professional liability insurance are inadequate to cover future losses, St. Paul vp Donald L. Clifford told insurance commissioner John R. Ingram at a public hearing.

Increases for basic limits of liability would range from \$79 to \$393 depending on the doctor's risk classification, Mr. Clifford said.

St. Paul insures about 3,400 of the 4,360 members in the Medical Society of North Carolina. Mr.

Clifford reported at the hearing that North Carolina's doctors now have the second-lowest St. Paul rates in the nation for medical malpractice insurance. St. Paul's rates are lowest in South Carolina.

THE LAST RATE increase St. Paul made in the state came in January, 1973, when the company boosted malpractice coverage rates 23%.

Mr. Clifford blamed the need for a rate increase in inflation, procedural law in the negligence area, rising demand for improved health care, "and the increased tendency of people to sue for all types of harms, real or imaginary."

For coverage between 1969 and 1973, St. Paul expects to pay out \$121 in claims and expenses for every \$100 of premiums, Mr. Clifford noted. Predictions of future claims costs are not optimistic, and the insurance industry is suffering a "malpractice crisis."

"It will be ten or more years before all of the injuries arising out of this year's business will mature into actual paid claims," he said. "It will be four or five years before the major number of injuries occurring this year will be actually reported as claims and settled."

Uncertainty over the size and scope of these future claims is a big reason why many insurers are discontinuing their medical malpractice insurance, according to Mr. Clifford.

"Last year we established a special department to research and introduce ways of preventing malpractice incidents, to help doctors explain to patients the

inherent hazards of medical treatment and to speed up and simplify claims settlement procedures in order to reduce the high cost of legal defense and other claims costs.

"It will take some time for these efforts to succeed. In the meantime, we simply cannot afford to take on the kind of risk this business represents without having a rate adequate to cover claims and expenses."

DR. WILLIAM HILLIARD, executive director for the Medical Society of North Carolina, said he thought some increase in rates is justified, "but it's up to the commissioner to decide how much it should be."

The president of the medical society appeared at the public hearing, Dr. Hilliard noted, but he did not offer an official statement on behalf of the society.

The medical society in North Carolina is "interested in passing

on as much information as is available to members concerning malpractice," he said, "or on any other subject which may be of interest."

But Dr. Hilliard opined that "we have much less of a (malpractice) problem than most other states." ■

Allstate to pay Florida \$100,000

TALLAHASSEE—Florida insurance commissioner Thomas O'Malley ordered Allstate Insurance Co. to pay the state \$100,000 last month for breaking insurance regulations.

In a consent order signed August 13, Allstate agreed to pay the "administrative penalty" without officially admitting that it violated any laws.

"The penalty to be paid by Allstate is the largest ever assessed against an insurance company in Florida," Mr. O'Malley said. "The order requires that the company comply with the provisions of the insurance laws and rules and regulations of the insurance department."

The insurance department charged earlier this year that Allstate allegedly failed to properly apply a 15% compact car discount, failed to follow rules and rates on employers' group auto coverage, improperly classified commercial vehicles, misapplied excess limits factors on liability insurance, and used an unlicensed claims adjuster, among other alleged violations.

AN ALLSTATE spokesman said "we believe that Commissioner O'Malley's order speaks for itself. It constitutes a compromise of sharply disputed issues. It does not constitute any admission of violation of law or of impropriety on the part of Allstate Insurance Co. It avoids the time and expense of protracted litigation. Further, it enables us to devote our full attention to serving our policyholders and selling insurance."

The consent order stated that Allstate would "implement all necessary procedures to comply fully at all times with the provisions of the insurance code and the rules and regulations of the insurance department."

A review of Allstate's latest rate increase, which began last November, is still pending before Mr. O'Malley.

Allstate is the second-largest automobile insurer in the state of Florida. ■

Sav-A-Stop profiles insurance manager

Sav-A-Stop Inc., based in Jacksonville, Fl., profiled in its 1973 annual report Richard E. Sansom, Jr., corporate assistant treasurer, who joined the firm in 1969 and is responsible for cash, credit and debt management as well as insurance management. The report, devoting four pages to profiles of key middle managers in the company, noted that Mr. Sansom has an MBA from Wharton, and worked for a leading bank in Atlanta and as budget manager for a major industrial company in that city before joining Sav-A-Stop. Mr. Sansom was quoted as saying "We've always believed in maximum management of a minimum amount of cash . . . the better we manage our liquid assets the better we are using all the resources at our disposal." ■

7000 hour veteran.

At seventeen, Emily Howell was still an aspiring stewardess who had yet to take her first airplane ride. So she bought a round trip ticket from Denver to Durango to see what flying was like. □ "On the return flight, I was the only passenger and they let me ride up front for awhile. That's when I fell in love with flying. I knew right then I wanted to be a pilot." □ Within the year, Emily had earned her private ticket and today she's a 7,000 hour veteran. More significantly, she's the first gal ever hired by a scheduled U. S. airline as a flight crew member. □ When she's not flying for Frontier, she likes to fly her own Cessna 182 for fun. She insures it with USAIG. □ Why USAIG? "It just seemed natural," she says. "I knew they were real pros because a lot of my friends insured with them. When my agent recommended USAIG, I felt like he was recommending an old friend."

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Retroactive cover for alcoholism treatment

SALEM—The Oregon employees benefit board approved retroactive coverage for the treatment of alcoholism that apparently will cover Sen. Bill Holstrom of Gearhart, Senate majority leader.

Ralph Bolt, manager of the board which handles group insurance for 31,000 state workers, confirmed that the board voted at its Jan. 1974 meeting to make benefits retroactive to July 1, 1973.

The action came after Sen. Holstrom made an appearance before the board to seek the retroactive coverage.

The senator entered Raleigh Hills Alcoholism Treatment Center, Portland, shortly after the 1973 Legislature adjourned. Cost of the program ranges from \$1,300 to \$1,700.

THE LAWMAKER earlier had submitted a bill to Blue Cross for the treatment but was turned down, it was disclosed.

Mr. Bolt said the issue of insurance coverage for "alcoholism arrestment" (as opposed to treatment in emergency cases for both alcoholism and drug addiction) first came up at the board's meeting last November.

The manager recommended that alcoholism arrestment be included under the Blue Cross coverage, but he recommended against making the program retroactive.

Commission bans vinyl chloride in aerosol cans

WASHINGTON—The Consumer Product Safety Commission this month said it will ban the use of vinyl chloride in aerosol household products.

The ban, issued under the authority of the federal hazardous substances act, will take effect 45 days after publication in the Federal Register unless sufficient legal arguments against are submitted to the commission to voice a public hearing.

The commission said that, to its best knowledge, vinyl chloride is not now being used in newly manufactured aerosols, but the substance may be contained in aerosols which were manufactured several months ago.

AT THE TIME of the ban, all manufacturers, distributors, and retailers will be required to post lists of specific products which are covered by the ban, and consumers will be able to return these products for a refund.

Aerosol products believed to have contained vinyl chloride include paints and finishes; protective and decorative coatings, paint removers, adhesives, and solvents.

The commission said there is no evidence directly linking cancer to the use of aerosols containing vinyl chloride, but that consumers are subject to inhaling it when aerosols are used.

The commission also pointed out that although there is no known safe exposure level, the degree and nature of the hazard presented by the products "is such that the public health and safety can be adequately served only by keeping these products out of the marketplace."

roactive "based on my input from consultants and actuarial tables."

The board deferred action but at the December meeting, Sens. Keith Burbidge and Norm Howard appeared before the board asking that cure programs be covered and the program made retroactive.

Mr. Bolt disputed reports that the alcoholism treatment would add some 18.2% to the premiums paid by state employees.

He also said that in other Blue Cross contracts, treatment for alcoholism and drug addiction is "covered administratively. It's not written into the contract, but Blue Cross will pay it in many instances." State workers began paying a 12¢-a-month increase in

insurance premiums, twice as high as it would be if the board had not make the coverage retroactive.

Board members are state administrators affected by the budget decisions of the ways and means committee. Sens. Holstrom and Burbidge are members of that committee and Sen. Holstrom is a co-chairman.

"I THINK it was the implied pressure of who the parties were making the request that had the most impact," said Don Olds, insurance manager of the Oregon State Employees' Assn.

The alcoholism coverage costs an extra 6¢ a month. Because the coverage was made one year retroactive, the 31,000 state employees will pay that 12¢-a-month hike for the present fiscal year.

Mr. Bolt said maximum cost of the coverage is \$22,000 in a \$10,000,000 health insurance contract for state employees.

Wife of shooting victim gets work comp benefit

NEW YORK—Liberty Mutual Insurance Co. was ordered by the state workmen's compensation board to pay death benefits amounting to \$346 a month to the family of an air freight company salesman who was shot to death by a gunman late last year.

When Calman Goldberg, an employe of Shulman Inc., was killed last year, his wife filed for workmen's compensation benefits. Unsure whether this was compensable or not, Liberty Mutual submitted the filing to the board for its decision.

A spokesman for the insurance company said that "our investigation of the facts in the Goldberg case indicated that his death resulted from his chase of a

gunman on a public street. In our opinion, this was not a hazard of his employment as a salesman for an air freight company."

However, Liberty Mutual agreed to make payments after the referee, Mary Egan, declared, "I find that the accident arose in and out of the course of employment."

UNDER THE ruling, death benefits will be paid to the wife and two sons of the deceased salesman until the boys reach age 18. At that time payments will be somewhat lower.

"We are making payment of death benefits as soon as the formal notice of the award is received," a statement issued by Liberty Mutual noted.

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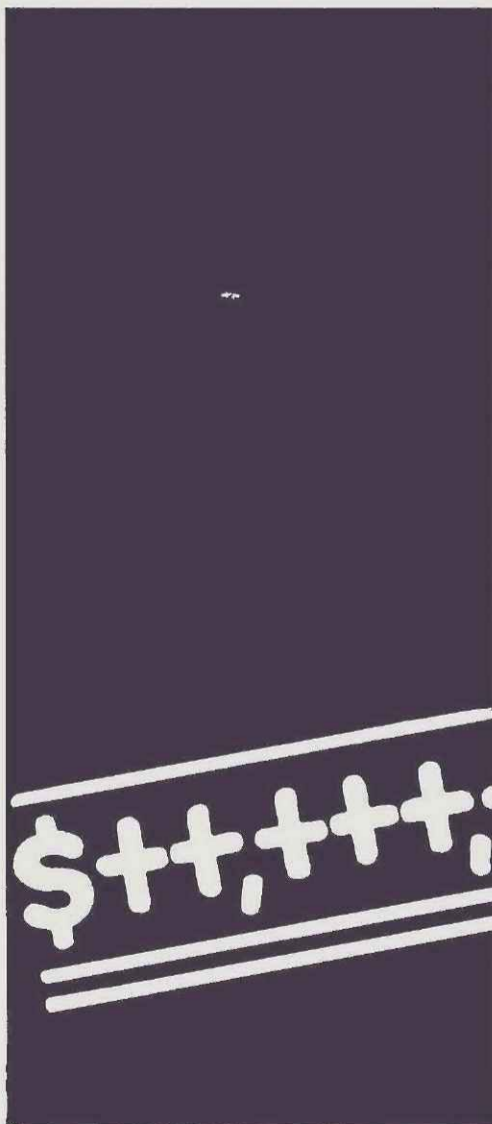
- Minimizing the sum of:
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- +
- Premiums for your insurance
- +
- Loss control expenses you absorb
- +
- Risk management administrative expenses

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editorial opinions

TRW experiment

THE FLEXIBLE approach to employe benefits is getting what may be its first large-scale tryout under a program begun last month by the West Coast systems group of TRW Inc. Some 11,000 of TRW's employes are involved.

Under the program, being underwritten by Aetna Life & Casualty through broker Fred. S. James, employes in TRW's systems division will now have 10 life insurance plans to choose among, 18 options on a new, separate accidental death and disability plan, and three choices for hospital/medical coverage.

To be certain, the flexible approach to benefits planning is not really new, though there are few instances where it has truly lived up to its name. The so-called cafeteria approach to benefits has been discussed from seminar platforms for years. Plans have been started and have fizzled. Others have been misused by employers and employes alike. Consider those, for example, that have been started by well-intentioned employers who have put X dollars on the table for employe benefits per employe and then let the employe pick and choose—in some cases, even, allowing the employe to pick up the cash instead of the more traditional forms of benefits. Many an employe, and employer, have learned such an approach just doesn't work.

It seems to us that TRW has studied well these past failures in planning its own experiment with the flexible approach to benefits.

"Frankly," says Tom Graham, financial director of TRW's West Coast divisions (*Business Insurance*, Aug. 19), "we do not think of flexibility in itself as a fringe benefit." Rather, he says, it's an attempt to create a more exact fit between an employe's needs and the benefits he receives.

Employes at TRW who opt for the least costly plan in each of the three major areas of coverage cannot request a cash credit; any sum saved in one area must be applied to another or not applied at all.

This seems a sensible approach to the oft-discussed subject of flexible employe benefits. The experience at TRW should be important for all benefits managers who have considered the approach, and we hope the company will candidly share the results when some become available.

Rail retirement

A COMPLEX PIECE of legislation under study by the House interstate and foreign commerce committee is designed to save the Railroad Retirement System from financial collapse predicted for the early 1980's.

But the legislation, it seems, fails to answer one important question: Why reform railroad retirement at all? Why not get rid of it?

The bill would have the Social Security system assume a \$4 billion debt that finances "dual benefits," the financial

cross that rail officials say has driven the retirement fund to the brink of bankruptcy.

Rail workers are the only employes in the private sector who have been able to qualify for, in substance, two Social Security benefits—one as a component of their railroad retirement benefit, the other under the Social Security Act as a result of employment in another industry.

Presently, this "windfall" is enjoyed by about 40% of the railroad work force. It's draining the railroad retirement system of 9% of their annual payroll (\$300 million last year), and the Social Security system is now being asked to pump the stomach for the overindulgence of railroads and unions in years past.

Considering the shape the Social Security system is itself in—or, rather, not in (*Business Insurance*, Aug. 19)—the railroads and unions, in ordinary times, should be told to look elsewhere. But these are extraordinary times, and there should be no question about it.

Trustee liability

THE EMPLOYE Retirement Income Security Act of 1974, which at this writing is awaiting the signature of President Ford, has some rather broad ramifications for the nation's business and industry. It also has some ramifications for risk and insurance managers—even for those without employe benefits responsibilities.

Insurance managers have for years been purchasing fidelity coverage for those responsible for handling their companies' pension fund assets, of course, but this has been a routine procedure and the markets for this type of coverage have long "settled down."

Now comes the pension reform measure which sets new federal fiduciary standards for pension fund trustees. The bill specifically states, too, that there can be no exculpatory clauses removing pension trustees from liability for mismanagement of fund assets.

As our Washington correspondent reported in the last issue of this magazine, these provisions are likely to "turn upside down a somewhat-sleepy market for trustee liability insurance."

Several underwriters, including the London market, have made trustee protective liability insurance available in recent years and the need—or shall we say, desirability—of the coverage becomes much more apparent because of the action in Washington.

Most of the present activity from underwriters, however, has been among jointly-administered pension plans which, until now at least, has been far more vulnerable to trustee liability. The Employee Retirement Income Security Act extends this vulnerability to single-employer plans, or the private pension system.

Undoubtedly, new underwriters will scramble for some of this business in moves that could become reminiscent of the history of directors and officers liability insurance.

We hope these markets will react responsibly.

letters

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

'Spell my name right'

To the Editor: There is no doubt that a publication such as *Business Insurance* can fulfill a very valuable function in the business insurance world. However, I believe that accuracy is a very important part of fulfilling this need, if it is to be of value to the insurance and to the business community. I realize that in this day and age, accuracy is the least important objective of the news media generally, but one would expect that a publication in a field such as yours would strive to be above the average.

Recently, one of your reporters phoned to, apparently, confirm a news release made by our public relations department. I refused to comment, because I have been informed by insurance manager after insurance manager, and risk manager after risk manager after risk manager, that at least 40% of news articles appearing in *Business Insurance* are inaccurate, and many times contain false information. The party on the telephone seemed quite surprised.

You may note on page 34 of your Aug. 5, 1974 issue, that, in keeping with this reputation, my name was spelled incorrectly. This error is being brought to your attention with the hope that accuracy will become more important.

M. D. Furman

Corporate risk manager, A-T-O Inc., Willoughby, Oh.

Editor's note: We've looked into Mr. Furman's complaint and, actually, our reporter was right. It was a typesetter and a proofreader who botched his name. It came out Mell instead of Mel.

We apologize for the error and will make every effort in the future to see that such typographical mistakes do not recur.

Not no-fault

To the Editor: In your August 5th issue you have an article entitled "One-half of population has no-fault". This was based on information released by the American Mutual Insurance Alliance.

If a valid definition of "no-fault law" is used, this is patently untrue.

For instance, Texas is listed as having "no-fault" legislation "without restrictions on the right
Continued on page 20

business insurance

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

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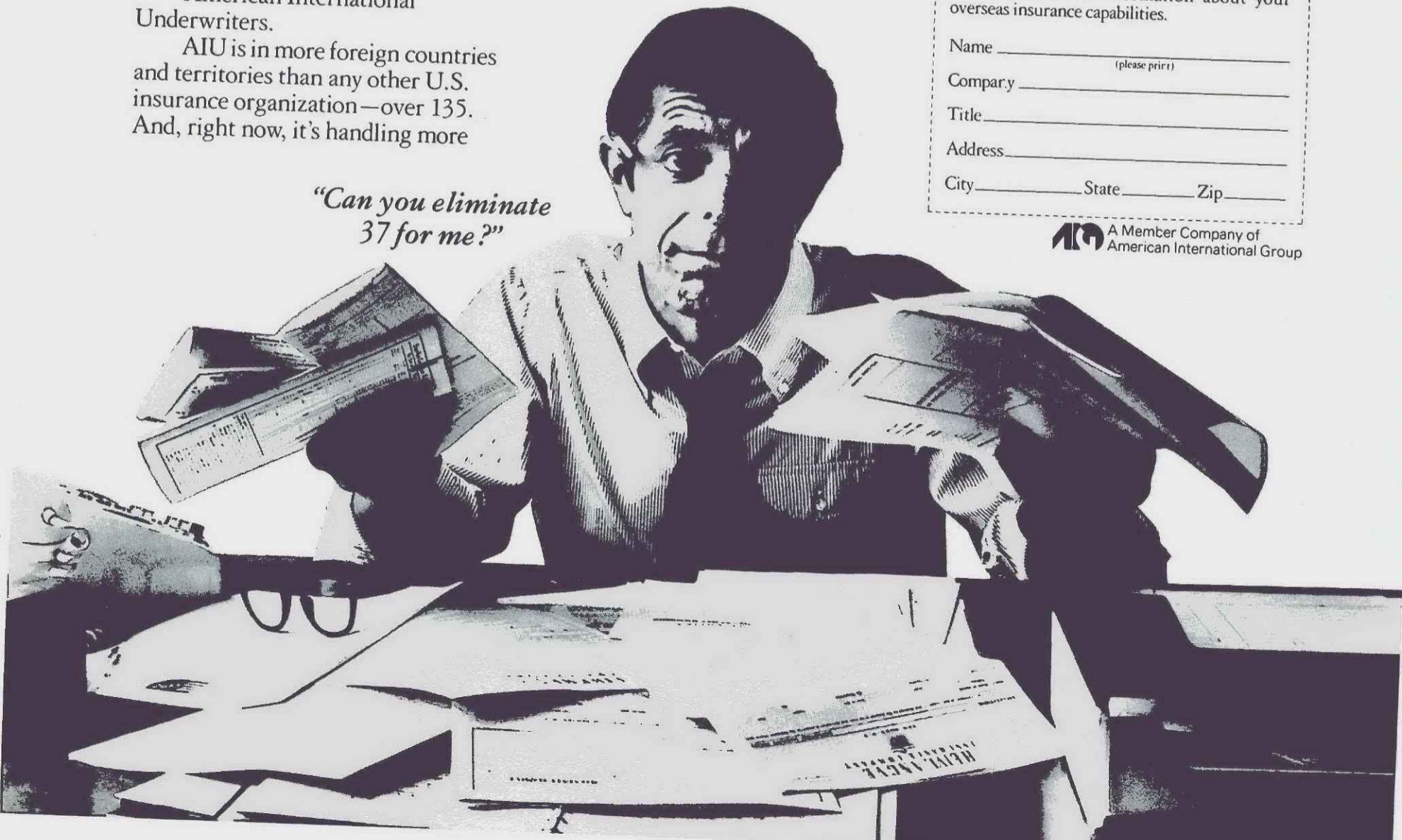
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Auto insurer reverses its stand on no-fault law

WASHINGTON—State Farm Insurance Co., the country's largest automobile insurer, advocated passage of federal no-fault insurance legislation before a Congressional committee last month.

