ABSTRACT OF THE DISCUSSION OF PAPERS READ AT THE PREVIOUS MEETING

CAN WE IMPROVE THE COMPENSATION RATE-MAKING METHOD?

HARMON T. BARBER

VOLUME XXIII, PAGE 151

WRITTEN DISCUSSION

MR. W. F. ROEBER:

In a rather brief paper Mr. Barber discusses certain distortions and fluctuations in manual rates attributed chiefly to the use of group rate levels and to the incidence of certain fortuitous types of losses. Suggestions for their elimination or correction are also contained in the article.

It would be pointless to review Mr. Barber's criticism item by item and list reasons for agreement or disagreement with his views, or to discuss the advantages and disadvantages of his proposed solutions. With much there is agreement and with the rest there is either a difference of opinion or a preference as to the best method of procedure. In the discussion of a subject such as this, one must always bear in mind the fundamental differences in viewpoint: the rate maker desires a smoothly functioning system that will be free of complications and will have component parts that will be simple and easily explainable. The man who uses the rates, on the other hand, wishes to eliminate any unusual or extraneous influences which detract from the value of the rate as a guide for current underwriting purposes.

Group rate levels, for the majority of states, have been in effect only a relatively short length of time. When they were adopted, underwriting results were extremely unfavorable and it was felt that group rate levels would tend to ameliorate the situation. Consequently, industry group rate levels for Manufacturing, Contracting and All Other were selected, to be based on three years of experience and to be balanced to the two year combined indications for indemnity, one year for medical. In case any group did not have sufficient experience on a three year basis to produce

$1,000,000 of premium, its indications were to be discounted and averaged by formula with the indications for all groups combined. The assumption, in the main borne out by experience, was that there was definite need to recognize differences by groups and it was further felt that sufficient safeguards were established to prevent violent fluctuations and unreasonable results.

This rate-making procedure has been generally adopted and, for those states where there was definite need for differentials by industry group, has resulted in rates more accurate than under the previous program. However, it has also shown certain weaknesses in the assumption and in the safeguards introduced in the rate-making procedure. Mr. Barber has shown the effect and suggests certain remedies. It would seem more logical to go a step further and try to ascertain and remove the trouble at its source.

In those states in which projection factors fluctuate wildly and where the group relativity shifts from one year to another, one inescapable conclusion is that the facts are not in agreement with the assumption that separate group rate levels are indicated. In these instances, the use of group rate levels adds no value to the resulting rates, and merely introduces an element of instability. Where group rate levels are not needed, their elimination would automatically correct the situation and would, in general, result in more satisfactory rates. This is, of course, the actuarial viewpoint. Whether or not it is practical to suggest to the supervising authorities in one state a set of rates based on group rate levels, and in another a set of rates not so based, is another problem to consider.

The distortion pointed out by Mr. Barber caused by the difference in the distribution of exposure between the latest year of experience (used in determining medical rate level), and the three years used in group rate levels, would be difficult to correct. We do correct for the difference between the two year distribution and the three year distribution in order that the final test, made on two years of exposure will balance out. But so long as two years of exposure for indemnity and one year of medical is used as a basis for the overall change in rate level, there appears to be no practicable method whereby this fundamental difference can be reconciled.

One suggestion appears to be in order at this time; namely, that the period used for determining the average change in rate level and the group change be made identical. In those states where there is a substantial volume of exposure there is no material difference produced by using three years instead of two years for group rate levels. The attached exhibit shows the total loss ratio, for a number of states, by industry group. Two year, three year, and rate level results are exhibited. The use of identical periods for group and overall rate levels would somewhat simplify the rate-making procedure and remove the need for the correction factor now introduced to force a balance to the two year distribution.

