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6 The Fractious Disputes over State Insurance

In adopting worker's compensation, the greatest political turmoil developed over the issue of private versus state insurance of workers' compensation risk. Although workers' compensation is often described as "social insurance," it is actually an employer mandate that a specific set of benefits be paid to the victims of workplace accidents. Employers could purchase insurance to provide these benefits, and an enormous struggle arose over the issue whether employers should purchase the insurance from private insurance companies or through a state-run fund. Union leaders pushed strongly for state insurance on the grounds that private insurers were profiting from denying benefits to many deserving injured workers. Insurers fought to save their business and charged that state insurance was a sign of creeping socialism. The choice between state and private insurance made by various state legislatures established the existing system today and set the stage for later debates over the government's underwriting of unemployment, health, and disability risks.[1] Most states allowed employers to contract with private insurers to underwrite this workplace accident risk. Seven states, however, established monopoly state insurance funds and ten more states created state funds that competed with private insurers.[2] In this chapter we examine the decision to establish state funds to underwrite workers' compensation risks at the time the legislation was first adopted.

Quantitative analysis of the legislative decisions to adopt state insurance shows that monopoly state insurance was an unlikely outcome of the general workers' compensation debate. In most states opposition from insurance companies and farmers overcame the labor unions' demands for state insurance, causing legislatures to choose private insurance. In some states the competing interest groups compromised by allowing private insurers to compete with a state fund. Monopoly state insurance was implemented if either of two conditions occurred: (1) strong labor unions were able to enact state insurance in the face of relatively weak insurance interests and agricultural interests, or (2) monopoly state insurance was swept into place when a strong political reform movement—for example, progressives in the early 1910s and nonpartisans in the late 1910s—incorporated unions' demands for state insurance into a broader program of socioeconomic changes.

The richness of the state insurance debate is captured more fully by examining the decision process in three states: Washington, Ohio, and Minnesota. In all three states narrow interest groups set the terms of the debate and influenced decisions. Meanwhile, progressive political coalitions played a major role in determining the fate of monopoly state insurance during the period from 1910 to 1920. Washington chose monopoly state insurance when workers' compensation was originally adopted in 1911, as progressive reformers within the Republican party played the predominant role in establishing monopoly state insurance. Following the implementation of a monopoly state fund in 1911, Ohio union leaders and insurance companies fought over the issue throughout the decade. After a series of court battles, referenda, administrative decisions, and subsequent legislation, the ultimate decision on the state fund's monopoly depended on the success of the Democratic party, which was the progressive reform party in Ohio. When Minnesota first enacted workers' compensation in 1913, organized labor's efforts to obtain state insurance failed because it held too little political power to overcome conservative Republicans' rejection of the idea. The Non-Partisan League, a populist coalition of farmers and organized labor, developed enough strength to reopen the issue in 1919, but without a majority in the legislature, their efforts to adopt state insurance failed by one vote in the Senate. In general, the importance of progressive reformers in establishing state insurance in several states should not be underestimated.

The chapter helps illuminate a central issue in the empirical political economy literature. Political scientists and economists have long debated whether broad-based political coalitions, such as political parties, or narrowly defined economic interest groups are the determining factor in the development of legislation. The recent analyses of the enactment of the Interstate Commerce Commission (ICC) in 1887 exemplify the polar positions that scholars have taken in their explanations of the origins of regulation. Thomas Gilligan, William Marshall, and Barry Weingast (1989) argue that the ICC was enacted as the result of a compromise between economic interest groups—the short-haul shippers and the railroads—that had a direct economic stake in the issue. Keith Poole and Howard Rosenthal (1993, 1994) claim, by contrast, that the ICC was passed by a broad political economic coalition, and that the argument for narrow economic interests as the catalyst for ICC enactment is overemphasized. The story of how state workers' compensation insurance funds came to be adopted in the 1910s emphasizes that both narrow economic interests and broader political interests determine legislative outcomes, but the importance of each factor varied from state to state. Indeed, as our research suggests, when we must take into account the importance of a political reform movement, our preconceived notions of how different interest groups stood on the issue of state insurance is upset. Thus, instead of disagreement among scholars, our analysis suggests that cooperation among the two intellectual camps will provide a much richer understanding of the growth of government over the last century.

6.1 The Debate over State Insurance

One feature of the workers' compensation system that caused bitter dispute across many states was the method by which the insurance system would be administered. In many states there was a strong movement for state insurance, in which all risks associated with the new law would be insured through newly created state funds and bureaucracies. Social reformers and labor leaders vilified the casualty insurance industry because insurers were seen as contributing to the negligence liability system's debacle. Crystal Eastman (1910), one of the leading proponents of the switch to workers' compensation in the United States, found two major faults with the insurance industry: the presence of liability insurance lowered the chances of an injured worker's receiving compensation, and the insurance industry was profiting at the expense of workers' suffering. According to Eastman (1910, 194), when an employer insured his risk through a third party, the injured worker was sure to be the loser because "the insurance company contracts only to assume the employer's legal liability, not to underwrite his moral responsibilities, or carry out the promptings of his sympathy." Further, since the insurance company was "equipped with system, money, skill, and experience," the chances of successfully suing an insured employer for damages were "formidable." We have already quoted in chapter 2 the similar conclusions reached by historian Robert Asher (1969, 464).

Reformers and historians were in fact mistaken, however, in assuming that workers always fared poorly at the hands of liability insurers. Our analysis of Michigan Bureau of Labor and Industrial Statistics data from 1897 to 1903 found that those workers who were employed by firms that carried liability insurance were just as likely to receive accident compensation as those workers whose firms had no insurance (Kantor and Fishback 1995, 429). Indeed, some companies clearly influenced how their liability insurance carriers settled claims by injured workers or their families. Consider the case of Joseph Garsaw, who was killed while working for the Northern Lumber Company (owned by the Weyerhaeuser Company) of

Cloquet, Minnesota. Northern Lumber's liability insurance company found that "[t]he case was a pure accident. There was no defect whatever in the apparatus and it would hardly seem that under the [common] law that any damage could have been collected." Thus, the insurance company offered Garsaw's widow $250 to settle the case. Northern Lumber, however, "desired an adequate payment to be made for the benefit of the widow and children," so Northern offered the deceased's family $1000 plus funeral expenses and the insurance carrier, in turn, was to raise its contribution to $500. "After talking the matter over with the widow," Northern Lumber paid $1100 plus funeral expenses and the insurance company paid $600.[3] Although Northern Lumber's insurer was not willing to fully back the company's "moral responsibilities," this case suggests that influential clients may have been able to pressure the liability insurance companies into providing the families of workers killed in industrial accidents with relatively better settlements, even though the families may have received nothing if their cases were to have gone to trial.

