

# Record No. 5729

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In the  
Supreme Court of Appeals of Virginia  
at Richmond

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**VIRGINIA MANUFACTURERS  
ASSOCIATION**

**v.**

**WORKMEN'S COMPENSATION  
INSPECTION RATING BUREAU  
OF VIRGINIA**

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FROM THE STATE CORPORATION COMMISSION

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## RULE 5:12 BRIEFS

§5. NUMBER OF COPIES. Twenty-five copies of each brief shall be filed with the clerk of this Court and three copies shall be mailed or delivered by counsel to each other counsel as defined in Rule 1:13 on or before the day on which the brief is filed.

§6. SIZE AND TYPE. Briefs shall be nine inches in length and six inches in width, so as to conform in dimensions to the printed record, and shall be printed in type not less in size, as to height and width, than the type in which the record is printed. The record number of the case and the names and addresses of counsel submitting the brief shall be printed on the front cover.

HOWARD G. TURNER, Clerk.

Court opens at 9:30 a. m.; Adjourns at 1:00 p. m.

IN THE  
**Supreme Court of Appeals of Virginia**

AT RICHMOND.

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Record No. 5729

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VIRGINIA:

In the Clerk's Office of the Supreme Court of Appeals at the Supreme Court of Appeals Building in the City of Richmond on Thursday the 3rd day of October, 1963.

**VIRGINIA MANUFACTURERS  
ASSOCIATION**

Appellant

*against*

**WORKMEN'S COMPENSATION INSPECTION  
RATING BUREAU OF VIRGINIA,**

Appellee

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From the State Corporation Commission

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Upon the petition of Virginia Manufacturers Association an appeal of right was awarded it by one of the Justices of the Supreme Court of Appeals on October 3, 1963, from an order entered by the State Corporation Commission on the 10th day of May, 1963, in a certain proceeding then therein depending, entitled:

Application of Workmen's Compensation Inspection Rating Bureau of Virginia for revision of workmen's compensation rates; upon the petitioner, or some one for it, entering into bond with sufficient security before the clerk of the said State Corporation Commission in the penalty of three hundred dollars, with condition as the law directs.



## RECORD

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E. E. CADMUS  
Manager

E. W. FRISE  
Asst. Mgr.

WORKMEN'S COMPENSATION INSPECTION  
RATING BUREAU OF VIRGINIA  
207 Broad Grace Arcade  
Richmond 19, Virginia

In Reply Refer To File No. 1088

April 3, 1963.

STATE CORPORATION COMMISSION FILING:

Honorable T. Nelson Parker, Commissioner  
Bureau of Insurance  
Blanton Building  
Richmond, Virginia

Dear Sir:

RE: Filing of Proposed Rates, Minimum Premiums, and Rating Values for Workmen's Compensation Insurance to become effective July 1, 1963, on New and Renewal Business only.

On behalf of all members and subscribers of the Bureau, there is filed herewith, for the consideration and approval of the State Corporation Commission, a schedule of revised rates, minimum premiums and rating values for workmen's compensation insurance to become effective July 1, 1963 on new and renewal business only. The revised rates have been calculated in accordance with the countrywide ratemaking procedure except for the catastrophe charge which is covered in the next paragraph, and represent an average increase due to experience of 3.7% in premium level from the level of Virginia rates which became effective July 1, 1962. By industry group the changes in premium level indicated by experience are: Manufacturing 4.7% increase, Contracting 2.6% increase, All other 3.9% increase.

Section 38.1-252(3) of the Virginia Insurance Laws provides that in the making of rates due consideration shall be given to catastrophe hazards. In previous years, the rates as filed have included a general element of \$.01 for each classification to provide for such catastrophe hazards whether of a traumatic or disease nature. This procedure is followed countrywide and is believed by the carriers to be the most reasonable and equitable approach to a catastrophe charge. However, the Commission has shown a reluctance to approve the procedure in recent years because of its effect on the low-rated classifications. To conform with the desires of the Commission, while firmly believing the .01 flat charge to be the preferable method, the allowance for catastrophe in the proposed rates has been expressed as a percentage of 1.3 calculated to produce the same amount of premium overall as would be realized by the .01 charge. (Page 1, paragraph 3 of National Council's letter dated April 1, 1963.)

The basic data used in the determination of the revised rates was compiled by the Industrial Commission of Virginia from unit statistical reports filed by the carriers under the approved unit statistical plan, such basic data covering policies becoming effective during the period from March 1, 1959 to February 28, 1961 and expiring through February 28, 1962, plus the experience of Three Year Fixed Rate Policies becoming effective between January 1, 1957 and December 31, 1958 and expiring through December 31, 1961.

The standard ratemaking procedure as applied to Virginia has been outlined in the attached memorandum dated April 1, 1963, prepared by the National Council on Compensation Insurance. This memorandum also includes photostats of Virginia experience for the period previously mentioned and representing the most important or reviewed classifications. The memorandum is offered in support of the rates as filed. *Refiling of Proposed Changes in Manual Rules covering Payroll Limitation and Rate Corrections to Off-set such changes.*

This filing includes a refiling of proposed amendments of Virginia Exception to Sections VI and XIII of the basic manual to provide:

(1) The substitution of \$300 per week payroll limitation in lieu of the present \$100 per week. (Virginia Exceptions — Rule 6-d, Section VI)

(2) For executive officers, a maximum individual payroll of \$300 per week in lieu of the present \$100 per week and a minimum individual payroll of \$50 per week in lieu of the present \$30 per week. (Virginia Exceptions "Executive Officer" — Rule 6, Section XIII)

The attached filing memorandum sets forth the rule changes and the reasons therefor. Also, included is a Transition Program.

Since the proposed change in payroll limitation is not intended to change the premium to be received by the carriers, the revised rates have been adjusted in accordance with procedure set forth in Exhibits V, V-A and V-B of the National Council memorandum. These adjustments are based on Virginia payroll audit data secured from the carriers. The Transition Program is intended to eliminate any hardship cases which might arise in the Transition from the \$100 to \$300 basis.

#### *Revision of Minimum Premium Formula*

Included in this filing are revised Minimum Premiums based on the proposed rates and a revised Minimum Premium Formula. The present formula established in 1927 is 15 times rate plus expense constant. Because of the change in the value of the dollar, the formula is inadequate and it is proposed that the formula be revised to twenty five times the rate plus expense constant, (Page 3 of National Council Memorandum) subject to the following ceiling:

First year — the minimum premium shall not be greater than  $1.25 \times (15 \times \text{proposed manual rate for first year} + \text{expense constant})$ .

Second year — the minimum premium shall not be greater than  $1.50 \times (15 \times \text{proposed manual rate for second year} + \text{expense constant})$ .

Third and subsequent years — no limitation.

#### *page 3 ] Continuation of \$10.00 Expense Constant*

This filing contemplates continuation of the \$10.00 Expense Constant previously approved to apply July 1, 1963, on new and renewal business only.

#### *Specific Disease Elements*

The present specific disease elements are continued except

for adjustment for the effect of the change in payroll limitation as described in Exhibit IV of the National Council Memorandum.

*Premium Discounts and Retrospective Rating Values*

The present Virginia Premium Discounts and Retrospective Rating Values are continued without change.

We respectfully request that this filing be approved for Virginia as of the date and in the manner herein proposed.

Respectfully filed,

E. E. CADMUS

EEC:dvz

Manager.

**Enclosures:**

\* 1. Schedule of Proposed Rates, Minimum Premiums, etc. .

2. Filing Memorandum — Proposed Changes in Payroll Limitation Rules of the Manual and Transition Program.

3. Letter from National Council on Compensation Insurance dated April 1, 1963 and Memorandum covering Standard Rate Making Procedure as applied to the determination of Virginia Manual Rates.

CC: Mr. Norman S. Elliott, Counsel, State Corporation Commission.

Mr. F. E. Perrin, Industrial Commission of Virginia.

Mr. M. Wallace Moncure, Jr., Attorney, Richmond, Virginia.

Mr. R. D. Heitzmann, Asst. Gen. Mgr., National Council on Comp. Ins.

Mr. R. H. Kallop, Actuary, National Council on Compensation Ins.

\* Enclosure #1 above is included as Exhibit No. 1 filed with the application.

Enclosures #2 and #3 above are included in Exhibit No. 1 filed as evidence.

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AT RICHMOND, APRIL 5, 1963

## APPLICATION OF

WORKMEN'S COMPENSATION INSPECTION  
RATING BUREAU OF VIRGINIA

CASE NO. 16310

For revision of workmen's compensation rates.

ON APRIL 4, 1963 came Workmen's Compensation Inspection Rating Bureau of Virginia and filed on behalf of its members and subscribers, comprising all insurance companies licensed to write workmen's compensation insurance in this State, proposed revisions of workmen's compensation rates, minimum premiums, rules, regulations and procedures for writing workmen's compensation insurance in Virginia under and pursuant to Chapter 6 of Title 30.1 of the Code and requested approval of the Commission thereof to be effective July 1, 1963: and it appearing that a hearing will be necessary before acting upon said filing and that notice of the time and place should be given.

## IT IS ORDERED:

(1) That this proceeding be instituted to investigate and determine: (a) Whether the rates proposed to be charged in this State for workmen's compensation insurance as set forth in the filing made by the Workmen's Compensation Inspection Rating Bureau of Virginia are excessive, inadequate, or unfairly discriminatory, and (b) Any other matter which may be the proper subject of investigation; assigned Case No. 16310, docketed and set for hearing at 10:00 A.M. on May 7, 1963 in the Courtroom of the State Corporation Commission, Blanton Building, Richmond, Virginia, at which time and place the applicant and all parties in interest desiring to be heard shall appear and present such facts and file such data relevant to the matters involved as may be desired;

(2) That applicant publish notice of the time and place of

such hearing and the substance of the proposed revisions of the rates, minimum premiums, rules, regulations  
page 5 ] procedures and the place or places where the exact proposed rates, minimum premiums, rules, regulations and procedures may be seen by any person in interest in at least one newspaper of general circulation published in the Cities of Richmond, Norfolk, Roanoke, Winchester, Lynchburg, Danville, Fredericksburg, and Alexandria at least once a week for two successive weeks beginning at least ten days prior to the set for hearing, and that due proof of such publication be made and filed herein, which notice shall be in substantially the following words and figures:

### **"NOTICE TO THE PUBLIC**

"Notice is hereby given to employers carrying workmen's compensation insurance under the Workmen's Compensation Act and to the public that Workmen's Compensation Inspection Rating Bureau of Virginia, on behalf of its member and subscriber insurers, has applied to the State Corporation Commission for permission to make certain changes and modifications in rates, minimum premiums, rules and regulations to become effective July 1, 1963, on new and renewal business. These proposals involve increases in 327 instances, decreases in 251 instances, and no change in 92 instances and an over-all increase in rates due to experience and provision for catastrophe of 5%, being as increase of 6.1% for the manufacturing classifications, an increase of 3.9% for contracting classifications, and an increase of 5.3% for all other classifications.

"The exact workmen's compensation rates, minimum premiums, rules, and regulations, increases, and decreases may be seen at the Bureau of Insurance, 801 Blanton Building, Richmond, Virginia, and copies of the filing may be seen at the office of the Workmen's Compensation Inspection Rating Bureau of Virginia, 207 Broad-Grace Arcade, Richmond, Virginia.

"The State Corporation Commission has set for hearing (Case No. 16310), the proposed rates, minimum premiums, rules and regulations in the Court room of the State Corporation Commission, Blanton Building, Richmond, Virginia, beginning at 10:00 A.M. on May 7, 1963, at which time and place all persons or corporations in interest may appear and be heard.



**“WORKMEN’S COMPENSATION INSPECTION  
RATING BUREAU OF VIRGINIA”**

and

(3) That an attested copy hereof be sent to the applicant, 207 Broad-Grace Arcade, Richmond, Virginia, National Council on Compensation Insurance, 200 East 42nd Street, New York 17, New York, M. Wallace Moncure, Jr., Mutual Building, Richmond, Virginia, counsel for the applicant, the Industrial Commission of Virginia, Virginia Manufacturers Association, 300 West Main Street, Richmond, Virginia, Frederick T. Gray, State Planters Bank Building, Richmond, Virginia, counsel for Virginia Manufacturers Association, and to the Bureau of Insurance.

A True Copy

Teste: WILLIAM C. YOUNG

Clerk of State Corporation Commission.

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**APPLICATION OF**

**WORKMEN’S COMPENSATION INSPECTION  
RATING BUREAU OF VIRGINIA**

**CASE NO. 16310**

**For revision of workmen’s compensation rates.**

**PRESENT:**

**COMMISSIONERS**

**RALPH T. CATTERALL (Chairman)**

**H. LESTER HOOKER**

**(Chairman Catterall presiding)**

**APPEARANCES:**

**M. Wallace Moncure,  
Counsel for Applicant**

**Frederick T. Gray,  
Counsel for Virginia Manufacturers Association,  
Intervener**

**Norman S. Elliott,  
Counsel for the Commission**

Date of Hearing  
May 7, 1963

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Mr. Moncure: Yes. There are a few minor things that have to be gone into, and the opposition has something new.

Chairman Catterall: I understand that they have something logical. Just hand your notices to the bailiff, and we will hear from the opposition.

Commissioner Hooker: Mr. Moncure wants to make his statement.

Chairman Catterall: Do you want to make your statement first?

Mr. Moncure: I would like to make it, and get it into the record.

If the Commission please, the filing under consideration today covers the annual adjustment of workmen's compensation rates based on the latest available Virginia experience compiled by the Industrial Commission.

