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# Employers' Relationship to the Illinois Unemployment Compensation Act

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# EMPLOYERS' RELATIONSHIP TO THE ILLINOIS UNEMPLOYMENT COMPENSATION ACT

by

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# INTRODUCTION

The purpose of this study is to acquaint my readers with the plans for unemployment insurance which have been used or are being used by employers and the state and federal governments to mitigate the effects of sudden unemployment.

In the state of Illinois the employer is the sole contributor to the unemployment trust fund and with this in mind, I will endeavor to point out the means some business men have successfully used in lowering their contribution rates to this fund.

Having made a thorough study on what has been done and what is being done by employers to reduce their contributions to this fund, my final approach will be one of eliciting information from employers concerning their personal relationship to the Illinois Unemployment Compensation Act.

In gathering the material for this thesis, my task was lessened to a considerable degree by the fine cooperation which was furnished me by the Section Supervisors in the Central Office Division of Unemployment Compensation. Without their help my project could never have been completed. My appreciation is likewise extended to Mr. Samuel Bernstein, Commissioner of Unemployment Compensation, who kindly granted me permission to use the files in his organization for much of the research work which went into this project.

Acknowledgment is also made to the employers for their willingness in taking time from their work to express their attitudes concerning the Administration of the Unemployment Compensation Act.

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# CHAPTER I

## EARLY EFFORTS AT UNEMPLOYMENT COMPENSATION IN THE UNITED STATES

Unemployment compensation experience in the United States has followed that of Europe both chronologically and in thought. The first unemployment insurance plans in this country were patterned after those first tried in the cantons of Switzerland and were of three chief types: trade union plans, private company plans, and joint agreements between employers and trade unions.[1]

Private Company Plans. Early company plans were part of the general movement on the part of business managements toward improving employee relations. Such company plans can be classified into two main categories, the guaranteed wage plan and the benefit payment plan. Under the former type, the employer at the first of each year would promise his employees a certain amount of work during the coming year. If such work did not materialize, the producer paid his workers the same as if they had worked the specified number of hours. The second plan contemplated the establishment of a definite scale of payments which the employer was to make to any of his employees who were

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1 Arthur H. Von Thaden, "Unemployment Insurance", University of Kansas Debate Handbook, 1931

dropped from the payroll and could not find work elsewhere.

Some of the companies which led in private unemployment compensation plans were: the Dennison Manufacturing Company, the Columbia Conserve Company, United Diamond Works, Inc., John A. Manning Paper Company, Inc., General Electric Company, the Proctor and Gamble Company, Leeds-Northrup Company, and S. C. Johnson and Son.

The General Electric Company plan, which was adopted in June, 1930, was one of the first of the private company plans and was the first which provided for contributions from employees. The management drew up an outline of the system and submitted it to the workers with the idea that it would go into effect in all plants in which 60 per cent of the workers approved it. All workers who were covered by the plan were to contribute 1 per cent of their earnings to a central fund as long as their earnings did not fall below 50 per cent of their average regular pay, and the Company would match these contributions dollar for dollar. The fund which was thus built up was to be put in trust and the General Electric Company guaranteed the employees 5 per cent interest on the money.

Any employee who was laid off had only to wait two weeks and he could draw benefits approximately equal to 50 per cent of his average earnings, with a maximum of $20 a week. Such benefits could be drawn as long as the administrators approved but no individual could receive over ten weekly checks in any twelve consecutive months. If at any one time, enough employees were laid off so that the benefits being paid out were larger than 2 per cent of the earnings of contributing workers, all employees of the Company, whether

covered by the plan or not, who were earning more than half of their average pay were required to contribute to the fund.[1] This included all the executives up to the president of the Company. Originally the plan required that an employee would have to contribute to the fund for six months before he would be eligible to draw benefits, but the depression struck so soon after the inauguration of the system that the Company withdrew this requirement.

The Procter and Gamble Company preceded the General Electric Company in the unemployment relief field since it formed a guaranteed wage plan in 1923.[2] Not all the Company's factories were covered by this proposal but about three-fourths of the workers in the main plant came within the qualifications. Requirements for eligibility stated the employee had to be earning less than $2,000 a year and had to have been an employee of the company for at least six months. After passing the above restrictions an employee had to buy stock in the Company equal in market value to a year's wages. He was then guaranteed forty-eight weeks of employment in each calendar year. During the four weeks in which no guarantee existed, a member of the project was offered half pay if he reported for work each day. Holidays and periods during which the plant was closed for cleaning however, were excepted. The Company reserved the right to transfer employees from one job to another but could not

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1 Hearings Before Select Committee on Unemployment Insurance, United States Senate, Seventy-Second Congress -- First Session Pursuant to S. Res. 483 (71st Congress), United States Printing Office, Washington, 1932, 92.

2 Jack Chernack and G. C. Hellickson, Guaranteed Annual Wages, Minneapolis, 1945, 29.

require a worker to take a reduction in pay.

Trade Union Plans. Trade union unemployment projects had their beginning in the United States about one hundred years ago and in 1930 covered approximately thirty-five thousand workers who were eligible to receive benefits. Since then a great many of the plans have failed because of lack of funds. The common arrangement in such schemes was for employees to maintain a central fund by contributing a certain sum for a set number of weeks each year with the agreement that special assessments would be required if the reserve fell below an established minimum. Benefits under trade union plans ranged from $4.00 to $25.00 a week, but were for comparatively limited periods. Nearly all such undertakings started as local schemes and those which remained such, which were a majority, were in general more successful than those which attempted to expand into national and international systems.

Joint Agreements Between Employees and Employers. The garment, head-gear, lace making, cleaning and dyeing, and wall-paper industries led in establishment of joint agreements between manufacturers and labor unions for unemployment compensation purposes. In general their agreements consisted merely of promises by the employer to pay benefits to workers who became unemployed. Such arrangements were commonly of two types, those in which the employer set up a reserve fund by himself and those in which employees and employers contributed alike. In the clothing industry, where most of the experience with this type of unemployment insurance occurred, both workers and

management helped to build up the reserve fund.[1]

Members of the Chicago Industrial Federation of Manufacturers and the Amalgamated Clothing Workers of America entered into a joint agreement in 1923, which agreement covered twenty-nine thousand persons. Before long the plan had spread to both the New York and Rochester markets. This project required employers to contribute 3 per cent of the wages they paid and employees to contribute 1½ per cent of the pay they received to a fund which was managed by an industrial board.[2] This board was charged with investing the funds in United States government securities.

Benefits paid under this system varied from time to time with experience and conditions. One arrangement set them at 30 per cent of full time earnings with a maximum of $15 a week for three and three-fourths weeks each season. To reduce bookkeeping expenses, beneficiaries were given checks twice a year, in April and in November and by January of 1931 this unemployment compensation system had paid out $5,500,000 in benefits. Six separate funds were maintained by this one undertaking; one for contractors, one for each of the three largest companies in the industry, one for the rest of the members of the association, and one for the non-association members of the industry. The agreement withstood a severe test shortly after its inception because a great many technological changes at that time caused large numbers of workers to be cut from the payrolls. To handle this unexpected drain on the funds, flat

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1 Clyde E. Dankert, "Contemporary Unionism", New York, 243.

2 Sam A. Lewisohn, "Can Business Prevent Unemployment", New York, 1925, 204.

sums were paid over a period of time to the discharged employees. Part of the money for this purpose came from the reserve funds which had been established but the largest part was paid directly by the employers.

First Governmental Interest in Unemployment Compensation. Compulsory unemployment compensation was fought in the United States for years and even as late as 1932 the Chicago Tribune carried an editorial which declared:

> The recipients of unemployment relief are objects of charity... Money has been given them not because the victims have a right to it, but because the community has a heart... The assumption...that they are entitled to support by right...if it is allowed to go unchallenged will place a premium on incompetence, laziness and shiftlessness.[1]

First evidence of government interest in unemployment in this country occurred immediately after the panic of 1893 when the state of Massachusetts set up a board to investigate the subject of unemployment. The board published its report in 1895. The following suggestions were made in the report: (1) Remove residents of the cities to farms; (2) Remove the competition of prison labor; (3) Establish shorter working hours; (4) Restrict immigration; (5) Extend industrial education; and (6) Set up free employment offices.[2]

Today the competition of prison labor has largely been eliminated, shorter working hours have been established, immigration has been sharply restricted, industrial education is constantly being furthered, and free employment offices are conducted in connection with the administration of state unemployment compensation laws.

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1 Editorial in the Chicago Tribune, November 9, 1932

2 W. E. Odum, "How Should Unemployment Compensation Costs be Handled", N.A.C.A. Bulletin, September 15, 1935, 10.

In 1916 an unemployment insurance bill was introduced into the Massachusetts legislature and from then on similar bills were introduced in thirty-five state legislatures on more than two hundred and fifty different occasions before the federal Social Security Act was passed in 1935.[1] How seriously some of the proposals were considered is shown by the experience of the Huber Bill in Wisconsin in 1921. It lacked but one vote of passing.

President Harding called an unemployment conference in 1921 with the idea of encouraging individual employers to establish reserves to cover possible future unemployment of their own workers, but with the boom yearsof the 1920's, most employers were so interested in expanding they forgot about unemployment compensation, with the result that not more than one hundred thousand workers were ever covered by such plans. It should be noted here that some socially minded employers did exert a great deal of effort on behalf of unemployment insurance. Among them were Henry Dennison of the Dennison Manufacturing Company, and Ernest Draper of Hills Brothers Company, both of whom spoke before several state legislatures and the United States Senate in favor of legislative action on the subject, and Edward A. Filene who urged a committee of the Seventy-second Congress to pass a compulsory unemployment compensation bill.[2]

Following the lead of Massachusetts, Congress considered an

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1 Social Security Board, "What You Should Know About Unemployment Compensation", March, 1937, 4.

2 Mary Gilson, Unemployment Insurance, 1933, 16.

unemployment insurance proposal in 1916, and in 1917 New York, Pennsylvania, and Wisconsin began to discuss such plans. By 1931, seventeen states were considering unemployment compensation systems and in that year at least thirty-one different types of such systems were proposed.[1] Some of the proposals called for compulsory state laws, others asked to have state commissions appointed to study the subject, and others wanted the state to subsidize private compensation plans. The American Association for Labor Legislation sponsored a state unemployment insurance bill which was introduced in several state legislatures at this time. It suggested that an unemployment reserve fund be built up from contributions paid by employers at the rate of 1.5 per cent of wages paid to employees. Any individual who had been employed in the state for twenty-six weeks during the preceding two years was to be covered by the plan and in case of unemployment would be able to draw not more than $10 a week for a maximum of thirteen weeks in any one calendar year. Employees who were discharged for misconduct, who quit because of trade disputes, or who voluntarily quit were not to be allowed to draw benefits, but on the other hand, employees were not to be required to accept work if wages, hours, or conditions were not up to the average of the industry. The Department of Labor was suggested to administer the law.

Numerous hearings on unemployment compensation were held in 1928 by the United States Senate Committee on Education and Labor and on February 25, 1929, the committee issued its report, one part of which read as follows:

Government interference in the establishment and direction of unemployment

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1 Odum, "How Should Unemp. Comp. Costs be Handled", 101 .

> insurance is not necessary and not advisable at this time...Neither the time nor the condition has arrived in this country where the systems of unemployment insurance now in vogue under foreign governments should be adopted by this government.[1]

Scarecly nine months after the publication of this report, the now-famous crash of 1929 struck the country and by the next year the federal government was studying the unemployment problem as shown by comments made by President Herbert Hoover on various occasions. In addressing the American Federation of Labor convention on October 6, 1930, he declared the depression which was then gripping the country, "...culminated in a demoralization of industry and depth of human misery in some sections which is wholly out of place in our American system."[2] Four days earlier when he had spoken to the American Bankers' Association he had pointed out that "...the economic fatalist believes that these crises are inevitable and bound to be recurrent. I would remind these pessimists that exactly the same thing was once said of typhoid, cholera, and smallpox...Science girds itself with painstaking research to find the nature and origin of disease and to devise methods for its prevention. That should be our attitude toward these economic pestilences. They are not dispensations of providence. I am confident in the faith that their control, so far as the causes lie within our boundaries, is within the genius of modern business".

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1 Von Thaden, "Unemployment Insurance", 73.

2 Herbert Hoover, An address to American Federation of Labor, October 6, 1930, as quoted in Federal Council of the Churches of Christ in America, "Unemployment: The Problem and Some Possible Remedies", University of Kansas Debate Handbook, 1931, 35.

Wisconsin Law. After studying the voluntary efforts of private companies to spread small amounts of work over as many of their regular employees as possible, Professor John R. Commons of the University of Wisconsin suggested that it would be less expensive for all concerned if the efforts of employers to "create" employment were organized and controlled.[1] This evidently sounded like good advice to the Wisconsin legislature, which had been considering the idea for several years, because late in 1931 it passed the first unemployment insurance act in the United States. Since that time the federal government, the other states and some territories have followed the Wisconsin lead. The Wisconsin Act has been a standard after which many of the other unemployment compensation laws have been patterned. For this reason it is advisable to examine this law in some detail before discussing the laws passed in other states.

Although the Wisconsin law was passed in 1931, it was not until 1932 that the governor signed the bill. Contributions began July 1, 1934, and the first benefits were paid July 1, 1936. The Wisconsin Act, as originally passed, covered all persons who worked in firms employing eight or more people and who earned less than $250 per month. Employers were required to contribute 2 per cent of their payrolls and employees were given an opportunity to contribute if they so desired. If a worker became unemployed he had to wait three weeks and was then entitled to benefits at a rate approximately

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1 Odum, "How Should Unemp. Comp. Costs be Handled", 101.

equal to half of his wages with a minimum of $5 per week and a maximum of $15.[1] To compute this benefit rate the employee's total earnings for the previous year were divided by the number of weeks worked and the quotient thus obtained split in half. The employee could draw benefits at such a rate for one-fourth as many weeks as he had worked the preceding year, i.e., one week's benefits for each four weeks of work.[2]

Probably the most important feature of this law and the one which has caused more argument than any other is the reserve fund and experience rating provision. In brief the plan calls for individual reserve funds for each employer; contributions which an employer makes are credited to his account and all benefits paid to his employees are charged to his account. If the employer stabilizes his employment enough so that his fund builds up to a certain percentage of his annual payroll, his contribution rate is decreased and under the Wisconsin law may be reduced to zero.

Federal Social Security Act. Following the passage of the Wisconsin Unemployment Insurance Act, the Federal Social Security Act was the next important step in this field. The Social Work Year Book states, "The Federal Social Security Act represents the most ambitious and comprehensive attempt ever made by the American government to promote the economic security of the individual".[3]

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1 Paul H. Douglas, Social Security in the United States, 1936, 251.

2 "How First Job Insurance Works", Business Week, July 31, 1937, 25.

