

ABSTRACT OF THE DISCUSSION OF PAPERS READ AT
THE PREVIOUS MEETING

WISCONSIN UNEMPLOYMENT COMPENSATION ACT—

WILLIAM H. BURHOP

VOLUME XIX, PAGE 13

WRITTEN DISCUSSION

MR. JAMES D. CRAIG :

Mr. Burhop's paper is an able summary of the Wisconsin Act and the circumstances under which it was adopted. In a general way, he has indicated the attitude of both employers and employees towards the law, but the motivating influences behind this bill are much more difficult to determine. He states that over a period of years the discussion of unemployment by employers and employees created an organized demand for protection and relief from within industry. This demand was presumably expressed in the Groves Law of 1932. Yet, it is interesting to note, in delving into the real genesis of this matter, that when the actual steps were taken to translate into action this reported demand of the parties to industry for such legislation, the legislative drafting was done, not as would naturally be expected by employers, or stockholders, or workers. It was Professor Commons who drafted Wisconsin's first unemployment insurance bill 12 years ago. It was Professor Groves, a student of Professor Commons, who drafted and introduced the law which went on to the statute books of that state in 1932.

As a result of allowing the detailed framing of the legislation to be done by parties outside of industry, the bill was clearly a compromise which has never commanded the unqualified and enthusiastic endorsement of the parties to industry. It is rather unfortunate that a bill which has such possibilities for good, or evil, should be forced through the legislature of any state as a compromise. Without the whole-hearted sympathy and endorsement of all involved, the evil features may easily crowd out the good.

When employers and employees voluntarily cooperate for the successful conduct of a business, it is not uncommon for employers to feel keen responsibility for the welfare of their work-

ing people. It has been no strange thing in these later days for employers to continue men and women at work despite a reduced volume of business and in the face of a current loss. Employers have contributed large sums for the unemployed, often assuming a direct responsibility for the care of the people in the particular town where one of their factories was located. The funds with which this relief has been carried on has come out of the surplus of the individual company. No part of this surplus has been earmarked for any particular purpose, but the entire amount has often been available for such uses as the management has determined to be in the interests not only of the business itself, but of local public policy. This widespread activity on the part of American industrialists constitutes a creditable page in American industrial history.

There are large proportions of the community, however, who seem to feel that this action has been ineffective and that these same employers who have failed to meet completely the entire problem created by the world crisis should now be told by legislative mandate to set aside a definite earmarked fund for the particular purpose of unemployment relief.

When a state makes such a legislative mandate, it announces to the world that the social policy of that state has changed from voluntarism to compulsion. There may follow a changed attitude on the part of employers doing business within such a state. A new order has been set up by legislation for both the employer and his employees. Would it not be very natural for a feeling to develop among employers that the state has decreed the social policies which they are expected to follow? Many employers, therefore, might feel that if they comply with this social edict their conscience is clear and they need go no further than the fulfillment of the minimum requirements. Naturally, also, if there is any way in which this social edict can be avoided legally, employers are still within their rights in taking advantage of such openings, and can do so with peace of mind. The original spirit which actuated the handling of these problems would, therefore, have been violated, and the results may be less advantageous to the community than was expected.

Mandatory social legislation, therefore, should be considered not only with respect to its terms and conditions, but to its consequences, namely, the economic effect upon the state and the

moral effect upon the citizens of that state. What the effect of the Wisconsin Unemployment Compensation Act will be is beyond prophesy, but in one respect it is fairly clear that it will hardly prove the panacea claimed by some. The statement has frequently been made that if funds such as those proposed under the Wisconsin Act had been accumulated in the past there would have been millions of dollars available for distribution to unemployed people in this period of depression. Assume that every one of the 48 states had provided for a reserve fund on the Wisconsin formula ten years ago. The outgo would have equaled the income, with the result that the funds would have been exhausted and the people of the nation would have been in the same dire straits as they are in May 1933. In both England and Germany today the real problem is not with those unemployed who are entitled to insurance benefit, but with those whose period of benefit has expired.

The general aspects of the problem are all so vital that it is important for actuaries, if they are to counsel wisely, to have a thorough understanding of the fundamentals of any such legislation. Mr. Burhop's paper discusses certain of these principles and gives the major points covered in the Bill. It may be added in passing that there seem to be indications that the compulsory feature of the Wisconsin Act will not go into force on July 1, 1933, as scheduled, but that the effective date will be postponed.

The phase of greatest interest to an actuary, I suggest, is the adequacy of the reserves which the Act proposes to accumulate. Assuming an average wage of \$1,000 a year, it would require about four years of continuous accumulation, without any claims on the fund, to build up the prescribed reserve of \$75 per employee. When that maximum had been provided, would it last any considerable time under conditions such as have confronted us for the past three years? Seventy-five percent of the employees laid off at any one time would deplete the fund in ten weeks, while 15% laid off each ten weeks would deplete it in less than one year, if we exclude the reduction in benefit incident to a decreasing fund.