The standard ratemaking procedure has been used by the National Council on Compensation Insurance in  
page 9 ] the calculation of the proposed rates, with the exception involving the catastrophe charge and since these procedures have been considered and accepted by the Commission in previous annual revisions it is suggested that our evidence in respect thereto be accepted in a documentary manner. We will offer very complete exhibits covering the various steps in the ratemaking procedure but for the Commission's enlightenment, I should like to summarize these steps and state for the record the changes in premium level indicated for the various industry groups:

1. Average changes in premium levels were calculated for the three industry groups, Manufacturing, Contracting, and All Other, based on the Virginia experience for policies becoming effective during the period from March 1, 1959 to February 28, 1961 and expiring through February 28, 1962, plus the experience of Three Year Fixed Rate Policies becoming effective between January 1, 1957 and December 31, 1958 and expiring through December 31, 1961.

page 10 ] 2. Distribution of the industry group changes in premium levels was effected among the various

classifications within each group as indicated by the Virginia experience for policies becoming effective during the period from March 1, 1950 to February 28, 1961 and expiring through February 28, 1962, plus the experience of Three Year Fixed Rate Policies becoming effective between January 1, 1957 and December 31, 1958 and expiring through December 31, 1961.

3. A rate level adjustment factor of 1.033, based on Virginia experience for the twelve month calendar period ending June 30, 1962 was utilized.

4. Change in correction for off-balance due to the experience rating plan of 1.010 based on the latest available data submitted by the Industrial Commission has been applied.

5. An expense allowance of 32.0 per cent including 2.5 per cent for profit and contingencies and continuation of the reduction from 3.0 to 2.5 in the tax item to reflect the  
 page 11 ] credit against maintenance fund taxes ordered by the Industrial Commission of Virginia has been used. We have been advised by the Industrial Commission that this credit will be continued.

The changes in average premium level by industry group due to experience and exclusive of a catastrophe allowance are:

Manufacturing	4.7 per cent average increase
Contracting	2.6 per cent average increase
All Other	3.9 per cent average increase
Overall	3.7 per cent average increase

Now, as to the need for a catastrophe charge, the Virginia Insurance laws make express provision, Section 38.1-252 (3) providing that in the making of rates due consideration shall be given to catastrophe hazards in addition to due consideration to past and prospective loss experience. In the past the rates as filed have included a general element of \$.01 per One Hundred Dollars of payroll for each classification to provide for such catastrophe hazards whether of a traumatic or  
 page 12 ] disease nature. This procedure is followed countrywide and is believed by the carriers to be the most reasonable and equitable approach to a catastrophe charge. However, the Commission has shown a reluctance to approve the procedure in recent years. To conform with the desires of the Commission, while firmly believing the .01 flat charge to be the preferable method, the allowance for catastrophe in the proposed rates has been expressed as a percentage of 1.3 calculated to produce the same amount of premium overall as would be realized by the .01 charge.

The refiling of the catastrophe charge expressed as a percentage will produce the following changes in premium level, including the changes due to experience.

Manufacturing

Contracting

All Other

Overall

6.15 per cent increase

3.9 per cent increase

5.3 per cent increase

5.0 per cent increase

There also has been filed a proposal to change the limitation on the amount of payroll used for premium computation purposes from One Hundred Dollars to Three Hundred Dollars per week. The records of the Commission will show that the payroll limitation rule changes were initially filed in Virginia as a part of the annual rate revision in 1958 and following hearing on May 1, 1958, the changes were disapproved by the Commission. Since that time the program has been favorably received in many States and a Transition Program has been introduced to provide an orderly and equitable transition from the One Hundred to Three Hundred Dollar basis. From the Virginia standpoint, payroll audit data has been secured from the carriers in substantial volume so the effect of a changeover from One Hundred to Three Hundred Dollars can be accurately measured.

Chairman Catterall: You mean Three Hundred Dollars a week?

Mr. Moncure: That is where the cut-off comes, and the reason for that is shown in the evidence. Here you will find a man working only forty hours per week, and making  
page 14 ] One Hundred and Sixty Dollars, and they only pay on the Hundred Dollars, whereas, the chap across the street, with forty hours of exposure, and there are many industries where the supervisors get that rate in salary, but they will have to pay the same rate as the man pays across the street for the man making only Twenty-Five Dollars a week.

Chairman Catterall: Is compensation based on his total?

Mr. Moncure: No, they cut him off at a Hundred Dollars. If he gets a Hundred and Sixty, the Sixty goes out, and the Hundred Dollars is all that he gets, whereas, the chap across the street pays the same rate.

It produces no more cents in premiums because there is a product they can take off the Manual rate. The total dollars do not change on your Manual rate. There are some inadequa-

cies that occur, and these gentlemen have a plan to work them out, and that has been adopted in all but eight States. No

longer is the Hundred Dollars the limitation figure.  
page 15 ] Commissioner Hooker: The purpose is to make them equal?

Mr. Moncure: Yes. These things are above my head, but I do understand that one.

Chairman Catterall: Go ahead.

Mr. Moncure: Today's filing, therefore, includes a refiling of this program and we will present testimony covering all phases of the matter and supporting exhibits. The proposal does not contemplate increasing premiums over those obtained under the present limitations and the offsetting reductions in the rates are intended to accomplish this purpose. For Virginia, the offsetting reduction in rates overall is 6.6 per cent.

I should also like to comment very briefly on the proposed revision of the minimum premium formula which is also a part of the filing. The present formula was established in 1927 and is obviously inadequate because of the change in the value of the dollar which has taken place over the years. When the

formula was originally established, the annual average wage was approximately Fifteen Hundred Dollars and is now considerably more than twice that amount. The filing, therefore, proposes that the present formula of  $15 \times \text{rate} + \text{expense constant}$  be changed to  $25 \times \text{rate} + \text{expense constant}$ , subject to the following ceilings:

First year — the minimum premium shall not be greater than  $1.25 \times (15 \times \text{proposed manual rate for first year} + \text{expense constant})$ .

Second year — the minimum premium shall not be greater than  $1.50 \times (15 \times \text{proposed manual rate for second year} + \text{expense constant})$ .

Third and subsequent years—no limitation.

It is requested that the proposed rate revision and other items contained in the filing be made effective July 1, 1963 on new and renewal business.

Mr. Robert D. Heitzmann, Assistant General Manager and  
page 17 ] Mr. Roy H. Kallop, Actuary of the National Council on Compensation Insurance, are present and will testify to the standard procedures used by the Council in determining the revised rates.

Mr. Heitzmann will present the payroll business because he has made a study of it, and we have taken a long period in Virginia to see what real effect it will have on our payroll.



Chairman Catterall: What happened to your one per cent for occupational disease?

Mr. Moncure: That is not the catastrophe.

Chairman Catterall: You worked your catastrophe into your rate base, but the overall basis is higher. You mentioned going up six per cent, and going down six per cent. Are these rates going to be higher after that six per cent?

Mr. Moncure: No. The rate percentage-wise will be decreased to take into account much more payroll by the change for the test, and the 6.6 figure will make that adjustment so the same figure is received.

page 18 ] Chairman Catterall: But you began by saying that there would be a six per cent decrease in rates. Is the rate fixed after this adjustment?

Mr. Moncure: No. The overall increase set forth contemplates an overall five per cent increase in premium. If more payrolls are used and we did not have the six per cent reduction factor then too much premium would result — as I understand, it makes no particular difference, because it is the sole purpose to make a premium adequate to pay the losses. That came into the figure. It is like the old Rate Level Adjustment Factor. They make them up and downward to cover the proposed rate, and we have been losing money, and there is no change, but there is a truing up to make the relationship.

The best illustration I can make is that if the proper one is not bearing the load, then the others have to bear it.

Mr. Gray: Are we in agreement that the overall proposals which you are making would have the effect of raising rates 3.7 per cent without the catastrophe loading; and, with  
page 19 ] the catastrophe loading, it is five per cent?

Mr. Moncure. Not rates. I believe Mr. Heitzmann can explain that better than I.

Mr. Heitzmann: If the rates are reduced 6.6 per cent, and applied against higher payrolls the premium produced will be 3.7 per cent higher. The same premium will result if the \$100 limited payrolls are applied against the rates without the 6.6% reduction.

Mr. Gray: As you are saying it, it sounds as if you say, "If you will grant us the maximum payroll, the effect will be that the insurance companies will take in the same amount of money."

Mr. Heitzmann: No, Sir.

Mr. Gray: But that is only true of the . . .

Mr. Heitzmann: We are asking for a 3.7 per cent additional premium.

Mr. Elliott: Before the allowance for catastrophe.

Mr. Heitzmann: You said before the allowance for catastrophe?

Mr. Elliott: Yes.

page 20 ] Chairman Catterall: To sum it up, the lower rate will produce higher premiums because it will be based on Three Hundred Dollars per week instead of One Hundred Dollars per week.

Mr. Elliott: I think that is correct, Judge. The overall filing requests an increase in premium of 3.7 per cent plus the effect of the catastrophe, which may raise it to five per cent.

Mr. Heitzmann: That is correct.

Mr. Elliott: The 6.6 per cent reduction he spoke of has nothing to do with the overall premiums to be collected. That is a matter of redistribution of the various classes of the rates to be changed. Take, for instance, a rate that the statistics would indicate would be a ninety-eight cent rate for a classification, but, since more payroll is to be available to apply the rate to, then that ninety-eight cent rate would be ninety-one cents, we will say, but the fact to bear in mind is  
page 21 ] that that has nothing to do with the overall premium of the Company. It is a matter of distribution among the classifications.

Mr. Moncure: That is correct.

Chairman Catterall: Mr. Gray, what are your objections to this proposal?

Mr. Gray: We are here on behalf of the Virginia Manufacturers Association, which appears annually to assist the Commission in getting at the facts in this matter, and, again this year, we have employed the firm of Bowles, Andrews and Towne to assist us in analyzing the filing of the National Council, and assist us in making recommendations. I believe you have been supplied copies of this original red document.

Chairman Catterall: File one as if it were a pleading.

Mr. Moncure: I think it would be well to file our reply brief.

Chairman Catterall: We will first file these as if they were pleadings.

Mr. Moncure: They are usually filed as exhibits.

page 22 ] Mr. Elliott: We have first the filing.

Chairman Catterall: You don't make that as an exhibit? You don't treat that as an exhibit at all?

Mr. Moncure: I would usually file it as Exhibit No. 1. The filing is a part of the record, of course, without being an exhibit.

Mr. Elliott: It may be a part of the record, but it is a part of the evidence, and I think it should be filed as an exhibit.

Chairman Catterall: The filing, including the letter of transmissal, is received as Exhibit No. 1.

Then the Virginia Manufacturers Association's Statement by Bowles, Andrews and Towne, including the Supplement to Recommendations, No. 3, and Recommendations, No. 4, - -

Mr. Gray: If you are going to include it all in one, we have received notice from the National Council that the Industrial Commission has made a recalculation, and I want to file Supplement B, which is a Supplement to Recommendations 3 and 4.

page 23 ] Chairman Catterall: We will call the statement of Bowles, Andrews and Towne Exhibit No. 2; and the Supplement to Recommendations Exhibit No. 3; and No. 4 will be Exhibit No. 3; and the Revised Exhibit B will be Exhibit No. 4. Now, we have "Reply to Bowles, Andrews and Towne Analysis Workmen's Compensation Rate Filing," and that will be Exhibit No. 5.

Mr. Moncure: We found in Exhibit No. 1 that there are four pages in which there were some clerical errors, and, if we could call this 1-A, that would get the record correct.

Chairman Catterall: Call it Exhibit No. 6. That is the table of clerical errors to correct four pages of filing. That will be Exhibit No. 6, and I deem that to be substituted for corresponding pages in the filing.

Mr. Gray: I have one other matter to straighten out. We have clerical errors too.

Chairman Catterall: We could keep on filing them indefinitely.

Mr. Gray: In the last paragraph on page 17, page 24 ] second line, the figure Thirty-Five Dollars should be Thirty-Seven Dollars, and the figure Fifty-Eight Dollars and Thirty-Three Cents should be Sixty-One Dollars and Sixty-Three Cents.

Chairman Catterall: Exhibit No. 2 is corrected as indicated by Mr. Gray. Now, go ahead, and tell us your objections to this filing.

Mr. Gray: The nature of our recommendations as to the filing are set forth in Exhibit No. 2, and the first of them is, as it was last year, an objection to the catastrophe loading. This matter we went into very thoroughly last year, and the Commission made the determination that the carriers were not justified in the one cent loading for the catastrophe.

Chairman Catterall: We objected to the one penny being purely arbitrary, and suggested that they include it in their filing.

Mr. Gray: They dressed the same old horse up and brought him back. They are no more justified in filing it this way than before.

page 25 ] Chairman Catterall: That is Issue No. 1.

Mr. Gray: Issue No. 2 is one that is not an issue, but one of comment and deals with the Rate Adjustment Factor, and last year we did make an issue and said that the result would be that this loading would be 1.6 per cent instead of 2.5 per cent, and the 2.5 per cent was the assumed figure and not predicated on any basis, and, for that reason, we objected to it. If we deal with the actual figures, and let the chips fall where they may, that is, up or down, that is the way it should be done.

Almost immediately after the hearing, the National Council held their meetings and adjusted from 2.5 to 1.5; and so this year, on the latest information, we hope we are at 1.5 and 1.6, but it is the principle of that issue. Rather than assuming a figure, we ought to deal with the figures we have.

The third recommendation is a matter merely of principle again. It is not a question of any dollars to the  
page 26 ] Virginia Manufacturers Association because this deals with the minimum premium formula. The National Council has suggested that the Commission's rule waives that. We don't have any manufacturers that have a payroll of less than Twenty-Five Hundred Dollars, so that we are not affected from a dollar and cents standpoint, but this is actually the other side of the coin we are going to talk about when we get up from the One Hundred Dollars to the Three Hundred Dollars schedule.

