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The Language of Lives

Jill Anderson
University of Connecticut School of Law

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BOOK REVIEW: THE LANGUAGE OF LIVES

Jill C. Anderson*

For outsiders, perhaps it is the historian's relationship to the particular that epitomizes the discipline and frames our expectations as readers. To mine boundless archival sources for shards of a story, and to fashion those odd individual shapes into a coherent one among many possible narratives -- this speaks to an intellectual calm beyond the reach of most of us. Delivering on this expectation, Timothy Alborn's *Regulated Lives: Life Insurance and British Society, 1800-1912* tells a story of a little-understood institution's path into modernity, assembled of well-chosen detail on a foundation of comprehensive research.¹ Importantly, Alborn's excavation of Victorian life insurance fills gaps in business history. But its most surprising feature, one that readers glimpse just a few pages into the book, is the sweep of its conceptual departure point: the meaning of life. And not just one meaning, but four distinct conceptualizations of modern life -- as he terms them: the sympathetic, the numbered, the medicalized, and the commodified life² -- that Alborn argues evolved during the Victorian era and are uniquely merged in the institution of life insurance.³

A preliminary project of Alborn's book is to name and strain out these life-dimensions, in something like the way a prism takes in white light and separates it into a spectrum.⁴ He then shows how those bands came to be braided together, each one developing alongside and in tension with the others as they shaped Victorian life insurance and in turn were

* Visiting Professor of Law, University of Connecticut School of Law. I am grateful to the University of Connecticut's Insurance Law Center and Pat McCoy in particular for the opportunity to share perspectives on *Regulated Lives* with Sharon Murphy, Geoff Clark, and Tom Baker, with Peter Kochenburger moderating the discussion with his usual expertise and generosity. I owe much to Susan Schmeiser for teaching me how to read more smartly and sensitively. Finally, many thanks are due Tim Alborn for giving us this important, lovingly crafted book to convene around and celebrate.

² Id. at 7.
³ Id. at 7-13.
⁴ This metaphor is borrowed from the author, who uses it to depict the fragmentary nature of modernity and its resistance to being folded into grand narrative without stranding or jettisoning facts that do not follow its plot. Id. at 296-97.
shaped by that institution as a producer of culture. As this express project of the book unfolds, a parallel, subtler plot of sorts develops at a linguistic level. In breaking out a typology of “lives,” the author calls into service a figure of speech that is ubiquitous in life insurance and in insurance in general: metonymy, the non-literal use of a word to represent an associated concept.5 “Lives,” in the parlance of insurance, is nearly always shorthand for something associated with lives: e.g., policy holders, policies, bodies, medical subjects, breadwinners, health states, predictions of longevity, and, of course, deaths. In Regulated Lives, Alborn’s multiple meanings of “life” both complicate and organize the underlying, undifferentiated metonym in ways that mirror certain strange and intriguing paradoxes inherent in life insurance.

Among the fourfold typology of “lives,” we encounter first the sympathetic life. Within this meaning, it is one’s contemplation of dying and leaving others destitute that is essential to the demand for life insurance,6 and insurers aimed to generate a “sympathetic exchange” with the public.7 The more impersonal numbered life was the province of the actuary, who tabulated life expectancies and organized them into mortality tables. This was the relatively easy task, at least as it reflected mortality for “healthy males,” but actuarial science was considerably more challenged to convert mortality statistics into meaningful risk categories. While actuaries were zooming out from persons to numbers to norms (sometimes very far out, as when seeking in vain an ancient “law of mortality” in the early nineteenth century),8 medical examiners were focusing closely on individual bodies. In a break from therapeutic or investigative applications of medicine, they applied the latest science to scrutinize medicalized lives for signs of defect that would render them uninsurable.9 And finally, the development of these conceptual categories all took place within a

5 See MERRIAM-WEBSTER’S COLLEGIATE DICTIONARY 782 (11th ed. 2003). Examples of metonymy include “the crown” to represent a monarchy or “Hollywood” as a stand-in for the American entertainment industry. See id.
6 I mean here to refer to the demand for life insurance as an income substitute for the breadwinner-insured, as opposed to the class of debtor-insureds for whom life insurance was a condition of credit. See ALBORN, supra note 1, at 136-37.
7 Id. at 156 (citing ELAINE HADLEY, MELODRAMATIC TACTICS: THEATRICALIZED DISSENT IN THE ENGLISH MARKETPLACE, 1800-1885 30-31 (1995).
8 ALBORN, supra note 1, at 124.
9 Id. at 205-51.
rationalizing market that equated mortality with money, giving us the commodified life.\textsuperscript{10}

 Anyone who doubts that these categories work beyond characterizing British life insurance should consider the recent public controversy over guidelines for breast cancer screening through mammography.\textsuperscript{11} When a federally appointed medical advisory panel recommended delaying routine mammograms, citing a low likelihood that more aggressive screening would save lives in significant number,\textsuperscript{12} the ensuing public debate echoed the tensions that Alborn has identified, in another life-and-death context. Both might be characterized as sympathy meets medicine meets math meets money.\textsuperscript{13}

 These four conceptualizations of life might appear to be interrelated as natural allies or rivals with their tensions following predictable plotlines. Sympathy, for example, stands apart as humanizing life insurance, defining certain essential relations that must hold between the insurer and the insured (can the policyholder trust the insurer to be a surrogate breadwinner?) and between that insured and his dependants (is the policyholder sensitive enough to their plight to pay premiums for their benefit alone?). Symbolized in literature by the Victorian deathbed,\textsuperscript{14} the perspective of sympathy recognizes the policyholder as an individual with complex relationships and responsibilities, in contrast to the other three more objectifying dimensions.\textsuperscript{15} And just as the deathbed motif has given way in to its contemporary equivalent, the hospital bed, we might anticipate a story of life insurance's "softer feelings" losing ground to the cold rationality of the mortality table or the scrutiny of the medical examination table.

