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THE THEORY AND REALITIES OF INSURANCE POLICY IN JAPAN

— Sociology of Its External Environment
and Internal Problems —

by

Noriaki Niwata

1. Insurance, Life and the State

It is a manifest fact that in Western-type societies or capitalist economies, insurance is more valued than anything else and holds an important position. The dominant religion of such societies is Christianity, and the ethics is also based upon the Christian religion. The social foundation thus formed still is considered firm and secure. Naturally enough the thought underlying the insurance system is deeply rooted in the Christian idea. In Christianity, individuals' character and life are most respected. While promoting liberalistic individualism, all citizens help one another by means of a promise or a contract on an equal footing, thereby contributing to stable development of society as a whole. A promise or a contract does not signify mere words written on legal documents, but may very well be understood as an arrangement made by persons concerned upon their honor or upon the dignity of man. In order to enhance and maintain human dignity, it is essential for these citizens to secure an independent and stable economic life and take a determined attitude toward shouldering all the responsibilities for their acts. Mutual help among them means that they establish a mutual cooperation system, while on the other hand keeping up the spirit of independence and self-help, instead of taking mercy on each other. Insurance is a typical example of such economic mutual-help system. It is, therefore, a joint undertaking operated on the basis of their own responsibilities, and is essentially different from charity-based public welfare services. It is for this reason that insurance was first born in the West and has continued to grow there as a system typical of Western societies.

This is not entirely true, however. The concept of insurance is also found in Eastern societies, particularly in regions where everyday life is rooted in Buddhist thought. H. Saddhatissa* wrote: "Buddhism is not for those who like to be told how to order their lives, who look constantly for guidance to an outside authority, whether in the form of priest, scripture or ritual. Throughout the Buddha's teaching, along with his insistence on balance and common sense, there is an implied obligation on each individual to think things out for himself, to make up his own mind and take his own moral decisions. Naturally there has to be a framework, and this the Buddha provides with the eight-fold

path. But the doctrine of karma requires each man ultimately to be responsible for his own salvation; it is no use looking for an insurance policy either in observance of safe formulas or in total inactivity." (*H. Saddhatissa, *The Life of the Buddha*, first published by Unwinpaperbacks in 1976, reissued in 1981, p. 75) The term "an insurance policy" used in the above quotation, if stretched in my own way, would mean a kind of "relief insurance." By it the author connotes religious relief, resignation and reliance upon others such as relief from the social welfare system. He maintains that human beings should help themselves. This implies that they should be responsible for themselves on both mental and material sides of their lives. In the Orient, however, self-responsibility has not yet so developed as to form a mutual assistance system. Herein lies the difference between East and West. The fundamental concept common to both Christianity and Buddhism is that you decide on what you do at your own will; you hold yourselves responsible for the outcome of your act; and, be it spiritual or materialistic, you set the aftermath right by yourselves. In this respect these two religions have much in common.

In Japan, insurance does not yet seem so deeply seated in national life as in Western countries. On the surface it appears that Japanese insurance business has attained remarkable growth in recent years, but it is hardly conceivable that insurance has infiltrated into the minds of the Japanese people. In Western countries we often hear, "He is a rich man of a good family, so his life is fully insured," "The house built by a respectable construction company is as good as guaranteed by insurance," and "He has a distinguished career, which in itself is ample insurance." Thus in Western nations, life is inseparably linked with insurance. In other words, insurance-mindedness and the insurance system have found their way into all corners of the society. In Japan, however, insurance is only one of the financial systems and people want it only when they need it. "Insurance sells well" is tantamount to "insurers sell insurance successfully." This is merely a product of the selling efforts of insurance firms and has nothing to do with people's insurance consciousness arising out of the necessity of their daily lives.

In the West there is an interesting theory about the relation between the state and insurance. That is, "The state is insurance," or "Taxes are insurance premiums," which was expounded by a number of finance scholars there. The reason why the state collects taxes from its people lies in protecting their lives and property. Conversely, the people pay taxes to the state in order to secure protection of their lives and property. This theory is regarded as a sort of individualistic taxation concept and also a kind of taxation justification argument. Taxes to be collected to protect the lives of the people can be termed "personal taxes," while those for protecting their property, "property taxes," or "property preservation taxes" in a broader sense. Everyone has his own life, so he must pay personal tax. When translated into premiums, these taxes are regarded as per-capital premiums or premiums collectable for the number of people. As a logical consequence, those who are more respectable, of higher class, or more honorable than ordinary people ought to pay progressive taxes and premiums because their demand for protection of their lives is much stronger.

Similarly those richer people with a lot more assets and property have to pay higher taxes and the premiums that correspond with the value of their property. In order to

protect the lives and property of the wealthy, much more care and trouble are needed, and therefore they must naturally pay all the higher taxes and premiums than ordinary people. It is for the reason that taxes and premiums for the wealthy are raised progressively. To pursue the argument thus far, it is only natural that the wealthy come up with a counterargument. This counterargument has something in common with demands for reduction of, and exemption from, taxes on insurance claims and benefits paid. According to the counterargument, "Rich people during their lifetime paid property taxes or property preservation taxes calculated to correspond with expenses incurred to protect their property. Why are inheritance taxes imposed on them when they died? A large part of their inheritances are taken away at their death despite the fact that the nation protects their property while they were alive. It is on a par with leaving a culprit at large for a while and in the end arresting and putting him in jail." Simply put, the state protected the right to use their property only for a brief period of their lives. For this reason some of the wealthy demand lower inheritance tax rates. On the other hand, the general public call for tax breaks on insurance money and benefits, apparently wanting the state to connive at small taxes for the protection of the have-nots' property. Property is property whether it is possessed by the rich or the poor. But it differs widely between them in significance in maintaining their living. That is why common people want light tax, tax breaks not only on their premiums, insurance money and benefits paid but inheritances as well.

There is some truth in regarding taxes as similar to insurance premiums but a number of points cannot be overlooked in this respect. In insurance there are two factors; one is the premiums (referred to as counterperformance) paid by the insured or the policyholder and the other, insurance money (referred to as benefit) paid by the insurer. The insurance system makes it a principle that benefit and counterperformance are equal in their economic value (called the principle of equality between benefit and counterperformance (Prinzip der Gleichheit von Leistung und Gegenleistung)). On the other hand, however, taxes and protection by the state are not necessarily equal in their economic quality and quantity. Personal taxes are very often diverted to property taxes, and vice versa. Taxes collected from people in general are frequently used in larger amounts in the interest of the wealthy classes. In fact, there were many cases in the past where taxes were used to protect the lives and property of the wealthy classes.

It is only in recent years that taxes have come to be spent in the interest of the general public. This means that the income redistribution function has been performed. At the same time, it is true that too much tax began to be used for the sake of the masses. In other words, government extravagance with taxes has come to the fore. As a result the government has faced financial difficulties particularly in the field of social welfare systems. In almost all sectors of social insurance, the principle of benefit-counterperformance equality has started to crumble. Given the fact that the principle of equivalence (Prinzip der Äquivalenz) has been broken down, the cry of a financial crisis has been raised. The problem has been shifting from "exploitation of the people by taxation" to "financial failure due to excessive use of social insurance funds for the masses." If taxes are interpreted as premiums, and the state is regarded as the insurer,

the principle, technique, system and mechanism peculiar to insurance business must be fully utilized and efficiently employed. A premium theory of tax or a state-as-an-insurer theory, if no regard is given to these factors, is utterly nonsensical. In cases where the premium theory of tax is adopted, government insurance policy should naturally be formulated among others and discussed and pursued to promote the rationalization, soundness and normalization of insurance operations themselves.

Income redistribution is one of the most important functions of the state. This function can hardly be performed without resort to national doctrine and state power. Whether one acquires a large income or wealth depends in most cases upon Heaven-sent fortune or given conditions that are beyond human ability. That is the reason why income redistribution or even assets redistribution is implemented to iron out differentials in income and assets.

Now that there is inequality or injustice in respect to natural gifts such as talent, health, personal beauty, pedigree, inheritances, parents' or relatives' fame, it is not bad under any circumstances for the state to correct such inequality. This correction is made in the form of the state's income redistribution as well as through various income-redistribution activities in the private sector. Insurance is utilized as an income-redistribution method both in the public and private sectors.

Income redistribution in the private sector is conducted by way of a promise or a contract on the basis of mutual economic calculation. Almost all income redistributions of this type are realized not as a motive for one's deed but as a result of free economic transactions. Private insurance and the government-sponsored private insurance fall into this category of income distribution and in this sense are voluntary. Meanwhile social insurance as government-operated insurance is intended for income redistribution both in its motive and result and therefore compulsory in most cases. The picture of Income Redistribution will be noted as follows:—

KINDS AND FEATURES OF INCOME REDISTRIBUTION

- (1) Compulsory income transfer by:
 1. Taxes
 2. Penalties
 3. Premiums and contributions for social security (official relief and social insurance) borne by enterprises and business owners in consideration of social security benefits granted
- (2) Semi-compulsory income transfer by:
 1. Contributions for corporate pensions (pensions paid)
 2. Donations and allotments given by corporations or individuals to public activities
- (3) Voluntary income transfer by:
 1. Interest and dividends
 2. Premiums (claims paid or payable)
 3. Lotteries and municipally operated gambling (prize money given)

CLASSIFICATION OF INCOME REDISTRIBUTION METHODS

- (1) Income redistribution between classes and between income brackets (vertical redistribution)
 1. Redistribution from upper or propertied classes to lower or unpropertied classes – by means of wealth tax, property tax, inheritance tax, etc.
 2. Redistribution from high-income brackets to low-income brackets – by means of increasing progressive rates of income tax
- (2) Income redistribution within classes and within income brackets (horizontal redistribution)
 1. Redistribution mainly between laborers and white-collar workers – by means of a social insurance system, uniform benefits are provided in consideration of contributions calculated in proportion to their incomes
 2. Redistribution among laborers of different types of occupations (for example, between the employees and self-employed, among professionals and between office workers, farmers and fishermen and business owners) – through financial adjustments and assistances between various kinds of social insurance organizations and social insurers, or national or local governments' subsidies to these organizations.
- (3) Redistribution for the purpose of giving relief to accident sufferers – among all members who participate in the insurance system
 1. Redistribution among the insureds (under both public and private sectors of insurance) – by granting benefits to those who suffered from an accident or an undesirable occurrence.
 2. Redistribution among insurers through reinsurance transactions in the form of reinsurance claims paid or received.

When viewed in this context, insurance is a system of income redistribution in a broad sense of the term. Insurance business under public management is known as social insurance and, when operated by private hands, private insurance. The function and aim of income redistribution can be performed and accomplished respectively by the use of insurance as one of the means of implementing public policy. In parallel with public insurance, income redistribution is effected by private insurance in the fields of household accounts and private corporate management. With emphasis being placed on this point, government insurance policy is carried out as part of its economic policy. The insurance policy, which holds a high status in the economic policy, is inseparably connected with the economic policy applied to social security and social insurance, because these two policies are strikingly similar in function, and national welfare is advanced and promoted when they are implemented in unity.

The term "insurance policy" has been rarely used in the traditional insurance science. When it is used casually, it is employed as a close synonym for the term "insurance administration," and these two terms are very similar in contents. Most of such arguments of insurance policy have been propounded in an attempt simply to seek a novelty. In a word, insurance policy is interchangeable with insurance administration. The reason

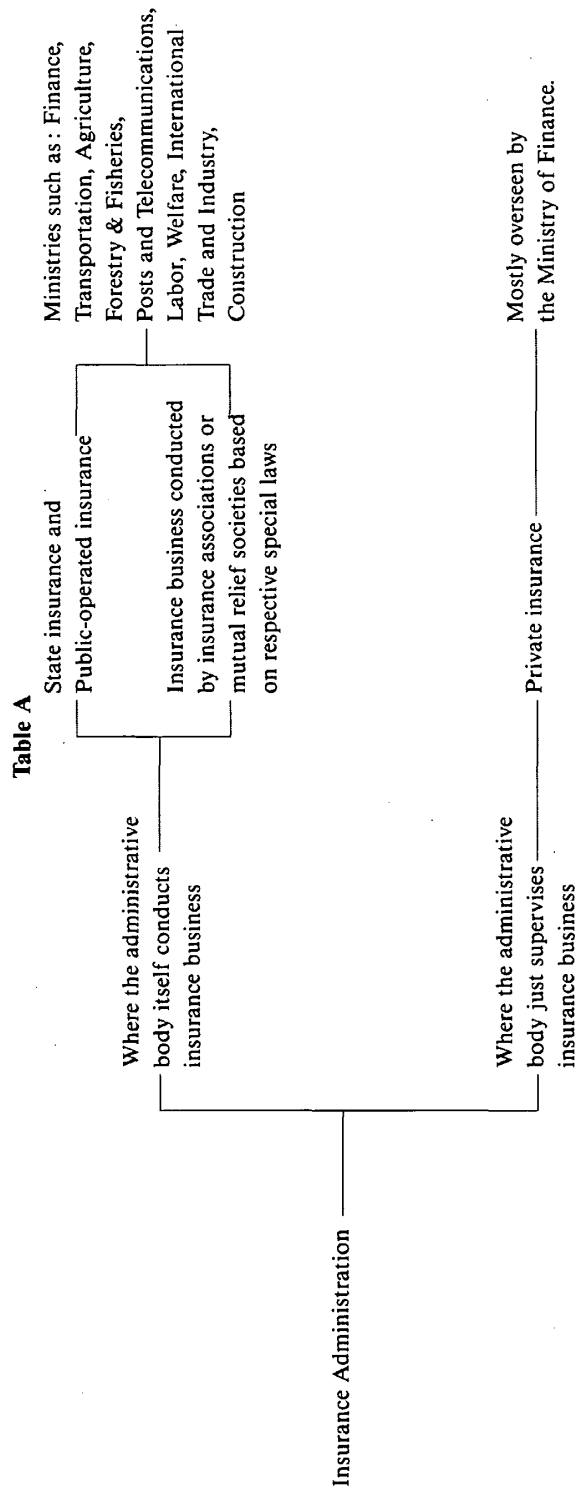
why insurance policy remained within the confines of insurance administration is that the scholars of the conventional insurance science stuck to their narrow views and studied insurance merely as insurance in a narrow sense. It is quite unfortunate for this science that the following quotation has to be cited as an example. "To sum up, it is the task for private life insurance and postal life insurance to supplement insufficient benefits granted by social insurance. Conversely, in order to provide the scope of activities to private life and postal life insurance business, social insurance benefits should be naturally left insufficient in amount and coverage. Herein lies major problems in insurance policy," (*An introduction to the Study of Insurance* by Ryoichi Ohbayashi, published in 1971.) It is regrettable that the author of this book had long held a social standing as doyen of insurance academia. It does not matter at all if the argument of insurance policy is confined only to the bounds of insurance, but it is very doubtful whether such a theory passes current or not. The author gave exactly the same opinion as quoted above in his book titled, *The Theory of Insurance*, the second edition, published in 1975. Also in his early work with the same title as above, which was published in 1960, he used the phrases "ordinary life insurance business" instead of "private life insurance business" and "social insurance benefits should naturally be left insufficient" instead of "the scope and extent of social insurance should naturally be left insufficient." All the rest was a mere repetition of the previous description. Now that he repeated his assertion over many years, it seems that he had profound conviction. The passage quoted above may well invite social criticism.

Despite all this, however, it is good that in his books he used the term "insurance policy" and expressed his opinion on it. Almost all of other books on insurance contain a brief allusion to insurance administration at best though they mostly refer to the Insurance Business Law. Such being the case, the author was indeed a doyen who deserved the name, and his opinion may well have been called a sort of excellent insight. There are many who say that social insurance clashes with private insurance. In recent years, those arguments have been rapidly gaining ground, which point out that private insurance and individual annuities supplement social insurance and public pension, thereby encouraging people's self-help efforts based on the rule of self-responsibility. On the other hand, there are deep-rooted, old-fashioned opinions and criticisms to the effect that private insurers are merely raising objections to the improvement and development of social insurance and that in reality they have no intention of supplementing social insurance while giving their energies to taking advantage of it as a sales tool. But there is no denying that these opinions sound anachronistic. One of the most important tasks for insurance policy lies in wiping out these criticisms against private insurance, thereby establishing a better relationship between private and social insurance.