Donald P. McHugh, vp and general counsel of the State Farm Mutual Automobile Insurance Co. of Bloomington, Ill., told the House interstate and foreign commerce subcommittee that State Farm would no longer support no-fault legislation on the state level.

"The states have not and, without the spur of federal minimum legislation, will not provide the motoring public with meaningful no-fault reform," he said.

The Nixon administration plan which promoted state action on

no-fault legislation was unsuccessful, Mr. McHugh noted.

"WE HAVE labored for three years to turn that hope into a reality. We are now convinced that that hope is badly battered, with little hope of revival—unless Congress acts to create federal minimum standards that all states must meet."

Mr. McHugh asked the committee to approve the Senate-passed bill S. 354, which creates minimum federal standards for no-fault auto accident coverage.

Without the enactment of a bill like S. 354, "no-fault will prove to be an idea whose time has come—and gone—with only a fraction of its potential realized for the public

whom all of us here are trying to serve," Mr. McHugh noted.

The state of the nation's economy makes no-fault timely, he added. "No-fault holds immense promise for all our citizens, especially in times like the present when inflation and economic uncertainty are forcing many consumers to spend more and more dollars for less and less value. In one important portion of the consumer's budget, no-fault has the potential to reverse that trend."

State acceptance of no-fault has been slow and much of the legislation in effect now is inadequate, Mr. McHugh said. Only 14 states have no-fault laws, and some of the most populous ones like California and Illinois have failed to pass no-fault legislation.

Former Solicitor General Erwin N. Griswold told the House subcommittee that no-fault is urgently needed to improve the automobile insurance system.

"The increase in mobility and

the increased interstate travel on the nation's highways have led to higher accident rates, which in turn have put severe strains on our inadequate and archaic liability insurance system," he said.

"If the matter is left to the states," Mr. Griswold added, "we get great diversity, with resulting uncertainty. This constitutes a serious burden on interstate commerce, and Congress, both as a practical matter in the regulation of interstate commerce and as a matter of constitutional law, may undertake to provide national standards."

MR. GRISWOLD was retained by State Farm and the American Insurance Assn. to study the constitutional questions involved in federal no-fault legislation. He told the House subcommittee that Senate bill S. 354 did not interfere with issues of constitutionality.

"There is no doubt that Congress has the constitutional power to determine the matter of liability for

automobile accidents on the nation's highway and to provide for the regulation of insurance for such accidents."

The due process clause of the Constitution's Fifth Amendment does not bar Congress from making changes in liability law, he explained. The Federal Employers' Liability Act and the Longshoreman and Harbor Workers' Compensation Act, for example, have been upheld by the US Supreme Court as constitutional. ■

letters

Continued from page 18
to sue." If there are no restrictions on the right to sue, then the fault concept has not been changed.

What Texas does have is a law, sponsored by the state bar of Texas, which requires that all companies and agents offer personal injury protection, an extension of the old medical payments coverage, to all policyholders. The coverage is not compulsory but may be rejected by any insured. It is "first party" insurance, but it is not "no fault" insurance.

All fifty states have "first party" insurance available as does all of our population.

A publication of the calibre of *Business Insurance* should certainly not be a party to this mislabeling of the law.

C. A. Schutze Jr.

C. A. Schutze Agency, Austin, Tx.

Misleading

To the Editor: In your editorial opinions entitled "Agents and brokers: Revelations" you indicate that some feel that most acquirable firms have been "picked over", therefore cooling the acquisition thirst of many of the nation's brokerage houses.

I think that those who would advocate that position are misleading themselves in thinking that those companies that have not sold are somehow inferior to those that have sold. It is my experience, in handling many, many purchases, sales and mergers of insurance brokerages and agents, at least in California and the West, that most of the major houses that have not sold are far superior and independent and more profitable than those who originally went.

Reviewing the brokers you include, and the ones that you don't even mention in California and the West, that are in excess of \$5 million in commission income per annum, I think that there are many with competent young management, and long histories of making an awful lot of money, that have decided to do it their own way.

For example, the largest private brokerage house in California is Kindler & Laucci, and that firm, through the use of an employe stock ownership trust, has distributed ownership to all its employes and is prospering now more than ever.

Russell R. Miller

Russell R. Miller & Co. Inc., San Francisco, Ca.

Affiliated companies

To the Editor: In the July 22 issue of the magazine, on page 40, the article on Amalgamated Program Corp., you state that the parent company is Safety Management but actually Amalgamated Programs and Safety Management are affiliated companies.

Alexander E. Fisher

Amalgamated Programs Corp., New, N.Y.

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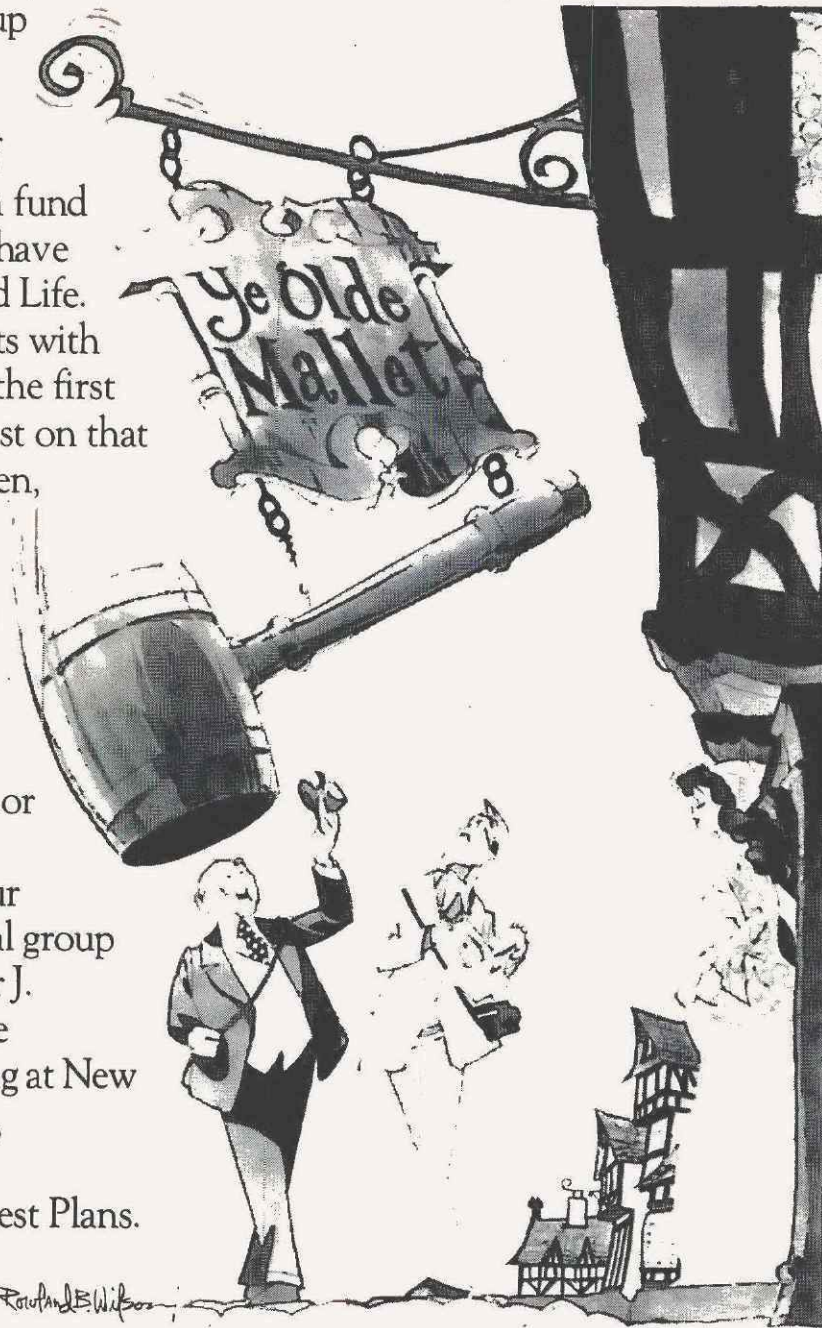
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This model has a complete on-going loss prevention program. That means not just inspections and training, but aggressive research into solving any unique risk problems the firm might have.

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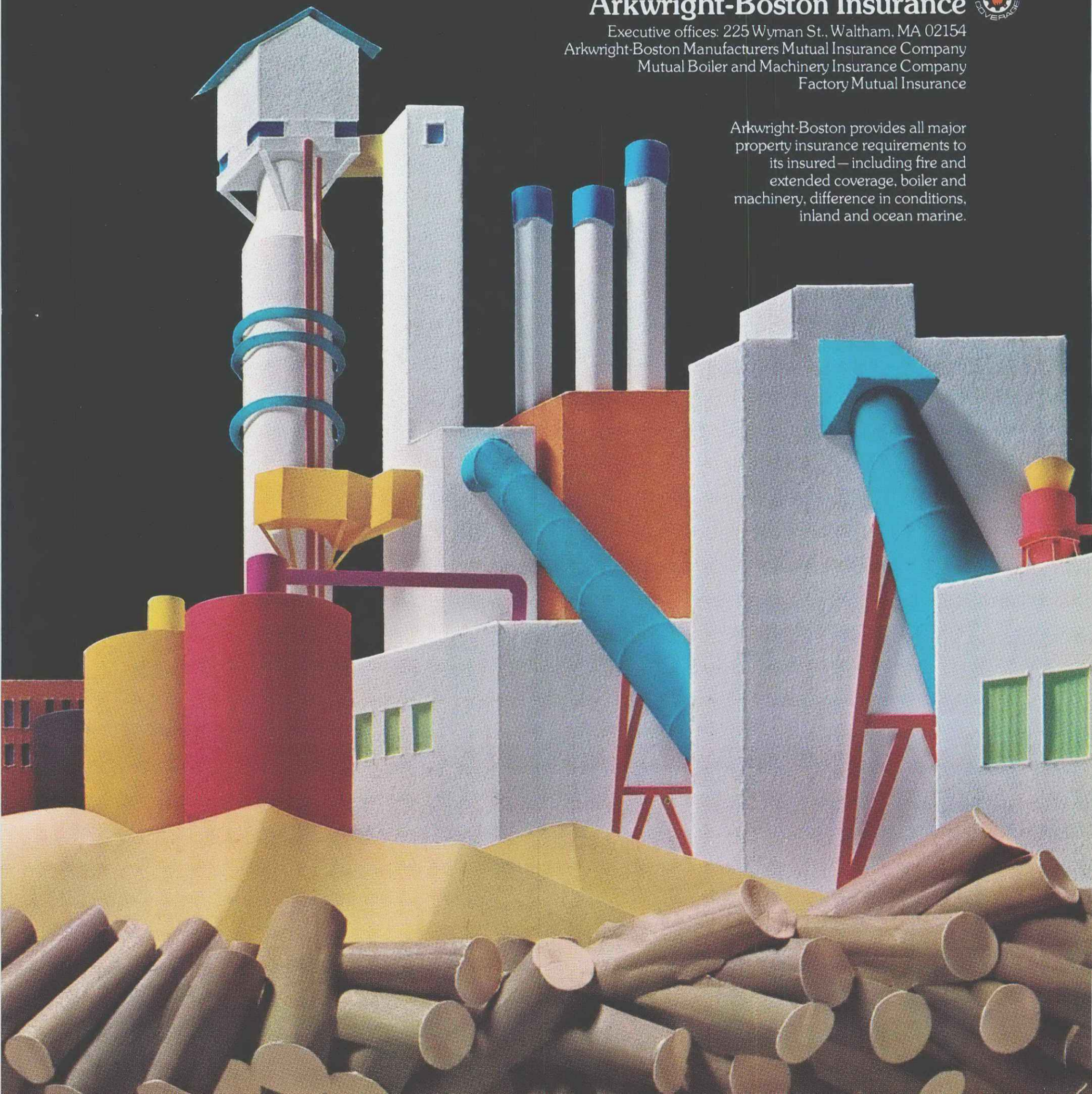
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Excess/surplus company adds SEC cover to lawyers' liability policy

CHICAGO—Excess Underwriters Inc. broadened its lawyers' professional liability insurance policy to include SEC (Securities & Exchange Commission) liability coverage, in response to moves by London and several domestic underwriters to specifically exclude all losses arising out of malpractice related to SEC regulations.

The company is also aiming to expand its overall offerings of professional liability covers to the accountants' and real estate agents' liability fields in the near future, John Van Cleave, vp of professional and SEC liability underwriting, told *Business Insurance*.

The policy for attorneys was broadened to include all SEC lia-

bilities, prior acts coverage, claims-made wording, and unlimited defense costs. The policy also contains wording for coverage of "performance of professional services" rather than the usual "negligent act" provision. It provides that new staff members of law firms are automatically covered, an unusual addition.

EXCESS ITSELF is underwriting policies up to \$1 million, but has limits of up to \$5 million available in the open market, Mr. Van Cleave said.

Similarly, Excess Underwriters will soon be underwriting its own accountants' and real estate agents' professional liability insurance policies, he added. "We

are targeting about \$1 million premium in the first year in accountants and real estate agents' liability, and we consider this a conservative estimate," Mr. Van Cleave stated.

Despite a plethora of recent actions and judgments against certified public accountants, Excess considers the accountants' liability market a good growth area. "The bit CPA firms are getting hit hard (by suits), but not the smaller fellows," the underwriter said, indicating what risks Excess will seek out.

At the present time, Excess is offering these policies, but they are marketed to the firm's reinsurers and are backed up by Excess. "We will soon be another

market for this ourselves," according to Mr. Van Cleave.

As Excess has watched the SEC exclusion come into wide use, the company saw an opening for expanded capacity in this market, Mr. Van Cleave noted, citing particularly the restrictions being placed on insured parties by London and St. Paul Fire & Marine, two very large professional liability underwriting competitors. "We are including it in our form, but we, too, have a surcharge for it up to as much as 50% of the total original premium depending on what part of an attorney's or a law firm's business involves this exposure. If it is over 10%, we start applying a surcharge," he explained.

COST OF THE lawyers' policy varies, of course, by state. The range is from a low of \$60 per attorney in a Montana firm, with a policy covering up to \$100,000 on each claim, up to \$502 per attor-

ney in a California firm, with the same limits. A middle cost would be, he said, the \$195 per attorney in an Illinois firm.

Excess Underwriters is targeting the growth of its total book of business this year to \$20 million in premiums, Mr. Van Cleave said. Nearly two-thirds of that book is now in professional liability coverages, including directors' and officers' liability, an intentional shift in orientation since 1966 when the firm first entered the errors and omissions insurance field when it introduced coverage for insurance agents' and brokers' liability. ■

Damages cut in aircraft crash case

SANTA ANNA, CA.—A \$21.7 million damage award brought against Beech Aircraft Corp. in 1971 was whittled down to \$1.8 million in a recent court decision here.

Beech is fully insured for the loss, which stems from a 1968 airplane crash in Fullerton, Ca. that killed four persons.

The reduced settlement was finally reached when the California supreme court refused to review a decision by the California court of appeals. The lower court upheld Beech's contention that punitive damages were not recoverable in litigation brought by the survivors of persons killed in the accident.

The suit, known as the Pease-Evelhoch cases, is a consolidation of several cases filed after the crash of a Beechcraft Baron plane. The combined suit alleged that a defective fuel system found in some Barons contributed to the accident.

A COURT JURY awarded \$21.7 million in a judgment against Beech in 1971. But a new trial was ordered by the judge on the award's punitive damages, which totalled more than \$17 million. And the judge reduced the plaintiffs' compensatory damages award to \$1.8 million.

The California appeals court later upheld Beech's argument that survivors of persons killed in the crash weren't able to recover punitive damages. After the state supreme court refused to review the appeals court decision in favor of Beech, a Beech spokesman said "the case's outcome should have significant impact on the general aviation industry in that it should reduce both the amounts claimed by plaintiffs and awards by juries in California." ■

FURTHER PROCEEDINGS are expected to resolve a settlement combining actual and punitive damages for the loss of the aircraft, the Beech spokesman noted.

The plaintiffs are reportedly going to seek a retrial of punitive damages in the Pease-Evelhoch cases for about \$3.4 million.

