ABSTRACT OF THE DISCUSSION OF PAPERS READ AT THE PREVIOUS MEETING

DISTRIBUTION OF INSPECTION COST BY LINE OF INSURANCE—HARRY V. WAITE

VOLUME XXII, PAGE 15

WRITTEN DISCUSSION

MR. ROBERT S. HULL:

It is difficult to criticize a paper which is an able exposition of a successful piece of work.

Mr. Waite's paper is a valuable addition to the literature of cost analysis as applied to insurance work. There is considerable literature on manufacturing costs but when the insurance man finds it necessary to distribute his costs by line of insurance he must for the most part blaze his own trail. A few years ago, in commenting on the possibilities of expense allocation an accounting executive of one of our large companies remarked:

"You can't keep costs on a damn lot of papers."

Nevertheless, considerable progress has since been made in doing just that.

Mr. Waite's paper gives the Society the benefit of an experience based on two carefully planned investigations of inspection costs. The soundness of the method is indicated by the close correspondence which he notes in the results of the two tests.

It would seem that one of the greatest difficulties to be encountered in such a study would be engaging the cooperation of the field men in securing time sheets on which the dates were accurately recorded throughout the day, rather than being thrown together by guess as an afterthought to the day's work. However, if the field man understood, as is probable, that the test was being applied in all offices and that the results would probably be compared, he would be inclined to use sufficient care not to produce weird results that might show up in the comparison.

Mr. Waite brings out interestingly certain by-products of the study in addition to the allocation of expense by lines of insurance. The first of these is in the break down of time for each line into

percentages for each operation, with the resultant indication of possible inefficiency in permitting non-productive time to bear too high a ratio to the actual inspection time. Such a study might easily save much more than its cost by pointing the way to the elimination of such leaks.

In comparing the efficiency of inspection offices, the number of inspections made will have little meaning unless the normal relative costs for the different types of inspection be known and this, the list furnishes.

The break down of inspection costs by lines is a not inconsiderable factor in determining the profit or loss for each kind of insurance and if at least the larger companies can furnish a reasonably accurate distribution of inspection costs for the New York Casualty Experience Exhibit, we have a valuable check on the allowance for this purpose in the rates.

In such lines as boiler, machinery and elevator where inspection costs are a large factor in the rate, it would seem that the companies should pool experience in inspection costs as well as in exposure and losses. If memory serves, this was tried several years ago, but failed for lack of cooperation on the part of the companies. Such experience to be of value should of course be analyzed by kind of machine or vessel and by type of inspection.

The analysis of compensation inspection costs by number of employees has interesting possibilities. While the allowance for inspection expense in the premium in a given classification necessarily varies with the size of the risk, it is doubtful whether the inspection cost varies in the same proportion. Also is there a marked disparity in ratio of inspection costs to premium as between industrial, contracting, stevedoring and all other risks? *Question*: Is there any better way of charging compensation inspection expense than as a flat percentage of the premium?

MR. GEORGE D. MOORE:

The paper presented by Mr. Waite seems to cover this subject fully. For a very large carrier the expense incident to the collection of data is perhaps insignificant. For the small carrier to go into all of this intricate detail would perhaps be unwarranted. As simplified method to be used by a smaller carrier and when the

inspectors cover more than one line of insurance, the following is suggested: Starting with the actual time spent on inspecting and excluding all references to Travel and Clerical time, it is possible to make a complete summary of actual time spent over a given period by all the company's inspectors by lines. Then if the total costs of inspection for Home Office and Field Salaries, Home Office Rents, Traveling Expenses, and Branch Office Expenses chargeable to inspection is distributed to lines of insurance by actual time spent on each line, it will be possible to approximate the expense for each class of business. This method presupposes that the costs of overhead, including traveling, is proportional to the time spent in actual inspection. Results on this basis seem practical.

Another difficulty encountered by the smaller carrier is to include in the figures those expenses incurred on fee base inspections, that is where inspections are made by outside firms. The method used by the company with which the writer is connected is to arrive at the average time per inspection by lines derived from inspection made by the company itself, these averages are then applied to the number of inspections made by outside firms and then the general overhead is distributed proportionate to the combined time to fee and company inspections. This method presupposes that the costs of fee base inspection has been first specifically allocated to line at the time the fee base bills are received. Although the method is not strictly accurate the results do not appear to be out of line.

SOCIAL INSURANCE AND THE CONSTITUTION—CLARENCE W. HOBBS

VOLUME XXII, PAGE 32

WRITTEN DISCUSSION

MR. LEON S. SENIOR:

Although the subject is timely, it may be difficult to explain why Federal legislation dealing with old-age pensions and unemployment insurance should be discussed in this forum from the constitutional point of view. It would have been more appropriate for us to examine its theory, its philosophical and actuarial aspects, or the soundness of its mathematical foundation. If I may venture

a guess, the author thought it good strategy to demolish Federal legislation as unconstitutional, thereby saving himself and the members of the Society the time and effort necessary for a critical study of its philosophy and mathematics. This he has done well. Whatever doubts one has entertained on the soundness of the legislation from its constitutional aspects have been removed by Mr. Hobbs' convincing argument.

Hastily put together, the Social Security Act is offered as a political measure and as an effective slogan for the coming campaign. To anyone familiar with the powers of the Federal Government and the limitations imposed on such powers by our Constitution, it is amazing to find the National Government actually embarking upon a field which heretofore has been regarded as strictly within the province of the individual states. Neither unemployment insurance nor old-age pensions come within the Federal police power, which insofar as internal affairs of the state are concerned is limited to interstate commerce and to matters of taxation.

The Federal statute on unemployment insurance is a purely coercive measure. It seeks, under the guise of taxation, to foist upon the states a so-called system of "insurance" which in its essence lacks the definite characteristics commonly associated with insurance. Its effect is to establish contingency reserves for the benefit of workmen who have lost their jobs either through their own fault, or through the inability of industry to give employment. Under the ordinary forms of fire, life, marine and casualty insurance the occurrence of the loss is not within the control of the assured or the beneficiary. I am, of course, excepting cases of fraud which may normally be expected as an incident to claims arising under all insurance contracts. But under a system of unemployment insurance, the situation as respects losses is to a large extent within the control of the employer who pays the premium. This is especially true as respects minor periodical fluctuations. As an example, I may cite the automobile industry where changes in method of sales, advertising and deferred payment plans have a material effect upon production. When it comes to long-lasting world-wide depressions the cushion provided by reserve funds set aside for unemployment insurance is rather thin to be of any lasting benefit. As a Federal project the tax for unemployment

insurance comes neither within the express nor implied powers of the Government; nor is it inherent as an incident to its sovereignty.

Aside from that, what the nation requires is not a panacea in the form of "unemployment insurance," which may help the idle workers to tide over a temporary period, but radical reduction of unemployment by providing jobs for the employable. Systematic planning for the creation of jobs has been lost sight of in the mad rush for impractical schemes to be organized and controlled by the Federal Government. Constitutionally unsound, economically impractical, the plan for unemployment insurance falls far from achieving the object to bring the country back to economic recovery. No scheme of unemployment insurance can be described as a real remedy. Like an aspirin for a headache, or a bromo-seltzer for the morning after, it will do nothing more than treat the symptom; it offers no cure for the disease.

The New York Sun has recently published some illuminating articles on the subject of unemployment. In its edition of May 11th it puts the question: "Why are 2,000,000 men out of work on the farms?" And it furnishes the answer: "Plainly because the New Deal told the farmers to stop plowing, to stop planting, to stop cultivating, to stop harvesting, all in order that the farmers could get a higher price for their products at a time when other men and women were unable to buy enough to eat. Why are miners idle? Partly because of the threat of Government-produced power by the TVA and other New Deal schemes. And 700,000 railroad workers are out of employment not only because of Government treatment of the lines, but because the production of farms and mines has been curtailed by the acts of the Administration." Billions are spent on boon-doggling schemes such as golf courses and swimming pools, while the railroads starve and farm hands sit and whittle, and plans for unemployment insurance are hatched by the social uplifters.

Since the publication of Mr. Hobbs' paper, the New York Court of Appeals upheld, on a divided vote, the New York Unemployment Insurance Act. The case will soon reach the U. S. Supreme Court and may be sustained there. But that does not necessarily mean that the Supreme Court will uphold the Federal Act which involves much different issues.

When we come to discuss the subject of old-age pensions, I find

myself far more sympathetic with the project than with so-called "unemployment insurance." The idea of making life secure for the individual against the vicissitudes of life has its limitations. To a certain extent society has an obligation to provide through common effort for its disabled and its incompetent, but by and large the individual should be encouraged to provide for himself in his years of plenty against a future rainy day. I fully realize that it is fashionable nowadays to speak with derision of "rugged individualism" and yet the race has made its greatest progress and has achieved its highest triumphs through pioneering struggles, overcoming obstacles presented by men and nature.

Assistance to the aged does come within the province of the individual State, and its details should be worked out in a rational, practical manner within the limits of our constitutional system. It is clear, however, that that portion of the Social Security Act which deals with old-age pensions is not a constitutional scheme. Mr. Hobbs very clearly shows that all the reasons which have led to the rejection of the Railroad Retirement Act are applicable to the case of the Social Security Act. The fact that railroad employees are engaged in interstate commerce gave color to the plea that Congress had jurisdiction in the matter. But this excuse does not exist in the case of a pension scheme which has no direct relation to the subject of interstate commerce. A pension plan which takes no cognizance of occupation, domicile and other important details will, in the long run, prove unworkable. The subject is essentially one for the individual states and not for the Federal Government. The benefit scale may suffice to maintain the simple life on a farm, but one may question whether the uniformity of its arrangement is ideally suited to a standard of living for men and women in urban communities where conditions of living are more difficult and more costly.

No great harm will be done if all or part of the present Social Security Act, particularly the part dealing with contributory pensions is cast overboard. Some good will have been accomplished by making open a path for the discussion of a social problem which must be solved, but like all things worth while the solution does not lie through hasty, half-baked legislation. A satisfactory Social Security Act may and will come in the future through patient and painstaking effort on the part of men who will not be affected by the political considerations of the moment.

And in conclusion, may I offer my compliments to the author on his admirable essay. It is quite well known that anyone who was raised in Boston or lived in any of its suburbs, when he breaks into speech or written word uses the most chiselled and faultless English. But occasionally Mr. Hobbs lapses into classical Latin or even more classical Greek. His latest is "graphe paranomon." I assure you it is not a chemical or pharmaceutical preparation. It has reference to a special type of legal process which was in vogue by Athenians of old. It could be invoked by any citizen against one who proposed an unconstitutional law. Mr. Hobbs concludes that it is pretty fortunate for our legislators that this form of process does not exist under our common law system of jurisprudence. With this conclusion I most heartily agree.

MR. F. ROBERTSON JONES:

I am so nearly in accord with many of the general views expressed by Mr. Hobbs in this address that it is only with difficulty that I have been able to find points for comment or criticism.

However, it stands out that even in the short time that has elapsed since the date of this address there have been two court decisions that have a disturbing bearing on Mr. Hobbs' subject—namely, the decision of the United States Supreme Court in the AAA Case, *United States v. Butler et al., 36 S. Ct. 312, (January 6, 1936)* and the decision of the New York Court of Appeals in the Unemployment Insurance Case, *W. H. H. Chamberlin, Inc., v. Andrews, 271 N. Y. 1, (April 15, 1936)*.

The United States Supreme Court case tends to support Mr. Hobbs' conclusion that the old-age insurance feature of the Federal Social Security Act is unconstitutional; but practically it has some implications looking the other way:—

Some 20 years ago, when the propaganda for compulsory social insurances first became widely vocal in America, even their advocates agreed that the Federal Constitution stood in the way of *national* compulsory insurance systems. There were then two major schools of thought as to the limitations on the power of the Federal Government to tax and spend "for the general welfare"—

the school of Madison, which was "strict," and the school of Hamilton, which was "liberal." Mr. Hobbs' objections to the constitutionality of the Federal old-age insurance scheme are based, in part at least, upon the doctrines of Madison. But in the United States Supreme Court case, above cited, those doctrines were weakened; the conservative majority of six justices adopted the more liberal doctrines of Hamilton; and the minority of three departed yet further from the Madisonian doctrines and went far beyond the Hamiltonian doctrines in the direction of maintaining that there are no limitations at all upon acts of Congress declared to be "for the general welfare." So we see that some of the commonly accepted constitutional limitations on the power of Congress have been fading away; and there is reason to anticipate that, by replacement of the justices of the Supreme Court, they may, before long, be approximately eliminated. Therefore I fear that Mr. Hobbs' conclusions as to the unconstitutionality of this feature of the Social Security Act are not as certain as I would wish.