2. *Debut of Insurance Administration and its Problems*

According to the *Insurance Dictionary* edited by Ryoichi Ohbayashi and Kenzo Mizusawa, published by Yuhikaku Publishing Co. in 1962, "Insurance Administration formally meant state action done by an administrative body on insurance business but it

implies essentially state administration for the purpose of realizing its insurance policy. There are two cases; one where the administrative body itself conducts insurance business and the other where it just supervises insurance operations.” According to this definition, insurance administration can be classified as Table A.



According to the dictionary aforesaid, "Insurance Policy is the state's economic policy of supervising and fostering insurance business. The policy is divided into two sections, i.e. policies for public and private insurance. The former often discusses the suitability of state operation. . . . When the term "insurance policy" is used, it mainly signifies supervision of private insurance business and legal restrictions of contracts." This is a typical theory of insurance policy. The question is that this theory is becoming increasingly too out-of-dated to resolve current problems.

The word "administration" mentioned above is referred to as, in a legal sense, the business conducted to enforce the will formed by the state or local public entities as a lawmaking organ, but in a general sense it means juridical acts performed by the executive organs of the state or local public bodies. These acts, as distinguished from political ones, include all those activities connected with public services and regulations. They do, of course, exclude the exercise of power or power struggles by the government. In a narrow sense, administration refers to systematic activities of any administrative organ of the government such as business management and control, and work-site operations. On the other hand, politics means a process of forming the state's will. Administration is also interpreted as what remains after the exclusion of legislation and judicature from the state's functions. It is practically impossible to distinguish administration from politics because the state's systematic activities are closely connected with other social organizations. One is approximately right in considering politics a process of forming the will of the state, the biggest social organization, regarding administration as accomplishing its will. As the times change, so do politics and administration like the nation and society. The boundary separating politics from administration, therefore, gets so blurred that it is extremely difficult to clearly define these two terms.

Now, turning to "policy," the term can be defined as an object which government must pursue, and as planning for accomplishing the object. In brief, the state as a social organization forms its will, whose process is called government, and policy concerns how to pursue the object formulated by government and how to plan to accomplish the object. In present-day democracies the term "policy" refers mainly to government public policy. So it is becoming closer to social welfare policy. The national policy of today, i.e. the public policy with social welfare coloring is for the most part selected and decided, as a general rule, by taking into consideration political parties' public pledges, opinions expressed in councils and committees composed of people of learning and experience, informed people and interested parties as well as supporting articles of the mass media. The administrative authorities have engaged in making basic conditions favorable for policy selection and in some cases have come to guide public opinion in the direction favorable to themselves. As a result, the country has come to carry a strong tinge of "administrative" state.

There used to be a so-called "Administration-as-a-waiting-maid theory." From the early stage of the capitalist economy to the height of its prosperity when the principle of *laissez-faire* dominated society, the administration was limited in the scope of activity to such basic functions as military affairs, diplomacy, finance and the maintenance of public order. It left most of the important fields of economic activity to the hands of private

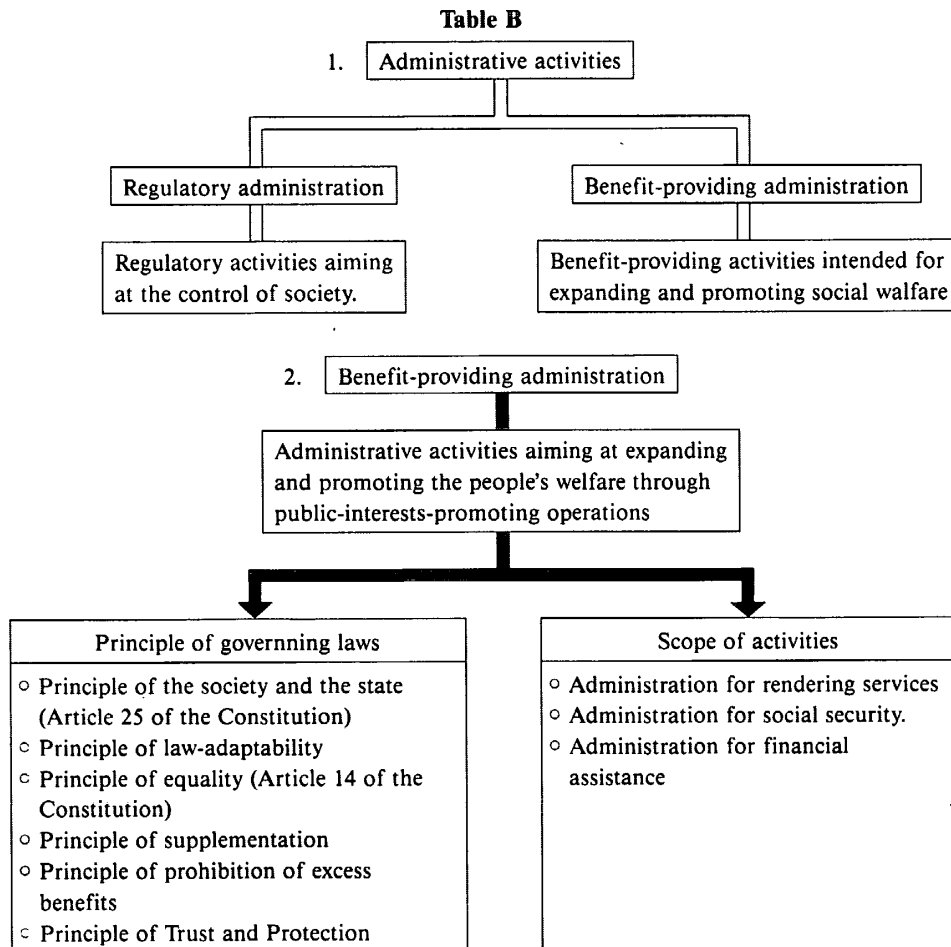
enterprises and focused only on improving working environments so that the private sector was able to give full play to its ability and produced desired results. Thus, in those days the smallest administration was thought to be the best, so it was likened to the waiting maid who attended on a master of the private enterprise. Today, however, the state's functions have been extended and its goal shifted toward a welfare state. The administration's activities now cover such diversified sphere as shown below:

- Mediation of labor-management disputes
- Operations of various types of public utility corporations and facilities
- Control and supervision of private enterprises operating business of public nature
- Control of public pollution and relief of its victims
- Disaster prevention and relief activities
- Land utilization and planning
- Protection and relief of the socially weaker

The state's large-scale intervention is feared to bring about a disastrous state of affairs resulting from intensified free economic competition symbolized by such phrases as "the survival of the fittest" and "the stronger preying upon the weaker."

The administration soon embarked on measures for the following issues; labor, health and hygiene, stabilization of living, business corporation control, market stability, fair trade practices and the like. This shows that the switchover of a night-watch nation to a functional nation has been gradually proceeded. The administrative bureaucrats have seized this opportunity to grasp the control of the nation. Although they apparently belong to a colorless, neutral group of the bureaucracy, their behavior would, in reality, impress one as if they were managers of the state. In addition, the administrative bureaucrats are elite technocrats, and government ministries and agencies are the soil in which the technocrats thrive. The bureaucrats' powerful weapons are top-level administrative technology and information-gathering and -utilizing capabilities. The functions of the administration are as shown in Table B.

After gaining a knowledge of what policy and administration are, let me proceed to consider government insurance policy and administration. This is called an age of the administrative state because the functions of the administration has been strengthened, extended and in some cases even excessively enlarged. It is only natural, therefore, that strict supervision, restrictions, control, intervention and other administrative guidances be exercised over insurance business. The insurance industry, on the other hand, used to be so circumstanced as to provoke such strong control earlier than other industries. This can be clearly exemplified by the Armstrong Investigation conducted in 1905 in the United States. The committee, headed by senator of the State of New York, Armstrong, investigated from September 6 through December 30, 1905 the business practiced by the life insurance companies based in the State of New York. The management of U.S. life insurers in the 19th century did not have a clear understanding of what insurance business should be. They had very sloppy management characterized by fraudulent canvassing, rate cuts and slipshod investments, thereby inviting social distrust and disorder, the then existing laws were not satisfactory enough to protect the interests of life policyholders and beneficiaries, which sparked severe social criticism. To cope with such a



Source: *Illustrated Dictionary of Legal Terms* (Section of Administrative Laws) published in 1987 by Jiyukokumin-sha Publishing Co., pp787-789

situation, the historic investigation committee had been set up in July 1905 by the State Assembly of New York. In those days the state commissioner was so severely restricted that he was unable to undergo any proper inspection of insurance companies. Fortunately it was just when it was pointed out that there was much to be desired in the commissioner's preliminary report on Equitable Life Insurance Company. With this as a turning point, voices had been raised calling for normalization of insurance business, which urged the Armstrong Committee to start investigation.

The investigation was conducted very strictly with main emphasis on the following four points:

- a) Operation-checking system, including authority given to policyholders over the management of mutual companies
- b) Assets management
- c) Reckless spending of working expenses
- d) The method of paying dividends to policyholders

On the recommendation made by the committee, an insurance commissioners' con-

ference was held in Chicago in 1906 and the unified legislative commission composed of 15 members underwent a drastic revision of the New York Insurance Law. Subsequently this revised law became a model for life insurance control acts of many other states and laid a foundation for solid growth of American life insurance business. It was true that because of the intensive investigation, business volume suffered declines temporarily but soon after, favored by sweeping prosperity of the U. S. domestic economy, American life insurance business increased rapidly both in quality and quantity. As a result, the industry carried out a thorough reform and succeeded in consolidating a sound management basis. It can safely be said that much earlier than other industries, the life insurance industry awakened to the necessity of sweeping but specified insurance administration. This recognition was not based upon the idea or concept of modern administration and policy but was mainly born out of special characteristics of insurance business. Various opinions expressed so far on this issue are such that "powerful administration and policy are indispensable to insurance," "no insurance exists without full support of administration and policy," or "for insurance, administration and policy are prosecutor and attorney," "control and protection" or "carrot and stick." Such are traditional concepts of insurance administration, and the question lies in how these concepts will change in the future.

3. Insurance Administration and Policy

The term "insurance policy" as used so far in materials and literature refers to insurance administration almost without exception. Theories of insurance administration have made no appreciable progress. Probably the reason is that since the insurance system itself is conservative and safety-oriented, the insurance administration authority maintains a stance to deal with problems only when they crop up. Originally, the policy tends to take action from a very wide perspective in anticipation of what is to come while administration attaches importance to adjusting and resolving one problem after other by taking past circumstances into full consideration. On the other hand, unification and harmonization of policy and administration will likely be strongly propelled in future. Much the same is true of insurance.

As most insurance books point out, there are three principles with regard to insurance administration:

1) Principle of Public Disclosure — This is the most lenient method of supervision. By this method insurance companies are required to publicly notify of their business performance and relative financial data, and it is left to the discretion of insurance consumers whether or not they take out a policy, looking at their actual operations. This principle is still maintained mainly in Britain. In order to propel the insurance administration based on this rule, what is required as a precondition is the view that the insurance companies are basically good, or that they have never done any evil all through their development process. At the same time, it is necessary for the general public or consumers to have attained a considerably high level of insurance knowledge and consciousness.

2) Law-conforming Principle — This method of supervision is stricter than the principle 1) above. Some legal standards are set up to be observed by insurers in managing their operations. The government or its administrative organ oversees whether they operate properly and rightfully in accordance with these regulations. This principle was once adopted in the Netherlands. Its success depends solely upon whether the administrative authority has capabilities enough to exercise fair and neutral supervision.

3) Licensing Principle or Substantial Supervision Principle — This is the most stringent principle of the three. Under this rule the authorities concerned explore the suitability of applicants by thoroughly examining their business plans and other preparations for incorporation in an attempt to shut out those applicants who are not considered to be fit and proper in the initial stage. In order to carry on insurance business, it is necessary to obtain a licence from the competent authority. Even after giving authorization, the authority makes regular inspections of insurance companies in order to prevent them from deviating from the authorized scope of business, from committing unfair or wrongful acts and also to keep them from bringing about any situation menacing public welfare. For such purposes the authority supervises and monitors all their managerial activities. This type of principle is adopted in many countries, among which are Switzerland, Australia, Germany, Italy, Japan and most of the states in America.

It is only natural that the government and its administrative branch exercise supervision over insurance companies to protect the interests of insureds and policyholders. In recent years they have assumed an additional role in guiding all people who are concerned with insurance or insurance consumers in order for them to utilize insurance correctly and enjoy its utility. The objective of supervising administration is to enhance insurance companies' creditability, strengthen their presence and management bases and to help them contribute to the promotion of public welfare. It should be noted that the administrative authorities not merely exercise supervision, intervention, control and punishment, but also take measures of fostering, assistance, guidance and cooperation whenever they are deemed necessary.

Insurance administration in Japan is well embodied in the Insurance Business Law. Needless to say, it is not conducted solely on the basis of this law, but the law undoubtedly forms a fundamental basis of the administration. In Japan the Insurance Business Law as supervising legislation, based on the licensing principle or substantial supervisory principle mentioned above, was formulated in 1939 to regulate both life and non-life insurance business. On the other hand, there is the Law concerning Control of Insurance Soliciting which regulates the canvassing activities of insurance solicitors and agents. The former is the fundamental law governing Japanese insurance business. In addition to stipulations concerning administrative supervision of private insurance business, the law provides in detail for necessary rules of organization and running of insurance companies. The latter contains provisions regulating the soliciting activities of life insurance solicitors and non-life insurance agents, thus contributing to the protection of the interest of policyholders, and fair and sound development of insurance business. Besides such administrative legislation, there is the Law concerning Foreign Insurers, which regulates the business of foreign insurers operating in Japan on equitable condi-

tions with their domestic counterparts in order to allow fair competition to be carried out between them. This law is also intended to supervise these foreign counterparts in the same manner as domestic insurers on the basis of the licencing principle or substantial supervisory principle.

In addition to administrative measures to supervise and regulate insurance companies from a legal perspective, an insurance council was set up to investigate and deliberate the issues referred to by the Minister of Finance and to give advice and suggestions back to him. Nowadays the administrative authorities tend to supervise insurers in accordance with the recommendations made by the council. It is no exaggeration to say, therefore, that both supervisory administration and insurance managements are insurance council-dominated. (The desirability of such a trend will be discussed later.) There is no denying that the advisory body gives answers to questions as to how the Japanese insurance business and industry ought to be and suggests the direction which they should choose. A look at the world's political moves reveals that big governments are currently under fire of criticisms and that a shift has been taking place to a compact government. Capitalistic spirit of freedom in a true sense of the term has been inspired into various sectors of industry, the traditional system of liberal economy is on the way to revival, and free and active corporate activity is strongly anticipated. Such are the trends of the world. Despite all this, the fact that Japanese insurance business still remains under the control and guidance of the Insurance Business Law and the Insurance Council is now becoming the target of criticism from inside and outside the industry. This is not limited to the insurance industry but is applicable to the rest of Japanese industry as well. Behind this is a wide spread of money worship among the people ever since the end of the war. We hear people say, "We are past all sense of shame to make money," or "We are willing to discard our honor and pride for that." The same can be said of the insurance industry. Probably they think to themselves, "The palm of victory falls on us if we can obtain protection from the government and the administrative authorities even if we bow the knee to them." It is for this reason that a "big-business-as-bad-guy" theory has come to have wide currency in Japan. Such a phenomenon is not merely the case with Japan's industry and business circles. In fact, the inside of the U.S. industry, one of the most advanced economies, does not bear scrutiny, to say nothing of the Soviet Union's industry. The phrase "fin-de-siècle phenomenon" is much talked about worldwide.