A definite answer one way or another to this question would require some knowledge as to the future rate of unemployment and estimates of this factor vary widely. Every estimate as to the probable number of beneficiaries under the British and Ger-

man State plans, as well as under some of our private company schemes, has had to be revised upward. Over the ten year period ending in April 1932, the rate of unemployment in Great Britain averaged 13.25 per cent. The contributions in the original 1911 Act were based upon the assumption that the percentage of unemployed persons over a period of ten years would average 8.6%. When the plan was enlarged and extended in 1920 the assumption was made that the average rate of unemployment would in the future be 5.32%.

The recent British experience with unemployment has been borne out in general by such statistics as exist for a similar period in some of our industrial states. For example, it has been estimated that the rate of unemployment in the State of Ohio for the nine years from 1923 to 1931 has averaged 13.5%. To what extent would we be justified in projecting this past experience into even the immediate future? The world situation since 1918 has been so unprecedented, and current conditions are so fraught with diverse possibilities that any attempt to predict when the next upturn of the business cycle will take place, how long it will last, and to what heights it will take us, or how soon and how precipitous will be the succeeding plunge, and whether it will bring us to present or even lower depths, requires greater powers of prophecy than would be claimed by any of us.

The very provisions of the Wisconsin Act seem to recognize the virtual impossibility of predicting what would be an adequate reserve. Compensation is payable only so long as the individual employer's reserve account has a credit balance. Thereafter, neither the employer nor the state has any further liability under this plan toward an unemployed worker. Thus, a wage earner who becomes unemployed in the early stages of a prolonged depression receives compensation, while one who loses his employment later on may not. There might also be said to be discrimination between those who actually do receive payments, inasmuch as the rate of compensation decreases as the reserve per employee falls below \$50.

While the limitation of liability to the amount actually in the employer's reserve makes the plan financially sound, it precludes the giving of any definite guarantee to employees and leaves them with very insecure and possibly inadequate protection. One of the lessons to be learned from the study of the experience in

this field at home and abroad is that the provision of certainty to the employee, the sureness of benefit, is an essential both from the viewpoint of public policy as well as from that of good industrial relations. From the worker's sense of insecurity, fear and a lack of confidence develops and with them goes a definite tendency toward a diminishing exercise of his mental and physical duties, all of which is harmful to the *esprit de corps* both within the given establishment and in the wider circle of the state or even in the nation. In evaluating any plan such as that now under discussion, it is necessary that we consider the expectations which it may hold out to those it covers, and also any possible tendency to hold the state, which made the system mandatory, responsible in the event that these expectations are not realized. Should reserves be entirely depleted and therefore compensation payments cease, will the workers assume a sympathetic attitude, or will they demand that the state step in with loans or grants from the public treasury as has been the case in governmentally sponsored plans abroad?

Mr. Burhop has pointed out that the Wisconsin scheme does not pretend to be insurance. In addition to involving a limitation of liability, the law requires the same rate of contributions from all employers regardless of whether unemployment in their particular industry and organization has been heavy or light. Thus, establishments with a favorable employment record may have an overabundance of accumulation, while those with a poorer experience may not have sufficient reserves. Some of the penalty for a good employment record is removed by the fact that employers with a favorable experience will have less difficulty in maintaining the full reserve and may cease to contribute after a limited number of years, while employers with a high rate of unemployment will have to continue contributing. This fact is intended to act as an inducement to employers to take every possible step toward the regularization of their businesses and the reduction of unemployment therein to a minimum.

An additional incentive, as mentioned by Mr. Burhop, is the provision which entirely exempts employers who guarantee to provide work or wages for at least forty-two weeks of thirty-six hours each in the succeeding year. However, it has been pointed out that this provision might possibly lead to abuse, inasmuch as Wisconsin laws do not limit the number of working hours in a

week. Consequently, an employer might reduce the size of his staff just prior to the effective date of the Unemployment Compensation Act and introduce longer hours. If he made a sufficiently large reduction in the size of his personnel he might with little difficulty be able to give the guarantee which would exempt him from any contributions.

The provision for keeping individual accounts for each employer, instead of pooling the risk, is another non-insurance feature, but one which prevents the saddling of an extra burden upon efficient, regularized concerns. This provision, and the others relating to the payment of contributions by employers, would seem to presuppose that an individual employer is able to control the volume of unemployment in his business. There has been considerable debate as to whether or not this is true in all cases.

The maximum benefit of \$10 a week seems rather low for the support of a man and his family, as in the state of Wisconsin the average family consists of about four persons. It has been stated that the amount of benefit has been purposely made small in order not to overburden Wisconsin industry in competition with that of other states. However, the experience under governmental plans has always been that the rate of benefit, no matter how modest at the outset, is continuously increased once the law has been enacted, if for no other than political reasons. Consequently, it is not unreasonable to suppose that if the Wisconsin law becomes effective there will immediately be considerable pressure brought to bear to raise the rate of benefits to possibly several times the present scale.