 A more complex dynamic emerges in Regulated Lives, however, notably in the chapter on the gatekeeping practices, by which insurers excluded or charged higher premiums based on risk. Insurers in the early to mid-nineteenth century screened applicants based on interviews, referrals, and a proposal form.\textsuperscript{16} Early gatekeeping was largely

\textsuperscript{10} \textit{Id.} at 181.
\textsuperscript{11} \textsc{Tom Baker}, \textit{Insurance Law and Policy} 158-59 (2d. ed. 2008).
\textsuperscript{12} \textit{Id.}
\textsuperscript{13} For commentary on the controversy over mammograms see, \textit{e.g.}, Kevin Sack, \textit{Screening Debate Reveals Culture Clash in Medicine}, N.Y. Times, Nov. 20, 2009, at A1.
\textsuperscript{14} \textsc{Alborn}, supra note 1, at 149.
\textsuperscript{15} \textit{See} \textsc{Alborn}, supra note 1, at 156.
\textsuperscript{16} \textit{Id.} at 232.
interpersonal, intuitive, and trust-based; in other words, "intimate but unreliable." With a widening market, a burgeoning field of diagnostic medicine, and growing mistrust of the truthfulness of applicants, insurers by 1900 had come to rely chiefly on medical examinations to police adverse selection. A triumph for the medicalized conception of life? Not so fast. The indignity of the medical exam made it unpopular with consumers and sales agents alike. Products that dispensed with the exam gained favor in the early 1900s, striking a blow for sympathy as mediated through the market.

Another surprising relationship emerges in the tension between numbered and medicalized conceptions of life, two dimensions of science that appear from a distance to reinforce each other. Starting from the baseline of confident mortality tables, it seemed to insurers that diagnostic medicine could be brought into the service of actuarial science. Medicine held the prospect of refining the sweepingly general mortality statistics by introducing meaningful risk categories. Once having identified the markers of mortality, the medical gaze could be trained on the individual body in order to screen out or rate up "inferior lives," or so insurers hoped.

But bodies do not give up "Fate's secrets" easily, we learn, either individually or in the aggregate. This was true in two senses. First, being "poked and prodded" made people uneasy enough when undertaken by an attending physician for the purpose of treatment; swapping the attendant with the "medical police" and replacing therapy with evaluation only made the scrutiny more objectionable. Second, many features that were deemed abnormal (e.g., a lanky build, albumin in the urine, etc.) turned out to be of little use as predictors of mortality. It made sense that insurers screened for lung problems in a period of rampant tuberculosis, but even some of this attention was misplaced, as when insurers took chest circumference and breathing capacity as a measure of respiratory health. Much of Victorian gatekeeping of the medicalized life calls to mind the saw of "looking for one's lost keys under the lamppost": insurers tended to collect information on deviance that was easy to detect (e.g., epilepsy,
insanity, physiognomic judgments), with disappointing results for risk classification. But in the end — and here is the twist wrought by the numbered conception of life — there was always the law of large numbers. Medicine might take pains to sniff out pathology in applicants, but as numbered lives, those applicants were often normal enough to be insurable. Doctors had arrived at the actuaries’ starting point: “the future could be predicted only for aggregate populations and never for individuals.” This nuanced story of medical thinking, counterposed to statistical thinking, showcases Alborn’s typology of “lives” to full effect, so much that it is hard to imagine how we have been able to talk about life insurance at all without it up until now.

And how do we talk about life insurance, or insurance more generally? Metonym is central to the language of insurance, beginning with its key term, risk. While risk’s literal meaning is the possibility of loss, it is just as often used figuratively to signify the insured: not the actual risk itself, but the individual associated with risk. Nowhere is this semantic slippage more arresting than in life insurance. Lives in this specialized context is a reduction of “life” in the sense we ordinarily intend it, a boiling down of the “noble self” of personhood into the “six sheets of paper” that interest the insurer. Whatever the ordinary meaning of this most expansive word, anyone not habituated to the language of insurance would likely find the industry’s references to “lives” jarring. Imagine what an individual might consider to be “prerequisites for ‘a model life’” and compare it to this 1861 medical advisor’s list: “absence of scars or hoarseness, a capacious and symmetrical chest, and ‘equable’ pulse, and ‘a considerable warmth to the skin.’” As one Victorian novelist voiced through a character, nothing could be “more likely to destroy natural feeling . . . than to sit down with strangers and reduce his life to the measure of an insurance table.”

Alborn adopts the industry-wide usage of “lives,” and while he does not address this aspect of insurance rhetoric outright, he seems to put

25 Id. at 227.  
26 Id. at 312.  
27 Id. at 270.  
28 BAKER, supra note 11, at 2.  
29 For a colorful quotation comparing life insurance underwriting to boiling down beef into broth, see Alborn, supra note 1, at 220.  
30 Id. at 269.  
31 Id. at 147 (citing Edward G. Bulwer-Lytton, My Novel, 72 BLACKWOOD’S MAG. 53-54 (1852)).
the tension between it and a more ordinary meaning of “life” in play, and playfully so, on the book’s cover. “Regulated Lives,” on its own might suggest to a bookstore browser an account of the ways that the activities of living are governed. But quite the opposite of activity is the focus of life insurance, which might at least as accurately have been termed “death insurance.”32 Not only does the title put a twist on “life” as we know it, it sets up an ambiguity in and on the book’s terms. We may read these plural lives as those belonging to the Victorians themselves,33 or as the four conceptual categories (the four “lives”) that organize this history and that, in a sense, regulate one another.

Thus the word “life” has many lives in this book, depending on which strand of modernity we are tracing. Sympathetic lives are lives entrusted to insurers. Numbered lives are counted lives and measured lives, with longer lives subsidizing shorter lives, or else ominously logged in a Registry of Declined Lives. Medicalized lives are screened lives, healthy lives, hazardous lives, or lives “looking sickly and indifferent.” And commodified lives are marginal, good, select, under-average, first class or doubtful, and lives that sometimes lapse (which of course does not entail death; rather, they just fade away and fail to pay premiums). It seems the one thing that lives are not, or at least not with any salience, is lived.