Advanced capitalist nations such as Japan, Britain and the United States are now taking measures to vitalize private business, introduce private sector vitality and to promote government and private sector cooperation as the basic line of their economic policy. Insurance companies in Japan have been called upon to promote independent management, propel vitalized management behavior and further to carry on free competition. They have started to move in this direction. It is interesting to note in this connection that the direction was suggested in a series of recommendations made during the period 1975-1985 by the Insurance Council as their guiding organ. This implies the administrative authorities' call for the commencement of free competition through introduction of the principle of competition. What is significant is that the supervisory authorities, which regulate and control corporate activity, give instructions for liberalization of insur-

ance business. There is every indication that new moves standing on free spirit and freedom of corporate behavior, are brewing in the insurance industry.

Table C. The Insurance Council's Reports At A Glance

Subject	Date Submitted
⊙ 1. Life insurance actuarial problems	22/03/1962
⊙ 2. Life insurance soliciting	09/07/1962
○ 3. Regulation of insurance to be placed with unlicensed foreign insurers	25/01/1963
4. Products of new concept such as replacement cost insurance	25/01/1963
⊙ 5. Partial revision of the Insurance Business Law following amendments to the Commercial Code	27/01/1964
⊙ 6. Improvements in organization and management of mutual companies	22/03/1965
7. Improvements in the soliciting system of non-life insurance companies	22/03/1965
8. Earthquake insurance scheme	23/04/1965
⊙ 9. Rationalization of life insurance soliciting system and improvements in renewal rate	30/11/1965
○10. Opinion on problems of commercial insurance and cooperative insurance	27/03/1968
○11. Future insurance administration — to cope with coming liberalization	13/05/1969
⊙12. Insurance products and life insurers' assets management	30/06/1972
⊙13. Legal problems resulting from growing internationalization	11/07/1972
○14. How insurance business ought to be	27/06/1975
⊙15. How insurance business should be	14/06/1979
16. Revision of earthquake insurance scheme	14/06/1979
⊙17. How life insurance business should be managed to cope with a new era	30/05/1985
18. How non-life insurance business should be managed in a new era	19/05/1987

Note: ○ concerns both life and non-life business

⊙ concerns life insurance only

Ohbayashi's *Insurance Dictionary** says, "The Insurance Council examines the Insurance Business Law and other related acts with a view to suggesting modifications and revisions so that they are in tune with the actual situation and also considers various administrative problems arising from the execution of these laws." (* *Insurance Dictionary* op. cit. P539) According to this definition, the council acts as an intermediary between insurance policy and administration. Why on earth is insurance administration necessary? Why does it carry out so rigid, drastic regulations, even going into so meticulous detail? The following are plausible reasons for that:

- 1) Insurance business, unlike other private business, has strong social character and

even some nature of social welfare. It is, therefore, all the more necessary for the government and its administrative agencies to guide, oversee and regulate insurance operations.

2) The insurance system has many characteristics which are not found in other systems. Some of them, for example, are a highly complicated structure peculiar to long-term insurance and actuarial calculation in life insurance rating. Naturally administration should be exercised to help display these features fully.

3) Especially household insurance, as opposed to corporate insurance, is a sector which comes into contact with the mass of people. To put it another way, this line is closely linked with almost all citizens of society, and finds its way into every corner of their daily lives as an economic security system. Insurance companies are, therefore, required to market this class of insurance with due discretion and responsibility. Herein lies the reason why the authorities concerned should administer strict supervision to promote a sound spread of insurance among people in general.

4) A mechanism of insurance is too complicated to understand so that people are apt to keep it away. Most of them naturally lack knowledge and experience about insurance and besides are the socially and economically weak. So insurance administration has a large role to play in providing conditions necessary to give them assistance and relief.

5) Insurance has two functions, that is, economic security and financial management. Especially the latter has an important bearing on the general public's funds to be used for everyday life. At this point the stringent control and supervision of the authorities are justified.

6) When receiving benefits or claims, the policyholders or beneficiaries are evidently placed in an economically weaker position. If trouble should arise with their insurers and fail to get money, they would suffer financial deathblow. Given the situation, the authorities, by the exercise of their power, endeavor to prevent such trouble and extend a helping hand to settling such matters.

7) In view of their function as monetary institutions, insurance companies are expected to grow into financial giants and acquire strong monetary power. Needless to say, their powerful operations should be prevented from adversely affecting the daily lives of people who pay premiums and from endangering their welfare. Hereupon the competent authorities lay down strict conditions on, or make strong intervention to, insurers' assets management and utilization. Recently we have rarely come across such expressions as, "Insurance capital is veritably monopolitic financial capital," and "Exploitation of the working masses by insurance capital as part of financial capital." But they were greatly in vogue years ago. In fact, there existed the reason and the reality for that in those days. That is the question. Under the tide of present-day neo-capitalism, however, such old-fashioned theories have withered rapidly. Meanwhile, a new idea of insurance funds management is as yet in its groping stage. A sharp warning must be given to indiscreet investment measures merely following the social current and economic trends. Insurance funds management ought to have its own rules and principle, which eventually will contribute toward the innovation of insurance business itself.

As today, economies and societies have become extremely large in stature and come

to have interdependence in each other's area of activity. Moreover, they are making exchanges and cooperations with each other in many ways in the international arena. In such a situation virtually no rapid or drastic government policy switchover can be expected. As a general rule, under the democratic political system it is really unusual for government policy to possess powerful control or to demonstrate strong leadership. Such being the case, a change in the policy is considered from a middle-scale change or revision of policy is adopted in intervals of several years or more than a decade. Accordingly a long-term or large-scale policy change is hardly carried out, and a short-term (almost yearly) adjustment or cosmetic modification of administrative policy is put into practice. In other words, while a small-scale adjustment or modification is repeatedly made, a middle-scale change or revision is introduced over a little longer period. Even when the word "radical" or "drastic" is used, it does not mean "revolutionary" or "innovative." In most cases, policy change is just an adjustment and sometimes the adjective "forward-looking" is prefixed to the "adjustment." To sum up, a revision of administrative policy is introduced by gradual stages.

Insurance administration is classified into the following categories: (1) private insurance under the control of the Ministry of Finance, (2) postal life insurance, the Ministry of Posts and Telecommunication, (3) agricultural insurance and the like, the Ministry of Agriculture, Forestry and Fisheries, (4) export insurance and credit insurance for small and medium-sized enterprises, the Ministry of International Trade and Industry, (5) wooden vessel insurance, the Ministry of Transport, (6) social insurance, the Ministry of Health and Welfare, (7) workmen's compensation insurance, the Ministry of Labor.

Thus, competent authorities vary according to classes of insurance. Insurance policy is, of course, placed above insurance administration. As insurance companies solidify the foundations of their existence and operations, build up financial power and exert powerful and far-reaching influence over the economy, insurance policy needs to come onto the scene. This means that insurance administration alone can no longer meet the demand of society. At the same time it implies that insurance policy hand-in-hand with insurance administration goes beyond the conventional framework of guidance, supervision and control. New concepts that have arisen recently as insurance policy are described below: (1) how to enable insurance capital and transactions to cope with international liberalization developments, (2) how to adapt insurers to growing popularization of insurance, (3) how to assist them in improving their makeup while promoting management efficiency and rationalization through introduction of competitive principle in the midst of increasingly severe management environment, (4) how to make private insurance business supplement the social security system in view of the present situation in which the benefit-providing standard of the social security system is being curbed and the scope of benefit adjusted because of its financial difficulties. In the above fields insurance policy is expected to be initiated and implemented. Moreover, insurance policy is called upon to be pursued from a broad perspective beyond the framework of insurance, while paying attention to insurance business operation. Growing presence of insurance companies has required more powerful insurance policy, (5) last but not least important, as people's knowledge and understanding of insurance deepen and

improve, more demands for insurance companies have arisen from the consumers, which has triggered intensified and popularized consumerism. At the same time crime has become frequent by illicit use of knowledge about insurance. As a result a wide range of policy is required to lead insurance consumerism in the right direction. Insurance education and purification at a higher level than insurance administration, not to mention normalization and rationalization of insurance business, is now in course of implementation. In addition, greater cooperation between insurance policy and administration is predicted to be promoted to increase business and prosper the industry. The changed international environment surrounding the insurance industry will most likely strengthen such a tendency. Insurance business has thus attained the stage of being mutually affected by situations in and outside the economy and society. With mounting weight of the financial aspect of insurance, it has now become a product with the two indispensable functions i.e. risk-taking and financial management just like the two wheels of the cart.

State insurance policy is classified into the three categories, namely, growth, stability and fairness according to where priority is given. Traditionally, stability policy was regarded as the most important part of insurance policy. However, recent indications are that shift is being made to fairness policy. The reasons are described below: (1) Growth policy should be incorporated into management efforts of insurance companies since insurance business has a tendency to grow in tandem with the nation's economic growth. The necessity of encouraging business growth through the insurance policy and administration has recently been reduced considerably, (2) Next comes stability policy. Insurance companies have continued stable growth and increased the scale of business because more accurate statistical materials and data have been prepared and a variety of products developed to meet consumers' needs. In addition, as management technology has been upgraded, the network of reinsurance systems expanded and funds accumulated, almost all worries about the stability of insurers' management have been dispelled. Although there are some who criticize the insurance protective policy, popularly known as "convoy escort administration,"* for having reduced the industry to a dormant industry, this administration has undeniably played a vital role in stabilizing insurance operations. (3) Special importance will most likely be attached to fairness policy. This is because, as long as justice is done, the stability of insurance business is naturally secured. To put another way, the attainment of the benefit-and-counter-performance equality principle spontaneously accomplishes the principle of equivalence. Justice must be maintained not only between the insurers and the insureds or the policyholders but between the insureds themselves as well. Much the same can be said of the relation between insurers themselves. Moreover, an equitable treatment should be extended to overseas insurers. In recent years there have been pressures from overseas calling for liberalization of foreign insurers' entry into the Japanese market and internal demand has been raised for deregulation of the direct placement of risks with overseas

* The jargon "convoy escort administration" is used when the government supervising goal is to enable the weakest in the industry to survive, just as a wartime convoy fleet in which the slowest ship sets the convoy's pace.

markets. Also included in this category are policies of the nations which are most forward in the field of insurance, to cooperate in encouraging insurance industries of developing countries. In addition, the insurance industry is expected to maintain equitable relationships with other financial institutions. This also applies to relationships with major cooperative insurance institutions which perform their economic security function in a similar manner. Any pressure or influence over the insurance industry from other financial institutions and related organizations, meanwhile, should be dealt with in fairness.

In any event the public, or more specifically the consumers who hold policies or want to buy them, are definitely in weaker positions. According to one theory, if a dispute or a conflict of interests should occur between these buyers and insurers, the latter, which have a much stronger position as specialists, must in principle make concessions. Certainly this theory has some element of truth, but it applies only in cases where insurance transactions are likened to general commodity trade. This question needs to be reviewed by going back to its basics. When insurance is considered a mutual-help system, the insureds or policyholders, even though in the weaker position, undoubtedly stand on an equal footing with those comprising insurance organizations. Therefore, the insureds' irregularities and crimes cannot be absolutely condoned because these acts will disturb equilibrium between incomings and outgoings and finally endanger the safety of their operation. It is for this reason that insurance business is defined as a contract concluded or a trade conducted in utmost good faith or that the principle of faith and sincerity is required to be strictly implemented. These are the general outline of the fairness policy.

Be that as it may, it is undeniable that the fairness policy applies in the main to insurance companies. On the contrary, failures and irregularities on the part of insurers (from which they are not necessarily immune) have recently been rigidly examined and because of it some of them have been punished. This is also the execution of a kind of fairness policy. Their failures in funds management, dishonest sales talks and loans to dubious businesses (loan sharks and land price riggers, for example) will in the future be subject to criticism and surveillance. No insurer shall be allowed to operate sloppy management, totally ignoring the interest of the policyholder or taking advantage of exemption from application of the Anti-monopoly Law. Insurance administration is predicted to exercise stringent fairness policy toward both the insurers and the policyholders.

4. New Tasks for Insurance Policy

With the diversifying scope of business, insurers have launched peripheral activities in addition to the conventional loss indemnification operations. That is, they have put more efforts into financial activities such as by earning interest and profits through the management of their funds and assets, and advance into other fields by concerning themselves with loss and accident prevention, medical and nursing care activities and old-age home facilities, etc. counselling. Naturally, therefore, the insurance policy of guiding, super-

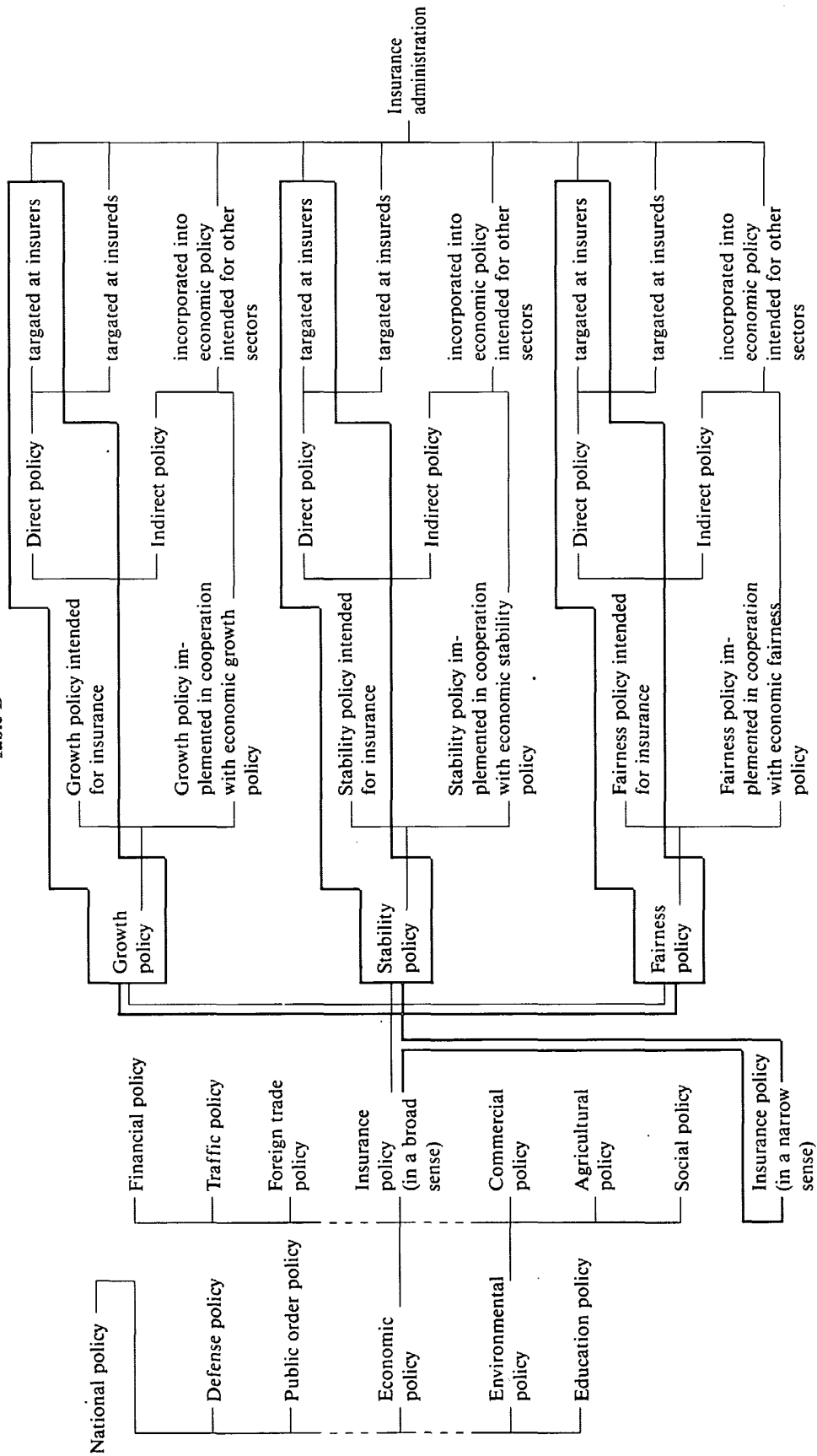
vising and regulating their activities diversifies and so does the administrative agency which puts the policy into action. As a result, the industry is under the multiple supervision of a number of authorities, including the Ministries of Health and Welfare, International Trade and Industry, and Transport, let alone the Ministry of Finance. To use a common phrase, it is just like samurai warriors serving many lords and many superintendent officers. Such a development has created an important job for the industry; it is to keep contact with respective administrative agencies and to coordinate relationships with each other. This tendency is likely to become increasingly intensified in the future. Administrative control itself will probably weaken in its lower reaches, but on the other hand there will be an increasing number of government agencies which will more or less force regulation and intervention on the industry. This is evident from the fact that in recent years former government officials have obtained a variety of responsible positions in the industry. Retiring high government officials are now targeting at insurance companies as entities offering them ideal second work places.

