

Weyerhaeuser's new international headquarters building outside Tacoma is only one of a number of plants and buildings coming under the control of the corporation's fire protection manager. See story on page 36.

Teamsters receive 90-day reprieve on fund tax status

By PAUL R. MERRION

WASHINGTON—The Internal Revenue Service has granted an additional 90-day extension of partial tax-exempt status for the \$1.4 billion Teamsters Central States pension fund.

The ruling came on August 30, one day before the cutoff date for continued tax-exempt treatment for contributing employers and the plan's beneficiaries and participants.

The IRS decision was not surprising in that the existence of the plan would be jeopardized if contributions and benefits became taxable.

The tax question arose late last June when the IRS notified Central States of its intent to revoke the tax-exempt status retroactive to Feb. 1, 1965, following years of investigations into the fund's activities and investments.

Revoking a plan's tax-exempt status is a harsh step, but it is used when it is found that a fund is not being operated solely for the benefit of participants.

The extension to November 30 was 30 days more than lawyers for the fund had expected. "We thought we might get 60, but they gave us 90," said George Webster, a Teamsters' tax attorney.

Lawyers for the fund presented 70 pages of documents and evidence in meetings with IRS lawyers last month. They purported to show improvement in the ad-

ministration of the fund, especially in the adoption of a computer system to keep track of benefits for participants.

"The only problems that fund has now are problems that every fund has," Mr. Webster said.

The Central States fund will soon be filing for a new determination of its tax-exempt status, Mr. Webster added. "The plan has come a long way," he said.

Among the improvements in the fund's operations are a moratorium on real estate loans, the hiring of professional money managers to handle about \$200 million in investments, and the delegation of more authority to executive director Daniel Shannon, who now has the power to hire and fire consultants, attorneys and other experts for the fund.

The plan can still be assessed for back taxes for activities of the past, even if it wins a favorable determination for its future tax status.

A Teamsters' spokesman in Chicago said that while the extension to November 30 "can't be construed as a favorable ruling on the fund's current status, it is evident that the IRS is willing to take the time and effort to permit the fund to reestablish its favored tax status without threatening the very existence of the fund."

The IRS action is completely separate from an investigation of the fund by a task force of the Labor and Justice Departments. ■

Big fiduciary lawsuit sneaks under wire

By MARGARET LeROUX

ST. LOUIS—A \$5.5 million fiduciary liability lawsuit naming nine former trustees of the Liberty Loan Corp.'s profit-sharing trusts was filed in federal district court here by the company's recently appointed trustee.

The suit was filed two days before Liberty Loan's \$1 million fiduciary liability insurance policy with Aetna Casualty & Surety Co. expired.

The underwriter "is not at liberty to discuss the case," a spokesman explained to *Business Insurance*.

At the loan corporation, a spokesman said he "would assume" the trustees are covered by the insurance for claims made in the lawsuit.

"It's my impression that this sort of action would be covered," he stated.

Charles B. Blackmar, professor

First Employe Benefit Board Survey

Future is now for dental plans

CHICAGO—Dental benefit plans are no longer benefits of the future. An overwhelming majority of employers already offer dental benefits to their employes or plan to within the very near future. And costs of these dental plans are on the rise for many employes.

The documentation of these facts resulted from the first survey of the new *Business Insurance* Employe Benefit Board, established to help benefit and insurance managers determine how they can best plan benefit programs, most effectively fund those plans through insurance or self-insurance, and control their costs.

Ninety Benefit Board members working for corporations employ-

ing close to two million workers around the country responded to questions about their current or future plans for dental benefits with these facts:

- Over 60% of the companies have dental benefit plans in force, covering over 1.5 million workers.

- Seven companies intend to offer dental plans within the next year, and three employers are considering dental plans.

- In one out of every three companies that offer dental benefits, the plan covers 100% of the employes, and is not restricted to any particular group such as union, non-union hourly or salaried workers.

- Seventy-five percent of the employers offering dental plans

use the same insurance company for the dental programs that they use for another group insurance plan, so that there's a tie-in between plans.

- The insurance companies most frequently mentioned as underwriters of dental plans are Equitable, Prudential, Metropolitan Life, Aetna and Travelers, in that order.

- Only three of the 55 companies having dental benefit plans self-insure the plans. All others are insured with group carriers, at costs which vary widely when viewed on a per-employe, per-month basis.

- Thirty-five of the 55 employers having dental plans (64%) go directly to the insurance companies

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business insurance

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ERISA chief resignation a shock; problems aren't

By PAUL R. MERRION

WASHINGTON—The unexpected resignation last month of James D. Hutchinson, administrator of the pension reform law for the Labor Department, was a dramatic sign that crucial administrative problems still exist, after two years of hammering out the meaning and the workings of the complex pension reform law.

No replacement has been named for the 32-year-old pension administrator, whose resignation becomes effective October 1.

His departure came as a surprise both within and outside the Labor Department. "I'm terribly sorry to see him go. He was really excellent," said Michael Gordon, former special minority counsel for pensions on the staff of Sen. Jacob Javits (R-N.Y.), one of the principal authors of the pension reform law.

"It will be hard to find someone to fulfill the specifications of the job," Mr. Gordon said.

Yet with this being an election year, whoever replaces Mr. Hutchinson may be playing a caretaker

role, in that a possible change in administrations would bring in a new Labor Secretary who would probably appoint his own pension administrator.

A new administrator might also have the all-important problem of maintaining the current organization. "There's one big problem: when someone resigns, others do too," said one long-time observer of pension law administration.

Citing "both professional and personal considerations" for resigning, Mr. Hutchinson outlined three major problems that are preventing full implementation of the Employee Retirement Income Security Act of 1974 (ERISA).

In an August 19 memorandum to Labor Secretary W. J. Usery, Mr. Hutchinson said those problems were:

- The need for "an administrative or legislative resolution of the problems of joint jurisdiction between and among three separate federal agencies administering the same law."

- A "pressing" need for greater flexibility in hiring personnel to implement the law.

- The need for "an examination of the proper role of private and public (including federal, state and local) retirement systems if we are to achieve an underlying national goal of broad-based retirement income security."

The problem of joint jurisdiction has become especially apparent in the cumbersome exemptions process for prohibited transactions. Although hundreds of exemptions applications have been filed with

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Computer wizards
defect—page 10

ERISA resignation . . .

Continued from page 1
the Labor Department and the Internal Revenue Service, only a handful have been granted because both agencies must approve the exemption, a time-consuming procedure that at times has involved top IRS and Labor officials on decisions that couldn't be made at the staff level.

At an ERISA Advisory Council meeting here last month, Mr. Hutchinson acknowledged that it has taken two years to grant five exemptions, and said "it may well take two more years" to get more exemptions under the present system.

Both Mr. Hutchinson and Alvin Lurie, ERISA administrator for the IRS, have called attention in the past to the problem of dual juris-

diction.

The problem of inadequate personnel has plagued the Labor Department since President Ford signed ERISA on Labor Day, 1974.

Although Mr. Hutchinson did not raise the staffing problem when he testified on the Labor Department's budget before the Senate Appropriations Committee three months ago, it is widely believed that he was in favor of relaxing Civil Service rules that discourage hiring experts outside of government. Another alternative he is said to have favored would have made the ERISA administrator an assistant secretary, thus giving him the flexibility to put professional consultants on his own staff.

The Senate Labor Committee recently asked the General Accounting Office to study the Labor Department's organization and staffing of pension law administration.

While the need for a national retirement income policy is not an immediate problem, Mr. Hutchinson's mention of it indicates its seriousness over the long run.

At a meeting of the Western Pension Conference in Seattle last month, Mr. Hutchinson said some form of integrating public and private retirement systems is needed within the next decade:

"We can't get beyond 10 years without solving the problem. We have to find a way. We must do something so that Social Security is not such a disastrous alternative," he said.

In his memorandum to Secretary Usery, Mr. Hutchinson said (in reference to the pension reform law); "There is perhaps no single piece of legislation of recent years that has as much potential impact on employe rights, labor-management relations, and the economy."

In the memorandum, Mr. Hutchinson also listed the accomplishments of his tenure.

Since his appointment in April 1975, he said the Labor Department has established a regulatory "tone," which emphasizes "the value and importance of meaningful public participation in developing regulatory policies."

He said that the Labor Department has adopted the principle that "reporting, disclosure and other regulatory standards can be developed to minimize impractical, burdensome or duplicative requirements, while retaining the underlying purposes of the law."

Furthermore, he said a compliance strategy has been worked out that relies on voluntary compliance, while reserving the use of ERISA's civil remedies "to ensure the sound administration of employe benefit plan practices so that plans truly operate in the best interests of participants and beneficiaries."

And finally, Mr. Hutchinson said, "We have planned and are executing a well-conceived and well-supported investigation of the (Teamster) Central States, Southeast and Southwest Areas pension fund."

Mr. Hutchinson said he has no specific plans for the future except for spending more time with his family in the coming months. ■

Travelers nets huge Teamster life account

By ELISABETH M. WECHSLER

CHICAGO—Travelers Insurance Co. landed the Teamsters union group life insurance account, worth an estimated \$23 million in annual premiums, by submitting the second lowest bid, according to a union spokesman.

The lowest bidder, Old Security Life Insurance Co. of Kansas City, Mo., was the original insurer for the Central State Health and Welfare fund. Fund officials accused it of defrauding the fund and diverting premiums and coverage to another company. Prudential Insurance Co. of America reportedly was a close contender for the coverage.

The group policy includes term life insurance and accidental death

and dismemberment (AD&D) and covers an estimated 180,000 union members. The face value of the coverage is about \$2.6 billion and is believed to be one of the largest group policies in force.

Benefit levels were not changed. Currently, the life insurance benefit ranges between \$2,750 and \$14,000, depending "on job classification," the Teamsters spokesman said. Travelers handles the claims directly, he added.

Tolley Agency of Indianapolis "performed a study" for the union and also "handled the bids," according to the spokesman for the Teamsters. The firm did not receive a brokerage commission, the spokesman said. He declined to specify the fee Tolley was paid. ■

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New Cal-OSHA chief

Former labor union leader Arthur R. Carter, the new Chief of the California Division of Industrial Safety, has announced he will "name publicly and take legal action" against business firms which "resist" orders to provide safe working conditions. "We propose to whip into shape a two year old system that so far has not produced significant results," Mr. Carter said. "However, we do intend to depend on voluntary industry cooperation and not disciplinary fines. "We need to learn," he said, "whether or not the California Occupational Safety and Health Act works. In spite of OSHA, we still suffer some 300 industrial deaths a year in California."

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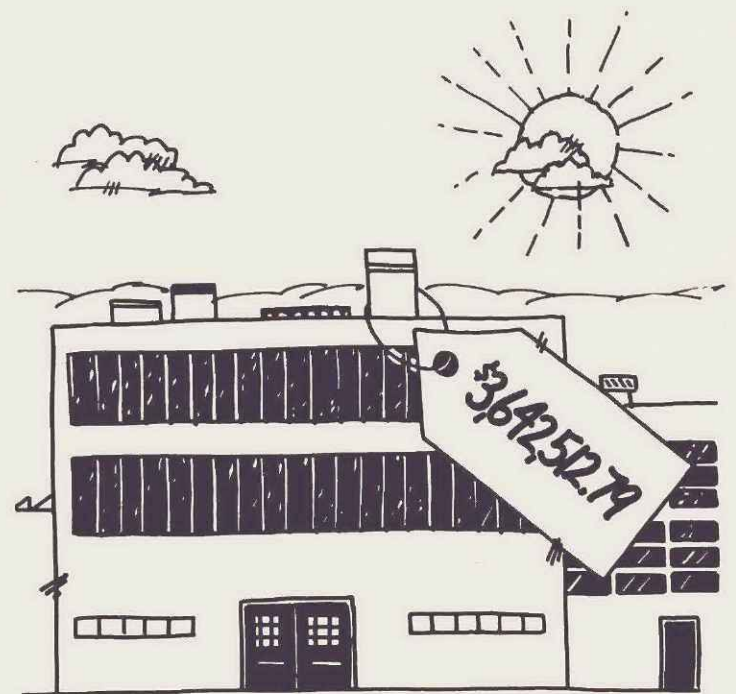
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the benefit beat

Westinghouse carves up its benefit platter for 3

WESTINGHOUSE ELECTRIC Corp., Pittsburgh, made 13 improvements in its insured life and health benefit plans as a result of labor negotiations in July with three major electrical unions. Equitable Life Assurance Society is the administrative carrier for the benefits under an ASO contract, with reinsurance provided by The Travelers Insurance Cos. and Metropolitan Life Insurance Co., according to Harry G. Crook, Westinghouse director of personnel practices and benefits. Negotiations also boosted retirement benefits for participants in Westinghouse's noncontributory un-insured pension plan. The new three-year contract with the unions provides increased pensions for those retiring under the "minimum" formula, ranging from \$6 to \$9 at the lowest up to \$7.50 to \$11 for each year of credited service. Improvements in the insured benefits program include nine changes in hospital and medical coverage for such things as maternity benefits for employees' children who are eligible dependants, increased coverage for diagnostic X-rays and lab fees, alcohol or drug benefits for two confinements of 30 days each at a rehabilitation center, and private room coverage in the hospital for employees with contagious diseases. New low-cost life insurance for an employee's spouse and dependants is now available in the insurance plan for \$2 a month through payroll deductions. Increases in maximum life insurance, AD&D, and weekly accident and sickness benefits are also included in the contract.

DALLAS-BASED E-Systems Inc., an electronics company, switched its group term life coverage and part of its AD&D plan to Southwestern Life Insurance Co. of Dallas on August 1. The previous underwriter was The John Hancock Mutual Life Insurance Co., and the reason given for the change was cost. Based on its favorable loss experience, E-Systems was able to reduce the premium for its employees' group life insurance to 40 cents per thousand per month.

AN ACTUARIAL consultant predicted that 2.8 million workers lost their retirement benefits after "just one year of ERISA's operation." Counting employees whose plans were terminated as well as those for whom plans were not established, Morton C. Mosiman, president of Deferred Compensation Administrators Inc., Minneapolis, warns that the impact of ERISA may be far more damaging to retirement security benefits than currently believed. "The Pension Benefit Guaranty Corp. says that 1,700 workers are receiving benefits who could otherwise have lost such benefits (but) millions of workers who would otherwise be covered will fail to receive benefits in the future because frightening and burdensome aspects of ERISA will cause their employers to decide not to install a plan," he predicts. Only 2,141 new corporate plans were approved for the first quarter of 1976 as compared with 12,338 in the first quarter of 1975. Plan terminations "exceeded new plan approvals by 80%—3,739 terminations to 2,141 new plans approved," Mr. Mossiman said, adding that of those plans terminated, 2,167 were pension plans and 1,572 were profit sharing plans. He calculates the total number of workers losing retirement benefits in 1976 by multiplying an average of 50 employees per plan times the number of terminated

plans and the number of plans not established as compared with the first quarter of 1975. Projecting that figure annually, Mr. Mosiman believes there will be 2,787,200 workers who will have lost retirement benefits by the end of this year.

THE CITY OF Oceanside, Ca., began July 1 self-insuring its group health program covering 500 workers, and named R. L. Kautz & Co., Los Angeles, to administer the program. Jere Jarrell, director of finance, told *Business Insurance* the Orange County municipality decided to go self-insured for group health coverage, including a separate dental plan, after it received a 14.5% premium boost from its former group health underwriter,

Blue Cross of Southern California. The city had been paying premiums of \$286,000 for the 1975-76 period, Mr. Jarrell said, noting that the 14.5% premium increase would have added \$42,000 to the city's premium tab. Secondary reasons for going self-insured, he said, include the hope that the ratio of claims to paid time will improve. Mr. Jarrell said a reserve of about one month's premiums or \$26,000 has been put aside as of early August.

R. L. Kautz & Co. was picked to administer the program because the firm has been administering the city's workers' compensation program for a year and in Mr. Jarrell's opinion has been doing a good job at it. The group health program is paid about 90% by the

city and 10% by the workers, represented by three employee associations. Jack Kelly, safety/insurance manager for Oceanside, said that benefits remain unchanged in the self-insured program. Individual participants in the program are entitled to \$300,000 of benefits per lifetime, he said.

BECHTEL CORP. expanded its comprehensive medical insurance plan with Metropolitan Life to include routine dental care benefits for employees, according to Virginia Guerin, manager of benefits. Bechtel negotiated the basic medical contract with Metropolitan back in 1973, but changed several aspects of the plan, mostly relating to premium structure, early this year. Some of the plan changes

were based on Bechtel's expectations that more of its employees would choose to participate in HMOs. Bechtel employees who live in Northern California are already eligible to belong to Kaiser Permanente, and Bechtel thinks HMOs will gain popularity over a broader base.

Under the original contract with Metropolitan, employees of the San Francisco engineering and construction firm had to have life insurance in order to be eligible for the medical benefits coverage. The updated plan, in addition to offering limited dental benefits, now allows employees to belong to either the life plan or the medical plan or both as they see fit, Ms. Guerin explained to this maga-

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Employers appeal ruling which limits access

By JANE WINEBRENNER

AUSTIN—The Industrial Foundation of the South, a non-profit organization representing over 400 employers in seven Southern states, has filed an appeal in the Texas Supreme Court against the Texas Industrial Accident Board in an effort to gain access to the state's computerized workers' compensation records.

The Texas Supreme Court already has ruled that the foundation has access to the state records except when they involve "highly intimate or embarrassing facts." Both sides filed for a new hearing, however, and the state supreme court is expected to rehear the case in October.

The Industrial Foundation, which filed suit in 1973, felt the ruling needed clarification accord-

ing to its general counsel, George Petrovich. He said no exceptions to the requests should be permitted or every application for the state's records could result in a state supreme court case to define what is "intimate or embarrassing" or necessary information.

Citing the Texas Open Records Act of 1973, the court said: "We hold that the information requested, with some exceptions to be noted, is 'public information' as defined by the Open Records Act and must be disclosed to the requesting party."

What is still to be determined is how the records will be made available to the employers seeking information on a prospective employee's previous injuries. The file number, name, social security number, claimant's employer, na-

ture of injury (unless "intimate") and the claimant's attorney's name must be given to the employer if the court sticks to its previous ruling. Even the chairman of the state Industrial Accident Board feels the court will do this.

The State Board of Control will determine which is the least expensive method of providing the information. The foundation stated during the trial that a direct tie-in to the board's computer system might be the most feasible way to provide the information.

The State Board of Control will determine what records may be controlled by the determination of what records must be disclosed," the court ruled, "insofar as the procedure must adequately protect information deemed confidential from improper disclosure.

"If a direct computer tie-in

could not be effectuated without giving the foundation access to information to which it is not entitled, then of course the procedure would not be acceptable."

The Industrial Foundation is a service organization for member employers. According to its president, H. J. Robinson, it reviews employment applications for its members to verify information concerning whether or not a prospective employe has filed previous workers' compensation claims, and the nature of that injury.

Mr. Robinson said there have been instances of persons filing many claims, changing their names or social security numbers. "We find enough of it that we are in business here," Mr. Robinson said.

Their lawyer, Mr. Petrovich,

said the foundation feels that a direct computer tie-in could be the "most efficient and economical," but added that other possibilities are computer print-outs or magnetic tape. Mr. Robinson said simply, "All we want is a copy of their records; it doesn't matter how we get them."

Harry W. Dahl, executive director of the International Assn. of Industrial Accident Boards and Commission, said he has not heard of any similar cases involving mass computerized access to state workers' compensation records. He said there may be a conflict involving the Federal Privacy Act which protects citizens from harassment. Mr. Petrovich said the Federal Privacy Act does not apply in this case because a state agency is involved.

Mr. Dahl, who also is chairman of the American Bar Assn.'s workers' compensation section, said there was no precedent for the action and "may be going a little far."

According to Cue Boykin, State Industrial Board chairman, the state is not in a position to comply with the ruling for several months after it is enacted, adding it would "ruin" the board if the employers' group has a direct tie-in to their computer. The board currently buys computer time from the Texas coordinating board of higher education; it does not own its own computer.

Persons requesting the information will have to pay a fee, also determined by the state's board of control. "The possibilities of retrieving this information are so varied we have no idea what it will cost until we know what will be ruled," Mr. Boykin said.

The board's data processing manager testified in the trial that the tie-in procedure "would cause a complete breakdown of our already overloaded agency workload; it would also require the complete restructuring of our data processing system and the hiring of personnel to supply the information requested."

The Court of Civil Appeals said this was a matter for the state board of control and that possible abuse of computer privileges was up to the "discretion of the trial court."

Mr. Boykin said that while the volume of compensation claims is "increasing dramatically" in Texas, it probably is in direct proportion to the increase in business and employment. In the last three years the workers' compensation rates have risen 25%, due in part, to an increase in benefits and health care costs.

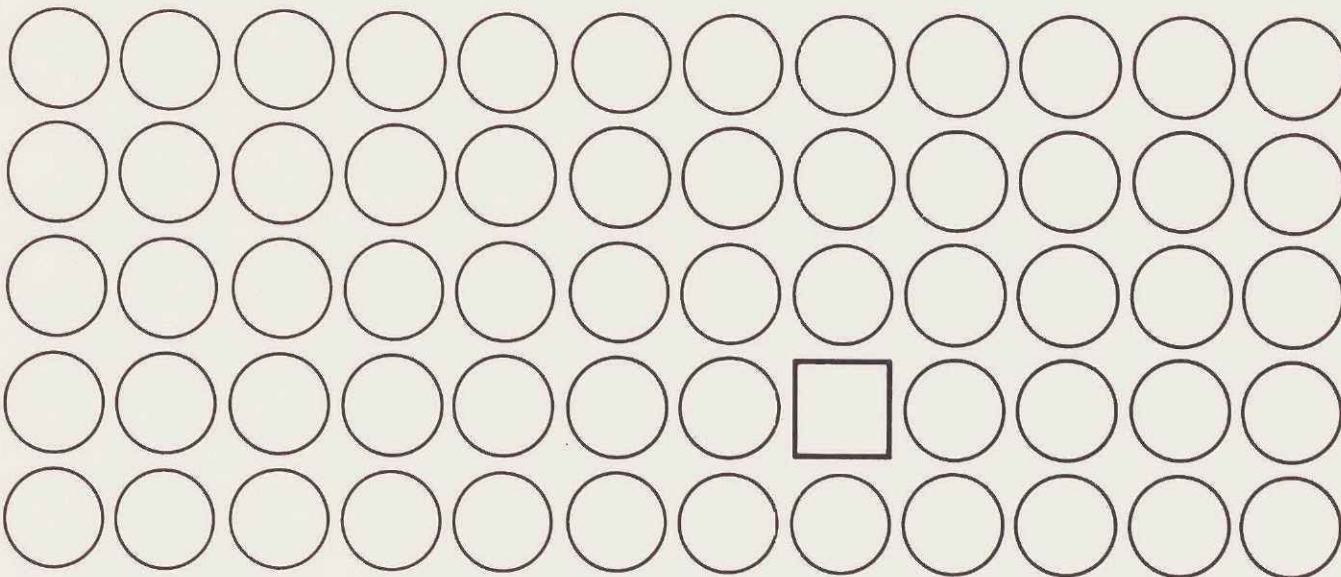
There are no studies determining what percentage of workers' compensation claims filed may be fraudulent mainly because it is difficult to determine what is or is not a fraudulent claim.

Michael J. Romig, manager of the U.S. Chamber of Commerce's human and community resources division, said, "The out and out fraud is relatively small in workers' compensation; the exaggeration is large." He also said the number of workers' compensation claims filed nationally has risen by 15% a year in dollar cost, but that the number of fraudulent claims is "not a national problem."

According to the chairman Mr. Boykin, some of the information requested by the Industrial Foundation of the South is not kept in the computerized records, such as lawyers' names and nature of injury, in order to keep that information confidential.

The foundation is seeking the
Continued on page 6

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An unlikely way to cover an insurance claim?

A late January afternoon in Charlotte, N.C. Weather forecast: freezing temperatures overnight.

