BUSINESS INTERRUPTION INSURANCE, A LEGAL PRIMER

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Business Interruption insurance is generally regarded as a sophisticated type of insurance which is sold by relatively sophisticated insurers through less sophisticated agents to unsophisticated insureds. The coverage against loss afforded by this type of insurance policy can well be complex in its application to particular situations. Since the legal practitioner will find every situation involving such coverage more or less unique, it would be most difficult to accomplish more here than to provide a very basic overview of the subject matter.

I. Introduction

In almost every situation in which commercial property sustains damage, the insured must be concerned not only with the loss of the insured property, but also with consequential loss which may result from the unavailability for use of the damaged property. This unavailability of the property may result in loss of income generated from the property or the incurring of additional expenses during the period necessary to rebuild or repair the damaged property. It is a basic economic fact that even though an insured may be compensated fully for the loss in value of the insured property, the insured may suffer loss of profits or incurring of additional expenses, unless insurance is procured to cover the consequences resulting from loss of the physical property.

The purpose of Business Interruption insurance and other forms of time element coverage is to protect against such consequential or indirect loss resulting from damage to physical property where the amount of such loss depends upon the length of time over which such losses accumulate.[1] Specifically, a Business Interruption policy insures against loss of earnings where operations are curtailed or suspended because of property loss.[2] The purpose of a Business Interruption policy is to protect the prospective earnings of the insured business to the extent they would have been earned had no interruption occurred. "In other words, the policy is designed to do for the insured in the event of business interruption caused by fire, just what the business itself would have done if no interruption had occurred — no more . . . ,"[3] and as the

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1. Glossary of Insurance Terms 154 (R. Osler & J. Bickley ed. 1972).

2. *Id.*

3. National Union Fire Ins. Co. v. Anderson-Prichard Oil Corp., 141 F.2d 443, 445 (10th Cir. 1944). *Accord,* Northwestern States Portland Cement Co. v. Hartford Fire Ins. Co., 360 F.2d 531 (8th Cir. 1966); Quality Molding Co. v. American Nat'l Fire Ins. Co.,

Massachusetts Supreme Judicial Court put it, "[n]o more certainly, but also no less. . . ."[4] Preservation of the continuity of the insured's earnings is thus the purpose of such an insurance policy.[5]

That an insured would have an insurable interest in the earnings of his business and that a contract of insurance covering against loss of such earnings would have a legal purpose is manifestly clear.[6] Even a policy which promises to pay on an agreed value or per diem basis rather than for the actual loss sustained has been upheld as valid.[7]

II. The Insurance Contract

A typical Business Interruption policy will insure "for such length of time as would be required, by the exercise of due diligence and dispatch to rebuild and replace the damaged property, the actual loss sustained on the net profits which are prevented from being earned and on the necessarily continuing damages and expenses caused by damage to or destruction of insured property by insured perils." The insurer under a policy containing such language is agreeing to *pay* to the insured *party* its net profit lost as the result of damage to insured *property* caused by an insured *peril* and the continuing expenses, for such *period* of time as is required to repair or replace the damaged property. Many policies issued at the present time simplify the calculation of exposure to loss by insuring loss of gross earnings, instead of net profit and continuing expenses.[8]

The salient elements of the insurance contract providing business interruption coverage are:

1. property insured;
2. period of interruption;
3. payment for loss of earnings;
4. perils insured;
5. parties insured.

Therefore, unless *property insured* is damaged by a *peril insured* resulting in a *period of interruption*, there will be no *payment of loss* for lost earnings to the *insured party*.

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272 F.2d 779 (7th Cir. 1959); 15 G. Couch, Cyclopedia of Insurance Law § 57:28 (2d ed. 1963).

4. Gordon Chem. Co. v. Aetna Cas. and Surety Co., 358 Mass. 632, 636, 266 N.E.2d 653, 656 (1971).

5. *Id.*

6. 11 G. Couch, Cyclopedia of Insurance Law § 42:401 (2d ed. 1963) and cases cited therein.

7. O'Brien v. North River Ins. Co., 212 F. 102 (4th Cir. 1914); Michael v. Prussian Nat'l Ins. Co., 171 N.Y. 25, 63 N.E. 810 (1902); New England Gas & Elec. Ass'n v. Ocean Accident & Guar. Corp., 330 Mass. 640, 116 N.E.2d 671 (1953). *See* Shakertown Corp. v. Commissioner of Internal Revenue, 277 F.2d 625 (6th Cir. 1960).