Then as to the New York Court of Appeals decisions: Mr. Hobbs attacks the unemployment compensation or insurance laws on the ground that they are not regulations, under the police power, of the relation between employers and employees, but are distinctly the taking of property of one class for the private use of another class. Perhaps such objection would not apply with the same force to a "dismissal wage" law (such as was proposed in Connecticut) or to a law requiring employers to contribute to unemployment benefits for their own employees, as in Wisconsin; but, according to the opinion of some competent authorities, it would be absolutely fatal to the constitutionality of the New York law—which is distinctly class legislation and, with its pooled fund, is one of the most communistic forms of so-called unemployment compensation that could be devised. Yet it was that very New York law which has been upheld by the decision above referred to. That decision arouses the fear that, in regard to legislation of this character, we are rapidly approaching a status wherein constitutions—state along with national—will be treated practically as scraps of waste paper and such discussions of constitutionality as Mr. Hobbs' will belong in the realm of archeology.

Then, there are several passages in Mr. Hobbs' address with

which I agree in spirit, but disagree in some details. Thus at one point he says (page 33 of the printed address) :—

> ". . . Social Insurance is, so far as it goes, a leveling device, designed to put one class of the community in a position of improved economic status, necessarily at the expense of another class."

This proposition, in my opinion, is not accurate in application to social insurance universally. Social insurance may be honestly designed to and—more improbably—may have the effect of benefiting the community generally, some classes directly and others indirectly. On the other hand, it may be designed to regiment a proletariat and content them with delusions, in the interests of the politicians. It seems to me that the two principal lines of social insurances provided for in our Social Security Act belong in the latter category. Certainly their primary and principal beneficiaries will be the office holders, the spoilsmen and the tremendous bureaucracy they would entail, whereas it is problematical whether the wage-workers as a class will ultimately benefit. Certainly "social security" will not thereby be materially promoted, but the welfare of the community will be perverted more than ever into a political gamble. I submit that an intensive analysis of these half-baked social experiments will support my diagnosis—and I feel that Mr. Hobbs will agree with me.

Finally, Mr. Hobbs optimistically concludes (page 49 of the printed pamphlet) :

> ". . . the act [the Federal Social Security Act] stands . . . as a battle monument marking the attainment of an objective by one side in a social warfare. As such its permanence depends upon the maintenance in power of the winning side; and the law of retribution renders this on the whole unlikely."

Here again my diagnosis differs a little from Mr. Hobbs' and my prognosis is less favorable. I do not believe that these particular social insurance enactments have been so much achievements of an objective in a class war, as they have been emanations from a "brain trust," actuated by the time dishonored policy of "bread and circuses." And the history of the Roman Empire affords little ground for expectation that when such a policy is once embarked upon there will be any turning back.

However, in all discussions of this subject, it needs to be borne

in mind that the problem of greater economic security for the less fortunate classes of the population is a real one.

MR. J. B. GLENN:

Mr. Hobbs' discussion of the decision in *Railroad Retirement Board v. Alton* and its bearing on the constitutionality of Titles II and VIII of the Social Security Act would be improved if he would show how the points on pooling and due process, in a case where money is collected from A and immediately disbursed as an annuity to B, the amount of the annuity bearing no relation to the contributions, if any, previously made by B, apply to a case where the contributions of A are held and accumulated to be disbursed as an annuity to A, the amount of annuity, generally speaking, bearing a close relation to his previous contributions. In the second case the plan is nothing more than a compulsory savings proposition, on a group basis while in the first case an element of "share-the-wealth" is present. Another point worthy of notice is that in one case the system operated retroactively in certain respects while in the other it is not only non-retroactive, but is not even immediately effective. Possibly also the fact that one applied only to one industry while the other applies generally, may be pertinent. As originally introduced the Social Security Act included a much larger number within its scope, but practical difficulties in the collection of taxes lead to several restrictions of its coverage.

Another matter which should have a bearing on the question of constitutionality, but perhaps doesn't, is stated by a critic of the Act, thus:[1]

"A tax on payrolls ranging upward from 4% in 1937 to 9% in 1949 and thereafter can come only from two sources in practical business operation:

(a) It must be deducted from the current wage rate by refusing to advance wages with prices or depressing them at current prices; or

(b) It must be added to the price of goods.

Probably a combination of the two will actually take place." The author fails to point out that 80% of the public which will pay the

[1] Economic Pitfalls in the Federal Social Security Act, Farrel-Birmingham Co., Inc., Ansonia, Conn., 1935.

higher prices consists of employees covered under this Act, and their dependents. Certainly if the framers of the Act supposed they were bettering the economic conditions of the employee at the expense of the employer, they should receive credit for very little discernment, particularly in view of a probable continuing labor surplus. Laws regulating the *disposition* of a part of wages cannot operate as a regulation of the total amount of wages, as long as the remaining part is fixed by bargaining between the employer and employee.

Except for the fact that appearances are sometimes of importance, the entire amount of the contributions might just as well have been collected directly from the employee rather than indirectly as in the Act.

It would seem rather difficult to support a contention that the Social Security Act, except through the poor relief portions, involves a transfer of property from A to B. A difficulty is that while it may not involve a transfer as a matter of fact, it may as a matter of law.

If the old age relief grants in Title I of the Act are constitutional, it may be argued that the compulsory pensions are constitutional also, on the ground that the public recognition of responsibility for its aged indigent will impose a substantial and increasing burden on the taxpayer, unless a compulsory savings system is enacted to reduce the number of aged indigent. Since the compulsory pensions are in fact a compulsory savings proposition, the person doing the saving should receive the annuity, as a matter of right, irrespective of need. Without this line of argument the compulsory pensions probably would not have been enacted by a Congress inclined to favor all appropriations, oppose all taxation.

A similar line of argument applies to the unemployment compensation sections of the Act. The Federal Government has been called upon for huge sums for relief, and such demands are likely to continue or recur. Some means of taxation must be found to provide the necessary funds and to liquidate debts incurred in the past on this account. The provision of unemployment benefits tends to reduce the amounts required for relief. It would seem reasonable and proper, therefore, to allow a credit to the taxpayers of a State which takes steps to reduce the relief require-

ments. The fact that unemployment compensation is paid as a matter of right rather than need can again be justified on the ground that it is a compulsory savings proposition, on a group basis. An examination of State unemployment compensation Acts shows that benefits are more or less closely related to previous contributions.

There seems to be little point in discussing whether the collection of payroll taxes imposes a new incident on the employer-employee relationship, as it is a matter of definition. In many instances certain classes of persons have been appointed as unofficial tax-collectors for the government even though the proceeds of the tax are to be used for some purpose wholly unrelated to the business of the collector. The imposition of a sales tax for relief funds may or may not impose a new incident on the purchase and sale of goods, depending on definition.

The fact that other forms of social insurance cannot be justified by the usual arguments for workmen's compensation would be irrelevant if it can be shown that:

(a) workmen's compensation can be justified on other grounds that will also include other forms of social insurance, or
(b) that the other forms can be justified on grounds independent of those used for workmen's compensation.

If the arguments for social insurance as a matter of natural justice correspond to those stated in this paper, the advocates of social insurance will be well advised not to set up any system which collects funds from the proposed beneficiaries and relates benefits closely to previous contributions. If the Social Security Act is social insurance in any proper sense of that ill-defined term, it is a decidedly reactionary form of it.

A correction, which has no bearing on the points in this paper, is that the Railroad Retirement Act of 1934 provided for retirement at age 65, with a possible extension by agreement between the employer and employee, but not beyond age 70 unless the employee occupied an "official position." Retirement before 65 was permissible if the employee had 30 years of service, but the annuity was reduced by one-fifteenth for each year he was less than 65 except that there was no reduction if the employee was retired by the carrier for disability.

MR. JOSEPH LINDER:

In a most interesting paper entitled "Social Insurance and the Constitution," Mr. Hobbs first discusses the constitutional questions raised by the Federal Social Security Act. The old age assistance provisions and unemployment provisions are dealt with separately. This procedure seems to be particularly appropriate since it is more than a mere possibility that one of the sections might be declared constitutional without regard to the other.

There is then discussed the state unemployment acts. In this connection the New York Court of Appeals in a recent decision (April 15, 1936) declared the New York Unemployment Insurance Act in practically its entirety as constitutional under both the Federal and State Constitutions. While not necessarily presaging similar action by the United States Supreme Court with regard to either the New York Act or the unemployment provisions of the Federal Social Security Act, certain parts of the decision make particularly interesting reading. The New York Court of Appeals has apparently decided in favor of the "self-restraint" recently argued for by the minority of the United States Supreme Court. "Courts should not interfere with attempts by the legislature in the exercise of the reserve power of the State to meet dangers which threaten the entire common weal and affect every home. . . . Whether or not the Legislature should pass such a law or whether it will afford the remedy or the relief predicted for it, is a matter of fair argument but not for argument in a court of law." It is of course appreciated that the question of the "reserve powers" of the individual states is not the same as the question of the "reserve powers" of the Federal Government.

Under the heading of "Natural Justice," Mr. Hobbs discusses the "pros" and "cons" of the legislation without regard to constitutionality. One gathers that Mr. Hobbs feels that the Federal Act is in the nature of class legislation in that it involves a transfer of moneys to a certain class, such moneys necessarily coming from another class or from the general revenues of the state. The present reviewer adheres to the school of thought which believes that taxes imposed for the purpose of raising funds which are returned to employees in the form of benefits ultimately become wages. (Workmen's compensation insurance is also classed as a form of

taxation coming within this category). In other words, the Federal Government is forcing various individuals to set aside certain sums out of their own incomes in order to protect themselves in part against their own misfortune or improvidence. If this view of such taxation is sound, then the old age assistance section of the Federal Act not only does not create a class of beneficiaries at the expense of another class, but actually preserves the respective equities of the individuals who ultimately become recipients of benefits.

This view might also be held, but to a limited extent, with regard to the unemployment provisions. Here the beneficiaries may also include the balance of the population at large (in terms of sustained purchasing power). It is doubted that the employing class in Great Britain would be willing to do away entirely with their own system of unemployment "insurance." In Great Britain and other European countries the functioning of unemployment benefit systems appears to have sustained purchasing power during the late (it is hoped!) depression. In such countries the purchasing power of the wage earning population declined much less (percentagewise) than in the United States. It is even possible that, paradoxical as it may sound, the "cost" of insurance was less than the "benefits," if the latter is expressed in terms of the smaller decline in purchasing power.

The present reviewer is quite frankly in favor of the social insurances if for no other reason than that of orderly and efficiently meeting a cost which is already being met in disorderly and inefficient fashion. He also feels that if soundly conceived and efficiently administered, the effect on the national economy cannot be other than helpful.

MR. W. R. WILLIAMSON:

Mr. Hobbs' discussion is timely. I suppose that possibly it well represents the position of the conservative who instinctively feels there must be something inherently wrong with social insurance.

I should like to refer primarily to two other discussions on the same subject; one by Professor Powell, Langdon Professor of Law at Harvard University, entitled, "The Constitution and Social Insurance," appearing in the September 1935 number of the Annals of the American Academy of Political and Social Science;

the other by Professor Barbara Nachtrieb Armstrong of the University of California School of Jurisprudence, entitled "The Federal Social Security Act," appearing in the December 1935 number of the American Bar Association Journal.

Professor Powell's attitude in his review of the Railroad Retirement Act decision is quite different from that of Mr. Hobbs. Professor Powell says, "Frailty in the arguments advanced in support of the views may be a factor tending toward ultimate erosion. . . . If judges subject themselves to suspicion of unawareness of what they are doing, they must subject themselves to the possibility of the revaluation of what they have done." Prof. Powell accepts more readily the attitude expressed by Chief Justice Hughes in his dissent from the bare majority decision reached by five of the nine members.

Back of the Railroad Retirement Act is, of course, the very interesting history of the establishment of pension programs by railroad after railroad. Most of the roads notified the employees as a whole that pensions were being granted. Undoubtedly for many years employee and foremen discussion indicated that pensions could be counted upon as a definite right. They become as nearly deferred wage as they have become in any general industry. The railroads, whose resources have been somewhat curtailed, have not provided what insurance companies would consider an adequate reserve to back up these pension rights. It may even be said that rulings from the Interstate Commerce Commission have hampered the roads by putting obstacles in the way of such reserve provision. Not only had they failed to establish reserves, but they had, in fact, already begun to reduce pensions then in force, the receipt of which pensions must have been regarded by the employees concerned as very definite.

With this background, one could regard the Railroad Retirement Act as the attempt by the federal government, under whose Interstate Commerce Commission the railroad's freedom of action had theretofore been somewhat curtailed, to make up for adverse governmental rulings and to permit the railroads to live up to the intent of their own essential promises, though permitting the employees to join with them in the provision for old age benefits. It seems to me that this aspect of the Railroad Retirement legislation had inadequate recognition in the Supreme Court decision and

that it presents a rather important element to have been overlooked.

