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The administration of unemployment compensation in Massachusetts.

Weldon, George
Boston University

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Thesis

THE ADMINISTRATION OF UNEMPLOYMENT COMPENSATION
IN MASSACHUSETTS

by

George Weldon

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Professor of Economics
PREFACE

The Purpose of the Thesis

At the present time, nearly everyone is aware of the problems faced by the Massachusetts Division of Employment Security. Especially aware of its existence and its problems were the 713,000 persons who filed claims for unemployment benefits for the fiscal year, 1948-1949. Yet surprisingly, few persons are aware of how the agency operates and what the purposes of its law are.

Little has been written about the functions of the agency and most of what has been written deals only with specific facets of unemployment compensation administration. Very few works give a comprehensive picture of the administrative and sociological problems faced by the agency.

The author, therefore, has two purposes in choosing unemployment compensation as a subject for his thesis. First, the subject is of paramount interest at the present time. Second, the subject has been largely unexplored.

This thesis is written in defense of the Massachusetts unemployment compensation system. The system admittedly appears in a very poor light today. The financial condition of the unemployment benefit fund is particularly embarrassing. However, too much emphasis has been placed on the shortcomings rather
than the beneficial aspects of the system. A primary purpose of this paper, therefore, is to accentuate these beneficial features. However, to say that Massachusetts has evolved a perfect program would be fallacious; it is not the purpose of the paper to ignore the sometimes glaring deficiencies but merely to return them to their place within the whole picture.

The Methods and Scope of the Thesis

The paper will deal with only one of the two functions of the Division of Employment Security, that of collecting funds and dispersing them in the form of unemployment benefits. Space does not permit any appreciable discussion of the operations of the State employment services.

The thesis will consist of four principle parts. The first of these will include a discussion of the early history of unemployment compensation both in Europe and the United States. Federal action leading up to the passage of the Social Security Act will be stressed. It will be necessary then to explain the unique federal-state relationship resultant of the Social Security Act. Unemployment compensation in Massachusetts will also be examined in relation to the State law Chapter 151A. A brief discussion of the constitutionality of the Massachusetts law will close the chapter.

The next chapter will consist of an exposition of the administrative machinery of the Division of Employment Security. In defense of the agency's administrative efficiency, its
conformity with various accepted principles of sound public administration will be pointed out. The author, rather than choosing the principles of any one authority, has chosen rather to use the salient features of systems advocated by a somewhat heterogeneous group of writers on the subject. Among these are W. F. Willoughby, J. M. Pfiffner and Luther Gulick.¹ Some of the features that the author feels should be applicable to any sound administrative system are those of integrated command, coordination, and control, proper allocation of line and staff functions, and a generous use of auxiliary and research agencies.

The third part of the thesis will deal with the financing methods in use in Massachusetts. In order to draw any conclusions, the author has been forced to compare this state to others. A short discussion of the flexible tax known as "experience" or merit rating will also be included.

The fourth part will consist of an investigation of the sociological ramifications of the whole system of unemployment compensation in Massachusetts. This will entail examining the extent of coverage, conditions governing eligibility, and the liberality of benefits. The position taken by the author will be that in a sociological sense, Massachusetts has one of the most liberal structures in the country. The reasons for this stand will be on a basis of comparison with the structures in

¹Luther Gulick's standards will be especially emphasized.
the other fifty unemployment compensation jurisdictions as well as in comparison with the provisions in the Federal Social Security Act.
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CHAPTER I

THE BACKGROUND OF UNEMPLOYMENT COMPENSATION

Early European Experiments

Unemployment insurance is not a very new concept; neither has it been confined to the United States. Like most liberal innovations, it had its beginnings in 19th century Europe.

The later eighteen-hundreds found many European cities troubled with the problem of excessive industrial unemployment. At that time, many of the trade unions had developed private unemployment insurance plans. Recognizing the worth of these plans, a great many European cities adopted plans of their own. Chief among these municipalities were Berne, Geneva, Cologne, Leipsig, and Venice.¹ These original municipal plans were, however, foredoomed to failure. Coverage proved to be too narrow, the geographical areas to be included in the plans were too small. As a result, it was impossible to accumulate reserve funds and at times the funds were completely exhausted because almost all the insurees were drawing benefits.²

²Ibid., p. 15.
The Ghent Plan

One city, however, proved to be much more successful in insuring its workers. The success of the Ghent Plan, adopted in 1902, was due principally to the fact that it assisted and encouraged trade union plans instead of competing with them. All funds were built up through contributions from the government and the insurees. Employers did not contribute to the plan.3

In the long run, however, the Ghent Plan and its forerunners proved to be insufficient. The proportion of the industrial population usually ranged from only eight to thirty percent.4 Benefits were insufficient and the solvency of the funds depended mainly on the magnanimity of the government. The limited funds were rapidly depleted in any period of widespread unemployment.

These early schemes were of value chiefly because of two outstanding reasons. First, they demonstrated that unemployment insurance plans were feasible. It was apparent that they had lessened considerably the impact of unemployment. Second, they tended to emphasize that voluntary insurance programs were wholly inadequate. Because these programs were voluntary, only those workers whose jobs were insecure participated in them. Those in fairly stable work preferred to stay out. The plans

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1McCarthy, Ibid., p. 15.
2Ibid., p. 16.
thus violated several sound insurance principles. They could be likened to a life insurance company whose clientele was limited to cancer victims.

Great Britain and Compulsory Insurance

Britain's unemployment insurance plan is of chief interest because it is, in some respects, the basis of our own system. It was, at its inception in 1911, financed by compulsory contributions by both employers and employees and by additional grants from the government and this method of financing is still in use. It has been liberalized considerably since its conception and its benefit provisions are now very similar to our own in Massachusetts. It has proven through its 39 years of existence that it is both necessary and beneficial and actuarially sound. Its chief interest to the student is that it is the first plan ever evolved of a compulsory nature.\(^5\)

Of particular interest is a feature of the law adopted temporarily in 1919. This was the so-called "dole". The unsavory if unfair reputation of this device has been widely used to justify the arguments of opponents of unemployment compensation. Actually there was no justification for the condemnation of the "dole". It was merely a device to provide funds for jobless veterans just demobilized. Since these veterans had no recent job experience they were ineligible for regular unemployment benefits. They were, therefore, aided through special

\(^5\)Ibid., pp. 16-21.
legislative grants which were paid through the British employment offices or "labor exchanges". Because the regular unemployment benefits were also paid through these exchanges, many erroneously assumed that the British unemployment system had become nothing more than a system of public relief. The U. S. Servicemen's Readjustment Act of 1944 was patterned exactly after the "dolé".

Early Action in the United States

Most of the early action toward establishment of unemployment insurance systems in the United States were of a private and voluntary nature. They were developed chiefly through the initiative of trade union groups. The first of these were established by the Amalgamated Society of Engineers in 1860 and by the Amalgamated Society of Carpenters and Joiners in 1867. By 1934 forty-one unions had insurance plans in operation.6

The depressions of 1914-1915 and 1920-1922 also prompted company action. The Dennison Manufacturing Company adopted such a plan in 1916. By 1934, 38 companies had employee insurance plans in operation.7

These programs, like those in Europe, proved to be entirely inadequate, and it was soon apparent that the only


7Ibid., p. 23.
solution lay in some type of federal or state action.

Federal Action

The early depressions of the Twentieth Century served as an incentive toward some type of federal action. As early as 1916 Representative London of New York introduced a resolution calling for a commission to investigate unemployment and to recommend some system of unemployment compensation.\(^8\) This, and other resolutions were defeated chiefly through the efforts of The American Federation of Labor led by Samuel Gompers.

Nevertheless, this new concept continued to grow. It stressed the accumulation of funds during prosperous periods so that aid could be given the unemployed in times of depression. There was a dual purpose to this new concept. The purpose of the new plan was to pay benefits as a matter of right for a limited period of time and to maintain purchasing power during periods of depression.

H. R. 12205 was introduced in the House of Representatives by Representative Victor Berger, Socialist from Wisconsin, in 1928. Although it failed of passage, its provisions are worth noting. It would have provided for benefit payments totaling 50 percent of the average weekly wage for a period not exceeding six months for all covered employees over eighteen years of age. It was to have been financed by employer and

\[^8\) Loc. cit.\]
employee contributions and by federal grants.⁹

In 1928 a resolution was also introduced which resulted in an investigation of the problem by the Senate Labor Committee. The Committee reported that any federal action at that time was not called for and recommended the adoption by industry of voluntary plans.¹⁰

The final adoption of a system of unemployment insurance was due, in no small respect, to the efforts of Senator Robert F. Wagner of New York, in 1931. He was responsible for another investigation of the unemployment question. Nothing resulted from this investigation.¹¹ In 1933, he introduced another bill S. J. Resolution 26 by the terms of which an employer who was subject to a state unemployment insurance law could deduct 30 percent of his tax contributions under that state law from his federal income tax. Senator Wagner also introduced, in the same year, S. 1943 which sought to build up an unemployment fund in the District of Columbia. Both of these two efforts failed.¹²

In February of 1934 Senator Wagner and Representative David J. Lewis sponsored a plan which would stimulate the adoption of state unemployment compensation laws. The two bills

⁹Loc. cit.
¹¹Loc. cit.
¹²Stewart, op. cit., p. 23.
which were introduced, S. 2616, and H. R. 7659 would have imposed a 5 percent federal payroll tax on most employers employing ten or more. The bills further provided that these employers could deduct from their federal tax that amount which they contributed to a federally approved state unemployment compensation system. The measure was not reported out of committee, the reasons being given that a further study of conditions was required and that the time was not ripe for federal social security legislation.\(^{13}\) However, action was soon forthcoming.

The Committee on Economic Security

On June 28, 1934, President Roosevelt created the Committee on Economic Security, the purpose of which was "to study problems relating to economic security and report to the President...its recommendations concerning proposals which, in its judgment, will promote greater economic security."\(^{14}\)

The Committee consisted of two groups. One was composed of the Secretary of Labor, the Secretary of the Treasury, the Secretary of Agriculture and the Administrator of the F.E.R.A. Later, an advisory sub-committee was set up which was composed of representatives of Labor, Industry, and the general public.\(^{15}\)

\(^{13}\)Ibid., p. 24.

\(^{14}\)Dever, op. cit., p. 40 (out of context of Executive Order 6157 setting up the Committee).

\(^{15}\)Ibid., p. 41.
A basic conflict arose within the Committee as to what type of unemployment compensation system should be recommended. Three main types were considered:

1. A Federal unemployment compensation system.

2. A Federal-State system, with the Federal Government collecting all taxes, but allowing the states to administer the law, with grants for both the payment of benefits and administration.

3. A Federal-State system under which the Federal Government would provide grants for administration, but the states would collect the tax and administer the law.16

The issue was finally resolved and the Committee recommended that the government take action along the lines provided by the third alternative (above). The Committee stated:

The plan for unemployment compensation that we suggest contemplates that the States shall have broad freedom to set up the type of unemployment compensation they wish. We believe that all matters in which uniformity is not absolutely essential should be left to the States. The Federal Government, however, should assist the States in setting up their administrations and in the solution of the problems they will encounter.17

The Social Security Act

After the release of the Committee's report, Senator Wagner introduced a new measure, S. 1130. This measure which followed the Committee's recommendations closely was

16 Loc. cit., the pros and cons of these three alternative methods are outlined by Dever, pp. 41-44.

subsequently passed, with minor amendments, in August, 1935 under the title of the Social Security Act.

Only two of the eleven titles of the Act pertain to the establishment of unemployment insurance systems. The Act did not establish a uniform national system of unemployment compensation. It did, however, indirectly establish a national system of unemployment compensation laws administered under a Federal-State cooperative scheme.

The Act had three basic results:

1. It established a central agency known as the Bureau of Employment Security to advise, assist and exercise a certain amount of control over the administrations of the several states.\(^1\)

2. Through Title III of the Act it provided for grants to the several states to defray the costs involved in the administration of their own unemployment insurance systems.

3. Title IX of the Act made it impossible, in theory at least, for the employer in the state without an unemployment

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\(^1\)The Bureau of Employment Security and its adjunct, the Advisory Council to the Bureau of Employment Security, has been rather a difficult agency to keep track of. It was originally a subordinate to the Social Security Board, charged under the Act with almost all the Federal administrative functions connected with the Act. The Social Security Board was later made subordinate to the war-created Federal Security Agency. In August, 1949, due to the suggestions embodied in the Hoover Reorganization Report, the Bureau of Employment Security was transferred from the Social Security Board to the United States Department of Labor. Robert Goodwin is the present head of the Bureau.
insurance system to have any competitive advantage over the employer in the state with such a system.

Let us take each of the above three points in turn. First, the Act was to provide for a Federal-State cooperative system. This entailed setting up some central federalized direction. The Act provided that this Federal direction should come from the Bureau of Employment Security of the Social Security Board,\(^1\) with additional Federal control being exercised through the U. S. Treasury Department and the Bureau of Internal Revenue. How these three agencies have regulated the various states will become evident in the discussions of Titles III and IX of the Act which follow.

1. **Title III of the Social Security Act**

   Title III was simply an inducement by the Federal Government for the states to set up their own unemployment insurance systems. Under its provisions, Federal grants would be made yearly to such states to cover the administrative costs of their systems.\(^2\) The amount granted to each state is determined by:

\(^{19}\)The Bureau of Employment Security was not mentioned directly in the Social Security Act. Only the Social Security Board was specifically set up (Title VII). However, the Bureau was set up by the Board under the provisions of Title VII, Sec. 702. Since the Bureau is now in the Department of Labor, the Board no longer has jurisdiction over the Unemployment Compensation features of the Act.

\(^{20}\)Social Security Act, Title III, Sec. 301.
(a) The population of the state.

(b) An estimate of the number of persons covered by the state law and the cost of proper administration of the law.

(c) Such other factors as are found relevant. 21

Before any grants are made to a state, the Bureau of Employment Security must certify that the state meets the following qualifications.

1. Such methods as are found...to be reasonably calculated to insure full payment of unemployment compensation...(are used).

2. Payment (is made) solely through public employment offices or other such agencies (as may be approved).

3. Opportunity (is given) for a fair hearing, before an impartial tribunal, for all individuals whose claims for unemployment compensation are denied...

4. Payment (is made) of money received in the unemployment fund of each state...to the Secretary of the Treasury to the credit of the unemployment trust fund established by section 904...

5. Expenditure of all money (is made) in the payment of unemployment compensation...

6. (Reports are made)...as (may be) from time to time required...

7. The name, address, (etc.) of each recipient of unemployment compensation and a statement of such recipient's rights to further compensation (are made available) upon request to any agency of the United States charged with the administration of public works or assistance through public employment. 22

21 Social Security Act, Title III, Sec. 301.

22 Social Security Act, Title III Sec. 303 (a) (1-7). Sec. 303 (a) (1) also provides that the Federal Government will not interfere with the "selection, tenure of office, and compensation" of the states' employees. The Federal Government has thus agreed to grant emoluments to those engaged in the administration of state unemployment compensation in accordance with each state's wage scale.
If the state fails to meet any of the above conditions its grants for administrative purposes are cut off. It is easy to see that through Title III, the Federal Government has actually set up national standards.

2. **Title IX of the Social Security Act**

   Title IX is the section of the Act which imposes a federal tax on most employers. It has been incorporated into the U.S. Internal Revenue Code and is now known as the Federal Unemployment Tax Act. The Federal tax on employers is thus administered by the Bureau of Internal Revenue.

   The real purpose of Title IX, however, was to provide an additional incentive for the states to set up their own unemployment insurance systems. This was accomplished by means of a tax-offset device. This device provided that any employer who is subject to a state unemployment compensation law may deduct from his federal tax, any amount paid under the state law into the state unemployment compensation fund up to 90 percent of the amount of the Federal tax.\(^{23}\) The purpose of the device, in addition, was to remove any competitive advantages between states by making all employers, subject to the Act,\(^{24}\) pay an equal 3 percent tax whether they were subject to a state U. C. tax or not.

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\(^{23}\)Internal Revenue Code. Subchapter C, Sec. 1601, 1602. (Federal Unemployment Tax Act).

\(^{24}\)Which employers are subject to the Federal Tax will be discussed in Chapter IV.
However, before an employer could obtain a credit against the Federal tax, it was necessary for his state's unemployment insurance system to be approved by the Federal Government. The Title thus allowed the imposition of more national standards. Under Title IX, six basic conditions had to be satisfied before approval of the state's system:\textsuperscript{25}

1. Payment must be made through employment office or other approved agencies. This condition was imposed in order to unify U. C. with job placement.

2. No compensation could be paid for two years after tax contributions had begun. This clause was to insure the building up of an unemployment fund.

3. All money received by the state was to be turned over to the Secretary of the Treasury and marked to that state's credit.\textsuperscript{26} The main effect of this stipulation was to insure investment economies and to protect the fund of each state.

4. All money when reclaimed from the Secretary of the Treasury was to be used exclusively to pay unemployment benefits. This condition effectively prevented diversion of the fund's money into other state channels.

5. The state could not deny benefits to individuals who refused to accept employment because the position offered was open due to a labor dispute, or if wages and working conditions were not standard, or if accepting the position meant joining a

\textsuperscript{25}Subchapter C, Sec. 1603.

