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'Pandemonium'
Lower Bettsworth Rd
RYDE Isle of Wight
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Monday January 8th 1979

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Dear Dr Castlman,

Thank you for your kindness in sending me a reprint of your article on 'The export of hazardous factories to developing nations'. I am glad that this fight is being pursued. I am myself reduced to standing by more or less helpless on the sidelines, having been forced by ill-health to retire early and having been virtually immobile and without contact with the present situation since the end of 1971. I am a little better now, and can travel a little; but of course am quite obsolete as far as modern hazards go.

An old friend of mine, a retired Medical Inspector of Factories in Bombay, is still fighting a battle to stop the manufacture of 2-naphthylamine and benzidine being started in India. I have given him your address and I am sure he would welcome a copy of your paper and its predecessor mentioned in your preface.

I notice that you honour me by quoting a passage from my Hunterian Lecture to the Royal College of Surgeons. This was picking up a thread from a few years earlier, when I asked, anonymously in an Annotation in the Lancet, about the morality of importing 1-naphthylamine by ICI when they had just closed their latest and most sophisticated plant for the manufacture of the substance because it had proved unsafe.

Within a few days I was asked point blank by ICI if I had written this piece, and having said "yes" I was informed that the then Chairman of ICI was summoning me to have lunch with him to talk it over. Needless to say I declined, since I was in London and he wished me to go the Manchester for this. Appropriately enough his name was P. Chambers.

However, Britain is not alone in such villainy. When I first started to study occupational bladder cancer in 1948 I attended an important International Congress on the subject in London, and heard the much respected then Chief Medical Officer of Du Ponts of USA give a paper to show that benzidine was not a cause of industrial cancer, and that all the cases of bladder cancer in his factories could be laid at the door of 2-naphthylamine, whose manufacture was to be abandoned.

In the early months of 1949 the Medical Officer to the ICI Dyestuffs Division (the late Dr Michael Williams) with another British research worker visited the Wilmington Factory of Du Ponts and were shown around by the Chief Medical Officer who had given the paper. He then kindly drove Dr Williams and his colleague to their next destination, quite a long drive. Dr Williams, who I often heard recount the story, noticed that his companion in the back of the car had his eyes closed, and said to the Du Pont expert "Look, You are a Company Man, and I am a Company man, and Dr So-and-so is asleep. Can you explain to me why, after the records and so on that you have shown to us to-day, you are so certain that benzidine is not causing any of the trouble?" He got the reply, witnessed by the other Briton, who was in fact not asleep but thinking,

"we here know very well that Benzidine is causing bladder cancer, but it is Company policy to incriminate only the one substance, 2-naphthylamine."

Dr Williams, who although a Company man, only then recently joined and still idealistic, was an ardent campaigner in the fight against this particular form of industrial disease.

Again with many thanks,

Yours sincerely,

Robert A.M. Case MD, Ph.D, F.I.Biol.
Emeritus Professor of Social Medicine
in the University of London.

SENDER'S NAME AND ADDRESS (PLEASE SHOW YOUR POSTCODE)

Prof. R. A. M. Case

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FULHAM ROAD,

July 30th 1979

LONDON, S.W. 3.

The Editor,
The Washington Post.
Washington D.C. U.S.A.

Dear Sir,

Although now retired due to ill-health, I feel obliged to write to you about two articles on the Business Ethics of DuPonts which have been brought to my notice and which I have now seen for myself.

A few days ago I was astonished, and not best pleased, to receive a telephone call from a representative of DuPonts, who had somehow identified me as someone referred to in the second of your articles (which I had, of course, not seen), and who had also managed to ferret out my retirement address with telephone number. The reason for the call was to ask if I could remember an incident referred to by Barry Castleman, and to ask me to confirm or deny it. I am writing this letter in the hopes that if I make my reply public, and also state such relevant facts as I know about the subject being discussed, I will be spared further inquisition by either party to the dispute or by any other people who may feel involved, for there is then no more for me to add.

The incident described related to a conversation between the then Medical Director (now dead) of DuPonts and the late Dr Williams, a medical officer at I.C.I. Ltd. [REDACTED]. The conversation took place in the presence of a British scientist, who was thought to be dozing in the back of the car, and related to the state of scientific knowledge about the power of benzidine to cause cancer of the bladder in 1948. Since I was the 'dozy Brit' referred to, I informed the man from DuPonts that the tale as recounted was absolutely true, and that the Medical Director of DuPonts had stated that he and the company were aware that benzidine was a carcinogenic hazard to workpeople.