In his article Mr. Barber states that the indemnity projection factors are particularly sensitive to the occurrence of serious losses and furthermore, that it is difficult to minimize the effect of certain severe cost cases, especially if they occur in the medical losses. To this one can add the incongruous situation where, because of the use of the various factors, a single case or group of cases sometimes appears in the experience at a value greater than the maximum allowed by law. When unusual losses show up in the experience, the formula pure premium results are usually tempered by the selections made on the basis of underwriting judgment. However, if it is desired to correct for unusual occurrences by automatic process, a simple remedy would be to treat these cases in a manner analogous to catastrophe losses and limit the amounts which may be included in the experience. This will, of course, require identification of high cost cases in the compilation of experience.

An illustration of the effect of using the weighted system of determining rate levels, suggested by Mr. Barber, is attached. The results produced by the present and proposed program do not differ greatly. We must remember, however, that we cannot obtain rates on the basis of past experience which will be exactly right for any ensuing period. The best we can hope for is an approximation, adjusted periodically, and further safeguarded by the use of contingency loadings. We have placed in the rate-making system such a factor of safety, and with the leeway thus afforded, we should strive toward a simplification of the rate-making structure, and a procedure which will lend a greater measure of stability to final manual rates.

EXHIBIT I

TOTAL LOSS RATIOS

State	Manufacturing			Contracting			All Other			Total		
	2 Years	3 Years	Rate Level	2 Years	3 Years	Rate Level	2 Years	3 Years	Rate Level	2 Years	3 Years	Rate Level
Alabama	51.3	54.6	49.6	44.7	51.1	47.0	48.8	50.8	46.5	48.8	52.4	47.9
California	52.8	52.5	51.6	66.4	66.3	65.5	55.1	55.3	54.4	57.2	57.1	56.3
Colorado	50.4	48.9	48.4	51.4	49.4	48.7	49.8	51.1	50.6	50.1	50.4	49.7
Connecticut	53.7	55.6	56.3	61.1	60.2	61.0	60.4	57.1	57.8	57.7	57.2	57.8
District of Columbia	53.5	52.4	53.1	57.5	58.7	58.7	54.4	52.6	52.2	55.6	55.1	54.9
Georgia	49.0	50.8	48.8	44.8	48.9	48.3	57.2	57.1	54.9	51.0	52.8	50.8
Illinois	53.0	53.3	52.6	54.8	56.0	55.4	55.3	54.8	54.1	54.2	54.4	53.7
Indiana	52.3	55.2	52.4	46.4	50.5	47.8	54.4	56.1	53.2	51.9	54.7	51.8
Iowa	57.0	54.3	53.8	56.4	58.2	57.8	55.1	56.3	55.8	56.0	56.2	55.7
Kansas	42.1	47.3	45.3	51.9	53.5	51.1	57.3	56.6	53.8	51.4	53.1	50.6
Kentucky	50.5	52.2	48.7	51.5	54.3	51.0	50.5	53.1	49.7	50.8	53.2	49.8
Louisiana	58.2	57.2	55.7	54.2	57.8	56.5	59.0	58.2	56.7	56.8	57.9	56.5
Maine	53.2	56.6	56.0	70.4	68.5	64.3	61.0	60.5	59.9	58.9	60.1	58.8
Maryland	59.9	61.4	60.8	57.1	58.9	58.6	64.6	61.8	61.3	60.9	60.9	60.4
Michigan	56.1	57.0	55.1	48.1	53.6	52.0	62.1	61.1	59.1	56.7	57.9	55.9
Missouri	53.8	54.4	53.7	53.9	53.7	53.3	52.9	52.9	52.3	53.4	53.6	53.0
Nebraska	49.6	56.7	52.1	53.1	58.5	53.5	53.6	56.4	51.8	52.6	57.1	52.3
New Hampshire	56.5	57.4	58.0	76.7	72.9	64.7	57.5	57.0	58.5	59.8	59.5	59.2
Oklahoma	55.4	58.7	52.6	54.7	61.0	54.7	52.4	58.3	52.3	53.8	59.3	53.1
Rhode Island	50.6	51.4	49.9	56.8	57.1	54.5	55.3	55.0	53.5	52.8	53.3	51.6
Texas	59.5	60.4	59.2	58.9	60.5	58.1	55.8	56.8	55.8	56.9	57.8	56.6
Tennessee	48.9	50.5	48.4	45.2	47.5	46.1	49.4	50.0	48.0	48.4	49.6	47.8
Virginia	52.4	52.3	51.0	54.7	55.7	54.5	51.7	51.3	50.1	52.7	52.7	51.6
Wisconsin	51.7	56.6	52.4	56.8	57.7	53.4	52.6	55.2	51.1	53.2	56.4	52.1