\textsuperscript{26}See also Title IX, Sec. 904. (Unemployment Trust Fund)
company union. These stipulations, of course, were consistent with the Federal government's labor policy.

5. The provisions of the state law must be amenable to change. This was to further the possible future liberalization of either state or federal standards.

It is easy to see that both Titles III and IX were very effective. The Federal government, without establishing a national system, provided the incentive for every state to set up a system. The law appeared to hold up the principle of "states rights" and, at the same time, assured the national government of a maximum of control. By June, 1937 every state had enacted an unemployment compensation law.

Action in Massachusetts

Little action was taken by either private parties or the commonwealth prior to 1935 to establish any unemployment insurance system. A bill was introduced in 1916 providing for a state system with limited coverage but it failed of passage. Not until 1935 was any concrete action to relieve unemployment. At that time, prompted by the recommendations of the Committee on Economic Security and by the introduction of the Social Security Bills in Congress, the Massachusetts Legislature enacted an unemployment compensation law known as Chapter 151A on August 12, 1935, just five days before the final passage of the Social Security Act. It was the fifth state to enact such a law. It received the certification of the Federal government on
February 4, 1936. While it was limited in its applicability at that time, it has, through amendments, since become one of the most liberal in the country.

The Constitutionality of Chapter 151A

The constitutionality of the unemployment insurance law was early challenged. On November 2, 1936 a bill in equity was filed in the State Supreme Court against the Massachusetts Unemployment Compensation Commission. The plaintiffs pleaded that the courts prevent the Commission from transferring the tax contributions they had made to the State Treasurer and thence to the Secretary of the Treasury. They based their plea on five main grounds.

1. The law was an invalid regulation on the ground that it interfered with ordinary lawful business.

2. The law is, in effect, the taking of property without due process of law.

3. Freedom of contract was violated.

4. Protection under the law was not equal.

5. The Social Security Act was unconstitutional.

Justice Rugg ruled all five contentions of the plaintiffs invalid. In answer to the first contention he argued that unemployment was an evil and the state could, under the

police power, make the cause of the evil (the employer) bear the cost of it. The police power was also cited as the answer to the second (ground). The third ground, was not even deserving of discussion, said Rugg, since the plaintiffs wished to contract with their employees to assume a large proportion of the tax load. The plaintiff's fourth objection was due to the fact that some employers were tax exempt. Rugg ruled that the state was privileged to classify in its regulations provided that such classifications were reasonable and that all persons of like circumstances would be treated equally. Since the question of the constitutionality of the Social Security Act was still open, the State Court did not have competence to rule on the fifth objection. However, the constitutionality of the Social Security Act was later upheld in the federal courts.
CHAPTER II

THE PROCESS OF ADMINISTERING THE UNEMPLOYMENT LAW

The determining of the best method of administration of the unemployment compensation law in Massachusetts has been a continuing process of trial and error. With virtually no initial federal direction, the state was forced to experiment with a variety of procedures before arriving at its present organization. That the present organization is highly efficient is thus greatly to its own credit. This high efficiency is due almost entirely to the Division's adherence to all accepted standards of public administration both procedural and organizational. These standards will be pointed out specifically as they pertain to the various elements of the Division's administration.

The Division of Employment Security, originally the Massachusetts Unemployment Compensation Commission, was established as an autonomous adjunct of the Massachusetts Department of Labor in 1935.\(^1\) It was placed within the Labor Department because of the provisions of the Massachusetts Constitution limiting the number of State Departments to twenty. Since it could not be made a Department, the Division was made part of

\(^1\)Mass. G. L. Chapter 23, Sec. 9I - Sec. 9N. These sections establish the Division and designate it as the body empowered to carry out the provisions of Chapter 151A.
another but not subject to its direction. Under this peculiar but constitutionally necessary arrangement the Division has become a huge and complex organization with three central offices and thirty-nine local offices. The agency is the largest of division size in the state and is larger than many departments. In spite of its increasing size, it has retained its record of efficiency.

In order to point out best the workings of the Division, this chapter will first examine its controls then the actual processes from tax collection to benefit payment and finally the staff and auxiliary services employed by the agency.

The Chief Executors

The Director

The Division was formerly under the control of a three member commission serving staggered four year terms and of non-partisan composition. The commission was disbanded in 1941 and administration by a single director was substituted. It was found that the operation of the agency could be better directed by one man than by several since there was no logical reason for the existence of a commission. According to all accepted standards of public administration, control by a commission is only necessary if quasi-judicial or consultative functions are integral to the agency. While both functions were inherent in the Division, the former was carried out by the Board of Review and the latter by the Advisory Council and Assistant Directors both of which will be discussed later.
CHART I - ORGANIZATION OF THE DIVISION

June 30, 1949

ADVISORY COUNCIL

DIRECTOR

BOARD OF REVIEW

BENEFITS SERVICE

BUSINESS MANAGEMENT SERVICE

EMPLOYMENT SERVICE

EXECUTIVE SERVICE

ADMINISTRATIVE FIELD SERVICE

CLAIMS REPORTS DISBURSE.

DEPT. DEPT. DEPT.

BUDGET AND COST DIV.

FINANCE DIVISION

PROPERTY DIVISION

PERSONNEL DIVISION

RESEARCH & STATIS. DEPT.

TRAINING DEPT.

INFORMATION DEPT.

LEGAL DEPT.
By making the agency single-headed, a pyramid method of control was easily established. All the activities of the organization were integrated so that the Director was made responsible for all its activities. Along with responsibility the Director has been able to assume the necessary tools of control. These tools are several. First he has the power of appointment and removal subject to the regulations of the Massachusetts Civil Service Commission. Second, he has the power to fix their duties and to draw up administrative regulations within the bounds of, and in elaboration and clarification of Chapter 151A. He also has the power to delegate his authority to his assistants and control the Division's administrative finances subject to appropriation. In short, he is not a figure head. He is able to control effectively every operation within his jurisdiction because he can avail himself of every means to carry out his responsibility.

While the Director has complete control of the administration of unemployment compensation, he is not all powerful for he himself is subject to control from outside his agency. First, he is not only appointed by the Governor and Executive Council, but he is also subject to removal by them. He must not engage in any political affairs during his five year term of office and must be politically and ideologically impartial in his administration. So that his superiors can maintain a check on conditions within the Division he must make an annual report to both
the Governor and the General Court.\textsuperscript{2} In summation it is apparent that in the creation of the office of Director, recognized principles of administrative procedure have been put into operation, for while responsibility has been fixed in the office, the tools of responsibility are available to the Director.

The Assistant Directors

The law allows the Director to delegate his authority directly to Assistant or Deputy Directors. At the present time, there are five such directors. Each is in charge of one of the five line and staff services through which the Division operates. These five services are Benefits, Business management, Executive, Field administrative, and Employment. By delegating authority to the Assistant Directors, the span of control is shortened considerably thus allowing more efficient administration. Besides acting as deputy managers, the Assistant Directors serve in another capacity. They act as an executive council to the Director through which administrative problems can be resolved. Although these assistants are very powerful, they remain completely with the jurisdiction of the Director. He is responsible for their appointment, directs their administrative operation and is at liberty to accept or reject their counsel.

The Advisory Council

The Advisory Council, unlike the Assistant Directors, is independent of the Director.\textsuperscript{3} It exists for three basic

\textsuperscript{2}See G.L. Chapter 23, Sec. 9j, 9k.
\textsuperscript{3}G.L. Chapter 23, Sec. 9N(a).
purposes. The first of these is to advise the Director. In addition, it serves as a check on him, for all his rules and regulations pertaining to those subject to Chapter 151A and not concerning internal administration are subject to their ratification before attaining the force of law. However, the third purpose is the most important. The Council must continually investigate the operating efficiency of the Division and the adequacy of the Unemployment Compensation law in terms of its social utility. Its findings must be made known in a biennial report to the General Court together with its recommendations for changes. Most of the changes thus far brought about have been the result of the Council's findings. One of the chief projects undertaken by the Council has been a comprehensive study of the merits and demerits of the various "cash-sickness" plans.

By its composition, the Council assumes one of the advantages of the old Unemployment Compensation Commission. Unemployment insurance is of such a nature that both management and labor must have a voice in its administration. Since the Director obviously cannot be a representative of more than one group, the Advisory Council is so composed that all groups participate in its actions. It is composed of six members appointed by the Governor for six years, labor, management and the general public being equally represented.

The Director, the Assistant Directors and the Advisory Council are thus all three, the controls of the Division. The Director is the apex of the pyramid of authority, his control
spreading to his delegated aides, the Assistant Directors. The Advisory Council stands apart, exercising some control over the Director and constantly seeking ways to improve both the law and its internal administration. Throughout all control functions, it is interesting to note that several of the standards of proper administration advanced by Luther Gulick are evident. 4 Gulick's standards are widely known by the word, POSDCORB, each letter standing for a desired objective as follows; Planning, Organizing, Staffing, Directing, Coordinating, Reporting, Budgeting. It is only necessary to point out at this point that Planning, Directing, Coordinating and Reporting are clearly evident in the functions thus far enumerated. Others of Gulick's standards will become evident later.

The Line Functions of the Division

Having briefly discussed the methods of direction used in the Division, let us next turn to the primary mechanics involved in the administration of the law. The essential purposes of the law are fulfilled through the line functions of the Division. All line functions are essentially "purpose"; that is every function flows vertically into the next until the end result is accomplished. Essentially there are two main line functions performed both of which are under the control of the Assistant Director in charge of Benefits Service. The first

function is that of collecting and controlling the money received for the purpose of paying unemployment benefits. This will be known as the contributions and wage records function. The second controls the actual receiving of claims and the payment of unemployment benefits. This function we will call claims processing and claims payment. Both of these two basic line functions are carried out with the aid of an auxiliary department under the control of another assistant director which is known as the Administrative Field Service. The Field Service does the "leg-work" of the Division, field representatives working out of the central offices. How the field service aids in line operation will become evident in the discussion of basic line functions.

Contributions and Wage Records

Five basic steps are observed within the confines of contributions and wage records. The whole purpose of the function is to collect and control the fund which employers contribute to the Unemployment Insurance Fund. Only employers are subject to tax contributions.\(^5\)

The first of the five steps is, therefore, to determine which employers are subject to the tax, that is, the determination of each employer's "status". This entails establishing existence of employer-employee relationships, services which are except from the definitions of employment, and whether

\(^5\)See Chapter III below, "Sources of Funds".
individuals are covered by the Massachusetts law. The status department, in addition, makes reciprocal arrangements with other state unemployment compensation agencies for the coverage of mobile or multi-state employers. Each employer's determined status is checked and re-checked. The field service is utilized here to gather facts, examine employer records and to conduct interviews to aid in determinations as to whether employers are subject to the law. The employer may appeal the decisions of the Division regarding his status and in such cases he is granted a review conducted on a departmental level. Determination of employer tax status is one of the most important functions of the Division. As such, every care is taken to insure fairness to the employer and at the same time to insure maximum tax income.

The next step in the process is the collection of tax contributions and reports from employers whose status makes them liable. At present there are some 95,000 employers subject to the making of contributions and the filing of reports. Each employer must file a quarterly report showing the amount of wages paid to his employees during the quarter, the amount of contributions required measured by a percentage of his payroll, the wages paid to each individual employee, employee's name, social security number, etc. All contribution receipts must be deposited in a clearing account in the name of the State Treasury. Deposits to this account are subsequently forwarded.

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6See Chapter IV below, "Coverage."
to the Federal Treasury for deposit in the Federal Unemployment Insurance fund. Records are maintained of all delinquent employers both in the filing of reports and the payment of contributions. All employers who are delinquent in reports and contributions are pursued for the filing and payment required under the law. Delinquent employers are subject to interest or penalty payments for late payment in contributions.7 Those are deposited in the clearing account.8 All reports are audited for the purpose of determining their accuracy. Those which are incorrect are billed to the employer for their inaccuracies. The field service is again utilized here, investigating the reasons for late reports and contributions. Their work in this case is mostly of an auditing nature.

A third function of contributions and wage records is the maintainance of an account for each employer on which is recorded the date of contribution payments, the amount of contributions paid, amounts of interest, if any, together with any adjustments of the account. Annually, the amounts paid by each employer are certified as to date of payment and by whom paid to the U. S. Commissioner of Internal Revenue for the

7See G.L. Chapter 151A. Sections 13-21 for regulations governing employer contributions, delinquency, and penalties thereof.

8The State has set up two separate accounts. One, the Clearing Account, is the one into which all money destined for the Federal Unemployment Insurance Fund are recorded. The other, the Unemployment Compensation Fund Account is the one in which all the funds paid to the U. S. Treasury and which are on deposit to the credit of Massachusetts are recorded.
purpose of establishing the credits to which the employer is entitled against the Federal Payroll Tax in accordance with Title IX of the Social Security Act.

The next step is the computation of the employer's experience rating.9

The fifth step is the recording of employees' wage records. From the quarterly reports of employers an account is drawn up showing each employee's name, social security number, employer or employers and quarterly wages. These wage record accounts have two basic purposes. First, the benefit rights of all of the approximately 1,800,000 covered employees in Massachusetts are computed on the information contained in these files. Second, they serve as a check on the accuracy of employer reports, contributions, etc. The totals of the individual wages reported by each employer are reconciled with the amount of taxable wages on which the employer actually paid contributions for the purpose of detecting inaccuracies in the payment of contributions or the reporting of individual's wages. These wage record cards, after claim has been filed are used in establishing employer's benefit wages assignable to him in connection with his experience rating.10

It can be seen that each of the five steps follows a logical sequence. First it is determined whether an employer is

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9See Chapter IV, "Experience Rating". The subject is explained fully in that chapter.

10"Benefit wages" in connection with experience rating are also explained in Chapter IV.
subject to the law. Then the employer must make tax contributions and file reports substantiating the accuracy of his contributions. The third step enables the Division to keep a record over the years of each employer and also enables the employer to obtain an exemption from the Federal payroll tax. Also, from these records over a three year period, the next step, the computation of each employer's experience rating is carried out. The last step is first an audit of all previous operations but it also leads directly into the process of benefit payments since employee benefit rights are computed from wage records. In short, the whole process called contributions and wage records are designed with one basic end in view, the prompt collection of all taxes necessary for the financing of the unemployment fund. Every effort possible has been made to insure that end.

Claims Processing and Claims Payment

The claims processing and claims payment function is the most important process carried out within the Division. The process of paying unemployment benefits is the primary reason for the existence of the Division. Before discussing the means of administering benefit payments, it will be necessary to explain briefly the function of the local offices.

The Local Offices

The relation of the central offices to the local offices are what Luther Gulick would call "all fingers." That is all

\footnote{Gulick and Urwick, op. cit., p. 26}
major and final decisions are made in the central offices and the local offices perform only decentralized line duties. The local offices are not to be confused with the Field Service. The later service is not a decentralized organization for its representatives work out of the central offices.

The local offices have a dual purpose. They first serve as employment offices. For this purpose the Commonwealth is divided into five districts, the Metropolitan District and the Western, Central, Northeast and Southeast Districts. These Districts are established to serve the primary purpose of job placement. Some, but not all of the 39 local offices within each district, act as employment centers where job opportunities, etc. are on file and where job interviews are conducted. However, all local offices refer benefit claimants periodically to job placement centers.

However, we are primarily interested here in the local offices' other duty, that of assisting in the claims processing and claims payment functions. How their work is integrated with that of the central offices will become evident in the actual processes.

2. Claims Processing

The first step to be taken after an unemployment benefit claim is received is to determine the benefit claimant's eligibility. Initial claims for benefits are filed with the local offices. These claims, as they are received daily, are forwarded to the central administrative offices where they are
examined as to the reasons for the employee's separation from his most recent employment. The local office then makes a preliminary eligibility determination based on the employee's information. At the same time, however, the local office sends a notice to the most recent employing unit in which is contained the claimant's statement as to the reason for his unemployment. It is mandatory, under the law, for the most recent employing unit to notify the Division that the claimant's statement is untrue if it is untrue or if he believes that the claimant is not entitled to benefits. If the central administrative office finds that the worker has filed a valid claim and is eligible for benefits, a determination to that effect is made. If it is found that the worker does not have a valid claim or is ineligible for reasons specified in the law, the claimant is notified that he is ineligible for unemployment benefits. If an employer protests the payment of benefits within the time prescribed by law and becomes a party to the claim, the facts are examined and a determination is made on the basis of such facts as to whether the claimant is entitled to receive benefits. The protesting employing unit is notified when the finding is made that benefits will be paid. Notices to both the claimant and the last employing unit are sent when the claim is denied or allowed for the purpose of enabling either party to appeal the determination.

12See Chapter IV "Eligibility."
A second step follows. On all claims approved as valid, a wage transcript is prepared, showing the base period earnings, former employer(s), weekly benefit rate and the number of weeks of entitlement, and forwarded to the local office for delivery to the claimant. The claimant may dispute any of the statements on the wage transcript if he believes it to be in error. A so-called "claim card" is prepared at the same time as the wage transcript. It contains the employee's name and address and other claims data such as the weekly benefit rate. All other necessary media such as claim ledger cards, notice of claim files, etc., are prepared in anticipation of payment of the claims.