3 Russell Sage Foundation, Social Work Year Book, 1937, 472.

As mentioned before, private interests in the United States had long opposed governmental action to promote the economic security of the individual even after such action had been taken in other countries. The sharp increase in unemployment which accompanied the depression of 1929, however, virtually forced the federal government to take over some of the problems which state and local governments had handled before. In a message to Congress in 1934, President Roosevelt said:

> Security was attained in the earlier days through the interdependence of members of families upon each other and of the families within a small community upon each other. The complexities of great communities and of organized industry make less real these simple means of security. Therefore, we are compelled to employ the active interest of the nation as a whole through government in order to encourage a greater security for each individual who composes it.[1]

Advocates of old age pension plans and unemployment insurance plans had tried for many years to have state legislatures pass laws covering these points. Finally in the early 1930's they turned to the federal government. Many states had refrained from passing social legislation because of the financial difficulties involved. Consequently some of the first congressional proposals called for federal grants to assist state administration of such plans. The Dill-Connery Bill, which almost passed in 1934, was of this type. Many states hesitated to pass unemployment compensation laws because they felt such laws, if financed by payroll taxes, would place them at a competitive disadvantage with other states. The Wagner-Lewis Bill was introduced in Congress in 1934 to meet this difficulty. It proposed a tax offset device which would

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1 Franklin D. Roosevelt, "Message of the President to Congress", June 8, 1934.

equalize any disadvantage incurred by a state passing an unemployment insurance tax.[1]

In his message to Congress in 1934, President Roosevelt listed the passing of laws designed to insure the economic security of individuals against unavoidable economic misfortune as one of the chief problems the country would have to overcome in building out of the depression.[2] Following up this idea, the President appointed a Committee composed of the Secretary of Labor as Chairman, Secretary of the Treasury, the Secretary of Agriculture, the Attorney General, and the Federal Emergency Relief Administrator. This committee selected a staff of experts, and appointed a technical board and an advisory council to assist it.[3]

At first the groups centered their attention on unemployment compensation, but when President Roosevelt in a speech on November 14, 1934, intimated that legislation on old age pension was to be postponed, so much criticism arose that both subjects were included as major points of the committee. Most of the committee members favored the federal subsidy of state unemployment systems but the technical experts favored the tax offset idea and in the end won out. On January 15, 1935, the committee made its report public and two days later the Economic Security Bill was introduced into the Senate and the House. Subsequent to amendments by the House Ways and Means Committee,

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1 Russell Sage Foundation, 472.

2 Roosevelt, "Message of the President to Congress"

3 Russell Sage Foundation, 472-473

the House passed the bill on April 19, 1935 by a vote of 371 to 33. The Senate Finance Committee amended the bill further before it passed in the upper House. A joint meeting of the two groups brought compromises which settled all disagreements with the exception of the Clark Amendment which called for exemption of private pension plans. A joint committee was finally appointed to report on this feature at the next Congress and the Social Security Bill was signed by the President, Franklin Roosevelt, on August 14, 1935.[1]

During the consideration of the Social Security Bill in Congress, the unemployment insurance section underwent several changes: certain types of employment and all businesses employing less than eight persons were exempted. The House Committee included restrictions to curb the freedom of the states in choosing the type of law they were to have but the Senate disposed of these restrictions and also eliminated the 1 per cent minimum contribution originally required.[2]

In reality the federal Social Security Act creates no unemployment compensation plan but merely "sets the stage" for creation of such systems within the individual states by eliminating the competitive disadvantage which one state would suffer if it alone passed an unemployment insurance law. To do away with this disadvantage, Congress used the tax offset device whereby it levied a 3 per cent tax effective January 1, 1936, on the payrolls of all employers not exempted as mentioned above. Employers who paid state unemployment

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1 Ibid, 472

2 Ibid, 473

taxes could credit the amount they so paid against this tax to the extent of 90 per cent.[1] For example, an employer with a $10,000 annual payroll would be assessed 3 per cent of that amount, $300, under the federal act. If that employer, however, paid a state unemployment tax equal to or greater than 2.7 per cent of his payroll, he could deduct 2.7 per cent from his federal tax. Thus, in this case the employer could deduct $270 and would have only $30 of federal tax to pay.

In order not to place too heavy a tax on employers with such short notice, the 1936 tax rate was set at 1 per cent, the 1937 at 2 per cent, and all years thereafter at 3 per cent. Agricultural labor, domestic service in private homes, employees of federal and state governments and a few other minor groups were eliminated from the plan. If a state did not pass an unemployment insurance law, employers in that state were to pay the entire 3 per cent of their annual payroll to the federal government which would spend the money as directed by Congress. The .3 per cent of the payroll tax which the government collected in those states with unemployment insurance acts, was returned to the states in form of grants to pay the cost of administering the insurance law.[2]

The LaFollette amendment to the Social Security Bill calls for the

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1 Report of Governor's Commission on Unemployment Compensation, submitted to Wilbur L. Cross, Governor of Connecticut, November, 1936, 3.

2 Ibid., 4.

recognition of two types of insuring units besides the state wide pooled fund, vis., the employer reserve fund and the guaranteed employment account. Under the former system, individual employers set up reserve accounts to which their contributions for state unemployment insurance are credited and to which they are charged the benefits paid to their employees. The guaranteed wage plan contemplates the guaranteeing of a given minimum amount of employment during a given year. The minimum required by the law is thirty hours of wages for each forty weeks of the year.[1]

The Social Security Act permits the states to incorporate experience rating within their unemployment insurance laws. Experience rating, or merit rating as it is often called, provides that an employer who stabilizes his employment, i.e., minimizes the periods of unemployment for his workers, may be granted a lower tax rate. The federal government will credit him with 2.7 per cent of his payroll even though he may be paying only 1 per cent or even nothing to the state. To guard against abuses to which this point might lead, the government sets up certain rules. Under a state wide pooled fund system, all reductions in taxes for merit rating purposes must be based on three years' experience. If a state maintains an employer reserve type of law, no merit rating reduction in taxes can be given an employer unless his reserve was able to pay all benefits in the preceding year and unless the reserve is five times as large as the largest amount paid in benefits in any of the preceding years.

The funds from which benefits are paid under the state unemployment

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1 Douglas, Social Security, 138

compensation systems are obtained almost uniformly from payroll taxes levied on employers. In most states the tax is a differential tax. Rates are varied with relation in some degree to the past employment experience of each employer in accordance with widely differing methods. The variation of employers' tax rates by these methods is known today as experience rating.

The avowed objectives of experience rating in unemployment compensation may be stated quite simply: first, the prevention of unemployment by inducing employers to stabilize their operations; and second, the allocation of the social costs of unemployment to the individual business concerns responsible for those costs.[1] Both objectives have their sources in social and economic views of the functions of an unemployment compensation system and the methods appropriate to its financing. The differential employer tax under this conception of unemployment compensation was viewed less as a revenue measure, adequate to finance any extensive system of benefits for the unemployed, than as a tax to discourage unemployment and thereby to eliminate the need for benefits.

Experience rating viewed as a preventive measure rests on the assumption that employers have a substantial degree of control over unemployment and that differential rates will serve as an effective incentive to employers to stabilize their operations.

The cost allocation factor in the experience rating device is highly significant in that the individual employer is shouldered with the

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1 Richard A. Lester and Charles V. Kidd, "The Case Against Experience Rating in Unemployment Compensation, New York, 1939, 5.

responsibility for regularizing his employment and failing to do this, he will pay a higher contribution rate to his state unemployment compensation fund. Cost allocation has evoked a storm of protest from employers. The question is often times asked whether it is wise social fiscal policy to put the burden of the unemployment taxes on industries characterized by unemployment not within their control. The highest degree of instability exists in the construction industry, in mining, and in the capital goods or durable goods industries.[1] Those who are opposed to experience rating do not see in it even the element of fairness that cost allocation is supposed to achieve.

The Social Security Board was given the task of administering the Federal Act and immediately after the Act's passage, it urged the states to adopt unemployment compensation laws. The board offered all the technical service possible to help the states solve the problems which they encountered in setting up their laws. It also distributed to state legislatures suggested forms for such laws. To speed up the passage of these state acts, the board announced that employers in a state whose law had been approved by the board on or before December 31, 1936, would be credited on their federal tax with the amount contributed to the state before January 31, 1937.[2] Consequently, by February 1, 1937, thirty-five states and the District of Columbia had

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1 Almon R. Arnold, "Experience Rating", Yale Law Journal, Volume 55, 1945-1946, 223.

2 The Social Security Board, "The Federal-State Program for Unemployment Compensation", December, 1936, 12.

unemployment compensation laws, and by the end of June, 1937, every state in the union, the District of Columbia, Alaska, and Hawaii had such laws.[1]

Illinois Act. The Illinois Unemployment Compensation Act became law on June 30, 1937, and since that date, has undergone amendments at every regular and one special session of the General Assembly. Its dynamic impact upon the entire economy of the State, its direct effect upon both the employers subject to it and the workers insured by it, and the need for its continuous adaptation to changes in economic conditions have resulted in far-reaching changes in its provisions at least every biennium.

The Unemployment Compensation Act has two objectives. One is remedial--the payment of benefits as partial compensation for the loss of wages due to unemployment caused by lack of work opportunities. Funds are collected during each worker's periods of employment to accumulate reserves for the payment of benefits to those who suffer the event against which they are insured. What is more essential to the worker is not money benefits but job security; accordingly, any encouragement that can be given employers to stabilize their employment is extremely desirable and for that reason, the Act has a second objective--the stabilization of employment through the incentive of reduced contribution rates.[2]

Any investigation into the liability of a business entity

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1 The Social Security Board, "What You Should Know About Unemployment Compensation", March, 1937, 17.

2 The Illinois Unemployment Compensation Act, Amended to August 8, 1949, Issued by Department of Labor, 3.

for the payment of contributions ultimately requires the application of the statutory definitions of one or more of these terms to the facts disclosed by the investigation. Basically, an "employer" is defined as any employing unit which has or had in employment six or more individuals within each of twenty or more calendar weeks in either the current or preceding calendar year.[1] Even though an employing unit does not employ as many as six individuals for as many as twenty weeks in a calendar year, it may become an "employer" by virtue of the fact that it is owned and controlled by the same interests which own and control another employing unit, and the combined employment experience of the units equals at least twenty calendar weeks during which six or more individuals were performing services for them.

In general, an employing unit is liable for the payment of contributions, and its workers come within the protection of the Act, if it employs or has employed the required minimum number of workers or has become liable by virtue of the succession, affiliation, or election provisions of the Act. However, certain types of employing units may either be wholly exempt from the payment of contributions, or may not be required to pay contributions with respect to certain types of services. This is due to the exclusion of certain types of services from the definition of "employment" contained in the Act.[2]

It is for this reason that there is a provision in the Act, the purpose of which is to identify and to exclude from the definition of "employment"

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1 Ibid, Section 2(e)(1)(B)

2 Ibid, Section 2(f)(5)

the services of those individuals who are not dependent upon a job relationship for their livelihood. This provision in Section 2(f)(5), which provides that service performed by an individual for an employing unit, whether or not such individual employs others in connection with the performance of such services shall be deemed to be employment subject to this Act unless and until it is proven in any proceeding where such issue is involved that:

> "(A) Such individual has been and will continue to be free from control or direction over the performance of such services, both under his contract of service and in fact; and
>
> "(B) Such service is either outside the usual course of the business for which such service is performed or that such service is performed outside of all the places of business of the enterprise for which such service is performed; and
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> "(C) Such individual is engaged in an independently established trade, occupation, profession, or business."

In effect, by means of this exclusion from the definition of "employment"--and it must be noted that the three clauses quoted above are in the conjunctive and all must be satisfied before the services can be excluded--the Legislature adopted a definition of "employment" much broader than the common law concept of the master-servant relationship.

In addition to the boundaries established by Section 2(f)(5) in the definition of "employment", the Act also contains a number of specific exclusions from the definition. Thus, agricultural labor is excluded; as are domestic services; services performed for certain close relatives; services performed for the federal, state, and local governments; and services in the employ of not-for-profit institutions organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes.

Section nine and Section fourteen of the Act[1] prescribe the manner in which claims for benefits shall be handled and the methods whereby the rights of interested parties with respect to the claims are to be protected. When an unemployed worker files his claim for benefits, it is examined by a "deputy" who is a representative designated for this purpose by the "Director of Labor". The deputy makes a finding, which is a statement of the amount of wages for insured work paid to the claimant during each quarter in the base period by each employer. On the basis of the finding, the deputy determines whether the claimant has been paid sufficient wages during the base period to be eligible for benefits.

With respect to each week for which the claimant claims benefits, the deputy makes a determination as to whether or not the claimant is eligible for benefits or a waiting period credit by virtue of his having met all the other benefit eligibility requirements of the Act and not being subject to disqualification.

The deputy makes his findings and determination solely on the basis of the records and information he has before him. No formal hearing is conducted. This information is compiled from the records of the Division of Unemployment Compensation in the Department of Labor, and the deputy's interviews with the claimant, the interested employers, and any other individuals or agencies which can supply facts relevant to the issues involved.

Appeals may be made with respect to any part of the finding or

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1 Smith-Hurd Statutes, Chapter 48, Sections 225, 230.

determination. For example, an employer may appeal from the deputy's decision that the claimant left work voluntarily with good cause, or that the claimant is available for work; the claimant may appeal from an opposite decision.

Appeals from the finding or determination are heard by "Referees" selected in accordance with the Civil Service Law. The referee, after affording the parties a reasonable opportunity for a fair hearing, either affirms, modifies, or reverses the finding or determination of the deputy.[1] The parties are notified of the referee's decision, together with the reasons therefore, and such decision is final unless within ten days after the date of mailing of such decision, further appeal is initiated to the Board of Review.

The Board of Review is composed of three members appointed by the Governor under Section 5 of the Civil Administrative Code.[2] Two of these individuals are selected to represent respectively the employer class and the employee class. The third is not identified with either class. The Board of Review affirms, modifies, or sets aside the decision of the referee, either on the basis solely of the evidence previously submitted before the referee, or on the basis of additional evidence taken before it, or it may direct the taking of additional evidence.

Hearings before the Referee and the Board of Review are governed by

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1 The Illinois Unemployment Compensation Act, Section 9(c)

2 Smith-Hurd Stats, Chapter 127, Section 5

regulations adopted by the Director of Labor.[1] The conduct of the hearings need not conform to common law or statutory rules of evidence or other technical rules or procedure. The hearings are so conducted as to ascertain all the facts and to determine the substantive rights of the parties. All testimony is taken under oath or affirmation and is recorded, but is not transcribed unless the referee or the Board of Review deem it necessary, or unless a further appeal is taken. In cases appealed to the Board of Review, a decision of a majority of the members of the Board is the decision of the Board. However, should a representative of one of the two classes be disqualified, then the decision of the member who does not represent either class is the decision of the Board of Review.

At this point it is advisable to define some of the more technical terms that are used in the Illinois Unemployment Compensation Act and various interpretations of it.

An employer's contribution is the amount of money he pays to the state each year to meet the unemployment compensation tax.

An employer's contribution rate is the percentage of his annual payroll which he pays to the state each year to meet the unemployment compensation tax.

An employee's benefit amount, benefit rate, or benefits is the employee's weekly income from the unemployment compensation fund when he is unemployed. The maximum rate is $25 and the minimum is $10 per week. This rate

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1 The Illinois Unemployment Compensation Act, Section 9(f)

is figured by taking 5 per cent of the employee's largest quarterly earnings during his base period.

The base period, or base year for any employee is the calendar year immediately preceding the year then in question with the exception that during the first three months of each year an employee's base year is the year before the immediately preceding year.