Through its typology of life-senses, Regulated Lives casts insurance as a technology that slices up the meaning of “life” and recombines the conceptual strands into new forms—a semiotic, nineteenth-century tranching and bundling of sorts. There is something psychologically odd about life insurance, though, that complexity alone does not capture. In order to insure our lives we must contemplate death . . . for the purpose of not having to think about the ramifications of death. In contemplating, we overcome denial of death’s inevitability and unpredictability, yet we insure precisely in order to deny death its full force, to bring some of death’s aftermath into check. In the final pages of Regulated Lives, Alborn captures the paradox of life insurance in the darkly incisive musings of Gregory, the insurance clerk in Julian Barnes’s novel, Staring at the Sun: “[W]hen it came down to it, what people were trying to do was get the best deal they could out of being dead . . . Even those who admitted that they themselves would not actually get the money could still be entranced by the transaction.”34 Gregory concludes of insureds that

32 ALBORN, supra note 1, at 163.
33 See id. at 7 (“Yet the regulated lives who bought insurance policies . . . .”).
34 Id. at 311 (citing JULIAN BARNES, STARING AT THE SUN 110-11 (1986)).
“when departing, they struck the best deal they could. How strange. How admirable, he supposed, but how strange.”

This strangeness is what many of us find fascinating about life insurance, and about this book. Perhaps it derives from the fact that, no matter which strand of its meaning we are tracing, we are always looking at the death side of life.

35 Id.
One of the most important recurring themes in Timothy Alborn's *Regulated Lives: Life Insurance and British Society, 1800-1914* is the idea of Victorian gatekeeping, meaning the use of application forms, statistical tables, and medical exams to carefully select only those lives that conformed to a company or industry-defined standard norm.\(^1\) As Alborn demonstrates, this process of determining who would be permitted to join a company's pool of policyholders and at what rate of premium was fraught with anxiety not only for the applicant, but likewise for the medical doctors, sales agents, and company directors, each of whom had a stake in the success or failure of the gatekeeping process.\(^2\) Yet while individual decisions regarding individual lives by individual actors were the public face of gatekeeping, the process was ultimately based on the definition of a standard normal life in the aggregate. In order both to reduce underwriting individual lives with an unacceptably higher than average probability of mortality and to set accurate premium rates, companies first had to determine average mortality rates for their target clientele.\(^3\) Ironically, for an industry dependent on actuarial tables during an era when statistical knowledge reigned supreme, numbers proved to be the Achilles' heel for life insurers. Victorian gatekeeping publicly promised a rational, scientifically-based classification of lives, yet privately delivered little more than educated guesswork with the hope that future mortality would not prove their estimations to be woefully inadequate.\(^4\)
The nature of all insurance enterprises is spreading risk across a large group of people. Thus, the key to operating a successful, profitable insurance company is to accurately assess the overall risk of the entire pool of policyholders, and then to set premium rates which reflect that level of risk. But, as Alborn demonstrates, this was a particularly vexing problem for British life insurers. Not only was the process of determining average mortality much more complex than it might initially appear, but that process was further confounded by the difficulty of deciding whose mortality was relevant for compiling those tables: which people actually belonged to this group of people interested in spreading risks among themselves.\(^5\) If companies could assume that everyone would purchase a life insurance policy, then this problem of determining a predicted mortality experience would be greatly simplified, since it would be based on the mortality of the population as a whole. Yet in reality, not everyone desired insurance (at least not at first), and companies initially sought to underwrite only the least risky lives.\(^6\) Insurers thus needed to calculate tables based on the expected mortality experience of their target clientele. And whereas predicting mortality rates for the overall population was a difficult task, gauging the future mortality of a significant subset was especially daunting, not least because the attributes of this group were endlessly shifting.

On the micro level, membership within the target risk pool was subject to continuous change.\(^7\) Insurers had to face the problem of trying to guarantee that new individuals who joined the group did not unfavorably impact the aggregate risk profile of the body of policyholders.\(^8\) If a company was excessively selective in accepting policyholders, it would be in danger of having insufficient lives across whom to spread the risk adequately. Additionally, an overly restrictive target group would limit the firm’s ability to increase its market share in the future. Yet by defining the parameters of the target group more broadly, companies would require even more precise knowledge of each additional applicant to ensure that the

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\(^5\) Id. at 113.
\(^6\) Id. at 4.
\(^7\) See, e.g., ALBORN, supra note 1, at 33-42.
\(^8\) Id. at 220-21, 271-73.
clientele was not being drawn primarily from the least favorable portion of the potential risk pool. Likewise, as companies and the industry inevitably tried to expand the life insurance market, by necessity they would need to start accepting less desirable lives. Thus, the industry needed a way to select the best lives (i.e., those predicted to live the longest among their peers), and then decide how to treat other applicants who failed to meet this highest of standards. This is where Alborn’s gatekeeping – the personal assessment of individual risks – became so crucial.

Unfortunately, shifting parameters for the target risk pool was not the only hurdle in the development of accurate mortality tables. Companies were trying to make predictions about mortality twenty, thirty, even forty years into the future, yet external factors impacting expected mortality on the macro level were likewise in rapid flux during the nineteenth century. For example, urbanization facilitated the spread of disease, industrialization enlarged the number of hazardous occupations, and transportation innovations encouraged travel to less salubrious climates; all of these factors increased mortality rates among certain populations. On the other hand, improvements in medical knowledge and medical care, better sanitation, access to fresh foods, etc., were lowering mortality rates for another subset of the population. Yet these factors did not merely cancel each other out; rather, they impacted different segments of the population to differing degrees, making calculations of future mortality a constantly moving target.