3. Claims Payment

After claims have been processed, the function of claims payment begins. The process of payment of both initial and continued claims is the same. A claim becomes continued if benefits are claimed for more than one week or if a claim is reopened.

After a claimant has served his legal waiting period of one week, he is eligible to receive his payment for the first compensable week of unemployment. Upon receipt of a "warrant" that the claimant has served his waiting period and was unemployed for the first compensable week, this fact being established at the local office by his weekly registration and

13 See Chapter IV below "Benefits."
sworn statement that he remains unemployed, and is unable to find suitable employment, a check is made up by a mechanical process through the use of the claim card and mailed to the worker. If the worker remains unemployed and continues his claim, this process is continued until he is no longer unemployed or has exhausted his benefit rights. The same procedure follows when an individual who has not exhausted his claim has returned to work and again becomes unemployed except that he is not required to serve another waiting period during the "benefit year", the benefit year being the twelve month period commencing April 1, and ending March 1, next following.

Let us summarize the activities of the line agencies of the Division. They are so organized that a continuous vertical process results starting with building of the unemployment insurance fund and ending with the dispersal of benefits from it. Chief among Gulick's standards exemplified in the process is thus that of coordinating and integration. Reporting both internal and external is another feature resulting in effective methods of checking and auditing through each step of the process. Perhaps the best way of pointing up the efficiency of administration in Massachusetts is by high lighting the speed of its operations. For the year ending June 30, 1949 a total of 4,532,656 benefit checks were issued. In spite of this huge number of checks and the fact that the number of benefit claims was 57.9% higher that in the previous year, Massachusetts showed a slightly higher record than the national average for promptness in making benefit payments and a favorable
comparison to the most efficient states. Below is a chart showing the relative speed of benefit payments in the most efficient states.\textsuperscript{14}

CHART II -- Percent of Benefit Payments Made in Less Than Two Weeks

<table>
<thead>
<tr>
<th>State</th>
<th>First Payments</th>
<th>Second and Subsequent Payments</th>
<th>State</th>
<th>First Payments</th>
<th>Second and Subsequent Payments</th>
</tr>
</thead>
<tbody>
<tr>
<td>All</td>
<td>86</td>
<td>93</td>
<td>Mich.</td>
<td>86</td>
<td>96</td>
</tr>
<tr>
<td>Mass</td>
<td>88</td>
<td>95</td>
<td>Conn.</td>
<td>83</td>
<td>79</td>
</tr>
<tr>
<td>Calif.</td>
<td>87</td>
<td>97</td>
<td>Maine</td>
<td>85</td>
<td>95</td>
</tr>
<tr>
<td>Ohio</td>
<td>87</td>
<td>95</td>
<td>N. H.</td>
<td>79</td>
<td>94</td>
</tr>
<tr>
<td>Penna.</td>
<td>82</td>
<td>89</td>
<td>R. I.</td>
<td>95</td>
<td>99</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Vermont</td>
<td>68</td>
<td>96</td>
</tr>
</tbody>
</table>

Staff Services of the Division

To insure proper administrative management any agency must contain a variety of staff services. The Division's staff agencies are especially interesting because they are organized in almost exact conformity with every accepted sound administrative principle. Dr. John M. Pfiffner divides staff functions into three major parts, "the general staff, the auxiliary staff, and the functional or technical staff."\textsuperscript{15} What corresponds to


\textsuperscript{15}Dr. J. M. Pfiffner, Public Administration, Ronald Press, 1946, pp. 84-99.
the general staff, the Division's Assistant Directors, have already been discussed. Pfiffner sees the general staff as assisting the chief of the agency by acting in an executive capacity and to relieve him of some of the burdens of detail. It has already been pointed out that the Assistant Directors perform those functions, therefore, attention here will be focused on Pfiffner's two other classifications. These two later staff functions are contained in two integral parts of the agency. The Business Management Service under an Assistant Director performs what Pfiffner would call auxiliary services. The Executive Service also under an Assistant Director conforms roughly to what he would classify as technical services.

The Business Management Service

The duties of the Business Management Service are those which W. F. Willoughby classifies as "house keeping or institutional."16 That is, they are in existence primarily to insure the smooth operation of the line functions and as such are concerned solely only with the problems of internal administration. They are not control functions and do not influence directly the management of line operations. They are merely the tools of coordination which the Director uses to insure more efficient administration. As opposed to the purpose or vertical operation of the line departments they are more concerned with what Gulick calls "process" functions.17 As such

17Gulick and Urwick, op. cit., p. 97.
they cut horizontally into each line function. What are these housekeeping functions? There are four of them within the Business Management Service. They are contained in the Budget and Time Cost Division, the Finance Division, the Property Division, and the Personnel Division.

1. The Budget and Time-Cost Division

The preparation of a budget is an intrinsic operation in any administration. Sound Budgeting is one of the prerequisites stressed by Gulick, The Budget of the Division of Employment Security is computed largely on a time-cost basis. That is, each operation is measured in terms of its worth, its cost, and the time spent in its completion. Extended observation thus enables the budgetary supervisors to determine just how much weight is to be given to each operation, how much time should be spent on each, and, most important, the maximum feasible cost of each operation. These observations provide an accurate estimate of current budgetary needs both in material and personnel. In estimating time-cost the Division makes use of a table of estimates prepared by the Federal Bureau of Employment Security.18 This table assigns weights to every possible operation and as such is used by every state in spite of its administrative organization. The table of estimates was originally conceived here in Massachusetts and proved so effective that it was adopted and revised by the Federal authorities.

and is recommended for use in all states.

2. The Finance Division

The finance division works in close conjunction with both the budget and property divisions. It has two basic purposes. Since it is the agency which controls all monies allotted to the Division, it must serve both as a dispenser of those funds and as the agency charged with centralized purchasing. Working within the budget it computes salaries, operating expenses, rentals, etc. It also puts the initial stamp of approval on all expenditures of the property division and every other department. However, rigid control of finances is exercised from without the Division by the Massachusetts Department of Administration and Finance.

3. The Property Division

The duties of the property division are mainly custodial but in view of the largeness of the Division, its tasks are quite complicated. It employs a force of janitors, maintenance men, laborers, and elevator operators who are responsible for the maintenance of the many buildings needed to house the Division. It is also responsible for the vehicles used by the executives of the agency and by its Field Service.

4. The Personnel Division

Since practically all the employees of the Division have civil service status, the main task of the personnel division is employee placement within the Division, and to some extent their
training. Its position is extremely important since so much of the Division's work is very specialized. Employees with specialized skills are always needed. In addition to bookkeeping, analytical, and actuarial skills, mechanical skills are also needed since a large volume of the Division's work is performed by I.B.M. and other machines. It is, therefore, the personnel division's task to determine employee needs at all times and to shift employees with special skills within the Division where needed. Its work is further complicated by the fact that work loads are cyclical necessitating the hiring of temporary employees. For example, 2,103 were employed by the agency in May, 1949 and in June the number, due to the start of a new benefit year had jumped over three-hundred to 2,426, employees.\textsuperscript{19}

The Executive Service

Let us look now at what Pfiffner calls the technical staff services. Within the Massachusetts Division of Employment Security, these functions are performed within the Executive Service. Within the Executive Service, there are four main operating parts, the Research and Statistics Department, the Legal Department, the Training Department, and the Information Department. Of these four divisions, the first two fall strictly into Pfiffner's third staff classification. The other two are somewhat outside it but their existence is, nevertheless completely justified. An examination of the duties of each of

\textsuperscript{19}Director's Report, p. 26.
the four units follows showing their place in the overall organization of the Division.

1. The Research and Statistics Department

The department of research and statistics, to the author's mind, performs one of the most important, if not the most important, functions in the Division. Its primary and most immediate function is to keep the Director, his associates, and, in particular, the Advisory Council informed as to the manner in which the operating departments of the Division are carrying out their particular duties. First, every year the Division's Employment Service makes thousands of placements. It's not enough for the Director to know the number of placements; he must also know the answers to such questions as, what type of placements were made, whether or not they were solicited, whether they were in the government or in private enterprise and whether or not jobs were temporary or permanent. Also, the Benefits Department processes and pays a great number of claims each week. Again, the Director must have additional information. How many new claims were opened? How many were continued? How many were inter-state? What is the average length of unemployment? What is the incidence of exhausted claims? The Director must also know if checks are processed on time and if there are delays he must know the reasons.

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A second function of the department is that of providing information to the Director and the Advisory Council in determining questions of policy. Policy questions may be divided into two groups as follows. 21

"1. Current short time questions of administrative policy
2. Questions involving the long time development of the Division's program."

The department is thus called upon to gather statistics showing many types of long and short time trends to enable answers to be given to questions of adequacy of benefits, length of benefit duration and questions involving partial unemployment and dependency allowances. Such questions naturally give the department a strong, if indirect, voice in legislation.

Still a third function is performed by the department. That is, keeping the responsible parties informed as to developments in the whole field of employment security. For this purpose a library is maintained to contain all the literature written which pertains to this field.

To give an overall picture of the duties performed by the department it might be well to list the functions completed in 1949: 22

1. Data relating to the various activities of the Division were summarized and analyzed for the use of administrative and supervisory personnel.

21 Ibid., p. 138.
22 Director's Report, p. 32.
2. A monthly Newsletter on the labor market was prepared for the information department.

3. A confidential bi-weekly report on labor market conditions was issued to supervisory personnel.

4. Data was prepared for a recess commission of the General Court which was studying the Unemployment laws.

5. Estimates of work loads were prepared for the preparation of budgets to be submitted to the Bureau of Employment Security for the fiscal years 1949-1950 and 1950-1951.

6. Possible effects on the size of the unemployment fund of proposed benefit formula changes were computed.

7. The Director's annual report was prepared.

8. Sections of the Advisory Council's biennial report were prepared.

2. The Legal Department

The legal department is likewise indispensable to the Division. It is the arm which handles both litigation and adjudication. In other cases it acts as a sort of trustee. It serves first as an advisor to the Director in all interpretation of the Employment Security law in particular. It thus acts in the capacity of an informal adjudicator. However, its chief duty is acting as the legal counsel of the Division in the many instances where litigation is involved. This litigation takes many forms. It first has the power to subpoena employers and employees for preliminary hearings within the Division when any discrepancies are detected. Also takes action in the courts in cases involving overdue employer contributions, "rubber" checks, bankruptcies, and state court receiverships. In addition it
sues in court to regain benefit over-payments.23 Action by
the legal department resulted in the reclamation of $201,914.87
in 1949.

Another duty of the department is also very important.
It is the unit's function to represent the Division where cases
decided by the Board of Review have been appealed to the state
courts. Only six cases reached the Massachusetts Supreme
Judicial Court in 1949 and four of these were decided in favor
of the Division. However, a total of ninety cases reached the
District Courts. Of these, seventy-one of the Division's
findings were affirmed by the Courts and only five were reversed.
The remainder were not decided for various reasons.

3. The Training Department24

The training department, while not actually performing
technical services according to Pfiffner's classification,
nevertheless, does employ highly specialized personnel. Its
function is, most simply, to continue the job of the personnel
division. That is, it gives a thorough training to every one
employed by the Division. It actually performs two basic tasks
both very important. First, it teaches each worker his own
particular job. It instills proper managerial methods in the
minds of supervisors and it instructs benefits personnel in the
proper techniques of claims taking. One of its chief duties is

23Ibid., pp. 30-31.
24Ibid., pp. 27-28.
meet and how to aid the public it meets daily. In the Western sections of the state, it has even gone so far as to instruct personnel of the employment and placement offices on farm techniques so that they may better understand the problems both of job seekers and those seeking employees.

The departments second basic task is familiarizing each employee with the overall operating procedure of the Division. This task of familiarization is extremely important for all administrative authorities agree that the individual worker is much more efficient if he understands his place; understands how his job helps in the completed operation.

The department uses several methods of employee training, among them observation, lectures and manuals.

The Information Department

The information department is charged with two very important functions. The first of these is distributing information to both employers and employees. This information is important, since both contribution and benefit rights formulae are so complicated, because it enables both parties to be sure of their rights and obligations under the unemployment law. The Department is also obligated to engage in projects in conjunction with the employment offices to persuade employers to register their job openings with the state and to notify the unemployed of work opportunities. Radio time is frequently used for this purpose.

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25 Ibid., p. 29.
The other function which the information department performs is the preparation of reports to the general public on all aspects of the labor situation in Massachusetts which pertain to employment security. There is no doubt that this is a good practice for the public is much inclined to cooperate with an agency which does not keep the public in the dark about its activities.

In summarizing the staff services, both auxiliary and technical we see that they serve a very necessary service. They not only act as coordinators of the line services but they perform other highly important functions which if integrated into line process would cause a complete breakdown of the administration.

The Board of Review

The Board of Review is the appeal agency within the Division. It has already been noted that a commission type direction is advantageous if there is some kind of quasi-judicial function to be performed. Such functions are inherent in the Massachusetts Unemployment Compensation system. Since the Board of Review is established for the specific purpose of performing quasi-judicial duties, one of the best reasons for direction by commission, is nullified.

There are two types of cases which are usually heard by the Board. They are either appeals by employers of their status or contribution rate or appeals by employees because of denial
of their benefit claims or the fixing of the amount of their benefit rights.

All decisions are made by either of the main line departments or by the local offices in the name of the Director. As such, their first recourse to appeal is to the Director who is empowered to reverse the decisions of his subordinates. Appeals can then be carried beyond the Director to the Board of Review which is beyond the jurisdiction of the Director. If an appeal to the Board of Review is unsuccessful the case may be forwarded to the State Courts and conceivably the United States Supreme Court.

Practically all appeals were made by employees as benefit claimants, they having filed 13,115 of the 14,069 appeals upon which decisions were rendered in 1949. Most of the cases which were heard involved controversial issues. Not being available for work was the issue in 44 percent of the hearings; the question of voluntarily leaving resulted in another 35 percent; and misconduct accounted for an additional 9 percent. Incidentally, the activities of the Board of Review are another indication of the efficiency of the Division. There were 713,504 initial claims filed in 1949 and 14,645 new employers became subject to the law, a total of 728,149. Yet out of all of these, only 14,069 filed appeals, and out of those appeals.

26 See G. L. Chapter 23, Section 9N(b).
28 See Chapter IV, "Eligibility."
which were filed, 73 percent were decided in favor of the Division.

What is the procedure of the Board? Because of the large volume of work, it is necessary to have most of the hearings conducted before only one of the three members of the Board. However, the appellee can request a hearing before the full board. Two thousand, one-hundred and fifty-seven such hearings were disposed of in 1949. It is difficult to measure the efficiency of this body in terms of time because of its very crowded dockets especially during periods of peak claim loads. However, 24 percent of the decisions rendered were given within sixty days and an additional 43 percent within ninety days of filing the appeal.

Summarization

In reviewing the administrative organization of the Division of Employment Security, the author wishes to reemphasize the conformity of its planners to tested and accepted principles of sound management.

First, the disadvantages of both hierarchical or single headed control and control by commission have been avoided while the advantages of both types of administration have been retained. The method used is remarkably simple. The work of actual administration was placed solely in the hands of the Director and his aides. Where boards or commissions were properly needed, they were established outside the Director's jurisdiction. The Advisory Council was set up to perform duties
of an investigatory and advisory nature and which also had the advantage of being representative of the wishes of the interested segments of the general public. The Assistant Directors enabled the Director to delegate his authority and to increase administrative efficiency and also to avail himself of an additional consultative body. The establishment of the Board of Review created an independent body to perform necessary quasi-judicial functions and which was also representative of the public.

Second, important line and staff functions have been wisely integrated. The basic purposes of the Division have been administered by line departments organized on a vertical or "purpose" basis so that every function from determination of employer status to actual dispersal of benefits flows smoothly from one to the next. At the same time staff functions, organized on a horizontal or "process" basis are so organized that they are able to serve their coordinating functions without usurping the authority and control of the line supervisors. They serve rather to better relations between the various levels of administration.

Planning and Research have been also incorporated into the agency chiefly through the activities of the Department of Research and Statistics.

Fourth, a well planned and integrated personnel program has been established. Within the Civil Service, the Personnel department procures well qualified workers with special skills and capabilities for employment within the Division. It then
becomes the task of the training department to acquaint them with their jobs and their relation to the whole process of administering employment security.

Finance has not been neglected. Two separate departments perform this function. Budgeting and the computation of time cost factors is the task of one unit in addition to pre-and post-auditing, while another unit serves as a base for centralized purchasing.

Sixth, the place of the Division within the realm of administrative law has not been neglected. This fact is evidenced in three major ways: (1) The Legal Department exists for the purpose of both advising the Division on the interpretation of the law and acting as its external legal representative, (2) the Board of Review as the reviewer of administrative action while statutory provision has also been made for review in the courts. (3) The provisions of Chapter 151A make the task of compiling rules of internal administration comparatively easy for the Director. However, his rules governing those outside the Division are subject to approval by the Advisory Council.

