FILE NAME: Cal Portland Cement (CPC)

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CALIFORNIA STATE ARCHIVES RESEARCH

I have completed the research at the California State Archives in Sacramento. The files are not catalog searchable except for main headings. In general, most of the material I reviewed were files relating to workmen's compensation or disability insurance. The files were far from complete with a lot of correspondence that seemed to be missing. But that is the nature of old records. There were very few actually references to asbestos. Parts of three files were copied and discussed below. I believe research at the Archives is finished. → State of the Art in California.

1. From the Division of Industrial Safety were some yearly (or fiscal yearly) tabulations of occupational diseases caused by various agents. Asbestos was the cause of 2 cases in 1939, 1 case in 1941, 5 more in 1941, and 3 cases in 1942.

2. An employee of the Department of Public Health wrote a memo after attending a course, "Medical and Biological Aspects of Air Pollution" in 1960. Part of the course was a presentation by Dr. H. L. Falk from the University of Southern California on lung cancer and air pollution. Asbestos is not mentioned in the memo. I do not know if it would be worth trying to track this course or presentation. It may not have mentioned asbestos and we do not know who was at the course. NA

3. The bulk of the copied material was a transcript of a 1935 hearing before the Insurance commissioner of the State of California dealing with surcharges for workmen's compensation insurance for silicosis and asbestosis. Various insurance companies, industry trade organizations and other companies gave testimony at the hearing. In addition, many insurance companies and other companies tried to waive the liability for silicosis and asbestosis as an endorsement to the policies. This was disallowed in a 1937 memo from the California Inspection Rating Bureau. However, many companies submitted endorsement forms. Barry recognized one company, California Portland Cement Co., as a defendant in cases. There may be other companies that may be defendants, or they may be predecessors to present day defendants. Lastly, there is a 1937 list of pneumoconiosis surcharge rates for various industries.

Cal Portland Cement

F3720:7 INVESTMENT–INSURANCE

Hearing Transcripts – California Inspection Rating Bureau

1935–38

BEFORE THE DEPARTMENT OF INVESTMENT, DIVISION OF INSURANCE
OF THE STATE OF CALIFORNIA

In the Matter of the Application for Silicosis Surcharges made by CALIFORNIA INSPECTION RATING BUREAU	TRANSCRIPT OF HEARING

State Building,
San Francisco, California,

Friday, November 15, 1935,
Ten o'clock, A. M.

HEARING BEFORE

HON. SAMUEL L. CARPENTER, JR.,
Insurance Commissioner
of the
State of California

N. R. Bassett
Reporter

LIST OF SPEAKERS

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FIRST HEARING
ON THE APPLICATION FOR SILICOSIS SURCHARGES
MADE BY
CALIFORNIA INSPECTION RATING BUREAU

BEFORE

SAMUEL L. CARPENTER, JR.,
Insurance Commissioner of the State of California

FRIDAY, NOVEMBER 15, 1935,
TEN O'CLOCK, A. M.

--ooOoo--

Meeting is called to order by
Insurance Commissioner Carpenter.

MR. CARPENTER: This hearing has been called pursuant to a written request of the California Inspection Rating Bureau asking the Insurance Commissioner to approve surcharges in Workmen's Compensation Insurance rates to cover the hazard of silicosis and asbestosis in certain industries

Sections 11730 to 11742 of the Insurance Code cover the jurisdiction of the Insurance Commissioner in respect to Workmen's Compensation Insurance rates and rating systems and classifications, and this hearing is called pursuant to the requirement of Section 11734.

Because of the grave importance of the subject, it is not the intention of the Commissioner to make an immediate decision upon the question involved, but it is his disposition to allow all parties at interest reasonable time to present their views and such information as is available to assist him in arriving at a proper adjudication of the matter.

We realized on account of the broad scope of the request and the number of groups and industries affected by the proposed change that any system of notification might not reach all persons interested. However, every reasonable effort has been employed to reach as many persons as possible by notice and newspaper publicity. We realize that notices did not reach some of you until a very few days before the date of meeting and that therefore it is not to be expected that you will be present here today equipped to discuss in detail all of the conditions appertaining to the question at hand. Many requests have been received for postponement of the hearing based upon insufficiency in the time element.

We feel, however, in holding this hearing and allowing the California Inspection Rating Bureau to present its request here backed by the data it has compiled that a record may be made here which can be available to interested parties for more mature discussion at a subsequent or adjourned meeting.

We also believe it would be helpful to hear those who are prepared today to speak upon any phase of the subject. Some fifty or more persons have indicated a desire to be heard and those of this number who represent

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interests directly affected will be given such opportunity as time permits. Because of the large number we are going to request a consideration for all those who desire to be heard and ask all speakers to be brief.

Those who by limitation of time may not have an opportunity for oral presentation, or those desiring to supplement oral presentation, are invited to submit to the Commissioner in writing any comment which they are to present.

I believe at this time it would be advisable to take a roll of those present and the interests they represent in order that the Commissioner may advise them of future meetings or proceedings. A roll will be passed among you with the request that you print your name, address, official capacity and industry or group represented.

To save time and permit the greatest convenience to those present, it is requested that recognition of the chair be first obtained before speaking, and that all remarks or questions be directed to the chair.

I will ask the secretary to pass these roll slips out. You may sign them during the progress of the meeting.

I believe it would be probably the best order of procedure to ask the California Inspection Rating Bureau at this time to present the matter to this gathering. I believe Mr. Burbank is representing the California Inspection Rating Bureau. At this time, Mr. Burbank, I

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will ask you to present the matter.

MR. DANIEL W. BURBANK
Representing California Inspection
Rating Bureau.

MR. BURBANK: Mr. Commissioner, I will ask the indulgence of those in the back of the room. If you don't hear what I have to say, if you will raise your hand I will try to raise my voice.

Workmen's Compensation in this state is established under a constitutional amendment which is very specific in its statement of the objectives that are to be obtained in every phase of that subject. It is very plainly stated in that constitutional amendment that the legislature shall provide for adequate insurance coverage.

Pursuant to that mandate, the legislature in 1915 adopted what was then known as Section 602 (b) of the Political Code, that is, those of the sections of the Insurance Code mentioned by the Insurance Commissioner, which required him to approve rates that are adequate for all compensation carriers, and that law requires that all compensation carriers collect, charge and collect, those rates. That is what is known as the minimum rate law. It is an anomaly in business but it has an excellent reason behind it.

The sole object of insurance for workmen's compensation is to make certain that the benefits which the law gives to injured workmen, and to their dependents when they are deceased, will be paid without question. When compensation was initiated in this state there was no such regulatory law. Insurance carriers without a sufficient background for charging rates indulged in competitive rate cutting. Some went broke, and the legislature was called upon to do an entirely unconstitutional act by the then Governor Hiram Johnson, to appropriate money from the State Treasury to pay the dependents and benefits to the injured to which they were entitled and which the insurance carriers couldn't pay them.

Now then, there is simply one objective in this scheme, and that is to provide and make certain that every workman who is injured and every widow and every child left of a deceased workman shall receive that to which he is entitled. Workmen's compensation is peculiar in this, that the benefits which the policy provides, which the contract provides shall be paid, are not paid to you employers who buy it but are paid directly to the beneficiaries. You put up the money, the insurance carriers administer it, and the workmen who are injured and those other beneficiaries under the workmen's compensation law receive the benefits. The insurance carriers are directly responsible and liable in every aspect to the beneficiaries and to the workmen themselves.

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Now, one word about the California Inspection Rating Bureau. With the duty imposed upon the Commissioner under this minimum rate law, necessarily statistics and actuarial computations must be continually acquired and continually conducted. That requires a very large force, and upon the initiation of this law the then Commissioner required the companies to join in supporting an organization, a fact finding organization and statistical organization, for the purpose of compiling the experience as we found it under the compensation law for the purpose of making rates that are fair and adequate. That is the California Inspection Rating Bureau, and it is nothing more than a fact finding body which provides the Commissioner with the data upon which he can carry out the duty which is imposed upon him under Section 602 (b), the minimum rate law.

Now, we have had come upon us in the last two years a new problem. It is not a new liability, technically speaking, but it is new practically speaking, and we must for the purpose of this discussion consider the problem of silicosis and asbestosis as though there had been, practically speaking, no liability therefor prior to January 1, 1933. That is the way it must be approached because prior to that time for eighteen years there had been, relatively speaking, no cases or so few cases that the effect upon the cost to industry was entirely insignificant.

I have had a search made of the records of the

Industrial Accident Commission and I think I am safe in saying that not over ten cases were adjudicated, and we have had the records searched for claims and I am advised that only seventeen claims during the five years from 1928 to 1932 inclusive were made. With respect to these two risks, the cost of those claims was estimated in the neighborhood of $80,000, whereas the total amount of losses over those five years - correct me, Mr. Froberg, if I am not correct, was $57,000,000.

MR. FROBERG: $58,000,000.

MR. BURBANK: $58,000,000, less than one-tenth of one per cent. Now, our rates ordinarily speaking are based upon the experience or records we have acquired of the losses in each of your industries over the years. Each year they are readjusted upon the basis of the five years preceding. It is therefore apparent that the so-called manual or base rates have not up to this time reflected the cost of silicosis to any significant degree; it has hardly an appreciable effect. We then approach the subject as though an entirely new liability had been imposed which we must determine with respect to its future cost.

Now, gentlemen, I don't need to tell you that this hazard of silicosis is quite unique. Two or three items in that respect will obviously differentiate it from anything that in the run of the years has fallen within the scope of workmen's compensation. As you well know, the workmen's compensation scheme is in its entirety based on insurance principles. You also know that except for these two risks, silicosis and asbestosis, all hazards under workmen's compensation accrue at a given time; they are susceptible of having their cost or potential cost determined in a relatively short time after they occur. Section 602 (a) of the Political Code regulates the reserves which must be carried on compensation, and those reserves are only required to be held for three years. I mention that only to show you how nothing in connection with any such extended exposure which comes from silicosis has ever been conceived in the laws prior to practically the present time.

I must summarize these distinctive features of silicosis. First, it is rarely disabling until fifteen to twenty years of exposure. It predisposes to tuberculosis, produces a lingering and long disabling illness, it is insidious, it is incurable. No statute of limitations runs against a claim until an employee is both entirely disabled from work and knows that his disability was caused by silicosis, by breathing the dust. Therefore, we are confronted with establishing the cost of something which projects itself into the future, which is the result of exposure over a period of years, and which historically speaking is of very recent origin.

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Now, the proposal which we have made to the Commissioner is necessitated by virtue of the fact that we must under the law collect adequate rates. We have no source from which to pay benefits to injured men except premiums that are paid in to us. The sole difficulty is to determine how much each industry should pay and how they should be divided and in what amounts. I might say that our premise included not only the necessity both from the Commissioner's point of view and from our own and from your own and the injured man's point of view, if you please, of an adequate fund to pay these benefits, but the second point in our premise is this: With this unique hazard, with it coming on you, as is well known of the history of claims cost in the east, we have approached this thing from a non-profit basis. We approached it on the basis of pure cost and I will elaborate on that shortly. One word, and I am coming to the basis of this proposal.

It is based, of course, upon all the evidence that we could secure with reference to the probable cost. We know and we have the advantage of the somewhat limited experience because not over ten years has gone by while this has been a problem in eastern states, the somewhat limited experience of the several eastern states. Before that for many years South Africa has had this problem, and if my memory serves me right, I have the figures in my brief case, since 1902 I believe $62,000,000 has been paid out in South Africa in silicosis claims, and it is estimated that $34,000,000 will be needed to discharge the liabilities now accruing. Probably it is significant that the states of both Pennsylvania and Massachusetts have made official investigation of this subject at a very considerable cost and have published large reports. I hold here the report of the committee appointed by Governor Pinchot which, as you know, on occupational diseases expressly excluded silicosis because it was considered that the cost would be too heavy for industry to bear. If my memory serves me right, $2,000,000 a year was considered as an initial step in Massachusetts in the granite industry and in the foundries. The subject was debated back and forth for several years, and finally the official report of the Special Industrial Disease Committee of Massachusetts, after the authority there had heard the subject for more than a year, has this to show: In November, 1932, the insurance companies filed a rate of $5.00 per $100.00 of payroll for all stone cutting risks and provided that for risks found to have an extreme occupational disease hazard there would be an annual supplemental occupational disease rate of $300 for each person employed. Based on the average annual wage of $1500, that is $20.00 per $100.00 of payroll.

This rate, excessive as it may seem, appeared to be justified by the evidence, and indicates the extent to which losses in the industry have increased since the decision above mentioned, the decision above mentioned being one made in 1927 in the famous Patrick Sullivan case which held these cases compensable. The approval of this was delayed for nearly a year in the hope that future experience would render such an extra increase unnecessary. It was approved as of December 1, 1933, subject to the condition that the approval will be withdrawn on March 1, 1934, if at that time a merit rating plan has not been established for this industry. It proceeds to say the merit rating plan would be a plan by which employers would receive credits for prevention work, something that hadn't been worked out at the time. The $300 per man charge was put on in Massachusetts and the condition there was obviously to compel action in that respect.

One word with respect to why we call these proposed rates 'surcharges'. As you know, there is a very extensive manual of compensation rates in this state, devised for the purpose of recording the experience of various exposures and hazards in various industries because the basic idea, one of the basic ideas in making workmen's compensation rates, following up the fundamental theory of the law originally, is that each industry should pay the cost of its own losses, and that is only possible if, of course, records are kept of the losses of each industry,

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and that is what the Rating Bureau's business has been and continues to be. We call these 'surcharges' because, as I explained to you heretofore, at present the rates include no appreciable charge for this hazard, and this is a new hazard; we are not certain of what the cost is going to be ultimately in California. We have felt that the major basic rate structure of the state should not be complicated by this problem. We felt that any charge put on for the purpose of meeting the cost of this particular hazard should be separately set forth, and it is a part of our proposal that not only shall it be a separate and distinct charge for this hazard, but that in the future separate experience will be kept for each industry and records of all losses and claims and cost of every kind reported so that there can be an allocation without any question of comingling of data as to this particular hazard. It is too serious to be treated otherwise. The rates which are proposed are maximum rates, they are high rates, and I blame no industry for being very seriously concerned with the rates proposed, but/they are based upon all the evidence we can get, and if there is any other to be had or if it can be supplemented we welcome it, they represent the best ideas of our actuarial experience as to what we can safely carry your load for, this proposed rate caring for the beneficiaries of workmen's compensation who may be injured through these diseases.

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This rate is a maximum rate. Of course, we have to fix a maximum. It is not the minimum, however. We propose, upon the premise that we desire no profits whatever from the premiums collected from this hazard, we propose concurrently with these charges and as a part of the plan proposed to the Commissioner to provide for an annual adjustment of the rates retroactively on the basis of the annual claims experience developed in the various industries; that is to say, immediately upon the expiration of all policies issued in any given policy year, the Bureau will tabulate the payrolls and losses for that policy year and upon the showing of the experience for that year will adjust retroactively the surcharges originally made for that policy year to the carrier who will then make an adjustment with its assured on the basis of the adjusted rates.

Translated into plain English, that means this: You buy a workmen's compensation policy today and you pay a deposit premium for it. Monthly or quarterly you render a statement of your payroll to your insurance carrier and he sends you a bill for the amount of money that the application of the rate to that payroll calls for. At the end of the year, if you have not had a payroll which has required all of the deposit, then you receive an adjustment back. If by the application of the rate to your payroll a larger sum of money is required in excess of what you have deposited, then you pay something more.

By policy year, in insurance language, we mean practically two years because it means that every policy issued, we will say, during the year 1935, must expire and of course they cannot all expire until December of the following year.

Now, we propose to the Commissioner that the surcharges, when fixed and as fixed for these rates, be dealt with exactly as I have outlined and, as you know, your premiums are handled now. In other words, if you pay a surcharge for silicosis, then at the end of the policy year period, when your payroll is completely audited, if your industry has not required in its losses, by its losses, in the cost of handling, the fund which you have paid in, then that will be proportionately refunded to you by each carrier to whom you have paid the money. That is a cost scheme, but it starts with the premise that we must have the money to meet as nearly as can be determined the anticipated cost, otherwise the law cannot be complied with. Otherwise we would be gambling and we cannot gamble, we are not permitted to gamble. The law would be defeated if we were permitted to gamble, but this scheme will take care of itself by adjustment each two years, and as experience has developed the rates which the Commissioner will make as a result of this proposal can be adjusted either as between industries

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or as an individual industry. It is a matter of gaining experience and at the same time playing safe so that there can be no question but what the beneficent objectives of the workmen's compensation law can be taken care of.

Let me emphasize this, that not one nickel of profits out of these rates will go to the compensation insurance carriers. They are in general but service organizations, and in this respect the rating scheme we propose will expressly provide that the money you pay in will be held as a reserve for the purpose for which it is paid. If it is not used by the industries, then it will be returned.

Now, that undoubtedly means this: We cannot say to each individual man that if your money isn't used by the claims in your plant we will return it to you. We have to have a spread over industries and you gentlemen will have to police your own industries because one of the major objectives of the workmen's compensation law is prevention, and you know that prevention pays, and there will have to be, I assume, some steps toward organization whereby the industry as a whole will undoubtedly act to prevent losses from these diseases, and if that is done the problem will be in a major portion solved.

