

TEN YEARS OF RATES AND RATING BUREAUS IN ONTARIO, APPLIED TO AUTOMOBILE INSURANCE

BY  
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INSURANCE IN ONTARIO

The Abstract Report of the Superintendent of Insurance on the insurance business in Ontario for 1931 furnishes the following information with regard to premium income in the province:

*Business of 1931 Within Ontario*

Net premium income..Life insurance.....	\$89,075,076.00
Net premium income..Fraternal societies.....	4,023,377.00
Net premiums written.Fire insurance.....	22,067,713.00
Net premiums written.Automobile insurance.....	8,830,502.00
Net premiums written.Casualty and misc. (other than automobile) .	7,450,280.00
Totals .....	\$131,446,948.00

NOTE: These figures are net as to reinsurance ceded. Workmen's compensation is not included in the figures as such insurance in Ontario is entirely monopolistic state fund.

The population of Ontario according to the 1931 census is 3,426,488. While the total automobile insurance premiums mentioned in the above table appears to be small considering that all automobile insurance coverages are included, namely, public liability, property damage, collision, fire and theft, it must be remembered that the cost of automobile insurance in Ontario is low when compared with the cost of such insurance in other jurisdictions.

For example, in the city of Toronto the 1932 bureau premium for insurance upon a 1932 Chevrolet, closed model, covering public liability and property damage (standard limits), \$100 deductible collision, fire and theft (actual cash value at time of loss or damage) is \$47.05 complete, and greater Toronto has a population of some 750,000.

During 1931, automobile license plates were issued to private passenger car owners to the extent of 489,713 and private passenger operators' permits were issued to 508,121 motorists, not including chauffeurs.

## GOVERNMENT REGULATION

The regulation of insurance in Canada follows largely the same principles concerning government regulation in the United States. All insurers are required to be licensed in each of the provinces where business is transacted. There is, however, a Federal Insurance Department at Ottawa which inspects annually all insurers registered by it. Insurers which are registered by the Federal authorities are not required to file deposits with the provincial Departments. The Federal Department confines itself to the registration of insurers from the standpoint of solvency and requires a detailed annual return from all insurers registered by it (subject to annual audit).

All insurers transacting business within Ontario are required to pay an annual license fee and to make an annual return of financial condition showing an exhibit of the assets, liabilities, receipts and expenditures for the calendar year and shall also exhibit particulars of the business done in Ontario.

The Ontario Insurance Act also contains provisions relating to various kinds of insurance contracts, including statutory conditions which various types of contracts must contain. There is also a separate part of the Act which deals with agents, brokers and adjusters including license provisions relating thereto, and another part deals with rates and rating bureaus which is dealt with more fully in this article.

All insurers transacting business in the province are subject to inspection, but for practical reasons and to avoid duplication, the provincial Departments do not make an annual statement audit of insurers which are inspected by the Federal Department. In the case of the *Citizens Insurance Company vs. Parsons* (1881) a definite principle was made clear, that it is within the power of the Dominion Legislature to create the person of a company and endow it with powers to carry on a certain class of business, to wit, insurance; and nothing that the provinces can do by legislation can interfere with the status so created; but none the less, the provinces can by legislation prescribe the way in which insurance business or any other business shall be carried on in the provinces. The great point of the case referred to was the clear distinction drawn between the question of the status of a com-

pany and the way in which the business of the company shall be carried on.

#### MASTEN INSURANCE COMMISSION

On August 7th, 1916, the Honourable Mr. Justice Masten, Judge of the Ontario Supreme Court, was appointed a Commissioner (pursuant to the Public Inquiries Act, chap. 18, R.S.O. 1914) to inquire into and report to the Lieutenant-Governor of Ontario upon:

- “(a) The methods by which insurance companies registered or licensed by the province of Ontario, their representatives or agents, transact all classes of business except the business of life and marine insurance, but more particularly as to fire insurance, automobile insurance, plate glass insurance, boiler insurance and accident insurance.
- (b) The methods, rules, regulations and practices of all associations of such insurance companies and associations of representatives or agents of such insurance companies with regard to making, promulgating, enforcing or controlling rates, commissions, forms, clauses, contracts or the placing of insurance.
- (c) The advisability of adopting statutory conditions for automobile, plate glass, boiler and accident insurance policies.
- (d) The existing laws in Ontario in relation to the foregoing and their practical operation.
- (e) The existing laws in Ontario in relation to unlicensed insurance and their practical operation.
- (f) Any matter arising out of the foregoing which it is necessary to investigate with a view to the above inquiries, and to make such recommendations in regard to the above as he may think advisable.”

The report of the Commissioner was released on January 18th, 1919, and recommendations contained therein are quoted in part as follows:

1. Supervision and control by the province, of the Canadian Fire Underwriters' Association, in the manner and to the extent set forth in the report.
2. Similar supervision and control of all other rate making organizations in the province of Ontario, including associations of insurers writing automobile, casualty and boiler insurance.
3. Prohibition of any rate which discriminates unfairly be-

- tween risks of essentially the same hazard, with power to the Superintendent to cancel a discriminatory rate.
4. Power to the Superintendent to inquire, mediate and report in respect of any difference respecting any insurance matter.
  5. That all companies be required to keep their records in such a way as to classify the business done by them and to show in their annual returns to the Department not only the amount of business done in the province, and their underwriting profit made, but also the profits made in each of the several classes of risks assumed by them.
  9. Consideration by the Legislature of the desirability of limiting commissions by statute.
  15. A general revision of the Insurance Act.

#### AUTOMOBILE INSURANCE

Insurance business as conducted throughout Canada and the United States represents, with certain exceptions, a private, competitive enterprise conducted for profit. The exceptions take the form of co-operative organizations having no capital stock (e.g. mutuals and reciprocal interinsurers) and provincial or state funds furnishing exclusively workmen's compensation insurance. Insurance of motor cars, commonly referred to as automobile insurance, as conducted in Canada, is furnished almost entirely by stock insurers, although in comparatively recent years a beginning has been made in this field by mutual insurers. Automobile insurance in Ontario constitutes a separate and distinct class of business from the other general classes, such as fire, casualty and life insurance. It is written by insurers which are essentially fire offices, as well as by those which are essentially casualty offices.

The insurers which are licensed for automobile insurance in Ontario may also be classified as follows:

1. Tariff insurers, i.e. those holding membership in the Canadian Automobile Underwriters' Association (also known as "the bureau").
2. Non-tariff insurers (including all mutuals).

The Canadian Automobile Underwriters' Association is a voluntary association of insurers which transact automobile insurance. Its chief functions are to gather statistics relating to the business of automobile underwriting, to establish and maintain

uniform premium rates for automobile insurance and to regulate acquisition cost through standardization of agents' commissions. During the period of membership insurers are bound by agreement to observe the premium rates and rules therewith appertaining for automobile insurance determined by the bureau. An insurer may retire from membership at any time by giving thirty days' notice.

The membership of the bureau is constantly changing.

#### DEVELOPMENT OF RATING LAWS IN ONTARIO AND THEIR APPLICATION TO AUTOMOBILE INSURANCE

In 1922, Ontario enacted legislation dealing with "Rates and Rating Bureaus". The Insurance Act of 1922 defined "Rating Bureaus" and by inference it permitted insurers to combine in rating associations for the purpose of determining and fixing rates.

By way of a summary this legislation of 1922 provided:

1. Rating bureaus were required to file copies of their constitutions, by-laws, lists of members, etc., with the Department of Insurance.

2. The unfair discrimination between risks within Ontario of essentially the same hazard, etc., was prohibited. The Superintendent of Insurance upon receipt of a written complaint from a policyholder alleging unfair discrimination was empowered to make an investigation and to require any insurer or rating bureau to file particulars with him relative to any rate or schedule of rates in respect of which such complaint had been received, and to order any rating bureau or insurer to remove any unfair discrimination so determined. Unfair discrimination could not be removed by increasing the rates affected by the order, except with the approval of the Superintendent. An appeal from the decision of the Superintendent could be lodged through the Appellate Division of the Supreme Court of Ontario.

3. The Superintendent, or any person authorized by him, was empowered to have access to the books and records of insurers and rating bureaus concerning the matter of rates.

4. Authority was given to the Superintendent to inquire into any question which any insurer, insured or rating bureau might

bring before him with regard to insurance rates fixed by any rating bureau or charged by any insurer and also with regard to any other question arising out of the relationship of the parties with reference to the insurance in question. The result of any inquiry under this section was to be reported upon by the Superintendent in his Annual Report.

5. On and after January 1st, 1923, all insurers transacting the business of fire insurance within Ontario were required to keep records and make a sworn annual return thereof to the Department of Insurance showing their premiums and losses in the province according to the classification of occupancy hazards of the National Board of Fire Underwriters with such modifications as the Superintendent might prescribe.

