

TRANSLATION *NEWS*

JANUARY 1991

Vol. II, No. 1

FEDERAL TRADE COMMISSION TO INVESTIGATE ATA FOR POSSIBLE ANTITRUST VIOLATIONS

Washington.- The Bureau of Competition of the Federal Trade Commission (FTC) has informed the American Translators Association that it will conduct a preliminary "nonpublic" investigation into possible violations of Federal antitrust statutes by the ATA during the period of 1987 to 1990. The investigation will cover the activities of both the national organization and two of its chapters, the Northern California Translators Association (NCTA) and the National Capital Area Chapter (NCACATA), although according to the communication sent to the ATA, the investigation could be extended to other ATA chapters and divisions. News of the impending investigation, which came in a series of unexplained, but bizarre incidents, thrust the 4000-member organization, the largest in the United States, into what is perhaps the greatest crisis in its 31-year history.

According to documents obtained by TRANSLATION NEWS, the FTC advised the ATA, as well as the NCTA and NCACATA, that the purpose of the investigation would be "to determine whether the ATA or others have agreed not to compete by fixing rates charged for translation services." The FTC communication further stated that, "such conduct, if proven, could violate Section 5 of the Federal Trade Commission Act, 15 USC, § 45." The Federal Trade Commission Act is one of several Federal laws prohibiting the establishment of monopolies, price-fixing arrangements, price recommending and a host of other actions and arrangements that can affect free and independent competition. The focus of the FTC inquiry appears to be ATA's Rate Guidelines Program, which was launched in mid-1987, but which was voluntarily aborted by the Association in March of 1990.

California Calls for Assistance

The first indication of the FTC investigation came in mid-November 1990, when an unnamed official of the Northern California Translators Association called ATA President Deanna L. Hammond with the news that the NCTA had received a certified letter from the FTC directing it to turn over various documents related to the Rate Guidelines Program. According to sources close to the NCTA, President Hammond assured the California official that all of the resources of ATA would be placed at the NCTA's disposal, including legal assistance. However, it was learned that during this conversation, Ms. Hammond herself had no inkling that the ATA too had received a similar, but evidently more detailed letter from the FTC. TRANSLATION NEWS was informed by several reliable sources that a letter from the FTC, dated November 6, 1990, sent via certified mail with return receipt requested, had been received on or about November 9th at ATA headquarters in Ossining, NY, namely a week or so before the NCTA and NCACATA had received theirs, but had been left unopened with other mail. It was not until the very end of November that Rosemary Mallia, ATA Staff Administrator, opened the envelope and forwarded it by ordinary mail to President Hammond. Because the FTC had specified a December 7th deadline for

LETTERS TO THE EDITOR

To the Editor:

TRANSLATION NEWS is a great source of information about what matters most to the translation business -- the *business* of translation.

One caveat: We must all start using the form "free lance", not "freelancer", for the noun and "free-lance" for the adjective. The "lance" is metonymic -- the thing for the person -- and a free lance is a human being, not a piece of equipment.

Your article on contingent payment (TN #8) struck a chord in my heart. I have recently become a victim myself. One of my customers is a company that conducts research for large corporations. They have always been slow in paying, but I have until recently been able to collect bimonthly (one month late and one month more or less on time) by showing up in person. This month, however, I was told that, although my \$3000 check had been "cut", it could not go out until they had been paid by their giant-corporate customer, which is consistently slow in paying up. They did finally come up with \$2000. I tried to punish them a little by asking them to messenger it to me, but they said it was too expensive, so I had to perform the messenger job myself. I cannot refuse to work for them any longer because I do a lot of work for them at relatively high rates. What I do for this customer, by the way, is translate clippings from the European press. This is dated material and should be put through as soon as it comes in. They recently complained that they were not getting results quickly enough, so I sub-contracted some of the translation. I now -- as of this month with no statement gone out yet -- owe the sub-contractors \$1100, and will be forced to pay them off in instalments in the same way that my customer is treating me, and even then I am going to have to go deeper into my bank overdraft. I am no longer going to sub-contract, however, unless I am sure that I will have enough to pay the sub-contractors on time, and I am going to have to explain to my customer that other work, from customers who pay on time, will be considered priority from now on. I can't just drop the customer because they represent one of my best accounts as far as rates and volume. I do have some power, however, in that my work for them involves translating from a few of the less common languages, and I am soon going to be raising my rates.