Now, in connection with this proposal we have also proposed a scheme for so-called schedule rating. These rates are not subject to experience rating, that is to say, the experience of each plant. That is impossible, But we do propose what is known in insurance as schedule rating, that is to say, under a definite scheme provided as part of the plan filed with the Commissioner, if any given plant engages in what is known as good housekeeping, if they segregate their dust exposed employees and do certain specified and possibly engineering acts to prevent their employees being disabled from this exposure, then it is possible under this plan for them to immediately reduce the intial charge as much as 40%.

Speaking of the experience of other states, I failed to mention probably the most important source of information we have which is Wisconsin. I will go back to that just a moment and then I will be through.

Wisconsin has a great number of foundries, and in connection with our proposal we filed the Wisconsin dust disease loss experience. That is at the Commissioner's office for you to investigate, and I will simply say that the jump in losses after workmen, after ambulance chasing lawyers became aware and after doctors became educated in silicosis, jumped tremendously in Wisconsin as it did throughout many other states, but the other states' experience is not useful to us because in the main those states permitted actions for damages, and as you well know there are $300,000,000 to $500,000,000 in suits pending, with over $20,000,000 pending against the foundries of

New York State. That is of no use to us here because it has no compensation experience.

Now, in Wisconsin, for the purpose of paying losses alone, without any charges for expenses, the experience showed what we call the pure premium, that is for losses alone, for the years 1930 and 1932, the amount indicated per hundred dollars of payroll were these figures:

For Iron Foundries:	$1.60	in	1930
	10.10	in	1932
Steel:	3.80	in	1930
	24.50	in	1932
Stone Cutting:	4.90	in	1930
	15.90	in	1932
Quarries:	9.50	in	1930
	19.17	in	1932

That is experience. Now, gentlemen, it is true that in Wisconsin they went out on a campaign of medical examination and developed a great many of these risks. However, the facts are these: The available data included includes that prepared by the National Counsel, that is an organization nation-wide very much as our Bureau is for California, in connection with the study of the problem and the experience, dust experience, developed in Wisconsin which has been made use of in other states. The major portion of the Wisconsin experience covers the foundry industry which nation-wide has contributed the greatest number of cases , followed by the granite industry, quarries, and so forth. The exhibits will

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show the following: In Wisconsin, for foundries, in 1930, there was an average of one case reported for each 200 employees. In 1931, there appear one case for each 100 employees. By 1932, which was the peak year, there was an average of four cases per 100 employees. These averages are produced by taking the number of cases for each $1500 of payroll. In making the schedule of rates we propose here, the Committee began at that point and estimated for the foundry classification one case per 100 employees. New York, in making up their schedule, took two per 100 employees, but took a smaller estimate per cost of each loss. We set $10,000 as being the average claim and $1500 as being the average annual payroll per employee, which produces a pure premium, that is, actual loss cost, of $6.77 for the foundry classification.

Now, there was practically no experience, no reliable experience, on other occupations than foundries, and it was necessary in making up these rates, and it has been necessary everywhere in the Union, to determine a relative degree of hazard between what was taken as known cost in one industry and what was known as a hazard in another industry, and that was done by a group of engineers over several years' study and adopted in New York and it is called the relating of the degree of risk of the basic standard taken from the foundries to other matters. That is a matter of judgment, and we don't know where to find any better way of doing it. That is the way that it was produced and that is the way that other rates, other than foundries, here are computed.

Now, on the schedule there was included marble. You have the schedule of rates, and classification No. 1803 included marble and stone cutting. That was an error because marble is limestone and not silica and has been eliminated. Also there was another error in classification No. 3632; machine shops should not be inserted at all and they have been entirely eliminated.

Without going into more detail, I want to add just one thing. Insurances carriers here, the Rating Bureau rather, supported by all of the insurance carriers of the state, are trying to do that which the law, from the Constitution down, says must be done. In proposing these rates, high as they are, there is absolutely no element of retaliation because we were unable at the last legislature to secure a modification or a definition of the benefits. That is a closed book as far as we are concerned. We probably will have never anything more to do with that subject at Sacramento. I merely make that statement due to certain unfortunate newspaper comments which had no foundation in fact with respect to our motive. This is purely a business proposition, pure and simple.

In conclusion, I simply want to say that there is but one objective to this whole matter and that is protection. We want to give you protection at actual cost and without profit. We have gathered all of the evidence that we can find on the subject. We believe that what we have proposed in the way of rates are necessary for protection, and we have suggested a plan whereby, if our estimates are wrong, you will get your money back provided your industry as a whole so proves. On the other hand, don't forget that there must be money to pay the claims of injured workingmen and death beneficiaries, and we are trying to work this out on a basis as fair and equitable as possible and we are as open minded as can be on the subject.

MR. CARPENTER: Will anybody else speak for the Bureau, Mr. Burbank?

MR. BURBANK: No.

(Ten Minutes Recess.)

Meeting is called to order by Mr. Carpenter.

MR. CARPENTER: We will now proceed by permitting those who have signified their intention of addressing this gathering today upon the subject in question to have that opportunity. I think it would probably be better and conserve time and give greater opportunity to

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all who wish to be heard, to take this matter up by industries. The mining industry, so we are informed by letters and communications, is represented here today by the organization of California Metal and Mineral Producers Association, Mr. Brown, Dr. Kern and Mr. Searls, I believe, among others, representing that particular association. Have you decided among yourselves which one you want to address this meeting?

MR. SEARLS: Mr. Chairman, I suggest Mr. Searls, (myself), Mr. Brown and then Dr. Kern.

MR. CARPENTER: Very well, we will give the floor to Mr. Robert M. Searls, attorney for California Metal and Mineral Producers Association.

MR. ROBERT M. SEARLS
representing
California Metal and Mineral Producers
Association.

MR. SEARLS: Mr. Commissioner, the gold mining industry of California received the notice sent out by your office very much as a bolt out of the blue, and in the few days that it was possible for us to give some study to this matter we compiled and I have presented to you a memorandum of our points, and it is our desire, if there is to be a continuance, that we be afforded the opportunity to present additional information which has come in since and will come in. I presume that will be

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permitted?

MR. CARPENTER: That will be all right.

MR. SEARLS: I was very glad, Mr. Commissioner, to have such a frank statement come from our friend Mr. Burbank because we are able to realize now the basis on which the Inspection Rating Bureau has proceeded.

In brief, they have proposed a surcharge on the compensation rates of the gold mining industry of $11.00 plus for underground, $14.00 for mill and $3.00 for surface workers, based on the experience hazards of iron foundries in Wisconsin, dusty mines in South Africa, and some steel mills in Massachusetts. What on earth the dust conditions in those places have to do with the operating conditions in the gold mines of California, I don't know. It made me wonder as I listened to the presentation whether the Inspection Rating Bureau had made any study of the dust conditions of California gold mines, because the only thing that can cause silicosis is dust. There is nothing in their statement to indicate that they have made such investigation and, as Mr. Burbank frankly stated, they have proceeded on the assumption that there is no experience and that there are going to be terrific losses incurred.

We are all willing to concur with Mr. Burbank, I am sure, that the gold mining industry must stand its own cost of its own hazards. We are willing to concur with him that in the insurance business there can't be a separate

rate offered to every mine. On the other hand, I think Mr. Burbank ought to concur with us that in all fairness the California gold mine owner and operator should not have his cost rated in advance on the assumption that the losses which the insurance carriers are going to have to pay will be those that were paid by iron foundries in Wisconsin, in New York, and gold mines in South Africa, and if I can demonstrate to the Commissioner the basic reasons why that is not so, I think that the statistics will amply corroborate me, such as we have.

In the first place, as I can show through Mr. Brown, Secretary of the Metal and Mineral Producers Association, who for twelve years was safety inspector of the Industrial Accident Commission, the California gold mine in the past twenty years has not offered a substantial silicosis hazard, and I don't mean by that that there are not many men employed in California gold mines who suffer from silicosis or have suffered from it, but I do say the condition is not due to the operating conditions in the California gold mines.

The reason for that is that without exception, or possibly with the exception of only a very few mines in the desert country, not a substantial part of the mining industry, the California gold mines are what is termed wet mines. The dust does not fly around in the air under natural conditions because there is too much water to make it fly. In the second place, under the safety regulations of the Industrial Accident Commission, during the past fifteen or twenty years the use of water drills has been mandatory. With the wetting down of muck piles and the prevention of the spread of dust in drilling, that is something that couldn't happen very well as it could in the iron foundry. The same is true of the quartz mills. This muck is hauled to the surface and there is no dust to fly around and cause silicosis.

Those are conditions that obtain in the California gold mines today, and it can be substantiated by the simple proposition of taking a few dust counts, if the Inspection Rating Bureau desire to do so.

I happen to represent the Empire-Star Mines Company operating in Grass Valley and Nevada City. We have had dust counts taken in our mines and we find the dust count to be a negligible factor in the North Star, Empire, Pennsylvania and Murchie - I believe those are the principal properties operated by this company. Similar counts, I have been informed, have been taken on the Mother Lode and I am anxious to get the same to furnish to the Commissioner, if you gentlemen have them, which will substantiate this same condition.

Now, under those circumstances, what justification is there for an assumption that a miner working in a California gold mine is going to contract silicosis in the same degree that he would contract it working in a dusty foundry in the east somewhere or in the well known very dusty mines of South Africa.

Mr. Burbank might very well ask me, "How, then, does silicosis arise in California?" It arises, Mr. Commissioner, largely because men employed in the mines drive from place to place, and many coming into this state are already suffering from silicosis acquired in other communities and other countries. Is the State Industrial Accident Commission going to assess against the California gold miner the entire cost of any disability resulting from silicosis contracted in that manner? I suggest there is nothing in any decision of the Industrial Accident Commission yet to justify such an enterprise, and I judge the representatives of the Commission themselves can speak for themselves as to that fact. If the California mines are wet, if the silicosis hazard is practically non-existent as yet, then why should the Inspection Rating Bureau get hysterical over the assumption that huge costs are going to be assessed. I imagine that this hysteria, as I have termed it, has arisen from the fact that within the past two years since the decision of the Supreme Court in the Marsh case, holding that the statute of limitations doesn't begin to run until the employee discovers he is suffering from the consequence

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of silicosis, that they think that means there are going to be big awards. I submit that it means nothing of the kind, and because I feel that that is the most potent factor in the whole situation, I had Mr. Brown make a very careful investigation of the records of the Industrial Accident Commission of a number of claims pending and of the amounts of those claims and of the amount of pending settlements. He reports to me under authority of Mr. Hyatt that of a list of these claims which I have submitted in my brief here, and also Mr. Hyatt's estimate of the amounts for which they can be settled today, the total of those amounts is about $10,000. The proposed compensation surcharge on the Empire Mine alone at Grass Valley would be $140,000 a year, fourteen times what the Industrial Accident Commission actuaries estimate the total cost of settling all the claims that have been filed today.

I will ask you if that isn't better evidence for the necessity of the surcharge than the experience of iron foundries in Wisconsin or mines in South Africa. I don't claim any familiarity with the South African procedure but I understand their mines are very dusty there, that it is a foregone conclusion that the native labor that are mostly employed there will contract silicosis in a short time and that very high reserves have to be set up for that reason.

While the carriers are entitled to be protected against loss, the insured are entitled to see that the rates do not exceed what is a reasonable reserve, and that reasonable reserve should be based on California gold mine experience and not on hazards which are non-existent in California gold mines.

I submit therefore as a first basis for denying this application that they have not shown the experience or any basic facts upon which a proper surcharge could be based if one were desirable. Furthermore, that the probabilities, based on the experience of the last two years, - I don't ask them to go back of that - don't indicate that the insurance carriers are going to be called upon to pay any large additional sums on account of silicosis.

I think, of all claims filed with the Commission, a large percentage of them were filed by one attorney largely as a result of some labor disputes, and a great many of those were filed against a self-insurer. As far as the carriers go, they need not weep in apprehension over what that particular bunch of claims will cost them.

Now, the second point I want to make is that Mr. Burbank, while he has stated that there was no intention to charge a profit against the California gold miner, he has not stated that the surcharge would not include this famous 40% loading for overhead which is characteristic of all compensation insurance rates. That 40% has been broken down at various times and includes I think 17% for the cost of acquiring the business. Just why the compensation insurance company has to pay 17% for the cost of acquiring the business in an industry where insurance is mandatory, I have never been able to see. But at any rate, if a 40% loading is justified in a base rate, on what possible basis is it justified in a surcharge rate, in the rate where the carrier goes to the existing customer and says, "We are going to charge you 14% more this year." Does that need 17% for acquisition of business? Does it need a lot of additional bookkeeping? Does it need additional overhead for the president's salary and the rest of it? I submit it does not, and unless Mr. Burbank is prepared to show that is pure premium rate on which this proposed surcharge is based and does not include these overhead factors which obviously have no relation whatever to it, I say he has not sustained the position which he took of charging a rate which would not yield a profit.

The third proposition I wish to make, Mr. Commissioner is that the surcharge proposed here will be self-defeating. The gold mining industry cannot stand a surcharge of 11 to 14% on its payrolls in order to meet these hazards either now or at any future time. If the Commissioner wishes to approve a rate which will put a large number of mines in this state out of business, cut down the number of employees and presumably increase the hazard as to the rest, that may be within the scope of his desire, because the smaller number of things you have, as a rule, the less the spread of the average and the greater the individual hazard.

While I think the working man himself is entitled to some consideration, the imposing of a surcharge which would necessarily result in the abandonment of marginal operations and the discharging of hundreds of men cannot be to the benefit of the individual worker.

I will come in a moment to the individual position as far as health goes, but looking at it from the standpoint of economics, there has to be a balance between the rates, and that is possible. The reason that there has to be a balance is that there can be no addition to to the price of our product to meet these additional costs. That price is fixed by law, it cannot be increased. If you increase our payrolls from 11 to 14%, you simply take it out of two places; you take it out of the mine owner's pocket or you take it out of the wage earner's wages.

From the standpoint of the mine owner, while there has been a great increase in the production of gold in California owing to the increase in price of gold, I have no hesitation in saying from an intimate knowledge of the situation that by far a greater portion of the increase

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is marginal. That means the owner has invested his money and he hasn't got it back and hasn't anything in his pocket to pay anything out of the cost of operation.

As far as the working man goes, in view of his present circumstances, I am willing to let the working people speak for themselves as to whether they can stand a reduction of wages to take care of this compensation surcharge which is proposed.

Now, so far as the individual working man is concerned, I am going to ask the Commissioner's indulgence to let Dr. Kern of Jackson, who is familiar with the Mother Lode where most of these cases have arisen, say a word about the pathological conditions or medical conditions which arise from silicosis when I get through, but in general silicosis of itself is not going to greatly increase the workingman's unhappiness. If the workingman has contracted silicosis, it is just as dangerous for him to work on a farm or in a factory as it is to work underground in a California gold mine where the ore is kept moist and where there is no more dust than he would find in many surface occupations, not to mention those mentioned by Mr. Burbank, and the compensation which he is entitled to receive accordingly should not be increased in the mining industry any more than it would be anywhere else.

The California gold mines have been operated for many years. Mr. Burbank says their experience claims back of 1932 were so few in number and so small in amount that they could be disregarded as an increased element in cost, and if that be true I see no reason why the same condition cannot be anticipated for the future. It may be that a few new cases of legitimate silicosis claims will arise and awards will be made, but I claim the amount of those awards so far as charged against the California employer is nothing which our present experience indicates will be excessive or cause undue alarm in insurance circles.

For these reasons I submit, Mr. Commissioner, the increase should be denied, but in order that you may be perfectly well informed on this I think there should be an adjournment of this whole matter and the mining industry should be permitted to compile more accurate statistics than it has already submitted to you, and if there is any answer to those, my friend Mr. Burbank should be permitted to make it, but I say his answer should be something more than the experience of Wisconsin or South African gold mines to justify these surcharges in California gold mining compensation insurance.

May I ask Dr. Kern and Mr. Brown a question or two?

MR. CARPENTER: Mr. Searls, it is not with a view to cutting you short but with a view to making the meeting available to as many people as we can today. I would like to suggest if we can get through with the individual speaker in ten minutes it would be advisable.

MR. SEARLS: I just want to ask one or two questions. These men can give you first-hand information.

(The following questions were propounded by Mr. Searls and answered by DR. B. C. KERN of Jackson, California.)

MR. SEARLS: Dr. Kern, how long have you been practicing medicine?

DR. KERN: Twenty-six years.

Q. How long have you been practicing medicine in mining communities?

A. Since 1909.

Q. That is in the Mother Lode principally?

A. Principally.

Q. How many men have you had occasion to examine with reference to whether or not they had dust in their lungs or evidence of silicosis?

A. I can't say off-hand but a great number. I have made an exhaustive examination of eighteen men whose cases were recently heard.

Q. Would you state to the Commissioner in your own words what you think of this silicosis hazard from a medical point of view.

A. In the first place, Mr. Commissioner, to the medical man the use of the word silicosis seems a bit out of line. Silicoses is one of a group of diseases under the heading of pneumoconiosis which means organic or inorganic material in the lung, irrespective of the amount.

