had been approved by Insurance Commissioner Barnes. The plaintiffs objected to the use of incurred loss-earned premium ratios, the failure to use investment income, the use of basic limits experience rather than total experience, the failure to include in the filing all items included in the "basis of rates" section of the statute, and the failure of the Commissioner to audit all data. The court examined the issues point by point, finding in each case against the plaintiffs and in favor of the Commissioner, noting that incurred loss-earned premium ratios were the accepted way of analyzing insurance data, that the statute required the consideration of underwriting (not investment) income, that the filer need only supply data to support changes and that the Commissioner's duties with regard to examination had been carried out as required by statute. The compaint was dismissed and the Commissioner's order affirmed. At this writing, the case has been appealed.

Fire Insurance Rating Bureau, an unincorporated association, Appellant, v. Paul J. Rogan, Commissioner of Insurance of the State of Wisconsin, Respondent

Supreme Court of Wisconsin, June 26, 1958

The Insurance Commissioner had disapproved rate filings for fire and extended coverage insurance and approved rate filings for separately written windstorm insurance. The rating bureau appealed, a circuit court upheld the commissioner, and this appeal was taken to the Wisconsin Supreme Court. The rating bureau contended that the commissioner erred both in not using the five year average loss ratio (but instead giving greater weight to the latest year in reviewing rates) and in not permitting a sufficient margin for profit and contingencies. Further, it argued that the commissioner exceeded his authority in that he was attempting to fix rates. The Court held that the commissioner's review had "considered" the five years of experience and that *undue emphasis was given by both parties to the profit question. With regard to the question of fixing rates, the Court stated that the commissioner had recognized (in his statements to the Court) that he could not fix rates and was precluded from doing so. The Court affirmed the commissioner's action.

State ex. Rel. Minnesota Employer's Association et. al. v. Faricy et. al.

Supreme Court of Minnesota, May 6, 1952

The Minnesota Employers' Association and others challenged the compensation rates set by a three man board headed by Insurance Commissioner Faricy. A district court upheld the board and appeal was taken to the Supreme Court. The case was complex in that a number of technical points in the ratemaking calculations were challenged. The court found that the board had not presented evidence to substantiate the modification of certain factors in the formula and further found that although there had been almost annual rate adjustments the actual loss ratio had remained substantially below the expected loss ratio. The court reversed both the district court and the board and ordered further proceedings.

DISCUSSION BY HARRY T. BYRNE

Messrs. Hartman and Lange accomplished a formidable task when they brought up to date the analysis of rate regulatory laws which was contained in the paper which Mr. Carlson presented to this society in 1951.

While Mr. Carlson's paper was primarily an analysis of rate regulation and its impact on actuarial thought, he also discussed in depth such topics as statistical reporting, manual ratemaking procedures, individual risk rating plans and credibility. The authors stated at the outset that they did not seek to supplant Mr. Carlson's paper, and their paper is essentially historical, but this fact does not detract from its value as a record of the important developments in the field of rate regulation since 1951. The fact that much of the paper is historical tends to disarm a discussant, and this reviewer, perhaps somewhat selfishly, concluded that the authors' paper could well have contained more in the way of expressions of opinion, and conjecture as to the future.

Their paper satisfies an obvious need. The entry of the casualty actuary into fire and allied lines ratemaking, "file and use" regulatory legislation, and the current controversy over recognition of investment income in ratemaking are only three examples of the kinds of developments since 1951 which generated the need for this paper.

The authors have examined each section of the statutes, provided the reader with examples to illustrate how the laws have been interpreted, cited changes which have been made in the statutes and outlined revisions which have been proposed. It becomes obvious to the reader that the sections of the law called the Basic Criteria for Rates and the Basis of Rates are the foundations of rate regulation as we have known it.

The basic criteria for rates: "not excessive," "not inadequate," and "not unfairly discriminatory" remain today, as they were in 1951, not susceptible to precise definition; and, as the authors point out, in those states where statutory definitions have been provided they should be taken as providing a range of reasonableness, rather than an exact test.

Likewise, the Basis of Rates section continues to provide only a general guide to reasonableness for the rate filer. The determination of trend and projection factors as respects "prospective loss experience" and "prospective expenses" continue to be areas where the regulator's judgment as to what is reasonable all too frequently differs from that of the rate filer.

With virtually all statutes, then, focusing as they must on the concept of "reasonableness," it is not surprising that the administration of a rating law is the key to the degree of difficulty experienced by the rate filer.

As we examine the difficulties being experienced by the rate filer today, there are many who conclude that the insurance industry's inability to obtain needed rate increases and thus achieve reasonable profit levels is largely

the result of politically motivated pressures to reduce rates, and that changes in the regulatory laws must be made so as to permit competition to play a more dominant role in the control of rates. Thus, the all-industry type statute, existing in more than 40 states, has been labeled by some as a failure. A "no filing" regulatory law of the California type is increasingly offered as a reasonable alternative which would have the advantage of removing price regulation from its present political spotlight of publicity. While "file and use" or "no file" statutes can by no means guarantee an end to the difficulties of the ratemaker, under such laws the climate is such that much of the political pressure on the regulator is removed. The result is a flexibility of pricing and the rate filer is in a position to respond quickly to the needs of the market place. With competition playing a more important part in price regulation, the supervisory authorities may be increasingly concerned with unfair discrimination, financial stability and monopoly.

It remains to be seen how long the authors' paper will continue to provide a representative picture of rate regulation. For example, it is easy to list several current developments which suggest changes in rate regulation.

— The alleged failure of the all-industry type statute has already been mentioned.

— The mass marketing of personal lines has underlined certain questions and inconsistencies existing under today's regulation.

— The present trend toward holding companies and diversification is already having an impact upon regulation.

— The feeling of some regulators that it is their responsibility to see that the insurance industry responds to what they view as the needs of society. There is a danger that this concept of the social responsibility of insurance regulation could result in over-regulation.

— The increasing use of policyholder dividend programs by stock companies is a development which suggests that rate regulation has not kept pace with the needs of the marketplace.

State regulation is currently undergoing one of its most severe tests and today's climate is one of change. The feeling that changes are needed exists, at least to some extent, among company personnel, agents and rate regulatory authorities. The authors have provided a valuable reference point in the history of rate regulation from which future changes in the statutes may readily be gauged.

We are indebted to the authors for providing us with a paper which is informative to the student as well as useful to the ratemaker.