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Many-Sided Occupational Disease Problem Discussed By T. N. Bartlett

Maryland Casualty Claims Manager in Industrial Boards Talk Favors Schedule Method to All-Inclusive Plan; Treats Accrued Liability, Costs and Prevention Features

One of the outstanding addresses before the recent annual convention of the International Association of Industrial Accident Boards and Commissions at Asheville, N. C., was by Thomas N. Bartlett, manager, claims division, Maryland Casualty, who went exhaustively into the many-sided workmen's compensation occupational disease situation. Mr. Bartlett, a member of the advisory committee of the Association of Casualty & Surety Executives which is dealing so constructively with this problem, declared that the business is now faced with just as serious and acute conditions in the dealing with occupational diseases contracted in employment, "as we were when common law remedies for injury by accident were considered unsound, too expensive for industry and unfair to the worker." He has just been appointed a member of Maryland's special commission to study "dust diseases."

Mr. Bartlett emphasized that the greatest contributing factor to the present unwholesome situation has unquestionably been precipitated by diseases caused by breathing inorganic dust, particularly the diseases of silicosis and asbestosis. He said: "These are not new diseases but they have been alarmingly on the increase because of exposure to and the use of modern machinery and processes in everyday course of work." He dwelt at length upon the chaos brought about by court decisions by way of indicating the present confliction and confusion.

Facing the Dilemma

Faced by this dilemma Mr. Bartlett said it is only natural that a plan for compensation for occupational diseases should be looked to as the solution to the present difficulties, just as such a plan was deemed to be the solution to the problems existing centuries ago, and certainly in modern times, when the redress was common law actions for accidental injuries sustained in employment. He declared:

"Therefore, if the basic principles underlying the passage of compensation laws to apply in cases of accidents are sound, the solution for the occupational disease problem may be found in appropriate legislation. A worker is just as much disabled if he contracts an occupational disease which is peculiar to, characteristic of, and arises out of the work to be done in connection with specific exposures and directly related thereto, as if he sustained a broken leg as the result of an accident arising out of and in the course of his employment.

"The true rule is, and should be, that industry should compensate for those diseases only, which in individual cases can be medically traced to an origin in a 'trade risk.' That is to say, a risk not of ordinary life, but specific to and created by some process or occupation in industry. The British and all European authorities go a bit further holding that occupational diseases for which compensation is to be paid cannot practically be defined in general terms, but must be specified and based on prevailing medical opinion; that further, the terms and conditions governing the payment of compensation for such diseases can thus only be equitably made when those terms and conditions are varied to fit the needs according to the peculiarities of the different disease. * * *

Amending Present Comp. Laws Not Solution

"If legislation providing a plan for compensation in occupational diseases is the solution, should we not endeavor to have the best legislation to carry out the bona fide intent and purpose?

"Are we to find, however, the best solution by hastily amending our present workmen's compensation laws to include occupational diseases without any special provisions as to such diseases? I think not. There is such a wide divergence between an accident and a disease as to cause and effect, time and place, immediate knowledge and result, that from every point of view it warrants the sound and logical belief that special provisions are needed to regulate and provide a plan for compensation for occupational diseases, and more especially as to silicosis and asbestosis."

Mr. Bartlett's opinion is that the provisions of the law governing compensation for occupational diseases should differ radically from those governing compensation for occupational accidents and need to be clearly distinguished. He felt that this can be accomplished in two ways: First, by having the provisions relating to occupational diseases enacted as another part (i.e. 2, 3 or 4 as the case may be) of the workmen's compensation law. Secondly, by adding a special chapter or a new and entirely separate article. He suggested: "By either method the provisions should be correlated in such a way as to avoid duplication from the administrative and other similar requirements which could apply to occupational diseases as well as to accidents."

The speaker noted that this year with forty-four legislatures in session more than seventy-five bills bearing on occupational diseases were introduced. New laws and amendments were enacted in the states of New York, North Carolina, West Virginia (silicosis only), and Nebraska, and commissions were appointed to study the O. D. problem in four states: California, Maryland, New Hampshire and Michigan.

