# Social Security Act of 1935 Volume 1

## TABLE OF CONTENTS

# Social Security Act of 1935 Volume 2

## TABLE OF CONTENTS

SOCIAL SECURITY

Mr. HARRISON. From the Committee on Finance I report back favorably with amendments the bill (H. R. 7260) to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes, and I submit a report (No. 628) thereon.

The VICE PRESIDENT. The bill will be placed on the calendar.

OLD-AGE SECURITY—ADDRESS BY SENATOR HARRISON

Mr. MINTON. Mr. President, I ask unanimous consent to have printed in the RECORD an address delivered over the radio on the 26th instant by the Senator from Mississippi [Mr. HARRISON] on the subject of "Old Age Security."

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Among the major hazards of life which the President referred to in his historic message to Congress last June is the possibility of facing a penniless old age. It may happen to any person, no matter how careful he may be of his investments, and it is almost a certainty for many of our fellow citizens with meager incomes.

In response to the President's message, the members of his Committee on Economic Security, together with representatives of various groups of citizens and experts in pension systems, studied this problem for months, and then the Congressional committees entrusted with this legislation held weeks of hearings and thoroughly discussed the matter in extended executive sessions. Many plans have been submitted and subjected to the most painstaking examination.

The result of this careful labor is found in the old-age provisions of the pending social-security bill, which has passed the House of Representatives and is now before the Senate. It is the best solution which these groups of earnest workers can find to the problem of both alleviating, and to a large degree eliminating, the tragic spectacle of destitution among the aged.

The provisions of the bill with respect to security for the aged may be divided according to these two purposes, first, that of alleviating, and second, that of largely eliminating the sad prevalence of poverty in old age.

I shall first talk with you about the provisions intended to largely elimnate old-age dependence. This is a most important part of the bill, and is the part which is of direct interest to younger Americans. It offers them a secure old age, with an assured income built partly by their own efforts.

Beginning in 1937 the employees of the country—the regular workers in industry—will begin paying into the Federal Treasury a very small tax, which will be a minute percentage of their regular pay check. For every nickel that they pay their employers will likewise pay a nickel. Thus funds will be brought into the Federal Treasury which, in the course of time, will make it possible for all those employees to get regular monthly checks of anywhere from $10 to $85, after they reach the age of 65 and retire from regular employment. Under this Federal system the first regular benefits will begin in 1942. The amount which a man will receive will depend, of course, upon the amount of money which he earned during the years when he was employed and upon which he paid these taxes. The taxes that will be paid will gradually build up a sound reserve, which is to be invested, making it possible to continue these regular annuities without having to impose any other taxes to raise the money. If a person dies before reaching 65, his family receives the amount accumulated for him, and this is also true for persons who have contributed too short a time to build up any appreciable annuity.

This plan is expected to take care of a majority of our people in the future, but there are some groups necessarily omitted under this system, because of the fact that they are not employed by industry. It was thought proper, and the measure accordingly provides, that these groups, such as farmers and professional men, be also given the opportunity to build an annuity. Persons who desire, may, in very small installments or by lump-sum payment, purchase annuities from the Treasury, paying them up to $100 per month after they reach 65.

There is yet a third group to consider, those who now, or in the future, face a dependent old age, and have not been able to secure either of the annuities which I have just mentioned. For a complete old-age program this group must also be considered. This is the second part of the plan—providing for those whose old-age dependency cannot be eliminated by these annuities.

As is natural and fitting for such legislation in our country, the movement for old-age pensions began in the several States of the Union. The State legislatures acted and the State governments and county governments administered the laws. Thirty-three States, as well as the Territories of Alaska and Hawaii, have enacted old-age-pension laws. In 1934 over $30,000,000 was spent in these States for 230,000 pensioners, and the average pension paid to an aged person was about $15.50 per month.

Under the social security bill the Federal Government will come to the assistance of the States in making payments under their old-age-pension laws. The average pension now paid by the States is about $15 per person per month. Accordingly, up to $15 a month, the Federal Government will match whatever the States appropriate. This Federal aid will be given immediately to each State with a satisfactory plan for the administration of old-age pensions within its borders. Thus, the Federal Government will share equally in the generous work of helping needy persons above the age of 65 years.

The administration of the State laws will be left to the States, with an absolute minimum of Federal participation other than in the actual granting of the money itself. It is right and proper for the States, where the old-age-pension laws began, to go on administering those laws in their own way, for their own people whom they find to be in need.

To sum up, the social-security bill makes it possible for millions of persons to build a regular income for their old age during their productive period of life, and in addition to this, by matching State funds, assist the States to take care of those so unfortunate as to face old age without the annuities previously mentioned, or any other income of their own.

The necessity of the bill making this twofold attack upon destitution in old age can be readily appreciated when one realizes the terrific cost of trying to meet the problem by merely helping the States to pay gratuitous pensions. The number of needy old people is steadily increasing. The average length of life is getting longer; industrial civilization has made it harder for the young to care for their parents. For these reasons, if all we did was grant aid to the States for old-age pensions, the cost would grow enormously. The actuaries say that if this was the only way of taking care of the aged needy people, by 1960 the total annual cost of pensions, to the State, Federal, and local governments would be as much as $2,000,000,000. In writing the social-security bill, therefore, it was found necessary to look around for additional means of meeting this problem; and the thing that has been proposed and sponsored by the President is the national system of old-age annuities which I have already described, and which will not begin at once, but which will be self-supporting and paid for in large part by the very people who will get the benefits.

By inaugurating this system—and this is very important—we will be saving ourselves a vast amount of money, for this new national system will make it possible to cut in half the costs which we would otherwise have to bear in paying the old-age pensions under the State laws. I have said that the actuaries figured that in the absence of any all-embracing Federal system the cost by 1960 for State old-age pensions would be $2,000,000,000. With the self-supporting Federal system in existence, however, the annual cost by 1960 for the State old-age pensions would almost certainly be less than $1,000,000,000. This Federal system, therefore, would mean a saving of over a billion dollars a year.

It is well worth while to remember this tremendous saving, for it makes insignificant the small burden which industry will have to assume under this uniform national system. The tax on employers, under this system, does not begin until 1937, and even when it reaches its maximum in 1949 it will amount, on the average, to only something like 1 percent of the regular selling price of the employers' product. This is indeed a small amount to pay for a system which will save the country over a billion dollars a year, and will bring assurance of a small but regular income to more than one-half of our working people.

Besides the saving to the Nation as a whole, the annuity system will give to the worker the satisfaction of knowing that he himself is providing for his old age.

The social-security bill is the nearest approach to the ideal that could be reached after months of patient study. It is within the financial ability of our Government and achieves in the largest measure found possible the ideal of our great President of banishing the gaunt specter of need in old age.

President Roosevelt, his Committee on Economic Security, the House of Representatives, and the United States Senate are making these efforts to establish a sound and far-reaching method of dealing with the problem of destitution in old age. In taking this great forward step we cannot expect perfection all at once; but in the social-security bill we have an instrument which inaugurates a program that is at once economical and humane, and which will be a legislative landmark in the history of the efforts of the Congress to carry out its constitutional duty of promoting the general welfare of the men and women of the United States.

SOCIAL SECURITY—ADDRESS BY SENATOR THOMAS OF UTAH

Mr. BACHMAN. Mr. President, on Friday last the distinguished Senator from Utah [Mr. THOMAS] delivered over the radio a brief but very interesting address on the broad phases of the social-security program. I ask unanimous consent that his address may be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

In responding to this invitation of the National Broadcasting Co. to discuss social security it will not be my purpose to defend or talk concerning the social-security act which is pending in Congress. I wish to discuss social security in its broad aspects as a political concept. Anything which will better the condition of the men, women, and children, who live in a given country, and which will enable men, women, and children to live a broader, better, and more abundant life may be justified as a proper governmental function. To justify it under our American Constitution may be relatively difficult, but surely it has a place when consideration is given to the general-welfare clause of our Constitution's preamble.

As a sound economic principle the theory of social security used as a political concept is merely the taking over into politics of the social and economic idea of insurance. The economic theory behind insurance is that many people donate a little for a long time that some few may enjoy the fruits of that donation for a little time. Or to make the theory apply to the individual as it does in case of life insurance, small premiums paid over a long period make it possible for beneficiaries to receive large sums. Insurance is merely finance used socially. Much of our financial organization is socialized finance.

A social-security program is very much larger and more comprehensive than a recovery program. In order to become effective in our country it will be necessary for the program to meet the requirements of our constitutional scheme; that is, it must meet both Federal and State requirements.

This in itself is an aspect of social politics because it develops the partnership idea between the Federal and the State Governments and emphasizes what every citizen of the United States has known since the adoption of the fourteenth amendment, that American citizens have a dual citizenship; that is, they are citizens of the United States and of the State in which they reside.

The social-security program must be all-embracing because each of four great factors related to the social-security program is related to the other three, that is, the old-age-pension idea to become effective, must be thought of as part of the whole scheme instead of a scheme by itself, because the old-age pension must come after years of planning if it is ever to succeed properly. It has the aspect of retirement, and that, too, honorable retirement. The thought is not just to make the aged people independent in their old age; it is also to take the responsibility for caring for the old off the shoulders of the young. This, of course, makes for better and happier young lives as well as better and happier old ones.

The program, too, should provide for early retirement in order that men may fill the responsible positions of life at an earlier time.

You see, therefore, old-age insurance is related to unemployment; it is related to the idea of economic independence not only for those who are insured but also for those related to them, and it makes the insured the agent for his Government in making for better and broader living. That the persons to be benefited must contribute goes without saying, because any good which comes carries with it a responsibility. Then, too, we want old-age benefits to be honorable. The persons who are to receive pensions should be encouraged to feel free in taking them, and free from the thought they are singled out by a paternal state as helpless individuals. Our whole public-school system would fail if a mother of many children ever thought it wrong to send all of them to school because her neighbor, perhaps, has only one or none to be trained. My point there is that no one now questions the right of a child to be educated. Just so, the time must come when no one shall question the right of those who are past the earning age to live a life free from the ordinary economic worries. All must contribute for the good of all. Public attention to social security will result in persons taking for themselves private annuity policies to augment the public ones.

The partnership idea is the one that I would stress. Partnership between the Federal Government and the States; partnership between the old and the young; partnership between the employer and the employee; partnership between those out of a job and those who are working; and partnership between public and private insurance institutions. All will be benefited. The prime fact of man's interdependence with other men should be brought into our political and social life and made part of our thinking. Too long we have left this to the church institutions.

American democracy can be preserved only by preserving the individual in that democracy. An American must remember that he is one in a group of 125,000,000 others. He must never fuse himself into a fraction and think of himself as one-one hundred twenty-five millionth of the whole. The individual as a political entity will last only so long as private property and private ownership last. Social security will teach the individual throughout his whole life the notion of interdependence and in addition to that it will teach the value of ownership. In the past we have tried to attain these ideals by stressing, in our teaching of the children, thrift and competition. The real lesson of life will come when men realize that they cannot be happy while their neighbors are sad.

SOCIAL SECURITY

Mr. HARRISON. Mr. President, I move that the Senate proceed to the consideration of House bill 7260, the so-called "social-security bill." I desire to state that if the motion shall be agreed to, we will not proceed with the bill today, but will do so tomorrow.

The PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Mississippi.

The motion was agreed to; and the Senate proceeded to consider the bill (H. R. 7260) to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes, which had been reported from the Committee on Finance with amendments.

SOCIAL AIMS OF ADMINISTRATION

Mr. LEWIS. Mr. President, I submit for publication in the RECORD a brief article appearing in the Washington Star of June 10, 1935, entitled "Roosevelt Explains Social Aims at Press Conference", together with a definfiition of the new deal by the junior Senator from Nebraska [Mr. BURKE].

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Star of June 10, 1935]

ROOSEVELT EXPLAINS SOCIAL AIMS AT PRESS CONFERENCE

By J. Russell Young

President Roosevelt today in a brief and extemporaneous statement at his press conference explained the social objectives of his administration.

"The social objective, I should say, remains just what it was, which is to do what any honest government of any country would do—to try to increase the security and the happiness of a larger number of people in all occupations of life and in all parts of the country; to give them more of the good things of life; to give them a greater distribution not only of wealth in the narrow terms but of wealth in the wider terms; to give them places to go in the summertime—recreation; to give them assurance that they are not going to starve in their old age; to give honest business a chance to go ahead and make a reasonable profit and to give everyone a chance to earn a living.

"It is a little difficult to define it, and I suppose this is a very offhand definition, but unless you go into a long discussion it is hard to make it more definite. And I think, however, that we are getting somewhere toward our objective."

His remarks were in reply to a question.

---

DEFINITION OF THE NEW DEAL

By Senator EDWARD R. BURKE, of Nebraska

The new deal is an old deal—as old as the earliest aspirations of humanity for liberty and justice and good life. It is old as Christian ethics, for basically its ethics are the same. It is new as the Declaration of Independence was new, and the Constitution of the United States.

Its motives are the same; it voices the deathless cry of good men and good women for the opportunity to live and work in freedom, the right to be secure in their homes and in the fruits of their labor, the power to protect themselves against the ruthless and the cunning.

It recognizes that man is indeed his brother's keeper, insists that the laborer is worthy of his hire, demands that justice shall rule the mighty as well as the weak.

It seeks to cement our society—rich and poor, manual workers and brain workers—into a voluntary brotherhood of free men, standing together, striving together, for the common good of all.

SOCIAL SECURITY

The Senate resumed consideration of the bill (H. R. 7260) to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes.

Mr. HARRISON. I ask unanimous consent that the formal reading of the bill may be dispensed with and that the bill be read for amendment, committee amendments to be first considered.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

Mr. HARRISON. Mr. President, as briefly as possible I shall explain the provisions and purposes of the pending measure, the so-called "social security" bill. I shall try to make the explanation as brief as possible, and I trust Senators will permit me to finish my analysis before I shall be asked to yield for any questions. At the conclusion of my statement I shall be glad to answer any questions with respect to the bill that I can or make any further explanation that may be desired.

In general, the purpose of this legislation is to initiate a permanent program of assistance to our American citizens in meeting some of the major economic hazards of life. It is, of course, impossible for all social problems to be met with this measure, nor does it attempt to do so. Many problems remain untouched by its provisions; some because not within the purview of Federal legislation, and some because it was decided proper that this legislation should be directed only against those major causes of insecurity for which experience has developed an efficient remedy.

Mr. LONG. Mr. President, will the Senator yield for a question?

The PRESIDENT pro tempore. Does the Senator from Mississippi yield to the Senator from Louisiana?

Mr. HARRISON. I had hoped that I might be permitted to finish my explanation before interruption came, but I yield.

Mr. LONG. I do not want to ask about the bill. I want to find out what course the Senator proposes to take with reference to the bill. Are we first to consider committee amendments?

Mr. HARRISON. Unanimous consent has been granted that committee amendments shall be first considered.

Mr. LONG. Then it will be some time before we come to the point of the introduction and consideration of any individual amendments which Senators may wish to offer?

Mr. HARRISON. I hope we may expedite the matter as much as possible, but I doubt whether we will reach that point for several hours.

Nor is the bill intended as emergency legislation, to cope with an emergency situation, but rather it is designed as a well-rounded program of attack on principal causes of insecurity which existed prior to the depression and which we may expect to continue in the years to come. The depression did not create but merely accentuated and forcefully brought to our attention, human suffering resulting from these principal hazards of life.

This measure includes several related subjects. It attacks major problems presented by recurrent unemployment, by destitution of the aged and blind, and of physically handicapped or orphaned children, and seeks to accomplish these purposes largely through encouragement given the States to meet these problems by State action.

Before mentioning any details I wish first to call attention to the general outline of this measure. Neglecting for the moment its provisions dealing with public health and vocational education, this legislation may be classified into three general kinds of provisions, designed to meet three major problems: (1) Pensions for the aged and blind, (2) provisions for child welfare, and (3) unemployment-insurance provisions.

I might here mention the Federal appropriations required for the purposes of this legislation. The measure authorizes about three and one-half million dollars for Federal supervisory and administrative expenses in carrying out the provisions encouraging State pension and child-welfare services; and for allotments to States authorizes $49,750,000 for State old-age pensions, $24,750,000 for dependent children, generally called "mothers' pensions", and $11,991,000 for other items, including child health and welfare services, pensions to the blind, and vocational education. Eight million dollars is authorized for augmenting the public-health service of the States. This makes a total for the fiscal year 1936 of a little less than $98,000,000. The measure authorizes increased appropriations with respect to pensions and vocational education in succeeding years.

In addition to the above, there is an authorization of $4,000,000 as a grant in aid to assist States in administering unemployment insurance for 1936, and $49,000,000 annually thereafter, which amounts will be more than offset by a tax imposed by the measure on employers of four or more persons. Likewise, it is thought that the other taxes the bill imposes on employers and on employees will offset the fiscal requirements of Federal annuity provisions of the measure.

As I have stated, besides augmenting existing public health and vocational rehabilitation services, the measure has three general types of provisions: First, those dealing with pensions for the aged and blind; second, those pertaining to child welfare; and, third, unemployment insurance legislation. At this point I wish to discuss briefly each of these classes in the order named.

In taking up the problem of security for the aged, I should first like to mention a few facts pertinent to this question. Some seven and one-half millions in this country are over 65, and best estimates indicate that about a million of these are dependent on the public for relief. A huge number are on the Federal Emergency Relief, which was not designed and is not suited to meet this permanent problem.

As the trend of our civilization leads away from the farm and into the cities, a growing percentage of our people have come to depend for subsistence on a weekly pay check, and, when cut off from employment because of age, have become dependent on the helping hand of public charity. We are all familiar with the poorhouses to which many of these aged must now turn, and those with experience in the local administration of poorhouses will recognize the wastefulness and inefficiency of this method of taking care of the needy aged.

Many States have sought a better method for meeting this problem. Thirty-three of our States and the Territories of Alaska and Hawaii have State pension laws for the care of destitute aged, and the number of beneficiaries increases rapidly despite the financial difficulties confronting State and local governments. Because of this financial stringency, as might be expected, pensions in many cases are necessarily quite inadequate.

Further, the States face an increasing burden of pension costs in the years to come. The percentage of people over 65 to the total population is rapidly increasing, and a study

of age groups as shown by the census, indicates that the number of these old will be about doubled by 1970. So, obviously, the burden of taking care of these increasingly large groups of needy aged should be met in some manner other than merely the present methods.

The provisions of the social-security bill dealing with this problem may be grouped according to the two purposes sought to be accomplished; first, that of alleviating, and second, that of largely eliminating the said prevalence of poverty in old age.

Eliminating, so far as possible, the necessity of providing a charitable pension for aged people is a primary object of this legislation. In 1931, while Governor of New York, President Roosevelt felt this need, and in a message to the legislature with respect to the gratuitous old-age pension of the State, said:

I have many times stated that I am not satisfied with the provisions of this law. Its present form, although objectionable as providing for a gratuity, may be justified only as a means intended to replace to a large extent the existing methods of poorhouse and poor-farm relief. Any great enlargement of the theory of this law would, however, smack of the practices of a dole. Our American aged do not want charity, but rather old-age comforts to which they are rightfully entitled by their own thrift and foresight in the form of insurance. It is, therefore, my judgment that the next step to be taken should be based on the theory of insurance by a system of contributions commencing at an early age.

It has been found actuarially possible, and the bill provides a method, for those in industry to contribute from year to year a tax, covered into the Treasury of the United States, sufficient to bear the costs of an old-age annuity for those in industry.

These are provisions for what we may term, for convenience in distinguishing them from other pension provisions, annuities.

Beginning in 1937, all employees in the United States, save casual and agricultural labor, private domestic servants, employees of the Federal or State Governments, and of nonprofit religious, charitable, scientific, literary or educational employers, will pay a Federal tax of 1 percent of their wages, up to $3,000 per year salary, which tax will be increased one-half per cent each 3 years, until it reaches a maximum of 3 percent for 1949 and thereafter. Employers of these employees also pay a similar tax at the same rates, based on the taxable pay of each employee, and also are required to deduct the employee's tax from his wages, and report and pay both taxes to the Bureau of Internal Revenue. Penalties with respect to this tax are those of the revenue act, and as collection devices the Commissioner of Internal Revenue may prescribe the purchase of stamps or other tokens. This tax is calculated as sufficient to provide funds, covering the cost of the annuities in the years to come, which will be paid, with only one or two small exceptions, to those workers in industry who paid the tax.

These employees of industry are eligible for annuities on reaching 65, if they have paid tax on total wages of $2,000 or more earned during 5 or more years after 1936 and before reaching the age of 65.

The Finance Committee added an amendment which provides that a man will receive this annuity only if he has retired from regular employment. This was based on the belief that no person holding a regular job should retain this job after 65, receiving an annuity along with his pay check. Rather, he should retire and make it possible for others to obtain work.

These annuities are based roughly on the salary which has been earned after 1936. The measure provides a pension, however, of larger amounts where small salaries or a short period under the system would otherwise result in a very small pension. The annuity is $15 per month for the first $3,000 in salary before the employee reaches 65, plus about 83 cents per month for each additional thousand, up to $45,000, plus about 42 cents per month for each thousand over $45,000, with the further provision that no pension may exceed $85 per month.

For example, take the case of a person whose average salary is $100 per month, retiring at the age of 65. His monthly pension would be:

$17.50 where he earned wages 5 years.
$22.50 where he earned wages 10 years.
$32.50 where he earned wages 20 years.
$42.50 where he earned wages 30 years.
$51.25 where he earned wages 40 years.

A lump-sum benefit of 3½ percent of all wages is provided for the estate of any person dying before 65, and a like amount is paid any person retiring at 65 and not eligible for benefits. For example, suppose such wages after 1936 amounted to $10,000, this benefit would be $350.

This plan is expected to take care of a majority of our people in the future, but there are some groups, not employed by industry, necessarily omitted under this system. It was thought proper, and the Finance Committee amendment to the measure accordingly provides, that these groups, such as farmers and professional men, be given an opportunity, as similar as possible to those in industry, to build an annuity. Persons who desire may, in very small installments, or by lump-sum payment, purchase annuities from the Treasury which will pay them up to $100 per month after they reach 65. These annuities are, of course, on an actuarial basis, and accordingly require no tax measure or appropriation, and none is provided in the bill.

There is yet a third group to consider, those who now or in the future face a dependent old age and have not been able to secure either of the annuities which I have just mentioned. For a complete old-age program this group must also be considered. This is the second part of the old-age security plan—providing for those whose old-age dependency cannot be eliminated by these annuities.

The social-security bill authorizes the appropriation of $49,750,000 for 1936, and such sum as may be needed annually thereafter, to be allotted the States with approved plans, to be used in making payments under their old-age pension laws. The average pension now paid by the 33 States and 2 Territories which have already enacted these laws is about $15 per person per month. Accordingly, up to $15 a month per beneficiary the Federal Government will match whatever the States appropriate. This Federal aid will be available immediately to each State with a satisfactory plan for State old-age pensions and will result in the Federal Government bearing half the costs of paying pensions up to $30 per month per beneficiary. If the State wishes to add to its costs and pay a more liberal pension, of course it is at liberty to do so.

The administration of these pension laws is left to the States themselves, with an absolute minimum of Federal participation, other than the granting of the money to match State funds. It is right and proper for the States, where old-age pension laws began, to go on administering these laws in their own way, for their own people.

The measure provides, however, for obvious reasons, a limitation on requirements States might set up, and which might leave large groups ineligible for a pension in any State. It may have a residence requirement of not exceeding 5 of the 9 years preceding application for a pension, and a continuous residence requirement of 1 year immediately preceding application. Further, United States citizens, who have met the residence requirement, may not be excluded on a citizenship requirement.

To sum up, for old-age security, the measure provides for Federal industrial annuities, for voluntary annuities, and, in addition, provides assistance to the States in paying pensions to those so unfortunate as to face old age without these annuities, or other income of their own.

The necessity of the bill making this twofold attack upon destitution in old age can be readily appreciated when one realizes the terrific cost of trying to meet the problem by merely grants in aid to the States to pay gratuitous pensions. As I have stated, the number of needy old people is steadily increasing. The average length of life is getting longer; industrial civilization has made it harder for the young to care for their parents. For these reasons, if the measure merely granted aid to the States for old-age pensions, the cost would grow enormously. The actuaries say that if this was the only plan providing for the aged,

by 1960 the total annual cost of pensions, to the State, Federal, and local governments, would be as much as $2,000,000,000. In drafting the social-security bill, therefore, it was thought necessary to look around for additional means of meeting this problem; and the thing that has been proposed and sponsored by the President is the national system of old-age annuities which I have just described, which will be paid for in large part by the very people who will get the benefits.

By inaugurating this threefold system—and this is very important—we will thus be vastly reducing the Federal and State burden of paying the gratuitous pension, for this annuity system should eliminate the necessity of a gratuitous pension in at least half the cases. I have said that the actuaries figured that in the absence of any all-embracing Federal system the total cost by 1960 for State old-age pensions might be $2,000,000,000. With the self-supporting Federal system in existence, however, the annual cost by 1960 for the State old-age pensions would almost certainly be less than $1,000,000,000. This system, therefore, would mean a saving of over a billion dollars a year.

It is well worth while to remember this tremendous saving to the Federal and State Governments, in considering placing on industry the graduated pay-roll tax it will assume under this uniform national system. This tax on employers, and the tax on employees, begins in 1937 with equal contributions of 1 percent, and is 2 percent in 1943. Even when it reaches its maximum of 3 percent in 1949, it will amount, on the average, to only something like 1 percent of the regular selling price of the average employers' product. This is a relatively small amount to pay for a system which will provide annuities in lieu of gratuitous pensions costing over a billion dollars a year, and will bring assurance of a small but regular income to more than half of our aged people.

Besides the saving to the Nation as a whole, the annuity system will give to the worker the satisfaction of knowing that he himself is providing for his old age.

This system of meeting the problem of the needy aged is the nearest approach to ideal that could be reached after months of patient study. It is believed to be within the financial ability of our Government, and achieves in the largest measure found possible, the ideal of the President and those of us who believe as he does, of banishing the gaunt specter of need in old age.

Besides the grant in aid to States for assistance in paying pension for the needy aged—and this does not refer to one who has reached the age of 65 only, but he must be in need—the bill authorizes $3,000,000 for 1936, and such sums as may be necessary thereafter to match State funds for pensions to those totally blind. Approximately the same conditions attach to these grants in aid as attach to grants for State old-age pensions.

I do not know when any committee was ever moved more than was the Finance Committee when several old gentlemen, who were totally blind, were led into the committee room by their dogs and presented their case for aid to the needy blind in this country. I may say, with reference to the blind, that the provision was not in the bill as it passed the House, but is a Senate committee amendment.

As indicative of the need of this provision I might mention two or three pertinent facts. About half of the States already have such pension laws, but State financial stringency has resulted in very inadequate provision.

There are more than 65,000 listed as totally blind by the 1930 census, which recognizes this as an understatement, and of these nearly 45 percent are persons over 65, as much blindness comes from causes developing late in life. Due to this fact, and the difficulty of finding suitable occupations, it is not surprising that less than 15 percent of the blind are gainfully employed. Encouragement to the blind to become self-supporting is, of course, desirable, but the fact that only a few even of the 15 percent gainfully employed are self-supporting shows the necessity of encouraging and financially assisting these State pensions for the blind.

The Federal agency passing on State plans providing pensions for the blind and aged, and State unemployment insurance plans, and which administers the contributory annuity system, is the Social Security Board. Before passing on to the next phase of the bill, that dealing with child-welfare, I will mention the main provisions as to the Social Security Board.

This is a three-member board, and the Finance Committee amended the bill to provide that during membership a person could engage in no other employment; that no more than two members shall belong to the same political party, and established the Board in the Department of Labor.

Board members serve 6-year staggered terms and are, with the advice and consent of the Senate, appointed by the President, who also designates which shall be chairman.

This Board is, as I have mentioned, in general the Federal administrative agency for Federal annuities, and passes on State plans and other matters with respect to assistance for the blind and aged and for unemployment insurance.

It appoints and fixes compensation for needed officers and employers, of which attorneys and experts are not subject to civil service. Its report is, of course, made through the Department of Labor.

Your committee's amendment locating the Board in the Department of Labor was largely because by this arrangement savings might be effected, and its work could be better integrated with other agencies that are now in the Department of Labor.

I now direct your attention to the second phase of the measure, that of child welfare. At the outset I desire to pay tribute to the great work the States have done in this field, and to mention that all the provisions of the bill affecting children are designed to assist the States.

The large problems relating to child welfare are the problems of the child in the broken home without adequate income, the neglected child, and the crippled child. In addition, the matter of child and maternal health is of vital importance.

The pending bill has provisions designed to alleviate each of these hazards.

With respect to the first child-welfare problem, that of the child in the broken home, where there is no adequate income, I desire to call your attention to facts developed by the relief survey. This survey indicates that there are some 350,000 families of this type, with 700,000 children, which have been supported by the relief. With relief no longer available the necessity will naturally arise of throwing these children in institutions, as the mother cannot usually care for them and at the same time go out and work.

The problem of keeping such broken families together has caused 45 States to enact laws, generally termed "mothers' pensions", and with the termination of the Federal emergency relief measures it would seem almost imperative that the States be assisted in bearing the financial burden of providing these pensions.

The measure meets this situation by authorizing an appropriation of $24,750,000 for 1936, and such amounts as may be needed annually thereafter, for grants in aid, to be apportioned among the States for use in paying pensions to dependent children. Where the State has an approved plan, the Federal Government thus will bear one-third the cost of the total pension, except in no case shall the Federal share exceed $6 per month where there is one dependent child, and $4 for each additional child where there is more than one dependent child. These limits are roughly in accordance with the limitations in the allowances to the widows and families of World War veterans, as the contemplated total pension would amount to $18 for the first child and $12 each for any additional children in the family.

A State will not have to aid every child which it finds to be in need. Obviously, for many States, that would be too large a burden. It may limit aid to children living with their widowed mother, or it can include children without parents living with near relatives. The provisions are not for general relief of poor children but are designed to hold broken families together.

The Ways and Means Committee report, in mentioning the next problem of child welfare, the alarmingly large number of neglected children, said that they "are in many respects the most unfortunate of all children, as their lives have already been impaired." To assist the States in strengthening public-welfare agencies, especially in rural areas, and thus helping to care for homeless and neglected children, the measure authorizes an appropriation of $1,500,000 for 1936 and for each year thereafter. This grant to the States is to be apportioned by first giving $10,000 to each State, and dividing the remainder among the States on the basis of their respective rural populations, as compared with the total rural population of the United States.

The importance of the provisions for crippled children, the third problem attacked, is evidenced by the fact that there are between 300,000 and 500,000 of these, many of whom can be effectively dealt with by early treatment. This will not only save them from lifelong physical impairment but also from being public charges.

The measure authorizes $2,850,000 annually to assist the States in meeting this problem, especially in rural areas and those in economic distress. The appropriation is on a 50-50 matching basis, apportioned first $20,000 to each State, the remainder to the several States based on the number of crippled children and the cost of locating and hospitalizing them.

The fourth and last problem attacked is that of maternal and infant care. From 1922 to 1929 the Federal Government participated in this program, and all but three States cooperated. Due to financial stress this work has been curtailed, and several States have felt unable to continue it.

The American maternity and infancy death rate, particularly in rural areas, is much higher than that of most civilized countries, and experience has taught that an intelligent program is very effective in remedying this condition. The measure accordingly has authorization for $3,800,000 annually to be used in aiding the States. This is to be allotted, first $20,000 to each State, then $1,800,000 is apportioned according to the live births of each State, compared to total live births throughout the country. This is on a 50-50 matching basis. In addition, $980,000 is for allotment without the necessity of the State matching, based on the financial needs of the State in carrying out its plan, and taking into consideration the live births in the State.

Approval of State plans for children is vested in the Children's Bureau, which has done notable work for many years. The measure authorizes $625,000 annually for its expenses in administration, and for further study and investigation.

Save this sum, it will be noted, all the appropriations for child welfare are granted to and administered by the States under State law. The apportionment of these funds is largely administrative, as I have indicated in dealing with each provision. This is also true with respect to passing on State plans for child welfare, the principal duties of the Bureau being to make suggestions and to determine whether State plans meet the requirements set out in the bill. I shall briefly mention these principal requirements, which are believed proper to insure the greatest benefits from the grants in aid for child welfare which have been just reviewed.

State plans for crippled children, for maternal and child health, and for dependent children must each be State-wide in operation, with the State contributing financially to its support, and with a State agency charged with final administrative responsibility, and making reports to the Secretary of Labor. The Chief of the Children's Bureau passes on whether these requirements are met, and, in the case of mothers' pensions, on whether the methods of administration are efficient. In no case, however, does this include jurisdiction to pass on tenure of office, selection, or compensation of State personnel. In the case of mothers' pensions any person whose claim is denied must be given a right of appeal to the State agency, and the plan cannot have a residence restriction excluding any child who lived within the State a year before aid is requested or, in case the child is born within the year, if the child's mother has lived in the State a year. In carrying out child-welfare services the measure provides for the State and Children's Bureau to jointly work out a plan.

To sum up, the provisions of the social-security bill affecting children are for grants in aid to the States, assisting them in making provision for dependent children in broken homes, which are usually termed "mothers' pensions"; also for child-welfare services, for medical assistance to crippled children, and for mother and infant health. In addition, the appropriation authorized for continuing and augmenting existing vocational education and public-health services will be of benefit to children as well as adults.

We have discussed two of the three main phases of this legislation—provisions for the aged and blind, and those for child welfare. I have omitted any discussion of the parts of the bill dealing with public health and vocational education. This omission is not because I deem these provisions of small importance, but because they are along traditional lines, merely augmenting and extending these services, and meeting universal approval. The necessity of the provisions was demonstrated at the hearings by a host of witnesses.

The third and last great phase of this measure is the attack upon unemployment. In discussing the provisions with respect to unemployment insurance, I wish to again emphasize that it is not the purpose of unemployment insurance to meet the extraordinary situation with which we are now faced.

This situation is being met by the public-works program, and if in the future a similar emergency again must be met, it will probably call for some similar effort. The field of unemployment insurance is essentially that of meeting the normal condition of temporary lack of employment, and to mitigate the immediate effects of large-scale unemployment.

For in normal times, and in fact even in boom years, there is always considerable unemployment. Some 3,000,000 people who wanted work did not obtain it in the comparatively prosperous year of 1928. When machinery is replaced by more efficient machinery, when overproduction arises from any of many causes, when an industry is dying because its product is being supplanted, men are thrown out of work.

Further, with little thought directed toward stabilization, many industries operate with considerable irregularity of employment. There are peak periods and there are low periods, and a plant that employs thousands of men in March and April carries on with merely a skeleton force in the autumn months. The thousands who are thus dropped face a resulting period of unemployment, exhausting, in many instances, their meager savings, and sometimes becoming a charge on charity before an opportunity for regular wages is again afforded them.

It has always been natural for the cost of this unemployment to fall upon the local community. Those who are out of work first look to their neighbors for help; and, when that source is no longer sufficient, to their local and State governments. Unemployment may, in extraordinary depressions, necessitate the Federal Government assisting the States to meet the problem, but otherwise the problem of so-called "normal" unemployment is one that primarily is of local concern.

This has long been recognized by the States, and the problem of meeting this "normal" unemployment has been the subject of earnest study by commissions established by them. Especially has this been true since 1929, when increasing ranks of the unemployed brought the necessity of some action more keenly to public attention.

It is significant that almost every State commission investigating the subject urged some form of unemployment insurance, and, while differing as to details, uniformly recognized that part or all of the cost should be borne by employers in industry and that reserves should be built up in good times to help in providing for the welfare of those unfortunates cut off from regular work by seasonal unemployment, or that resulting from the many other causes found even in normal times.

Looking backward, it is easy to see how unfortunate it was that no more steps were taken toward actually inaugurat-

ing State unemployment insurance systems. For instance, if the State of Ohio had started unemployment insurance back in 1923, paying their workers who were honestly unemployed half their wages for periods of not longer than 6 months, the fund would have stayed wholly solvent for 2½ years after the depression began. Probably the rigors of the depression would have been largely mitigated with such a system in force throughout the several States. Certainly the regular income still received by each man who lost his job would not only have kept up his courage in the face of adversity but would also have given him a purchasing power enabling him to consume products of industry, which were left unsold on the shelves of the clothing store and the grocery.

One large factor deterring States from acting on the recommendations of commissions for the establishment of unemployment insurance has been the belief that it would put the local industry of the State at a competitive disadvantage with industries of States which did not have such systems. "If", the argument runs, "this burden, small though it may seem, is placed on the employers of this State, and is not likewise placed on the employers of our neighboring States, we shall in effect be driving industry out of our State and into the neighboring States, if we pass this bill."

The argument was made that if, for example, an unemployment-insurance plan were put into effect in Ohio, and no unemployment-insurance plan were put into effect in Kentucky, the industries of Ohio would be affected disadvantageously.

While, despite this obstacle, Wisconsin enacted an unemployment compensation law in 1932, and during the past winter Washington, Utah, New York, and New Hampshire also enacted such laws, other States have been deterred because of the fear of interstate competition, and it has been considered a most desirable step for the Federal Government to eliminate this barrier to State legislation.

This object is accomplished by the provisions of title 9 of the bill, which I now call to your attention. An excise tax is levied on employers of four or more persons, effective for 1936, and payable first in January 1937. This tax is for the first year 1 percent of the employer's pay roll, and increases to 2 percent for the second, and 3 percent for the third and subsequent years. Against this tax, up to 90 percent thereof, the employer may credit any amount he pays the State for State unemployment compensation. This places employers of all States on the same footing, and allows and encourages the inauguration of State compensation laws by eliminating the fear of driving business out of the State by the imposition of the burden of supporting a State unemployment-insurance system.

The credit of State contributions against this Federal tax is allowed whenever the Social Security Board, established by the measure, finds that the State law is a genuine unemployment-insurance measure fulfilling a few minimum standards set up in the bill. These standards are not designed to limit the States from using wide discretion in the types of unemployment insurance established by them, but only to insure the satisfactory working of any unemployment-compensation system.

There are six of these requirements. First, so as to provide a close check-up on malingers, benefits are to be paid through public employment offices, where the State has such offices. Second, to insure satisfactory reserves, benefits are not to begin until after the State has required contributions to be collected for 2 years. Third, the funds must be used only to pay unemployment compensation. The fourth provision is for the protection of the worker, who is ordinarily cut off from benefits where he refuses proffered employment. It provides that such proffered employment need not be accepted where the hours or other conditions of the job offered are substantially less attractive than those of similar jobs in the locality, and that the employment is not such as to necessarily interfere with his union affiliations. The fifth requirement is that the State law does not create a system which cannot be amended when experience indicates the need for such amendment.

The sixth and last requirement is that the State unemployment funds be deposited with the Secretary of the Treasury. This requirement is coupled with the provision that interest be paid on the State balances, and is for the purpose of safeguarding their investment. It is thought that no matter how soundly invested by the States, there would come times of unemployment when the investment would have to be liquidated in large quantities, with a depressing effect on the securities and a resulting loss.

In completing my statement on unemployment insurance I wish to call your attention to two amendments the Finance Committee thought wise to add, which provide for wider choice of types of unemployment-insurance systems and also for a stabilization incentive to employers. As I said before, the State of Wisconsin was the first State to pass an unemployment-compensation law. The statute was based upon a very definite philosophy that if employers are given a real cash incentive to stabilize and regulate their employment they will be able to make progress in eliminating so-called "normal" unemployment. The Wisconsin law provides that every employer shall set up reserves against the unemployment of his own employees, and when his reserve fund reaches a certain amount he will thereafter have contributions reduced so as to pay only such sums as are necessary to keep the reserves up to this amount. It is therefore to his advantage to prevent unemployment and so escape the necessity of large contributions to these reserves. It is easily seen that the heart of this system is the lessening of contributions because of good employment experience, and that for it to be effective such credit should be allowed against Federal as well as State tax. The bill was passed by the house allowing only pool-type systems such as will be set up under the New York law and not providing for this stabilizing credit. The senate amendments allow either type of system and also the credit against Federal tax.

If the provision adopted by the House had been carried through in the Senate bill, then the Wisconsin system would have had to be completely changed. The Senate Finance Committee thought that the State itself should decide between these systems and adopt the one they thought most beneficial.

The final provisions of unemployment insurance are for grants in aid to States with approved systems, for their use in paying the costs of administering the system. As I have stated, there is a Federal tax and an allowance of 90 percent of credit against this tax because of contributions to State unemployment systems. The remaining 10 percent, which remains in the Federal Treasury, is thought sufficient to offset an appropriation authorized by the measure, to be allotted to States for these administrative costs.

Mr. President, I desire to congratulate the House of Representatives on the great improvement they made in the bill which was originally presented. They have made a marked improvement and I believe the Senate Committee on Finance has further improved the proposed legislation.

Mr. President, in concluding this statement, may I add that the development of our industrial civilization has presented these pressing problems which this legislation seeks partly to meet. The President has pointed the way, and the measure before you is the result of careful study by the Committee on Finance. The committee received the assistance of the best experts on this question throughout the country. It coordinates the efforts to lessen the major hazards of our civilization. It deals with matters which other countries have already dealt with, and from whose experience we can be guided. It will not commence with unwise speed, but rather will be a gradual development, proceeding carefully and surely for the goal which is now far distant.

Further study, beyond that already given would avail us little, and the need for delay in this legislation does not exist, as the provisions of the measure itself provide for no hasty action which might have a retarding effect upon recovery. I trust, therefore, with such reasonable discussion as may be found necessary, we may proceed without delay

to the consideration of this bill, with every hope of its appeal to an expeditious passage.

Mr. HASTINGS. Mr. President, I do not know whether or not the Senator covered the point I am about to make, as I did not hear the very first part of his discussion; but I wish to give an illustration and see whether the Senator can explain how this situation is to be met:

For instance, if a man 50 years of age going into this plan on January 1, 1937, is earning $100 a month and pays in until he is 65 and lives out his expectancy of 12 years, he will be entitled under this plan to $17.50 a month, or $210 a year. In 12 years that will amount to something like $2,500. There will have been paid in by him and for him during that time $24 for the first, second, and third years, and $36 for the next 2 years, making $144. If that $144 were invested in an annuity, as is the plan here, it would earn him only $1.17 a month, something like $14 a year, or a total of $168 during the 12 years as against twenty-five hundred and some odd dollars he would get under the plan proposed by the bill. It costs for that particular individual something over $2,300.

In view of the fact that this plan contemplates that the taxes collected shall pay all the expenses, I ask the Senator to explain—and I am not asking this question for any other purpose than to have the explanation from the chairman of the committee—I should like to have the chairman of the committee explain to the Senate how this difference of $2,300 in that particular class is made up.

Mr. HARRISON. I may say here to the Senator from Delaware that, without question, under the plan favored treatment is accorded to those who are now of advanced years.

Mr. HASTINGS. Let me give the Senator another illustration, in order to show that, from the point of view of some persons, there must be discriminations existing in this bill. That is one of the objections I have to it. If we take a young man who enters employment in 1949, when the full tax of 6 percent is payable and he pays in for a period of 45 years he will have earned during that time $54,000, and under the plan will be entitled to $53.75 a month, or $645 a year. If he should live out his expectancy, he would have paid to him under the plan $7,740; while if the same young man had paid in the same amount under some regular annuity plan, from which he got all the benefits, he would be entitled under the ordinary plan which the insurance companies adopt—and this is figured out carefully—to $68.50 a month, or $822 a year, which over a 12-year period would make a payment to him of $9,864. As under the plan proposed by the bill, he will get only $7,740; he will, therefore, lose $2,124. Of course, I am not asking the Senator to do anything more than assume that my figures are correct. I have gone over them with some care.

Mr. HARRISON. Are the figures based on the 3 percent the employer pays?

Mr. HASTINGS. Yes; on the 3 percent the employer pays and the 3 percent the employee pays. If that fund were paid in, as is done in the case of many of the corporations of the country—unfortunately by not enough of them—and an insurance policy taken out for that man, and he should start to work at 20 and should work for 45 years and should make his full pay every month, he would be entitled at the end of the 45-year period, when he reached 65, to have paid to him $68.50 a month; and, if he lived out his expectancy, $9,864, while under this plan he would lose $2,124.

I cite those two extreme illustrations—the first one I gave, and the second—in order that the Senate may know that the way the difference in favor of the elder man is made up is by punishing the youth of the Nation. In this connection I might call attention to the fact that the same thing is true with respect to the provision for death benefits.

If a man enters the plan at the age of 60 years and earns $1,200 a year for 5 years, at the end of the period he will have earned a total of $6,000. If he should die just as he reached the age of 65, his estate would be entitled to have paid to it a lump sum of $210. The amount this particular man has paid in, plus the accumulated interest at 3 percent, will amount to $76.92, making an overpayment to the estate of $133.08. This is one end of the problem. I have worked out the other end of it also.

But if we take the illustration of a man who begins to pay in the year 1949 and pays for a period of 45 years, we find that his estate is entitled to $1,890, although the amount the employee has contributed to the fund, with its accumulated compound interest, would amount to $3,383.52, showing a loss to his estate of $1,493.52.

I invite attention to the fact that this same youth is penalized if he should pay in for 45 years and then die at the age of 65 in that his estate would receive only $1,890, whereas the amount he has paid in, with accumulated interest, would be $3,383.53, a difference of $1,493.52; so if he lives to be 77 and draws his pension he has a loss of $2,124, while if he dies at 65 before beginning to draw his pension, his estate is out $1,493.52.

Mr. President, in my own time I propose to discuss the discrimination at some length, and if I have time and the chairman of the committee does not hurry me too much, I desire to point out several other discriminations. I wish the Senator from Mississippi to understand—and I know he does understand—that I shall do so for no other purpose than to present to the Senate and to the country the facts with respect to the matter.

Mr. FLETCHER. Mr. President, will the Senator yield?

Mr. HARRISON. I yield.

Mr. FLETCHER. I ask the Senator from Delaware if he has separated the amount paid in by the insured from the accumulated interest? He mentioned the two together. I think it is important to separate the accumulated interest from the total amount paid in.

Mr. HASTINGS. I have based all the figures I am using upon the figures which it is contemplated the Government uses under the plan. The theory of the Government under this plan is that the amounts paid in plus 3-percent interest will take care of the whole plan. The point I make is that in order for that to be true—and I expect to show that it is not true in fact—we must discriminate between the young man of today and the old man of today and give the older man a great advantage. My theory is that in the later years the young man who participates in this plan, when he, too, grows to be old, will call upon the Congress to make up to him in 1980 that which has been taken from him in order to take care of some older man who lived in the year 1940.

I merely desired to call this point to the attention of the Senator, so that before he concludes, if he so desires, he may discuss it.

Mr. HARRISON. Of course, the Senator from Delaware need not suggest to me that I have any doubt about the sincerity of his opinion. In the first place, I never question the motives of the sincerity of any Member of this body. I do not know of any member of the committee who attended more regularly and more diligently performed his duties in connection with the consideration of this measure than did the Senator from Delaware.

It is natural that there should be a difference of opinion and different interpretations of the bill. There is no difference as to this particular matter between the Senator from Delaware and myself when it comes to the fundamental facts. It is quite true that when the bill shall go into effect as a law, those persons of advanced age will be favored. However, as suggested by the Senator from Illinois, this is not an investment plan. It is a plan which is worked out for security in the years to come. We are trying to be of help to people in their old age. I cannot believe that those of the younger generation, who are to realize in later years under the plan, will begrudge the possible advantage to those men who now have reached 55 or 60 years of age.

Mr. JOHNSON. Mr. President——

The PRESIDING OFFICER (Mr. MURRAY in the chair). Does the Senator from Mississippi yield to the Senator from California?

Mr. HARRISON. Certainly.

Mr. JOHNSON. I should like to inquire whether or not the Senator from Mississippi and the Senator from Dela-

ware have discussed the constitutionality of the pending measure? [Laughter.]

Mr. HARRISON. Mr. President, I do not want to have any bill passed that cannot be upheld by the Supreme Court. I say nothing against the Supreme Court. We have done everything we could to eliminate questionable matters of constitutionality. We had before us a representative of the Department of Justice with instructions that he should study the bill from every angle. There was assigned to this work in the Department of Justice one of the assistants to the Attorney General, who is a most highly respected man and a really great lawyer. The views of the Department through this man and others whose views we have received are that the bill will be upheld by the Court on all constitutional questions.

Mr. JOHNSON. Mr. President——

Mr. LA FOLLETTE. Mr. President, before the constitutional question gets much farther away from the suggestion of the Senator from Delaware I should like to make a suggestion or two.

Mr. JOHNSON. Let met say that the query I put to the Senator from Mississippi was more rhetorical or intended to be more facetious than otherwise, because long ago in my experience, the first I had in government, I learned that whenever there is any progress to be made, whenever we touch the human equation, whenever we seek to aid those who are in distress and those who require sympathetic treatment on the part of the Government, always there arises the bogey man of unconstitutionality.

Mr. LA FOLLETTE. Mr. President——

Mr. HARRISON. I yield to the Senator from Wisconsin.

Mr. LA FOLLETTE. I think the Senator has completely answered the suggestion of the Senator from Delaware, but I did want to add one or two suggestions if he will permit.

In the first place, the shedding of tears about the burdens placed upon the youth under this plan would be viewed with less sympathy if we should stop to think that without this plan and, except for this extraordinary emergency, the youth of the Nation would be, as usually they now are, called upon to meet, without any assistance, the burden of the aged dependent.

In the second place, the Senator from Delaware lumps in the contributions made by the employer in arriving at this apparent differentiation between the treatment of the younger group and those who are in the older groups at the time the system shall go into operation. I see no reason in the world, if the plan is to be agreed to at all, why we should not require the employer to help take care of the aged in his employ for whom he has made in the past no provision whatsoever.

In that connection I desire to point out that, as a matter of fact, if we separate the contributions of the employee and the employer, we find in every instance, whether they be aged or in the younger group, that when they become eligible for annuities under the proposed plan they will receive more than they themselves will have contributed.

Mr. McNARY. Mr. President, will the Senator from Mississippi yield?

Mr. HARRISON. Certainly.

Mr. McNARY. In the Senator's very able presentation of the bill he stated somewhere in his remarks that those over 76 years of age constitute 7,500,000 of our population. I think the Senator must have meant 65 years of age.

Mr. HARRISON. Yes; I meant over 65 years of age. If I said 76, I was in error.

Mr. FRAZIER. Mr. President, I should like to ask the chairman of the committee a question, if I may.

I have had some inquiries from men working for corporations that have pension plans of some kind. They wished to know if an exemption could be made whereby their company would give them a larger pension under the plan they are now working under, and under which they have been paying for a number of years, than would be given under the plan offered here.

I should like to know whether that matter has been considered by the committee.

Mr. HARRISON. I may say to the Senator from North Dakota that the issue which was more sharply contested before the committee than any other was that of permitting private pension plans to continue and be excepted from the plan outlined in the bill. The thought of some of the best lawyers was submitted on it; and they thought we would be taking a very doubtful position if we permitted some companies to carry on their private plans and be exempt from the tax and at the same time imposed this tax on others. We were informed that there is no pension plan in operation by any private institution at the present time which is more favorable than the one we are here offering.

Mr. WAGNER. Mr. President, I desire to say that there is nothing in the proposed legislation which would prevent an employer, if he desired to do so, from supplementing the amount of pension paid under this system by having a pension system of his own to add to that provided under the proposed legislation.

Mr. FRAZIER. I assumed, of course, that was the situation.

SOCIAL SECURITY

The Senate resumed the consideration of the bill (H. R. 7260) to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes.

Mr. WAGNER obtained the floor.

Mr. BARKLEY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

| | | | |
|---|---|---|---|
| Adams | Bulow | Couzens | Guffey |
| Ashurst | Burke | Davis | Hale |
| Austin | Byrd | Dickinson | Harrison |
| Bachman | Byrnes | Donahey | Hastings |
| Bailey | Capper | Duffy | Hatch |
| Bankhead | Caraway | Fletcher | Hayden |
| Barkley | Chavez | Frazier | Johnson |
| Black | Clark | George | Keyes |
| Bone | Connally | Gerry | King |
| Borah | Coolidge | Gibson | La Follette |
| Brown | Copeland | Glass | Lewis |
| Bulkley | Costigan | Gore | Lonergan |

| | | | |
|---|---|---|---|
| Long | Murray | Reynolds | Trammell |
| McAdoo | Neely | Russell | Vandenberg |
| McCarran | Norbeck | Schall | Van Nuys |
| McGill | Norris | Schwellenbach | Wagner |
| McKellar | Nye | Sheppard | Walsh |
| McNary | O'Mahoney | Shipstead | Wheeler |
| Maloney | Overton | Smith | White |
| Minton | Pittman | Steiwer | |
| Moore | Pope | Thomas, Okla. | |
| Murphy | Radcliffe | Townsend | |

The PRESIDING OFFICER. Eighty-five Senators having answered to their names, a quorum is present.

Mr. WAGNER. Mr. President, the senior Senator from Mississippi [Mr. HARRISON] has given the Senate so comprehensive an explanatory statement regarding the pending bill that I can add little. But as the sponsor of the measure, and as a long-time advocate of social insurance, I ask that the Senate bear with indulgence my remarks upon the subject.

ECONOMIC INSECURITY AS AN INDICTMENT OF AMERICA

Mr. President, social insecurity in its modern aspects has not been an offshoot of the depression. It has been a persistent problem since the dawn of the factory era, intensified by the increasing urbanization of American life and by the virtual disappearance of free farm lands in the West.

To grasp the full ethical and economic implications of this problem, we must indulge in a brief survey of our history since the Civil War. During that time our energy and genius built upon this continent a Nation of unparalleled economic strength. Our mechanical equipment became the most extensive and the most efficient in the world. Our fabulous resources seemed to insure us against the possibility of adversity. Our wealth doubled and redoubled until it exceeded the wildest flights of fancy. No accomplishment seemed too great for us to attain. We became at once the envy and the admiration of the universe, and a shining example for the ages yet to come.

If some prophet of old could have foreseen the material wealth with which we were to be blessed, what else might he have prophesied? He would have envisaged the worker liberated from the nerve-racking struggle for bread alone, secure against the peril of unemployment, enjoying opportunities to work under conditions calling forth creative intelligence, and enjoying ample leisure for the cultivation of family life and the enrichment of spiritual outlook. He would have seen the man who has become too old to work spending his declining days in mellow comfort, tasting neither the humiliation of charity nor the bitterness of unrequited efforts. He would have been sure that little children would be spared the gnawing hunger of poverty, and that society would recognize in full its obligation to care for the fatherless and the maimed.

But if this prophet had awakened during the period between 1922 and 1929, which was regarded as the era of unmatched prosperity, what a rude disillusionment would have been his. Three million unemployed, deprived even during so-called "good times" of the sacred human right to earn their bread, were being fed upon dogma about self-reliance and individual thrift. Fully 20,000,000 families were living in the cold cellars of poverty dug beneath the streets of our most prosperous cities. Countless old people were being buffeted from pillar to post, forced at best to rely upon the help of younger relatives whose own slender resources were scarcely equal to the task. Children without end were being denied the simple joys of carefree childhood, their minds handicapped by improper schooling, their bodies stunted by the relentless pressure of factory work. Misery and destitution were the sordid realities of every Main Street, not in a poverty stricken country, but in a land where the inequitable distribution of tremendous wealth was sharpening the tragic contrast between the House of Have and the House of Want.

Some people there were, it is true, who saw the solemn tragedies lying beneath the gilded surface of our national life. But their protests were ignored and their warnings were derided. As early as 1928 I had the bitter experience of encountering the public apathy which greeted my proposals for a survey of unemployment, for the creation of a Nation-wide job exchange system, and for the inauguration of a long-range public-works program. After the onslaught of depression, I introduced in 1930 and 1931 the first two measures designed to promote Federal encouragement of unemployment insurance laws in the several States. Containing essentially the same idea which has crystallized in the present bill, they were promptly buried in committee. Then I introduced the first resolution calling for a special senatorial investigation of the whole problem of unemployment insurance. Pursuant to it, a committee of three Senators held protracted hearings. The majority members wrote a report deprecating the potentialities of Federal action; and I filed a minority report again urging immediate legislation along the lines of the measure now before the Senate. It is gratifying to note that many Senators who were doubtful of the wisdom of this type of social legislation a few years ago are now its stanch and hearty advocates.

When future historians of the gilded age from which we have emerged seek a moral to adorn their story, they will find that social injustice brought the retribution of sure decline. The income of the masses, shriveled by the blight of wide spread unemployment and uncompensated old age, was not sufficient to buy the goods flowing from the ever expanding factories. The huge profits of the few, which could not be spent in self indulgence, were reinvested again and again in plants and machines. When the market became flooded with unsold surpluses, the depression came with the certainty of nightfall.

From that emergency we have been rescued by a program combining constructive action with enduring faith in the essential fortitude and strength of the American character. We now seek a new era of well being in which the social inequalities of the past will be driven forever from the scene. We seek a more even tempered and widely diffused economic enjoyment that will provide a bulwark against the resurgence of hard times. The social-security bill draws its inspiration from both of these objectives. It is a compound in which are blended elements of economic wisdom and of social justice.

UNEMPLOYMENT INSURANCE: LEGISLATIVE PHASE

At the very hub of social security is the right to have a job. Even in the care-free decade of the nineteen twenties, an average of 1,500,000 workers per year were care-worn and tormented by the visitation of unemployment. Between 1922 and 1933, 15 percent of our total man power remained idle and disdained. When 15,000,000 people walked the streets of despair in early 1933, we knew at last that the fall and rise of our national prosperity kept pace with the rise and fall of unemployment; and we knew that until we solved this baffling enigma, our bravest and sincerest efforts would spend themselves in vain.

There is no quick relief for unemployment that has reached its zenith, any more than there is a sure cure during the last stages of a malignant disease. But the common experience of many progressive countries has revealed a relatively humane and economical method of alleviating the sporadic or seasonal unemployment which occurs even during normal times. And in addition to its curative aspects, it is a method which serves as a check upon further unemployment. Needless to say, this remedy is unemployment insurance.

There are many reasons why unemployment insurance in the United States should be developed along State lines. The tremendous expanses of our territory and the infinite variety of our industrial enterprises create totally dissimilar conditions in different parts of the country. Besides, it would be unwise to fit an inflexible strait-jacket upon the entire Nation without testing by comparison in operation the two or three major proposals for unemployment insurance, each of which has elements of merit urged by divergent schools of reputable thought.

At the same time, the disheartening results of 50 years of agitation for unemployment insurance prove conclusively that there will be no substantial action unless the Federal Government plays its part. Less than one-half of 1 percent of the workers in this country are covered by the much-heralded private and voluntary plans for their protection. And so paralyzing has been the fear of unfair competition by backward States that only Wisconsin dared to proceed in splendid isolation by enacting an unemployment-insurance

law. The very fact that four other States have taken the same course in the short period of time since the inception of this measure is the best token of the validity of Federal encouragement.

The social-security bill sets up two powerful Federal incentives to State action. In the first place, it appropriates $4,000,000 for the fiscal year beginning this June, and authorizes the appropriation of $49,000,000 for each succeeding year, to be allocated among the States in the form of subsidies for the administration of such unemployment-insurance laws as they may enact. These subsidies will be on the basis of need, taking due account of the population of the respective States, the number of persons covered by their unemployment-insurance laws, and other relevant factors.

As a second incentive to State action, the bill imposes a Federal excise tax upon the total pay roll of each employer engaging four or more workers. This tax is fixed at 1 percent for 1936, 2 percent for 1937, and 3 percent for each succeeding year. Against this imposition any employer may offset, up to 90 percent, whatever sums he contributes to pulsory unemployment-insurance funds created under the State law. Since the States will be anxious to draw this Federal tax back into their own borders, the natural result will be the enactment of unemployment-insurance laws in every State.

Practically no restrictions are placed upon the types of statutes that the States may enact. They may provide for State-wide pooled funds or for individual company reserves. They may exact contributions from employers, or from employees, or from both. They may add their own contributions if they desire to do so. The only important requirement is that the State law shall be genuinely protective, and that its revenues shall be devoted exclusively to the payment of insurance benefits.

UNEMPLOYMENT INSURANCE: ECONOMIC POTENTIALITIES

It is obvious that a 3-percent pay-roll tax cannot be a panacea for a burden of unemployment such as we have borne in the past. As contemplated in the present bill, its protective features would extend to only 24,000,000 people out of 48,000,000 gainfully employed. At best it would provide, after a waiting period of 4 weeks, 15 weeks of benefit payments to the unemployed, at a rate equal to about 50 percent of the working wage, but in no case more than $15. If the rate of unemployment between 1936 and 1950 should be the same as it was between 1925 and 1934, the total wage and salary loss in the covered group of workers would be $75,000,000,000, or over six times the sum that would be raised by a 3-percent pay-roll tax.

But such a simple analysis overlooks both the purpose and the indirect effects of unemployment insurance. In the first place, it is designed not to supplant, but rather to supplement the public-works projects which must absorb the bulk of persons who may be disinherited for long periods of time by private industry. It is designed to provide for intermittent, short term unemployment, a remedy that is more dignified, more humane, more certain, and more economical than emergency relief, with its inflated ballyhoo and its deflating effect upon the moral stamina of the recipients.

More important, unemployment insurance will serve a preventive as well as an ameliorative function. The mere focus of business attentiveness upon the problems of the jobless will tend to prolong work, just as the study of life insurance has tended to increase the length of the average life. The drive toward the ultimate goal of a stabilized industry will be quickened by the inauguration of a coordinated Nation-wide campaign against the most demoralizing of all economic evils. A provision in the present bill requires that the Federal tax rebate shall be used to encourage a close connection between State job-insurance laws and unemployment-exchange offices. This provision emphasizes the fact that the relief of existent unemployment is but a subordinate phase of the main task of providing work for all who are strong and willing.

The bill provides an even more specific incentive to business men to diminish the volume of unemployment. If a State law permits an employer to reduce the amount of his State contribution because of his good employment record, he may offset against his Federal tax not only the amount of his actual payment under the State law but also the amount of the reduction that he has won. For otherwise he would not benefit in the slightest by securing such a reduction. This special allowance is designated in the bill as an "additional credit."

At the same time it should be noted that the bill takes great pains to prevent any State from circumventing the law by allowing employers such reductions in their contributions as would enable them to recapture the Federal tax without setting up adequate safeguards against unemployment. Thus it is provided that a taxpayer who is contributing to a State-wide pooled fund shall receive an "additional credit" from the Federal Government only if the State reduction that he has won is based upon his comparatively good record during at least 3 years of actual compensation experience. Let us now suppose that a taxpayer is subject to a State law under which he guarantees to maintain the employment of a designated group of workers and contributes to a segregated guaranteed employment fund to cover breaches in his guaranty. In such case he would be allowed an "additional credit" only if his guaranty had been perfectly fulfilled in the past and if his guaranteed employment account amounts to at least 7½ percent of the pay roll that it protects. Finally, if a taxpayer is participating in a State system whereby each employer maintains an isolated reserve account for his own workers, his enjoyment of "additional credits" from the Federal Government will be hedged in by safeguards similar to those surrounding guaranteed accounts.

Added to its salutary effects upon the overt activities of business men, unemployment insurance will have a stabilizing effect upon industry by providing income in times of stress for those consumers who otherwise would be without purchasing power to patronize the markets. By way of illustration, we may examine the likely effects had the present bill become law in 1922. The 3-percent tax upon pay rolls, even if we assume, contrary to my own firm opinion, that an unemployment-insurance system might not have checked the business decline in the slightest, would have provided $10,000,000,000 for unemployment relief between 1922 and 1933. It would have provided an accumulative reserve of $2,000,000,000 in 1929. There can be little doubt that the prompt release of this reserve flood of purchasing power would have mitigated and abbreviated the downswing of the business cycle.

Contrary to these claims are the arguments advanced from time to time that the taxes involved in unemployment insurance would curtail the purchasing power of the public during prosperous times, and thus provoke the advent of depressions. But it should not be overlooked that business regression is encouraged, not by a general collapse of national purchasing power, but by an insufficient dispersion of purchasing power among masses of wage earners. A pay roll tax upon employers alone would intensify this maldistribution only upon the assumption that the tax would be shifted entirely to wage earners by means of lower wages or higher prices or both. To my mind such an assumption is based upon an overmechanical concept of economic forces. It accepts bodily the wage fund theory of the classical economists that real wages can be neither raised nor lowered by legislation. Its logical corollary is laissez faire. In truth, the various factors, including custom, bargaining power, and standards of living, that help to determine wage rates will not be nullified by the imposition of a pay roll tax. Moreover, the several States may add their contributions to unemployment insurance by means of the general taxing power, and thus may exercise their power to redistribute more justly rather than to concentrate income. Even if we assume that part of the cost of the insurance would be shifted to wage earners, the temporary reduction in their purchasing power would only be a small part of the increased purchasing power that would be returned to them in benefits when most needed.

Nor is there any ground upon which to rest the claim that unemployment insurance, by withdrawing money from circulation, might depress the level of business activity. Un-

employment insurance funds are not buried under the ground. The present bill requires that all State funds, in order that contributors to them may qualify for Federal tax rebates, shall be deposited in separate accounts with the Secretary of the Treasury. Centralized management of this reservoir of purchasing power will have a tremendous stabilizing effect upon industrial operations and credit transactions. In addition, it will obviate the necessity of dumping securities upon an overburdened market when hard times call for the liquidation of unemployment reserves. Instead, the United States Government will simply take up the securities which have been issued to the depositing States. Or if the Federal Government has elected to issue non-negotiable obligations, it may pursue the alternative of canceling them as they are paid.

OLD AGE DEPENDENCY IN THE UNITED STATES

Partial insecurity in the prime of life is highly provocative of complete dependency in later years. The needy old are exonerated from the unjust stigma of improvidence by a study of income in the United States. It has been revealed that during the year 1929 about 6,000,000 families living in dire poverty were able to save nothing. Fifty-nine percent of all American families, who were earning less than $2,000 each, could save only 1.4 percent of their annual income. In contrast, a family earning $5,000 saved 17 percent of its income, while a family earning between $50,000 and $100,000 stored up 44 percent. Viewed in the large, 80 percent of the families in the United States owned only 2 percent of the savings, while the remaining 20 percent of the families accounted for 98 percent of the savings.

Even a momentary glimpse at these statistics makes it abundantly clear why about one-half of the total number of people in the United States over 65 years of age are dependent. Moreover, the situation is being constantly aggravated by the lengthening span of the average life, by the general rise in population, and by the technological changes driving the elderly worker from the factory. While only 3,000,000 inhabitants of this country were more than 65 years old in 1900, there are about 7,500,000 in this category today, there will be approximately 13,500,000 by 1960, and 19,000,000 by the end of the century. Thus we may expect within 25 years to be confronted by seven or eight million elderly folk without means of self-support.

The care of the old cannot be left indefinitely to the miserably weak pension laws which exist in only 33 States. Due to the unusual difficulties which localities always encounter when attempting to raise money, and to the general lethargy which surrounds social legislation until it receives some Federal impetus, the average monthly pension under State legislation is only $15.50 per month. At the present time, to the Nation's shame, every person over 65 years of age upon the pension rolls of the States is matched by three people upon the relief rolls.

TEMPORARY RELIEF: OLD AGE PENSIONS

To meet these pressing needs, the social security bill inaugurates a system of Federal subsidies to the States for old age pensions. For this purpose, there is appropriated $49,750,000 for the fiscal year 1936, and for each succeeding year there is authorized to be appropriated whatever amounts may be necessary to round out the plan. While these grants will be on an equal matching basis, they will in no case exceed $15 per month per person. This check upon Federal expenditure will in no wise circumscribe the limits of State activity. Those people who bewail that this bill in practice will limit pensions to $30 per month are shedding crocodile tears, because the average protection afforded today is less than half that sum; and because no evidence can be produced to show that Federal aid will prove an anchor rather than a propeller to progressive State action.

While a great degree of flexibility is permitted to State pension systems qualifying for Federal assistance, certain fundamental requirements must be observed. Relief must extend to every county in the State, nor can it be denied to any needy person who is a citizen of the United States and who has lived in the State for 1 year immediately preceding his application and for any 5 years during the 9 years preceding his application. This fusion of Federal and State responsibilities is along well established lines and has proved uniformly successful in this country.

The claim cannot be sustained that the cost of these pensions will be a greater burden than the country should bear. If we assume an average pension of $20 per month for each dependent person, this plan during the first year of its operation will cost the 48 States only $109,000,000, ranging from $11,000,000 in New York to $107,000 in Vermont. During the next 15 years, assuming the all-important fact that we enact contemporaneously the Federal old age benefit plan, the grand total of Federal and State expenditures for pensions will be only $2,445,000,000, or $163,000,000 per year. The high water mark will be about $1,200,000,000 in 1960, and will decline thereafter to a level of about $1,000,000,000 per year by 1980. Certainly these are not excessive sums for so great a task in a country as wealthy as ours.

In truth, the argument addressed to cost overlooks the simple fact that every civilized community does and must support its old and dependent people in some way. In this country we have been doing it largely by inefficient relief methods, by shabby pension systems, and by imposing burdens upon millions of younger members of families, with consequent impairment of their industrial efficiency, their morale, and their own opportunities for future independence. Our present method of dealing with the old is compounding the rate of old age dependency at terrific speed. More systematic treatment will involve a saving in material expenditures, a restoration of national self-esteem, and a salvaging of precious human values.

Fear has been expressed that the enactment of a comprehensive system of old age assistance would increase the number of persons upon the pension rolls. Long citations to this effect have been drawn from the experience of foreign countries. But granting the truth of this prediction, it is totally irrelevant. We might reduce the number of pensioners to zero by abolishing every pension law in every State. Of course, the enlargement of pension facilities will multiply the number of people receiving aid, just as the extension of workmen's compensation laws has increased the volume of relief against accidents. But pensions are no more the cause for poor people growing old than accident insurance is the cause for people getting hurt. Pensions do not create the evil; they merely recognize it and provide the most effective remedy.

PERMANENT RELIEF: RETIREMENT BENEFITS

However, sole reliance upon a system of old age gratuities might provoke unduly large increases in public expenditures. The cost would rise to $2,500,000,000 per year by 1980. The proportion of the total population dependent upon such assistance would rise from 15 percent in 1936 to 50 percent in 1957 and remain stable thereafter. For this reason it is necessary that the core of old age relief should be not gratuities but a systematic and actuarially sound system of earned old age benefits. Such a system, in addition to placing a governor upon general taxation, will provide an infinitely more humane method of dealing with the problem. Security after a life of work should be a matter of right, not of charity; it should be a certainty, not a mere expectancy.

In the long history of agitation for social insurance in this country, every proposal for consolidated public responsibility has been confronted by the plea that the matter should be left to the initiative of private enterprise. Thus it is now urged that all businesses possessing private pension systems should be exempted entirely from the provisions of Federal law. The best answer is experience. For a hundred years the way has been cleared for the development of private pension systems. But, aside from the railways, only about 2,000,000 people in the United States are within their purview. In many cases, even where a system exists, its protection is unfunded and uncertain. It is amazing to note that only about 4 percent of the workers covered by such plans actually draw any benefits upon retirement. A rapid labor turnover, or a dismissal for one cause or another, cuts

short their expectancy before its maturity. Students of this problem tell us that the encouragement of private pension systems promotes the antisocial practice of discharging men in middle age and is closely allied with the company dominated union. Despite claims to the contrary, no private system provides certain benefits to the run of average workers which are superior to those contemplated by the pending bill.

But while the Federal plan of old age benefits proposed under this bill is uniform in its application, there is nothing that would prevent any private system which might be more liberal in its terms from supplementing the public system. The accounting problems involved in such adjustments are well known and relatively simple.

The social security bill therefore provides a Federal system of old age benefits, computed and maintained upon an actuarial basis. Beginning January 1, 1942, any employee will be entitled to retire upon reaching the age of 65 or at any time thereafter, and to receive upon retirement monthly benefit payments from an "old age fund" in the United States Treasury. These benefits will represent a fixed percentage of the worker's earnings between January 1, 1937 and the time he reaches the age of 65. They will thus depend upon his average salary and his period of service subsequent to the inception of the system. Special allowances in the form of higher rates are to be made for the older workers of today, who will retire within a comparatively short period of time. The plan will cover employees of all grades and salaries, but that part of a man's annual income above the first $3,000 will be ignored in calculating benefits.

A few simple figures will convey an idea of the amount of protection afforded by this system. In the typical case of a man who works 40 years after the passage of the proposed law, the monthly benefit payment will be $32.50 if his average salary has been $50, $51.25 if it has been $100, $61.25 if it has been $150, and $71.25 if it has been $200. In the event a person dies before attaining the age of 65, or before receiving in benefits an amount equal to at least 3½ percent of his earnings between the inception of the system and his 65th birthday, his estate will receive an amount sufficient to bring his total receipts up to 3½ percent of such earnings.

The old age fund for the payment of these benefits will be maintained by annual appropriations beginning with the fiscal year ending June 30, 1937. These appropriations will be based upon actuarial principles and mortality tables, and will be sufficient to build up an adequate reserve and to pay 3 percent interest thereon.

Only those who know the frightful social cost of old age dependency will envisage in entirety the human values that will be salvaged by the establishment of this system. And it must not be overlooked that industry will receive its full measure of benefit. The incentive to the retirement of superannuated workers will improve efficiency standards, will make new places for the strong and eager, and will increase the productivity of the young by removing from their shoulders the uneven burden of caring for the old. The purchasing power that will result from a flood of benefit payments, beginning with $52,000,000 in 1942 and rising gradually to $3,511,000,000 in 1980 will have an incalculable effect upon the maintenance of industrial stability.

VOLUNTARY ANNUITIES

To provide opportunities for self-protection to persons of modest means who are excluded from the provisions of the Federal benefit plan, and who do not want to rely upon the gratuitous pensions, the bill contemplates the sale of annuity bonds by the Federal Government. These shall have a maturity value not in excess of $100.

PROTECTION OF THE YOUNG, THE MAIMED, AND THE SICK

Certainly the depression that has affected the strong could not have been expected to overlook the weak. Seven million four hundred thousand children under 16 years of age are now members of families upon the relief rolls. Only 109,000 families in the United States are receiving aid in the form of mothers' pensions under State laws, while at least 300,000 families are in need of such assistance. These pensions, where in effect, range as low as $7.29 per month per family, and are paid in only one-half of the counties within the States in which they operate. In addition, there are 300,000 homeless children, 200,000 new delinquents every year, and perhaps 500,000 who are crippled. For all these unfortunate groups, as well as for public health, maternal aid, and the care of the blind, the social security bill makes modest appropriations along the well developed lines of Federal subsidies to the States. These grants will be extended primarily upon a matching basis in order to stimulate the States to action, but they will take full account of the special needs of those localities which are genuinely without capacity to help themselves.

FINANCIAL ASPECTS

The total cost of all of these minor expenditures for the next 15 years will be less than $2,000,000,000. I have referred earlier to the special tax for unemployment insurance. Aside from old age pensions, which will be supported by general revenues, the main outgo will be in connection with the Federal old age benefits. To cover this, two types of taxes are imposed.

First, every employer is to pay an excise tax upon his total pay roll, but no single salary will figure in this computation to an extent greater than $3,000 per year. This tax will begin at 1 percent for the calendar year 1937, and will rise by one-half percent every 3 years until it reaches its maximum of 3 percent for 1949 and subsequent years.

The second tax is to be levied against wages and paid by employees, at the same rate and upon the same terms as the employers' tax. Thus the total burden upon each employer will be exactly the same as that imposed upon all of his employees.

The two revenue measures will yield over $15,000,000,000 by 1950, while the cost of old age benefits until that time will total only $2,445,000,000. Allowing for interest, the reserve fund will reach $14,000,000,000 within 15 years.

CONSTITUTIONAL VALIDITY OF THE MEASURE

In examining the constitutionality of this measure we may pass very quickly over the sections which provide for outright Federal subsidies to the States for old age assistance, for child welfare, for unemployment relief, for public health, and for maternal care. Analogous grants have formed a part of the fabric of our Government for half a century. Since the Maternity Act of 1921 was upheld in the case of Massachusetts against Mellon, found in Two hundred and Sixty-two United States Reports, page 47, I do not believe that a single reputable authority has questioned the plenary power of Congress to extend such assistance.

Let us turn then to the part of the bill which provides for Federal benefit payments to employees retiring at the age of 65. It is clear that no distinction ever has been, or logically can be, drawn between Federal subsidies to the States as organic entities and Federal aid to large classes of stricken individuals. The test in either case is whether the grant is within the authority of Congress to appropriate money.

Our Constitution provides, in part, that the Congress shall have power—

> To lay and collect taxes * * * to pay the debts and provide for the common defense and general welfare of the United States.

It is now generally agreed that this general welfare clause is a restriction upon the power to tax rather than an independent grant of legislative authority. But it has been equally clear for at least 75 years that the power to tax is coextensive with the power to spend; and that both, far from being circumscribed by the enumerated powers of Congress, extend to every tender solicitude for the general welfare.

Hundreds of illustrations come readily to mind where unchallenged expenditures of Congress have been far more tenuously linked to the general welfare than those contemplated by the present bill. Congress has appropriated money for the relief of the distressed inhabitants of other lands. Can there be less power to ameliorate the wide spread distress of our own people? Congress has devoted funds to the extinction of the Mediterranean fruit fly. Was that fly a greater scourge than unemployment? Congress has provided generously for the victims of Mississippi River floods. Are these floods more constant or more dreadful than the

advent of uncared for old age? Such comparisons invite no speculation.

Having probed the question of appropriations, let us now examine the tax sections of the bill. It is indisputable that the tax imposed upon pay rolls and wages by section 8 is a genuine revenue measure. It is calculated to raise $300,000,000 during the first year of its existence, and $2,000,000,000 annually within a dozen years. And when a genuine revenue measure is in question, the power of Congress to tax is practically unrestrained. In Flint against Stone Tracy Co., reported in Two Hundred and Twenty United States Reports, page 107, the Supreme Court said:

> The Constitution contains only two limitations on the right of Congress to levy excise taxes; they must be levied for the public welfare and are required to be uniform throughout the United States.

In Brushaber against Union Pacific Railroad, found on the first page of the Two Hundred and Fortieth volume of United States Reports, the highest tribunal added that the authority of Congress to tax "is exhaustive and embraces every conceivable power of taxation."

The Flint case also brushed aside the argument that an excise tax might be invalid because it singled out specific groups and excluded others. It was there said:

> As to the objection that certain organizations, labor, agricultural, and horticultural, fraternal and benevolent societies, loan and building associations, and those for religious, charitable, or educational purposes, are exempted from the operation of the law, we find nothing in that to invalidate the tax As we have had frequent occasion to say, the decisions of this Court from an early date to the present time have emphasized the right of Congress to select the objects of excise taxation, and within this power to tax some and leave others untaxed, must be included the right to make exemptions such as are found in this act.

Viewed in isolation, there can be no doubt that all of the excise taxes embodied in the social-security bill are a valid exercise of congressional power. The only serious question is whether they may be set aside on the ground that their real intent is to stimulate social insurance laws by the several States, or that they form part of a designing Federal scheme to invade the provinces reserved for State action. But no constitutional principle is more firmly embedded in case law than that no concomitant motive will invalidate an otherwise valid exercise of the taxing power. In Veazie Bank against Fenno, reported on page 533 of the eighth volume of Wallace, the Supreme Court upheld an act of Congress levying a 10 percent tax upon bank notes issued by State banks, although the clear intent and the accomplishment was to drive these notes out of existence. In McCray against United States, One Hundred and Ninety-fifth United States Reports, page 27, sustaining tax measures discriminating against the sale of yellow oleomargarine, Mr. Justice White said:

> It is self-evident that on their face they levy an excise tax. That being their necessary scope and operation, it follows that the acts are within the grant of Federal power.

The most persuasive opinion, however, is contained in the Two Hundred and Forty-ninth volume of United States Reports, at page 86. In the case of United States against Doremus upholding the constitutionality of the Harrison Narcotic Act, the Court said:

> An act may not be declared unconstitutional because its effect may be to accomplish another purpose as well as the raising of revenue. If the legislation is within the taxing authority of Congress—that is sufficient to sustain it.

And further corroboration by Mr. Justice Sutherland, writing for the Court, came in *Magmano Co.* v. *Hamilton* (292 v. c. 40), where it was said:

> From the beginning of our Government, the courts have sustained taxes although imposed with the collateral intent of effecting ulterior ends which, considered apart, were beyond the constitutional power of the lawmakers to realize by legislation directly addressed to their accomplishment.

The further objection may be raised that the excise tax and the income tax levied by section 8 are invalid because the measure taken as a whole indicates rather strongly that these taxes may be used to defray the costs of the special benefits to workers retiring at the age of 65. While the Supreme Court has not decided this question, the constitutionality of the Agricultural Adjustment Act, which went much further by directing that the proceeds of the taxes provided for therein should be devoted to specific purposes elaborated in the same act, was maintained by Judge Brewster of the United States District Court for Massachusetts. In the case of Franklin Process Co. against Hoosac Mills Corporation, located at page 552 of the eighth volume of the Federal Supplement, we read:

> The act, taken as a whole, leaves no doubt of the legislative intent to levy the tax for the purposes of defraying the expenses of administering the act and paying the debts incurred for benefit payments. * * * If * * * it should appear on the face of the act that it was calculated to benefit only private interests, it would be the duty of the court, I take it, to declare the tax unlawful. It is not, however, within the province of the court to substitute its judgment for that of Congress upon the effect of a particular measure manifestly designed to promote the general welfare of the people of the United States. It is no objection that individuals will derive profit from the consummation of the legislative policy. Individuals benefit from every bounty, subsidy, or pension provided for by statute, whether Federal or State.

The famous child-labor tax case, embalmed in the Two Hundred and Fifty-ninth volume of United States Reports, beginning on page 20, has been cited in opposition, but it is not applicable. There the Supreme Court said:

> In the light of all these features of the act, a court must be blind not to see that the so-called "tax" is imposed to stop the employment of children within the age limits prescribed. Its prohibitory and regulatory effects and purposes are palpable. All others can see and understand this. How can we properly shut our minds to it? * * * So here the so-called "tax" is a penalty to coerce the people of a State to act as Congress wishes them to act in respect of a matter completely the business of the State government under the Federal Constitution.

In marked contrast, the social security bill embraces not a penalty but a series of genuine tax provisions. Nor does it embrace a single regulatory feature extending within the boundaries of the several States, except the regulations incidental to the collection of all taxes.

The tax embraced in section 9 of the bill involves exactly the same considerations. Its only additional feature is the rebate allowed to taxpayers who contribute to unemployment insurance funds created under State laws. But this allowance falls squarely under the protection of Florida against Mellon, as reported in Two Hundred and Seventy-three United States Reports, at page 12. There the Federal estate tax, under the Revenue Act of 1926, allowed an exemption, up to 80 percent, based upon the taxpayers' subjection to similar estate taxes under State law. Florida, having no such law, claimed the act an unconstitutional discrimination designed to coerce the States to pattern their statutes upon the Federal Government's ideal. These objections were overruled, Mr. Justice Sutherland stating in the opinion of the Supreme Court that—

> The contention that the Federal tax is not uniform because other States impose inheritance taxes, while Florida does not, is without merit. Congress cannot accommodate its legislation to the conflicting or dissimilar laws of the several States nor control the diverse conditions to be found in the various States which necessarily work unlike results from the enforcement of the same tax. All that the Constitution (art. 1, sec. 8, cl. 1) requires is that the law shall be uniform in the sense that by its provisions the rule of liability shall be the same in all parts of the United States.

There remains to be considered only the extent to which the very recent decision of the Supreme Court in Railroad Retirement Board against the Alton Railroad Co. affects the Federal old-age benefit system. Insofar as that case went upon the ground that there was no direct relationship between the regulation of interstate commerce and the retirement of superannuated workers, it has no 'earing here. The present bill is based not upon the commerce power but upon the power to tax and to spend for public purposes. But it may be argued that the decision in the Alton case threatens the present project with extinction under the due-process clause, since it held that the pooled funds arrangement embodied in the railroad retirement law violated the fifth amendment. But the Supreme Court in that case was tremendously influenced by the specific provisions of the particular pooling system under fire, particularly in its application to past periods of service, and it is far from certain that the Court intended to strike down every Con-

gressional attempt to spread the incidence of major industrial risks.

It is doubly hard to believe that the Court desired to sound the death knell of all forms of social insurance, in view of its broad language in *Malton Timber Co. v. Washington* (243 U. S. 219), upholding a State workmen's compensation act.

The opinion said:

> To the criticism that carefully managed plants are in effect required to make good the losses arising through the negligence of their competitors, it is sufficient to say that the act recognizes that no management, however careful, can afford immunity from personal injuries to employees in hazardous occupations, and prescribes that negligence is not to be the determinative of the question of responsibility of the employer or the industry. Taking the fact that accidental injuries are inevitable, in connection with the impossibility of foreseeing when, or in what particular plant or industry they will occur, we deem that the State acted within its power in declaring that no employer should conduct such an industry, without making fairly apportioned contributions adequate to maintain a public fund for indemnifying injured employees and the dependents of those killed, irrespective of the particular plant in which the accident might happen to occur.

In my opinion, this decision is precisely applicable to old age and unemployment insecurity. But irrespective of the shadows that the Alton case may cast upon the validity of pooled funds, there is the further consideration that the social-security bill makes no provisions for pooling as that term has been understood. The old age benefits are paid, not from a pool, but from an account fed by appropriations from the general funds of the United States. If this procedure constitutes pooling within the prohibition of the Alton case, then it is hard to conceive of a Federal expenditure that would merit the sanction of the Supreme Court.

The decision of the Supreme Court in the case of A. L. A. Schechter Poultry Corporation against United States invalidating certain features of the National Industrial Recovery Act has no application to the pending bill, which contemplates neither delegation of power nor the extension of Federal authority under the commerce clause.

The social-security bill embraces objectives that have driven their appeal to the conscience and intelligence of the entire Nation. We must take the old people who have been disinherited by our economic system and make them free men in fact as well as in name. We must not let misfortune twist the lives of the young. We must tear down the house of misery in which dwell the unemployed. We must remain aware that business stability and prosperity are the foundation of all our efforts. In all these things we are united, and in this unity we shall move forward to an era of greater security and happiness.

Mr. LONG. Mr. President, I should like to ask the Senator from New York a question.

Mr. WAGNER. I yield.

Mr. LONG. I understand that, under the proposed plan, if a State put up its $15 per person, the United States would contribute its $15, so that the State could pay the person above the specified age $30 a month.

Mr. WAGNER. Mr. President, the Senator from Louisiana [Mr. LONG] refers only to the old-age-pension feature of the bill.

Mr. LONG. I understand. The point I wish to make is this. Let us take a State like Mississippi. The taxes of the State of Mississippi are already so high that half the property in that State was advertised for sale at a tax sale a year or so ago. If they should meet the requirements of the $15 to every person within the pensionable age it would require taxes for pensions alone in that State in excess of the total taxes now collected by the State of Mississippi, and that is only a small part of the bill, as the Senator says. I shall propose an amendment to the bill, on Monday, perhaps—I hope to have it looked over by that time by some parties whom I wish to consult—so that these benefits may be paid without taxing any laboring man, without taxing any poor man, without a State having to tax its property. I will propose that the Federal Government shall furnish the States the money with which to pay the old-age pensions, and other things of the kind, by levying a graduated tax only on those, wherever they may live, whose wealth is in excess of 100 times the average family fortune, and graduate it from that figure up.

In other words, under the amendment, which I hope I may have the support of the Senator from New York in having adopted, I think we can actually grant the benefits proposed under the bill without imposing burdens upon the people to whom we are supposed to be giving benefits, by levying a graduated tax to be paid only by those whose fortunes begin at not less than 100 times the average family fortune.

Mr. WAGNER. Of course, I am not in a position either to support or refuse to support the proposed amendment until I have a chance to read it.

Mr. LONG. I know that.

Mr. WAGNER. Under the old-age-pension feature of the bill, the money is to be paid in entirety by the taxpayers of the United States and of the States.

Mr. LONG. I understand. I do not expect the Senator to commit himself. I know his heart is already open on this kind of a matter, and I want to ask him to keep his mind open.

Mr. FLETCHER. Mr. President, will the Senator from Louisiana permit me to ask the Senator from New York a question?

Mr. LONG. I yield.

Mr. FLETCHER. There are some organizations, some incorporations, which are already operating certain pension plans of their own. Are they taken into consideration in the bill? In other words, will the people who have been for years participating in plans which have been in successful operation lose all they have been entitled to?

Mr. WAGNER. So far as past acts are concerned, any potential benefits that have accrued to workers through contribution by employers or employees, or both, are in no way affected by this bill. Any worker retiring at any time in the future may receive in full whatever has been stored up in his behalf. The only question is whether employers, by continuing their contributions to private systems in the future, should be allowed to escape the provisions of this bill. I strongly urge that they should not. These private systems are not extensive in the United States, and a study shows that only about 4 percent of the workers under them actually draw benefits. In many cases men are discharged in middle life and never receive the benefits.

In addition, the private systems increase the immobility of the workers. I think a system that makes a man free to leave his employment and still enjoy a pension in old age is preferable to one that glues him to a particular job. But there is nothing in the bill that prevents an employer from being more generous with his workers than the Federal plan requires. He may easily supplement the Federal plan with one of his own.

Mr. NORRIS. Mr. President, the question of the Senator from Florida leads me to ask another question of the Senator from New York, going, I think, a little further along the line of the Senator's question.

Let us take a concrete case. I understand the Pennsylvania Railroad has a pension system. I do not know anything about its details, but I am assuming that it has been very successful, a system in which the employees contribute a portion of the funds from which the employees receive pensions after retirement.

If a man had been an employee of the Pennsylvania Railroad for 25 or 30 years at the time this proposed law went into effect, he would have a very considerable interest in that pension system. What effect would the enactment of this measure have on that man and on that system?

Mr. WAGNER. There is no absolute obligation that the railroad pay the pension. It is a pure gratuity, and the promise may be revoked before fulfillment.

Mr. NORRIS. Then perhaps we ought to take an example a little different from that. As I have said, I am not familiar with this pension matter, but I should like to ask the Senator this question. Under some of the systems where the employer has been contributing, as well as the employee,

where the employee has been contributing for a number of years, and old age is about to come upon him, and he has a direct interest in the fund, what is going to happen to him?

Mr. WAGNER. There is nothing to interfere with an employer paying at any time in the future whatever pensions have accrued due to action already undertaken. And as to future undertakings, he has a perfect right to supplement whatever money may come out of the Federal pension funds.

Mr. NORRIS. Let us take a concrete case. The proposed law would provide for levying a tax on both the employer and the employee, running ultimately to 3 percent. Under the old system, we will assume, it was something different.

Mr. WAGNER. The employee has no assurance under the old system.

Mr. NORRIS. I know he has no assurance, but even if he has no assurance, it has been operating for a good many years, a great many people are getting benefits from it, and no one would want to destroy it if it is possible to avoid it. What would happen in that kind of a case?

Mr. WAGNER. In the first place these voluntary associations are not as widespread as the Senator assumes.

Mr. NORRIS. That may be true. I am asking the question, I may say to the Senator, not as a critic; I am as much in favor of the proposed legislation as the Senator is. However, I do not want to do any harm to any other system, which may involve both the employer and employee, since they have invested money in a fund or something of the kind, which would make it unfair, for instance, to levy an additional tax upon those people.

Mr. WAGNER. There is no additional tax, because these taxes operate only in the future. The employer is at liberty not to continue his private contributions in the future. Nothing destroys what he has done in the past, or prevents the employees from reaping the benefits of what he has done. All this bill provides is that, as to the future, the worker will have the absolutely sure protection of a public system.

Mr. NORRIS. I see that.

Mr. WAGNER. Whereas under these private systems the worker depends upon a mere matter of generosity.

Mr. NORRIS. I understand that.

Mr. WAGNER. If the firm fails, the employee loses his pension.

Mr. NORRIS. That is true.

Mr. WAGNER. But there is nothing to interfere with an employer who may desire to be more generous than the law.

Mr. NORRIS. I understand that.

Mr. WAGNER. That is all that happens.

Mr. NORRIS. That does not answer the question, if the Senator will allow me to say so, in the particular case I cited.

Mr. WAGNER. There is nothing to destroy such a system as the Senator assumes, except that in the future the employer and the employee are taxed to help finance the public system.

Mr. NORRIS. I hope there is nothing to destroy it, but if they are paying under a system which has been in operation for years, and then they are called upon to pay into this system in addition to that, it might mean a burden which would be unfair.

Mr. WAGNER. The Senator refers to the employee?

Mr. NORRIS. And the employer.

Mr. WAGNER. There is no double payment, because the employer can wind up the old system. As to what has already been paid under it, the worker has a vested right to whatever contributions he has made. He does not lose that money.

Mr. NORRIS. If he had such a vested right, he would not get it under this bill; he would get it as a matter of law. There may be some systems under which he would not.

Mr. WAGNER. An effort will be made upon this floor to perpetuate private systems in the future; but I think it is a very undesirable thing.

Mr. NORRIS. I think I agree with the Senator. I do not want to do anything to interfere with the operation of this measure, which I think is one of the most forward steps we have taken in a great many years, but, at the same time, I should hate to have the system injure other systems, some of which, in years past, have done a magnificent work.

Mr. WAGNER. I do not see how this plan can possibly injure or interfere with what these private systems have done, or with money already paid in to pay future benefits. These benefits may still be paid. There are bound to be some minor difficulties of adjustment, just as there were in relation to the workmen's compensation laws. At the time they were adopted there were some States where workers were paid greater compensation for injuries under the private plans than were provided by the new laws. But in order to protect all the other workers, it was necessary to pass mandatory legislation.

Mr. HARRISON. Mr. President, I ask unanimous consent that there be inserted in the RECORD at this point a very illuminating article written by Mr. Edwin E. Witte, executive director Committee on Economic Security, on the question of private pension plans.

The PRESIDING OFFICER. Without objection, it is so ordered.

The article referred to is as follows:

SOME REASONS WHY EMPLOYERS MAINTAINING INDUSTRIAL RETIREMENT SYSTEMS SHOULD NOT BE EXEMPTED FROM THE TAX IMPOSED IN TITLE VIII OF THE SOCIAL SECURITY ACT

(By Edwin E. Witte, executive director Committee on Economic Security, June 13, 1935)

I. RELATIVELY FEW EXISTING PRIVATE INDUSTRIAL RETIREMENT SYSTEMS GIVE AS ADEQUATE PROTECTION TO THE EMPLOYEES THEY INCLUDE AS THEY WILL RECEIVE UNDER TITLE II OF THE SOCIAL SECURITY ACT

Up-to-date information regarding industrial pension plans is very scant. The exhaustive study by Murray W. Latimer, Industrial Pensions Systems in the United States and Canada, brings the story down only to the early months of 1932. Since then there has been a considerable increase in the number of group annuity policies issued by insurance companies; and despite some abandondonments, some increases in the total number of industrial pension plans. In May 1932 there were, according to Latimer, 434 industrial pension plans, exclusive of railroad companies. Firms having such plans employed approximately 2,000,000 employees. Mr. Forster testified in the Senate hearings on the Social Security Act that there are now in the neighborhood of 600 industrial pension plans applicable to a total of between two and three million employees. Three hundred of these plans involve insurance through insurance companies, and, according to Mr. Forster, these plans apply to 1,000,000 employees. The information furnished by the Equitable Life Assurance Society, which is included in the Senate hearings on page 725, agrees fairly well with this estimate of Mr. Forster's as to the number of group annuity plans which are insured through insurance companies, reporting that there were 325 such plans in operation in December 1934. The number of employees reported covered, however, was very much smaller than estimated by Mr. Forster, being only 290,000.

The 600, or thereabouts, pension plans now in operation differ greatly as to their provisions. The following general statements, however, are believed to accurately summarize, in general terms, some of the principal features of these plans:

1. Many industrial pension plans have no reserves whatsoever, or only very inadequate reserves. This statement does not apply to the 325 plans which are insured through the insurance companies, and also does not apply to some of the noninsured plans. While the insured plans are one-half of the total number, they have only about one-tenth of the employees covered in industrial pension plans.

2. The benefits payable under a majority of the industrial pension plans are less than those to which employees will become entitled under title II of the Social Security Act. Under title II the annuity rate is one-half of 1 percent per month (6 percent per year) of the first $3,000 of the earnings of the employee during his industrial lifetime; one-twelfth of 1 percent per month (1 percent per year) of the earnings between $3,000 and $45,000; and one twenty-fourth of 1 percent per month (one-half of 1 percent per year) of the earnings in excess of $45,000. In practically all cases this figures out as an annual annuity of at least 1½ percent of the employee's total earnings. Latimer's study of more than 400 industrial pension plans in 1932 revealed that the majority of these plans provide for an annuity (annual) of 1 percent per year, and only 25 percent have an annuity rate of above 1¼ percent.

3. Few, if any, of the existing industrial pension plans make any provisions for the transfer of credits when an employee leaves employment to take work elsewhere. The most liberal of the plans provides that this employee shall in such a case get back the money he personally contributed; in no case does the employee get all of the contributions standing to his credit unless he remains with the company until age of retirement.

4. Practically all industrial pension plans provide for payment of annuity benefits only to employees who remain in employment until they reach the retirement age (with the variation that many plans provide for payment of death benefits to the estates of employees who die before reaching the retirement age). Fully one-

half of all industrial employees lose their jobs or retire voluntarily before they reach age 65. Under the existing industrial pension plans such employees who quit work or voluntarily retire before they reach the retirement age get no benefits at all, except for the rate, in some cases, of the money they themselves have contributed.

5. Most of the industrial pension plans can be discontinued at the option of the employer. This applies particularly to uninsured plans, which almost invariably are noncontractual. It is well-settled law that employees have no redress when employers discontinue or modify industrial pension plans, even if they have already been retired on a pension.

II. THERE IS NOTHING IN THE SOCIAL SECURITY ACT (AS A MATTER OF LAW) WHICH WILL COMPEL ANY EXISTING PLAN TO BE DISCONTINUED OR WHICH WILL IN ANY MANNER AFFECT THE RETIREMENT ALLOWANCES OF EMPLOYEES ALREADY PENSIONED

The question at issue is one of tax exemption, not of the right to continue industrial pension plans. The Social Security Act does not outlaw industrial pension plans or regulate them in any manner. Employers may feel that they cannot pay the taxes imposed in title VIII and also continue their industrial pension plans, but they are not prevented from doing so.

With regard to employees already retired, not only is there nothing in the bill which would require employers to discontinue or modify the pension grants already made, but it would be outrageous for them to use this bill as an excuse for doing so. Under a proper industrial pension plan reserves have been created for the payment of the pensions to people who have been retired. Under most of the existing plans the employers can discontinue the pensions at any time, but if they use the Social Security Act as an excuse for doing so they are exhibiting gross bad faith.

III. WHETHER OR NOT EMPLOYEES ARE EXEMPTED FROM THE TAX IMPOSED IN TITLE VIII, ALL OR NEARLY ALL OF THE EXISTING INDUSTRIAL PENSION PLANS WILL HAVE TO BE FUNDAMENTALLY ALTERED

It is inconceivable that Congress will grant exemptions to industrial pension plans which do not provide for transfer of credits or payment of benefits to employees who leave employment before the retirement age. Few, if any, of the existing plans provide for such transfer of credits. Most of the uninsured plans further provide that the employers may discontinue these plans at their option, and these clauses will certainly have to be eliminated before the Social Security Board can make the finding that these plans give as liberal benefits as those under the Social Security Act. Changes in these provisions will necessitate changes also in the rate of contributions or the benefit scale, or both, since the cost of the industrial pension plans is figured on the assumption that the great majority of all persons hired will never qualify for pensions. In short, all or practically all existing industrial pension plans will have to be fundamentally recast whether the employers are exempted from the tax in title VIII or not.

IV. IT WILL NOT BE APPRECIABLY, IF AT ALL, MORE DIFFICULT TO ALTER THE EXISTING INDUSTRIAL PENSION PLANS TO GIVE BENEFITS SUPPLEMENTAL TO THOSE UNDER TITLE II THAN TO ALTER THESE PLANS TO MEET THE CONDITIONS WHICH MUST BE IMPOSED IF EMPLOYERS ARE TO BE EXEMPTED FROM THE TAX IN TITLE VIII

A considerable number of firms with industrial pension plans have already announced that if the Social Security Act is passed they will alter their present plans to give only supplemental benefits to those which will be received by employees under the provisions of title II. Progressive employers will gain many advantages through such supplemental benefit plans. To set up such supplemental plans will require extensive changes in the present industrial pension plans; but there are no insurmountable obstacles. Mr. Folsom of the Eastman Kodak Co. has stated that in France this company maintains an industrial pension plan supplemental to the governmental plan and has had no difficulty with this plan.

As noted under III above, all or nearly all existing industrial pension plans will have to be very materially modified even if an amendment is adopted to exempt employers who maintain approved plans from the tax imposed in title VIII. These changes will at least, in many cases, have to be quite as extensive as those which are necessary to convert the existing plans into plans giving supplemental benefits to those provided under the Social Security Act.

V. THE EXEMPTION OF EMPLOYERS HAVING INDUSTRIAL PENSION PLANS FROM THE TAX IMPOSED IN TITLE VIII IS UNFAIR TO OTHER EMPLOYERS

In all amendments which have been proposed, employers are not required to elect whether they wish to be exempted for all their employees or to be included within the provisions of the Social Security Act. The amendments proposed contemplate that some of the employees only of the exempted employers are to be outside of the act. This is done on the theory that the employees shall be left free to determine for themselves whether the industrial pension plan is more favorable to them or the Social Security Act.

Actually, most industrial pension plans treat all employees alike, which means all employees either are better or worse off under the industrial pension system than under the Social Security Act. The freedom of an individual employee to choose under which plan he will come is inserted in the proposed amendments, not for the benefit of the employees, but for the benefit of the employers. Under the Social Security Act a higher percentage for computing annuities applies to employees who have relatively small total earnings. This gives an advantage to the employees who make contributions for a relatively short time—that is, to the workers who are now half old. If one of the proposed exemption amendments is adopted and individual employees are allowed to choose which plan they prefer, it is very natural that the older employees will be the ones who are brought under the Social Security Act. These employees will get a disproportionate share of the benefits and the employers who have the industrial pension plans will thereby escape a part of the liability which they ought to help to bear.

VI. EMPLOYERS WILL GAIN NOTHING THROUGH EXEMPTION, EXCEPT INSOFAR AS THEY ARE ABLE TO TRANSFER THE BURDEN OF PROVIDING PENSIONS FOR THEIR OLDER EMPLOYEES TO THE NATIONAL FUND

Under existing plans which are at all adequate the rate of contributions required from employers is at least 3 percent. This is the maximum rate that employers will have to pay under the Social Security Act, and that rate will not apply until 1949.

The only way that employers can gain through exemption is through having only their younger employees in the industrial pension plans while the older workers are within the national system. Through such a method employers can pay higher benefits to their younger workers because they escape the accrued liability for their older employees. As noted previously, however, this is at the expense of other employers who operate without an exemption.

VII. EXEMPTION OF INDUSTRIAL PENSION PLANS LEAVES THE DOOR OPEN TO GRAVE ABUSES OF EMPLOYMENT POLICIES

Where employers have private industrial pension plans they can greatly reduce the cost of such plans through employing as few workers of middle age or older as possible. The labor unions have often claimed that this is a policy of many of the firms which now have industrial pension plans. Whether this claim is correct or not, it is evident that such abuses are possible, and there is nothing in any amendments proposed which in any manner guards against this danger.

In this connection it should be noted that the arguments which can legitimately be made in support of individual employer unemployment reserves do not apply to private industrial pension plans. Individual employer accounts in unemployment compensation are advocated because they are expected to reduce unemployment since the employers must pay for the cost of their own unemployment. In industrial pension plans employers will likewise try to keep down costs, and can do so by employing as few older workers as possible, or by getting these older workers to come under the national system. Old age, however, is a very different risk from unemployment, inasmuch as everybody gets old. While it is socially desirable that unemployment should be reduced to a minimum, it is socially undesirable that the workers past middle age should be barred from employment.

VIII. THE ADOPTION OF AN EXEMPTION AMENDMENT WILL VERY GREATLY INCREASE THE DIFFICULTIES OF ADMINISTERING THE SOCIAL SECURITY ACT

One great difficulty will be to determine whether an industrial pension plan does or does not provide benefits which are more liberal than those which are provided under title II of the Social Security Act. An industrial pension plan, for instance, may allow annuities at a higher rate than does title II, but may apply (as is common) only to employees who have been with the firm for 6 months, a year, or other specified period of time. Is such a plan more liberal than title II? Similarly, an industrial pension plan may make no provisions for death benefits, although being distinctly more liberal than title II in regard to annuity allowances. Many other similar questions are certain to arise, and the Social Security Board will face an almost impossible task in trying to measure equivalents.

Another factor which will greatly increase the administrative difficulties is the necessity for including in any exemption amendment provisions governing taxes or credits when employees leave the employment of exempted firms. Such provisions are absolutely essential since the purpose of the Social Security Act is to provide old-age security for all industrial workers. If an exemption is allowed, there must either be a provision for the transfer of the accumulated reserve funds or for back payment of the taxes which the exempted employers would have had to pay on account of the employees who have left their employment and have come into the national fund. In either case, the computations will be most difficult. Transfers from plant to plant are very common in American industry, and in the normal case occur many times during the life of an industrial worker.

IX. THE ADOPTION OF AN EXEMPTION AMENDMENT WOULD PROBABLY MAKE TITLE VIII UNCONSTITUTIONAL

The constitutionality of the tax imposed in title VIII depends upon whether this is a genuine tax levy or a subterfuge for an unconstitutional regulation of intrastate commerce. If an exemption is allowed from the tax in title VIII to employers who establish approved industrial pension plans, it is evident on its face that it is not a genuine tax levy.

SOCIAL SECURITY

The Senate resumed the consideration of the bill (H. R. 7260) to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes.

WHO SHALL BE TAXED—THE BEGGAR OR THE MULTIMILLIONAIRE?

Mr. LONG. Mr. President, I hope I may have the attention of the Senators from New York, Mississippi, and other States who are interested in the bill.

On Monday I shall offer a plan which I believe ought to meet a very hearty response from those who are actually interested in social security. I do not think there is anybody here who believes he is going to do the working man or poor man any good with a pension or unemployment plan if he is levying upon him a tax which will be as heavy as the good he will get out of it. In other words, already the working man in this country is underpaid. He does not receive a subsistence wage. He is not able to lay up anything, because he does not earn as much as it would take to buy the bare necessities of life, and only a very small percentage of our people—less than 4 percent of them—earn as much as their bare subsistence costs within the same period of time.

Those are not my figures alone, Mr. President. Those are the figures which have been gleaned by many disinterested publications, and by the Government itself.

Mr. WAGNER. Mr. President, I have said that time and time again.

Mr. LONG. That is all the more reason why my amendment should be sponsored by the Senator from New York, who, I am glad to say, has said it time and time again, and I have heard him say it. When we realize that 96 percent of our people make less than is needed for bare subsistence, we know that those people who not only have none of the luxuries of life, who do not have the conveniences of life, and who, in fact, have far less than the bare essentials of life, certainly those people should not be taxed for the purpose of their own relief. Such is like trying to pull a sick man up out of his sick bed by his bootstraps when he has not even a boot on his foot.

Therefore, I am heartily in favor of all the systems of relief contemplated by the bill.

I think I am the first Member of this body ever to propose an old-age pension and much of this legislation by any resolution or by any bill which has been introduced in the Senate. I think I introduced in the United States Congress the first effort to grant an old-age pension to the people of the United States.

Mr. President, if we admit—as the Senator from New York says, and as I have confirmed, and we are both on solid ground—that 96 percent of the people of the United States earn far less than the bare essentials of life, earn less than will buy luxuries or even conveniences, earn even less than it takes to buy what the United States Government says is necessary to keep together soul and body, hair and hide, then certainly we do not wish to levy on those people a tax for any future benefits when they must live today and are not making a living today.

Only a week or two ago I saw published a table which showed that over 95 percent of the savings of the American people from their earnings are saved by something like 3 percent of the people. The table showed that something like one-half of the people did not earn enough to save anything at all, and that about one-half of the people, I think, earned so little that even by starving themselves their savings were infinitesimal and amounted to almost nothing. That is one reason why I say to the Senate that if we tax the beggar in his youth—and 96 percent of our people, nearly all of them are more or less beggars when they are making a subsistence wage—to provide for the beggar in his old age, we are not helping the beggar very much.

Further than that, I wish to say that there are States in the Union, such as the State of Mississippi, that have no natural resources to tax, except bare land. The State of Mississippi has no oil, it has no gas, it has no sulphur, it has no salt. The State of Mississippi has not even a fishing ground. That State has to get its shrimp, its crabs, and most of the fish used in the State from outside its boundaries. Most of its fish have to be taken out of the Gulf of Mexico in the waters of the State of Louisiana, and the fishermen have to pay a tax to the State of Louisiana before the fish can be carried by boat to the State of Mississippi, where the canning factories undertake to put them into containers for the market.

The State of Mississippi has been very badly off through no fault of its people. Many of my relatives live in the State of Mississippi. I have traveled that State from one end to the other, and from one side of the State to the other.

It is said by authorities of the State of Mississippi that if it were called upon to supply its one-half of the money for pensions alone—not for all the other things that it is proposed to do by way of social relief in this bill—if the State of Mississippi were called upon to supply the $15 a month that is needed for old-age pensions alone, it would take more money than the entire tax revenues of the State of Mississippi. That does not include unemployment insurance nor does it include many other features of this bill. It is a physical impossibility for the money to be raised in that way. It never can be done. It never will be done.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. BARKLEY. The statement which the Senator makes is rather surprising to me—that the amount necessary to be raised by the State of Mississippi, for instance, in order to match the $15 per month to all those eligible for pensions under this bill, would amount to more than all the taxes for all State purposes. Has the Senator a list or

table showing the number of eligibles in the State who would be entitled to this pension, and has he multiplied that number by the $15 a month or $180 a year which would be the minimum, so that he is sure his statement is correct?

Mr. LONG. Yes. I shall be glad to give the Senator the figures tomorrow morning, word by word and letter by letter. There is no material difference. I based my statement upon figures given me from the State of Mississippi. The Governor of the State, Governor Connor, gave me the information I am now giving. I shall be glad to get the figures and give them to the Senator.

Mr. BARKLEY. Does the Senator contend that that information will apply to all the States?

Mr. LONG. I am coming to that. It will apply to many of the States. As a matter of fact, it will apply to a large number of the States. Unfortunately, those who have the wealth to pay would domicile themselves in States where they would be less affected by taxation.

For example, we put on an income tax in Louisiana. Already there are men who are going to locate themselves in other States to keep from paying the little income tax of from 2 to 6 percent to the State of Louisiana.

I know that these figures are substantially correct, and I know that this bill is even less than a shadow. It takes the principles incorporated in the bills or resolutions I have heretofore offered in the Senate, and it proposes to do what is contained in some of them; but no man would ever receive 5 cents' worth of anything if it should be carried out. It would simply mean that the laboring man receiving less than a wage on which he can live would not only pay for a pension, something he cannot now pay, but the cost of collecting the payment from him would be deducted from the amount received.

Mr. WAGNER. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. WAGNER. Has the State of Louisiana passed any law providing for old-age pensions?

Mr. LONG. We have a local pauper assistance law. The State of Louisiana has done much social-security work, including what are known as the "paupers." We do not call our payments "old-age pensions", and they are not old-age pensions, no more than the people to be paid by this bill. This ought to be called a "pauper's bill", because we do not give an old-age pension when we require a man to take a pauper's oath and prove that he is not able to live without the so-called "pension."

I want to show Senators how this measure will act. In Louisiana we had a free-schoolbook law. All that a child had to do to get free schoolbooks was to take the pauper's oath, or to make out a declaration that the father and mother did not have the means with which to buy schoolbooks. That was a thing that we could not get the children of Louisiana to do. They would rather stay away from school than to make the pauper's declaration that their parents were not able to buy books for them. So what we did in Louisiana on this social-security work—I call it social-security work; education comes within that purview, I believe—was to provide that every child could have free schoolbooks whether he did or did not take the oath of a pauper. The books came to him as an absolute matter of right. Every child used free schoolbooks. None, rich or poor, used any other kind.

We have here what Senators call an "old-age pension" bill. We never have said that we had old-age pensions in Louisiana, but to some extent we have what there is contained in this bill. We call it a "pauper's law", under which in some cases a man is given a pension. As many as 500 persons are beneficiaries of that law in one parish in my State—in other States it would be called a "county"—and I understand the parish St. Landry has at one time had a large number, maybe nearly as many as I have mentioned; at least it did have at one time, if it has not now. Under that State law an annuity of $12 or $15 a month is granted to those in a helpless condition. That is what we call a "pauper's aid", given to the beneficiaries by the county board or the governing authorities, by what we call in Louisiana the "parish police jury." Let me say that resort to that law, of course, has been restricted. Very few people want to take a pauper's oath, and the subdivisions of the State would not be able to pay the annuity if many applied for it.

There is only one kind of old-age pension that is worth anything, and that is a universal pension. If pensions are paid only to those who can satisfy the governing authorities by proof that they are unable to care for themselves and that a pension is necessary for their welfare, immediately the dispensation of the pension fund is subjected to politics of the locality, and it is within the power of the local authorities to say at any time they want to, "John Smith does not need this pension", or "John Smith is not entitled to this pension"; or, if not that, the applicant is at least forced to degrade himself by proving that he is a pauper before he can go on the rolls. The only kind of a pension that is worth anything whatever to the people of the United States is one that is paid without people having to place themselves in the attitude of being paupers or indigents in order to get it. Therefore, if I were writing this bill, I would strike out the proviso which requires that only those coming within its qualifications, who might be said to be paupers, shall be paid pensions; and I would give a pension to every man who had reached 60 years of age and whose income did not exceed a certain amount or the value of whose property did not exceed a certain amount. That is the only basis upon which to put an old-age pension and make it practicable and feasible.

Secondly, if we are going to pay old-age pensions this Government ought to do it. I would not have proposed that in the Senate had I not thought that it ought to have been done as one of the elements of social security. Let us pension a man and not tax a man for the pension. If we are going to tax my son and my daughter and collect out of their weekly pay roll a sufficient amount to pay my pension and are going to take out the cost of administration from that and give me what is left for a pension, I do not know but that I would be better off if I took such surplus as my son and my daughter might be able to give me, without going to the expense of paying the administrative costs in Washington.

Mr. NORRIS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Louisiana yield to the Senator from Nebraska?

Mr. LONG. I yield.

Mr. NORRIS. While I think the Senator's statement and the general propositions laid down by him as to compelling the people who are going to be the beneficiaries to pay the taxes have a great deal of weight, nevertheless, if there were nothing in the bill except what the beneficiary when he got old was going to get, it would still, I believe, have many elements of merit.

Mr. LONG. That is insurance.

Mr. NORRIS. Yes. And still it could be said, as an objection to such a measure, "If you would let me handle the money, I would have made more out of it." Sometimes that would be true, but we all know, from our own experience that, as a general rule, it has not been so.

Mr. LONG. I admit all that.

Mr. NORRIS. Most men when they were earning, if they had properly invested their money, or if they had not lost it in some plan by which they expected to make a lot of money, would have when they reach old age a pretty good "nest egg", and so it would be a good thing if we did not do anything else—I should like to do more, of course, as I think everyone else would, but if we only went that far, it would accomplish a great deal of good.

Mr. LONG. If they were made to save something?

Mr. NORRIS. If they were made to save something.

Mr. LONG. I admit that; I admit that every man ought to take out a life-insurance policy; if he could, he ought to have some life insurance. I always have had, but it is mighty hard to understand how a man can lay up very much for his old age when during his useful years he is making less than it takes to live in the barest poverty. That is the point I am making. How can a group of men, 96 percent of whom are earning less money than it takes to live

in what is even worse than poverty, lay up enough money for the future to be of any real good? It would be better for a man to starve himself a little more during his useful years than he is now starving himself or that at least 96 percent of us are starving ourselves. In other words, if we are eating half enough it would be better to eat two-fifths enough and to save up one-tenth against the time when it will be needed even worse. But we cannot collect very much money for the Federal Treasury if we are levying the tax upon 96 percent of the people who are now earning, according to the Government tables, less than it costs not for luxuries, not for conveniences, but for the bare subsistence necessities of life.

Mr. BARKLEY. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Louisiana yield to the Senator from Kentucky?

Mr. LONG. I yield.

Mr. BARKLEY. Following the inquiry I made of the Senator a while ago, he was referring specifically to the State of Mississippi. I find in the hearings, on page 321, a table showing the number of eligibles in 1934.

Mr. LONG. What does the Senator mean by "eligibles"?

Mr. BARKLEY. Those above 65 years of age.

Mr. LONG. I propose to pension at the age of 60.

Mr. BARKLEY. In the hearings it is shown that there are 14,218 people in the State of Mississippi——

Mr. LONG. Who are over 65?

Mr. BARKLEY. Who are over 65.

Mr. LONG. I would not have the pension start at 65. That is not a pension.

Mr. BARKLEY. In order to match the $15 per month, which amounts to $180 a year, the State of Mississippi would be required to contribute $2,559,000.

Mr. LONG. What does the Senator mean by eligibles at 65—if they have reached 65 regardless of what they are doing?

Mr. BARKLEY. If they have reached 65 and are eligible for pension.

Mr. LONG. What does the Senator mean by "eligible"?

Mr. BARKLEY. I mean under the terms of this bill. If the Senator is going to apply it to everybody who reaches 60 or 65 or whatever the age may be, regardless of conditions or circumstances, of course the number would be larger, but I am taking the number who would be eligible under this measure. So it would require the State of Mississippi to raise two and one-half million dollars, and it would require my State to raise about $3,000,000. For the ordinary expenses of the State we raise now about $18,000,000, which, of course, includes the road tax and all that. I call the attention of the Senator to that because of his statement a while ago——

Mr. LONG. I will show the Senator I am right.

Mr. BARKLEY. That the contribution of the State of Mississippi, for instance, and I supposed he was taking that as typical of a great number of States——

Mr. LONG. I am right, and what the Senator has there is wrong.

Mr. BARKLEY. Is greater than all the taxes they raise for all purposes. Of course I am not going to get into a controversy with the Senator——

Mr. LONG. We will not have any controversy; we will go on the figures that the Senator cannot dispute; we will not argue on figures. Here is what this bill does: It proposes to start a pension first at 65. If we are going to start pensions at 65, why not make it 75? Then we will not have any expenses at all; or make it 85. That would be the best way. [Laughter.]

The PRESIDING OFFICER. The Chair will remind the occupants of the galleries that under the rules of the Senate no signs of approval or disapproval are permitted.

Mr. HARRISON. Mr. President, will the Senator permit me to interrupt him?

Mr. LONG. Let me finish this; then I will be glad to yield. To begin with, men cannot obtain employment at an age past 50, and the greatest economist have argued that the age of unemployment ought to be 45 or 50.

I have never yet known of anybody to propose an old-age-pension plan that was worth the paper it was written on when it proposed to pay a pension to anyone later than at 60 years of age. At the age of 60 there is generally no employment possible. I know Mississippi. I know what Mississippi needs as well as almost any man, probably as well as its own Representatives in Congress, because I have been through the State many times. There are the same kind of people in Mississippi as there are in northern Louisiana in the rural sections. My father and my grandmother came from Mississippi, Smith County. I know Mississippi people.

If we are going to start at the age of 65 with a pension, then my figures will have to be changed, but I do not propose to start at the age of 65. I propose to start at age 60. If we are going to start at age 75, we would have to change my figures again. I am told that for the first few years the bill would apply only to those who are over 70 years of age. It may be that that provision was stricken out of the bill, but there was a provision in the bill originally that it should apply only to those over 70 years of age. That was contained in the original recommendation of the President, though it may have been stricken out of the bill.

Who are eligible? Are we going to leave the matter of who shall be eligible for this pension to be determined by politicians, like the relief is now, where a man is told, "If you do not vote right you will be taken off the relief roll"? I do not want any old man to have to depend upon politics in order to stay on the pension roll or the relief roll, because it is the rottenest, crookedest, most corrupt game that is carried on in the United States today in politics, and that is saying something.

If we have to have the eligibility of every man for a pension determined by a local board or a State board or a Government board, if it is necessary to have a local board or a State board or a Government board determine that he is entitled to a pension, and if he must be subject to being taken off the pension roll from day to day or from month to month, that is not the kind of plan I want to see adopted. If that is what this is to be, it would prove to be a curse and not a benefit. If a man were compelled to realize from day to day, from month to month, from year to year, that he is a pauper, and must go through the embarrassment of proving that he is a pauper, that he has not any hogs in the woods nor any cow to milk nor any land to call his own, nor any son who might be helpful, then we would not have a pension system at all; we would not have even a pauper system to start with. I make that as an absolute statement of fact based upon my experience in social work in a State that does the best social work in America today—the State of Louisiana.

I propose that a pension should be paid to people who are over 60 years of age. I know Mississippi, I know Louisiana, I know Arkansas, each State nearly as well as I know the other—that is, the general run of people. I have traveled through those States all my life. I traveled them when I was 16 years of age and 17 years of age and many times since. I have been through them many, many times. Of all the people who have passed the age of 60 years in Mississippi there are not 10 percent who are not entitled to an age allowance.

According to insurance statistics issued by the life-insurance companies, we are told that only a few out of every hundred who passes the age of 60 is able to take care of himself. Senators have some Government figures tending to show that nearly everybody over 60 years of age can take care of himself, but the figures of the insurance companies who have been in the business say to the contrary, and I will show it by their advertisements. They read something like this:

> Only so many out of every 100 persons who has passed the age of 60, are not dependent upon charity or upon his folk or someone else for help.

Therefore I say that in my opinion from 90 to 95 percent of the common, ordinary run of people over 60 years of age are eligible to draw a pension, and the only way there will ever be a pension provided that is fit to talk about will be

to provide a pension that shall be given to every eligible man free of politics. Otherwise it would mean that in my State I would be one of the men controlling the pension, if I continued as a friend of some of the administrators down there in the area in which I live. It might be that Senator Huey Long and Gov. O. K. Allen and our political organization would have the right to say who should get a pension and who should not get a pension in Louisiana.

Do I know what that would mean? Indeed, I do. I know I would have the right to put 14,000 people on the pension rolls of Louisiana; and that is about the same number Mississippi would have. We have about the same population in Louisiana that Mississippi has. Do I not know if I had the power and the right to put 14,000 people on a free pension in Louisiana that Huey Long's and O. K. Allen's politicians would put Long and Allen men on the pension roll if we would let them? Do I not know that Representative FERNANDEZ, of New Orleans, who would have about 2,000 people eligible for the pension roll in his congressional district, would try to put 2,000 Fernandez people in his district on the pension roll, when he has 5 or 10 or 20 times that many people down there who need a pension?

Are we going to have a political thing of that kind? Do I not know that some of the parishes even in that State who have a few hundred on the pension rolls, or "pauper rolls", as we call them down in Louisiana, the politicians would have only their friends on the roll or the fathers of their friends or the mothers and aunts of their friends?

You are going down to my State of Louisiana and tell me we can put only 14,000 on relief. Who most needs a pension in Louisiana? The colored people are among the poorest people we have in some instances. About one-third to 40 percent of our people are colored people. They do not vote in many of the Southern States. How many of them will ever get on the pension rolls? Huh! How many do you think? I give you just one guess to figure out how many will ever get on the pension rolls unless their sons and daughters and they themselves are on the voting list. That may seem like cheap demagoguery, but I am not afraid to say it. I am one southern Senator who can tell the truth about this matter. I am not afraid to say it. I do not want a pension system that will be of help only to those who declare themselves paupers and prove themselves unable to earn a living and eligible to be put on the roll.

There is only one pension that will be worth anything at all, and that is a pension which goes to everybody who reaches a certain age. Do not make it an age that is the dying age. Do not make it an age when the death rattle is sounding in a man's throat. Make it an age when he is reasonably certain not to be able to take care of himself. If you are not going to start a man's old-age allowance until he is 65 or 70, you are going to wait until the Lord's threescore and ten years' time allowed man on earth is nearly over.

Do not make it necessary that one must depend upon the whims and decisions of politicians to get on the pension roll.

Therefore, if Mississippi pays a pension to every man who is 60 years old who needs it—I know what I am talking about and the Governor of Mississippi knows what he is talking about—if we provide payment of a pension to every man 60 years of age who needs it, it will cost the State of Mississippi one and one-fourth to one and one-half times its present tax revenues just to pay the pension.

I took the United States census as my guide. I ascertained from the United States census how many people in Louisiana were over 60 years of age. Then what did I do? I took the United States insurance companies' statistics and figured from that what percent of those people were able to earn their own living. After deducting that number obtained in that way, I found that to pay this pensic it would cost Louisiana more money than it raises for all other purposes put together in the State of Louisiana. According to the census reports, after deducting the people the insurance companies say are able to take care of themselves, still the State of Louisiana, to pay the others over 60 years of age a pension of $15 a month, would have to raise more money than it raises for all other purposes put together that are paid from the State treasury of Louisiana. I have forgotten how many millions of dollars it is, probably $12,000,000 or possibly $14,000,000. I have not the exact figures.

Mr. President, I am not condemning this effort. If I had been drawing an old-age-pension bill, I might have called into counsel the person who first proposed an old-age-pension plan to the Congress. I might have called in that kind of person. I might not. Perhaps I would not have been on friendly terms with him, and then I would not have called him in; but the chances are I would have called in someone who had first proposed old-age-pension plans to the United States Senate.

Do not misunderstand me. I am not condemning this effort. I am not fighting this bill. I am not opposing this bill. It probably will do no harm, to speak of, that will not have some corresponding good. Like the Senator from Nebraska, I think, taking it up one side and down the other, it is a gesture with some harm and some good in it; but apparently it makes a pretense to carry out the principles I have advocated. While it does not actually do so, nevertheless it is not a bill that I should oppose, except for being a void. What I am trying to show to the authors of the bill is this:

You want a pension bill enacted, and I want a pension bill enacted. This bill does not propose to enact a pension bill. We have here a pauper's-oath proposal which, if it ever amounts to anything, will operate in many States in a way that is fatally defective. Therefore, what I am saying to Senators is this:

On Monday I shall come in here—I hope before this bill shall have passed the stage of amendment—with what? I want Senators to listen to me. I shall propose that we provide an old-age pension of $30 a month. Payable to whom? To every man and woman in the United States who is over 60 years of age who has an income of less than $300 a year or $500 a year, whatever should be the proper amount—I am willing to be governed in that matter by the advice of my colleagues—or whose property ownership is less than a certain amount of money. That is what I shall do. I shall propose to carry out unemployment insurance and everything else that is in this bill. The bill does not propose to do enough.

How would I do it if it were left to me? Would I tax the pay roll of the man who is working? No; because the workingman is not getting today enough money to live on, even though he is working—and half of those who come within the class of workingmen are not working. I certainly would not say to a man who, according to the Government's own statistics, is making less money than it takes fairly to subsist upon even in poverty that he ought to be made to pay a tax for a pension in his old age, when he is not half living in his young age.

Therefore, I shall propose an amendment on Monday morning, or Monday afternoon—whatever time we meet—which will do all the good things pretended to be here contemplated. I shall not strike out one of the benefits proposed by the bill. I shall only add to them, and provide that in order to get the money to pay them we shall levy a tax of 1 percent upon all persons who own wealth and property in the United States which is more than 100 times greater than the average family fortune, and graduate the tax up on the succeeding millions owned by any one man, so as to get whatever amount of money may be required to carry out the purposes of the bill.

That would mean that $1,700,000 of every man's fortune would be altogether exempt from the taxes I shall propose. Therefore, the man who has one and one-half million dollars shall not have to pay a copper cent for the purposes of this bill; but if he has $2,000,000, he will have to pay 1 percent on, say, the last half million. Then I propose to make the tax 2 percent, and 4 percent, and 6 percent, and graduate it on up, so that the man who has four or five or six million dollars will pay a higher tax in proportion. I do not propose to tax the beggar or the weak, and I do not propose to tax

persons who are already undernourished and already underpaid.

That is the amendment with which I am coming in here on Monday morning. That will carry out the purposes of the Government. We are supposed to be decentralizing wealth. We ought not to tax the beggar to help the prince, or even tax the beggar to help another beggar. We ought to tax the prince to help the beggar if we find that the beggar is such a person as ought to be helped by bounties granted to him by law.

So I ask my colleagues to hold an open mind for the amendment I shall propose here Monday afternoon if we meet Monday at noon, or Monday morning if we meet Monday morning. I ask my colleagues to think to themselves in this fashion: Are you willing to go back to your States and tell your people that you have voted for "social security" or "social relief" when, in order to get it, you have called upon them to pay a tax which they cannot pay? Are you willing to say to the laboring man, "I voted for unemployment insurance that will amount to anything", when all you have done is to vote to tax his own pay check, and that check is now less than he can live on?

That is what I want the Members of the Senate to think about; and I want them to think whether or not they will be willing to support this beneficial legislation along the lines that we said in the Chicago convention we would advocate, namely, legislation that would give the people a share in the distribution of the wealth of the country. I am quoting the words of the President of the United States, who delivered that promise at the Chicago convention, that we would provide a share in the distribution of the wealth of the country to the people who need it. That is what we said. We are not doing that when, in order to support the benefits of this bill, we tax the poor man who is making a thousand dollars a year or $500 a year, who has a family that it takes $2,000 a year to clothe and feed and house, and who therefore needs an income of $2,000 a year.

Mr. BONE. Mr. President——

Mr. LONG. I yield to my friend from Washington.

Mr. BONE. I realize that I have no right to suggest to the Senator the propriety or lack of propriety of any amendment he may offer, or the practical wisdom of offering an amendment to any one bill; but I am wondering if that sort of an amendment might not jeopardize the bill.

Mr. LONG. It would not hurt anything if it did.

Mr. BONE. I merely wish to ascertain the Senator's idea as to whether it might not be wiser to propose the type of amendment the Senator has in mind to one of the revenue-raising bills which will come over from the House, because there might be those here who would be willing to vote for this bill, and are very anxious to vote for it, who might not be willing to vote for it if that sort of a rider were attached.

I am in harmony with the Senator's idea of increasing taxes in order to meet the necessary expenses of the Government and the necessary expenses of the type of legislation we are now considering; but I am so highly desirous of seeing this type of legislation enacted that I am fearful that anything attached to it of that character, which we might attach to another bill with more hope of having it adopted, might jeopardize this bill.

Mr. LONG. The place where it belongs is on this bill.

Mr. BONE. I have no quarrel with the theory of raising more money to care for these very large expenses.

Mr. LONG. I am satisfied that the Senator has not been here to hear my remarks. I have demonstrated that the people will not get anything under this bill. I have demonstrated it very thoroughly, I think, as the Senator will see if he reads my remarks; but if we are to provide money for old-age pensions, it ought to go in this bill. We propose in this bill to provide money for old-age pensions, and we propose in this bill to provide money for unemployment insurance. If we are to provide for old-age pensions and if we are to provide for unemployment insurance we shall have to provide for raising the money in some way, because it is not provided for here.

Why, just see what is provided. Read this. This is really funny:

For the purpose of enabling each State to furnish financial assistance, as far as practicable under the conditions in such State—

Listen to this:

to aged needy individuals—

Aged needy individuals, paupers, found to be paupers by the governing board of the county or State, controlled by the politicians, of whom I am one!

I am trying to keep the people out of the hands of men of my type and worse.

For the purpose of enabling each State to furnish financial assistance, as far as practicable under the conditions in such State, to aged needy individuals, there is hereby authorized to be appropriated * * * $49,750,000 a year.

Think of that! Talk about appropriating the little, infinitesimal amount of $49,000,000 to pay old-age pensions to all the people in the United States who are in need of those pensions. It is the most absurd and ridiculous thing I ever heard of in my life. That will not pay for the ribbons of the typewriters it will take to mail out the envelopes to the old-age pensioners of the United States. I know what I am talking about. I figured this thing out long, long ago, when I introduced the first old-age pension bill or resolution that ever came into the United States Senate, at least that I ever heard about.

I figured out how much it would cost. Do Senators know how much it would take? It would take $3,000,000,000. That is what it would take, according to the statistics of the United States Government, deducting those who earn their own living according to the tables of the life-insurance companies—and they are the most accredited statistics of which we have any knowledge. According to the Government statistics and according to the deductions made by the life-insurance companies, according to their tables—and their mortality tables have been accepted as authoritative by acts of Congress and by all the courts—according to them it will take something in excess of $3,000,000,000 to pay old-age pensions to the people in the United States, who are entitled to them at the rate of $30 a month. And the proposal here is to appropriate $49,000,000.

Talk about appropriating $49,000,000, and go back to the people and tell them that we have provided for old-age pensions. That will not pay half the pensions in the city of New Orleans alone. It is an absurd thing to talk about, if we are to do anything.

Then where are we to get the $49,000,000? It would mean taxing the poor devil who is to get the pension. It is ridiculous! It is absolutely absurd!

I want my good friends to know I am with them heart and soul and body; I was away ahead of them in this old-age-pension matter.

Mr. WAGNER. Mr. President——

The PRESIDING OFFICER (Mr. BURKE in the chair). Does the Senator from Louisiana yield to the Senator from New York?

Mr. LONG. I yield.

Mr. WAGNER. I think the Senator is confused. The $49,000,000 is for old-age assistance. That is to be paid by the taxpayers of the United States.

Mr. LONG. Very well. That is the Government's part of it. It is our part.

Mr. WAGNER. It is the Government's part. The other part is to be paid by the taxpayers of the States.

Mr. LONG. The other half?

Mr. WAGNER. Today all of the States which have pension laws—and I want to remind the Senator that his State has not one——

Mr. LONG. According to what these Government statistics show, Louisiana has not anything.

Mr. WAGNER. The Senator's State has not such a law; that is what I mean. They have not a pension law, and 35 States have inaugurated a system of pensions.

Mr. LONG. Louisiana has one of those things.

Mr. WAGNER. No.

Mr. LONG. Louisiana calls it a pauper law. We will not call it a pension, because a man who has to take a pauper's oath is not getting a pension. Under the proposed legislation a man would get a pension whether he took a pauper's oath or not. This thing says "needy people."

Mr. WAGNER. I do not desire to get into a controversy with the Senator about that, because the records are here as to whether States pay pensions or not, and how much they are.

Mr. LONG. The records are not here.

Mr. WAGNER. I was afraid the Senator was confusing this.

Mr. LONG. No; I am not.

Mr. WAGNER. It is money supplied by the taxpayers of the United States.

Mr. LONG. I understand. It is supposed to provide for payment up to $15 a month by the Government of the United States and $15 a month by the States, in order to make the $30.

Mr. WAGNER. Exactly.

Mr. LONG. Forty-nine million dollars is half of it, then, and the State has to put up the other $49,000,000, and that will make $98,000,000, substantially a hundred million dollars, and we would have one hundred million when we need three billion.

Mr. WAGNER. I should be glad to examine the Senator's figures——

Mr. LONG. I have been trying for years to get the Senator to talk this matter over with me.

Mr. WAGNER. I do not want to interrupt the Senator; I merely wanted to correct what I thought was misinformation.

Mr. LONG. No; I am right, absolutely.

Mr. WAGNER. The States of the Union today are paying a little less than $40,000,000 in old-age pensions.

Mr. LONG. Very well.

Mr. WAGNER. At least we are matching, and, of course, as the number of States making such payments increases, our assistance will increase, and we will hope that Louisiana will pass a law.

Mr. LONG. If the Senator will listen to me, I will show him that Louisiana has such a law. Louisiana authorizes its police juries, which are the same as the boards of governors of the counties, to pay paupers, when they want to put people on the pauper's roll. We give it the right name. Louisiana calls a spade a spade, and a "t" a "t", and an "i" an "i." We do not call these payments old-age pensions. We call them help to paupers, and that is the definition which ought to be given to what is proposed here.

A pension is something given to someone like a soldier. The Spanish-American War veteran does not have to take an oath and say that he is a pauper in order to get a pension. The World War veteran did not have to do it. The Civil War veteran did not have to take an oath that he was needy and destitute in order to get a pension, and I wish to say to my friend from Mississippi and to my good friend from New York—and he is my friend—I say to them that we know the dictionary too well to call such a thing as is proposed a pension when it is paupers' assistance. That is what it is. I can take the dictionary and show that this thing is not a pension. It is assistance to paupers who take the pauper's oath, provided politicians approve them. That is all it is.

Down in Louisiana we are honest people in our use of language. I do not mean that others are not honest in their language, but I mean we are not extravagant. We give paupers help, just as the bill before us proposes paupers' help, and the administration has been sandbagging Louisiana with these Government statistics because we will not change the word "pauper" to "pensioner." A pauper is not a pensioner.

If my friend from New York will do what he ought to do about this matter he will change the wording and say "pauper's assistance" instead of "old-age assistance", because when the language is "to aid needy individuals" it is taken out of the category of being a pension and it is made a payment to a pauper. That is what is done. It is not a pension at all, nothing of the kind.

For a long time I have wanted to talk this matter over with the Senator from New York, because his heart is in the right place and his mind, I believe, would yield to the figures. If he will come and listen to the figures I will give him from the life-insurance companies of the State of New York and the city of New York, which he knows to be reliable, and will compare those figures with the Government statistics, he will find the conditions in States like the State of Mississippi and the State of Louisiana, which latter State is not so much better off but is some better off than Mississippi, because we have minerals there. Oil, and salt, and fish, and oysters, and crabs, and pepper, and gas, and minerals like salt and copper, and all such minerals, are found in abundance in the State of Louisiana. There is located in Louisiana the big port of New Orleans, and it can boast many things like that which the State of Mississippi does not possess. It also has a few millionaires from whom to collect income taxes, something of which Mississippi has not so much.

I beg Senators to listen when I tell them that, according to the statistics of the life-insurance companies, there are only a few men out of every hundred who pass the age of 60 who are not dependent upon charity for support.

The mortality tables of the larger insurance companies have been accepted by the Government, and have been accepted by courts in every State, and by United States courts. If today we pay a pension to everyone in the United States over 60 years of age, we shall pay out not less than $3,000,000,000 a year. If we are limited to the $49,000,000 provided by the bill, and $49,000,000 more, or $100,000,000 in all, that will give $1 where we need $30; and then if there is taken out of that the cost of administration, we shall not have enough money to pay the postage necessary to send out the money. I am going to bring in the figures on Monday.

If the Senator from New York [Mr. WAGNER] will give me part of his time on Sunday I will meet him and give him the figures in his hotel, or I will meet him in his office, or he can meet me in my office, and I will show him that, in his own words, 96 percent of the people today are making less than a mere subsistence living, and that we cannot afford to tax people of that kind for their relief in their old age when they are not now getting enough money with which to buy food to eat.

Mr. BONE. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. BONE. Will the Senator tell us what proposal he makes in his amendment with respect to the increase in taxation?

Mr. LONG. Yes; I will. Here is what I propose: I propose that the money with which to make all these relief payments shall be raised by tax, but that the tax shall not be levied on any except those whose wealth exceeds 100 times the average family fortune of the United States.

Mr. BONE. Will the Senator leave that to be determined by the Treasury Department, or how will he make that calculation?

Mr. LONG. I will put the calculation in the bill, or do it otherwise. I will provide that there shall be an exemption on a man's first $1,700,000.

Mr. BONE. $1,700,000,000?

Mr. LONG. No; $1,700,000. That amount is exempt from the tax. On the first $1,700,000 no tax is to be paid. That limit is too high, but still we can make that limit. I am trying to make the limit so high that no one on earth will have a right to kick about it. It ought to be that the exemption was no more than $100,000, but we can make the limit the figure I have given, so that there shall be no tax for the purpose levied on any fortune except one which is 100 times the size of the average family fortune, and not take money away from the poor devil who is earning $500 and who actually needs $2,000 to buy food and to buy the necessities of life. The poor fellow who only has enough for a bare subsistence, the man whom we claim we are helping, who is starving to death already, who cannot send his children to school, whose children's clothes are tattered—we cannot

afford to levy a tax on him for an old-age pension. We are not doing any good to him if we do. In many cases we should be doing harm to him.

If we are going to give old-age pensions, let us give them to those who need them, but not provide for them in such a way that the determination of who is to receive them will simply be made by the State politicians or any bureaucrat.

I ought to be able to convince some of my friends here that I am somewhat idealistic in this. By what I propose I am excluding myself and friends from having the right to say who shall draw a pension in my State and who shall not draw a pension in my State. I am excluding myself from having a hand in handling that great political club with which we could say to a man, "You will have to be with HUEY LONG in order to get the pension, and if you are not with him you will not get it," because I am looking forward to what will be done in 47 other States, and I am looking forward to the time in my own State when the pension will mean something to the people. I know it does not mean anything as the bill is now drawn.

Therefore, I desire to say to my friends, if any of them wish to make any suggestions between now and Monday concerning my amendment—which does not provide for a tax, as I said, upon the first $1,700,000—I shall be glad to have them do so. If any one thinks the figure ought to be lower than that I should agree with him, and if the Senate would support a lower exemption I should prefer to have the lower exemption. However, I desire to put it on a basis where no one can say that the taxation for this work of social security has been placed upon the back of the man who can be hurt a little bit by paying it. That is what I wish to do.

Mr. BONE. Mr. President, I did not hear all of the Senator's argument. Does he propose his tax in the form of a capital levy?

Mr. LONG. Yes, sir.

Mr. BONE. I am wondering if that could be sustained under our Constitution without an amendment.

Mr. LONG. Yes, sir; it can be sustained. Not only can it be sustained, but it was the basis upon which the law of the United States was founded. It was the basis of the law upon which the United States started as a Government, and the only reason why we are in this fix today is because we departed from it. According to the statement made by the Senator from New York [Mr. WAGNER]—and it should have been made a thousand times more strongly—no one can question, topside nor bottom, the right of the United States to levy a tax on property and to graduate the tax. Nobody can question it. There is not a doubt about it.

I am not going to argue with the Senator from New York [Mr. WAGNER] the constitutionality of the taxes imposed under this bill. It is barely possible the Supreme Court may not sustain the constitutionality of some of the levies proposed in the bill. I hope they will, but they may not. I am not going to give the Senator from New York the kind of advice I gave him on the N. R. A., because he did not take my advice the last time and he might not take it this time; and since I was right the last time and he did not take advantage of my advice, he may be right this time, because, to say the least, both might be a guess; and in view of the fact that my friend from New York is a better lawyer than I am this might be his time to be right. I am not going to argue the matter.

It may be that the Supreme Court of the United States will hold the levies under this bill to be not valid under the Constitution; but there is no question about the levy of a uniform tax on property—none whatever. There can be no doubt about that. Nobody who has ever gone through a law school will ever be found who can argue anything to the contrary. There is no doubt about that. What I tell the Senate is constitutional. What I tell them is real. What I tell them is actual. What I tell the Senate helps these people. What I tell the Senate punishes no one. It gives the people of the United States actual unemployment relief, actual pension relief, actual social relief, and the burden of it is borne in such amounts as are ample to create a fund 30 times the one provided in this bill, and the burden of it is borne by people who have $1,700,000 or more.

Mr. President, I shall be here on Monday with the amendments I have suggested. If Senators have any suggestions to offer, I hope they will offer them. I shall be glad to give copies of my amendment to Members of the Senate who are interested in it, between now and tomorrow morning, as soon as I shall have perfected my amendment; and when I do, if they have any suggestions to make, either before we come to the Senate or on the floor of the Senate, which would perfect the amendment in accordance with what they think is their better judgment, I shall be glad to have them, in order that we may follow that system rather than follow the plans that are set forth and enumerated in this bill, which are not ample, not sufficient, which are burdensome, and in many instances will do more harm than they will do good.

Mr. HARRISON. Mr. President, I was about to make a few observations, but I notice that the Senator from Louisiana has left the Senate Chamber, and I do not care to make them in his absence.

Mr. McNARY. Mr. President, will the Senator be content to recess at this time, and begin with the committee amendments in the morning at 12 o'clock?

Mr. HARRISON. I think there ought to be an executive session at this time.

Mr. McNARY. I have no objection to that. However, on account of the great number of Senators who are absent from the Senate Chamber at this time, I think we ought not to begin with the committee amendments until tomorrow.

Mr. HARRISON. I do not wish to have the Senate get into any controversial matters tomorrow. I am willing to agree that we shall recess until tomorrow if we can have an agreement as to limitation of debate, and so forth, and try to wind up the consideration of the bill on Monday.

Would there be any objection to having a recess taken until 11 o'clock tomorrow morning?

Mr. McNARY. I do not think the recess ought to be taken until 11 o'clock a. m. I think it should be taken until 12 o'clock noon tomorrow.

Mr. HARRISON. I should like to have disposed of the Senate committee amendments about which there is no question, or about which there will be no debate. I do not expect, however, to conclude the consideration of the bill tomorrow.

Mr. McNARY. If the Senator will agree to the Senate taking a recess at this time until 12 o'clock tomorrow, I can assure him that there will not be any unnecessary delay, but I should not like to have the session commence at 11 o'clock in the morning.

SOCIAL SECURITY

The Senate resumed consideration of the bill (H. R. 7260) to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment-compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes.

SOCIAL SECURITY

The Senate resumed consideration of the bill (H. R. 7260) to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes.

Mr. COSTIGAN. Mr. President, in the Washington Daily News of June 14, 1935, appeared an editorial which merits consideration. It is entitled "Twenty Years Late." The concluding paragraph reads as follows:

The United States is 20 years or more behind advanced industrial countries in adopting a national social-security system. Further delay would only add to relief burdens, economic unbalance, and human fears.

The editorial, as a whole, will appeal to men and women who are devoted to wisely progressive legislation, and I ask that, in its entirety it may be incorporated in the RECORD as part of my remarks.

The PRESIDING OFFICER. Is there objection?

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

TWENTY YEARS LATE

By order of the American people the Senate today considers the administration's economic-security bill, designed to cushion some 27,000,000 families against "the major hazards and vicissitudes of life."

The House speedily passed this important measure, 372 to 33. The Senate would be wise to act with equal dispatch. For none of President Roosevelt's "must" measures is more sorely needed, or more popular.

The Senate committee's bill is a decided improvement on the one passed by the House. It attacks the social problems of indigent old age, unemployment, blindness, illness, and childhood dependency.

To help the present generation of aged poor, it offers out of the Federal Treasury a subsidy to States of as much as $15 monthly for each pensioned person past 65. To provide a self-liquidating old-age security system for the future, it proposes a Federal reserve fund into which employers and workers would contribute pay-roll taxes to support industry's retired veterans. Finally, it offers to others the opportunity to buy cheap Government annuities. These provisions should help to close the doors of poorhouses, which are so costly to the public and so unsatisfactory to the unfortunate inmates.

The unemployment insurance section is frankly an experiment in Federal-State cooperation. To encourage the States to enact unemployment insurance laws, it provides a Federal pay-roll tax, of which 90 percent would be remitted to States with jobless insurance systems. States are given wide latitude to try out plans that fit the regional or industrial needs of each.

The bill would benefit thousands of needy blind through Federal subsidies to States. It triples Federal appropriations for public health. It revives the infant-maternity care provisions of the now lapsed Sheppard-Towner Act, provides funds for rehabilitating crippled children, and increases a hundredfold Federal contributions for child welfare.

The bill has many defects. Some are due to the need for economy, others to the Supreme Court's rigid limits on Federal powers. The measure does not guarantee security to every family, but it will soften the blows of economic adversity.

It is the product of a year's sincere and expert effort. Its imperfections can be ironed out later, as other countries have improved similar measures.

The United States is 20 years or more behind advanced industrial countries in adopting a national social-security system. Further delay would only add to relief burdens, economic unbalance, and human fears.

Mr. HARRISON. Mr. President, if there is no Senator who desires to speak on the bill, I should like to have the Senate proceed to the consideration of the committee amendments.

The PRESIDING OFFICER. The clerk will state the first amendment of the Committee on Finance.

The first amendment of the Committee on Finance was, on page 1, line 7, after the word "financial", to strike out "assistance assuring, as far as practicable under the conditions in such State, a reasonable subsistence compatible with decency and health to aged individuals without such subsistence" and insert "assistance, as far as practicable under the conditions in such State, to aged needy individuals", so as to make the section read:

SECTION 1. For the purpose of enabling each State to furnish financial assistance, as far as practicable under the conditions in such State, to aged needy individuals, there is hereby authorized to be appropriated for the fiscal year ending June 30, 1936, the sum of $49,750,000, and there is hereby authorized to be appropriated for each fiscal year thereafter a sum sufficient to carry out the purposes of this title. The sums made available under this section shall be used for making payments to States which have submitted and had approved by the Social Security Board established by title VII (hereinafter referred to as the "Board") State plans for old-age assistance.

Mr. AUSTIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

| | | | |
|---|---|---|---|
| Adams | Coolidge | La Follette | Radcliffe |
| Ashurst | Copeland | Lewis | Reynolds |
| Austin | Costigan | Lonergan | Robinson |
| Bachman | Couzens | Long | Russell |
| Bailey | Davis | McAdoo | Schall |
| Bankhead | Dickinson | McCarran | Schwellenbach |
| Barkley | Donahey | McGill | Sheppard |
| Black | Duffy | McKellar | Shipstead |
| Bone | Fletcher | McNary | Smith |
| Borah | Frazier | Maloney | Steiwer |
| Brown | George | Minton | Thomas, Okla. |
| Bulkley | Gerry | Moore | Trammell |
| Bulow | Gibson | Murphy | Vandenberg |
| Burke | Gore | Murray | Van Nuys |
| Byrd | Hale | Neely | Wagner |
| Byrnes | Harrison | Norbeck | Walsh |
| Capper | Hastings | Norris | Wheeler |
| Caraway | Hatch | O'Mahoney | White |
| Chavez | Hayden | Overton | |
| Clark | Johnson | Pittman | |
| Connally | King | Pope | |

The PRESIDING OFFICER. Eighty-one Senators having answered to their names, a quorum is present.

The question is on agreeing to the amendment of the committee on page 1, line 7.

The amendment was agreed to.

The next amendment was, under the subhead "Operation of State plans", on page 6, line 14, before the word "notice", to insert "reasonable", so as to make the section read:

SEC. 4. In the case of any State plan for old-age assistance which has been approved by the board, if the board, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds—

(1) That the plan has been so changed as to impose any age, residence, or citizenship requirement prohibited by section 2 (b), or that in the administration of the plan any such prohibited requirement is imposed, with the knowledge of such State agency, in a substantial number of cases; or

(2) That in the administration of the plan there is a failure to comply substantially with any provision required by section 2 (a) to be included in the plan; the board shall notify such State agency that further payments will not be made to the State until the board is satisfied that such prohibited requirement is no longer so imposed, and that there is no longer any such failure to comply. Until it is so satisfied it shall make no further certification to the Secretary of the Treasury with respect to such State.

The amendment was agreed to.

The next amendment was, under the subhead "Old-age benefit payments", on page 10, after line 21, to insert the following:

(d) Whenever the board finds that any qualified individual has received wages with respect to regular employment after he attained the age of 65, the old-age benefit payable to such individual shall be reduced, for each calendar month in any part of which such regular employment occurred, by an amount equal to 1 month's benefit. Such reduction shall be made, under regulations prescribed by the board, by deductions from one or more payments of old-age benefit to such individual.

The amendment was agreed to.

The next amendment was, under the subhead "Definitions", on page 15, line 2, after the word "United", to strike out "States by" and insert "States, or as an officer or member of the crew of a vessel documented under the laws of the United States, by"; after line 9, to strike out "(4) Service performed as an officer or member of the crew

of a vessel documented under the laws of the United States or of any foreign country"; in line 13, before the word "service", to strike out "(5)" and insert "(4)"; in line 16, before the word "service", to strike out "(6)" and insert "(5)"; in line 19, before the word "service", to strike out "(7)" and insert "(6)"; and in line 22, after the word "purposes", to insert "or for the prevention of cruelty to children or animals", so as to read:

SEC. 210. When used in this title—

(a) The term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include that part of the remuneration which, after remuneration equal to $3,000 has been paid to an individual by an employer with respect to employment during any calendar year, is paid to such individual by such employer with respect to employment during such calendar year.

(b) The term "employment" means any service, of whatever nature, performed within the United States, or as an officer or member of the crew of a vessel documented under the laws of the United States, by an employee for his employer, except—

(1) Agricultural labor;

(2) Domestic service in a private home;

(3) Casual labor not in the course of the employer's trade or business;

(4) Service performed in the employ of the United States Government or of an instrumentality of the United States;

(5) Service performed in the employ of a State, a political subdivision thereof, or an instrumentality of one or more States or political subdivisions;

(6) Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

The amendment was agreed to.

The next amendment was, under the subhead "Provisions of State laws", on page 18, line 7, after the word "compensation", to strike out "solely", and in the same line, after the word "State", to insert a comma and "to the extent that such offices exist and are designated by the State for the purpose", so as to read:

SEC. 303. (a) The board shall make no certification for payment to any State unless it finds that the law of such State, approved by the board under title IX, includes provisions for—

(1) Such methods of administration (other than those relating to selection, tenure of office, and compensation of personnel) as are found by the board to be reasonably calculated to insure full payment of unemployment compensation when due; and

(2) Payment of unemployment compensation through public employment offices in the State, to the extent that such offices exist and are designated by the State for the purpose; and

The amendment was agreed to.

The next amendment was, on page 19, line 10, before the word "notice", to insert "reasonable", so as to read:

(b) Whenever the board, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law, finds that in the administration of the law there is—

(1) a denial, in a substantial number of cases, of unemployment compensation to individuals entitled thereto under such law; or

(2) a failure to comply substantially with any provision specified in subsection (a)

the board shall notify such State agency that further payments will not be made to the State until the board is satisfied that there is no longer any such denial or failure to comply. Until it is so satisfied it shall make no further certification to the Secretary of the Treasury with respect to such State.

The amendment was agreed to.

The next amendment was, under the heading "Title IV—Grants to States for aid to dependent children—Appropriation", on page 20, line 5, after the word "financial", to strike out "assistance assuring, as far as practicable under the conditions in such State, a reasonable subsistence compatible with decency and health to dependent children without such subsistence" and insert "assistance, as far as practicable under the conditions in such State, to needy dependent children,", and in line 16, after the word "the", to strike out "board" and insert "Chief of the Children's Bureau", so as to make the section read:

SECTION 401. For the purpose of enabling each State to furnish financial assistance, as far as practicable under the conditions in such State, to needy dependent children, there is hereby authorized to be appropriated for the fiscal year ending June 30, 1936, the sum of $24,750,000, and there is hereby authorized to be appropriated for each fiscal year thereafter a sum sufficient to carry out the purposes of this title. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Chief of the Children's Bureau, State plans for aid to dependent children.

The amendment was agreed to.

The next amendment was, under the subhead "State plans for aid to dependent children", on page 21, line 9, after the words "by the", to strike out "board" and insert "Chief of Children's Bureau"; in line 13, after the word "the", to strike out "board" and insert "Secretary of Labor"; and in line 14, after the word "as", to strike out "the board" and insert "he", so as to read:

SEC. 402 (a) A State plan for aid to dependent children must (1) provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them; (2) provide for financial participation by the State; (3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan; (4) provide for granting to any individual, whose claim with respect to aid to a dependent child is denied, an opportunity for a fair hearing before such State agency; (5) provide such methods of administration (other than those relating to selection, tenure of office, and compensation of personnel) as are found by the Chief of the Children's Bureau to be necessary for the efficient operation of the plan; and (6) provide that the State agency will make such reports, in such form and containing such information, as the Secretary of Labor may from time to time require, and comply with such provisions as he may from time to time find necessary to assure the correctness and vertification of such reports.

The amendment was agreed to.

The next amendment was, on page 21, line 17, after the word "The", to strike out "board" and insert "Chief of the Children's Bureau"; in line 19, after the word "that", to strike out "it" and insert "he"; and on page 22, line 2, after the word "application", to insert a comma and "if its mother has resided in the State for 1 year immediately preceding the birth", so as to read:

(b) The Chief of the Children's Bureau shall approve any plan which fulfills the conditions specified in subsection (a), except that he shall not approve any plan which imposes as a condition of eligibility for aid to dependent children, a residence requirement which denies aid with respect to any child residing in the State (1) who has resided in the State for 1 year immediately preceding the application for such aid, or (2) who was born within the State within 1 year immediately preceding the application, if its mother has resided in the State for 1 year immediately preceding the birth.

The amendment was agreed to.

The next amendment was, under the subhead "Payment to States", on page 22, line 20, after the word "The", to strike out "board" and insert "Secretary of Labor" and on page 23, line 9, after the word "the", to strike out "board" and insert "Secretary of Labor", so as to read:

SEC. 403. (a) From the sums appropriated therefor the Secretary of the Treasury shall pay to each State which has an approved plan for aid to dependent children, for each quarter, beginning with the quarter commencing July 1, 1935, an amount, which shall be used exclusively for carrying out the State plan, equal to one-third of the total of the sums expended during such quarter under such plan, not counting so much of such expenditure with respect to any dependent child for any month as exceeds $18, or if there is more than one dependent child in the same home, as exceeds $18 for any month with respect to one such dependent child and $12 for such month with respect to each of the other dependent children.

(b) The method of computing and paying such amounts shall be as follows:

(1) The Secretary of Labor shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of subsection (a), such estimate to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than two-thirds of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, (B) records showing the number of dependent children in the State, and (C) such other investigation as the Secretary of Labor may find necessary.

The amendment was agreed to.

The next amendment was, on page 23, line 11, after the word "the", to strike out "board" and insert "Secretary of Labor"; in line 13, after the word "the", to strike out

"board" and insert "Secretary of Labor"; in line 15, after the word "which", to strike out "it" and insert "he"; in the same line, after the word "that", to strike out "its" and insert "his"; and in line 20, after the words "by the", to strike out "board" and insert "Secretary of Labor", so as to read:

(2) The Secretary of Labor shall then certify to the Secretary of the Treasury the amount so estimated by the Secretary of Labor, reduced or increased, as the case may be, by any sum by which he finds that his estimate for any prior quarter was greater or less than the amount which should have been paid to the State for such quarter, except to the extent that such sum has been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Secretary of Labor for such prior quarter.

The amendment was agreed to.

The next amendment was, on page 24, line 1, after the words "by the", to strike out "board" and insert "Secretary of Labor", so as to read:

(3) The Secretary of the Treasury shall thereupon, through the Division of Disbursement of the Treasury Department and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Secretary of Labor, the amount so certified.

The amendment was agreed to.

The next amendment was, under the subhead "Operation of State plans", on page 24, line 5, after the word "the", to strike out "board" and insert "Chief of the Children's Bureau"; in line 6, after the words "if the", to strike out "board" and insert "Secretary of Labor"; and in line 7, before the word "notice", to insert "reasonable"; in line 19, after the word "the", to strike out "board" and insert "Secretary of Labor"; in line 21, after the word "until", to strike out "the board" and insert "he"; in line 23, after the word "Until", to strike out "it" and insert "he"; and in the same line, before the word "shall", to strike out "it" and insert "he", so as to make the section read:

SEC. 404. In the case of any State plan for aid to dependent children which has been approved by the Chief of the Children's Bureau, if the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds—

(1) That the plan has been so changed as to impose any residence requirement prohibited by section 402 (b), or that in the administration of the plan any such prohibited requirement is imposed, with the knowledge of such State agency, in a substantial number of cases; or

(2) That in the administration of the plan there is a failure to comply substantially with any provision required by section 402 (a) to be included in the plan; the Secretary of Labor shall notify such State agency that further payments will not be made to the State until he is satisfied that such prohibited requirement is no longer so imposed, and that there is no longer any such failure to comply. Until he is so satisfied he shall make no further certification to the Secretary of the Treasury with respect to such State.

The amendment was agreed to.

The next amendment was, under the subhead "Administration", on page 25, line 4, after the word "the", to strike out "board" and insert "Children's Bureau", so as to read:

SEC. 405. There is hereby authorized to be appropriated for the fiscal year ending June 30, 1936, the sum of $250,000 for all necessary expenses of the Children's Bureau in administering the provisions of this title.

The amendment was agreed to.

The next amendment was, under the subhead "Definitions", on page 25, line 9, after the word "sixteen", to insert "who has been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent, and"; and in line 14, before the word "residence", to insert "place of", so as to make the section read:

SEC. 406. When used in this title—

(a) The term "dependent child" means a child under the age of 16 who has been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent, and who is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, or aunt, in a place of residence maintained by one or more of such relatives as his or their own home;

(b) The term "aid to dependent children" means money payments with respect to a dependent child or dependent children.

The amendment was agreed to.

The next amendment was, under the subhead "Allotments to States"; on page 26, line 13, after the word "State", to strike out "bears" and insert "bore", and in line 14, after the name "United States", to insert a comma and "in the latest calendar year for which the Bureau of the Census has available statistics", so as to read:

SEC. 502. (a) Out of the sums appropriated pursuant to section 501 for each fiscal year the Secretary of Labor shall allot to each State $20,000, and such part of $1,800,000 as he finds that the number of live births in such State bore to the total number of live births in the United States, in the latest calendar year for which the Bureau of the Census has available statistics.

The amendment was agreed to.

The next amendment was, under the subhead "Approval of State plans", on page 27, line 11, after the word "plan", to insert "by the State health agency", and in line 15, after the word "are", to strike out "found by the Chief of the Children's Bureau to be", so as to read:

SEC. 503. (a) A State plan for maternal and child-health services must (1) provide for financial participation by the State; (2) provide for the administration of the plan by the State health agency or the supervision of the administration of the plan by the State health agency; (3) provide such methods of administration (other than those relating to selection, tenure of office, and compensation of personnel) as are necessary for the efficient operation of the plan; (4) provide that the State health agency will make such reports, in such form and containing such information, as the Secretary of Labor may from time to time require, and comply with such provisions as he may from time to time find necessary to assure the correctness and verification of such reports; (5) provide for the extension and improvement of local, maternal, and child-health services administered by local child-health units; (6) provide for cooperation with medical, nursing, and welfare groups and organizations; and (7) provide for the development of demonstration services in needy areas and among groups in special need.

(b) The Chief of the Children's Bureau shall approve any plan which fulfills the conditions specified in subsection (a) and shall thereupon notify the Secretary of Labor and the State health agency of his approval.

The amendment was agreed to.

The next amendment was, under the subhead "Payment to States", on page 28, line 12, after the word "beginning", to insert "with the quarter commencing", so as to read:

SEC. 504. (a) From the sums appropriated therefor and the allotments available under section 502 (a), the Secretary of the Treasury shall pay to each State which has an approved plan for maternal and child-health services, for each quarter, beginning with the quarter commencing July 1, 1935, an amount, which shall be used exclusively for carrying out the State plan, equal to one-half of the total sum expended during such quarter for carrying out such plan.

The amendment was agreed to.

The next amendment was, under the subhead "Operation of State Plans", on page 30, line 12, before the word "notice" to insert "reasonable"; so as to read:

SEC. 505. In the case of any State plan for maternal and child-health services which has been approved by the Chief of the Children's Bureau, if the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds that in the administration of the plan there is a failure to comply substantially with any provision required by section 503 to be included in the plan, he shall notify such State agency that further payments will not be made to the State until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied he shall make no further certification to the Secretary of the Treasury with respect to such State.

The amendment was agreed to.

The next amendment was, under the subhead "Approval of State Plans", on page 32, line 9, after the word "plan" to insert "by a State agency", and in line 13, after the word "are" to strike out "found by the Chief of the Children's Bureau to be"; so as to read:

SEC. 513. (a) A State plan for services for crippled children must (1) provide for financial participation by the State; (2) provide for the administration of the plan by a State agency or the supervision of the administration of the plan by a State agency; (3) provide such methods of administration (other than those relating to selection, tenure of office, and compensation of personnel) as are necessary for the efficient operation of the plan; (4) provide that the State agency will make such reports, in such form and containing such information, as the Secretary of Labor may from time to time require, and comply with such provisions as he may from time to time find necessary to assure the correctness and verification of such reports; (5) provide for carrying out the purposes specified in section 511; and (6) provide for cooperation with medical, health,

nursing, and welfare groups and organizations and with any agency in such State charged with administering State laws providing for vocational rehabilitation of physically handicapped children.