On April 16th, 1924, a memorandum was issued by the Minister in charge of the Ontario Department of Insurance addressed to all insurers licensed to transact automobile insurance in the Province, which read:

“Your attention is directed to section 264 of The Ontario Insurance Act as enacted in 1922, which provides

No rating bureau and no insurer authorized to transact the business of insurance within Ontario shall fix or make any rate or schedule of rates, or charge a rate which discriminates unfairly between risks within Ontario of essentially the same hazard, or, if such rate be a fire insurance rate which discriminates unfairly between risks in the application of like charges or credits, or which discriminates unfairly between risks of essentially the same hazard and having substantially the same degree of protection against fire.

Complaint has been made to the Department that companies are violating this provision through a failure to appreciate its application to automobile insurance. The undersigned, therefore, desires to notify the companies that in the opinion of the Department the following practices in particular are contrary to the requirements of this section.

1. The insurance of automobiles of individual employees at the rates granted to the employer who insures his fleet of motor cars with the company, unless the same rates are available and granted to all persons insured, whether or not so employed.

2. The insurance of groups of persons at rates different or lower than the rates offered to the general public. This includes the insurance of members of motor clubs or associa-

tions of employees or of persons engaged in particular occupations.”

In 1925 the following changes concerning “Rates and Rating Bureaus” were made to the Ontario Insurance Act:

The Superintendent of Insurance was authorized to require:

1. Every rating bureau and every licensed insurer to make a return under oath to the Superintendent in such form and at such times as he deemed necessary, showing every or any schedule of rates fixed, made or charged by them, together with such further or other information concerning such rates as was necessary or desirable.

2. The Act of 1922 had prohibited unfair discrimination between risks within Ontario of essentially the same hazard. In 1925 the wording was changed to read “the same physical hazard, etc.”.

3. The Act of 1925 provided that an insurer, as well as an insured, could file a written complaint with the Superintendent regarding unfair premium rate discrimination.

In dealing with the matter of premium rates, a basic point to be borne in mind is that the law of Ontario prior to its amendment in 1925, neither established nor recognized any standard by which the premium rates of an individual insurer might be judged. It merely laid down the principle that in the application of rates to specific risks there should be no unfair discrimination. The 1925 amendment empowered the Superintendent to require the insurers to place their premium rates on file with the Insurance Department as evidence of the prices which they undertook to charge. Here, therefore, was a standard of judgment whereby the Department could reach a decision on the merits of any individual case of *prima facie* unfair discrimination. The same standard of judgment applied alike to bureau and non-bureau insurers. That is to say the law dealt with the question of unfair discrimination as an individual insurer matter. No insurer was required to adopt any particular system of rates. The statute contemplates, however, that all insurers would apply equitably whatever rate system they had adopted and placed on file with the Department.

On April 20th, 1925, a circular letter was sent to all insurers licensed to transact automobile insurance in Ontario. This

circular required all such insurers to file with the Superintendent on or before the first of May following, any and every schedule of premium rates fixed, made or charged for automobile insurance in the province as of the date of the return, including any schedules or plans of rating fleets of automobiles, together with a statement of the effective date of such schedules. In due course the filings were completed. Seventy-two insurers, members of the Canadian Automobile Underwriters Association, the only automobile rating bureau in Ontario, filed the Association manual premium rates and rules. The other thirty-two insurers filed premium rates which may be classified roughly as follows: Six insurers filed straight manual premium rates (though not members of the rating bureau), two insurers filed manual premium rates less a uniform percentage deduction of twenty per cent.; eight insurers filed manual premium rates less a variable percentage deduction according to the class of cover, and the remaining sixteen insurers filed what purported to be independent premium rate schedules.

Only two groups of insurers questioned the action of the Department in calling for premium rate and rule schedules. The complaint was that they had no fixed schedules, that they rated each risk "on its merits"; in other words, that they instructed their agents to review the moral hazard on each risk before fixing the premium rate to be paid. The Department suggested in that event a schedule of premium rates charged upon a representative couple of hundred risks would be accepted. The alternative proved unacceptable, and premium rate schedules, if they can be so called, were promptly devised and filed.

The Department analysis of the rating schedules proved interesting. The schedules of manual premium rates and uniform percentage deductions therefrom require no comment. The eight schedules showing variable percentage deductions from manual premium rates were probably the most enlightening of the general situation. Four of these insurers filed manual premium rates and added:

"It is our usual practice to instruct agents to write business subject to a discount of twenty-five per cent. therefrom. We find from experience that better rates can be given on certain risks of which we have previous knowledge or which



have some favourable features to recommend them. In such cases a further allowance of five per cent. to ten per cent. is sometimes made. Our experience shows that the personal judgment of the company's agent or official is an important element in fixing rates, and this may lead occasionally to slight variations in the above."

Two of these insurers filed bureau manual premium rates subject to percentage deductions ranging from ten per cent. to twenty-five per cent. according to the class of cover, with the following additional special deductions:

"Fire extinguisher, fifteen per cent. off rate; bumpers (front) ten per cent. off collision rate; bumpers (rear) two and one-half per cent. off collision rate; locking device, fifteen per cent. off theft rate. No charge for extra equipment. An allowance up to fifteen per cent. for favourable experience. An allowance up to ten per cent. for private garage and/or chauffeur-driven cars. Groups of not less than twenty-five cars belonging to individual owners in common employment and/or fleets consisting of not less than five cars belonging to one owner may be submitted to head office for special rating."

The seventh insurer filed manual premium rates subject to certain exceptions, arranged by territorial classifications:

"Manual less ten per cent. seventeen named urban municipalities; manual less twelve and one-half per cent., one city; manual less fifteen per cent., one city; manual less twenty per cent., two cities; fleets—rates upon their merits."

Upon analysis it was apparent that this seventh insurer, for example, was charging full manual premium rates in City A, manual less ten per cent. in City B, and manual less twelve and one-half per cent. in City C, three small Ontario cities within a radius of a few miles of one another. In response to a verbal request for an explanation the manager for this insurer frankly admitted that his company was charging manual premium rates in City A, because its agent there thought he could get them; and that competition being more severe in City C, than in City B, it had been necessary to allow an extra two and one-half per cent. deduction in the former city. The last insurer of this group of eight filed manual premium rates less eight per cent. on the fire coverage and a note that theft rates were to be read as including accessories.

Upon receipt of the above mentioned premium rate schedules the Department initiated an inquiry in the head offices of a number of insurers. Needless to say, local competitive conditions seemed to be the only factor considered by some of the insurers in fixing their premium rates to be charged and, generally speaking, the insuring public did not appear interested in insurance legislation designed to prevent unfair discrimination in premium rates. After the Act was amended in 1925 allowing any *insurer* to file with the Superintendent a written complaint, a number of complaints were received presumably by reason of large individual risks which were offered by agents or brokers whose chief object was to higggle the market for the lowest available price.

Concerning the first ten insurers examined by the Department, it was found that six insurers were charging manual premium rates less variable percentage deductions with ample evidence that the filed premium rates were not being applied. It may be remarked in this connection that the statutory provision requiring a written application for automobile insurance signed by the insured was invaluable in checking up adherence to premium rate schedules and unearthing instances of unfair discrimination. In the case of the public liability premium rates for standard limits of one insurer—same hazard and same territorial classification as per manual—there was a range in discounts from ten per cent. to forty-three per cent. Property damage rates charged by the same insurer varied with discounts of from ten per cent. to forty per cent. Two actual cases may be cited as examples: Two neighbours, a man and woman, residing door to door in the city of Toronto, insured their Ford sedans through different agents with this insurer within a few days of each other, no change in rating policy having taken place in the meantime. A scrutiny of the written applications showed the risks as alike as two peas in a pod. The woman paid a thirteen per cent. higher rate than the man. The only explanation of the discrimination on the daily report was "Premium arranged by A.H.B." "A.H.B." were the initials of a general agent of the insurer.

The second case was that of a civil servant at the Parliament Buildings, Toronto (whose name was at once recognized by the examiner) who had his private car insured for public liability

and property damage. He was paying the full manual rate, although this was the insurer which filed premium rates showing variable percentage deductions from manual rates of from ten per cent. to fifty per cent., and any number of cars of essentially the same physical hazard in Toronto were being insured by it at up to forty per cent. deduction from manual premium rates.

The foregoing discussion of rates filed and rates charged has been related to individual passenger cars only. Concerning fleets, it was found that the ruling of the Department had been absolutely ignored by several insurers, and that not only were employees' cars being insured with commercial fleets at discounted premium rates, but persons in common employment, such as bank clerks, were insuring their cars at twenty-five per cent. to fifty per cent. off manual premium rates and frequently at twenty-five per cent. below premium rates offered by the same insurer to the general public.

When the automobile premium rate situation in Ontario had been thus surveyed, the Superintendent of Insurance undertook to test out the enforcement machinery of the law and to make some exemplary orders respecting unfair discrimination.

On September 18th, 1925, two insurers were ordered by the Superintendent to remove unfair discrimination in automobile insurance premium rates and to refund the excess of premiums paid by other policyholders (not included in groups) within thirty days from the date of the order. Subsequently, satisfactory evidence was filed with the Department that the refunds so required to be made had been paid and that the Orders in other respects had been obeyed.