8. For a review of *some* of the available forms of coverage, see P.F.&M. Analysis, Rough Notes Co., Inc., Indianapolis Fire Volume at 132.10 et seq.

A. *Perils Insured*

While Business Interruption insurance has been written historically as an adjunct to the fire insurance or boiler insurance policies purchased by insureds, business interruption coverage is now available in conjunction with the broadened insurance contracts which have extended coverage for direct damage to property to a wider scope of insured perils.[9] In fact, it is not uncommon in today's marketplace for Business Interruption insurance to be written on a so-called "all-risk" basis.[10]

What is basic to bringing the coverage into play is the occurrence of an insured peril.[11] Clearly, the intent of the policy is not to insure any and all interruptions of the business of the insured but only such interruptions as are caused by an insured peril.[12] Notwithstanding the insuring language requiring damage to insured property by the insured peril, at least one court has extended coverage to situations where there was an interruption of business caused by an insured peril that caused no damage to the insured property.[13] However, it would seem the better rule to require damage to the insured property by the insured peril as a precedent to recovery.

B. *Property Insured*

The description in the Business Interruption policy of the *property insured* may give rise to significant problems. For example, what coverage would be afforded to an insured corporation which sustains insured damage to a described location and which also results in a business operation loss at a non-described location? It must be understood that the policy does not insure the physical property itself but rather the insurable interest of the insured in the earnings potential of that property.[14] Thus, when the insured corporation has several locations which operate on an interrelated and interdependent basis, all of these operations must be treated as an integrated whole for the purpose of determination of the business interruption loss exposure.[15]

9. *See, e.g.*, Rothenberg v. Liberty Mut. Ins. Co., 115 Ga. App. 26, 53 S.E.2d 447 (1967); Hart-Bartlett-Sturtevant Grain Co., 365 Mo. 1134, 293 S.W.2d 913 (1956), *cert. denied*, 352 U.S. 1016 (1957); Port Murray Dairy Co. v. Providence Washington Ins. Co., 52 N.J. Super. 350, 145 A.2d 504 (1958).

10. 11 G. Couch, Cyclopedia of Insurance Law § 42:403 (2d ed. 1963).

11. Waldridge Hosiery Mills v. Hartford Steam Boiler Inspection & Ins. Co., 239 Ark. 47, 386 S.W.2d 938 (1965); Port Murray Dairy Co. v. Providence Washington Ins. Co., 52 N.J. Super. 350, 145 A.2d 504 (1958).

12. Waldridge Hosiery Mills v. Hartford Steam Boiler Inspection & Ins. Co., 239 Ark. 47, 386 S.W.2d 938 (1965). *But see* Cyclops Corp. v. Home Ins. Co., 352 F. Supp. 931 (W.D. Pa. 1973); Sloan d/b/a Alger Theatre v. Phoenix of Hartford Ins. Co., 46 Mich. App. 46, 207 N.W.2d 434 (1973).

13. Southlanes Bowl, Inc. v. Lumberman's Mut. Ins. Co., 46 Mich. App. 758, 208 N.W.2d 569 (1973); Sloan d/b/a Alger Theatre v. Phoenix of Hartford Ins. Co., 46 Mich. App. 46, 207 N.W.2d 434 (1973).

14. Fidelity-Phenix Fire Ins. Co. v. Benedict Coal Corp., 64 F.2d 347, 353 (4th Cir. 1933); Puget Sound Lumber Co. v. Mechanics' & Traders' Ins. Co., 168 Wash. 46, 10 P.2d 568 (1932).

15. National Union Fire Ins. Co. v. Anderson-Prichard Oil Corp., 141 F.2d 443 (10th

This extention of coverage creates a concomitant danger. Since many Business Interruption policies contain co-insurance or contribution clauses, the determination of the total insurable value is of paramount importance inasmuch as the failure to recognize the full economic exposure potential flowing from damage to the described location can result in under insurance and the imposition of a severe co-insurance penalty.[16] It should be noted that satisfaction of such a co-insurance clause requires purchase of a sufficient amount of insurance to cover the period of one year *after* the date of loss.[17] The insured is thus required to insure to values which satisfy such a clause on a prospective rather than retrospective basis.[18] An insured corporation which intends to protect the financial integrity of its entire earnings as a whole should, therefore, be wary of fragmenting its business interruption coverages in separate policies since such action may well result in only partial loss recovery.[19]