Lastly, the Division has been cognizant of the need for good public relations. Public representation has been provided in the Board of Review and Advisory Council. However, the Division has not stopped there. The information Department's chief tasks have been to make sure that the workings of the Division as well as the rights and duties of those subject to the law are well presented. In addition, the work of the
training department has been largely instrumental in bringing about good relations between Division employees and the public. Their job is to meet and serve.
CHAPTER III

THE FINANCING OF UNEMPLOYMENT COMPENSATION

Having considered the organization, administrative procedure of the Division of Employment Security it is now necessary to turn to a consideration of the methods of financing the unemployment compensation program. Two factors must be considered; (1) the financing of administration; (2) the financing of the unemployment fund. Difficulties have been encountered in both these areas.

The Financing of Administrative Costs

The provisions of Title III of the Federal Social Security Act have already been lightly touched upon in Chapter I. However, it has developed that the obtaining of funds from the Federal government to defray the costs of administration has involved much more red tape than the simple certification by the Bureau of Employment Security that the state agency has conformed with conditions laid down in Titles III and IX of the Social Security Act.

How does the Federal government finance its grants to the states? It is popularly supposed that such grants are financed by the 3/10 of one percent of the total 3 percent Federal payroll tax which is received directly by the national
This supposition is not strictly true. There is no provision in the Social Security Act which provides for such a procedure. There is, therefore, no obligation on the part of the Federal government to return to each state, in the form of administrative subsidies, an amount equal to that obtained through the payroll tax. The federal portion of the tax is merely absorbed in the general revenues from which the state grants are obtained.

The Federal government can thus influence the quality of a state's administration through its control of the purse strings. It alone is the sole judge of what constitutes efficient administration. While it cannot choose the state's employees and their remuneration, it can, in effect, control the number of employees and their facilities. Such a system has its obvious drawbacks. It is particularly susceptible to political control.

To begin with, the state agency prepares a proposed budget which is drawn up to meet all foreseeable contingencies. The budget is then submitted to the regional office of the Federal government. Conferences are held between state and federal officials and some compromises are reached. It is then submitted to the central agency in Washington. Here, no attempt is made to keep the budget of each state separate.

\(^1\)Through the tax offset provisions of Title IX of the Social Security Act.
Such a practice, of course, neutralizes many of the advantages of localized administration. The Bureau of Employment Security then presents an overall appropriation request to the Bureau of the Budget which in turn has an opportunity to further decimate the original estimate of the state agency. The Bureau of the Budget then presents its further revised schedule of proposed expenditures to the proper committees in Congress. The budget requests for the various state unemployment insurance agencies are then examined as part of the appropriations for the expenses of both the Federal Security Agency and the Department of Labor, which consists of an all-inclusive appropriation bill including monies for the operation of the whole social security program. The funds for U.C. administration usually total only three percent of the whole bill. As a consequence, unemployment compensation commands only a small amount of attention from Congress. After Congressional approval has been made, the Bureau of Employment Security is free to allot it as it sees fit. Thus the original budget estimates of the state agency are subject to change four times before funds are forthcoming. Obviously such a procedure seriously hampers the operation of the state agency especially if some unusual administrative problem such as an unusually heavy claim load is encountered. Final budgets are almost always much lower than original estimates.

Massachusetts encountered a great deal of difficulty in early 1949. It found that its expenditures far exceeded its
appropriations. Robert Marshall, the Director, protested that he could not operate his agency within the federal allotment. By May of 1949, the administrative funds had been exhausted and it appeared that the agency would have to shut down until June of that year when new appropriations would be available. The problem became so serious that it necessitated intervention by Governor Dever to obtain a special Congressional appropriation to alleviate the problem. It is believed that partly for this reason Mr. Marshall was not reappointed.

However, the system while badly in need of revision does have advantages. Through the present provisions of Title III, the Federal government can and does bring about the enactment of more efficient methods of administration in the several states. Some of these methods are developed by the states, others by the Federal government.

Nevertheless, a problem does exist. It could best be solved by allowing the states to collect the whole tax thus allowing more localized budgetary control. Federal supervision could still be maintained through a slight revision of Title IX.

The Financing of the Unemployment Fund

The Social Security Act provided for certification of state agencies if they provided for the dispersal of unemployment benefits through any one of four types of funds. These were to be known as; (1) the employer reserve account; (2) the
guaranteed employment account; (3) the partially pooled fund; (4) the pooled fund. The first and third and fourth of these are for the most part of academic interest at the present time because, although at one time in force in many states, they have been largely replaced by the pooled fund arrangement. However, it is important to examine the basic workings of each type of fund.

1. The Employer Reserve Account

The employer reserve account is of chief interest because it was the method devised by Wisconsin to finance the first unemployment compensation system in the country. This method has three basic features.

1) Employers alone contribute to the fund. There are no contributions from employee or the state.

2) The tax contributions of each employer are recorded in a separate account. An employer's contributions are used only to pay benefits to his employees. They are not transferable.

3) An employer's contribution is governed solely by the size of his account. If his account becomes low, his contribution increases.  

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2Internal Revenue Code (Federal Unemployment Tax Act) Subchapter C, Sec. 1602(c) (1-4).

The chief reason for the abandonment of the employer reserve system was that it failed to provide for a sharing of risks. While it is true that it provided for a great employer stimulus to stabilize employment, it proved not to be financially sound. Its chief difficulty was similar to that of the voluntary plans. Those with good employment records built up funds, then contributed next to nothing. Others contributed a great deal but were unable to remain solvent.

2. Guaranteed Employment Account

Wisconsin, at the time it operated an employer reserve account, also had a guaranteed employment account in force. Employers availing themselves of this scheme did not have to contribute to the other account. The basis of the whole plan was to allow the employer to set up his own unemployment compensation system which can be roughly compared to the guaranteed annual employment plans often advocated by both labor and industry. Those employers who wished to avail themselves of the account would be required to assure their employees of work or remuneration for work for a specified number of hours per week for a specified number of weeks. In other words, the employer must agree to pay his workers a certain wage whether or not he is able to supply them with work. Any state seeking certification for this method of finance must provide that employers

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4Only two states, Kentucky and N.C. have this method still in effect. Both states, however, have them in conjunction with partially pooled accounts.
guarantee employment of wages for at least thirty hours in each of forty weeks. The guaranteed employment accounts have never been used exclusively in any state because the Wisconsin experiment proved them to be actuarily unsound, difficult to administer and too inflexible.

3. The Partially Pooled Fund

The partially pooled fund is at present only in operation in two states, Kentucky and North Carolina. It is actually a combination of the pooled fund and either an employer reserve or guaranteed employment fund, the contributor's taxes going partly into the pool and partly into another type fund. It is, at best, a transitional device which can be utilized when a state wishes to change to a fully pooled system.

4. The Pooled Fund

The pooled fund is now in effect in all states in some form. It does just what its name implies; it pools the contributions of all employers and other contributors. There is no doubt that this type of fund is most flexible and sound. The only objection which was raised against it was that it failed to provide the employer with the incentive to stabilize employment which was embodied in the reserve type fund. This

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5Internal Revenue Code, Subchapter C, Sec. 1602(c)(4)(a).
objection has now been overcome through experience rating.  

Sources of Funds

There are theoretically three sources from which unemployment compensation funds can be obtained, the employer, the employee, and the general revenues of the states. In no jurisdiction does the state contribute, although in two jurisdictions both employers and employees contribute.

Employer Contributions

In all states employers contribute to the unemployment fund. Some employers are not subject to the tax and those not subject vary from state to state. However, those subject are liable in all states to a payroll tax based on the earnings of their employees monetary or otherwise up to 3,000 dollars a year. The standard rate of contributions in all states is 2.7 percent except in Michigan where it is 3 percent, exclusive of experience rating or penalty rates.

Employee Contributions

Nine jurisdictions at one time provided for employee contributions. However, at present, only two states, Alabama

7. The advantages of the pooled fund are stressed by I. M. Rubinow, "State Pool Plans and Merit Rating", found in the same issue of the journal above.

8. Alabama, California, Indiana, Kentucky, Louisiana, Massachusetts, New Hampshire, New Jersey, Rhode Island.
and New Jersey do so. Massachusetts, for a short time, pro-
vided for such a taxing method, employers withholding from
their employees one percent of their salaries up to $2,500.
However, only the employer now contributes. ⁹ There are several
arguments as to whether or not the employee should be obliged
to contribute to the fund. Those in favor of employee taxes
point out that the employee, as the recipient of benefits,
should at least assume part of its financial burden. It is
also argued that if the worker assumes some financial obliga-
tion, he will be less likely to dissipate the fund through
needless benefit claims. It is held that unions would thus
take collective action to discourage malingering on the part of
their members. ¹⁰

On the other hand, it is argued that employers are
primarily responsible for unemployment. As such they must be
willing to assume the responsibility for the relief of unem-
ployment. It is also pointed out that, in reality, both the
employee and the consumer share the costs of unemployment com-
penation through tax shifting, the worker receiving lower
wages, the consumer paying higher prices.

⁹ Employee contributions discontinued in Massachusetts

¹⁰ This view is held by the Massachusetts Federation of
Taxpayers. Mr. Rea Long, formerly Assistant Director in the
Division now with the Massachusetts Federation of Taxpayers.
The author feels that the employee should not be required to share the tax burden. As early as 1911, it was decided that the employer must bear the cost of workmen's compensation since he was directly responsible for all injuries for which compensation was paid. The principle involved in unemployment insurance is exactly the same. Benefits are paid only to those workers who are unemployed for reasons directly attributable to the employer. As for malingering, the best way to prevent it is not through employee taxation but through investigation of all benefit claims. The only time that employee taxation should be initiated is when the fund is at the point of exhaustion, and employers have been taxed to the limit of their ability to pay.

Experience Rating

All state laws provide for some method of experience rating through which each employer's tax liability varies directly in ratio to his unemployment risk. An employer whose incidence of unemployment is small thus is given an incentive to continue to maintain steady working conditions for by doing so he contributes less than the standard rate to the benefit fund. In the long run, experience rating has two basic purposes; it rewards the steady employer and encourages all employers to stabilize employment and it assigns the heaviest burden of taxation to those responsible for the major withdrawals from the fund.
The Social Security Act regulates experience rating through the amendments made to Title IX in 1939. The amendments serve as the basis for all state experience rating provisions. They simply provide that an employer with a good employment record may obtain a reduction in the amount of taxes he must contribute to the unemployment fund. However, a reduced rate may only be granted on the basis of three years of employment experience. \(^{11}\) This stipulation allows only the employer with a lengthy record of steady employment to obtain a reduction.

Experience rating has developed in a very confused manner, no two states using exactly the same system. Most of the significant variations are in the formulas used by each state for rate determinations. However, all the varied methods can be roughly classified into five distinct systems, known as reserve-ratio, benefit-ratio, payroll decline ratio, compensable-separations, and benefit wage ratio formulas. \(^{12}\) In spite of all the variants each of these five systems have one common characteristic. The purpose of each formula is to determine the relativity of an individual employer's employment experience to that of employers as a whole in each state. Therefore,

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\(^{11}\) For complete Federal experience rating provisions see Internal Revenue Code, Subchapter C, Sec. 1602.

each state uses some type of factor to determine each employer's unemployment experience and this experience is compared with state-wide unemployment experience. Let us take each of the five distinct systems in turn with a brief analysis of each and a more complete explanation of the benefit-wage ratio formula which is in use in Massachusetts.

1. The Reserve-Ratio Formula

The reserve ratio formula is the most popular of the existing experience rating systems being in use in 28 states. The formula is essentially a system of cost accounting. A separate account is maintained for each employer. Before an employer's contribution rate is reduced he must build up a specified reserve of contributions charged to his account over benefit payments to his credit. Although the formulae conceived under the reserve-ratio plan vary from state to state, the plan is generally as follows: A record is kept of each employer's payroll, contributions, and benefits drawn by his workers. Benefit payments are subtracted from contributions. The result is in turn divided by the total payroll, the balance supposedly indicative of the potential liability of the employer in terms of benefit withdrawals from the unemployment fund. This amount of potential liability determines the amount of reserves the employer must build up through contributions to the fund. Only after his reserves surpass a specified amount is he entitled to a tax reduction. This system has proved quite
effective and only one important drawback should be noted. Because a separate account must be set up for each employer, the resulting administrative system is both costly and complicated.

2. The Benefit-Ratio Formula

The benefit-ratio formula is in use in only six states. The formula is based on the reasoning that the program will be adequately financed if each employer contributes as much or a little more to the fund than his employees take out of it. It is much more simple to administer than the reserve-ratio formula because the employer's contribution rate does not figure in the computation of his employment experience. Rate variation is based solely on the relationship of the individual's total payroll and the benefit payments made to his employees.

3. The Compensable Separations Formula.

Connecticut is the only state which uses the compensable separations formula. The plan is very similar to the benefit-ratio formula. One difference between the two is that this plan keeps a separate experience rating record for each employer. The separation of each worker is weighted by the weekly unemployment benefits paid him and entered on the employer's record. The employer's total three year payroll is then divided by the sum of the entries for three years yielding what is known as the employer's "merit rating index". The rate is then assigned the employer on the basis of a comparison of
the "merit rating index" to the total payroll. Naturally, if employee separations are low the "merit rating index" will be high. Therefore, if the index is high, the contribution rate is low. Actually, the main difference between this and the proceeding formula is that here the number of separations weighted by the weekly benefit amount is used in relation to the payroll where before total benefits paid were used.

4. The Payroll Decline Formula

This formula can be used either separately or in combination with other factors. Neither the benefits paid nor the contributions of the employer figure in the compilation of the employer's experience. Experience is based only on the fluctuations of payrolls. The theory behind the formula is that decreasing or increasing payrolls are the best measure of economic conditions. Accordingly, employers with the largest payrolls in proportion to their relative size are granted the greatest rate reductions. This device supposedly acts as a stimulus to business conditions. However, the result is often that employers are often forced to assume greater burdens when they are economically the weakest. Rhode Island, with such a formula is, at present, faced with a crisis in its jobless fund. The payroll decline formula is only useful if used in combination with other methods of stimulating business. 13

13The author has had space only to describe briefly the 4 main types of formulas in use outside Mass. For a more complete explanation plus a state by state examination of provisions, see Dept. of Labor, Comparison of State Unemployment Insurance Laws as of Sept. 1949, pp. 15-35, also Tables 5-11, same pp
Massachusetts and the Benefit-Wage Ratio Formula

The benefit-wage ratio formula is in use in Massachusetts and seven other states. It is known alternately as the "Cliffs Plan" after its alleged initiator and as the "Texas Plan" in which state it was first used.

This formula has as its purpose the assignment of variable contribution rates designed to return to the unemployment fund an amount roughly equivalent to that amount dispersed in the form of benefits. The formula makes no effort to measure the total benefits paid to the employees of any individual concern. It is true that an employer's experience is measured by the separation of his workers which result in benefit payments but the duration of the unemployment of these workers is not directly a factor. Only one separation per benefit recipient per year is recorded for any one employer no matter how many times a benefit claim is reopened by a recipient in that year.

Experience rating in Massachusetts establishes, like other plans, variable contribution rates, based on three years of benefit payment experience. Thus, no employer may receive a contribution rate of less than the maximum of 2.7 percent unless three years have elapsed during which his employees would be eligible for unemployment benefits. Contributions are paid

14 Mass. G.L. Chapter 151A, Sec. 14(b)(2) (d) and Sec. 14(b)(3).
on the wages of employees up to $3,000.

All employers are assigned either the maximum contribution rate or one of the five adjusted rates, .5%, 1%, 1.5%, 2%, or 2.5%. Three factors enter into the computation of the adjusted contribution rates. They are:

1. The employer's "benefit-wage ratio", from which the formula takes its name.
2. The "state experience factor".
3. The condition of the unemployment compensation fund.

Let us first explain how the benefit-wage ratio is determined. When a worker files a valid claim for benefits the wages on which his claim is based become known as "worker's benefit wages". When the first benefit check becomes payable, the "worker's benefit wages" are charged to the employer(s) from whom such wages were earned. They are then known as "employer's benefit wages". Only the first claim can be charged against the employer and no employer can be charged for wages paid the claimant in excess of $1,900. Charges are limited to $1,900 because that is the highest amount on which benefits are computed and paid. To obtain the benefit-wage ratio, the sum total of each employer's "benefit wages" for a three year period are divided by the sum total of the taxable payrolls of the employer during the same three year period. An example follows:

CHART III - Benefit-Wage Ratio Determination

<table>
<thead>
<tr>
<th>Benefit Wages of A's former Employees</th>
<th>1946</th>
<th>1947</th>
<th>1948</th>
<th>Totals</th>
</tr>
</thead>
<tbody>
<tr>
<td>A's total taxable payroll</td>
<td>$900</td>
<td>$1,100</td>
<td>$1,000</td>
<td>$3,000</td>
</tr>
<tr>
<td></td>
<td>$10,000</td>
<td>$10,000</td>
<td>$10,000</td>
<td>$30,000</td>
</tr>
</tbody>
</table>

Benefit Wage Ratio

A's total benefit wages for three years divided by A's total taxable payroll for 3 years

$3,000 divided by $30,000 = 10%

The "state experience factor" is obtained in much the same way. The sum total of all benefit payments made from the fund over a three year period is divided by the state wide total of all employers benefit wages. The quotient is raised to the next higher multiple of 1% and the result is the "experience factor".\(^{16}\) The computation of the factor for 1949 can serve as an example:\(^{17}\)

\(^{16}\)Mass. G.L. Chapter 151A, Sec. 14(b)(5).