The amendment was agreed to.

The next amendment was, under the subhead "Payment to States", on page 33, line 10, after the word "beginning" to insert "with the quarter commencing"; so as to read:

SEC. 514. (a) From the sums appropriated therefor and the allotments available under section 512, the Secretary of the Treasury shall pay to each State which has an approved plan for services for crippled children, for each quarter, beginning with the quarter commencing July 1, 1935, an amount, which shall be used exclusively for carrying out the State plan, equal to one-half of the total sum expended during such quarter for carrying out such plan.

The amendment was agreed to.

The next amendment was, under the subhead "Operation of State plans", on page 34, line 25, before the word "notice", to insert "reasonable", so as to read:

SEC. 515. In the case of any State plan for services for crippled children which has been approved by the Chief of the Children's Bureau, if the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds that in the administration of the plan there is a failure to comply substantially with any provision required by section 513 to be included in the plan, he shall notify such State agency that further payments will not be made to the State until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied he shall make no further certification to the Secretary of the Treasury with respect to such State.

The amendment was agreed to.

The next amendment was, under the subhead "Part 3—Child-welfare services", on page 35, after line 10, to strike out:

SEC. 521. For the purpose of enabling the United States, through the Children's Bureau, to cooperate with State public-welfare agencies in establishing, extending, and strengthening, in rural areas, public-welfare services for the protection and care of homeless, dependent, and neglected children, and children in danger of becoming delinquent, there is hereby authorized to be appropriated for each fiscal year, beginning with the fiscal year ending June 30, 1936, the sum of $1,500,000. Such amount shall be allotted for use by cooperating State public-welfare agencies, to each State, $10,000, and such part of the balance as the rural population of such State bears to the total rural population of the United States. The amount so allotted shall be expended for payment of part of the costs of county and local child-welfare services in rural areas. The amount of any allotment to a State under this section for any fiscal year remaining unpaid to such State at the end of such fiscal year shall be available for payment to such State under this section until the end of the second succeeding fiscal year. No payment to a State under this section shall be made out of its allotment for any fiscal year until its allotment for the preceding fiscal year has been exhausted or has ceased to be available.

And in lieu thereof to insert:

SEC. 521. (a) For the purpose of enabling the United States, through the Children's Bureau, to cooperate with State public-welfare agencies in establishing, extending, and strengthening, especially in predominantly rural areas, public-welfare services for the care of homeless or neglected children, there is hereby authorized to be appropriated for each fiscal year, beginning with the fiscal year ending June 30, 1936, the sum of $1,500,000. Such amount shall be allotted by the Secretary of Labor for use by cooperating State public-welfare agencies on the basis of plans developed jointly by the State agency and the Children's Bureau, to each State, $10,000, and the remainder to each State on the basis of such plans, not to exceed such part of the remainder as the rural population of such State bears to the total rural population of the United States. The amount so allotted shall be expended for payment of part of the cost of district, county, or other local child-welfare services in areas predominantly rural, and for developing State services for the encouragement and assistance of adequate methods of community child-welfare organization in areas predominantly rural and other areas of special need. The amount of any allotment to a State under this section for any fiscal year remaining unpaid to such State at the end of such fiscal year shall be available for payment to such State under this section until the end of the second succeeding fiscal year. No payment to a State under this section shall be made out of its allotment for any fiscal year until its allotment for the preceding fiscal year has been exhausted or has ceased to be available.

(b) From the sums appropriated therefor and the allotments available under subsection (a) the Secretary of Labor shall from time to time certify to the Secretary of the Treasury the amounts to be paid to the States, and the Secretary of the Treasury shall, through the Division of Disbursement of the Treasury Department and prior to audit or settlement by the General Accounting Office, make payments of such amounts from such allotments at the time or times specified by the Secretary of Labor.

The amendment was agreed to.

The next amendment was, under the subhead "Part 4—Vocational rehabilitation", on page 38, line 19, after the word "the", to strike out "Federal agency authorized to administer it" and insert "Office of Education in the Department of the Interior," so as to read:

(b) For the administration of such act of June 2, 1920, as amended, by the Office of Education in the Department of the Interior, there is hereby authorized to be appropriated for the fiscal years ending June 30, 1936, and June 30, 1937, the sum of $22,000 for each such fiscal year in addition to the amount of the existing authorization, and for each fiscal year thereafter the sum of $102,000.

The amendment was agreed to.

The next amendment was, under the subhead "Part 5—Administration", on page 39, line 5, after the word "title", to insert a comma and "except section 531", and in line 9, after the word "title", to insert a comma and "except section 531", so as to make the section read:

SEC. 541. (a) There is hereby authorized to be appropriated for the fiscal year ending June 30, 1936, the sum of $425,000 for all necessary expenses of the Children's Bureau in administering the provisions of this title, except section 531.

(b) The Children's Bureau shall make such studies and investigations as will promote the efficient administration of this title, except section 531.

(c) The Secretary of Labor shall include in his annual report to Congress a full account of the administration of this title, except section 531.

The amendment was agreed to.

The next amendment was, under the subhead "State and local public health services", on page 40, line 20, after the word "regulations", to insert "previously", so as to read:

(c) Prior to the beginning of each quarter of the fiscal year the Surgeon General of the Public Health Service shall, with the approval of the Secretary of the Treasury, determine, in accordance with rules and regulations previously prescribed by such Surgeon General after consultation with a conference of the State and Territorial health authorities, the amount to be paid to each State for such quarter from the allotment to such State, and shall certify the amount so determined to the Secretary of the Treasury. Upon receipt of such certification, the Secretary of the Treasury shall, through the Division of Disbursement of the Treasury Department, and prior to audit or settlement by the General Accounting Office, pay in accordance with such certification.

The amendment was agreed to.

The next amendment was, under the heading "Title VII—Social Security Board—Establishment", on page 42, line 13, after the word "established", to insert "in the Department of Labor"; and in line 17, after the word "Senate" to insert "During his term of membership on the board, no member shall engage in any other business, vocation, or employment. Not more than two of the members of the board shall be members of the same political party", so as to read:

SEC. 701. There is hereby established in the Department of Labor a Social Security Board (in this act referred to as the "Board") to be composed of three members to be appointed by the President, by and with the advice and consent of the Senate. During his term of membership on the Board, no member shall engage in any other business, vocation, or employment. Not more than two of the members of the Board shall be members of the same political party. Each member shall receive a salary at the rate of $10,000 a year and shall hold office for a term of 6 years, except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed, shall be appointed for the remainder of such term; and (2) the terms of office of the members first taking office after the date of the enactment of this act shall expire, as designated by the President at the time of appointment, one at the end of 2 years, one at the end of 4 years, and one at the end of 6 years, after the date of the enactment of this act. The President shall designate one of the members as the chairman of the Board.

The amendment was agreed to.

The next amendment was, under the subhead "Expenses of the Board", on page 43, line 22, after the word "act" to insert "Appointments of attorneys and experts may be made without regard to the civil-service laws."; so as to read:

SEC. 703. The Board is authorized to appoint and fix the compensation of such officers and employees, and to make such expenditures, as may be necessary for carrying out its functions under this act. Appointments of attorneys and experts may be made without regard to the civil-service laws.

The amendment was agreed to.

The next amendment was, under the subhead "Reports" on page 44, line 2, after the word "The" to strike out

"Board" and insert "Board, through the Secretary of Labor,"; so as to read:

SEC. 704. The Board, through the Secretary of Labor, shall make a full report to Congress, at the beginning of each regular session, of the administration of the functions with which it is charged.

The amendment was agreed to.

The next amendment was, under the subhead "Deduction of tax from wages", on page 45, line 14, after the words "shall be", to strike out "made in" and insert "made, without interest, in"; so as to read:

(b) If more or less than the correct amount of tax imposed by section 801 is paid with respect to any wage payment, then, under regulations made under this title, proper adjustments, with respect both to the tax and the amount to be deducted, shall be made, without interest, in connection with subsequent wage payments to the same individual by the same employer.

The amendment was agreed to.

The next amendment was, under the subhead "Adjustment of Employers' Tax", on page 46, line 24, after the words "shall be", to strike out "made in" and insert "made, without interest, in", so as to read:

SEC. 805. If more or less than the correct amount of tax imposed by section 804 is paid with respect to any wage payment, then, under regulations made under this title, proper adjustments with respect to the tax shall be made, without interest, in connection with subsequent wage payments to the same individual by the same employer.

The amendment was agreed to.

The next amendment was, under the subhead "Collection and payment of taxes", on page 47, line 18, after the word "collections", to insert "If the tax is not paid when due, there shall be added as part of the tax interest (except in the case of adjustments made in accordance with the provisions of sections 802 (b) and 805) at the rate of one-half per cent per month from the date the tax became due until paid", so as to read:

SEC. 807. (a) The taxes imposed by this title shall be collected by the Bureau of Internal Revenue under the direction of the Secretary of the Treasury and shall be paid into the Treasury of the United States as internal-revenue collections. If the tax is not paid when due, there shall be added as part of the tax interest (except in the case of adjustments made in accordance with the provisions of sections 802 (b) and 805) at the rate of one-half percent per month from the date the tax became due until paid.

The amendment was agreed to.

The next amendment was, under the subhead "Definitions", on page 51, line 7, after the word "United", to strike out "States by" and insert "States, or as an officer or member of the crew of a vessel documented under the laws of the United States, by"; after line 14, to strike out:

(4) Service performed by an individual who has attained the age of 65.

After line 16, to strike out:

(5) Service performed as an officer or member of the crew of a vessel documented under the laws of the United States or of any foreign country.

In line 20, before the word "Service", to strike out "(6)" and insert "(4)"; in line 23, before the word "Service", to strike out "(7)" and insert "(5)"; on page 52, line 1, before the word "Service", to strike out "(8)" and insert "(6)"; and in line 4, after the word "purposes", to insert "or for the prevention of cruelty to children or animals", so as to read:

SEC. 811. When used in this title—

(a) The term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include that part of the remuneration which, after remuneration equal to $3,000 has been paid to an individual by an employer with respect to employment during any calendar year, is paid to such individual by such employer with respect to employment during such calendar year.

(b) The term "employment" means any service, of whatever nature, performed within the United States or as an officer or member of the crew of a vessel documented under the laws of the United States, by an employee for his employer, except—

(1) Agricultural labor;

(2) Domestic service in a private home;

(3) Casual labor not in the course of the employer's trade or business;

(4) Service performed in the employ of the United States Government or of an instrumentality of the United States;

(5) Service performed in the employ of a State, a political subdivision thereof, or an instrumentality of one or more States or political subdivisions;

(6) Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

The amendment was agreed to.

The next amendment was, on page 52, line 8, before the words "or more", to strike out "ten" and insert "four", so as to make the heading read:

Title IX—Tax on employers of four or more.

The amendment was agreed to.

The next amendment was, under the subhead "Certification of State Laws", on page 53, line 18, before the word "is", to strike out "all compensation" and insert "compensation", and in line 19, after the word "State", to insert a comma and "to the extent that such offices exist and are designated by the State for the purpose", so as to read:

SEC. 903. (a) The Social Security Board shall approve any State law submitted to it, within 30 days of such submission, which it finds provides that—

(1) Compensation is to be paid through public employment offices in the State, to the extent that such offices exist and are designated by the State for the purpose;

The amendment was agreed to.

The next amendment was, on page 55, line 6, before the word "notice", to insert "reasonable"; so as to read:

(b) On December 31 in each taxable year the Board shall certify to the Secretary of the Treasury each State whose law it has previously approved, except that it shall not certify any State which, after reasonable notice and opportunity for hearing to the State agency, the Board finds has changed its law so that it no longer contains the provisions specified in subsection (a) or has with respect to such taxable year failed to comply substantially with any such provision.

The amendment was agreed to.

The next amendment was, under the subhead "Administration, Refunds, and Penalties", on page 58, line 3, after the word "collections" and the period, to insert "If the tax is not paid when due, there shall be added as part of the tax interest at the rate of one-half of 1 percent per month from the date the tax became due until paid"; so as to read:

SEC. 905. (a) The tax imposed by this title shall be collected by the Bureau of Internal Revenue under the direction of the Secretary of the Treasury and shall be paid into the Treasury of the United States as internal-revenue collections. If the tax is not paid when due, there shall be added as part of the tax interest at the rate of one-half of 1 percent per month from the date the tax became due until paid.

The amendment was agreed to.

The next amendment was, under the subhead "Definitions", on page 60, line 19, after the word "some", to strike out "twenty" and insert "thirteen"; and in line 23, after the word "was", to strike out "ten" and insert "four"; so as to read:

SEC. 907. When used in this title—

(a) The term "employer" does not include any person unless on each of some 13 days during the taxable year, each day being in a different calendar week, the total number of individuals who were in his employ for some portion of the day (whether or not at the same moment of time) was four or more.

The amendment was agreed to.

The next amendment was, on page 61, line 22, after the word "purposes", to insert "or for the prevention of cruelty to children or animals"; so as to read:

(7) Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

The amendment was agreed to.

The next amendment was, on page 62, line 6, after the word "compensation" to strike out the comma and insert "all the assets of which are mingled and undivided, and in

which no separate account is maintained with respect to any person"; so as to read:

(e) The term "unemployment fund" means a special fund, established under a State law and administered by a State agency, for the payment of compensation.

The amendment was agreed to.

The next amendment was, on page 62, line 21, after the word "sections", to strike out "903 and 904" and insert "903, 904, and 910", so as to read:

RULES AND REGULATIONS

SEC. 908. The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall make and publish rules and regulations for the enforcement of this title, except sections 903, 904, and 910.

The amendment was agreed to.

The next amendment was, on page 62, after line 21, to insert:

ALLOWANCE OF ADDITIONAL CREDIT

SEC. 909. (a) In addition to the credit allowed under section 902, a taxpayer may, subject to the conditions imposed by section 910, credit against the tax imposed by section 901 for any taxable year after the taxable year 1937, an amount, with respect to each State law, equal to the amount, if any, by which the contributions, with respect to employment in such taxable year, actually paid by the taxpayer under such law before the date of filing his return for such taxable year, is exceeded by whichever the following is the lesser—

(1) The amount of contributions which he would have been required to pay under such law for such taxable year if he had been subject to the highest rate applicable from time to time throughout such year to any employer under such law; or

(2) Two and seven-tenths per centum of the wages payable by him with respect to employment with respect to which contributions for such year were required under such law.

(b) If the amount of the contributions actually so paid by the taxpayer is less than the amount which he should have paid under the State law, the additional credit under subsection (a) shall be reduced proportionately.

(c) The total credits allowed to a taxpayer under this title shall not exceed 90 percent of the tax against which such credits are taken.

The amendment was agreed to.

The next amendment was, at the top of page 64, to insert:

CONDITIONS OF ADDITIONAL CREDIT ALLOWANCE

SEC. 910. (a) A taxpayer shall be allowed the additional credit under section 909, with respect to his contribution rate under a State law being lower, for any taxable year, than that of another employer subject to such law, only if the Board finds that under such law—

(1) Such lower rate, with respect to contributions to a pooled fund, is permitted on the basis of not less than 3 years of compensation experience;

(2) Such lower rate, with respect to contributions to a guaranteed employment account, is permitted only when his guaranty of employment was fulfilled in the preceding calendar year, and such guaranteed employment account amounts to not less than 7½ percent of the total wages payable by him, in accordance with such guaranty, with respect to employment in such State in the preceding calendar year;

(3) Such lower rate, with respect to contributions to a separate reserve account, is permitted only when (A) compensation has been payable from such account throughout the preceding calendar year, and (B) such account amounts to not less than five times the largest amount of compensation paid from such account within any one of the three preceding calendar years, and (C) such account amounts to not less than 7½ percent of the total wages payable by him (plus the total wages payable by any other employers who may be contributing to such account) with respect to employment in such State in the preceding calendar year.

(b) Such additional credit shall be reduced, if any contributions under such law are made by such taxpayer at a lower rate under conditions not fulfilling the requirements of subsection (a), by the amount bearing the same ratio to such additional credit as the amount of contributions made at such lower rate bears to the total of his contributions paid for such year under such law.

(c) As used in this section—

(1) The term "reserve account" means a separate account in an unemployment fund, with respect to an employer or group of employers, from which compensation is payable only with respect to the unemployment of individuals who were in the employ of such employer or of one of the employers comprising the group.

(2) The term "pooled fund" means an unemployment fund or any part thereof in which all contributions are mingled and undivided, and from which compensation is payable to all eligible individuals, except that to individuals last employed by employers with respect to whom reserve accounts are maintained by the State agency, it is payable only when such accounts are exhausted.

(3) The term "guaranteed employment account" means a separate account in an unemployment fund of contributions paid by an employer (or group of employers) who

(A) guarantees in advance 30 hours of wages for each of 40 calendar weeks (or more, with 1 weekly hour deducted for each added week guaranteed) in 12 months to all the individuals in his employ in one or more distinct establishments, except that any such individual's guaranty may commence after a probationary period (included within 12 or less consecutive calendar weeks); and

(B) gives security or assurance, satisfactory to the State agency, for the fulfillment of such guaranties,

from which account compensation shall be payable with respect to the unemployment of any such individual whose guaranty is not fulfilled or renewed and who is otherwise eligible for compensation under the State law.

(4) The term "year of compensation experience", as applied to an employer, means any calendar year throughout which compensation was payable with respect to any individual in his employ who became unemployed and was eligible for compensation.

The amendment was agreed to.

Mr. LA FOLLETTE. Mr. President, in connection with the committee amendment on page 62 and following pages, I think it would be well if I were to ask unanimous consent to have printed in the RECORD at this point an explanation of that amendment, with which I had intended to acquaint the Senate in case any questions should be asked about it. I ask unanimous consent to have the statement printed in the RECORD at this point.

The PRESIDING OFFICER (Mr. BARKLEY in the chair). Without objection, it is so ordered.

The statement is as follows:

THE CASE FOR PERMITTING STATES TO ADOPT THE SEPARATE RESERVE ACCOUNT TYPE OF UNEMPLOYMENT-COMPENSATION LAW AND FOR GIVING CREDIT TO EMPLOYERS WHO HAVE REGULARIZED EMPLOYMENT

INTRODUCTORY STATEMENT

There are two principal types of unemployment-compensation laws: The pooled unemployment-insurance fund type and the separate reserve account type. In the pooled unemployment-insurance law all contributions are commingled, and payments of compensation are made from this common fund regardless of the particular employer for whom the unemployed workmen may have worked. In the reserve account type of unemployment-compensation law the contributions of each employer are kept separate for accounting purposes and each employer's account is charged only with the compensation payable to his own employees.

Except for accounting purposes the funds under both types of laws will be handled in exactly the same manner. The employers will pay their contributions to the State and the State will, under the Social Security Act, deposit these contributions in the United States Treasury, the Federal Reserve bank, or a bank designated to receive these deposits by the United States Treasury. The moneys in either case would be kept in an unemployment trust fund in the United States Treasury to the credit of the State and will be invested and liquidated as directed by the Secretary of the Treasury. The Secretary of the Treasury will keep one account only with each State. If the separate reserve account type of law, however, is permitted, the State will keep accounts with each employer, crediting him with his contributions and charging him with the payments made to his own employees.

The original economic security bill, following the recommendations of the Committee on Economic Security, permitted freedom to the States to determine the kind of unemployment-compensation law they wished to enact. It also provided that where employers have built up adequate reserves or have had a very favorable unemployment experience, the States might permit them, while they maintain such favorable employment record, to make contributions at a lower rate than that required from other employers, and that in that event an additional credit against the Federal tax for unemployment-compensation purposes shall be allowed such employers equal to the credit granted under the State law. A similar provision occurred also in the Wagner-Lewis bill of the Seventy-third Congress.

The House Ways and Means Committee voted to eliminate from the bill the permission to States to have a separate reserve account type of compensation law. Consistently with this action, it also struck out of the bill all provisions relating to credits for employers who have regularized their employment. The House bill as it came to the Senate provides that only States which have unemployment-compensation laws of the pooled type shall be recognized for purposes of credit against the Federal tax, thus in effect compelling all States to adopt this particular type of unemployment-compensation law. It also contained no provisions for any encouragement to employers to regularize their employment.

The amendment proposed by the Senate Finance Committee to section 907 (7) (e), restores permission to States to establish any type of unemployment-compensation law they wish. The new sections 909 and 910 provide for credits to employers who have regularized their employment, subject to conditions stated in section 910.

EXPLANATION OF SENATE AMENDMENTS AND OF OTHER GENERAL PURPOSES

The amendment to section 907 (7) (e) strikes from the House bill the provision that an unemployment fund established under a State law, to be recognized for purposes of credit against the Federal tax imposed in title IX, must provide that all assets are mingled and undivided and without separate accounts with respect to any employer. Under the House bill all States would be required to have pooled unemployment funds. With the amendments of the Finance Committee the States will be free to determine the type of unemployment-compensation law they wish to adopt, and whatever type they adopt will be recognized for purposes of credit against the Federal tax. This change does not compel the States to adopt the separate reserve account type of law but permits them to do so if they wish.

The new sections, 909 and 910, deal with what is called in the bill "the allowance of additional credit." Section 901 imposes an excise tax measured by pay rolls (beginning at 1 percent and increasing to an ultimate 3 percent) upon all employers of 10 or more employees, with stated exceptions.

Section 902 provides for a credit not exceeding 90 percent of the tax for payments made to State unemployment-compensation funds which meet the conditions prescribed in section 903.

The new section 909 provides for an additional credit to employers who have had a favorable unemployment experience. This additional credit is the amount by which they have been permitted to reduce their contributions under the State unemployment-compensation law. (As an illustration, if the State law permits an employer who has regularized his employment to reduce his rate of contribution to 2 percent, he will be entitled to credit against the Federal tax not of the 2 percent he has actually paid during the taxable year but of 2.7 percent—90 percent of 3 percent—which is the maximum credit that he can ever get, since all employers must always pay at least 10 percent of the Federal tax.) The additional credit permitted under this section may be granted under a pooled type of unemployment-compensation law as well as under the separate reserve account type of law.

The allowance of additional credit is hedged in with conditions which are set forth in section 910 and which are designed to prevent a reduction in the rate of contribution when employers have not genuinely regularized their employment. Three different types of provisions are distinguished, under which employers may be permitted a reduction in their rates of contribution:

(1) Reduced rates of contribution under pooled unemployment-compensation laws.

(2) Reduced rates of contribution under separate reserve account unemployment-compensation laws.

(3) Reduced rates of contribution where employers provide guaranteed employment.

The condition prescribed by the reduction of rates of contribution of pooled unemployment-insurance laws is that no reduction may be made until after 3 years of compensation experience. The condition applicable to the separate reserve account type of unemployment-compensation law is that the employer must have built up a reserve equal to at least five times the largest amount of compensation which has been paid from his account within any one of the three preceding calendar years or equal to at least 7.5 percent of his total pay roll during the preceding calendar year, whichever is the larger.

The conditions under which reduced rates of contribution are recognized, where permitted by the State law, to an employer who has guaranteed employment to all or some of his employees are:

(1) The period of guaranteed employment is at least 40 weeks during the year with not less than 30 hours of work during any week. (If the guaranty is for more than 40 weeks during the years, the hours per week may be reduced by the same number as the number of weeks of guaranteed work is increased—i. e., if the guaranty is for 42 weeks, only 28 hours of work need be given.)

(2) The employer must have actually fulfilled his guarantee.

(3) The employer must have built up a reserve of not less than 7.5 percent of his pay roll in the preceding year, from which compensation is payable to employees in the event the guarantee is not fulfilled or not renewed, and the employee, in consequence, becomes unemployed and is unable to find other work.

WHY STATES SHOULD BE PERMITTED FREEDOM OF CHOICE WITH RESPECT TO THE TYPE OF UNEMPLOYMENT-COMPENSATION LAW THEY WISH TO ADOPT

(1) Freedom of choice or permission to the States to determine for themselves what type of unemployment-compensation law they wish to adopt is in accord with the entire theory of the Social Security Act. The Social Security Act contemplates not dictation by the Federal Government but assistance to the States in developing measures of social security. In both Houses of the Congress there has been overwhelming sentiment against provisions giving anyone in Washington authority to tell the States what they must do. Many standards included in the original bill were eliminated for this reason. In this particular case, however, the House deprived the States of freedom of choice. In substantially all other respects the States are free to determine what sort of unemployment-compensation law they wish. The conditions prescribed in section 902 for the approval of State unemployment-compensation laws are not restrictions but merely standards to make certain that the State laws are genuine unemployment-insurance laws and not mere relief measures. The States are left free to determine whether they wish to have employee contributions or not, what waiting period there shall be, what the rate of benefit shall be, the duration of benefits, and every other feature of a compensation law except the general type of law they wish to have. Under the House bill they must have a pooled unemployment-insurance fund, though practically all other provisions can be determined as they see fit. This is utterly illogical.

(2) While there are advantages in a pooled-fund type of law, there are also advantages in a separate reserve account type of law, and at this stage there is no good reason why the States should not be permitted to have the type of unemployment-compensation law they wish. In arguing for freedom of choice for the States with respect to the type of unemployment-compensation law they desire, it is not necessary to detract from the pooled-fund type of law. Good arguments can be made in behalf of this type of law, but there are also valid arguments in favor of the other type.

The principal arguments in favor of separate reserve accounts are the following:

(a) Separate reserve accounts furnish a stronger incentive to employers to regularize their employment. Where an employer is charged with the cost of compensation payable to workmen he lays off, he naturally will make greater efforts to avoid having to lay off anyone than under a system where discharges cost him nothing. Employers cannot prevent all unemployment, but there is little doubt that many employers can do very much more than they are doing through reduced hours of labor when business slackens, and other methods.

(b) A separate reserve account type of unemployment-compensation law is stronger constitutionally than a pooled type of law. In the recent decision of the Supreme Court in the *Railroad Retirement Board* v. *The Alton Railroad Co.*, the majority of the Supreme Court laid considerable stress upon the fact that under the Railroad Retirement Act all funds were pooled and all railroads were required to make contributions at the same rate regardless of the age composition of their employee group. The majority of the Court held that a system of this kind violated the due process clause of the Constitution—amounting to the taking of the property of some railroads for the benefit of the employees of other railroads. This particular part of the decision of the majority of the Supreme Court in this case is not necessarily conclusive upon the constitutionality of pooled unemployment-insurance funds, but does cast doubt upon the constitutionality of such funds unless provision is made for varying rates in accordance with the risk and experience of the individual employer. Under the separate reserve account type of law, each employer pays only for unemployment among his own employees. This completely meets the objection of the majority of the Supreme Court to the Railroad Retirement Act.

(c) A separate reserve account type of unemployment-compensation law in actual practice is very likely to provide just as adequate protection to unemployed workmen as a pooled-fund type of law. The major argument in behalf of the pooled funds is that they avoid the difficulty of a separate reserve account which may become exhausted, and, in consequence, the employees receive nothing when they become unemployed. This must be admitted as a possibility, but there is no guaranty that pooled funds will not become exhausted. When pooled funds become exhausted, not only will the employees in industries which have a vast amount of unemployment get nothing, but the employees in industries which have had very little will likewise get nothing.

Under the separate reserve account system, employees in establishments which regularize their employment, or which have low unemployment rates for any other reason, are almost sure to get full compensation when they become unemployed. But if there is a pooled fund, employees in such establishments and industries may get nothing because the employees in less regular establishments and industries have used up all of the fund.

Pooled unemployment-insurance funds are advantageous to industries and employees which have a great deal of unemployment but are disadvantageous to employees in plants and industries which have a minimum of unemployment, and the reverse of these statements applies to separate reserve accounts.

(3) The provision of the House bill requiring all States to have the pooled unemployment-insurance type of compensation law will bar 3 of the 5 unemployment-compensation laws that have already been enacted and compel all progressive employers who have voluntarily set up unemployment-compensation systems to abandon their plans. Of the five unemployment-compensation laws which have been passed to date, those of New York and Washington provide for pooled unemployment-insurance funds without any provisions for separate reserve accounts. On the other hand, the Utah and Wisconsin laws provide for separate employer reserves in all cases. The New Hampshire law provides for a pooled fund from which all payments of compensation are made but also provides that separate accounts shall be kept with each employer. These separate accounts are for the purpose of determining the rates of contribution to be paid by the employer in future years, the New Hampshire law providing that the rates of contribution shall be reduced after 3 years where employers have had a favorable experience and shall be increased if they have had a poor record. The House bill bars this New Hampshire plan, no less than the Utah and Wisconsin separate reserve account type of law.

The Wisconsin law is the only one now in actual operation. It was passed in 1932 and became effective, with regard to the collection of contributions, on July 1, 1934. Since then more than

$5,000,000 have been collected under the Wisconsin law and set aside in separate reserve accounts for the payment of compensation to the unemployed workmen of employers to whom these accounts belong. Under the Wisconsin law these payments of compensation are to begin on July 1 of this year, and more than $5,000,000 will be available at that time for the payment of claims of workmen who may thereafter become unemployed. If the Social Security Act should become law in the form in which it passed the House, Wisconsin, as well as Utah and New Hampshire, will have to scrap its unemployment compensation act and begin all over again. The separate reserves under the Wisconsin law are the property of the employers, and the money already collected will have to be returned to the employers, the employees in the State losing the advantages of the funds which have already been accumulated.

The House bill penalizes the progressive employers and the States which have pioneered. This is done on the assumption that separate reserve accounts are inferior to pooled unemployment-insurance funds. Such assumption is not based on any actual experience, but rests entirely upon theoretical grounds. For Congress to penalize those who have pioneered because, forsooth, what they have done does not please some theorists, is a gross injustice and would have a most retarding effect upon all pioneering toward social progress.

WHY THE FINANCE COMMITTEE AMENDMENT ON ADDITIONAL CREDITS TO EMPLOYERS WHO HAVE REGULARIZED THEIR EMPLOYMENT SHOULD BE ADOPTED

(1) Prevention of unemployment is very much more important than compensation for unemployment. Unemployment compensation can give unemployed workers only a partial wage and for a limited period. None of the unemployment compensation laws enacted to date gives compensation of more than 50 percent of the prior wages, and in all of them the duration of payments is strictly limited. Unemployment compensation is distinctly better than nothing, but so long as at least half-time work is provided the employees are better off if they are retained in employment than if they are laid off. (Most employees actually prefer earning less money and being kept on the pay roll than being severed therefrom and drawing slightly more compensation for a limited period.)

(2) Under the Finance Committee amendment, unemployment compensation will tend to stimulate the regularization of employment, without which the reverse effect may result. While employers must pay the same rate of contributions, whether they have much or little unemployment, there is no incentive at all to reduce unemployment. When orders slacken, the natural thing for them to do is to discharge employees who are no longer needed. Where employers can save money, on the other hand, through regularizing their employment, they may be expected to do everything that they can to reduce their costs. When orders slacken, instead of discharging some employees, they will have a strong incentive to reduce hours of labor and to spread their work among all of their employees so that they do not have to pay compensation from their own accounts to some of these employees. Likewise, they will try to eliminate seasonal and other irregularities as best they can. The extent to which they can do so will vary with different industries, but under the stimulus of the possibility of reducing rates of contribution, it is to be expected that employers will do very much more toward regularizing employment than they have done heretofore.

(3) These provisions carry out the oft-expressed wish of the President that unemployment compensation should promote the regularization of employment. Upon this point the President stated in his message of January 17, 1935, which dealt exclusively with the subject of social security: "An unemployment-compensation system should be constructed in such a way as to afford every practicable aid and incentive toward the larger purpose of employment stabilization. This can be helped by the intelligent planning of both public and private employment. * * * Moreover, in order to encourage the stabilization of private employment, Federal legislation should not foreclose the States from establishing means for inducing industries to afford an even greater stabilization of employment."

The same thought was reiterated by the President in his fireside address on May 5. The views of the President on this subject are in accord with sound public policy and accurately reflect the sentiment of the country.

(4) These provisions relating to additional credit, it is believed, will strengthen the constitutionality of title IX. Title IX is believed to be fairly safe against attack on constitutional grounds, because the offset provision is modeled directly after the corresponding provision in the Federal estates tax law, under which a credit is allowed (up to 80 percent of the tax) for payments made under State inheritance tax laws. This provision of the Federal estates tax law was sustained as constitutional in a unanimous decision of the United States Supreme Court in a suit brought by the State of Florida. Nevertheless, the change proposed in the Finance Committee amendments will be distinctly helpful in this respect. It will make it clear to the Court that contribution rates can be adjusted in accordance with the risk and experience of each particular employer. This renders impossible the application of the doctrine of the Railroad Retirement Act case to title IX.

(5) Section 911 provides ample safeguards against possible abuse of the additional credit provision. As noted above in the explanation of this provision, additional credits are possible under any type of compensation law. In each case, however, these credits are hedged in to prevent States from arbitrarily reducing contribution rates to favor particular employers.

Under the pooled-fund type of law, contribution rates may not be reduced for 3 years and must then be made on the basis of actual experience. Under the reserve type of law, contributions cannot be reduced until adequate reserves have been built up. These reserves must be at least equal to five times the maximum amount of compensation that has been payable in any one of the three preceding years. (In other words, an employer must have a reserve which would enable him to pay five times the compensation he has paid in any recent year.) Such reserves in no case may be less than 7.5 percent of his annual pay roll. With a 3-percent contribution rate, it is impossible for employers to build up a reserve of this size in less than 3 years, even if they have no unemployment.

Similarly, guaranteed employment is hedged in with adequate conditions. Guaranteed employment in effect amounts to putting ordinary workmen on an annual salary basis, which is the best possible guaranty against unemployment. If everyone were guaranteed an annual salary there would be no need for unemployment compensation. Under section 910 the guaranty must be a substantial one and must be fulfilled before the employer can get any credit because of such guaranty. Workmen must be guaranteed 40 weeks of employment during the year, and if the guaranty is not fulfilled or renewed, and they become unemployed, the employer must pay unemployment compensation to them on the same basis as to other employees. To make certain that he will have funds to do so, he must have in his reserve account at least 7.5 percent of his annual pay roll before his rate of contribution to the unemployment fund may be reduced.

With these safeguards, it is rendered certain that the additional credit provision cannot be manipulated to give employers reduced rates unless they have in effect regularized their employment. It is only when they have fulfilled all of the conditions and only when the State law permits them to reduce their rates of contribution that they are entitled to any additional credits against the Federal tax.

The next amendment was, on page 67, after line 2, to insert:

TITLE X—GRANTS TO STATES FOR AID TO THE BLIND

APPROPRIATION

SECTION 1001. For the purpose of enabling each State to furnish financial assistance, as far as practicable under the conditions in such State, to needy individuals who are permanently blind, there is hereby authorized to be appropriated for the fiscal year ending June 30, 1936, the sum of $3,000,000, and there is hereby authorized to be appropriated for each fiscal year thereafter a sum sufficient to carry out the purposes of this title. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Social Security Board, State plans for aid to the blind.

The amendment was agreed to.

The next amendment was, on page 67, after line 16, to insert:

STATE PLANS FOR AID TO THE BLIND

SEC. 1002. (a) A State plan for aid to the blind must (1) provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them; (2) provide for financial participation by the State; (3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan; (4) provide for granting to any individual, whose claim for aid is denied, an opportunity for a fair hearing before such State agency; (5) provide such methods of administration (other than those relating to selection, tenure of office, and compensation of personnel) as are found by the Board to be necessary for the efficient operation of the plan; (6) provide that the State agency will make such reports, in such form and containing such information as the Board may from time to time require, and comply with such provisions as the Board may from time to time find necessary to assure the correctness and verification of such reports; and (7) provide that no aid will be furnished any individual under the plan with respect to any period with respect to which he is receiving old-age assistance under the State plan approved under section 2 of this act.

(b) The Board shall approve any plan which fulfills the conditions specified in subsection (a), except that it shall not approve any plan which imposes, as a condition of eligibility for aid to the blind under the plan—

(1) Any residence requirement which excludes any resident of the State who has resided therein 5 years during the 9 years immediately preceding the application for aid and has resided therein continuously for 1 year immediately preceding the application; or

(2) Any citizenship requirement which excludes any citizen of the United States.

The amendment was agreed to.

The next amendment was, at the top of page 69, to insert:

PAYMENT TO STATES

SEC. 1003. (a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for aid to the blind, for each quarter, beginning

with the quarter commencing July 1, 1935, (1) an amount, which shall be used exclusively as aid to the blind, equal to one-half of the total of the sums expended during such quarter as aid to the blind under the State plan with respect to each individual who is permanently blind and is not an inmate of a public institution, not counting so much of such expenditure with respect to any individual for any month as exceeds $30, and (2) 5 percent of such amount, which shall be used for paying the costs of administering the State plan or for aid to the blind, or both, and for no other purpose.

(b) The method of computing and paying such amounts shall be as follows:

(1) The Board shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of clause (1) of subsection (a), such estimate to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such clause, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than one-half of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, (B) records showing the number of permanently blind individuals in the State, and (C) such other investigation as the Board may find necessary.

(2) The Board shall then certify to the Secretary of the Treasury the amount so estimated by the Board, reduced or increased, as the case may be, by any sum by which it finds that its estimate for any prior quarter was greater or less than the amount which should have been paid to the State under clause (1) of subsection (a) for such quarter, except to the extent that such sum has been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Board for such prior quarter.

(3) The Secretary of the Treasury shall thereupon, through the Division of Disbursement of the Treasury Department and prior to audit or settlement by the General Accounting Office, pay to the State at the time or times fixed by the Board, the amount so certified, increased by 5 percent.

The amendment was agreed to.

The next amendment was, at the top of page 71, to insert:

OPERATION OF STATE PLANS

SEC. 1004. In the case of any State plan for aid to the blind which has been approved by the Board, if the Board, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds—

(1) that the plan has been so changed as to impose any residence or citizenship requirement prohibited by section 1002 (b), or that in the administration of the plan any such prohibited requirement is imposed, with the knowledge of such State agency, in a substantial number of cases; or

(2) that in the administration of the plan there is a failure to comply substantially with any provision required by section 1002 (a) to be included in the plan—

the Board shall notify such State agency that further payments will not be made to the State until the Board is satisfied that such prohibited requirement is no longer so imposed, and that there is no longer any such failure to comply. Until it is so satisfied it shall make no further certification to the Secretary of the Treasury with respect to such State.

The amendment was agreed to.

The next amendment was, on page 71, after line 21, to insert:

ADMINISTRATION

SEC. 1005. There is hereby authorized to be appropriated for the fiscal year ending June 30, 1936, the sum of $30,000 for all necessary expenses of the Board in administering the provisions of this title.

The amendment was agreed to.

The next amendment was, on page 72, after line 2, to insert:

DEFINITION

SEC. 1006. When used in this title, the term "aid to the blind" means money payments to permanently blind individuals.

The Chief Clerk proceeded to read the amendment beginning on page 72, after line 6, being title XI.

Mr. HARRISON. Mr. President, the Senator from Connecticut [Mr. LONERGAN] is interested in this matter, and I have agreed to let that amendment go over. I ask that that amendment be passed over.

The PRESIDING OFFICER. The Chair will ask to which amendment the Senator refers.

Mr. HARRISON. The amendment on page 72, beginning with line 7. I refer to all of title XI, with reference to annuity bonds.

The PRESIDING OFFICER. Does the Senator ask that the entire title shall be passed over?

Mr. HARRISON. Yes; the entire title with reference to annuity bonds.

The PRESIDING OFFICER. Without objection, the amendment will be passed over.

The next amendment of the Committee on Finance was, on page 80, line 5, after the word "title", to strike out "X" and insert "XII", so as to make the heading read:

Title XII—General Provisions.

The amendment was agreed to.

The next amendment was, on page 80, line 7, after the word "section", to strike "1001" and insert "1201", so as to read:

SEC. 1201. (a) When used in this act—

The amendment was agreed to.

The next amendment was, under the subhead "Rules and Regulations", on page 81, line 18, to change the section number from 1002 to 1202.

The amendment was agreed to.

The next amendment was, under the subhead "Separability", on page 82, line 2, to change the section number from 1003 to 1203.

The amendment was agreed to.

The next amendment was, under the subhead "Reservation of Power", on page 82, line 8, to change the section number from 1004 to 1204.

The amendment was agreed to.

The next amendment was, under the subhead "Short Title", on page 82, line 11, after the word "Sec.", to strike out "1005" and insert "1205", so as to read:

SEC. 1205. This act may be cited as the "Social Security Act."

The amendment was agreed to.

Mr. HARRISON. Mr. President, I told several Senators that we should complete consideration of the committee amendments today. I wonder if any Senator desires to speak on the bill. I notice the Senator from Oregon [Mr. MCNARY] is not in the Chamber at the moment.

Mr. FLETCHER. Mr. President, is the offering of other amendments in order at this time?

Mr. HARRISON. The Senator from New York [Mr. WAGNER] has an amendment with reference to those who are blind, to which amendment personally I have no objection.

The PRESIDING OFFICER. Will the Senator from New York send his amendment to the desk?

Mr. WAGNER. Will the Chair indulge me for a moment?

Mr. LONG and Mr. HARRISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi is recognized:

Mr. HARRISON. I offer a proposed unanimous-consent agreement and ask that it may be adopted.

The PRESIDING OFFICER. The proposed unanimous-consent agreement will be read.

The Chief Clerk read as follows:

I ask unanimous consent that beginning Monday, June 17, at 3 o'clock p. m., no Senator shall speak more than once or longer than 15 minutes on any amendment or motion, or more than once or longer than 30 minutes on the bill H. R. 7260, the so-called "social-security bill."

The PRESIDING OFFICER. Is there objection?

Mr. LONG. I object. Is there objection to my having the floor to reply to the Senator from Arizona?

Mr. HARRISON. There are several Senators interested in having this agreement entered into.

Mr. BORAH. Mr. President, before the Senator from Louisiana proceeds, permit me to say that the most important discussion will arise on the amendments. Will not the Senator therefore change the time so as to give the greater length of time on the amendments rather than on the bill itself?

Mr. HARRISON. I have no objection to doing that. I think there ought to be some kind of agreement. I modify the agreement so as to provide not more than 30 minutes on any amendment or motion and not longer than 15 minutes on the bill.

Mr. McNARY. Mr. President, does the Senator propose at this time to go forward with his efforts or to suspend until the Senator from Louisiana shall have concluded his remarks?

Mr. HARRISON. The Senator from Louisiana has objected. I had been hopeful I might get this matter out of the way.

Mr. LONG. Mr. President, I hope the Senator from Mississippi will let me make reply to the Senator from Arizona, and then he probably can get it out of the way.

I desire to acknowledge my gratitude for the special preparation which my friend from Arizona made with regard to

me. I would not have given him a chance to read this marvelously concocted written preparation had I not by accident run into the discussion between himself and the Senator from Michigan [Mr. VANDENBERG]. I believe he has me to thank for having brought about the occasion by which his efforts in preparing this eloquent address were not sniped out in some other experiences which might not have given the Senator from Arizona the opportunity to read his carefully prepared statement. I thank the Senator from Arizona for this.

The Senator, however, has his facts a little wrong. He says that during these days of depression, as in the case of all storms, various things are washed up on the sands and on the shores; and he says that among other things washed up, I believe, are the catfish, the crawfish, the kingfish, the barracuda, and other kinds of fish. The kingfish is even a more vicious species of marine life than the barracuda itself, so I am told; but the Senator from Arizona overlooks one thing. There is another species that is washed up on the shores in large numbers, and that is the tadpole. That is the animal that I now wish to bring to the attention of the Senator from Arizona.

The tadpole is a form of life which, during these depressions, goes out and promises one thing and then comes in and does another. That species is far more numerous than the kingfish, the whale, the crawfish, the turtle, or any other form of marine life. If it may please my friend the Senator from Arizona, I shall be glad to have him call to mind that, undertaking to avoid some of the descriptions which he has seen fit to give to the Senate, I have taken the words of our illustrious President for all the course I have followed here; not that he was the first to have made the statement, but I have taken the words of our illustrious President wherein he said that the people of the United States are entitled to share in a redistribution of wealth. Therefore I have used that as my landmark since the political campaign of 1932 ended.

Some few days ago, when we had up one of our important discussions, I was talking to a friend of mine in this body who, during one of his heated campaigns, had sent a telegram, or his office had sent a telegram, saying that he was in favor of such-and-such a bill or such-and-such an issue, and requesting that the fact that he was of that faith be speedily communicated to those interested. The telegram was sent to me, and I discussed it with my friend; and he said to me, "Yes; I suppose that is so." He said, "In the closing days of the campaign, when I am away from my office, and every kind of inquiry is being shot here and yonder, the only safe thing I know to do is to have them all telegraphed that I am in favor of whatever they telegraph for." I could not quarrel with that as being the attitude of some of my colleagues, because in this changing day of political campaigns I can recognize that with perhaps 90 percent of us that is about the only thing we know how to do.

For the benefit of the Senator from Arizona, however, I will state that I am advocating what I advocated at the age of 21. It did not have much support in this body during those days, I am sure. It had little support when I came here. However, it has been advocated by the present President of the United States, and by the ex-President of the United States, and they are all going to be "exes" until they either cease making that promise or some of them see fit to keep it.

### SOCIAL SECURITY

The Senate resumed consideration of the bill (H. R. 7260) to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes.

Mr. HARRISON obtained the floor.

Mr. WAGNER. Mr. President——

Mr. HARRISON. Will the Senator from New York withhold offering his amendment until I can ascertain whether or not we can secure an agreement for a limitation of debate?

Mr. WAGNER. Yes.

Mr. LONG. What is the Senator's proposal?

Mr. HARRISON. I have submitted a request for unanimous consent that beginning on Monday at 3 o'clock debate be limited on any amendment—I have changed the time to meet the desire of the Senator from Idaho—to 25 minutes, and 25 minutes on the bill, and that no Senator be permitted to speak more than once on any amendment or on the bill.

Mr. LONG. Mr. President——

The PRESIDING OFFICER. Let the Chair submit the request to the Senate. The Senator from Mississippi submits a request for unanimous consent, which will be stated by the clerk.

The enrolling clerk (William W. Horne) read as follows:

It is agreed by unanimous consent that, beginning on Monday, June 17, at 3 o'clock p. m., no Senator shall speak more than once or longer than 25 minutes on any amendment or motion, or more than once or longer than 25 minutes on H. R. 7260, the social-security bill.

The PRESIDING OFFICER. Is there objection?

Mr. CLARK. Mr. President, I have no desire to delay the passage of this bill at all, but I have a rather important amendment which I desire to discuss on Monday; and while I shall not desire to discuss it very long at any particular time, it is entirely probable that after I shall have discussed the amendment there will be a reply on behalf of the experts who have drafted the bill, and I shall probably desire to speak twice on the bill. Under those circumstances I am constrained to object, without any desire to delay the passage of the bill.

Mr. HARRISON. May I ask the Senator from Missouri what he would suggest in lieu of the proposal as submitted. Would a limitation of 45 minutes on the bill and 30 minutes on any amendment that may be offered be agreeable?

Mr. CLARK. That would be entirely agreeable to me so far as the time limit is concerned, except that I might desire to divide up my time. That is the whole question with me.

Mr. HARRISON. Then I should like the proposed agreement changed so that in speaking 45 minutes on the bill a Senator shall not be confined to one speech; that he may divide up the time he speaks on the bill.

Mr. CONNALLY. Mr. President, the proposed unanimous-consent agreement provides that a Senator may speak once on each amendment and once on the bill.

Mr. HARRISON. Yes; that is true.

Mr. LA FOLLETTE. Mr. President, I suggest that the situation which the Senator from Missouri has in mind might be taken care of by permitting the Senator to use such time as he desires to use on the bill at different intervals and under different recognitions from the Chair, so that if the Senator had a total of 25 minutes on the bill, and desired to speak for 10 minutes, he could reserve the balance of his time.

Mr. CLARK. That arrangement would be entirely satisfactory to me.

Mr. HARRISON. Then, I ask unanimous consent that, beginning at 3 o'clock on Monday, no Senator shall speak longer than 25 minutes on any amendment——

Mr. McNARY. No, Mr. President; in view of the absence of the Senator from Idaho [Mr. BORAH] and his previous statement, I suggest that the time of speaking on amendments should be 30 minutes.

Mr. HARRISON. Very well; I ask unanimous consent that beginning at 3 o'clock on Monday, no Senator shall speak more than once or longer than 30 minutes on any amendment or motion, and that on the bill he shall not speak longer than 45 minutes.

Mr. CONNALLY. That he shall speak only once and not longer than 45 minutes?

Mr. HARRISON. No; I did not say "once" on the bill. That time can be divided up.

Mr. LONG. I think that is all right, with the specific understanding that the 45 minutes can be divided up as one may desire, which will enable one offering an amendment, by speaking under his time on the bill, to make reply.

Mr. HARRISON. Absolutely.

Mr. LONG. I think that is all right.

The PRESIDING OFFICER. Is there objection to the request? The Chair hears none, and it is so ordered.

The agreement as entered into was reduced to writing, as follows:

*Ordered by unanimous consent*, That beginning Monday, June 17, at 3 o'clock p. m., no Senator shall speak more than once or longer than 30 minutes on any amendment or motion, and not longer than 45 minutes on the bill H. R. 7260, the social security bill.

Mr. WAGNER. Mr. President, I send to the desk three amendments which simply make more flexible the provisions permitting the use of some of the funds provided under this proposed legislation for the benefit of the blind. They are amendments which have been suggested to me by Helen Keller. There is no woman in the country who is more interested in the underprivileged than is that remarkable woman.

I understand that the consideration of these amendments will require a reconsideration of the votes by which the committee amendments were adopted at the respective places.

The PRESIDING OFFICER (Mr. CONNALLY in the chair). The Senator from New York asks unanimous consent that the vote by which title X was adopted may be reconsidered in order that he may offer certain amendments. Is there objection? The Chair hears none, and the vote is reconsidered.

The Senator from New York offers certain amendments which will be stated.

The CHIEF CLERK. In the committee amendment, on page 72, at the end of line 6, before the period, it is proposed to insert—

and money expended for locating blind persons, for providing diagnoses of their eye condition, and for training and employment of the adult blind.

Mr. HARRISON. Mr. President, I may say with reference to that amendment that it will require no additional money, but part of the appropriation made in the bill may be used for this purpose. The Association for the Blind have made this request. It seems to me most reasonable, and I hope the amendment will be adopted.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from New York to the amendment reported by the committee.

The amendment to the amendment was agreed to.

The CHIEF CLERK. In the committee amendment on page 67, after line 16, it is proposed to insert:

Of said sum, each year $1,500,000 or such part thereof as shall be necessary shall be used in making payments to States of amounts equal to one-half of the total of the sums expended.

Mr. HARRISON. That carries out the same idea.

Mr. WAGNER. The same idea.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from New York to the committee amendment.

The amendment to the amendment was agreed to.

The CHIEF CLERK. On page 68, at the end of line 15, it is proposed to insert the following:

(8) provide that money payments to any permanently blind individual will be granted in direct proportion to his need; and (9) contain a definition of blindness and a definition of needy individuals which will meet the approval of the Social Security Board.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from New York to the committee amendment.

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to the amendment, as amended.

The amendment, as amended, was agreed to.

Mr. WALSH. Mr. President, I ask the Senator from Mississippi whether it is agreeable to consider at this time two amendments which I have offered.

Mr. HARRISON. It is.

Mr. WALSH. I submit the amendments, which relate to subparagraph (d) on page 81. The explanation of the amendments will be found on page 8333 of the CONGRESSIONAL RECORD of May 28, 1935.

The PRESIDING OFFICER. The clerk will state the amendments.

The CHIEF CLERK. On page 81, line 12, after the word "Federal", it is proposed to insert the words "or State", and in line 16, after the word "child", it is proposed to insert a period and strike out the words "in violation of the law of a State."

Mr. HARRISON. I have no objection to the amendments.

Mr. McNARY. Will the Senator from Massachusetts state the purpose of his amendments?

Mr. WALSH. I will ask the Senator to read with me subsection (d) on page 81, which is under the title of "Definitions":

Nothing in this act shall be construed as authorizing any Federal—

One of the amendments provides for the insertion of the words "or State" in that place, so as to read:

(d) Nothing in this act shall be construed as authorizing any Federal or State official, agent, or representative, in carrying out any of the provisions of this act, to take charge of any child over the objection of either of the parents of such child, or of the person standing in loco parentis to such child, in violation of the law of a State.

The second amendment would strike out the last phrase, "In violation of the law of a State." Some States have no such law. The purpose of the amendments is to conserve the rights of the individual from invasion by State as well as Federal authority.

I may say that the amendments have been presented by representatives of the Christian Science religion, who feel very strongly upon the subject, and I believe many other religious bodies join with them in urging that this protection of the home is an established principle that should be preserved in this act.

The PRESIDING OFFICER. The question is on agreeing to the amendments.

The amendments were agreed to.

Mr. ROBINSON. Mr. President, I understand the Senator from Oklahoma [Mr. GORE] desires to present a resolution. When that shall have been done, with the approval of the Chairman of the Committee on Finance, the Senator from Mississippi [Mr. HARRISON], in charge of the pending business, I shall move an executive session.

Mr. GORE submitted a resolution (S. Res. 152), which appears under the appropriate heading elsewhere in today's RECORD.

Mr. VANDENBERG. Mr. President, before the Senator from Arkansas moves an executive session will he permit me to submit an amendment to be printed and permit me to make a brief statement, because I am hopeful that the Senator from Mississippi can give some consideration to the matter between now and Monday?

Mr. ROBINSON. Very well.

Mr. VANDENBERG. Mr. President, the particular amendment to which I am asking the Senator from Mississippi to give his attention over the week-end deals with a totally different phase of the problem involved in the security legislation.

The argument advanced as to why we cannot pass old-age pension and unemployment-insurance legislation in the States instead of in the Federal Congress is the argument that if one State should do it, adding, let us say, to the cost of production or manufacture in that State, it would inevitably inure to the advantage of some State which had not enacted similar legislation, and therefore, except as it is done uniformly, it may be done prejudicially. I quite concede that point of view. I wish to know, however,

whether the point of view does not carry us further and into the larger unit. This is what I mean: When we passed the late N. R. A. legislation we included a clause providing for more or less automatic tariff readjustment whenever increased costs of production precipitated by the N. R. A. legislation increased the differential between costs of production at home and abroad. When we passed the A. A. A. legislation we included the provision for tariff revision in the event the costs of production were arbitrarily and artificially affected in the fashion indicated.

Apparently in the long run the proposed law may increase, by way of pay-roll additions, the costs of production industrially, in 1940, for example, by a billion six or seven hundred million dollars a year, and in 1945 may increase the costs of production, by way of pay-roll additions, nearly $2,000,000,000.

It seems to me there should be the same automatic provision in the law for readjusting tariff differentials in respect to the differences in the costs of production at home and abroad if, as, and when this demonstrably proves to be true.

There is still a further reason why I think it is important in connection with the proposed legislation. As the Senator from Mississippi well knows, there has been a substantial exodus of American plants to foreign countries during the last decade. Something like 1,800 American industrial institutions now have branch plants abroad. It occurs to me that except as we are somewhat careful in protecting this arbitrary and artificial increase in the costs of production at home against the competitive advantage abroad we may be putting a premium upon the further exodus of American plants into some other jurisdictions where they can escape these particular burdens. In other words, it seems to me that precisely the same argument applies to international competition that applies in respect to interstate competition, and, since we are answering the interstate competition by going to the Federal jurisdiction for our answer, I am submitting an amendment, which I am asking the Senator from Mississippi to consider over the week-end, which would provide an authorized approach to the consideration of offsetting that same differential when it occurs in international trade. I submit the amendment and ask that it be printed, and I will appreciate it if the Senator from Mississippi and his experts will give some consideration to it between now and Monday.

Mr. HARRISON. Mr. President, I shall be very glad to give consideration to it. The matter was not brought to the attention of the committee. A similar question was presented in connection with the N. R. A., because it was recognized that there would be increased costs to American producers by virtue of the codes and arrangements which might be made under them. Whether or not because of this tax the costs will be so high as to call for legislation I do not know. I shall be very glad, however, to talk with some of the experts of the Tariff Commission and with others and give the matter consideration.

SOCIAL SECURITY

The Senate resumed consideration of the bill (H. R. 7260) to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes.

Mr. LONG. Mr. President, I ask permission to send to the desk an amendment to the pending measure, which I shall call up today or tomorrow. I ask that it may be printed and lie on the table.

The VICE PRESIDENT. The amendment will be received, printed, and lie on the table.

Mr. HASTINGS. Mr. President, I desire to discuss for a little while certain portions of the pending measure. I desire to cover briefly those provisions which relate to the granting of aid to States. Then I desire to call attention to the discriminations in the bill in favor of the old as against the young, the possible effect of such discriminations, the possibility of maintaining the huge reserve provided for, the cost of the plan under title II, and, lastly and very briefly, to title III relating to unemployment insurance.

I think the social security bill presented to the Senate by the committee is a very great improvement over the original bill, known as "S. 1130."

In my judgment, this bill is the most important bill that has been presented to this session of Congress. It maps out for the country an entirely new program. It is new in three particulars.

First, it is new in the assistance granted to States for old-age assistance, for aid to dependent children, for aid in maternal and child welfare, and for public-health work.

The Federal Government has for many years been making grants to States for the building of highways. There have

been other appropriations made of comparatively small amounts for other purposes, but the large item has been for the purpose of building roads.

We are now entering into a field which heretofore has been wholly a State responsibility. Effort has been made heretofore to have the Congress give some aid to the States to take care of their needy aged people. Many bills have been presented to the Congress having this as their purpose, but the Congress has never acted favorably upon them.

This bill comes to us not only as a recommendation of the President of the United States, but comes at a time when the recollection and distress of the depression is fresh in our minds and the existence of such distress is still in our very midst. More than that, it comes at a time when the individual States are laboring under a strained financial condition, with many of them believing that they cannot take care of their own. This feeling upon the part of the State authorities undoubtedly is partially due to the precedent of the Federal Government in furnishing huge sums of money to take care of the needy in the States. That it was necessary for the Federal Government to do something along this line is admitted by all; the question which has caused much debate in and out of Congress is the plan and method employed in giving such aid.

The conditions which I have recited and the precedent we have established make it exceedingly difficult to oppose this part of the pending bill. I have, after much consideration, reached the conclusion that it is necessary to support these grants to the States for the purposes set out in the bill. In doing so I do not overlook the great dangers which such action on our part at this or any other time will bring to the principles upon which our Government was founded. When the Federal Government adopts as a permanent policy a plan to contribute from the Federal Treasury any substantial sum for the care of the needy people of the States it immediately begins breaking down the independence of the States by making them more responsible to a centralized government.

I do not protest, for a protest would be of no avail. I yield, as every elective legislator must yield under our form of government, to what I believe to be the demand of the great majority of the people of every State.

I should not be so much disturbed in consenting to the grants set up in the bill for the purpose mentioned if I knew that the precedent thereby fixed by the Congress would not be enlarged upon by the Congresses that are to follow. I know, however, that this is only the beginning; and I know that the same public sentiment which supports this much of the program will continue until the amounts which are to be granted by the Federal Government will be increased and the scope of the relief greatly enlarged. This demand will continue from time to time until it will become such a burden upon the American people that the increasing or decreasing of the amount will become a serious political issue.

The only hope left, in my judgment, is that the Congress shall confine itself always to doing for a State and for the people of the State only so much as that State does for itself and its own people. In other words, the only safety we have in this new program is through making certain that the State does its full share. If we stick to that principle, we may save ourselves from some of the serious consequences that otherwise will come out of this plan.

Of course, Mr. President, there is nothing in this plan that is so complicated as to prevent it from being easily abandoned if and when the country so recovers from the depression that such contributions on the part of the Federal Government are found to be unnecessary. In other words, we may treat this matter at the present time under this plan as an emergency, which may or may not develop into a permanent policy, all of which, including the amount of the appropriation, would depend upon the conditions existing from year to year.

I say with perfect frankness that I have but little hope that the plan would be abandoned for the reasons I have stated. I merely point out the ease with which it could be abandoned, in order that I may compare it with other features of the bill which I cannot support.

I have called attention to the fact that there are three parts of this bill which are entirely new. I have been discussing only one that is contained in titles I, IV, V, and VI, and another title relating to the blind.

FEDERAL OLD-AGE BENEFITS

Title II, found on page 7, refers to Federal old-age benefits, and is perhaps the most complicated and far-reaching legislation in which the Congress has ever indulged. It is an effort to write into law a forced annuity system for a certain class of persons. My recollection is that it affects about 50 percent of the persons who are gainfully employed. There will be found on page 9 of the majority report a table which shows that in 10 years there will be accumulated in this reserve fund a little less than $10,000,000,000, in 18 years a little more than $22,000,000,000, and in 43 years the balance in reserve will be something like $47,000,000,000. The accumulation of this amount of money in a democratic form of government like our own is unthinkable.

It must be remembered that this effort to create an old-age reserve account to take care of all persons in the future is not a contract that can be enforced by anybody. What we do here is merely to pass an act of the Congress, which may be changed by any Congress in the future, and has in it nothing upon which American citizens can depend. Does anybody believe that such a huge sum of money, accumulated for any purpose, could be preserved intact? Does anybody doubt that it would be subjected to all kinds of demands? I can think of nothing so dangerous as an accumulation of the huge sum of $47,000,000,000 for the purpose of taking care of persons who have not yet arrived at the age where they can participate in the fund.

It must be borne in mind in this connection that this huge fund will have been accumulated for the purpose of taking care of only about one-half of the persons who will have been gainfully employed.

There will be found in the majority report, on page 9, this very significant statement:

> To reduce the cost of free pensions for these groups in the population, we deemed it desirable that the bill should include provisions for annuity bonds to be issued by the Treasury.

I think this statement is somewhat misleading. The reference is made to title XI, which provides that the Federal Government may issue annuity bonds. The statement is made in the report that it is believed that such authority to issue annuity bonds will reduce the cost of free pensions for the persons who are not included in the other plan. There can be no hope, in my judgment, of this accomplishing any such purpose.

I may say in that connection that, so far as I know, there is no particular advantage in annuities of this kind over annuities of the kind which have been issued by insurance companies in the past, and are being issued today.

If it be true that the annuity plan suggested in the bill will take care of one-half of the people who are not now being taken care of, it seems to me we might very well apply it to the entire class that is to be taken care of.

DISCRIMINATIONS

Now, Mr. President, in some detail and perhaps with some tediousness I shall point out some of the discriminations in the bill, and I do it for more than one reason. I do it not only for the purpose of showing the unfairness of the bill itself but for the purpose of calling to the attention of the Senate what some future Congress will need when faced with the discriminations which will be practiced under the bill.

I think it desirable to point out the many discriminations. They are against the young man and in favor of the older man. In my comparisons, unless otherwise stated, I shall assume that the wage received is $100 per month in each instance, and that the employee makes full time.

Under the plan as set out in the bill at the bottom of page 9, if a man begins to pay in January 1, 1937, and pays in for 5 years, he will have paid on an earned income of $6,000. In order to find out how much he gets each

month we take one-half of 1 percent of the first $3,000, which makes $15 per month, and we take one-twelfth of 1 percent of the other $3,000, which makes $2.50 per month, or a total of $17.50 per month. If this man is 60 years of age when he begins to pay in, he may retire at the age of 65 and get $17.50 per month.

There has been contributed for him and by him during these first 5 years $144, being 2 percent for the first 3 years, and 3 percent for the next 2 years. If this sum were paid to an insurance company, it would purchase an annuity of $1.17 per month.

The mortality table shows that a man 65 years of age is expected to live for a period of 12 years.

If we should take the $17.50 per month allowed him under this bill, he would be paid $210 per year, and for a period of 12 years it would amount to $2,520. If we should place it upon a sound basis, however, and pay him $1.17 per month, he would receive $14.04 per year, or a total for the 12 years of $168.48; so that particular person, whether he be in need or not, would get from some source $2,351.52 more than the money contributed by himself and his employer would earn.

Take another instance, and assume that the man who goes in on January 1, 1937, is 55 years of age. It will be observed in the majority report on page 8 that that man will be entitled to $22.50 per month. During the 10 years he will earn $12,000, and there will be paid in by him and for him $384. That $384 with interest at 3 percent will purchase an annuity of $3.76 per month. If he lives for 12 years and draws $22.50 per month, or $270 a year, he will receive $3,240, while if he only drew the amount that the $384 and interest at 3 percent would provide, namely, $3.76 per month, or $45.12 per year, he would draw $541.44, a difference of $2,698.56 for each particular person in that class.

But let us take the man who goes in at 50 years of age and pays in for 15 years. There will be paid in by him and for him $720, and this sum will purchase an annuity of $7.67 per month, whereas under the plan of the bill he would be entitled to $15 per month on his first $3,000 of earnings and $12.50 per month on the balance of his earnings, or a total of $27.50 per month, or $330 per year; and assuming that he lived for a period of 12 years he would draw $3,960; while his annuity of $7.67 per month, or $92.04 per year, for a period of 12 years would make a total of $1,104.48, which amount deducted from the $3,960 under the plan leaves $2,855.52, which must be paid from some other source to every person in this particular class, regardless of whether or not he is in need.

But suppose he goes in at 35 years of age, and payments are made by him and for him for a period of 30 years. For the first 15-year period the amount paid in amounts to $720, but for the next 15-year period the rate is uniform at 6 percent. The additional amount, therefore, paid in that could be used to purchase an annuity would be $1,080, making a total of $1,800. Under the plan he gets $42.50 per month, or $510 per year, and assuming that he lives 12 years, and, of course, it may be more or less, he would receive a total of $6,120. The annuity that could be purchased for him with $1,800 that has been paid in for him and by him would amount to $25.72 per month, or $308.64 a year, or a total of $3,702.68. This subtracted from the amount that he would get under the plan leaves a difference of $2,417.32.

Assuming that the man goes in at the age of 25 years and pays in for 40 years, there will be paid in by him and for him $2,520, and this sum will purchase an annuity of $44.10 per month, or $529.20 a year. Under the plan he would be entitled to $51.25 per month, or $615 per year, or a total of $7,380, if he lived out his expectancy. The annuity that could be purchased for him would be $529.20 per year, or $6,350.40, leaving a balance that must be made up from some source of $1,029.60. It will be observed that even if he goes in at 25 years of age he still gets an advantage of $1,029.60 if everything happens that is expected to happen.

If a man goes in at the age of 20 years and pays in for 45 years, there will be paid for his account $2,880; and that will purchase an annuity of $55.82 a month, or $669.84 per year, or a total for 12 years of $8,038.08. Under the plan he would get $53.75 per month, or $645 a year, and for a period of 12 years would receive $7,740. The persons in this class would, therefore, get $298.08 less under the plan than they would have coming to them from the ordinary life-insurance annuity.

Let us take another illustration, and suppose that a man does not reach the earning age until 1949; 1949 is the year in which the full tax becomes effective. He does not begin to pay in until he is 20 years of age, in 1949, and under the plan he pays in for 45 years. During that time he will have earned $54,000, and under the plan will be entitled to $53.75 per month, or $645 a year, and for 12 years will receive a total of $7,740. There will be paid in for him and by him $3,240, which will purchase him an annuity of $68.50 per month, or $822 a year, which over 12 years would make a total in payment to him of $9,864. Under this plan he gets only $7,740, and therefore loses $2,124.

As I have said, all of the illustrations I have given have been based upon a salary of $100 per month. But let me emphasize that illustration by taking the man who reaches the earning age in 1949, who earns $250 per month, and pays under the plan for a period of 45 years. During that time he will have earned $135,000, and under the plan will be limited in pension to $85 per month, or $1,020 a year; and if he lives out his expectancy, he will receive $12,240. There will be paid in for his account, however, the sum of $8,100, which, with interest compounded at 3 percent, would purchase him an annuity of $171.25 a month, or $2,055 per year, which over a 12-year period would give him a total of $24,660. Under the plan he would get $12,240, so that there is a difference of $12,420 which the young man, who starts in in 1949 and pays in for a period of 45 years and earns during the whole of that time $250 per month, will lose.

PAYMENTS UPON DEATH

Mr. President, let me call attention to another discrimination, with respect to the payments upon death, which will be found on page 11 of the bill. Section 203 provides that for any person dying before the age of 65, his estate shall be entitled to 3½ percent of the total wages paid to him after December 31, 1936.

If a man, therefore, enters this plan at the age of 60 and earns $1,200 per year for 5 years, he will have earned a total of $6,000. If he dies just as he reaches the age of 65 his estate will be entitled to have paid to it a lump sum of $210.

The amount this particular employee has paid in, plus the accumulated interest at 3 percent, will only amount to $76.92, making an overpayment to the estate of $133.08.

If he has been in the plan for 15 years, the amount his estate will receive will be $630, while the amount paid in by him with accumulated interest will equal only $432.72, making an overpayment of $197.28.

If he has paid in for a period of 25 years, his estate will receive $1,050, while the amount he has paid in with accumulated interest will be only $999.60, making an overpayment of $50.40. So the only person who is treated with entire equity is the man who has paid in for 25 years and dies. His estate gets back just about what it is planned ought to be gotten back.

If he pays in for 35 years, however, his estate will receive only $1,470, and the amount he has paid in plus the accumulated interest will amount to $1,761.72, showing a loss to the estate of $291.72.

I may call attention to the fact that these figures are based upon what the employee contributes, and have nothing to do with what the employer contributes.

If he pays in for 45 years and dies just at the age of 65, his estate will be entitled to $1,890 under the plan, while the amount he has paid in plus the accumulated interest will amount to $2,785.92, showing a loss to his estate of $895.92.

The above illustrations are based upon the assumption that he began to pay in at the end of 1936, when the rates would be less than the maximum for the first 12 years.

If we take the illustration of a man who starts to pay in in the year 1949 and pays in for a period of 45 years, we will find that his estate is entitled to the same $1,890, although the amount the employee has contributed to the fund with its accumulated compounded interest would amount to $3,383.52, showing a loss to his estate of $1,493.52.

I have called attention to the fact that the youth who enters this plan in 1949 and pays in for a period of 45 years and retires at the age of 65 and then lives out his expectancy of 12 years, will receive under the plan only $53.75 per month, while if the same amount had been paid in on some annuity plan he would receive $68.50 per month, making a total loss to him during the 12 years of $2,124.

The same youth is penalized if he should pay in for 45 years and then dies at the age of 65, in that his estate would receive only $1,890, whereas the amount that he has paid in with accumulated interest would be $3,383.52, or a difference of $1,493.52, so that if he lives for 12 years, or until he is 77, and draws his pension, he has a loss of $2,124, while if he dies at 65 before beginning to draw his pension his estate is out $1,493.52.

This discrimination is further emphasized if, instead of taking a figure of $100 per month as the wage earner's pay we take $250 per month. I have shown that in such a case if the man lived and drew his pension under this plan, instead of drawing what he would be entitled to under a regular annuity contract, he would lose $12,420. If the same $250 per month man, however, pays in for 45 years and dies just as he reaches the age of 65, his estate would get back $4,725, while if the same amount of money had been paid in under an annuity contract, his estate would be entitled to get back $8,458.50, showing a loss to his estate of $3,733.80.

DISCRIMINATIONS IN AMOUNT OF SALARIES RECEIVED

A like discrimination is made between persons getting low salaries and persons getting higher salaries. The bill favors the man with low earnings against the man with higher earnings.

Take the illustration found in the report on page 8. It will be observed that a man who has paid in for 10 years on the basis of $50 per month will receive a pension of $17.50, and that $17.50 to a man who has received a wage of $100 per month is increased to $22.50, and it increases $5 for every $50 per month increase in pay up to $250 per month. So that the man who earns $250 per month or five times as much as the man earning $50 per month, will receive only a fraction more than twice as much as the man who receives $50 per month. It must be borne in mind also that the man who has been receiving five times as much salary and who gets only twice as much in the form of a pension has all of the time been paying five times as much in taxes.

Mr. President, I call attention to the discrimination in this bill not so much for the purpose of emphasizing the argument which will be made by those who shall participate in this fund, who pay the taxes, and who are entitled ultimately to some return from it, but I call attention to it for the purpose of emphasizing that, after all, this is a democratic form of government and what we do here may be changed and will be changed upon the demand of people who have been discriminated against.

I do not overlook the suggestion made by the distinguished Senator from Wisconsin [Mr. LA FOLLETTE] the other day in response to a question I asked the chairman of the committee, or in response to the suggestion which I made to the chairman of the committee as to the discriminations. I do not overlook the fact that a part of these funds are being paid by the employer and that the employee has not contributed all the money which I have placed to his account.

That is quite true indeed, but it is not an answer at all to the point which I make and to the questions which I raise. The employee under this plan will either weekly, monthly, or yearly, whatever the plan provides for, have in his possession some evidence of what has been placed to his credit by the Federal Government. It will make no difference to him whether or not a part of it has been contributed by his employer. He will say, and in many instances it will be true, that he did not get enough pay anyway, and that, therefore, he has gotten no more from his employer than he was entitled to. However, the young man who will go under this plan in 1949 and pay in for a period of 45 years on a salary of $250 per month will find when he reaches the age of 65 that under this plan he can draw only $85 per month, while if that same fund had been placed in the hands of some insurance company or had been placed in the hands of any person who had invested it at 3-percent interest, and the 3-percent interest had accumulated until he had arrived a the age of 65 years, instead of getting $85 a month he would get a little more than $172 per month.

When he goes to his Member of Congress and sets forth those facts and shows how hard he has worked all these years, and how this money has been accumulated for him, and shows how in 1935 the Congress, when it enacted this law, enacted it in this form, because it was said Congress could not afford to do better than that which is now undertaken to be done, that is, to tax that youth of the future in order to take care of the older man of today—when he sets forth those facts, I say that his claim will be so just, his claim will be so fair, that no Member of Congress will dare turn him down, and we shall have that question confronting us, just as we have today such a question confronting us in the matter of the soldiers' bonus.

The soldier says, "We went to the war and we fought for America; we defended America while other youths at that time remained home and were earning large sums of money." What do we say in reply? We cannot deny what he says. We cannot deny that he earned much more than he received. The only reply we can possibly give to him is, "My dear fellow, you cannot expect America to pay you for your patriotism. It is impossible. There is not enough money in America to pay it. There is not money enough in the world to pay the soldiers what they actually earned or what is due to them, if you put it upon any such basis as that."

So, because we promised him a bonus he comes to the Congress and says, "We need the money now, and you ought to pay it in advance." We cannot say, "You did not earn it." We cannot say, "It is not proper to pay you in advance because you did not earn that much money." We have no defense except to say, "We have agreed to do a certain thing for you because of our great appreciation of what you did, and we are going to limit it to that, and that is not yet due"; and upon that ground we defend our position, and that is the only ground upon which we can defend it.

However, when the young man who will be 20 years of age in 1949 shall come to the American Congress with a certificate showing what has been paid in for his account, and he shall show to the Congress not only that, but will be able to say to the Congress, "If this money had been invested properly there would be coming to me now for the balance of my life $172 a month instead of this paltry sum of $85 a month which you expect to give me now", when the Congress will have no defense to it at all. We will have no defense at all, because he will not have gone into this plan voluntarily. We will have forced him into this plan. We will have forced him to contribute to the Federal Treasury 3 percent of his salary and will have forced his employer to do likewise. Perhaps all he can pay out of his salary is 3 percent; perhaps that is all he can spare, and perhaps it is all the employer can do for the employee; but instead of leaving it to him to make with some organization a binding contract which would enable him, if he lived to be 65 years of age, to get $172 a month, and which, more than that, would enable him when the time of need came to borrow money, to take part of his profit, at 60 years of age instead of 65, all under a binding contract, to which the careful youth and his parents and the employer had been looking to take care of him in the future, we force upon him a plan of which he has no notion whether it will be lived up to or not. He does not know whether it will last 5 years or 10 years. He does not know whether it will last until he is 65 years of age. He does not know what minute Congress is going to cut him off.

Mr. President, I suggest that that is a serious question, which we ought to consider before we pass on this difficult problem to some Congress in the future.

Mr. KING. Mr. President, will the Senator yield?

Mr. HASTINGS. I yield.

Mr. KING. I ask the Senator a question for information. In the figures which he has been presenting to us has he taken into account the fact that the payments which are made are made both by the employer as well as by the employee? Assume that there was no payment made by the employer, but only by the employee, is not the amount which he would receive under the bill commensurate with the amount which he would pay? The Senator has been debating it upon the theory that it is the equivalent of the employee making both payments, but the master pays part and the employee pays part. However, it all inures to the employee's advantage.

Mr. HASTINGS. Yes.

Mr. KING. Supposing that the Senator should base his computation upon the proposition that the employee should be entitled only to the benefits which would come from his payments, what then would be the result?

Mr. HASTINGS. Of course, all the figures I have mentioned as being paid in under regular annuity would be reduced by 50 percent, because the employee pays only half and the employer pays half. However, I may suggest, Mr. President, that I think this discrimination shown in the bill is a serious one. I say in response to the suggestion made by the Senator from Wisconsin [Mr. LA FOLLETTE] that it is a serious discrimination. If we admit, as we must admit, that the youth of today must be penalized in order to take care of the older persons of today, and if there be anything in the suggestion that the youth cannot complain, because his employer is contributing a portion of the money, then we had better modify this bill so that there shall not go to the credit of that youth the amount which the employer pays for him. In other words, it is provided that a total of 6 percent shall be paid in when the act shall become fully effective; 3 percent by the employer and 3 percent by the employee. If it be said that it is necessary to have such discriminations in order to take care of the aged people of today, then we had better change this bill so that there shall not go to the credit of that youth the entire 6 percent. Give him credit for the 3 percent which he contributes, and give him credit for 1 percent contributed by his employer, if that is all that can be done, or give him credit for 2 percent contributed by his employer, but whatever we do let us not deceive that youth by making him believe that here is an annuity plan whereby he is contributing 50 percent and his employer is contributing 50 percent, and that it goes to his credit, when, as a matter of fact, part of it is taken from him in order that we may take care of the older people of today.

I think that one of the finest things that could come to this country would be a combination annuity plan under which the employer and the employee would contribute a like amount in order to take care of the employee in his old age. But if we do it, we ought to do it upon a straight and fair basis where every man who is an employee and pays in and every employer who pays in for him should be given credit for all the sums of money paid in on the employee's account. I think the discriminations here are so serious that we ought not to pass much of this measure at this time; I think they are so serious that we might well afford to give many months study, and, perhaps, years of study, before we enter into any such plan.

Now, Mr. President, I want to discuss for a few moments the possibility of creating or maintaining any such reserve fund as is here contemplated. It must be borne in mind that in order to create this fund there must be annual appropriations by Congress. It is contemplated that those annual appropriations shall be the amount of money collected from the employer and the employee; but does anyone doubt that when the Congress comes to these appropriations there would be manipulations so that the fund would not be accumulated but would be used for current expenses of the Government?

Mr. President, we have a fine example of that—very slight, indeed, because of the amount involved—in the case of the civil-service retirement fund. I wonder if Senators realize that, while there is supposed to be something like a billion dollars accumulated in that fund and that the actuaries say there ought to be about a billion dollars accumulated in it, there has been practically nothing accumulated in that fund? I blame no particular person for it; I know when the Government needs money for some purpose the question may readily be asked why should not the Government, when it needs money for other purposes, take out of its till and put in some other place a certain sum of money that is necessary for some retirement fund? There is nothing in the civil-service retirement fund except an I O U. Of course, the I O U is perfectly good; nobody questions that; but I call attention to the seriousness of the situation when it reaches the sum of $47,000,000,000.

May I inquire whether it is recognized to whom this $47,000,000,000 will go? Who is to be in charge of that fund? It is estimated that the persons interested in it will be about 50 percent of the people who are gainfully employed; so somewhere between 25,000,000 and 30,000,000 voters of this Nation will be entitled to that $47,000,000,000. In this democratic form of government, does anybody think that the Congress can resist the demands of those 25,000,000 people with respect to that $47,000,000,000 of money? If we should ever be fortunate enough to accumulate any such fund as that, does anyone doubt that there would be proposals in the Congress to loan to the persons interested certain sums from the amount that has been accumulated? Does anyone doubt that there would be formed all over this land organizations that would want the Congress to give them a part of that $47,000,000,000 before they reached the age of 65? Think for a moment of what would happen in this land of ours if 25,000,000 people at the time the depression hit us had in the till somewhere, $47,000,000,000. Does anyone doubt that such a demand would have been made upon the Congress as would have destroyed the greater portion of that fund?

Mr. President, I submit that in a democratic form of government where a fund is created for the benefit of twenty-five or thirty million people Congress itself would be as helpless as a child, because the man who should not respond to the demand of a group of voters such as that would simply give way to another man who would respond. That has been common experience in this country, and could be demonstrated by precedent after precedent.

Mr. President, I do not wish to take a long time discussing this matter, but I should like to bring some of the facts to the attention of the Senate in order that we may better realize just what we are getting into. I desire to call attention to the cost of this plan. There has been placed on the desk of each Senator, I think, a copy of the "Data requested of the Secretary of the Treasury by Senator JESSE H. METCALF and submitted by the Railroad Retirement Board on June 4, 1935." It is my understanding that this is an official statement of the cost of this proposed plan.

I desire to call attention to certain figures which are supplied in the tables submitted. It will be observed in column 7 that without title II—that is, taking the grants and aids to States on condition that the States will contribute as much as the Federal Government contributes, by 1980, or a period of some 43 years, there will have been expended $39,059,600,000 during that 43-year period. That figure has been described by certain Government officials as being shocking, and it has been stated that we cannot afford any such scheme as that.

In column 8 is given a figure that shows what it will cost if we adopt title II. It must be borne in mind in considering these figures and this estimate that only about 50 percent of the people come under the plan of title II, leaving the other 50 percent of the people to be taken care of as they would be taken care of without title II. There

are two estimates of those figures. To the first there is a note attached to column 8 which reads as follows:

Basis A: Estimates of the consulting actuaries of the Committee on Economic Security, assuming (1) old-age-benefit plan similar to that in title II in effect; (2) dependency ratio of 15 percent in 1936, increasing to 20 percent in 1937—

And so forth. The total under that plan is $26,553,200,000.

So assuming these figures to be correct, we should save something like twelve and a half billion dollars during the period of 43 years by taking title II.

Under basis B, column 9, that figure is cut down to $12,072,000,000. Basis B is the estimate of the staff of the Committee on Economic Security.

So we have the consulting actuaries showing a figure of $26,553,200,000, while the staff estimate is $12,072,000,000.

Now, Mr. President, I wish to show in that connection that if we should adopt this plan that would not be the only cost. In column 12 will be found the taxes collected for this purpose, showing the figures for the various years. The total taxes are $78,734,800,000.

I call attention also to column 14, showing that the necessary interest to keep this fund intact is $31,749,900,000.

So while it is true, if it were paid out of the Federal Treasury without title II under the plan of grants and aid, as is provided in a part of the pending bill, assuming these figures to be correct, the total amount necessary to appropriate would be only a little more than $39,000,000,000; but if we take the figures of the consulting actuaries of $26,553,000,000, and add the tax of $78,734,800,000, plus the $31,749,900,000 of interest, we have a sum it can hardly be conceived the American people will be able to pay.

It may be said that it is not fair to use the interest item, but I invite attention to the fact that the tax which will have to be paid by the employer and the employee is money that is being laid out by them, and therefore, if it were not being laid out in this direction, it would earn for them at least 3 percent interest; so that if the actual cost to the people of the United States, to the employers and to the employees of the Nation, is actually $78,000,000,000, plus the nearly $32,000,000,000 of interest, and then we add to that the $26,553,000,000, we have a huge sum.

Mr. President, I made some calculations of what the costs would be. I should like to invite the attention of the Senate to them. If anyone finds that my figures are incorrect, I should like to have my attention called to it. I am speaking only of title II. Nothing I said with respect to expense has anything to do with title III, which refers to unemployment insurance.

Let us take title II alone and assume the figures to be correct. Let us take column 8 as representing the actual expense to the Federal Government, column 12 as being the actual amount of money collected, and column 14 the actual amount of interest to maintain the fund. It will be found that in the year 1950 the tax upon every State in the Union for that year alone would be 30 times the number of people living in each State in the year 1930. That is to say, if we take the State of Mississippi, which has something like 2,000,000 people in it, and assume that that State pays its share, it would cost the people of Mississippi a little more than $60,000,000 for that one year 1950 alone.

What would be the cost of the 15 years between now and 1950? In order to obtain accurate figures, it is necessary to multiply the number of people living in the State in 1930 by 250. If we take Mississippi as an illustration, it would cost the State of Mississippi, assuming that it pays its full share of these expenses, $500,000,000.

If we take the first 44 years, or until 1980, in order to find out what it would cost any particular State for that period, we multiply the number of inhabitants now living in the State by 1,365. If we take the State of Mississippi as an illustration and multiply the inhabitants of Mississippi, 2,000,000 in number, by 1,365, we find that it would cost that State a tremendous sum of money.

On the other hand, if we do not take title II, but take the same figures in order to get the amount of costs in 1950, we multiply the number of inhabitants of the State by 6 as against 30. For the 15 years we multiply by 65 instead of 250. In order to get the total up to 1980 we multiply by 325 instead of by 1,365.

Mr. President, I cannot conceive of this much money being paid for any purpose unless it be a tax upon the consumers of the Nation. As was suggested to me a moment ago, this is a huge sales tax in most instances. Of course, that is not true in some instances, because it is not a direct sales tax, and in a great many instances it will be impossible to pass it along to the farmer or to the other classes of persons who are not to be benefited by the bill. I invite attention to the fact that the farmer who is exempt, the domestic who is exempt from the bill, the other persons who are exempt; namely, about 50 percent of the people of the Nation, will pay no tax and will derive no benefit from the plan, and I ask how anybody expects those people ultimately to escape a tax which every consumer is bound to pay under the plan in one form or another?

The PRESIDING OFFICER (Mr. LEWIS in the chair). Will the able Senator from Delaware permit the Chair to inquire what was the source of the figures called actuarial? Will the Senator state to the Senator from Illinois, who now occupies the chair, through what source those actuarial figures came? What was the source whence the figures actually emanated?

Mr. HASTINGS. The source was a member of the committee, as I recollect. The statement is headed, "Data requested of the Secretary of the Treasury by Senator JESSE H. METCALF and submitted by the Railroad Retirement Board on June 4, 1935." I think it was Mr. Latimer who submitted the figures. There is no question about the accuracy of the figures. I think no one will dispute their correctness.

Mr. KING. Mr. President——

The PRESIDING OFFICER. Does the Senator from Delaware yield to the Senator from Utah?

Mr. HASTINGS. Certainly.

Mr. KING. I may say that Mr. Latimer is recognized as probably one of the best actuaries in dealing with labor statistics and annuities in the United States, and is the head of one of the most important boards of the Government.

Mr. HASTINGS. I thank the Senator from Utah.

Mr. President, Mr. M. A. Linton was one of the consulting actuaries and is an outstanding actuary of the country. I desire to quote two or three paragraphs from a speech made by Mr. Linton before the Academy of Political Science in New York, in which he said:

The original bill provided, as has already been pointed out, for a heavy Federal subsidy running over one billion a year for 45 years hence. In order to remove this undesirable feature the Secretary of the Treasury proposed the increased rates of tax embodied in the new bill. The purpose was to "facilitate the continued operation of the system on an adequate and sound financial basis, without imposing heavy burdens upon future generations." The schedule accompanying the Secretary's proposals showed that the deficit had been removed and that by 1980 a reserve fund of nearly 40 billions (assuming inclusion of the same occupation groups as are in the present bill) would have been created.

Let us examine a little more closely into the manner in which the balance was accomplished. Suppose we should start out on the assumption that the pensions we are going to pay to those who are aged 20 or over when the plan starts, will be paid for in full on an actuarial basis by that same group of individuals. That is to say, we shall not attempt to pass on to posterity any part of the cost of these pensions. The adoption of the plan would call for a level contribution from the very start, probably in excess of 8½ percent of pay rolls. The rates of contribution suggested by the Secretary started at 2 percent and increased to 6 percent in 12 years. In view of the higher figure mentioned above, how can the proposed scale of contributions produce a balanced system?

The answer is that after 12 years when the uniform rate will be 6 percent we shall be charging the new workers coming into the system say at age 20, a rate that is upward of 40 percent greater than the true actuarial premium for the benefits they will receive.

When the young men of the future ask why they and their employers should have to pay so large a rate, the answer will be that years before their fathers and grandfathers had made promises to each other which they did not have the money to carry out in full. Therefore, they conveniently decided to pass on the deficiency by assessing a surcharge against their children and grandchildren. When the workers of the future come to appreciate fully the origin of this surcharge, are they not likely to make strenuous efforts to shift it to the general revenue fund?

Mr. President, here is a statement that instead of the amount of 6 percent being all that is required, this actuary—and he is a prominent man in his profession—says that in his judgment it would take 8½ percent; so, notwithstanding the discriminations, notwithstanding the penalizing of the youth for the benefit of the older person, we still shall have not enough tax to take care of this fund.

Mr. President, I do not wish to detain the Senate longer with this matter. I desire, however, to call attention to the unemployment-insurance title.

Mr. WAGNER. Mr. President, will the Senator yield before he leaves the subject he is discussing?

Mr. HASTINGS. I yield.

Mr. WAGNER. Unfortunately, I did not hear all of the Senator's address; but I heard his criticism of what he termed a discrimination between the younger workers and the older workers in the disbursement of the old-age fund. The Senator has stated correctly that the older workers will receive a larger share in proportion to their contributions than the younger men. Is it the Senator's view that that difference ought to be made up by an appropriation by the Government?

Mr. HASTINGS. Undoubtedly. Undoubtedly it ought to be done in some other way than this.

Mr. WAGNER. As the Senator remembers, the original bill provided that ultimately, when the deficit should arise because of the higher annuity paid to the older workers, that deficit should be made up by society itself, through the Government, making the contribution. I do not know whether or not the Senator cares to answer the question; but if that change were made in the bill, would the Senator support the proposed legislation?

Mr. HASTINGS. I am not prepared to answer that question directly; but I will say to the Senator that I have said that I should be very much interested if we could work out a plan of a forced annuity, contributed to by the employer and the employee, whereby the fund would go directly, with 3 percent interest, to that particular person. I should be very much interested in that sort of a plan.

Mr. WAGNER. It would be difficult to work out such a plan under a pooling system, but I think the Senator will recognize the fact that it is not really accurate to say that the contribution which the younger worker makes to the fund is used to make up the larger annuity paid to the older worker. It really comes from the part of the fund which is contributed by the employer of the younger worker.

Mr. HASTINGS. Yes.

Mr. WAGNER. I will say to the Senator that I am in sympathy with his criticism, and as I introduced the bill it provided that society itself should make up that difference.

Mr. HASTINGS. I may say to the Senator, in order to meet the objection which the Senator has just suggested, namely, that the employee cannot criticize because part of this fund will have been contributed by somebody else—that, as I stated before, that fact will be ignored by him, because he will say, "In the first place, I never did get enough wages. I ought to have had more wages in the first place. This contribution by my employer was made for my benefit, and I am going to have it." I think that is so serious a matter that I should be inclined to give the employee, say, credit for only 2 percent of what the employer contributed, and use the other 1 percent to make up for the discriminations which are contained in the bill, if I make myself clear.

Mr. WAGNER. Yes; I understand the Senator.

Mr. HASTINGS. I would have the employer contribute 1 percent for the general fund in order to get rid of that discrimination. I really think it is a serious matter.

Mr. WAGNER. The reason why I am pressing the question, of course, is that I wished to ascertain whether the Senator was simply attempting to find flaws in the proposed legislation——

Mr. HASTINGS. No.

Mr. WAGNER. Or whether, if this correction were made by restoring the old tax rates, the Senator would support the legislation.

Mr. HASTINGS. No, Mr. President. In the committee the distinguished Senator from Georgia [Mr. GEORGE] and many other Senators, largely on the Democratic side, urged that we should not go into the matter of annuity pensions at this time, but that we should wait; that we should separate the subject of annuity pensions from this bill, and take a little more time to study it, and see if we could not work out a plan which would be agreeable to most, if not all, the Members of the Congress.

I am not prepared at this time to say that I should vote for any of these plans, because I have not made up my mind that the Congress has authority to force upon anybody an annuity system of any kind. As I say, I am in general sympathy with the scheme. I think of all things that can be done for a young person, the most important is to have him begin to pay into some kind of a fund that will take care of him in his old age, but to have the Congress of the United States force him to make such payments is so entirely new, and so different from my philosophy of what the Congress has a right to do, that I am not for the moment prepared to approve any plan of that character.

Mr. WAGNER. Of course, whether or not we ought to do that in this comprehensive way is an entirely different question. I think the Senator will agree, because of our experience during the past 50 years, that the only way we can ever give the working people of our country, the wage earners and others of low income, assurance against destitution in old age is by some plan which will be of universal application. The Senator knows we have tried the voluntary idea for half a century. Yet at this late day, out of all the working people of the country, there are only 2,000,000 of them who are under voluntary systems. Certainly we must do something for the rest of them sooner or later.

Mr. HASTINGS. Is it not more than 2,000,000?

Mr. WAGNER. Two million, outside of the railway employees—and even they are subjected to the uncertainty that their voluntary systems will be curtailed without notice.

They have no real, permanent security. Furthermore, statistics show that only 4 percent of the small group of retired workers who have been under voluntary pension systems are actually drawing benefits. If we genuinely wish to help provide against destitution in old age, there is no way to do it except by some plan which will be of universal application.

Mr. HASTINGS. Mr. President, of course, I know how much interested the Senator from New York has been in this subject for a long while, and I know how very much it appeals to the average citizen to advocate some legislation which will take care of people in their old age.

Mr. President, I shall take only a few moments more. I merely desired to call attention to the great interest the people have in unemployment assurance. I think people generally have reached the conclusion that perhaps we can make some progress by having some kind of unemployment assurance. It has been insisted that the only way in which that can be accomplished is by congressional action, and the scheme and plan contained in title III is the result of that suggestion.

I may call attention to the fact that what we are here endeavoring to do—and I may emphasize that it is different from what we have a right to do under the Constitution of the United States—is to say to the people of a State, "We are going to tax the employers of your State at the rate of 3 percent annually. We are going to give them credit for 90 percent of that tax if they can show to the Federal Government that they have paid in under some State law a sum of money to meet unemployment assurance, and have spent it under the rules and regulations which have been approved by the Federal Government. If they do that they may get credit for 90 percent of the amount they have paid for that purpose. Otherwise, we will take the 100 percent and add it to the funds in the Federal Treasury.

Was any such proposal as that ever made before in any Congress or to a free people anywhere in a democratic form of Government such as our own? What have we to do with

what a State does in the matter of taking care of employees in the State when they are out of work? It is replied that when the State cannot do it the Federal Government is compelled to do it, and that that is the necessary excuse. That is not a sufficient excuse. It is a sufficient excuse for us to want to do something, but it does not give us the legal right to force any such plan as that upon the States of this Union.

The Supreme Court has repeatedly said that Congress cannot force upon a State by taxation, or by regulating commerce or what not, something which the Congress thinks a State ought to do for itself. It undoubtedly cannot do it. But that is exactly what we are asked to do under this measure.

There is one reason for it, and it is a very good reason. Unless we can force this upon all the States by punishing them upon their failure to adopt the plan by imposing a tax upon employers within their borders it will be found that the various industries in one State which provides for the tax cannot compete with those in some other State which does not impose the tax, which, by the way, is a further demonstration that all this tax is passed on to the consumer. That is a reasonable excuse for this legislation. But it seems to me that the sooner we realize the limitations upon our own power, the sooner we realize that there are still existing 48 independent States in the Union which have a right to control their internal affairs, the sooner we will get away from this kind of legislation and this kind of trouble for the Congress.

Mr. BORAH. Mr. President, will the Senator yield?

Mr. HASTINGS. I yield.

Mr. BORAH. I desire to ask the Senator with regard to the old-age pensions for those who are now 65 years of age. As I understand the plan, the Government would make an allowance of $15 per person to be matched against $15 by the State.

Mr. HASTINGS. Is the Senator speaking of title II or of title I? There are two titles which relate to old-age pensions. One is the provision whereby the Federal Government would contribute $15 if the States contributed $15.

Mr. BORAH. That is the one to which I have reference, that is, in regard to people who are now 65 years of age.

Mr. HASTINGS. Yes.

Mr. BORAH. And who have no opportunity to share in the contribution which will be made in the future.

Mr. HASTINGS. That is correct.

Mr. BORAH. As I understand it, the Government would contribute $15, provided the State contributed $15. If the State did not contribute $15, or some amount, then there would be no contribution at all.

Mr. HASTINGS. That is correct.

Mr. BORAH. In other words, there will be no contribution except as it depends upon the contribution made by the State.

Mr. HASTINGS. That is correct.

Mr. BORAH. And at the utmost, if the State contributes in full, the contribution will be only $30 per person.

Mr. HASTINGS. That is correct.

Mr. BORAH. Is the Senator advised as to how many States are now contributing as much as $15 for old-age pensions, how many States have laws providing for that amount?

Mr. HASTINGS. I think it is something like 23. The figure is stated somewhere in the RECORD.

Mr. WAGNER. Mr. President, if I may volunteer the information, 35 States have enacted old-age-pension laws under which they contribute toward the support of dependent old persons, and different ages are provided—in some States 70 years and in others 65. I think there are but two or three States which contribute more than $15 a month, and the majority of the States now, I think, are contributing less than $15 a month.

Mr. BORAH. In other words, in that condition of affairs, there would be no allowance for old-aged persons in those States at all?

Mr. WAGNER. I did not catch the question.

Mr. BORAH. Where a State made no allowance, then the allowance made by the National Government would not be available?

Mr. WAGNER. That is correct.

Mr. BORAH. As a practical proposition, then, this measure does not really make any provision at all for a very large number of old-aged people.

Mr. WAGNER. Of course, it has always been regarded as an obligation of the States to take care of the old people in the States. This is the first time it has ever been proposed that the Federal Government aid the States in taking care of old people, and to that extent it is a new venture by the Federal Government.

Mr. CONNALLY. Mr. President, will the Senator from Idaho yield?

Mr. BORAH. I yield.

Mr. CONNALLY. I may say to the Senator from Idaho that the theory is that the other States will come into the plan when there is a Federal law. Of course, if a State has no old-age-pension system, the Federal Government cannot contribute toward maintaining the old people in that State.

Mr. BORAH. I understand that perfectly; nevertheless, the fact is that no provision is being made for a very large number of old-aged people as the laws stand in the States now.

Mr. WAGNER. Perhaps adequate provision is not made. Thirty-five States are attempting to meet their obligations by taking care of old-aged dependents, some at the age of 65 and others at the age of 70, but in recent years, because of the depression, the amounts which the States have contributed have been somewhat reduced. The obligation to take care of the old people has always been regarded as an obligation of the States themselves, and the Federal Government, recognizing that they have had difficulties in raising the money, due to the depression, is for the first time in our history proposing to match the State contributions toward taking care of old people. So it is a step forward, and we are hopeful, of course, as the Senator from Texas has said, that the States which have not inaugurated systems for taking care of the old will enact legislation so as to get the benefit of the Federal contribution.

If I may, speaking to the Senator in terms of actual amounts spent, there is now being spent by the States for this purpose a little less than $40,000,000.

Mr. CONNALLY. Mr. President, will the Senator from Idaho yield to me?

Mr. BORAH. I yield.

Mr. CONNALLY. As an instance, my State has no old-age-pension system, but I think this year the people are voting on a constitutional amendment providing for such a system, and I anticipate that other States will follow through if this measure shall become a law. The Senator from Idaho is correct in assuming that for the immediate present there will be a large number of old-aged persons who will not receive any grant out of the Treasury.

Mr. BORAH. Undoubtedly there are a number of States which are not prepared financially to take care of old-age pensions at this time. There are States which the National Government is assisting in carrying their burdens, with reference to relief, and so forth.

Mr. WAGNER. Yes; they are.

Mr. BORAH. It seems to me we ought to take into consideration the fact that, so far as the people who are now 65 years of age are concerned, this measure is not and should not be regarded wholly as a pension proposition. These old people, at the end of 4 or 5 years of depression, with all means exhausted, are in a condition where they must be taken care of, and to make a Federal contribution of $15 a month dependent on whether the States are able to contribute $15 in addition does not seem to me to be meeting the situation.

There is a question of relief here, as well as the question of pensions, because it is now the effort of the Government to take these people from the relief rolls, and I am advised that hundreds of thousands of them will go back into the

miserable poorhouses, county farms, where the living is of the most meager kind. Does not the Senator from New York, who has given so much time to this matter, and understands it so well, think that we ought in this provision of the bill to take into consideration something other than the general principles which obtain with reference to security legislation?

I know perfectly well that there will be hundreds of thousands of old people who will really die of nonnutrition if more is not done for them than would be done under the pending measure.

Would it not be practicable to make a better allowance, and not make the additional allowance dependent wholly upon State action? Let the State make an allowance equal to, say, $15 if it can, because most of the States are unable to go beyond that, and let the National Government make an additional allowance, which it will take out for a limited number of years without any other allowance by the State.

Mr. GEORGE. I was going to make the suggestion that at least the Federal Government might take care of that full pension for a limited period of years, until the States were in position and had by appropriate legislation been able to set up the old-age-pension laws, even if for no more than for 2 or 3 years.

Mr. BORAH. I think something of that kind ought to be done.

Mr. WAGNER. May I make this suggestion to the Senator: Thirty-three States have already set up machinery to take care of their dependent old people. So there are only 15 States that have done nothing.

Mr. BORAH. Fifteen States.

Mr. WAGNER. But the Federal Government is taking care of those not under State law, for the period of time which the Senator from Georgia [Mr. GEORGE] suggests, by direct relief, and in addition the Federal Government is now supplementing local efforts by helping a great many of the old people in all the States. The provisions of this bill are designed to add to these efforts and also to act as an incentive to the States to be a little more generous in the care of their old by matching their efforts dollar for dollar. This proposal is much more than the Federal Government ever contemplated before the serious depression.

Mr. LONG. Mr. President——

The PRESIDING OFFICER (Mr. BONE in the chair). Does the Senator from Idaho yield to the Senator from Louisiana?

Mr. BORAH. I yield.

Mr. LONG. I also wish to attract the attention of the Senator from New York [Mr. WAGNER]. As I understand, this bill purports to give a pension to those who are on charity. I have received statistics from the Census Bureau by which I will show that those who are actually dependent upon charity will by the provisions of this bill receive out of the Federal Treasury about 60 cents a month. I have statistics to show that this is not a pension at all. This is not much more than a paupers' bill.

Mr. BORAH. May I say to the Senator from New York that it has been brought to my attention that a number of these elderly people, 65 years of age, at the end of 4 or 5 years of depression have now been turned back to the counties and to the States; they have been taken off relief; the State has been asked to take care of them, and the county has been asked to take care of them, and the county and the State are undertaking to take care of them by means of the poor farm, and so forth. That leads me to believe that the National Government ought to do more than to make a contribution of $15 a month and make that dependent upon the proposition of the State also putting up $15, because there is an element of relief in this matter, aside from the question of preparing a general scheme of security.

Mr. WAGNER. I agree absolutely with the Senator from Idaho, and the Senator knows that I would be willing to go as far as anyone in this body. Perhaps whatever criticism has been directed at me has been due to the fact that I have been anxious to do too much in that regard.

Mr. BORAH. I am addressing myself to the Senator for that reason.

Mr. WAGNER. In the first place, the Senator from Louisiana says that these people are upon charity. But the States which have passed pension laws and called them pension laws do not want to regard these old people as being subjects of charity. Perhaps in a technical sense they are. But they are citizens of the State who in their days of age have met with adversity, and the State has assumed the obligation of taking care of them because of their claim upon the State to which they have made their great contributions by creating wealth in their prime.

We do not call this charity in New York, nor do they do so in any of the other States. We have to rely upon the States to ascertain who these people are who require aid, and the 33 States which have enacted pension laws have the machinery with which they ascertain this fact. As fast as the States ascertain that there are more who need this help the Federal Government will certainly increase its assistance in proportion.

I know of no method by which the Federal Government can go around the country to ascertain where these people are. We must rely upon the State machinery.

We are now saying to the States, "You have the machinery. By passing your laws you have said in a definite manner that you regard it as an obligation to take care of these people without throwing them into the poorhouse; and insofar as you assume that obligation, we will give you a dollar for every dollar that you spend.

I think that is going to be an incentive throughout the country to take better care of them. It has been suggested that some of the States, who now contribute over $15 per month to the dependent old, will reduce their contributions to the $15 level that is to be matched by Federal contributions. I cannot believe that any State will be so ungenerous as that, and I think that whatever the Federal Government gives will be added to that which the States are already doing for their aged people.

Mr. BORAH. Mr. President, of course the State has the machinery, and of course the State can ascertain the number of persons who are entitled to relief, but the State does not have the money.

Mr. WAGNER. The States have been making contributions.

Mr. BORAH. We know perfectly well that we are aiding States to take care of their educational systems, and their teachers, and everything else; and we know that under those circumstances they do not have the means to take care of these old people. These old people are people who have made those States, in a large measure. Out through the Northwest they are the pioneers, they are the men and women who built those Commonwealths, and because the State is not able to take care of them they must now go to a county farm. If we are going into this thing at all, if the National Government is going to take hold of it, let the National Government make a provision which will take care of these old people during this depression, and not be bound by the theory of a permanent scheme of national security.

Mr. WAGNER. Mr. President, I may say to the Senator that, so far as the emergency period is concerned, the Federal Government has been helping all of the States to take care of their old people. It will continue to do so. But this bill provides a permanent plan in addition to what we have been doing during the emergency period.

I hope that the time will come shortly when we shall give these old people even more. However, there is nothing in this bill to prevent the States from taking care of their dependent old persons as well as they can. I have not heard the complaint from many States that they are not able to carry the load.

Mr. BORAH. Neither the States nor the National Government is generous when it stops at $30, when both pay to make up that amount, so far as that is concerned.

Mr. RUSSELL rose.

Mr. BORAH. Did the Senator from Georgia wish to ask a question?

Mr. RUSSELL. In line with the suggestion of the Senator from Idaho that many of the States are unable at this time to contribute to the old-age-pension fund, I will say that the State which I have the honor in part to represent, under its constitution cannot levy taxes for this purpose. The purposes for which taxes may be levied in the State of Georgia are enumerated in the constitution, and the payment of the old-age pension is not included therein. It will be necessary to amend the constitution, and that cannot be done until the next general election, so the people may pass upon it. But as the Federal Government is now turning back to the States and the counties all of the unemployables in the State, the old people who are unable to work, and the ones most deserving, as indicated by the Senator from Idaho, the State is absolutely powerless to levy a tax to raise funds for paying these people any pension whatever.

Therefore, the people in my State will be taxed in part for over something like 2 years to provide these funds for old-age pensions, and until the State constitution is amended cannot secure a single cent from the Federal Treasury to supplement the State funds, for the State funds cannot be provided.

I have prepared an amendment which I propose to offer at the proper time, which will require for a period of 2 years from the time this act goes into effect that the Federal Government will make this contribution of $15 without regard to any action on the part of the States.

Mr. BORAH. Let us not confine it to $15. That is just slow death.

Mr. RUSSELL. I shall be glad in joining the Senator from Idaho in making it a larger sum, but I should like to have something done so that the people will not starve when the State is powerless to help them. I should like to have contributed to my State as much as the amount of relief contributed by the Federal Government to the other States.

Mr. WAGNER. I wonder if the Senator is not referring to the Governor of his State, who has been criticizing whatever appropriations we have made here to help the unfortunate in his State.

Mr. RUSSELL. The views of the Governor of the State on old-age pensions does not reflect the views of the people of the State.

Mr. WAGNER. I am glad to hear the Senator say that.

Mr. RUSSELL. As a matter of fact, at its last session the general assembly voted for a constitutional amendment providing for old-age pensions. The bill passed the house of representatives by a vote of 165 to 1. The bill also passed through the senate with the required two-thirds majority. The Governor undertook to veto the proposed constitutional amendment. That will have to be fought out in the State courts to see if the matter is to be submitted to the people at the next election. Regardless of the outcome of the matter, the people of the State could not avail themselves of the benefit of this measure before 1937, following the election of 1936, when the legislature meets again.

Mr. BORAH. I am not interested in local politics in this situation.

Mr. RUSSELL. Neither am I interested in local politics, and I did not inject that question, but I am tremendously interested in seeing that the aged and afflicted and those powerless to assist themselves in my State are given the same benefits and advantages as are accorded the people of other States under the terms of this bill. They should not be penalized. Because of the constitutional inhibition, the State is powerless, and had it not been for constitutional provisions the general assembly might have passed the bill over the veto of the Governor, but it was necessary to amend the constitution. The legislature did all that was in their power to do.

Mr. BORAH. The question of centralization of power does not arise, because there is just as much centralization of power in contributing $15 as there is in contributing $30. We have undertaken to do that; that is now in the bill. So the only question here for discussion is whether we are taking care of the situation in dollars and cents. There is no question of constitutional authority so far as this particular point is concerned, because that is covered by the fact that we have already provided for $15; and the question that I am now raising is, assuming that we are going to help, assuming that the National Government is going to take part in this matter, and assuming that the National Government is going to assist the States, the question is, Are we going to assist them sufficiently to enable the old people to live? That is the only question here. I do not think it takes care of them. I ask the able Senator from New York and the able Senator from Mississippi, who is in charge of this bill, and other Senators, who, as I know, are in full sympathy with this proposition, Are we going to be satisfied to allow only $15 a month, with the uncertainty as to whether the States will put up anything, and, therefore, have nothing come of it, or are we going to make a provision which will guarantee these old people at least a sufficient amount to keep them from actually dying of starvation or neglect?

Mr. WAGNER. I may say to the Senator that he is not accurate in saying that the States will not make any contributions, and that therefore the old people will receive nothing. As I tried to emphasize previously, there are 33 States that are already contributing.

Mr. BORAH. I am referring to the States that do not. In those 15 States we will have no help for them whatever.

Mr. WAGNER. I will repeat what I have heretofore said, that I made inquiry as to all that, and I ascertained that in all the States during this emergency period the Federal Government has been granting relief to take care of old people. How much they are receiving I am not able to say, but the Federal Government has not abandoned them entirely, even in those cases where the State has been unable to do anything at all.

Mr. BORAH. I am advised that the Federal Government has notified the local authorities that they must take care of a certain class of people, including the old people, and that, under the program which has been worked out during the last few months, these people are now dependent upon the States, and they are going back to the county farm or to the poorhouse and to similar places in order that they may be taken care of.

If these were normal times, and if the States were in a normal condition, if they were in a position to raise the money, I would feel entirely different about it; I would feel that they ought to do it; but when we ourselves are contributing for such things as educational purposes, slum clearance, and so forth, that I know the States are not in a position to do their local work. We have already crossed that bridge; we have already passed over the proposition that we are going to help them. Now the question is, Are we going to help them sufficiently?

Mr. LONG. Mr. President——

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from Louisiana?

Mr. BORAH. I yield the floor.

Mr. LONG. Mr. President, I desire to offer the amendment which I sent to the desk earlier today, and I ask the clerk to read it.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. It is proposed by Mr. LONG to amend the bill as follows:

First. On page 2, lines 3 and 4, after the word "assistance", strike out the comma and the following words: "as far as practicable under the conditions in such State."

Second. On page 2, line 4, strike out the word "needy."

Third. On page 2, line 7, strike out the figures "$49,750,000", and insert in lieu thereof the figures "$3,600,000,000."

Fourth. Beginning with line 15 on page 2, strike out all the balance of page 2, and all of pages 3, 4, 5, and 6, down to and including line 14 on page 7, and insert in lieu thereof the following:

SEC. 2. From the sums appropriated therefor the Secretary of the Treasury shall pay to each State for each quarter, beginning

with the quarter commencing July 1, 1935, such proportion of the amount appropriated as the number of persons over the age of 60 in such State shall be to the total number of persons over the age of 60 in the United States, to be calculated according to the latest official reports of the United States census. That the same shall be remitted to each State solely on condition that it make due and legal provision to pay the same in equal sums to all persons in the said State who are over 60 years of age and whose net income during the preceding 12 months was less than $500, or whose ownership and possession of property is of a value less than $3,000; and nothing hereby provided shall prevent any State or subdivision thereof from providing additional pension to any person from the revenues of such State or subdivision thereof.

Seventh. On page 16, beginning with line 16, strike out down to and including line 21 and insert in lieu thereof the following:

SEC. 301. For the purpose of enabling each State to furnish financial assistance to persons who are unemployed and who receive no benefits under title I of this bill, there is hereby authorized to be appropriated, for the fiscal year ending June 30, 1936, the sum of $1,000,000,000, and for each fiscal year thereafter the sum of $1,000,000,000 to be used as hereinafter provided.

Eighth. On page 17, beginning with line 9, strike out the following:

The Board shall not certify for payment under this section in any fiscal year a total amount in excess of the amount appropriated therefor for such fiscal year.

Ninth. On page 19, line 24, after the word "State", change the period to a semicolon and add the following:

*Provided*, That the said State agency shall have right to contest any and all findings of such Board in a suit filed in a United States district court in the said State.

Tenth. On page 20, line 11, strike out the figures "$24,750,000" and insert in lieu thereof "$1,000,000,000."

Eleventh. On page 20, line 13, strike out the words "a sum sufficient" and insert in lieu thereof the words "an equal sum."

Twelfth. On page 21, line 6, after the word "agency", strike out the semicolon and insert the following: "with right to appeal to the courts of the State;".

Thirteenth. On page 21, line 22, beginning with the figure "(1)", strike out the figure "(1)", and all of line 23 and 24, and lines 1, 2, and 3 on page 22.

Fourteenth. On page 22, line 10, strike out the word "one-third" and insert in lieu thereof the word "three-fourths."

Fifteenth. On page 23, line 5, strike out the word "two-thirds" and insert in lieu thereof the word "one-fourth."

Sixteenth. On page 24, line 25, after the word "State", change the period to a semicolon and insert the following: "the said State agency shall have the right to contest in a district court of the United States the action of the said Secretary of Labor to be filed in such court in the State wherein said State board may be domiciled."

Seventeenth. Beginning on page 44, strike out all of title VIII, and insert in lieu thereof the following:

TITLE VIII. REVENUES FOR PURPOSES HEREIN PROVIDED

SECTION 1. In addition to other taxes levied and collected there shall be annually levied, collected, and paid upon the wealth or property owned by every individual a tax thereon in accordance with the following provisions, viz:

(a) One percent on the value in excess of $1,000,000 and up to and including $2,000,000.

(b) Two percent on the value in excess of $2,000,000 and up to and including $3,000,000.

(c) Four percent on the value in excess of $3,000,000 and up to and including $4,000,000.

(d) Eight percent on the value in excess of $4,000,000 and up to and including $5,000,000.

(e) Sixteen percent on the value in excess of $5,000,000 and up to and including $6,000,000.

(f) Thirty-two percent on the value in excess of $6,000,000 and up to and including $7,000,000.

(g) Sixty-four percent on the value in excess of $7,000,000 and up to and including $8,000,000.

(h) Ninety-nine percent on the value in excess of $8,000,000.

SEC. 2. The said taxes shall be levied and collected annually, shall further allow to the taxpayer the opportunity to make payment of the same in cash or in kind, and the Treasury shall make disposition and handle the same in accordance and subject to the provisions contained in said title IX.

SEC. 3. Such sums as are collected hereby as are in excess of the requirements under the provisions of this act shall be used for the other lawful purposes of government, to include future legislation of Congress to provide the families of the United States with reasonable homesteads and the comforts thereof.

Eighteenth. Beginning on page 52, line 8, strike out all of title IX.

FORCE OR LAW BRING ABOUT REDISTRIBUTION OF WEALTH

The PRESIDING OFFICER. The Chair is not certain whether the Senator from Louisiana is in order in speaking on his amendment or amendments for the reason that under the agreement to consider committee amendments first, title XI, which is the committee amendment, has not yet been disposed of. The Chair wonders what the Senator from Mississippi desires to do in that connection?

Mr. HARRISON. I have no objection to considering the amendments as a whole so we may get them out of the way. I ask unanimous consent that they may be considered en bloc.

The PRESIDING OFFICER. Does the Senator from Louisiana desire to have his amendments considered en bloc?

Mr. LONG. I would.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BORAH. Does considering them as a whole, or en bloc, mean that the amendments are not subject to amendment?

Mr. LONG. They are subject to amendment, of course; but it means they will all be considered as one amendment. As a matter of fact, it is the same principle throughout.

Mr. President, I shall show that what is proposed by the present bill is an impossibility, impossible in any respect either on the law or on the facts. I shall show that what I am proposing is feasible, practicable, constitutional, and workable.

In the first place, the Senator from Idaho [Mr. BORAH] made a statement to which I wish to refer for just a moment. If we are going to provide an old-age pension, then let us provide a sum sufficient to pay old-age pensions. I do not agree that the pension should start at age 65, nor was that the position of the President of the United States. He thought it ought to begin at 60, and everyone else I ever heard of has always stated 60 years would be the age at which to start payment of a pension. I never heard of it being placed at 65 years of age until the bill came before us.

Mr. WAGNER. Mr. President——

The PRESIDING OFFICER. Does the Senator from Louisiana yield to the Senator from New York?

Mr. LONG. I yield.

Mr. WAGNER. Most of the State laws which I have examined provide for a pension beginning at the age of 70.

Mr. LONG. I have tried to explain to my friend from New York that while they may be called "pension" laws, yet they are "pauper" laws.

Mr. WAGNER. The States do not agree with the Senator.

Mr. LONG. But the dictionary does. I hate to refer to any man as a pauper, but the facts are, if I may be permitted to have the attention of Senators, that if we have a law which requires a man to prove himself to be destitute and needy before he can get any allowance, we compel him to admit or, indeed, to claim that he is a pauper. It is not a pension law. We pension the judges of the courts for the services which they previously rendered, whether they have any money or not. We pension soldiers of the Spanish-American and Civil Wars whether they have any money or not. That is a pension. But when we provide by law that a man must prove himself to be destitute or to be needy before he can get any money, and only that man is permitted to get any money under the law, then it becomes only a pauper law.

Mr. WAGNER. Mr. President, will the Senator yield further?

Mr. LONG. I yield.

Mr. WAGNER. I am anxious to understand clearly the Senator's amendment. The Senator would take those over 60 years of age——

Mr. LONG. No. If the Senator will listen he will get it all straight in a minute. The Senator from New York will not listen to me as long as I have listened to him if he listens to everything I say. I am satisfied, too, that he will not get as much good as I do.

Mr. President, there are 10,335,120 persons over the age of 60 in the United States. I need only refer to Government compilations and the statement of the Senator from New York. Of this number there are 96 percent whose earning capacity is below that which enables them to live on a normal-subsistence basis. In other words, 96 percent of our entire population earn less than a subsistence wage of this kind. That is one thing on which we agree. I shall give the Senator better figures than that. I shall give some figures which have been published by life-insurance companies. The only thing I have now are some figures which I clipped out of an insurance publication. This reads:

What happens to the average man of 25 upon reaching the age of 65? Only one will be wealthy.

We had considerable trouble locating this advertisement. I thought I could get it by telephoning the insurance companies, but I learned that they claimed they did not have it or they had forgotten all about it. I am sure they were in good faith. I located it because it had been recopied in a well-known newspaper in this country. Then I telephoned the insurance companies and they said they would be able to send the entire statistics in a short time. I read this again:

Only one will be wealthy. Four will be well to do and able to enjoy comfort and recreation. Five will be working for a living with no prospect of relief from drudgery. Thirty-five will have died, in many cases leaving a family in need of some assistance. Fifty-five will be dependent upon friends or relatives for charity.

Of all those about 65 or 70 years of age who are left alive, 55 will be dependent upon charity. This was a statistical compilation made during pretty good times. The condition is much worse now, because our own data show it is somewhere around 96 percent of our people who are earning below a subsisting living.

If we are going to pay a pension that is going to amount to anything, certainly we ought not to begin a pension too far away from the average unemployable age. Fifty years of age is almost an unemployable age, except for men of talent and skill, and I do not mean manual skill. Sixty years of age at the very worst is the furthest age at which we should consider awarding a pension. I am going to argue this on the basis of 60 years of age, and then I am going to argue it on the basis of 65 years of age, and I shall show how impossible the whole scheme is on the basis of either 60 or 65 years of age.

Let us, for the purpose of argument, not count the 385,000, because most of them are dead by now, having gone through some of the years 1933 or 1934 or a part of 1935. Thus there would be 10,000,000 people drawing $49,000,000 a year out of the Federal Treasury. Deducting one-third—which is more than the census shows and which is more than the life-insurance companies show—deducting from the 10,000,000 people one-third, who are either wealthy or able to take care of themselves, would mean that $49,000,000 a year, or $4,000,000 a month, would pay those left about 56 cents per month apiece.

If the entire $49,000,000 which is covered in the bill is going to those found to be needy by the statistics of the Government and by the statistics of private people and by the statistics of the life-insurance companies, we would pay them about 56 cents per month out of the United States Treasury if we gave a so-called "pension" to everybody who is 60 years of age or over. Of course, it might be $1 if we raised it to 65 years of age; it might be $2 if we raised it to 70 years of age; it might be $3 if we raised it to 75 years of age, or $4 if we raised it to 85 years of age. I am talking about an age when a pension should start. I shall prove in a moment that raising it to 65 years of age would still leave an impossible situation under the bill.

There is only one way we are going to be able to pay a pension. We cannot pay it from ordinary sources of taxation. The United States Government cannot support a pension law from the ordinary sources of taxation which now prevail. It is impossible to do it. The United States Government cannot today pay its own costs of operation from present resources, to say nothing of the bonds which it has accumulated for payment in the future. The United States Government cannot support any kind of worth-while pension project unless there is revenue to be raised from some source not yet tapped, and a material source at that. I have advocated raising income taxes, but that will not bring in so much more; in fact, really not near enough when compared to what will be needed.

We have only one process by which we can raise a sufficient amount of money to support a pension plan, a pension plan that is worth anything to the country, and that is by a capital-levy tax.

So, therefore, I have proposed a substitute in these words: Instead of paying 60 cents a month, as the payment would be, to everybody 60 years of age and over who needs a pension, I propose to pay around $30 to $35 a month to those who should have a pension. Instead of requiring a State to put up $15 a month, I propose that the Federal Government shall pay from $30 to $35 a month. If a State government is not able to put up anything, that will not deprive a man or woman of getting his pension; and if a State government is able to put up an adequate amount, the State, if it can do so, may augment the Federal contribution and give more than $30 to $35 a month pension to people more than 60 years of age.

As an example, I state as a conservative statement that more than one-half the States in the Union have proved that they cannot pay any substantial sum whatever as a pension. Why? Because they are having to rely upon the gratuity of the Federal Government to keep their schools open. They are having to rely upon the Federal Treasury for unemployment relief. They are having to rely upon the Federal Treasury for the most ordinary kind of revenue to support the State government. Talk about making the State treasury match the contribution of the Federal Treasury in order to get relief! We might as well say that they have to discontinue caring for the blind, the deaf, the dumb, the insane, the crippled, and those who are in the public hospitals. School facilities and things of that kind would have to be curbed if that were done, because there is practically no State in America which is operating within its budget at the present time.

Therefore, if we say to a State, "We are willing to give you Federal help for an old-age pension provided you match that help", we are the same as saying to the State, "You have either a physical impossibility in one direction or an impracticability in another direction, because you have to curtail some of the expenditures you are now making in order that you may match the Federal funds."

I doubt if any of the Western States, probably outside of California, could make this payment. I doubt if any of the Southern States could make this payment if there is a reasonable pension paid. My State, the State of Louisiana, is in a little bit better shape than the average Southern State, as I said the other day, because of natural resources which we have. We have there, as is well known, probably the world's greatest supply of sulphur and salt. We likewise have oil and gas deposits, and various and sundry ores that are found in our State, which make it possible for Louisiana to bear burdens which other States cannot bear. But if the State of Louisiana today were called upon, according to the life-insurance companies' statistics, to put up $15 a month for every man over 60 years of age who, by the records we now have, is shown to be dependent on charity for support, the State of Louisiana would have to give more money than its entire taxing resources amount to at the present time. We should have to double the present taxes in the State of Louisiana if we were to pay $15 a month to every man who is over 60 years of age, who is to some extent dependent upon charity for a living, either of outsiders or of his own immediate relatives. If we were to undertake to take care of the whole of that class of people at $15 a month, the State of Louisiana would have to double its taxing resources in order to pay the amount that would be required, and it is not possible for that State to do it; and if it is not possible for that State to do it, then I know it is not possible for any other Southern State to do it.

Mr. President, I desire to make this further correction in the bill: I wish to speak of the unemployment feature, and ask the Senate to consider what I am saying as a whole.

In the unemployment feature there is donated a sum of about $24,000,000, perhaps $40,000,000—I do not state what the figures are; I could run through the bill and get them—but, at any rate, there is some small sum appropriated by the Federal Government for unemployment relief. Why, Mr. President, if this is going to be an unemployment bill at all, what good is it going to do to appropriate $49,000,000 to take care of unemployment when we are already appropriating $5,000,000,000 to take care of unemployment for the year 1935 and 1936? If we are having to appropriate a billion, two billion, three billion, four billion, up to five billion, and perhaps $6,000,000,000 for the purpose of taking care of unemployment in the year 1935 and part of the year 1936, what assurance have we that forty-nine or fifty million dollars or $24,000,000 is going to be sufficient for that purpose in 1936?

I propose that the States shall not have to match that money. We propose in the bill which has been submitted by the Finance Committee, known as the "administration bill", that a State shall get Federal unemployment money provided the State matches it dollar for dollar. The State cannot match it dollar for dollar now. The State never will be able to match it dollar for dollar. The State has not the taxing resources upon which it can depend to raise any such amount of money as that. Therefore, unemployment relief must of necessity be enjoyed, so far as concerns the assistance of the Government, by a relatively small number of the people who are entitled to it.

The next amendment which I propose is one which would take out of the hands of Federal bureaus the power arbitrarily and for their own purposes to cut off a State from old-age pension relief, or from unemployment relief, or from dependent-children aid and relief. By the bill which is now presented here, whenever the Federal bureau setup here in Washington find in their minds sufficient reason as to why a State should not be allowed to have any more pension aid, or any more unemployment aid, or any other aid of that kind or character, all they have to do is to notify the State that they consider that it has breached one of the rules of the bureau or one of the laws of Congress, and thereupon, ipso facto, they cut them off the list and decline to send them any money at all.

As the bill is now presented to the Senate, that leaves it within the sole jurisdiction of that particular bureau to do whatever it wishes to do. I add to this provision a further clause that whenever any board handling unemployment-relief funds, handling dependent-aid-for-children funds, or handling old-age-pension funds decided that a State ought to be cut off from any further relief the State shall have a right to take the case into court, and if the board is acting arbitrarily or unreasonably or without right, the State shall have a right to contest and annual the suspension order which prevents the State from having the relief.

Gentlemen of the Senate, that is not an unreasonable thing. That is a very much needed thing. Regardless of whether the Democratic Party or the Republican Party is in power, the time will come, as it always has come, when arbitrary actions and arbitrary orders of boards and bureaus and commissions and bureaucrats will have to be suspended by lawful processes of the courts. Otherwise we shall have an arbitrary rule which will become the standard, instead of a judicial and a righteous and a justifiable rule.

I now come to page 44 of the bill. I propose to strike out titles VIII and IX. Titles VIII and IX of the bill prescribe the revenue which is to be raised in order to carry out unemployment relief. I desire to refer to those provisions briefly.

I turn over to page 44 of the bill, and I find that a very unusual set of taxes is proposed.

The bill proposes to tax those who are employed, and also, in addition to the other provisions that require the State to levy taxes, provides for the levying of certain taxes by the Federal Government. Bear in mind that in order for the State government to contribute its part to this Federal relief program, the State government has to levy a tax for every one of these things. The State has to find some new sort of a State tax, because there is no State today which has the revenues that would be required to carry out the purposes of this bill any more than those purposes are now being carried out by the States. The State will have to raise additional revenue. Therefore there are two forms of taxes. First, the State must provide a tax for all that is in addition to what it is now raising in the few States that now make provision for paupers. I mean by that, today I understand the States are raising $49,000,000.

If they provide any more money than $49,000,000—which, as I have previously proved, is an infinitesimal sum—if they provide any money at all for unemployment, if they provide for dependent aid for children, or any of these things for which provision is made, the States will have to levy a tax with which to do it. The State of Louisiana must levy a tax; the State of Arkansas must levy a tax; the State of Mississippi must levy a tax; the State of South Carolina must levy a tax; the State of North Carolina must levy a tax; the State of Iowa must levy a tax. Every one of the 48 States of the American Union will have to levy a tax inside its borders in order to make the necessary contribution to the Federal relief program in order to get any money at all out of the Federal plan.

If the States are not only unable to levy any taxes for that purpose but if they are not even able to levy enough taxes to support their schools, if they are not able to levy enough taxes to support their hospitals, if they are not now able to levy enough taxes to take care of their own domestic affairs as they are now being handled, and if every one of the States, or nearly every one of them, is living at a rate that does not even provide for a balanced budget—if all of the States are piling up deficit after deficit at the present time in caring for things now committed to them, how can we expect the States of the American Union to levy any more taxes, and upon whom are they to levy these taxes?

Mr. TYDINGS. Mr. President——

The PRESIDING OFFICER (Mr. SCHWELLENBACH in the chair). Does the Senator from Louisiana yield to the Senator from Maryland?

Mr. LONG. I yield.

Mr. TYDINGS. I should like to ask this of the Senator from Louisiana; what will be the annual cost of administering this fund under the Senator's plan?

Mr. LONG. The whole plan?

Mr. TYDINGS. Yes; how many billions a year would it cost?

Mr. LONG. Somewhere near six billion.

Mr. TYDINGS. Six billion a year?

Mr. LONG. Yes.

Mr. TYDINGS. That would be in addition, of course, to the regular expenses of the Government as we now have them?

Mr. LONG. No; I would judge this would eliminate about all of the present relief expenditures.

Mr. TYDINGS. I do not include the emergency funds. So that we would need, in round numbers, from nine to ten billion dollars a year upon which to operate the Federal Government in order to carry out the Senator's plan?

Mr. LONG. Yes.

Mr. TYDINGS. As I understand it—and I recite my figures from memory—the national income is around fifty or sixty billion dollars a year.

Mr. LONG. It was forty-two billion last year.

Mr. TYDINGS. From the forest, the factory, the mine, and the farm. That means, then, that the Federal Government alone would take the equivalent of one-fifth, or 20 percent, of all the earnings of everybody in the country spreading it pro rata first of all, for the purpose of the illustration. Is that correct?

Mr. LONG. It would be as much as that; but it does not take the earnings, of course.

Mr. TYDINGS. I understand. The Senator's plan is, instead of raising the money in the present manner, to raise it by inheritance taxes or by a capital levy?

Mr. LONG. A capital levy.

Mr. TYDINGS. What I am interested in at this point is ascertaining whether the Senator has figures to show how long it would be if we make a capital levy, and then another year made a capital levy, and then another year make another capital levy before the fortunes in the higher brackets, which, under the impulse of the plan as originally put out, would pay a considerable amount, would be diminished.

Mr. LONG. They would be diminished.

Mr. TYDINGS. At what point would the larger fortunes of the country be stabilized?

Mr. LONG. I should say in about 8 years.

Mr. TYDINGS. What would be the maximum amount of money any person would be able to have, under the Senator's plan?

Mr. LONG. About two and a half million dollars.

Mr. TYDINGS. After we get down to two and a half millions, which is the outside amount any one individual might have——

Mr. LONG. After about 8 years, I should say.

Mr. TYDINGS. What amount of taxes would have to be levied on the two and a half million in order to raise the nine to ten billion dollars a year necessary to operate the Federal Government?

Mr. LONG. In the words of the Lord, we would not have to raise any.

Mr. TYDINGS. I can see how the Senator's plan would work the first 2 or 3 years; he has already anticipated my question by agreeing that the larger fortunes would be diminished.

Mr. LONG. That is right.

Mr. TYDINGS. Now I am trying to find out how the plan would work after the larger fortunes had been diminished.

Mr. LONG. I shall be glad to come to that now. I had intended to come to it later, but since the Senator has raised the question, I will explain it right now.

Mr. TYDINGS. I do not wish to interrupt the Senator——

Mr. LONG. I shall be glad to explain it right now.

Mr. TYDINGS. The question arose in my mind from the fact that I do not see how some of the States, as the Senator himself has pointed out, can raise the sums of money necessary to make the proposed plan effective.

Mr. LONG. They cannot.

Mr. TYDINGS. In many of the States already the Federal Government is really carrying a large part of the load. If the States cannot match the plan, and the plan of the Senator is not feasible for one reason or another, it strikes me that if the proposed act is to have real effect some means of raising the money will have to be found other than taxing the States to put up 50 percent.

Mr. LONG. The Senator is right, and I think I can explain to the Senator very readily the answer to the question he has asked.

Mr. TYDINGS. Does the Senator mind my asking another question, rather than wait for an answer?

Mr. LONG. I am glad to have the Senator ask his question.

Mr. TYDINGS. Perhaps the Senator can develop the whole thing at one time. How many people in the United States would have two and a half million dollars' worth of property after the Senator's plan had been in effect 10 years, as near as he can estimate?

Mr. LONG. There would be a much larger number of millionaires than at the present time. This is only a guess, but I should say there would be four times the number of millionaires there are now.

Mr. TYDINGS. The Senator feels that through a capital levy and expenditures of the money the opportunities for doing business would be increased?

Mr. LONG. There is no question about that.

Mr. TYDINGS. So that more people would earn more money and less people would earn less money?

Mr. LONG. The figures show that.

Mr. TYDINGS. Has the Senator any illustration in history where this has been done successfully?

Mr. LONG. I have the illustration of a few years back in the United States, when we had a little bit less centralization of wealth, and our national income was around $95,000,000,000. I have the national surveys conducted under the joint authority of the F. E. R. A. and the housing authorities, which show that there actually was an income of $4,317 average per family available.

Mr. TYDINGS. Let me ask the Senator this question, and I am not taking issue with him. I am trying to develop his thought, because he has spoken of this several times——

Mr. LONG. Several hundred times.

Mr. TYDINGS. And this question has always been in my mind. Suppose the Senator were wrong in assuming that more people would have $2,500,000 than he supposes would have that sum. Where would we get the revenue in case his calculation miscarried, to carry on this plan, after the capital levy had mowed down the larger fortunes?

Mr. LONG. I am coming to all that.

Mr. TYDINGS. Let me say, in connection with this, that the Senator must realize that the $3,500,000,000 of normal expenditures which we now have to meet are predicated largely upon incomes derived on the larger fortunes.

Mr. LONG. That is right.

Mr. TYDINGS. So that if we destroy the larger fortunes, we destroy also the incomes from those fortunes, and therefore we would have to carry the income brackets down to the man with less income in order to make up for the losses on the man with more income.

Mr. LONG. That would be very fine.

Mr. TYDINGS. So that the man of moderate means would have to pay more income tax in order to give the Government the same return if the larger fortunes were leveled. Is that correct?

Mr. LONG. Hardly. Let me illustrate, and answer the Senator's question as a whole. To begin with, the United States Government would take in at the first drop of the hat somewhere between one hundred and one hundred and sixty-five billion dollars in wealth, not all cash, because there is not that much cash in the world, but from one hundred to one hundred and sixty-five billion dollars of wealth based on the normal $421,000,000,000 of national value in a normal year. That would mean that for a number of years the United States would be peaceably, regularly, and in an orderly manner conducting such sales, distributions, and arrangements as I propose to outline and to include in an amendment to be proposed to title IX.

But, as the Senator from Maryland said, after the time when we had whittled down the big fortunes to a maximum of two and one-half million dollars, what then, says the Senator, would we do for money for social relief? Where would we find the hundred millionaires to tax, after 10 years, we will say? Where would we find the men who could contribute this money?

Mr. President, this is the answer to that: The beautiful thing about it is that when we cut down the size of the big fortunes, when we level down the 10 billionaires, and those with fortunes of five hundred million, and those with fortunes of one hundred million, and those with fortunes of ten million, so that the maximum fortune in this country would be from a million to $3,000,000, there will be practically no such thing as a social-relief program. We will have no such problem left, if we do as was said by the Pilgrims, as was said by the Bible, as was said in every law upon which this country was supposed to have been founded. If we will cut down these monstrous fortunes to the point where there will be only 600 people in the United States with buying capacity and allow 24,000,000 families to have buying capacity, then the social-relief problem will become nil.

Mr. TYDINGS. Mr. President, will the Senator yield further?

Mr. LONG. I yield.

Mr. TYDINGS. Let us take any one rich individual. I do not like to be personal, but it is necessary to have an illustration.

Mr. LONG. Take Rockefeller.

Mr. TYDINGS. Let us take Henry Ford.

Mr. LONG. Take Rockefeller. He is better as an illustration.

Mr. TYDINGS. Suppose we take Henry Ford, who is supposed to be a very wealthy man, and I suppose a great deal of his fortune is invested in an automobile manufacturing plant, and in things kindred thereto.

When we started the capital levy on Henry Ford, what would we get? We would certainly not get his money. Would the Government take over his plant, or take an interest in it, or acquire so much stock in it? And who would run the plant? Will the Senator explain?

Mr. LONG. I will take the case of Mr. Rockefeller, whom the Senator mentioned. [Laughter.]

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. BARKLEY. The Senator himself has used Henry Ford as an illustration time and again.

Mr. LONG. I know; that is why I am using Rockefeller now. I have used Ford, and the Senator from Maryland can read what I said, as the Senator from Kentucky, who is already wise about it, did.

I will use the case of Mr. Rockefeller because it is a much better illustration. Let us say that Mr. Rockefeller has a fortune of $10,000,000,000. Let us put it at the outside figure, $10,000,000,000; and it is that much. Rockefeller's fortune amounts to $10,000,000,000. The Mellon fortune was shown to be up in the billions. They claim it is in the hundred millions, but it is in the billions, as better reports I have studied show.

Let us take Mr. Rockefeller's fortune at $10,000,000,000. Does it not have to be divided when he dies? It is said that we cannot redistribute the fortune of Rockefeller; but if Rockefeller dies, all of it has to be redistributed, and before we had the inheritance laws, such a fortune would have had to go back to the Government.

Remember inheritance is an artifice of the law. Under the common law there was no such thing as a man giving his children his property; it all went to the government. Inheritances were a means of artificial support granted by the law by which children inherited the fortunes of their parents. Under the common law, which survived for years and years before we ever heard of the law of inheritance, all property went to the government on the death of a man and had to be redistributed by the government. So this is nothing new.

Second, what would we do in this specific case? I have an amendment to offer, and I will explain what we would do. Let us assume that Mr. Rockefeller died. So much can go to one heir. So much can be retained by him as he signifies. He can take out whatever he may desire from his profits. He can pay it in cash. He can pay it in kind. He can retain such ownership as he may desire of the property, which he may have up to the limit the law allows. In this case about seven or eight million dollars would be the limit he could retain after the first few years, and he would naturally have to whittle down as the years went by.

Mr. TYDINGS. Mr. President, will the Senator yield further?

Mr. LONG. I yield.

Mr. TYDINGS. The Senator, however, ought to make a distinction. When one of Mr. Rockefeller's children or five or six of his children have his fortune divided among themselves, they simply inherit securities. The Senator now inferentially answers my question. Does he mean that the Government would have given to it, in lieu of money, a certain percentage of the securities which Mr. Rockefeller owned, such as an heir at law would receive?

Mr. LONG. It could; yes.

Mr. TYDINGS. Then the Senator's plan would be that the Government would acquire——

Mr. LONG. Property.

Mr. TYDINGS. The Government would acquire not money, but property.

Mr. LONG. It would have to.

Mr. TYDINGS. What becomes of the property after the Government acquires it?

Mr. LONG. Mr. President, I will answer that. Now we have gotten back pretty well to the point. We have got only one more little place to go in this discussion. When the Government has acquired the property, the Government disposes of that property.

Mr. TYDINGS. If the Senator's answer is as I interpret it, namely, that the Government, in a period of 8 or 9 years, is to level all the big fortunes down to two and a half million dollars—suppose then the Government acquires this property. It will be property. It will not be money. It is going to sell it again. I wish to know who in the country is going to have enough money to buy it when the Government gets it and begins to sell it, when all the big fortunes of the country are to be taken away.

Mr. LONG. Mr. President, the Senator has not got his arithmetic right.

Mr. TYDINGS. Very well. I should like an answer to my question.

Mr. LONG. If people with large fortunes are permitted to retain two and a half million dollars, then a little over three-fifths of the fortunes are left intact. We still have three-fifths of the fortunes left intact. We are not going to sell this property all in the first year, nor in the second year, nor perhaps in the third year, but the Government will make such division and disposition of this property as is necessary to carry out the purposes of the law, the purposes of the Government, and the building up of the common man from the bottom. There are a dozen ways to do that.

Mr. TYDINGS. Mr. President, will the Senator further yield?

Mr. LONG. I yield.

Mr. TYDINGS. I do not know the financial worth of any of the Members of the Senate; but there is not a man in this body, whatever his worth may be, who has that worth in money. The men who would retain two and a half million dollars' worth of property under the Senator's plan do not have their worth in money; they have it in property or in investments.

Mr. LONG. That is true.

Mr. TYDINGS. Therefore they could not buy what the Government was going to sell unless they first sold what they themselves had.

Mr. LONG. No, Mr. President; I would not have them sell. I would have them give the Government of their property in kind.

Mr. TYDINGS. The Senator does not understand my question. I say, assuming that the Government has acquired this property through a capital levy, and begins to sell it, it must, perforce, sell it to the men who have, we will say, large fortunes.

Mr. LONG. No, no. Why? Are we not going to let anyone buy anything except the man who has over two and a half million dollars?

Mr. TYDINGS. Oh, no; but I am talking about the time when no man has more than two and a half million dollars.

Mr. LONG. Fine!

Mr. TYDINGS. I say, then, that when the Government assumes to sell these tremendous, big blocks of property——

Mr. LONG. Oh, no; they do not have to sell it in big blocks. We will whittle those things down a little.

Mr. TYDINGS. They acquire it in big blocks, and they acquire it in the form of property.

Mr. LONG. No; they acquire it in the form of securities or representation of property.

Mr. TYDINGS. So in order to buy what the Government must sell, as the Senator says, a man not having his fortune in the form of money must first sell what he has his two and a half million dollars invested in, in order to get the money to pay for what the Government is selling.

Mr. LONG. Not necessarily.

Mr. TYDINGS. How can he pay for it then?

Mr. LONG. If the Senator will wait a moment I will explain that. If it were not for the Senator's own confusion, by reason of which he has been asking these questions, I should have answered it.

Mr. BONE. Mr. President, will the Senator yield?

Mr. LONG. Let me answer the Senator from Maryland. To begin with, the Senator would urge that we cannot redistribute wealth.

Mr. TYDINGS. No; I do not urge that.

Mr. LONG. Let me get through with the answer to the Senator's question. The Senator asked me a question and he does not permit me to answer.

Mr. TYDINGS. I do not wish to have the Senator from Louisiana put words in my mouth.

Mr. LONG. I beg the Senator's pardon. I did not intend to do that.

Mr. TYDINGS. I asked the Senator a simple question. How are these large property blocks to be purchased?

Mr. LONG. O. K.; I will come to that. I will come to that immediately. Then, when I have finished answering that, I will come back and show the Senate the situation on basic principles.

To begin with, has not the Federal Government time after time issued currency against its own assets? Let us say for the sake of the argument that the United States Government finds a clogged market—which it will not find. It will find a market far more expansive when we have put purchasing power into the hands of 24,000,000 families than it is now when there is a purchasing power in only 600 families.

You will find a far more expansive purchasing market for the goods and things of value in this country if you decentralize wealth than you find today when you only have 600 buying resources. But let us forget that.

Has not the United States Government always had the right, and does it not now, under the Federal land-bank laws, issue currency against assets, and does it not become circulating currency? Has not the United States Government taken bonds, has not the United States Government taken even the portfolios of banks, consisting of mortgages and notes, and issued currency? What is to keep the United States Government from issuing the same kind of circulating currency in order to effect the redistribution I suggest?

Mr. BARKLEY. Mr. President, will the Senator yield for a question?

Mr. LONG. No, Mr. President, not at this moment. I wish to complete my answer to the Senator from Maryland. That is no. 2.

There is a third way of doing. There is no trouble to make a diffusion of this property. There is a third way. I pointed out two ways, and I will point out a third. There is no particular harm in the United States Government, if it did not have these other two methods which I have mentioned——

Mr. TYDINGS. Mr. President, will the Senator yield?

Mr. LONG. Just a moment.

Mr. TYDINGS. I do not want to interrupt the Senator.

Mr. LONG. Wait till I get through with this point.

Mr. TYDINGS. I wish to point out that originally the Senator said the Government was going to sell that property. Now he has abandoned that principle.

Mr. LONG. Oh, no!

Mr. TYDINGS. Now he says the Government is going to issue money against the property.

Mr. LONG. No; I did not say that. The Senator does not understand me. His eyes may be like mine—blind and see not. However, what I have said I will repeat to the Senator. The point is, the Government, as I said, will undertake to release and to diffuse this property to the advantage of the Government and to its people, into the hands other than the Government.

How would it make this distribution of $165,000,000,000 worth of property? It does not have to make it all the first day, or the first month, the first year, nor even the first 10 years. How can it do it? The Government first finds an enlarged purchasing market to begin with, because property ownership and ownership of wealth have been decentralized. Here is a man who can go into the grocery business. He can afford to buy a grocery store. Why? Because those terms, those conditions, those times are at an end when a large $100,000,000 capital structure which dominates a chain-store enterprise squeezes everybody out of the grocery business except some man who is a peon under the chain-store system. Those times are at an end. Those things known as the "chain factories, the chain banks, and the chain enterprises" cannot thrive, and therefore peonage in that service cannot thrive any longer. Those days are at an end. Therefore there is an enlarged market for purchasing, there is an enlarged market for thrift, there is an enlarged market for prosperity, and therefore with reasonable order and precision the United States Government would find a means for disposing of this property at enhanced values through a reasonable period of time to a better-equipped purchasing public. That is no. 1.

No. 2. Let us say, however, that we find, as the Senator intimates is the case, that there is a clog in the purchasing power. That being the case, the United States Government would want to do what it has done under the Federal Reserve bank laws and under the Federal land-bank laws. The United States Government would have the right to issue its own circulating currency based upon the property which it owns, the same as it has done in the case of the Federal Reserve banks and the Federal land banks.

No. 3. There is a third process, and the Government can adopt one or all of these, or even a dozen more expedients. I now come to the third process. There is nothing to prevent the Government from making some disposition of this property in kind the same as my amendment proposes that taxes may be paid in kind. Those are the three main things.

The next point I answer to the question of the Senator is this: What would we do when the time came when we would level the fortunes down to where no one owned more than two and a half million dollars? Whom would we tax? Then, Members of the Senate, is when our problem of social security has practically disappeared. There never was a country which kept its wealth reasonably distributed which ever had a panic. There never was a country which kept its property diffused into the hands of the masses that ever had a calamity, and there never was a country which allowed its property to become concentrated in the hands of the few that did not have disasters and depression.

This country was founded upon the principle which I am now trying to make some effort to expound. This country was founded on this principle. The day that the Pilgrims landed in 1620, by a compact which had been signed July 1 of that year, they provided that every 7 years property would have to be redistributed, and every 7 years debts would have to be remitted.

It is no trouble to redistribute wealth, Mr. President. I have not had the mind and the capacity possessed by some of the abler Members of the Senate in connection with these matters to help me in getting up a plan of the kind I am suggesting. I have done as much as I have explained to the Senator from Maryland with my own feeble mentality, and I find no one to say that it is even an impossibility or an impracticability.

Mr. President, there is no trouble to redistribute wealth. The Lord God in heaven says it has to be done. Not only does He say it has to be done; He says a nation which does not do it cannot survive. The Lord shows us in chapters and in paragraphs and in verses how He sent his apostles into countries where the wealth became concentrated in the hands of a few people, and how they did redivide it, and how they did redistribute it. He says that the time will come, even in this generation——

The VICE PRESIDENT. The time has arrived when the agreement goes into effect. The Senator from Louisiana is recognized.

Mr. LONG. I have 45 minutes on the bill, have I not, and 30 minutes on the amendment?

The VICE PRESIDENT. The Senator's statement is correct.

Mr. LONG. I will try not to take that much time, because I desire to allow time for other discussion. I will not take much of my time. I want to allow time for others to consider this bill and I want to allow time to come back and answer questions which may arise in anyone's mind.

Mr. BONE. Mr. President——

The VICE PRESIDENT. Does the Senator from Louisiana yield to the Senator from Washington?

Mr. LONG. I yield to my friend from Washington.

Mr. BONE. Can the Senator name for me any country in modern times that has ever undertaken a redistribution of wealth?

Mr. LONG. What does the Senator call "modern times"?

Mr. BONE. The last hundred or two hundred years.

Mr. LONG. Will the Senator make it 300?

Mr. BONE. I will concede that much, then, and make it 300.

Mr. LONG. Very well. The first country I will name that has redistributed wealth during the last 300 years is America.

Mr. BONE. What was the period of that redistribution?

Mr. LONG. Beginning with 1620 and lasting for 50 or 60 years.

Mr. BONE. There were then a mere handful of people along the Atlantic seaboard. I am talking about a country that has had its civilization well established and not merely a group of settlers who were fighting for existence with their backs to the wall.

Mr. LONG. Very well. I will name France in about 1800. Do I need to prove that? The whole cause of the French Revolution was the concentration of wealth in the hands of a few. The French people went through blood. What did they do? They not only effected a redistribution of wealth but France enacted laws which forbade and prevented, from the day of the French Revolution, the concentration of wealth in the hands of a few.

Mr. TYDINGS. Mr. President, will the Senator yield?

The VICE PRESIDENT. Does the Senator from Louisiana yield to the Senator from Maryland?

Mr. LONG. I yield.

Mr. TYDINGS. The Senator could take a more modern illustration and cite the revolution in Russia.

Mr. LONG. No; the Russians did not redistribute wealth; I beg the Senator's pardon; they substituted an oligarchy of government for an oligarchy of finance; that is the difference. The czar still lives in Russia. The only difference is that it is supposed to be an ownership of government instead of an ownership of the earls, dukes, and lords. One is an oligarchy of finance, the other is an oligarchy of government; and one is as bad as the other. We, too, have been going along that line here for the last few years.

It is the N. R. A. of Russia the Senator from Maryland is referring to now. [Laughter in the galleries.]

The VICE PRESIDENT. The occupants of the galleries will refrain from any audible demonstration, or the Chair will have to order the galleries cleared.

Mr. LONG. What did they do in France? France had its revolution. When we read the histories we get very little from them, as they keep out most of the facts. We do not find in a single school history published in the United States today the compact of government under which this Government lived for nearly a hundred years; we do not find it published at all.

However, let me get back to what France did. When they got through redistributing wealth in France they adopted the provisions of the civil law under which it was provided that when a man died he could not leave his property to the most able son or the most able daughter to roll like a snowball down hill through another generation. On the contrary, it had to be divided, more or less equally, amongst all the children, and a certain amount of it had to go to the state; so if a man had, say, five children and died leaving a million dollars or even $500, it went into five parts after the Government had deducted a part. That was the law. As those children died in succeeding years the property was divided into 3 and 4 and 5 other parts. The effect on the fortunes of France was to steadily diffuse the wealth, instead of concentrating wealth, and today there are no large fortunes in France. Despite the fact that France has had scourge after scourge, despite the fact that she has fought war after war and endured pestilence and everything else. nonetheless, France has been able to survive, due to the fact that its wealth has been more or less distributed among the people and cannot be concentrated into the hands of a few. Had France had what America has had, France would have been swept from the face of the globe more than a hundred years ago. That is no. 1.

The second illustration is the United States of America. I have referred to what took place during and following the French Revolution. But where did they get the idea? They got it from America. The French Revolution was brought on as a result of the American Revolution, and as the result of events which preceded the American Revolution.

What had the Americans done? They had set up on the eastern coast, after landing at Plymouth, the compact of the Pilgrims. Article 5 of the compact, which was the law under which the Pilgrims landed, under which they lived, and which brought this country into flower and bloom, stipulated that at the end of every seventh year—and, mind you, I am giving the exact literal words as they come from the law—debts should be remitted and every seventh year wealth should be redistributed. That is the cause of the flower and bloom of America, so much so that when this country framed a Declaration of Independence that principle was carried into the Declaration of Independence, and when our forefathers wrote the Constitution of the United States that principle was incorporated in the Constitution. James Madison, who was the chief draftsman of the Constitution of the United States, gave out a statement about that time in which he said that this would then be a free republic, but he warned America that if it failed to redistribute wealth when the time came the country could not survive and there would be no republic left. So Daniel Webster, in 1820, at the commemoration of the two hundredth anniversary of the landing of the Pilgrims at Plymouth, made a speech there in which he said, in effect, that America's future preservation and progress and welfare depended upon whether it would or would not follow the law of the Pilgrims and redistribute the wealth of this country and prevent it from being concentrated into the hands of a few.

Those are some examples; but I will give another example, if I may be permitted to do so. I turn to the fifth chapter of the Book of Nehemiah in the Old Testament to show what they then did, and to show the rules under which they did it. Here is the book. I read it once on the floor of the Senate, but I will read it again. I quote from the fifth chapter of the Book of Nehemiah:

> And there was a great cry of the people and of their wives against their brethren. the Jews.
>
> For there were that said, we, our sons, and our daughters, are many: therefore we take up corn for them, that we may eat, and live.
>
> Some also there were that said, We have mortgaged our lands—

This reads like the conditions in the United States of America in the year 1935; one might think I was reading about the United States in 1935.

> We have mortgaged our lands, vineyards, and houses, that we might buy corn, because of the dearth.
>
> There were also that said, We have borrowed money for the king's tribute—

We have borrowed money to pay the taxes which are being levied on the people, and we are now talking about putting more taxes on the working man, the farmer, the home owner, when they have already borrowed money and mortgaged their homes and property to pay taxes that have already been levied on them. That sounds like 1935 in the United States of America.

Again I quote from the same chapter of the Bible:

> There were also that said, we have borrowed money for the king's tribute and that upon our lands and vineyards.
>
> Yet now our flesh is as the flesh of our brethren, our children as their children: and, lo, we bring into bondage our sons and our daughters—

We have that condition in America today. Lo, we bring into bondage our sons and our daughters. Today every boy and every girl who are born in America inherit a debt of $2,000, or more than that, and 99 percent of them die without ever paying the $2,000. Of the national income of America, amounting to $42,000,000,000, $28,000,000,000 or two-thirds of it goes for taxes and for interest on debts the people owe, and the debts are increasing year by year. The debts of the common people are not decreasing; they are increasing. I am showing you how closely parallel this excerpt from the Bible is to present conditions.

And, lo, we bring into bondage our sons and our daughters to be servants, and some of our daughters are brought unto bondage already: neither is it in our power to redeem them; for other men have our lands and vineyards.

And I was very angry when I heard their cry and these words.

Then I consulted with myself, and I rebuked the nobles and the rulers, and said unto them, Ye exact usury, every one of his brother. And I set a great assembly against them.

He called out the mob.

And I said unto them, We after our ability have redeemed our brethren the Jews, which were sold unto the heathen; and will ye even sell your brethren? or shall they be sold unto us? Then held they their peace, and found nothing to answer.

Also I said, It is not good that ye do: ought ye not to walk in the fear of our God because of the reproach of the heathen our enemies?

I likewise, and my brethren, and my servants, might exact of them money and corn: I pray you, let us leave off this usury.

Restore—

Here is the command of the Lord—

Restore, I pray you, to them, even this day, their lands, their vineyards, their oliveyards, and their houses, also the hundredth part of the money—

Give them some of the money, too—

and of the corn, the wine, and the oil, that ye exact of them.

Then said they, We will restore them, and will require nothing of them; so will we do as thou sayest. Then I called the priests, and took an oath of them, that they should do according to this promise.

Also I shook my lap, and said, So God shake out every man from his house, and from his labour, that performeth not this promise, even thus be he shaken out, and emptied. And all the congregation said, Amen, and praised the Lord. And the people did according to this promise.

Moreover from the time that I was appointed to be their governor in the land of Judah, from the twentieth year even unto the two and thirtieth year of Artakerxes the king, that is, twelve years, I and my brethren have not eaten the bread of the governor.

In other words, he got down off his "high horse." They pulled those big rulers down. They said, "Never mind the castles in Spain for the month of August. Never mind about that camp in the Adirondacks for the month of July. Never mind about the palace on the Pacific slope, and the various and sundry cottages up in the Buffalo Mountains during the month of June. Never mind about the palaces on the coast of Florida in the month of January. Get down here and let these people have something to eat during these hard times." So we said, "Give up the bread of the rulers and get down off your 'high horse' until we bring this country back. Never mind about the yachts like the $5,000,000 *Nourmahal*. Live according to Hoyle." [Laughter.]

But the former governors that had been before me were chargeable unto the people, and had taken of them bread and wine, beside 40 shekels of silver; yea, even their servants bare rule over the people: but so did not I, because of the fear of God.

Yea, also I continued in the work of this wall, neither bought we any land: and all my servants were gathered thither unto the work.

Moreover, there were at my table an hundred and fifty of the Jews and rulers—

That was the ruling family which owned all the property—150 families. Today at the very most the United States has 600 families with a much larger population—

beside those that came unto us from among the heathen that are about us.

Now, that which was prepared for me daily was 1 ox and 6 choice sheep; also fowls were prepared for me, and once in 10 days store of all sorts of wine: yet for all this required not I the bread of the governor, because the bondage was heavy upon this people.

Think upon me, my God, for good, according to all that I have done for this people.

There is your redistribution of wealth. Now, go over in the New Testament, and you will find it again:

They shall beat their swords into ploughshares, and their spears into pruninghooks; nations shall not lift up sword against nation, neither shall they learn war any more, but each man shall live under his own vine and under his fig tree, and there shall be peace in the land.

You will find it in the Old Testament and you will find it in the New Testament.

Not only is it the law of the Bible, but it is the foundation of this country. It is the very foundation of the French Republic, and it is also carried in the main writings of the world in principles laid down by Aristotle, Socrates, Plato, and all the ancient Greek wise men. I have even found it to be propounded by Confucius as the law for China.

I am not alone in my prophecy. I have one of the leading newspapers in the country which less than 2 months ago made an examination of these matters of which I am now speaking. They made the examination to prove that my facts were not there, to prove that my logic was faulty. What did they say, this newspaper which calls itself the New York Daily News, with the largest circulation of any newspaper in America? It said that unless America finds a way to redistribute its wealth into the hands of the people by law and orderly process, we can expect it to be done by blood and by force and by revolution like it was done in France and as occurred in Russia. That is their prophecy.

Mr. BONE. Mr. President, will the Senator yield?

The VICE PRESIDENT. Does the Senator from Louisiana yield to the Senator from Washington?

Mr. LONG. I yield.

Mr. BONE. The Senator apparently has done an excellent job in deflating fortunes under the amendment which he has offered. I may be in error, but a hasty calculation suggests on the $10,000,000,000 fortune which the Senator has used as an example, the first year's levy under the Senator's amendment would take approximately 98 percent of the $10,000,000,000.

Mr. LONG. Oh, yes.

Mr. BONE. In other words, the Senator's amendment provides that "in addition to other taxes levied"—I assume that means the present business taxes?

Mr. LONG. Income and inheritance taxes.

Mr. BONE. Then there shall be annually levied and collected a tax in accordance with certain provisions, beginning at 1 percent, and then all through by gradation to subdivision (h), which provides for 99 percent on fortunes in excess of $8,000,000. The calculation I have made shows that the first year's levy would take out of the $10,000,000,000 a total tax of $9,893,350,000.

Mr. LONG. How much would it leave?

Mr. BONE. It would leave $106,650,000. The second year's tax would be $98,933,500, leaving at the end of the second year, out of the $10,000,000,000 fortune, $7,716,500. By two levies made under the Senator's amendment the $10,000,000,000 fortune would be reduced to $7,716,500. That is deflating large fortunes with a rapidity which is startling.

Mr. LONG. It is not quite fast enough at that. It ought to be done faster than that. A man has no business with $7,000,000 during this kind of times.

Mr. BONE. The Senator referred to France as not having any concentration of wealth, but I want the Senator to know that of the total wealth of the world in 1929, when careful studies were made, France possessed 5.4 percent of the world's wealth, so that France did not have very much wealth to concentrate. The United States had 44.8 percent of the world's wealth, so, of course, it was much easier for large aggregations of wealth to come into existence in this Republic than it was in a country possessing only 5 percent of the world's total aggregation of wealth.

Mr. LONG. On the contrary in countries which did not have any larger percentage of wealth than France, there were some very big fortunes. What percentage of the wealth of the world has India?

Mr. BONE. India had 3.2 percent.

Mr. LONG. India has fortunes almost as large as some of the big fortunes in America. It is not the size of the national wealth that controls the big fortunes. While France has 5 percent of the entire wealth of the world and has relatively no such thing as a big fortune in it and its wealth is well distributed, yet in India, which possesses only 3 percent of the wealth, there are many rich rulers to be found.

The Indian princes and Indian rulers are exceptionally wealthy people, and yet they have the lord prince at the top with every kind of precious possession, and at the bottom the Indian people are living away below a respectable point of half-way starvation. It makes no difference about what percent of the wealth of the world a country may own insofar as it relates to distribution.

Let me say this to the Senator from Washington: It is true that this is deflating the big fortunes very quickly, but it needs to be done that way. I am standing in nearly the same spot where I stood a little over 3 years ago. Three years ago, from the place where my friend the Senator from New Jersey [Mr. MOORE] now sits, or at about that point, I made the statement under Mr. Hoover: "This is 1932 and we will go along with these experiments and we will never bring America 1 foot nearer recovery, we will never improve conditions one bit, unless there is a redistribution of wealth." That was 3 years ago. We have tried nearly everything under Mr. Hoover and under Mr. Roosevelt that anybody could think of. We have tried every kind of scheme, both liberal and radical. We have tried every kind of scheme of both the tories and the conservatives. Everything has been tried in 3 years' time. I invite the attention of my friend from Washington that the Democratic Party promised to do this. The Democratic Party promised it would redistribute the wealth. The Democratic Party promised to do it.

If anybody wishes me to prove that statement, I shall have no difficulty whatever in doing so by reading from the speech delivered from the rostrum of the Democratic National Convention at Chicago by the President of the United States, wherein he said that by that platform and by that convention the men and women of the United States, forgotten in the philosophy of the last 2 years' government, were looking to the Democratic Party to provide for the redistribution of the national wealth.

We promised the people to do that. I desire to say that I am willing to be liberal in framing this law, and if it is the consensus of opinion that individuals ought to be allowed to own more than five or six or seven or eight million dollars, I am willing to be more liberal in the amendment; but is it the idea of the Senator from Washington that individual fortunes in the United States should be allowed to exceed five or six million dollars? I should like the Senator to tell me who thinks there ought to be more than that allowed to any one person. I think that is too much.

Mr. BONE. Mr. President, since the Senator has spoken directly to me, I will tell him that I was concerned in making a mathematical calculation, and not making an argument about the size of fortunes which might be justified under the Senator's amendment. I had discussed the maldistribution of wealth a thousand times before I had the pleasure of meeting the Senator from Louisiana. In fact, I had occasion to discuss it for a great many years; and I hold in my hand a volume which is the final report of the Commission on Industrial Relations, which I procured about the year 1915 or 1916——

Mr. LONG. 1916.

Mr. BONE. A subject in which I was interested many, many years ago.

Mr. LONG. Let me have the book, and I will read the Senator something from it.