Moreover, internal accounting practices may obscure the insured's awareness of what values should be insured. This principle becomes clearer upon examination of an imaginary, but commonplace, situation. Suppose a large manufacturing corporation with Plants A and B. The production of Plant A is unique and utilized entirely in the products produced at Plant B. The corporation maintains financial records which show a separate manufacturing profit at Plant A as well as showing the profit at Plant B, from which the final products are sold. Asssuming the Plant A annual gross earnings to be $1,000,000 and the Plant B annual gross earnings to be $2,000,000, what would be the value of the business interruption exposure at Plant A if it were described in a policy other than that describing Plant B? What would be the business interruption value of Plant B?

Since the productivity at Plant B is dependent upon the production at Plant A, destruction of Plant A would also curtail the earnings at Plant B. Therefore, the insurable value of Plant A would include Plant B's gross earnings, or a total of $3,000,000. Conversely, Plant B's insurable value would include earnings at Plant A, or a total of $3,000,000, since Plant A would not be able to continue its production because of the loss of its sole "customer." Obviously, the insurance problem is simplified when both locations A and B are described in a single policy; but when blanketing of locations is not possible, the sum of the insurable values of separate interdependent locations may well exceed the total *gross earnings* of the corporate insured. Parenthetically, it should not make any difference in the fixing of insurable values in the above example if the method of corporate recordkeeping reflected no profit mark-up

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Cir. 1944); Studley Box & Lumber Co. v. National Fire Ins. Co., 85 N.H. 96, 154 A. 337 (1931).

16. *Cf.* Lewis Food Co. v. Fireman's Fund Ins. Co., 207 Cal. App. 2d 515, 24 Cal. Rptr. 557 (Dist. Ct. App. 1962).

17. Home Ins. Co. v. Eisenson, 181 F.2d 416 (5th Cir. 1950).

18. *Id.*

19. *Cf.* Lewis Food Co. v. Fireman's Fund Ins. Co., 207 Cal. App. 2d 515, 24 Cal. Rptr. 557 (Dist. Ct. App. 1962).

when Plant A's products were shipped to Plant B but were charged to Plant B at cost.

Not only may damage or destruction of property insured affect property of the insured not described in the policy, but the effect of such damage may be felt on properties not yet constructed but which would have become operational during the interruption or suspension period.[20] Obviously, therefore, planned earnings from a program of expansion must be contemplated in fixing insurable values.[21]

C. *Period of Interruption*

The typical Business Interruption policy issued in the United States will restrict payment to loss sustained during the period which commences on the date of damage and which continues "for such length of time as would be required, by the exercise of due diligence and dispatch to rebuild and replace the damaged property."[22] While it is true in many cases that the insured may continue to sustain loss of earnings after the date of restoration of the damaged facilities, the recoverable loss will be limited to such a specified period of interruption.[23]

The case of *Rogers v. American Insurance Co.* illustrates this situation.[24] Rogers was the operator of a bowling establishment which was destroyed by fire on July 14, 1962. Although the property could have been restored by November 11, 1962, a four month period, Rogers lost not only the earnings during those four months but he also lost his league business for the entire 1962-63 season. Rogers sought to recover for the loss of sales he anticipated would occur after the reconstruction was completed. The court held that his recovery was limited by the "cut-off" date of November 11, 1962. "A 'cut-off' date is a necessity. Otherwise, claims would be opened to a degree of speculation which would be absurd. There would be no available method to determine with any degree of accuracy the amount of such losses. . . ."[25]

The policy language, therefore, establishes a theoretical period of interruption which will fix the rights and obligations of the parties to the insurance contract.[26] This standard of potential loss may be calculated in advance and

20. General Ins. Co. v. Pathfinder Petroleum Co., 145 F.2d 368 (9th Cir. 1944). *See also*, Fidelity-Phenix Fire Ins. Co. v. Benedict Coal Corp., 64 F.2d 347 (4th Cir. 1933); Great N. Oil Co. n/k/a Koch Refinery v. St. Paul Fire & Marine Ins. Co., 227 N.W.2d 789 (Minn. 1975).