On December 15th, 1925, a memorandum was sent by the Superintendent of Insurance to all licensed insurers undertaking automobile insurance in Ontario which read in part:

"Pursuant to subsection 2 of section 260 of the Ontario Insurance Act, 1924 (as enacted by 1925, c. 54, s. 34) you are hereby required to file with this Department on or before the first day of January, 1926, a return, duly certified by affidavit, embodying complete schedules of automobile insurance premium rates effective for 1926 business in Ontario, including therein any schedules or plans of rating fleets of automobiles. If 1926 rating schedules are not ready by the 1st day of January, 1926, the return should be filed as soon

thereafter as the schedules are formulated, and in any event, before they are made effective.

All schedules hereby required to be filed must conform to the requirements of Part XIV of the Act and must avoid discrimination between risks of essentially the same physical hazard in the same territorial classification.

#### *Fleet Rates*

Plans of rating fleets of automobiles should be carefully reviewed before filing, in relation to illegal discrimination. Some methods of fleet rating filed by insurers in 1925 manifestly violated the anti-discrimination section of the law. In connection with the 1926 schedules, insurers will be asked to justify their fleet rating methods and to eliminate from their rating plans all terms which are discriminatory in their application, etc."

On April 3rd, 1926, an Order to remove unfair discrimination in automobile insurance premium rates was issued against a third insurer. In this case a number of employees' and officials' cars were insured in the fleet policy of an employer at a substantial discount from the insurer's manual premium rates respecting individually rated cars. The refunds affected by this Order were also paid to other policyholders in the territory who had paid higher premium rates.

Regarding the Order issued against this third insurer, the case attracted wide interest and attention, both among those directly concerned in the insurance business and the general public. It was evident that the intention and effect of the Ontario rating law had not been generally understood and appreciated because the practice which was illustrated by this case (employees' privately owned cars included on a fleet policy at a substantial discount) had been fairly general among insurers in Ontario. The proceedings in this case brought forcibly to the attention of the public, the insurers, the Department and the Legislature, the necessity of reviewing the principles of legislation and supervision upon which the rating law was founded, in order that the law might be strengthened by the Legislature then in session or, in the alternative, repealed.

It was interesting and important to notice the reaction of the insuring public and the insurance business to the proceedings. Opinion among insurer managers seemed sharply divided. Some

believed that the intervention of the Legislature and the Department was both necessary and desirable. Others objected to any measure of government regulation of premium rates. It remained for the associated fire and casualty insurance agents of the province to give a strong lead to insurance opinion on the matter as they did in a memorial presented to the government, reading as follows:

“Whereas there is reputed to be a very small number of insurance companies and brokers who are using every effort to discredit the administration of the provisions of the Ontario Insurance Act, which prohibits unfair discrimination between automobile risks of essentially the same physical hazard in the same territorial classification and are opposing the enactment of any further legislation at this session for the furtherance and strengthening of the enforcement thereof, commonly known as Anti-discrimination Law”.

“And whereas this law is of vital importance to the business of insurance throughout the province of Ontario because it guarantees stability of rates, eliminates extravagant and wasteful competition and furthermore is recommended in the public interest by the Honourable Mr. Justice Masten in his report as Insurance Commissioner.”

“Be it resolved by the executive of the Ontario Fire and Casualty Agents Association in special meeting assembled at Toronto on Thursday the 25th day of March, 1926:

1. That the fundamental principles of the Ontario Rating Law applied to automobile insurance are absolutely sound and should be preserved and that any legislation introduced this session which has for its purpose the negation of such principles should be vigorously opposed and further that any legislation that has for its purpose the making more effective (the administration of) the Rating Law and (particularly the prohibition of deviation from filed) schedules of rates should be strongly supported by all persons who have the welfare of sound insurance at heart.

3. That our Association wishes to place itself on record as congratulating the Department of Insurance for the fearless and effective manner in which it has administered the law as laid down by the Ontario Insurance Act, 1924, and its amendments.”

Undoubtedly the Government and the Legislature were influenced by this view. The amendments to the rating law subsequently enacted by the Legislature in sections 24 and 25 of the

Ontario Insurance Act, 1926 (1926, chap. 49) provided that not only might the Superintendent require rating bureaus and insurers to file complete schedules of premium rates with the Department as formerly, but that once filed, ten days' notice of any change in the schedules must be given and amended schedules duly verified under oath filed before the effective date thereof; further that any rating bureau or insurer which, having so filed its schedules of premium rates, fixed, made or charged any rate or received any premium which deviated therefrom should be guilty of an offence. Simultaneously, the Superintendent was given authority to make an Order pursuant to section 262 of the Insurance Act respecting unfair discrimination, not only upon written complaint as formerly but "upon such information filed with him as the Superintendent deemed sufficient to justify an investigation."

When these new provisions regarding premium rates became law on April 8th, 1926, the insurers were duly advised and requested to make a complete new filing of automobile insurance premium rates and rules applicable to Ontario. Numerous complaints concerning unfair discrimination and deviation from filed rates came to the Department after the new returns of premium rates had been filed in the spring of 1926, yet no further Orders were issued against insurers regarding unfair discrimination or with respect to departure from filed automobile rates. The general run of complaint was that cars privately-owned were being included in fleets of employers' cars, or in group fleets of people in common employment, or under similar circumstances, at rates lower than the general public obtained.

Thus two years' enforcement of the Ontario rating law terminated. Although it remained on the statute books, it was virtually a "dead letter" until resurrected in February, 1929, to expedite the work of the Royal Commission. The official records disclose no completely satisfactory explanation of what happened or why. It is true that evidence was presented before a Royal Commission in September, 1930, touching upon the period from the fall of 1926 to February, 1929, regarding the rating provisions of the Ontario Insurance Act, which stated in part:

"That the companies, generally, did not seem to feel that the law was going to be enforced, with the result that there

were so many complaints reaching the Department that it was physically impossible for the Department to effectually administer the law without a new mandate from the Legislature."

This statement merely points toward the true explanation. No prohibitory penal statute can be successfully enforced without strong backing from some influential class of the community. Unorganized public opinion is not interested in insurance rating laws. Organized public opinion represented in Ontario by the Canadian Manufacturers Association and Boards of Trade, etc., usually straddle the fence where governments and private business are in conflict. The associated agents and brokers did not follow up the strong stand taken in their memorial to the government in the spring of 1926, leaving individual brokers and agents to violently oppose the law. Insurance company executives either fought the Department openly or adopted a "wait and see" policy. In the result it would seem that the government decided it lacked any mandate to enforce the law and concluded that so long as the insurers, under the stress of unregulated competition were undertaking to give the public insurance at less than cost it was the best policy to sit back and watch matters develop. In any event, that is exactly what happened. It was only when the associated insurers undertook to increase premium rates sharply in 1929 that the government stepped into the rate inquiry field again. But the promptness with which it did so suggests that, if the Insurance Department had really been asleep during that three year period, it apparently had kept at least one eye open.

#### APPOINTMENT OF A ROYAL COMMISSION

At the beginning of 1929 the Canadian Automobile Underwriters' Association promulgated rates effective February 1st, 1929, increasing public liability and property damage rates by fifty per cent. and collision rates by twenty-five per cent. Insurers not members of this Association promulgated new rates effecting comparable increases. It may be said that the status of insurers licensed to transact automobile insurance in Ontario from 1922 to 1928 was as follows:

	Conference Insurers	Total Number of Insurers Licensed	Per cent. of Automobile Premiums Written by Conference Insurers
1922	71	103	
1923	71	103	77%
1924	65	102	66
1925	64	109	45
1926	65	121	37
1927	64	126	38
1928	99	140	80

Reference to the above will show that the Canadian Automobile Underwriters' Association strengthened its position considerably during 1928 with the result that early in 1929 it decided to make necessary increases in automobile premium rates as a move towards stabilization. This move, however, resulted in an Order being issued by the Ontario Government for an inquiry by a Royal Commission. The Hon. Mr. Justice Hodgins, one of the Justices of the Appellate Division of the Supreme Court of Ontario, was appointed Commissioner. An extract from the Commission reads:

"Do hereby appoint you to be our Commissioner in this behalf with all the powers authorized by the said Act, to inquire into, investigate and report to our Lieutenant-Governor, upon:

(a) The reasonableness of automobile insurance premium rates in the province as fixed by the Canadian Automobile Underwriters' Association and as charged by any licensed company.

(b) The methods, rules, regulations and practices of the Canadian Automobile Underwriters' Association with regard to the making, promulgating, enforcing or controlling of rates, commissions, forms, clauses, contracts or the placing of insurance.

(c) The existing laws of Ontario and their practical operation in relation to the supervision, regulation and control of insurance premium rates in the province.

(d) Any matter which, in the opinion of the Commissioner, it is necessary to investigate in view of the above inquiries.

And to make such recommendations in regard to the above as he may think advisable."

The Superintendent of Insurance was retained as counsel and the late Harwood E. Ryan, of the firm of Woodward, Fondiller & Ryan, New York, was retained as Actuary for the government.