Alex Gross' New Orleans report (also TN #8) brings up many important matters that will probably not be showing up in the [Conference's] official proceedings. What predictions as to the future of the translation industry can be derived from the new Europe, and how? How can we distract our colleagues from the obscurantism and metaphysics of theory construction and from the academicism and impediments to free trade implicit in the "cult of credentialing" and keep them down to brass tacks? How can the profit-oriented among us compete with non-profit institutions (universities, trade centers, etc.) employing incompetents at minimum wages?

Tom Snow
New York, NY

To the Editor:

I wish you the greatest of satisfaction and your courageous paper the best of success.

Having been an editor of a paper in the past myself, I know the difficulty inherent in the requirement of always having to use exactly the right wording. I am thinking of the use of "linguist" in last month's lead article, "Bilingual Education Heats Up To a War of Words". Is it possible that the term "linguist" is too loosely used; could it be that the term is somewhat hazy?

Although the average person and alas! some dictionaries would say "He/she is quite a linguist" when meaning a "polyglot", true and trained linguists derive their professional title from the study of *linguist-ics* -- which can (but should not) be monolingual.

For example: Since my training is in linguistics, I am a linguist; since I speak two languages with native fluency, I am a bilingual person; since I have some fluency in several other languages, I am a polyglot. Since I am accredited by the ATA and possess wide experience and extensive practice in reading, writing and translating the two languages I speak fluently, as well as familiarity with their respective cultures, histories, practices, manners, mores and idiosyncracies, I am a translator.

My training in linguistic science is immensely helpful and I cannot imagine being without it but, to others, it may not seem to be indispensable. Therefore, equating "linguists" with "translators" may not be quite right (TN #8, page 4, last paragraph).

What are the statistics with respect to training in linguistic science among working translators?

Dr. Helga Hosford
Missoula, MT

To the Editor:

I like your TRANSLATION NEWS and I am pleased to enclose my check to cover my first year's subscription.

On page 4 of your last issue (TN #8), you carried a news item about the Slovaks' chauvinistic attitude towards the Hungarians living among them.

Yes, unfortunately, many Slovaks are intolerant, but no, the Slovak National Council is not the legislative body of Czechoslovakia. It makes the laws of Slovakia only and it wants Slovak to be the official language of Slovakia, not Czechoslovakia.

The Czechs, who have their own axe to grind against the Slovaks, would strenuously object to having to learn Slovak.

Keep up the good work.

Louis Korda
Teaneck, NJ

[See more LETTERS, Page 4]

"FTC INVESTIGATION" [cont'd. from Page 1]

submission of documents, Ms. Hammond had to have ATA general counsel, Frank Patton, Jr., apply immediately for an extension, which was granted until January 7, 1991.

Carloads of Documents

The FTC letter addressed to ATA national headquarters called for the submission by the Association of a vast quantity of documents dating back to 1985. The FTC requested, among others, minutes of Board meetings and Executive Committee meetings, annual reports, all issues of the ATA Chronicle, articles of incorporation, by-laws, code of ethics, minutes of the meetings of the Rate Guidelines Committee, correspondence on matters relating to rate guidelines, membership lists and other pertinent documentation. The FTC also cautioned the Association about any willful destruction of any documents requested in its letter. While the FTC letter did not demand any specific documents from ATA chapters, other than those demanded of the NCTA and NCACATA, it did request of ATA "all documents relating to the advisability of the ATA or any of its members, committees, chapters, affiliates or sub-divisions engaging in discussions of rates or the establishment of rate guidelines."

Surprise and Shock

The FTC action may have come as a complete surprise, if not shock, to most ATA officials, in the light of the steps that had been taken by them last Spring to abort the Rate Guidelines Program and issue clear antitrust guidelines to members. One source very close to the Association's official circles stated that the timing could not have been more unpropitious, since the news had come at dues-renewal time, and could cause many members to drop out of the ATA. Nonetheless, it appeared that the Board felt itself obligated to inform the membership immediately of the investigation, regardless of any perceived or feared consequences, and took the step of providing an 11th hour insert in the January 1991 edition of the ATA Chronicle.