CHART IV - State Experience Factor, 1949

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Benefit Payments</th>
<th>Total Employer Benefit Wages</th>
</tr>
</thead>
<tbody>
<tr>
<td>1946-1947</td>
<td>$ 96,493,148.89</td>
<td>$547,941,852.80</td>
</tr>
<tr>
<td>1948</td>
<td>$50,407,843.55</td>
<td>$322,671,773.18</td>
</tr>
<tr>
<td>Total</td>
<td>$146,900,992.44 divided by $870,613,625.98</td>
<td></td>
</tr>
</tbody>
</table>

1949 State Experience Factor = 17% (16.87%)

From the benefit-wage ratio and the experience factor the employer's contribution rate is determined by multiplying the state experience factor by the employer's benefit wage ratio and by raising the product to the next multiple of $\frac{1}{2}$ of 1% not exceeding 2.7%.

It is determined from the following table on the same line as the current state experience factor and is the rate appearing at the head of the lowest numbered column in which a percentage equal to or in excess of an employer's benefit-wage ratio appears.\textsuperscript{18} For example: If an employer's benefit-wage ratio is 50 percent and the state experience factor is 1 percent, the contribution rate is .5 percent.

The third factor influencing rates in Massachusetts is the condition of the unemployment compensation fund. It was

\textsuperscript{18}Mass. G.L. Chapter 151A, Sec. 14(b)(6).
### CHART V - Employers' Contribution Rate

<table>
<thead>
<tr>
<th>State Experience Factor (%)</th>
<th>Con. rate</th>
<th>Con. rate</th>
<th>Con. rate</th>
<th>Con. rate</th>
<th>Con. rate</th>
<th>Con. rate</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>.5%</td>
<td>1%</td>
<td>1.5%</td>
<td>2%</td>
<td>2.5%</td>
<td>2.7%</td>
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<td>1</td>
<td>50</td>
<td>100</td>
<td>150</td>
<td>200</td>
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<tr>
<td>18</td>
<td>3</td>
<td>5</td>
<td>8</td>
<td>11</td>
<td></td>
<td></td>
</tr>
<tr>
<td>19</td>
<td>3</td>
<td>5</td>
<td>8</td>
<td>10</td>
<td></td>
<td></td>
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<tr>
<td>20</td>
<td>3</td>
<td>5</td>
<td>7</td>
<td>10</td>
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<td></td>
</tr>
<tr>
<td>21</td>
<td>2</td>
<td>5</td>
<td>7</td>
<td>9</td>
<td></td>
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</tr>
<tr>
<td>22</td>
<td>2</td>
<td>4</td>
<td>7</td>
<td>9</td>
<td></td>
<td></td>
</tr>
<tr>
<td>23</td>
<td>2</td>
<td>4</td>
<td>6</td>
<td>8</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Employers' Benefit-Wage Ratio (%)**

- Benefit Wage Ratio in excess of column Five
recognized that a time might come when the benefit reserves would be too low to allow further continuation of reduced rates. If the unemployment compensation fund should fall to a point less than the highest amount of benefits paid in any year of the past ten years the reduced rates of each employer shall be advanced five-tenths of one percent and 2.5 percent rate shall be advanced to 2.7 percent. If the expenditures after six more months continue to be more than the highest amount paid, experience rating becomes inoperative and all contributions are raised to 2.7 percent.\textsuperscript{19} By December, 1949, payments exceeded the reserves in the fund. Approximately $115,000,000 had been paid out and remaining reserves totaled only about $105,000,000. Therefore, all rates were increased five-tenths of one percent. As of October 1, 1950, all experience rating has been ended and all employers pay a contribution of 2.7 percent.

Assessment of Charges under Experience Rating

The question naturally arises as to how benefit wage charges are apportioned. The answer is that any claimant's benefit wage is charged to each and every employer who employed that person during the base period in which he accrued his benefit rights. It is often possible that the employer from whom the claimant becomes separated is not charged because the

\textsuperscript{19}Mass. G.L., Chapter 151A, Sec. 14(b)(6)(d).
separation takes place after the base period, if that employer did not employ the worker during the base period. Those employers who are charged are charged in proportion to the amount of wages each paid to the claimant.

The Present State of the Unemployment Fund

It is known to almost everyone that the present state of the Massachusetts fund is very serious. The ratio of benefit claims to fund reserves is the lowest in the country. It almost seems as if Massachusetts and Rhode Island are having a race to see who goes in the "red" first.

Labor in particular has chosen to blame the whole principle of experience rating for the present state of the fund. Nothing could be farther from the truth. It is true that the present method of experience rating is partly at fault but it is only a contributing factor. Every state has some system of experience rating; only two are in danger. Actually the author feels that there are five main contributing factors to the present fund deficits.

The first of these factors is the unusual industrial composition of Massachusetts. There is no doubt that the New England textile industry is in a slump. Because textiles comprise Massachusetts' major industry, and because this industry is concentrated in a few areas, large pockets of unemployment develop which create a tremendous problem. 20

20 All claims increased 54.7% in 1949. Director's Report for Year Ending June 30, 1949, p. 10.
The second factor might be considered in conjunction with the first. This factor is that benefit claims are inadequately policed. This inadequacy is partly due to loopholes in the law to be discussed in Chapter IV but the main fault lies with the employers. As already noted, a copy of every claim for benefits is sent to the discharging employer so that he may have an opportunity to protest if he feels the claim to be invalid. In 1949, only about six percent of all employers protested claims. However, the Division carrying on investigations of claims which they considered suspect found a much higher percentage of such claims to be invalid. In other words, a great many employers have failed to protest claims which they knew to be invalid. Extensive use of what is known as "staggering" employment has been evident in Lawrence. This practice resulted in an increase in 1949 of 8.9% in additional claims over the previous year.\(^{21}\) Employers simply lay off workers and rehire them in rotation. They work long enough so that they build up benefit credits enough to last them through their periods of unemployment. The net result is that the employers retain their labor market, every worker is employed part of the time and also has a source of funds when unemployed. However, such practices are a huge drain on the unemployment fund. There is nothing illegal in this practice so nothing can be done to stop it. Still, it enables workers to continue to

\(^{21}\)Ibid., p. 11.
receive benefits long beyond the point where they would ordinar­
ily be exhausted if the "stagger" system was not used. The
practice actually turns the fund into a relief system and
subverts the principles of U. C. 22

Another cause for the drain on the fund is the fact that
benefits have almost doubled since 1938 when they were first
payable. At the same time, no steps were taken to increase
taxation in line with increased benefits. Below is a compar­
ison of benefits in 1938 and 1950 to illustrate this point.

CHART VI - Benefits 1938 and 1950

<table>
<thead>
<tr>
<th>Year</th>
<th>Qualifying Earnings</th>
<th>Weekly Benefit Amount (Max.)</th>
<th>Duration (Max.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1938</td>
<td>3 quarters $160</td>
<td>$15</td>
<td>16 weeks</td>
</tr>
<tr>
<td></td>
<td>8 quarters 240</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1950</td>
<td>Flat $150</td>
<td>25</td>
<td>23 weeks</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Year</th>
<th>Waiting Period</th>
<th>Partial Unemp.</th>
<th>Dependencies</th>
</tr>
</thead>
<tbody>
<tr>
<td>1938</td>
<td>4 weeks</td>
<td>Same provisions</td>
<td>None</td>
</tr>
<tr>
<td>1950</td>
<td>1 week</td>
<td>substantially</td>
<td>$2 (each child under 18)</td>
</tr>
</tbody>
</table>

It is easy to see that any actuarial basis on which the
fund might have been established was destroyed by these in­
creased benefits.

22 For a comprehensive study of the "stagger" system see
Prof. Walter Galenson, A Report on Unemployment Compensation
Benefit Costs in Massachusetts, Massachusetts Division of Em­
The law provides that if

in any six months period the amount paid in benefits...has exceeded the income or the reserves...are in serious danger of depletion, the Director 'may' announce a modified scale of benefits...or other changes...necessary to maintain the reserves of said fund.23

The Director's action (please note) is discretionary. There is no mandate to reduce benefits when a certain figure is reached. The law leaves the Director as the sole judge of the solvency of the fund. Thus far, the Director has taken no action. It is not the author's intent to impugne the motives of the present or any other Director, he merely wishes to emphasize that benefits should be reduced automatically if the necessity arises. It is better that all eligible claimants receive their rightful benefits, reduced though they may be, than to receive no benefits because there are no funds with which to pay them.

The last two factors contributing to the present state of the fund are a direct result of the present experience rating provisions of the law. The author does not intend to quarrel with the principle of experience rating, the pooled fund or the benefit-wage ratio formula. Experience rating with its provisions for employer incentives is basically sound. The pooled fund is easy to administer and nation-wide experience has illustrated that the formula is as good as any and superior to such systems which use the payroll decline formula.

One basic difficulty presently inherent in the

23 Mass. G. L. Chapter 151A, Sec. 32.
Massachusetts system is that it provides for no penalty rates for employers with very poor employment records. The old Federal Committee on Economic Security based its recommendations for a 2.7% tax on the premise that it was the minimum allowable for the retention of an actuarially sound fund. The average rate of contributions has been far below that figure. Below are the average rates paid by all employers with reduced rates since 1942.\(^{24}\) Rated employers, incidentally comprised 82% of all employers in 1949.

**CHART VII**

Average Contribution Rates—Rated Employers 1942-1949

<table>
<thead>
<tr>
<th>Year</th>
<th>Average Rate</th>
<th>Year</th>
<th>Average Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>1942</td>
<td>1.32</td>
<td>1946</td>
<td>.59</td>
</tr>
<tr>
<td>1943</td>
<td>1.08</td>
<td>1947</td>
<td>.93</td>
</tr>
<tr>
<td>1944</td>
<td>.72</td>
<td>1948</td>
<td>1.17</td>
</tr>
<tr>
<td>1945</td>
<td>.60</td>
<td>1949</td>
<td>1.29</td>
</tr>
</tbody>
</table>

The only way to maintain a 2.7% rate at any time and still continue experience rating is to impose taxes of over 2.7% on some employers. In other words, penalize as well as reward. If some employers paid more, an average of 2.7% could be maintained. Nine states have proven this method to be very

\(^{24}\)Mass. G. L. Chapter 151A, Sec. 32.
effective.25 Penalty rates range from three percent in Delaware and Minnesota to four percent in Maryland and Wisconsin. Professor Walter Galenson in his recent study on Massachusetts benefit costs has indicated future anticipated benefit payments cannot be continued at a tax rate of under 2.1%. This seems to bear out the author's contention that penalty rates must be imposed if experience rating is to be retained.26

The fifth and last of the factors which have depleted the Massachusetts fund is the lack of responsiveness of the Massachusetts experience rating system to changes in economic conditions which occur over short periods of time. It has already been noted that in spite of the fact that funds were rapidly becoming depleted in 1949, many employers still enjoyed the .5% rate. Professor Galenson has made special note of the amazing lack of response of the Massachusetts system. By comparison he points out that tax contributions in this state were far below the national average both during the war and after its termination.27 The best way to remedy this situation and still maintain the present formula would be to employ more variable schedules, in addition to the regular reduced rate schedule and the rate schedule which is advanced 5% if the fund reaches a

25 Dept of Labor, op. cit., p. 18. Table 5 gives all states' provisions.
26 Galenson, op. cit., p. 19.
27 Ibid., pp. 11-14.
certain level. The imposition of more variable schedules would provide for a more even rise in employer contributions in conjunction with the rise brought about by the benefit-wage ratio formula to compensate for increasing benefit payments. Many states use a number of variable schedules. The state with the largest number being West Virginia with eight.

Summarization

The author has attempted to explain how the unemployment machinery in this state is financed. However, the most important task was twofold, an explanation of experience rating and a statement of what the author believes to be the basic factors which have brought about the present difficulties in the benefit fund. It must be stressed that no single factor can be fully blamed. Industry is inclined to blame benefits. Yet Connecticut with benefits as liberal as those of Massachusetts has a huge fund surplus and Michigan in 1942 exhausted her fund, yet her benefits were quite low at that time. Labor blames experience rating and again Connecticut uses experience rating and maintains a surplus. In addition, Michigan when her funds were exhausted had not yet adopted experience rating. All of this is by way of stressing that if any solution is to be found, thorough investigation must be made of every facet. The problem cannot be solved by abolishing this feature or that feature. Only through a thorough study of the whole financing and benefit system can there be any resolution of the present difficulties.
CHAPTER IV

THE ADEQUACY OF THE MASSACHUSETTS PROGRAM

By its very name, it is evident that unemployment compensation is intended to be of social value. Its social utility lies in the fact that it acts as both an aid to the general economy and to the individual who needs assistance by reason of his unemployment. It is the purpose of employment security to serve two basic social functions. The first basic function is that of providing a clearing house through which the worker can acquaint himself with available job opportunities and thus to reenter employment at the earliest date possible. The second function is a necessary adjunct to the first. That is that the state must provide the best possible security for the worker between his periods of employment.

Any analysis of the actual social utility of the system is rendered difficult because of the necessity of considering social aims in the light of the ability of administering them efficiently. Both social utility and administrative efficiency are prime factors. It is quite conceivable for an agency to be smoothly administered and at the same time to be performing a negligible social service. On the other hand, it is quite possible to conceive a program of social service so broad in its scope that, in spite of its commendable aims, it is
impossible to administer. Thus, it is impossible to divorce the two factors.

Another difficulty must also be considered. The payment of unemployment compensation was originally conceived as an aid to the unemployed between periods of employment. It was designed for the use of those persons legitimately in the labor market. It was not designed for those persons outside the labor market. It was not originally conceived as a relief agency in the sense that it should be considered a "dole". Its benefits were not to be considered permanent nor were they intended to be a substitute for employment. The conception of unemployment compensation was Keynesian in scope both as a primer of consumer purchasing powers and as a stabilizing influence in the labor market.\(^1\) It is the conviction of the author that this basic philosophy must be retained. It must be retained for the best interests of social utility.

As it was already stated, two basic functions are performed by unemployment compensation agencies. These may be summed up as the finding of jobs and the payment of benefits to those who have lost their jobs. This paper will concern itself only with the problems arising out of the later function.

\(^1\)The British economist, J. M. Keynes, stressed the importance of maintaining high consumer spending as a stimulant to depressed business conditions. He felt that the factor of consumption had been largely ignored and that too much stress had been placed on stimulating production through investment. Increased production was, he pointed out, of no use unless there was a market for products.
Payment of benefits has as a natural problem, the financing of benefit payments. This problem of finance is the root of all other problems in the payment of benefits.

Three basic controversial problems exist. They are most adequately summed up under the headings of coverage, eligibility and benefits. It is the writer's task to analyze each of these problems in turn applying certain basic criteria already enumerated; that is, determining the extent of the social utility of the present system, the necessary limitation of social utility by administrative feasibility, and finally the conformity of the present system to the original philosophy embodied in unemployment compensation.

Evaluation of conditions in Massachusetts must necessarily be in comparison chiefly to conditions in other states. This method will show not only how far Massachusetts has progressed, but also how far she can and how far she should progress.

It is the opinion of the author that Massachusetts has been an enlightened leader in social legislation. This statement holds true in no small degree in her unemployment compensation system. However, this should not cause the reader to believe that no changes are in order in her system. It does not, in a few respects conform to criteria already stated. It has become evident that in some areas she can progress and that in other areas she might well regress.

A consideration of these problems is especially important
at the present time, especially in New England, because of the growing problem of unemployment. Problems, before of only academic interest, have now assumed such proportions that the welfare of thousands rests on their intelligent solution.

Coverage

All unemployment compensation benefit payments are financed through a payroll tax imposed on employers. However, not all employers are subject, for varied reasons, to the tax. Those employers subject to the tax are classified as being covered. The problem of coverage is one of primary concern both to employers and to employees. It is of concern to the employer because it is he who bears the burden of the tax. But the base of the whole problem of coverage is the fact that an employee is not eligible for unemployment benefits unless he has worked in covered employment.

Some 95,114 employers were subject to the Massachusetts law as of June 30, 1949. These employers employed approximately 1,500,000 workers in the year previous to that date. While 1,500,000 workers are a large percentage of the total employed, a great many were outside the protection afforded by U. C.

To be of maximum social value, the law should ideally

tax all employers. This is administratively impossible.

There are a number of provisions affecting an employer's liability to the tax. Primary qualifications are the number of workers employed and the length of time for which they are employed. These qualifications vary throughout the states. In almost all states they were originally designed to conform with the provisions of Title IX of the Federal Social Security Act of 1935,³ which was the basis for the establishment of the fifty-one state unemployment compensation systems now existing. Since then, however, many states have expanded their provisions. Title IX provided for a payroll tax on all employers of eight or more persons, such persons being employed for twenty days, each day being in a different calendar week.