After the Royal Commission was announced and before the first hearing the Superintendent of Insurance on February 8th, 1929, requested all insurers transacting automobile insurance in the province to file completed automobile insurance premium rates and rules applicable to Ontario. At that time 140 insurers were licensed to transact automobile insurance in the province—100 insurers members of the Canadian Automobile Underwriters' Association, 28 independent insurers and 12 insurers licensed but not transacting. For 1929 policy year approximately 72 per cent. of the total automobile premiums written in the Province were written by insurer members of the Association.

The first Session of the Commission was held on February 16th, 1929. A. W. Anglin, K.C., Glyn Osler, K.C., V. Evan Gray and J. A. R. Mason appeared as counsel for the Association and the Superintendent of Insurance appeared as counsel for the government.

Concerning the first session of the Commission, and after preliminary argument and statement of status and position, the Commissioner stated that the reasonableness of the automobile premium rates should be established by those who had instituted them. It was arranged that one month should be allowed the Association to prepare its case and that thereafter it should be presented through the Chairman of the Executive Committee of the Association appointed to represent the associated insurers before the Royal Commission.

At the second Session of the Commission held March, 1929, all premium rates and rules of insurers applicable to Ontario previously filed with the Superintendent of Insurance pursuant to his request of February 8th, 1929, were filed with the Commission by the Deputy Superintendent of Insurance along with the filing of the Association. At this session, counsel for the Association proceeded to inform the Commissioner they were prepared to justify the substantial increase in the 1929 automobile premium rates which were promulgated as a result of the successive rate decreases from 1923 to 1928; that in 1926 the deficiency on the claim cost of the insurers in Ontario was nearly \$200,000; that in 1927 respecting claims paid the deficiency was nearly \$750,000; that in 1928 this figure had grown to almost \$850,000. The remainder of this Session was taken up by a discussion of the Asso-

ciation's case at which time a number of exhibits were filed including automobile experience data concerning policy years 1924 to 1927 inclusive, which had been received by the Association from member insurers. This data had been compiled in accordance with a statistical plan adopted by the Association in 1925. The Actuary for the Association was questioned by government counsel regarding this data in part as follows:

"With respect to the years 1926 and 1927, what percentage of the total volume of business written by all companies is reported in this experience?

*Answer*—1926, 36 per cent., 1927, 40 per cent.

*Question*—Did all the Bureau member companies use and comply with the Bureau statistical plan each year during the period 1924 to 1927 inclusive?

*Answer*—Do you mean the companies that were members of the Bureau during these years respectively?

*Question*—Yes.

*Answer*—No, they did not.

*Question*—Then it is a fact that this exhibit does not represent the experience of your Bureau companies during these years?

*Answer*—Yes, that is correct."

Government counsel, upon the advice of the government Actuary, thereupon submitted a strong argument urging the impossibility of any determination of the reasonableness of premium rates upon such faulty and incomplete data and applied for an Order requiring all insurers (tariff and non-tariff) which had not previously reported their loss cost experience for recent years to the Association to now prepare it under the supervision of the government's Actuary and file it with the Commission. After considerable argument this Application was accepted and on May 18th, 1929, the Commissioner issued an Order requiring all member insurers of the Association (which had not filed experience pursuant to membership) to file statistical data in a form approved by the Superintendent of Insurance embodying their loss cost experience in Ontario for the 24 months of policy year 1927, and the first 12 months' experience of policy year 1928.

The experience was to be filed on or before September 1st, 1929, with the Association. Non-tariff or independent insurers

were ordered to file loss cost experience covering the same period with the Insurance Department. All Insurers transacting automobile insurance in Ontario were ordered by the Commissioner to prepare their experience data for the policy year 1929 in accordance with the 1929 statistical plan of the Association, or such modification thereof as would be approved by the Superintendent of Insurance. The insurers were ordered to preserve such data available for production as and when may be ordered. All the foregoing data was directed to be prepared from the Canadian Automobile Underwriters' Association statistical plan by an independent statistical agency nominated by the Commissioner at the expense of the insurers.

The Association and the Ontario Insurance Department were both ordered to file with the Commission on or before October 1st, 1929, from the statements filed by the insurers, consolidated exhibits embodying the loss cost experience data for Ontario covering the 24 months of policy year 1927 and the 12 months' experience of policy year 1928. The work was to be done under the supervision of Woodward, Fondiller & Ryan, consulting actuaries, representing the Commission.

This is what really resulted in an eight months' adjournment of the inquiry, necessitated because the loss cost data so requisitioned was not available until January, 1930.

During the interim the Commission accompanied by counsel for the Association visited New York, Boston, Springfield, Hartford, Washington, D. C. and Baltimore, for the purpose of securing first hand information relative to various other matters concerning automobile insurance. Accident prevention was studied, the operation of the Massachusetts Compulsory Liability insurance law was investigated along with the various Financial Responsibility laws in force. On December 18th and 19th, 1929, the Commissioner held a special hearing for the purpose of obtaining the views of all who, with competent knowledge or useful opinions might wish to urge or oppose, or give their opinions concerning plans variously known as "Compulsory Automobile Liability Insurance" and "Financial Responsibility Laws".

On January 29th, 1930, the Actuary for the Association filed with the Commission the loss cost experience of member insurers covering the complete policy year 1927, and 12 months experi-

ence of incomplete policy year 1928, and the Deputy Superintendent of Insurance filed similar experience concerning the non-tariff insurers. At the same time the government Actuary who had access to the data while in course of preparation filed a report showing the combined experience of all insurers.

It now became apparent that loss cost indications based upon the data so filed could not be developed before May 1930, and that meanwhile additional data could be prepared and filed which, together with that already filed, would give a much more dependable volume of data than that originally requisitioned. Accordingly, government counsel made an application for a further Order and a second Order was issued by the Commissioner requiring the Association to file the loss cost experience of its members in Ontario for the 24 months of policy year 1928, and the 12 months of policy year 1929. Non-tariff insurers were similarly required to file their experience through the Insurance Department. All insurers transacting automobile insurance in Ontario were also ordered to prepare their experience data for the policy year 1930. This experience was to be prepared in accordance with the bureau statistical plan, or with such modification thereof as would be approved by the Superintendent of Insurance. Such data was to be preserved and available for production as and when hereafter ordered.

#### INTERIM REPORT OF COMMISSION

The interim report of the Commission was released March 3rd, 1930. In the interim report the Commissioner recommended automobile safety responsibility legislation and appended a draft bill to amend the Highway Traffic Act relative to financial responsibility of motorists. This bill which became law effective September 1st, 1930, is commented upon in a timely article prepared by Mr. Austin J. Lilly ("Motor Vehicle Safety-Responsibility Legislation," *Proceedings*, Vol. XVI, page 344).

Other comments contained in the interim report are quoted in part below:

"I am, as Commissioner presently engaged in an inquiry into the reasonableness of certain rates in this Province on automobile casualty insurance, and into the existing laws in Ontario with reference to the regulation and supervision of

insurance rates generally. Those rates, the reasonableness of which is now before me, were raised to a degree which seemed to demand some explanation and public consideration, and while the working of the present Ontario law, respecting the regulation or supervision of rates generally, by the Superintendent of Insurance here, will have to be dealt with in a later report, I think it is not only wise, but necessary, that I should, in this report, give some consideration to that important question now, especially as I have progressed sufficiently far as to convince me that the present Insurance Act should be amended at the present Session, so as to give authority to the Superintendent of Insurance to order, after due notice, and a hearing before him, an adjustment of automobile insurance rates whenever they are found to be excessive, inadequate, unfairly discriminatory, or otherwise unreasonable.

The present increased rates came into force on the 1st of February, 1929. They have been enforced, pending this inquiry, for over a year, and whether I am able to complete my inquiry during this year or not, they will be enforced and exacted, not only until my report is made, but until the Legislature meets again in 1931, and until, thereafter, any powers then given, if any, can be properly exercised, unless some provision is made during the present Session.

If the powers I am now recommending should be given to the Superintendent had been vested in him in February, 1929, he would have been in a position to know almost immediately if the increase in rates was reasonable, and to have ordered their adjustment, if, after due investigation and a hearing, and subject to appeal, he had found them unreasonable.

#### *Statistical Records*

Many of the insurance company managers seem to fail to appreciate the importance of accurate statistical data as a basis for rate making, and the necessity of keeping such data accordingly to a uniform statistical plan. It is time that the companies realized that their right to combine to make rates should be conditioned upon an undertaking to keep such statistical records of their loss and expense costs as are necessary to make and judge the reasonableness, or discriminatory character, of the rates they promulgate and charge.

It is no hardship on the companies now that they have begun to keep records in scientific and useful form, to go on with the system, and any lapse into methods which are the reverse of what is now in vogue, will result in chaos and

inability, except by another inquiry to deal with the rates of 1930 or 1931, or any other subsequent year.

I make the recommendation now, rather than in my main report, because there is now available, as a result of the voluntary action of some of the companies before this inquiry opened, and as a result of my Orders respecting the remainder of the companies since this inquiry opened, a complete and accurate record of loss cost experience data dating from the 1st of January, 1927.