Charlotte Claims Office receives call from a nursery. A policyholder's truck has overturned, damaging greenhouse. Initial damage estimate: \$4000. But loss of exotic plants now exposed to elements could drive potential claim as high as \$20,000. Claims Office suggests moving plants to another greenhouse. None available. Thermometer begins to fall as night comes on. Claimsman Jim Mathison studies problem, drives to Greenville and buys rolls of heavy plastic sheeting and plenty of tape. Returns to nursery, covers and completely seals damaged

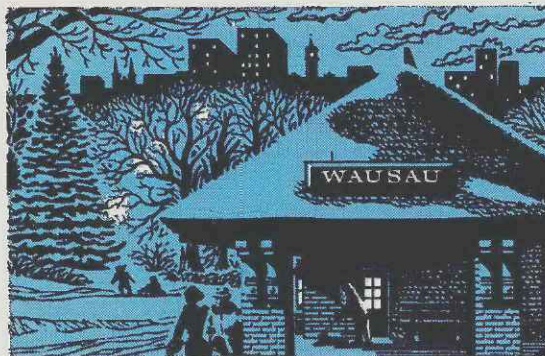
greenhouse. Temperature drops below freezing. Inside, plants cozy, alive and well.

This case supports our assertion that there are major differences in insurers. Not just in price, but differences in *commitment* that greatly affect long range cost. The savings to us? Substantial claims dollars. To the nursery? A lot of unruffled customers and a whole lot of inconvenience. Savings to all our policyholders? A potential shared loss...that never occurred.

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Travelers, Allied Chemical meet again after Virginia's acid disaster

By MARIE KRAKOWIECKI

MATHEWS, VA.—The Travelers Insurance Cos. wrote the general liability policy covering an Allied Chemical Corp. barge which capsized in the Chesapeake Bay, dumping acid in the water and prompting the evacuation of 3,000 Virginians from their homes.

The Allied Chemical barge AC-38 was being pulled from the company's facility in Delaware to its facility in Hopewell, Virginia when the mishap took place. Its cargo was 1,000 tons of oleum, a highly concentrated form of sulfuric acid.

The captain of "Big Mama," the tug which had the barge in tow when it flipped, reported a vapor cloud immediately after the accident, and crew members sighted dead fish.

It was the second time this year that one of Allied Chemical's barges loaded with sulfuric acid was involved in an accident in Virginia waters. In January, one was forced onto the mud on the Rappahannock River. No spillage was reported then.

Hopewell, the city Big Mama was towing the barge to, is ironically the city where the kepone poisoning tragedy originated at one of Allied Chemical's captive supply companies, the now-defunct Life Science Products Co. Inc. The toxic pesticide, produced by former Allied Chemical employees at Life Science exclusively for Allied Chemical, severely disabled workers and polluted Hopewell as well as waters in surrounding areas. (*Business Insurance*, April 19).

Travelers is the liability insurer for Allied on the kepone case, as well as being the workers' compensation insurer for Life Science Products, and the insurer for workers' compensation for the city of Hopewell itself.

The same week that the Allied Chemical barge dumped the sulfuric acid in the Chesapeake Bay, the company pleaded no contest to

940 criminal counts charging it with polluting Virginia's waters, mostly by discharging kepone at at Hopewell.

A Coast Guard hearing was scheduled late last month to investigate the conduct of Big Mama's crew when the Allied Chemical barge overturned. None of the crew of Big Mama, which is owned by the Hayes Launch Service of Philadelphia, reported seeing the barge flip after the tug made a sharp turn near Wolf's Head Light, about a mile off the coast.

Although it was later stayed by towlines, the barge began drifting toward rural Mathews County on Virginia's mainland after it

capsized.

Potential danger from deadly acid fumes or explosion prompted county administrator Charles H. Richardson Jr. to evacuate all people from an eight-mile section of the community. This included 77 nursing home patients who were moved into a firehouse, and 65 families vacationing in a campground.

His move was seen as a basic risk management decision by Virginia's coordinator of emergency services, George L. Jones. Mr. Jones' office later co-ordinated efforts with the local authorities and carried out a disaster plan designed to protect people in the area. Mr. Jones told *Business Insurance* he

would discuss and possibly recommend to the governor that the state hire a risk manager to help plan for such emergencies (see related story).

However, it was not apparent during the week after the incident whether the Travelers' insurance policy would cover any costs connected with the evacuation activities.

A Travelers' spokesman said no dollar figures on damages were available that week, and he added that the insurer did not think there was any liability attached to the evacuation situation.

Travelers, however, immediately sent out representatives from its home office to inspect the barge after it capsized. One of its engineers and a representative from the ocean marine division (which handled this aspect of the liability coverage) were on hand during the salvage operations.

The danger most feared by Virginia officials was that tanks of

acid which still might be on board the barge when it was righted could rupture, and either explode or send out poison fumes. They kept the area residents on alert even after they had returned to their homes because of that possibility.

However, when salvagers managed, after three attempts, to right the barge on August 20, it was completely empty of its cargo. The lost material is thought to be in a part of the bay which is 30 feet to 40 feet deep, and where the acid can dilute harmlessly.

The Coast Guard said that despite constant monitoring of the water, there was no noticeable damage from the sulfuric acid, nor any more sightings of a fishkill after the initial overturning of the barge.

Based on the Coast Guard reports, Travelers said it was not expecting any major damage claims for the acid spill.

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

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



Ruling . . .

Continued from page 4

names of lawyers involved in all workers' compensation cases because it feels lawyers should be identified and case histories verified through the records.

"I don't know of any state where a lawyer should be involved in a legitimate workers' compensation case," Mr. Robinson said.

Mr. Petrovich said other states such as Oklahoma, Louisiana and Tennessee, currently provide their organization with records but that information is collected from court records—available only when a case goes past the hearing stage and into the trial stage.

Under the present Texas system, the employe files his claim with his employer and files a notice of injury with the state board which rules on the case; the employer also files a first report. After that the state deals with the insurance carriers almost exclusively. The insurance companies are contacted to see if compensation is paid out; if not, a hearing is set for a settlement. If either side disagrees with the State Industrial Board decision, the case can also be taken to court.

Because of the relatively low level of compensation payments—\$70 a week for a maximum of 401 weeks—not many employes are willing to pay court costs and lawyers fees, one lawyer said.

Can handle disasters but need risk manager

RICHMOND, VA.—Deep in a bomb shelter under the state police headquarters, George L. Jones and his staff worked up a four-part plan to deal with Virginia disasters both great and small.

They used it during Hurricane Belle in early August, and then again later that month when a Allied Chemical barge capsized in the Chesapeake Bay, spilling 1,000 tons of sulfuric acid.

Basically, it is a risk management approach for emergency preparedness. But the co-ordinator of the state's Office of Emergency Services is not a risk manager, and he thinks the state might benefit by hiring one.

After the acid spill, which prompted the evacuation of 3,000

bay area residents from their homes, Mr. Jones told *Business Insurance* that he would discuss with the governor the possibility of hiring a state risk manager to help co-ordinate the disaster plan with the state's insurance program.

Mr. Jones explained that on the basis of his office's work with disaster planning, an analysis took place about a year and a half ago about whether state agencies in flood areas should be self-insured. However, there is no formal coordination between the plan and the state's insurance program.

The basic part of the plan is about one year old, but it is constantly updated, with some revisions just a few weeks old.

Basically, it furnishes guidelines for employing resources to meet peacetime as well as wartime disasters, and it requires broad cooperation from state, local and private agencies.

In the incident with the Allied Chemical barge capsizing, for instance, the decision to evacuate 3,000 people from Mathews, Virginia was made on the local level by the county administrator.

Mr. Jones' office later stepped in and coordinated some of the activities. It worked with the Virginia Marine Resources Department, state air pollution and water pollution experts, and even the National Guard.

The state's emergency plan in general outlines activities of about 28 state agencies in a disaster situation but it is up to the agencies to develop specific plans.

Virginia's four part plan includes an overall planning manual, a peacetime disaster plan for na-

tural disasters, a plan for manmade disasters such as industrial and nuclear radiation accidents and a plan for emergency management of resources following a nuclear attack.

Mr. Jones' office has a full time staff of 38, with 10 extra people hired for special project plans. He said the staff is constantly modifying the disaster plan. With all its refinements the Virginia plan is said to have sparked interest by other states and even by small foreign countries following a State Department seminar on international disaster relief which Mr. Jones participated in. ■

Task force named

A 10-member task force was named by the National Assn. of Insurance Commissioners "to develop additional data on products liability insurance and to assist in evaluating current and future pricing and marketing problems."

OPIC cover may be lost bribe offering companies

WASHINGTON—Firms that offer bribes to foreign government officials stand to lose insurance coverage from the Overseas Private Investment Corp. (OPIC) if a strongly supported House-passed bill is approved by the Senate this month.

The Senate Foreign Relations Committee is expected to take up the legislation after the Labor Day recess without holding hearings, a committee staffer said. The Subcommittee on Multinational Corporations has already held extensive hearings on illegal payments abroad.

There is also a possibility that the measure could be taken on as an amendment to a bill passed by the Senate Banking Committee that outlaws bribes by U.S. corporations to foreign officials.

OPIC is opposed to the bill on grounds that it would make the government insurer a "regulatory" agency, resulting in higher premiums to police foreign payoffs. OPIC offers insurance in 77 countries against risks such as war, expropriation and currency non-convertibility.

The bill, H. R. 14681, passed the House International Relations Committee unanimously on August 8 and was approved by a voice vote in the House on August 24.

"Chances are very good" that the bill will be passed by the Senate Foreign Relations Committee, according to a staff aide there. "I can't see any real opposition," he said.

If enacted, the bill would require OPIC to issue regulations to terminate the insurance of any investor in a foreign country who offers or pays a bribe to any government official, political party or candidate, or any other person who knows that the purpose of the payment is to influence a decision of the government.

The bill requires OPIC to investigate any indications that a payment has taken place, and to terminate the insurance if it has. However, bribes made before the regulations are in effect would not be subject to investigation.

Appeals of an OPIC decision would be directed to the U.S. Court of Appeals and circuit courts.

The underlying principle behind the bill, according to House majority whip John J. McFall (D-Ca.), is that OPIC should not insure corporations that bribe foreign governments because "such payments, if they become known, can produce a strain in our diplomatic relations, or can be used as a reason for expropriation by a foreign government, which can result in costs to U.S. foreign policy and to U.S. economic interests." ■

'Blatant violation'

Pennsylvania Insurance Commissioner William J. Sheppard has taken legal action to prevent Argonaut Insurance Co. from withdrawing in mid-contract from agreements to cover 400 doctors for malpractice. Argonaut wanted to cancel its contract with the Pennsylvania Medical Society effective October 1. Commissioner Sheppard, calling the action a blatant violation of the law, instructed his department's legal division "to initiate immediate action to overturn the 400 notices of non-renewal" in accordance with the state's Malpractice Insurance Act.

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Sex is major factor in cost of disability cover

NEW YORK—Insurance companies which charged women higher premiums for disability coverage than it charged men were not necessarily guilty of sex discrimination, a new study implies.

According to the New York Department of Insurance, sex is a major factor affecting the cost of disability income insurance.

For accident and sickness benefits, female claim costs are consistently higher than male claim costs up to age 60, after which they fall below male costs, a department study concluded. It pinpointed the highest relative differential in claim costs to be in the age group of 30-39.

Superintendent Thomas A. Harnett announced the publication of

"Disability Income Insurance Cost Differentials Between Men and Women" late last month.

It is a 59-page report which provides information covering some general principles of ratemaking by insurance companies, overall design of the Insurance Department's study, and ratios of female claim costs to male claim costs by occupation and by age.

Where male and female workers are properly grouped in the same occupation class, claim-cost differentials are attributable to sex and age and not to occupation, the study concluded.

However, it found that for accident-only benefits, female claims costs are generally less than male

claim costs below age 30 and show ratios which increase with advancing age. So the cause of disability affects claim-cost ratios.

The Insurance Department did the study after it was sued in 1974 by feminists opposing the traditional practice of insurers charging higher rates to women than to men for medical and hospital coverage and for disability insurance.

In May 1975, the department issued a call for the available disability income experience from 26 leading companies licensed to write this coverage in New York state.

In the meanwhile, the state insurance law was amended to prohibit companies from refusing to issue policies, or from cancelling policies on the basis of sex or marital status.

Superintendent Harnett had decided that an updated study of the available experience data on insured lives by sex was essential because of the changing life style of women in recent years.

More women have been pursuing professional and other careers on a permanent basis and an increasing number of women have become the sole or principal family wage earners, underscoring their need for adequate loss of income protection.

Even though one of the conclusions of the department study was that on accidents-only benefits female claim costs were less than male costs, the department's study specifically excluded experience data on accident-only policies.

The insurance department intends to amend the insurance law governing health and sickness underwriting by insurance companies so that their practices will correspond with the results of the study.

But before this is done, a public hearing, to be announced by the Department, will be held on the proposed amendments to provide all interested parties with an opportunity to present their views. ■

Benefit tax relief added to reform bill in final hours

WASHINGTON—Several important tax breaks for certain employee benefits were squeezed into the Senate's tax reform bill in the final weeks of debate before it passed August 6, 49 to 22.

Housewives, oil companies and lawyers stand to benefit from the incentives to invest and form some kinds of benefit plans that are favored in the Senate bill.

It remains to be seen what kind of changes will eventually be made by the conference committee when it meets following the Republican convention to hammer out the differences in the House and Senate versions of the bill.

Under the direction of Senate Finance Committee chairman Russell Long (D-La.), a strong advocate of employee stock ownership plans (ESOP), the extra 1% investment tax credit for establishing ESOPs was doubled and made permanent.

Capital-intensive companies, especially oil companies, have been quick to form ESOPs for the sake of the extra 1% tax break, which comes on top of the normal 10% tax credit for investment.

A big boost to group legal insurance plans came in a provision that would make the money spent on such a plan tax-free, opening the way to making legal insurance a more attractive employee benefit. The bill also provides that employees would not be taxed on the services they receive, either.

Housewives will benefit under an item in the bill that allows workers who have set up individual retirement accounts to contribute an extra \$500 on behalf of their wives, on top of the \$1,500 they can set aside tax-free until retirement if they have no other pension plan.

None of these provisions are contained in the tax reform bill passed by the House last year. The relative obscurity of these benefits may mean they will pass through with hardly a notice, or they may be among the first provisions to be axed as compromises over the larger issues take shape.

The joint conference committee is due to meet the week of August 23. ■

Lloyd's tops \$2 billion

LONDON—Global premium income for Lloyd's reached the record total of more than \$2 billion for its 1973 trading year, according to returns released in London, August 26. Profits exceeded \$200 million, representing a return of 9.2% on its worldwide premiums.

Comparable sterling figures are 1,190 million pounds premium income, and 109.6 million pounds in profit, for 1973, which is the most recent completed "profit-and-loss" period under its three-year accounting system.

Trends for succeeding years will be revealed later. The figures compare with premium income of 957.3 million pounds and 91 million pounds in profit for 1972, which resulted in a 9.6% return.

This is the first time in its 200 year existence that the historic Lloyd's of London organization has ever exceeded one billion pounds sterling in premium income. ■

In Apr 2 '76

Out Apr 7 '76

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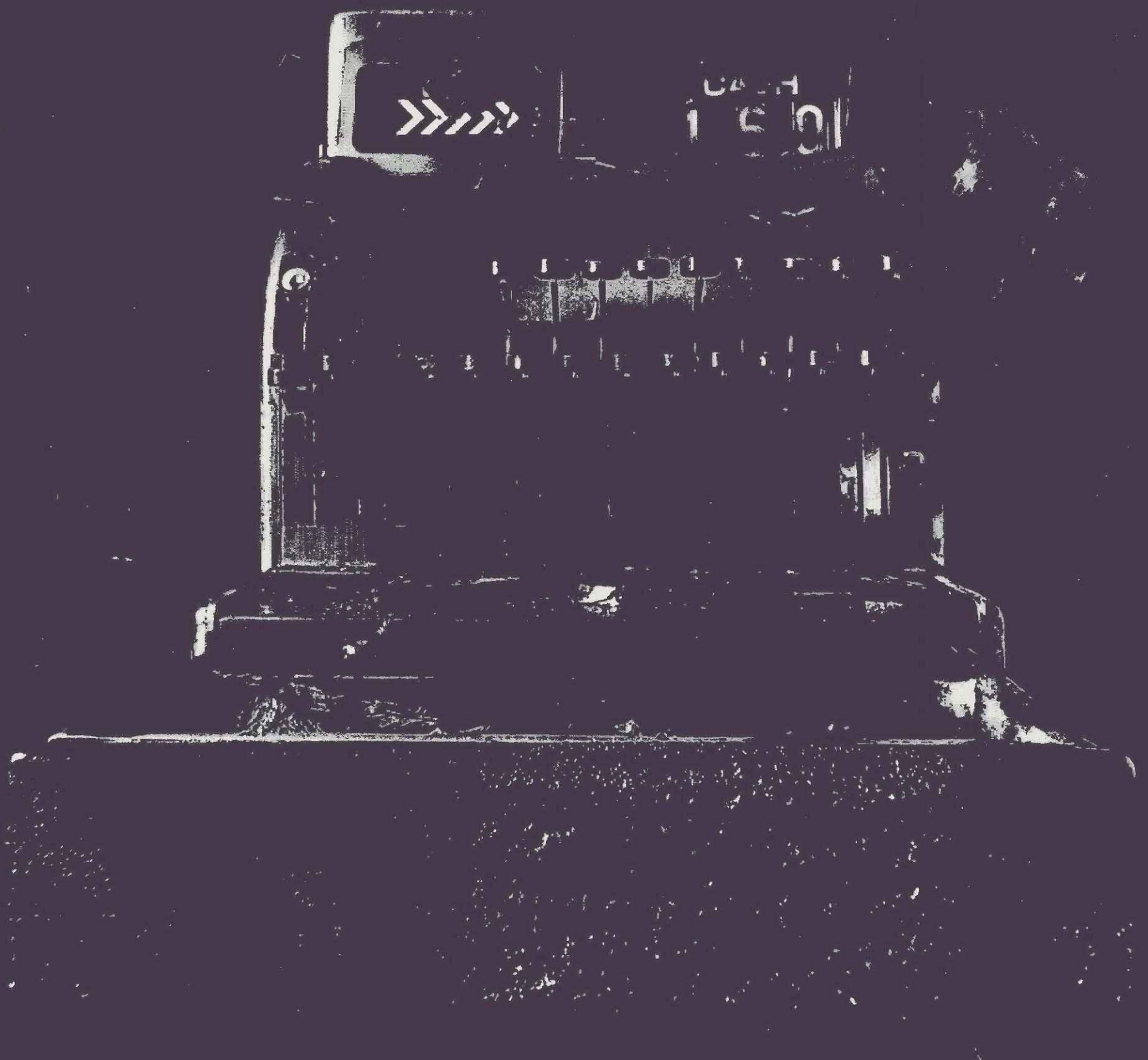
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James recruits top quantitative personnel from Corroon & Black

NEW YORK—Fred S. James & Co. launched a new effort August 16 when it added Tom C. Allen to its ranks, naming him a corporate vp and offering him the opportunity to establish a new James operation called the national sales and financial research division.

Mr. Allen, a PhD in corporate finance and risk theory, is a leading practitioner and developer of quantitative risk analysis methods. Well-known in the risk management field, he was a vp with Armistead Miller Wallace, a part of Synercon Corp. (and now part of Corroon & Black) for four years, establishing AMW's quantitative endeavors and creating an image for AMW as an innovator in developing risk financing techniques

for its large commercial clients. Before joining AMW, Mr. Allen was an associate professor of finance at the University of Tennessee.

His departure from Corroon & Black's major accounts team leaves that brokerage firm, the nation's seventh largest, with a gap in its large client division headed by Jake Wallace. The gap, if there is one, is made larger by the simultaneous leavetaking of R. Jane Hill, assistant vp in the national accounts division of Armistead Miller Wallace, and Mr. Allen's assistant. She has also joined James in New York as a vp of the brokerage operation's new division. Although Corroon & Black is left with four or five quantitative peo-

ple who worked alongside Mr. Allen in Nashville, it is the possible loss of image and personality which he fostered for AMW which could be sorely felt.

"From the technical standpoint, we do have other people with these talents, but they're not as well known as Dr. Allen," acknowledged Richard Miller, former Synercon executive and now executive vp and chief operating officer for Corroon & Black.

Synercon's attraction for Corroon & Black was at least partially based on the AMW quantitative operations developed and handled by Mr. Allen, furthering the merger possibilities between the two firms which were completed in May. There were three basic rea-

sons cited for Corroon's strong interest in Synercon, including its strength in the Southeast area of the U.S., its thrust into risk management research and risk financing, and its strength in the employe benefits field to improve a weak area for Corroon & Black.

While there are about 28 people in the national accounts division, there is a good chance that Corroon & Black will now hire some quantitative people to add to that team, said Mr. Miller. He added that Corroon & Black's commitment to risk management innovation hasn't changed. "We've emphasized the newest techniques in risk financing. We have been leaders in this field and intend to remain leaders. We're sorry to lose (Mr. Allen) but we'll move strongly ahead," Mr. Miller noted.

Mr. Allen's plans for the next eight to 10 months include spending more of his time on research, for which he is gearing up at

James by hiring six quantitative specialists for his staff. "I have some tentative ideas that funds set up in captives can be used as a straddle to cover fluctuations in foreign exchange rates. We're going to see if we can use the resources available to risk managers for financial management beyond just the conventional insurable risk areas," he said.

Although Mr. Allen was personally involved in 20 to 25 large and important commercial accounts at AMW, as well as being involved in Corroon & Black negotiations for at least two prospective clients, there's a "very tough," five year non-competitive agreement that he signed with Corroon & Black just last November which prevents him from continuing to work with clients he previously handled.

Mr. Allen's reason for leaving Corroon & Black centered on the firm's emphasis on research, which he felt was slackening. "The people at Corroon & Black were a joy to work with, especially Jake Wallace in the national accounts division, but I felt James was really interested in expanding these (risk management research) horizons, and that they would give me the staff and the department to do this," said Mr. Allen.

After the initial period devoted to research, Mr. Allen will coordinate new projects with national sales to commercial clients of James. In the interim, he says, there may be a few insurance account servicing projects that he will be involved in, although routine account handling is not part of his regular job. ■

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Advocates same cargo filing forms

HERSHEY, PA.—Premium costs could be held down if all states would adopt uniform cargo insurance requirements, commented Joseph M. Wallace, chairman of the cargo committee of Inland Marine Underwriters Assn. and assistant secretary of Royal-Globe Insurance Cos.

The adoption of standardized filing forms in all but ten states has reduced by 75% the number of different forms Royal Globe needed in satisfying motor truck common carrier filing requirements, he told the National Conference of State Transportation Specialists here.

Mr. Wallace also believes greater efficiency could be achieved through the use of standard minimum dollar limits of coverage for cargo losses. Thirteen different combinations are currently in force.

"The average cargo claim (as measured by the Interstate Commerce Commission) amounts to \$80," he noted. "An extremely small proportion of individual cargo claims would exceed \$5,000 for any one conveyance and \$10,000 for aggregate loss or damage at any one time or place," Mr. Wallace said.

He recommended color coded forms to eliminate duplication of work as a result of errors caused by using the wrong form and the acceptance of underwriters' blanket letters whenever limits are changed in a state.

"One letter from a head office of an insurance company is all that is necessary to revalue hundreds or possibly thousands of filings," Mr. Wallace said.

"Most commissions accept underwriters' blanket letters, but a few still insist on replacing all the filings with new ones at the new limit," he added. ■

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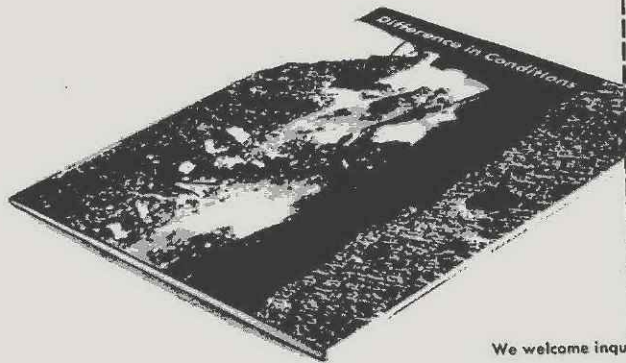
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Reformers converge on Washington to dramatize product liability woes

By PAUL R. MERRION

WASHINGTON—A three-day blitz of product liability reform is set to hit town this week, involving more than 200 representatives of manufacturers and trade associations in congressional hearings and ad hoc strategy sessions.