The benefit year is the year beginning April 1, and ending the following March 31, during which time an eligible employee can draw benefits calculated from his earnings during his base year.

An employee is partially unemployed in any week in which the wages payable to him are less than his benefit rate.

An employee is totally unemployed, or simply unemployed in any week in which no wages are payable to him.

Partial benefits are the benefits payable to an employee in any week during which he is partially unemployed. In amount, an employee's partial benefits equal the difference between his earnings in excess of $2, and his benefit rate.

On and after July 1, 1941, when a worker is paid benefits which, when added to benefits previously paid for the same benefit year, equal or exceed three times his weekly benefit amount for that benefit year, his wages during his base period shall immediately become benefit wages.

An employer's benefit wages are the wages earned from or paid by him, as the case may be, which became benefit wages. For purposes of this subsection, an employer's benefit wages with respect to any one worker shall

include only the first $1,975.00 of wages in the base periods 1949 and thereafter.

## CHAPTER II

## METHODS BY WHICH CONTRIBUTIONS MAY BE REDUCED

In the opinion of Mr. Paul Gorby, Superintendent of employment stabilization for Marshall Field and Company, Chicago, Illinois, unemployment compensation is one of the most refreshing injections business has ever had.[1] He bases his opinion on the fact that unemployment compensation laws brought the necessity of employment stabilization forcibly to the attention of company executives by offering large financial savings to the employer who stabilized. The efforts put forth by these executives to achieve stabilization have resulted in benefits much more extensive than mere savings in taxes. Among these benefits are the following:

(1) Company executives were forced to define their personnel policies more clearly because of the unemployment compensation laws. This has resulted in periodic reviews of the status of current employees, more careful selection of new employees, and the development of more extensive and thorough training programs.

(2) Employers have made efforts to stabilize employment in order to reduce the costs of unemployment compensation, thus bringing about increased goodwill between employees and their employers.

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1 Interview with Paul Gorby, March 14, 1950

Savings Available to Employers. The advantages gained through these changes in personnel relations have more than offset the increased cost brought by the unemployment compensation tax in the opinion of Mr. Gorby. Nevertheless, the experience rating provision[1] which is included in each of the state unemployment compensation laws gives all business organizations, and retail establishments especially, the opportunity of saving considerable amount of their taxes. In the judgment of R. W. Leach, President of Unemployment Advisors, Inc., retailing is a "natural" as far as stabilization is concerned. In other words, he believes that retailing is a business which has a normal steady flow of business, large enough so that employment can be stabilized and reduction in tax contribution rates consequently be earned.[2]

Just how much in dollars and cents a business establishment can save under experience rating depends, of course, on the state law under which the company operates. In Illinois, for example, the average contribution rate is 2.0 per cent of an employer's annual payroll and the lowest rate obtainable is 0.25 per cent. This means that a company that attains the lowest contribution rate possible can save 1.75 per cent of its annual payroll. From the foregoing material it is apparent that every employer has an opportunity to obtain substantial savings in taxes under the unemployment compensation laws which provide for experience rating.

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1 See Chapter I, Page 17, for an explanation of this provision.

2 R. W. Leach, Comments made at Mid-Year Convention of the National Retail Dry Goods Association, June 20, 1949.

General Methods of Reducing Unemployment Compensation Costs. There are two general methods an employer can use to reduce the percentage of his payroll contributions to the Illinois Unemployment Compensation fund: the first is to stabilize his employment so as to earn reduced contribution rates under the unemployment compensation law; and the second is to reduce the cost of keeping the records required for unemployment compensation purposes. Each employer must keep detailed records for every employee, showing complete personal information about the individual, when he began work for the employer, types of work done, hours worked, rate of pay, days he was absent and reasons for absence, date he quit or was discharged, and circumstances surrounding his discharge, and a variety of other less important items. An employer who fails to keep adequate records will probably find himself unable to substantiate the figures on his tax returns if they are questioned and will then face the expensive task of reconstructing data from inadequate records.

Many different methods of recording the information required under social security taxation have been devised but a discussion of them will not be attempted here. Instead the remainder of the chapter will be devoted to procedures which can be used in establishments to earn reductions in contribution rates. Unless otherwise specified, the discussion will be restricted to the Illinois State Unemployment Compensation Act.

Methods of Stabilizing Employment. Before an organized stabilization program can be established in a business concern, some form of central control must be set up over all stabilizing activities. The title superintendent of stabilization, or stabilization coordinator, suggests the duties

with which the man responsible for this control is charged. It is his job to familiarize the heads of all departments with the requirements that must be met to keep the payment of unemployment benefits at a minimum. This coordinator, however, must keep in mind at all times that the reduction of benefit payments is not an end in itself but rather the means to attain a better, more efficient personnel program. Most of the companies which have led in the stabilization of employment have recognized this fact. For instance, Ed Schuster and Company, Inc., Milwaukee, Wisconsin, one of the first to attempt employment stabilization, set up two guiding principles when it established its stabilization program. One was that avoidance of benefit payments would, in all cases, be secondary to efficiency in operation; the other was that the employment department was to pay no attention to the benefit rate of individuals in hiring new employees.[1]

(1) Secure Cooperation of Executives. In retailing, for instance, the stabilization coordinator's first job is to "sell" the buyers and department managers on the stabilizing idea. Before unemployment compensation laws, each department in some large stores maintained their own group of extra workers, various members of whom it would call in to handle increases in department activity. This frequently resulted in one department hiring employees while another was discharging workers. Such a system today would result in large benefit charges against the employer's account. Consequently, the coordinator must convince the department heads that it is necessary to maintain

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1 Interview with Paul Gorby, March 15, 1950.

a central "extra" force for the entire store made up of the better members of the departmental "extra" lists. One medium sized store, which formerly maintained a contingent force of more than one thousand has reduced this number to approximately five hundred by establishing a central group.

(2) Develop Definite Groups of Employees. Once the individual department extra forces have been eliminated, the coordinator can divide all the employees of the store into groups. Three classifications are frequently used. Various terms are used to denote these classes; one store has adopted the descriptive titles "regulars", "extras", and "peaks".[1] The "regular" classification includes all full-time, year-around employees; the "extras" are the regular part-time workers used to meet the ordinary sales fluctuations between the different days of the week; and the "peaks" are those individuals employed for a few days at a time to meet special increases in business such as those at Christmas or during special store-wide sales events.

(3) Define Employment Policies Clearly. Definite policies should be drawn up for each of the three groups of employees. The regular workers, of course should expect fifty-two weeks of employment each year, but the extras offer a more difficult problem and it is in their case that the individual's benefit rates must be taken into consideration. In Illinois, as noted previously, the minimum benefit rate is $10 a week so that an employee who

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1 Throughout the Chapter the terms "regular", "extra", and "peak" will be used as defined above unless the context of the material indicates otherwise.

fails to earn this amount in any week is eligible to draw partial benefits provided his wages during the benefit year were sufficiently high. This means that all extras must be given enough work to enable them to earn $10 each week or they will draw benefits. If they draw their second benefit check, their benefit wages are charged against the employer's account. A store which pays extras at a $15 a week rate must, therefore, give each extra approximately three days of work to keep him from drawing partial benefits. Since some extras have larger than $15 benefit rates, it is evident they will have to have more than three days of work each week or they will be able to draw partial benefits.

The extras, however, should be informed that they will not be given full time work and should not expect it. Thus, it is essential that the extra force be made up largely of individuals who want only part time work so that they will not become disatisfied. Housewives whose husbands earn in the vicinity of $40 to $50 a week are an excellent source of such employees and high-school graduates still living at home who are desirous of some experience and yet are not dependent on the store for their living also make good extra workers.

Peak employees must be informed that their work is only for a few days at the most. Here also, housewives furnish a good source of this type of employee. Many of them desire work only at Christmas time in order to secure a few extra dollars with which to buy gifts. Others appreciate a few odd days of work throughout the year such as for anniversary sales or founder's day sales.

Thus, so far as practical, extras are given enough work so that they will not be eligible for partial benefits and peaks are given so little work that they will not earn the $300[1] that must be earned each year before the person becomes eligible for benefits. Naturally some peaks may get work in other firms so that they are able to earn the required $300 and thus be eligible to draw benefits. There may also be times when it is virtually impossible to give all extras the necessary amount of work and some of these will draw partial benefits. Nevertheless, experience will teach a company about how large a force of each type of employee is needed and over a period of time it can build up groups of such employees, the majority of whom will desire only part time employment and therefore will not apply for benefits each time they are discharged.

(4) Centralize Employment. It is absolutely essential that all employment be handled through a central office if unemployment is to be eliminated to any appreciable extent.[2] Otherwise, one department may be discharging employees while another one is hiring new ones. Furthermore, a centralized employment gives the stabilization coordinator a chance to control the number of employees of each class. Various systems have been devised to handle this

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1 Effective April 1, 1950, the minimum amount of wages earned by an employee during his base year must be $300. Illinois Unemployment Compensation Act Amended.

2 J. L. Whitlet, "Only Alert Management Can Get Passing Grade", The Retail Executive, October, 1939, 8.

control effectively. The following system is being used by a large Chicago department store.

A separate card is made out for each employee showing his name, address, telephone number, and social security number. Beside the name is a space in which the employee's earnings during each quarter of the past year are recorded and also the earnings for each quarter of the current year as it progresses.

TABLE I

EMPLOYEE RECORD CARD

| | | Wages | |
|---|---|---|---|
| Name | | 1949 | 1950 |
| Address | 1 | | |
| Telephone Number | 2 | | |
| Social Security Number | 3 | | |
| | 4 | | |

| Departments | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| 1 | 3 | 5 | 7 | 9 | 11 | 13 | 15 | 17 |
| 2 | 4 | 6 | 8 | 10 | 12 | 14 | 16 | 18 |

Front

The stabilization coordinator when examining the card can tell at a glance the individual's benefit rate which is 5 per cent of his largest earnings in any one quarter of the previous year.

EMPLOYEE RECORD CARD

| Week Ending | Mon | Tues | Wed | Thur | Fri | Sat | | Week Ending | Mon | Tues | Wed | Thur | Fri | Sat |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1- 6 | | | | | | | | | | | | | | |
| -13 | | | | | | | | | | | | | | |
| -20 | | | | | | | | | | | | | | |
| -27 | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | |

Back

On the bottom half of the same card all the departments in the store are listed. All the departments in which the individual can work are circled and the department to which he is usually attached is marked by a cross. Thus when a department needs some extra workers, a clerk can quickly locate those who are especially trained for that department and if more are needed some of those who are able to work in that department can be called.[1] In all cases, including large store-wide selling events, the extra force should be exhausted before any peaks are contacted.

On the back of the same card is a form which shows a square for each day of the current year. On the days in which an employee works, an "X" is put in the square representing that day. If the employee works just half a day a single line is drawn through the square. This gives the coordinator

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1 Carrol L. Shartle, Occupational Information, Chapter VI, New York, 1946.

enough information to enable him to determine when the employee has been given enough work so that he is eligible for partial benefits.

If an employee is called but cannot be located or cannot work for some other reason, he is not entitled to partial benefits for that day. Consequently, when such a case occurs a "U" is put in the square for that day, showing that the employee was unable to work. When an employee is unavailable for work one store automatically sends a card to the state unemployment compensation division, stating the employee's name, address, and social security number, the reason he was unable to work, and the date. It is then up to the Division to prevent that individual from drawing partial benefits for that day. Another store simply records the fact when an employee is unavailable for work and the next time that employee is in the store he is asked to sign a statement. If he then tries to collect partial benefits for that day, the store will protest the claim.

(5) Evaluate New Employees Quickly. Supervisors should make a special effort to evaluate new employees within the shortest reasonable length of time after they are hired. If they appear to be unsuited for work in that department, they should be either transferred to another department or discharged outright before they build up large wage credits which will enable them to draw large benefits when they are discharged later.

(6) Investigate Causes of All Employee' Separations. Any discharge for cause after a suitable trial period is a direct reflection on management

and should be thoroughly investigated.[1] In an effort to correct the controllable causes of employee' separations, a Chicago company classifies all separations as resignations or discharges.[2] These classes are in turn broken down into controllable and uncontrollable reasons. The reasons given are as follows:

Causes of resignation:

(A) Controllable by the store

1. Dissatisfaction with pay
2. Dissatisfaction with work
3. Dissatisfaction with working conditions
4. Dissatisfaction with working relations
5. Slow promotion
6. Left without notice
7. Better opportunity elsewhere

(B) Uncontrollable by the store

1. Wants to stay at home
2. Physical
3. Marriage
4. Leaving city
5. Death
6. Returning to school
7. Residence too far from work
8. Other work
9. Family affairs
10. Disinterest in kind of work

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1 Paul Gorby, "Methods of Stabilizing Employment", Address, June, 1949.

2 Interview with an employment manager for a retail company who asked that his name be withheld.

Causes for Discharge:

(A) Controllable by the store

1. Reduction in force
2. Temporary
3. Physical or poor health
4. Not fitted
5. Not vaccinated
6. Poor sales or production
7. Unable to clear references

(B) Uncontrollable by the store

1. Misconduct
2. Laziness
3. Slowness
4. Disturbances
5. Frequent absence
6. Insubordination
7. Incompetence
8. General undesirability
9. References bad
10. Tardiness
11. Carelessness

When the reason for an employee separation falls within the controllable group, whether it is under resignation or discharge, the causes surrounding the separation are investigated. Sometimes the causes of such separations can be corrected thus helping the company to keep its more desirable employees. This point is an important one from the viewpoint of the stabilization coordinator for regular workers usually have large benefit wages which are charged to the employer's account if they become unemployed.

(7) Plan Sales Volume in Advance. Employees can be divided into two groups, one of which is more or less constant, while the other fluctuates with the fluctuations in sales volume.

The regular force should be maintained at a minimum so that during

the poorest part of the year no regular will need to be laid off. This may mean more employees than are necessary will be carried at times. Consequently, all large fluctuations in sales which require an increase in employees will have to be met from the extra and peak classes. This means that the stabilization coordinator must work directly with the sales planning department so that he will know in advance approximately how many workers he will need.

It is in connection with supplying employees to all departments from a central group that the importance of cooperation between all department supervisors is apparent. Naturally each department supervisor will develop favorites among the extras and will want them assigned to his department. If the stabilization program is to be carried on, this is often impossible, for the extras who have not had the necessary work that week must be given employment. In an attempt to convince the supervisor of the necessity of this measure, one company threatened to allocate the costs of unemployment compensation against the individual departments last employing the persons drawing benefits. This procedure is practically impossible for it is very hard to determine just how much a certain employee drawing benefits will cost the company in taxes the next year. However, most businesses do make some effort to assign the responsibility for the unemployment of individuals to the proper department. Thus, if one department gets out of line with the others, it can be investigated.

(8) Attempt to Stabilize Sales so far as Possible. Before complete stabilization of employment can ever be achieved, stabilization of sales must

be accomplished. This is obviously impossible because customers have certain hours of the day, certain days of the week, and certain weeks of the year in which they prefer to do their shopping. Since the advent of unemployment stabilization, however, many retail stores have succeeded in reducing the periodic fluctuations in sales volume. Most stores have developed certain days in the week on which most of their promotional items are concentrated. Many such special promotions can be shifted to different days without loss of sales and with better service to the customers.[1] This tends to equalize the sales volume for the different days of the week.