Accordingly, I make my recommendation now, in order that it may be acted upon at the current Session of the Legislature."

The two amendments (proposed by the Commissioner) to the Ontario Insurance Act and appended to his interim report follow and read:

"69a—(1) Every licensed insurer which carries on in Ontario the business of automobile insurance shall prepare and file when required with the Superintendent, or with such statistical agency as he may designate, a record of its automobile insurance premiums, and of its loss and expenses costs in Ontario, in such form and manner, and according to such system of classification, as he may approve.

(2) The Superintendent may require any agency so designated to compile the data so filed in such form as he may approve; and the expense of making such compilation shall be apportioned among the insurers whose data is compiled by such agency by the Superintendent who shall certify in writing the amount due from each insurer and the same shall be payable by the insurer to such agency forthwith.

(3) The provisions of subsections 2, 3 and 5 of section 69 shall apply mutatis mutandis to the provisions of this section.

275a—(1) It shall be the duty of the Superintendent, after due notice and a hearing before him, to order an adjustment of the rates for automobile insurance, whenever it is found by him that any such rates are excessive, inadequate, unfairly discriminatory, or otherwise unreasonable.

(2) Any order made under this section shall not take effect for a period of ten days after its date, and shall be subject to appeal within that time by any insured, insurer or rating bureau, in the manner provided by section 12 of this Act, and, in the event of an appeal, the order of the Superintendent shall not take effect pending the disposition of the appeal.

(3) The Attorney-General shall be served with notice of

any such appeal and shall be entitled to be heard by counsel upon the hearing thereof.

(4) Any rating bureau, insurer or other person failing to comply with any provision of such order shall be guilty of an offence."

Section 69*a* (relating to the filing of automobile experience) was to come into force on the day upon which it received Royal Assent whereas Section 275*a* concerning approval of automobile premiums was to come into force on a day to be named by the Lieutenant-Governor by his proclamation.

Concerning these two amendments to the Insurance Act as proposed by the Commissioner in his interim report, the Legislature then in Session enacted the legislation. The filing of automobile experience data became effective in April, 1930, one month after the interim report was released; but the section empowering the Superintendent to request an adjustment of automobile premium rates when he deemed it necessary was not proclaimed in force. It remained dormant and did not come up for consideration until the Commissioner had brought down his final report at the end of 1930.

April 22nd, 1930, the Commission again visited the United States, this time to Philadelphia and New York. A number of prominent insurance executives furnished valuable evidence relative to subjects connected with the automobile rates enquiry.

On June 9th, 1930, there was filed with the Commission the automobile loss cost experience of all insurers in Ontario for 24 months of policy year 1928 and 12 months of policy year 1929, pursuant to the Commissioner's second Order, thus making available for the determination of the reasonableness of the 1929 automobile premium rates promulgated by the Association the average experience of all insurers prepared on a uniform statistical plan under official supervision for the complete policy years 1927 and 1928, and the 12 months' experience of incomplete policy year 1929.

The summer of 1930 was devoted to the development of loss cost indications arising out of this "official" data both by the Actuary of the Association and the government Actuary.

Finally, on September 24th, 1930, the late Harwood E. Ryan, Actuary for the Commission submitted his report showing his

calculation of the loss cost indications and his opinion as to the reasonableness of the provision for losses in the premium rates of the Canadian Automobile Underwriters' Association.

This report was in three parts described as follows:

1. Pure premiums based on the experience of complete policy years 1927 and 1928 and incomplete policy year 1929, private passenger cars, public liability and property damage.
2. Pure premiums based on experience of complete policy years 1927 and 1928 and incomplete policy year 1929; private passenger cars, collision, fire, theft and commercial cars.
3. Interpretation of consolidated loss cost experience of complete policy years 1927 and 1928 and incomplete policy year 1929, with introductory text.

Opportunity was afforded the Association to cross-examine the government Actuary upon his findings relative to the interpretation of the loss cost experience.

A separate report was prepared and filed by the government Actuary concerning expense cost. The final Session of the Commission was held on December 3rd, 1930, and the final report of the Commissioner was dated December 20th, 1930, reading in part:

1. "I find that the automobile insurance premium rates, fixed by the Canadian Automobile Underwriters' Association the 'Bureau' effective February 1st, 1929, were unreasonably high and were not properly deduced from the experience which the companies then had, and are not justified by the later and detailed experience of the years 1927, 1928 and 1929 submitted to me since this inquiry began.
2. I find that the basis of the 1929 Bureau rates were the rates fixed in 1928, which in turn were founded on those of 1927. I further find that the 1927 rates were not properly deduced from the experience which the Bureau companies then had, but were purposely kept lower than was justified by that experience, for the purpose of competing with other companies and driving them out of business. I also find that, with a view of strengthening the Bureau organization and securing the adherence of outside companies, the rates for 1928 were left largely unchanged so as to induce those companies to become members, a policy which succeeded early in 1928, when upwards of 35 additional companies accepted membership in the Bureau. I further find that the method of increasing the rates in 1929 was unusual, unreasonable,



and unfair in that they were founded on rates which had not been fixed on a scientific or statistical basis, as was contended before me, and by the further fact that the provision for expenses was increased by 50 per cent. on two coverages, and 25 per cent. on one coverage, without any increase in the expenses of the companies. No evidence was adduced before me to warrant such increase.

3. I find that the justification of the 1929 rates on any scientific and statistically prepared basis was not made out. The rate making procedure described by the Bureau in Exhibit 10 had not been put into force before 1929, and even in that year it was not the procedure actually adopted, as only a percentage increase on the 1928 rates was made. The depression of the rates in 1927 and 1928 was at that time against the indications of previous years.
5. I find that the provision for expenses in the public liability, property damage, and collision coverages for private passenger and commercial cars is not justified, and was unwarrantably increased. Apart from that addition I find that there is no adequate or sound reason why the provision for expenses should be in excess of 45 per cent. of the gross premium rates and that the insurance companies should be left to make such adjustments in their various expense costs as will enable this percentage to produce a sufficient provision for expenses in the rates. I append as Appendix 'B' statement showing the 1929 Bureau rates for private passenger cars, contrasted with the rates indicated by my findings and the premiums chargeable in each case. Similar statements can be prepared for commercial cars and other types of vehicles if desired. The statement indicates that the 1929 Bureau rates for private passenger cars were excessive to the extent of \$654,318."

The Commissioner's recommendations are given also in part :

2. "That Section 275a of the Insurance Act, as enacted by Section 12 of Chapter 41 of the Ontario Statutes of 1930, be proclaimed and put into force before the 1st of February, 1931, and when so proclaimed shall be made retrospective as of the date of this report."

*Note.* This Section of the Insurance Act referred to, deals with adjustment of automobile premium rates when deemed necessary by the Superintendent of Insurance and is referred to in the interim report of the Commissioner. It may for convenience be referred to as the approval of automobile rates law.

5. "That the loss cost of insurance in Ontario in the future should be established by the combination of the experience of all companies, and that such experience should be developed on the statistical plan prescribed, pursuant to Section 69a of the present Insurance Act."

The Commissioner further stated in the latter part of his report:

"I think it is a great advantage to simplify the making, the testing, and approval of rates so as to avoid in the future an Enquiry such as the present one, with all its attendant expense and delay, leaving the reasonableness of the rates largely in the hands of the Ontario Insurance Department and of the Companies' members, or in case of difference, to the decision of the Ontario Insurance Department subject to an appeal, on the lines suggested in my report and recommendations.

It is of the first importance that the insurance companies should be able to carry on their business at a reasonable profit, and equally so that the basis of their rates should be subject to early scrutiny and settlement.

It is to the Canadian Automobile Underwriters' Association that I look for the most effective aid in the direction I have indicated. I think, from my experience as Commissioner in this Enquiry, I can thoroughly agree that the commendation of the Canadian Fire Underwriters' Association by Mr. Justice Masten, in his Report of 1919, might well be applied to the Canadian Automobile Underwriters' Association.

His words were that the operations of such an Association 'have been, and are, to the advantage of and in the interest of the public, and that such a combination tends strongly to maintain the solvency of the companies, to stabilize rates, to eliminate discrimination, and assist in controlling the expenses of carrying on the business' and that 'it ought not to be abolished or hampered in its legitimate work, but, being a combination, ought to be fully subject to supervision and control by the state'.

Although throughout my report I have indicated matters where I think the Canadian Automobile Underwriters' Association has, in some measure, failed to live up to its standards, the fact that I consider its assistance in improving conditions of the first importance, indicates my belief in its influence and purposes."

The report struck consternation into the hearts of the insurance companies. Loud protests were voiced on all sides. In

January, 1931, the Association presented to the government a report entitled "memorandum relating to the report of the Honourable Mr. Justice Hodgins on automobile insurance premium rates in Ontario". This memorandum referred to furnished the reaction of the associated insurers to the report of the Commissioner and contained some interesting reading which is quoted herein in part:

*Item 1—The Bureau's General Grounds of Protest.*

"In reaching his conclusions the Commissioner has used an arbitrary and unsound basis of actuarial and arithmetical procedure which has produced a wrong answer; he has rejected evidence of the actual operations of the year 1929 insofar as known as a test of the reasonableness of the rates, and in lieu thereof he has adopted an average for the three year period 1927, 1928 and 1929, as his standard for measuring 1929 rates.