Professor Armstrong's conclusion is that the Social Security Act recognizes the enlargement of our unit of assistance in relief work from the parish to the country as a whole since a considerable proportion of the workers are never permanently localized even within a particular state. She believes, also, that "Titles II, VIII and IX in the social security bill have unquestionably used the taxing power to accomplish their social insurance objectives. Such a motive on the part of Congress must be freely conceded. Whether such a motive, however, renders the legislation improper is quite another question. It may perhaps find its answer in such a statement as that contained in the concluding paragraph of the recent case of Magnano Co. v. Hamilton which reads: 'From the beginning of our government, the courts have sustained taxes although imposed with the collateral intent of effecting ulterior ends which, considered apart, were beyond the constitutional power of the lawmakers to realize by legislation directly addressed to their accomplishment.'"

Mr. Hobbs' discussion of "natural justice" calls for rather special commentary. Professor Armstrong's conclusion as to the enlarged community which must support relief, suggests as reasonable an attitude as that indicated by Mr. Hobbs' statement, "On the other hand, if the burden is arbitrarily imposed, with no reason other than that the state has seen fit to do it, there is a lack of natural justice." The community is already responsible for relief. Social insurance is a modification of relief principles, but possibly more a rationalization than a radical departure. Both old age benefits and unemployment benefits under the social security program are to be largely financed by taxes upon the employee's wages, or upon that source of the employee's wages—the employer. Since wages are not permanently determined at any point, the effect of these taxes upon the employer may slow down wage advance in the future and thereby transfer the burden to the employee. The cooperation of those concerned seems imperative. The common provision for these needs on the part of those affected is essentially a tax upon those who may be subject to future needs and is group budgeting. This part of the social security program seems to involve the same principle of shared provision on the

part of the citizens which is already evidenced in the common provision for education and road building. Since the time of Queen Elizabeth the state has taxed "those who had" for the relief of "those who had not." These portions of the Social Security Act attempt to tax as well those who, it is evident, will eventually lack the means of support and thus increase the equity back of the transaction. It seems that the entire trend of this legislation is in the direction of that "natural justice" which Mr. Hobbs considers so desirable and that instead of simply removing property from A and transferring it to B, as we are rather unsuccessfully doing already, it secures the cooperation of B to reduce the magnitude of the burden upon A.

Mr. Hobbs seems a trifle careless in his lumping together of the two distinct coverages—old age assistance and old age benefits, and later in his sweeping statements which rather ignore the taxation upon the employees.

Much of the discussion of the Railroad Retirement Act ignores almost the entire argument of the salesmen of group annuities, that the building up of a proper retirement program is a distinct advantage to the employer. Consider, in particular, the quotation from the majority decision of the Supreme Court as to improved morale, concerning the transfer of loyalty to employer to gratitude to the legislature. The Act possibly attempts to make good the employer's promise of pensions made, as has been earlier argued by the railroads, to secure improved operating efficiency. Those of us who are familiar with the pitfalls of the pension device, the inability of many an employer to formulate a clear picture of what he is doing in the creation of the pension program so that he falls into the error of failing to budget properly for his liabilities, can readily believe that the current legislation must eventually help to clarify this complicated subject in the minds of both the employer and the employee. It is not unduly harsh to say that in a field which touches so importantly the lives of millions of employees, clear thinking on pensions has been unforgivably postponed and obligations to employees have been most casually treated.

The Social Security Act which, rather than the Railroad Retirement Act, is the subject of discussion, seems to be a notable advance upon the general level of pension provision on the part of a

large group of employers who have failed to recognize financial pension liability. Its attempts at budgeting may come closer to the principles of "natural justice" than the hit-or-miss methods which have been all too common among employers.

Professor Powell says: "I am not unfamiliar with the background of experience and opinion which would make a compulsory pension plan a noxious novelty. I look back with some emotional nostalgia to those easy days—easy for those for whom they were easy—when character and ability won their deserved reward, and when those to whom reward did not come were, by the force of ineluctable logic, without the requisite character and ability. What any man did, all other men could do. The industrious and prudent saved for their old age. Men chose what work they would do, and when they chose a dangerous occupation they assumed the risks thereof. If accident came, it was merely what they had anticipated and were paid for anticipating. Men chose to work with careless fellow employees often unknown and miles away, and so of course were themselves to blame if their own carelessness in joining a careless companion resulted in harm. There was no need to provide for other men's security, for if men did not win security for themselves, they did not deserve it. To provide for others what they could not provide for themselves would destroy the incentive of men to provide for themselves what they could provide for themselves. It was all so simple and so moral, and each man was free to succeed and free to fail.

"Of course it was a false picture even in those days, but many of us who were comfortable fondly believed it to be true. I should be glad if it were true today, if only private charity were kind enough to the unfortunate ones who lack ability and character. We know it is not true today, and only by looking at what is true today can we have any wisdom about what is legitimate for government to do today. The simple fact is that an uncontrolled industrial system or lack of system holds out to few a chance of either abundance or security. For the many, the most that can be hoped for is a minimum of security. Employers who would proffer security plans are inevitably hindered or deterred by the nonconformity of their competitors. Without conformity, the cost cannot be passed on to the consumer. Such competitive disadvantage can be borne only by a few. If, therefore, we are

to have a minimum of security, the only way to get it is by legislation comprehensive in its spread. So the question boils down to the simple one of whether we wish to provide security or not. If we do not, let us be frank about it and say so. If we do, let us not cavil at costs which cannot be avoided if we are to achieve the end."

Sounder recognition of the needs of the old and of the unemployed is essential. The community suffers when these needs are uncared for. It may well be that if the conservatism of social insurance is unavailable that much more radical remedies may be demanded and applied.

AUTHOR'S REVIEW OF DISCUSSIONS

MR. CLARENCE W. HOBBS:

Nietzsche gives as the sign of the State, confusion of the language of good and evil. This, as in case of much which Nietzsche says, cuts very deep into the essential weakness of modern society. There are no more peoples, inspired with a common faith and common hope: there are but states: artificial conglomerates of vast masses of folk, with no common ideals, and therefore acting to no common purposes, fighting each other, if not with arms, at least with ideas.

Of this, my paper and the five excellent discussions thereof, are illustrations. Mr. Senior, Mr. Jones and myself apparently see more or less eye to eye: as between us and the other three gentlemen, there is a gulf fixed not readily to be bridged over, involving as it does entirely different concepts of what should be the end and aim of state policy.

This difference has recently been most lucidly set forth by Dorothy Thompson in the New York Herald-Tribune, under date of June 23rd. The author indicates as antitheses "liberalism" and "social democracy." "The liberal," she states, "believes in the free play of economic forces, with the state reduced to the function of seeing that the game remains fair. The revolt of the liberal is against those forces, economically powerful, and representing themselves as conservatives, who by concentrated power aggran-

dize special privileges for themselves. The liberal wants above all things, freedom. He wants freedom from the economic domination of powerful groups, but he also wants freedom from the meddlesome interferences of government bureaucracy. And he fears the all-powerful state above all things, because the state has behind it, eventually, armed force, and possibilities of coercion which not the most powerful capitalism can command."

This in general states my own views very concisely, and I trust I do Mr. Senior and Mr. Jones no violence by suspecting that their views point in that direction also.

The "social democrat," goes on the author, "accepts the rise of huge combinations of wealth as an inevitable development of capitalism and machine production. He does not seriously try to introduce greater fluidity in the interests of fair competition, but to force those combinations into popular service. Without the relentless logic of the tough-minded Communists, he hopes to achieve this by democratic methods and by the collaboration of all people of good will. Meanwhile, without attacking the matter of ownership, fundamental to a true Socialistic program, from the revolutionary implications of which he shrinks, he expands the paternalistic powers of the state, making up to the masses in one form or another, for the defects of the economic system. The process appeals at the outset to people of humanitarian instincts. It also appeals to all politicians who have the disposal of such doles. To keep the process going inside political democracy one thing is essential, that the burden of taxation for it should not fall too visibly on too large a section of the population. Therefore it must be financed by visible taxes only on the well-to-do or by borrowing. If the taxes on the rich tend to break down the powerful economic groups, so that eventually they yield to the state out of sheer weariness, so much the better. But there is no robust policy for what should then be done."

And I think I do no violence to Messrs. Glenn, Linder and Williamson, by indicating that I think their views fall within this category.

With this distinction in mind, I proceed to comment upon the several discussions. That of Mr. Senior accords so well with my own views that I bestow upon it no more than passing comment. His criticisms of unemployment insurance and of the present

Federal old age pension plan are pungently stated, and, I think, raise entirely valid points. His kindly comments as to myself are much appreciated. The same may be said of the discussion of Mr. Jones. This raises some very interesting points, and I regret that I cannot in brief space do them full justice.

Mr. Glenn challenges my assertion that the Social Security Act involves a transfer of property from A the employer to B the employee. That is the immediate effect, certainly of levying a tax upon the employer. Mr. Glenn quotes a statement of a critic of the act to the effect that the tax in payrolls can come from only two sources in practical business operations, (1) By deduction from wages, (2) By addition to prices: and adds the commentary that 80% of the public which will pay the higher prices consists of employees covered under the act. Wherefore, he concludes, the employee is really paying the bill, and "except for the fact that appearances are sometimes of importance, the entire amount of the contributions might just as well have been collected directly from the employee rather than indirectly as in the Act."

This quotation fits in very well with the statement of Dorothy Thompson quoted, that it is essential that the burden of taxation should not fall too visibly on too large a section of the population.

But Mr. Glenn's premise is not entirely correct. Save in case of those very fortunately situated, employers cannot raise prices at will. Some, like public utilities, can do so only with the consent of an administrative body: and in some parts of the governmental program during the past three years, broader price-fixing provisions have been proposed. In any event, whenever business is competitive, raising of prices is possible only by joint action of all competitors: and whether competitive or not, prices cannot be raised above the public's ability or willingness to pay without reducing the demand. Therefore, the second means will not in all cases be available. Again, employers are by no means free in dealing with wages. In unionized industries, wages are controlled by contract: in other industries a general attack on wages would be a potent motive to unionization and a disastrous series of labor troubles. The employer would have in numerous cases to meet the tax out of his own pocket or else cast about for means of lowering operating costs—which would inevitably mean the displacement of a certain amount of labor. If he failed in the latter,

and could not pay the taxes out of his pocket, he would go out of business. To some extent, therefore, the transfer from A the employer to B the employee will be, not technical, as Mr. Glenn implies, but real.

To some extent, also, there is an indirect tax on so much of the community as do not draw benefits under the act. I am not in position to challenge Mr. Glenn's statement that 80% of the public which will pay the higher prices consists of employees covered under the act and their dependents, but it seems a trifle high.

Now there are some employers who can afford this tax: either by reason of ability to fix prices, or by reason of ability to deal with wages, or by reason of a comfortable margin between operating income and operating expense. Many will be in serious difficulties: not a few will be forced to the wall: that is, if the Act continues until the maximum tax is reached. It is perhaps superfluous to shed a tear over the small employer: in these days of broad thinking, and looking to mass results only, the small employer has, and possibly deserves, no friends. It may be for the good of the community that business fall into the hands of large and potent organizations. This process has long been going on. The levying of this new burden bids fair to accelerate it. A "liberal" like myself may deplore the tendency, which the "Social Democrat" views with complacency. A "liberal" like myself may also deplore the addition to the already over-numerous horde of tax-collectors, of an indefinite number of what Mr. Glenn styles "unofficial tax collectors for the government": but here again a good "Social Democrat" like Mr. Glenn sees nothing untoward in the phenomenon. I fear I am not properly appreciative of the essential beauties of a polity consisting of tax slaves toiling under the lash of an army of tax collectors, official and unofficial, for the purpose of receiving some day in form of benefits so much of the products of their toil as the army of tax collectors and the other army of benefit dispensers do not require for themselves.

As to Mr. Glenn's statement, "If the Social Security Act is social insurance in any proper sense of that ill-defined term, it is a decidedly reactionary form of it," I have no extended comment to offer. I must say, if the Social Security Act does not provide social insurance, I do not know what social insurance is: and if it be

reactionary, that is almost as much of a surprise as learning from Dorothy Thompson that I am a "liberal."