North Carolina Blazed the Trail

Mr. Bartlett pointed to North Carolina as being the first state to pass an occupational disease law "which provides for a definite schedule amending the compensation law with provisions dealing specifically with and applying to silicosis and asbestosis." He explained that this had been done by an entirely new section, justifying the belief that it has been the result of an intelligent and careful study of the problem by all parties interested. He added: "North Carolina in blazing the trail has contributed much constructively to the solution of the occupational disease legislative problem as a whole, as well as demonstrating a thorough study and understanding of its local problems."

Because occupational diseases are slowly occurring injuries, not sudden in their effect or clear-cut as to causes and consequences, and furthermore, extremely difficult to trace, they must by reason of their marked difference from an injury by accident be treated differently. Mr. Bartlett said they required special provisions for fulfilling the bona fide purpose and intent in making them compensable, some of which are of major importance, others collateral, but just as essential. Mentioning a few of the collateral provisions he said:

Collateral Provisions

"There should be definitions covering: disablement; disability; silicosis; asbestosis; medical board, and similar terms.

"Then there should also be special provisions as to: filing of disability and death claims; aggravation of disease or other injuries—proration; relationship and dependency; employer responsible for compensation; average wages; medical benefits (especially as to silicosis and asbestosis because of no known cure and to avoid temptation to overtreat, or to experiment, or to gain knowledge from a research point of view); removal of employes from dusty occupations; compensation, when removed from occupation during period in obtaining other employment, if not obtainable with present employer; misrepresentation of the employe as to previous disability or exposure; subrogation; period of exposure (at least two years in state unless employe employed by same employer during the whole time within the limitation period of exposure provided for under the law).

"Disablement or death within a fixed time after last injurious exposure; commission's or board's approval of employe engaging in employments exposing him to hazards of dust (if approval not obtained, compensation not payable); waivers; limited compensation; records; post-mortems; awards; appeals.

Frowns on All-Inclusive Plan

As to the major factors to be considered the speaker dwelt at some length upon the schedule plan rather than the all-inclusive plan, noting that most of the compensation laws in European countries have schedules. He noted certain disadvantages of the all-inclusive plan saying that this plan "may give rise to granting coverage for diseases which may not be occupational as, for example, pneumonia, bronchitis, asthma, kidney disease, heart disease, arthritis, sciatica, high blood pressure, cancer and various other illnesses common to the human race generally. He continued:

"When an act gives blanket coverage by the use of the phrase 'any and all occupational diseases,' or similar language, it is vague, indefinite and uncertain. Commissions, boards and referees are required to make their own definitions and rulings without any legislative guidance. This leads to much litigation for court interpretation. There immediately arises doubts and uncertainties, which foster unnecessary and expensive litigation and places an added financial burden upon employer, employes, boards, commissions, courts, carriers and all interested parties.

"Any all-inclusive plan, or even a schedule plan not carefully developed, is apt to give and result in such a blanket coverage of diseases generally as to make such an act tantamount to health, old age, and life insurance. This would certainly be far beyond not only the intention, but also beyond the ability of industry to provide for its workmen, indiscriminately, at the high level of benefits provided for under our compensation laws."

Illinois Confusion

Mr. Bartlett referred to the present confusion in Illinois where one section of the occupational disease law was held to be unco[nstitutional …] tainty and [...] der this s[...] that it was [...] whom the [...] tional dise[ases …]

"There [...] a decision [...] the Buda [...] common l[aw …] for occupa[tional …] been appe[aled …] will be ar[gued …]

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"As t[o …] cially th[...] slow co[...] definite[...] ability, [...] that it [...] which [...] fect. * [...]

"As [...] proach[...] sion in [...] two or [...] fective [...] serves [...] gations [...] and a[...] made e[...] various [...] giene, [...] portuni[ty …] to bene[fit …]

W. P. Harvey, 50 Years With [...] By Chairman Sturm At O[...]

Ernest Sturm, board chairman, Fidelity & Casualty, at officers' lunch in the dining room atop the company's home office building at 80 Maiden Lane, presented this week a gold watch to William P. Harvey, assistant secretary, in observance of his fiftieth anniversary with the company.

