

IR newsletter

Volume 8 - No. 10

December 2, 1966

NEXT MEETING

Date: Tuesday, December 20, 1966

Time: 6:00 P.M. - No Host Cocktails
7:00 P.M. - Dinner
8:00 P.M. - Speaker

Place: The Boardroom Restaurant
3361 West 8th Street
Los Angeles, California

Program: The Labor-Management Reporting and Disclosure Act,
The Welfare and Pension Plans Disclosure Act As
Amended.

Speaker: John B. Flanagan

Please make reservations by enclosing the return self-addressed card, or by calling Rita Sann, 272-8911, Ext. 2425 no later than Friday, December 16, 1966. If you are unable to attend the dinner, you and your friends are welcome to listen to Mr. Flanagan's address at 8:00 P.M.

NEWS BRIEF ON SPEAKER FOR DECEMBER

John B. Flanagan was recently appointed Los Angeles Area Director of the Office of Labor-Management and Welfare-Pension Reports (LMWP), U.S. Department of Labor. The Los Angeles office, which serves Southern California, Clark County, Nevada, and Arizona, administers the Labor-Management Reporting and Disclosure Act of 1959 and the Welfare-Pension Plans Disclosure Act as amended. Its activities are designed to achieve voluntary compliance with the requirements of these Acts.

Mr. Flanagan, a native of Philadelphia, Pennsylvania, has been a career civil servant for many years. Prior to this appointment he served as compliance officer in the Philadelphia Area office of the LMWP, and from 1956 to 1959 he was on the staff of the U.S. Senate Select Committee on Improper Activities in the Labor-Management Field (McClellan Committee).

PAST
PROGRAM

George C. Allen, a member of the law firm of Levy, DeRoy, Geffner and Van Bourg, discussed Workmen's Compensation: Uses and Abuses.

The hallmark of the Workmen's Compensation law in the state of California is liability without fault--absolute liability. This means that the common-law defenses of assumption of risk, i.e., the fellow servant doctrine and contributory negligence, are not available as defenses to the employer or his insurance carrier when an injury arises out of and occurs within the course of a worker's employment. Thus, the usual defenses that may be raised in a personal injury matter cannot be used before the Workmen's Compensation Appeals Board. It does not mean, however, that no defenses are available in Workmen's Compensation cases.

Two major approaches presently used are the defense of employment and the issue of injury; the first turns on the burden of proving that the employee was not employed at the time of the alleged accident; the second approach must prove that the traumatic incident either did not take place, or if it did, that the incident did not arise out of and occur within the course of employment. Another defense in Workmen's Compensation cases involves the Statute of Limitations.

Perhaps the more controversial Workmen's Compensation cases are those involving personal injury. The injured worker does not have medical control of his case; the insurance carrier has the right to select a physician who will treat him. Only once during hearings of his case may an injured worker change his doctor by requesting that the insurance carrier supply him with a list of qualified physicians from which he may choose one. This, of course, is the major bone of contention between applicant and defense--the applicant's claim of free choice of physician, and the insurance carrier's claim that proper medical care can be provided only through the panel system which he controls. Philosophically, this argument doesn't make much sense. The medical profession has historically taken the position that the patient-doctor relationship is vital to the the patient's well being; therefore, the patient must have free choice of physicians.

Statistical data for 1963 indicate that 5.4 million workers in California were covered by Workmen's Compensation, an estimated 85 percent of the total work force in this state. Lost-time accidents were reported for approximately 180,000 workers, but only 48,000 cases were filed for hearings before the Workmen's Compensation Appeals Board, approximately 28 percent of the injured. Although this latter figure is low, it should be remembered that in 1953 only 13 percent of lost-time accidents were reported to the Board.

It is obvious from these figures that many injured workers do not seek legal relief through the Workmen's Compensation Appeals Board. Many such cases are treated under negotiated health, welfare and medical plans. Of course, medical benefits under these plans are limited; there are usually no cash indemnity provisions for the injured worker and no provisions for medical treatment on a continuing basis. If the worker is not covered by a private plan and has no funds of his own to pay for his medical care, he winds up in the County Hospital, on relief. No figures are available to indicate how many workers fall into these two categories, but the numbers seem fairly high.

Interesting enough, however, legal representation of injured workers has at least doubled in the past decade, and legal fees (awarded by the Workmen's Compensation Appeals Board) have increased from an average of \$150 in 1953 to \$245 in 1963. There is some argument as to the purpose of the Workmen's Compensation Act--**protection of the injured worker**, and as to the role of the state--arbiter in favor of the applicant rather than referee or neutral judge. As a result of this adversary philosophy an injured worker who is without representation must secure the services of a competent attorney in order to protect his legal rights. The rights and wrongs of this system can be debated at length, but it appears that under existing California law the system seems to work fairly well.

MEMBERSHIP APPLICATION

Name _____ Address _____
Home Phone _____ City _____ Zone _____
Occupation _____ Title _____
Employer's Name _____ Address _____
Bus. Phone _____ Ext. _____ City _____ Zone _____

I hereby apply for membership in the Industrial Relations Alumni Association.
Enclosed is my check in the amount of \$5.00 payable to the Industrial Relations
Alumni Association.

Signed _____ Date _____

Please clip and mail to Rita Sann, Institute of Industrial Relations, UCLA,
Los Angeles, California 90024.