EXHIBIT II

Comparison of Collectible Rate Levels Based on Present Program and 5 Year Weighted Loss Ratio Plan

State	(1) Present Program Coll. L. R.	(2) Weighted 5 Year Loss Ratio	(3) Allowable Loss Ratio	(4) Collectible Present Program (1) ÷ (3)	(5) Change Weighted Program (2) ÷ (3)
Alabama	47.9	52.3	59.3	.808	.882
California	56.3	56.8	56.4	.998	1.007
Colorado	49.7	49.8	56.0	.888	.889
Connecticut	57.8	56.3	57.5	1.005	.979
District of Columbia	54.9	53.6	58.0	.947	.924
Georgia	50.8	54.1	55.4	.917	.977
Idaho	51.1	59.0	61.5	.831	.959
Illinois	53.7	53.5	61.0	.880	.877
Indiana	51.8	54.8	62.5	.829	.877
Iowa	55.7	55.8	57.0	.977	.979
Kansas	50.7	52.6	54.5	.930	.965
Kentucky	49.8	52.8	62.5	.797	.845
Louisiana	56.5	59.3	62.0	.911	.956
Maine	58.8	58.7	57.5	1.023	1.021
Maryland	60.4	61.6	63.5	.951	.970
*Massachusetts	56.3	56.6	55.0	1.024	1.029
Michigan	55.9	56.3	55.0	1.016	1.024
Minnesota	51.7	52.6	60.0	.862	.877
Missouri	53.0	52.6	55.0	.964	.956
Montana	51.1	50.5	57.5	.889	.878
Nebraska	52.3	56.2	62.5	.837	.899
New Hampshire	59.2	59.5	59.5	.995	1.000
New Mexico	47.0	48.5	62.5	.752	.776
New York	54.2	53.7	60.0	.903	.895
North Carolina	52.4	55.9	59.5	.881	.939
Oklahoma	53.2	60.7	57.5	.925	1.056
Rhode Island	51.6	53.6	57.5	.897	.932
South Dakota	50.5	51.0	59.5	.849	.857
Tennessee	47.8	50.5	57.0	.839	.886
Texas	56.6	58.2	53.8	1.052	1.082
Vermont	56.6	56.2	62.5	.906	.899
Virginia	51.7	53.5	57.0	.907	.939
Wisconsin	52.1	55.6	54.5	.956	1.020

* Massachusetts—based on policy years 1929-33.

SOME ASPECTS OF RETROSPECTIVE AND SUPPLEMENTARY RATING PLANS

J. J. MAGRATH

VOLUME XXIII, PAGE 167

WRITTEN DISCUSSION

MR. S. BRUCE BLACK:

"Retrospective" and "Supplementary rating plans" are similar in that each has for a primary purpose the shifting of part of the risk assumed by the insurance carrier under its policy contract from the insurer to the assured. They differ in the method employed and the degrees to which the risk is shifted.

While the provision for expense, particularly for acquisition expense, in the "retrospective" plan frequently differs from the provision in the standard "prospective" rating plan, the method and amount of loading for expense is a wholly distinct problem in no way peculiarly associated with any particular rating plan. In Massachusetts, where the "retrospective" plan was first adopted for general use, the expense provision is the same in the "retrospective" rating plan as in the standard "prospective" rating plan. The "retrospective" plan has been used as a convenient vehicle for introducing reduced commissions to the carriers' agents in a way least likely to create strong opposition from those who suffer from the reduction. Whether the expense loading in compensation insurance is too high or low, whether agents' commissions are too high or too low, are questions that must be determined by compromising the conflicting viewpoints of carriers and agents under the pressure of competition between differing methods of insurance company management and these questions have little place in a discussion of the principles of cost-plus insurance underlying "retrospective" and "supplementary" rating plans.