In a communication of congratulation to Mr. Harvey earlier in the day Mr. Sturm said: "Fifty years is a long period of time to have devoted to one company, and it is rarely that an occasion of this kind arises in any corporation, and particularly so in the casualty and surety business. You came with the Fidelity & C[asualty …] 1885, when [...] young, so th[...] devoted yo[ur …] F & C.—t[...] may well b[e …]

Mr. Har[vey …] Casualty a[s …] an advertis[...] aminer, un[...] delity divis[ion …] ment. He [...] ant secreta[ry …] on his ann[iversary …] congratulat[...] many frien[ds …]

Harvey, 50 Years With F. & C. Honored Chairman Sturm At Officers' Luncheon

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Mr. Harvey came to the Fidelity & Casualty as an office boy in answer to an advertisement and later became examiner, underwriter and head of the fidelity division of the bonding department. He then won promotion to assistant secretaryship. He was the recipient on his anniversary day of telegrams of congratulation and flowers from his many friends in the insurance business.

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t referred to the present Illinois where one section ional disease law was held to be unconstitutional because of uncertainty and indefiniteness. He said: "Under this section the court pointed out that it was a matter of speculation as to whom the law applied and the occupational diseases which were covered by it.

"There has recently been handed down a decision in the case of Sylvester vs. the Buda Co. in Illinois, holding that at common law there can be no recovery for occupational diseases. This case has been appealed to the Supreme Court and will be argued in the fall.

"If the Supreme Court of Illinois ultimately holds that silicosis is not caused by poisonous chemical minerals or other substances, then it does not come within the construction of section 2 of the occupational disease law in the Burns' case. An employe contracting silicosis may not recover either compensation or damages. He cannot recover damages under section 1 of the occupational disease act because that has been held to be unconstitutional."

In giving favorable aspects of the schedule plan the speaker said: "When a schedule plan is adopted the workers, employers and insurance carriers know definitely the specific diseases covered, and they also know definitely what they are entitled to and obligated for. This unquestionably means a better approach to financial certainty for industry and insurability. It avoids many uncertainties, waste and disappointment for the workers because of speculative litigation when indefinite and general terms are used."

Accrued Liability

Discussing accrued liability, another serious problem to solve in any legislative plan, the speaker said, is when shall the act take effect, particularly as to silicosis and asbestosis, or any other disease which is contracted over a long period of time? He emphasized: "When an accident occurs it is sudden. It can be definitely established as to time and place. If a compensation act becomes effective on July 1, no compensation is payable for an accident happening before July 1, even if the disability resulting from such accident occurs after July 1.

"As to occupational diseases, and especially those of the progressive type and slow contraction, by reason of the indefiniteness as to time, place and disability, the problem is so complicated that it is difficult to avoid legislation which will not be retroactive in its effect. * * *

"As to dusty occupations, one approach to the solution may be a provision in the law for a waiting period of two or three years before it becomes effective as to benefits. In this way reserves can be provided for the new obligations. All provisions as to preventive and administrative measures can be made effective soon after passage. The various state departments—labor, hygiene, health, etc.—will then have an opportunity during the waiting period as to benefits to correct all hazardous conditions injurious to the health of the worker. Even though this may not meet the full requirements, yet it would unquestionably be better than to precipitate the coverage at once with no preparation."

Hard to Estimate the Cost

Coming to the question of costs, Mr. Bartlett said in part: "I think we are all agreed that any legislation must be such as will accomplish the objectives, and yet prescribe certain limitations which will make it possible for insurance to be obtained and the protection desired given. This must be accomplished in a way which will not prove too crushing a blow to industry. We know that compensation for silicosis and asbestosis will greatly increase costs. In some occupations and classifications involving silicosis it has been demonstrated that cost for compensation has amounted to about nine times the cost for compensation for accidents. If we add to that the cost of an all-inclusive plan there is grave danger that the cost will be prohibitive.