Therefore, the very first problem which life insurers needed to work out was the computation of accurate mortality tables, and what is most important to note here is the amount of sheer guesswork involved in this endeavor throughout the nineteenth century. Yet, at the same time, the entire industry was founded upon the premise that mortality was governed by scientific laws which were easily accessed and understood by the trained company actuary. Firms

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9 Id. at 220-21.
10 Id. at 220.
11 See, e.g., id. at 104-05.
12 Id. at 103.
13 ALBORN, supra note 1 at 134.
assured the public that they could accurately predict how many people of a given age would die in a given year, so by purchasing insurance, the policyholder was merely spreading the risk of his or her individual death across the aggregate of people of the same age.\textsuperscript{14} Life insurance advertisements and sales agents were thus adamant that life insurance was not a matter of gambling, and they pointed to countless tables of data to buttress this assertion.\textsuperscript{15}

Despite their public assertions to the contrary, insurance executives throughout the nineteenth century were never certain that they had the right statistical foundation for their premium rates.\textsuperscript{16} They suspected that the available tables based on whole population data greatly overstated mortality.\textsuperscript{17} Not only did these tables include many low-income individuals for whom mortality was higher than average, but they also did not take into account the rigorous selection process of insurers.\textsuperscript{18} Yet tables based purely on a company’s past experience (so-called select life tables) were likewise plagued with problems. In an industry making predictions over the long term, most companies were too young to draw accurate conclusions from their limited experience. Although industry executives understood that the benefits of careful medical selection were short-lived, most of the policies available for use in a select life table were recently acquired and thus still benefitting from that selection advantage. Finally, the crafting of a select life table based on past experience assumed that all future applicants would be similarly selected, and that it would not be necessary for the firm to loosen its selection criteria in attempting to increase its market share. One potential solution to this problem would be to adopt an overly-conservative table, returning the excess as bonuses to policyholders in mutual companies or as dividends to stockholders. Yet this option would open the door to cut-rate competition from companies employing more liberal tables. Additionally, many companies sold both life insurance and life annuities; an overly-conservative mortality

\textsuperscript{14} Id. at 128.
\textsuperscript{15} Id. at 127, 306.
\textsuperscript{16} Id. at 102-103.
\textsuperscript{17} Id. at 115.
\textsuperscript{18} Id. at 104.
schedule would wreak havoc on the annuity business even as it guaranteed the safety of the insurance line.

By the second half of the nineteenth century, life insurers (working mainly through the professional organization for British actuaries) would agree upon a table that they believed would serve as an acceptable basis for the selection process.\(^{19}\) Based on the combined experiences of twenty major life insurance offices, this "Healthy Males" table suffered from many of the same shortcomings as other select life tables.\(^{20}\) Yet because it was so widely adopted within the industry, it set the standard for the expected mortality of healthy males at a given age\(^ {21}\) (lessening the problem of cut-rate competition)\(^ {22}\). All insurance applicants would now be judged based on their predicted adherence to this norm.\(^ {23}\) As data continued to accumulate, applicants once denied coverage for falling outside the acceptable risk pool were now embraced. And as mortality risks shifted, these tables would be repeatedly revised over the remainder of the century.\(^ {24}\) While the Healthy Males table was still imperfect, by working together as an industry insurers were finally able to achieve a reasonably accurate mortality table on which to base their decisions.\(^ {25}\)

Of course, in setting the standard normal life of a healthy male, firms still needed to decide who fit that standard and how to deal with applicants falling outside of this category such as women, less than perfectly healthy males, or people exposed to greater mortality risks due to a dangerous occupation, residence in an unhealthy climate, or hazardous travel. Thus, even the compilation of a moderately-accurate mortality table did not eliminate the necessity of Victorian gatekeeping.\(^ {26}\) Gender, occupation, or travel were all factors which companies could identify with relative ease, choosing either to reject the applicant outright or add a surcharge to the risk

\(^{19}\) ALBORN, supra note 1, at 113.

\(^{20}\) Id. at 113-14.

\(^{21}\) Id. at 115.

\(^{22}\) Id. at 103.

\(^{23}\) Id. at 276-77.

\(^{24}\) Id. at 284-86.

\(^{25}\) ALBORN, supra note 1, at 114

\(^{26}\) Id. at 220-21.
(which, as Alborn points out, was often based more on the maximum that the market could bear rather than an accurate reflection of the nature of the risk). Health issues, on the other hand, were of the highest concern for the industry, and the greatest efforts at Victorian gatekeeping were devoted to uncovering hidden health problems. British life insurers were obsessed with the possibility that applicants would engage in adverse selection. They feared that people with reason to believe their lives would fall short of the predicted longevity would be most likely to apply, and that the applicant would hide this information (either inadvertently or intentionally) from the company.

Just as companies struggled throughout the century to determine an accurate basis for their aggregate mortality tables, they likewise grappled with the problem of ascertaining the health risk posed by individual applicants. During the first half of the century, the main means of gatekeeping entailed health questions on an application form, the corroboration of these answers by reliable friends and medical attendants, and a personal appearance before the board of directors. However, each of these means contained serious drawbacks. As companies extended their reach beyond the metropole, it became increasingly difficult for the board to personally examine each applicant or to judge the reliability of witnesses. Additionally, doctors began demanding payment for their services, yet their observations were likely to be biased in favor of their patients.

Finally, the application form depended first and foremost on the honesty of the applicant ("has the applicant ever spit blood?"). Yet even when the policyholder had been completely forthcoming,

27 Id. at 116.
28 Id. at 221-22.
29 Id. at 221.
30 Id. at 220-23.
31 See ALBORN, supra note 1, at 220.
32 Id., at 224-32.
33 Id. at 232, 237.
34 Id. at 222.
35 Id. at 232.
36 Id. at 224-25.
he or she may have had an underlying medical issue that was as of yet undetected, or a seemingly innocuous symptom that the applicant failed to associate with a larger medical problem. The desire to ensure that all policyholders conformed to the “healthy male” standard set in the tables drove companies to construct ever more complicated questionnaires, demanding that applicants respond to multiple queries about numerous specific ailments or symptoms, as well as providing a detailed family history.