Other stores have worked toward the equalization of weekly volumes by eliminating many storewide sales and substituting departmental promotions for them. One large store which is active in this field has eliminated eleven annual store sales with no resultant loss in volume.[2] The elimination of such sales is also a benefit in other ways for it does away with the increased operating expenses and confusion which usually result when large groups of extras and peaks are hired for a one or two day special sales event.

(9) Develop Inter-Industry Transfers of Employees. Employers are generally faced with three conditions which result in unemployment; labor turnover under normal business conditions, seasonal unemployment, and general changes in business conditions.[3] Methods of controlling normal labor turnover

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1 The National Retail Dry Goods Association, "Experience Rating--Do You Know What it May Mean to You", April, 1940, 7.

2 Ibid, 7.

3 Calvin E. Favinger and Daniel A. Wilcox, Social Security Taxation and Records, New York, 1939, 384.

have been discussed in some detail above. Management can control seasonal fluctuations to a certain extent, but it has comparatively little or no control over general business conditions. Nevertheless in the latter case employers must develop a definite policy both in regard to fairness to employees and to keep unemployment charges to a minimum.

Inter-industry transfer, a new technique in the employment field, seems to offer almost unlimited possibilities for the control of seasonal unemployment. Under such a plan a company with seasonal peaks in its business will exchange workers with a company which has its peak seasons at other times. Once such a system has been established both companies will benefit because they will have the same workers returning year after year at certain seasons, thus saving them the cost of training new individuals and the cost of inefficient work which always results when new persons are put on the job.

Marshall Field and Company of Chicago has led in the use of the inter-industry transfer device in the retailing field. In the summer of 1948, three Marshall Field employees did part time work in a printing shop. That fall when the printing shop began to cut down on the number of its employees, those who were discharged were told that they might get work at Marshall Field's during the Christmas rush. Sixty-eight of them applied and obtained jobs. In 1949 the idea was expanded to include a candy company which had a peak season between that of the printing company and the retail store Christmas orgy. Printing company employees who were laid off during the latter part of the summer went to work for the candy company during the early part of the fall and then went to Marshall Field's near the last of November. After the

first of the year they again returned to the printing company.

Marshall Field and Company also worked out transfers with a railroad company under which conductors who were laid off at Christmas were employed as floormen. Their experience in meeting the public made them much better material than the average for such jobs. Lake steamship workers and cannery employees have also been used in the receiving and shipping rooms. Their ability to handle heavy boxes enabled them to adapt themselves to the work easily.

The inter-industry transfer also has its drawbacks. Differences in wages between the different companies involved will often lead to dissatisfaction among the workers if such differences are large. Likewise, if the working conditions in one place are poorer than in another or if the distance from home to one place of work is a good deal greater than to another, the workers are apt to be dissatisfied with their employment in the poorer establishment.[1]

At least one Chicago concern has definitely crossed off this method of stabilizing employment because of the disadvantage listed above. Marshall Field's however is enthusiastic over the results and Paul Gorby states the company plans to obtain at least two hundred of their Christmas extras through the transfer method in 1950.

(10) Use the "Flying Squadron". The so-called "flying squadron", is an adaptation of the inter-department transfer device. A "flying squadron" is a group of workers who are versatile enough to work in a great many different

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1 Paul Gorby, "Methods of Stabilizing Employment", Address, June 19, 1940.

departments. The group is then shifted about to those points where production is running behind. Such a provision is especially effective in stabilization, in that it obviates the necessity of employing additional workers for the short time usually necessary to get "over the hump" in some single department.[1]

(11) Establish Annual Wage Plans. Annual or guaranteed wage or employment plans are being used by some companies to handle both seasonal and normal fluctuations in business activity. A few of the better known companies which are using plans of this type are: (1) The Procter and Gamble Company of Cincinnati, Ohio, which manufactures soap and shortening; (2) The George A. Hormel & Company of Austin, Minnesota, engaged in the meat packing business; (3) Spiegel, Inc., of Chicago, which conducts a nation-wide mail order business and also operates more than one hundred retail stores; and (4) The Parker Manufacturing Company of Worcester, Massachusetts, which manufactures a variety of high-quality small hand tools.[2] The annual wage plan consists of a guarantee of a certain amount of work to each employee for each week of the year. If during one week the employee gets less than the guaranteed amount of work, he is paid his regular salary but his account is debited with the amount of time he owes to the company. Then in rush seasons he can work overtime to repay the company for the wages that were advanced during slow seasons.

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1 Dale Yoder, Personnel Management and Industrial Relations, October, 1948, 599.

2 Joseph L. Snider, The Guarantee of Work and Wages, Boston, 1947, 7-51.

(12) Maintain Regular Force in Slack Periods. Employment slacks caused by seasonal slump in sales can often be taken up by the pre-planning of maintenance work for such periods. Individuals who would otherwise be laid off can be used in repair or modernization work. It is often immaterial when a ceiling is painted. If it is planned for an otherwise slack season, it may save laying off a painter. Special Christmas fixtures can be constructed at slow periods during the year if a definite plan is drawn up ahead of time.[1] Outside contractors can be used for special jobs and thus save the necessity of hiring temporary extras.

Some companies have resorted to short lay-offs in an attempt to lower payroll costs and still maintain a complete regular force. Individual employees are forced to take these lay-offs in rotation so the payroll for any one day is reduced but no one person is seriously affected. This practice undoubtedly achieves the end sought but some concerns feel the loss in employee goodwill caused by such action more than offsets any financial gain.

Extended lay-offs with the consent of the employees is an effective means of attaining the same end sought when using forced vacations without pay. Salespeople who work largely on a commission basis can often be encouraged to take long vacations without pay in slack periods. For instance, fur salesmen are often glad to take off two or three months in the late spring or early summer for their sales are practically nil at those times anyway.

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1 Interview with an employment manager for a retail company who asked that his name be withheld.

(13) Spread the Work Over As Many Employees As Possible. Individual companies can do little or nothing to control general business depressions, yet they are faced with the problem of dealing fairly with their employees and still keeping their unemployment costs at a minimum. In normal times when employees are discharged, others are taken on to take their places and the benefit rates of the discharged employees are borne by an average payroll.

In a general depression, however, the working force as a rule is cut down and the benefits of those discharged must be carried by contributions based on the payroll of the remaining employees. This means that the employer's benefit wage ratio will increase very rapidly and his experience rating will become worse and worse.

By spreading the work among his present employee force, the employer can effect unemployment tax savings by preventing a large number of benefit claims which would be filed against his company had the employees been laid off.

Experience rating tends to lower tax rates when employment is high and raise them when unemployment rises and employers can least afford the higher rates. Because most of the years since the Illinois Unemployment Compensation Act became operative have been years of relatively high employment, the accumulated reserves have met the benefit demands of the reconversion period and during the 1949 curtailment of production.[1]

Mechanical Methods of Reducing Contributions. Various methods of

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1 "Financing Unemployment Insurance", Monthly Labor Review, March, 1950, 261.

controlling a company's personnel in order to keep unemployment compensation taxes to a minimum have been discussed above but there are several more or less mechanical means of saving large amounts of taxes. The stabilization coordinator can save his company money by these methods for he should be well versed in the technicalities and pecularities of his state's unemployment compensation law to be able to take advantage of them.

(1) Pay Taxes Promptly. Employers must be sure to pay their social security taxes promptly or they will not only become subject to double taxation by losing credit for the contribution but will also become subject to heavy penalty charges. The federal government taxes all delinquent tax payments at the rate of 0.5 per cent per month and the state assesses them at a 1 per cent per month rate. In addition, the federal government can affix penalties of from 5 to 50 per cent of the tax amount on late tax payments. The penalty rate depends on the length of time the tax payment is overdue and on the degree of intent involved.

(2) Check Validity of Claim for Benefits. When a company receives notice from the state employment office that one of its former employees has registered for benefits, that company should check its records to see if the claimant was really an employee of the company at one time, if the facts regarding the employee's eligibility are correct, if the dates of employment are right, and if the benefit rate has been determined correctly. If there is any irregularity about the case, the employer may be able to disqualify the individual or at least impose a longer waiting period on the person during which time he may get another job.

(3) Make Voluntary Contributions. Individual employer reserve accounts offer employers another chance to save on their tax rates. If a company has a reserve just a few dollars too small to qualify it for the next lower contribution rate, it is often financially advisable for the company to make a voluntary contribution to its account so as to achieve the lower tax rate.

To ascertain how many stores were conducting stabilization programs and to what extent they were carrying such work, a special committee of the National Retail Dry Goods Association conducted a survey of thirty-three stores in 1939. The report of this committee, which was given at the twenty-ninth annual convention of this association on January 16, 1940, brought out the following points.[1]

Only one of the thirty-three stores contacted had a variation of less than 5 per cent a year in regular employees considering the lowest regular force the basic force; four had less than 10 per cent; five between 10 and 15 per cent, and the rest ranged between 15 and 120 per cent. Since the advent of unemployment compensation taxes, eleven stores had reduced the number of part time workers, five had changed employee classifications, and an equal number had increased the employment of students who are not eligible to receive benefits. It is interesting to add that the Illinois Unemployment

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1 Gertrude H. Sykes, Highlights of the National Retail Dry Goods Association Questionnaire Circulated by the Committee on Employment Stabilization; Address, January, 1940.

Compensation Act now allows students to draw benefits during the summer vacation months if they are unable to find employment. Three stores had increased the number of regular employees and twenty-two had decreased their regular force.

Thirty-one stores of the group reported that they trained regular employees to work in more than one department. These same stores stated that such duofold training not only improved customer service, but likewise improved employee morale because it gave workers more earnings, more chance for advancement, and more interesting work.

The survey showed that most of the stores had made four changes in employment emphasis since unemployment compensation laws went into effect. These changes were: (1) increased effort to hire individuals suited for the work available; (2) more careful selection of employees followed by more complete training and as early an evaluation of the employee's work as possible so that if he was not proving satisfactory, he could be transferred or discharged if necessary; (3) more study of situation before discharging anyone; and (4) complete review of extra employee's work before putting him on full time.

Thus it can be seen that many companies have already become conscious of the possibility of decreasing unemployment compensation taxes and also increasing the efficiency of their organization by stabilizing employment. It likewise shows, however, that there are many companies which have not yet developed adequate stabilization programs. These concerns are missing an opportunity to add a substantial amount to their profits.

## CHAPTER III

## EMPLOYER OPPOSITION TO BENEFIT CLAIMS

Since the employer, in the State of Illinois, is the sole contributor to the Unemployment Trust Fund, it is only natural the employers are interested in the disbursements of this fund.

Perhaps the foremost reason for much of their opposition to claims filed by former employees is found in the experience rating which is assigned to each employer every year and is the basis for determining the percentage of payroll wages to be collected by the state.[1] While the benefit wage ratio for the individual plant or business is the chief determinant in computing the percentage of payroll taxes to be collected, it is also noteworthy that the experience rating of all employers in the state is considered. One can see the need for this latter measure particularly in times of widespread unemployment when the drain on the accumulated fund would consequently cause a sharp drop in total reserves.

When a claimant files for unemployment benefits he completes a form Ben. 39, in triplicate. A copy of this form is then sent from the local office of registration to the claimant's last employer. On receipt of this copy, the last employer has an opportunity to contest this claim if he feels that the claimant has violated any of the provisions of the Unemployment

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1 See Appendix I, Experience Rating

Compensation Act, which would disqualify him from receiving benefits. The employer indicates his opposition to such a claim by filling out a U.C.(III) form, Ben. 22, "Notice of Possible Ineligibility", which in turn must be mailed to the deputy at the local office. There is a deadline if five days in which this form must be returned to the deputy. Failing to meet this requirement means that the contest of the claim is not allowed and the employer suffers an adverse decision. This procedure is followed with one exception and this pertains to "Notice of Possible Ineligibility" where an alleged felony is the basis for the contest. In this instance the employer must fill in the same form and send it to the director within three days of his notification.

On receiving the notice of possible ineligibility from the director, the deputy then interviews the claimant and also contacts the employer for a more concise explanation of why they are opposing the claim of a former employee. After collecting this information, the deputy then makes a decision which oftentimes is the start of a long and bitter battle between the claimant and his former employer, within the jurisdiction of the Director of Unemployment Compensation. The deputy, after listening to the evidence presented by both the claimant and the employer then renders a decision. In this decision he may authorize full benefits for the claimant or he may disqualify the claimant for a certain period of time.

Reasons for Disqualification. The revised edition of the Social Security Draft Bill for state unemployment compensation provided for disqualifications of four types of cases in which unemployment is attributable to

causes within the worker's control: those in which the worker has (1) left work voluntarily without good cause; (2) been discharged for misconduct connected with his work; (3) failed without good cause either to apply for available work when so directed by the employment office or to accept suitable work when offered him; or (4) becomes unemployed due to a stoppage of work which exists because of labor dispute at the factory, establishment, or other premises at which he is or he was last employed.[1] Disqualifications based on receipt of other remuneration are of another type, being included in various state laws because it was found unappropriate that individuals draw unemployment benefits while receiving other specified payments.[2] In this connection I have incorporated case studies into my report which indicate the procedure followed by the referees[3] in the Unemployment Compensation Division of the State of Illinois.

The scope of this study will be limited primarily to causes of disqualification attributable to factors within the worker's control. The labor dispute disqualification is included in this group because unemployment due to a labor dispute is casually related to a controversy between worker and employers, or workers and workers, although the individual worker's unemployment as a result of such dispute may not be casually connected with his own voluntary behavior.

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1 Social Security Board, "Principles Underlying Disqualifications", Part 1, 2.

2 Ibid, 2.

3 See Appendix II, Referees.

The ultimate objective of all types of disqualification is to insure that benefits are paid only for involuntary unemployment due to labor-market conditions. Disqualifications are intended to prevent payment of benefits to workers whose unemployment is casually connected with their own voluntary behavior. The Illinois Division of Unemployment Compensation has recognized this fact and consequently taken steps to disqualify people falling into this category.

To acquaint my readers with those factors which cause a partial period of disqualification of benefits, or in some instances result in a full loss of benefit rights the section of the Illinois Compensation Act dealing with this subject is herewith presented in detail.

An individual shall be eligibile for benefits:[1, 2]

(a) For a week in which he has left work voluntarily without good cause and the six weeks which immediately follow such week.

(b1) For the week in which he has been discharged for misconduct connected with his work and the six weeks which immediately follow such week.

(b2) No benefit rights shall accrue to any individual based upon wages from any employer for services rendered prior to the day upon which such individual was discharged because of a commission of a felony in connection with his work for which the employer was in no way responsible.

(c) If he has failed, without good cause, either to apply for available,

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1 Illinois Unemployment Compensation Act, Section 7

2 Ibid, Section 6(c) states that an individual must be able to work and available for work.

suitable work when so directed by the employment office or the director, or to accept suitable work when offered him by the employment office or the director. Such ineligibility shall continue for the week in which such failure occurred and the six weeks which immediately follow such week.

(d) For any week with respect to which it is found that his total or partial unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment, or other premises at which he is or was last employed, provided that this subsection shall not apply if it is shown that he is not participating in or financing or directly interested in the labor dispute which caused the stoppage of work and he does not belong to a grade or class of workers of which immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating in or financing or directly interested in the dispute; provided that if in any case separate branches of work which are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each such department shall, for this purpose, be deemed a separate factory, establishment or other premises.