21. Home Ins. Co. v. Eisenson, 181 F.2d 416 (5th Cir. 1950).

22. *See* Great N. Oil Co. n/k/a Koch Refinery v. St. Paul Fire & Marine Ins. Co., 227 N.W.2d 789 (Minn. 1975).

23. Beautytuft, Inc. v. Factory Ins. Ass'n, 431 F.2d 1122 (6th Cir. 1970); Rogers v. American Ins. Co., 338 F.2d 240 (8th Cir. 1964); Hawkinson Tread Tire Serv. Co. v. Indiana Lumbermen's Mut. Ins. Co., 362 Mo. 823, 245 S.W.2d 24 (1951).

24. Rogers v. American Ins. Co., 338 F.2d 240 (8th Cir. 1964).

25. *Id.* *See* Clarke, *Problem Claims Under Business Interruption Policies*, Practical Lawyer 68 (May 1958).

26. Beautytuft, Inc. v. Factory Ins. Ass'n, 431 F.2d 1122 (6th Cir. 1970) and cases cited therein at 1125.

should "not be subject to vagaries like owner indecision, strikes, or failure of lease negotiations which might affect the actual rebuilding time. . . ."[27] Even if the insured succeeds in becoming operational at another location, the business interruption loss should be calculated on the basis of the theoretical period of interruption.

In both the *Beautytuft* and *Hawkinson Tire Tread* cases, the insured elected to move to a new location rather than rebuild the damaged property.[28] Such an election would not affect the amount of recovery, insofar as the length of the theoretical period is concerned.[29] In *Beautytuft,* the insured, having made the decision not to rebuild, found another location and became operational at the new site on October 1, 1967. The damaged property could not have been reconstructed before July 1, 1968. Although the insured had resumed full production at the substitute facility, it did continue to sustain loss after October 1, 1967 if the substitute operations were compared to the operations which would have been carried on at the destroyed factory. The court held that since the actual losses continued beyond the October 1, 1967 date, the insured was entitled to reimbursement for its losses for the full term of the theoretical time period. However, the insurer received the benefit of the substitute operation in reduction of the loss.[30]

The duration of the theoretical period of interruption may depend on many factors of which the actual construction time will only be one. Other factors may include the time necessary to adjust the insurance claim for damage to the property,[31] and the time necessary for the architectural and/or engineering services required for reconstruction of the damaged property.[32] Furthermore, the period of interruption may well include the time necessary to build a more modern structure rather than an exact duplicate of the damaged property.[33]

D. *Payment for Lost Earnings*

Determination of loss under a Business Interruption policy will, in almost every instance, be complicated even when the period of interruption is fixed. The policy language in itself provides few guidelines to the ascertainment of the exact amount of the insurable loss. One guideline generally found in such a policy will be a provision to the effect that "[d]ue consideration shall be given to the experience of the business before the date of damage and probable

27. *Id.* at 1125.

28. *Id. See also* Hawkinson Tread Tire Serv. Co. v. Indiana Lumbermen's Mut. Ins. Co., 362 Mo. 823, 245 S.W.2d 24 (1951).

29. Beautytuft, Inc. v. Factory Ins. Ass'n, 431 F.2d 1122 (6th Cir. 1970); Hawkinson Tread Tire Serv. Co. v. Indiana Lumbermen's Mut. Ins. Co., 362 Mo. 823, 245 S.W.2d 24 (1951).

30. Beautytuft, Inc. v. Factory Ins. Ass'n, 431 F.2d 1122, 1125 (6th Cir. 1970).

31. *Cf.* A. & S. Corp. v. Centennial Ins. Co., 242 F. Supp. 584 (N.D. Ill. 1965).

32. Anchor Toy Corp. v. American Eagle Fire Ins. Co., 155 N.Y.S.2d 600, 603 (Sup. Ct. 1956).

33. *Id.*

experience thereafter had no loss occurred."[34] Such policy language does not provide any prescribed formula for determination of the loss covered except this test of past experience and probabilities of the future. "This test is of course to be applied in a practical way, having regard for the nature of the business and the methods employed in its operation. . . ."[35]