The gatekeeping of the application form was then reinforced with a more robust medical examination. Rather than relying on the information provided by personal doctors, companies began hiring physicians to conduct detailed screenings of all applicants. In order to facilitate comparisons across applicants and medical personnel, these exams became increasingly routinized. Once again, companies sought to statistically define what constituted normal characteristics for their standard healthy male. By setting parameters for acceptable height, weight, pulse, blood pressure, etc., life insurers exuded confidence that they understood the statistical impact of these factors on their standard normal life and then could adjust rates accordingly for those who fell outside these parameters. Yet as had been the case with the creation of mortality tables, these guidelines were of necessity a combination of sound medical knowledge and educated guesswork. In attempting to numerically define and categorize applicants, firms repeatedly found their efforts thwarted by the uniqueness of individual lives.

In placing so much confidence in the accuracy and objectivity of statistics, life insurers were part of a much larger nineteenth-century phenomenon. As Geoffrey Clark already mentioned, historians such as Patricia Cline Cohen (A Calculating People: The Spread of Numeracy in Early America. University of Chicago Press,
1982), Theodore M. Porter (The Rise of Statistical Thinking, 1820-1900. Princeton University Press, 1986), and Lorraine Daston (in The Probabilistic Revolution. Massachusetts Institute of Technology Press, 1990) have all documented a rapid increase in the use and acceptance of statistics in daily life during the early decades of the nineteenth century. On both sides of the Atlantic, people were becoming more numerically literate and they increasingly associated data with objective truths, subjecting to quantification not just economic questions but civic, social, and moral issues as well. For the life insurance industry, a statistical understanding of the factors contributing to mortality would not only ensure the long-term viability of the industry but would create confidence among the general public that life insurance premiums were based on scientifically sound principles and not merely a matter of chance. Yet their search for statistical surety was, of necessity, elusive. Regulated Lives reflects not only the nineteenth-century obsession with numbers and calculation but, more importantly, underscores the messiness and contingency inherent in that compilation of “objective truth.”
REGULATED LIVES IN
HISTORIOGRAPHICAL CONTEXT

Geoffrey Clark*

Readers of this journal are likely to be more familiar with the legal
doctrines pertaining to contemporary insurance practice than they are with
the scholarly roots of Timothy Alborn's *Regulated Lives: Life Insurance
and British Society, 1800-1914*. This essay is meant to provide some
historiographical context in order that readers may appreciate the full
measure of Alborn's achievements in this book.

*Regulated Lives* is the latest arrival on a tide of historical and
sociological research into insurance appearing in the last 25 years or so.
Although numerous smaller tributaries may be identified, two major
streams of scholarship have led to these studies into the social and cultural
history insurance. The first of these is the company history, a work
typically commissioned by a firm's directors to celebrate the passing of a
noteworthy milestone. All too often, especially among the older sort, these
histories are cast in a heroic Victorian mold, featuring as *dramatis
persona* the "Great Men" who stood at the company's helm, steadfastly
navigating stormy and shark-filled waters to make their sesqui- or
bicentennial ports. Gratifying tales of profit and endurance for the stock-
holders and employees who must have comprised the main readership of
these volumes, but their aims usually did not reach beyond chronicling the
progress of the firm and celebrating its success.

This is not to denigrate some really first-rate company histories
written by outstanding historians that have documented the rise of the
British insurance business over the past 300 years, works like P. G. M.
Dickson's *The Sun Insurance Office, 1710-1960* (*1960*), Barry Supple's *Royal
Exchange Assurance* (*1970*), and Clive Trebilcock's *Phoenix Assurance
(1985)*. But even the best of them, as Alborn himself phrases it, mainly

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* Geoffrey Clark is a professor of History at the State University of New York
at Potsdam.

1 TIMOTHY ALBORN, *REGULATED LIVES: LIFE INSURANCE AND BRITISH
SOCIETY, 1800-1914* (*2009*).

OF TWO AND A HALF CENTURIES OF BRITISH INSURANCE* (*1960*).

3 BARRY SUPPLE, *THE ROYAL EXCHANGE ASSURANCE: A HISTORY OF BRITISH
INSURANCE 1720-1970* (*1970*).

4 CLIVE TREBILCOCK, *PHOENIX ASSURANCE AND THE DEVELOPMENT OF
BRITISH INSURANCE* (*1985*).
adopt the perspective of the board room.\textsuperscript{5} The problem is not just that the histories of remarkably successful firms must inevitably have a whiggish whiff. It is also, and more importantly, that while the companies portrayed in these accounts may suffer boardroom clashes, recalcitrant sales staffs, or the usual interdepartmental rivalries, the fundamental unit of analysis remains the firm as a monolithic entity. This perspective was adopted even by older general histories like Harold Raynes' \textit{History of British Insurance} (1964)\textsuperscript{6}, which narrate a story largely bounded by the field lines of company entrepreneurship, technical innovation, and state regulation.

One of the achievements of Alborn's book is to show at a much finer level of detail that the nineteenth-century British insurance business was internally driven by different constituencies working to some extent at cross-purposes because they attributed to their customers different ontological or aesthetic meanings: they were sympathetic subjects to the pitch men, forensic puzzles to medical examiners, numerical data to the actuaries, and commodities to the ledger-keepers and stockholders.\textsuperscript{7} And not all of these terms could dovetail into a consistent and cohesive, to say nothing of coercive, address to the insured subject. As a result, Alborn presents a view of the nineteenth-century insurance firm as pluralistic in its organization and at times internally divided in its goals, and therefore incapable of formulating and enforcing the micro-strategies of control imagined by Michel Foucault and the acolytes of "governmentality."\textsuperscript{8}

The second major stream of scholarship leading to \textit{Regulated Lives} and other recent studies of insurance flows from the history and philosophy of science literature on the emergence of probabilistic thinking, the development of statistical analysis, and the strikingly obsessive and pervasive reference to number as a legitimating authority in the modern world. Prominent among researchers in this field are the philosopher Ian Hacking and historians of science Ted Porter and Lorraine Daston, who are concerned with describing the epochal mental and intellectual transformations that were associated with reconceptualizations of chance, mathematics, and reason from the seventeenth through the twentieth centuries.\textsuperscript{9} Although this body of scholarship is impressive in its ambition