(e) For any week with respect to which he is receiving or has received or is seeking unemployment benefits under an unemployment compensation law of the United States or any state, provided that if the appropriate agency of the United States or such other State finally determines that he is not entitled to such unemployment benefits, this ineligibility

shall not apply.

(f) For any week with respect to which he is receiving or has received remuneration in the form of compensation for temporary disability under the Workmen's Compensation Act of this State, or under a workmen's compensation law of any other state or of the United States. If such remuneration is less than the benefits which would otherwise be due under this Act, he shall be entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of such remuneration.

(g) Whenever, in any period commencing with a compensable week of unemployment, he has been allowed his full weekly benefit amount for each of twenty-six weeks, until he has earned wages equal to at least three times his current weekly benefit amount in bona fide work reduced by an amount, equal to his current weekly benefit amount for each week, if any, in which he was not unemployed within such period, whereupon he shall again, if otherwise eligible, be permitted to receive his full weekly benefit amount for twenty-six weeks.

If however, a compensable week of unemployment is followed by three or more weeks (not necessarily consecutive) in each of which he earned wages for bona fide work equal to at least his then current weekly benefit amount, such period shall be deemed to commence immediately after the last week in which he earned such wages.

(h) For any week in which he causes himself to be unavailable for work with intent to avoid any of the disqualifications imposed under the provisions of this section.

While disqualifications are considered by some as a penalty intended to deter the worker from such behavior as might cause his unemployment, the better concept is to view them as an outright protective device with no penalty idea combined with it, since many of these claimants are uninsurable risks.[1] Of course a disqualification does operate in effect to penalize the worker. He will consider it in the light of a penalty. However, it is not the object of an unemployment compensation law to see that workers who voluntarily quit their jobs or are discharged for misconduct are punished or penalized for their action of quitting or committing misconduct. If so, the law should provide some punishment or penalty for all workers who voluntarily quit without good cause or who are discharged for misconduct without regard to whether such workers have filed claim for benefits. Under normal conditions a worker has a right to quit or refuse a job. Therefore, why should he be "penalized" for exercising this acknowledged right? On the other hand, a worker who has just quit or refused a job without good cause does not have a "right" to unemployment benefits, because such benefits are for workers who are able to work and available for work but who are unemployed through no fault of their own. Therefore, while a disqualification is intended to prevent payment of benefits to such worker while he is voluntarily unemployed, it is in no sense intended to "punish" him for having quit or refused a job. The period of disqualification as imposed upon the claimant by a referee of

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1 Paul H. Douglas, Standards of Unemployment Insurance, University of Chicago Press, 1933, 59-62.

the Illinois Unemployment Division has been adjusted as far as possible to the period during which a casual relationship exists between the claimant's behavior and his unemployment.

Since a disqualification deprives the claimant of his benefits for a stated period of time, it is officially recognized as a decision in favor of the employer who has opposed the claims and for purposes of this report will be referred to as decision "in favor of" the employer. In those cases where the referee has affirmed the decision of the deputy without any modification or period of disqualification, the decision is one "against" the employer.

The review of eighty-five cases which were used in a sample of a total of 134 cases heard by the referees during the month of September, 1949, has proved not only to be interesting reading but also revealing in the information that is contained in each case which was heard. Many of the cases contained a multiple series of sections involved under the provisions of the Unemployment C ompensation Act. Then again there were other cases which involved a single section of the Unemployment Compensation Act. From the variety of cases involved, have been gathered some figures to show the number of cases "in favor of" and "against" the employer when claim was contested on a multiple basis and also on a single basis.

In a few instances the employer or employee was individually represented at the hearings and in very rare cases they were both represented by attorneys. In this type of case a considerable sum of money was usually involved, otherwise the claimant was employing counsel to defend his good name in cases where a felony was involved and where the principle of the case is a

determining factor.

TABLE II

EIGHTY-FIVE SAMPLE CASES CONTESTED BY THE EMPLOYER, SEPTEMBER, 1949

| Referee's Decision | | Number |
|---|---|---|
| In favor of Employer | | 36 |
| Against the Employer | | 49 |
| Total | | 85 |
| **Section of U. C. Act Involved** | | |
| 6(c) | Able and Available for Work | 30 |
| 7(a) | Voluntary Leaving | 32 |
| 7(c) | Refusal of Suitable Work | 15 |
| 7(b1) | Discharge for Misconduct | 15 |
| 2(k) | Not Unemployed (Wages received during unemployment) | 8 |
| 7(b2) | Discharge for Felony | 5 |
| | Total (1) | 105 |
| **Representation at Hearing** | | |
| Employer | | 79 |
| Claimant | | 62 |
| **Not Represented at Hearing** | | |
| Employer (2) | | 6 |
| Claimant (3) | | 23 |

EIGHTY-FIVE SAMPLE CASES CONTESTED BY

THE EMPLOYER, SEPTEMBER, 1949, (CONT'D)

(1) Total includes sixteen cases where two or more sections of the U. C. Act were involved.

(2) The employer received one favorable decision of the six cases where he was not represented.

(3) The claimant received ten favorable decisions of the twenty-three cases in which he was not represented.

The chief reasons which occasion employer opposition can be enumerated as follows: misconduct; refusal of suitable work; availability to work; voluntary leaving; felony; and not unemployed.

At this point it may be desirable to briefly explain each reason and point out the grounds on which the employer bases his opposition. Some of the cases were especially revealing in that they proved without a shadow of a doubt that the employer was making allegations without substantiating evidence. One point which will impress the reader of the sample cases, which are incorporated into this chapter, is the good sound reasoning which was employed by the referee before making his decision. After having read the complete 134 cases, it was my opinion that the referee analyzed each individual case on its own merits and not merely because of its resemblance to a similar case.

When the employer is notified of the time and date of the particular claim hearing which he is opposing, he usually makes arrangements to have a representative of his plant or business present to give such testimony that would have a bearing on the case. In a relatively small number of cases the

employer or his representative fail to appear at these hearings to submit information. The claimant is also notified to be present at the hearing and a large percentage of the total notified do make their appearance. This is extremely interesting as the fact indicates that a majority of the claimants are still unemployed from the time their claim was originally filed.

In some of the cases which are incorporated in this study, it will be noticed that there is a considerable lapse of time from the date of appeal to the hearing date before the referee. This is explained by the fact that occasional back logs of these cases built up during periods of mass layoffs and as a consequence the Section falls behind in relation to the number of cases pending and the number of cases that actually are processed each month.

Before proceeding into the context it should be explained that names of persons involved in these cases have not been divulged for obvious reasons. The business name of the employer has also been deleted in this report to prevent possible embarrassment to the principles involved.

The employer makes an appeal from a deputy's decision when he, the employer, contends that misconduct[1] on the part of the former worker was responsible for the termination of services. The following case which appeared before a member of the Referee Section was an appeal on the part of the employer-appellant from a deputy's determination.

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1 Illinois Unemployment Compensation Act, Section 7(b)(1)

Case 1

Hearing Date: September 9, 1949
Place of Hearing: Chicago, Ill.
Type of Business: Soup Company

Section of U. C. Act Involved

Section 7(b)(1) - Misconduct

History of the Claim

The last employer filed a timely appeal from a determination by the claim deputy which held that the claimant was discharged from her last employment for reasons other than misconduct connected with her work.

Statement of Facts

The claimant was employed for the employer-appellant from March 28, 1949 to the date she was discharged, June 1, 1949. Claimant was assigned to work in the department which scraped carrots and peeled potatoes, with the exception of two weeks when she worked in the chicken picking department. She worked fifty days for the company. The company maintains production standards and the record for claimant's work shows her overall production was 54 percent of the standard. The company representative contended that a newemployee is expected to show improvement in production, as his job knowledge increases, but that the claimant did not show any improvement. After her foreman had talked to her in an effort to raise her production standard, and in view of the fact that no increase was shown, they discharged her. Claimant testified that she had done her job to the best of her ability and that she had not loafed or idled at her work, nor that she had spent any time away from her work bench.

Conclusion

The Illinois Unemployment Compensation Act provides that a disqualification shall be imposed against a claimant who is discharged because of an act of misconduct connected with his work. To substantiate such a charge, it is necessary that the evidence prove beyond a reasonable doubt that the claimant's actions show a deliberate and intentional disregard of her employer's interests. It is the conclusion of the Referee that the failure to meet the production standards in the absence of proof that she was deliberately loafing on the job does not establish such disregard as warrants terming claimant's behavior "misconduct connected with work".

Decision

The determination of the Deputy is affirmed.

Where alleged misconduct is involved, it is interesting to notice the broad interpretation that some employers attach to the term "misconduct". Because of misconcepts and deliberate attempts by employers to circumvent the true meaning of terms, the referee must be extremely attentive and also careful to analyze the term in its true meaning with reference to the Unemployment Compensation Act.

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Turning now to the second reason which occasions employer opposition to claims, the term "suitable work"[1] is discovered to be the basis for the opposition. Many employers feel reasonably certain that the refusal on the

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1 Illinois Unemployment Compensation Act, Section 7(c)

part of the claimant to return to his old job when it is offered to him at a later date is sufficient reason for disqualification.

The referee, after listening to information by the worker justifying his reasons for refusing to accept reemployment and also to that given by the employer, then analyzes the facts at hand and oftentimes discovers conditions which make his decision quite difficult. This is to say that many new developments transpire from the time the claimant leaves the employer's service and the time that he is recalled, which make it unprofitable or unwise for the claimant to accept the reemployment offer. Some of the more common developments which influence the claimant's refusal are transportation difficulties, monetary inequalities, working conditions, and hours of work.[1] The second development mentioned is entailed in the case which is now presented.

Case 2

Hearing Date: September 8, 1949
Place of Hearing: Chicago, Ill.
Type of Business: Shoe Company

Section of U. C. Act Involved

Section 7(c) Refusal of Suitable Work

History of the Claim

The employer filed a timely appeal from a determination of a deputy, ruling that the claimant refused to apply for available work on May 13, 1949, with good cause, and allowing benefits from that date, the day on which the claimant filed an additional claim for benefits.

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1 John B. Ewing, American Federationist, December, 1932, 1397.

Statement of Facts

The claimant worked for the appellant from July 8, 1946 until August 30, 1946 and again from July 7, 1947 through August 26, 1947, receiving a union scale of $.80 per hour for floor work in the Composition room, roughing up the soles of shoes prior to cementing them, and doing other related work. During the first period of his employment with this company, he was still attending high school. When he left on August 26, 1947, he took another job within a few days as a press brake operator at a wage of $1.13 an hour and continued on this job for a year and a half, until January 26, 1949, when he was laid off for lack of work. On June 20, 1949, he secured another job with another company as a power brake operator at $1.20 per hour working forty-eight hours per week from 7:30 A.M. to 5:00 P.M. daily.

The appellant's representative testified at the hearing that the claimant could have earned $1.00 an hour with his company if he had returned as a permanent employee. The claimant admitted that approximately June 10, he received a letter from the appellant company asking him to discuss employment with them. He did not report for an interview because he had the job as power brake operator lined up, and started this job on June 20, 1949.

Conclusion

Under the Illinois Unemployment Compensation Act an individual may be disqualified from receiving benefits for the week in which he refuses an offer of suitable employment and for a period of from three to seven weeks thereafter. In determining whether or not work is suitable, however, consideration is given to his prior training and experience and to his prior

earnings, as well as to the prospect of securing work in his customary occupation. After a careful consideration of the evidence presented in this case, the referee is of the opinion that the claimant had good cause for refusing the offer of work by the appellant approximately June 10, 1949, since he had a prospect of securing other work which materialized within the next two weeks. This job was more remunerative than the work which was offered by the appellant.

Decision

The determination of the deputy is affirmed.

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Proceeding with the reasons for employer opposition, our attention is now centered on the term "availability for work"[1] which is perhaps the foremost reason for much of this opposition on the part of the employers.

Disqualifications, arising out of pregnancy are responsible for many of the favorable decisions which go to the employer when he opposes claims for reasons of availability on the part of the claimant for work. The Illinois Unemployment Compensation Act clearly covers such cases when it specifies for a disqualification period from benefits during the thirteen weeks immediately preceding the anticipated date of childbirth and the four weeks following such date.[2]

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1 Illinois Unemployment Compensation Act, Section 6(c)

2 Illinois Unemployment Compensation Act, Section 6(c)(4)

A large number of employers have opposed benefit claims of former workers when the claimant has moved to another state, believing that such removal of the worker and his services in itself constitutes a valid reason for disqualification. However, the Unemployment Compensation Act does not entirely share this idea.[1]

Since it allows the claimant to leave the state without disqualification of benefits if the claimant does so with intentions of marrying a person living in another state, or if his or her mate has found another job in a different state and the whole family is moving. This is a very humane and logical course of action to follow inasmuch as every family should live together. There are already enough reasons which contribute to disorganization in family life without adding more and the Unemployment Compensation Division of the State of Illinois has wisely avoided such a happening.

However there are factors in connection with such a migration on the part of the claimant which could result in a possible disqualification. In brief these are: if the claimant moved to an area where there was little or no market for his labor, or if the claimant was not making an active and diligent search for work.

The following recorded case which has been transcribed from the files

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1 Illinois Unemployment Compensation Act, Section 6(c)(3)--The Act states that an individual shall be deemed unavailable for work if, after his separation from his most recent employing unit, he has removed himself to and remains in a locality where opportunities for work are substantially less favorable than those in the locality he has left.

of the Central Office embodies the principle of the worker making an active and diligent search for work in order to be eligible for benefit payments. The purpose of this latter provision is to keep this potential labor supply from becoming excessively dormant and also to permit the employer to fill any possible vacancies he might have in an efficient and economical manner.

Case 3

Hearing Date: September 11, 1949
Place of Hearing: LaSalle, Ill.
Type of Business: Watch Company

Section of U. C. Act Involved

Section 6(c) Availability for Work

History of Claim

The last employer filed an appeal from the determination by the claims deputy which held that the claimant was both able to and available for work.

Statement of Facts

Claimant did not appear at the hearing. The employer testified that the claimant quit work with the company on December 19, 1948 to accompany her husband to the town of Mt. Pulaski, Illinois where he had secured work and established a domicile for the family. Records of the Division indicated that the claimant is making claim for unemployment compensation in the area in which she now resides, and that the deputy's investigation disclosed that she was making efforts to find work apart from registration for work with the Local Employment Service.

Conclusions

The Illinois law provides an opportunity for a party to a determination to file an appeal therefrom. In this case, the appellant offered no testimony in support of allegation that claimant was unavailable for work. Under the circumstances, the referee must necessarily conclude that the facts before him do not establish a basis for setting aside the determination of the deputy.

Decision

The determination of the deputy is affirmed.

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Next in order of the reasons occasioning employer opposition is that of "Voluntary Leaving"[1]. In the review of the sample cases this section of the Act involved more complex and diverse cases than all the rest. Included in the factors prompting or motivating the employee to leave the company were such things as unwarranted reprimands on the part of supervisors, wage differentials, working conditions, and hours of work. The employer, needless to say, takes an opposite stand and endeavours to show that such voluntary leaving on the part of the claimant was done without good cause.