Not since a group of 70 manufacturers and industry representatives met last March 15 with key government officials at the White House has there been such a concerted effort to focus the attention of the nation's capital on the dimensions of the product liability crisis.

That meeting helped to spur a massive ongoing study by the Commerce Department of the symptoms

and possible cures of increasingly uninsurable product risks. A final report is due in December.

But efforts to do something about the product liability problems are going beyond the Commerce Department study.

The Senate Small Business Committee is holding two days of fact-finding hearings this week, with witnesses representing small business associations, capital equipment manufacturers, consumer goods manufacturers, wholesalers and distributors, the insurance industry, lawyers and the government.

And a two-month-old group called the Multi-Association Action Committee (MAAC) is spon-

soring what promises to be a well-attended Liability Reform Conference on September 7-8.

The formation of MAAC took place last July as a way of bringing together trade associations that are concerned about product and general liability problems, according to Jon J. Gehbauer, spokesman for the group.

It was almost a year ago when executives of the Sporting Goods Manufacturers Assn. started checking with other trade groups and "found that the problem is more far-reaching than ever thought," Mr. Gehbauer said. "We saw that we could all benefit by pooling our efforts."

The conference will consist of two afternoons of speeches by lead-

ers in the liability reform effort, but it is expected that the meeting will allow the participants to meet others with similar concerns, learn what reform moves are underway, and plan future action.

"There's really a feeling of 'Now we're going to get started on something,'" Mr. Gehbauer said.

"**Definite plans** will be laid there on how we're going to approach this, on both federal and state levels," he said.

One possible outcome might be the creation of a new association to work on product liability problems, the spokesman said. Another possibility is the spinoff of several sub-groups to attack specific areas, such as workers' compensation and its relation to OSHA regulations, capital equipment manufacturers' product liability and workers' compensation problems, and the product risks of consumer goods manufacturers.

"What's really going to come off

is that there will be informal meetings into the night," Mr. Gehbauer said. "There will be a chance for people to speak to each other and find out what the heck everybody's doing."

With the first round of speeches scheduled for the Caucus Room of the Russell Senate Office Building, the conference is clearly trying to create an impact on Capital Hill.

One of the first speakers is Sen. Robert Taft Jr. (R-Oh.), who has sponsored an amendment to the Occupational Safety and Health Act that would allow subrogation against an employer in a workers' compensation suit by the maker of the equipment involved in an injury, if the accident occurred in conjunction with a violation of OSHA regulations. The bill would also allow equipment manufacturers to use the safety violation in their defense in a subrogation suit brought by the workers' compensation insurer.

Other speakers include industry representatives from insurance, agricultural implements, sporting goods, recreational vehicles, health equipment and aircraft manufacturers.

A representative from England will tell how that country has handled its liability problem with apparent success.

And Dr. Leonard Barlin, Skokie Valley Community Hospital, will tell the conference how he won a medical malpractice countersuit.

Originally, it was hoped that a representative of the White House Task Force on Product Liability would address the conference, but a Commerce Department spokesman told this magazine that members of the task force would be there as observers only.

The spokesman said it was decided that the meeting was not the proper forum for outlining the official government position. He said the task force study is still in the fact-finding stage. "It would be premature to speak now," he said, although the task force observers will be "very interested in whatever is said."

However, the Senate Small Business Committee hearings will have two government witnesses: Lewis Laun, deputy administrator of the Small Business Administration; and Edward O. Vetter, Undersecretary of Commerce and chairman of the government's task force on product liability.

One key witness at the morning committee hearing scheduled for September 8 is Dr. Ralph H. Baldwin, speaking for the Woodworking Machinery Manufacturers of America, whose letter to the White House last December initiated a 30-day crash study of the product liability problem by the Commerce Department, which eventually led to the ongoing task force effort.

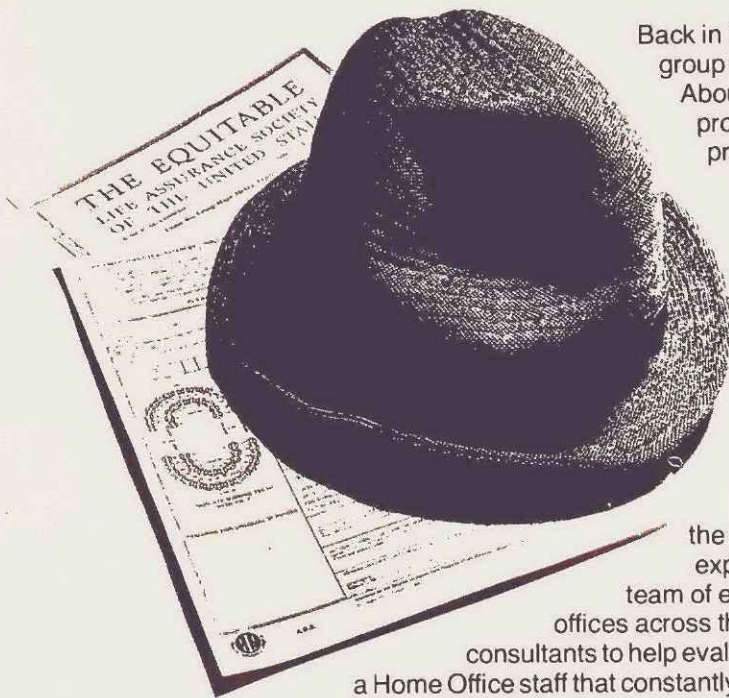
Also testifying September 8 will be E. H. Rosenberg, president of RETORT Inc. (Reason and Equity in Tort), a group of small manufacturers from Massachusetts that lobbies for tort reforms and other measures to ease the product liability crisis.

The committee will also hold a hearing on September 10 when it will hear the government witnesses and eight others, including Mike McKeivitt, Washington counsel for the National Federation of Independent Businesses; and Charles R. McDonald, federal legislation chairman of the Council of Small Enterprises.

The Senate Small Business Committee, which will have lawmaking powers for the first time when the next session of Congress convenes, is not holding the hearings in connection with any legislation but is trying to compile data on the product liability problems of small businesses. A total of 27 witnesses will present testimony over the two days of hearings. ■

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Two malpractice bills okay binding arbitration

CHICAGO—Two compromise medical malpractice bills were signed into Illinois law last month permitting voluntary binding arbitration agreements and revising payment and lawsuit procedures for doctors and lawyers.

The bills, based on findings of a Medical Injury Insurance Reparations Commission and an ad hoc doctor and lawyer committee, will also:

- Make voluntary arbitration agreements between doctor, hospital and patient binding on insurance companies for payment.
- Eliminate double payment of awards by allowing defendants to deduct from a judgment up to 50% of the benefits the plaintiff received from other sources, such as insurance.
- Substitute "reasonable cause" for "bad faith" in suits where a doctor countersues a lawyer for filing frivolous or nuisance lawsuits. The defendant's attorney's fees and expenses must be paid by the person filing suit if the suit is filed without "reasonable cause."
- Eliminate dollar amounts of damages sought in complaints against doctors (ad damnum clause).
- Reduce the status of limitations from five to four years from the date of incident, and no more than two years after the claimant knew or "should have known" of the injury or death.
- Permit the state's department of registration and education to revoke or suspend a license on grounds of professional incompetence, including repeated instances of malpractice.

Last May, Illinois malpractice laws passed in 1975 were declared unconstitutional by the Illinois Supreme Court. Those laws set a \$500,000 ceiling on the amount a person could recover in malpractice cases, limited the malpractice insurance rates insurance companies could charge and established a review-panel to screen all malpractice cases.

The court ruled that the \$500,000 ceiling and the limit on insurance rates were "special laws" and thus unconstitutional while the review panels, which had binding legal powers, violated the patient's right to a trial.

The Illinois Trial Lawyers Assn. and the Illinois State Medical Society consulted with several legislators while the bills were being written. One lawyer present at the ad hoc meeting admitted "there is a very, very wide gap between the medical profession and us." He later said, however, that they would support the bills "because we think it's part of a package to help solve the malpractice problem."

The Illinois State Medical Society, according to its director of governmental affairs Don Udstuen,

said the society wanted a two-year statute of limitations, a limit on contingency fees, and a limit on pain and suffering awards.

The bills that were passed by the Illinois legislature also will give the insurance director power to determine whether a rate increase is excessive or discriminatory after public hearings are held.

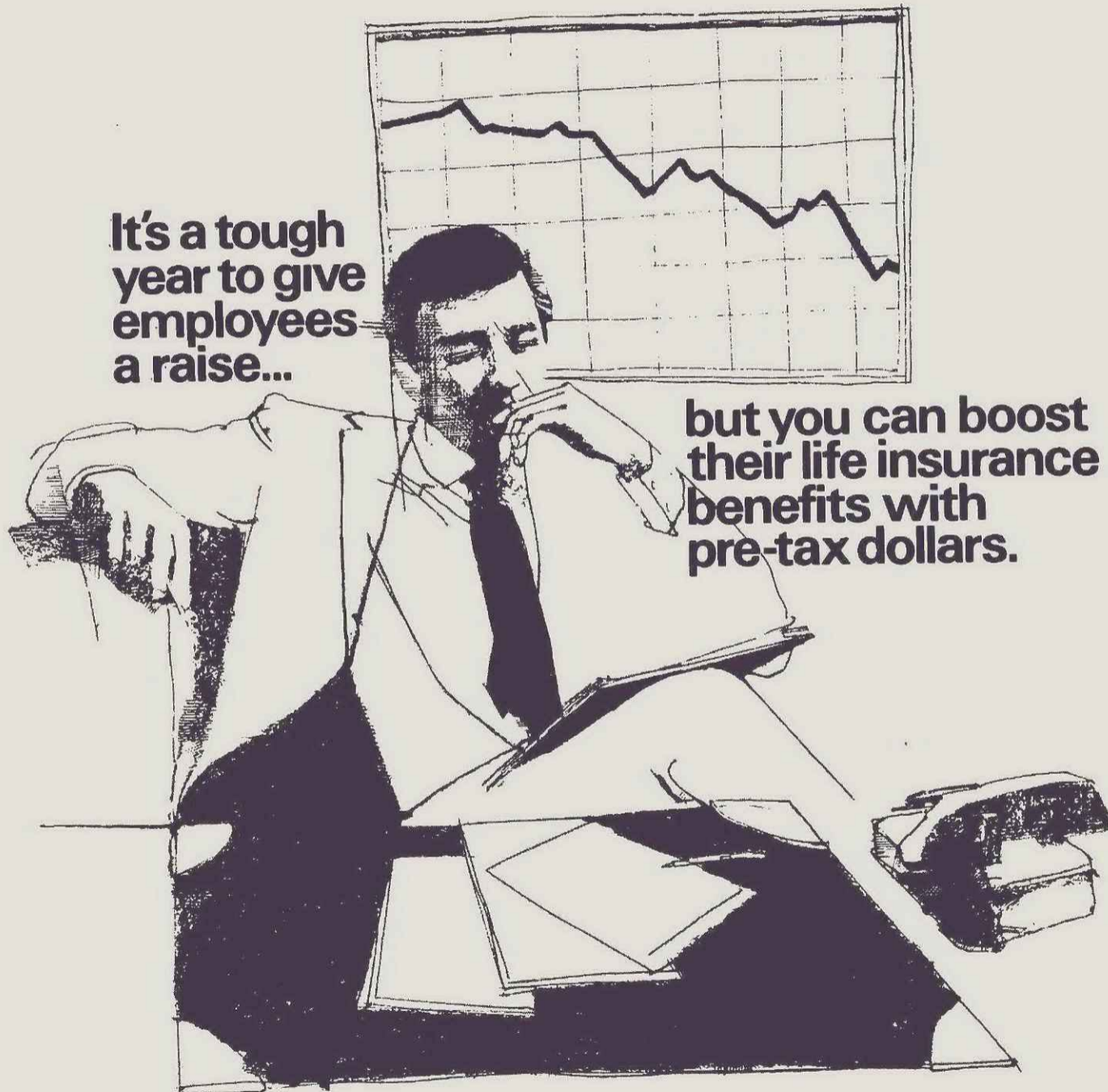
They will also: Require all malpractice claims be reported to the Department of Insurance; require disclosure of the identity of expert witnesses prior to trials; exempt doctors from liability in in-hospital peer review groups; and permit a patient to obtain copies of hospital records and from a physician through an attorney or another physician. ■

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Aircraft Assn. election

Aircraft Builders Counsel Inc., Summit, N.J. elected these officers at its annual meeting in Phoenix: Ross L. Oliver, The Signal Cos. Inc., Beverly Hills, Ca., president; Charles W. Netch, Fairchild Industries Inc., Germantown, Md., re-elected treasurer; F. X. Gimbel, Curtiss-Wright Corp., Caldwell, N.J., assistant treasurer and assistant secretary; and Robert A. Langenhan, Avco Corp., Greenwich, Ct., chairman of the board of directors. The association was formed in 1952 by aerospace manufacturers to create a plan for insuring aircraft product liability exposures.

Computer product liability issues remain difficult to classify: Lawyer

By ELISABETH M. WECHSLER

ATLANTA—"Many lawyers probably will seek to bring (computer) software programs within product liability rules in order to ease the burden of establishing liability of the supplier," said Roy N. Freed, an attorney who specializes in product liability risks for computers.

"Wise suppliers . . . are resorting to liability exclusions in their agreements with their customers," he said. "But only the more secure suppliers can demand that contractual protection successfully even when they are sophisticated enough to seek it. All too many of them are too anxious to secure business to take that tack."

Mr. Freed made his remarks at the American Bar Assn. Conference here on insurance, negligence and compensation law. Fundamental to the question of liability is whether the software and computer output are tangible products.

"Software programs seem to be processes and computer output seems to be streams of electrons," he said, adding that their phenomena "might not be exactly what non-lawyers have been calling them."

Questions over how to classify the liability for computer systems and equipment "still persist," Mr. Freed noted. "People who design marketing arrangements apparently either are insensitive to the

legal considerations . . . or want to use the word 'product' to endow (them) with an aura of greater substance and worth . . . than customers commonly attribute to less tangible items."

For example, he cited a form used by International Business Machine Corp., called License Agreement for IBM Program Products. The IBM agreement "places great emphasis on the computer media as if they had intrinsic worth," Mr. Freed said, adding that "there has been a tendency to copy that form of reference."

He pointed out that "most suppliers of software programs and computer output are not making provision, either by purchasing in-

surance or by accumulating their own resources, for liability exposures of the types discussed."

"Those suppliers frequently represent difficult competition for more rational suppliers that include appropriate allowances for liability risks in their costs in determining their prices," he said.

"Unless people are remarkably skilled in designing the programs that represent the series of individual steps to be taken by the computer performing them, it is reasonable to expect that some errors will persist," Mr. Freed noted.

However, he pointed out that "where the programs are designed correctly and the computer system have the ability to collect and process the relevant information much better than people can, those systems provide new means for avoiding some types of harm that previously were unavoidable."

Mr. Freed predicts that software

programs "probably will be involved heavily in liability claims relating to computer use because of the inherent difficulty people have in creating them perfectly."

But he also said that "the purposes for which computer output is provided seems to be most influential in assessing the legal liabilities of its producers."

Engineers, appraisers, accountants, physicians and others who use the output in rendering services would comprise one category, while other entities that use the output solely for themselves would be different, he said.

The final decision on whether the rules of product liability should extend to computer software and output must be made by courts, he said. It should be based on considerations that have influenced the new approach being experienced with respect to things acknowledged to be products, Mr. Freed continued.

A primary factor is the conviction that the impact of financial losses by persons who suffer harm from defective products should be spread widely throughout society through the prices of suppliers, he said.

He believes that "until greater perfection can be achieved in software program design, there might be good reason to avoid saddling that new industry with intolerable liability responsibilities." ■

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Keep in mind claim to be subrogated

ATLANTA—Lawyers attending the insurance section of the American Bar Assn. Conference here were advised that proof of damages may not end with the adjustment of the insured loss.

"The preservation of proper documentation and the preparation of a provable claim to be pursued in a subsequent subrogation action should be in the mind of anyone who wishes to practice within this area of the law," said Stephen A. Cozen, an attorney with the Philadelphia firm of Orlofsky, Cozen & Begier.

A working knowledge of the language used in standard fire insurance policies is an essential prerequisite to the preparation of advice to the insured or insurer regarding the presentation of a claim under such a policy, regardless of the nature of the loss, Mr. Cozen said.

"Since there are so many variables in terms of the fact situations which might arise with respect to any one particular building or structure in any jurisdiction, it is preferable that the practitioner be knowledgeable concerning the different definitions of actual cash value which are extant throughout the country," he pointed out.

Mr. Cozen advised lawyers to "become cognizant of the various adjustment techniques which are utilized in the field on a day-to-day basis in order . . . to advise a client." ■

U. K. thefts rise

Thefts from business premises in Britain rose last year by 54% to \$16 million, according to insurance figures released by the British Insurance Assn. Patrick Bartrum, chairman of its crime prevention panel, said: "Much of our time is spent in persuading managements that adequate security is vital for all types of commercial operations." Overall burglary losses throughout Britain, both commercial and domestic, topped \$40 million, an increase of 29% from 1974.

Belief in dishonesty is no joke in fidelity law field

ATLANTA—To be effective in the fidelity field, lawyers should cultivate "a belief in dishonesty," believes John M. McCormick, a fidelity attorney from Beverly Hills, Ca.

"It would seem important to realize that witnesses often lie," he told participants at the American Bar Assn. Conference here on insurance, negligence and compensation law.

"To have the requisite imagination and curiosity to pursue all possible explanations with sufficient vigor, one must really believe that people are capable of exaggeration or lying, that dishonesty and fraud do in fact exist, in some of the most unpredictable places," Mr. McCormick said.

The types of situations that a fidelity attorney should be wary of include:

- "The possibility that the obligee bank's president was previously forced to resign by the bank

Mine safety will move to Labor Dept. if approved

WASHINGTON—Mine safety enforcement, which has resided in the Department of the Interior for the last 66 years, will be transferred to the Labor Department if a House-passed measure is approved by the Senate.

The Occupational Safety and Health Administration will not be acquiring any new responsibilities, the bill's backers say, because the bill sets up a new division within the Labor Department and authorizes the President to appoint a new Labor assistant secretary for mine safety and health.

Mine safety is now handled by the Mining Enforcement and Safety Administration (MESA) within Interior's Bureau of Mines.

The legislation was spurred by the Scotia mining disasters at Owen Fork, Ky., in which 26 men died in explosions on March 9 and 11.

As Rep. John Dent (D-Pa.), a major floor fighter for the bill, put it: "The Interior Department has demonstrated that it is the wrong agency for enforcing our mine safety and health laws. Recent proof of what I say can be summed up in one tragic word—Scotia."

An aide to the Senate Labor and Public Welfare Committee said the Senate version of the bill was expected to move quickly through the committee and on to the Senate floor last week. "The Scotia disaster is really breezing this bill along," she said.

The tragedy at Scotia occurred one day after MESA inspectors had visited the mine. "At the time of the explosion, Scotia had been in violation of its ventilation plan for more than a month, yet MESA was unaware of the violation until a week before the explosion and, even then, failed to take any action," said Rep. Dent. ■

Open new division

Alexander & Alexander has established a Consulting Actuarial Division servicing the ten-state North Central Region. The actuarial personnel, headed by Robert E. Perkins, will be headquartered in the Minneapolis and St. Paul office. The service is intended to assist in the area of retirement plan consulting in the wake of ERISA.

because of alleged dishonesty and then rehired when there was a change in membership of the board of directors;

- "That the investigator hired by your client is feeding you completely questionable or fictitious information, filled with all sorts of foreign intrigue, obtaining large payments for expenditures never incurred, and causing your client a loss that exceeds the amount of the obligee's claim;

- "That the principal was hired by the obligee to head up a multi-million dollar charity drive only

three weeks after being discharged by his former employer for allegedly embezzling close to \$100,000."

Another speaker, James A. Knox of Dallas, commented that "because of the nature of fidelity claims, the right of subrogation lends itself in a defensive way in many instances.

"The growth of large, complex fidelity claims has produced a parallel problem in anticipatory subrogation," he continued. "The rights may be very valuable, but difficult for the fidelity insurer to

assert, protect, or have protected, particularly when some or all of the claim must initially be denied."

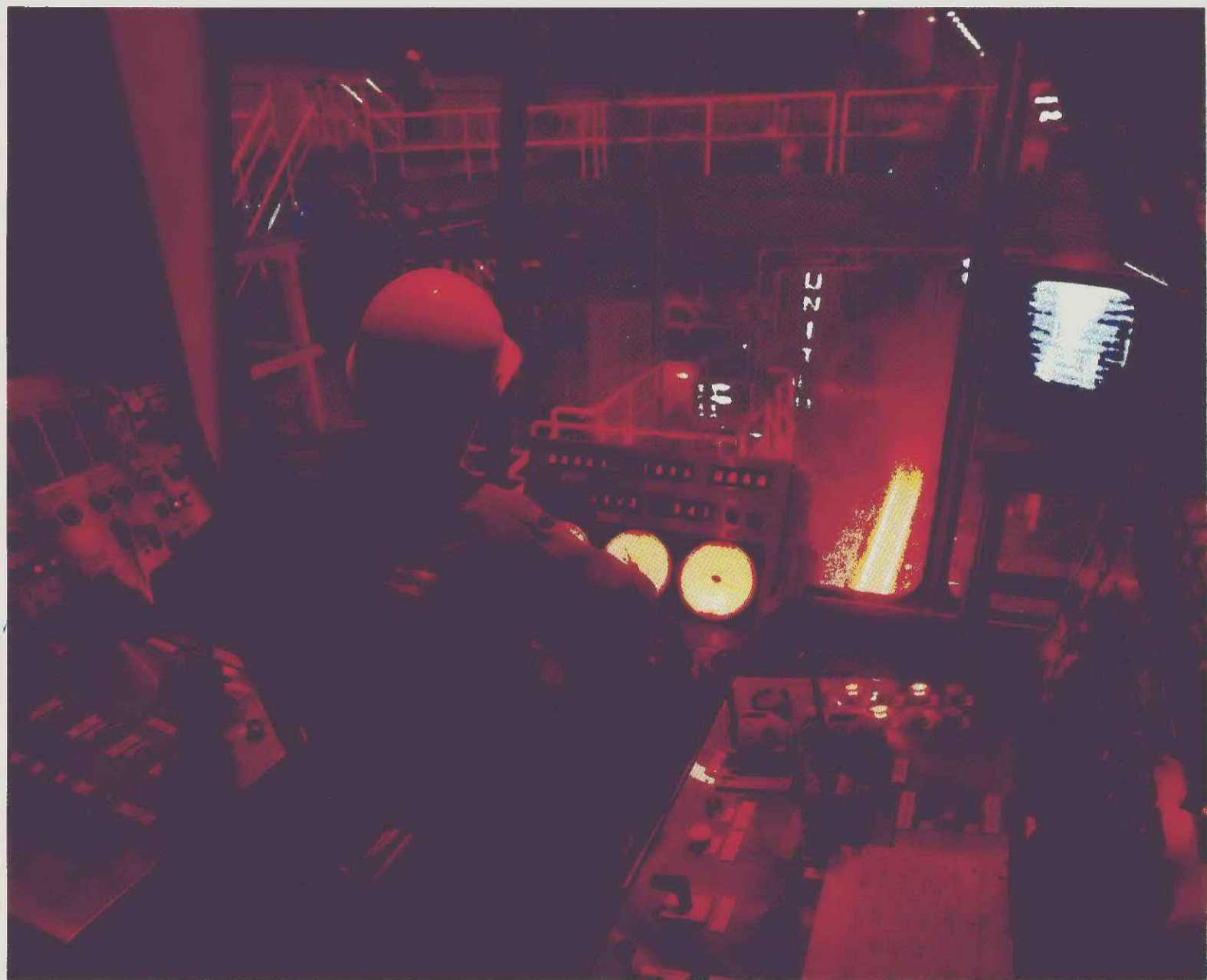
An increasing number of American companies are issuing fidelity bonds covering foreign nationals employed by foreign branches and subsidiaries, pointed out David E. Bordon of San Francisco, another panelist.