I might say, with reference to recent claims that have come up, of the death cases, without exception the primary cause of death as decided by myself and numerous other physicians including the superintendent of the sanitarium at Weimar, the primary cause of death was pulmonary tuberculosis. In some few of those cases, since this question has come up over the compensation of claims for injuries sustained through inhalation of dust in the mines, there have been to the best of my knowledge out of fifty-seven cases, from thirteen to fourteen in which pneumoconiosis was given as a contributory factor, and a fewer number, I think not more than seven or eight, where silicosis was specifically mentioned as a contributory factor.

Silicosis from a medical standpoint is a very difficult problem. We do not know much about it. It is hard to interpret. If radiographs of the chest are made with proper technique, of the chest which contains silica dust in any appreciable amount, and that chest is not complicated by other graphic or acute pulmonary conditions, we can make a diagnosis of silicosis. In the great majority of the cases, some fifty-seven, I believe, the chest films are so coated by pneumoconiosis and by signs of pulmonary tuberculosis that it is impossible to say that those men were suffering from silicosis.

MR. SEARLS: Where silicosis has occurred, Doctor, is it your opinion that there would be --

DR. KERN: Would you mind using the word 'dust disease'?

Q. Where you find dust disease occurring in these gold miners, do you think there would be any materially greater hazard of their incurring pulmonary tuberculosis from continuing to work underground than if they were to get outside employment, including hard labor?

A. I think not. The existence of pulmonary tuberculosis is directly dependent on the infection of tuberculosi bacillus. I seriously doubt whether we have more tuberculosis bugs floating around because of underground work.

Q. Do you believe that where you have those cases that some of them might be caused by housing conditions or living conditions?

A. We have a certain percentage of tuberculosis among any group of men, but in the mining districts, particularly around Jackson, housing conditions, especially boarding houses, are so bad that in my opinion they are the biggest single factor toward tuberculosis infection among the miners employed in that district.

Q. That is not an industrial hazard?

A. I think not.

MR. SEARLS: That is all I wanted to ask. May I ask Mr. Brown about three questions?

(The following questions were propounded by Mr. Searls and answered by MR. G. CHESTER BROWN, Secretary, California Metal and Mineral Producers Association.)

MR. SEARLS: Mr. Brown, you are a mining engineer, a graduate of the University of California?

MR. BROWN: Yes, sir.

Q. How many years were you employed by the Industrial Accident Commission as Safety Engineer?

A. Twelve years; seven years as chief inspector of mining and five years as deputy.

Q. How many of the California gold mines did you have occasion to visit in the course of your employment?

A. I visited all operating properties, and the larger properties two or three times a year.

Q. What were the regulations of the Commission during the time you were employed as to wetting down the underground workings?

A. Requirements in connection with dust, the prevention of dust in mines, applied as to what we term wet drilling and in dusty rock piles where muck accumulates, or ore, so that there would not be any appreciable amount of dust in the mine atmosphere.

Q. Were those regulations generally observed?

MR. BROWN: Yes, sir. If a condition arose in a mine where we believed that they were not being observed, there was an order issued to the effect and it was corrected, but that condition only arose occasionally.

Q. What is your opinion as to dust conditions in the average California gold mine, the hazard involved in this hearing?

A. As a rule, in California mines, except a few desert mines, and incidentally there are no silicosis cases apparently charged against the desert mines, the humidity in the mine atmosphere and the water that percolates in the mine workings prevents any amount of dust in the mine atmosphere, and in my opinion from observation, and I have worked not only in California but in lots of other states in an experience of about thirty years, I will say that I consider California mines are dust free compared to mines in other states. Colorado has a good condition, they have a similar condition to California as to the type of mines, the humidity and moisture in the mines. Nevada on the other hand is far from it and the record from illness with dust disease in Nevada is very poor.

Q. How does California compare with South Africa, if you know?

A. In South Africa you have an entirely different condition. You have the Kaffir labor there who in many cases are infected with tuberculosis to start with. It is a condition that has existed for a good many years until the Government stepped in some years ago to correct it. You cannot compare any South African mine with a California mine. No figures will sustain it. There is no comparison between the mines.

Q. Did you at my request make a record of all cases filed in the Industrial Accident Commission of California since 1932?

A. All those cases that were filed there in the recent period, from that period on, were examined, yes, sir.

Q. Have you also examined the records set forth in the brief I have filed with the Commissioner here?

A. Yes.

Q. Is that a correct transcript of the record as you found it there? A. Yes.

Q. Who is responsible for the statement as to the amounts of the pending settlements?

A. Mr. Hyatt and myself discussed each case.

Q. Who is Mr. Hyatt? A. Chief of the Claims Division of the Industrial Accident Commission.

Q. And the total of those suggested settlements was about $10,000?

A. $10,500.00.

MR. SEARLS: I think that is all. That is our case, Mr. Commissioner.

MR. CARPENTER: Thank you, Mr. Searls. Are there other representatives of other mining interests here who desire to be heard at this time?

MR. O. H. GRIGGS
Los Angeles,
representing
Mining Association of the Southwest.

MR. GRIGGS: Mr. Commissioner, I am representing the Mining Association of the Southwest. I have a petition here asking that this hearing be continued and that a subsequent hearing be held in the southern part of the state, in Los Angeles.

MR. CARPENTER: That will be done.

MR. GRIGGS: Our mining industry there is an important industry and this proposed surcharge rate would abolish the mining industry in the southern part of the state. We have had no time to prepare the data for this.

MR. ARTHUR N. SWEET
representing
AUBURN CHICAGO MINING COMPANY

MR. SWEET: I sent you a letter requesting permission to appear today. Our case has been presented so thoroughly by Mr. Searls that on account of the hour I waive the opportunity. I made up my mind not to come today but all my men insisted that I come down as they thought they would be out of a job and insisted that I come.

MR. CARPENTER: Anybody else representing the mining industry?

MR. HARRY SEARS
representing
State Wide Mining Industry Taxation
Committee.

MR. SEARS: I have filed credentials as Chairman of the Mining Industry Taxation Committee of California. I might say that Mr. Searls has very ably presented the issues of the mining industry and the fact that this whole subject of silicosis or air dust or whatever term may be applied to it is decidedly a subject for more study and for adequate information before any decisions may be properly made. I came here under the conditions as we knew them up to last night and am speaking for an industry which has had scant time to prepare or even knowledge of what it had to prepare for. I was met by the courteous opening of this, by your statement, Mr. Commissioner, that you intended to make no findings and that there would be further time granted, but I still feel that, so you may understand somewhat of the lash of past experience under which mining men have labored in their experience with insurance, that I should make a record as briefly as possible of a few of the remarks I have prepared, and I will try to hold myself to the time you have requested.

As Chairman of the Mining Industry Taxation Committee of California, I am speaking in the interest of the mining industry. This Committee has been formed to combat and check unsound taxes and other measures which are or would be improper burdens upon the industry. The Committee already comprises employers of approximately 6,000 men, representing wage totals of from $25,000 to $30,000 per day or approximately $9,000,000 to $11,000,000 annually.

The greater part of this employement is in localities and districts where if anything occurred to throw these men out of work there would be no other industries to absorb them. It can be conservatively estimated that these 6,000 men directly support in excess of 20,000 dependents and indirectly contribute largely to the support of many more thousands engaged in merchandising and other lines of service in the various mining communities.

The greater part of these men of the mining industry are employed in ore milling and underground mining operations and therefore the proposed insurance surcharges would mean an increase in premium cost to the employers of about $3,000 per day, or an additional cost of more than $1,000,000 annually. May it be understood that these figures do not represent the total mining industry or the total costs, but they are representative of the effect on the entire industry in this State.

The present cost of compensation insurance to mining operators in California is a direct and serious payroll tax which already adversely affects the volume of labor employed and which under the proposed surcharges would force many operators either to greatly curtail the volume of their labor or to reduce the rates of wages, or to abandon their operations and discharge their men. Therefore, in speaking for the employers of these men, I speak also for the men employed, for their daily rates of pay and perhaps their very jobs are at stake.

Speaking for these employers and these men, I therefore protest this entire procedure and this hearing, and protest against any increase in insurance rates affecting surface or underground mining or milling for the following definite reasons:

1. This hearing has been called and is being held without proper, adequate or equitable notice to the employers who would be directly affected by the proposed increase or surcharges in compensation rates. Mere reference to the classified telephone directory of San Francisco alone would have provided a mailing list of approximately eighty individuals and corporations engaged in mining. They were not advised.

2. The purpose of this hearing is not clearly or

properly stated so as to advise the mining industry of the issue to be met and they are allowed no adequate time to answer.

3. No facts or experience or proof are advanced or available to warrant any change in rates.

4. I called at the office of the California Inspection Rating Bureau in San Francisco, having obtained a copy of the notice of this meeting through our own efforts; it didn't reach me and I am an operator employing about seventy men and paying an annual compensation insurance rate of around $9,000. I was there informed at the California Inspection Rating Bureau that the proposed surcharges to be added to the present rates were to be, so far as affecting mining, $11.23 per $100 of payroll for underground men, $2.81 for surface men, and $14.04 for ore milling, and that these rates had been worked out by the said rating bureau.

We submit that it is obviously unfair to hold a hearing affecting any industry and at the same time fail to advise that industry of the subject matter of the proposed hearing. So far as this hearing is concerned, the mining industry not having been given that notice, we submit it would violate the principles of a fair and impartial hearing if any decisive findings were to be made or entered against the mining industry of California as a result of this hearing. It appears to be the duty, therefore, of the Commissioner, and at the same time I wish to extend my previous remark that we had the courtesy of his statement that he is going to do this - this is the statement of the industry as it found itself before it come into this meeting - to withhold any decision upon the propriety, need or advisability of any change in compensation insurance rates affecting the mining industry until a properly noticed and properly advised hearing may be had, and with the support and complete cooperation so that the Commissioner may be aided so far as the industry is able in arriving at the proper rates if any change either upward or downward is to be made.

We suggest that this hearing be adjourned for at least thirty days, that in the meantime the California Inspection Rating Bureau and any and all insurance companies, groups or organizations who are interested in this proposed increase in compensation insurance rates shall be required by the Insurance Commissioner to file with him full and complete written data setting forth the proposed rates, the reasons for such proposals of increase, and definite evidence of loss or other adequate reasons to support and justify such increase; in addition to that, an allocation of the following charges as included in the 1934, 1935 and the proposed 1936 rates should be separately set up for each year:

(a) Home office charge.
(b) Acquisition of business.
(c) Payroll audit charge
(d) State and Federal taxes.

Also these respective amounts chargeable against rate and percentage of rate included in each of the following for 1934 and 1935:

(a) Overhead cost.
(b) Compensation paid to injured including death benefits.
(c) Medical and hospitalization costs.

For each of the years 1934 and 1935 the following information:

(a) On the number of mines reporting.
(b) On the number of men employed.
(c) The total payroll reported.
(d) The total premium paid.

When this data is assembled it should be open to the inspection of the mining industry as individual operators, and through organizations, associations or groups, and then after due notice and a reasonable time has been granted for preparation of answering data or information on behalf of the industry, a further hearing should be held.

We submit these suggestions, Mr. Commissioner, in the spirit of justice and proper cooperation.

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MR. FRED NOBE
representing
Empire Star Mines Co., Ltd.

MR. NOBE: I think from that dust count you will have a better idea of what the actual conditions in California underground mines are than those suggested by Mr. Burbank obtained in Wisconsin foundries. The brief I have filed contains experience in the operation of Grass Valley mines over a period of twenty years, and it also has a complete list of all possible and identified cases involving silicosis or any lung disease.

MR. M. J. BROCK
representing
Governor Rolph's Committee on Mine Rates.

MR. BROCK: Mr. Commissioner, there are a couple of remarks I would like to have the delegates think over before this afternoon. Mr. Sears stated the fact that those things should be put together and further facts submitted. We all agree on that, but today, with all of the gentlemen throwing the papers on your desk, and looking around this room I find that there are lots of papers to be put on your desk, if they are left there for future consideration with nobody to take care of them, we know they won't get much consideration. With all due respect to you folks, there is a lot of work. I think without a question of doubt that you in your judgment will give more time; I think it would be a wonderful

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thing if the mine owners, the miners, would appoint a committee of five to have all those things submitted, and they with the help of Mr. Searls or such able attorney would work them out in the next few weeks together and make a full and complete report on each and every paper that is being submitted today and this report to be for your consideration. Now, that cannot be done by us as a body, that is impossible. We live all over the State of California. If such a committee was appointed or would work that could go with you to the Rating Bureau and have the Rating Bureau submit the different facts to them and work it out so that they at the end of the time could bring you in a complete report so that you will have everything at the ends of your fingers, I think it would be a wonderful thing, and we will have something to work on.

Another thing, to you miners, two or three years ago I spent six months in the legislature in Sacramento. The only thing I succeeded in doing was spending most of our money. Now, the next legislature in January, I hear we are to have a special meeting, you have no one to represent you at the legislature. We cannot afford to send a very magnificent crowd to represent you and somebody should be there. The mine owners and miners should take these things into consideration and see if we cannot accomplish something, to have something for the future, somebody to go to and refer your case.

MR. H. R. PLATE
Grass Valley

MR. PLATE: While that comparison between the African mines and California mines is fresh in your memory, while Mr. Burbank was talking - he is an excellent talker - he made that comparison. It is very unfortunate to do it because there is no comparison whatever. The night before last I talked for a couple of hours with George W. Starr who was manager for some of the South African mines for a number of years and also of the Empire Mine. He said to me very definitely, "Of course, you cannot compare the South African mines and their difficulties with silicosis or dust with the California mine. There is no comparison, and if the subject is brought up, which I hope it won't be because there is no comparison, by all means say something because you cannot compare the mines in any sense of the word." I was afraid that possibly Mr. Burbank's remarks would have a serious effect upon your decision on this, but I can well assure you there is absolutely no comparison whatever between the dust of the South African Mines and our California mines.

MR. CARPENTER: Gentlemen, this has been a very orderly and interesting meeting. I think we will call an

adjournment until two o'clock and we will run the hearing as long as you wish after that or adjourn it to a future date. I want to give everybody an opportunity to be heard that is here today. We will adjourn until two o'clock.

FRIDAY, NOVEMBER 15, 1935,
TWO O'CLOCK. P. M.

(Meeting called to order by Mr. Carpenter)

MR. CARPENTER: At the morning session I understood we had heard from all the representatives of the mining classification who wish to be heard at this time. This afternoon we are going to start off with representatives of organized labor. Do you want to talk for them, Mr. Scharrenburg?

MR. PAUL SCHARRENBURG
Secretary,
California State Federation of Labor.

MR. SCHARRENBURG: Mr. Commissioner and Gentlemen: When we learned about the meeting called here today we prepared a letter which is in your possession and which I will briefly review.

The State Federation of Labor is an organization or federation of all labor unions in the state including miners and metal workers and so forth, and our principal function is along legislative lines. As one of the spokesman of the California State Federation of Labor I desire to protest most energetically and emphatically against the adoption of the schedule submitted by Mr. Burbank and his associates.

We insist that the requested surcharge rate is not the result of an ascertained and proven silicosis experience but rather, as has been intimated here this morning, has been gathered up haphazardly from Wisconsin and South Africa. We submit there are more valuable sources of information available than those submitted by Mr. Burbank.

We call your attention to the fact that the State Compensation Insurance Fund has been able to meet profitably not only the current costs of silicosis cases but also cases that have accumulated for twenty years past. Notwithstanding this additional burden, the State Compensation Insurance Fund, doing one-third of the compensation insurance business of California, which claims it operates on a cost of 15.64% of its premiums, rebated to its policy holders an approximate 20% profit. On February 20 of this year the State Compensation Insurance Fund released this statement, and while it is a little lengthy, I think it has a direct bearing on the

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situation confronting you. (Whereupon Mr. Scharrenburg read the following:)

"The Premium Income for 1934 totaled $5,608,792, an increase of $1,384,981 or 33% over 1933. Approximately twenty-six thousand employers patronize the Fund, or one-third of the insured payroll in the State. While the new business written increased materially, a substantial portion of this gain is due to the improvement in business conditions throughout the State during the past year.

"The amount returned to policy holders during 1934 as dividends totaled $831,605. This is in excess of 20% of the premiums on the policies on which dividends have been allowed and represents a direct saving to employers. The expenses for 1934 were 15.94% of the premiums, a substantial reduction over the last two years; this will further increase the savings returned to policy holders.

"The financial position of the Fund is now the best in its history. The Fund has admitted assets totaling $9,452,550, which is an increase of $1,432,996, and is the largest ever held by the Fund. The assets are represented principally by cash of $1,017,560, U. S. Treasury Notes of $766,562, and bonds of $7,261,068. Only those bonds which are legal for savings banks in California are purchased by the Fund.

"The reserve set aside for future payments of compensation benefits to injured employees was increased during the year to $5,870,241. It is not generally known that under the California Law an employee who is permanently and totally disabled receives a pension for life. The Fund has two claimants who, as a result of injuries in 1914, are still receiving compensation; one who was injured in 1915, three in 1916, and six in 1917. Unless otherwise ordered by the Industrial Accident Commission, all claims are paid as wages during the period of disability, or in the event of death, the widow or other dependents receive benefits spread over a period of 240 weeks.