The system of insurance policy is as shown in Table D. Some explanations about main items are given as follows:

(1) Growth Policy — targeted at insurers: While in the case of social insurance or welfare-oriented insurance its growth is promoted by the exercise of state power, growth policy for private insurance places main emphasis on *tax reduction*. In some cases technical guidance and financial assistance are provided. In case of newly developed covers, the government and its administrative branches cooperate in setting up a *reinsurance machinery* for the spread of risks covered. This step also serves to enable insurers to develop new products and promote their growth.

(2) Growth Policy — targeted at insureds: Its basic task also is to *reduce taxes*. Tax reduction concerns both premiums and claims paid. It is further extended to the field of insurers' funds management. A case in point is the issue of a special corporate tax projected to be imposed on the employees' pension funds management. In a modern state, the principle is that where there is income, there is taxation. In this way of thinking, return on the investment of insurance funds is regarded as a sort of income and therefore becomes taxable. True, the management of insurance funds is left to insurers and these funds are often used to erect buildings (which are in most cases for their own use and not for rental purposes as a kind of investment), but the authorities are not condoned under any circumstances to contrive to tax the funds (which largely are composed of liability and outstanding claims reserves) as profits accumulated. Especially under the mutual company system, however, insurance funds and assets are apt to be regarded as if they belong to companies themselves apparently in the belief that they have been earned and accumulated over years in the past as long as they are predicted to be able to continue operations indefinitely. The awareness that such assets are in custody from their policyholders seem to wither among the top executives of mutual insurers. This tendency is sometimes observed to invite reckless investment and slipshod financial control. Any proposal for taxation on these funds and assets is dangerous. Because the "money" belongs to policyholders and not to the insurance institution, they should not be taxed arbitrarily. Insurance policy, therefore, should not be carried out on the enter-

Table D



prise-centered principle. Another conceivable method of spreading insurance for a short period is to *make it compulsory*.

(3) Growth Policy — incorporated into the economic policy intended for other sectors: *The spread of insurance education* as part of the policy for development of the nation through the encouragement of education in general is considered most beneficial to insurance growth. That insurers *develop new products* in an effort to assist in the inauguration and growth of new industries means their positive participation in government policy for developing and encouraging such industries. Part of insurance funds are frequently utilized for government fiscal investments and loans, and also for investments in, and the formation of, social overhead capital. In this way insurers can promote their own growth while collaborating with the government for developing the economy and society. The existence of the insurance and reinsurance systems contribute to enabling capitalists and entrepreneurs to *invigorate their investment activities* and business-promoting spirit, which in turn leads to greater progress of the nation's economy. This eventually will serve to energize insurance business itself.

(4) Stability Policy — targeted at insurers: Administrative measures and policy actions concerning this subject form an important part of the Insurance Business Law. Its main items are given below: *The rigidity of granting licenses, restrictions on domestic insurers' operations overseas, regulations on funds management and assets utilizations, the prohibition of joint operation of life and non-life business, the limitation or prohibition of other business, the government- and -public-operated reinsurance, exemption from application of the Anti-monopoly Law and approval of the formation of cartels*. All these varieties of items are boiled down to government protective policy, which is commonly known as the "convoy escort administration." This administration aims to secure the lasting stability of the insurance industry as a whole, which in turn leads to the realization of the principle of equivalence.

(5) Stability Policy — targeted at insured: Great emphasis is placed on the *prevention of anti-selection of risks and misrepresentation* under the administrative guidance and surveillance. Once contracts have been concluded, the administrative guidance is directed toward *immediate collection of premiums and reduction in their lapses and cancellations*. The administrative authorities first stress to the insurers the necessity of taking proper measures, and call upon them to intensify such measures. Thus, the authorities endeavor to solve these problems on the part of the insured through the insurers' efforts.

(6) Stability Policy — incorporated into economic policy intended for other sectors: The stability of insurance business is brought about through the *preparation and improvement of statistical data and materials*, which are required to investigate the actual conditions of national life and corporate behavior. When savings are encouraged as one of the measures for *curbing inflation*, insurance is also utilized as a sort of savings. The more inflation is on the wane, the stabler insurance business becomes. The *expansion and spread of social welfare work* such as public medical and health care services contribute directly to the stability of insurance business. Activities for *preventing accidents and bringing them under control* also are instrumental in promoting the stability of insur-

ance business. As a rule, insurance makes it a task to serve for social stability. The most important thing for a country like Japan, which has established itself on the basis of international trade, is the stability of import and export business and to this end *export insurance* is actively utilized. Moreover, insurance is useful in *mitigating business fluctuations*. Recently insurance companies have been called upon to give a helping hand to the *normalization of the financial and securities markets*. Group life and corporate pension insurance are currently making their contributions toward *collaboration between labor and management* and the *alleviation of their confrontation*. Especially each sector of social insurance is constantly fulfilling a role in *establishing peace among industries and eliminating class antagonism*.

(7) Fairness Policy — targeted at insurers: In my view, fairness policy is an integral and vitally important part of insurance policy. This also occupies the greatest part of the Insurance Business Law. With the favorable progress of the economy and society, growth and stability of insurance business are accomplished proportionately. Unfortunately, however, this does not hold true for fairness in insurance transactions. The more insurance business grows and therefore the more powerful insurance companies become, the more decisively equilibrium between insurers and insurance consumers is destroyed. As a logical consequence, therefore, fairness policy becomes indispensable to ensure fairness in transactions. At the same time, insurance companies, which now have become powerful economic entities and corporate giants, are called upon to do justice to the people and society at all times. Fairness policy is unfolded, from the standpoint of administration and measure, to guide them so that they do so more properly. *Regulations on determination and alteration of premiums* have a vital bearing on the attainment of the principle of equality between benefit and counterperformance (premium), and on this score insurers' fair attitude is questioned. *Monitoring and control of dividends to policyholders and shareholders* are exercised, after all, in order for insurers to maintain their fair stance toward the policyholders and shareholders. The *actuarial system*, peculiar to insurance, has been adopted to ensure fairness in actuarial calculation in regard to insurance. The Insurance Business Law contains provisions stipulating *attaching the fundamental documents to an application for license and regulations on their alterations*, and *the administrative guidance for outlays for accounting purposes*. For example, the administrative authorities intervene in upward revision of remunerations and salaries of officers and staff members. The *competent minister* is empowered to require insurers to submit report, hold inspection, give supervisory order and to carry out punishments for regulation violations. There are other insurance-related laws and *regulations concerning control of insurance soliciting* (viz. life insurance solicitors and non-life insurance agents), *supervision over foreign insurers operating in Japan*, the *method of calculating unearned premium reserves and control of accumulation of unearned premium reserve and other reserves*.

(8) Fairness Policy — targeted at insureds: The insured is, after all, in a weaker position than the insurer, which requires government measures to protect the interests of the insured. The administrative authorities, therefore, make a *stand for the principle of interpreting the policy conditions to the insured's advantage and of imposing the*

burden of proof on the insurer in case of a lawsuit. Each insurer is bound to *set up a grievance machinery* and a *counselling window or clinic.* *Insurance consumerism is being fostered* under the guidance of the authorities. Administrative measures, meanwhile, are taken to control insureds' illicit and dishonest acts, including *misrepresentation, wilful acts and gross negligence, and over insurance and double insurance.* Behind this does work the principle that insurance permits of no gains. Fair relationships between the insurer and the insured and between the insured themselves can be realized by setting premiums fairly and treating the policyholders or the insureds equally and by paying claims and benefits with justice.

(9) Fairness Policy — incorporated into economic policy designed for other sectors: *The improvement of such social systems as police, laws and court trial, the betterment of actuarial calculation, statistical data and survey and monitoring and auditing of finance and accounting* — all these contribute toward a more equitable operation of the insurance system. Social justice could be realized by eliminating various sorts of inequality from among the members who constitute society. For this purpose *insurance has been utilized as a means of promoting income redistribution.* Income redistribution between the rich and the poor is called vertical while redistribution made with the occurrence of accidental calamities or the emergence of undesirable events is termed accidental. Both of them have been materialized through the insurance system. That private insurers *supplement the social security system or conduct part of it as substitute for public entities* means that they participate and cooperate in the execution of fairness policy.

As mentioned above, state insurance policy has a wide range of applications, covering almost all segments of society. This is because insurance is concerned with virtually every stage and section of human life and corporate management, respectively. Accordingly, while elaborate and well thought-out insurance policy is required on one hand, a new view on insurance is currently gaining momentum rapidly. According to this view, while imposing an effective check on moral hazard, insurers should be allowed a very wide freedom of action, operation and activity, thereby vitalizing insurance business and strengthening their services to policyholders. In short, they could, if they operate on the principle of freedom or in the framework of increased freedom of action, give policyholders really substantial benefits. The days of insurance business activities being subjected to administrative regulation and policy control are coming to an end.

The above three types of policy can be itemized as follows:

A. Insurance Growth Policy

- 1) ○ Reduction in taxation (for insurers)
 - Reinsurance system
- 2) ○ Reduction in taxation (for insureds)
 - Compulsory insurance
- 3) ○ Spread and improvement of insurance education
 - Development of new products
 - Accumulation of funds
 - Vitalization of investments

B. Insurance Stability Policy

- 4)
 - Greater rigidity of granting licenses
 - Restrictions on domestic insurers' operations abroad
 - Regulations on funds management
 - Regulations on assets utilization
 - Prohibition of joint operation of life and non-life business
 - Limitation or prohibition of other business
 - Government- and public-operated reinsurance
 - Exemption from application of the Anti-monopoly Law or approval of the formation of cartels
 - 5)
 - Prevention of anti-selection of risks
 - Prevention of misrepresentation
 - Intensification of premium collection
 - Minimizing of lapses and cancellations
 - 6)
 - Preparation and betterment of statistical data
 - Control of inflation
 - Expansion and spread of social welfare services
 - Accident prevention and control activities
 - Export insurance
 - Mitigation of business fluctuations
 - Normalization of the financial markets
 - Normalization of the securities market
 - Labor and management collaboration
 - Establishment of peace among industries and elimination of class confrontation
- C. Insurance Fairness Policy
- 7)
 - Regulations on determination and alteration of premiums
 - Monitoring and control of dividends to policyholders
 - Monitoring and control of dividends to shareholders
 - Actuarial system
 - Attaching the fundamental documents to an application for license and regulations on their alterations
 - Administrative guidance for accounting outlays
 - Competent Minister's powers
 - Control of soliciting (life solicitors and non-life agents)
 - Supervision on foreign insurers operating in Japan
 - Calculation of liability reserves and accumulation of various reserves
 - Support of the principle of interpreting the policy conditions to the insured's advantage
 - 8)
 - Support of the principle of imposing the burden of proof on the insurer in case of a lawsuit
 - Establishment of a grievance machinery
 - Setting-up of an insurance counselling clinic and window
 - Fostering of insurance consumerism

- Control of insureds' misrepresentation
- Control of insurers' illicit acts
- Surveillance on insureds' wilful acts and gross negligence, and their punishments
- Prohibition of over insurance and double insurance
- 9) ○ Improvements of the police, law and court systems
- Betterment of actuarial calculation, statistical data and investigations
- Surveillance and auditing of finance and accounting
- Income redistribution by means of insurance (vertical and accidental redistributions)
- Insurance's role in supplementing social security and rendering services as its substitute

Insurance administration is, after all, considered to be a policy means to gradually change the management environment of insurance companies and to improve the insurance system and facilities in favor of consumers. Its essence lies in discovering and solving problems without drastically disturbing the existing structure and conditions. In this sense, the administration can be said to take the stand of a sort of progressive conservatism in that it never refrains from making improvements and revisions. Thus, the insurance administrative body is composed of neutral and conscientious technocratic bureaucrats, who are making all-out efforts to revise the insurance system with the change of times. In Japan where economy and the insurance industry have tremendously expanded and the society as a whole has reached a much higher intellectual level, it is no longer conceivable to institute a drastic or even thorough-going revision. Therefore, the administrative bureaucrats have stepped up efforts to make small-scale, short-term and stop-gap adjustments on a continuous basis. Here they have been able to display their capabilities to the full. In a country like Japan where the bureaucracy has excellent administrative capabilities, improvements and progress in social systems are accomplished steadily and amicably. This policy line in the insurance sector has been continuously followed to the present, which really deserves high praise although it is sometimes disturbed and put into disorder. Now is the time when the administrative authorities can hardly cope with the rapid changes of the times by merely fine-tuning regulations and systems. The following four items can be cited as its principal reasons:

1) The high growth of the economy and society and its impact on national life: As long as economic growth remains within the bounds of possibility of control, there would be no immediate pressure to solve any serious problems or correct any resultant strain. But it is, of course, a question of degree. When industry has achieved marvelous expansion and created its structural change, industry is pressed to meet such changed situation. A much bolder administrative guidance is required for insurers to develop new products and is eventually expected to necessitate easing or repealing provisions prohibiting joint operation of life and non-life business, and regulations on carrying on other business. Such moves are now in progress, accelerated by recent trends in which high economic growth has brought about increased national income and elevated living standard, which in turn have touched off diversifying lifestyles and excess liquidity