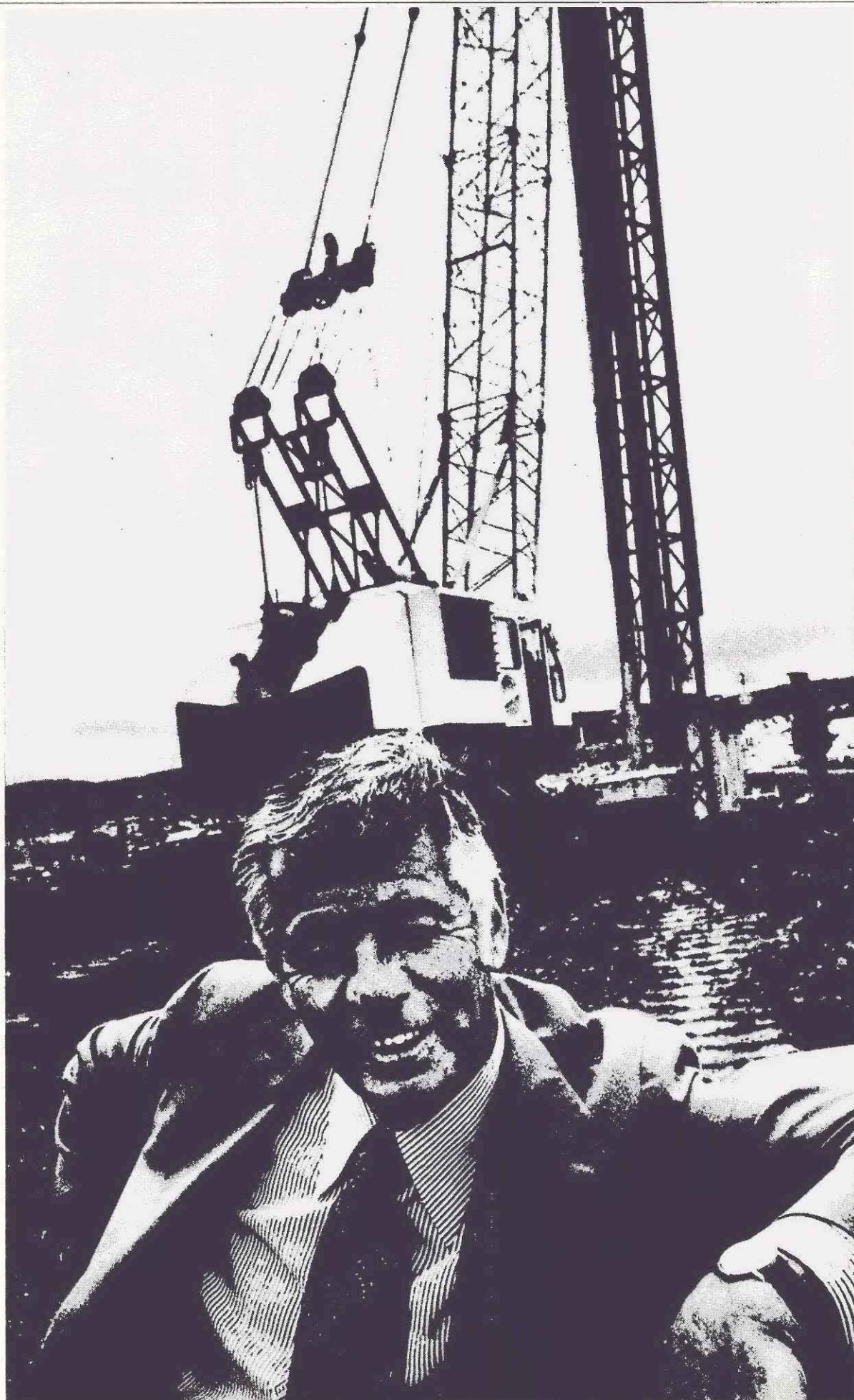
Mr. Seymour Colman, a vp at Beech and president of the Bermuda insurance captive Travel Air Insurance Co. Ltd., said Beech was covered by American Aviation Underwriters and Lloyd's when the Pease-Evelhoch cases were originally brought to court. Beech had no deductible on its coverage with these insurers.

The Travel Air Insurance Co. Ltd. currently handles primary coverage and claims management for Beech, Mr. Colman said. There are also "a number of excess coverage carriers," he added. ■

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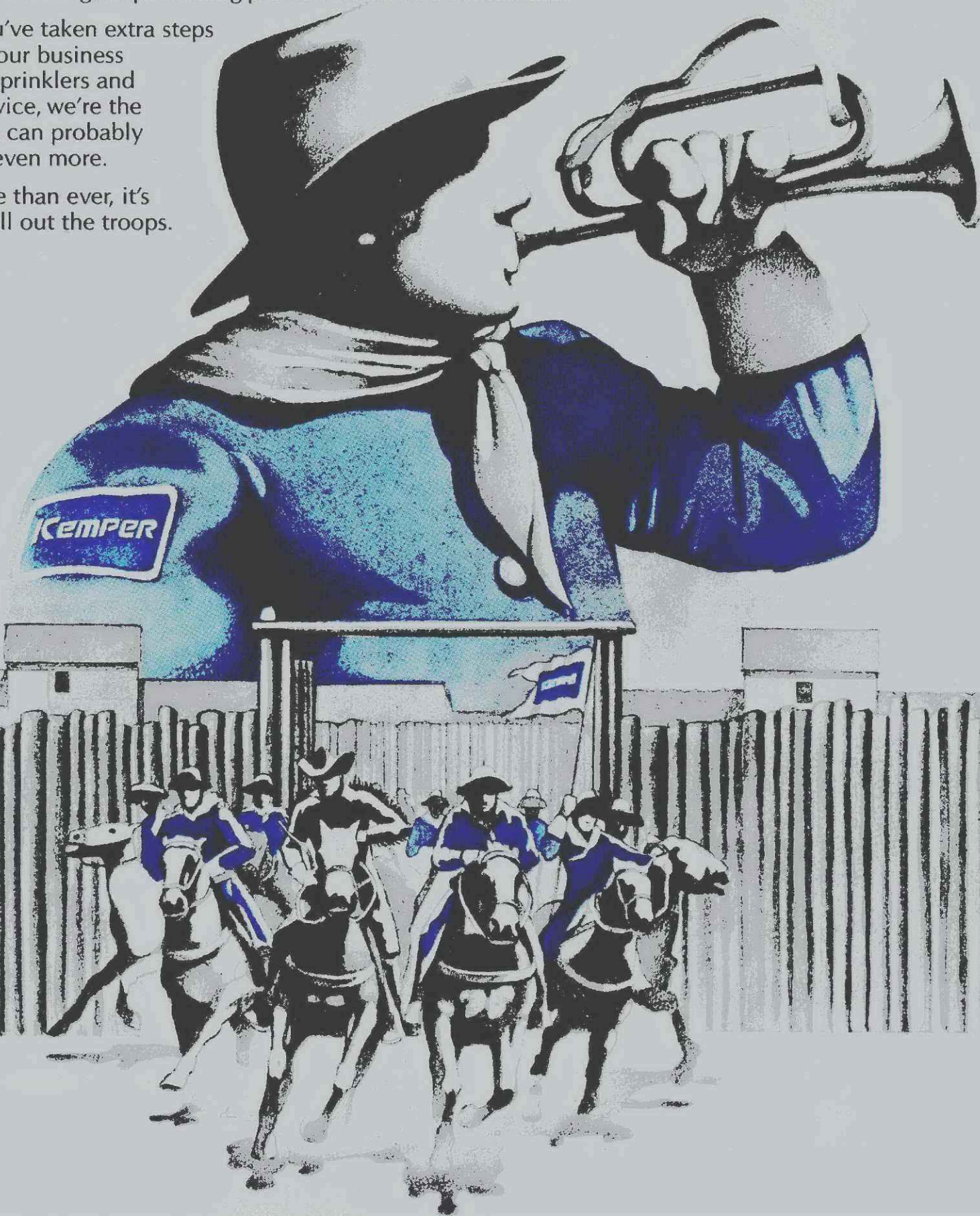
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for the long ride.**

New publications give fresh insights into hospital,

Reviewed By
SUSAN ALT

"RESPONSIBILITIES OF INSURANCE AGENTS AND BROKERS," by Bertram Harnett, justice of the supreme court of New York state; published by Matthew Bender & Co., 235 East 45th St. New York, N.Y. 10017. (\$42.50).

This extensive and, to our knowledge, unique, volume should be of interest to both insureds (those among our readers who are clients of agents and brokers) and to the agents and brokers themselves. It provides detailed discussion, with accompanying legal precedents, of the duties sellers of insurance have to insureds, insurers and the state. But, it also offers remarkable insight into the risk and insurance management function of an agency or brokerage firm.

Judge Harnett, an insurance authority of long standing and special professor at Hofstra University law school, saw a need for what he terms a "comprehensive treatise," and filled the breach. As he told *Business Insurance*: "A recurring inquiry is whether the insurance agent or broker is a true professional or simply a salesman. This distinction is important because it goes to the kind of legal responsibilities which apply. The more expertise professed, the more responsible is the insurance person for what he says and does."

AN UP-FRONT, 40-page section cites chapter and verse of the legal liabilities of the broker to the "insured." The chapter's focus, quite naturally, is the increasing volume of lawsuits against brokers and the areas of potential attack, which Judge Harnett describes as "quite varied." He lists: failure of the agent or broker to provide coverage after agreeing to do so, failure to notify the insured of policy cancellation or the lack of coverage, the duty to place insurance at the best terms for the insured, the duty to place insurance with both an authorized and solvent insurer, the duty to renew or service policies of insurance, the responsibilities of professed expertise, and, finally, the ameliorative effect of knowledge in the insured.

The broker, Judge Harnett points out in one example, is obliged to "have knowledge as to the different companies and terms available" as part of his duty to place insurance at the best available terms, an area which is, from our editorial vantage point, increasingly sensitive and open to argument these days.

THE BOOK'S succeeding chapter, accordingly, probes the broker's liability to the insurer. The chief elements of this liability are "agency in the sense of insurance company representation, duty owed carriers by brokers, scope of authorization whether express or implied, measurement of damage, and honesty of conduct," says Judge Harnett. In the 20-page chapter he cites "certain recurring instances" which best illustrate these points, including: failure to cancel a policy upon request of insurer, failure to perform properly, giving unauthorized instructions to insureds, giving unauthorized interpretations, delay in forwarding underwriting information, binding imprudent risks, negligent failure to make full disclosure of the nature of a risk, dishonesty and conspiracy, and causal relationship of misconduct to damage.

In a brief but vital section of the book, Judge Harnett sets forth facts surrounding the "general imminence of the malpractice threat", as he calls it, against agents and brokers. Brokers can best protect themselves against broadening professional negligence torts, Judge Harnett recommends, by "proper and orderly

conduct of their affairs, and insurance coverage for their errors and omissions."

The author explains: "There are no known errors and omissions forms prescribed by statute in this country. Many policies, however, do resemble each other and special situations are often covered by special endorsement.

Sometimes there are different forms, as for instance, for life insurance agents. Provision for a deductible clause is common, customarily ranging from \$250 to \$5,000, with \$1,000 perhaps the most customary . . . Deductibles as high as \$1,000,000 are known for large complex operations."

An appendix includes speci-

men errors and omissions policies of six underwriters, including Lloyd's. Judge Harnett notes, however, that the market for this coverage is becoming increasingly "selective" and that there can be no guarantee of future availability.

Judge Harnett explains generally the methods insurers

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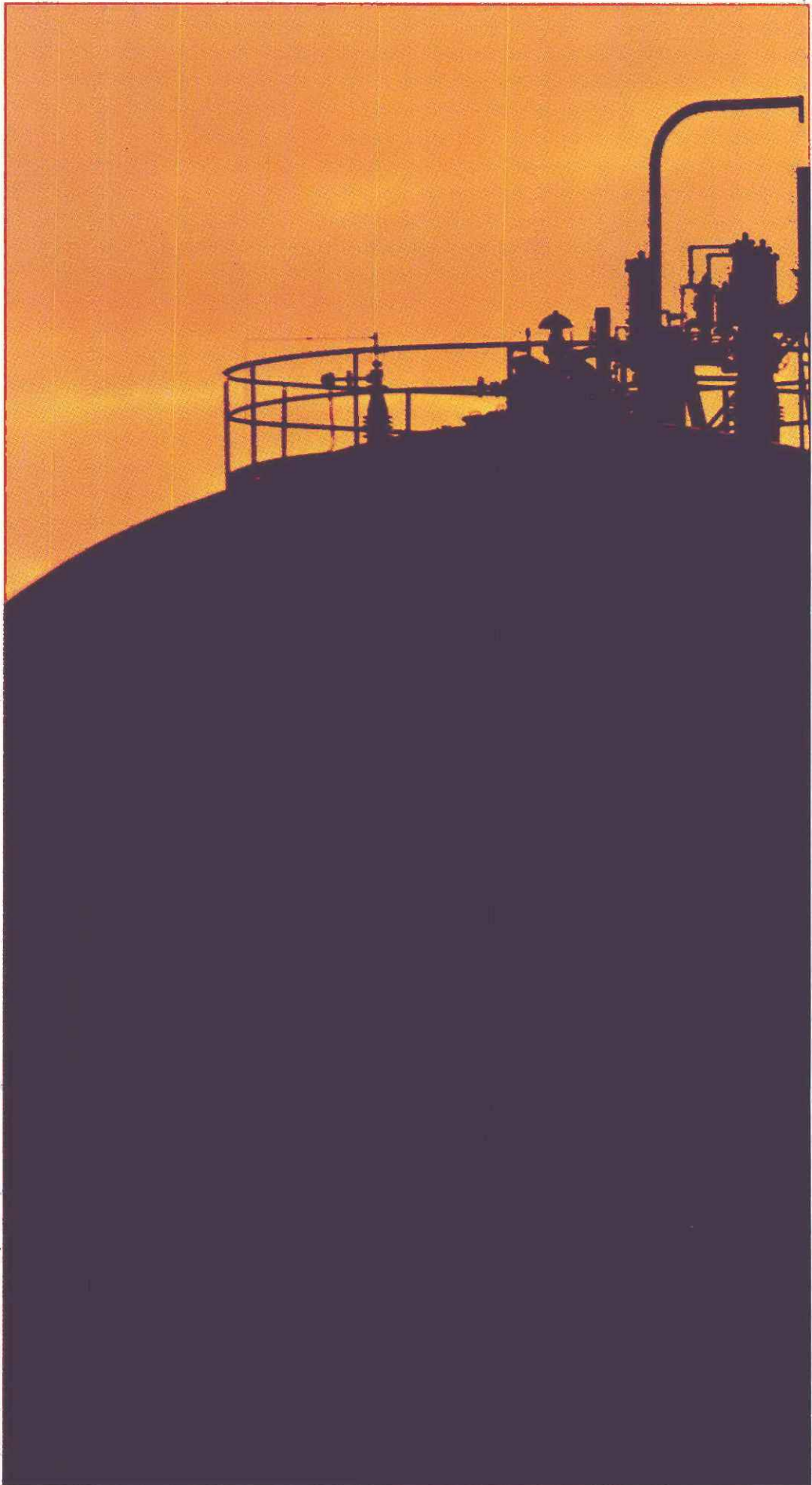
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brokerage risk management

use to set premium rates for these E&O policies. He notes that "advisors and consultants for fees have coverage problems because their efforts are concentrated in richer sophisticated areas and tend to have greater catastrophic exposure."

He goes on to detail numerous problems that differ between

agents and brokers; the problems arising for offices using sub-agents, sub-brokers or solicitors; potential problems for combinations of insurance and realty or ancillary sales areas. One appendix includes the principal insurance statutes from the 17 major insurance states.

"The usual policy exclusion for

fraudulent conduct by the agent or broker is perhaps the single most litigated feature," Judge Harnett offers.

Judge Harnett provides throughout this technical reference book—which is unusual and all the more important for its readable format and content—case footnotes for each legal point of liability, and

each defense against liability.

"PROBLEMS IN HOSPITAL LAW," published by Aspen Systems Corp., Health Law Center. Available from the publisher, 11600 Nebel St., Rockville, Md. 20852 (\$15).

Much has happened since the first edition of this publication appeared a few years ago. Lawsuits against hospitals and their

personnel have mushroomed. Court decrees have greatly broadened liability of hospitals and those working in the institutions. Regulating agencies, too, have expanded hospital legal responsibilities.

What it all adds up to is: There is a need for the updated version of this publication, with chapters added to reflect current trends and recent decisions.

FOR HEALTH CARE institutions, the challenge is not solely in responding to events and problems. At least as much importance should be placed on anticipating risks, exposures, liabilities or potential problems.

This book, written for administrators and their assistants, as well as staff officers and governing board members of hospitals, points out the legal rights of patients, responsibilities and liabilities of hospitals and staff to patients, of hospital to staff, staff to hospital, and hospital to government.

There is a timely discussion of the conditions under which a hospital assumes responsibility for staff actions or failings.

THE BOOK IS technical. More than anything, it is a legal primer on health care institutions, corporations and the liabilities of those managing the organizations.

In a section of the book on financial management of hospitals is one chapter which discusses asset protection, or risk management for hospitals. It is, I believe, all too brief to do the experienced hospital or institutional risk manager much good, but it does give a good once-over view of the malpractice problem (a growing hospital woe) and general negligence problems which can be covered by insurance.

The chapter on asset protection runs through the basic kinds of insurance hospitals must have, and quickly suggests some coverages the hospital may want to consider, i.e. against "damages arising from a lawsuit by a physician who was denied staff privileges by hospital committee."

The asset protection section generally dwells on insurance coverages, to the exclusion of other risk management and/or loss control techniques.

While the publication lacks risk management details, it offers a valuable in-depth probe of current legal issues embroiling hospitals in endless litigation. ■

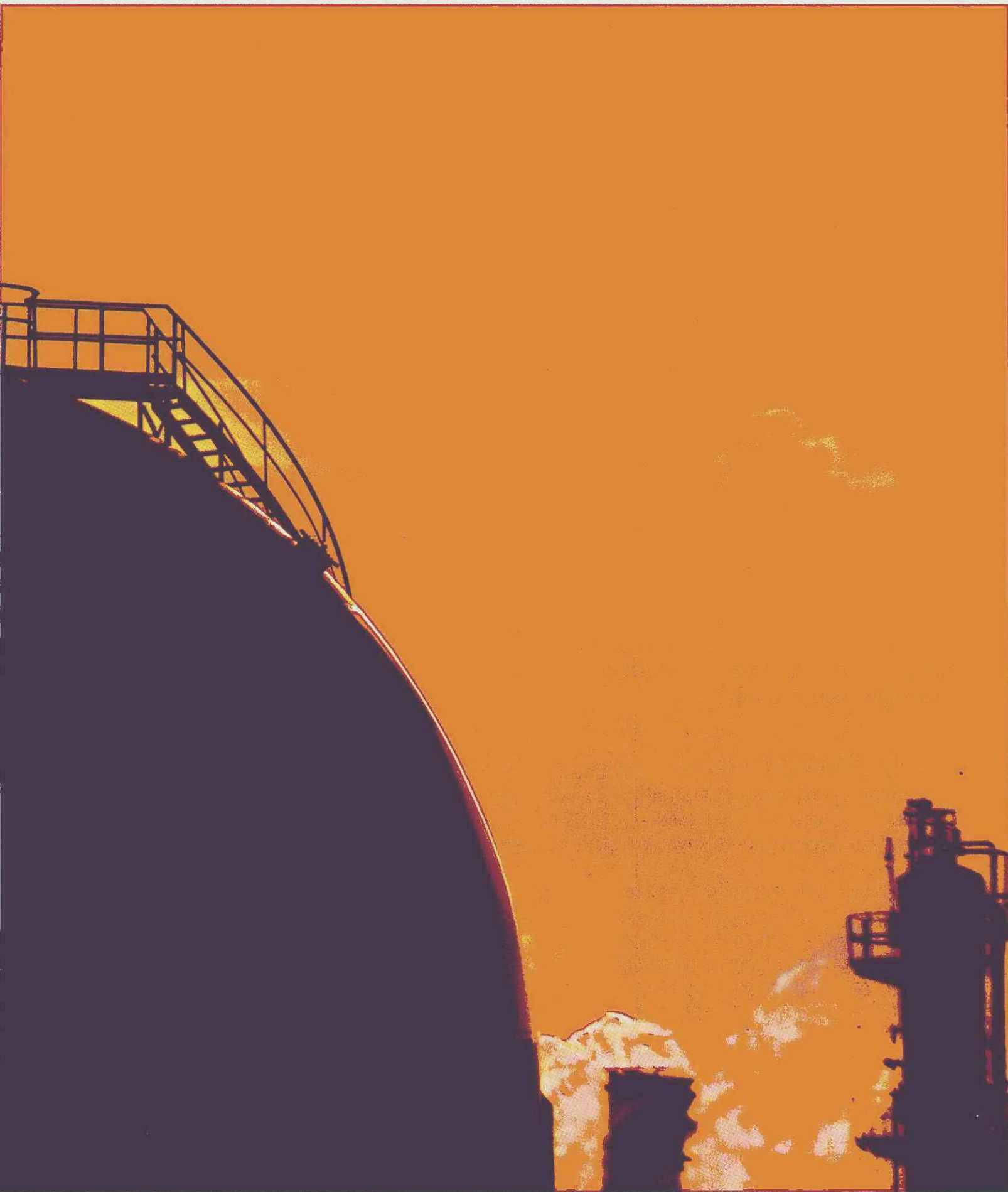
Travelers offers E&O to agents

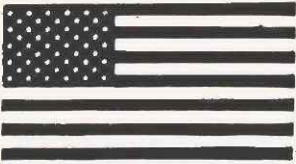
HARTFORD, CT.—Travelers Insurance Co. is offering its property/casualty agents' protection against acts or omissions of "the Travelers in the performance of loss prevention counseling, inspections, or similar work," according to the firm.