Mr. BONE. I should be happy to have the Senator put it in the CONGRESSIONAL RECORD.

Mr. LONG. No; I will read from this book that the Senator read from since 1916. Let me show the Senate what they said was the trouble with this country in 1916. I am glad to run across this book again. Let me find the conclusions of the majority of the Commission. I will read to the Senate what they thought was the trouble in this country back yonder at a time when they first had this question up.

I want to find the majority report. It will not take me long to find it if I do not unduly tax the patience of my friends. I will read the whole thing. My friend from Washington and I will get together on his own book.

Let me see. It is somewhere here, if I can just find it. I know this is the same book. Where is the report of the majority of the Commission? Does the Senator know on what page it is to be found?

Mr. BONE. I cannot put my finger on it. If the Senator will give it to me, I will endeavor to find it.

Mr. LONG. I shall have it in just a minute. I will show, Mr. President, that this matter of the redistribution of wealth is just like the weather. They all talk about it; my friend from Washington talks about; I talk about it; the party talks about it; but nobody does anything about it. They all believe in getting up and telling the people that they are going to redistribute wealth, but they do not believe in doing anything about it. I have never seen another bill here since I have been here, except the bills I have proposed, to do this; and yet the Democratic Party and the Democratic committees always say that they are going to redistribute wealth. It got to be so popular during the last campaign that in Madison Square Garden our old friend, Herbert Hoover, decided he had to say something about it, too; and he declared, in his expiring political moments there—a kind of a death-bed repentance, though it might have been——

> My conception of America is a land where the wealth is not concentrated in the hands of the few, but where it is diffused into the lives of all.

He made that declaration himself along toward the close of the campaign, after we had gone over the United States promising everybody that we were going to do it under the Democratic Party.

I have found just about the place here, Mr. President. I will get it if I may yield the floor for a moment. I suggest the absence of a quorum while I look it up.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

| | | | |
|---|---|---|---|
| Adams | Coolidge | Logan | Reynolds |
| Ashurst | Copeland | Lonergan | Robinson |
| Austin | Costigan | Long | Russell |
| Bachman | Davis | McAdoo | Schall |
| Bailey | Dickinson | McCarran | Schwellenbach |
| Bankhead | Donahey | McGill | Sheppard |
| Barkley | Duffy | McKellar | Shipstead |
| Bilbo | Fletcher | McNary | Smith |
| Black | Frazier | Maloney | Stelwer |
| Bone | George | Metcalf | Thomas, Okla. |
| Borah | Gerry | Minton | Townsend |
| Brown | Gibson | Moore | Trammell |
| Bulkley | Guffey | Murphy | Truman |
| Bulow | Hale | Murray | Tydings |
| Burke | Harrison | Neely | Vandenberg |
| Byrd | Hastings | Norbeck | Van Nuys |
| Byrnes | Hatch | Norris | Wagner |
| Capper | Hayden | O'Mahoney | Walsh |
| Caraway | Johnson | Overton | Wheeler |
| Chavez | King | Pittman | White |
| Clark | La Follette | Pope | |
| Connally | Lewis | Radcliffe | |

Mr. LEWIS. I reannounce the absence of Senators whose names were given by me, and the reasons therefor, as announced on the previous roll call.

The VICE PRESIDENT. Eighty-six Senators have answered to their names. A quorum is present. The Senator from Louisiana has the floor.

Mr. LONG. Mr. President, I now wish to read from the report of the Industrial Relations Commission of 1916, under the heading, Concentration of Wealth and Influence, on page 80. It is as follows:

> The evidence developed by the hearings and investigations of the Commission is the basis for the following statements:
>
> 1. The control of manufacturing, mining, and transportation industries is to an increasing degree passing into the hands of great corporations through stock ownership, and control of credit is centralized in a comparatively small number of enormously powerful financial institutions. These financial institutions are in turn dominated by a single large corporation.
>
> 2. The final control of American industry rests, therefore, in the hands of a small number of wealthy and powerful financiers.

3. The concentration of ownership and control is greatest in the basic industries upon which the welfare of the country must finally rest.

4. With few exceptions, each of the great basic industries is dominated by a single large corporation, and where this is not true, the control of the industry through stock ownership in supposedly independent corporations and through credit is almost, if not quite, as potent.

5. In such corporations, in spite of the large number of stockholders, the control through actual stock ownership rests with a very small number of persons. For example, in the United States Steel Corporation, which had in 1911 approximately 100,000 shareholders, 1.5 percent of the stockholders held 57 percent of the stock, while the final control rested with a single private banking house. Similarly, in the American Tobacco Co., before the dissolution, 10 stockholders owned 60 percent of the stock.

That was the American Tobacco Co., the whole Tobacco Trust. Ten men owned 60 percent of the entire American Tobacco Co.

6. Almost without exception the employees of the large corporations are unorganized, as a result of the active and aggressive nonunion policy of the corporation managements.

Mr. President, I shall not read any further from this particular report, except to say that at another point in this report will be found the statement that the main fault with America in 1916 was the concentration of wealth in the hands of the few. That was the entire burden of this report, which was submitted in 1916.

Mr. President, I do not propose to take any more of the time of Senators. I have discussed this amendment many times in other forms. I do not expect it to be adopted. I desire to be perfectly frank with my good friends in the Senate. I do not expect the amendment to be adopted. I expect it to be used as part of the platforms in many, many candidacies for the future, as it has been in the past; and I expect it probably to be used as a part of the platform of the Democratic Party the next time, the same as it was the last time; and I expect the party to come back here, if it comes back here, probably, if there are enough of us left, to do then as we are doing now; but I warn my friends of the Senate that if we are concerned in saving America and in saving the people of America, we shall have to stop promising this, and actually perform.

Now I wish to ask my colleagues if they recollect how laboriously the pleading was that the party had promised this and it had promised that a few days ago.

I remember how we labored and how we said that this was "promised by the party", that "it has been promised, it has been promised, and we have to do it." Yet here we are, in the third year of the Democratic administration, with something that has been promised, that has been pledged, but nothing done toward its fulfillment.

Mr. SCHWELLENBACH. Mr. President——

The VICE PRESIDENT. Does the Senator from Louisiana yield to the Senator from Washington?

Mr. LONG. I yield.

Mr. SCHWELLENBACH. Has the Senator completed his discussion of his plan?

Mr. LONG. Go ahead.

Mr. SCHWELLENBACH. I should like to ask the Senator whether or not he was correctly quoted in yesterday morning's paper to the effect that he referred to me as "Kemal Pasha."

Mr. LONG. No; I was not correctly quoted.

Mr. SCHWELLENBACH. The Senator was not correctly quoted?

Mr. LONG. No; I was not correctly quoted.

Mr. BONE. Mr. President——

The VICE PRESIDENT. Does the Senator from Louisiana yield for a question, or does he yield the floor?

Mr. LONG. I yield the floor.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Louisiana.

The amendment was rejected.

Mr. NORBECK. Mr. President, I desire to offer an amendment.

The VICE PRESIDENT. The Chair is informed that there was an agreement originally entered into by which committee amendments should be considered and disposed of before individual amendments were offered. The Chair is informed that there is a committee amendment which has not been agreed to. The Chair did not know that, but assumed that the agreement had been carried out.

Mr. HARRISON. Mr. President——

The VICE PRESIDENT. Does the Senator from South Dakota yield to the Senator from Mississippi?

Mr. NORBECK. I yield.

Mr. HARRISON. There is one committee amendment, with reference to the annuity bonds, yet to be acted on. The Senator from Connecticut is very much interested in it, and I ask unanimous consent that the amendment may go over until tomorrow, without prejudice, and that individual amendments may be acted on at this time.

The VICE PRESIDENT. The Senator from Mississippi asks unanimous consent that the remaining committee amendment may go over until tomorrow. Is there objection? The Chair hears none, and it is so ordered.

Mr. NORBECK. Mr. President, I desire to offer an amendment providing for pensions to those people who are not included in the social-security bill. I have reference to the wards of the Government, the Indians. They are concentrated in half a dozen States and seem to have been entirely overlooked. I am offering the amendment as section 1201 and will ask that the other sections be renumbered to correspond, if the amendment shall be agreed to.

The PRESIDING OFFICER. The clerk will state the amendment.

The CHIEF CLERK. On page 80, after line 4, it is proposed to insert the following:

TITLE XII—INDIAN PENSIONS

SECTION 1201. That heads of families and single persons of Indian blood not otherwise entitled to the benefits of this act who have heretofore attained or shall hereafter attain the age of 60 years are hereby declared to be entitled to a pension from the United States in a sum of $30 per month, subject to the following conditions:

Applications for pension by persons of Indian blood, as herein defined, shall be made in writing in such form as the Secretary of the Interior may prescribe and shall be filed by the applicant with the superintendent or other officer in charge of the agency or tribe to which the applicant belongs. Upon receipt of any such application the Secretary of the Interior shall make, or cause to be made, such investigation as he may deem necessary to determine the accuracy of the facts shown thereon, including the annual income of the applicant from other sources. In all cases where the Secretary of the Interior finds that the annual income of such applicant is less than $1 per day, said Secretary shall award to such applicant a pension in an amount which, when added to the other annual income of such applicant, will bring such annual income up to but not in excess of $1 per day: *Provided, however,* That payments to Indian pensioners entitled hereunder shall be made in equal monthly installments from the date of approval of application therefor by the Secretary of the Interior and in the discretion of said Secretary such payments may be made direct to the individual beneficiaries, or to other persons designated by the Secretary of the Interior providing care for any beneficiary under the provisions of this act: *Provided further,* That in the discretion of the Secretary of the Interior such payments due any Indian beneficiary may be handled in accordance with regulations governing individual Indian money accounts and the Secretary of the Interior is hereby authorized to prescribe such further rules and regulations as may be necessary for carrying out the provisions of this section.

SEC. 1202. The Indians and Eskimos of Alaska shall receive a pension under same conditions and in an amount one-half that provided for Indians under this title.

SEC. 1203. There is hereby authorized to be appropriated annually, out of any money in the Treasury not otherwise appropriated, so much as may be necessary to carry out the provisions of this act, including necessary expenses of administration.

Mr. HARRISON. Mr. President, I desire to look the amendment over and to have it examined by the experts, and I ask the Senator if he will not withhold it.

Mr. NORBECK. Mr. President, I desire first to modify the amendment by changing the age of 60 years so that it will read 65 years to conform to the provisions of the bill. I agree to the suggestion of the Senator from Mississippi.

Mr. HARRISON. I ask the Senator to withhold the amendment until tomorrow, and we can look into the matter.

Mr. NORBECK. Will the amendment be pending tomorrow?

Mr. HARRISON. It may be tendered tomorrow.

The VICE PRESIDENT. Does the Chair understand the Senator from Mississippi to ask unanimous consent that the amendment go over?

Mr. HARRISON. The Senator from South Dakota has withdrawn his amendment for the present.

The VICE PRESIDENT. The Senator from South Dakota has withdrawn his amendment.

Mr. VANDENBERG. Mr. President, I offer an amendment.

The VICE PRESIDENT. The clerk will state the amendment.

The CHIEF CLERK. On page 52, after line 7, it is proposed to insert the following:

TARIFF ADJUSTMENT

SEC. 812. (a) Upon application of any employer, the United States Tariff Commission is authorized and directed to make an investigation under section 336 of the Tariff Act of 1930 with a view to determining whether any increase in rates of duty imposed by law in the case of any article or articles is necessary to offset the tax imposed by section 804 and/or section 901 in order to equalize the differences in the cost of production pursuant to the principles set forth in such section 336. The Commission shall report to the President the results of the investigation and its findings with respect to such differences in costs of production. If the Commission finds it shown by the investigation that by reason of the taxes imposed by section 804 and/or section 901 the duties imposed by law do not equalize the differences in the cost of production of the domestic article and the like or similar foreign article when produced in the principal competing country, the Commission shall specify in its report such increases in rates of duty imposed by law (including any necessary change in classification and including the transfer of the article from the free list to the dutiable list, and without limitation as to the amount of increase except as provided in the second sentence of section 336 (g) of the Tariff Act of 1930) as it finds shown by the investigation to be necessary to equalize such differences.

(b) Upon receipt of the report of the Tariff Commission the President shall proclaim the rates of duty and changes in classification specified in the report of the Commission, and thereupon the increased rates of duty and changes in classification shall take effect in accordance with the provisions of section 336 (d) of the Tariff Act of 1930.

(c) This section shall be enforced as part of the customs laws.

Mr. VANDENBERG. Mr. President, the philosophy of the amendment is self-evident. I make a very brief statement respecting it.

It is my understanding that the theory upon which we are now asked to depart from State jurisdiction in respect to fixing old-age pensions and unemployment-insurance payments is that if it be left to the individual States there will be discrimination as between the States, and one State which may be generous in respect to old-age pension and unemployment-insurance payments will find itself at a disadvantage in competing with a State which is less generous.

Admitting, for the sake of the argument, that this principle is appropriate—at any rate, it is the principle upon which the proposed legislation is based—I submit that precisely the same argument applies to the competition which may exist between a country which is generous in respect to its old-age and unemployment allowances and a country which is less generous.

This becomes particularly and specifically true when we are proposing to pay our bills by a tax upon pay rolls, because a tax upon pay rolls inevitably enters into the domestic American cost of production in every instance, and if the injection of the 3- or 4- or 5-percent pay-roll taxes in the United States will increase the domestic cost of production to a point where the existing tariff rates do not cover the differential, then we shall have simply created a situation by such pay-roll tax which will invite importations which will make it impossible for these protected American industries to have any pay rolls or pay any taxes.

It seems to me that if the philosophy is sound as between the States, it is equally sound, nay, more, it is even sounder as between nations, and I shall undertake to demonstrate that fact.

It is said that one State cannot be left with its problem alone, lest it find its industries drawn off into some other State which is not making payments of this character. Not only may we find the same thing to be true in respect to the competitive situation as between nations, but we are put upon notice by the industrial experience of the United States during the last 10 years that there is a very definite industrial trend by way of the exporation of our mass production methods and mass production industrial plants in the United States. In the last 10 years we have seen over 1,800 branch plants of American industrial institutions established abroad for the purpose of taking advantage of the more attractive foreign conditions.

Except as we create this protected element which is covered by this amendment, I submit that when we add a definite pay-roll tax in the United States, which will inevitably, in the same proportion, increase the American cost of production, we put a premium upon the extension of the foreign branch-plant system, which operates utterly at the expense of American labor and American industry. We put a premium on it unless this type of differential is provided.

Mr. President, let me go a step further. When we wrote the late lamented N. R. A. law we recognized in the text of the bill the fact that if the Government by its flat injects any artificial factor into domestic costs of production, that factor must be offset in respect to protected commodities by a compensating increase in rates. Furthermore, when we wrote the A. A. A. law we acknowledged precisely the same principle and we provided for precisely the same preferential treatment.

It seems to me the situation which we confront in respect to pay-roll taxes is infinitely more challenging than was the need for protecting the differential in respect either to the N. R. A. or the A. A. A., because in this instance the factor which is being injected by Government fiat is a factor of definite and continuous and very substantial burden.

For example, according to the estimates under this bill, the total cost by way of pay-roll taxes in 1940 will be $1,600,000,000. By 1945 it will be $2,000,000,000. By 1950 it will be nearly $3,000,000,000. That $3,000,000,000 element injected into the pay-roll cost of American industry is injected squarely into the cost of production of the commodities produced. Therefore, so long as we are continuing to live under a system which pretends, at least, to offset the difference in cost of production at home and abroad by tariff differentials, it is perfectly obvious to me that if there is to be any semblance of a chance for the proposed law to succeed and prevail it must contain within itself the automatic means to protect this $3,000,000,000 increased element in the domestic production cost, or the entire system will fall and fail.

I submitted the amendment last Saturday. I ask the able Senator from Mississippi [Mr. HARRISON] if he was able to find the time to give it some attention over the week-end. I should like, in my time, if the Senator from Mississippi has anything to say to me at the moment upon the subject, that he shall say it.

Mr. HARRISON. Mr. President, I will say to the Senator that I have looked into the matter at length, and have conferred with the Tariff Commission. When the Senator concludes, I shall make reply.

Mr. VANDENBERG. Mr. President, I think I have said all that I wish to say until the Senator from Mississippi shall have proceeded in respect to his own investigation.

Mr. HARRISON. Mr. President, it is quite true that in respect to the N. R. A., because of the increased cost which might be involved by virtue of code provisions, and also with reference to the A. A. A., provisions were placed in the bills that investigations might be carried on by the Tariff Commission with a view of increasing the tariff duties. I have communicated with the Tariff Commission, and I received a memorandum from the acting chairman, Mr. Page, in which he said:

> In compliance with your request, I am enclosing a memorandum which covers the subject as thoroughly as could be done in the brief available time. As indicated in it, the Commission doubts the necessity or the advisability of incorporating the amendment in the social-security bill.

It will be observed, Mr. President, that under the present law the Tariff Commission has the power, not to take articles from the free list and put them on the dutiable list, but to increase up to 50 percent the tariff duties on dutiable articles; and it may take into consideration every factor which may increase the cost of the particular article. So there is nothing in this bill which would disturb the status quo with reference to the Tariff Commission so as to prevent the Commission, upon the presentation of an applica-

tion by the interested parties, from making investigation to ascertain whether the tariff duties should be increased because of the additional tax which might be imposed.

Mr. ROBINSON. Mr. President, will the Senator yield?

Mr. VANDENBERG. I yield.

Mr. ROBINSON. In the amendment it is provided that when the Commission has made its investigation and submitted its report, the President is required to proclaim the rates of duty recommended by the Commission.

Speaking a moment ago, the Senator from Mississippi [Mr. HARRISON] indicated that the Commission now has the power to change rates. My understanding of the statute is that the Commission makes an investigation as to the difference between the cost of production at home and abroad, and makes its findings of fact, upon which the President is authorized, within a limit of 50 percent of the existing rates, to change the rates in order to make them conform to the difference in the cost of production at home and abroad.

Mr. HARRISON. That is the present law.

Mr. ROBINSON. This amendment gives to the Commission the power to make tariff rates. It changes the so-called "flexible provision" of the tariff law in that particular and vests in the Tariff Commission rate-making power. The President has no function to perform under this amendment save to proclaim the rates recommended by the Commission. He cannot change them. He cannot withhold this recommendation. It is compulsory on the President to put into effect whatever rates the Commission may find in accordance with the investigation made under the terms of the amendment. Therefore, it constitutes a very radical and notable change in the existing flexible tariff law.

Mr. HARRISON. Mr. President, the Senator from Arkansas is correct in reference to that question; but under the present law the Tariff Commission has the right to make the investigation, and if sufficient evidence is presented the Tariff Commission may recommend to the President an increase in rates, and the President may pass upon the recommendation.

Mr. VANDENBERG. Mr. President, if the Senator makes that point I desire to comment that I completely agree with the analysis made by the Senator from Arkansas, and say that the change in the amendment was deliberately made, for two reasons. First, I desired, if possible, to reduce this delegated power to an absolutely ministerial basis, with discretion eliminated; and, therefore, the amendment carries a specific formula that only a ministerial duty attaches to it.

Second, it is made mandatory for this reason: In my view, it is utterly essential to the success of this great adventure that it shall have the wholehearted cooperation of American industry; and it is my feeling, rightly or wrongly, that that cooperation will be forthcoming in infinitely greater degree if industry may know that the pay-roll taxes are to be offset by tariff increases whenever it can be demonstrated that the pay-roll taxes require the differential in order to preserve the relative status quo.

Mr. HARRISON. I assume that there is no difference of opinion between the Senator from Michigan and myself as to the right of the Tariff Commission now, on dutiable articles, to take this fact into consideration in their recommendations for an increase to the President of the United States.

Mr. VANDENBERG. Mr. President, will the Senator yield?

Mr. HARRISON. I yield.

Mr. VANDENBERG. There is no difference of opinion upon that subject. The chief necessity of the amendment, from my point of view, is that two-thirds of our importations are on the free list anyway; and since the pay-roll tax applies to all of our industry it seems to me that the ability and the formula for treating the pay-roll tax differential should equally apply to all our industry, and of course the Senator will agree that it could not apply to all our industry under the flexible-tariff law.

Mr. HARRISON. It could not apply to any industry whose articles were on the free list.

Mr. ROBINSON. Mr. President, will the Senator yield for a further brief statement?

Mr. HARRISON. I yield.

Mr. ROBINSON. The Senator from Michigan himself has pointed out another very material change in the law contemplated in his amendment. Neither the Tariff Commission nor the President under the flexible-tariff provision has the power to take a commodity from the free list and place it on the dutiable list. This amendment gives that power to the Commission, and under the Senator's statement it means that there would hereafter be no free list. There probably would be no commodities imported free of duty if this amendment were agreed to.

Mr. VANDENBERG. Mr. President, I am sure the Senator is seeking accurately to reflect the amendment. There is nothing of that mandatory character in it, however, because in each instance there must be an adequate demonstration of the fact that the pay-roll tax had penalized the differential.

Mr. ROBINSON. Yes; but I base my conclusion on the assertion made by the Senator from Michigan that this would apply to practically all commodities manufactured in the United States and exported.

Mr. VANDENBERG. I meant to say that the philosophy of the amendment ought to apply to all.

Mr. ROBINSON. Very well.

Mr. VANDENBERG. I meant the philosophy, and I think that is a fair interpretation. Whatever the facts develop should govern in the situation. That is what I am trying to say.

Mr. ROBINSON. But the fact remains that it would give to the Tariff Commission, without even approval by the Chief Executive, the power to take any article from the free list and place it on the dutiable list.

There is another proposed change in the law, if I correctly interpret the amendment—and I shall not further delay the Senator from Mississippi when I shall have made this statement. The amendment eliminates the limitation in the existing flexible tariff provision whereby the President is authorized, upon proper investigation and finding by the Commission, to change existing tariff rates not more than 50 percent; that is, to raise or lower them 50 percent. As I interpret the amendment, it would give the Commission the power to change them without any limitation. Is that correct?

Mr. VANDENBERG. The Senator is correct, and the reason for it is that of course a 50-percent boundary could not apply to the free list. So far as I am concerned I shall be glad to have it apply to the dutiable list.

Mr. ROBINSON. Under existing law the rates are changed to make a duty more nearly conform to the test of cost of production. Nevertheless there is a limitation in the law to the effect that rates may be changed only 50 percent; that is, they may be raised 50 percent or they may be lowered 50 percent. In theory it might be true that an increase of 50 percent or a decrease of 50 percent would not bring about harmony in cost of production at home and abroad.

Mr. HARRISON. Mr. President, the amendment differs from the present law in another respect in that in the present law any interested person may make the application, while the amendment offered by the Senator from Michigan provides "upon application of any employer to the United States Tariff Commission." Of course, under the provisions levying one tax under the bill "employers" include only those who employ four or more persons before they are subject to tax, and with respect to this tax and the other tax, there are certain exemptions. The amendment is really broader than the present tariff act and restricts it to applications being made only by an employer.

I should like to read to the Senator from Michigan and to the Senate the views of the Tariff Commission with respect to this matter. The acting chairman of the Tariff Commission says:

> Senator VANDENBERG's amendment makes it mandatory that upon request of any employer the Tariff Commission shall investigate the domestic costs of production with a view to determining

whether any increase in duty is necessary to offset increased costs incurred because of the provisions of sections 804 and 901 of the act.

The Commission in its report to the President is to specify any increases found necessary, including changes in classification. Investigations are to be conducted according to the principles of section 336 of the Tariff Act of 1930, but an article may be transferred from the free to the dutiable list and there is no limitation upon the amount of the increase in the duty except the limitation prescribed in the second sentence of paragraph 336 (g) which precludes an increase in duty above a certain rate specified in the act. Upon receipt of the Commission's report, the President must proclaim the changes found necessary.

The increased costs under sections 804 and 901, which investigations under this amendment are intended to protect, are as follows:

Section 804 provides for an excise tax on employers, starting with one-half of 1 percent of the pay roll in the period 1936–38 and increasing to a maximum of 3 percent in 1948 and subsequent years.

Section 901 provides for a tax on employers for the privilege of employing labor, the tax to be 1 percent of the cost of the labor in 1936, 2 percent in 1937, and 3 percent in 1938 and following years.

During the first few years the increase in costs of production due to the tax would be slight. In and after 1948 for a particular manufacturer where labor made up 25 percent of the cost his maximum increase would be 1½ percent. This percentage would increase as the ratio of labor to total cost increased.

Under section 336 of the Tariff Act of 1930, the Tariff Commission is already empowered, on request of interested parties, when in the judgment of the Commission there is good and sufficient reason therefor, to investigate, with respect to any dutiable article, differences in cost of production here and abroad. Moreover, the President is already empowered to proclaim such changes in the rates on dutiable articles as the Commission's investigation may indicate to be necessary to equalize differences in foreign and domestic costs (including taxes on pay rolls). This amendment would make the investigation and the action by the President mandatory, and his action might conflict with certain provisions contained in trade agreements prohibiting the imposition of additional taxes.

It should be added that under this amendment every employer who chooses to do so may upon application compel the Tariff Commission to institute a cost-of-production investigation. A trivial increase in his costs might thus require the expenditure of large sums by the Government; the multitude of such applications would seriously impair the efficiency of the Tariff Commission in discharging its other duties.

It would, therefore, appear that the proposed amendment is neither necessary nor desirable. If, however, it were to be incorporated in the act, it would be almost imperative that the Tariff Commission be given some discretion as to whether or not an investigation and report were justified.

Therefore, Mr. President, it seems to me the amendment should not be adopted, and I hope the Senate will reject it.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from Michigan.

The amendment was rejected.

## SOCIAL SECURITY

The Senate resumed consideration of the bill (H. R. 7260) to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment-compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes.

Mr. BORAH. Mr. President, I should like to know from the Senator from Mississippi whether he is interested in a proposal which was made this morning with reference to increasing the amount which the Federal Government shall contribute to taking care of the situation where the States may not contribute anything whatever.

Mr. HARRISON. Mr. President, I may say to the Senator from Idaho that that is one phase of the question which was given every consideration by the Committee on Finance and by the Committee on Ways and Means. We reached the conclusion that in its present financial condition the Federal Government is going as far as it can go. We feel there ought to be a participation by the States and the Federal Government.

The Senator will recall that when the first bill was presented in the Congress it provided for large Federal control over the whole question and that the Federal Government should in many respects direct the States as to whom should receive a pension. The House of Representatives redrafted the bill and I think greatly improved it. I am sure the Senator thinks so, too.

Mr. BORAH. I do.

Mr. HARRISON. The Committee on Finance thought it was greatly improved. We have here provided that the Federal Government shall contribute 50 percent, leaving it entirely to the States to determine which persons are in need, the only requirement we make being that they shall have reached the age of 65 years. The States best know who are entitled to old-age benefits.

I feel quite sure the situation has been somewhat exaggerated as to the inability of the States to provide their part of the money. Reference has been made to my own State. There were some 14,000 on the unemployment and relief rolls in my State. I am sure every person over 65 years of age who was in need sought to get on the unemployment or relief rolls in my State. My State is no worse off than other States in that respect. I am sure other States, like Mississippi, have made heroic efforts to care for the situation. With the $4,000,000,000 of money that we have now available with which to create jobs and take care of people in need, I feel quite sure the States can reasonably meet the situation.

I know there is a feeling that needy, aged persons ought to have more than $30 a month. There have been proposals to give them more than $30 a month; but there is this to be said about it, that the aged people heretofore who have received help and assistance have received it from the county or from some charitable organization, or in some instances it may have come from the State itself. The Federal Government has left the matter of assistance to the needy aged to the local communities. That has been traditional in this country. For the Federal Government now to assist at all is a new venture, quite at variance with our past record and history, and since the Federal Government heretofore has contributed nothing toward old-age pensions, certainly if we contribute 50 percent for their assistance now and hereafter, we shall have gone a long way and will be carrying a blessing to these people and to the States.

It is a pleasure for me to champion this bill. I believe in it, and while personally I wish the Government was in such condition that it might go further, let me say this: I care not how enthusiastic one may be in wishing to increase this amount, or in wishing to relieve the States from the burden of having to put up any portion of the amount, I am sure those who have been working and laboring in this matter have done the very best they can, and that it might complicate the situation greatly, and might defeat the whole purpose of the bill in the end, if we should strike out the provision that the States must contribute toward this fund their pro rata part, half of the total amount.

So I hope the Senator from Idaho will not offer any amendment to that effect. I am sure the committee would feel obliged to oppose it, and I do not know whether it would get through other barriers. You know what I mean.

Mr. BORAH. Mr. President, of course, there is no reflection upon the performance of the committee's duty. It is in no sense a reflection upon the work of the committee that upon a particular feature of the bill one may entertain a view which is different from that of the committee.

If these were normal times and normal conditions I should feel entirely differently about this matter; but I know that a number of the States are not in a position to make any substantial contribution. I should like to leave in the bill the provision that the State must make some contribution.

However small it may be, I think the State ought to be called into action with regard to the matter. I quite agree with that contention; but where the States are able to supply only something like six or eight dollars a month, and we contribute six or eight dollars a month, we are leaving these old people with a total of only some twelve or fourteen or sixteen dollars a month upon which to live.

As I say, if the times were normal, a wholly different problem would be presented; but these old people now are at the end of 4 or 5 years of depression. Their means have been exhausted to the last cent. They have nothing between them and the poorhouse, the old county farm. As we enter upon this type of legislation and propose to do something for their benefit, ought we not to do something more than provide an amount which is wholly inadequate to take care of them?

Mr. HARRISON. I will say to the Senator that, of course, I have a big heart myself.

Mr. BORAH. I am perfectly willing to leave the provision so that the States must put up something, but I wish to have an assurance in the bill, if we can get it, that a reasonable sum shall be provided in some way. When I say "a reasonable sum", I do not consider $30 a month a reasonable sum, but under the circumstances I am willing to accept it.

Mr. FLETCHER. Mr. President, may I ask the Senator from Mississippi if it would be possible to provide that the Federal Government shall contribute its $15 a month, leaving the State to contribute whatever it may up to $15 more? In other words, is it necessary to provide that the Federal Government will pay nothing unless the State contributes a like amount?

Mr. HARRISON. The Senator from Florida is a wise Senator and a very practical one, and he knows that if we should write such a provision into the bill the States would not contribute, and the Federal Government would be holding the bag.

As practical men, we know there is not any doubt that there is going to be a tremendous pressure in the future upon any gentleman who runs for public office, either in the lower House or in the Senate, to ask for an increase of the old-age pension; and we are all going to be subjected to that pressure. It is a reality that in this day and time groups become powerful and very often influence the judgment of candidates for political office. This is not a very logical argument, but it is a practical one. If we leave it entirely to the Congress to provide all the fund, and do not require the States to contribute their part of it, there will ever be pressure upon those seeking the Federal office. There should be some check against too great expenditures, and the cooperative plan here proposed will furnish it. The Senator appreciates that the State is not limited in the amount to be appropriated within the State for old-age pensions. They are permitted as each State may decide to go beyond the $30 a month.

There are so many things to consider in connection with a great forward movement like this that we must hold ourselves back a little bit, and get the very best and most constructive measure that we can.

I think this measure is most constructive. I think it is going forward quicker and better than we anticipated, and I hope we can pass this bill without having it complicated by proposals for eliminating State contributions. To do so may jeopardize this whole bill. That would be a travesty.

Mr. BORAH. Mr. President, as I said a moment ago, I do not desire to excuse the States wholly from this contribution. I think they ought to be required to put up some amount. But I am sure in some instances the amount will be very small. Now I do not want to see these old people end their lives in dire want simply because the State and the Government are unable to agree as to their respective portions. The National Government, by this bill, is assuming a responsibility. That matter is not open for debate. Having assumed the responsibility we should be just to the aged people who have, in many instances, contributed a life of service to the State and Nation.

Mr. ROBINSON. Mr. President, will the Senator yield?

Mr. BORAH. I yield.

Mr. ROBINSON. Therein lies a difficulty which suggests itself to my mind with great force.

We all realize, of course, that it is probably impracticable now to effectuate any arrangement which will constitute a final and a permanent basis for old-age pensions. Nevertheless, unless we have well defined in the law what portion of the expense must be met by the local community or the State, as well as that which must be met by the National Government, we shall have almost as many different standards as there are States and localities; and we shall have this situation arising:

The authorities in some States will feel that it is difficult, in fact, almost impossible, to make any immediate provision for contribution, with the result that the Federal Government will carry the whole load that may be borne; and, as has been suggested by the Senator from Mississippi [Mr. HARRISON], the pressure on Congress will become irresistible to make adequate provision by the use of Federal funds alone. If we do not define in the law within limitation what the States shall do, some of them will do nothing, and discriminations will result. A contest may arise as to which State may be able to obtain the greatest benefit for its citizens without assuming corresponding responsibilities.

The Senator from Idaho has said that he realizes it is absolutely necessary to require the States to contribute something to this fund. What requirement would the Senator impose? This bill proceeds on the basis of other legislation which has been enacted, on the 50-50 basis. If we depart from the 50-50 basis, what basis shall we establish or accept; and will there be varying standards of Federal contribution set up to meet the differences in conditions that may reflect themselves from the various States?

I know there are some States which will find great difficulty in meeting the requirements that are contemplated by this bill; but, on the other hand, if we say they must do something, we are immediately confronted with the question, "Then what must they do?" And who will define or make clear the requirements that must be met by the States in order that their citizens may have the benefits of this measure?

If the Senator from Idaho were amending the bill, what change would he make? I ask for information because this subject has given me great cause for study.

Mr. BORAH. Exactly, Mr. President, I understand perfectly the difficulty of framing an amendment so as to leave the obligation upon the State, while at the same time providing a sufficient amount on which these old people can live.

I have made some effort today to draw an amendment, and I have done so, but it is not exactly satisfactory, although it represents the idea. If the bill is to go over until tomorrow I shall offer the amendment tomorrow. The amendment contemplates matching the States up to $15, and then after that the Federal Government making an appropriation which would fix the sum at a specified amount, say $30. The State, therefore, would have to put up something. It might put up but $6, and if it put up but $6 the Federal Government would match the $6 and put up enough more to make up the $30. That is as near as I have been able to arrive at a practical solution of the matter.

Mr. KING. Mr. President, will the Senator yield?

Mr. BORAH. I yield.

Mr. KING. This is not quite pertinent, perhaps, to the observations being submitted by the Senator, but I am sure he has in mind the fact that the Federal Government is confronted with the necessity of expenditures which it has great difficulty in meeting. The Finance Committee will meet within a few days to increase the burden of taxes made necessary by the enormous deficit which we are creating.

There are some States in the Union which pay a large part of the Federal taxes. In addition, they are the populous States, and the people of those States will have to pay enormous taxes in order to carry the burdens which will rest upon them under the pending bill.

If the Federal Government is to assume a larger burden, it simply means that we must go to those few States for more money.

Mr. BORAH. Will the Senator pardon me right there?

Mr. KING. Certainly.

Mr. BORAH. While there are large States paying great sums of money, they have the wealth; and if we are to levy taxes in accordance with ability to pay, they should pay. In addition to that, I observe that in the distribution of funds which are going out from the Federal Treasury, these large States get their full share in proportion to their population.

Mr. KING. That is true; but consider the situation of the State of Illinois, though I do not wish to particularize any State. The Senator remembers that 2 or 3 years ago, notwithstanding there is considerable wealth in Illinois, they found difficulty, indeed, they found it was impossible, it was contended, for them to pay their school teachers and to carry on the schools, and they had to come to the Federal Government and ask for aid in order to meet some of the burdens resting upon them.

I do not want any State or any individual or any corporation to escape legitimate taxation, but the burdens now resting upon all of the States and upon the Federal Government are very, very great, and we ought to bear that in mind when we are seeking to increase the burdens of the Federal Government.

Mr. BORAH. I appreciate that. I think the question of the burden of taxes is one of the great problems which may be holding back recovery. I understand that perfectly. But we are peculiar in the fact that we discuss the question of the tax burden only on particular occasions.

I shall not offer the amendment at this time, but I wish to say to the Senator from Mississippi that I have not changed my view that we ought to take care of this situation, and I hope to be able to present an amendment to the Senator later which he may accept.

Mr. FLETCHER. Mr. President, may I ask the Senator if he clings to the view that Federal aid should be conditioned on State aid?

Mr. BORAH. I cling to the view that there should be a matching up to a certain point where the State is unable to take care of the matter.

Mr. FLETCHER. I was wondering whether it would be possible to do away with that condition, let the Federal Government contribute what is thought wise, say $15, and let the States match the payment if it is possible to do so. Of course, the beneficiary would get the $15 even if the State did not contribute.

Mr. CLARK. Mr. President, I have several amendments, which really constitute one amendment, which I desire to offer, but on which I do not desire unnecessarily to detain the Senate. The amendments are important, and a number of Senators have indicated a desire to discuss them, and since it would be impossible to act on them before the usual time of adjournment tonight, and inasmuch as several other amendments have gone over until tomorrow, I ask unanimous consent that I may be permitted to offer the amendments and have them pending, and that they may go over until tomorrow.

Mr. ROBINSON. Have the amendments been printed?

Mr. CLARK. They have been printed, and have been on the desk for several days.

The PRESIDING OFFICER (Mr. O'MAHONEY in the chair). The Senator from Missouri asks unanimous consent that he may have leave to present certain amendments, and have them go over until tomorrow. Is there objection? The chair hears none.

Mr. CLARK. I offer the amendments.

The PRESIDING OFFICER. The clerk will state the amendments?

The CHIEF CLERK. It is proposed on page 15, after line 25, to insert the following:

(7) Service performed in the employ of an employer who has in operation a plan providing annuities to employees which is certified by the Board as having been approved by it under section 702, if the employee performing such service has elected to come under such plan: except that if any such employee withdraws from the plan before he attains the age of 65, or if the board withdraws its approval of the plan, the service performed while the employee was under such plan as approved shall be construed to be employment as defined in this subsection.

On page 43, line 11, after "Sec. 702.", to insert "(a)".

On page 43, between lines 17 and 18, to add the following new paragraphs:

(b) The board shall receive applications from employers who desire to operate private annuity plans with a view to providing benefits in lieu of the benefits otherwise provided for in title II of this act, and the board shall approve any such plan and issue a certificate of such approval if it finds that such plan meets the following requirements:

(1) The plan shall be available, without limitation as to age, to any employee who elects to come under such plan.

(2) The benefits payable at retirement and the conditions as to retirement shall not be less favorable, based upon accepted actuarial principles, than those provided for under section 202.

(3) The contributions of the employee and the employer shall be deposited with a life-insurance company, an annuity organization, or a trustee, approved by the board.

(4) Termination of employment shall constitute withdrawal from the plan.

(5) Upon the death of an employee his estate shall receive an amount not less than the amount it would have received if the employee had been entitled to receive benefits under title II of this act.

(c) The board shall have the right to call for such reports from the employer and to make such inspections of his records as will satisfy it that the requirements of subsection (b) are being met, and to make such regulations as will facilitate the operation of such private annuity plans in conformity with such requirements.

(d) The board shall withdraw its approval of any such plan upon the request of the employer, or if it finds that the plan or any action taken thereunder fails to meet the requirements of subsection (b)."

On page 52, after line 7, to add the following new paragraph:

(7) Service performed by an employee before he attains the age of 65 in the employ of an employer who has in operation a plan providing annuities to employees which is certified by the board as having been approved by it under section 702, if the employee has elected to come under such plan, and if the Commissioner of Internal Revenue determines that the aggregate annual contributions of the employee and the employer under such plan as approved are not less than the taxes which would otherwise be payable under sections 801 and 804, and that the employer pays an amount at least equal to 50 percent of such taxes: *Provided*, That if any such employee withdraws from the plan before he attains the age of 65, or if the board withdraws its approval of the plan, there shall be paid by the employer to the Treasurer of the United States, in such manner as the Secretary of the Treasury shall prescribe, an amount equal to the taxes which would otherwise have been payable by the employer and the employee on account of such service, together with interest on such amount at 3 percent per annum compounded annually.

Mr. RUSSELL. Mr. President, I send to the desk two amendments which I ask to have printed and to lie on the table.

The PRESIDING OFFICER. The amendments will be printed and lie on the table.

Mr. ROBINSON. Mr. President, I understand that only two or three amendments have been suggested which remain undisposed of, and that those amendments are not to be acted on today. Unless there is some objection, I shall move an executive session.

Mr. BORAH. Mr. President, although I may make some changes in my amendment, I think I ought to have it printed so that Senators may have an opportunity to consider it.

The PRESIDING OFFICER. The Senator from Idaho offers an amendment, which will be printed and lie on the table.

SOCIAL SECURITY

The Senate resumed consideration of the bill (H. R. 7260) to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment-compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes.

The VICE PRESIDENT. The Chair understands that the Senator from Missouri last evening, as the RECORD shows, asked permission to offer certain amendments to be considered as one amendment and to have them pending. The Chair considers those amendments to be pending, unless the Senator from Mississippi [Mr. HARRISON] calls up a committee amendment which was passed over, as under the unanimous-consent agreement committee amendments were first to be considered.

Mr. HARRISON. It is perfectly agreeable that the amendments of the Senator from Missouri be considered at this time.

Mr. CLARK obtained the floor.

Mr. BORAH. Mr. President——

The VICE PRESIDENT. Does the Senator from Missouri yield to the Senator from Idaho?

Mr. CLARK. I yield.

Mr. BORAH. I simply desired to know what was pending; that is all.

The VICE PRESIDENT. The pending question is on the amendments offered by the Senator from Missouri at the conclusion of the session last evening.

Mr. CLARK. Mr. President, I ask that the amendments be stated.

The VICE PRESIDENT. The amendments will be stated.

The CHIEF CLERK. On page 15, after line 25, it is proposed to add the following new paragraph:

(7) Service performed in the employ of an employer who has in operation a plan providing annuities to employees which is certified by the board as having been approved by it under section 702, if the employee performing such service has elected to come under such plan; except that if any such employee withdraws from the plan before he attains the age of 65, or if the board withdraws its approval of the plan, the service performed while the employee was under such plan as approved shall be construed to be employment as defined in this subsection.

On page 43, line 11, after "Sec. 702.", insert "(a)."

On page 43, lines 17 and 18, add the following new paragraphs:

(b) The board shall receive applications from employers who desire to operate private annuity plans with a view to providing benefits in lieu of the benefits otherwise provided for in title II of this act, and the board shall approve any such plan and issue a certificate of such approval if it finds that such plan meets the following requirements:

(1) The plan shall be available, without limitation as to age, to any employee who elects to come under such plan.

(2) The benefits payable at retirement and the conditions as to retirement shall not be less favorable, based upon accepted actuarial principles, than those provided for under section 202.

(3) The contributions of the employee and the employer shall be deposited with a life-insurance company, an annuity organization, or a trustee approved by the board.

(4) Termination of employment shall constitute withdrawal from the plan.

(5) Upon the death of an employee, his estate shall receive an amount not less than the amount it would have received if the employee had been entitled to receive benefits under title II of this act.

(c) The board shall have the right to call for such reports from the employer and to make such inspections of his records as will satisfy it that the requirements of subsection (b) are being met, and to make such regulations as will facilitate the operation of such private annuity plans in conformity with such requirements.

(d) The board shall withdraw its approval of any such plan upon the request of the employer, or if it finds that the plan or any action taken thereunder fails to meet the requirements of subsection (b).

On page 52, after line 7, add the following new paragraph:

(7) Service performed by an employee before he attains the age of 65 in the employ of an employer who has in operation a plan providing annuities to employees which is certified by the board as having been approved by it under section 702, if the employee has elected to come under such plan, and if the Commissioner of Internal Revenue determines that the aggregate annual contributions of the employee and the employer under such plan as approved are not less than the taxes which would otherwise be payable under sections 801 and 804, and that the employer pays an amount at least equal to 50 percent of such taxes: *Provided*, That if any such employee withdraws from the plan before he attains the age of 65, or if the board withdraws its approval of the plan, there shall be paid by the employer to the Treasurer of the United States, in such manner as the Secretary of the Treasury shall prescribe, an amount equal to the taxes which would otherwise have been payable by the employer and the employee on account of such service, together with interest on such amount at 3 percent per annum compounded annually.

Mr. CLARK. Mr. President, I ask unanimous consent that my amendments may be considered as one amendment.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

Mr. CLARK. Mr. President, while it has been necessary to propose amendments to various sections in the bill, the amendments essentially comprise but one amendment. The purpose may be very briefly stated. The purpose of the amendment is to permit companies which have or may establish private pension plans, which are at least equally favorable or more favorable to the employee than the plan set up under the provisions of the bill as a Government plan, to be exempted from the provisions of the bill and to continue the operation of the private plan provided it meets the requirements of the amendment and is approved by the board set up by the bill itself.

Mr. CONNALLY. Mr. President——

The VICE PRESIDENT. Does the Senator from Missouri yield to the Senator from Texas?

Mr. CLARK. I yield.

Mr. CONNALLY. Would the Senator's amendment exempt such corporations from paying the tax?

Mr. CLARK. Yes; to the extent of the requirements of the amendment.

Mr. CONNALLY. If under the Senator's plan a company should qualify under his amendment, there would be no payroll tax on the company or the employees, I understand.

Mr. CLARK. Insofar as this title is regarded, that would be true; but the amendment requires that the employer shall pay into the private pension fund, under conditions approved by the board, not less than the amount of the taxes which would otherwise be paid under the provisions of the bill.

Mr. ROBINSON. Mr. President, will the Senator yield?

Mr. CLARK. Certainly.

Mr. ROBINSON. In connection with the statement the Senator is now making, on page 3 of the amendment, I find the following language:

And if the Commissioner of Internal Revenue determines that the aggregate annual contributions of the employee and the employer under such plan as approved are not less than the taxes which would otherwise be payable under sections 801 and 804, and that the employer pays an amount at least equal to 50 percent of such taxes.

Will the Senator explain the meaning of the last clause, "that the employer pays an amount at least equal to 50 percent of such taxes", in view of the requirement that the annual contribution under such plan, when approved, shall be "not less than the taxes which would otherwise be payable"?

Mr. CLARK. Some of the plans require diversified contributions by employer and employee. It is provided further that the amount of the contribution shall be not less than the taxes to be paid as provided in the pending bill, and further, there is a requirement for the purpose of insuring that no employer can gain anything financially by remaining under a private pension plan or going under a private pension plan. To that end a provision is inserted that he shall pay not less than 50 percent of the joint contribution. No employer shall, under the exemption granted by the amendment, be permitted to pay into the private pension fund, as a minimum, less than the amount of the taxes he would have to pay under the bill. That is the whole purpose of the amendment.

Provision is made as fully and adequately, in my judgment, as it is possible to make provision to cover the purposes intended; and the amendment has been recast since it was offered in the committee for the purpose of meeting objections made in the committee. It is provided on page 2:

The board shall receive applications—

That is, the board set up under the bill, and no one may have exemption unless his plan meets the requirements of the amendment and is approved by the board itself.

(b) The board shall receive applications from employers who desire to operate private annuity plans with a view to providing benefits in lieu of the benefits otherwise provided for in title II of this act, and the board shall approve any such plan and issue a certificate of such approval if it finds that such plan meets the following requirement:

(1) The plan shall be available, without limitation as to age, to any employee who elects to come under such plan.

Of course, the exemption does not provide for forcing under the operation of the plan any employee who would prefer to remain under the Government plan.

(2) The benefits payable at retirement and the conditions as to retirement shall not be less favorable, based upon accepted actuarial principles, than those provided for under section 202.

In other words, it remains for the board, set up under the bill to administer the Government pension plan, to determine in each case and make an affirmative requirement; and the board shall find, before they grant the exemption, that the benefits to the employee under the private pension plan are not less favorable, based upon accepted actuarial principles, than those provided under the Government pension plan.

3. The contributions of the employee and the employer shall be deposited with a life-insurance company, an annuity organization, or a trustee approved by the board.

This puts in the hands of the board itself the security of these funds and insures that no possible failure on the part of the employer may jeopardize the interests which the employees acquire. It puts it in the hands of the board to make requirement for that security.

4. Termination of employment shall constitute withdrawal from the plan.

Mr. O'MAHONEY. Mr. President——

The VICE PRESIDENT. Does the Senator from Missouri yield to the Senator from Wyoming?

Mr. CLARK. I yield.

Mr. O'MAHONEY. May I ask the Senator from Missouri if he does not believe that there is a possibility, at least,

that clause (4) would allow an employer to terminate the employment and thereby defeat the plan?

Mr. CLARK. I will say that, in my judgment, that is completely guarded against—although I shall be very glad to accept a further amendment to make it more certain—by later language in the amendment which provides that upon termination of employment—

There shall be paid by the employer to the Treasurer of the United States, in such manner as the Secretary of the Treasury may prescribe, an amount equal to the taxes which would otherwise have been payable by the employer and the employee on account of such service, together with interest on such amount at 3 percent per annum, compounded annually.

Mr. O'MAHONEY. Would the Senator accept an amendment by which the word "voluntary" should be inserted before the word "termination"?

Mr. CLARK. I should be glad to accept the amendment. As a matter of fact, it seems to me that the termination under this plan should be from any cause, either by discharge of the employee or by the withdrawal of the employee, provided it is made certain that at such time the employee should pay into the Government fund the amount which would have accrued by taxes, plus 3 percent compounded annually. That is the theory of the amendment. I am willing to accept the amendment suggested by the Senator from Wyoming.

Mr. BARKLEY. Mr. President, in that connection, will the Senator yield?

Mr. CLARK. I yield to the Senator from Kentucky.

Mr. BARKLEY. The mere insertion of the word "voluntary", so that it would read "voluntary termination of employment", unless we should put in "on the part of the employee", might mean the voluntary termination of it by the employer.

Mr. CLARK. If the Senator from Wyoming will permit me, if he will examine the amendment carefully, I think he will find that the theory of the amendment is that whenever the employment is terminated from any cause whatever, at that moment the employee shall have the right, as already provided, to have paid into the Government fund from the private pension fund the amount of taxes which would have been paid in from the beginning of his employment, plus 3 percent compounded annually, which is exactly the basis of the Government plan. In other words, the theory is that whenever the employee from any cause goes off the private pension plan, he shall automatically be entitled to take his place in the Government plan with the same benefits that would have been there if he had been under the Government plan all the time.

Mr. O'MAHONEY. Of course, this is the first opportunity many of us have had to examine the amendment, and I have just been following the Senator as he proceeded through it. I believe the amendment should be studied carefully before acting upon it.

Mr. CLARK. I shall be very glad to have any suggestions from the Senator. The amendment has been carefully gone over by the legislative drafting service in order to meet the objections which were made in the committee. I believe it to be comprehensive. I had the amendment printed several days ago, and have urged many Senators to take the trouble to examine it, and if there are any suggestions on the part of any Senator for the purpose of making abundantly clear the purposes of the amendment, I shall be very glad indeed to have them brought forward.

Mr. WAGNER. Mr. President, will the Senator yield?

Mr. CLARK. I yield to the Senator from New York.

Mr. WAGNER. Referring to the first requirement, the Senator's amendment provides:

The plan shall be available, without limitation as to age, to any employee who elects to come under such plan.

Does the Senator interpret that to mean that any employee, if he elects to join this plan, may join it—in other words, that the employer is compelled to accept as a member of the plan any employee who elects to become a member of it?

Mr. CLARK. Yes.

Mr. WAGNER. It seems to me that the language is not subject to the interpretation given it by the Senator.

Mr. CLARK. It seems to me it is. If the Senator from New York has any suggestions, I shall be very glad to have them.

Mr. WAGNER. The language of the amendment is:

The plan shall be available, without limitation as to age, to any employee who elects to come under such plan.

That is, the employer cannot compel an employee to become a member of the plan.

Mr. CLARK. That is not intended.

Mr. WAGNER. But, at the same time, there is nothing in the amendment which will prohibit an employer from declining to accept the employee.

Mr. CLARK. Mr. President, if this language is not clear, I shall be very glad if the Senator from New York will suggest some amendment to make it clear, because I personally should be unable to frame it in any clearer language.

The plan shall be available without limitation—

The last clause prohibits any employer from shutting out, on the ground of age, any of his employees who wish to come under it.

Mr. LONG. Mr. President——

Mr. CLARK. I shall be glad to yield to the Senator from Louisiana in a moment.

The plan shall be available, without limitation as to age, to any employee who elects to come under such plan.

I do not know how to make that any clearer. If the Senator from New York can suggest some way of clarifying it, I shall be glad to have him do it.

Mr. WAGNER. There is nothing in the amendment which requires the employer, if that election takes place, to accept it. He may decline to do so.

Mr. CLARK. The amendment says:

The plan shall be available * * * to any employee who elects to come under such plan.

Mr. WAGNER. "Elects"—yes.

Mr. CLARK. I shall be glad to accept any amendment to the effect that the employer must accept any employee who desires to come in, because that certainly is the intention of the language. I think the language is perfectly clear, but I shall be very glad to accept an amendment to that effect, which I will prepare a little later.

Mr. LONG. Mr. President——

Mr. CLARK. I yield to the Senator from Louisiana.

Mr. LONG. Is this the amendment about which I have been getting some letters from employees of oil refineries? Is this to take care of them?

Mr. CLARK. I dare say it is. I have had a great many letters from employees and a great many letters from employers. Some of the oil companies—notably the Standard Oil Co. of California, the Socony-Vacuum Co. of New York, I believe the Standard Oil Co. of New Jersey, and a great number of companies—have voluntary pension plans.

Mr. LONG. This amendment protects them in what they already have?

Mr. CLARK. This amendment is for the purpose of protecting them in their rights.

Mr. BARKLEY. Mr. President——

Mr. CLARK. I yield to the Senator from Kentucky.

Mr. BARKLEY. Would not this amendment, if adopted, subject the whole measure to the possibility of creating a competitive situation between the Government and private annuity or insurance companies, so that a lot of high-pressure salesmanship would be brought to bear on employers by private companies to adopt a private system in competition with the national system?

Mr. CLARK. Mr. President, I do not think it would; and if the high-pressure salesmanship led to employers extending more generous treatment to their employees, I do not see that there would be any disadvantage to anybody if that were the result.

Mr. BARKLEY. Let me ask the Senator another question. Would not the employer be permitted or induced to discriminate as between younger employees and older employees, so that the older ones might be shunted off on the

Government, while the younger ones were taken care of by the private plan?

Mr. CLARK. That objection was raised before the committee, and the amendment was redrawn and the provision added that the payment of the employer shall not be less than the amount of tax for the specific purpose of meeting that objection; so there is no possible way, under the amendment as now drawn, by which any employer can profit to the extent of a single penny, in any manner, by going on a private pension plan rather than on the Government pension plan.

Of course, the suggestion originally arose in connection with such companies as the Ford Motor Co. and the Goodyear company. The suggestion was made that when they had limitations as to the ages of their employees, or refused to employ men over 35 or 40 years old, to allow them to have private pension plans was to put a premium on such conduct. As a matter of fact, Mr. President, of course, everybody knows that nearly all the companies which have age limits as to their employees are companies, like the Ford Motor Co., which manufacture on a line which requires each employee to perform a certain operation at a certain time, and a slowing up of one employee slows up the whole operation. In other words, it is like a ball player's legs giving out on him and slowing up the whole baseball team. The purpose of that requirement in such companies as that has nothing to do with any pension plan, but is simply because the younger employees are more efficient in the line operation.

For the purpose of meeting such an objection as that, however, a provision was inserted in this amendment as redrawn, and as now before the Senate, which provides that the employer must in every case pay into the private pension fund, and to the reserve set up under the private pension fund, an amount not less than the amount of the tax, so that it is impossible for him to profit in any way by going under a private pension system.

Furthermore, if, as suggested before the committee, there is any advantage to the employer in being able to insure more cheaply because of the average younger age of his employees by reason of this age-limit requirement, under the amendment the only person who could benefit by such cheaper rate would be the employee.

In other words, if the employer under the provisions of the Government pension scheme should be required to pay in $300 a year, he would still be required to pay in a minimum of $300 a year under the private pension scheme, because that is specifically set forth in the amendment. The only advantage which could come to anybody would be, in such a situation, if there were lower rates of insurance on account of the younger age of the employees, that the employer in paying the $300 into the private pension fund would be able to buy a larger annuity for his employee than he otherwise would under the Government pension scheme. That would be the only possible advantage.

Mr. President, it was said before the committee, and was said again in the Senate the other day by the distinguished chairman of the committee, that there are in fact no private pension plans which are more favorable to the employee than the Government pension plan provided for in the bill. I do not desire to go into great detail on that matter. I simply desire to point out that while I freely admit that there are private pension plans now in existence which are not as favorable to the employee as the Government pension plan, which class of private pension plans would not come within the purview of the exemption set up in the amendment, there are a great number of private pension plans which are vastly more favorable to the employee in many particulars. For instance, some private pension plans now in existence—many of them, in fact—provide for an earlier retirement age for women than for men. The bill makes no distinction between the retirement age for men and for women under the Government pension plan; and yet it is almost universally agreed among doctors and sociologists that in any pension scheme a distinction should be made between the retirement age for men and for women, because in the wear and tear of industry it is very desirable that women should be retired earlier than men.

Mr. LEWIS. Mr. President——

Mr. CLARK. I yield to the Senator from Illinois.

Mr. LEWIS. I wish to say to the Senator from Missouri that the large institutions in my home city called the "packing companies" inform me that they have long had in existence their own private systems; and, if I may be forgiven a personal touch, while for a little while acting mayor of that city—previously the corporation counsel—we sought to inaugurate a joint city concern with that of the packing interests, which did not succeed. The packing companies feel, however, that their own plan has been a very great success; and there is presented, I may say to the Senator, a joint paper on the subject signed by a certain number of their employees. What proportion the number bears to the whole of their employees I do not know. I ask the Senator, is there anything in his amendment or in the bill which would prevent these concerns from dropping their private arrangement and coming into the Federal bill at a later time if they chose to do so?

Mr. CLARK. There is not. There is specifically provided in the amendment, I will say to the Senator from Illinois, the completest freedom of action. In other words, an employee would be permitted to withdraw from the system at any time he chose and to take into the Federal system with him the amount which would have been there if he had been under the Federal system all the time. The board not only has the right but it is the duty of the board, at any time all of the conditions provided for in the amendment are not complied with, to withdraw the exemption and force the employer and the employee into the Government pension system.

Under the amendment the employer has the right, if he finds he cannot go on with the private pension plan, to withdraw his application for exemption, at which time the whole concern passes under the Government plan, with every right secured to the employees that would have been theirs if they had been under the plan all the time.

Mr. LEWIS. Then I understand the able Senator to say that if the amendment should be agreed to and the private concerns continue as they are, should anything arise as between the employers and the employees, the availability under the general law would be open to them completely, without obstructions?

Mr. CLARK. That is entirely correct.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. CLARK. I yield.

Mr. BARKLEY. Does the Senator think it is in the interest of efficient administration to have some of the employees of any employer under a private annuity system and other employees of the same employer under the Government system?

Mr. CLARK. That might be a matter of inconvenience to the employer, but if in truth and in fact the private annuity plan were more beneficial to the employee, I think there would be very little danger that the employees would not desire to be under the private plan. On the other hand, if it were not more beneficial, then there would be very little doubt that all the employees would desire to be under the Government plan.

Mr. BARKLEY. In any case, would not the Government be under an obligation to carry on inspections to determine whether or not the plan was as favorable as that of the Government?

Mr. CLARK. There is so much inspection and so much administrative overhead machinery provided for in the bill that it is impossible for me to believe that a few more Government employees in the administrative section would make much difference.

Mr. BARKLEY. One more question, although I do not like to take the Senator's time.

The Senator will recall that we attempted to eliminate child labor, first, by prohibition against the shipment in interstate commerce of products of child labor, which was declared unconstitutional. Then we tried to reach it by tax-

ation, and the Supreme Court held that unconstitutional in part on the ground that it was a penalty assessed against those who did indulge in child labor. Under the pending amendment, as I understand it, those who adopt the private system are exempt from the tax that is levied generally for the support of the Government system. Does the Senator think that lays the bill open to the constitutional objection, on the ground that it penalizes those who do not have a private insurance plan as compared with those who have, and that that might endanger the bill on the question of constitutionality?

Mr. CLARK. The constitutionality of the proposed act is already so doubtful that it would seem to me to be a work of supererogation to bring up the question of constitutionality in regard to the pending amendment. Let me say to the Senator, to answer more seriously, that if the question of constitutionality is involved in regard to the matter he has suggested, it is already in the bill under the amendment in title IX offered by the Senator from Wisconsin [Mr. LA FOLLETTE], and adopted by the Senate, making certain exemptions in the case of employees' pensions. In other words, the distinction, while not identical, is in principle the same.

Mr. BARKLEY. The amendment to which the Senator refers deals with a different subject.

Mr. CLARK. Of course it deals with a different subject; in other words, it deals with an exemption for the purpose of allowing the State of Wisconsin to continue its own State system without interference.

Mr. LONG. Mr. President, will the Senator yield?

Mr. CLARK. I yield.

Mr. LONG. I wish to say that, as the Senator from Kentucky very appropriately pointed out, on the basis of the complete analysis he has made, the bill is unconstitutional. The private pension system is the thing which the Government could afford to encourage.

Mr. BORAH. Mr. President, will the Senator yield to me?

Mr. CLARK. I yield.

Mr. BORAH. The Senator made reference to exemptions already incorporated in the bill.

Mr. CLARK. That is in a different title, I will say to the Senator from Idaho. That is under unemployment insurance, in title IX.

Mr. BORAH. The bill does not cover all employees in all lines of industry or avocation, does it?

Mr. CLARK. It does not. I take it for granted that it is an undoubted constitutional principle that the matter of classification is a matter for the legislature rather than the courts. The bill specifically exempts large classes from its operation. For instance, it exempts agricultural classes, and exempts Government employees, one of the largest classes of employees in the country, I assume for the reason that the Congress recognizes, in considering this bill, that the Government already has in effect, in its capacity as employer, a pension system more beneficial to the employees than the one set up in the bill for the general run of industry. As the Senator has suggested, there are large classes of the population who are already excluded or exempted from the operation of the proposed law.

Mr. BORAH. May not the Congress make any classification it desires, so long as it is not purely arbitrary or capricious? If there is any foundation for a difference of classification, the Congress can make it.

Mr. CLARK. It seems to me there cannot be any question of that as a legal proposition.

The PRESIDENT pro tempore. The Senator's time on the amendment has expired.

Mr. CLARK. I reserve the balance of my time, then.

Mr. McNARY. Mr. President, a few days ago I received a very interesting letter from Mr. H. W. Forster, vice president of an insurance company of Philadelphia, setting forth some of the advantages embodied in the proposal made by the Senator from Missouri [Mr. CLARK]. Having that in mind, I ask unanimous consent to have the clerk read the reasons set forth in the letter in support of the amendment. It is very brief, comprising but one page.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and the clerk will read.

The legislative clerk read as follows:

REASONS IN SUPPORT OF AN AMENDMENT PERMITTING PRIVATE ANNUITY PLANS UNDER SOCIAL SECURITY BILL (H. R. 7260)

ADVANTAGES TO EMPLOYEES

1. More liberal annuities.
2. Credit for past service.
3. Protection for employees now on pension.
4. Employees age 60 and over are covered.
5. Annuities in true proportion to earnings and service.
6. Joint annuities, so as to protect wives also.
7. Earlier retirements for women.
8. Earlier retirements for disability or other reasons.
9. Annuities, not cash, for withdrawing employees.

ADVANTAGES TO EMPLOYERS

10. They need and want the more adequate annuities provided by private plans, with recognition of past service.
11. They know that it is not feasible to impose on all employers any heavier burden than the bill contemplates, but more liberal plans are desired by many who can afford to carry them.
12. Private plans take adequate care of older employees, their most pressing problem.

ADVANTAGES TO THE GOVERNMENT

13. Relief from deficits due to unearned annuities.
14. Reserves of private annuity plans flow into business channels.
15. Private plans will absorb part of the burden on other portions of the social-security program.
16. Private plans will relieve the Social Security Board of a vast amount of detail.

SAFETY OF PRIVATE PLANS

17. Past record of properly financed plans, and the future outlook, show only security for properly safeguarded private plans.

THE "SUPPLEMENTARY PLAN" IDEA

18. Theoretically appealing, but not practically workable and certainly not productive of liberal guaranteed annuities for employees.

Mr. GEORGE. Mr. President, I desire to support the amendment offered by the Senator from Missouri [Mr. CLARK] not only upon the grounds stated in the presentation made and in the document just read from the desk, but also because there is very grave doubt of the constitutionality of the bill as it stands. I do not believe that any lawyer of experience would assert that the bill is free from constitutional question. I do not wish to expand the constitutional argument, because the Senate is not in receptive mood, but the bill undertakes to impose a tax upon specific employers. The beneficiaries of the tax are a special class, it is disclosed in the hearings, and it is disclosed in the suggestion of the Secretary of the Treasury at one time for an alteration in the tax rate itself, showing that the only purpose of the bill is to set up a system of old-age annuity and unemployment insurance by the use of the taxing power, and by the creation of the annuity system and the old-age employment insurance system.

I direct the attention of the Senate to the fact that the bill is not a grant in aid to the States. That is true as to title II, portions of title III and title VIII of the bill, the taxing title, and part of title IX, which also covers taxing provisions. It is not a grant in aid of the States, but it does undertake, by the use of the power to appropriate money out of the General Treasury, to apply the money so appropriated to the establishment of the old-age-annuity and unemployment-insurance systems, under which the beneficiaries are the identical employees of the taxed employers, and under which the taxing provisions of this bill undoubtedly are tied in with the titles establishing the old-age annuity and the unemployment-insurance provision.

I also direct attention to the salient and important fact that under title II of this bill and a part of title III of the bill rights enforceable at law are granted to private citizens, irrespective of the character of their employment, irrespective of the character of the industry in which employed, in every State in the Union; and that, in my judgmen, clearly shows that an effort is here made to establish a system which does not lie within the powers granted to the Congress, but which have been definitely reserved to the States under the reserved rights and powers of the States.

Even the preamble of the bill shows unmistakably that the taxing power is invoked for the purpose of setting up old-age annuity and unemployment insurance.

Mr. President, I know that the courts will go a long way to uphold the power of Congress to appropriate; and I am not going to controvert that. I also know that the courts will go a long way to sustain legislation of this character, and I think they should. But if the court looks through mere form to the substance of this bill, I assert again that the question of the validity of the bill is one which no responsible lawyer would undertake to say is not in serious question. Hence, why strike down, with the probably unconstitutional bill, the private pension systems and private benefit systems granting benefits to the employees of employers of this country, some 450 in number, embracing a large part of our population—why strike those down when a bill is proposed which probably will not pass the muster of the courts?

Let me say that it was argued in committee that the private pension systems might still be maintained. I submit as a matter of plain common sense that the private systems will not, in fact, be maintained if the employers are subjected to a tax which they must in any event pay for the purpose of setting up an exactly similar system, or a system that has for its objectives the same general purpose.

Mr. LEWIS. Mr. President, will the Senator yield?

Mr. GEORGE. I yield.

Mr. LEWIS. Conscious as I am that the able Senator from Georgia occupied a high place on the bench, and, therefore, that the subject he is now discussing is not one to be called primary with him, I should like his judgment on one matter. How far does he feel that the decision of the Supreme Court of the United States on the tax feature to which he alludes, in the cause which came up from North Carolina where the question of tax was assumed to be the motive in the case of protecting child labor—how far does he feel that that opinion supports the viewpoint he has uttered here today respecting the doubtful features of the tax provisions of this bill?

Mr. GEORGE. In reply to the distinguished Senator from Illinois, I would not say that the child-labor taxing decision is strictly applicable to this case, except in point of principle. In that case the act itself carried upon its face the disclosure of the real purpose of imposing the tax; and the Supreme Court, of course, said that the object was not that of raising revenue.

Mr. WAGNER. Mr. President——

The PRESIDING OFFICER (Mr. McGILL in the chair). Does the Senator from Georgia yield to the Senator from New York?

Mr. GEORGE. I yield.

Mr. WAGNER. Will the Senator from Georgia permit me to read to him some language from the case of United States against Doremus, Two Hundred and Forty-ninth United States Reports, page 86, involving the Harrison Narcotic Act, in which the question was whether a bill which contained a taxing feature could also accomplish some other purpose in addition to that of merely levying a tax? The Court said:

> An act may not be declared unconstitutional because its effect may be to accomplish another purpose as well as the raising of revenue. If the legislation is within the taxing authority of Congress, it is sufficient to sustain it.

There the act itself had other purposes in addition to levying a tax.

Mr. GEORGE. The decision to which the Senator from New York calls attention would not be controverted by anyone, anywhere.

Mr. WAGNER. I thought the Senator was controverting it.

Mr. GEORGE. No; I am not controverting it. I am trying to make my position clear, and I am saying that we are setting up in this bill a particular old-age annuity and unemployment insurance system under which the individual citizen in any State in the Union acquires an enforceable right; and when he undertakes to enforce it, by what authority has the Congress established it? That is the simple, the necessary, the logical question.

I know that the tax may be imposed if within the taxing power of the Congress, although other objectives may be effected or accomplished through the imposition of the tax; but I also know that it is a sound principle of law that a tax cannot be imposed for a private purpose. It must be public. I also know that as a matter of sound legislation the Congress ought not to set up a scheme under which enforceable rights are given to individuals unless the Congress can relate its legislation to some grant of power.

Mr. WAGNER. Mr. President, will the Senator yield?

Mr. GEORGE. I yield.

Mr. WAGNER. I absolutely agree, of course, with the Senator from Georgia that we certainly cannot levy a tax for a purely private purpose; but does the Senator contend that the payment of an old-age pension is a private purpose as distinguished from a public purpose?

Mr. GEORGE. I contend that we do not levy this tax nor do we use the proceeds of the appropriation made out of the General Treasury for the purpose of setting up an annuity for all old people in the United States. We have selected classes. I contend also that we have selected the classes which are intimately and inescapably tied in with the employers who are taxed under title VIII and title IX of this bill, and therefore the scheme is palpable and clear to my mind, and that we are imposing the tax for identically the same purpose condemned by the Supreme Court in the railway-retirement decision, aside from the first suggestion that there were inseparable clauses which offended varied provisions of the Constitution; that we could not by compulsion make the industry set up an old-age-pension system.

Mr. BLACK. Mr. President, will the Senator yield?

Mr. GEORGE. I yield.

Mr. BLACK. The Senator several times has referred to the bill, when, as I gather his argument, he intends to limit his constitutional objection to title II.

Mr. GEORGE. Exactly.

Mr. BLACK. As I understand the Senator, he concedes fully and completely the right of a State under the Constitution to establish an old-age-pension system.

Mr. GEORGE. Beyond all doubt.

Mr. BLACK. And, therefore, he concedes the right of the Federal Government to aid that State by Federal grants in aid, under such conditions as it sees fit.

Mr. GEORGE. I do; and I should have been most enthusiastic in my support of the bill had this particular part of the bill been dealt with in that way—that is, through grants in aid to the States.

Mr. BLACK. As I understand further, the Senator's objection on the constitutional ground is that instead of permitting the State—which he says does have the power to set up a system—to set up that system, in title II the Federal Government sets up an old-age-pension system; and the Senator from Georgia is of the opinion that the Federal Government does not have that power under the Constitution?

Mr. GEORGE. I am of that opinion, because I can find in the Constitution no provision which grants that power. This is clearly, as I think, among the reserved powers of the State.

Mr. WAGNER. Mr. President, will the Senator yield?

Mr. GEORGE. I yield.

Mr. WAGNER. I do not wish to annoy the Senator with my interruptions.

Mr. GEORGE. No; I shall be glad to yield.

Mr. WAGNER. I am not quite clear as to one of the Senator's contentions. Does the Senator contend that, because of the decision in the Railway Pension Act, we are powerless to enact a law of this character?

Mr. GEORGE. I contend that under that decision the Congress cannot directly say to an industry, "You must set up an old-age-pension system" or "a retirement system"; and I contend further that when the scheme which has been devised is so tied in with the taxing provision as

to disclose but one purpose, and that is the purpose of using the general taxing power for the purpose of providing this system only for the beneficiaries who fall within the classification of the employees of the taxed employers, we shall have a legislative act, if the bill shall be passed, which any reasonable lawyer of experience will be bound to say is subject to serious question.

For my purposes, that is all I desire to say, because I am arguing in this instance for the approval of the Clark amendment.

Mr. WAGNER. I understand.

Mr. GEORGE. And I am proceeding upon the theory that Congress ought not, through this legislation, practically to strike down and prevent the expansion of private or company insurance, or annuity plans. The effect of the proposed legislation undoubtedly will be to discourage any further advances of the private pension systems in the United States.

Mr. WAGNER. Mr. President, as I recall, there was not anything in the decision that might even suggest that the establishment of a pension system, providing that the classification is fair, would not be considered a public purpose.

The decision was based on the ground that interstate commerce was not affected by the retirement of old workers. The taxing power was not involved.

Mr. GEORGE. That is very true; the taxing power was not involved, but we cannot, under the compulsion of a tax, make an industry do any more and we ought not at least to undertake to make it do any more than we could do directly. If the scheme is one that can be referred to any legitimate power of the Congress, all well and good; but if it cannot be, and if it is one that must depend rightfully and rightly upon the exercise of the reserved powers of the States, then Congress should not through the compulsion of a tax undertake to compel the adoption of the scheme.

Mr. WAGNER. Then, as I understand the Senator's contention, it is that he doubts whether the establishment by Federal Government of a Federal pension system for a class of workers in this country is a public purpose.

Mr. GEORGE. I did not say that it was not a public purpose.

Mr. WAGNER. I mean the Senator contends that there is a serious question as to whether or not it is a public purpose.

Mr. GEORGE. I said that under this bill there is a serious question as to whether or not it is.

Mr. WAGNER. Is that because of the classification?

Mr. GEORGE. Because the beneficiaries are so restricted and tied in with those who are taxed as to make it, in substance at least, a compulsory system through the use of the taxing power by the Congress.

Mr. WAGNER. In other words, as I understand the Senator's contention, he believes that it would be a safer method if we should tax all the people of the United States, instead of merely taxing the employers of the workers, for the purpose of supporting a pension system.

Mr. GEORGE. Mr. President, I do not regard it as within the power of the Federal Government to set up a pension system for all the people of the United States; I take the contrary view. My philosophy is quite different from that of the distinguished Senator from New York.

Mr. WAGNER. The Senator misunderstood me, I am sure.

Mr. GEORGE. I think that the pensioning of the people of the country is essentially within the reserved powers of the States.

Mr. WAGNER. As a general proposition, I agree with the Senator. I am trying to have clear in my mind the particular objection the Senator raises to the proposed legislation. As I understand, the Senator feels that there is a serious constitutional question involved because we are levying a tax for the payment of pensions upon the employers of the particular workers benefited.

Mr. GEORGE. And the employees, too.

Mr. WAGNER. Yes; and the employees, too. Does the Senator feel that we would be on safer ground if we taxed everybody in the United States to pay these particular pensions? I do not know where the Senator got the notion that I ever contended that everybody in the United States ought to have a pension. I never made any such contention.

Mr. GEORGE. I think it would.

Mr. BARKLEY. Mr. President, will the Senator yield there?

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Kentucky?

Mr. GEORGE. I yield.

Mr. BARKLEY. If I understand the Senator correctly, he does not raise any constitutional question as to the power of Congress to levy the tax as a tax?

Mr. GEORGE. Oh, no.

Mr. BARKLEY. The money to go into the Treasury for general governmental purposes.

Mr. GEORGE. I want to qualify my statement. I do not raise any question regarding the power of the Federal Government to make appropriations out of the General Treasury and to levy taxes, of course.

Mr. BARKLEY. Therefore, if the proposed pension system is tied in with the tax, although in an attenuated way, the Senator thinks that the tax, then, is lawful, just as a pure tax would be lawful, and is within the power of Congress?

Mr. GEORGE. I think Congress may impose an excise tax based upon the volume of pay rolls, if that is what the Senator means; but if it is tied in with this particular scheme, as provided in this bill, I question the validity of the tax.

Mr. BARKLEY. Where is the difference, in constitutional principle, between making a lump-sum appropriation out of the Treasury for relief purposes and making an appropriation out of the Treasury for relief purposes by setting up classifications under which relief shall be paid in the form of old-age pensions? I do not quite understand the distinction the Senator makes or how it would raise any constitutional question as to the power of Congress to pay aged people what we call a pension.

Mr. GEORGE. Does the Senator mean to pay them as a mere matter of gratuity?

Mr. BARKLEY. Well, not necessarily as a matter of gratuity; but assuming that it were a gratuity——

Mr. GEORGE. Does the Senator mean to say, if enforcible rights are granted to pensioners generally, that, even if the appropriation is made out of the general funds of the Treasury, no serious question might be raised?

Mr. BARKLEY. Of course, the line of demarcation is so blurred at points that it is always difficult for anybody here to be sure that what he does is constitutional.

Mr. GEORGE. Perhaps I may help the Senator by this observation: I did not undertake to make a constitutional argument; that is not my purpose; my purpose is to point out the doubtful validity of this proposed act and to invite the Senate to permit, under the Clark amendment, the continuance of the plans now in existence if they meet the standards which the Congress is setting up.

Mr. BARKLEY. I do not want to take the Senator's time, but I derived the impression early in his remarks that his main objection was that the payment of the pension, the distribution of the fund, is so tied in with the collection of the fund as to make them one and the same transaction, and that, therefore, the bill would be subject to grave constitutional question, whereas either transaction standing, on its own bottom, would not be subject to that fear.

Mr. FLETCHER and Mr. CLARK addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Georgia yield; and if so, to whom?

Mr. GEORGE. I yield first to the Senator from Florida.

Mr. FLETCHER. As I understand the decision in the Child Labor case, it was to the effect that, although the act purported to raise revenue, as a matter of fact, it did not raise any revenue.

Mr. GEORGE. Exactly.

Mr. FLETCHER. The Supreme Court held that it was never intended to raise revenue.

Mr. GEORGE. Exactly; and that is what I am trying to say here. In that respect the principle is in point that this proposed act does not raise any revenue for the General Treasury, because all the money that it does raise is taken out and devoted to this specific purpose.

Mr. FLETCHER. I was going to ask the Senator, if this proposed act does, in fact, raise any revenue?

Mr. GEORGE. It is not intended to raise revenue, but it is intended to furnish support to the old-age-annuity and unemployment-insurance sections of the bill.

Mr. FLETCHER. Then the Supreme Court held that the Child Labor Act was an encroachment upon the police powers of the States, and that was really its purpose, in effect, if it was good for anything; that it deprived the States of the exercise of their police powers. Does this bill interfere with the establishment of old-age pensions and legislation on the subject by the States?

Mr. GEORGE. No, it does not, I may say to the Senator; I do not understand it so interferes at all.

Mr. WAGNER. Mr. President——

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from New York?

Mr. GEORGE. My time is limited on the amendment.

Mr. WAGNER. I will give the Senator some of my time, although, if it annoys him, I will not interrupt the Senator further.

Mr. GEORGE. I yield to the Senator from New York.

Mr. WAGNER. I desire to have a clear understanding of the Senator's point. The two features of the bill, paying the pension and raising the taxes, are separated. As I understand the proposed legislation, when the tax is collected it is to be paid into the General Treasury?

Mr. GEORGE. Yes; that is true.

Mr. WAGNER. And out of the General Treasury there will be made an appropriation for the payment of the pension?

Mr. GEORGE. Exactly.

Mr. WAGNER. In answer to my inquiry a short time ago, I understood the Senator to say that he did not doubt the power of Congress to make an appropriation for the purpose of paying old-age pensions to a class not arbitrarily selected. Thus, even if the court should hold that the classification of those taxed was an arbitrary classification and therefore unconstitutional, nevertheless the remainder of the bill, the portions providing for the payment of old-age pensions, could survive such a decision, could it not?

Mr. GEORGE. Mr. President, I was not considering that phase of it; I was considering the taxing power as being in fact, under this bill, tied in with the particular provision of title II, and a portion of title III of the bill.

Mr. WAGNER. But the Senator understands that the tax, as collected, is paid into the General Treasury?

Mr. GEORGE. I do, under the bill, and I so stated.

Mr. WAGNER. Exactly. There is an appropriation for paying old-age pensions?

Mr. GEORGE. Yes.

Mr. WAGNER. So it could very well be held by the Court to be constitutional.

Mr. GEORGE. If the tax was stricken down, it could very well be that the other portions of the bill might be held to be valid; I am not controverting that; but I do say it is not within the granted power of Congress to set up directly this kind of a pension system in the United States. It might be done, but I am trying to show that, despite the conscious and undoubted effort to separate the tax from the scheme set up in title II of the bill, nevertheless, the Court will look beyond the mere words or mere form and to the substance of the thing, and they will say that they are tied together, or, as I said in the beginning, they are likely to say they are tied together, or at least a serious question is raised as to whether they are tied together here.

Mr. WAGNER. Mr. President, I should like to ask the Senator one further question. Assuming that they are tied together, and the Court finds that the tax is levied upon a class that really gains a benefit through the payment of old-age pensions, might not the Court very well find that the Congress did make a proper classification for the purpose of imposing the tax?

Mr. GEORGE. It might find it, but let me ask the Senator from New York, if the taxing provision of the bill should be stricken down, would he undertake to justify the provision for old-age annuities running, as it does, to special classes if we are forced to go to the General Treasury for the money?

Mr. WAGNER. No!

Mr. GEORGE. The Senator very frankly says "no."

Mr. WAGNER. I say "no" because I am for the insurance system.

Mr. GEORGE. I understand, and I am asking the Senator the question if the taxing provision of the bill should be stricken down, would the Senator undertake to restrict title II to those employees who now come within it?

Mr. WAGNER. No. I should say we would have to revise the classifications altogether, of course.

Mr. GEORGE. I understand the Senator's viewpoint.

Mr. WAGNER. I think the Senator and I do not disagree on that point.

Mr. GEORGE. I know we do not.

Mr. WAGNER. I am very confident that it is a proper exercise of the taxing power and that the incidental purpose is valid for that reason.

Mr. GEORGE. I am not confident of it, and if time sufficed I should be glad to go into the constitutional question at length.

The Senator from New York now admits—and it does his conscience and humane purpose very great credit—that if the taxing provision of the bill should be stricken down he would limit the benefits under title II to those who now would receive them under title II. He is quite right about it. Therefore, I have said that title VIII is tied in inescapably with title II, and its sole purpose is to impose a tax for setting up a system of insurance and old-age annuities.

Mr. WAGNER. Mr. President, will the Senator yield further?

Mr. GEORGE. Will the Senator please let me finish my statement? I think I have been quite liberal in yielding.

Mr. WAGNER. The Senator made an assertion, but whatever I say cannot bind my colleagues as to what should be done in the event the tax provision is stricken down.

Mr. GEORGE. I understand that, but I understand the real proponents of the legislation——

The PRESIDING OFFICER. The time of the Senator from Georgia on the amendment has expired. Does the Senator desire to be recognized on the bill?

Mr. GEORGE. I shall take my time on the bill.

Mr. BONE. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Washington?

Mr. GEORGE. I yield.

Mr. BONE. Is it the view of the Senator that any effort on the part of the Congress to set up a general old-age pension system would involve a vested property right, the right to advance a claim for monthly pension from Federal sources, and that a system of that kind would infringe upon the Constitution in a way to make it unconstitutional?

Mr. GEORGE. I am not discussing that question.

Mr. BONE. I understand that.

Mr. GEORGE. The bill grants benefits to a special and limited class and it imposes a burden upon a special and limited class.

Mr. BONE. My question was quite outside of that point.

Mr. GEORGE. I would rather not go into that wider field. I am going to undertake to say further as to the constitutionality of the tax that even the tax, to be constitutional, must be immune against the provisions of the fifth amendment. In other words, it is permissible under the fifth amendment to question the validity of the tax. Here is a tax upon certain employers. The beneficiaries of the tax are those who come within title II, let us say, of the bill, and they are a limited class. The tax on em-

ployers to support the system is levied at a uniform rate without regard to the hazards of industry. The mining company which sends its men down to the bowels of the earth, where fatalities often occur, has to bear the same burden of tax as the industry in which retirement, accidents, and death rarely and seldom occur. That is another feature involving the constitutionality of the measure, but I do not intend to do more than say that no responsible lawyer who has been in a courthouse three times would dare say that the provisions of this bill which have been discussed are not subject to serious question.

I do not have to go further than that, and on that predicate I say why strike down the private systems which have been built up through the years and which have granted benefits to employees? Why not preserve them?

The answer is, "We do not strike them down. They will still go on", when we know that will not be the case. Our mail is full of assurances by responsible men that they will be compelled to abandon their own systems if this tax shall be imposed upon them and if they shall have to pay it.

Also it was answered us in committee that none of the private systems grant equal benefits to those provided in title II and title III of the bill. If none of them grant equal benefit, pray answer me why would private industry maintain a system which did not grant equal benefits, but at the same time pay taxes to set up another system which increases the benefits over those of the private system then in existence? In other words, it is said in one breath that the private system can do more and will do more, that the private companies will maintain their private plans, and in the next breath we are answered and told that not one of the private systems maintained by private companies in this country bestows benefits equal to those provided by the bill.

Now let me answer those who stand firmly against the amendment, and they ought to be answered for the benefit of the American people. There is but one solid ground of objection to the amendment and that is the basic ground upon which it stands. Those who oppose the amendment want to put in the Federal Government the business of pensioning the people of the country. They want to centralize power here. They want to socialize and federalize the Nation in all its affairs. Otherwise they would accept the amendment and say, "We will not take the risk of striking down the private insurance systems in this country which have been built up through the years. We will not take the risk of destroying them, but of the private companies and individuals setting up their own insurance plans we will require—we will absolutely demand of them—that they set up a plan equal to that set up in the law of Congress. If they do that we will let them operate.

It may be said—it can be said, I concede, that the exemption from the tax of those who set up an acceptable and approved plan of insurance or of benefits, may emphasize the character of the bill, may further open it to attack upon constitutional grounds; but it is already open to attack. It is inescapable that the Court will be called upon to pass upon this bill. I do not wish to assert dogmatically that the Court will strike it down, but I do wish to say that no well-grounded lawyer can say certainly and dogmatically that the bill will ultimately prevail. Surely there is serious question of its validity when we look beyond the form and words of the bill to its substance.

The real objection to the amendment, the basic objection to the amendment, is not that it takes out the strong and leaves the weak to pay the tax, is not, in my humble judgment, the ground which has been advanced, but the real objection is the overweening desire of those who seek to concentrate in Washington all power and reduce the States to a system of vassalage, and to convert a free people, able and willing to manage and conduct their own affairs, into humble supplicants for the crumbs and for the benefits which may fall from the national table. I do not think it is healthy or wholesome. The least that can be done is to take this amendment and let the private systems continue to function if they grant equal or superior benefits, and let industry carry on as it has been carrying on through a period of years in building up these private systems.

It is said that only 1 percent or a fraction of 1 percent of all employees are now able to receive benefits through these private systems. Grant it; but up to this time the Federal Government has done nothing to induce, to aid, or to assist, and remarkable progress has been made in setting up some 450 private systems now operating in the United States, and making at least some provision for a large number of employees working for the individuals and companies which have established these private systems.

I wish it to be definitely understood that the purpose and objective of old-age annuities and of unemployment insurance have my heartiest approval; but in my judgment there is no necessity for the impatience with which we seek to do things which we cannot do, and then the courts strike them down and destroy all that industry has done.

The distinguished Senator from New York [Mr. WAGNER] has gone from the floor; but I recall that he was equally certain that the railway pension retirement act was constitutional, and yet the Supreme Court—by a divided Court, it is true—said that it was not.

From this bill are already excepted State employees and Federal employees, as the Senator from Missouri said, perhaps the largest class of employees working for one concern or one corporation or one political subdivision or one sovereignty in all of the United States. Already they are excepted from the bill. They do not pay any tax. Of course, the Government does not, as a tax, nor do the employees who work for the Government or for the States or for the municipalities, nor does agricultural labor or domestic labor. I am not saying that those exceptions are not properly granted; that if it were a mere matter of classification they would not constitute a proper basis for classification. I am not asserting that at all; but I am saying that the bill is already open to the constitutional objection which I candidly concede may be emphasized by further exceptions of classes on whom it does not operate. At the same time the question is there, and the act may go down before the decision of the Court; and if it does, then we shall have lost, after some 1 or 2 years of trial, all that has been gained by the efforts of private employers to set up their own systems.

Mr. WALSH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Massachusetts?

Mr. GEORGE. I yield to the Senator from Massachusetts.

Mr. WALSH. In the event the Senator should be satisfied that this measure is constitutional, would he favor the Clark amendment?

Mr. GEORGE. I think I should still favor the Clark amendment.

Mr. WALSH. In other words, it is not merely the irreparable loss that may result to employees who are now receiving benefits under private arrangements with their employers about which the Senator is concerned. Of course, there would be almost irreparable harm to them if this measure should be found to be unconstitutional.

Mr. GEORGE. That is quite true.

Mr. WALSH. But the Senator goes further than that, and regardless of the constitutionality of the measure, he is inclined to favor lifting out of it those private companies which make beneficial arrangements with their employees?

Mr. GEORGE. I do, but I was stressing the other point upon this particular amendment.

Mr. BARKLEY. Mr. President, in that connection, of course, if the courts should declare the act unconstitutional, it would then have no effect upon these private annuity arrangements. They would go on just as they are now.

Mr. GEORGE. Exactly; but in the meantime they would have been destroyed. The employers would have abandoned any effort to maintain their organizations. They would not wait for a year or two until the Supreme Court passed upon this measure and abide by the decision, or go into the courts

at the expense of heavy litigation to test the constitutionality of the measure.

Mr. CLARK. Mr. President——

Mr. GEORGE. I yield to the Senator from Missouri.

Mr. CLARK. I received this suggestion from the head of one of the largest banks in the State of Missouri, who told me that they have had a pension system for more than 20 years, and that they now have a large number of employees who will be eligible to retirement in the next year or two. If the bill should be passed without the amendment I have offered, and should strike down that pension system, and then the act should be declared unconstitutional, those men would simply be deprived of their rights.

Mr. HARRISON. Mr. President, will the Senator yield to me?

Mr. GEORGE. I yield to the Senator from Mississippi.

Mr. HARRISON. The Senator from Missouri will recall that the bill especially exempts Government agencies and Government employees, also such persons as are employed by a national bank.

Mr. CLARK. I will say to the Senator that this is not a national bank.

Mr. HARRISON. If it is a part of the Federal Reserve System, it is exempt.

Mr. CLARK. This was simply an illustration; not that that particular bank was important. I used the illustration to show what might happen in any industry where there is now established such a pension plan. It does not make any particular difference about whether or not that particular bank would be exempt, if the same thing ran through industry wherever private pension plans are now existing.

Mr. WALSH. Mr. President, may I ask the Senator from Missouri a question?

Mr. CLARK. The Senator from Georgia has the floor.

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Massachusetts?

Mr. GEORGE. I do.

Mr. WALSH. Would the Senator from Missouri accept an amendment that would permit the status quo to continue between employees and employers who now have insurance benefits until such time as the Supreme Court might pass upon the constitutionality of this measure?

Mr. CLARK. I should be perfectly willing to accept such an amendment as that, but I do not think such an amendment would reach the whole question.

Mr. WALSH. It would not completely take care of the Senator's objection.

Mr. CLARK. That is perfectly true.

Mr. WALSH. It would in part, but it would not completely do so. The Senator still thinks, notwithstanding the passage of this bill, that private employers who desire to make special arrangements with their employees should be permitted to do so?

Mr. CLARK. I do not think there is any question about it.

Mr. GEORGE. Mr. President, I had not intended to occupy the time I have taken, and I had not intended to discuss the general bill under consideration. I had intended to confine myself strictly to the Clark amendment. My purpose was to point out at least the possibility of serious constitutional objection to titles II and VIII of the bill as it now stands; admitting that further exceptions from those who are made liable to the tax may still open the bill somewhat to more direct attack, nevertheless, that question is there, and the Supreme Court will be compelled to meet it whenever a proper case reaches that tribunal; and that if the Court should hold the act unconstitutional, all that has been gained by individuals and companies that have operated their own systems probably would be lost; at least, the larger part of it would be lost. While many of the systems operated by individuals and corporations and associations may be open to question, while many of their practices may be subjected to certain sharp criticisms, nevertheless on the whole they have accomplished great social good for their employees; and therefore this simple amendment, which gives the election to the employee to go under the Federal system or to remain in his private system, ought to be adopted as a part of this proposed legislation.

Mr. COPELAND. Mr. President, I have been much impressed by what the author of the amendment has said, as well as by what the Senator from Georgia [Mr. GEORGE] has stated.

I desire to use a part of my time in asking questions of the Senator from Missouri regarding the effects of this plan.

I am disturbed because in my State many industrial concerns have arrangements for insurance and of course prefer not to be disturbed. At the same time there are many citizens of New York who feel that to permit the continuance of the private insurance arrangements would result materially to reduce the level of age of the employees in such industrial establishments. For these reasons I wish to ask a question or two of the Senator from Missouri, questions founded on an analysis of his amendment which has been given to me.

We will assume that a basic condition to permitting an employer to maintain a private pension plan would be the establishment of benefits at least equal to those under the Security Act. The two main factors in cost would be the general level of wages and salaries paid by the employer, and the ages of his employees. The younger the employees, and the higher the level of pay, the greater the advantage to the employer in buying annuities from a private insurance company.

Of course, these two basic factors are in part opposed to each other, since high age distribution is usually associated with higher than average wages.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. COPELAND. I yield.

Mr. CLARK. Under the amendment as it is now before the Senate the objection the Senator has just raised is taken care of by the provision that the employer must pay into his private pension system or into any other system not less than the amount of the tax he would pay in under the Government plan; so that if there be any advantage to an employer who employs younger men, that advantage must go to the employees, because the employer will be able to buy more annuity with the amount of tax he is required to pay in.

Mr. COPELAND. That is a very satisfactory answer; but I desire to press the matter for the moment, in order that my conscience may be clear.

Does the Senator from Missouri believe that this private plan would tend to the employment of fewer persons over middle age? The problem of employment for a person past middle age, of course, is rapidly becoming one of the most serious social problems with which we have to deal. Would the effect of the amendment which the Senator has offered be to intensify that problem?

Mr. CLARK. I do not see how that could possibly be true, in view of the fact that the employer at every stage of the game, at every period of paying the tax, must pay into the private pension fund not less than the amount of tax; and then, when the employment of the employee is terminated, there must be paid into the Government fund as much as the tax would have been compounded at 3 percent annually.

Mr. COPELAND. I thank the Senator. I take it to be his view that the amendment would not aggravate unemployment among the middle aged.

Mr. CLARK. I do not see how it possibly could.

Mr. COPELAND. I assume the Senator has seen the same analysis to which I am referring.

Mr. CLARK. I have never seen that particular analysis, but I may say to the Senator that the same question was raised in the committee, and that the amendment was drawn to meet that specific objection.

Mr. COPELAND. So the Senator is quite satisfied that the retention of these successful private systems would in no sense endanger the employment of persons of advanced age, and could not be used by the industries which have such systems to coerce employees in any sense?

Mr. CLARK. I do not see how it possibly could. I may say to the Senator from New York that I have agreed with the Senator from Washington [Mr. SCHWELLENBACH] to accept an amendment to my amendment which will provide specifically that the election to go under a private system shall not in any sense be made a condition of employment or

of retention of employment, which I think would be an improvement on the amendment.

Mr. COPELAND. May I ask the Senator from Washington what his amendment is? It perhaps covers the very point I have in mind.

Mr. SCHWELLENBACH. Mr. President, on page 2, line 16 of the amendment of the Senator from Missouri, after the word "plan", I propose to insert a colon instead of the period and the words "*Provided*, That no employer shall make election to come or remain under the plan a condition precedent to the securing or retention of employment."

Mr. CLARK. I am glad to accept that amendment.

Mr. COPELAND. I think that is a very valuable amendment.

Mr. SCHWELLENBACH. If the Senator has no objection, I might offer it at this time.

Mr. COPELAND. I wish the Senator would do so, because it would help to answer the criticism I have in mind.

Mr. CLARK. I accept the amendment, and modify my own amendment in accordance therewith.

The PRESIDING OFFICER. The Senator from Washington offers an amendment to the amendment of the Senator from Missouri, which the clerk will report.

The LEGISLATIVE CLERK. On page 2, line 16, after the word "plan", it is proposed to insert a colon instead of the period and the following words:

*Provided*, That no employer shall make election to come or remain under the plan a condition precedent for the securing or retention of employment.

The PRESIDING OFFICER. The question is on agreeing to the amendment to the amendment.

Mr. McNARY. Mr. President, may I inquire whether this is a perfecting amendment to the amendment offered by the Senator from Missouri?

The PRESIDING OFFICER. It is a perfecting amendment offered by the Senator from Washington [Mr. SCHWELLENBACH].

Mr. CLARK. I accept the amendment offered by the Senator from Washington, and modify my own amendment in accordance therewith.

The PRESIDING OFFICER. The question is on agreeing to the amendment to the amendment.

The amendment to the amendment was agreed to.

Mr. COPELAND. Mr. President, I take it that answers the criticism I had in mind, namely, that the encouragement of private pension plans would place powerful coercive weapons in the hands of employers.

Mr. SCHWELLENBACH. I may say to the Senator that that was my purpose in preparing the amendment.

Mr. COPELAND. I think it is a very valuable addition to the amendment of the Senator from Missouri.

As I review the amendment, as it now stands, as compared with the amendment as it was originally offered, I think it has been very greatly improved. To a great degree it answers the criticisms which have been passed upon it. I am glad, because, as I have already said, there are many private plans in force in my own State, and they have been very successful in most instances. Yet I would not want anything to interfere with the proposed legislation, which to my mind is very important.

The greatest tragedy in the world is the tragedy of old age in poverty, and whatever we can do to relieve the distress of mind of those of our people who have not been fortunate enough to accumulate the wherewithal to be maintained in old age is a very desirable and necessary thing to do. At this time, too, there are thousands of families, I suppose millions, who thought they had prepared for the rainy day, but by reason of the depression, and the circumstances involved in it, they have come to be almost as bad off as many who were born and have lived all their lives in poverty.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. COPELAND. I yield.

Mr. CLARK. I should like to call the attention of the Senator to a plan in force in a company in his own State as an example of private pension plans. I refer to the Socony Vacuum Oil Co. I have in my hand a letter from the chairman of the annuity insurance committee of that company in which he states:

The employee pays 3 percent of his wages into the fund; the company pays approximately 4 or 4½ percent into the fund.

Over 99 percent of our employees are under the plan, which is insured with the Metropolitan Life Insurance Co. The average pension payable exceeds the maximum $85 payable under the Government plan.

I should like to read that again:

The average pension payable exceeds the maximum $85 payable under the Government plan.

In other words, under this plan the average annuity is greater than is possible under the Government plan.

As part of this plan, each employee is carried for life insurance to the extent of 1 year's salary, for which he pays six-tenths of 1 percent and the company pays the balance.

Our company desires to continue with its private plan.

I ask the Senator this question: When a company has been willing voluntarily, without any compulsion of law, to do more for its employees than is likely or than would be permitted under the proposed act, why should not those employees have the benefit of that additional plan?

Mr. LONG. Mr. President, will the Senator from New York yield to me?

Mr. COPELAND. I yield.

Mr. LONG. I merely desire to call the attention of the Senator from Missouri to the fact that under most of the private pension plans an ex-employee does not have to prove himself to be needy in order to get his pension.

Mr. CLARK. That is perfectly true; the pension accrues as a matter of right.

Mr. LONG. It accrues as a matter of right, but under the particular bill before us that would be wiped out, and unless a man proved himself to be a pauper he could not qualify for the pension roll.

Mr. COPELAND. Mr. President, the great trouble in the United States, and I suppose all over the world, is that when a man or woman approaches middle life, or passes middle age, and is out of employment, it is almost impossible to find new employment. There is almost unanimity of opinion among employers that such persons are not desirable employees; the situation is pathetic.

My only regret about the bill is that we have not been a little bit more generous in it. I assume we will go just as far as we can, and we ought to, but certainly if there is one thing which stirs the emotions and should excite us to do the right thing it is the urge to take care of aged persons.

We can find means to aid the babies, we establish institutions to prevent disease, but the most amazing thing is that the homes for the care of old people are almost bankrupt. If we cannot through voluntary contributions maintain in decency persons in old age, then certainly it is time for the Government to step in and undertake what is intended to be done by this measure. As I have said, my only regret is that we cannot deal more generously with our aged citizens.

Mr. HARRISON. Mr. President, before a vote is taken on the amendment I desire to say to the Membership of the Senate that there was no question presented to the committee related to the pending legislation to which we gave more consideration than to the question before us. It was presented by the distinguished Senator from Missouri [Mr. CLARK] and the distinguished Senator from Georgia [Mr. GEORGE].

Mr. CLARK. Mr. President, will the Senator yield?

Mr. HARRISON. I yield. I mean the idea was presented by the Senator from Missouri.

Mr. CLARK. If the Senator will permit, I merely desire to recall to the Senator's mind the fact that the amendment was lost in the committee on a tie vote only.

Mr. HARRISON. That corroborates my statement that the committee gave the matter every consideration.

When the question was first presented to the committee, the amendment appealed to me, as one member of the committee, and I am sure it appealed to others. I thought that those institutions which had built up private pension systems of their own should be commended; that they had taken a great forward and progressive step and that they

should be encouraged because they were forward looking; and personally I did not want to see anything done by legislation which might hamper their progressive march.

When we begin to analyze the proposition, however, from every angle and to stop, look, and listen, we find there is more to it than might appear at first glance, and I changed from the first opinion that I held about the matter.

We had before us some experts; one gentleman from Rochester, N. Y., Mr. Folsom, who made a splendid presentation and was thoroughly informed on the matter. He is a man of extraordinary ability and has charge of the pension system for the Eastman Kodak Co. It is my impression that he is thoroughly satisfied with this provision as written now. He appeared before us when the bill was being considered in executive session by the Finance Committee.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. HARRISON. I yield.

Mr. CLARK. So far as Mr. Folsom is concerned, the Senator will recall that in the executive session of the Finance Committee, when this proposition was under discussion, the statement was made by Mr. Murray W. Latimer that Mr. Folsom did not approve this amendment, and I have here a communication from Mr. Folsom in which he says that Mr. Latimer was not authorized in any way to say that.

Mr. HARRISON. Mr. President, I am not in a combative mood or of such disposition at all. I am in the most amiable spirit in the world. My greatest desire is to try to finish the debate on the bill this afternoon and send the bill to conference; so I admit, if the Senator makes the statement, that it is so. I have been led to believe that he is satisfied with it. Mr. Latimer, who is one of the great experts on this legislation, appeared before the committee and, if I correctly recall his testimony, he said he met with the representatives of nine of the biggest industrial institutions of the country, which had inaugurated and carried on for many years these private pension plans, and he said that of the 9 representatives present 5 of them thought it was better for these corporations to come under the Government's pension plan.

Let us see now why some believe that it is better to have one system than for business institutions to continue their individual pension systems and not participate in the proposed plan. It was pointed out by the distinguished Senator from Delaware [Mr. HASTINGS] the other day that there is favored treatment accorded to those in the old, ripe years over those of younger years. We admit that. It is just so. It cannot be otherwise. They have worked many years in comparison with the short period they will be under the proposed annuity system, and consequently we give them proportionately more for the time they are in the system than we do younger men.

Then some of us believe that in a great crisis such as the present, with problems such as now face us, that favored treatment should be given to help to bear the burdens of the older worker. However, that was the Senator's criticism of the bill. When he compared the benefits and burdens imposed by this measure, he found that the old received larger benefits compared to burdens. If these private institutions are permitted to carry on their private pension plan, there is nothing in the amendment of the Senator from Missouri [Mr. CLARK] which prevents them from doing what they please in the matter of discharging men when they reach a certain age, because of the heavy obligations which are imposed upon the private industrial institutions, and take on in their places younger men, because the younger the men are the less heavy are the obligations.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. HARRISON. I yield.

Mr. CLARK. Is there anything in the bill as it now stands which prevents an industrial company from laying off men when they reach a certain age?

Mr. HARRISON. Yes.

Mr. CLARK. What is in the bill that prevents that, which is not in the amendment?

Mr. HARRISON. Of course, they can fire them if they want to, so far as direct provisions of either bill or amendment is concerned.

Mr. CLARK. In other words the same situation exactly exists under the bill as it is proposed which will exist under the bill with the amendment in it, is that not correct? Is that not precisely the situation?

Mr. HARRISON. There is nothing in the bill which compels an institution to keep somebody on, but there is a provision that if a man has worked a number of years, or has reached a certain age, or he dies, that he or his heirs shall get a certain fixed payment.

Mr. BLACK. Mr. President, will the Senator yield?

Mr. HARRISON. I yield.

Mr. BLACK. It does not have to be in the law, it seems to me, for the reason that if the company buys a private annuity for all of its men it would certainly be able to buy it much cheaper if it were to employ men from 21 to 25 than it could if it kept men from 50 to 65 years of age.

Mr. HARRISON. Absolutely.

Mr. BLACK. So there is the strongest inducement in the world for them to endeavor to get the insurance the cheapest way possible, and you would find them competing to get cheaper rates of private insurance by employing younger men, if they were permitted to discharge their older employees.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. HARRISON. I yield.

Mr. CLARK. If the Senator from Alabama will take the trouble to read the amendment he will find a specific provision in the amendment that the employer under private practice shall pay into the private-pension plan not less than the amount of the tax. So that his argument of there being an incentive to employ younger men absolutely falls down. If it be true that by employing younger men he is able to get his insurance cheaper, then by reason of the fact that he must pay in at least the amount of the tax he can simply get more annuity for the employees.

Mr. HARRISON. The Senator at one place in his amendment provides:

> Except that if any such employee withdraws from the plan before he attains the age of 65, or if the Board withdraws its approval of the plan, the service performed while the employee was under such plan as approved shall be construed to be employment as defined in this subsection.

In other words, if there is a private industrial institution with a private pension system, and it should go bankrupt just before an employee became 65 years of age, or entitled to the pension, the responsibility would be placed on the Government, and it would have to pay the pension and not the private institution, because there would be nothing left of that institution. There is another provision in the amendment which says that he can receive back the amount he paid in——

Mr. CLARK. Plus 3 percent interest; exactly what he would get under the Government system.

Mr. HARRISON. Yes. There is this about that. The amount he pays in amounts to 3½ percent of his wages, payable in the case of death to the estate. What the employer paid in thus goes into the Federal Treasury of the United States, if the employee is in the Federal system, and is lost to the Treasury if the employer has a private system. The older man would naturally be left in the Federal system, and funds from general taxation paying benefits under the Senator's amendment.

However, aside from all the analysis which we might go on with here, which I was hopeful we might avoid, the simple question, Members of the Senate, is this: We did not adopt this amendment which was offered in the committee because, first, we thought it might be an encouragement to private institutions to stay out of the system, weakening the Federal plan and giving a leverage to private institutions to discharge their employees when they had reached a certain age, and to take on younger men, or that same institution would go out and take Federal insurance under this plan to the number of its older men, but as to the younger men

they would carry private insurance, because the burden would not be so great in one case as in the other case; and, secondly, some of us believed that it would add to the doubtfulness of the constitutionality of this bill. Of course, I do not know, and no one else can know what the Supreme Court will hold.

Mr. CLARK rose.

Mr. HARRISON. I will yield to the Senator in a moment. I had not completed my sentence. I can talk so much better when the Senator is sitting down. No one in the world can tell what law is going to be held unconstitutional until it is passed on by the Supreme Court. I am not criticizing the Supreme Court. They have their functions to perform and we have our functions to perform; but I might say incidentally that when the question comes up before the Senate of two-thirds of the Justices passing on the unconstitutionality of congressional legislation I am going to support that proposed amendment to the Constitution of the United States.

Mr. LONG. Mr. President, what is that? What did the Senator say?

Mr. HARRISON. It is not worth repeating to the Senator. [Laughter in the galleries.] I do not suppose that the Senator agrees with me.

In the Child Labor case the Supreme Court did declare that act unconstitutional. They declared it unconstitutional when Congress levied a tax upon products made by child labor, or by those under a certain age, which entered into interstate commerce.

Here the measure presents a uniform system of old-age benefits. The taxing features of the bill are entirely separate from other provisions. These taxing provisions are to raise revenue which, it is believed, will roughly equal anticipated appropriations for unemployment insurance and a system of annuities. Whether that will have any influence on the Supreme Court I do not know, but it was drafted by some very fine experts, and the tax features are over here in a part by themselves, so far as the constructive features of this legislation are concerned.

Mr. CONNALLY. Mr. President, will the Senator yield?

Mr. HARRISON. I yield.

Mr. CONNALLY. It will not have any effect on the court unless the Senator talks about it.

Mr. HARRISON. The experts drafted it, and it is there, and we hope that it will have its influence and its bearing. However, if this amendment were adopted, it would seem to me that it would make the measure more doubtful than otherwise, because with this you are imposing a tax and trying to compel people to set up unemployment plans, because you say to them, "If you do not go into a private insurance plan, we are going to tax you." That might be held analogous to the Child Labor case.

Mr. COSTIGAN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Mississippi yield to the Senator from Colorado?

Mr. HARRISON. I promised to yield to the Senator from Missouri [Mr. CLARK] first.

Mr. CLARK. I do not desire to disturb the Senator's train of thought, because he has left the subject upon which he was talking at the time I tried to get him to yield.

I should like to get the Senator to explain merely wherein his statement is correct that under this amendment as it now stands there could possibly be any advantage to an employer financially in staying under a private plan and being under the Government plan, assuming that he employed younger men, if he has to pay the amount of tax, anyway, plus a further amount?

Mr. HARRISON. Let us take the provisions with reference to the proposal in the bill as recommended by the committee:

All industrial employers pay the tax imposed, and annually appropriations are made to the reserve fund to be invested; a large reserve is to be built up through their investment, by the purchase of Government bonds, and so on. The purpose is to give strength to the fund and assurance that when employees shall reach 65 they will get the payments due them, and when they shall pass off the stage of life their estates will receive the money to which the worker was entitled. But if an industry sets up a private plan under the amendment it is separate and apart; the board to be created will not be authorized to investigate, for instance, what reserve the private institution may have.

Mr. CLARK. The board has to approve the plan.

Mr. HARRISON. Oh, yes; the board has to approve the plan when the application is first made, but there is nothing in the amendment with reference to the board following through to determine whether or not the reserves may be dissipated, or what may become of them, of what the financial status of the industrial corporation is; and, consequently, after men have paid into this private fund for years and years, if the institution becomes bankrupt, they may lose their all.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. HARRISON. I yield.

Mr. CLARK. It is perfectly apparent the Senator has not read the amendment, because in paragraphs (c) and (d), page 3, it is specifically provided:

(c) The Board shall have the right to call for such reports from the employer and to make such inspections of his records as will satisfy it that the requirements of subsection (b) are being met, and to make such regulations as will facilitate the operation of such private annuity plans in conformity with such requirements.

(d) The Board shall withdraw its approval of any such plan upon the request of the employer, or if it finds that the plan or any action taken thereunder fails to meet the requirements of subsection (b).

So the board has the authority to follow up the operation of the private plan, and it is the duty of the board to do so, though I do not concur in your conclusion, but conceding it for the moment.

Mr. HARRISON. If the board should withdraw its approval of the plan, and the fund has been dissipated, or there is not sufficient reserve to meet the demands upon the fund, or the plan is discarded, then what is going to happen to the poor individual who has been paying into the fund for many years and who is shortly about to reach the age limit?

Mr. CLARK. The reserves will largely be invested under supervision of the board and under such regulations as the board may make.

Mr. HARRISON. The amendment does not say "under the supervision of the board."

Mr. CLARK. Let me read the Senator the provision:

The contributions of the employee and the employer shall be deposited with a life-insurance company, an annuity organization, or a trustee, approved by the Board.

Mr. HARRISON. Yes; but it does not say anything about continuing supervision, as I understand. Then a concern makes application for the approval of a particular plan the board has authority to approve it, but it has no jurisdiction, as I understand, to follow through with subsequent investigation and with general supervision and control of the funds of the private institution.

Mr. CLARK. Subsection 3 clearly gives the board that authority.

Mr. COSTIGAN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Mississippi yield to the Senator from Colorado?

Mr. HARRISON. I yield.

Mr. COSTIGAN. Mr. President, with his usual force and ability, the Senator from Mississippi has stated the reasons for rejecting this amendment. May I ask the Senator whether it is not true that the experts who have continuously counseled the committee with respect to this proposed legislation believe that this amendment threatens the welfare of the older workers and is calculated to impair the integrity and efficiency of the bill?

Mr. HARRISON. As I have suggested, I was led to believe in this proposal when it was first advanced, but later I became thoroughly convinced that it might be used to the disadvantage of the older men in favor of the younger men; that it might affect greatly the system we are trying to put into operation; that it also might affect the constitu-

tionality of the measure; and that is why, as one member of the committee, I did not support it.

Mr. BARKLEY. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Mississippi yield to the Senator from Kentucky?

Mr. HARRISON. I yield.

Mr. BARKLEY. The point has not been raised, as I recall, but it seems to me that this amendment may endanger the constitutionality of the proposed act on another ground. The Constitution provides that:

> All duties, imposts, and excises shall be uniform throughout the United States.

Of course, that does not mean that Congress has to levy the same kind of tax on everybody in the United States; Congress has the power to classify the people for the purpose of taxation; but within that class the tax must be uniform. How can the Congress establish a class in order to bring about uniformity of taxation and then lift individuals or groups out of that class and say, "You shall not be subject to the tax provided you have a private institution of your own", without endangering the constitutionality of the tax on the ground of the lack of uniformity?

Mr. HARRISON. I agree with the Senator. I hope the Senate will not adopt the amendment and that it will be rejected.

Mr. SHIPSTEAD. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Mississippi yield to the Senator from Minnesota?

Mr. HARRISON. I yield to the Senator.

Mr. SHIPSTEAD. It seems to me there is a question of policy involved here. I have had, in recent years, complaints from people who supposed they were the beneficiaries of private retirement systems but who found that the reserve funds invested to carry on the retirement plan had been so badly invested that when the time came for them to receive the benefits which were anticipated, and which they expected to receive annually, the condition of the fund was such that the amount received by them, in many cases, was very little. Others have complained that they have been discharged from the service a year before the date for their retirement without, at least so they claim, any just cause. I wonder if the committee has considered the injustices and the disappointments which in many cases have come to those who are supposed to be beneficiaries of private pension systems.

Mr. HARRISON. That, as I have stated, was among the reasons that caused some of us to oppose the adoption of such an amendment as is now pending. There is nothing in this proposed legislation that will prevent private institutions from carrying on their pension systems just as they have carried them on in the past. They can do that if they so desire. There is no reason in the world because of the adoption of this measure for any person who has an interest in such a private fund and who has been a participant in a private pension system losing it. He will have all his equities and all his rights just the same. If a private pension system is, as some have pointed out, better than the Government's plan, those supporting it will have a perfect right, so far as this legislation is concerned, to carry it on as they have done in the past. If some big-hearted industry has been doing that, it can continue to do it just the same. Of course, it will have to pay the tax that is required under the proposed law, but it may add that to the benefits of its employees.

Mr. President, it was stated by the Senator from Georgia that we are trying to centralize administration of the system here in Washington. I do not think he was talking about me, but he was talking about some who have had something to do with the framing of this proposed legislation. It must be recalled that when this proposal was first made to the Senate Finance Committee it gave much more power to officials in Washington, so far as pensions were concerned. The authorities here were to pass on State plans with respect to amount of pensions, who should get pensions, and so forth. They were, in many respects, to pass on standards of my State, such as those specifying who is a needy individual and how much he is to obtain; but we subsequently effected a complete change.

I know it was the opinion of the Committee on Finance that the whole order should be changed and that the authority should be vested in the States. The House acted first; they completely rewrote the bill, and they left it to the States to say who should get a pension. The Finance Committee put in only the limitations that the Federal Government would contribute pensions to needy aged individuals. The $15 per month Federal contribution does not limit the pension to $30. The State may go up higher than that if it so desires. The measure also provides that the age should be 65 years, with the exception that up to 1940 the State, if it chooses, may fix the age at 70. So the measure is not one which centralizes everything in Washington, but it is to be left largely to the States to determine how to expend this money.

Of course, the Federal annuity the proposed amendment affects is wholly a Federal matter and naturally is administered in Washington, but this is only one of the many phases of the bill.

Mr. LONG. Mr. President, will the Senator yield?

Mr. HARRISON. I yield to the Senator from Louisiana.

Mr. LONG. I notice the Senator is of the opinion that the administration is to be left to the States. I call his attention to the fact, however, that the board in Washington can judge that the State has failed to comply with the general outline or the specific plan and can thereby eliminate the State from receiving a contribution. In other words, whenever the board takes a notion it can cut off the State.

Mr. HARRISON. No; the Senator is mistaken about that.

Mr. LONG. Let the Senator look on page 6.

Mr. HARRISON. We lay down the conditions——

Mr. LONG. But the bill lets the board be the judge.

Mr. HARRISON. And we leave to the States to say who shall be the persons selected to receive the Federal assistance.

Mr. LONG. But the Senator does not catch my point.

Mr. HARRISON. Of course, reports must be made to Washington.

Mr. LONG. Not only that, but the board is the sole judge as to whether or not the act is being properly carried out by the States. The board is the sole judge of the facts and of the law, and it can say, "Under the law and the facts we have decided that the State of Mississippi is not complying with this law, and therefore it will receive no more help from the Federal Government for pensions." Furthermore, not even an appeal to the courts has been provided. The board can cut the States off if it wants to, and my experience has always been that when boards are made judges of the facts and the law they fit the law and the facts to whatever they want to do.

Mr. HARRISON. Of course, the States have to make reports to Washington, and they should make reports to Washington. The Federal Government will be expending millions of dollars, and some agency of the Federal Government should know about the expenditure and should have reports. We do that with reference to the Federal aid for roads, for which purpose we appropriate millions of dollars; naturally, reports have to be made and some supervision provided. But the bill gives the maximum amount of jurisdiction and authority and power and discretion to the States with reference to the aid granted for old-age pensions, and with reference also, I may say, to unemployment insurance and provision for child welfare, and so forth. When this bill was first proposed to our committee it provided what kind of plan of unemployment insurance there should be. We broadened it so that the State itself may adopt unemployment insurance providing for pooled funds, separate accounts, or a combination of these plans.

Mr. LONG. Mr. President, I want to say to the Senator that if the board should decide that the States are discriminating among the people to whom they are giving pensions, if the board should decide the States are giving to the nonneedy and leaving out the needy, if the board should

decide that any of the sections of the bill are not being carried out in spirit or in letter, the board could cut off any State if it should want to cut it off. A blind man can see that if he knows what has happened in similar cases. He would know they could cut off whom they wanted to. The facts are always there, as Frederick the Great had them, as I was telling, and there are always professors in universities to explain the reason they have for cutting them off.

Mr. HARRISON. Mr. President, I think I have said all I desire to say.

Mr. WAGNER. Mr. President, I do not desire to extend this discussion unduly. I only wish to call the attention of the Senate to a few considerations that make me very apprehensive about the pending amendment. One of our great industrial problems—and I think most Senators who have given any thought to the subject realize it—has been the preservation of employment opportunities for older men, men above 40 years of age. We have heard time and time again that industry refuses to employ these men. In spite of what the Senator from Missouri [Mr. CLARK] said, surveys which have been made time after time show that private pension plans tend to discourage the employment of older men.

The bill now pending would do away with the incentive to get rid of the older workers, because the contributions of the employer and the employee will be the same whether the man employed is 55 years of age or 30. There will be no financial advantage to be derived merely by the employment of younger men.

To show that there has been discrimination in the past I cite the fact, that of all the employees who have been entitled to draw pensions from industry under voluntary pension systems, only 4 percent of them are actually drawing any benefits. Men are rarely employed until they reach the age where they would be entitled to a pension. The amendment of the Senator from Missouri would tend to perpetuate this evil. It would create an incentive to the discharge of older workers that many employers could not resist.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. WAGNER. I yield.

Mr. CLARK. Will the Senator be kind enough to explain wherein that danger lies?

Mr. WAGNER. Yes; I shall try to do so. Under the bill as now drawn the older men of today will receive an annuity which is greater than they will have actually earned. The theory is that the younger men and the employees who are contributing to the fund will make up that difference by contributing over a longer period of time; otherwise the system would, of course, become bankrupt.

Industries are going to try to make this plan as inexpensive to themselves as possible. If they employ older men, they will have to use part of the funds contributed by the younger men to pay the annuities to the older men. The chances are that the employer himself will have to make up a substantial part of the difference.

Mr. CLARK. Mr. President, will the Senator yield further?

The PRESIDING OFFICER. Does the Senator from New York yield further to the Senator from Missouri?

Mr. WAGNER. I yield.

Mr. CLARK. If under the amendment the employer is required to pay into the private fund not less than the amount of the taxes he would have to pay if he were paying into the Government fund, where can there be any advantage in the way the Senator has indicated?

Mr. WAGNER. If he has a greater number of older men than of younger men, his fund is bound to become bankrupt; because, as I said, when the older man of today retires he will get an annuity far larger than he has actually earned. Somebody has to make up that difference. If there is a large pooling system, however, to which the younger men and the employers throughout the country contribute, there will be ample funds to make up the difference.

Mr. CLARK. Under the amendment the employee cannot possibly get less than he would get under the Government system. The employer cannot contribute less than he would contribute if he were under the Government system.

Mr. WAGNER. But the employer will say that he will not employ older men. He does not want the problem of having to pay his employees more than they have actually earned. It is very clear to me, although I may not have made it very clear to the Senator from Missouri.

Mr. CLARK. The Senator certainly has not.

Mr. CONNALLY. Mr. President——

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from Texas?

Mr. WAGNER. I yield.

Mr. CONNALLY. I suppose it has already been pointed out, but the chief objection to the amendment is that it will interfere with any wide-spread general plan. All the prosperous businesses will build up their own little plan, thinking they can save money by it, and there will be left only the little wabbling, crippled corporations to participate in the Government plan. It seems to me the plan ought to be universal in its application.

Mr. WAGNER. That is the only way to make it work successfully.

Mr. CONNALLY. If we have the same standard throughout all industry, then no one will have any advantage over anybody else in industry.

Mr. WAGNER. That is the idea of any pooling system.

Mr. CLARK. Mr. President, will the Senator yield further?

Mr. WAGNER. I yield.

Mr. CLARK. The same rule would apply under section 909, where provision is made for a lesser tax based on experience.

Mr. WAGNER. That may be, but there is no question of a national pooling system there. Each State has its own system. Under the bill it may be a pooling system, or it may not be A State may enact a law permitting private industries to carry their own unemployment insurance funds. That has no bearing here.

Mr. GEORGE. Mr. President, may I ask the Senator a question?

Mr. WAGNER. I yield to the Senator from Georgia.

Mr. GEORGE. If it is absolutely necessary to have a uniform and universal system, why is it the Senator has excepted some existing systems?

Mr. WAGNER. I meant universal within a class.

Mr. GEORGE. Why so? Why say "class"?

Mr. WAGNER. We must have a pooling system, insofar as those with whom we deal are concerned. We need not include in the pool classes excluded from the bill.

Mr. GEORGE. The chairman of the committee stated a little while ago that the national banking system, which had its own pension plan, would be under the Government system, while the State banking system, which is not under control of the Federal Government, would be outside the Government plan.

Mr. WAGNER. A number of States have pooling systems for workmen's compensation. The State of Washington has one that has been sustained by the Supreme Court, the Court saying that some of the better and more prosperous employers could be compelled to bear part of the cost of those who had a more unfavorable experience. That is the whole theory of a pooling system. Any actuary, I am sure, would be able to persuade the Senator that it would pay an employer operating a private pension system to eliminate entirely the risks arising from employing the older men.

Mr. LONG. Mr. President, will the Senator yield?

Mr. WAGNER. I yield.

Mr. LONG. We have not outlawed it in this bill, and that is the point which the Senator from Georgia and the Senator from Missouri were making.

Mr. WAGNER. The Senator was talking about another matter altogether. He was talking about unemployment insurance. We do not attempt to deal with that on a national scale. Each State will be free to determine under what system it desires to pay unemployment insurance. That has no connection here.

There is another consideration that we have not said very much about, and I wish to invite the attention of the Senator from Missouri to it. Our country has a tremendous industrial turn-over. Suppose, to be very moderate indeed, that in the industries which adopt this system a million men are the annual turn-over.

In each individual case when a job is vacated, either voluntarily or through discharge, the board would be required to determine what amount should be paid by the employer into the Federal fund on behalf of the particular worker, or if the employee died in service the board would have to examine whether his estate received its full due. Such circumstances would require in each instance a separate investigation. How will it be possible to conduct a million investigations per year just to ascertain these facts? It would certainly be unfair not to investigate them, because some of these plans may be run loosely, and may not afford the individual worker the protection to which he is entitled.

Mr. CLARK. Mr. President——

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from Missouri?

Mr. WAGNER. I do.

Mr. CLARK. If any private plan were loosely run, it would be directly chargeable to the holy social security board set up by the Senator himself in this measure, because they are specifically charged with the responsibility of seeing that these plans are not loosely run; and since we are giving them practically powers of life and death over the population of the United States anyway, it does not seem to me too much to require that they should see that these private plans are not loosely run.

Mr. WAGNER. Even though they may not be loosely run, certainly the worker should have some assurance that he is getting all that he is entitled to get. He is not an actuary. He is not a mathematician. He is just a plain worker. He does not know whether or not he is getting the proper sum, and he is entitled to Government protection.

We had a persuasive experience upon an analogous matter in New York State. For a period of time after the workmen's compensation law was enacted—and I was largely responsible for the liberal provisions of that law—we permitted insurance companies to make private settlements with workers when they were injured. We thought that no abuses would occur, and that a proper determination would be made of the injury which a man received and of the amount of compensation to which he was entitled under the law. But very soon abuses came to the attention of the authorities. Officials and investigators themselves were frequently at fault. Wanting to make good records, they paid, for the loss of a leg, perhaps, the price of the loss of a finger. The poor worker did not know the difference. He did not know what he was entitled to, so he signed a release. The system was in existence for only about a year when the abuses were called to the attention of the legislature, and we changed the law so that the approval of the authorities must be had in each case before payment was permitted to be made.

These millions of workers, when they leave one employment and go into another, are entitled to protection, and where can enough inspectors be obtained to make investigations and report every case? I think that, as a pure matter of administration, the amendment of the Senator from Missouri is an impossibility.

Besides, of course, as the Senator from Mississippi [Mr. HARRISON] has pointed out, there would be no public control over the administration of the private funds of companies. A man could not be sent in every week or every month to make an investigation as to how the funds were being administered. I do not say that there would be so very many abuses; but the worker must be protected in every case.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. WAGNER. I yield to the Senator from Missouri.

Mr. CLARK. How does the Senator construe subsection (c) on page 3 if he says the board has no right to make inspections and follow up these matters? The subsection provides for that as specifically as the legislative drafting service was able to make it do so.

Mr. WAGNER. I am addressing myself more to the physical impossibility of doing it. I should like to agree with the Senator on his plan. I know that most of the private companies wish to be fair to their employees, but, at the same time, they all feel that they owe an obligation to their stockholders, and they are going to conduct these funds with as little expense as possible.

Mr. HARRISON. Mr. President——

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from Mississippi?

Mr. WAGNER. I do.

Mr. HARRISON. I was about to ask the Senator a question, but I wished to have the Senator from Missouri hear it in the hope that it might appeal to him.

This part of the bill is to go into effect in 1937, 2 years from now. Am I right in that statement?

Mr. WAGNER. Yes.

Mr. HARRISON. If we could pass the bill in this form we should have 2 years in which to study the question of amending the law and working out the safeguards that might be absolutely needed in the way of supervision, inspection, and all those things. We could study this particular proposal further, and we should have 2 years in which to make the study.

Mr. WAGNER. Yes; that may very well be.

Mr. HARRISON. I hope the Senator from Missouri will acquiesce in taking that course.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. WAGNER. I yield.

Mr. CLARK. The Senator's argument answers itself. If the amendment should be accepted, and any hardship were to develop, it would always be possible to amend the act and cut out the exemption. The Senator's proposal is to wipe out these private pension systems, and then, if we find that we have done a wrong, to try to cure the wrong by amendment.

Mr. WAGNER. I know the Senator will not agree with me on that point; but I am firmly convinced that if this amendment were adopted we should find the Government holding the bag for the older men who are entitled to consideration, while the industries would take care only of the younger men who earned every bit of annuity they received. That is the danger; and in connection with this very remarkable step forward in taking care of the aged members of the community, I do not think we ought to risk, even in the slightest degree, an amendment of this character.

Mr. CLARK. Mr. President, will the Senator yield one moment more?

Mr. WAGNER. Yes.

Mr. CLARK. A while ago I referred to the plan in effect in the Socony-Vacuum Co., which gives to its employees certain very outstanding advantages above the Government plan. I am just in receipt of a telegram from Mr. Guth, of the Socony-Vacuum Co., which it seems to me answers the Senator's argument. He says:

> The average age of our company's 42,000 employees in the United States—
>
> Who receive these benefits, voluntarily given—
>
> is over 40.

Mr. WAGNER. Yes; they have a particularly good record. There is no doubt about that. There are some companies which undoubtedly would administer this privilege in a way that would be of great advantage to the worker. The difficulty is that we cannot make exceptions that would let in a lot of abuses. The Senator happened to mention one company which has had an excellent system; but there are many bad ones. In addition, this bill does not abolish any system. If any employer desires to give to his employees an advantage in addition to that which is given under this bill, he is at liberty to do so. He can supplement our efforts; and let me say that I am sure that the company whose name the Senator has just read will do so—and many other companies will.

Mr. CLARK. The Senator means to say, if he will permit me, that a company may have two systems going at the same time if it desires. In other words, they are not permitted to have one system which will grant to the employees very distinct advantages, but they must go to the trouble of having two separate and distinct systems.

Mr. WAGNER. I have given the reasons why I think the amendment is dangerous. I am apprehensive of its effect upon this legislation; and the experts—who, after all, have given study and thought to this subject for a long while—all agree that this amendment is devastating to the object of the legislation.

I do not wish to make a long constitutional argument upon this question, because apparently I talked to deaf ears the other day. I tried, in my introductory address in the Senate, to cover the question and to advance the reasons why I believe that the measure is constitutional. Of course, as the Senator from Mississippi has said, all these matters ultimately will be determined by the United States Supreme Court, and we can only base our predictions upon what the Court heretofore has done.

The first question raised by the Senator from Georgia was whether the legislation embodies a public purpose. I thought we had reached the stage where we accepted this as a legal truism; that the prevention of destitution in old age and taking care of our old people who have spent their lifetimes in creating the wealth of the country, are certainly public purposes. We have so recognized by prior legislative acts. We have made appropriations to take care of many people, not only the old, but also the young who are on the point of starvation.

Mr. GEORGE. Mr. President, I am not quarreling with that.

Mr. WAGNER. I understood that the Senator was.

Mr. GEORGE. Oh, no; I am not. I do not see how the Senator could have misunderstood my statement.

Mr. WAGNER. The Senator did say, as he will see if he will look back in the RECORD, that there is a question as to whether this bill embraces a public purpose.

Mr. GEORGE. Yes.

Mr. WAGNER. And I asked the Senator a question about some of the State pension laws, which certainly are based upon the theory of a public purpose.

Mr. GEORGE. It is one thing to care for the aged and the infirm out of general appropriations. It is one thing to provide general relief. It is quite a different thing, when we have a specific bill which, in my judgment, may be open to that attack, from saying that Congress has not general power for that purpose.

Mr. WAGNER. Then there is still a doubt in the Senator's mind as to whether our classification is rational and not arbitrary. Time and time again Congress has made classifications, and so long as they have been reasonable, the courts have never interfered. In many States laws which have been upheld by the courts have provided that no pension shall be paid until one is 65 years of age. That discriminates against younger men who, perhaps, would like to retire; but it is a classification which is fair and reasonable.

I am sure we all agree that one of the fundamental purposes of government is to give security to its people; and I do not think any greater contribution could be made to the happiness of our people than to give them security in old age. So I think that, so far as the question of a public purpose is concerned, there will not be much dispute.

The second question which the Senator from Georgia has raised is that the taxing power is here used indirectly to provide a social advantage or a pension for a certain class of persons.

It is argued that we cannot use the taxing power for these other purposes. Unfortunately for the argument, the courts say that we can. Long ago, when Congress passed a law taxing State bank notes, not only the ostensible reason but the conceded reason for the legislation was to drive them out of circulation. As a matter of fact, I do not think a dollar was ever collected under the imposition of that tax, but it did accomplish the purpose of destroying the notes. That act went to the Court, and the argument was made: "This measure is really not a taxing measure. The purpose of it is to drive the notes out of circulation." The Court said: "It is a proper exercise of the taxing power of Congress, and if it serves some other purpose, that does not affect its constitutionality."

The same thing is true of the Narcotic Act. That act was passed not so very long ago, in the form of a tax measure, but other purposes were tied in with it, among them a health purpose. The act was attacked upon the ground that the tax was a mere pretext. The Court declined to consider that objection, and said:

> An act may not be declared unconstitutional because its effect may be to accomplish another purpose as well as the raising of revenue.

Then there is the oleomargarine case. And while the question has not yet been passed upon by the Supreme Court, the circuit courts of appeals have upheld the processing tax, although the act embodying it concededly has objectives other than the levying of a tax.

The final question which the Senator from Georgia has raised is that we are only calling upon a certain class of our citizens to pay the tax, which goes into the Federal Treasury, and in time will be used in part to finance the payment of pensions.

I think that is a fair classification. I think it can be justified easily, because the employer gets a special benefit from the pension law. Of course, the public generally is benefited by the prevention of destitution; but specifically the employer is benefited, because it is now a recognized fact that more security to the worker improves his efficiency.

In New York State we had experience along that line after the workmen's compensation law was enacted. A survey was made 3 or 4 years later; and it was shown that, excluding the question of new labor-saving machinery, the productivity per worker actually increased, although at the same time hours were shortened. As I have said, experience has very definitely shown, and I do not think anyone will contradict me on this, that in affording the employee better conditions of life, better sanitary conditions, and security in old age, the employer makes a happy and contented worker and thus increases his productivity. Therefore, it seems to me that the classification is perfectly fair, since employers will get benefits greater than the benefits which the common run of citizens will receive.

I think these are the questions which the Senator raised. I know the Senator did not contend that the proposed act would be unconstitutional; he merely indicated his grave doubts about it. On the contrary, I feel very confident that the proposed legislation will run the gantlet of the courts; and of course it has the approval of the overwhelming sentiment of the country.

Mr. TYDINGS. Mr. President, I do not wish to say anything about the merits of the bill or to discuss its constitutionality, but I rise to support the amendment offered by the Senator from Missouri [Mr. CLARK]. About 2 weeks ago I offered a similar amendment, which the committee considered. I am advised by the members of the committee that they were very sympathetic to the exemption contained in the amendment of the Senator from Missouri, as well as the amendment proposed by me.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. TYDINGS. I yield.

Mr. CLARK. I stated a while ago, during the absence of the Senator, that my amendment was lost only on a tie vote when there was a very slim attendance of the committee, when a quorum of the committee was not actually present; in other words, lost on a vote of 5 to 5 in the committee. There were a great many more experts present than members of the committee.

Mr. TYDINGS. I understand those who voted against the amendment voted in that way because they thought that with the exemption in the bill it would make the bill unconstitutional.

I wish to speak primarily of the merits of the amendment offered by the Senator from Missouri. Long before this

matter was agitated by the States or by the National Government, some forward-looking concerns, having the interests of the workingman at heart, and realizing that a contented worker was a good investment, set up insurance plans, particularly old-age and retirement plans.

In my State there are any number of such plans which are working efficiently. The United Railways, in Baltimore City, having about 4,000 employees, has such a system, and I have learned from the lips of the employees themselves that it works splendidly, and they would prefer, at least for the present, to have the company insurance feature retained, rather than to have a Federal law enacted. Probably later on if the national law turns out as its authors think it will, they may want to abandon their own scheme and come in under the national scheme, but for the time being they have confidence in the insurance plan set up by the United Railways of Baltimore. There are a number of other plants, employing thousands of people, which have similar old-age-retirement set-ups to take care of those who would be taken care of by the Federal Government under the proposed law.

As a matter of policy, is it wise to wipe out in one fell swoop these successful insurance set-ups, and substitute one that is only on trial, to say the least? Would it not be better to exempt them for the time being, and then, if we find the Government plan to be a success, as everyone hopes it will be, to legislate again later on? That is what the employees in the concerns themselves want, and I can see no harm, certainly at this juncture, in making an exemption in this case, so that where there is contentment, and where the employee finds that he is protected against the vicissitudes of old age to his own satisfaction, that scheme may be kept in existence until the proposed plan can demonstrate its good fruits.

Mr. President, that is basically what the amendment of the Senator from Missouri would do. It would not change the philosophy of the bill. It provides only that where, after a review, it is felt that the agency in the private system is comparable with the set-up proposed on the part of the Federal Government, it shall receive a certificate of exemption from the provisions of the proposed act. What harm could be done? As I understand, the agency certified must be as good as the agency proposed to be set up by the Federal Government in order to get the exemption certificate. It may be better.

Some of these annuity systems have been built up for 25 or 30 years. Fortunately, where physical examination is an incident to employment, and where there is little drain on the fund, the amount of money built up in reserve far exceeds that which would be built up in the ordinary run of labor employment. Therefore, what earthly harm can there be, until the proposed act shall have been tried out, in letting the concerns to which I have referred, which are already doing what the Federal Government would do, retain their own systems, until the Federal system shall have been promulgated and placed in full operation?

If it turns out that private systems of any business organizations are falling below the standard which the Government wants established, we can legislate at a later date and say, "You are not doing as well as the Federal Government is requiring other concerns to do, and therefore we will have to legislate you out of business."

Certainly at this juncture, when the plans referred to are the only voluntary old-age-insurance schemes in existence; and since they are satisfactory to both employer and employee, it seems to me that the weight of logic is that for the present we should make an exemption; and if subsequent events prove it to be unwise we can correct it.

Let us consider the other alternative. Suppose we do not allow this exemption; suppose we wipe out all these benefits; all these annuity funds which have been created; and we find that our scheme is not working as well as the private schemes are working at this moment; that for some unexpected reason the lack of taxes, a new depression, or for any other reason the Federal scheme becomes impracticable. We would have wiped out all the insurance systems in the meantime, and we could not go back then and reestablish them. Their reserves would have been liquidated, and concerns would have been disorganized, insofar as the insurance features were concerned, and we would have many people, perhaps, on the relief rolls, whereas if we had made this exemption the companies themselves could have taken charge of them.

I do not believe the Federal Government ought to discourage legitimate business in trying to cooperate with labor for the best interests of labor in providing a retirement fund when the laborer shall have reached the age of 65 years and has rendered efficient service.

Mr. CONNALLY. Mr. President, will the Senator yield?

Mr. TYDINGS. I yield.

Mr. CONNALLY. Would not the argument of the Senator be met, however, by limiting this amendment to systems already in existence? The amendment of the Senator from Missouri invites the establishment of new systems for the purpose of avoiding the requirements of the Federal plan.

Mr. TYDINGS. I personally should like to see the exemption as the Senator from Missouri has it in his amendment; but I should be satisfied, I may say to the Senator from Texas, if the amendment were restricted to apply only to concerns now having such systems in existence.

Mr. CONNALLY. After the establishment of the Federal system there is no reason why everybody should not come in, except for the temptation to devise a system by which employers might think they could save money.

Mr. TYDINGS. If the Senator from Missouri were to restrict his amendment, I should not object to it at all. My concern at this time is bottomed primarily on the fact that where these agencies are already in existence, and they are doing as good a job as the Federal Government expects to do, or in some cases a better job, and it is desired that they remain in existence until the Federal law can be promulgated and proven, they are well within their rights in saying, "We did this 25 or 30 years before the proposal ever came to Congress; our plan is a success; it is as good as the plan which the Federal Government itself intends to set up, or better, and we ask only that for the time being we be given an exemption."

What harm can be done by giving such an exemption? The private agency must be doing as good a job as the Government expects to do in order to get its exemption certificate. If the private system were inferior to that which the Federal Government would set up, it would be a different proposition; but where they are already carrying out not only the intent but the substance of the law, and have been doing so for 25 or 30 years, and when we have been urging employers to do this very thing, it strikes me it would be discouraging to industry and to employees alike to have that effort wiped out in one fell swoop.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. TYDINGS. I yield.

Mr. CLARK. I should like to invite the attention of the Senator from Maryland, and the Senate, to the fact that the Federal Government itself is exempted under the provisions of this bill. It is the largest employer in the country, and it is exempted. I should blush, I am sure every Member of the Senate would blush, if he thought the Federal Government was requiring from industry or from other employers advantages which it was not willing to grant to its own employees. The Federal Government is exempting itself under the operations of this bill for the reason that we have already in effect a better retirement and annuity plan than is provided in this bill for general labor.

Certain religious bodies, notably the Presbyterian Church, are exempted under the provisions of this bill by reason of the fact—and it can be the only reason—that they already have in effect a much more liberal and more meritorious plan.

If the Federal Government, the Presbyterian Church, and other religious bodies are to be exempted, why should not other employers who desire to do the same thing be exempted?

Mr. TYDINGS. In my judgment, the Senator's argument is unanswerable.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. TYDINGS. I yield.

Mr. BARKLEY. Of course, the object of this bill is to levy the tax on organizations which are set up for profit. The Presbyterian Church or any other organization under it is not a profit-making institution, and, therefore, the Government does not desire to tax it in order that it may set up a fund of this sort. It would be utterly inconsistent for the Government of the United States to tax itself in order to raise funds in a way similar to the way the tax is levied on private industry. It is not a question of whether there has already been established a retirement system which is better than the one we are setting up for private industry, or whether the Federal Government plan will be better than a plan which some private institution or agency already has in operation.

It seems to me there would be no logic in undertaking to put the Federal Government, or a church, or even a State, which is a political division of the Nation, on the same basis as that on which we would put a corporation which is employing men, out of whom it makes a profit. It seems to me there is no analogy between those situations.

Mr. TYDINGS. Mr. President, I do not altogether agree with the Senator from Kentucky. The purpose of the bill, as I understand, is to declare a new policy in this Nation; namely, that when people arrive at the age of 65 years they shall have, in effect, the right to retire. It does not make any difference whether they are preachers, or doctors in a hospital, or workers in a steel mill, or conductors on the street cars. If our general policy is to take people off the work list when they have arrived at 65 years of age there is no earthly reason why the Federal Government or the Presbyterian Church or any other body should have an exemption, unless every other concern which is already providing age retirement should have an equal right, particularly when it is maintaining a better system or pays more than is proposed to be paid by the Federal Government.

Mr. BARKLEY and Mr. LONG rose.

The PRESIDING OFFICER. Does the Senator from Maryland yield; and if so, to whom?

Mr. TYDINGS. I first yield to the Senator from Kentucky. Then I will yield to the Senator from Louisiana.

Mr. BARKLEY. Mr. President, if we were establishing a general old-age-pension system applicable to all when they reach a certain age, of course we should have to provide the money out of general taxation. We could not tax a church, we could not tax the Federal Government, because neither has anything upon which to levy a tax. If we are ever to embark upon a general old-age-pension system applicable to everybody, we may have to abolish any special taxes to raise funds on the part of employers, and pay the pensions out of money in the Treasury raised by general taxation.

However, this bill does not contemplate any such step as that, though it may come some day; but it has been felt that this is as far as we can go now in undertaking to make employees and employers contribute to a fund for old-age pensions.

Mr. TYDINGS. I see the point of the Senator from Kentucky; and, as I have said, I do not wholly disagree with him. I think, however, the Senator from Kentucky will be fair enough to say that the main purpose of the bill is not to levy a tax on anybody. The main purpose of the bill is to provide retirement for people who have reached the age when they can no longer work. If that is the case, there is no reason why anybody should be exempted; and if exemptions are to be made for the Government, or for the Presbyterian Church, or for an organization which has provided its own retirement agency, then it strikes me that concerns which have provided retirement agencies comparable or superior to that which is envisaged by the bill should receive an exemption, at least temporarily, until the fruits of the bill can be tested in the light of experience.

Mr. LONG rose.

Mr. TYDINGS. I desire to make further answer to the Senator from Kentucky before I yield to the Senator from Louisiana.

What is the title of the act?—

An act to provide for the general welfare by establishing a system of Federal old-age benefits—

And so forth. That ought to apply to the preachers the same as to anybody else. I am sure the Senator from Kentucky does not desire to have the ministers left out of this system.

Mr. BARKLEY. No.

Mr. TYDINGS. I agree with him that we cannot tax the congregation to make its particular contribution to this fund; but indirectly we tax the congregation, because it consumes the things which all the concerns covered by this bill make; and, therefore, if we tax them, the congregation bears the indirect if not the direct tax.

Mr. BARKLEY. Mr. President, my contention is that whenever we shall establish an old-age-pension system for everybody we will have to pay for it by general taxation. We cannot levy a tax on the Ford Motor Co. to pay old-age pensions to its own employees and also to the Presbyterian preacher and the school teacher. We cannot levy an employer's tax on the Baldwin Locomotive Works in order to pension somebody who does not work for the Baldwin Locomotive Works. So whenever we decide to pension everybody who is over 65 years of age we must levy a general tax on everybody, subject to tax.

Mr. TYDINGS. Mr. President, I will answer that statement in a moment. Now I yield to the Senator from Louisiana.

Mr. LONG. Mr. President, has the Senator from Maryland any figures showing how much is being paid in pensions under the private employers' system?

Mr. TYDINGS. I did have some figures. I do not know how accurate they were. I do not have them available. Perhaps the Senator from Missouri has them.

Mr. LONG. Has the Senator from New York such figures?

Mr. WAGNER. I have not the figures, but I will say that there are only 2,000,000 employees under pension systems today.

Mr. TYDINGS. I am surprised there are so many.

Mr. LONG. If there are 2,000,000 persons under pension systems today, I will say that that is more than will be accommodated under the proposed act.

Mr. TYDINGS. Mr. President, according to the 1930 census there are 48,000,000 people of working age in this country. From that number we must eliminate, first of all, many millions engaged in agriculture.

We also must eliminate those who are engaged in transportation, particularly on the railroads, almost all of which have a pension system. We also must eliminate most of those who work in the steel mills. When we add all the municipal and State employees who are under merit systems and retirement acts, I shall be very much surprised if the number does not far exceed the 2,000,000 which the Senator from New York gives.

Mr. WAGNER. Will the Senator yield?

Mr. TYDINGS. I yield.

Mr. WAGNER. Of course, I did not include public employees.

Mr. TYDINGS. But the Senator must concede that the 48,000,000 also includes those who work for the Government, so if he is going to state one part of the proposition for one purpose he ought to state the other part of the proposition for the other purpose.

Mr. LONG. Mr. President——

The PRESIDING OFFICER (Mr. POPE in the chair). Does the Senator from Maryland yield to the Senator from Louisiana?

Mr. TYDINGS. I yield.

Mr. LONG. I will put what I wish to present in the form of a question. If we had what we knew was a compensatory pension system which actually covered all persons beyond a certain age when they should retire from labor, that would be one thing; but we know that this bill is necessarily confined by reason of the amount of money involved, if by no other reason, to a very small number of those who reach that age; and we are about to destroy the private system. I con-

cede the private system to have some faults; but nonetheless, with a far more faulty system we are about to destroy a system which is taking care of a far greater number of people on a pension roll. Not only that, but I may add to the Senator from Maryland that this bill prescribes that only the needy, the paupers, may get a pension.

Mr. TYDINGS. I do not desire the Senator to take too much of my time.

Mr. WAGNER. I think the Senator from Louisiana is mistaken in the statement he has just made.

Mr. LONG. The Senator is talking about unemployment insurance?

Mr. TYDINGS. Yes.

Mr. WAGNER. Yes; that is correct.

Mr. LONG. I was talking about pensions.

Mr. TYDINGS. Let us take the argument made by the Senator from Kentucky in regard to the Presbyterian ministers. The Senator from Kentucky very properly says that the congregation or the employers, so to speak, do not pay any tax into this fund, and, therefore, the preacher who has retired should not receive any of the benefits out of this fund, and therefore that it is a proper exemption.

By direct analogy, does not that apply to the company which is exempted? It receives no benefits from this fund. It pays into its own fund, and, therefore, why should it not be exempted? It does not cost the Government a 5-cent piece to maintain insurance agencies which are now in existence; and if they provide their own funds and pay their own benefits, why should they pay into a Federal fund?

Mr. BARKLEY. Mr. President, will the Senator from Maryland yield?

Mr. TYDINGS. I yield.

Mr. BARKLEY. We are dealing now with private corporations engaged in the employment of men for profit. I do not believe we can have a successful national pension system while at the same time exempting those who may set up their own system and who may be subject to high-pressure salesmanship on the part of agents of annuity or insurance companies coming around and telling them that they can establish their own system and save money over and above what they would pay into the Federal Government. I think ultimately it would tend to break down the national system, for the only prospect of success in this national system is that it shall be universal. If it is going to have any competition in the field on the part of private annuity companies and insurance companies, it will be a failure to that extent.

Mr. TYDINGS. Basically the Senator from Kentucky and I are not far apart. What we think is the direct purpose of the bill, in effect, is to compel every employer in the country who employs more than 10 men——

Mr. BARKLEY. As the bill now reads, more than four men.

Mr. TYDINGS. Very well; more than four men. The direct purpose is to compel such employer to enter into a system of retirement insurance whereby his employees will receive the benefit of it when they reach a certain age. The modus operandi in that case is by taxes, but the purpose is to compel them all to insure their workingmen. I am not quarreling with that; but the way to compel them to do that is by taxing them, taking the money and putting it into the system, whether they want it or not. If they are already doing that, if they are already paying benefits either equal or superior to those set up by the bill, then why should not the Government let them alone, for they are already doing what the Federal Government through its taxing power is trying to make the other concerns do that have not heretofore done it.

Mr. BARKLEY. Mr. President——

Mr. TYDINGS. I shall yield to the Senator in just a moment. I submit to the Senator from Kentucky that if every employer employing more than four people now had this kind of insurance system, this bill would not be here. The only reason this bill is here is that most concerns have not set up such a system of insurance, and this is an attempt by the taxing power to compel them to set up that sort of a system.

Mr. BARKLEY. Mr. President——

The PRESIDING OFFICER. Does the Senator from Maryland yield to the Senator from Kentucky?

Mr. TYDINGS. I yield.

Mr. BARKLEY. Those concerns which now have their own private system which is as beneficial to the employee as would be the system we are proposing to set up will lose nothing by going into the Federal system, for it would cost them no more, if they are already paying into such a fund. So they will not be harmed by being required to go in. If they have a system that is better than the proposed Government system, then they can go into this system and still supplement their old system by whatever excess of good they are now engaged in doing toward their employees. So they will not be hurt.

Mr. TYDINGS. That is a fair concession from the Senator from Kentucky.

Mr. BARKLEY. I am always fair.

Mr. TYDINGS. The Senator said inferentially that where the system which is now in existence under private concerns is better than that which the Federal Government attempts to set up he hopes they will go ahead with it, but he is unwilling to give them any exemption to go ahead with a plan which is better than the Federal Government's plan.

Mr. BARKLEY. I do not know that there are any such concerns; I am assuming that there may be.

Mr. TYDINGS. I can tell the Senator that there are.

Mr. BARKLEY. If there are, there is nothing in this proposed law that will prevent them from going ahead with their unusual generosity toward their employees.

Mr. TYDINGS. The bill provides, we will say, $30-a-month old-age retirement pensions. In Baltimore the United Railways, I think, pay their men $50-a-month retirement pay; yet that is to be wiped out. In other words, those men who have looked forward all their lives to getting $50 a month when they are retired are to be cut down to $30 a month; and yet this bill is in the interest of labor.

Mr. BARKLEY. The Senator will concede that there is nothing in this bill that prevents such a concern from supplementing this tax so as to make it $50 a month?

Mr. TYDINGS. If we are going to give them the right to do it anyhow, in a supplementary form, why not let the system which is better than the proposed Government system stay?

Mr. BARKLEY. Because we cannot have a successful patchwork system; it has got to be universal and uniform in order to be successful.

Mr. TYDINGS. I do not think it has got to be "uniform." The Senator's own words belie that, I think, because he says if the system now in existence is better than the one to be provided by the Federal Government he hopes there will be supplemental action; so it will not be uniform.

Mr. BARKLEY. The Senator cannot take advantage of a mere expression. What I was talking about was uniformity in the minimum requirement of the Federal statute as to the Federal system. Any concern which desires to go beyond that may do it; any concern which desires to continue its present system may do it in full. It might not want to do it, and, I dare say, would not want to do it, but it may do it if it wants to.

Mr. TYDINGS. I am going to make a suggestion to the Senator from Kentucky and to others who may do me the honor to listen to me. My prediction is—and mark this well, Senators—that if the exemption is not granted, if individual concerns do not have the right to set up their own insurance systems, if they are compelled to conform to the letter and spirit of this proposed national law, what will happen will be that they will liquidate their present insurance systems, go under the Federal law, and the workers will get less money than they would get if the exemption were granted. The concerns having private systems will say, "That is the Federal standard; we have lived up to the Federal standard, and therefore, gentlemen, although we did have a system, the Federal law has wiped it out; we feel we have done our part; we told the Congress that we would like an exemption, but the Federal Congress did not care to grant it to us, even though our system was better than that the Federal Congress

had in mind; and now that they have wiped out our own agencies, we will just go along with the Federal agency."

Mr. BARKLEY. Mr. President, will the Senator yield there?

Mr. TYDINGS. Yes; I yield.

Mr. BARKLEY. Where there is 1 private institution which is providing a better system than this bill would provide there are 400 which are not providing systems that do as well.

Mr. TYDINGS. All this amendment seeks to do is to exempt those that are doing as well or doing better than the bill requires that they shall all do; and what reason there can be for failing to grant an exemption in such a case I do not know.

Mr. BARKLEY. Mr. President, will the Senator yield there?

Mr. TYDINGS. Yes; I yield.

Mr. BARKLEY. The Senator has very consistently urged for many years his opposition to an army of Federal inspectors going out all over the country.

Mr. TYDINGS. The Senator is correct as to that.

Mr. BARKLEY. But if we exempt all these private concerns, it will take another army of Federal inspectors, going all the time, to ascertain whether they are living up to the standard.

Mr. TYDINGS. I approach this matter with the positive view that if we are going to establish a uniform law, and wipe out all private initiative, we shall be laying the foundation of real bureaucracy. So long as we leave the door open for private initiative, particularly that which has established itself for 25 or 30 years, we encourage the employer to take care of his employees, which he is doing now better than would be done under the proposed Federal Government. I predict that this bill is only the first step on the stairs, and the Members of this Chamber—and I am not taking sides on the matter; I am merely making an observation—will see the day, particularly if there are no exemptions granted, when we will have a uniform retirement law for all the workers of this country, regardless of their health, regardless of their salaries, regardless of their savings or income, or anything else, just as certain as that the sun rises and sets. That will be the first real bureaucracy that we will have under this bill. What I am proposing to do is to keep the Federal Government from interfering with private organizations which are already doing as well as this bill, if enacted, would compel them all to do. I would rather see this done voluntarily all over the country than to have the Federal Government in it at all, were it possible to have it done voluntarily.

I take it for granted that the only reason we have this bill before us today is that certain concerns will not insure their employees, and, therefore, the time has come when Congress desires to compel them to do it; but why should those concerns which have for 25 or 30 years built up their own insurance agencies, which are doing better than the plan which this bill proposes to do, be wiped out? Why should they not be given an exemption? What harm could it do?

Mr. SHIPSTEAD. Mr. President——

The PRESIDING OFFICER. The time of the Senator from Maryland has expired on the amendment.

Mr. TYDINGS. Very well, I will speak on the bill.

Mr. SHIPSTEAD. I believe that Andrew Carnegie was a good business man. He established a retirement fund for college professors. My information is that there is very little left of that fund.

If some particular business institution employing labor exempted from the provisions of this bill should not manage and supervise the reserve fund better than has been done in the case of the Andrew Carnegie fund and the private industrial company's pension fund should go the way of the Andrew Carnegie fund, what would happen to those dependent upon it? Undoubtedly the establishment of the fund was a good thing for Andrew Carnegie; he got a lot of college professors to carry out his ideas; but where does it leave the professors, and how does it affect the United States?

Mr. TYDINGS. The Carnegie Institute was a charitable institution, pure and simple.

Mr. SHIPSTEAD. Mr. President——

Mr. TYDINGS. Just a moment. The Federal Government had not any say in the world over Mr. Carnegie's fund, but under this amendment the industrial concern would only be exempted if its plan in operation was equivalent to or better than that to be provided by the Federal Government. So that the power of supervision, the right to take away their exemption certificates and compel them to do this or that or the other thing in order to retain their exemption certificates, would always lodge in the Federal board. So the Senator's analogy, in my judgment, is not an accurate one.

Mr. SHIPSTEAD. Mr. President, may I ask the Senator another question?

Mr. TYDINGS. I yield.

Mr. SHIPSTEAD. Does not the Senator think there should be some supervision over private institutions, if they are to be exempted from the provisions of the bill, so the fund would be protected from dissipation and investment in worthless securities?

Mr. TYDINGS. I have no objection to that; in fact, I would encourage it. I should like to see the funds invested in the strongest and safest possible way. In many States, including my own, such funds can be invested only in that kind of security which is approved by the court; and under that plan there has been little or no loss, because the court will only approve National or State bonds, or city or county bonds which are in good standing. I suppose that system is in existence in other States so that trust funds can be invested only in securities approved by the court. I know in the majority of States of the Union that is the law.

Mr. President, I now return to the question with which I opened my remarks. Can there be any harm done to the proposed retirement system if the amendment offered by the Senator from Missouri [Mr. CLARK] is accepted? No; there cannot be, because in order to be excepted or exempted the private retirement agency must be equal or superior in its benefits to the agency set up or the standard fixed by the Federal Government. The workingman is better off, or at least as well off, under the private insurance agency as he would be under the Federal Government.

In view of that fact—and when the law is in its initial stages, when it has not had a chance to operate—what harm can there be in keeping the demonstrated institutions which have proven real strength and real benefit and real consideration for the workingman on the part of those who have employed him? What harm can there be in giving them a temporary exemption until the fruits of the law may be ascertained? If anyone can show me where the workingman will be any worse off, I shall not have another word to utter. Thus far no one on this floor has been able to offer a single scintilla of evidence to show that the workingman will be any worse off under this exemption than under the terms of the bill. On the contrary, it is conceded that in cases he will be better off under the exemption than if he is forced to come under the terms of the bill.

If these facts be true, and I believe they are true, then why not grant the exemption until we can observe the workings of the law for a year or two, and then if we see that it comes up to our expectations, that private systems are no longer to be considered in connection with this phase of work in human activity, we can wipe them out. But is it not the part of wisdom, and is it not the part of caution, and is it not the part of vision to retain something that is a success until we can find out whether the promulgated measure shall bear the very lovely fruit which its sponsors think it will?

That is all the amendment seeks to do. It simply provides that where a system is operating and paying benefits equal to those set up in the bill, or better than those provided in the bill, then the board shall grant to such private agency a certificate of exemption. The board can revoke the certificate whenever the private system falls below the standard, but so long as it is operating in a fashion equal or superior to the plan proposed by the bill, it shall be granted that exemption.

I have not heard anyone yet offer any objection to the amendment except that we ought to make the system uniform, even if making it uniform takes from some workingman some benefits which he would have if the exemption were granted.

Mr. SMITH. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Maryland yield to the Senator from South Carolina?

Mr. TYDINGS. I yield.

Mr. SMITH. The Senator is losing sight of the cardinal principle behind most of this type of legislation, namely, that all the beneficiaries must look to the Federal Government and not to local or private agencies. The theory is we must centralize here in the Federal Government. Of course, we cannot argue against that because we want to wipe out all the States and all their rights and have everything all centered here in Washington!

Mr. TYDINGS. In conclusion, let me submit this pertinent fact for the consideration of the Senate. Bear in mind, Senators, that when this measure was pending before the Finance Committee, the committee divided evenly on whether they should adopt the amendment or should not adopt it. The Finance Committee was very close to adopting it, and I understand from some of those who did not support it in committee that at that time they opposed it solely on the ground that they were afraid it might call into question the constitutionality of the measure. Inasmuch as since that time other exemptions have been granted, why in the name of heaven should not this exemption be granted when it does as much for the workingman or more for the workingman than the provisions of the bill?

This is one of the times when the Senator from New York [Mr. WAGNER], who is said by many to be the best friend that labor has in Congress, is trying to take benefits away from the workingman which he would otherwise have, and when I, who am sometimes said to be not friendly to labor, am trying to hold for the workingman the benefits which he already has under private agencies. The Senator from New York does not say the amendment would make the bill unconstitutional.

I only ask that where private industry over a long period of years has established a system which gives to the workingman more than the Federal Government can give him under the bill, let us give that exemption to such industry so that the fruits of retirement may be full rather than meager, which will be the effect if the amendment shall not be adopted.

Mr. LONG. Mr. President, will the Senator answer a question?

The PRESIDING OFFICER (Mr. HATCH in the chair). Does the Senator from Maryland yield to the Senator from Louisiana?

Mr. TYDINGS. I yield.

Mr. LONG. Would not the natural thing be for big concerns that have already put into operation pension plans, when the Federal Government adopts this plan, simply to say, "We do not care to compete with the Government, and hence our pension plan is at an end"?

Mr. TYDINGS. I should think so. The predicition which I made previously, and which I now restate, is that if the bill shall be passed and there shall be no exemption, then private concerns will liquidate their annuity funds, and there will be established a uniform standard over the country which, if no exemptions are granted, will result, in the case of millions of employees, in their receiving a lesser annuity than they would have received had the exemptions been granted.

Mr. LONG. I wish to say, referring to the $50 about which the Senator from Maryland spoke, that I have two or three good friends who are drawing $100 a month. I think my friend Moran, who served his time with the Standard Oil Co., today draws $100 a month under their pension plan. I do not understand why anyone should oppose it. Let us not now destroy these private systems.

Mr. TYDINGS. Let me interrupt the Senator to say that in the little village in which I have lived, Havre de Grace, Md., there recently died a man who had been a telegraph operator. He had worked for the Pennsylvania Railroad for about 35 or 40 years, I believe. When he retired he received a pension of something over $50 a month. Under the terms of the bill, if that system had been wiped out, that poor fellow would have been getting, assuming he would have lived 5 or 10 years more, only $30 a month instead of the $50 a month which he had built up for himself over a long term of years with the railroad company. I submit that it smacks of injustice when this man, who had looked forward all those years to a definite sum of money which he would have gotten under that system, would have been compelled under the Federal retirement plan contemplated by this bill to take a much less sum.

In conclusion, I predict again if we pass the bill without exemption that many Senators will find millions of laboring men who are going to be very much displeased, because I believe there will be millions who will get less under the compulsory retirement standard set by the bill than they now expect to enjoy under the pension plans of private industry.

Mr. LONG. Mr. President, further on this line let me say——

The PRESIDING OFFICER. Does the Senator from Maryland yield to the Senator from Louisiana?

Mr. LONG. I can use my own time to make this statement.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. I have not heard anyone advocating this bill who does not doubt its constitutionality.

Mr. TYDINGS. Does the Senator mean the amendment?

Mr. LONG. No; I am talking about the bill. Everyone doubts the constitutionality of the bill. Even the proponents of the bill doubt it. I desire to say to them that they not only have a right to doubt it but I do not believe it is possible for the bill as it is now written to be held constitutional. I would bet everything I have on it. I do not mean that it will be held unconstitutional by a divided court, either. We need not worry about the amendment of the Senator from Nebraska [Mr. NORRIS] that it will take six to three to declare a law unconstitutional. Not one out of nine will uphold the constitutionality of this measure, any more than one out of nine upheld the constitutionality of the N. R. A. Not a single member of the Supreme Court of the United States will hold this bill constitutional as now written.