Table E 1. The Composition of the Laws Relating to Insurance

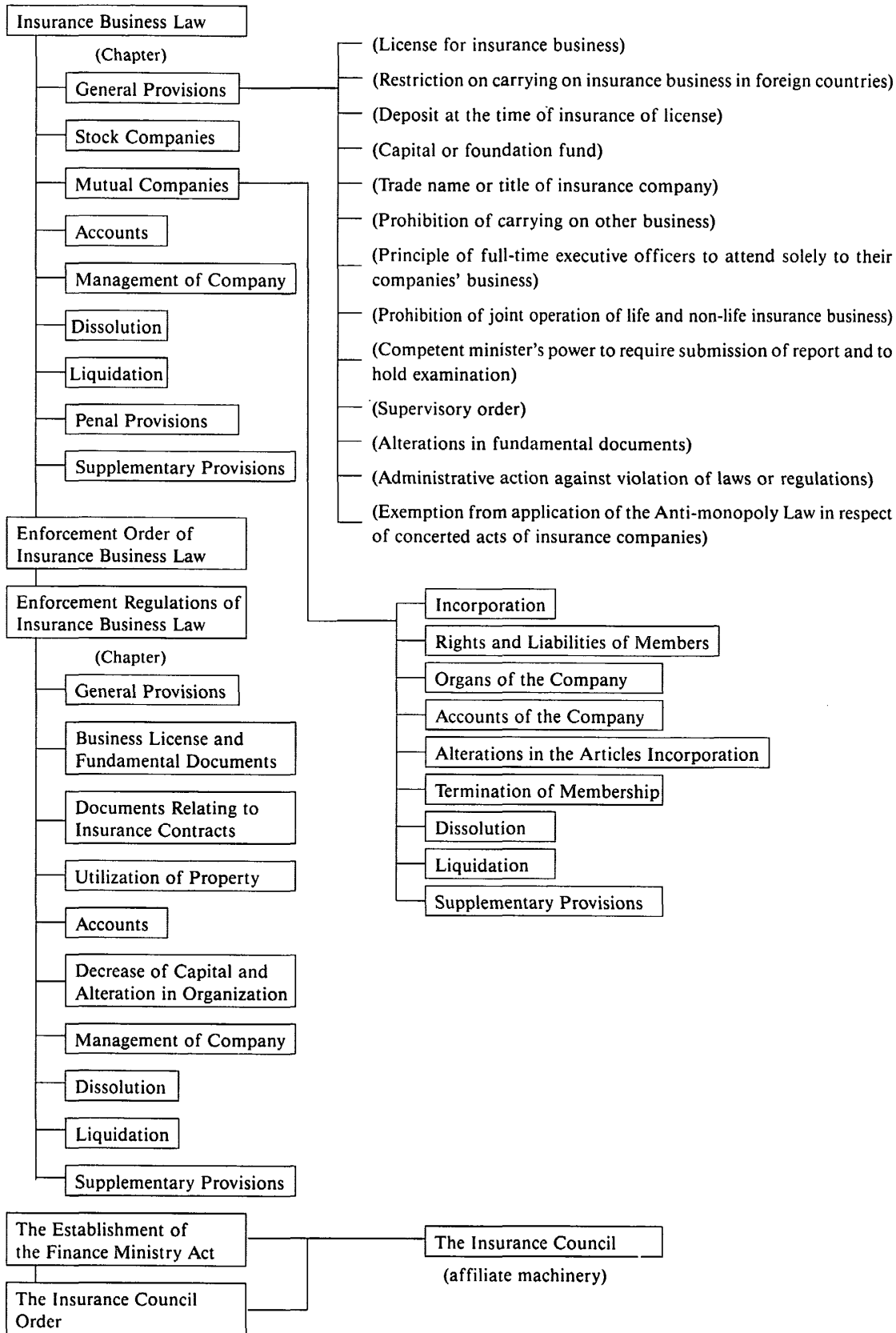


Table E 2. Fundamental Documents

Articles of Incorporation	→ Main items (in case of mutual company)	<ul style="list-style-type: none"> ○ Kind of insurance • scope of business • name of insurance company • location of principal office • total amount of foundation fund • method of distribution of surplus ○ Matters concerning reduction of insured amount • resolutions in general meeting of members (general meeting of proxies) ○ Matters concerning selection of proxies and their term
Documents showing the method of business	→ Main items	<ul style="list-style-type: none"> ○ Territorial limits of business • classification of kind of insurance ○ Matters concerning authorized powers of branch and sub-branch offices ○ Limitation as to amount of insurance and period of insurance • matters concerning receipt and acceptance of premiums • payment of claims and return of premiums ○ Matters concerning special clauses of insurance contracts and matters concerning distribution of underwriting profit or surplus
General policy conditions of insurance	→ Main items	<ul style="list-style-type: none"> ○ Causes for payment of claims and causes that make insurance contract null and void ○ Causes for exempting insurance company from performing its obligations; extent of its obligations and loss sustained by policyholder or insured because of non-performance of his obligations ○ Causes for cancelling insurance contract, rights and duties of parties concerned in case of cancellation ○ Entitlement of policyholder, insured or beneficiary to participate in distribution of profit or surplus, and extent thereof
Document showing the basis of calculating premiums and liability reserve	→ Main items	<ul style="list-style-type: none"> ○ Matters concerning estimated loss ratio ○ Matters concerning estimated business expense ratio ○ Matters concerning calculation of premiums ○ Matters concerning calculation of liability reserve ○ Other matters necessary for actuarial purposes
Document showing the method of utilizing property	→ Main items	<ul style="list-style-type: none"> ○ Kinds of property to be owned and limitation thereof ○ Kinds of loans and limitation thereof ○ In case of making secured loans, kinds of securities and limitation thereof, etc.

Table E 3. The Composition of Laws Concerning Control of Insurance Soliciting

The Law Concerning Control of Insurance Soliciting	<ul style="list-style-type: none"> — Contents — Object — Definitions — Registration — Register and notice of registration — Refusal of registration — Notification of refusal of registration — Matters to be reported by life insurance solicitor or non-life insurance agent — Cancellation of registration — erasure from register — Filing of officer or employee of non-life insurance agent — Persons qualified for soliciting — Restrictions on conduct of life insurance solicitors — Liability of insurance company concerned for damages — Method of keeping premiums in custody by non-life insurance agents — Ledger of life insurance solicitor or non-life insurance agents — Writings and drawings for soliciting — Items prohibited to be mentioned in the writings and drawings for soliciting — Prohibited acts concerning conclusion or soliciting — Prohibition of own-case agent — Prohibition of payment of commission — Report and examination — Measures against illegal acts — Exemption from application of the law to officers, etc. of foreign life insurers.
Cabinet Order relating to Registration Fee under Law Concerning Control of Insurance Soliciting	
Enforcement Regulation of Law concerning Control of Insurance Soliciting	

Source: All these three lists from *Illustrated Japanese Non-Life Insurance* edited by Masahiro Sakata, published in August 1986.

among the people. Accordingly the following three issues have come to the fore: (a) The administrative authorities will unavoidably have to approve of such an entirely new type of insurance products as could greatly depart from the essential function of indemnifying financial loss of life and property, (b) They are also expected to assume a stance to welcome the emergence of those products on the market, which are designed to perform multiple functions such as savings, funds and assets formation, money operation and tax-saving, (c) Given the current situation in which the financial function has been much sought after in addition to the risk-taking function, the authorities seem likely to

welcome, rather than connive at, the trend for the debut of high-yielding insurance products with virtually no risk-taking element. (Some of them are: products for making money, products for stirring up the gambling spirit, products likely to trigger social evils, products with extremely limited risk-taking component, products with too many frills and therefore alluring the public to buy more than necessary.

2) Aging of the population: The progress of aging society naturally causes changes in the characteristics and functions of insurance. The authorities, first becoming conscious of this social phenomenon, seem to have taken the initiative in guiding the private insurance industry to cope with the coming situation. The fact is that the authorities have collected data and information on aging problems on a worldwide basis. Because of this, they have been able to guide insurance companies in this direction. In any event life and non-life insurers alike have been stepping up their conscious efforts under the administrative guidance for rendering services to meet the needs of the aging society.

3) The Age of Advanced Technology: Technology has made marvelous progress and we are now in what is termed the "high-tech" society. Advanced technology society will undeniably have impact on insurance. First, how should insurance cover new risks created in such society? Second, how should the industry introduce advanced technology in promoting the efficiency of management? With the introduction of advanced technology, drastic changes will unavoidably be made in such fields as product development, business processing, sales control, labor or personnel management and funds operation. Preparations have been now under way for the introduction of the third stage of on-line systems. It seems as if the industry or major insurers had beefed up their efforts for computerization on their own initiative, but this is hardly the case. To tell the truth, strongly urged by the authorities to introduce the principle of competition into the market years ago, they were compelled to adopt and make use of computer systems on a full scale. Once they have started to take this line of business activities, insurers have no alternative but to continue with conscious and spontaneous efforts of their own, while constantly increasing their paces.

They are expected to pursue management policies in anticipation of the coming new era by equipping themselves with machines of a highly technological level, streamlining their operations and promoting the resultant reduction of expenses. Otherwise they could not win competition for survival, or in other words they would be far from growing abreast of the progress of the time. The administrative authorities have thus served an agitator's role in this segment of activities. It may be safe to say that they have gone beyond the framework of the traditional "small-adjustment" administration; this measure also may well be regarded as intermediate between administration and policy. The administrative structure which was enormously enlarged in order to guide, supervise, regulate and control insurance companies in a meticulous manner is now getting smaller because its job is just to act as a pilot.

4) Japan's vitality for reforms is in most cases aroused by pressure from overseas which is popularly referred to as the "arrival of the black ships.*" Whenever the nation

* The "black ships" were the steam-driven, iron-clad U.S. frigates that Commodore Matthew C. Perry sailed into Tokyo harbor in July 1853 on his mission to end Japan's 300 years of seclusion.

is faced with unrelent challenge from abroad, the leaderships of business communities and political circles as well as private corporations hand in hand have so far dealt with foreign influence. Foreign pressure has been brought this time to call for liberalization of Japan's economy, which naturally includes demand for deregulation of Japan's insurance business. In order to win free competition against foreign insurers in general and U.S. insurers in particular, it is an essential prerequisite for the whole industry, let alone each individual insurer, to strengthen its makeup with the introduction of free competition on the home front as a first step. The administrative authorities have predicted the approach of such a new situation and have unveiled an unprecedented measure of introducing the principle of competition into the market. With this as a turning point, the authorities have shifted largely from the traditional growth-oriented policy. At the same time the insurance industry has awaked from its sleep and emerged as the world's insurance giants.

5. *Changeover from Administration to Policy*

There have recently been remarkable signs that the authorities are moving from the conventional insurance administration to insurance policy. The insurance industry has achieved such outstanding growth as seen today. It now has come to play an unshakable role in elevating national life and underpinning business activities, and moreover has become closely connected with the international economy. As things stand, insurance administration is considered inadequate and insufficient to meet the situation, let alone the convoy-escort-administration-type protectionism based on the Insurance Business Law. The initiation of insurance policy, which is on a higher level than insurance administration, will become indispensable to promote welfare services in response to the nation's demand.

Now is the time when the authorities' measures to regulate insurers in return for providing protection should be changed. It is believed that without protective administration, individual insurers, which have enlarged their business scale and thereby strengthened their structure, could have capabilities to meet social and economic changes in the future. The barriers set up by the authorities to prevent new businesses from entering the insurance market have proved to be very effective in attaining the above objective. The insurance industry has come to reject control and intervention from the bureaucracy on the back of its powerful presence. The time is believed to come soon when they need no bureaucracy and no administration. The age of excessive insurance administration is about to come to an end. This shift is, as illustrated below, from Fig. A to B.

Fig. A

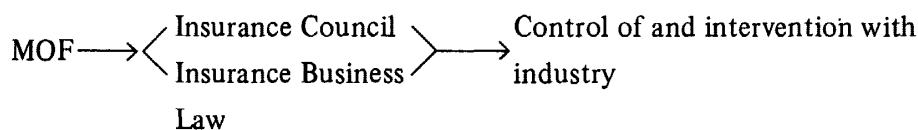
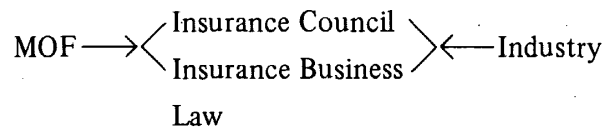


Fig. B



The relationship of the Ministry of Finance as insurance administrative authorities and the industry is thought to change from the relationship of master and man to the equal one.

Has the Insurance Council been really instrumental in contributing to growth of the industry? In my view, its merits and demerits have been balanced against each other. To take up the demerits, the Council has placed the insurers under the rule of the bureaucracy. It has made them sap their enterprising spirit by subjecting them to control and intervention from the authorities, which subsequently has led them to concentrate on making profits or surpluses and accumulating them. It is for this reason that people say, "No wise men are needed to manage insurance operation." "No good executives are born out of insurance companies, and "There are no easier jobs in the world than those of insurance executives."

At the present time, however, the industry has changed its estimation of insurance administration and the Council. The posture thus far taken by the industry has been such that they have superficially accepted the recommendations made by the Council, but that behind the scene they have picked and chosen them at their discretion. While insurers received advice and recommendations repeatedly from the Council, they adopted and translated some of them into practice. In a number of years later they are surprised to find that considerable changes have taken place on the market. A century has elapsed since insurance came into being in Japan and it has attained maturity and even started to show signs of senility. It is the high economic growth in recent years that have been instrumental in vitalizing the industry and recovering its vigor. To sum up, the industry has brought about qualitative changes almost at one stroke when the authorities' efforts, which have been made through the Council's advice and recommendations in order to increase volume of business and improve their business practices on an item-by-item basis, have enabled the industry to reach a certain stage of operational size. It is no exaggeration to say that insurance companies have undergone rejuvenation and as a result have changed into institutions full of power and vitality. It is desirable, therefore, that they unfold free and open-hearted operations in defiance of the authorities' protective control, guidance and intervention, which would eventually end up in mere regulation and serve no purpose to the industry. As long as they remain snugly cocooned in the administrative cell, they would not be able to win interdisciplinary as well as international competition.

Heated debates are currently under way as to whether it is desirable to convert the structure of an insurance company from mutual to stock company. Behind this opinion lies a line of thinking that a change of the insurance company from the conventional welfare-oriented to purely profit-making entity based on liberalism would be more beneficial to the industry itself as well as individual insurers and eventually be in the interest of the insured or the policyholder. At such a stage the scope and extent of insurance

administration would be considerably reduced so that the principle of public disclosure will be adopted.

A precondition needed for this transition, however, is to drastically lower or even completely remove barriers to other industries' access to the market. This is because allowing a strictly limited number of enterprises to concentrate on pursuit of profits or permitting their pursuit of profits under oligopolistic control could incur too great a danger to the well-being of the nation. This means, in essence, that insurance administration will retreat to a large extent and that insurance policy will come on stage in replacement. Needless to say, the policy should be pursued with greater emphasis on the welfare of the nation from the standpoint of the national economy. Naturally enough, therefore, its role lies in extending the nation's welfare rather than protecting the interest of the industry. On the other hand, the industry as well as individual insurers could enjoy the freedom of action, pride and self-respect which they have never experienced in the past. It is not until they reach this stage that they will have established themselves as full-fledged insurance entities in the proper sense of the term. At that time there will be virtually no need for the Insurance Council. Insurance companies could be freed from the fetters of the administration and take a bold leap forward into the international arena of operations.

From now on insurance policy should be limited to settling the following questions on: (1) How to accomplish coordination and harmony between the insurers' commercialism and social welfare orientation, (2) How well to harmonize the promotion of growth of private insurance with demand for greater extension of social insurance, (3) How to adapt insurance policy to other state policies, (4) How to fill a gap between the insurers' lofty ideal and their actual business practices which are subject to various criticisms, and (5) How to link the actual conditions and developments of Japan's insurance sector with those of international markets.

Insurance policy is to make in-depth examination of insurance firms and to induce them to carry out improvements and reforms whenever occasion requires. Moreover, it is not only to consider making adjustments between the insurance industry and peripheral and related sectors but also take into account various moves in overseas markets. By so doing it seeks to find what the people expect of insurance and to make insurers serve their needs. Herein lies the task which the authorities must impose on the industry. For the immediate purpose the authorities should pursue their policy in an effort to solve problems in these fields. It would be deemed best, however, if a compact government remains within the framework of conducting its insurance administration on a small scale. In sum, a shift from big administration to small policy, a move from meticulous administration to generous policy and a switch from powerful administration to wide-ranging policy.

Appendix 1 Social Welfare Services as Performed by Private Insurance Companies — From a Sociological Perspective —

1. Corporate Social Responsibility and Social Welfare Services

A new concept of corporate social responsibility was once in fashion and highly respected. In the analysis of this concept, there are conceivably a number of viewpoints. First, a social responsibility argument has a connection with a theory of social cost which appeared before or after the former. According to this theory, major private corporations, which have gained leading and dominant positions in the economy as a result of their continued growth, have played a part in having incurred social loss. Hence they are obligated to bear a proportion of the social cost to compensate for such loss, and they can fulfil their social responsibility by sharing the cost according to their economic scale. The theory was later extended to include their activities for social loss prevention, reduction or elimination of social risks in the concept of social responsibility.

Second, each industry and its component corporations have to make their contribution toward the economy and society which have fostered them, and to promote co-existence and co-prosperity with them. In this way they can execute their social responsibility. Their efforts to realize it will eventually bring about increased profits or surpluses to themselves, thereby enabling them to attain greater expansion and growth. The main feature of the social responsibility argument is not to have such eventual pursuit of profits for their direct object. There are cases where some companies may have to perform this responsibility, by even going to the extreme of ignoring such object. (Of course they have enough capability and scale of business to do so.) Apparently behind this does exist the way of thinking that such behavior will bear more abundant fruit in the long run. When social responsibility is interpreted in this fashion, private corporations are considered to have four types of responsibility, that is, 1) to the government and its administrative organs, 2) to local communities where they operate, 3) to the consumers to whom they offer goods and services and 4) to the public at large. It does not seem that private companies have any direct connection with people in general, but these people form their own opinion i. e. public opinion on corporations and their industries. No doubt their favorable opinions and support are valuable assets to corporations.