The two articles that you published give two somewhat differing versions of the dates at which Duponts became aware that beta naphthylamine and benzidine were thought by a large body of responsible people to cause cancer in human beings. In my view neither account is accurate. Since this very topic of awareness of this type of risk was crucial to an important lawsuit by two workmen against I.C.I. Ltd in England in 1970-71 the Judgement in that case has passages that are important in relation to the argument between your contributors Carl B. Kaufmann of Duponts and Barry Castleman, I feel that I should quote extracts of the salient points. :- Mr Justice O'Connor, in his lengthy Judgement said ' By 1914 it was appreciated in Germany and Switzerland that men employed in the synthetic dyestuffs industry were exposed to a definite cancer hazard. In 1921 the International Labour Office in Geneva published "Cancer of the Bladder among workers in Aniline Factories". I quote three passages from that paper. The first

Page 2.

The first/

"In 1912 Luenberger published a very interesting study dealing with 16 cases observed among the workers at Basle handling Aniline dyes. From that moment the existence of a very close connection between the manipulation of aromatic bases and tumours of the bladder among workers was proved"

Among the conclusions at page 22, the following are found -

"(4) It is not possible to determine the substance capable of engendering tumours. At present one can go no further than to incriminate the amino compounds, and particularly benzidine and beta naphthylamine".

"(7) It is, therefore absolutely necessary that in factories in which workers are exposed to the dangerous action of aromatic bases, the most rigorous application of hygienic precautions should be required".

A little later in his Judgement Mr Justice O'Connor continues with the history as it relates to DuPonts, quoting from unpublished company reports made available to the Court by one of the defendants. He says 'In 1931 Dupont sent a medico-technical team to Europe visiting England, Germany and Switzerland. They made individual reports and recommendations and also some joint recommendations.... I quote from Dr. Gehrmann's recommendations....

9. We should consider aniline, beta naphthylamine and benzidine as the causative materials and take immediate steps to construct all operations so that there shall be absolutely no dust, no fumes nor any skin contacts."

Their joint report opens with an interesting piece of information when it is remembered that Dupont did not go into the production of synthetic dyestuffs until 1915 or 1916. "approximately two years ago we began to experience a few cases of bladder tumours among our workmen at the Dyeworks..... This is the most serious occupational disease that we have ever encountered".

According to information that I collected during my visit to DuPonts in 1949, when the car conversation incident occurred, the manufacture and use of the suspected aromatic amines started in 1926 and the first cases of confirmed bladder tumours occurred in 1929. By 1948 there had been 159 cases, 115 at the Chambers works and 44 at Carrollville.

After some exchange of information about my own researches and researches at the Haskell Laboratories during 1949, Dr Gerhmann informed me in a letter dated 30 December 1949 that owing to legal difficulties it would not be possible to send me information that had been promised or new information that might arise. However, Kauffman's own statement about information being given to persons inside or outside the Company in relation to health and safety removes any scruples that I might otherwise have felt about making public this hitherto undissemminated information.

All this may be summarized as follows: - From about the time that DuPonts entered the synthetic dyestuff [redacted] the Company had, or should have had, an awareness of the dangers attendant on such manufactures. It must surely be idle to pretend that such a company would not be expected to

to be aware of the German and Swiss publications about the hazard, even before the factory was built. Still less could it be claimed that they could reasonably be excused for not knowing of the International Labour Office publication of 1933.

DuPonts themselves were experiencing the first wave of casualties by 1929, and by 1933 they were made aware, by their own investigating team, that beta beta naphthylamine and benzidine were almost certainly the main culprits.

That Dr Gerhmann should, in 1946, present a paper at the ninth International Congress on Industrial Medicine (I was present) claiming that benzidine was not one of the bladder carcinogens would not in itself be scientifically unacceptable, for as the late Lincolnet Hogben once said "it is by no means to the discredit of any philosopher to say that he has changed his views in the course of a prolific career", if the evidence derived from a study of the epidemiology of the disease at DuPonts had warranted such a volte face. However, the ear conversation renders this explanation untenable and lends support to some of Barry Castleman's strictures on Carl Kauffman's description of business ethics.

May I reiterate to plea that when I have "discovered all" I am left in peace until I rest.

Robert A.M. Case.

