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COMMISSIONERS' ANNUAL MEETING IN ST. PAUL

Dust Disease Problem Gets Much Attention

HUNT, CARPENTER DISCUSS IT

Pa. Official Views Humane Side of Problem; Calif. Commissioner Tells of Surcharge Rating Plan

St. Paul, Minn., June 9—Owen B. Hunt, commissioner from Pennsylvania, and Samuel L. Carpenter, Jr., commissioner from California, today made valuable contributions to the convention in their speeches on insurance coverage of occupational dust diseases under workmen's compensation laws. A big subject, it was well handled by both officials.

N. Y. Silicosis Bills

Simultaneous with the dust disease addresses by Commissioners Hunt and Carpenter at St. Paul Gov. Lehman of New York State gave out the news that he had signed the Schwartzwald and Crews bills which (1) amended the compensation law in relation to occupational diseases and their control; (2) authorized the expenditure of moneys from the vocational rehabilitation fund for the purpose of making studies, and of disseminating information on the control and prevention of diseases caused by the inhalation of harmful dust, and (3) the Crews bill which appropriated \$100,000 for the prevention of silicosis.

Gov. Lehman said the prevention feature would be tremendously helpful from the long run social viewpoint.

Among the chief points made by Mr. Hunt was that since dust diseases create a social and economic problem, the burden of which must be borne by somebody, somewhere, it is not only unfair from a humanitarian viewpoint to unload this burden on the affected individual or to pass it on to the community as a whole, but it is economically highly destructive.

Silica Dust Exposure

Of the 1,200,000 workers estimated to be exposed continually to serious dust hazards Mr. Hunt said by far the largest group so exposed are those in occu-

1933; and how it produced a great increase in claims filed with the industrial accident commission and caused considerable confusion. The effect of the decision, said Mr. Carpenter, was that the statute of limitations for reporting injury does not begin to run against a claim for this disease until the employee knows or with reasonable diligence should know, that his disability is caused by his occupation.

This decision was considered to have indefinitely extended the previous literal interpretation of six months for an indefinite period in injuries of the injurious dust disease type. Continuing, he said:

Insurance Co's. Alarmed

"The insurance carriers were greatly alarmed by the effect of the Marsh decision. Our statutes provide only for a three year maintenance of the Schedule 'P' reserve, and only specific case reserves were maintained beyond the three year period.

"It was difficult for the insurance carriers to estimate what, if any, hidden liabilities would fall upon them. The Marsh case covered a seven year period and the weight of medical authority seemed to indicate that in individual cases, as high as thirty years exposure to harmful dust might take place before total disability would result. But employers generally showed little alarm."

The insurance carriers' attack was in the first instance a legislative one. Relief was sought in the 1935 legislative session by the introduction of several remedial bills, all designed to place limitations upon recovery under the act by injured workmen suffering from the disease, and to fix a definite statute of limitations for reporting injury. The combined forces of Union Labor opposed these restrictions, and the 1935 Legislature adjourned without any of the proposed bills having been adopted.

The insurance carriers then in July, 1935, appealed to Commissioner Carpenter for increased rates. The specific proposal contemplated a surcharge rate upon fifty-six classifications of employment involving injurious dust hazards. When the proposed changes were published and public hearings held whatever previous apathy on the part of employers may have existed immediately disappeared. Employers and union labor groups in the affected industries united in vigorously opposing any rate increase.

Pink Urges Safety Fund's Extension

Speaking yesterday in St. Paul at a well attended meeting held in conjunction with the commissioners' annual convention Superintendent of Insurance L. H. Pink of New York strongly urged that the principle of insuring insurance be widely adopted. He pointed out that this principle was embodied in legislation a year ago creating workmen's compensation security funds in New York State and several other states. The setup in New York is for separate stock and mutual funds, and Mr. Pink said that the money in both is already sufficient to take care of the claims arising out of the failure of a sizeable company. Furthermore, the principle of these security funds, he emphasized, is far in advance of the preference upon assets of carriers for compensation claimants which was previously relied on in New York and four other states.