Recognizing that business operations are rarely static and that external conditions as well as revised programs of the insured may affect probable experience after the date of damage, the calculation of the loss must take into consideration all those factors which could influence the earnings of the insured during the period of interruption.[36] The insured, therefore, should be able to include in its claim increased earnings which it can establish would have resulted, during the period of interruption, from programmed expansion or increased efficiency of existing facilities.[37] Similarly, proof of downward trends in the business in which the insured operates may reduce the earnings projected.[38] When the insured is a manufacturing corporation, the loss will depend on the production lost rather than the loss of sales.[39] The loss sustained by a manufacturer is to the *sales value of production*, not to loss of sales.[40]

E. *Parties*

Many corporate insureds operate their businesses through the use of subsidiary or affiliated corporations, a practice which raises the question of whom should be named the insured party or parties under the Business Interruption policy. If all such corporate entities are named as additional insureds, then each entity may recover for a loss exposure.[41] However, when the subsidiaries and affiliates are named as additional insureds, that same interdependency and interrelationship will require limits of insurance in an amount adequate to comply with the co-insurance clause requirements.[42]

It would seem that naming of all related corporations as parties insured will result in the treatment of the entire business operation as an integrated

34. Clarke, *Problem Claims Under Business Interruption Policies*, Practical Lawyer 68 (May 1958).
35. National Union Fire Ins. Co. v. Anderson-Prichard Oil Corp., 141 F.2d 443 (10th Cir. 1944).
36. *Id. See also* General Ins. Co. of America v. Pathfinder Petroleum Co., 145 F.2d 368 (9th Cir. 1944).
37. Fidelity-Phenix Fire Ins. Co. v. Benedict Coal Corp., 64 F.2d 347, 351, 353 (4th Cir. 1933). *See also* General Ins. Co. of America v. Pathfinder Petroleum Co., 145 F.2d 368 (9th Cir. 1944).
38. Hawkinson Tread Tire Serv. Co. v. Indiana Lumbermen's Mut. Ins. Co., 362 Mo. 823, 827-28, 245 S.W.2d 24, 28 (1951).
39. National Union Fire Ins. Co. v. Anderson-Prichard Oil Corp., 141 F.2d 443 (10th Cir. 1944).
40. *Id. Accord*, General Ins. Co. of America v. Pathfinder Petroleum Co., 145 F.2d 368 (9th Cir. 1944).
41. National Union Fire Ins. Co. v. Anderson-Prichard Oil Corp., 141 F.2d 443 (10th Cir. 1944).
42. *See* Lewis Food Co. v. Fireman's Fund Ins. Co., 207 Cal. App. 2d 515, 24 Cal. Rptr. 557 (Dist. Ct. App. 1962).

whole for the purpose of determining the actual loss sustained.[43] However, in those instances where the policy lists as insureds, corporations whose stockholders are not identical even though there is common management, there may be a different result.

In the *Gordon Chemical* case,[44] the policy insured Hammond Plastics, Inc., as well as Gordon Chemical Company. Gordon sold its entire production of polystyrene to Hammond which then manufactured it into plastic molding pellets. After a loss occurred at the Gordon plant, Hammond purchased its polystyrene requirements from other manufacturers, evidently at prices more favorable than those charged by Gordon. While Gordon lost $211,350 during the period of interruption, Hammond's profits increased by $239,675 over that realized during a similar period prior to the fire. It would seem that had Gordon itself purchased the polystyrene from the other manufacturers and resold it to Hammond, there would have been no loss to either Gordon or Hammond. Gordon and Hammond had common management, but the stockholders were not identical. The insurers maintained that the increase in Hammond's profits after the loss should be considered as an offset to Gordon's loss, arguing that the corporations should be treated as a single corporation for the purposes of the insurance policy. If this had been done, no loss would have been sustained.

The Massachusetts Supreme Judicial Court rejected this contention and held, "[t]here is no justification here for disregarding the separate existence of each of the corporations named in the policy. They were as a matter of law separate and distinct legal entities when the policy was entered into, when the fire occurred and thereafter. Further, we are of opinion that the language used in the policy did not disclose any intention by the parties to treat the several corporations as a single entity for insurance purposes."[45]

III. Expenses Incurred to Reduce Loss

The Business Interruption policy, in an attempt to limit the amount of loss, will usually provide an obligation on the part of the insured to reduce the loss by resumption of operation at the insured location or elsewhere. To aid the insured in its endeavors to reduce loss, the policy will cover such additional expenses as are necessarily incurred to reduce the loss, but in no event will expenses in excess of the amount achieved in reduction of loss be paid. To the extent such expenses exceed the amount of the reduction in loss, the policy provides no reimbursement to the insured. In other words, loss reducing or expediting expenses are covered to the extent that such expenditures actually reduce the loss the insured would otherwise have sustained.[46]