It does not make a lot of sense to me, and I am like Mr. Moncure on some of this, I am sure I don't understand it even as much as he does, but I see some of it with a little brighter light, and don't see how we come up from the same figure to this. It seems that the minimum calculation is calculated on One Thousand and Forty, and I don't see why he should be required to pay on the minimum payroll of Twenty-Five Hundred Dollars. The man who makes a minimum wage, the charge is as if he was making Fifteen Hundred Dollars a year, and he becomes a claimant under the Workmen's  
page 27 ] Compensation policy, he is not going to be compensated as if he was making Twenty-Five Hundred Dollars or Fifteen Hundred Dollars. He will be compensated as if he was making One Thousand and Forty Dollars. That is what they are compensated on, but the carriers are collecting on more than the One Thousand and Forty.

Chairman Catterall: They are assuming the factory has only one employee.

Mr. Gray: Yes.

Chairman Catterall: If they had two employees, it would be hard to keep under Twenty-Five Hundred Dollars?

Mr. Gray: Yes.

Chairman Catterall: This is not compulsory?

Mr. Gray: No.

Chairman Catterall: If they had one employee, it could be?

Mr. Gray: Yes.

Chairman Catterall: So we are not talking about anything that is apt to happen?

Mr. Gray: No, but I think this is a perfect weapon page 28 ] on by which they can go to the manufacturers and say ---

Mr. Elliott: There are fourteen hundred risks affected.

Chairman Catterall: Fourteen hundred have payrolls which are less than Fifteen Hundred Dollars a year?

Mr. Elliott: This Exhibit No. 5 shows that for 1961 there were fourteen hundred and fifty-seven risks.

Chairman Catterall: Those would have only one or two employees.

Mr. Elliott: I don't know how they are arrived at.

Chairman Catterall: We will put this down as Issue No. 3.

Mr. Gray: We see that as discrimination to the employer with one person or two persons who want to carry the insurance, and to raise it to this level would make it discrimination for that person who wanted to carry it for those two employees.

The fourth recommendation is a rehash from page 29 ] last year, the correction of the factor for off-balance. We have two objections. We disagree with the loading for off-balance altogether. We think it is multiple ratemaking procedure to make the off-balance correction factor. We don't think it is sound to begin with.

Chairman Catterall: How do you define the "Off-Balance Correction Factor"?

Mr. Gray: In the time I have had to study it, and from the best information Mr. Goddard has given me, it is like a little coloring machine. You put a certain amount of water at this end, and it comes out at the other end, and you find out you don't have enough, and you assume that something is wrong with the machinery, and you pour in some more water, and that is the only justification for it.

Chairman Catterall: I thought the trouble was that where



you have good experience, you collect more premiums to make up for the bad experience.

Mr. Gray: Mr. Goddard will explain that.

page 30 ] Chairman Catterall: It is similar to demerit rating.

Mr. Gray: The other point we have other than the fact that we disagree with it in its entirety, we feel that there should be no change in it this year for the same reason National Council said there should be no change last year. The general revision is on two year figures, and last year they did not have one year, and the one year they had indicated a decrease, they had one year, and missed a year, and now have another year, and now that it went up, they indicate that it should be decreased.

We say let's put it uniformly, and wait until next year when we have two years. Let's make the figure for two years.

And the final objection is the proposed change from One Hundred Dollars per week to Three Hundred Dollars per week. I can't understand why this man who is receiving One Hundred and Fifty Dollars per week, why does he not get more preferential treatment?

Chairman Catterall: Does he not get more money if he is injured?

page 31 ] Mr. Gray: No.

Chairman Catterall: He does not get any more benefits?

Mr. Gray: No, Sir. He does not get a Hundred Dollars per week, but the effective salary for benefits is Sixty-One Dollars and Sixty-Seven Cents, and his weekly benefit is Thirty-Seven Dollars per week. Therefore, if he is making a Hundred Dollars per week, he is paying more because, based on the Sixty-One Dollars and Sixty-Seven Cents, and he is paying more than his part of the load, and, if he makes Three Hundred Dollars per week, he will be compensated on the same basis as the first worker.

Chairman Catterall: The Three Hundred Dollars is not geared to the insured worker's compensation?

Mr. Gray: No, Sir.

Chairman Catterall: It is not geared to the workman's compensation?

Mr. Gray: No, except what he pays.

page 32 ] Chairman Catterall: He does not pay, but the employer is still made to pay for it?

Mr. Gray: It is on the basis that a man, if he can afford to pay his employee Three Hundred Dollars a week, then this poor employer over here can't pay his employee so much, but

*Roy Kallop*

why should he get the preferential treatment because he pays more?

Chairman Catterall: Your point is that the employee gets the benefit from it, but not the employer?

Mr. Gray: No. The proposal here is that the amount the employer pays for this employee shall not be computed on a limitation of One Hundred Dollars per week, but on Three Hundred Dollars per week.

**ROY KALLOP,**

page 33 ] a witness introduced on behalf of Applicant, being first duly sworn, testified as follows:

**DIRECT EXAMINATION**

By Mr. Moncure:

Q. Give the Commission your name, occupation, and address.

A. My name is Roy Kallop. I am the Actuary of the National Council on Compensation Insurance; and I live in Yonkers, New York.

Chairman Catterall: We all know this gentleman's experience.

Mr. Moncure:

Q. This filing was made on the basis of the usual statistics from the Industrial Commission for making the premiums on industrial compensation insurance adequate to pay the losses, which has been approved by this Commission?

A. Yes.

Q. Now, coming to the first step, I might ask you this, so the Commission can know exactly what we are talking about. I know that they know this, that when you get the  
page 34 ] percentage, is that not distributed among the various classifications, divided up so as to produce the premium dollar?

A. Yes.

Q. Coming now to the catastrophe losses, tell us what you have done this year different from last year, and the reasons for it.

A. Yes, Sir. In previous years in Virginia we have filed our standard procedure which called for an even distribution of catastrophe premium among the various classifications. Spe-

*Roy Kallop*

cifically, it was one penny for each dollar of a payroll. This penny covers each type of classification. A few years ago we filed two pennies, one for the catastrophe losses and the other for occupational diseases; and in the last two years these were combined to cover the catastrophe allowance for both types of emergencies.

We know that in the past years the Corporation Commission has been concerned with the facts with respect to the low-rated classifications, specifically clergymen, lawyers, and doctors, where the Manual rate may be only four or five cents, and that the increase of one penny made a difference  
page 35 ] dollarwise in rates, although the dollars were quite normal. We still feel that the penny expenditure for the classification is the preferable method, but in our committee this year, in view of the Commission's approach on small classifications, we reviewed the percentage classification method. It is a good method, but the penny distributed among the classifications is the most desirable one.

Chairman Catterall: Don't you have statistics covering occupational diseases relating to things like silicosis?

A. For certain classifications they have, that is, for a plan producing things bearing on pneumoconiosis and silicosis, there is a specific element in these rates for these diseases.

Q. That would be in lieu of the one per cent?

A. No. Sir, it would be in addition. The general would be for these, and the traumatic catastrophe.

Q. In other words, the one penny, or 1.3 per cent is to cover cases where you could not imagine anyone having  
page 36 ] an occupational disease, and then you have a specific loading where you know there is a chance of their having an occupational disease?

A. Yes.

Q. I can't imagine anyone in the State Corporation Commission ever having an occupational disease unless it was from the air conditioning.

A. There have been cases where chemicals would affect workers, and you could have an emergency of that type rather than all types of classifications.

Q. Have you ever paid any occupational disease payment or compensation to a clerical worker in an air conditioned building?

A. I do not have any statistics to say "Yes" or "no." I imagine they could be allergic to certain types of soap that you

*Roy Kallop*

use, or maybe ink that might be used or things of that sort. It is not a common thing.

Mr. Moncure:

Q. Anyhow, you throw it in in all the States?

A. Yes, Sir, in all of the States that I am aware of there is a penny catastrophe loading, which would cover the traumatic and disease coverages. I believe there are a few page 37 ] States where the one cent is just for the traumatic.

Chairman Catterall: Let the witness define a "traumatic catastrophe."

A. There has been confusion in recent years in what we speak of as a *catstrophe*, and what many people think of as a catastrophe. We are not speaking of a momentous catastrophe, something earthshaking. We are drawing a line in our factor for something that is an abnormal event. It is something that you cannot rely on in the future. It is not the pattern that you can anticipate as to what losses will occur in the future.

This rate, we believe, should involve accidents where more than one person is injured, and we accept a portion of this loss into the rate-making system. Specifically, in Virginia, I believe the formula calls for losses up to Nineteen Thousand, Five Hundred Dollars to be used in the development of our ratemaking procedure. The losses above that, we believe, do not occur within any regularity, so we cannot put any faith in these figures as to what to expect for the forthcoming year.

page 38 ] For your information, I have taken some of the actual losses which have been in excess of this amount for the last six policy periods. These are rounded numbers, and contain the figures put in the following years:

1955-1956, the excess was Thirteen Thousand Dollars for the first year.

The next year, 1956-1957, One Hundred and Sixteen Thousand Dollars was eliminated.

The next year, 1957-1958, there were no loss amounts in excess.

The following year, there was Forty-Eight Thousand Dollars eliminated.

Mr. Elliott:

Q. That was the year 1958-1959?

A. Yes.

*Roy Kallop*

The next year, 1959-1960, there was One Hundred and Ten Thousand Dollars eliminated.

The latest year, it was Sixty Thousand Dollars in one case, but this would have an effect on the classifications, but not an effect on the rate level.

page 39 ] These are actual losses, and not converted into the latest rate level and adjustment expense. I point this out because Mr. Goddard asked for some figures on the last two years, and I understand he has some different figures.

Chairman Catterall: What do these pennies add up to in premiums?

A. The small item - - -

Q. I want to know what the pennies amount to in premiums?

A. That, again, is something we would have to calculate. We have no penny loading.

Q. This year it is going to be 1.3 per cent of the premium?

A. Yes.

Q. So if you take 1.3 per cent of your premium, do you know what that is?

Mr. Moncure:

Q. May I help you? Take your premium total, and take the percentage figure of that. What is the figure that you get, what is the figure you come up with; and that is the question Commissioner Catterall asked you.

A. That is a mathematical calculation.

page 40 ] A. I will then ask you to make the calculation.

He wants to know how many dollars the 1.3 per cent will be applicable to?

A. I have calculated simply for verification, Two Hundred and Thirty-Four Thousand Dollars.

Q. Is that reduced or raised by the Rate Level Adjustment Factor, and by what approximate amount?

A. Yes. The premiums collected for the catastrophe losses would be reflected in the calendar year data, and that would have the effect of reducing this amount by approximately half, so we would be receiving around One Hundred and Seventeen Thousand Dollars.

Q. In other words, the Rate Level Adjustment Factor would reduce that by about half?

A. Yes.



*Roy Kallop*

Chairman Catterall: That is so paradoxical that we should have it explained.

Mr. Moncure:

Q. What is this Rate Level Adjustment Factor, and how does that operate?

A. The premiums will include the amounts page 41 ] collected for catastrophe, and if there were any losses in excess of these limitations for a calendar year, they would also be included.

So, on the loss side, if you do have amounts above the limitations, this would increase the Rate Level Adjustment Factor, but the premium you are collecting for this 1.3 per cent would have the effect of reducing the premium figure by half. That would leave you one-half of the Two Hundred and Fourteen Thousand Dollars.

Chairman Catterall: I still can't understand that. Mr. Moncure is a lawyer. Let him sum it up, and then you can tell us if he is correct.

Mr. Moncure: If you take your Rate Level Adjustment Factor, and include your premiums collected on your 1.3 per cent catastrophe, and include it in your total premium receipts, you change the premium, without it in there, down to, say, 1.29 per cent, which has the effect of taking fifty per cent of the 1.3 per cent into the Rate Reduction. Is that what you are trying to tell us?

page 42 ] A. Expressed another way, if you were collecting premium losses, and not paying losses, if in the current year involved there were no catastrophe losses, in lieu of realizing the 1.3 per cent of the catastrophe losses, you would only collect one-half of that, which would be six-tenths of one per cent, or seven-tenths of one per cent.

Chairman Catterall: I can't understand it to save my life. It does not make any sense.

Mr. Moncure: This Rate Level Adjustment Factor —

Chairman Catterall: It puts them down.

Mr. Moncure: It puts them up as often as down, and the Rate Level Adjustment Factor jumps to down because you are getting this much premium, and if you have the 1.3 per cent for catastrophes, and no catastrophe occurs, you have

*Roy Kallop*

that figure and your Loss Adjustment Factor says you have no more.

Chairman Catterall: I understood the Adjustment Factor always went up.

Mr. Moncure: That Rate Level Adjustment page 43 ] Factor is like a sign on the railway, and when you are getting it too high, it shows us that, and we look at past history when the companies were getting too much premium, and that Rate Level Adjustment Factor was put in, and it was reduced; and the next year there has been a difference, but the whole idea is to get the right amount of premium to pay the losses.

Chairman Catterall: If the losses produce that much loading for one year, then you will give it back the next year?

A. Yes.

Mr. Moncure:

Q. I have asked you to prepare for me an exhibit showing the rates which would have been had you ignored your catastrophe collections, and thrown your catastrophe losses into the ratemaking procedure, that is, put them in as a loss?

A. Yes.

Q. Have you made that for me?

A. Yes.

Mr. Moncure: I ask that that be received as Exhibit No. 7.

page 44 ] Chairman Catterall: That will be received as Exhibit No. 7.

Tell us what the abbreviations mean, "MFG" and "CONT," on that statement.

A. That is "Manufacturing," "Contracting," and All Other.

Mr. Moncure:

Q. Now, look on the line and tell us, in the first column there, what is the request for rates covered in this filing; point out that line to us.