Is there a general demand from insurance buyers for some form of cost-plus insurance? If there is such a demand, does "retrospective" rating adequately meet this demand, or is it better met by "supplementary" rating?

Compensation insurance experience is distinctly cyclical. Losses fluctuate with changing employment conditions. Manual rate changes lag behind changes in pure premium experience and the fluctuations in loss ratios are more violent than the fluctuations in either losses or pure premiums for it is usual for the trend of manual rates to continue upward or downward after the trend in losses and pure premiums has changed direction. We have been passing through a period during which rates have reflected the adverse experience of the deep depression period, while current pure premiums have been reflecting the more favorable experience of a recovery period. This has created an appreciable demand from insurance buyers for a rating plan which would more promptly reduce the current insurance premiums to a degree fairly comparable to the improved experience. It does not necessarily follow, however, that insurance buyers generally desire to surrender a great part of the protection afforded by a "prospective" rating plan. Experience in Massachusetts has shown that few insurance buyers are willing to assume all the risk of a substantially increased insurance cost possible under the "retrospective" rating plan. A strong majority of those buyers who have accepted "retrospective" rating in Massachusetts, and probably in other states, have done so only after buying some form of supplemental excess insurance which eliminated or greatly reduced the risk of additional cost during the current year. These stop-loss supplementary contracts have usually been sold by Lloyds of London or other carriers at rates substantially less than those indicated by the data underlying the "retrospective" rating plan. In a majority of cases insurance buyers have accepted "retrospective" rating plans not because they wished "cost-plus" insurance but because they could buy supplementary "stop-loss" contracts at a cost which added to the "retrospective" premium gave the assured some assurance that he could not lose as compared with the standard "prospective" rating plan. Close observation of the operation of the "retrospective" rating plan leads to the conclusion that very few insurance buyers whose annual premiums are less than \$20,000-\$25,000 desire to assume the risk of substantially increased premiums and that if such insurance buyers are required to pay a premium for a supplementary excess loss contract even approximately that indicated by available data, very few would accept "retrospective" rating.

For the very large compensation insurance buyers whose experience is likely to be reasonably stable and for whom the maximum possible additional cost is not large in proportion to the standard "prospective" rating premium, "retrospective" rating has a somewhat greater appeal during periods of good experience.

What will happen when we enter that phase of the experience cycle in which loss ratios are generally unfavorable? Will assureds, becoming familiar with the operation of the "retrospective" plan accept such a plan during the favorable loss ratio part of the cycle and shift to a "prospective" rating plan when "prospective" rates have been reduced to the point where loss ratios are likely to be higher than average? It would seem probable that this will take place if permitted by the insurance carrier and, of course, such a practice would prove costly to the carriers. There would seem to be no complete protection to the carrier other than to make a "retrospective" plan mandatory on all eligible risks—or prohibiting any shifting except after several years notice.

Partial protection would result from such changes in the "prospective" rating plan as would cause a more prompt response in the rates to changes in experience and thereby making a shift from "retrospective" to "prospective" rating less profitable. In any event, a revision of the standard "prospective" rating plan, to make collected rates more responsive to changing experience, would go some distance in meeting a demand from insurance buyers which is properly urged as a justification for new rating methods. It is quite possible that if the lag in the prospective rating plan were reduced, all but the very largest insurance buyers would prefer "prospective" rating to "retrospective" rating. Certainly it would seem that a rating plan which so generally requires the addition of supplementary excess insurance against the intended working of the plan is not adequately meeting the true demands of insurance buyers.

Will the "Supplementary" rating plan better meet the demands of insurance buyers?