The third viewpoint is that major companies, in reality, fulfil their social responsibility by continuing their operations forever and attaining further growth. This conception is all the more welcomed by industrial society, because it is well matched with the management philosophy of big businesses, especially ruling and monopolistic corporations. They support a large number of employees and their families and also the employees and their families of those enterprises which supply them with raw materials, components and semi-finished products. Not only that, but they also support their affiliated companies' and subcontractors' employees and their families. There are many cases where these major corporations contribute to the betterment of the livelihood of inhabitants in the communities where they are operating, and also to local governments by paying huge amounts of taxation. The goods and services they offer are certainly making consumers' life more comfortable so that they are assuming responsibility to these people. In short, large corporations are responsible for continuing their existence and seeking for prosperity indefinitely. This logic is indeed very favorable to monopolistic enterprises. If they are believed to focus on displaying their public nature, while gradu-

ally eliminating their capitalistic logic, the social responsibility theory could hit the nail on the head and have every reason to obtain social support. Indeed it is true that major firms not only take advantage of this theory as part of their management strategy but also are developing their social welfare nature although among them there are different levels of social viewpoints.

It cannot be denied that their initiation of, or participation in, social welfare services is a central task for the execution of their social responsibility. By doing so, they will be able to solidify their philosophy of continuing everlasting existence and prosperity. From a different angle, these big businesses are seemingly creating a new principle that runs counter to free competition as one of the fundamental principles of capitalist economy and society. On the other hand, however, they are striving to provide social welfare services in order to discharge their social responsibility in proportion as they deviate from capitalistic principles. To put it another way, those enterprises which concentrate on pursuit of profit and give no regard to social welfare activities are in danger of having their goods and services neglected or boycotted by people in general as well as their consumers. Such pressure from the public is powerful enough to threaten their existence. Thereupon the government and its administrative branch cannot but take actions for regulating, supervising and controlling their activities from a national standpoint.

The social responsibility and public welfare theories are considered to work as a means to prolong corporations' lives and also as an indulgence for pursuing the highest profit in a good sense. What is worth receiving special attention is that major corporations, once they launch social welfare services whatever their motives may be, have no alternative but to propel, enlarge and diversify them. They cannot stop them any longer. Suppose there are those enterprises which cause no public pollution whatever. (No such businesses exist. Even insurance firms, which are regarded as pollution-free enterprises, are causing insurance fraud and other troubles). They cannot probably avoid the mounting antipathy of the public against their bigness itself. That is why they require social welfare work as an antidote to the antipathy aroused to them. This business does not remain as such but will develop itself at its own will. Big companies also use their social welfare services as a cover by advertising them exaggeratedly but on this point their results rather than motives should be questioned. Good results have justification for changing the original motives. The following can be cited as corporations' motives for entering the public welfare sector:

- 1) Long-term activity for pursuit of profit
- 2) Indirect publicity for enhancing their corporate image
- 3) Measure to ward off criticism from the government or its administrative organs
- 4) Measure to obtain the public's support
- 5) Measure to prevent antipathy
- 6) Measure to improve corporations' management environment
- 7) Reciprocation-anticipating activity (for example, company presidents are decorated for cooperating in public welfare services, or companies win official commendation)
- 8) Measure to cover up shady and unfair transactions of corporations

- 9) Measure to raise their employees' morale
- 10) Measure to pass on to consumers the profits gained by sales of goods and services provided by corporations
- 11) Motive for working purely for the public good (which is rare): Although there are only a few who do evil things while conducting social welfare work, a general social tendency is such that those which are actively engaged in social welfare services, concentrate on seeking profits (which is not criticized in any case under capitalist society) and as a general rule exercise moderation in their behavior. There is no mistake in calling them harmony-oriented enterprises in the good sense of the term.
- 12) Activity of paying extra taxes separately: Those corporations which are less taxed than they actually are because their profits cannot be accurately grasped, defray expenses and make contributions to social welfare services as if paying an additional "tax" separately in order to deflect social criticism.
- 13) Motive for setting a handicap to competition among companies: When a difference in size grows so large among companies competing within the same industry that fair competition cannot be maintained, this motive actuates bigger enterprises to make contributions to social welfare projects.
- 14) Activity of repairing imbalance in transactions: In some cases a balance in trades between enterprises and consumers is upset in favor of the former with the result that a fair trade is jeopardized. In such circumstances the enterprises conceivably become active in entering the social welfare sector in an effort to correct this imbalance.

The following are the fields and spheres of social welfare activities entered by private enterprises: 1. Social education; 2. Art and culture needed for cultivating aesthetic sentiments; 3. Betterment of social environment for stabilizing and improving national life; 4. Urban redevelopment; 5. Public pollution prevention; 6. Social dropouts measures; 7. Defective goods and services settlement; 8. Public relations activity and information-providing services; 9. Employment promotion and technical training; 10. Medical care; 11. National environment protection; 12. Consumer grievance settlement; 13. Promotion of science; 14. Ethnic minority problem measures; 15. International relief measures for the developing and least less developed countries; 16. Recreation and leisure business; 17. Natural disaster prevention and disaster-victim relief; 18. Various activities for babies and children; 19. Various activities for the elderly and aged; 20. Various charity activities; 21. Dispute-settling activities; 22. Morals and ethics upgrading activities; 23. Consciousness survey and public opinion survey; 24. Fitness improvement and health promotion; 25. Sports; 26. Government-relation harmonization cooperation; 27. International understanding promotion; 28. Research and investigation cooperation; 29. Various beautification movements; 30. Pollution elimination and prevention activities, including refuse disposal, water quality control, air and land purification; 31. Human relations betterment cooperation (gatherings and conventions promotion cooperation); 32. Participation in, and promotion of, exhibitions, expositions and trade fairs.

Probably there are many other categories of social welfare and related services. The

essential thing is that enterprises should conduct or join these services, taking costs and effects into full calculation. Needless to say, the main fields of their social activities will change according to demands of the times. Such changes are likely to take the following directions: a. Their scope of activity will be extended from a practical kind of business to a highly cultural level of projects; b. Their targets of activity will shift from those customers who purchase their goods and services to the public at large; c. From earthly-desires-satisfying operations to livelihood welfare promoting activity; d. The initiation and management of new welfare systems in addition to setting-up of welfare-type facilities; e. From operations of which all necessary funds financed by the corporations to those activities through which they cooperate in encouraging self-help efforts of people concerned; f. Their targets of activity will be extended from social-dropouts relief to public welfare operations intended for the nation as a whole; g. Their activities will be expanded to include those for assisting people in enjoying their lives in addition to relief operation targeted at the weaker members of society; h. Their activities will be extended to cover the international arena without being limited to domestic fields; i. Various cooperation activities will be needed to cope with the coming aged society.

2. The Essence and Problems of Social Welfare Services

When the insurance industry neither had strong economic power, nor gained high social recognition, nor operated in the limelight of society, its presence was not very conspicuous even if it took a low-profile posture in entering the social welfare sector. However, the industry now has attained so dominant a position in the nation's economy as today. The situation is quite different. If the industry should take a passive stance toward social welfare services, it would easily attract public attention, which could result in inviting criticism and arousing antipathy. In order to *maintain an equilibrium with other industries*, the insurance industry has recently started to intensify its efforts to participate in social welfare services.

The management philosophy of the life and non-life insurers alike lies in the principle of mutuality. Both of them strenuously insist on their public nature and welfare orientation. By force of circumstances, therefore, they will be compelled to spare a considerable portion of their energy to provide social welfare services sooner or later. In addition to insurance operations as their proper function, they are obligated to strengthen a mutual-help scheme by conducting social welfare services as a complementary instrument. A question is often asked in what sense insurance business has public nature. It can safely be said that at least the personal lines of insurance (as opposed to corporate insurance) such as fire and automobile provide protection to an overwhelming majority of people in general. Although their number may be less than that of those who enjoy services of gas, water, electricity, the railway and other public utility, a look at recent statistics showing that more than 90% of the nation are covered by life insurance policies, demonstrates that its public nature should be more strongly stressed than ever before. This nature is further emphasized in that the policyholders or insureds spread all over the country and have very long relationships with their respective insurers. Much more so when one comes to think such premiums are paid out of their precious

household money. The last but most decisive reason is that, if the contingency should happen, a sizable sum of money is offered as insurance money. This sum of money is extremely beneficial to sufferers or victims for their livelihood. There is a growing tendency to stress insurance's public nature on this score.

Safety, stability and soundness are required of the insurance system. Hence it is exempt from application of the Anti-monopoly Law and placed under what is called "convoy escort administration." In other words, more favorable treatment has been accorded to the insurance industry than other industries because of the necessity for its continuation and growth. Because insurance companies are called upon to *return at least the portion of their profits to the society which corresponds with such special treatment*. In fact, they have been criticized for their excessive profits and their employees enjoying very high salaries and bonuses. Herein lies the very reason insurance firms cannot avoid participating in social welfare services. Needless to mention, such services are targeted at the public at large, who form the society. Fortunately for these firms, almost all people in general are their policyholders or insureds. Their conducting social welfare work is, after all, useful for the operation of their core business and will eventually contribute to an increase in their profits. No doubt this is their pursuit of profit from a long-term viewpoint, which should neither be criticized nor blamed. Private corporations' *pursuit of profit in a long-term and indirect manner* in line with their respective economic power is certainly significant and instrumental in winning social recognition. The costs and expenses incurred for this purpose, which are regarded as a sort of prior investment, will be recoverable some day in future. Insurers engaging in social welfare projects will be serviceable in not only dispelling the bad image given to them but also promoting the understanding and diffusion of insurance. In addition, there is a special reason for their penetration into this sector. That is that doing so contributes to *the betterment of various risks*, which in turn is useful in bringing about improved underwriting profits. In this fashion a part of the expenses spent can be recovered. Viewed from the above angle, the type of services on which insurers want to put main force can be singled out. For life insurers, for example, the medicine and medical care fields are considered appropriate to enter, while for non-life insurers, the disaster prevention segment. Risk information-providing services are highly valued by both life and non-life companies. The following conceptual scheme can be established: Vitalization of social welfare activities → improvements of risks and perils → favorable effects on insurers' balance sheets → recovery of part of the expenses paid beforehand.

The offering of topics of conversation about insurance is worth considering. For example, when insurance salesmen have personal interviews with their clients or promising clients, they can *take up social welfare services as an appropriate topic*. Although such a topic cannot be expected to be of great importance, yet there is some small effect on the management of insurance business.

Various essential functions of insurance are certainly recognized as useful for social welfare activities but too much emphasis cannot be placed upon them because their size is relatively small. Corporate management calculation comes into play even when insurers enter the sector. To put it another way, their behavior is thought of as ways and means

to promote an increase in profits for passing their part on to the society. But this is fully justifiable behavior for them and also is instrumental in *strengthening their connections with the social security system*. Insurance companies are called on to supplement social security programs as part of their proper function on one hand and to deepen the relationship with them by actively participating in social welfare services on the other. This tendency, far from retreating, will become increasingly intensified. Although only a small opportunity is offered at the present moment, as the volume of their funds increases, so does their expansion into this field. Insurance companies can cultivate a new segment of social welfare activities in which they participate in an attempt to return their profits to the society. In any event it is undeniable that greater economic strength of the industry will lead to the promotion of social welfare services.

3. Social Welfare Activities Conducted by Private Insurers

The expenses to be paid by private insurers in order to expand into the social welfare sector are in principle and theoretically defrayed out of their profit (or what is termed surplus under the mutual insurance system). Premiums are generally set at more than what is deemed necessary, and therefore the balance between actual and assumed expenses is paid back to policyholders as dividends. But the fact is that prior to this operation, expenses actually incurred for social welfare activity are considered to be deducted. If this is true, it follows that policyholders pay these expenses beforehand as part of premiums. This is not insurers' profit-returning to policyholders but the latter's advance payment of expenses. The mechanism is so complex that the sources of such expenses are not limited merely to profits.

Similarly, there is a special situation where their participation in social welfare activities are not purely for the interest of the policyholders or insureds. Insurance business is protected under the oligopolistic structure established by government "convoy escort administration" and enjoys special concessions. So their activities for social welfare is regarded in part as their compensation for that and on that account such services have multifaceted features.

Because of this nature, services are expected to expand the scope of activity in diversified ways. Let me examine a variety of social welfare services conducted mainly by insurance companies.

1) In-house welfare, in-house and external welfare, and combination of these two: In a mutual insurance company all policyholders are members of the company, and the employees, who are in charge of running the company, are elected from among these members. Such a system makes it possible to conduct both in-house and public welfare services at the same time more easily than other industries. Nursing care services for the aged, for example, can be extended to their own employees, too.

2) Application of social welfare measures as a high level of personnel management instrument: The mutual company enables its employees to share in its benefit while developing its social welfare program designed for the public. By implementing its social welfare measures, the company can upgrade its corporate image and enhance the employees' morale, exercising a high standard of personnel management. It may be better called

livelihood welfare-oriented personnel administration.

3) Stabilizing of insurance business management through social stability: Long-term social stability is most strongly required by insurance business. Unless the economy and society are stable, insurance business does not thrive. Conversely, if insurance companies can perform their function satisfactorily, social stability can be secured as a result. Insurers should try to promote their social welfare services, thereby making it possible to stabilize their operations. Surplus energy thus obtained is devoted to further expanding their welfare activity.

4) Increasing the public awareness of individual insurers: Insurance companies are allowed by law to form a cartel and therefore premium rates are normally uniform. Since little information about the comparison of insurers is available, main emphasis in competition among them tends to be placed on how to make their names better known to the public. Social welfare activity is very useful in winning fame. Once individual companies are taken up by the media, including T.V. and leading magazines, their corporate names become widely and promptly known. The costs and expenses spent for such activities are as a matter of fact regarded as advertising and publicity fees. In enhancing their public awareness, therefore, social welfare services are most desirable because they are well received most notably in the media.

5) Questionnaires and various other surveys: Surveys conducted on the intentions and expectations of the public, consumers or potential insurance buyers are generally useful in managing their operations. At the same time such a survey is helpful in enhancing the intellectual image of the insurance products and outliving the bad image in the past. Herein lies a possibility that insurance will be called a "brain" product while the insurance industry an intellectual one.

6) A measure for an aged society building: If people live longer, endowment policies produce increased mortality profits, which contribute to the insurers' bottom line. With the aging of the population, pension insurance is likely to produce mortality losses in some distant future. For the present, however, pension insurance is expected to sell very well and bring about a favorable effect on insurance operations for people's fear of the approaching aged society. As a logical consequence, insurers are active in spending money on such social welfare work as accelerating the advent of an aged society.

7) Making outlays for cooperating in the promotion of housing problem measures: The stability of people's livelihood leads to greater diffusion of insurance. When their living standard stabilizes and improves, they start to think about an insurance plan. What is the most important in this respect is probably to acquire a house. It naturally follows, therefore, that insurance companies would prefer to participate in the segment of social welfare services which is closely linked to housing business. Since the housing-related business is usually a big program requiring a great deal of money, it is no easy task even for insurers. Therefore, their activity is limited in most cases to those sections of social welfare which are instrumental in settling housing problems for the aged.

8) Cooperation in medical-care-related projects: It is generally accepted that life insurance business is a system designed for people's healthy daily lives. However, life insurers have continued to slight the sales of sickness policies and the attachment of a

sickness endorsement to ordinary life policies as a loss-making line. Partly in compensation for this, they have entered this section of social welfare programs, albeit on a small scale, in some faint hope to improve the disease incidence rate.

9) Targeting at the young as well as the elderly: Endowment life with term was recently put on the market and has attained an explosive sale. With this as a turning point, insurers have set their sights on the younger generation in part because their incomes have recently increased remarkably. As if to cope with this trend, their social welfare services have begun to target at young people not only as their future "customer" reserve but also as present good customers.