A. The top half of the exhibit is what we have actually filed, specifically referred to as Line 5. This shows the change in rate level due to experience which overall produces the three per cent increase.

*Roy Kallop*

Q. That is on your method of not throwing in the losses you define as "catastrophe?"

A. Yes.

Q. Drop on down to the next column, and tell me whether you have put in your so-called catastrophe losses there?

A. Now, you are talking about the one where page 45 ] the catastrophe losses are?

Q. Yes.

A. That is showing the 3.9.

Mr. Elliott:

Q. As distinguished from the 3.7?

A. Yes.

Mr. Moncure:

Q. And there is a difference there of two per cent?

A. Yes.

Q. While we are looking at this, it may be of help on the Rate Adjustment Factor on the "A. O." your Line 5, it is 3.9 per cent, whereas, when you come down to throwing in the catastrophe, you come in with a lesser factor of 3.6 per cent. Is that the result of throwing in the catastrophe losses?

A. Yes. There was no catastrophe in the "All Other" group. In fact, all of the catastrophe included in the rate level was in the manufacturing group.

Q. So, if the Commission saw fit to show catastrophe losses in general ratemaking, our application would be the figures in Line 5, or a total increase of 3.9 per cent?

A. Yes, sir.

Mr. Moncure: All right, that is enough about catastrophe.

Mr. Gray: Would it be helpful if we took it issue by issue?

Chairman Catterall: I believe it would be helpful to cross examine on this, and we could all be thinking about it.

### CROSS EXAMINATION

By Mr. Gray:

Q. You spoke about a person having an allergy to soap or an allergy to ink, from which they could have an occupational disease. Would that allergy be so unusual as to come under the penny?

*Roy Kallop*

A. The penny allowance is to cover both the catastrophe on a traumatic accident and also on situations where you do have an emergency of diseases. It represents both. It is something unknown.

Q. Is it something we don't know about people having an allergy to soap or ink?

A. If you had a flock of these as a result page 47 ] of some new kind of soap or ink, to create a large number of cases of the disease, you may have a large office building, and the amount did exceed the limitation, it would not be used in our ratemaking.

Q. What is the limitation for disease?

A. The limitation for disease runs around Forty-Seven Thousand Dollars.

Q. Is not the figure Forty-Eight Thousand, Seven Hundred and Fifty Dollars; is that the figure?

A. I have it here. Just a minute — Yes.

Q. So, up to Forty-Eight Thousand, Seven Hundred and Fifty Dollars, they are in the ordinary category?

A. Yes.

Q. Let's think about this thing, this filing we are talking about right now, and your request for 1.3 per cent. Is there going to be any adjustment made anywhere that will cut down the amount that will be paid this year for catastrophe to that 1.3 per cent? Will the Rate Level Adjustment Factor affect it?

A. It would have no effect this year.

Q. So, if you collect that much this year, page 48 ] it is gone?

A. The effect of setting up the rates this year for anticipation of what will occur, and we have limited losses and adjust forward.

Q. What limitations?

A. The limitations are in excess of Forty-Eight Thousand Dollars, but the traumatic were limited to Nineteen Thousand, Five Hundred Dollars.

Q. What were the limitations last year?

A. I think it is approximately the same amount.

Q. It is Twenty Thousand Dollars?

A. Yes.

Q. I was impressed that the only thing coming down was catastrophe. Have you computed the average losses that you characterize as "catastrophe losses" for six years? Have you computed what they are annually?

*Roy Kallop*

A. No, because we consider them unpredictable. There is no prediction on losses. This could go to Four or Five Hundred Thousand Dollars.

Q. Are we talking about Four Hundred Thousand Dollars?

page 49 ] A. This might represent many customers, and it may not involve any catastrophes.

Q. How do you get the figure then?

A. In 1957-1958, we had no losses in excess of the limitation.

Q. Did you total up what the losses were for that six year period?

A. I can do that.

Q. Will you do that, and tell me what the total catastrophe losses were for six years?

A. I have Four Hundred and Forty-Seven Thousand Dollars. That includes the catastrophe that was on the Longshoremen. If you exclude that, Three Hundred and Eighty-Seven Thousand Dollars.

Q. Give me a Hundred Thousand, and make it Three Hundred and Forty-Seven Thousand?

A. Two Hundred and Eighty-Seven Thousand.

Commissioner Hooker: They were the six year figures?

A. Yes. If you took the catastrophe on the Longshoremen.

Chairman Catterall: There is no reason to include that any more than the explosion in Siberia.  
page 50 ]

A. It does affect the rates. There are situations where stevedore men were working on the dock.

Q. But these rates today have nothing to do with Longshoremen?

A. Not as respects the overall rates themselves, but the rate filed for that classification covers both.

Mr. Gray:

Q. Tell me what the average has been for the last two years — divide it out.

A. It is a little less than Fifty Thousand Dollars.

Q. It is Forty-Eight Thousand Dollars per year?

A. Yes.

Q. And what will this 1.3 per cent produce by way of additional premium this year?

A. Two Hundred and Thirty-Four Thousand Dollars.



*Roy Kallop*

Q. That is what it produces?

A. Yes.

page 51 ] Q. At last year's hearing, we were discussing a quarter of a cent loading, which previously existed, and the Company said that that did not produce sufficient because of some kind of rounding proposition?

A. Yes.

Q. If you had used the same method you had used this year, and expressed it in percentage points, rather than pennies, you could have calculated that one fourth?

A. Based on these figures?

Q. Based on anything. Today you are talking about 1.3, and that is equivalent to one cent.

Chairman Catterall: How does that get to be one cent?

Mr. Gray: It is based on various categories of risks.

Mr. Elliott:

Q. You define the rate, and add one cent to the rate, and under the percentage method you come up with a rate in the same manner except you add to that rate an additional 1.3 per cent. So that in some cases it may mean nothing, but certainly any rate above forty-five cents, it would  
page 52 ] have the effect of raising the rate five cents, but on a rate of Fifty Dollars, you would raise it forty-five cents?

A. It would increase the rate.

Q. It is 1.1 per cent which is four or five cents?

A. Yes, Sir. And anything below a certain figure, below that payment of forty-five cents, you would have no catastrophe.

Q. And studies would show that it would pick up at sixteen cents; drop a little, and pick up at eighteen cents; and then have no effect until twenty-one cents or something of that kind?

A. Yes.

Mr. Gray:

Q. The point I am trying to make is this: As I understood the position the National Council took last year was that one penny is the lowest amount we can put on, and this is why we are putting on this most trifling amount that we can put on it, but when you express it in percentage points, if the Commission felt the one penny was too much, you could divide

*Roy Kallop*

it by six or any amount, and you could realize premium dollars from it?

page 53 ] A. In the overall, but since rates are only carried in dollars and cents, that has the effect of no increase or an increase of two or three —

Q. Why does the 1.03 meet your needs? Why not make it one point?

A. The carriers felt that the reason for this liability in the overall should be approximately the same as a penny per hundred dollars.

Q. The carriers feel that an allowance of Two Hundred and Thirty-Four Thousand Dollars is the minimum that should be permitted to cover the loses which have averaged Forty-Seven Thousand Dollars per year for the past six years?

A. No. It was not based on statistics. We do not believe it should be based on statistics.

Q. That is what exactly I want to get to. It is the same old horse, not based on statistics this year any more than last year, but the same old horse dressed in a different color. It is not expressed in statistics any more than last year, but it is the same old horse.

A. It is the same old problem dealing with the problem, and the best way we can handle it.

page 54 ] Q. And your Exhibit No. 7, just filed, is based on what statistics?

A. Yes.

Q. I said "based on what statistics?"

A. This is what would happen if there were no catastrophe allowance.

Q. This is what would happen if you grind into the machine your rate and classification?

A. Yes.

Q. The bottom part of this exhibit, this rate level, based on no catastrophe allowance is your next angle?

A. I believe so. There is some question in our mind as to what can be used as catastrophe. You refer to Five Hundred Thousand Dollars —

Q. If that Five Hundred Thousand Dollars were to apply, what effect would it have?

A. If the same relation applied, it would have the same effect.

Q. It would not change one figure on this paper at all?

*Roy Kallop*

A. Not with respect to those years there.  
page 55 ] Q. How do the companies handle losses of Five  
Hundred Thousand Dollars, and over?

A. They could handle it —

Starting from the beginning, the companies receive —

Q. I asked you how do you pay the losses.

A. How do they pay the losses?

Q. Yes.

A. I imagine a good many of the companies have reinsurance agreements. I can't speak of any particular company. I am not familiar with the internal construction of the companies.

Q. And if a company has reinsurance on a cost of this magnitude, that is one of the costs of operation?

A. If he has reinsurance, he pays money every year for providing that reinsurance, and that would be taken care of by the loss side when the catastrophe occurs.

Q. And when he receives the premium dollar, that has to cover the cost of reinsurance?

A. I don't know the price or the basis. I don't think this is germane to this subject.

Q. You don't think that the fact that the  
page 56 ] company receives a premium and takes a small  
portion of that and pays for reinsurance is germane to this issue?

A. For one reason, no, because the reinsurance is a different amount. I don't believe the company would insure for an amount in excess of Five Hundred Thousand Dollars.

Q. What ever he insures for, he pays for out of the premiums he receives?

A. Yes, actually.

Q. And on his balance sheet, when he determines whether he made a profit or loss, the amount of reinsurance that he paid for would be one of the cost items?

A. Yes.

Q. How many companies are writing Workmen's Compensation in Virginia today?

A. I don't know the exact number.

Q. A hundred and forty five — would you say that is about right?

A. I would accept that, Sir.

Q. Is it your contention that these companies should be allowed to receive an excess over the

*Roy Kallop*

page 57 ] loss that you are encountering in order to build up a reserve?

A. I think companies should receive a reasonable price for this liability, and we believe that the 1.3 per cent is a reasonable price.

Q. Would it have been a reasonable price the last six years?

A. I don't think you can tie it down to any period of time.

Q. Then you are, in effect, saying that you think they should be allowed to accumulate a reserve?

A. Even if no loss occurs, the companies have to expose their money to losses. Their entire assets are on the line.

Q. We are now talking about Two Million Dollars, and not Nineteen Hundred.

A. With one company, if their premium is only Thirty-Five Thousand Dollars, and they had a loss of this magnitude that wipes out their premium for thirty-five years, and I would consider that a catastrophe for that company.

Q. You think that company should be allowed to build up a reserve?

A. I believe they should be allowed a reasonable price each year for exposing their money to this type of insurance, and when a catastrophe occurs, he has to pay, whether he is reinsured or not.

Q. But if he is reinsured, he has not exposed his money to the losses?

A. But he is paying reinsurance premiums.

Q. But he is paying it out of his premium received from his policyholder?

A. Yes.

Q. And he is paying a premium for that?

A. For any premium year you come up with that, but he has to expose his money to that hazard.

Q. But if a catastrophe occurs, and the reinsurance company pays it, it does not affect him?

A. Again, we get back to the same thing we were discussing a few minutes ago. He has to pay his reinsurance out of his premium.

Q. And if they don't want to expose their company's assets, they can reinsure and pay for it out of the premium they receive?

A. Yes.

*Roy Kallop*

page 59 ] Q. And they don't have to build up a reserve from their premium?

A. They have to pay the customary premium.

Q. And they have done so out of the person's premium that has paid for that insurance?

A. Yes.

Chairman Catterall: 11:30 A. M. The Commission will recess for ten minutes.

11:40 A. M. The Commission resumes its session.

Chairman Catterall: Would both sides be happy if we compromise that by making it one-half of one per cent, instead of 1.3 per cent? The opposition said the 1.3 per cent was to take the place of the one per cent, and that covered the actual thing.

Mr. Moncure: The suggestion was made that the proper place to put it was to put it in Profit and Contingencies, and, instead of having that figure 2.5 per cent, to make that figure three per cent.

Chairman Catterall: It would be Profit and  
page 60 ] Contingencies?

Mr. Moncure: That is one thing you suggested. I don't consider our figures as to catastrophe — I am not speaking for my clients, and I realize the Commission's attitude, and I have told them that is the reason I had this exhibit prepared. I felt that if I am not including it in my basic figures, and all the other States recognize it, but they can't say that we abandoned it in Virginia. We say it has been recognized as fair ratemaking, and I feel that is a fair solution to it.

Mr. Gray: On principle we are opposed to it because we have said that they can grind this into the rates, and come up with it, and they have filed this Exhibit No. 7, and we think that they should put the rates in, and put them in on those figures, and they can put in the experience on those figures and come out with the answer. This is what Mr. Kallop said could not be.

Chairman Catterall: They have these nation-  
page 61 ] wide statistics, and the practice of throwing in these Fourteen Thousand Dollars, and I can see the theory of it, but what we are interested in is dollars, and

*Roy Kallop*

if we can give them one-half of one per cent, they would break even.

Mr. Gray: We don't think this is the proper way, and if they put the figures in *in* the regular rate, this would come out in the end.

Chairman Catterall: Then you would contemplate a Rate Adjustment Factor.

Mr. Gray: I don't think, if these are put in, it would comprehend a Rate Adjustment Factor.

Chairman Catterall: We would never hit the bull's eye.

Mr. Gray: No, Sir. I don't see why we should by this one-half of one per cent.

Chairman Catterall: In your own mind you can assume that the two and a half per cent has gone to three per cent, but we don't want to do it because that would have some weight in Florida.

page 62 ] Mr. Moncure: The next question was the Rate Level Adjustment Factor.

Mr. Elliott: Don't you think you had better clear this up for the record? If the Commission's suggestion is accepted, and put into effect, may I ask one or two questions on the record?

Chairman Catterall: Yes, certainly.