The insurance industry certainly understood that it had a perception problem. The "blame for the odious conditions affecting the relations between employer and employe [*sic*] under the liability laws," according to insurance industry spokesmen, lay "solely in the law. The insurance was proper. The conduct of the insurance companies usually was proper."[4] J. Scofield Rowe, vice president of the Aetna Life Insurance Company in 1912, reasoned that "[t]he Liability Insurance Companies were brought into existence by reason of the crystallization of public opinion in support of claim making, and are merely the *result*—not the *cause,* of the conditions complained of."[5]

While the insurance industry could certainly defend against claims that the meagerness of accident compensation offered to injured workers was entirely of the insurers' own making, the industry was more susceptible to charges of profiteering. Social reformers and labor leaders criticized the insurance industry because workers received less than half of the premiums that employers paid to liability insurance companies. In Washington from 1910 to 1911, for example, insurance companies typically paid out less than 50 percent of the employers' liability premiums they collected.[6] Similar statistics were cited by employers' liability commissions in Ohio, New York, and Illinois (Ohio Employers' Liability Commission 1911, lxxxiii; Asher 1971, 286; Castrovinci 1976, 85). Such statistics, reformers contended, were clear evidence that insurers were profiting from injured workers' misfortunes. By granting the state a monopoly on the writing of such insurance, reformers continued, both workers and employers could be made better off. By reducing the transaction costs and profits associated with private insurance, employers allegedly would have been able to offer more attractive accident benefits, while paying less for the insurance to provide such generous benefits.

Even after the adoption of workers' compensation laws, private insurance companies were chided for undermining the spirit of cooperation between employers and employees that the new laws were designed to foster. George M. Gillette, the president of the Minnesota Employers' Association and a central figure in the state's adoption of workers' compensation, issued an ultimatum to the insurance companies just after the law was adopted in Minnesota in 1913: "My belief is that it would be good policy on the part of the liability companies not to try to make too much money during the earlier stages of the operation of this law, for I believe such a course would kill the goose." If complaints against insurers accrued or rates became exorbitant and unreasonable, then Gillette warned that "not only in my opinion will Minnesota have state insurance, but it ought to have it."[7]

Contrary to the rhetoric of social reformers and labor leaders, the standard by which they judged the profitability of employers' liability and workers' compensation insurance suggests that their claims were overdrawn. Although it is certainly difficult to assess the profitability of different lines of insurance, we can tentatively use the ratio of losses to premiums as a proxy, which is what advocates of state insurance used to justify their position. Using Minnesota as a representative case, the insurance companies writing workers' compensation in the state paid out between 49 and 56 percent of their premiums a few years after the passage of the law.[8] Fifteen years after the enactment of the law, and seven years after the state insurance issue had been politically resolved in Minnesota, insurance companies were paying out to injured workers approximately 60 percent of their annual workers' compensation premiums.[9] These workers' compensation loss ratios were certainly unimpressive when compared to other lines of insurance. From 1900 to 1927, for example, commercial fire insurers paid out 57.3 percent of their annual premiums.[10] And in the latter part of the 1910s, carriers of industrial life insurance (which had no saving component like ordinary life insurance) only paid out between 24 and 35 percent of their annual premiums.[11]

Opponents of state insurance questioned the reformers' claim that insurance companies were earning excess profits by pointing out that the loss ratio was a flawed measure of profitability. Testifying before the Minnesota legislature's Joint Workmen's Compensation Commission in 1920, Minnesota Insurance Commissioner John B. Sanborn and H. R. Phillips, actuary of the State Insurance Department, explained that state law required insurance companies to retain 50 percent of their premiums as an unearned premium reserve. When policyholders paid in advance for insurance protection at some future date, the insurance company was required to put 50 percent of the premium into reserve.[12] Further, insurance companies were required to keep a loss reserve, which was a pool of funds able to compensate pending claims against the insurer. David McCahan (1929, 76) argued that private insurers also set aside funds for a catastrophe reserve in order to ensure their ability to pay for unforeseen disasters. Also included in the premiums that insurers collected, of course, were administrative expenses and profits.

The complicated accounting of the insurance industry could even confuse practitioners in the field. For example, George D. Smith, chairman of the Nevada Industrial Commission, which administered the state's monopolistic insurance fund, gushed that "our administrative expense is but 8% of premium income, as compared to 40% on an average for private insurance companies."[13] But such comparisons were deceptive in light of the fact that after the first sixty days of a new policy, Nevada employers were billed the month's premium at the end of the month. In other words, the Nevada state fund did not have to set aside an unearned premium reserve because premiums were determined ex post (McCahan 1929, 67). Thus, contrary to reformers' rhetoric, simply observing what percentage of premiums were paid out in claims provided very little information about how efficient, profitable, or exploitative private insurance companies were.

Proponents of state insurance presented little evidence to suggest that the state could save dramatic sums of money by reducing the overhead associated with writing workers' compensation insurance. Critics pointed out that it was the insurance industry, and not the state, that had vast experience in setting rates and processing claims and, thus, could offer insurance most cost effectively.[14] While some monopolistic state funds claimed to have had relatively low administrative expenses, they were criticized for poor service. A 1919 study of the Ohio state fund showed that workers had to wait an average of thirty-seven days before receiving their first payment after an accident. A Special Massachusetts Investigating Commission, on the other hand, found that injured workers in that state, which had no state fund, waited an average of nineteen days.[15] E. H. Downey, actuary for the Pennsylvania State Insurance Department, pointed out that "the monopolistic state fund does not have the inducement of competition to keep itself up on its toes."[16] The very fact that the state granted itself a monopoly was prima facie evidence of its inefficiency, according to J. V. Paterson (1913, 15), president of the Seattle Construction and Dry Dock Company: "If the State has a superior insurance scheme it needs no monopoly." In the final analysis, reformers' hopes for translating efficiency gains from state insurance into more generous benefits for workers were largely illusory. As E. H. Downey explained, "The form of insurance has nothing to do with the scale of benefits. That is a matter of compromise between the employer interests and the employee interests, it depends upon the distribution of political power in the state to be perfectly, brutally frank about it."[17]

Opponents of state insurance pointed to the inevitable politicization of not only the bureaucracy administering the law but also the financial aspects of the state fund. Rowe (1912, 12), the Aetna vice president in 1912, cautioned that it would be impossible for a "state insurance administration to be divorced from politics." W. W. Kinnard, chairman of the Massachusetts Industrial Accident Board, warned the Minnesota Workmen's Compensation Commission in 1920 that "[i]f the [monopolistic] Ohio state fund went up Smoke City they would have to call on their legislature."[18] Such fears ring true today as eight of the twenty-two state-sponsored workers' compensation insurance funds are insolvent because political pressure has forced legislators to keep rates below actuarially sound levels.[19]

At the core of the state insurance debate in the early twentieth century was simple private enterprise philosophy. State insurance supporters like Minnesota representative Thomas J. McGrath "recognize[d] no legitimate function that the private insurance carriers perform under a workmen's compensation scheme that cannot be adequately and properly performed by a state department."[20] The opponents of state insurance questioned why the government should step in to provide a service that could just as easily and cost effectively be provided by private parties. They worried that government intervention into insurance would lead to expansions in the state role: "If insurance is a proper field for the State to enter, why is not manufacturing, or merchandising . . . ?"[21] Ludwig O. Solem, a Minnesota state representative from Minneapolis in 1919, mocked his colleagues who believed the state could offer lower workers' compensation premiums than private concerns: "They say that the rate will be less. My meat, grocery and insurance bills and office rent would be less if the State paid part. They say Insurance Companies are unnecessary. Grocerymen would be useless too if the State took over the grocery business. If the State undertakes this where is it going to stop? Where is there any limit?"[22] Clearly the issue of state insurance raised questions about state intervention that went well beyond the issue of economic efficiency.