Massachusetts has since provided that employers of only one or more for a period of thirteen weeks (not necessarily consecutive) should be subject to the tax.⁴ In all, twenty-nine states have expanded their coverage provisions over that of the federal law.⁵ Several states have resorted to other coverage procedures. A few have provided for employment of one

³Internal Revenue Code, Chapter 9, Subchapter C (Federal Unemployment Tax Act). See sections 1600-1607.

⁴Chapter 151A of the General Laws, Section 8(a) Amended 1941, C85, Section 1.

or more as the only condition and have sensibly done away with time qualifications. Outside of qualifications concerned with minimum numbers of workers and minimum periods of time, eight states have additional stipulations that payrolls must total a certain amount before they become taxable. Those amounts range from $500 in Oregon to $75 in Idaho. Six states have provided for alternative provisions such as that of Kansas which ordinarily provides for coverage in cases involving eight workers for twenty weeks. Its alternative provisions provide for coverage of employment if twenty-five are employed for one week.

In analysing which employments are covered as a general rule, one may safely conclude that Massachusetts ranks at least in the top third. However, the thirteen week provision might easily be omitted. Many, particularly those concerned with the collection of taxes, have pointed out the tremendous loss of tax funds resultant from this provision. So far, efforts to change the statute have been to no avail. The ramifications of the problem can be seen when one realizes that one of the state's largest businesses, the vacation industry, largely escapes the law. Workers in the building trades are also badly hit by the twenty week provision. The experience of other


7Dept. of Labor, op. cit., Table 1, size of firms covered p.2. This table provides a comprehensive picture of the major coverage provisions in relation to size of firms, etc., in all 51 jurisdictions.
states has shown that such business can be covered. To lessen any administrative difficulties, some type of added payroll condition might be added. Omission of this provision would add to the benefit fund a great deal of revenue and, more important, would greatly expand the protection of the law to the employee now excluded. It should be noted, however, that at the present time, employing units not otherwise covered may elect coverage provided that their employees perform services defined as employment under the terms of the law.

Employee-Employer Relationships

Another factor in the determination of coverage is deciding just what constitutes an employer-employee relationship. In other words, is the fellow who paints your house your employee? It is obvious that under the general terms of the law a worker considered to be an employee is a factor in the determination of an employer's tax contribution. This employer-employee relationship is often extremely difficult to determine. Because of the difficulty of determination, many states do not attempt to define the word, employee. Other states define it generally as "contract for hire". Still others fall back on the old common law "master-servant" relationship as a factor in the determination of coverage. Massachusetts has stuck its neck out and has legally defined the term, employee as "any individual employed by any employer subject to this chapter and, in

8G. L. Chapter 151A, Sec. 10, 11, 12.
This legal definition is obviously a generalization. Most states consider a service performed employment unless one or more of three conditions exist:

1. the worker is free from control or direction of the performance of his work under his contract of service and in fact;
2. the service is outside the usual course of business for which it is performed;
3. the individual is customarily engaged in an independent trade, occupation, profession or business.

Massachusetts sensibly uses the first of these three tests. This test is preferred by many states and, by its nature, not only excludes independent contractors but allows maximum coverage of all others. The first test would exclude such persons as delivery men, salesmen, etc., and the third could conceivably exclude a large percentage of those engaged in the building trades. Massachusetts has done well with employment in spite of the difficulty in definition.

Specifically Excluded Areas

Massachusetts, like almost every state, specifically excludes a great many areas of employment from coverage, through the subterfuge of exempting them from the term, employment, and, therefore, from benefits. In general, the exclusions

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9G. L. Chapter 151A, Sec. 1(h).

10Dept. of Labor, op. cit., p. 5. See also Table 3, p. 6, which shows method of determining employer-employee relationship used by all states.

11G. L. Chapter 151A, Sec. 2.
have followed the provisions of the Federal Unemployment Tax Act.\(^\text{12}\) Many of the exclusions are made for valid reasons, some for reasons at one time valid, and some for reasons which appear somewhat arbitrary. While this state has largely improved its status regarding specific exclusions there is room for much improvement. Many of the present exclusions preclude any compensation benefits in critical areas and in many of them, difficulty of administration cannot be validly cited as an explanation for them. An analysis of the significant provisions follows:

1. Agricultural Labor

All states have generally accepted as a part of their laws the provisions of the Federal Unemployment Tax Act regarding agricultural employment.\(^\text{13}\) Its definition virtually excludes any type of employment remotely connected with farming. Fourteen states, including Massachusetts, attempt no statutory definition. Thirty-five other states specify what types of agricultural employment shall be excluded from coverage, these exclusions being substantially the same as those of the federal law. Of the fifteen states without statutory definition, nine have no general definitions but rule on the individual facts of each case.\(^\text{14}\) Massachusetts and five others,\(^\text{15}\) have regulatory

\(^{12}\text{Chapter 9, subchapter C, Sec. 1607(c) (1-14).}\)
\(^{13}\text{Tbid., Sec. 1607, Sub-Sec.}\)
\(^{14}\text{Alaska, Kansas, Ky., Montana, Nev., N.C., Texas, Vermont, West Virginia.}\)
\(^{15}\text{Calif., Connecticut, N.J., R.I., Tennessee.}\)
definitions which are used as a basis for interpretation. California's regulations, because of her farm migrant problem, are necessarily very liberal.

It appears that the provisions of both the federal and most of the state laws (including Massachusetts) are remarkably backward. They have overlooked completely the fact that farming is no longer a small individualized profession. It has often become big business involving machines, large sums of money and office managerial techniques. It is apparent that it is almost impossible to determine just what constitutes a taxable wage in the case of the hired hand where hour conditions are uncertain and board is often a factor in the wage. However, why the laws exclude the packers, processors, office help, etc., many of them unionized, is hard to understand. Massachusetts can at least say that she has taken these factors into consideration by regulation if not be statutes. However, these regulations have not proved themselves to be a solution by any means. As yet, only one body, the District of Columbia, has taken agriculture from its list of excluded employments. The District being an urban area, this move was probably on protest of the pruners of the cherry trees.

Whether it is possible to cover all types of agricultural employment, is still to be determined but even if it is not feasible in all areas, it seems very possible to cover at least the workers whose duties are not primarily involved in actual farming.
2. Domestic Service

Domestic service is excluded by the federal law and fifty of the state laws. Such service is almost impossible to cover adequately because of the extreme difficulty of computing taxable wages. New York has made an attempt to cover workers in private homes but even here the provisions of the law virtually exclude most domestic workers. The New York law only covers homes employing at least four workers for at least 15 days in any one year. At the present time, coverage in this field would not seem advisable. There would be a great deal of administrative difficulty and there would be a negligible increase in social utility due to the small number of persons affected.

3. Family Employment

All states but one exclude family employment because of its extreme informality. This type of employment usually refers to family aid in the management of small retail enterprises. Only Wisconsin has been courageous enough to attempt to apply the "master-servant" doctrine to a husband and wife.

4. Non-profit Organizations

Two types of so-called non-profit organizations should be considered here. The first of these are the organizations ordinarily exempt from the income tax provisions of section 101 of the Internal Revenue Code. Such organizations include labor
unions, banks, fraternal organizations, etc. The federal government, Massachusetts and thirty others of the state governments exempt part-time employers from coverage under certain conditions.\textsuperscript{16} While these exemptions adversely affect a very small number of workers, there is no valid reason for their original adoption or for their retention.

The other types of organization, actually the only ones literally non-profit, are those such as churches, schools, colleges, and charitable foundations.\textsuperscript{17} They are totally exempt from coverage under every law but Hawaii's. Its law provides for coverage of all employees of non-profit organizations except members of religious orders and ministers of the Gospel.\textsuperscript{18} It is the writer's opinion that the inclusion of employees of such organizations is a progressive step. At the present time, there are large numbers of people in this state who would be completely without protection if suddenly unemployed. Of course, it can be argued that expansion into these areas would substantially cut into funds intended for a social purpose, but it should be remembered that job security is also a social purpose.

\textsuperscript{16}See Internal Revenue Code, Subchapter C, Sec. C(c)(10) (A-E) and G. L. Chapter 151A, Sec. 6(j).

\textsuperscript{17}Such organizations are defined completely in G. L. Chapter 151A, Sec. 6(g).

\textsuperscript{18}Dept. of Labor, \textit{op. cit.}, p. 10.
5. Student Workers

Three classes of students are ordinarily exempt from coverage. The first of these are students in the service of a non-profit educational institution. Massachusetts is among the 29 states having such provision. 19 The second class includes student nurses and internes. In this instance, Massachusetts and 29 other states again have exclusive provisions. 20 The third class excludes students in cooperative training programs and those engaged in vacation employment. 21 The third class is obviously excluded for purposes of consistency, for in order to be eligible for benefits the claimant must be available for full time employment. Obviously, students who are returning to school are not within that category.

6. State, Federal and Municipal Employees

At first glance, one would suppose that State, Federal and Municipal employees are exempt from coverage because bureaucrats aren't really employed. However, State, Federal and Municipal workers were originally excluded from coverage due to constitutional provisions. The states have never been able to tax the federal government or its instrumentalities. 22 On the

19 Loc. cit.
20 Loc. cit., see also Table 4, p. 9, for significant exclusions.
21 G. L. Chapter 151A, Sec. 7(a, b).
22 By reason of the McCulloch vs. Maryland decision.
other hand, the federal government, at the time of the drafting of the Social Security Act, believed that it could not tax the states or their instrumentalities. It has since been ruled that the federal government can tax the states. However, the excluding provisions of the Federal Unemployment Tax Act have never been changed. Therefore, neither state, municipal, or federal employees are covered by the federal payroll tax.

The states, it should be noted, can tax their own or municipal employees. However, since the custom was to follow the lead of the federal government, they did not do so. Therefore, a vast area of employment has been left uncovered, at least here in Massachusetts. State employees alone number almost 28,000. Some states have taken cognizance of the problem among them are New York and Wisconsin. Altogether, nine states make some provision.23 Massachusetts should take some action to eliminate this problem. Civil service and other employees of the state and local governments can be covered without any administrative difficulty. In addition, the federal government should tax itself and allow the states to tax the vast number of federal employees. Ironically, the only state employees which could not be covered by state action would be the workers of the Division of Employment Security itself since their wages are paid by the federal government.24

23Dept. of Labor, op. cit., p. 11. Wisconsin, New York, Texas, Arizona, Kentucky, Maryland, Nevada, Tenn., California.

24Social Security Act. Title III.
7. **Maritime Workers**

Originally, the Federal Unemployment Tax Act excluded all maritime employees, due to supposed constitutional restrictions. However, the Act was amended in 1946 to permit federal coverage. Most states now cover maritime employment. Massachusetts now covers all vessels over ten tons.

**Summary on Coverage**

Massachusetts provisions, on the whole, are quite progressive. However, it is apparent that some changes are in order. First, the thirteen week clause should be done away with. Secondly, several of the provisions of Federal Unemployment Tax Act should be done away with. Coverage should be extended to more agricultural laborers, employees of non-profit organizations, and to federal, state and municipal employees. Extension of coverage over these groups presents no great administrative difficulties. Extension is of social necessity. No depletion of the benefit fund would result because increased coverage will bring a comparative increase in tax revenue.

**Eligibility**

In order to be eligible for unemployment benefits under the Massachusetts law, the worker must conform to two basic

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25Dept. of Labor, op. cit., p. 10. See amendment (law quoted) in comparison to subchapter C, Sec. 1607 (c) (4).
26Naturally, inland states are not primarily concerned.
27G. L. Chapter 151A, Sec. 6(c).
standards. He first must have worked in covered employment at some time in the year previous to his unemployment (base period) and, second, he must conform to all the regulations governing his initial and continued eligibility which are additional to covered employment provisions. Conditions defining eligibility have been liable to more controversy than any other facet of unemployment compensation. Many provisions both of initial and continued qualification have been the subjects of violent dispute. Even where issues are clear cut, disagreement is prevalent. No appreciable administrative problems are involved in the eligibility controversy. The basic question is whether the fundamental conditions now governing the determining of eligibility are socially desirable. Please bear in mind that one of the assumptions adopted in this paper is that benefits are not to be considered as a substitute for employment and also that benefits are intended primarily as an aid to members of the labor market legitimately unemployed. Any conditions governing eligibility must uphold these principles. Discussion of each basic issue will follow in turn.

Registration

All states require initial registration by benefits claimants as well as weekly registrations thereafter. Registration is simply a statement of unemployment and desire for

28G. L. Chapter 151A, Sec. 24(c).
future employment. Therefore, the purpose of such registration is to provide a check on the whereabouts and availability of the claimant for work. Some feel that weekly registration is unnecessary and that failure to register should not result in loss of benefits for the week involved. However, since the claimant is assumed to be looking for work, and since he must be willing to work to retain his eligibility, registration serves the purpose of determining whether he fulfills these requirements. If nothing else, registration, forces the malingerer to cash his benefit check at a Massachusetts rather than a Florida beach.

**Ability to Work**

Every state requires that the applicant be physically and mentally able to engage in employment. Some feel that one's inability to accept employment should not affect his eligibility. However, any change in the present regulations would be contrary to the philosophy that benefits be paid only to workers between periods of employment. For those outside this definition, four states have temporary disability insurance. The writer will not discuss this insurance except to

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29 California, New Jersey, New York, Rhode Island. These are "cash sickness" plans not to be confused with Workmen's Compensation. Such a plan was introduced in the 1949 session of the Massachusetts General Court but was defeated. It is conceived to provide benefits for workers suffering from non-occupational injuries. Much of the research on this subject has been completed by the Advisory Council of the Massachusetts Division of Employment Security of which both Professor Lambie of Harvard and Dean Sutcliffe of B. U. were once members.
say that he strongly favors it. Six other states have incorporated another device.\textsuperscript{30} It provides that a claimant otherwise ineligible because of a disability or illness shall not be considered ineligible if, during the period of his disability, suitable employment is not available.\textsuperscript{31}

\textbf{The Waiting Period}

Again, all states use the waiting period. The waiting period is the length of time after registration for benefits during which the claimant is ineligible for benefits. It is an entirely necessary device and serves several functions. The purpose of the waiting period is to allow time for investigation of claims, to discourage malingering, to save the administrative costs in the payment of vast numbers of small claims, and to avoid frittering away the fund on periods of unemployment of very short duration. The length of the waiting period is more or less uniform in every state. In Massachusetts, and in almost every other, the period is one week. Only four states have a longer period.\textsuperscript{32}

\textbf{Controversial Causes for Disqualification}

While failure to serve a waiting period, failure to prove ability to work, or failure to register are grounds for

\begin{itemize}
  \item \textsuperscript{30}Idaho, Maryland, Montana, Nevada, Tennessee, Vermont.
  \item \textsuperscript{31}Dept. of Labor, \textit{op. cit.}, p. 64.
  \item \textsuperscript{32}Connecticut, Georgia, Montana, Wisconsin.
\end{itemize}
disqualification from unemployment compensation, they are minor causes for the refusal of benefits. There are four other grounds for disqualification which are much more common and much more controversial: these four grounds are, refusal of suitable work, labor disputes, voluntarily leaving work, and discharge for misconduct. Of these, labor dispute disqualifications have been the root of most of the controversies. A great many compensation claims have been disputed both by the state and by previous employers on these four grounds. A very important question to be considered is, how will the claimant's eligibility be affected if one of the four irregularities is present? To put it another way; what penalties of a disqualifying nature will be imposed? Let us consider each of the four cases in turn.

1. Refusal of Suitable Work

The administrative problem of defining "suitable employment" is enormous. It is a very simple task to map out generalized criteria to determine suitable employment, but the problem becomes difficult in application. Usually accepted standards are,

...the degree of risk to a claimant's health, safety or morals; his physical fitness and prior training, experience and earnings; the length of his unemployment and his prospects for securing local work in his customary occupation; and the distance of the available work from his residence.33

33Dept. of Labor, op. cit., p. 75.
These standards are easily seen to be very general and, at the same time, designed to be all inclusive. All states, including Massachusetts have similar standards.\textsuperscript{34} The difficulty in using them is that their generality leaves a great many loopholes. While it is sociologically and psychologically desirable that proper employment be found for the worker, the vagueness of present standards aids the plans of the malingerer immeasurably.

While general standards defining suitable employment are the same, penalties for refusing to accept suitable work vary widely.\textsuperscript{35} Every state provides for some sort of disqualifying penalty for refusing to apply for, or refusal to accept suitable work. Penalties are of two general types; the first being the postponement of weekly benefits, the second being the reduction or cancellation of benefits. The former of these two penalties may again be subdivided into three general types, postponement: (1) for a specified number of weeks; (2) for a variable number of weeks; (3) for the duration of unemployment. Note that in each of these three methods, accrued benefit rights are not cancelled. Thirteen states use the first method, twenty-seven the second, and twelve the third. Seventeen states use these two types of penalties (i.e. postponement, cancellation) in combination.

\textsuperscript{34}G. L. Chapter 151A, Sec. 25(c).

\textsuperscript{35}Dept. of Labor, op. cit., p. 76, see Table 26 for a listing of states and their methods of disqualification.
Massachusetts uses the combination method allowing for the discretionary postponement of benefits for the week in which the refusal occurs and for a period of one to four weeks thereafter and an optional imposition of benefit cancellation for an additional one to four weeks. In case of refusal of work offered by the last employer or any employer of the previous year all uncharged benefit rights from such employers are cancelled; that is, the employee loses any benefit rights which he has built up by virtue of that employment. Because of the before-mentioned difficulty in determining suitable employment and because of a worker's natural reluctance to step down the economic scale, Massachusetts' flexible penalties seem well founded. Leniency is permitted without denuding the state of the power to step on the flagrant offender.

