



SOCIETY OF ACTUARIES

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## EXPRESSIONS OF OPINION BY THE SOCIETY OF ACTUARIES

by Preston C. Bassett

The right of the Society to publicly express a professional opinion and the procedures to be followed are governed by Article X of the Society's Constitution (Year Book, p. 327). Such opinions are restricted to "matters within the special professional competence of actuaries."

Several actuaries believe that the brief filed with the Supreme Court in connection with the Manhart case, was an expression of opinion of the Society of Actuaries and, therefore, the conditions of Article X should have been followed. The position of the Board of the Society of Actuaries was that the brief was not an expression of opinion, but rather a statement of facts which they believed to be important for the Supreme Court to be aware of before rendering a decision. (See "The Actuary" of May 1978).

As a result of the contrary feeling on the part of several actuaries, the Board asked that a subcommittee of the Board review Article X and report on whether Article X should be changed, modified, or left as is. The charge to the subcommittee was, regardless of the Manhart case, to review Article X to see that it properly expressed the conditions under which opinions should be presented.

Article X was adopted several years ago only after considerable discussion and a trial period, because many members of the Society felt that it would be possible for a small group to express an opinion which could be contrary to the wishes of other members of the Society. Those interested in the discussion of this topic should read the minutes of the Annual Meeting in 1966 (TSA XVIII D 691). At that time the Society could not express an opinion on any matters. The first attempt to change this provision was narrowly defeated and further study was given to the topic.

In 1970, the current provision of Article X was adopted on a temporary basis to be automatically cancelled after four years. This was to provide a trial period during which the members could determine the usefulness of expressing opinions. During the trial period, the Article was used only once or twice. Then, in 1974, at the expiration of the temporary period, Article X was adopted as a permanent provision of the Constitution.

At the last meetings of Executive Committee of the Board and the full Board various aspects of Article X were discussed

at considerable length. They considered whether or not the Society should ever express an opinion on any topic. Since the American Academy of Actuaries is the principal body for representing the profession to the public, this function might be unnecessary for the Society, but rather left entirely in the hands of the Academy. However, most of the members of the Board felt that, since the Society is the basic educational and research organization, it should on its own at appropriate times express opinions in accordance with Article X. The Board emphasized that it should be restricted to matters "within the special professional competence of actuaries." There was also considerable discussion as to what might constitute an opinion and what might constitute a fact. The responsibility for this determination would be left with the Board. In doubtful cases the presumption would be that it would be an opinion unless the Board ruled otherwise. As a result of these extensive discussions, the Board adopted the following resolutions:

"RESOLVE, that the Board of Governors of the Society of Actuaries following a careful review of Article X of the Constitution believes that no changes are necessary in the wording of this article."

The Board did not stop there, however, but went on and adopted the next resolution:

"RESOLVE, that the Board approves the following statement of the communication to the membership of the Society:

The Board has carefully considered the comments of those challenging the Board's actions on the Manhart case and believes that the Board's actions were based on an intention to express facts rather than opinion and hence were proper in the context of Article X of the Constitution. The Board further believes that the statements in the brief were substantially factual. As a result of the questions raised regarding the handling of the Manhart matter, the Board and the Executive Committee have carefully reviewed Article X of the Constitution and believe that it is adequate for instances where the Society, the Board, or its committees have occasion to express opinions on matters within the special professional competence of actuaries". □

## THE MANHART CASE

by A. C. Webster

The response to the May editorial inviting comments on the Manhart case was small in number but nonetheless interesting. Four of the writers apparently agreed wholly with the dissidents. Of the others, about one half were inclined to agree that the brief represented an expression of opinion but were not, on that account, highly critical of the Board's action. Several of the writers thought that the Board might well have used the procedure in the second paragraph of Article X rather than the procedure mentioned in the first paragraph.

Space does not permit printing the complete letters, and the following is a synopsis (in alphabetical order). I trust

that the writers will excuse the editor for his severe use of the blue pencil.

*Clyde D. Beers*—is in complete agreement with Messrs. Daskais and Anderson. "Many would rather fight different battles than perpetuating sex distinctions in pension benefits".

*George Cherlun*—points out that there would be no controversy had the Society followed paragraph 2 of Article X which "would have been equally as instructive for the Supreme Court".

*Raymond E. Cole*—suggests that because of the difficulty in distinguishing between fact and opinion, Article X might be interpreted as applying not only to briefs but to all public pronouncements of the Society.

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