Provided that the agency has not caused or contributed to such liability by its own acts or omissions, the cost of defense and settlement will be absorbed by the Travelers, senior vp, Edward H. Budd said.

He added, however, that "it would be the responsibility of the agent to notify Travelers of any claim or suit and to allow the company to make such investigation, settlement or defense as the company deems prudent."

He cited this protection as being "another step in our endeavor to make more visible our complete support for the independent agency system." ■





washington watch

Underwriters get details of federal plan to 'go private' on political risks

WASHINGTON—The private insurance industry was asked last month to underwrite about \$3.75 billion in political risk insurance on overseas American investments by the end of next year.

That was the ambitious project laid before insurers by the Overseas Private Investment Corp. (OPIC) as part of that government agency's proposal for a new insurance pool, tentatively named the Overseas Investment Insurance

Assn.

The \$3.75 billion represents 50% of OPIC's existing portfolio in the inconvertibility and expropriation areas plus 50% of the new business in these areas expected during 1975.

OPIC HAS A \$3.2 billion inconvertibility portfolio, with another \$350 million expected next year, and a \$3.5 billion expropriation portfolio, with \$430 billion in

new coverage expected in 1975.

To begin with, however, OPIC would reinsure the lion's share of the vast exposure it seeks to hand over to the private insurers.

The initial annual loss limits for the pool would be set at \$40 million for any individual country and \$80 million world wide.

Specifically excluded from the pool is any private participation in OPIC's \$3 billion war risk insurance portfo-

lio.

The insurance men, however, are aware that OPIC is under pressure from Congress to divest itself of all its direct underwriting exposures, including the war risk, and that seemed to add to the caution of those present.

Legislation passed by Congress last month set 1980 as the phase out date for expropriation and inconvertibility portfolios and 1981 for the war risk portfolios.

CONGRESS WANTS OPIC to limit its future role to reinsurance activities. Lloyd's is already reinsuring portions of the existing OPIC portfolios.

One insurance executive at the meeting, held in the State department, said he believes OPIC may face an "uphill" battle to convince private insurers to enter the political risk areas.

George Cooper, insurance vp for OPIC, said, however, "I would have to tell Senator (Frank)

Church that the private insurance industry was unwilling to enter this area."

Sen. Church (D-Id.), chairman of the Senate subcommittee on multinational corporations, has been a severe critic of OPIC activities as an area better left to private insurers.

OPIC should soon have an idea of what the insurance industry reception is. The agency asked for the companies to indicate their interest by Sept. 20, a very short time for corporate action, said some insurance executives.

OPIC officials said they want the new pool in operation by Jan. 1, 1975.

OPIC's Mr. Cooper told *Business Insurance* that there would be no change so far as OPIC's approximately 3,000 insurance customers are concerned when the new pool goes into effect. The customers have about 8,000 policies.

OPIC WILL continue to handle all the administrative and management chores for the pool as it now does for its own portfolio.

The agency will maintain its authority to set premium rates, insurance contract forms, handle new business, and settle claims.

Most importantly, said Mr. Cooper, the settlements would still be backed up by the full faith and credit of the United States government.

OPIC said it will assess the pool members 20% of gross premiums for providing the excess of loss coverage and 10% of gross premiums for the management services it will provide to the pool.

Pool members can sign on for as low as \$100,000, but OPIC said it hopes many would take on \$1 million or more of the risk.

The pool, as it is now designed, is set up for three years. Pool members can drop participation if they give one year's notice, but they face a penalty of 50% of their share of the premium income in the final year.

OPIC officials predicted that the pool would take in \$14.9 million in gross premiums in calendar 1975 from the inconvertibility and expropriation policies. OPIC's share of that would be about \$4.5 million for reinsurance and management costs, leaving about \$10.4 million to be split up among the pool members.

UNDER THE OPIC proposal, the pool itself would not set up a reserve fund. The premium revenue would be distributed directly to the pool members.

In the event of liabilities, the pool members would be assessed for their share of any claim payments, OPIC officials said.

The new pool would be run by a board of governors consisting of one OPIC representative and six industry members. The OPIC member, however, would have voting power equal to the six private members combined.

In the event that all six private members vote against issuing insurance to an applicant, the application shall be considered rejected, OPIC officials said.

Any application for \$25 million or more of coverage would specifically have to be approved by the pool's board of governors.

OPIC contracts cover 20-year periods, except in "sensitive" natural resource investments, where expropriation coverage may be limited to 12 years.

The pool would be eligible to underwrite insurance in all of OPIC's qualified nations except for Jamaica and the Dominican Republic.

OPIC has a \$500 million expropriation exposure in Jamaica along with a \$217 million inconvertibility exposure in the Dominican Republic.

Continued on page 27

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| Metal Fabrication Plant | 6,752.00 | 2,611.00 | 1,148.00 | 2,993.00 | 4,141.00 |
| Furniture Manufacturer | 7,100.00 | 720.00 | 1,485.00 | 4,915.00 | 6,380.00 |
| Hotel | 21,494.00 | 4,700.00 | 9,784.00 | 7,010.00 | 16,794.00 |
| Department Store | 61,200.00 | 14,720.00 | 31,129.00 | 15,351.00 | 46,480.00 |
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Watch . . .

Continued from page 26

inican Republic. OPIC officials said those amounts were considered to already be too high.

OPIC policy now is that no more than 20% of their worldwide exposure should be in any one country. OPIC's predecessor agency, the Agency for International Development (AID) had allowed its exposure in Chile to reach 26% of worldwide exposure.

THE FEDERAL government's hazardous materials regulations board is moving to revamp its rules regarding the handling of freight cars carrying hazardous materials.

The board said its proposed rule changes announced this month are a direct result of the July 19 propane tank car explosion in a Norfolk & Western Railway freight yard in Decatur, Ill., and another tank car blast in Wenatchee, Wa., Aug. 6.

The Decatur railyard explosion killed seven persons, injured 150 more, and caused damages estimated to be in excess of \$15 million. (*Business Insurance*, Aug. 5.)

The board said the Decatur blast appears to have occurred as a result of "rough handling" of a car labeled "dangerous."

The proposed rule change would make it illegal to uncouple or cut such cars while in motion,

Panel views 'antiquated' state codes

HARRISBURG, PA.—Appointment of a panel to study the current insurance statutes as a preliminary to "a complete recodification of the extremely antiquated state statutes," was suggested by state insurance commissioner William J. Sheppard.

Speaking to the insurance committee of the state Chamber of Commerce, Mr. Sheppard said a code revision "would benefit every one. It would help the insurance department to better regulate the industry."

Mr. Sheppard said a package of 20 pieces of legislation designed to improve the operation of the insurance department had been sent to the general assembly.

BUT EVEN IF all the laws are adopted by the end of the current session, problems with insurance regulation will not be solved, the commissioner added.

"The vast majority of the laws which govern the operation of the insurance department were passed in 1921. . . . The changes in the economy, the business world, the U.S. in general, have, needless to say, been phenomenal in the past 50 years."

The state's insurance laws have not kept pace with the times, the commissioner said and the legislation currently before the General Assembly are "only band-aids attempting to cure broken bones."

New Drake U. director

Warren R. Adams, professor of Actuarial Science at Drake University's college of business administration, is the newly-appointed director of the Drake insurance studies center. Mr. Adams succeeds Dr. James J. Chastain, who plans to do more teaching and research as a professor of insurance. The insurance studies center was founded in 1972 and is used by students at the college and Drake law school.

the striking of these cars by other cars moving under their own motion, and the coupling of these cars with more force than is necessary to complete the coupling, but in no case at a speed of more than four miles per hour.

National Transportation Safety Board investigators have scheduled on-site hearings into the Decatur explosion for this month. Their preliminary findings indicated that five propane tank cars rolled into a standing boxcar at too high a speed, causing a boxcar coupler to puncture the leading tank car.

Liquified petroleum gas escaped from the car, turned into vapor, and was later ignited.

The hazardous materials regulations board said it is pushing to finalize the rule change by next month due to the "serious potential danger" of the situation.

THE OCCUPATIONAL Safety and Health Administration

(OSHA) is preparing and will soon make public an environmental statement assessing the impact of a proposed carbon monoxide standard.

OSHA's office of standards and development is still interested in gathering information in the following areas:

- any medical or toxicological evidence which indicates that exposure to carbon monoxide produces adverse health effects, and the extent to which the exposure constitutes a hazard;

- current levels of occupational exposure;

- any information indicating the decrease in the health hazard to workers that will result from implementation of the proposed standard;

- the extent to which carbon monoxide pollutes the ambient air and, if possible, the extent of the decrease in the pollution that will result from implementation of the proposed standard. ■

Jury verdict stands in malpractice suit

SPOKANE, WA.—A jury verdict in favor of the physician in a malpractice suit heard in Franklin County was allowed to stand by the state court of appeals, division III.

The judges said instructions delivered to the jury by the late Judge James Lawless did not constitute reversible error. They also said the attorney representing Mrs. Okla Grover, who with her husband, filed the action, did not follow court rules in objecting to the instructions.

Mrs. Grover's complaint was against Dr. Cleve Henriques and his wife.

Mrs. Grover had claimed that the doctor was guilty of malpractice because he did not, during a

several year period, X-ray her to determine if neck injuries had been caused in a January 1965 traffic accident.

Testimony during the trial, the appellate court said, presented "diametrically opposed" evidence about whether Mrs. Grover had told the doctor about pain in her neck. The woman was later treated by a chiropractor and another Richland (Wa.) physician for what was diagnosed as a crack in a neck vertebra.

The jury, the appeals judges said, could have found only for plaintiff if the woman had informed the doctor of her pain. They said that finding would have been necessary under the Lawless instructions. ■

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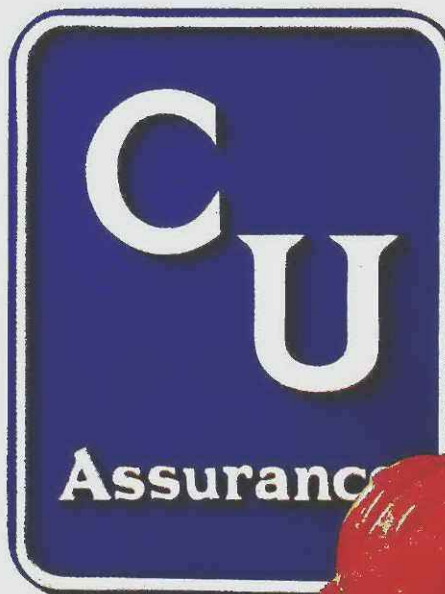
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insuring your competition, too. So maybe you ought to ask your Independent Agent about us.



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London broadens its kidnap/ransom coverage

NEW YORK—Over the last six months, London has expanded its kidnap/ransom insurance policies to include extortion.

The additional coverage can add as much as 50% of the original policy costs to the total premium, sources told *Business Insurance*.

Rumors have it that London's move into the extortion market was sparked by its loss of business to U.S. insurers which had over the past year moved aggressively into the kidnap/ransom market.

London sources, however, denied that this was the case.

"Both London and the U.S. are getting a fair share (of the kidnap market). But, of course, London gets more. No doubt, if you want to place a large amount, you have to go with London," said one of the Lloyd's

brokers here.

Some U.S. insurers speculated that London went into this market thinking that underwriters here were offering the coverage. "London extortion insurance underwriting could have been prompted by the ISO wording, which could be interpreted to include extortion, but the wording leaves it up in the air, since the provision is that the person be held captive," one underwriter suggested.

"THE STANDARD Surety Assn. endorsement uses the word extortion, but the policy is actually kidnap/ransom. That might have made London think it was being offered here," another surmised.

A survey of leading U.S. kidnap underwriters—American International Group, Chubb & Son,

Inc., California Union and Stewart, Smith & Co.—disclosed that plans to offer the additional coverage are barely in the talking stages. But plans to broaden the policies to include extortion losses are, indeed, in the wind.

"We don't anticipate our company or any other is going to jump into this and make a big splash," Chubb & Son's crime insurance manager, James Talley, said.

California Union does offer extortion coverage or its kidnap reward insurance. But, it is not included in kidnap/ransom policies.

Some informal discussions are being held among kidnap underwriters. But, it was pointed out that insurers are wary of various problems that exist if they decide to write this coverage.

Some recurrent queries included: How do you measure a loss and define a loss, and at what point does the insurer have to pay?

In addition, the cost of the coverage would be very high. Some figures mentioned were as high as 50% of the original coverage.

"IF ANYBODY is going to buy it, regardless of whether we offer it or not, they would most definitely buy it on the London market, at that high a cost," one kidnap insurer said.

If plans to offer the coverage ever materialize, which insurers tend to doubt, the same stipulations which cover regular kidnap insurance would apply. This would mean that a requirement to remain silent about having the insurance coverage would be

built into every policy.

Another potential problem apparently concerns an overlap of coverages. Since by definition extortion involves a threat to do bodily harm to an individual or a corporation or threat to damage property owned or leased by the insured, losses may be covered under other policies.

"If someone threatens to burn down a building, then it could come under their fire policy and it would probably be a lot cheaper," one insurer pointed out.

The London extortion/kidnap coverage was described as having two parts. The first covers a threat to kill, disregarding a kidnapping, and the second provides for a threat to damage insured property.

London's policies reportedly exclude pure extortion occurrences in Argentina, although this was the only noted restriction. Coverage for losses in that country must be linked to a kidnapping. ■



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It's a boom!

LONDON—Despite rumors that London is losing kidnap/ransom business to U.S. insurers, Lloyd's brokers contend this is anything but the case.

"The kidnap market here is expanding and it is now possible immediately to bind \$5 million with a maximum of \$10 million in a few days," George Stewart, president of Stewart, Smith & Co. said.

"The business is pouring in and one estimate is that premiums will aggregate \$20 million in two years," he added in a cable from London.

So far, "about 20 claims have been reported," he said.

Gun maker pays victim out of court

RICHLAND, WA.—Kathy Zimmerman, 14, paralyzed since 1971 when a .22-caliber bullet pierced her spine in a shooting accident, won a \$770,000 out-of-court settlement from the Marlin Firearms Co.

Details of the settlement, one of the largest in state history, were filed June 19 in Benton County superior court at Prosser.

Of the total amount, \$480,000 was earmarked for lifetime medical care, education and psychological help payments to the Children's Orthopedic Hospital and Medical Center in Seattle. She has been a patient at the institution since the accident.

Remainder includes \$100,000 for Kathy and \$190,000 for attorney fees and expenses. The parents had sought \$1,500,000 from the company. ■

Ryan, RBH to merge

W. F. Ryan Corp., a Cleveland-based insurance brokerage firm, announced it has reached a definitive agreement to merge with Rollins Burdick Hunter Co., an international brokerage house. W. F. Ryan Corp. will be a wholly-owned subsidiary of RBH under the proposed agreement, and will continue operations with its present management. Terms of the transaction were not disclosed.

U.S. insurers may add extortion to kidnap covers as 'scare' diminishes

By JUDI TALIT

NEW YORK—The domestic kidnap ransom insurance market has reportedly grown to a rousing \$1.5 million in premiums since the beginning of this year, a half-million dollar jump over last year's figure, according to one insurer in this market.

But, the market's size—in terms of actual figures—is uncertain, because not much data has been disclosed.

Another underwriter, writing a substantial amount of this coverage offered another guesstimate, a much larger figure. "To date, industry premiums are being written at the rate of \$500,000 per week. I think that during the past six months, 75% of all premiums have been written," he said.

AMERICAN International Group recently conducted a study designed to reveal the true size of the market, but the results have not been made public.

Regardless of the market's size, however, it is still growing fast, insurers and brokers agreed. Whether the growth will continue can only be speculated.

"The scare is out of it now. More underwriters are willing to write it because of that. But, what will probably happen is that the number of people asking for it may go down."

That was the word from Alexander & Alexander, one of the major brokers placing kidnap/ransom insurance.

Chubb & Son's crime insurance manager, James Talley, doesn't foresee any aggressive move towards insurers entering the domestic market. Although some corporations are buying the coverage, many are still reluctant to, he said. Why? "Because of the price and because it is a voluntary purchase. There is no legal regulatory agency monitoring it," he reasons.

OTHER INSURERS offered other reasons why corporations aren't buying the coverage.

Prices are high. It goes against governmental policy; some corporations feel that they're inviting kidnappings by having the insurance. Those are the beliefs brokers and insurers are hearing from corporate clients.

However, about 50 to 100 U.S. corporations have bought kidnap insurance, according to Alexander & Alexander sources.

Many more look into it however, and then decide to self-insure the risk or not insure it at all, sources noted.

"The cost is high for the exposure. It has to be because of the selection against you," said Ham-

ilton Loeb, Insurance Consultants of Illinois, in defense of the high cost.

Those now marketing the coverage were noted to be: American International Group, California Union, Fireman's Fund, First State, Chubb & Son Inc. and Stewart, Smith & Co.

The American International Group has the largest share of the market, *Business Insurance* learned.

IT WAS DIFFICULT to ascertain the actual size of AIG's share, but it was learned that all policies originally written have been renewed.

The firm's basic policy insures a corporation against a ransom

demand. Dependent coverage is available, as well, at an additional premium. Many companies opt to buy this addition.

Personal assets coverage is available too. It allows the corporation to indemnify an individual in the event ransom is made. There is an additional premium charge for this. Many buyers of this coverage choose not to purchase this option.

Maximum policy limits on policies written by AIG include \$5 million per kidnapping, with a \$10 million aggregate. Deductibles are proportionate, ranging from \$25,000 to \$1 million.

The usual deductible used by most underwriters in the market is 10%.

AIG, like others writing kidnap insurance, use the broker approach rather than directly writing the coverage.

Policy secrecy is required of all AIG policyholders. Most other insurers of kidnap policies follow this procedure, as well.

Chubb & Son is the exception, however. There is no secrecy clause in its policy, although if the insured wishes to include this stipulation, it is provided.

THE PATTERN of secrecy on this type of insurance has not changed. People are still reluctant to talk about it.

One broker said that he wants to see this change.

"There is a need for the insurance industry's understanding of the magnitude of the problem.

"Domestic companies are silent about kidnap coverage for fear of offending their market. They think that any talk of it would promote it," George Stewart,

president, Stewart, Smith & Co. said.

Premiums are also a very touchy subject with insurers and brokers.

The range varies according to them. It depends on policy limits, number of employees, size of the company location, sales and asset figures.

Chubb & Son's crime manager wanted to see some changes in the basic policy.