One federal standard is imposed on all states by the Federal Unemployment Tax Act which, in effect, forbids penalties for refusal to work because of conditions adversely affecting the bargaining position of labor.36

2. Labor Disputes

The most violent of the controversies is centered around the problem of labor disputes. The very term, labor dispute, is difficult to define, particularly in regard to lockouts and

36Ibid., pp. 74-75. Compare pertinent sections of Federal Unemployment Tax Act, here quoted, with G. L. Chapter 151A, Sec. 25(c) (1-3).
strikes. Here is an example of one of the basic problems. It is obvious that a striking worker is voluntarily unemployed. But is a person unemployed due to a lockout voluntarily out of work? The United States Dept. of Labor thinks not. In a letter dated November 25, 1949 entitled "Summary of Proposed Federal Legislative Amendments to Unemployment Insurance", the following appeared: "Because unemployment due to 'lockouts' is involuntary, unemployment due to a lockout would not be subject to disqualification..."

Nine states apparently subscribe to this viewpoint for they specifically exempt lockouts from their disqualifying provisions. Organized labor has repeatedly tried to incorporate such provisions in the Massachusetts law but has thus far failed. The author fails to see the reason for allowing lockout benefits. First, it must be assumed that an employer uses the lockout because of a labor dispute. Since two parties must be involved in a dispute, it follows that the employees have taken some voluntary action. Any voluntary employee action thus precludes any concept of involuntary employment. Second, the interference of the state has traditionally been impartial,

37 Massachusetts does not define the term.


taking the form of mediation, arbitration, etc., and as a bulwark against unfair labor practices. Payment of lockout or strike benefits through unemployment compensation would, in actuality, be subsidization of one side.

However, some payments are justified where strikes are in progress. Five states\(^{40}\) have provisions which might well be emulated by Massachusetts. These five states provide for benefit payments, in cases where the employer is guilty of a violation of a state or federal labor law, or where working conditions are sub-standard or where a contract has been violated, and a strike is in progress as a result.

However, in most instances, the author fails to see the logic in the payment of strike benefits as the C.I.O. has repeatedly advocated.\(^{41}\) Since the employer's alone pay for benefits, they would, in actuality be paying their workers while on strike. In addition, they might suffer additional penalties due to increased taxes because of what then must be considered poor employment records.

Three tests are usually applied to determine whether a person is involved directly in a strike and his unemployment is due directly to his participation in a strike. If any one of these three tests apply, the worker is disqualified.\(^{42}\) They are

\(^{40}\) Arizona, Arkansas, Montana, New Hampshire, Utah.

\(^{41}\) See Resolution No. 13 adopted at the 1948 CIO Convention.

\(^{42}\) Dept of Labor, op. cit., p. 78. Table 27 also shows duration of disqualification provisions.
listed below together with the number of states using them:

1) Participation in a dispute (42 states)
2) Financing a dispute (31)
3) Directly interested in dispute (41)

Most states use more than one of these tests. Massachusetts uses all three.

3. Voluntarily Leaving Work

Another common cause for disqualification is the voluntary leaving of one's employment. In cases involving what is known as a "voluntary quit" the states provide that the employee must have good cause to avoid disqualification. Good cause is usually construed to mean fault on the part of the employer, in the case of Massachusetts, "good cause attributable to the employing unit or its agent..."43 Many states are quite specific in defining standards but in this state it is a matter of the Director's discretion. In states where action is discretionary, attempts have been made to define adequate standards.44 There are many types of good cause ranging from unsuitable collective bargaining conditions to prospects of obtaining other employment. The Director and his subordinates often find it difficult to determine the facts in many individual cases.

43 G. L. Chapter 151A, 24(c) (1).
However, determining of just cause is not the primary issue in cases of this nature. The basic point of controversy is found in prescribing the penalties to be imposed when good cause is found not to be present. Some states are inclined to be lenient while other states feel quite strongly on the issue. Among these latter states is Massachusetts. All states provide for some penalty; Massachusetts provides for full disqualification from benefits for the duration of unemployment. (Accrued benefits are not forfeited but merely withheld.) Nine other states have similar provisions. Seventeen states disqualify for specified number of weeks, twenty-five states for a variable number of weeks. In seventeen other states, the disqualifications affect the employee not only in the period immediately following his quit but in subsequent periods of unemployment. 45

Too much leniency in disqualification provisions leads, in many cases, to malingering. Many persons develop the habit of working for a period, and then vacationing at the expense of the government. Bear in mind the term, "Uncle Sugar" is not the exclusive property of the Europeans. The provisions of the Massachusetts law are reasonably effective in discouraging this practice. On the other hand, if penalties are too harsh, the worker who leaves his employment for what he believes good cause is often the sufferer. This state, since its interpretations have been very liberal, has, in the opinion of the author

45Dept. of Labor, op. cit., p. 70, Table 24.
resorted to the best compromise possible.

4. Discharge for Misconduct

Here is another controversial problem, for opportunities for malingering and "paid vacations" are again present.

Disqualifying provisions for misconduct are somewhat similar to those relating to voluntary quits. However, there is a prevalent opinion that penalties should vary in accordance with the nature of the misconduct. This can be seen by the fact that fourteen states have disqualifications for a specified number of weeks, thirty-two disqualify for a variable period of time and only six for the duration of unemployment. Here in Massachusetts, the disqualification is in effect for the duration of unemployment. The law thus makes no attempt to grade misconduct. One example may suffice to illustrate this point. Carelessness is usually considered to be misconduct. However, in most cases, it cannot be considered on the same level as embezzlement which is not only misconduct but a felony. Employers, in addition, might dispute a claim on the grounds of carelessness, when, in reality, the fault is ineptness rather than carelessness and as such not classifiable as misconduct. The Massachusetts law needs some revision both in providing for varied penalties and a more complete statutory definition of misconduct. As the law now stands, misconduct is only defined in terms of "willful disregard" and "deliberate misconduct."46

46 G. L. Chapter 151A, Sec. 25(c) (2).
However, care must be exercised for the same reasons discussed in cases of voluntary quitting.

**Summary on Eligibility**

To summarize, eligibility for unemployment compensation benefits is certified to the worker after he has registered, served a one week waiting period and indicated his ability to work.

However, the worker can be rendered ineligible either when he first presents his claim or while he is receiving benefits. There are four main disqualifying provisions.

First, he must accept suitable employment. The difficulty of administratively defining suitable employment has been pointed out. The flexible penalties in the Massachusetts law have been described as the best possible.

Second, labor disputes have been shown to be a subject of heated argument. The author's complete agreement with the present stand in this state against strike and lockout benefits have been expressed.

It has also been shown that there is a great danger of malingering present if the disqualification provisions governing voluntary quits and discharge for misconduct are laxly administered. It is felt that a worker who leaves work without just cause should, as the law provides be completely disqualified. On the other hand, the Massachusetts law regarding penalties for misconduct should be made flexible to conform to the degree
of misconduct.

It is socially desirable to maintain a system of unemployment compensation through which benefits are dispersed only to those legitimately unemployed. Although the Commonwealth's present system is not perfect, it comes near to attaining that end.

The various ramifications resultant from the conditions governing eligibility and disqualifications from eligibility have been discussed primarily for one reason. Unemployment has been increasing rapidly, especially in Massachusetts. The state has found itself paying out more than it takes in. The unemployment fund is not only dwindling, it is in danger of extinction. Unnecessary benefit payments in the past have depleted the fund. Strict adherence to the principle that only the genuinely unemployed member of the labor market is entitled to benefits is one way of stemming the downward movement of the benefit fund. It is against all principles of social welfare that the malingerer, the shirker, the social parasite be allowed to reap the benefits of those for whom they were intended. Of course, those not in the labor market are sometimes in need of assistance, but other agencies have been established for their use.

The problem discussed above is not applicable to too large a degree in Massachusetts. However, this state has not escaped it entirely. Any deviation from the present provisions
of the law (except for suggestions presented under the title headings) would increase the danger to the basic philosophy of the present system.

Benefits

While there are varying provisions regarding coverage and eligibility among the states, they appear almost uniform compared to all the varying benefit provisions of the laws. This is due primarily to the fact that no federal standards setting a floor on benefits were incorporated in the Social Security Act.

Two opposing philosophies are apparent when any discussion of unemployment benefit provisions arises. One group believes that benefits should be raised as high as the economy will allow. They argue that the unemployed worker must be allowed an adequate living standard while out of work. The other group insists that benefits must be kept below average wage scales so that it will not be to the worker's financial advantage not to work. Both arguments, of course, are valid and should not be considered diametrically opposed to one another. In the writer's opinion, Massachusetts has effected a reasonable compromise between the two philosophies. Benefits are adequate enough, for the most part, to insure a living standard, but are, at the same time, not conducive to a life of ease.

However, some provisions of the benefit system in Massachusetts can be improved upon. Experience in other states
shows that there are no grounds for opposing such improvements on the grounds of administrative feasibility.

While the author feels that the suggestions for liberalizing present benefit provisions which will appear below are of social value and importance, and will not sabotage any philosophical belief, he is opposed to any liberalization at the present time. As has already been pointed out, unemployment insurance is now in danger of insolvency. The fund is so low that it will probably be necessary to impose a lower scale of benefits as is provided by law.\footnote{G. L., Chapter 151A, Sec. 32.} One cannot go into the reasons for the present state of the fund here except to say that its present condition could have been brought about by a number of factors such as too low a payroll tax, the use of experience rating or a tolerance of malingering when the fund was plentiful. Since the author is neither willing nor able to suggest a solution to the present financial problem, he must content himself with a discussion of the social utility of the present provisions and with an expression of the hope that the financial condition of the fund may soon permit some improvement.

Before discussing the actual benefit provisions of the Massachusetts law, it is first necessary to consider some factors which are actually additional determinants of
eligibility. They are discussed under the heading of benefits because they are, in addition, closely related to the computation of benefits. It is impossible to consider benefit provisions without taking these factors into consideration.

The Base Period

In all states a worker's benefit rights are determined by his job experience in a past period of time in covered employment called the "base period." That is, his benefits are computed solely on the basis of his earnings in that time period. The primary purpose of the base period is to determine whether a worker is in the labor market and, therefore, eligible for benefits. In 50 of the 51 jurisdictions, a base period of one year is observed. In Missouri, the base period is two years.

Two main methods of determining on what date the base period will begin and end are in use at the present time.

One type of base period is called the "uniform" and is the type used in Massachusetts. The uniform base period begins and ends on a legally set date and the date of the filing of an unemployment claim has no effect on it. The base period in this state begins on January 1 of each year. The other type of base period called the "individual" begins and ends on the date in which a claim is filed. For example: if a claim is made on July 1 of a year and the base period is one year, then the

48Dept. of Labor, op. cit., pps. 38, 39, 42. Table 13, p. 44. This section gives a complete picture of the workings of base periods and benefit years.
beginning and ending dates are July 1 and June 30 of the previous year.

**Qualifying Wages or Employment**

While the base period sets the time in which qualifications can be met, standards in terms of wages and employment, must be met. These standards are the primary means now in use of determining whether the worker is in the labor market. Some such standards are necessary to the basic philosophy behind U.C. Two basic tests are used to determine a worker's attachment to the labor market, the length of time he has worked and the wages he has earned.

**Time Worked**

Four states require that the claimant must have worked for some specified number of weeks. Ten other states require that the worker's earnings be spread into more than one-quarter (3 month period) of the base period. Massachusetts has no such provisions. While there might be some validity to the laws governing time worked, there is also much to be said against them. Such laws are discriminatory toward the seasonal worker, the worker in the building trades, the summer employee, etc. There is much that is socially undesirable about them.

**Wages**

Wages are, to the author's mind, a better way of

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49Dept. of Labor, op. cit., pp. 42, 43, 45. These pages explain various examples of qualification procedures, in several states.
determining a claimant's attachment to the labor market. Some states have evolved formulae by which they arrive at a qualifying wage. The qualifying wage is determined by multiplying the weekly benefit amount to which the claimant is entitled by some fixed amount. For example: the minimum weekly amount in New York is $10; the multiple used is 30. The formula is; $300 which is the qualifying wage. The method used by Massachusetts, among other states however, is to set a flat qualifying wage.

A basic social problem is deciding just what the qualifying wage should be. Some standards are necessary. The qualifying wage should not be too high nor too low. The $20 minimum in Missouri and $600 minimum in Washington are good examples of extremes. Twenty-seven states require a higher qualifying wage than Massachusetts.51

This might seem indicative that this state's provisions are very liberal. However, one might wonder if they are too liberal. One who makes only $150 might be considered as rather a doubtful part of the labor force. The author's opinion is that Massachusetts might easily raise her qualifications somewhat to weed out some of those whose place in the labor market is questionable.

50To be explained below.

51Dept. of Labor, op. cit., p. 46. Table 14. The table gives the wage and employment qualifications of all states.
The State Benefit Provisions

Any discussion of the liberality of Massachusetts benefits must take into consideration their four fundamental parts, the minimum and maximum weekly benefit amounts, the duration of benefit payments, the provisions for partial benefits and the provisions for dependency allotments. On the whole, Massachusetts' position in regard to all four parts is relatively better than the position of most other states. However, there is room for improvement in some areas which will be pointed out.

1. The Weekly Benefit Amount

The place of the Commonwealth must be measured in terms of both maximum and minimum benefits. All the state laws contain some formula for the computation of weekly benefits with some specified maximum and/or minimum level. These formulae vary greatly, but in general they are conceived to provide weekly benefits in proportion to past earnings.

All formulae are applied to the worker's earnings in the base period. As a general rule, his weekly benefit amount is large or small depending on the amount of those earnings. Forty-one of the states including Massachusetts, base their formulae on wages which the employee has received in the highest

52Dept. of Labor, op. cit., pp. 49-51. See also Table 16, p. 52.
quarter (three month period) of his base period. Since the worker's wages are the greatest in this quarter, they are understood to indicate most clearly full time work. Weekly benefit amounts are usually computed by dividing the high quarter earning by some fraction. This fraction ranges from 1/26 in six states to 1/17 in Ohio. The fraction 1/26 thus would bring about a lower weekly benefit rate than 1/17. The Massachusetts law does not provide for the use of any specific fraction for the computation of weekly benefits. Instead, it uses a table. However, the weekly benefit rates provided for in the table approximate 1/20 of high quarter earnings. The resultant weekly payments compare very favorably with those made in other sections of the country.

Of the ten jurisdictions not using the above methods eight compute benefits on the basis of the annual wage of the base period and the other two use the average weekly wage in their computations.

Minimum benefit allotments per week range from a high of $15 in Oregon to a low of fifty cents in Missouri. While a few states allow the minimum benefits to be fixed solely by the formula, others set a floor on the benefits. Massachusetts' minimum benefit is $6. Since her minimum possible quarterly wage is $37.50 her actual minimum payment would be a little over a dollar in extreme cases. While a $6 minimum seems very low, it must be remembered that such a benefit is based on extremely low earnings during the previous base period.

55G. L. Chapter 151A, Sec. 29(a).
The person with the $6.00 rate is actually on the fringe of the labor market. However, Massachusetts could, with little difficulty, weight the table now used to benefit the lower paid worker. Eighteen states now follow this practice.

In relation to other states, Massachusetts ranks very high in the payment of maximum benefits. She is one of the twenty-three states with a maximum of $25.00. Only two states, New York and Wisconsin, have a higher maximum $26.00. This high maximum rate is due, as was stated before, to the liberal benefit formula in use.

2. Duration of Benefits

The Massachusetts law provides that a worker may receive weekly benefits for a maximum period of twenty-three weeks. This length of time can be considered very liberal. This state is one of the twenty-two that provide for a maximum duration of at least twenty weeks. Thirteen states it is true, have longer durations but of these thirteen, only the maximum of Wisconsin exceeds twenty-six weeks. The state law provides that "total benefits shall total thirty percent of the total wages earned in the base period or twenty-three times the weekly benefit rate whichever is the lesser." Recently, a great many groups, particularly in labor have urged that benefits be paid for at

54 Figures here discussed are exclusive of dependency allowance.

55 G. L. Chapter 151A, Sec. 30.
least twenty-six weeks. They feel that by extending the duration of benefit payments substantially less claimants will have exhausted their benefit rights before they have secured new employment. The facts seem to indicate that the problem cannot be solved in this way. Actually the majority of those who exhaust their benefits are persons whose prior earnings are not enough to allow them benefits for even the maximum of twenty-three weeks. Only thirty percent of those filing claims since 1946 have been potentially eligible for more than twenty-one weeks of benefits.