With regard to Mr. Linder's discussion, I think I indicated that previous decisions of the Supreme Court with regard to particular acts cannot be depended upon as conclusive of their decisions upon other acts. Each act stands on its own footing and no two involve precisely the same legal issues or precisely the same background; nor does it always happen that the personnel of the court remains the same. Mr. Linder's premise that taxes imposed on A the employer to be ultimately returned to B the employee in the form of benefits are "wages," strikes me as a very strained use of the term: and his conclusion that since it is "wages," then the old age assistance section of the federal act does not create a class of beneficiaries at the expense of another class, but actually preserves the respective equities of the individuals who ultimately become recipients of benefits, is, I must admit, beyond my logic. So far as employee contributions are concerned, I would not challenge his conclusion. But the tax on the employer is none the less at the employer's immediate expense by terming it "wages." It is something that would not have accrued to the employee's benefit but for the law, and in the first instance it comes out of the employer's pocket. He may or may not be able to pass it on to the employee or to the public, and the cost may or may not eventually settle on the employee's shoulders.

The effect of unemployment insurance doubtless operates as a buffer to take up something of the shock of unemployment: and it is certainly to be hoped that it does not lack its beneficial features. But the English unemployment system was modified into a system of doles which came near to paralyzing governmental finance, and the cut in benefits initiated by the conservative government was doubtless necessary. And England and every other European country has still an unemployment problem. As to Mr. Linder's statement that the cost of the insurance may be less than the benefits derived therefrom through a smaller decline in purchasing power, I do not comment, save that I seem to recollect a similar philosophy preached by Dr. Townsend: nor would I deplore his pronouncement in favor of social insurance, "If soundly conceived and efficiently administered." To be sure, the "if" is by no means insignificant.

With regard to Mr. Williamson's discussion, I feel that after quoting Dorothy Thompson I should demur to the title of "conservative," though the matter of nomenclature is less important than the content read into the particular title. I am far from asserting that there are not two sides to the legal argument, or that the opinion of the majority of the Supreme Court in the Railroad Retirement Act case necessarily represents the sum and substance of the wisdom of the ages. Mr. Williamson's arguments, and those from the authors he cites are not without their force. But I think there is a distinction between poor relief and compulsory service pensions: certainly one of degree, and probably one of kind. To say that a law which charges the community generally with the burden of providing care and maintenance for those unable to care for themselves is of one kind with a law which charges upon one class of the community, the employers, and another class of the community, the employees, the cost of providing retirement allowances to such of the latter class as reach a certain age, irrespective of need, and in no way related to the cost of their care and maintenance is very far fetched. The two are altogether different, and depend upon entirely distinct principles. I therefore would question his statement that "Social insurance is a modification of relief principles, but possibly more a rationalization than a radical departure." It is not relief: it is the annexation to a class of a right not dependent upon anything except the status. It may, and in many cases doubtless will, render direct relief unnecessary. It may also be the thing to do. But the point which I sought to bring out is, it involves a concept of the state and of its duties to its citizens which has not as yet been defined or fully justified.

On this point, let us return to Dorothy Thompson. She points out, on the basis of a broad personal observation, that the Social Democratic approach has been tried in many countries and has very generally failed. Why? First, because its program attracts to itself groups that have no essential homogeneity and tend to disperse. Second, because the appetite for benefits grows upon that on which it feeds, causing any moderate program to be defeated by the programs of those who promise more. Third, because the source of wealth for distribution tends, eventually, to run dry, since the state has taken no power to produce wealth, but only to

tap it. Fourth, because of the danger of a combination of governmental charity with political corruption, driving into revolt people of all classes who detest the debauching of government: and Fifth, by reason of forcing an eventual consolidation of the economically powerful, backed up by patriotic citizens who naturally would not be on their side, but who are alarmed into opposition by the preceding tendencies. "Then," she says, "Only the revolutionary weapon is at hand with which to oppose them. And nowhere has the social democracy grasped it."

The social security act is but one item in the Social Democratic program, to be sure: and the fate of that program generally may or may not carry the social security act with it, and may or may not result in its modification. But with regard to Professor Powell's statement, quoted by Mr. Williamson that "the question boils down to the simple one of whether we wish to provide security or not," the following comment may be made. There is no such thing as absolute security: and as far as relative security goes, it is not provided for. There is an act, to be sure. It ostensibly provides for security. Its mechanism involves the heaping up of prodigious funds, to be invested in the evidences of debt of the United States. One element of doubt exists as to whether such sums of liquid funds can be extracted from the veins of a nation already terribly burdened with taxation, and threatened with more. Another element of doubt, and a very genuine and pertinent one, lies in the character of investment. Doubtless no better could be suggested. If the United States defaults on its obligations, all other securities become of very questionable value. But the United States has for some years past failed to balance its budget, and that by an enormous margin. Unless that is stopped, and stopped quickly, a default is certain: and it can be stopped now only against the angry protests of millions of subsistents upon government bounty, and salaried employees of the government, and over the dead bodies of every politician in Congress. Already the United States has failed to live up to the letter of its outstanding obligations. Already it has been and is being urged to increase its purchases of silver, to descend to currency inflation. And yet it would seem that the investment of tens of billions in its obligations may be dignified with the title of "security."

Again, the United States is but one state in a world visibly in travail. There, as here, the backs of people crack beneath the burden of nations grown over-great and powerful; of governments, that have mushroomed out into huge organizations of employees, office-holders and functionaries, and prodigious investments in buildings and equipment for war and peace, the cost of which is drained out of every producer and every consumer: and of an economic system, fast crystallizing into powerful capitalistic aggregations, which tend either to crowd small business and individuals to the wall or to absorb them into their own organizations. I do not question seriously Professor Powell's statement that an uncontrolled industrial system or lack of system holds out to few a chance of either abundance or security; it is under present conditions increasingly true. But I would add to this, that an over-controlled industrial system or lack of system holds out to fewer a chance of either abundance or security: and that the further hypertrophy of government at the rate of the last series of years holds the same out to none at all.

I entertain no illusions as to the fate of the individualistic principle. On the governmental side it is being regulated to death: on the economic side it is being ganged to death. But individualism and its philosophy, to which Professor Powell states he looks back with "emotional nostalgia" are phenomena deserving of more than the sneer of the advocates of the theories of Social Democracy. Once in the life of a race—not oftener—it develops a general and widespread aspiration for liberty, the true birthright of the individual, which enables it to bend or break, one after another, the bonds of custom and usage, of government, law and religion, which have nurtured its youth but which now serve but to fetter the limbs and shackle the thought. Then its people are free: free to develop all that is in them of best and of worst: free to expand outward into the realms of thought, of art and science, of industry, commerce and finance. The philosophical expression of their freedom is individualism, its political expression democracy. And in this grand efflorescence it achieves its conquests and garners its wealth.

But because the good is mixed with evil: because liberty passes into license; because the freedom that gives the individual power to advance, permits also the strong to oppress the weak, the gang

to overpower the unorganized; freedom ultimately slays itself and disappears, first from the economic field, second from the political and last from the intellectual, leaving but the ghosts of its institutions to grace and to modify the conditions which succeed. We are approaching that phase now. But they who sneer at "rugged individualism" and applaud its passage would do well to mourn instead: for it was that same individualism which furnished the ideas and the energy that accumulated the wealth they seek to regulate and to tap; and with its passage go the ideas, the energy and ultimately the wealth. They can extinguish the flame: to relight it is not so easy.

Security and stability are very natural aspirations, but in a world perennially in flux, never attainable for more than a limited period. Underneath all the forms of government is the spirit of life, which is never at rest, ever seeking to surpass itself, straining and fretting against all bonds and shackles with which government seeks to force it to move in orderly and predetermined lines, longing for freedom, pining for lack of it. The greatness of a state depends upon its ability to make use of this latent energy: to bring it to the fore. I must admit I see little hope of greatness in the state of tax-gatherers and tax-slaves which it is sought to construct: merely the bargaining for a widespread modicum of comfort and ease, all the glory of aspiration and desire that are bound up in the name of liberty. There is but slight prospect of that bargain being fulfilled: and the sum and substance of the achievement is to add to those who cry peace, peace, when there is no peace, a throng of those who cry security, security, when there is no security.

OCCUPATIONAL DISEASE COVER IN NEW YORK—ARTHUR G. SMITH

VOLUME XXII, PAGE 50

WRITTEN DISCUSSION

MR. GRADY H. HIPP:

Mr. Smith's paper on Occupational Disease Cover in New York records in a concise manner the pertinent facts in connection with the development of the rates and rating plans for the "All-Inclusive Occupational Disease" amendment to the New York Workmen's Compensation Law which became effective on September 1,

1935. The developments in connection with this coverage constitute another tumultuous but interesting chapter in the history of Workmen's Compensation insurance in New York State.

Mr. Smith states that the absence of a definition of occupational disease leaves in doubt the precise extent of the new Paragraph 28, Subdivision 2, Section 3 of the New York Workmen's Compensation Law. This situation has been remedied in part at least by instructions issued to Referees by the Industrial Board, State of New York Labor Department. The following paragraph is quoted from a letter of March 24, 1936 from the Chairman of the Industrial Board to the General Manager of the Compensation Insurance Rating Board of New York:

> "After the amendment of Section 3, Subdivision 2 by the addition of paragraph 28, became effective the Industrial Board instructed the Referees that the provisions of this new paragraph would cover all disabling diseases characteristic of and peculiar to the employment in which the disease is claimed to have been contracted."

As stated in Mr. Smith's paper, the Actuarial Committee of the Compensation Insurance Rating Board of New York first submitted to the Governing Committee a set of rates now known as Plan I. When the matter was referred back to the Actuarial Committee by the Governing Committee on account of the dissatisfaction with the proposed rates on the part of some members of the Governing Committee, a substitute set of rates now known as Plan II was submitted by the Actuarial Committee. Mr. Smith does not make it clear in his paper that the Actuarial Committee did not submit the two sets of rates on an optional basis. The Governing Committee, however, did propose both sets of rates to the Superintendent of Insurance with the option on the part of the carriers as to which plan they would use in each individual case.

While the Superintendent of Insurance drastically reduced the proposed rates, he nevertheless accepted the idea of two plans for optional use by the carriers. Accordingly, two forms of rating for occupational disease coverage are now available "at the option of the carrier by agreement with the assured."

The phrase "by agreement with the assured" is practically meaningless. In general, the employers had to accept the plan offered to them by the companies which usually was Plan II or else go to the one carrier which wrote this type of business freely although in many instances at higher rates.

By far the greater number of employers who had serious dust hazards were refused coverage by the companies inasmuch as the rates approved by the Superintendent of Insurance were considered generally to be inadequate. The result was that the greater part of this class of business involving serious dust hazards obtained coverage in the one carrier which has the right to use rates differing from the published rates.

This entire situation raises serious doubts as to whether optional plans for compulsory coverage should be promulgated by a Rating Board. As long as either the carrier or the employer has a choice there is likely to be adverse selection; shopping around for better terms or disagreeable controversies of various kinds.

The experience gained from the use of optional rating plans should prove to be a valuable guide for the future.

Another important conclusion which may be warranted on the basis of the occupational disease situation is that the supervisory authorities are likely to overestimate greatly the value to the carriers of any right which they may reserve to change rates in individual cases. I refer to the following:

The memorandum of decision of the Superintendent of Insurance of the State of New York, dated August 16, 1935 contains the following paragraph:

> "Risks involving abnormal hazard of exposure to dust diseases will be submitted to the Rating Board for consideration of a supplemental rating which after determination by the Board shall be submitted to the Superintendent for approval. Similarly, assureds whose processes, although classified as in the dust disease group, involve a non-existent hazard should be submitted to the Rating Board for removal of the charge for the dust disease hazard."

Apparently, relying upon the above authority vested in the Rating Board, the Superintendent of Insurance discounted the indicated rates by 20%. Presumably this was done on the ground that there would be a sufficient amount of increases in individual cases to offset the 20% discount. Additional reductions were made in the rates proposed by the Rating Board.

I venture the opinion that the increases in specific occupational disease rates in individual cases have not amounted to anything like 20% of the total average premiums, but that on the other hand such increases probably have not equalled the decreases in the total average premiums resulting from changes in rates in individual cases.

Mr. Smith stated that there was no reliable data to serve as a basis for rates and that consequently the Actuarial Committee was forced to rely to a considerable extent on assumptions and judgment. It should be borne in mind, however, that some valuable data based on loss experience in other states—particularly Wisconsin—were available which furnished valuable information as to dust disease claim frequency under conditions more or less peculiar to those states but which could be used in a measure and with suitable modifications as a rough guide in New York State.

It is yet entirely too early to form an accurate opinion as to whether or not the specific occupational disease rates approved by the Superintendent of Insurance are adequate. There is danger that we may be lulled into a false sense of security by the belief that the number of cases thus far reported is small. While it is not yet known just how many cases have thus far been reported, we should keep in mind the fact that the number of cases thus far reported do not necessarily constitute any reliable indication as to the number that will be reported either during the first or second policy year following September 1, 1935. It is undoubtedly true that there are a considerable number of employees who are in a position to make claims which may be sustained at any time they see fit to take action looking towards the establishment of claims. Many of the employees whose physical condition is such that they could establish valid claims prefer to work as long as they can continue in their occupations.