\textsuperscript{5} ALBORN, \textit{ supra} note 1, at 13-14.
\textsuperscript{6} HAROLD E. RAYNES, A \textit{HISTORY OF BRITISH INSURANCE} (2nd ed. 1964).
\textsuperscript{7} ALBORN, \textit{ supra} note 1, at 7-13.
\textsuperscript{8} \textit{Id.} at 7.
\textsuperscript{9} See IAN HACKING, \textit{THE EMERGENCE OF PROBABILITY: A PHILOSOPHICAL STUDY OF EARLY IDEAS ABOUT PROBABILITY, INDUCTION AND STATISTICAL INFERENCE} (2006); THEODORE M. PORTER, \textit{THE RISE OF STATISTICAL THINKING, 1820-1900} (photo. reprint 1988) (1986); LORRAINE DASTON & MICHAEL STOLLEIS,
and scope, and while it has greatly influenced researchers in a variety of fields, its preoccupation with seismic shifts in the history of ideas inevitably give short shrift to the nitty-gritty details of how, and to what extent, probabilism and statistical technique were absorbed into what Daston refers to as “the practice of risk” in her seminal *Classical Probability in the Enlightenment* (1988). But it is worth noting that it was only at the urging of the distinguished historian of science Charles Gillespie, who thought her initial draft too absorbed in theory in her book, that Daston added a chapter on the concrete application of probability theory to risk-taking and insurance.

We have then in these two scholarly streams the truffle-hunting company historians narrowly focused on the fortunes of the firm, and the parachutist intellectual historians attentive to shifting conceptual landscapes but less adept at tracing the details of how probability and statistics were translated into practical activity. The recent wave of insurance histories has sought to bridge this gap between the aerialists and the troglodytes by joining business and economic history with social and cultural history. *Regulated Lives* stakes out this new ground for the period in which Britain’s life insurance industry grew to maturity. It stands alongside Robin Pearson’s *Insuring the Industrial Revolution: Fire Insurance in Great Britain, 1700-1850* (2004) and my own *Betting on Lives: The Culture of Life Insurance in England, 1695-1775* (1999) in providing synthetic studies of the development of the British insurance market (in most respects the progenitor of the modern insurance business) while also teasing out the meanings of insurance to various market participants and in the culture at large.

In comparing my account of the early formation of the British insurance market in the seventeenth and eighteenth centuries with Alborn’s account of its subsequent development across the long nineteenth century, the continuities in business practice and culture are more striking than the dissimilarities. This is a surprising result given the widely shared assumption by experts that the character of life insurance fundamentally

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13 See ALBORN, supra note 1, at 7-13.
changed after the foundation, in 1762, of the Equitable Society (the first firm to issue sell "modern" age-based premium insurance) and the appearance of several imitators near the end of the eighteenth century. Alborn shows that, despite refinements in actuarial knowledge, product design, marketing, and medical screening, in important respects the life insurance industry displayed the same tentative reliance on actuarial data and appealed to the same speculative tastes of its customers as it did in the previous century.

Nineteenth-century actuaries, for example, generated a succession of mortality tables that generally confirmed one another's evaluations of the risk of death at specified ages — the risk of mortality, that is, among middle-class adult males, a group that actuaries established as a standard reference population. It had been obvious to Daniel Defoe as far back as the 1690s that other factors such as occupation or place of residence were likely to be at least as important as age in determining the likelihood of death. 150 years later actuaries showed little inclination to compile mortality tables that quantified those risks or to calculate the mortality profile for "non-standard" populations like women or the working classes. Instead, insurers resorted to other techniques for coping with increased quanta of risk (or at least the increased uncertainty of risk) posed by these groups. One such method was termed "rating up" of under average lives, an intuitive procedure by which insurers notionally added some number of years to proposed lives that would compensate for their perceived deficiencies in health and habits from those of good male lives of the same age. In other words, insurers took their carefully calibrated demographic scales and then crudely pressed their thumbs down on one side in order to make them appear in balance.

Another method of reckoning with demographic uncertainty involved the office of the marketer rather than the actuary. Rather than investing the time and effort to attain systematic mortality data of select populations with differing demographic profiles, insurers cannily shunted higher-risk lives into endowment insurance or contingent debt policies, which provided a financial inducement to purchasers to live long. These

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14 CLARK, supra note 13, at 72; see also FREDERICK BLAYNEY, A PRACTICAL TREATISE ON LIFE ASSURANCE 5-6 (2nd ed. 1837).
15 See ALBORN, supra note 1, at 16.
16 Id. at 9.
17 DANIEL DEFOE, AN ESSAY UPON PROJECTS 70 (BiblioBazaar 2008) (1697).
18 See ALBORN, supra note 1, at 116-18.
19 Id. at 116-17.
20 Id. at 195-96.
highly successful marketing devices transferred some demographic risk from the firm to the consumer, who effectively bet on his or her own longevity, a speculative atavism from eighteenth-century life insurance.\(^{21}\)

This speculative dimension of life insurance was also carried into the nineteenth century through the bonus system, another device popular with the public in which companies periodically distributed accumulated excess premiums among policyholders.\(^{22}\) The insurance bonus generated demand by giving life insurance the appearance of paying dividends in the medium term like other investments.\(^{23}\) It also reflected firms’ enduring caution in relying too heavily on actuarial data, and their corresponding conservatism in maintaining premiums above their true value, again, an approach characteristic of eighteenth-century life insurance companies.\(^{24}\)

A third noteworthy thread of continuity pertains to the medical screening of lives proposed for insurance. The fact that insurers in the Victorian era ultimately limited their use of medical surveillance, acquiescing in the face of market competition to regard as acceptable lives deemed “normal enough,” recall the loose and intuitive (although admittedly less discriminating) classification of insurable lives in the eighteenth century as those drawn from a broadly defined prime of life and not obviously infirm or besotted.\(^{25}\)