Like AIG, Chubb & Son makes personal assets coverage available to its clients. However, Mr. Talley would like to see this clause become part of the standard form.

Limits at Chubb range from \$100,000 to \$10 million.

One broker, reflecting on kidnap insurance was very idealistic, predicting a demise of the risk and the coverage.

"I think people are going to stop buying it. I think kidnappings are going to stop," he said. ■



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Shipper and broker merge

NEW YORK—Schiff Terhune Intl. and C. D. Mallory & Co. formed Mallory-Schiff Agency Inc. in an effort to move closer to the one-stop service concept for the shipping industry.

Mallory is internationally known for its tanker and dry cargo ship chartering, sales and oil and bunker ship brokerage, with offices here and in London. The agency, which will specialize in insurance facilities for Mallory's clients and gives Schiff Terhune access to Mallory's varied marine facilities, will be headed by James Christie and Joseph Lorenzo. ■

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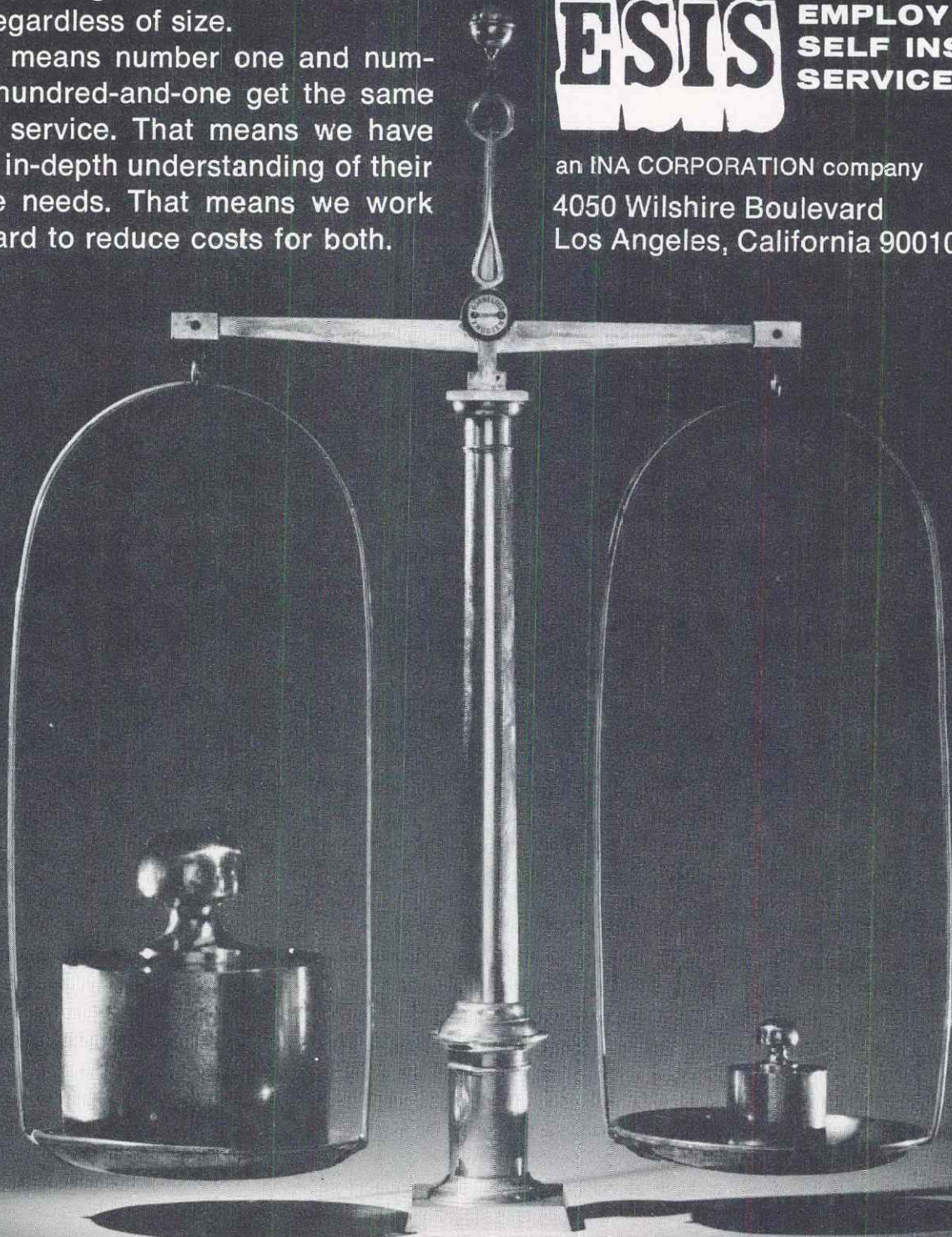
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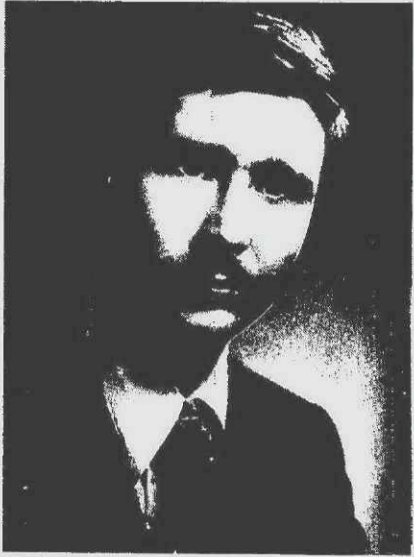
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PERSPECTIVE



By **CLAUDE C. LILLY**
ass't. professor of insurance
Texas Tech University

Employers who may offer legal benefit should eye regulations

"Plans can be funded in advance. These are termed prepaid legal service plans. Or, plans can be currently funded in which case the prefix prepaid is deleted. The term legal benefits can be used to connote both prepaid legal service plans."

maximum benefits set forth. For example, in an adoption case, a worker may be reimbursed for the first \$100 of charges, or where a worker is a defendant in a civil proceeding, a legal benefit for each day of trial of \$50 may be available. A schedule of fees of this type assumes an open-panel plan is being utilized. Thus, the worker chooses a lawyer to represent him, and the plan reimburses the worker up to the policy limits for a covered service.

Many union plans, however, are, and will be, written on a closed-panel basis. In this latter case, the worker chooses a lawyer from a group of lawyers who handle all legal services for a union group. Rather than reimbursing the worker for his expense, services are provided by the closed-panel group of attorneys. When a service is not covered under the plan, the worker either has to seek additional legal advice from an outside attorney or pay a fee to the closed-panel attorney for handling the extra services.

Plans can be funded in advance. These are

termed prepaid legal service plans. Or, plans can be currently funded in which case the prefix prepaid is deleted. The term legal benefits can be used to connote both prepaid and non-prepaid legal service plans.

THE FOCUS OF THIS article, however, is not a general description of prepaid legal service or legal service plans. Instead, two areas will be discussed. The first concerns the problems of taxation and regulation of legal benefits. The second area is an overview of some of the activity that has been carried on by unions in the realm of legal benefits.

Regulation of prepaid legal services and legal service plans falls into two areas: federal and state. Federal control arises when labor and management establish a trust fund to act as a conduit between the employer contributions and the legal benefits, or they agree to use insurance as a mechanism for providing legal benefits.

State control can be found mainly in those areas where management affords legal

benefits through an insured plan rather than a trust fund. Some state enabling legislation has been recommended that would categorize nearly all plans providing legal benefits as subject to state control. Currently, however, no state is taking the position that it can control all legal service plans. State control presents problems that at this writing hamper the desirability of an insured plan.

First, less than one half of the state insurance departments currently are permitting the writing of legal insurance. The difficulty posed by this situation is obvious. Secondly, in those states which are allowing the use of legal insurance, the regulatory agents are not permitting insured closed-panel plans. Where unions are desirous of maintaining some control over the legal services, this state attitude creates a stumbling block. One reason unions may wish to control the legal services is to assure the membership of adequate legal counsel.

Basically, federal regulation is applicable
Continued on following page

MANAGEMENT NEGOTIATORS at the bargaining table will find both this year and in future years that a new fringe benefit is being sought by labor: legal services. This area of fringe benefits, which was relatively unknown until the early 1960's, is gaining momentum.

Federal legislation, coupled with increased union interest, should serve as notice to management that this benefit is gaining in popularity, and what was once an unknown is here to stay. Before examining the increased interest in this area, a brief discussion of the benefits being afforded is in order.

Under a legal service plan, employees are provided coverage for legal fees up to the

Judicious use of bid process brings results

"This is wholly unrealistic, and contrary to the nature of any business corporation. Insurance carriers do not set out to gouge their insureds; but, on the other hand, they have no less a profit motive than the meat packer, bakery, or lamp manufacturer whom they insure."

By **WARREN G. BROCKMEIER**
consultant, The Wyatt Co.
Chicago, Ill.

THE WISDOM OF USING bidding procedures to obtain insurance coverage is a subject of considerable debate. Many people believe that insurance is essentially a professional service, and thus the obtaining of bids is contrary to the practice normally employed in selecting such a service. It is also frequently said that the relationship of insurer and insured should not be disturbed, and that the best practice is one of negotiating renewal premiums on an intelligent and fair basis.

While there is an element of truth in these assertions, they are not totally realistic. The ability to negotiate renewal premiums on a basis equally competitive to those obtained through a bidding process assumes a degree of knowledge and skill on the part of the insured which may not always be present. This is particularly true in the instance of governmental bodies, which frequently do not have on-board insurance expertise in the person of an insurance manager or risk manager. It is also true of corporations not staffed with capable insurance personnel.

It further assumes that the insurance carrier is going to minimize its profit, in the interest of fairness, absent of any competitive pressure. This is wholly unrealistic, and contrary to the nature of any business corporation. Insurance carriers do not set out to gouge their insureds; but, on the other hand, they have no less a profit motive than the meat packer, bakery, or lamp manufacturer whom they insure.

IT IS TRUE THAT the broker handling the account—or in the case of some political subdivisions the agents' association which may provide this service—should be negotiating on behalf of the insured, with some degree of skill and experience. However, there will also be tendency on the part of the broker not to rock the boat by switching to another carrier if the premium quotation received is moderately higher than might be justified, but not high enough to cause screams of anguish from the insured. After all, the broker may have a relationship with the insurance carrier which exerts some pressure on the broker not to be too aggressive in subjecting that carrier's business to competition from other carriers. Furthermore, no single broker or agent has an amiable relationship

with every viable and competitive insurance carrier.

In our works with many insureds, we have found it highly desirable to have insurance coverages subjected to periodic competitive bidding. Let's examine what happened recently in the obtaining of competitive bids for one aspect of the operations of a major municipality.

In this instance, the municipality owns a number of parking facilities in its central area and in a number of major neighborhood shopping areas. Most, but not all, of these facilities are operated by lessees, who are required to provide certificates of insurance evidencing workmen's compensation and primary garage and garagekeepers liability coverage. The ordinances relating to these parking facilities, and the bonds issued for their construction, contained obligations requiring the city to carry certain forms of insurance, and hence a special insurance program exists on this particular municipal operation, in distinction to the general self-insurance position.

To obtain competitive bids, which could be properly evaluated, detailed specifications were drawn, along with listings of values, other exposure data, and loss experience. In accordance with sound procedure, a process for the allocation of insurance markets to competing agents and brokers was utilized, avoiding the conflicts which might arise through a multiple approach to the same markets by several brokers.

BIDS WERE RECEIVED from nine insurance brokers or agents. Of these, four were bids from large national brokerage firms, and five were from local insurance agencies.

The range of the bids received may appear astonishing to the uninitiated, but is somewhat typical of experience in other similar bidding situations. The following is a summary of the bids received on the five different elements of the insurance program undergoing bid, and a grouping of the three primary casualty elements:

Continued on following page

Range of Bids Received

| | Number of Bids | Low | Second Low | Median | High |
|--|----------------|----------|------------|----------|----------|
| 1. Property Insurance | 10 | \$10,988 | \$12,393 | \$15,589 | \$34,001 |
| 2. Garage Liability | 6 | 4,612 | 6,832 | 8,677 | 26,171 |
| 3. Garagekeepers' Legal Liability | 8 | 301 | 426 | 657 | 780 |
| 4. Umbrella Liability | 8 | 245 | 1,200 | 1,872 | 6,064 |
| 5. Workmen's Compensation | 8 | 18,971 | 20,148 | 28,092 | 40,707 |
| 6. Casualty Grouping (Items 2, 3 & 5) | 6 | 27,612 | 28,098 | 33,186 | 59,908 |

business insurance

PERSPECTIVE

Legal . . .

Continued from preceding page

to joint labor-management trust funds, but it also has some application to legal insurance. Federal control of prepaid legal service and legal service plans was initiated in 1973 under the auspices of S. 1423. This bill amended the Labor Management Relations Act, 1947, to grant management the right to pay money into a trust fund to defray the legal expenses of employees, their families, and dependents.

Both employers and unions were given some protection under S. 1423. Legal benefit plans could not be used to:

- Bring suit against an employer or labor organization,
- Bring an action against an employer or labor organization under the National Labor Relations Act, or
- Aid labor organizations in proceedings barred by the Labor-Management Reporting and Disclosure Act of 1959.

A second piece of legislation will further extend federal control into the legal benefits area. H.R. 2, initiated January 3, 1973, revises the Welfare and Pension Plans Disclosure Act. Included in the new bill is an amendment to the current definition of an employe welfare benefit plan. The new definition reads in part:

"The term 'employe welfare benefit plan' means any plan, fund, or program which is communicated or its benefits described in writing to the employees, and which was heretofore or is hereafter established or maintained by an employer or by an employee organization, or by both, for the purpose of (A) providing for its participants or their beneficiaries, through insurance or otherwise . . . prepaid legal services . . ."

ALTHOUGH THIS BILL has not been passed at this writing, its passage is imminent. Once inaugurated, the new amendments to the Disclosure Act will afford an additional area of federal control over legal service plans and legal insurance.

Of equal import with the regulatory control of the legal benefits area is the taxation of employer contributions. From the employer's perspective, payment into a legal service plan should present no difficulties.

Section 162 of volume 26 of the United States Code Annotated states:

(a) In general—There shall be allowed as a deduction all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including—

(1) a reasonable allowance for salaries or other compensation for personal services actually rendered;

The Internal Revenue Code expands on this exemption by spelling out those expenses that are applicable to section 162 (a). There is a catchall exclusion that appears at the end of the list enumerating the exemptions. This phrase which reads "or similar benefit plan" would appear to be broad enough to encompass legal service plans.

FROM THE EMPLOYEE'S standpoint, the taxation of legal benefits is more complex. Gross income for an employe, as set forth in 26 USCA 106, does not include contributions by employers to accident and health plans. This applies regardless of whether the plans are insured or not insured. An amendment of this section to include legal benefits as an exempted area would aid employes and increase their desire for legal benefits. The Internal Revenue Service, however, has the authority to exclude legal benefits from the gross income of an employe if it is inclined to so rule.

There have been some indications from Washington that either section 106 will be amended or an Internal Revenue Service ruling will be forthcoming that will keep legal benefits out of gross income.

One last area of taxation bears on the

subject of legal benefits. Certain organizations, as defined in 26 USCA 501, are exempt from taxation. Section 501 (C) (9) includes in the category of exempt organizations employe associations providing for, "... the payment of life, sick, accident, or other benefits to the members of such association or their dependents or their designated beneficiaries . . ." Assuming that legal benefit plans are covered by the "other benefits" category, these associations are tax exempt.

Union's involvement in the legal bene-

"From the employe's standpoint, the taxation of legal benefits is more complex. Gross income for an employe, as set forth in 26 USCA 106, does not include contributions by employers to accident and health plans."

fits area has been extensive. It has been responsible for starting a center for the development of legal benefits. In addition, many of the unions have been involved in testifying in Congress on matters related to legal benefits. These areas of endeavor are important. Of greater consequence, however, is the effort by unions to form or negotiate for legal benefits.

THE AMALGAMATED Clothing Workers have had an operational program for the provision of prepaid group legal services since April of 1972. This union, which has a high percentage of women and a substantial number of minority groups, provides benefits for the following legal services: (1) consumer transactions; (2) domestic relations; (3) adoptions; (4) landlord-tenant problems; (5) real estate transactions; and (6) wills.

The program was initiated by the union for its members at a charge of \$.50 per month per member. Thus, the union serves as a conduit between the membership and

the attorneys working for the program.

District Council 37 of the American Federation of State, County and Municipal Employees has been active in the development of a pilot program in conjunction with the Columbia University School of Law and the Columbia University School of Social Work. While the District Council has had a legal service plan for over seven years, the benefits have been very restricted. Only arbitration grievances and rights protected by law and collective bargaining have been handled.

UNDER THE PILOT program, two types of benefit plans will be afforded Council members. One segment of the pilot program will concentrate on the provision of a wide range of benefits while the other segment will concentrate on providing a narrow group of benefits. This dichotomy of benefits is being tried in an effort to ascertain how

each type of program will function in relation to cost, administrative work, and utilization patterns.

The Laborers' District Council of Washington, D.C., has started a program for its members that is available not only to active members but also to retired members. Consultation and representation benefits are available if a member qualifies. Qualification is a function of a contribution of four cents per working hour and working 275 hours in two of the preceding three quarters. Like the other union plans previously discussed, the Laborers' plan is operated on a closed-panel basis.

In Columbus, Ohio, the Franklin County Police and Firefighters have initiated what they term a "legalcare" program. The members can select from two plans. The first plan affords legal counsel for a wide range of benefits at a price of nine dollars per month. Excluded legal services result in a charge to the member in an amount equal to 25% of the Columbus bar fee schedule for that service. The second plan costs one

dollar per month, but the members who take this plan have to pay for all services. The cost of these services, however, is 50% of the bar fee schedule.

Teamsters in Toledo, Ohio, have a legal defense fund that affords protection to its membership. The plan was authorized under the bylaws of the local. To date, bail bond assistance, consultation, wills, and income tax returns are the legal services being provided.

Not all union efforts, however, are successes. In New York, for example, a local teamsters' organization and the New York County Lawyers' Assn. petitioned the appellate division, first department for authority to initiate a prepaid legal services program. The court's denial rested on the assumption that the prepaid legal services program was tantamount to insurance. The court indicated that it did not have the authority to approve insurance programs. The decision was influenced by the New York insurance department's contention that the prepaid legal service corporation would violate section 41 of the New York insurance code. This section of the New York law defines an insurance contract. The definition, according to the department, would include legal service plans.

A second setback was handed the unions in February, 1973. According to the AFL-CIO News of July 27, 1974, the American Bar Assn., at its Houston meeting, placed restrictions on the delivery of legal services through closed-panel plans while encouraging the use of open-panel plans. In testimony before the New York Bar Assn., Max Zimny, general counsel of the Ladies' Garment Workers, testified that prepaid plans can provide legal services:

"For some 140 million Americans in the middle income category whose legal needs are now unfulfilled. But he termed the bar's restrictions placed on such plans 'a stark and deplorable reversal of the ABA's long-held, consistent position in favor of the unimpeded delivery of prepaid legal services.'"

Ten years ago, management could have dismissed legal benefits as belonging to the future. Today, however, the shift in union interest deletes this thought. While legal benefits are not completely matured, their growth should be rapid in coming years. ■

Claude C. Lilly is an assistant professor of insurance at Texas Tech University. He has a B.B.S., an M.I., and a Ph.D. from Georgia State University. Mr. Lilly is the author of a book entitled "Legal Services For the Middle Market."