What is it that the bill proposes? It is not a tax in order to decentralize wealth. It is not a tax in order to serve the common welfare. This is a pension system established by the Government. That is what it is—an unemployment system established by the Government. We cannot put a tail on one end of it and a head on the other end of it and make it anything else, and it does not necessarily depend upon any interstate transactions in order to have its constitutionality maintained.

If this bill is going to be sustained, all well and good; but let us not wipe out pension systems that are doing good. There will be hundreds and thousands of people who will become eligible for the private pensions that they have earned long before this bill is held to be constitutional or unconstitutional; but if it finally goes into effect, and the private concerns wipe out their private pension systems, and the pensions of men who are drawing $100 a month are wiped out on the ground that they should have $30, and then they do not get the $30, and we have destroyed the private pension systems, the harm will have been done in two ways. The first is, we shall have given no pensions at all. The second is, we shall have destroyed a private system that may have considerable merit and may have some faults.

Let me say one thing further, Mr. President. I have no particular faith in the good will of any corporation, except such as is necessary to its own interest. I am wholly in favor of the regulations that are imposed in this particular amendment upon private pension systems; but I think I see chances for far less harm under the amendment that is proposed than I do under the regular bill, because we must

bear in mind the fact that there is a very small contribution made, to begin with, by the Federal Government. That is one thing. We must bear in mind the further fact that it is left within the province of the various and sundry boards that are in control of the several functions under the several titles of the bill to discontinue the system as prevailing and as maintained in certain localities whenever they desire to do so; and there is just as much room—aye, more—there is more practical room for abuse, and in effect it will be found that in many instances there is more abuse, in a publicly administered system of this kind than there is in privately administered systems of this kind.

Under this particular amendment, the abuse of the private system can be controlled. The Government can step in and prevent abuse in a private system, but it cannot step in and prevent abuse in the public system, nor can it breathe life into concerns destroyed by a law which may be unconstitutional—aye, which is unconstitutional if I know anything about the law. I venture the assertion that the enactment of the bill without the amendment will mean the wiping out of whatever good has been done under the private systems, and no good will be done under the system proposed here. So let us try the plan contemplated by the amendment.

What harm can be done? We meet here every year. Let us get this public pension system or public unemployment system to working. Let us see what good it does. Let us have it held constitutional if it can be held constitutional, which it never will be, but let us have it held constitutional before we wipe out the pensions of millions and millions of employees under the private systems. When it is held constitutional, and when it is proved to be reasonably workable, that will be time enough to talk about destroying the private pension systems.

We have plenty of time to do that. When we find that we have a baby here that is able to walk, and then is able to stand alone, we shall have something on which we can base our good judgment to destroy the private pension systems; but let us not destroy a system that is now accommodating many more millions of persons than our own program may accommodate, and a system that is paying more money than this system will pay, and risk it all subject to the hazard that what we are doing here may be either ineffectual or invalid when it reaches the Court.

Mr. LA FOLLETTE. Mr. President, I am opposed to the amendment offered by the Senator from Missouri [Mr. CLARK]. I recognize that upon its face it has much appeal; but, as stated by the Senator from Mississippi, after most careful consideration in the committee I came to the conclusion, as did a number of other Senators who had previously been inclined to favor the amendment, that its adoption would very seriously undermine this particular title of the act, namely, the old-age benefit title.

Mr. ROBINSON. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Wisconsin yield to the Senator from Arkansas?

Mr. LA FOLLETTE. I yield.

Mr. ROBINSON. The Senator has just made a statement which I believe to be correct. I should like to have him elaborate his thought on that subject if he chooses to do so, and explain why, in his opinion, the adoption of this amendment exempting existing arrangements and institutions will undermine and impair the effectiveness of the proposed Federal system for retirement.

Mr. LA FOLLETTE. I shall be glad to attempt to do that, Mr. President.

In the discussion here this afternoon it has been quite evident that many Senators are laboring under the impression that all the existing private pension plans are of a high standard, and that they confer great benefits upon the employees covered by them. The contrary is the fact. Most of the plans which are now in existence do not bring, in the end, great benefits to the aged employees. This is conclusively shown by the fact, as brought out in the record before the committee, that, while there are now approximately some 2,000,000 employees under private plans other than those of railroad companies, only approximately 165,000 persons are drawing any retirement benefits under industrial pension plans and half of these are under railroad company plans. This salient fact is a clear indication that there must be something wrong with plans which have succeeded in bringing benefits and payments to only about 4 percent of those who are under those plans.

Mr. ROBINSON. Mr. President, will the Senator yield for a further question?

Mr. LA FOLLETTE. I yield.

Mr. ROBINSON. The statement has been repeatedly made on the floor this afternoon by at least one Senator that the number of workers who are now receiving benefits from private arrangements for retirement far exceeds the number that may receive benefits under this measure. I have been unable to reconcile that declaration with my knowledge of the facts. What are the facts in that particular?

Mr. LA FOLLETTE. Mr. President, the best information I can obtain, refreshing my recollection, is that there will be approximately 25,000,000 people under this Federal plan if it is not impaired by the amendment of the Senator from Missouri.

Mr. ROBINSON. And the number now is said to be 2,000,000?

Mr. LA FOLLETTE. Two million.

Mr. President, I do not wish to be understood as criticizing or not giving full credit to the employers who have attempted to set up these plans; but I wish to point out that the plans are not so beneficial, so far as the employees are concerned, as many Senators seem to feel, as I judge from the discussion which has taken place here this afternoon.

It is stated by those who are supporting this amendment that no harm can result, insofar as title II is concerned, if we permit private plans to be approved which give benefits equal to those contemplated under the Federal system.

On its face, if we do not analyze that statement any further, it is an appealing one; but the fact is that if this amendment shall be adopted, inevitably employers will study the various advantages from a financial standpoint as between the system set up in title II—the Federal system—and a private plan. That is inevitable. Therefore, to start with, if we shall adopt this amendment the Government, having determined to set up a Federal system of old-age benefits, will provide in its own bill creating that system, for competition, which in the end may destroy the Federal system; and I submit that no Senator approaching this problem from a logical, businesslike point of view could for a moment believe that to be a sound public policy.

If this amendment should be agreed to and the employer should sit down to compare the Federal system, as provided in title II, with the system being urged upon him by some insurance broker, one of two things would inevitably result. Either he would decide that it was better for him to employ only those in the younger age groups and to provide a system embracing all his employees under a private plan, or he would employ a fair share of the older men but do all in his power to encourage the older employees in his employment to elect to come under the Government plan, so that under either course he would be able to provide as liberal benefits as the Federal system without paying as much for them, because the Federal system would have to carry the older workers.

Mr. GEORGE. Mr. President, may I ask the Senator from Wisconsin if he is not really making an argument against the whole bill—that is, against all the provisions under discussion? If employers are going to assume the attitude the Senator thinks they will assume with reference to the privilege which would be accorded them under this amendment, will they not also try to escape just as much taxes as they can, and will they not also try to get just as much service as they can for every dollar they expend, and will they not also use every bit of labor-saving machinery they can possibly employ?

If the Senator's hypothesis is correct that our industries are going to try to take advantage of an amendment which they themselves certainly may desire, is not the Senator making an argument against the whole bill?

Mr. LA FOLLETTE. No, Mr. President; I do not see that point, if I may say so to the Senator, because the tax provided is uniform.

Mr. GEORGE. I know it is uniform, but if the employees are going to assume the attitude assumed by the Senator from Wisconsin and the Senator from New York and other Senators, will not the American business man, actuated by such selfish motives and impulses as have been here ascribed to him, try to get the maximum service, the maximum production, out of every laborer to whom he is paying a wage, to the end that his excise tax, which is measured by his pay roll, will be just as little as possible for the amount of work which is done, and will he not be influenced and induced to employ a younger man who can work more and harder, and perhaps can turn out more product that the older employee?

Mr. LA FOLLETTE. Unfortunately, Mr. President, without any tax at all; that has been the tendency of industry under the pressure of economic conditions. But I do not want to be a party to making an additional inducement for further lowering the average hiring age in the United States, for I may say to the Senator that the situation which confronts employees between the ages of 40 or 45 and beyond is becoming one of the most serious problems which this country is now called upon to solve.

Mr. GEORGE. I fully agree with the Senator.

Mr. LA FOLLETTE. The Senator is aware of the fact that during the depression, a man 40, 45, or going on 50 years of age, no matter how well preserved he might be, has found it very difficult to secure reemployment in competition with younger persons.

Mr. GEORGE. Mr. President, I must not trespass on the Senator's time, but permit me to say that I know that to be true, and I know that the Senator is not making an argument against the bill; but it does seem to me that an argument against the amendment is an argument against the whole philosophy of the bill. I do not share the view that American industries as a whole will undertake to take advantage of this amendment, and will employ only young men, because their obligation would be the same as it is under the plan set out in the bill. But if the Senator is correct, it seems to me that we might as well accept as an established fact in the beginning that the same selfish motives will induce the American employer to hire and employ the young man who can produce more per hour than the old man. Remember, the employer's tax is measured by his pay roll, and that will also induce him to use every bit of labor-saving machinery he can put into his establishment. If selfishness is the driving motive of all American business, it seems to me the Senator's argument is against the whole bill as much as it is against the amendment.

Mr. LA FOLLETTE. I do not see that, because the amendment sets up a situation whereby one of two things, as I started to say, will result; either the employer will elect to hire only people in the younger age group and will put the whole group of employees under the private plan, because hiring them in the lower age group the employer will be able to secure his annuities at a cheaper rate; or if he elects to keep some of his older employees he will urge them, he will use all his persuasive and his economic power to get them, to elect to take their benefits under the Federal system; and if that shall be the eventuality, then the Federal system will be carrying all the heavier risk, because it will have the older groups, which are more expensive to carry.

I can understand Senators being completely against the objectives which are outlined in the pending social-security bill; I can understand their position, although I do not agree with it; but it seems to me that all Senators who regard the objectives of this title as being sound public policy should hesitate long ere they accept an amendment which will tend to break down and to destroy the effectiveness and the success of the Federal old-age-benefit system.

The Senator from Maryland urged that by adopting this amendment we should give an opportunity to employees and employers to elect to continue under their present private plan, but to leave it open for them later to come in under the Federal system if they wish to do so. That, it seems to me, is an argument which will not stand analysis for a moment. Let us take the case of the United Railways in Baltimore, cited by the Senator from Maryland. It might be very advantageous to them to stay out of the proposed system for a number of years, until they have relatively more aged employees than they now have, and then to dump them over onto the Federal system, but thereby they would burden and help to upset the actuarial basis of the Federal system; and, if it were done in a large number of instances, such practices would upset it altogether.

Much has been said in the debate about destroying the existing plan. So far as I know, there is not a private pension plan in the United States which will not have to be revised if the bill shall become a law, whether the amendment of the Senator from Missouri shall be agreed to or not. Everyone of them will have to be changed to meet the requirements of this amendment, and it is just as easy for those socially minded employers who desire to add additional benefits to the plan now proposed in title II of the bill to revise their existing plans so as to offer benefits in addition to those provided in title II as it is for them to revise them in order to take advantage of the amendment offered by the Senator from Missouri, if it shall be agreed to.

Reference has also been made in the debate to the situation confronting employees who have been under these plans, and it has been argued that if the bill becomes a law those upon the verge of retirement may lose all of their benefits. Unfortunately, that happens all too often under private pension plans. But the employers who have systems which are upon a sound basis, and which have any social justification at all, have established reserves for their individual employees. To say that such employers would use the enactment of the pending bill as a justification for refusing to pay the beneficiaries of the reserves which have been contributed by employees and employers over a long period of time is to make an indictment of the integrity of these forward-looking industrial leaders which I would not make upon the floor of the Senate or in any other place. If there be any such unscrupulous employers, the individual employee has not a Chinaman's chance with them anyway, because when he got up to within a few months of the time when he would be entitled to the benefit provided, he would be discharged by the employer and would lose his benefits.

Mr. TYDINGS. Mr. President, will the Senator yield?

Mr. LA FOLLETTE. I yield.

Mr. TYDINGS. Assuming what the Senator says to be so, then what harm can there be in granting them an exemption, if they build up these reserves, and the benefits are superior to those contemplated by the bill?

Mr. LA FOLLETTE. I have already pointed out a number of reasons why I think it is an unwise policy. The Senator was not in the Chamber when I covered those points, and as my time is limited, I beg him to excuse me from going over the ground again.

Mr. TYDINGS. May I ask the Senator one other question, which I think is apropos the point of which he is now speaking?

Mr. LA FOLLETTE. Certainly.

Mr. TYDINGS. The Senator said that he had covered the point to which I referred. Did the Senator say there would be harm in granting these exemptions?

Mr. LA FOLLETTE. I did.

Mr. TYDINGS. Then, I will read the Senator's remarks.

Mr. LA FOLLETTE. Now the Senator has tempted me to do what I said I would not do.

It is my firm conviction, I may say to the Senator from Maryland, after the most careful study I have been able to make of this whole question, that if the Federal Government in establishing this Federal system should adopt the amendment of the Senator from Missouri it would be inviting and encouraging competition with its own plan which ultimately would undermine and destroy it.

I do not think the amendment which the Senator from Missouri accepted, as tendered by the Senator from Washington [Mr. SCHWELLENBACH], is any protection at all to employees. It reads:

*Provided*, That no employer shall make election to come under or remain under the plan a condition precedent or a requirement of continued employment.

Mr. President, that sounds well; but how are individual employees all over the United States to be protected from being subjected to economic coercion, either direct or indirect, which their employers may exert upon them? It is perfectly silly, it seems to me, for any person to contend that a mere affirmative declaration in this amendment will be any protection whatsoever to employees from coercion upon the part of the employer.

In that connection I may say that I am authorized to make the declaration on the floor of the Senate that the American Federation of Labor regards the amendment offered by the Senator from Missouri with great apprehension. The A. F. of L. is convinced that it will do more to engender the type of company unionism which the Wagner labor-disputes bill—passed by the Senate some days ago—was designed to prevent than any other single thing which can be done.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. LA FOLLETTE. I yield.

Mr. CLARK. Would the Senator mind pointing out wherein my amendment will tend to promote company unionism? It is very easy to make such a statement.

Mr. LA FOLLETTE. It is based upon the theory, as I understand, that private pension plans which enable the employer to have the right to say whether an employee is to be a beneficiary under one type of plan or the other produces a condition in which the employee feels unable to assert his economic rights. Labor also feels, and I think rightly so, that the employer controls the private annuity plan, and is likely to use it to keep organized labor out of his plant.

Mr. CLARK. Mr. President, will the Senator further yield?

Mr. LA FOLLETTE. I yield.

Mr. CLARK. If the Senator will take the trouble to read the amendment he will find that suggestion expressed in the negative in the amendment as I introduced it, and specifically covered in the amendment to the amendment offered by the Senator from Washington.

Mr. LA FOLLETTE. I do not agree with the Senator that the affirmative statements contained in this amendment are any protection whatsoever to millions of employees scattered all over the United States. This body recognized the problem when it went on record overwhelmingly in favor of setting up specific machinery in an attempt to protect labor in its right to organize and to bargain collectively. We have just completed a tragic experience in regard to section 7 (a) of the National Industrial Recovery Act, where there was an affirmative legislative declaration which proved hardly worth the paper on which it was written.

Mr. LONG. Mr. President, will the Senator yield?

Mr. LA FOLLETTE. I yield.

Mr. LONG. I did not think we went so very far to set up specific provisions to protect labor. The Senator is one of those who voted to let the value of labor be set by a more or less arbitrary order, which down in my section of the country amounted to $19 for a month's work. I do not see why we ought to kick on a thing like this.

Mr. LA FOLLETTE. I debated that question, Mr. President, with the Senator when the work-relief measure was under consideration. I stated then, and I now repeat, that the Senator was opposed to the measure, and that I refused to follow his leadership in that regard when he sought to defeat the measure, rather than to secure its enactment.

Mr. CLARK. Mr. President, will the Senator yield for a suggestion?

Mr. LA FOLLETTE. If the Senator will bear in mind that my time is running out.

Mr. CLARK. I simply desire to suggest to the Senator, when he says that none of these propositions can be valid or controlling, that the control of the subject and the enforcement of the subject are vested in the very same board on whom the validity of the whole act depends, and who are to administer every provision of this measure which the Senator thinks to be of such great merit.

Mr. LA FOLLETTE. Yes, Mr. President; but the Senator desires to increase their responsibilities several million fold by the amendment which he is proposing.

I admit that the administrative responsibilities under this bill, as it was reported, are great, and I was coming to that very point in a moment. That is another reason why I think the adoption of the amendment offered by the Senator from Missouri would be a very grave mistake from the point of view of those who are in sympathy with the objectives of this proposed legislation.

Mr. President, under the amendment of the Senator from Missouri, employees are to have the right to elect whether they shall come under the Federal plan or whether they shall stay under the private plan. Furthermore, employees will be able to elect, later, whether they desire to change from the private plan to the Federal plan; or, if an employer decides to abandon his system, then all of his employees will be transferred over into the Federal plan. There will be involved in transfers of this kind, in hundreds of thousands if not millions of instances, separate calculations, which will have to be made, and there will have to be audits of the books of the various corporations having private annuity plans with relation to every individual employee to determine whether the proper taxes have been paid for the employees included in the Federal system.

If there could be anything better calculated to destroy the effectiveness of the Social Security Board and to burden it with a task beyond human execution, I fail to see how it could be devised. At least it goes beyond the powers of my imagination to conceive of any task which could be imposed upon this board which would more quickly break down its efficiency and its administration.

Mr. WAGNER. Mr. President——

The PRESIDING OFFICER (Mr. HATCH in the chair). Does the Senator from Wisconsin yield to the Senator from New York?

Mr. LA FOLLETTE. I yield.

Mr. WAGNER. Of course it must be conceded that it would be to the advantage of the employer to have as many as possible of his employees younger men.

Mr. LA FOLLETTE. The Senator's point is well taken, and I agree with him entirely.

Mr. WAGNER. I do not see how there can be any question about that, because the older men get as an annuity more than they put in. We recognize that the employer still has some economic influence over his workers. Suppose a worker were employed at the age of 55, and should elect to go into the private system, and the employer would rather not have him in that system, but would rather have him in the Government system: It is conceivable that there might be some economic influence used to induce the employee to accept the Government plan rather than the other.

Mr. LA FOLLETTE. I have no doubt, Mr. President, that such influence will be exercised. Furthermore, I may point out, as the Senator well knows, that an inducement is already afforded to the older employees to elect to come under the Government plan, as they will get a larger percentage of the employer's contribution if they do so. Under the amendment, inducements would be offered to both the employer and the employee to load down the Government plan with the older employees and to upset its actuarial basis, and, as I said at the outset, ultimately to destroy the whole plan.

There is one other point in connection with the increased administrative problems which will be presented to the board if the amendment of the Senator from Missouri shall be adopted: A worker who has been in the employ of his employer under a private plan for a number of years either elects to go under the Federal plan or he loses his job with that employer and goes to another. Think of the many calculations which will have to be made after an audit of the books to find out just what that man's wages were during all the time he was in the first employer's employ; and if he shall have gone to another employer, additional calculations will have to be made in that instance.

I think the administrative calculations that will have to be made if this amendment shall become law will run into astronomical figures and will entail an administrative force which will make any other agency of the Government, in

relation to the number of its employees, shrink into insignificance.

Mr. President, I desire to say that, so far as I know, the Committee on Finance heard every person who desired to be heard upon this question. The hearings are here. They embrace 1,354 printed pages. There are only two instances where any of the witnesses who appeared before the committee urged the proposition which is now being favored by the Senator from Missouri. One was Mr. Folsom——

The PRESIDING OFFICER. The time of the Senator from Wisconsin on the amendment has expired.

Mr. LA FOLLETTE. I will speak on the bill. One was Mr. Folsom, of the Eastman Kodak Co., who came, I submit, primarily to argue in favor of the plant-reserve type of unemployment insurance, but who, it is true, incidentally pleaded for the exemption of private pension plans. The other was a Mr. Forster, of Philadelphia, a very estimable gentleman whom I have known casually for several years, but who, let it be said, is in the business of selling this kind of insurance.

If the amendment offered by the Senator from Missouri shall become a law it will provide a bonanza for the brokers who are engaged in selling this type of insurance, because they will have all the employers of the United States as prospects, since all employers can derive financial profit through establishing private annuity plans covering their younger employees, leaving the Federal system to take care of the older employees. Wherever they can devise a plan which appears to be of less expense to the employer than the public plan, there will be a sale prospect for the insurance broker. The insurance brokers will be reaping commissions and let it be said, they will be getting commissions and will be getting pay for selling something in this country which everybody would otherwise be compelled to buy.

It is my understanding that most of the large employers in the United States, who have the kind of plans which have been referred to in the debate as being good plans, have already made studies of the bill as it was reported from the Senate Committee on Finance and have come to the conclusion that it is better for them to revise their plan, to bring their employees under the Federal title, and to supplement the Federal plan with their private plan to take care of certain groups of their employees, especially those in the higher-income class.

I recognize the right and the obligation of any Senator who regards this proposed legislation as unsound, from the point of view of public policy, to oppose it and to vote against it on the final roll call; but to those Senators who believe that the objectives sought by this title of the bill are sound, I appeal not to take this oblique method of destroying this part of the bill. I absolve any Senator from any intent to do that and especially the Senator from Missouri. I know that he and the other Senators who have been supporting the amendment are doing so in the best of faith, but I appeal to the Senators who have not considered the amendment carefully and who believe in the principles of the bill not to vote for the amendment and thus to preserve the integrity of the bill.

I reserve the balance of my time on the bill.

Mr. KING. Mr. President, it had been my purpose to discuss somewhat in detail various provisions of the pending measure and to examine a number of decisions of the Supreme Court of the United States, which, in my opinion, condemned as unconstitutional titles II and VIII. However, the time for general debate has passed and under the unanimous-consent agreement there is but limited opportunity for discussion.

Mr. President, with the general purposes of the bill I am in accord and sincerely desire that some measure within the authority of the Federal Government might be enacted that would tend to accomplish the results desired. I am anxious to see ample provisions made for old-age benefits and for unemployment insurance. I cannot help but believe that this measure will prove disappointing and will not attain the objects desired. That several of its provisions will be held invalid I am constrained to believe.

I shall briefly consider titles II and VII because it is the view of many, as well as my own, that they exceed the power of Congress to enact into law.

These titles do not provide for appropriations to the States as do the other titles, which provide for child welfare, old-age assistance, unemployment compensation, public health, and maternal care. They seek to set up a Federal system of providing for compulsory old-age annuities. This is apparent from the face of the bill, which is entitled "An act to provide for the general welfare by establishing a system of Federal old-age benefits", and so forth. Title II is designated Federal old-age benefits, and title VIII taxes with respect to employment. It is clear from a reading of the bill, as well as the reports, that the taxes imposed by title VIII are to be levied for the purpose of paying for the Federal old-age benefits provided for under title II. It must be conceded that the Federal Government, being a government of delegated powers, cannot directly set up a system of compulsory old-age annuities. This is evident from such decisions as *United States* v. *Knight* (156 U. S. 1), holding that the power of a State to protect the life, health, and property of its citizens is a power not surrendered to the Federal Government and is essentially exclusive to the State. This principle was recently reaffirmed by the Supreme Court in the Railroad Retirement Act decision, the effect of which the Chief Justice said in his dissenting opinion was to deny to Congress "the power to pass any compulsory pension act for railroad employees." If we cannot pass a compulsory pension act for railroad employees engaged in interstate commerce, how can we pass a pension act for employees engaged in intrastate, as well as interstate, commerce? Yet this is what we are trying to do.

Congress, in titles II and VIII, knowing that it cannot directly collect premiums to pay compulsory old-age annuities, is attempting to reach this result indirectly through the taxing power. It is obviously disclosed on the face of the act what is trying to be done. The premiums are collected as taxes under title VIII and the annuities paid as Federal old-age benefits under title II. I do not believe anyone ought seriously to contend that Congress by changing the form of the bill can overcome the constitutional limitations. As stated by the Supreme Court in *Linder* v. *United States* (268 U. S. 5)—

> Congress cannot under the pretext of executing delegated power pass laws for the accomplishment of objects not intrusted to the Federal Government. And we accept as an established doctrine that any provision granted by the Constitution not naturally and reasonably adapted to the effective exercise of such power but solely reserved to the States is invalid and cannot be enforced.

This is not the first time we have attempted to exercise a power which belongs to the States or the people. Congress at one time passed an act prohibiting transportation in interstate commerce of goods made at a factory in which 30 days prior to removal of the goods children under certain ages had been permitted to work. This was, of course, an attempt to regulate child labor under the constitutional power to regulate commerce among the several States. The Supreme Court held this act unconstitutional, stating that the grant of power to Congress over the subject of interstate commerce was to enable it to regulate such commerce and not to give it authority to control the States in the exercise of their police power over local trade and manufacturing (*Hammer* v. *Dagenhart*, 247 U. S. 251). Having failed in this attempt, Congress next tried to regulate child labor under the taxing power. The Supreme Court also held the taxing act unconstitutional, stating in the Child Labor Tax case (259 U. S. 20) that the decision in the *Hammer* v. *Dagenhart case* was controlling and reaffirming its position that Congress could not "under the pretext of exercising its powers pass laws for the accomplishment of objects not intrusted to the Government."

I might also cite numerous other cases bearing out this same principle, such as *Hill* v. *Wallace* (259 U. S. 44) and *Trusler* v. *Crooks* (269 U. S. 475), holding that Congress cannot under the taxing power regulate boards of exchange.

Yet in this bill we are trying to do that which the Supreme Court has repeatedly held we are without power to do.

It has been stated on the floor that the Railroad Retirement Act decision does not affect this bill, due to the fact that that act related to the power of Congress to regulate interstate commerce and not to the power of Congress to levy taxes. But this is an old argument. This argument was also advanced in the Child Labor Tax case after the Supreme Court had already held that Congress had no power to regulate child labor under the commerce clause. The Supreme Court stated that Congress, likewise, had no power to regulate child labor under the taxing clause. Do we wish to go around the circle again now that the Supreme Court has held in the Railroad Retirement Act decision that Congress is without power under the commerce clause to provide compulsory pensions to railroad employees? In view of this decision, and in view of the Child Labor Tax case, how can it be said that Congress can provide pension plans for employees under the taxing clause? Have we not already learned a lesson from cases already decided?

I listened with interest to the argument advanced by the Senator from New York [Mr. WAGNER] in support of this part of the bill. He relies to a large extent on the decisions of the Supreme Court in the *Veazie Bank case* (8 Wall. 553) upholding a 10-percent tax on bank notes issued by State banks, the *McCray case* (195 U. S. 27, 59) upholding a discriminating tax upon the sale of oleomargarine, the *Doremus case* (249 U. S. 89) sustaining the constitutionality of the Harrison Narcotics Act, and the case of *Magnano* v. *Hamilton* (292 U. S. 40) upholding a State tax of 15 cents a pound on butter substitutes. But the sole objection to these taxes was their excessive character. Nobody contended that Congress did not have the power to lay a tax upon bank notes issued by State banks, or to lay a tax upon oleomargarine. Nothing except the taxes appeared upon the face of the acts. This was pointed out by the Supreme Court in the Child Labor Tax case and was also emphasized in the Doremus case, in which a regulation subjecting the sale and distribution of narcotic drugs to official supervision and inspection was upheld as a necessary means to enforce the special tax imposed upon such drugs. But here the face of the bill itself shows that the tax under title VIII has been adopted as a mere disguise to permit the Federal Government to set up a system of compulsory old-age annuities, which it has no power to do under the Federal Constitution.

Let us glance at these two titles to see whether or not they disclose on their face their real purpose.

(1) The employees subject to tax under section 801 of title VIII of the bill are the only persons who receive benefits under title II of the bill.

(2) The employees whose wages are exempt from the tax under section 801 of title VIII of the bill do not receive any benefits under title II of the bill.

(3) The tax on employees is computed on a percentage of the wages received by the employee after December 31, 1926, with respect to employment after such date. The old-age benefits under title II are computed upon wages received by the employee after December 31, 1936, with respect to employment after December 31, 1936.

The PRESIDING OFFICER. The time of the Senator from Utah on the amendment has expired.

Mr. KING. I will speak a few minutes, then, on the bill.

Mr. President, continuing,

(4) Services performed by an individual after he has attained the age of 65 are not counted in arriving at the benefits payable under title II but are subject to tax under title VIII. The purpose of this provision is to discourage individuals from working after they attain the age of 65. However, some of the people who will be 65 at the time this bill is enacted will be forced to pay taxes on their wages, although they cannot obtain any benefits at all under title II. Manifestly it is claimed that this is done to mislead the court into believing that title II has no direct connection with title VIII. But I do not believe the court will be misled by such subterfuge, and it is certainly a rank discrimination against aged people to tax their meager earnings after they become 65 and at the same time deny them any benefits under title II.

(5) In the case of a person who dies before attaining the age of 65, his estate receives under title II 3½ percent of the total wages determined by the Social Security Board to have been paid to him with respect to employment after December 31, 1936. These are the same wages upon which he is subject to tax under title VIII. There seems to be no justification for paying to the estate of such person subject to tax under title VIII a certain portion of his wages regardless of his financial needs, unless it is admitted that such payment is a return of the taxes paid under title VIII.

(7) An individual who is not qualified for benefits under section 202 of title II of the bill will receive payments under title II equal to 3½ percent of the wages paid with respect to employment after December 31, 1936, and before he reached the age of 65. These wages are the same as those with respect to which such person is subject to tax under title VIII. This means that an employee who has received wages subject to tax under title VIII before he attained the age of 65 of less than $2,000, or an employee who did not receive wages in each of at least five different calendar years after December 31, 1936, and before he attains the age of 65, will get back 3½ percent of such wages regardless of his financial needs. This can only be justified on the theory that he is being returned the taxes he paid under title VIII.

It is true that the tax under title VIII is paid into the general fund of the Treasury. But this was also the case in respect of the child-labor tax imposed by title XII of the Revenue Act of 1918 and the tax on grain futures imposed by the act of August 24, 1921 (42 Stat. 187). The Supreme Court did not hesitate to hold both of these taxes unconstitutional. (*Child Labor Tax case*, 259 U. S. 20; *Hill* v. *Wallace*, 259 U. S. 44.)

But suppose the two titles are held to be separate. How can title II standing alone be upheld, for how can it be said that Congress is providing for the general welfare by paying bounties to wealthy salaried individuals, or their estates at death, and at the same time deny such payments to agricultural laborers, persons employed by religious or educational institutions, and domestic servants? Moreover, under title VIII, when standing alone, there is a discrimination in its classification apparently in violation of the fifth amendment. Why should stenographers, clerks, janitors, and so forth, doing the same class of work, be exempted from a tax when they are working for religious, charitable, scientific, or educational institutions and subject to the tax when working for other institutions or business?

If one looks at the face of the bill, the conclusion seems inescapable that the tax under title VIII is not a tax at all, but an attempt by Congress to assert a power reserved to the States and the people under the tenth amendment. The decision cited by the Senator from New York [Mr. WAGNER] dealing with State workmen's compensation acts do not appear to be decisive of this question, for these acts deal with the powers reserved to the States or the people and not to the powers delegated to the Federal Government under the Constitution. I do not see how we can expect the Supreme Court to be "misled" by the subterfuges we have adopted in this bill in the attempt to exercise a power over which Congress has no control under the Constitution. I cannot help but believe that under the decisions of the Supreme Court titles II and VII will be declared unconstitutional.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Missouri.

Mr. VANDENBERG. Let us have the yeas and nays.

Mr. HARRISON. Mr. President, I am convinced that it will be impossible for us to reach a vote on the pending amendment tonight. There are, however, some other amendments which I think we can dispose of which will not take much time. I have talked to a number of Senators, and I hope the unanimous-consent agreement which I send to the desk may be entered into.

The PRESIDING OFFICER. The proposed unanimous-consent agreement will be read.

The legislative clerk read as follows:

*Ordered*, by unanimous consent, That when the Senate concludes its business today it take a recess until 12 o'clock noon tomorrow; that at not later than 1 o'clock p. m. tomorrow the Senate proceed to vote without further debate upon the pending amendments; and that thereafter no Senator shall speak more than once or longer than 10 minutes upon the bill or any amendment or motion relating thereto.

The PRESIDING OFFICER. Is there objection?

Mr. McNARY obtained the floor.

Mr. LONERGAN. Mr. President——

The PRESIDING OFFICER. The Senator from Oregon has the floor.

Mr. HARRISON. Will the Senator from Oregon yield to permit the Senator from Connecticut to ask a question?

Mr. McNARY. Mr. President, just a moment. Reserving the right to object, and making the same reservation for the Senator from Connecticut, I desire to have it understood, as accompanying this proposal, that there shall be an agreement that no action shall be taken with respect to the Holt case tomorrow, because I understand that at 12 o'clock the majority and minority members of the committee will file reports. I desire to have them printed and lie over at least for the day.

Mr. GEORGE. Mr. President, I may say that in the event the Senator-elect from West Virginia [Mr. HOLT] should present himself, the program of the Privileges and Elections Committee would be to present such a report as the committee may finally submit, and ask for the printing of the report, and that the matter lie over at least for 1 day.

The PRESIDING OFFICER. Does the Senator from Georgia desire the attention of the Senator from Oregon?

Mr. GEORGE. I merely stated that if the Senator-elect from West Virginia should present himself tomorrow, the purpose and program of the Privileges and Elections Committee would be to ask that the report submitted be printed and that the matter lie over for at least 1 day, so that it would not interfere with the legislative program.

Mr. HARRISON. Mr. President, I may say to the Senator from Oregon that I have conferred with the colleague of the Senator-elect from West Virginia [Mr. NEELY]; and he states—I think we shall get through with this measure by 2 o'clock, anyway, under this arrangement—that he does not feel that there would be any objection, and that the Senator-elect would not present himself until after this matter should have been disposed of. I am confirmed in that by what the Senator says.

Mr. LONG. We can take up the Holt case at sometime tomorrow, however, can we not?

Mr. HARRISON. Oh, yes; if we get to it.

Mr. McNARY. No, Mr. President; I understood from the response to the statement I made that that would not be done I intended to imply that I thought it was fair and orderly for the reports from the committee to be filed at 12 o'clock, and that they should go over for at least 1 day. I think that statement was confirmed by the Senator from Georgia, who thought likewise.

Mr. GEORGE. I should ask that the matter take that direction, Mr. President. If the Senator-elect should present himself tomorrow, the reports of the committee would be in order; and I should certainly request that the matter lie over for 1 day, in order that the reports might be printed and made available to the Senate.

Mr. McNARY. That is correct. Then I suggest, after conferring with the Senator from Rhode Island [Mr. METCALF], that it would be well to provide that 15 minutes should be allowed on the bill and 10 minutes on the amendments.

Mr. HARRISON. I have no objection to that.

Mr. McNARY. Very well. Then, with that modification, I ask that the proposed agreement be stated.

The VICE PRESIDENT. The clerk will state the modified unanimous-consent proposal.

The legislative clerk read as follows:

*Ordered*, by unanimous consent, That when the Senate concludes its business today it take a recess until 12 o'clock noon tomorrow; that at not later than 1 o'clock p. m. tomorrow the Senate proceed to vote without further debate upon the pending amendments, and that thereafter no Senator shall speak more than once nor longer than 15 minutes upon the bill, or more than once nor longer than 10 minutes upon any amendment or motion relating thereto.

The VICE PRESIDENT. Is there objection?

Mr. LONERGAN. Mr. President, I desire the attention of the Senator from Mississippi. Does the proposed agreement say "pending amendment" or "pending amendments"?

Mr. HARRISON. The Senator from Connecticut is interested in one of the committee amendments and desires to make a motion with reference to that matter, as I understand. Under this agreement he will have 25 minutes after 1 o'clock to speak on that question.

Mr. LONERGAN. That is satisfactory.

The VICE PRESIDENT. Is there objection to the proposed unanimous-consent agreement as modified? The Chair hears none, and the agreement as modified is entered into.

### SOCIAL SECURITY AGAINST FEDERAL POLITICS

Mr. SCHALL. Mr. President, I apprehend that few Members of the Senate are opposed in principle and in fact to the general purposes of this bill as advertised, namely, unemployment insurance, old-age and childhood relief, and sundry measures of social relief.

The striking and outstanding features of the bill, as analyzed by those who have studied it, are:

First. The small and even trifling amount of relief it will afford in the coming fiscal year 1936 to meet urgent conditions of unemployment and social helplessness, as compared with the vast program of promises to be fulfilled in the years 1939 to 1949, when the planned chaos of this so-called "emergency", we hope, will be over.

Second. Compare the estimate of only $400,000,000 which will be realized under the bill for unemployment insurance and old-age relief in 1936 with the $5,000,000,000 appropriated subject to the allocation of the Executive for his emergency in 1936.

In other words, for the 1936 emergency of the Executive, we have appropriated 12 times the amount available in 1936 for unemployment insurance and old-age relief combined.

Thus, under the cloak of "social security" for the unemployed, old age, and childhood relief, we give the Executive $5,000,000,000 for 1936, or an equivalent of $125 per voter for all of the 40,000,000 votes cast in the Presidential election.

Social security is needed now, in the hour of adversity, not in 1939 or 1949, after the "emergency" is presumed to be past.

In a published analysis of the practical effects of the bill I note that beginning January next a tax of 1 percent on pay rolls will begin to finance unemployment insurance, which will amount to $200,000,000, and that the Nation and the States will increase this to $400,000,000—available a year later, when the Government reports the collections.

In 1937 this pay-roll tax will jump to 2 percent for unemployment insurance, and another 2 percent to finance old-age benefits. Thereafter, we are told, these tax rates will steadily mount until by 1949 they are estimated to reach $4,000,000,000—a fifth less than the amount which for 1936 we toss to the Executive for his campaign fund in one lump sum subject to his allocation as he mysteriously chooses.

If we are here as practical statesmen, and not rubber stamps for a Presidential campaign committee, the questions that confront us are these:

First. This emergency which we aim to meet is in the fiscal year 1936 instead of 1949. Then why make available for unemployment insurance and old-age relief only $400,000,000 for 1936 against $4,000,000,000 in 1949?

Second. If we are for social security and not for Federal dominion over the States, then why in this day of emergency do we make only $400,000,000 available to unemployment insurance in 1936, against $5,000,000,000 available as an Executive political club in 1936?

The situation stands that for every dollar available for social security in 1936, we give $12 to the Executive to club the States, yes, even the Congress, into compliance with the dictates of the White House candidate for reelection.

Is that social security, or is it Federal politics?

Does that make for even the political security of the States from Federal domination?

In order to make this plan of social security effective now, when it is bitterly needed, instead of in the remote future, after the emergency is, as we hope, past forever, not to return, I suggest, Mr. President, that the amount of $2,000,000,000 be drawn from the $5,000,000,000 1936 campaign fund hitherto appropriated subject to the allocation of the Executive.

This suggestion will accomplish two principal objects:

First. It will demonstrate that the purpose of Congress is to achieve true social security, and not merely to issue a wide-spread campaign of idle promises, hullabaloo, and hypocrisy. It will start to give that security now, when it is bitterly needed, instead of passing the buck to future administrations and imposing a vast tax burden on both wage earners and employers alike, increasing steadily until 1949.

Second. It will materially aid the cause of the Republic, the protection of the rights of the States, the protection of Congress itself from the Federal encroachment now usurping the legislative powers of Government, if the Executive club of $5,000,000,000 is shortened to $3,000,000,000, and the difference appropriated to the social security of the needy and the political security of the Republic.

THE REPUDIATION PARTY AND ITS EMBLEM, THE BLUE EAGLE

Mr. President, those administration pallbearers who are trying by the passage of this bill to resurrect the dead corpse of the N. R. A., after the nine Justices of the Supreme Court by unanimous decision have consigned it to the grave, place themselves in a unique position.

They brand themselves as the outstanding repudiators of political history.

First. By retaining the provision which suspends the antitrust laws, they repudiate the platform on which they and the President were elected, namely, their "100 percent" pledge demanding—

Strict and impartial enforcement of the antitrust laws to prevent monopoly.

Second. They repudiate two of the outstanding progressive achievements of the former Democratic administration of Woodrow Wilson, namely, the Clayton Antitrust Act and the Federal Trade Commission Act.

Third. They repudiate every Democratic platform in 40 years, from the second administration of Grover Cleveland in 1892 to the one and only administration of Franklin "Delaware" Roosevelt, demanding strict enforcement of antitrust laws against monopoly.

Fourth. They repudiate the Constitution which they swore to uphold when they took their oaths to obtain seats in this Chamber, after the Supreme Court has found that the N. R. A. is unconstitutional.

Fifth. They repudiate the sovereignty of their own States, which this unconstitutional N. R. A. seeks to override.

Sixth. They repudiate the demands of 90 percent of the people of the United States, who overwhelmingly call for the burial of the Blue Eagle and all its progeny as the greatest stench that has ever revolted the American body politic.

Seventh. They repudiate even their own speeches for national industrial recovery, because the N. R. A. has been the chief obstacle to industrial recovery, as witness:

(a) In the first year after the first N. R. A. code, in July 1933, the industrial production of the United States fell 25 percent, while the industrial production of Canada and Great Britain rose 20 percent.

(b) It brought on the greatest industrial strike in American history, 800,000 wage earners being involved in a country-wide strike, and both leaders of the warring industrial factions were factotums of the N. R. A., namely, the Chairman of the N. R. A. Textile Code Authority was spokesman for the employers, while a leading member of the N. R. A. Labor Advisory Board was president of the United Textile Workers, both being official members of the N. R. A. set-up, and the entire strike or industrial war sprang from the N. R. A. and was apparently designed within N. R. A. circles to cut down the surplus supply of textile mill goods and boost consumer prices.

(c) Even in April 1935 the American Federation of Labor finds 11,500,000 unemployed as compared with 7,000,000 reported by the American Federation of Labor for April 1932, showing an increase of 4,500,000, or 65 percent, in 3 years of increasing industrial chaos, during which leading industrial countries abroad, such as Great Britain and Canada, have returned to a normal condition of industrial prosperity, the greatest they have known since the World War.

Eighth. Though the Supreme Court, by declaring the N. R. A. and its huge patronage of 5,400 unlawful under the Constitution, the administration majority repudiates its 100-percent pledge in the Chicago platform to cut off useless bureaus and reduce the cost of Government "by not less than 25 percent."

Ninth. Though the Supreme Court has performed a great public benefaction in cutting down Government costs by several hundred millions in its decision that kills the N. R. A., the administration majority deliberately chooses to ignore the Court's decision and thereby repudiates the Chicago platform pledge for a "Federal Budget annually balanced."

Tenth. Though the greatest bar to national industrial recovery is the uncertainty and fear injected into the economic development of the country by unconstitutional "experiments" and the "crack-down" threats to all private enterprise, the administration majority persists in perpetuating this N. R. A. uncertainty nearly a year longer and thereby repudiates its pledge to "recover economic liberty", to "restore confidence", and to "bring peace, prosperity, and happiness to our people."

Thus the administration supporters of the dead N. R. A.—upholders of the corpse which "nine out of nine" Justices of the Supreme Court have pronounced legally defunct and stinking—have not only defied the judgment of the Court and the provisions of the Constitution, but they have repudiated every economic plank of the platform on which they were elected, repudiated every pretense of recovery on which they based their long chain of "planned emergency", repudiated the record of all previous Democratic administrations in 50 years, repudiated the speeches and White House promises of 3 years of industrial chaos, repudiated even the false hullabaloo of the 11,000 press releases sent out by the publicity division of the N. R. A. and its short official life to date.

In short, we have here the greatest case of partisan self-repudiation known to history. Having repudiated their own party, all their platforms, all their party history, all their former leaders, and finally repudiated themselves and their own works and words—deserted all for one stinking corpse—these "new dealers" of the N. R. A. today have resolved themselves into a new party in American history—the repudiation party.

The other day a mass convention of American citizens gathered at Springfield, Ill., the former home of Abraham Lincoln, who prayed at Gettysburg that "government of the people, by the people, and for the people should not perish from the earth."

Were it not for the vicious principle, the rotten failure, the industrial chaos, exemplified by the unconstitutional N. R. A. Act and its exposure by the nine out of nine Justices of the Supreme Court, that convention might not have been held. This "grass roots" convention of the Mississippi Valley States marked the popular revulsion of the American people against this corpse of the N. R. A. Other like conventions are to be held in Ohio, representing nine central industrial States of the East, another at Salt Lake City representing the Mountain States, and still another representing the Pacific Coast States. Similar revolt against Federal domination of industry is expressed by the Governors of nine States of the South.

Here is one of the cheering patriotic signs at this "grass roots" convention in the town made famous by Abraham Lincoln. That assembly of 8,000 cheered the name of Alfred E. Smith, the Democratic standard-bearer of 1928. They

cheered the names of the Senators of Virginia, the veteran CARTER GLASS and former Governor BYRD. They cheered the name of the Senator from Maryland [Mr. TYDINGS]. And why these cheers from a convention presumed to be of the party of Abraham Lincoln?

The reason is plain enough. They had read the speeches and watched the votes and listened to the radio messages of these statesmen, who placed country above the party whip, Jefferson and Lincoln above Tugwell and Richberg, the nine Justices of the Supreme Court above Frankfurter and Cohen, and Washington, Cleveland, Theodore Roosevelt, and Woodrow Wilson above Franklin Roosevelt, General Johnson, and the Blue Eagle corpse and chaos.

That mass convention of the "grass roots" States had taken notes of the attitude of this administration toward the Supreme Court and toward the Constitution, as expressed by the President in his White House press interviews. Those men and women of the Middle West were not blind to the White House slur, that the nine Justices of the Supreme Court had set the country back 50 years, to the "horse and buggy" days because they had set up the Constitution as their guide, instead of the Roosevelt-Johnson codes; because they had set the principles of American liberty above the edicts of a would-be dictator; because they had placed the sovereign rights of the States above the interests of code monopolies; because they had held, as every court before them held for 146 years, that the legislative power of Congress cannot be delegated and usurped by the Commander in Chief of the Army and Navy to build here a bureaucratic autocracy as in Rome, Berlin, and Moscow.

That is why this "grass roots" convention cheered, not only the names of Jefferson and Lincoln, but the names of Alfred E. Smith and the Senators from Maryland and Virginia. It is only the scared handful, repudiators of their own party and platform, afraid to voice their own true convictions because of that club of the $5,000,000,000 burglary, the officeholders waiting for their split of the greatest hold-up of history, who are unable to read the handwriting on the White House wall—"Mene, mene, tekel, upharsin"—weighed and found wanting!

On the day chosen for dragging this Blue Eagle corpse through the Senate Chamber under a gag law, insisted upon by the President himself, the Shriners of the United States were marching up Pennsylvania Avenue 100,000 strong. The Stars and Stripes waved everywhere, at the reviewing stands and above the marching ranks, and there was not a Blue Eagle sign displayed.

And thereon hung the great news event of the day. When Franklin "Delaware" Roosevelt saluted the Shriner colors as the procession passed his reviewing stand, he was compelled to salute The Star-Spangled Banner—the flag of the free, the flag of the Constitution—instead of the corpse shrould of the Blue Eagle, the bedraggled rag of the N. R. A., salvaged by the swag of $5,000,000,000.

Mr. President, I ask leave to print an industrial-control report relating to the "grass roots" convention.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

[Industrial Control Reports, issued weekly by the James True Associates, National Press Building, Washington. No. 102. June 15, 1935]

FRANKNESS FROM THE "GRASS ROOTS"

Washington opposers of the administration, both Democrats and Republicans, are greatly encouraged over two results of the "grass roots" convention—establishment of the constitutional issue, and the brushing aside of restraint in attacking Roosevelt personally.

Undoubtedly, the most effective feature of administration propaganda was its protection to Roosevelt until the recent Supreme Court decision. More than 300 official administration press agents were assisted by thousands of socialist "fronts" and "plants" in every section of the country. Reds on the staffs of papers used their influence to the utmost. Jewish advertisers also brought pressure to bear.

About 60 days ago, a prominent Washington correspondent of an opposition paper told the writer that it was not safe to attack Roosevelt. Published criticism brought a flood of protests from the "fronts" and "plants", and their letters were received as an indication of public opinion until their names became familiar to editors. Hoaxing of the press in this way is an established method of Communists and Socialists.

We have received many letters of protest and denunciation, a number of them threatening, because of our many factual statements regarding Roosevelt. A striking similarity of phrasing unmistakably indicates the organized effort on the part of reds and pinks to protect "the first Communist President of the United States", as he is called in Russia, against adverse criticism.

More than a year ago we predicted that the new deal would be blocked when the public learned some of the facts regarding the motive behind it. Now the bars are down. A large part of the public suspicions that it has been betrayed. Roosevelt's responsibility for his appointments and leadership is established. Without serious molestation, newspapers can now publish the truth, thanks to the "grass roots" convention.

"GRASS ROOTS" HIGHLIGHTS

From a well-known observer at the convention, we learn there were 8,666 delegates registered from 10 States. The galleries at all meetings were filled. As many women as men attended. A great many resolutions were thrown out, none but the most important and significant were considered. "The new deal was indicted, tried, found guilty, and sentenced to hang."

Women will wield more influence in the next campaign than ever before, if convention indications hold. Women delegates were unanimous in their denunciation of the First Lady for her political activities and radio advertising. They pronounced her a socialist and severely criticized other members of the family. It was evident that Republican women will make Mrs. Roosevelt one of the major issues, and that they are determined that the next hostess of the White House shall be one who will carry out the American tradition.

DAMNING EVIDENCE AND A FEW QUESTIONS

Breaking of the popularity of Roosevelt is largely due to a public realization of the hypocrisy and double-dealing of the man. If you want just a mild hint of his complete change of front, write the Republican National Committee, Washington, D. C., for a complimentary copy of the pamphlet "Franklin D. Roosevelt, as Governor, Warned Against * * *"

Why did Roosevelt junk the Democratic platform he was elected on and substitute the Socialist platform? Why did he adopt the "brain trust" new-deal program after he had vigorously denounced control by master minds, infringement of State rights, Federal interference with business, and the other communistic ventures he has promoted as President?

Answers to these questions have been supplied the public by millions of letters, books, pamphlets, small periodicals, booklets. Many thousands of these pieces have been stolen from the mails by "new dealers" in the Postal Service. To a large extent, pamphleteers have expressed their goods. The campaigns have been mightily effective and have largely nullified the press censorship and the effects of threatened press boycotts.

CREDIT WHERE CREDIT IS DUE

For the vast and recent change in public sentiment, credit should be given to Albert W. and Elizabeth Dilling, Gerald B. Winrod, H. A. Jung, Col. Edwin M. Hadley, Robert E. Edmondson, Col. E. N. Sanctuary, John B. Trevor, John B. Snow, Miss M. R. Glenn, and many others. At great personal sacrifice, these Americans have exposed the communistic fallacies of the administration and the sinister international influence behind Roosevelt.

DEMOCRATS WITH THE NEW-DEAL JITTERS

Fear of what the new deal will do to the party is expressed by prominent Democrats in two major ways. The movement to block the nomination of Roosevelt is well started, and is based on the fact that he has proved he is not a Democrat. The plan is to have one-third of the delegates instructed or pledged not to vote for Roosevelt, and the movement is said to be making marked headway in Georgia, Tennessee, Virginia, Florida, and Texas.

This week, a secret poll of Democrats in the House was made by the National Congressional Committee to determine sentiment for the 1936 election. The first question is: "What in your opinion is the reaction, personally, to Mr. Roosevelt in your district?" The second deals with the reaction to administration policies, and the third is: "Can Roosevelt carry your district?" It is the earliest poll ever conducted by the committee.

OLD WINE IN A NEW BOTTLE

The United States Flag Association is promoting a declaration of independence of today, to be signed by 56 "outstanding Americans." The announcement will be made on July 4, and the new document will paraphrase the original declaration.

Insiders say that since both Roosevelt and his wife are officials of the United States Flag Association, they cannot understand how a conclusion was reached without removing both the blue and the white from the flag.

DEFYING THE SUPREME COURT?

Apparently in opposition to the principles laid down by the Supreme Court in the recent N. R. A. case, new-deal leaders in Congress are making desperate efforts to push through the A. A. A. amendments. Although new-deal legal tricksters say they have gotten around the decision by "rephrasing" parts of the bill, the legislation, if enacted, will give the Secretary of Agriculture supreme control of farm products. Leaders in both Houses and A. A. A. officials have admitted, insiders say, that the announcement regarding cancelation of licensing power was merely a "gesture." There is no doubt that the proposed legislation is unconstitutional.

The N. R. A. bill, considered under gag rule by the House, holds together the Tammany political machine in a form that can be rapidly extended for the political campaign. It offers practically no benefits to industry and preserves the sinister menace of political control. Even in its emasculated form it is doubtful that all provisions of the N. R. A. bill are constitutional.

TAX FIGHTS

We predict that the next heavy blow dealt the new deal will be in the form of suits to recover processing taxes. While egomania still rules at the top, sane administration officials admit that the entire A. A. A. structure is in grave danger. It has been announced that the tobacco industry will claim about $50,000,000. Thursday, in Philadelphia, six packing companies filed suits in the United States district court.

They have asked that the collector of internal revenue be enjoined from collecting further processing taxes. The suits are based on the claim that the Government has no power to control production, that the processing tax is not a tax as defined by the Constitution, and that the Secretary of Agriculture should not be granted arbitrary taxing power. Other suits for millions of dollars have been filed in various sections of the country.

WORTH-WHILE BROADCASTS

Monday evening, June 17, at 6:30 (eastern standard time), Representative HAMILTON FISH, Jr., will broadcast a vitally important statement on the condition of agricultural exports and imports. His speech will be made over the blue network of the National Broadcasting Co.

On June 21, at 10:30 (eastern standard time), Representative MARTIN DIES, of Texas, will broadcast over the same network an appeal to reason regarding aliens. He will advocate the immediate passage of his bill to permanently stop immigration and deport 3,500,000 aliens unlawfully in this country. His speech is sponsored by more than 100 patriotic organizations.

EXPORTS AND IMPORTS

Recently Representative FISH introduced the last McNary-Haugen bill (H. R. 8427), providing for the control and disposition of surplus farm commodities. He will explain his reasons during his broadcast next Monday, and following we state some of the facts that impelled him to attempt to save vanishing markets for the country's agricultural products.

The present condition vitally affects every American business. Mr. FISH takes the charitable view that the demoralization is due to mistakes of administration officials. About 16 months ago we emphasized certain facts which strongly indicated a deliberate attempt to retard recovery. Since then we have repeatedly charged the administration with planning to impoverish the country in order to make its communistic experiments acceptable. The following facts are submitted as proof of our charges:

EVIDENCE OF OFFICIAL SABOTAGE

Half or more of our cotton exports have been lost. We are actually importing more wheat than we are exporting. Since last July 21,760,000 bushels of wheat have been imported, while exports were only 3,008,697, and the equivalent of 11,702,000 in flour, a large part of it milled from Canadian grain. We have imported 11,269,000 bushels of corn, 14,084,000 bushels of oats, 9,624,000 bushels of barley, and 12,474,000 bushels of rye.

During the first 4 months of this year importation of grains amounted to $22,721,000, and during the same period of 1934 the total was $4,785,000. Wheat exports dropped from 12,174,000 to only 57,000 bushels. Rice imports increased from 12,708,000 to 39,024,000 pounds. Rice exports decreased from 39,375,000 to 28,778,000 pounds. There was a net trade loss of 36,912,000 pounds of rice during the 4-month period.

Butter imports increased from 217,000 pounds last year to 17,398,000 pounds for the first 4 months of this year. Importation of meats increased from 16,326,000 pounds to 38,041,000 pounds, while meat exports decreased from 79,544,000 to 57,888,000 pounds. Lard exports dropped from 166,952,000 pounds to 51,386,000 pounds during the 4-month period. Tobacco exports for April this year were the smallest for any month since March 1918.

In 1925 exports of agricultural products reached a total of about one billion and a half dollars. In 1934 exports were $733,416,000—less than half. Authorities estimate that agricultural exports for this year will not exceed $500,000,000. The 1925 figures are based on a sound, 100-percent dollar. The decreased figures are in the depreciated 59-cent dollar. Based on the old sound dollar, the value of this year's farm exports will not exceed $300,000,000—one-fifth of agricultural exports for 1925.

These figures are but a small part of a large number which point to the same inevitable conclusion. The new deal planned ruin of the country's agriculture is almost complete, and during the process the administration stealthily increased its communistic control. The only success of the administration is its deliberately planned demoralization.

Mr. HARRISON. Mr. President, there is to be no other discussion of the pending amendment this afternoon, I understand.

Mr. McNARY. Does the Senator from Mississippi desire to have me present at this time the amendment in behalf of the Senator from South Dakota [Mr. NORBECK], or shall I wait until tomorrow?

Mr. HARRISON. The Senator may offer the amendment now. I should like to clear up as many of these matters as possible.

Mr. McNARY. In the absence of the Senator from South Dakota, who is compelled to be away on account of official business, I submit the amendment which I send to the desk.

The PRESIDING OFFICER (Mr. BARKLEY in the chair). The Senator from Oregon [Mr. McNARY] presents an amendment on behalf of the Senator from South Dakota [Mr. NORBECK], which the clerk will state.

The LEGISLATIVE CLERK. On page 80, after line 4, it is proposed to insert the following:

TITLE XII—INDIAN PENSIONS

SEC. 1201. That heads of families and single persons of Indian blood, not otherwise entitled to the benefits of this act, who have heretofore attained or shall hereafter attain the age of 65 years, are hereby declared to be entitled to a pension from the United States in the sum of $30 per month, subject to the following conditions:

Applications for pension by persons of Indian blood shall be made in writing in such form as the Secretary of the Interior may prescribe and shall be filed by the applicant with the superintendent or other officer in charge of the agency or tribe to which the applicant belongs. Upon receipt of any such application the Secretary of the Interior shall make, or cause to be made, such investigation as he may deem necessary to determine the accuracy of the facts shown thereon, including the annual income of the applicant from other sources. In all cases where the Secretary of the Interior finds that the annual income of such applicant is less than $1 per day, said Secretary shall award to such applicant a pension in an amount which, when added to the other annual income of such applicant, will bring such annual income up to but not in excess of $1 per day: *Provided, however,* That payments to Indian pensioners entitled hereunder shall be made in equal monthly installments from the date of approval of application therefor by the Secretary of the Interior, and, in the discretion of said Secretary, such payments may be made direct to the individual beneficiaries or to other persons designated by the Secretary of the Interior providing care for any beneficiary under the provisions of this act: *Provided further,* That in the discretion of the Secretary of the Interior such payments due any Indian beneficiary may be handled in accordance with regulations governing individual Indian money accounts; and the Secretary of the Interior is hereby authorized to prescribe such further rules and regulations as may be necessary for carrying out the provisions of this section.

SEC. 1202. All persons of Indian blood who are permanently blind but less than 65 years of age shall be entitled to a pension from the United States in the sum of $10 per month, and all persons of Indian blood who have for 1 year previous to the enactment of this act been unable to perform physical labor on account of being crippled or otherwise disabled shall be entitled to a pension from the United States in the sum of $10 per month during such disability.

SEC. 1203. The Indians and Eskimos of Alaska shall receive a pension under same conditions and in an amount one-half that provided for Indians under this title.

SEC. 1204. There is hereby authorized to be appropriated annually, out of any money in the Treasury not otherwise appropriated, so much as may be necessary to carry out the provisions of this act, including necessary expenses of administration.

Mr. HARRISON. Mr. President, I have considered the amendment very carefully, and I am willing that it shall go to conference.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. McNARY. Mr. President, I am in possession of a letter written to the Senator from Mississippi [Mr. HARRISON], in charge of the bill, by the Commissioner of Indian Affairs, which the Senator from South Dakota [Mr. NORBECK] desired to have me offer for the RECORD, and I ask unanimous consent that it may be printed following the action on the amendment.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JUNE 17, 1935.

Hon. PAT HARRISON,
*United States Senate.*

DEAR SENATOR HARRISON: I have talked with your secretary, Mr. Calhoun, about the proposed amendment to the Securities Act providing for pensions for aged Indians.

I am in sympathy with this proposal, and I call attention to its modest character. These aged Indians will receive from the Government a sufficient monthly pension to bring their total income to a dollar a day. The possibilities of abuse under the terms of the proposed amendment would be minimized. Most of these aged Indians, insofar as they receive incomes at all, receive them from properties under the jurisdiction of the Government and in the form of payments out of individual accounts held in trust. This fact means that the Interior Department, through its local superintendencies, would know with considerable exactness the income already being received by each of these old people.

I should add that a large percentage of them are now receiving little income or none at all. Many of these old Indians possess no

land any more. Others are in possession of allotments not yet alienated, from which the regular income is trifling. Often their landholdings are split through numerous heirship processes—lands which have become subdivided through the pernicious allotment system to that point where they can no longer be profitably rented or farmed. These old Indians now subsist at a near-starvation level through such help as relatives may be able to give them and through the very inadequate relief grants now made to the Indian Office.

I should add that these old Indians are the best of their race, and I believe every American feels that the Government ought not to let them starve nor leave them dependent upon uncertain local charity. Usually they do not have access to the relief sources which imperfectly meet the need of aged white people.

What probable liability will the amendment place upon the Government? There are about 14,000 Indians aged 60 years and over; about 11,900 aged 65 years and over; about 9,325 aged 70 years and over. The maximum theoretical liability for the group 60 years and over would be $4,260,000 a year. I would estimate roughly that two-thirds of the total of those 65 years and over (11,900) would be entitled to some aid, and that on the average this two-thirds (7,900) would become entitled to pension at the rate of 66⅔ cents a day. This would mean an annual cost to the Government of about $1,925,000. You will understand that this is a merest estimate and that in time of drought and of business depression the required amount might be larger, while in good times it would be substantially smaller.

Sincerely yours,

JOHN COLLIER, *Commissioner*.

Mr. HARRISON. Mr. President, I offer two clarifying amendments.

The PRESIDING OFFICER. The Senator from Mississippi offers amendments, which the clerk will state.

The LEGISLATIVE CLERK. On page 29, line 1, after the word "State", it is proposed to insert the words "and its political subdivisions."

The amendment was agreed to.

The LEGISLATIVE CLERK. On page 33, line 23, after the word "State", it is proposed to insert the words "and its political subdivisions."

The amendment was agreed to.

Mr. HARRISON. I offer another amendment, to be inserted at three places in the bill.

The PRESIDING OFFICER. The clerk will state the amendments.

The LEGISLATIVE CLERK. On page 8, line 1, it is proposed to strike out the words "Secretary of the Treasury" and to insert in lieu thereof the words "Social Security Board."

The amendment was agreed to.

The LEGISLATIVE CLERK. On page 8, line 4, it is proposed to strike out the words "Secretary of the Treasury" and to insert in lieu thereof the words "Social Security Board."

The amendment was agreed to.

The LEGISLATIVE CLERK. On page 9, line 10, it is proposed to strike out the words "Secretary of the Treasury" and to insert in lieu thereof the words "Social Security Board."

The amendment was agreed to.

Mr. RADCLIFFE. Mr. President, I offer the amendment, which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 15, line 22, after the word "literary", it is proposed to strike out "or educational" and to insert in lieu thereof "educational or hospital."

On page 52, line 4, after the word "literary", it is proposed to strike out "or educational" and to insert in lieu thereof "educational or hospital."

On page 61, line 22, after the word "literary", it is proposed to strike out the words "or educational" and in lieu thereof to insert "educational or hospital."

Mr. HARRISON. Mr. President, I have examined this amendment. Many charitable hospitals have been held by the Treasury Department to be exempt, and this provision of the bill is in the same wording as the present law.

Mr. CLARK. Mr. President, what is the purpose of the amendment?

Mr. HARRISON. There are certain charitable hospitals which under the wording of the bill are already exempt.

Mr. CLARK. According to the great argument the Senator from Mississippi [Mr. HARRISON] made this afternoon, as well as the Senator from New York [Mr. WAGNER], this amendment would impair the constitutionality of the bill.

Mr. HARRISON. I am sorry the Senator places that interpretation on it. The wording is as follows:

(b) The term "employment" means any service, of whatever nature, performed within the United States, or as an officer or member of the crew of a vessel documented under the laws of the United States, by an employee for his employer, except—

* * * * * * * *

(6) Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes—

And so forth.

Mr. CLARK. Unfortunately, perhaps, the Treasury Department does not as yet make the laws of the United States. The Supreme Court within the last 2 or 3 weeks said that the Congress still functions. While I have no objection to this amendment, which simply provides another exemption to those already in the bill, it certainly gives the lie to the argument which has been made here all afternoon by the sponsors of the bill, the Senator from Mississippi [Mr. HARRISON], the Senator from New York [Mr. WAGNER], the Senator from Wisconsin [Mr. LA FOLLETTE], and others, that to put exemptions in the bill would invalidate the measure. I shall not object.

Mr. HARRISON. Mr. President, I desire to say only a word. The amendment does not, in my opinion, add anything to what is already in the bill. It is a clarifying amendment, and for that reason it was offered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maryland [Mr. RADCLIFFE].

The amendment was agreed to.

Mr. MCNARY. Mr. President, I think I shall take this opportunity to say a few words on one section of the bill, particularly that which applies to old-age pensions.

For many years I have been very much interested in the philosophy of legislation of this character. In reviewing a few days ago some of the bills, I found that on August 15, 1919, I introduced a bill which provided a pension for those who had reached the period of old age.

Today we are considering a plan directly affecting millions of our citizens—so many, in fact, that they outnumber the combined populations of Arizona, Delaware, Idaho, Montana, Nevada, New Mexico, North Dakota, Rhode Island, South Dakota, Utah, Vermont, Wyoming, the District of Columbia, and Alaska.

The problem which we are called upon to face in the care of our dependent aged grows more acute with each year. Within a century man's expectancy of life has jumped from 39 to 60 years, so that in 1930 those over 65 years of age represented more than 5 percent of the entire population, a percentage double that of 1850.

We cannot lightly approach any plan touching so large a number of our citizens. For good or ill, dependent wholly upon the ultimate soundness of our program, our decision will affect the entire economic, social, and perhaps political life of the country. The cry for old-age pensions, delayed though it has been in the United States, is now challenging the attention of the country as never before.

Wrapped in our own affairs, we have gone our separate and indifferent ways until conditions have become so acute as to compel a wide-spread realization of an indefensible situation. Now an awakened and aroused public opinion clamors against this existing evil, and few are left sufficiently entrenched in selfish interests to remain calloused to the call of humanity, or to dare ignore the challenge of an enlightened remedy.

There are some who attribute this to clever and appealing propaganda; but the demand for decent care for our dependent aged is rooted in the fundamentals and ideals of our democracy, and of late years has been intensified by our rapid mechanization and industrialization.

A century ago problems of old age from the economic standpoint were not so acute nor so sharply defined as today. The man of 50, 60, or 70, growing more adept at his trade, handled his simple tools skillfully; and if advancing years laid a restraining hand on his shoulders, they also bestowed

the benediction of experience, trustworthiness, and dependability which youth does not always possess. So the elderly man had his place. The whir of the accelerated motor, the machine which, serving man, demands perfection of eye and muscle of him who serves it—these did not yet constitute a challenge to his efficiency. On the farm, in the simple workshops, in the fields, driving the vehicles of those days on rude but safe highways, the worker of yesterday did not find it necessary to clutch with a life-and-death grasp the job which gave him independence.

The women also had their place. The mother found many things to which her willing hands could turn in the homes of yesterday, with the younger generation coming on apace and no labor-saving devices to lighten the burden. Families were larger in those days. There were more children to share the expense of maintaining the older generation when it ceased to be financially independent.

Again, in the last decade we have turned sharply from agriculture to industry. Forty-five years ago nine and one-half million of our people were engaged in agriculture, topping by more than a million those found in mining, manufacturing, transportation, and trades. But in 1920, 30 years later, agriculture claimed only 11,000,000 as against 21,000,000 in the other fields of endeavor, and in 1930 there was an actual decrease in the number of agriculturists, as against 25,000,000 in the industrial groups. In other words, in 1890 a greater proportion of our people were engaged in agriculture than in any other business activity. Since that time, and up to 1930, agriculture has barely held its own, whereas the industrial group has practically trebled itself.

This, of course, has a direct bearing on old-age dependency. Not only did the elderly man and woman find a niche in the agricultural pursuits, but the struggle for shelter and food was not so exacting on the farm as in the crowded cities to which industry has drawn our people. Every time man's inventive genius constructs another labor-saving device, more men and women walk the streets with empty hands, and the blight falls first on those of matured years.

But to damn the machine is futile, since progress is inevitable, and should be welcome. Nevertheless, it is essential that we adjust our economic life to our new industrialization and mechanical advancement; and when we care for the aged we have taken one necessary step in that direction.

Not alone have we become industrialized as a nation, but we boast an industrialization pitched to the highest degree of efficiency, specialization, and speed. Added to this there is the abominable practice, rapidly increasing, of placing an employment deadline somewhere between 35 and 50. In 1929 the National Association of Manufacturers, after a survey, revealed that 30 percent of the concerns investigated—the large corporations chiefly—operated under set age limits, the most accepted limit for unskilled workers being 45 years of age; for skilled workers, 50 years of age.

Now, if it were possible, in this land of abundant natural wealth, for the majority of our workers to earn enough to accumulate a surplus for their latter years, this condition might not be so tragic. But, of course, in the case of at least half of those employed this is utterly impossible. The Brookings Institution, in its survey based on conditions in 1929, found that about 40 percent of income recipients received incomes less than $1,000. The average income was approximately $1,200. Going by slowly ascending steps to an annual income of $2,000, we find that less than 19 percent of our people receive in excess of this amount. These figures were calculated, not on conditions in one of our depression years, but in our so-called "boom" year of 1929, when we as a people were supposed to be cradled in luxury and abundance. When we consider the exigencies of life, the inevitable periods of unemployment and illness, the losses and the costs involved in these and in other accidents and hazards, we are putting it optimistically if we assume that even 40 percent of our people are able to accumulate a substantial and adequate savings account. As a matter of record, 16,000,000 families, comprising about 59 percent of all our families in the United States, in 1929 had aggregate savings of about $250,000,000 only. This amounts to about $16 per family.

Of this group some will have a few hundreds more, some nothing at all, and many will be in debt, but the net answer is the same. More than half of our people cannnot, out of their meager earnings, set aside any substantial amount against the years of unemployment and old age.

We find, then, in our modern industrialized society these two related causes of old-age dependency, neither of which surely can be charged to those who suffer from them most: Foremost, low wages which prevent accumulation of any degree of wealth, and its close associate, the refusal to employ those who have passed youth and middle age. Various industrial studies made within the last 10 years plainly indicate that only a few of our workers have earned enough to maintain a moderately high standard of living, and not only have earnings fallen short of this in good times, but during periods of depression they have been insufficient to supply even the minimum necessities. It is conceded by most students of the problem, including the foremost authorities in this field, that the major factor for poverty in old age is the low wage scale. I may say that an examination of this class shows that small earnings and dependency in old age maintain an inseparable relationship.

A year ago a study by the Brookings Institute entitled "America's Capacity to Consume" startled us by its statistics concerning the number of families and workers who, because of the small return for their labor, were compelled to exist far below our accepted American standard.

A series of charts on family and individual incomes is followed by this explanatory language:

The figures in the table and chart reveal in a striking way the wide disparity in incomes, and also the concentration of the great bulk of the families in a relatively narrow income range. The greatest concentration of families was between the $1,000 and $1,500 level, the most frequent income being about $1,300. The following summary statement will aid in showing both the range and the concentration that exists:

Nearly 6 million families, or more than 21 percent of the total, had income less than $1,000. About 12 million families, or more than 42 percent, had income less than $1,500. Nearly 20 million families, or 71 percent, had income less than $2,500. Only a little over 2 million families, or 8 percent, had income in excess of $5,000. About 600,000 families, or 2.3 percent, had income in excess of $10,000.

In the face of this cold statement of facts, no argument is needed to establish our responsibility toward those who find themselves at 60 or over without adequate savings. If anything is needed to strengthen this recognition, let us turn again to the study of our wealth distribution for an analysis of surveys during the same period:

Sixteen and two-tenths million families with income from zero to $2,000 (59 percent) show aggregate savings of about $250,000,000. 8.9 million families (32 percent) with income from $2,000 to $5,000 saved approximately 3.8 billion dollars. Two million families (7 percent) with income from $5,000 to $20,000 contributed about 4.5 billion dollars of the aggregate savings. 219,000 families with income above $20,000 saved over $8,000,000,000.

About 2.3 percent of all families—those with incomes in excess of $10,000—contributed two-thirds of the entire savings of all families. At the bottom of the scale 59 percent of the families contributed only about 1.6 percent of the total savings. Approximately 60,000 families at the top of the income scale, with income of more than $50,000 per year, saved almost as much as the $25,000,000 families (91 percent of the total) having income from zero to $5,000.

Thus, it must be evident to the most determined individualist that in most instances old-age dependency in the United States is not due to individual maladjustment, but to social and economic forces which the individual cannot hope to govern.

To present a problem is much simpler than to present its solution. Yet I am confident that once the magnitude of this problem is clearly recognized, once we face squarely the fact that it has passed beyond the ability of the individual to master, and is distinctly national in its character, we shall set ourselves to the task of its solution. It does not square with our sense of fair play and honorable acceptance of responsibilities to flinch and turn a cowardly back upon our duty.

In Wisconsin, where there was an opportunity for voters to register their convictions, they voted in 1931 to change

the law from optional to mandatory form; and Minnesota followed suit in 1933. Six of the 13 laws enacted between 1931 and 1933 set the pensionable age at 65 years instead of 70. Since the beginning of 1935 seven States have enacted laws affecting old-age pensions. In every instance the trend has been toward liberalization such as reduction in age limit, lowering the residence requirements, or making the obligation of the counties mandatory.

I do not claim that an old-age pension alone will bring to this country a full solution of its pressing problems; but it is an important, righteous forward step.

Both the farmer and the business man should profit by the application of a generous pension plan, greatly in excess of whatever share of the financial expense may fall upon them. If it is feasible to spend billions of dollars to lift industry from its prone position and start it again into its stride, it is feasible to expend money in this just cause with the expectation that it will carry out the second part of its twofold purpose, namely, to stimulate the purchase of our so-called "surplus commodities" by assuring for them a fixed and balanced market.

No less a beloved citizen than Abraham Lincoln has said:

> Inasmuch as most good things are produced by labor, it follows that all such things ought to belong to those whose labor has produced them. But it has happened in all ages of the world that some have labored, and others, without labor, have enjoyed a large proportion of the fruits. This is wrong and should not continue. To secure to each laborer the whole product of his labor as nearly as possible is a worthy object of any good government.

Those who are devoting themselves to the cause of good government can take this means of assuring to our workers, in their old age at least, the products of their labor of earlier years. Thus, there shall be happiness and peace in homes now darkened with despair, and in serving the cause of good government we shall serve the cause of democracy and humanity as well.

SOCIAL SECURITY

The Senate resumed consideration of the bill (H. R. 7260) to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment-compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes.

The VICE PRESIDENT. The question is on the amendment offered by the Senator from Missouri [Mr. CLARK].

Mr. BARKLEY. Mr. President, the amendment which has been offered by my friend the Senator from Missouri [Mr. CLARK] is to be voted on at 1 o'clock, and inasmuch as the Senator from Missouri desires to conclude the argument on his own amendment, I promised him not to occupy all the time; and I have no desire to do it independent of that in order that I may extend to him the courtesy to which he is entitled as the author of the amendment.

There are so many things involved in the amendment which is now before us that I could not hope to call attention to all of them in the space of time which I shall occupy. We have heard a good deal of discussion here on the pending bill and in connection with the amendment, in which the fear has been expressed that the bill itself is of doubtful constitutionality, and the intimation is that we ought to vote against it on that account.

Mr. BORAH. Mr. President——

The VICE PRESIDENT. Does the Senator from Kentucky yield to the Senator from Idaho?

Mr. BARKLEY. I yield.

Mr. BORAH. The fear, as I understand, is with reference to title II; but does not the Senator think that title II might be held to be unconstitutional without affecting the other portions of the bill?

Mr. BARKLEY. Yes; I think the various titles of the bill are separable. The point that I have in mind at this particular juncture is that, if it be true that there is any part of this measure concerning the constitutionality of which there is doubt, that doubt ought not to be increased by adding an amendment such as that which is now before the Senate.

We have heard the Federal Government berated and denounced here on the floor as if it were a sort of monster; we have heard it talked about as if it were a sort of glacier, gigantic in proportions, crawling along the surface of the earth and crushing everything with which it comes in contact, and that, because it is a monster, because it is constantly reaching its hands out to crush somebody or to rob somebody of authority, we ought to vote against this measure and all similar measures which are brought forward for our consideration.

I do not entertain that conception of the Federal Government. The same people who pay taxes into the State treasuries pay taxes into the Federal Treasury; the same people who are citizens of the States are citizens of the United States; and I look upon our National Government rather as a benevolent organization than as a ruthless organization seeking all those whom it may devour. Certainly in its effort to relieve economic insecurity by providing some universal and uniform way by which we may eliminate the hazards of old age, of unemployment, and of illness, our National Government takes on the qualities of a benevolent government and not of a despotic or ruthless government.

We have had our attention called to the decision of the Supreme Court in the famous case sometimes referred to as the "sick chicken" case, sometimes as the "chicken coop" case, and other derisive terms which have been applied to it. I think it is unfortunate that the decision as to the legality of N. R. A. had to arise on a case involving the plucking of chickens out of a coop, because it seems to be a trivial situation; but the Supreme Court went into it in detail and therefore I have no disposition to treat it in a trivial way.

I believe there is no question that the Congress has the power to levy the tax which is proposed to be levied under the pending bill. I am not concerned with fear as to the constitutionality of title II, which can only be doubted on the ground that we are invading a field which was reserved to the States or the people; but I do not see any difference in principle between appropriating billions of dollars to be given to unemployed men and women all over the United States in an emergency to keep them from starving and freezing and appropriating money out of the Treasury in an orderly way to provide against the existence of such an emergency in the future.

We need not grow fearful that the foundations of our Government are going to crumble because the Supreme Court on one day rendered three decisions, two of which nullified acts of the Federal Congress, one being the N. R. A. case, the other involving the Frazier-Lemke Act, which was passed by Congress and was not, strictly speaking, a part of the new deal, as it has been assumed that all these decisions were rendered against the new deal, and the third having to do with exercise of the power of dismissal on the part of the President.

It might be interesting for Senators to recall that from 1789 to 1859 the Supreme Court rendered only 2 decisions nullifying acts of Congress. From 1860 to 1869 it rendered 4 decisions nullifying acts of Congress; from 1870 to 1879 it rendered 9 decisions nullifying acts of Congress; from 1880 to 1889 there were 5 such decisions; from 1890 to 1899 there were 5 such decisions; from 1900 to 1909 there were 9 such decisions; from 1910 to 1919 there were 7 such decisions; from 1920 to 1929 there were 19 such decisions; from 1930 to 1932 there were 3 such decisions; and from 1933 to 1935, both inclusive, there were 7 such decisions, which involved only 6 acts of Congress. So that from 1920 to 1929, a period of 10 years, the Supreme Court nullified, in all 19 decisions, acts of Congress, but no one was then fearful that because of that fact Congress had ceased to function or that the Supreme Court had arrogated to itself the powers of government.

No one thought the foundations of our Government were about to crumble; yet because during the last 5 years the Supreme Court has rendered 10 decisions in which it nullified acts of Congress, 7 of which have been rendered within the last 3 years, we are cautioned not to vote for anything that even implies a position near the border line, lest we may do something that is unconstitutional.

Mr. President, my objection to the Clark amendment is that it sets up two competitive systems of old-age relief. I believe one of the wisest things the Nation has done has been to recognize the duty of the Government toward indigents. Whether the indigent condition be brought about by unemployment or old age or ill health, there is no way by which the public can escape the burden. It is always present in one form or another. Those who work must support those who do not work. It has always been so, and it will always be so. With respect to reduction of hours of labor, my theory has been that if we must decide whether all our people should be allowed to work three-fourths of the time or three-fourths

of them should be allowed to work all the time and the other one-fourth never work at all, I prefer the first alternative so as to divide whatever work is available among all the able-bodied men and women of the country who desire to work, so they may share it in proportion to their ability, rather than that we shall have a permanent condition in this country in which three-fourths of the people shall be allowed to work all the time and one-fourth never to work at all, and therefore become burdens upon the three-fourths who shall be allowed to work. That is the reason why I favor reduction in hours of labor, insofar as we can do that, in order to spread the work which is available among all the people capable of working.

I feel the same way with respect to the provisions for old-age pensions and unemployment insurance. That is why I believe in this measure, worked out by a commission appointed a year ago by the President at the time he sent his message to Congress announcing that at this session he would propose a constructive plan of legislation to deal with this complicated and interrelated situation. After months of investigation and months of labor that commission brought out a tentative plan, which was submitted to the Houses of Congress, and both Houses, through their committees, held exhaustive hearings on the subject. The House of Representatives finally passed a bill, I believe, in much modified form. Our Committee on Finance gave weeks and months of study to this problem, and has brought here a bill proposing a uniform and universal plan to apply to our country.

Abraham Lincoln once said this country cannot endure half slave and half free. I do not believe any old-age pension system we may inaugurate can long endure half public and half private, because if we have private insurance or annuity plans set up in opposition to the plan of the Federal Government, it is not difficult to see that the high-pressure salesmanship of annuity companies and of insurance companies will always be on the doorsteps of the employers to convince them that they can insure their employees in a private system more cheaply than they can by the payment of taxes into the Federal Government and a consequent dispensation of the benefits in an orderly and scientific fashion.

Therefore I believe the effect of the Clark amendment—and I am sure, of course, the Senator from Missouri was not actuated by any such design or desire—will be to disorganize and disarrange the reserve fund set up in the Treasury under the Federal plan, and that it will gradually and effectually undermine the Federal system which we are trying to set up. We will then have our Government in competition with every annuity writer and every employer in the country who thinks he may be able to save a little money by insuring his employees or by adopting some private annuity plan which may be suggested to him by some private insurance company or annuity company which desires to obtain the business.

As the Senator from Wisconsin [Mr. LA FOLLETTE] said yesterday, the employers of the United States have not asked for this amendment. Only one employer of labor came before our committee and suggested it. He was a representative of the Eastman Kodak Co., of Rochester, N. Y., which for many years has had a very commendable system of private annuities for its employees. The only other man who came before the committee to suggest the amendment was a man who represents an annuity company which desires to write policies for employers throughout the United States.

The question which we are to settle when we vote on the Clark amendment at 1 o'clock is whether we are to have a Federal system uniform in its application all over the United States or whether we are to have a spotted system, part Federal and part private.

The argument has been advanced here that failure to adopt the amendment would rob the States of some rights to which they are entitled. The argument has even been made that the enactment of this bill into law will rob the States themselves of some right under the theory of State rights. I believe in State rights. I was schooled in the doctrine of State rights. I come from a section of the country and I belong to a political organization one of whose cardinal doctrines has always been the preservation of the rights of the States. But while I am in favor of State rights, I am also opposed to State wrongs.

We take nothing away from any State in this measure. There is nothing here which interferes with the right of any State to pass its own old-age-pension laws and its own old-age annuities or any other form of old-age relief which the State legislature, through the representatives of the people, may desire to enact. We not only take away from the States no right which they enjoy but we take away from no employer any right which he enjoys. He may continue his private plan if he desires; and if he is so generous as not to be satisfied with what the old people who work for him or his concern for the able-bodied years of their lives are to get out of this bill, he may supplement that by adding to it, or inaugurating a private system of his own which will give them more than they will be able to obtain under the bill as we have it here.

My contention is, however, that we cannot safely take away from this uniform, universal system which we are trying to establish here the universality and the uniformity of its application by holding out an invitation or an encouragement to private individuals to impinge upon the system set up by the Federal Government, and utterly to destroy its reserve fund, and thereby break down its application, because the Federal Government will be compelled to bear the burden of it on the seamy side, while private employers may so manipulate their employment as to age as to have a large majority of younger men who would not be an immediate burden upon them, while shifting to the Federal Government all of the older employees whom they do not desire to carry on their rolls because of the greater burden that might be attached to payment of annuities to them over a term of years.

Mr. COSTIGAN. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Kentucky yield to the Senator from Colorado?

Mr. BARKLEY. I yield to the Senator from Colorado.

Mr. COSTIGAN. I am much impressed by the statement of the Senator from Kentucky. In connection with it, I ask his attention to the proviso on page 4 of the Clark amendment, to which, as I view the amendment, not enough attention has been directed.

Under that proviso, with which the Senator from Kentucky doubtless is familiar, if an employee leaves private employment prior to reaching 65 years of age, the duty falls upon the employer to pay to the Treasury of the United States an amount equal to the taxes which otherwise would have been payable by the employer, plus 3 percent per annum, compounded annually. Since we are dealing with insurance principles, is the Senator prepared to tell the Senate why the payment to be made at such a time is not based on actuarial standards, which would result in a larger payment by the employer than the amount provided for in the Clark amendment?

Mr. BARKLEY. Of course, I am not able to answer the question of the Senator, because I do not know why it was not based upon actuarial facts and upon actuarial investigations.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. BARKLEY. I yield.

Mr. CLARK. I do not desire to take the Senator's time; and I shall be glad to have the Senator make up out of my time the amount of time consumed by this interruption.

The question is very simple to answer. The provision was included in that form to meet the objection which was made in the committee that the employee might be the loser at any time by transferring from a private fund to the Government fund. The provision was put in the amendment in this form to insure that an employee who, either from his own wishes or from any other cause, transfers at any time from a private fund to the Government fund will certainly not be any worse off than if he had been in the Government fund all the time.

Mr. BARKLEY. That leads me to discuss another matter which I think is very serious and will be very difficult to administer.

The amendment of the Senator from Missouri provides, of course, that the board shall approve these plans. It must keep constantly in touch with each of them, not only as to the plan as a whole but as to every single employee of any concern, however large the number may be. In other words, if the employment of any man is terminated under the terms of this amendment, whether by his own voluntarily act or by the act of his employer, the board in Washington must investigate the relationship of that employer to that employee; and it is conceivable that it would take an army of inspectors and investigators running all over the United States to innumerable places to which they would be called every time a man terminated his employment, either on his own account or on account of his employer, to ascertain the relationship between the employer and the employee at the time of the termination, and at the same time investigate the employee's rights under the private plan and under the Federal plan, if he had any rights under the Federal plan.

Talk about bureaucratic government, and about snoopers going around all over the country to investigate everything! There would have to be an investigation, if there was any controversy over it, every time a man quit his work or was discharged, as to his rights under his agreement with his employer, or under the law under which he operated.

That brings me to the discussion of another matter which seems to me to add to the doubtful constitutionality of the bill if this amendment should be adopted.

In the child-labor case the Supreme Court practically held that an effort on the part of Congress to levy a tax on the products of a factory intended for interstate commerce, provided they employed children in the manufacture of the product, was the same as fixing a penalty upon any concern that employed child labor. They held that that was unconstitutional for that reason, as well as for other reasons which they assigned.

In the case of this amendment, if the same controversy should arise, and the Court should take the same view of it—that the tax imposed here would be in the nature of a penalty against every concern that did not have a private plan of annuity for the benefit of its employees—of course, the act might be held unconstitutional on that ground.

To me, however, there is even a more serious objection to the amendment on constitutional grounds. The Constitution provides that all duties, imposts, and excises shall be uniform throughout the United States. Of course, that does not mean that we have to levy a given tax on everybody in the country. We have always recognized the right of Congress to establish classifications for the purposes of taxation. We do it in all of our revenue laws. We set up classes which shall pay a certain amount of taxes, and other classes which according to the law will be taxed in a different way; but I do not recall any act of Congress or any decision of a court where it has been held that after fixing these classifications Congress can lift some persons out of the classifications and exempt them from taxes altogether. That is what this amendment would do. It says to every concern and every factory, it says to all those who are subject to it, "You will pay this tax unless you inaugurate a private annuity system of your own. If you do that, you are not required to pay the tax which everybody else in your class will be required to pay."

I seriously doubt whether Congress has any such power as that under the Constitution. Certainly, in my judgment, that would violate the rule of uniformity which the Constitution requires with respect to taxes levied upon all classes and different classes which Congress proposes by its laws to attempt to tax. Certainly there would be enough doubt about it to add to the doubtfulness of the constitutionality of the act as a whole, if there is any serious doubt as to its constitutionality, which I have not the time now to argue at length, because I have promised the Senator from Missouri to leave him 20 or 25 minutes in order that he may close this argument in behalf of his own amendment.

But, regardless of constitutionality, regardless of any question of technicality, regardless of all the legal technicians who may be brought forward in behalf of this proposal, my earnest belief is that it is unwise as a matter of policy to divide this great scheme which has been devised in our country—a belated scheme, I will say, compared to the legislation of other civilized nations, some of which was inaugurated half a century ago, most of which has been in operation for a quarter of a century. It has taken us a long time to march up the hill toward the consideration of our duty to those who have served society, and in many cases have rendered as valuable service to the world as the man who shoulders a musket or goes to war in support of his flag or his Constitution. It has taken us a long time to conceive of it as our duty as a government to do something to recognize, in an organized and regular and orderly way, the duty of society to its aged and to its unemployed and to its indigent, those who have served their day and have passed on beyond the power of service, beyond any capability so far as they are concerned to make their declining years happy and comfortable. I congratulate the Congress of the United States, I congratulate the American Government, I congratulate men of both political parties in this Chamber and in the other Chamber, that at last we have come to recognize the fact that society as a whole, in its organized form, owes an obligation to these men and women which cannot be discharged by mere lip service, but can be discharged in a practical way only by the enactment of workable, practicable plans to apply to all alike and to all sections of the country with equal force, as we have attempted to provide in the bill now before the Senate.

I think the Senate and the Congress will rue the day on which this amendment shall be agreed to, and thereby the strength of our enactments be weakened, and the power of the National Government be weakened in dealing with unemployment and old-age problems.

For these reasons, I sincerely hope the amendment will be defeated. However much I regret to oppose any amendment put forward by my lifelong friend the Senator from Missouri, however much respect I have for his views and for the sympathetic heart which I know he possesses, nevertheless, I believe he is wrong in principle and in policy in this case, and I believe it would be a serious mistake to adopt the amendment; and I, therefore, trust that it will be rejected.

Mr. CLARK. Mr. President, no careful and intelligent observer in these unhappy times can have failed to note that in the last 10 or 12 years there has been an essential change, if not in the form of our Government, at least in its substance, and can have failed to observe that this has ceased to be a government in which legislation is by congressional consideration and vote, but has become a government by experts.

There was quite a long period following the foundation of the Government down to a recent date when Senators and Representatives considered it their duty under the Constitution to formulate legislation on their own responsibility, under their oaths of office, to consider that legislation in the light of their own views, and to cast their votes on the enactment of the legislation in accordance with those views. That situation existed until a period not so long ago. During that time Senators and Representatives considered it to be their duty to take active part in the formulation of legislation. But under the system which has grown up in the last 10 or 12 years, a man who feels himself qualified to participate in the formulation of legislation, to have any voice in its formulation, should not offer himself for election to the Senate or the House of Representatives, but he should procure for himself a position as a member of some commission, or as an employee of some commission or as an employee or agent of some bureau of the Government.

Until very recently these experts were satisfied to go over legislation proposed to be enacted, in private, with the Senators who were to introduce it and sponsor it, and quietly to let it be known that it was legislation sponsored

by the commission or the bureau, as the case might be. In more recent practice the experts come to the committees, in executive sessions of the committees, and the experts come upon the floor of the United States Senate in droves.

In the consideration of the particular bill now before us, when the bill was finally reported out of the Finance Committee I think it is no exaggeration to say that there were three times as many experts in attendance in that supposed executive session of the committee as there were Senators present to vote on the bill, a measure which puts a larger charge upon the taxpayers of the United States than any bill ever heretofore introduced.

During the consideration of the bill on the floor of the Senate the Senator from Mississippi [Mr. HARRISON] has from the beginning been flanked by two experts, the Senator from Wisconsin [Mr. LA FOLLETTE] has had a private expert of his own, and the seats in the back of the Chamber have been occupied by experts of various kinds. So it is with some trepidation that a mere Senator of the United States rises to appeal to his colleagues in this body, and to differ from the opinions of this galaxy of experts.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. CLARK. I yield.

Mr. BARKLEY. I do not recall when a single general tariff bill has been enacted during my membership in the two Houses of Congress when there were not clerks and various experts sitting by the chairmen of the committees in both Houses to furnish information with respect to the measure as it went along.

Mr. CLARK. I will state to the Senator from Kentucky that of course the rule of the Senate provides for clerks of committees being admitted to the floor, but I have searched in vain—although I am not complaining about this matter—for any authorization for representatives of various commissions and various bureaus to be on the floor of the Senate. I am making no point of that, however.

Mr. BARKLEY. I thought the Senator was.

Mr. CLARK. I am simply laying the foundation for some remarks which I now desire to make.

I do not desire to criticize these experts; they are honest men, for the most part, wedded to their own ideas, but it seems to me that when the time has come that the Senate of the United States cannot consider measures on its own responsibility without any more effective argument being made against a measure than that this corps of experts does not approve it, this country has come to a pretty pass.

Mr. BARKLEY. Mr. President, will the Senator yield further?

Mr. CLARK. I will in just a moment. In other words, it seems to me that there may be very grave suspicion that the real objection of these experts to this amendment and to other suggestions for changes in the proposed act which have been advanced may bear a very close analogy to President Grant's remark about Senator Charles Sumner. It is related that on one occasion someone told President Grant that Sumner did not believe in the Bible, and Grant replied, "Yes, damn him; that is because he didn't write it." That is the attitude of many of these experts regarding many of the measures brought on the floor of the Senate.

I now yield to the Senator from Kentucky.

Mr. BARKLEY. I wish to ask the Senator a question. We are dealing always with a very practical situation. Back in the days when legislation was simple it was easy, of course, for the Senators and the Members of the House of Representatives to deal more at large with the details of legislation. I recall the act creating the Federal Trade Commission which I helped to write as a member of the Committee on Interstate and Foreign Commerce of the House of Representatives, and that was a very short act. But as the problems of the Government have multiplied and our society has become more complex, members of both branches of the National Legislature and of branches of all legislatures everywhere have found it more necessary to acquire accurate information in order to guide them in the matter of legislation.

We will adjourn in a few weeks and go home. We will be at home I hope the remainder of this year. We do not have our minds on legislation when we are at home, we are not writing bills. We are glad to get away from the humdrum and the burden of legislation.

When we come back in January, what harm will come if the President shall appoint some commission to look into a situation which may require legislation when we reassemble, and if such commission shall have gathered a volume of information for our assistance and guidance in the matter of legislation? What harm is there even if some gentlemen have suggested a tentative draft of a bill, which we have the right to change, as in this case we have changed the bill materially from what it was when it came to us?

Mr. CLARK. Evidently I have not been able to make myself clear to my distinguished friend from Kentucky.

Mr. BARKLEY. I am sure that is my fault.

Mr. CLARK. No one complains about the furnishing of information to any committee of the Senate or of the House of Representatives, or to either body itself. What I am complaining about is the assumption of infallibility by this body of experts.

Mark now, how a plain tale shall put my friend down. The first draft of the bill before us was produced after 6 months of work under direction of a stellar array of technical, medical, public-health, hospital, dental, and child-welfare officials.

The bill was prepared, and some 2 or 3 weeks later the experts of the Treasury Department advised a multitude of very radical changes in the bill, which were accepted almost without exception.

Since then experts advisory to the committees in the House and in the Senate have brought about many further modifications, and it is only now, at the last minute, after all this multitude of changes, that the opinion of these experts suddenly becomes infallible, and in the face of this they now maintain that the Federal plan as now contained in the bill has suddenly achieved such perfection as to justify the wiping out of benefits of all private plans in favor of a Government compulsory plan, which will probably again be changed by the experts.

Mr. President, I have only a few minutes remaining, but I desire as briefly as possible to state why I think my amendment should be agreed to.

Mr. LONG. Mr. President, before the Senator leaves the subject he has been discussing, I wish he would not overlook what the Senator from Kentucky has pointed out, that as these experts continue to compile our laws the Government becomes more complex and complicated, and needs more experts.

Mr. CLARK. That is unquestionably true.

Mr. BARKLEY. If the Senator will yield, of course, that is not what I said at all, and the Senator from Louisiana knows it is not what I said. He got the cart before the horse, as he always does.

Mr. CLARK. I do not desire to have the Senator from Kentucky and the Senator from Louisiana engage in a controversy in my time, because I have only 13 minutes left.

Mr. LONG. Mr. President, I beg the Senator's pardon——

Mr. CLARK. I must decline to yield, because I have some serious thoughts I desire to present to the Senate.

The statement was made by the Senator from Mississippi in the course of the debate—and I know in good faith, because it was based on the testimony of one of the experts, to which I myself listened—that there is no private pension plan more generous and more beneficial to the employee than the Government plan.

Mr. President, the expert who made that statement before the Finance Committee, the principal opponent before the committee of the amendment which is soon to be voted on, was M. W. Murray Latimer. He is the inventor, or the chief proponent, at least, of the contention which has been advanced here on the floor that the adoption of the pending amendment would lead to discrimination against the older

type of employees and the laying off of employees at a fixed or earlier age. Yet the same Dr. Latimer, before he became an expert testifying in the executive sessions of the Finance Committee, when he was speaking in public on the stage at Cleveland in January 1930 to the American Management Association, used this language:

Talk of general retiring age limit in any industry is sheer myth.

There has been quite a change in Dr. Latimer's position between the time he appeared independently on his own responsibility in public and when he appeared in a secret session of the Finance Committee as one of the experts of two of these committees.

Mr. President, it is said that there are no private plans which are more beneficial than the plans set up by the Government under this bill. I read to the Senate yesterday a brief description of the plan of one company which now contributes 4½ percent to a benefit fund as against 3 percent contributed by the employees, and which, in addition to certain other benefits, provides in the plan an insurance policy of the face value of 1 year's salary for each employee.

I now desire to place in the RECORD, Mr. President, some other advantages in other private plans. What I shall state is by no means comprehensive, but it is merely illustrative. Many companies under private plans provide that earlier retirement for women may be had, or that there may be special disability retirement.

Companies which normally retire women at age 60, as against the Government plan of retirement at age 65, are, among others, the American Insurance Co., the American Telephone & Telegraph Co., the Clark Thread Co., the Eastman Kodak Co., the General Foods Corporation, the Rochester Gas & Electric Corporation, and the Standard Oil Co. of Ohio.

Plans which retire disabled men before age 65, which is a feature strictly forbidden under this Government plan, among others, are the Boston Consolidated Gas Co., which permits retirement at any age after 15 years' service; the Electric Storage Battery Co., which permits retirement at any age after 15 years' service; the International Harvester Co.; the Standard Oil Co. of New Jersey; and the United States Steel Corporation.

Plans which retire men, not disabled, before age 65 after a specified length of service, among others, are Armour & Co., Commonwealth Edison Co., Spool Cotton Co., and the Standard Oil Co. of California.

Mr. President, the trouble with these experts is that they take their model from the ancient highwayman of old Attica, Procrustes, whose custom it was, so we are told in fable, to overpower wayfarers passing along a certain route and compel them to lie upon a bed which he had specially constructed. Those wayfarers who happened to be too short to fill up the bed had their legs stretched out to the length of the bed, and those unfortunates whose legs happened to be longer than the bed had their legs hacked off. That is the principle of the experts with reference to this bill in opposing such an amendment as that which I have proposed. Where the legs of any private plan are too short to fit the model which the Government has made, no one has any objection to having those legs stretched out; but it seems more than passing hard and passing unfair to require the legs of those companies which happen to have more generous plans, which happen to be too long for the bed, to be hacked off, more particularly when the length of leg hacked off would be for the benefit of the employees concerned.

Mr. President, it was stated by the Senator from Mississippi [Mr. HARRISON] yesterday and by the Senator from Kentucky [Mr. BARKLEY] a while ago that no employers or employees were concerned about the passage of this amendment. I know that they both made that statement in good faith, but, for their information, I should like to say to them that I have on my desk here letters from more than 75 employers now having plans more beneficial to the employees than the Government plan, who protest against having their plans wiped out.

It was stated that the adoption of this amendment would ruin the structure of the bill. That certainly has not always been the opinion of these experts, because in the March-April 1935 number of the Manager's Magazine, Dr. E. E. Witte, who sits upon the floor of the Senate as the adviser of the Senator from Wisconsin [Mr. LA FOLLETTE], used this language:

At the present time, there is no exemption offered to the employer who has already embarked on a plan of private annuities, either with a life-insurance company or by some other means. If those insurance companies underwriting such cases were to offer a reasonable amendment to the pending bill urging an exemption for such employers, it might be accepted. There would probably be two points insisted upon, however, by our committee or by the Social Insurance Board set up under the bill, namely, (1) the ability of the insurer to guarantee security of the fund, and (2) the transferability of the amount vested in the employee in case he leaves his present employer.

Mr. President, both of those features are completely covered in the amendment which I have proposed, and I read that statement simply for the purpose of showing that the statement which has been repeated here on the floor by various Senators that the adoption of this amendment would ruin the whole structure of the bill is apparently entirely without foundation; at least it was not recognized by one of the chief experts of the committee, Dr. Witte.

In closing, I simply desire to emphasize the fact that Senator after Senator in opposition to this amendment has made the statement that the adoption of this amendment, providing for the retention of private pension plans, would redound to the disadvantage of the older employees; and yet, although the Senator from New York [Mr. WAGNER], the Senator from Mississippi [Mr. HARRISON], the Senator from Wisconsin [Mr. LA FOLLETTE], and others have been requested to point out wherein that was possible, not one of them has been able to lay his finger on the manner in which that would be possible and to justify the statement.

The fact is that this amendment, in its present form, containing the provision that the contribution to the fund by any employer shall not be less than the amount of the tax, makes it absolutely impossible for any employer to profit to the extent of one penny by having younger employees. The only effect of cheaper insurance by reason of younger employees would be to enable the employer to purchase larger annuities, which would redound to the benefit of the employee and not of the employer.

The provisions of this amendment make it absolutely certain that the employee can leave the private pension system at any time at his option and go into the Government system, taking with him not less than the amount which would have been to his credit in the Government fund if he had been under the Government fund from the very beginning.

Therefore I submit it is not to the interest either of the public or of the employers to penalize employees who now are under the more liberal pension systems than that proposed to be set up by the Government plan. It is not to the interest of the public to prohibit forward-looking employers who are anxious to be more generous to their employees than would be the system provided in this bill. I point out further that under the provision of the amendment the conditions of the private plan must be such as to meet the approval of the board to be set up under this bill for the administration of the whole bill, and that under this amendment the duty is imposed on that board in the future to follow up the operations of the various private pension plans, and to insure their conformance to the conditions set forth in the amendment.

I now suggest the absence of a quorum.

Mr. LA FOLLETTE. Mr. President, will not the Senator be generous enough to withhold his suggestion of the absence of a quorum in order that I may utilize the remaining time before 1 o'clock in order to read a letter into the RECORD?

Mr. CLARK. Mr. President, I shall be glad to yield the remainder of my time to the Senator from Wisconsin.

Mr. LA FOLLETTE. Mr. President, yesterday I made the statement that I was authorized to declare that the Amer-

ican Federation of Labor was opposed to this amendment. I shall take the opportunity of using the remaining minutes to read a letter which I received from Mr. William Green, president of the American Federation of Labor, addressed to myself, dated June 19, 1935, as follows:

AMERICAN FEDERATION OF LABOR,
*Washington, D. C., June 19, 1935.*

HON. ROBERT M. LA FOLLETTE, Jr.,
*United States Senate, Washington, D. C.*

DEAR SENATOR: The American Federation of Labor is unalterably opposed to the Clark amendment to H. R. 7260, the social-security bill. The amendment proposes to continue in operation private insurance schemes in effect in various industries. This would exempt these industries that have old-age-pension plans from paying the tax provided in the bill.

It is well known that the management of many industries discharge employees when they approach the retirement age. Information was given the Senate that in the packing industry, for instance, the private insurance plan has been a success. It must not be forgotten that a few years ago when the packing plants of Nelson Morris & Son were sold to Armour & Co. the insurance plan in effect in the former's plants was canceled. Although many employees had contributed for many years to the insurance plan, they never received a penny in return after the sale of the company to Armour & Co.

Another great objection to private pension plans is that it tends to discourage the employment of older men. Men more than 40 years of age are refused employment. There is no hope for them except through the enactment of the national-security bill.

There are many reasons why the Clark amendment should be defeated. It would prevent many thousands of persons over 65 years of age ever receiving old-age pensions. On the other hand, if the security bill is passed as written, those entitled to old-age pensions will receive them.

Private insurance plans were originated in industries which objected to the employees joining trade unions. It was an incentive to the organization of company unions which gave the industries complete control over their employees.

Therefore the American Federation of Labor can see nothing to the advantage of the workers in exempting private insurance plans in the proposed law.

Yours very truly,

WM. GREEN,
*President American Federation of Labor.*

The PRESIDENT pro tempore. The hour of 1 o'clock having arrived, under the unanimous-consent agreement entered into yesterday, the Senate will now vote on the amendment offered by the Senator from Missouri [Mr. CLARK].

Mr. LA FOLLETTE. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

| | | | |
|---|---|---|---|
| Adams | Connally | King | Radcliffe |
| Ashurst | Coolidge | La Follette | Reynolds |
| Austin | Copeland | Lewis | Robinson |
| Bachman | Costigan | Logan | Russell |
| Bailey | Dickinson | Lonergan | Schall |
| Bankhead | Dieterich | Long | Schwellenbach |
| Barbour | Donahey | McGill | Sheppard |
| Barkley | Duffy | McKellar | Shipstead |
| Bilbo | Fletcher | McNary | Smith |
| Black | Frazier | Maloney | Steiwer |
| Bone | George | Metcalf | Thomas, Okla. |
| Borah | Gerry | Minton | Townsend |
| Brown | Gibson | Moore | Trammell |
| Bulkley | Gore | Murphy | Truman |
| Bulow | Guffey | Murray | Tydings |
| Burke | Hale | Neely | Vandenberg |
| Byrd | Harrison | Norris | Van Nuys |
| Byrnes | Hastings | Nye | Wagner |
| Capper | Hatch | O'Mahoney | Walsh |
| Caraway | Hayden | Overton | Wheeler |
| Chaves | Johnson | Pittman | White |
| Clark | Keyes | Pope | |

The PRESIDENT pro tempore. Eighty-seven Senators having answered to their names, a quorum is present.

The question is on agreeing to the amendments offered by the Senator from Missouri [Mr. CLARK].

The amendments offered by Mr. CLARK are as follows:

On page 15, after line 25, to insert the following:

"(7) Service performed in the employ of an employer who has in operation a plan providing annuities to employees which is certified by the board as having been approved by it under section 702, if the employee performing such service has elected to come under such plan; except that if any such employee withdraws from the plan before he attains the age of 65, or if the board withdraws its approval of the plan, the service performed while the employee was under such plan as approved shall be construed to be employment as defined in this subsection."

On page 43, line 11, after "Sec. 702.", insert "(a)."

On page 43, lines 17 and 18, add the following new paragraphs:

"(b) The board shall receive applications from employers who desire to operate private annuity plans with a view to providing benefits in lieu of the benefits otherwise provided for in title II of this act, and the board shall approve any such plan and issue a certificate of such approval if it finds that such plan meets the following requirements:

"(1) The plan shall be available, without limitation as to age, to any employee who elects to come under such plan: *Provided*, That no employer shall make election to come or remain under the plan a condition precedent to the securing or retention of employment.

"(2) The benefits payable at retirement and the conditions as to retirement shall not be less favorable, based upon accepted actuarial principles, than those provided for under section 202.

"(3) The contributions of the employee and the employer shall be deposited with a life-insurance company, an annuity organization, or a trustee approved by the board.

"(4) Termination of employment shall constitute withdrawal from the plan.

"(5) Upon the death of an employee, his estate shall receive an amount not less than the amount it would have received if the employee had been entitled to receive benefits under title II of this act.

"(c) The board shall have the right to call for such reports from the employer and to make such inspections of his records as will satisfy it that the requirements of subsection (b) are being met, and to make such regulations as will facilitate the operation of such private annuity plans in conformity with such requirements.

"(d) The board shall withdraw its approval of any such plan upon the request of the employer, or if it finds that the plan or any action taken thereunder fails to meet the requirements of subsection (b)."

On page 52, after line 7, add the following new paragraph:

"(7) Service performed by an employee before he attains the age of 65 in the employ of an employer who has in operation a plan providing annuities to employees which is certified by the board as having been approved by it under section 702, if the employee has elected to come under such plan, and if the Commissioner of Internal Revenue determines that the aggregate annual contributions of the employee and the employer under such plan as approved are not less than the taxes which would otherwise be payable under sections 801 and 804, and that the employer pays an amount at least equal to 50 percent of such taxes: *Provided*, That if any such employee withdraws from the plan before he attains the age of 65, or if the board withdraws its approval of the plan, there shall be paid by the employer to the Treasurer of the United States, in such manner as the Secretary of the Treasury shall prescribe, an amount equal to the taxes which would otherwise have been payable by the employer and the employee on account of such service, together with interest on such amount at 3 percent per annum compounded annually."

Mr. CLARK. I ask for the yeas and nays.

The yeas and nays were ordered, and the Chief Clerk proceeded to call the roll.

Mr. BULKLEY (when his name was called). I have a general pair with the senior Senator from Wyoming [Mr. CAREY], who is necessarily absent from the city. I understand that a special pair has been arranged for him on this vote, which leaves me free to vote. I vote "yea."

Mr. LOGAN (when his name was called). I have a general pair with the senior Senator from Pennsylvania [Mr. DAVIS], who is absent. I am advised that if he were present he would vote "yea", and, as I intend to vote the same way, I feel at liberty to vote. I vote "yea."

The roll call was concluded.

Mr. NYE (after having voted in the negative). On this question I have a pair with the senior Senator from Virginia [Mr. GLASS]. If he were present, he would vote "yea." Under the circumstances I withdraw my vote.

Mr. AUSTIN. The Senator from Wyoming [Mr. CAREY] is necessarily absent. He is paired on this question with the Senator from Utah [Mr. THOMAS]. If present, the Senator from Wyoming would vote "yea", and the Senator from Utah would vote "nay."

Mr. LEWIS. I announce that the Senator from Virginia [Mr. GLASS], the Senator from California [Mr. MCADOO], and the Senator from Nevada [Mr. MCCARRAN] are unavoidably absent, and that the Senator from Utah [Mr. THOMAS] is detained on important public business.

I desire to announce the following pair on this question: The Senator from California [Mr. MCADOO] with the Senator from Nevada [Mr. MCCARRAN]. I am not advised how either Senator would vote if present.

The result was announced—yeas 51, nays 35, as follows:

YEAS—51

| | | | |
|---|---|---|---|
| Adams | Clark | Keyes | Pittman |
| Austin | Coolidge | King | Pope |
| Bachman | Copeland | Lewis | Russell |
| Bailey | Dickinson | Logan | Schall |
| Barbour | Dieterich | Lonergan | Smith |
| Borah | Duffy | Long | Steiwer |
| Bulkley | George | McGill | Townsend |
| Bulow | Gerry | McKellar | Truman |
| Burke | Gibson | McNary | Tydings |
| Byrd | Gore | Maloney | Vandenberg |
| Capper | Hale | Metcalf | Van Nuys |
| Caraway | Hastings | Moore | White |
| Chavez | Hatch | O'Mahoney | |

NAYS—35

| | | | |
|---|---|---|---|
| Ashurst | Costigan | Minton | Schwellenbach |
| Bankhead | Donahey | Murphy | Sheppard |
| Barkley | Fletcher | Murray | Shipstead |
| Bilbo | Frazier | Neely | Thomas, Okla. |
| Black | Guffey | Norris | Trammell |
| Bone | Harrison | Overton | Wagner |
| Brown | Hayden | Radcliffe | Walsh |
| Byrnes | Johnson | Reynolds | Wheeler |
| Connally | La Follette | Robinson | |

NOT VOTING—9

| | | | |
|---|---|---|---|
| Carey | Glass | McCarran | Nye |
| Couzens | McAdoo | Norbeck | Thomas, Utah |
| Davis | | | |

So Mr. CLARK's amendment was agreed to.

Mr. BORAH. Mr. President, I offer an amendment, which I send to the desk and ask to have stated.

The PRESIDENT pro tempore. The amendment of the Senator from Idaho will be stated.

The CHIEF CLERK. It is proposed, on page 4, line 21, after the comma, to insert "and (2) an amount, which shall be used exclusively as old-age assistance, sufficient to make the Federal contribution with respect to each such individual for each month in the quarter $30."

On page 4, line 21, strike out "(2)" and insert "(3)."

On page 4, line 22, strike out "amount" and insert "amounts."

On page 5, lines 5 and 6, strike out "clause (1)" and insert "clauses (1) and (2)."

On page 5, line 10, after "clause" insert "(1)."

On page 5, line 24, strike out "clause (1)" and insert "clauses (1) and (2)."

Mr. BORAH. Mr. President, the principle of the amendment was discussed somewhat at length some days ago. The amendment would make it certain that all persons 65 years of age and over shall receive $30 per month. The amendment is, on page 4, line 21, after the comma, to insert the following:

> And (2) an amount, which shall be used exclusively as old-age assistance, sufficient to make the Federal contribution with respect to each such individual for each month in the quarter $30.

In other words, if the State shall provide $15, the National Government shall provide $15. If the State shall provide $10, the National Government shall provide $20. The object and purpose of the amendment are to assure that not less than $30 shall be provided for those 65 years of age or over.

Mr. WAGNER. Mr. President, will the Senator yield?

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senaor from New York?

Mr. BORAH. I yield.

Mr. WAGNER. If the State should appropriate nothing, would the Federal Government then contribute $30 to the individual? Is that the Senator's idea?

Mr. BORAH. No. If the contribution of the State should be absolutely nothing, then the Federal Government would contribute absolutely nothing; but if the State should provide $5 or $10, the National Government would contribute an amount which would make the total $30.

Mr. WAGNER. If the State should contribute only $1, then the Federal Government would contribute $29?

Mr. BORAH. That is quite correct. But I do not accept the theory that the States will not do all they are able to do. The people of the States are just as humane and just as willing to take care of their aged as is the Congress. It is unjust to argue this matter upon the theory that the people of the States are slackers; it is a question of ability.

Mr. STEIWER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Oregon?

Mr. BORAH. I yield.

Mr. STEIWER. May I ask the Senator what determines the relative contributions of the several States and the United States under the proposal of the Senator, whether it shall be $10 or $15 or $20?

Mr. BORAH. The State determines how much it will put up. My amendment provides that whatever additional amount is necessary to make it $30, the National Government shall contribute that much.

Mr. STEIWER. In other words, the State would determine the amount of its contribution in each case, and the Federal Government would merely supplement it with the idea of making the total contribution $30?

Mr. BORAH. Exactly.

Mr. HARRISON. Mr. President, the amendment is not in agreement with what the Senator said he intended to offer, as I read the amendment. It reads:

> An amount, which shall be used exclusively as old-age assistance, sufficient to make the Federal contribution with respect to each such individual for each month in the quarter $30.

Mr. BORAH. That is correct.

Mr. HARRISON. It would seem from the printed amendment which I have read that what the Senator is attempting to do is to exact from the Federal Government $30 a month.

Mr. BORAH. Not at all. The wording of the bill remains as it is. In other words, a State plan for old-age assistance must provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them. Second, it provides for financial participation by the State. Third, such a State plan must "either provide for the establishment or designation of a single State agency to administer the plan", and so forth. All that language remains as it is, and I simply add that the State must put up something, the State must make its contribution, otherwise there is no provision whatever for payment to its old-age people. If the State puts up $15, then the National Government contributes $15.

Mr. HARRISON. Does the Senator have any doubt, if his amendment should be adopted, that the States would contribute the very minimum and the whole burden would then be upon the Federal Government?

Mr. BORAH. The State would have to contribute something before it could get anything.

Mr. ROBINSON. Mr. President, may I ask the Senator from Idaho how much the State would have to contribute?

Mr. BORAH. The State must determine first what it shall contribute. If the State should contribute $1, the Federal Government would contribute $29. I do not recognize the principle that the State would seek to get from under its burden or its obligation. There is just as much reason to assume that the people in a State will be anxious to take care of their people as that the National Government will desire to do so.

Mr. ROBINSON. But the difficulty about the Senator's amendment is that it provides that in case the States do not contribute substantially the Federal Government shall make contribution to the amount of $30. The Senator need not be misled about the matter. The amendment invites the States to make a minimum contribution. In my judgment, if the amendment should be adopted it would mean that the Federal Government would bear practically the entire burden of this title.

Mr. BORAH. That is on the assumption that the States have no sense of responsibility and no idea of discharging their responsibility in regard to this matter. It proceeds upon the theory that the Congress has the power——

Mr. ROBINSON. Mr. President, will the Senator pardon me?

Mr. BORAH. I pardon the Senator.

Mr. ROBINSON. I do not think that conclusion is justified.

Mr. BORAH. And I think it is justified.

Mr. ROBINSON. I think the language of the amendment provides that the States must contribute something, but no matter how little they contribute the Federal Government will contribute the remainder up to the amount of $30 per month. In the case of a State which is in straitened circumstances financially, under the amendment the natural result would be for the State to contribute just as little as is possible in order to secure for its citizens the benefits of the bill.

Mr. BORAH. I assume that the State will contribute whatever it can contribute. I assume that the State will be perfectly willing to discharge its responsibilities toward its old people. The States are just as likely to do it as is the Congress of the United States. If they cannot do so, if a State is unable to make its appropriation, then I say the old people should not be left without help; that they should not be left without sufficient means to take care of themselves; and $30 a month is a very small amount, in my judgment, to take care of these people. To proceed upon the theory that a State will do nothing if it is able to do it is, in my judgment, a wrong theory.

Mr. ROBINSON. But the Senator's amendment does not require the States to do all they are able to do. It leaves it absolutely optional with the State to determine the amount which it shall contribute, and therein lies the vice of the amendment. I, no more than the Senator from Idaho, wish to cast any reflection upon a State, but I know there are some States whose financial condition is such that they would naturally resort to the policy of contributing just as little as would be necessary in order to obtain the Federal contribution.

Mr. BORAH. I have no doubt there are States which are financially in such condition that they would not be able to meet the full $15 contribution. It is for that reason that I do not want the old people in those States to suffer simply because the State is unable to take care of the situation. I do not recognize the principle that the State will not do all it can do. The very fact that the National Government is willing to assist in the matter in case the State undertakes to do something will encourage the people of the State to undertake to do what they can do.

I have no doubt that they would do all they can do; and if they do all they can do, but are unable to put up the necessary amount, shall we leave the old people without any means whatever of being taken care of in this situation?

Mr. President, I ask for the yeas and nays upon this question.

Mr. LONG. Mr. President, will the Senator yield?

Mr. BORAH. I yield.

Mr. LONG. There are some of us who would like to vote for this amendment, particularly the Senator from Georgia and myself, who represent States which are affected by a constitutional inhibition. I wonder if the Senator would not permit us to add just a couple of words at the end of the amendment to provide that this requirement shall apply for the year 1937. In other words, some States cannot submit constitutional amendments until the fall of 1936, close to 1937, and this amendment, as I understand, requires the State to make some contribution. That will give these States a chance to be prepared. Many States, even though they should adopt a constitutional amendment, would not be able to raise the necessary revenue within this length of time.

Mr. BORAH. Mr. President, I should like to take care of those States which are not in a position to do anything whatever, but I felt that if I undertook to do that it would undoubtedly result in the defeat of the amendment. What is it that the Senator wishes to insert?

Mr. LONG. I do not wish to have the Senator endanger his amendment at all. I desire to insert a provision that the requirement as to contribution from any State shall not be effective before the first, say, of 1937. This is the middle of 1935. The Senator is calling on a State to raise a great deal of revenue.

Mr. BORAH. The Senator would be no better off if that were done. He could not come in under the present bill.

Mr. LONG. We could, perhaps, but Georgia could not.

Mr. BORAH. My desire in this matter is to make certain that the old people shall receive at least $30 a month. I believe that each sovereign State will discharge its duty and responsibility in accordance with its financial ability to do so. There is not any more reason to suppose that a State will refuse to discharge its obligation than there is to suppose that Congress will do so. The authorities of the State feel a deep interest in their people, the same as we do. They have a humanitarian feeling the same as we have. They will take care of the condition if they can, but if they cannot, shall we leave the old people uncared for?

Mr. HARRISON. Mr. President, I do not desire to delay action on this amendment. All Senators wish to do what they can for the needy aged; but if this amendment should be adopted it would change the whole structure of this measure. It would properly raise the question of which should have jurisdiction as between the State authorities and the Federal Government in determining who should be eligible for benefits if the Federal Government were to make twenty-nine thirtieths of the appropriations for these people, which could be done under the Senator's amendment. Certainly, if his amendment should be adopted the States could all point to financial burdens as a justification and appropriate $1 each for their needy individuals, leaving the Federal Government burdened with $29, that it would have to carry under the amendment. If some States were to give more than $1, a hue and cry would go up as to inequality among the States with reference to that matter.

We have exercised our judgment as best we could in trying to inaugurate a policy ? the Federal Government cooperating with the States, each giving one-half. Is not every State in the Union in a better position under such a plan than it has been heretofore? The Federal Government heretofore has appropriated nothing for this purpose, and the States have had to take entire care of their needy aged people, except, of course, under the relief measures. We are now proposing to give them $15 per month out of the Federal Treasury. Of course it might be appealing to go back to our respective constituents and say, "I voted to give you gentlemen $30 of Federal funds instead of $15"; but we must look after some other things than merely winning votes from our constituents on this question.

We are doing more than any other Congress has attempted to do in providing $15 out of the Federal Treasury if the States put up $15. If the State puts up $10, the Federal Treasury will put up $10—an equal amount with the State. So let us not get into a controversy here and delay the passage of the bill over the question as to whether the Federal Government ought to put up four-fifths and the States one-fifth, or the Federal Government two-thirds and the States one-third, or the States $1 and the Federal Government $29. If we adopt this amendment, we shall have to undo the whole policy we have already adopted in providing for State determined and administered plans. If the funds are practically all Federal funds, we should naturally provide administration from Washington. The authorities here would direct the administration of this measure, and say who, among the people over 65 years of age, are needy and should receive these payments. In other words, the amendment would necessitate a change so that decisions would be made by a bureau here in Washington and not by the authorities in the local communities of the country. I prefer to leave the jurisdiction in the States and to let the State legislatures and the State authorities determine who is the needy individual who deserves and is entitled to this particular pension. Then if the State puts up $15 or $10, the Federal Government will match the $15 or $10.

So I hope the amendment will be voted down, because it would jeopardize the whole structure of the bill.

Mr. FLETCHER. Mr. President, I should like to ask the Senator a question. Is it necessarily required that the State as a State shall make the contribution, or may the State, through its county commissioners, make it?

Under the laws of Florida, the State as a State would not be permitted to make the contribution, but the county commissioners could arrange to raise the money.

Mr. HARRISON. I may say to the Senator that it is the aggregate of what the counties put up and what the State puts up that the Federal Government will match. It is not confined to the State itself, but is broadened so as to take in communities also.

Mr. STEIWER. Mr. President, will the Senator yield?

Mr. HARRISON. I yield.

Mr. STEIWER. Does the Senator from Mississippi accept the construction which the Senator from Idaho places upon the amendment?

Mr. HARRISON. No; I do not accept that construction of it. I know what the Senator intended; but, although I have not had time to read the amendment carefully in connection with this provision, Mr. Beaman and others of the experts tell me they construe it differently; that under the amendment the Federal Government must put up $30; and that is the way I read it. But, be that as it may, the Senator can change the provision if there is any doubt about it.

Mr. BORAH. There is not any doubt about it. There is not any occasion for changing the language. No man with a sane mind would contend that for a moment. Nothing goes to the State unless the State puts up something.

Mr. STEIWER. Mr. President, will the Senator yield further? I desire to make an observation about that matter.

Mr. HARRISON. I yield to the Senator.

Mr. STEIWER. It occurs to me that the pending proposal made by the Senator from Idaho leaves the subdivision, numbered 1, on page 4, just exactly as it is; and that the result of the amendment would be, if enacted in the way now proposed, that the Federal Government, under subdivision numbered 1, would match the money put up by the State to the extent of the aggregate amount of $30 per month. That is to say, if the State put up $15, the Government of the United States would put up $15. If the State put up $10, the United States would put up $10. The pending amendment contains added language which provides that the United States shall provide an additional amount. I now read the amendment—

> And (2) an amount, which shall be used exclusively as old-age assistance, sufficient to make the Federal contribution with respect to each such individual for each month in the quarter $30.

Mr. President, what is it that amounts to $30? Is it the total? Of course not. I agree with the Senator from Idaho that this language is perfectly clear. I think there is no ground for misunderstanding or misconstruction. The language provides that the contribution of the Federal Government for each such month shall be $30.

Mr. HARRISON. How does the Senator get away from the plain language of the amendment, which says—

> Sufficient to make the Federal contribution with respect to each such individual for each month in the quarter $30.

Mr. STEIWER. There is no way to get away from it.

Mr. HARRISON. That is the Federal contribution.

Mr. STEIWER. That is right. If the State put up $15 under subdivision no. 1, the United States would put up $15; and then, under the pending amendment, which is marked "Subdivision No. 2" the United States would put up another $15 in order to make the Federal contribution $30; and in that case the net result would be a payment to each person of $45 per month, two-thirds of which payment would be provided by the United States.

I do not wish to vote for that proposition. I am sympathetically disposed toward the proposal made by the Senator from Idaho as he explained his proposal. It is easy for me to approve a guaranty of a minimum payment of $30 per month. If we are to enact a law on this subject the payment ought to be sufficient in amount to mean something to the recipient of the payment. An aggregate payment substantially less in amount than $30 per month is inadequate. It will not accomplish the purposes of the bill. I am wondering if, in order to have that proposition presented, some Senator would not care to revise the pending amendment in order that it may accomplish the purpose sought by the Senator from Idaho.

Mr. BORAH. What is the proposal which the Senator makes?

Mr. STEIWER. I have not attempted to phrase it. I merely asserted that I am sympathetic toward the idea of a minimum guaranty of $30 a month. It would seem the way to secure such guaranty is to add to the present subdivision no. 1 merely a proviso that the Federal contribution shall in any case be in such amount that the total paid shall be $30 per month.

Mr. BORAH. That is precisely what I thought I was doing, and what I believe I am doing.

Mr. FLETCHER. I suggest that the Senator change the word "Federal", in line 3, so as to make the "total contribution", instead of "Federal contribution", $30 a month.

Mr. BORAH. I am willing to consider that.

Mr. WALSH. Will the Senator from Idaho explain whether or not that change will require the same amount to be contributed by the Federal Government as is contributed by the State government?

Mr. BORAH. As I understand, as the amendment would read with the change, if a State government should put up $5 or $10 or $15, the Federal Government would match the amount the State contributed, and then an additional amount so as to make the total contribution $30. If the State government should put up $30, the Federal Government would not put up anything.

Mr. WALSH. By changing the word "Federal" to "total" it would mean that it would be possible for the Federal Government to have to contribute as much as $29.

Mr. BORAH. If the State put up only $1, that would be true. I am not so deeply interested in the division of sovereignty, as to who puts up the money, but I want the money contributed. If the State cannot do it—and I take it that the State will do it if it can—if the State is unable to do it, then I want the National Government to contribute, to have the old folk taken care of.

Mr. FRAZIER. Mr. President, I am very strongly in sympathy with the amendment of the Senator from Idaho. There are many States which, because of conditions due to drought and other circumstances, are not able to collect taxes from the taxpayers. I am satisfied that there are quite a number of States which could not meet the $15 contribution provided for in the original bill. That would mean that the old people in those States above 65 years of age would have no pensions.

It seems to me the amendment would provide a means of giving practically all the States a chance to make a small appropriation so that the old people would get $30. I have great confidence in the States putting up as much as they can, and when conditions improve, if they can put up contributions equal to those of the Federal Government, they will do so.

Furthermore, during the last few years there have been old-age pension organizations formed all over the Nation, which, as we know, have advocated much larger pensions than are suggested. True, the money is to be raised in a different way from that provided here, but that does not alter the fact that those organizations are out for larger pensions, and are advocating larger pensions, and I know they will not be satisfied with the provisions of this measure.

It seems to me that the amendment of the Senator from Idaho would help greatly in assuring at least $30 for old people in States where the States can put up some money, and even if it is limited to only a few years, it would help very materially, in my opinion. I hope the amendment will be agreed to.

Mr. BORAH. Mr. President, in order to make the matter beyond question, I desire to limit the contribution to $30. I do not want any loophole left. I therefore ask leave to insert, after the word "contribution" in line 3, the words "plus the State's contribution with respect to each such individual for each month, not less than $30." That would not create any obligation on the part of the National Government to put up more than the difference between what the State would contribute and $30.

Mr. HARRISON. If the State contributed a dollar the Federal Government would contribute $29, but the whole contribution could not be more than $30.

Mr. BORAH. That is quite correct.

Mr. WALSH. It simply makes more definite the point the Senator has raised.

Mr. BORAH. That is right. There need be no mistake about it, so far as I am concerned; that is what I desire.

The PRESIDING OFFICER (Mr. MINTON in the chair). The question is on agreeing to the amendment offered by the Senator from Idaho, as modified.

Mr. BORAH. I ask for the yeas and nays.

The yeas and nays were ordered, and the legislative clerk proceeded to call the roll.

Mr. LOGAN (when his name was called). I have a pair with the senior Senator from Pennsylvania [Mr. DAVIS]. In his absence, not knowing how he would vote, I withhold my vote. If permitted to vote, I should vote "nay."

The roll call was concluded.

Mr. LEWIS. I wish to announce that the Senator from Utah [Mr. THOMAS] is detained on important public business.

I also wish to announce that the Senator from Oregon [Mr. MCNARY] has a pair on this question with the Senator from Georgia [Mr. RUSSELL]. The Senator from Oregon would vote "yea" and the Senator from Georgia would vote "nay" if present.

I desire also to announce that the Senator from Arizona [Mr. ASHURST], the Senator from North Carolina [Mr. BAILEY], the senior Senator from Georgia [Mr. GEORGE], the Senator from Virginia [Mr. GLASS], the Senator from California [Mr. MCADOO], the Senator from Nevada [Mr. PITTMAN], the junior Senator from Georgia [Mr. RUSSELL], and the Senator from South Carolina [Mr. SMITH] are necessarily detained from the Senate.

Mr. NYE. Announcing my pair with the senior Senator from Virginia [Mr. GLASS] as previously, I beg to announce that were he present he would vote "nay"; and if I were permitted to vote I should vote "yea."

Mr. BULKLEY. I repeat the announcement of my general pair with the senior Senator from Wyoming [Mr. CAREY]. Not knowing how he would vote on this amendment, I transfer my pair to the junior Senator from Utah [Mr. THOMAS] and vote "nay."

The result was announced—yeas 18, nays 60, as follows:

YEAS—18

| | | | |
|---|---|---|---|
| Bilbo | Frazier | Pope | Thomas, Okla. |
| Bone | Johnson | Schall | Trammell |
| Borah | Lewis | Schwellenbach | Wheeler |
| Capper | Long | Shipstead | |
| Copeland | McCarran | Steiwer | |

NAYS—60

| | | | |
|---|---|---|---|
| Adams | Clark | Hatch | Norris |
| Austin | Connally | Hayden | O'Mahoney |
| Bachman | Coolidge | Keyes | Overton |
| Bankhead | Costigan | King | Radcliffe |
| Barbour | Dickinson | La Follette | Reynolds |
| Barkley | Dieterich | Lonergan | Robinson |
| Black | Duffy | McGill | Sheppard |
| Brown | Fletcher | McKellar | Townsend |
| Bulkley | Gerry | Maloney | Truman |
| Bulow | Gibson | Metcalf | Tydings |
| Burke | Gore | Minton | Vandenberg |
| Byrd | Guffey | Moore | Van Nuys |
| Byrnes | Hale | Murphy | Wagner |
| Caraway | Harrison | Murray | Walsh |
| Chavez | Hastings | Neely | White |

NOT VOTING—17

| | | | |
|---|---|---|---|
| Ashurst | Donahey | McNary | Smith |
| Bailey | George | Norbeck | Thomas, Utah. |
| Carey | Glass | Nye | |
| Couzens | Logan | Pittman | |
| Davis | McAdoo | Russell | |

So Mr. BORAH'S amendment was rejected.

Mr. LONERGAN. Mr. President, I send to the desk an amendment which I ask to have read.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 72, after line 6, it is proposed to strike out all of title XI, including all sections and paragraphs thereof on pages 72, 73, 74, 75, 76, 77, 78, 79, and to the end of the first paragraph on page 80.

Mr. LONERGAN. Mr. President, title XI relates to annuity bonds.

The proposal was submitted before the House Ways and Means Committee, and was rejected. It was not incorporated in the bill which came to the Finance Committee of the Senate. At a meeting of our committee, when this proposal was considered, 12 members out of 21 were present. Seven voted in favor of the proposal and five voted against it. Three of the four Senators who voted for the proposal, according to their statements in the committee, were under the belief that insurance companies do not sell annuity bonds, especially for small sums. I read from the record of our proceedings:

Senator BARKLEY. Let me ask you this: I have a number of life-insurance policies, not very large, but I have several policies, and these insurance companies with which I have policies write me letters every few months suggesting an annuity policy that they would like for me to take. They are all above my ability to reach them. I cannot comply with their terms and take one unless it be an insignificant amount, because the amount involved in an initial payment and then the annual payment thereafter is so large that the ordinary fellow who has not a considerable income cannot get it at all. What is going to happen about that? This is just an inquiry for information. These companies, it seems to me, do not get out in that little field where many people who might have a desire for an annuity can obtain it. What are we to do about that?

Then comes my answer:

Senator LONERGAN. All of the insurance companies with which I am familiar will write any kind of an annuity policy.

Senator BARKLEY. I do not know any of that sort.

Senator LONERGAN. I do not think there is any doubt about it.

Senator BARKLEY. I have the New York Life, the Union Central, the Penn Mutual, the Equitable, and none of them do.

Senator LONERGAN. We have some of the outstanding insurance companies in Hartford, Conn., where I reside, and I know that they do it.

Senator GEORGE. They write small annuities?

Senator LONERGAN. Yes.

Following the action of the Finance Committee, I contacted officials of life insurance companies to ascertain whether or not the life insurance companies of my city issue annuities in small sums. I now quote from a letter dated May 21, 1935, from the Connecticut Mutual Life Insurance Co., Hartford, Conn.:

As of December 31, 1934, this company had in force 3,855 single premium life annuities, representing a total annual income to the annuitants of $1,652,902.52. The average annual income to each annuitant was $428.77, which would give an average monthly income of $35.73.

This average monthly income of $35.73 indicates the fact that the bulk of our annuity business consists of annuities of moderate size. As our annuity contracts are about the same as those of other companies, we believe these figures are fairly typical.

I now quote from a letter received from the Phoenix Mutual Life Insurance Co., of Hartford, Conn., dated May 29, 1935:

Under another group of contracts on the annuity plan we provide that at a definite time in the future there will be paid an average of $455.93 in annuity income per annum, which is the equivalent of $37.99 per month. These contracts are available in units of $10 per month of annuity income, and the premium, depending upon the duration of the contract, may be as low as $20 per annum.

I quote from a report submitted to me by the Connecticut General Life Insurance Co., of Hartford, Conn.:

Title XI, United States annuity bonds, which was eliminated by the House, has been reintroduced by the Senate. In the Senate Finance Committee report, one of the reasons given for this portion of the bill is that "insurance companies do not now sell any considerable number of commercial annuities to individuals in installments. People of small means are practically outside of the commercial-annuity field." This hardly justifies the issuance of annuity bonds to provide as high as $100 per month old-age income. Many insurance companies will issue policies providing old-age income as low as $10 per month, and some even lower. It seems to me that this portion of the bill should be eliminated, because the few who will purchase the annuity bonds will most likely be individuals who can be taken care of by the insurance companies.

Mr. President, not only have the life-insurance companies already written thousands of annuity policies, but they are preparing to take care of an immense potential market for

annuities in a much more comprehensive way than the plan provided by title XI of this bill.

Dr. S. S. Huebner, dean of the American College of Life Underwriters, in an article in the Life Insurance Courant, pointed out, as long ago as September 1932, that America is rapidly becoming annuity-minded. He said:

> During the past decade premiums paid for annuities have increased relatively more than six times as fast as premiums paid for life insurance. Annuities are about the only important branch of the insurance business which has gained during the hectic years of 1930 and 1931. Retirement pensions are also being considered everywhere in industry, by educational institutions, governmental bodies, and the like. Moreover, insurance companies are more and more emphasizing "old-age income insurance", and wisely so, since the plan emphasizes the utilization of life-insurance proceeds for annuity income purposes during old age. Instead of preaching death only, as formerly, emphasis is now placed upon a motive to benefit the policyholder while living. The annuity field will soon be ranged adequately along the insurance field. I believe the growth of the annuity concept among the American people will be the greatest single development in the life-insurance business during the next quarter of a century.

Mr. President, I think these reports point out conclusively that private insurance companies have developed and are developing a much more stable field of annuities than the Senate has perhaps heretofore realized. Here we have a bill including a section which would put the Government into that business in such a way that it would intrude upon private business enterprise, and no doubt discourage the widespread development of annuities which is being undertaken. As has been pointed out, the companies are taking policies with returns as low as $10 per month to the holder. Title XI of this bill would provide for annuities of not less than $60 nor more than $1,200 per annum, which is clearly an intrusion on the private insurance business.

Besides demoralizing the wonderful progress of annuity insurance in private companies, this section would place an unfair burden upon the taxpayers. The Government would pay the overhead, such as rents, lights, and so forth, which private companies must figure into their costs. The taxpayers who would not be interested in the annuities would be required to carry the burdens of those who received the annuities. The benefits would go to a particular few at the expense of the many.

The Government already offers, through the Treasury and the Post Office Departments, numerous opportunities for investments of small savings in the tax-exempt field. An extension of this program to include annuity insurance bonds would definitely compete with an important business, and, moreover, would tend to invite individuals to lean upon the Government instead of private business and the various State and municipal governments which are expected to participate in this social security program.

The PRESIDING OFFICER. The time of the Senator from Connecticut on the amendment has expired. He has 15 minutes on the bill.

Mr. LONERGAN. I will use my time on the bill.

Above all other considerations, I think we should remember, Mr. President, that the insurance companies of this Nation have been our last wall of defense in our depressing times. When our banks crumbled and finance was chaotic our insurance companies stood like the rock of Gibraltar. Everyone knows that had they crashed this Nation would have been placed in a desperate condition. Property values would have vanished and millions more of our people would have been on the charity and relief lists at the expense of the Government. The insurance companies were the last to ask for any governmental assistance. Because of their good management and sound policies, they did not need it so much as did other business enterprises. Their position during the depression, in my opinion, was the strongest single contributing factor to maintenance of financial stability and public confidence. Had they crashed, all confidence would have crashed with them.

Now, Mr. President, is the Senate of the United States going to enact into law a provision in this bill which will injure these companies? Is the Senate going to place the Government into a definitely private business? Is the United States Senate going to discourage sound development of the annuity insurance business along a much broader front than the Government could possibly undertake? Is the United States Senate going to reinsert in this measure a section which was stricken out by the House, and which never should have been there in the first place?

I ask the Senate these questions and believe that Senators will vote for my amendment, which will do no injury to this measure, and which will not harm in any way the theory or the practice of old-age pensions or unemployment insurance, for which I have worked for a great many years.

Mr. HARRISON. Mr. President, I merely desire to make a brief statement. The provision giving an opportunity to people to buy annuity bonds, with the limitation which is in the bill, that in no instance may they receive an annuity of more than $100 a month. It was placed there to take care of a group that did not come within the other provisions of the measure. I think it is one of the minor features of the bill; in other words, I think the annuities provided in title II of the bill, and the old-age pensions and the unemployment features under other titles are much more important than is this; but, for the reasons I have just stated, we placed this provision in the bill on the recommendation of the President's committee which investigated the matter.

Mr. LONERGAN. Mr. President, may I ask the Senator from Mississippi a question?

Mr. HARRISON. I yield.

Mr. LONERGAN. At the time this proposal was before our committee there were 12 Senators present, were there not?

Mr. HARRISON. The Senator states the fact correctly with reference to that.

Mr. LONERGAN. There are 21 members of the committee, and the vote was 7 to 5.

Mr. COSTIGAN. Mr. President, may I ask the Chairman of the Finance Committee a question?

Mr. HARRISON. Certainly.

Mr. COSTIGAN. It is my understanding that the annuity bond feature of the bill is designed to offer many million people an opportunity to purchase cheap annuity insurance, free from premiums to agents, and that the persons who, under the committee amendment, are offered this security are employers or employees who do not come under other provisions of the bill.

Mr. HARRISON. The Senator has stated the facts correctly.

Mr. COSTIGAN. The aggregate number of those who would be enabled, under these provisions, to purchase reasonable annuity insurance would apparently be something like 22,000,000 people. Does the Senator know whether that is a correct estimate?

Mr. HARRISON. That statement was made by Representative LEWIS, I think, in a very able presentation of this matter before the Finance Committee.

Mr. COSTIGAN. Mr. President, may I say that it was on my motion that these provisions were included in the bill in the Finance Committee? The motion was made following what was, as the Chairman of the Finance Committee has just stated, a very able presentation of the reasons for the amendment by Representative DAVID J. LEWIS, of Maryland, who has been a lifelong student of this and allied questions. Representative LEWIS pointed out, as just indicated, that there are about 22,000,000 persons in the United States at this time who do not come under the protective clauses of the pending bill. Among those are the self-employed and the members of professions, who are estimated at this time to be about 11,125,000, and approximately 10,000,000 workers. The purpose of the provisions, of course, is to permit the purchase from the Government, on reasonable terms, of annuity bonds which will guarantee the purchasers incomes running from a minimum of $60 a year to $1,200 a year per person.

When Representative LEWIS presented this matter to the Senate Finance Committee he persuasively enumerated reasons which make these amendments particularly appealing to Members of the Senate, to professional men of all sorts,

and to employers who are unable, for one reason or another, to guard against the likelihood that old age will find them reduced to need. He made a statement which, with the permission of the Senate, I should like to have read at the desk, because it presents the reasons, as concisely as possible, for the adoption of these amendments.

Mr. LONERGAN. Mr. President, will the Senator from Colorado yield?

Mr. COSTIGAN. I yield, with pleasure.

Mr. LONERGAN. Does the Senator know whether or not the United States Government can issue insurance at a cheaper rate than can insurance companies of long experience?

Mr. COSTIGAN. It is my understanding that under these amendments the Government of the United States would sell annuity bonds to investors——

Mr. LONERGAN. That is correct.

Mr. COSTIGAN. And that there would be an absence of the premiums which ordinarily go to insurance representatives.

Mr. LONERGAN. If these bonds were authorized and issued they would be exempt from taxation, would they not?

Mr. COSTIGAN. There is a provision exempting the bonds from taxation, but if the Senator from Connecticut will consult the amendment he will find a provision which does not exempt the income of these bonds from taxation.

Mr. LONERGAN. The Senator from Colorado and the Senator from Connecticut have been working for some time to secure the adoption of a constitutional provision so that in the future such exemption will not be possible.

The next question I should like to ask the Senator from Colorado is——

Mr. COSTIGAN. Before the Senator from Connecticut proceeds, may I call his attention to the provision with respect to tax exemption?

Mr. LONERGAN. The Senator has stated that the proposed law provides that the income from the bonds shall be taxed.

Mr. COSTIGAN. I understand the Senator from Connecticut does not dispute the accuracy of the statement made? The part to which I refer is section 1105 of the amendment, which reads as follows:

SEC. 1105. The provisions of section 7 of the Second Liberty Bond Act, as amended (relating to the exemptions from taxation both as to principal and interest of bonds issued under authority of section 1 of that act, as amended), shall apply as well to United States annuity bonds, except that annuity and redemption payments upon United States annuity bonds shall be subject to taxation by the United States, any State, and any possession of the United States, and by any local taxing authority, but to no greater extent than such payments upon other annuity bonds or agreements are taxed.

Mr. LONERGAN. Is it the purpose of the Senator from Colorado to have incorporated in the RECORD the entire statement made by Representative LEWIS?

Mr. COSTIGAN. It is my understanding that the statement made to the Finance Committee by Representative LEWIS was confidential, because made in executive session.

Mr. LONERGAN. It is a matter of public record now.

Mr. COSTIGAN. Because of that fact, I asked Representative LEWIS to prepare for use of the Senate a statement summarizing his arguments in support of the amendment now being considered. That is the statement before me at this time which I have requested to have read by the clerk at the desk.

The PRESIDING OFFICER. Without objection, the clerk will read, as requested.

The legislative clerk read as follows:

I know a married couple who are past 60. They have saved some $15,000 in their life's efforts. If they knew just how long each of them would live they could provide their own annuity by investing the $15,000 in safe Government bonds. They could take enough out of the principal each year, in addition to the interest, to provide themselves a hundred dollars per month. But they do not know how long either of them will live, and so they are afraid to touch the principal.

Now, the Government does know how long they are going to live as members of a class, and paying them the interest as it would on the bonds the Government can take enough out of the principal each year to provide them annuity for which they fully pay.

Take again, a case of a husband who has a $15,000 estate. He wishes to provide for his wife in the event of his death. In his will he can have the estate converted into a life annuity for her benefit instead of having the estate eaten up by the court costs, trustee's fee, and commissions. If he has children he can secure their futures in the same way instead of willing them lump sums to be wasted by inexperienced hands.

Let us see about the great human interest involved. In this bill we undertake to realize certain social security objectives. With regard to wageworkers and employees up to $2,500 a year, we have covered the field approximately. But how about the immense number of people who are not employees? Take the physicians, the lawyers, the clergy; take the small business man. What may be his situation when he reaches 65 or 66? There are more than 20,000,000 involved in that situation who may be reasonably included in the social security principle of this bill.

Apparently, there is no objection to the annuity provision of this bill as far as the public is concerned or any part of the public. In fact, the insurance companies have spoken through one of their principal leaders, Mr. Thomas I. Parkinson, of the Equitable Life Assurance Society of the United States. He said that the social insurance provisions of the bill would, like the $10,000-insurance provision of the war act for the soldiers, operate to increase greatly and intensify the thought of the public on the subject of individual protection through insurance.

I quote, in part, from a letter on the subject written by Mr. Parkinson:

"Just as the business of life insurance received tremendous impetus from the successful efforts of the Government to provide a sizable amount of insurance on the lives of all called to the Armies in the creation and the development of the War Risk Bureau, so do I believe that social insurance agitation will result in renewed appreciation and great stimulating of life-insurance activities, both individual and group.

"Insurance men are ready to lend their experience in the service of this social insurance class by assisting in the formation of social insurance measures along lines of sanity and workability. As an insurance man, I would say without hesitation that the efforts to provide through social insurance measures a more self-respecting form of relief, a better budgeted charity program, will do much to arouse public interest in the whole subject of security. In doing this, that overwhelming number of upstanding men and women who represent the insurance field will be inspired to look more deeply into their insurance needs and to more completely provide security for themselves. Thus, it is likely, in my judgment, that history will repeat itself and the impetus given to the cause of life insurance by the War Risk Bureau in putting a value of $10,000 on the life of every enlisted man will be accentuated with the result that the present agitation for social-insurance measures will swell the volume of individual and group life insurance and annuities.

"In doing this, the insurance companies and their agents will not only be benefited by an enhanced business, but the business itself will the better be able to muster to its support public appreciation of the tremendous national and community service rendered by life insurance supplied through premium-paying Americans, who, wanting no charity, take care of themselves and those dependent on them."

There is a field of potential traffic in the small annuity, as there was in the small parcel, which requires special inducement and conditions in order to develop it.

When we took up the parcel post 24 years ago we found that the express companies were moving three parcels per capita in the United States. In Switzerland they were moving nine per capita. They had a completely developed parcel-post system, with rates and conditions of service adapted to the needs of this small parcel. It could not pay the 24-cent minimum which the express company found it necessary to charge the parcel here. It could pay 7 or 8 or 10 cents.

With our parcel-post system, the 3 parcels per capita have reached about 9 in the United States, all of which shows that two-thirds of that traffic, potential for generations, had been defeated by the absence of rate systems and conditions of service permitting it to move.

In this small annuity field you are finding analogous phenomenon. For the big lump-sum payment you would take in $15,000 at one stroke. An agent assuredly would call for that. The company will get about 4½ percent out of that. But for the small installment monthly payments that may begin as early as 30 or 35 to accumulate an annuity at 60 or 65, no agent can bother with that. The expenses of the work would utterly defeat the motive to do it, unless the great expense were added to the premiums, when the motive to buy the annuity would be defeated.

And so we find here, as with the small parcel, a neglected field the insurance company cannot serve with sufficient economy.

Then there is the very vital element in this whole situation. It is the question of faith. It is the controlling element in our conditions. Now, the Government supplies that element of faith. The private company has to face a wall of distrust and break through it. In the course of generations—and it has taken generations—it has succeeded with respect to the familiar life policies. But the annuity policy is new; that is, it is new to the masses. They need to be educated to its wisdom. The Govern-

ment has no wall of distrust to meet. It can educate the public. The companies will come in for their share in the resulting confidence in the annuity, and will have a monopoly of the business in annuities above $100 a month.

Through the initial faith that the Government supplies, we can hope to provide a means which men and women who are not covered by these pension and employment provisions may, through their own savings and efforts in life, provide for themselves. Some, of course, will be satisfied with $30 a month; others may desire in proportion to their capacity to acquire such annuities for themselves. Why deny them the surest security in doing so?

*Estimate of number of individuals not covered under the provisions of title II and eligible for voluntary annuities under title XI*

(Based on 1930 census)

| | |
|---|---|
| Owners, self-employed and professionals | 11,825,000 |
| Farm operators | 5,882,000 |
| Retail and wholesale dealers | 1,796,000 |
| Self-employed trades | 352,000 |
| Professionals | 2,223,000 |
| Others | 1,572,000 |
| Workers excluded because of occupation | 10,156,000 |
| Farm laborers | 4,376,000 |
| Domestics in private homes | 2,060,000 |
| Teachers | 1,082,000 |
| Government, N. E. C.[1] | 1,403,000 |
| Casuals | 490,000 |
| Institutional | 680,000 |
| Others | 65,000 |
| Total | 21,981,000 |

Source: Committee on economic security. An adjustment has been made for those individuals 65 years of age and over.

The per capita income of employees in agriculture was $648 in 1929 and $352 in 1932.[2]

The per capita income of employees in domestic service was $961 in 1929 and $670 in 1932.[3]

The number of annuities in force under the Canadian voluntary annuity system was 14,400 on March 31, 1933. The maximum annuity is $1,200. The contracts pay 4-percent interest compounded annually, the interest and administrative cost being paid by the Government. The average annuity contract for the immediate annuity type was $418 on March 31, 1933. Nearly 84 percent of all annuity contracts written in 1930 were for less than $600.

In addition to Canada, Ecuador, France, Japan, and the Netherlands have voluntary annuity systems.

Mr. COSTIGAN. Mr. President, using the balance of my time on the bill, I wish first to express regret that the importance of this question is not being given attention by a larger present representation of the Senate. As disclosed in the thoughtful statement of Representative LEWIS, this proposal represents a moderate plan for handling annuity protection for the benefit of approximately 20,000,000 Americans in a field in which the private insurance companies have shown little active concern.

The subject was canvassed fairly and fully before the Finance Committee. It developed, as illustrated in the statement of Mr. Parkinson, read at the desk a moment ago, the interesting conclusion that the standard insurance companies of the country are today not disposed to criticize this type of Government activity; more than that, their officials incline to believe that if the Government will deal with annuity bonds as provided in this amendment, the ultimate effect will be to popularize other forms of life insurance in this country and increase the business and net earnings of life-insurance companies.

We are not without a precedent in thus anticipating the popularization of life insurance. In or about 1907, under the leadership of no less eminent a public official than Mr. Justice Brandeis, the State of Massachusetts authorized its mutual-savings banks to receive payments in small amounts on moderate-priced insurance policies primarily for the benefit of working men and women, and from that day to this the system inaugurated in Massachusetts has been a marked success. Indeed, it is doubtful if there is any single contribution to public affairs by Mr. Justice Brandeis of which he thinks so highly as this. That law worked as the provisions in this bill may be expected to work. Instead of diminishing insurance sales by the standard companies of Massachusetts, it spread the use and advertisement of insurance to such an extent that by common consent today the standard companies are the substantial beneficiaries of the Massachusetts experiment.

I suggest, therefore, that this amendment should be seriously considered by the Senate. It should at least go to conference. In my judgment, there is no serious opposition to it on the part of the leading insurance companies of the country. The only objection comes from those who, like the Senator from Connecticut [Mr. LONERGAN], are reluctant to see any form of Government activity which may be regarded, even theoretically, as competitive with private business.

I trust that the amendment of the Senator from Connecticut will not prevail.

The PRESIDING OFFICER. The Chair will state the parliamentary situation. The motion of the Senator from Connecticut [Mr. LONERGAN] seeks to strike out an amendment of the committee not as yet acted upon.

Mr. ADAMS. Mr. President, I wish to ask the Senator from Connecticut, in my time, to answer a few questions about this amendment.

One question is as to the accuracy of the terminology. It seems to me it is incorrect to describe that which is really an insurance policy as a bond. I am wondering if I am correct in that feeling.

Mr. LONERGAN. Of course, it is a plan to sell bonds; but the bill provides for the sale of bonds. Bonds and policies in this sense are the same thing.

Mr. ADAMS. A bond, as a matter of legal terminology, is an instrument providing for the payment of a fixed sum of money at a fixed time.

Mr. LONERGAN. That is correct.

Mr. ADAMS. Here is an indefinite sum of money, depending upon the length of life of the annuitant.

Mr. LONERGAN. Yes, sir; and the amount paid.

Mr. ADAMS. Why did not the committee describe these instruments by a correct term, and call them annuity policies rather than bonds?

Mr. LONERGAN. The Senator from Connecticut opposed this proposal in the committee. He subsequently asked that the proposal be submitted to the full membership. Therefore, he is not in position to answer the Senator's question.

Mr. ADAMS. One other question, if I may submit it.

The amendment provides that the installments which are to be paid to the annuitant—

Shall be such as to afford an investment yield * * * not in excess of 3 percent per annum.

An investment yield, if I understand the term, means the income upon a principal, without the consumption of the principal. The essence of an annuity contract is the consumption of both income and principal.

Mr. LONERGAN. That is correct.

Mr. ADAMS. So that under this bill the return to the annuitant is limited to not to exceed 3 percent. He may have a life prospect of 15 years, and yet be limited to a 3-percent income upon the amount he pays for the bond.

Mr. COSTIGAN rose.

Mr. LONERGAN. Will the Senator from Colorado answer the question of his colleague?

Mr. COSTIGAN. Mr. President, I congratulate the junior Senator from Colorado on the ingenuity of his suggestion.

Mr. ADAMS. It is a question, not a suggestion.

Mr. COSTIGAN. It has not been offered by insurance experts. In fact, it should be said to the Senate that this entire amendment has met the approval of experts. It has not encountered from any part of the Federal Government such objections as the Senator from Colorado has made.

Mr. ADAMS. May I suggest that I can see why the insurance company would not object, because the annuity policy pays so much less than the policy which the insurance company would offer. I should apprehend that the

[1] Not elsewhere classified.

[2] National income, 1929–32 (73d Cong., 2d sess., Sen. Doc. No. 124, p. 28).

[3] Ibid., p. 142.

insurance company would object if the Government were issuing a better policy than the company.

Mr. COSTIGAN. May I suggest to the able Senator from Colorado that the field with which we are now dealing is one in which the standard life-insurance companies have rarely issued policies or given the sort of assurances the Senator from Colorado is now indicating? May I also say that if there is merit in his argument, there is no reason for apprehension about these provisions, because the insurance companies can enter the field and provide those who desire old-age annuity security, under the theory of the Senator from Colorado, on much more reasonable terms than are provided in the bill. I think the Senator will find, on investigation, that what the Government would do under these provisions is to provide old-age annuity security in a field where today it cannot be purchased by citizens of this country with anything like the same assurances.

Mr. ADAMS. Mr. President, my distinguished colleague has misinterpreted my inquiry as an argument. I am trying to get some information about a provision of a bill which comes from the committee with very inadequate explanation, which puts into a bill designed for certain purposes, insurance features; and I am merely making inquiries.

I have asked why the terminology should be used to call a policy a bond, which tends to mislead those who invest. The title opens with the declaration that the Secretary of the Treasury is authorized to borrow on the credit of the United States to meet public expenditures and to retire outstanding obligations rather than an accurate statement of what is intended, if I read the section correctly; namely, to issue annuity policies to those who wish to buy them. That is, we start out in the bill with what seems to me to be really a misstatement or, rather, a failure accurately to state the purpose of the title.

Then I have inquired why the payments are limited to investment yields rather than to properly annuity yields, which consume principal as well as interest.

I am not arguing. I am merely inquiring in order that my own vote may be cast in accordance with the facts.

Mr. COSTIGAN. Mr. President, I have, of course, no desire to misinterpret any suggestion of the Senator from Colorado. If I am in error in assuming that the Senator has made an argument, I of course withdraw that assumption or suggestion. I may say that it impresses me as of very slight consequence what the particular phraseology of these amendments is so long as the essential end is clear. The purpose is to provide a Government promise in the form of an annuity bond, which may be described as an insurance policy, if the Senator prefers, constituting a guaranty of security for the later years of those who desire safely to invest their earnings or savings for that result.

Mr. McKELLAR. Mr. President, may I ask the senior Senator from Colorado a question?

Mr. COSTIGAN. Certainly.

Mr. McKELLAR. Does not this title put the Government into the insurance business?

Mr. COSTIGAN. It does in a minor way, in a very limited field, in which, according to the testimony we have had, insurance companies have not desired to go. It is a field which has not been cultivated by standard insurance companies. It has been neglected, and indeed, according to our information, many insurance men would be glad to see the Government undertake this responsibility because it would advertise the value of insurance as protection against the financial casualties of life.

Mr. McKELLAR. But it does put the Government into the insurance business. Will the Senator from Colorado permit me to make an observation?

Mr. ADAMS. I am very glad to yield the floor.

Mr. McKELLAR. During the war we went into the insurance business for our soldiers, but since the war we have found it to be very impracticable for the Government to continue that activity, and we are getting out of it as rapidly as possible. With that experience in mind, it seems to me to be most unwise for us now to go into the insurance business even in a limited way, and my purpose is to vote in favor of the amendment.

Mr. ADAMS. Mr. President, will the Senator yield to me?

Mr. McKELLAR. Certainly.

Mr. ADAMS. I wish to ask a question which is very unwelcome these days. In what clause of the Federal Constitution does the Senator find justification for the issuance of a Federal insurance policy?

Mr. McKELLAR. I know of no such clause in the Constitution. I know there has been an opinion by Judge Grubb, in Alabama, which is now on appeal, in which he held that the Government could not go into business. I do not know whether the opinion is correct or not; I have doubts about its correctness. However that may be, there is no clause of the Constitution under which this title can be defended. It is true that under the express war power that is given us in the Constitution we had a right to insure our soldiers, but as I look at it we have not a scintilla of right to put the Government into the insurance business as is proposed, and I stop long enough to ask what clause of the Constitution gives us the right?

Mr. COSTIGAN. May I ask the able Senator from Tennessee on what clause of the Constitution he predicates the ability of the Federal Government to create the Tennessee Valley Authority?

Mr. McKELLAR. It is upon that clause of the Constitution which deals with interstate commerce. It is that provision of the Constitution which gives the Government authority over navigable streams, an entirely different situation from the present one. Even supposing we had no right to create the T. V. A., that would be no reason why we should pass another unconstitutional measure, and I for one am not willing to vote for a bill which I feel is unconstitutional.

Mr. COSTIGAN. The able Senator from Tennessee finds no intrastate activities in the Tennessee Valley Authority?

Mr. McKELLAR. Of course there are intrastate activities, but there are interstate activities also; and it is operating on a navigable stream which runs into several States, a very different situation from the one we are now considering.

Mr. COSTIGAN. It is gratifying to realize that the Senator agrees with those of us who find no constitutional difficulty affecting the Tennessee Valley Authority and other large issues which are to come before the Supreme Court. I wish only to say that what is attempted——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BARKLEY. Mr. President, I desire recognition, and I will yield to the Senator to ask me a question.

Mr. COSTIGAN. I appreciate the courtesy of the able Senator from Kentucky. What I want to say further is this—and to state it as a question, I trust the able Senator from Kentucky will agree with me—that the amendment provides for the issuance of bonds in exchange for money. The Senator from Tennessee undoubtedly does not deny the authority of the United States to sell its bonds for money or to issue agreements in writing.

Mr. McKELLAR. Of course not.

Mr. COSTIGAN. There is sufficient authority for this proposal in that power.

Mr. McKELLAR. I do not think it has anything to do with the beginning and operation of an insurance company in competition with private companies.

Mr. BARKLEY. Mr. President, the Senator from Tennessee a while ago referred to the provisions made by the Government for insuring the soldiers. The Constitution gives the Congress the right to declare war, and that is all it says about that subject. We have used the war power, assuming it covered everything we wanted to do following a declaration of war; but I challenge the Senator from Tennessee or any other Senator to find anything in the Constitution which specifically authorizes the issuance of a life-insurance policy on a soldier. There is no such authority in the Constitution.

Mr. McKELLAR. I do not know whether or not the question of the insurance policies issued on the lives of our soldiers has been before the Supreme Court; I do not believe

it has; but under the broad power of self-defense, in what is generally spoken of by those who quote the Constitution as the "war power", there is some semblance of excuse for the issuance of policies on the lives of soldiers when we are exposing them to the hazards of war. But there is no possible way in which the Constitution could be construed to cover putting the United States Government into the life-insurance business.

Mr. BARKLEY. Of course, it is useless for any Senator to argue with another Senator upon the Constitution, because each Senator knows more about that than all the other 94 Senators.

Mr. McKELLAR. I have no doubt as to the unconstitutionality of the pending proposal, and I expect to vote against it.

Mr. BARKLEY. We talk about war powers which we assume exist, and no doubt they do, but they exist largely because there is another provision in the Constitution giving Congress all power necessary to carry into effect the powers specifically conferred upon it, so that we do act on things which are not mentioned in the Constitution, and we have to do it. But in this particular situation we provide for the issue of a bond by the Secretary of the Treasury. If I have $2,000 which I desire to invest I cannot go to an ordinary life-insurance company and get an annuity; they are not interested in small matters of that sort. They are not concerned about an annuity which involves so small an investment, because it is more trouble than it is worth.

Mr. McKELLAR. Mr. President, I think the Senator is wholly mistaken in making that observation, because on hundreds of occasions I have been urged by representatives of insurance companies to buy an annuity policy.

Mr. BARKLEY. I have, too, but I never had any of them ask me to buy any policy of less than $10,000.

Mr. ADAMS. That was a personal compliment.

Mr. LONERGAN. Mr. President, I read from a communication written by a standard life-insurance company which issues a strictly annuity policy for as low as $10 a month. I quoted from our proceedings in the Senate Committee on Finance, and among other things I remember the query of the Senator along the same line. I think the Senator from Kentucky and a few other Senators joined the majority in voting for this proposal in the belief that the life-insurance companies do not issue small annuity policies. In that respect those who so voted were in error.

Mr. BARKLEY. It may be that I was in error, but so far as the committee had any information on the subject, we were not. However, I am not making any question about it.