"With this increase has come the need to resolve ever more complex questions regarding the place in which any suit brought on the bond will be heard and the law which

will control," he continued.

Mr. Bordon recommended that international contracts include a forum selection clause in order "to avoid the uncertainty and inconvenience of trials in obscure and unfamiliar forums.

"Given the unpredictability of conflicts of law decisions and the vagaries inherent in determining applicable law under them, the goal of security in international negotiations is clearly furthered by inclusion of a law selection clause in fidelity bonding contracts," Mr. Bordon said. ■



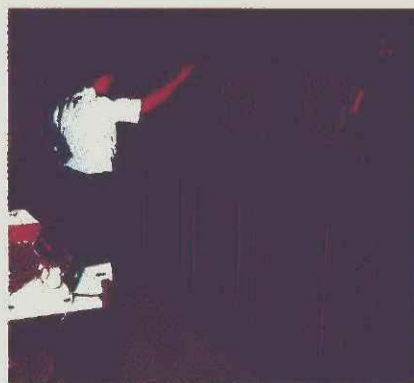
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editorial opinions

What you don't know can hurt—in lost control

EMPLOYERS ARE pouring so much money into paying for benefits already established over the years, few if any new benefits are being added. About the only new employee benefit being added is dental insurance.

According to our new Employee Benefit Board, consisting of some 90 top corporate benefit managers representing a nationwide cross-section of large and small companies, about 60% of all employers now provide dental benefits to their workers. Of this group of corporations with dental programs, a large number began paying for employee dental services only within the last year or two. The indication is that once the United Auto Workers won dental benefits in contract negotiations back in the autumn of 1973, employers moved fast to pick up on a trend they saw spreading.

At a dental benefits conference not long ago, a well known benefit consultant told the audience that if they didn't walk away from the meeting with any other useful information, he wanted them to take home this advice about dental insurance plans: First provide for a second opinion and/or consultation before any automatic benefits would be paid for major work such as root canals, inlay work, etc. And second, don't provide for payment of reasonable and customary fees; whatever you do, use a schedule of benefits.

■ This consultant seemed to think these were the key points to consider in setting up a dental benefit plan, in order to control utilization rates (the average number of claims paid per employee per year) and to control costs.

As the story about our first survey of the Employee Benefit Board shows, however, employers must not think these are important factors. Of the 55 companies (out of 90 EBB participants) having dental programs, we found two out of three provide for payment of claims on a "reasonable and customary" basis.

Furthermore, not one panel member even mentioned a provision for consultation or second opinion on major procedures, even though 15 companies provide for increased

coinsurance (employee pays a bigger part of a claim) on certain procedures susceptible to inflated charges.

We were hit with another surprising finding in the course of our first benefit survey, too. We asked the benefit managers to indicate utilization rates under their dental benefit programs. But we only got 11 answers. Most Board members said they didn't know what their utilization rates were. What's more, of the 11 responses received to this question, there were five completely different types of answers. Does this give even further indication, we wonder, that benefit managers have no real idea of the extent of claims and costs that will be generated by dental programs?

■ Utilization rates are usually expressed in one of two ways: As an average number of claims generated per employee per year in the group participating; or as a percentage of employees who turned in claims over a one-year period. Only three answers fit the format of average claims per employee in the dental plan; these were 2.31, 2.5 and 4.0 claims. Five answers were clearly expressing the proportion of participating employees who actually turned in claims to be paid over a one-year period; these ranged from 60% to 90%. The other answers weren't identifiable.

The consultant who spoke on controlling the utilization of dental benefit plans noted that in his experience, dental plans were generating experience that looked like this: Six or seven people out of every 10 people in the benefit program would turn in a claim at least once during a year, versus experience with medical plans showing three to five of every 10 people covered filing a claim.

Are employers encouraging inflation of health care delivery costs by not instituting tight controls on their benefit program? Benefit managers had better start figuring out just what their companies are spending on things like dental insurance programs. And since most programs are experience-rated to some extent, next year's cost is based on this year's utilization rate.

Creative necessity is the driving force

MEDICAL MALPRACTICE and product liability underwriters, increasingly unwilling or unable to take on the risks of organizations that need insurance, are spurring changes in product liability risk management and hospital risk management sure to affect the insurance industry for years to come.

Hospital activities, being at the forefront of insurance news, have drawn attention to this shift to alternative means of financing losses.

Consider these examples:

• The Harvard University hospitals have established their own captive insurance company to underwrite malpractice coverage.

• The Sisters of the Holy Cross, operating large Catholic hospitals across the country, have their own captive insurer to underwrite malpractice coverage.

• Multihospital Mutual Insurance Co. in California, em-

broiled in problems with the state insurance commissioner, now has 43 hospitals in 11 states participating in its risk-pooling facility.

• Four major corporations—Medenco, Charter Medical, Hospital Affiliates, and American Medicorp—which own and operate some 100 for-profit hospitals around the country, now have their own malpractice insurer set up in Bermuda.

What this says to us is that buyers of insurance are speedily finding alternatives to traditional kinds of insurance. The comment has frequently been made when we've researched our stories on these captives that "We don't need the underwriters any more. If they don't want out business, we'll skin the cat another way."

If this indicates a basic change in attitude toward insurance companies, we wonder how it augurs for the future of the commercial insurance industry. Has the industry thought about this?

letters

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

Legal reform

To the Editor: Your recent editorial concerning the proliferation of liability cases reaching the litigation state was well taken, however, I must make an exception to the manner suggested to obtain the necessary reforms.

While educating the public is a most laudable approach, it is the state legislatures that will ultimately enact any reform legislation. If the insurance industry and risk managers await a public outcry, we shall continue to witness jammed court dockets and the resultant unreal, and often unjustified awards.

As a practicing politician, I have shuddered at my fellow risk managers approach to legislative problems. Sending an individual to the state capitol to testify before a legislative committee is but a small part of the overall effort required, but to most, this singular effort is viewed as an end in itself. Other groups, who have enjoyed legislative successes, haven't waited for their legislatures to convene, but have built strong ties with their representatives and senators during the time of their greatest need—the election campaign.

If reform of the current legal system is a real goal, I urge both risk managers and the insurance industry to get involved now—help those candidates who next January will be in a position to enact the needed legislation. The name of the game is practical politics.

Ronald M. Stolle
Insurance analyst, Interlake, Inc., Oak Brook, Ill.

* * *

To the Editor: I wish to congratulate you on your editorial "Sue the bastards: A social malaise." I wish more editorials on this topic were written with the kind of clarity and sense of direction that you have passed along to your readers.

I would like your permission to use a reprint of your editorial to send to our clients and associates.

My congratulations on your continued and fine efforts.

Luis C. Valdes
Manager, Montgomery & Montgomery Inc., Los Angeles, Ca.

* * *

To the Editor: I am writing to ask for your permission to reprint the editorial entitled "Sue the bastards: A social malaise", as published in the August 9, 1976 edition of Business Insurance, in our quarterly field organ Peninsular Fire Flyer.

The reasons for our interest in reprinting this article are obvious.

Continued on page 20

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letters

Continued from page 18

We are deeply concerned about the situation that prevails in the liability insurance field which your editor has described most vividly and feel that we share a responsibility to bring this matter to the attention of the public.

Herbert L. Parks

President, Peninsular Fire Insurance Co., Jacksonville, Fl.

* * *

To the Editor: I would like 25 copies of 'Sue the bastards': A social malaise.

I plan to distribute them to judges, legislators and others in influential positions in California.

Kenneth C. Tyler

President, Truck Underwriters Assn., Los Angeles, Ca.

* * *

To the Editor: I would appreciate it very much if you would forward

to me a copy of your recent editorial "Sue the bastards! A social malaise". Your editorial was both timely and informative, and I must admit that I agree with all of your recommendations.

James R. Mochel

Mochel Agency Inc., Downers Grove, Il.

'Send us your tired'

To the Editor: It was with interest and distress that I read Joanne Gamlin's article "Insurance buyers have raves and gripes about their brokers' service." How humiliating to have been found out!—to realize that clients have finally learned the secrets of our vast profits, under-staffed departments, poor service and outrageous premiums with a message to "pay up or else." How will we ever be able to face our clients? However, nothing could be further from the truth as anyone in the insurance brokerage business knows.

Certainly, these days the insurance broker is wrestling skin-tight insurance markets and skyrocketing premiums but this combination has prodded the conscientious broker into strenuous, persistent and inspired action. We, at Schiff Terhune, know there is no such thing as "a renewal" and that every line must be re-assessed, remarketed, and re-explored from the standpoint of continuing the purchase of insurance, self-insurance or captives. Of course, we are not alone in facing up to this reality—but Schiff Terhune anticipated and prepared for the casualty "crunch" by staffing up departments and utilizing our top talent to cope with these challenging problems.

Ms. Gamlin's article reaffirmed our belief that many insurance buyers are having difficulty in finding brokers with the capacity, qualifications and the desire to solve problems. At Schiff Terhune, we pride ourselves on our "fresh approach" and in this kind of a

market, we are spending a great deal of money not only on staff and service but also in advertising, brochures, and direct mailings to seek out potential clients with insurance problems.

Send us your tired, despairing, problem-ridden insurance buyers and we will send help . . . our top people.

Constance Conrad

Assistant vp, Schiff Terhune, New York, N. Y.

Fertile field for claims

To the Editor: RE: employe suits against executives, directors, etc.

Several states have become fertile fields for claims by employes who are injured, collect workers' compensation, then sue officers, executives and directors personally claiming real or fancied negligence by these persons, individually. Louisiana and Alabama are particularly affected (or should it

be "infected"?) by such claims.

The legislatures are considering laws to make workers' compensation the sole remedy, but I feel the federal courts will allow such suits where OSHA and similar regulations are involved. And in any event, you can never stop an injured person from suing even though you may eventually defeat the claim.

My purpose in writing is to have the thinking of others with respect to the comprehensive liability and automobile policy form when such suits are filed.

One underwriter has flatly stated it would cover such claims where a corporation is involved, since the injured employe is not an employe of the corporate executive, director, etc. but is employed by the corporation. They would deny liability where a partnership or individual was involved. Discrimination perhaps?

Exclusion "j" of the CGL form definitely refers to employe bodily injury of an insured, then the definition of the insured indicates that officers, directors and stockholders are an insured under "c." Then there is another disclaimer as to fellow employe liability under "e." Of course, there is the same exclusion "c" as to injury to employes, and then the persons insured "d" (1) excludes coverage for fellow employe injury in the automobile form.

I have been advising clients that to be completely safe and know there is coverage, they must have a definitive endorsement on both policies deleting all reference to exclusions where any injury to fellow employes is involved. Some insurers have, in the two states mentioned, attached endorsements limiting any coverage for officers, executives etc. to those named in the charter or by-laws. But with the advent of new positions, among these being comptrollers, controllers, assistant vp's, personnel directors, and others holding quasi-executive positions, this is highly erratic and restrictive. These same insurers more or less emphasize the serious nature of this type of claim through their "buy back" rate structure, charging from 10% to 38% for the deletion of the exclusion. This is based not on the liability charge but on the much higher workers' compensation cost.

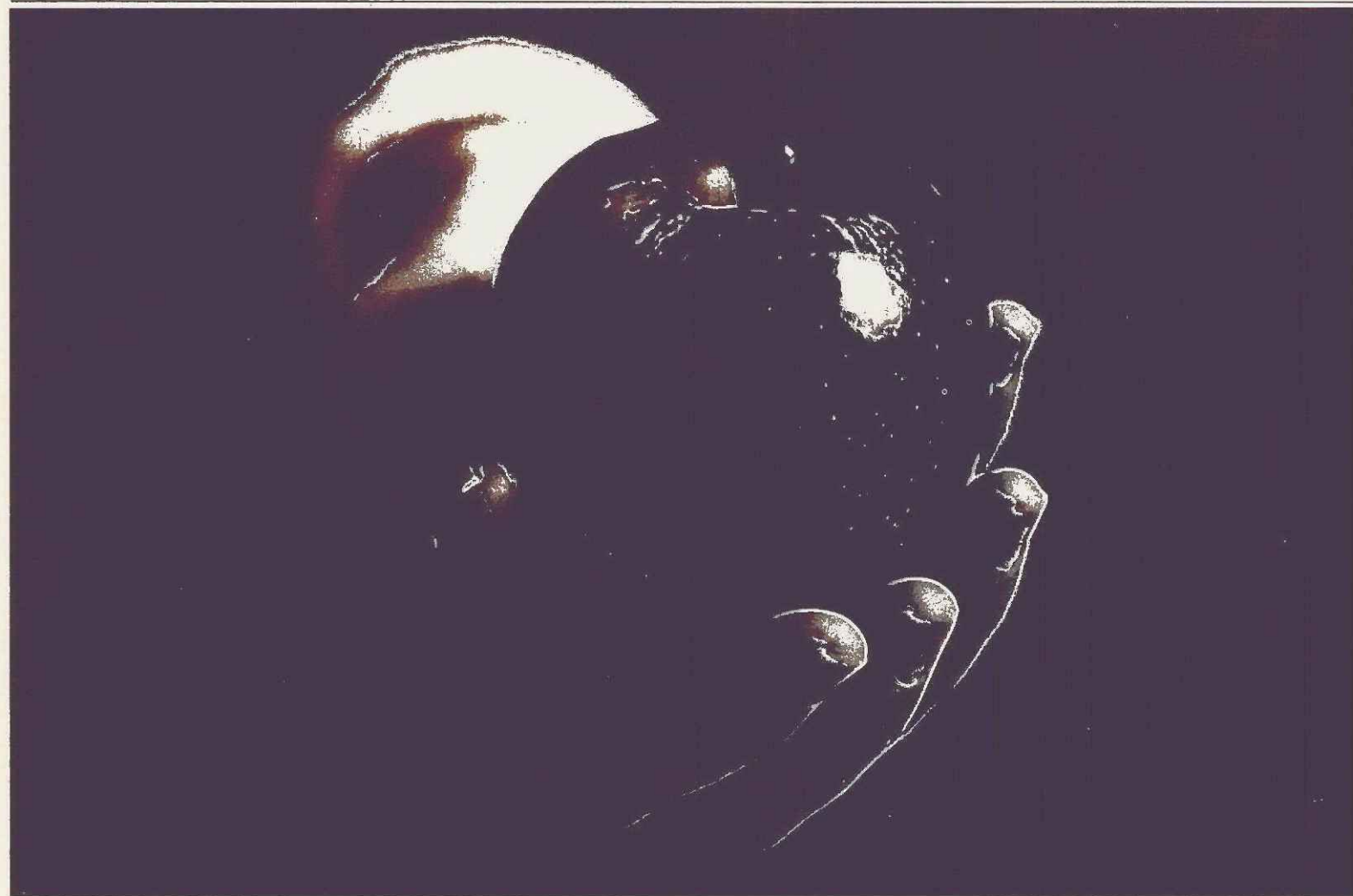
I would like to have the thinking of some underwriters and risk managers relative to this serious claims producer. One attorney bragged to insurance managers that he had more than 100 such claims and suits pending in Southern Louisiana and expected to be filing one a day by the end of 1976. How think ye who read this fine magazine?

Justin S. Leneke

Insurance consultant, Marianna, Fl.

Anaconda wins legal dispute with OPIC

The Anaconda Co. won a legal dispute with the Overseas Private Investment Corp. (OPIC) last month when a federal district court ruled that the government agency must pay for part of the losses suffered when Chile expropriated two Anaconda copper mines in 1971. OPIC had challenged an arbitration panel's ruling that the agency was liable for the \$154 million claim because of a panel member's alleged conflict of interest, but the judge ruled that the panel was not biased. Another panel will now be formed to determine how much of the \$154 million claim OPIC must pay. Chile has already agreed to give Anaconda \$253 million for the mines, part of which may offset the claim against OPIC.



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Malpractice captive has problems only in California

By MARGARET LeROUX

NEW YORK—Multihospital Mutual Insurance Co. (MMI), the malpractice captive that is engaged in a battle for its legal existence in California, is apparently not experiencing similar difficulties in the more than 11 states where the captive is writing business.

Following up a report of MMI's dispute with Insurance Commissioner Wesley J. Kinder over soliciting business from physicians in California (*Business Insurance*, Aug. 9), *BI* talked to hospital administrators in a number of other states where the captive writes malpractice coverage.

All of them stated that the captive has not run into similar problems with insurance departments in their respective states. The administrators also had high praise for the captive's premiums for coverage, risk selection and claims management services.

The captive ran into trouble in California, one administrator explained, by discussing coverage for attending physicians. In virtually all the other states where MMI writes malpractice coverage, only the hospitals and their employees—not attending staff members—are included.

Most of the hospitals who joined MMI approached the captive after receiving exorbitant premium increases from their malpractice underwriters.

At Abbott-Northwestern Hospital in Minneapolis, Ken Morgan, comptroller, said that the hospital applied to join MMI after receiving a 300% increase in malpractice premiums from Argonaut.

By joining MMI, the 850-bed hospital is currently paying \$600,000 for a basic \$1 million policy. MMI's policies are retrospectively rated and depending on the hospital's experience the policy may be adjusted at the end of the policy period.

After receiving indication that malpractice premiums for the coming year were to be increased "to

the point of embarrassment" Touro Hospital in New Orleans joined MMI in April, Robert Sperry, associate director told *BI*.

"We had been insured with Hartford since April of 1975; prior to that we'd been with Argonaut," Mr. Sperry said. "Hartford indicated that the premium for the

coming year would be so high they didn't want to quote."

Left with the alternative of going to a complete self-insurance program, Touro opted to join MMI. The 550-bed institution pays a premium "close to \$400,000 for the basic \$1 million limit of liability," he said.

The hospital must assume \$100,-

000 liability for malpractice claims as part of a legislated patient compensation fund in Louisiana. Hospitals in that state are liable for the first \$100,000 of claims and the state picks up the next \$400,000. A Louisiana state law limits malpractice awards to \$500,000.

One of MMI's original members "went bare" for two weeks last

fall while final arrangements for the captive's existence were completed, according to the hospital's director. Patrick Groner, executive director of Baptist Hospital in Pensacola Fl. said the hospital went without coverage for that brief period of time rather than pay a 300% increase in malpractice premiums.

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Trustees feel more liability under ERISA

NEW YORK—Some 95% of trustees for Taft-Hartley funds surveyed believe that the Employee Retirement Income Security Act (ERISA) has greatly increased their exposure to personal liability.

The poll, conducted by the International Foundation of Employee Benefit Plans during regional seminars on ERISA, found that 63% of the 264 respondents—labor trustees, management trustees, administrators and other professionals—tended toward a conservative investment philosophy.

More than 60% of the trustees think the new federal prudent man rule embodied in ERISA is too vague to help clarify which types of investments are prudent and which are not.

Recruitment of management trustees is becoming more difficult, the survey found, though this is not true for union trustee representatives.

Over half, or 52% of the respondents, feel that because of ERISA, their pension plans can no longer invest in community-type projects such as hospitals or to promote employment for plan members if other investments would bring higher yields or involve less risk. ■



Mr. Groner explained that Hartford, the hospital's malpractice insurer since 1951, quoted a premium of \$1.2 million when the policy was due to expire Oct. 17. The figure represented more than a 300% increase from the previous year's premium of \$400,000. MMI was activated in November 1975.

"Our total losses during the time we were insured with Hartford weren't more than \$35,000," Mr. Groner said, "and during the last

year they ran about \$7,000-\$8,000."

"If we had paid Hartford's premium," he continued, "it would have cost each patient \$50-\$60 more on their hospital bill."

As a member of MMI, Baptist, a 500-bed hospital pays \$239,000 for \$4 million in coverage, Mr. Groner said. He cited "superior claims handling" as well as savings in insurance as distinct advantages MMI provides for its members.

At Oak Ridge Hospital, a 265-bed institution in the Tennessee town of the same name, Richard Stooksbury, vp, agreed.

"We believed in the long run it's in our best interest to be in a mutual where we have some say," he stated, "we were interested in MMP's claims management."

Complaining about the lack of similar services from traditional insurance markets, Mr. Stooksbury added, "All the insurance compa-

nies did was take our money."

Oak Ridge was formerly insured with Glacier General Assurance Co.

One of the more recent members of the hospital mutual chose the captive over one established by the state's own hospital association, citing cash flow considerations as the reason.

At Burlington County Hospital in Mount Holly, N. J., Dan Tilstone, assistant director, physical services, explained why the hos-

pital elected to join MMI rather than the New Jersey Hospital Assn's captive established this spring (BI, February 23).

There is a \$200,000 equity funding requirement in the hospital association program, Mr. Tilstone said, "and we don't know if that amount is reimbursable." MMI does not have a similar equity funding requirement.

One of the criticisms leveled at MMI by the California insurance department, however, involves capitalization of the captive.

Domiciled in Hamilton, Bermuda, the captive is required to have a minimum capitalization of \$250,000. California's insurance commissioner has stated that this figure is "substantially less than would be required to obtain a certificate of authority to transact insurance business in California."

Spokesmen for MMI have stated that the captive has \$1.5 million in reserves and that the assets of hospital members are estimated at \$5 billion.

"Our target is \$15 million in annual premiums, with hospital members representing \$1 billion in gross patient revenues and assets," an MMI spokesman said.

He conceded that MMI's problems in California have hurt the captive's progress in signing up new members, "but I think in the long run, this is the free enterprise answer to hospitals' cost problems," he concluded. ■

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Add states to federal crime insurance list

WASHINGTON — Minnesota and Arkansas were added this month to the list of states in which federal crime insurance is available.

Residents and small businessmen can purchase the burglary and robbery insurance through any licensed property insurance agent or broker. The federal program has a \$15,000 capacity.

Federal Insurance Administrator J. Robert Hunter of the Department of Housing and Urban Development concluded that crime insurance was becoming too expensive in the cities of the two states that were recently added.

Rates for the federal program are based on overall metropolitan crime statistics, so the cost of the insurance is the same in the inner city as it is in the suburbs. The program was designed to prevent the further deterioration of areas in which businesses and residents must leave because they cannot afford insurance.

A typical rate for a grocery store with annual gross receipts under \$100,000 would be: \$400 annual premium for a combined \$5,000 burglary and robbery package; \$240 for \$5,000 of robbery insurance; and \$200 for \$5,000 of burglary coverage.

Other states in which the subsidized insurance is available are: Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Kansas, Maryland, Massachusetts, Missouri, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, and Tennessee. ■

Form new subsidiary

Minneapolis-based Deferred Compensation Administrators Inc. formed a new subsidiary to install and administer employer-funded group health and accident plans. Health Care Administrators, the new unit, is headed by David C. Wilson, who formerly was with Bankers Life Co. The parent company, DCA, is an actuarial and employe benefit consulting firm.

Arkwright-Boston made this man what he is today: A penny-pincher.



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How manufacturers can reduce number and size of costly product liability suits

"The bottler will try to keep the contamination down to an occasional bit of dirt in the bottle. The inspection system is designed to prevent something really obnoxious like a cockroach or a mouse getting into the bottle."

By WILLIAM H. RODDA

President
Marine Insurance Handbook, Inc.
Chicago, Illinois

"AN INCREASING NUMBER of customers are complaining about deteriorating quality: food doesn't taste the same, automobiles don't last as long, appliances collapse," read a newspaper heading recently. Is this true? Or are we in an era when people complain more but without justification? Why are some manufacturers finding it impossible to secure products liability insurance?

People do complain today. They feel that somebody should pay for every injury. No longer are people willing to take their chances—if they are hurt, somebody must pay. There are imperfect products. The basic answer to the problem of avoiding products liability suits is to make perfect products.

Products liability suits are generally based upon the principle that a defective product has caused injury because:

- There was a defect in the manufacturing process, or

- There was a defect in design which resulted in a malfunction or other cause of injury, or

- Instructions for use of an inherently dangerous product were inadequate, erroneous, or in print so small that the user could not conveniently follow them.

Economic feasibility is considered by some manufacturers to justify the release of a certain proportion of defective products. The manufacturer of any product or mechanical appliance has to make it at a price that will be acceptable to the prospective purchaser: that is, at a price that will sell. How many tests and inspections can the manufacturer afford and still arrive at a cost that is competitive? Two results are possible from the use of a perfect testing and inspection system. First, the system may become too costly: or second, too many finished pieces are thrown out as defective.