Several states chose a compromise solution by establishing a state fund while allowing private insurers to compete with the state. The compromise led to disadvantages and advantages for both the state fund and private insurers. Although insurers preferred the compromise to the establishment of a monopoly state fund, they argued that the state fund would have a substantial advantage in the competition. In a number of states, the state fund's administrative costs were covered by the taxpayer and not employers' premiums. Further, if the state fund became insolvent, it had the option of going to the state treasury for a bailout, allowing the state fund to hold smaller reserves and then charge lower rates. Private insurers, on the other hand, had the advantage of not being required to insure all employers. Members of the Ohio Manufacturing Association noted that private insurers could "come in and pick the gilt edge risks, leaving all the hazardous ones to the state . . . and bring about its disorganization and insolvency."[23]

In the final analysis there is no well-established notion of whether the state or private firms were the optimal agents to insure workers' compensation risk. Claims that state funds could cut administrative costs were offset by problems with the possible politicization of rates and the possibility that inadequate reserves might lead to taxpayers' subsidizing the funds. As discussed below, the choices relating to state insurance depended more on the strength of interest groups and political reformers than on any well-established notion of what was the optimal form of insuring workers' compensation risk.

6.2 The Alignment of the Interest Groups

The dispute over the state's insuring workplace accident risk was particularly bitter. Union leaders blamed insurance companies for many of the problems of the negligence system and sought to eliminate them from workers' compensation entirely. Insurers, who favored workers' compensation because it would have enabled them to expand their coverage of workplace accident risk, suddenly found themselves fighting to stay in this market altogether. Employers split over the issue of state insurance. Those that believed they would be adequately insured at lower rates in the state fund, such as lumber and mining interests in Washington, often supported the idea. But for every industry that anticipated favorable premiums from the state fund, there were others that would have paid relatively higher rates to subsidize the lower rates offered to their counterparts in other industries. One of the salient worries that employers faced was that the state might turn its sights onto other enterprises if the state were allowed to supplant private insurers. Minnesota employers, for example, were reluctant to embrace state insurance on these grounds.[24]

Agricultural interests had a great deal of influence over state politics in the early twentieth century and were very successful in their efforts to be exempted from the workers' compensation system. Yet, even after they had been excluded from the law's purview, farmers opposed certain features of the legislation. Farmers may have opposed state insurance, in particular, because they anticipated that taxpayers might be called upon to bail out insolvent state funds.[25]

While competing interest groups shaped the issues and put pressure on legislators to act on their behalf, the political environment in which legislators made their choices clearly influenced whether state insurance was successful or not. State insurance was considered radical by early-twentieth-century standards, and opponents consistently invoked images of creeping socialism. The union leaders and reformers who sought state insurance typically did not have the political clout to determine the outcome of the state insurance debate. To succeed, they often had to form a coalition with political groups seeking far-reaching socioeconomic reforms that transcended labor issues. Thus, the adoption of state insurance often depended on the electoral successes of the major political reform movements of the time, including the progressives within the Democratic and Republican parties between 1911 and 1913 and the populist Non-Partisan League in the midwest in the late 1910s.

We have performed a cross-state statistical analysis of the decision between monopoly state funds, competitive state funds, and private insurance during the years in which the legislatures made their long-range choice. The results, which are discussed in detail in appendix J, support our characterizations of the attitudes of the various interest groups. The probability of adopting a monopoly state fund was substantially lower in states where agriculture employed more of the labor force and insurance companies sold more life insurance per capita. There were also signs that large firms may have opposed state insurance, as the probability of adopting a state fund was somewhat lower in states where a larger percentage of manufacturing workers were employed in operations with more than five hundred workers. Thus, with the right combination of strong unions and weaker than average agricultural and insurance interests, it was possible to obtain the passage of state insurance, even without a political power shift in the legislature. We found statistical evidence that this confluence of events may have occurred in Nevada and Wyoming.

The empirical analysis also shows that progressive reform movements were important to the adoption of state insurance. In states where the legislature experienced a party shift that favored reform in both houses of the legislature, the probability of choosing a state fund jumped markedly. A reform shift in only one house of the legislature was apparently not enough to strongly raise the probability of adopting a state insurance fund, because the legislative house that had not experienced a reform shift could still block the introduction of the legislation. In fact, of the four states in our sample that experienced a power shift in both branches of the legislature, Ohio adopted a monopoly state fund, and Colorado, Idaho, and Utah adopted competitive state funds. Meanwhile, in states where there was more support for Theodore Roosevelt's progressive presidential campaign in 1912 and where there were a broader range of progressive laws, state insurance had a relatively better chance of being enacted.

The statistical analysis, taken as a whole, indicates that the adoption of monopoly state insurance was relatively unlikely. Some states may have adopted it because of an unusual combination of strong unions and relatively weak insurance interests. If the proper combination of narrow economic interest groups did not exist, then monopoly state insurance was unlikely to be enacted unless union leaders melded their demands with the broader socioeconomic agenda of a strong political reform movement.

Because the decision to implement a state insurance fund involved complex coalitions across economic and political groups, an econometric analysis only begins to capture the richness of the battles over monopoly state funds. In the rest of this chapter we offer detailed case studies of the struggles over the state insurance issue in Washington, Ohio, and Minnesota. Studying these three states has shown that the role of political progressives we found in the regression analysis is actually a lower-bound estimate of their influence over the state insurance debate.

In Washington the progressive reform movement that strongly contributed to the adoption of a state fund in that state occurred *within* the dominant Republican party. In the absence of such a reform movement, our regression analysis suggested that it was unlikely that Washington would have adopted a state fund.[26] The debate over state insurance in Ohio was a drawn-out process that took the form of legislation, court fights, referenda, administrative decisions, and subsequent legislation. The power shift to the Democratic party in Ohio clearly played a role in the initial adoption of a monopoly state fund in 1911. The econometric analysis suggests that in the absence of the power shift Ohio would not have adopted the monopoly state fund. Close analysis of the Ohio case, however, reveals that nearly biennial shifts in the political power of the Democratic and Republican parties led to policy swings favoring and harming the monopoly state fund, respectively. Finally, our examination of Minnesota reveals that efforts to enact a state fund did not cease after a state implemented its first workers' compensation law without a state fund. The statistical analysis predicts that Minnesota would not have adopted a monopoly state fund when it enacted workers' compensation in 1913, although it probably would have if Minnesota had experienced a power shift in both legislative houses. Yet the final choice in Minnesota was in doubt for another six years. The populist Non-Partisan League gained enough strength in Minnesota by the late 1910s to bring the monopoly state fund issue to a serious legislative vote, but it never gained a majority in both legislatures and therefore did not ultimately succeed in adopting a state fund. Supporters of state insurance, however, fell one vote short in the Senate. These case studies illustrate how narrow interest groups set the terms of the debate and influenced decisions at various levels of state government, but it was the political strength of progressive reformers that tipped the scales in favor of relatively radical policy reform.