Mr. Elliott:

Q. Referring to Exhibit No. 7, then what happens in the top half of that exhibit, Line 6, is the Catastrophe Allowance changes to 1.005 across the board?

A. Yes.

Q. And then you arrive, in Column 7, at Total Change in Manual Rate Level, and you multiply those figures shown in Line 5 by the 1.005 and that gives you the change in Manual Rate Level for Manufacturing, Contracting, and All Other, and the total; is that correct?

A. Yes.

Mr. Elliott: I think that shows on the record  
page 63 ] now. It shows exactly what they are, and you don't have what they are?

A. No, we never do that.

Chairman Catterall: The Rate Level Adjustment Factor was what you were objecting to?

*Roy Kallop*

Mr. Moncure: He was only against that in principle.

Chairman Catterall: That would be the 1.005?

Mr. Moncure: Yes. We move on to the Premium Formula.

Q. Will you make your explanation on that, please, Mr. Kallop?

A. Yes. The present Formula, which applies for determining minimum premium, that is the minimum charge that is necessary to underwrite any risk, has been a formula that has been in effect many, many years. It went back to 1927, and at that time the formula was established and determined by considering what the average annual wage was at that time, and figuring what the premium would be for all workers, and adding to it the Ten Dollar expense constant. That formula has been in effect, and is still in effect.

page 64 ] In recent years the companies have felt that this was out of line, and does need adjustment. This is something that you would not change very often, but they did feel, in the light of current economical conditions, with an average annual wage based on 1927, which is considerably different from what the annual wage is today, and the National Council reviewed the problem, and noted that the average annual wage today is in the neighborhood of Forty-Three Hundred Dollars. This, in itself, would have required a considerable increase in the minimum premium formula.

Chairman Catterall: When you say "minimum premium formula," you mean you apply the Manual rate to the Twenty-Five Hundred Dollars, and then add Ten Dollars?

A. Yes.

Q. The Ten Dollars is for the expense of the paper work?

A. Yes, in part.

Q. And acquisition, and other costs?

A. Yes.

Q. How many dollars are you talking about  
page 65 ] when you say you apply the premium rate of Twenty-Five Hundred Dollars?

A. The average rate in Virginia is around Eighty Cents, and I think we are speaking about an increase of maybe Eight Dollars.

Q. If the premium rate was One Dollar, then the premium would be Twenty-Five Dollars plus Ten Dollars, which would be Thirty-Five Dollars minimum, instead of a Twenty-Five

*Roy Kallop*

Dollar minimum?

A. Yes.

Q. In other words, about Ten Dollars more for the little fellow?

A. Yes.

Q. And there are fourteen hundred of the little people?

A. According to the reports we have received from the Virginia Industrial Commission, that is correct. The amount, of course, varies in accordance with the size of the Manual rate. The low rate of classifications has only a nominal amount of increase. The higher classifications have a more substantial increase.

Mr. Moncure:

page 66 ] Q. When you use the Twenty-Five to Thirty-Five Dollars, that is twenty-five per cent for the first year?

A. Yes.

Q. What is it the second year?

A. That is another twenty-five per cent.

Q. And the third year on the minimum?

A. Yes. Then the new formula would take effect.

Chairman Catterall: Then they only pay it for two years?

Mr. Elliott: That would be an increase of sixty-six and two-thirds per cent?

A. On this particular case of Twenty-Five to Thirty-Five.

Q. On any?

A. On any of that, that applies.

Q. But on the rate prior to the increase, it would be sixty-six and two-thirds per cent?

A. No, fifteen times the small rate would only give you a few dollars, plus the expense constant, which would be Ten Dollars, but when you increase the premium by Twenty-Five Hundred Dollars —

page 67 ] Q. Then you multiply it by a multiplier of sixty-six and two-thirds per cent?

A. Yes.

Q. So, on the rate paid, it is an increase of sixty-six and two-thirds per cent?

A. Yes.

Q. And that portion that Mr. Moncure referred to by in-



*Roy Kallop*

creasing twenty-five per cent the first year, and twenty-five per cent the next year, and then the third year nothing, would not be realized until the third year?

A. The full premium would be building up.

Chairman Catterall: The rate base for your Ten Dollars is not covering the costs that it was meant to cover?

A. Yes, there are several initial costs the carrier has. He has to have the right to set up the policy, acquisition costs, taxes, and statistical programs for the Industrial Commission on each risk, and other items,

Q. But none of them is related to the amount of the premium on the balance of the workers?

A. That is right.

page 68 ] Q. What you really want to do is ask for an increase of the Ten Dollars, and you figure it would be justified by today's expenses?

A. In your concept of it as a minimum, you are referring to one worker, and the premium you get from one worker, but the worker in a higher rated class would have a higher premium than for the lower rated employee.

Mr. Moncure: I believe that covers that.

Chairman Catterall: We will take that under advisement, and we would be glad to have any suggestions from counsel.

**CROSS EXAMINATION**

By Mr. Gray:

Q. Do you have any losses for Virginia on minimum premium risks?

A. Yes; and I would like to explain, having read Mr. Goddard's supplement, that he has been interested in the Loss Experience of minimum premium risks. I had earlier given him information on the number of such risks, and the premium amounts. If I had known he was interested in the

Loss Experience, I would have made that information available to him also, but we have such information.  
page 69 ]

Mr. Elliott:

Q. Is that Page 9 of Exhibit No. 5?

A. Yes, specifically, in the two years involved in our rate-making period; the first year the incurred losses amounted to

*Roy Kallop*

Seventy-Two Thousand, Five Hundred Dollars; and, in the second year, Seventy-Two Thousand, and Twenty-Two Dollars.

Mr. Gray:

Q. And what was the premium you received in the two years?

A. The premium we received from the expense constant was, for the first year, Forty-Four Thousand, Six Hundred and Fifty-Four Dollars; and the second year, Fifty-Five Thousand, Six Hundred and Forty-Five Dollars.

Q. How much premium did you receive from this classification of risk, exclusive of the expense constant?

A. For the two years combined, Seventy-Five Thousand, Two Hundred and Thirty-Nine Dollars.

Q. What were the losses incurred from that page 70 ] class?

A. Fifty Thousand, One Hundred and Two Dollars.

Q. You took in premium Twenty-Five Thousand, Five Hundred Dollars more than the losses incurred, without any consideration for the expense constant?

A. Yes; the loss rate of 66.3 is well above the permissible loss ratio used in ratemaking.

Chairman Catterall: What was your loss ratio?

A. 66.3

Q. What is permissible loss ratio?

A. Around 59.6.

Q. That was without your Ten Dollars?

A. Yes.

Q. So your Ten Dollars really covers this expense?

A. No. The Ten Dollars helps to pay part of the initial expense.

Q. Does every insured pay the Ten Dollars in addition to the Manual premium?

A. Up to premiums of Five Hundred Dollars.

Q. And above that you don't collect the page 70A ] Ten Dollars?

A. That is right, but the Ten Dollars expense constant is automatically included in the Manual premium.

A. Yes.

*Roy Kallop*

Mr. Gray:

Q. And your total premium that you received the last two years, without consideration of the expense factor, was Seventy-Nine Thousand, Two Hundred and Thirty Dollars. How much of that increase over a two year period — this total is two years — how much would that be increased when the full effect of your proposal is in?

A. That would vary by classification.

Q. Why would it vary by classification? Why would it not be sixty-six and two-thirds per cent more than Seventy-Five Thousand Dollars?

A. You are dealing with Column 3, exclusive of the expense constant?

Q. Yes. It will go up sixty-six and two-thirds per cent?

A. Yes.

Q. So you are increasing it by Sixty-Six Thousand Dollars?

page 71 ] A. Yes.

Q. What sort of loss ratio would you have then?

A. The thing I think we are missing is that we are proposing an increase in the minimum premium formula because of needed money for expenses. The loss factor here shows that the amount of premium payable for losses is being used for losses, and the increase in dollars is for the necessary additional expense of handling. The fact is that from 1927 until now the cost of these expenses has increased tremendously.

Q. How much has the expense constant netted you?

A. The expense constant applies to —

Q. How much has it netted you for handling this?

A. Twenty-Four Thousand, Five Hundred Dollars.

Q. You are asking for an increase of Fifty Thousand Dollars?

page 72 ] A. The minimum premium is cut to two points.

Q. It will net you, if the rate had been based on Twenty-Five Hundred instead of Fifteen Hundred, it would have netted you an additional Fifty Thousand Dollars?

A. That is right.

Q. So that to cover these additional costs, you want three times as much as you are now getting?

A. No, Sir. The total premium is One Hundred Thousand Dollars.

*Roy Kallop*

Q. Three times as much as you are now getting without considering the expense constant?

A. You can't split the minimum premium up that way. The minimum premium is the formula to show the amount of the total.

Q. You split it up on the exhibit?

A. We are trying to show that, as far as the present rates are concerned, the amount available for losses has been paid out for losses. The losses have been paid out of what is being paid in for losses.

Q. And the expense is available for expense?

A. Yes.

Q. And how much has been paid out, Twenty-Four Thousand Dollars?

page 73 ] A. Yes, absolutely.

Q. And you are now asking for Fifty Thousand?

A. For the total amount, yes, Sir.

Q. You did not use the loss portion to pay expenses. You told me that paid the losses, so you are using part of the expense to pay losses?

A. This is a figure to produce more dollars.

Q. How much would it produce if the figures remain the same, Fifty Thousand?

A. Yes.

Q. And how much was available under expense?

A. The expense constant itself was Twenty-Four Thousand Dollars.

Q. And you had Twenty-Four Thousand, and you want Fifty Thousand Dollars more to pay them?

Chairman Catterall: We have got you along on the same basis. Maybe Mr. Elliott can clear us up.

Mr. Elliott:

Q. What is the basis for the request for the change in the minimum rule; is it losses or expense?

page 74 ] A. It is expense.

Q. Under the figures shown on Page 9 of Exhibit No. 5, you are presently getting Twenty Dollars a policy for expense on minimum premium policy, are you not? And I arrive at that by taking .32 of the premium plus the expense constant of Twenty-Four Thousand, Four Hundred and

*Roy Kallop*

Sixty Dollars, which gives you a total of Forty-Eight Thousand, Eight Hundred and Sixty-Four Dollars for expense on these policies. Is that not right?

A. You are speaking of average increase?

Q. Yes. In other words, you had during the two-policy years 1959-1960 and 1960-1961, Twenty Thousand Dollars of expense on these two minimum premium policies?

Chairman Catterall: One-third of the premium plus Ten Dollars.

A. I am sorry, I am a little confused.

Mr. Elliott:

Q. This rate is divided into Sixty-Eight Dollars, and Thirty-Two, Sixty-Eight for losses, and Loss Adjustment Factor, and Thirty-Two for Expense, and two and page 75 ] a half per cent for Profit, but, taking it roughly at Thirty-Two. That gives you, out of your premium dollar, something over Twenty-Four Thousand Dollars from your rate for expense; isn't that right?

A. Twenty-Four Dollars.

Q. Twenty-Four Thousand Dollars from the rate paid on your premium?

A. Yes.

Q. And you got Twenty Thousand and Sixty Dollars from your expense constant part of your premium?

A. Yes.

Q. How many more dollars do you need, and what is the justification for it?

A. The problem arises in the fact that in 1927, which was —

Chairman Catterall: Oh, no. Can't you tell Mr. Elliott how many more dollars you want?

A. If I understand you correctly, Sir, it would be Twenty Thousand.

Mr. Elliott:

Q. What do you base the Twenty Thousand Dollars on?

A. Excuse me. You are talking about thirty- page 76 ] two per cent. I think it would be a little higher than that. I think it would be closer to Thirty Thousand Dollars. We start with a rate of Seventy-Five Thousand Dollars, and recognize that the total expense al-

*Roy Kallop*

lowance in the rate structure for that would be, roughly, thirty-five per cent. The total expense allowance, including the Loss Adjustment Expense, is a little closer to forty per cent.

Q. Well, you keep talking about the fact that this rule was established in 1927, but, since 1927, and, as a matter of fact, in the last seven or eight years, the expense constant was added. The expense constant was not a part of the rule originally?

A. Yes. The formula in 1927 was fifteen times the rate plus the Ten Dollars expense constant. I stand corrected. I was unaware there was the expense constant.

Q. And this was added to take care of the expense.

Chairman Catterall: We will take all of this under advisement. Is that all?

Mr. Moncure: No; the Off Balance.

Mr. Moncure:

page 77 ] Q. Address yourself now to the Off Balance Factor, when you make your rates across the board, you don't come up with the exact rate?

A. No.

Q. And this is due to what?

A. We do have an experience rating plan.

Q. And the rule in regard to an experience rating plan is compulsory in Virginia?

A. Yes.

Q. And if you receive only ninety-five per cent in this minimum premium, how do you bring it to one hundred per cent?

A. We have in our Manual five per cent for Off Balance.

Q. Is that the five per cent you multiplied by?

A. Yes. It is three per cent in arithmetic.

Q. And in arithmetic it takes three per cent to bring up your ultimate rates to one hundred per cent?

A. Yes.

Q. And is that calculated under your experience rating plan?

page 78 ] A. Yes.

Chairman Catterall: And you apply that so far as your experience rated people, as well as everywhere else?

*Roy Kallop*

A. Yes, insofar as experience rated people are in the minimum rate.

Q. It is in substance the same figure that you have always followed?

A. Yes.

Q. Isn't that the purpose for which it has always been used, and such adjustment as you have made?

A. Yes.

## CROSS EXAMINATION

By Mr. Gray:

Q. You said you did it this way, the way we have always done it?

A. Yes. I think I explained last year, and, as you know, has been explained earlier at this hearing, that the policy year 1959-1960 was not available, and we did not have the use of those figures, and we followed our standard procedure by recognizing whatever experience has been  
page 79 ] available which involves new information on the policy year, 1960-1961.