Mr. ADAMS. Mr. President, will the Senator yield?

Mr. BARKLEY. I yield.

Mr. ADAMS. I have made inquiry in reference to the Constitution, and I wanted to suggest to the Senator from Connecticut as to the foundation upon which the inquiry was made. I was relying upon a fair inference from the action of my learned colleague, a good lawyer, who offered an amendment to the Constitution, and I assume he would not have asked to have the Constitution amended if he had thought it was adequate to meet these conditions. That was the basis of my inquiry.

Mr. BARKLEY. I do not know what the suggestion of the Senator's colleague is.

Mr. ADAMS. A broad, sweeping amendment to the Constitution which would provide unquestionably the authority for the Government to take the proposed action.

Mr. BARKLEY. It did not have any reference to insurance, did it?

Mr. ADAMS. I think it would include insurance.

Mr. BARKLEY. That would depend on how broad it is. I do not know how broad it is. I do not think it was specifically intended to refer to a situation such as this. It may be that it is a sort of an omnium gatherum, which contemplates an amendment to the Constitution giving us power to do everything we have not power to do now under the Constitution; but that would be a different thing; and I do not understand that to be the amendment offered by the Senator's colleague. Undoubtedly we have the power to issue bonds, and we have the power to use the credit of the United States. If I have $2,000 to invest in such a bond, the terms of which are that I will be paid back in monthly or annual installments the money I put in, there is certainly nothing unconstitutional about that. It is merely a different way by which the United States would repay its debts or the money that it borrowed from the people, just as in the case of Liberty bonds. The Government could pay them back all at once, or, if it desired to do so, it could authorize repayment in installments. That is all this provision undertakes to do. When we come down to brass tacks, that is all it amounts to. I place a certain amount of money in a Government bond, and we provide for paying it back in annual installments, which is simply a method by which the Government repays its debt.

Mr. McKELLAR. Mr. President, will the Senator yield?

Mr. BARKLEY. I yield.

Mr. McKELLAR. In answer to the Senator's previous question, I read from the Constitution, as follows:

SEC. 8. The Congress shall have power * * * to * * * provide for the common defense and general welfare of the United States.

And again—

To raise and support armies.

And again—

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers—

And so forth.

Mr. BARKLEY. Yes; all "the foregoing powers."

Mr. McKELLAR. That is ample provision, in my judgment. I now ask the Senator to put his finger on any clause or phrase of the Constitution which allows the United States Government to enter the insurance business generally.

Mr. BARKLEY. I shall quote, not in exact language, but the substance of the constitutional provision, that Congress shall have the power to borrow money on the credit of the United States; and that is what this amounts to. It is borrowing from the people who desire to buy these bonds money which is to be returned to them in annual payments in the form of an annuity. The Senator can call it an "insurance policy" if he wishes to. If I have $10,000 which I invest in a Liberty bond, that is an insurance policy to some extent. If I invest $10,000 in a bond of the United States, that money will be paid back to me according to the terms of the bond, and that is an insurance that I will get my $10,000 whenever the Government pays it. The pending measure provides that if I put in $10,000 or any other amount provided in the bill instead of paying it all back to me at once, the Government shall pay it back in annual installments which we call an annuity. I do not see any difference, so far as the principle is concerned, between one and the other.

The PRESIDING OFFICER. The time of the Senator on the amendment has expired.

Mr. BARKLEY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BARKLEY. I understood the Chair to say that the question is on the amendment offered by the Senator from Connecticut [Mr. LONERGAN] to strike out the amendment of the Senate committee.

The PRESIDING OFFICER. The situation, as the Chair understands it, is this: The amendment offered by the Senator from Connecticut [Mr. LONERGAN] would strike out an amendment of the committee not as yet acted upon. Therefore, when the Chair puts the question he will put the question upon the committee amendment; and if a Senator wishes to accomplish the purpose of the Senator from Connecticut he will vote "nay." If he wishes to vote for the committee amendment, he will vote "yea."

Mr. BARKLEY. That is what I was coming to. I thought the Presiding Officer was about to put the question on a motion to strike out a committee amendment which had been acted on. The vote is on the committee amendment. Those who favor the committee amendment will vote "yea", and those who are opposed to the committee amendment will vote "nay."

The PRESIDING OFFICER. Those who wish to accomplish the purpose of the Senator from Connecticut will vote "nay."

Mr. LONERGAN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

| | | | |
|---|---|---|---|
| Adams | Coolidge | La Follette | Reynolds |
| Ashurst | Copeland | Lewis | Robinson |
| Austin | Costigan | Logan | Russell |
| Bachman | Davis | Lonergan | Schall |
| Bailey | Dickinson | Long | Schwellenbach |
| Bankhead | Dieterich | McCarran | Sheppard |
| Barbour | Donahey | McGill | Shipstead |
| Barkley | Duffy | McKellar | Smith |
| Bilbo | Fletcher | McNary | Steiwer |
| Black | Frazier | Maloney | Thomas, Okla. |
| Bone | George | Metcalf | Townsend |
| Borah | Gerry | Minton | Trammell |
| Brown | Gibson | Moore | Truman |
| Bulkley | Gore | Murphy | Tydings |
| Bulow | Guffey | Murray | Vandenberg |
| Burke | Hale | Neely | Van Nuys |
| Byrd | Harrison | Norris | Wagner |
| Byrnes | Hastings | Nye | Walsh |
| Capper | Hatch | O'Mahoney | Wheeler |
| Caraway | Hayden | Overton | White |
| Chavez | Johnson | Pittman | |
| Clark | Keyes | Pope | |
| Connally | King | Radcliffe | |

The PRESIDING OFFICER (Mr. DUFFY in the chair). Eighty-nine Senators have answered to their names. A quorum is present. The question is on the adoption of the committee amendment.

Mr. LONERGAN. The pending motion is to strike out title XI.

The PRESIDING OFFICER. The Chair will state that the question will be submitted as to the adoption of the committee amendment, beginning on page 72, line 7, being title XI. Those desiring to support the committee amendment will vote "yea." Those favoring the amendment of the Senator from Connecticut will vote "nay."

Mr. HARRISON. Those in favor of the amendment of the Senator from Connecticut will vote "nay."

The PRESIDING OFFICER. The question is on agreeing to the committee amendment, on page 72, beginning with line 7, being title XI.

The amendment of the committee was rejected.

Mr. RUSSELL. Mr. President, I offer an amendment, which I send to the desk and ask to have read.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 4, line 24, before the period, it is proposed to insert a colon and the following:

*Provided*, That in order to assist the aged of the several States who have no State system of old-age pensions until an opportunity is afforded the several States to provide for a State plan, including financial participation by the States, and notwithstanding any other provision of this title, the Secretary of the Treasury shall pay to each State for each quarter until not later than July 1, 1937, to be used exclusively as old-age assistance, in lieu of the amount payable under the provisions of clause (1) of this subsection, an amount sufficient to afford old-age assistance to each needy individual within the State who at the time of such expenditure is 65 years of age or older, and who is declared by such agency as may be designated by the Social Security Board, to be entitled to receive the same: *Provided further*, That no person who is an inmate of a public institution shall receive such old-age assistance, nor shall any individual receive an amount in excess of $15 per month.

Mr. HARRISON. Mr. President, will the Senator yield?

Mr. RUSSELL. I yield.

Mr. HARRISON. I have talked to the Senator from Georgia about the subject matter of this amendment and have had numerous conferences in regard to it. What the Senator seeks to do by his amendment is to enable States which have no pension-system set-up, and which, therefore, would be unable to take advantage the first year, 1936, of the appropriations by Federal Government for assistance to States or States such as the Senator's State, Georgia, where the State constitution prohibits pension plans being created, making necessary an amendment to the State constitution, to avail themselves of the Federal assistance until such States may have time to adopt a State plan.

Mr. RUSSELL. For a period of only 2 years, until an opportunity can be afforded all the States to establish a State system.

Mr. HARRISON. And pending such time some agency is to be appointed by the Social Security Board which may reach the needy individuals who would come under the provisions of the bill.

Mr. RUSSELL. The Senator from Mississippi is correct. This problem in the States that have no old-age-pension system has been greatly accentuated within the past 3 or 4 weeks by the policy of the Relief Administration in inaugurating the work-relief program in turning back to the States and local communities that have no means whatever of providing for them, old people who are not capable of being employed on the work-relief program.

Mr. HARRISON. Mr. President, I may state that, so far as one member of the committee is concerned, I shall not interpose an objection to the amendment going to conference, because I believe that the States should have an opportunity of providing pension systems for themselves.

Mr. BORAH and Mr. KING addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Georgia yield; and if so, to whom?

Mr. RUSSELL. I yield first to the Senator from Idaho as he rose first. Then I will yield to the Senator from Utah.

Mr. BORAH. May I ask how many States are in the situation which the Senator describes?

Mr. RUSSELL. There are, as I understand, at the present time 15 States which have no old-age-pension systems and 33 that have such systems, the systems varying, of course; they are not uniform throughout the United States.

Mr. BORAH. Do I understand correctly that this amendment provides that for those 15 States the Federal Government will put up $15 for people who have reached the age of 65 and over until such States shall have adopted pension systems?

Mr. RUSSELL. Not necessarily; only for a period of 2 years; the provision suggested will expire by operation of law at the end of a 2-year period.

I may say to the Senator from Idaho that the amendment does not compel the Social Security Board to pay these individuals $15; it may pay them amounts not exceeding $15. I assume that in some States the Social Security Board might not pay the entire amount of $15; but it is limited to $15, that being the maximum which will be paid from the Federal Treasury to individuals in States that today have no old-age-pension system.

Mr. BORAH. Then, I think I understand the amendment correctly. It provides that in such States as have no provision for old-age pensions for the next 2 years the Federal Government is to contribute $15?

Mr. RUSSELL. Or such amount, not exceeding $15, as the Social Security Board may fix in such States.

Mr. BORAH. It is pretty certain that it will be $15.

Mr. RUSSELL. I hope and trust it is. I certainly hope that it will not be any less than that amount.

Mr. President, in view of the statement of the Senator from Mississippi [Mr. HARRISON], I will not make any extended remarks on this amendment. It occurs to me that the proposal is not only just and fair but that it would be unfair to aged and needy individuals in the States which today have no old-age-pension system to say that the Federal Government will not extend its hand to assist them in the slightest degree. Not only that, but they will not be permitted to share in this fund which will be paid by the taxpayers of every State at a time when they are being taken off the relief rolls and being turned back to the counties and municipalities which are already largely involved and are absolutely unable to assist such individuals.

We know the present desperate condition of many of these old people, who have seen their savings swept away either by the depreciation in securities or in other investments. They, perhaps, had farms which were under lien and have seen the lien foreclosed on account of the low price of farm commodities and the depreciation in the value of farms. As I see it,

it would be nothing less than wanton cruelty to an old person in a State that has no old-age-pension system to say, "Commencing with the passage of this bill, $15 a month for such persons will be sent to a State that has an old-age-pension system, but you shall not be permitted a dime, and in addition, you, without any resources whatever, will be taken off the relief rolls."

I would not favor as a permanent policy the Federal Government paying $15, whether the State matched it or not, but States which now have no old-age-pension systems should at least be afforded an opportunity to adopt within the 2-year period a system designed to take care of their aged and those in need. Efforts to establish such systems are now being made all over the Union. In two or three instances constitutional amendments will be submitted to the people of the States within the next several months, or in the general election of 1936, which will enable the adoption of old-age-pension systems. Some States, such as the one I have the honor in part to represent in this body, have constitutional provisions which make it impossible for them to contribute a single dime to an old-age pension system, and under the peculiar provisions of our constitution an amendment cannot be submitted to the people until the next general election, which will be in 1936. So, regardless of how strongly all the people of my State and of other States similarly situated might favor an old-age pension system, they would be powerless to do anything on earth to match the Federal contribution until after the general election in November 1936. I hope the amendment will be adopted.

Mr. KING. Mr. President, will the Senator yield?

Mr. RUSSELL. I yield to the Senator from Utah.

Mr. KING. Is there no law in the State of Georgia which permits the counties or other political subdivisions to make provision for the indigent?

Mr. RUSSELL. There is; there is a law that permits counties to have poor farms, but if the Senator from Utah were familiar with the conditions obtaining on some of the poor farms or pauper farms of this Nation, he would never by any act or word of his suggest for one moment that any aged person over 65 years should be sent to such a farm.

Mr. KING. I am not talking about that. What I am trying to ascertain is whether the Senator's State, Georgia, is powerless to give to its indigent an amount which would be equivalent to that which under the bill is to be provided by the Federal Government.

Mr. RUSSELL. The State of Georgia is absolutely powerless. The purposes for which taxes may be levied in the State of Georgia are set forth in detail in the constitution of that State. If the Senator from Utah desires, I will read him that provision of our constitution.

Mr. KING. I do not ask the Senator to do that.

Mr. RUSSELL. It is impossible for one cent in taxes to be levied and collected in the State of Georgia under our constitution as it stands today for the purpose contemplated by this bill. In order to do that an amendment to the State constitution is absolutely necessary.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Georgia.

The amendment was agreed to.

Mr. O'MAHONEY. Mr. President, I offer the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 49, line 22, after the word "deposited", it is proposed to insert the following:

Together with a statement of the additional expenditures in the District of Columbia and elsewhere incurred by the Post Office Department in performing the duties herein imposed upon said Department, and the Secretary of the Treasury is hereby authorized and directed to advance from time to time to the credit of the Post Office Department from appropriations made for the collection and payment of taxes provided under section 707 of this title, such sums as may be required for such additional expenditures incurred by the Post Office Department in the performance of the duties and functions required of the Postal Service by this act.

Mr. HARRISON. Mr. President.

The PRESIDING OFFICER. Does the Senator from Wyoming yield to the Senator from Mississippi?

Mr. O'MAHONEY. I yield.

Mr. HARRISON. This is the amendment, is it not, which was suggested by the Post Office Department with reference to bearing the expenses which may be incurred by the Department under the terms of the pending bill?

Mr. O'MAHONEY. Mr. President, the amendment covers the suggestion made to the committee by the Post Office Department. The bill makes it the duty of the Department to collect the taxes for which provision is made, but does not provide any method of meeting the additional expense to which the Department will necessarily be put. In other words, it adds another nonpostal function to the Post Office Department. Last year such nonpostal functions cost the Department more than $66,000,000.

The amendment provides that the Post Office Department shall report to the Treasury what services are required to perform the duties imposed by the bill and directs the Treasury to advance credit to the Department to meet the additional expenditures. Similar provisions are in the duck stamp law and in the baby bond law.

Mr. HARRISON. I shall not object to the amendment going to conference.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from Wyoming.

The amendment was agreed to.

Mr. BLACK. Mr. President, I desire to offer an amendment proposing an additional section to the bill. In my judgment, this amendment has been made necessary by the adoption of the so-called "Clark amendment." I shall send the amendment to the desk and request that it be read; and after it shall have been read, if there shall be any desire that it be explained or the necessity for the amendment made plain, I will be glad to explain it to the Senate.

The PRESIDING OFFICER. The amendment proposed by the Senator from Alabama will be stated.

The CHIEF CLERK. On page 52, after line 7, it is proposed to insert the following new section:

SEC. 812. (a) It shall be unlawful for any employer to make with any insurance company, annuity organization, or trustee any contract with respect to carrying out a private annuity plan approved by the Board under section 702 if any director, officer, employee, or shareholder of the employer is at the same time a director, officer, employee, or shareholder of the insurance company, annuity organization, or trustee.

(b) It shall be unlawful for any person, whether employer or insurance company, annuity organization, or trustee, to knowingly offer, grant, or give, or solicit, accept, or receive, any rebate against the charges payable under any contract carrying out a private annuity plan approved by the Board under section 702.

(c) Every insurance company, annuity organization, or trustee who makes any contract with any employer for carrying out a private annuity plan of such employer which has been approved by the Board under section 702 shall make, keep, and preserve for such periods such accounts, correspondence, memoranda, papers, books, and other records with respect to such contract and the financial transactions of such company, organization, or trustee as the Board may deem necessary to insure the proper carrying out of such contract and to prevent fraud and collusion. All such accounts, correspondence, memoranda, papers, books, and other records shall be subject at any time, and from time to time, to such reasonable periodic, special, and other examinations by the Board as the Board may prescribe.

(d) Any person violating any provision of this section shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than $10,000 or imprisonment for not more than 1 year, or both.

Mr. BLACK. Mr. President, I think I can explain very briefly the object and purpose of this amendment and the necessity for its adoption.

The amendment which was offered by the Senator from Missouri [Mr. CLARK] and adopted by the Senate would authorize the making of contract of insurance or annuity with private insurance companies, annuity organizations, or trustees. One of the objections a great many of us had to the amendment of the Senator from Missouri was that we believed there would be a constant, continuous, and recurring incentive to companies buying such insurance to have on their list of employees the best risks it was pos-

sible to obtain. In other words, it is easy to see, if one company could obtain insurance on its employees all at the rate that would be accorded to young men from 20 to 30 while other companies retained in their employ employees from 20 to 60, that the company which had the employees from 20 to 60 would be compelled to pay a higher rate, and the result would be that such company would be at a distinct disadvantage in competing with the company which employed men of a lower age.

The Senator from Missouri believed and stated that he had avoided any danger on that score by reason of certain additions which he has made to his amendment since the time it was offered in the Finance Committee. I am perfectly willing to concede that the amendment offered on the floor by the Senator from Missouri was a distinct improvement in that regard over the amendment offered by him before the Finance Committee; but the amendment of the Senator from Missouri does not provide any method, so far as I can see, to protect in the respects in which my amendment provides.

Mr. CLARK. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Alabama yield to the Senator from Missouri?

Mr. BLACK. I yield.

Mr. CLARK. I have had an opportunity now to examine the Senator's amendment and will state that, so far as I am concerned, I am heartily in sympathy with it.

Mr. BLACK. I was sure the Senator would be when he understood the amendment.

I can state in very few words what I have in mind. We have had a good deal of information about the way holding companies pipe profits out of operating companies. If an insurance company can be so associated with an industrial company that the insurance company can pipe the profits from the industrial company through the insurance company by this means, it would obtain exactly the same results, or certain individuals would, as though originally the company insuring the men had made the profits.

My amendment would make the books of the insurance company subject to inspection of the Government and would prevent any such unfair methods. One portion of the amendment would prevent rebates being made by an insurance company to an industrial company where the men work, and another provision would prevent interlocking directorates and interlocking stockholders. In that way it appears to me the amendment of the Senator from Missouri is greatly strengthened to accomplish the exact purpose for which he offered it on the floor of the Senate. Since he has no objection, and I have shown my amendment to the Senator from New York [Mr. WAGNER] and it meets with his approval, unless there is some further question I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. GEORGE. Mr. President, if there are no further amendments to be offered to title II and title VIII of the bill, I wish to offer at this time a substitute for title II and title VIII; that is, the Federal old-age benefit provisions.

The PRESIDING OFFICER. The Senator from Georgia offers an amendment in the nature of a substitute, which will be read.

The legislative clerk read the amendment in the nature of a substitute, as follows:

TITLE I—INDUSTRIAL PROTECTION

SECTION 1. (a) When used in this title, unless the context otherwise indicates—

(1) The term "person" means individual, association, partnership, or corporation.

(2) The term "employer" means any person in the United States who at any one time during the taxable year employs 50 or more employees, and any group of persons in the United States engaged in the same field of industry which group at any one time during the taxable year employs 50 or more employees and which is formed voluntarily for the purpose of being considered an employer within the meaning of this act, but does not include the United States Government, or any State or political subdivision or municipality thereof, or any person subject to the Railroad Retirement Act.

(3) The term "employee" means any person in the service of an employer the major portion of whose duties are performed within the United States.

(4) The term "United States", when used in a geographical sense, means the several States, the District of Columbia, and the Territories of Alaska and Hawaii.

(5) The term "pay roll" means all wages paid by an employer to employees.

(6) The term "wages" means every form of remuneration for services received by an employee from his employer, whether paid directly or indirectly by the employer, including salaries, commissions, bonuses, and the reasonable money value of board, rent, housing, lodging, payments in kind, and similar advantages.

(b) For the purposes of this title the wages of any employee receiving wages of more than $7,200 per annum shall be considered to be $7,200 per annum.

SEC. 2. There shall be levied, assessed, and collected annually from each employer in the United States for each taxable year an excise tax equal to 5 percent of such employer's pay roll during that part of such taxable year in which he employs 50 or more employees and in which his employees were not covered by an industrial protection plan adopted with the approval of the Social Security Board as hereinafter provided, and announced to his employees.

SEC. 3. (a) The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe and publish necessary rules and regulations for the collection of the tax imposed by this title.

(b) Every employer liable for tax under this title shall make a return under oath within 1 month after the close of the year with respect to which such tax is imposed to the collector of internal revenue for the district in which is located his principal place of business. Such return shall contain such information and be made in such manner as the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury may by regulations prescribe. The tax shall, without assessment by the Commissioner or notice from the collector, be due and payable to the collector within 1 month after the close of the year with respect to which the tax is imposed. If the tax is not paid when due, there shall be added as part of the tax interest at the rate of 1 percent a month from the time when the tax became due until paid. All provisions of law (including penalties) applicable in respect of the taxes imposed by section 600 of the Revenue Act of 1926 shall, insofar as not inconsistent with this act, be applicable in respect of the tax imposed by this act. The Commissioner may extend the time for filing the return of the tax imposed by this act, under such rules and regulations as he may, with the approval of the Secretary of the Treasury, prescribe, but no such extension shall be for more than 60 days.

(c) Returns required to be filed for the purpose of the tax imposed by this act shall be open to inspection in the same manner, to the same extent, and subject to the same provisions of law as returns made under title II of the Revenue Act of 1926.

(d) The taxpayer may elect to pay the tax in four equal installments, in which case the first installment shall be paid on the date prescribed for the filing of returns, the second installment shall be paid on or before the last day of the third month, the third installment on or before the last day of the sixth month, and the fourth installment on or before the last day of the ninth month after such date. If any installment is not paid on or before the date fixed for its payment, the whole amount of the tax unpaid shall be paid upon notice and demand from the collector.

(e) At the request of the taxpayer, the time for payment of any initial installment of the amount determined as the tax by the taxpayer may be extended, under regulations prescribed by the Commissioner, with the approval of the Secretary of the Treasury, for a period not to exceed 6 months from the date prescribed for the payment of such installment. In such case the amount in respect of which the extension is granted shall be paid (with interest at the rate of one-half of 1 percent per month) on or before the date of the expiration of the period of the extension.

SEC. 4. (a) There is hereby established a Social Security Board (hereinafter referred to as the "Board") to be composed of five members, one of whom shall be designated as chairman, to be appointed by the President, by and with the advice and consent of the Senate. Not more than three of such members shall be of the same political party, and in making appointments members of different political parties shall be appointed alternately as nearly as may be practicable. No member of the Board shall engage in any other business, vocation, or employment. The chairman shall receive a salary at the rate of $10,000 per annum and each of the other members of the Board shall receive a salary at the rate of $7,500 per annum. Each member shall hold office for a term of 5 years, except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (2) the terms of the members first taking office shall expire, as designated by the President at the time of nomination, one at the end of 1 year, one at the end of 2 years, one at the end of 3 years, one at the end of 4 years, and one at the end of 5 years from the date of enactment of this act. It shall be the duty of the Board to carry out the provisions of

this act and to make an annual report to the President concerning its activities.

(b) The Board is authorized to appoint, subject to the civil-service laws, such officers and employees as are necessary for the execution of its functions under this act and to fix their salaries in accordance with the Classification Act of 1923, as amended. The Board is further authorized to make such expenditures (including expenditures for personal services and rent at the seat of government and elsewhere, for law books, books of reference and periodicals, and for printing and binding) as may be necessary for the execution of its functions.

SEC. 5. At the close of each taxable year for which a tax is imposed by this title, the Board shall certify to the Secretary of the Treasury, for the purpose of exemption from such tax, the name of each employer whose employees have been covered during such year by an industrial protection plan approved by the Board, together with the portion of such year that the employees were so covered.

SEC. 6. Subject to the limitations of this title, the Board shall adopt and make public standards for industrial protection plans and such rules and regulations as are necessary to carry out the provisions and purposes of this title. Any employer may submit to the Board an industrial protection plan, and the Board shall approve such plan if it complies with the standard fixed by the Board. If at any time the Board finds that a plan which it has approved does not in operation comply with the standards fixed for such plans, it may withdraw its approval and shall immediately notify the employer concerned of such action. It shall be the policy of the Board to allow each such employer as much freedom in determining his plan as is consistent with the purposes of this act and the adequate protection of the fund from which benefit payments are to be made.

SEC. 7. The standards adopted by the Board shall provide—

(a) That a plan to be approved shall provide (1) that the employer will pay annually into a reserve fund deposited with some trustee or other depositary acceptable to the Board, to be used for the payment of benefits under such plan, an amount not less than the amount of earnings distributed by such employer as dividends or profits, or otherwise, during the same year until the reserve fund is on an actuarially sound basis, and (2) that thereafter the employer shall make such payments when necessary to maintain the fund on an actuarially sound basis.

(b) That the payment of benefits under an approved plan shall begin not more than a year after the beginning of its operation; that every employee who has been in the service of the employer for 1 year or more shall be eligible for benefit payments; and that the following minimum schedule of benefit payments shall be paid at the expense of the employer under the plan in full operation:

(1) In the event of the death of an employee, there shall be paid to his dependents or estate an amount equal to 6 months' wages at the rate he was receiving at the time of his death.

(2) In the event of the disability of an employee, compensation shall be paid in monthly installments to such employee while his disability lasts, or until he reaches the age of 65, at the rate of one-eighth the wages he was receiving at the time the disability was incurred.

(3) When an employee reaches the age of 65 he shall receive annually for life an annuity equal to 1 percent of his total wages during his period of employment, payable in monthly installments.

(4) In the event that an employee becomes unemployed and cannot find other employment by complying with regulations prescribed by the Board he shall be paid compensation for 1 year at the rate of one-fourth his average annual wage for the preceding 5 years, payable monthly.

(5) If the period necessary for establishing on an actuarially sound basis the fund from which benefits are to be paid has not elapsed, benefit payments may, subject to the approval of the Board, be proportionately reduced or continued for a proportionately shorter period.

(c) That an approved plan shall provide that employees may, at their election, make contributions to the fund from their wages (such contributions to be deducted from the employees' wages and paid into the fund by the employer, if the employee so requests); that the benefit payments will be increased proportionately by such employee contributions; that the employer will conduct an educational program designed to demonstrate to his employees the advantages of such contributions; and that the employees contributing shall have a right to participate in the management of the plan.

(d) That an approved plan shall provide that an employer must pay the schedule of benefits specified in this act as his part of the protection plan irrespective of any contribution which an employee may or may not make toward securing a similar schedule of benefits for himself.

(e) That an approved plan shall provide for the exchange or transfer of credits and funds upon the separation of an employee from the service of any employer, in a manner that will fully protect the interest of the employee.

(f) That employers may operate their own plans and manage their own funds on a trustee basis; that employers may have their plans wholly or partly underwritten by insurance companies; that employers may unite to pool their risks and pool their funds; and that participation in a plan under the laws of a State may be considered the operation of an approved plan, if the State plan complies with the requirements for an approved plan, including payment of the minimum schedule of benefits, specified in this act.

SEC. 8. An employer who is financially unable to provide the reserve necessary to cover the pension liability arising out of the past years of service of active employees, previous to their retirement age, may make application to the Secretary of the Treasury for a loan up to the amount of such liability. The Secretary of the Treasury, under such rules and regulations as he may prescribe, is authorized and directed to make such loans in the form of negotiable bonds to be known as "social security bonds" and which shall bear interest at the rate of 4 percent per annum. Such loans shall bear interest at a rate not in excess of 4½ percent per annum, and shall be amortized over a period not in excess of 30 years from the date of the loan. The money accruing from the difference between the interest paid on such bonds and the interest received on such loans shall be held in the Treasury as a contingency reserve to protect the United States against loss through the failure to repay any such loan. At the end of each 5-year period after the date of enactment of this act, so much of the unused surplus in such contingency reserve as, in the opinion of the Board, can be distributed without endangering the solvency of such reserve shall be distributed to the persons making payment on such loans in the proportion which the payments of each bear to the total amount of such payments during such 5-year period.

SEC. 9. Deposits in the fund from which benefits are to be paid under an industrial protection plan approved by the Board may be deducted from the gross income of an employer for the purpose of computing income taxes to be paid by him to the United States.

SEC. 10. There is hereby authorized to be appropriated annually for the administration of this act the sum of $1,250,000. From such appropriation the Board is authorized and directed to pay to each State maintaining a cooperative State office for the administration of this act, and furnishing an equal sum, the sum of $12,500 to be used in the administration of such plan; and the Secretary of the Treasury is authorized and directed to pay to the Treasurer of such State the money so allotted.

SEC. 11. Sections 2 and 3 of this act shall become effective when the Congress by appropriate resolution shall so provide.

## TITLE II—HOMESTEAD VILLAGES

SECTION 201. For the purpose of providing a means of livelihood for citizens who cannot secure employment in industry or agriculture at a living wage, the Social Security Board is authorized and directed to provide for the construction of self-supporting homestead villages in which such citizens may earn a livelihood or supplement their income from other sources.

SEC. 202. (a) The Board shall make loans for the construction of homestead villages by any agency it approves for such purpose, taking as security for such loans first mortgages on the property in respect of which the loans are made. Such loans may be made up to the full amount necessary to acquire and construct the property covered by such mortgages, shall bear interest at a rate not in excess of 5 percent per annum, and shall be amortized over a period not in excess of 30 years from the date of the loan.

(b) The Board may construct homestead villages under its own supervision and sell the homes or farms in such villages, and shall amortize the unpaid portion of the purchase price over a period not in excess of 30 years, charging interest on unpaid portions of the purchase price at a rate not in excess of 5 percent per annum.

SEC. 203 (a) The Division of Subsistence Homesteads in the Department of the Interior and all functions of the Federal Emergency Relief Administration and the Agricultural Adjustment Administration with respect to subsistence homestead projects are hereby transferred to the Social Security Board, together with all powers and duties relating to each.

(b) All official records and papers now on file in and pertaining exclusively to the business of, and all furniture, office equipment, and other property now in use in, said Division of Subsistence Homesteads or any part, division, or section of the Federal Emergency Relief Administration or of the Agricultural Adjustment Administration whose principal duties relate to subsistence homestead projects, are hereby transferred to said Board.

(c) All officers and employees engaged primarily in carrying out functions transferred to the Board under this act are transferred to the Board without change in classification or compensation; except that the Board may provide for the adjustment of such classification or compensation to conform to the duties to which such officers and employees may be assigned.

(d) All appropriations made or allocated for the purpose of carrying out any of the functions transferred under this act shall be available for the use of the Board in constructing or making loans for homestead villages or in the completion of projects transferred under this act.

(e) All property held in the exercise of functions transferred under this act shall be transferred to the Social Security Board.

SEC. 204. There is hereby created a revolving fund of $1,000,000,000, which shall be used by the Board for the acquisition and construction of, or the making of loans on homestead villages under this act. The funds transferred under this act shall constitute a part of such fund; the President is authorized to allocate any unused funds at his disposal to such revolving fund; and there is hereby authorized to be appropriated for such revolving fund such sums as may be necessary to increase it to $1,000,000,000.

SEC. 205. The Board is authorized to prescribe rules and regulations for carrying out the provisions of this title, including rules and regulations concerning the organization and management of homestead villages, not inconsistent with the purposes of this act.

Mr. GEORGE. Mr. President, I wish to make it clear that I am not opposed to the principles or the provisions of title I of the bill providing for grants to the States for old-age assistance or what we know as the general old-age pension provisions of the bill, nor to title III, grants to the States for unemployment compensation administration; nor to title IV, grants to the States for aid to dependent children; nor to title V, grants to States for maternal and child welfare; nor to title VI, public-health work; nor to title VII, Social Security Board, because we recognize there must be a board created to administer the several titles of the bill; nor to titles IX and X, providing grants to the States for aid to the blind. Title XII, which deals with annuity bonds, I believe, has already been rejected. Nor am I opposed to title XII, the general provisions of the bill.

In other words, with the exception of title II and the supporting tax title, title VIII, I am in full sympathy with the bill.

I am also in full sympathy with the purposes of general old-age benefits sought to be covered by the provisions of title II of the bill. I think it would have been much wiser if the bill had provided for grants in aid to the States to enable them to set up old-age benefits and benefits to cover hazards in industry just as was done under title I in making grants in aid to the States for the purpose of providing old-age assistance.

Also, Mr. President, I have believed from the first, and in the committee supported a motion to the effect that we should separate the bill into its legitimate and component parts. It is obviously unfair to ask one to vote for a bill when there is a particular title in the bill to which he does not agree at all, although having full sympathy with the general objective sought to be accomplished by those who drafted and sponsored the bill. On the contrary, it is obviously unfair to join with objectionable and essentially different legislative proposals other highly desirable proposals for which many Senators would certainly desire to vote. Every Senator no doubt would like to vote for the grant in aid to the States for old-age assistance, for aid to dependent children, for public health work, for aid to the States for the purpose of assisting and caring for the blind.

Mr. President, in this connection I desire to say that, as originally drawn, the substitute which I have offered carried certain provisions imposing a tax, but, on mature deliberation and after exhaustive study, I reached the conclusion that the taxing provisions as they now appear in the bill itself could not be sustained against attack, and therefore the substitute which I now offer as now modified provides for the imposition of a tax, but only when authorized by the Congress by an appropriate resolution.

My substitute as now presented is a substitute for title II and title VIII of the bill reported by the committee. My substitute provides against industrial hazards which are not covered in the bill before the Senate. My substitute grants greater and larger benefits. It does not undertake to cover all employees, but it does undertake to cover employees of a common employer numbering 50 or more, and also provides for separate groups in kindred industries when such groups taken together bring the total to 50 or more.

Since my substitute will appear in the RECORD in connection with my remarks, I do not propose to read its provisions or discuss them more in detail at this time.

Mr. McKELLAR. Mr. President——

Mr. GEORGE. I yield to the Senator from Tennessee.

Mr. McKELLAR. Is the Senator's amendment simply a substitute for titles II and VIII, leaving the remainder of the bill as the Senate has agreed to it?

Mr. GEORGE. Entirely as the Senate has agreed to it.

Mr. President, I wish to make a brief statement regarding the substitute.

The basic features of the substitute, which are offered in the hope, at least, that they are improvements to replace corresponding parts of the pending bill, are, in brief, as follows:

It makes possible and necessary one standard schedule of benefits to be provided by industries throughout the Nation, thus insuring the desired result and putting all industries on a fair basis of competition, as is sought, it is claimed by the proponents of the Federal old-age benefits provision, or title II of the pending bill.

It preserves a real and needed degree of freedom to industries and to the States as cooperators in the administration of the act.

It permits individual industries or groups of industries to construct and operate their own plans, requiring only that they are actuarially sound and sufficient to yield the stipulated benefits.

It permits employers and employees to receive the benefit of any saving they can effect by a wise and efficient management of their own plans.

It requires each industry to pay only the exact cost of its protection program, no more and no less, instead of a flat pay-roll tax which does not represent the cost.

It eliminates the need for a large army of Federal office-holders required by the pending act to administer it and thus saves an excessively large and needless expense.

It does not put on industries immediately a large financial burden which in a time of business depression may be a serious obstacle to recovery, but relates the expense to the process of recovery.

It makes possible the payment of retirement annuities immediately instead of postponing them for a number of years and does so without putting an undue burden on industries and without increasing the public debt or the tax rate.

It makes possible the easy amendment of the act to enlarge its provisions for the scope of its application as experience may require.

It enlarges the protection program to include death and disability hazards, as well as old-age and unemployment hazards, as provided in title II of the bill as it now stands, all four of which are vitally related and constitute essential parts of one program of unemployment.

It requires all four programs to be put on a reserve basis actuarially calculated to be sufficient, so that automatically they are financially sound, instead of imposing on pay rolls a flat rate which is only guessed or estimated to be sufficient.

It provides for the transfer of pension credits from one employment to another, so that each employer bears the expense only for the number of years an employee spent in his services, and an employee does not lose his reward for years of faithful service by changing employment. The transfer of pension credits eliminates the temptation to escape the payment of retirement benefits by discharging older workers, and is thus one of the effective means of removing the "dead line" from industry.

It will both stimulate and compel an increase in the wage standard of American industry, because if the wage of a certain class of employees has not had sufficient margin to enable them to pay their share of the cost, the act will have to be amended by a requirement that employers pay the entire cost; but it will be a financial advantage to employers, and a moral advantage in preserving the self-respect of employees, if the way is opened for employees to pay half the cost of raising the wage to a cultural wage level as an earned right, rather than to have their share of the cost presented to them by employers as a charity.

Last, and most important of all, the substitute bill furnishes a self-supporting method by which a permanent livelihood may be secured by the large excess number of employees who have been displaced from industry, and cannot be reabsorbed in industry or agriculture, and whose number is so large that it is physically impossible to create a reserve fund sufficiently large to support them in idleness, even if it were desirable to supply wages without work. For these idle detached workers, who cannot be covered by any industrial protection plan that is sound and that will permit industry to function without undue and unnecessary retarding

influences and impediments, the only possible unemployment insurance is employment.

Mr. President, yesterday I had occasion to discuss the questionable validity of title II and title VIII of this bill. I am morally certain that in the course of time, if title II shall be enacted as it now stands, it will either break down of its own weight or it will come back under the condemnation of a decision of the Court. For that reason primarily, and especially since the adoption of the Clark amendment, I am offering this substitute and making this statement; and I now ask that I may insert in the RECORD a statement prepared by Mr. Henry E. Jackson, an expert in the field of social insurance, who appeared before the Finance Committee as a witness, and gave to the committee testimony when we were considering the bill now before the Senate.

The VICE PRESIDENT. Is there objection? The Chair hears none.

The statement is as follows:

THE GEORGE SUBSTITUTE SOCIAL-SECURITY BILL

(A statement by Henry E. Jackson)

1. The large and important part of the Wagner social-security bill is concerned with organized industries, providing protection against the hazards of old age and unemployment. The George bill is proposed as a substitute for this part of the Wagner bill and it also covers two additional hazards not provided for in the Wagner bill.

2. The two bills are constructed on principles which are basically different; the Wagner bill provides that the Federal Government own and operate the protection plans of industry; the George bill provides that the Federal Government's function be limited to setting a standard schedule of benefits to be maintained, but permits industries a large degree of freedom in the management of their plans. The George bill is therefore in exact accord with the American principle of democracy, which aims to secure concerted action in the whole, while preserving freedom in the parts.

The Wagner bill meets the problem by the use of state socialism; the George bill uses the principle of democracy. I have no objection to state socialism applied to this problem, as we have applied it to other problems, if this is the best we can do. But I believe the democratic method is far more efficient in securing the desired results and far more helpful in the development of individual citizens.

3. The George bill provides a much larger schedule of benefits than does the Wagner bill, and yet this larger schedule of benefits is made to be financially feasible, because of the freedom of method granted industries to manage their plans, and because of the large needless operating expense eliminated by the George bill, and because of the financial assistance to industries provided in the George bill without additional expense to the Government.

4. The chief distinguishing characteristic of the George bill, here stressed, is that its method of securing the adoption of protection plans in American industries, is not compulsion, but voluntary cooperation. The specified tax in the bill may be made effective by a separate act of Congress, if, and when, it is found to be advisable.

5. The use of the voluntary method stipulated in the bill implies that the social-security board charged with the administration of the act, would use all available means for enlisting industries in the plan, giving advisory service, exhibiting the nature and advantages of the plan, and explaining how the plan can be operated on the most inexpensive basis.

The board could give a rating, like a Federal Dun & Bradstreet's on a public governmental basis, thus giving public recognition and honor to those industries, which adopted plans measuring up to or approximating the standards stipulated in the bill.

There would thus be exhibited the number of employers who do voluntarily adopt the plan, also the number who are not willing to adopt it, also those who would be willing to adopt it, if it were made universal, so that they could be on a fair basis of competition. This process would render an invaluable service in exhibiting the need there may be for compulsory legislation.

6. The education, involved in the process of volunteer enlistment of employers, would create a volume of enlightened public opinion, which would clear the way for the easy passage of compulsory legislation. The assumption is justified that a large proportion of employers will probably adopt the plan voluntarily, because all employers are facing this problem wholly apart from any proposed legislation and all intelligent employers recognize that protection of worn-out human machinery is not only just but also an economic advantage, and because an employer who does not have such a plan will find it harder to secure and retain the right type of employee than the employer who adopts such a plan, and because under this bill it will happen to employers as it does to soldiers that an element of distinction and honor attaches to a citizen who is a volunteer soldier rather than to one who is drafted and conscripted under compulsion. Whatever the number of employers who may or may not freely adopt the plan, the voluntary method will be an advantageous process as a preliminary to the use of compulsion, which will affect not those who have by that time adopted the plan, but only those who have not.

7. A bill constructed on the principle of the George bill is obviously the only type of bill which can be operated on the basis of voluntary cooperation. Please observe that freedom of action is not only the method used for securing acceptance of the plan, but after industries have adopted the plan, as stated in the bill, they are given freedom in the management and operation of their plans. The principle involved here is one of paramount importance. It is not only the democratic principle of social control but is the only principle suitable to the treatment and development of human nature. Detail rules and regulations are adapted to dogs and horses. They need them because they are dogs and horses. But what distinguishes a man from a dog or horse is his use of moral judgments. Therefore all social legislation ought not only to permit but stimulate the use of moral judgments. This is what the George bill definitely aims to do. But the Wagner bill will do conspicuous moral damage to citizens, because it is undemocratic, because it, like the original National Security Act, contains detail rules and regulations, handed down from Washington to employers permitting them no chance to use moral judgments. Men properly resent such rules or they would not be normal men. The Wagner bill if adopted will no doubt run the same course as the N. R. A. bill. It will break down of its own weight and then will be pronounced unconstitutional. Then the work will be stopped and be more than wasted, because the work of unscrambling the machinery will have to be done.

8. If a bill of the George type were enacted, for the basic reasons above stated, it will be observed that as a consequence the question of its constitutionality is wholly avoided. It is eliminated. It could not be raised. The bill imposes no penalties and does nothing more or less than establish a bureau or board, whose function is clearly specified and which offers advisory service and operates on the basis of voluntary cooperation. Therefore, as it stands the constitutional question is in no way involved. If later the Congress should pass a joint resolution making the bill's penalties effective and the Supreme Court should pronounce it unconstitutional, the only thing the Court's decision would affect would be the penalty clause and the board could continue to do the work it had already begun and there would be no wasted effect. It could continue to put the bill into operation under the sanction of public opinion instead of using two sanctions, public opinion and the tax penalty.

9. If the board should succeed in securing the voluntary enlistment of a large number of industries in a plan, which they found acceptable and beneficial both to employers and employees, it is highly probable that the Supreme Court would pronounce the taxing provision to be constitutional if Congress decided to use it. For many years we have imposed a tariff tax for an avowed purpose other than to raise revenue, namely, to protect manufacturers against the hazard of foreign competition. No question of its constitutionality has ever been raised. If then as a national policy we have imposed a tariff tax for the protection of employers, we have a conspicuous and convincing precedent for imposing a tax now under a social-security act for the purpose of protecting both employers and employees against industrial hazards, which have become a menace to the national welfare.

After a large number of industries had adopted the plan and demonstrated its usefulness, if Congress made the tax effective in order to compel the participation of the remaining industries and if then the Supreme Court should declare the tax provision to be unconstitutional, we would have established a convincing basis and ample justification for a constitutional amendment. This is a natural and customary procedure, and by the framers of the Constitution was designed and expected to be used whenever the public welfare required its use. The Constitution was made for man, not man for the Constitution. Thomas Jefferson stated in two short sentences all that needs to be said on the wisdom and necessity of amending the Constitution. He said: "Laws and institutions must go hand in hand with the progress of the human mind. We might as well require a man to wear the coat that fitted him as a boy as civilized society to remain ever under the regime of their ancestors."

It is probable, however, that no constitutional amendment will be required, because the question as to whether or not the George type of social-security bill is constitutional, does not involve a question of law, but an economic theory of the facts back of the law. The Nation has now become so completely an economic unity that we no longer have interstate commerce or intrastate commerce, we have just commerce. As soon as this economic fact is recognized as it is the constitutionality of the George bill becomes a foregone conclusion even to a layman. The method of voluntary cooperation, which the bill provides for getting itself into operation, is designed to make such a conspicuous exhibit of this economic fact that the bill's constitutionality will never be raised. Nothing is so convincing as a fact, as Chief Justice Hughes indicated in his dissenting opinion in the Railroad Retirement Act. He said, "Where the constitutional validity of a statute depends upon the existence of facts, courts must be cautious about reaching a conclusion respecting them contrary to that reached by the legislature; and if the question of what the facts establish be a fairly debatable one, it is not permissible for the judge to set up his opinion in respect of it against the opinion of the lawmaker."

10. I am informed that no bill of this character has ever been proposed or passed by the Federal Congress without effective penalties attached. This is probably true. That is the chief reason why it should be passed now as a new legislative procedure. It is likewise true that hitherto no social-security bill has been passed by the Federal Congress. It is a new kind of legislation applied to

a complex industrial problem, and therefore requires a new legislative procedure. New wine calls for new bottles.

Even if we knew that the tax penalty would be ultimately necessary, it would be wise and helpful to use the method of voluntary cooperation as a preliminary process on the way to our desired goal. The shortest distance between two points is the line of least resistance. As far as it is feasible, the more excellent way is to reward men if they do, rather than to punish them if they don't.

It is a curious circumstance that we still persist in believing that the only effective legislation possible must have attached to it a penalty like a fine or imprisonment, whereas it has been repeatedly demonstrated that such penalties have been futile in securing observance of a law if it is not supported by public opinion. The prohibition law as a dramatic case in point. The democratic method is the method of freedom and, despite its obvious defects, democracy is the most efficient form of government yet devised. An illuminating definition of freedom, the only real freedom which I think we possess, would be that it is voluntary obedience to self-recognized law.

While the method here proposed applies with special force to legislation dealing with industrial problems, such as the social-security bill does, yet it is a wise working formula for many other types of legislation, because it ought to be obvious that it is not physically possible to put any law into effective operation unless we first secure a large measure of voluntary obedience to it. The George bill is definitely designed to secure as large a measure of voluntary obedience as possible to a law recognized as wise and desirable. We will dispense with penalties if we can; we will use them if we must.

Mr. GEORGE. Mr. President, I have only this to say further upon the substitute: It does not carry immediate compulsion, or attempt to do so, for the reasons I have already stated; but it is the first attempt to offer an inducement through a Federal agency to industry to provide superior benefits to those specified in title II of the pending bill. Not only that, but it makes possible the doubling of those benefits by voluntary contributions by the employees themselves, though it does not relieve the employers from granting greater benefits than title II of the bill provides and covering two additional hazards to which I have already directed attention. It also holds out a strong inducement to employers to adopt this program by providing for loans from the Treasury in the form of security bonds, but to be retained in the Treasury as its protection, so as to enable industry which has not in the past made suitable provision of a reserve fund to support the plan set out in the bill, or its equivalent. That makes possible also the transfer of credits, which, of course, is an essential feature of any security plan, or of any system which undertakes to provide against industrial hazards.

Mr. President, I am not only convinced of the desirability of such a course, but I believe it will be to the real interest of the country to have an opportunity to consider more deliberately, and separated from other admittedly important proposals in a long and involved bill, the problem we are discussing, and with which I have dealt in the amendment. If and when titles II and VIII of the bill shall be again before the Congress we shall be able, I hope, to work out a program which will provide against the industrial hazards which ought to be provided against as a part of the cost of doing business.

Attached to the substitute is also provision for self-supporting villages, either of the subsistence homestead type or of any other type of homestead with which the Congress has dealt, in recognition of the fact that so large a percentage of our working people have been unable to find employment, and will through a relatively long period be unable to find employment until some way of providing employment shall be found. The benefits granted under title II of the bill when they are analyzed will be found to be exceedingly meager, and there are large groups of our population which will not participate at all in the benefits of title II. Indeed, out of some forty-five to fifty million people who ordinarily and normally are gainfully employed in the United States, approximately one-half only will be affected by title II.

Mr. President, I ask to have inserted as a part of my remarks an editorial which appeared in the New York Times of June 17, entitled "The Social Security Bill," as bearing upon what I have tried to emphasize—the necessity for more careful and more exhaustive study of the subject unembarrassed by other legislative proposals.

The VICE PRESIDENT. Without objection, it is so ordered.

The editorial is as follows:

[From the New York Times of June 17, 1935]

THE SOCIAL-SECURITY BILL

The Senate seems to be on the verge of debating only perfunctorily and passing quickly the full social-security bill already passed by the House. It seems almost too late to hope that a measure of so sweeping a nature will receive the close and careful study it deserves. The case for splitting it into its constituent parts is a strong one. It would obviously be desirable to break it into at least three separate measures—one providing for immediate old-age assistance and Federal contributions for maternal and child aid, a second providing for unemployment insurance, and the third providing for permanent old-age insurance. Only after such a division would each section be likely to receive sufficient consideration, and to be voted upon as its merits deserve.

The whole contributory old-age-pension scheme in particular ought to be postponed and turned over to an expert commission for study. As it stands, it imposes a gradually rising tax on both employers and employees, which at the end of 10 years, it has been estimated, will amount to $1,700,000,000 a year. This in itself would mean an added tax burden equal to nearly half of the existing total Federal tax burden. Further, it would result, it has been calculated, in the accumulation of an eventual reserve fund of the immense total of $32,000,000,000. The problem of managing such a reserve fund, and its possible social and economic effects, have not yet received anything like adequate study. Alternative types of old-age pensions ought to be considered.

Nothing has yet been done, again, about amending the major defects of the unemployment insurance plan as it stands. It still does not provide that the workers shall contribute toward their own insurance, in spite of the convincing arguments for this practice and the fact that it prevails in virtually every such system abroad. And it still, for no good reason that it would be possible to think of, levies a 3-percent tax on the total pay rolls of employers, instead of merely on that part which is paid to workers actually covered by the insurance benefits.

Mr. McCARRAN. Mr. President, in view of the fact that there may be no roll call on the substitute offered by the Senator from Georgia [Mr. GEORGE], and since there are some of us who are more interested in the subject matter of old-age security than in the letter of the pending bill, which in all probability will be passed by the Senate, and as there may be some of us who seriously doubt whether the bill, if enacted into law, can receive the sanction of the Court of last resort, without taking up the time of the Senate, but entertaining an entirely sympathetic idea toward provision for old-age security and social security through a constitutional measure, which I do not believe will be passed here today, I desire to be recorded in favor of the George amendment.

Mr. BORAH. Mr. President, I may say just a word, although it is not directed to the particular amendment now pending, but rather to the bill.

The question of the constitutionality of title II has been raised and discussed. I presume we all recognize that title II does present a serious question. I do not think it is free from doubt. But my vote on the bill will not be controlled by the constitutionality or unconstitutionality of title II. There are provisions in the bill the constitutionality of which cannot be doubted, and I favor those provisions.

The bill provides that in case of any portion of the measure being held unconstitutional, the holding shall not affect other portions. Even if that provision were not in the bill, I think the courts would apply such a rule. In view of the portions of the bill which seem to me wholly unquestioned and which I favor, I shall vote for the measure.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Georgia [Mr. GEORGE] in the nature of a substitute for title II and title VIII.

The amendment was rejected.

Mr. HASTINGS. Mr. President, I send an amendment to the desk and ask to have it read.

The VICE PRESIDENT. The clerk will state the amendment.

The LEGISLATIVE CLERK. It is proposed to strike out title II, beginning in line 15, on page 7, and ending in line 12, page 16.

Mr. HASTINGS. Mr. President, the purpose of the amendment is to strike out title II of the bill. As everyone knows, this title refers to the plan for annuities. I discussed the matter at length on Monday, and do not care now to take the time of the Senate, but I should like to ask,

if there is to be no further discussion with respect to it, that we have a yea-and-nay vote on the amendment.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from Delaware, on which he has asked for the yeas and nays.

The yeas and nays were ordered.

Mr. HARRISON. Mr. President, let us have the amendment again stated.

The VICE PRESIDENT. The clerk will again state the amendment.

The CHIEF CLERK. It is proposed to strike out title II, beginning in line 15, page 7, and ending in line 12, page 16.

Mr. KING. Mr. President, it is not my purpose to detain the Senate but for a few moments. Yesterday I submitted some observations concerning the pending bill and directed particular attention to titles II and VIII. I stated in substance that the bill under consideration had a number of admirable features which commanded my support, but that in my opinion titles II and VIII contained provisions which would not be sustained when challenged in the courts. It is believed by many—and I am among that number—that in view of the other provisions of the bill there should be legislation of a supplemental character providing old-age benefits. I regret that steps have not been taken, and legislation proposed of a constitutional character, that will accomplish the desired results and afford suitable and adequate annuities or old-age benefits for the class of individuals comprised within the provisions of titles II and VIII of the pending measure. However, the provisions of these two titles do not reach all the persons above the age referred to, and, indeed, deal with perhaps not exceeding 50 percent of those over the age of 65 years.

The Senator from Georgia [Mr. GEORGE] has referred to this matter and pointed out in a clear and comprehensive manner the defects in the present bill and the necessity, if the objectives sought are to be attained, of adopting a different plan from that found in titles II and VIII. As stated, there are provisions in the bill the constitutionality of which cannot be questioned, and which possess merit and should be enacted into law. The bill before us contains separate provisions and separate titles. They are as disconnected or separated as though they were in separate bills.

The bill contains, as Senators know, various titles which are so complete in themselves that the elimination of one or more would not mar or destroy those remaining. Believing as I did that titles II and VIII were subject to challenge upon the ground of being unconstitutional, I took the position, when the Committee on Finance first began the consideration of the bill, that it should be divided into separate bills and each separate part be considered as an independent measure. I especially urged that the consideration of titles II and VIII be deferred until the other provisions of the bill had been acted upon. Moreover, it was my opinion that sufficient study had not been given to the question of old-age benefits, with the intricate and technical questions involved, and that in view of the fact that if the bill as presented were enacted into law titles II and VIII would not become effective for approximately 2 years, it would be the part of wisdom to defer action upon the question of old-age benefits until the next session of Congress.

There are some Senators and many other persons who have given attention to the provisions of the bill, and particularly to titles II and VIII, who have serious doubts as to the constitutionality of the same. I believe that a definite plan should be provided which would embrace a larger part of our population than is covered in the provisions of the titles referred to. The view is entertained by many that to provide old-age benefits for perhaps less than one-half of our population over 65 years of age does not meet the situation or deal with the problem in a satisfactory manner.

It is obvious that if the bill in its present form is enacted into law, hundreds of thousands, and indeed millions, of those reaching the age of 65 years, not finding any provisions for relief in the old-age benefit features of the bill, will be relegated to title I, thus increasing the contributions to be made by the States as well as the Federal Government. The millions who will not receive old-age benefits under titles II and VIII, assuming that those provisions shall be held constitutional, will, if they obtain any relief, be compelled to avail themselves of old-age assistance or pensions, provisions for which appear in title I.

I wish a sound and satisfactory measure were before us to encompass the entire questions with which the measure before us attempts to deal. In view of the fact that the bill does have provisions of merit which I approve, and in view of the separability of the provisions, I may feel constrained to vote for the passage of the bill, though believing the titles referred to to be unsound from a constitutional standpoint.

Mr. President, as I understand, the American Association for Social Security, with headquarters at 22 East Seventeenth Street, New York City, has been active in attempting to secure pensions and social-security legislation. I am advised that Mr. Epstein is connected with this association and, as Senators know, he has for many years earnestly sought to secure State legislation providing for old-age pensions. I am in receipt of a memorandum distributed by this organization a short time ago, which contains an analysis of H. R. 7260, and which gives some attention to title II and title VIII of the pending bill. It states that the provisions in these titles place the largest burden of the future support of the aged upon the workers and industry. Reference is made to the enormous reserves which will be built up.

These reserves will be frozen for many years. The committee estimates that under this bill there will be a reserve fund of over 10 billion dollars by 1948 and the reserve will amount to over 32 billion dollars by 1970. Such enormous reserves are unprecedented.

The statement further continues:

The removal of so much purchasing power in the next few years may hamper recovery and cause great social harm. It is extremely questionable whether our economic system can stand the withdrawal of so much needed purchasing power.

The statement further continues:

In setting up such high contributions the bill places a back-breaking burden upon the present generation. The younger generation, as taxpayers, will not only have to pay the cost of the non-contributory pension system, as well as the largest part of the benefits under the contributory system for those now middle-aged, but will be forced to provide fully for its own old age.

It is further stated that—

The plan under this bill is to build up large reserves out of contributions by employers and employees in order to make the plan self-sustaining in as short a period as possible, so as to relieve the Government from much of its expenditures on non-contributory old-age pensions. We believe that self-sustaining annuities cannot be wisely built up in a short period, and that it is especially unwise to accumulate large reserves from contributions levied largely upon wage and salaried workers without any help from the Government out of funds derived from the higher income recipients in the Nation.

Without assenting to all of the statements above quoted, they furnish, it seems to me, sufficient reason for a further study of the important question of old-age annuities. The statement further continues:

In view of the technical complications of the subject it would probably be advisable to strike out completely titles II and VIII from this bill. A congressional committee should be created to study the subject further and report to the next session of Congress.

I have called attention to this statement because of the study which has been given to pensions, old-age insurance, old-age benefits, and so forth, by the organization from whose statement I have quoted.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Delaware [Mr. HASTINGS] to strike title II from the bill. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KING (when his name was called). Upon this vote I have a pair with the junior Senator from California [Mr. MCADOO], and in his absence I withhold my vote.

Mr. LA FOLLETTE (when Mr. NYE's name was called). I desire to announce that the Senator from North Dakota

[Mr. NYE] is detained by illness. He has a pair with the senior Senator from Virginia [Mr. GLASS]. If the Senator from North Dakota were present, he would vote "nay."

The roll call was concluded.

Mr. ROBINSON. I desire to announce that the Senator from Illinois [Mr. LEWIS], the Senator from Montana [Mr. MURRAY], and the Senator from Oklahoma [Mr. THOMAS] are necessarily detained from the Senate on official business. I am advised that these Senators would vote "nay" if present.

I wish also to announce that the Senator from California [Mr. MCADOO], the junior Senator from Virginia [Mr. BYRD], the Senator from Missouri [Mr. CLARK], the Senator from Nevada [Mr. MCCARRAN], the Senator from Kentucky [Mr. LOGAN], and the senior Senator from Virginia [Mr. GLASS], are unavoidably detained.

Mr. BULKLEY. I repeat the announcement of my general pair with the senior Senator from Wyoming [Mr. CAREY]. Not knowing how he would vote on this question, I transfer my pair to the junior Senator from Utah [Mr. THOMAS], who is detained on important public business, and vote "nay."

Mr. HAYDEN. My colleague, the senior Senator from Arizona [Mr. ASHURST], is necessarily detained from the Senate. If present, he would vote "nay."

The result was announced—yeas 15, nays 63, as follows:

YEAS—15

| | | | |
|---|---|---|---|
| Austin | George | Keyes | Townsend |
| Barbour | Gore | Metcalf | Vandenberg |
| Capper | Hale | Smith | White |
| Dickinson | Hastings | Steiwer | |

NAYS—63

| | | | |
|---|---|---|---|
| Adams | Coolidge | La Follette | Radcliffe |
| Bachman | Copeland | Lonergan | Reynolds |
| Bailey | Costigan | Long | Robinson |
| Bankhead | Davis | McGill | Russell |
| Barkley | Dieterich | McKellar | Schall |
| Bilbo | Donahey | McNary | Schwellenbach |
| Black | Duffy | Maloney | Sheppard |
| Bone | Fletcher | Minton | Shipstead |
| Brown | Frazier | Moore | Trammell |
| Bulkley | Gerry | Murphy | Truman |
| Bulow | Gibson | Neely | Tydings |
| Burke | Guffey | Norris | Van Nuys |
| Byrnes | Harrison | O'Mahoney | Wagner |
| Caraway | Hatch | Overton | Walsh |
| Chavez | Hayden | Pittman | Wheeler |
| Connally | Johnson | Pope | |

NOT VOTING—17

| | | | |
|---|---|---|---|
| Ashurst | Couzens | McAdoo | Thomas, Okla. |
| Borah | Glass | McCarran | Thomas, Utah |
| Byrd | King | Murray | |
| Carey | Lewis | Norbeck | |
| Clark | Logan | Nye | |

So Mr. HASTINGS' amendment was rejected.

Mr. HARRISON. Mr. President, I offer a clarifying amendment, which I send to the desk and ask to have read.

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. On page 3, line 13, after the word "plan", it is proposed to strike out "one-half"; and in line 14, after the word "collected", it is proposed to insert:

A part thereof in proportion to the part of the old-age assistance which represents the payments made by the United States.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Mississippi.

The amendment was agreed to.

Mr. HASTINGS. Mr. President, I offer an amendment which I send to the desk and ask to have read.

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. On page 46, line 19, after "per centum", it is proposed to insert:

*Provided, however,* That the tax levied in this act to be paid by the employer shall not in any event exceed 1 percent of the gross receipts of the business of the employer.

And on page 52, line 24, after "per centum", it is proposed to insert:

*Provided, however,* That the tax levied in this act to be paid by the employer shall not in any event exceed 1 percent of the gross receipts of the business of the employer.

Mr. HASTINGS. Mr. President, I have spoken to the chairman of the committee with respect to this amendment, and he has stated that he has no figures to show whether or not its adoption would greatly reduce the amount contemplated to be raised under the bill. I have asked that he accept the amendment and take it to conference, and find out in the meantime whether or not it would seriously interfere with the amount. He has not definitely promised, but I think he is about to do so.

Mr. HARRISON. Mr. President, of course the Senator from Delaware knows that personally I would do anything in the world for him; but this amendment is rather involved, it is uncertain in its terms and in its effect, and I fear it is really so important that I should rather have the Senate pass upon it.

Mr. HASTINGS. Mr. President, this amendment has been suggested by the service industries. The particular industries interested in the amendment are those which are conducting the beauty parlors. There are 57,000 recognized shops, employing 240,000 people, doing a gross annual business of $400,000,000, with certain fixed obligations in connection with leases and equipment and taxes which cannot be passed on, and which, having the practical effect of a 25-percent reduction of the gross business done, must necessarily be absorbed in the nonfixed factors of the business.

The object of the bill is to assist employees where practically all the expense, or a large part of the expense, is in the pay roll. In this particular industry it is contended that it is not possible to pass on to the consumer the expense in question, as will be done in most cases, and that 1 percent on the gross receipts is a sufficient tax to place upon any industry at this or any other time.

I hope the chairman of the committee will consent to take the amendment to conference, and ascertain just what effect a tax of 1 percent on this industry will have upon the bill itself.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Delaware.

The amendment was rejected.

Mr. GORE. Mr. President, the amendment I intend to offer tracks very closely the amendment offered by the Senator from Delaware [Mr. HASTINGS], except that his amendment would affect some large concerns, such as the large telephone companies and the large telegraph companies, and the like. The Senate has just rejected his amendment.

The pending bill imposes a tax of 3 percent on the pay rolls of all employers included within the terms of the measure as a contribution to the unemployment insurance fund. A tax of 3 percent on the pay rolls of individuals and partnerships engaged in rendering personal services, such as barber shops, cleaning and pressing establishments, beauty parlors, and the like, will in some instances amount to 25 percent of their net earnings. A tax of 25 percent on net earnings is, of course, disproportionate and excessive, and would in some cases be destructive of the business itself.

To meet this situation and remedy this injustice—to protect the little fish against the big ones—I am offering an amendment tracking the amendment just offered by the Senator from Delaware, but limiting the application of this 1-percent tax to firms and partnerships. In other words, my amendment provides that if 3 percent on the pay rolls of these small concerns exceeds 1 percent of their gross earnings, then 1 percent of their gross earnings shall constitute the limit of their payments rather than the 3 percent of their payrolls. This might prove a life preserver in many deserving cases.

Mr. President, what I have primarily in mind is this: The amendment I offer will limit the tax on such concerns as cleaning and pressing outfits, barber shops, beauty parlors, and small concerns which are engaged in rendering personal service. I have here a computation which I shall ask unanimous consent to have printed in the RECORD. In some instances 3 percent of the pay rolls of these small concerns will amount to 25 percent of their net earnings. That is unfair. It will either put these concerns out of business, or seriously cripple them. It will oblige them in many cases either to reduce the pay or reduce the number

of their employees. Either of these results is undesirable. My amendment will limit it to individuals or to partnerships. It does not include corporations or stronger concerns which could pay the 3 percent tax on pay rolls and survive.

I hope the Senate will adopt this amendment and allow it to go to conference, because there is certainly justification or at least there is reason why we ought seriously to consider the matter before we impose upon these little concerns a tax which may put them out of business, and certainly will cripple them most seriously.

At this point I ask unanimous consent to have printed in the RECORD a statement showing how excessive this 3-percent tax is with respect to some of these small concerns.

The VICE PRESIDENT. Without objection, it is so ordered.

The statement referred to is as follows:

*To the Finance Committee, Senate of the United States:*

Memorandum suggesting the necessity and advisability of making certain exceptions or modifications to the pay-roll tax rates provided for by the economic-security bill so as to alleviate the unequally heavy incidence of the tax in those businesses where the proportion of pay-roll expenditures to total business turnover is unusually high

We have been consulted in recent days by several business concerns engaged in what might be called personal-service activities concerning the contemplated pay-roll taxes in the economic-security bill. As a result of information submitted to us by them, as well as an independent investigation of our own into the statistical and operating aspects of various types of personal-service businesses, we feel that these clients are justified in their conviction that businesses of their class will suffer irreparable damage if the pay-roll taxes are applied categorically without regard to the unusual operating factors involved.

It is obvious that a tax of 3 percent on pay rolls (considering for the moment merely the tax for unemployment-insurance purposes) may have a relatively light incidence upon an industry in which the pay-roll expenditures constitute a small proportion of the gross income, say 5 percent to 15 percent. In some businesses, and this is especially true in organizations of a personal-service character, such as laundries, barber shops, beauty parlors, telephone and telegraph companies, etc., the pay-roll expenditures may, and usually do, constitute 50 percent or more of the total business turn-over. For example this figure is reported to be 60 percent for the telephone industry, and 75 percent for the motion-picture production industry.

Perhaps a concrete illustration will help to demonstrate the effect of the application of the contemplated tax on a business with an unusually high pay-roll factor. In the beauty-shop industry the pay-roll averages about 52 percent of the gross income. The net income in the industry is estimated at about 6 percent of the gross business. The tax of 3 percent on the pay rolls would be equal to 1½ percent of the gross income, or 25 percent of the net income. As consumer habits and standards will make it largely impossible to pass any substantial part of this tax on, it becomes tantamount to a tax of 25 percent on the net income, or a reduction of 25 percent in the gross business done.

This industry has 57,000 recognized shops, employing 240,000 people, and does a gross annual business of $400,000,000. With certain fixed obligations in leases and equipment a tax which cannot be passed on, and which would have the practical effect of a 25-percent reduction of the gross business done, must necessarily be absorbed in the nonfixed factors of the business. It is bound, therefore, to have a depressing and damaging effect upon wages and salaries in the industry.

It would seem that there is a reasonable and practical solution of this difficulty consistent not only with the purposes of the economic security bill but also in harmony with the larger economic and social program of which it is a part. We believe that this could be accomplished by amending the pay-roll tax provisions and rates of the bill so that they would in effect provide that the pay-roll tax at the existing rates should not exceed 1 percent of the gross business of the employer. Such a modification would sufficiently alleviate the unduly heavy and unequal incidence of the pay-roll tax in such industries with a high pay-roll factor to enable the tax to be absorbed without the alternative consequences of either destructive absorption of the tax by the business, including its labor, or a loss of business and consequent unemployment from consumer resistance to increased prices.

Mr. GORE. I hope the chairman of the committee will not object to this amendment going to conference.

Mr. HARRISON. I am afraid that if I should agree to it the Senate would overrule me about it.

The VICE PRESIDENT. The Senator offers an amendment?

Mr. GORE. Yes; I offer the amendment.

The VICE PRESIDENT. The Senator has put it in his pocket, the Chair understands.

Mr. GORE. Yes; that is a sort of a pocket veto. [Laughter.] I send the amendment to the desk and ask to have it read.

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. On page 46, line 19, after the words "per centum", it is proposed to insert the following:

*Provided, however,* That the tax levied in this act to be paid by the employer if an individual or partnership shall not in any event exceed one percent of the gross receipts of the business of the employer.

And after the words "per centum", in line 24 on page 52, it is proposed to insert:

*Provided, however,* That the tax levied in this act to be paid by the employer if an individual or partnership shall not in any event exceed one percent of the gross receipts of the business of the employer.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Oklahoma.

The amendment was rejected.

Mr. GORE. Mr. President, I send to the desk an amendment, which I ask to have read. The amendment speaks for itself. I have offered it before. I offer it once again.

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. It is proposed to add to the bill a new section, as follows:

SEC. —. Notwithstanding any other provision of law, the President is empowered in his discretion to allocate funds appropriated by the Emergency Relief Appropriation Act of 1935 for the purpose of making payment or settlement, in whole or in part, in cash or on the installment plan (as may be agreed upon between the President and the beneficiary) of adjusted-service certificates issued to the veterans of the World War, less in any case the amount of any loan or indebtedness secured by such certificate: *Provided,* That the amount of said funds required to carry out the provisions of this section is hereby made available for such purpose.

Mr. GORE. Mr. President, I do not intend to discuss this amendment. I offered the amendment in the committee, and it was voted down. I have discussed it on the floor of the Senate. It simply authorizes the President, in his discretion, to make payment of the soldier's bonus in whole or in part, in cash or on the installment plan, or in such way as may be agreed upon between the President and the holder of the certificate. It is purely in the discretion of the President. There is nothing mandatory about it.

I have offered the amendment before, and in order to keep my record straight I offer it again. I think this is a judicious way in which to pay the bonus in whole or in part at the present time. It is the only way in which it could be done. This is perhaps the last bill to which such an amendment would be appropriate. It is appropriate, it is pertinent, to this social-security bill.

Mr. LONG. Mr. President, at this point I desire to place in the RECORD a statement in a few words as to my vote on this bill. I am going to vote for this amendment also. My vote will be recorded in favor of the bill, though not because I think the bill will do any good. I think the bill in the long run probably will do harm, averaged up one side and down the other, as I expect it to be administered. I do not see much chance of very much good being done by it.

However, the old-age pension and unemployment relief features of the bill I originally sponsored in the Senate in a resolution I submitted and in a bill I introduced, and I would not have the public think this administration has in any respect been obstructed in what it claims to be a gesture of public service.

The bill is apparently intended to do a great deal of good, but it provides for levying more taxes and probably imposing a great deal more of burden than any good it will do; and in its undertaking to make every man who draws a pension establish himself as a public pauper it creates an embarrassment before it allows anyone to receive any benefits, and then leaves it hazardous as to there being any benefits, because at the most only 1 out of 10 can be accommodated under the bill.

However, when there has been any reasonable ground for expecting good to be done I have recorded my vote for these measures of all kinds. There is some reasonable ground here

to expect that good may come from the bill. However, Mr. President, I wish to say that I have not a doubt about the bill being unconstitutional.

I am willing, however, to waive my own opinion on the question of constitutionality in favor of the opinion of those who claim to be better students of the Constitution. I have seen at least nine "brain trusters" on the floor of the Senate since the bill has been under consideration, all of whom evidently claim the bill to be constitutional. Since it is the order of the day to accept the opinion of the "brain trusters" on all constitutional questions which may arise, I am not so sure that before the case would reach the Supreme Court some of the judges of the Supreme Court might die and some of these "brain trusters" might be placed on the Supreme Court bench in time to consider the bill when it shall reach that Court for consideration. That being so, there is that chance of the bill being declared constitutional. I shall give them the benefit of any hazard of a doubt which might accidentally flow into consideration of the bill.

I would have it known by my record that there is no desire on my part to obstruct anything having a pretense of being for the public good, though in this case, as in others similar to it, I shall be very much surprised if a single member of the Court, if it shall remain constituted as it is today, should hesitate for an instant to declare the bill unconstitutional. I should be even more surprised if a single bit of good should come out of the bill, but I give the sponsors of the bill all the benefit of the doubt.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from Oklahoma.

Mr. GORE. Mr. President, I should like to have a yea-and-nay vote. Other Senators may desire it or may not desire it. I ask for the yeas and nays.

The yeas and nays were not ordered.

The amendment was rejected.

The VICE PRESIDENT. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and read the third time.

The VICE PRESIDENT. The question is, Shall the bill pass?

Mr. LA FOLLETTE. Let us have the yeas and nays.

The yeas and nays were ordered, and the Chief Clerk proceeded to call the roll.

Mr. BYRD (when his name was called). On this question I have a pair with the Senator from California [Mr. McADOO], who is unavoidably detained. If he were present, he would vote "yea." If I were permitted to vote, I should vote "nay."

Mr. LA FOLLETTE (when Mr. NYE's name was called). I was requested to announce that the junior Senator from North Dakota [Mr. NYE] is paired with the senior Senator from Virginia [Mr. GLASS], who is necessarily detained. The junior Senator from North Dakota [Mr. NYE] is absent on account of illness. If present, he would vote "yea." I am informed that the Senator from Virginia [Mr. GLASS], with whom he is paired, would vote "nay."

The roll call was concluded.

Mr. DAVIS (after having voted in the affirmative). I have a general pair with the junior Senator from Kentucky [Mr. LOGAN], who is unavoidably detained. I am informed that if present, he would vote as I have voted. Therefore I allow my vote to stand.

Mr. BULKLEY. I repeat my announcement of my general pair with the senior Senator from Wyoming [Mr. CAREY]. I am advised that if he were present, he would vote as I intend to vote. I am therefore free to vote. I vote "yea."

Their names being called, Mr. TYDINGS and Mr. GORE answered "present."

Mr. LEWIS. I wish to announce that the Senator from South Carolina [Mr. SMITH] is necessarily detained in an important committee meeting.

The Senator from UTAH [Mr. THOMAS] is necessarily detained on important public business. If present, he would vote "yea."

The result was announced—yeas 77, nays 6, as follows:

YEAS—77

| | | | |
|---|---|---|---|
| Adams | Connally | Keyes | Pope |
| Ashurst | Coolidge | King | Radcliffe |
| Bachman | Copeland | La Follette | Reynolds |
| Bailey | Costigan | Lewis | Robinson |
| Bankhead | Davis | Lonergan | Russell |
| Barbour | Dickinson | Long | Schall |
| Barkley | Dieterich | McCarran | Schwellenbach |
| Bilbo | Donahey | McGill | Sheppard |
| Black | Duffy | McKellar | Shipstead |
| Bone | Fletcher | McNary | Stelwer |
| Borah | Frazier | Maloney | Thomas, Okla. |
| Brown | George | Minton | Trammell |
| Bulkley | Gerry | Murphy | Truman |
| Bulow | Gibson | Murray | Vandenberg |
| Burke | Guffey | Neely | Van Nuys |
| Byrnes | Harrison | Norris | Wagner |
| Capper | Hatch | O'Mahoney | Walsh |
| Caraway | Hayden | Overton | Wheeler |
| Chavez | Johnson | Pittman | White |
| Clark | | | |

NAYS—6

| | | | |
|---|---|---|---|
| Austin | Hastings | Moore | Townsend |
| Hale | Metcalf | | |

NOT VOTING—12

| | | | |
|---|---|---|---|
| Byrd | Glass | McAdoo | Smith |
| Carey | Gore | Norbeck | Thomas, Utah |
| Couzens | Logan | Nye | Tydings |

So the bill was passed.

The title was amended so as to read: "An act to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, blind persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment-compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes."

Mr. HARRISON. I move that the Senate insist upon its amendments, ask for a conference thereon with the House of Representatives, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to.

The VICE PRESIDENT. The Chair will appoint the Senate conferees later.

The VICE PRESIDENT subsequently appointed Mr. HARRISON, Mr. KING, Mr. GEORGE, Mr. KEYES, and Mr. LA FOLLETTE conferees on the part of the Senate.

74TH CONGRESS
1ST SESSION

# H. R. 7260

IN THE HOUSE OF REPRESENTATIVES

JUNE 20, 1935

Ordered to be printed with the amendments of the Senate numbered

# AN ACT

To provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

## TITLE I—GRANTS TO STATES FOR OLD-AGE ASSISTANCE

### APPROPRIATION

SECTION 1. For the purpose of enabling each State to furnish financial (1)~~assistance assuring, as far as practi~~

~~cable under the conditions in such State, a reasonable subsist-~~
~~ence compatible with decency and health to aged individuals~~
~~without such subsistence~~ *assistance, as far as practicable*
*under the conditions in such State, to aged needy*
*individuals,* there is hereby authorized to be appropri-
ated for the fiscal year ending June 30, 1936, the sum
of $49,750,000, and there is hereby authorized to be appro-
priated for each fiscal year thereafter a sum sufficient to
carry out the purposes of this title. The sums made avail-
able under this section shall be used for making payments to
States which have submitted, and had approved by the Social
Security Board established by Title VII (hereinafter
referred to as the "Board"), State plans for old-age
assistance.

STATE OLD-AGE ASSISTANCE PLANS

SEC. 2. (a) A State plan for old-age assistance must
(1) provide that it shall be in effect in all political subdivi-
sions of the State, and, if administered by them, be manda-
tory upon them; (2) provide for financial participation
by the State; (3) either provide for the establishment or
designation of a single State agency to administer the plan,
or provide for the establishment or designation of a single
State agency to supervise the administration of the plan;
(4) provide for granting to any individual, whose claim for
old-age assistance is denied, an opportunity for a fair hear-

ing before such State agency; (5) provide such methods of administration (other than those relating to selection, tenure of office, and compensation of personnel) as are found by the Board to be necessary for the efficient operation of the plan; (6) provide that the State agency will make such reports, in such form and containing such information, as the Board may from time to time require, and comply with such provisions as the Board may from time to time find necessary to assure the correctness and verification of such reports; and (7) provide that, if the State or any of its political subdivisions collects from the estate of any recipient of old-age assistance any amount with respect to old-age assistance furnished him under the plan, (2) ~~one-half~~ of the net amount so collected (3) *a part thereof in proportion to the part of the old-age assistance which represents the payments made by the United States* shall be promptly paid to the United States. Any payment so made shall be deposited in the Treasury to the credit of the appropriation for the purposes of this title.

(b) The Board shall approve any plan which fulfills the conditions specified in subsection (a), except that it shall not approve any plan which imposes, as a condition of eligibility for old-age assistance under the plan—

(1) An age requirement of more than sixty-five years, except that the plan may impose, effective until

January 1, 1940, an age requirement of as much as seventy years; or

(2) Any residence requirement which excludes any resident of the State who has resided therein five years during the nine years immediately preceding the application for old-age assistance and has resided therein continuously for one year immediately preceding the application; or

(3) Any citizenship requirement which excludes any citizen of the United States.

PAYMENT TO STATES

SEC. 3. (a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for old-age assistance, for each quarter, beginning with the quarter commencing July 1, 1935, (1) an amount, which shall be used exclusively as old-age assistance, equal to one-half of the total of the sums expended during such quarter as old-age assistance under the State plan with respect to each individual who at the time of such expenditure is sixty-five years of age or older and is not an inmate of a public institution, not counting so much of such expenditure with respect to any individual for any month as exceeds $30, and (2) 5 per centum of such amount, which shall be used for paying the costs of administering the State plan or for old-age assistance, or

both, and for no other purpose (4): *Provided, That in order to assist the aged of the several States who have no State system of old-age pensions until an opportunity is afforded the several States to provide for a State plan, including financial participation by the States, and notwithstanding any other provision of this title, the Secretary of the Treasury shall pay to each State for each quarter until not later than July 1, 1937, to be used exclusively as old-age assistance, in lieu of the amount payable under the provisions of clause (1) of this subsection, an amount sufficient to afford old-age assistance to each needy individual within the State who at the time of such expenditure is sixty-five years of age or older, and who is declared by such agency as may be designated by the Social Security Board to be entitled to receive the same: Provided further, That no person who is an inmate of a public institution shall receive such old-age assistance, nor shall any individual receive an amount in excess of $15 per month.*

(b) The method of computing and paying such amounts shall be as follows:

(1) The Board shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of clause (1) of subsection (a), such estimate to be based on (A) a report filed by the State containing its

estimate of the total sum to be expended in such quarter in accordance with the provisions of such clause, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than one-half of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, (B) records showing the number of aged individuals in the State, and (C) such other investigation as the Board may find necessary.

(2) The Board shall then certify to the Secretary of the Treasury the amount so estimated by the Board, reduced or increased, as the case may be, by any sum by which it finds that its estimate for any prior quarter was greater or less than the amount which should have been paid to the State under clause (1) of subsection (a) for such quarter, except to the extent that such sum has been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Board for such prior quarter.

(3) The Secretary of the Treasury shall thereupon, through the Division of Disbursement of the Treasury Department and prior to audit or settlement

by the General Accounting Office, pay to the State, at the time or times fixed by the Board, the amount so certified, increased by 5 per centum.

OPERATION OF STATE PLANS

SEC. 4. In the case of any State plan for old-age assistance which has been approved by the Board, if the Board, after ~~(5)~~*reasonable* notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds—

(1) that the plan has been so changed as to impose any age, residence, or citizenship requirement prohibited by section 2 (b), or that in the administration of the plan any such prohibited requirement is imposed, with the knowledge of such State agency, in a substantial number of cases; or

(2) that in the administration of the plan there is a failure to comply substantially with any provision required by section 2 (a) to be included in the plan;

the Board shall notify such State agency that further payments will not be made to the State until the Board is satisfied that such prohibited requirement is no longer so imposed, and that there is no longer any such failure to comply. Until it is so satisfied it shall make no further certification to the Secretary of the Treasury with respect to such State.

ADMINISTRATION

SEC. 5. There is hereby authorized to be appropriated for the fiscal year ending June 30, 1936, the sum of $250,000, for all necessary expenses of the Board in administering the provisions of this title.

DEFINITION

SEC. 6. When used in this title the term "old-age assistance" means money payments to aged individuals.

## TITLE II—FEDERAL OLD-AGE BENEFITS

OLD-AGE RESERVE ACCOUNT

SECTION 201. (a) There is hereby created an account in the Treasury of the United States to be known as the "Old-Age Reserve Account" hereinafter in this title called the "Account". There is hereby authorized to be appropriated to the Account for each fiscal year, beginning with the fiscal year ending June 30, 1937, an amount sufficient as an annual premium to provide for the payments required under this title, such amount to be determined on a reserve basis in accordance with accepted actuarial principles, and based upon such tables of mortality as the ~~(6) Secretary of the Treasury~~ *Social Security Board* shall from time to time adopt, and upon an interest rate of 3 per centum per annum compounded annually. The ~~(7) Secretary of the Treasury~~ *Social Security Board* shall submit annually to the Bureau

of the Budget an estimate of the appropriations to be made to the Account.

(b) It shall be the duty of the Secretary of the Treasury to invest such portion of the amounts credited to the Account as is not, in his judgment, required to meet current withdrawals. Such investment may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (1) on original issue at par, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of special obligations exclusively to the Account. Such special obligations shall bear interest at the rate of 3 per centum per annum. Obligations other than such special obligations may be acquired for the Account only on such terms as to provide an investment yield of not less than 3 per centum per annum.

(c) Any obligations acquired by the Account (except special obligations issued exclusively to the Account) may be sold at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Account shall be credited to and form a part of the Account.

(e) All amounts credited to the Account shall be available for making payments required under this title.

(f) The ~~(8)Secretary of the Treasury~~ *Social Security Board* shall include in his annual report the actuarial status of the Account.

OLD-AGE BENEFIT PAYMENTS

SEC. 202. (a) Every qualified individual (as defined in section 210) shall be entitled to receive, with respect to the period beginning on the date he attains the age of sixty-five, or on January 1, 1942, whichever is the later, and ending on the date of his death, an old-age benefit (payable as nearly as practicable in equal monthly installments) as follows:

(1) If the total wages (as defined in section 210) determined by the Board to have been paid to him, with respect to employment (as defined in section 210) after December 31, 1936, and before he attained the age of sixty-five, were not more than $3,000, the old-age benefit shall be at a monthly rate of one-half of 1 per centum of such total wages;

(2) If such total wages were more than $3,000, the old-age benefit shall be at a monthly rate equal to the sum of the following:

(A) One-half of 1 per centum of $3,000; plus

(B) One-twelfth of 1 per centum of the amount by which such total wages exceeded $3,000 and did not exceed $45,000; plus

(C) One-twenty-fourth of 1 per centum of the amount by which such total wages exceeded $45,000.

(b) In no case shall the monthly rate computed under subsection (a) exceed $85.

(c) If the Board finds at any time that more or less than the correct amount has theretofore been paid to any individual under this section, then, under regulations made by the Board, proper adjustments shall be made in connection with subsequent payments under this section to the same individual.

(9)*(d) Whenever the Board finds that any qualified individual has received wages with respect to regular employment after he attained the age of sixty-five, the old-age benefit payable to such individual shall be reduced, for each calendar month in any part of which such regular employment occurred, by an amount equal to one month's benefit. Such reduction shall be made, under regulations prescribed by the Board, by deductions from one or more payments of old-age benefit to such individual.*

PAYMENTS UPON DEATH

SEC. 203. (a) If any individual dies before attaining the age of sixty-five, there shall be paid to his estate an amount equal to 3½ per centum of the total wages determined by the Board to have been paid to him, with respect to employment after December 31, 1936.

(b) If the Board finds that the correct amount of the old-age benefit payable to a qualified individual during his life under section 202 was less than 3½ per centum of the total wages by which such old-age benefit was measurable, then there shall be paid to his estate a sum equal to the amount, if any, by which such 3½ per centum exceeds the amount (whether more or less than the correct amount) paid to him during his life as old-age benefit.

(c) If the Board finds that the total amount paid to a qualified individual under an old-age benefit during his life was less than the correct amount to which he was entitled under section 202, and that the correct amount of such old-age benefit was 3½ per centum or more of the total wages by which such old-age benefit was measurable, then there shall be paid to his estate a sum equal to the amount, if any, by which the correct amount of the old-age benefit exceeds the amount which was so paid to him during his life.

PAYMENTS TO AGED INDIVIDUALS NOT QUALIFIED FOR BENEFITS

SEC. 204. (a) There shall be paid in a lump sum to any individual who, upon attaining the age of sixty-five, is not a qualified individual, an amount equal to 3½ per centum of the total wages determined by the Board to have been paid to him, with respect to employment after December 31, 1936, and before he attained the age of sixty-five.

(b) After any individual becomes entitled to any payment under subsection (a), no other payment shall be made under this title in any manner measured by wages paid to him, except that any part of any payment under subsection (a) which is not paid to him before his death shall be paid to his estate.

AMOUNTS OF $500 OR LESS PAYABLE TO ESTATES

SEC. 205. If any amount payable to an estate under section 203 or 204 is $500 or less, such amount may, under regulations prescribed by the Board, be paid to the persons found by the Board to be entitled thereto under the law of the State in which the deceased was domiciled, without the necessity of compliance with the requirements of law with respect to the administration of such estate.

OVERPAYMENTS DURING LIFE

SEC. 206. If the Board finds that the total amount paid to a qualified individual under an old-age benefit during his

life was more than the correct amount to which he was entitled under section 202, and was 3½ per centum or more of the total wages by which such old-age benefit was measurable, then upon his death there shall be repaid to the United States by his estate the amount, if any, by which such total amount paid to him during his life exceeds whichever of the following is the greater: (1) Such 3½ per centum, or (2) the correct amount to which he was entitled under section 202.

METHOD OF MAKING PAYMENTS

SEC. 207. The Board shall from time to time certify to the Secretary of the Treasury the name and address of each person entitled to receive a payment under this title, the amount of such payment, and the time at which it should be made, and the Secretary of the Treasury through the Division of Disbursement of the Treasury Department, and prior to audit or settlement by the General Accounting Office, shall make payment in accordance with the certification by the Board.

ASSIGNMENT

SEC. 208. The right of any person to any future payment under this title shall not be transferable or assignable, at law or in equity, and none of the moneys paid or payable or rights existing under this title shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law.

PENALTIES

SEC. 209. Whoever in any application for any payment under this title makes any false statement as to any material fact, knowing such statement to be false, shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

DEFINITIONS

SEC. 210. When used in this title—

(a) The term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include that part of the remuneration which, after remuneration equal to $3,000 has been paid to an individual by an employer with respect to employment during any calendar year, is paid to such individual by such employer with respect to employment during such calendar year.

(b) The term "employment" means any service, of whatever nature, performed within the United States (10), *or as an officer or member of the crew of a vessel documented under the laws of the United States*, by an employee for his employer, except—

(1) Agricultural labor;

(2) Domestic service in a private home;

(3) Casual labor not in the course of the employer's trade or business;

(11)~~(4) Service performed as an officer or member of the crew of a vessel documented under the laws of the United States or of any foreign country;~~

(12)~~(5)~~ *(4)* Service performed in the employ of the United States Government or of an instrumentality of the United States;

(13)~~(6)~~ *(5)* Service performed in the employ of a State, a political subdivision thereof, or an instrumentality of one or more States or political subdivisions;

(14)~~(7)~~ *(6)* Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, (15)~~or educational~~ *educational or hospital* purposes, (16)*or for the prevention of cruelty to children or animals,* no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(17)*(7) Service performed in the employ of an employer who has in operation a plan providing annuities to employees which is certified by the Board as having been approved by it under section 702, if the employee performing such service has elected to come under such plan; except that if any such employee withdraws from the plan before he attains the age of sixty-five, or if the Board withdraws*

*its approval of the plan, the service performed while the employee was under such plan as approved shall be construed to be employment as defined in this subsection.*

(c) The term "qualified individual" means any individual with respect to whom it appears to the satisfaction of the Board that—

(1) He is at least sixty-five years of age; and

(2) The total amount of wages paid to him, with respect to employment after December 31, 1936, and before he attained the age of sixty-five, was not less than $2,000; and

(3) Wages were paid to him, with respect to employment on some five days after December 31, 1936, and before he attained the age of sixty-five, each day being in a different calendar year.

## TITLE III—GRANTS TO STATES FOR UNEMPLOYMENT COMPENSATION ADMINISTRATION

### APPROPRIATION

SECTION 301. For the purpose of assisting the States in the administration of their unemployment compensation laws, there is hereby authorized to be appropriated, for the fiscal year ending June 30, 1936, the sum of $4,000,000, and for each fiscal year thereafter the sum of $49,000,000, to be used as hereinafter provided.

PAYMENTS TO STATES

SEC. 302. (a) The Board shall from time to time certify to the Secretary of the Treasury for payment to each State which has an unemployment compensation law approved by the Board under Title IX, such amounts as the Board determines to be necessary for the proper administration of such law during the fiscal year in which such payment is to be made. The Board's determination shall be based on (1) the population of the State; (2) an estimate of the number of persons covered by the State law and of the cost of proper administration of such law; and (3) such other factors as the Board finds relevant. The Board shall not certify for payment under this section in any fiscal year a total amount in excess of the amount appropriated therefor for such fiscal year.

(b) Out of the sums appropriated therefor, the Secretary of the Treasury shall, upon receiving a certification under subsection (a), pay, through the Division of Disbursement of the Treasury Department and prior to audit or settlement by the General Accounting Office, to the State agency charged with the administration of such law the amount so certified.

PROVISIONS OF STATE LAWS

SEC. 303. (a) The Board shall make no certification for payment to any State unless it finds that the law of such

State, approved by the Board under Title IX, includes provisions for—

(1) Such methods of administration (other than those relating to selection, tenure of office, and compensation of personnel) as are found by the Board to be reasonably calculated to insure full payment of unemployment compensation when due; and

(2) Payment of unemployment compensation (18)~~solely~~ through public employment offices in the State (19), *to the extent that such offices exist and are designated by the State for the purpose*; and

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

(4) The payment of all money received in the unemployment fund of such State, immediately upon such receipt, to the Secretary of the Treasury to the credit of the Unemployment Trust Fund established by section 904; and

(5) Expenditure of all money requisitioned by the State agency from the Unemployment Trust Fund, in the payment of unemployment compensation, exclusive of expenses of administration; and

(6) The making of such reports, in such form and containing such information, as the Board may

from time to time require, and compliance with such provisions as the Board may from time to time find necessary to assure the correctness and verification of such reports; and

(7) Making available upon request to any agency of the United States charged with the administration of public works or assistance through public employment, the name, address, ordinary occupation and employment status of each recipient of unemployment compensation, and a statement of such recipient's rights to further compensation under such law.

(b) Whenever the Board, after ~~(20)~~*reasonable* notice and opportunity for hearing to the State agency charged with the administration of the State law, finds that in the administration of the law there is—

(1) a denial, in a substantial number of cases, of unemployment compensation to individuals entitled thereto under such law; or

(2) a failure to comply substantially with any provision specified in subsection (a);

the Board shall notify such State agency that further payments will not be made to the State until the Board is satisfied that there is no longer any such denial or failure to comply. Until it is so satisfied it shall make no further certification to the Secretary of the Treasury with respect to such State.

# TITLE IV—GRANTS TO STATES FOR AID TO DEPENDENT CHILDREN

## APPROPRIATION

SECTION 401. For the purpose of enabling each ~~State~~ to furnish financial (21)~~assistance assuring, as far as practicable under the conditions in such State, a reasonable subsistence compatible with decency and health to dependent children without such subsistence~~ *assistance, as far as practicable under the conditions in such State, to needy dependent children,* there is hereby authorized to be appropriated for the fiscal year ending June 30, 1936, the sum of $24,750,000, and there is hereby authorized to be appropriated for each fiscal year thereafter a sum sufficient to carry out the purposes of this title. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the (22)~~Board~~ *Chief of the Children's Bureau,* State plans for aid to dependent children.

## STATE PLANS FOR AID TO DEPENDENT CHILDREN

SEC. 402. (a) A State plan for aid to dependent children must (1) provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them; (2) provide for financial participation by the State; (3) either provide for the establishment or designation of a single State agency to administer

the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan; (4) provide for granting to any individual, whose claim with respect to aid to a dependent child is denied, an opportunity for a fair hearing before such State agency; (5) provide such methods of administration (other than those relating to selection, tenure of office, and compensation of personnel) as are found by the (23)~~Board~~ *Chief of the Children's Bureau* to be necessary for the efficient operation of the plan; and (6) provide that the State agency will make such reports, in such form and containing such information, as the (24)~~Board~~ *Secretary of Labor* may from time to time require, and comply with such provisions as (25)~~the Board~~ *he* may from time to time find necessary to assure the correctness and verification of such reports.

(b) The (26)~~Board~~ *Chief of the Children's Bureau* shall approve any plan which fulfills the conditions specified in subsection (a), except that (27)~~it~~ *he* shall not approve any plan which imposes as a condition of eligibility for aid to dependent children, a residence requirement which denies aid with respect to any child residing in the State (1) who has resided in the State for one year immediately preceding the application for such aid, or (2) who was born within the State within one year immediately preceding

the application (28), *if its mother has resided in the State for one year immediately preceding the birth.*

PAYMENT TO STATES

SEC. 403. (a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for aid to dependent children, for each quarter, beginning with the quarter commencing July 1, 1935, an amount, which shall be used exclusively for carrying out the State plan, equal to one-third of the total of the sums expended during such quarter under such plan, not counting so much of such expenditure with respect to any dependent child for any month as exceeds $18, or if there is more than one dependent child in the same home, as exceeds $18 for any month with respect to one such dependent child and $12 for such month with respect to each of the other dependent children.

(b) The method of computing and paying such amounts shall be as follows:

(1) The (29) ~~Board~~ *Secretary of Labor* shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of subsection (a), such estimate to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in

accordance with the provisions of such subsection and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than two-thirds of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, (B) records showing the number of dependent children in the State, and (C) such other investigation as the (30)~~Board~~ *Secretary of Labor* may find necessary.

(2) The (31)~~Board~~ *Secretary of Labor* shall then certify to the Secretary of the Treasury the amount so estimated by the (32)~~Board~~ *Secretary of Labor*, reduced or increased, as the case may be, by any sum by which (33)~~it~~ *he* finds that (34)~~its~~ *his* estimate for any prior quarter was greater or less than the amount which should have been paid to the State for such quarter, except to the extent that such sum has been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the (35)~~Board~~ *Secretary of Labor* for such prior quarter.

(3) The Secretary of the Treasury shall thereupon, through the Division of Disbursement of the

Treasury Department and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the (36)~~Board~~ *Secretary of Labor*, the amount so certified.

OPERATION OF STATE PLANS

SEC. 404. In the case of any State plan for aid to dependent children which has been approved by the (37)~~Board~~ *Chief of the Children's Bureau*, if the (38)~~Board~~ *Secretary of Labor*, after (39)*reasonable* notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds—

(1) that the plan has been so changed as to impose any residence requirement prohibited by section 402 (b), or that in the administration of the plan any such prohibited requirement is imposed, with the knowledge of such State agency, in a substantial number of cases; or

(2) that in the administration of the plan there is a failure to comply substantially with any provision required by section 402 (a) to be included in the plan;

the (40)~~Board~~ *Secretary of Labor* shall notify such State agency that further payments will not be made to the State until (41)~~the Board~~ *he* is satisfied that such prohibited requirement is no longer so imposed, and that there is no

longer any such failure to comply. Until (42)~~it~~ *he* is so satisfied (43)~~it~~ *he* shall make no further certification to the Secretary of the Treasury with respect to such State.

ADMINISTRATION

SEC. 405. There is hereby authorized to be appropriated for the fiscal year ending June 30, 1936, the sum of $250,000 for all necessary expenses of the (44)~~Board~~ *Children's Bureau* in administering the provisions of this title.

DEFINITIONS

SEC. 406. When used in this title—

(a) The term "dependent child" means a child under the age of sixteen (45)*who has been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent, and* who is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, or aunt, in a (46)*place of* residence maintained by one or more of such relatives as his or their own home;

(b) The term "aid to dependent children" means money payments with respect to a dependent child or dependent children.

# TITLE V—GRANTS TO STATES FOR MATERNAL AND CHILD WELFARE

## PART 1—MATERNAL AND CHILD HEALTH SERVICES

### APPROPRIATION

SECTION 501. For the purpose of enabling each State to extend and improve, as far as practicable under the conditions in such State, services for promoting the health of mothers and children, especially in rural areas and in areas suffering from severe economic distress, there is hereby authorized to be appropriated for each fiscal year, beginning with the fiscal year ending June 30, 1936, the sum of $3,800,000. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Chief of the Children's Bureau, State plans for such services.

### ALLOTMENTS TO STATES

SEC. 502. (a) Out of the sums appropriated pursuant to section 501 for each fiscal year the Secretary of Labor shall allot to each State $20,000, and such part of $1,800,000 as he finds that the number of live births in such State (47)~~bears~~ *bore* to the total number of live births in the United States (48), *in the latest calendar year for which the Bureau of the Census has available statistics.*

(b) Out of the sums appropriated pursuant to section 501 for each fiscal year the Secretary of Labor shall allot to the States $980,000 (in addition to the allotments made under subsection (a)), according to the financial need of each State for assistance in carrying out its State plan, as determined by him after taking into consideration the number of live births in such State.

(c) The amount of any allotment to a State under subsection (a) for any fiscal year remaining unpaid to such State at the end of such fiscal year shall be available for payment to such State under section 504 until the end of the second succeeding fiscal year. No payment to a State under section 504 shall be made out of its allotment for any fiscal year until its allotment for the preceding fiscal year has been exhausted or has ceased to be available.

APPROVAL OF STATE PLANS

SEC. 503. (a) A State plan for maternal and child-health services must (1) provide for financial participation by the State; (2) provide for the administration of the plan (49)*by the State health agency* or the supervision of the administration of the plan by the State health agency; (3) provide such methods of administration (other than those relating to selection, tenure of office, and compensation of personnel) as are (50)~~found by the Chief of the Children's~~

~~Bureau to be~~ necessary for the efficient operation of the plan; (4) provide that the State health agency will make such reports, in such form and containing such information, as the Secretary of Labor may from time to time require, and comply with such provisions as he may from time to time find necessary to assure the correctness and verification of such reports; (5) provide for the extension and improvement of local maternal and child-health services administered by local child-health units; (6) provide for cooperation with medical, nursing, and welfare groups and organizations; and (7) provide for the development of demonstration services in needy areas and among groups in special need.

(b) The Chief of the Children's Bureau shall approve any plan which fulfills the conditions specified in subsection (a) and shall thereupon notify the Secretary of Labor and the State health agency of his approval.

PAYMENT TO STATES

SEC. 504. (a) From the sums appropriated therefor and the allotments available under section 502 (a), the Secretary of the Treasury shall pay to each State which has an approved plan for maternal and child-health services, for each quarter, beginning (51) *with the quarter commencing* July 1, 1935, an amount, which shall be used exclusively for carrying out the State plan, equal to one-half of the total sum expended during such quarter for carrying out such plan.

(b) The method of computing and paying such amounts shall be as follows:

(1) The Secretary of Labor shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of subsection (a), such estimate to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection and stating the amount appropriated or made available by the State (52)*and its political subdivisions* for such expenditures in such quarter, and if such amount is less than one-half of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, and (B) such investigation as he may find necessary.

(2) The Secretary of Labor shall then certify the amount so estimated by him to the Secretary of the Treasury, reduced or increased, as the case may be, by any sum by which the Secretary of Labor finds that his estimate for any prior quarter was greater or less than the amount which should have been paid to the State for such quarter, except to the extent that such sum has been applied to make the amount

certified for any prior quarter greater or less than the amount estimated by the Secretary of Labor for such prior quarter.

(3) The Secretary of the Treasury shall thereupon, through the Division of Disbursement of the Treasury Department and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Secretary of Labor, the amount so certified.

(c) The Secretary of Labor shall from time to time certify to the Secretary of the Treasury the amounts to be paid to the States from the allotments available under section 502 (b), and the Secretary of the Treasury shall, through the Division of Disbursement of the Treasury Department and prior to audit or settlement by the General Accounting Office, make payments of such amounts from such allotments at the time or times specified by the Secretary of Labor.

OPERATION OF STATE PLANS

SEC. 505. In the case of any State plan for maternal and child-health services which has been approved by the Chief of the Children's Bureau, if the Secretary of Labor, after (53)*reasonable* notice and opportunity for hearing to the State agency administering or supervising the administration

of such plan, finds that in the administration of the plan there is a failure to comply substantially with any provision required by section 503 to be included in the plan, he shall notify such State agency that further payments will not be made to the State until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied he shall make no further certification to the Secretary of the Treasury with respect to such State.

## PART 2—SERVICES FOR CRIPPLED CHILDREN

### APPROPRIATION

SEC. 511. For the purpose of enabling each State to extend and improve (especially in rural areas and in areas suffering from severe economic distress), as far as practicable under the conditions in such State, services for locating crippled children, and for providing medical, surgical, corrective, and other services and care, and facilities for diagnosis, hospitalization, and aftercare, for children who are crippled or who are suffering from conditions which lead to crippling, there is hereby authorized to be appropriated for each fiscal year, beginning with the fiscal year ending June 30, 1936, the sum of $2,850,000. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Chief of the Children's Bureau, State plans for such services.

ALLOTMENTS TO STATES

SEC. 512. (a) Out of the sums appropriated pursuant to section 511 for each fiscal year the Secretary of Labor shall allot to each State $20,000, and the remainder to the States according to the need of each State as determined by him after taking into consideration the number of crippled children in such State in need of the services referred to in section 511 and the cost of furnishing such services to them.

(b) The amount of any allotment to a State under subsection (a) for any fiscal year remaining unpaid to such State at the end of such fiscal year shall be available for payment to such State under section 514 until the end of the second succeeding fiscal year. No payment to a State under section 514 shall be made out of its allotment for any fiscal year until its allotment for the preceding fiscal year has been exhausted or has ceased to be available.

APPROVAL OF STATE PLANS

SEC. 513. (a) A State plan for services for crippled children must (1) provide for financial participation by the State; (2) provide for the administration of the plan (54)*by a State agency* or the supervision of the administration of the plan by a State agency; (3) provide such methods of administration (other than those relating to selection, tenure of office, and compensation of personnel) as are (55)~~found by~~

~~the Chief of the Children's Bureau to be~~ necessary for the efficient operation of the plan; (4) provide that the State agency will make such reports, in such form and containing such information, as the Secretary of Labor may from time to time require, and comply with such provisions as he may from time to time find necessary to assure the correctness and verification of such reports; (5) provide for carrying out the purposes specified in section 511; and (6) provide for cooperation with medical, health, nursing, and welfare groups and organizations and with any agency in such State charged with administering State laws providing for vocational rehabilitation of physically handicapped children.

(b) The Chief of the Children's Bureau shall approve any plan which fulfills the conditions specified in subsection (a) and shall thereupon notify the Secretary of Labor and the State agency of his approval.

PAYMENT TO STATES

SEC. 514. (a) From the sums appropriated therefor and the allotments available under section 512, the Secretary of the Treasury shall pay to each State which has an approved plan for services for crippled children, for each quarter, beginning (56)*with the quarter commencing* July 1, 1935, an amount, which shall be used exclusively for carrying out the State plan, equal to one-half of the total sum expended during such quarter for carrying out such plan.

(b) The method of computing and paying such amounts shall be as follows:

(1) The Secretary of Labor shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of subsection (a), such estimate to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection and stating the amount appropriated or made available by the State (57)*and its political subdivisions* for such expenditures in such quarter, and if such amount is less than one-half of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, and (B) such investigation as he may find necessary.

(2) The Secretary of Labor shall then certify the amount so estimated by him to the Secretary of the Treasury, reduced or increased, as the case may be, by any sum by which the Secretary of Labor finds that his estimate for any prior quarter was greater or less than the amount which should have been paid to the State for such quarter, except to the extent that such sum has been applied to make the amount certified for any prior quarter greater or less than the amount

estimated by the Secretary of Labor for such prior quarter.

(3) The Secretary of the Treasury shall thereupon, through the Division of Disbursement of the Treasury Department and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Secretary of Labor, the amount so certified.

OPERATION OF STATE PLANS

SEC. 515. In the case of any State plan for services for crippled children which has been approved by the Chief of the Children's Bureau, if the Secretary of Labor, after (58)*reasonable* notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds that in the administration of the plan there is a failure to comply substantially with any provision required by section 513 to be included in the plan, he shall notify such State agency that further payments will not be made to the State until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied he shall make no further certification to the Secretary of the Treasury with respect to such State.

PART 3—CHILD-WELFARE SERVICES

(59)SEC. ~~521. For the purpose of enabling the United States, through the Children's Bureau, to cooperate with~~

~~State public-welfare agencies in establishing, extending, and strengthening, in rural areas, public-welfare services for the protection and care of homeless, dependent, and neglected children, and children in danger of becoming delinquent, there is hereby authorized to be appropriated for each fiscal year, beginning with the fiscal year ending June 30, 1936, the sum of $1,500,000. Such amount shall be allotted for use by cooperating State public-welfare agencies, to each State, $10,000, and such part of the balance as the rural population of such State bears to the total rural population of the United States. The amount so allotted shall be expended for payment of part of the costs of county and local child-welfare services in rural areas. The amount of any allotment to a State under this section for any fiscal year remaining unpaid to such State at the end of such fiscal year shall be available for payment to such State under this section until the end of the second succeeding fiscal year. No payment to a State under this section shall be made out of its allotment for any fiscal year until its allotment for the preceding fiscal year has been exhausted or has ceased to be available.~~

*SEC. 521. (a) For the purpose of enabling the United States, through the Children's Bureau, to cooperate with State public-welfare agencies in establishing, extending, and strengthening, especially in predominantly rural areas, pub-*

*lic-welfare services for the care of homeless or neglected children, there is hereby authorized to be appropriated for each fiscal year, beginning with the fiscal year ending June 30, 1936, the sum of $1,500,000. Such amount shall be alloted by the Secretary of Labor for use by cooperating State public-welfare agencies on the basis of plans developed jointly by the State agency and the Children's Bureau, to each State, $10,000, and the remainder to each State on the basis of such plans, not to exceed such part of the remainder as the rural population of such State bears to the total rural population of the United States. The amount so allotted shall be expended for payment of part of the cost of district, county or other local child-welfare services in areas predominantly rural, and for developing State services for the encouragement and assistance of adequate methods of community child-welfare organization in areas predominantly rural and other areas of special need. The amount of any allotment to a State under this section for any fiscal year remaining unpaid to such State at the end of such fiscal year shall be available for payment to such State under this section until the end of the second succeeding fiscal year. No payment to a State under this section shall be made out of its allotment for any fiscal year until its allotment for the preceding fiscal year has been exhausted or has ceased to be available.*

(60)*(b) From the sums appropriated therefor and the allotments available under subsection (a) the Secretary of Labor shall from time to time certify to the Secretary of the Treasury the amounts to be paid to the States, and the Secretary of the Treasury shall, through the Division of Disbursement of the Treasury Department and prior to audit or settlement by the General Accounting Office, make payments of such amounts from such allotments at the time or times specified by the Secretary of Labor.*

PART 4—VOCATIONAL REHABILITATION

SEC. 531. (a) In order to enable the United States to cooperate with the States and Hawaii in extending and strengthening their programs of vocational rehabilitation of the physically disabled, and to continue to carry out the provisions and purposes of the Act entitled "An Act to provide for the promotion of vocational rehabilitation of persons disabled in industry or otherwise and their return to civil employment", approved June 2, 1920, as amended (U. S. C., title 29, ch. 4; U. S. C., Supp. VII, title 29, secs. 31, 32, 34, 35, 37, 39, and 40), there is hereby authorized to be appropriated for the fiscal years ending June 30, 1936, and June 30, 1937, the sum of $841,000 for each such fiscal year in addition to the amount of the existing authorization, and for each fiscal year

thereafter the sum of $1,938,000. Of the sums appropriated pursuant to such authorization for each fiscal year, $5,000 shall be apportioned to the Territory of Hawaii and the remainder shall be apportioned among the several States in the manner provided in such Act of June 2, 1920, as amended.

(b) For the administration of such Act of June 2, 1920, as amended, by the (61)~~Federal agency authorized to administer~~ it *Office of Education in the Department of the Interior*, there is hereby authorized to be appropriated for the fiscal years ending June 30, 1936, and June 30, 1937, the sum of $22,000 for each such fiscal year in addition to the amount of the existing authorization, and for each fiscal year thereafter the sum of $102,000.

PART 5—ADMINISTRATION

SEC. 541. (a) There is hereby authorized to be appropriated for the fiscal year ending June 30, 1936, the sum of $425,000, for all necessary expenses of the Children's Bureau in administering the provisions of this title (62), *except section 531.*

(b) The Children's Bureau shall make such studies and investigations as will promote the efficient administration of this title (63), *except section 531.*

(c) The Secretary of Labor shall include in his annual report to Congress a full account of the administration of this title, except section 531.

# TITLE VI—PUBLIC HEALTH WORK

## APPROPRIATION

SECTION 601. For the purpose of assisting States, counties, health districts, and other political subdivisions of the States in establishing and maintaining adequate public-health services, including the training of personnel for State and local health work, there is hereby authorized to be appropriated for each fiscal year, beginning with the fiscal year ending June 30, 1936, the sum of $8,000,000 to be used as hereinafter provided.

## STATE AND LOCAL PUBLIC HEALTH SERVICES

SEC. 602. (a) The Surgeon General of the Public Health Service, with the approval of the Secretary of the Treasury, shall, at the beginning of each fiscal year, allot to the States the total of (1) the amount appropriated for such year pursuant to section 601; and (2) the amounts of the allotments under this section for the preceding fiscal year remaining unpaid to the States at the end of such fiscal year. The amounts of such allotments shall be determined on the basis of (1) the population; (2) the special health problems; and (3) the financial needs; of the respective States. Upon making such allotments the Surgeon General of the Public Health Service shall certify the amounts thereof to the Secretary of the Treasury.

(b) The amount of an allotment to any State under subsection (a) for any fiscal year, remaining unpaid at the end of such fiscal year, shall be available for allotment to States under subsection (a) for the succeeding fiscal year, in addition to the amount appropriated for such year.

(c) Prior to the beginning of each quarter of the fiscal year, the Surgeon General of the Public Health Service shall, with the approval of the Secretary of the Treasury, determine in accordance with rules and regulations (64)*previously* prescribed by such Surgeon General after consultation with a conference of the State and Territorial health authorities, the amount to be paid to each State for such quarter from the allotment to such State, and shall certify the amount so determined to the Secretary of the Treasury. Upon receipt of such certification, the Secretary of the Treasury shall, through the Division of Disbursement of the Treasury Department and prior to audit or settlement by the General Accounting Office, pay in accordance with such certification.

(d) The moneys so paid to any State shall be expended solely in carrying out the purposes specified in section 601, and in accordance with plans presented by the health authority of such State and approved by the Surgeon General of the Public Health Service.

INVESTIGATIONS

SEC. 603. (a) There is hereby authorized to be appropriated for each fiscal year, beginning with the fiscal year ending June 30, 1936, the sum of $2,000,000 for expenditure by the Public Health Service for investigation of disease and problems of sanitation (including the printing and binding of the findings of such investigations), and for the pay and allowances and traveling expenses of personnel of the Public Health Service, including commissioned officers, engaged in such investigations or detailed to cooperate with the health authorities of any State in carrying out the purposes specified in section 601: *Provided*, That no personnel of the Public Health Service shall be detailed to cooperate with the health authorities of any State except at the request of the proper authorities of such State.

(b) The personnel of the Public Health Service paid from any appropriation not made pursuant to subsection (a) may be detailed to assist in carrying out the purposes of this title. The appropriation from which they are paid shall be reimbursed from the appropriation made pursuant to subsection (a) to the extent of their salaries and allowances for services performed while so detailed.

(c) The Secretary of the Treasury shall include in his annual report to Congress a full account of the administration of this title.

# TITLE VII—SOCIAL SECURITY BOARD

## ESTABLISHMENT

SECTION 701. There is hereby established (65)*in the Department of Labor* a Social Security Board (in this Act referred to as the "Board") to be composed of three members to be appointed by the President, by and with the advice and consent of the Senate. (66)*During his term of membership on the Board, no member shall engage in any other business, vocation, or employment. Not more than two of the members of the Board shall be members of the same political party.* Each member shall receive a salary at the rate of $10,000 a year and shall hold office for a term of six years, except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed, shall be appointed for the remainder of such term; and (2) the terms of office of the members first taking office after the date of the enactment of this Act shall expire, as designated by the President at the time of appointment, one at the end of two years, one at the end of four years, and one at the end of six years, after the date of the enactment of this Act. The President shall designate one of the members as the chairman of the Board.

DUTIES OF SOCIAL SECURITY BOARD

SEC. 702. (67)*(a)* The Board shall perform the duties imposed upon it by this Act and shall also have the duty of studying and making recommendations as to the most effective methods of providing economic security through social insurance, and as to legislation and matters of administrative policy concerning old-age pensions, unemployment compensation, accident compensation, and related subjects.

(68)*(b) The Board shall receive applications from employers who desire to operate private annuity plans with a view to providing benefits in lieu of the benefits otherwise provided for in title II of this Act, and the Board shall approve any such plan and issue a certificate of such approval if it finds that such plan meets the following requirements:*

*(1) The plan shall be available, without limitation as to age, to any employee who elects to come under such plan: Provided, That no employer shall make election to come or remain under the plan a condition precedent to the securing or retention of employment.*

*(2) The benefits payable at retirement and the conditions as to retirement shall not be less favorable,*

*based upon accepted actuarial principles, than those provided for under section 202.*

*(3) The contributions of the employee and the employer shall be deposited with a life insurance company, an annuity organization, or a trustee, approved by the Board.*

*(4) Termination of employment shall constitute withdrawal from the plan.*

*(5) Upon the death of an employee, his estate shall receive an amount not less than the amount it would have received if the employee had been entitled to receive benefits under title II of this Act.*

*(c) The Board shall have the right to call for such reports from the employer and to make such inspections of his records as will satisfy it that the requirements of subsection (b) are being met, and to make such regulations as will facilitate the operation of such private annuity plans in conformity with such requirements.*

*(d) The Board shall withdraw its approval of any such plan upon the request of the employer, or if it finds that the plan or any action taken thereunder fails to meet the requirements of subsection (b).*

EXPENSES OF THE BOARD

SEC. 703. The Board is authorized to appoint and fix the compensation of such officers and employees, and to

make such expenditures, as may be necessary for carrying out its functions under this Act. (69)*Appointments of attorneys and experts may be made without regard to the civil-service laws.*

REPORTS

SEC. 704. The Board(70), *through the Secretary of Labor,* shall make a full report to Congress, at the beginning of each regular session, of the administration of the functions with which it is charged.

## TITLE VIII—TAXES WITH RESPECT TO EMPLOYMENT

INCOME TAX ON EMPLOYEES

SECTION 801. In addition to other taxes, there shall be levied, collected, and paid upon the income of every individual a tax equal to the following percentages of the wages (as defined in section 811) received by him after December 31, 1936, with respect to employment (as defined in section 811) after such date:

(1) With respect to employment during the calendar years 1937, 1938, and 1939, the rate shall be 1 per centum.

(2) With respect to employment during the calendar years 1940, 1941, and 1942, the rate shall be 1½ per centum.

(3) With respect to employment during the calendar years 1943, 1944, and 1945, the rate shall be 2 per centum.

(4) With respect to employment during the calendar

years 1946, 1947, and 1948, the rate shall be 2½ per centum.

(5) With respect to employment after December 31, 1948, the rate shall be 3 per centum.

DEDUCTION OF TAX FROM WAGES

SEC. 802. (a) The tax imposed by section 801 shall be collected by the employer of the taxpayer, by deducting the amount of the tax from the wages as and when paid. Every employer required so to deduct the tax is hereby made liable for the payment of such tax, and is hereby indemnified against the claims and demands of any person for the amount of any such payment made by such employer.

(b) If more or less than the correct amount of tax imposed by section 801 is paid with respect to any wage payment, then, under regulations made under this title, proper adjustments, with respect both to the tax and the amount to be deducted, shall be made (71), *without interest*, in connection with subsequent wage payments to the same individual by the same employer.

DEDUCTIBILITY FROM INCOME TAX

SEC. 803. For the purposes of the income tax imposed by Title I of the Revenue Act of 1934 or by any Act of Congress in substitution therefor, the tax imposed by section 801 shall not be allowed as a deduction to the taxpayer

in computing his net income for the year in which such tax is deducted from his wages.

EXCISE TAX ON EMPLOYERS

SEC. 804. In addition to other taxes, every employer shall pay an excise tax, with respect to having individuals in his employ, equal to the following percentages of the wages (as defined in section 811) paid by him after December 31, 1936, with respect to employment (as defined in section 811) after such date:

(1) With respect to employment during the calendar years 1937, 1938, and 1939, the rate shall be 1 per centum.

(2) With respect to employment during the calendar years 1940, 1941, and 1942, the rate shall be 1½ per centum.

(3) With respect to employment during the calendar years 1943, 1944, and 1945, the rate shall be 2 per centum.

(4) With respect to employment during the calendar years 1946, 1947, and 1948, the rate shall be 2½ per centum.

(5) With respect to employment after December 31, 1948, the rate shall be 3 per centum.

ADJUSTMENT OF EMPLOYERS' TAX

SEC. 805. If more or less than the correct amount of tax imposed by section 804 is paid with respect to any wage payment, then, under regulations made under this title,

proper adjustments with respect to the tax shall be made (72), *without interest,* in connection with subsequent wage payments to the same individual by the same employer.

REFUNDS AND DEFICIENCIES

SEC. 806. If more or less than the correct amount of tax imposed by section 801 or 804 is paid or deducted with respect to any wage payment and the overpayment or underpayment of tax cannot be adjusted under section 802 (b) or 805 the amount of the overpayment shall be refunded and the amount of the underpayment shall be collected, in such manner and at such times (subject to the statutes of limitations properly applicable thereto) as may be prescribed by regulations made under this title.

COLLECTION AND PAYMENT OF TAXES

SEC. 807. (a) The taxes imposed by this title shall be collected by the Bureau of Internal Revenue under the direction of the Secretary of the Treasury and shall be paid into the Treasury of the United States as internal-revenue collections. (73)*If the tax is not paid when due, there shall be added as part of the tax interest (except in the case of adjustments made in accordance with the provisions of sections 802 (b) and 805) at the rate of one-half per centum per month from the date the tax became due until paid.*

(b) Such taxes shall be collected and paid in such manner, at such times, and under such conditions, not inconsistent with this title (either by making and filing returns,

or by stamps, coupons, tickets, books, or other reasonable devices or methods necessary or helpful in securing a complete and proper collection and payment of the tax or in securing proper identification of the taxpayer), as may be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury.

(c) All provisions of law, including penalties, applicable with respect to any tax imposed by section 600 or section 800 of the Revenue Act of 1926, and the provisions of section 607 of the Revenue Act of 1934, shall, insofar as applicable and not inconsistent with the provisions of this title, be applicable with respect to the taxes imposed by this title.

(d) In the payment of any tax under this title, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent.

RULES AND REGULATIONS

SEC. 808. The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall make and publish rules and regulations for the enforcement of this title.

SALE OF STAMPS BY POSTMASTERS

SEC. 809. The Commissioner of Internal Revenue shall furnish to the Postmaster General without prepayment

a suitable quantity of stamps, coupons, tickets, books, or other devices prescribed by the Commissioner under section 807 for the collection or payment of any tax imposed by this title, to be distributed to, and kept on sale by, all post offices of the first and second classes, and such post offices of the third and fourth classes as (1) are located in county seats, or (2) are certified by the Secretary of the Treasury to the Postmaster General as necessary to the proper administration of this title. The Postmaster General may require each such postmaster to furnish bond in such increased amount as he may from time to time determine, and each such postmaster shall deposit the receipts from the sale of such stamps, coupons, tickets, books, or other devices, to the credit of, and render accounts to, the Postmaster General at such times and in such form as the Postmaster General may by regulations prescribe. The Postmaster General shall at least once a month transfer to the Treasury as internal-revenue collections all receipts so deposited (74)*together with a statement of the additional expenditures in the District of Columbia and elsewhere incurred by the Post Office Department in performing the duties imposed upon said Department by this Act, and the Secretary of the Treasury is hereby authorized and directed to advance from time to time to the credit of the Post Office*

*Department from appropriations made for the collection ~~and~~ ~~payment~~ of taxes provided under ~~section~~ 707 of this title, such sums as may be required for such additional expenditures incurred by the Post Office Department ~~in~~ the performance of ~~the duties~~ and functions required of the Postal Service by ~~this~~ Act.*

PENALTIES

SEC. 810. (a) Whoever buys, sells, offers for sale, uses, transfers, takes or gives in exchange, or pledges or gives in pledge, except as authorized in this title or in regulations made pursuant thereto, any stamp, coupon, ticket, book, or other device, prescribed by the Commissioner of Internal Revenue under section 807 for the collection or payment of any tax imposed by this title, shall be fined not more than $1,000 or imprisoned for not more than six months, or both.

(b) Whoever, with intent to defraud, alters, forges, makes, or counterfeits any stamp, coupon, ticket, book, or other device prescribed by the Commissioner of Internal Revenue under section 807 for the collection or payment of any tax imposed by this title, or uses, sells, lends, or has in his possession any such altered, forged, or counterfeited stamp, coupon, ticket, book, or other device, or makes, uses, sells, or has in his possession any material in imitation of the

material used in the manufacture of such stamp, coupon, ticket, book, or other device, shall be fined not more than $5,000 or imprisoned not more than five years, or both.

DEFINITIONS

SEC. 811. When used in this title—

(a) The term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include that part of the remuneration which, after remuneration equal to $3,000 has been paid to an individual by an employer with respect to employment during any calendar year, is paid to such individual by such employer with respect to employment during such calendar year.

(b) The term "employment" means any service, of whatever nature, performed within the United States(75), *or as an officer or member of the crew of a vessel documented under the laws of the United States,* by an employee for his employer, except—

(1) Agricultural labor;

(2) Domestic service in a private home;

(3) Casual labor not in the course of the employer's trade or business;

(76)~~(4) Service performed by an individual who has attained the age of sixty-five;~~

(77) ~~(5) Service performed as an officer or member of the crew of a vessel documented under the laws of the United States or of any foreign country;~~

(78) ~~(6)~~ *(4)* Service performed in the employ of the United States Government or of an instrumentality of the United States;

(79) ~~(7)~~ *(5)* Service performed in the employ of a State, a political subdivision thereof, or an instrumentality of one or more States or political subdivisions;

(80) ~~(8)~~ *(6)* Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, (81) ~~or educational~~ *educational or hospital* purposes, (82) *or for the prevention of cruelty to children or animals,* no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(83) *(7) Service performed by an employee before he attains the age of sixty-five in the employ of an employer who has in operation a plan providing annuities to employees which is certified by the Board as having been approved by it under section 702, if the employee has elected to come under such plan, and if the Commissioner of Internal Revenue determines that the aggregate annual contributions of the employee and the employer under such plan as approved are not less*

*than the taxes which would otherwise be payable under sections 801 and 804, and that the employer pays an amount at least equal to 50 per centum of such taxes; Provided, That if any such employee withdraws from the plan before he attains the age of sixty-five, or if the Board withdraws its approval of the plan, there shall be paid by the employer to the Treasurer of the United States, in such manner as the Secretary of the Treasury shall prescribe, an amount equal to the taxes which would otherwise have been payable by the employer and the employee on account of such service, together with interest on such amount at 3 per centum per annum compounded annually.*

(84) *SEC. 812. (a) It shall be unlawful for any employer to make with any insurance company, annuity organization or trustee any contract with respect to carrying out a private annuity plan approved by the Board under section 702, if any director, officer, employee, or shareholder of the employer is at the same time a director, officer, employee, or shareholder of the insurance company, annuity organization or trustee.*

*(b) It shall be unlawful for any person, whether employer or insurance company, annuity organization or trustee, to knowingly offer, grant, or give, or solicit, accept, or receive, any rebate against the charges payable under any contract carrying out a private annuity plan approved by the Board under section 702.*

*(c) Every insurance company, annuity organization or trustee, who makes any contract with any employer for carrying out a private annuity plan of such employer which has been approved by the Board under section 702, shall make, keep and preserve for such periods, such accounts, correspondence, memoranda, papers, books, and other records with respect to such contract and the financial transactions of such company, organization or trustee as the Board may deem necessary to ensure the proper carrying out of such contract and to prevent fraud and collusion. All such accounts, correspondence, memoranda, papers, books, and other records shall be subject at any time, and from time to time, to such reasonable periodic, special, and other examinations by the Board as the Board may prescribe.*

*(d) Any person violating any provision of this section shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than $10,000, or imprisonment for not more than one year, or both.*

## TITLE IX—TAX ON EMPLOYERS OF (85)~~TEN~~ *FOUR* OR MORE

### IMPOSITION OF TAX

SECTION 901. On and after January 1, 1936, every employer (as defined in section 907) shall pay for each calendar year an excise tax, with respect to having indi-

viduals in his employ, equal to the following percentages of the total wages (as defined in section 907) payable by him (regardless of the time of payment) with respect to employment (as defined in section 907) during such calendar year:

(1) With respect to employment during the calendar year 1936 the rate shall be 1 per centum;

(2) With respect to employment during the calendar year 1937 the rate shall be 2 per centum;

(3) With respect to employment after December 31, 1937, the rate shall be 3 per centum.

CREDIT AGAINST TAX

SEC. 902. The taxpayer may credit against the tax imposed by section 901 the amount of contributions, with respect to employment during the taxable year, paid by him (before the date of filing his return for the taxable year) into an unemployment fund under a State law. The total credit allowed to a taxpayer under this section for all contributions paid into unemployment funds with respect to employment during such taxable year shall not exceed 90 per centum of the tax against which it is credited, and credit shall be allowed only for contributions made under the laws of States certified for the taxable year as provided in section 903.

CERTIFICATION OF STATE LAWS

SEC. 903. (a) The Social Security Board shall approve any State law submitted to it, within thirty days of such submission, which it finds provides that—

(1) (86) ~~All compensation~~ *Compensation* is to be paid through public employment offices in the State (87), *to the extent that such offices exist and are designated by the State for the purpose*;

(2) No compensation shall be payable with respect to any day of unemployment occurring within two years after the first day of the first period with respect to which contributions are required;

(3) All money received in the unemployment fund shall immediately upon such receipt be paid over to the Secretary of the Treasury to the credit of the Unemployment Trust Fund established by section 904;

(4) All money withdrawn from the Unemployment Trust Fund by the State agency shall be used solely in the payment of compensation, exclusive of expenses of administration;

(5) Compensation shall not be denied in such State to any otherwise eligible individual for refusing to accept new work under any of the following conditions: (A) If the position offered is vacant due directly

to a strike, lockout, or other labor dispute; (B) if the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; (C) if as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization;

(6) All the rights, privileges, or immunities conferred by such law or by acts done pursuant thereto shall exist subject to the power of the legislature to amend or repeal such law at any time.

The Board shall, upon approving such law, notify the Governor of the State of its approval.

(b) On December 31 in each taxable year the Board shall certify to the Secretary of the Treasury each State whose law it has previously approved, except that it shall not certify any State which, after (88)*reasonable* notice and opportunity for hearing to the State agency, the Board finds has changed its law so that it no longer contains the provisions specified in subsection (a) or has with respect to such taxable year failed to comply substantially with any such provision.

(c) If, at any time during the taxable year, the Board has reason to believe that a State whose law it has pre-

viously approved, may not be certified under subsection (b), it shall promptly so notify the Governor of such State.

UNEMPLOYMENT TRUST FUND

SEC. 904. (a) There is hereby established in the Treasury of the United States a trust fund to be known as the "Unemployment Trust Fund", hereinafter in this title called the "Fund". The Secretary of the Treasury is authorized and directed to receive and hold in the Fund all moneys deposited therein by a State agency from a State unemployment fund. Such deposit may be made directly with the Secretary of the Treasury or with any Federal reserve bank or member bank of the Federal Reserve System designated by him for such purpose.

(b) It shall be the duty of the Secretary of the Treasury to invest such portion of the Fund as is not, in his judgment, required to meet current withdrawals. Such investment may be made only in interest bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (1) on original issue at par, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of special obligations exclusively to the

Fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as of the end of the calendar month next preceding the date of such issue, borne by all interest-bearing obligations of the United States then forming part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 per centum, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 per centum next lower than such average rate. Obligations other than such special obligations may be acquired for the Fund only on such terms as to provide an investment yield not less than the yield which would be required in the case of special obligations if issued to the Fund upon the date of such acquisition.

(c) Any obligations acquired by the Fund (except special obligations issued exclusively to the Fund) may be sold at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

(e) The Fund shall be invested as a single fund, but the Secretary of the Treasury shall maintain a separate book account for each State agency and shall credit quarterly on March 31, June 30, September 30, and December 31, of

each year, to each account, on the basis of the average daily balance of such account, a proportionate part of the earnings of the Fund for the quarter ending on such date.

(f) The Secretary of the Treasury is authorized and directed to pay out of the Fund to any State agency such amount as it may duly requisition, not exceeding the amount standing to the account of such State agency at the time of such payment.

ADMINISTRATION, REFUNDS, AND PENALTIES

SEC. 905. (a) The tax imposed by this title shall be collected by the Bureau of Internal Revenue under the direction of the Secretary of the Treasury and shall be paid into the Treasury of the United States as internal-revenue collections. (89)*If the tax is not paid when due, there shall be added as part of the tax interest at the rate of one-half of 1 per centum per month from the date the tax became due until paid.*

(b) Not later than January 31, next following the close of the taxable year, each employer shall make a return of the tax under this title for such taxable year. Each such return shall be made under oath, shall be filed with the collector of internal revenue for the district in which is located the principal place of business of the employer, or, if he has no principal place of business in the United States, then with the collector at Baltimore, Maryland,

and shall contain such information and be made in such manner as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may by regulations prescribe. All provisions of law (including penalties) applicable in respect of the taxes imposed by section 600 of the Revenue Act of 1926, shall, insofar as not inconsistent with this title, be applicable in respect of the tax imposed by this title. The Commissioner may extend the time for filing the return of the tax imposed by this title, under such rules and regulations as he may prescribe with the approval of the Secretary of the Treasury, but no such extension shall be for more than sixty days.

(c) Returns filed under this title shall be open to inspection in the same manner, to the same extent, and subject to the same provisions of law, including penalties, as returns made under Title II of the Revenue Act of 1926.

(d) The taxpayer may elect to pay the tax in four equal installments instead of in a single payment, in which case the first installment shall be paid not later than the last day prescribed for the filing of returns, the second installment shall be paid on or before the last day of the third month, the third installment on or before the last day of the sixth month, and the fourth installment on or before the last day of the ninth month, after such last day. If the tax or any installment thereof is not paid on or before the

last day of the period fixed for its payment, the whole amount of the tax unpaid shall be paid upon notice and demand from the collector.

(e) At the request of the taxpayer the time for payment of the tax or any installment thereof may be extended under regulations prescribed by the Commissioner with the approval of the Secretary of the Treasury, for a period not to exceed six months from the last day of the period prescribed for the payment of the tax or any installment thereof. The amount of the tax in respect of which any extension is granted shall be paid (with interest at the rate of one-half of 1 per centum per month) on or before the date of the expiration of the period of the extension.

(f) In the payment of any tax under this title a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent.

INTERSTATE COMMERCE

SEC. 906. No person required under a State law to make payments to an unemployment fund shall be relieved from compliance therewith on the ground that he is engaged in interstate commerce, or that the State law does not distinguish between employees engaged in interstate commerce and those engaged in intrastate commerce.

DEFINITIONS

SEC. 907. When used in this title—

(a) The term " employer " does not include any person unless on each of some (90) ~~twenty~~ *thirteen* days during the taxable year, each day being in a different calendar week, the total number of individuals who were in his employ for some portion of the day (whether or not at the same moment of time) was (91) ~~ten~~ *four* or more.

(b) The term " wages " means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash.

(c) The term " employment " means any service, of whatever nature, performed within the United States by an employee for his employer, except—

(1) Agricultural labor;

(2) Domestic service in a private home;

(3) Service performed as an officer or member of the crew of a vessel on the navigable waters of the United States;

(4) Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of twenty-one in the employ of his father or mother;

(5) Service performed in the employ of the United States Government or of an instrumentality of the United States;

(6) Service performed in the employ of a State, a political subdivision thereof, or an instrumentality of one or more States or political subdivisions;

(7) Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, (92) ~~or educational~~ *educational or hospital* purposes, (93) *or for the prevention of cruelty to children or animals,* no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(d) The term " State agency " means any State officer, board, or other authority, designated under a State law to administer the unemployment fund in such State.

(e) The term " unemployment fund " means a special fund, established under a State law and administered by a State agency, for the payment of compensation (94) ~~, all the assets of which are mingled and undivided, and in which no separate account is maintained with respect to any person~~.

(f) The term " contributions " means payments required by a State law to be made by an employer into an unemployment fund, to the extent that such payments are made by him without any part thereof being deducted or deductible from the wages of individuals in his employ.

(g) The term "compensation" means cash benefits payable to individuals with respect to their unemployment.

RULES AND REGULATIONS

SEC. 908. The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall make and publish rules and regulations for the enforcement of this title, except sections 903 (95) ~~and 904~~, *904, and 910.*

(96) *ALLOWANCE OF ADDITIONAL CREDIT*

*SEC. 909. (a) In addition to the credit allowed under section 902, a taxpayer may, subject to the conditions imposed by section 910, credit against the tax imposed by section 901 for any taxable year after the taxable year 1937, an amount, with respect to each State law, equal to the amount, if any, by which the contributions, with respect to employment in such taxable year, actually paid by the taxpayer under such law before the date of filing his return for such taxable year, is exceeded by whichever of the following is the lesser—*

*(1) The amount of contributions which he would have been required to pay under such law for such taxable year if he had been subject to the highest rate applicable from time to time throughout such year to any employer under such law; or*

*(2) Two and seven-tenths per centum of the wages payable by him with respect to employment with respect*

*to which contributions for such year were required under such law.*

*(b) If the amount of the contributions actually so paid by the taxpayer is less than the amount which he should have paid under the State law, the additional credit under subsection (a) shall be reduced proportionately.*

*(c) The total credits allowed to a taxpayer under this title shall not exceed 90 per centum of the tax against which such credits are taken.*

(97) *CONDITIONS OF ADDITIONAL CREDIT ALLOWANCE*

*SEC. 910. (a) A taxpayer shall be allowed the additional credit under section 909, with respect to his contribution rate under a State law being lower, for any taxable year, than that of another employer subject to such law, only if the Board finds that under such law—*

*(1) Such lower rate, with respect to contributions to a pooled fund, is permitted on the basis of not less than three years of compensation experience;*

*(2) Such lower rate, with respect to contributions to a guaranteed employment account, is permitted only when his guaranty of employment was fulfilled in the preceding calendar year, and such guaranteed employment account amounts to not less than 7½ per centum of the total wages payable by him, in accordance with*

*such guaranty, with respect to employment in such State in the preceding calendar year;*

*(3) Such lower rate, with respect to contributions to a separate reserve account, is permitted only when (A) compensation has been payable from such account throughout the preceding calendar year, and (B) such account amounts to not less than five times the largest amount of compensation paid from such account within any one of the three preceding calendar years, and (C) such account amounts to not less than 7½ per centum of the total wages payable by him (plus the total wages payable by any other employers who may be contributing to such account) with respect to employment in such State in the preceding calendar year.*

*(b) Such additional credit shall be reduced, if any contributions under such law are made by such taxpayer at a lower rate under conditions not fulfilling the requirements of subsection (a), by the amount bearing the same ratio to such additional credit as the amount of contributions made at such lower rate bears to the total of his contributions paid for such year under such law.*

*(c) As used in this section—*

*(1) The term "reserve account" means a separate account in an unemployment fund, with respect to an employer or group of employers, from which com-*

*pensation is payable only with respect to the unemployment of individuals who were in the employ of such employer, or of one of the employers comprising the group.*

*(2) The term "pooled fund" means an unemployment fund or any part thereof in which all contributions are mingled and undivided, and from which compensation is payable to all eligible individuals, except that to individuals last employed by employers with respect to whom reserve accounts are maintained by the State agency, it is payable only when such accounts are exhausted.*

*(3) The term "guaranteed employment account" means a separate account, in an unemployment fund, of contributions paid by an employer (or group of employers) who*

*(A) guarantees in advance thirty hours of wages for each of forty calendar weeks (or more, with one weekly hour deducted for each added week guaranteed) in twelve months, to all the individuals in his employ in one or more distinct establishments, except that any such individual's guaranty may commence after a probationary period (included within twelve or less consecutive calendar weeks), and*

*(B) gives security or assurance, satisfactory to the State agency, for the fulfillment of such guaranties,*

*from which account compensation shall be payable with respect to the unemployment of any such individual whose guaranty is not fulfilled or renewed and who is otherwise eligible for compensation under the State law.*

*(4) The term "year of compensation experience", as applied to an employer, means any calendar year throughout which compensation was payable with respect to any individual in his employ who became unemployed and was eligible for compensation.*

(98) *TITLE X—GRANTS TO STATES FOR AID TO THE BLIND*

(99) *APPROPRIATION*

*SECTION 1001. For the purpose of enabling each State to furnish financial assistance, as far as practicable under the conditions in such State, to needy individuals who are permanently blind, there is hereby authorized to be appropriated for the fiscal year ending June 30, 1936, the sum of $3,000,000, and there is hereby authorized to be appropriated for each fiscal year thereafter a sum sufficient to carry out the purposes of this title. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Social Security*

*Board, State plans for aid to the blind. Of said sum, each year $1,500,000 or such part thereof as shall be necessary shall be used in making payments to States of amounts equal to one-half of the total of the sums expended for locating blind persons, for providing diagnoses of their eye condition, and for training and employment of the adult blind.*

(100) *STATE PLANS FOR AID TO THE BLIND*

*SEC. 1002. (a) A State plan for aid to the blind must (1) provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them; (2) provide for financial participation by the State; (3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan; (4) provide for granting to any individual, whose claim for aid is denied, an opportunity for a fair hearing before such State agency; (5) provide such methods of administration (other than those relating to selection, tenure of office, and compensation of personnel) as are found by the Board to be necessary for the efficient operation of the plan; (6) provide that the State agency will make such reports, in such form and containing such information, as the Board may from time to time require, and comply with such provisions as the Board may from time to time find*

*necessary to assure the correctness and verification of such reports; and (7) provide that no aid will be furnished any individual under the plan with respect to any period with respect to which he is receiving old-age assistance under the State plan approved under section 2 of this Act (8) provide that money payments to any permanently blind individual will be granted in direct proportion to his need; and (9) contain a definition of blindness and a definition of needy individuals which will meet the approval of the Social Security Board.*

*(b) The Board shall approve any plan which fulfills the conditions specified in subsection (a), except that it shall not approve any plan which imposes, as a condition of eligibility for aid to the blind under the plan—*

*(1) Any residence requirement which excludes any resident of the State who has resided therein five years during the nine years immediately preceding the application for aid and has resided therein continuously for one year immediately preceding the application; or*

*(2) Any citizenship requirement which excludes any citizen of the United States.*

(101) *PAYMENT TO STATES*

*SEC. 1003. (a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for aid to the blind, for each quarter.*

*beginning with the quarter commencing July 1, 1935, (1) an amount, which shall be used exclusively as aid to the blind, equal to one-half of the total of the sums expended during such quarter as aid to the blind under the State plan with respect to each individual who is permanently blind and is not an inmate of a public institution. not counting so much of ~~such~~ expenditure ~~with~~ respect to any individual for any month as exceed~~s~~ $30, and (2) 5 per centum of such amount, which shall be used for paying the costs of administering the State plan or for aid to the blind, or both, and for no other purpose.*

*(b) The method of computing and paying such amounts shall be as follows:*

*(1) The Board shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of clause (1) of subsection (a), such estimate to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such clause, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than one-half of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, (B) records showing the number*

*of permanently blind individuals in the State, and (C) such other investigation as the Board may find necessary.*

*(2) The Board shall then certify to the Secretary of the Treasury the amount so estimated by the Board, reduced or increased, as the case may be, by any sum by which it finds that its estimate for any prior quarter was greater or less than the amount which should have been paid to the State under clause (1) of subsection (a) for such quarter, except to the extent that such sum has been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Board for such prior quarter.*

*(3) The Secretary of the Treasury shall thereupon, through the Division of Disbursement of the Treasury Department and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Board, the amount so certified, increased by 5 per centum.*

(102) *OPERATION OF STATE PLANS*

*SEC. 1004. In the case of any State plan for aid to the blind which has been approved by the Board, if the Board, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds—*

*(1) that the plan has been so changed as to impose any residence or citizenship requirement prohibited by section 1002 (b), or that in the administration of the plan any such prohibited requirement is imposed, with the knowledge of such State agency, in a substantial number of cases; or*

*(2) that in the administration of the plan there is a failure to comply substantially with any provision required by section 1002 (a) to be included in the plan;*

*the Board shall notify such State agency that further payments will not be made to the State until the Board is satisfied that such prohibited requirement is no longer so imposed, and that there is no longer any such failure to comply. Until it is so satisfied it shall make no further certification to the Secretary of the Treasury with respect to such State.*

(103) *ADMINISTRATION*

*SEC. 1005. There is hereby authorized to be appropriated for the fiscal year ending June 30, 1936, the sum of $30,000, for all necessary expenses of the Board in administering the provisions of this title.*

(104) *DEFINITION*

*SEC. 1006. When used in this title the term "aid to the blind" means money payments to permanently blind individcals and money expended for locating ~~blind persons~~, for providing diagnoses of their eye condition, and for training and employment of the adult blind.*

(105)*TITLE XI—INDIAN PENSIONS*

*SECTION 1201. That heads of families and single persons of Indian blood, not otherwise entitled to the benefits of this Act, who have heretofore attained or shall hereafter attain the age of sixty-five years, are hereby declared to be entitled to a pension from the United States in the sum of $30 per month, subject to the following conditions:*

*Applications for pension by persons of Indian blood shall be made in writing in such form as the Secretary of the Interior may prescribe and shall be filed by the applicant with the superintendent or other officer in charge of the agency or tribe to which the applicant belongs. Upon receipt of any such application the Secretary of the Interior shall make, or cause to be made, such investigation as he may deem necessary to determine the accuracy of the facts shown thereon, including the annual income of the applicant from other sources. In all cases where the Secretary of the Interior finds that the annual income of such applicant is less than $1 per day, said Secretary shall award to such applicant a pension in an amount which, when added to the other annual income of such applicant, will bring such annual income up to but not in excess of $1 per day: Provided, however, That payments to Indian pensioners entitled hereunder shall be made in equal monthly installments from the date of approval of application therefor by the Secretary*

*of the Interior and in the discretion of said Secretary such payments may be made direct to the individual beneficiaries, or to other persons designated by the Secretary of the Interior providing care for any beneficiary under the provisions of this Act: Provided further, That in the discretion of the Secretary of the Interior such payments due any Indian beneficiary may be handled in accordance with regulations governing individual Indian money accounts and the Secretary of the Interior is hereby authorized to prescribe such further rules and regulations as may be necessary for carrying out the provisions of this section.*

*SEC. 1202. All persons of Indian blood who are permanently blind but less than 65 years of age, shall be entitled to a pension from the United States in the sum of $10 per month, and all persons of Indian blood, who have for one year previous to the enactment of this Act been unable to perform physical labor on account of being crippled or otherwise disabled, shall be entitled to a pension from the United States in the sum of $10 per month during such disability.*

*SEC. 1203. The Indians and Eskimos of Alaska shall receive a pension under same conditions and in an amount one-half that provided for Indians under this title.*

*SEC. 1204. There is hereby authorized to be appropriated annually, out of any money in the Treasury not*

*otherwise appropriated, so much as may be necessary to carry out the provisions of this Act, including necessary expenses of administration.*

TITLE ~~(106)X~~ *XII*—GENERAL PROVISIONS

DEFINITIONS

SECTION ~~(107)1001~~ *1205*. (a) When used in this Act—

(1) The term "State" (except when used in section 531) includes Alaska, Hawaii, and the District of Columbia.

(2) The term "United States" when used in a geographical sense means the States, Alaska, Hawaii, and the District of Columbia.

(3) The term "person" means an individual, a trust or estate, a partnership, or a corporation.

(4) The term "corporation" includes associations, joint-stock companies, and insurance companies.

(5) The term "shareholder" includes a member in an association, joint-stock company, or insurance company.

(6) The term "employee" includes an officer of a corporation.

(b) The terms "includes" and "including" when used in a definition contained in this Act shall not be deemed

to exclude other things otherwise within the meaning of the term defined.

(c) Whenever under this Act or any Act of Congress, or under the law of any State, an employer is required or permitted to deduct any amount from the remuneration of an employee and to pay the amount deducted to the United States, a State, or any political subdivision thereof, then for the purposes of this Act the amount so deducted shall be considered to have been paid to the employee at the time of such deduction.

(d) Nothing in this Act shall be construed as authorizing any Federal (108) *or State* official, agent, or representative, in carrying out any of the provisions of this Act, to take charge of any child over the objection of either of the parents of such child, or of the person standing in loco parentis to such child(109)~~, in violation of the law of a State~~.

RULES AND REGULATIONS

SEC. (110)~~1002~~ *1206*. The Secretary of the Treasury, the Secretary of Labor, and the Social Security Board, respectively, shall make and publish such rules and regulations, not inconsistent with this Act, as may be necessary to the efficient administration of the functions with which each is charged under this Act.

SEPARABILITY

SEC. (111)~~1003~~ *1207*. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances shall not be affected thereby.

RESERVATION OF POWER

SEC. (112)~~1004~~ *1208*. The right to alter, amend, or repeal any provision of this Act is hereby reserved to the Congress.

SHORT TITLE

SEC. (113)~~1005~~ *1209*. This Act may be cited as the "Social Security Act".

Amend the title so as to read: "An Act to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, blind persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes."

Passed the House of Representatives April 19, 1935.

Attest: SOUTH TRIMBLE,

*Clerk.*

Passed the Senate with amendments May 13 (calendar day, June 19), 1935.

Attest: EDWIN A. HALSEY,

*Secretary.*

74TH CONGRESS
1ST SESSION

# H. R. 7260

# AN ACT

To provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 20, 1935

Ordered to be printed with the amendments of the Senate numbered

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Horne, its enrolling clerk, announced that the Senate had passed with amendments, in which the concurrence of the House is requested, a bill of the House of the following title:

H. R. 7260. An act to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, blind persons, dependent and crippled children, maternal and child welfare, public health, and the ad-

ministration of their unemployment compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes.

The message also announced that the Senate insists upon its amendments to the foregoing bill, requests a conference with the House thereon, and appoints Mr. HARRISON, Mr. KING, Mr. GEORGE, Mr. KEYES, and Mr. LA FOLLETTE to be the conferees on the part of the Senate.

SOCIAL-SECURITY BILL

Mr. DOUGHTON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 7260) to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, blind persons, dependent and crippled children, maternal and child

welfare, public health, and the administration of their unemployment compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection?

There was no objection.

The SPEAKER appointed the following conferees: Mr. DOUGHTON, Mr. SAMUEL B. HILL, Mr. CULLEN, Mr. TREADWAY, and Mr. BACHARACH.

MESSAGE FROM THE HOUSE

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 7260) to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, blind persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. DOUGHTON, Mr. SAMUEL B. HILL, Mr. CULLEN, Mr. TREADWAY, and Mr. BACHARACH were appointed managers on the part of the House at the conference.

74TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
1st Session } { No. 1540

# SOCIAL SECURITY BILL

JULY 16, 1935.—Ordered to be printed

Mr. DOUGHTON, from the committee of conference, submitted the following

## CONFERENCE REPORT

[To accompany H. R. 7260]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7260) to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 2, 3, 6, 7, 8, 10, 11, 12, 13, 14, 15, 18, 22, 23, 24, 25, 26, 27, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 40, 41, 42, 43, 44, 61, 65, 70, 75, 76, 77, 78, 79, 80, 81, 86, 90, 92, 105, and 108.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 5, 9, 16, 20, 21, 28, 39, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 60, 62, 63, 64, 66, 69, 71, 72, 82, 88, 89, 93, 94, 95, 96, 97, 98, 102, 103, and 109, and agree to the same.

Amendment numberd 4:

That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *: Provided, That the State plan, in order to be approved by the Board, need not provide for financial participation before July 1, 1937, by the State, in the case of any State which the Board, upon application by the State and after reasonable notice and opportunity for hearing to the State, finds is prevented by its constitution from*

*providing such financial participation*; and the Senate agree to the same.

Amendment numbered 19:

That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *or such other agencies as the Board may approve*; and the Senate agree to the same.

Amendment numbered 59:

That the House recede from its disagreement to the amendment of the Senate numbered 59, and agree to the same with an amendment, as follows:

On page 8 of the Senate engrossed amendments strike out line 12 and insert in lieu thereof the following: *welfare services (hereinafter in this section referred to as "child-welfare services") for the protection and care of homeless, dependent, and neglected children, and children in danger of becoming delinquent* and a comma; and the Senate agree to the same.

Amendment numbered 73:

That the House recede from its disagreement to the amendment of the Senate numbered 73, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *If the tax is not paid when due, there shall be added as part of the tax interest (except in the case of adjustments made in accordance with the provisions of sections 802 (b) and 805) at the rate of one-half of 1 per centum per month from the date the tax became due until paid.*

And the Senate agree to the same.

Amendment numbered 74:

That the House recede from its disagreement to the amendment of the Senate numbered 74, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following: *together with a statement of the additional expenditures in the District of Columbia and elsewhere incurred by the Post Office Department in performing the duties imposed upon said Department by this Act, and the Secretary of the Treasury is hereby authorized and directed to advance from time to time to the credit of the Post Office Department from appropriations made for the collection of the taxes imposed by this title, such sums as may be required for such additional expenditures incurred by the Post Office Department*; and the Senate agree to the same.

Amendment numbered 85:

That the House recede from its disagreement to the amendment of the Senate numbered 85, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert *EIGHT*: and the Senate agree to the same.

Amendment numbered 87:

That the House recede from its disagreement to the amendment of the Senate numbered 87, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *or such other agencies as the Board may approve*; and the Senate agree to the same.

Amendment numbered 91:

That the House recede from its disagreement to the amendment of the Senate numbered 91, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert *eight*; and the Senate agree to the same.

Amendment numbered 99:

That the House recede from its disagreement to the amendment of the Senate numbered 99, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

*APPROPRIATION*

*SECTION 1001. For the purpose of enabling each State to furnish financial assistance, as far as practicable under the conditions in such State, to needy individuals who are blind, there is hereby authorized to be appropriated for the fiscal year ending June 30, 1936, the sum of $3,000,000, and there is hereby authorized to be appropriated for each fiscal year thereafter a sum sufficient to carry out the purposes of this title. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Social Security Board, State plans for aid to the blind.*

And the Senate agree to the same.

Amendment numbered 100.

That the House recede from its disagreement to the amendment of the Senate numbered 100, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

*STATE PLANS FOR AID TO THE BLIND*

*SEC. 1002. (a) A State plan for aid to the blind must (1) provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them; (2) provide for financial participation by the State; (3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan; (4) provide for granting to any individual, whose claim for aid is denied, an opportunity for a fair hearing before such State agency; (5) provide such methods of administration (other than those relating to selection, tenure of office, and compensation of*

*personnel) as are found by the Board to be necessary for the efficient operation of the plan; (6) provide that the State agency will make such reports, in such form and containing such information, as the Board may from time to time require, and comply with such provisions as the Board may from time to time find necessary to assure the correctness and verification of such reports; and (7) provide that no aid will be furnished any individual under the plan with respect to any period with respect to which he is receiving old-age assistance under the State plan approved under section 2 of this Act.*

*(b) The Board shall approve any plan which fulfills the conditions specified in subsection (a), except that it shall not approve any plan which imposes, as a condition of eligibility for aid to the blind under the plan—*

*(1) Any residence requirement which excludes any resident of the State who has resided therein five years during the nine years immediately preceding the application for aid and has resided therein continuously for one year immediately preceding the application; or*

*(2) Any citizenship requirement which excludes any citizen of the United States.*

And the Senate agree to the same.

Amendment numbered 101:

That the House recede from its disagreement to the amendment of the Senate numbered 101, and agree to the same with the following amendments:

On page 24 of the Senate engrossed amendments, line 19, strike out "permanently"; and on page 25 of the Senate engrossed amendments, line 16, strike out "permanently"; and the Senate agree to the same.

Amendment numbered 104:

That the House recede from its disagreement to the amendment of the Senate numbered 104, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

*DEFINITION*

*SEC. 1006. When used in this title the term "aid to the blind" means money payments to blind individuals.*

And the Senate agree to the same.

Amendment numbered 106:

That the House recede from its disagreement to the amendment of the Senate numbered 106, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert *XI*; and the Senate agree to the same.

Amendment numbered 107:

That the House recede from its disagreement to the amendment of the Senate numbered 107, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert *1101*; and the Senate agree to the same.

Amendment numbered 110:

That the House recede from its disagreement to the amendment of the Senate numbered 110, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert *1102*; and the Senate agree to the same.

Amendment numbered 111:

That the House recede from its disagreement to the amendment of the Senate numbered 111, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert *1103*; and the Senate agree to the same.

Amendment numbered 112:

That the House recede from its disagreement to the amendment of the Senate numbered 112, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert *1104*; and the Senate agree to the same.

Amendment numbered 113:

That the Senate recede from its disagreement to the amendment of the Senate numbered 113, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert *1105*; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill, and agree to the same.

The committee of conference have not agreed on the following amendments: Amendments numbered 17, 67, 68, 83, and 84.

R. L. DOUGHTON,
SAM B. HILL,
THOS. H. CULLEN,
ALLEN T. TREADWAY,
ISAAC BACHARACH,
*Managers on the part of the House.*

PAT HARRISON,
WILLIAM H. KING,
WALTER F. GEORGE,
HENRY W. KEYES,
ROBERT M. LA FOLLETTE, Jr.,
*Managers on the part of the Senate.*

## STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7260) to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

Amendment no. 1: The House bill, with reference to the appropriation authorized for grants to States for old-age assistance, stated that the appropriation was for the purpose of enabling each State to furnish financial assistance assuring, as far as practicable under the conditions in such State, a reasonable subsistence compatible with decency and health to aged individuals without such subsistence. The Senate amendment states that the appropriation is for the purpose of enabling each State to furnish financial assistance, as far as practicable under the conditions in such State, to aged needy individuals. The House recedes.

Amendments nos. 2 and 3: The House bill required the State plan for old-age assistance to provide that if the State or any of its political subdivisions collects from the estate of any recipient any amount with respect to old-age assistance under the plan, one-half of the net amount so collected shall be promptly paid to the United States. The Senate amendments provide for the repayment to the United States in such cases, instead of one-half of the net amount so collected, a portion of the net amount collected proportionate to the part of the old-age assistance representing payments made by the United States. The Senate recedes.

Amendment no. 4: This amendment provides that in order to assist the aged of States who have no State system of old-age pensions, until an opportunity is afforded the States to provide for a State plan, the Secretary of the Treasury shall pay to each State for each quarter until not later than July 1, 1937, in lieu of the amounts payable under the House bill which were to be matched by the States, an amount sufficient to afford old-age assistance to each needy individual within the State who at the time of such expenditure is 65 years of age or older, and who is declared by such agency as may be designated by the Social Security Board to be entitled to receive the same, old-age assistance not in excess of $15 a month.

The House recedes with an amendment, in lieu of the Senate amendment, which provides that the State plan for old-age assistance, in order to be approved by the Board, need not provide for financial participation before July 1, 1937, by the State, in the case of any State which the Board, upon application by the State and after reasonable

notice and opportunity for hearing to the State, finds is prevented by its constitution from providing such financial participation.

Amendment no. 5: The House bill provided that the Board, before stopping payments to a State for old-age assistance on the ground that the State plan is not being complied with, should give notice and opportunity for hearing to the State agency. The Senate amendment provides that the notice and opportunity for hearing must be "reasonable." The House recedes.

Amendments nos. 6, 7, and 8: The House bill, with reference to the "Old-age reserve account" for the payment of Federal old-age benefits under title II, provided that the amount of authorized appropriations should be based upon such tables of mortality as the Secretary of the Treasury should adopt; that the Secretary of the Treasury should submit annually to the Bureau of the Budget an estimate of the appropriations to be made to the account; and that he should include in his annual report the actuarial status of the account. The Senate amendments transfer these duties to the Social Security Board. The Senate recedes.

Amendment no. 9: This amendment provides that for every month during which the Board finds that an aged person, otherwise qualified for Federal old-age benefits under title II, is regularly employed, after he attains the age of 65, a month's benefit will be withheld from such person, under regulations prescribed by the Board, by deductions from one or more payments of old-age benefits to such person. The House recedes.

Amendments nos. 10 and 11: The House bill excepted from the term "employment", as used in title II relating to the payment of Federal old-age benefits, service performed as an officer or member of the crew of a vessel documented under the laws of the United States or of any foreign country. The Senate amendments strike out this exception and expressly include within the definition of "employment" service performed as an officer or member of the crew of a vessel documented under the laws of the United States. The Senate recedes.

Amendments nos. 12, 13, and 14: These amendments make changes in paragraph numbers. The Senate recedes.

Amendment no. 15: The House bill in defining the term "employment", as used in title II relating to the payment of Federal old-age benefits, excepted service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual. The Senate amendment adds to the list of purposes "or hospital" as a clarifying amendment. The Senate recedes, the conferees omitting this language as surplusage, based on the fact that the Internal Revenue Bureau has uniformly construed language in the income-tax laws, identical with that found in the House bill, as exempting hospitals not operated for profit, and also on the fear that the insertion of the words added by the Senate amendment might interfere with the continuation of the long-continued construction of the income-tax law.

Amendment no. 16: This amendment excepts from the definition of "employment", as used in title II relating to the payment of Federal old-age benefits, service performed in the employ of a corporation, community chest, fund or foundation, organized and oper-

ated exclusively for the prevention of cruelty to children or animals. The House recedes.

Amendments nos. 18 and 19: The House bill provided that the Social Security Board should not certify for payment to any State under title III amounts for the administration of the State unemployment insurance law unless such law provides for payment of unemployment compensation solely through public employment offices in the State. The Senate amendments require that the State law must provide for payment of unemployment compensation through public employment offices in the State to the extent that such offices exist and are designated by the State for the purpose. The Senate recedes on amendment no. 18 and the House recedes on amendment no. 19 with an amendment changing the language of the amendment. The effect of the action of the conferees is to provide that the State law cannot be approved by the Board unless it provides for the payment of unemployment compensation solely through public employment offices in the State or such other agencies as the Board may approve.

Amendment no. 20: The House bill provided that the Board, before stopping payments to a State for grants for unemployment compensation administration on the ground that the State plan is not being complied with, should give notice and opportunity for hearing to the State agency. The Senate amendment provides that the notice and opportunity for hearing must be "reasonable." The House recedes.

Amendment no. 21: The House bill, with reference to the appropriation authorized for grants to States for aid to dependent children, stated that the appropriation was for the purpose of enabling each State to furnish financial assistance assuring, as far as practicable under the conditions in such State, a reasonable subsistence compatible with decency and health to dependent children without such subsistence. The Senate amendment states that the appropriation is for the purpose of enabling each State to furnish financial assistance, as far as practicable under the conditions in such State, to needy dependent children. The House recedes.

Amendments nos. 22 to 27, 29 to 38, and 40 to 44: The House bill placed the administration of title IV, relating to grants to States for aid to dependent children, in the Social Security Board. The Senate amendments transfer these functions in part to the Secretary of Labor and in part to the Chief of the Children's Bureau, and make clerical changes to carry out this policy. The Senate recedes.

Amendment no. 28: The House bill in title IV, relating to grants to States for aid to dependent children, provided that no State plan should be approved which imposes as a condition for eligibility for aid to dependent children a residence requirement which denies aid to any child residing in the State who was born in the State within 1 year immediately preceding the application. The Senate amendment permits the State plan to deny aid to such a child if its mother has not resided in the State for 1 year immediately preceding the birth. The House recedes.

Amendment no. 39: The House bill provided that the Board, before stopping payments to a State for aid to dependent children on the ground that the State plan is not being complied with, should give notice and opportunity for hearing to the State agency. The Senate

amendment provides that the notice and opportunity for hearing must be "reasonable." The House recedes.

Amendment no. 45: This amendment adds to the definition of a "dependent child" for the purposes of title IV, giving aid to dependent children, a requirement that the child must have been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent. The House recedes.

Amendment no. 46: The House bill in defining the term "dependent child" for the purposes of title IV, relating to grants to States for aid to dependent children, contained a requirement that the child must be living in a "residence" maintained by one or more of certain relatives as his or their own home. The Senate amendment clarifies the meaning of the word "residence" by making it certain that it is not confined to a separately maintained house but refers to any place of abode, whether a separate house, an apartment, a room, a house-boat, or other place of abode. The House recedes.

Amendments nos. 47 and 48: Under the House bill the allotments to each State from appropriations made for maternal and child health services were made on the basis of the live births in such State as compared with the total number of live births in the United States. The Senate amendments provide that the proration shall be made on the basis of figures for the latest calendar year for which the Bureau of the Census has available statistics. The House recedes.

Amendment no. 49: This is a clarifying amendment. The House recedes.

Amendment no. 50: The House bill provided that the methods of administration required in the State plan for maternal and child health services should be such as are "found by the Chief of the Children's Bureau to be" necessary for the efficient operation of the plan. The Senate amendment strikes out the matter above quoted so that the final judgment as to what methods are necessary in the State rests with the courts rather than with the Chief of the Children's Bureau. The House recedes.