"It is almost impossible to estimate rates. There are no statistics available to guide. Everyone should be awake to the gravity of the problem in initiating a plan of compensation for occupational diseases, and particularly the progressive type of gradual contraction. All should avoid the delusion that the problem can be solved by insurance, or otherwise, except at a very heavy cost."

Puts Prevention at Head of List

Finally he declared that the solution to the whole problem is to be found in prevention and on this all-important subject he said:

"There are two very important steps to be taken: One, to remove dust and other hazards from the work places. The other is to remove the worker from the exposure at the first indication of a manifestation of the disease, except perhaps in cases of elderly or highly skilled workers for whom a forced change of occupation might create more disastrous results than the exposure to the dust hazard.

"There should be by proper legislation a strict and forceful regulation from an industrial, hygienic and sanitary standpoint. There should be special provisions in the law, under the proper department, to study occupational diseases; to develop ways and means of control and prevention, so that, such a body could recommend to the legislature for enactment such specific measures as would be adequate.

"Regulations for the prevention of occupational diseases should emanate from a competent bureau of industrial hygiene. For by the most thorough investigations on the part of medical boards, bureaus of hygiene, or state health departments, can there be evolved the proper preventive measures and regulations.

"No plan for compensation for occupational diseases will ever be adequate or fulfill its ultimate purpose if prevention does not stand at the head of the list as the most important phase of this subject. The best solution is not to be found in providing payments for occupational diseases, and certainly never is to be found in the present method of common law actions for damages."

HERKIMER CO. AGENTS MEET

The Herkimer County Association of Local Agents met recently at the Carlton Restaurant in Herkimer, N. Y. V. H. Salmon, adjuster at Syracuse for the Aetna Casualty & Surety, spoke on rehabilitation work in accident cases and then the meeting adjourned to the Liberty Theatre to witness the well-known safety film, "Saving Seconds."

STATE OFFICIALS ON PROGRAM

New York State Comptroller Morris S. Tremaine and Deputy Superintendent Thomas J. Cullen were among the principal speakers at the annual convention recently in Geneva, N. Y., of the Federation of New York State Cooperative Agents Association. J. Blaine Towne of Saratoga Springs was reelected president.

H. S. Ives Pictures Taxpayer, Easy Prey Of Demagogues, Rising In Revolt

That most forgotten of all forgotten men, the American taxpayer, the victim of political extortions, the easy prey of demagogues and socialist soothsayers, who has been outrageously swindled by tax-eaters, always neglected and seldom consulted, has lately become militant, even belligerent., Henry Swift Ives, special counsel, Association of Casualty & Surety Executives, in a talk on October 15 before the Cincinnati Chamber of Commerce pictured this forgotten man as no longer docile, patient and complacent. He is getting resentful at being exploited to make a Roman holiday for professional spenders of other people's money, said Mr. Ives, and his revolt is gathering momentum.

The speaker credited the depression with having first aroused the taxpayers to the danger of wasteful governmental spending. He said that for years office holders, legislators and their satellites, "our real governing classes" have taken what they wanted. The taxpayers sat stupidly by and let the spending continue. But the rapacity of many of the members of these self-annointed governing classes is now proving their undoing. Mr. Ives pictured it as "a battle between those who pay taxes and those who consume them, with the spenders well organized and compact and the savers mostly unorganized but actuated by a crusading spirit which should spell ultimate victory."

He was careful, however, in this connection to point out that there are many efficient, economical and honest public servants who constantly have in mind the viewpoint of the taxpayers and who cannot be blamed for the present situation. These are in the minority, however, and often are helpless to relieve the tax burdens.

Taxes Must Be Cut by the Billions

Mr. Ives was firm in his conviction that taxes must come down, not by the millions, nor by the hundreds of millions, but by the billions, and he emphasized that in this way only can business and industry obtain the needed relief in the present dire emergency. He called for an active, aggressive and united campaign on the part of the great army of taxpayers to starve these tax-eaters into submission.