Q. Have you not normally used two years?

A. We have used two periods involved in ratemaking.

Q. The two latest periods?

A. The two periods involved in ratemaking.

Q. And last year you had only one year?

A. Last year we had the figures for the latest information because we had no new information.

Q. What did you do?

A. We retained the same factor.

Q. Did the information you have now indicate that it should be?

A. The latest year was unknown. The other year by itself would have called for a decrease.

Q. So the latest indication you had for last year would have called for a decrease, but, because you only had one year, you kept it at the same?

A. It was because we had no new information available. No new facts were known to us last year. If the information had been available, we would have used it.

page 80 ] Q. Year before last, how much of a decrease did the information you had indicate should be put into the Off Balance Factor?

A. Two years ago?

*Roy Kallop*

Q. Yes.

A. I would have to check that.

Q. But did it not indicate it should be two points, but, because of the indicated, it was only one point?

A. Yes.

Q. And year before last, it should have been a two point decrease, but, because of the limitation, you came down to one point?

A. I would have to check that.

Q. When you looked at it last year, did it not indicate it should come down one point?

A. Last year, since there was no new information, it did not indicate any change at all. It could not move one point or two points.

Q. Is that the reason you usually use two years' information, instead of one?

A. It would be the same thing if we had no information at all on Virginia. We would not go  
page 81 ] in and file for additional rates based on no new information of the latest policy year.

Chairman Catterall: What are you asking for this year?

Mr. Elliott: Increasing it from two to three per cent.

Chairman Catterall: That is one per cent point across the board in the rate. Mr. Gray, I believe I will ask you if you can find out if the information year before last indicated that it should come down two points.

Mr. Gray: I would have to check the filing for that.

Chairman Catterall: Do you remember that, Mr. Elliott?

Mr. Elliott: No.

Chairman Catterall: When you were before the Commission, you did not have the latest year, but only one year was presented?

A. Yes.

Q. And that data was not available?

A. No.

Q. Do you have last year's data today?

page 82 ] A. Yes.

Q. And you are calculating that on the latest two years now?



*Robert D. Heitzmann*

Mr. Gray:

Q. You want to calculate it on the latest year you have available?

A. Yes, it is the new information available.

Q. And you want to calculate it on the one year?

A. If the information had been available, we would have included that.

Q. But you have not used the experience of the year before that?

A. That is unsound in a ratemaking program.

Mr. Moncure: This year it showed an increase of more than one per cent, but the limitation held it down to one per cent?

A. Yes.

Chairman Catterall: We will take this part of it under advisement.

Mr. Moncure: I think Mr. Heitzmann had better answer the next questions.

Witness stood aside.

page 83 ]

ROBERT D. HEITZMANN,  
a witness introduced on behalf of Applicant, being  
first duly sworn, testified as follows:

#### DIRECT EXAMINATION

By Mr. Moncure:

Q. Please give your name, and occupation.

A. My name is Robert D. Heitzmann. I am Assistant General Manager of the National Council of Compensation Insurance.

Q. Come on down now to Payroll Changes, and address yourself to that variation, and why you recommend that increase from a Hundred Dollars to Three Hundred Dollars, and whether it will bring about any actual increase in premiums, and so forth.

A. I think, boiled down, we can relate these changes to two purposes: One we *disucced* in 1958; and one was the use of Payrolls, and the effect we have today from our economic changes that have occurred, relating the Payroll Change to the economic change, and how they relate to this thing, plus

*Robert D. Heitzmann*

the fact that rates are changed each year. Each year we come in with a annual rate revision which we think is a valuable asset to Workmen's Compensation Insurance page 84 ] in making all the revisions and things necessary in Virginia.

Another important purpose is one alluded to by Mr. Moncure, and that is using the Payroll. In this Payroll thing, it is exposure to hazard, and this is what the insurance company is doing, and even though there is no loss, the insurance company is entitled to a price for their liability on the losses. This measure of exposure to hazard would be no problem at all if the people were paying a premium within the present limitation, but when you get to the point where the general wage-paying practice exceeds this computation, you don't figure the level to seek how many people in the plant rather than exposure to the hazard. Mr. Moncure pointed out that if you had an industry where the average week was forty hours a week, a man would produce a Hundred and Sixty Dollars, at \$4.00 per hour and the insurance company would use a Hundred Dollars of that figure to collect premium on. On the other hand, this same risk could have another man who is handling more work, but only working twenty-five hours, and the insurance company would use the Hundred Dollars for the twenty-five hours, and you would get page 85 ] the same premium for the forty hour man as for the twenty-five hour man, but with the lid on, you wind up with some assureds paying premiums less than they ought to pay, and others paying more. Our proposal is, and this is countrywide, and we have a score sheet showing where it is in force — our position is that we produce a printed Manual rate and allow payrolls going into the rate system up to a maximum of Three Hundred Dollars. This does not mean an automatic jump of three times in the amount of payroll dues. There are relatively few people who are actually paid Three Hundred Dollars per week, but there are a great many between the Hundred and Three Hundred Dollar area, over a Hundred Dollars.

There was some confusion over the Rate Level and actual Manual Rates. The proposal is an increase of 3.7 per cent in the Rate Level. That means, as a result of this proposal, the carriers will be receiving in money 3.7 per cent more. At the same time, however, the rates otherwise, which have been proposed to produce 3.7 per cent premium, have been reduced

*Robert D. Heitzmann*

by 6.6 per cent. This is the printed Manual Rate,  
 page 86 ] the book rate. By using this reduced rate, and ap-  
 plying against it the payrolls at over a Hundred  
 Dollars, this will give you the 3.7 per cent premium. If you  
 did not reduce the rates, it would give you more premium, and  
 the purpose is not to increase the rates by this. If you com-  
 pare the Virginia Manual rates today with another State, with  
 the Three Dundred Dollar payroll limitation, the Virginia  
 rates would look higher if everything else were equal.

Chairman Catterall: An employer that does not pay any-  
 body more than a Hundred Dollars per week would get the  
 six per cent reduction?

A. No, Sir. The way the 6.6 per cent reduction applies, it  
 has been spread out over all the classifications. There are  
 some classifications that get 44.8 per cent. We don't have too  
 many of them, and other classes get no reduction at all because  
 the general wage practice is around the Hundred Dollars or is  
 the Hundred Dollars.

Q. Take an employer whose rate is not changed, the pre-  
 mium would remain the same — Let's take two like that. One  
 pays a Hundred Dollars a week, and the other Two Hundred  
 per week to every employee. Would the Hundred Dollar man  
 get a decrease?

page 87 ] A. No.

Q. Will you make an explanation as to when  
 anybody would get a change?

A. The example I gave of the man whose workers are work-  
 ing twenty-five hours per week as against a man whose work-  
 ers are working forty hours at the same rate of pay, the  
 twenty-five hour man would be paying less than the forty  
 hour man.

Chairman Catterall: Some people would get less?

A. This program is designed not to produce more money in  
 the overall, but to collect the money on a re-distribution basis.  
 In other words, some risks will pay more, and they ought to  
 because they have additional exposure to hazard, and others  
 less. And we know this to be a fact, and we have had a great  
 deal of experience because it is in force in all but eight States.

*Robert D. Heitzmann*

Mr. Moncure:

Q. I hand you an exhibit showing which States are in this, and ask that it be received.

Mr. Elliott: It is already in as Exhibit No. 5.  
page 88 ] A. What this shows, as you will see from the exhibit, are the States where the Three Hundred Dollar rule has been adopted or something comparable to it, and where the Hundred Dollar limit applies. So, if you look at the last column to the right, these are the only States that have the Hundred Dollar rule. There are only eight.

Chairman Catterall: New York is in this column?

A. New York has not filed it. New York's Insurance Department *are* planning to go into a study of it, and examination.

Chairman Catterall: It sounds reasonable to me. How about you, Mr. Gray?

Mr. Gray: No. Maybe you can convince me, Mr. Heitzmann.

Q. Suppose there were two companies, each working forty hours, they would pay the same premium?

A. Yes.

Q. If your proposal is adopted, and one employer doubles the payments for his employees how much greater exposure to hazard does the insurance company have?

A. None.

page 89 ] Q. How much more would they pay?

A. Presumably twice the premium.

Q. So every time they give a worker an increase in pay, he would pay more for insurance?

A. Yes, but you find in an industry a man does not double his salaries when he has to compete with his associate, and this program recognizes that there is a general wage paying practice in industry.

Q. Take me through another illustration. Assume employer A has three secretaries working for him, and he pays them a Hundred Dollars per week; and employer B has one general counsel working for him that he pays Three Hundred Dollars per week. What is the difference in premium that is paid by employer A and Employer B under your proposal?

A. Today?

*Robert D. Heitzmann*

Q. No, under your proposal.

A. Under our proposal, that would be the same, assuming they are in the same classification.

Q. Secretaries and general counsel are in the same class?

A. Secretaries are a nonexecutive occupation.

page 90 ] Q. In your Manual?

A. Yes.

Q. Which has the greater exposure to risk?

A. You have the three girls exposed to more hazard.

Q. How much total coverage do the three girls have?

A. The policy covers whatever the policy calls for.

Q. The maximum weekly benefit is Thirty-Seven Dollars per week. What is the coverage exposure?

A. I can't tell without knowing the losses.

Q. With employer A it could work out Thirty-Seven Dollars, not only with one mentioned, but he might have to pay out three times as much?

A. Yes.

Q. But employer B pays out as much?

A. Yes.

Q. Does the employee making Three Hundred Dollars per week get any additional benefits when he gets a pay raise?

page 91 ] A. He can, depending upon the kind of injury.

Don't you have a law that when the man is partially disabled, he gets a percentage of what it was before?

Q. I think the maximum is on that.

A. The point is that he would be making Five Hundred Dollars, and could only make Four Hundred, and he would only get the maximum, but I know what you are leading up to, which is a tie-in between the basis on which benefits are paid under the compensation law, and the basis on which premiums are collected under a compensation policy. These don't have to be the same.

We know that for insurance purposes we have to get a package of dollars to pay losses and expense. We can devise a system by which we can get the package of dollars, based upon the number of people employed, and another one based on man hour exposure, and one based on that basis, exclusively. Actuaries are able to do that sort of thing, and say whether they are reasonable, but we can get the money needed for the State as a whole by using various premium bases.

*Robert D. Heitzmann*

Years ago the weekly payrolls were the basis on page 92 ] which they wanted to charge the Workmen's Compensation premiums. The reason was these payrolls, and the other was the exposure time on the job related to payrolls. We are not saying that this is absolute perfection because we think it is not. It is a reasonable basis, and we don't think it is producing premiums that are excessive.

Mr. Gray:

Q. Do you think it is time to socialize Workmen's Compensation insurance?

A. No.

Chairman Catterall: How could it be any more socialistic?

Mr. Gray:

Q. Are you making one pay for benefits he will not derive to have the money to pay for one who is not paying his part?

A. Isn't that the whole essence of insurance that the fellow who does not have losses puts money into the pool to take care of the losses that the others have?

Q. So, the man today with a certain exposure to your insurance companies at a Hundred Dollar salary, page 93 ] if he gave him a pay increase to One Hundred and Fifty Dollars, his exposure to your company is not changed? He has the same chance of being insured?

A. Yes.

Q. And the forty hours does not affect it?

A. If he worked for twenty-five hours for a Hundred?

Q. No, he is working for forty hours at a Hundred, and at a Hundred and Fifty?

A. Yes.

Q. But every time they get an increase, it would change?

A. Yes.

Q. They increased that revenue every time?

A. What happens to the Sixty Dollar clerk who goes to a Hundred Dollars is - - -

Chairman Catterall: When were these rates of pay put in?

A. The Hundred Dollars was put in in 1946.

Q. When was the maximum put in?

A. I don't know.

*Robert D. Heitzmann*

Mr. Gray: I don't know either.

Chairman Catterall: They have been raising page 94 ] them?

A. The payrolls fit into the rates.

Q. The maximum they can get is Thirty-Seven Dollars per week?

Mr. Gray: Yes.

Chairman Catterall: So the Hundred Dollars is three times the Thirty-Seven Dollars; and back in 1947, it was Seventeen Dollars. So it was six times what you could get. It is not tied together. What you want to do is to get the man hours.

A. That would be an inadequate basis. We could not get it from our companies. We could get it from some of them, or the industry that keeps their payroll on man hours. This Three Hundred Dollar rule works, and we have had experience with them across the country. We have had no problems. After getting it, we have along with it a transition period. This is a redistribution of premium, and somebody will pay more, and some will pay less. We don't want a great public relations problem over this, because some would pay more, and the insurance companies continued this transition  
page 95 ] problem to take care of these people by limiting the first year to ten per cent of what they normally would pay. It is a Hundred Dollars required, and under the transition program, it does not apply.

Mr. Gray:

Q. Do I understand, if the premium is less than a Hundred Dollars, he just pays the Ninety-Nine Dollars?

A. Yes. So, for the first two years, the limitation is a ten per cent increase; and the third year, fifty per cent of the excess over ten per cent; and thereafter, full premiums.

During this period you will be getting payrolls audited at Three Hundred Dollars, starting to enter the rates, and the rates will begin to adjust themselves, and that is the reason we have gradually worked back to no reduction. We have used the transition period, and just recently I called upon our Bureau as to the number of transition risks that are involved in States where the transition period is over, and on Exhibit No. 5, on Page 19, we show the results of this study, and, as

*Robert D. Heitzmann*

you can see from the exhibit, there are nine States included and the total number of transition adjustments, page 96 ] are very, very small. Connecticut, which had for a three year period One Hundred and Thirty Thousand Dollars in risks, was the biggest State, and they had twenty-two hundred and forty transition adjustments and this was only 1.9 per cent of the total number of risks in the State who were affected; and in all other States it was less than one per cent. Most of it under half.