The originators of "Supplementary" rating will frankly admit that they have sought primarily to make available the insurance buyers a rating plan which, within the limits of sound actuarial practice, will as completely as possible meet what they believe to be the desires of insurance buyers. Because it is a cost-plus plan, it is subject to some of the same practical difficulties as "retrospective" rating. It does, however, have certain virtues. It does give definite insurance protection, within limits that insurance buyers may reasonably accept. It is sufficiently flexible so that it is attractive to buyers whose annual insurance premium is very much smaller than is practically advisable under the "retrospective" plan, and at the same time it is at least as appropriate on the very largest risks. By limiting within reasonable limits the maximum possible penalty for adverse experience there will be little likelihood of insurance buyers purchasing supplementary excess contracts.

For these reasons it is likely to be acceptable to a larger number of buyers than "retrospective" rating and because it reduces the penalty for unusual severe accidents may cause fewer disappointments and fewer recriminations against the carrier which advised acceptance of cost-plus insurance.

The discussion thus far has been limited largely to discussion from the viewpoint of the insurance buyer. If "retrospective" insurance gives greater incentive to loss prevention than "prospective" rating, "supplementary" rating will be at least as effective.

Considering the immediate self-interest of insurance carriers, any form of cost-plus insurance has considerable appeal if, the plan is actuarially sound, and if the carriers are protected against shifting from "retrospective" to "prospective" rating or visa versa. There is no competitive advantage to any kind of insurance organization, in sound cost-plus insurance. The carrier is relieved of much of the worry caused by high loss ratios during the adverse stage of the experience cycle. Perhaps, it should be added, that the insurance buyer may sometimes be called upon to pay large added premiums when he is least able to—but that is cost-plus insurance.

MR. RALPH H. BLANCHARD:

An author may avoid the charge of incompleteness by using the phrase "some aspects." Mr. Magrath's paper shows restraint; but I am sure that its scope was not limited by lack of knowledge or of conviction. I detect the scent of many vivid statements which the author did not make.

If the rigidly classical format of the *Proceedings* might be altered I should like to entitle my contribution "Some Reflections on Some Aspects." The limitations on my discussion will be due not to reticence but, in Johnson's words, to "pure ignorance." Nor will the aspects which I discuss be the same as those considered in Mr. Magrath's paper. The preparation of a complete discussion would have required investigation far beyond the time at my disposal.

By way of preparation I have read the several plans and a variety of explanations, discussions and arguments. I am told that the Retrospective Rating Plan is, and is not, a "rating plan"; that it involves graduated commissions and that it is in no sense a graduated commission plan; that it is likely to lead to (a) overestimate of outstanding losses and (b) underestimate: that it is sound in theory and that it violates fundamental insurance principles; that it will probably encourage the prevention of accidents, and that it may lead to decreased interest in accident prevention; that its operation will in no way affect risks to which it is not applied, and that it will result in a greater burden on those risks as well as throw the whole rating machinery out of joint; that it is fair and legal because it represents a justifiable classification of risks based on differences in hazard, and that it has neither of these qualities because it violates both the law and sound rating theory.

It is well-nigh impossible for an observer to extract the sound kernel of significance from the thick husk of partisan interest. And this array of opinions is most distressing to an academic theorist accustomed to look to his practical brethren for enlightenment.

Clearly the Plans are only in part rating plans and in part plans for selling service in settling losses. The Retrospective Plan gives the employer the option of paying his own losses between limits. The Supplementary Plan permits the employer to self-insure normal losses while insuring excess losses. In both cases all losses are settled by the insurer and full payment is guaranteed to the injured workman.

The proposal of such plans brings up many questions of general policy for which no generally satisfactory answers have been given.