He impressed his audience with the magnitude of present public expenditures; said that today's greatest problem is not the paying of current taxes and the liquidation as it comes due of "our monstrous public debt" but it is preventing proposed increases in our burden. He saw a very real danger lying in proposals touted as altruistic and human, such as the various plans for unemployment insurance and so-called social security laws and he said:

Unemployment Schemes Too Indefinite

"Convincing the public of the destructive effect of a five billion dollar bond issue is mere child's play as compared to convincing the same public of the destructive effect of a growing and continuing expense incident to the payment of unemployment insurance, old-age pensions, and the like. The one expense can be comprehended, but the other is indefinite and cannot be appreciated, although the ultimate cost may be many times that of the bond issue for public works and constitutes a perpetual charge.

"It is unfortunate that the delusion exists in this country that the so-called unemployment and social insurance schemes politically enforced and administered in England, Germany, and other countries are in reality only an application of sound insurance tenets to situations demanding government intervention. And it is doubly unfortunate that the delusion also exists that because they are labeled insurance they must by that token partake of the scientific exactness, the impartiality and financial integrity and other similar characteristics of insurance as privately conducted.

"The truth is, however, that there hardly is a trace of real insurance in any of those political devices. They were misbranded from birth. They have grown prodigiously; they have bred mountainous deficits; they have developed powerful bureaucracies; and they have become veritable economic Frankensteins chiefly because of the belief that they really were insurance and therefore automatically sound, efficient, and solvent. In a word, insurance has been prostituted for political purposes."

Reduce Taxes—The Solution

As to his cure for all the maladies of the body politic he had described Mr. Ives said briefly: "There is only one cure—reduce taxes. If that is accomplished the rest of our economic troubles, being mainly an outgrowth of excessive taxation, will take care of themselves." How to reduce taxes, he admitted, "is chiefly a political problem which must be solved by votes and influence, not by passing resolutions or listening to speeches deploring the situation—like this one."

He recommended: "The only thing that can be done is to so control the politics of the nation that economy will take the place of waste. The education of property owners and taxpayers, forming, as they do, a vast majority of the people, is a first requisite in the campaign. The rest is practical politics."

British Conduct First Census of Road Users

The biggest traffic census ever planned in the United Kingdom began on August 12 and continued until August 21. It was taken by order of Leslie Hore-Belisha, Minister of Transport, as the latest step in his campaign to reduce road accidents. In this census for the first time the movements of pedestrians have been noted equally with those of vehicles.

The census is to form the basis of national road development plans during the next few years, and the Ministry has been careful to obtain figures as nearly accurate as possible, and reflecting a true picture of traffic in normal conditions.

Ten thousand men were posted at 5,600 points in various parts of the country outside London, covering more than 26,700 miles of first-class roads, and were ordered to count vehicles and pedestrians and prepare tables showing the volume of traffic in eight types of area—industrial, dock, agricultural, residential-suburban, seaside, inland, watering-places and touring and sporting districts.

Enumerators Not to Leave Posts

Whatever the weather, the enumerators were ordered not to leave their posts, sentry boxes and observation huts being provided for their shelter, if necessary. At some points, where a day and night census was taken, two or three men were posted, but elsewhere the count was restricted to the hours between 6 a. m. and 10 p. m. Pedestrians were counted at places where the sidewalk was less than three feet wide, or where there was no sidewalk at all. The need for cycle tracks was also noted.

Arrangements for the big count were made by the Transport Ministry in conjunction with the highway authorities, and the cost was shared equally by the local authorities and the Road Fund. The London metropolitan area was excluded from the census.

"This is the first time in the history of British road traffic that arrangements have been made for taking an accurate record of every unit," declared an official of the Automobile Association commenting on the census. "It includes pedestrians as well as wheeled traffic. The census will open up an entirely new field because formerly there was no information available to show the natural flow of traffic on a national basis. The authorities will be enabled to ascertain for the first time the real requirements of road traffic insofar as the construction of new roads is concerned."