Mr. Smith discussed at some length the so-called Silicosis Bill which passed both Houses of the Legislature but which was vetoed by the Governor in May, 1935 after protests against signing the Bill were made by many employers and insurance carriers.

At its 1936 Session, the New York State Legislature passed a bill creating a new Article 4-A of the Compensation Law relating to Silicosis and other dust diseases. This bill was signed by the Governor on June 6, 1936 and became effective on that date.

The new Article 4-A was agreed upon by the representatives of industry and labor prior to its introduction in the Legislature. The representatives of the insurance carriers also collaborated in the preparation of the Bill containing this article.

The new Article 4-A contains some very interesting provisions among which are the following:

It is declared to be the policy of the Legislature of the State in enacting the Article to prohibit through every lawful means available, pre-employment examinations. It requires additions to the Industrial Code rules and regulations for the purpose of governing the installation and maintenance of approved devices designed to eliminate harmful dust and for the purpose of controlling Silicosis and other similar diseases. Payments into the so-called second injury and vocational rehabilitation funds are not required in no dependent death cases resulting from Silicosis and other dust diseases. The aggregate amount of benefits payable in case of disability or death from Silicosis or other dust diseases is limited in the aggregate to the sum of $500 if disablement or death occurs during the first calendar month in which the Act becomes effective. This aggregate amount is increased $50 each month thereafter until the final maximum aggregate of $3,000 is reached. The liability of employers is defined. Medical treatment is limited to 90 days unless this period is extended for an additional 90 days upon the order of the Industrial Board. Employees are not entitled to compensation under this Article if they make false representations in writing regarding their previous disability from dust diseases or regarding previous compensation or benefits for such diseases at the time of their employment. The Article includes provisions for special medical examiners to make the necessary medical and X-ray examinations of claimants for the purpose of obtaining the medical facts in an impartial manner. The findings of these special medical examiners are subject to review by expert consultants on dust diseases. An employer who fails to obtain insurance coverage in a carrier or fails to qualify as a self-insurer is deprived of the usual common law defenses.

The new Article 4-A will result in a substantial reduction in specific occupational disease rates. The Actuarial Committee of the Board has estimated that the present specific occupational disease rates will be reduced by nearly 68%.

MR. GARDNER V. FULLER:

Mr. Smith's paper on Occupational Disease Cover in New York is in my opinion a most concise but very clear description

of what is perhaps the most interesting and important milestone along the road of the occupational disease problem. The amendments to the New York Workmen's Compensation Law, effective September 1, 1935 with respect to occupational disease, created untold apprehension in insurance quarters and unquestionably the rating procedure introduced to adequately provide for the situation was the best that could be devised at the moment. Perhaps only those immediately connected with the development of the procedure are familiar with its theoretical background and make-up. Mr. Smith has not attempted to burden the reader with such theory but apparently the thoughts underlying his efforts were the creation of not only a very non-technical description of the New York procedure but also a brief historical document bringing out only the most important phases of the general problem which gave rise to the complicated rating procedure adopted for use in New York State. In both of these objectives Mr. Smith has admirably succeeded. Mr. Smith has not attempted to prognosticate the final solution of the occupational disease problem in New York but in so many words, and certainly by his clear description of a complicated rating procedure, he has evidenced an appreciation of a genuine need for a final solution, not only with respect to more simple and appropriate methods of application of rates but perhaps what is more important, the development of the true cost of covering occupational disease hazards under the amended law and the establishment of more satisfactory rates.

AUTHOR'S REVIEW OF DISCUSSIONS

MR. ARTHUR G. SMITH:

Mr. Hipp's discussion adds some material omitted from the original paper and brings the history of occupational disease cover up to approximately June 6, 1936 when new Article 4-A of the Compensation Law became effective. He gives the impression that very few risks with dust hazards were written by any carrier but one and that most of those few were covered under Plan II. According to a record maintained by the Compensation Insurance

Rating Board up to June 1, 1936 "One Carrier" covered 65% of such risks while the other carriers wrote 35%. Of the latter 79% were covered under Plan I and 21% under Plan II. In the case of foundries a slightly higher percentage was written by the other carriers but almost half of these were under Plan II. Oddly enough Plan II was used more freely by carriers of the group which originally opposed its adoption than by its proponents.

There seems to be little doubt that the existence of optional plans of cover appreciably broadened the market for risks with serious dust hazards, and very little evidence of difficulty in the application of the two plans has come to the attention of the Board. Hence, I am not sure that the adoption of optional plans was as inadvisable as Mr. Hipp seems to think.

He is correct in his opinion that increases in specific O. D. rates authorized by the Rating Board in individual cases have not balanced decreases. Supplemental rates have been approved in numerous cases where the classification carried no specific O. D. rate, but I know of no instance where the specific O. D. rate shown in the Manual has been increased or where any increase has been requested by the carrier. On the other hand, such rates have been eliminated on a considerable number of risks. It is quite possible, however, that this situation is due to the fact that "One Carrier" could and did in many cases increase the rates by varying percentages. If this had not been possible, it is quite likely that approval for higher rates would have been requested in accordance with the Manual provisions in a good share of these cases.

It may be true that there are many employees in such physical condition that they could establish valid claims but who prefer to work as long as possible. It would seem, however, that there would have been a tendency for such employees to make their claims before the possible benefits were greatly reduced by the enactment of new Article 4-A. Of course, there is still a period in which claims under the old law may be filed but in such cases disablement must be due to exposure prior to June 6th.

The Actuarial Committee's estimated rate reduction of 68% was in comparison with the rates for Plan I. Rates on this basis were filed with the Superintendent of Insurance, who, however, required further reduction to almost 79% below the old Plan I

rates. The major part of this difference was due to a lesser estimate of the effect of the stated policy to prohibit pre-employment medical examinations through every lawful means available. These rates are predicated on the benefits payable during the first year of the new law's operation. Rating Plans I and II have now been discontinued and replaced by straight coverage without any contributions by the employer toward the cost of individual claims.

GROUP RATE LEVELS IN WORKMEN'S COMPENSATION INSURANCE—M. H. MC CONNELL, JR.

VOLUME XXII, PAGE 60

WRITTEN DISCUSSION

MR. R. P. GODDARD:

Mr. McConnell's study of group rate levels has provided us with the important fact, not definitely realized before, that rate levels will vary by industry group, even though a single rate level is used for the entire state. The use of a single rate level will produce larger increases in rate level for some groups than will the use of group rate levels, whereas other groups, which would obtain large increases in rate level through the group rate level system, will receive smaller increases when the single rate level is used. He concludes that it would not be justifiable to depart from group indications merely because a larger increase could be obtained by keying to a single rate level.

Before discussing specifically the results shown in Mr. McConnell's paper it might be well to devote a little time to a consideration of the general purpose of projection to rate levels. Why is it necessary to project experience to a definite rate level? Why would we not obtain the desired results if we allowed the actual experience to determine the rates and thereby the rate levels? The answer to these questions may best be given by means of an example. Assume that we have available for rate-making purposes, five policy years of experience for two states, this experi-

ence producing on the present manual rate level the loss ratios shown in the exhibit below:

	State A	State B
1st year	20.0	75.0
2nd year	30.0	75.0
3rd year	40.0	75.0
4th year	50.0	75.0
5th year	60.0	75.0

We could make rates for State A, using the actual losses, but the results would reflect the average conditions obtaining during the five year period. Such rates would, of course, be too low, unless conditions affecting loss ratios during the year in which the rates would apply were the same as those during the five-year period as a whole. If we assume that the upward trend shown by the loss ratios for State A will not cease we must either discard the experience of the earlier years or else modify it in some way. If we decide to use this experience, we must increase the losses to such a point that they will produce loss ratios equivalent to that of the policy year or years which, in our opinion, were affected by the same general economic conditions which will affect the experience of the year during which the rates will apply. For State B, on the other hand, there is no trend in the loss ratios and we are justified in assuming that no projection factors will be necessary. If we use the actual experience we will obtain rates which will produce the desired aggregate rate level for all classifications. In other words, projection to a specified rate level, other than that of the full five-year period, is not necessary unless there is an upward or downward trend in the experience. The conditions in State B, as shown by the loss ratios, call for a large increase in rates, but they do not call for projection factors.

For the District of Columbia during policy years 1928 to 1932 there was an upward trend in the loss ratios for each individual industry group, and, therefore, for all groups combined. In order to make use of the experience of the earlier policy years it was necessary to increase the losses of those years to the level indicated by the experience of the last one or two policy years. For all groups combined, the loss ratios selected were 35.9% for in-

demnity and 25.3% for medical. The actual projection of losses to these levels is shown in the attached Exhibit I.

This exhibit is practically self-explanatory, although it might be mentioned that the projected losses shown in the exhibit have been calculated directly from the premiums at 12-31-33 manual rates by means of the selected rate-level loss ratios. Thus the figures in column (5) are obtained by multiplying the premiums at 12-31-33 manual rates by .359 and those in Column (6) by multiplying by .253. When we divide the projected losses, which we find to be necessary in order to produce adequate rates, by the actual losses we obtain the figures shown in Columns (8), (9) and (10). These figures are, of course, not projection factors but merely index numbers which show the relation of the projected losses to the actual losses.

However, if we desire to obtain a rate level for the entire state based upon an indemnity loss ratio of 35.9% and a medical loss ratio of 25.3%, it will be permissible to use as projection factors the index numbers already calculated. We must be careful in using such numbers as factors, however, because they are measures of the trend of the experience of all groups combined, as well as of the distribution of losses between indemnity and medical, and therefore may not produce the desired results for any individual industry group which has an abnormal trend in its loss ratios or an abnormal distribution of losses between indemnity and medical.

Consider, for example, the ten figures shown in Columns (8) and (9), excluding (8f) and (9f).

1.331	1.812
1.220	1.484
1.072	1.258
.982	1.316
1.022	.999

These figures are, for practical purposes, exactly the same as the ten "average projection factors" which Mr. McConnell has used in making his tests. When we use them as factors to project losses so that they will produce rates on a definite rate level, we are assuming that the experience is homogeneous both as respects the trend by policy year and the distribution between indemnity and medical. Any variation from the normal for any industry group will produce variations in the results for that industry

group. These factors will produce an increase of 19.8% in the losses of the state as a whole, but the increase for any individual industry group will be greater or less than 19.8% unless the distribution of losses is exactly the same for the group as for the entire state.

Now consider the five factors shown in Column (10), excluding (10f).

1.495
1.317
1.142
1.097
1.012

The employment of these factors would indicate that we considered the experience of individual industry groups to be homogeneous as respects trend by policy year, but not necessarily homogeneous as respects the distribution of losses between indemnity and medical. If it were homogeneous in this respect also, it would, of course, do no harm.

We may also use the two factors, from Column (8f) and (9f) as follows:

1.116 1.337

By using these factors we would be admitting that we did not necessarily consider the trend of the experience to be the same by policy year for all industry groups, but that we did think that each industry group had the same distribution between indemnity and medical.

Similarly, of course, the use of the single factor, 1.198, would indicate that we thought that the experience was not necessarily homogeneous either by policy year or kind of benefit but simply that we considered it necessary to increase all losses by 19.8% in order to produce rates on the desired rate level.

Exhibit II attached shows the results obtained by the use of the various sets of factors referred to above. These results have been compared with the results which would have been obtained if no factors whatever had been used, and also with the results obtained by the use of group rate level factors.

The calculation of Exhibit II is fairly simple. For the Manufacturing group, for example, the unprojected losses shown in Column (1a) are the sum of the losses shown in Mr. McConnell's

Exhibit II, Part A, line (2g) plus line (3g) for the same group. The losses, after projection by group rate level factors, amount to $691,167. This figure was taken from the same exhibit, line (10g). Similarly, the losses projected by ten factors, that is, by the "average projection factors," have been taken from line (8g) of Exhibit II—Part B, attached to Mr. McConnell's paper. The figures shown in lines (1d), (1e), and (1f) have been obtained by projection of the actual losses, by the factors found in Exhibit I attached to this discussion in columns (9a) to (9f), and (7f) and (8f). The permissible losses are also shown for the group, on line (1g).

Column (2) of the exhibit shows the ratios of the projected losses for each group to the unprojected losses. The figures in this column, therefore, show the extent to which the losses are increased in the aggregate by various methods of projection. Column (3) shows the ratios of the projected losses to the 1933 permissible losses. These figures therefore indicate the rate levels which will be obtained by the use of the different projection methods.