To what extent should variations in the incidence of expense be recognized in the price charged for insurance? If the rating system is to be treated purely as a measure of probable disbursements, then it is proper to recognize in the premium any measurable variation in the probability of expenses. We attempt very carefully to measure the loss-producing characteristics of risks; why not be equally diligent in measuring their expense-producing characteristics? And it is here that differences in size of premium may well have some significant bearing on a company's disbursements, as well as on those of middlemen. Certainly the Retrospective Plan provides for graduation of expenses, in spite of the argumentative efforts of the casuists. And why not, if there is a real difference in the experience? Whether the reduction in expense allowance should be shared equally or unequally by carriers and middlemen should be wholly a matter for realistic analysis. Neither should do more or less than the indications warrant. I see nothing to be commended in the theory that either group is making a "contribution" to a high purpose.

How far should the pricing system be influenced by considerations of policy? It is argued that these plans will (or will not) tend to prevent accidents. Has a rate-maker any business to consider the effect of his prices on accident prevention, or should he merely attempt to measure results? I incline to the measurement idea, particularly when it is not clear what the effect will be. Another question is that of whether large risks shall be given such advantages as may be theirs because of size and superior organization, if any. Again I believe the rater should confine himself to measurement. But note that these remarks apply to that part of the plans which *is* a rating scheme. It is quite another problem to determine whether insurers should sell individual loss-settling service combined with insurance.

If a plan provides the carrier with sufficient funds to meet its obligations and frankly gives the insured what he pays for, how far should the form of the plan and the choice offered the employer be controlled? I don't know. The deductible idea has long appealed to me as the sound way in which to adjust the relative roles of self-insurer and insurer. But stop-loss cover is also sound. Do these plans, or either of them, adjust insurance more accurately to needs? I hope so.

Given human nature, will such plans work? Will they influence estimates of losses in either direction; will they affect the accident record; will they be used primarily as an unwarranted competitive device? In other words, will they, in spite of the rater's effort to confine himself to measurement and the supervisory official's attempt to permit a sound combination of insurance and service, lead to unfavorable results which outweigh their value in other directions?

I should like to see them tried, careful records kept, and final decision reserved for the future. But that brings up a still broader question: How far can the trial and error method be used in this field? Having raised all these questions, I leave the answers to others, with the suggestion that there is nothing sacred in present and past methods of rate-making, and that perhaps those doctrines which have been least questioned are most in need of reconsideration.

FEDERAL JURISDICTION AND THE COMPENSATION ACTS — CLARENCE W. HOBBS

VOLUME XXIII, PAGE 170

WRITTEN DISCUSSION

MR. S. B. ACKERMAN:

The article on Federal Jurisdiction and the Compensation Act prepared by Mr. Hobbs is an excellent study of the relation between federal jurisdiction and the various compensation acts.

In this article, Mr. Hobbs indicates that many cases have come before the courts for interpretation, due to the difficulty arising from the powers of the various states and the powers of the Federal government. The material prepared is so exhaustive that I wish that Mr. Hobbs had added at the end of his paper a summary of the principles evolved from the various decisions that have been rendered. I believe that such a summary would materially aid lawyers and representatives of claim departments in handling matters discussed in Mr. Hobbs' article.

Mr. Hobbs states the following in his conclusion:

> "Conflict of laws between the states and federal jurisdiction would be less serious . . . if uniformity could be secured between state compensation acts and federal compensation acts . . ."
>
> "That the difficulty is of no mean proportion can be seen by viewing the number of cases cited in this study and in the previous study on the extra-territorial application of com-

pensation acts. The remedy, if there be one, must probably be worked out through the Federal government . . ."

"Let it be marked down, however, as a point which will one day require settlement, that rights and duties of employer and employee should be reasonably uniform as between state and state, and as between state jurisdiction and Federal jurisdictions, and that the policy of states and of Federal government alike should be directed towards the avoidance of situations where the rights of the employee may be imperiled or confused by the necessity of determining obscure issues of fact or controverted points of law."

I do not consider that the number of compensation cases involving conflict of law is unusual. It must be remembered that the various courts have dealt with a large number of individuals affected by the various compensation laws. Indeed, when this fact is considered, there has been a remarkably small number of cases which have been subject to scrutiny by the Federal courts. Incidentally, uniformity of laws will not reduce the number of cases involving obscure issues of fact.