Amendment no. 51: This is a clarifying amendment. The House recedes.

Amendment no. 52: This amendment requires the report filed by the State with respect to estimated expenditures for maternal and child health services to include amounts appropriated or made available by political subdivisions of the State. The House bill required only amounts appropriated or made available by the State. The House recedes.

Amendment no. 53: The House bill provided that the Secretary of Labor, before stopping payments to a State for maternal and child health services on the ground that the State plan is not being complied with, should give notice and opportunity for hearing to the State agency. The Senate amendment provides that the notice and opportunity for hearing must be "reasonable". The House recedes.

Amendment no. 54: This is a clarifying amendment. The House recedes.

Amendment no. 55: The House bill provided that the methods of administration required in the State plan for services to crippled children should be such as are "found by the Chief of the Children's

Bureau to be" necessary for the efficient operation of the plan. The Senate amendment strikes out the matter above quoted so that the final judgment as to what methods are necessary in the State rests with the courts rather than with the Chief of the Children's Bureau. The House recedes.

Amendment no. 56: This is a clarifying amendment. The House recedes.

Amendment no. 57: This amendment requires the report filed by the State with respect to estimated expenditures for services to crippled children to include amounts appropriated or made available by political subdivisions of the State. The House bill required only amounts appropriated or made available by the State. The House recedes.

Amendment no. 58: The House bill provided that the Secretary of Labor, before stopping payments to a State for services to crippled children on the ground that the State plan is not being complied with, should give notice and opportunity for hearing to the State agency The Senate amendment provides that the notice and opportunity for hearing must be "reasonable." The House recedes.

Amendments nos. 59 and 60: The House bill authorized an appropriation of $1,500,000 and provided that the money so appropriated should be allotted among the States, for payment of part of the cost of county and local child-welfare services in rural areas. The purpose of the section was stated to be the cooperation with State public-welfare agencies in establishing, extending, and strengthening, in rural areas, public-welfare services for four types of children: Homeless, neglected, dependent, and those in danger of becoming delinquent. Senate amendment no. 59, besides clarifying the language of the House bill, provided that in making allotments there should be taken into consideration plans developed both by the State welfare agency and the Children's Bureau. The areas in which child-welfare services were to be encouraged were extended from "rural areas" to those "predominantly rural", and "other areas in special need" were included in the work of developing the work of State services for encouraging adequate support of child-welfare organizations. The classes of children to be aided, however, were limited to those who were homeless or neglected. Amendment no. 60 prescribes the method of making payments. The House recedes on amendment no. 60, and recedes on amendment no. 59, with an amendment, to the effect that the classes of children to be cared for will include children who are homeless, dependent, neglected, or in danger of becoming delinquent.

Amendment no. 61: The House bill authorized additional appropriations for the administration of the Vocational Rehabilitation Act of June 2, 1920, as amended by the "Federal agency authorized to administer it." The Senate amendment provides that the authorized appropriation should be for the administration of such act by the Office of Education in the Department of the Interior. The Senate recedes.

Amendments nos. 62, 63, and 64: These are clarifying amendments. The House recedes.

Amendment no. 65: The House bill established a Social Security Board for the administration of certain portions of the act. This amendment provides that the Board shall be established in the Department of Labor. The Senate recedes.

Amendment no. 66: This amendment provides that no member of the Social Security Board during his term shall engage in any other business, vocation, or employment, and also that not more than two of the members of the Board shall be members of the same political party. The House recedes.

Amendment no. 69: This amendment provides that appointments of attorneys and experts by the Social Security Board may be made without regard to the civil-service laws. The House recedes.

Amendment no. 70: This amendment provides that the report of the Social Security Board to Congress, required by the House bill, shall be made through the Secretary of Labor. The Senate recedes.

Amendments nos. 71 and 72: The House bill provided that if more or less than the correct amount of tax under title VIII is paid with respect to any wage payment, then proper adjustments should be made in connection with subsequent wage payments to the same individual by the same employer. The Senate amendments provide that such adjustments shall be made without interest. The House recedes.

Amendment no. 73: This amendment provides that if the tax imposed by title VIII is not paid when due there shall be added as part of the tax interest at the rate of one-half of 1 percent per month from the date the tax became due until paid. Under the House bill the rate was one percent a month. The House recedes with an amendment correcting a clerical error.

Amendment no. 74: This amendment provides that the Postmaster General shall each month send a statement to the Treasury of the additional expenditures incurred by the Post Office Department in carrying out its duties under this act, and that the Secretary of the Treasury shall be directed to advance from time to time to the credit of the Post Office Department, "from appropriations made for the collection and payment of taxes provided under section 707 of this title", such amounts as may be required for additional expenditures incurred by the Post Office Department in the performance of the duties and functions required of the Postal Service by the act. The House recedes with clarifying amendments.

Amendments nos. 75 and 77: The House bill excepted from the term "employment", as used in title VIII imposing certain excise taxes, service performed as an officer or member of the crew of a vessel documented under the laws of the United States or of any foreign country. The Senate amendments strike out this exception and expressly include within the definition of "employment" service performed as an officer or member of the crew of a vessel documented under the laws of the United States. The Senate recedes.

Amendment no. 76: The House bill excepted from the term "employment", as used in title VIII relating to certain excise taxes, service performed by an individual who has attained the age of 65. The Senate amendment strikes out this exception. The Senate recedes.

Amendments nos. 78, 79, and 80: These are amendments to paragraph numbers. The Senate recedes.

Amendment no. 81: The House bill in defining the term "employment", as used in title VIII imposing certain excise taxes, excepted service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual. The Senate amendment adds to the list of purposes "or hospital" as a clarifying amendment. The Senate recedes in conformity with the action on amendment no. 15.

Amendment no. 82: This amendment excepts from the definition of "employment", as used in title VIII relating to certain excise taxes, service performed in the employ of a corporation, community chest, fund or foundation, organized and operated exclusively for the prevention of cruelty to children or animals. The House recedes.

Amendment no. 85: This is a change in a title heading. The House recedes with an amendment to conform to the action on amendment no. 91.

Amendments nos. 86 and 87: The House bill provided as one of the conditions for the approval of a State law for unemployment compensation that the law must provide that all compensation is to be paid through public employment offices in the State. The Senate amendment changes this requirement so that compensation must be paid through public employment offices in the State to the extent that such offices exist and are designated by the State for the purpose. The Senate recedes on amendment no. 86 and the House recedes on amendment no. 87 with an amendment changing the language of the amendment. The effect of the action of the conferees is to provide that the Board shall not approve any State law unless the law provides that all compensation is to be paid through public employment offices in the State or such other agencies as the Board may approve.

Amendment no. 88: The House bill provided that the Social Security Board shall certify each State whose unemployment compensation law is approved, except that it shall not certify any State which, after notice and opportunity for hearing to the State agency, the Board finds has changed its law so that it no longer contains the provisions specified in the bill or has failed substantially to comply with such provisions. The Senate amendment provides that the notice and opportunity for hearing must be "reasonable." The House recedes.

Amendment no. 89: This amendment provides that if the excise tax imposed by title IX is not paid when due there shall be added as part of the tax interest at the rate of one-half of 1 percent per month from the date the tax became due until paid. Under the House bill the rate of interest was 1 percent per month. The House recedes.

Amendments nos. 90 and 91: The House bill provided that the term "employment", as used in title IX, should not include any person unless on each of some 20 days during the taxable year, each day being in a different calendar week, the total number of individuals who were in his employ for some portion of the day (whether or not at the same moment of time) was 10 or more. The Senate

amendments reduce the number of days from 20 to 13, and the number of individuals from 10 to 4. The Senate recedes on amendment numbered 90, and the House recedes on amendment numbered 91 with an amendment fixing the number of individuals at eight.

Amendment no. 92: The House bill in defining the term "employment", as used in title IX relating to certain excise taxes, excepted service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, no part of the net earnings of which inures to the benefit or any private shareholder or individual. The Senate amendment adds to the list of purposes "or hospital" as a clarifying amendment. The Senate recedes in conformity with the action on amendment no. 15.

Amendment no. 93: This amendment excepts from the definition of "employment" as used in title IX, imposing certain excise taxes, service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for the prevention of cruelty to children or animals. The House recedes.

Amendment no. 94: Under the House bill in title IX providing for a tax on employers with a credit against the tax of contributions paid into an employment fund under a State law, the term "unemployment fund" was defined as a fund, "all the assets of which are mingled and undivided and in which no separate account is maintained with respect to any person"; in other words, requiring a "pooled" fund. The Senate amendment strikes out this requirement leaving it to the State to define the character of its special fund. The House recedes.

Amendment no. 95: This is a clerical amendment. The House recedes.

Amendments nos. 96 and 97: Amendment no. 96 provides that a taxpayer under section 901 (unemployment excise tax) may, for 1938, or any taxable year thereafter, obtain an additional credit against his tax, under certain conditions. A taxpayer carrying on business in a State will credit against the tax the amount of his contributions under the law of that State; and, under this new section, he will also credit the amount by which his contributions are less than they would have been if he had been contributing at the maximum rate in the State. The additional credit, however, is limited by not allowing it to exceed the difference between the actual amount paid and the amount he would have paid at a 2.7 percent rate; and the amendment also provides for limiting the additional credit to the proper difference allowed by the State law, diminishing it if the employer has failed to make any of the contributions required of him. In figuring what contributions the employer would have paid at the maximum rate, the highest rate applicable to any employer each time when contributions are payable is the rate considered. The amendment also provides that even if an employer is getting credit under section 902 and additional credit under this section, he shall never credit against tax more than 90 percent of the tax.

Amendment no. 97 places restrictions on the allowance of the additional credit.

(1) A taxpayer who has been contributing to a pooled fund and is allowed a lower rate than that imposed on other employers in the

State will get the additional credit only if he has had 3 years' compensation experience under the State law, and only if the lower rate is fixed as a result of his comparatively favorable experience.

(2) The taxpayer may have guaranteed the employment of his employees, and be contributing to a guaranteed employment account maintained by the State agency. In this case, if he claimed the additional credit under section 909, he would get it only if his guaranty had been fulfilled, and only if his guaranteed employment account amounted to at least 7½ percent of his guaranteed pay roll.

(3) The taxpayer may be contributing to a separate reserve account from which benefits are payable only to his employees. If he claims the additional credit under section 909, it would be allowed only if, in the preceding year, those of his employees who became unemployed and were eligible for compensation received compensation from the reserve account. Furthermore, the additional credit would be allowed only if the reserve account amounted to 7½ percent of his pay roll, and was at least five times larger than the amount paid out from it, in compensation, in that year (among the 3 preceding years) when the greatest amount was thus paid out from it.

The amendment also defines terms used in this section:

(1) "Reserve account" is defined as a separate account in a State unemployment fund, from which compensation is payable only to the former employees of the employers contributing to the account. The account may be maintained with respect to one employer or a group of employers.

(2) "Pooled fund" is an unemployment fund (or part of such a fund, if some employers are maintaining separate accounts in the fund) in which all contributions are mingled and undivided. Compensation is payable from it regardless of whether the claimant was formerly in the employ of an employer contributing to the pooled fund; but where some employers in the State have reserve accounts, their former employees get compensation from the pooled fund only if the reserve accounts are exhausted.

(3) "Guaranteed employment account" is, like a reserve account, a separate account in an unemployment fund, but it can be maintained only with respect to certain employers. Compensation is payable from it to those of such employer's employees who, having been guaranteed employment, nevertheless become unemployed due to a failure to fulfill the guaranty, or become unemployed at the end of the year for which the guaranty was made, due to the nonrenewal of the guaranty. To be a "guaranteed employment account", such separate account would have to be maintained with respect to an employer who had guaranteed the wages of all of his employees (or, if he maintains more than 1 distinct business establishment, of all the employees in at least 1 such establishment), for at least 40 weeks in a 12-month period. The wages guaranteed should be for at least 30 hours a week; but if 41 weeks, for instance, were guaranteed instead of 40, the weekly hours guaranteed could be cut from 30 to 29; and if 42 weeks were guaranteed, only 28 hours' wages per week would need to be guaranteed. While ordinarily all the employees would have to be covered, the employer would not have to extend the guaranty to any new employee until the latter had served a probationary period of not more than 12 consecutive weeks.

(4) "Year of compensation experience", used only in relation to an employer, is defined as any calendar year during which, at all times in the year, a former employee of such employer, if there was one who was eligible for compensation, could receive compensation under the State law.

Amendments nos. 98 to 104: These amendments insert a new title to provide for grants to States for aid to the blind, authorizing $3,000,000 for the fiscal year ending June 30, 1936, and thereafter a sum sufficient to carry out the title. Aid to the blind is defined as money payments to permanently blind individuals and money expended for locating blind persons, for providing diagnoses of their eye condition, and for training and employment of the adult blind. The payments are to be made on an equal matching basis, the machinery for the payments being modeled on the provisions of title I relating to old-age assistance. The administration of the title is placed in the Social Security Board. The State plan in order to be approved must, in addition to similar requirements as in the case of title I, provide that no aid will be furnished an individual with respect to any period with respect to which he is receiving old-age assistance under a State plan approved under title I. The State plan must also provide that money payments to a permanently blind individual will be granted in direct proportion to his need and the plan must also contain definitions of "blindness" and "needy individuals" which meet the approval of the Board. There is no age requirement and the Federal contribution in the case of any individual is not to exceed $15 a month. The House recedes on this new title with amendments striking out the provisions relating to the expenditure of moneys for locating blind persons, for providing diagnoses of their eye condition, and for training and employment of the adult blind; providing for money payments to blind persons in lieu of persons who are "permanently" blind; and omitting the requirements that the State plan must provide that money payments will be granted in direct proportion to the need of the individual and that the plan must contain definitions of "blindness" and "needy individuals."

Amendment no. 105: This amendment provides pensions for heads of families and single persons of Indian blood over 65 years of age, payable from the Federal Treasury. The pension is $30 a month, reduced in the amount of the annual income. The amendment also provides for a pension of $10 a month for persons of Indian blood under 65 years of age but permanently blind, and also a pension of $10 a month for persons of Indian blood crippled or otherwise disabled. Indians and Eskimos of Alaska are to receive pensions in one-half the amounts above provided. The Senate recedes.

Amendments nos. 106, 107, 110, 111, 112, and 113: These amendments make changes in title and section numbers. The House recedes with the necessary amendments.

Amendments nos. 108 and 109: The House bill provided that nothing in the act should be construed as authorizing any Federal official, in carrying out any provision of the act, to take charge of a child over the objection of either parent, or of the person standing in loco parentis to the child, "in violation of the law of a State." Senate amendment numbered 108 added State officials to the officials

affected by the amendment and Senate amendment numbered 109 struck out the language above quoted "in violation of the law of a State." The Senate recedes on amendment numbered 108 and the House recedes on amendment numbered 109.

The House recedes from its disagreement to the amendment of the Senate to the title of the bill.

On amendments nos. 17, 67, 68, 83, and 84 (dealing with the exemption of private pension plans in titles II and VIII) the conferees are unable to agree.

R. L. DOUGHTON,
SAM B. HILL,
THOS. H. CULLEN,
ALLEN T. TREADWAY,
ISAAC BACHARACH,
*Managers on the part of the House.*

O

CONFERENCE REPORT OF SOCIAL-SECURITY BILL

Mr. DOUGHTON. Mr. Speaker, I ask unanimous consent that I may have until midnight tonight to file a conference report on H. R. 7260, the social-security bill.

The SPEAKER. Is there objection?

There was no objection.

SOCIAL SECURITY BILL

Mr. DOUGHTON. Mr. Speaker, I call up the conference report upon the bill (H. R. 7260) to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws; to establish a social security board; to raise revenue; and for other purposes, and ask unanimous consent that the statement be read in lieu of the report.

The SPEAKER. The gentleman from North Carolina calls up the conference report upon the bill 7260, and asks unanimous consent that the statement be read in lieu of the report. Is there objection?

Mr. NICHOLS. Mr. Speaker, I reserve the right to object. Is this the conference report that has to do with the social security bill?

The SPEAKER. The Chair so understands it.

Mr. NICHOLS. Then I desire to propound a parliamentary inquiry. Will the reading of the statement, rather than the reading of the report, preclude Members from having an opportunity to vote for the approval or disapproval and to be heard upon the report of the conferees?

The SPEAKER. Not at all. As to the reading of the statement, it is up to the House to adopt the report, the time for debate being in control of the gentleman from North Carolina.

Mr. NICHOLS. I am just a little green on the parliamentary procedure, and I wanted to know that this would not foreclose the House on any rights in considering the conference report.

The SPEAKER. Not at all. Is there objection?

There was no objection, and the Clerk read the statement.

The conference report and statement are as follows:

CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7260) to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment-compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 2, 3, 6, 7, 8, 10, 11, 12, 13, 14, 15, 18, 22, 23, 24, 25, 26, 27, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 40, 41, 42, 43, 44, 61, 65, 70, 75, 76, 77, 78, 79, 80, 81, 86, 90, 92, 105, and 108.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 5, 9, 16, 20, 21, 28, 39, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 60, 62, 63, 64, 66, 69, 71, 72, 82, 88, 89, 93, 94, 95, 96, 97, 98, 102, 103, and 109, and agree to the same.

Amendment numbered 4: That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: ": *Provided*, That the State plan, in order to be approved by the Board, need not provide for financial participation before July 1, 1937, by the State, in the case of any State which the Board, upon application by the State and after reasonable notice and opportunity for hearing to the State, finds is prevented by its constitution from providing such financial participation"; and the Senate agree to the same.

Amendment numbered 19: That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: " or such other agencies as the Board may approve"; and the Senate agree to the same.

Amendment numbered 59: That the House recede from its disagreement to the amendment of the Senate numbered 59, and agree to the same with an amendment as follows: On page 8 of the Senate engrossed amendments strike out line 12 and insert in lieu thereof the following: " welfare services (hereinafter in this section referred to as 'child-welfare services') for the protection and care of homeless, dependent, and neglected children, and children in danger of becoming delinquent" and a comma; and the Senate agree to the same.

Amendment numbered 73: That the House recede from its disagreement to the amendment of the Senate numbered 73, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "If the tax is not paid when due, there shall be added as part of the tax interest (except in the case of adjustments made in accordance with the provisions of sections 802 (b) and 805) at the rate of one-half of 1 per centum per month from the date the tax became due until paid." and the Senate agree to the same.

Amendment numbered 74: That the House recede from its disagreement to the amendment of the Senate numbered 74, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: " together with a statement of the additional expenditures in the District of Columbia and elsewhere incurred by the Post Office Department in performing the duties imposed upon said Department by this act, and the Secretary of the Treasury is hereby authorized and directed to advance from time to time to the credit of the Post Office Department from appropriations made for the collection of the taxes imposed by this title, such sums as may be required for such additional expenditures incurred by the Post Office Department"; and the Senate agree to the same.

Amendment numbered 85: That the House recede from its disagreement to the amendment of the Senate numbered 85, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following "EIGHT"; and the Senate agree to the same.

Amendment numbered 87: That the House recede from its disagreement to the amendment of the Senate numbered 87, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: " or such other agencies as the Board may approve"; and the Senat agree to the same.

Amendment numbered 91: That the House recede from its disagreement to the amendment of the Senate numbered 91, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "eight"; and the Senate agree to the same.

Amendment numbered 99: That the House recede from its disagreement to the amendment of the Senate numbered 99, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"APPROPRIATION

"SECTION 1001. For the purpose of enabling each State to furnish financial assistance, as far as practicable under the conditions in such State, to needy individuals who are blind, there is hereby authorized to be appropriated for the fiscal year ending June 30, 1936, the sum of $3,000,000, and there is hereby authorized to be appropriated for each fiscal year thereafter a sum sufficient to carry out the purposes of this title. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Social Security Board, State plans for aid to the blind."

And the Senate agree to the same.

Amendment numbered 100: That the House recede from its disagreement to the amendment of the Senate numbered 100, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"STATE PLANS FOR AID TO THE BLIND

"SEC. 1002. (a) A State plan for aid to the blind must (1) provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them; (2) provide for financial participation by the State; (3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan; (4) provide for granting to any individual, whose claim

for aid is denied, an opportunity for a fair hearing before such State agency; (5) provide such methods of administration (other than those relating to selection, tenture of office, and compensation of personnel) as are found by the Board to be necessary for the efficient operation of the plan; (6) provide that the State agency will make such reports, in such form and containing such information, as the Board may from time to time require, and comply with such provisions as the Board may from time to time find necessary to assure the correctness and verification of such reports; and (7) provide that no aid will be furnished any individual under the plan with respect to any period with respect to which he is receiving old-age assistance under the State plan approved under section 2 of this Act.

"(b) The Board shall approve any plan which fulfills the conditions specified in subsection (a), except that it shall not approve any plan which imposes, as a condition of eligibility for aid to the blind under the plan—

"(1) Any residence requirement which excludes any resident of the State who has resided therein five years during the nine years immediately preceding the application for aid and has resided therein continuously for one year immediately preceding the application; or

"(2) Any citizenship requirement which excludes any citizen of the United States."

And the Senate agree to the same.

Amendment numbered 101: That the House recede from its disagreement to the amendment of the Senate numbered 101, and agree to the same with the following amendments: On page 24 of the Senate engrossed amendments, line 19, strike out "permanently", and on page 25 of the Senate engrossed amendments, line 16, strike out "permanently"; and the Senate agree to the same.

Amendment numbered 104: That the House recede from its disagreement to the amendment of the Senate numbered 104, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"DEFINITION

"SEC. 1006. When used in this title the term "aid to the blind" means money payments to blind individuals."

And the Senate agree to the same.

Amendment numbered 106: That the House recede from its disagreement to the amendment of the Senate numbered 106, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "XI"; and the Senate agree to the same.

Amendment numbered 107: That the House recede from its disagreement to the amendment of the Senate numbered 107, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "1101"; and the Senate agree to the same.

Amendment numbered 110: That the House recede from its disagreement to the amendment of the Senate numbered 110, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "1102"; and the Senate agree to the same.

Amendment numbered 111: That the House recede from its disagreement to the amendment of the Senate numbered 111, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following "1103"; and the Senate agree to the same.

Amendment numbered 112: That the House recede from its disagreement to the amendment of the Senate numbered 112, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following "1104"; and the Senate agree to the same.

Amendment numbered 113: That the House recede from its disagreement to the amendment of the Senate numbered 113, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following "1105"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill and agree to the same.

The committee of conference have not agreed on the following amendments: Amendments numbered 17, 67, 68, 83, and 84.

R. L. DOUGHTON,
SAM. B. HILL,
THOS. H. CULLEN,
ALLEN T. TREADWAY,
ISAAC BACHARACH,
*Managers on the part of the House.*

PAT HARRISON,
WILLIAM H. KING,
WALTER F. GEORGE,
HENRY W. KEYES,
ROBERT M. LA FOLLETTE, JR.,
*Managers on the part of the Senate.*

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7260) to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

On amendment no. 1: The House bill, with reference to the appropriation authorized for grants to States for old-age assistance, stated that the appropriation was for the purpose of enabling each State to furnish financial assistance assuring, as far as practicable under the conditions in such State, a reasonable subsistence compatible with decency and health to aged individuals without such subsistence. The Senate amendment states that the appropriation is for the purpose of enabling each State to furnish financial assistance, as far as practicable under the conditions in such State, to aged needy individuals. The House recedes.

On amendments nos. 2 and 3: The House bill required the State plan for old-age assistance to provide that if the State or any of its political subdivisions collects from the estate of any recipient any amount with respect to old-age assistance under the plan, one-half of the net amount so collected shall be promptly paid to the United States. The Senate amendments provide for the repayment to the United States in such cases, instead of one-half of the net amount so collected, a portion of the net amount collected proportionate to the part of the old-age assistance representing payments made by the United States. The Senate recedes.

On amendment no. 4: This amendment provides that in order to assist the aged of States, who have no State system of old-age pensions, until an opportunity is afforded the States to provide for a State plan, the Secretary of the Treasury shall pay to each State for each quarter until not later than July 1, 1937, in lieu of the amounts payable under the House bill which were to be matched by the States, an amount sufficient to afford old-age assistance to each needy individual within the State who at the time of such expenditure is 65 years of age or older, and who is declared by such agency as may be designated by the Social Security Board to be entitled to receive the same, old-age assistance not in excess of $15 a month.

The House recedes with an amendment, in lieu of the Senate amendment, which provides that the State plan for old-age assistance, in order to be approved by the Board, need not provide for financial participation before July 1, 1937, by the State, in the case of any State which the Board, upon application by the State and after reasonable notice and opportunity for hearing to the State, finds is prevented by its constitution from providing such financial participation.

On amendment no. 5: The House bill provided that the Board, before stopping payments to a State for old-age assistance on the ground that the State plan is not being complied with, should give notice and opportunity for hearing to the State agency. The Senate amendment provides that the notice and opportunity for hearing must be "reasonable." The House recedes.

On amendments nos. 6, 7, and 8: The House bill, with reference to the "Old-age reserve account" for the payment of Federal old-age benefits under title II, provided that the amount of authorized appropriations should be based upon such tables of mortality as the Secretary of the Treasury should adopt; that the Secretary of the Treasury should submit annually to the Bureau of the Budget an estimate of the appropriations to be made to the account; and that he should include in his annual report the actuarial status of the account. The Senate amendments transfer these duties to the Social Security Board. The Senate recedes.

On amendment no. 9: This amendment provides that for every month during which the Board finds that an aged person, otherwise qualified for Federal old-age benefits under title II, is regularly employed, after he attains the age of 65, a month's benefit will be withheld from such person, under regulations prescribed by the Board, by deductions from one or more payments of old-age benefits to such person. The House recedes.

On amendments nos. 10 and 11: The House bill excepted from the term "employment", as used in title II relating to the payment of Federal old-age benefits, service performed as an officer or member of the crew of a vessel documented under the laws of the United States or of any foreign country. The Senate amendments strike out this exception and expressly include within the definition of "employment" service performed as an officer or member of the crew of a vessel documented under the laws of the United States. The Senate recedes.

On amendments nos. 12, 13, and 14: These amendments make changes in paragraph numbers. The Senate recedes.

On amendment no. 15: The House bill in defining the term "employment", as used in title II relating to the payment of Federal old-age benefits, excepted service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual. The Senate amendment adds to the list of purposes "or hospital" as a clarifying amendment. The Senate recedes, the conferees omitting this language as surplusage, based on the fact that the Internal Revenue Bureau has uniformly construed language in the income-tax laws, identical with that found in the House bill, as exempting hospitals not operated for profit, and also on the fear that the insertion of the words added by the Senate amendment might interfere with the continuation of the long-continued construction of the income-tax law.

On amendment no. 16: This amendment excepts from the definition of "employment", as used in title II, relating to the payment of Federal old-age benefits, service performed in the employ of a corporation, community chest, fund, or foundation organized and operated exclusively for the prevention of cruelty to children or animals. The House recedes.

On amendments nos. 18 and 19: The House bill provided that the Social Security Board should not certify for payment to any State under title III amounts for the administration of the State unemployment-insurance law unless such law provides for payment of unemployment compensation solely through public employment offices in the State. The Senate amendments require that the State law must provide for payment of unemployment compensation through public employment offices in the State to the extent that such offices exist and are designated by the State for the purpose. The Senate recedes on amendment no. 18, and the House recedes on amendment no. 19 with an amendment changing the language of the amendment. The effect of the action of the conferees is to provide that the State law cannot be approved by the Board unless it provides for the payment of unemployment compensation solely through public employment offices in the State or such other agencies as the Board may approve.

On amendment no. 20: The House bill provided that the Board, before stopping payments to a State for grants for unemployment-compensation administration on the ground that the State plan is not being complied with, should give notice and opportunity for hearing to the State agency. The Senate amendment provides that the notice and opportunity for hearing must be "reasonable." The House recedes.

On amendment no. 21: The House bill, with reference to the appropriation authorized for grants to States for aid to dependent children, stated that the appropriation was for the purpose of enabling each State to furnish financial assistance assuring, as far as practicable under the conditions in such State, a reasonable subsistence compatible with decency and health to dependent children without such subsistence. The Senate amendment states that the appropriation is for the purpose of enabling each State to furnish financial assistance, as far as practicable under the conditions in such State, to needy dependent children. The House recedes.

On amendments nos. 22 to 27, 29 to 38, and 40 to 44: The House bill placed the administration of title IV, relating to grants to States for aid to dependent children in the Social Security Board. The Senate amendments transfer these functions in part to the Secretary of Labor and in part to the Chief of the Children's Bureau, and make clerical changes to carry out this policy. The Senate recedes.

On amendment no. 28: The House bill in title IV, relating to grants to States for aid to dependent children, provided that no State plan should be approved which imposes as a condition for eligibility for aid to dependent children a residence requirement which denies aid to any child residing in the State who was born in the State within 1 year immediately preceding the application. The Senate amendment permits the State plan to deny aid to such a child if its mother has not resided in the State for 1 year immediately preceding the birth. The House recedes.

On amendment no. 39: The House bill provided that the Board, before stopping payments to a State for aid to dependent children on the ground that the State plan is not being complied with, should give notice and opportunity for hearing to the State agency. The Senate amendment provides that the notice and opportunity for hearing must be "reasonable." The House recedes.

On amendment no. 45: This amendment adds to the definition of a "dependent child" for the purposes of title IV, giving aid to dependent children, a requirement that the child must have been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent. The House recedes.

On amendment no. 46: The House bill in defining the term "dependent child" for the purposes of title IV, relating to grants to States for aid to dependent children, contained a requirement that the child must be living in a "residence" maintained by one or more of certain relatives as his or their own home. The Senate amendment clarifies the meaning of the word "residence" by making it certain that it is not confined to a separately maintained house but refers to any place of abode, whether a separate house, an apartment, a room, a houseboat, or other place of abode. The House recedes.

On amendments nos. 47 and 48: Under the House bill the allotments to each State from appropriations made for maternal and child-health services were made on the basis of the live births in such State as compared with the total number of live births in the United States. The Senate amendments provide that the proration shall be made on the basis of figures for the latest calendar year for which the Bureau of the Census has available statistics. The House recedes.

On amendment no. 49: This is a clarifying amendment. The House recedes.

On amendment no. 50: The House bill provided that the methods of administration required in the State plan for maternal and child-health services should be such as are "found by the Chief of the Children's Bureau to be" necessary for the efficient operation of the plan. The Senate amendment strikes out the matter above quoted so that the final judgment as to what methods are necessary in the State rests with the courts rather than with the Chief of the Children's Bureau. The House recedes.

On amendment no. 51: This is a clarifying amendment. The House recedes.

On amendment no. 52: This amendment requires the report filed by the State with respect to estimated expenditures for maternal and child-health services to include amounts appropriated or made available by political subdivisions of the State. The House bill required only amounts appropriated or made available by the State. The House recedes.

On amendment no. 53: The House bill provided that the Secretary of Labor, before stopping payments to a State for maternal and child health services on the ground that the State plan is not being complied with, should give notice and opportunity for hearing to the State agency. The Senate amendment provides that the notice and opportunity for hearing must be "reasonable." The House recedes.

On amendment no. 54: This is a clarifying amendment. The House recedes.

On amendment no. 55: The House bill provided that the methods of administration required in the State plan for services to crippled children should be such as are "found by the Chief of the Children's Bureau to be" necessary for the efficient operation of the plan. The Senate amendment strikes out the matter above quoted so that the final judgment as to what methods are necessary in the State rests with the courts rather than with the Chief of the Children's Bureau. The House recedes.

On amendment no. 56: This is a clarifying amendment. The House recedes.

On amendment no. 57: This amendment requires the report filed by the State with respect to estimated expenditures for services to crippled children to include amounts appropriated or made available by political subdivisions of the State. The House bill required only amounts appropriated or made available by the State. The House recedes.

On amendment no. 58: The House bill provided that the Secretary of Labor, before stopping payments to a State for services to crippled children on the ground that the State plan is not being complied with, should give notice and opportunity for hearing to the State agency. The Senate amendment provides that the notice and opportunity for hearing must be "reasonable." The House recedes.

On amendments nos. 59 and 60: The House bill authorized an appropriation of $1,500,000 and provided that the money so appropriated should be allotted among the States for payment of part of the cost of county and local child welfare services in rural areas. The purpose of the section was stated to be the cooperation with State public welfare agencies in establishing, extending, and strengthening, in rural areas, public welfare services for four types of children—homeless, neglected, dependent, and those in danger of becoming delinquent. Senate amendment no. 59, besides clarifying the language of the House bill, provided that in making allotments there should be taken into consideration plans developed both by the State welfare agency and the Children's Bureau. The areas in which child welfare services were to be encouraged were extended from "rural areas" to those "predominantly rural", and "other areas in special need" were included in the work of developing the work of State services for encouraging adequate support of child welfare organizations. The classes of children to be aided, however, were limited to those who were homeless or neglected. Amendment no. 60 prescribes the method of making payments. The House recedes on amendment no. 60, and recedes on amendment no. 59 with an amendment, to the effect that the classes of children to be cared for will include children who are homeless, dependent, neglected, or in danger of becoming delinquent.

On amendment no. 61: The House bill authorized additional appropriations for the administration of the Vocational Rehabilitation Act of June 2, 1920, as amended, by the "Federal agency authorized to administer it." The Senate amendment provides that the authorized appropriation should be for the administration of such act by the Office of Education in the Department of the Interior. The Senate recedes.

On amendments nos. 62, 63, and 64: These are clarifying amendments. The House recedes.

On amendment no. 65: The House bill established a Social Security Board for the administration of certain portions of the act. This amendment provides that the Board shall be established in the Department of Labor. The Senate recedes.

On amendment no. 66: This amendment provides that no member of the Social Security Board during his term shall engage in any other business, vocation, or employment, and also that not more than two of the members of the Board shall be members of the same political party. The House recedes.

On amendment no. 69: This amendment provides that appointments of attorneys and experts by the Social Security Board may be made without regard to the civil service laws. The House recedes.

On amendment no. 70: This amendment provides that the report of the Social Security Board to Congress, required by the House bill, shall be made through the Secretary of Labor. The Senate recedes.

On amendments nos. 71 and 72: The House bill provides that if more or less than the correct amount of tax under title VIII is paid with respect to any wage payment, then proper adjustments should be made in connection with subsequent wage payments to the same individual by the same employer. The Senate amendments provide that such adjustments shall be made without interest. The House recedes.

On amendment no. 73: This amendment provides that if the tax imposed by title VIII is not paid when due there shall be added as part of the tax interest at the rate of one-half of 1 percent per month from the date the tax became due until paid. Under the House bill the rate was 1 percent a month. The House recedes with an amendment correcting a clerical error.

On amendment no. 74: This amendment provides that the Postmaster General shall each month send a statement to the Treasury of the additional expenditures incurred by the Post Office Department in carrying out its duties under this act, and that the Secretary of the Treasury shall be directed to advance, from time to time, to the credit of the Post Office Department, "from appropriations made for the collection and payment of taxes provided under section 707 of this title", such amounts as may be required for additional expenditures incurred by the Post Office Department in the performance of the duties and functions required of the Postal Service by the act. The House recedes with clarifying amendments.

On amendments nos. 75 and 77: The House bill excepted from the term "employment", as used in title VIII imposing certain excise taxes, service performed as an officer or member of the crew of a vessel documented under the laws of the United States or of any foreign country. The Senate amendments strike out this exception and expressly include within the definition of "employment" service performed as an officer or member of the crew of a vessel documented under the laws of the United States. The Senate recedes.

On amendment no. 76: The House bill excepted from the term "employment", as used in Title VIII relating to certain excise taxes, service performed by an individual who has attained the age of 65. The Senate amendment strikes out this exception. The Senate recedes.

On amendments nos. 78, 79, and 80: These are amendments to paragraph numbers. The Senate recedes.

On amendment no. 81: The House bill in defining the term "employment", as used in title VIII imposing certain excise taxes, excepted service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual. The Senate amendment adds to the list of purposes "or hospital" as a clarifying amendment. The Senate recedes in conformity with the action on amendment no. 15.

On amendment no. 82: This amendment excepts from the definition of "employment", as used in title VIII relating to certain excise taxes, service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for the prevention of cruelty to children or animals. The House recedes.

On amendment no. 85: This is a change in a title heading. The House recedes with an amendment to conform to the action on amendment no. 91.

On amendments nos. 86 and 87: The House bill provided as one of the conditions for the approval of a State law for unemployment compensation that the law must provide that all compensation is to be paid through public employment offices in the State. The Senate amendment changes this requirement so that compensation must be paid through public employment offices in the State to the extent that such offices exist and are designated by the State for the purpose. The Senate recedes on amendment no. 86 and the House recedes on amendment no. 87 with an amendment changing the language of the amendment. The effect of the action of the conferees is to provide that the Board shall not approve any State law unless the law provides that all compensation is to be paid through public employment offices in the State or such other agencies as the Board may approve.

On amendment no. 88: The House bill provided that the Social Security Board shall certify each State whose unemployment compensation law is approved, except that it shall not certify any State which, after notice and opportunity for hearing to the State agency, the Board finds has changed its law so that it no longer contains the provisions specified in the bill or has failed substantially to comply with such provisions. The Senate amendment provides that the notice and opportunity for hearing must be "reasonable." The House recedes.

On amendment no. 89: This amendment provides that if the excise tax imposed by title IX is not paid when due, there shall be added as part of the tax interest at the rate of one-half of 1 percent per month from the date the tax became due until paid. Under the House bill the rate of interest was 1 percent a month. The House recedes.

On amendments nos. 90 and 91: The House bill provided that the term "employment", as used in title IX, should not include any person unless on each of some 20 days during the taxable year, each day being in a different calendar week, the total number of individuals who were in his employ for some portion of the day (whether or not at the same moment of time) was 10 or more. The Senate amendments reduce the number of days from 20 to 13 and the number of individuals from 10 to 4. The Senate recedes on amendment no. 90 and the House recedes on amendment no. 91 with an amendment fixing the number of individuals at eight.

On amendment no. 92: The House bill, in defining the term "employment", as used in title IX relating to certain excise taxes, excepted service performed in the employ of a corporation, community chest, fund, or foundation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual. The Senate amendment adds to the list of purposes "or hospital" as a clarifying amendment. The Senate recedes in conformity with the action on amendment no. 15.

On amendment no. 93: This amendment excepts from the definition of "employment", as used in title IX imposing certain excise taxes, service performed in the employ of a corporation, community chest, fund, or foundation organized and operated exclusively for the prevention of cruelty to children or animals. The House recedes.

On amendment no. 94: Under the House bill in title IX, providing for a tax on employers with a credit against the tax of contributions paid into an employment fund under a State law, the term "unemployment fund" was defined as a fund "all the assets of which are mingled and undivided and in which no separate account is maintained with respect to any person"; in other words, requiring a "pooled" fund. The Senate amendment strikes out this requirement, leaving it to the State to define the character of its special fund. The House recedes.

On amendment no. 95: This is a clerical amendment. The House recedes.

On amendments nos. 96 and 97: Amendment no. 96 provides that a taxpayer under section 901 (unemployment excise tax) may, for 1938 or any taxable year thereafter, obtain an additional credit against his tax under certain conditions. A taxpayer carrying on business in a State will credit against the tax the amount of his contributions under the law of that State; and, under this new section, he will also credit the amount by which his contributions are less than they would have been if he had been contributing at the maximum rate in the State. The additional credit, however, is limited by not allowing it to exceed the difference between the actual amount paid and the amount he would have paid at a 2.7 percent rate; and the amendment also provides for limiting the additional credit to the proper difference allowed by the State law, diminishing it if the employer has failed to make any of the contributions required of him. In figuring what contributions the employer would have paid at the maximum rate, the highest rate applicable to any employer each time when contributions are payable is the rate considered. The amendment also provides that even if an employer is getting credit under section 902, and additional credit under this section, he shall never credit against tax more than 90 percent of the tax. Amendment no. 97 places restrictions on the allowance of the additional credit.

(1) A taxpayer who has been contributing to a pooled fund, and is allowed a lower rate than that imposed on other employers in the State, will get the additional credit only if he has had 3 years' compensation experience under the State law, and only if the lower rate is fixed as a result of his comparatively favorable experience.

(2) The taxpayer may have guaranteed the employment of his employees, and be contributing to a guaranteed employment account maintained by the State agency. In this case, if he claimed the additional credit under section 909, he would get it only if his guaranty had been fulfilled, and only if his guaranteed employment account amounted to at least 7½ percent of his guaranteed pay roll.

(3) The taxpayer may be contributing to a separate reserve account, from which benefits are payable only to his employees. If he claims the additional credit under section 909, it would be allowed only if, in the preceding year, those of his employees who became unemployed and were eligible for compensation received compensation from the reserve account. Furthermore, the additional credit would be allowed only if the reserve account amounted to 7½ percent of his pay roll, and was at least five times larger than the amount paid out from it, in compensation, in that year (among the 3 preceding years) when the greatest amount was thus paid out from it.

The amendments also defines terms used in this section:

(1) "Reserve account" is defined as a separate account in a State unemployment fund, from which compensation is payable only to the former employees of the employers contributing to the account. The account may be maintained with respect to one employer or a group of employers.

(2) "Pooled fund" is an unemployment fund (or part of such a fund, if some employers are maintaining separate accounts in the fund) in which all contributions are mingled and undivided. Compensation is payable from it regardless of whether the claimant was formerly in the employ of an employer contributing to the pooled fund; but where some employers in the State have reserve accounts, their former employees get compensation from the pooled fund only if the reserve accounts are exhausted.

(3) "Guaranteed employment account" is, like a reserve account, a separate account in an unemployment fund, but it can be maintained only with respect to certain employers. Compensation is payable from it to those of such employer's employees who, having been guaranteed employment, nevertheless become unemployed due to a failure to fulfill the guaranty, or become unemployed at the end of the year for which the guaranty was made, due to the nonrenewal of the guaranty. To be a "guaranteed employment account", such separate account would have to be maintained with respect to an employer who had guaranteed the wages of all of his employees (or if he maintains more than one distinct business establishment, of all the employees in at least one such establishment) for at least 40 weeks in a 12-month period. The wages guaranteed should be for at least 30 hours a week; but if 41 weeks, for instance, were guaranteed instead of

40, the weekly hours guaranteed could be cut from 30 to 29; and if 42 weeks were guaranteed, only 28 hours wages per week would need to be guaranteed. While ordinarily all the employees would have to be covered, the employer would not have to extend the guaranty to any new employee until the latter had served a probationary period of not more than 12 consecutive weeks.

(4) "Year of compensation experience", used only in relation to an employer, is defined as any calendar year during which, at all times in the year, a former employee of such employer, if there was one who was eligible for compensation, could receive compensation under the State law.

On amendments nos. 98 to 104: These amendments insert a new title to provide for grants to States for aid to the blind, authorizing $3,000,000 for the fiscal year ending June 30, 1936, and thereafter a sum sufficient to carry out the title. Aid to the blind is defined as money payments to permanently blind individuals and money expended for locating blind persons, for providing diagnoses of their eye condition, and for training and employment of the adult blind. The payments are to be made on an equal matching basis, the machinery for the payments being modeled on the provisions of title I relating to old-age assistance. The administration of the title is placed in the Social Security Board. The State plan in order to be approved must, in addition to similar requirements as in the case of title I, provide that no aid will be furnished an individual with respect to any period with respect to which he is receiving old-age assistance under a State plan approved under title I. The State plan must also provide that money payments to a permanently blind individual will be granted in direct proportion to his need and the plan must also contain definitions of "blindness" and "needy individuals" which meet the approval of the Board. There is no age requirement, and the Federal contribution in the case of any individual is not to exceed $15 a month. The House recedes on this new title with amendments striking out the provisions relating to the expenditure of moneys for locating blind persons, for providing diagnoses of their eye condition, and for training and employment of the adult blind; providing for money payments to blind persons in lieu of persons who are "permanently" blind; and omitting the requirements that the State plan must provide that money payments will be granted in direct proportion to the need of the individual and that the plan must contain definitions of "blindness" and "needy individuals."

On amendment no. 105: This amendment provides pensions for heads of families and single persons of Indian blood over 65 years of age, payable from the Federal Treasury. The pension is $30 a month, reduced in the amount of the annual income. The amendment also provides for a pension of $10 a month for persons of Indian blood under 65 years of age but permanently blind, and also a pension of $10 a month for persons of Indian blood crippled or otherwise disabled. Indians and Eskimos of Alaska are to receive pensions in one-half the amounts above provided. The Senate recedes.

On amendments nos. 106, 107, 110, 111, 112, and 113: These amendments make changes in title and section numbers. The House recedes with the necessary amendments.

On amendments nos. 108 and 109: The House bill provided that nothing in the act should be construed as authorizing any Federal official, in carrying out any provision of the act, to take charge of a child over the objection of either parent or of the person standing in loco parentis to the child "in violation of the law of a State." Senate amendment no. 108 added State officials to the officials affected by the amendment and Senate amendment no. 109 struck out the language above quoted, "in violation of the law of a State." The Senate recedes on amendment no. 108 and the House recedes on amendment no. 109.

The House recedes from its disagreement to the amendment of the Senate to the title of the bill.

On amendments nos. 17, 67, 68, 83, and 84 (dealing with the exemption of private pension plans in titles II and VIII) the conferees are unable to agree.

R. L. DOUGHTON,
SAM B. HILL,
THOS. H. CULLEN,
ALLEN T. TREADWAY,
ISAAC BACHARACH,
*Managers on the part of the House.*

Mr. DOUGHTON. Mr. Speaker, I yield 10 minutes to the gentleman from Washington [Mr. SAMUEL B. HILL].

Mr. SAMUEL B. HILL. Mr. Speaker, the conferees on the social-security bill have agreed on all of the amendments in controversy except the so-called "Clark amendments", plus an amendment to that amendment known as the "Black amendment."

There were 113 Senate amendments. There are five of those amendments constituting a group known as the "Clark amendments" and to which the House conferees disagreed in conference, and we have brought them back to the House without including them in the conference report. Of the remaining 108 Senate amendments, about 50 percent of them were agreed to by the House, and the Senate receded on about the other 50 percent, with some amendments to certain of those Senate amendments.

Most of the amendments are purely clarifying.

You will appreciate the fact that the drafting service which serves the House also serves the Senate. We pass a bill first, and they have a little more time when they go before the Senate committee to improve the language. Many of the amendments are simply to improve the language. In other words, they are clarifying amendments, I am not going to take your time with those.

There are certain outstanding Senate amendments upon which the conferees of the House have agreed and to which I wish to call your attention. The first of these is the so-called "Russell amendment." You will recall that under the old-age assistance plan, as passed by the House, the Federal Government contributes dollar for dollar to State pension funds to the extent of $15 per person per month. In order for a State to get any of this Federal contribution, the State must have a State-wide pension plan and must put that plan into operation, and then the Federal Government matches whatever amount the State puts up, to the extent of $15 per person per month.

The Russell amendment grew out of the fact that certain States have constitutional prohibitions against a State pension plan. So the Senate adopted amendment no. 4, on page 5 of the bill. That amendment, in brief, provides that any State, for a period of 2 years, which does not have a pension plan approved by the social-security board and under which it can secure Federal contribution or Federal assistance, may receive from the Federal Government during that first 2 years, $15 per person for qualified citizens of a State, qualified under the provisions of the act to receive old-age pensions. For instance, the so-called "Russell amendment" provides that the Federal Government shall contribute the entire amount of pensions to needy aged persons in those States that are not under a State pension plan, and that the amount so paid shall be $15 per month to each person in such States who can qualify under the provisions of this act.

Mr. TERRY. Will the gentleman yield?

Mr. SAMUEL B. HILL. In just a moment. States that can qualify within that period get only so much, not exceeding $15 per person, as the States contribute. A State with an approved pension plan may pay to its pensioners or its aged needy a total of $20 per month. The State in that case would pay $10 and the Federal Government would pay $10; but under the Russell amendment, where a State has no plan, the Federal Government would pay the $15 per month per person in such State.

Mr. TERRY. Will the gentleman yield now?

Mr. SAMUEL B. HILL. I yield.

Mr. TERRY. Under the Russell plan is it the gentleman's idea that those States which are financially unable to contribute to an old-age-pension plan would get the benefit of the Federal allowance up until 1937?

Mr. SAMUEL B. HILL. That was the effect of it, but it grew out of the fact——

Mr. TERRY. It grew out of that fact, but does not the gentleman feel that the people in those States which cannot contribute at this time on account of the depression should be allowed until 1937?

Mr. SAMUEL B. HILL. It simply comes down to a question of whether you are going to have a purely Federal pension fund or a Federal-aid pension fund. If you once adopt that policy you will never get out of it. It is a question for the Congress to determine, as we did determine in passing the original bill, that we would have a Federal assistance plan and not a Federal plan.

Mr. HUDDLESTON. Will the gentleman yield?

Mr. SAMUEL B. HILL. I yield.

Mr. HUDDLESTON. Is it the gentleman's interpretation of the provision agreed upon by the conferees that only those States can participate under that clause which have in their constitutions prohibitions again a pension fund?

Mr. SAMUEL B. HILL. Yes. The amendment that we bring back here is to that effect. In other words, it is applicable only to those States.

Mr. HUDDLESTON. It is applicable only to those States which have a flat prohibition in their constitutions against a pension plan?

Mr. SAMUEL B. HILL. The gentleman is correct.

Mr. HUDDLESTON. Now, may I ask the gentleman this question: Suppose States have in their constitutions tax limitations which forbid the raising of sufficient funds to pay pensions, will States in that category be able to participate?

Mr. SAMUEL B. HILL. Not under this amendment, as I understand it. In fact, they ought not to. They ought to come in with every other State. We have a number of States throughout the United States that will have to enact legislation in order to come under the provisions of this act.

This Russell amendment, as amended at the conference and brought back to you, simply places the State which has a constitutional prohibition against State pension plans on the same basis as all other States which can, under their constitutions, participate in such a plan.

Mr. NICHOLS. Mr. Speaker, will the gentleman yield?

Mr. SAMUEL B. HILL. I yield.

Mr. NICHOLS. I should like to ask the gentleman if his interpretation of the amendment finally placed in the bill by the House conferees in place of section 4 does not do simply this: That if a State has a constitutional prohibition against its legislature enacting legislation to bring the State within the purview of this bill, that under this amendment the State may participate provided some subdivision or subdivisions of the State government match the Federal grants without the State doing it itself.

Mr. SAMUEL B. HILL. The gentleman has stated it very correctly and very concisely.

Mr. NICHOLS. That being true, then this language does not mean that if there is a constitutional prohibition against the legislature passing a law to bring the State within the purview of this bill, that the Federal Government will make these grants without any contribution from the State for a period of 2 years, does it?

Mr. SAMUEL B. HILL. It does not; no.

Mr. NICHOLS. And that is exactly what the Russell amendment did, was it not?

Mr. SAMUEL B. HILL. That is what it did, not only to that class of States but to all other States for a period of 2 years—States which had no State pension plan.

Mr. NICHOLS. In the event the State constitution was silent as to whether the legislature could pass old-age-pension legislation, and assuming the attorney general of the State should hold that by reason of the constitution being silent on the subject that legislation could not be had touching it until such time as the constitution was amended, does the gentleman think that the other subdivisions of the State government down to the county and city could raise the money with which to match the Federal funds?

Mr. SAMUEL B. HILL. That would be a matter left to the interpretation of the board upon the presentation of the law and constitutional provisions.

Mr. PATMAN. Mr. Speaker, will the gentleman yield?

Mr. SAMUEL B. HILL. I yield.

Mr. PATMAN. Will the gentleman place in the RECORD the names of the States involved?

Mr. SAMUEL B. HILL. Yes; I think I can do it. The gentleman means involved by reason of some State constitutional prohibition?

Mr. PATMAN. Yes.

Mr. SAMUEL B. HILL. I am not certain that I have all the names of the States in mind; there are three or four of them. I understand that Georgia, Florida, and possibly Oklahoma and Texas are the States in question.

Mr. GREEN. Mr. Speaker, will the gentleman yield?

Mr. SAMUEL B. HILL. I yield.

Mr. GREEN. It is necessary for these county and city units to make the contribution in order to receive the benefits?

Mr. SAMUEL B. HILL. Oh, yes. Without contribution from within the States there is not going to be any payment of Federal money under this act, as amended.

Mr. GREEN. It must be matched dollar for dollar?

Mr. SAMUEL B. HILL. Yes; dollar for dollar.

Mr. McFARLANE. Mr. Speaker, will the gentleman yield right there?

Mr. SAMUEL B. HILL. Yes.

Mr. McFARLANE. Do I understand that for the next 2-year period the States affected would have to put up any money, or would they get $15 a month?

Mr. SAMUEL B. HILL. The Federal Government will not pay $15 to them unless they come through with $15 either from the State government or some subdivision of the State. They must first put up pension money to be matched by the Federal Government. They will not get any Federal money otherwise.

Mr. GREEN. I mean before this becomes effective.

Mr. SAMUEL B. HILL. That is true.

Mr. MOTT. Mr. Speaker, will the gentleman yield?

Mr. SAMUEL B. HILL. I yield.

Mr. MOTT. But as to the State which already has an old-age-pension law which may not conform to the Federal requirement, they would have to change their law before they could qualify.

Mr. SAMUEL B. HILL. Unless it is a substantial compliance, unless the law now substantially complies. The fact of the matter is most of the States will have to make some modification of their pension laws to come within the provisions of this bill.

Mr. MOTT. How will the term "substantial compliance" be interpreted?

Mr. SAMUEL B. HILL. That is a matter to be determined by the social security board; but I take it they are not going to split hairs.

Mr. MOTT. They are going to interpret it liberally?

Mr. SAMUEL B. HILL. Yes.

Mr. FERGUSON. Mr. Speaker, if the gentleman will yield, to clarify the situation, under the Russell amendment States would receive up to $15 a month without financial participation for 2 years. Under the amendment as brought in by the conferees the proposition of matching is still intact as originally provided in the House bill, and dollar for dollar has to be matched when the State participates.

Mr. SAMUEL B. HILL. I will say to the gentleman as a Member of this House you have put back upon your State the responsibility of restoring this matching provision. The money may be contributed by the communities or subdivisions of the State, for instance, but the Federal money must be matched by money within the State to make it possible for them to participate.

Mr. FERGUSON. All this requires is that the State get the money from some source if the constitution prohibits action by the State legislature.

Mr. SAMUEL B. HILL. All this does is to make State participation possible by getting money from some subdivision of the State.

Mr. DUNN of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. SAMUEL B. HILL. I yield.

[Here the gavel fell.]

Mr. DOUGHTON. Mr. Speaker, I yield 5 additional minutes to the gentleman from Washington.

Mr. DUNN of Pennsylvania. I wish the gentleman would explain this situation: In the State of Pennsylvania it will be necessary to amend the State constitution before an old-age-pension law can be passed; it is forbidden by the constitution. It would take at least 5 years to amend the constitution.

The legislature has appropriated money to give the aged relief. In the gentleman's opinion, will this bill help the aged of Pennsylvania?

Mr. SAMUEL B. HILL. It will if the counties, or some other subdivisions of the State government, will contribute pension money to match the Federal contribution.

Mr. DUNN of Pennsylvania. It is not a form of pension, because the State constitution forbids it.

Mr. SAMUEL B. HILL. I could not answer, for I do not know what the facts are.

Mr. BOILEAU. Will the gentleman yield?

Mr. SAMUEL B. HILL. I yield to the gentleman from Wisconsin.

Mr. BOILEAU. May I ask the gentleman to explain the situation in the conference agreement with reference to the State pools and the reserves within those States?

Mr. SAMUEL B. HILL. That is the La Follette amendment. The House yielded on the La Follette amendment and it goes in here as passed by the Senate. The gentleman understands what the La Follette amendment is?

Mr. BOILEAU. Yes.

Mr. SAMUEL B. HILL. The House yielded on that matter. I am not going to take more time on the La Follette amendment because it would take longer than I have at my disposal, but I think the House will be pleased to go along with it.

The social security board as provided in the House was an independent agency and the Senate put it under the Department of Labor. The conference report presents an agreement in reference to that matter. The original provision of the House bill is maintained. In other words, the social security board will be an independent agency of the Government.

We have title 10 put in by a Senate amendment, which has to do with pensions for the blind. The provisions of that amendment as agreed to by the House and as included in the conference report are that the needy blind, regardless of age, are under State plans permitted to have Federal assistance, and the Government will match State money to the extent of $15; in other words, on the same basis as the Federal participation in old-age assistance, except there is no age limit.

[Here the gavel fell.]

Mr. DOUGHTON. I yield the gentleman 5 additional minutes.

Mr. DUNN of Pennsylvania. Will the gentleman yield?

Mr. SAMUEL B. HILL. I yield to the gentleman from Pennsylvania.

Mr. DUNN of Pennsylvania. With reference to pensions for the blind in those States that do not give blind people a pension, may I ask if this bill will help the blind in those particular States?

Mr. SAMUEL B. HILL. It will not, until they adopt pension plans or what we may call "assistance plans."

Mr. DUNN of Pennsylvania. There are only 22 States in the Union that give benefits to the blind. The blind in those States will receive benefits, while the blind in the other States will not.

Mr. SAMUEL B. HILL. Only those States that have provision for the pensioning of the blind will get assistance from the Federal Government under this bill.

The Senate receded in reference to title 11, placed in there by Senate amendment, which provides a pension of $30 a month for needy Indians, to be paid wholly by the Federal Government. There were many provisions in there that we thought were ill-advised. The legislation was hastily drawn and hastily passed, as we thought, without proper consideration, and while we had a sympathetic interest in the aged and needy Indians, yet we felt that if we were to give them assistance in the form of pensions the matter should have more consideration than had been given the subject and more consideration than could be given the subject in this particular legislation; therefore, the Senate receded, and that title is out.

Mr. DIMOND. Will the gentleman yield?

Mr. SAMUEL B. HILL. I yield to the gentleman from Alaska.

Mr. DIMOND. Is it the gentleman's idea that the bill as drawn applies to Indians as well as other citizens of the United States?

Mr. SAMUEL B. HILL. It does. It is my opinion that aged Indians will receive the same benefits as aged white people or any other aged of the United States, because the Indians are by virtue of an act of Congress of 1924 citizens of the United States and have the same status as any other citizen of our country. Therefore, they are entitled to the provisions of the old-age pension under this title.

Mr. DIMOND. Then the striking out or the elimination of the Senate amendment with respect to Indians does not mean that this bill does not apply to Indians?

Mr. SAMUEL B. HILL. It does not mean that, but it does mean that the bill will apply to Indians, needy, aged, and that they will come under the provisions of title 1.

Mr. Speaker, I yield back the balance of my time.

Mr. DOUGHTON. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts [Mr. TREADWAY].

Mr. TREADWAY. Mr. Speaker, may I say at the outset that the conferees on this bill, both on the part of the Senate and the House, have devoted a great deal of attention in a very sincere and practical way to clearing up some great differences which existed in the two bills as passed by the respective bodies. There is but one impasse. We reached the point where the conferees could not compromise or agree in any way or manner in relation to what is known as the "Clark amendment."

The conference report has been explained partially by the gentleman from Washington, and he has made a careful analysis of it for the Members of the House. A little later, I understand, the chairman is agreeable to having the Clark amendment alone discussed in some detail. At that time I shall take the opportunity of speaking in support of the Clark amendment.

The minority members were glad to sign the conference report. While some of us on this side have been opposed to the whole scheme as outlined in this bill, that is water over the dam and no longer a factor. The bill has been accepted in all these details by both branches, and the job of the conferees was simply to straighten out the differences between the two branches and not go to the fundamental principles of the measure. I think the chairman of the committee and his majority colleagues are entitled to a great deal of credit for having brought about this agreement. We of the minority, in our humble capacity, have endeavored as far as we could to cooperate. We could not cooperate, however, so far as the Clark amendment was concerned. Personally, I feel it is of very great importance that we have a very full expression of opinion on the part of the House as to the merits of this particular amendment which, as I previously stated, I will discuss in some detail later. When this bill was up for discussion originally there were many most desirable factors in the bill.

Mr. Speaker, the main purpose of the bill is to secure cooperation on the part of the Federal Government for old-age annuities, old-age pensions, and unemployment insurance. Those are the major factors of the bill, but there are also, if one might say, minor items as well as "window trimmings" to a certain extent which should be taken into consideration. We are aiding in the bill some old matters, namely, public health, vocational training, and maternal and child health.

Then we are setting up in this bill, Mr. Speaker, certain new provisions, namely, aid to dependent children, aid to crippled children, child-welfare services, and pensions for the blind. These are certainly all humanitarian movements and should be given our support.

So the minor items, to my mind, are most desirable, while the major items which I have read are in some respects undesirable. The attitude one must decide in voting for or against the final passage of this bill is whether it is desirable to secure these aids with respect to so-called "minor matters" by voting for other matters that you do not approve of. This leaves us in a very embarrassing position. I want to vote for all of these minor items. I want to vote against the major provisions, because I do not think personally they are matters that the Federal Government should undertake at this time, but, in general, I want to commend to my associates on this side of the House the results of the conference, and, for one, I am very pleased to assure my associates that I approve of the conference report and will gladly support it, aside from the disapproval which I have already stated in discussing the attitude of the majority on the so-called "Clark amendment."

[Here the gavel fell.]

Mr. DOUGHTON. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio [Mr. JENKINS].

Mr. JENKINS of Ohio. Mr. Speaker, not being a member of the conference committee, I can, with propriety and without being guilty of self-adulation, go further in saying nice things about the conferees than did my good friend, the gentleman from Massachusetts [Mr. TREADWAY], because he is a member of the conference committee.

I took a rather active part in the consideration of this important bill in the House and naturally I followed the work of the conferees closely and I may say to my colleagues on the Republican side that I think we have every reason to be proud of the fairness, candor, honesty, and persistency with which the majority members of the conference, as well as the minority members, pursued their duties in handling this important conference between Members of the House and Members of the Senate.

This is probably the most important and far-reaching measure we have considered in the Congress for many years. By this I mean that it deals with the very bread and butter of more people than probably any other measure that has been before Congress for many years. It deals with the poor and the aged and the blind and with nearly every stressful condition of life that may confront unfortunate people. It provides for the poor widow with her hapless brood of orphans; it seeks out the unfortunate youth whose home life is unhappy and who is irresistibly being drawn into the maelstrom of crime and lawlessness; it seeks to remove the dark cloud of poverty that has loomed up before the last days of many old people, and to plant instead a rainbow of hope that their last days might be happy. It will tell the poor blind man and woman, the most sorely afflicted of all our people, that henceforth they need not hold out their tin cups in their thin, emaciated hands, for the people of the greatest Nation in the world have realized that it is the duty of the fortunate to make provision for the unfortunate.

While this bill indicates an advance in public aid to unfortunates, I would have you realize that this bill is not to be considered as the gift of any person or any administration to these deserving people. Rather it is simply a recognition of the sentiment of the people of the Nation toward our unfortunates. It is a milestone marking the growth of civilization from the date of the first murder that we have any record of when a member of the first human family in defense of his foul deed said, "Am I my brother's keeper?" The human race has traveled far since then, but its course has generally been upward.

The conferees were required to assume the task of resolving 113 amendments. They have discharged this duty with tact and rare sagacity. The inconsequential amendments, such as those of diction and legislative terminology, were soon disposed of. Four or five were of major importance. One was the La Follette amendment. Another was the Russell amendment. Another was restoring authority to the social security board and not dividing it so as to put authority in the Secretary of Labor, where it should not be. Another is the Clark amendment, which has not as yet been composed between the conferees, and which will receive special consideration by the House yet today. Another was the amendment including the blind within the protection of the bill. I shall revert to that a little later. For fear I might forget, I should say to those of you who were interested in the question of the constitutionality of the provisions of this bill and who participated with us in the discussions when the bill was before the House that none of these numerous amendments changes the constitutionality of the bill in the least.

Mr. RICH. Mr. Speaker, if the gentleman will yield, I should like to ask this question: Was this bill submitted to the Attorney General to determine whether it is constitutional or not?

Mr. JENKINS of Ohio. I cannot answer the gentleman as to whether the conferees sought any advice of the Attorney General, and I have no desire to enter into a discussion of the constitutionality of the measure at all in the time allotted me.

Mr. COOPER of Tennessee. Mr. Speaker, will the gentleman yield?

Mr. JENKINS of Ohio. I yield to the gentleman from Tennessee.

Mr. COOPER of Tennessee. The gentleman will recall that that matter was discussed, and as a part of my remarks I inserted the opinion of the Assistant Solicitor General on the bill.

Mr. RICH. As amended?

Mr. COOPER of Tennessee. At the time it passed the House.

Mr. JENKINS of Ohio. Yes; and I, too, referred to the uncertain and indefinite opinion of the Attorney General as to the constitutionality of certain titles of the bill, especially title 2 and title 8.

Mr. Speaker, for the remainder of my time I desire to address myself strictly to the amendment providing for relief to the blind. When this bill was up for consideration by the House I offered an amendment that would include the blind within the warm folds of the relief sections of this bill. This amendment was rejected, not on its merits or demerits but because the poor blind could be pushed aside by the young "brain trusters" who were fathering the bill at that time. The Membership of the House was favorable, but the partisan yoke was fitting much closer then than now. But the Senate has inserted an amendment providing relief for the blind in almost the exact language which was contained in my amendment. In effect the Senate adopted my amendment and the conferees have agreed to it. Those of you who were in favor of my amendment, and for whose assistance in that battle I was profoundly thankful, you may now assure your blind constituents that we have won the day and that they may feel that the flag of hope which they cannot see is flying high today. I thank the conferees in behalf of the thousands of poor blind who must grope their way through a dark world.

The Senate made only one material change in my amendment, and I wish to give them credit for it. This amendment provides that one need not be afflicted with permanent blindness in order to benefit under this law. One afflicted with temporary blindness may be included. This will be controlled by the State laws and the board in charge of the matter, who will issue regulations. Why should not a person 45 years of age, stricken with total blindness or temporary blindness for a few months or a few years, be entitled to the benefits of protection just as much as a man who has reached the age of 65 and who has the possession of his sight? Both need help if they have no means of support. To those of you who are friends of the blind, let me say that this amendment in itself will not give $15 a month to every needy, blind person in this country. Each State must pass some sort of legislation and must meet the requirements of this bill just the same as the States must meet the requirements of the bill with respect to the aged and the widows and the children in need. Each State must come forward with some constructive legislation that will match the requirements of the Federal Government in order that the blind people in your State may be taken care of.

Mr. MAY. Mr. Speaker, will the gentleman yield?

Mr. JENKINS of Ohio. I shall be pleased to yield.

Mr. MAY. I want to get one matter of information that the gentleman, no doubt, can give me. As I understand this measure as a whole, it is predicated upon the idea of participation by the States with the Federal Government.

Mr. JENKINS of Ohio. Absolutely,

Mr. MAY. Is there any provision whereby in the States, when they fail to comply with the requirements of the Federal Government, the pensioners in that State can be taken care of by the Federal Government?

Mr. JENKINS of Ohio. No. In old age and blind relief the Government contributes only when the State matches the Government. There are some provisions in this bill which provide for Federal contribution without State matching such as health and sanitation relief, but in all the major provisions of this bill State participation is a necessary condition precedent to Government participation. The philosophy of this plan is to put the administration of this class of relief upon the States and thereby hold it as close to the

people as possible. This class of relief is close to the hearts of the people. They should be permitted to administer it under close and strictly drawn regulations. This relief to the blind is intended to make them self-sustaining and to encourage them to feel that they are not unwelcome, but on the other hand that they are recognized as a part of our citizenship and are entitled to encouragement to help balance the natural handicap under which they are constantly placed. The Savior of man had compassion for the blind. Man himself has sympathy for the blind. This bill permits this sympathy to take tangible form. It transforms sympathy into money, which is a very practical guaranty for happiness. [Applause.]

[Here the gavel fell.]

Mr. DOUGHTON. Mr. Speaker, I yield 5 minutes to the gentleman from Arkansas [Mr. MILLER].

Mr. MILLER. Mr. Speaker, I should like to discuss for a minute the parliamentary situation and the question before us insofar as the Russell amendment is concerned. I do not agree to all that was said by the gentleman from Washington [Mr. SAMUEL B. HILL] as to the effect of the amendment proposed by the conferees. Neither do I agree to the procedure we are following which deprives the House of the right to a separate vote on an amendment as vital as the Russell amendment.

The question presented here is that we must vote the report up or down before the House can express itself as to whether or not they want to adopt and retain the Russell amendment. If we vote the conference report down a motion can then be presented to recede and concur in the Senate amendment, the Russell amendment, which is so vital to some of the States, including Arkansas. If the report is adopted we cannot have a vote on the Russell amendment. Such procedure is not right and in order for us to try to obtain justice for the aged we should vote the conference report down.

It is said that the amendment proposed by the conferees requires contribution on the part of some agency in the State where the State constitution prohibits the passage of participation laws.

Mr. SAMUEL B. HILL. Will the gentleman yield?

Mr. MILLER. I yield.

Mr. SAMUEL B. HILL. It does require the payment.

Mr. MILLER. Where is it so provided?

Mr. SAMUEL B. HILL. Because we did not take it out.

Mr. MILLER. Look at the conference report at the bottom of page 1. It says, "In lieu of the matter proposed to be inserted by the Senate amendment insert the following." What does "lieu" mean?

Mr. SAMUEL B. HILL. The bill, section 3, page 4, provides:

> From the sums appropriated therefor the Secretary of the Treasury shall pay to each State which has an approved plan for old-age assistance, for each quarter, beginning with the quarter commencing July 1, 1935, an amount which shall be used exclusively as old-age assistance equal to one-half of the total of the sum expended during such quarter as old-age assistance under the State plan with respect to each individual—

And so forth. We do not relieve somebody in the State from putting up the money.

Mr. MILLER. The only agency that could put up anything is the State itself.

The gentleman says that there are a few States in the Union who could not comply because of the constitutional provisions. I do not know how many States there are, but I understand Georgia is one of them. The contention I make is that if a contribution from the Federal Government is justified, it ought to go to all States alike and should not be dependent upon the constitutional provisions of a State nor upon its present ability to match the Federal funds.

They say it is a question of Federal aid or Federal pension. I do not care what you term it. There is no justification for discriminating against a citizen of Oklahoma or Arkansas or anywhere else in favor of a citizen in any other State. This Federal money is being contributed by the Federal Government, and it ought to go to all of the citizens who are eligible, and we ought to have a right to a separate vote as to whether or not we will accept the Russell amendment and thus do justice to all citizens regardless of where they may live.

Mr. SAUTHOFF. Mr. Speaker, will the gentleman yield?

Mr. MILLER. Yes.

Mr. SAUTHOFF. What have those States the gentleman mentions done within the last 6 months to remove these constitutional obstacles?

Mr. MILLER. I can speak only for Arkansas. We have passed laws to raise money, even to a sales tax.

Mr. SAUTHOFF. What has your State done with regard to the constitutional prohibition?

Mr. MILLER. We have no constitutional prohibition against the enactment of old-age pension laws, and we have enacted such laws, but I know that our eligibles in Arkansas will not receive the sum of $15 a month from the Federal Government, because our State will not be able to match the funds to that extent. We may be able to make some contribution, but it will be small, and I think we should have the time allowed under the amendment in which to place our State finances in shape to meet the requirements, so that our eligibles in Arkansas will receive the same amount of Federal money as is received by any citizen of any other State. That is all that the Russell amendment does, and it is fair, right, and just, and we should adopt it, or rather should agree to it, as passed by the Senate.

It is not pleasing for me to have to call the attention of the House to the fact that Arkansas will not be able to pay its eligibles a pension of $15 per month, but I am more concerned in obtaining a pension for our aged than I am in reciting to you the wonderful natural resources that are within our State, because our aged cannot live on these undeveloped natural resources, and they being citizens of the United States are entitled as a matter of right and justice to the same amounts as are citizens living in more populous and wealthy States, and the only way for this discrimination to be avoided now is to adopt the Russell amendment.

The SPEAKER. The time of the gentleman from Arkansas has expired.

Mr. DOUGHTON. Mr. Speaker, I yield 5 minutes to the gentleman from Arkansas [Mr. FULLER].

Mr. FULLER. Mr. Speaker, I realize that some of the States are facing a hard proposition to raise money with which to match Federal aid for old-age pensions. I realize that my State is going to be in that condition, but my State has no more rights than any other State in this Union. If Arkansas cannot comply with this law, God knows it ought not to complain and begrudge other States of the benefit. This is equal and just to all. Not only that, but Arkansas can and will comply with this law, and in a substantial manner.

Mr. MILLER. Mr. Speaker, will the gentleman yield?

Mr. FULLER. Yes.

Mr. MILLER. Does the gentleman think that Arkansas is able to contribute $15 a month to the eligibles under this bill?

Mr. FULLER. It may not be able to contribute that much, but it does not have to contribute any designated amount. The Federal Government contributes and matches any amount paid by Arkansas as a pension up to $15 per month.

Mr. MILLER. What does the gentleman think that Arkansas can contribute?

Mr. FULLER. Statistics show that Arkansas has 75,000 people over 65 years of age and that less than 15 percent of these are eligible for pensions. At $10 per person, it would mean that Arkansas would be required to raise $1,300,000, which amount, being matched by the Federal Government, would pay an average pension of $20 each. The recent legislature of our State provided for practically $1,000,000 for this purpose and we can and will raise what is necessary to take care of the eligibles who are in need over 65 years of age. If it should develop that we cannot raise $10 per person, we can reduce our contribution. In some localities, as is true everywhere, many have never made as much, on an average, as $10 a month in cash and could very well get along with

much less than $30 per month. It is true, however, in cities, where rent must be paid, a larger pension should be allowed. This measure is all based upon need, and it is not contemplated that the State and Federal Governments will provide better living conditions than these people have enjoyed during their lives. We cannot afford to kill thrift and ambition. We cannot afford to take the attitude simply because one is 65 years of age that they are going to remain on "flowery beds of ease" by reason of a big pension; this is based wholly and entirely on the theory of helping those who cannot help themselves and can never be construed anything else than a dole.

Mr. MILLER. Do I understand the gentleman to say that a citizen 65 years of age is not entitled to as much as $10 a month?

Mr. FULLER. I want to say that nobody, simply because 65 years of age, is entitled to any money as a pension; the Government owes no real obligation to give anybody a pension.

Mr. KELLER. Why not? Why are we doing it?

Mr. FULLER. Not as a governmental, legal, or financial duty, but as a humanitarian, social-welfare act to take care of the unfortunate needy—those who cannot take care of themselves.

Mr. VINSON of Kentucky. Mr. Speaker, will the gentleman yield?

Mr. FULLER. Yes.

Mr. VINSON of Kentucky. The legislatures of the respective States will determine the amount of the pension and those who are eligible.

Mr. FULLER. Certainly.

Mr. HUDDLESTON. Is it the gentleman's interpretation of this amendment, in the form reported by the conferees, that if Arkansas should make no contribution, Arkansas will get nothing?

Mr. FULLER. That is right. There are a few States in the Union, two, possibly three, which have a prohibition in their constitutions against using money for this particular purpose. They want until January 1, 1937, to correct this condition, so they can participate and get money for this purpose and receive aid from the Nation. We grant those States that request, with the provision that while the State itself cannot match the Federal money, they cannot get any money for that State unless a county or a municipality or some particular subdivision of the government matches the Federal money. None of this Federal money can go to a State unless matched by the State or a subdivision thereof. I am sorry to have to differ with my colleagues, but I am really chagrined to hear them talk about Arkansas being poverty stricken. Arkansas is not poverty stricken. Arkansas, in natural resources, is one of the most wonderful and rich States in the Union. [Applause.]

I have devoted a greater portion of my life exclaiming the grandeurs and virtues, wealth and undeveloped resources of my State. We proudly boast of Arkansas as the "Wonder State", and I cannot pass unchallenged the statement that we cannot do what other States in the Union can and will do.

In the last few years we have had unprecedented floods and droughts; in addition, we have had a financial depression which is common all over the country. Without these catastrophes we would not be seeking or accepting relief at the hands of the Federal Government. Arkansas is ready, able, and willing, and will, in a substantial way, contribute its portion and take care of its needy over 65 years of age.

The SPEAKER. The time of the gentleman from Arkansas has expired.

Mr. DOUGHTON. Mr. Speaker, I yield 2 minutes to the gentleman from Arkansas.

Mr. FULLER. We ought not to have any benefit from the Federal Treasury if we do not do our own part. The God's truth of the matter is Arkansas has received approximately $300,000,000 under this relief program and has paid only a few millions into the Federal Treasury as income taxes. What has happened in my State has happened in a great proportion of the other States of the Union. The time has come when we have to protect the Federal Treasury. We have already gone too far in appropriations for various relief. The time has come to call a halt. This dole must stop and give the country time to recover. I never thought I would live to see the day when the Federal Government would take the taxpayers' money to pay pensions to the aged; but the time has come, the emergency is here, and we might as well face it. We ought to perform this duty fairly, justly, and equitably, to all alike, and no State or any class of people are entitled to preference over any other. I have no sympathy with the argument that the Federal Government ought to bear all the burden and pay everyone a pension of a certain age and take care of everyone wanting relief. The true test should be to help the needy, those who cannot help themselves, and carry out the spirit of the Good Samaritan and to perform our duty to our neighbor who is in distress.

Every State seeking relief in the way of a pension for its citizens should match what the Federal Government is willing to pay. I realize that in the future we will hear of people running for Congress on the platform that the States should not pay any of this obligation but the Federal Government should pay it all, and in an amount possibly up to $200 a month. But we all realize that is only political propaganda for the purpose of obtaining office and that it is a burden the Government cannot possibly bear.

Mr. GIFFORD. Will the gentleman yield?

Mr. FULLER. I yield.

Mr. GIFFORD. The gentleman made the statement that there are many people in the State of Arkansas who never averaged $10 a month. Last year, under Mr. Hopkins, were they not paid the usual 45 cents an hour, and have they not made more than $10 a month?

Mr. FULLER. Yes. That is true, although those able to work and make more were only paid about $19 per month. [Applause.]

The SPEAKER pro tempore. The time of the gentleman from Arkansas [Mr. FULLER] has expired.

Mr. DOUGHTON. Mr. Speaker, I yield 3 minutes to the gentleman from Oklahoma [Mr. NICHOLS].

Mr. NICHOLS. Mr. Speaker, I am satisfied the House, when it comes to a vote, is going to do the usual thing and adopt the conference report suggested by the conferees; but you be just advised of what you are doing. There are 18 States in the United States that will not get one cent of the money provided for under this bill.

The distinguished gentlemen of the committee say that no State should be permitted to have any of this money unless they match the money. Well, why not? Where does this money come from? It comes from Federal taxation, does it not? When you gather that money, when you get Federal taxes, you go into every State in the United States and you take it from every individual in the United States. There are no boundary lines; there are no geographical subdivisions which you exempt from the payment of taxes. You collect Federal taxes from all over the United States alike. What is this? This is paying back to people in a certain class the benefits derived from Federal taxes. Then why, in the name of common sense, should you, when you get ready to pay back the benefits of government derived from Federal taxes, set up geographical boundaries or State lines and say, "Old man or old woman, 65 years of age or more, if you live in a State where the constitution will not permit that State to raise funds to match Federal funds, or if you live in a State where the legislature will not pass legislation to permit the State to meet the funds of the Federal Government, or if you live in a State whose ad valorem valuation is so low that they cannot raise money from taxation, then, old man and old woman, American citizen though you may be, old man and old woman, though you have always paid your Federal taxes, because you live in that kind of a State you will be discriminated against by the Federal Government when it gets ready to pass back to the people the benefits of government that you yourselves have helped to build up by the collection and gathering of Federal taxes"? [Applause.]

The SPEAKER pro tempore. The time of the gentleman from Oklahoma [Mr. NICHOLS] has expired.

Mr. DOUGHTON. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma [Mr. FERGUSON].

Mr. FERGUSON. Mr. Speaker, sometime ago I wrote every Member of this body explaining the fact that in the Senate was inserted an amendment by Senator RUSSELL that would allow the Social Security Act to actually pay a pension. I urged the Membership of the House to watch this bill closely and vote with me to make this bill actually pay a pension. Now is the time to take this action. I talked to many of you personally on this matter. Now we can keep our word and pass a bill to pay a pension.

You Members who are going home to States where people are not going to receive any pension are going to regret that this day you did not vote down the conference report, with instructions that the Russell amendment be retained. What are you going to do with the people who are writing you every day asking, "When are we going to get the money under President Roosevelt's social-security bill?" That is going to be a hard question to answer. If we are going to take the attitude that the committee has taken, that $15 a month will bankrupt the Treasury, then this bill is indicted as not being in good faith, because it permits that much if the States will match it. Sometime we are going to be liable for $15 a month, if the States are able to do what the Federal Government says they can do. We are not asking for a perpetual proposition. For a period of 2 years, under the Russell amendment, States can participate and the people will actually get a pension check, which they will not get under this law as drawn. [Applause.]

In my opinion, under this bill the people of Oklahoma will not receive pensions for at least a year—until such time as we vote to revise our constitution and levy taxes with which to match the funds from the Government. I hope the Membership of this House will not be misled by the substitute offered for the Russell amendment. This substitute only gives other local agencies than the State power to match Government funds until July 1, 1937. I hope, and my firm conviction is, that we will recognize that this is our last opportunity at this session of Congress to actually pay the old people of the Nation in the States that are not qualified to match Government funds, a pension. Let us vote down this conference report and instruct our conferees to accept the Russell amendment as incorporated in the Senate bill, and actually accept the responsibility of paying our old people a pension immediately on the passage of this bill. I shall be severely disappointed if we vote to accept the bill as recommended by the conferees. I know that I shall have to tell the people entitled to a pension in my State that I failed in my efforts to get them the pension they so justly deserve. I am willing to accept the challenge and work on this proposition until the old people of my district are actually receiving pensions.

In the short time allotted me by the Ways and Means Committee I am unable to make my position clear. I am afraid the Membership of the House does not fully understand the position of many States that will receive no pensions. I also fully realize that the efforts on the part of a few Members here today will be of little effect against the powerful political prestige of the Ways and Means Committee. On the whole, I think the Committee has done a good job; but in this I believe they neglected their duty to see that every qualified person in the United States should actually receive a pension. It is with little hope that I urge you to vote for this amendment in the face of such political prestige, but at least I have the satisfaction of stating my convictions on the floor of the House.

The SPEAKER pro tempore. The time of the gentleman from Oklahoma [Mr. FERGUSON] has expired.

Mr. DOUGHTON. Mr. Speaker, I yield 5 minutes to the gentleman from Kentucky [Mr. ROBSION].

Mr. ROBSION of Kentucky. Mr. Speaker, ladies and gentlemen of the House, we have before us for consideration the conference report on H. R. 7260, to provide old-age pensions and so forth.

This is President Roosevelt's bill, but has been materially amended in the Senate. It came up for consideration in the House on April 15, and at that time I made a speech during the general debate pointing out that the age limit was too high, and that the President's bill provided no relief for the needy blind or needy crippled people and the inadequacy of the amount and because of the constitutional provisions and financial conditions of many States—the States would not be able to match the Government's money and this would deny pensions to the needy old people in many States and in my State. I also pointed out the inadequacy of the appropriation, and that the amount carried in the bill would not provide more than 80 cents per month for needy old persons in the United States. While the bill was still under consideration, and on April 18, 1935, I offered an amendment (1) to fix the minimum age at 60 years instead of 65, as provided in the President's bill, (2) to provide the same amount of pension for the needy blind and needy cripples as to the needy old people, (3) my amendment also provided that the Government should pay $25 per month to aged needy persons, needy blind persons, and needy crippled persons in the United States without waiting for any contribution from the States.

This amendment was strongly urged by me, because people 60 years of age or over, under our modern system of machinery and efficiency cannot find gainful employment. People who are poor and blind, or poor and crippled, need a pension just as much as old people. I pointed out that the President's bill provided that no needy old person could get a pension until the States should first pass laws, collect taxes, and match the Government's money. I emphasized the fact that the constitution of many States would have to be changed, and the financial condition of many States was such that the States, including Kentucky, would not be able for a long period of time, if at all, to match the Government's money, and therefore, these needy old people in Kentucky and other States similarly situated would be denied any pension. These needy old, needy blind, and needy crippled people have to have help now, and my amendment provided that the Federal Government, on the passage of this act, should pay each one of them $25 per month, at least until July 1937, and gives the States time to change their constitutions, pass new laws, and match the Government's money, but the President and the Democratic leaders of the House were opposed to any such amendment, and with their big Democratic majority they were able to defeat my amendment.

The President's bill went to the Senate. The Senate amended President Roosevelt's bill in many particulars. Senator Russell offered and secured an amendment to the bill in the Senate, which provided that the Federal Government would pay a pension to needy persons 65 years of age, or over, until July 1, 1937, without requiring the State to match the Federal Government's money, but in no event could this pension exceed $15 per month.

INDIANS AND ESKIMOS PREFERRED

The Senate adopted another amendment authorizing the payment of $30 per month to Indians and Eskimos who had attained the age of 65 years, and whose income was less than $1 per day, and also provided a pension for Indians or Eskimos who are blind and under 65 years of age the sum of $10 per month. This would not require any matching and will be paid to these Indians and Eskimos when this measure is enacted into law. I am at a loss to understand why this great preference should be shown to Indians and Eskimos as against white or colored citizens of the United States. If Indians or Eskimos 65 years of age require $30 per month, and Indians and Eskimos less than 65 years of age, who are blind, require $10 per month, I cannot understand why aged needy white and colored American citizens 65 years of age and blind persons should not receive equal consideration with the Indians and Eskimos.

CONFEREES CHANGED SENATE AMENDMENT

After the bill passed the Senate, as is provided by the rules of the House and Senate, this measure was sent to conference. The conferees are made up of 5 Members of the House and 5 of the Senate. It is their business to try to reconcile the differences in the bill as passed by the House and as passed by the Senate.

The conferees modified the Senate amendment as to old-age pensions for white and colored citizens, but not as to Indians and Eskimos, and they have submitted a conference report setting forth this change, which is as follows:

Which provides that the State plan for old-age assistance, in order to be approved by the Board, need not provide for financial participation before July 1, 1937, by the State, in the case of any State which the Board, upon application by the State and after reasonable notice and opportunity for hearing to the State, finds is prevented by its constitution from providing such financial participation.

As I understand this amendment as submitted in the conference report, the Senate amendment providing for as much as $15 per month to needy people 65 years of age or over without State participation is wiped out. Under this conference amendment the Federal Government can only pay a pension to needy people 65 years of age without State participation if the constitution of such State prohibits the State from collecting taxes to provide for old-age pensions. If there is nothing in the constitution of a State prohibiting such State from collecting taxes for old-age pensions, then it must do so and match the Government's money before the Government can contribute any amount to any needy old person in such State. In other words, unless the constitution of Kentucky prohibits the State of Kentucky from collecting taxes for old-age pensions, Kentucky must levy and collect taxes and match the Government's money before anyone in Kentucky can get an old-age pension. On the other hand, if the constitution of Kentucky prohibits the collection of a tax for old-age pensions, then under this amendment submitted by the conferees' report, the Federal Government could pay to needy people in Kentucky, 65 years of age or over, and who are not confined in any institution, a pension not to exceed $15 per month.

I regret very much that this involved amendment was put into this bill. It should have remained as the Senate passed it, which provided that the Federal Government, until July 1, 1937, could pay a pension amounting to as much as $15 per month to needy people 65 years of age and over without State participation. Under the conferees' amendment it must now be debated and argued and decided whether or not the constitution of Kentucky prohibits the State of Kentucky from collecting a tax for old-age pensions. Nothing can be done to relieve the needy old people of Kentucky until this is decided, and if it should be decided that the constitution of Kentucky does not prohibit Kentucky from collecting taxes to match the Government's money for old-age pensions, then nothing can be done, and there will be no help for the aged needy in Kentucky until Kentucky passes laws, collects taxes, and matches the Government's money.

These old people need help now, and they need it very much; and I am deeply grieved that my amendment was not adopted. If it had been adopted, in a short time each needy person in Kentucky 60 years of age or over, each needy blind person, and each needy crippled person would begin receiving $25 per month.

STATE MUST MATCH FEDERAL MONEY

As I have heretofore pointed out, unless the constitution of Kentucky prohibits the collection of taxes to match the Federal money, no needy old person in Kentucky will receive any pension for a considerable time yet. This is true as to needy blind people. There is no provision in the bill for needy crippled people. The House and Senate both turned down my amendment on that, but the Senate did put in an amendment authorizing the payment of pensions to needy blind people, provided the State puts up a like sum.

This bill provides that the Government will match State money, one for two, for pensions for dependent children, needy widows, and needy orphans. This is also true as to vocational training and the public health. Unless the State of Kentucky comes along and passes laws, sets up an organization, and collects taxes to match the Federal money, this legislation will mean nothing to the needy old people, the needy blind people, needy widows, orphans, or dependent children in Kentucky, and this is true as to vocational training for crippled people.

Every citizen of every State in the Union, directly or indirectly, pays taxes into the United States Treasury. The rich States like Pennsylvania and New York, Massachusetts, Ohio, Illinois, and so forth, have provided old-age-pension systems and they are able to match the Federal funds. I am afraid that Kentucky and many other States similarly situated might not be able to match the Federal funds, and therefore we will have the spectacle of the people in the rich States receiving old-age-pension money from the Government and the people in the poor States (where they need the pensions the most) not able to meet the Government's money and not receiving any money from the Government to pay pensions.

As I have pointed out, the people of the poor States will be paying money into the Treasury to provide pensions for those living in the rich States but will themselves receive no pension benefits, and it was this and other circumstances that led me to offer and strongly urge my amendment for the Federal Government to pay each needy old person, each needy blind person, and each needy crippled person $25 per month without it being matched by the State. In this way, each and every needy old, needy blind, and needy crippled citizen of the United States would be treated alike and the Federal Government would not show any partiality among its citizens; and furthermore I know that these classes of people needed help in these terrible times of depression and they need it now and perhaps will never need it so much as they need it now.

I voted for this bill because it was the best bill we had a chance to vote for. Some day we hope to help amend this law so that it may do substantial justice to all American citizens and so that it will at least not give preference to Indians and Eskimos over white and colored citizens.

Mr. DOUGHTON. Mr. Speaker, I yield the remainder of my time to the gentleman from Kentucky [Mr. VINSON].

Mr. VINSON of Kentucky. Mr. Speaker, those of us who are concerned with legislation affecting the people of this country are, and should be, happy that this legislation is drawing near a conclusion.

Some 20 or more years ago, when a great ocean liner struck an iceberg and it became apparent that all could not be saved, our country was thrilled with the heroic utterance and obedience to the order, "Women and children first." Heroes went to watery graves to carry out this order.

Last year, in June, I think, the President of the United States sent a historic message to the Congress in which he said that with all the hazards and vicissitudes of this modern life, the first objective of government should be security for men, women, and children. A second message came to this Congress on January 17 of this year, asking us to give immediate consideration to this problem of social security.

As a member of the Ways and Means Committee, I shall always be proud of the hours and days I have spent assisting in the preparation of this bill. Let me say to the conferees that, regardless of the work they may do in the future, their work upon this bill will be a star in their crowns. They have brought back to the House of Representatives a real social-security bill. Let me say to the membership of this House that of all the votes you will ever cast, even though there may be certain parts of it with which you do not agree, I predict that you will always be happy and proud of your vote and your participation in this great social-security program.

For the first time in the history of this Nation and in the most comprehensive social program that was ever formulated by a legislative body, unfortunate people are cared for. Unfortunate mothers, unfortunate children, unfortunate blind, unfortunate crippled, unfortunate unemployed, unfortunate aged. In the category of the unfortunates who will be cared for under this legislation we start at the cradle and go to the grave. It is a wonderful program, a program benefiting the people of this country.

There may be those who will say that certain changes should be made, but remember, my friends, every dollar that goes to the unfortunates under this bill will be an additional dollar, one dollar more, to go to them than they would

receive without this legislation. It is a great humanitarian program, a program looking toward benefits to people, providing security, social security, to our unfortunates, from the cradle to the grave.

Mr. DOUGHTON. Mr. Speaker, I move the previous question on the adoption of the conference report.

The previous question was ordered.

The SPEAKER. The question is on agreeing to the conference report.

The conference report was agreed to.

The SPEAKER. The Clerk will report the first amendment in disagreement.

Mr. DOUGHTON. Mr. Speaker, I ask unanimous consent that the amendments in disagreement, nos. 17, 67, 68, 83, and 84, be considered en bloc.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the Senate amendments, as follows:

Amendment no. 17: On page 16, after line 17, insert the following:

"(7) Service performed in the employ of an employer who has in operation a plan providing annuities to employees which is certified by the Board as having been approved by it under section 702, if the employee performing such service has elected to come under such plan; except that if any such employee withdraws from the plan before he attains the age of 65, or if the Board withdraws its approval of the plan, the service performed while the employee was under such plan as approved shall be construed to be employment as defined in this subsection."

Amendment no. 67: On page 45, line 2, insert the letter "(a)."

Amendment no. 68: On page 45, after line 9, insert the following:

"(b) The Board shall receive applications from employers who desire to operate private annuity plans with a view to providing benefits in lieu of the benefits otherwise provided for in title II of this act, and the Board shall approve any such plan and issue a certificate of such approval if it finds that such plan meets the following requirements:

"(1) The plan shall be available, without limitation as to age, to any employee who elects to come under such plan: *Provided*, That no employer shall make election to come or remain under the plan a condition precedent to the securing or retention of employment.

"(2) The benefits payable at retirement and the conditions as to retirement shall not be less favorable, based upon accepted actuarial principles, than those provided for under section 202.

"(3) The contributions of the employee and the employer shall be deposited with a life-insurance company, an annuity organization, or a trustee, approved by the Board.

"(4) Termination of employment shall constitute withdrawal from the plan.

"(5) Upon the death of an employee, his estate shall receive an amount not less than the amount it would have received if the employee had been entitled to receive benefits under title II of this act.

"(c) The Board shall have the right to call for such reports from the employer and to make such inspections of his records as will satisfy it that the requirements of subsection (b) are being met, and to make such regulations as will facilitate the operation of such private annuity plans in conformity with such requirements.

"(d) The Board shall withdraw its approval of any such plan upon the request of the employer, or if it finds that the plan or any action taken thereunder fails to meet the requirements of subsection (b)."

Amendment no. 83: On page 55, after line 17, insert the following:

"(7) Service performed by an employee before he attains the age of 65 in the employ of an employer who has in operation a plan providing annuities to employees which is certified by the Board as having been approved by it under section 702, if the employee has elected to come under such plan, and if the Commissioner of Internal Revenue determines that the aggregate annual contributions of the employee and the employer under such plan as approved are not less than the taxes which would otherwise be payable under sections 801 and 804, and that the employer pays an amount at least equal to 50 percent of such taxes: *Provided*, That if any such employee withdraws from the plan before he attains the age of 65, or if the Board withdraws its approval of the plan, there shall be paid by the employer to the Treasurer of the United States, in such manner as the Secretary of the Treasury shall prescribe, an amount equal to the taxes which would otherwise have been payable by the employer and the employee on account of such service, together with interest on such amount at 3 percent per annum compounded annually."

Mr. TREADWAY. Mr. Speaker, before amendment no. 84 is read, may I ask the chairman of the committee if 84 is not a separate matter from the so-called "Clark amendment"? In other words, it is the Black amendment. As I understood it, we were to have up for consideration the Clark amendment only, whereas this is an amendment to the Clark amendment, known in conference as the "Black amendment." I would ask that this be taken up separately. This was not given very much consideration.

Mr. SAMUEL B. HILL. The Black amendment, which is amendment no. 84, would have no place in the picture at all if it were not for the Clark amendment. It is an amendment to the Clark amendment. It all goes together. You cannot separate them.

Mr. TREADWAY. I realize it is an amendment to the Clark amendment, but the Clark amendment itself stops in the middle of page 56.

Mr. SAMUEL B. HILL. If the Clark amendment should fail there would be nothing at all to which the Black amendment could attach itself, so it is so inseparably connected with the Clark amendment that the two cannot be separated.

Mr. TREADWAY. Mr. Speaker, is it not fair to inquire whether or not the Black amendment, so called, should not be further brought up in conference in order to straighten out what appears to be an unfortunate situation in the prohibition language that it carries? As I understand it, this prevents the director of any insurance company being connected with any of these boards.

Mr. SAMUEL B. HILL. I think the gentleman will agree with me that you cannot find any status or excuse on earth for the Black amendment without the Clark amendment.

Mr. DOUGHTON. I shall move that the House disagree to the Senate amendment.

Mr. TREADWAY. That is my point; if the Black amendment should not go back with the Clark amendment to conference.

Mr. DOUGHTON. Certainly.

Mr. TREADWAY. If that is the situation, it is entirely satisfactory to me. Mr. Speaker, I understand now that the so-called "Black amendment" shall further be considered by the conferees with the Clark amendment.

Mr. SAMUEL B. HILL. No; we are considering it right now in conjunction with the Clark amendment, because it is a part of that amendment, and you cannot separate the two. It has nothing to which to attach itself without the Clark amendment.

Mr. TREADWAY. The Clark amendment could be amended?

Mr. SAMUEL B. HILL. Certainly not. It is a part of the Clark amendment. The Clark amendment with the Black amendment constitutes the full Clark amendment.

Mr. VINSON of Kentucky. Amendment no. 84 is in disagreement. The House has either to agree or disagree to it, and I understand the motion of the gentleman from North Carolina will be to disagree to amendment no. 84, along with the other amendments that are known, strictly speaking, as the "Clark amendment."

Mr. TREADWAY. If amendments nos. 82 and 83 go back to conference, would that include amendment no. 84?

Mr. VINSON of Kentucky. Under the unanimous consent that was presented and agreed to.

Mr. TREADWAY. Eighty-four is inseparable from 82 and 83; therefore, it would go back to conference?

Mr. VINSON of Kentucky. Yes; en bloc.

Mr. DOUGHTON. They are to be considered and acted upon en bloc.

The Clerk resumed the reading of the Senate amendments, as follows:

Amendment no. 84: On page 56, after line 12, insert the following:

"SEC. 812. (a) It shall be unlawful for any employer to make with any insurance company, annuity organization or trustee, any contract with respect to carrying out a private annuity plan approved by the Board under section 702, if any director, officer, employee, or shareholder of the employer is at the same time a director, officer, employee, or shareholder of the insurance company, annuity organization or trustee.

"(b) It shall be unlawful for any person, whether employer or insurance company, annuity organization or trustee, to knowingly offer, grant, or give, or solicit, accept, or receive, any rebate against the charges payable under any contract carrying out a private annuity plan approved by the Board under section 702.

"(c) Every insurance company, annuity organization or trustee, who makes any contract with any employer for carrying out a private annuity plan of such employer which has been approved

by the Board under section 702, shall make, keep, and preserve for such periods, such accounts, correspondence, memoranda, papers, books, and other records with respect to such contract and the financial transactions of such company, organization, or trustee as the Board may deem necessary to ensure the proper carrying out of such contract and to prevent fraud and collusion. All such accounts, correspondence, memoranda, papers, books, and other records shall be subject at any time, and from time to time, to such reasonable periodic, special, and other examinations by the Board as the Board may prescribe.

"(d) Any person violating any provision of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than $10,000 or imprisonment for not more than 1 year, or both."

Mr. DOUGHTON. Mr. Speaker, I move that the House insist on its disagreement to the Senate amendments which have just been reported by the Clerk.

Mr. TREADWAY. Mr. Speaker, I offer a preferential motion.

The SPEAKER. The gentleman from Massachusetts offers a preferential motion, which the Clerk will report.

The Clerk read as follows:

Preferential motion offered by Mr. TREADWAY: Mr. TREADWAY moves to recede and concur in Senate amendments nos. 17, 67, 68, 83, and 84.

The SPEAKER. The gentleman from North Carolina [Mr. DOUGHTON] is recognized for 1 hour.

Mr. DOUGHTON. Mr. Speaker, I yield 10 minutes to the gentleman from Massachusetts [Mr. TREADWAY].

Mr. TREADWAY. Mr. Speaker, the motion of the gentleman from North Carolina, the chairman of the committee, means the taking out of the bill which is now under consideration the so-called "Clark amendment."

My motion to recede and concur, which is a preferential motion, means the inclusion of the Clark amendment.

The failure to include the idea in the Clark amendment in the original bill and the failure of the House conferees to concur in the action of the Senate and include the Clark amendment is another indication of the present-day intention of the administration to endeavor to control all business procedure. It is another indication of the concentration in Washington in the hands of the present administration of control over business scattered all over this land.

The Clark amendment was adopted in the other body by a vote of 51 to 35, thus demonstrating its strong sentiment in favor of the purpose which the amendment seeks to accomplish. The proposition was fully discussed from all angles, and all the objections that can possibly be brought forth here were made there.

What is the intent of the Clark amendment? Simply to permit business concerns that for many years have had pension systems of their own, contributed to by employees and employers alike or entirely by employers, to continue this system without the penalty of additional taxation to support some other people's employees; and if we fail to adopt the Clark amendment we penalize these people to the extent that either these private pension systems must be liquidated or else the employers and employees must contribute twice, once to their own system and also to the Government system.

I do not want to ascribe any unfair ideas to the administration, but I think this well illustrates what we have been reading about so frequently in the press in recent times of the desire on the part of those in control of the administration to create an attitude of hostility or opposition to our constitutional government. This is the question involved here, as I see it. We are treading on the thinnest kind of ice when we pass certain features of this bill at all. We have not been able to secure from the judicial authorities of the Government, the Attorney General or others, a definite opinion that this bill will be declared constitutional.

Mr. COOPER of Tennessee. Mr. Speaker, will the gentleman yield?

Mr. TREADWAY. Certainly.

Mr. COOPER of Tennessee. I am sure the gentleman will recall, upon reflection, that the Assistant Solicitor General of the United States appeared before the committee in executive session and presented an opinion of some 11 pages, and in my remarks on the bill when it passed the House I included this opinion as a part of my remarks, and it is in the RECORD.

Mr. TREADWAY. Very good; I admit all that, and I still say that the Attorney General's Department has failed to positively say they could support the constitutionality of this bill. This certainly has also been the attitude of the judicial authorities in the conference. There is no question about the very shaky position of the judicial authorities that appeared the other day before the conferees.

Mr. CHRISTIANSON. Mr. Speaker, will the gentleman yield?

Mr. TREADWAY. I yield to the gentleman from Minnesota.

Mr. CHRISTIANSON. If the Supreme Court should declare this act unconstitutional and in the meantime if employers should liquidate their pension funds, then what will happen to the empoyees who now receive protection under private pension funds?

Mr. TREADWAY. They will be absolutely out of luck. They will have neither one nor the other and there is no question about that.

Mr. REED of New York. Mr. Speaker, will the gentleman yield?

Mr. TREADWAY. I yield.

Mr. REED of New York. And there are some 3,000,000 of them, are there not?

Mr. TREADWAY. As I understand it, the record shows there are 600 private pension funds in various business concerns throughout the country, and as the gentleman from New York states, they employ in the neighborhood of 3,000,000 people who will be absolutely deprived of the protection for which they have been paying over a long period of years.

Mr. REED of New York. And 300 of those private concerns have reserves of over $700,000,000.

Mr. TREADWAY. Yes; and the Clark amendment calls for the approval of the investment of these funds by the new Social Security Board. The Social Security Board absolutely controls the investment of the private funds. The only thing it does not do is to take them away from the private companies. There must be approval by this new Social Security Board of the investment of these private funds.

Mr. REED of New York. And is it not a fact that many of these large concerns were pioneers in this field and had to take a loss resulting from a long period of experiment in order to properly build up this system?

Mr. TREADWAY. Not only that, if I may interrupt my colleague, but when their business was poor and was not paying as they hoped it might, they nevertheless protected their employees with this sort of fund.

Mr. REED of New York. And is it not also a fact that the benefits given by many of these companies are far greater than what they will get from the Government?

Mr. TREADWAY. I was expecting to refer to that very feature. The Clark amendment provides that the benefits from the private insurance funds must be as good or better than those provided for in this bill. Is not that correct?

Mr. REED of New York. That is correct.

Mr. WOOD. Mr. Speaker, will the gentleman yield?

Mr. TREADWAY. I yield to the gentleman from Missouri.

Mr. WOOD. The gentleman just stated that if this law were declared unconstitutional, the people who are now covered by private insurance funds would lose the many millions of dollars they had paid in.

Mr. TREADWAY. No; I did not say they would lose it. Those funds would be liquidated and not lost. However, they would lose the benefit of their anticipated retirement annuities.

Mr. WOOD. The fact of the matter is the employers do not pay into these old-age pension funds operated by private companies except by less wages.

Mr. TREADWAY. Oh, they do; the employers and employees both contribute under one form and the employees only under another form. The gentleman is mistaken about that feature.

Now, I want to refer to some features of this debate. Let me quote from the author of this amendment—Senator CLARK. Senator CLARK said:

The purpose of the amendment is to permit companies which have or may establish private pension plans, which are at least equally favorable or more favorable to the employee than the plan set up under the provisions of the bill as a Government plan, to be exempted from the provisions of the bill and to continue the operation of the private plan provided it meets the requirements of the amendment and is approved by the board set up by the bill itself.

There is the gist of the Clark amendment.

Mr. REED of New York. Will the gentleman yield?

Mr. TREADWAY. Certainly.

Mr. REED of New York. If it is not agreed to by the House, of necessity the private pension plans will either have to be liquidated or the employers will have to pay double rates.

Mr. CHRISTIANSON. The gentleman from Massachusetts is sure that the employers would not continue to contribute to both?

Mr. TREADWAY. No; that is hardly to be expected.

Mr. CHRISTIANSON. If the Clark amendment is not accepted it means the liquidation of the fund.

Mr. TREADWAY. I should assume so.

(The time of Mr. TREADWAY having expired, Mr. DOUGHTON yielded him 10 minutes more.)

Mr. KELLER. Will the gentleman yield?

Mr. TREADWAY. I yield.

Mr. KELLER. If these people pay double, they get double service.

Mr. TREADWAY. Oh, no; I beg the gentleman's pardon. They would not get but one service.

Mr. CRAWFORD. Will the gentleman yield?

Mr. TREADWAY. For a question.

Mr. CRAWFORD. Statistics will show how many of the 600 pensions are holding companies?

Mr. TREADWAY. Oh, I do not know anything about that.

Mr. CRAWFORD. If the question should arise and these were holding companies and they should be decentralized, then what would be the status of the employees—those insured? Assuming that they are not holding companies, what would be the status of the employees at ny time?

Mr. TREADWAY. Those assets are in a separate fund, entirely separate from the business carried on by the company. They are under the approval of the new Security Board.

Mr. CRAWFORD. The amount deposited would be, but would they not at that point be in the same status as at the present time, when it is proposed to liquidate them, in the event that this amendment does not carry?

Mr. TREADWAY. If these companies are liquidated and you are an employee of one of these private corporations you would receive your pro rata share in the liquidation, but you would have no further protection under that private system for your old-age insurance, which now you would have.

Mr. THURSTON. Mr. Speaker, will the gentleman yield?

Mr. TREADWAY. Yes.

Mr. THURSTON. Is there any provision in the bill which would defer liquidation of these plans until the bill is declared constitutional?

Mr. TREADWAY. No. The adoption of the majority motion to insist upon disagreement and strike out the Clark amendment, as I say, sets up the situation which the gentleman from Minnesota [Mr. CHRISTIANSON] just referred to. You will either pay double or you are out of luck. As I said in answer to a question of the gentleman from New York [Mr. REED] there are 600 of these private-plan insurance boards in operation, covering 3,000,000 employees. Three hundred of these covering a million employees are on a reserve basis, with over $700,000,000 of reserve, and still, without the Clark amendment, we are forcing the liquidation of those companies.

Approximately 150,000 employees are now drawing pensions under private plans, and the average of those who share under the contributory plan is $84 per month and the noncontributory $59 per month.

Mr. KNUTSON. And the gentleman will recall a number of us in committee sought to have a similar provision incorporated in the original bill.

Mr. TREADWAY. I mentioned that at the opening of my remarks. This was brought up in committee and originally voted down, showing the desire, as I stated before, to place all this control of business in the hands of Government officials, who are inexperienced in business—and we know who they are, we know who are going to control this proposition—who have never had a bit of experience in business methods.

Mr. KNUTSON. Some of them hardly dry behind the ears.

Mr. TREADWAY. Now for some of the advantages of the private plans. More liberal benefits are paid. Employees get credit for past service, while under the Federal plan you start in anew. Employees 60 years of age are provided for under the private plan, whereas under the Federal plan they are not. Annuities are paid in true proportion to earnings and service, whereas under the Federal benefit rate they are arbitrary. Many private plans permit joint annuities, giving protection to widows, something not included here.

Mr. Speaker, there is no abler man, perhaps, or better constitutional lawyer in the Senate than the Senator from Georgia [Mr. GEORGE]. Let me quote what he stated in the Senate. He said:

If the Court looks through mere form to the substance of this bill, I assert again that the question of the validity of the bill is one which no responsible lawyer would undertake to say is not in serious question. Hence, why strike down, with the probably unconstitutional bill, the private pension systems and private benefit systems granting benefits to the employees of employers of this country, embracing a large part of our population—why strike those down when a bill is proposed which probably will not pass the muster of the courts?

It seems to me the experience of the past few weeks in getting decisions on the constitutionality of legislation that has been passed by this Congress and the previous Congress, ought to be a caution, an SOS signal to the people who are forcing what is undoubtedly in the opinion of many able lawyers unconstitutional legislation in the provisions of this act.

The employees are fully protected under the Clark amendment. Private plans must be available to all employees without regard to age. Employees may elect whether they will come under the Federal or the private plan. Benefits under the private plan must be equal to or better than the benefits under the Federal plan.

Contributions under the private plan must be deposited with life insurance companies, annuity organization, or trustees approved by the Social Security Board. Termination of employment, whether voluntary or involuntary, constitutes withdrawal from the private plan. Upon an employee's withdrawal from the private plan the employer must pay to the Federal plan an amount equal to the taxes otherwise payable by the employer and the employee, plus 3-percent compound interest. Upon death of the employee his estate shall receive not less than the amount it would have received under the Federal plan.

The Social Security Board may at any time withdraw its approval of the private plan if it fails to meet its requirements. No financial advantage will accrue to employers who may be permitted to retain their private pension system, since they are required to contribute to the private plan not less than they would pay under the Government plan. For this reason, the continuation of the private pension plans will not result in the discharge of the older employees, as some contend.

So far as this argument is concerned, I might add that a private pension plan would cost the employer far more than the amount of taxes he would otherwise pay to the Federal Government. His chief interest in having a more liberal plan is to provide for his relatively older employees. If he expected to discharge these older employees he would not be asking to have his private system continued. The sincerity of the private employers is demonstrated by the fact

that they are now voluntarily paying pensions to about 150,000 superannuated employees.

The argument that the adoption of the Clark amendment will cause titles II and VIII to be held unconstitutional is based upon the theory that it links the two titles together and discloses their true purpose.

As a matter of fact, it has been recognized all the time that titles II and VIII are tied together, and must be so regarded by any court passing judgment on them.

Other provisions of these two titles link them together, such as the sections setting forth those who are neither subject to the taxes or the benefits. Hence the Clark amendment itself would not make titles II and VIII unconstitutional.

The purpose of this bill is to provide security for the aged, and the Clark amendment permits private employers to make more abundant provision for their employees than the Federal Government proposes to make.

The private company method, as included in the Clark amendment, is better for the employees of those 600 companies than is the Federal Government system proposed to be set up in this bill, as to which you are taking a great chance of a decision that it is entirely unconstitutional. If the private pension plans are broken up by this legislation, and the Federal pension plan is later invalidated, the 3,000,000 employees who are now covered by the private plans will be without any protection. In other words, they have everything to lose and nothing to gain under the Federal plan.

I hope, Mr. Speaker, that the Clark amendment will be adopted and that the motion I made to recede and concur will be the action of the House when the vote comes upon it. [Applause.]

The SPEAKER. The time of the gentleman from Massachusetts [Mr. TREADWAY] has expired.

Mr. DOUGHTON. Mr. Speaker, I yield 10 minutes to the gentleman from Washington [Mr. SAMUEL B. HILL].

Mr. SAMUEL B. HILL. Mr. Speaker, I think it would be well to see just what this act, in its original form, provided for unemployment compensation, and then to examine the Clark amendment and see how one fits into the other or whether there is conflict between the two.

The act as passed by the House provided for a Federal plan to be financed by the levying of taxes upon the employer and upon the employee measured by the pay roll. This money was to be put into the Federal Treasury. It was to enable the Federal Treasury to finance these old-age benefits. If the money were not obtained in this way, we would have to levy other taxes to provide revenue out of which to finance the old-age benefits. The act as passed by the House provides that a man reaching the age of 65 years and having been employed for 5 years or more under employment that comes within the provisions of the act may at the age of 65 and thereafter receive a certain monthly payment called a "benefit" or "annuity." It is evident to you that a man in middle life or approaching old age, who works for 5, 10, or 15 years at an average salary, will not have been able to contribute by his own contributions and by the contributions of his employer in his behalf a sufficient sum of money to finance the annuity to such retired worker; but under the provision of the act no retired worker will receive less than $10 a month, regardless of the fact that he may not have earned in the annuity fund more than $1 a month or even less than $1 a month. He will get an annuity of $10 a month if he comes within this provision and has worked 5 or 10 years only.

Under that provision we are paying to that man an unearned benefit. We are going down into the Treasury to get the money that has not been contributed to the Treasury on his behalf, which money must come out of the general fund of the Treasury, paid in there from tax levies. But we have young men and men in middle life in this category of employment. The young men contribute to the fund and their employers contribute to the fund for them, for a period of 20, 25, or 30, and sometimes 40 years. That money goes into the Treasury. Those young men are not drawing money out of the Treasury during those 20 or 30 or 40 years. So we borrow the money from the money that they pay in, in order to pay these benefits to the older men who are retired after a few years' work. Only in that way can we finance the fund. If we do not have that financial support for the fund, then we would have to go out and levy general taxes to put into the Treasury to pay this money. In the course of a few years it will amount to more than a billion dollars a year paid out in benefits. So that the bill, as it left the House financed itself by the young men carrying, for the first few years, the fund out of which the benefits are paid to the older men, thereby saving the Federal Treasury the necessity of going out and levying general taxes to supplement the Treasury funds for the purpose of financing these benefits.

Now, what does the Clark amendment provide? It provides that the employer, whose employees so choose, may set up an independent pension reserve or benefit system, and be relieved from participation in the contribution to the Federal plan. It means that whenever all of the employees of a private industry chose to go under a private plan, they may contribute to a fund set up by the private industry, and no part of that fund shall go into the Federal Treasury. It means, of course, under the provision of the Clark amendment, that the employer and the employee must pay into that private fund an amount equal to that paid into the Federal fund by others who are not under a private plan. It means that when a worker withdraws from a private plan the employer must pay into the Federal Treasury on his behalf the amount of tax previously paid on his account into the private fund, plus 3-percent interest compounded.

It means that in the case of the death of an employee under the private plan his estate will receive the same amount of money from the private pension plan as it would receive from the Federal pension plan, and that is the amount the employee himself has contributed plus 3-percent interest compounded annually. It does not mean that his estate will get what the employee has contributed plus what the employer has contributed, but only the amount the employee has contributed, and that is the same amount the estate would receive under the Federal plan. But here is the difference: Under the private plan the employer keeps whatever the employer himself contributes to the private plan. Under the Federal plan the amount the employer contributes goes into the Federal Treasury to finance the general compensation fund. It means that under the Clark amendment it would be to the financial advantage of the industry maintaining such plan to employ only young men and not to employ old men, to keep in their employment young men, and as men reach middle age to discharge them, because the companies make their money, they earn their benefit fund, from the contributions of the younger men.

Mr. Speaker, my time is exhausted and I shall be unable to discuss further the Clark amendments and the reasons why they should not be adopted. However, under leave to extend my remarks I submit for the RECORD in support of my contention that the so-called "Clark amendments" would totally wreck and destroy the unemployment-compensation provisions of this act, this memoranda prepared for me giving an analysis of the so-called "Clark amendments" and their effects upon this legislation:

HOW THE CLARK AMENDMENT WOULD WORK OUT

1. Under the Clark amendment existing private-pension plans would either have to be abandoned or fundamentally altered.

From the debate it was evident that many Senators voted for the Clark amendment under the impression that its adoption is necessary to save the existing private-annuity plans. It was not appreciated that all private-annuity plans will have to be radically altered even with the Clark amendment in operation. This is true for the following reasons:

(a) None of the existing plans provides for repayment of the entire amount contributed in behalf of an employee upon his withdrawal from employment. The most liberal of these plans provide for the return to the withdrawing employee of the money he has contributed, with interest. Under the Clark amendment the employer will have to pay back taxes with interest, for all withdrawing employees, which, under the assumptions on which this amendment is based will be equivalent, on the average, to repayment of the contributions of both the employer and the employee with interest. The Clark amendment thus places an additional burden on the existing private-annuity plans and this

will necessitate recalculation of their actuarial basis, with either increases in contributions or reductions in benefits.

(b) All existing plans allow annuities only after employment for a relatively long period of time—a majority of them for periods of 20 to 25 years. Such plans certainly cannot be regarded as being as liberal as the Federal old-age-benefit plan. They will, consequently, have to be revised in this respect. This will again affect the financial basis of these plans and necessitate changes in contribution rates or benefits.

(c) Many of the existing plans have no reserve or only very inadequate reserves. Many more are not irrevocably funded.

(d) Many plans do not pay as liberal benefits on retirement as does the Federal plan, even to employees who have long been with the company. Few, if any, plans pay as liberal benefits for employees who are with the company only for periods of less than, say, 20 years.

The changes which the Clark amendment will necessitate in private annuity plans are extensive and fundamental. Without the Clark amendment most employers, as a practical matter, will wish to reorganize their annuity plans, although they are not legally compelled to do so. But it will be no more difficult to reorganize existing private plans to give benefits supplemental to the Federal plan than it is to revise these plans to conform with the Clark amendment.

2. Under the Clark amendment it will be of advantage, both to the older employees and to the employers, for present older employees to come under the Federal old-age-benefits plan, while the younger employees will be covered by the private annuity plans.

The annuities payable under title II are a percentage of the earnings of the employees after the taking effect of the Social Security Act. The percentage of the earnings on which the annuities are based is materially greater where the total earnings are small than where they are large.

Present older employees will have small total earnings because they will be under the system but a few years. They will consequently get much larger benefits than their own contributions and those of their employers would buy from insurance companies.

All private annuity plans are constructed on precisely the opposite principle. Most of them give no benefits at all to employees who have not been in the employ of the company for a very long period of years, most commonly 20 to 25 years. None of them favors employees who are under the system but a short time.

Under the Clark amendment the employees may elect whether they wish to come under the private annuity plan or under the plan of Federal benefits. Since the social-security bill gives such a distinct advantage to employees who are in the system only a short time—as will be at present all employees now past middle age—it is very evident that these employees will elect to come under the Federal plan. It is to their own interest, as well as to that of the employer, that they should do so. Under the circumstances it is almost certain that substantially all employees who are past middle age when the Social Security Act takes effect, or when a new private annuity plan is inaugurated in the future, will come under the Federal system while the younger employees will be covered under the private annuity plan.

3. Under the amendment it will be to the advantage of the employer to hire only men in the younger age groups.

It needs little explanation that the contributions can be less to pay the same annuity to a man who remains in an annuity system a long number of years than to one who remains in the system but a few years. The cost of an annuity of $1 per annum, beginning at age 65, purchased at insurance company rates, is approximately $1.8622 at age 22; $2.1827 at age 27; $4.2710 at age 47; $6.4757 at age 57.

With such greater costs for older-age groups, it is very evident that an employer can provide benefits as liberal as those of the Federal plan at a much lower cost, if he pursues the policy of hiring only men in the lower-age groups. Employers do not have to discharge employees when they grow old to get this advantage. All that they have to do is to establish a low hiring age limit. Many employers now have such low hiring age limits. The Clark amendment will very materially increase the tendency toward the adoption of such hiring age limits.

4. Employers with private annuity plans will derive great financial advantage through all deaths of employees before reaching retirement age.

Approximately 75 percent of all persons entering industry die before they reach age 65, which is the retirement age in title II and under most private annuity systems. Whenever an employee dies, his estate is to get, under the Clark amendment, at least as liberal benefits as under title II. Under title II the benefits payable on the death of an employee will on the average equal the contributions made by the employee himself, with 3 percent interest. The estate will not get back the contributions of the employer. In the Federal system the saving which thus results goes to the employees who survive until they reach retirement age. Under the Clark amendment this saving will go to the employer.

5. The Clark amendment will wreck the financial basis of the Federal system.

The taxes collected under title VIII of the Social Security Act will in over a long period of time equal the benefit payments that will have to be made under title II. This actuarial balance, however, will be possible only on the assumption that all industrial workers will be brought within the Federal plan. As has been noted above, the Clark amendment will operate to take out of the Federal plan many of the younger industrial workers, while it will give an excessive percentage of the older workers to the Federal system. Under title II the taxes paid by and for the benefits of the older workers will not equal the benefits paid to them, while the taxes paid on the earnings of the younger workers will exceed these benefits. Consequently, through covering a large percentage of the younger employees in the private annuity plans, the financial basis of the Federal system will be wrecked. The benefits provided for the older workers can in that event be paid only through increases in the taxes upon employers who remain within the system or through large governmental contributions.

The same effect is produced through the fact that under the Clark amendment the Federal plan will not get the advantage of the employers' contributions in the event of the death of employees before reaching age 65. This will affect approximately 75 percent of all employees who will be brought under the private annuity plans, and will cause an immense loss to the Federal system.

6. This amendment will greatly increase the difficulties of administering titles VIII and II.

Under the amendment not all employees and not all employers of plants having approved private annuity plans will be outside of the Federal system. Employers will have to pay taxes on those of their employees who are not under their private annuity plan. Without private annuity plans, the tax collection is quite simple, as the Treasury has to pay attention only to the total of the employer's pay roll. Under the Clark amendment it will have to check the individual employees on the pay rolls, immensely increasing the difficulties of collection.

Other difficulties result when employees leave the employment of an exempted employer or otherwise withdraw from his private plan. In that event back taxes have to be paid, and these may be due for many years. This involves going into all pay rolls during the period while the withdrawing employees were with the plan, assuming that such pay rolls have been preserved. There is nothing in the amendment, however, to require that the pay rolls shall be kept any particular time, and if pay rolls are no longer available it will be still more difficult to ascertain the back taxes that are due. The great majority of all employees who come into the employment of an exempted employer are certain not to remain within the employment until age 65, so that this problem of computing the back taxes will be one which will recur in many thousands (perhaps millions) of cases annually.

7. Only relatively large plants can set up private annuity plans.

Of the employees covered under existing private annuity plans, 30 percent are with companies that have over 100,000 employees; 70 percent with companies having over 25,000 employees; and 98 percent with companies having over 2,000 employees. A small employer cannot take advantage of the Clark amendment. It is one which in practice will be a special privilege to the large employers only.

RESPECTS IN WHICH THE CLARK AMENDMENT IS EXTREMELY VAGUE

1. It is not clear in this amendment whether the private annuity plans must be as liberal as the system of Federal old-age benefits under title II of the Social Security Act for all employees, regardless of age or length of employment, or only whether the plan must on the average give as liberal benefits as those provided under title II.

This is a very important point. A private annuity plan may very well give more liberal benefits than the Federal plan for the great majority of employees and yet give no benefits at all, or very inadequate benefits, to the older employees and those who are with the company only a very short time. Most of the existing plans give benefits only to employees who have been with the company for 20 to 25 years. To such employees more liberal benefits can be given than under the Federal plan, and yet the effect of such a private annuity system would be to dump all of the relatively short-time employees on the Federal system, and it is for these employees that the annuities under the Federal plan are most costly.

2. There is no requirement that the contributions to the private annuity plan must be irrevocably earmarked for the payment of pensions or that pensions once granted must be continued throughout the life of the pensioner.

The amendment provides that the contributions must be deposited with a life-insurance company, an annuity organization, or a trustee approved by the Board. There is nothing to prevent the employer from terminating his plan at any time; in fact, it is provided that the board shall withdraw its approval of a plan whenever the employer so requests. When this occurs, there is nothing to guarantee that employees already retired will continue to receive their pensions. The employer must pay back taxes for the employees then in his employ, but any balance remaining in his fund belongs to him.

3. No control is vested in the social security board over contracts which the life-insurance companies, annuity organizations, and trustees make with employers maintaining private annuity plans.

The provisions of these contracts are very material for the adequate protection of the rights of the beneficiaries, but it is at least doubtful under the amendment whether the board can refuse to approve a life-insurance company, an annuity organization, or a trustee because it does not believe that the contract made with the employer adequately protects the employees.

4. No safeguards are included which will make it certain that the Government will be able to collect the back taxes which become payable upon withdrawals from the plan or its complete termination.

Withdrawals will occur in a majority of all cases, since most employees do not remain with one employer throughout their entire industrial life. Likewise, there will be numerous instances

in which employers who have established private annuity plans will go out of business or for other reasons discontinue their plans.

For these reasons, it is certain that employers will have to pay large amounts in back taxes. There is no provision in the amendment under which employers are required to set up reserves for the payment of back taxes. The annuity fund must be deposited with a life-insurance company, an annuity organization, or a trustee, but there is nothing in the amendment which provides that the annuity fund shall be available for the payment of back taxes. Further, an annuity fund may be exhausted and no money may be available for the payment of back taxes.

I. FURTHER COMMENTS ON THE CLARK AMENDMENT

1. The Clark amendment provides adverse selection against the Federal system. While the requirement that the employer and employee pay an equal amount of taxes into the private fund prevents the employer from reducing his payments below the level of the taxes, nevertheless, it is almost certain that the Government fund will be loaded with all the older employees and find it impossible to pay the scale of benefits specified out of the taxes provided in title VIII. When a deficit occurs in the future, the rates in title VIII will have to be adjusted upward or the Government will have to subsidize the system out of general-tax revenues.

2. As was pointed out in the debate on the floor of the Senate, this amendment seriously threatens the constitutionality of title VIII. This exemption is wholly different from the other exemptions in the title. It taxes employers who fail to set up an approved annuity system and falls squarely under the language of the Supreme Court in the Child Labor Tax case holding the so-called "tax" in that law a penalty because "it provides a heavy exaction for a departure from a detailed and specified course of conduct of business."

In order to save title VIII from being held unconstitutional, it would appear imperative either to throw out this amendment altogether or to change it from an exemption of the tax to a payment in title II to such employers.

3. There is nothing in the Clark amendment which will effectively prevent employers from placing all their older employees on the Government fund and retaining in their own fund the younger employees. They could even cause employees to change from one fund to another at any future time, if such change became advantageous to their own fund. For example, if one of their employees were due to retire within a short time, and the contributions paid in on his behalf were less than the actuarial equivalent of his annuity rights, he could be induced to elect the Government system. It is almost a certainty that private employers in the future would keep in their own fund only those employees who would be profitable to the fund. In this way these employers and their younger employees would shirk all responsibility for the older employees—even those within the employment of the particular fund. Obviously this will have to be corrected.

4. Under the Clark amendment, practically every employee of a private employer having an approved retirement plan would be entitled, when he retired, to draw two benefits—one from the private plan, one from the Government for employment other than under such employer. Practically no employees would have worked for a single employer for a lifetime. This would result in these employees drawing larger benefits than they would be entitled to if they were under only one system. For example, suppose an employee with an average salary of $1,000 annually were employed for 10 years in employment under the Government fund and 10 years under a private plan just before retirement. He would be entitled to receive a monthly benefit of $20.83 from the Government and an equal amount from the private plan, making a total of $41.66 a month. But if he had remained continuously under either the Government or the private plan, he would be entitled to draw a monthly annuity of only $29.17. In other words, this employee would receive a pension of $12.49 per month greater than he would otherwise be entitled to. This would constitute a heavy drain upon both funds. The private employer may escape such extra cost by refusing to employ older persons, who have been previously employed with other employers, but the Government cannot so protect itself.

The results which will inevitably flow from this defect will be the absolute refusal of companies with private plans to employ older or even middle-aged workers, except under the condition that they elect the Government plan. This will be difficult to do. It is prohibited in the law, and the employee will recognize that it is to his advantage under the circumstances to elect the private plan. The result will be a refusal by the employer to take on any but very young employees.

5. The Clark amendment provides a very great incentive for employers with private plans to employ only younger persons and to discharge their older employees. By escaping their just share of the cost of annuities for the older persons, such employers in the future will be able to pay much larger annuities than provided in the Government plan. It is well known that in the long run retirement allowances become a component part of salary. The larger the retirement allowance, the lower the salary which is necessary to pay to retain employees. This is well known. Many illustrations could be cited. Employers with private plans will profit almost as much by being able to pay larger benefits as if they were permitted to reduce their contributions.

Under further leave to extend I here submit, as part of my remarks, the following statement by J. B. Glenn:

ALLOWING THE ADOPTION OF THE CLARK AMENDMENT WOULD RESULT IN AN ULTIMATE COST OF BILLIONS OF DOLLARS TO THE FEDERAL GOVERNMENT

To pay benefits scheduled under title II to those who will be entitled to benefits during the earlier years of the Federal annuity system, the Federal Government will deliberately incur a huge deficit of many billions of dollars. This is chiefly because the older workers will receive in annuities much more than the total taxes paid by them and by their employers on their behalf.

The plan is so designed, however, that this huge deficit is gradually wiped out by the profits the Government will make on the annuities of younger workers. The deficit will be eliminated because the tax paid by the employers of younger workers and by the younger workers themselves will more than suffice to pay the benefits to these young workers.

For example, take the case of a young worker, earning $100 per month and entering the system in 1949, at 24 years of age. The profit to the Government from his contribution of $36 per year and his employer's contribution of $36 per year, will be $24 per year, because the sum of $48 per year would be enough to purchase the benefits which he will receive under the bill.

Suppose there are 5,000,000 of these young workers ultimately absorbed in private pension plans. The Federal Government will annually lose $24 for each such worker in these private plans, or $120,000,000 per year. This is part of the profit which was calculated to offset the deficit incurred in the earlier years of the plan and to make the plan actuarially sound. The loss of this profit would make it necessary for the Federal Government to make up this sum from other sources in order to meet its obligations under title II.

J. B. GLENN,
*Fellow of the Actuarial Society of America, Fellow of the American Institute of Actuaries, Fellow of the Casualty Actuarial Society.*

Mr. DOUGHTON. Mr. Speaker, I yield 10 minutes to the gentleman from Maryland [Mr. LEWIS].

Mr. LEWIS of Maryland. Mr. Speaker, I must begin by confessing that I have little to contribute after the discussion we have had by Congressman HILL except my deep conviction of the ill wisdom, indeed of the very destructiveness of the Clark amendment. I am not alone in this opinion. May I give you the advantage for a minute of the result of a comprehensive and responsible study of the whole subject of private industrial pension systems? Observe these two large volumes entitled "Industrial Pension Systems." These books represent the investigation of an economist and statistician, Dr. Latimer, who undertook this work, just published in 1933, at the instance of the Industrial Relations Counselors, Inc. This board's purpose, so far as I can gather, would resemble in a general way the Brookings Institution, with whose contributions you are doubtless familiar. Its membership consisted of Ray[illegible]nd B. Fosdick, chairman; William B. Dixon; Ernest M. Hopkins; Cyrus McCormick, Jr.; John D. Rockefeller, 3d; Arthur Woods; and Owen D. Young.

Now, let me read the conclusions of this very eleborate and responsible study:

By and large the bulk of industrial pension plans in the United States and Canada are insecure; first, because of inadequate financing; second, because of lack of actuarial soundness, even in those cases where some funds have been provided; third, because of failure to provide proper legal safeguards both in connection with funds and with the preservation of rights for employees; and, fourth, because of the absence of definite administrative procedure for carrying out the terms of the plans. Unless the policies pursued by most companies at the present time are changed, there is not much hope for improvement (p. 902).

And then a sentence which appears a little farther on in the book:

The voluntary provision of complete old-age security by industry under a business economy in which the criterion of success and the condition of continuous existence is profits, inevitably involves inescapable contradictions (p. 945).

Mr. COLE of Maryland. Mr. Speaker, will the gentleman yield at that point?

Mr. LEWIS of Maryland. I yield for a very brief question.

Mr. COLE of Maryland. As I understand the Clark amendment, it subjects all private retirement systems, both as to conditions of retirement supervision and the investment of the funds to the board created under this act.

Mr. LEWIS of Maryland. That is true, but the fact lacks significance. Such control is of nominal value only after these interests have been allowed to chisel in and appropriate the low-cost employees, leaving the high-cost employees on the Government fund.

If anybody in the United States can speak on this subject with an assurance of sincerity and, indeed, with a high degree of guaranteed knowledge, it is the president of the American Federation of Labor. In a circular letter received this morning, I find him stating:

> Labor is very much exercised over this amendment, as it exempts private annuity plans conducted by employers. Anyone who is well acquainted with the reasons for creating these private annuity plans and the suffering that follows could not for a moment approve that amendment.

I jump several paragraphs of his letter:

> Now, therefore, in the name of the organized wageworkers of the United States, as well as those unorganized, I wish to appeal to you to vote against incorporating in the social-security bill the Clark amendment.

Mr. VINSON of Kentucky. Mr. Speaker, will the gentleman yield?

Mr. LEWIS of Maryland. Yes.

Mr. VINSON of Kentucky. The gentleman has given much thought to this subject. I wish he would discuss, if he will, the effect of the Clark amendment on persons 45 years of age and over.

Mr. LEWIS of Maryland. It is perfectly apparent in entering into any annuity system like this, Mr. Speaker, that those who enter early would need to pay but a very, very small annual subscription to build their annuities payable to them 30 or 40 years later. In the complete wage-annuity system provided by this bill it is also perfectly apparent that those who enter it older would have to pay much larger subscriptions. The bill provides a flat rate of subscription on all to build a fund adequate to take care of young and old.

Under the Senate amendment the employer by "contracting out" with insurance companies could get much lower rates for young employees, with the result that young persons would be preferred for employment. They attempt to meet this self-evident objection by referring to the following proviso in the amendment:

> *Provided*, That no employer shall make election to come or remain under the plan a condition precedent to the securing or retention of employment.

I pronounce this the grand mockery of our age, that the employees are to have the right to elect, forsooth, under the amendment.

Does anybody believe for a moment that it would confer a real power of election upon the laborers of the United States? I have labored myself for many years. There never was a moment in all of my experience when I had the election as to any condition of my employment; and none will be effectually carried here. I do not complain. Doubtless my employers felt they had to have uniform rules, but they made them, and they left me no election. The youngsters now are already under a high preference. You know about the age limit of employability at 45. The youngsters already under preference are going to have their preference magnified. Because as they may cost the employer but 1 percent on wages while the older case 3 percent the older ones are going to be dismissed at the gate.

Mr. Speaker, the working men and women over 45 years of age are already under a deathlike discrimination in the United States today. I had occasion to state the other day that we had started a new class in America, which I christen "America's untouchables."

They are the men, and who without a day in court are rejected and dismissed at the gate because they are 45 years of age. Would you add by this amendment an additional inducement to competing employers to accentuate this monstrous evil even as against those who are now employed? If we cannot do justice to them, let us pity, at least, these old men and women who are thrown on the scrap heap by industry because their arms are no longer strong enough or swift enough to turn its great wheels in the competitive struggle. This is not an amendment intended to reward pioneer employers who, on their motives of humanity, had organized their systems. If that were the motive of the amendment, it would apply only to a company found conducting such a system on the 1st day of January 1935 and in successful operation for a number of years, which, on qualifying with the Board, might be treated as an exemption. [Applause.]

[Here the gavel fell.]

SOCIAL-SECURITY BILL, 1935

Mr. DOUGHTON. Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. MEAD].

Mr. MEAD. Mr. Speaker, I am very much concerned with this amendment, and, as one who has been closely identified with industrial pension plans, I trust that this House will instruct the conferees to reject the so-called "Clark amendment."

The particular reason for my objection to the amendment is that it initiates the Federal system with the worst possible obstacle that we can put in its path. Ever since the creation of the State and private systems there has been a necessary tightening up on the part of industrialists in regard to the appointment of men over 40 years of age. It is a pathetic state to have a constituent of the age of 40, 45, or 50 call on you and tell you his tale of woe as to how he tramped from one industrial plant to another pleading for work, only to be denied the opportunity because his employment would put an increased load on their retirement system. Therefore, for the sake of the aged who are the primary objects of this bill, we ought to eliminate the Clark amendment, and give the Federal system a most appropriate opportunity to display its relative merit.

May I say one other thing from the record? Only 4 percent of the men who are covered by private systems are eventually retired by such systems. Recurring seasonal and cyclical depressions find the aged laid off first. The youthful employees are returned to work first, and in many instances the aged are permanently separated from their jobs and their pensions. Under the Federal system it makes no difference whether you are 20, 40, or 60 years of age, the cost is uniform and does not vary. It would be just as advantageous for an employer in a private plant to employ a man 40 as it would to employ a man 20; but under the system permitted by the Clark amendment it would be to his distinct advantage to employ younger men and to discharge older men. That would be the result of a dual system of pensions.

Private pension plans will have the youth of the country enrolled in their systems, and as men become aged they will have to find a haven of refuge in the Federal plan, and therefore we will be spending more money; we will have the most difficult class to protect, and the private pension plans in protection of their own systems will constantly load the Federal system with the aged workers of the country.

I plead not so much for the pension plan as I plead with you this afternoon for the aged workers of our country; and I say to you, no matter what promises may be made by the proponents of this amendment, the history of our experience with the industrial pension plans during the last quarter of a century indicates that the aged have been penalized and have been taken out of permanent employment and cast upon the scrap heap of life there to depend upon the charity of the Government. Therefore, in justice to the aged and in justice to this plan that we are initiating, let us vote down the Clark amendment and give some hope to the aged, the tragic victims of this machine age. [Applause.]

Mr. DOUGHTON. Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin [Mr. SAUTHOFF].

Mr. SAUTHOFF. Mr. Speaker, I am opposed to the Clark amendment and I trust that the motion now before the House will be voted down.

The main factor for any concern or any employer in considering what particular annuity system he is going to adopt is the cost of the system. The two prime factors in creating cost are, first, the age of the employee, and, second, the wages of the employee. If it is to be within the control of the private employer what system he is to adopt, naturally he is going to try to reduce these two factors so as to make his cost less by, first, cheaper labor, and, second, younger employees. In this way he can shut out the higher paid labor and he can shut out the older men in the industry. This is exactly the same thing that has been worked, and is being worked today, by department stores and chain stores in the hiring of girls. They hire them on a graduated-scale system. If you work 5 years, you get a raise in pay; if you work 10 years, you get another raise in pay; if you work 15 years, you get a third raise in pay; but before they get to the 10-year period they are let out, and a new crop is constantly coming in. Automatically they are debarred from higher increases in pay. Fire them and you are rid of them. This is the answer, and when these girls go out to seek other jobs in other places they cannot find them. As they grow older it becomes increasingly more difficult to secure work, and thereby increases unemployment.

Besides these two main factors, age and wages, there are some other factors which appeal to me and which I hope you will consider. One of these is when an employee quits and gets a better job, or when he is let out and finds other employment, he starts paying in on his new job, but what happens to what he has already paid in on the old job? In many instances, in fact in most instances, these private systems are under trusteeships, and they are not even protected from claims in case of bankruptcy. In one instance in which I was the attorney I attempted to protect such fund as a preferred fund. The court held there was nothing in the contractual relation that made it a preferred fund, and held that it was commingled with the general assets of the bankrupt concern, and was therefore liable to the debts of the bankrupt concern and that this was not a preferred claim.

It has been mentioned here that many of these firms will take up insurance. Of course they will. They will take up insurance for those over 40 and have a private system for those under 40, because there is nothing in the Clark amendment that provides they cannot set up two systems in one plant. They will take the insurance where it does not cost them as much, because all the overhead of the expense of insurance rates will come out of the fund and not out of the employer. Naturally, he is going to take advantage of this fact.

I now want to point out one more thing which appeals to me as being very serious, and this is the powerful weapon in the hands of the employer over the employee. He can coerce and take away from him all the benefits of the Wagner Labor Disputes Act. The emancipation of the laborer, his deliverance from coercion, his right to act as a free agent, as set forth in this Magna Carta of labor—all its benefits would be seriously endangered if we adopt the Clark amendment.

[Here the gavel fell.]

Mr. SAMUEL B. HILL. Mr. Speaker, in connection with my request to extend my remarks I should like to supplement the request by asking that I be permitted to include memoranda analyzing the Clark amendment and illustrating how it would work and also a one-page letter from J. B. Glenn, Fellow of the Actuarial Society of America, on the same subject.

The SPEAKER pro tempore (Mr. BOLAND). Is there objection to the request of the gentleman from Washington?

There was no objection.

### THE SECURITY BILL

Mr. DOUGHTON. Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin [Mr. WITHROW].

Mr. WITHROW. Mr. Speaker and Members of the House, I am opposed to the Clark amendment for two reasons. First, because I am of the opinion that it is actuarially unsound, and second, because I am convinced that it will encourage discrimination against the older employee when he seeks either employment or reemployment.

No plan can be actuarially sound unless all the employees in that industry, both young and old, come under one plan, and unless all of those employees contribute to one fund.

Under the Clark amendment it would be permissible to have not only a private annuity fund, but likewise a portion of the employees of that factory could come under the Federal plan. It naturally follows, owing to the fact that it would be to the advantage of employers, that the older employees would have to come under the Federal plan and to younger employees would choose the private annuity plan. That would result in the younger employees not contributing to the governmental fund, and over a period of years one of two things would happen—either that fund would be depleted or the premiums to be paid would become prohibitive.

We have a number of examples.

I am a member of the railroad brotherhood. I was an officer prior to my election to Congress. We organized an annuity plan that was voluntary. The result was that the only men who chose to come under the plan were the old employees.

The plan had not been working very long before we found that it was a mistake. The result was that the brotherhood lost a number of million dollars, and I sincerely hope that this body will profit by the sad mistakes that we made during those years.

In cases where railroads now have company pension plans to which both employer and employee contribute, it has been our experience that the managements have found reason to lay off employees on one pretext or another, prior to the time they reached a pensionable age. This is not a matter of theory or conjecture. I can cite numerous examples.

Mr. HOUSTON. Will the gentleman yield?

Mr. WITHROW. I yield.

Mr. HOUSTON. What effect would this have on the railroad pension plan?

Mr. WITHROW. It would have no effect at all—none whatever.

Mr. HOUSTON. I understand that, but in the event that we defeat the Clark amendment, as I hope we will, what effect will it have on the present retirement pension plan?

Mr. WITHROW. None at all. Under the Clark amendment it would be to the advantage of the employer to have hired only men in the younger age groups. The cost of an annuity of $1 per annum, beginning at the age of 65, purchased at insurance company rates, is approximately $1.86 at age of 22; $2.18 at age of 27; $4.27 at age of 47; $8.47 at age of 57.

With such greater costs for older age groups, it is very evident that an employer can provide benefits as liberal as those of the Federal plan at a much lower cost if he pursues the policy of hiring only men in the lower age groups. Employers do not have to discharge employees when they grow old to get this advantage. All that they have to do is to establish a low hiring age limit. Many employers now have such low hiring age limits. The Clark amendment would very materially increase the tendency toward the adoption of such hiring age limits and preclude older men from securing employment.

I cannot go further with this subject in the limited time allotted to me. However, it is certain that in order for the Government plan to be successful it must include all age groups, and especially the younger age groups, in order to maintain adequate reserves without resorting to prohibitive contributions by employees or huge subsidies from the Government.

The Clark amendment is unsound in every respect.

I urge that it be defeated. [Applause.]

The SPEAKER. The time of the gentleman from Wisconsin has expired.

Mr. DOUGHTON. Mr. Speaker, I trust the House will insist on disagreeing to and vote down what is known as the "Clark amendment." I do not pretend to pass on the

motives of those who favor this amendment. For aught I know they are sincere, but I am sure that the effect of the Clark amendment will be to cripple or destroy this legislation so that its purposes and its objectives will not be accomplished. This debate has demonstrated clearly that there are many who give but lukewarm or half-hearted support to this legislation, who at heart are opposed to it and would be delighted, in fact, overjoyed, if it could be weakened by the adoption of some amendment whereby it would not accomplish the purpose and objectives for which it is designed. If the Clark amendment should be adopted, that means it would throw the burden on the weak, or almost entirely upon the Government, and that of itself, in my judgment, would tend to so weaken the whole plan that it will be of little or no benefit. Under the Clark amendment the employer with a private plan is exempt only when he is administering his plan properly. Otherwise he is not exempt. If the Clark amendment should be adopted, then you will by necessity have to set up a bureaucracy with a large number of employees because the employee under the Clark plan who is not satisfied with the treatment he receives will be coming post haste to Washington to have an investigation of the employer as to whether or not he is carrying out the purposes and requirements of the act. In that way it will require a large number of Government employees and it will build up a bureaucracy in Washington, the number of whose employees it is not possible at this time to forecast. Moreover, if this law is to succeed, it must have two purposes. It must accomplish the purpose for which it is designed, and it must also stand the test of the courts, and everyone who is familiar with this bill, who is qualified to pass a legal opinion, is convinced that if the Clark amendment is adopted, it seriously endangers the constitutionality of the bill.

They say, on the other hand, and my good friend from Massachusetts [Mr. TREADWAY] contended, that in case the bill should be declared null and void, then the private plan would be destroyed and there would be no protection whatever; but I call his attention to the fact that it is not until 1937 that title VIII is effective, and there will be ample time to have the validity of this act tested in the courts, and if it should fail, then the private plans would still be in existence. So there is no force or potency to that argument.

Mr. DOCKWEILER. As I understand it, under the Clark amendment there is no provision whereby a corporation which wants to have its private pension plan may protect its employees against its own bankruptcy and the fund being dissipated, so that the employees would not get anything.

Mr. DOUGHTON. In many cases that is true. Under the Clark amendment it would not be profitable for older employees to come under private plans. They get favored treatment under the Government plan, and so they would want to stay under the Government plan. The only people who would be covered by private plans would be the younger workers. Thus the Government plan would be left with all the "bad risks", while all the strong contributors would be exempt. Very soon the Government fund would be insolvent, and the entire insurance principle would be destroyed.

Therefore, Mr. Speaker, I am confident the membership of the House will vote down the motion to concur, and further insist on disagreeing to the Clark amendment. [Applause.]

The SPEAKER. The time of the gentleman from North Carolina has expired. All time has expired.

Mr. DOUGHTON. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER. The question now is on the motion of the gentleman from Massachusetts to recede and concur in the Senate amendment.

The question was taken——

Mr. DOUGHTON. Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 78, nays 268, not voting 83, as follows:

[Roll No. 132]

YEAS—78

| | | | |
|---|---|---|---|
| Allen | Darrow | Holmes | Ransley |
| Andresen | Dirksen | Hope | Reed, Ill. |
| Andrew, Mass. | Ditter | Jenkins, Ohio | Reed, N. Y. |
| Arends | Dondero | Kahn | Rich |
| Bacharach | Duffy, N. Y. | Kinzer | Rogers, Mass. |
| Bell | Eaton | Knutson | Ryan |
| Blackney | Ekwall | Lehlbach | Short |
| Boehne | Engel | Lord | Snell |
| Brewster | Fish | McLean | Taber |
| Buckbee | Focht | Marshall | Taylor, S. C. |
| Carlson | Gifford | Martin, Mass. | Thurston |
| Cavicchia | Goodwin | Merritt, Conn. | Tinkham |
| Christianson | Guyer | Michener | Treadway |
| Church | Gwynne | Millard | Wadsworth |
| Claiborne | Halleck | Mott | Wigglesworth |
| Cole, Md. | Hancock, N. Y. | Peterson, Ga. | Wilson, Pa. |
| Cole, N. Y. | Hancock, N. C. | Pettengill | Wolfenden |
| Costello | Hess | Pittenger | Woodruff |
| Crowther | Hoeppel | Plumley | |
| Culkin | Hoffman | Powers | |

NAYS—268

| | | | |
|---|---|---|---|
| Adair | Dunn, Pa. | Lambertson | Robertson |
| Amlie | Eagle | Lambeth | Robinson, Utah |
| Arnold | Eckert | Lanham | Robsion, Ky. |
| Ayers | Edmiston | Larrabee | Rogers, N. H. |
| Barden | Ellenbogen | Lee, Okla. | Rogers, Okla. |
| Beiter | Evans | Lemke | Romjue |
| Biermann | Faddis | Lesinski | Rudd |
| Binderup | Farley | Lewis, Colo. | Russell |
| Bland | Ferguson | Lewis, Md. | Sanders, La. |
| Blanton | Fiesinger | Luckey | Sanders, Tex. |
| Bloom | Flannagan | Ludlow | Sandlin |
| Bolleau | Fletcher | Lundeen | Sauthoff |
| Boland | Ford, Calif. | McAndrews | Schaefer |
| Boylan | Ford, Miss. | McClellan | Secrest |
| Brennan | Frey | McCormack | Seger |
| Brooks | Fuller | McFarlane | Shanley |
| Brown, Ga. | Fulmer | McKeough | Sirovich |
| Brunner | Gambrill | McLaughlin | Sisson |
| Buchanan | Gasque | McMillan | Smith, Conn. |
| Buck | Gassaway | McReynolds | Smith, Va. |
| Buckler, Minn. | Gearhart | Mahon | Smith, Wash. |
| Burdick | Gehrmann | Mansfield | Smith, W. Va. |
| Caldwell | Gilchrist | Mapes | Snyder |
| Cannon, Mo. | Gingery | Marcantonio | South |
| Cannon, Wis. | Goldsborough | Martin, Colo. | Spence |
| Carmichael | Granfield | Mason | Stack |
| Carpenter | Gray, Ind. | Massingale | Steagall |
| Cartwright | Gray, Pa. | Maverick | Stefan |
| Castellow | Green | May | Stubbs |
| Celler | Greenway | Mead | Sumners, Tex. |
| Chandler | Greenwood | Meeks | Tarver |
| Chapman | Greever | Merritt, N. Y. | Taylor, Colo. |
| Citron | Gregory | Miller | Taylor, Tenn. |
| Clark, N. C. | Griswold | Mitchell, Ill. | Terry |
| Coffee | Hamlin | Mitchell, Tenn. | Thom |
| Colden | Harlan | Monaghan | Thomason |
| Colmer | Hart | Montague | Thompson |
| Connery | Harter | Moran | Tonry |
| Cooley | Healey | Moritz | Truax |
| Cooper, Tenn. | Higgins, Mass. | Murdock | Turner |
| Cox | Hildebrandt | Nelson | Turpin |
| Cravens | Hill, Ala. | Nichols | Umstead |
| Crawford | Hill, Knute | Norton | Utterback |
| Crosby | Hill, Samuel B. | O'Connor | Vinson, Ga. |
| Cross, Tex. | Hobbs | O'Day | Vinson, Ky. |
| Crowe | Hook | O'Leary | Wallgren |
| Cullen | Houston | O'Malley | Walter |
| Cummings | Huddleston | O'Neal | Warren |
| Daly | Hull | Palmisano | Wearin |
| Dear | Imhoff | Parks | Weaver |
| Deen | Jacobsen | Parsons | Welch |
| Delaney | Jenckes, Ind. | Patman | Werner |
| Dempsey | Johnson, Okla. | Patterson | West |
| DeRouen | Johnson, W. Va. | Patton | Whelchel |
| Dickstein | Jones | Pearson | White |
| Dies | Kee | Peterson, Fla. | Whittington |
| Dietrich | Keller | Pfeifer | Wilcox |
| Dingell | Kennedy, Md. | Pierce | Williams |
| Disney | Kennedy, N. Y. | Polk | Wilson, La. |
| Dobbins | Kenney | Rabaut | Withrow |
| Dockweiler | Kerr | Ramsay | Wolcott |
| Dorsey | Kloeb | Ramspeck | Wolverton |
| Doughton | Kniffin | Randolph | Wood |
| Doxey | Kocialkowski | Rayburn | Woodrum |
| Drewry | Kopplemann | Reece | Young |
| Driver | Kramer | Reilly | Zimmerman |
| Duncan | Kvale | Richardson | Zioncheck |

NOT VOTING—83

| | | | |
|---|---|---|---|
| Andrews, N. Y. | Burnham | Doutrich | Gillette |
| Ashbrook | Carter | Driscoll | Haines |
| Bacon | Cary | Duffey, Ohio | Hartley |
| Bankhead | Casey | Dunn, Miss. | Hennings |
| Beam | Clark, Idaho | Eicher | Higgins, Conn. |
| Berlin | Cochran | Englebright | Hollister |
| Bolton | Collins | Fenerty | Johnson, Tex. |
| Brown, Mich. | Cooper, Ohio | Fernandes | Kelly |
| Buckley, N. Y. | Corning | Fitzpatrick | Kimball |
| Bulwinkle | Crosser, Ohio | Gavagan | Kleberg |
| Burch | Darden | Gildea | Lamneck |

| | | | |
|---|---|---|---|
| Lea, Calif. | Montet | Sabath | Starnes |
| Lloyd | O'Brien | Sadowski | Stewart |
| Lucas | O'Connell | Schneider | Sullivan |
| McGehee | Oliver | Schuetz | Sutphin |
| McGrath | Owen | Schulte | Sweeney |
| McGroarty | Perkins | Scott | Thomas |
| McLeod | Peyser | Scrugham | Tobey |
| McSwain | Quinn | Sears | Tolan |
| Maas | Rankin | Shannon | Underwood |
| Maloney | Richards | Somers, N. Y. | |

So the motion to recede and concur was rejected.

The Clerk announced the following pairs:

On this vote:

Mr. Corning (for) with Mr. Johnson of Texas (against).
Mr. Bolton (for) with Mr. Sullivan (against).
Mr. McLeod (for) with Mr. Lucas (against).
Mr. Cooper of Ohio (for) with Mr. Starnes (against).
Mr. Stewart (for) with Mr. Fitzpatrick (against)
Mr. Hartley (for) with Mr. Somers of New York (against).
Mr. Perkins (for) with Mr. Gavagan (against).
Mr. Fenerty (for) with Mr. Buckley of New York (against).
Mr. Thomas (for) with Mr. Schneider (against).
Mr. Doutrich (for) with Mr. Burch (against).
Mr. Bacon (for) with Mr. Berlin (against).
Mr. Andrews of New York (for) with Mr. Sabath (against).

General pairs:

Mr. Rankin with Mr. Kimball.
Mr. Cochran with Mr. Carter.
Mr. Scrugham with Mr. Burnham.
Mr. Sears with Mr. Maas.
Mr. Sutphin with Mr. Higgins of Connecticut.
Mr. Oliver with Mr. Collins.
Mr. McSwain with Mr. Englebright.
Mr. Crosser of Ohio with Mr. Tobey.
Mr. Montet with Mr. Quinn.
Mr. Sweeney with Mr. Eicher.
Mr. Schuetz with Mr. Tolan.
Mr. Haines with Mr. Kelly.
Mr. Bulwinkle with Mr. Lloyd.
Mr. Bankhead with Mr. Casey.
Mr. McGehee with Mr. Driscoll.
Mr. Clark of Idaho with Mr. O'Brien.
Mr. Beam with Mr. Richards.
Mr. Fernandez with Mr. Gildea.
Mr. Kleberg with Mr. Underwood.
Mr. Gillette with Mr. Hennings.
Mr. Schulte with Mr. Scott.
Mr. Duffey of Ohio with Mr. Owen.
Mr. Sadowski with Mr. Dunn of Mississippi.
Mr. Darden with Mr. O'Connell.
Mr. Maloney with Mr. Carey.
Mr. Lamneck with Mr. McGroarty.
Mr. Brown of Michigan with Mr. Lea of California.
Mr. Lea of California with Mr. Ashbrook.

The result of the vote was announced as above recorded.

The SPEAKER. The question now recurs on the motion of the gentleman from North Carolina [Mr. DOUGHTON] that the House insist upon its disagreement to the Senate amendments.

Mr. DOUGHTON. Mr. Speaker, I ask for the yeas and nays.

Mr. SNELL. Mr. Speaker, I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 269, nays 65, not voting 95, as follows:

[Roll No. 133]

YEAS—269

| | | | |
|---|---|---|---|
| Adair | Clark, N. C. | Doughton | Goldsborough |
| Amlie | Coffee | Doxey | Granfield |
| Arnold | Colden | Drewry | Gray, Ind. |
| Ayers | Cole, Md. | Driver | Gray, Pa. |
| Barden | Colmer | Duffey, Ohio | Green |
| Beiter | Connery | Duncan | Greenway |
| Biermann | Cooley | Dunn, Miss. | Greenwood |
| Binderup | Cooper, Tenn. | Dunn, Pa. | Greever |
| Bland | Cox | Eagle | Gregory |
| Blanton | Cravens | Eckert | Griswold |
| Boehne | Crawford | Edmiston | Hancock, N. C. |
| Bolleau | Crosby | Ellenbogen | Harlan |
| Boland | Cross, Tex. | Evans | Hart |
| Boylan | Crosser, Ohio | Faddis | Harter |
| Brennan | Crowe | Farley | Healey |
| Brown, Ga. | Culkin | Ferguson | Higgins, Mass. |
| Brunner | Cullen | Flesinger | Hildebrandt |
| Buchanan | Cummings | Flannagan | Hill, Ala. |
| Buck | Daly | Fletcher | Hill, Knute |
| Buckbee | Deen | Ford, Calif. | Hill, Samuel B. |
| Buckler, Minn. | Delaney | Ford, Miss. | Hobbs |
| Burdick | Dempsey | Frey | Hoeppel |
| Caldwell | DeRouen | Fuller | Hook |
| Cannon, Mo. | Dickstein | Fulmer | Houston |
| Cannon, Wis. | Dies | Gambrill | Huddleston |
| Carpenter | Dietrich | Gasque | Hull |
| Castellow | Dingell | Gearhart | Imhoff |
| Celler | Disney | Gehrmann | Jacobsen |
| Chandler | Dockweiler | Gilchrist | Jenckes, Ind. |
| Chapman | Dorsey | Gingery | Johnson, W. Va. |
| Jones | Marcantonio | Rayburn | Taylor, Tenn. |
| Kee | Martin, Colo. | Reece | Terry |
| Keller | Mason | Reilly | Thom |
| Kennedy, Md. | Massingale | Richardson | Thomason |
| Kennedy, N. Y. | Maverick | Robertson | Thompson |
| Kenney | May | Robinson, Utah | Tonry |
| Kerr | Mead | Robsion, Ky. | Truax |
| Kloeb | Meeks | Rogers, N. H. | Turner |
| Kniffin | Merritt, N. Y. | Rogers, Okla. | Turpin |
| Knutson | Miller | Romjue | Umstead |
| Kocialkowski | Mitchell, Ill. | Russell | Utterback |
| Kopplemann | Mitchell, Tenn. | Sabath | Vinson, Ga. |
| Kramer | Monaghan | Sadowski | Vinson, Ky. |
| Kvale | Montague | Sanders, La. | Wallgren |
| Lambertson | Moran | Sanders, Tex. | Walter |
| Lambeth | Moritz | Sandlin | Warren |
| Lanham | Murdock | Sauthoff | Wearin |
| Larrabee | Nelson | Schaefer | Weaver |
| Lea, Calif. | Norton | Secrest | Welch |
| Lee, Okla. | O'Connor | Seger | Werner |
| Lemke | O'Day | Shanley | West |
| Lesinski | O'Leary | Sirovich | Whelchel |
| Lewis, Colo. | O'Malley | Sisson | White |
| Lewis, Md. | O'Neal | Smith, Conn. | Whittington |
| Luckey | Owen | Smith, Va. | Wilcox |
| Ludlow | Palmisano | Smith, Wash. | Williams |
| Lundeen | Parks | Smith, W. Va. | Wilson, La. |
| McAndrews | Parsons | Snyder | Withrow |
| McClellan | Patman | South | Wolcott |
| McCormack | Patterson | Spence | Wolverton |
| McFarlane | Patton | Stack | Wood |
| McKeough | Peterson, Fla. | Steagall | Woodrum |
| McLaughlin | Pierce | Stefan | Young |
| McMillan | Polk | Stubbs | Zimmerman |
| McReynolds | Rabaut | Sumners, Tex. | Zioncheck |
| Mahon | Ramsay | Tarver | |
| Mansfield | Ramspeck | Taylor, Colo. | |
| Mapes | Randolph | Taylor, S. C. | |

NAYS—65

| | | | |
|---|---|---|---|
| Allen | Dirksen | Jenkins, Ohio | Reed, Ill. |
| Andresen | Ditter | Kahn | Reed, N. Y. |
| Andrew, Mass. | Dondero | Kinzer | Rich |
| Arends | Ekwall | Lehlbach | Rogers, Mass. |
| Bacharach | Engel | Lord | Ryan |
| Bell | Fish | McLean | Snell |
| Blackney | Focht | Marshall | Taber |
| Brewster | Gifford | Martin, Mass. | Thurston |
| Carlson | Goodwin | Merritt, Conn. | Tinkham |
| Cavicchia | Guyer | Michener | Treadway |
| Christianson | Gwynne | Millard | Wadsworth |
| Church | Halleck | Mott | Wigglesworth |
| Claiborne | Hancock, N. Y. | Peterson, Ga. | Wolfenden |
| Cole, N. Y. | Hess | Pettengill | Woodruff |
| Costello | Hoffman | Pittenger | |
| Crowther | Holmes | Powers | |
| Darrow | Hope | Ransley | |

NOT VOTING—95

| | | | |
|---|---|---|---|
| Andrews, N. Y. | Corning | Johnson, Tex. | Quinn |
| Ashbrook | Darden | Kelly | Rankin |
| Bacon | Dear | Kimball | Richards |
| Bankhead | Dobbins | Kleberg | Rudd |
| Beam | Doutrich | Lamneck | Schneider |
| Berlin | Driscoll | Lloyd | Schuetz |
| Bloom | Duffy, N. Y. | Lucas | Schulte |
| Bolton | Eaton | McGehee | Scott |
| Brooks | Eicher | McGrath | Scrugham |
| Brown, Mich. | Englebright | McGroarty | Seart |
| Buckley, N. Y. | Fenerty | McLeod | Shannon |
| Bulwinkle | Fernandez | McSwain | Short |
| Burch | Fitzpatrick | Maas | Somers, N. Y. |
| Burnham | Gassaway | Maloney | Starnes |
| Carmichael | Gavagan | Montet | Stewart |
| Carter | Gildea | Nichols | Sullivan |
| Cartwright | Gillette | O'Brien | Sutphin |
| Cary | Haines | O'Connell | Sweeney |
| Casey | Hamlin | Oliver | Thomas |
| Citron | Hartley | Pearson | Tobey |
| Clark, Idaho | Hennings | Perkins | Tolan |
| Cochran | Higgins, Conn. | Peyser | Underwood |
| Collins | Hollister | Pfeifer | Wilson, Pa. |
| Cooper, Ohio | Johnson, Okla. | Plumley | |

So the motion was agreed to.

The Clerk announced the following additional pairs:

On this vote:

Mr. Johnson of Texas (for) with Mr. Corning (against).
Mr. Sullivan (for) with Mr. Bolton (against).
Mr. Lucas (for) with Mr. McLeod (against).
Mr. Starnes (for) with Mr. Cooper of Ohio (against).
Mr. Fitzpatrick (for) with Mr. Stewart (against).
Mr. Somers of New York (for) with Mr. Hartley (against).
Mr. Gavagan (for) with Mr. Perkins (against).
Mr. Buckley (for) with Mr. Fenerty (against).
Mr. Schneider (for) with Mr. Thomas (against).
Mr. Burch (for) with Mr. Doutrich (against).
Mr. Berlin (for) with Mr. Bacon (against).
Mr. Bloom (for) with Mr. Hollister (against).
Mr. Pfeifer (for) with Mr. Short (against).
Mr. Brooks (for) with Mr. Eaton (against).
Mr. Rudd (for) with Mr. Wilson of Pennsylvania (against).