Notwithstanding any initial reaction of surprise or shock, most persons with whom TRANSLATION NEWS spoke, including a couple of ATA officials, expressed the feeling that the Association would come out of the investigation relatively unscathed because of having voluntarily terminated the Rate Guidelines Program; one ATA chapter official went so far as to characterize the investigation as "nothing more than a tempest in a teacup." However, that optimism was not necessarily shared by several antitrust attorneys interviewed by TRANSLATION NEWS. While all agreed that ATA's voluntary termination of the Rate Guidelines Program might be viewed as a mitigating circumstance favorable to the Association, the questions of intent and actual implementation could be more ominous. Nevertheless, all of the attorneys questioned agreed that at this preliminary stage, speculation on an outcome would be just that.

Even if the FTC should determine that the ATA did not engage in price-fixing activities, the initial cost of legal fees along with the costs for preparing what are doubtless thousands of pages of documents, could be significant. But should the FTC feel that grounds exist for prosecution, then ATA's financial stability, if not its entire existence, could be placed in jeopardy. And further complicating the picture is the fact that many States (including New York, in which the ATA is incorporated) have their own antitrust statutes.

Under Federal law, entities found in violation of antitrust statutes face criminal or civil suits, and fines and damages in millions of dollars. Also, individuals can be fined as much as \$100,000 and face up to three years in prison for each offense.

"Why the ATA?"

"But, why the ATA? There must be so many larger organizations engaging in doubtful pricing activities," seems to be the dominant question now being asked by the ATA rank-and-file. And a few are asking in *sotto voce* tones, "Who blew the whistle?"

The answer to the latter, if there was a "whistle-blower" at all, will probably never be known, given the confidential disclosure rules of the FTC. However, if a formal complaint was filed by a third-party, then the identity of that party could be revealed.

But the FTC's selection of the American Translators Association for investigation may not be as surprising as it appears to many. Several months ago, it was reported in The New York Times that the Bush administration had done a virtual about-face in investigating and prosecuting antitrust violations, with both the Justice Department and the Federal Trade Commission focusing on entities and individuals irrespective of size or even influence. In addition to investigating alleged price-fixing by major airlines, the Government recently filed suit against the American Institute of Architects, a suit which was settled without prosecution. In addition, the Government prosecuted three dentists in Arizona for illegally setting patient fees.

*Trepidations for Translator Licensing?***MARYLAND ENACTS LEGISLATION TO TEST LIBRARIANS FOR DRUGS**

January 1, 1991, saw the implementation of a plethora of new laws enacted last year by various State legislatures around the country.

One law in particular that has merited close attention throughout the country, especially by professional groups, is a Maryland statute that permits all vocational licensing boards to suspend people convicted of drug violations, including possession.

Plumbers, librarians, fishing guides and many others who require State licenses can be forced into drug tests or treatment programs to keep their business licenses.

(See Commentary on Page 4)

To the Editor:

Once again I was surprised at how differently people perceive the actions of others. I refer to a news item in Issue No. 8 of TRANSLATION NEWS regarding a Mrs. Evans and her editorial which appeared in "Notis News". Although I did not read that editorial, I was still nonplussed by Mrs. Evans' use of the word "vicious" to describe the advice generously offered by one of the so-called "Three" in respect of the danger of incurring a possible violation of the law.

Of the so-called "Three", I know two through professional collaboration: Robert Addis of Ad-Ex Translations International/USA and Bernard Bierman of AdEx Translations International, Inc. My husband and I have worked as freelancers for Mr. Addis since our days in Mexico City, which was about 9 or 10 years ago; our professional relationship with Mr. Bierman has been much shorter.

The news item in question said that Mrs. Evans had "chastised" the translation community for not raising its voice against "The Three". While we cannot speak on behalf of the firm of William Gray Enterprises for the simple reason that we have never had dealings with it, we can speak up for the other "Two". In all of the years we have known each other and worked together, we have never once seen an attitude of ill will towards ATA or freelance translators. On the contrary, both Mr. Addis and Mr. Bierman have shown a profound concern for our Association in the sense of their wanting it to become a more evolutionized and professional entity. As to their relationship with us, we have always received from both, in every possible sense, the best help and treatment a freelance translator could wish for.