"The reserve of $5,870,241 is amply sufficient to pay all deferred benefits to injured workers and their dependents.

"The Fund is one of the largest taxpayers in the

State of California. It is taxed on the same basis as a private insurance company. Over $2,000,000 has been paid in taxes to the State as the result of the insurance business transacted by the Fund. The Fund is not subsidized by the State in any way, paying rent for its office quarters, telephone service, and for all other items of expense usually furnished other State Departments.

"The Fund's surplus increased $24,400 during the year to a total of $1,965,346.

"This surplus and the adequate reserves invested in high grade securities are evidence of the Fund's financial ability to meet all its obligations to policy holders and their employees, and to meet any contingency which may arise."

We call your attention also to the fact that the privately owned and conducted compensation insurance carriers, who charge against each premium dollar paid to them 40.6% for overhead and operating expenses, also were able to meet their silicosis losses and still operate at a profit. In fact, some of the private insurance companies' business was so profitable that they rebated to their policy holders from 15% to 20% of the premium dollar.

We call your attention to the persistent report that the insurance companies know that it will be impossible for you to approve their proposed silicosis surcharge which proposes an increase of from 100% to almost 1000% upon California industries.

If the State Compensation Insurance Fund has met not only the cost of present silicosis cases but also has been able to meet the accumulation of twenty years' silicosis cases which were recently charged to it, and is able to show a 20% profit on the present manual rates of the California Inspection Rating Bureau, how can the proposed silicosis surcharge rates of the California Inspection Rating Bureau of from 100% to 1000% be explained or justified.

Labor of the State of California is unalterably opposed to exorbitant rates that will ruin California industries and throw thousands of men out of employment.

We cite for example the California Inspection Rating Bureau's classification of "marble and stone cutting and polishing," with a present manual rate of 2.55, and in which industry the California Inspection Rating Bureau requests your approval of a "silicosis surcharge of 25.26." This is a request for a surcharge increase of 990.59%, or almost 1000% increase.

We insist that the California Inspection Rating Bureau cannot produce proofs justifying this impossible rate. The request of the California Inspection Rating Bureau for your approval of silicosis surcharges is replete with similar excessive rates.

We assume that because of the tremendous and far reaching importance of your decision that the meeting of today will be but a preliminary meeting, and we trust very earnestly that we will be given an opportunity to analyze carefully the data and material submitted by Mr.

Burbank and his associates so that we can come back at a future date and assist you in digesting and analyzing whatever they have, and in conclusion I would like to say this, that there are some things in California, notwithstanding the industrial wars we seem to have from day to day, upon which we can cooperate, and one of those is before us.

Instead of talking about rates, we should talk about prevention of silicosis dust troubles. I am sorry to have to say that labor has not had the whole-hearted cooperation of industry in that prevention work. For example, a few years ago labor in California attempted to induce the California legislature to pass legislation preventing cement dust from flying around in the holds of ships. We didn't get away with it because industry was united and there were doctors produced who told us it was healthy for us to inhale cement dust, and that is how it was. However, after two years they did adopt a paper back cement bag.

At the last legislature there was a bill initiated by Mr. Brennan of San Francisco providing for better sanitation. The bill passed the Assembly in good form and when it got to the Senate I was looking around for some assistance and none of you gentlemen were there to give us a boost, and before the Senate got through with with the bill it was a little bit worse than when it started in the Assembly.

I submit to you earnestly, not in the spirit of sarcasm, that we can cooperate in those matters. We can prevent the death of men who want to live. It has been done elsewhere, it has been done to a certain degree in California where you haven't gone far enough.

Another thing is to give credit to those employers, to those corporations that go just a little bit further than the law provides. I think it is very unfair to penalize the employer who puts his money in a blower system and pays the same rate as the employer who does not and who says, "I don't give a damn, I am insured." It is the same as if a man driving an automobile is careless about his driving and says, "I don't give a damn, I am insured."

Upon that point, I trust, so far as it may be in your power, that there may be a credit or rebating system to those employers who do put some money into prevention, adversely applying to those who do not.

I would like to call your attention to the fact that the legislature has appointed a committee, rather the lower house, the Assembly, with specific direction to study that matter. Senator Malone was here this morning, and that committee will furnish valuable data on that subject matter.

That is all I want to say at this time. I think the private carriers are gradually taking themselves out of business. Many of them are high class fellows and are friends of mine, but for some years past there has been a campaign in California to make the State Compensation Fund a monopoly, and if our private insurance carriers keep up this line of attack I think the time will come when they won't have any business left.

There are some gentlemen present who have some information, particularly Mr. Brown of the Moulder's Union. I think he can explain about the mill work and metal shops.

MR. FRANK BROWN
Secretary
International Moulders' Union of North America

MR. BROWN: Mr. Commissioner and Gentlemen: My name is Frank Brown and I represent the Moulders' Union of North America. That is an organization of which organized foundry employees are members. I am not going to enter into, for the sake of time, any preliminaries such as stating our interest and so forth. Naturally we are very vitally interested in any factor connected with employment or unemployment.

If these exorbitant rates, or even any kind of a sizable increase goes into effect on compensation insurance, it is going to tend to drive the foundry business out of the State of California thereby reducing the employment for our members, for the foundry workers in the State of California.

I listened very attentively to the very able presentation made this morning by Mr. Burbank. The deduction I drew from the reasons why these surcharges in compensation rates for foundries in California are proposed was because of a condition in the State of Wisconsin, in other words, the study of silicosis in the State of Wisconsin. I don't know why that would be considered a factor in any way inasmuch as that has absolutely no bearing whatsoever on the foundry industry or the conditions pertaining to the foundry industry in the State of California. There is an altogether different condition prevailing in that state and I might state I worked actively in the trade of moulding for over twenty-two years in nearly every state that has foundries in the United States and am fairly familiar with the conditions in Wisconsin.

Now, in Wisconsin there is a different climatic condition. As everybody knows, that is a very rigorous climate. It is otherwise in the State of California. For about six or seven months of the year in the State of Wisconsin the foundries have to be closed; there is practically no ventilation in them. It is otherwise in California. The foundries here are ventilated for practically twelve months in the year.

Another factor is that Milwaukee, which is the principal and in fact it is quite a foundry center, is the principal foundry center of the State of Wisconsin - in the City of Milwaukee until recently - I don't know if that condition is changed right now, - it has been the custom to work sixty hours a week. That has been the minimum hours worked in a majority of the foundries in the City of Milwaukee. The maximum hours here in California have been forty and forty-four hours, and sixty hours was not the maximum in Milwaukee.

It is very self-evident the effect that is going to have on workers' health. Naturally their resistance is broken down and they are more susceptible to any kind of disease.

That is not so in the State of California. Now, the condition here is absolutely different than it is in the State of Wisconsin. We are not concerned with Wisconsin because the condition that we are dealing with is here in California, and I say advisedly, and from an experience dating over from about 1898, that in the jobbing and machinery foundries of California I invite the closest investigation and survey to be made, that there isn't a silicosis existing in the jobbing and machinery foundries in the State of California. It is absolutely non-existent.

The organization which I represent is called an

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organization of old men. It has always been considered a particularly healthy trade. Men from our organization have obtained prominence in boxing, baseball and other sports that require a man to be in the finest of physical condition, and it doesn't exist in the State of California regardless of whether or not it does in the State of Wisconsin.

Now, if studies are made in other states, I should imagine that these studies would be made where the conditions are more nearly similar, that is, where the same number of hours are worked and the same type of foundries exist. Now, there was a survey made, conducted by the Industrial Department of the Brooklyn Chamber of Commerce, and I just want to read an exerpt: (Reading)

"We have made a careful study of conditions in the twelve foundries in Greater New York that are now operating. The results of this investigation show that silicosis is practically non-existent. At the present time we have 546 productive employes in our foundries. This is exclusive of clerical help. Forty-four employes have been in the foundry industry from 1 to 5 years; 43 from 5 to 10 years; 63 from 10 to 15 years; 95 from 15 to 20 years; 79 from 20 to 25 years; 59 from 25 to 30 years; and 163 for 30 years or more. The average ages for these groups are as follows:

1 to 5 years	-	29.7 years
5 to 10 "	-	33.5 "
10 to 15 "	-	38.7 "
15 to 20 "	-	42.1 "
20 to 25 "	-	43.4 "
25 to 30 "	-	48 "
30 or more"	-	54.7 "

A glance at these figures will immediately disclose that 29.8 per cent of our employes have been working in the foundry industry for 30 years or more."

It states there very emphatically there isn't any and hasn't been any silicosis, that silicosis is non-existent.

Now, there have been a few cases, I believe five is the exact number, developed in the foundries conducted by the stove manufacturers in the Bay District here. Now, I believe the members of our organization are fairly intelligent. They realize that the most priceless possession of a human being is health; there is nothing any more priceless than that. When this matter of silicosis came up, when cases developed in the stove foundries, they immediately tried to find out the reason for this in order that it be eliminated, not for the few pieces of silver that we might collect as compensation but as a safeguard to their health. They determined the reason for silicosis in stove foundries or in any other foundry was that they use a substance called parting or partingmoll. It is shaken on but is used as a parting as the name indicates. Now, one of the ingredients of that was silica. Silica was an ingredient. There wasn't any silicosis in stove foundries before they commenced to use that. Naturally that was eliminated, and I might say that as far as the foundry industry is concerned in this particular district, we have had the closest co-operation from the manufacturers and the foundrymen. Now, the parting and partingmoll which included in its

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making the substance of silica, that has been eliminated and the parting and partingmoll used now is absolutely free of silica.

Now in this, one of the communications that came to my attention, it states silica grinding, that is the classification of silica grinding, there is a surcharge of $28.07. Why? Because the name is silicosis. They say that silica on the lungs is the reason for that. That is the only substance used around foundries that has silica in it and that has been eliminated. While there have been a few cases developed in the foundries conducted by the stove manufacturers, the cause has been found, it has been eliminated, and I am absolutely positive silicosis is stamped out in the stove foundries, in the foundries conducted by the stove manufacturers of the State of California.

Now, the reason given by Mr. Burbank this morning for this raise in cost, or any raise in cost, is to meet the cost of the particular hazard. Those were his exact words. Now, if there is no hazard, if there is no hazard, why should there be a single cent, why should there be a single cent added to the cost of compensation. I ask that. If I believed, representing the men employed in the foundry industry, that there was a real hazard, that they would have to have money there to meet the cases that came up, why I would be absolutely in favor of a reasonable rate being charged, but there is no hazard and we believe, in fact, we are absolutely opposed to any raise whatsoever, the slightest raise even.

Now, to show what the members of the organization which I represent think of this, they have had meetings on it and they are absolutely willing to waive any claim to compensation for silicosis. Why should they? It is like giving away the sleeves on your vest, because they feel there won't be any cases, there won't be any cases coming up and there won't be any claims, so they are willing to waive that.

In conclusion, Mr. Commissioner and gentlemen, you can talk volumes on this, but I am going to conclude very soon. I want to state this, and this is spread over all the employees of a foundry, all the employees of the stove manufacturer, to show you the ridiculousness of it - quite a large percentage of employees of the foundry work in the yard all day long; they are breathing the good old ozone, and there is no healthier work in the world than they are doing. Nevertheless they would put this surcharge on those men who breathe nothing but good air in the eight hours they work, men who are not even in the building.

Our organization pays a death benefit and naturally the member that passes away has to file a certificate showing the cause of death. Going over the records for the last twenty-five years, they have been particularly free of any kind of chest complaint, that is, members dying of pulmonary or chest complaint. I believe the foundry industry is an industry that is just about as free of that particular complaint as any industry, so why there is any reason for this surcharge is something that we do not understand, Mr. Commissioner, and we protest it absolutely.

MR. JOHN A. O'CONNELL
Secretary,
The San Francisco Labor Council.

MR. O'CONNELL: Mr. Commissioner and Gentlemen: Without reiterating what was said already, I want to say amen to what Mr. Searls said this morning. In the main, I want to take this opportunity of making a few observations on the statements made by my good friend Dan Burbank. I want to say in passing that he learned what he knows about the insurance racket from his employment with the State Fund.

Having to do with industry generally here in San Francisco, being secretary of the San Francisco Labor Council embracing fifty or sixty thousand men and women, I think I ought to know something about the activities of the insurance carriers because part of our work, a good

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part of it, is in defending our helpless fellows who are unfortunate enough to get hurt in industry and it isn't a fight generally with this Industrial Accident Commission but with the private carrier. Men are being ordered back to work - some can't walk and some can't see - through the philanthropic efforts of these insurance carriers in telling us how good they are to save our people. They also suggested that we might practice a little good housekeeping and put in some of the safety appliances to prevent the things that are being complained of, as a reason for the increase in these rates.

Why, gentlemen, let me say this to you. Every two years we have been there at Sacramento; I have been there for thirty years; and everything we have introduced of that character, every piece of humane legislation and even Governor Johnson, the most humane governor we have had, has been criticised, if you please, for appropriating money to establish the State Fund - every piece of humanitarian legislation we have today for the prevention of accident, we have the insurance carriers opposing every one of those deals. As Mr. Scharrenberg said, on one occasion they brought doctors up there to tell us how healthy cement was for us, how you should built up a fine house of plaster, I suppose, around your ribs.

At this particular case in the last session, that is why this hearing is being held today, they were disappointed at not passing a piece of legislation to bring about a statute of limitations on this silicosis and tuberculosis, when he admitted himself this morning that it took in the neighborhood of twenty years for this disease to develop. Still they wanted to limit it to a period of seven years and six months to make application should the thing ensue and take place.

And I found out there is a real Santa Claus in our midst. The insurance carriers are going to operate without profit. In the words of Will Rogers, "There is another funny one." I am not going to reiterate, but I say we are opposed to this because it is going to make all of you fellows sitting out there retrench and we know where you always do it, by cutting wages, and we are going to resist that to the last ditch. We are not going to let you do it and will try to prevent the so-called Moses in our midst who are going to try to add this added expense to the cost of your doing business. We will try to induce the good Commissioner not to see it in their way and leave you alone. You have a tough enough time now competing with labor all over the world in selling your wares and your goods throughout the State of California and these United States, and we don't want to bring about that condition of making Chinamen out of the people of the State of California. God knows you have enough to do trying to stay in business without adding 12 and 14% and in some cases more than 900% to your expense.

I wish you godspeed, the whole damned crowd of you.

MR. C. F. GROW
General Vice President,
International Association of Machinists.

MR. GROW: Mr. Commissioner, Gentlemen and Friends: In dealing from a practical and constructive standpoint of this proposed increase in the rates for insurance, I have for a number of years been very deeply interested in insurance for unfortunate workers who were the victims of industrial loss and accident in the industries not only of the State of California but throughout the United States.

We of labor have done everything humanly possible to develop legislation for the protection of these unfortunate men and women who suffer because of certain conditions such as obtain in the industry of the State of California. For a number of years we have endeavored to do everything humanly possible for the prevention of industrial ills, accidents and sickness. We have made some progress but not to the degree that we desire because we feel that prevention is by far the greater correction than to insure and pay compensation to the unfortunate victims who become ill or have accidents befall them.

Now, in dealing with this particular problem of the increase in the rates, it is going to bring an added hardship to the industries of the State of California. We feel that the increase is absolutely unjustified and the motive is to increase the income of the insurance companies in the state and disregard the fundamental issues involved in this proposed increase, a burden upon industry. A further burden upon industry through the increase in insurance is absolutely unjustified.

We feel that any justification whatsoever in the increase of insurance or any other rates or anything that would further burden industry should be given up to the people who are the investors and the managers of industry and the workers who in a measure will have to meet the burden of this proposed increase. Before a survey which would be justifiable is made, and a complete one giving to the employer, to labor and to the people of the State of California an opportunity to scan very carefully the business that has been developed, the cost of this insurance and every other factor entering into it, I believe we should not at any time consider anything of this character whatsoever until the people have had an opportunity of making a complete survey and bringing in an intelligent report, and we of labor know that in the last analysis, as presented by Brothers O'Connell and Scharrenburg and others, as you know, as a result of the increased burden financially and otherwise to the industries of the State of California, that labor in particular is bound and usually pays the major portion of these increases.

So, in conclusion, just this: I am amazed and astounded that a proposal of this kind would be submitted at this time in view of the statements made, public statements in the press, stating the amount of business and the profits made; as our old senator and governor of the State of California said in addressing the Senate of the United States when a certain measure was presented, that he was also amazed and astounded and he couldn't find words to express himself as covering this measure so he had to go into the dictionary very deeply and couldn't find the word there, but finally his memory carried him back to Abe Lincoln who also at one time had met an important problem and the word was coined by him - he said, "This is an astonisher."

MR. CARPENTER: We will now continue with some of the industries represented here today. I believe there are representatives of various types of foundries here.

MR. CARROLL S. STILSON
representing
Metal Trades Manufacturers Association
and
Association of Southern California Gray Iron
Founders Society.

MR. STILSON: Mr. Commissioner and Gentlemen: I would like to state that it is indeed a pleasure to have the opportunity, at least in one thing as important as this is, to agree with Mr. Scharrenburg with whom we very often differ in industrial matters. He has hit the nail on the head when he said here is a situation regardless of labor disputes that we can cooperate on.