Q. What is that one per cent?

A. The total number of risks affected by the transition program out of that total number of risks in the State.

Q. Less than one per cent get an adjustment?

A. Yes.

Q. The rest paid increases?

A. Some paid increases, and some decreases.

Q. How do you determine whether or not a man is entitled to get a downward adjustment in this transition period?

A. He keeps records, as he has to do, at One Hundred Dollars, and at Three Hundred Dollars.

Q. During this period he has to keep up records for Three Hundred Dollars too?

A. We don't find that any problem at all. If he page 97 ] has any, the auditor would go in and find any under the Hundred Dollars, or over the Hundred Dollars.

Q. But in order to take advantage of the transition program, he has to keep records at the Hundred Dollars?

A. He has to keep them at both levels.

Q. At both levels?

A. Yes, he does.

Q. He can't find it if it is not there?

A. You will find that the insurance auditor is on a pretty good basis with his clients, and when he goes in, he sees whether it is or is not.

Q. What is the transition test; he must show that the increase is wholly in?

A. The auditor is furnished with two sets of rates, one at a Hundred Dollars, and one at Three Hundred Dollars.

Q. And his records have to show that?

A. His records have to show one at One Hundred Dollars, and one at Three Hundred Dollars.



*Robert D. Heitzmann*

Q. And does not it show the change which is effected solely by this change?

A. Yes.

page 98 ] Q. And someone has to have records, both at a Hundred Dollars, and Three Hundred Dollars limitation?

A. Yes.

Q. So he has to have two sets of figures?

A. The \$100 records have to be kept now, and I can assure you that the Three Hundred Dollars records are no trouble.

Q. Now, again, we had the three girls at a Hundred Dollars a week, and one general counsel at Three Hundred Dollars a week; and both paying the same premium. If the corporation that had the general counsel now employs a janitor at Thirty Dollars a week, would the insurance company pay the maximum per week?

A. Probably not, because he does not have coverage.

Q. But his employer is paying more to justify that?

A. No, not for that particular man.

Q. The employer across the street is paying the same amount with three secretaries, and this man is paying the same amount for the counsel and the janitor?

page 99 ] A. The janitor is covered for what the law requires.

Q. And the janitor's employer is paying this same amount, and he only gets two people covered, while the man across the streets gets three covered, and this is against all rules?

A. No, there is something wrong with that.

Q. I agree with that.

A. The second man paid a premium on the payroll of the janitor at a rate which was different from the rate for the payroll of the general counsel. Now, if the janitor were injured, I don't know what the law would prescribe, but he could not be paid the maximum benefits, but if he had the kind of injury that required a long medical payment, he would need the same amount as the general counsel. Your point is that there are three girls across the street with a Hundred Dollar per week exposure, and in this case there are only the general counsel and the janitor; and I say, measuring premium to hazard, the second man is not paying for protection. Our program is not perfect.

page 100 ] Q. I want to eliminate him from the figure, but a Fifty Dollar secretary won't get the maximum, although her employer is paying on the maximum?

*Robert D. Heitzmann*

A. There is something you are missing. The price of insurance does not end at the Manual rate. When you get into the area of premium discounts and retrospective rating, all of these modify the charges in the risks, and it applies on the Three Hundred Dollar risk as well.

Q. What assurance is there that the over-all premium would be the same?

A. Every assurance, from what we can determine on a actuarial basis. We have no other basis to determine that.

Q. Is this going to result in something like the Off Balance Correction Factor which you have applied last year?

A. No, there will be an adjustment for the effect of the Three Hundred Dollar rule, as a start to enter the ratemaking, but the ratemaking system will make some adjustments. The Rate Level Adjustment Factor will enter it as it goes on, but that takes a period of time.

page 101 ] Chairman Catterall: Do any of these exhibits show that the profits and losses, and by how much we missed the bull's eye?

Mr. Moncure:

Q. If you use Mr. Goddard's memorandum, Page 4 of Exhibit No. 2, over a period of fifteen years the loss ratio shows that you made too much money, and then the line - - -

A. Mr. Moncure, we have been losing money for four years.

Chairman Catterall: Column 10—it shows that for many years we shot too high, and then we have been below the bull's eye almost ever since.

A. The last year showed that, instead of making the two and a half per cent profit, we had a loss of four per cent.

Mr. Moncure: The losses in the last two years are plus two and a half per cent loss over the profit we could make.

Chairman Catterall: You are not making it as a systematic effort towards making more money?

A. No.

Witness stood aside.

page 102 ] Mr. Gray: This is going to have a great deal of effect on some employers, and we think this requires a lot of real thought. We have not been able to complete our thinking on it, and to get the information from the people on it exactly. Normally, we think about coming here talking about rates already established, but here you are talking about applying the rate on three times as much as formerly applied to it, that is, it used to be One Hundred Dollars, and now Three Hundred Dollars, and this could have a serious effect on a number of employers in Virginia, and we have not had sufficient opportunity to be advised of the nature and final effect. You will recall when it came up in 1958, there were a number of employers who came to the Commission and —

Chairman Catterall: Was this proposal made last year?

Mr. Gray: No, in 1958.

Chairman Catterall: We turned it down then?

page 103 ] Mr. Gray: Yes; and you had some employers here to show you that it would have a drastic effect on their payroll, and if they are seriously asking for this proposal, the proposal should have been put forth early enough so that the people affected would have the opportunity to be advised and gather statistics so the Commission can determine what will happen to individual employers throughout the State. They don't have the information today.

It is not a question of their needing the money, but a question of shifting the premium gathered, regardless of the effect on Virginia employers. I don't know or care what effect it has had on New York or California employers, but we are talking about Virginia employers, and if they will get a plus result instead of a minus.

Mr. Taylor, Executive Secretary of the Virginia Manufacturers Association, is here, and he would like to make a brief comment.

page 104 ] Chairman Catterall: We would be glad to hear him.

Mr. Taylor: The position of Virginia manufacturers is precisely the same as it was in 1958 with respect to the insurance wage base. We are in complete agreement with what Judge Catterall had to say on this subject at the 1958 hearings. To the greatest degree possible, we want a premium wage base with the best possible fit, — one which most nearly produces the exact cost of coverage for each individual. This is a most important principle in financing employment security benefits. The insurance wage base for unemployment compensa-

tion insurance is and has been Three Thousand Dollars annually since its adoption in the '30's. The whole social security benefits program rides on an insurance wage base of Four Thousand, Eight Hundred Dollars, annually. Far more cost and benefits per person are involved in this program than in our workmen's compensation program. The insurance wage base for workmen's compensation at One Hundred Dollars per week, or Five Thousand, Two Hundred Dollars annually, is higher than either of the other employment security programs. It provides a generous, comfortable fit for Virginia's average weekly wages of approximately Eighty-Two Dollars.

Those who pay for these programs have fought and bled for insurance wage bases sufficiently low to produce the most equitable cost. The extreme liberals come before Congressional committees time after time with the plea that all wages be taken for employment security benefits. The arguments advanced by the National Council on Compensation Insurance for increasing the workmen's compensation insurance wage base from Five Thousand, Two Hundred Dollars annually to Fifteen Thousand, Six Hundred Dollars are based upon the same logic and reasoning of those who say include all wages in financing employment security. This is totally unacceptable to those who pay the bill and is certainly foreign to Virginia's sense of equity.

There is a close correlation between the financing of all employment security programs. The Commission should bear this in mind. To increase the insurance wage base for workmen's compensation from Five Thousand, Two Hundred Dollars to Fifteen Thousand, Six Hundred Dollars would surely generate additional pressure to increase the insurance wage base for both unemployment compensation insurance and social security. The fact that private enterprise had taken this action would be all the more telling.

You are aware that a few States have a state monopoly fund for workmen's compensation insurance, the same as for unemployment compensation insurance. Just in passing, I should like to say that if we had a state-financed workmen's compensation insurance program in Virginia, it is highly unlikely that we would have an insurance wage base of anything over Six Thousand Dollars annually. A Five Thousand, Two Hundred Dollar annual insurance wage base would be very adequate. It should be remembered that Virginia employers who pay all this bill chose private financing over

page 107 ] state financing — and that this choice in the future is largely up to them. Now, if Virginia employers know that an insured wage base of Five Thousand, Two Hundred Dollars yearly is most equitable for premium assessments to pay for workmen's compensation, we believe their interest should carry the greatest weight. It is up to the carriers to say what rates are required for the chosen insurance wage base to produce the premium necessary. No amount of public relations work or phasing in operations would make such a proposed jump in the insurance wage base acceptable to us, or endear the carriers to us.

It has been established that New York State has not seen fit to increase their insurance wage base. This is quite significant. The fact that a large majority of States have seen fit to go along with an increase since 1958 doesn't mean that their actions are well founded or even competently considered. It is a matter of rather general common knowledge that not more than five or six States have ever had work-  
page 108 ] men's compensation rate filings competently contested by counsel and qualified actuaries. It is, also, generally known that very few state regulatory agencies have any depth of knowledge of workmen's compensation rate-making. It is clear that there is very little useful guidance to be had from most of the other States. It is, also, clear that the National Council pretty much writes the ticket on this insurance. We have certainly tried to help the Virginia employers and the Commission with this program.

We haven't yet looked at the most important part of workmen's compensation insurance rates — the expense allowance. The numbers here must somehow be reduced if private financing of this program is to survive. For all the years we have participated in these hearings, we have talked in terms of fixing a manual premium designed to produce sixty per cent for benefits and forty per cent for carriers' expenses. As the benefits in this program increase, the expense ratio should go down, and it must go down. A consistent thirty-six and two-tenths net premium expense ratio  
page 109 ] is indefensible, we believe.

This coverage is required by law, and the benefits are fixed by law. Acquisition cost should be low for the carriers, for ninety-five per cent of this insurance coverage is renewal business. As for safety, claims settlement, and field supervision — this is primarily confined to those oc-

cupational fields with substantial exposure to hazards. We ask the Commission now to prepare to examine every item of expense in detail next year. We will very shortly put this in the form of a written request. More than any other interest, we prefer private financing of workmen's compensation insurance through employers and private insurance carriers. We are much concerned about overall cost of insurance for this program and especially the expense loadings. We would like to see a detailed analysis of each item of expense by carrier and by insurance classification. We must do this if we are to find ways to reduce expense loadings. It is time to prepare to study these items now. Our In-  
page 110 ] dustrial Commission runs its entire program for just under two per cent of our total workmen's compensation premium. This includes complete claims record-keeping for all claims, all kinds of statistics, the adjudication of all contested claims, all of its travel expenses, and all of its housing costs, etc.

We want you to help us to carefully go over these expense loadings to see where there are possible places to reduce them.

Mr. Moncure: The filing has been here for quite a while, and in effect in the other States, and shows that there is a very small percentage effect. My friends talk about all these parties that are going to feel the percentage increase, and that it would be a hundred and thirty per cent.

I would not want this rate hearing held up because of that particularly with the factor of what the companies lost in the last four years in Virginia, and I don't think the overall effect would be bad, and the premium dol-  
page 111 ] lars coming to these companies will not be increased one bit, and the workmen must pay for these themselves, and if any help comes, it must come from the Legislature, and I don't know of any more detailed information than has been filed by this Bureau. They take from the Industrial Commission the information on the rates as filed, and there has been no profit in the two years. We have not only not gotten our profit, but have lost our own money, and I ask that the Commission will look over this filing, and render a decision without delay.

Chairman Catterall: The Commission will take this case under advisement.

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AT RICHMOND, MAY 10, 1963

## APPLICATION OF

WORKMEN'S COMPENSATION INSPECTION  
RATING BUREAU OF VIRGINIA

CASE NO. 16310

THE APPLICATION herein was heard on May 7, 1963 and taken under advisement, it appearing that the notice to the public had been given as required by the order of April 5, 1963. The applicant was represented by M. Wallace Moncure, Jr., its counsel, the Virginia Manufacturers Association by Frederick T. Gray, its counsel, and the Commission by its counsel.

NOW ON THIS DAY the Commission having considered the filing herein and the evidence is of the opinion and finds that the proposed revisions of rates, minimum premiums, rules, regulations and procedures for writing workmen's compensation insurance in Virginia on new and renewal business written to become effective on and after July 1, 1963, filed by the applicant on behalf of its members and subscribers should be approved for use in this State on and after said date as filed, except: (a) the proposal of the applicant to include in said rates an allowance for catastrophe hazards (traumatic and disease) of 1.3% for all classifications, the Commission being of the opinion from the evidence that there should be included in said rates an allowance for catastrophe hazards (traumatic and disease) of  $\frac{1}{2}$  of 1% for all classifications; and, (b) the proposal of the applicant to change the approved formula for determining minimum premiums from 15 times the manual rate for the class plus any expense constant applicable to 25 times the manual rate for the class plus any expense constant applicable, the Commission being of the opinion that the present formula for determining minimum premiums is reasonable and produces rates which are not excessive, inadequate or unfairly discriminatory.

## IT IS THEREFORE ORDERED:

- (1) That the revisions of rates, minimum premiums, rules, regulations and procedures for writing workmen's

## v. Workmen's Compensation Inspection Rating Bureau of Va.

page 113 ] compensation insurance in this State on new and renewal business on and after July 1, 1963, as filed herein by the applicant on behalf of its members and subscribers be, and they hereby are, approved for use in this State on and after said date except in so far, and in so far only, as said revisions of rates, minimum premiums, rules, regulations and procedures provide for: (a) the inclusion therein of an allowance for catastrophe hazards (traumatic and disease) in excess of  $\frac{1}{2}$  of 1% for all classifications; and, (b) changes in the present approved formula for determining minimum premiums;

(2) That the applicant, Workmen's Compensation Inspection Rating Bureau of Virginia, file amended revisions of rates, minimum premiums, rules, regulations and procedures for writing workmen's compensation insurance in this State on new and renewal business written to become effective on and after July 1, 1963 in the same form as filed by the applicant in this proceeding except there be eliminated therefrom the provisions in the rates filed in this proceeding which the Commission has disapproved herein; and,

(3) That this proceeding be dropped from the docket and the file placed in the file for ended causes.