Following up his suggestion to extend the security-fund idea to cover lines other than workmen's compensation Superintendent Pink said a study of liquidation proceedings in New York State

for the past twenty years, broken into five year periods, disclosed the interesting and surprising fact that more companies failed in normal times than in the period of collapse. He said:

"Eighty-two companies were taken over by the Department during the twenty years—twenty-two in the first period, twenty-three in the second period, sixteen in the third and twenty-one in the fourth. The answer is undoubtedly that only the small companies failed in ordinary times. These failures were due largely to faults of management. During the crisis some of the largest companies in the country went under, due mainly to economic conditions."

The net claims allowed to creditors in the eighty-two liquidations during the four periods amount to \$72,568,161.88, the largest being \$61,554,356 in the 1930-34 period. The average loss from unpaid claims for the entire twenty years was 60%.

Superintendent Pink took up each major line, gave its depression position, and explained how it would benefit by a safety fund providing security against failure of small companies. He defended his proposal against the criticism that it is a theory "bordering on socialism" and declared that it was in keeping with the theory of spreading the risk upon which all insurance is based.

exposure to dust required to develop this disease to a point of disability. He also felt that the experience of other states should be used as a guide in determining rates for California.

After weighing these and many other conclusions Mr. Carpenter finally decided that due to the necessity of special loss reserve requirements against the hazards of this disease, which special requirements do not appear necessary in respect to other hazards insured, it would be essential to attach surcharge rates subject to the necessary special reserve requirements, rather than to apply an increase to the basic manual rates.

Mr. Carpenter further felt that the rating system he approved in order to give full support to the physical protection of workmen should provide substantial credits in the rate of the individual risks for the establishment of safety measures and equipment by the employer; and that such rate system should also provide for rate penalties to

be imposed upon employers who do not maintain safe working places for employees.

Thus a schedule rating system designed to carry into effect these conclusions was approved by Commissioner Carpenter, effecting possible rate savings up to 50% of the surcharge rate approved, and affecting rate penalties up to 30% of such surcharge rates.

Rates and rules for pneumoconiosis were promulgated effective June 1, 1936. Commissioner Carpenter ordered the state rating bureau to revise the basic manual rates applicable to classifications upon which a surcharge was approved as soon as Schedule Z data covering policy year 1934 was received. Loss reserves against the disease are to be maintained separately upon the surcharge premiums for a period of seven additional years beyond the statutory three-year period.

Commissioner Carpenter also ordered the companies to calculate the amount of premiums earned upon California policies under classifications on which a surcharge was allowed for each of the policy years, from

control and prevention of diseases caused by the inhalation of harmful dusts and (3) the Crows bill which appropriated \$100,000 for the prevention of silicosis.

Gov. Lehman said the prevention feature would be tremendously helpful from the long run social viewpoint.

Among the chief points made by Mr. Hunt was that since dust diseases create social and economic problem, the burden of which must be borne by somebody, somewhere, it is not only unfair from a humanitarian viewpoint to unload this burden on the affected individual or to pass it on to the community as a whole, but it is economically highly destructive.

Silica Dust Exposure

Of the 1,300,000 workers estimated to be exposed continually to serious dust hazards Mr. Hunt said by far the largest group so exposed are those in occupations where silica dust prevails. He referred to the havoc wrought by silica dust in the lungs, defined the three stages in the progress of the disease, and told about exposure to the disease in the anthracite mines of Pennsylvania.

As to what has been done by legislators to meet this problem, Mr. Hunt said nine states have laws establishing general coverage on occupational diseases: California, Connecticut, Massachusetts, New York, North Dakota, Wisconsin, Wyoming, Illinois and Rhode Island adopted such laws in March, 1930. The District of Columbia, the Philippines, and Hawaii also have general coverage provisions, as do the two Federal Acts, the United States civil service compensation act, and the Federal longshoremen's and harbor worker's act.

He referred to the amended New York law limiting total compensation in silicosis cases to \$3,000, and noted that Kentucky and West Virginia have acts with elective provisions. He was critical of the latter state's "extremely limited coverage." In closing he emphasized the need for preventive programs to be adopted as a subject for legislation by the several states, so that "the record of reduction of sickness and mortality brought about in so many other directions can be duplicated."