6.3 The Adoption of State Insurance in Washington

Washington lumbermen, mine operators, and labor unions sought ways to streamline the delivery of accident compensation to injured workers by establishing a compulsory state insurance fund for extrahazardous jobs. Dissatisfaction with the negligence liability system in Washington was widespread by 1910. Employers worried about the sharp rise in their liability insurance rates and the increasing number of court suits, as shown in chapter 4. Workers complained of long court delays, shabby treatment by insurance companies, and the low likelihood of winning a court suit. Both sides blamed attorneys and insurance companies for the inefficiency of the negligence system and the large gap between what employers paid in insurance premiums and what workers received.

In July 1910 Governor Marion Hay, like many other governors during that year, designated a commission to investigate the employers' liability system and to prepare a workers' compensation bill. The commission, which was dominated by representatives from the lumber and coal industries, the two industries most dangerous for workers in the state, wrote a bill that would have guaranteed fixed monthly benefits to workers injured in extrahazardous employment. The most controversial features of the bill were two state insurance funds: a fund that would have collected up to four cents per man-day, half from workers and half from employers, to insure medical expenses from industrial accidents (known as the "first-aid fund"); and a fund to compensate workers' lost earnings. The funds were to be state monopolies and contributions were compulsory, while the state was expected to pay the costs of administering the funds. The Washington State Federation of Labor (WSFL) was the strongest supporter of state insurance, unalterably opposing "any bill that permitted casualty insurance to continue as a disturbing factor between employer and employee by the prevention of quick and just settlements of all questions of compensation."[27]

Many groups expressed general support for a workers' compensation bill but opposed specific features of the commission's bill. Insurers supported the general notion of workers' compensation, but opposed the state fund bill because it "gives absolutely no alternative to the employer or the employee whether they shall insure with the state or an insurance company." The Washington insurers rallied support for their position through the Chamber of Commerce but were relatively inactive compared to the opposition to state insurance in other states in later years. The insurers themselves claimed that "not one liability insurance company has raised a hand to defeat this bill. The liability companies held a meeting in New York and agreed to permit Washington to be the 'dog' on whom the medicine should be tried, and they argued that this would be a lesson to other states who contemplated crazy legislation."[28]

Manufacturers who opposed the commission's bill complained that the state fund's insurance rates were not adequately experience rated. Aware of the dominance of coal and lumber representatives on the commission, other manufacturers believed that the proposed state fund insurance rates would force them to bear a disproportionate share of the coal and lumber industries' accident costs.[29] The commission bill set up funds for thirty-one separate industries, but opponents of the bill worried that the fund in one industry could be tapped to pay for accidents in other industries. The House Committee on Labor and Labor Statistics was able to eliminate much of this objection by adding an amendment to create forty-seven separate funds such that "no class shall be liable for the depletion of the accident fund from accidents happening in any other fund."[30]

Many lumbermen, led by Speaker of the House Howard Taylor, opposed the first-aid fund on the grounds that they were already providing adequate medical care at their mills. Others opposed the first-aid fund as a source of patronage, as an opportunity to build "the greatest political machine ever constructed under the sun. All this money is to be expended by appointees of one man who will build $2.5 million worth of hospitals and employ thousands of men and women to keep them going."[31]

The House fought the battle over the first-aid fund, while the Senate later fought over the state fund to replace lost earnings. The labor committee in the House, chaired by Guvnor Teats, a leading personal injury attorney who helped draft the commission bill, pushed for passage of the amended state insurance bill. Antiprogressives fought to amend the bill to eliminate the first-aid clause and the initial vote ended in a tie of forty votes to forty votes, with sixteen absentees. Speaker Howard Taylor, who opposed the first-aid fund, then directed that all members of the House be found and a vote taken to reconsider the amendment. After ten more members were located, the House voted sixty-four to twenty-six to reconsider the earlier vote, and then proceeded to eliminate the first-aid fund by a vote of fifty-five to thirty-five. The House then passed workers' compensation with the compulsory state insurance provision, but without the first-aid fund, by a vote of sixty-nine to twenty-four.[32]

The House state insurance bill, stripped of the first-aid fund, faced stiff competition in the Senate from a workers' compensation bill without state insurance. Senator Ralph Metcalf, chair of the Senate Labor Committee, proposed the alternative bill on the grounds that compulsory state insurance was likely to be ruled unconstitutional because a New York court had struck down a compulsory workers' compensation law for extrahazardous employment in that state. The New York law, however, did not involve compulsory state insurance.[33]

With the House threatening to kill all Senate bills if state insurance did not pass, the showdown came in a roll-call vote on whether to replace the House's state insurance bill with the Metcalf alternative.[34] The Metcalf proposal lost eighteen to twenty-two. Opponents of state insurance failed again when they tried to reduce support for the final bill by saddling it with the first-aid clause that the House had already rejected and with high salaries for the commissioners who would administer the new workers' compensation system. The House's bill prevailed in the Senate thirty votes to ten.

The various interests clearly framed the debates on the first-aid fund and the state insurance fund. The political climate in the legislature, however, may have been the decisive factor that led to the adoption of the state insurance fund. The 1911 Republican legislature was one of the most reform-minded in Washington's history.[35] Workers' compensation was just one platform of the progressive reformers' agenda, as the legislature also ratified the federal income tax, passed women's-hours legislation, and expanded voter participation in government by establishing the initiative, referenda, and recall processes and judicial nominations by primary. An econometric analysis of the various roll-call votes concerning the first-aid fund in the House and the state insurance fund in the Senate confirms that the impact of interest group politics on the voting was overwhelmed by the activities of progressive reformers with a broader agenda than just workers' compensation (see Fishback and Kantor 1996, 819–24). The predominant influence in all the votes was the legislator's voting record on other progressive legislation. Progressives strongly supported both the first-aid fund in the House and the state insurance fund in the Senate. Thus, without the strong progressive reform movement within the Republican party in the 1911 legislature, state insurance probably would not have been enacted.

6.4 The Extended Fight over Monopoly State Insurance in Ohio

The development of the state fund in Ohio differed from the experience in Washington in that Ohio's struggle over state insurance was extended over a number of years after enactment of workers' compensation. When workers' compensation was first adopted in Ohio in 1911, state insurance was packaged as part of the overall legislation. Once the state fund was established, however, insurers and organized labor fought several contentious battles over the issue. Ohio resembled Washington in one major way, however: who won the battle over state insurance was largely determined by changing political coalitions in state government.