AN ATTESTED copy hereof shall be sent to the applicant, 207 Broad-Grace Arcade, Richmond, Virginia, National Council on Compensation Insurance, 200 East 42nd Street, New York 17, New York, M. Wallace Moncure, Jr., Mutual Building, Richmond, Virginia, counsel for the applicant, the Industrial Commission of Virginia, Virginia Manufacturers Association, 300 West Main Street, Richmond, Virginia, Frederick T. Gray, State Planters Bank Building, Richmond, Virginia, counsel for Virginia Manufacturers Association, and to the Bureau of Insurance.

A True Copy

Teste: WILLIAM C. YOUNG  
Clerk of State Corporation Commission

page 114 ]

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Opinion, DILLON, *Commissioner*:

Each year the Workmen's Compensation Inspection Rating Bureau of Virginia, on behalf of its members and subscribers



(all the insurance companies licensed to write workmen's compensation insurance in Virginia), files with the Commission and requests approval of revised rates, minimum premiums, rules, rating values and regulations for writing workmen's compensation insurance in this State. The basic data used in determining this revision are compiled by the Industrial Commission of Virginia from unit statistical reports filed by the insurance companies under the approved unit statistical plan. The proposed revised rates for Virginia are calculated in accordance with the standard country-wide rate making procedure as approved by the National Association of Insurance Commissioners, with one minor exception in Virginia which is not of importance in this case.

page 115 ] After the filing is made, the Commission enters upon an investigation of the rates proposed in the filing pursuant to Article 4 of Chapter 6 of Title 38.1 of the Code to determine whether the proposed rates are excessive, inadequate or unfairly discriminatory, directs that notice of the filing be given the public and sets a public hearing on the filing.

The 1963 filing was made on April 4, 1963 and was set for hearing on May 7, 1963. It proposed, effective on July 1, 1963, for new or renewal business, the following changes in the approved rates and rules for writing workmen's compensation insurance:

(1) An average increase, due to experience, of 3.7% in premium level from the level which became effective on July 1, 1962;

(2) An allowance for catastrophe hazards of 1.3% for each classification;

(3) Amendments to Sections VI and XIII of the Virginia Manual to provide:

(a) The substitution of a \$300 per week payroll limitation in lieu of the present \$100 per week; and

page 116 ] (b) For executive officers a maximum individual payroll of \$300 per week in lieu of the present \$100 per week and a minimum payroll of \$50 per week in lieu of the present \$30 per week;

(4) A Transition Program to ease the effect of the proposed change in the payroll limitation rule; and,

(5) Revision of the minimum premium formula. The public hearing was held on May 7, 1963; and on May 10, the Commission entered an order which: (1) Approved the proposed

increase of 3.7% in premium level due to experience; (2) Disapproved the proposed allowance of 1.3% for catastrophe hazards for each classification and substituted in lieu thereof an allowance of one-half of 1%; (3) Approved the proposed change in payroll limitation from \$100 to \$300 per week and the transition program to be used in connection therewith; and, (4) Disapproved the proposed revision in the minimum premium formula. Virginia Manufacturers Association has appealed from the Commission's decision insofar as it approved the change in the payroll limitation from \$100 per week to \$300 per week.

Rates for workmen's compensation insurance are fixed by the Commission on the basis of \$100 units of payroll for each class, and the premium which the insured pays is determined by applying the class rate prescribed by the manual to each \$100 of payroll of the employer for the class. Thus, page 117 ] if an employer's payroll for a class is \$235,000 and the rate for the class is 93 cents, the premium would be 2,350 times 93 cents or \$2,185.50. In the absence of a payroll limitation rule, the total payroll of the employer is used to determine the premium. This was the method used in Virginia up to 1946.

By an order dated July 7, 1946, the Commission adopted a \$100 per week payroll limitation rule which provided:

"If the employer's books and records are maintained so as to show separately, by employee and by class of work, the total remuneration earned by each employee whose average weekly remuneration for the total time employed during the policy period exceeds \$100 per week after making any deduction permitted under the provisions of subdivision c of this rule, there shall be excluded from the remuneration upon which the premium for the policy is based that part of the remuneration of each such employee which is in excess of any average weekly remuneration of \$100 per week. A part of a week shall be considered as a full week in determining the average weekly remuneration."

The purpose and effect of the \$100 payroll limitation rule were to exclude from the premium base that part of the payroll of each employee which was in excess of an average of \$100 per week if the employer's books were maintained in such a manner to show this excess. The \$100 payroll limitation approved in 1946 was reasonable at that time, because it covered the expected total payroll of most employers under

normal conditions and imposed a reasonable ceiling to take care of exceptional cases of high-salaried employees. The function of a payroll limitation rule is to measure in a reasonable manner the normal or expected exposure to hazard, risk by risk, of the insurance companies which write workmen's compensation coverage. Whenever it ceases to perform that function due to changed conditions, the rule should be re-examined in the light of current conditions and modified to take care of those conditions.

Five years ago the Workmen's Compensation Inspection Rating Bureau of Virginia proposed in Case No. 13838 that the \$100 payroll limitation rule be changed so as to increase the payroll limitation to \$300 per week. The Commission refused to approve the change because: (1) the Commission was not convinced that the \$100 payroll limitation rule did not at that time under the evidence submitted adequately measure the exposure to hazard, risk by risk, of the insurance companies which write workmen's compensation insurance; and, (2) an adequate plan for reduction and redistribution of the revised rates which must accompany the change was not submitted.

The Commission is convinced from the evidence in this case and its knowledge of conditions which exist in the State that the limitation which the \$100 rule places upon the premium base of workmen's compensation insurance is too rigid and that the rule has ceased to measure in a reasonably accurate manner the exposure, risk by risk, of the insurance companies which write workmen's compensation insurance. Economic conditions in Virginia have changed substantially since the \$100 payroll rule was approved in 1946. Both wage levels and the cost of workmen's compensation claims have increased substantially. As wage levels increase, more and more payrolls move out of the premium base under the \$100 limitation with the result that the premiums of employers who pay high wages remain static while the premiums of other employers who have different wage-paying practices increase. This results in discrimination and should be corrected by raising the limitation of the rule to a point where the rule is flexible enough to permit the premium base (payroll) to reflect these conditions. In many cases the \$100 limitation imposed by the former rule is reached some time before the end of the employee's work week. The result is that the total premium paid is not proportional to the total exposure to injury during the work week. The \$300 payroll limitation rule approved by the Com-

mission will permit more payroll to flow into the rating system and thereby enable the rating system to measure more accurately, among insureds, the hazard of each risk on the basis of its own experience.

If a payroll limitation rule may be imposed, and no one has contended that it cannot, revisions in that rule must be made by the Commission when it becomes apparent that the limitation in the rule is not realistic. Up to now, Virginia Manufacturers Association has been satisfied with page 120 ] the \$100 payroll limitation. In this case it contended that the limit should be no higher than \$61.67, the weekly wage figure upon which the \$37 maximum compensation provided by §65-51 of the Code is based. This proposal is both unreasonable and discriminatory. The \$37 per week maximum compensation under §65-51 does not represent the insurer's entire liability. Medical expenses and death benefits provided by the Act may run into thousands of dollars. Furthermore, under present economic conditions this limitation would have the effect of withdrawing too much payroll from the rating system with the result that the expected payroll would not be adequately covered. Some employers would pay wholly inadequate rates while others would be paying too much. The \$300 limitation rule approved by the Commission provides a broad base against which premiums are computed and is fair and equitable to all, because substantially all payroll will be usable for determining the premiums to be paid.

It is important to bear in mind that the change in payroll limitation is not introduced for the purpose of obtaining more premiums overall for workmen's compensation insurance; its purpose is to redistribute more equitably among insureds the premium required to provide the statutory benefits. It is true that some insureds will pay more premium under the \$300 rule than they would have paid under the \$100 rule and that others will pay less; but it does not follow that the \$300 rule should be disapproved for that reason. page 121 ] The reason why an insured will pay more under the \$300 rule is that part of his payroll is not now entering into the premium base under the \$100 rule and that he is getting a free ride at the expense of the employer who is required to pay on the basis of all or substantially all of his payroll.

The \$300 limitation rule should provide savings in expense both to the employer and the insurer. Under the \$100 rule,

the employer must keep payroll records so that the excess of \$100 per week can be determined. The evidence indicates that in some cases this is so expensive that some employers permit their entire payroll to enter into calculation of their premium rather than incur the expense of keeping records in this manner. In addition, the insurance company on the risk must incur additional auditing expense because its auditors must determine if the \$100 rule is applicable and to what employees.

The Rating Bureau has taken every reasonable precaution to insure that the over-all premium collected by the insurance companies will be constant under the \$300 rule and that no over-all increase in premium will result from the substitution of the \$300 rule for the \$100 rule. Actual audits have been made of the payroll records of a very substantial number of employers on the basis of both the \$100 rule and the \$300 rule. These audits have determined that rates can and should be reduced 6.6% if the \$300 rule is used page 122 ] instead of the \$100 rule. This 6.6% reduction in the rates has been spread among the various industry classifications on the basis of a country-wide study which established classification relativities on the basis of the wage-paying practices in the industries they represent. This study involved over ten and one-half billions of dollars of payroll. Because of different wage-paying practices, some classifications receive rate reductions in excess of 6.6% while others whose wage scale is at or below \$100 per week receive less than the 6.6% average reduction. The reductions proposed because of the use of the \$300 rule range from 44.8% to zero, but average out at 6.6%.

To further cushion the effect of the change from the \$100 to the \$300 rule, the Rating Bureau proposed, and the Commission approved, a transition rule. This rule under certain specified conditions limits the effect on a risk of the change from the \$100 to the \$300 rule for the first two years to a maximum increase of 10% in premium; for the third year 50% of the excess over 10% will be collected. The rule becomes fully effective only after the third year.

The Commission is of the opinion that the \$300 payroll limitation rule is reasonable and a realistic addition to the workmen's compensation insurance rating system because it distributes more equitably among insureds the page 123 ] cost of workmen's compensation insurance. It is in effect in 28 other states. Only 7 states, other than Virginia, now use the \$100 payroll limitation rule which the Commission approved 17 years ago. If the \$100 payroll limitation was reasonable in 1946, certainly, in view of what

has happened in this country since then, a \$300 payroll limitation is reasonable now.

CATTERALL, *Chairman*. and HOOKER, *Commissioner*,  
concur.

page 124 ]

AT RICHMOND, JUNE 10, 1963

APPLICATION OF

WORKMEN'S COMPENSATION INSPECTION  
RATING BUREAU OF VIRGINIA

CASE NO. 16310

For revision of workmen's compensation rates.

The Virginia Manufacturers Association having filed due notice of appeal in this case,

IT IS ORDERED that all of the original exhibits filed both with the application and with the evidence, numbered and described as follows, be certified and forwarded to the Supreme Court of Appeals of Virginia to be returned by him to the Commission with the mandate of the Court.

*Exhibits filed with the application:*

1. Schedule of proposed rates, minimum premiums, etc.

*Exhibits filed with the evidence:*

A. Proof of notice by publication.

1. Revised compensation rates proposed by National Council on Compensation Insurance.

2. Revised compensation rates proposed by Bowles, Andrews & Towne on behalf of Virginia Manufacturers Association.

3. Supplement to Recommendation #3 and Recommendation #4 by Bowles, Andrews & Towne.

4. Revised Exhibit B.

5. Reply to Bowles, Andrews & Towne Analysis Workmens' Compensation Rate Filing.

6. Table of clerical errors in Exhibit #1.

7. Rate level based on no catastrophe allowance with unlimited catastrophe losses.

END

A True Copy

Teste: WILLIAM C. YOUNG

Clerk of State Corporation Commission

page 125 ] COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

CERTIFICATE

Pursuant to an order entered herein on June 10, 1963, the original exhibits listed therein are hereby certified to the Supreme Court of Appeals of Virginia, to be returned by the Clerk thereof to this Commission with the mandate of that court.

It is further certified to the Supreme Court of Appeals of Virginia that the foregoing transcript of the record in this proceeding, with the original exhibits, contains all of the facts upon which the action appealed from was based, together with all of the evidence introduced before or considered by this Commission.

Witness the signature of Ralph T. Catterall, Chairman of the State Corporation Commission, under its seal and attested by its Clerk this 21st day of June, 1963, at Richmond, Virginia.

RALPH T. CATTERALL

Chairman

Attest: WILLIAM C. YOUNG

Clerk

**CERTIFICATE**

I, William C. Young, Clerk of the State Corporation Commission, certify that within sixty days after the final order in this case, Virginia Manufacturers Association, by its attorney, Frederick T. Gray, State-Planters Bank Building, Richmond 19, Virginia, filed with me a notice of appeal therein which had been delivered to M. Wallace Moncure, Jr., Mutual Building, Richmond 19, Virginia, opposing counsel, to Counsel for the State Corporation Commission and to the Attorney General of Virginia, pursuant to the provisions of Section 13 of Rule 5:1 of the Rules of Supreme Court of Appeals of Virginia.

Subscribed at Richmond, Virginia, June 21, 1963.

**WILLIAM C. YOUNG**  
Clerk

A Copy — Teste:

**H. G. TURNER, Clerk**



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