So the manufacturer compromises. The inspection and testing system is adjusted to economic feasibility. An effort is made to detect the worst of the defective items. Some items with (hopefully) minor defects will slip past the inspection, and again (hopefully) these will not cause injuries sufficiently harmful to result in suits.



Numerous suits have been filed against automobile manufacturers alleging brake failure.

Maybe the housewife won't sue if all she gets is a cut finger. The manufacturer hopes that the bursting of a container of cleaner will not hit the eyes of the user, thus causing a major injury. The bottler will try to keep the contamination in bottled goods down to an occasional bit of dirt in the bottle. The inspection system is designed to prevent something really obnoxious like a cockroach or a mouse getting into the bottle.

This economic feasibility approach was satisfactory during the days when (1) products liability suits were small in number, and (2) insurance companies found it acceptable to defend and pay for the occasional suit that was successful against a manufacturer or purveyor. So what, if a woman was occasionally blinded by the explosion of a can of cleaner! The insurance would take care of these occasional accidents.

The economic feasibility approach is no longer acceptable. Insurance companies are resisting the insurance of any operation that is not designed to produce a perfect product as far as that is humanly (or mechanically) possible (not feasible-pos-

sible). Let us look at some of the suits that have been successful and unsuccessful against manufacturers and sellers of goods to see what needs to be done to make and sell the perfect product.

There are manufacturers that deliberately compromise with safety in order to price their products more competitively and to increase their profits. The officials of an ice cream plant pleaded guilty to fifty counts of falsifying business records in order to conceal high levels of coliform bacteria in their ice cream. In a case involving the explosion of a can of cleaner, the court pointed out that the company employees were given better instructions regarding certain dangerous qualities of the product than were given to the consumer.

Numerous suits have been filed against automobile manufacturers alleging brake failure. Another product that has resulted in numerous suits is bottled drinks. Exploding bottles and the presence of contaminating material in bottles are frequent allegations.

Success or failure of a suit alleging de-

Continued on following page

CAPITAL NEED ANALYSIS

A means of estate planning thru insurance

By ROBERT C. TUETING

College of Business
Colorado State University
Fort Collins, Colorado

and
KENNETH L. DEINES

Field Underwriter
New York Life

CAPITAL NEED ANALYSIS* is a means to measure financial needs and determine prudent solutions for those needs thru the vehicle of life insurance. But it is more than that; it is a method of estate conservation and a way of insuring a standard of living for one's family once the breadwinner dies. Programming one's estate, a tool used by the insurance industry

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for many years, is really not prudent planning in the eyes of the sophisticated investor. Rather it is the scientific liquidation of one's assets over a given period of time. Planned liquidation might be a better definition.

A man works during his lifetime to accumulate an estate. This estate is comprised of personal assets, life insurance, government programs, and business assets. Each of these passes or conveys to his family. Unfortunately what most people do not realize is that the estate which they have worked so hard to create will most probably not pass intact to their families. In fact, studies indicate that 60% or more can be siphoned off in:

- estate, inheritance, income and property taxes;
- medical care, funeral, administrative expenses, and legal and accounting fees;
- probate, appraisal; and,
- personal and business debts.

Thus, the conservative estate planner will not fail to take cognizance of proper treatment of qualified pension and/or profit sharing trusts. Although proceeds from such trusts usually pass to heirs free from federal estate tax, the impact of the income tax liability must not be minimized upon completion of the distribution of the estate.

The capital need analysis concept embraces the philosophy of passing on the estate with as little shrinkage as possible to one's family or heirs. Capital need analysis is characteristically a truly modern approach of measuring financial need. It is an original and creative approach to the reasoning involved in life insurance and yet is simple, practical, and flexible.

The Capital Need Analysis (CNA) approach is designed to discuss estate planning in terms with which the average layman is familiar. It embraces capital retention as a hedge against inflation and in this period (day) most intelligent prospects are concerned about inflation. CNA encourages establishment and utilization of trusts to maximize a man's desires and minimize tax consequences of estate planning. Social Security, veteran's benefits, and aspects of tax law are incorporated in a sensible, easily comprehensible approach. Annual or bi-annual reviews of a man's situation can be accomplished very easily and allow the insurance agent to serve his client best—continued appraisal of his current financial status. Certain basic objectives are common to sound estate planning. Included among them:

- Arrange the estate properly for dis-

tribution to the heirs in accordance with the objectives of the client.

- Minimize the impact of the cost of settlement.
- Provide the client with adequate estate liquidity.
- Provide for the disposition of a business interest.
- Assume advantage of any saving from federal income tax.

The whole thrust of CNA is to allow the family to remain in its own world. Statistics indicate that 95% of the population at age 65 is not self-sufficient but dependent on relatives, friends, charity, or government programs for its daily existence. What happened? Did this 95% fail to plan to be financially independent or did it plan to fail?

Capital Retention

e.g.: widow, age 40, \$100,000 installment option, 20 years certain. She would be guaranteed \$4800 per year for 20 years. If she lives 20 years and then dies, her heirs receive nothing. On the other hand, if she took the \$100,000 and placed it in a savings account at 5¼% interest she would receive \$5,250 per year and upon her death would have \$100,000 intact for the beneficiaries

Continued on following page

PERSPECTIVE

Product liability suits . . .

Continued from preceding page

fects in an automobile rests upon the possibility of proving the presence or absence of a defect when the automobile left the factory. In one case that was successfully defended, the automobile was two years old and had gone more than thirty thousand miles when the brake failure occurred. The manufacturer was able to refute the allegation of brake defect at the factory.

Success or failure of the bottle cases also revolves around the ability of the bottler to prove that there was no defect when the bottle left his plant. Mice have been reported in bottles in several cases, with painful emotional results to the drinker of the contents. Presumably the mice get into the bottles while empty in a store or at the plant. The inspection and cleaning system at the bottling plant does not remove the mice. Suits under these circumstances have been successful in several cases. But the results were favorable to the bottler where a live worm was found in a bottle. The bottler could prove just when the bottle left his plant. The court said that a worm could not possibly have been still alive after the time elapsed from bottling to consumption. The worm had to have entered the product after it left the bottling plant.

Design is a problem because it is not always possible to know what defects will occur until a product is actually used by the consumer. Design and manufacturer according to the best knowledge and the state of the business at the time of manufacture may not be sufficient to avoid liability when an injury occurs even many years later. It has been held that the manufacturer is obligated to warn purchasers of a product when it later develops that a safeguard had to be installed on the product.

The manufacturer must warn previous purchasers if experience shows that some modification is necessary in later models for safety reasons. This may be difficult in the case of something like household appliances for which the manufacturer has no record of who purchases the product. However, the warning can be made by advertisements, by notices in connection with current sales, or any other method that might reach previous buyers. The manufacturer may prevent injuries by such means. This would also help to prove to a court the good intention of the manufacturer, and might even prove that the purchaser did not pay attention to a warning that should have come to the attention of the purchaser.

Some products are inherently dangerous. A drain cleaner, for example, must be caustic in its nature in order to do its intended job. Adequacy of the warning becomes all important in determining whether a suit against a manufacturer or seller can be successful. The cleaner case already mentioned revolved to some degree around the fact that the court found that warnings given to company employees were more complete than the warning given to the consumer.

Some manufacturers hesitate to give adequate warnings because they fear an adverse effect on sales. They tend to take a calculated risk that a "caution" may do the job where a "warning" would be needed. It is no longer enough to give a "caution" when a "warning" is called for.

Who will use the product? The professional user is presumed to have more knowledge of the dangerous qualities of a product than the casual user. The manufacturer of an ordinarily harmless chemical had no duty to warn a laboratory technician that mixture of the substance with other chemicals might produce an explosive mixture.

The manufacturer of an epoxy based paint was not liable to a professional painter who spray painted the material without using a mask. As a professional, the painter was presumed to know the hazards and was obligated to use the customary precautions.

The manufacturer must anticipate that if it is possible to misuse a product, somebody

will misuse it. Would the product be dangerous to children? Then there must be a warning to keep the product away from children. A "child proof" cap or enclosure is desirable. However, experience has shown that the "child proof" caps required for certain drugs have not been effective. In many cases, the only person in a household who can open the bottle of drugs is the child for whose protection the cap has been prescribed by governmental decree. Mere compliance with the governmental decree may not be sufficient to avoid liability if the manufacturer has reason to

"Some manufacturers have been trapped by overly optimistic advertising. A manufacturer of "hurricane proof" doors had to pay a purchaser whose doors were blown in by a hurricane."

believe that the method required by the government is not wholly effective.

How far must the manufacturer anticipate misuse or unintended use? A misuse that is wholly outside the clear instructions for the handling of a product may serve to absolve the manufacturer. A woman mixed two hair coloring preparations from different manufacturers in clear contravention of the instructions. She received scalp burns, but the court said that this use was so far outside of the intended use that the manufacturers were not liable. Here again we have the questions of instructions, warnings, and possible misuse.

Some manufacturers have been trapped by overly optimistic advertising. A manufacturer of "hurricane proof" doors had to pay a purchaser whose doors were blown in by a hurricane. Perhaps "hurricane re-

sistant" would have been a better term.

Hammers that were advertised as "unbreakable" or "unbreakable in normal use" have resulted in suits when the hammers did break.

There has been a principle in merchandising that a certain amount of "puffing" is to be expected and is legitimate. "Puffing" is defined as an expression of opinion by a seller that is not made as a representation of fact. Such a statement might be, "This is the best product on the market." There seems to be a tendency for the courts to hold that any statement of a manufacturer or seller becomes a representation of fact. The use of such terms as "flame proof", "fire proof", "unbreakable", are all likely to result in suits if the products do not perform the way the purchaser might expect them to perform from the advertising or sales pitch.

Here are some of the general rules that can be followed by the manufacturer to

avoid a suit for products liability.

1. Design a product with some thought as to how it could be used in an unintended manner by anyone who might get possession of it. Look at how it could be used, not merely at how it is intended to be used. Possible misuse by a child is especially important.

2. Warn previous purchasers by the best means available when future developments make a change necessary for safety purposes.

3. Monitor every step of the manufacturing process to avoid imperfect products. For example, the bottler whose cleansing process would not absolutely make certain that all debris is cleaned from used bottles should change the process, or install a visual inspection system that will throw out any bottle that is contaminated.

CNA . . .

Continued from preceding page

of her estate, or could invade the principal amount in case of emergency. Granted tax treatment would be different but minor in comparison to the advantages of retaining the \$100,000 capital.

Inflation Hedge

If an agent programs \$380/month for a widow at age 32, at age 60—allowing for only 2½% inflation, \$760 would be required to do the same job that the \$380 would do today. Thus CNA embraces capital being invested in a combination of fixed and equity types of investments to accomplish this objective.

To the question, what is the most prudent manner in which to leave my estate?

Basically, that question is primarily concerned with reducing the estate to the finite minimum—distribution of it at the death of the creator. If for no other reason, retention of capital is essential to enable the survivor (heir) to live in some self-respect. But that is only a single reason. Consider the factors of age, health, limited (if any) earning power later in life, dignity of the individual and the types of assets owned producing income.

Another factor of salient importance relating to the retention of capital is the amount and type of property required in the estate to provide a respectable standard (percent) of living for the survivor(s). In considering that factor, the survivor(s) will not contemplate liquidation in whole or in part of the property producing income. Prudent management of an estate (retention of capital) involves the initiation of changes in methods of tax-saving and conservation of capital relative to ownership and transfer of property while time is still available.

The combination of the accelerating rate

of taxation and the erosion of the dollar render necessary counter-inflationary planning for the retention of capital.

Recognizing all its faults as a hedge toward inflation, no substitute exists for the "instant estate," relative to retention of capital, that is created by life insurance.

Two major phases exist in capital need analysis: the "accumulation" phase, or "the earning of income and building of an estate" after expenses of living, taxes, and capital expenditures; and the "use and enjoyment" of the accumulation and its derivatives by those entitled to it.

Because people today are compelled to live boldly—invest primarily in those things that are not directly attached to the debauched dollar—retention of capital in an estate is vastly more significant than years ago when one could accumulate his money, invest it in conservative investments, and retire from the income therefrom. In addition, the family was protected by life insurance. That day is a fond memory in history.

Retention of capital may be segregated into five successive questions:

WHO?—for whom is one planning; **WHY?**—objective for each; **WHEN?**—the timing of each benefit conferred; **WHAT?**—that available with which to plan; **HOW?**—how to implement objectives.

A basic principle to be considered and practiced in the effort to retain capital is that the ability to work and earn is usually more significant than the wealth that is vested.

A salient consideration in retaining capital is that of inflation and one should exercise the following cautions relative thereto:

1. Adjustment for inflation in estimating the anticipated shrinkage (tax, debts, expense of administration). The value of assets may increase in value, resulting in a greater tax liability.

2. If life insurance is used for the purpose of liquidation, a factor of safety should be implemented—possible additional pur-

4. Keep precise records. The ability of a manufacturer to prove when and how a product was made, inspected, and sold, may be able to establish that the alleged injury could not have resulted from a defect that was present when the product left the factory. The records of the bottling company in the case of the live worm mentioned above helped to prove to the court's satisfaction that the worm could not have been in the bottle when it left the plant.

5. Give adequate warning of dangerous potentials. A prominent warning label on a bottle of cleaning fluid containing carbon tetra chloride was enough to clear a drug company of liability. The plaintiff claimed that he was injured by inhaling the vapors. The bottle had a prominent label saying that the inhalation of the vapors was harmful and could be fatal. The label also had the word "poison" along with the skull and cross bones symbol. Courts do seem to expect a reasonable person to read any warning that is adequate in its terminology and in a size type that can be easily read.

6. Give adequate instructions. Many mechanical products—toys, bicycles—are being sold "assembly required". The instructions for assembly in some cases are prepared by a mechanic who has some knowledge of general assembly practices. Too little attention is paid to the fact that assembly may be attempted by a child or by an office worker or clerk who has no knowledge of mechanical operations. Instructions for assembly and use of any product should be checked with people who know nothing about the product.

7. Keep abreast of products liability suits in the field in which the manufacturer operates. What has caused judgments against the manufacturer and against others in the same field? What kinds of defects are showing up? Conferences of production managers, designers, sales personnel should examine adverse verdicts against their plant and others in the same business.

It is not possible to avoid all products liability suits. It is possible to reduce the number and size of such suits by careful attention to the problems described here. The perfect product may not be absolutely attainable but the objective of making a perfect product will bring product liability within economic feasibility. ■

chases. Assets (and consequently the tax) may inflate, while the insurance principal remains constant.

3. Prudence in capital retention may involve the axiom 'tis better to give than to bequeath'; value may increase prior to death, thus increasing the tax liability on the transfer.

4. Retain low cost items for the estate.

5. Since estates are now held in administration for years, adequate authority should be granted to reinvest during administration.

6. In the most prudent planning, protection from inflation may not be complete, thus income to beneficiaries should be protected via:

- a) rights to extract principal and rights in others to apply principal.

- b) preserve liquidity and flexibility.

- c) maintain uppermost in mind always the question: How would this proposal fare in continued inflation?

In conclusion, the CNA concept provides a framework for the following:

- 1) By going beyond "total needs" or program selling, CNA exposes the real problems of estate creation, conservation and distribution in a unique and understandable way.

- 2) CNA as contrasted to installment settlement options emphasizes the retention of capital and assumes that the interest on that capital will meet income requirements for heirs of an estate.

In addition, the capital will remain intact and will be available to cope with any emergencies or contingencies.

- 3) CNA offers a simple, but entirely realistic approach to helping a property owner establish sensible goals and financial objectives for his family.

- 4) CNA reduces the necessity for detailed time consuming calculations without short-changing the client with regards to service.

- 5) CNA is adaptable to people in a wide variety of situations of life: proprietors, professionals, stockholders in closely-held corporations, and salaried executives. ■

HOW DO YOU KNOW IF YOU HAVE THE RIGHT FIDUCIARY LIABILITY POLICY?

THE INSURANCE BUYER'S ERISA QUIZ

- Does your policy limit coverage to persons defined as fiduciaries?
- Does your policy limit coverage to wrongful acts of insureds only?
- Does your policy provide defense costs within the limits of liability?
- Does your policy limit loss to damages by definition, and exclude non-pecuniary claims?
- Does your policy by definition exclude employee benefits liability losses?
- Does your policy include outside persons as insured fiduciaries?
- Does your policy contain a limited retroactive acts exclusion?
- Has your policy been purchased without the advice of competent legal counsel who has rendered an opinion in writing as to which contract he felt offered the broadest coverage?

If the answer to *any* of the above questions is "Yes," the chances are you have probably purchased the wrong policy. And the real problem is that you will probably never know until you have an uninsured loss.

How do you know you have the right fiduciary liability policy? There's only one way — to *compare*. Remember — *all policies are not created equal*. While all contracts may appear to be similar, there can be substantial differences in their terms and conditions — differences which can be very significant — and costly. And, unfortunately, it's impossible to compare policies without a thorough understanding of the law. (ERISA)

The Professional Indemnity Agency, direct Lloyd's correspondents, is one of the very few insurance underwriters qualified to make sound recommendations. Fiduciary liability coverage is our business — our *only* business. We understand this is a difficult business — and we refuse to take the easy way out. Combining a Fiduciary Liability and a Directors and Offi-

cers Policy may serve the best interests of the insurance carrier and the broker, but it may *not* serve *your* best interest because it may not give your people the complete protection as provided by the P.I.A. form. The responsibilities of persons covered under each policy are quite different; in fact the law (ERISA) *mandates* this conflict. P.I.A. does not deal directly with insureds, but we will be happy to make our facilities available to your agent or broker.

Before the enactment of ERISA, your sole responsibility was the guarding of corporate assets. But now, because of this law, (ERISA) you are faced with the tremendous additional responsibility of protecting the personal assets of your directors, officers and other employees. You've got to be *sure*. You've got to *compare*. You've got to talk to the experts... NOW!



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A third of McDonnell Douglas suits settled: \$100 million is likely total

LONDON—Lloyd's underwriters have been told that more than a third of the lawsuits brought against McDonnell Douglas in California over the Turkish Airlines DC10 crash in 1974 have been successfully settled out-of-court.

Another 50% are under active consideration with a view to early settlement, and the only lawsuits still being contested in Los Angeles concern 48 Japanese claimants who are seeking punitive damages.

These major developments have been achieved through the efforts of three panels of retired judges

who, in an attempt to speed up litigation, have been sitting ever since the \$1.5 million Kween award last February.

Insurance pay-outs to McDonnell Douglas are likely to total as much as \$100 million on present estimates. But experts at Lloyd's feel they will not reach the originally-specified sum of \$200 million, as there has been a fair approach to compensation by all the parties concerned.

Even so, it will be a massive pay-out for the world's worst air disaster, in which 346 people perished when the plane crashed near

Paris with travelers of many nationalities on board.

Lawsuits have been conducted by McDonnell Douglas and General Dynamics (the fuselage makers) on the basis that they do not accept liability for the crash, in which a cabin depressurization followed the in-flight loss of rear cargo door. But they were prepared, in cooperation with the underwriters, to offer compensation to the next of kin because of the nature of the tragedy.

According to insurers who have studied an official French report on the crash, the cargo door was

"incorrectly modified" after it had left the control of McDonnell Douglas.

The Japanese claimants, however, are insisting on punitive damages, which means that they will seek to put full legal liability on McDonnell Douglas.

Both McDonnell Douglas and General Dynamics will strongly contest this claim, which is due to be heard in court at Los Angeles on October 12, according to information in London.

It could lead to a fiercely-fought lawsuit if it goes all the way through the courts, because unlimited damages can be awarded if the plaintiffs succeed in their claim.

But the rest of the cases are virtually settled, though negotiations are still pending in some of them, on the less-rigorous basis of compensatory damages.

Large as these may be, they will not have the impact on the aviation insurance market that might

be created by substantial punitive damages.

It is known that the award of \$1.5 million to the two orphaned London children, Lauren and Melissa Kween, is being challenged on the ground that it is excessive.

Liability was specifically not involved as an issue in that case, which rested only on a jury assessment of the loss of love and affection and other problems the children had suffered.

But insurers want to have some idea of the likely limits of U.S. court awards so that they can predict future premium rates.

Commercial Union, which suffered heavy losses in the U.S. last year, reports better returns now that it has cancelled many of its agency representatives and has gotten premium rating increases.

Statutory operating ratios have been cut to 107.7 for the first half of 1976, compared with 108.9 for the same period 1975, and the run-off of cancelled business is proceeding normally. It is still worried over auto business in New York and workers' compensation in Michigan, but says it has done better in Massachusetts than expected.

Two other UK companies also report improved business, with Royal reducing its operating ratio to 105.5 and General Accident to 107.5.

Complaints that Lloyd's of London is being harassed in its bid to expand insurance dealings in various European countries are being studied by critics of the European Economic Community.

Lloyd's underwriter Paul Dixey told Rotterdam businessmen when he visited Holland, "One of the great advantages to the European Community when it admitted Britain to membership was that we brought with us a great portfolio of international insurance business."

"We wish to share our knowledge and expertise, but progress in providing for freedom of insurance across European frontiers, so that we can help to enlarge the market for international business, has been slow."

"In Germany we have even gone backwards, and new restrictions on our freedom of business have been imposed. It is wrong that people should impose these protectionist views, as we want freedom for insurance services so as to provide the world markets with security from risk and so make a full contribution to the wealth of the EEC."

Mr. Dixey, a former chairman of Lloyd's, praised Holland for allowing it to transact all classes of insurance, for in other European countries it still faced restrictions.

One \$12 million bank robbery is bad enough for insurers, but two of this size in less than a month is the sort of ill-fate that scares underwriters out of their normal reckoning.

But this is just what has happened at Lloyd's, where claims are expected from the French banking group Societe Generale for identical "twin" robberies at their branches in Paris and Nice.

The first robbery in Nice was carried out by a "sewer gang" who tunneled beneath streets to get their loot. Four weeks later there was a repeat performance in Paris when the Societe Generale's branch in Ile St. Louis was also robbed of a feared \$12 million from its vaults.

Claims for some of the stolen money are being lodged with Lloyd's, but there may be private insurance for the rest of the haul which was taken from safe deposit boxes belonging to customers. Now there is an international alert for the ingenious gang of criminals before they strike again.

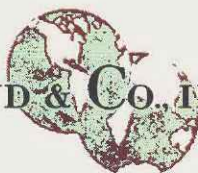


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Malpractice trusts: A future competitor

PALM BEACH, FL.—Malpractice insurance trusts may be competing with commercial underwriters for business other than malpractice in the near future, according to a spokesman for one of Florida's largest malpractice trusts.

William Gray III, a Miami attorney who helped organize Physicians Protective Trust Fund, second largest in the state, told the Federation of Insurance Counsel, "If you don't get back into this area (malpractice insurance), you're going to lose it to the medical trust or some other form of companies."

"Pretty soon these companies, which will have \$30 million or \$40 million behind them in a relatively short period of time, will be competing in your industry in other areas."

Mr. Gray said the malpractice insurance trusts face their toughest test in the third and fourth year of operation.

"If we can keep our rates standard for the third and fourth year," he said, "at that time we should have a projected pot of \$8 million-\$10 million, we'll start decreasing rates."

And when we start going down, there's no way an insurance company or anyone else is going to compete with us."

Competition will force Physicians Protective Trust Fund to become a mutual insurance company and when this happens, it would use medical malpractice to pay its own way and attempt to make profits from other lines of insurance, the attorney said.

"We have to do it," Mr. Gray said, "We have the capital to do it. The only problem is we don't want to do it, because the medical trust is the most flexible instrument to insure doctors that we've ever seen."

Physicians Protective Trust Fund insures 1,200 physicians and writes \$3.5 million in premiums. It is presently the third largest medical malpractice insurer in Florida.

More than 10 such trusts cur-

A to Z listing of life agents is available

SACRAMENTO—For a fee of a penny a name, the California Insurance Department will supply an alphabetical list of all licensed life agents and all casualty licensees in the state, according to Commissioner Wesley J. Kinder. The life lists have approximately 75,000 names and the casualty 60,000. Two weeks processing time is required for the lists, available from the department at 700 L Street, Sacramento, Ca. 95814.