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43. Gordon Chem. Co. v. Aetna Cas. and Surety Co., 358 Mass. 632, 266 N.E.2d 653 (1971).
44. *Id.*
45. *Id.* at 638-39, 266 N.E.2d at 657.
46. A.O. Cleaves, F.C.I.I., ***The Inspector's Guide to Profits Insurance,*** The Policy-Holder Journal Company Ltd. (London, 1931).

Coverage for such expediting expenses thus provides no additional grant of coverage by the insurer since the loss otherwise payable will be reduced by the cost of such measures. On the contrary, the expediting expense provision imposes all the risk upon the insured. This "risk transfer" was succinctly illustrated by Dr. Robert Riegel and Jerome S. Miller in their text where they state:

> The insured is required to resume operations as soon as possible. . . . If the insured makes expenditures for the purpose of facilitating resumption of business, the insurance covers such expenditures to the extent that they are effective in the reducing of the loss. This is an unsatisfactory provision, for the insured takes all the risk of the inefficacy of the expenditures.[47]

The obligation resting on the insured to reduce loss seems obvious in view of the policy language.[48] Therefore, it can collect for such expense where all loss has been avoided. In *Northwestern States Portland Cement Co.* v. *Hartford Fire Insurance Co.*, while the insured could not recover for lost production since it utilized finished stock to protect its sales, it did recover the expediting expenses incurred to reduce its loss.[49] To the extent that the insured can reduce its loss and shorten the period of interruption through payment of expenses such as overtime wages, then there should be payment by the insurer for such expenses.[50] An advantage of incurring such expediting expenses, from the point of view of the insured, is that if there are inadequate insurance limits so as to bring into effect the co-insurance clause, the insured will benefit since expediting expenses will not be subject to the co-insurance penalty.[51]

The duty of the insured is to make use of the damaged property and other facilities operated by it in such a way as to minimize the loss. The obligation of the insured to reduce loss does not mean, however, that the insured must change the *nature* of its business operations to mitigate its loss.[52] In the *Gordon Chemical* case, the insured manufactured and sold polystyrene from monomer liquid plastic. After the loss, the insurer maintained that Gordon was required by the policy to purchase and resell polystyrene. The court rejected this argument, stating that "Gordon was required to continue or to resume manufacture of polystyrene . . . when and if possible and to sell the product manufactured by it as it would have done if no fire had occurred. However, it was not required to buy from competing manufacturers and resell their product which it would never have done had no fire occurred. . . ."[53] The court in so holding relied on the policy language requiring the insured to make use of its other

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47. R. Riegel & J. Miller, Insurance Principles and Practices 507 (1959).
48. Northwestern States Portland Cement Co. v. Hartford Fire Ins. Co., 243 F. Supp. 386 (N.D. Iowa 1965).
49. *Id.*
50. American Alliance Ins. Co. v. Keleket X-Ray Corp., 248 F.2d 920, 930 (6th Cir. 1957).
51. *Id.*
52. Gordon Chem. Co. v. Aetna Cas. and Surety Co., 358 Mass. 632, 635-37, 266 N.E.2d 653, 656 (1971).
53. *Id.*

properties.[54] It would seem, however, that had Gordon elected to buy and sell polystyrene after the loss, the insurer would have received the benefit of the loss reduction effort.

In most loss situations, the efforts of the insured to reduce loss by use of expediting expenses will be successful. However, it should be noted that the risk of success will fall upon the insured, not the insurer. In many situations, the need of the insured to resume operation or to prevent shutdowns of the facilities may result in expenditures which do not reduce the insured loss even though the expenditures may be successful in protecting the insured's business. When such an exposure exists, the insured purchases Extra Expense insurance to provide coverage when expediting expenses fail to reduce loss or, in fact, increase the loss.

IV. Conclusion

The consequential loss to the insured resulting from destruction of physical property has become the subject matter of insurance with the advent of Business Interruption insurance policies. While such policies may differ in language in order to accommodate the needs of various business enterprises, the principles discussed here should provide the basis of measuring the exposure to loss and the loss sustained.

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54. *Id.*