*Item 2—The Commissioner's Fundamental Error.*

"The fundamental error which invalidates all the findings of the Commissioner with regard to 1929 rates is that he has arrived at a loss cost per car based on the average of the three years, 1927, 1928 and 1929, and has applied this average to the 1929 manual rates as the test of their reasonableness in the face of the higher loss costs actually experienced in 1929. The figures for 1929 and final vital statistics for 1926-28 show increases each year in the number of persons killed by automobile accidents and also increases in the number killed per registered motor vehicle. Whereas the registered motor vehicles increased by 4.3 per cent. between 1926-1929, the number of deaths from automobile accidents increased by 114 per cent., thus making the number of deaths per 10,000 motor vehicles 10.82 in 1929 against 7.23 in 1926, an increase of 50 per cent.

So far as the Bureau is concerned, it is important to remember that none of the statistical material which the Commissioner has used in this manner was in existence or available to the Bureau when it made the rates for 1929. In January, 1929, the Companies had to make automobile insurance rates for the ensuing year upon such statistical material as was then available, and upon their best opinions and judgment as to the conditions likely to prevail in the future period, which might change the loss cost of that period.

*Item 3—The Use of Available Statistical Material.*

“With regard to the Commissioner’s finding that the 1929 rates were not properly deduced from the experience which the Companies then had; this question was never examined in evidence before the Commissioner; no report on this material was made by the experts of the Commission (except as to its incompleteness) and no submission was made to the Commissioner by any party that the action taken by the Companies in making the 1929 rates, was inconsistent with the evidence of the statistical material then in hand.

*Item 7—The Expenses of the Companies.*

“The Commissioner is incorrect when he states that the Companies increased the provision for expenses ‘without any increase in the Companies’ expenses’.

This statement is made in the very teeth of his own Actuary’s report. It must be obvious that as a very considerable portion of the Companies’ expenses is based on a percentage of their premium income, their actual expenditure must have been increased if their income was increased.

The Commissioner in suggesting a general reduction of 5 per cent. in the expense loading is apparently unable to find that any specific items of the increased expenses were too high or he has attempted to avoid possible embarrassment by advising this reduction in the Companies’ formula without specifying under which item this reduction should be made. Insofar as 1929 rates are concerned, the payment of these expenses is an accomplished fact, and no part of them can be recovered by the Companies; but, notwithstanding this, the Commissioner includes this 5 per cent. item in his calculation of alleged overcharge by the Companies.

The Companies are as much interested as the insuring public in the reduction of expenses, since the margin of profit they may make is very largely influenced by this factor. The control of expenses is continually before the Companies and no opportunity is or will be lost of effecting any possible reduction. The Companies, however, do not think that any reduction can be made at the expense of the agents whose present remuneration in their considered opinion is not unreasonable.

*Item 12—Alleged Coercive Action by the Bureau.*

“The comment of the Commissioner that the Bureau kept rates ‘lower than was justified by experience for the purpose of competing with other Companies and driving them out of business’ is very unfair to the Bureau Companies and puts a

colour on the facts, to their disadvantage, which is not warranted. There is no evidence whatever that any Company was driven out of business by this rate competition. In that period the public had the benefit of insurance at less than cost, with resulting loss to the Companies. The re-establishment of a sound rate level upon an adequate rate basis was an inevitable and a very proper issue out of this period of competition. No action contrary to the public interest was involved in restoring a sound premium rate basis, as the most essential feature in the public interest of any insurance Company is its financial stability.

*Item 15—Extension of Government Control.*

“The Companies are seriously perturbed by the suggestion of the Commissioner that the Legislation of last session be brought into force giving authority to the Superintendent of Insurance to approve or disapprove rates for automobile insurance.

The Bureau feels that such an extension of the powers of the Insurance Superintendent is uncalled for and unnecessary and that it would be an interference by the Government in the conduct of a large and important business, for which no real cause has yet been shown, either in the carrying on of the business or by the Commissioners’ review of its operations. Neither the Public, nor the Insurance Companies would in any way benefit, and the Government itself might at any time be embarrassed if it assumed the responsibility for the premium rates charged the Public by the Insurance Companies.

The enlargement of departmental or bureaucratic powers without any real justification is something which is against the best interests of the Province, and it must not be overlooked in this matter that a rate or rates promulgated by the Bureau and stamped with the Government’s approval would not be binding upon non-member Companies who filed a different rate.

*Item 17—Submission of the Bureau and all other Interests Associated with it in this Memorial.*

“The Insurance business is a very large and important section of the business community of the Province of Ontario, many thousands of its citizens all over the Province being engaged in it. Its personnel is of an admittedly high type and the business in all its branches has always been carried on in an honourable manner, just and fair to the

Public. The Commissioner has found no fact to indicate the contrary, and the signatories hereto respectfully but strongly submit:

1. That there is no necessity for any extension of control of the Insurance business by any Government Department or official;

2. That such an extension of control would only mean additional expense to the Government and the Companies, and indirectly therefore to the Public, without any compensating benefit to the Public;

3. That the Insurance Companies are able to conduct their business themselves, as they always have done, in a lawful and proper manner, fair to the Public, the Province and themselves;

4. That control and fixing of rates by the Government for a class of insurance indispensable to so many citizens of the Province, would tend to make the question a political one, which would not be in the interests of the Government or the Public;

5. That an attempt by Government to fix prices and rates for services, goods or contracts is unsound economically and can be justified only in cases where a public monopoly has been granted, which is not the case in Insurance rates;

6. That the Insurance Companies' rights as individuals and as citizens of the Province to carry on such lawful business should not be ignored or restricted by the government without due and adequate cause being shown;

7. That competition in the insurance business as in most other businesses, is and will always be sufficiently strong to prevent any excessive prices being charged the public.

Respectfully submitted,

The Canadian Automobile Underwriters' Association,

Approved and subscribed to by —

Ontario Fire and Casualty Agents' Association  
Toronto Insurance Conference".

After weeks of uncertainty the insurers coupled their opposition to the approval of premium rates by the Superintendent of Insurance and demand for self regulation with an offer to reduce private passenger car rates.

The authority recommended to be vested in the Superintendent to order an adjustment in the rates for automobile insurance whenever such rates were found by him to be excessive, inadequate, unfairly discriminatory or otherwise unreasonable, was

not brought into force. Nevertheless it remained and still remains a dormant section of the Insurance Act to be brought into force by the Lieutenant-Governor by his proclamation. At the same time the anti-discrimination provisions of the Ontario Insurance Act were suspended in April, 1931, through section 35 of the Statute Law Amendment Act. The official explanation which was given regarding this suspension follows, and reads:

“The purpose of this is to remove the obligation presently imposed upon the Department to enforce sections 274 and 275 of the Insurance Act relating to the regulation of insurance rates (unfair discrimination only). It is necessary in order to accord with the policy of the government determined after consideration of the Hodgins Report. The sections may be brought into force along with section 275a if and when the government determines to undertake the regulation of insurance rates along the lines recommended by the Commissioner.”

Thus the insurers received ample opportunity to regulate for themselves the business of automobile insurance in Ontario.

The outcome of the Hodgins report as viewed by the press may be indicated by reference to an article published by the Financial Post (Toronto) under date of April 2nd, 1931. The article stated:

*“Hodgins Report in Ontario Establishes Important Principle in Rate Making”*

Those who are following closely the rapid and interesting developments in the automobile insurance field in Canada are of the opinion that the report issued a short time ago by Hon. Justice Hodgins in Ontario is one of the most important documents of its kind to be published for many years.

Its importance may be appreciated in part by the fact that only a few weeks after its appearance, and in spite of the fact that insurance companies protested vehemently against its conclusion, insurance rates in Ontario for 1931 were cut right and left, and reductions ranging from 2 to 38 per cent. on private passenger cars, with an average reduction estimated at 8 per cent. and involving a saving of at least \$500,000 for the year to Ontario insurers. Increases were made in the commercial car field where an advance of about 12 per cent. in rates was promulgated. It is expected

that decreases in other provinces will follow the Ontario reductions.

#### *Established Important Principle*

The kernel of the Hodgins report was the fact that it established very clearly the fact that it is quite possible for insurance companies to show an actual out-of-pocket loss on a year's operations and yet be operating under too high a scale of rates.

At first this may seem an anomaly, but its veracity would seem to have been given very practical expression in the recent Ontario rate reductions which came in the face of loud protests that rates could not be too high when accompanied by an out-of-pocket loss of some \$200,000.