Very often, a little reasoning on the part of the former employee could have averted his present unemployment if he or she had taken their grievance to either the company personnel office or to the union representative. As a general rule, these organizations are in a position to handle

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1 Illinois Unemployment Compensation Act, Section 7(a)

grievances in a manner which is satisfactory to both the employer and the employee.

Since there are factors such as accidents causing the employee to act rather hastily in leaving his or her job, an exit interview by the personnel office could discover the impelling reasons for the leaving without the necessity of the employer first discovering them at the time of the claim.

The employer has received unfavorable decisions from the referee when the claimant proved he was subjected to working conditions which were or might have been injurious to his health.

The following case employs the principle of "Voluntary Leaving".

Case 4

Hearing Date: September 26, 1949
Place of Hearing: Chicago, Ill.
Type of Business: Appliance Mfg.

Section of the U. C. Act Involved

Section 7(a) - Voluntary Quit

History of the Claim

The deputy determined that the claimant left work voluntarily but with good cause and assessed no period of ineligibility. The employer filed a timely appeal to the Referee.

Statement of Facts

The claimant commenced work for the employer approximately one and one-half years prior to April 25, 1949. She was hired as a packer on the iron line, that is the line manufacturing irons, although she had never had any experience in this type of work before. Her prior work experience had

been as an assembler. The claimant started at a base pay of $.76 an hour plus 10 per cent. At the time of her separation from her job she was earning $.99 an hour, plus a bonus which gave her a wage of approximately 155 per cent of her base pay. Her wages fluctuated from 145 per cent to 155 per cent of her base pay or from $1.45 to $1.55 an hour. When the claimant first started to work at this type of employment, the company had five lines and employed five packers, packing irons. Because of the reduced business for this type of merchandise, the company gradually cut down the lines, and on April 25, 1949 was compelled to transfer the claimant to another line. On this line, that is the creamer and sugar line, the claimant was putting screws into the trays. She was informed by her supervisor that her rate would be 125 percent of her base pay. The claimant was nervous and excited that morning, having injured her hand with a screwdriver and she quit her job at noon on April 25, 1949 because she felt the wages of 125 per cent of her base pay constituted a substantial reduction in wages. She did not attempt to take up the matter with the personnel department or to take it up as a grievance through her union. At the hearing before the referee, the claimant stated that if she had stopped to think the matter over, she probably would have gone to the personnel department. She stated that she had just become a member of the union and therefore did not know that she had a right to take up this matter with them.

A representative of the employer appeared at the hearing and stated that no particular employee had any vested right to work on any particular line. He stated that whenever a new line was formed, it took some time for

the bonus rate to adjust itself. He stated that the rate of 125 per cent on the new line was set by the time study man, but and if necessary, the workers are paid retroactively the difference between the amount that was paid to them and the new rate set.

Conclusion

It is generally held that where an individual voluntarily leaves his job without attempting to adjust a grievance does so without good cause. In the instant case the claimant might have attempted to adjust the grievance either by speaking directly to the personnel department or by contact with her union. Had she contacted the personnel department or her union, it would have been explained to her that the rate on the new line was only tentative and might be increased at a later time. There is no question that the claimant was nervous and upset on the morning in question and for that reason acted hastily in quitting her job. For this reason the referee is compelled to conclude that the claimant left her work voluntarily without good cause.

Decision

The determination of the deputy is set aside, claimant is ineligible for benefits for the week in which she quit her job and the three succeeding weeks.

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As was previously mentioned, the employer must file a copy of U. C. (III) Ben. 22 form, Notice of Possible Ineligibility, with the

director within the prescribed three day limit when felony[1] constitutes the reason for discharge.

If this charge is upheld by the deputy, the claimant can lose all of his benefit entitlement.

To protect the claimant from the possibility of trumped up evidence on the part of the employer, the Unemployment Compensation Act makes it mandatory for the employer to present sufficient evidence with which to support his allegation. In many cases the employer submits written statements in which the claimant has admitted his or her guilt. This, in itself, is not sufficient reason for cancellation of benefits as the claimant in some instances has signed such statements under duress or coercion by plant officials.

Where the employer has proved his allegation in a criminal court and the claimant is consequently convicted, the Unemployment Compensation Act has considered this conviction sufficient grounds for cancellation of total benefits.

At other times the claimant has denied his or her guilt to a deputy at the time of the hearing, but later confesses to the crime in the presence of a referee. This about face imposes a special problem which is solved only when the act is closely analyzed and interpreted. In the illustrative case, the reader will see what factors determined the final disposition of the case with the aforementioned facts involved.

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1 Illinois Unemployment Compensation Act, Section 7(b)(2)

Case 5

Hearing Date: September 6, 1949
Place of Hearing: Chicago Ill.
Type of Business: Mail Order House

Section of U. C. Act Involved

Section 7(b)(2) Discharge for Felony

History of the Claim

A deputy determined that benefit rights of the claimant based on wages earned for services rendered prior to November 18, 1949 should not be denied since the conditions stipulated in Section 7(b)(2) of the Illinois Unemployment Compensation Act were not fulfilled. The employer filed a timely appeal to the referee.

Statement of Facts

The claimant was employed as a sales clerk for the appellant employer and was discharged on November 18, 1948. She was discharged because during the course of her employment she took and kept for her own use money and property belonging to the employer in the value of $17.76. When questioned by the deputy the claimant denied that she had committed these acts. At the hearing conducted by the referee, the claimant admitted the commission of the above acts and stated that she had been discharged because of same.

Conclusion

Section 7(b)(2) of the Illinois Unemployment Compensation Act provided in substance that wage credits may be cancelled where an individual is discharged because of a felony in connection with his work provided that the

employer notifies the director of such possible ineligibilities within the time limit specified by the regulations of the director and that the individual has admitted the commission of the felony to a representative of the director, or such act has resulted in a conviction by a court of competent jurisdiction.

The sole question in the instant case is whether the referee is a representative of the director, so that an admission to him by a claimant constitutes an admission to a representative of the director. The Illinois Unemployment Act does not state in specific language whether or not a referee is a representative of the director. However, the intent of the legislature may be ascertained from language used in other portions of the Act which were in existance prior to the time the provisions of Section 7(b)(2) were incorporated into the law. For example, Section 12 of the Act contains the following phrase: "Any person who shall be served with a subponea by the Director or by any Deputy or other representative of the Director, or by any Referee or the Board of Review or any member thereof..." This same type of language is used in other parts of the law. It is apparent from this language that the legislature intended to distinguish between "Deputy or other representative of the Director" and a "Referee or the Board of Review". The referee, accordingly finds that he is not a representative of the Director of Labor, and that an admission of an act of felony made before him does not constitute an admission to a representative of the Director. It is therefore ruled that all conditions of Section 7(b)(2) have not been complied with.

Decision

The determination of the deputy is affirmed.

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The final section of the Unemployment Compensation Act or what we may refer to as a basis for opposition to claims is termed "Not Unemployed"[1]. With the growing trend for many companies to pay their employees who are being laid off from work, a termination allowance, the Division of Unemployment Compensation has had to determine whether the payment of this additional remuneration is grounds for disqualifying the claimant from benefit payments.

Many companies have specific policies which pertain to the payment of severance pay and where these policies embody the principle of wage payments in lieu of notice to employees whose services will be terminated, the claimant has received a period of disqualification.

As a general rule the Unemployment Compensation Act has favored the claimant in that it emphasizes the fact that an individual shall be termed unemployed in any week with respect to which no wages are payable to him and during which he performs no services.

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1 Illinois Unemployment Compensation Act, Section 2(k)--An individual shall be deemed unemployed in any week with respect to which no wages are payable to him and during which he performs no services or in any week of less than full-time work if the wages payable to him with respect to such week are less than his weekly benefit amount.

Case 6

Hearing Date: September 8, 1949
Place of Hearing: Chicago, Ill.
Type of Business: Adding Mach. Co.

Section of U. C. Act Involved

Section 2(k) Not Unemployed

History of the Claim

The deputy determined that the additional remuneration which the claimant received from the appellant-employer upon separation from appellant's employ on June 15, 1949 was not disqualifying within the meaning of the Illinois Unemployment Compensation Act, since it was payment in consideration of the separation, rather than with respect to performance of services subsequent to the last day she worked. The employer filed a timely appeal from the deputy's determination.

Statement of Facts

The employer-appellant's personnel assistant appeared and produced written copies of the appellant's policy on its payments of wages in lieu of notice to employees whose services are terminated for an indefinite period because of lack of work. A copy of the employer-appellant's policy in this matter, in part, reads as follows:

> At the time of a permanent lay-off, or release, due to inability to handle the job, or due to changes beyond the individual's control, it is customary to notify an employee in advance of such release, or to provide some compensation in lieu of notice.

It also defines termination pay as follows:

Termination Pay - Hourly Rated Employees

Hourly rated employees who are permanently laid off due to lack of work

or who are dismissed for inefficiency or inability to handle the job are to receive advance notice or company pay in accordance with the following schedule:

1. No notice or extra compensation need be given employees with less than five years' service.

2. An employee with five years to ten years of continuous service is to receive one week's notice or one week's pay.

3. An employee with over ten years of continuous service is to receive two weeks' notice or two weeks' pay.

Claimant's employment with the appellant was from April 3, 1944 through June 15, 1949. Her separation from this employment on June 15, 1949 was for lack of work. Claimant's hourly rate of pay without the 15 per cent bonus because of being employed on the second shift, was $1.40 per hour. It was on this hourly rate of pay that claimant was paid wages in lieu of notice when she was laid off on June 15, 1949. Claimant was not told of the lay-off until her last day of work, and it was for an indefinite period. The total amount of wages in lieu of notice was $56.

The claimant appeared and testified that the testimony of the employer's representative is correct.

Conclusion

On the basis of the above facts, it is concluded that the wages in lieu of notice paid by the appellant to the claimant at the time she was laid off on June 15, 1949 were wages as defined by the Act for the period from June 16, 1949, through June 22, 1949 and therefore, claimant cannot be deemed unemployed within the meaning of the Act during that period.

Decision

The determination of the deputy is reversed. Claimant is ineligible for unemployment compensation from June 16, 1949 through June 22, 1949.

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Why companies that supposedly adopt a humanitarian policy in establishing termination allotments for their employees will object so vehemently to the payment of unemployment benefits when claims are made, appears quite controversial. Upon closer inspection of the facts at hand, it will be seen that the majority of employers are interested in lowering their contributions to the Unemployment Compensation fund and one of the most effective ways of accomplishing this end, outside of a small labor turnover, is by opposing benefit claims in the hope of receiving a favorable decision. So one becomes aware that the altruism on the part of employers has its limitations.

Any discussion of employer protests to benefit claims filed by former employees would be incomplete without including labor-dispute cases which represent a significant reason for much of the unemployment prevalent in the country today because of the accompanying strikes.

The administrative procedure in the handling of such cases differs from that employed by the Illinois Unemployment Compensation Division in the treatment of the previous cases. From the six sample cases in this chapter, it is recalled that the general procedure practiced by the employer in protesting a benefit claim, was one of appealing a deputy's determination by taking the matter to the next highest level, namely the Referee Hearing Section. We now find in labor-dispute cases that "whenever a determination of

a deputy involves a decision as to eligibility under Section 7(d)(1) of the Illinois Unemployment Compensation Act, appeal shall be taken to the Director of Labor or his representative designated for such purpose."

In the latter category, the referee and Board of Review[1] hearings are deleted since it is felt that cases of this type, involving the public interest, demand immediate attention by the Director of Labor. Elimination of these two administrative agencies is thought to expedite the settlement of labor-dispute cases.

Appeals from a decision rendered by the Director of Labor can and oftentimes are taken to the Circuit or Superior Court of the county wherein the hearing is held. Either one or both of these courts have the power to review final administrative decisions of the Director of Labor.[2] Such review proceedings are given precedence over all civil cases except cases arising under the "Workman's Compensation Act of the State of Illinois."

The Director of Labor is not required to certify the record of a labor-dispute case to the Circuit or Superior Court unless the party commencing such proceedings for review shall pay to the Director of Labor the cost for certification of the record. It is however the duty of the Director of Labor or of the Commissioner of Unemployment Compensation, in the absence of the Director, upon receipt of such payment to prepare and certify to the

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1 See Appendix II

2 Illinois Unemployment Compensation Act, Section 25(a)(2)

court a true and correct typewritten copy of all matters contained in such record. Judgements and orders of the Circuit or Superior Court under this Act shall be reviewed by appeal to the Supreme Court in the same manner as in other civil cases.

Labor unions are known to resort to Civil Court action when members of their organizations are denied unemployment benefits or receive disqualifications because of strike action. Union activity consists chiefly in the engagement of competent legal service needed to appeal an adverse decision of the Director of Labor to a Civil Court.

Activity of this nature is not, however, confined to union participation as the following illustrative cases will clearly indicate. It will be seen from this, that the Director of Labor, through legal counsel, in some instances, appeals a decision from a county circuit or supreme court to the Illinois Supreme Court.

Case No. 7

Hearing Date: November, 1949
Type of Business: Brake Shoe Co.

This illustrative case[1] is relative to an appeal made by the Director of the Department of Labor of the State of Illinois from an order of the Superior Court of Cook County which reversed the action of the Director of Labor holding that certain employees of the American Brake Shoe Company, a corporation, were entitled to unemployment compensation benefits for the

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period from October 22, 1945 to November 26, 1945, inclusive.

In order for a proper consideration of this case, it is necessary to set forth briefly the facts. The American Brake Shoe Company operated various establishments through the United States in the manufacture of steel forgings and, in October and November of 1945, operated at least five plants in the Chicago industrial area. The employees involved in this proceeding were die sinkers and were all employed at the Great Lakes Forge Division plant in Chicago. They were employees of Local 100 of Die sinkers' conference, A.F.L. Other employees of the company in its various plants, were members of the United Farm Equipment and Metal Workers' Union, C.I.O., and the United Automobile Workers of America, C.I.O. In September a labor dispute arose at another one of the company's plants in Chicago between the employees represented by the C.I.O. unions and the Company. On October 22, 1945, the U.A.W., C.I.O. chapter at this other plant dispatched pickets of its own members to to picket the premises of the company's other plants in the Chicago area. On the morning of October 22, 1945, from four to six pickets stationed themselves at the entrances of the Great Lakes Forge Division plant immediately before the starting time of the first shift. When the die sinkers arrived at the plant about 6:50 A.M. they saw the pickets at the gates customarily used by them. Their steward made some inquiry of the officials of the C.I.O. union and was informed that the pickets were from the United Automobile Worker's local union at another of the company's plants, and that they were conducting a strike in compliance with the labor laws. The steward testified that he and his fellow workers did not enter the plant to work because he

felt it was a legal strike and he also thought it possible that they might have been harmed had they attempted to pass these pickets.

The Die Sinkers' conference had received no requests for cooperation with any other organizations and had made no offers of cooperation with any such organization. None of the die sinkers participated in the picketing in any way and they were not consulted either in advance or afterwards concerning the picketing of the plant. The die sinkers did not return to work until the pickets were removed.

This case presents squarely for determination the question of whether the failure to cross a picket line established by the employees of the same employer precludes employees who failed to cross the picket line from unemployment compensation benefits when those employees aremembers of an entirely different labor organization and have no interest in or connection with the labor dispute resulting in the picketing of the employer's establishment.