Thank goodness there are "Two" or "Three" who care enough for ATA to call its attention to possible pitfalls.

In addition, we would also like to commend you for writing the article about Mr. Cunningham. What a shame that honor is not always rendered where honor is due. Naturally, we never knew Mr. Cunningham, but undoubtedly, he made important contributions to ATA, which are being denied or ignored, but which now have received deserved recognition in your publication. It is to be hoped that one day, ATA matures enough to recognize not only his efforts but those of all the pioneers of ATA, whoever they were or are, and in spite of the differences they may have had, but who strived to shape the beginnings of an Association to represent and serve translators.

Thank you for giving fresh air to an Association that in our perception does not seem so lively but badly in need of oxygen. We look forward to forthcoming issues of TRANSLATION NEWS.

Hortensia Contín
Agustín S. Contín
Santa María, CA

To the Editor:

I would like to thank you for undertaking the publication of TRANSLATION NEWS, and for putting me on the mailing list. It is an illuminating window on the Byzantine world of ATA politics, and an especially necessary one given the decision by the Board and [ATA Chronicle] editor to make the Chronicle into a little Pravda.

José G. Pérez
Decatur, GA

Commentary

PROFESSIONALISM -- A TWO-EDGED SWORD

By Tom Snow

The January 1st edition of The New York Times carried an article on new legislation coming into effect around the country in 1991. As indicated elsewhere in TRANSLATION NEWS, the State of Maryland would have the right to suspend the business licenses of various professionals, including librarians, if convicted of drug violations. Such persons, according to the legislation, could also be forced into drug tests or treatment programs in order to keep their licenses.

A call to the American Library Association revealed that many States require some form of certification for at least some level of library jobs. Although a degree in "library science" is the main criterion, some States require so-called loyalty oaths, etc.

What seems to have occurred here is that an association has acquired enough clout to restrict access to the practice of the skilled trade ("profession") it represents, and now has to accept the consequences -- bureaucratic interference in the everyday life of its members. The profession performs on behalf of the State the police work that the State is unable to do itself. The payoff? No books will be mis-shelved in Maryland because of a doped-up librarian. Translator certifiers, beware!

FLORIDA MEDICAL BOARD'S REJECTION OF TRANSLATIONS SEEN AS PATTERN OF DISCRIMINATION

Scrutiny of Translations of Foreign Medical School Credentials Goes Beyond Requirements Set by Agency Itself

In the motion picture, "The Night of the Generals", the orderly of a tyrannical, cleanliness-obsessed Nazi General tells his replacement, "Clean everything in sight...clean everything OUT OF SIGHT." A paraphrase of those words appears to be operating at the Florida Medical Board in Tallahassee: "Translate everything in sight...translate everything OUT OF SIGHT!"

[see "FLORIDA", Page 6]

ATA DROPS ATLANTA TRANSLATORS GROUP FROM CHAPTER NEWSLETTER EXCHANGE

Cites Failure to Submit Newsletters on Time
and Misuse of ATA Accreditation Tests

Atlanta Officials Deny Improper Behavior;
Demand Investigation by ATA Ethics Committee

The Atlanta Association of Interpreters & Translators (AAIT), one of the more staunchly independent groups in the ATA community, received notice in late November that it had been dropped from ATA's Chapter Newsletter Exchange, a system that had been established about seven years ago for chapters and unaffiliated translator groups to exchange newsletters and other information about local news and events.

In an official letter sent by Meeri Yule, Chairman of the ATA Chapters Committee, the AAIT was informed that it had been removed from the Exchange because of failure to submit any of its newsletters in 1990. In addition to citing the AAIT's failure to make timely submissions of its newsletter, Ms. Yule also indicated that serious allegations had been made respecting the Atlanta group's purported misuse of ATA accreditation tests. Finally, Ms. Yule also charged that the AAIT had failed in the last several years to send a representative to meetings of ATA chapter delegates (usually held at ATA's Annual Conference) and its continued non-response to invitations to convert from an unaffiliated group to an official ATA chapter.