#### *Discrimination Practiced*

What had been happening of course was that the companies had not been keeping to their rates but had been allowing various types of rebates and special commissions which were considered by Commissioner Hodgins to be discrimination against policyholders who were forced to pay the full tariff. In other words, the Commissioner maintained that if the companies had all charged the scale of rates the correctness of which he was investigating, there would have been no loss but rather an overcharge. The fact that the companies through competitive measures, did not maintain these rates uniformly to all policyholders and therefore lost money, did not therefore alter the fact that the rates were too high.

Quite apart from the immediate effect that the Hodgins report has had in securing lower rates for Ontario motorists, there seems little doubt that the principles of rate making so clearly analyzed and set forth in this report, will have an important and far-reaching effect, even perhaps in fields other than automobile insurance.

#### *Good Loss Ratio*

As to other events of 1930, the figures published by the Dominion Insurance Department at Ottawa this week reproduced elsewhere in this issue, indicate a very satisfactory year for the large number of companies operating in this field. The ratio of losses incurred to premiums written is 53.96 per cent. as compared with 56.78 per cent. the previous year and 70 per cent. in 1928, while on the basis of net



premiums earned and losses incurred, the ratio is 56 per cent. as against 64 per cent. the previous year.

The tremendous importance of automobile insurance may be indicated by the fact that premium income in 1930 reached the new high record of \$18,258,000, which is approximately 50 per cent. of the total premium income from all types of casualty insurance. Furthermore, with the disappearance of workmen's compensation insurance from the joint stock company field on September 1st, 1931, the preponderance of automobile insurance will be even greater, so that it is not unreasonable to assume that in a few years' time with the passing of financial responsibility laws in most of the Canadian Provinces, it will account for at least two-thirds and perhaps more, of the casualty insurance total, and will even exceed the old veteran, fire insurance, in point of premium income."

The outcome of the Hodgins report as viewed by the insurance business is less easily described. A little more than a year ago the business thought it had won a great victory over the alleged menace of government regulation of premium rates. The intervening year has afforded opportunity for more sober reflection. Did the insurers pay too dearly for the whistle? And is the whistle really worth having? A substantial reduction in rates was a big price. And self-regulation has proved increasingly difficult.

Some prominent underwriters are so bold as to say "as long as we are prepared to sell insurance at less than cost we need not fear government regulation. But immediately we try to increase premium rates again we will have the same fight over again or gracefully accept the rating law".

The Ontario Insurance Act still provides for the filing of automobile premium rates and rules. This filing is useful to the designated statistical agency for the purpose of checking the individual automobile experience punch cards required to be filed pursuant to Section 69*a* of the Act enacted in 1930.

The following summary covers the present Ontario law on "Rates and Rating Bureaus":

1. Rating bureaus to file copies of their constitutions, by-laws, lists of members, etc., with the Superintendent of Insurance.
2. Automobile rates and rules applicable to Ontario are to be filed with the Superintendent of Insurance verified by

- affidavit. All insurers make a separate filing and the Canadian Automobile Underwriters' Association files all rates and rules promulgated by it. The law, however, permits the Superintendent to request the filing of rates and rules concerning all classes of insurance but such filing has only been requested for automobile insurance coverages. Once a filing is made ten days' notice of any change must be given, duly verified by affidavit, before the effective date.
3. All insurers transacting automobile insurance within Ontario must file monthly with the designated statistical agency, loss cost experience cards punched in accordance with the approved 1931 "automobile statistical plan" and amendments thereto.
  4. All insurers transacting fire insurance within Ontario must file yearly (on or before July 1st) an experience report of premium income derived from risks located in Ontario and of claims paid in respect of such risks according to the classification of occupancy hazards of the National Board of Fire Underwriters with such modifications as the Superintendent may prescribe.
  5. The Superintendent or any person authorized under his hand and seal of office shall at all times have access to all such books, securities or documents of a rating bureau or insurer as are related to the schedules of rates of the rating bureau or insurer; and any officer or person in charge, possession, custody or control of such books, securities, or documents who refuses or neglects to afford such access shall be guilty of an offence.
  6. The Superintendent may inquire into any question which an insurer, insured or a rating bureau may bring before him with regard to insurance rates fixed by any rating bureau or charged by an insurer and also with regard to any other question arising out of the relationship or proposed relationship of the parties with reference to the insurance in question.

The Superintendent shall not make any order pursuant to an inquiry under this section, but the result of such inquiry shall be reported in his annual report.

#### 1931 AUTOMOBILE STATISTICAL PLAN

The 1930 amendment to the Ontario Insurance Act requiring all insurers to file automobile loss cost experience was to take care of future transactions after the Royal Commission investi-

gating automobile insurance premium rates had completed its work. The 1927, 1928, 1929 and 1930 policy years experience was ordered filed by the investigating Commission prepared in accordance with the 1929 statistical plan of the Canadian Automobile Underwriters' Association. This data was turned over to the Insurance Department when the Commission terminated in December, 1930. Meanwhile the Superintendent of Insurance had called a hearing in June, 1930, at which all insurers interested were invited to attend. The circular calling the hearing stated in part:

"It will be observed that the form and manner and the system of classification according to which the experience data is to be prepared and filed requires to be approved by the Superintendent of Insurance.

It is proposed to make this provision of the statute effective in respect of business written on and after January 1st, 1931. In order that the approved plan may be in the hands of insurers not later than October 1st, 1930, the preliminary work involved should be commenced at the earliest possible date."

The statistical plan so approved was unanimously recommended by a special committee appointed by the Superintendent of Insurance at the hearing in June, 1930, consisting of the representatives of seven insurers, members of the Canadian Automobile Underwriters' Association, and seven insurers not members of the Association, which, after several meetings, submitted its unanimous report on December 3rd, 1930.

Upon the unanimous recommendation of the said committee, the Canadian Automobile Underwriters' Association was invited to accept the designation of statistical agency and the designation so offered was accepted. All insurers, whether members of the Canadian Automobile Underwriters' Association or not, were accordingly ordered to file their data with this designated statistical agency for compilation. The individual punch cards have to be filed monthly (within 30 days after the close of a current month), and this applies without exception, to all insurers which have not applied to the Superintendent of Insurance for, and been granted the privilege of filing half-yearly returns by way of approved master cards. The filing of semi-annual master cards only applies to insurers which use 80 column punch cards

and have in their own organization 80 column tabulation equipment, as the approved statistical plan calls for the filing of individual 45 column punch cards, subject to the exception noted above.

As the Canadian Automobile Underwriters' Association (which had the personnel, mechanical equipment and office organization necessary to function efficiently as a statistical agency) was nevertheless an organization composed of member insurers; the Department of Insurance proposed to exercise a careful supervision over such agency which in itself would guarantee that the experience data filed by *all* companies would not be used improperly. There is nothing in the statistical plan which shows the agency from which the business originates or other information which could give a competitive advantage to another insurer.

In this way, having the individual punch cards filed by all insurers with the one designated statistical agency, the pro-rated cost of compilation is appreciably less and the Department of Insurance is not required to exercise dual supervision between bureau and non-bureau insurers.

The new statistical plan which became effective on January 1st, 1931, contains upwards of 40 pages and is elaborate considering the present volume of automobile insurance in Ontario. Nevertheless, it was intended that the plan should be as complete as possible in order to have at all times the necessary experience data. It is anticipated that the plan in its present form should be used for a number of years (except for revisions concerning principally new car models) in order that future automobile premium rates may be promulgated and judged upon dependable data.

It may be said that the loss cost upon cars fleet rated is taken care of regardless of fleet discounts, as the plan provides in part:

"Where a number of cars are insured under a fleet policy and the risk is experience rated, the individual cars in the fleet are recorded separately in the same manner as individually rated cars, subject also to special codes provided for fleet rated cars in the coverage code in Schedule H."

The Department also received the technical advice of Woodward, Fondiller & Ryan, consulting actuaries, concerning its new automobile statistical plan.

## GENERAL

In March, 1931, the designated statistical agency was directed to tabulate the Ontario automobile experience covering the transactions for calendar year 1930 combined in the following groups:

- (a) Experience of tariff insurers
- (b) Experience of non-tariff insurers
- (c) Experience of tariff and non-tariff insurers combined.

In June, 1931, the tabulation was completed. A copy of the combined automobile loss cost experience in Ontario covering the 24 months of policy year 1929 and the 12 months' experience of policy year 1930 was sent by the designated statistical agency to all non-bureau insurers, furnishing the combined experience in the province of all insurers not members of the Association. Each non-bureau insurer was also advised that similar experience could be obtained (upon application and at cost) of all insurers in Ontario, bureau and non-bureau. The certified cost of the tabulation concerning the transactions of 1930 calendar year to the non-bureau insurers was \$0.17585 for each \$100 of reported premiums. Considering that the statistical agency was required to audit the individual punch cards in addition to the work of compilation, the cost mentioned above amounting to 1/6 of 1 per cent. of premiums reported by non-bureau insurers appeared to be very reasonable.

During 1930 one-third of the automobile premiums written in Ontario were reported by insurers not members of the Association. Since most of the non-bureau business is written below tariff rates it follows that such insurers accounted for something like 40 per cent. of the total volume of business actually transacted during the period. Here, we see independent insurers in the automobile field obtaining for the first time available statistical data in the manner as described herein. This also indicates the extent to which the Canadian Automobile Underwriters' Association is willing to co-operate in the matter of furnishing information upon which such non-tariff insurers may promulgate their rates.