There is absolutely no justice, in my opinion, in comparing a foundry in Milwaukee with one in California. As stated by Mr. Brown, it is prefectly obvious that conditions, climatically, particularly, are vastly different in Southern California. We are making an effort to eliminate the dust hazards; we are putting in blowing machines, we are wetting the floors and letting the fresh air in.

Just one other point and then I conclude. I think the carriers are overlooking one very important item. Frankly, the carriers don't care at the present time particularly about carrying compensation insurance. The real insurance that they want is that less hazardous such as automobile insurance, fire insurance and liability insurance, and very often they take compensation

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insurance along with it because they have to, not because they want to.

Gentlemen, let me say to you very seriously along the lines these gentlemen have stated, that if these rates as now promulgated were to go into effect, there would be a lot less insurance in all lines in California for the reason that many industries will be put out of business and many, many men thrown out of employment.

Mr. Commissioner, finally, let me beg of you, don't come to any conclusion at this time but give us further opportunity to submit to you facts, reasons and data why these rates as now promulgated should not be put into force. Thanks.

MR. CARPENTER: We have three letters here from the Gray Iron Foundry Association of Northern California certifying Mr. Kerr, Mr. Henderson and Mr. Noah.

MR. ANDREW J. KERR
representing
Gray Iron Foundry Association of
Northern California

MR. KERR: Mr. Commissioner and Gentlemen: I have been identified with the foundry industry since I was knee high to a grasshopper. In fact, I have been in the industry since I was nineteen and I am fifty-three years old today. I have seen during that time many moulders come and go and I am frank to say, as far as the industry is concerned, it has been always looked upon as one of the most healthful occupations in industry.

These five cases mentioned a while ago are cases that developed in the last two or three years. Some I think are doubtful, too, as well, although I am not certain on that score, but the industry as a whole is an industry that has been free from troubles of that kind.

Now, we are not unsympathetic to the poor unfortunate who has met with a misfortune of this kind, but on the other hand ~~xxx~~ you cannot expect to put on the industry a burden such as proposed by our good friend here. In our business it would mean an additional $24,000 a year, and that is no small sum for a moderately small concern, and if these rates are put into effect, as Mr. O'Connell and Mr. Scharrenburg have said, we would hang the crepe on the door and go out of business before the sheriff gets us, because it couldn't be passed onto the public.

These are conditions that face other lines of industry as well and I believe when Mr. Frank Brown came up and made his statement, and Mr. John O'Connell and Mr. Scharrenburg, they were speaking in all sincerity as to what conditions prevail in industry and what the rates mean to us.

I believe every consideration should be given to this over a period of time before you serve the industry

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with a condition of affairs that would certainly mean ruin to most of us if we attempt to keep in business.

Again, I want to caution you all not to jump into this thing in a haphazard way.

MR. CARPENTER: We have a letter from the East Bay Foundrymen's Association informing us that Mr. Edward M. Welch and Mr. S. D. Russell are accredited to represent the organization. Is either one of those gentlemen present and desires to be heard?

MR. EDWARD M. WELCH
representing
East Bay Foundrymen's Association

MR. WELCH: Mr. Commissioner, it was my intention to enlarge upon the remarks of Frank Brown in making a comparison of conditions as exist in California and as exist in Wisconsin or any other eastern states. There really is no comparison.

Like many other industries, it is possible that the foundry industry may have been lax until the last five or six years, but as you go around and visit a great many of the foundries you will find that steps have been taken to remedy all dust conditions. I think that is true, exceptionally true, in many of the foundries both in northern and southern California. I can very authoritatively state of my own company that we have expended in excess of $300,000 in the past four years in consideration of the welfare and comfort of our employees. While we don't know definitely the extent of the foundry payroll, it is well in excess of six or seven million dollars a year in the State of California. We realize very appreciably that our competition is keen, not only in foreign but as well as in our bordering states. We feel that to have these surcharge rates go into effect would be absolutely ruinous to the foundry industry in the State of California.

The thought is being expressed by a great many of the foundrymen if they can carry on under existing rates and improve conditions for the welfare of their employees they would be accomplishing a great deal, more than could be otherwise done, and we particularly beg of you not to consider this recommendation at this time.

MR. CARPENTER: We have another letter stating that Mr. Mainzer representing the Non Ferrous Foundry Association, and Mr. George Kennard representing the Pacific Coast Founders Association, will speak for those Associations.

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MR. F. A. MAINZER
representing
NON FERROUS FOUNDRY ASSOCIATION

MR. MAINZER: There is nothing I have to say that has not been covered, particularly in view of future dealings.

MR. GEORGE KENNARD
representing
PACIFIC COAST FOUNDERS ASSOCIATION

MR. KENNARD: I came here with a good many ideas in my head to express, but as they have already been expressed I have nothing further to add to what has already been said.

MR. CARPENTER: Anyone else in the foundry industry desiring to be heard at this time? If not, we will pass on. There are a number of representatives of the cement industry here today. I have a letter stating that Mr. Herbert Clark of San Francisco, Mr. Geo. W. Prince, Jr. of Los Angeles, and Mr. J. Harold Cragin of Los Angeles, will represent that industry.

MR. GEO. W. PRINCE, JR.
representing
Cement Industry.

MR. PRINCE: I just want to say a word or two at this time. Due to the fact that the notice was rather short, we have not prepared the data which we will present later on in connection with the problem of silicosis in the cement industry.

Frankly, we are all of the opinion that there is no silicosis risk in the cement industry and we are going to gather data from which we will prove that to be the case.

This whole problem which is before us at this time, gentlemen, is a very serious one and one that has been ably presented by our friends in the labor group and the men representing other industries, which points to the fact that we are taking a step which has serious consequences unless it is correctly taken, and I know that the Commissioner appreciates that from the attitude he has taken in this whole problem in his kindly consenting to a continuance of this meeting so that we may all have a chance to go fully into the whole problem from various industries which are affected or are to be affected, and from that standpoint give him all the data with which they may be squarely faced and what we may determine and what increase if any may have to be made in connection with any industries on this whole silicosis problem.

I sincerely hope that the Commissioner will give due consideration to the request made by a number of groups here today for a substantial continuance. I would suggest at least a three months' continuance so that we may gather for him and for the Bureau information from which we can determine once and for all and settle this whole problem. Thank you, Mr. Commissinner.

MR. CARPENTER: Anyone else representing the cement industry that would like to be heard at this time? If not, for the benefit of our reporter here and some of you I think we will declare a recess for about ten minutes and reconvene at three ten.

(Ten minutes recess)

MR. CARPENTER: The Clay Products Industries - there are quite a number representing a great deal of the payroll involved in this question of surcharge. I am going to ask the representatives of the Clay Products Industries to talk at this time. I understand Mr. J. J. Stein is here and would like to be heard.

MR. J. J. STEIN
Executive Secretary
Clay Products Institute

MR. STEIN: Mr. Commissioner, my name is J. J. Stein, Executive Secretary of the Clay Products Insitute. I represent eighteen clay products manufacturers in southern California. We have adopted certain resolutions in connection with these proposed surcharges but we under-

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stand from the Commissioner that a further hearing will be held in Los Angeles so that we feel satisfied that with sufficient time being granted us we will be able to secure same data to further our protest.

There are only one or two points I would like to make at this time, one being in the event the hearing is held in Los Angeles that at least ninety days be granted our industry to prepare the necessary data. We are vitally concerned with this measure and it will take us at least that long to prepare our case. I would like to suggest that when the hearing is held in Los Angeles that the Commissioner arrange for each interested industry to have the maximum amount of time for the hearing. We received our notice just two days before we had to appear up here, and we hope when the continued hearing is held in Los Angeles the maximum time will be afforded each industry. We would like to have ninety days.

Just one more point. A great many phases of this problem have been discussed but I haven't heard anything as to the probable effect on local industry if these surcharges go into effect. Our industries are in competition with neighboring states where such charges are not involved, and we feel it would be quite a handicap to local manufacturers to have to take care of these surcharges where our competitors in neighboring states do not have that problem.

There are other men from the Clay Products industry who have other phases to discuss. That is all I have at this time.

MR. B. F. CAKE
Vice President
Gladding McBean Company

MR. CAKE: I represent Gladding McBean Company who operate six plants in southern and central California. We want to join with other industries in southern California in requesting a continuance of the hearing of this matter to be held in Los Angeles at a date not earlier than ninety days in which we may have time to prepare the factual information that we will present at that time.

There are one or two things I would like to point out in connection with the surcharge proposed, the surcharge rates as they apply to the clay industry.

First of all, it is a conceded fact by the medical fraternity that silicosis, the angle of this matter in which we are generally interested, is caused as a direct result of direct inhalation of free silica dust. While we wish to vigorously protest the surcharge rates in general covering the clay industry, believing that they are not equitable and just, based on the experience rating, I would like to point out at this time certain phases of the matter, namely, that in the manufacture of clay products such as terra cotta brick and products

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of that type it is a very well known and established fact that free silica content of the ingredients which make up these products contain from 10 to a maximum of 25% free silica. These, however, have been placed in the same classification, so far as surtax charges are concerned, with silica brick manufacture, the ingredient of which is at least 97% free silica. Likewise, the surcharge rates are similar to those of pottery and earthen ware and table ware industry which contains a large percentage of free silica.

So we therefore, Mr. Commissioner, respectfully request that during this period of postponement that there be a restudy made of the surcharge rates as they apply to the clay industry in order that they may be put on a more equitable and just basis. Thank you.

MR. CARPENTER: Anyone else here wishing to be heard representing clay products? We have letters here from the Ione Fire Brick Company stating Mr. Walter S. Rountree will represent them as attorney.

MR. WALTER S. ROUNTREE
representing
IONE FIRE BRICK COMPANY

MR. ROUNTREE: Mr. Commissioner and Gentlemen: I appear here representing three fire brick companies in northern California. I wish to say that the only request that we are going to make at this time is that a reasonable opportunity be given to the companies I represent to accumulate such data as they think will be helpful to the Commission in determining what rates should apply to the fire brick manufacturers in the particular area where they are engaged in their business.

I think it is recognized in the industry itself, the manufacture of brick and clay products, that special consideration should be given to the question as to whether or not the content of silica is particularly injurious in the particular product they are working in. I think as the injuries are considered they should be broken down and each particular area should be considered from its own merits. We expect to produce data which will be of assistance to the Commission.

I think all of the gentlemen here in the room feel in the same frame of mind. They want the opportunity to develop their own case, not with the idea of being antagonistic but with the idea of a fair rate to apply to their own industry. We think there should be at least a continuance of ninety days to enable the people we represent to produce such data as they find available.

MR. CARPENTER: We have a letter here from the Stockton Fire Brick Company stating Mr. John T. Roberts would represent them.

MR. ROBERTS: Nothing to say, Mr. Commissioner.

MR. CARPENTER: Anyone else representing any of the clay products industries who would like to be heard at this time? The Rock, Sand and Gravel Producers Association nominated Mr. R. L. Hall of San Francisco to represent them. Does Mr. Hall wish to be heard at this time?

MR. E. J. GOODPASTOR
(Speaking for Mr. Hall)
Executive Secretary,
Rock, Sand and Gravel Producers Association of Northern California.

MR. GOODPASTOR: I am executive secretary of the Rock, Sand and Gravel Producers Association of northern California. The members of such association do quarry rock and stone crushing and are engaged in the business of stone crushing and sand and gravel digging. Mr. Hall, our representative, was here this morning but being an attorney and because of a previous engagement in which he had to go to court, he could not be here this afternoon.

With your permission we would like to submit to you in writing our objections to the application of these surcharges to our industry at some later date.

I might say, following the remarks made by the man from the Moulders Association that fully 90% of the employees in the industries I represent work entirely in the open. A great deal of the processing is wet processing.

With your permission, Mr.Commissioner, Mr. Hall will submit in writing our objections. I thank you.

MR. CARPENTER: Anyone else representing the sand and gravel interests? Anyone here on the stone interests' We have a letter from McGilvray Raymond Corporation. Anyone from the stone or marble polishing business? We will pass that. The glass ware, various glass classifications - is anyone representing those industries here today?

MR. HAAS: Mr. Feigenbaum was here this morning and announced he would submit his contentions in writing.

MR. CARPENTER: Anyone representing the automobile classifications involved?

MR. B. F. CAKE: Mr. Commissioner, I was asked to present credentials and a resolution from the Commercial Body Manufacturers Association, copies of which were filed with the Deputy Commissioner in Los Angeles yesterday, merely asking for a ninety day extension.

MR. CARPENTER: Now, there are a number of classifications with small payrolls involved. Are there any representatives of other classifications involved here who might wish to be heard? We have the wheel manufacturers, machinery products and talc mills and other classifications involving relatively smaller payrolls than those already heard from - abrasive paper - asbestosis. We have heard a lot about silicosis today but nobody has had anything to say about asbestosis. Anybody representing those industries here who cares to be heard? Any other groups or bodies represented here?

MR. A. P. LANGE
representing
Retail Drygoods Association of
San Francisco.

MR. LANGE: Mr. Commissioner, I represent the Retail Drygoods Association of San Francisco. With your permission I would like to say a few words.

MR. CARPENTER: In what way would they be interested?

MR. LANGE: They are vitally interested in anything that affects the welfare of California. Our sole interest lies with California; anything that affects California industry adversely affects us. It is from that standpoint that I would like to read you a letter written by Mr. Russell D. Carpenter, Chairman of the Insurance Committee of the Retail Drygoods Association, to Honorable Samuel L. Carpenter, Jr., Insurance Commissioner: (reading)

"In according with notice appearing in the Daily Commercial News of November 8, 1935, we advise you that we have appointed Mr. A. P. Lange to represent us at the hearing to be held by you Friday, November 15, 1935, for the purpose of considering 'a long schedule of proposed changes in compensation insurance rates.'

"As the notice does not specify the nature of the proposed changes - what classes are to be affected and which rates are to be advanced and which are to be reduced -- it is obviously impossible for us or our representative to make preparation to participate as intelligently at the hearing as seems to us desirable for the protection of our interests. We therefore request that the business of the hearing on November 15th be confined to presentation of the proposed changes and the reasons therefor, and adjournment taken to a date which will enable those interested to study the matter and prepare their comments or arguments for or against your approval of such changes.

"Anticipating that the changes to be considered are due to changes in the California experience of insurance carriers, we ask that we be furnished at as early a date as possible the following data limited to Workmen's Compensation insurance carriers operating in California and elsewhere, for each of the five calendar years 1930 to 1934, both inclusive, as set forth in the reports on file in your office.

	National (excl.California)	California only
Premiums		
Losses		
Loss Ratio		

"We also ask that those proposing changes in existing specific rates furnish similar data regarding each rate to be changed.

"If it is within the scope of the hearing we ask that consideration be given to the following matters:

"Requiring insurance carriers to secure the signature of the insured to the endorsement agreement, California Approved Form No. F-4, limiting and restricting the insurance to exclude certain relatives of the insured.

"Permitting Workmen's Compensation insurance carriers to issue 'stop loss' policies to self-insurers without present $100,000 limit of liability.

"Trusting that we may hear from you with reference to the above, we are

"Very truly yours,

"RETAIL DRY GOODS ASSOCIATION
OF SAN FRANCISCO

R. D. CARPENTER
Chairman, Insurance
Committee."

It is our belief, based on statistics furnished us by the Insurance Commissioner, that California is paying and for a long time has paid far more for workmen's compensation than is charged in other states. Our yardstick for measuring rates is the loss ratio. Some years ago the Department furnished me with a statement showing the loss ratios in California and thirty-five other states. Why they were limited to thirty-five, I don't remember now. I presume only 36 states at that time had workmen's compensation laws.

The document I have in my pocket shows that California was overcharged $8,600,000 in compensation measured by that yardstick. Subsequently I made up figures for later years. That overcharge, according to my figures, runs in the neighborhood of $3,500,000 per year.

It makes no difference to the Retail Drygoods Association or the members how much somebody else has to pay for insurance except as it affects the amount of money unnecessarily sent out of this state. Therefore, we ask the Insurance Commissioner if he will kindly have statements made up showing the loss ratio in California and the loss ratio in other states in which these self-same companies operate, with the idea of finding out whether or not there is discrimination against California.

We find in the Insurance Code this provision, that the Insurance Commissioner is charged with the duty or the power of passing on rates promulgated by the Rating Bureau or workmen's compensation. We find this provision made, that the statistical and actuarial data compiled by the Industrial Accident Commission and State Compensation Insurance Fund shall at all times be available to the Commissioner for his use in judging the adequacy or inadequacy of rates or schedules filed.

We hope the Commissioner will insist upon having the data filed with him and that it will be open to the committee, the policy holders, the premium payers and employees of premium payers, to examine them and determine whether any advance is in order or whether deductions are in order and in what classes.

MR. CARPENTER: I believe Assemblyman Mayo has requested the opportunity of saying something.

MR. JESSE M. MAYO
Assemblyman,
Assembly Committee on Mines and Mining.

MR. MAYO: Mr. Commissioner and Gentlemen: I am sorry I was not here this morning. I only heard about this meeting last night and due to conflicting engagements I was busy this morning so I apologize for not being here and appearing at the time the mining industry had their say this morning because primarily that is what I am here for, representing the mining industries inasmuch as the ten counties I represent in the legislature are made up of mining counties.