The Director of Labor found that the die sinkers were not participating in or financing, or directly interested in the labor dispute which caused the stoppage of work, and that they did not belong to a grade or class of workers of which immediately before the commencement of the stoppage of work there were members employed at the premises at which the stoppage occurred who were participating in or financing or directly interested in the dispute.[1]

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1 James E. Chace, "Unemployment Compensation Disqualifications", University of Chicago Press, Chicago, 1945, 21.

The court in summing up the facts, stated, "that it appears in the case at bar that the picketing was peaceful, that there was ample police protection, and that the die sinkers were members of an entirely different union and could have, if they had chosen to do so, entered their place of employment without threat of bodily harm. Likewise, there is nothing in the record to show that there was no work for them to perform or that the company desired that they stay away from work".

In this case it appears that the die sinkers could have entered their place of employment without sustaining bodily harm and since this court will not assume that picketing normally will bring violence, therefore it appears that the die sinkers voluntarily remained away from their employment because they did not care to be classified as "scabs" by fellow employees. Since the fear of such classification appeared to be the motivation for their failure to enter their place of employment, it logically follows that they were either participating in the labor dispute by failing to cross the picket line or voluntarily remained away from the employment, either of which would disqualify them for compensation benefits.

For the reasons stated in this opinion, the judgement of the Superior Court of Cook County is affirmed.

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A second labor-dispute is herewith presented to show that an employer sometimes resorts to court action when he feels that a decision rendered by the Director of the Department of Labor entitling striking employees of the

subject's company to unemployment compensation benefits is not justified.[1]

Mr. Justice Wilson delivered the opinion of the court.

Case No. 8

Hearing Date: January 18, 194
Type of Business: Wholesale and Retail Drug Corporation

The instant case is an appeal, from the Circuit Court of Cook County, made by the Walgreen Company, an Illinois corporation engaged in the wholesale and retail sale of drugs and other merchandise. In this case the Director of Labor of the State rendered a decision to the effect that 320 warehouse employees of the plaintiff, Walgreen Company, who had participated in a strike from July 31 to August 19, 1941 were not inelegible for benefits under the Unemployment Compensation Act.

The company owns and operates a warehouse located at 4720 S. St. Louis Avenue, Chicago, from which wholesale sales are made. July 2, 1940, the National Labor Relations Board found that the employees of the warehouse involved in this proceeding constituted a unit appropriate for the purposes of collective bargaining, and that the Chicago Drug Worker's Association, Inc., was their exclusive bargaining representative. Subsequently, a written collective bargaining agreement was signed by the company and the association on July 30, 1941, the association demanded a twenty per cent increase in wages for employees represented by it. The demand was not granted, and on

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1 Walgreen Company v. Murphy, Illinois Reports, Volume 386, Ill., 32.

July 31, 1941, 280 employees of the warehouse stopped work and walked out of the warehouse. Other employees ceased work the same day, and the next day additional employees failed to report for work. Approximately 320 employees went out on strike and about thirty employees represented by the association remained at work. The warehouse employees made application for benefits under the Unemployment Compensation Act for the period from July 31, to August 19, 1941. On September 9, a deputy designated by the Director of the Department of Labor made a determination without notification to the company of a hearing, that the claimant employees were eligible for benefits under Section 7(d) of the Act.[1] The company appealed from this determination to the Director of the Department of Labor. The Director appointed a representative, a professor of economics, to hear the company's appeal. Considerable evidence was heard and on April 27, 1942, the representative filed his report with the Director, who on May 1, 1942, confirmed the report. Certiorari proceedings in the Circuit Court followed and resulted in a judgement confirming the decision of the Director of Labor.

In the opinion of the Court, a labor dispute admittedly existed between the company and the warehouse employees. No attempt was made to show that any claimant was not participating in, financing, or directly interested in the dispute. There was, without question, a stoppage of work at the warehouse resulting from a labor dispute between the employer and the claimant

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1 Illinois Revised Statutes, 1943, Chapter 48, Paragraph 223.

employees, the shutdown substantially interfering with warehouse operations, curtailing them to approximately 20 per cent of the normal production. For all practical purposes, there was a cessation of the operation of the establishment and a cessation of work. In short, there was both a stoppage of work and a labor dispute at the warehouse.

For the reason that the claimant employees were participants in a labor dispute which caused a stoppage of work at an establishment where they were employed, they disqualified themselves from eligibility to benefits under the Act. The judgement of the Circuit Court must, therefore, be reversed and the cause remanded, with directions to quash the record of the Director of the Department of Labor.

## CHAPTER IV

## EMPLOYERS' ATTITUDES

The material used in this chapter is the result of several interviews that the author held with the employers, personnel managers, industrial relations managers or their assistants. This particular group of men were interviewed because of their knowledge of company policy.

In selecting the types of businesses used in this report, my intent has been to interview the representatives of both large and small companies. These interviews have made it possible to obtain a more representative picture of the programs that have been devised by each company in its relationship to the Unemployment Compensation Act.

Before the initial interview was made, it was considered feasible to make up a questionnaire which could be used in eliciting pertinent information from the interviewee.[1]

To avoid possible repercussions, the names of the companies and the persons contacted have not been disclosed in the following interviews.

Interview 1. The employment manager representing one of Chicago's leading milk dairy companies was the first person contacted in the

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1 See Appendix III, The Questionnaire

interviewing program. This gentleman, during the course of the interview, indicated that he had a very broad knowledge of the Illinois Unemployment Compensation Act, and the duties of his company relative to this Act. My informant stated that it was his contention that the administration of the Unemployment Compensation Division was in need of more efficient claimstakers, and deputies. Specifically the reference was to the need for better and more extensive checks on the eligibility of claimants when they filed for unemployment benefits. These checks would consist of a more comprehensive Ben. 39 form which would elicit information concerning a claimant's past and present health, means for dependent's care, work experience, etc. He went on to say that the failure of both the Ben. 39 form and the claimstakers to bring the above facts to light encourages the claimant to keep these facts hidden since their exposure could result in a disqualification from benefits. In brief, he held the opinion that many claimants receiving full benefit payments were not eligible to these benefits and had the Unemployment Division established a system for the detection of such claimants, not only would employers in general profit through the lowering of the state experience factor, but also those deserving people who were out of work through no fault of their own.

By way of illustration, a case was cited in which an employee of this company had voluntarily left his job because of alleged working conditions which supposedly aggrevated an epileptic condition. The claimant's job with the company had been one of driving a milk truck. On receipt of a "Notice of Last Employing Unit", Ben. 39 form, this employment manager started action to stop benefits by filing a "Notice of Possible Ineligibility", Ben. 22

form, calling attention to the claimant's physical condition which would render him unavailable for work. After the claimant's physical defect had been brought to light by the employer, the referee assessed a disqualification period under the provisions of Section 6(c) of the Unemployment Compensation Act.

This action on the part of the Illinois Unemployment Compensation Division would supplement the action taken by the employer when he files a "Notice of Possible Ineligibility", Form U. C. Ben. 22.[1] My informant believes the above mentioned division must take a more active part in this subject because of the apathetic behavior on the part of employers in fulfillment of their duties required by the Illinois Unemployment Compensation Act.

This company has been extremely active in checking the work status of former employees who are known to be collecting unemployment benefits. This check has been facilitated by the personal contacts made by company truck drivers at the time of their milk deliveries in the neighborhood of the claimant. If the claimant is discovered to be both working full time and collecting unemployment compensation, the information is presented to the deputy or hearing referee. It was interesting to note that this concerted action on the part of management and the working personnel (milk drivers), in the years 1948 and 1949 has resulted in the discovery of ten fraudulent claims which were filed by former employees. Ninety per cent of the cases

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1 See Appendix IV, Notice of Possible Ineligibility, Form U. C. Ben. 22.

prosecuted in the Criminal Court by an attorney representing the Commissioner of Unemployment Compensation resulted in the recovery of the benefit payments, a jail sentence, or both.

A lead to the investigation of these cases is frequently discovered at the time of the exit interview when the leaving employee divulges information to the effect that he is going into business for himself or else has another job waiting for him upon his release. With this information at hand, the personnel manager frequently calls the Central Office Division to determine if this person is a claimant for benefits. If it is found that the claimant is both drawing benefits and working full time, the personnel manager starts immediate action.

To avoid the impression that his company protests or appeals all cases, my informant narrated that a large number of claims made by former workers are legitimate in every aspect, and these the company does not protest. However he added that he, himself, believed that the more industrious and more efficient of these claimants possess a dignity which would not permit them to accept unemployment benefits for a long period of time. In other words, this type of claimant would be more active in his efforts to find employment in order to avoid the embarrassment connected with semi-monthly reports to their local unemployment office and loss of prestige in their social group or home neighborhood.

One of the chief duties of the personnel department of this company is the submission of a quarterly report to the Board of Directors which deals

with the number of employee ascensions and terminations for the period. Included in this report are such items as percentage of labor turnover in the three month period, and percentage of payroll contributions made to the unemployment compensation fund. A cursory examination of the most recent report indicated that the personnel staff was very proud of the low, 1.5 per cent, labor turnover that had occurred in the working force for the recently ended period. This low percentage of labor turnover correlated with a 1/4 of 1 percent payroll contribution to the unemployment compensation fund. However, there was a second factor which was also directly responsible for the low percentage of payroll contributions, that being the number of favorable decisions which ensued from successful protests of benefit claims. It was learned that 85 per cent of the protested claims in the past year were favorable to the company. Again my attention was called to the fact that protests are not made against all claims and it is only when the company feels that there is a justifiable basis for such protest, is such action taken. This policy reputedly plays a significant roll in the acquisition of favorable decisions from the members of the Board of Referees since there is less chance of alienating the good will of the hearing officers.

In summing up, this company spokesman stated that there can be little objection to the ethics of the Unemployment Compensation Act and its high-minded aim, namely, economic protection for the unemployed worker while he is actively seeking another job, but that much more can be done by the Unemployment Compensation Division in preventing ineligible claimants from receiving benefits to which they are not entitled.

Interview 2. My next interview was with the industrial relations manager of a container corporation. Before the question and answer routine had gone very far, this manager volunteered the reason for his chief objection to the Unemployment Compensation Act. This reason is found in the provisions of the Act rather than in the administration of the Act, which had motivated the objection on the part of my initial informant.

In brief, he was opposed to the policy of the Act which makes former employers in a given base period share the responsibility of the worker's unemployment although they were not the last immediate employer. By way of further explanation, it might be added that he felt this provision would increase an employer's experience rating particularly if the former employee was a casual worker. He would rather see the Act revised to exclude former employers of a claimant who had secured other work in the interim. While readily admitting such a revision might discourage an employer from hiring a potential claimant, my informant quickly added that at the same time the employer would initiate better selective techniques in his hiring program in order to employ only those applicants who would appear to be less inclined to frequent job changes and who could be reasonably expected to assimilate themselves into the work with the least possible delay.

This corporation is unique for my study since it includes plants in fourteen states and each of these plants employs the necessary number of workers needed to make it a covered business under the provisions of the individual state unemployment compensation act. The personnel manager in each of these plants conducts his own hiring and firing programs subject to

approval of the home office located in Chicago. In this capacity, the personnel manager is responsible for lodging protests with the appropriate Unemployment Compensation officer in his state if he feels that a claimant is ineligible for unemployment benefits. Protests are generally filed only at such time when the corporation is fearful that the claim or claims will be responsible for an added increase in the percentage of payroll contributions made to the state fund. From this, it is easily seen that the corporation is not interested in protesting all claims even though possible ineligibility may be suspected.

Where protests are made by local plant personnel managers, a determination made by the deputy is generally accepted without any attempt at recourse in the event of an unfavorable decision. This has been the policy of the subject corporation although considerable thought is now being given the feasibility of carrying appeals from such unfavorable decisions to a higher level of administration possessing jurisdiction, in this case the Referee Hearing Section, and finally to the Board of Review. As yet the Industrial Relations Manager has not been thoroughly convinced that the added personnel and time needed to carry on such an activity would result in sufficient savings required to make the plan practical. In the event that more protests of claims are made by personnel managers in the future, it would be found desirable to set up an exit interviewing unit in order to record the chief reasons for employees leaving, and later use this material at a hearing if such action is required.

Activities in the home office relating to the Unemployment

Compensation Act primarily consist in keeping progress charts for each quarter of the year which show the position of each plant relative to the danger point above which the plant would fall into a higher percentage gradation of payroll contributions. When the plant experience rating draws near this danger point, the industrial relations manager at the home office notifies the interested plant personnel manager and steps are taken to prevent a further increase in the experience rating. This is accomplished by any one or a combination of the following methods; curtailing or decreasing lay-offs, protesting larger number of claims in the anticipation of receiving the desired number of disqualifications, keeping workers who would be laid off during slack periods on the payroll by shifting them to maintenance and repairs.

The use of this last method has been avoided by many companies, not only because it may be quite inefficient so far as the application of skills is concerned, but also because of the objection of both production and maintenance employees. Jurisdictional questions have been raised and managements have avoided the practice in order to escape such questions from unions involved. One condition that is essential to the success of this method in many smaller plants requires versatility and transferability among employees. A flexible work force is thus the key to stabilization in such situations.[1]

Interview 3. The third interview was one involving two employer representatives, namely, the personnel manager of the central office and his

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1 Dale Yoder, Personnel Management and Industrial Relations, New York, 1949, 596.

assistant, of a large retain department store. The interview with the personnel manager revealed some extremely interesting facts. For sake of brevity, the results of the two interviews will be combined inasmuch as they were similar in substance. The Personnel Manager has enjoyed a very active participation in recent attempts to promote state legislative action relative to certain provisions of the Illinois Unemployment Compensation Act. Behind this move intended to accomplish their ends by the desired legislative action were such groups as the Associated Employers' of Illinois, The Chicago Association of Commerce and Industry, the Illinois Federation of Retail Associations, the Illinois Manufacturers' Association, and the Illinois State Chamber of Commerce. As the appointed representative of the above groups, my informant submitted two bills, Nos. 611 and 612 before the sub-committee of the House Judiciary Committee meeting at hearings held on the floor of the House of Representatives at the Illinois State Legislature. The bills are both quite lengthy and the proposals in them are numerous. In essence, Bill 611 would: (1) Redefine "unemployment" to include the term "actively seeking employment" (2) The weekly benefit amount should approximate no more than 50 per cent of the standard weekly wage, (3) Redefine "qualifying wages" by increasing the minimum to thirty times the weekly benefit amount and setting a minimum qualifying wage of $300, (4) There must be a positive and full disqualification for discharge resulting from a commission of a felony. Bill 612 would revise the experience rating provision of the Unemployment Compensation Act. Specifically, it would: (1) Change the gradations between the contribution rates from $\frac{1}{2}$ to $\frac{1}{4}$ of 1 per cent, (2) The contribution rate of the employer

should be computed as that nearest to the employer's unemployment experience rather than to the next higher rate, (3) Contribution rates in excess of 2.7 per cent shall be eliminated, (4) The minimum contribution rate shall be 1/4 of 1 per cent rather than 1/2 of 1 per cent.

His closing statement in support of these bills emphasized the employer's contention that the proposals would not impair the ability of the fund to meet its obligations and whatever savings that accrued to employers, could in many instances, be the difference between profit and loss.