10) Participation in social welfare work for tax-saving purposes: Taxation is imposed on profits, which private corporations have gained through their operations, and as a result a good portion of such profits go to the national treasury. In order to produce a tax-saving effect, therefore, they have come to earmark part of their profits for costs and expenses for their social welfare programs. A mere high-tax paying enterprise cannot earn very high praise from the public, but the public are willing to give instinted praise to those enterprises which offer a huge sum of money to welfare services.

11) Seeking the method of covering insurers' faults and defects: Insurance firms should fend off criticism levelled at them for forming a competition-restricting or "dormant" industry, not to mention frequent occurrence of faults and other troubles. With the rapid spread of insurance knowledge among the people, such criticism has recently been increasingly becoming sharp and intense. Consumerism may direct its spearhead on insurance business again at any moment. Insurers have launched social welfare work for a sort of shelter from such social criticism.

12) Pursuit of Efficiency: Since their social welfare activity is, after all, not insurers' core business, there used to be a tendency to consider its efficiency and rationalization secondary in importance. With their welfare work increasing in scale, its efficient and rationalized operation has been demanded. They are no longer ancillary to the main business. It is now socially recognized as an independent operation. Insurers are, therefore, called on to pursue efficiency. In other words, their welfare activity has become one of their basic functions.

13) Welfare activities by institutions representing the industry: Institutions which represent the insurance industry, such as the Life Insurance Association, the Marine & Fire Insurance Association, the Research Institute of Life Insurance Welfare and the Non-Life Insurance Institute, had better conduct social welfare activities on behalf of the industry. By so doing they can probably prevent their effects from dispersing, and realize economies of scale. The social welfare activities attract so much public attention from their nature that they can win all the higher social evaluation.

14) The principle that the beneficiary shares the cost should be introduced: Whatever social welfare services may be, it is problematical if private corporations bear all costs and expenses because there is a danger that it could lead beneficiaries to use them extravagantly. The principle that beneficiaries shares part of the cost, which has recently been adopted in some quarters, is worth considering because introduction of this rule will urge beneficiearies to utilize such systems and facilities on their own responsibility.

15) Control of welfare systems and facilities by the use of computers: In a bid to avoid the regular and frequent use of welfare facilities only by specific beneficiaries, private firms endeavor to maintain equality and impartiality among beneficiaries by means of computer operation. Equality is sought also with regard to selection of places where insurance companies establish these facilities and give financial assistances. Conversely, unfairness and inequality regarding these issues will create ill feeling toward them, thereby adversely affecting their management base. This would involve great danger that they will become a target of hatred from the public

16) Democratic operations are indispensable: It is wrong if insurance firms consider themselves justified in operating their social welfare services in any way they please because they initiated them at their own costs. Such a line of thinking does not pass current with the world. Once social welfare projects get under way, they come to bear social and public nature. They are not permitted therefore to deviate from operating them in a democratic manner. No private enterprise can be expected to achieve real success in this sector without public support. Assuming a high-handed and self-centered posture is absolutely avoidable.

17) Shift to financial activity: There has for a long time been a marked tendency among private firms to give more weight to institutionalization of public welfare work than to setting-up of such facilities. This is because, first of all, a huge amount of funds are needed at a time to establish these facilities and besides the coverage of those who use them tends to be limited. If a system, for example, is formulated to obligate private enterprises to offer contributions to the welfare facilities, they have only to defray a fixed amount of money as expenses on a continuous basis (which means leveling-off of costs for them) so that their management can be streamlined and stabilized. What is more beneficial is that, if so, more people from various localities can utilize the facilities and the number of the users will grow. If insurers succeed in incorporating their financial activity into the establishment of such a system, they would launch social welfare service on a full scale as financial institutions.

18) R & D investment-based projects: It is important for insurers to participate in welfare business in order to meet the requirements of the society of today. But more importantly they enter this sector in an effort to cultivate a future market for themselves. If this is the case, their research and development investment in the sector is very beneficial indeed. It is earnestly desired, therefore, that they should seriously consider investment in the area.

19) Various activities promoting internationalization of insurance business: Life insurers, let alone their non-life counterparts, are not condoned to go against the current of internationalization. Although the former do not seem to regard such an issue as very necessary, they must bear in mind that entry into the international market and conducting international transactions will be vitalized and enlarged in the future. Social welfare work will most likely make it one of their vital missions to accelerate such a trend.

The following trends can be observed in the social welfare activities carried on by insurance companies.

1) Major insurers increase expenses for their social welfare work than medium-sized

ones in terms of absolute amount. But it is noticeable that the latter are making tremendous efforts. In fact, there are some cases where medium-sizeds spend more than majors in terms of a ratio of these expenses to company size

2) From a common sense viewpoint, life insurers are more enthusiastic than their non-life counterparts. It is true that the latter are doing their best as well.

3) The postal life insurance branch of the Ministry of Posts and Telecommunications is, as may be expected of government agencies, active in extending its activity to the social welfare sector. Agricultural Cooperative Insurance Societies also are outshining other financial institutions, including commercial insurers, in putting importance on this particular sector. Naturally enough, employees' pension funds affiliated with the Ministry of Health and Welfare are making their contributions to the sector as well.

4) Life insurance circles are predominantly active in the medical-care-related segment while the non-life industry is concentrating its efforts on prevention of accidents and disasters as well as industrial safety. The Postal Life Insurance Bureau, meanwhile, is playing a conspicuous role in welfare operations for its policyholders. The fully-equipped rehabilitation centers set up by the agricultural cooperative insurance group are worthy of note. The employees' pension funds are advanced in providing health care facilities.

5) Private corporations are planning to penetrate the art and culture fields as their future social welfare operations. Major corporations are predicted to actively move toward the setting-up of their respective think tanks.

6) There will be a growing tendency that major corporations set up a separate entity which will perform social welfare work on behalf of its parent company.

7) More private concerns are supposed to adopt a policy, as one of their financial operations, to make housing loans to their employees and then to expand the system to cover the public.

8) In view of the brisk business that insurance firms are now enjoying, they are actively participating in social welfare work. But there is no predicting whether any change in their policy will take place when they encounter financial difficulties or trade depression in the future.

9) Generally speaking, however, they are most likely to produce the intended effect in upgrading their image.

10) At the moment almost all insurers are performing their social welfare services of similar type. In my view, it is desirable that they will seek to set their sights on some particular segments and demonstrate their characteristics. For example, some company specializes in an opera-encouraging enterprise. Another company cooperates in an urban-greening undertaking; still another promotes an activity for preventing cruelty to animals.

11) In the light of their rapidly increasing funds, insurance firms still have sufficient financial resources to expand their social welfare activities. Rather, their attitude toward this field will be questioned on a full scale in the future. In that sense it may well be said that expectations held by the nation for them are extremely large.

Appendix 2 Commercialism and Welfare Nature of Insurance

1. *Mutuality of Insurance — Its Institutional Theory and Social Theory —*

Akira Komatsu wrote in his book titled *Corporate Logic — Business Administration as Social Science**, “Most life insurance companies today are mutual companies with only a number of life offices remaining stock companies. Dominating life insurers, who are generally major institutional stockholders of giant stock companies, are all organized in that way.” “The mutual company is built on the system which embodies the idea of mutual help. In view of the nature of insurance, this system is allowed to apply only to insurance business. More specifically, in case of a mutual company a great number of policyholders contribute premiums and accumulate them as premium reserve. When some of them suffer financial loss by the occurrence of the contingency, they receive indemnification out of this reserve. Thus, the mutual company can be said to adopt a mutual-help system. The largest difference between the mutual and stock life company lies in the fact that in the former policyholders themselves make contributions to the company.” (*pp 176-177, published in 1983) Although there are some explanations in the book I do not quite agree upon, it is worth notice that the author, though he is not an insurance scholar, described insurance as the mutual-help system. Many scholars and researchers originally from insurance companies in their books and other writings state without any doubt and hesitation that insurance is the mutual-help system. However, no distinct definition of this system has been formulated thus far. Most of the arguments lack theory which accurately connects mutual help in general with mutuality inherent in insurance business. Such being the case, the mutual-help idea is nothing but a kind of belief or even religious faith among those who are concerned with insurance business. Such arguments, therefore, are difficult to evaluate as a scientific theory. It is necessary to clarify the mutual-help argument which is popularly supported outside academia while considering the mutuality nature of insurance business. In this way the insurance-as-mutual-help argument will win recognition from the public.

I have discovered an earlier study of this argument in a book titled *Life Insurance** written long ago by the late Tsuneta Yano, great pioneer in Japan's insurance business. (*Life Insurance* included in *Theories of Finance and Insurance** authored by Seihin Ikeda, Noboru Oyachi, Kozo Mori, Jun-nosuke Inoue, Ginjiro Fujiwara and Tsuneta Yano — *Modern Industries Series* published in 1929 by Nippon Hyoron Publisher) “In private economy individuals take out life insurance policies from an egoistic motive which contains no altruistic element of mutual help. Viewed from the insurance system as a whole, however, their actions function as mutual help. It is formulated on the basis of rational conditions and is basically different from the gambling and lotteries. The life insurance company is divided, according to organizational form, into stock, mutual, publicly-operated companies and other organizations. This classification is significant in deciding to whom profits or surpluses produced by operations belong and who assume responsibilities, and it has nothing to do with life insurance being essentially a cooperative economic system.” (p. 4)

“Life insurance pays benefits under the condition that the insured dies or is living, thereby making financial adjustments in private economy. From the viewpoint of the

nation's economy, on the other hand, the life insurer functions as a financial institution. That is, its primary function is, of course, economic loss indemnification. In addition, it has many social and moral functions. For example, life insurance helps cultivate social virtue of mutual help because it is a collective and mutual system, and serves as a poor relief measure. They are all classified as the secondary functions" (p. 74).

"The life insurance system help individual households unite themselves and create a haven for themselves through the group consciousness that they are policyholders all belonging to same companies. Viewed collectively, life insurance business can be said to be conducted on the basis of the mutual-help spirit and policyholders are united on this principle." (p. 76) "No individual can build up his character to perfection by his own exertions. It is evident that unlimited progress of individualism does not guarantee a real elevation of the interest of individuals. This can only be achieved through a group life and social life. This conception is correct not only in theory. In practice also, life insurance serves to realize it. A tie that binds the policyholders together can be the spirit of mutual help and nothing else." (p. 76)

Yano's life insurance conception can be boiled down to the following four points:—

- 1) Insurance, if viewed from the standpoint of individual policyholders, is not a mutual-help system, but it is so when the system is considered on the whole.
- 2) Insurance is not mutual help as far as buyers' motive is concerned. But it functions as such, when viewed from the result of its operation.
- 3) When an individual life contract is concluded, it is not mutual help but when grasped in its totality the insurance system is definitely a mutual-help system.
- 4) Insurance has economic compensation as its primary function and ethical and moral functions can be cited as its secondary activities.

Thus Yano, founder of the mutual insurance company system in Japan, developed an insurance-as-a-mutual-help argument. It should be admitted that his opinion already put an end to the debate over the mutuality of insurance at the end of the 1920s.

Back in the 1860s Yukichi Fukuzawa, writer and founder of Keio Gijuku (now Keio University), wrote a book titled *Conditions in the West*, in which he referred to a friendly society and benefit society and interpreted them as a mutual-help system. Probably because of that, even today there are many who understand the friendly society as a group in which members help each other. In an article, *Keio Gijuku — From the *Ansei Era to the **Meiji* contained in his book entitled, *In and Outside My Study*, Sei-ichiro Takahashi, who belonged to Fukuzawa's school, pointed out, referring to an article of his, *Records of Keio Gijuku*, "My mentor (meaning Fukuzawa — Niwata) intended to run this private school on the principle of cooperative association, making it free from a feudalistic teacher-student relation." On reflection Fukuzawa managed Keio Gijuku after the friendly or benefit society method, that is, on the basis of what is today termed the principle of mutual-help. It stands to reason, therefore, that out of this school insurance science and insurance business were born in Japan and have shown such a remarkable progress as observed today. The roots of his argument can be found in the following statement of Fukuzawa's *Record of Keio Gijuku*, "We have founded this small school after the fashion of the U.S. public school system and decided to call it Keio Gijuku after the name of the

era when it has been set up. — Let us (the founders) unite efforts to foster this school successfully.” (*1854-1860 **1868-1912)

Let me take this opportunity to touch upon a traditional Japanese translation of the term “friendly society” which has a close connection with the concept of mutual-help. Kotaro Shida’s article *Insurance Doctrine and Cooperative Insurance Spirit* contained in *Essays Contributed in Celebration of Mr. Tsuneta Yano’s 50 Years’ Service for Insurance Business* (published in 1941 by Commemoration Committee with the same name) used the term “Kyosai Kumiai” (literally mutual-aid society) as a Japanese equivalent for “friendly society.” In my view this translation cannot be regarded as appropriate.

Note: I have published my view on the concept of mutuality in relation to insurance and will much appreciate it if the readers go through my books and writings listed below.

- 1) A paper, *Insurance, Welfare and Mutual Help — Does Insurance Have Functions of Welfare and Mutual Help? If so, in what form?* — (contained in the monthly magazine *Cooperative Insurance and its Commercial Counterpart* — Vol. 21, No. 3)
- 2) *What Function Remains After the Mutuality of Insurance is Denied?* a treatise contained (pp. 22-30) in the book titled, *Can Cooperative Insurers Surpass Their Commercial Counterparts?* (published in 1987 by the Cooperative and Commercial Insurance Research Institute)
- 3) *Never too Late to Mend* (pp. 47-53, op. cit.)
- 4) *Tsuneta Yano and Toyohiko Kagawa* (pp. 82-88, op. cit.)

The concept of mutuality is grouped into the following three categories: 1. A disposition inherent in human beings and animals, which includes what has been fostered as second nature through a long process of their evolution. 2. A mutuality mentality born in a small group of people out of the necessity of their existence. Without it they cannot outlive natural disasters and pressures from neighboring groups and foreign enemies. This mutuality spirit within a small group makes their lives more comfortable than larger ones. In this sense the mentality has a strong moral feature. 3. Mutual help as an institution. This institution, which contains virtually no moral element, realizes its aim by building up a rational system and employing a reasonable means. Therefore this system should be built on a rational basis and its operation conducted efficiently. The system also must be directed toward mutual benefit. Under the system all members can spontaneously attain the object of mutual help while each of them pursues his self-help. Insurance is the most striking example of such a system. Insurance business is a mutual-help operation conducted on a large scale and not necessarily based on the conscious efforts of the policyholders and for this very reason it continues to grow unlimitedly and expand its domain. Insurance business as a modern mutual-help system is, so to speak, an atomic structure of society.

The insurance system is composed of policyholders who are inseparably linked with each other just like atoms which constitute matter. The spirit of the times governing the insurance system is individualism, rationalism and commercialism (or wealth-first principle). Insurance is a horizontal mutual-help makeup while a family or a corporation is a

kind of vertically controlled structure. The former provides indirect aid while the latter affords relief from above. Since the economic and social structure of today is characterized by division of labor, aid and relief also are provided by division of labor. As a consequence, the insurance system was initiated and has come to pursue a unique mutual-help method. In this age of free competition people, families, businesses and other groups make it a principle to compete with each other. There is little prospect, therefore, that the traditional mutual-aid system, which are moral, paternalistic or consanguineous, would continue to exist or survive. In its place, the insurance system, better-organized on the basis of economic calculation, made its debut and has accomplished full-fledged growth. The mutual-help function fulfilled by the insurance system is quite different from the so-called mutual-aid activities as seen everywhere in society.

Insurance is a combination of an institutional mutual help and, to a lesser extent, a mental one, but as it changes, so does its combination ratio.

2. Welfare Nature of Insurance

Marxian economist and professor of economics at Kyoto University, Hajime Kawakami (1879-1946) stated in his book titled *Social System and Social Revolution**, "You are wrong in thinking that, once you become conscious of the object of serving humanity, all your economic life can change into one having supreme moral object without any conscious effort. It is because your thinking relies too much upon the purifying power of consciousness. Today we intend to do our jobs as a means to obtain our own living. By doing so, however, we often perform mutual service or help unconsciously joining forces as seen from the result attained. At this point, however, we are only aware that we pursue our own interest but not conscious of banding together to serve each other." (*published in 1924 p. 291 by Kobundo Publishing Co.)