Characterized as "Excommunication"

Initial response to ATA's actions and allegations came first from José G. Pérez, a former editor of the AAIT Newsletter, who characterized the decision to drop the Atlanta group from the Newsletter Exchange as "excommunication". In a sharply-worded open letter to the ATA Board of Directors, Mr. Pérez, speaking as both an ATA and AAIT member, refuted all of the charges made against the local association, stating that the AAIT had indeed sent representatives to the chapter delegates meetings, had never received any invitations from ATA requesting the AAIT to become an official chapter, and finally, had positively submitted newsletters to the Exchange. Mr. Pérez reminded the Board that Ms. Yule herself had acknowledged receiving an AAIT newsletter shortly after writing her letter to the Atlanta group. However, Ms. Yule told TRANSLATION NEWS that while it was true that she had received a recent edition of the AAIT Newsletter, that publication had not been sent to the ATA President, the President-elect or the ATA Chronicle. Jane Morgan Zorrilla, Chronicle editor, said that the last issue received by her from Atlanta was in December of 1989. Although, according to Ms. Yule, there are no specific rules regarding the operation of the Exchange, there are clear directives respecting the distribution of chapter newsletters. Ms. Yule emphasized that in order for a chapter or unaffiliated group to maintain membership in the Exchange, it must send a copy of each edition of its newsletter to the ATA Chapters Chairman, the ATA President and President-elect, and the ATA Chronicle. According to Ms. Yule, the AAIT had clearly failed to abide by distribution procedures.

Shown the Door

When questioned about AAIT's failure to send a representative to the meetings of chapter delegates, Ms. Yule said that her records did indicate that an Atlanta representative had attended such a session in 1987 in Albuquerque, but she did not recall the representative's name. However, TRANSLATION NEWS was able to learn that the representative who had attended that meeting was Catherine McCabe, who had also attended the chapter delegates meeting in Cleveland in 1986. Moreover, it was learned that Elena Treto, a former Vice-President of the AAIT, attended an ATA chapter delegates meeting held at the 1989 ATA Conference in Arlington, Virginia.

In his letter to the ATA Board, Mr. Perez charged that Ms. Treto was asked to leave the session because the AAIT was not "an official chapter". "That is not exactly accurate," said Ms. Treto, "for I left the meeting voluntarily when I was told that it was for chapter delegates only." She added emphatically that she was not "shown the door." Nevertheless, Ms. Yule categorically denied ever telling Ms. Treto or anyone else that the session was open only to representatives of official ATA chapters. According to Ms. Yule, she made it clear to all attendees that everyone was welcome to attend and participate in the discussions, but that only chapter delegates could vote on resolutions. "Obviously," Ms. Yule said, "the Atlanta representative misunderstood the rules of the meeting." The Chapters Chairman did not say whether she considered the AAIT representative's voluntary departure from the delegates session as a mark of non-attendance.

Recycled Accreditation Tests?

Evidently, the more serious charge levelled by ATA against the Atlanta Association of Interpreters & Translators was alleged misuse of ATA accreditation tests, a charge which Mr. Perez said "had been spread throughout the ATA through rumor mills and even formally discussed by the ATA Board of Directors without the AAIT knowing anything about it." Mr. Perez further stated that "Yule presented this rumor as an established truth."

Scott Kimberly, current President of the AAIT said that his organization had heard about these rumors, but had never received any official communication from ATA prior to the arrival of Ms. Yule's letter. "The AAIT accreditation exams," Mr. Kimberly told TRANSLATION NEWS, "are totally separate and distinct from the ATA accreditation tests." He said that the Atlanta group's exams are formulated by persons associated with the University of Georgia, and are used solely for the AAIT's own accreditation procedures. Mr. Kimberly said that such allegations of misuse of ATA accreditation exams were not merely "groundless", but "ridiculous". Ms. Yule declined comment on the charges, saying that the entire matter was under investigation by the ATA Ethics Committee.

From copies of ATA Board minutes it was learned that at a Board meeting held on July [See "ATLANTA", Page 6]

"ATLANTA" [cont'd. from Page 5]

15, 1989, Grace Tillinghast, Chairman of the ATA Accreditation Committee, expressed concern that the AAIT was running its own accreditation program and allegedly using past ATA tests and ATA-accredited members as graders. These minutes also indicated that the Board referred the matter back to the Accreditation Committee for further investigation. One unidentified Board member even suggested that ATA consider taking legal steps to protect its accreditation program. However, according to the minutes of a Board meeting held at the 1989 Conference some six months later, there was no follow-up to the allegations made against the Atlanta group; rather, the ATA Board came to the conclusion that there was little that could be done to prevent the AAIT from using old ATA tests for its own accreditation program.