What little of the proceedings I have heard so far has been rather interesting. I heard my good friend John O'Connell himself say "the insurance racket", and some of us in the mining industry are ready to agree with him. Whether it is a racket or not, with some of the rates which are included in it, if it is not, it is bordering on it.

Some years ago there was a rate of $11.85 for a hundred dollar payroll for all classes of mine employees and that meant a stenographer in the mining office. The mining company had to pay $11.85 per hundred dollar payroll and probably across the street in maybe an orchard or something like that the rate would be 30¢, and that was the condition existing prior to 1933.

When I put that classification bill through the Assembly and it became a law, the Insurance Commissioner forced the insurance carriers to classify the mine risks according to hazards, and another thing that we in the mining industry, particularly the laymen, cannot understand is why heretofore - I haven't the new figures but when I did go into this matter thoroughly two years ago we found that out of the premiums paid by the mining industry 40.6% went for administrative overhead and 17% went for acquisition cost. That same rate of 40.6% for administrative overhead was carried and possibly is today for the $20 rate and also for the 5¢ rate.

Now, in all business, we have been taught in the business world that the higher the volume the less our overhead in percentage or business cost, but it isn't so with the insurance industry. They have charged that same rate of administrative overhead at every stage of the game.

We respectfully ask the Commissioner to look into that one field when he comes to approve or disapprove these rates, that he look into that one phase of the insurance rates, why it is necessary to continue to charge 40.6% from a $1.00 or $2.00 rate on up because certainly the cost of writing a policy of 30¢ per $100 payroll which might apply in my office on purely clerical work, would be the same as it is in the mining industry, yet that 40.6% that might be reasonable and proper for a $1.00 rate has been carried on up to the $20.00 rate. That is a ridiculous thing that we hope the Commissioner will look into.

As to the volume of business, I think it is safe to say the mining industry today is 100% greater than it was two years ago. Certainly the principle "the greater the volume the less the overhead" has not applied in this case. It is probably true - I haven't the statistics but I think I am safe in saying the mine payrolls and the insurance business written for mines have probably more than doubled in the last two years. Yet we find the same old administrative overhead and the same method of calculation occurring right on up in an industry that is increasing. We hope the Commissioner will look into that phase of it.

Another thing, after that Supreme Court decision and after the defeat of certain bills in the legislature here, we come back and face this! Why all the fuss when they can charge such exorbitant administrative overhead. According to statistics, out of the premium dollar the injured workingman gets less than 30% of the premium dollar paid. Primarily insurance is for labor and secondarily for industry, to protect them from suits. If labor gets less than 30% of the premium dollar paid, what is wrong with that set-up? The mining industry has never gone to Sacramento to my knowledge and advocated purely the State going into business, but if this situation continues, I am not saying this as a threat but as a warning, in the State of California the mining industry and other industries will be forced to go to Sacramento and work for a monopoly with 5% overhead as other states have done. Not only is the mining industry faced with these surcharges, paying double the charges, but they must be penalized to carry on!

MR. CARPENTER: I have a letter here from the Paraffine Company saying that Dr. H. Wahle will attend this meeting and might wish to be heard; a letter from the Industrial Accident Commission stating Mr. C. B. Day would be here. Is Mr.Day here? I think now it might be well, before we adjourn this meeting, to call again on Mr. Burbank who started the meeting this morning and who might wish to talk upon the subject further at this time.

MR. BURBANK: Mr. Commissioner, the only answer I would have to any remarks at this time would be for the satisfaction of any of those present because I will submit to you a summary of rebuttal in detail when the record is written up. However, if you will pardon me with one or two remarks I want to remind you gentlemen of something that apparently every speaker in opposition to these rates has overlooked, at least he hasn't mentioned it, and that is this:

When I outlined the proposal this morning I told you that unless you had silicosis losses you would pay out nothing for silicosis surcharge insurance, you would get it back, and if your history proved that you were improperly in this rating classification you would eventually be removed entirely from this list of classifications.

Now, it has been very, very cheery this afternoon to hear there were so many industries that had no silicosis. We understand from Mr. Searls that there is no silicosis in the mines; we understand from the moulders that that is a very healthy industry, an old men's organization; we understand from the cement people that dust of cement doesn't cause silicosis.

Now, gentlemen, under the proposition that we suggested to you, we told you that this was on an absolutely non-profit basis, that if the money that you paid was not paid out in losses you received it back, and if you refuse to consider it on that basis, if you don't wish to put up the money to protect the workmen who may have silicosis, and I am not going to argue about whether they have or not, we know what the increase in claims in the last few years has been in a progressive ratio, we know that silicosis claims are being made against all the industries more or less, we have a list of them and if time permitted I could give them to you - if you don't want to follow it on that basis of putting up the money on a pure cost basis, then of course you have the alternative of acting on your own judgment. If you believe that your judgment is sound, that there is no silicosis in your particular industry, then do not expect us to act on that judgment when the records and our information tell us different, but ask for an insurance policy with silicosis hazard excluded from it. That is perfectly fair; we approve it one way or the other. You put up the money and if we don't use it we pay it back. If you don't want to do that and you are so cock-sure you have no silicosis, exclude that from your policy and let labor take the risk. The Lord knows that you are our customers and we don't want to hurt you a bit. We think we are fairly intelligent and the last thing in the world any intelligent man does in business is to hurt his good customers.

Every last man here has proclaimed, whether speaking for labor or industry, that these rates were going to put him out of business. I say to you there are one or two alternatives. Either you have no silicosis and you won't have to pay, you receive back any premiums you pay up and therefore you won't be put out of business; or there is a call for benefits to injured men and under the law you have to take care of those injured men. Now, if

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the law of workmen's compensation requires you to pay benefits that are going to put you out of business, that is not my fault. That is a matter entirely foreign to this; we have no control of it. We do not want to see anybody lose his job or put out of business. We simply say to you that insurance companies must be solvent, they cannot gamble, but we are willing to do this on an absolutely cost basis, and let me say to you gentlemen, something was said here about the very splendid condition of the State Compensation Insurance Fund. I concur in that completely; it has enormous assets and splendid reserves. So have most of the other carriers. The California Inspection Rating Bureau I represent is supported by every one of the carriers in California including the State Fund, but the assets there, the surplus there, doesn't belong to you to use for silicosis. It belongs to you for the risks that you have been charged those premiums for. It belongs to the farmers in the valley who have paid for their protection. It will be paid back to you by participating companies if they earn the money. This must be considered intelligently and on its own.

Something has been said in the way of criticism of the 40.6% which is included in all workmen's compensation rates in addition to the pure premium. The pure premium means that part of the premium which is devoted to loss and loss expense. Uniformly, as a result of experience over the entire period of time that compensation has been in effect in the United States, that relative cost for overhead has been established. The breakdown of that cost is as follows:

Taxes	3.1
Inspection	2.5
Administration and audit	9.5
Claims expense	8.
Acquisition	17.5

Now, gentlemen, the Insurance Commissioner is compelled to make rates under the wording of the minimum rating law as adequate for all carriers including insurance carriers which deal with agents and brokers, and the established custom over the United States is to pay the acquisition cost carried here.

As far as the other items go, they are not subject to modification, and notwithstanding the suggestion made that they should be decreased as the volume increases, it is found that the amount of administration and audit, the amount of inspection work and taxes increase directly as the amount of the premium increases.

No man in my opinion has a right in California to complain against this loading or against the acquisition expense there which would be the only point of complaint. If he doesn't care to deal with the company which deals with agents and brokers, he has a number of companies including the State Fund with whom he can do business on a participating basis and presumably return him dividends which are earned because they don't pay out those items. There is no complaint on that, and yet because California for twenty years has been an openly competitive state in that respect, for many reasons it has been thought wise to permit it if you wanted it, and all of you, I venture to say, are insured with companies paying the 17.5, and it doesn't lie in my mouth or in the mind of the Commissioner to make a rate that is not adequate for the methods of business for all the companies. The acquisition is there; it is not a matter of ground for complaint.

If any method can be devised for protecting injured workman and industry against the liability to the injured and death from silicosis and have industry pay that cost, better than we have devised here, we are delighted to have it offered, but we don't assume with anyone that there is no silicosis hazard. That is silly. We know there is a silicosis hazard. We know there are men in this state, notwithstanding they will yell their heads off about these rates and claim they have no silicosis exposure, that insist on insurance because they are not willing to take the risk themselves, but we can't do it without the money to pay for it, and all the money we ask for to pay for it is what it costs. If anything could be fairer than that, we don't know what it is.

MR. MAYO: Isn't it a fact that the 17.5% acquisition is in addition to the 40.6?

MR. BURBANK: No, it never was.

MR. MAYO: If it is 40.6 for the $1.00 rate and for the $9.00 rate the same cost is added --

MR. BURBANK: That is because the various items of cost are found to vary directly as to the amount of business handled.

MR. MAYO: How has that been found?

MR. BURBANK: If you desire to go into that, if you will go down to the Bureau we will show anybody how that is arrived at. That is the method in stock companies, how business is done, and the rates must be sufficient for all carriers. As I said before, you don't have to do business on that basis if you don't want to.

MR. SEARLS: I would like to inquire on one question in the silicosis matter. You say they are not going to insure us for silicosis on the present rate. If a man were to file a claim against us now on the present rate we would not be covered?

MR. BURBANK: Yes, you are. That is why we want the change made as quickly as possible.

MR. BROCK: I would like to know whether the actual losses paid out by the carriers in California since

January 1, 1933, have amounted to in excess of $11.00 due to silicosis in underground mines or $14.00 in mill men.

MR. BURBANK: I am glad you brought that up and I also overlooked this South African angle. The answer to your question is no, we didn't depend in the making of these rates upon the cost of the silicosis claims that have developed since January 1, 1933, those before then being inconsequential. Those costs are not fully developed at this time. We depend sofar as we use that experience upon the showing - for instance, this year there have been to date in excess of 63 claims made for silicosis; last year 40 odd, and those claims do not take into consideration the cases which are filed before the Industrial Accident Commission of which there are 74 filed since December 1st of last year. Does that answer your question? In other words, we are taking the trend for rate making purposes because there isn't sufficient time to establish cost basis from experience. We have to take the trend and the trend is up.

FROM THE FLOOR: If that be true and a company were required to deposit, say, $50,000 as silicosis coverage at the beginning of the year, when would you be justified in rebating the $50,000 to that company if it had no silicosis claims that year or paid no silicosis losses?

MR. BURBANK: The plan we propose is this: Assume it cost $50,000 for your particular company and your policy was taken out in the year 1935. 1935 issued policies will all expire at the end of 1936. In other words, the December policy would have to expire. It is our plan then that in January or February of 1937 we will know exactly what claims have been filed against your industry, and we hope to have the Commissioner supervise the setting up of the cost of those claims. Let's assume, in order to be optimistic, that some given industry had no claim whatsoever. Under this plan every nickel paid in would be paid back some day shortly after January, 1937.

FROM THE FLOOR: If this particular company put up $50,000 it would then get it back?

MR. BURBANK: If there were no losses in the industry. If there were losses in the industry, the entire amount would be put up for the losses.

FROM THE FLOOR: Would we have to wait until fifteen years elapsed to get back the $50,000, or would you have to have the $50,000 held in escrow until the unlimited statute of limitations decided it?

MR. BURBANK: This plan contemplates that every year money will be put up and every year the money of previous years will be returned or the claims in each year will be taken care of.

FROM THE FLOOR: If a mine closed down and the company went out of business, the money would stay there indefinitely?

MR. BURBANK: The $50,000 could always be returned to the successor in interest.

FROM THE FLOOR: But if the mine closed down?

MR. BURBANK: What would you do in any corporation if you dissolved it and subsequently found you had an asset? I guess you would arrange to get the money back. The point I am making is that the money would be there for you.

FROM THE FLOOR: Of the proposed $50,000 - we have just used that figure - would this 40% overhead be deducted from that before it would be returned?

MR. BURBANK: The only overhead which would be charged against you, that is, the only expense load, meaning the 40.6%, that would be charged against you is that portion of the premium which was used by the industry. In other words, if you had no losses you would get back all your premium. I am in error on the last statement I made - we cannot give you back the taxes, but that is the intent, to give back all that is possible. How are we going to give the 17-1/2% back paid for acquisition? The answer is this. When you insure right now through an agent or broker and he receives his commission, if at the end of the year it turns out there must be a return premium to you because your payroll hasn't covered your deposit, the commission must be returned pro rata by the agent, and that would be up to the company to see that the agent returned it. The company would be responsible.

FROM THE FLOOR: Supposing these rates as you recommend go into effect and they become the permanent rates of the Commission, then when those rates are paid in to the insurance companies, State or otherwise, these particular raises that you get, are they to be kept in a special fund?

MR. BURBANK: Yes, sir.

FROM THE FLOOR: Entirely different from the regular fund?

MR. BURBANK: A special reserve.

FROM THE FLOOR: And the same with the State and all the balance?

MR. BURBANK: Yes, we are charged as a liability in our statement and it is the plan suggested that the money you pay is set up as a liability to be either paid out to injured men in your industry or returned to you, and further, to amend your suggestion as to it being a permanent rate, none of these rates are permanent. If you have no silicosis, there is no reason the rates cannot be dropped.

FROM THE FLOOR: One question I would like to ask. This morning you said it was fifteen to seventeen years before the disability became noticeable and the claim could be made.

MR. BURBANK: You misunderstood me. This is what I intended to say. The average American experience as to when silicosis becomes disabling is found to be fifteen years. It does became disabling in two or three years in rare cases. New York has taken seven years as an average, and there are figures to show it is absolutely correct, and the Massachusetts reports I have have batches of statistics where many men go thirty years and some never develop silicosis although they are exposed to it.

FROM THE FLOOR: You said silicosis is rarely disabling until fifteen to seventeen years after exposure. This afternoon you said this money the assured put up would be returned if no silicosis developed.

MR. BURBANK: I said he would get it back at the end of the policy year.

FROM THE FLOOR: If that is true, we are presuming all the industries of California are flush with money and care nothing about the interest rate on it, where would that interest earning go on the money until the time it was paid up?

MR. BURBANK: I don't know if that is considered a profit for us in the Commissioner's mind. If he wants to do that, to give it back to the employer, so be it.

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I told you we are putting this to you on a non-profit basis.

FROM THE FLOOR: Do the silicosis surcharge rates as proposed include the 40.6% overhead?

MR. BURBANK: They do.

FROM THE FLOOR: Then I understand that is at no profit to yourself?

MR. BURBANK: I think I fully explained that.

FROM THE FLOOR: You are spending the full 17.5 on acquisition?

MR. BURBANK: Some companies spend 17.

FROM THE FLOOR: You have a mandatory provision, it is mandatory to take this insurance and yet you have 17.5% overload in that.

MR. BURBANK: You understand that two-thirds of the business in the State of California are in insurance companies which return a participating profit to you which in most cases is in excess of the 17-1/2%.

FROM THE FLOOR: Getting at the actual basis on which the surcharges are proposed, take underground mining - what experience rating have you in California mines showing 11.43 is the correct rate?

MR. BURBANK: We haven't any.

FROM THE FLOOR: Don't you think it is rather presumptuous then to come in and propose that rate?

MR. BURBANK: No. I explained this morning that the rating was made by taking the ratio between the hazard and the information available which was the foundry information, and if those tentative sums you put up don't work out in experience, those relative ratios may be modified. That is something that will always be before the Commissioner.

FROM THE FLOOR: This morning you said a good deal about these reports of Massachusetts, Pennsylvania and Wisconsin but you said nothing about the experience rates in California.

MR. BURBANK: There are no actual experience rates in California; they haven't been acquired on silicosis. Until 1933 there were no significant losses on silicosis to establish any silicosis experience. Since 1933 and 1934 the amount of experience there is utterly insufficient. You can't base a ratio on that.

FROM THE FLOOR: One more question. What do you think the effect would be if certain numbers of the legal fraternity whom some people have called 'shysters' should see a huge fund in the insurance companies' treasuries taken for the purpose of providing for silicosis hazards? Don't you think the very fact that you have introduced rates so high would tend to induce tremendous claims?

MR. BURBANK: No, I don't. There are eighteen to twenty million dollars available right now for that purpose. I don't think if you had another million it would make any difference.

FROM THE FLOOR: Were any employers or policy holders brought into consultation before you fixed your rates, or was it merely a company proposition?

MR. BURBANK: It was fixed by the study of the organization or the Bureau. We spend from $100,000 to $150,000 a year to maintain experience. It is a fact-finding organization on everything pertaining to compensation. These rates were made up by that group of men.

FROM THE FLOOR: Have you any statistics as to the amount of money paid out since that Supreme Court decision on direct losses for silicosis?

MR. BURBANK: I don't know if we have or not but if we do have it would not be useful.

FROM THE FLOOR: Have there been any claims?

MR. BURBANK: Yes, and that may be ascertained, but that would not be useful for the reason that a great majority, 51 of the cases filed with the Industrial Accident Commission, came out of the Argonaut strike. Those were old cases. They went to the sanitarium and dug up men who were laid up with tuberculosis for a long time. They dug up widows, and many of the cases were of very doubtful nature, very old, a very serious question of the statute of limitations on some of them.