The social aspect, however, of the Wisconsin plan is the most important aspect in attempting to evaluate it. Will the scheme relieve distress and provide at least a subsistence to unemployed workers throughout a prolonged business contraction? Compensation payments are limited under the law to ten weeks in any one calendar year. After the expiration of that period the individual has recourse only to charity or other relief. Thus, it is evident that the plan will not fully relieve unemployment of long duration. While it is highly questionable as to whether it is possible to make complete provision for depressional unemployment under any scheme, there are those who believe that to be the principal type to plan against. They think that workers

normally have sufficient savings to tide them over short periods of normal employment fluctuations.

It is contended that the Wisconsin Act is designed not so much to relieve unemployment as to prevent it. By placing the burden of contribution on the employer, it is stated, every incentive and inducement will be afforded him to reduce or even eliminate unemployment. However, experience has shown that in Great Britain and Germany, where the burden of contributions on the employer has been as high, and at times higher, than that proposed under the Wisconsin plan, there has not been a tendency to eliminate unemployment or even to reduce it greatly below the level existing in this country.

In closing I would like to say that I do not have too much patience with the super-critics—those who are always tearing down the supposedly sincere, constructive remedies suggested to improve this or that situation. We owe a debt to Professor Commons and others who have conducted much research in this field and who, by producing concrete proposals, have broken the ground preparatory to the erection, at some future time, of a structure which will be worthy of American ideals and traditions, although we question the advisability of making them mandatory until they meet with more general accord and acclaim from all interested parties.

TEN YEARS OF RATES AND RATING BUREAUS IN ONTARIO, APPLIED TO
AUTOMOBILE INSURANCE.—JOHN EDWARDS
VOLUME XIX, PAGE 22

WRITTEN DISCUSSION

MR. CARL H. FREDRICKSON :

So much poetry has been printed in the *Proceedings* lately that I hesitate greatly in adding any more to previously received contributions. However, it is hard to suppress the following thought after having read Mr. Edwards' paper.

*"No single thing abides, but all things flow.
Fragment to fragment clings; the things thus grow
Until we know and name them. By degrees
They melt, and are no more the things we know".*

Mr. Edwards' contribution is like history of a constant changing pattern which may be interpreted by different minds in a

totally different way. As Talleyrand is supposed to have said: "History would not contain so much for us to learn if we learned anything from it".

Although I am not particularly familiar with the history of insurance legislation in the United States, I have no doubt but that it follows largely the same fundamental lines as the Ontario legislation.

The weak point in any legislation is the administration of the law, which in its turn is dependent upon the means given the administrator to properly see that the law is lived up to. In Ontario it appears that the administrative tools were not very effective but always affected, not only by an original weakness but subsequently by political tampering and manipulation. Even after the Royal Commissioner had published his findings as to the rates charged by the insurance companies, it is found that any legislative system tending to eliminate the repetition of occurrences giving rise to the Commission is placed on the shelf indefinitely. It is a question in one's mind whether laws are laws or just a form of political stimulation.

Much of Mr. Edwards' paper deals with the Royal Commission appointed in 1929 to investigate automobile insurance rates and rating organizations.

My own opinion is that the result of the Royal Commission was practically nil insofar as rates are concerned. The fact is that at the time of the publication of the Royal Commission's findings, the tariff companies had begun to feel considerable non-tariff competition and would consequently have been forced to shade the rates as much as possible, in order to hold this in check. It is interesting to note that a rate readjustment has been made in the Province of Ontario for 1933, which reduces the 1933 rate level by approximately 15 per cent. One might conceivably visualize as one probable outcome of this downward scaling of rates another Royal Commission to investigate a possible inadequacy of rates.

The only real benefit accruing from the Royal Commission rating-wise was a piece of legislation compelling all companies, whether tariff or non-tariff, to file with a Statistical Agency, appointed by the Superintendent of Insurance, their experience uniformly in accordance with a Plan prescribed by him. And, therefore, Ontario is today in the unique position of compiling

experience of all companies transacting a certain line of business without compulsory insurance requirements.

The value and effect of this experience is under the same discussion here as in the United States and we have our Messrs. Richardsons and our Messrs. Michelbachers here in Canada, more or less ably filling the *rôles* so vivaciously acted by these two gentlemen in the States. But "Me thinks she doth protest too much".

I agree with Mr. Michelbacher regarding the futility of predicting insurance trends and visualizing what the future should carry in its lap when nothing has happened in the past which in any way changes the validity of the experience data. Hence my opinion, that there is no earthly gain by endeavouring a prediction of what the future may carry insofar as insurance legislation in the Province of Ontario is concerned.