Addressing the charge that the AAIT had failed to respond to the ATA's invitation to become an official chapter, AAIT President Kimberly said, "The members of the AAIT on several occasions voted against becoming an official ATA chapter, and this was clearly communicated to ATA officials."

"FLORIDA" [cont'd. from Page 4]

As reported in a previous edition (TN #7 - 1990) of TRANSLATION NEWS, the Florida Medical Board has issued stringent directives regarding translations of foreign medical school records and credentials, demanding that every little detail in the source language document - even what is obviously irrelevant or inapplicable - be included in the translation, including, among others, numbers of domestic stamp taxes, amounts paid for such taxes and legalizations, and other bureaucratic bric-a-brac. According to interviews with several New York area translation companies and physicians applying for a Florida medical license, translations are being rejected not only for alleged non-compliance with the FMB's translation requirements, but also for reasons that are not even indicated in those requirements.

One physician in Georgia, a graduate of medical schools in the Dominican Republic and Mexico, had the translation of one of his diplomas rejected because the name of one of three legalizing notaries contained a minor misspelling; another translated document submitted by this same doctor was returned because the translator had indicated the year "1780" as the date of founding of the particular university, when the date should have been "1760" (an inspection of the document showed that the date was partially obscured by a university seal). This latter occurrence indicated that some clerk at the FMB had taken the pains to put the document under a microscope for determining the actual date.

A Pakistani physician and graduate of an Argentine medical school saw the translation of his 4-page university record rejected because in one place out of five, the acronym of the university was inadvertently omitted, and another document was deemed unacceptable because of an error in one number of four telephone lines! Another graduate of a

foreign medical college had a translation rejected because the words "seal of the university" were flagged as "erroneous"; according to the FMB reviewer, the "correct" translation should have been "DRY seal of the university".

The feeling among both translation companies and their physician-clients is that the Florida Medical Board is covertly attempting to discourage foreign medical school graduates from applying for a Florida license, and is using extreme methods of bureaucratic nit-picking to keep those graduates away from the State. Officials at the FMB could not be reached for comment, since all telephone lines are continually busy, a condition verified by almost all of the doctors and translation companies with whom TRANSLATION NEWS spoke.

The Georgia physician said, "I submitted the same translations to the medical licensing boards of eight States, and only Florida rejected them because of a minor misspelling in a notary's name and the so-called erroneous date of establishment of the university from which I graduated. If that is not gross discrimination, I don't know what is."

Blues in the Night...and Day?

EFFECTS OF THE RECESSION ON THE TRANSLATION INDUSTRY NOT YET CLEAR

Back in 1982, the last so-called "official" economic recession in the U.S., the talk among many translators attending that year's convention of the American Translators Association in Washington, DC, was about the less-than-glorious economic times. Clearly, many corporate staff translators were worried about their jobs, or knew of colleagues who had been dispatched to the unemployment lines. Freelance translators and translation company owners talked about discernible slow-downs in their businesses, and in general, many, but certainly not all, expressed concern over that year's drop-off in volume.

However, the figures and events of 1982 seem almost trifling in the face of the figures and events of 1990-91, save perhaps for interest rates. Every day, beginning sometime in November 1990 and running continually into January 1991, the numbers appear to be growing more and more ominous: 21,000 laid off by Sears; 4400 put out of work by Citicorp; 66,000 jobs lost (since 1987) in the stock market; thousands laid off in the aircraft, aviation and automotive industries; the failures of Savings & Loan Associations and the failure of a major bank - the Bank of New England, and of course, the bankruptcy of that American institution known as Pan American World Airways. And to top off the general gloom, the guns of January are being loaded in the Middle East (and by the time this publication reaches its readers, those guns might already be firing).

And what of the translation industry? That is a question that no one can answer with any accuracy, even remote accuracy. For one, the industry lacks a central economic reporting medium as exists in other

[See "RECESSION", Page 7]

"RECESSION" [cont'd. from Page 6]

Industries. Secondly, many independent translators and translation service company executives are reluctant to talk about economic matters, especially during periods when bottom-lines show a downward trend. Some in the industry recalled one translation bureau owner boasting about "booming business" in a time when many were struggling to keep their heads above water, only to go bankrupt some four months after gloating about a banner year.