General pairs:

Mr. Rankin with Mr. Kimball.
Mr. Cochran with Mr. Carter.

Mr. Scrugham with Mr. Burnham.
Mr. Sears with Mr. Maas.
Mr. Sutphin with Mr. Higgins of Connecticut.
Mr. Johnson of Oklahoma with Mr. Plumley.
Mr. Cartwright with Mr. Tobey.
Mr. Carmichael with Mr. Andrews of New York.
Mr. Oliver with Mr. Collins.
Mr. McSwain with Mr. Englebright.
Mr. Montet with Mr. Quinn.
Mr. Sweeney with Mr. Eicher.
Mr. Schuetz with Mr. Tolan.
Mr. Haines with Mr. Kelly.
Mr. Bulwinkle with Mr. Lloyd.
Mr. Bankhead with Mr. Casey.
Mr. McGehee with Mr. Driscoll.
Mr. Clark of Idaho with Mr. O'Brien.
Mr. Beam with Mr. Richards.
Mr. Fernandez with Mr. Gildea.
Mr. Kleberg with Mr. Underwood.
Mr. Gillette with Mr. Hennings.
Mr. Schulte with Mr. Scott.
Mr. Darden with Mr. O'Connell.
Mr. Maloney with Mr. Carey.
Mr. Lamneck with Mr. McGroarty.
Mr. Brown of Michigan with Mr. McGrath.
Mr. Gassaway with Mr. Ashbrook.
Mr. Pearson with Mr. Duffy of New York.
Mr. Nichols with Mr. Hamlin.
Mr. Dear with Mr. Dobbins.

The result of the vote was announced as above recorded.

A motion to reconsider the vote by which the motion was agreed to was laid on the table.

EXPLANATION OF VOTE

Mr. BOLAND. Mr. Speaker, I wish to announce that my colleagues, Mr. BERLIN and Mr. HAINES, are unavoidably absent. Were they present, they would have voted "no" on the Treadway motion and would have voted "aye" on the Doughton motion.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Chaffee, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7260) to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes, and that the House insisted upon its disagreement to the amendments of the Senate numbered 17, 67, 68, 83, and 84 to the bill.

SOCIAL SECURITY—CONFERENCE REPORT

Mr. HARRISON submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7260) to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment-compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 2, 3, 6, 7, 8, 10, 11, 12, 13, 14, 15, 18, 22, 23, 24, 25, 26, 27, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 40, 41, 42, 43, 44, 61, 65, 70, 75, 76, 77, 78, 79, 80, 81, 86, 90, 92, 105, and 108.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 5, 9, 16, 20, 21, 28, 39, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 60, 62, 63, 64, 66, 69, 71, 72, 82, 88, 89, 93, 94, 95, 96, 97, 98, 102, 103, and 109, and agree to the same.

Amendment numbered 4: That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: " : *Provided*, That the State plan, in order to be approved by the Board, need not provide for financial participation before July 1, 1937 by the State, in the case of any State which the Board, upon application by the State and after reasonable notice and opportunity for hearing to the State, finds is

prevented by its Constitution from providing such financial participation"; and the Senate agree to the same.

Amendment numbered 19: That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "or such other agencies as the Board may approve"; and the Senate agree to the same.

Amendment numbered 59: That the House recede from its disagreement to the amendment of the Senate numbered 59, and agree to the same with an amendment as follows: On page 8 of the Senate engrossed amendments strike out line 12 and insert in lieu thereof the following: "welfare services (hereinafter in this section referred to as 'child-welfare services') for the protection and care of homeless, dependent, and neglected children, and children in danger of becoming delinquent" and a comma; and the Senate agree to the same.

Amendment numbered 73: That the House recede from its disagreement to the amendment of the Senate numbered 73, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "If the tax is not paid when due, there shall be added as part of the tax interest (except in the case of adjustments made in accordance with the provisions of sections 802 (b) and 805) at the rate of one-half of 1 per centum per month from the date the tax became due until paid"; and the Senate agree to the same.

Amendment numbered 74: That the House recede from its disagreement to the amendment of the Senate numbered 74, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "together with a statement of the additional expenditures in the District of Columbia and elsewhere incurred by the Post Office Department in performing the duties imposed upon said Department by this act, and the Secretary of the Treasury is hereby authorized and directed to advance from time to time to the credit of the Post Office Department from appropriations made for the collection of the taxes imposed by this title, such sums as may be required for such additional expenditures incurred by the Post Office Department"; and the Senate agree to the same.

Amendment numbered 85: That the House recede from its disagreement to the amendment of the Senate numbered 85, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following "EIGHT"; and the Senate agree to the same.

Amendment numbered 87: That the House recede from its disagreement to the amendment of the Senate numbered 87, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "or such other agencies as the Board may approve"; and the Senate agree to the same.

Amendment numbered 91: That the House recede from its disagreement to the amendment of the Senate numbered 91, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "eight"; and the Senate agree to the same.

Amendment numbered 99: That the House recede from its disagreement to the amendment of the Senate numbered 99, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"APPROPRIATION

"SECTION 1001. For the purpose of enabling each State to furnish financial assistance, as far as practicable under the condition in such State, to needy individuals who are blind, there is hereby authorized to be appropriated for the fiscal year ending June 30, 1936, the sum of $3,000,000, and there is hereby authorized to be appropriated for each fiscal year thereafter a sum sufficient to carry out the purposes of this title. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Social Security Board, State plans for aid to the blind."

And the Senate agree to the same.

Amendment numbered 100: That the House recede from its disagreement to the amendment of the Senate numbered 100, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"STATE PLANS FOR AID TO THE BLIND

"SEC. 1002. (a) A State plan for aid to the blind must (1) provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them; (2) provide for financial participation by the State; (3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan; (4) provide for granting to any individual, whose claim for aid is denied, an opportunity for a fair hearing before such State agency; (5) provide such methods of administration (other than those relating to selection, tenture of office, and compensation of personnel) as are found by the Board to be necessary for the efficient operation of the plan; (6) provide that the State agency will make such reports, in such form and containing such information, as the Board may from time to time require, and comply with such provisions as the Board may from time to time find necessary to assure the correctness and verification of such reports; and (7) provide that no aid will be furnished any individual under the plan with respect to any period with respect to which he is receiving old-age assistance under the State plan approved under section 2 of this Act.

"(b) The Board shall approve any plan which fulfills the conditions specified in subsection (a), except that it shall not approve any plan which imposes, as a condition of eligibility for aid to the blind under the plan—

"(1) Any residence requirement which excludes any resident of the State who has resided therein five years during the nine years immediately preceding the application for aid and has resided therein continuously for one year immediately preceding the application; or

"(2) Any citizenship requirement which excludes any citizen of the United States."

And the Senate agree to the same.

Amendment numbered 101: That the House recede from its disagreement to the amendment of the Senate numbered 101, and agree to the same with the following amendments: On page 24 of the Senate engrossed amendments, line 19, strike out "permanently", and on page 25 of the Senate engrossed amendments, line 16, strike out "permanently"; and the Senate agree to the same.

Amendment numbered 104: That the House recede from its disagreement to the amendment of the Senate numbered 104, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"DEFINITION

"SEC. 1006. When used in this title the term 'aid to the blind means money payments to blind individuals."

And the Senate agree to the same.

Amendment numbered 106: That the House recede from its disagreement to the amendment of the Senate numbered 106, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "XI"; and the Senate agree to the same.

Amendment numbered 107: That the House recede from its disagreement to the amendment of the Senate numbered 107, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "1101"; and the Senate agree to the same.

Amendment numbered 110: That the House recede from its disagreement to the amendment of the Senate numbered 110, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "1102"; and the Senate agree to the same.

Amendment numbered 111: That the House recede from its disagreement to the amendment of the Senate numbered 111, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following "1103"; and the Senate agree to the same.

Amendment numbered 112: That the House recede from its disagreement to the amendment of the Senate numbered 112, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following "1104"; and the Scnate agree to the same.

Amendment numbered 113: That the House recede from its disagreement to the amendment of the Senate numbered 113, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following "1105"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill and agree to the same.

The committee of conference have not agreed on the following amendments: Amendments numbered 17, 67, 68, 83, and 84.

PAT HARRISON,
WILLIAM H. KING,
WALTER F. GEORGE,
HENRY W. KEYES,
ROBERT M. LA FOLLETTE, JR.,
*Managers on the part of the Senate.*

R. L. DOUGHTON,
SAM B. HILL,
THOS. H. CULLEN,
ALLEN T. TREADWAY,
ISAAC BACHARACH,
*Managers on the part of the House.*

Mr. McNARY. Mr. President, I think it would be quite worth while and informative if the Senator would discuss the conference report.

Mr. HARRISON. Mr. President, I was about to make a statement with reference to it. The conferees on the social-security bill have reached an agreement on all differences except the so-called "Clark and Black amendments." The Black amendment went with the Clark amendment—providing for continuation of private pension plans. The conferees were unable to agree on that matter.

The conferees met many times, I think having more than a dozen meetings. Throughout the Senate conferees tried to carry out the wishes of the Senate as required by the record vote on the so-called "Clark amendment." The House conferees were adamant as to the Clark amendment, though

they were able to agree on all the other differences between the House and the Senate. As soon as this part of the report shall be adopted, as I hope it may be, I expect to ask that the Senate further insist upon the so-called "Clark and Black amendments" and that a further conference be had with the House on those matters.

I may say in that connection, however, that when the House conferees reported today the report was overwhelmingly adopted and the House disagreed to the Clark amendment by a vote of 269 to 77.

There were several amendments of some importance on which we were able to agree. The so-called "Russell amendment", for instance, which was designed to take care of those States which, because of constitutional inhibitions, would be unable to participate in the matter of old-age assistance, was modified to some extent, but will carry out the general purposes of the original amendment, in that the States may participate without appropriations of funds by the State. The aggregate of amounts the political subdivisions of each State put up for old-age assistance plans will be matched by the Federal Government, just as if the State were financially participating. The objective of the Russell amendment was thus achieved in substance, and the House has agreed to it.

The House receded on the so-called "La Follette amendment", on which the sentiment of the Senate was practically unanimous. That was an amendment giving the option to States to adopt various plans with reference to unemployment insurance, whether the pool system or the separate reserve system, and permitting additional credit against the Federal tax where State contributions are reduced because of stabilization. The wishes of the Senate prevailed in that matter.

Mr. WALSH. Mr. President——

The VICE PRESIDENT. Does the Senator from Mississippi yield to the Senator from Massachusetts?

Mr. HARRISON. I do.

Mr. WALSH. May I ask the Senator what was done about the amendment in which I was interested, which was proposed and adopted when the bill was before the Senate, relating to noninterference by Federal officials with parental control of children?

Mr. HARRISON. That was taken care of. The House receded on part of the Senator's amendment, and the Senate receded on the other part. Of course, the Senator will recall that we invited him before the conference committee to explain the amendment, and I think the wishes of the Senate largely prevailed in that matter.

The Senator from South Dakota [Mr. NORBECK] had an amendment with reference to pensions for Indians. I may say that the Senate conferees fought valiantly in behalf of the amendment offered by the Senator from South Dakota, but our wishes did not prevail, and at the very last moment the Senate conferees finally yielded on that amendment.

Mr. NORBECK. Mr. President, does the Senator feel that if the Senate should take a definite stand for a pension for Indians the House might go along in regard to it?

Mr. HARRISON. The Senate conferees did take a definite stand.

Mr. NORBECK. No; I mean, if the Senate, by vote of the Senate, should take such a stand, does the Senator feel that that would have any influence on the situation in the House?

Mr. HARRISON. If we were to take a vote now?

Mr. NORBECK. Yes.

Mr. HARRISON. Of course, the Senator is fully cognizant of the rules of the Senate, because he has been here a long time, and has handled many bills. In order to do that, we should have to vote down the entire report; and while I share the sympathy which the Senator has for the Indians, I hope we shall not have to go to the extreme measure of voting down the entire report in order to secure another vote on that one amendment.

Mr. NORBECK. The Senator thinks the Senate amendment would be rejected in the House even if we should do that?

Mr. HARRISON. Yes; I feel sure that there is no way to put the amendment in this bill after what has occurred.

Mr. NORBECK. I very much regret, indeed, the way we treat the Indians, because they are so helpless. Whole families of them have been living on a dollar a week. We have now begun to recognize that we took away their lands from them without just compensation and have passed 80 or 90 statutes providing that they may sue. One statute, affecting a certain tribe of Indians, was passed during the Wilson administration. The case has not as yet been tried; but the House, in handling an appropriation bill last week, put in a proviso that the suits might be started all over again. That is, they provided that different counterclaims might be made, but they did not make any distinction between suits which permitted counterclaims and those which did not. In fact, the representative of the Department of Justice said there were 24 of these cases where the act was broad enough to admit all counterclaims.

I am pleased to say that the Senate Appropriations Committee did not take the view of the House; but we know that the House is going to insist on its proviso. The Senate committee felt that it was legislation on an appropriation bill, and therefore improper. They felt that it was entirely too broad, too unfair in its basis, so the proviso was stricken from the appropriation bill by the Senate committee. Whether or not we are going to yield on that, too, I do not know; but I hope that even the Indians may be given a little consideration. The older Indians, who have lost their hunting grounds and their opportunity to make a living by agriculture, and who are living on reservations that do not produce, have simply been told to starve; and even now in this bill they are simply told, "We shall take care of everybody else but not of the Indians."

I regret that the Senate had to yield on this amendment.

Mr. HARRISON. Mr. President, the Senate conferees were in sympathy with the views of the Senator from South Dakota.

Mr. LA FOLLETTE. Mr. President, will the Senator from Mississippi yield?

Mr. HARRISON. I yield.

Mr. LA FOLLETTE. I should like to say, for the benefit of the Senator from South Dakota, that as one of the Senate conferees I was very much interested in his amendment. My interest was not only because of the fact that the Senator from South Dakota had sponsored the amendment, but because as a member of the Senate Committee on Indian Affairs I was somewhat familiar with the problem which the Senator's amendment tried to reach; and I was very much in sympathy with its objective.

I desire to say, in support of what the chairman of the Senate conferees has had to say, that it is my opinion that we could not prevail upon the House conferees to accept that amendment even if we should vote down the conference report and have another conference. The House conferees were absolutely adamant upon the subject. I also desire to assure the Senator from South Dakota that I shall be glad, as one Member of the Senate, to help him in attempting to have this matter taken care of in a separate piece of legislation.

Mr. NORBECK. I thank the Senator.

Mr. HARRISON. Mr. President, there are just two other matters I wish to mention which were in difference between the two Houses.

One of these was whether the Social Security Board should be an independent agency or under the Department of Labor. It will be recalled that the Senate placed it under the Department of Labor. The Senate was forced to yield on that matter.

As to the other matter, the amendment to take care of the blind, the Senate's views on that subject prevailed, with an amendment.

I shall be glad to answer any further questions in regard to the conference report.

The VICE PRESIDENT. The question is on agreeing to the conference report.

The report was agreed to.

The VICE PRESIDENT laid before the Senate the action of the House of Representatives on certain amendments in disagreement, which was read, as follows:

IN THE HOUSE OF REPRESENTATIVES, UNITED STATES,
*July 17, 1935.*

*Resolved*, That the House insist upon its disagreement to the amendments of the Senate nos. 17, 67, 68, 83, and 84 to the bill (H. R. 7260) to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes.

Mr. HARRISON. Mr. President, on the four or five amendments still in disagreement, I move that the Senate insist upon its amendments and ask for a further conference with the House, and that the Chair appoint the conferees on the part of the Senate.

The VICE PRESIDENT. The question is on the motion of the Senator from Mississippi.

The motion was agreed to; and the Vice President appointed Mr. HARRISON, Mr. KING, Mr. GEORGE, Mr. KEYES, and Mr. LA FOLLETTE conferees on the part of the Senate at the further conference with the House of Representatives.

Mr. CONNALLY. Mr. President, is it the purpose of the conferees to have a vote in the Senate on the Clark amendment?

Mr. HARRISON. That amendment has gone back to conference.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Horne, its enrolling clerk, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7260) entitled "An act to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes."

The message also announced that the Senate further insists upon its amendments numbered 17, 67, 68, 83, and 84 to the foregoing bill, asks a further conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HARRISON, Mr. KING, Mr. GEORGE, Mr. KEYES, and Mr. LA FOLLETTE to be the conferees on the part of the Senate.

THE SOCIAL-SECURITY BILL

Mr. SAMUEL B. HILL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill H. R. 7260, the social-security bill, further insist on its disagreement to the amendments of the Senate, and agree to the conference asked for.

The SPEAKER. The Clerk will report the title.

The Clerk read the title, as follows:

H. R. 7260

To provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Chair appointed as conferees on the part of the House Mr. DOUGHTON, Mr. SAMUEL B. HILL, Mr. CULLEN, Mr. TREADWAY, and Mr. BACHARACH.

MESSAGE FROM THE HOUSE

The message also announced that the House further insisted upon its disagreement to the amendments of the Senate numbered 17, 67, 68, 83, and 84 to the bill (H. R. 7260) to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes; agreed to the further conference asked by the Senate on the disagreeing votes of the two Houses thereon, and Mr. DOUGHTON, Mr. SAM B. HILL, Mr. CULLEN, Mr. TREADWAY, and Mr. BACHARACH were appointed managers on the part of the House at the further conference.

74TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
1st Session } { No. 1744

# SOCIAL SECURITY BILL

AUGUST 8, 1935.—Ordered to be printed

Mr. DOUGHTON, from the committee of conference, submitted the following

## CONFERENCE REPORT

[To accompany H. R. 7260]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate nos. 17, 67, 68, 83, and 84 to the bill (H. R. 7260) to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from said amendments.

R. L. DOUGHTON,
SAM. B. HILL,
THOS. H. CULLEN,
ALLEN T. TREADWAY,
ISAAC BACHARACH,
*Managers on the part of the House.*

PAT HARRISON,
WILLIAM H. KING,
WALTER F. GEORGE,
ROBERT M. LA FOLLETTE, Jr.,
*Managers on the part of the Senate.*

## STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate nos. 17, 67, 68, 83, and 84 of the bill (H. R. 7260) to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes, submit the following written statement in explanation of the action agreed upon by the conferees and recommended in the accompanying conference report:

Senate amendments nos. 17, 67, 68, and 83, in effect exempt from the old-age pension provisions found in title II employees covered by private pension plans approved by the Social Security Board; and from the tax provisions of title VIII employers operating such plans, with respect to employees who are thus covered. Conditions of the Board's approval are set forth in some detail, designed to require the private plan to afford advantages at least equivalent to those found in title II. Amendment no. 84 makes it unlawful for any employer under an approved plan to contract with any insurance company, annuity organization, or trustee with respect to carrying out a private pension plan, if any director, officer, employee, or shareholder of the employer is at the same time a director, officer, employee, or shareholder of the insurance company, annuity organization, or trustee; makes unlawful the granting or accepting of rebates against charges payable under any contract carrying out a private pension plan; requires an insurance company, annuity organization, or trustee who makes any contract with an employer for carrying out a private pension plan to keep and preserve such accounts and records with respect to the contract and the financial transactions of the company, annuity organization, or trustee, as the Board deems necessary to insure the proper carrying out of the contract and to prevent fraud and collusion; and provides a penalty of not more than $10,000 fine or 1 year's imprisonment, or both, for violation of any of these provisions. On all these amendments the Senate recedes.

R. L. DOUGHTON,
SAM. B. HILL,
THOS. H. CULLEN,
ALLEN T. TREADWAY,
ISAAC BACHARACH,
*Managers on the part of the House.*



O

SOCIAL SECURITY

Mr. DOUGHTON. Mr. Speaker, I submit a conference report and statement upon the bill (H. R. 7260) to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes, for printing under the rule.

The conference report and statement are as follows:

CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate nos. 17, 67, 68, 83, and 84 to the bill (H. R. 7260) to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows: That the Senate recede from said amendments.

R. L. DOUGHTON,
SAM B. HILL,
THOS. H. CULLEN,
ALLEN T. TREADWAY,
ISAAC BACHARACH,
*Managers on the part of the House.*

PAT HARRISON,
WILLIAM H. KING,
WALTER F. GEORGE,
ROBERT M. LA FOLLETTE, JR.,
*Managers on the part of the Senate.*

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate nos. 17, 67, 68, 83, and 84 to the bill (H. R. 7260) to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws; to establish a Social Security Board; to raise revenue, and for other purposes, submit the following written statement in explanation of the action agreed upon by the conferees and recommended in the accompanying conference report:

Senate amendments nos. 17, 67, 68, and 83, in effect exempt from the old-age pension provisions found in title II employees covered by private pension plans approved by the Social Security Board; and from the tax provisions of title VIII employers operating such plans, with respect to employees who are thus covered. Conditions of the Board's approval are set forth in some detail, designed to require the private plan to afford advantages at least equivalent to those found in title II. Amendment no. 84 makes it unlawful for any employer under an approval plan to contract with any insurance company, annuity organization, or trustee with respect to carrying out a private pension plan, if any director, officer, employee, or shareholder of the employer is at the same time a director, officer, employee, or shareholder of the insurance company, annuity organization, or trustee; makes unlawful the granting or accepting of rebates against charges payable under any contract carrying out a private pension plan; requires an insurance company, annuity organization, or trustee who makes any contract with an employer for carrying out a private pension plan to keep and preserve such accounts and records with respect to the contract and the financial transactions of the company, annuity organization, or trustee, as the Board deems necessary to insure the proper carrying out of the contract and to prevent fraud and collusion; and provides a penalty of not more than $10,000 fine or 1 year's imprisonment, or both, for violation of any of these provisions. On all these amendments the Senate recedes.

R. L. DOUGHTON,
SAM B. HILL,
THOS. H. CULLEN,
ALLEN T. TREADWAY,
ISAAC BACHARACH,
*Managers on the part of the House.*

Mr. DOUGHTON. Mr. Speaker, I ask unanimous consent for the present consideration of the conference report.

The SPEAKER. Is there objection?

Mr. O'MALLEY. Mr. Speaker, I reserve the right to object to ask the chairman of the committee what became of the Clark amendment?

Mr. DOUGHTON. The Senate receded on the Clark amendment.

The SPEAKER. Is there objection?

There was no objection.

Mr. DOUGHTON. Mr. Speaker, I ask unanimous consent that the statement may be read in lieu of the report.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the statement.

The SPEAKER. The question is on agreeing to the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

PERMISSION TO ADDRESS THE HOUSE

Mr. TREADWAY. Mr. Speaker, I ask unanimous consent to address the House for 2 minutes.

The SPEAKER. Is there objection?

There was no objection.

Mr. TREADWAY. I understood there was to be an explanation offered by the Chairman of the Committee on Ways and Means, but as the Speaker declared the conference reported was adopted, the gentleman from North Carolina will not have an opportunity to offer an explanation on the floor.

The SPEAKER. The conference report was adopted. The Chair did not understand the gentleman desired recognition.

Mr. TREADWAY. I ask unanimous consent to proceed, Mr. Speaker.

The SPEAKER. The gentleman has been recognized.

Mr. TREADWAY. I do this simply to say that I have been one of those anxious to see the Clark amendment put into the bill. It has been voted out by the conference, first by the House conferees, and that action was approved by a House vote, and the Senate conferees have receded. The Clark amendment is therefore out of the bill as adopted in conference just now.

A study that has been made by experts interested in this matter leads them to believe that with further study they will be able to work out some scheme by which the principle of private insurance—that is, insurance by corporations for their employees, which is the basis of the Clark amendment—may be adopted in the future. There are evidently numerous obstacles that must be overcome before this can be put into operation. Therefore, while opposed to the adoption of the conference report in principle, I was glad to sign it, in anticipation of the fact that at the beginning of next session another effort will be made to include the idea that is incorporated in the Clark amendment. This is the understanding of the conferees, and subcommittees will be appointed for that purpose.

[Here the gavel fell.]

Mr. DOUGHTON. Mr. Speaker, I ask unanimous consent to proceed for 2 minutes.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. DOUGHTON. Mr. Speaker, the Senate has receded on the Clark amendment to the social-security bill, and on its companion amendment, the Black amendment. These amendments related to the preservation of employers' private-annuity plans. It was understood by the conferees that after further study, a program for preserving these plans could probably be formulated which would be free from the Clark amendment's chief weaknesses. The Chairman of the Senate Finance Committee is appointing a subcommittee, and I shall appoint a subcommittee of the Ways and Means Committee to consider this matter and, if possible, to make recommendations concerning it to the Congress at the beginning of the session next January.

[Here the gavel fell.]

MESSAGE FROM THE HOUSE

The message further announced that the House had agreed to the report of the committe of conference on the disagreeing votes of the two Houses on certain amendments of the Senate to the bill (H. R. 7260) to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes.

SOCIAL SECURITY—CONFERENCE REPORT

Mr. HARRISON submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate nos. 17, 67, 68, 83, and 84 to the bill (H. R. 7260) to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows: That the Senate recede from said amendments.

PAT HARRISON,
WILLIAM H. KING,
WALTER F. GEORGE,
ROBERT M. LA FOLLETTE, Jr.,
*Managers on the part of the Senate.*

R. L. DOUGHTON,
SAM B. HILL,
THOS. H. CULLEN,
ALLEN T. TREADWAY,
ISAAC BACHARACH,
*Managers on the part of the House.*

Mr. HARRISON. Mr. President, I desire to make a brief statement. It will be recalled that all other features of the social-security bill, with the exception of the so-called "Clark amendment", were agreed to and a partial report was submitted some weeks ago to both bodies. The only thing left in disagreement was the so-called "Clark amendment", together with the so-called "Black amendment", which dealt with the same subject matter.

The members of the conference committee have been unable to agree upon that amendment. We met many times. There was a strong difference of opinion. The Senate conferees in the best of faith tried to carry out the wishes of the Senate with reference to the Clark amendment. We made every effort to get together upon some compromise basis which would be fair to the Government, and at the same time preserve the private pension plans, but we were unable to do it.

The experts representing the committee, together with outside experts, worked for many days trying to agree upon some plan to be submitted to the conferees which might be substituted for the so-called "Clark amendment." They were unable to do this. Consequently the Senate conferees finally receded from the Clark and Black amendments. However, to the conferees, the question of preserving the private pension plan was very appealing and their desire to preserve it, if possible, was very great, but the subject was so complicated that it was realized it would take too long to solve the problem and present a rational plan to the present session of Congress. Therefore, while the Senate conferees receded, the Chairmen of the Ways and Means Committee of the House and of the Finance Committee of the Senate were authorized to appoint a committee composed of five members from each committee to study the private pension systems, together with the plan which was adopted by the House, which would be agreed to if the report should be adopted, and to try to merge the two and submit a report at the beginning of the next session of Congress.

I may say, as Chairman of the Finance Committee, that I have appointed the Senator from Utah [Mr. KING], the Senator from Georgia [Mr. GEORGE], the Senator from New Hampshire [Mr. KEYES], and the Senator from Wisconsin [Mr. LA FOLLETTE], who are members of the conference with me, and also the Senator from Missouri [Mr. CLARK], who has been most interested in the matter, to serve on such committee. I believe the chairman of the Ways and Means Committee of the House has appointed a similar committee. It would seem to me that ought to be agreeable to everyone. I hope the report may be adopted so that this very important piece of legislation may be disposed of.

Mr. CLARK. Mr. President, the Senator from Mississippi [Mr. HARRISON] has expressed the hope that the proposal that the Senate recede from the amendment may be agreeable to everyone. I have no hesitation in saying that so far as I am concerned the suggestion is not agreeable. I believe that the so-called "Clark amendment" was necessary in this bill to preserve the rights of something over 4,000,000 American workmen interested in private pension schemes, and to protect those rights in case the social-security bill itself should be declared to be unconstitutional by the Supreme Court. I believe that only by some such method as I provided by the amendment can such a result be accomplished.

On the other hand, I desire to say there could not have been a more devoted, a more intelligent, a more single-minded effort put forth on behalf of the Senate than was put forth by the Senate conferees on this matter. There have been at work for several weeks, through the kindness of the conferees, a committee of experts from the House and Senate committees, from the Treasury and Labor Departments, and from outside sources, who have made an honest, conscientious attempt to work out a measure for preserving the private pension plan which would be satisfactory to everybody and would meet the objections which were made on the floor against the amendment, and at the same time carry out the purposes of the amendment. These experts have made very great headway toward such an agreement, to the extent that they have been able to agree on practically every question of principle involved, but there are many actuarial matters to be considered, many questions of detail to be adjudicated and perfected.

Yesterday the experts reported to the conferees that, while they were in general agreement as to a proposal which ought to be satisfactory to everyone, yet they were not able at this time to set a day definite when they would be able to agree upon all the details. They believed they would be able to present a report which would probably be satisfactory to all concerned if the conference could be continued until the 19th of this month. But the conferees felt, in view of the long duration of their service and the fact that the matter had been sent back to the House on one occasion and a new appointment made, that they were not justified in longer leaving the question open.

While personally I would very much prefer to have the matter perfected at this time, yet in view of the fact that the bill itself will not go into effect until 1937, and, in view of the assurances given by the chairmen of the Finance Committee of the Senate and the Ways and Means Committee of the House of an immediate, complete, and thorough-going study of the subject for the purpose of affording a sufficient opportunity to preserve the rights of the employees under the private pension plan, I do not feel justified in longer holding up the passage of this very important bill.

Accordingly, with the assurance which has been given by the conferees and by the two committees, I propose to vote very reluctantly in favor of the adoption of the conference report.

I ask unanimous consent that there be inserted in the RECORD at this point the report of the committee of experts to the conferees on the social-security bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The report is as follows:

AUGUST 8, 1935.

The undersigned (together with Messrs. Forster, Weaver, Turner, Latimer, and Hamilton) have met daily, beginning July 27, and have made progress toward formulating a program which we believe might result in the preservation of private annuity plans, without containing the feature of tax exemption, which was objected to in the Clark amendment as being unconstitutional and

as likely to result in financial damage to the Government old-age reserve account.

We have gone far enough to feel reasonably sure that the device of making grants to employers maintaining such plans is a workable one. We do not present a finished draft at this time. The great number of complicated questions involved has made it impossible for us to complete the task so quickly.

We feel that it is fairly likely that we could produce a draft by Monday, August 19. In the meantime, we must explore a few remaining matters in policy, must do a considerable amount of drafting, and then must have the finished product examined by some other persons, both Government men and insurance men. We have concentrated so long on this question that we should have someone who is fresh on the subject check our draft closely.

Of course, there is some likelihood that new questions will arise in this checking process, requiring redrafting and delaying us till much later than August 19.

After we finish our work, there will still be work to do; for our draft will contain several alternatives due to the fact that there are a number of points in policy with respect to which we feel in no position to reach a final conclusion. In the event that the committee is in sympathy with the general objectives of the draft, these points of policy should certainly be left to the judgment of the committee.

W. H. WOODWARD.
THOMAS H. ELIOT.
LEONARD CALHOUN.

Mr. GEORGE. Mr. President, I desire merely to add to what has already been said that the conferees on this bill have labored very diligently to bring forth an amendment or an agreement which would carry into execution the action taken by the Senate and which would preserve the private annuity plans now in existence wherever, of course, such plans could meet the approval of the Security Board.

I am especially anxious to say that the Senate conferees, the majority of whom at least supported the Clark amendment on the floor as I did, and the entire membership of the Senate conference committee labored in season and out of season in a very conscientious effort to bring out what we believed to be a valuable addition to the social-security bill.

As the distinguished Senator from Missouri has said, much valuable work has been done by the experts from the committees and from the Departments mentioned by him; and, in principle, a program is in process of evolution which undoubtedly will greatly strengthen and in no sense weaken, either from the financial point of view or the legal point of view, the social security bill.

The committee has been designated by the chairman; and it is a work which I am quite sure the committee will undertake with much hope of final and ultimate success in the perfection of the program which has been commenced by the experts who have been called in, and who themselves have labored so faithfully to solve the problem.

I may say that the conferees were appointed on the security bill on the 20th of June, as I recollect; and from that time until now the matter has had the attention of the members of the conference committee or of a committee of experts representing the two Houses, with the aid and assistance of experts from the Treasury Department and the Department of Labor. The conferees have reached the conclusion that they could not longer delay a final report upon the bill; hence, the agreement which has already been reported to the Senate.

Mr. KING. Mr. President, as a continuation of the remarks made by the chairman of the committee, the Senator from Mississippi [Mr. HARRISON], the Senator from Georgia [Mr. GEORGE], and the Senator from Missouri [Mr. CLARK], I desire to say that, as one of the conferees, I very reluctantly assented to the conclusion which was reached.

I venture to say that the private annuity plan, when fully considered, will be accepted by the House and the Senate and by the country. I believe it will be a very useful and important addition to the security bill, the report upon which has just been submitted. I have no doubt that, with a complete understanding of the beneficent provisions of the annuity plan, more and more, will it be accepted in all the industries of the United States, and less and less will be the dependence upon the provisions of the bill which impose obligations upon the Government.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

MESSAGE FROM THE SENATE

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7260) entitled "An act to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provisions for aged persons, blind persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes."

### SIGNING OF THE SOCIAL-SECURITY BILL

Mr. HARRISON. Mr. President, it has just been my pleasure to be present when the President of the United States attached his signature to the social-security bill. In my opinion, this will prove one of the most beneficial pieces of legislation enacted by this administration. I am happy to have had a part in its enactment, and I am sure that other Senators who participated are happy to have had a part in it.

There was published in the New York Times on Saturday, August 10, a very fine analysis of the social-security bill, in this connection I ask to have it inserted in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times of Aug. 10, 1935]

SUMMARY OF BENEFITS PROVIDED IN SOCIAL-SECURITY BILL

WASHINGTON, August 9.—The social-security bill which went to President Roosevelt today is divided in its essential provisions into two parts, one dealing with the long-range plan of President Roosevelt for insuring Americans against "major hazards of our economic mechanism", and the other carrying special and immediate aid to the States in caring for dependent unemployables.

In the former group are provisions for old-age pensions and unemployment insurance, and in the latter are the sections dealing with assistance to needy aged, dependent children, mothers, crippled children, the indigent disabled, and the blind.

OLD-AGE ASSISTANCE

The bill authorizes an appropriation of $49,750,000 for the current fiscal year and so much as may be needed thereafter to assist the States in caring for the aged, persons over 65 years of age. Grants are authorized on a 50-50 basis, with the stipulation that the Federal Government's share shall in no case exceed $15 a month.

CONTRIBUTORY OLD-AGE PENSIONS

The bill provides a long-range old-age pension system, to be financed by an income tax on employees and a pay-roll tax on employers, starting in each case at 1 percent in 1937 and rising each 3 years until 1949, when each contribution is to be 3 percent.

Under the operation of the system each qualified worker who retires at the age of 65 years, but not prior to January 1, 1942, will receive a monthly pension until his death. The rate of payment will vary from $10 to $85 a month, depending upon the total amount of wages earned by the beneficiary after December 31, 1936, and before he reaches the retirable age. Lump-sum settlements are to be made to estates of qualified beneficiaries who die before reaching the age of 65.

UNEMPLOYMENT INSURANCE

The bill provides a Federal-State system of unemployment compensation, based upon a pay-roll excise tax upon employers. It provides that on and after January 1, 1936, employers of eight or more persons, or less if determined by the States, will be assessed excise taxes on their pay rolls of 1 percent in 1936, 2 percent in 1937, 3 percent in 1938 and subsequent years.

The funds so collected to be paid to employees on period of unemployment, according to laws and rules adopted by the States.

The bill allows the States the widest discretion in setting up laws suited to their own requirements, allows a credit up to 90 percent to employers on account of taxes paid into strictly State unemployment funds, and grants a Federal subsidy, $4,000,000 in 1936 and $49,000,000 annually thereafter, to assist the States in administering their laws.

AID TO DEPENDENT CHILDREN

The bill authorizes $24,750,000 for the current fiscal year and such amounts as may be needed in future years to assist the States in providing aid to dependent children. Grants are to be made on the basis of one-third by the Federal Government and two-thirds by the States, with the Federal allowance limited to $6 a month for a single child and $4 a month for any other child in the same household.

AID TO MOTHERS AND CHILDREN

The bill authorizes an appropriation of $3,800,000 a year to aid the States in promoting the health of mothers and children, "especially in rural areas and in areas suffering from severe economic distress."

MEDICAL CARE OF CRIPPLED CHILDREN

It authorizes $2,850,000 a year for assistance in the States in providing surgical, corrective, and other services and facilities for crippled children.

AID TO HOMELESS AND NEGLECTED CHILDREN

An appropriation of $1,500,000 is authorized by the bill to aid State welfare agencies in caring for homeless and neglected children.

REHABILITATION OF DISABLED

The bill authorizes Federal expenditures of $841,000 for the fiscal years 1936 and 1937, $1,938,000 a year thereafter to supplement State programs for vocational rehabilitation of the physically disabled.

PUBLIC HEALTH

An annual appropriation of $8,000,000 is authorized for assistance to the States and their political subdivisions in maintaining public health service.

AID TO THE BLIND

The bill authorizes $3,000,000 to aid the States on a 50-50 basis in pensioning the needy blind.

Administration of these provisions will be lodged in an independent bureau to be known as the "Social Security Board." The most immediately popular section of the entire bill is that dealing with immediate grants to the States of old-age assistance incorporated as title I of the bill.

It provides for the payment of old-age assistance to persons over 65, grants to be made on equal matching basis, the Federal

Government furnishing 50 percent and the States matching these grants with another 50 percent, except that in no individual case shall the Federal Government's share exceed $15 a month.

The Federal grants will be extended only to those States whose old-age assistance plans have been approved by the Social Security Board as complying with the requirements of the act.

To be approved, a State plan must be State-wide in operation, an individual to whom is denied old-age assistance must have the right to a fair hearing before a State agency, and some requirements are made as to reports, accounting, etc. The applicant for assistance under this title must be at least 65, although the State is empowered to make the limit as high as 70 until 1940.

Assistance shall not be denied to a person on the ground that he has not been resident long enough, if he has lived in the State for 1 year immediately preceding application, or for any 5 years out of the 9 immediately preceding.

PENSION PROVIDED AT 65

The old-age pension plan carried in title II provides for the payments of cash benefits to every individual who has attained the age of 65 and has fulfilled certain requirements. The benefits are to be paid to him monthly as long as he lives, in an amount proportionate to the total amount of wages received by him for employment before he attained the retirable age.

For the purpose of building up sufficient moneys to pay the benefits provided in this title, there is created in the Federal Treasury a fund to which an annual appropriation beginning with the fiscal year 1937 is authorized.

The amount of such appropriations will vary from year to year, but the amount appropriated for any one year shall be determined in accordance with accepted actuarial principles and on the basis of such mortality tables as the Secretary of the Treasury shall from time to time adopt and which, at 3 percent interest compounded annually, shall be sufficient to build up the required reserve.

To reimburse the Treasury for these appropriations, the bill imposes a tax upon both the employer and the employee, based upon the payments in wages to the latter. The tax on the employee is called an income tax, and the tax upon the employer is known as an excise tax. The rate on each is the same, beginning with 1 percent for the calendar years 1937, 1938, and 1939; 1½ percent for the calendar years 1940, 1941, and 1942; 2 percent for 1943, 1944, and 1945; 2½ percent during 1946, 1947, and 1948; and 3 percent thereafter.

The bill requires that all of these taxes be collected from the employer, but permits him to deduct the employee's part from his wages. To insure collection of the tax, the employer is made personally liable for it.

The tax on the employee is to be assessed against only that part of his wages less than $3,000 a year. Benefits are to be paid, under the bill, in cash. The following table illustrates how the plan will operate:

| Average monthly salary | Pension based on years of employment— | | | |
|---|---|---|---|---|
| | 10 | 20 | 30 | 40 |
| $50 | $17.50 | $22.50 | $27.50 | $32.50 |
| $100 | 22.50 | 32.50 | 42.50 | 51.25 |
| $150 | 27.50 | 42.50 | 53.75 | 61.25 |
| $200 | 32.50 | 51.25 | 61.25 | 71.25 |
| $250 | 37.50 | 56.25 | 68.75 | 81.25 |

TAX FOR JOB INSURANCE

The unemployment insurance carried in title IX levies on employers an excise tax payable annually, measured by the total wages paid to his employees, and allows each taxpayer to credit against the amount of his tax 90 percent of what he pays under State laws. The tax is imposed ostensibly for the privilege of having more than eight individuals in his employ.

The rate of tax is specified at 1 percent for 1936, 2 percent for 1937, and 3 percent thereafter. No restrictions are laid on the States as to the amount of unemployment insurance they may pay or the classes of workers who may be eligible.

The money so collected is to be held in trust by the Federal Treasury, with the respective State agencies administering State unemployment-compensation laws as beneficiaries. Disbursements are to be made out of the fund under the authority of State laws, as approved by the Social Security Board, for the benefit of the unemployed during periods of stress.

All money withdrawn from the unemployment trust fund by the State authorities shall be used for the purpose of compensation, and none of it for administrative costs. The Government appropriates, under the terms of the bill, a sum to carry on the administrative expenses, beginning with $4,000,000 for the year 1936 and granting $49,000,000 for subsequent years.

STATES' LATITUDE IS WIDE

The States have the widest possible latitude to set up their own unemployment compensation systems, with the following general specific limitations:

That compensation shall be paid through public unemployment officers of the State.

That no compensation shall be paid until after the expiration of 2 years from the time contributions start.

That all money paid into the State unemployment fund shall be paid into the unemployment trust fund in the Federal Treasury.

That no person otherwise eligible shall be denied compensation on the ground that he refused to take a job when his denial is due to the fact that the position offered him is vacant due directly to a strike, lockout, or labor dispute, or to the fact that wages, hours, and other working conditions are less favorable than those prevailing in the locality, or that as a condition of employment he must join a company union or refrain from joining any other organization.

That the State law must contain a provision indicating that any rights, privileges, or immunities conferred under it may be taken away by the subsequent amendment or repeal of the law.

Sections relating to the other benefits are simple in their terms and merely provide the conditions under which the Government may grant money to be used to supplement State funds in caring for such dependent unemployables as is specified.

The Social Security Board will be composed of three members, no more than two of whom shall belong to the same political party. They are to be appointed by the President, by and with the advice and consent of the Senate, each receiving a salary of $10,000 a year.

The terms of office will be for 6 years, except that of the first three members appointed, one will hold office for 2 years, another for 4 years, and the third for 6 years. The President is to designate the chairman of the Board.

[PUBLIC—No. 271—74TH CONGRESS]

[H. R. 7260]

AN ACT

To provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, blind persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

# TITLE I—GRANTS TO STATES FOR OLD-AGE ASSISTANCE

### APPROPRIATION

SECTION 1. For the purpose of enabling each State to furnish financial assistance, as far as practicable under the conditions in such State, to aged needy individuals, there is hereby authorized to be appropriated for the fiscal year ending June 30, 1936, the sum of $49,750,000, and there is hereby authorized to be appropriated for each fiscal year thereafter a sum sufficient to carry out the purposes of this title. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Social Security Board established by Title VII (hereinafter referred to as the "Board"), State plans for old-age assistance.

### STATE OLD-AGE ASSISTANCE PLANS

SEC. 2. (a) A State plan for old-age assistance must (1) provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them; (2) provide for financial participation by the State; (3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan; (4) provide for granting to any individual, whose claim for old-age assistance is denied, an opportunity for a fair hearing before such State agency; (5) provide such methods of administration (other than those relating to selection, tenure of office, and compensation of personnel) as are found by the Board to be necessary for the efficient operation of the plan; (6) provide that the State agency will make such reports, in such form and containing such information, as the Board may from time to time require, and comply with such provisions as the Board may from time to time find necessary to assure the correctness and verification of such reports; and (7) provide that, if the State or any of its political subdivisions collects from the estate of any recipient of old-age assistance any amount with respect to old-age

assistance furnished him under the plan, one-half of the net amount so collected shall be promptly paid to the United States. Any payment so made shall be deposited in the Treasury to the credit of the appropriation for the purposes of this title.

(b) The Board shall approve any plan which fulfills the conditions specified in subsection (a), except that it shall not approve any plan which imposes, as a condition of eligibility for old-age assistance under the plan—

(1) An age requirement of more than sixty-five years, except that the plan may impose, effective until January 1, 1940, an age requirement of as much as seventy years; or

(2) Any residence requirement which excludes any resident of the State who has resided therein five years during the nine years immediately preceding the application for old-age assistance and has resided therein continuously for one year immediately preceding the application; or

(3) Any citizenship requirement which excludes any citizen of the United States.

PAYMENT TO STATES

SEC. 3. (a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for old-age assistance, for each quarter, beginning with the quarter commencing July 1, 1935, (1) an amount, which shall be used exclusively as old-age assistance, equal to one-half of the total of the sums expended during such quarter as old-age assistance under the State plan with respect to each individual who at the time of such expenditure is sixty-five years of age or older and is not an inmate of a public institution, not counting so much of such expenditure with respect to any individual for any month as exceeds $30, and (2) 5 per centum of such amount, which shall be used for paying the costs of administering the State plan or for old-age assistance, or both, and for no other purpose: *Provided*, That the State plan, in order to be approved by the Board, need not provide for financial participation before July 1, 1937 by the State, in the case of any State which the Board, upon application by the State and after reasonable notice and opportunity for hearing to the State, finds is prevented by its constitution from providing such financial participation.

(b) The method of computing and paying such amounts shall be as follows:

(1) The Board shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of clause (1) of subsection (a), such estimate to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such clause, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than one-half of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, (B) records showing the number of aged individuals in the State, and (C) such other investigation as the Board may find necessary.

(2) The Board shall then certify to the Secretary of the Treasury the amount so estimated by the Board, reduced or increased, as the case may be, by any sum by which it finds that its estimate for any prior quarter was greater or less than the amount which should have been paid to the State under clause (1) of subsection (a) for such quarter, except to the extent that such sum has been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Board for such prior quarter.

(3) The Secretary of the Treasury shall thereupon, through the Division of Disbursement of the Treasury Department and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Board, the amount so certified, increased by 5 per centum.

OPERATION OF STATE PLANS

SEC. 4. In the case of any State plan for old-age assistance which has been approved by the Board, if the Board, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds—

(1) that the plan has been so changed as to impose any age, residence, or citizenship requirement prohibited by section 2 (b), or that in the administration of the plan any such prohibited requirement is imposed, with the knowledge of such State agency, in a substantial number of cases; or

(2) that in the administration of the plan there is a failure to comply substantially with any provision required by section 2 (a) to be included in the plan;

the Board shall notify such State agency that further payments will not be made to the State until the Board is satisfied that such prohibited requirement is no longer so imposed, and that there is no longer any such failure to comply. Until it is so satisfied it shall make no further certification to the Secretary of the Treasury with respect to such State.

ADMINISTRATION

SEC. 5. There is hereby authorized to be appropriated for the fiscal year ending June 30, 1936, the sum of $250,000, for all necessary expenses of the Board in administering the provisions of this title.

DEFINITION

SEC. 6. When used in this title the term "old-age assistance" means money payments to aged individuals.

## TITLE II—FEDERAL OLD-AGE BENEFITS

OLD-AGE RESERVE ACCOUNT

SECTION 201. (a) There is hereby created an account in the Treasury of the United States to be known as the "Old-Age Reserve Account" hereinafter in this title called the "Account". There is hereby authorized to be appropriated to the Account for each fiscal

year, beginning with the fiscal year ending June 30, 1937, an amount sufficient as an annual premium to provide for the payments required under this title, such amount to be determined on a reserve basis in accordance with accepted actuarial principles, and based upon such tables of mortality as the Secretary of the Treasury shall from time to time adopt, and upon an interest rate of 3 per centum per annum compounded annually. The Secretary of the Treasury shall submit annually to the Bureau of the Budget an estimate of the appropriations to be made to the Account.

(b) It shall be the duty of the Secretary of the Treasury to invest such portion of the amounts credited to the Account as is not, in his judgment, required to meet current withdrawals. Such investment may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (1) on original issue at par, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of special obligations exclusively to the Account. Such special obligations shall bear interest at the rate of 3 per centum per annum. Obligations other than such special obligations may be acquired for the Account only on such terms as to provide an investment yield of not less than 3 per centum per annum.

(c) Any obligations acquired by the Account (except special obligations issued exclusively to the Account) may be sold at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Account shall be credited to and form a part of the Account.

(e) All amounts credited to the Account shall be available for making payments required under this title.

(f) The Secretary of the Treasury shall include in his annual report the actuarial status of the Account.

OLD-AGE BENEFIT PAYMENTS

SEC. 202. (a) Every qualified individual (as defined in section 210) shall be entitled to receive, with respect to the period beginning on the date he attains the age of sixty-five, or on January 1, 1942, whichever is the later, and ending on the date of his death, an old-age benefit (payable as nearly as practicable in equal monthly installments) as follows:

(1) If the total wages (as defined in section 210) determined by the Board to have been paid to him, with respect to employment (as defined in section 210) after December 31, 1936, and before he attained the age of sixty-five, were not more than $3,000, the old-age benefit shall be at a monthly rate of one-half of 1 per centum of such total wages;

(2) If such total wages were more than $3,000, the old-age benefit shall be at a monthly rate equal to the sum of the following:

(A) One-half of 1 per centum of $3,000; plus

(B) One-twelfth of 1 per centum of the amount by which such total wages exceeded $3,000 and did not exceed $45,000; plus.

(C) One-twenty-fourth of 1 per centum of the amount by which such total wages exceeded $45,000.

(b) In no case shall the monthly rate computed under subsection (a) exceed $85.

(c) If the Board finds at any time that more or less than the correct amount has theretofore been paid to any individual under this section, then, under regulations made by the Board, proper adjustments shall be made in connection with subsequent payments under this section to the same individual.

(d) Whenever the Board finds that any qualified individual has received wages with respect to regular employment after he attained the age of sixty-five, the old-age benefit payable to such individual shall be reduced, for each calendar month in any part of which such regular employment occurred, by an amount equal to one month's benefit. Such reduction shall be made, under regulations prescribed by the Board, by deductions from one or more payments of old-age benefit to such individual.

PAYMENTS UPON DEATH

SEC. 203. (a) If any individual dies before attaining the age of sixty-five, there shall be paid to his estate an amount equal to 3½ per centum of the total wages determined by the Board to have been paid to him, with respect to employment after December 31, 1936.

(b) If the Board finds that the correct amount of the old-age benefit payable to a qualified individual during his life under section 202 was less than 3½ per centum of the total wages by which such old-age benefit was measurable, then there shall be paid to his estate a sum equal to the amount, if any, by which such 3½ per centum exceeds the amount (whether more or less than the correct amount) paid to him during his life as old-age benefit.

(c) If the Board finds that the total amount paid to a qualified individual under an old-age benefit during his life was less than the correct amount to which he was entitled under section 202, and that the correct amount of such old-age benefit was 3½ per centum or more of the total wages by which such old-age benefit was measurable, then there shall be paid to his estate a sum equal to the amount, if any, by which the correct amount of the old-age benefit exceeds the amount which was so paid to him during his life.

PAYMENTS TO AGED INDIVIDUALS NOT QUALIFIED FOR BENEFITS

SEC. 204. (a) There shall be paid in a lump sum to any individual who, upon attaining the age of sixty-five, is not a qualified individual, an amount equal to 3½ per centum of the total wages determined by the Board to have been paid to him, with respect to employment after December 31, 1936, and before he attained the age of sixty-five.

(b) After any individual becomes entitled to any payment under subsection (a), no other payment shall be made under this title in any manner measured by wages paid to him, except that any part of any payment under subsection (a) which is not paid to him before his death shall be paid to his estate.

AMOUNTS OF $500 OR LESS PAYABLE TO ESTATES

SEC. 205. If any amount payable to an estate under section 203 or 204 is $500 or less, such amount may, under regulations prescribed by the Board, be paid to the persons found by the Board to be entitled thereto under the law of the State in which the deceased was domiciled, without the necessity of compliance with the requirements of law with respect to the administration of such estate.

OVERPAYMENTS DURING LIFE

SEC. 206. If the Board finds that the total amount paid to a qualified individual under an old-age benefit during his life was more than the correct amount to which he was entitled under section 202, and was 3½ per centum or more of the total wages by which such old-age benefit was measurable, then upon his death there shall be repaid to the United States by his estate the amount, if any, by which such total amount paid to him during his life exceeds whichever of the following is the greater: (1) Such 3½ per centum, or (2) the correct amount to which he was entitled under section 202.

METHOD OF MAKING PAYMENTS

SEC. 207. The Board shall from time to time certify to the Secretary of the Treasury the name and address of each person entitled to receive a payment under this title, the amount of such payment, and the time at which it should be made, and the Secretary of the Treasury through the Division of Disbursement of the Treasury Department, and prior to audit or settlement by the General Accounting Office, shall make payment in accordance with the certification by the Board.

ASSIGNMENT

SEC. 208. The right of any person to any future payment under this title shall not be transferable or assignable, at law or in equity, and none of the moneys paid or payable or rights existing under this title shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law.

PENALTIES

SEC. 209. Whoever in any application for any payment under this title makes any false statement as to any material fact, knowing such statement to be false, shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

DEFINITIONS

SEC. 210. When used in this title—

(a) The term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include that part of the remuneration which, after remuneration equal to $3,000 has been paid to an individual by an employer with respect to employment during any calendar year, is paid to such individual by such employer with respect to employment during such calendar year.

(b) The term "employment" means any service, of whatever nature, performed within the United States by an employee for his employer, except—

(1) Agricultural labor;

(2) Domestic service in a private home;

(3) Casual labor not in the course of the employer's trade or business;

(4) Service performed as an officer or member of the crew of a vessel documented under the laws of the United States or of any foreign country;

(5) Service performed in the employ of the United States Government or of an instrumentality of the United States;

(6) Service performed in the employ of a State, a political subdivision thereof, or an instrumentality of one or more States or political subdivisions;

(7) Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(c) The term "qualified individual" means any individual with respect to whom it appears to the satisfaction of the Board that—

(1) He is at least sixty-five years of age; and

(2) The total amount of wages paid to him, with respect to employment after December 31, 1936, and before he attained the age of sixty-five, was not less than $2,000; and

(3) Wages were paid to him, with respect to employment on some five days after December 31, 1936, and before he attained the age of sixty-five, each day being in a different calendar year.

## TITLE III—GRANTS TO STATES FOR UNEMPLOYMENT COMPENSATION ADMINISTRATION

### APPROPRIATION

SECTION 301. For the purpose of assisting the States in the administration of their unemployment compensation laws, there is hereby authorized to be appropriated, for the fiscal year ending June 30, 1936, the sum of $4,000,000, and for each fiscal year thereafter the sum of $49,000,000, to be used as hereinafter provided.

### PAYMENTS TO STATES

SEC. 302. (a) The Board shall from time to time certify to the Secretary of the Treasury for payment to each State which has an unemployment compensation law approved by the Board under Title IX, such amounts as the Board determines to be necessary for the proper administration of such law during the fiscal year in which such payment is to be made. The Board's determination shall be based on (1) the population of the State; (2) an estimate of the number of persons covered by the State law and of the cost of proper administration of such law; and (3) such other factors as the Board finds relevant. The Board shall not certify for payment under this

section in any fiscal year a total amount in excess of the amount appropriated therefor for such fiscal year.

(b) Out of the sums appropriated therefor, the Secretary of the Treasury shall, upon receiving a certification under subsection (a), pay, through the Division of Disbursement of the Treasury Department and prior to audit or settlement by the General Accounting Office, to the State agency charged with the administration of such law the amount so certified.

PROVISIONS OF STATE LAWS

SEC. 303. (a) The Board shall make no certification for payment to any State unless it finds that the law of such State, approved by the Board under Title IX, includes provisions for—

(1) Such methods of administration (other than those relating to selection, tenure of office, and compensation of personnel) as are found by the Board to be reasonably calculated to insure full payment of unemployment compensation when due; and

(2) Payment of unemployment compensation solely through public employment offices in the State or such other agencies as the Board may approve; and

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

(4) The payment of all money received in the unemployment fund of such State, immediately upon such receipt, to the Secretary of the Treasury to the credit of the Unemployment Trust Fund established by section 904; and

(5) Expenditure of all money requisitioned by the State agency from the Unemployment Trust Fund, in the payment of unemployment compensation, exclusive of expenses of administration; and

(6) The making of such reports, in such form and containing such information, as the Board may from time to time require, and compliance with such provisions as the Board may from time to time find necessary to assure the correctness and verification of such reports; and

(7) Making available upon request to any agency of the United States charged with the administration of public works or assistance through public employment, the name, address, ordinary occupation and employment status of each recipient of unemployment compensation, and a statement of such recipient's rights to further compensation under such law.

(b) Whenever the Board, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law, finds that in the administration of the law there is—

(1) a denial, in a substantial number of cases, of unemployment compensation to individuals entitled thereto under such law; or

(2) a failure to comply substantially with any provision specified in subsection (a);

the Board shall notify such State agency that further payments will not be made to the State until the Board is satisfied that there is no longer any such denial or failure to comply. Until it is so satisfied. it shall make no further certification to the Secretary of the Treasury with respect to such State.

# TITLE IV—GRANTS TO STATES FOR AID TO DEPENDENT CHILDREN

### APPROPRIATION

SECTION 401. For the purpose of enabling each State to furnish financial assistance, as far as practicable under the conditions in such State, to needy dependent children, there is hereby authorized to be appropriated for the fiscal year ending June 30, 1936, the sum of $24,750,000, and there is hereby authorized to be appropriated for each fiscal year thereafter a sum sufficient to carry out the purposes of this title. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Board, State plans for aid to dependent children.

### STATE PLANS FOR AID TO DEPENDENT CHILDREN

SEC. 402. (a) A State plan for aid to dependent children must (1) provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them; (2) provide for financial participation by the State; (3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan; (4) provide for granting to any individual, whose claim with respect to aid to a dependent child is denied, an opportunity for a fair hearing before such State agency; (5) provide such methods of administration (other than those relating to selection, tenure of office, and compensation of personnel) as are found by the Board to be necessary for the efficient operation of the plan; and (6) provide that the State agency will make such reports, in such form and containing such information, as the Board may from time to time require, and comply with such provisions as the Board may from time to time find necessary to assure the correctness and verification of such reports.

(b) The Board shall approve any plan which fulfills the conditions specified in subsection (a), except that it shall not approve any plan which imposes as a condition of eligibility for aid to dependent children, a residence requirement which denies aid with respect to any child residing in the State (1) who has resided in the State for one year immediately preceding the application for such aid, or (2) who was born within the State within one year immediately preceding the application, if its mother has resided in the State for one year immediately preceding the birth.

### PAYMENT TO STATES

SEC. 403. (a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for aid to dependent children, for each quarter, beginning with the quarter commencing July 1, 1935, an amount, which shall be used exclusively for carrying out the State plan, equal to one-third of the total of the sums expended during such quarter under such plan, not counting so much of such expenditure with respect to any de-

pendent child for any month as exceeds $18, or if there is more than one dependent child in the same home, as exceeds $18 for any month with respect to one such dependent child and $12 for such month with respect to each of the other dependent children.

(b) The method of computing and paying such amounts shall be as follows:

(1) The Board shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of subsection (a), such estimate to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than two-thirds of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, (B) records showing the number of dependent children in the State, and (C) such other investigation as the Board may find necessary.

(2) The Board shall then certify to the Secretary of the Treasury the amount so estimated by the Board, reduced or increased, as the case may be, by any sum by which it finds that its estimate for any prior quarter was greater or less than the amount which should have been paid to the State for such quarter, except to the extent that such sum has been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Board for such prior quarter.

(3) The Secretary of the Treasury shall thereupon, through the Division of Disbursement of the Treasury Department and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Board, the amount so certified.

OPERATION OF STATE PLANS

SEC. 404. In the case of any State plan for aid to dependent children which has been approved by the Board, if the Board, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds—

(1) that the plan has been so changed as to impose any residence requirement prohibited by section 402 (b), or that in the administration of the plan any such prohibited requirement is imposed, with the knowledge of such State agency, in a substantial number of cases; or

(2) that in the administration of the plan there is a failure to comply substantially with any provision required by section 402 (a) to be included in the plan;

the Board shall notify such State agency that further payments will not be made to the State until the Board is satisfied that such prohibited requirement is no longer so imposed, and that there is no longer any such failure to comply. Until it is so satisfied it shall make no further certification to the Secretary of the Treasury with respect to such State.

ADMINISTRATION

SEC. 405. There is hereby authorized to be appropriated for the fiscal year ending June 30, 1936, the sum of $250,000 for all necessary expenses of the Board in administering the provisions of this title.

DEFINITIONS

SEC. 406. When used in this title—

(a) The term "dependent child" means a child under the age of sixteen who has been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent, and who is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, or aunt, in a place of residence maintained by one or more of such relatives as his or their own home;

(b) The term "aid to dependent children" means money payments with respect to a dependent child or dependent children.

## TITLE V—GRANTS TO STATES FOR MATERNAL AND CHILD WELFARE

### PART 1—MATERNAL AND CHILD HEALTH SERVICES

APPROPRIATION

SECTION 501. For the purpose of enabling each State to extend and improve, as far as practicable under the conditions in such State, services for promoting the health of mothers and children, especially in rural areas and in areas suffering from severe economic distress, there is hereby authorized to be appropriated for each fiscal year, beginning with the fiscal year ending June 30, 1936, the sum of $3,800,000. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Chief of the Children's Bureau, State plans for such services.

ALLOTMENTS TO STATES

SEC. 502. (a) Out of the sums appropriated pursuant to section 501 for each fiscal year the Secretary of Labor shall allot to each State $20,000, and such part of $1,800,000 as he finds that the number of live births in such State bore to the total number of live births in the United States, in the latest calendar year for which the Bureau of the Census has available statistics.

(b) Out of the sums appropriated pursuant to section 501 for each fiscal year the Secretary of Labor shall allot to the States $980,000 (in addition to the allotments made under subsection (a)), according to the financial need of each State for assistance in carrying out its State plan, as determined by him after taking into consideration the number of live births in such State.

(c) The amount of any allotment to a State under subsection (a) for any fiscal year remaining unpaid to such State at the end of such fiscal year shall be available for payment to such State under section 504 until the end of the second succeeding fiscal year. No payment

to a State under section 504 shall be made out of its allotment for any fiscal year until its allotment for the preceding fiscal year has been exhausted or has ceased to be available.

APPROVAL OF STATE PLANS

SEC. 503. (a) A State plan for maternal and child-health services must (1) provide for financial participation by the State; (2) provide for the administration of the plan by the State health agency or the supervision of the administration of the plan by the State health agency; (3) provide such methods of administration (other than those relating to selection, tenure of office, and compensation of personnel) as are necessary for the efficient operation of the plan; (4) provide that the State health agency will make such reports, in such form and containing such information, as the Secretary of Labor may from time to time require, and comply with such provisions as he may from time to time find necessary to assure the correctness and verification of such reports; (5) provide for the extension and improvement of local maternal and child-health services administered by local child-health units; (6) provide for cooperation with medical, nursing, and welfare groups and organizations; and (7) provide for the development of demonstration services in needy areas and among groups in special need.

(b) The Chief of the Children's Bureau shall approve any plan which fulfills the conditions specified in subsection (a) and shall thereupon notify the Secretary of Labor and the State health agency of his approval.

PAYMENT TO STATES

SEC. 504. (a) From the sums appropriated therefor and the allotments available under section 502 (a), the Secretary of the Treasury shall pay to each State which has an approved plan for maternal and child-health services, for each quarter, beginning with the quarter commencing July 1, 1935, an amount, which shall be used exclusively for carrying out the State plan, equal to one-half of the total sum expended during such quarter for carrying out such plan.

(b) The method of computing and paying such amounts shall be as follows:

(1) The Secretary of Labor shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of subsection (a), such estimate to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than one-half of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, and (B) such investigation as he may find necessary.

(2) The Secretary of Labor shall then certify the amount so estimated by him to the Secretary of the Treasury, reduced or increased, as the case may be, by any sum by which the Secretary of Labor finds that his estimate for any prior quarter was greater or less than the amount which should have been paid to the State

for such quarter, except to the extent that such sum has been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Secretary of Labor for such prior quarter.

(3) The Secretary of the Treasury shall thereupon, through the Division of Disbursement of the Treasury Department and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Secretary of Labor, the amount so certified.

(c) The Secretary of Labor shall from time to time certify to the Secretary of the Treasury the amounts to be paid to the States from the allotments available under section 502 (b), and the Secretary of the Treasury shall, through the Division of Disbursement of the Treasury Department and prior to audit or settlement by the General Accounting Office, make payments of such amounts from such allotments at the time or times specified by the Secretary of Labor.

OPERATION OF STATE PLANS

SEC. 505. In the case of any State plan for maternal and child-health services which has been approved by the Chief of the Children's Bureau, if the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds that in the administration of the plan there is a failure to comply substantially with any provision required by section 503 to be included in the plan, he shall notify such State agency that further payments will not be made to the State until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied he shall make no further certification to the Secretary of the Treasury with respect to such State.

## PART 2—SERVICES FOR CRIPPLED CHILDREN

APPROPRIATION

SEC. 511. For the purpose of enabling each State to extend and improve (especially in rural areas and in areas suffering from severe economic distress), as far as practicable under the conditions in such State, services for locating crippled children, and for providing medical, surgical, corrective, and other services and care, and facilities for diagnosis, hospitalization, and aftercare, for children who are crippled or who are suffering from conditions which lead to crippling, there is hereby authorized to be appropriated for each fiscal year, beginning with the fiscal year ending June 30, 1936, the sum of $2,850,000. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Chief of the Children's Bureau, State plans for such services.

ALLOTMENTS TO STATES

SEC. 512. (a) Out of the sums appropriated pursuant to section 511 for each fiscal year the Secretary of Labor shall allot to each State $20,000, and the remainder to the States according to the need of each State as determined by him after taking into consideration

the number of crippled children in such State in need of the services referred to in section 511 and the cost of furnishing such services to them.

(b) The amount of any allotment to a State under subsection (a) for any fiscal year remaining unpaid to such State at the end of such fiscal year shall be available for payment to such State under section 514 until the end of the second succeeding fiscal year. No payment to a State under section 514 shall be made out of its allotment for any fiscal year until its allotment for the preceding fiscal year has been exhausted or has ceased to be available.

APPROVAL OF STATE PLANS

SEC. 513. (a) A State plan for services for crippled children must (1) provide for financial participation by the State; (2) provide for the administration of the plan by a State agency or the supervision of the administration of the plan by a State agency; (3) provide such methods of administration (other than those relating to selection, tenure of office, and compensation of personnel) as are necessary for the efficient operation of the plan; (4) provide that the State agency will make such reports, in such form and containing such information, as the Secretary of Labor may from time to time require, and comply with such provisions as he may from time to time find necessary to assure the correctness and verification of such reports; (5) provide for carrying out the purposes specified in section 511; and (6) provide for cooperation with medical, health, nursing, and welfare groups and organizations and with any agency in such State charged with administering State laws providing for vocational rehabilitation of physically handicapped children.

(b) The Chief of the Children's Bureau shall approve any plan which fulfills the conditions specified in subsection (a) and shall thereupon notify the Secretary of Labor and the State agency of his approval.

PAYMENT TO STATES

SEC. 514. (a) From the sums appropriated therefor and the allotments available under section 512, the Secretary of the Treasury shall pay to each State which has an approved plan for services for crippled children, for each quarter, beginning with the quarter commencing July 1, 1935, an amount, which shall be used exclusively for carrying out the State plan, equal to one-half of the total sum expended during such quarter for carrying out such plan.

(b) The method of computing and paying such amounts shall be as follows:

(1) The Secretary of Labor shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of subsection (a), such estimate to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than one-half of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, and (B) such investigation as he may find necessary.

(2) The Secretary of Labor shall then certify the amount so estimated by him to the Secretary of the Treasury, reduced or increased, as the case may be, by any sum by which the Secretary of Labor finds that his estimate for any prior quarter was greater or less than the amount which should have been paid to the State for such quarter, except to the extent that such sum has been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Secretary of Labor for such prior quarter.

(3) The Secretary of the Treasury shall thereupon, through the Division of Disbursement of the Treasury Department and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Secretary of Labor, the amount so certified.

OPERATION OF STATE PLANS

SEC. 515. In the case of any State plan for services for crippled children which has been approved by the Chief of the Children's Bureau, if the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds that in the administration of the plan there is a failure to comply substantially with any provision required by section 513 to be included in the plan, he shall notify such State agency that further payments will not be made to the State until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied he shall make no further certification to the Secretary of the Treasury with respect to such State.

PART 3—CHILD-WELFARE SERVICES

SEC. 521. (a) For the purpose of enabling the United States, through the Children's Bureau, to cooperate with State public-welfare agencies in establishing, extending, and strengthening, especially in predominantly rural areas, public-welfare services (hereinafter in this section referred to as "child-welfare services") for the protection and care of homeless, dependent, and neglected children, and children in danger of becoming delinquent, there is hereby authorized to be appropriated for each fiscal year, beginning with the fiscal year ending June 30, 1936, the sum of $1,500,000. Such amount shall be allotted by the Secretary of Labor for use by cooperating State public-welfare agencies on the basis of plans developed jointly by the State agency and the Children's Bureau, to each State, $10,000, and the remainder to each State on the basis of such plans, not to exceed such part of the remainder as the rural population of such State bears to the total rural population of the United States. The amount so allotted shall be expended for payment of part of the cost of district, county or other local child-welfare services in areas predominantly rural, and for developing State services for the encouragement and assistance of adequate methods of community child-welfare organization in areas predominantly rural and other areas of special need. The amount of any allotment to a State under this section for any fiscal year remaining unpaid to such State at the end of such fiscal year

shall be available for payment to such State under this section until the end of the second succeeding fiscal year. No payment to a State under this section shall be made out of its allotment for any fiscal year until its allotment for the preceding fiscal year has been exhausted or has ceased to be available.

(b) From the sums appropriated therefor and the allotments available under subsection (a) the Secretary of Labor shall from time to time certify to the Secretary of the Treasury the amounts to be paid to the States, and the Secretary of the Treasury shall, through the Division of Disbursement of the Treasury Department and prior to audit or settlement by the General Accounting Office, make payments of such amounts from such allotments at the time or times specified by the Secretary of Labor.

PART 4—VOCATIONAL REHABILITATION

SEC. 531. (a) In order to enable the United States to cooperate with the States and Hawaii in extending and strengthening their programs of vocational rehabilitation of the physically disabled, and to continue to carry out the provisions and purposes of the Act entitled "An Act to provide for the promotion of vocational rehabilitation of persons disabled in industry or otherwise and their return to civil employment", approved June 2, 1920, as amended (U. S. C., title 29, ch. 4; U. S. C., Supp. VII, title 29, secs. 31, 32, 34, 35, 37, 39, and 40), there is hereby authorized to be appropriated for the fiscal years ending June 30, 1936, and June 30, 1937, the sum of $841,000 for each such fiscal year in addition to the amount of the existing authorization, and for each fiscal year thereafter the sum of $1,938,000. Of the sums appropriated pursuant to such authorization for each fiscal year, $5,000 shall be apportioned to the Territory of Hawaii and the remainder shall be apportioned among the several States in the manner provided in such Act of June 2, 1920, as amended.

(b) For the administration of such Act of June 2, 1920, as amended, by the Federal agency authorized to administer it, there is hereby authorized to be appropriated for the fiscal years ending June 30, 1936, and June 30, 1937, the sum of $22,000 for each such fiscal year in addition to the amount of the existing authorization, and for each fiscal year thereafter the sum of $102,000.

PART 5—ADMINISTRATION

SEC. 541. (a) There is hereby authorized to be appropriated for the fiscal year ending June 30, 1936, the sum of $425,000, for all necessary expenses of the Children's Bureau in administering the provisions of this title, except section 531.

(b) The Children's Bureau shall make such studies and investigations as will promote the efficient administration of this title, except section 531.

(c) The Secretary of Labor shall include in his annual report to Congress a full account of the administration of this title, except section 531.

# TITLE VI—PUBLIC HEALTH WORK

### APPROPRIATION

SECTION 601. For the purpose of assisting States, counties, health districts, and other political subdivisions of the States in establishing and maintaining adequate public-health services, including the training of personnel for State and local health work, there is hereby authorized to be appropriated for each fiscal year, beginning with the fiscal year ending June 30, 1936, the sum of $8,000,000 to be used as hereinafter provided.

### STATE AND LOCAL PUBLIC HEALTH SERVICES

SEC. 602. (a) The Surgeon General of the Public Health Service, with the aproval of the Secretary of the Treasury, shall, at the beginning of each fiscal year, allot to the States the total of (1) the amount appropriated for such year pursuant to section 601; and (2) the amounts of the allotments under this section for the preceding fiscal year remaining unpaid to the States at the end of such fiscal year. The amounts of such allotments shall be determined on the basis of (1) the population; (2) the special health problems; and (3) the financial needs; of the respective States. Upon making such allotments the Surgeon General of the Public Health Service shall certify the amounts thereof to the Secretary of the Treasury.

(b) The amount of an allotment to any State under subsection (a) for any fiscal year, remaining unpaid at the end of such fiscal year, shall be available for allotment to States under subsection (a) for the succeeding fiscal year, in addition to the amount appropriated for such year.

(c) Prior to the beginning of each quarter of the fiscal year, the Surgeon General of the Public Health Service shall, with the approval of the Secretary of the Treasury, determine in accordance with rules and regulations previously prescribed by such Surgeon General after consultation with a conference of the State and Territorial health authorities, the amount to be paid to each State for such quarter from the allotment to such State, and shall certify the amount so determined to the Secretary of the Treasury. Upon receipt of such certification, the Secretary of the Treasury shall, through the Division of Disbursement of the Treasury Department and prior to audit or settlement by the General Accounting Office, pay in accordance with such certification.

(d) The moneys so paid to any State shall be expended solely in carrying out the purposes specified in section 601, and in accordance with plans presented by the health authority of such State and approved by the Surgeon General of the Public Health Service.

### INVESTIGATIONS

SEC. 603. (a) There is hereby authorized to be appropriated for each fiscal year, beginning with the fiscal year ending June 30, 1936, the sum of $2,000,000 for expenditure by the Public Health Service for investigation of disease and problems of sanitation (including the printing and binding of the findings of such investigations), and for the pay and allowances and traveling expenses of personnel of

the Public Health Service, including commissioned officers, engaged in such investigations or detailed to cooperate with the health authorities of any State in carrying out the purposes specified in section 601: *Provided*, That no personnel of the Public Health Service shall be detailed to cooperate with the health authorities of any State except at the request of the proper authorities of such State.

(b) The personnel of the Public Health Service paid from any appropriation not made pursuant to subsection (a) may be detailed to assist in carrying out the purposes of this title. The appropriation from which they are paid shall be reimbursed from the appropriation made pursuant to subsection (a) to the extent of their salaries and allowances for services performed while so detailed.

(c) The Secretary of the Treasury shall include in his annual report to Congress a full account of the administration of this title.

## TITLE VII—SOCIAL SECURITY BOARD

### ESTABLISHMENT

SECTION 701. There is hereby established a Social Security Board (in this Act referred to as the "Board") to be composed of three members to be appointed by the President, by and with the advice and consent of the Senate. During his term of membership on the Board, no member shall engage in any other business, vocation, or employment. Not more than two of the members of the Board shall be members of the same political party. Each member shall receive a salary at the rate of $10,000 a year and shall hold office for a term of six years, except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed, shall be appointed for the remainder of such term; and (2) the terms of office of the members first taking office after the date of the enactment of this Act shall expire, as designated by the President at the time of appointment, one at the end of two years, one at the end of four years, and one at the end of six years, after the date of the enactment of this Act. The President shall designate one of the members as the chairman of the Board.

### DUTIES OF SOCIAL SECURITY BOARD

SEC. 702. The Board shall perform the duties imposed upon it by this Act and shall also have the duty of studying and making recommendations as to the most effective methods of providing economic security through social insurance, and as to legislation and matters of administrative policy concerning old-age pensions, unemployment compensation, accident compensation, and related subjects.

### EXPENSES OF THE BOARD

SEC. 703. The Board is authorized to appoint and fix the compensation of such officers and employees, and to make such expenditures, as may be necessary for carrying out its functions under this Act. Appointments of attorneys and experts may be made without regard to the civil-service laws.

REPORTS

SEC. 704. The Board shall make a full report to Congress, at the beginning of each regular session, of the administration of the functions with which it is charged.

## TITLE VIII—TAXES WITH RESPECT TO EMPLOYMENT

INCOME TAX ON EMPLOYEES

SECTION 801. In addition to other taxes, there shall be levied, collected, and paid upon the income of every individual a tax equal to the following percentages of the wages (as defined in section 811) received by him after December 31, 1936, with respect to employment (as defined in section 811) after such date:

(1) With respect to employment during the calendar years 1937, 1938, and 1939, the rate shall be 1 per centum.

(2) With respect to employment during the calendar years 1940, 1941, and 1942, the rate shall be 1½ per centum.

(3) With respect to employment during the calendar years 1943, 1944, and 1945, the rate shall be 2 per centum.

(4) With respect to employment during the calendar years 1946, 1947, and 1948, the rate shall be 2½ per centum.

(5) With respect to employment after December 31, 1948, the rate shall be 3 per centum.

DEDUCTION OF TAX FROM WAGES

SEC. 802. (a) The tax imposed by section 801 shall be collected by the employer of the taxpayer, by deducting the amount of the tax from the wages as and when paid. Every employer required so to deduct the tax is hereby made liable for the payment of such tax, and is hereby indemnified against the claims and demands of any person for the amount of any such payment made by such employer.

(b) If more or less than the correct amount of tax imposed by section 801 is paid with respect to any wage payment, then, under regulations made under this title, proper adjustments, with respect both to the tax and the amount to be deducted, shall be made, without interest, in connection with subsequent wage payments to the same individual by the same employer.

DEDUCTIBILITY FROM INCOME TAX

SEC. 803. For the purposes of the income tax imposed by Title I of the Revenue Act of 1934 or by any Act of Congress in substitution therefor, the tax imposed by section 801 shall not be allowed as a deduction to the taxpayer in computing his net income for the year in which such tax is deducted from his wages.

EXCISE TAX ON EMPLOYERS

SEC. 804. In addition to other taxes, every employer shall pay an excise tax, with respect to having individuals in his employ, equal to the following percentages of the wages (as defined in section 811) paid

by him after December 31, 1936, with respect to employment (as defined in section 811) after such date:

(1) With respect to employment during the calendar years 1937, 1938, and 1939, the rate shall be 1 per centum.

(2) With respect to employment during the calendar years 1940, 1941, and 1942, the rate shall be 1½ per centum.

(3) With respect to employment during the calendar years 1943, 1944, and 1945, the rate shall be 2 per centum.

(4) With respect to employment during the calendar years 1946, 1947, and 1948, the rate shall be 2½ per centum.

(5) With respect to employment after December 31, 1948, the rate shall be 3 per centum.

ADJUSTMENT OF EMPLOYERS' TAX

SEC. 805. If more or less than the correct amount of tax imposed by section 804 is paid with respect to any wage payment, then, under regulations made under this title, proper adjustments with respect to the tax shall be made, without interest, in connection with subsequent wage payments to the same individual by the same employer.

REFUNDS AND DEFICIENCIES

SEC. 806. If more or less than the correct amount of tax imposed by section 801 or 804 is paid or deducted with respect to any wage payment and the overpayment or underpayment of tax cannot be adjusted under section 802 (b) or 805 the amount of the overpayment shall be refunded and the amount of the underpayment shall be collected, in such manner and at such times (subject to the statutes of limitations properly applicable thereto) as may be prescribed by regulations made under this title.

COLLECTION AND PAYMENT OF TAXES

SEC. 807. (a) The taxes imposed by this title shall be collected by the Bureau of Internal Revenue under the direction of the Secretary of the Treasury and shall be paid into the Treasury of the United States as internal-revenue collections. If the tax is not paid when due, there shall be added as part of the tax interest (except in the case of adjustments made in accordance with the provisions of sections 802 (b) and 805) at the rate of one-half of 1 per centum per month from the date the tax became due until paid.

(b) Such taxes shall be collected and paid in such manner, at such times, and under such conditions, not inconsistent with this title (either by making and filing returns, or by stamps, coupons, tickets, books, or other reasonable devices or methods necessary or helpful in securing a complete and proper collection and payment of the tax or in securing proper identification of the taxpayer), as may be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury.

(c) All provisions of law, including penalties, applicable with respect to any tax imposed by section 600 or section 800 of the Revenue Act of 1926, and the provisions of section 607 of the Revenue Act of 1934, shall, insofar as applicable and not inconsistent with the provisions of this title, be applicable with respect to the taxes imposed by this title.

(d) In the payment of any tax under this title a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent.

RULES AND REGULATIONS

SEC. 808. The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall make and publish rules and regulations for the enforcement of this title.

SALE OF STAMPS BY POSTMASTERS

SEC. 809. The Commissioner of Interial Revenue shall furnish to the Postmaster General without prepayment a suitable quantity of stamps, coupons, tickets, books, or other devices prescribed by the Commissioner under section 807 for the collection or payment of any tax imposed by this title, to be distributed to, and kept on sale by, all post offices of the first and second classes, and such post offices of the third and fourth classes as (1) are located in county seats, or (2) are certified by the Secretary of the Treasury to the Postmaster General as necessary to the proper administration of this title. The Postmaster General may require each such postmaster to furnish bond in such increased amount as he may from time to time determine, and each such postmaster shall deposit the receipts from the sale of such stamps, coupons, tickets, books, or other devices, to the credit of, and render accounts to, the Postmaster General at such times and in such form as the Postmaster General may by regulations prescribe. The Postmaster General shall at least once a month transfer to the Treasury as internal-revenue collections all receipts so deposited together with a statement of the additional expenditures in the District of Columbia and elsewhere incurred by the Post Office Department in performing the duties imposed upon said Department by this Act, and the Secretary of the Treasury is hereby authorized and directed to advance from time to time to the credit of the Post Office Department from appropriations made for the collection of the taxes imposed by this title, such sums as may be required for such additional expenditures incurred by the Post Office Department.

PENALTIES

SEC. 819. (a) Whoever buys, sells, offers for sale, uses, transfers, takes or gives in exchange, or pledges or gives in pledge, except as authorized in this title or in regulations made pursuant thereto, any stamp, coupon, ticket, book, or other device, prescribed by the Commissioner of Internal Revenue under section 807 for the collection or payment of any tax imposed by this title, shall be fined not more than $1,000 or imprisoned for not more than six months, or both.

(b) Whoever, with intent to defraud, alters, forges, makes, or counterfeits any stamp, coupon, ticket, book, or other device prescribed by the Commissioner of Internal Revenue under section 807 for the collection or payment of any tax imposed by this title, or uses, sells, lends, or has in his possession any such altered, forged, or counterfeited stamp, coupon, ticket, book, or other device, or makes, uses, sells, or has in his possession any material in imitation of the

material used in the manufacture of such stamp, coupon, ticket, book, or other device, shall be fined not more than $5,000 or imprisoned not more than five years, or both.

DEFINITIONS

SEC. 811. When used in this title—

(a) The term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include that part of the remuneration which, after remuneration equal to $3,000 has been paid to an individual by an employer with respect to employment during any calendar year, is paid to such individual by such employer with respect to employment during such calendar year.

(b) The term "employment" means any service, of whatever nature, performed within the United States by an employee for his employer, except—

(1) Agricultural labor;

(2) Domestic service in a private home;

(3) Casual labor not in the course of the employer's trade or business;

(4) Service performed by an individual who has attained the age of sixty-five;

(5) Service performed as an officer or member of the crew of a vessel documented under the laws of the United States or of any foreign country;

(6) Service performed in the employ of the United States Government or of an instrumentality of the United States;

(7) Service performed in the employ of a State, a political subdivision thereof, or an instrumentality of one or more States or political subdivisions;

(8) Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

## TITLE IX—TAX ON EMPLOYERS OF EIGHT OR MORE

IMPOSITION OF TAX

SECTION 901. On and after January 1, 1936, every employer (as defined in section 907) shall pay for each calendar year an excise tax, with respect to having individuals in his employ, equal to the following percentages of the total wages (as defined in section 907) payable by him (regardless of the time of payment) with respect to employment (as defined in section 907) during such calendar year:

(1) With respect to employment during the calendar year 1936 the rate shall be 1 per centum;

(2) With respect to employment during the calendar year 1937 the rate shall be 2 per centum;

(3) With respect to employment after December 31, 1937, the rate shall be 3 per centum.

CREDIT AGAINST TAX

SEC. 902. The taxpayer may credit against the tax imposed by section 901 the amount of contributions, with respect to employment during the taxable year, paid by him (before the date of filing his return for the taxable year) into an unemployment fund under a State law. The total credit allowed to a taxpayer under this section for all contributions paid into unemployment funds with respect to employment during such taxable year shall not exceed 90 per centum of the tax against which it is credited, and credit shall be allowed only for contributions made under the laws of States certified for the taxable year as provided in section 903.

CERTIFICATION OF STATE LAWS

SEC. 903. (a) The Social Security Board shall approve any State law submitted to it, within thirty days of such submission, which it finds provides that—

(1) All compensation is to be paid through public employment offices in the State or such other agencies as the Board may approve;

(2) No compensation shall be payable with respect to any day of unemployment occurring within two years after the first day of the first period with respect to which contributions are required;

(3) All money received in the unemployment fund shall immediately upon such receipt be paid over to the Secretary of the Treasury to the credit of the Unemployment Trust Fund established by section 904;

(4) All money withdrawn from the Unemployment Trust Fund by the State agency shall be used solely in the payment of compensation, exclusive of expenses of administration;

(5) Compensation shall not be denied in such State to any otherwise eligible individual for refusing to accept new work under any of the following conditions: (A) If the position offered is vacant due directly to a strike, lockout, or other labor dispute; (B) if the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; (C) if as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization;

(6) All the rights, privileges, or immunities conferred by such law or by acts done pursuant thereto shall exist subject to the power of the legislature to amend or repeal such law at any time.

The Board shall, upon approving such law, notify the Governor of the State of its approval.

(b) On December 31 in each taxable year the Board shall certify to the Secretary of the Treasury each State whose law it has previously approved, except that it shall not certify any State which, after reasonable notice and opportunity for hearing to the State agency, the Board finds has changed its law so that it no longer contains the provisions specified in subsection (a) or has with respect to such taxable year failed to comply substantially with any such provision.

(c) If, at any time during the taxable year, the Board has reason to believe that a State whose law it has previously approved, may not be certified under subsection (b), it shall promptly so notify the Governor of such State.

UNEMPLOYMENT TRUST FUND

SEC. 904. (a) There is hereby established in the Treasury of the United States a trust fund to be known as the "Unemployment Trust Fund", hereinafter in this title called the "Fund". The Secretary of the Treasury is authorized and directed to receive and hold in the Fund all moneys deposited therein by a State agency from a State unemployment fund. Such deposit may be made directly with the Secretary of the Treasury or with any Federal reserve bank or member bank of the Federal Reserve System designated by him for such purpose.

(b) It shall be the duty of the Secretary of the Treasury to invest such portion of the Fund as is not, in his judgment, required to meet current withdrawals. Such investment may be made only in interest bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (1) on original issue at par, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of special obligations exclusively to the Fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as of the end of the calendar month next preceding the date of such issue, borne by all interest-bearing obligations of the United States then forming part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 per centum, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 per centum next lower than such average rate. Obligations other than such special obligations may be acquired for the Fund only on such terms as to provide an investment yield not less than the yield which would be required in the case of special obligations if issued to the Fund upon the date of such acquisition.

(c) Any obligations acquired by the Fund (except special obligations issued exclusively to the Fund) may be sold at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

(e) The Fund shall be invested as a single fund, but the Secretary of the Treasury shall maintain a separate book account for each State agency and shall credit quarterly on March 31, June 30, September 30, and December 31, of each year, to each account, on the basis of the average daily balance of such account, a proportionate part of the earnings of the Fund for the quarter ending on such date.

(f) The Secretary of the Treasury is authorized and directed to pay out of the Fund to any State agency such amount as it may duly

requisition, not exceeding the amount standing to the account of such State agency at the time of such payment.

ADMINISTRATION, REFUNDS, AND PENALTIES

SEC. 905. (a) The tax imposed by this title shall be collected by the Bureau of Internal Revenue under the direction of the Secretary of the Treasury and shall be paid into the Treasury of the United States as internal-revenue collections. If the tax is not paid when due, there shall be added as part of the tax interest at the rate of one-half of 1 per centum per month from the date the tax became due until paid.

(b) Not later than January 31, next following the close of the taxable year, each employer shall make a return of the tax under this title for such taxable year. Each such return shall be made under oath, shall be filed with the collector of internal revenue for the district in which is located the principal place of business of the employer, or, if he has no principal place of business in the United States, then with the collector at Baltimore, Maryland, and shall contain such information and be made in such manner as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may by regulations prescribe. All provisions of law (including penalties) applicable in respect of the taxes imposed by section 600 of the Revenue Act of 1926, shall, insofar as not inconsistent with this title, be applicable in respect of the tax imposed by this title. The Commissioner may extend the time for filing the return of the tax imposed by this title, under such rules and regulations as he may prescribe with the approval of the Secretary of the Treasury, but no such extension shall be for more than sixty days.

(c) Returns filed under this title shall be open to inspection in the same manner, to the same extent, and subject to the same provisions of law, including penalties, as returns made under Title II of the Revenue Act of 1926.

(d) The taxpayer may elect to pay the tax in four equal installments instead of in a single payment, in which case the first installment shall be paid not later than the last day prescribed for the filing of returns, the second installment shall be paid on or before the last day of the third month, the third installment on or before the last day of the sixth month, and the fourth installment on or before the last day of the ninth month, after such last day. If the tax or any installment thereof is not paid on or before the last day of the period fixed for its payment, the whole amount of the tax unpaid shall be paid upon notice and demand from the collector.

(e) At the request of the taxpayer the time for payment of the tax or any installment thereof may be extended under regulations prescribed by the Commissioner with the approval of the Secretary of the Treasury, for a period not to exceed six months from the last day of the period prescribed for the payment of the tax or any installment thereof. The amount of the tax in respect of which any extension is granted shall be paid (with interest at the rate of one-half of 1 per centum per month) on or before the date of the expiration of the period of the extension.

(f) In the payment of any tax under this title a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent.

INTERSTATE COMMERCE

SEC. 906. No person required under a State law to make payments to an unemployment fund shall be relieved from compliance therewith on the ground that he is engaged in interstate commerce, or that the State law does not distinguish between employees engaged in interstate commerce and those engaged in intrastate commerce.

DEFINITIONS

SEC. 907. When used in this title—

(a) The term "employer" does not include any person unless on each of some twenty days during the taxable year, each day being in a different calendar week, the total number of individuals who were in his employ for some portion of the day (whether or not at the same moment of time) was eight or more.

(b) The term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash.

(c) The term "employment" means any service, of whatever nature, performed within the United States by an employee for his employer, except—

(1) Agricultural labor;

(2) Domestic service in a private home;

(3) Service performed as an officer or member of the crew of a vessel on the navigable waters of the United States;

(4) Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of twenty-one in the employ of his father or mother;

(5) Service performed in the employ of the United States Government or of an instrumentality of the United States;

(6) Service performed in the employ of a State, a political subdivision thereof, or an instrumentality of one or more States or political subdivisions;

(7) Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(d) The term "State agency" means any State officer, board, or other authority, designated under a State law to administer the unemployment fund in such State.

(e) The term "unemployment fund" means a special fund, established under a State law and administered by a State agency, for the payment of compensation.

(f) The term "contributions" means payments required by a State law to be made by an employer into an unemployment fund, to the extent that such payments are made by him without any part thereof being deducted or deductible from the wages of individuals in his employ.

(g) The term "compensation" means cash benefits payable to individuals with respect to their unemployment.

RULES AND REGULATIONS

SEC. 908. The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall make and publish rules and regulations for the enforcement of this title, except sections 903, 904, and 910.

ALLOWANCE OF ADDITIONAL CREDIT

SEC. 909. (a) In addition to the credit allowed under section 902, a taxpayer may, subject to the conditions imposed by section 910, credit against the tax imposed by section 901 for any taxable year after the taxable year 1937, an amount, with respect to each State law, equal to the amount, if any, by which the contributions, with respect to employment in such taxable year, actually paid by the taxpayer under such law before the date of filing his return for such taxable year, is exceeded by whichever of the following is the lesser—

(1) The amount of contributions which he would have been required to pay under such law for such taxable year if he had been subject to the highest rate applicable from time to time throughout such year to any employer under such law; or

(2) Two and seven-tenths per centum of the wages payable by him with respect to employment with respect to which contributions for such year were required under such law.

(b) If the amount of the contributions actually so paid by the taxpayer is less than the amount which he should have paid under the State law, the additional credit under subsection (a) shall be reduced proportionately.

(c) The total credits allowed to a taxpayer under this title shall not exceed 90 per centum of the tax against which such credits are taken.

CONDITIONS OF ADDITIONAL CREDIT ALLOWANCE

SEC. 910. (a) A taxpayer shall be allowed the additional credit under section 909, with respect to his contribution rate under a State law being lower, for any taxable year, than that of another employer subject to such law, only if the Board finds that under such law—

(1) Such lower rate, with respect to contributions to a pooled fund, is permitted on the basis of not less than three years of compensation experience;

(2) Such lower rate, with respect to contributions to a guaranteed employment account, is permitted only when his guaranty of employment was fulfilled in the preceding calendar year, and such guaranteed employment account amounts to not less than 7½ per centum of the total wages payable by him, in accordance with such guaranty, with respect to employment in such State in the preceding calendar year;

(3) Such lower rate, with respect to contributions to a separate reserve account, is permitted only when (A) compensation has been payable from such account throughout the preceding calendar year, and (B) such account amounts to not less than five times

the largest amount of compensation paid from such account within any one of the three preceding calendar years, and (C) such account amounts to not less than 7½ per centum of the total wages payable by him (plus the total wages payable by any other employers who may be contributing to such account) with respect to employment in such State in the preceding calendar year.

(b) Such additional credit shall be reduced, if any contributions under such law are made by such taxpayer at a lower rate under conditions not fulfilling the requirements of subsection (a), by the amount bearing the same ratio to such additional credit as the amount of contributions made at such lower rate bears to the total of his contributions paid for such year under such law.

(c) As used in this section—

(1) The term " reserve account " means a separate account in an unemployment fund, with respect to an employer or group of employers, from which compensation is payable only with respect to the unemployment of individuals who were in the employ of such employer, or of one of the employers comprising the group

(2) The term " pooled fund " means an unemployment fund or any part thereof in which all contributions are mingled and undivided, and from which compensation is payable to all eligible individuals, except that to individuals last employed by employers with respect to whom reserve accounts are maintained by the State agency, it is payable only when such accounts are exhausted.

(3) The term " guaranteed employment account " means a separate account, in an unemployment fund, of contributions paid by an employer (or group of employers) who

(A) guarantees in advance thirty hours of wages for each of forty calendar weeks (or more, with one weekly hour deducted for each added week guaranteed) in twelve months, to all the individuals in his employ in one or more distinct establishments, except that any such individual's guaranty may commence after a probationary period (included within twelve or less consecutive calendar weeks), and

(B) gives security or assurance, satisfactory to the State agency, for the fulfillment of such guaranties,

from which account compensation shall be payable with respect to the unemployment of any such individual whose guaranty is not fulfilled or renewed and who is otherwise eligible for compensation under the State law.

(4) The term "year of compensation experience ", as applied to an employer, means any calendar year throughout which compensation was payable with respect to any individual in his employ who became unemployed and was eligible for compensation.

## TITLE X—GRANTS TO STATES FOR AID TO THE BLIND

### APPROPRIATION

SECTION 1001. For the purpose of enabling each State to furnish financial assistance, as far as practicable under the conditions in such State, to needy individuals who are blind, there is hereby authorized to be appropriated for the fiscal year ending June 30, 1936,

the sum of $3,000,000, and there is hereby authorized to be appropriated for each fiscal year thereafter a sum sufficient to carry out the purposes of this title. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Social Security Board, State plans for aid to the blind.

STATE PLANS FOR AID TO THE BLIND

SEC. 1002. (a) A State plan for aid to the blind must (1) provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them; (2) provide for financial participation by the State; (3) either provide for the establishment of designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan; (4) provide for granting to any individual, whose claim for aid is denied, an opportunity for a fair hearing before such State agency; (5) provide such methods of administration (other than those relating to selection, tenure of office, and compensation of personnel) as are found by the Board to be necessary for the efficient operation of the plan; (6) provide that the State agency will make such reports, in such form and containing such information, as the Board may from time to time require, and comply with such provisions as the Board may from time to time find necessary to assure the correctness and verification of such reports; and (7) provide that no aid will be furnished any individual under the plan with respect to any period with respect to which he is receiving old-age assistance under the State plan approved under section 2 of this Act.

(b) The Board shall approve any plan which fulfills the conditions specified in subsection (a), except that it shall not approve any plan which imposes, as a condition of eligibility for aid to the blind under the plan—

(1) Any residence requirement which excludes any resident of the State who has resided therein five years during the nine years immediately preceding the application for aid and has resided therein continuously for one year immediately preceding the application; or

(2) Any citizenship requirement which excludes any citizen of the United States.

PAYMENT TO STATES

SEC. 1003. (a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for aid to the blind, for each quarter, beginning with the quarter commencing July 1, 1935, (1) an amount, which shall be used exclusively as aid to the blind, equal to one-half of the total of the sums expended during such quarter as aid to the blind under the State plan with respect to each individual who is blind and is not an inmate of a public institution, not counting so much of such expenditure with respect to any individual for any month as exceeds $30, and (2) 5 per centum of such amount, which shall be used for paying the costs of administering the State plan or for aid to the blind, or both, and for no other purpose.

(b) The method of computing and paying such amounts shall be as follows:

(1) The Board shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of clause (1) of subsection (a), such estimate to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such clause, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than one-half of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, (B) records showing the number of blind individuals in the State, and (C) such other investigation as the Board may find necessary.

(2) The Board shall then certify to the Secretary of the Treasury the amount so estimated by the Board, reduced or increased, as the case may be, by any sum by which it finds that its estimate for any prior quarter was greater or less than the amount which should have been paid to the State under clause (1) of subsection (a) for such quarter, except to the extent that such sum has been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Board for such prior quarter.

(3) The Secretary of the Treasury shall thereupon, through the Division of Disbursement of the Treasury Department, and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Board, the amount so certified, increased by 5 per centum.

OPERATION OF STATE PLANS

SEC. 1004. In the case of any State plan for aid to the blind which has been approved by the Board, if the Board, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds—

(1) that the plan has been so changed as to impose any residence or citizenship requirement prohibited by section 1002 (b), or that in the administration of the plan any such prohibited requirement is imposed, with the knowledge of such State agency, in a substantial number of cases; or

(2) that in the administration of the plan there is a failure to comply substantially with any provision required by section 1002 (a) to be included in the plan;

the Board shall notify such State agency that further payments will not be made to the State until the Board is satisfied that such prohibited requirement is no longer so imposed, and that there is no longer any such failure to comply. Until it is so satisfied it shall make no further certification to the Secretary of the Treasury with respect to such State.

ADMINISTRATION

SEC. 1005. There is hereby authorized to be appropriated for the fiscal year ending June 30, 1936, the sum of $30,000, for all necessary expenses of the Board in administering the provisions of this title.

DEFINITION

SEC. 1006. When used in this title the term "aid to the blind" means money payments to blind individuals.

## TITLE XI—GENERAL PROVISIONS

DEFINITIONS

SECTION 1101. (a) When used in this Act—

(1) The term "State" (except when used in section 531) includes Alaska, Hawaii, and the District of Columbia.

(2) The term "United States" when used in a geographical sense means the States, Alaska, Hawaii, and the District of Columbia.

(3) The term "person" means an individual, a trust or estate, a partnership, or a corporation.

(4) The term "corporation" includes associations, joint-stock companies, and insurance companies.

(5) The term "shareholder" includes a member in an association, joint-stock company, or insurance company.

(6) The term "employee" includes an officer of a corporation.

(b) The terms "includes" and "including" when used in a definition contained in this Act shall not be deemed to exclude other things otherwise within the meaning of the term defined.

(c) Whenever under this Act or any Act of Congress, or under the law of any State, an employer is required or permitted to deduct any amount from the remuneration of an employee and to pay the amount deducted to the United States, a State, or any political subdivision thereof, then for the purposes of this Act the amount so deducted shall be considered to have been paid to the employee at the time of such deduction.

(d) Nothing in this Act shall be construed as authorizing any Federal official, agent, or representative, in carrying out any of the provisions of this Act, to take charge of any child over the objection of either of the parents of such child, or of the person standing in loco parentis to such child.

RULES AND REGULATIONS

SEC. 1102. The Secretary of the Treasury, the Secretary of Labor, and the Social Security Board, respectively, shall make and publish such rules and regulations, not inconsistent with this Act, as may be necessary to the efficient administration of the functions with which each is charged under this Act.

SEPARABILITY

SEC. 1103. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances shall not be affected thereby.

RESERVATION OF POWER

SEC. 1104. The right to alter, amend, or repeal any provision of this Act is hereby reserved to the Congress.

SHORT TITLE

SEC. 1105. This Act may be cited as the "Social Security Act."

Approved, August 14, 1935.

75TH CONGRESS, 1st Session } SENATE { DOCUMENT No. 74

# CONSTITUTIONALITY OF THE SOCIAL SECURITY ACT

## OPINIONS

OF THE

## SUPREME COURT OF THE UNITED STATES

TOGETHER WITH THE SEPARATE AND DISSENTING OPINIONS
IN THE CASES

## INVOLVING THE CONSTITUTIONALITY OF THE SOCIAL SECURITY ACT

CHAS. C. STEWARD MACHINE COMPANY, Petitioner

*v.*

HARWELL G. DAVIS, INDIVIDUALLY AND AS COLLECTOR OF INTERNAL REVENUE FOR THE DISTRICT OF ALABAMA, Respondent

GUY T. HELVERING, COMMISSIONER OF INTERNAL REVENUE, AND WILLIAM M. WELCH, COLLECTOR OF INTERNAL REVENUE FOR THE DISTRICT OF MASSACHUSETTS, Petitioners

AND

THE EDISON ELECTRIC ILLUMINATING COMPANY OF BOSTON

*v.*

GEORGE P. DAVIS, Respondent

ALBERT A. CARMICHAEL, INDIVIDUALLY AND AS ATTORNEY GENERAL OF THE STATE OF ALABAMA, ET AL., Appellants

*v.*

SOUTHERN COAL AND COKE COMPANY

ALBERT A. CARMICHAEL, INDIVIDUALLY AND AS ATTORNEY GENERAL OF THE STATE OF ALABAMA, ET AL., Appellants

*v.*

GULF STATES PAPER CORPORATION

PRESENTED BY MR. HAYDEN

MAY 26, 1937.—Ordered to be printed

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1937

# CONTENTS

# SUPREME COURT OF THE UNITED STATES

No. 837.—October Term, 1936.

| | |
|---|---|
| Chas. C. Steward Machine Company, Petitioner, *vs.* Harwell G. Davis, Individually and as Collector of Internal Revenue for the District of Alabama, Respondent. | On Writ of Certiorari to the United States Circuit Court of Appeals for the Fifth Circuit. |

[May 24, 1937.]

Mr. Justice Cardozo delivered the opinion of the Court.

The validity of the tax imposed by the Social Security Act on employers of eight or more is here to be determined.

Petitioner, an Alabama corporation, paid a tax in accordance with the statute, filed a claim for refund with the Commissioner of Internal Revenue, and sued to recover the payment ($46.14), asserting a conflict between the statute and the Constitution of the United States. Upon demurrer the District Court gave judgment for the defendant dismissing the complaint, and the Circuit Court of Appeals for the Fifth Circuit affirmed. — F. (2d) —. The decision is in accord with judgments of the Supreme Judicial Court of Massachusetts (*Howes Brothers Co.* v. *Massachusetts Unemployment Compensation Commission*, December 30, 1936, 5 N. E. (2d) 720), the Supreme Court of California (*Gillum* v. *Johnson*, November 25, 1936, 62 Pac. (2d) 1037), and the Supreme Court of Alabama (*Beeland Wholesale Co.* v. *Kaufman*, March 17, 1937, — Ala. —). It is in conflict with a judgment of the Circuit Court of Appeals for the First Circuit, from which one judge dissented. *Davis* v. *Boston & Maine R. R. Co.*, April 14, 1937, — F. (2d) —. An important question of constitutional law being involved, we granted certiorari.

The Social Security Act (Act of August 14, 1935, c. 531, 49 Stat. 620, 42 U. S. C., c. 7 (Supp.)) is divided into eleven separate titles, of which only Titles IX and III are so related to this case as to stand in need of summary.

The caption of Title IX is "Tax on Employers of Eight or More." Every employer (with stated exceptions) is to pay for each calendar year "an excise tax, with respect to having individuals in his employ", the tax to be measured by prescribed percentages of the total wages payable by the employer during the calendar year with respect to such employment. Section 901. One is not, however, an "employer" within the meaning of the act unless he employs eight persons or more. Section 907 (a). There are also other limitations of minor

importance. The term "employment" too has its special definition, excluding agricultural labor, domestic service in a private home and some other smaller classes. Section 907 (c). The tax begins with the year 1936, and is payable for the first time on January 31, 1937. During the calendar year 1936 the rate is to be one per cent, during 1937 two per cent, and three per cent thereafter. The proceeds, when collected, go into the Treasury of the United States like internal-revenue collections generally. Section 905 (a). They are not earmarked in any way. In certain circumstances, however, credits are allowable. Section 902. If the taxpayer has made contributions to an unemployment fund under a state law, he may credit such contributions against the federal tax, provided, however, that the total credit allowed to any taxpayer shall not exceed 90 per centum of the tax against which it is credited, and provided also that the state law shall have been certified to the Secretary of the Treasury by the Social Security Board as satisfying certain minimum criteria. Section 902. The provisions of Section 903 defining those criteria are stated in the margin.[1] Some of the conditions thus attached to the allowance of a credit are designed to give assurance that the state unemployment compensation law shall be one in substance as well as name. Others are designed to give assurance that the contributions shall be protected against loss after payment to the state. To this last end there are provisions that before a state law shall have the approval of the Board it must direct that the contributions to the state fund be paid over immediately to the Secretary of the Treasury to the credit of the "Unemployment Trust Fund." Section 904 establishing this fund is quoted below.[2] For the moment it is enough to say

---

[1] Sec. 903. (a) The Social Security Board shall approve any State law submitted to it, within thirty days of such submission, which it finds provides that—

(1) All compensation is to be paid through public employment offices in the State or such other agencies as the Board may approve;

(2) No compensation shall be payable with respect to any day of unemployment occurring within two years after the first day of the first period with respect to which contributions are required;

(3) All money received in the unemployment fund shall immediately upon such receipt be paid over to the Secretary of the Treasury to the credit of the Unemployment Trust Fund established by Section 904;

(4) All money withdrawn from the Unemployment Trust Fund by the State agency shall be used solely in the payment of compensation, exclusive of expenses of administration;

(5) Compensation shall not be denied in such State to any otherwise eligible individual for refusing to accept new work under any of the following conditions: (A) If the position offered is vacant due directly to a strike, lockout, or other labor dispute; (B) if the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; (C) if as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization;

(6) All the rights, privileges, or immunities conferred by such law or by acts done pursuant thereto shall exist subject to the power of the legislature to amend or repeal such law at any time.

The Board shall, upon approving such law, notify the Governor of the State of its approval.

(b) On December 31 in each taxable year the Board shall certify to the Secretary of the Treasury each State whose law it has previously approved, except that it shall not certify any State which, after reasonable notice and opportunity for hearing to the State agency, the Board finds has changed its law so that it no longer contains the provisions specified in subsection (a) or has with respect to such taxable year failed to comply substantially with any such provision.

(c) If, at any time during the taxable year, the Board has reason to believe that a State whose law it has previously approved, may not be certified under subsection (b), it shall promptly so notify the Governor of such State.

[2] Sec. 904. (a) There is hereby established in the Treasury of the United States a trust fund to be known as the "Unemployment Trust Fund", hereinafter in this title called the "Fund". The Secretary of the Treasury is authorized and directed to receive and hold in the Fund all moneys deposited therein by a State agency from a State unemployment fund. Such deposit may be made directly with the Secretary of the Treasury or with any Federal reserve bank or member bank of the Federal Reserve System designated by him for such purpose.

(b) It shall be the duty of the Secretary of the Treasury to invest such portion of the Fund as is not, in his judgment, required to meet current withdrawals. Such investment

that the Fund is to be held by the Secretary of the Treasury, who is to invest in government securities any portion not required in his judgment to meet current withdrawals. He is authorized and directed to pay out of the Fund to any competent state agency such sums as it may duly requisition from the amount standing to its credit. Section 904 (f).

Title III, which is also challenged as invalid, has the caption "Grants to States for Unemployment Compensation Administration." Under this title, certain sums of money are "authorized to be appropriated" for the purpose of assisting the states in the administration of their unemployment compensation laws, the maximum for the fiscal year ending June 30, 1936 to be $4,000,000, and $49,000,000 for each fiscal year thereafter. Section 301. No present appropriation is made to the extent of a single dollar. All that the title does is to authorize future appropriations. Actually only $2,250,000 of the $4,000,000 authorized was appropriated for 1936 (Act of Feb. 11, 1936, c. 49, 49 Stat. 1109, 1113) and only $29,000,000 of the $49,000,000 authorized for the following year. Act of June 22, 1936, c. 689, 49 Stat. 1597, 1605. The appropriations when made were not specifically out of the proceeds of the employment tax, but out of any moneys in the Treasury. Other sections of the title prescribe the method by which the payments are to be made to the state (Section 302) and also certain conditions to be established to the satisfaction of the Social Security Board before certifying the propriety of a payment to the Secretary of the Treasury. Section 303. They are designed to give assurance to the Federal Government that the moneys granted by it will not be expended for purposes alien to the grant, and will be used in the administration of genuine unemployment compensation laws.

The assault on the statute proceeds on an extended front. Its assailants take the ground that the tax is not an excise; that it is not uniform throughout the United States as excises are required to be; that its exceptions are so many and arbitrary as to violate the Fifth Amendment; that its purpose was not revenue, but an unlawful invasion of the reserved powers of the states; and that the states in submitting to it have yielded to coercion and have

---

may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (1) on original issue at par, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of special obligations exclusively to the Fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as of the end of the calendar month next preceding the date of such issue, borne by all interest-bearing obligations of the United States then forming part of the public debt; except tht where such average rate is not a multiple of one-eighth of 1 per centum, the ratio of interest of such special obligations shall be the multiple of one-eighth of 1 per centum next lower than such average rate. Obligations other than such special obligations may be acquired for the Fund only on such terms as to provide an investment yield not less than the yield which would be required in the case of special obligations if issued to the Fund upon the date of such acquisition.

(c) Any obligations acquired by the Fund (except special obligations issued exclusively to the Fund) may be sold at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

(e) The Fund shall be invested as a single fund, but the Secretary of the Treasury shall maintain a separate book account for each State agency and shall credit quarterly on March 31, June 30, September 30, and December 31, of each year, to each account, on the basis of the average daily balance of such account, a proportionate part of the earnings of the Fund for the quarter ending on such date.

(f) The Secretary of the Treasury is authorized and directed to pay out of the Fund to any State agency such amount as it may duly requisition, not exceeding the amount standing to the account of such State agency at the time of such payment.

abandoned governmental functions which they are not permitted to surrender.

The objections will be considered seriatim with such further explanation as may be necessary to make their meaning clear.

*First:* The tax, which is described in the statute as an excise, is laid with uniformity throughout the United States as a duty, an impost or an excise upon the relation of employment.

1. We are told that the relation of employment is one so essential to the pursuit of happiness that it may not be burdened with a tax. Appeal is made to history. From the precedents of colonial days we are supplied with illustrations of excises common in the colonies. They are said to have been bound up with the enjoyment of particular commodities. Appeal is also made to principle or the analysis of concepts. An excise, we are told, imports a tax upon a privilege; employment, it is said, is a right, not a privilege, from which it follows that employment is not subject to an excise. Neither the one appeal nor the other leads to the desired goal.

As to the argument from history: Doubtless there were many excises in colonial days and later that were associated, more or less intimately, with the enjoyment or the use of property. This would not prove, even if no others were then known, that the forms then accepted were not subject to enlargement. Cf. *Pensacola Telephone Co.* v. *Western Union Telegraph Co.*, 96 U. S. 1, 9; *In re Debs*, 158 U. S. 564, 591; *South Carolina* v. *United States*, 199 U. S. 437, 448, 449. But in truth other excises *were* known, and known since early times. Thus in 1695 (6 & 7 Wm. III, c. 6), Parliament passed an act which granted "to His Majesty certain Rates and Duties upon Marriage, Births and Burials", all for the purpose of "carrying on the War against France with Vigour." See *Opinion of the Justices*, 196 Mass. 602, 609. No commodity was affected there. The industry of counsel has supplied us with an apter illustration where the tax was not different in substance from the one now challenged as invalid. In 1777, before our Constitutional Convention, Parliament laid upon employers an annual "duty" of 21 shillings for "every male Servant" employed in stated forms of work.[3] Revenue Act of 1777, 17 George III, c. 39.[4] The point is made as a distinction that a tax upon the use of male servants was thought of as a tax upon a luxury. *Davis* v. *Boston & Maine R. R. Co.*, supra. It did not touch employments in husbandry or business. This is to throw over the argument that historically an excise is a tax upon the enjoyment of commodities. But the attempted distinction, whatever may be thought of its validity, is inapplicable to a statute of Virginia passed in 1780. There a tax of three pounds, six shillings and eight pence was to be paid for every male tithable above the age of twenty-one years (with stated exceptions), and a like tax for "every white servant whatsoever, except apprentices

---

[3] The list of services is comprehensive. It included: "Maitre d'Hotel, House-steward, Master of the Horse, Groom of the Chamber, Valet de Chambre, Butler, Under-butler, Clerk of the Kitchen, Confectioner, Cook, House-porter, Footman, Running-footman, Coachman, Groom, Postillion, Stable-boy, and the respective Helpers in the Stables of such Coachman, Groom, or Postillion, or in the Capacity of Gardener (not being a Day-labourer), Park-keeper, Game-keeper, Huntsman, Whipper-in . . . ."

[4] The statute, amended from time to time, but with its basic structure unaffected, is on the statute books today. Act of 1803, 43 George III, c. 161; Act of 1812, 52 George III, c. 93; Act of 1853, 16 & 17 Vict., c. 90; Act of 1869, 32 & 33 Vict., c. 14. 24 Halsbury's Laws of England, 1st ed., pp. 692 *et seq.*

under the age of twenty one years." 10 Hening's Statutes of Virginia, p. 244. Our colonial forbears knew more about ways of taxing than some of their descendants seem to be willing to concede.[5]

The historical prop failing, the prop or fancied prop of principle remains. We learn that employment for lawful gain is a "natural" or "inherent" or "inalienable" right, and not a "privilege" at all. But natural rights, so called, are as much subject to taxation as rights of less importance.[6] An excise is not limited to vocations or activities that may be prohibited altogether. It is not limited to those that are the outcome of a franchise. It extends to vocations or activities pursued as of common right. What the individual does in the operation of a business is amenable to taxation just as much as what he owns, at all events if the classification is not tyrannical or arbitrary. "Business is as legitimate an object of the taxing powers as property." *City of Newton* v. *Atchison*, 31 Kan. 151, 154 (per Brewer, J.). Indeed, ownership itself, as we had occasion to point out the other day, is only a bundle of rights and privileges invested with a single name. *Henneford* v. *Silas Mason Co., Inc.*, March 29, 1937, — U. S. —. "A state is at liberty, if it pleases, to tax them all collectively, or to separate the faggots and lay the charge distributively." *Ibid.* Employment is a business relation, if not itself a business. It is a relation without which business could seldom be carried on effectively. The power to tax the activities and relations that constitute a calling considered as a unit is the power to tax any of them. The whole includes the parts. *Nashville C. & St. L. Ry. Co.* v. *Wallace*, 288 U. S. 249, 267, 268.

The subject matter of taxation open to the power of the Congress is as comprehensive as that open to the power of the states, though the method of apportionment may at times be different. "The Congress shall have power to lay and collect taxes, duties, imposts and excises". Art. 1, § 8. If the tax is a direct one, it shall be apportioned according to the census or enumeration. If it is a duty, impost, or excise, it shall be uniform throughout the United States. Together, these classes include every form of tax appropriate to sovereignty. Cf. *Burnet* v. *Brooks*, 288 U. S. 378, 403, 405; *Brushaber* v. *Union Pacific R. R. Co.*, 240 U. S. 1, 12. Whether the tax is to be classified as an "excise" is in truth not of critical importance. If not that, it is an "impost" (*Pollock* v. *Farmers' Loan and Trust Co.*, 158 U. S. 601, 622, 625; *Pacific Insurance Co.* v. *Soule*, 7 Wall. 433, 445), or a "duty" (*Veazie Bank* v. *Fenno*, 8 Wall. 533, 546, 547; *Pollock* v. *Farmers' Loan and Trust Co.*, 157 U. S. 429, 570; *Knowlton* v. *Moore*, 178 U. S. 41, 46). A capitation or other "direct" tax it certainly is not. "Although there have been from time to time intimations that there might be some tax which was not a direct tax nor included under the words 'duties, imposts and excises,' such a tax for more than one hundred years of national existence has as yet remained undiscovered, notwithstanding the stress of particular

[5] See also the following laws imposing occupation taxes: 12 Hening's Statutes of Virginia, p. 285, Act of 1786; Chandler, The Colonial Records of Georgia, vol. 19, Part 2, p. 88, Act of 1778; 1 Potter, Taylor and Yancey, North Carolina Revised Laws, p. 501, Act of 1784.

[6] The cases are brought together by Professor John MacArthur Maguire in an essay, "Taxing the Exercise of Natural Rights" (Harvard Legal Essays, 1934, pp. 273, 322).

The Massachusetts decisions must be read in the light of the particular definitions and restrictions of the Massachusetts Constitution. Opinions of the Justices, 282 Mass. 619, 622; 266 Mass. 590, 593. And see Howes Brothers Co. *v.* Massachusetts Unemployment Compensation Commission, *supra*, pp. 730, 731.

circumstances has invited thorough investigation into sources of powers." *Pollock* v. *Farmers' Loan and Trust Co.*, 157 U. S. 429, 557. There is no departure from that thought in later cases, but rather a new emphasis of it. Thus, in *Thomas* v. *United States*, 192 U. S. 363, 370, it was said of the words "duties, imposts and excises" that "they were used comprehensively to cover customs and excise duties imposed on importation, consumption, manufacture and sale of certain commodities, privileges, particular business transactions, vocations, occupations and the like." At times taxpayers have contended that the Congress is without power to lay an excise on the enjoyment of a privilege created by state law. The contention has been put aside as baseless. Congress may tax the transmission of property by inheritance or will, though the states and not Congress have created the privilege of succession. *Knowlton* v. *Moore*, *supra*, p. 58. Congress may tax the enjoyment of a corporate franchise, though a state and not Congress has brought the franchise into being. *Flint* v. *Stone Tracy Co.*, 220 U. S. 108, 155. The statute books of the states are strewn with illustrations of taxes laid on occupations pursued of common right.[7] We find no basis for a holding that the power in that regard which belongs by accepted practice to the legislatures of the states, has been denied by the Constitution to the Congress of the nation.

2. The tax being an excise, its imposition must conform to the canon of uniformity. There has been no departure from this requirement. According to the settled doctrine the uniformity exacted is geographical, not intrinsic. *Knowlton* v. *Moore*, *supra*, p. 83; *Flint* v. *Stone Tracy Co.*, *supra*, p. 158; *Billings* v. *United States*, 232 U. S. 261, 282; *Stellwagen* v. *Clum*, 245 U. S. 605, 613; *LaBelle Iron Works* v. *United States*, 256 U. S. 377, 392; *Poe* v. *Seaborn*, 282 U. S. 101, 117; *Wright* v. *Vinton Branch Mountain Trust Bank*, March 29, 1937, — U. S. —. "The rule of liability shall be the same in all parts of the United States." *Florida* v. *Mellon*, 273 U. S. 12, 17.

*Second:* The excise is not invalid under the provisions of the Fifth Amendment by force of its exemptions.

The statute does not apply, as we have seen, to employers of less than eight. It does not apply to agricultural labor, or domestic service in a private home or to some other classes of less importance. Petitioner contends that the effect of these restrictions is an arbitrary discrimination vitiating the tax.

The Fifth Amendment unlike the Fourteenth has no equal protection clause. *LaBelle Iron Works* v. *United States*, *supra*; *Brushaber* v. *Union Pacific R. R. Co.*, *supra*, p. 24. But even the states, though subject to such a clause, are not confined to a formula of rigid uniformity in framing measures of taxation. *Swiss Oil Corp.* v. *Shanks*, 273 U. S. 407, 413. They may tax some kinds of

---

[7] Alabama General Acts, 1935, c. 194, Art. XIII (flat license tax on occupations); Arizona Revised Code, Supplement (1936) § 3138a *et seq.* (general gross receipts tax); Connecticut General Statutes, Supplement (1935) §§ 457c, 458c (gross receipts tax on unincorporated businesses); Revised Code of Delaware (1935) §§ 192–197 (flat license tax on occupations); Compiled Laws of Florida, Permanent Supplement (1936) Vol. I, § 1279 (flat license tax on occupations); Georgia Laws, 1935, p. 11 (flat license tax on occupations); Indiana Statutes Ann. (1933) § 64–2601 *et seq.* (general gross receipts tax); Louisiana Laws, 3rd Extra Session, 1934, Act No. 15, 1st Extra Session, 1935, Acts Nos. 5, 6 (general gross receipts tax); Mississippi Laws, 1934, c. 119 (general gross receipts tax); New Mexico Laws, 1935, c. 73 (general gross receipts tax); South Dakota Laws, 1933, c. 184 (general gross receipts tax, expired June 30, 1935); Washington Laws, 1935, c. 180, Title II (general gross receipts tax); West Virginia Code, Supplement (1935) § 960 (general gross receipts tax).

property at one rate, and others at another, and exempt others altogether. *Bell's Gap R. R. Co.* v. *Pennsylvania*, 134 U. S. 232; *Stebbins* v. *Riley*, 268 U. S. 137, 142; *Ohio Oil Co.* v. *Conway*, 281 U. S. 146, 150. They may lay an excise on the operations of a particular kind of business, and exempt some other kind of business closely akin thereto. *Quong Wing* v. *Kirkendall*, 223 U. S. 59, 62; *American Sugar Refining Co.* v. *Louisiana*, 179 U. S. 89, 94; *Armour Packing Co.* v. *Lacy*, 200 U. S. 226, 235; *Brown-Forman Co.* v. *Kentucky*, 217 U. S. 563, 573; *Heisler* v. *Thomas Colliery Co.*, 260 U. S. 245, 255; *State Board of Tax Comm'rs* v. *Jackson*, 283 U. S. 527, 537, 538. If this latitude of judgment is lawful for the states, it is lawful, a fortiori, in legislation by the Congress, which is subject to restraints less narrow and confining. *Quong Wing* v. *Kirkendall*, *supra*.

The classifications and exemptions directed by the statute now in controversy have support in considerations of policy and practical convenience that cannot be condemned as arbitrary. The classifications and exemptions would therefore be upheld if they had been adopted by a state and the provisions of the Fourteenth Amendment were invoked to annul them. This is held in two cases passed upon today in which precisely the same provisions were the subject of attack, the provisions being contained in the Unemployment Compensation Law of the State of Alabama. *Carmichael* v. *Southern Coal & Coke Co.*, No. 724, — U. S. —, and *Carmichael* v. *Gulf States Paper Corp.*, No. 797, —— U. S. ——. The opinion rendered in those cases covers the ground fully. It would be useless to repeat the argument. The act of Congress is therefore valid, so far at least as its system of exemptions is concerned, and this though we assume that discrimination, if gross enough, is equivalent to confiscation and subject under the Fifth Amendment to challenge and annulment.

*Third:* The excise is not void as involving the coercion of the States in contravention of the Tenth Amendment or of restrictions implicit in our federal form of government.

The proceeds of the excise when collected are paid into the Treasury at Washington, and thereafter are subject to appropriation like public moneys generally. *Cincinnati Soap Co.* v. *United States*, May 3, 1937, — U. S. —. No presumption can be indulged that they will be misapplied or wasted.[3] Even if they were collected in the hope or expectation that some other and collateral good would be furthered as an incident, that without more would not make the act invalid. *Sonzinsky* v. *United States*, March 29, 1937, — U. S. —. This indeed is hardly questioned. The case for the petitioner is built on the contention that here an ulterior aim is wrought into the very structure of the act, and what is even more important that the aim is not only ulterior, but essentially unlawful. In particular, the 90 per cent credit is relied upon as supporting that conclusion. But before the statute succumbs to an assault upon these lines, two propositions must be made out by the assailant. *Cincinnati Soap Co.* v.

[3] The total estimated receipts without taking into account the 90 per cent deduction, range from $225,000,000 in the first year to over $900,000,000 seven years later. Even if the maximum credits are available to taxpayers in all states, the maximum estimated receipts from Title IX will range between $22,000,000, at one extreme, to $90,000,000 at the other. If some of the states hold out in their unwillingness to pass statutes of their own, the receipts will be still larger.

*United States*, *supra*. There must be a showing in the first place that separated from the credit the revenue provisions are incapable of standing by themselves. There must be a showing in the second place that the tax and the credit in combination are weapons of coercion, destroying or impairing the autonomy of the states. The truth of each proposition being essential to the success of the assault, we pass for convenience to a consideration of the second, without pausing to inquire whether there has been a demonstration of the first.

To draw the line intelligently between duress and inducement there is need to remind ourselves of facts as to the problem of unemployment that are now matters of common knowledge. *West Coast Hotel Co.* v. *Parrish*, March 29, 1937. —— U. S. ——. The relevant statistics are gathered in the brief of counsel for the Government. Of the many available figures a few only will be mentioned. During the years 1929 to 1936, when the country was passing through a cyclical depression, the number of the unemployed mounted to unprecedented heights. Often the average was more than 10 million; at times a peak was attained of 16 million or more. Disaster to the breadwinner meant disaster to dependents. Accordingly the roll of the unemployed, itself formidable enough, was only a partial roll of the destitute or needy. The fact developed quickly that the states were unable to give the requisite relief. The problem had become national in area and dimensions. There was need of help from the nation if the people were not to starve. It is too late today for the argument to be heard with tolerance that in a crisis so extreme the use of the moneys of the nation to relieve the unemployed and their dependents is a use for any purpose narrower than the promotion of the general welfare. Cf. *United States* v. *Butler*, 297 U. S. 1, 65, 66, *Helvering* v. *Davis*, decided herewith. The nation responded to the call of the distressed. Between January 1, 1933 and July 1, 1936, the states (according to statistics submitted by the Government) incurred obligations of $689,291,802 for emergency relief; local subdivisions an additional $775,675,366. In the same period the obligations for emergency relief incurred by the national government were $2,929,307,125, or twice the obligations of states and local agencies combined. According to the President's budget message for the fiscal year 1938, the national government expended for public works and unemployment relief for the three fiscal years 1934, 1935, and 1936, the stupendous total of $8,681,000,000. The *parens patriae* has many reasons—fiscal and economic as well as social and moral—for planning to mitigate disasters that bring these burdens in their train.

In the presence of this urgent need for some remedial expedient, the question is to be answered whether the expedient adopted has overlept the bounds of power. The assailants of the statute say that its dominant end and aim is to drive the state legislatures under the whip of economic pressure into the enactment of unemployment compensation laws at the bidding of the central government. Supporters of the statute say that its operation is not constraint, but the creation of a larger freedom, the states and the nation joining in a coöperative endeavor to avert a common evil. Before Congress acted, unemployment compensation insurance was

still, for the most part, a project and no more. Wisconsin was the pioneer. Her statute was adopted in 1931. At times bills for such insurance were introduced elsewhere, but they did not reach the stage of law. In 1935, four states (California, Massachusetts, New Hampshire and New York) passed unemployment laws on the eve of the adoption of the Social Security Act, and two others did likewise after the federal act and later in the year. The statutes differed to some extent in type, but were directed to a common end. In 1936, twenty-eight other states fell in line, and eight more the present year. But if states had been holding back before the passage of the federal law, inaction was not owing, for the most part to the lack of sympathetic interest. Many held back through alarm lest in laying such a toll upon their industries, they would place themselves in a position of economic disadvantage as compared with neighbors or competitors. See House Report, No. 615, 74th Congress, 1st session, p. 8; Senate Report, No. 628, 74th Congress, 1st session, p. 11.[9] Two consequences ensued. One was that the freedom of a state to contribute its fair share to the solution of a national problem was paralyzed by fear. The other was that in so far as there was failure by the states to contribute relief according to the measure of their capacity, a disproportionate burden, and a mountainous one, was laid upon the resources of the Government of the nation.

The Social Security Act is an attempt to find a method by which all these public agencies may work together to a common end. Every dollar of the new taxes will continue in all likelihood to be used and needed by the nation as long as states are unwilling, whether through timidity or for other motives, to do what can be done at home. At least the inference is permissible that Congress so believed, though retaining undiminished freedom to spend the money as it pleased. On the other hand fulfillment of the home duty will be lightened and encouraged by crediting the taxpayer upon his account with the Treasury of the nation to the extent that his contributions under the laws of the locality have simplified or diminished the problem of relief and the probable demand upon the resources of the fisc. Duplicated taxes, or burdens that approach them, are recognized hardships that government, state or national, may properly avoid. *Henneford* v. *Silas Mason Co., Inc., supra; Kidd* v. *Alabama*, 188 U. S. 730, 732; *Watson* v. *State Comptroller*, 254 U. S. 122, 125. If Congress believed that the general welfare would better be promoted by relief through local units than by the system then in vogue, the coöperating localities ought not in all fairness to pay a second time.

Who then is coerced through the operation of this statute? Not the taxpayer. He pays in fulfilment of the mandate of the local legislature. Not the state. Even now she does not offer a suggestion that in passing the unemployment law she was affected by duress.

---

[9] The attitude of Massachusetts is significant. Her act became a law August 12, 1935, two days before the federal act. Even so, she prescribed that its provisions should not become operative unless the federal bill became a law, or unless eleven of the following states (Alabama, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Maine, Maryland, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Rhode Island, South Carolina, Tennessee, Vermont) should impose on their employers burdens substantially equivalent. Acts of 1935, c. 479, p. 655. Her fear of competition is thus forcefully attested. See also California Laws, 1935, c. 352, Art. I, § 2; Idaho Laws, 1936 (Third Extra Session) c. 12, § 26; Mississippi Laws, 1936, c. 176, § 2–a.

See *Carmichael* v. *Southern Coal & Coke Co.*, *supra*; *Carmichael* v. *Gulf States Paper Corp.*, *supra*. For all that appears she is satisfied with her choice, and would be sorely disappointed if it were now to be annulled. The difficulty with the petitioner's contention is that it confuses motive with coercion. "Every tax is in some measure regulatory. To some extent it interposes an economic impediment to the activity taxed as compared with others not taxed." *Sonzinsky* v. *United States*, *supra*. In like manner every rebate from a tax when conditioned upon conduct is in some measure a temptation. But to hold that motive or temptation is equivalent to coercion is to plunge the law in endless difficulties. The outcome of such a doctrine is the acceptance of a philosophical determinism by which choice becomes impossible. Till now the law has been guided by a robust common sense which assumes the freedom of the will as a working hypothesis in the solution of its problems. The wisdom of the hypothesis has illustration in this case. Nothing in the case suggests the exertion of a power akin to undue influence, if we assume that such a concept can ever be applied with fitness to the relations between state and nation. Even on that assumption the location of the point at which pressure turns into compulsion, and ceases to be inducement, would be a question of degree,—at times, perhaps, of fact. The point had not been reached when Alabama made her choice. We cannot say that she was acting, not of her unfettered will, but under the strain of a persuasion equivalent to undue influence, when she chose to have relief administered under laws of her own making, by agents of her own selection, instead of under federal laws, administered by federal officers, with all the ensuing evils, at least to many minds, of federal patronage and power. There would be a strange irony, indeed, if her choice were now to be annulled on the basis of an assumed duress in the enactment of a statute which her courts have accepted as a true expression of her will. *Beeland Wholesale Co.* v. *Kaufman*, *supra*. We think the choice must stand.

In ruling as we do, we leave many questions open. We do not say that a tax is valid, when imposed by act of Congress, if it is laid upon the condition that a state may escape its operation through the adoption of a statute unrelated in subject matter to activities fairly within the scope of national policy and power. No such question is before us. In the tender of this credit Congress does not intrude upon fields foreign to its function. The purpose of its intervention, as we have shown, is to safeguard its own treasury and as an incident to that protection to place the states upon a footing of equal opportunity. Drains upon its own resources are to be checked; obstructions to the freedom of the states are to be leveled. It is one thing to impose a tax dependent upon the conduct of the taxpayers, or of the state in which they live, where the conduct to be stimulated or discouraged is unrelated to the fiscal need subserved by the tax in its normal operation, or to any other end legitimately national. The *Child Labor Tax Case*, 259 U. S. 20, and *Hill* v. *Wallace*, 259 U. S. 44, were decided in the belief that the statutes there condemned were exposed to that reproach. Cf. *United States* v. *Constantine*, 296 U. S. 287. It is quite another thing to say that a tax will be abated upon the doing of an act that will satisfy the fiscal need, the tax and the alternative being approximate equivalents. In such circumstances, if in no others, in-

ducement or persuasion does not go beyond the bounds of power. We do not fix the outermost line. Enough for present purposes that wherever the line may be, this statute is within it. Definition more precise must abide the wisdom of the future.

*Florida* v. *Mellon*, 273 U. S. 12, supplies us with a precedent, if precedent be needed. What was in controversy there was section 301 of the Revenue Act of 1926, which imposes a tax upon the transfer of a decedent's estate, while at the same time permitting a credit, not exceeding 80 per cent, for "the amount of any estate, inheritance, legacy or succession taxes actually paid to any State or Territory". Florida challenged that provision as unlawful. Florida had no inheritance taxes and alleged that under its constitution it could not levy any. 273 U. S. 12, 15. Indeed, by abolishing inheritance taxes, it had hoped to induce wealthy persons to become its citizens. See 67 Cong. Rec., Part 1, pp. 735, 752. It argued at our bar that "the Estate Tax provision was not passed for the purpose of raising federal revenue" (273 U. S. 12, 14), but rather "to coerce States into adopting estate or inheritance tax laws." 273 U. S. 12, 13. In fact, as a result of the 80 per cent credit, material changes of such laws were made in 36 states.[10] In the face of that attack we upheld the act as valid. Cf. *Massachusetts* v. *Mellon*, 262 U. S. 447, 482; also Act of August 5, 1861, c. 45, 12 Stat. 292; Act of May 13, 1862, c. 66, 12 Stat. 384.

*United States* v. *Butler*, *supra*, is cited by petitioner as a decision to the contrary. There a tax was imposed on processors of farm products, the proceeds to be paid to farmers who would reduce their acreage and crops under agreements with the Secretary of Agriculture, the plan of the act being to increase the prices of certain farm products by decreasing the quantities produced. The court held (1) that the so-called tax was not a true one (pp. 56, 61), the proceeds being earmarked for the benefit of farmers complying with the prescribed conditions, (2) that there was an attempt to regulate production without the consent of the state in which production was affected, and (3) that the payments to farmers were coupled with coercive contracts (p. 73), unlawful in their aim and oppressive in their consequences. The decision was by a divided court, a minority taking the view that the objections were untenable. None of them is applicable to the situation here developed.

(a) The proceeds of the tax in controversy are not earmarked for a special group.

(b) The unemployment compensation law which is a condition of the credit has had the approval of the state and could not be a law without it.

(c) The condition is not linked to an irrevocable agreement, for the state at its pleasure may repeal its unemployment law (Section 903 (a) (6)), terminate the credit, and place itself where it was before the credit was accepted.

(d) The condition is not directed to the attainment of an unlawful end, but to an end, the relief of unemployment, for which nation and state may lawfully coöperate.

*Fourth:* The statute does not call for a surrender by the states of powers essential to their quasi-sovereign existence.

---

[10] Perkins, State action under the Federal Estate Tax Credit Clause, 13 North Carolina L. Rev. 271, 280.

Argument to the contrary has its source in two sections of the act. One section (903 [11]) defines the minimum criteria to which a state compensation system is required to conform if it is to be accepted by the Board as the basis for a credit. The other section (904 [12]) rounds out the requirement with complementary rights and duties. Not all the criteria or their incidents are challenged as unlawful. We will speak of them first generally, and then more specifically in so far as they are questioned.

A credit to taxpayers for payments made to a State under a state unemployment law will be manifestly futile in the absence of some assurance that the law leading to the credit is in truth what it professes to be. An unemployment law framed in such a way that the unemployed who look to it will be deprived of reasonable protection is one in name and nothing more. What is basic and essential may be assured by suitable conditions. The terms embodied in these sections are directed to that end. A wide range of judgment is given to the several states as to the particular type of statute to be spread upon their books. For anything to the contrary in the provisions of this act they may use the pooled unemployment form, which is in effect with variations in Alabama, California, Michigan, New York, and elsewhere. They may establish a system of merit ratings applicable at once or to go into effect later on the basis of subsequent experience. Cf. Sections 909, 910. They may provide for employee contributions as in Alabama and California, or put the entire burden upon the employer as in New York. They may choose a system of unemployment reserve accounts by which an employer is permitted after his reserve has accumulated to contribute at a reduced rate or even not at all. This is the system which had its origin in Wisconsin. What they may not do, if they would earn the credit, is to depart from those standards which in the judgment of Congress are to be ranked as fundamental. Even if opinion may differ as to the fundamental quality of one or more of the conditions, the difference will not avail to vitiate the statute. In determining essentials Congress must have the benefit of a fair margin of discretion. One cannot say with reason that this margin has been exceeded, or that the basic standards have been determined in any arbitrary fashion. In the event that some particular condition shall be found to be too uncertain to be capable of enforcement, it may be severed from the others, and what is left will still be valid.

We are to keep in mind steadily that the conditions to be approved by the Board as the basis for a credit are not provisions of a contract, but terms of a statute, which may be altered or repealed. Section 903 (a) (6). The state does not bind itself to keep the law in force. It does not even bind itself that the moneys paid into the federal fund will be kept there indefinitely or for any stated time. On the contrary, the Secretary of the Treasury will honor a requisition for the whole or any part of the deposit in the fund whenever one is made by the appropriate officials. The only consequence of the repeal or excessive amendment of the statute, or the expenditure of the money, when requisitioned, for other than compensation uses or administrative expenses, is that approval of the law will end, and with it the

[11] See note 1, *supra*.
[12] See note 2, *supra*.

allowance of a credit, upon notice to the state agency and an opportunity for hearing. Section 903 (b) (c).

These basic considerations are in truth a solvent of the problem. Subjected to their test, the several objections on the score of abdication are found to be unreal.

Thus, the argument is made that by force of an agreement the moneys when withdrawn must be "paid through public employment offices in the State or through such other agencies as the Board may approve." Section 903 (a) (1). But in truth there is no agreement as to the method of disbursement. There is only a condition which the state is free at pleasure to disregard or to fulfill. Moreover, approval is not requisite if public employment offices are made the disbursing instruments. Approval is to be a check upon resort to "other agencies" that may, perchance, be irresponsible. A state looking for a credit must give assurance that her system has been organized upon a base of rationality.

There is argument again that the moneys when withdrawn are to be devoted to specific uses, the relief of unemployment, and that by agreement for such payment the quasi-sovereign position of the state has been impaired, if not abandoned. But again there is confusion between promise and condition. Alabama is still free, without breach of an agreement, to change her system over night. No officer or agency of the national Government can force a compensation law upon her or keep it in existence. No officer or agency of that Government, either by suit or other means, can supervise or control the application of the payments.

Finally and chiefly, abdication is supposed to follow from section 904 of the statute and the parts of section 903 that are complementary thereto. Section 903 (a) (3). By these the Secretary of the Treasury is authorized and directed to receive and hold in the Unemployment Trust Fund all moneys deposited therein by a state agency for a state unemployment fund and to invest in obligations of the United States such portion of the Fund as is not in his judgment required to meet current withdrawals. We are told that Alabama in consenting to that deposit has renounced the plenitude of power inherent in her statehood.

The same pervasive misconception is in evidence again. All that the state has done is to say in effect through the enactment of a statute that her agents shall be authorized to deposit the unemploymen tax receipts in the Treasury at Washington. Alabama Unemployment Act of September 14, 1935, section 10 (i). The statute may be repealed. Section 903 (a) (6). The consent may be revoked. The deposits may be withdrawn. The moment the state commission gives notice to the depositary that it would like the moneys back, the Treasurer will return them. To find state destruction there is to find it almost anywhere. With nearly as much reason one might say that a state abdicates its functions when it places the state moneys on deposit in a national bank.

There are very good reasons of fiscal and governmental policy why a State should be willing to make the Secretary of the Treasury the custodian of the fund. His possession of the moneys and his control of investments will be an assurance of stability and safety in times of stress and strain. A report of the Ways and Means Committee of the House of Representatives, quoted in the margin, develops,

the situation clearly.[13] Nor is there risk of loss or waste. The credit of the Treasury is at all times back of the deposit, with the result that the right of withdrawal will be unaffected by the fate of any intermediate investments, just as if a checking account in the usual form had been opened in a bank.

The inference of abdication thus dissolves in thinnest air when the deposit is conceived of as dependent upon a statutory consent, and not upon a contract effective to create a duty. By this we do not intimate that the conclusion would be different if a contract were discovered. Even sovereigns may contract without derogating from their sovereignty. *Perry* v. *United States*, 294 U. S. 330, 353; 1 Oppenheim, International Law, 4th ed., §§ 493, 494; Hall, International Law, 8th ed., § 107; 2 Hyde, International Law, § 489. The states are at liberty, upon obtaining the consent of Congress, to make agreements with one another. Constitution, Art. I, section 10, par. 3. *Poole* v. *Fleeger*, 11 Pet. 185, 209; *Rhode Island* v. *Massachusetts*, 12 Pet. 657, 725. We find no room for doubt that they may do the like with Congress if the essence of their statehood is maintained without impairment.[14] Alabama is seeking and obtaining a credit of many millions in favor of her citizens out of the Treasury of the nation. Nowhere in our scheme of government—in the limitations express or implied of our federal constitution—do we find that she is prohibited from assenting to conditions that will assure a fair and just requital for benefits received. But we will not labor the point further. An unreal prohibition directed to an unreal agreement will not vitiate an act of Congress, and cause it to collapse in ruin.

*Fifth:* Title III of the act is separable from Title IX, and its validity is not at issue.

The essential provisions of that title have been stated in the opinion. As already pointed out, the title does not appropriate a dollar of the public moneys. It does no more than authorize appropriations to be made in the future for the purpose of assisting states in the administration of their laws, if Congress shall decide that appropriations are desirable. The title might be expunged, and Title IX would stand intact. Without a severability clause we should still be led to that conclusion. The presence of such a clause (Section 1103) makes the conclusion even clearer. *Williams* v. *Standard Oil Co.*, 278 U. S. 235, 242; *Utah Power & Light Co.* v. *Pfost*, 286 U. S. 165, 184; *Carter* v. *Carter Coal Co.*, 298 U. S. 238, 312.

The judgment is *Affirmed.*

[13] "This last provision will not only afford maximum safety for these funds but is very essential to insure that they will operate to promote the stability of business rather than the reverse. Unemployment reserve funds have the peculiarity that the demands upon them fluctuate considerably, being heaviest when business slackens. If, in such times, the securities in which these funds are invested are thrown upon the market for liquidation, the net effect is likely to be increased deflation. Such a result is avoided in this bill through the provision that all reserve funds are to be held by the United States Treasury, to be invested and liquidated by the Secretary of the Treasury in a manner calculated to promote business stability. When business conditions are such that investment in securities purchased on the open market is unwise, the Secretary of the Treasury may issue special nonnegotiable obligations exclusively to the unemployment trust fund. When a reverse situation exists and heavy drains are made upon the fund for payment of unemployment benefits, the Treasury does not have to dispose of the securities belonging to the fund in open market but may assume them itself. With such a method of handling the reserve funds, it is believed that this bill will solve the problem often raised in discussions of unemployment compensation, regarding the possibility of transferring purchasing power from boom periods to depression periods. It will in fact operate to sustain purchasing power at the onset of a depression without having any counteracting deflationary tendencies." House Report, No. 615, 74th Congress, 1st session, p. 9.

[14] Cf. 12 Stat. 503; 26 Stat. 417.

# SUPREME COURT OF THE UNITED STATES

No. 837.—October Term, 1936.

| | |
|---|---|
| Chas. C. Steward Machine Company, Petitioner, *vs.* Harwell G. Davis, Individually and as Collector of Internal Revenue. | On Writ of Certiorari to the United States Circuit Court of Appeals for the Fifth Circuit. |

[May 24, 1937.]

Separate opinion of Mr. Justice McReynolds.

That portion of the Social Security legislation here under consideration, I think, exceeds the power granted to Congress. It unduly interferes with the orderly government of the State by her own people and otherwise offends the Federal Constitution.

In *Texas* v. *White*, 7 Wall. 700, 725 (1869), a cause of momentous importance, this Court, through Chief Justice Chase, declared—

> But the perpetuity and indissolubility of the Union, by no means implies the loss of distinct and individual existence, or of the right of self-government by the States. Under the Articles of Confederation each State retained its sovereignty, freedom, and independence, and every power, jurisdiction, and right not expressly delegated to the United States. Under the Constitution, though the powers of the States were much restricted, still, all powers not delegated to the United States, nor prohibited to the States, are reserved to the States respectively, or to the people. And we have already had occasion to remark at this term, that "the people of each State compose a State, having its own government, and endowed with all the functions essential to separate and independent existence," and that "without the States in union, there could be no such political body as the United States." [*Lane County* v. *Oregon*, 7 Wall. 71, 76.] Not only, therefore, can there be no loss of separate and independent autonomy to the States, through their union under the Constitution, but it may be not unreasonably said that the preservation of the States, and the maintenance of their governments, are as much within the design and care of the Constitution as the preservation of the Union and the maintenance of the National government. The Constitution, in all its provisions, looks to an indestructible Union, composed of indestructible States.

The doctrine thus announced and often repeated, I had supposed was firmly established. Apparently the States remained really free to exercise governmental powers, not delegated or prohibited, without interference by the Federal Government through threats of punitive measures or offers of seductive favors. Unfortunately, the decision just announced opens the way for practical annihilation of this theory; and no cloud of words or ostentatious parade of irrelevant statistics should be permitted to obscure that fact.

The invalidity also the destructive tendency of legislation like the Act before us were forcefully pointed out by President Frank-

lin Pierce in a veto message sent to the Senate May 3, 1854.[1] He was a scholarly lawyer of distinction and enjoyed the advice and counsel of a rarely able Attorney General—Caleb Cushing of Massachusetts. This message considers with unusual lucidity points here specially important. I venture to set out pertinent portions of it which must appeal to all who continue to respect both the letter and spirit of our great charter.

To the Senate of the United States:

The bill entitled "An Act making a grant of public lands to the several States for the benefit of indigent insane persons," which was presented to me on the 27th ultimo, has been maturely considered, and is returned to the Senate, the House in which it originated, with a statement of the objections which have required me to withhold from it my approval.

* * * * * * *

If in presenting my objections to this bill I should say more than strictly belongs to the measure or is required for the discharge of my official obligation, let it be attributed to a sincere desire to justify my act before those whose good opinion I so highly value and to that earnestness which springs from my deliberate conviction that a strict adherence to the terms and purposes of the federal compact offers the best, if not the only, security for the preservation of our blessed inheritance of representative liberty.

The bill provides in substance:

First. That 10,000,000 acres of land be granted to the several States, to be apportioned among them in the compound ratio of the geographical area and representation of said States in the House of Representatives.

Second. That wherever there are public lands in a State subject to sale at the regular price of private entry, the proportion of said 10,000,000 acres falling to such State shall be selected from such lands within it, and that to the States in which there are no such public lands land scrip shall be issued to the amount of their distributive shares, respectively, said scrip not to be entered by said States, but to be sold by them and subject to entry by their assignees: Provided, That none of it shall be sold at less than $1 per acre, under penalty of forfeiture of the same to the United States.

Third. That the expenses of the management and superintendence of said lands and of the moneys received therefrom shall be paid by the States to which they may belong out of the treasury of said States.

Fourth. That the gross proceeds of the sales of such lands or land scrip so granted shall be invested by the several States in safe stocks, to constitute a perpetual fund, the principal of which shall remain forever undiminished, and the interest to be appropriated to the maintenance of the indigent insane within the several States.

Fifth. That annual returns of lands or scrip sold shall be made by the States to the Secretary of the Interior, and the whole grant be subject to certain conditions and limitations prescribed in the bill, to be assented to by legislative acts of said States.

This bill therefore proposes that the Federal Government shall make provision to the amount of the value of 10,000,000 acres of land for an eleemosynary object within the several States, to be administered by the political authority of the same; and it presents at the threshold the question whether any such act on the part of the Federal Government is warranted and sanctioned by the Constitution, the provisions and principles of which are to be protected and sustained as a first and paramount duty.

It can not be questioned that if Congress has power to make provision for the indigent insane without the limits of this District it has the same power to provide for the indigent who are not insane, and thus to transfer to the Federal Government the charge of all the poor in all the States.It has the same power to provide hospitals and other local establishments for the care and cure of every species of human infirmity, and thus to assume all that duty of either public philanthropy or public necessity to the dependent, the orphan, the sick, or the needy which is now discharged by the States themselves or by corporate institutions or private endowments existing under the legislation of the States.

[1] "Messages and Papers of the President" by James D. Richardson, Vol. V, pp. 247–256.

The whole field of public beneficence is thrown open to the care and culture of the Federal Government. Generous impulses no longer encounter the limitations and control of our imperious fundamental law; for however worthy may be the present object in itself, it is only one of a class. It is not exclusively worthy of benevolent regard. Whatever considerations dictate sympathy for this particular object apply in like manner, if not in the same degree, to idiocy, to physical disease, to extreme destitution. If Congress may and ought to provide for any one of these objects, it may and ought to provide for them all. And if it be done in this case, what answer shall be given when Congress shall be called upon, as it doubtless will be, to pursue a similar course of legislation in the others? It will obviously be vain to reply that the object is worthy, but that the application has taken a wrong direction. The power will have been deliberately assumed, the general obligation will by this act have been acknowledged, and the question of means and expediency will alone be left for consideration. The decision upon the principle in any one case determines it for the whole class. The question presented, therefore, clearly is upon the constitutionality and propriety of the Federal Government assuming to enter into a novel and vast field of legislation, namely, that of providing for the care and support of all those among the people of the United States who by any form of calamity become fit objects of public philanthropy.

I readily and, I trust, feelingly acknowledge the duty incumbent on us all as men and citizens, and as among the highest and holiest of our duties, to provide for those who, in the mysterious order of Providence, are subject to want and to disease of body or mind; but I can not find any authority in the Constitution for making the Federal Government the great almoner of public charity throughout the United States. To do so would, in my judgment, be contrary to the letter and the spirit of the Constitution and subversive of the whole theory upon which the Union of these States is founded. And if it were admissible to contemplate the exercise of this power for any object whatever, I can not avoid the belief that it would in the end be prejudicial rather than beneficial in the noble offices of charity to have the charge of them transferred from the States to the Federal Government. Are we not too prone to forget that the Federal Union is the creature of the States, not they of the Federal Union? We were the inhabitants of colonies distinct in local government one from the other before the Revolution. By the Revolution the colonies each became an independent State. They achieved that independence and secured its recognition by the agency of a consulting body, which, from being an assembly of the ministers of distinct sovereignties instructed to agree to no form of government which did not leave the domestic concerns of each State to itself, was appropriately denominated a Congress. When, having tried the experiment of the Confederation, they resolved to change that for the present Federal Union, and thus to confer on the Federal Government more ample authority, they scrupulously measured such of the functions of their cherished sovereignty as they chose to delegate to the General Government. With this aim and to this end the fathers of the Republic framed the Constitution, in and by which the independent and sovereign States united themselves for certain specified objects and purposes, and for those only, leaving all powers not therein set forth as conferred on one or another of the three great departments—the legislative, the executive, and the judicial—indubitably with the States. And when the people of the several States had in their State conventions, and thus alone, given effect and force to the Constitution, not content that any doubt should in future arise as to the scope and character of this act, they ingrafted thereon the explicit declaration that "the powers not delegated to the United States by the Constitution nor prohibited by it to the States are reserved to the States respectively or to the people."

Can it be controverted that the great mass of the business of Government—that involved in the social relations, the internal arrangements of the body politic, the mental and moral culture of men, the development of local resources of wealth, the punishment of crimes in general, the preservation of order, the relief of the needy or otherwise unfortunate members of society—did in practice remain with the States; that none of these objects of local concern are by the Constitution expressly or impliedly prohibited to the States, and that none of them are by any express language of the Constitution transferred to the United States? Can it be claimed that any of these functions of local administration and legislation are vested in the Federal Government by any implication? I have never found anything in the Constitution which is susceptible of such a construction. No one of the enumerated powers touches the subject or has even

a remote analogy to it. The powers conferred upon the United States have reference to federal relations, or to the means of accomplishing or executing things of federal relation. So also of the same character are the powers taken away from the States by enumeration. In either case the powers granted and the powers restricted were so granted or so restricted only where it was requisite for the maintenance of peace and harmony between the States or for the purpose of protecting their common interests and defending their common sovereignty against aggression from abroad or insurrection at home.

I shall not discuss at length the question of power sometimes claimed for the General Government under the clause of the eighth section of the Constitution, which gives Congress the power "to lay and collect taxes, duties, imposts, and excises, to pay debts and provide for the common defense and general welfare of the United States," because if it has not already been settled upon sound reason and authority it never will be. I take the received and just construction of that article, as if written to lay and collect taxes, duties, imposts, and excises *in order* to pay the debts and *in order* to provide for the common defense and general welfare. It is not a substantive general power to provide for the welfare of the United States, but is a limitation on the grant of power to raise money by taxes, duties, and imposts. If it were otherwise, all the rest of the Constitution, consisting of carefully enumerated and cautiously guarded grants of specific powers, would have been useless, if not delusive. It would be impossible in that view to escape from the conclusion that these were inserted only to mislead for the present, and, instead of enlightening and defining the pathway of the future, to involve its action in the mazes of doubtful construction. Such a conclusion the character of the men who framed that sacred instrument will never permit us to form. Indeed, to suppose it susceptible of any other construction would be to consign all the rights of the States and of the people of the States to the mere discretion of Congress, and thus to clothe the Federal Government with authority to control the sovereign States, by which they would have been dwarfed into provinces or departments and all sovereignty vested in an absolute consolidated central power, against which the spirit of liberty has so often and in so many countries struggled in vain.

In my judgment you can not by tributes to humanity make any adequate compensation for the wrong you would inflict by removing the sources of power and political action from those who are to be thereby affected. If the time shall ever arrive when, for an object appealing, however strongly, to our sympathies, the dignity of the States shall bow to the dictation of Congress by conforming their legislation thereto, when the power and majesty and honor of those who created shall become subordinate to the thing of their creation, I but feebly utter my apprehensions when I express my firm conviction that we shall see "the beginning of the end."

Fortunately, we are not left in doubt as to the purpose of the Constitution any more than as to its express language, for although the history of its formation, as recorded in the Madison Papers, shows that the Federal Government in its present form emerged from the conflict of opposing influences which have continued to divide statesmen from that day to this, yet the rule of clearly defined powers and of strict construction presided over the actual conclusion and subsequent adoption of the Constitution. President Madison, in the Federalist, says:

"The powers delegated to the proposed Constitution are few and defined. Those which are to remain in the State governments are numerous and indefinite. . . . Its [the General Government's] jurisdiction extends to certain enumerated objects only, and leaves to the several States a residuary and inviolable sovereignty over all other objects."

In the same spirit President Jefferson invokes "the support of the State governments in all their rights as the most competent administrations for our domestic concerns and the surest bulwarks against anti-republican tendencies;" and President Jackson said that our true strength and wisdom are not promoted by invasions of the rights and powers of the several States, but that, on the contrary, they consist "not in binding the States more closely to the center, but in leaving each more unobstructed in its proper orbit."

The framers of the Constitution, in refusing to confer on the Federal Government any jurisdiction over these purely local objects, in my judgment manifested a wise forecast and broad comprehension of the true interests of these objects themselves. It is clear that public charities within the States can be efficiently administered only by their authority. The bill before me concedes this, for it

does not commit the funds it provides to the administration of any other authority.

I can not but repeat what I have before expressed, that if the several States, many of which have already laid the foundation of munificent establishments of local beneficence, and nearly all of which are proceeding to establish them, shall be led to suppose, as, should this bill become a law, they will be, that Congress is to make provision for such objects, the fountains of charity will be dried up at home, and the several States, instead of bestowing their own means on the social wants of their own people, may themselves, through the strong temptation which appeals to states as to individuals, become humble suppliants for the bounty of the Federal Government, reversing their true relations to this Union.

* * * * * * *

I have been unable to discover any distinction on constitutional grounds or grounds of expediency between an appropriation of $10,000,000 directly from the money in the Treasury for the object contemplated and the appropriation of lands presented for my sanction, and yet I can not doubt that if the bill proposed $10,000,000 from the Treasury of the United States for the support of the indigent insane in the several States that the constitutional question involved in the act would have attracted forcibly the attention of Congress.

I respectfully submit that in a constitutional point of view it is wholly immaterial whether the appropriation be in money or in land.

* * * * * * *

To assume that the public lands are applicable to ordinary State objects, whether of public structures, police, charity, or expenses of State administration, would be to disregard to the amount of the value of the public lands all the limitations of the Constitution and confound to that extent all distinctions between the rights and powers of the States and those of the United States; for if the public lands may be applied to the support of the poor, whether sane or insane, if the disposal of them and their proceeds be not subject to the ordinary limitations of the Constitution, then Congress possesses unqualified power to provide for expenditures in the States by means of the public lands, even to the degree of defraying the salaries of governors, judges, and all other expenses of the government and internal administration within the several States.

The conclusion from the general survey of the whole subject is to my mind irresistible, and closes the question both of right and of expediency so far as regards the principle of the appropriation proposed in this bill. Would not the admission of such power in Congress to dispose of the public domain work the practical abrogation of some of the most important provisions of the Constitution?

* * * * * * *

The general result at which I have arrived is the necessary consequence of those views of the relative rights, powers, and duties of the States and of the Federal Government which I have long entertained and often expressed and in reference to which my convictions do but increase in force with time and experience.

No defense is offered for the legislation under review upon the basis of emergency. The hypothesis is that hereafter it will continuously benefit unemployed members of a class. Forever, so far as we can see, the States are expected to function under federal direction concerning an internal matter. By the sanction of this adventure, the door is open for progressive inauguration of others of like kind under which it can hardly be expected that the States will retain genuine independence of action. And without independent States a Federal Union as contemplated by the Constitution becomes impossible.

At the bar counsel asserted that under the present Act the tax upon residents of Alabama during the first year will total $9,000,000. All would remain in the Federal Treasury but for the adoption by the State of measures agreeable to the National Board. If con-

tinued, these will bring relief from the payment of $8,000,000 to the United States.

Ordinarily, I must think, a denial that the challenged action of Congress and what has been done under it amount to coercion and impair freedom of government by the people of the State would be regarded as contrary to practical experience. Unquestionably our federate plan of government confronts an enlarged peril.

# SUPREME COURT OF THE UNITED STATES

No. 837.—October Term, 1937.

| | |
|---|---|
| Chas. C. Steward Machine Company, Petitioner, *vs.* Harwell G. Davis, Individually and as Collector of Internal Revenue. | On Writ of Certiorari to the United States Circuit Court of Appeals for the Fifth Circuit. |

[May 24, 1937.]

Separate opinion of Mr. Justice Sutherland.

With most of what is said in the opinion just handed down, I concur. I agree that the payroll tax levied is an excise within the power of Congress; that the devotion of not more than 90% of it to the credit of employers in states which require the payment of a similar tax under so-called unemployment-tax laws is not an unconstitutional use of the proceeds of the federal tax; that the provision making the adoption by the state of an unemployment law of a specified character a condition precedent to the credit of the tax does not render the law invalid. I agree that the states are not coerced by the federal legislation into adopting unemployment legislation. The provisions of the federal law may operate to induce the state to pass an employment law if it regards such action to be in its interest. But that is not coercion. If the act stopped here, I should accept the conclusion of the court that the legislation is not unconstitutional.

But the question with which I have difficulty is whether the administrative provisions of the act invade the governmental administrative powers of the several states reserved by the Tenth Amendment. A state may enter into contracts; but a state cannot, by contract or statute, surrender the execution, or a share in the execution, of any of its governmental powers either to a sister State or to the federal government, any more than the federal government can surrender the control of any of its governmental powers to a foreign nation. The power to tax is vital and fundamental, and in the highest degree, governmental in character. Without it, the state could not exist. Fundamental also, and no less important, is the governmental power to expend the moneys realized from taxation, and exclusively to administer the laws in respect of the character of the tax and the methods of laying and collecting it and expending the proceeds.



S. Doc. 74, 75-1*——4

The people of the United States, by their Constitution, have affirmed a division of internal governmental powers between the federal government and the governments of the several states—committing to the first its powers by express grant and necessary implication; to the latter, or to the people, by reservation, "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States". The Constitution thus affirms the complete supremacy and independence of the state within the field of its powers. *Carter* v. *Carter Coal Co.*, 298 U. S. 238, 295. The federal government has no more authority to invade that field than the state has to invade the exclusive field of national governmental powers; for, in the oft-repeated words of this court in *Texas* v. *White*, 7 Wall. 700, 725, "the preservation of the States, and the maintenance of their governments are as much within the design and care of the Constitution as the preservation of the Union and the maintenance of the National Government." The necessity of preserving each from every form of illegitimate intrusion or interference on the part of the other is so imperative as to require this court, when its judicial power is properly invoked, to view with a careful and discriminating eye any legislation challenged as constituting such an intrusion or interference. See *South Carolina* v. *United States*, 199 U. S. 437, 448.

The precise question, therefore, which we are required to answer by an application of these principles is whether the congressional act contemplates a surrender by the state to the federal government, in whole or in part, of any state governmental power to administer its own unemployment law or the state payroll-tax funds which it has collected for the purposes of that law. An affirmative answer to this question, I think, must be made.

I do not, of course, doubt the power of the state to select and utilize a depository for the safekeeping of its funds; but it is quite another thing to agree with the selected depository that the funds shall be withdrawn for certain stipulated purposes, and for no other. Nor do I doubt the authority of the federal government and a state government to cooperate to a common end, provided each of them is authorized to reach it. But such cooperation must be effectuated by an exercise of the powers which they severally possess, and not by an exercise, through invasion or surrender, by one of them of the governmental power of the other.

An illustration of what I regard as permissible cooperation is to be found in Title I of the act now under consideration. By that title, federal appropriations for old-age assistance are authorized to be made to any state which shall have adopted a plan for old-age assistance conforming to designated requirements. But the state is not obliged, as a condition of having the federal bounty, to deposit in the federal treasury funds raised by the state. The state keeps its own funds and administers its own law in respect of them, without let or hindrance of any kind on the part of the federal government; so that we have simply the familiar case of federal aid upon conditions which the state, without surrendering any of its powers, may accept or not as it chooses. *Massachusetts* v. *Mellon*, 262 U. S. 447, 480, 482–483.