As part of a political compromise to pass the Norris Act in 1910, which sharply limited employers' defenses against negligence suits, the Ohio legislature charged the Employers' Liability Commission (ELC) with the responsibility of proposing a workers' compensation bill. The ELC consisted of five members: two labor representatives who followed the Ohio State Federation of Labor's (OSFL) lead in supporting monopoly state insurance; two employers' representatives who made no mention of the issue in their published statements; and Chairman J. Harrington Boyd whose public statements imply that he accepted the OSFL's argument for a monopoly state fund.[36]

Whether it was the commission's agenda-setting or the insurance companies' lack of interest, only one insurance executive testified before the ELC.[37] Without additional testimony to sway their prior beliefs, the commission proposed two workers' compensation bills, both requiring employers to insure their accident risks through the state. The Democrats captured a majority of both chambers of the 1911 legislature, and progressives from both parties held 47 percent of the House seats and 32 percent of the Senate seats. Given this political environment, the ELC's relatively radical plan for state insurance passed without serious controversy.[38] Although employers were required to insure through the state fund, as a compromise the law made employers' participation in the workers' compensation system voluntary. Those employers who opted out, however, waived their right to invoke any of the three common law defenses—assumption of risk, fellow servant, and contributory negligence—in a negligence suit.

The insurance companies tested the new state insurance system at every turn over the next several years. They initially attacked the new state fund on the grounds that the law was unconstitutional. After the Ohio Supreme Court validated the law in January 1912, insurers attempted to cast aspersion on the state fund's ability to protect employers against situations in which injured workers filed lawsuits claiming that their accidents were caused by an employer's willful act or disregard of a safety law.[39] The insurers claimed that such suits were increasingly likely because the courts were failing to draw a clear distinction between a negligent and willful act. The Ohio State Board of Liability Awards (the state fund administrator) responded with a pamphlet that reassured employers that the workers' compensation law was constitutional and gave full protection, that the distinction between willful acts and negligence was clear, and that the attorney general had ruled that private insurers could not sell liability insurance to indemnify employers against willful acts.[40]

The OSFL, the Board of Liability, and progressive leaders worried that because of the confusion regarding the state fund's insurance of some risks, many employers elected not to participate in the workers' compensation system.[41] At the 1912 Ohio Constitutional Convention, therefore, they proposed a constitutional amendment that would strengthen the monopoly state fund by allowing the legislature to make workers' compensation coverage compulsory. After almost no floor debate the proposal passed the convention unanimously. Despite the public opposition of the Ohio Board of Commerce and many manufacturers, Ohio voters approved the workers' compensation amendment in the November 1912 election, 60 to 40 percent.[42] An econometric analysis of the referendum results suggests that progressive reformers strongly supported the amendment. Voters who supported Roosevelt's progressive presidential run were more likely to support the amendment. Voters in areas with a higher percentage of immigrants also supported the measure. The amendment received strong opposition in agricultural areas, although the vote against workers' compensation may have just been part of a general opposition to amending the Ohio Constitution. Agricultural areas voted against nearly all the constitutional amendments that year.[43]

With a larger Democratic majority and a true progressive governor in James Cox, the 1913 legislature was fertile ground for enacting the compulsory law allowed by the constitutional amendment.[44] As a compromise to employers, however, the compulsory bill was crafted to allow employers to self-insure their workers' compensation risks. Thus, while workers' compensation coverage was compulsory in Ohio, employers now had only two options for insuring their risk—the state fund or self-insurance. A labor-sponsored amendment in the Senate sought to prohibit employers from maintaining mutual benefit associations with other employers in lieu of their participation in the state fund. The amendment lost nineteen to thirteen, leaving open the possibility that insurance companies could sell reinsurance to self-insuring employers, thus allowing them some access to insuring workers' compensation risk. The compulsory bill then passed both houses unanimously.[45]

During the summer of 1913 the insurance companies unsuccessfully tried to use the newly created initiative and referendum process to repeal the compulsory workers' compensation law. After the strategy failed, the insurance companies then focused their efforts on the 1914 governor's race, supporting Republican Frank Willis. Governor Cox proudly stated to the OSFL that he would continue his policy of preventing liability insurers from writing workers' compensation insurance. Willis, on the other hand, sought support from the OSFL by stating his desire to raise benefit levels.[46]

Willis defeated Cox in the 1914 election and conservative Republicans reclaimed both legislative chambers, while the number of labor representatives fell to its lowest in years. Seizing their chance, the insurers had House Bill No. 1 introduced, which would have allowed private insurers to compete with the state fund in the writing of workers' compensation insurance. Opponents argued, however, that private insurers would "pick the gilt edge risks, leaving all the hazardous ones to the . . . Fund . . . and bring about its . . . insolvency."[47] The bill was sent to the Labor Committee which recommended that it be indefinitely postponed, to which the whole House agreed by a vote of seventy-five to twenty-five.[48]

The insurers also failed in their attempt to have the workers' compensation law amended to allow injured workers to sue under the common law without affecting their claims under the compensation law. Insurers hoped that once the amendment passed they could obtain authority to write insurance against that liability. The goal was to offer workers more benefits in hopes of obtaining their support so that the state insurance idea could ultimately be undermined. Both the OMA and the OSFL excoriated these proposals to their membership, and the amendment failed.[49]

The insurance industry then tried to obtain an administrative ruling on their behalf, asking the Industrial Commission to modify its rules to allow the industry to sell workers' compensation insurance. The request was denied and the insurers finally turned to newly appointed Republican insurance commissioner Frank Taggert for a license to sell mutual insurance to employers who chose to self-insure their workers' compensation risks. Taggert granted the license and also gave the private insurers an advantage over the state fund by allowing them to sell insurance against common law suits in which workers claimed that their employers' willful act or failure to honor safety laws had caused their accidents.[50]

The OSFL battled back by aiding Attorney General Edward Turner in filing suit in the Ohio Supreme Court against over twenty insurers. While the court deliberated, the state fund again became an issue in the gubernatorial race of 1916. In a rematch of the 1914 race, James Cox announced his support for a labor union petition to expel private insurance from workers' compensation altogether. The court then handed down its final decision on 31 January 1917, holding that employers had the right to self-insure and that insurance companies could reinsure self-insuring employers.[51]

Although the OSFL was dissatisfied with the court decision, the 1916 election results largely made the debate over private insurance in Ohio moot. Cox returned as governor, the Democrats recaptured both houses, sixteen OSFL members held seats in the legislature, and gone were "quite a few senators and representatives who had tried to impair the Workers' Compensation law in the interests of the liability insurance companies." The OSFL introduced House Bill No. 1, which would have outlawed the private insurance of workers' compensation risks. The bill sailed through the House by a vote of 118 to 2, the Senate 28 to 2, and was quickly signed into law by Governor Cox on 19 February 1917. The insurance companies issued yet another court challenge on the grounds that the new law canceled contracts, but the Ohio Supreme Court sustained the new law.[52]

The Ohio case demonstrates how the relative success of the competing economic interests depended on the structural political changes that were occurring at the state level in the 1910s. Unions, employers, and insurance companies framed the debate over state insurance by establishing the menu of choices available to legislators. Throughout the short period during which state insurance was debated in Ohio, the relative strength of the various interest groups changed very little, but substantial changes in public policy occurred. The key factor that produced these changes was the undulating political power of the progressive coalition that favored state insurance. Progressive Democrats established the state fund and continued to strengthen it, but when conservative Republicans recaptured the majority, the door was opened for private insurance. Finally, when progressive Democrats returned to power in 1917, they slammed the door shut on private insurance.