California's Pneumoconiosis Problem

Commissioner Carpenter's treatment of the dust disease subject was a lengthy account of the effect of the California Supreme Court's decision in the case of March vs Industrial Accident Commission, 217 Cal. 338, decided January 31,

the first instance a legislative bill. The act was sought in the 1935 legislative session by the introduction of several bills and bills, all designed to place limitations upon recovery under the act by injured workmen suffering from the disease, and to fix a definite statute of limitations for repeating injury. The continued inaction of Union Labor opposed these restrictions, and the 1936 legislative adjourned without any of the proposed bills having been adopted.

The insurance carriers then in July, 1936, appealed to Commissioner Carpenter for increased rates. The specific proposal contemplated a surcharge rate upon fifty-six classifications of employment involving injurious dust hazards. When the proposed changes were published and public hearings held whatever previous apathy on the part of employers may have existed immediately disappeared. Employers and union labor groups in the affected industries met in vigorous, opposing any rate increase. Nearly 1,500 persons attended the three hearings held, extension of time was granted for filing of briefs and many arguments given against the proposed rates.

Old Rates Found Inadequate

Commissioner Carpenter's approach to a decision was the compilation and analysis of all available data upon which accurate rate estimates could be made. This study convinced him that the old rates and rates were inadequate insofar as they applied to classifications involving dust disease hazards. He further decided that the three year reserve period was too short; that any rating plan contemplated to appraise adequately dust disease hazards should be based upon an estimate of the average period of

Defer Action on Plan

No official action on retrospective rating appears likely at this meeting of the commissioners. The proposed plan came before the compensation committee men on June 8 and the consensus was that they were not well enough informed on the program to act at this time. So the plan has been referred to a subcommittee which will report back to a later meeting. Among those opposed to action on this subject, the plan was Superintendent Pink who thought more intelligent action would come after more study, and Commissioner DeCelas who said that each state official should decide for himself on this matter.

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C. W. Hobbs Reports

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covered by a more frequent occurrence of rate reductions, and also by the appearance of underwriting gains or reduced losses in the tabulations of underwriting results by calendar year for the purpose of computing contingency loadings.

Part II featured rating operations of the Council, which were in strict conformity with the plan approved at the commissioners' St. Petersburg convention. Administration of rates has begun in South Carolina and Florida, latest states to adopt a compensation law. The legislative trend to long occupational diseases within the compensation act was noted, such legislation having been enacted in the recent sessions in Illinois and Rhode Island.

Mr. Hobbs devoted Part III of his report to the subject of occupational diseases and pointed out "The National Council has, with respect to occupational disease revised its rating plan in the light of available experience, and has also been seeking to modify the occupational disease schedule rating plan applicable to insurances. It is considering a further extension of the schedule rating plan to other classifications presenting a pneumoconiosis hazard; but this has not proceeded materially towards realization."

Report of operations in the line of payroll audit and classification inspections took up Part IV of the report, while in Part V the statistical plan on medical costs put into effect by the

did not have effect these conditions was followed by Commissioner Carpenter, who set the possible rate savings up to 40% of the surcharge rate applied, and inflicting rate penalties up to 40% of such surcharge rates.

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Commissioner Carpenter also ordered the companies to calculate the amount of premiums earned upon California policies under classifications on which a surcharge was allowed for each of the policy years, from and including 1927 to date, and report the losses incurred and paid on account of claims arising from pneumoconiosis.

The California Inspection Rating Bureau was ordered to prepare an endorsement for compensation policies which would limit them so as to entirely exclude any claim or cost for the hazards of pneumoconiosis, so that companies could issue policies excluding the disease at the basic rates and without the surcharge.

Council is discussed. Part VI contains a statement of progress in the introduction of the unit statistical plan. Part VII contains a brief description of a plan for retrospective rating adopted by the rates committee of the National Council. Part VIII contains a statement as to operations under the voluntary plan for dealing with unacceptable risks. Part IX contains a statement as to manual changes. Part X contains a statement as to changes in membership.

Membership now stands at ninety-six, a gain of four since the last report, said Mr. Hobbs.

In discussing the standard voluntary plan for covering risks unable to obtain coverage, which is now in effect in eleven states, Mr. Hobbs declared that the problem is not a large one, and that in a fair number of cases the insured does not want coverage when he finds he has to pay for it. Connecticut showed fairly two risks assigned to date, the latest number in any one state, of which nine were subsequently withdrawn.