The California department automated its record on producers' licenses when its license bureau moved to Sacramento, and suffered serious backlog problems in the process. These earlier problems have been resolved, the commissioner said, and approximately 400,000 notices of appointment and termination have been entered on the computer files, as well as 100,000 action notices.

Reservations for license examinations conducted daily in Sacramento on Mondays through Fridays can be made by calling the examination unit there at 916-322-3557, the department announced.

rently insure physicians and hospitals in the state. (*Business Insurance* May 31).

Physicians Protective Trust Fund expects to write \$4 million in premiums next year, Mr. Gray said. In one year of operation, the trust has had 16 incident reports and no lawsuits.

Sixty percent of the trust's premium intake goes into a loss account as protection against future claims. To date the trust has spent only \$60 on losses, the lawyer said.

Mr. Gray said he believes many of the smaller malpractice trusts in Florida will disappear, victims of one or several big claims. Three or four trusts will survive, as will the joint underwriting association, he predicted.



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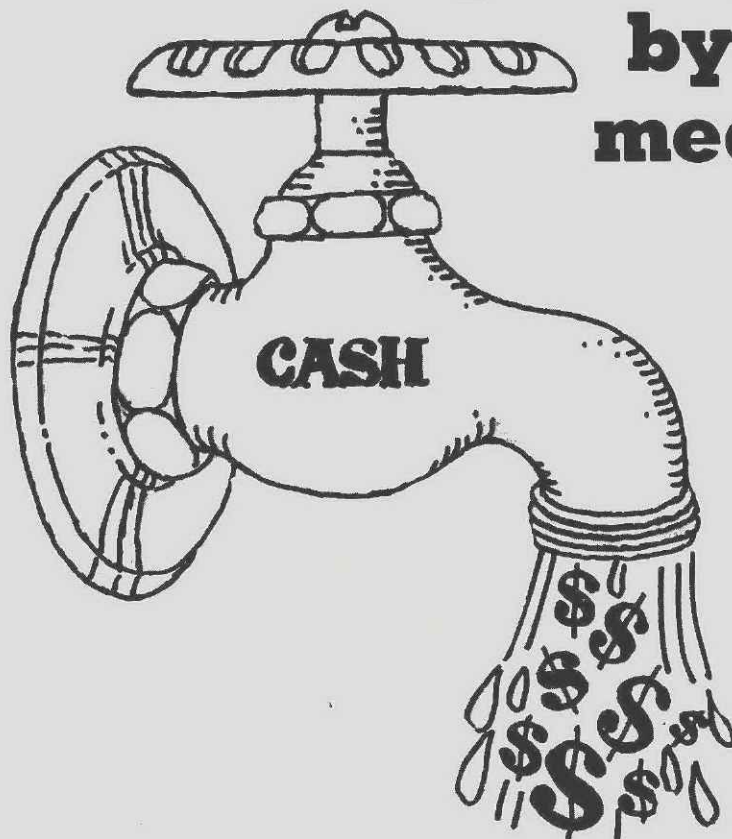
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Agreed to fireproof both bridge and warehouse

RICHMOND—Back in 1974 the Richmond Metropolitan Authority (RMA) agreed not to burn their bridges behind them. To win air rights over a Southern Railway's warehouse, the Authority agreed to fireproof both the warehouse and the section of the bridge that spanned it.

Though the bridge is steel-reinforced concrete, Southern Railway officials feared vehicle fires or cigarettes thrown off the bridge would endanger their warehouses located underneath the planned 3,000-foot long bridge. The RMA recently opened two sections of the bridge.

The Richmond Metropolitan Authority, which is the authorized agency for highway and tollway building in the Richmond regional area, agreed to fireproof the warehouse roof and a steel frame underneath the bridge, according to RMA's general manager, George W. Cheadle.

Mr. Cheadle said it was an "un-

usual situation" because the warehouse was the original headquarters of Southern Railway and a company landmark. A steel box-like enclosure was built under the bridge to prevent burning materials from hitting the warehouse below it. The steel box was then fireproofed with the same material, magnesium oxychloride, as the warehouse.

Though the exact cost of fireproofing the \$13-million bridge was not determined, the cost is 75 cents per foot for two-hour fire protection. The structural steel was coated because it weakens when exposed to extreme heat. The bridge is part of an Interstate highway system.

Magnesium oxychloride is a powder that when mixed with water dries into a hard, concrete-like coating. It can be applied with either a paint brush or a trowel. According to its manufacturer, Carboline Co. of St. Louis, Mo., the material protects because water vapor is released

when it is heated.

According to a Carboline spokesman, the only materials it cannot be used on are steel and aluminum; it should be used where a building's fireproofing is exposed to public view. Carboline says its material cost of 75 cents per square foot is about half the cost of poured-in-place concrete.

The magnesium oxychloride has been used in chemical plants, nuclear energy plants, printing plants, food storage facilities, and a brewery according to Carboline.

Because the Richmond downtown expressway bridge is two levels and 60 feet tall, standpipes for fire trucks were installed along the bridge span as added fire protection. The RMA manager, Mr. Cheadle, said fires happen infrequently on bridges and when they do it is mainly because of overturned cars and trucks. Up until now fire protection has not been used on most bridges.

In the future, Mr. Cheadle anticipates increased fireproofing of bridges not only in the RMA system but nationally. "If a bridge is crossing over existing buildings, the fire potential is always there, not only danger from the bridge itself, but buildings below it." ■

info for buyers

To receive literature listed in Info for Buyers write directly to the name and address accompanying each item, mentioning that you saw the offering in *Business Insurance*. Readers are welcome to submit items for possible inclusion in the column. All items that are free and have informational value to readers are eligible. The column will also consider items for which there is a modest handling charge. A sample of your literature should be sent to Info for Buyers, *Business Insurance*, 740 Rush St., Chicago, Ill. 60611.

• Self-insured employee benefits are explained in a 501(c)(9) Primer compiled by Northwestern National Life Insurance Co. The free pamphlet is aimed at employers thinking of self-insuring benefits and funding them through a 501(c)(9) trust. Questions such as which benefits are eligible and the advantages and disadvantages are covered. Write Alan Benson, CLU, Northwestern National Life Insurance Co., 20 Washington Avenue South, Minneapolis, Mn. 55440.

• Are you paying a 'premium' for your insurance? is the question Nordstrom-Larpenteur agency asks in its free pamphlet. Suggestions for avoiding mistakes in buying business insurance are offered, including identifying risks, controlling and evaluating risks and a loss exposure checklist. Write Nordstrom-Larpenteur Agency, 1300 Northwestern Financial Center, Minneapolis, Mn. 55431.

• Developing effective business crime prevention programs is the subject of a report published by the U.S. Department of Commerce. The 250-page report, *Crimes Against Business: A Management Perspective*, reports the evaluations of businessmen and government officials on embezzlement, credit losses, personnel selection and computer abuses. Copies are \$3.60 from the Superintendent of Documents, United States Government Printing Office, Washington, D.C., 20402.

• The changing responsibilities of fiduciaries and plan administrators under ERISA and guidelines to cover their increased risk exposures are discussed in a reprint from Rimco Inc. The free reprint of an article detailing risk management techniques applicable under the act is available from Rimco Inc., Suite 180, 1033 North Central Expressway, Dallas, Tx. 75231.

• The North Carolina Insurance Fact Book—1976 summarizes the growth and size of that state's private insurance industry and public insurance programs in the past two decades. Compiled by the University of North Carolina graduate school of business and economics, copies are \$2 plus tax, available from the North Carolina Insurance Education Foundation, 229-c Curry Building, UNC-G, Greensboro, N. C. 27412.

• Liberty Mutual is offering free-loan playdates for its 16mm film "Rehabilitation: The Miracle in Us All." The 28-minute film portrays case histories, actual claimants, nurses, and physicians associated with well-known rehabilitation hospitals and facilities. Colleges, businesses, industry groups and community organizations may request playdates from Modern Talking Picture Service, 2323 New Hyde Park Road, New Hyde Park, N. Y. 11040.

• A free brochure for risk managers and brokers describes Continental Insurance Cos. method of Loss Control: A Practical Approach to Minimizing Hazards. Described are the company's inspec-

tion, industrial relations, education and promotional techniques. For copies, write Advertising Department, Continental Insurance Cos., 80 Maiden Lane, New York, N. Y. 10038.

• Underwriters Laboratories has published a new *Catalog of Standards for Safety*. It is designed to be a handy reference tool when ordering any of UL's more than 300 "Standards for Safety." To receive a copy, write Underwriters Laboratories Inc., 333 Pfingsten Rd., Northbrook, Ill. 60062, attn: National Standards Stock.

• Security Systems Ideabook, publication 2052, describes the devices, techniques and computerized control systems recommended by Johnson Controls Inc. for general and specific security applications for building and its occupants. It includes point of entry, area and object protection. For a free copy, write to George E. Huhnke, Sales Promotion, Johnson Controls Inc., 507 Ee. Michigan St., P.O. Box 423, Milwaukee, Wi. 53201.

• Financial Report Series is a series of risk cost reports showing total risk costs (insured and self-assumed) by line of coverage and risk group. Designed for financial managers, the reports summarize paid losses, recoveries, outstanding reserves and total losses. A free sample report is available from Corporate Systems Corp. by writing Marvin Gwinn, communications director, Corporate Systems Corp., Box 2827, Amarillo, Tx. 79105.

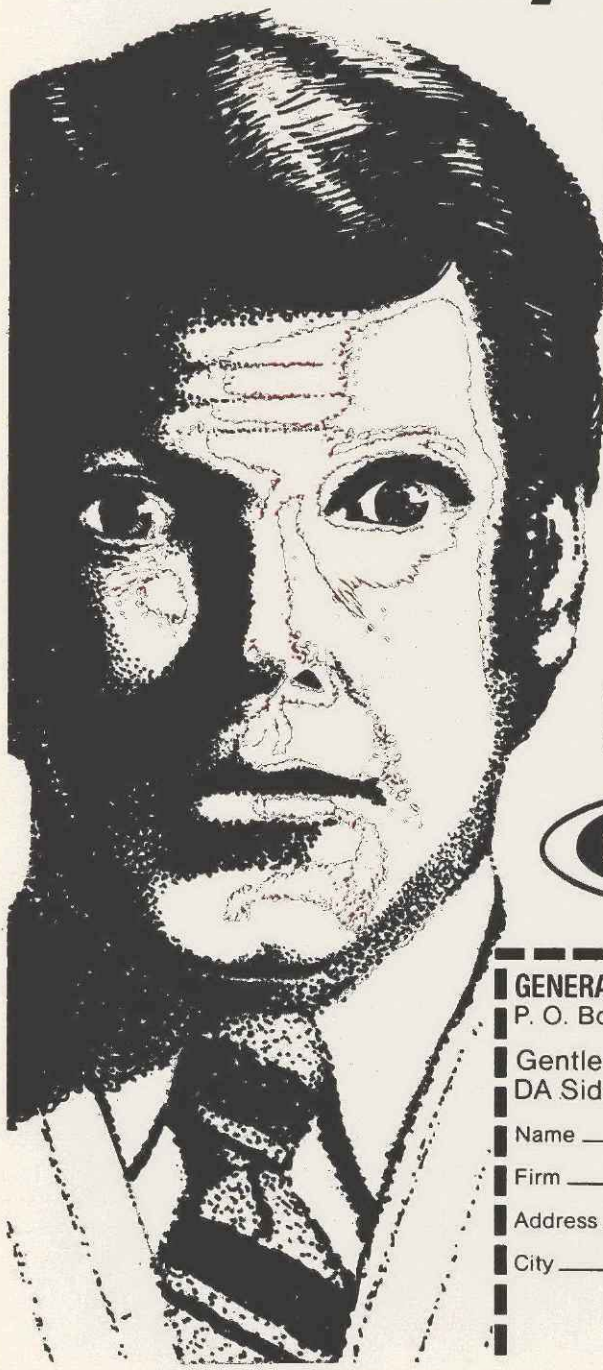
• The 1976 edition of the National Fire Protection Assn.'s *Uniform Coding for Fire Protection NFPA 901* is now available. The 212-page book provides uniform terminology and classification system for fire incident data, allowing comparison of that data. Cost is \$3.50 with discounts starting at orders of 25 copies or more. Write NFPA Publication Sales Department, 470 Atlantic Ave., Boston, Ma. 02210.

• The HMO: Funding Mechanisms (#3015.04) is a new booklet written by Dan Maruna and published by PROTECH. The operational aspect of HMO's is emphasized. The cost is \$2.50 with a 20% discount to *Business Insurance* subscribers. Write PROTECH, 2182 Dupont Drive, Irvine, Ca. 92664.

• The services, advantages and outlook of Schiff Terhune Inc. insurance brokers are discussed in their booklet *We have something you don't*. . . . To receive the free booklet write Schiff Terhune, 100 William St., New York, N. Y. 10038.

• Oregon Life Safety Study of Institutional Care Facilities (Technology Report 74-3), published by the Society of Fire Protection Engineers, is available. Written by C. Walter Stickney, a former Oregon state fire marshal, the report describes a continuing program for improved life safety from fire in institutional care facilities in Ore-

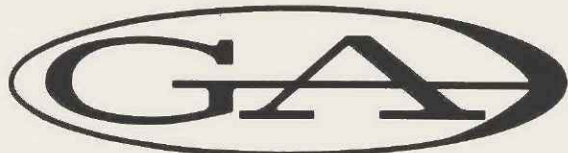
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• **A Handbook of Occupational Safety and Health**, published by the National Safety Council, addresses the problems confronted by supervisors, owners and managers responsible for safety in a small company or plant. It is a compact introduction to the safety and health field for a person with little knowledge or experience in this area. The range of information includes guidance on filling out required government forms. Cost is \$6. Stock No. 129.03. There are 266 pages, with 90 figures and tables. Orders and quantity discount inquiries should be directed to the Membership Dept., National Safety Council, 425 N. Michigan Ave., Chicago, Il. 60611.

• A six-page brochure entitled **Chemical Plant Fire Protection Systems**, available free from 3-M Co., describes various methods of fire protection utilizing Light Water Brand AFFF Products and Systems. Test data on various commonly used liquid chemicals is also included. For a copy of the brochure, write to David A. Glas, 3M Company, 3M Center, Fire Protection Systems, Bldg. 223-6SE, St. Paul, Mn. 55101.

• Werbel's **Variable Annuities Booklet** provides explanations of variable annuities by defining them and describing their functions. The company has now come out with its third edition, first printing, and follows a format of detailing the operation of fixed annuities and the workings of separate accounts. The booklet includes a self-quiz and is suitable for preparation for state examinations. It is available for \$1.50 from Werbel Publishing Co., Mrs. V. Merkel, Manager, Circulation Department, 595 Old Willets Path, Smithtown, N.Y. 11787.

• **Business Interruption Protection**, a brochure from Kemper Insurance Cos., describes how business interruption insurance can protect earnings and overhead during the period in which a business is shut down as a result of a fire or other loss. For a free copy, write to Communications & Public Affairs Dept., Kemper Insurance Cos., Long Grove, Il. 60049.

• Continental Instruments Corp. is offering **Cypher Lock**, a brochure explaining an electronic combination lock it manufactures, which can be used to activate electric door strikes and door operators. For a free copy of the illustrated pamphlet, write to Michael Morgenstern, Continental Instruments Corp., 170 Lauman Lane, Hicksville, N.Y. 11801.

• Legislation, court decisions, rulings, and regulations about equal employment rights are contained in the **1975 Guidebook to Fair Employment Practices**, published by Commerce Clearing House Inc. and available for \$2.50 per copy. The book is designed to provide practical information for those covered by the laws and expected to comply. Discusses rights

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Report 1975 group life insurance is \$904.7 billion; two-fifths is new

NEW YORK—Group life insurance totaled nearly \$904.7 billion last year, and accounted for 42% of all life insurance in force in the United States at the end of 1975.

More than two-fifths of the group life purchased last year was issued under new master contracts, while the rest represented increases under existing contracts to cover additional groups of employees or to provide higher benefit levels. Group life under new or revised group contracts totaled \$96.2 billion.

These are some findings contained in the 1976 edition of "Life Insurance Fact Book," which is issued annually by the American Council of Life Insurance.

The publication reports that

1975's figure for group life represented a 9% increase during the year and is nearly triple the amount in force at the end of 1965.

Survivor benefits, normally described in terms of a continuing monthly payment to the surviving spouse in an amount related to the income of the employee, are singled out in the report as a recent development in the group life benefit field.

With contingent benefits to dependent children taken into account, the initial value of survivor benefits could range from three to ten times more than an employee's annual salary.

Group life insurance in force represented by these survivor ben-

efits amounted to \$21.5 billion at yearend 1975.

The Fact Book reports that the number of Americans covered by pension plans with insurance companies totaled 15 million at yearend, an increase of 1.6 million over the previous year.

This figure includes retired people receiving pension benefits, those who have left employment with vested pension credits, and those still actively at work, and includes some duplication due to persons being covered under more than one plan.

Pension reserves behind plans with life companies totaled \$71.7 billion; group annuities cover the largest number of people under insurance-company-provided pen-

sions. In 1975, there were 54,090 group annuities on record covering more than 10 million people.

The most traditional type is the deferred group annuity under which a paid-up annuity is purchased each year for each employee, with the sum of these benefits paid as monthly income upon retirement.

In 1975, payments of \$2.5 billion were made under life company pension plans to 1.7 million persons. Of this amount, \$2.3 billion was paid to 1.5 million persons with group annuity and terminal funded plans, and \$250 million to 190,000 persons having individual policy pension trusts, group permanent, and other plans. The number of persons receiving payments has more than doubled in the past ten years, and the annual payments are more than three and a half times as large, the report states.

The Fact Book also contains sta-

tistics on the large share of private health insurance for Americans which is provided by life insurance companies.

It states that life companies provided \$14.3 billion of the health insurance benefits paid to Americans in 1975, including \$12.4 billion under group contracts and \$1.9 billion under individual policies.

Of the 1975 benefit payments, \$11.0 billion was paid for medical expenses, including hospital and surgical expenses; \$2.7 billion for loss of income (including accidental death and dismemberment payments); and \$645 million under dental policies.

Casualty and other health insuring companies paid nearly \$1.2 billion in health insurance benefits, bringing payments by all types of insurance companies to \$15.5 billion. These statistics do not include disability payments under life insurance policies and payments by Blue Cross and similar organizations.

Testify about health care cost savings

SAN FRANCISCO—Motorola Inc., largest employer in Arizona, has saved \$1 million in one year in the cost of medical care for its 43,000 workers, by "leaning" on three local hospitals to increase their efficiency.

John R. Keating manager of employee insurance services for Motorola, in testimony here during two days of public hearings by the President's Council on Wage and Price Stability, said "our board of directors went to the boards of the three hospitals to suggest a more business-like approach to health care.

"At the same time," Mr. Keating told the hearing on health costs, "we went to the Arizona state legislature and asked for a strengthening of hospital audit practices and we also interested a number of local health planning boards to accept the volunteer services of some Motorola executives."

In other testimony, Arthur Weissman, senior vp, Kaiser Foundation Health Plan Inc., said the Kaiser plan, with 1.3 million members, "has been able to keep costs at least 20% to 30% under the national average for health care.

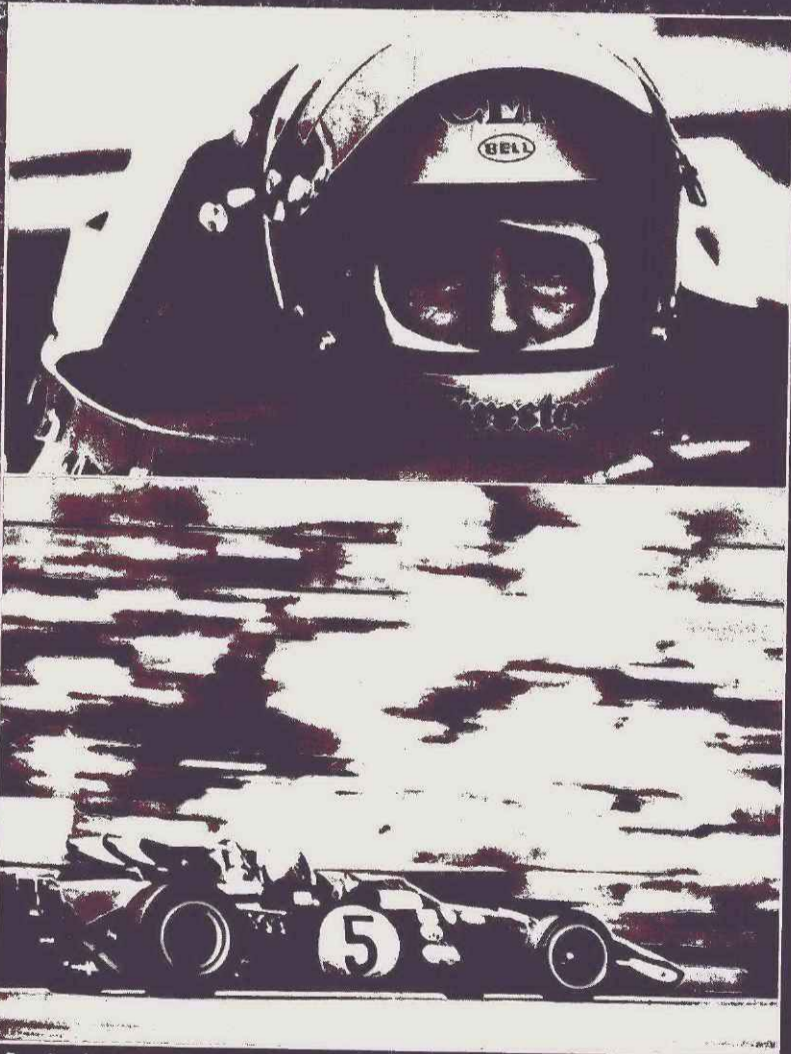
"This is accomplished," Mr. Weissman explained, "because under the Kaiser concept there are no incentives either for physician or member to use our health care inappropriately.

"Doctors," he said, "get paid no more and no less for treating Kaiser patients either in or out of our hospitals or for suggesting less or greater medical treatment."

The hearing, presided over by acting Council director William Lilley III, also listened to representatives of industry, labor, medical groups and hospital associations, all of whom blamed skyrocketing wages, insurance problems, increases in cost of equipment, more complicated diagnostic tests and "paperwork created by government regulations" for high health care costs.

Mr. Lilley, however, asserted that "the competitive forces of demand and supply far too often are derailed by most government and private health care insurance programs and thus permit costs to go unchecked.

"Too many insurance programs," he said, "apparently tend to shield patients, hospitals and doctors from directly dealing with the costs of health care, passing on those costs to third party payment systems."



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General Reinsurance

Mutuals could be the answer for local govt.

NEWTON, MA.—Mutual insurance organizations were proposed as one way municipal governments in the United States might better meet their insurance needs in face of state laws that interfere with risk management at state and local levels.

Dr. Werner Pfennigstorf, an American Bar Foundation research attorney, told the American Risk and Insurance Assn.'s annual meeting last month that "specialization on municipal risk and close cooperation with municipal government are credited with enabling the mutuals to operate at very low expense ratios and to be responsive to their members' special needs" in European countries.

According to Dr. Pfennigstorf, local governments, especially smaller ones, are no longer preferred risks in the commercial insurance market because of vandalism and unpredictable liability exposures. Large governmental units such as states or cities, can meet their insurance needs by hiring

experts with their larger resources.

He also raised the question of whether governmental principles should take precedence over economic considerations in government risk management. The conflicting variety of risk management practices, "leading to the question whether and to what extent governmental risk management can—and should—be regulated by legislation."

"Specifically, there is a great number of provisions that deal with the power and jurisdiction to purchase insurance or to take other actions related to risk management. Most prominent among them are laws establishing a central risk management office within the state government." ■



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Ask Ribicoff for help with RETORT

FRANKLIN, MA.—RETORT Inc., a non-profit group formed to find solutions to the product liability insurance problems in industry by fighting for changes in the tort system, is urging Senator Abraham A. Ribicoff (D. Ct.) to help them.