Before discussing these results, it might be well to state for the purpose of argument that we are assuming that the group rate level method now in force produces the most desirable results for each individual industry group. The effect of the present system is to tailor the rate level for each industry group to the trend of that group, as accurately as the former system tailored the rate level to the state as a whole. In discussing the results shown by various methods of projection to a single rate level, those results will be considered most desirable which most nearly approach the results obtained by projection to group rate levels.

The following exhibit is merely a summary of Column (2) of Exhibit II.

INCREASES IN LOSSES BY PROJECTION

	Group Rate Levels (1)	Single Rate Level			
		Ten Factors (2)	Five Factors (3)	Two Factors (4)	One Factor (5)
Manufacturing	1.171	1.223	1.217	1.203	1.198
Contracting	1.210	1.177	1.190	1.185	1.198
All Other	1.196	1.208	1.199	1.208	1.198
Total.....	1.198	1.198	1.198	1.198	1.198

It will be seen that under the group rate level system the losses of the Manufacturing group must be increased 17.1% in the aggregate in order to produce adequate rates. The corresponding increases for the Contracting and All Other groups are 21.0% and 19.6% respectively. Under the "Ten Factor" system the losses of the Manufacturing group are increased 22.3% and those of the Contracting group 17.7%. The group which needs the largest increase receives the least, and vice versa. The upward trend in the experience of the Contracting classes, working through the average projection factors, has the effect of increasing the losses of the Manufacturing classes more than they would normally be increased. On the other hand, the inclusion of the Manufacturing classes in the determination of the average projection factors has the effect of reducing the increase which would normally go to the contracting classes. The presence of an upward trend is a hindrance rather than a help in obtaining an increase in rates when average factors by policy year are used.

The various methods of rate level projection will produce the following increases in rate level. These figures are taken from Column (3) of Exhibit II.

INCREASES IN RATE LEVEL

	No Projection (6)	Group Projection (6) × (1) (7)	Projection to Single Rate Level			
			Ten Factors (6) × (2) (8)	Five Factors (6) × (3) (9)	Two Factors (6) × (4) (10)	One Factor (6) × (5) (11)
Manufacturing	.854	1.000	1.044	1.039	1.027	1.023
Contracting	.952	1.152	1.121	1.134	1.128	1.141
All Other	.834	.998	1.008	1.001	1.008	.999
Total.....	.881	1.055	1.055	1.055	1.055	1.055

Without any projection, the rate level of the Contracting classes (relative to the 12-31-33 rate level) will be 9.8 points higher than the rate level of the Manufacturing classes. Because of the greater upward trend, the rate level after group projection for the Contracting classes is 15.2 points higher than that of the Manufacturing group. But this greater trend works to the disadvantage of the Contracting group when the "Ten Factor" system is used. The difference between the rate levels for the two groups is now

only 7.7 points (1.121 — 1.044); the rate level for Manufacturing is too high and that for Contracting too low. The situation improves as the number of factors decreases. Thus with only five factors the difference in rate level for these two groups is 9.5 points, with two factors 10.1 points, and with only one factor 11.8 points.

From a consideration of the foregoing we are led to the following conclusions:

(1) If no projection factors are used the rate levels will vary by industry group. These rate levels will be determined by the five-year average loss ratios of the groups.

(2) If we use separate projection factors for each industry group, the rate level for any group will be that determined by the five-year loss ratio for the group, plus an increase or decrease determined by the trend of the experience of the group.

(3) If we use the same projection factors for all groups, these factors not being split by policy year, the rate level for any group will be that determined by the five-year loss ratio of the group, plus an increase or decrease determined by the trend of the experience of all groups combined.

(4) If we use the same projection factors for all groups, these factors being split by policy year, the rate level for any group will be that determined by the five-year loss ratio of the group, with an increase or decrease determined by the use of such factors. Those groups, however, which need the greatest increase because of trend will receive the least, and those which need the least increase because of trend will receive the greatest.

Thus far the effect of the National experience has been neglected. In this connection there are two respects in which the figures prepared by Mr. McConnell, and shown in Exhibit IV of his paper, might be improved. In the first place, the losses used in calculating reversion factors are losses projected by group factors rather than by average factors. As Mr. McConnell states, "this was because both sets of projection factors are supposed to produce the same effect over all. This introduces an error into the calculation for we cannot be sure that the two sets of projection factors will have the same effect on eliminated experience, even for all groups combined." It appears that the difference in pro-

jection factors may have a decided effect on the local losses for an individual industry group, even though the use of either set of projection factors will produce approximately the same reversion factors for the state as a whole. In other words, if average projection factors had been used, there would probably have been little change in the reversion factors shown in column (1) of the latter part of Exhibit IV, but there might have been a decided change in the District of Columbia losses shown in columns (4), (7) and (10) of the same exhibit. Another point which might be mentioned is the apparent inclusion of the off-balance correction factor of 1.023 in the experience used to calculate the reversion factors, although this factor was not included in the experience used elsewhere in the paper, and the entire paper is devoted to a discussion of the effect on collectible, rather than on manual rate level. The difference may not be material, but it would be interesting at least to calculate the effect of the National experience on group rate levels using losses projected by average projection factors and excluding the 1.023 off-balance correction factor.

The discussion so far has centered around the use of the old method of average projection factors (the "Ten Factor" method) for projecting to rate level. We have seen that the "Ten Factor" method produced by industry group within a state exactly the opposite results from those desired. It remains for us to consider whether the "Ten Factor" method in use at the present time produces results which are undesirable, by individual classification within an industry group.

Let us consider the two following hypothetical Contracting classifications. In order to simplify the example, only indemnity losses will be considered.

Class A

	Premiums at 1933 Rates	Unprojected Losses	Loss Ratio	Indemnity Projection Factors	Projected Losses	Ratio to Unprojected Losses
1928	100,000	20,000	20.0	1.379	27,580	
1929	100,000	40,000	40.0	1.296	51,840	
1930	100,000	60,000	60.0	1.241	74,460	
1931	100,000	80,000	80.0	1.029	82,320	
1932	100,000	100,000	100.0	.851	85,100	
	500,000	300,000	60.0		321,300	1.071

Class B

	Premiums at 1933 Rates	Unprojected Losses	Loss Ratio	Indemnity Projection Factors	Projected Losses	Ratio to Unprojected Losses
1928	100,000	60,000	60.0	1.379	82,740	
1929	100,000	60,000	60.0	1.296	77,760	
1930	100,000	60,000	60.0	1.241	74,460	
1931	100,000	60,000	60.0	1.029	61,740	
1932	100,000	60,000	60.0	.851	51,060	
	500,000	300,000	60.0		347,760	1.159

Here we have two classifications with the same volume of premiums and losses, but one class is suffering from an upward trend in loss ratio, whereas the other class has maintained the same loss ratio throughout the period. After projection, the class with the upward trend in loss ratio will obtain a smaller increase in rate level than the class with no trend. If one factor had been applied instead of ten, the increases in rate level for these classes would have been equal.

This is an extreme case, and if Class A had departed less from the normal trend of the experience of all classes in the group, the penalty, relative to other classes, would have been less. But it should be remembered that the extent to which the trend of the experience of a class is worse than that of the group is the extent to which that class is penalized when it comes to rate level increases. It is also worthy of note, that if the experience of all classes within a group is absolutely homogeneous, a single factor will produce the same result for any individual class as ten factors.

The objection to a single factor is that we sometimes do not have five full policy years of experience on which to base our rates. If we had, for example, a Contracting classification with only the experience of policy year 1932 available, we would hesitate to apply a flat projection factor of 1.210 when the "Ten Factor" method calls for factors of .851 and .877. However, we cannot tell from one year of experience whether such a class is actually similar to Class A of our example, or Class B. Furthermore, it is probable that such a class would be dependent upon National experience to a large extent in its rate-making. As a matter of fact, classifications with less than five years of experience do not seem to be very frequent. For the 1934 revision of District of

Columbia rates, there were 62 reviewed classifications, of which two had less than five years of experience. One of these classes had four policy years of experience, lacking 1928, and the other had three policy years of experience, lacking 1931 and 1932.

At first reading, Mr. McConnell's paper would seem to be of only academic interest, since it deals with a method of rate-level projection which has now been abandoned. We have seen, however, that the old method would have been improved if it had been less complicated, and it behooves us to apply the same type of intellectual curiosity to our present method, remembering that complexity does not always make for accuracy.

EXHIBIT I

CALCULATION OF AVERAGE PROJECTION FACTORS

District of Columbia 1934 Revision

	Premiums at 12-31-33 Manual Rates* (1)	Actual Losses on 1-3-29 Law Level		
		Ind. (2)	Med. (3)	Total (4)
(a) 1928	1,906,582	514,097	266,191	780,288
(b) 1929	1,987,758	584,832	338,931	923,763
(c) 1930	1,894,836	634,722	381,125	1,015,847
(d) 1931	1,815,404	663,704	349,011	1,012,715
(e) 1932	1,627,605	571,790	412,042	983,832
(f) 1928-32	9,232,185	2,969,145	1,747,300	4,716,445

		Projected Losses to Rate Level Loss Ratios		
		Ind. (1) × .359 (5)	Med. (1) × .253 (6)	Total (1) × .612 (7)
(a) 1928		684,463	482,365	1,166,828
(b) 1929		713,605	502,903	1,216,508
(c) 1930		680,246	479,394	1,159,640
(d) 1931		651,730	459,297	1,111,027
(e) 1932		584,310	411,784	996,094
(f) 1928-32		3,314,354	2,335,743	5,650,097

		Ratio of Projected to Actual Losses		
		Ind. (5) ÷ (2) (8)	Med. (6) ÷ (3) (9)	Total (7) ÷ (4) (10)
(a) 1928		1.331	1.812	1.495
(b) 1929		1.220	1.484	1.317
(c) 1930		1.072	1.258	1.142
(d) 1931		.982	1.316	1.097
(e) 1932		1.022	.999	1.012
(f) 1928-32		1.116	1.337	1.198

* These rates included no loading to offset the off-balance caused by rating plans, and are considered to be collectible rates.

EXHIBIT II

COMPARISON OF METHODS OF PROJECTION TO A SINGLE RATE LEVEL

		Amount (1)	Ratio to Unprojected Losses (1) ÷ (1a) (2)	Ratio to 1933 Permissible Losses (1) ÷ (1g) (3)
Manufacturing Group				
Unprojected Losses on Law Level	(a)	590,085	1.000	.854
Projected by Group Rate Level Factors	(b)	691,167	1.171	1.000
Projected by Ten Factors *	(c)	721,719	1.223	1.044
Projected by Five Factors **	(d)	718,117	1.217	1.039
Projected by Two Factors ***	(e)	709,647	1.203	1.027
Projected by One Factor ****	(f)	706,898	1.198	1.023
Permissible Losses, 1933 Manual	(g)	691,194	1.171	1.000
Contracting Group				
Unprojected Losses on Law Level	(a)	1,900,273	1.000	.952
Projected by Group Rate Level Factors	(b)	2,298,926	1.210	1.152
Projected by Ten Factors *	(c)	2,236,980	1.177	1.121
Projected by Five Factors **	(d)	2,261,996	1.190	1.134
Projected by Two Factors ***	(e)	2,251,437	1.185	1.128
Projected by One Factor ****	(f)	2,276,451	1.198	1.141
Permissible Losses, 1933 Manual	(g)	1,995,260	1.050	1.000
All Other Group				
Unprojected Losses on Law Level	(a)	2,226,087	1.000	.834
Projected by Group Rate Level Factors	(b)	2,662,521	1.196	.998
Projected by Ten Factors *	(c)	2,690,087	1.208	1.008
Projected by Five Factors **	(d)	2,669,696	1.199	1.001
Projected by Two Factors ***	(e)	2,689,022	1.208	1.008
Projected by One Factor ****	(f)	2,666,763	1.198	.999
Permissible Losses, 1933 Manual	(g)	2,668,213	1.199	1.001
All Groups Combined				
Unprojected Losses on Law Level	(a)	4,716,445	1.000	.881
Projected by Group Rate Level Factors	(b)	5,652,614	1.198	1.055
Projected by Ten Factors	(c)	5,648,786	1.198	1.055
Projected by Five Factors	(d)	5,649,809	1.198	1.055
Projected by Two Factors	(e)	5,650,106	1.198	1.055
Projected by One Factor	(f)	5,650,112	1.198	1.055
Permissible Losses, 1933 Manual	(g)	5,354,667	1.135	1.000

* Factors are from Exhibit I Column (8) and (9) from (a) through (e).
** Factors are from Exhibit I Column (10) from (a) through (e).
*** Factors are from Exhibit I Column (8f) and (9f).
**** Factor is from Exhibit I Column (10f).