6.5 Minnesota's Failed Attempt at State Insurance

Minnesota failed to enact compulsory state insurance by one Senate vote in 1919. The Minnesota State Federation of Labor (MnSFL) lobbied strongly for state insurance in 1913, when workers' compensation was first adopted, and throughout the 1910s. They had little success until 1918 when reformers from the Non-Partisan League seriously threatened the dominant Republican party. Although the Non-Partisans did not capture a majority in either chamber, they wielded enough political strength to pass a weak state insurance bill in the House, and they barely failed in the Senate.

The Minnesota Employers' Association (MEA) and the MnSFL agreed to a compromise workers' compensation bill without state insurance in 1913, but the MnSFL stood firm in its belief that "no satisfactory solution to the question of workingmen's compensation can be had except through the medium of state insurance."[53] A bill to amend the state constitution to allow for state insurance died in the 1913 legislature, as insurance companies and employers lobbied against it. But George Gillette, president of the MEA, issued an ultimatum to the insurance industry: if workers or employers complained about bad treatment or high premiums, then "not only . . . will Minnesota have state insurance, but it ought to have it."[54] Gillette's rhetoric, combined with organized labor's insistence on state insurance and Ohio's and Washington's recent enactment of monopoly insurance funds, posed a serious threat to insurance companies and independent agents operating in Minnesota. Accordingly, in September 1914, a "few stalwart insurance men" met in Minneapolis to form the Insurance Federation of Minnesota (IFM) to act as the industry's lobbying group against state workers' compensation insurance and other state intrusions into the insurance industry.[55]

State insurance supporters won a significant victory in the 1917 legislature when the Senate's Employers' Liability Committee recommended passage of a state insurance bill. However, the committee suggested that the bill be referred back to the Judiciary Committee for a report on its constitutionality. After the Senate successfully voted to recall the bill from Judiciary, the committee reported that the law would have been constitutional, but the bill nonetheless lost forty-two to twenty-one.[56] The House did not consider the bill after the Senate defeat.

As the IFM presciently advised its members at the close of the 1917 legislative session, "the fight against state insurance in Minnesota has really just begun." Secretary E. A. Sherman admitted that he did not know "[w]hat new influences they [MSFL] will bring to bear in later contests . . . but I mention for your earnest consideration—the Non-Partisan League."[57] Perhaps the most important influence that organized labor brought to the 1919 legislative session was their numbers. Between 1918 and 1920 union ranks soared 75 percent, from fifty-one thousand members to over eighty-nine thousand.[58] But certainly the most threatening political force in the state, from the IFM's perspective, was the emergence of the Non-Partisan League.

The first plank of the League's labor platform was the implementation of a state monopoly on the writing of workers' compensation insurance. Although the Non-Partisan League failed to win the governor's seat in 1918, it was quite successful in building a coalition that altered the balance of political power in Minnesota, pitting a newly formed coalition of grain farmers, organized union members, and radical progressives against the Republican party. Although the Non-Partisans were able to secure twenty-four seats in the House and eight in the Senate, hardly a majority in either chamber, the animosity generated in the 1918 elections was carried into the 1919 legislative session. As Carl Chrislock noted, the Republicans' "compulsion 'to beat' the Nonpartisan League dominated the legislature of that year [1919]."[59] State-run workers' compensation insurance proved to be one of the battlegrounds.

Organized labor described its struggle for state insurance in 1919 as "one of the hottest fights ever waged in the state legislature."[60] The IFM called their fight to suppress the legislation "the most closely fought legislative contest Minnesota has ever known."[61] After four hours of floor debate in the House, during which time an amendment was passed to allow nonprofit mutual companies or interinsurance exchanges to compete with the state fund, a bill creating a state insurance fund won by a comfortable seventy-eight to forty-eight margin.[62] An econometric analysis of the roll-call vote on this issue suggests that a coalition combining the efforts of organized labor and the Non-Partisan League were key supporters of state insurance (see Fishback and Kantor 1996, 828–33). Representative Asher Howard, who opposed state insurance in the 1917 legislature but supported it in 1919, captured the feeling that many legislators no doubt shared: "If you want to prevent the seats of this House from being filled by Socialists and Nonpartisans you have got to play fair with the workingmen and the farmers."[63]

The House's state insurance bill moved to the Senate, where the "legislative contest was very intense and the feeling engendered was extremely bitter."[64] The Senate Committee on Workmen's Compensation, by majority report, substituted the House's bill for the Senate's and recommended passage. Three senators, however, offered a minority report that would have allowed private insurance subject to regulation by a workers' compensation board.[65] The Senate rejected the minority report by a vote of thirty-one to thirty-five. The majority report—to substitute the House's state insurance bill for a Senate state insurance bill—failed passage when the vote deadlocked at thirty-three.

The House bill came up for direct consideration the next day. Senator

Charles R. Fowler, a lawyer sympathetic to the insurance interests, introduced an amendment allowing employers to insure their workers' compensation risks with licensed, for-profit insurers.[66] The Fowler amendment passed thirty-four to thirty-two. The amended bill was unsatisfactory to organized labor because the primary reason for allowing the state to dominate the writing of workers' compensation insurance was the belief that the state insurance could be offered at lower cost than private insurance. At the urging of the MnSFL, the amended bill was defeated by a vote of nine to fifty-seven.[67]

Empirical analysis of the major votes on state insurance in the Senate revealed no statistically significant patterns, which might be attributable to the substantial logrolling within the 1919 Senate. The IFM suggested that state insurance "was made a political issue, and the interests of the insurance men were used as trading stock for political expediency, or to secure votes in favor of or against other measures pending in the legislature."[68] Labor claimed that a "two percent beer bill was used as a club" against them in the Senate.[69] Further, Asher (1973, 29–30) suggests that there was a logroll between Republicans who wanted an iron ore tax killed and legislators who wanted state insurance.