Senator Ribicoff is currently sponsoring a bill which would permit life insurance companies to decrease their taxable income because of losses of their property and casualty subsidiaries.

Patricia B. Maxwell, vp of RETORT, notes: "RETORT has insisted that when talking about the losses of the property liability industry, one must also take into consideration the premiums that they have collected for decades on their workers' compensation coverage."

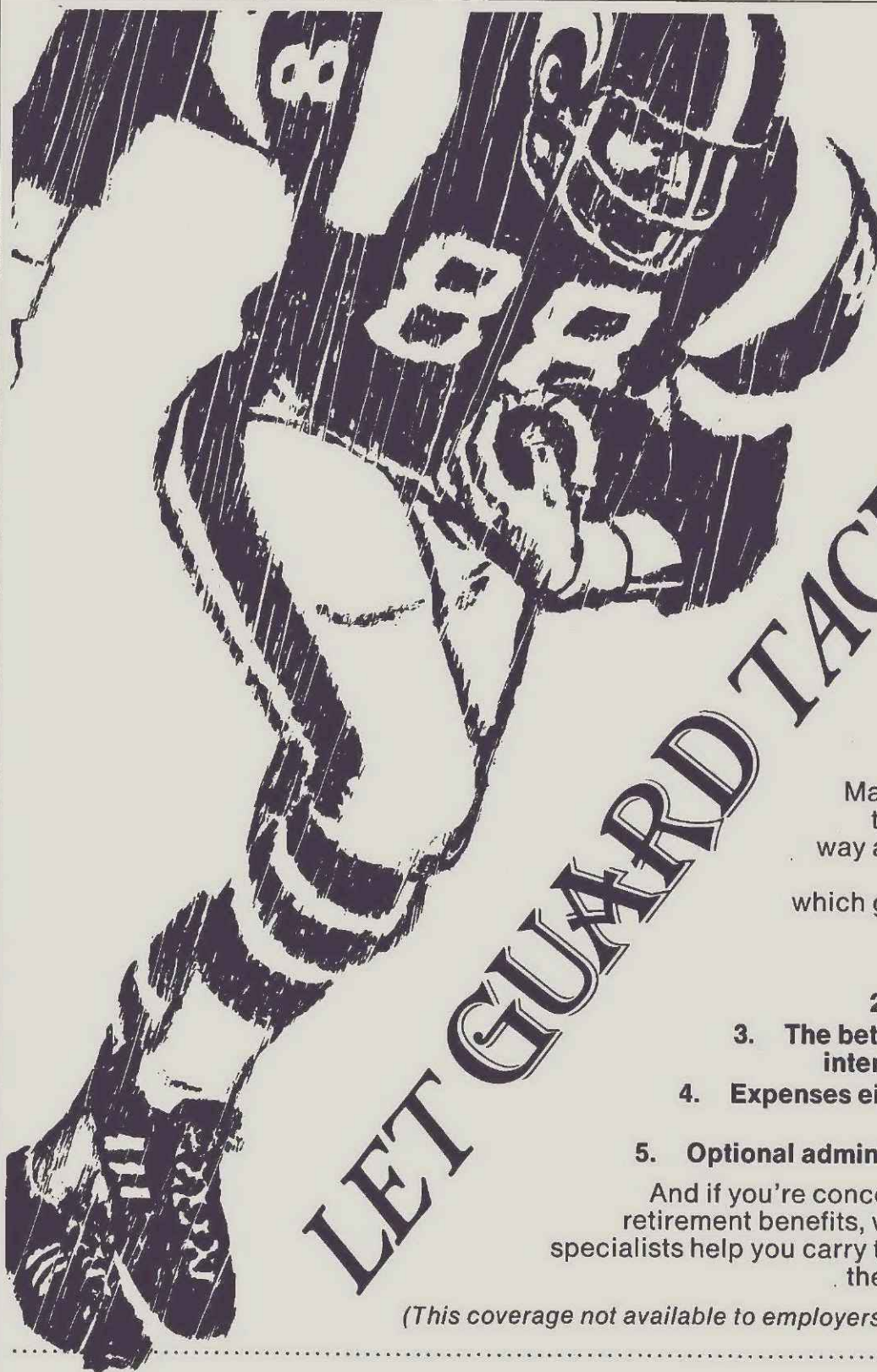
"The answer we always get from the industry is that you can't cross between different lines of insurance. Senator Ribicoff's bill would seem to negate this theory. We are asking Senator Ribicoff for the same help that he is giving the insurance industry."

RETORT, which has members now in 17 different states, sent a telegram to the senator requesting that any bill he sponsors to help the insurance companies should have "companion legislation" to protect manufacturers and suppliers of industrial equipment.

E. H. Rosenberg, the president of RETORT, which stands for "Reason and Equity in Tort," was one of six speakers at the White House Conference March 16 on the product liability crisis in the industrial area. ■

Arson losses

Estimated arson losses for 1975 approach \$2 billion, according to John N. Kane, principal examiner for the Connecticut Insurance Department. This would represent a sharp increase over 1974 arson losses which were pegged at \$1.2 billion. In 1973, arson losses totaled \$845 million. These figures are considered by experts to be conservative and are derived from reports of incendiary and suspicious fires and include 50% of all fires of "unknown cause."



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Communication key to fire protection program

By JOANNE GAMLIN

TACOMA, WA.—A risk or loss control manager who is charged with overseeing exposures in a large number of plants must develop the communication skills of

the most polished practitioners of public relations, advocates Gary A. Baxter, corporate fire protection manager for Weyerhaeuser Co.

He told *Business Insurance* that fire protection at Weyerhaeuser is

founded on a keen awareness of all exposures and the ability to relate those risks to people who are in the position to do something about them.

Mr. Baxter, who formerly worked for Industrial Risk Insurers (formerly FIA) and for Factory Mutual, acts as risk manager for his company's property coverage and oversees a staff of protection engineers.

It should be noted that Weyerhaeuser is a rapidly growing, \$2.5 billion forest products corporation, highly vulnerable to fire damage. The corporation has some 200 plants which are shielded from that threat by a fire protection program including sprinklers, fire brigades and weekly fire inspections.

As you might surmise from a summary of such assiduous effort, Mr. Baxter said that "our property loss experience has been good."

Weyerhaeuser recently established a Bermuda captive which will have as its initial duties the insuring of some of the property coverage. Mr. Baxter, who reports to Jack Christenson, director of insurance, said that Weyerhaeuser's property insurance has a \$250,000 deductible, the majority of which is insured by Factory Mutual and Industrial Risk Insurers.

Since it is impossible for a risk or a loss control manager in a large corporation to be personally acquainted with all exposures, Mr. Baxter said that one of the first tasks of such an executive is the establishment of a communications and control program. The second step is the auditing of that program.

To build that essential web of

communication, Mr. Baxter related that he relies, in part, on questionnaires to be filled out by plant managers. The questionnaires, among other things, gather facts about a plant's fire brigade. They request the name of the fire chief of the plant's first, second and third shifts, the names of the sprinkler valve control man, the fire pump man, the piper, salvage squad, chief electrician and the person to call in case of a fire. In addition, the questionnaires pose questions about whether duties of the people assuming these positions are conspicuously posted and whether these workers are drilled in their fire protection assignments.

Playing a heavy role in controlling fires, too, at Weyerhaeuser plants, continued Mr. Baxter, is the corporate fire protection standards and procedures manual.

The manual is the core of the communications and control program, he said, noting that "an amazing number of major corporations do not have them."

Most Weyerhaeuser plants are highly protected risks (HPR). While he said that HPR insured plants should, in addition to being sprinklered, have a good water supply, a fire brigade and a schedule of weekly inspections, he agreed that small plants can get along with simpler measures. These moves, he said, would include the posting of the telephone number of the local fire department near plant telephones and the teaching of key employees in the use of the fire extinguisher.

High among the advantages of having HPR insured plants, he

went on, is the presence of insurance company inspectors who convey information about exposures, thus boosting awareness of these risks from top management on down.

"Just having the insurance company inspectors making their rounds translates into a sharper awareness of deficiencies in a fire protection program," he said.

Nevertheless, even highly fire aware companies such as Weyerhaeuser need not feel compelled to obey every insurance company proposal, he indicated. Should the insurance company recommend a fire wall for a certain plant, he said the recommendation might be regarded as worthwhile in a theoretical sense but as wasteful in an economic viewpoint.

Property carriers, he went on, are also likely to propose that a small, detached shop building be sprinklered like the larger structure it was built to serve.

"In this case, we might say that the economy is not there and that we shall assume the risk of the smaller building," he asserted.

The communications network which the corporate insurance department has created to keep the staff apprised of every significant change at Weyerhaeuser appears to be thorough, indeed. Mr. Baxter mentioned, for instance, that to varying degrees, he and his staff personally monitor every engineering or architectural project assumed by the corporation. Similarly, contracts, leases and agreements initiated by lawyers, real estate agents and purchasing people are reviewed by the insurance department.

No doubt Mr. Baxter and his staff had quite a load of that kind of work last year. In 1975, Weyerhaeuser purchased 16 plants from Evans Products, meaning that Mr. Baxter's office had to probe to discover the extent of sprinklering and of property coverage of the acquired property.

Without the finely honed communications web, Mr. Baxter indicated he does not believe that Weyerhaeuser could have maintained its excellent loss experience in property coverage.

Fire protection consciousness starts in the executive suite at Weyerhaeuser, he said.

Further proof of the dedication of that effort at a company whose strikingly contemporary international headquarters building has garnered a number of design awards, might be said to lie in the expanding staff of fire safety engineers who work for Mr. Baxter. All combine an engineering degree with actual fire protection experience.

Within a year another engineer may be hired, Mr. Baxter disclosed, observing that OSHA is now moving into fire protection work and that more and more plants are becoming HPR and therefore sprinklered. He asserted that the whole field of fire protection may be gearing up for a demanding future.

Inland marine gains

The first six months of 1976 showed a 6% gain for inland marine insurance, according to Garrett J. Dykhouse, chairman of the Inland Marine Underwriters Assn. This is 3% above 1975's mid-year profit. Premium volume for the first half of 1976 rose to \$521 million, making this area of coverage the only property/casualty insurance line with six straight profitable years. Mr. Dykhouse attributed the performance to "cautious underwriting."

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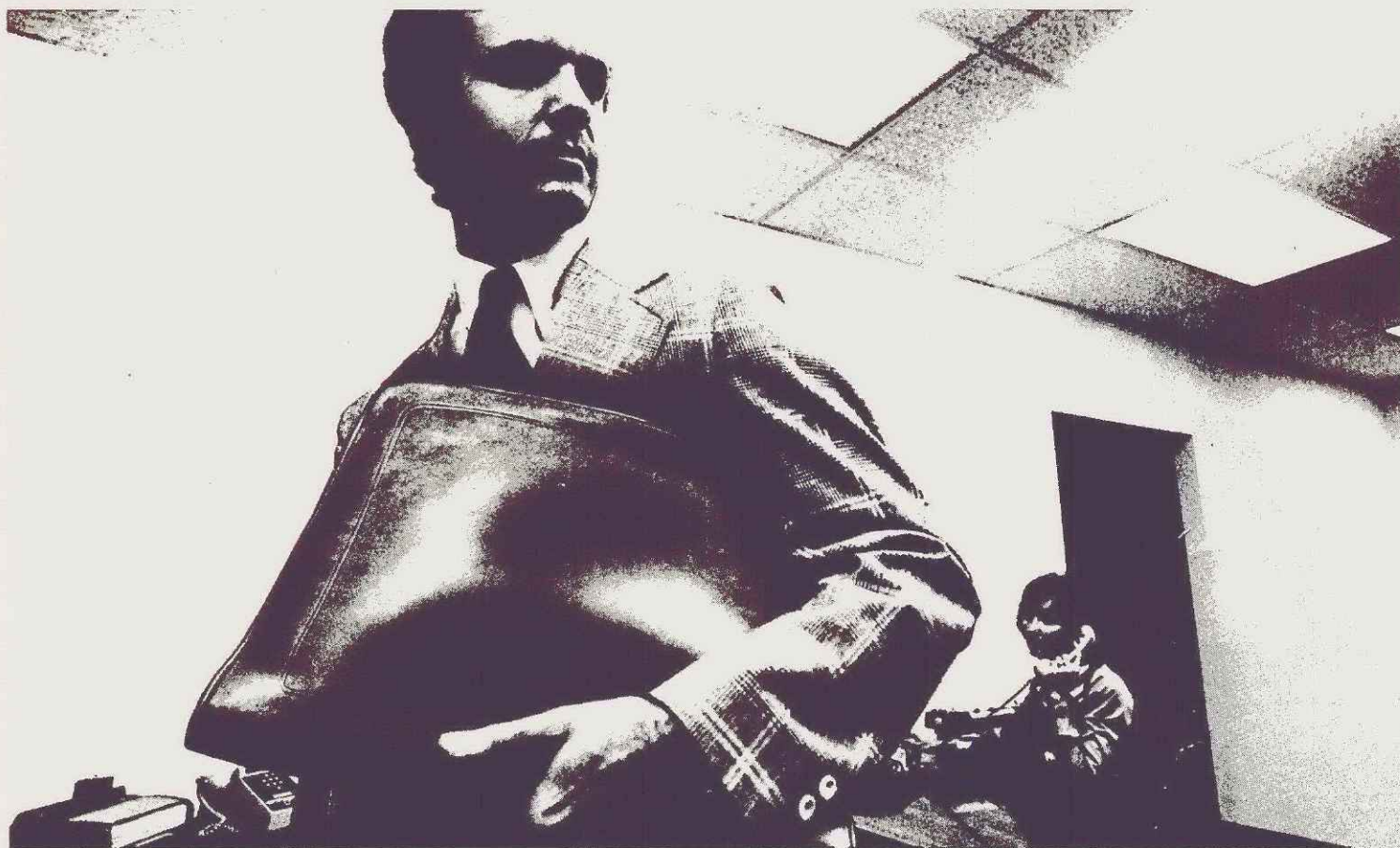
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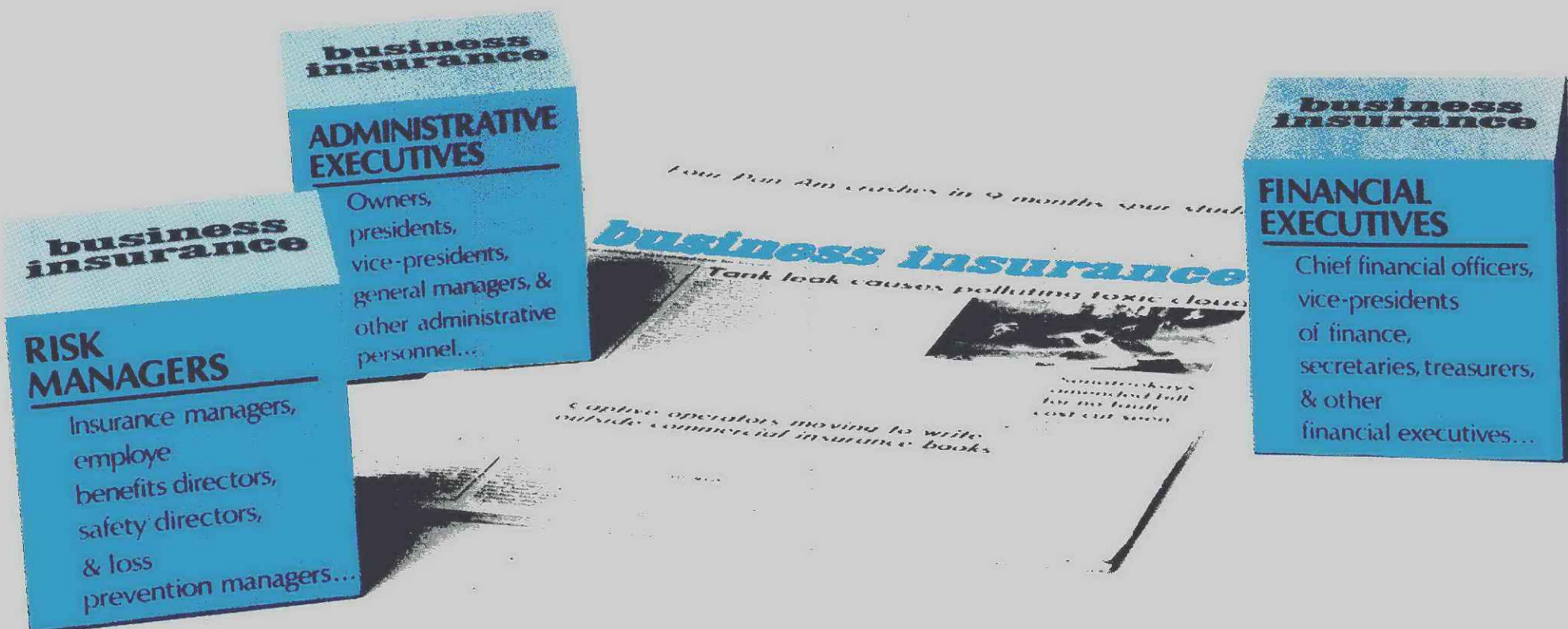
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Benefit Board . . .

Continued from page 1
for dental coverage. Only 20 use insurance brokers to purchase dental plans.

• That same proportion applies to companies which used employee benefit consultants to assist in

establishing or managing the dental plan. That is, 35 of the employers on the Benefit Board didn't use a consultant; 20 of the benefit managers did use a consultant.

• The seven companies planning to establish dental programs within the next year employ 150,000 people. Two of these firms have already chosen the insurance company to be used; one will use Connecticut General, the other will use Prudential. All seven plans will cover salaried employees,

three of the companies also plan to offer the dental benefits to union employees and non-union hourly workers.

When dental benefits are offered to employees, coverage for dependents is always included, Benefit Board members said. Every one of the 55 companies having a plan offers dependents coverage, and every employer planning to offer dental benefits also will provide family benefits.

In most cases, the employer pays the full tab for an employee's dental benefits. Forty-one of the 55 plans (7%) are non-contributory; three companies said they have

both contributory and non-contributory plans for various employee groups.

Slightly more than half of the 55 companies offering dental benefits reported premium costs are up over last year. Increases in premiums ranged from a low 3% increase to a high 52% increase. The dental benefit cost increase mentioned most often was 10%, the average cost increase was 19.8%.

Nine employee benefit managers on the Benefit Board said the dental benefit cost per month per employee was not available. For the other 46 plans, however, the average cost per employee per month worked out to an extraordinarily high \$28.22. The median cost for all the plans reporting was \$12 per employee per month, more in line with cost findings reported in other employee benefit surveys.

Four benefit managers noted that dental benefit programs cost less this year than for the previous year. The remaining 13 said costs have held steady.

Of the seven firms planning to start up dental plans soon, three already know what their cost per employee per month in the first year will be. The lowest cost given is \$10.50; the highest, \$16.04. The least expensive plan is a contributory plan having a \$50 deductible, a 75/50/50 coinsurance provision, a \$1,000 annual benefit limit and a \$5,000 lifetime benefit limit, and a maximum orthodontia benefit of \$500.

The \$15 middle-priced plan is non-contributory, uses a schedule of benefits, and provides for 50% coinsurance, \$1,000 annual maximum benefits, \$5,000 lifetime maximum benefits, and a \$500 maximum orthodontia benefit.

The highest priced plan of the three to be started up, at \$16.04, is non-contributory and covers reasonable and customary charges with these provisions: a \$50 deductible, 50% coinsurance, \$1,000 maximum yearly benefits, and \$1,500 maximum lifetime orthodontia coverage.

A total of 66 insurance companies were mentioned by the 52 Benefit Board members who said they insure their dental benefit plans. Some board members use more than one insurance company (for example, a corporation with plants in several areas of the country might use one insurer in California and another in the East).

The insurers used by the BI Benefit Board members, and the number of respondents using each company, were:

Equitable—10; Prudential—9; Metropolitan Life—9; Aetna—8; Travelers—7; Delta Dental—5; California Dental Service—4; Blue Cross—4; Connecticut General—4; New Jersey Dental Services—1; Wisconsin Physicians Service—1; OMI—1; John Hancock—1; Provident—1; Lincoln National Life—1.

Two out of every three dental benefits programs offered by the companies represented on the Benefit Board pay for claims on a "reasonable and customary" charges basis. The remaining one plan of three provides in its plan for coverage of dental services under a schedule of charges and fees which will be reimbursed.

Thirty of the 55 dental plans in operation impose an annual deductible on employees, ranging from a low of \$5.25 up to \$35 per person/\$75 per family. The distribution of responses about deductibles is as follows:

- \$5.25 (1)
- \$15.00 (1)
- \$25.00 (11)
- \$50.00 (8)
- \$100.00 (2)
- \$25 per person/\$50 per family (2)
- \$25 per person/\$75 per family (3)
- \$35 per person/\$75 per family (2)

Nearly three-fourths of the dental plans in operation have coinsurance provisions, an important utilization and cost control tool for employers. Two of the plans provide for a sliding scale of coinsurance with a higher employee share to be paid in the first year of the dental plan, and with the coinsurance amount decreasing each year thereafter until the coinsured amount levels off in the third or fourth year. Another 12 plans use a sliding coinsurance provision of 5% up to 50% based on the nature of the dental procedure. The coinsurance provisions of the remaining 26 plans included:

- 10%—1 plan
- 15%—3 plans
- 20%—15 plans
- 25%—4 plans
- 30%—1 plan
- 50%—2 plans

A maximum annual benefit is nearly always imposed on those using the dental plans. Some 45 of the 55 dental programs tell employees participating that there is a yearly limit on the benefits they can claim. The range of annual benefit ceilings went this way:

- \$400—1 plan
- \$500—5
- \$600—1
- \$750—15
- \$1,000—20
- \$1,200—1
- \$1,500—1

Continued on page 39

About our members

THE 90 EMPLOYEE BENEFIT BOARD members who've agreed to serve as panelists, when *Business Insurance* does its benefit survey mailing about six times a year, represent companies employing very small groups and extremely large groups of workers.

We've ascertained, in fact, that our panelists represent several million employees across the nation. For example, of the 55 corporations presently offering dental benefit plans to their employees, 48 told us exactly how many employees are covered by their dental programs.

The smallest group consisted of a very modest 196 employees, but the largest group was a whopping 535,000 workers. That covers the spectrum of large and small employers, all right. The distribution of the group sizes was evenly spread across six categories: seven employers have employee groups in the 100 to 999 range; 10 companies have 1,000 to 4,999 employees; eight firms have 5,000 to 8,999 employees; and nine companies have 9,000 to 15,000 employees.