One of those lives rejected by insurance offices belonged to Robert Louis Stevenson, whose “crazy health,” as he himself described it, made him absolutely uninsurable.\(^{26}\) (The offices proved right: he died aged 44.)\(^{27}\) But Stevenson did live long enough to exact some literary revenge in a novella he wrote with Lloyd Osbourne titled The Wrong Box, \(^{28}\) a comedy of errors about the maniacal winding up of a tontine.\(^{28}\) One of the book’s central characters is an insufferable pedant and middle-class improver named Joseph Finsbury, the author of several edifying essays including “‘Life Insurance Regarded in its Relation to the Masses’, read before the Working Men’s Mutual Improvement Society, Isle of Dogs, . . . [and ] received with a ‘literal ovation’ by an unintelligent audience of both

\(^{21}\) Id. at 198-99.
\(^{22}\) Id. at 166-69.
\(^{23}\) Id. at 177-80.
\(^{24}\) See ALBORN, supra note 1, at 178-79.
\(^{25}\) Id. at 249.
\(^{26}\) Id. at 11.
\(^{28}\) ROBERT L. STEVENSON AND LLOYD OSBOURNE, THE WRONG BOX (Charles Scribner’s Sons 1889) (1889).
Stevenson’s caricature of the middle class’s moralistic condescension in recommending the manifold benefits of life insurance, as well as the working class’s uncomprehending assent to professional expertise and numerical authority, has a recognizable basis in Alborn’s description of the social dynamics of Victorian life insurance. Many companies – not least the growing cadre of “industrial” offices – moved down market to enlist the multitude of laboring families in the cause of financial improvement and social respectability. Alborn also demonstrates that the mathematical basis of insurance – its legitimating scientific foundation – was roundly ignored by customers who were swayed much more by emotional appeals than by the calculus of mortality, whose authority they uncritically accepted.

Finally, Stevenson’s hilarious juxtaposition of Finsbury’s vaunting praise of life insurance with its tepid reception by his audience suggests something about the limitations of insurance to subject people’s lives to its manifold controls. Alborn not only describes the difficulty of bending all parts of the insurance bureaucracy towards a common goal, he observes that the objects of that bureaucratic control evaded or transcended the categories into which the insurance industry tried to place them. Despite the implication of its title, Regulated Lives is in fact an optimistic book. Optimistic, because it suggests that the widely feared totalizing capabilities of modern financial and bureaucratic institutions is exaggerated and that insurance companies, however grandiose their real or imagined ambitions, are too compromised from within and too vulnerable to rivals from without to exert too exact a control over our bodies and our lives. This is an insight well worth celebrating, along with this superb book.

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29 Id. at 4-5.
30 See ALBORN, supra note 1, at 193.
31 Id. at 129.
32 See STEVENSON AND OSBOURNE, supra note 29, at 33-34.
33 See ALBORN, supra note 1, at 298-300.
AUTHOR RESPONSE: REGULATED LIVES

Timothy Alborn*

To repeat one of the acknowledgements in my book, I wish to thank the University of Connecticut School of Law for so directly shaping the direction Regulated Lives took as it evolved over the past decade; and more specifically, in this case, for sponsoring such a stimulating (and flattering) discussion of my book earlier this year. (That panel discussion, which was the genesis of the three reviews to which I’ve been asked to respond, also featured stimulating comments from Tom Baker and Patricia McCoy, the past and present directors of the Insurance Law Center.) The privilege of responding to such incisive reviews accompanies several opportunities: to rethink imperfections in execution, to elaborate on some unfinished business, and to smuggle in a few historical “out-takes” that will assist me in carrying out the first two tasks.

To start with the book’s title, Regulated Lives. All three reviewers imply, more or less directly, that this title is not quite right, since the insured lives discussed therein were not quite regulated. As Sharon Murphy points out, actuaries did not know as much as they often claimed regarding the statistical laws dictating morality; as Geoffrey Clark points out, medical screening techniques often had more in common with the eighteenth-century gatekeeping devices he describes in Betting on Lives than with obviously “modern” diagnostic methods; and as Jill Anderson points out, the title Regulated Lives implies a book about “the activities of living” but in fact contains a more ambiguous “typology of life-senses.” Sharon Murphy made a similar point more critically in her review of my book for EH.net: “the voice of the insuring consumer is largely absent, appearing only as reflected by the firms themselves.”

So is there a meaningful sense in which the lives discussed in this book (however they might have been defined) were regulated? I would argue that there is: namely, the large extent to which the various groups who were involved in the industry thought they were engaging in forms of regulation, and—even when they consciously fell short of their aspirations—kept trying to do so for most of the nineteenth century. The

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* Timothy Alborn is a professor at the City University of New York, Lehman College, and is the author of Regulated Lives: Life Insurance and British Society 1800-1914.

1 Sharon Ann Murphy, review of TIMOTHY ALBORN, REGULATED LIVES: LIFE INSURANCE AND BRITISH SOCIETY, 1800-914, EH.net (http://eh.net/bookreviews/).
search for a hoped-for "law of mortality" lurked in actuarial papers into the 1880s, and doctors continued to insist that their careful medical examinations were vital to the success of life insurance, in the face of mounting evidence that they made little difference. In their persistent ambition to regulate their customers' lives, the actuaries and doctors in my book represented a very significant break with Clark's eighteenth-century actors. In the process, they contributed to an increasingly regulatory culture, albeit one whose reach has often been exaggerated.

In the realm of statistics, a useful contrast can and should be drawn between eighteenth-century demographic thought, which (as Clark states in *Betting on Lives*) "did not possess the immediate and overwhelming persuasiveness that many historians have attributed to statistical knowledge" (118),2 and a nineteenth-century belief in a "law of mortality" that hovered between religious faith and scientific certainty. As Murphy points out, there was a wide gap between this belief and what was statistically possible for much of the century (although not as wide as she implies, since the tables they used adequately corrected for the inclusion of lower-income individuals). Some of this actuarial hubris derived from the training of nineteenth-century insurance technicians, which tended towards astronomy and mathematical physics: Augustus De Morgan and Benjamin Gompertz (to cite two examples) extended the order they saw in the heavens to the human populations who bought life insurance. Some of it, as I point out in my book, derived from the marriage of convenience between this sincere form of certainty and the more dodgy variety expressed by salesmen, who were eager to use the scientific basis of life insurance to divert policyholders' attention from the periodic waves of severe uncertainty that enveloped its financial side.