The debate over state insurance in Minnesota continued as interim committees from both chambers investigated workers' compensation and state insurance in 1920. The stated objective of the committees was to make the workers' compensation system more responsive to injured workers and to lower employers' insurance costs. After an exhaustive investigation in which the committees heard from the MnSFL, MEA, IFM, and workers' compensation officials in ten other states, the majority of each committee concluded that their objectives could best be achieved by encouraging competition in the field of workers' compensation insurance and by regulating insurance rates. A minority in each committee continued to propose state insurance as the solution, but the weakening strength of the Non-Partisan League led to the demise of monopoly state insurance in Minnesota.[70] The 1921 legislature overwhelmingly followed the committees' majority opinion to raise benefits, allow competition among mutual and stock companies, and establish an industrial commission to administer the system and regulate insurers.[71] Thus, while the 1921 legislators were willing to augment the state's regulation of private industry, they stopped short of substituting public for private enterprise. Had the Non-Partisan League been as strong as the progressives in Ohio and Washington in earlier years, Minnesota would have enacted state insurance in 1919.

6.6 Summary

Union leaders pushed strongly for state insurance of workers' compensation risk while insurance companies just as strongly opposed it, and agricultural interests (and other taxpayers) worried about the possibility of paying higher taxes if the state fund was actuarially unsound. In the majority of states the countervailing political influences of these groups were enough to keep most states from establishing monopoly state funds. In ten states, however, a compromise position was reached in which private insurers competed with a state insurance fund. The extreme position of establishing a monopoly state fund occurred in only seven states. In some states an unusual combination of strong organized labor and weak agricultural and insurance interests led to the adoption of monopoly state insurance. In others, however, organized labor only succeeded because a progressive political reform group with a broader social and political agenda came to power and aided in adopting a state fund. Moreover, the political reformers in some states not only garnered support from organized labor but also co-opted agricultural interests, who at times chose to support state insurance as part of the broader political agenda proposed by the reformers.

The adoption of state insurance of workers' compensation risk contrasted sharply with the enactment of workers' compensation legislation generally. Because employers, workers, and insurers saw that they could gain from the adoption of the legislation, workers' compensation was enacted relatively quickly in the 1910s. Because of this broad support from the major economic interests groups with a stake in workers' compensation, the progressive movement in the early twentieth century actually played a smaller, more indirect role in the law's overall adoption than it did in the enactment of state insurance. State insurance was so controversial, polarizing the same groups that came together to support workers' compensation generally, that progressive politics often played a pivotal role in the state insurance decision by forging a coalition with organized labor and neutralizing farmers' traditional opposition.

Our quantitative and case-study analyses suggest that in order to properly explain the growth of government, both narrow economic interests and broad-based political coalitions must be considered carefully. Whereas some scholars of political economy have argued that one or the other explanation is sufficient to explain why public policy is enacted, we find that both are important and that both forces sometimes interact in complex ways. Examining the adoption of monopoly state insurance across the United States clearly shows that narrow economic interests and broad political coalitions played significant, but sometimes unequal, roles. The importance we attribute to either explanation will always depend on the specific case under consideration.

Notes

1. For example, the federal government collects the premiums and acts as the single payer for Unemployment Insurance, Social Security, Medicare, and Medicaid. Alternatively, reformers have proposed that the government mandate the benefits and allow private insurers to underwrite the insurance required to deliver them.

2. The monopoly state funds were established in Ohio (1911), Washington (1911), Nevada (1913), Oregon (1913), West Virginia (1913), Wyoming (1915), and North Dakota (1919). The competitive state funds were established when workers' compensation laws were initially adopted in Michigan (1912), Maryland (1914), Colorado (1915), Pennsylvania (1915), Montana (1915), Idaho (1917), and Utah (1917). New York (1913), California (1913), and Arizona (1925) established competitive state funds when amending or replacing workers' compensation laws that had been passed earlier.

3. See the letter dated 9 February 1910 from the Northern Lumber Company to William McEwen, in the Minnesota Department of Labor and Industries, Insurance Compensation Correspondence.

4. Vorys (1914, 9).

5. Rowe (1912, 2).

6. Washington Insurance Commissioner (1902, 47, 60; 1904, 25, 38; 1906, 32, 47; 1908, 30, 44; 1909, 27, 31; 1910, 28; 1911, 41).

7. Letter dated 23 April 1919 from Gillette to Minnesota's liability insurance companies in Minnesota Employers' Association (MEA) *Minute Book* (vol. 1).

8. These data represent losses to premiums for the years 1915 and 1916, respectively. See Minnesota Commissioner of Insurance (1917, 180–81).

9. The loss ratio in 1926 was 0.607 and 0.603 in 1927. See Minnesota Commissioner of Insurance (1927, 93; 1928, 85).

10. Minnesota Commissioner of Insurance (1928, 20).

11. Minnesota Commissioner of Insurance (1920, 184, 194–95).

12. Minnesota Department of Labor and Industries, Workmen's Compensation Commission Hearings (hereafter "Hearings").

13. Chancellor (1919, 8).

14. See, for instance, Rowe (1912, 12). In testimony before the Joint Committees of the Minnesota Legislature on the State Fund Plan of Workman's Compensation, Thomas J. Duffy, chairman of the Industrial Commission of Ohio, admitted quite candidly to what opponents of state insurance feared would happen if inexperienced bureaucrats took over an industry that set its prices based on scientific methods: "In making our first schedule of rates we simply guessed at it. We put down a dollar for this and a dollar and a quarter for that, and fifty cents here and twenty cents there, and we didn't know whether we were anywhere near the correct amount or not" (Minnesota State Federation of Labor [MnSFL] 1919, 5).

15. See McCahan (1929, 56). The waiting period (the amount of time out-of-work before compensation commenced) in Ohio in 1919 was seven days and it was ten days in Massachusetts. See also Driggers's (1913, 15) claim that the Washington state insurance fund was woefully understaffed to handle the influx of workers' compensation claims.

16. Comments of E. H. Downey, actuary of the Pennsylvania State Insurance Department, in "Hearings," 24 February 1920 file, pp. 2–3.

17. Ibid.

18. Comments of W. W. Kennard in "Hearings," 7–8 April 1920 file, p. 26. While state funds incurred no losses up to 1934, Dodd's (1936, 551–52) descriptions of

state funds suggest that voters had reason to worry that tax revenues would be tapped to support bankrupt state insurance funds. Washington and West Virginia, for example, sometimes found it necessary to make loss payments in warrants rather than in cash. Many funds were not on a safe actuarial basis, and deficits developed in funds for a number of industries. Dodd (1936, 552) claimed that no injured employee would be denied benefits from a state fund because "if a state fund . . . were unable to meet its obligations, the interested groups in the community would almost certainly have sufficient political strength to obtain payment from the public treasury."

19. *Wall Street Journal,* 24 July 1992, A3B.

20. McGrath offered the minority opinion of the Minnesota House of Representatives Special Interim Committee (1921, p. 1846).

21. Rowe (1912, 16).

22. *Minneapolis Labor Review,* 14 March 1919.

23. Minutes of Executive Committee Meeting, 15 July 1916, Ohio Manufacturers' Association *Records,* pp. 8–9. See also Mengert (1920, 31).