What makes the economic situation in the translation industry even more difficult to gauge is the fact that historically the industry has not necessarily followed usual business trends and cycles. In many known cases, because translation is a branch of the communications industry, it has remained independent of traditional economic indicators. Because the industry is anything but homogeneous, the ups and downs of, for example, foreign trade, may affect only a small segment. Last Spring, when many independents and companies needed 36 hours in a day for meeting current volumes, those whose business was related to military and defense contracts began to see an erosion in volume; of course, that was before Saddam Hussein decided to gobble up Kuwait. Those who service the research and development sectors of the medical-pharmaceutical establishment appear, to all indications, to be holding steady, and likewise those whose business is heavy in legal work.

Yet, there are signs that some segments of the translation industry may be experiencing if not difficult, then certainly worrisome times. In an effort to get some gauge on what may be happening in the industry, TRANSLATION NEWS did some spot interviews with some 15 translation service companies and a slightly smaller number of freelance translators in the Northeastern, Mid-Atlantic and Far Western States. Three translation companies reported that business was as strong as ever; six indicated that business had dropped off slightly to moderately; two said that there had been a marked drop in activity since last October, and four declined comment. With freelancers, the results appeared to fall into two distinct categories: no change and a very discernible drop in business. Naturally, because of the highly unscientific nature of this survey, any conclusions reached would be speculative, but nonetheless, it appears that the 1990-91 economic downturn is affecting some in the industry.

Editor's Funnybook

In the last two editions of TRANSLATION NEWS, we published an item about how the New York State Department of Labor had classified translation among a host of diverse occupations and trades, including (but certainly not limited to) trade show arrangers, sign painters, notaries, photo-laminators, et al. We also reproduced an advertisement in the Stanford (California) Daily taken by American Translators International, Inc., soliciting the services of part-time translators (PhD or MS required) at an hourly rate of

\$10.00-\$15.00 Resident humorist Tom Snow, no doubt inspired by these pieces, took to his word processor and wrought the following piece of profundity:

"TRANSLATORS NEEDED IMMEDIATELY to raise funds by lecturing on how to design textiles for uniforming paralegls to clean, and soften the water in swimming pools, safety-inspect them, reposses and salvage any damaged autos submerged therein, field-warehouse the vehicles in a trade-show exhibit building with appropriately-drafted signage, compute an inventory of repossessions, notarize, laminate photos, and serve processes for the purpose of telemarketing tax titles therefor, thereon and thereto; auction off any credit cards found in said safety-inspected swimming pools, record on audio tape and arbitrate any disputes arising therefrom, validate the checks issued in payment thereof, and message any resulting clippings (without depending on beepers) to the appropriate bondspersons. MUST HAVE AT LEAST ONE DOCTORATE IN SCIENTIFIC OR TECHNICAL FIELD, FIVE REFERENCES, AND 25 YEARS OF EXPERIENCE, PLUS COMPUTER, FAX, MODEM AND AUTOMOBILE (pay for own gas). FLUENT IN JAPANESE AND ALL DIALECTS OF ARABIC. INTIMATE FAMILIARITY WITH FIBONACCI-VARIABLE DISTRIBUTIONS. RAPID TURN-AROUND AND WILLINGNESS TO WORK WEEK-ENDS AND HOLIDAYS ESSENTIAL. BACKGROUND CHECKS, URINALYSIS AND \$1500 BOND REQUIRED. \$7.00-\$13.00/HOUR. MID-WESTERN ATLANTIC NATIONAL GENERAL SERVICES INTERNATIONAL, INC. - HURLEYVILLE (NY) - MILES CITY (NV) - LA BELLE (FL) - CORLEONE (ITALY) - LENS (BELGIUM) - SAN COSME (PARAGUAY)."