FROM THE FLOOR: I think it is admissible that the Argonaut cases are debatable, but certainly you should find out how much was actually paid out.

MR. BURBANK: We could find out but it would not be useful.

MR. MAYO: What I pay my wholesale house is useful in determining my overhead cost.

MR. BURBANK: Take oneman - I don't know if he is in the room - an insurance man told me he had six cases of silicosis. He was surprised to find six. Five of the six are life pensions. The cost very likely will run to very large figures. I can tell you this - I know of one case where a certain insurer has a $32,000 reserve not because, gentlemen, silicosis eventually kills but it induces - I can't help what the doctor said this morning - silicosis predisposes to tuberculosis of a type that lingers and kills. According to medical experience it is incurable. That means you have a $5,000 death benefit to meet, but in the meantime you must count on a average medical cost of confinement and support which is far beyond any accident cost.

FROM THE FLOOR: How is the proof of this going to be made? Take the case of a man only working in California two years with a group of fifty men recruited from all over California, Utah, Nevada and everywhere else.

MR. BURBANK: Under the law of California the employer is only liable for the proportion of the time the man worked for him, his pro rata of the time of exposure. If you can prove that the man worked for you one year and that he worked twenty years in Nevada, you would be liable for one-twentyfirst.

FROM THE FLOOR: As I understand, this hearing comes up on the application of the Bureau for the establishment of change of rates. I suppose in the application the proposed plan is outlined in detail, including the rates. I think we have all copies of the proposed rates. Will there be available to the members who have come to this meeting a copy of the plan itself?

MR. CARPENTER: I want to say we have been debating the question as to how many copies would be needed and the expense, and also copies of the transcript of today. There will be available at least in the Insurance Commissioner's office in Los Angeles, San Francisco and Sacramento copies of the transcript of the hearing here today with the information furnished, which included the introduction in general of the plan by the Bureau. There is so much data on this - the Commissioner's file is already about this high and if we begin to print or publish all of the data compiled in connection with it I think there is no question the expense would run far beyond the Insurance Commissioner's budget to operate his office. I think if any person here desires a copy of the transcript today or a copy of some of the other matters pertaining to it, that probably too could be arranged so that you could purchase those copies.

MR. BURBANK: With respect to any of the lists of rates or the plan, the suggested plan of handling the deposit of the fund or reserve of it or any portion of the supporting data to the application, if you will give us a couple of days' notice the Bureau will be very glad to furnish that.

FROM THE FLOOR: Mr. Commissioner, may I ask one question? This morning you made reference to the condition that existed in the mines in South Africa and they were referred to in several instances.

MR. BURBANK: I forgot to mention that. The only reason I mentioned the silicosis experience in South Africa, the only reason I mentioned the three to five million dollars damage due to silicosis in the eastern part of the United States, was merely in passing to indicate the seriousness of the problem. I do not say and did not intend to say and it is not a fact that the experience in South Africa or with respect to damage suits in the United States was used in any way in the making up of any of these rates. It is a fact that in South Africa since 1902 they have had this problem

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and in England they have worked out this problem in a more refined way than any other place except Ontario which has been working on it for a number of years. I merely gave them as examples of the situation. They are not used as a basis for our computation.

MR. PLATE: If you didn't use South Africa as a basis or you didn't use these foundries in the east, what in God's name did you use?

MR. BURBANK: We did use the foundries. We didn't have the figures in South Africa. All we had was the official report on South Africa which was general data on cost over a long period of time.

MR. PLATE: You haven't the slightest idea of the conditions in South Africa.

MR. BURBANK: We have now. You told us about it.

MR. PLATE: The South African mines are notorious for their dust; they have sandstone walls and in deep mines are poorly ventilated and they are working negroes, and you try to pit that condition against these mines. We mining men in California pride ourselves on the work we do for safety and good conditions. We pride ourselves on it and you come along and take South Africa, take anything, Timbuctoo, Alaska or any place and try to wish $11.00 on us and cut our throats.

MR. BURBANK: My dear sir, let me say this to you, that if the mines in California have non-existent silicosis hazard, you get back every nickel you put up. If you are willing to stand on your judgment, just exclude silicosis from your insurance policy.

MR. PLATE: That is the most beautiful dream I have ever heard. I came out here in 1917 and opened a mine. Each year the rates have gone up and each year it was said it wouldn't be any more. When I was on Governor Rolph's committee of fifteen investigating this compensation business we were a bunch of babies and were licked before we started. We got information and data from the United States Bureau of Mines and all that data showed that California accidents were on the decrease every year but the rate was going up every year and there was no rhyme or reason to it. 40.6 was handed to us, we couldn't help that, but the rates next year would have to be a little higher because expenses were more and your Bureau showed it should be, while the United States Bureau of Mines showed that our fatalities and accidents were going down all the time, but we were paying more. Right now you come along with the silicosis scare and raise the underground rates 100% and then tell us we will get our money back. That is fine news! We will lose the interest on our money and we don't know that we will get our money back. God knows we have never got anything back in the last fifteen years.

MR. BURBANK: All I have to say, if you don't get any money back you are in a different position than most of the employers in the state.

MR. PLATE: I have heard a lot from them, too, as to what they were supposed to get and didn't. Is the Commissioner we have now a Californian?

MR. CARPENTER: I certainly am.

MR. PLATE: I am, too. I was born here and love my state. We have been trying for years in the mining business to see if we could ever get some of the money going into Canada and Mexico; we have the mines here. We are now getting the money on the stength of $35.00 gold and you fellows - and the variance tax is another - are doing everything in your power to drive the money out of the state and shut down the mines, and believe me a lot of them will be shut down. You don't realize the number of marginal mines where it only takes some little thing to tip it over into the red. I want to tell you you are going to close down the mines which are opening up and putting hundreds of men to work.

MR. BURBANK: I know this, whether they are marginal mines or big mines, if there are injured men you have to pay the loss and you can't pay a $1.10 loss out of a $1.00 rate.

MR. CARPENTER: Gentlemen, I want to thank you for your consideration today and your attention and courtesy at this meeting. I want to say that this meeting will be

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adjourned to a future date to be given out later. We will notify all those that were here and everybody else we can think of who will be interested. We will have an adjourned meeting in Los Angeles and then possibly at a later date an adjourned meeting here.

Regardless of the time set for that meeting, I would request that those industries which desire to file information with me begin their work at once. I will communicate with the representatives of the various industries and try to fix as early date as possible. I am one of those people who believe when you have a job to do, it is a good thing to do it and get it out of the way, and the extent of this proposition hanging over the state is detrimental, I think it is something that should be decided within a reasonable time, but I want to extend that reasonable time to you and ask your cooperation to make that reasonable time as short as possible.

I thank you very much, gentlemen.

--ooOoo--

STATE OF CALIFORNIA)
CITY AND COUNTY OF) ss.
SAN FRANCISCO)

I, N. R. BASSETT, hereby certify that I am now, and at the times herein mentioned was, a duly appointed, qualified and acting official phonographic reporter of the Department of Investment, Division of Corporations, State of California; that, as said official phonographic reporter, I attended the hearing of the above entitled matter in the Division of Insurance, and reported in shorthand all the proceedings had therein; that the within and foregoing reporter's transcript, consisting of 108 pages, is a full, true, fair, complete and correct transcript of the proceedings had at the hearing of the said entitled matter, and that the said reporter's transcript was prepared by me from my shorthand notes so taken.

DATED: San Francisco, California,
December 2, 1935.

N R Bassett

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CALIFORNIA STATE
PRINTING OFFICE

CALIFORNIA INSPECTION RATING BUREAU
114 SANSOME STREET
SAN FRANCISCO, CALIF.

R. A. WHITTAKER
J. O. FROBERG
MANAGERS

May 10, 1937

RECEIVE
MAY 11 4 14 PM
DIVISION OF INSUR.

MEMORANDUM TO MR. A. H. MOWBRAY

RE: <u>EX-SILICOSIS ENDORSEMENT</u>.

This will confirm our conversation with reference to the question of endorsements in use tending to waive the liability for pneumonoconiosis.

Following the Commissioner's final decision of May 1st, 1936, and in accordance with instructions contained in the last paragraph of that decision, we prepared, after conferring with the Bureau attorney, a sample endorsement form which was indicated as California Approved Form #9. This specimen endorsement in printers proof form was forwarded to the Commissioner at that time and we feel sure you now have it in your possession. For the purpose of this memorandum, the only two features of the endorsement which are of importance are (1) the side note; and (2) the wording in the body of the endorsement. These are as follows:

"INDUSTRIAL DUST DISEASES (Pneumonoconiosis including silicosis and asbestosis) NOT INSURED	Any liability for any workmen's compensation benefits or any other liability of the employer to any employee or dependent, or any cost, expense, or service to the employer, arising from or incidental to industrial dust diseases (pneumonoconiosis including silicosis and asbestosis) or any aggravation thereof or thereby."

Ever since the Commissioner's decision was rendered, the Bureau has refused to approve any policies submitted to us involving any of the surcharge classifications to which were attached any endorsement forms tending to waive the liability for pneumonoconiosis. All such policies have been stamped "Passed subject to Investigation" and we have maintained a record of such policies.

We have repeatedly advised inquiring members that the use of the newly recommended form (Form #9) or the previously approved forms (#5 and #6) with wording inserted to waive this liability would have no force or effect and we felt would immediately be rejected by the Industrial Accident Commission in the event of a claim on the grounds that it had not been previously submitted to them for their examination as required by the law.

We append to this memorandum a copy of our record indicating the policies now outstanding bearing such limiting and restricting endorsements. At the head of each sheet we indicate the skeleton of the endorsement used by the particular company as to sidenote and body of the endorsement. It is understood that all other features of the endorsement are in order. You will notice many different forms but the great majority of companies have seized upon the new language contained in the recommended form #9.

It is our intention to await the approval of the Insurance Commissioner of this form or some substitute for it and upon receipt of such approval, notify each member company who has any of the forms outstanding which do not agree with the finally approved form to correct and resubmit for Bureau approval or to entirely eliminate the endorsement from their policy and add the surcharge.

We also have a duplicate record which we intend to use as a check against the companies' reports of the registered mail return receipts notifying the Industrial Accident Commission of all such outstanding policies.

As to your comment regarding Rule 5 of the Insurance Commissioner's ruling of October 11th, 1929, in our opinion the automatic thirty day approval provided in this section will not apply in the case of these silicosis endorsements. In the first place, the policy with such an endorsement attached has never been officially approved by the Bureau and in the second place, to take advantage of a technicality, it has not complied with the second provision contained in the Order, i.e., "and provided that such endorsement shall be immediately submitted in triplicate to the California Inspection Rating Bureau for transmittal to the Insurance Commissioner." In the third place, we take the language of the Commissioner's order of May 1st, 1936, "Upon approval of the endorsement form all carriers may issue policies excluding the hazards of pneumonoconiosis" as superseding any other provision contained in the general Order dealing with limiting and restricting endorsements issued October 11th, 1929, and an attempt to so endorse any policies prior to the receipt of some officially approved form is entirely valueless and leaves the companies with no legal standing. This is in accordance with our repeated advices to the carriers.

Yours very truly,

RAWhittaker

Manager

RAW:LM

STANDARD ACC. (Ex-Silicosis)

Big Horn Exploration Co., Ltd. Policy #380664.
Policy covers #1123, Mining #1124, Mining.
Endorsement reads:

"INDUSTRIAL DUST DISEASES (Pneumonoconiosis including silicosis and asbestosis) NOT INSURED.	"any liability for any Workmen's Compensation benefits to any employee or dependent, or any cost, expense or service to the employer, arising from or incidental to industrial ~~air~~ dust diseases (pneumonoconiosis including silicosis and asbestosis) or any aggravation thereof or thereby."

Mc Mullin, Stahlman & Stahlman DBA POMONA BRICK CO. #AZ 402809
#8232 Building Material Dealers
#4029 Brick Mfg.

PACIFIC INDEMNITY CO. (Ex-Silicosis)

American Mineral Co. #4053 (Binder 9/1/36 to 10/1/36)
Policy written as follows:
"Covering all operations of assured".

Endorsement reads: (Calif. Approved Form #9)

"Employees Not Insured .... this policy DOES NOT INSURE:
INDUSTRIAL DUST DISEASES (PNEUMONOCONIOSIS INCLUDING SILICOSIS AND ASBESTOSIS)

ANY LIABILITY FOR ANY WORKMEN'S COMP. BENEFITS TO ANY EMPLOYEE OR DEPENDENT OR ANY COST, EXPENSE OR SERVICE TO THE EMPLOYER ARISING FROM OR INCIDENTAL TO INDUSTRIAL DUST DISEASES (PNEUMNNOCONIOSIS INCLUDING SILICOSIS AND ASBESTOSIS) OR ANY AGGREVATION THEREOF OR THEREBY."

American Mineral Co. (#4067 (Renewal of Binder 4053) 10/1/36 to 11/1/36
Policy written as above.

American Mineral Co. #3846, Renewal of Binder 4067, 11/1/36 to 11/10/36

American Minewal Co. #3853, Renewal of Binder 3846, 11/10/36 to 11/15/36

American Mineral Co. #EC-87564, - 9/1/36-37 (Renewal of Binder 3853)

Service Gravel Co., #EC 85547, Endorsement effective 7/1/36.

Filtrol Corp., #EC 87705,
Policy as follows:
#1452, Ore Milling
1123, Mining-Underground

CALIFORNIA PORTLAND CEMENT CO. #EC 89223, Endorsement eff. 4/6/37

PACIFIC EMPLOYERS

(Ex-Silicosis)

L. BOCCI & SONS Binder #607 (B)
Binder written to cover #2479 Stone cutting or Polishin , NOC.
#3447 Masonry NOC.

Endorsement as follows:
Calif. App. Form #2

****

DISEASE NOT COVERED

"As respects disease (or aggravation thereof or death resulting therefrom) defined in Subdivision (4) of Sections 3 of Chapter 586, Laws of 1917 as amended by Chapter 471, Laws of 1919 of The Californa Workmen's Compensation Act, contracted by any employee."

NEW AMSTERDAM (Ex-Silicosis)

EMSCO ASBESTOS CO. Policy #PASC 50417. (Mather & Co.)
Policy covers #1859 Spinning and Weaving (Asbestos Goods)
3632, Machine shop, 3152, Nail Mfg., and
standard exceptions.
Endorsement reads:
("Calif.Approved Form #9

"Industrial Dust Diseases (Pneumonoconiosis including silicosis and asbestosis) Not Insured	.... Any liability for any workmen's compensation benefits to any employee or dependent, or any cost, expense or service to the employer, arising from or incidental to industrial dust diseases (pneumonoconiosis including silicos and asbestosis) or any aggravation thereof or thereby".

EMSCO REFRACTORIES CO. INC. PASC 50567 (Mather & Co.)
#4024, Brick Mfg.

MARYLAND CASUALTY COMPANY (Ex-Silicosis)

GUIBERSON (S.A.,Jr.) Policy #01-104307.
Policy covers #1123, Mining.
Endorsement reads:

"Calif.Approved Form #9.

INDUSTRIAL DUST DISEASES (Pneumonoconiosis including silicosis and asbestosis) NOT INSURED	.... Any liability for any workmen's compensation benefits to any employee or dependent, or any cost, expense or service to the employer, arising from or incidental to industrial dust diseases (pneumonoconiosis including silicosis and asbestosis) or any aggravation thereof or thereby."

NATIONAL CEMENT PIPE CO. INC. Policy #01-104306. Cancelled 8/25/36 Letter 9/21/36
Policy covers #4000, Sand & Gravel digging
4034, Concrete Products mfg.
6229 Irrigation or drainage systems-const.

TROPHY CRAFT CO. Policy #01-104384
Policy covers #3085, Aluminum, Brass or other non-ferrous metals.

UNION BRASS FOUNDRY. Policy #01-104449.
Policy covers #3085, Foundries-aluminum

BRENNEIS MFG. CO. #01-113432
#3632 Machine shop
#3081 Foundries

H.M.HANAWALT & SAMUEL E. HANAWALT, #01-113444.

#5403, Carpentry	#5203, Concrete bridges
#6219, Excavation	#5022, Masonry
#5213, Concrete Const.	#2205, Drivers
#5200, Cement work	#5506, Paving
	#5507, Grading
	#1710, Stone Crushing.

CALIF.BRICK & TILE CO. (~~#018-9230~~) 01-113705
#4029, Brick Mfg.

GUARANTEE LIMITED MUTUAL (Ex-Silicosis)

Hidecker Brick Co. Policy #C 10080
Policy is written to cover #1710, Stone Crushing.
Endorsement reads:

"INDUSTRIAL DUST DISEASE (Pneumonoconiosis including silicosis and asbestosis) NOT INSURED

......"any liability for any Workmen's Compensation benefits or any other liability of the Employer to any employee or dependent, or any cost, expense or service to the Employer, arising from or incidental to industrial dust diseases (Pneumonoconiosis including silicosis) and asbestosis) or any aggravation thereof or thereby."

Liquid Fuel Appliances, Inc. C 10117
Policy is written to cover 3169, Stove Mfg.
Endorsement as above.

Oropallo (Tony) DBA American Brass & Aluminum Fdy. Co. #C 10195
#3085 Foundries.