No amount of appealing to society by advocating mutual help could achieve its true object. Originally, the Japanese equivalent for the word "welfare" is a comprehensive term and therefore can be used in many senses. The word was often used to secure unity in the nation's ideas during the war. For example, a government publication entitled, *The Fundamental Principle of Our National Polity** stated: "The mission of our Imperial army lies in preserving the integrity of the Empire and raising the national prestige under the glorious virtues of the Emperor. In this spirit the army has greatly enhanced the national glory at home and abroad by joining the (first) World War in the wake of victories of the Sino-Japanese War (1894-5) and the Russo-Japanese War (1904-5). The army now has come to hold a responsible position to maintain the peace of the East as a Great Power while promoting the welfare of mankind." (*p. 141, edited by the Education Ministry, published in 1938 by the Cabinet Printing Bureau)

A precaution is needed to read this passage, otherwise readers could possibly be misled. It can safely be said that this is a sort of magic of the word "welfare." Concerning public welfare, Tojuro Murai argued as follows in his book titled, *The Theory of Corporate Public Nature in the Commercial Code**, "The principle of public welfare has the following dual meaning: 1) To maintain or safeguard existing public welfare services lest they should be marred. 2) To promote and improve public welfare activity. While

the former, similar to the principle of public order and morals, is a passive requirement, the latter calls for positively participating in public welfare activity and contributing to its promotion. If private corporations are considered to make it the main business to provide goods and services to society, their business itself fulfils the demand of the second principle of public welfare.” (*p. 61, published in 1961 by Sankosha Publishers)

According to the above principle, insurance business unmistakably corresponds with the second requirement. It is quite easy to deny its public and welfare nature by citing the occurrence of insurance fraud cases as an example, but this is nothing but an unjust view – simply a typical criticism emphasizing exceptions exaggeratedly. When we hear and read various opinions stressing that in insurance transactions public order and morals must be highly valued and that faith and sincerity highly respected, we become aware that insurance does not go against public interests and social welfare in any way.

The following quote is from a book entitled, *Problems of Applied Sociology** written by Yoshio Mori: “Welfare sociology is a science that deals with social welfare for its object of study. The reason why this science is so called is that it examines, rather than welfare itself, relationships between society and welfare, more specifically social structure with a main focus on welfare. Among social welfare problems there are those problems with which the science is directly concerned to find their solutions: 1. Diagnosis, treatment and prevention of cases such as *poverty, diseases, unemployment, vagrancy, old age, solitude, habitual absence*. 2. Diagnosis, treatment, prediction and prevention of discord and tension in human relationships, such as conjugal problems, problems arising from parent-child relationships, relationships with relatives and neighbors, *employment relationship*, and mutual relations with friends and other groups. 3. Problems of control, management and promotion of welfare facilities, groups, institutions and organizations, including *efficiency promotion, management administration and personnel management*. 4. Non-adaptability and discord problems or adjustments and improvements measures or other welfare problems in local communities, ethnic minority groups and other minority groups. 5. Essential qualities of welfare work structure, such as welfare systems, welfare institutions and specialists. 6. *Relations with public facilities and systems in general*. 7. *Systematization of welfare philosophy and technology and their future problems*. 8. Individualized and *statistical study* of welfare problems. 9. Questions regarding citizens’ participation in, and socialization of, social welfare projects. 10. Establishment of social welfare science. (in particular connection with the possible birth of welfare sociology) (*PP 186-7, contained in *The Collection of Treaties Contributed in Celebration of Prof. Yoshio Mori’s Retirement* published in 1978 by Koyo Shobo Publishing Co.)

The contents of the above quotation are very useful in the study of social and welfare nature of insurance business. Let me work over ideas on social welfare science invariably on the basis of welfare sociology and pursue the public and welfare nature of insurance. The words and passages italicized (by Niwata) in the quotation refer to the problems the insurance industry is now, and will be, handling in the future. Needless to mention, these are also issues which sociology is seeking to pick up and address among social welfare problems. The quotation offers food for thought in clarifying the public and welfare nature of insurance in order to work on the setting up of a new science,

namely, insurance sociology.

It is hardly conceivable, meanwhile, that the insurance industry directly promotes social welfare in a general sense (although there is a concept of social welfare which is peculiar to, and goes current only in, insurance circles). But the industry is performing operations more or less related to social welfare. This indicates an example of how social welfare problems should be dwelt with in the future. It is believed possible for the insurance industry to play a part in promoting and improving social welfare going beyond the framework of safeguarding the current welfare system. In this connection it should be noted that among the products private insurance firms are offering there are some which serve the purpose of promoting and improving social welfare. These types of insurance may well be called public or welfare insurance. To give an example, the life arm of the industry is marketing policies covering supporters of physically handicapped, while the non-life branch, compulsory auto liability policies. These classes of insurance are managed on the no-loss, no-profit principle. Insurance corporations' marketing activities bring about benefit and effect similar to welfare services in areas where insurance is involved in society, other enterprises and households. This effect is considered larger than produced by other sectors of the economy. Only because of this factor, however, insurance business cannot be regarded as the public or welfare industry. The great majority of private enterprises in the economy and society are functioning for public welfare in varying degrees. Given that the society is predicted to become increasingly welfare-oriented, the insurance industry should properly position itself as a sector of the economy that helps promote such society. Otherwise the industry could not be understood as the provider of services with public or welfare character. One must be satisfied with referring to them as insurance having strong public nature or welfare coloring. There is no need at all to express dissatisfaction or voice objection to giving such name. This is enough to put the insurance industry in an advantageous position over other sectors of the economy, and also sufficient to enable society to recognize the significance of its existence. It would be dangerous if the industry desires to stress their public nature more strongly than that. To employ a modern concept, these types of insurance should be termed "fee-charging welfare products." To amplify it a little more, insurance is a welfare system of the insureds' own making or a sort of welfare that can be accomplished through the mutual-aid system in the form of their self-help efforts. Despite all this, insurance is absolutely different from mere consumption goods. Insurance benefits or claims should be paid to whom they are most needed, at the time when they are most needed and up to the sum which is deemed necessary. By achieving this threefold principle it is considered only natural for insurance business to get a public or welfare status.

In connection with a danger involved in placing too much emphasis on the public or welfare nature of private businesses, in the book cited before, Murai further noted, "There are some who are reluctant to agree that private corporations make conscious efforts to realize their public status. There are still some who show strong reluctance to it with the following reason: The idea is fraught with danger that the government seeks to control such corporations on the pretext that they have public nature, thereby establishing the bureaucracy-controlled economy. Some others argue that top executives of

private enterprises aim to obtain subsidies from the government because of their public nature. As a consequence, the self-responsibility and independency system and the creative spirit, which all form their soul, will weaken, thereby eroding their production capabilities. Still others fear that they will be willing to rationalize their intention to safeguard capitalism by assuming the mask of their public character. However, all these arguments fail to understand that because of their public nature, private enterprises are performing their duty or mission to the nation's economy on the principles of self-responsibility, independency and creative spirit. They merely blame some of such enterprises for taking advantage of their public nature for some other purposes." (p. 12)

It is not appropriate to define the insurance industry as the public or welfare segment because care is taken in investing as much funds as possible in the public and welfare sectors. This mode of investment is regarded as one of the insurers' activities for returning their profits to society. For them investment itself is only a function secondary to their indemnification function. In addition, investment funds earmarked for such sectors represent only a small portion of their total funds. Therefore, greater emphasis on their funds management could cause no major change in their character as insurance companies. But it certainly serves to upgrade their image. While they have acquired a popular reputation as a livelihood security and society-stabilizing industry on the one hand, they have been blamed for forcing insurance upon customers and propelling persistent marketing tactics on the other hand. In order to fill a gap in these two different images, they are positively managing part of their funds in the public and welfare sectors.

3. "Commercialism" of Insurance

Profit-making undoubtedly has neither been accused nor criticized. Rather, the profit-making principle should be welcomed and supported in a liberal capitalist society. While each individual pursues profit freely and unrestrictedly, a maximum profit for the society is realized as a whole as a result. This is what is called "the greatest good of the greatest number." If this principle should become a target of attack, the way economic freedom is given and competition made or the way profits are pursued are called into question. In the book aforementioned, Takahashi stated, "A controlled economy under government-almighty and bureaucracy-centered rule is increasingly gaining momentum. There are no bourgeoisie in the world who are so spiritless and so subservient as Japan's. Once clanship took power, they obeyed it; once a political party gained influence, they conspired with it; once the bureaucracy gathered strength, they cringed to it, once the military became powerful, they yielded to it. They neither rely upon their knowledge and ability concerning the field of their activity, nor exclude all interventions from outside influences, nor solve their problems by their own efforts. Nor are they brave enough to build an all-out control network, mobilizing their group's strength." (Takahashi's essay, *A Mean Mercenary Spirit* contained in the *In and Outside My Study* op. cit. p. 10). If you replace the above quote, "Once the military became powerful, they yielded to it" by an expression "Once the United States becomes powerful, Japan yields to it," the expression can still be applicable to present-day Japan. The essay, which was first published in 1936 in the *Jiji Shimpo**, gives one an impression that truth is exactly the same

for all ages. The author was the late Mr. Sei-ichiro Takahashi mentioned previously who was consecutively professor at the Economics Department of Keio University, professor emeritus, representative president of the university, Education Minister, member of the Japan Academy and president of the Japan Art Academy. The essay is a caustic criticism of Japanese businessmen. If his criticism proves to be correct, it would be inevitable to control and restrict business behavior to some extent in order to maintain its public nature. However, the primary prerequisite is to establish fair competition among private enterprises and to solidify their self-reliance posture before their pursuit of the public and welfare nature. (*A daily newspaper first published in 1882 by Yukichi Fukuzawa and discontinued in 1936.)

“Commercialism,” on the basis of which firms can carry on profit-making activity, implies their various management behavior, by which they produce as large profits as possible. It also includes business activity for continuing and expanding their presence. Thus, the “commercialism” is a broader concept than profit-making activity. The following conceptual scheme can be established: running business — management — commercialism — profit making — pursuit of profit. The “commercialism” includes some elements of public and welfare activities, which in turn embrace relief work for the society’s weaker members and dropouts. If private enterprises go thus far, they will have stronger relations with social welfare and begin to depart from original management ideas. The “commercialism” is viewed as a refined conception of corporate profit. Generally speaking, economic rationality and efficiency should not, therefore, be allowed to neglect. But these two important elements must be ignored in performing public and welfare activities as the case may be. Private enterprises gradually feel the necessity of assuming the public and welfare nature in the process of conducting the “commercialism” thoroughly. More concretely, this arises in the form of performing their social responsibility. It becomes strengthened in parallel with the expansion of the scale of their operations, but it is enhanced not as an inevitable consequence in liberal capitalist economy. It must be remembered, however, that, unlike those of other industries, top executives at insurance companies must *invariably* expand their operations in the public and welfare sectors. This is because the industry is deeply involved in social and livelihood welfare from the nature of its business. The “commercialism” in the insurance sector is, so to speak, the source or fountainhead of its public and welfare nature. The following passages are quoted from Murai’s *The Theory of Corporate Public Nature in the Commercial Code* (op. cit., pp 55-58). “In reference to a relationship between public welfare and private enterprises, (Thorstein B.) Veblen interpreted the latter’s profits as natural remuneration for having contributed to the well-being of the public.” “Business operators’ management and enterprises’ decision making (that is, the resolution of the general meeting of stockholders in the case of the stock company ((the resolution of the general meeting of members in the case of the mutual Company — Niwata))) cannot be recognized in some cases as justifiable if they should deviate from principles of public welfare . . .” “From such a point of view, there is no denying that public welfare undoubtedly constitutes one of the important principles in the framework of the Commercial Code.” “What is referred to as the concept of public welfare in the Code . . . , namely, correct order for human

beings is understood as the order that bands people together by each of them making his contribution to *bonum commune*." "The word "*bonum*" is recognized as meaning economic enrichment in reality as well as in the correct sense of the word, while the term "*bonum commune*" is understood as signifying completion of goods and facilities in national life." "To put it another way, this term implies such a state of affairs that an economic structure pervades over the whole of society, in which a variety of private interests, justly and mutually valued, co-exist in harmony with each other." The author continued to argue, "The public welfare principle . . . calls on private enterprises to standardize their relationships so that they can contribute to the improvement of the nation's economic life by placing their many different interests in harmony."

His suggestions can be summarized as follows: 1) fairness in transactions and 2) private enterprises should place numerous interests not only among themselves in a well-balanced relation, but also with public and semi-public corporations operating in environments surrounding them. His writing is not easy to understand and besides there are many passages that lack lucidity. To sum up, however, what he intends to say is that private enterprises' public and welfare status lies in contributing largely to the improvement of the nation's life, running fair business and in maintaining social harmony. This opinion of his is really worth notice although of relatively passive character.

It is true that the welfare nature of insurance has continued to be much talked about. Many scholars have expressed many different views over a long period of time. On the other hand insurers have been persistently conducting pursuit of profit. The most dominant theory of the welfare nature of insurance is that it plays a complementary role in the social security system. Secondary in importance is the view evaluating the fact that the insurance industry, which originally targeted at the high-income and propertied classes, has gradually extended the dominion through the middle classes into the low-income classes and enabled them to enjoy the utility of their livelihood security. Supposing insurance is a sort of product, insurance products have served as a means to secure and preserve people's livelihood and especially recently turned into those of their daily necessities as a result of their popularization and marketing tactics on the part of insurers. This trend is most likely to lead one to regard insurance as a welfare product. The conception of insurance displaying the utility of preventing people from falling into financial difficulty provides a basis for an insurance-as-welfare argument. In addition, the industry, which is deeply concerned with the nation's welfare measures, is oriented to providing cooperation and support to them. It performs the function of income redistribution between the rich and the poor although the function is not so conspicuous. Such function also serves to support the above argument.

The general trend is such that there are active voices calling for insurers' public utility and social welfare character and therefore that their image has been upgraded. As a result, they have come to enjoy high evaluation in the economy and society. All this will certainly increase their potential for further growth. Insurance companies display welfare character while pursuing and expanding "commercialism" (profit-making), and strengthening their welfare activity. Such a mutually multiplying effect cannot be denied. Recent indications are that they are deliberately moving away from the social welfare sector.

This trend is evident from their over-concentration of marketing efforts on financial products. Their excessive inroads into interdisciplinary markets could weaken the importance of the welfare industry. The development of too many kinds of products and a much reduced risk-taking element of some of them would possibly alienate insurers from their welfare activity. The addition to products of such elements as pure savings, money-management, tax-saving and other auxiliary services could tarnish their image of a social-welfare-oriented industry in a relative sense. Nevertheless, insurers' operations in a correct sense could not necessarily be better understood by the consumers. The question of converting the mutual life insurance company into a stock company now under discussion in the market is expected to offer an opportunity for the industry to start a fresh study of the welfare nature of insurance.

The public have a sharper critical eye and sixth sense than is generally expected. Long ago a pioneer of economics already pointed out, "I have never known much good done by those who affected to trade for the public good." To tell the truth, this passage is quoted from Adam Smith's *The Wealth of Nations* (first published in 1776). Needless to say, the book is considered the bible of capitalist free economy. It is good, or rather desirable, that "commercialism" should be pursued, but welfare activities should neither be weakened nor strengthened more than necessary both in a broad sense (in the general sense used in economic circles) and a narrow sense (in a sense more closely connected with insurance). The insurance companies should not make light of welfare activity even if in inconspicuous methods or fields. Greater emphasis on the "business operations" is recommendable on the other hand, but by so doing welfare activities must not be reduced. So far as insurance is concerned, "commercialism" and welfare activities consist together. The insurance companies can build a new era by maintaining an adequate balance between these two operations.