Bidding . . .

Continued from preceding page

As stipulated in a number of the bids, one element of the bid from an individual broker was frequently dependent upon acceptance of other elements of the bid, so it was not possible in all instances to accept the lowest bid for each element of coverage. Sound practice, as well, dictated the acceptance of a single carrier for the three elements of the primary casualty program (garage liability, garagekeepers legal liability, and workmen's compensation), but the net result, nevertheless, was the obtaining of an insurance program at an annual cost of \$39,859, as compared with the previous cost of \$73,702 annually. This 45.9% cost reduction was coupled with increases in the amount of insurance on the physical structures, a change from a named peril contract to an all risk policy, an increase in umbrella liability limits from \$1,000,000 to \$3,000,000, and other coverage improvements.

IT MIGHT ALSO be noted that acceptance of the median total bid from any one agency would have resulted in paying 40% more than the bids actually accepted. So much for a political subdivision selecting a good agency and totally relying on that agency.

This does not imply that the previous agents or carriers had not been doing their jobs. It does bear out the dramatic effect that competition can have on insurance

costs, whether they be those of a political subdivision or those of a business corporation.

Does this mean that we recommend competitive bidding for each and every renewal of an insurance contract? Absolutely not! This process would be extremely counterproductive.

Many qualified bidders would be discouraged from bidding because of the possibility of an award at a low profit level with no promise of any continuity, and with all of the initial costs involved in handling a new account, will cause many underwriters to pass the opportunity to bid and to devote their attention to accounts with a better profit potential.

SECONDLY, THE INSURANCE carriers will tend to build into their quotations the entire cost of setting up services for the account, costs which they might otherwise calculate as being absorbed over several years.

There are also high costs for the insured, in terms of the time and expense involved in writing specifications and evaluating bids, as well as the expenses involved in acquainting a new carrier with the insured's operations and acquainting the insured's personnel with the insurance carrier's claim reporting procedures, etc.

We find it generally advisable for the client to adopt a procedure of periodically obtaining bids on insurance coverage, and negotiating renewals with the same carrier during the intervening years. If the bidding interval is established at either six years or nine years, the carrier has an adequate op-

portunity to recover its initial costs, and to look forward to a moderately long term relationship with the insured. The insured avoids the costs of repeated bidding. During those intervening years, the insured would retain the right to seek competitive bids if dissatisfied with the services or claim adjustments of the insurer or if the insurer proposed renewal with an unjustified premium increase.

If such a procedure has been adopted, and is the subject of a firm understanding, if not a legal commitment, the insured can benefit very substantially, with the insurer also able to make a reasonable profit. No insurer should take exception to being tested in the marketplace at an interval of this duration, and any organization, private or public, should be able to live in harmony with its insurance carriers and those providing insurance services with this type of understanding. ■

Mr. Brockmeier is director of risk management services with Wyatt Co., a national consulting and actuarial firm. Among other things, Mr. Brockmeier is currently involved in an ongoing research project about directors' and officers' liability insurance. He joined Wyatt in 1973 after many years with another consulting firm, where he also specialized in risk management services. Mr. Brockmeier has prepared specifications for numerous governmental bodies and business corporations, as well as providing analyses of coverage and competing proposals for coverage. He is a director of CPCU.

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Labor dept. fighting state OSHA proposal

WASHINGTON—The Labor department is moving to reject a proposed Virginia job safety and health plan, an effort that will again call attention to some friction points between the business community and the Occupational Safety and Health Administration.

The Labor department is fighting the Virginia proposal because it provides only criminal penalties for violations by employers of job safety and health rules.

FEDERAL REGULATIONS require that a state plan must be "at least as effective" as the federal OSHA program before the Labor department can delegate job safety and health responsibilities to

the state agency.

"We do not believe that enforcement through criminal sanctions is as effective as the civil enforcement system we follow under federal law," said John E. Stender, the assistant Labor secretary who heads OSHA.

Mr. Stender said criminal penalty provisions in the Virginia plan with a minimum \$100 fine would have the effect of eliminating most penalties for nonserious violations. Business critics of OSHA have asked Congress to legislate just that sort of change this year.

Upon a finding of guilt, Mr. Stender said, most criminal courts could elect to suspend monetary penalties for serious

violations, thus removing the mandatory aspect of federal penalties for similar offenses.

He said the greater burden of proof required in a criminal proceeding would make it more difficult to establish violations and obtain hazard correction for employee protection.

CRIMINAL PROCEEDINGS would also preclude participation by employees except as witnesses; civil proceedings allow employee participation as parties to the action, a right guaranteed by the Occupational Safety and Health Act.

Criminal proceedings would also limit the right of the state to appeal findings adverse to its prosecution of alleged violators, while civil proceedings in most cases would allow appeals of this type.

No date or place has yet been announced for hearing on the Virginia state plan. ■

Public interests, private profits, not incompatible

TAIPEI, TAIWAN—"The consumer movement will require some changes in the traditional ways of underwriting, pricing and distributing our services; but companies that become customer-centered rather than product-centered will find more opportunities than challenges."

That was the word from Aetna Life & Casualty Co.'s president, Donald M. Johnson at an international insurance seminar held here recently.

He contended that "public interests and private profit are not incompatible, but in fact are interlinked."

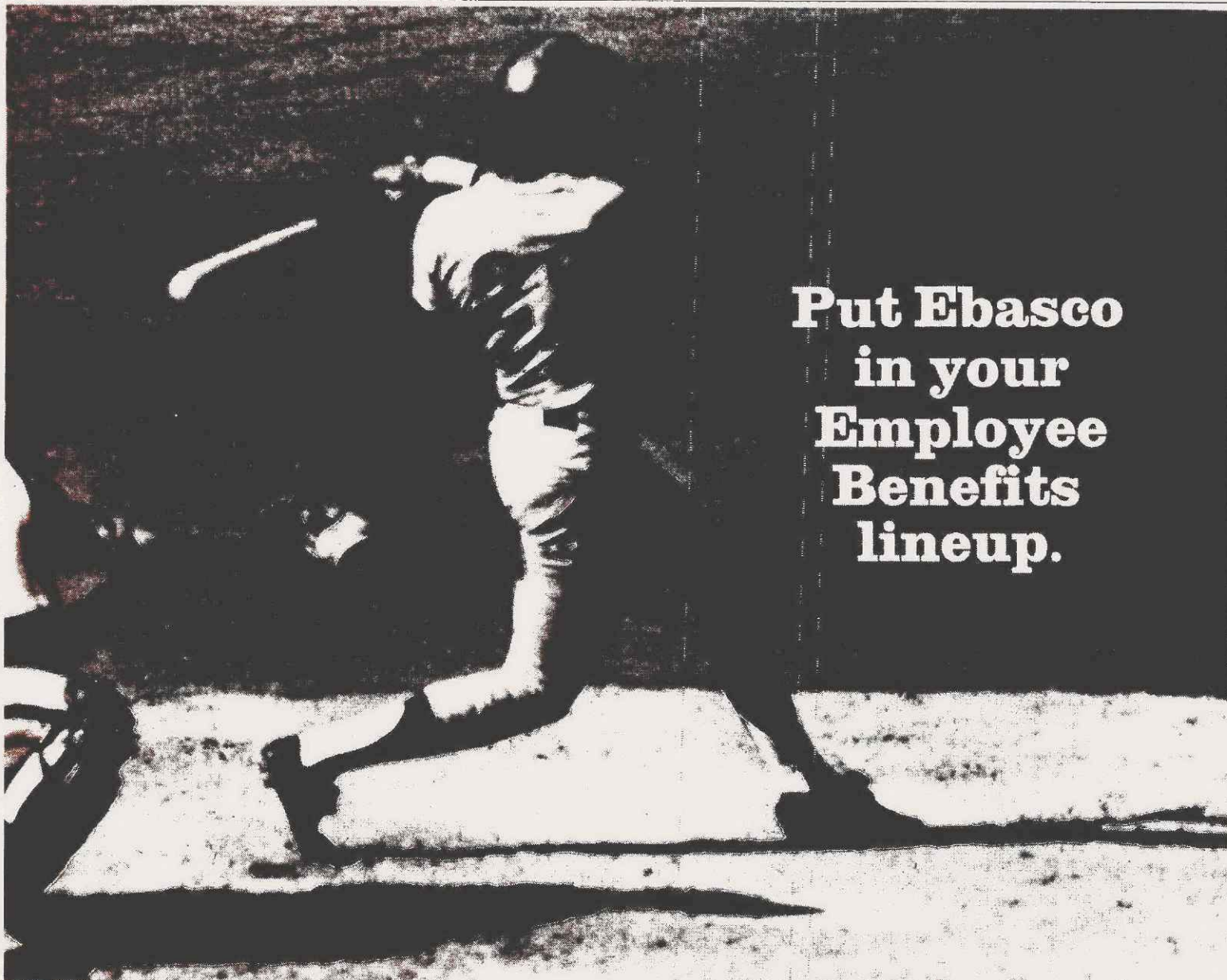
The insurance industry has become more consumer oriented, he added, as well as becoming more

active in "the field of social responsibility."

He cited some examples. "Insurers have helped finance the revitalization of cities, giving special attention to needs of minority-owned businesses. The life insurance industry invested \$2 billion in housing and job-creating enterprises for residents of blighted areas."

ALTHOUGH Mr. Johnson stressed the importance of the industry's social transactions, he did not mean to infer that profit-making had become less important. "Indeed, less businesslike management would impair our ability to serve policyholders, shareholders and the society of which they are members."

The challenge of the insurance industry, he said is "to balance the seemingly conflicting interests and needs of our customers, shareholders, policyholders, employees and agents, and the larger interests of the society that supports us. In its totality, this is a challenge which gives the task of management dimensions reaching far beyond the balance sheet." ■



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\$1.02 million award, record for Canada

EDMONTON, ALBERTA—A record award of \$1.2 million was declared by the Alberta supreme court here to a 24 year old former employe of Canadian National Railway who is now a quadriplegic as a result of a trucking accident some two years ago.

The Insurance Bureau of Canada confirmed this award to be the largest ever given to an individual. However the bureau was not able to provide figures on the previous high.

The greatest portion of the award, \$734,594, was to provide future costs of care for James Andrews. Another \$150,000 was given to compensate the man for pain and suffering, loss of amenities and loss of life expectation.

THE JUDGE who handed down the decision, Justice W. J. C. Kirby, said the youth "now faces a future of probably 45 years which he will spend either in bed or in a wheelchair, dependent upon others for assistance in carrying out the basic activities of bathing, dressing and eating."

In an earlier judgement handed down by Justice Kirby, it was determined that the truck driver, Robert Anderson of the Grand & Toy Co. was responsible for the collision which caused Mr. Andrews' present condition.

After the decision was handed down James Andicus said "there may be a chance I might be able to work at the railroad again, doing some type of clerical work. I don't think I'd want to just sit around." ■

Speir buys Atlanta firm

Speir Insurance Agency Inc., of Forest Park, Ga., purchased Johnson & Schultz, Agents-Brokers Inc. of Atlanta. Speir said the acquisition is its third in the last two months, and the agency is now negotiating for the purchase of four other Georgia insurance agencies.

Hewitt predictions...

Continued from page 1
funded vested liabilities—that is to say, all promised benefits—up to 30% of the company's net worth.

Hewitt wonders if auditors will require a company to show the pension liability on its balance sheet. When queried, Mr. Friedes of Hewitt said his personal feeling is that "the liability will have to go on the books." He noted, however, that a Hewitt survey of CPA firms showed auditors themselves undecided on how this should be handled.

PLAN TERMINATION insurance "is bound to cause substantial concern" for employers, said Mr. Paine, adding "perhaps more... than any other provision of the act." Under the law, employers contributing to the plan or who terminated the plan and who are not insolvent, are liable to reimburse the new Pension Benefit Guaranty Corp. for any insured benefits it pays. The employer must pay up to 100% of the present value of employer underfunding, but not more than 30% of the employer's net worth, the law provides. In the case of a multi-employer plan, this contingent liability is allocated among employers who contributed during the five years before termination and the 30% limit applies separately to each.

The optional insurance fund which may be established in 1977, under which an employer is released from any liability in return for an increased premium, "may be the answer for some employers," Hewitt's Mr. Paine noted. "But a large number of funds will have no unfunded liabilities, and they would need no coverage," he added, explaining that this optional insurance plan will probably be most attractive to smaller companies or funds which have a large number of older employees.

AN EMPLOYER with a new plan that has tremendous unfunded liabilities may not be able to terminate the plan without filing for bankruptcy, Hewitt predicted.

"With respect to plan termination insurance, the potentially biggest impact on employers is not premium costs or the paperwork involved but the liability that is inherent and the effect this may have on day-to-day business operations," Hewitt believes. "If the plan's potential termination liability must be reported on the employer's financial statement, borrowing capability—and, thus, future growth—may be restricted. Banks may be paying more attention to plan termination liability when considering loans," the consulting firm concludes.

The altered—and broadened—definition of a pension plan fiduciary will force companies to "take a closer look at managing the manager of the pension funds, and seeing that policies are well-defined regarding the administration of the plan and the management of the funds," Mr. Paine believes. The key word of the provisions regarding fiduciaries, Hewitt says, is "discretionary" as it relates to authority or responsibility. Up to now, fiduciary responsibility has been limited to trustees of the fund or those individuals having ultimate

responsibility for the investment of funds, said Mr. Paine.

Now, however, a fiduciary is defined as any person having "discretionary" responsibility for management of the plan or the plan's assets. "These would include investment advisors, the company's retirement or investment committee, and possibly the company's financial executive and president," he declared. The new fiduciary standards apply to all funded pension, profit-sharing and employee welfare plans, whether plan assets are held by a trustee or an insurance company, Hewitt pointed out.

Fiduciaries are, under the new law, personally liable to the plan for losses resulting from breach of duty and for personal profit, Hewitt explained. "In addition, they are subject to other appro-

priate equitable relief, including removal," Hewitt noted.

Under the law, a plan is allowed to purchase insurance to cover its losses from a fiduciary breach. A fiduciary may also purchase insurance to cover personal liability, and an employer or employee organization may purchase insurance to cover the liability of its employees or officers who are fiduciaries, the consulting firm said, noting that there is likely going to be a rush to buy trustee and fiduciary liability insurance, despite the market's lack of development in this area to date. (*Business Insurance*, August 19.)

THE LAW'S limitation on contributions and benefits (\$75,000 annual benefit, or 100% of average compensation; and \$25,000 annual contribution, or 25% of compensation) will spur compensation managers to "simply offer the money (to executives) in other forms,"

such as deferred compensation contracts or direct cash payments, Mr. Paine predicted.

The law's funding regulations could potentially cause employers to shift from final average pay plans to career average pay plans with frequent updates, Mr. Paine predicted. "Final average pay plans have developed as a method for providing pension benefits related to earnings in the years just before retirement, but a career average plan could accomplish the same objective if the definition of pay were changed regularly. The effect would be to have career average pay approximate final average pay. The advantage is that liabilities arising from such plan amendments could be known at the time of amendment and amortized over 30 years," Mr. Paine detailed.

"In view of these new funding restrictions, some companies may wish to guarantee each year's

benefit accrual, rather than future benefits related to an employee's pay near retirement. In this way, the law may influence an important area of plan design," he added.

ALTHOUGH THE law will probably discourage employers from starting up new private pensions plans, Hewitt expects "some expansion" in the pension system due to the tax advantages established for individuals who put money away for retirement, and also possibly due to the industrial union drive to get smaller employers into pooled pension plans.

Unions may shift somewhat in their bargaining demands as a result of certain pension benefit restrictions, Mr. Paine said. "It may be that unions will prefer to take their additional dollars in forms other than pensions" in the future, he said, noting, however, that unions traditionally have not gone for profit-sharing. ■



Joy Kees, Group Claims, Dallas

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Ketchum is re-elected

Chandler B. Ketchum, president of the American Investment Guaranty Corp. in Pittsburgh, was reelected vp of the American Insurance Marketing Corp. at the annual stockholders meeting.

Pension integration to receive more emphasis

CHICAGO—In coming years, pension plans will increasingly provide for integration with Social Security.

"With Social Security doing a bigger and bigger job for all persons, many companies won't need to keep increasing normal retirement benefits as they have in the past," predicts Thomas H. Paine, New York managing partner of Hewitt Assoc., here.

"We expect to see a leveling off of pay replacement levels," he declared, along with more emphasis on pay replacement of earnings beyond the Social Security wage base.

"Historically, most hourly plans and a number of salaried plans have not been integrated. But I

think that trend is going to turn around. As benefit planners realize that Social Security levels are growing and that the exact amount of growth is unpredictable, they will become more anxious to install integrated benefit formulas which hedge against the risk of providing too much total retirement income," he stated. The new federal pension law allows integration on pension benefits with Social Security levels.

THAT INTEGRATION could take the form of lids on retirement benefits, similar to the lids negotiated into union contracts by the United Steel Workers as part of its settlements with the can-manufacturing and steel industries.

Under those contracts, retired union employees can receive a maximum of 85% of pay including Social Security. If the total goes higher the private pension is lowered.

Mr. Paine also predicted that if there is such a decline in normal retirement benefits, "we will probably see increases in ancillary benefits" such as early retirement provisions and cost-of-living escalators.

Death benefit improvements could also become more popular as a result of integration of pensions with Social Security, he said. "Pre-retirement spouse's benefits are now offered in about half of all hourly and salaried plans, and post-retirement benefits other than joint and survivor options are included in about 30% of hourly plans and about 20% of salaried plans," he said.

A fourth possible result of the increase in Social Security benefits is that fixed benefit plans will concentrate on the higher-

paid employee, Mr. Paine projected. "We may see companies that have not yet adopted a pension plan never adopt one for hourly and clerical people," he said. "Instead, pensions may become more like the 'top hat' schemes that exist in some parts of the world."

HE ALSO sees a shift away from fixed benefit pension plans, toward capital accumulation plans—such as profit-sharing, and savings or thrift plans—or fixed contribution pension plans "to which funding and insurance regulations of the law do not apply since there is no promised level of benefits."

Until the final moment of House passage, the pension reform bill provided for an integration "freeze". The provision was deleted at the last minute, but Congress is, nonetheless, charged with "responsibility to study integration over the next two years," Mr. Paine concluded. ■

Certain kinds of 'cafeteria' plans frozen by new law

CHICAGO—Under the provisions of the Employee Retirement Income Security Act of 1974, employers are prohibited from starting up certain kinds of cafeteria benefit plans until Jan. 1, 1977.

The provision, contained in the part of the law having to do with Internal Revenue Service tax treatment of salary reduction and cash or deferred profit-sharing plans, says that after June 27, 1974 and until the 1977 date, there is a "freeze" on these plans, as well as the so-called cafeteria plans.

The law defines a cafeteria plan as one in which employees may have a choice between certain fringe benefits, some of which would constitute taxable income to the employee, whereas other forms of benefit might not.

TOM WOOD, partner at Hewitt Assoc., noted that it has been said that the IRS could rule against any plan which is started between the 1974 and 1977 dates and which has a cash option in its overall benefit choices, disallowing the tax deductibility of contributions to those plans.

