FILE NAME: Insurance Industry (INS)

DATE: 1934 June 7

DOC#: INS027

DOCUMENT DESCRIPTION: Article from The National Underwriter - Occupational Disease Topic Important One These Days

National Underwriter

June 7, 1934

CASUALTY AND SURETY SECTION

Occupational Disease Topic Important One These Days

In a previous issue Attorney Charles C. Kirk of Chicago inaugurated a series of articles on occupational diseases, a subject of vast importance these days. In his first contribution he dwelt on the subject in a general way, especially in regard to the situation in Illinois and ended with giving a general classification of occupational diseases. Writing further, he said:

Occupational Diseases Are Given Definition

An occupational disease arises gradually from the character of the work in which the employe is engaged. It does not occur suddenly, but is a matter of slow development and is not traceable to a definite time, place and cause. For lack of such definite time, place and cause, the Illinois supreme court has held an occupational disease is not an "injury" nor an "accidental injury."

Peru Plow vs. Industrial Commission, 311 Ill. 220.

Matthiessen & Hegeler Zinc Co. vs. Ind. Board, 284 Ill., 378.

The "injury" or "accidental injury" is distinguished from an occupational disease when it arises in some definite event and at a definite date which can be fixed with certainty. An occupational disease cannot be so fixed. An occupational disease, especially where it is due to the inhalation of injurious substances or bodily absorption of injurious elements, is of slow development, and in considering the cause of action arising under the statute, the logical view is to consider the time when the employe is forced to stop work because of the cumulative effect of successive injuries resulting in the final disablement, rather than the first cumulation or bodily absorption of the injurious element.

The statute of limitation of two years in bringing suit on a disease, does not begin to run as against the plaintiff until the plaintiff's disability manifests itself in a more or less complete disability.

Occupational Diseases and Factory Regulation Laws

In May, 1911, the Illinois legislature passed an act generally known as an "Act for Protection from Occupational Diseases" which requires that "every employer of labor engaged in carrying on work or process which may produce an illness or disease peculiar to the work or process, or which subjects the employe to the danger of illness or disease incident to such work or process, to which employes are not ordinarily exposed in other lines of employment, shall, for the protection of all employes * * * adopt and provide reasonable and approved devices, means or methods for the prevention of such industrial or occupational diseases as are incident to such work or process;" that thereafter the legislature further passed an act known as the "Health and Safety of Employees Act," which has to do with those factories using power driven machinery.

It also provides further and additional safety facilities in the proper fencing and other protections of the power driven machinery; ventilation of factory rooms generally and other ventilation facilities where poisonous and noxious fumes and gases arise from any process or manufacture; blowers to carry away all dusts of a character injurious to the health of the persons employed in such manufacturing plants; regulations relative to refuse, waste and sweepings of such factory or manufacturing plants; washing facilities in dressing rooms and employer to provide change of clothing for the employees in certain manufacturing plants, and other proper sanitary dressing rooms, washing rooms, and sanitary places to eat, and other like facilities to be maintained for each sex.

Factory inspection, laws and regulations, being more specific in detail, regarding regulations and equipment, than the occupational disease act, leave in a large measure to the employer the responsibility of providing and adopting all reasonable and approved devices, means or methods for the prevention of industrial and occupational diseases as may be incident to his work.

Wilful Negligence Enters Into Liability of Employer

The failure on the part of the employer to adopt and provide the reasonable and approved devices in his manufacturing industry where the nature of his manufacturing process requires safeguards, masks, respirator, clothing to be used in the factory, and washing facilities, proper sanitary places to eat and numerous other hygienic and sanitary devices, has been termed a "wilful" negligence and failure to perform a mandatory duty. This failure means a conscious violation of mandatory, statutory duty, and when consciously omitted, it is "wilfully" omitted. First National Bank vs. Wedron Silica Co., 351 Ill., 570.

Where there are dusts, poisonous or noxious fumes or gases arising from the work or process, which is self evident in the factory, and the employer consciously recognizes this condition by the installation of protective and approved devices to reduce the menace, there is then an effort on his part to comply with the duty. Failure to keep in order and otherwise maintain and further provide other protective or preventable apparatus, when necessary, creates a "wilful" breach of duty, and gives rise to the common law right of action on behalf of the injured person as against his employer.