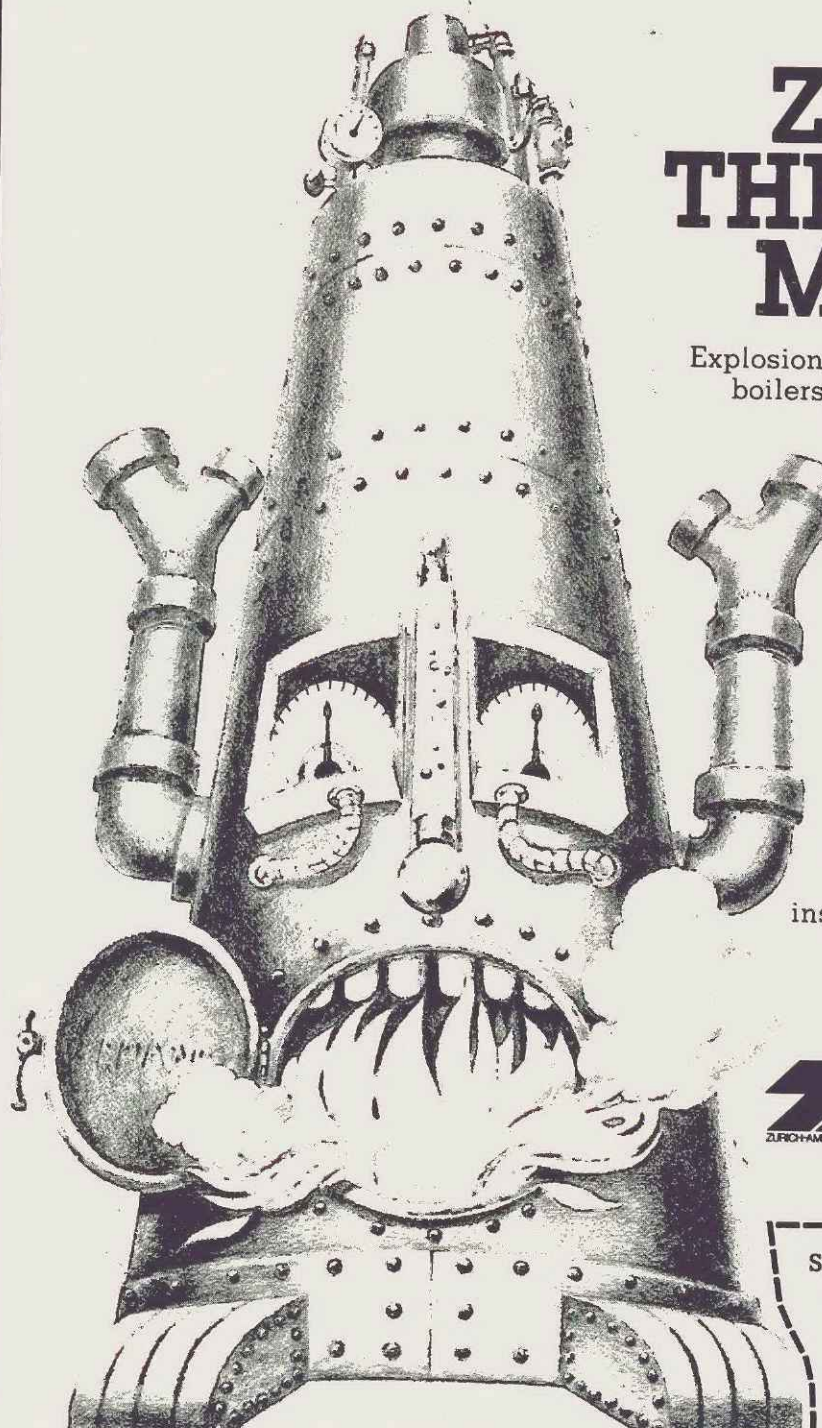
Within large employee groups, we have benefit board panelists representing 16,000 to 50,000 employees (10 panelists); 51,000 to 100,000 employees (two panelists), and 101,000 to 550,000 (two panelists).

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Christ Scientists opt for group health cover

NEWARK, N. J.—Christian Scientists believe in mental healing. This has traditionally made the religious group a poor prospect for group health benefit plans with the usual doctor and hospital coverage.

But in a surprise move revealed last month, the Boston-based Church of Christ, Scientist, made its own overtures to obtain such coverage for its members.

It arranged what is believed to be the first policy ever designed particularly for Christian Scientists, by Christian Scientists, in cooperation with an insurance company.

That company is the Intercontinental Life Insurance Co. here in Newark. ILIC has dealt with the religious group for years, and one of its subsidiaries helped get individual health policies with riders for the Christian Scientists.

So it was to ILIC that the sect turned when it tried to set up a plan that would provide insurance for its members without violating their beliefs.

They did it through a benevolent organization called SCS Incorporated, which was formed for the benefit of Christian Scientists. SCS (which stands for "Serving Christian Scientists") has an unsalaried board of trustees, all of whom are prominent Christian Scientists. Through its efforts, certificates for the new policy were issued to followers without regard to previous health care of health history.

ILIC set a minimum requirement of 1,000 certificate holders before it would write the group care expense policy, but it says that minimum was not only reached but surpassed.

"The policy is designed to cover every facet of Christian Science care and treatment expenses in addition to traditional hospital and doctor care which the Christian Science members sometimes find unavoidable," explained ILIC president Ephraim Weiniger.

According to the sect's philosophy, evil is alien and the result of error in man's mind, and can be avoided through faith and good

Board . . .

Continued from page 38

(One board member said the annual maximum level was not available.)

Only 10 of the dental plans offered by the Benefit Board respondents define a lifetime maximum benefit that will be paid for employees. Those having a lifetime maximum provide for \$5,000 in benefits—7 plans; \$7,500 in benefits—1 plan; and \$10,000 in benefits—2 plans.

Nearly two-thirds of the plans offered cover orthodontics, although most of those have special provisions in their plan descriptions for lifetime limits on orthodontic benefits to be paid. The provisions included:

- 50% coinsurance/\$500 lifetime maximum—5 plans
- 60% coinsurance/\$1,000 life maximum—1
- \$500 lifetime maximum—14
- \$1,000 lifetime maximum—4
- \$750 lifetime maximum—1
- 50% coinsurance/\$1,000 lifetime maximum—1

Certain major dental procedures are nearly always covered. Root canal work is covered by 53 of the plans. Regular preventive maintenance is covered by 52 of the plans. Cleaning and prophylaxis are covered by 53 plans. And 51 plans cover mouth x-rays. ■

practices. This is why mental healing, supervised by the group's owned trained practitioners, has become central to their system.

Under the new policy with ILIC, visits by practitioners either at home or in a sanatorium are featured. In general, the plan provides eight different areas of benefits including a blanket emergency expense provision which will pay any bill up to \$1,000 for any treatment, in or out of an institution. Nursing care is also available.

As the official insurer of the group care expense policy, ILIC uses special language in the contract, brochures and claim forms to describe the care required by the Christian Science community. ■

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Georgetown HMO expects continued growth

WASHINGTON—With 20,000 enrollees and growing fast, the staff of Georgetown University Community Health Plan (GUCHP), the first federally qualified health maintenance organization (HMO) in the Washington,

D. C. area, sees nowhere to go but up.

"By 1980, I expect we'll have 60,000 enrollees," says Norbert Meister, vp-finance and treasurer.

Ralph Gallo, vp-marketing and subscriber services, sees GUCHP

adding another 3,000 or 4,000 enrollees by the end of this year.

Currently, 450 area employers offer the plan. In late July, negotiations were completed with International Business Machines Corp. to offer GUCHP to its 8,800 Washington employees on January 1, 1977—Gallo estimates about 200 of them will opt for GUCHP.

Meister said the plan's enrollment has doubled yearly since its inception in late 1972. As of June 30, GUCHP had 17,570 enrollees, but in July, the Montgomery County Teachers Assn. upped that figure by about 2,000.

Most of the 450 employer groups offering GUCHP are small firms or organizations; several local government groups participate.

About 30 of those employers were marketed by GUCHP directly. The others were marketed through Blue Cross, but that relationship has since been suspended because federal qualification rules require an HMO to control its own marketing.

Joyce Dobow, GUCHP's executive vp, attributes much of the plan's rapid growth to the large number of Federal employees in Washington. There are about 350,000 federal employees in the area out of a total population of approximately 3.5 million.

There are two other HMOs in the Washington area (one of which, Group Health Assn., has been operating since 1937, and is one of the nation's oldest prepaid group practices). But none of the others is yet federally qualified under the 1973 HMO Act. In fact, out of the 168 HMOs in the country, according to HEW, only 18 had received federal qualification as of early August (19 others had submitted qualification applications).

The HMO Act currently requires the plans to meet strict operation and enrollment specifications, including requiring that employers with more than 25 employees offer the HMO if there is a federally qualified one in the area (this is called "dual choice"). GUCHP became federally qualified in May, 1976. The law originally envisioned 1,700 qualified HMOs by

1980, but lawmakers now seem to agree this goal is unrealistic, given the act's strict requirements.

Federal qualification "opens doors," according to Mr. Meister, and "prods employers into action." The HMO law put the marketing burden on the HMO itself, not the employer, but once a qualified plan solicits an employer, the employer must offer workers a "dual choice" option, which Ms. Dubow calls "one of the best features" of the federal law, since it "enhances marketing potential."

The prerequisites for federal qualification under the law are generally considered stiff, but will probably be relaxed somewhat under amendments awaiting final Congressional approval.

GUCHP's staff said the law has not proved burdensome, however.

One of the law's most controversial requirements is a community rating system for setting HMO premiums based on the cost of health care for all area subscribers regardless of claims experience, health status, age or sex. GUCHP has always been community rated, and won't change that policy even if the new HMO amendments, as expected, allow some degree of experience rating, Ms. Dubow said. (Experience rating allows premium rates to vary with subscribers' health status and experience, age, and sex; it is the traditional rating system.)

Another seeming thorn in the side of HMOs is the law's open enrollment provision, which requires HMOs to sign up the general public, on a first-come, first-serve basis.

HMOs currently must offer at least one annual open enrollment period and accept individuals up to capacity in the order of application, unless the plan can prove to HEW that open enrollment would threaten the HMO's economic viability. In those cases, HEW can waive the requirement for up to three years.

GUCHP has applied for a waiver of the open enrollment provision, but the new HMO amendments will probably dramatically loosen the requirement. Under the compromise version, which could

become law, HMOs would not have to comply with open enrollment if they had already newly enrolled more than three percent of their total net enrollment increase of the previous year. Only five-year-old HMOs or those with more than 50,000 members (and without a deficit for the most recent fiscal year) would have to provide open enrollment, for at least 30 days a year.

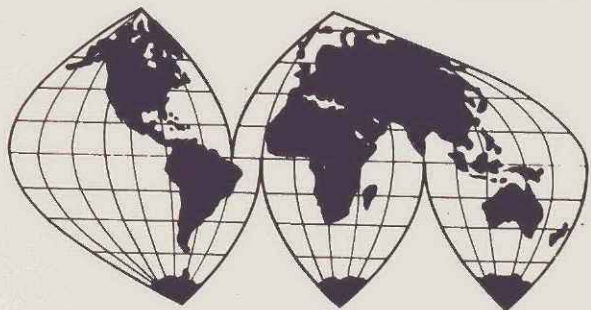
Mr. Meister called the federal qualification process "lengthy, difficult, and thorough." But Ms. Dubow said that federal qualification mostly involved "clarification" of GUCHP's already existing policies.

GUCHP did not apply for feasibility study funding under the law, since the group incorporated in 1972 (the law was passed in 1973), but GUCHP has received about \$900,000 in development funding from HEW for development of a marketing plan and renovation of facilities. Other early funding came from the Johnson and Kellogg foundations, as well as from a teaching affiliation agreement with Georgetown University.

The organization's operating budget has kept pace with its annually doubling enrollment figure. The projected operating bud-

Continued on page 41

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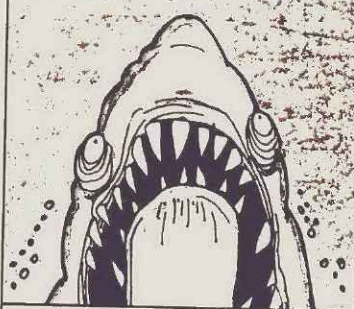
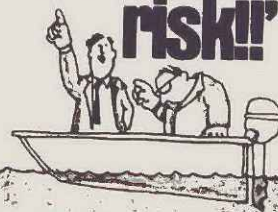
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Continued from page 40
et for 1977 is \$15 million, up from \$7 million in 1976 and \$3.6 million in 1975.

Mr. Meister said GUCHP is expected to break even in mid-1978. This year the plan is slightly in the red, he acknowledged, but the "deficit is anticipated," and is covered by a long-term loan.

GUCHP is licensed as an insurance company and must meet insurance regulations, which require a degree of financial stability. Premiums account for about 80% to 85% of total revenues, according to Mr. Meister, with another 5% from fee-for-service payments, and 10% from miscellaneous other income, such as investments. Premiums are \$28.40 per month for individuals and \$79.50 per month for a family of two or more, which Mr. Gallo said is "competitive" with other area HMOs. Mr. Meister said premiums will probably be raised next year, hopefully not by more than 10% to 13%, the rate at which medical care costs in general are expected to rise.

The federal employees' insurance program pays 65% of those enrollees' premiums, leaving employees to pay 35%. Only a few employers in the plan pay 100% of the premium for their enrolled employees.

GUCHP can keep its premium competitive because its hospitalization rate is low—about 480 hospital days per thousand, according to Mr. Meister, compared to 1,000/1,000 for Washington area federal employees according to Blue Cross figures—and its population is young. The disenrollment rate is low. Of 5,000 federal employees newly enrolled in January, 100 of them decided to drop out of GUCHP.

To keep up with its rapidly expanding enrollment, GUCHP is planning to open a new treatment center, in addition to the three already in operation (one in the city, and one each in suburban Maryland and Virginia). "I see GUCHP opening a new medical center each year for the next three or four years" if services continue at a satisfactory level, Mr. Gallo said.

GUCHP uses Georgetown University Hospital as a tertiary care, back-up facility. The plan has service contract arrangements with several community hospitals for routine inpatient care. Home health care is built into GUCHP's basic benefits package.

Although the plan has experienced few patient complaints, GUCHP has an extensive grievance system to handle any problems. The plan's administrative staff handles any complaint that can't be resolved by individual center staff. A grievance committee can be convened, consisting of the directors of personnel and subscriber services, the executive vice president, two patients appointed by GUCHP's advisory board, and one of the center physicians who is not personally involved in the case. But no complaints have yet reached that stage, according to Mr. Gallo, and there have been few formal complaints at all.

GUCHP has not been sued for malpractice, but is insured with Aetna at a yearly cost of \$75,000, which Mr. Meister said will probably double when the policy is renewed in late 1976.

In addition to the grievance procedure, GUCHP keeps enrollees informed and active in the plan through a quarterly newsletter that tells subscribers how to use GUCHP, profiles staff at the centers, and runs preventive health articles. ■

dates for buyers

Sept. 20-21: Wharton School of the University of Pennsylvania—Scientific methods will be applied to all aspects of risk management: Analyzing pure risk situations, insurance purchasing decisions, deductibles, protection projects, probability distributions and insurance cost budgeting. Techniques in competing for funds within a firm and obtaining the greatest risk reduction per dollar of budgeted premiums will be explained. Mathematical techniques using hand calculators will be taught. Cost is \$395 per person plus \$50 registration fee per company. The September meeting will be held in New York; an Oct. 18-19 meeting will be in Chicago. Contact The Wharton School, Program Coordinator, Office of Executive Education, University of Pennsylvania, Philadelphia, Pa. 19174; (212) 243-4855.

Sept. 20-23: Management Laboratories of America Inc.—A "Reinsurance Reanalysis" at the University of Dallas will discuss reinsurance decision-making, processing guidelines for managers, captive companies and pooling arrangements. Guest discussion leaders include excess and reinsurance company executives. Cost is \$325. For more information write the University of Dallas, Management Laboratories of America Inc., Irving, Tx., 75061, Attn: Bruce Evans.

Sept. 22-23: Connecticut Conference of Municipalities—Identifying exposures, risk control and risk funding for municipalities in the face of decreasing governmental immunity and tight markets is the subject of a seminar sponsored by northeastern state municipal leagues and the Risk Planning Group. Environmental protection standards and emergency planning systems will also be discussed. Cost is \$200; participants are limited to 60. The Holiday Inn, 50 Morgan St., Hartford Ct. is the site. Contact Patrick Hemingway, Connecticut Conference of Municipalities, 956 Chapel St., New Haven, Ct. 06510, (203) 772-2168.

Sept. 26-28: Houston Mariners Club—The eleventh annual Houston Marine Insurance Seminar will include topics on international employe benefits in the petroleum industry, marine product liability and laws, inland waterway operations, the Japanese hull market and insurance against political risks. Registration fee is \$60; the seminar will be at the Houston Oaks Hotel. Contact Hous-

ton Marine Insurance Seminar, c/o Weldon A. Schramm, P.O. Box 27635, Houston Tx. 77027.

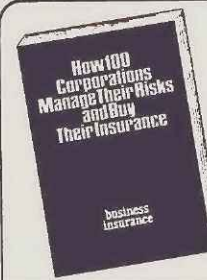
Sept. 26-29: International Foundation of Employee Benefit Plans—How to plan and organize an efficient communications program will be the subject of a Communications Institute, as well as evaluating communication materials of seminar participants. The speakers include communications instructors and consultants. Cost is \$180 for members; \$240 for non-members. The conference will be held at the Hyatt Regency Hotel in New Orleans. Contact the International Foundation of Employee Benefit Plans, 18700 W. Bluemound Road, P.O. Box 69, Brookfield, Wi. 53005.

Sept. 27-28: Marine Insurance Handbook Inc.—A Multiple Line Working Clinic aiding individual company staffs with their particular insurance problems will be held in Indianapolis, In. at the Stouffer's Inn. Topics to be discussed will depend on the current problems. Some of the topics planned include mercantile risks, replacement cost coverage without coinsurance, how to ad-

just coverage and loss exposure to inflation, and new liability hazards due to changing conditions in the construction, plastics and chemical fields. Fees are \$35 per day in advance; \$40 per day at the working clinic. For more information: Marine Insurance Handbook Inc., P.O. Box 723, Chicago, Il. 60690.

Sept. 27-Oct. 1: International Safety Academy—An advanced safety management conference will be held, covering hazardous classification, damage control, and behavioral science applications to loss control, among other topics. Cost is \$395; will also be held Oct. 25-29. Write the Academy, P.O. Box 4365, 1021 Georgia Ave., Macon, Ga., 31208.

Oct. 4-6: Bank Administration Institute—Employe benefit trust administrators and managers working with employe benefit plans may attend one of two concurrent seminars. In a Personnel seminar, controlling employe benefit costs, compensation alternatives, plan administration and benefit communications will be discussed. The seminars cost \$180 for BAI member banks and \$270 for non-members; they will be held at The Broadmoor, Colorado Springs, Co. on Oct. 4-6 and at Stouffer's Atlanta Hotel, Ga. on Nov. 3-5. Contact Meeting Services, Bank Administration Institute, P.O. Box 500, Park Ridge, Il. 60068.



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people

Steuber Co. hires former broker to start risk dept.

Steuber Co. Inc., New York, hired **William D. Horan**, 49, as vp-risk management, August 1. His first responsibility is to develop a risk management department for the rapidly growing company which has operations in transportation, storage and marketing of bulk liquid chemicals. Mr. Horan formerly was an account executive with Alexander & Alexander Inc.; Steuber Co. was one of his accounts. He reports to the treasurer of Steuber Co., which reportedly had more than \$100 million in annual sales. Mr. Horan's responsibilities include property/casualty risks, insured group benefits and pensions. Before Mr. Horan's job was created, the controller of the company coordinated the insurance function among his other duties. Mr. Horan has worked for S. N. Eben Corp., Thomas E. Leeds Co., Truder & Norwood, National Bulk Carriers Inc. and Appleton & Cox Inc.

Jean Falkner, 39, formerly with Zenith National Insurance Co., was named insurance coordinator for the Salvation Army, Palos Verdes, Ca., Western Region. She replaces **Diane Steffen**, 30, who is leaving to join the army's school for officer training. Ms. Falkner, who will report to Colonel Murray in the army's insurance department, was scheduled to begin her new job on August 30. She worked for seven years in Zenith's audit department. Ms. Steffen told *Business Insurance* she expects to become a minister after completing the two-year training course. "I've been converted by the Lord," she said.

New Orleans-based Ingram Corp. promoted **Joseph W. Hirn III**, 37, to claims manager, effective August 1. He replaces **John E. Hogue**, who joined Farmland Industries Inc., Kansas City, Mo. (BI, August 9). Mr. Hirn, a CPCU, reports to the executive vp of administration and is responsible for all the company's insurance claims, including property, casualty, workers' compensation, Jones Act, hull and protective indemnity. He said he will also work on insurance with his boss. Formerly, Mr. Hirn was coordinator of loss control and has been with Ingram for one and a half years.

Litton Industries Inc., Beverly Hills, Ca. is reshuffling insurance, pensions and benefits functions to cover the departure of two key people: **Ralph Ehler**, who left in mid-August to join William M. Mercer Inc., Kansas City, Mo.; and **Carl G. Paulson**, who left the company as reported (BI, July 26). Mr. Ehler was Litton's pension manager and also handled group insurance. **Bob Thurston**, who has worked on international benefits up to now, is expected to assume the pension responsibility. **Paul Harvey**, Litton's insurance manager, will take over Mr. Paulson's title as manager of employe benefits and services. Mr. Harvey will also assume Mr. Ehler's responsibilities for group insurance. **Jim Lang**, Litton's director of insurance and pensions, also will share additional functions. Litton is expected to hire an insurance analyst to work with Mr. Harvey, *Business Insurance* was told. The consolidation of duties is expected to last indefinitely.

O. W. Henderson was hired by Amerada Hess Corp., Woodbridge,

N. J. as corporate manager of safety, effective mid-August. The company declined to give out any other details about the appointment such as Mr. Henderson's former employer or his predecessor at Amerada Hess.

The former corporate director of employe benefits at Sherwin-Williams Co., Cleveland, **Robert E. Carpenter**, joined Reed Shaw Stenhouse Inc. of Illinois in August. Mr. Carpenter, 46, was appointed vp and will be responsible for managing the broker's employe benefit consulting and related services. He reports to the president of the Illinois operation. Mr. Carpenter also was manager of employe benefits at B. F. Goodrich Co., Akron, Oh.

National Airlines, Miami, named

Michael J. Bach Jr., 48, supervisor-group insurance and pension administration, effective July 1. He replaces **Derek F. Tyler**, who joined Eastern Airlines (BI, June 28). Mr. Bach reports to the manager of the airline's insurance division. His primary responsibility is the company's 11 different pension plans but he is also in charge of the "total group package" which includes health, life, dental and disability. Before coming to National, Mr. Bach was vp of Corporate Benefits Inc., Miami, a pension and profit sharing consulting firm.

Dayton-Hudson Corp., Minneapolis, appointed **Dennis C. Doherty**, 36, assistant manager-property insurance, effective July 19. He succeeds **Dale H. Noyed**, who went to Coast to Coast Stores, Minneapolis (BI, July 26). Mr. Doherty reports to William G. Cain, director, risk insurance and is responsible for the retailer's property insurance program "with a heavy involvement in loss prevention programs, including fire protection, safety and security," according to Mr. Cain. He formerly was senior engineering representative at The Travelers Insurance Co., Minneapolis.

His engineering background is one of the main reasons that loss prevention will be a major emphasis of his new job.

Edwin J. Cathell Jr. was appointed vp-personnel relations at Texas International Airlines Inc., Houston, in May. He oversees the employe benefits and group insurance function as part of his responsibilities and reports to the executive vp. Previously, Mr. Cathell was staff vp-employe relations at Continental Airlines and was replaced there by John Bidlake (BI, August 23). At Texas International, Mr. Cathell assumes

a restructured position which covers employe benefits, labor relations, personnel and training. **Donald Breeding**, vp-flight operations was formerly responsible for some of these functions. He died 10 months ago.

Business Insurance wants to know of readers moving into new or different risk management, employe benefit or safety/loss positions. We are interested in administrative, staff and support positions as well as managerial level jobs. If you or anyone you know is on the move, please contact our Chicago office, 312-649-5279.

Insurers expected to do well, say analysts

CHICAGO—Although there are only two securities analysts following the publicly held insurance brokers regularly and closely, they concur on the outlook for 1976: It promises to be a very good year.

Increases in premium rates continue to benefit the brokers, as evidenced by the average 19% revenue gains reported in the first half of the year by the six biggest publicly held firms.

"The big firms are thriving," says Leonard Wilson, analyst for New York-based Drexel Burnham & Co. Despite talk of insurance market tightness, he's not at all worried that the big brokers he follows can't place their risks. "The national brokers are able to find markets," he's convinced, attributing this to the ability of the leading firms to structure the risks and use expertise to place them.

"I'm overwhelmingly impressed with the numbers that I'm getting," states David K. Tuttle, analyst with Legg Mason. As reinforcement, he notes that Marsh & McLennan told him recently that while half of its 18.6% revenue gain in the first half was due to premium rate hikes, another 25% of the increase was generated by increased or new coverages for existing accounts, and the remaining 25% was attributable to new accounts picked up from other brokers.

"All the brokers I follow are enjoying an extraordinary year from a revenue standpoint," Mr. Tuttle concludes.

Mergers may become more frequent, says Mr. Wilson, who thinks the pace of acquisitions, which slowed significantly in 1974 and 1975, "seems to be picking up somewhat right now."

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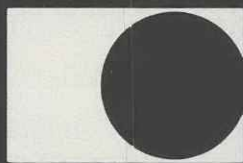
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