In addition, this thirty percent accounted for only fifteen percent of the total exhausted claims. In other words, only a very small percentage of those whose claims are exhausted would be affected by an extension of benefit duration. Why are there so few claimants whose potential benefit duration is so short? Two important reasons are evident. The first of these are the relatively low monetary eligibility requirements. It is obviously foolish to try to spread thirty percent of $150 over twenty-three weeks. The second and important reason is that in most instances only those persons whose earnings in the base period entitle them to weekly benefits of $25.00 are able to obtain benefits for the full twenty-three weeks. If it is necessary to increase the benefit duration of those whose base

56 Galenson, op. cit., see pp. 46-55 and pp. 300-335 for a thorough analysis of this problem.
period earnings are very low, the best way to accomplish this purpose is by allowing benefit payments of fifty or sixty percent of base period earnings rather than the present thirty percent. However, the author is not sure that this would be a wise step. It would seem that all such a measure would accomplish would be to increase the percentage of benefits paid to doubtful members of the labor market.

3. Partial Unemployment

Every state except Montana provides for some benefits for those who are partially unemployed. In general, Massachusetts' provisions for payment of partial benefits are the same as those of other states. One's partial benefits are based on his weekly benefit amount if totally unemployed, less the amounts earned during that week. Several states have a liberal provision which this state should adopt. They provide that an allowance ranging from two to six dollars be allowed the claimant before part-time earnings are deducted from the weekly benefit. Such provisions are helpful because they encourage the person unable to find full-time employment to seek part-time work. In such cases a saving is actually afforded the benefit fund.

4. Dependency Allotments

Only eleven states provide for dependency allotments and

57 G.L. Chapter 151A, Sec. 30. (A person's earnings in the base period must total at least $1,916 to entitle him to maximum total benefits for 3/10 of $1,916 is $575.)
Massachusetts is among them. Its law has two very commendable features and it also has weak ones. It is unique in that it places no limitation on the number of dependents for whom allotments can be claimed. It is also unique because allotments are additional to the usual benefits. In all other states having allotment provisions, potential benefits are reduced. However, only $2.00 are allowed per dependent, hardly an adequate sum. Also the only persons classified as dependents are children under eighteen. No provision is made for the dependent parent or spouse.

Summary on Benefits

In summation, we see that Massachusetts' provisions for the payment of benefits, although in need of some eventual revisions, are, at least, comparatively liberal. The state's actual benefit provisions are probably as high as can be established without allowing benefits to become a substitute for earnings. Weekly benefits are high although more aid should be given the low income worker. Provisions governing partial benefits need only slight modifications. The good features of the dependency allotment provisions tend to balance its poorer features. However, it must be reiterated that any liberalization of present benefit provisions must be postponed until the financial condition of the fund has improved. Any drastic

58G. L. Chapter 151A, Sec. 29(b).
59G. L. Chapter 151A, Sec. 29(c).
upward revision of the benefit provisions of the present law to increase its social utility could conceivably defeat that end in that the tax load would become so great that employer fraud, disputing of claims by employers, lower wages, and finally, the taxing of employees would be the outcome.60

The Problem of Exhausted Benefits

Because of increasing unemployment, more and more people find that they have exhausted their benefits and still have no job prospects. During periods of relatively full employment, this problem is not prevalent because periods of unemployment rarely last more than a few weeks. The author's opinion is that the only practical solution is to set up employment programs similar to the W.P.A. to absorb workers where benefits are exhausted. Unemployment usually indicates depression. Consumer purchasing power must be retained to fight depressions. W.P.A. programs would not only supplement purchasing power but would increase productivity.

Of course, it can be argued that W.P.A. programs are much more expensive in their operation than unemployment compensation. This, it must be conceded, is true. However, it is more expensive in the long run to let U.C. degenerate into a relief program because it has no concrete end result except the possible

60 Dept. of Labor, op. cit., see Table 19, p. 56, for an explanation of various dependency provisions.
destruction of the incentive and ambition of its recipients.\footnote{While Comparison of State Unemployment Insurance Laws as of Sept. 1949 was referred to extensively in footnotes, Handbook of State Unemployment Insurance Laws was of great use to the author. The former book was used in footnotes because of the correlation of its material. The latter book is recommended for more complete digests of the provisions of the various state laws.}

Summarization

Let us now reconsider the three main problems which have been discussed. In reconsidering them it is necessary to keep in mind that they must be analysed in the light of their social utility, their administrative feasibility and finally their adherence to the original philosophy embodied in unemployment compensation.

The first basic problem was in connection with the coverage provisions of the law. It was found that only those working in covered employment were eligible for unemployment benefits. It was, therefore, socially desirable to provide for the broadest coverage possible. There was no financial problem involved in the extension of coverage because increased benefit payments resultant of an extension of coverage would be automatically balanced by increased tax revenue. Therefore, the only block to the extension of coverage was the difficulty involved in administration. This difficulty was due primarily to the fact that the fund is financed by payroll taxes and such a tax procedure is complicated by the determination of what actually institutes wages. Another administrative difficulty
was the inability of one governmental jurisdiction to tax another jurisdiction.

The final conclusion on the Massachusetts provisions was that coverage provisions were generally broad. However, it was found that coverage was unnecessarily limited by the fact that only those employing workers for at least thirteen weeks were covered. The thirteen weeks provision was not necessary on any grounds. It was also found that a large area of employment was arbitrarily exempted from coverage partly on the ground of administrative difficulty and partly on no apparent grounds. Coverage in these areas should be extended to include state and municipal employees, employees of non-profit institutions and some types of agricultural workers.

The next problem considered was that of eligibility. It was found that it was administratively necessary to impose three basic conditions on the claimant seeking eligibility. It is necessary for the worker to register, serve a waiting period and establish his ability to work. However, the basic problems were not those establishing eligibility, but those problems connected with the disqualifications from benefits. It was the ultimate conclusion that the four main causes for disqualification from benefits, refusal of suitable work, labor disputes, voluntarily quitting work, and discharge for misconduct were necessary for the best interest of the basic philosophy of U.C. It was shown that U.C. should not become a substitute for employment. Any substantial change in the basic conditions
governing disqualifications would tend to subvert the whole system.

The third and final problem considered was that of benefits. We found the four main parts of the benefit program were of high social utility. However, it was found that the formula defining the weekly benefit amount should be weighted in favor of the low income worker. While the provisions governing partial benefits and dependency allotments were of definite social value, need of revision was evident too. The problem of setting benefits so that a minimum living standard is assured while, at the same time, setting them at a level discouraging malingering was pointed out. Finally, it was necessary to stress the twin problems of increasing exhausted benefits and decreasing benefit fund reserves.

The writer has tried to discuss briefly but comprehensively the problems connected with what he considers the primary controversies. The writer has attempted to point out both the good points and shortcomings of unemployment insurance in this state, and also the problems of reconciling administration and social utility. An attempt was made to point out the dangers ever present in allowing the program to deteriorate into a substitute for employment.
CHAPTER V

CONCLUSIONS

Before stating his final conclusions on the overall efficiency, utility, and financial condition of unemployment compensation in the Commonwealth, the author would like to reiterate his thesis. That is, that when all factors are considered, the program in Massachusetts appears in a most favorable light. Bearing this thesis in mind let us again examine the various aspects of the program and the reasons why the author feels that his thesis is substantiated.

The first matter to be discussed was that of the administrative organization of the Division of Employment Security. An effort was made to show the extremely close conformity of the organization of the Division with widely acknowledged principles of sound administration. The author, in outlining his own preferences in regard to administrative principles mentioned those of integrated command, coordination, and control, proper allocation of line and staff functions, and a generous use of auxiliary and research agencies. It is hoped that ample evidence of conformation to those principles was shown.

For the purpose of re-examining the Division's administration, let us divide it into three major parts, control, line, and staff. It is unnecessary to again give a detailed
description of each of the three major parts rather than just their high points.

Control is in the hands of a single Director with the power to delegate his duties to subordinates. Sound managerial techniques are embodied in this system since experience has proven the single-headed organization the most effective. However, commission types of control are sometimes desirable. Since the need of some type of commission direction was evident in the Division, the Advisory Council and Board of Review were established to perform long range policy making, consultative and quasi-judicial functions. Since these two bodies act independently of the Director, the advantages of both systems of control are exploited while their disadvantages are erased.

The line functions of the Division are those which are charged with the responsibility of fulfilling the agency's basic aim, the payment of benefit claims.

Line functions may roughly be divided into two parts with two basic purposes, contributions and wage records, charged with collection of taxes, and claims processing and claims payment, the duty of which it is to administer claims.

We have examined the workings of contributions and wage records in some detail. It is now only necessary to emphasize again that every care is taken to insure maximum tax collection while also assuring fair treatment to contributing employers. To insure these ends, an elaborate system of checks and reports has been devised.
Claims processing and payment is also administered in the same efficient manner, care is taken to provide that only those workers which the law says are deserving receive unemployment benefits. In addition, it has been pointed out that workers whose claims are adjudged valid are not subjected to needless delay. Massachusetts' record in promptly paying benefit claims has been shown to be better than the national average.

The third part to be reviewed is that of staff operation. Not only has Massachusetts recognized the need of separating line and staff operation but it has further divided its staff services into distinct units, and all functions are generally classified into what conform to either auxiliary or technical services.

Auxiliary services fall into four groups, budgeting, financing, property, or personnel. We, therefore, discover in these groups, parts devoted to budgeting and auditing, centralized purchasing, maintenance, and the hiring and placement of employees. Separate units to perform all these functions have long been considered necessary.

We also find four basic technical services, research, legal work, training, and information. Thus a separate unit exists, not only for research and litigation, but also for the very important purposes of service training and good public relations.

What then are the author's final conclusions regarding the administration of unemployment compensation? They are
simply that a better and more efficient organization could hardly be devised.

A second aspect of the Massachusetts system examined was that of its adequacy in sociological terms. An attempt was made to measure the system in the light of the law's coverage, eligibility, and benefit provisions. Some shortcomings were discovered and deliberately stressed. However, care was taken to also emphasize what the author considers to be the highlights of the Massachusetts law.

Consider first the coverage provisions of Chapter 151A. What businesses were covered were shown to be very important because those not working in covered employment were not eligible for unemployment benefits. It was pointed out that the original coverage provisions of the Massachusetts law and the laws of the other states were designed to conform with the provisions of Title IX of the Social Security Act. However, since that time, Massachusetts has vastly expanded its coverage provisions. Its most important change was that while it originally covered employers of eight or more for a period of twenty weeks, it now covers employers of one or more for a period of thirteen weeks. Some shortcomings are evident. First, it is possible to cover employers of one or more for a period much shorter than thirteen weeks. In fact there seems to be little reason for the time clause. In addition, employees in some areas of employment are specifically excluded. There seems to be no valid reason why some agricultural workers, employees of non-profit
organizations, and state and municipal workers should not be afforded protection. Nevertheless, it must be stressed again that the Commonwealth's coverage provisions are very broad.

Conditions governing the worker's eligibility for unemployment benefits were next discussed. In addition conditions related to initial eligibility such as registration, ability to work, and the serving of the waiting period, controversial causes for disqualification were also considered. Among these were, refusal of suitable work, labor disputes, voluntarily leaving work, and discharge for misconduct. The author's conclusions regarding these four points were that this state, particularly in regard to the fixing of penalties, has handled them effectively. The only criticism, and this was minor, was that penalties governing discharge for misconduct were too severe.

Next to be considered was the problem of benefits. Under this title additional eligibility conditions, namely qualifying wages or employment were discussed. These conditions were represented as important because they were the best measure of the worker's actual attachment to the labor market, attachment to the market being fundamental to the philosophy of U.C. Here again Massachusetts stands high. First, it applies an uncomplicated test to the worker. Qualification is based on flat earnings, in the base period of $150. Second, if liberality of qualifying wages is to be used as a measure of the worth of the law, Massachusetts has one of the lowest qualifying wages in
the country.

The various benefit provisions were then examined. It was discovered that our benefits in terms of weekly benefit amount, duration, partial unemployment, and dependency allotments were very liberal. The author suggested that some changes were eventually in order, particularly in the benefit formula. However, he felt that no increases in benefits were advisable at the present time, and possibly that decreases were in order.

The final conclusions on the adequacy of the law are that while some changes are definitely in order, on the whole, the law has been outstandingly liberal.

Let us turn now to the finances of the system which have proved so embarrassing of late to the Commonwealth. The chapter on finance had three basic purposes, first to explain methods of taxation and fundamental structure, second to consider experience rating, and third to try to explain the reasons for its financial predicament.

First, it was explained that Massachusetts has done well to administer its law so well in view of the fact that its administration is so often hamstrung monetarily by the Federal Government. Frankly, the author feels that some other system should be devised. It might be better that the state provide its own administrative funds.

The various methods of financing the unemployment fund were next explained. Here it was stressed that Massachusetts as well as almost every other state has found the pooled fund
the most efficient.

Little need be said about experience rating here. It is perhaps enough to say that in spite of the methods used in the various states, all have the same result, to award the steady employer with a reduced tax rate.

The author considers the chapter's third purpose to be most important. Let us look again at the five reasons considered explanatory of the fund's low state. Note first, that only two of them can be applied to experience rating. Briefly, the reasons are that Massachusetts has an unusual industrial composition resulting in pockets of unemployment. Because of these pockets, employers not only have failed in their share of policing the fund, but have conspired with their employees to legally subvert the purposes of the benefit system by developing a method of staggering unemployment. It must here be kept in mind that the author in advancing his thesis stated that while defending the Massachusetts system he would not ignore its shortcomings. However, in the cases cited above it should be strongly emphasized that neither the law nor the administration are in any way at fault.

The law is at fault however, in the instances below. First, benefits have doubled while taxes have not increased. Second, the experience rating provisions of the law make the fund unresponsive to changes in economic conditions. Provisions stepping up employer contributions are not adequate and come too late.
However, it is the last of the five reasons that the author believes most important. That is that experience rating has resulted in consistently reduced rates for employers and loss of taxes for the fund. These may have been allowable at one time but it is apparent that increased benefits have destroyed any actuarial basis contributions may ever have had. The author does not wish to see benefits drastically reduced. Therefore, they must be supported by increased taxes. The best way to increase taxes and still retain the advantages of experience rating is to maintain an average tax rate of at least 2.7%, reduced rates being balanced by penalty rates. In this manner the fund can again be made financially sound.

Briefly then, the final conclusions are these. The law is soundly administered in this state. In addition, the benefit structure is very liberal. While the financial condition of the fund is now at a low ebb, it can again be restored to solvency.
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ABSTRACT OF THESIS

The Administration of Unemployment Compensation in Massachusetts

The author has chosen the administration of Unemployment Compensation in Massachusetts for several reasons. First it is a subject which has gained a great deal of publicity in recent months due to the unpleasant financial situation in which it finds itself. In addition, in spite of its publicity, the layman knows but little about its legal basis, administration and effect on the general public. Unfortunately what publicity it has received has tended to place it in a very unfavorable light. The author feels that much of the criticism it has received is unjustified. For that reason, his thesis is that Unemployment Compensation as it actually exists in this state is well conceived and executed. However, the paper does not under evaluate its shortcomings but rather to relegate them to the proper position in the whole picture.

The paper only discusses one aspect of employment security, that of unemployment compensation. It would be too large a task to attempt to discuss also the fine work performed by the State in job placement. Besides giving the history leading up to the present system in Massachusetts, the paper's body contains three other topics. These are the process of
administration of the law, the adequacy of the system in terms of its social utility and finally a discussion of the financial structure of the system.

The discussion of the Division of Employment Security not only is designed to explain the actual functions performed within it and their relation to each other but also the close conformity of these functions as they are performed and more particularly in the manner in which they are organized to fundamental principles of public administration. To show this conformity, adherence to basic precepts such as command, coordination, and control are pointed out as well as such principles as dichotomy of line and staff, specialized units to perform housekeeping and technical tasks and centralization of authority. In showing the overall excellence of the administrative organization, the paper discusses in turn, the duties of the Director of the Division, his associates, the Advisory Council and the appeal agency, the Board of Review. The line functions are also given in some detail from the process of tax collection to payment of unemployment benefits. Discussion of staff agencies is in two parts, the auxiliary staff functions and the technical functions.

In discussing the finances of the system, both the financing of the fund and the federal-state relationship entailed in the financing of administration are brought to light. The various types of employer funds are examined in relation to the collection of taxes. Experience rating, the method by which rewards are given to employers with stabilized employment,
is considered particularly with stress on the various types of experience rating in effect in the several states. However, the most important part of the chapter is an attempt to explain why the unemployment fund is now nearly insolvent. A solution is advanced which has as its base a drastic revision of the experience rating methods with a view toward returning the financing of the fund to an actuarial basis.

All factors being considered, it is found that the sociological provisions of the law are very liberal. In reaching that conclusion, three basic factors governing the law's adequacy are examined chiefly in comparison to the standards of other states and to the rather nebulous standards laid down by the Federal government. The three factors are coverage, eligibility, and benefits. The consideration of the coverage provisions revolved around what employers are covered by the law in relation to what employers could feasibly be covered. The purpose in discussing eligibility was to determine how fair the law was in prescribing who could obtain unemployment benefits and also to discover the basic reasons for benefit disqualification after considering all three parts, administration, finance, and social utility, the ultimate finding by the author is that while there is financial difficulty at present, a solution can be found. The author feels that the State's embarrassment can be eased if it points with pride at its fine administrative organization and at the very liberal structure of the unemployment compensation law.