In August, 1931, the statistical agency was directed to develop automobile loss cost indications from the combined experience of all insurers in Ontario covering the complete policy years 1927,

1928 and 1929, and the incomplete policy year 1930 (twelve months).

This material was received in November, 1931, whereupon it was my privilege to prepare a report addressed to the Superintendent of Insurance covering the cost of automobile insurance in Ontario with an interpretation of the loss cost indications received from the statistical agency using 45 per cent. gross manual premium expense loading, as recommended by the Commissioner. This report was completed at the end of 1931 in order to have available the necessary material in case the government desired to have a statement from the Superintendent relative to the reasonableness of 1932 automobile insurance premiums in Ontario.

Up to the time of writing, no increases in premium rates have been made. This means that the decreases in private passenger premium rates made voluntarily by the insurers early in 1931, are also being applied to the 1932 business. It may also be stated that recently in Ontario automobile premium taxes have been increased from one per cent. to two per cent. calculated on the gross premiums received (less return premiums). The Dominion government has commenced to tax premiums for automobile insurance and the rate of taxation in this connection is one per cent. of net premiums written in Canada. This means that expense loadings will have to be revised to take care of these amendments to premium taxes.

In the preparation of the writer's first report to the Superintendent of Insurance, concerning automobile insurance premium rates in Ontario, he followed largely the principles which were adopted by the late Harwood E. Ryan, in his report to the Commission. It should be added that Mr. Ryan's report was invaluable to the writer in the preparation of his report, and, he is deeply grateful to Mr. Ryan for the thoroughness with which he established his principles and his clarity of expression which was, so evident in his report.

Up to the end of 1931, little of the casualty business has been written by mutual insurers. In fact, so far as Ontario is concerned, less than 5 per cent. of automobile insurance has been written by mutuals, and all compensation insurance in the province is carried by the monopolistic state fund.

The writer believes, however, that the stock companies will get more competition from the mutuals as time goes on. The Canadian Automobile Underwriters' Association recently ruled that mutual insurers could not be members of their Association. The mutuals of course are free to organize their own rating organization if and when they so desire. Two years ago two Manitoba local fire mutuals obtained incorporation by special act of the Dominion of Canada and are now writing in this province fire and casualty business. Both insurers had successful operation in the province of Manitoba before obtaining Dominion incorporation. None of the casualty business in Ontario is written by reciprocal exchanges.

For the calendar year 1931, 153 insurers reported automobile experience (applicable to Ontario) in the annual statement sent to the Department, out of a total of 174 companies licensed to transact this class of business. The ratio of losses incurred in the province (for all automobile insurance coverages) to premiums earned during 1931 was 51.25 per cent.

The independent or non-bureau insurers (including mutual business) accounted for 40 per cent. of the earned premiums reported and this experience concerning losses incurred to premiums earned was 51.20 per cent., which is favourable considering that the rating law is not in force and so many insurers in the field.

Early in May, 1932, two of our mutual insurers made important amendments to their filed automobile rates. It is anticipated that these amendments may change the course of the whole automobile insurance situation in this province.

The first amendment quoted in part below comes from one of the mutual insurers which previously along with others was asked to resign from the Canadian Automobile Underwriters' Association at the time the Association ruled that mutuals could not be members.

The rating amendment goes on to say:

"Please be advised that we propose to amend our automobile fleet writing regulations to eliminate the requirement that cars to be eligible must be 'owned and registered in the name of' one owner.

*Any fleet of five or more automobiles is eligible for ex-*

perience rating, provided it has been insured for one or more consecutive years (including the expiring policy year) and provided a premium has been received on at least five automobiles insured on the full time basis for the expiring policy year."

The amendment received from the second mutual insurer provides that this insurer's fleet rating plan is to be extended to cover private passenger cars insured in groups except, that such merit rate is to be determined at the end of the policy year in the form of a policy dividend based upon the group experience. The primary cash premium rate quoted at the inception of the particular group is in accordance with the insurer's cash premium rate or rates for any one person insured. Such a plan of course is not particularly sound to the extent that a special dividend may be allowed if the expiring policy for the group comprising the fleet produces favourable experience, but no provision is made to collect a surcharge in case the experience turns out to be unfavourable; and this particular insurer does not have any policy assessment provision for business transacted other than on the premium note plan.

Whatever may result from the two amendments to rate filings referred to, the Department is at least in the position of having the experience of all insurers through the filing of statistical material monthly. Much credit is due to Mr. C. H. Fredrickson, Actuary for the Canadian Automobile Underwriters' Association (acting as statistical agency for the Insurance Department) in his responsibility to the Department for the accuracy of the data which is supplied by the various insurers (all individual punch cards are required to be checked). Each insurer after the close of the year is required by Mr. Fredrickson to reconcile the total of its experience cards with the government annual statement.

Representatives of the Associated insurers recently met the Superintendent to see what might be done to have the anti-discrimination law brought into operation in order to meet the present situation regarding mutual insurers writing individuals on a fleet basis, or, in groups.

The Superintendent pointed out how difficult it was for the Department to effectually administer such a law without the law requiring general approval of rates. Some of the insurer repre-



sentatives referred to then suggested that in the best interests of the business it might be advisable to bring into force the approval of rates law as it appeared to work very well in New York State. The Superintendent then stated that *that* was the very reason why the Commissioner investigating automobile insurance premium rates had recommended it in his report.

The Superintendent also mentioned how the Associated insurers less than 18 months ago had opposed the approval of rates law as recommended by the Commissioner, that the matter should receive very careful consideration by the insurers themselves; and that the Department would be handicapped in the enforcement of a law requiring approval of premium rates by the Superintendent unless, the majority of the insurers were in favour of it.

At this date (July 1st, 1932) nothing further has been done regarding the above mentioned discussion.

At the time of writing, a committee of underwriters representing all insurers transacting automobile insurance in the province is presently engaged in the task of drafting out suitable automobile policy forms together with all endorsements therewith appertaining. All insurers are given the opportunity to make representations through the committee, and, when the work is completed, the said forms will be mandatory upon all insurers. It is also expected that the committee will become a permanent one in order that insurers subsequently submitting special forms of policy to the Insurance Department for approval, may have such forms referred to the committee (representing all insurers) for their opinions, suggestions and recommendations.

The new provisions recently enacted relating to automobile insurance contracts provide in part that the Superintendent of Insurance is to approve all automobile policies and endorsements issued or delivered in the province. The law also states what the application must contain. The insuring agreements and exclusions from perils are defined, and, in addition, the statutory conditions required to be contained in every contract are clearly set forth.

The automobile policy forms committee made its interim report to the Superintendent of Insurance on June 7th, 1932, after fifteen meetings had been held upon this subject. All

insurers have received from the Superintendent of Insurance (who was invited to act as Chairman of the committee) a copy of the committee's interim report together with the proposed standard forms and general instructions regarding the use of such forms. It is expected the committee will bring in its final report shortly, after insurers have made all suggestions and criticisms concerning such forms.

No insurer will be able to extend coverage in any way under the standard automobile policy except by standard endorsement for an additional stated premium.

The writer will be pleased to give particulars of further developments in Ontario at a later date. Before closing, however, a few comments ought to be made concerning conditions in this province and mentioned in this report:

1. The better insurance interests are in favour of an anti-discrimination law. In the absence of such a law it would appear that a small minority of insurers will practice unfair discrimination in quoting insurance premium rates, particularly with respect to schedule or fleet policies.
2. Politically it is difficult to administer an anti-discrimination law without an approval of premium rates law. For example, under an anti-discrimination law you are usually hitting at large target risks which obtain rates lower than the general public obtain. Under a general approval of premium rates law (properly administered), it is possible to approve premium rates for all the different coverages within a class of insurance, based upon the cost of insurance plus a fair return or underwriting profit to insurers.
3. Under the strain of competition and in the absence of an approval of premium rates law, small insurers are inclined to write business at rates lower than those charged by the larger insurers in order to obtain volume. On the other hand, if premium rates are fixed from the combined loss experience of all insurers with an approved expense loading, the larger insurers have the best chance of obtaining business. Let me put it this way, if a policyholder has to pay the same amount of premium for his insurance in a small company as he would have to pay in a large company, generally speaking, the larger company would in all probability obtain the business (assuming the policyholder knew the relative financial standing of each insurer). It may be said that a small insurer cannot afford to write business below the rates charged by larger insurers and, therefore,

should not be permitted to do so in view of the fact that casualty insurers have made small profit during the last number of years.

4. That under present conditions it is impossible for insurance companies to charge *for any length of time* excessive premium rates. The danger in the absence of a premium rate approval law is that certain insurers are prone to write business below cost.
5. No rating law can render proper assistance or be of real benefit unless at least 80 per cent. of the business is willing to co-operate, and that such insurers and brokers will give to the Insurance Commissioner sympathetic consideration in the proper administration of the law.