AUTHOR'S REVIEW OF DISCUSSIONS

MR. M. H. MC CONNELL, JR.:

The writer, being in complete agreement with Mr. Goddard's views, has little to say other than to acknowledge his indebtedness for a comprehensive and understanding review.

Mr. Goddard's discussion of projection factors and their effect upon rate level, however, deserves special mention. In studying group rate levels a thorough understanding of projection factors is necessary, because the effect of keying to group rate levels is mainly brought about by the projection factors.

In the interest of accuracy it is well that Mr. Goddard noted the presence of a possible error in calculating the adjustment for national experience in Part B of Exhibit 2. That this adjustment was approximate only was mentioned in the original paper, although it was not mentioned that the correction for off-balance factor was included in this adjustment. Fortunately Mr. Goddard caught this omission.

INFORMAL DISCUSSION

State Regulation of Rates

MR. RALPH H. BLANCHARD:

The purpose of state regulation of rates is primarily protection of the policyholder and incidentally of the insurance carrier through applying the criteria of adequacy, reasonableness, and non-discrimination. The various states have shown particular concern in connection with rates for workmen's compensation, accident and health, and automobile insurance. In most states workmen's compensation rates must be approved and accident and health rates must be filed, and in several states automobile rates must be either filed or approved. The great majority of the compensation states permitting private insurance of the compensation hazard have laws ranging from requirement of mere filing of rates to provisions for filing and approval. In Massachusetts, rates for automobile bodily injury liability insurance, and in Texas, workmen's compensation rates, are made by the state. In New York and in Vermont there are rating laws which undertake to apply regulation to all rates with certain defined exceptions.

It is evident that state activity in the regulation of rates is increasing. It is not the purpose here to discuss its wisdom but, assuming that rates for a particular branch of insurance are to be regulated, to inquire what method of regulation is most likely to achieve the ideal implicit in the criteria.

Without disparagement, it may be pointed out that insurance commissioners are human, that they are not unconnected with political and other local situations, and that only a minority have adequate technical training or competent advisers.

It seems clear that the greater the extent to which insurance departments are made responsible for the approval or promulgation of rates, the more likely the rates are to be inadequate. The experience with rates for bodily injury liability insurance in Massachusetts is in point—the members of this Society are familiar with it. And this situation does not result from a desire to make or approve inadequate rates, but probably rather from

a feeling that the department must be in a position to defend the rates to the insuring public (and their highly vocal political representatives). Consequently, conjectural or projection factors are ruled out—and little or no provision can be made for expected developments which are not to be repetitions of the past. Similarly, in matters of reasonableness or discrimination, if the department sponsors a set of rates, it lays *itself* as well as the rates open to attack.

It is only natural that a department should show more hospitality to downward than upward revisions of rates and that it should feel that it must have definite evidence of insurance costs to justify its actions.

A formula should be sought which would give a department the basis and power for effective regulation and, at the same time, put it and all interested parties in a position where correct rates are most likely to emerge from the combined private and public rate-making machinery.

The only dogmatic statement which I propose to make is that the problem is worthy of consideration. Beyond that, I propose only to advance certain tentative conclusions which will serve as a basis for discussion. They will be stated categorically for the sake of simplicity.

1. A sound uniform statistical plan applicable to all carriers is the *sine qua non* of correct rates. It should be revealing in terms of the purpose for which it is designed. Such a plan should be submitted to and approved by the State.*

2. Rates should be made by rating bureaus representing all carriers. Deviations for individual carriers or a group of carriers should be permitted where clear justification could be shown.

> I do not enter here into the question of how a rating bureau should be organized, whether representation should be balanced as between participating and non-participating carriers, or on some other basis; nor do I propose to consider whether there might be separate rating bureaus for different classes of carriers. My point is that rating bureaus representing the carriers should focus both statistics and the calculation of rates.

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* The term "State" is used in a general functional sense; equally applicable to individual states of the Union, or to the various states acting in concert.

3. The states should be represented by an observer in, or have access to records of, every step of the rate-making process.

4. Complete reports of experience and of the deliberations of rate-making bodies should be filed with the State, to the extent that they bear on matters of general policy.

5. Rates should become the official rates one month (or other reasonable period) after the filing by the bureau. They should then remain in force for a reasonable period, (perhaps one year) without further revision, except possibly in the case of individual risks or classifications. The department should not be required either to approve or disapprove the rates.

6. For a reasonable but definitely limited period after the filing of rates, they should be subject to revision by order of the State Insurance Department or of a Board of Appeals of which the insurance commissioner would be one member.

(a) Appeals to the courts should be only on questions of law.

7. Revision should only be made on the initiative of the insurance department, or on complaint of a party in interest and after due hearing. The adoption of this principle would concentrate attention on rates concerning which there was a real question, and avoid unnecessary investigation.

8. There should be no general public hearing on any rate filing. A general public hearing serves principally as a forum for exhibitionists who attend hearings regardless of their interest in the subject, and as an opportunity for legislators to file protests as a means of creating political capital. Reporting of such hearings in the press is not conducive to impartial consideration of the problem.

Provision should, however, be made for public announcement of the filing of rates.

9. The authority ordering revision of rates should be required to file a detailed statement of the reasons for the revision.

MR. FRANCIS S. PERRYMAN:

The President referred to me as a stock-company man. I am afraid the word "stock" doesn't even come into this discussion because it really follows the example and exhortations of our President that actuaries should try to keep the economic point

of view in mind, and I thought it was advisable in this discussion of rate regulation that we should take some look at the question from the broad economic point of view.

One more thing I want to say about these few pages I have here. I originally jotted down some notes which when written out came to such a long statement that I condensed it as much as possible so that I am making a lot of statements which are rather bald because I don't think I should take the time to go into all the reasons for arriving at the conclusions.

It would be easy enough to criticize particular aspects of the existing set-up of State regulation of rates but I have tried in these remarks to view the question from a broader economic standpoint. Since I have endeavored to keep the length of these remarks down to the minimum it will be necessary to present many of the arguments and conclusions in skeleton form. Those interested in insurance will, however, have no difficulty reading between the lines and in filling in the arguments that have been omitted.

The question of State regulation of insurance rates is a part of a more general one, namely, that of governmental supervision of prices. This involves the ancient conflict of two theories of prices, namely, "just" prices and "functional" prices. The theory of functional prices is that prices should be left to the free play of open market competition to find the proper level, which will be the level at which goods can be produced at a reasonable profit to the producer. The theory of just prices is that the prices of goods should be regulated so that they represent fair value to the consumer. Some interesting remarks on this subject are made by Mr. Benjamin Anderson, Jr., Economist of the Chase National Bank, in a recent number of the *Chase Economic Bulletin.* He says, "As the economist sees prices, their function is to tell the truth regarding what is going on in the fields of production and consumption, and to correct maladjustments and bring about a reequilibration of the various productive activities when they get out of balance. * * * But governmental attitude toward prices runs on radically different lines. When governments touch prices they touch them from the standpoint of the notion of just price rather than from the standpoint of the notion of functional price. It is the essentially mediaeval notion of just price which dominates

both juristic tradition and present day governmental policy, when government touches prices at all."

Provided that the market level of prices can be left to free competition the general opinion of economists seems to be that this should be done. However, in some exceptional instances where it would be undesirable to have competition, (for instance, public utilities) then it becomes necessary to make some attempt to see that the prices charged are just prices.

Insurance rates are usually not of the type of prices requiring the setting up of just prices by some governmental agency. Exceptions to this might be where the State gives a monopoly of a certain kind of insurance either to an organization set up by itself or to some private carrier: in the normal case insurance rates should be left to competition but not, however, to unregulated competition. There should be enough supervision to see that abuses are prevented. So far both the proponents and opponents of State regulation of rates might be said to agree, both maintaining that there should be competition with regulation to avoid (i) cut-throat competition, and (ii) the danger of monopoly. These are both real potentialities. As regards cut-throat competition, insurance by its nature lends itself to extreme optimism on the part of irresponsible underwriters who can continue to write business at unprofitable levels for long periods. As regards the danger of monopoly this again is real since the necessity of a broad exposure for the making of insurance rates tends to encourage the banding together of carriers, and from that it is a short step to the establishment of a virtual monopoly. The difference, of course, between the proponents and opponents of State supervision lies in the degree and type of supervision advocated. Unfortunately, from the point of view of advocates of little supervision, when supervision is set up it usually tends to become bureaucratic and to go far beyond the maintaining of healthy competition and the heading off of unsound practices. State supervising authorities naturally tend to gravitate to the theory of just prices, particularly as regards some forms of casualty insurance of which the most notable example is workmen's compensation, this form of insurance being usually compulsory upon the employers of a State and very easily considered by the supervising authorities of the State to be affected with a high degree of public policy and social justice.

In the United States there are further complications to State supervision of rates. There is always the territorial question. Insurance is held to be intra-state business and, therefore, each State sets up its own regulating machinery despite the fact that a large and growing proportion of modern insurance, and in particular casualty insurance, is in its application essentially nation-wide. Each State, however, sets up its own machinery and tends to regard problems from its own special point of view. Naturally, efforts and rules and regulations of the various State supervising authorities cannot help but be disjointed and inconsistent despite the efforts of these authorities and the insurance carriers to secure as much uniformity as possible.

With modern business spreading indiscriminately across state lines and with most carriers writing in several if not many of the states, state-wide regulation of rates has a series of disadvantages which are, of course, well known. For instance, a state like New York will regulate rates very strictly in New York; the carriers doing business in New York and having to observe these rates may and usually are doing business in other states where much different and laxer practices can be followed. Thus, if New York sets up "just" rates for New York risks which are considered to be uneconomically low or high by the carriers then there will be a strong incentive for adjustments to be made in other states on those risks which stretch beyond the bounds of New York. This results in unequal treatment of wholly and of partly New York risks; and while it may protect New York risks from excessive rates it leaves these very same New York risks faced with the possibility of insolvency of the carriers taking the risks because of inordinately low competitive rates elsewhere.

Apart from this it is difficult if not impossible to make rates on an intra-state basis for some important types of casualty insurance. For example, insurance on automobile fleets, inter-state trucking, aviation risks, all transportation risks, as well as Fidelity Schedule Bonds.

The setting up of insurance rate regulating authorities in each state results not only in a vast amount of duplication and inconsistency as between the efforts of the various authorities but also spreads out very thin the man-power available for manning the various bureaus. At best, the staff of a governmental regulating

authority will not under modern (American) conditions attract the highest type of insurance experts—although there are, of course, many notable exceptions.

It is not difficult to judge from the tenor of the foregoing remarks that I do not believe that the present system of state regulation of rates as now set up in the United States is perfect, and it is only fair that, since I have made so many objections to the present set-up, I should outline what I consider as possible remedies for the present state of affairs, although as a matter of fact this will be merely a repetition of my thoughts expressed earlier. There should be less supervision and more competition. The supervision should be more of the checking type; rates should be allowed to find their own economic level, and supervising authorities should confine their energies to the avoidance of abuses both in the direction of uneconomic competition and unhealthy monopoly. Rates should be functional and not just (in the sense used above). Finally, much as I dislike many aspects of the extension of central bureaucracy in recent years I believe insurance would be better off were supervision by the states abolished and replaced by federal supervision.

MR. WILLIAM LESLIE:

This is a subject that I think lends itself particularly well to discussion because it is one of those fortunate questions on which much can be said on either side. What I am going to say represents purely my personal views and not necessarily the views of any of the companies that belong to the National Bureau of Casualty and Surety Underwriters. I would like to divide this subject: to refer to it first, briefly, from the theoretical aspect of rate supervision, and then from the practical aspect of rate supervision or rate regulation.

It has always seemed to me, from the theoretical aspect, that a great deal could be said in favor of some kind of rate regulation.

In the very early days of workmen's compensation, our old friend, Commissioner Hardison, of Massachusetts, decided that workmen's compensation insurance rates should be regulated to prevent companies from charging inadequate rates. Competition for compensation business between companies with an insufficient

knowledge of what the ultimate costs of compensation would be was apt to lead to the use of inadequate rates. Many of the companies newly organized, entering this field, particularly companies of the mutual type, had the distinct and proper fear that the rates would be pitched at a level insufficient for the development of those new carriers. Commissioner Hardison fostered a law which was enacted in the State of Massachusetts regulating compensation rates as to adequacy, and adequacy only, and providing for the approval of a set of minimum adequate rates. That legislation was followed by similar legislation in a few other states, particularly important compensation states, such as New York and California.

Those early rate-regulatory laws applicable to workmen's compensation insurance imposed a responsibility upon the state authorities to see that the rates approved were adequate for the carriers transacting the business. There was absolutely no obligation to see that the rates were not unreasonably high.