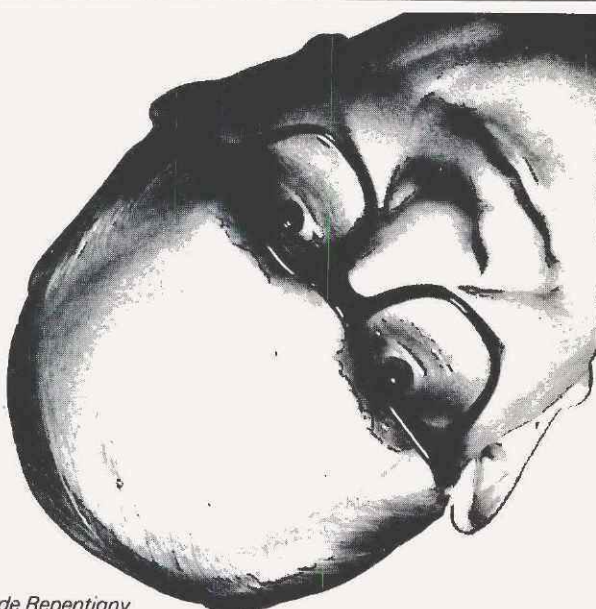
He believes the cash option part of the cafeteria plan is the important point for employers to consider.

For new plans, the value of any benefits selected under a cafeteria plan are to be includable in the employee's income until at least Jan. 1, 1977, the law states.

Meanwhile, Congress will begin a major study of the procedure for handling benefits paid under these plans. ■



Che Lin
Manager
Hong Kong

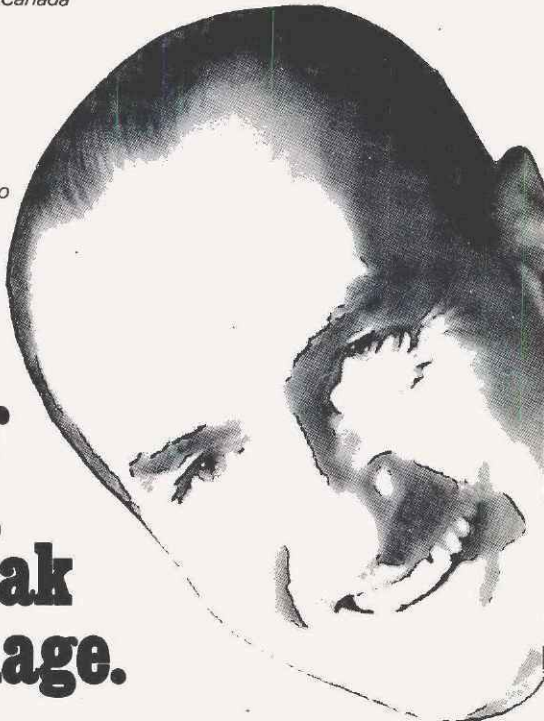


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Information requirements of new law

CHICAGO—Every employer with a pension, profit-sharing or welfare benefit plan must furnish participants and beneficiaries of plans with detailed benefit information starting with plan years beginning in 1975.

The written materials required to be furnished under the new federal pension reform law include:

- information on the individual's vested benefits;
- a comprehensive detailed description of the plan;
- a statement of assets and liabilities, receipts and disbursements, the ratio of assets to liabilities, and any other material necessary to summarize the latest annual report, written in language which will be understood by the average employee.

PARTICIPANTS must receive updated plan descriptions and summaries every five years.

In addition to informing employees about the plan, an employer must make a comprehensive annual report to the secretary of Labor.

This is to include an audit of the fund by an independent qualified accountant, an actuarial valuation of the fund's assets and liabilities by an enrolled actuary, a schedule of benefits paid, leases and loans in default, and any other material information about the plan's status. ■

MARSH & McLENNAN

The Knowledge Broker

University of Michigan: An education and challenge in risk management

By STEPHEN GOOD

ANN ARBOR, MI.—Question: Who manages insurance for a city of buildings, an army of people, a fleet of ships, an airport, a hospital, a football stadium, a nuclear reactor, and a missile launching site?

Answer: William Ryan, risk manager for the University of Michigan.

"A major university has almost every exposure that major industrial or consumer firms would have," Mr. Ryan told *Business Insurance* in a recent interview. "But we also have exposures they never dreamed of."

In all, the University of Michigan has about \$600 million worth of property, scattered around Michigan and the world. Mr. Ryan spends much of his time simply keeping tabs on the university's myriad activities and their related risks.

"A GOOD RISK manager would not be in his office most of the time because of all the activities that are constantly going on," he said. "A big university consists of a great many departments that are acting autonomously. That's the only way a university can really operate. And a risk manager must maintain a good personal relationship with all the departments."

Mr. Ryan often takes extensive trips to inspect the various university operations, or to attend insurance-related conferences. "My philosophy is to go anywhere anytime if it looks like you're going to learn something," he explained.

Traveling is almost a habit with Mr. Ryan. Before coming to the university, he headed an investment consulting firm in Hawaii. As a representative for many Oriental companies, Mr. Ryan criss-crossed Asia and circled the world twice. He is fluent in Japanese, a skill the army ordered him to learn in World War II.

Today he works with a staff of six, including two insurance analysts, with an additional claims coordinator in the 1,000-bed university hospital.

From his office in the general administration building's basement, Mr. Ryan masterminds the property-liability insurance planning for a school with 1,100 buildings, 23,000 employees and campuses in Ann Arbor, Flint and Dearborn.

THE FORMIDABLE task of insuring all this is eased by a flexible self-insurance program. With its permanent self-insurance reserves, the university is able to accept varying deductibles and new risks with relative ease, giving Mr. Ryan the maneuverability he needs to handle insurance for the dynamic institution.

"We're way ahead of the game in self-insurance," he said. "We have an ongoing, efficient, permanently-funded program."

"It's unique. The darn thing works."

The self-insurance pool also pays the insurance department's operating costs and salaries. This arrangement was begun in 1968, according to Mr. Ryan.

Each year, Mr. Ryan explained, the insurance department appropriates funds from each revenue-producing department according to the department's size and risks. If the department is not revenue-producing, like the school

of philosophy, its share comes from the general fund. The reserve pool is managed by the university investment office, and returns on any investments go directly into the pool.

FOR THE maintenance of an adequate self-insurance fund, Mr. Ryan suggested as a rule of thumb that "it's prudent to have ten times the maximum possible loss in the pool." In Michigan's case, the largest deductible Mr. Ryan has to worry about is \$50,000.

The funded self-insurance pro-

gram was initiated about 15 years ago. Because of its success, the university is thinking of expanding the plan "greatly." For example, Mr. Ryan is currently looking into the possibilities of a self-insured workmen's compensation program.

The university also has a well-structured insurance plan built on its foundation of self-insurance. Mr. Ryan said he uses one broker, Alexander & Alexander, through the Detroit Insurance Agency.

"We have used other agencies in the past," he pointed out. "We



An aerial view of the University of Michigan campus.

will move when necessary, as circumstances demand."

Michigan buys coverage from a sizeable number of insurance

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property policy with a limit of all-

Continued on page 40



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Ansul Solves Fire Protection Problems



University . . .

Continued from page 39
 most \$600 million. Hartford Fire Insurance Co. covers workmen's compensation and additional properties. Boiler and machinery coverage is placed with Royal Globe, and CNA has the university's directors' and officers' liability and errors and omissions policies as well as accident and health insurance for the employ-

ees. Aetna Casualty & Surety, USIAG and St. Paul Fire & Marine are used for various other insurance policies.

Coverage costs for the last year totalled almost \$1.4 million, according to the insurance office's annual report released August 15. But for the price, Mr. Ryan said, his university is very thoroughly insured. These costs would undoubtedly be higher without the self-insurance pool and the cen-

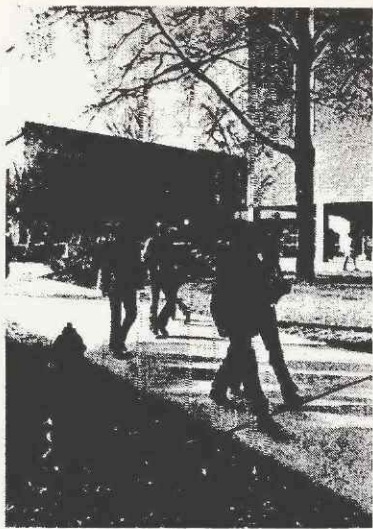
tralized insurance department it supports.

Like most universities and colleges, Michigan's insurance costs leaped during the 1969-70 period of student unrest. "It was an era of trauma for all of us," Mr. Ryan recalled. "Not so much for what was happening on campuses, but for the reaction of the insurance industry and for the publicity of what was happening on the campuses.

"SOME GOOD came out of it," he added. "It prompted a great many of us to realize the value of sound risk management principles."

A good risk manager's prime purpose is to reduce losses, Mr. Ryan pointed out. This should be done through control and reduction of risks, along with the proper management of self-insurance, premium payments and administrative costs.

Mr. Ryan belongs to a couple



A typical university scene

of organizations designed as forums for university insurance managers who want to share their experiences in this unique

corner of risk management. The University Insurance Managers Assn. is the largest group, with about 70 members.

"We're constantly comparing notes with dozens of universities across the country," he said. "It's mostly an organization for exchange of information."

Mr. Ryan is also a member and chairman of the insurance committee of the Michigan Council of State College Presidents. This group, composed of insurance managers from 13 state schools, operates a joint risk management information system that computerizes all the loss information from each school.

"WE HAVE A much better picture of what our own loss picture is individually, when compared to the others," he noted. "And it's very good for analysis of trends in losses."

Mr. Ryan said he would like to see a standardization of insur-

ance policies for universities. "If universities get together and standardize requirements and then go to the insurance industry and say 'this is what we need, can you write it?' I think the insurance industry is going to say 'Yes.'"

ONE AREA OF concern common to university risk managers is general liability and the issue of immunity. "Universities can't rest any more on governmental immunity in liability cases," Mr. Ryan explained. "The U.S. Supreme Court said there is no absolute immunity for employees of state governments. Every case must be judged on its own merits."

The Assn. of American Colleges and seven other school groups have proposed that a study be made of the liability of colleges, their trustees and officers. It notes that "the recent proliferation of litigation and the absence of well-established legal precedents so far as the liability of non-profit corporations is concerned have resulted in considerable uncertainty about the nature and extent of a college's or university's exposure to liability suits, and even greater uncertainty as to the available mechanisms for dealing with the problem."

But Mr. Ryan said he has a new coverage to protect the university against such a growing liability exposure. A three-year policy was purchased from CNA which combines D&O and E&O coverage in a single policy, covering all employees from the board of regents down to cafeteria dishwashers.

Verify OSHA inspector's credentials

HARTFORD—John E. Blasko, general manager of the Motor Transport Assn. of Connecticut (MTAC) Inc., has issued a bulletin urging members to make positive identification of anyone purporting to be an Occupational Safety and Health Administration (OSHA) inspector.

"We have learned," the bulletin said, "that persons posing as OSHA compliance officers have gained entrance to workplaces with the intention of 'casing the place' for future attempts at theft or of 'spying' on secret industrial procedures.

"Both the federal and state OSHA directors," Mr. Blasko continue, "welcome phone calls from companies for the purpose of verifying the inspector's credentials. If you get a phone call from someone saying he is an OSHA inspector, and if you have the slightest doubt as to his authenticity, call him back at the OSHA number.

"If you determine that you have an imposter on your hands," Mr. Blasko said, "notify either the state or federal authorities or the local police and, if possible, stall the person until help arrives."

INA offers group auto

Insurance Co. of North America (INA) began offering a group auto insurance plan last month, underwritten through its subsidiary, Allied Insurance Co. The carrier is making group auto coverage available as part of an employee benefit package. The plan has been approved in Michigan, Missouri, North and South Dakota, Pennsylvania and Wisconsin. A special program has been made available in California where true group ratings are prohibited.

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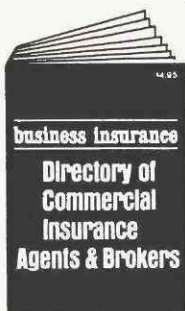
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Insurer says firms are buying more product liability, recall covers now

NEWARK, N.J.—Product liability insurance is on the upswing again, following several years of popularity alternating with buyer disinterest.

Richard E. Schroeder, director of home office engineering, American Mutual Liability Insurance Co. summed up the current situation in a panel wrap-up session at the fifth annual Product Liability Prevention conference at the Newark College of Engineering.

"There was great interest in product liability insurance by manufacturers until the enactment of the Occupational Safety and Health Act," he said in an interview after the session. "OSHA took so much of the manufacturers' attention, product liability sat on the back burner for about two and a half years. Now manufacturers are looking into it again."

THE PROBLEM WITH product liability insurance, Mr. Schroeder believes, is deciding "how much coverage is necessary?"

For most products there's no history of liability cases, he continued. "For some, we can only guess at what premium rates should be."

American Mutual writes "a lot of product liability insurance with premiums in the \$300 to \$1,000 range, as part of general liability policies," Mr. Schroeder said, "But that amount of coverage won't even pay for an investigation into a damage claim."

Apparently manufacturers are self-insuring for the balance, Mr. Schroeder said. "It's up to the manufacturer to face the option of self-insurance."

Product recall insurance is a popular item with manufacturers, Mr. Schroeder noted in his panel presentation, "but it's tough to find a company to write it."

AMERICAN MUTUAL doesn't write recall insurance, Mr. Schroeder said, "and our underwriters tell me they have no intention of doing so in the future."

Asked by a member of the audience, (the majority of which was manufacturing industry representatives) if he subscribes to

Injury survey due from Labor dept.

WASHINGTON—The Bureau of Labor Statistics is to report on the status of its 1973 survey of occupational injuries and illnesses when the Labor department's business research advisory council committee on occupational safety and health statistics meets here Sept. 10.

The 1973 survey is the second in a program that began in 1972. The results are not expected to be available until later this year. The study covers about 650,000 employers.

The 24-member committee is chaired by Cole A. Allen, vp-engineering, American Mutual Liability Insurance Co., Wakefield, Ma. The vice chairman is Edward N. Deck, manager of safety, security, and plant protection, General Electric Co.

Other members on the committee represent such major firms as Ford Motor Co., Standard Oil (Ohio), Pennzoil Co., Kaiser Aluminum and Chemical Co., and American Telephone and Telegraph Co.

The committee normally meets three times a year.

the no-fault concept of product liability insurance, Mr. Schroeder replied, "I subscribe to the imposition of fault."

"It should be a responsibility of the manufacturer that he be liable for any product he releases in the market," he added.

At present, "We're in a trade-off situation," Mr. Schroeder commented. Ultimately standards such

liability policies.

"The base for such credit is so small," Mr. Schroeder replied, "it would be difficult to arrange an adjustment."

Product liability insurance premiums are "relatively small," Mr. Schroeder continued, though they are being increased.

DEPENDING UPON what rate schedule a manufacturer is grouped in, his premiums could range from low to high, he said. "And we can't tell him exactly what to do to change his rating."

Other speakers in the last sessions of the three-day conference emphasized coordination among departments, from design engineers to risk managers to sales and marketing as vital to prevention of product liability losses.

Free access to information about products rather than secrecy, is in the best interests of the industrial community, John Mihalasky, professor of industrial engineering at Newark College, said.

spotlight on products liability

as those enforced by the Consumer Product Safety Commission will produce safer products, and therefore fewer claims filed.

Another member of the audience proposed that manufacturers with a good prevention program for product liability be granted discounts on product liability insurance, comparable to safe driver



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Speakers stress need for product no-fault

By MARGARET LeROUX

NEWARK, N.J.—The pressing need to get no-fault coverage out of the discussion stage and into practical application in the area of product liability became apparent as manufacturers, lawyers and insurance industry spokesmen debated here at the fifth annual product liability prevention conference.

At an afternoon session of the three-day Newark College of Engineering conference, Richard B. Abell, member of the Reilly & Fogwell law firm, West Chester, Pa., proposed a form of no-fault manufacturers' insurance similar to workmen's compensation plans, to "balance the necessity of economy with that of responsibility for an innocent and injured employee or consumer."

The trend favoring plaintiffs in current liability cases means, Mr. Abell stated, that "if a manufacturer wishes his interest to be preserved, then industry must take the initiative in this form of coverage."

AN APPLIANCE manufacturing spokesman cited the "exorbitant product liability premiums" which make the no-fault approach attractive.

"But let's not just talk about it," he urged. "We've been talking for years now; it's time to take some action."

Prevention of litigation was another recurring theme throughout the first day of the conference.

Charles H. Brockaw, director of quality assurance, Coca-Cola USA, stated that "a well-planned and responsibly executed quality control program is a necessary ingredient" in the prevention of litigation involving product liability.

Components of such a program necessarily include setting quality standards, appraising conformance of product to standards, acting when standards are not met and planning for improvements in attainment of the standards, Mr. Brockaw outlined.

Further, he continued, quality control personnel should participate in formal design review and there should be feedback from consumers and the field.

MANAGEMENT MUST assign responsibility and give authority to its quality control department, Mr. Brockaw said, advising that the department should operate independently from production.

"For those who specialize in strict tort liability cases," he added, "Please note . . . even this ideal quality control program would not necessarily prevent adverse judgments." However, mitigation may be more likely where quality control programs exist, he added.

Another type of prevention—voluntary consensus standards—"faces the greatest challenge in its history," Roy P. Trowbridge, president, American National Standards Institute, declared in a banquet address.

The "staggering rise in the number of product liability suits—more than half a million last year," along with substantial settlement costs, present the challenge, Mr. Trowbridge said.

A consensus standard is, by definition, approved by ANSI and is acceptable to all parties concerned, Mr. Trowbridge explained, "and acceptable standards are in the long run the most workable standards."

Responding to criticism by the Consumer Product Safety Commission that consensus standards provide no real pressure to reach any sort of performance criteria and that the highest level of safe-

ty does not result from consensus standards, Mr. Trowbridge contended, "The compromises represented by consensus standards reflect careful weighing of many conflicting factors by people who are well qualified . . . to evaluate them."

spotlight on products liability

"A document that is accepted by those regulated as well as by the regulators means fewer enforcement problems . . . and therefore quicker achievement of desired safety goals," he stated.

"Observance of standards is at least a potential defense in court,"

he said. "What we need from industry is policy-level recognition of the high value of voluntary standards."

QUALITY CONTROL programs and high level standards notwithstanding, manufacturers should be prepared for the possibility of a product recall. Joseph F. Hutchinson, vp-product quality and safety, Goodyear Tire & Rubber Co., outlined problem areas in any recall campaign.

" . . . Manufacturers should be careful to prepare their own organization; company owned stores and dealers must be aware of a recall campaign immediately."

" . . . Make certain that all classes of customers are notified."

" . . . Comply with all the legal requirements, both in the U.S. and foreign countries if the prod-

uct has been exported.

There should be someone at a high level in a manufacturing company who has the responsibility for product quality, safety and compliance with government regulations to coordinate the re-

call campaign, Mr. Hutchinson added.

"Last," he concluded, "make certain that the entire organization . . . understands the importance of quality control to prevent recalls at the source." ■

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Product liability prevention is more than just assuring safety: Speakers

NEWARK, N.J.—Selling manufacturers on the need for products liability prevention rather than providing the safety function is the role of insurance companies, John E. Russell, assistant vp, Maryland Casualty Co. said in a luncheon address to the fifth annual Product Liability Prevention conference here.