Employe Has Redress Under the Disease Act

The employe who is injured in health as the result of the "wilful" failure of the employer to comply with the occupational disease act, has his remedy under that act. If however, he is injured accidentally, his remedy is under the workmen's compensation act. If injured in health by reason of a disease, his right of action is in the common law courts, based upon the failure to provide reasonable and approved devices, or the failure to maintain in good repair and operation, such devices that are already installed. The failure to use statutory and other approved and reasonable devices, subjects the employer to a specific charge of a breach of a specific duty, based upon any of the other requirements mentioned in the health and safety act, the blower act, the poisonous and noxious gases act, the sanitary ventilation section of the general factory laws.

The establishment of such statutory breach, or breach of duty or duties, deprives the employer of the common law

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Seek Coordination in Auto Affairs

Fire People Want Closer Relations With Casualty Companies

I. E. A. IS INTERESTED

Regular Fire Companies Feel They Are Helpless Victims of Competition in P. L. and P. D. Field

The Insurance Executives Association has been requested by the National Automobile Underwriters Association to use its good offices in an attempt to bring about greater coordination of effort between the fire and casualty companies in automobile insurance affairs.

A good many fire insurance people feel that they are innocent and helpless sufferers in the intense automobile rate competition. The fire and theft item is a small part of the premium which the automobile owner pays and this line, by itself, is not subject to severe rate competition. As a matter of fact, many of the specialty companies charge manual rates for fire and theft. The heavy competition is in the public liability and property damage coverages and where the bureau companies are losing out in this field, the association fire companies are taking the same punishment. That is true, because many of the most aggressive companies, offering the heaviest price competition, are specialty carriers and they get the fire and theft coverage more or less automatically after they have succeeded in taking the property damage and public liability from the organization companies. In other words, the tail goes with the hide.

The fire companies feel that they are more or less helpless in attempting to meet the rate competition because, even if they should cut the fire and theft rates materially, the saving would still not be anywhere near as great as that offered by the specialty companies in the p. l. and p. d. items.

Some of the fire insurance people feel that the casualty company rates are too high in the country towns, where the cut rate companies seem to be making their greatest headway.

GES IN CASUALTY FIELD

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., June 6.—Roland he Baltimore office eau of Casualty & and more recently Graff, safety en- rters in New York inted manager of Portland, Me. He wart, who returns ssistant to Milton the compensation nt.

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Agency of Milwau- the Maryland Cas- d northern Michi- ee K. Beliveau and cial agents in that eau the last five cial agent of the n Minnesota. Mr. with the St. Paul- in Minnesota and

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has joined the the Central Mu- several years he ency development n Indemnity le west, and fol- at company with demnity, he has d development in Indiana and Illinois. He held this position until retirement of the Consolidated recently.

Sevick Heads New Branch

A branch office of the Manufacturing Lumbermen's Underwriters of Kansas City with J. J. Sevick in charge as manager has been opened in Chicago, covering the city and Cook county. Mr. Sevick formerly was special agent for this carrier in Wisconsin, Michigan, Minnesota and Illinois.

Names Two General Agents

The H. M. Hinchman agency of San Francisco has been appointed general agent for the state of California by the Standard Surety & Casualty of New York.

The Standard Surety & Casualty has also appointed the Walsh-Cobb agency as general agent in St. Louis.

Carson Made Iowa Manager

John L. Carson, Peoria, Ill., succeeds J. E. Rollins as Iowa branch manager of the Bituminous Casualty of Rock Island, Ill., with offices at 248 Insurance Exchange, Des Moines. Mr. Rollins, who has been Iowa branch manager four years, will become an executive in the home office.

Conochie with Central Surety

Lloyd Conochie, who has been associate manager of the surety department in the Chicago branch office of the Continental Casualty, has joined the Central Surety of Kansas City as production manager for fidelity and surety lines. Mr. Conochie had been connected with the Continental Casualty and with the R. W. Hyman & Co. agency of Chicago for several years. Prior to that he was connected with the Fidelity & Casualty in Detroit.

Scott with Neare, Gibbs

V. K. Scott, who has been connected with the Fidelity & Deposit for the past six years, has become associated with the Neare, Gibbs & Co., agency of Cincinnati, as manager of the bond department.