It is my hope that the day of uniformity of compensation laws will continue to be very remote until experience provides a sound foundation upon which to build uniformity. It is true that there is diversity of legislation. However, this has not materially harmed those subject to the various laws. The fact that these laws have not been uniform has afforded the people excellent experimental legislative laboratories. The good principles evolved by legislation in one state has been, and will be, made available for adoption by legislatures of other states. Uniform legislation will only be worthwhile when the time has arrived, if ever, when the problem of compensable accidents will have been solved. As one who is interested in this provision from the point of view of the employer, the employee and the insurance company, I do not believe that such a stage has been reached. In my opinion, legislatures have paid little attention to the most important problem, that is, the problem of accident prevention. If and when this problem is solved, uniformity through the aid of legislatures may be considered.

The belief held by some people that it will be impossible to provide uniform legislation except through Federal action is unfounded. A study of state statutes will indicate that in many states various statutes are uniform. For example, through the joint cooperation there is now a uniform sales statute in various states. There is a logical reason for the development of a uniform sales act. The legislatures have had the benefit of past legislation, as well as interpretation by the courts, concerning this subject for many centuries. However, the legislatures have not the benefit of similar experience for the compensation law. The latter remains in the formative stage.

It is true that joint action by all states requires long periods of time. On the other hand, speedy action may not necessarily be effective action. Uniformity does not necessarily make for progress. Therefore, effort for a uniform compensation law seems to me premature. In my opinion, efforts should be made to improve each state law to meet the various conditions presented by the general development of the particular state at any given time. Energy spent in aiming for uniformity at present might prove more harmful than beneficial. The aim should be to induce the various legislatures to seek the ultimate goal, that is a compensation law which makes as its primary function accident prevention.

AUTHOR'S REVIEW OF DISCUSSION

MR. CLARENCE W. HOBBS:

Professor Ackerman's discussion is so very kind and considerate that it is with some difficulty the author brings himself to essay a response. Nevertheless, in self-defense, it might be observed that the statement to which the discussion takes exception was directed, not merely to the federal jurisdiction but to the entire matter of conflict of laws, of which the federal jurisdiction cases are but a part. There has been developed on the subject a fair and increasing body of case law including a goodly number of cases in the Supreme Court, and this within the space of less than twenty-five years. The number of cases going to courts of last resort is by no means a certain index of the number of cases in which such issues occur. These are fairly numerous. The rate maker and the underwriter, too, must view the matter more or less from the standpoint of possibilities. The jurisdictional split makes plenty of trouble in establishing rates for classifications in which the split occurs, and in rating specific risks or writing policies where a split in jurisdiction is involved. For this reason, the problem has an importance not measurable in its entirety by the mere matter of decided cases.

As to the attaining of uniformity by federal legislation, one may agree that federal legislation in a field now occupied by state legislation is a matter of doubtful policy. The author ventures to state, however, that the problem of divergence in statute is a matter differing in many respects from the problem of divergence between the courts of various jurisdictions in the matter of interpreting the common law. The common law relating to a particular field commonly passes through an evolutionary stage paralleling the evolution of that particular field; and it is only when that field reaches a condition of approximate stability that codification is practicable or uniformity between jurisdictions desirable; nor is uniformity of law at all possible unless there is also a substantial uniformity of practice. The divergence between compensation acts is based in part upon local differences in economic conditions, in part upon differences in social theory, in part upon politics. It may be doubted if a compensation act absolutely uniform for the whole United States is desirable. Certainly the establishment of such an act and a new uniform system of administering it would be a tremendous task and replete with many local heartbreaks. One would very much prefer to see the states move in the direction of bringing their compensation benefits to as near a general standard as possible, also in the direction of a uniform coverage. But as to the matter of uniform extraterritorial application, this is in some degree a federal question, and a federal statute on the subject has somewhat more excuse for being.