"Product liability control is an important multi-discipline endeavor," Mr. Russell stated. "Neither the insurance company nor the trade associations, nor the government, of themselves can handle the products liability function for any company."

Insurance company safety representatives can provide manufac-

turers with valuable information, ranging from a quality control program setup to the latest changes in areas of product liability, Mr. Russell explained.

spotlight on products liability

"While the threat of cancellation is the only force available to the insurance carrier," he concluded, "we believe a person-to-person approach has considerable impact."

In an earlier session, C. P. Cairelli, consultant, Hartford In-

urance Group outlined methods of product loss control.

"One of the most common causes of product claims is a physical feature of the product," Mr. Cairelli said, when "good, substantial functional design" is compromised "for visually more appealing design."

There are strong indicators in the market, however, he added, "that the periodic new model concept is being abandoned."

This approach may well be the most economical way of safety testing, the consultant noted.

Mr. Cairelli warned manufacturers against being lulled into the false security of meeting minimum safety standards.

"Often 'getting-by' is the only

objective considered," he said, "and effort in that direction is terminated once compliance is attained."

CURRENT EXPERIENCE indicates a need for more formal product loss control procedures and channels of communication, Mr. Cairelli concluded, involving "all departments and all employees in the effort."

Top management personnel should be particularly aware of product liability prevention measures, according to another conference speaker, James D. Skinner, Skil Corp., who pointed to section 21 of the Consumer Product Safety Act as providing that fines of \$50,000 or imprisonment or both can be imposed on willful violators who have been notified of non-compliance.

In several public statements by members of the Consumer Product Safety Commission, Mr. Skinner said, "they feel imprisonment

will be their most effective weapon in forcing compliance."

Statements by R. David Pittle, CPSC commissioner, however, contradicted Mr. Skinner's view of the commission.

The commissioner told the conference he placed "little faith in product liability litigation to adequately cope with the problem of preventing consumer product accidents."

LAWSUITS ARE win-lose propositions, Mr. Pittle noted. They neither effectively decide the degree of blame attributable to the victim and to the product nor is there a systematic follow-up on a lawsuit to determine whether the defect which caused the plaintiff's injury has been corrected.

One area in which the CPSC is acting to facilitate manufacturer's product liability litigation, however, is by sending complaint letters to manufacturers.

"We are well on the way to drafting regulations under section 16(b) to require industry to keep all (complaint) letters in accessible files," Mr. Pittle stated. "It is my understanding these files would be open to discovery proceedings during the course of a lawsuit."

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Dimension of futuristic product risks 'incredible'

NEWARK, N.J.—The minds of risk managers and insurance industry representatives alike were boggled at the scenario of advances in telecommunications technology over the next 20 years which will greatly alter the dimensions of product liability exposures, according to Marvin J. Cetron, president, Forecasting International Ltd.

Mr. Cetron predicted radical changes in health care, banking and education as computers and data banks replace hospitals, schools and currency. He spoke at the fifth annual Product Liability Prevention conference here. Mr. Cetron foresees mobile units telemetering patient information via diagnostic computers, cable hook-ups in patient homes that can monitor life systems by remote control by the year 1983; electronic funds transfer via computer, replacing paper-based currency by 1993, and, he predicts completely replacing checks with bank credit-type cards by the year 2000.

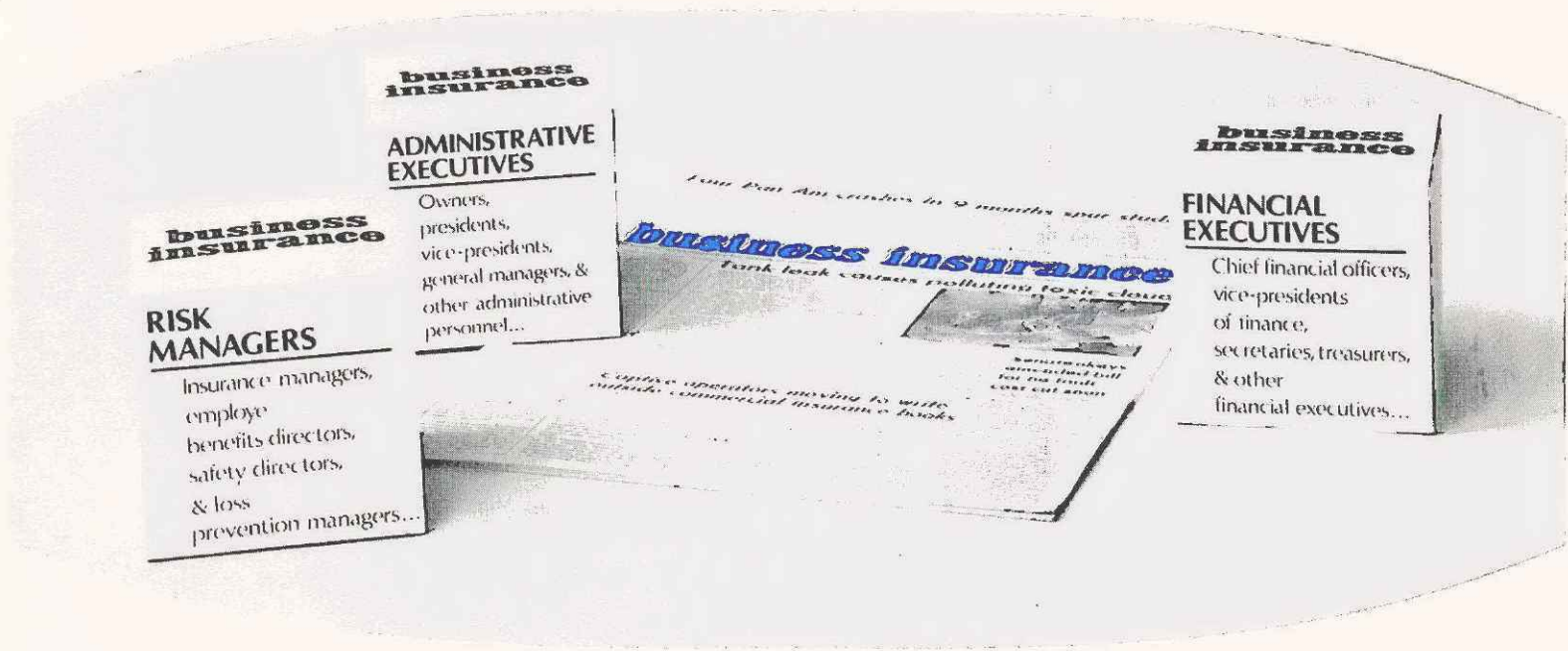
BY 1993 the education system will make extensive use of telecommunications systems, and at-home terminals capable of utilizing computers for instruction will become commonplace, he predicts.

These massive changes will directly affect product liability, Mr. Cetron noted. "Who will be liable if the computer of the telecommunications equipment malfunctions with the possibilities of a wide variety of damaging results?" he wonders.

In future education systems using telecommunications technology, "If the pupil's progress isn't up to par," he continued, "where in the chain between the source and user, (including the manufacturer, installer, person monitoring the equipment) will responsibility lie?"

Electronic fund transfers or banking will be the potential source of complex cases involving fraud and theft, Mr. Cetron added.

Continued on page 45



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Justice dept. tells attorneys not to restrict group legal plans

WASHINGTON—The Justice department this month strongly backed open competition between closed and open panel group legal service plans in warning the California Bar Assn. that it has "serious antitrust objections" to the association open panel plan proposal.

The Justice department and lawyers' groups, primarily the American Bar Assn., have been wrangling for months over the status of prepaid group legal plans.

The ABA in February adopted rules that would give it authority to approve group plans, raising fears that the association could make it very difficult, if not impossible, for closed panel plans to be established.

THE CALIFORNIA bar association proposal appeared to raise obstacles to closed panel plans that the antitrust division found objectionable.

Open panel plans allow a group member to choose his own attorney, who would be paid from group funds. Closed panel plans contract with a definite group of attorneys, and group members are required to accept legal services from within that group in most circumstances.

Organized labor is very interested in group legal plans as a new fringe benefit and they argue that much closer monitoring of costs and quality of service is possible under the closed panel system.

"The most important barrier to our approval of the proposal was what we viewed as the discriminatory rules of the (California) state bar association, which are similar to the Houston amendments," Justice department antitrust chief Thomas E. Kauper told the national Conference of bar presidents this month.

peting organizations which now offer or would offer similar prepaid legal service plans," Mr. Kauper said.

He also complained that the state bar association rules, would have required a substantial number of all the eligible attorneys in the state to participate in an open panel before it would qualify as a bar association-approved plan.

"THIS RULE creates an additional barrier to the establishment of other competing open panel plans and raises the real possibility, when combined with the advertising advantages, that the proposed (bar association) plan could obtain a monopolistic position in the provision of prepaid legal services," Mr. Kauper said.

Mr. Kauper said it seemed "unjustifiable to permit the operation of prepaid legal service plans, but only if they conform to a particular format, especially if that format has not been proven to be more efficient in the provision of these services, or more desirable in the eyes of potential customers.

"This is especially true in the initial, formative years," he said.

The Justice department also put itself squarely behind the notion that both bar association-sponsored plans and plans sponsored by other organizations, such as insurance companies, should have the right, and probably have the obligation, to advertise their services, information that should be of value to both employe benefits managers and to group participants.

Sandy Dement, executive director of the National Consumers Center for Legal Services, told *Business Insurance*, "We've been trying to convince these people of the benefits of competi-

tion for a long time. The open panel people are probably underestimating their product at this point."

The Senate subcommittee on representation of citizen interests held hearings in Washington earlier this year to investigate what they considered bar association moves to restrict the availability of closed panel plans.

Jane Frank, subcommittee chief counsel, said, "We hope that the Justice department action will spur the California bar association to revise its rules to provide identical treatment for closed and open panel plans.

The position of Sen. John V. Tunney (D-Ca.), subcommittee chairman, said Ms. Frank, "is that the development of both closed and open panel plans should be encouraged."

Peter F. Sloss, counsel for California Lawyers' Services, the bar association entity to provide the open panel services, said there had been no decision yet to submit an amended plan to the Justice department.

MR. SLOSS said the bar association, which had worked for about a year with the Justice department to iron out the problems with its plan, was "surprised" at the Justice department's decision.

Insurance companies stood to be the big losers if the bar association's restrictions on closed panel plans were allowed.

"I think it's safe to say that the Justice department opinion will help the insurance companies," said Curtis Pickett, vp at INA, Philadelphia, in charge of their group legal services operations.

"It does not put the bar associations out of business if they don't restrict competition," Mr. Pickett said.

Ms. Dement, of the National

Consumers Center for Legal Services, indicated that there probably would be a good market for both closed and open panel plans.

"Some groups simply aren't going to be able to handle closed panel plans because they're too widespread geographically," she said.

SHE INDICATED advocates of both the panel types are "being excessively modest about the performance of their product.

"INA hasn't landed a plan yet and I don't think the blame lies with the groups they've been pitching," she said.

An earlier survey of prepaid

legal plans in California, conducted by the Justice department, indicated that there were about 658 closed panel plans being offered by about 220 California law firms to approximately 574 groups.

The plans had been arranged by the consumer or labor organizations with selected law firms, groups of firms and private practitioners and most provided a brief consultation that is free of charge.

If as a result of the consultation, additional legal services were required, they would be provided at a fee arranged in advance with the client.



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"THESE RULES basically permitted advertising and solicitation by open panels, with very few restrictions, and prohibited advertising and solicitation by closed panels, with very few exceptions.

"The difference in treatment would have afforded the proposed plan significant competitive advantages over some or all of the com-

Prevention ...

Continued from page 44

In a complex interdependent system, a wide variety of individual or institutions may be selected for liability, he surmised.

A no-fault concept for product liability may be the best solution to such complicated problems, Mr. Cetron suggested.

To see whether no-fault product liability insurance could work in our society, he cited the experience of the Swedish nation, "social innovators in this area."

The Swedes are turning away from legalistic approaches to the solution of damages cases, he said.

Their direction is to structure possible outcomes to reduce legal contention in the social aspects of liability cases involving products and services.

Culpability is playing less of a role in the settlement of claims, he added.

"The Swedes are shocked by our dependence upon law and the assignment of blame," Mr. Cetron concluded. They direct restitution and compensation into public institutions and away from private liability, he explained.



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Free leaves for new post at Riley Co.

C. R. "Bud" Free is joining Riley Co. of Park Ridge, Ill. in the newly-created post of director, risk management. He formerly was manager of insurance and benefits for Great Western Sugar Co., Denver. No successor has been named. Riley Co. is a manufacturer of heavy equipment.

Ann Colucci was promoted to insurance administrator for Hooker Chemicals & Plastics Corp., Niagara Falls, N.Y. She replaces Frank Tanner, who recently left the company. He had been with the department for several years. Ms. Colucci, formerly the insurance analyst for Hooker, is responsible for administration of all areas of the company's property and casualty insurance program. Hooker is a subsidiary of Occidental Petroleum Corp.'s Hooker Chemical Corp. In addition to serving the local Hooker organization, the insurance department provides services to two other subsidiaries of the parent company, Oxy Metal Industries Inc. and Canadian Occidental Petroleum Ltd.

Mrs. Jan Stephenson was named treasurer of Bayly, Martin & Fay of Texas, with responsibility for risk and insurance management of the Dallas-based firm, which is a subsidiary of Bayly, Martin & Fay Inc., Los Angeles. The brokerage firm, one of the largest in the country, is a division of Sperry & Hutchinson Co. Mrs. Stephenson's position in the Texas firm is newly-created. She was formerly assistant secretary. Before joining Bayly, Martin & Fay of Texas, she was for 13 years with Employers Insurance of Texas and for one year with Risk Consultants Inc.

Henry Andreucetti is joining Beverly Enterprises, Pasadena, Ca. as corporate insurance manager, replacing Dick Smith, who left the company recently, as noted in these columns, to join Royal Industries. Mr. Andreucetti was assistant insurance manager for MCA Inc., Los Angeles. No replacement has yet been named at MCA.

Leland P. Deck, insurance manager for the Univ. of Pittsburgh, is becoming the university's ombudsman for business

ASIM fall conference: HMO's, and captives

The American Society of Insurance Management said it will hold its first fall conference Oct. 7 through 9 at the Americana Hotel in New York City. A two-day educational program on the Health Maintenance Organization Act of 1973 will feature Dr. Frank Seubold of HEW, author of the HMO Act regulations. Four other experts on HMOs, from the insurance industry and corporate management ranks will speak during the two day session.

Concurrent with the HMO program is a two-day seminar on captive insurance companies.

The third day of the conference will focus on OSHA, consumer product safety, and insuring the multinational corporation.

and financial affairs, a new position. He has been insurance manager for four years. Theodore R. Corbett will replace Mr. Deck. Mr. Corbett was formerly assistant controller for the university. His title will be assistant treasurer, and he will have added responsibility for cash management, real estate and insurance management.

John P. Olsen was promoted to director of insurance and safety for Ingersoll-Rand Co., New York,

responsible for overall risk management. He was formerly corporate insurance manager, and has been with the firm for 10 years. Named to replace Mr. Olsen is John E. Riches, who was previously the assistant insurance manager. The reorganized department reflects the need for a multi-faceted system which includes safety, claims and insurance management. William Davis will handle claims administration. The company is still seeking a safety specialist.

dates for buyers

Sept. 12-13: The American Management Assn. is sponsoring a seminar on new pension legislation—its impact and implications, in New York City. Vance Anderson, a majority counsel to the pension task force, will participate in this briefing. Write the AMA, 135 W. 50th St., New York, N.Y. 10020.

Sept. 22-24: Life Office Management Assn. will have its annual conference at the Boston-Sheraton Hotel in Boston, Ma. Life insurance company executives, business consultants and veteran network journalist Sander Vanocur will present various perspectives on the theme of "performance." Write Life Office Management Assn., 100 Park Ave., New York, N.Y. 10017.

Sept. 22-24: The Institute of Risk Management Consultants Inc. will hold its second annual meeting at the Highland Inn, Carmel, Ca. The theme of the meeting is risk management in the future. Write David Warren, Institute of Risk Management Consultants, 680 Beach St., San Francisco, Ca. 94109.

Sept. 22-26: Management Laboratories of America Inc. will sponsor a seminar on reinsurance at the University of Dallas. The seminar will focus on reinsurance transactions for captives. Write University of Dallas, Management Laboratories of America, Irving, Tx. 75061.

Sept. 26-27: The first national symposium and workshop on consumer product safety will be held in Portland, Or. Chief sponsor of the symposium is the Portland chapter of the American Society of Safety Engineers. Write Dale Howard, P.O. Box 8345, Portland, Or. 97207 (503-223-7301).

Sept. 26-27: The University of Wisconsin is offering an institute on product liability for claims personnel, to discuss the legal and engineering aspects of products cases to acquaint claims people with the state of product liability. Write Prof. Moll, Department of Engineering, University of Wisconsin, 432 N. Lake St., Madison, Wi. 53706 (608-262-2061).

Sept. 30-Oct. 2: American Management Assn. will hold a seminar on employe benefits information systems, in Chicago. Case studies, cost, benefit analysis and more will be discussed. Write the AMA, 135 W. 50th St., New York, N.Y. 10020.

Sept. 30-Oct. 3: The National Safety Council's 1974 national safety congress and exposition will be held in Chicago. A program featuring some 200 sessions with over 300 exhibitors is being planned. Write the National Safety Council, 425 N. Michigan Ave., Chicago, Ill. 60611.

Oct. 7-9: The American Society of Insurance Management will hold its first fall conference at the Americana Hotel in New York. The two-day educational program will be devoted to the HMO Act of 1973. Write ASIM, 205 E. 42nd St., New York, N.Y. 10017.

Oct. 8: Industrial Relations Assn. of Chicago and the school of business at the University of Chicago is holding their 40th annual conference on industrial relations. Fringe benefits and new legislation will be the main topics. Write Conference Office, Graduate School of Business, University of Chicago, Chicago, Ill. 60637.

Oct. 21-23: The American Management Assn. will hold its 37th annual insurance conference at the Palmer House in Chicago. Write the AMSA, 135 W. 50th St., New York, N.Y. 10020.

Oct. 24-25: Profit Sharing Council of America will hold its annual conference at the Crown Center Hotel in Kansas City, Mo. Write the council, Suite 722, 20 N. Wacker Dr., Chicago, Ill. 60606.

Oct. 27-30: A Caribbean insurance conference will be held in Kingston, Jamaica. Organized by persons in the insurance industry from the area. It will encompass all aspects of the industry, including general insurance, life, brokerage and insurance regulations. Write Conference Secretariat, c/o M.O.M., P.O. Box 183, Kingston 5, Jamaica.

Nov. 20-23: International Foundation of Employee Benefit Plans is sponsoring a public employes fringe benefit conference at the Fairmont Roosevelt Hotel in New Orleans. The purpose of the conference is to provide a forum for meaningful information and dialogue on all issues affecting public employes fringe benefits. Write the foundation, P.O. Box 69, Brookfield, Wi., 53005 (414-786-6700).

Nov. 24-26: The American Bankers Assn. is sponsoring a seminar and workshop on risk management in banking at the Sugar Loaf Conference Center of Temple University, Philadelphia, Pa. The seminar will be directed toward banks with deposits of \$100 million or less. For more information Ed Armstrong, assistant director of the insurance and protection division, ABA, 1120 Connecticut Ave., N.W., Washington, D.C. 20036.

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