There is a very good theoretical reason in the insurance business for not being concerned about the question of whether rates are reasonable or unreasonable. In the actual conduct of the business, I doubt whether anyone can point to any situation in the casualty business where rates have been maintained at an unreasonably high level over any period of time sufficiently long to be injurious to the insuring public.

It is, of course, true that rates may be high in any particular year or for a period of one or two or three years, but taking the casualty business and its history you will find there has never been an underwriting profit in the business that was unreasonable from the standpoint of the insuring public. The reason is that the competitive forces that exist in the business are bound to keep the rates at the lowest possible level consistent with adequacy and, in the absence of rate regulation, they are apt to keep the rates below the level of adequacy. It is for that reason, it seems to me, that in theory, there is a good and proper reason for regulation of rates as to adequacy only.

Irrespective of whether rates are adequate or inadequate, I think we all would agree that they shouldn't be unfairly discriminatory. Sections of the law relating to discrimination do not run to the question of whether the general level of rates is too high or too low.

However, with the bringing into the rate regulatory statutes of the principle of reasonableness, there has been placed upon supervising authorities a responsibility that it is very difficult for them to discharge fairly, honestly, and with justice to insurance carriers. As Mr. Blanchard said in his opening remarks, insurance commissioners or their representatives who pass upon rates are human. As a matter of fact, in a great many states, they don't have the opportunity to express their own individual viewpoint because of the circumstances surrounding their appointment to their position and the pressure that is put on them from local forces that are far more potent and far more effective in appealing directly to a commissioner in his own state than are the absentee insurance companies that the public frequently regard as merely taking money out of the state to be invested elsewhere and thereby not helping the industries of the state at all.

Coming from the theoretical to the practical side of rate regulation I would like to mention a few of the most outstanding examples of the misapplication of rate regulatory laws in the field of casualty insurance. I am not going to name particular states; but some of you people may identify them.

In the field of compensation insurance, in one state, over a period of eleven years, there occurred a series of disapprovals of rate increases filed, failures to act upon filings, delays, and occasional approval of only a part of the required increase. The underwriting record for that same period of time shows an aggregate underwriting loss of 12% of the premiums. The underwriting loss was not sustained by one class of carriers but was distributed among stock and non-stock carriers. The law in that state requires that rates shall be adequate and shall be non-confiscatory as to any class of carriers doing business in the state and shall contain a reasonable margin for the building up of an adequate surplus.

In the field of automobile insurance there are two states where rates have been for some time, and still are, kept below the point of adequacy by political considerations.

It wouldn't be fair to cite three extreme cases of that kind and assert that they typify the regulation of rates universally throughout the country; they do not. We have a number of states where I would say rates have been regulated extremely satisfactorily from the standpoint of insurance carriers and from the standpoint

of the insuring public. I mention these three cases, which happen geographically to be distributed widely, to illustrate that from a practical standpoint there is great fear about the introduction of a rate regulatory law however nicely its language may be couched and however it may appear that the minimum of regulation will be present under that law. Again to paraphrase what Mr. Blanchard said earlier, insurance commissioners are human; even though you get a good insurance commissioner in office, he isn't there for life because his job isn't under civil service. They come and go, they change, with the result that under a policy of rate regulation applied generally to the casualty insurance business, you can count, as surely as the sun rises tomorrow, on a certain number of states in which you will have trouble. They won't be the same states every year, but about the same number every year, and if you are doing a countrywide business and a certain fraction of the business is held to an inadequate rate level, your business as a whole is going to be on an inadequate level.

MR. JOSEPH J. MAGRATH:

The development and administration of rating laws naturally presents many grave problems to the insurance business and the state. A sound law and intelligent application of it are of great advantage to both the public and the insurance business.

Careful study has led to the conclusion that insurance needs the stabilizing influence of rate-making conferences to which companies may bind themselves by agreement. The laws generally have encouraged or allowed this departure from the anti-trust principle with but few states invoking so-called anti-compact laws. The insurance business is indeed fortunate that the law makers have taken such an intelligent view of this most important problem.

The privilege, however, is not one that has been freely granted without a measure of responsibility and sacrifice. In New York, the rating laws require filing or approval of rates and subject them to review and revision by state authority.

Although the New York rating law has not been materially changed during the past fourteen years, it is unquestionably the model rating law up to now. Experience under this law and the

comparative freedom from litigation speak for the quality of administration.

A simple analysis of the scope and limitations of the New York rating law, as applied to casualty insurance, should include the following:

Filing of rates and rules is required for all classes of casualty insurance and surety bonds. (Sec. 141, subdiv. 3; Sec. 141-b, subdiv. 2 and 3; Sec. 107, subdiv. (a); Sec. 67 and Sec. 67-a, subdiv. 2).

Approval of rates and rules is required for the following coverages:

1. Workmen's compensation insurance;
2. Bodily injury and property damage liability insurance required under the Vehicle and Traffic Law;
3. Surety bonds required under the Vehicle and Traffic Law.

(Sec. 67 and 67-a, subdiv. 2.)

Approval of rates is required for all classes of coverage, except accident and health, under the following conditions:

1. Where any increase in rate is necessary to comply with an order of the Superintendent directing the removal of unfair discrimination;
2. Where a discount or surcharge is to be applied to the rates established by a rating organization.

(Sec. 141, subdiv. 4; Sec. 141-b, subdiv. 3.)

The Superintendent of Insurance is empowered under the law

1. To call for such information as he may require concerning the organization and operation of a rating organization. (Sec. 141, subdiv. 1);
2. To examine rating organizations. (Sec. 141, subdiv. 2);
3. To call upon rating organizations and insurers to file rates and information concerning rates. (Sec. 141, subdiv. 3);
4. To order the removal of unfair discrimination. (Sec. 141, subdiv. 4);
5. To approve rating organization methods of hearing appeals for changes in rates. (Sec. 141, subdiv. 7);
6. To appoint statistical agents for the compilation of experience results. (Sec. 141-b, subdiv. 5);
7. To approve statistical forms for reporting experience. (Sec. 141-b, subdiv. 5);

8. To order increases or reductions in rates when he finds they produce inadequate or excessive profits. (Sec. 141-b, subdiv. 6).

The statute says, "nor shall any such rating organization or any person, association or corporation authorized to transact the business of insurance within this state, fix or make any rate or schedule of rates or charge a rate which *discriminates unfairly* between risks within this state of *essentially the same hazards*"—(Sec. 141, subdiv. 4).

The significance of the words "discriminates unfairly" and "essentially the same hazards" must control most questions arising under this provision of law.

Must there be facts or would reasonable judgment suffice? Cases have been decided upon both bases.

Do rate differences occasioned by different expense loadings constitute unfair discrimination? This is a difficult question. As it will probably call for a decision in the near future, no opinion will be ventured here.

"The term 'rate' as used . . . shall include all of the elements and factors forming the basis for computing the consideration for insurance." Would it be fair to apply the following meaning to the above language?:

1. That each step in the calculation of a rate is subject to scrutiny under the law in the same manner and to the same extent as the complete final rate.
2. That in addition to the pure premium or expected loss costs, the loadings for claims investigation and adjustment, administration, acquisition and field supervision costs, and other expenses and provision for underwriting profit are each subject to limitation in rate review by the state.
3. That in addition to limiting the detailed allowances in the rates, the state may limit the actual expenditure for costs not fixed by the policy contract.

Perhaps consideration of other provisions of the law may lead to a conclusion.

"The schedules, rules and methods employed in computing the rates charged for insurance shall be reasonable." This language,

coupled with the first quotation, lends support to the first two opinions.

"No insurance agent, broker, corporation or association shall charge a rate *or receive a premium* which deviates from the rate fixed and filed for, and the rules applicable to such risk . . ." This quotation, coupled with the custom of insurance companies receiving their premiums net as to commission, lends support to the view that receiving a net premium that contains less than the loss factor and factors for expenses other than commission would be improper.

The legal right of rating organizations to fix commission and agency limitations would undoubtedly improve commission control provided a violation of these rules became clearly a rate violation and subject to rating organization or state penalty.

A comparison of New York state loss ratios with those of the remainder of the country shows results slightly more favorable here than elsewhere. All lines rated by the National Bureau showed a grand total difference over a five-year period of only .4% for all stock companies licensed in New York.

Wherever there is conferred upon a public official certain broad powers such as are found in rating laws, he cannot or should not avoid the responsibility of exercising those powers prudently and judiciously. Although there is a temptation to unduly favor the purchaser of insurance or the producer for political reasons, or to confer gracious favors upon the insurance business for reasons of future employment, the honorable official abhors either extreme.

The law makers and advocates of rating laws should not overlook the fact that laws do not administer themselves but require a competent and unbiased staff if the purposes are to be truly applied. Civil service and competitive examinations, coupled with adequate pay for the state employees charged with the work of analyzing data and recommending action to be taken, afford the best assurance of competence. These employees should be free from possibility of intimidation.

The New York rating law is of a type that leaves the exercise of judgment by the Superintendent fairly free from restrictions except for judicial review by the courts. The advantage of such a law is that the Superintendent is free to recognize changing views and variable conditions as they arise in the insurance business

and rate making. The weakness of such a law is the very great power possessed by that official to impose his will upon the bloodstream of the insurance business.

Some insurance men are disposed to favor rating laws which prescribe fixed standards by which the state must be guided in exercising its powers over rate levels. These are advantageous from the standpoint of stability, but may be hurtful to the insurance business due to their rigidity and ineptness in recognizing trends, variable conditions, catastrophe hazard and the evidential value of limited exposure.

With an active demand in many jurisdictions for rating laws, it might be the better part of wisdom for insurance men to develop a model form of law which they can support. So far the company stand has been uncompromising in its opposition to anything real in the way of a rating law. I can well understand this opposition from the danger of political abuse but wonder whether a carefully drawn law might not answer the problem.

I was very much interested in Mr. Perryman's reference to insolvent companies as a result of the lack of control of rates which they might charge where the state doesn't exercise control. That may be borne out in individual cases, but in the aggregate, the casualty results that we have tabulated do not indicate that stock companies operating in the State of New York are having a very much worse experience outside of New York than they do within the state. I realize there may be some adjustment factors necessary as between lines, but the aggregate loss ratio over a five-year period for all lines regulated by the National Bureau was four-tenths of one per cent higher outside of New York State than it was in New York State. That reflects favorably upon the benefits of strict regulation in the state but it does not show such a great divergence of results in spite of the fact that there are a few companies that are not members of the National Bureau outside of the State of New York.

MR. LEON S. SENIOR:

In the debate which has just concluded, I have heard a good deal about the fact that commissioners are human. No mention

was made, however, of the fact that managers of insurance companies are also human. A number of them are disposed to keep on asking for increased rates without special regard as to whether the general experience justifies an increase or a decrease. The commissioners must necessarily weigh the demands for rate increases in the light of their duties as representatives of the public. When the demand for an increase involves conjectural factors, the commissioner has as much right to speculate on the values as the organization which presents the proposal.

Mr. Leslie has referred to the fact that the statute on rate adequacy originated in Massachusetts under Commissioner Hardison and that the original intent of the measure fostered by him contemplated that the term "adequacy" should be construed in a very narrow sense, i.e., to mean that the rates shall be sufficiently high to protect the companies against insolvency, and without consideration of the point that this interpretation would result in excessive rates. I feel quite sure that such was not the intent of the legislation when copied in New York and in other states. At least, it was not the intent of the New York Insurance Department when Section 67 of the Insurance Law was proposed to the Legislature. In New York we had constantly in mind the idea that the term "adequacy" carried with it the implication of reasonableness.

If I may summarize all that has been said on the subject of rate regulation, it comes down to this:—The points advanced deal with procedure, with type of supervision and with its effect on interstate transactions. Mr. Blanchard has offered several good ideas on procedure which deserve to be studied, particularly the one that would dispense with public hearings before a set of rates becomes effective. While this is a desirable method from the viewpoint of rating organizations, it is, of course, doubtful whether its introduction will be possible where law and public sentiment call for advance notice thru public hearings.

On the merits of the subject, I don't believe there is very much to debate. The effectiveness of rate regulation depends, of course, upon intelligent supervision. That is the answer to the problem. The companies and the public are well served in states where supervision is intelligent. Where supervision is in the hands of the ignorant and inefficient, much cannot be expected. But

that is true with respect to all services that are subject to public control.

If I understand Mr. Perryman's idea correctly, regulation by individual states is not effective. He would prefer a form of interstate rather than intrastate regulation. Unfortunately this is not possible since insurance does not come within the federal province. Moreover, it is doubtful whether regulation from Washington would be any better than the state regulation now in force, supplemented by the efforts of the National Association of Insurance Commissioners to coordinate and promote uniformity between the states.