P.S. In order not to arouse unfounded alarm amongst chemical workers it must be stressed that, after exhaustive research in many countries, and at DuPonts itself, Aniline is not regarded as causing cancer of the bladder. It is, of course, poisonous in other ways, and workers are protected for those reasons.

ans. 8/15

August 1st 1979

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August 1st 1979

'Pandemonium'
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Dear Barry

Thank you for sending me a photocopy of your article in the Washington Post. Before this had arrived I received a phone call from a representative of DuPonts (I was so astonished that I did not gather his name or status, who recounted to me what you had written about the late Dr Williams in that article, and said that they had identified me from their Company records as having accompanied Dr Williams to DuPonts, and had I any comments to make on the matter. Since I was the 'sleeping beauty' concerned, I had to say that I remembered the incident well and that the report was a truthful account of what had happened. I also made an unguarded remark about still having records relating to the visit.

When I saw your article a day or so later, and noted the tone of the controversy, I wondered a) whether some attempt might be made either to silence me or b) to obtain or destroy the records or c) to extract further information from me by some party interested in or peripheral to the dispute. I therefore felt it necessary to write a letter to the Editor of the Washington Post telling all that I know of the matter, and since I can see errors in both Kaufmann's and your account of the chronology of the matter, to try to set this right. In this way I hope to be left in peace in the future, for my illness, heart disease following virus pneumonia following lying on a London pavement unconscious, presumed "mugged" one winter night in 1971, requires the avoidance of undue stress or exertion.

I have written to Kaufmann explaining my action (in a letter similar in many (but of course not all) respects to this) and enclosing a copy of my letter to the WP. I told him that I was writing to you in the same vein, and also sending you a copy of the WP letter (which I enclose).

Perhaps what I have written above will explain to you why I cannot even consider accepting your kind and flattering offer to attend or speak at your conference. If my past work and actions have been helpful in stimulating recent activities, I am well pleased, but I cannot contribute appreciably more in the long and hard struggle.

This decision to have to retire did not come easily, and it is no kindness to try to entice me to vain efforts to recapture the past.

I informed Kaufmann, and am now informing you, that such records as I had have been sent away for safe custody.

Yours sincerely,

Bob Case

Robert A.M.Case.

P.S. Could you please send me any further articles or comments on the DuPonts issue (including my own if published) that appear in the Washington Post. I have no other access to it nowadays.

Bob

R.A.M.C

The Washington Post

OUTLOOK

Col.

SUNDAY, JULY 1, 1979

A 5-Part Quiz on Corporate Ethics



Drawing by Dana Fraden; © 1975 The New Yorker Magazine, Inc.

"Miss Dugan, will you send someone in here who can distinguish right from wrong?"

By Carl B. Kaufmann

TV DRAMAS and film fare usually portray corporate executives as amoral men who live for power and care nothing for ethical values, but this is one instance where pop culture does not mirror reality.

My experience in the corporate interior suggests that business executives approach ethical problems in much the same way as everybody else, for better or worse.

The public's attention is usually directed to corporate crime, understandably. In the past decade, there have been illegal payments to sell airplanes abroad, the theft of trade secrets, the use of corporate funds for political purposes or, to reduce the scale to local levels, such petty matters as bribing building inspectors and rolling back the odometer on used cars.

But there is no ethical question involved in these — these are

easy calls. They deal with violations of laws that reflect the public consensus of right and wrong. No responsible voice in business or outside it claims a little bribery is good for the soul.

The tough calls for corporate executives are the ones where the hats are not black and white, but all gray. How do you behave when the law is nonexistent and the maxims learned at mother's knee do not quite cover the question?

Here are five "tough calls" which really confronted corporate executives, including those at our company. In my judgment, the "right" and "wrong" answers are not as self-evident as business critics pretend. Judge for yourself. How would you decide?

Case No. 1

Your corporation has developed a prescription drug that helps prevent flu or cure it. It has other potential uses too. But the Food and Drug Administration won't grant clearance. More testing, please. Your company experts think the U.S. regulators are dragging their feet beyond reason. Other governments, with high standards for judging the safety and efficacy, have approved the drug for sale in their countries.

See ETHICS, Page C4

Carl Kaufmann is executive assistant in DuPont's public affairs department and a former chairman of economic education research for the Business Roundtable.

A 3-Part Quiz On Business Ethics

ETHICS, From Page C1

Should we go ahead and market the drug overseas? Or wait for U.S. approval?

Case No. 2

For years, your corporation manufactures a dye intermediate called Beta-naphthylamine without any questions of risk. Then alarming evidence begins turning up — an unusual number of tumors among workers in the plant, malignant tumors. Beta is identified by company scientists as a potent carcinogen — but hundreds of your workers were already exposed.

Would you blow the whistle on yourself or try to do a clean-up quietly to prevent future injuries?