Revise Automobile Casualty Manual

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contractors and municipalities, with the rate for such equipment included.

The rule affecting truckmen—local and long haul, expressmen and transfer companies, has undergone some change. The operating radius of the local truckman has been extended to 50 miles from the place of principal garaging. The rates for long haul truckmen are the heavy class 3 rates for the highest rated territory in which the automobiles are operated and are subject to a surcharge according to the maximum distance traveled. There are sections in this rule which explain the rating of truckmen engaged in both local and long haul operations, and also the application of the latter two classes, and also the application of it to automobiles rented under contract to others.

Buses in Three Classes

Buses used in passenger carrying service or for sightseeing work are divided into three classes; those used exclusively in local work or within 15 miles of the city or town limits; those operating not more than 50 miles between terminal points; and buses operating more than 50 miles between terminal points. There are subdivisions of the latter two classes.

In the garage section are the rules relating to insurance under garage payroll policies for automobile dealers, repair shops, automobile storage garages and service stations.

There is a new non-owned automobile section which contains all rules for writing insurance in connection with automobiles not owned by the assured. These include the rules for the named operator policy, drive other cars coverage, hired car and employers' non-ownership liability. In the latter there is a provision for insuring clubs, department stores, hotels, etc., for the operation of customers' cars by employes.

PARTIAL APPROVAL GIVEN

RICHMOND, VA., June 6.—Approval was given by the Virginia corporation commission this week to that portion of the revised automobile manual providing for reduction in rates and premiums on certain risks but disapproving sections involving rate and premium advances. The commission, however, agreed to give the companies a hearing June 14 on the proposed increases before entering a final order.

APPROVED IN OKLAHOMA

OKLAHOMA CITY, June 6.—The Oklahoma insurance board has approved the revised automobile manual of the National Bureau of Casualty & Surety Underwriters. For the sake of uniformity, rates for Oklahoma are those which have been effective since May 1, 1933, except as to local long distance buses and trucks, which have been definitely provided for in the manual. This extension of territory for local buses and trucks, to a radius of 50 miles will include practically all those engaged in this service in Oklahoma and rates for this classification will be materially reduced. The only change or increase in rates will affect long distance buses and trucks that travel outside or exceed a radius of 150 miles, which will not interfere with the operations of local trucks and buses at reduced rates.

Fidelity-Surety Activities

Reciprocal Not Allowed to Write Surety in Arkansas

LITTLE ROCK, ARK., June 6.—Before a company can write fidelity and surety business in Arkansas, it must have at least $250,000 paid-in cash capital and meet other requirements of the law and regulations of the insurance department, including the filing of bond. Commissioner Gentry has been advised by Attorney General Norwood.

The ruling was given in response to an inquiry as to whether a reciprocal recently authorized to write fire, liability and plate glass insurance should also be permitted to write fidelity and surety bonds.

The attorney general held that the law gives no authority to reciprocals to write fidelity and surety without qualifying especially for that class of insurance.

Occupational Disease Topic Important One These Days

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defense of master and servant, contributory negligence and assumed risk. The employe is not guilty of assuming any risk or contributory negligence where there is a direct violation on the part of the employer in his mandatory statutory duty to provide reasonable and approved devices. The failure to so provide or maintain is a question of fact, and is submitted to the court or jury as such, and generally shown from factory conditions. Expert opinion of engineers and others engaged in factory hygiene and sanitation engineering is given. The employe, having established the foregoing facts, the testimony of attending physicians and other expert medical men then is offered. The disease will fall within one or more of the classifications heretofore set forth. An industrial classification of manufacturing and processes used, will disclose certain types of diseases peculiar to that certain type of industry. As there are 300 or more types of industries which may subject employes to disease, unless properly safeguarded, the kind and types of diseases, and a more detailed classification of industries from which they may arise, warrant careful study and consideration on the part of all employers and law enforcing agencies.

(TO BE CONTINUED)

Can't Deduct Depreciation

WASHINGTON, June 6.—Insurance companies may not deduct depreciation on the buildings they occupy, in making tax returns, unless they also include in their reports a "fair return" rental value on the property, it was held by the United States Supreme Court.

The ruling of the court was rendered in cases brought by the Independent and Rockford Life insurance companies to determine the validity of provisions in the revenue law that the rental requirements should apply to insurance companies.

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