Medical practice in the nineteenth century, especially prior to the "therapeutic revolution" just before the century's end, fell famously short of what anyone would define as "modern medicine." Hence it comes as no surprise that medical surveillance in life insurance recalled what Clark calls the "loose and intuitive" methods of an earlier era. Rather more surprising is the extent to which life insurance companies insisted on medical screening at all, given the discipline's modest diagnostic capacity and the availability of actuarial fixes (endowment policies and contingent debt schemes) that rendered medical exams largely unnecessary. An explanation for this puzzle, as Murphy implies, lies in the strange mixture of hubris and paranoia on the part of company directors. With prominent

London physicians whispering in their ears, companies set in motion a proliferating arsenal of screening techniques between 1850 and 1920; at the same time, they never retreated from their conviction that adverse selection was a serious threat to their bottom line. Here again, I would argue, we find a perverse desire to regulate (among doctors and directors alike) in the face of evidence that these regulatory devices accomplished little beyond scaring customers away.

Insurance salesmen often appear in my story as policyholders’ allies, who deflected the regulatory urge of actuaries, doctors, and managers. They not only played the role of friend to the insured, they often actually were friends of the insured—their wide circles of friends were why they got the job in the first place. Hence we find them going to bat for policyholders to reduce extra premiums, settle contested claims, and otherwise soften the industry’s unbending façade. What I would add to this story (and in keeping with my claim about a regulatory culture that pervaded Victorian Britain) is the sheer volume of oppressively hot air that these insurance agents added, bellows-like, to the Victorian tropes of domestic duty and sentimental morality. Even though these salesmen mostly preached to the converted, their message—multiplied thousands of times over—added to a general Victorian culture that was ceaselessly intent on teaching people how to improve their lives.

All this adds up to a distinctly regulatory culture in which the whole (what Clark calls “the widely feared totalizing capabilities of modern financial and bureaucratic institutions”) is often a good deal less than the sum of its parts. One very good reason for this, as I emphasize in my book, was the fractured nature of expertise that comprises any regulatory regime. The lives in my book achieved relative autonomy precisely because they were subject to regulation by so many different people. If one doctor didn’t give candidates for insurance the answer they was looking for, they could try another down the street. If one company required a medical exam, would-be policyholders could try their luck with another that was willing to substitute a double-or-nothing bet for a safer, if more stringent, contract. This range of choices yielded a paradox, which remains with us to this day in most avenues of modern life. Trust in expertise has increased over time, in large part because consumers are able to choose which experts to trust. For the same reason, trust in specific groups of experts has diminished: witness any opinion poll reporting trust in bankers, doctors, lawyers, and the like. These are still regulated lives—just not overweeningly so.

For those who find this defense of my book’s title unconvincing, Jill Anderson has, at least, pointed to a possibly more accurate title waiting
in the wings: *Meanings of Life*. Perhaps the least obvious meaning of life that I described in *Regulated Lives*, but the one that (as Anderson shrewdly observes) is at the core of life insurance, is life’s opposite—namely, death. Death, in more fancy terms, is life’s “other,” without which it would be hard to pin down what it means to us. Anderson suggests that “we are always looking at the death side of life.” True enough, especially in reference to this book—but among the other services that the various meanings of life (commodification, medicalization, and so on) were called on to perform, one of the most important was their capacity for distancing the insured subject from having to tackle death head-on. We can start with the obvious fact that the business is called life insurance, not death insurance; and that society appears to have moved from less to more euphemistic in this regard (sickness insurance has become health insurance, and fire insurance has become homeowners insurance).

As one would expect, the commodification of life has always been a handy expedient for distracting policyholders from the fact of their ultimate demise, even as it deadens the activity of living. Translating death into the prospect of financial reward performs the same basic alienating function that is performed by translating labor into wages. Hence the policyholders in *Staring at the Sun* were “entranced by the transaction” whereby they got “the best deal out of being dead.” Here, in bold strokes suitable to the edgy late-twentieth century tone of the novel, is the essence of commodification, which is capable making death itself seem like an entrancing opportunity.

A Victorian take on the same phenomenon makes the strangeness of this process even clearer: Elizabeth Gaskell, in describing the human scenery of Yorkshire for her biography of Charlotte Bronte, recounted that “West Riding men are sleuth-hounds in pursuit of money,” and demonstrated this axiom by referring to a small manufacturer who “fell ill of an acute disease” shortly after buying an insurance policy. When a doctor informed him of his “hopeless state,” the man jumped for joy, exclaiming: “By jingo!... I shall do the insurance company! I always was a lucky fellow!”

Here we have a nice illustration of what Clark calls “a speculative atavism from eighteenth-century insurance”; though why we should think of it as atavistic puzzles me, since speculation never disappeared as the lifeblood of the financial industry. But Victorians had their limits, as well.

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In this context it’s worth lingering a bit longer on Clark’s example of *The Wrong Box*, which he uses to illustrate the revenge of the uninsurable (in this case the sickly Robert Louis Stevenson). Victorian critics vilified the book—not because it poked fun at the middle-class moralism associated with life insurance, but because Stevenson refused to deviate sufficiently from death. The book’s sense of humor, according to one typical review, was “revolting when one stays to consider for a moment its nauseating subject—a corpse left unburied and unembalmed for several days, and hustled here and there!” The reviewer concluded that “the whole book is in unpardonably bad taste; its decency is less than the decency of savages.” The balancing act between speculative allusions to death and “savage decency” was one of the many fine lines life insurance companies needed to walk in the nineteenth century. Viewed from a wider angle, the tension between selling a sense of security and anticipating misfortune has remained central to all forms of insurance down to the present time.

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5 *The Wrong Box*, 20 THE LITERARY WORLD 236, 237 (1889).