Case No. 3

As the head of a multinational corporation, you learn that one of your plant managers has been arrested in a distant republic. His alleged "crime" is that goods found in your warehouse lack the proper customs stamps and papers.

But the truth is more complicated. For years, "grease" has been a way of life in this country's bureaucracy and your plant manager has been paying gratuities to the customs officers. But he knows it is against "home office" policy and so he stops. Their "inspection" follows. The price for dropping all charges: \$18,000.

Would you pay up? Or let your man be put in jail? Which alternative is more ethical?

Case No. 4

Federal health investigators are pursuing a report that one of your manufacturing plants has a higher than average incidence of cancer among its employees. The plant happens to keep excellent medical records on all its employees, stretching back for decades, which might help identify the source of the problem.

The government demands the files. But if the company turns them over, it might be accused of violating the privacy of all those workers who had submitted to private medical exams. The company offers an abstract of the records, but the government insists on the complete files, with employee names.

Then the company tries to obtain releases from all the workers, but some of them refuse. If you give the records to the feds, the company has broken its commitment of confidentiality. What would you do?

Case No. 5

South Africa — in or out? Many people have a ready answer: Ameri-

can business should "ban" South Africa as long as South Africa bans some of its people. Should your company do business there, including production operations?

The apartheid policies are morally indefensible in the eyes of many, and U.S. capital investment props up a racist government. That's one side. The other side argues economic development, stimulated by outside investment, is making conditions better for nonwhites and that specific terms can be drawn to cover the business operations, guaranteeing equal pay and promotions for nonwhites. How do you vote your shares?

□ □

I hope it is obvious by now that, case by case, there is no certain "right" answer. Here is how real company executives decided each one:

Case No. 1 — DuPont went ahead and marketed its new anti-viral drug overseas, supported by high-quality judgments from governments of Western Europe that the drug can be used safely and that it works. U.S. clearance came later and the product is now sold in the United States.

Case No. 2 — DuPont follows what is called the "Reasonable Man Rule" on questions of disclosure. If a reasonable person, given information, would follow a different course of action to the advantage of health and safety, then the information must be given to him or her — inside or outside the company. Whether or not it happens to increase or decrease the profits of the company is irrelevant.

This case of Beta, incidentally, occurred back in the 1930s at our plant in New Jersey. We made full disclosure in the medical journals, cleaned up the process and took care of employees to the best of medical science's ability. For the future, the company created its Haskell Lab to try to prevent such "surprises" in the future.

Case No. 3 — The company paid the \$18,000 to keep their man out of jail (for obvious reasons, I'm not going into identities). It seemed more ethical to rescue the company manager from his real predicament than to hold out for the abstract principle.

Case No. 4 — The issue of private medical files involved DuPont's Belle, W.Va., plant and I note, in passing, that the ethical argument came up only because DuPont does scrupulously maintain employee health records. The company decided not to comply with the gov-

ernment demands and the issue was decided by an outside referee — a federal judge — who ruled that DuPont must turn over the records, but that the government must observe strict limits to protect confidentiality. This is how this type of tough case should be decided, I think, by a third party in a legitimate process where all sides can be fairly considered.

Case No. 5 — DuPont doesn't happen to have any production in South Africa, but the ethical point is that corporate executives should not try to make foreign policy for the United States. That is not our role or our privilege. So long as this country recognizes South Africa, corporations must make their own decisions on the basis of self-interest.

That point has broad relevance to business ethics. Business executives should not try, on their own, to decide whether the safety standards ought to be tightened in the machine shop. Nor is any other segment of society entitled to be the self-appointed Solomon of corporate conduct.

Standards of conduct — to deserve respect — should be drawn from a public process reflecting many views. For its part, business should participate in that process to the full limits of its knowledge — but only as one actor, laying no greater or lesser claim to wisdom than any other actor, and not expecting any special forgiveness if it violates the norms that are set.

There is a quid pro quo in ethical judgments. As the late Alexander Bickel of Yale pointed out, the process by which ethical judgments are shaped must itself be morally acceptable. In no other way, he argued, can there be a morality of consent.

Too often, discussions of business ethics fail to meet Bickel's test. They start off polarized and go downhill from there.

Would it be too simple to suggest that more headway will be made if we give up the Moral Rectitude Race? If we consider the possibility that most people in business have pretty much the same base of values as most of their critics?

Then at least, we could set aside the non-issues — where conduct is already covered by law — and examine other problems to see if the facts really indicate that ethical judgments must be made. This would put the energy of the democratic system into the tough ethical questions that remain — the "hard calls" which really require collective thought.