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* Articles, letters and comments by readers *
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SOME TAX AND TAX-RELATED REMINDERS FOR 1990 AND 1991

SOCIAL SECURITY CONTRIBUTIONS:

For Employers: The overall rate for 1991, as it was in 1990, is 7.65% deducted from the employee's wages/salary, matched by an equivalent 7.65% contribution from the employer, or a total of 15.3%. However, in a change from previous years, 1991 will see a split in this 7.65% (both the employee's share and the employer's share), with two distinct ceilings:

The social security part is assessed on wages/salary of up to \$53,400 at a rate of 6.2% each for employee and employer. Above the figure of \$53,400, there are no further social security contributions. The medicare part is assessed on wages/salary of up to \$125,000, at a rate of 1.45% each for employee and employer. Medicare contributions cease after \$125,000. The IRS requires separate bookkeeping and accounting for each type of contribution.

For Self-Employed: The IRS instituted changes in 1990 in social security contributions for the self-employed (social security contributions for self-employed persons are called "Self-Employment Tax"). In (very) simple terms, it works like this:

All net earnings in 1990 from self-employment, up to \$51,300 are taxed at a rate of 15.3%. However, one-half of the resulting figure can now be deducted from the self-employed person's taxable, i.e., income-taxable, income.

For example, using the case of a freelance translator whose total net earnings came to \$45,000 exclusively from self-employment in 1990. Thus, $\$45,000 \times .153 = \6885.00 . This figure is then entered on line 10 of Schedule SE. Then one-half of that figure, i.e., \$3442.50, is entered as an adjustment (deduction from) to income on line 25 of Form 1040. Remember that this is a very simple example, and there can be all sorts of variants and complexities depending on the particular situation, e.g., a freelance translator having income both from self-employment and wages/salary.

1991 will also see a split in the social security contributions for the self-employed, basically following the same lines as for the employee-employer. But doubtless, different adjustments will be allowed on Form 1040 for the social security part and the medicare part. TRANSLATION NEWS will keep you abreast of these aspects as the year moves on, but wise money says that close consultation with your accountant or tax advisor is the best course of action.

EMPLOYER-EMPLOYEE RELATIONSHIP AND INDEPENDENT CONTRACTOR STATUS:

In past years, the Internal Revenue Service (IRS), which acts as assessor and collector of income and other taxes, as well as assessor and collector of social security contributions, took a relatively liberal view towards the employee-employer relationship and the status of independent contractors, at least in respect of social security obligations. But in the past several years, the IRS has been clamping down in this area, and indeed is now implementing a policy that many State labor

departments have been following for years.

About 10 or so years ago, a large translation company was severely penalized by a State labor department for failing to pay unemployment contributions and related taxes on behalf of persons whom the translation company considered freelancers, i.e., independent contractors, but whom the State viewed as employees. The State charged that these so-called freelancers had been working steadily on the premises of the company, using company-owned equipment, and moreover had been pressured into not rendering translation services to competing translation agencies. The State considered this practice as constituting an employer-employee relationship, and demanded not only current State unemployment contributions and taxes, but also back-contributions and taxes, all of which were subject to penalty and interest. The translation company was forced to pay.

Fortunately for the company, the IRS at that time was not overly concerned with this type of practice, it being content with the amounts of self-employment taxes (i.e., social security contributions) collected from the so-called freelancers of the translation company, who had declared this income from the company as self-employment earnings. Therefore, the company escaped the wrath of the IRS.

But that has all changed, and the IRS is now, through audit and computer verification procedures, taking a very close look at companies availing themselves of services rendered on their premises by persons carried on the books as independent contractors. To make matters worse, the States and the IRS now freely exchange information on abuses of the employer-employee relationship, and if the IRS penalizes a firm for such abuse, it will inform the appropriate State authorities, and vice-versa.

If you are the owner of the translation company and utilize the services of a translator on your premises on a reasonably continuous basis, check with your accountant or tax advisor about whether you should be paying [the employer's share of] social security contributions (and other State-mandated contributions) for that person.

Freelance translators, or those considering themselves to be freelance translators, can be considered employees if they frequently render their services on a company's premises, and utilize equipment made available to them by the company. Both independents and translation companies would do well to check the question of status with an accountant or tax advisor.

(Space limitations preclude a more detailed discussion of this subject; however, a talk on the employer-employee relationship and the independent contractor status will be given at the forthcoming ATA Regional Conference in Cape May, NJ, April 26-28, 1991, and possibly also at the ATA Annual Conference in mid-October of the year in Salt Lake City, UT. Watch for announcements giving further information.)