Returning to his role as that of personnel manager for the given company and his relation with the Unemployment Compensation Division, the author discovered a deep founded humanitarian interest on the part of this gentleman concerning both present and former employees. His interest is based upon reservations such as the want for unemployment compensation during emergency times, when the going gets rough, and only for the real unemployed. He went on to say that "yet, when we look at the facts, we find unemployment compensation being paid to workers without any effort on their part— almost for the asking". In a humorous vein, he further added that drawing benefits is like eating cracker-jack--the more you get, the more you want.

In conclusion he stated that if unemployment benefits are for those the law says should get it, "those involuntarily unemployed", we must limit its distribution to those who are truly victims of events beyond their control.

Interview 4. Following the plan for this chapter, the author next called at a heating and ventilating company in the suburbs of Chicago and

here interviewed the owner of the business.

Since this company has a relatively small employee force averaging fifteen workers, my informant has had limited experience with the Unemployment Compensation Act, other than mailing in his payroll contributions.

Speaking in terms of his own business, he was quite emphatic in decrying the system employed by the State of Illinois where a common pool is used for disbursing unemployment benefits. To him, this is not an equitable system since his employees who are unemployed for very short periods of time, never exceeding five successive days, do not have an opportunity to share in the benefits. The wages paid to his employees are quite high in comparison to the average wage paid the industrial worker, and as a result he feels that these wages are sufficiently adequate to provide for his workers and their families during the short and infrequent lay-offs. It might be well to note at this time, that the average weekly wage of his workers is $115 per six day week.

Because of the high wages paid and the stability of work afforded to the workers by the company, few unemployment claims have been filed. This perhaps accounts for the low percentage, 1/2 of 1 per cent of payroll contributions that the company makes to the Unemployment Compensation Fund.

In the conclusion, this gentleman stated that he has no objection to the principal embodied in the Unemployment Compensation Act, but he does find the provisions of the Act a little disdainful at times.

Interview 5. The next interview was held with the assistant employment manager of an appliance manufacturer employing four thousand and five

hundred workers in the combined factory and office force. To this gentleman, the experience rating provisions of the Unemployment Compensation Act constitutes the epitamy of democracy. During the course of the interview, he frequently referred to the Act as a typical American plan.

The company he represents has enjoyed a very stable employment for the past two or three years, at a time when many large industrial plants were starting a program of mass lay-offs. While a very small number of employees have been discharged for infractions of company rules, or have voluntarily left their jobs, the ascendancy rate of new employees has far outweighed the number of employees whose services were terminated.

One of the most important facts brought out in the discussion of disqualification was the belief held by my informant that the only legitimate reason for former employees to file for unemployment benefits is caused by lay-offs.

Another belief held by this gentleman is that only through more conscientious efforts on the part of employers in filing protests against the determination of the deputy when such determination is contrary to facts, will the employer be assured that the existing fund will not be distributed in a reckless and inequitable manner.

A noticeable correlation was evidenced between this interview and the first one held, in respect to the united action which was demanded of all employers in protesting claims where a possible disqualification might be gained.

Highlighting the policy of this company is the dogged determination

displayed by the personnel manager or his assistant in their attempts to have an adverse determination of a deputy reversed. In keeping with this policy they have frequently made appeals to the Board of Review which is vested with the highest degree of authority for the settlement of such matters in the Illinois Division of Unemployment Compensation.

Interview 6. In the next interview the transition is once again to a smaller employer, the number of employees connoting the smallness rather than the type of work performed.

My informant in this interview was one of the partners in a cleaning, dyeing, and tailoring business which employs eighteen workers. This number is subject to change and dependent upon the amount of business that is transacted.

This gentleman has a philosophical attitude concerning the Unemployment Compensation Act which is incorporated in his belief that the good which results from the act far outweighs the evil that is also found. The good referring to the purchasing power which enables the unemployed worker to retain his dignity and at the same time support his family; the evil in this case being the result of a claimant's ability to remain unemployed for long periods of time at his own choosing, and until his benefits have been exhausted.

Labor turnover in the subject business has been high for the past two or three years. Surprisingly enough, unemployment claims filed by former employees have been relatively few. The last noted fact can best be explained because of the apparent ease with which workers who have been laid

off or voluntarily left this establishment, find reemployment in similar work.

Criticism of the Unemployment Compensation Act on the part of my informant was directed against the administration of the system and particularly against the placement services. Attempts by this employer to recruit workers through the Placement Division have been very ineffectual. Further criticism centered around isolated claims where the claimant worked two or three days and then voluntarily quit without offering any explanation for his or her leaving. Protests to such claims have been made by this gentleman or by one of the other two partners. Reversing this attitude the partners have, in one or two instances, made protests against disqualification periods where one of their former employees has been denied benefits for a specified period of time. From my own conjectures, it was evident that my informant had not familiarized himself with the sections of the Unemployment Compensation Act which entail automatic disqualification periods for a specified violation. To cite an example of this lack of knowledge, the following claim is reported as it was narrated to me by my informant. To briefly summarize, the claim was filed by a former woman employee who had been with the company for twelve years and was forced to terminate her services because of an emergency operation and an ensuant lack of mobility as a result of the operation. Establishing long and faithful service as a criterion for receiving unemployment benefits, this employer could not understand why this employee had been deprived of her benefits.

Women constitute the chief element in the high labor turnover experienced by this company and this fact is attributable to their inability to

assimilate themselves into the rigorous activities that are demanded by such work. Coupled with this is the low hourly rate of wages, $.75 per hour, which is paid to the newly hired workers. After paying his carfare to and from work, and having payroll deductions made from his meager wages, the worker soon realizes that it is more profitable for him to collect unemployment benefits rather than to work.

Interview 7. Following the adopted plan of presenting the material from interviews in the numerical sequence in which they were held, the facts gathered from an interview with the personnel manager of a large radio and television manufacturing company are herewith presented.

This company has a total working force of six thousand employees in the combined factory and office force. Of this number, female workers make up 85 per cent of the total.

Labor turnover is not a significant problem in the management of this company as the manufactured product is not subject to seasonal market variations, which in turn often is the cause for lay-offs. The company is presently conducting an extensive advertising program in order to recruit the necessary number of workers needed to staff the three work shifts. With this program in force, a limited number of benefit claims have been filed by former employees. Annual labor turnover varies from 2½ to 3 per cent. There is a large number of workers whose services are terminated for one reason or another, who find placement in other companies engaged in the same type of production. As a result, the majority of those people who are actively seeking work rarely are unemployed for a period of time exceeding the waiting

week which is required by the Illinois Unemployment Compensation Act.[1] This is particularly true of experienced women wirers and solderers whose services are greatly in demand on the labor market. Male workers possessing a high degree of technical skill, likewise constitute a much sought after source of labor supply.

One of the policies of the company which has more or less been spontaneously adopted is that of generally accepting the determination of a deputy in the event of a claim protest, as final and binding. Appeals from a deputy's determination have only been made at such times when the "reason for leaving" has been falsified by the claimant. A second reason for an appeal involves benefit claims where the company has knowledge of an illness or disability which would render the claimant unavailable for work.

At the time of infrequent lay-offs, those employees whose services are terminated receive a form Ben. 39 from the company personnel office and at the same time are notified of their unemployment benefit rights. This is done principally to induce the person to be laid off to use the unemployment benefits as a stop-gap measure until the company finds sufficient work which will warrant reemployment. A second reason for distributing these forms and other material relating to claims for benefits is prompted by the provisions of the Unemployment Compensation Act which makes such action on the part of the employer mandatory.[2]

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1 The Unemployment Compensation Act, Section 6(d)

2 Ibid, Section 9(a)

The belief held by my informant is that the spirit of the Act is good, and while abuses in the administration of the act occasionally do occur, they are exceptions to the rule and should not, in themselves, be a basis for condemnation of the entire system.

Interview 8. My final interview was held with the personnel manager of a company that makes a printed string product for gift wrapping.

Employment at its highest peak for this company totals seven hundred and fifty employees of which more than 75 per cent are female workers. The second work shift consists predominately of married women who are generally responsible for the majority of unemployment claims filed against this company. This class of worker, in many instances, does not intend to work for a long period of time but accepts the job knowing that they will leave when sufficient savings from their pay checks will enable them to pay outstanding bills, furnish homes or apartments, or any one of numerous other reasons.

When the company receives notice of benefit claims filed by the above class of workers, the personnel manager—without exception--forwards a U. C. III, Ben. 22, "Notice of Possible Ineligibility" form to stop benefit payments. This action on the part of the personnel manager is based upon the belief that there is no justifiable reason for "Voluntary Leaving" on the part of employees.

The outstanding grievance on the part of this gentleman has to do with the provisions of the Unemployment Compensation Act which makes former employers in a given base period share the responsibility of a worker's unemployment, although they were not the last employer. There is a striking

similarity between this grievance and those divulged by prior informants.

Following the practice of the employment manager in the preceding interview, this gentleman invariably accepts the decisions of the deputy, in cases of protested claims, as final and binding. This policy, in conjunction with the stabilized employment which is offered to all employees who are desirous of staying with the company has evidently proved profitable to the management since payroll contributions are the lowest possible, amounting to 1/4 of 1 per cent.

The Unemployment Compensation Act holds each employer responsible for maintaining and posting printed statements concerning its regulations prescribed by law. The Act further provides that each employer shall supply to leaving employees copies of such printed statements or materials relating to claims for benefits as the Director may by regulation prescribe.[1] The personnel manager of this company, while having knowledge of the above noted provisions, has failed to comply with either maintaining that employees whose services will be terminated should be familiar with the procedure involved in filing claims for unemployment benefits, and that the company activities in this direction would not only be repetitious but entail added expense.

The interview was concluded with the parting statement of my informant that he personally is not in favor of making unemployment desirable. To avoid possible malignering and prevent the system from breaking down, he

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1 Ibid, Section 9(a)

advocates a longer waiting period before the first benefit payment is made. This action would serve as an impetus in the form of economic pressure on the claimant to exert a more diligent search for work.

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## APPENDIX I

## EXPERIENCE RATING

Under the Illinois Unemployment Compensation Act, there is no reserve account or reserve fund for any individual employer. All contributions from employers subject to the Act are put into a pooled fund from which benefits are paid to eligible unemployed workers. A separate experience rating record is, however, kept for each employer. This record, based on past benefit experience, forms the basis for determining future rates of contribution for each employer.

The benefit experience consists of two elements; (1) The benefits wage ratio of the individual employer, and (2) The state experience factors for the state as a whole.

Since 1943 the rate for each employer is 2.7 per cent except: for the calendar year 1950 and each calendar year thereafter, a variable contribution rate, ranging between 0.25 per cent and 2.7 per cent--graduated in steps of 1/4 of 1 per cent--would be determined for an employer who has incurred liability for the payment of contributions under the Unemployment Compensation Act within each of the five calendar years immediately preceeding the calendar year for which the rate is being determined.

Each year, preliminary to the determination of employers' contribution rates, the state experience factor for the year for which rates are to be determined is computed. This is done by dividing the total amount of benefits paid to all claimants during the same period used for figuring benefit wage ratios, by the total benefit wages of all employers for that period.

For the years 1944 and thereafter, the total money amount of benefits paid from the Unemployment Trust Fund to claimants during the thirty-six consecutive calendar month period ending June 30, of the calendar year immediately preceeding the calendar year for which a rate is being determined divided by the total benefit wages of all employers for the same thirty-six month period shall be termed the state experience factor.

## APPENDIX II

## ROLE OF THE REFEREE HEARING SECTION

To hear and decide claims, the Director of the Department of Labor in the State of Illinois appoints an adequate number of impartial Referees selected in accordance with the provisions of the State Civil Service Law. No person shall participate on behalf of the Director or the Board of Review in any case in which he is an interested party.

Board of Review. The Board of Review may, on its own motion or upon appeal by a party to the determination or finding, affirm, modify, or set aside any decision of a Referee on the basis of the evidence previously submitted in such case, or direct the taking of additional evidence, and said Board of Review may take additional evidence in hearing such appeals. The Director may remove to the Board of Review or transfer to another Referee the proceedings on any claim pending before a Referee. At any hearing before the Board of Review, in the absence or disqualification of any member thereof representing either the employee or employer class, the hearing shall be conducted by the member not identified with either of such classes. The Board of Review shall promptly notify the parties to the determination or finding, or both, as the case may be, of its findings and decisions.

## APPENDIX III

## QUESTIONNAIRE

Questionnaire used as a direct method in eliciting information from employers or their representatives.

1. What is the size of your present personnel force, including both office and plant employees?

2. What percentage of your payroll are you presently contributing to the Unemployment Trust Fund?

3. Have you ever contested benefit claims made by former employees? If so, what was the chief reason or reasons for the contest? Have you ever appealed a Deputy's determination?

4. Are you acquainted with the experience rating provisions of the Unemployment Compensation Act? Do you make any attempt to stabilize employment? If so, what active practices are made?

5. Do you have plants, stores, or salesmen outside of this state which would necessitate compliance with the requirements of other state unemployment compensation acts? If so, have you made a comparative analysis of the unemployment compensation acts of the various states?

6. In the event of total unemployment, do you inform your workers concerning possible rights to unemployment benefits?

7. Would you suggest any changes or modifications in the administration or legislative equipment of the Illinois Unemployment Compensation Act?

APPENDIX IV

NOTICE OF POSSIBLE INELIGIBILITY, FORM U. C. BEN. 22

S.S. No | | | | Worker's Name | Last Day Worked

Worker resides in: *(City)* _____ *(State)* _____

This worker may be ineligible for benefits for the reason checked below: (all applicable reasons MUST be checked and date inserted).

1. ☐ On *(Date)* _____ was discharged for misconduct connected with work (in explanation give nature of the misconduct).
2. ☐ On *(Date)* _____ left voluntarily (in explanation enter reason given by worker).
3. ☐ Since *(Date)* _____ absent for reasons unknown.
4. ☐ On *(Date)* _____ refused to accept suitable work (in explanation enter kind of work, wages, and work-week offered).
5. ☐ Since *(Date)* _____ unable to or unavailable for FULL-TIME work (in explanation enter limitations as you understand them).
6. ☐ Wages in lieu of notice or vacation pay in the amount of $_____ were paid or are payable for the period from _____ through _____.
7. ☐ Is not unemployed (in explanation give nature of employment).
8. ☐ On *(Date)* _____ was discharged for forgery, larceny, or embezzlement connected with work.

EXPLANATION OF REASON CHECKED ABOVE: _____

This Notice of Possible Ineligibility is submitted: (one MUST be checked and date given).

a. ☐ on receipt of UC(Ill)Ben-31, Notice to Last Employing Unit, dated _____.
b. ☐ on receipt of UC(Ill)Ben-39A, Notice of Claim, dated _____.
c. ☐ on receipt of UC(Ill)Ben-183, Notice of Additional Claim, dated _____.
d. ☐ on receipt of UC(Ill)Ben-305, Notice of Finding to Base Period Employer, dated _____.
e. ☐ under other provisions of Regulation 14 as amended effective April, 1949.

I certify that the information contained herein is true and correct.

Firm Name _____ Address _____ Telephone _____

Signature _____ Title _____ Date _____

UC(Ill) Ben-22 (Rev. 4-49) 177 **NOTICE OF POSSIBLE INELIGIBILITY (See Reverse)**