24. See MEA, *Minute Book,* 2 August 1912.

25. See Kantor and Fishback (1994a) for a discussion of farmers' rejection of state insurance in Missouri during the 1920s.

26. In fact, the measures of political power shifts in our econometric analysis miss the reform movement in Washington. As shown in appendix J, without the power shift, the analysis predicts that Washington probably would not have adopted a monopoly state fund. Once the power shift that took place within the Republican party is incorporated into the calculations, Washington's predicted probability of adopting a monopoly state fund rises to a nearly 93.7 percent probability.

27. *Seattle Union Record,* 4 March 1911.

28. *Seattle Daily Times,* 7 and 31 January 1911.

29. See *Argus,* 18 February 1911, and *Seattle Daily Times,* 17 January 1911, 13 February 1911, and 7 March 1911.

30. Washington Industrial Insurance Department (1912, 23) and Washington House of Representatives *Journal* (1911, 438–43). The amendment went a long way toward solving the experience-rating problem across industries, but it did not eliminate worries within industries that safer employers would be forced to pay higher rates to subsidize unsafe competitors. The problem arose soon after the state fund was established when a small powder mill exploded, killing six girls, and the state fund fought with Dupont over whether Dupont should contribute the bulk of the funds to compensate a competitor's accident victims. See Paterson (1913, 9–10).

31. *Seattle Daily Times,* 2 February 1911. See also Pacific Coast Lumber Manufacturers' Association (1911, 4).

32. Washington House of Representatives *Journal* (1911, 443–50, 459–60); Washington Industrial Insurance Department (1912, 19–25); *Seattle Daily Times,* 22 February 1911; *Seattle Post-Intelligencer,* 22 February 1911; *Seattle Union Record,* 25 February 1911; *Argus,* 25 February 1911; and Tripp (1976, 544).

33. The Washington Supreme Court later took a position diametrically opposed to the one of the New York court when it declared the Washington compulsory state insurance law constitutional. See *Seattle Daily Times,* 7 March 1911, and Tripp (1976, 72–73).

34. *Seattle Union Record,* 4 March 1911; *Seattle Daily Times,* 3 March 1911 and 7 March 1911; and *Seattle Post-Intelligencer,* 4 March 1911.

35. The Progressive Movement developed a strong following within the Republican party. See Schwantes (1979, 193–99) and Kerr (1963, 1–10).

36. For the OSFL's position, see the testimony of Voll and McNamee, Ohio Employers' Liability Commission (1911, vol. 2, 414, 417). For Boyd's views, see Ohio Employers' Liability Commission (1911, vols. 1 and 2); *Ohio Journal of Commerce,* 15 October 1910, 246–48; and Ohio State Board of Commerce (1910, 214–55).

37. Aetna executive W. G. Wilson fully endorsed the concept of workers' compensation with the employer paying the premiums and the state regulating the insurance industry. He challenged Boyd's depiction of insurance costs as including all liability premiums for every type of accident. The average employers' liability loss payments were between 50 and 60 percent of the premiums. Nor did Boyd mention that the insurance company expenses included inspection departments, which played a major role in thwarting accidents. Wilson claimed that the cost of selling liability insurance was lower than any other form of insurance and that the administrative overhead of workers' compensation would be about 16 to 17 percent. Finally, he attacked the general notion that the government should be involved in the insurance industry: "Why not suggest the State forming a fund to protect this small manufacturers' property in case of its loss by fire, or to protect against the calamity of the death of the employer and, if we may do these things, why may not the State enter the coal mines and bring forth the fuel to warm the people and engage in the manufacturing of clothing and the raising of crops to feed them? This subject of workmen's compensation is so attractive in itself, that it may very easily and subtly lead us upon dangerous ground" Ohio Employers' Liability Commission (1911, pt. 2, 204–11).

38. Warner (1964, 266–75, 282–83).

39. Ibid. (336).

40. Ohio State Board of Liability Awards (1912). See also the speech by Thomas J. Duffy, head of the Board, in Ohio State Federation of Labor (1913a, 101–2).

41. See Ohio State Federation of Labor (1912, 16) and Ohio Manufacturers' Association *Records,* Secretary's Report, 19 November 1912.

42. See Ohio State Federation of Labor (1912, 16, 22); Ohio Manufacturers' Association *Records,* Secretary's Report, 19 November 1912; Mengert (1920, 15); and Foote (1912, 42–43).

43. Warner (1964, 341) argues that nearly all of the referenda issues received strong support from the urban areas and counties closest to them. However, when we include urban areas in the voting analysis, the impact is small and statistically insignificant, while the remaining variables stay strong.

44. The Democratic majority in the Senate was twenty-six to seven and the House majority was eighty-seven to thirty-six. See Warner (1964, 386–87).

45. Mengert (1920, 20).

46. Ibid. (23–24), Warner (1964, 393–94), and Ohio State Federation of Labor (1915a, 25–27).

47. Ohio Manufacturers' Association *Records,* Minutes of Executive Committee Meeting, 15 July 1916. See also Mengert (1920, 31).

48. Ohio State Federation of Labor (1915b, 7) and Donnelly (1915, 42).

49. Ohio Manufacturers' Association *Records,* Secretary's Report, 28 April 1914.

50. Ohio State Federation of Labor (1915a, 18) and Mengert (1920, 29).

51. Mengert (1920, 32–34).

52. Ohio State Federation of Labor (1917, 1–10) and Mengert (1920, 34–36).

53. MnSFL (1913, 68). See also *Labor World,* 2 February 1913 and 7 June 1913.

54. Letter dated 23 April 1919 from Gillette to Minnesota's liability insurance companies in MEA, *Minute Book.*

55. The Insurance Federation of America was formed in 1911, in response to the adoption of the state fund in Ohio, to ensure that workers' compensation laws allowed for private insurance. See Insurance Federation of Minnesota (IFM) (1989, 1).

56. Minnesota Senate *Journal,* (1917, 766–70, 957, 1091–92).

57. IFM, Report of the Secretary (1917, 6–7).

58. Minnesota Department of Labor and Industries (MDLI) (1917–1918, 167; 1919–1920, 172).

59. Chrislock (1971, 185), quoting from the *Minnesota Mascot,* 18 April 1919.

60. *Labor World,* 5 April 1919.

61. IFM, Report of the Secretary (1919, 42).

62. *Minneapolis Labor Review,* 14 March 1919.

63. Ibid. Howard was understood to represent the interests of the Chamber of Commerce.

64. Lawson (1955, 353).

65. Minnesota Senate *Journal* (1919, 972–75).

66. *Labor World,* 15 April 1911, and Minnesota Senate *Journal* (1919, 1147–48).

67. Lawson (1955, 353), and Minnesota Senate *Journal* (1919, 1148–49).

68. IFM, Report of the Secretary (1919, 45).

69. *Labor World,* 12 April 1919.

70. Asher (1973, 39–40).

71. Minnesota Senate, Interim Commission (1921, 10) and Minnesota House of Representatives, Special Interim Committee (1921).