L.D. Weaver, T.M. Hall DBA SANDCRAFT PRODUCTS. #C 10248
#3082 Steel castings.

SAN MARCOS ROCK, INC. #C 10300
Policy is written as #1710 Stone Crushing.

RUPP (OTTO) DBA HOLLYDALE POTTERY. C 10337.
Policy is written to cover #4053 Potteries.

THOS. HOLMES & SON #C 10426
#1803 Stone Cutting.

HENRY W. HOWELL DBA HOWELL'S FOUNDRY
5081 Iron Foundry.

LOMPOC MINERAL PRODUCTS INC.
#1122 Mining.
#1452, Ore Milling.
De Ros (Antonio) An Ind. #C 10472.
#5022 Masonry
#1803 Stone Cutting.

GUARANTEE LIMITED MUTUAL (EX SILICOSIS)

BLD METAL CO. LTD. C 10546
#5082 Foundries—steel castings

KYLE (ARCHIE) C 10548
4000 Sand & Gravel Digging

EAST SIDE SHEET METAL & HEATING CO. C 10517
3175 Furnace mfg.
5183 Furnaces
3724 Millwright
5539 Sheet Metal Wks.

MASTER FOUNDRY #C 10571
3085 Foundries—aluminum

INDEPENDENT MONUMENT CO. #C 10730
1803 Stone Cutting

EASCO REFRACTORIES CO. INC. #C 10724
4024 Brick Mfg.

EDWARD B. MORITZ #C 10703
3081 Foundries

AMERICAN MOTORISTS (Ex-Silicosis Endorsements)

NATIONAL CABLE & METAL CO. Policy #CN 2222468.
Policy is written as #3085, Foundries - aluminum, brass, etc.
Endorsement Approved From #5, as follows:

"EMPLOYEES NOT INSURED Industrial Dust Diseases (Pneumonoconiosis including silicosis and asbestosis) Not Insured.	..............As respects injuries (or death resulting therefrom) or any liability for any workmen's compensation benefits or any other liability of the employer to any employee or dependent, or any cost, expense or service to the employer, arising from or incidental to industrial dust diseases (pneumonoconiosis including silicosis and asbestosis) or any aggravation thereof or thereby."

NATIONAL AUTO. (EX-SIL.)

ORNAMENTAL ART GLASS & SANDBLAST STUDIO #C 103755
#4155 Cathedral or Art Glass

HARTFORD (Ex-Silicosis)

BURCHELL (W.R.) Policy USC 26588.
#4000. Sand & Gravel Digging.
"Calif. Approved Form #6.

Limited to Specific Location and/or Operations	.... sustained by ~~xxxxxxxxxxxxxxxx~~ an employee subjected to exposure of occupational disease. This exclusion of coverage would apply only insofar as any injury or death resulting therefrom, occurs to the employee through the contraction of an occupational disease."

HOME BUILDERS STORE and OCEANSIDE ROCK & SAND CO.
#8232, ~~xxxx~~ Lumber Yards
4000, Sand & Gravel Digging
5183, Plumbing NOC
"Calif. Approved Form #5

Employees Not Insured	.... sustained ~~by~~ from Pneumonoconiosis or Silicosis"

~~[illegible]~~
~~[illegible]~~

COLONIAL MUTUAL.   (Ex-Silicosis Endorsements)

A. N. BUTLER. Policy #WC 2452.
Policy written as #1620, Quarries.
Endorsement reads:

"Limited to Specific Location and/or Operations and/or Employees

....
As respects injuries (or death resulting therefrom) sustained by any employees afflicted with or contracting any occupational disease such as pneumonoconiosis, phthisis, or silicosis, unless said employees are named herein.

It is further agreed that additional employees, and the following condition is expressly made a condition precedent to protection of additional employees; each additional employee must be submitted for x-ray examination and findings had as to the presence of the above described disease, affliction or injury, and upon a favorable finding, and that finding only, shall said employees be added to the policy herein."

A. D. Pugh, Parker Pugh & John Johnson DBA ALPINE QUARRIES. Policy #2454.
Policy covers #1620, Quarries.

PERMANENT MOULD CASTING CO. Policy #2441.
#3085, Aluminum, Brass or other non-ferrous metals (Foundries)

B. F. WILKIE DBA ORO GRANDE MINING CO. Policy #2441.
#1122, Mining.

DUCEY & ATWOOD ROCK CO. Policy #94.
#1710, Stone Crushing. #4000, Sand and gravel digging.
#7219, Truckmen. 8389, Automobile Garage.

LOS ANGELES MARBLE & TILE CO. and/or HOLLYWOOD TILE CO. #92.
#1803, Stone Cutting & Polishing. 5022, Marble & stone setting.
5348, Marble or stone setting-inside construction.

CHUBBUCK LIME CO. #193.
#1640, Lime Mfg. #4037, Plaster or staff mixing.

ROBERTSON CO. #212.
#5040, Bridge building, metal. #6003, Pile driving.
5040, Painting (steel structures or bridges)
5057, Iron or steel erection.

Gibson, Renteria DBA VAN NUYS BRICK & MATERIAL CO. #217.
#4029, Brick mfg.

RICHMOND POTTERY. #2420
#4001, Clay digging and 4035, Potteries.

Dillard, Robins, & Smith, Jointly DBA BUCKEYE MINING SYNDICATE. #2399.

Slater & Muller, Co-Trustees of WESTERN ROCK PRODUCTS Inc. #279.

Heney DBA BIG BEND PLACER MINES. #2416.
#1122, Mining.

~~ROBERTSON CO. #212.~~
~~#6003~~

COLONIAL MUTUAL (Ex-Silicosis Endorsement)

ANGULO TILE CO. #248.
#4041 Tile or earthenware mfg. #4001, Clay digging.

ANCHOR ENGINEERING CORP. #2418.
#5183, Furnaces - installation. #3081, Foundries.

DISTELHORST (ON FILES) AN IND. #2405.
#4000, Sand & Gravel digging.

~~SULPHUR PRODUCTS CO. LTD. #MC 144.~~ now carried by Lin. Must
~~#1122, Mining.~~ See Colon. Mut cov 8/4

TAYLOR TREASURE GROUP. #307.
#1122, Mining. #1452, Ore Milling, #9078, 8810.

BIG BEND PLACER MINE. #2389.
#1122, Mining. #9078, 8810.

TAYLOR'S TILERY. #306.
1600 Quarries - Kieselguhr. #4041, Earthenware or Tile.

LUCERNE VALLEY ENGINEERING CO. #297.
#1604 Quarries.

KINGSLAND GRANITE CO. POLICY #324
#1604 Quarries

WM. GOTTSCHALK. #2376
#1122 Mining

E. J. WARNER #2384
#4000 Sand & gravel digging

ANCHOR ENGINEERING CORP. #2381
#5183 Plumbing
#3081 Foundries-iron (Sandblasting, rated as)

DARWIN LEAD CO. INC. #315
#Mining Schedule.

CHARLES W. HAMILTON Policy No. 2355
#4000 Sand and Gravel Digging

FULLERITE, INC. (A Corp.) #419.
#1741 Silica Grinding

INDEPENDENT MONUMENT CO. #452.
#1803, Stone Cutting.

HANDCRAFT TILE CO. #2339.
#4041, Tile or earthenware mfg.
4055, Potteries

COLONIAL MUTUAL (Ex-. .. Ind.)

A. L. HEALY, Policy #WC 461.
#1122, Mining.

GOLDEN PRINCESS GOLD MINES ASS'N. Or IRVING GOLD PROPERTIES, INC. #WC 500
Mining Schedule.

GOLD BOTTOM MINES, INC., Maronet Hotel, 1522-18th St., Bakersfield, #WC-499.
Mining schedule.

MOENCH (PAUL) AN IND. WC 2296
Mining Schedule

BRUCE BROTHERS. Policy #WC 546.
7219 Truckmen
4000 Sand & Gravel digging.

ORO GRANDE MINING CO. Policy #2279.
1122 Mining

REX F. SCHUMERT & F.C.BRANDT DBA MONARCH FOUNDRY #WC 594
3081 Foundries

SISKIYOU PLACER, INC. #WC 2254
1122 Mining

COMMERCIAL SANDBLAST CO. #WC 622
3081 Foundries - iron (Sandblasting. rate as)

PACIFIC BALL MFG. CO. #WC 660.
3081 Foundries

PACIFIC SANDBLASTING #WC 635
3081 Foundries

E. F. CLASSEN, INC. #WC 743
1630, 1622 Quarries.
HARRY F. LUCAS #WC 669
Complete mining sched.

COLONIAL MUTUAL (EX-SIL. ENDORSEMENT)

CRESCENT ROCK CO. WC 767
#4000 Sand & Gravel Digging

KYLE (ARCHIE) #WC 765
#8252 Bldg.Material Dealers
#4000 Sand & Gravel Digging
#1710 Stone Crushing

WESTERN ORE REDUCTION #WC ~~7765~~ 775
#1452 Ore Milling

J.Clark Smith DBA TRANSIT MIX CONCRETE CO. & WC 783
J.Clark Smith DBA SAN BERNARDINO ROCK & GRAVEL CO.
#4000 Sand & Gravel
#8232 Bldg.Material Dealers

GOLDEN CHARIOT MINE & MILLING CO. WC 804
#1122 Mining
1452 Ore Milling

OREGON TRINITY PLACERS INC.
#1122 Mining

SINNOCK & SMITH DBA SINNOCK & SMITH #2196
#1123 Mining

BUNKER HILL MINING CO. #888
#1452 Ore Milling

GEORGE AMES (AN IND.) and
GLADDING MC BEAN & CO. (A CORP. #925
#1741 Silica Grinding

FRIANT PUMICE CO. #WC 2156
#1122 Mining

TEXAS QUARRIES INC. #WC 1009
#1604 Quarries
#1803 Stone ~~Gras~~ Cutting

ZURICH (EX-SIL. ENDORSEMENT)

Albert Smith, Roy N. Patterson & Leonidas M. Hopkins (A Copartnership)
Policy #UF 2152228
#1747, Talc Mills
Calif. Approved Form #9

"INDUSTRIAL DUST DISEASES (Pneumonoconiosis including silicosis and asbestosis) NOT INSURED ********* Any liability for any workmen's compensation benefits to any employee or dependent, or any cost, expense or service to the employer, arising from or incidental to industrial dust diseases (pneumonoconiosis including silicosis and asbestosis) or any aggravation thereof or thereby."

NOTICE OF HEARING

A PUBLIC HEARING WILL BE HELD at my office, 417 Montgomery Street, San Francisco, California, at 10 a. m. on June 11, 1937, to determine the effect upon the adequacy or inadequacy of workmen's compensation insurance rates of proposed changes now on file in said office, in the classification of risks, premium rates and system of merit rating, relating to certain occupational disease hazards.

SAMUEL L. CARPENTER, JR.,
Insurance Commissioner of the State of California. jn4-1t

Published in the "Daily Commercial News"
330 Sansome Street Telephone SUtter 5765

CALIFORNIA INSPECTION RATING BUREAU
114 Sansome Street
San Francisco, California.

July 8, 1937.

BUREAU CIRCULAR #355
PNEUMONOCONIOSIS SURCHARGE RATES.

TO MEMBERS:

You were advised under date of June 1st by Bureau Circular #353 of the intention to revise surcharge rates for new and renewal business effective June 1st, 1937. We have today received the following notice from the Insurance Commissioner:

"TO WHOM IT MAY CONCERN:

By virtue of authority conferred and duty imposed upon me by the provisions of Article 2, Chapter 2, Part 3, Division 2 of the Insurance Code, and after due hearing, I hereby approve as adequate for all workmen's compensation insurers admitted in the State of California, the changes in the system of classifications, rules, rates and rating plan, pertaining to the hazard of pneumonoconiosis, all as contained in that portion of the Manual of Rules, Classifications and Rates, to which this order of approval is prefixed.

Said classification of risks, premium rates, system of rating and rules governing their application as so changed are hereby approved to become effective for all new and renewal policies of workmen's compensation insurance to which they are applicable, effective on and after 12:01 a.m., June 1, 1937, and shall then, as to all new and renewal policies, supersede all classifications of risks, premium rates, systems of rating and rules relating to the hazard of pneumonoconiosis, in force immediately prior to 12:01 a.m., June 1, 1937.

Nothing herein contained shall be construed as in any way modifying or changing the rules and regulations with respect to reserves required to be maintained by insurers or with respect to reports to be made, as set forth in my Final Decision dated May 1, 1936, pertaining to the hazard of pneumonoconiosis.

SAMUEL L. CARPENTER, JR. (Signed)
Insurance Commissioner."

In order to expedite the release of any June policies which may have been held up we append hereto a revised list of the surcharge classifications and rates.

Numerous changes have also been made in the rating plan which should receive your careful attention. You will shortly receive a reprinted section of the Pneumonoconiosis Rules, Rates and Rating Plan for the basic manual which will embody all of the changes which have been adopted and approved by the Insurance Commissioner.

R. A. WHITTAKER
J. O. FROBERG
Managers

TABLE OF CLASSIFICATION AND RATES
PNEUMONOCONIOSIS

(Effective on new and renewal business June 1, 1937)

	Code	Classification	Rate
	1122	Mining--Surface	.14
	1123	Mining--Underground	.56
	1452	Ore Milling	.35
	1463	Asphalt Work	.63
	1604	Quarries - Dimension Stone	.63
	1620	Quarries - Crushed Stone	.63
	1622	Quarries--(N.O.C.)	.63
A	1640	Lime Mfg.--Inc. Quarrying	.14
	1654	Quarries--Cement	.14
	1660	Quarries--Kieselguhr	.28
	1710	Stone Crushing	.63
	1741	Silica Grinding	1.40
	1747	Emery Works and Talc Mills	.35
	1748	Abrasive Wheel Mfg.	.35
	1803	Stone Cutting and Polishing	1.26
	1852	Asbestos Goods Mfg.	.74
	1853	Mica Goods Mfg.	.74
	1860	Abrasive Paper or Cloth Preparation	.28
	3081	Foundries--Iron--(N.O.C.)	.56
	3082	Foundries--Steel Castings	.56
	3085	Foundries--Aluminum, Brass or other Non-Ferrous Metal--(N.O.C.)	.56
	3086	Foundries--Malleable Iron	.56
	3089	Pipe Mfg.--Cast Iron--(N.O.C.)	.56
	3091	Enameled Ironware Mfg.	.63
	3122	Cutlery Mfg.--(N.O.C.)	.13
F	3146	Hardware Mfg.--(N.O.C.)	.56
**F	3169	Stove Mfg.	.56
F	3175	Furnace and Radiator or Heater Mfg.	.56
	3224	Enamel or Agate Ware Mfg.	.22
F	3515	Textile Machine Mfg.	.56
F	3548	Printing or Bookbinding Machinery Mfg.	.56
F	3558	Boot and Shoe Machinery Mfg.	.56
F	3561	Sewing Machine Mfg.	.56
F	3805	Auto or Aircraft Engine Mfg.	.56
F	3808	Automobile Mfg. or Assembling	.56
F	3883	Car Wheel Mfg.	.56
*	4000	Sand and Gravel Digging	.14
	4024	Brick Mfg. -- Firebrick, enamel brick, etc.	.14
	4029	Brick Mfg. -- (N.O.C.)	.14
	4041	Earthenware or Tile Mfg. -- (N.O.C.)	.14

TABLE OF CLASSIFICATION AND RATES (Continued)

Code	Classification	Rate
4049	Potteries--glazed or porcelain earthenware	.28
4053	Potteries--china or tableware	.42
4054	Terra Cotta Mfg.	.28
4055	Potteries -- floor, wall, fireplace tile	.28
4058	Potteries -- electrical porcelainware	.41
4101	Glass Mfg. -- Polished plate glass	.10
4102	Glass Mfg. -- sheet window glass	.10
4103	Glass Mfg. -- sheet glass -- rolled -- not polished	.10
4111	Glassware Mfg. - no automatic machines	.10
4113	Glass Mfg. - cut	.10
4114	Glassware Mfg. -- (N.O.C.)	.10
* 5469	Cleaning and Renovating outside of Bldgs.	
	Abrasive Blasting only	1.12
* 5508	Street and Road Construction	
	Sand and Gravel Digging	.14
	Stone Crushing	.63
	Quarries	.63
	Asphalt Works	.63
*** 6251	Tunneling -- not pneumatic	.56
*** 6260	Tunneling -- pneumatic	.56
*** 6252	Shaft Sinking	.28
*** 6254	Subway Const.	.28
*** 6257	Caisson Work	.14
*** 6258	Caisson Work -- Foundations	.14
	Abrasive Blasting (N.O.C.)	1.40
	Abrasive Cleansers, Polishes and Scouring Powders	1.40
	Guniting	.63

A Applicable to quarry payroll only.
F Applicable to foundry payroll only.
** If enameling is conducted, surcharge for No. 3224 also applies.
*** Applicable only if operations involve drilling and blasting.

State of California
Secretary of State

I, DEBRA BOWEN, Secretary of State of the State of California, hereby certify:

That the attached transcript of 133 page(s) is a full, true and correct copy of the original record in the custody of this office.

IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this day of

April 7, 2012

DEBRA BOWEN
Secretary of State

Selected pages

135 pgs