But this is not the situation with which we are called upon to deal in the present case. For here, the state *must* deposit the proceeds of its taxation in the federal treasury, upon terms which make the deposit suspiciously like a forced loan to be repaid only in accordance with restrictions imposed by federal law. Title IX, §§ 903 (a) (3), 904 (a), (b), (e). All moneys withdrawn from this fund must be used exclusively for the payment of compensation. § 903 (a) (4). And this compensation is to be paid through public employment offices in the state or such other agencies as a *federal board may approve.* § 903 (a) (1). The act, it is true, recognizes [§ 903 (a) (6)] the power of the legislature to amend or repeal its compensation law at any time. But there is nothing in the act, as I read it, which justifies the conclusion that the state may, in that event, unconditionally withdraw its funds from the federal treasury. Section 903 (b) provides that the board shall certify in each taxable year to the Secretary of the Treasury each state whose law has been approved. But the board is forbidden to certify any state which the board finds has so changed its law that it no longer contains the provisions specified in subsection (a), "or has with respect to such taxable year failed to comply substantially with any such provision." The federal government, therefore, in the person of its agent, the board, sits not only as a perpetual overseer, interpreter and censor of state legislation on the subject, but, as lord paramount, to determine whether the state is faithfully executing its own law—as though the state were a dependency under pupilage[1] and not to be trusted. The foregoing, taken in connection with the provisions that money withdrawn can be used only in payment of compensation and that it must be paid through an agency approved by the federal board, leaves it, to say the least, highly uncertain whether the right of the state to withdraw any part of its own funds exists, under the act, otherwise than upon these various statutory conditions. It is true also that subsection (f) of § 904 authorizes the Secretary of the Treasury to pay to any state agency "such amount as it may duly requisition, not exceeding the amount standing to the account of such State agency at the time of such payment." But it is to be observed that the payment is to be made to the state *agency*, and only such amount as that agency may *duly* requisition. It is hard to find in this provision any extension of the right of the state to withdraw its funds except in the manner and for the specific purpose prescribed by the act.

By these various provisions of the act, the federal agencies are authorized to supervise and hamper the administrative powers of the state to a degree which not only does not comport with the dignity of a quasi-sovereign state—a matter with which we are not judicially concerned—but which deny to it that supremacy and freedom from external interference in respect of its affairs which the Constitution contemplates—a matter of very definite judicial concern. I refer to some, though by no means all, of the cases in point.

In the *License Cases*, 5 How. 504, 588, Mr. Justice McLean said that the federal government was supreme within the scope of its

[1] Compare Snow *v.* United States, 18 Wall. 317, 319–320.

delegated powers, and the state governments equally supreme in the exercise of the powers not delegated nor inhibited to them; that the states exercise their powers over everything connected with their social and internal condition; and that over these subjects the federal government had no power. "They appertain to the State sovereignty as exclusively as powers exclusively delegated appertain to the general government."

In *Tarble's Case*, 13 Wall. 397, Mr. Justice Field, after pointing out that the general government and the state are separate and distinct sovereignties, acting separately and independently of each other within their respective spheres, said that, except in one particular, they stood in the same independent relation to each other as they would if their authority embraced distinct territories. The one particular referred to is that of the supremacy of the authority of the United States in case of conflict between the two.

In *Farrington* v. *Tennessee*, 95 U. S. 679, 685, this court said:

> Yet every State has a sphere of action where the authority of the national government may not intrude. Within that domain the State is as if the union were not. Such are the checks and balances in our complicated but wise system of State and national polity.

"The powers exclusively given to the federal government", it was said in *Worcester* v. *State of Georgia*, 6 Pet. 515, 570, "are limitations upon the state authorities. But, with the exception of these limitations, the states are supreme; and their sovereignty can be no more invaded by the action of the general government, than the action of the state governments can arrest or obstruct the course of the national power."

The force of what has been said is not broken by an acceptance of the view that the state is not *coerced* by the federal law. The effect of the dual distribution of powers is completely to deny to the states whatever is granted exclusively to the nation, and, conversely, to deny to the nation whatever is reserved exclusively to the states. "The determination of the Framers Convention and the ratifying conventions to preserve complete and unimpaired state self-government in all matters not committed to the general government is one of the plainest facts which emerge from the history of their deliberations. And adherence to that determination is incumbent equally upon the federal government and the states. State powers can neither be appropriated on the one hand nor abdicated on the other." *Carter* v. *Carter Coal Co.*, *supra*, p. 295. The purpose of the Constitution in that regard does not admit of doubt or qualification; and it can be thwarted no more by voluntary surrender from within than by invasion from without.

Nor may the constitutional objection suggested be overcome by the expectation of public benefit resulting from the federal participation authorized by the act. Such expectation, if voiced in support of a proposed constitutional enactment, would be quite proper for the consideration of the legislative body. But, as we said in the *Carter* case, *supra*, p. 291—"nothing is more certain than that beneficient aims, however great or well directed, can never serve in lieu of constitutional power." Moreover, everything which the act seeks to do for the relief of unemployment might have been

accomplished, as is done by this same act for the relief of the misfortunes of old age, without obliging the state to surrender, or share with another government, any of its powers.

If we are to survive as the United *States*, the balance between the powers of the nation and those of the states must be maintained. There is grave danger in permitting it to dip in either direction, danger—if there were no other—in the precedent thereby set for further departures from the equipoise. The threat implicit in the present encroachment upon the administrative functions of the states is that greater encroachments, and encroachments upon other functions, will follow.

For the foregoing reasons, I think the judgment below should be reversed.

Mr. Justice VAN DEVANTER joins in this opinion.

# SUPREME COURT OF THE UNITED STATES

No. 837.—October Term, 1936.

| | |
|---|---|
| Chas. C. Steward Machine Company, Petitioner, *vs.* Harwell G. Davis, Individually and as Collector of Internal Revenue. | On Writ of Certiorari to the United States Circuit Court of Appeals for the Fifth Circuit. |

[May 24, 1937.]

Mr. Justice Butler, dissenting.

I think that the objections to the challenged enactment expressed in the separate opinions of Mr. Justice McReynolds and Mr. Justice Sutherland are well-taken. I am also of opinion that, in principle and as applied to bring about and to gain control over state unemployment compensation, the statutory scheme is repugnant to the Tenth Amendment: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people". The Constitution grants to the United States no power to pay unemployed persons or to require the States to enact laws or to raise or disburse money for that purpose. The provisions in question, if not amounting to coercion in a legal sense, are manifestly designed and intended directly to affect state action in the respects specified. And, if valid as so employed, this "tax and credit" device may be made effective to enable federal authorities to induce, if not indeed to compel, state enactments for any purpose within the realm of state power and generally to control state administration of state laws.

The Act creates a Social Security Board and imposes upon it the duty of studying and making recommendations as to legislation and as to administrative policies concerning unemployment compensation and related subjects. § 702. It authorizes grants of money by the United States to States for old age assistance, for administration of unemployment compensation, for aid to dependent children, for maternal and child welfare and for public health. Each grant depends upon state compliance with conditions prescribed by federal authority. The amounts given being within the discretion of the Congress, it may at any time make available federal money sufficient effectively to influence state policy, standards and details of administration.

The excise laid by § 901 is limited to specified employers. It is not imposed to raise money to pay unemployment compensation.

But it is imposed having regard to that subject for, upon enactment of state laws for that purpose in conformity with federal requirements specified in the Act, each of the employers subject to the federal tax becomes entitled to credit for the amount he pays into an unemployment fund under a state law up to 90 per cent. of the federal tax. The amounts yielded by the remaining 10 per cent., not assigned to any specific purpose, may be applied to pay the federal contributions and expenses in respect of state unemployment compensation. It is not yet possible to determine more closely the sums that will be needed for these purposes.

When the federal Act was passed Wisconsin was the only State paying unemployment compensation. Though her plan then in force is by students of the subject generally deemed the best yet devised, she found it necessary to change her law in order to secure federal approval. In the absence of that, Wisconsin employers subject to the federal tax would not have been allowed any deduction on account of their contribution to the state fund. Any State would be moved to conform to federal requirements, not utterly objectionable, in order to save its taxpayers from the federal tax imposed in addition to the contributions under state laws.

Federal agencies prepared and took draft bills to state legislatures to enable and induce them to pass laws providing for unemployment compensation in accordance with federal requirements and thus to obtain relief for the employers from the impending federal exaction. Obviously the Act creates the peril of federal tax not to raise revenue but to persuade. Of course, each State was free to reject any measure so proposed. But, if it failed to adopt a plan acceptable to federal authority, the full burden of the federal tax would be exacted. And, as federal demands similarly conditioned may be increased from time to time as Congress shall determine, possible federal pressure in that field is without limit. Already at least 43 States, yielding to the inducement resulting immediately from the application of the federal tax and credit device, have provided for unemployment compensation in form to merit approval of the Social Security Board. Presumably the remaining States will comply whenever convenient for their legislatures to pass the necessary laws.

The terms of the measure make it clear that the tax and credit device was intended to enable federal officers virtually to control the exertion of powers of the States in a field in which they alone have jurisdiction and from which the United States is by the Constitution excluded.

I am of opinion that the judgment of the Circuit Court of Appeals should be reversed.

# SUPREME COURT OF THE UNITED STATES

No. 910.—October Term, 1936.

| | |
|---|---|
| Guy T. Helvering, Commissioner of Internal Revenue, and William M. Welch, Collector of Internal Revenue for the District of Massachusetts, The Edison Electric Illuminating Company of Boston, Petitioners, *vs.* George P. Davis, Respondent. | On Writ of Certiorari to the United States Circuit Court of Appeals for the First Circuit. |

[May 24, 1937.]

Mr. Justice Cardozo delivered the opinion of the Court.

The Social Security Act (Act of August 14, 1935, c. 531, 49 Stat. 620, 42 U. S. C., c. 7, (Supp.)) is challenged once again.

In No. 837, *Steward Machine Co.* v. *Davis*, — U. S. —, decided this day, we have upheld the validity of Title IX of the act, imposing an excise upon employers of eight or more. In this case Titles VIII and II are the subject of attack. Title VIII lays another excise upon employers in addition to the one imposed by Title IX (though with different exemptions). It lays a special income tax upon employees to be deducted from their wages and paid by the employers. Title II provides for the payment of Old Age Benefits, and supplies the motive and occasion, in the view of the assailants of the statute, for the levy of the taxes imposed by Title VIII. The plan of the two titles will now be summarized more fully.

Title VIII, as we have said, lays two different types of tax, an "income tax on employees", and "an excise tax on employers". The income tax on employees is measured by wages paid during the calendar year. Section 801. The excise tax on the employer is to be paid "with respect to having individuals in his employ", and, like the tax on employees, is measured by wages. Section 804. Neither tax is applicable to certain types of employment, such as agricultural labor, domestic service, service for the national or state governments, and service performed by persons who have attained the age of 65 years. Section 811 (b). The two taxes are at the same rate. Sections 801, 804. For the years 1937 to 1939, inclusive, the rate for each tax is fixed at one per cent. Thereafter the rate increases ½ of 1 per cent every three years, until after December 31, 1948, the rate for each tax reaches 3 per cent. *Ibid.* In the computation of wages all remuneration is to be included except so much as is in excess of $3,000

during the calendar year affected. Section 811 (a). The income tax on employees is to be collected by the employer, who is to deduct the amount from the wages "as and when paid". Section 802 (a). He is indemnified against claims and demands of any person by reason of such payment. *Ibid.* The proceeds of both taxes are to be paid into the Treasury like internal-revenue taxes generally, and are not earmarked in any way. Section 807 (a). There are penalties for non-payment. Section 807 (c).

Title II has the caption "Federal Old-Age Benefits." The benefits are of two types, first, monthly pensions, and second, lump sum payments, the payments of the second class being relatively few and unimportant.

The first section of this title creates an account in the United States Treasury to be known as the "Old-Age Reserve Account". Section 201. No present appropriation, however, is made to that account. All that the statute does is to authorize appropriations annually thereafter, beginning with the fiscal year which ends June 30, 1937. How large they shall be is not known in advance. The "amount sufficient as an annual premium" to provide for the required payments is "to be determined on a reserve basis in accordance with accepted actuarial principles, and based upon such tables of mortality as the Secretary of the Treasury shall from time to time adopt, and upon an interest rate of 3 per centum per annum compounded annually." Section 201 (a). Not a dollar goes into the Account by force of the challenged act alone, unaided by acts to follow.

Section 202 and later sections prescribe the form of benefits. The principal type is a monthly pension payable to a person after he has attained the age of 65. This benefit is available only to one who has worked for at least one day in each of at least five separate years since December 31, 1936, who has earned at least $2,000 since that date, and who is not then receiving wages "with respect to regular employment." Sections 202 (a), (d), 210 (c). The benefits are not to begin before January 1, 1942. Section 202 (a). In no event are they to exceed $85 a month. Section 202 (b). They are to be measured (subject to that limit) by a percentage of the wages, the percentage decreasing at stated intervals as the wages become higher. Section 202 (a). In addition to the monthly benefits, provision is made in certain contingencies for "lump sum payments" of secondary importance. A summary by the Government of the four situations calling for such payments is printed in the margin.[1]

---

[1] (1) If through an administrative error or delay a person who is receiving a monthly pension dies before he receives the correct amount, the amount which should have been paid to him is paid in a lump sum to his estate [Section 203 (c)].

(2) If a person who has earned wages in each of at least five separate years since December 31, 1936, and who has earned in that period more than $2,000, dies *after* attaining the age of 65, but before he has received in monthly pensions an amount equal to 3½ percent of the "wages" paid to him between January 1, 1937, and the time he reaches 65, then there is paid in a lump sum to his estate the difference between said 3½ percent and the total amount paid to him during his life as monthly pensions [Section 203 (b)].

(3) If a person who has earned wages since December 31, 1936, dies *before* attaining the age of 65, then there is paid to his estate 3½ percent of the "wages" paid to him between January 1, 1937, and his death [Section 203 (a)].

(4) If a person has, since December 31, 1936, earned wages in employment covered by Title II, but has attained the age of 65 either without working for at least one day in each of 5 separate years since 1936, or without earning at least $2,000 between January 1, 1937, and the time he attains 65, then there is paid to him [or to his estate, Section 204 (b)], a lump sum equal to 3½ percent of the "wages" paid to him between January 1, 1937, and the time he attained 65 [Section 204 (a)].

This suit is brought by a shareholder of the Edison Electric Illuminating Company of Boston, a Massachusetts corporation, to restrain the corporation from making the payments and deductions called for by the act, which is stated to be void under the Constitution of the United States. The bill tells us that the corporation has decided to obey the statute, that it has reached this decision in the face of the complainant's protests, and that it will make the payments and deductions unless restrained by a decree. The expected consequences are indicated substantially as follows: The deductions from the wages of the employees will produce unrest among them, and will be followed, it is predicted, by demands that wages be increased. If the exactions shall ultimately be held void, the company will have parted with moneys which as a practical matter it will be impossible to recover. Nothing is said in the bill about the promise of indemnity. The prediction is made also that serious consequences will ensue if there is a submission to the excise. The corporation and its shareholders will suffer irreparable loss, and many thousands of dollars will be subtracted from the value of the shares. The prayer is for an injunction and for a declaration that the act is void.

The corporation appeared and answered without raising any issue of fact. Later the United States Commissioner of Internal Revenue and the United States Collector for the District of Massachusetts, petitioners in this court, were allowed to intervene. They moved to strike so much of the bill as has relation to the tax on employees, taking the ground that the employer, not being subject to tax under those provisions, may not challenge their validity, and that the complainant shareholder, whose rights are no greater than those of his corporation, has even less standing to be heard on such a question. The intervening defendants also filed an answer which restated the point raised in the motion to strike, and maintained the validity of Title VIII in all its parts. The District Court held that the tax upon employees was not properly at issue, and that the tax upon employers was constitutional. It thereupon denied the prayer for an injunction, and dismissed the bill. On appeal to the Circuit Court of Appeals for the First Circuit, the decree was reversed, one judge dissenting. — F. (2d) —. The court held that Title II was void as an invasion of powers reserved by the Tenth Amendment to the states or to the people, and that Title II in collapsing carried Title VIII along with it. As an additional reason for invalidating the tax upon employers, the court held that it was not an excise as excises were understood when the Constitution was adopted. Cf. *Davis* v. *Boston & Maine R. R. Co.*, — F. (2d) —, decided the same day.

A petition for certiorari followed. It was filed by the intervening defendants, the Commissioner and the Collector, and brought two questions, and two only, to our notice. We were asked to determine: (1) "whether the tax imposed upon employers by Section 804 of the Social Security Act is within the power of Congress under the Constitution", and (2) "whether the validity of the tax imposed upon employees by Section 801 of the Social Security Act is properly in issue in this case, and if it is, whether that tax is within the power of Congress under the Constitution." The defendant corporation gave notice to the Clerk that it joined in the petition, but it has taken no part in any subsequent proceedings. A writ of certiorari issued.

*First:* Questions as to the remedy invoked by the complainant confront us at the outset.

Was the conduct of the company in resolving to pay the taxes a legitimate exercise of the discretion of the directors? Has petitioner a standing to challenge that resolve in the absence of an adequate showing of irreparable injury? Does the acquiescence of the company in the equitable remedy affect the answer to those questions? Though power may still be ours to take such objections for ourselves, is acquiescence effective to rid us of the duty? Is duty modified still further by the attitude of the Government, its waiver of a defense under section 3224 of the Revised Statutes, its waiver of a defense that the legal remedy is adequate, its earnest request that we determine whether the law shall stand or fall? The writer of this opinion believes that the remedy is ill conceived, that in a controversy such as this a court must refuse to give equitable relief when a cause of action in equity is neither pleaded nor proved, and that the suit for an injunction should be dismissed upon that ground. He thinks this course should be followed in adherence to the general rule that constitutional questions are not to be determined in the absence of strict necessity. In that view he is supported by Mr. Justice BRANDEIS, Mr. Justice STONE and Mr. Justice ROBERTS. However, a majority of the court have reached a different conclusion. They find in this case extraordinary features making it fitting in their judgment to determine whether the benefits and the taxes are valid or invalid. They distinguish *Norman* v. *Consolidated Gas Co.*, — F. (2d) —, recently decided by the Court of Appeals for the Second Circuit, on the ground that in that case, the remedy was challenged by the company and the Government at every stage of the proceeding, thus withdrawing from the court any marginal discretion. The ruling of the majority removes from the case the preliminary objection as to the nature of the remedy which we took of our own motion at the beginning of the argument. Under the compulsion of that ruling, the merits are now here.

*Second:* The scheme of benefits created by the provisions of Title II is not in contravention of the limitations of the Tenth Amendment.

Congress may spend money in aid of the "general welfare". Constitution, Art. I, section 8; *United States* v. *Butler*, 297 U. S. 1, 65; *Steward Machine Co.* v. *Davis*, *supra*. There have been great statesmen in our history who have stood for other views. We will not resurrect the contest. It is now settled by decision. *United States* v. *Butler*, *supra*. The conception of the spending power advocated by Hamilton and strongly reinforced by Story has prevailed over that of Madison, which has not been lacking in adherents. Yet difficulties are left when the power is conceded. The line must still be drawn between one welfare and another, between particular and general. Where this shall be placed cannot be known through a formula in advance of the event. There is a middle ground or certainly a penumbra in which discretion is at large. The discretion, however, is not confided to the courts. The discretion belongs to Congress, unless the choice is clearly wrong, a display of arbitrary power, not an exercise of judgment. This is now familiar law. "When such a contention comes here we naturally require a showing that by no reasonable possibility can the challenged legislation fall within the wide range of discretion permitted to the Congress."

*United States* v. *Butler*, *supra*, p. 67. Cf. *Cincinnati Soap Co.* v. *United States*, May 3, 1937, — U. S. —; *United States* v. *Realty Co.*, 163 U. S. 427, 440; *Head Money Cases*, 112 U. S. 580, 595. Nor is the concept of the general welfare static. Needs that were narrow or parochial a century ago may be interwoven in our day with the well-being of the nation. What is critical or urgent changes with the times.

The purge of nation-wide calamity that began in 1929 has taught us many lessons. Not the least is the solidarity of interests that may once have seemed to be divided. Unemployment spreads from state to state, the hinterland now settled that in pioneer days gave an avenue of escape. *Home Building & Loan Association* v. *Blaisdell*, 290 U. S. 398, 442. Spreading from state to state, unemployment is an ill not particular but general, which may be checked, if Congress so determines, by the resources of the nation. If this can have been doubtful until now, our ruling today in the case of the *Steward Machine Co. supra*, has set the doubt at rest. But the ill is all one or at least not greatly different whether men are thrown out of work because there is no longer work to do or because the disabilities of age make them incapable of doing it. Rescue becomes necessary irrespective of the cause. The hope behind this statute is to save men and women from the rigors of the poor house as well as from the haunting fear that such a lot awaits them when journey's end is near.

Congress did not improvise a judgment when it found that the award of old age benefits would be conducive to the general welfare. The President's Committee on Economic Security made an investigation and report, aided by a research staff of Government officers and employees, and by an Advisory Council and seven other advisory groups.[2] Extensive hearings followed before the House Committee on Ways and Means, and the Senate Committee on Finance.[3] A great mass of evidence was brought together supporting the policy which finds expression in the act. Among the relevant facts are these: The number of persons in the United States 65 years of age or over is increasing proportionately as well as absolutely. What is even more important the number of such persons unable to take care of themselves is growing at a threatening pace. More and more our population is becoming urban and industrial instead of rural and agricultural.[4] The evidence is impressive that among industrial workers the younger men and women are preferred over the older.[5] In time of retrenchment the older are commonly the first to go, and even if retained, their wages are likely to be lowered. The plight of men and women at so low an age as 40 is hard, almost hopeless, when they are driven to seek for reemployment. Statistics are in the brief. A few illustrations will be chosen from many there collected. In 1930, out of 224 American factories investigated, 71, or almost one third, had fixed maximum hiring age limits; in 4 plants the limit was under 40; in 41 it was under 46. In the other 153 plants there were no fixed limits, but in

[2] Report to the President of the Committee on Economic Security, 1935.
[3] Hearings before the House Committee on Ways and Means on H. R. 4120, 74th Congress, 1st session; Hearings before the Senate Committee on Finance on S. 1130, 74th Congress, 1st Session.
[4] See Report of the Committee on Recent Social Trends, 1932, vol. 1, pp. 8, 502; Thompson and Whelpton, Population Trends in the United States, pp. 18, 19.
[5] See the authorities collected at pp. 54–62 of the Government's brief.

practice few were hired if they were over 50 years of age.[6] With the loss of savings inevitable in periods of idleness, the fate of workers over 65, when thrown out of work, is little less than desperate. A recent study of the Social Security Board informs us that "one-fifth of the aged in the United States were receiving old-age assistance, emergency relief, institutional care, employment under the works program, or some other form of aid from public or private funds; two-fifths to one-half were dependent on friends and relatives, one-eighth had some income from earnings; and possibly one-sixth had some savings or property. Approximately three out of four persons 65 or over were probably dependent wholly or partially on others for support."[7] We summarize in the margin the results of other studies by state and national commissions.[8] They point the same way.

The problem is plainly national in area and dimensions. Moreover, laws of the separate states cannot deal with it effectively. Congress, at least, had a basis for that belief. States and local governments are often lacking in the resources that are necessary to finance an adequate program of security for the aged. This is brought out with a wealth of illustration in recent studies of the problem.[9] Apart from the failure of resources, states and local governments are at times reluctant to increase so heavily the burden of taxation to be borne by their residents for fear of placing themselves in a position of economic disadvantage as compared with neighbors or competitors. We have seen this in our study of the problem of unemployment compensation. *Steward Machine Co.* v. *Davis*, *supra*. A system of old age pensions has special dangers of its own, if put in force in one state and rejected in another. The existence of such a system is a bait to the needy and dependent elsewhere, encouraging them to migrate and seek a haven of repose. Only a power that is national can serve the interests of all.

Whether wisdom or unwisdom resides in the scheme of benefits set forth in Title II, it is not for us to say. The answer to such inquiries must come from Congress, not the courts. Our concern here as often is with power, not with wisdom. Counsel for re-

---

[6] Hiring and Separation Methods in American Industry, 35 Monthly Labor Review, pp. 1005, 1009.

[7] Economic Insecurity in Old Age (Social Security Board, 1937), p. 15.

[8] The Senate Committee estimated, when investigating the present act, that over one half of the people in the United States over 65 years of age are dependent upon others for support. Senate Report, No. 628, 74th Congress, 1st Session, p. 4. A similar estimate was made in the Report to the President of the Committee on Economic Security, 1935, p. 24.

A Report of the Pennsylvania Commission on Old Age Pensions made in 1919 (p. 108) after a study of 16,281 persons and interviews with more than 3,500 persons 65 years and over showed two fifths with no income but wages and one fourth supported by children; 1.5 per cent had savings and 11.8 per cent had property.

A report on old age pensions by the Massachusetts Commission on Pensions (Senate No. 5, 1925, pp. 41, 52) showed that in 1924 two thirds of those above 65 had, alone or with a spouse, less than $5,000 of property, and one fourth had none. Two thirds of those with less than $5,000 had income of less than $1,000 were dependent in whole or in part on others for support.

A report of the New York State Commission made in 1930 (Legis. Doc. No. 67, 1930, p. 39) showed a condition of total dependency as to 58 per cent of those 65 and over, and 62 per cent of those 70 and over.

The national Government has found in connection with grants to states for old age assistance under another title of the Social Security Act (Title I) that in February, 1937, 38.8 per cent of all persons over 65 in Colorado received public assistance; in Oklahoma the percentage was 44.1, and in Texas 37.5. In 10 states out of 40 with plans approved by the Social Security Board more than 25 per cent of those over 65 could meet the residence requirements and qualify under a means test and were actually receiving public aid. Economic Insecurity in Old Age, *supra*, p. 15.

[9] Economic Insecurity in Old Age, *supra*, chap. VI, p. 184.

spondent has recalled to us the virtues of self-reliance and frugality. There is a possibility, he says, that aid from a paternal government may sap those sturdy virtues and breed a race of weaklings. If Massachusetts so believes and shapes her laws in that conviction, must her breed of sons be changed, he asks, because some other philosophy of government finds favor in the halls of Congress? But the answer is not doubtful. One might ask with equal reason whether the system of protective tariffs is to be set aside at will in one state or another whenever local policy prefers the rule of *laissez faire*. The issue is a closed one. It was fought out long ago.[10] When money is spent to promote the general welfare, the concept of welfare or the opposite is shaped by Congress, not the states. So the concept be not arbitrary, the locality must yield. Constitution, Art. VI, Par. 2.

*Third:* Title II being valid, there is no occasion to inquire whether Title VIII would have to fall if Title II were set at naught.

The argument for the respondent is that the provisions of the two titles dovetail in such a way as to justify the conclusion that Congress would have been unwilling to pass one without the other. The argument for petitioners is that the tax moneys are not earmarked, and that Congress is at liberty to spend them as it will. The usual separability clause is embodied in the act. Section 1103.

We find it unnecessary to make a choice between the arguments, and so leave the question open.

*Fourth:* The tax upon employers is a valid excise or duty upon the relation of employment.

As to this we need not add to our opinion in *Steward Machine Co.* v. *Davis*, *supra*, where we considered a like question in respect of Title IX.

*Fifth:* The tax is not invalid as a result of its exemptions.

Here again the opinion in *Steward Machine Co.* v. *Davis*, *supra*, says all that need be said.

*Sixth:* The decree of the Court of Appeals should be reversed and that of the District Court affirmed.

*Ordered accordingly.*

Mr. Justice McREYNOLDS and Mr. Justice BUTLER are of opinion that the provisions of the Act here challenged are repugnant to the Tenth Amendment, and that the decree of the Circuit Court of Appeals should be affirmed.

---

[10] IV Channing, History of the United States, p. 404 (South Carolina Nullification); 8 Adams, History of the United States (New England Nullification and the Hartford Convention).

# SUPREME COURT OF THE UNITED STATES

Nos. 724, 797.—October Term, 1936.

| | |
|---|---|
| Albert A. Carmichael, Individually and as Attorney General of the State of Alabama, et al., Appellants,<br>724 *vs.*<br>Southern Coal & Coke Company.<br><br>Albert A. Carmichael, Individually and as Attorney General of the State of Alabama, et al., Appellants,<br>797 *vs.*<br>Gulf States Paper Corporation. | Appeals from the District Court of the United States for the Middle District of Alabama. |

[May 24, 1937.]

Mr. Justice Stone delivered the opinion of the Court.

The questions for decision are whether the Unemployment Compensation Act of Alabama infringes the due process and equal protection clauses of the Fourteenth Amendment, and whether it is invalid because its enactment was coerced by the action of the Federal government in adopting the Social Security Act, and because it involves an unconstitutional surrender to the national government of the sovereign power of the state.

Appellee, the Southern Coal & Coke Co., is a Delaware corporation employing more than eight persons in its business of coal mining in Alabama. Appellee, Gulf States Paper Corporation, is a Delaware corporation employing more than eight persons in its business of manufacturing paper within the state. They brought the present suits in the District Court for the Middle District of Alabama, to restrain appellants, the Attorney General and the Unemployment Compensation Commission of Alabama, from collecting the money contributions exacted of them by the provisions of the Alabama Unemployment Compensation Act. From the decrees of the district court, three judges sitting (Jud. Code, § 266, 28 U. S. C. § 380), granting the relief prayed, the case comes here on appeal. Jud. Code, § 238 (3), 28 U. S. C. § 345 (3).

The Unemployment Compensation Act, Ala. Acts 1935, No. 447; Ala. Code of 1928 (1936 Cum. Supp.) § 7597, as amended by Acts of 1936, Nos. 156, 194, 195, and Acts of Feb. 10, 1937, and March 1, 1937, Spec. Sess. 1937, sets up a comprehensive scheme for providing unemployment benefits for workers employed within the state by

employers designated by the Act. These employers include all who employ eight or more persons for twenty or more weeks in the year, § 2 (f), except those engaged in certain specified employments.[1] It imposes on the employers the obligation to pay a certain percentage of their total monthly payrolls into the state Unemployment Compensation Fund, administered by appellants. For 1936 the levy is .9 of 1%; for 1937 it is 1.8%, and for 1938 and subsequent years it is 2.7%. § 4 (b). In 1941 and thereafter the rates of contribution by employers are to be revised in accordance with experience, but in no case are they to be less than 1½ or more than 4% of the payroll. § 4 (c). After May 1, 1936, each employee is required to contribute 1% of his wages to the fund. § 4 (d). The fund is to be deposited in the "Unemployment Trust Fund" of the United States Government, § 3 (d), cf. Social Security Act, § 904 (a), and is to be used as requisitioned by the State Commission, to pay unemployment benefits prescribed by the statute, §§ 3 (b), 3 (d), but without any liability on the part of the state beyond amounts paid into or earned by the fund. Benefits are payable from the fund to the employees covered by the Act, in the event of their unemployment, upon prescribed conditions and at prescribed rates.

The Act satisfies the criteria which, by § 903 (a) of the Social Security Act of August 14, 1935, c. 531, 49 Stat. 620, 640, 42 U. S. C. § 1103 (a), are made prerequisite to its approval by the Social Security Board created by that Act, and it has been approved by the Board as that section directs. By § 902 of the Social Security Act, contributors to the state fund are entitled to credit their contributions in satisfaction of the tax imposed on employers by the Social Security Act, to the extent of 90% of the tax. See No. 837, *Chas. C. Steward Machine Co.* v. *Davis*, decided this day.

In the court below, the statute was assailed as repugnant to various provisions of the state constitution. These contentions have been put at rest by the decision of the Supreme Court of Alabama in *Beeland Wholesale Company* v. *Kaufman*, — Ala. —, holding the state act valid under both the state and federal constitutions. The statute was also attacked on the ground that the Social Security Act is invalid under the Federal Constitution, since the state act declares that it "shall become void" if the Supreme Court of the United States shall hold the Social Security Act invalid. The Alabama court interpreted the statute as having operative effect only if the Social Security Act were constitutional—even in advance of a decision by this Court. We need not decide whether the state court's ruling that the federal statute

---

[1] See § 2 (g). "Employment" is defined to exclude:
(1) Agricultural labor;
(2) Domestic service in a private home;
(3) Service performed as an officer, bar pilot, or member of the crew of a vessel on the navigable waters of the United States;
(4) Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of twenty-one in the employ of his father or mother;
(5) Service performed in the employ of the United States Government or of an instrumentality of the United States;
(6) Service performed in the employ of a carrier engaged in interstate commerce and subject to the Act of Congress known as The Railway Labor Act; as amended or as hereafter amended. Service performed by those engaged as solicitors or agents for Insurance Companies;
(7) Service performed in the employ of a state, or political subdivision thereof, or an instrumentality of one or more states or political subdivisions;
(8) Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

is valid is conclusive upon us for the purpose of determining whether the state law is presently in force, *Miller's Executors* v. *Swann*, 150 U. S. 132; *Louisville & Nashville R. Co.* v. *Western Union Telegraph Co.*, 237 U. S. 300, because its conclusion as to the validity of the federal act agrees with our own, announced in *Chas. C. Steward Machine Co.* v. *Davis*, *supra*.

Attacks were leveled on the statute on numerous other grounds, which are urged here,—as an infringement of the due process and equal protection clauses of the Fourteenth Amendment, as an unconstitutional surrender to the United States government of the sovereign power of the state, and as a measure owing its passage to the coercive action of Congress in the enactment of the Social Security Act.

In *Beeland Wholesale Company* v. *Kaufman*, *supra*, the Supreme Court of Alabama held that the contributions which the statute exacts of employers are excise taxes laid in conformity to the constitution and laws of the state. While the particular name which a state court or legislature may give to a money payment commanded by its statute is not controlling here when its constitutionality is in question, cf. *Educational Films Co.* v. *Ward*, 282 U. S. 379, 387; *Storaasli* v. *Minnesota*, 283 U. S. 57, 62; *Wagner* v. *City of Covington*, 251 U. S. 95, 102; *Standard Oil Co.* v. *Graves*, 249 U. S. 389, 394, we see no reason to doubt that the present statute is an exertion of the taxing power of the state. Cf. *Carley and Hamilton* v. *Snook*, 281 U. S. 66, 71.

Taxes, which are but the means of distributing the burden of the cost of government, are commonly levied on property or its use, but they may likewise be laid on the exercise of personal rights and privileges. As has been pointed out by the opinion in the *Chas. C. Steward Machine Co.* case, such levies, including taxes on the exercise of the right to employ or to be employed, were known in England and the Colonies before the adoption of the Constitution, and must be taken to be embraced within the wide range of choice of subjects of taxation, which was an attribute of the sovereign power of the states at the time of the adoption of the Constitution, and which was reserved to them by that instrument. As the present levy has all the indicia of a tax, and is of a type traditional in the history of Anglo-American legislation, it is within state taxing power, and it is immaterial whether it is called an excise or by another name. See *Barwise* v. *Sheppard*, 299 U. S. 33, 36. Its validity under the Federal Constitution is to be determined in the light of constitutional principles applicable to state taxation.

### VALIDITY OF THE TAX UNDER THE FOURTEENTH AMENDMENT

*First. Validity of the Tax* Qua *Tax.* It is inherent in the exercise of the power to tax that a state be free to select the subjects of taxation and to grant exemptions. Neither due process nor equal protection imposes upon a state any rigid rule of equality of taxation. See *Bell's Gap R. Co.* v. *Pennsylvania*, 134 U. S. 232, 237; *Lawrence* v. *State Tax Commission*, 286 U. S. 276, 284. This Court has repeatedly held that inequalities which result from a singling out of one particular class for taxation or exemption, infringe no constitutional limitation. *Magoun* v. *Ill. Trust & Savings Bank*, 170 U. S. 283, 293; *American Sugar Refining Co.* v. *Louisiana*, 179 U. S. 89, 94; *Armour Packing Co.* v. *Lacy*, 200 U. S. 226, 235; *Brown-*

*Forman Co.* v. *Kentucky*, 217 U. S. 563, 573; *Quong Wing* v. *Kirkendall*, 223 U. S. 59, 62, 63; *Armour & Co.* v. *Virginia*, 246 U. S. 1, 6; *Alaska Fish Co.* v. *Smith*, 255 U. S. 44, 48; *State Board of Tax Commissioners* v. *Jackson*, 283 U. S. 527, 537; *Broad River Power Co.* v. *Querry*, 288 U. S. 178, 180; *Fox* v. *Standard Oil Co.*, 294 U. S. 87, 97; No. 649, *Cincinnati Soap Co.* v. *United States*, May 3, 1937; No. 652, *Great Atlantic & Pacific Tea Company* v. *Grosjean*, May 17, 1937.

Like considerations govern exemptions from the operation of a tax imposed on the members of a class. A legislature is not bound to tax every member of a class or none. It may make distinctions of degree having a rational basis, and when subjected to judicial scrutiny they must be presumed to rest on that basis if there is any conceivable state of facts which would support it. *Rast* v. *Van Deman & Lewis*, 240 U. S. 342, 357; *Heisler* v. *Thomas Colliery Co.*, 260 U. S. 245, 255; *Swiss Oil Corp.* v. *Shanks*, 273 U. S. 407, 413; *Lawrence* v. *State Tax Commission*, *supra*; cf. *Metropolitan Casualty Insurance Co.* v. *Brownell*, 294 U. S. 580, 584.

This restriction upon the judicial function, in passing on the constitutionality of statutes, is not artificial or irrational. A state legislature, in the enactment of laws, has the widest possible latitude within the limits of the Constitution. In the nature of the case it cannot record a complete catalogue of the considerations which move its members to enact laws. In the absence of such a record courts cannot assume that its action is capricious, or that, with its informed acquaintance with local conditions to which the legislation is to be applied, it was not aware of facts which afford reasonable basis for its action. Only by faithful adherence to this guiding principle of judicial review of legislation is it possible to preserve to the legislative branch its rightful independence and its ability to function.

(a) Exclusion of Employers of Less than Eight. Distinctions in degree, stated in terms of differences in number, have often been the target of attack, see *Booth* v. *Indiana*, 237 U. S. 391, 397. It is argued here, and it was ruled by the court below, that there can be no reason for a distinction, for purposes of taxation, between those who have only seven employees and those who have eight. Yet, this is the type of distinction which the law is often called upon to make.[2] It is only a difference in numbers which marks the moment when day ends and night begins, when the disabilities of infancy terminate and the status of legal competency is assumed. It separates large incomes which are taxed from the smaller ones which are exempt, as it marks here the difference between the proprietors of larger businesses who are taxed and the proprietors of smaller businesses who are not.

Administrative convenience and expense in the collection or measurement of the tax are alone a sufficient justification for the difference between the treatment of small incomes or small taxpayers and that meted out to others. *Citizens' Telephone Co.* v. *Fuller*, 229 U. S.

[2] St. Louis Consol. Coal Co. *v.* Illinois, 185 U. S. 203, 207 (coal mines employing five or more subject to inspection); McLean *v.* Arkansas, 211 U. S. 539, 551 (mines employing ten or more required to measure coal for payment of wages before screening); Booth *v.* Indiana, 237 U. S. 391, 397 (mines required to supply wash-houses upon demand of twenty employees); Jeffrey Mfg. Co. *v.* Blagg, 235 U. S. 571, 576; Middleton *v.* Texas Power & L. Co., 249 U. S. 152, 159 (employers of five or more included within workmen's compensation act).

822, 332; *Hatch* v. *Reardon*, 204 U. S. 152, 159; *New York* v. *Latrobe*, 279 U. S. 421, 428; *Aero Transit Co.* v. *Georgia Public Service Comm.*, 295 U. S. 285, 289. Cf. *Florida Central & Peninsular R. Co.* v. *Reynolds*, 183 U. S. 471, 480; *Packer Corp.* v. *Utah*, 285 U. S. 105, 110, footnote 6. We cannot say that the expense and inconvenience of collecting the tax from small employers would not be disproportionate to the revenue obtained. For it cannot be assumed that the legislature could not rightly have concluded that generally the number of employees bears a relationship to the size of the payroll and therefore to the amount of the tax, and that the large number of small employers and the paucity of their records of employment would entail greater inconvenience in the collection and verification of the tax than in the case of larger employers.

It would hardly be contended that the state, in order to tax payrolls, is bound to assume the administrative cost and burden of taxing all employers having a single employee. But if for that or any other reason it may exempt some, whether it should draw the line at one, three, or seven, is peculiarly a question for legislative decision. The decision cannot be said to be arbitrary because it falls in the twilight zone between those members of the class which plainly can and those which plainly cannot expediently be taxed.

(b) Exemption of Particular Classes of Employers. It is arbitrary, appellees contend, to exempt those who employ agricultural laborers, domestic servants, seamen, insurance agents, or close relatives, or to exclude charitable institutions, interstate railways, or the government of the United States or of any state or political subdivision. A sufficient answer is an appeal to the principle of taxation already stated, that the state is free to select a particular class as a subject for taxation. The character of the exemptions suggests simply that the state has chosen, as the subject of its tax, those who employ labor in the processes of industrial production and distribution.

Reasons for the selections, if desired, readily suggest themselves. Where the public interest is served one business may be left untaxed and another taxed, in order to promote the one, *American Sugar Refining Co.* v. *Louisiana*, *supra*; *Heisler* v. *Thomas Colliery Co.*, *supra*; *Aero Transit Co.* v. *Georgia Public Service Comm.*, *supra*, or to restrict or suppress the other, *Magnano Company* v. *Hamilton*, 292 U. S. 40; *Fox* v. *Standard Oil Co.*, *supra*; *Quong Wing* v. *Kirkendall*, *supra*; *Singer Sewing Machine Co.* v. *Brickell*, 233 U. S. 304; *Alaska Fish Co.* v. *Smith*, *supra*, 48; *Great Atlantic & Pacific Tea Company* v. *Grosjean*, *supra*. The legislature may withhold the burden of the tax in order to foster what it conceives to be a beneficient enterprise. This Court has often sustained the exemption of charitable institutions, *Bell's Gap R. Co.* v. *Pennsylvania*, supra, 237; cf. *Board of Education* v. *Illinois*, 203 U. S. 553, 563, and exemption for the encouragement of agriculture, *American Sugar Refining Co.* v. *Louisiana*, *supra*, 95; *Aero Transit Co.* v. *Georgia Public Service Comm.*, *supra*, 291. Similarly, the legislature is free to aid a depressed industry such as shipping. The exemption of business operating for less than twenty weeks in the year may rest upon similar reasons, or upon the desire to encourage seasonal or unstable industries.

Administrative considerations may explain several exemptions. Relatively great expense and inconvenience of collection may justify the exemption from taxation of domestic employers, farmers, and family businesses, not likely to maintain adequate employment records, which are an important aid in the collection and verification of the tax. The state may reasonably waive the formality of taxing itself or its political subdivisions. Fear of constitutional restrictions, and a wholesome respect for the proper policy of another sovereign, would explain exemption of the United States, and of the interstate railways, compare *Packer Corp.* v. *Utah*, *supra*, 109. In no case do appellees sustain the burden which rests upon them of showing that there are no differences, between the exempt employers and the industrial employers who are taxed, sufficient to justify differences in taxation.

(c) Tax on Employees. Appellees extend their attack on the statute from the tax imposed on them as employers to the tax imposed on employees. But they cannot object to a tax which they are not asked to pay, at least if it is separable, as we think it is, from the tax they must pay. The statute contains the usual separability clause. § 19. The taxation of employees is not prerequisite to enjoyment of the benefits of the Social Security Act. The collection and expenditure of the tax on employers do not depend upon taxing the employees, and we find nothing in the language of the statute or its application to suggest that the tax on employees is so essential to the operation of the statute as to restrict the effect of the separability clause. Distinct taxes imposed by a single statute are not to be deemed inseparable unless that conclusion is unavoidable. See *Field* v. *Clark*, 143 U. S. 649, 697; No. 614, *Sonzinsky* v. *United States*, March 29, 1937.

From what has been said, it is plain that the tax *qua* tax conforms to constitutional requirements, and that our inquiry as to its validity would end at this point if the proceeds of the tax were to be covered into the state treasury, and thus made subject to appropriation by the legislature.

*Second. Validity of the Tax as Determined by Its Purposes.* The devotion of the tax to the purposes specified by the Act requires our consideration of the objections pressed upon us that the tax is invalid because the purposes are invalid, and because the methods chosen for their execution transgress constitutional limitations. It is not denied that since the adoption of the Fourteenth Amendment state taxing power can be exerted only to effect a public purpose and does not embrace the raising of revenue for private purposes. See *Green* v. *Frazier*, 253 U. S. 233, 238; *Milheim* v. *Moffat Tunnel Dist.*, 262 U. S. 710, 717; *Fallbrook Irrigation Dist.* v. *Bradley*, 164 U. S. 112, 158; *Jones* v. *City of Portland*, 245 U. S. 217, 221. The states, by their constitutions and laws, may set their own limits upon their spending power, see *Loan Association* v. *Topeka*, 20 Wall. 655; cf. *Parkersburg* v. *Brown*, 106 U. S. 487; *Cole* v. *La Grange*, 113 U. S. 1, but the requirements of due process leave free scope for the exercise of a wide legislative discretion in determining what expenditures will serve the public interest.

This Court has long and consistently recognized that the public purposes of a state, for which it may raise funds by taxation, embrace

expenditures for its general welfare. *Fallbrook Irrigation Dist.* v. *Bradley*, *supra*, 161; *Green v. Frazier*, *supra*, 240, 241. The existence of local conditions which, because of their nature and extent, are of concern to the public as a whole, the modes of advancing the public interest by correcting them or avoiding their consequences, are peculiarly within the knowledge of the legislature, and to it, and not to the courts, is committed the duty and responsibility of making choice of the possible methods. See *Fallbrook Irrigation Dist.* v. *Bradley*, *supra*, 160; *Jones* v. *City of Portland*, *supra*, 221, 224, 225; *Green* v. *Frazier*, *supra*, 239, 240. As with expenditures for the general welfare of the United States, *United States* v. *Butler*, 297 U. S. 1, 67; *Helvering et al* v. *Davis*, *supra*, whether the present expenditure serves a public purpose is a practical question addressed to the lawmaking department, and it would require a plain case of departure from every public purpose which could reasonably be conceived to justify the intervention of a court. See *Cincinnati Soap Co.* v. *United States*, *supra;* cf. *Jones* v. *City of Portland*, *supra.* The present case exhibits no such departure.

(a) Relief of Unemployment as a Public Purpose. Support of the poor has long been recognized as a public purpose, see *Keily* v. *Pittsburgh*, 104 U. S. 78, 81. We need not labor the point that expenditures for the relief of the unemployed, conditioned on unemployment alone, without proof of indigence of recipients of the benefits, is a permissible use of state funds. For the past six years the nation, unhappily, has been placed in a position to learn at first hand the nature and extent of the problem of unemployment, and to appreciate its profound influence upon the public welfare. Detailed accounts of the problem and its social and economic consequences, to be found in public reports of the expenditures of relief funds, and in the studies of many observers, afford a basis for the legislative judgment. It suffices to say that they show that unemployment apparently has become a permanent incident of our industrial system; that it varies, in extent and intensity, with fluctuations in the volume of seasonal businesses and with the business cycle. It is dependent, with special and unpredictable manifestations, upon technological changes and advances in methods of manufacture, upon changing demands for manufactured products—dictated by changes in fashion or the creation of desirable substitutes, and upon the establishment of new sources of competition.

The evils of the attendant social and economic wastage permeate the entire social structure. Apart from poverty, or a less extreme impairment of the savings which afford the chief protection to the working class against old age and the hazards of illness, a matter of inestimable consequence to society as a whole, and apart from the loss of purchasing power, the legislature could have concluded that unemployment brings in its wake increase in vagrancy and crimes against property,[3] reduction in the number of marriages,[4]

[3] See, e. g., National Commission on Law Observance and Enforcement (1931), Report on the Causes of Crime, No. 13, especially p. 312.

[4] From 1924 to 1932, inclusive, the marriage rate in Alabama, determined by marriages per 1,000 population, was as follows: 11.4; 11.9; 11.9; 11.6; 11.2; 11.2; 10.4; 9.7; 9.4 [derived from Statistical Abstract of the United States, 1926, Table 90; *id.* 1928, Table 95; *id.*, 1930, Table 99; *id.*, 1932, Table 80; *id.*, 1936, Table 92]. The first sizeable decline came in 1930.

deterioration of family life, decline in the birth rate,[5] increase in illegitimate births,[6] impairment of the health of the unemployed and their families[7] and malnutrition of their children.[8]

Although employment in Alabama is predominantly in agriculture, and the court below found that agricultural unemployment is not an acute problem, the census reports disclose the steadily increasing percentage of those employed in industrial pursuits in Alabama.[9] The total amount spent for emergency relief in Alabama, in the years 1933 to 1935 inclusive, exceeded $47,000,000, of which $312,000 came from state funds, $2,243,000 from local sources and the balance from relief funds of the federal government.[10] These figures bear eloquent witness to the inability of local agencies to cope with the problem without state action and resort to new taxing legislation. Expenditure of public funds under the present statute, for relief of unemployment, will afford some protection to a substantial group of employees,[11] and we cannot say that it is not for a public purpose.

The end being legitimate, the means is for the legislature to choose. When public evils ensue from individual misfortunes or needs, the legislature may strike at the evil at its source. If the purpose is legitimate because public, it will not be defeated because the execution of it involves payments to individuals. *Kelly* v. *Pittsburgh*, *supra; Knights* v. *Jackson*, 260 U. S. 12, 15; *cf. Mountain Timber Co.* v. *Washington*, 243 U. S. 219, 239–240. "Individual interests are aided only as the common interest is safeguarded." See *Cochran* v. *Louisiana State Board of Education*, 281 U. S. 370, 375; cf. *Clark* v. *Nash*, 198 U. S. 361, 367; *Hairston* v. *Danville & Western Ry. Co.*, 208 U. S. 598, 608; *Noble State Bank* v. *Haskell*, 219 U. S. 104, 110.

---

[5] See State Board of Health, Bureau of Vital Statistics, Report relating to the registration of births and deaths in the State of Alabama for the year ending 31st December, 1935, p. XXXVII: "Between 1910 and 1927, the trend in the birth rate was upward, except in 1918, the year in which the outbreak of influenza occurred and the following year. From 1927 to 1935, the trend has been downward, the rate of decline having been practically constant since 1928 forward, with the single exception in 1934. The rise in 1934 was due to a number of factors, including an increase in birth registration following the registration campaign and marriages."

[6] See Annual Report of the State Board of Health of Alabama, 1933, p. 166, Table XXV. The rate of illegitimate births per 1,000 live births, for the years 1929 through 1933, were 70.4; 74.6; 81.6; 88.7; 95.1.

[7] A survey of 4,137 people in Birmingham, Alabama, and covering three months in the spring of 1933, showed that the rate of illness [disabling illness per 1,000 persons] was 165 in families with no employed workers; 148 in families with at least one part-time worker, but no full-time workers; and 140 in families with at least one full-time worker. See Perrott and Collins, Relation of sickness to income and income change in 10 surveyed communities, Public Health Reports (United States Public Health Service), vol. 50, p. 595, at 606, Table 6.

[8] See Eliot, Martha M., Some effects of the depression on the nutrition of children, Hospital Social Service, vol. 28, p. 585; Palmer, Carroll E., Height and weight of children of the depression poor, Public Health Reports, vol. 50, p. 1106.

[9] Of those employed in Alabama the per cent. employed in industry were 19.5% in 1900; 21.4% in 1910; 30.7% in 1920; 33.6% in 1930; 24.3% in 1935. (Last figure estimated at the trial by Gist, formerly statistician of the Department of Agriculture, and since Feb. 1, 1936, economic adviser to the Commissioner of Agriculture of Alabama.) The decline in 1935 may be taken to corroborate the greater susceptibility of employment in industry to the depression.

[10] Figures obtained from Federal Emergency Relief Administration, as stated in Appendix to the Brief of Respondent, No. 837, Chas. C. Steward Machine Co. *v.* Davis, pp. 74–75, Table 17.

[11] Appellees point to an estimate that, largely because of the large agricultural population, only 26.81% of those employed in Alabama as of October 14, 1936, were covered by the Act.

But it was estimated at the trial by Gist [formerly statistician of the Department of Agriculture, and since Feb. 1, 1936, economic adviser to the Commissioner of Agriculture of Alabama], that if in 1941 there should be a recurrence of unemployment "somewhat equivalent to the period we have just come through, and employment in the industrial groups under consideration should drop to, say 170,000 [approximately the number employed in 1932], we would find Alabama with something like 64,000 unemployed persons who would be entitled to the benefits of this Act."

(b) Extension of Benefits. The present scheme of unemployment relief is not subject to any constitutional infirmity, as respondents argue, because it is not limited to the indigent or because it is extended to some less deserving than others, such as those discharged for misconduct. While we may assume that the state could have limited its award of unemployment benefits to the indigent and to those who had not been rightfully discharged from their employment, it was not bound to do so. Poverty is one, but not the only evil consequence of unemployment. Among the benefits sought by relief is the avoidance of destitution, and of the gathering cloud of evils which beset the worker, his family and the community after wages cease and before destitution begins. We are not unaware that industrial workers are not an affluent class, and we cannot say that a scheme for the award of unemployment benefits, to be made only after a substantial "waiting period" of unemployment, and then only to the extent of half wages and not more than $15 a week for at most 16 weeks a year, does not effect a public purpose, because it does not also set up an elaborate machinery for excluding those from its benefits who are not indigent. Moreover, the state could rightfully decide not to discourage thrift. *Mountain Timber Co.* v. *Washington*, *supra*, 240. And as the injurious effects of unemployment are not limited to the unemployed worker, there is scope for legislation to mitigate those effects, even though unemployment results from his discharge for cause.

(c) Restriction of Benefits. Appellees again challenge the tax by attacking as arbitrary the classification adopted by the legislature for the distribution of unemployment benefits. Only the employees of those subject to the tax share in the benefits. Appellees complain that the relief is withheld from many as deserving as those who receive benefits. The choice of beneficiaries, like the selection of the subjects of the tax, is thus said to be so arbitrary and discriminatory as to infringe the Fourteenth Amendment and deprive the statute of any public purpose.

What we have said as to the validity of the choice of the subjects of the tax is applicable in large measure to the choice of beneficiaries of the relief. In establishing a system of unemployment benefits the legislature is not bound to occupy the whole field. It may strike at the evil where it is most felt, *Otis* v. *Parker*, 187 U. S. 606, 610; *Carroll* v. *Greenwich Insurance Co.*, 199 U. S. 401, 411; *Lindsley* v. *Natural Carbonic Gas Co.*, 220 U. S. 61, 81; *Central Lumber Co.* v. *South Dakota*, 226 U. S. 157, 160; *Rosenthal* v. *New York*, 226 U. S. 260, 270; *Patsone* v. *Pennsylvania*, 232 U. S. 138, 144; *Keokee Coke Co.* v. *Taylor*, 234 U. S. 224, 227; *Silver* v. *Silver*, 280 U. S. 117, 123; *Hardware Dealers Mutual Fire Ins. Co.* v. *Glidden Co.*, 284 U. S. 151, 159, or where it is most practicable to deal with it, *Dominion Hotel, Inc.* v. *Arizona*, 249 U. S. 265, 268–269. It may exclude others whose need is less, *N. Y., N. H. & Hartford R. Co.* v. *New York*, 165 U. S. 628, 634; *St. Louis Consol. Coal Co.* v. *Illinois*, 185 U. S. 203, 208; *Engel* v. *O'Malley*, 219 U. S. 128, 138; *N. Y. Central R. Co.* v. *White*, 243 U. S. 188, 208; *Radice* v. *New York*, 264 U. S. 292, 294; No. 293, *West Coast Hotel Co.* v. *Parrish*, March 29, 1937, or whose effective aid is attended by inconvenience which is greater, *Dominion Hotel, Inc.* v. *Arizona*, *supra*; *Atlantic*

*Coast Line R. Co.* v. *State*, 135 Ga. 545, at 555–556, as affirmed and approved, *Atlantic Coast Line R. Co.* v. *Georgia*, 234 U. S. 280, 289.

As we cannot say that these considerations did not lead to the selection of the classes of employees entitled to unemployment benefits, and as a state of facts may reasonably be conceived which would support the selection, its constitutionality must be sustained. There is a basis, on grounds of administrative convenience and expense, for adopting a classification which would permit the use of records, kept by the taxpayer and open to the tax gatherer, as an aid to the administration of benefit awards, as is the case here, where the recipients of benefits are selected from the employees of those who pay the tax. Special complaint is made of the discrimination against those with only six co-workers, as contrasted with those who have more. We have already shown that a distinction in terms of the number of employees is not on its face invalid.[12] Here the legislative choice finds support in the conclusion reached by students of the problem,[13] that unemployment is less likely to occur in businesses having a small number of employees.

*Third. Want of Relationship Between the Subjects and Benefits of the Tax.* It is not a valid objection to the present tax, conforming in other respects to the Fourteenth Amendment, and devoted to a public purpose, that the benefits paid and the persons to whom they are paid are unrelated to the persons taxed and the amount of the tax which they pay—in short, that those who pay the tax may not have contributed to the unemployment and may not be benefited by the expenditure. Appellees' contention that the statute is arbitrary, in so far as it fails to distinguish between the employer with a low unemployment experience and the employer with a high unemployment experience, rests upon the misconception that there must be such a relationship between the subject of the tax (the exercise of the right to employ) and the evil to be met by the appropriation of the proceeds (unemployment). We have recently stated the applicable doctrine. "But if the tax, *qua* tax, be good, as we hold it is, and the purpose specified be one which would sustain a subsequent and separate appropriation made out of the general funds of the Treasury, neither is made invalid by being bound to the other in the same act of legislation." *Cincinnati Soap Co.* v. *United States*, *supra*. Nothing is more familiar in taxation than the imposition of a tax upon a class or upon individuals who enjoy no direct benefit from its expenditure, and who are not responsible for the condition to be remedied.[14]

---

[12] See *supra*, footnote 2.

[13] W. I. King, Employment Hours and Earnings in Prosperity and Depression; Hansen, Bjornaraa, and Sogge, Decline of employment in the 1930–1931 depression in St. Paul, Minneapolis and Duluth, U. of Minn., Employment Stabilization Research Institute, vol. 1, No. 5, p. 20–25.

[14] Cigarette and tobacco taxes are earmarked, in some states, for school funds and educational purposes, Ala. Acts 1927, No. 163, §§ 2 (j), (k); Acts 1932, No. 113, §15; Ark. Acts 1933, Nos. 135, 140, § 2; Tenn. Code (1932), § 1242; Tex. Laws 1935, c. 241, § 3, and in Georgia for pensions for Confederate soldiers, Ga. Laws 1923, pp. 39, 41.

Liquor license fees and taxes are paid into old age pension funds, Colo. Laws 1933, Sp. Sess., c. 12, § 27; police pension funds, N. Y. Tax Law (1934) §§ 4, 4–a; and school funds, N. M. Laws 1933, c. 159, § 10 (b); Wis. Laws Sp. Sess. 1933–34, chs. 3, 14.

Chain store taxes are sometimes earmarked for school funds, Ala. Acts 1935, No. 194, § 348, schedule 155.9; Fla. Laws 1935, c. 16848, § 15; Idaho Laws 1933, c. 113, § 10.

License and pari-mutuel taxes in states authorizing horse racing are devoted to fairs and agricultural purposes, Cal. Stat. 1933, c. 769, § 13; Ill. Rev. Stat. (Cahill, 1933) c. 88, § 316 (6); Mich. Acts 1933, c. 199, § 10; to highway funds, Nev. Comp. Laws (Hillyer, 1929) § 6223; and to an old age pension fund in Washington, Laws 1933, c. 55, § 9.

Unemployment relief, though financed in most states by special bond issues, has in

A tax is not an assessment of benefits. It is, as we have said, a means of distributing the burden of the cost of government. The only benefit to which the taxpayer is constitutionally entitled is that derived from his enjoyment of the privileges of living in an organized society, established and safeguarded by the devotion of taxes to public purposes. See *Cincinnati Soap Co.* v. *United States*, *supra*. Any other view would preclude the levying of taxes except as they are used to compensate for the burden on those who pay them, and would involve the abandonment of the most fundamental principle of government—that it exists primarily to provide for the common good. A corporation cannot object to the use of the taxes which it pays for the maintenance of schools because it has no children. *Thomas* v. *Gay*, 169 U. S. 264, 280. This Court has repudiated the suggestion, whenever made, that the Constitution requires the benefits derived from the expenditure of public moneys to be apportioned to the burdens of the taxpayer, or that he can resist the payment of the tax because it is not expended for purposes which are peculiarly beneficial to him.[15] *Cincinnati Soap Co.* v. *United States*, *supra*; *Carley & Hamilton* v. *Snook*, *supra*, 72; *Nashville, C. & St. L. R. Co.* v. *Wallace*, 288 U. S. 249, 268; see *Union Transit Co.* v. *Kentucky*, 199 U. S. 194, 203.

Even if a legislature should undertake, what the Constitution does not require, to place the burden of a tax for unemployment benefits upon those who cause or contribute to unemployment, it might conclude that the burden cannot justly be apportioned among employers according to their unemployment experience. Unemployment in the plant of one employer may be due to competition with another, within or without the state, whose factory is running to capacity; or to tariffs, inventions, changes in fashions or in market or business conditions, for which no employer is responsible, but which may stimulate the business of one and impair or even destroy that of another. Many believe that the responsibility for the business cycle, the chief cause of unemployment, cannot be apportioned to individual employers in accordance with their employment experience; that a business may be least responsible for the depression from which it suffers the most.

The Alabama legislature may have proceeded upon the view, for which there is abundant authority, that the causes of unemployment are too complex to admit of a meticulous appraisal of employer responsibility.[16] It may have concluded that unemployment

---

some instances been financed by Gasoline Taxes, Ohio Laws 1933, File No. 8, §§ 1, 2; File No. 28; Okla. Laws 1931, c. 66, article 10, §§ 2, 3; Sales Taxes, Ill. Laws 1933, pp. 924, 926; Mich. Acts 1933, No. 167, § 25 (b); Utah Laws 1933, c. 63, § 21; Income Taxes, Wis. Laws 1933, c. 363, § 2; Miscellaneous Excise Taxes, Ohio Gen. Code (Page Supp. 1935) § 6212–49 (beer); § 5543–2 (cosmetics); § 5544–2 (admissions); Utah Rev. Stat. §46–0–47 (beer).

[15] Similarly, special taxing districts for the maintenance of roads or public improvements within the district have been sustained, without proof of the nature or amount of special benefits. See St. Louis & S. W. Ry. Co. *v.* Mattin, 277 U. S. 157, 159; Memphis & Chicago Ry. Co. *v.* Pace, 282 U. S. 241, 248, 249; cf. Missouri Pacific R. Co. *v.* Western Crawford Road Dist., 266 U. S. 187. A different question is presented when a state undertakes to levy local assessments apportioned to local benefits. In that case, if it fails to conform to the standard of apportionment adopted, its action is arbitrary, see Georgia Ry. & Elec. Co. *v.* Decatur, 295 U. S. 165, 170, because there is a denial of equal protection. Road Improvement Dist. *v.* Missouri Pacific R. Co., 274 U. S. 188, 191–194, cf. Georgia Ry. & Elec. Co. *v.* Decatur, 297 U S. 620. But if the assessment is apportioned to benefits it is not constitutionally defective because the assessment exceeds the benefits. Roberts *v.* Richland Irrigation Dist., 289 U. S. 71, 75.

[16] Report of President Hoover's Committee on Recent Social Trends (1933) 807 ff.; J. M. Clark, Economics of Overhead Costs (1929) pp. 366–367; Douglas, Hitchcock, and Atkins, The Worker in Modern Economic Society (1925) p. 491 *et seq.*; Beveridge, Unemployment, a Problem of Industry (1930) pp. 100–103; W. C. Mitchell, Business Cycles; the problem and its setting (1927) pp. 87, 210, 238.

is an inseparable incident of modern industry, with its most serious manifestations in industrial production; that employees will be best protected, and that the cost of the remedy, at least until more accurate and complete data are available, may best be distributed, by imposing the tax evenly upon all industrial production,[17] and in such form that it will be added to labor costs which are ultimately absorbed by the public in the prices which it pays for consumable goods.

If the question were ours to decide, we could not say that the legislature, in adopting the present scheme rather than another, had no basis for its choice, or was arbitrary or unreasonable in its action. But, as the state is free to distribute the burden of a tax without regard to the particular purpose for which it is to be used, there is no warrant in the Constitution for setting the tax aside because a court thinks that it could have drawn a better statute or could have distributed the burden more wisely. Those are functions reserved for the legislature.

Since the appellees may not complain if the expenditure has no relation to the taxed class of which they are members, they obviously may not complain because the expenditure has *some* relation to that class, that those benefited are employees of those taxed; or because the legislature has adopted the expedient of spreading the burden of the tax to the consuming public by imposing it upon those who make and sell commodities. It is irrelevant to the permissible exercise of the power to tax that some pay the tax who have not occasioned its expenditure, or that in the course of the use of its proceeds for a public purpose the legislature has benefited individuals, who may or may not be related to those who are taxed.

RELATIONSHIP OF THE STATE AND FEDERAL STATUTES.

There remain for consideration the contentions that the state act is invalid because its enactment was coerced by the adoption of the Social Security Act, and that it involves an unconstitutional surrender of state power. Even though it be assumed that the exercise of a sovereign power by a state, in other respects valid, may be rendered invalid because of the coercive effect of a federal statute enacted in the exercise of a power granted to the national government, such coercion is lacking here. It is unnecessary to repeat now those considerations which have led to our decision in the *Chas. C. Steward Machine Co.* case, that the Social Security Act has no such coercive effect. As the Social Security Act is not coercive in its operation, the Unemployment Compensation Act cannot be set aside as an unconstitutional product of coercion. The United States and the State of Alabama are not alien governments. They coexist within the same territory. Unemployment within it is their common concern. Together the two statutes now before us embody a cooperative legislative effort by state and national governments, for carrying out a public purpose common to both, which neither could fully achieve without the cooperation of the other. The Constitution does not prohibit such cooperation.

---

[17] See E. M. Burns, Toward Social Security (1936) pp. 70–73; P. Douglas, Social Security in the United States (1936) pp. 253–355; A. Epstein, Insecurity—A Challenge to America (3d ed. 1936) pp. 311–312, 317; Hansen, Murray, Stevenson, and Stewart, A Program for Unemployment Insurance and Relief in the United States (1934) pp. 16, 65–73.

As the state legislation is not the product of a prohibited coercion, there is little else to which appellees can point as indicating a surrender of state sovereignty. As the opinion in the *Chas C. Steward Machine Co.* case points out, full liberty of action is secured to the state by both statutes. The unemployment compensation fund is administered in accordance with state law by the state commission. The statute may be repealed at the will of the legislature, and in that case the state will be free to withdraw at any time its unexpended share of the Unemployment Trust Fund from the treasury of the United States, and to use it for any public purpose. And, for the reasons stated in the opinion in the *Chas. C. Steward Machine Co.* case, we conclude that the deposit by the state of its compensation fund in the Unemployment Trust Fund involves no more of a surrender of sovereignty than does the choice of any other depository for state funds. The power to contract and the power to select appropriate agencies and instrumentalities for the execution of state policy are attributes of state sovereignty. They are not lost by their exercise.

Many other arguments are pressed upon us. They require no discussion save as their answer is implicit in what we have said. The state compensation act, on its face, and as applied to appellees, is subject to no constitutional infirmity, and the decree below is

*Reversed.*

Mr. Justice McReynolds thinks that the decree should be affirmed.

# SUPREME COURT OF THE UNITED STATES

Nos. 724, 797.—October Term, 1936.

| | |
|---|---|
| Albert A. Carmichael, Individually and as Attorney General of the State of Alabama, et al., Appellants,<br>724 *vs.*<br>Southern Coal & Coke Company.<br><br>Albert A. Carmichael, Individually and as Attorney General of the State of Alabama, et al., Appellants,<br>797 *vs.*<br>Gulf States Paper Corporation. | Appeals from the District Court of the United States for the Middle District of Alabama. |

[May 24, 1937.]

Mr. Justice Sutherland, *dissenting.*

The objective sought by the Alabama statute here in question, namely, the relief of unemployment, I do not doubt is one within the constitutional power of the state. But it is an objective which must be attained by legislation which does not violate the due process or the equal-protection clause of the Fourteenth Amendment. This statute, in my opinion, does both, although it would have been a comparatively simple matter for the legislature to avoid both.

The statute lays a payroll tax upon employers, the proceeds of which go into a common fund to be distributed for the relief of such ex-employees, coming within the provisions of the statute, as shall have lost their employment in any of a designated variety of industries within the state. Some of these employers are engaged in industries where work continues the year round. Others are engaged in seasonal occupations, where the work is discontinued for a part of the year. Some of the employers are engaged in industries where the number of men employed remains stable, or fairly so, while others are engaged in industries where the number of the men employed fluctuates greatly from time to time. Plainly, a disproportionately heavy burden will be imposed by the tax upon those whose operations contribute *least* to the evils of unemploy-

ment, and, correspondingly, the burden will be lessened in respect of those whose operations contribute *most*.

An example will make this clear. Let us suppose that A, an employer of a thousand men, has retained all of his employees. B, an employer of a thousand men, has discharged half of his employees. The tax is upon the payroll of each. A, who has not discharged a single workman, is taxed upon his payroll twice as much as B, although the operation of B's establishment has contributed enormously to the evil of unemployment while that of A has contributed nothing at all. It thus results that the employer who has kept all his men at work pays twice as much toward the relief of the employees discharged by B as B himself pays. Moreover, when we consider the large number and the many kinds of industries, their differing characteristics and the varied circumstances by which their operations are conditioned, the gross unfairness of this unequal burden of the tax becomes plain beyond peradventure. It is the same unfairness, in an aggravated form, as that which we so recently condemned as fatally arbitrary in *Railroad Retirement Board* v. *Alton R. Co.*, 295 U. S. 330. That case dealt with a federal statute which established a pension plan requiring payments to be made by all interstate railroad carriers into a pooled fund to be used for the payment of annuities indiscriminately to railroad employees, of whatever company, when they had reached the age of 65 years. This court, because of this pooling feature, among other things, held the act to be bad. We said (p. 357):

> This court has repeatedly had occasion to say that the railroads, though their property be dedicated to the public use, remain the private property of their owners, and that their assets may not be taken without just compensation. The carriers have not ceased to be privately operated and privately owned, however much subject to regulation in the interest of interstate commerce. There is no warrant for taking the property or money of one and transferring it to another without compensation, whether the object of the transfer be to build up the equipment of the transferee or to pension its employees. . . . The argument is that since the railroads and the public have a common interest in the efficient performance of the whole transportation chain, it is proper and necessary to require all carriers to contribute to the cost of a plan designed to serve this end. It is said that the pooling principle is desirable because there are many small carriers whose employees are too few to justify maintenance of a separate retirement plan for each.

In support of that view, several cases had been cited. Those cases were reviewed and distinguished, and we concluded, page 360—

> that the provisions of the Act which disregard the private and separate ownership of the several respondents, treat them all as a single employer, and pool all their assets regardless of their individual obligations and the varying conditions found in their respective enterprises, cannot be justified as consistent with due process.

Cases which are relied upon here to sustain the Alabama statute were relied upon there to sustain the Retirement Act, *Mountain Timber Co.* v. *Washington*, 243 U. S. 219, among others. That case dealt with the State of Washington workmen's compensation act, requiring designated payments to be made by employers into a state fund for compensating injured workmen. But we pointed out (295 U. S. 359) that although the payments were made into a common fund, accounts were to be kept with each industry in accordance with

the classification, and no class was to be liable for the depletion of the fund by reason of accidents happening in another class. And we said:

> The Railroad Retirement Act, on the contrary, makes no classification, but, as above said, treats all the carriers as a single employer, irrespective of their several conditions.

If the Alabama act had followed the plan of the Washington act in respect of classification, we should have a very different question to consider. The vice of the Alabama act is precisely that which was condemned in the *Railroad Retirement Board* case. Indeed, the vice is more pronounced, since the federal act, relating as it did to railroads only, dealt with a homogeneous group of employers. while the Alabama act seeks to impose the character of "a single employer" upon a large number of employers severally engaged in entirely dissimilar industries.

It must be borne in mind that we are not dealing with a general tax, the proceeds of which are to be appropriated for any public purpose which the legislature thereafter may select, but with a tax expressly levied for a specified purpose. The tax and the use of the tax are inseparably united; and if the proposed use contravenes the Constitution, it necessarily follows that the tax does the same. *Cincinnati Soap Co.* v. *United States*, — U. S. —, —(May 3, 1937).

Other states have not found it impossible to adjust their unemployment laws to meet the constitutional difficulties thus presented by the Alabama act. The pioneer among these states is Wisconsin. That state provides (Act of January 29, 1932, c. 20, Laws of Wisc., Spec. Sess., 1931, p. 57, as amended) that while the proceeds of the tax shall be paid into a common fund, an account shall be kept with each individual employer, to which account his payments are to be credited and against which only the amounts paid to his former employees are to be charged. If he maintains his roll of employees intact, he will be charged nothing, and in any event only to the extent that his employment roll is diminished. When his tax contributions have reached a certain percentage of his payroll, the amount of his tax is reduced, and when they reach 10%, the tax is discontinued as long as that percentage remains. The result is that each employer bears his own burdens, and not those of his competitor or of other employers. The difference between the Wisconsin and the Alabama acts is thus succinctly stated by the Social Security Board in its Informational Service Circular No. 5, issued November, 1936, pp. 8–9:

> (1) The plan for individual employer accounts provides for employer-reserve accounts in the State fund. Each employer's contributions are credited to his separate account, and benefits are paid from his account only to his former employees. If he is able to build up a specified reserve in his account, his contribution rate is reduced.

Such is the Wisconsin plan; while under the Alabama statute—

> (2) The pooled-fund plan provides for a pooling of all contributions in a single undivided fund from which benefits are paid to eligible employees, irrespective of their former employers.

Which of these plans is more advantageous from a purely economic standpoint does not present a judicial question. But from the constitutional point of view, in so far as it involves the ground

upon which I think the Alabama act should be condemned, I entertain no doubt that the Wisconsin plan is so fair, reasonable and just as to make plain its constitutional validity; and that the Alabama statute, like the New York statute involved in *Chamberlin, Inc.* v. *Andrews, et al.*, 299 U. S. 515, affirmed by an equally-divided court during the present term, is so arbitrary as to result in a denial both of due process and equal protection of the laws.

I am authorized to say that Mr. Justice VAN DEVANTER and Mr. Justice BUTLER concur in this opinion.

○

75TH CONGRESS, 1st Session | SENATE | DOCUMENT No. 71

# ORAL ARGUMENTS

IN HELVERING ET AL. v. DAVIS

INVOLVING

## THE OLD AGE BENEFIT PROVISIONS

OF THE

## SOCIAL SECURITY ACT

BEFORE THE

## SUPREME COURT OF THE UNITED STATES

MAY 5, 1937

PRESENTED BY MR. WAGNER

MAY 11 (calendar day, MAY 12), 1937.—Ordered to be printed

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1937

# CONTENTS

# In the Supreme Court of the United States

OCTOBER TERM, 1936

No. 910

GUY T. HELVERING, COMMISSIONER, AND OTHERS, PETITIONERS

*v.*

GEORGE P. DAVIS, RESPONDENT

WASHINGTON, D. C.,
*Wednesday, May 5, 1937.*

The above-entitled cause came on for oral argument before the Chief Justice and Associate Justices of the United States Supreme Court at 12:25 p. m.

Appearances:

For the petitioners: Mr. Robert H. Jackson, Assistant Attorney General, Mr. Charles E. Wyzanski, Jr., Special Assistant to the Attorney General.

For the respondent: Mr. Edward F. McClennen.

PROCEEDINGS

The CHIEF JUSTICE: No. 910, Guy T. Helvering against George P. Davis.

## OPENING ARGUMENT ON BEHALF OF PETITIONERS HELVERING AND WELCH BY HON. ROBERT H. JACKSON, ASSISTANT ATTORNEY GENERAL

Mr. JACKSON. May it please the Court, this cause reaches this Court by certiorari directed to the First Circuit Court of Appeals, which has rendered a decision that title VIII of the Social Security Act imposing a tax upon employers, and also upon employees, and also title II establishing a system of old-age benefits, are all unconstitutional. The district court had dismissed the bill in this case, holding that title VIII was constitutional as to the taxes imposed, and that title II was not involved.

The bill is brought by a stockholder, who charges that the defendant, Edison Electric Illuminating Co. of Boston, of which he is a stockholder, is about to pay an unconstitutional tax, that he has protested without avail, and that the payment, if not enjoined, will be an irreparable injury to his stock equity. He also sought to question the taxes imposed upon the employee, because the employer

is made a withholding agent and required to withhold from the employee's wages the amount of the tax and pay it to the collector. That was sought to be questioned by the stockholder upon the claim that it would cause "restlessness" among the employees.

The answer filed by the corporation raised no question of fact or substance. A motion was made for a temporary injunction. At that point the collector and Commissioner of Internal Revenue intervened and filed an answer, raising no question as to the regularity of the procedure, except as to the employees' tax. It was denied that the stockholder could question the validity of a tax which his corporation did not have ultimately to pay.

The answer of the Government included a motion to dismiss. The motion to dismiss was granted and the injunction denied. The circuit court of appeals returned the case to the district court with instructions that the act was unconstitutional.

The statute involved is the Social Security Act, title VIII, which imposes a tax on employers and on employees, except those engaged in agriculture, domestic service, and the like. The tax is payable to the General Treasury. Title II is asserted to be involved, and, beginning in 1942, it establishes monthly benefit payments for persons 65 years of age and upward, who have qualified under the act, and certain death benefits for those who have qualified for them, but who do not reach 65 years of age.

The decision of the circuit court of appeals is based upon several propositions. The opinion appears at page 26 of the record, and the reasoning upon which they have held these two titles to be unconstitutional seems to be expressed in several quotations, which I will make.

The first reason appears to be on page 27:

> The assistance of those incapacitated by age from earning a livelihood is one of the powers belonging to, and burdens imposed on, the States at the time of the adoption of the Federal Constitution.

Conceding that this tax is not an earmarked tax, nor a tax appropriated specifically to the purposes of title II, the Court nevertheless continues with a finding that it was the intent of Congress that the taxes raised under sections 801 and 802 of title VIII were imposed for the express purpose of paying the old-age benefits provided in title II; and it continues:

> We think that the power to provide for old-age benefits was among those powers reserved to the States under the tenth amendment.

Justice STONE. Are you going to deal with the equity jurisdiction, Mr. Jackson?

Mr. JACKSON. I had not intended to; but, of course, if there is a question about it, I shall be glad to. I may say that we waived any question as to equity jurisdiction; that we waived because of the vital importance to the Government of an early decision in this case.

We recognize that there is some question as to the right of a stockholder to maintain an action of this kind and doubt as to whether he sustains an irreparable injury under these circumstances. The Circuit Court of Appeals of the Second Circuit has recently rendered a decision that the stockholder is not injured.

Justice STONE. What was the relief prayed?

Mr. JACKSON. In this case?

Justice STONE. Yes.

Mr. JACKSON. It was an injunction to restrain the payment of the tax which the stockholder alleged the corporation would otherwise make under the unconstitutional act.

Justice STONE. The collector was made a party?

Mr. JACKSON. The collector became a party upon his own intervention, and raised no question as to the procedure, or as to the right of the stockholder to maintain the action, and, so far as he could, expressly waived that question.

Justice STONE. So that the Government is in the position of saying here that a suit to enjoin a tax is properly here, although provision is made for payment of the tax and for a suit to recover it, which would give adequate relief, would it not, to the taxpayer?

Mr. JACKSON. We think that question, if raised by the Government or by the defendant in the case, would have to be decided against the stockholder. We believe that the *Norman case*, decided in the second circuit (Apr. 12, 1937), is good law, but we also believe that it is a question not of jurisdiction, but of fact, as to whether the stockholder is irreparably injured under the circumstances, and that it can be waived by the Government, as was done in *Pollock* v. *Farmers' Loan & Trust Co.* (157 U. S. 429), and I think in *Brushaber* v. *Union Pacific R. R.* (240 U. S. 1).

Justice STONE. Conceding that is so, he would be equally protected by a direction to pay the tax and sue to get it back?

Mr. JACKSON. Perhaps that is true.

Justice STONE. That is the procedure which the Government has insisted should be followed, in most of these tax cases.

Mr. JACKSON. We have insisted on that in many cases.

Justice STONE. And having been disposed to be with them on that, I wonder whether I should recede from that position now.

Mr. JACKSON. I should very much dislike to say anything that would discourage you in that position, Your Honor. Our position is that it can be waived, that it is not jurisdictional, and we waived it in this case.

Justice STONE. Equity jurisdiction cannot be conferred by consent, on the other hand.

Mr. JACKSON. I think, however, that the jurisdiction which depends upon the question of fact as to irreparable injury can be waived, so as to permit the cause to proceed. It is not a situation where the Court has no jurisdiction to proceed to inquire into the facts. It is a case where, if the facts are found to establish irreparable injury, as in *Ashwander* v. *Tennessee Valley Authority* (297 U. S. 288) and other cases, then it is held that the Court may enter judgment.

Justice STONE. Is it not a little more than that? It has always seemed to me that it was a question of large public policy, and a very important one, that when a taxpayer is called upon to pay taxes and there is an adequate remedy at law whereby he can pay the tax and sue to get it back, the courts should keep away from granting injunctions.

Mr. JACKSON. I certainly agree that that should be the law, but we have been subjected to many such injunctions. The law is unsettled upon this subject of injunctions to restrain collection of taxes.

Justice STONE. This may unsettle it still further, if you succeed.

Mr. JACKSON. I would not think so, if we succeed upon the ground of waiver.

Justice CARDOZO. I noticed in your brief, Mr. Attorney General, that you put it upon the ground of the adequacy of the legal remedy. I am wondering whether it is only that, whether there is not a question of substantive law involved. In the *T. V. A. case* and cases of that kind it was held that the directors had no discretion that would permit them to make the unconstitutional payment or to yield to the unconstitutional demand, because they would be committing the stockholders to a loss that would in all likelihood be irreparable. In this case, was there not a discretion on the part of the directors to pay that tax and afterward sue to get it back, thus avoiding penalties that would be incurred if they refused to pay the tax?

Mr. JACKSON. I think there was such a discretion. In the *Norman case*, the Consolidated Gas Co. of New York asserted that discretion and asserted that the directors were exercising their discretion, that they preferred to pay the tax and pursue their remedy later. The Edison Electric Illuminating Co., in this case, made no such assertion but submitted only the question of law, as to the constitutionality of the tax.

Justice CARDOZO. The only allegation in the bill is that the Edison Co. proposes to pay this tax. Now, at the beginning, what else could the Edison Co. do? It could not have sued to restrain the collection of the tax, because it had no warning that the Government was going to waive the provisions of the statute, assuming that the Government could. All we have, that the Edison Co. proposes to do, apparently, was the only thing that it could do—pay the tax and enter suit to get it back.

Mr. JACKSON. But under the circumstances of this case, where an intervention occurs by the Government, the Government becomes bound by the decision. Certainly we could not intervene in the case, and, if we were defeated in our contention as to constitutionality, then send the collector to distrain property of the taxpayer. Certainly if we then made a collateral attack on the judgment and said, "Well, there was no equitable jurisdiction here", I would expect the Court to say that our time for raising that question was past, and that we were bound by the judgment, and that the collector could not distrain upon the corporation's property.

Justice CARDOZO. My difficulty is—perhaps it is not a true one—that you are not merely waiving the objection that the remedy at law is adequate but that the Government is attempting to say that a discretion which directors duly exercised shall be overridden, and I question whether the Government can take away the discretionary power of the directors.

Mr. JACKSON. We did not, Your Honor. They surrendered that themselves. The corporation itself raised no such question, and it was stipulated by all parties concerned that the only question to be raised in the case was the validity of the taxing titles. So that the Government has not interfered with the company's asserting any rights they wished; and, in the *Norman case*, we were confronted with exactly the situation which your question suggests. The Consolidated Co. said that as a matter of managerial discretion it preferred not to question the act, which it felt was constitutional, and preferred to pursue its remedy, if any, by way of refund later. We joined in that argument also, taking the same position. We have not thrust upon the defendant in this case any waiver of its discretion. It has voluntarily waived.

Justice CARDOZO. Will you refer me to the stipulation which you say was made?

Mr. JACKSON. Mr. McClennen tells me that the stipulation was not actually filed, and I have misled the Court in calling it a stipulation. It seems to have been a "gentlemen's agreement", which has been observed but not made of record.

Justice STONE. It would be time enough, since the company, according to the allegation, stood ready to pay the tax to bring a suit in equity, if irreparable injury will result from the payment of the tax, to have brought a suit directing the company to sue for and recover the tax which it had paid.

Mr. JACKSON. That would probably be true.

Justice STONE. So that if the bill were now dismissed or directions were given to permit the company to pay the tax and then sue to recover it, the Government would not suffer anything, would it?

Mr. JACKSON. The Government would have in this case, and I propose to state the reason for our waiver.

This action was brought in November 1936, and the tax was due on February 28, 1937. This tax promised an estimated yield of $253,000,000 for the fiscal year 1937 and $621,000,000 for the following fiscal year. It is being paid at the present time at the rate of $50,000,000 a month. It was important from a budgetary point of view that we have this tax question settled at the earliest possible moment. Administratively it was also very important. Some 26,000,000 people are paying taxes under this employee's tax, and 2,500,000 under the other tax, which meant that if this law were to be held unconstitutional, the Treasury would be faced with 28,500,000 refunds—an enormous administrative task—and we exerted every effort to obtain a decision in this case before we would be confronted with that contingency.

We think the doubt of the right to sue is a question which can be waived. The question is not clear, whether the stockholder can or cannot. It is a question of difficulty. We have waived it because we are still confronted with this very practical situation; that 26,000,000 people are building up from day to day either the funds of the United States or refund claims, and it is imperative that we know which it is; and for that reason we hope that the court will not find it necessary to decide this case on procedural grounds merely.

The question is covered in the brief, because we recognize that this question faces us at the outset, and is one about which, if there were not imperative practical considerations facing us, we probably would be taking a somewhat different position.

Having found that the general welfare was not served by this tax, the circuit court of appeals also hold that the tax, separate and apart from the use to which they determined the money should be put, was unconstitutional, holding, in their own words, that it—

> cannot be upheld as an excise tax authorized under section 8 of article I of the Constitution, for the reasons stated—

in a companion case involving the unemployment titles—

> since it was a tax on the natural and common right of employing labor, and is not a tax on property manufactured, sold, or in use, or on a privilege granted by any government, and was not within the purview of the framers of the Constitution.

It also held that this tax could not be sustained as a tax, because it was not clearly within the purview of those who adopted the Consti-

tution, and "where the application of a taxing statute is doubtful, it should be resolved against the Government." It also held that since this benefit system is confined to nonagricultural and non-domestic-service workers, the classification was bad, and held that both men and women in the excepted classes, on reaching the age of 65, are equally entitled with those engaged in other lines of work to old-age benefits.

The *Boston & Maine case*, which was decided on the same day, contains a more lengthy exposition of the Court's reasoning.

Turning to the statute, I would ask the Court to first observe title I, not because it is involved here, but because it is important to an understanding of the background of title II and of title VIII.

Title I of this act grants assistance to the States "for the purpose of enabling each State to furnish financial assistance, as far as practicable under the conditions in such State, to aged needy individuals"—and I ask you to note the word "needy"—"to aged needy individuals, there is hereby authorized to be appropriated for the fiscal year ended June 30, 1936, the sum of $49,750,000", and there is authorized to be appropriated for subsequent years such sum as may be necessary. "The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Social Security Board established by title VII * * * State plans for old-age assistance."

Then follow certain provisions about the State plans, which are not important to us here, as this title is not involved. Under section 3, the Federal participation is limited, so that from the sums appropriated, the Secretary of the Treasury shall pay to each State an amount to be used exclusively as old-age assistance, equal to one-half the total of the sums expended under the State plan with respect to each individual who at the time of such expenditure is 65 years of age or older, and is not an inmate of a public institution, not counting so much of such expenditure with respect to any individual for any month as exceeds $30. Then 5 percent is paid for administration.

In other words, in this title, a system of assistance to the States by a matching system, under which each shall contribute 50 percent of the cost, establishes aid, in the discretion of the State, up to $30 per month maximum, for those 65 years of age or over, and it is based on the need of the individual; to be ascertained, presumably, by a means test.

The significance of this title, since it is not involved in this litigation, is entirely as background to the title that follows.

This provision is not limited to any particular group of workers. It applies to the domestic, the agricultural worker, and all sorts and conditions of men and women who find themselves in need at 65. It is essentially the dole system based on need. It would require proof of the qualification, which is that the individual is needy; sometimes established by proof that the individual is himself needy, and also by proof that the family on whom he might expect to rely is also needy.

Justice SUTHERLAND. Is there a provision here, as in the case of the unemployment provision, that the funds raised by the State must be deposited with the United States Treasury?

Mr. JACKSON. No. This money is paid over to the State for administration.

Justice SUTHERLAND. The State keeps the money?

Mr. JACKSON. Yes; but there are requirements as to what the State law must contain.

Justice SUTHERLAND. Yes.

Mr. JACKSON. But they are not involved in this case.

Justice SUTHERLAND. The State is expected to raise a portion of this fund?

Mr. JACKSON. Yes; 50 percent.

Justice SUTHERLAND. And that is not required to be paid into the United States Treasury?

Mr. JACKSON. The State administers it itself.

Justice SUTHERLAND. It does what?

Mr. JACKSON. The State administers this title itself. It merely gets Federal aid. It is much like the aid provision in *Massachusetts* v. *Mellon* (262 U. S. 447).

Justice SUTHERLAND. In that respect it differs from the unemployment provision?

Mr. JACKSON. That is right.

Justice STONE. Are these payments made annually, or only as there is need?

Mr. JACKSON. Quarterly, as I recall it.

Justice STONE. And the fund is held in the State custody or possession until such time as it is required?

Mr. JACKSON. I think it is turned over to the State, as a matter of fact, for each quarter, and there is not any substantial accumulation.

The CHIEF JUSTICE. No; it is paid over for each quarter. There is no restriction upon the State's action in relation to it, except, of course, as to the requirements of the State law, which are approved by the Social Security Board.

Mr. JACKSON. That is right, and it is set forth in section 4, as to the operation of the State plans, and in section 2 as to requirements for approval of State plans.

Justice SUTHERLAND. I want to be sure about that. As I understand it, there is no interference on the part of the Federal Government with the administration of the fund by the State government.

Mr. JACKSON. No; except that there are certain limitations.

Justice SUTHERLAND. As to the legislation?

Mr. JACKSON. Yes.

Justice SUTHERLAND. But not as to the administration of the fund?

Mr. JACKSON. No. It is a pure matter of Federal aid to the State, to take care of its own problem, based on an all-inclusive system from which neither agricultural workers, domestic workers, nor any groups are excluded, essentially a dole based on proof of need of the individual; and that has been in operation since 1936. The result gives us some impression of the magnitude of this problem. Forty-two States have been receiving aid. The number of recipients aided is 1,196,000, and it has cost the States and Federal Government $22,000,000 for the month of February 1937. The maximum received by any individual is $1 a day, or $30 a month, and the minimum I think is $4.02, of the amounts actually received, $4.02 a month, in one of the States.

Justice BUTLER. Title I is not involved in the case? [Inaudible to the reporter.]

Mr. JACKSON. As I said, they are not involved in this case, no question is raised about the conditions.

Justice BUTLER. No. The title is not involved in the case.

Mr. JACKSON. Except, as I am pointing out, that it is a part of the relief program which had to be undertaken by the Federal Government, and I am going to point out why it was inadequate and title II was enacted.

There are found in section 2 provisions relating to a State plan for old-age assistance. It must be in effect in all political subdivisions of the State. It must provide for financial participation by the State. It must provide for the establishment of a single State agency to administer the plan, provide for granting to any individual, whose claim for old-age assistance is denied, a fair hearing, and provide such methods of administration, other than those relating to selection, tenure of office, and compensation of personnel, as are found by the board to be necessary for the efficient operation of the plan, and provide for making report to the Social Security Board.

Justice BUTLER. What is the amount that the State will get, here?

Mr. JACKSON. The amount that the State will get? It will get one-half of what it expends, not counting anything that it expends above $30 for any individual, and 5 percent for administrative expense.

Justice BUTLER. The Government contributes 5 percent of its fund for the administration?

Mr. JACKSON. Yes.

Justice BUTLER. That goes to the State?

Mr. JACKSON. That goes to the State. That sum contributed by the Federal Government is shown by the table on page 74 of the appendix to be a very much smaller proportion of the total money expended than that contributed by the Federal Government under the general relief system. For the latter purpose the States were contributing very much less than 50 percent.

Justice BUTLER. * * * conditions imposed by * * * [inaudible to the reporter].

Mr. JACKSON. No.

Justice BUTLER. Does it empower the Federal Board to make any rules or regulations governing the use by the State to which the Government proposes to contribute under title I?

Mr. JACKSON. The conditions which you are speaking of are perhaps the conditions for the credit under the unemployment title and there is no credit system set up in this act at all. The State old-age-assistance plans must have in them the provisions contained in section 2.

Justice BUTLER. Referring to page 3 of your appendix, subdivision (b) of section 2, will you explain that for me? I do not quite follow that.

Mr. JACKSON. On page 3, subparagraph (b), under title I?

Justice BUTLER. Yes.

Mr. JACKSON. That requires the Board to approve any plan specified, except it shall not approve any plan which requires an age requirement of more than 65 years, except that it may be 70 up to 1940. In other words, the old-age money sent them is to be expended on persons 65 or upward after 1940, but it may be limited to 70 or upward previous to that time.

Any residence requirement which excludes any resident of the State who has resided therein five years during the nine years immediately preceding the application for old-age assistance and has resided therein continuously for one year immediately preceding the application.

Justice BUTLER. Is there any specific grant of authority to the Board, in respect of relief to be furnished by this title, in any other part of the title?

Mr. JACKSON. No.

Justice BUTLER. Is this the only authorization, and that to be implied from this subdivision (b)?

Mr. JACKSON. Of course, if the State plan departs from the requirements laid down, the board may give the State notice, as provided in section 4, and after proof that it has failed to comply with the provisions, the board may notify it that it will receive no further money.

Justice BUTLER. What I want to get at is the full extent of the power of the Board in respect to the matters covered by this title.

Mr. JACKSON. Purely a conditional grant, and the board has a right to ascertain if the conditions specified are being complied with.

Justice BUTLER. And those are the seven conditions in section 2 [a]?

Mr. JACKSON. That is right.

Justice BUTLER. And the three conditions in section (b)? Those 10 conditions are all the conditions that may be brought forward in respect to this relief?

Mr. JACKSON. That sets up the entire system, in respect of grants in aid to the States. That title is not involved in this case, and its validity is not challenged, but it was determined that that title and that system of taking care of the old-age problem, as it presented itself in this country was not adequate and could not be depended upon, as a long-range policy; that the old-age problem as it presented itself required some further and more scientific treatment. Various alternatives were considered by Congress and rejected. The flat pension based on age alone, with different suggestions as to the age and different suggestions as to the amount, ranging from the Townsend Plan of $200 a month to much more moderate suggestions were considered. That alternative was rejected. Unconditional subsidies to the States were advocated and rejected. An alternative was adopted and embodied in title II.

The system embodied in title II, which is under attack here, is a system by which old-age benefits, as a permanent long-range policy of the United States, shall be paid to persons reaching 65 and upward, but that those benefits shall be measured by the wages earned by the person who receives the benefit, counting wages only up to $3,000 per year. The benefits which one may hope to receive will be conditioned upon the contribution which he makes to society, and the payments are an incentive to thrift rather than a discouragement to it. It was also considered that if benefits were keyed to wages earned, there would be something of a check upon the demands which might be made as to amounts of pensions, and that the method in which benefits were made dependent upon wages earned would fit the benefits somewhat to the circumstances of life of the beneficiary, because presumably his way of living would be fixed by the wages he had been in the habit of receiving; and his benefit would be fixed upon the same basis.

It was further considered that the means test, by which an individual in order to receive aid under the title I must prove his dependency, was a humiliating condition, which has had to be abandoned in many places where it has been tried. Also the means test was found to be a distinct incentive to arriving at 65 without any property, because

the person who arrived at 65 with no property began to get benefits, and the person who had a little property didn't, until it was exhausted, and the effect of the means test as a social proposition has been found to be demoralizing.

Then, too, the difficulty with title I from a fiscal point of view was that the demands upon the Treasury were in no way financed, and that a system might be set up under which the wages which were earned could be a measure of one's contribution to the Federal Treasury, as well as a measure of the benefits which he would receive. And for that reason Congress moved in the direction of a system of benefits keyed to wages, rather than to need.

Title II, section 201 (a), provides:

> There is hereby created an account in the Treasury of the United States to be known as the "Old-Age Reserve Account" hereinafter in this title called the "account". There is hereby authorized to be appropriated to the account for each fiscal year, beginning with the fiscal year ending June 30, 1937, an amount sufficient as an annual premium to provide for the payments required under this title, such amount to be determined on a reserve basis in accordance with accepted actuarial principles, and based upon such tables of mortality as the Secretary of the Treasury shall from time to time adopt.

The next, subsection (b), provides for the investment of this fund, while it is in the Treasury.

That provision, creating the old-age reserve account, and making appropriations to it from year to year, not measured by any tax received but measured by the reserve requirements computed actuarially, is the subject of great controversy. I do not think that controversy concerns us in this case. Whether the Congress, if it were going to establish a system of old-age benefits, should do it on a pay-as-you-go system, by which each year contributed just the amount necessary to that year's benefits, or whether it should proceed to accumulate reserves to meet the increasing liabilities, if the benefits may be considered such, is a question for the Congress to determine. It is not a legal question, but it is fully treated on page 144 of our appendix, so that the reserve system can be examined, insofar as the Court desires to examine it.

I would point out, however, that this reserve system is at all times in the control of the Congress. It can at any time change the amount of contribution to that reserve, or the basis upon which that contribution shall be made. There is no appropriation contained in this title, but only an authorization of an appropriation, which amounts to no more than a declaration of policy as to the future. The investment generally is to be in Government bonds and obligations of the Government.

Section 202 sets up the system of benefits, and it provides (p. 8) "Every qualified individual"—as defined in section 210—and we find that a "qualified individual" is one 65 years or upward; one who has earned wages in excess of $2,000 or more after December 31, 1936, and before reaching 65; one who has worked at least 5 days in separate years between 1936 and the time he became 65. Need, dependency, indigency—none of those things are tests in determining whether he is qualified.

> Every qualified individual shall be entitled to receive with respect to the period beginning on the date he attains the age of 65, or on January 1, 1942, whichever is the later, and ending on the date of his death, an old-age benefit * * * as follows.

Then follows a computation, or rather a rule for computation based on the wages which he has earned. For example, if one earned for 5 years an average of $25 a week, he would not be entitled to any old-age benefit, because he would not have earned over $2,000, and the law deemed that monthly benefits based on earnings so small as that would cost too much to administer, but he would receive back a lump-sum payment of $52.50 when he reached 65, and was not qualified to receive benefits.

If one earned $100 a month as an average for 5 years before he became 65, his monthly benefit would be $17.50. The maximum that one may, under any circumstances receive as a monthly benefit under this act is $85 per month, and in order to receive $85 per month he must have had average earnings of $250 per month over 45 years of employment. A table in our brief shows just what the accumulations based on average monthly salaries would amount to, and the amount of benefits.

Justice BUTLER. The term "qualified individual" is defined in subdivision (c) of section 210. Would that include agricultural laborers, and so on?

Mr. JACKSON. No.

Justice BUTLER. The benefits of this title do not extend to the classes you referred to, the seven classes in subdivision (b)?

Mr. JACKSON. The benefits of this title do not extend to any of those classes, and the taxes which are levied under title VIII do not extend to them either. Those employments are not affected by either the appropriating or the taxing titles of the act, for reasons which we explained in connection with the unemployment insurance, and which I will not take the time to repeat—the difference in the types of work.

Justice BUTLER. Has there been any research to indicate the relative number of the qualified individuals, or the percentage? How would the numbers compare with the agricultural laborers, domestic service employees, and so forth, the seven classes? How would that compare with those who get the benefits? Is there any knowledge on that score yet?

Mr. JACKSON. I think there is. There are estimates. I do not have them in mind, but I will get them for you. Some 26,000,000 people at the present time are affected by the taxing titles.

Justice BUTLER. There are 26,000,000 taxed, and the qualified individuals would be included in that 26,000,000?

Mr. JACKSON. All of the 26,000,000 are in the process of qualifying.

Justice BUTLER. That is what I mean.

Mr. JACKSON. Yes.

Justice BUTLER. But the number of agricultural employees, domestic service, and so on, you do not have that?

Mr. JACKSON. We have it, but I do not have it in mind. We have estimates on it.

There is a limitation of $85 per month on the amount of benefits which may be received, and any qualified individual who receives wages with respect to employment after he attains the age of 65 receives no benefit for the months during which he was employed.

Then there are certain payments made upon death, under section 203.

> If any individual dies before attaining the age of 65, there shall be paid to his estate an amount equal to 3.5 percentum of the total wages determined by the board to have been paid to him, with respect to employment after December 31, 1936.

So that in the event of death before he qualifies, a death benefit is paid to his estate.

Another type of payment is provided by section 204 [p. 10]:

> There shall be paid in a lump sum to any individual who, upon attaining the age of 65, is not a qualified individual, an amount equal to 3.5 percentum of the total wages determined by the board to have been paid to him, with respect to employment after December 31, 1936, and before he attained the age of 65.

So there are, roughly, three kinds of benefits: A benefit paid monthly after reaching the age of 65, provided he is qualified; a death benefit paid to the estate, if he fails to reach the age of 65, based on 3.5 percent of his wages; and, if he reaches 65 and does not qualify, because of his failure to earn sufficient wages during the period to entitle him to an annuity, then he receives a lump-sum payment.

Justice BUTLER. In the case of those who are needy, they would have the dole, based on title I? They would have relief under both? [Indistinct to the reporter.]

Mr. JACKSON. Title I takes care of those who are not reached under this title, and it would also take care of, or would authorize the extension of assistance to, a person who was receiving a benefit under this title, if the benefit was not sufficient to enable him to live. Title I is applied to the extreme situation of need from whatever cause arising.

This is a system by which, through calculation of his earnings, he becomes entitled to a benefit, based on his wages. Now, that, with the definitional title which Your Honor has already called attention to, excluding agricultural labor, domestic service, and casual labor, employees on vessels, political divisions of the State, and of the United States, completes the expenditure title, title II.

This plan of expenditure is complete in itself. It does not depend on the amount of tax that is raised. It does not have any reference to the taxes, in fixing the amounts, or the time benefits shall begin. In fact, it does not begin until 1942, so far as the monthly payments are concerned, while the tax begins this year. It is not in any way dependent upon the amount of taxes raised. There is no interdependence.

The CHIEF JUSTICE. This entire scheme could be abolished by Congress without affecting the taxing provision?

Mr. JACKSON. It could. And the entire taxing scheme could be abolished, without affecting this provision. All that you would need to do would be to keep your wage records for the benefit title. Both benefits and taxes require reference to the amount of wages earned for their computation, but by the keeping of the records this title can exist alone. It does not depend in any way upon the operation of a tax, in the sense that the Agricultural Adjustment Act depended, as Your Honors found in the *Butler case*.

There would have been many other methods by which this could have been financed. I cite some merely to show that the benefits are independent of the taxing provision. It could have been financed by borrowing. There was no need of the tax in connection with the expenditure title. It could be financed by printing the money, if Congress were so disposed. It could be financed from higher income taxes, as a very respectable school of thought advocates that it should be. It could be financed by a sales tax, or a tax on employees alone, or on employers alone. But Congress, anticipating that these appropriations to this reserve account would occasion a substantial drain

upon the Treasury, sought additional sources of revenue with which to protect the Budget, and it decided upon a tax on employees' earnings; a tax by which the employee during his productive years would pay to the Treasury of the United States a proportion of his earnings, and a tax on employers, based on the employment—and this is not limited to eight or more, so that the employer who had the benefit of that man's services during his productive years would also be contributing to the Treasury during that time.

This tax scheme is set up in title VIII, found on page 37 of our appendix, and it is a very simple taxing measure. The first, section 801, is an income tax on employees:

> In addition to other taxes, there shall be levied, collected, and paid upon the income of every individual a tax equal to the following percentages of the wages * * * received by him after December 31, 1936, with respect to employment * * *.

Now "wages" is limited by definition, and "employment" is limited by definition. The definition of "employment" excludes agricultural labor, casuals, domestic service, and so forth, and "wages" is limited to that amount which is paid, under $3,000; that is to say, $3,000 from any one employer.

Section 802 makes this employee tax the obligation of the employer to withhold and pay over to the Treasury, and indemnifies the employer if he does so. That tax has been held bad in this case. We contend it could not be challenged by the stockholder of a corporation, since it in nowise and under no circumstances could operate to affect his equity. The circuit court of appeals held it bad because they held that this tax would not have been enacted alone, and that it was "capricious" in that all persons should be entitled to benefits under an old-age plan, and not merely the groups which are included. We contend that even if this were to be reviewed, it is a valid tax, under the silver tax decision which this Court handed down at this term (*United States* v. *Hudson*, No. 97, decided Jan. 11, 1937). It is an additional tax on income, additional to any other income tax which the employee might have to pay. Then 804 lays the tax on the employers:

> In addition to other taxes, every employer shall pay an excise tax, with respect to having individuals in his employ, equal to the following percentages of the wages * * *.

These percentages start at 1 percent for the first 3 years, and increase one-half of 1 percent each 3 years until they reach a maximum of 3 percent.

Under section 807, the taxes imposed by this title shall be collected by the Bureau of Internal Revenue under the direction of the Secretary of the Treasury, and shall be paid into the Treasury of the United States as internal-revenue collections. There are no provisions in this act which limit the use to which this fund so collected shall be put, or which appropriates it either in part or in its entirety to any particular use.

As a matter of fact, this tax is being collected under the regulations by returns filed by the employers, and as I have said, 26,000,000 persons are paying the employees' tax, and 2,500,000 are paying the employers' tax, making the widest taxing base that has ever been

established in this country, producing at the rate of approximately a half a billion dollars in revenue per year.

Justice BUTLER. How many employers did you say?

Mr. JACKSON. Over 2,500,000.

This tax, as a tax, has been held bad. The circuit court of appeals wrote an opinion in the *Boston & Maine case*, which is found in our appendix at page 89. It accompanied the opinion in this case, and it explains at greater length their view of these taxes, although they were there dealing with the unemployment titles. The circuit court of appeals said, in reference to the other tax, but referred to in its opinion as amplifying the reasons given in the case at bar:

> Is the tax imposed on employers under section 901 of title IX an excise tax within the meaning of section 8 of article I of the Federal Constitution? If it is not, it is not a tax that Congress is authorized to levy.

It seems to us that this indicates a very substantial departure from the Constitution, in that there is equal power to levy taxes, duties, and imposts, along with excises, and that whether this be an excise, or whether it be denominated by some other name, does not affect its validity. The Court then proceeds to say——

Justice SUTHERLAND. I suppose that provision of the Constitution is intended to include all forms of indirect taxation.

Mr. JACKSON. That is our view, and there is no holding that this is a direct tax. Says the Court:

> At the time of the adoption of the Constitution the term "excise tax" was used only in connection with a tax on goods, merchandise, and commodities.

And the Court follows its reasoning by pointing out that the Massachusetts Constitution provides only for excise taxes on produce, goods, wares, merchandise, and commodities. It concludes:

> While the Federal Constitution does not contain the word "commodities" as a basis for levying excise taxes, there appears to be little, if any, difference in the limits imposed upon the interpretation of section VIII of article I by the Supreme Court of the United States and the interpretation placed on the constitutional provision of Massachusetts by the Massachusetts Supreme Court.

In other words, it seems to us that they have read into our Constitution the limitations of the Massachusetts Constitution upon excise taxes.

Justice STONE. Did they say that it could not be any other form of tax or impost if it were not an excise?

Mr. JACKSON. That is the inference that I draw from their opinion. They treat it as an excise, find that it is not an excise, and conclude that because it is not an excise it is not valid.

There are historical reasons why "excise" as used in the Federal Constitution is not to be limited as it is in the Massachusetts Constitution. In the first place, the Massachusetts Constitution limits it to commodities and merchandise, by its own terms. In the second place, our system of excises did not arise in Massachusetts but in New York.

Seligman's Essays on Taxation point out that the excise taxes came to this country from the Dutch, that they were not developed in the English system of taxes, but the English got them from the Dutch, and he points out that Massachusetts had a system of taxation based largely upon direct taxes, and that, in New York [reading]:

> Accordingly, there was no system of poll and property taxes as in New England, and no system of indirect taxes on exports and imports as in Virginia. The

fundamental characteristics of this system was the introduction of the excise system or indirect taxation of trade, which was borrowed from Holland, just as we find the excise system introduced from Holland into England and the other European countries during the seventeenth century. Each section, therefore, had a fiscal system more or less in harmony with its economic conditions. It was not until these conditions changed during the eighteenth century that the fiscal systems began somewhat to approach each other * * *.

That undoubtedly is why we find, in an instrument that is not given to using synonyms, that "taxes, duties, imposts, and excises" are all specifically enumerated, in order to make certain that the system of each of the Colonies was included.

The argument that this tax cannot be laid because the employment of labor is a "natural right", is one which I shall not pursue, because I do not think it is important in a constitutional sense. Whether the source of the right is "natural" does not seem to affect its taxability so far as I can find in our constitutional law. If the right to employ labor is a natural right, it would seem that earnings from that work would be also a natural right, although we know that they have been taxed for some time. It would seem that the right to make gifts or to make sales or to process materials which were owned would be as "natural" as the right to employ labor.

We contend that the right to tap the labor supply of the United States is a taxable right, whether it originates in some theory of natural law or whether it be considered a privilege. The source of the right is not important so far as the right to tax is concerned. We know that there is no source of wealth more productive today than the exploitation of other men's labor. We know that it is a source of trouble and expense to the Government, and I do not need to enlarge upon it, in view of the recent cases which this Court has had, involving those questions. We know that the economic effect on the worker is something that society has a right to consider, under the minimum-wage decisions. We know that the effect on society of employers who call labor, by offers of wages, from one locality to another, who build up employment in the city by drawing men from the country, and who move them about from place to place by various inducements, creates a social problem. It is unthinkable, that this privilege, right, or whatever it may be held to be, so exercised in this day, would be exempt from taxation.

If it be exempt from taxation under the Federal Constitution, then there is an unsuspected and a metaphysical limitation on the taxing clause that has taken 150 years to discover. So we submit that this tax, as a tax, is valid.

I shall not go into the question of due process—that has been argued before this Court very recently—except to point out that this tax is not appropriated to any specific end, nor is it earmarked, that there is no equivalence between tax and expenditure. On the other hand, the very fact that it is necessary to create a reserve in the Treasury shows that there is not an equivalence between the receipts in any particular period and the expenditures for that period, except there may be—we hope there will be—over a long period of time a rough equivalence between revenue and expenditures. This tax produces more revenue than any tax that this Court has been called upon to consider in a long time, and has a broader base. All of these considerations argue for the validity under the due process clause.

Whether this benefit title II can be considered at all upon the challenge of any taxpayer or its stockholder, is also raised and briefed.

We think that no taxpayer, whether it be in a refund case or in this case, or in any other case, can reach back of the taxing title of this act and bring into question the expenditures for old-age pensions which Congress has seen fit to establish, because there is no necessary connection or interdependence between the two titles of the act. If he can, then every tax which is laid to meet anticipated drains upon the Treasury, may be challenged, if any one of the appropriations there may be found to be questionable.

It is contended in the light of the peculiar character of this tax and its entire separability from the purposes of title II, that the circuit court of appeals, in holding that they must pass upon title II in order to determine the validity of title VIII as to taxes, was in error, and that this taxing title can stand by itself, as a system of taxes for the Treasury, to produce revenues that are badly needed if there were no old-age system, and that are worse needed if there be an old-age system, and that the consideration of title II in this case is error.

Considering the tax upon its own merit, it is our contention that it is a valid excise tax laid upon the right to employ labor in certain employments which are not excluded by definition, and that that tax does not offend the due process clause of the Constitution.

There remains the question as to whether the old-age benefits in title II serve the general welfare, if it is to be reviewed by this Court.

We face a consideration of the question whether, and to what extent, appropriations made by the Congress are subject to judicial review. The court below has reviewed this expenditure, has held that these expenditures would not serve the general welfare but would serve a purely "local" purpose; and that has been the basis upon which these taxes have been held to be unconstitutionally laid.

It is clear that a tax to pay the debts of the United States does not present a reviewable question, because the court has held that it is wholly within the discretion of Congress to recognize as debts such claims as it will, even though they may not be based upon lawful obligations. Certainly there will be no review of the question as to what appropriations are necessary to the common defense. It seems to us that the same limitation applies to the general welfare, that unless the tax and an expenditure be so interwoven that one becomes a part of the other, as in the *Butler case* that tax was held to be, there is no room for judicial review. The right of review is presented in this case because these benefits are in the nature of pensions or gratuities. There is no contract created by which any person becomes entitled as a matter of right to sue the United States or to maintain a claim for any particular sum of money. Not only is there no contract implied but it is expressly negatived, because it is provided in the act, section 1104, that it may be repealed, altered, or amended in any of its provisions at any time. This Court has held that a pension granted by the Government is a matter of bounty, that the pensioner has no legal right to his pension, and that they may be given, withheld, distributed, or recalled at the discretion of Congress. We therefore feel that title II, which sets up in this country a system of old-age pensions is not to be reviewed, that it presents a political question as to the general welfare rather than a legal or constitutional question, and that if there be an abuse in the pensioning system, it is a matter to be dealt with politically rather than judicially.

But, if there be a review, it must, under the *Butler case* (297 U.S. 1), appear that by "no reasonable possibility" can these expenditures contribute to the general welfare, and I do not know how we shall determine it in this case, because, even though you might hold that "the meaning of the Constitution does not change, with the ebb and flow of economic events", to quote from Mr. Justice Sutherland, that certainly cannot apply to subjects affecting the general welfare, for the very words themselves are of flexible content. They do not embody fixed legal concepts which can carry from generation to generation without change. Here we have evidence taken by Congress. Over 3 weeks the Ways and Means Committee called witnesses as to all phases of these problems, the Finance Committee for another 3 weeks, and there is offered to this Court in this case no evidence whatever to overcome the evidence taken by Congress, and on which it based its conclusion that old-age benefits would be for the general welfare.

If we are to review in a judicial proceeding these appropriations, it seems to me we must do one of these four things: We must either disregard the evidence taken by Congress, upon the ground that it is irrelevant to a judicial inquiry, or we must overrule it upon the ground that we judicially know other things to which Congress did not give sufficient weight, or we must weigh it as to its sufficiency to sustain the conclusion that the general welfare would be served by these appropriations, or we must test it by the "some evidence rule", as to whether it is sustained by any evidence, or we must test it by the "no reasonable possibility" rule laid down in the *Butler case.* The very difficulties of considering this question of general welfare in this state of the evidence adds weight to the argument that it is not a judicial question.

But if we are to review in this Court the question whether Congress has served the general welfare in fact, I am frank to admit that we face a tradition of 150 years of practice that is against the making of old-age relief a matter of national welfare. But I would call your attention to the fact that old-age welfare has been a constantly widening concern. The matter of the care of the old was at one time a matter for the family only. It became gradually a matter for the town poormaster if the family failed. From the town poormaster it became a matter for the county with its poorhouse, and then the State, because of failures of counties, intervened, and now we argue that it has become a matter of national welfare.

The uncontradicted evidence shows that there are developments in the matter of the old-age problem which differentiate that problem as it exists today from the problem as it existed in the past. In 1870 out of a population of 38,000,000 we had 1,153,000 or less than 3 percent of our people 65 and over. That proportion had more than doubled by 1936, and out of 128,000,000 we had 7,700,000, or 6 percent of the population that had reached 65. Experts projecting these trends indicate that in 1980, out of a projected population of 158,000,000, we will have 22,000,000 aged or 14 percent who will have reached 65. Table 3 shows that there is a proportionate increase in the older brackets involving ages less than 65. It seems that science is extending life, but that science is not stimulating the birth rate.

We find that parallel with this growth in the number and proportion of aged, there is a shortening of the economic life of each, that the employable years are more limited. The studies set forth in our brief show that in 1929 in the State of New York a study was made and 28 percent of the manufacturing plants had a limit on the years of those that they would employ. Commonly the limit was 45 years. In 1930, 224 factories were studied.

Justice BUTLER. Is that the limit of taking them on, or the limit of letting them out?

Mr. JACKSON. The limit of taking on.

Justice BUTLER. And the letting out?

Mr. JACKSON. On the letting out there has been no fixed limit ascertained. A man who has a job is commonly kept on, sometimes long after 45, but if he loses his position, or if that plant closes, or if his skill becomes obsolete because of some improvement——

Justice BUTLER. I just wanted to understand what particular limit you meant.

Mr. JACKSON. When he is forced by any of those hazards to seek a new position, 45 years of age places a handicap upon him.

Justice STONE. Is there anything to show what the effect of unemployment in recent years has been upon the increase of unemployables, because they had reached the age of 45 during the period of unemployment?

Mr. JACKSON. I do not recall anything that is definite and in statistical form on that subject, Your Honor, but we have found that outside of those that had fixed limits, 153 factories that had no fixed limits, as a matter of rule made it a practice to hire but few men past 50.

Now this means a great deal on this old-age problem. If we assume, as the mortality tables tell us, that at 65 years of age a man has an expectancy of 12 years and a woman of 13 years, the shortening of employable years during which one can make provision for taking care of age makes a radical alteration in the old-age problem. That is to say, if a man has 40 years of employable life to provide for 10 years of old age, that is one problem. If he has only 20 years of employable life to prepare for 10 years in old age you have doubled the burden upon his productive years.

Justice STONE. Do your figures here dealing with the age at which one ceases to be employable deal with men who have not learned a particular trade? Isn't it much lower than 45? That is to say, if a man knows a trade, he may get employment up to 45. Suppose he has not learned a trade. How late can he get into it? Are there any statistics shown here?

Mr. JACKSON. I couldn't answer that, because these tables are not classified by occupations, and whether there is such information available I do not know.

Justice STONE. I was under the impression it was much lower, where a man had been out of employment and had not learned a trade.

Mr. JACKSON. An exceedingly skilled man may be unable to obtain employment if there has been technological improvement which makes his skill obsolete. My attention is called to this note in the brief [reading]:

> The age when hiring handicap begins for males is 35 years; and females, 30 years. The chances of an unemployed person of 40 years and over obtaining employment are only about 19 percent as good as those of a person under 20 years of age.

Justice STONE. On what page is that?

Mr. JACKSON. That is page 58, but it does not classify by occupations.

The present ratio of dependency of the aged is summed up by the Social Security Board by saying that almost three out of four persons 65 years of age or over were dependent wholly or partly on others for support. This losing struggle which the aged are fighting in the economic world becomes a matter of no mystery when we look at the wage commonly paid, which has been discussed in the *Steward case*, dealing with unemployment compensation, and I will not repeat it. Among the hazards that fall upon men are periods of unemployment, and in that respect I would call Your Honors' attention to the fact that even if you shall find that the unemployment system attempted in this country may work, it still does not relieve the worker of bearing the major part of the burden of unemployment. He gets a few weeks of benefit, a part of his wages. He has to wait a couple of weeks usually to get it, and after that short period when compensation is paid the burden is all his own. The system is not, and cannot at the present time, be made sufficiently extensive but that the worker must bear the major part of the burden of unemployment.

The movement to the city is another factor which has made the old-age problem serious. We all know that on the farm where living requirements are not mainly in cash, and where one has access to his own means of production, old age means doing the same job but doing it slower, and the pace may be set by the worker. Perhaps a steady man and maturity of judgment would be an asset there, but in modern industry pace has taken the place of all other requirements, and the requirements of speeding up and efficiency operate against the man of years.

The failure of private pension plans is explored by the evidence, and pointed out in our brief. The failure of private charity to meet this problem is conclusively shown by the figures of the Bureau of Internal Revenue. In 1928 the persons with $300,000 and up of income contributed an average of $25,400 to purposes for which they were entitled to the charitable deduction. By 1931 they had reduced those contributions, the same group, to $12,900 average, showing that the well-to-do retrenched in their charitable contributions during the period of depression, although the need was greater.

The resources of the States have been declining. Real estate reserved to the States as a source of taxation has been taxed to the limit of its capacity to bear, and personalty has never been successfully taxed locally. The Federal Government, which is able to tax incomes and to lay excises, has sources of revenue which have been drying up for the States, not because of any change in the legal system but because the economic emphasis on personal property has left the States without a comparative source of revenue such as they had at the beginning of our constitutional system.

Congress therefore came to the conclusion that the general welfare of the United States would be served by abandoning the system under which age looked forward to a road that led over the hills to the poorhouse. It came to the conclusion that poverty in age is no longer a moral judgment against the individual; that if the time has been in our economy when we could say that it was only indolence and prodigality that led one to the poorhouse, that time was no longer,

and that if a poverty-stricken age was the judgment of a wasted life at one time in our history, it is not so today.

The lesson of the depression broke that tradition. The condition which is promised as an implication of our system, that thrift would be followed by plenty, failed in the depression, for the man who had responded to the inducements and had accumulated a bank account and selected the wrong bank, or the man who had saved to purchase a home, found himself in the same position as the one who had never saved at all. In fact, the man who had not tried to acquire a home perhaps was better off because he was not faced with a deficiency judgment. The unfortunate consequences of this depression bring home to us the fact that self-denial had not assured comfortable age, and this old-age-pension system was set up in the hope that it would make true the promise to men that if they were thrifty and industrious and self-disciplined their age would be spared at least extreme poverty. This plan does no more than spare extreme poverty, and may not in many instances do that. This plan was that if the workman during his productive years would contribute to the Treasury of the United States, then the Treasury of the United States in his unproductive years would contribute to his necessities.

We submit that there is nothing unconstitutional in this exercise of the power to tax and the power to appropriate. If this tax and this appropriation does have the effect of relieving the State of some of its burdens, that is not in itself unconstitutional.

One of the first acts of our Federal Government was to relieve the States of their burdens by assumption of their debts. The Constitution does not prohibit the assumption by the United States of obligations which a changing condition may make necessary for the general welfare.

No right of the State is invaded here. No regulation is imposed by this title except a tax. No right of the State to handle its poor problem in any way it chooses is interfered with. It may maintain its poorhouse, if it considers that to be one of its rights. It may take care of its poor beyond the provision made by the Federal Government. It may solve its problem in any manner its own local interests may require, but the Government pays into the hands of its aged citizens certain sums based on their contributions to the production of the country during their productive years, and that cannot be said to be an interference with the rights of the State, any more than a pension to a veteran is an interference with the right of a State of which he is also a citizen.

This Court has announced, through Mr. Justice Sutherland, in *Florida* v. *Mellon* (273 U. S. 12) and in *Massachusetts* v. *Mellon* (262 U. S. 447), the doctrine that the taxpayer is a citizen of the United States as well as of the State, and that the performance of his duties as a taxpayer to the United States can never be said to be an interference with the right of the State to exact its duties likewise owed to the State. By the same doctrine, the discharge by the Federal Government of its duties to its citizens, where there is no interference with the right of the State to perform its own functions in its own way, is not an interference with the rights of the State. There is no system here by which anyone is required to execute any contracts submitting to Federal jurisdiction. No contracts are provided with either State or individual.

This contributory system by which the productive years of men take care of their unproductive years is the soundest system in economics that the country is likely to see. It is not offered even by its sponsors and advocates as a perfected system, but it is at least designed to preserve in our life those virtues which we have been taught were essential to our system. By the keying of benefits to wages, there would be something of an automatic check upon the amounts which might be demanded, and there would be a relation between the pension and the deserts of the pensioner. The pension which he received in his old age would be adapted to the style of living in which he had been able to set himself up by virtue of his own earnings.

The congressional determination made after long study, made after considerable experience in dealing with the general problem of relief, which included relief of the aged, that this system is for the general welfare of the United States, seems to us not subject to review. But if it is to be reviewed, it at least falls within that wide discretion which is vested in the Congress to make provision for the general welfare of all of our people. If you review this phase with the most critical eye, it still meets the challenge, and the evidence here shows that it is for the general welfare of the United States.

We therefore ask a reversal of the ruling of the circuit court of appeals, and I would like to reserve the remainder of our time for reply by Mr. Wyzanski.

## ARGUMENT ON BEHALF OF THE RESPONDENT, BY EDWARD F. McCLENNEN

Mr. McCLENNEN. May it please the court, the first question in this case is, whether this is an excise. If it is not an excise, all the other questions become unimportant.

The Constitution gave to Congress the power to tax and to levy excises, imposts, and duties for the common defense, payment of the debts, and the general welfare of the United States. In this first question, there is not involved any question whether this is for the general welfare, or for the common defense, or to pay the debts. It is simply the question whether it is an excise. It is no other type of tax.

The Congress elected to have it an excise. They called it an excise, and if it is not that, it is not a valid levy.

Justice STONE. That is, you say it could not be regarded as a tax, if it is not an excise?

Mr. McCLENNEN. It could not be regarded as a tax that was valid, because the Congress has laid it as an excise.

Justice STONE. Suppose they had called it by the wrong name? Would we have to call it unconstitutional?

Mr. McCLENNEN. Not merely by reason of that; but if it is not an excise, Congress in laying it has laid it in the manner of an excise and has not apportioned it. If this is some other kind of tax, Congress has not yet exercised its judgment on how they will lay it.

Justice STONE. That is, you say any tax other than an excise must be apportioned. Is that it?

Mr. McCLENNEN. No. A duty does not have to be apportioned. An impost does not have to be apportioned, if that is anything different

from a duty, or an excise. But if it is, in your judgment, a tax but not an excise, Congress has not yet passed upon the question of whether it will follow the rule of uniformity or will follow the rule of apportionment, as required by the Constitution. This much, in answer to Your Honor.

Justice STONE. I should have supposed we would have approached it in a somewhat different way, and asked ourselves whether this was a tax, and whether, if a tax, it is a direct tax; and if we said it was not a direct tax, that we could then stop without any further inquiry as to the label we attached to it.

Mr. MCCLENNEN. There is, as Your Honor puts it, involved the question whether under the Constitution there is any power to lay anything that may be called a tax except a direct tax, or an impost, excise, or duty. The Court has said in its past utterances on the subject that those comprehended all the taxes that were within the power of the Congress, and the natural interpretation of the Constitution would indicate that to be so, because the Constitution lays down two methods of laying taxes, one by apportionment and one by uniformity, and it would seem as if it was the intention of the Constitution to provide one or the other method of determination, in accordance with which class it fell in, and that there was no kind of tax that did not fall into one or the other.

(Thereupon, at 2 p. m., a recess was taken until 2:30 p. m. of the same day.)

(At 2:30 p. m. the Court reconvened and the argument was resumed as follows:)

Justice STONE. Mr. McClennen, does your brief deal with the equity jurisdiction in this case?

Mr. MCCLENNEN. No, Your Honor; it does not. I have a memorandum of authorities available, if the Court desires it.

Justice STONE. If at your convenience you could submit them, I would be glad to see them myself. I cannot speak for the others.

The CHIEF JUSTICE. You might print a list of your authorities.

Mr. MCCLENNEN. I have them in print, Your Honor.

Justice BUTLER. The injunction runs against the income tax of employees, does it?

Mr. MCCLENNEN. If a decree were entered pursuant to the circuit court of appeals.

Justice BUTLER. The decision here?

Mr. MCCLENNEN. It would enjoin corporations. The Commissioner is not a party in interest in this litigation. We ask no relief against him.

Justice BUTLER. Mr. Jackson raised the point more or less definitely.

Mr. MCCLENNEN. I deal with that question as to the substance. That is, I later will ask Your Honor——

Justice BUTLER. I did not mean to interrupt you.

Mr. MCCLENNEN. As well now as any time. We are at odds as to whether a tax is imposed on employees, but we say that we have a right to be heard as to whether we shall pay over to the United States some money of our own—and it is our own; it never goes to the employees and comes back. It is never segregated to him in any way. We pay; we give our check to the United States, under 802, and then we haven't the money. The statute says that we may deduct it in paying the employee and pay him only 97 percent. But the statute

being by the premises unconstitutional, we cannot deduct it. And we are open to suit by him, and under the laws of the Commonwealth from which I come, if we do not pay that 3 percent of the wages we may be summoned into the police court for nonpayment of weekly wages when due, and of course if the act is unconstitutional, we have no answer to that criminal prosecution.

So that I submit that there should be no question but we have a standing to be heard on the question of whether the order to us not to pay our employees what we owe them but to pay it over to the United States instead is a constitutional act.

In view of Your Honor's inquiry about the jurisdiction, may I say this: I submit that there is no fundamental lack of jurisdiction here. We have brought a proceeding, an irregular proceeding, if you please, in which we ask a court for some relief. It is a court of general jurisdiction, and there are known to the common-law ways by which the relief can eventually be obtained. We could have gone into a court of equity and asked permission to compel the corporation to file a refund claim—they paid the tax—and the result would have been arrived at in exactly the same way and the question up would have been just the question that is here presented. That is all waivable.

Furthermore, we are here reluctantly, in a sense, because we have been summoned here by a writ of certiorari that bounds the questions that we are called upon to respond to, I submit, and we were asked to come here to demonstrate the question of constitutionality which is presented in the petition; no question of propriety of procedure is presented.

Again, the decree of the district court of the United States dealt with the merits of this question. Had we rested there, it would have been established as to us that this act was constitutional, that we could never complain of this treatment of this money. They dealt with the merits, and we appealed. The only ground on which we appealed was that the act was unconstitutional. That was the only error that we assigned. Our adversaries did not appeal from the fact that the district court had exercised jurisdiction to decide this question. They could not be heard above. The only thing that could be heard above was our appeal.

Justice CARDOZO. I suppose your position is that so far as any substantive right of the corporation is concerned the corporation by not appealing or petitioning for the certiorari has abandoned or waived that, and that there remains then only the question of adequate remedy at law which may in certain circumstances be waived or disregarded?

Mr. MCCLENNEN. Yes; that apart from the procedural obstacles in the way of employees raising any of these other questions in this appeal here, in this petition for certiorari here, everybody in sight except the Court has waived this question, and I submit that they have a right to waive it.

I might say one word more. There is no preliminary injunction here. None ever will be issued. There will be only a final injunction. The judicial power of this Nation is in this Court. They are a Court of equity. If finally it is determined that this is not a tax, if the section of the statute referred to prohibits this Court from issuing then an injunction, not against the collection of a tax, but against the collection of something which is not a tax, it would be unconstitu-

tional. This Court cannot have its powers taken from it in that way, when the substance of judgment in a court of equity and final relief enables the Court to issue an injunction. And of course the statute never was intended to cover a case where, before the injunction ever was issued, the Court of last resort had reached the conclusion that there was not any tax. It would not be applicable in terms under those circumstances.

Now, I would like to answer further Your Honor's earlier question on the matter of tax. What I referred to was what was said in *Flint* v. *Stone-Tracy Co.* (220 U. S. 107, 151):

> Although there have been from time to time intimations that there might be some tax which was not a direct tax nor included under the words "duties, imposts, and excises", such a tax for more than 100 years of national existence has as yet remained undiscovered, notwithstanding the stress of particular circumstances has invited thorough investigation into sources of revenue.

Of course, that does not absolutely say that there is no other, but it is pregnant with that suggestion, and I submit that if you look at the Constitution when you consider what was sought to be accomplished here, here were 13 sovereigns surrendering some of their taxing power to a new sovereign. Of course, if we had been set up as an unlimited sovereign—I don't mean that there was any limit on its sovereign powers, but those were in its category of Government, and if it had been an unlimited sovereign, there would be the inherent power to tax.

Such was not the case here. All the property, all the persons against whom taxes could be levied, were in allegiance to another sovereignty already, and that sovereign had equal powers to take everything that could be taken by taxation from them, and the Nation got only what those 13 sovereigns turned over; and that was the right to tax, and it mentioned these taxes.

Well, now, if those words should be read in the language of the times, in the light of the knowledge of the times, I respectfully submit that all they were talking about were direct taxes and excises, imposts, and duties; that that comprehended all of the power that was given.

You know how jealous the States were in giving up these taxing powers, and it is inconceivable that when they had made this one careful provision that the direct taxes should be done in this and this way, and the excises—and I use that in short for the other three—should be done in this way, it is inconceivable that they would have left another way of taxation which they did not design, as to whether that was to be apportioned among the States as they provide with respect to these taxes, or was to be made uniform or was to be done in some other way. Taxes meant, in the language of that day, direct taxes; and these others meant these other types.

Now, of course, duties may be laid aside and imposts may be laid aside, except so far as they are comprehensive of excises and duties; and the only word that can be used is the word which Congress recognized as the only one that would be applicable if there was any that was applicable; and they said they laid an excise.

Now, it is a word that must have some definition. There must be some limits to the taking of property from the citizen by the Government under the name "excise." The definition which we have proposed is the definition sanctioned by the cases. That is taxation, direct taxation, was tax upon the property—debatable whether it included personal property, but that is immaterial; real property any-

way, determined by its static value and irrespective of its use of non-use; and the excise was also a tax upon property, property in manufacture, property in sale, property in trade in any way—but property.

If we go further back, I submit that the word "tax", leaving out of consideration the capitation tax that is expressly provided for, is based upon the idea of property in some form. There must be something to be taxed.

Now, here the difficulty is evident in the language of the section. Section 804 is on page 8 of our brief. The sections there are not, you will observe, in order, because they are in the order of their sequence in consideration in the case. 804: "In addition to other taxes, every employer shall pay an excise with respect to having individuals in his employ."

What is the tax on? "With respect to having individuals in his employ." This was a Congress that had in mind at the time exactly how you talked when you were discussing a tax on something.

In 801, which is on page 9, the tax is on the income. "In addition to other taxes, there shall be levied and collected and paid taxes on income." It was on income. You could tell what they were talking about and what was being taxed.

What are they taxing in 804? No substance whatever. No individuals. No taxes levied on an individual. No taxes levied on a piece of property. And they do go on to give the guide for the measurement of the tax, but they do not tell what it is on. And it throws a great deal of light on the difficulties. There was not anything there to be taxed.

Now, when the word "excise" was used in 1788 it had a well-established meaning. The excises began in England. I think it was 1643, and we had them in Massachusetts in 1646, and they ran all the way down, and they were taxes upon property. A tax upon whisky was the typical thing. Tax upon tea was another. Tax upon salt. Tax upon green glass—things of that kind.

In the brief we have asked your consideration of these things, bearing on the meaning of this word in 1788: The things that had been called excises, the practical applications, what the word meant as it appeared in these statutes and ordinances; what the dictionaries of the day said about it.

Dr. Johnson's dictionary was 20 years old or so before this. I am speaking now of the vulgar dictionaries, not law dictionaries. The law writers spoke in the same terms. Blackstone speaks of the excise, what it is. That was 20 years or so before these words were used. In 1797, 9 years after, the Encyclopaedia Brittanica of that edition, takes Blackstone's definition as the definition.

The 13 States, when they adopted this Constitution gave power to levy an excise. What would you say that they gave power to levy by the term "excise"? Why, they gave the power to levy that which by the common speech of the day was an excise, and nothing else.

Of course, I don't mean that they could be levied only on chaises or property of that day. They could be levied on automobiles, although those did not exist then. But the employing of labor was a thing that occurred in those days, and if the act of employing labor in those days was not a thing upon which an excise could be laid, it was not comprehended by the term "excise", it has never become so by any change in conditions since.

If the suggestion is made in argument that we question the right to levy a tax upon a natural right, we make no such question, because the right to hold property is in this crude sense of the term a natural right. But we say that if in 1788 that was not the kind of thing on which an excise could be levied, there has been no chance since, and it is not a thing now on which an excise can be levied.

The next thing that we ask your consideration to is what was said in the adopting conventions by the advocates of the adoption of the Constitution. This excise was rather a hateful kind of tax. There was a good deal of apprehension about it, and the different ones advocating the adoption of the Constitution, in telling what the tax was, described it in the terms to which I have referred—tax upon property, tax upon property in consumption, in sale, in manufacture.

I respectfully submit that until someone can find a better definition it would be appropriate to take the definition which this Court has heretofore given, and that indicates that it is a tax upon property in action, in operation, in use, not a tax upon the capital but, as the very word indicates, something cut out of the property.

Some of you may remember when the corn was taken to the miller and he kept a tenth of it for the grinding. He excised a tenth of it for the operation. The Government excises a portion of the property. They take a portion of the property and cut it out for the Government, and then it is liquidated in money. That is the compromise of it.

I respectfully submit, therefore, that before we get to any other of the questions in this case this should fall, because it is not an excise and it was not within the power of the Congress to impose it.

The next question is what this tax was imposed for. The only title here involved is title 8, and the only sections directly involved are 804, putting the inposition on the employer to pay his own eventually 3 percent, and 802, putting upon the employer the duty to pay eventually 3 percent more, out of his own money. No segregation of that for the employee. He is to pay 6 percent, but the statute says that he can perform his obligations to his employee by paying him 97 percent of what he agreed to pay.

It is not a case where the employee is rendered liable for this tax. There are no circumstances under which it can be got from the employee. It is the employer that is the one to pay this second tax under 802, and he pays it just as he pays the one under 804. He pays his 6 percent and he pays his employee 97 percent of what he agrees to pay the employee.

That is the tax, if we may call it a tax. I submit that if it were possible to get away from this being an excise and put into some other kind of a levy, then it fails to be a tax because, characteristically, it is not a tax. The conception of a tax is something put upon property, and for the Government to seize from the individual something unrelated to property, save the capitation tax expressly for, is not a tax. It does not make it a tax to call it a tax under those circumstances.

Now, for what was this levy imposed? It is said, first, that it was just imposed to raise money. Of course, if it was a tax and was imposed just to raise general revenue for the United States, there can be no question that that is for the general welfare of the United States. To get money is for the general welfare of the United States.

It has to be determined once for all, I submit, whether this was laid for that purpose or was laid for some other purpose, and one cannot vacillate on that question.

I am called upon to present the argument in two ways, because I may not know in advance which will be your conclusion as to whether this is to raise a general revenue or is to provide old-age benefits; but it will be the one thing or the other in your judgment, and not a little of both, because the elements to be considered in determining whether it is good or not are so different in the two cases.

Reading the act, I submit that there can be no question in anyone's mind but what this levy was made to provide old-age benefits. My adversaries have called attention in their brief to the fact that this might have been several different acts, the different titles might have been different acts. Well, they might have been, but they were not. It would have been pretty difficult to steer some of those titles through as separate acts without any association with their neighbors, but this was one act. I take it we may assume honesty and sincerity in Congress, and they say, not that it was the "Revenue Act of 1935"; they said it was the "Social Security Act." Eleven titles were the Social Security Act, and they start out—this is what the act is for:

"An act to provide for the general welfare by establishing a system of Federal old-age benefits"—a system of Federal old-age benefits—"and by enabling the several States to make more adequate provision for aged persons, blind persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws"—not to provide any unemployment compensation, but only the administration of the States' laws, leaving it to the States to provide for the way in which—not exactly to provide for the way in which—to provide whether they would do it in the way that Congress said it ought to be done—"to establish a Social Security Board"—not a tax-gathering board but a Social Security Board—"to raise revenue; and for other purposes."

The "raising of the revenue" got down in with the "other purposes." It was the residuary clause there.

This was passed by a Congress dependent upon the suffrage of the country, to be brought back into office in accordance with the way in which they had administered the affairs or legislated for the affairs of the country, and they selected, we may assume, an honest title, to go forth into that community to let it be known what they had done, and what they said first was "by establishing a system of Federal old-age benefits" by a "security act"—security. Somebody could have a right to the benefits. It is true they might repeal the act. They might permit a breach of faith and take the security away again after they had given it in terms which the common man whose mind operated honestly would understand to be the giving of security.

They pick out as the first thing to tax the wages of the smallest wage earners in the country. They exempt from the tax the wages above $3,000 a year. Is it within the bounds of reason to assume that the Congress would have done such a thing as that in order to raise general revenue'? I submit that it flies in the face of all reason to suggest such a thing as a possibility. The reason that they selected those wages to be imposed on was because the recipients, the otherwise recipients of those wages, would be the ones who were going to have the security of an old-age benefit. That was the only reason that they did it.

Now, I dare say that it may be that the constitutional power of the Congress to repeal this act after they have collected from the small wage earners this money exists, to deprive them of the security which

they said they were to have for paying this tax. It may be it is within the power of the Congress to do that. Congress has power to be quite perfidious without transgressing the limitations of the Constitution, but I venture to say that no Congress would ever be found that would be guilty of the degree of perfidy that there would be in the repeal of this act without making tantamount provision otherwise for the same end.

Then you have the other thing. The wages that are taxed are not all wages even below the $3,000. They are not the wages of domestic servants or farm laborers, and there are other exemptions that it is unnecessary to refer to, because these two prominently present the question: Why were they not taxed? Why should not farm laborers, some of whom very likely were getting more than the cobbler's apprentice that is taxed—why should they not be taxed? Why, for the obvious reason that this idea of old-age benefits was one that was to be limited to the same classes of people. If there had not been the necessity for this circumlocution due to the different sovereignties under which we live, they would have done what they recommended be done in the case of the unemployment compensation. They did not call for a tax there; they called for a contribution. The employees that were to get the benefit of this money were called upon to make a contribution, and that is the reality of what this is. And the employers were called upon to make the contribution, and they were the employers of just the same classes.

If you take section 210 that defines the prospective recipients of the benefits, and section 811 which defines the ones to be taxed, they are identical in language except for one section about the over 65, and it is perfectly obvious that the reason the over 65 is left out in the one clause is because they were going to fall at that age into the benefits that were coming in the benefit section.

If you looked only at the act itself, applying it to just the common knowledge of the community, of what was being talked about, no one, I submit, would have any doubt but what in the substance of the thing that money was being raised for the purpose of creating this security fund. We had had these very troublesome times, and men over 65 years of age are as hard up now as we hope they are likely to be hereafter, but this act postpones until 1942 the time when any of them shall have any of these benefits. If this was the provision out of the general funds of the United States to provide for these people who were in need in this way or deserving in this way, if they are in need, it would begin now.

The obvious reason why there is a postponement until 1942 is because these funds raised under title 8 are to go to create the reserve fund out of which these payments shall be made. These payments raised in the present year, if raised in this way, would be just as available for the 65's and over now, and paid currently. They would not be sufficient until the accumulations have been made of several years, and then comes the time when these payments are to be made. That indicates as clearly as could be indicated that this money was raised under title 8 for the very purpose of furnishing the reserve fund, provided for by title 2.

We are not here complaining of any appropriation. We are here complaining of the fact that an attempt is being made to take money from us under the guise of a tax for the purpose of providing old-age benefits. If that purpose is not a Federal purpose, then the require-

ments of the enacting clause have not been met. The validity of a tax depends not only upon its going upon the things upon which it may go, but that it is raised for the purposes of the United States, namely, to pay its debts, provide its common defense, or to provide for the general welfare of the United States.

We submit that the providing of an old-age annuity fund for the needy and the nonneedy persons who have sustained only the calamity of living after the age of 65 is not within the province of the United States, and that the tax must fall because it lacks that essential quality of a Federal purpose.

Now, before going at length to the discussion of the Federal purpose, I would ask your consideration next to the question whether this tax meets the requirement of being uniform and not capricious.

There is no language in the Constitution that says that a tax shall not be capriciously laid. No language was necessary, because an imposition upon the citizens by the Government which is capricious is not a tax. The whole conception of taxation is the raising of money by some fair method, and of course within the boundaries of its powers the method that the Congress deems to be fair is the one that must prevail. "Reasonably levied", "proportionally levied"—various words used to define, but repeatedly this Court has said that if the selection is capricious the tax is bad.

Now, assume that I am wrong in asserting that this tax is laid for the purpose of providing old-age benefits, and assume for the moment that it is laid for the purpose of raising general revenue. We forget title II altogether now and we look at title VIII.

The "because" of the tax is the employing of labor in industry and trade and in all other ways in which there may be employment, except agriculture and domestic service. We are not speaking now of the fact that the old man on the farm can still work, and the old man in the cobbler's shop cannot work. I should think that is, of course, a matter for separate debate. But we are speaking now not of what he is going to get out of this at all; we are speaking of who should pay this tax; what sort of people should pay this tax.

A country carpenter, if he employs a journeyman, must pay the tax. A country farmer employing a laborer does not pay the tax. The affluent citizen who keeps a horde of servants does not pay the tax. The cobbler who employs a worker at the same bench with him may never have started a week with $10 to his name. Property has nothing to do with it. Capacity to pay has nothing to do with it. The success of his business has nothing to do with it. The extent of his income has nothing to do with it. The profits that he is making have nothing to do with it.

Can anyone think of any reason for pecking at the particular ones pecked at? For that, I take it, is the test of caprice. If this is for general revenue you could not think of a more excellent example of pure caprice than the way that this has been laid. It might have been laid exclusively on baldheaded men or on gray-haired men or on those who wore white shirts or those who wore blue shirts. There is no reason whatever that can be assigned, I respectfully submit, for the selections made if this was being raised for general revenue. It lacks all the characteristics of a levy of taxes for the support of government.

Now, I ask that you assume that I am right in asserting that the tax is to provide old-age benefits but that it is not a regulation; that it is a

tax, a revenue-raising measure for the particular purpose. If it were a regulation, one could see how different employments might be classified and contributions exacted from the particular classes by reason of the particular benefits that were to come to that class or to the members of that class. But we cannot view it in the light of a regulation here, because I suppose that everyone admits that this regulation of employment in domestic industry, in industry within the State, is not within the power of Congress, and that this can be supported only if it is a tax.

Well now, while the measure is the money paid out in wages, so far as you can get any indication of what the tax is for, it is for employing people. If you employ people, because of that fact you must pay this tax. Well, it is not even that; for, while the thing, the employing, the element of employing, is picked upon as the thing that shall determine whether you will pay the tax or not, it is not applied rationally or uniformly, because it is not put upon all those who do that thing. It is not put upon those who employ in agriculture. It is not put upon those who employ in domestic service. And therefore it lacks a rational basis. It is a capricious tax in that sense.

Then we come to the question whether the furnishing of old-age benefits is a Federal purpose. That, of course, takes us into various elementary considerations of the history of the creation of this Nation.

I respectfully submit that the Government of the United States has no power and it is under no duty to support the indigent of the several States.

When this Constitution was in process of adoption or was being promoted for adoption there was no one within the area to be considered who was not the citizen of an absolute sovereign government of the State. The people who became the people of the United States could not have adopted the Constitution of the United States without consent of the States. It would have been an act of treason to the State for them to adopt the Constitution. One of the necessary results of the sovereignty of the States was that individuals owed complete allegiance to the State, and it was the States and not the people of the United States that adopted the Constitution.

ART. 7. The ratification of the conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same.

We may assume that in a civilized community the sovereign is under the duty to prevent the starvation of the people of the sovereignty and that the providing of poor relief to those who can qualify for it is a mere performance of governmental duty. It was the duty of the State in 1786. Each of those States had that duty. They had the correlative power of taxation for the performance of that duty.

The Constitution may be searched in vain for any clause or any combination of clauses that transfers that duty to the United States. There it rests, it has been recognized through all our history that there it rested, and that the States retained the power, the full taxing power, to provide for the carrying out of that duty.

Of course, I do not refer to what may be the duty of the United States to take care of those within its category of government, the employees engaged in interstate commerce, the employees of the Government itself, those who are engaged in defending the United States or carrying on war. I am referring to those persons who merely live within the several States.

The Government of the United States was never given any power to legislate even for the general welfare of the United States. I am not approaching yet the question of taxation, but I assume that it is now well settled that the Government of the United States has no power to regulate the general welfare, to provide those things that a soverign government must provide in the way of the ordering of the community in which the people of the States live.

It was set up for two perfectly clearly set forth powers: One was relations of the group to the outside world, and the other was the mutual relation between the States; and, of course, the most prominent feature of this latter is in interstate commerce.

One has only to look at the Articles of Federation, which were the forerunner of the Constitution, to see these same things set forth there. The Articles of Federation were for the purpose of taking care of the general and mutual welfare, and, of course, it requires no argument that the Federation got no power to control the internal affairs of the States or to require the citizens of Georgia by taxes to support those of New York above the age of 65 years.

No more did the United States. A very short time had elapsed between the two documents. The same words were used in this respect in the Constitution, except that the word "mutual" was dropped out and an amplification of that was provided for in interstate commerce, and the various special things that were pointed out. Interstate commerce probably was in and of itself large enough to take care of all those matters where the States might come in conflict. They could no longer derive those things by treaty among themselves or by warfare between them. That was turned over to the United States.

The general welfare of the United States was the general welfare of the Government of the United States. I hope that I may be excused by this learned Court from speaking on the subject about which the Court knows so much more than I do, but there are indications of not——

Justice SUTHERLAND. I am sorry, Mr. McClennen; I don't hear all you say. You let your voice drop.

Mr. MCCLENNEN. I was not saying anything really that was worth while.

The power to tax was given to this Nation to provide for these definite things: The common defense of the United States, the payment of the debts——

Justice BUTLER. You are not speaking quite loud enough for me to hear well all you say.

Mr. MCCLENNEN. The power to tax was given to provide for the common defense, the payment of the debts, and the general welfare of the United States. "Of the United States" was there used as being a Government, not a Territory, not the several peoples within the Territory. It is used after "debts" and "common defense." Obviously, it was not the debts of the people within the United States, the territory of the United States, that were to be paid. It was the debts incurred or assumed by the Government of the United States. "Welfare of the United States" is used in exactly the same way, and welfare of the United States when power to tax is given is the same thing as when duty to govern is imposed. There is a duty in the United States to do certain things, and there is a power in the

United States to raise the money with which to do those things, and that is what is the "welfare of the United States."

"General welfare"—we may concede that it is for the welfare of the United States that everybody should be supported by the Government. I resent a little its being limited to those over 65, but should get over that resentment in a little while. If there is any duty to support those over 65, there is a duty to support the infant who is unable to support himself; there is the duty to support the cripple; there is the duty to support the incompetent; there is the duty to support everybody who, by the exercise of the best of his abilities, cannot support himself, and it may be that it would be for the general welfare of the United States that everybody should be supported by the Government. The welfare recipient would advocate that, in all probability.

There is no age limit to this, and it is not a question of whether it is for welfare; it is a question whether it is for the welfare of the general Government of the United States. Can anyone think of anything that would be much more for the welfare of the people of the United States than to stamp out the use of narcotics? Yet it seems to have been taken for granted—and more than that, expressed—that that is not a United States purpose. There are many things that are for the welfare of everybody within the United States that are not in any way contributive to the general welfare of the Government of the United States. I respectfully submit that the support of the aged is a thing not in character a part of the general welfare of the Government of the United States. If it is, the duty is owed, and this Court has just said that if there is the duty, though it be not a legal duty, it is the moral duty, there is the power to tax for its performance and that it comes within the debt clause, that the debt clause is broad enough to take care of that.

The Government of the United States was never set up as an eleemosynary corporation. The Government of the United States cannot engage in the administration of poor charity, getting its resources for that charity from the taxpayers of the United States. Of course, there may be cases where what looks like charity is merely casting the bread on the water so that it may return after many days and is a good commercial transaction. It may be that there is a power to perform mere charity to foreigners, to keep the foreign relations of the United States in the best of condition. There may be cases where what looks like charity is the performance of what you have just said is the debts of the United States. But there must be some governmental obligation, some governmental duty, in order that there may be the power to tax for it.

The States did not give to the Government of the United States the power to draw money from the citizens of the States to give away. There cannot be found anywhere within the Constitution any provision for any such power. It was set up as a government to protect the rights of all against the outside world and to determine the rights of State against State and the people of one State against the people of another State. The idea that the people of South Carolina and Virginia could be taxed to take care of the paupers of Massachusetts and New York would have created consternation had it been suggested at the ratification tables when the Constitution was being adopted.

In reality, what is being dealt with here is a regulation and not a taxation for the support of Government. The same question has

recently been dealt with under almost identical conditions by the Privy Council in deciding where lay the powers as between the Provinces and the Dominion of Canada, where they held that the Dominion Government, having full taxing power but no power of regulation of the affairs within the community, could not levy a tax for the purpose of its being paid into a fund for the support of so much of the unemployed, and, of course, the unemployed and the aged would come within the same class. The reason why it is necessary to take care of the aged is because they are to such an extent on that account the unemployed.

That is a very analogous situation to the one that is presented by the Constitution of the United States. There is the power to tax but not the power to regulate. And what this amounts to in real substance is a regulation. When a State does it in an unemployment act, it exacts a contribution from employers with which to pay employees of themselves and others in times of unemployment. It amounts to being a regulation by law that a man shall not employ another without paying him a certain wage, but the wage to be paid in part in money and in part in an assurance of money to be paid him later. He earns it by working. He earns his old-age benefit by working. He gets his old-age benefit just as he gets his weekly wage, as a return for the work that he has done. And it is only in this way that there can be justified the assertions that this is a provision for contributive old-age benefits as distinct from those merely furnished by the Government, regardless of what they were to have done or any contribution that he has made.

The act came through exactly as, or in all substance as, had been suggested, urged, by the commission that had been appointed by the President, and that was a commission, not on finding other sources of revenue for the United States but a commission on the subject of economic security. He appointed that commission. Then he appointed another, again not to find sources of revenue for the United States, but an advisory council on economic security, and that commission reported. In a 50-page report there is no talk about raising revenue for the Government of the United States, and there is much about the different subjects that are dealt with in the Social Security Act, and they propose under the title "Old Age Security" compulsory contributory annuities—compulsory contributory annuities, not annuities furnished by the United States going out and finding its means of doing it by the raising of general revenue. A man when he pays a tax does not make any contribution to the building of highways. This was not to be an act for the payment of a tax. It was an act to provide for compulsory contributions, and they say:

> The satisfactory way of providing for the old age of those now young is a contributory system of old-age annuities. This will enable younger workers, with matching contributions from their employers, to build up a more adequate old-age protection than it is possible to achieve with noncontributory pensions based upon a means test.

"To build up"—they were going to build it up; the workers and their employers were going to build it up by making contributions to it, and the way in which it was worked out was this method, that "the burden upon future generations for the support of the aged can be lightened in this way."

That is, the tax upon public resources obtained by taxation will be diminished by making the workers during their period of working

and their employers during that period make their own contributions. Well, that is a regulation of a method of employment, a way in which industry shall be conducted within the State. It is not taxation. I am not suggesting that there may not be taxation for a particular purpose where the payers of the tax are particularly benefited by that purpose, and that it may not be imposed on a certain portion, but that is not what was done here. That was not the aim. That was not what they were talking about in these preliminaries. And they go on:

> The contributory annuity system include on a personal basis all manual workers and nonmanual workers earning less than $250 a month.

You will observe the very minimum of $3,000 that was adopted into the act.

"The compulsory contributions are to be collected through a tax on pay rolls and wages, to be divided equally between employers and employees." "The compulsory contributions are to be collected through a tax"—they were going to call the contribution a tax, but it was a contribution. It would have been no different if they had not used the word "tax" and had used the word "contribution", and if it had not been for the possibilities envisaged in the taxing clause they would have spoken in the same language that they speak in the State act, "a contribution". Workmen's contribution acts—same sort of thing. The employers, regardless of responsibility for the act, make a contribution to the fund that shall take care of the misfortunes of the employee, not of himself, but of himself and others of the class or generally.

That is, I submit, clearly defined as not taxes but enforced contributions, if we look at the report of the commission. That was submitted by the President to the Congress with the recommendation for legislation in accordance with it, and the legislation that was enacted by Congress was in all substance in accordance with it. The Committee on Ways and Means in their report says of this part—

> and to make a beginning in the development of measures which will reduce dependency in the future, to assure support for the aged as a right.

Now, no one would ever think when he was paying taxes that he got by that payment of taxes a right to be supported by that Government in his old age because he paid taxes, even when he had money enough to support himself.

The Senate committee report follows the same line:

> Means of providing old-age security as a right and not as a public charity.

What has been done here is to set up a regulation of the affairs of the State. Now, whether we should have old-age protection in this way or not is a question of policy, and I do not speak for a moment to this Court on the question of whether it is good policy or bad policy because, obviously, it is not for this Court to say. But it is a question of policy to be determined by the sovereign government.

Now, the sovereign government of Massachusetts may believe that it may be for the welfare of the State to have people do their own saving, build up their own strength of character, have those who are frugal and prudent come out in old age better than those who are wasteful and extravagant. It may be that this is a more humanitarian idea that should prevail, and another government may take another view of it. But has not Massachusetts the right to say

"Our citizenry shall continue to be governed and regulated under such a system as that"?

We think of a pure gift as not being a regulation, but it is. Regulation does not mean speaking in terms of compulsion. Regulation is determining the ways in which the affairs of the community shall run. Massachusetts, if you please, says "We believe that it would be better to take care of those who must be taken care of in old age in a meager way and build up this strength of the community, strength in moral character and substance, in this way." May not Massachusetts do that? Has Congress the power to prevent that any longer being the policy in Massachusetts? I submit there is no provision in the Constitution anywhere that permits the Congress of the United States to interfere with that method of running the internal affairs of any State.

## ORAL ARGUMENT IN REPLY ON BEHALF OF THE PETITIONERS, BY CHARLES E. WYZANSKI, JR., SPECIAL ASSISTANT TO THE ATTORNEY GENERAL

Mr. WYZANSKI. May it please the Court, I shall address myself to the three challenges which have been directed to this statute.

It is asserted, first, that the tax laid by title 8 is not a valid tax qua tax. It is then said that a person who is assessed for the tax under title 8 has the right to refuse payment because title 2, which provides for old-age benefits, is invalid and unconstitutional. And finally, it is said that, even if the tax is good qua tax and the spending is good qua spending, taken together these two titles form a regulatory system not within the power of Congress.

The first point is whether the tax is good qua tax. As Your Honors will recall, in the *Steward case* (October term, 1936, No. 837) we argued rather elaborately the point that the Constitution authorizes the imposition of an excise tax upon employers measured by pay roll. The tax is upon something definite, despite the contention to the contrary by the respondent. It is upon the receipt of services, which is to all effects and purposes just as taxable as the receipt of property, which was considered in *Knowlton* v. *Moore* (178 U. S. 41).

It has been argued at the bar that there was no precedent in the eighteenth century which would have familiarized the Constitutional Convention with this sort of tax. As I said to Your Honors in the *Steward case*, there was in 1777 in Great Britain a tax laid upon employers of domestic servants, the tax to be at the rate of 21 shillings per employee. And if there is one subject which the framers of our Constitution knew, it was the taxing policy of George III. This tax was, in fact, in England called an excise tax, as an examination of the 1869 reenactment of the 1777 statute shows.

Not only is the tax a valid excise tax, but it is clearly "uniform" under the interpretation of the rule of uniformity again and again given by this Court. The rule is that the liability shall be the same in every State. And there can be no question whatsoever that the canon of uniformity has been here observed.

It is suggested that the tax is arbitrary and capricious, in violation of the fifth amendment. To that we have already given our answer in the *Steward case*. This Court has again and again stated, perhaps nowhere more clearly than in *Flint* and *Stone Tracy* in 220 United

States Reports, that Congress may select for taxation such subjects as it sees fit; and despite the contrary contention from the respondent, the *Connolly case* (229 U. S. 322, 329) makes it clear that in questions of taxation the power of selection is greater, not less, than in questions of regulation.

Before passing to other questions, perhaps I ought to mention a point which Mr. Justice Butler raised this morning, and that is the numerical coverage of the tax. The Senate committee report which accompanied this bill estimated, at page 26, in table 9, that the number of gainfully employed in the United States is something short of 47,000,000 persons, and the number of persons covered by this tax was estimated to be 25,000,000, and that estimate has fallen short of the fact, because there are, indeed, 26,000,000 or more persons who believe themselves to be covered by the tax and who have registered accordingly.

I pass now to the second question:

Justice BUTLER. That leaves 21,000,000?

Mr. WYZANSKI. Twenty-one million. That includes those who are self-employed or otherwise gainfully employed. Your Honor asked in the *Alabama Unemployment Compensation case* what the term "gainfully employed" meant. That term is utilized in the census to cover everybody who works at a regular job, whether he works for himself or his family or works for someone else.

Justice BUTLER. The number included in the exemptions here under farm labor, and so on?

Mr. WYZANSKI. That means 21,000,000 out of the 47,000,000 are not covered; 47,000,000 are gainfully employed in the United States; 26,000,000 are in employment covered by this act; 21,000,000 are not in employment covered by this act.

I come to the second question, which is whether——

Justice BUTLER. Have you seen the figures on page 41 of Mr. McClennen's brief?

Mr. WYZANSKI. I think, though Mr. McClennen may correct me on that——

Justice BUTLER. They seem not to be in harmony, but do not delay yourself about it.

Mr. WYZANSKI. Mr. McClennen says they come from the House report. I didn't know that.

The second inquiry is whether a person who pays the tax under title 8 may raise any question with respect to the validity of the old-age benefits under title 2; and if so, whether those old-age benefits are valid exercises of the power entrusted to Congress under article I, section 8, clause 1, of the Constitution.

Your Honors will bear in mind that the tax collected under title 8 is in no sense earmarked. We therefore do not have the problem which was before this Court in the *Coconut Oil case* (*Cincinnati Soap Co.* v. *United States*, No. 659, October Term, 1936) or in the *Butler case* (297 U. S. 1). Your Honors also will bear in mind the fact that this particular tax is itself in no way regulatory, as the tax was deemed to be in United States against Butler.

The question arises, then, whether this case does not come within the rule of *Frothingham* v. *Mellon* (262 U. S. 477), so that the taxpayer under title 8 stands in no position whatsoever to question title 2.

Justice BUTLER. What was the precise question involved in that?

Mr. WYZANSKI. In *Frothingham* v. *Mellon* the question was whether a general taxpayer might question a particular appropriation.

Justice BUTLER. What was the appropriation for?

Mr. WYZANSKI. The appropriation was for maternity welfare.

The question then comes whether title 2 is a valid exercise of the power of Congress. It has been suggested by the respondent that the only power which Congress has with respect to appropriations is to appropriate to pay the debts of the United States and to provide for the common defense and general welfare of the Government of the United States. It seems to us that that reading of the clause is much too narrow and in conflict with the decisions of this Court in *United States* v. *Realty Company* in the one hundred and sixty-third United States, and more particularly in conflict with the decision in United States against Butler and the decision of the other day in the *Cincinnati Soap case*.

It is our view that this Court, having accepted the Hamiltonian and Story doctrine, has committed itself to a much broader view of article I, section 8, clause 1, than the respondent in this case takes.

Only the other day in the *Cincinnati Soap case* Your Honors pointed out that it would "require a very plain case to warrant the courts in setting aside the conclusion of Congress" that an expenditure was for the general welfare.

We submit that this is no very plain case for setting aside the conclusion of Congress.

Mr. Jackson, in his opening argument, made clear the extent to which the number of aged is increasing in this country. He called your attention to a table which showed that in 1870 the aged constituted only 3 percent of the total population. He pointed out that in 1930 those over 65 had come to be almost 6 percent of the population, and he spoke of a projection which indicated that in 1980 the probabilities were that there would be 22,000,000 persons in the United States over the age of 65 and that these 22,000,000 persons would constitute 14 percent of the then estimated population of 158,000,000.

These aged persons are already finding it increasingly difficult to get and to keep employment. We have passed into a phase of urban industrial life in which, as Mr. Jackson stated, cash is an absolute necessity for survival. And yet, these aged persons find it more and more difficult to retain the jobs that they have and to get new jobs when they lose their employment. If they retain their jobs, often they suffer a reduction in wages. Clearly, if they are paid on a piece basis, age counts heavily against them. Even where that is not the case, new technical processes to which they cannot adapt themselves result in a reduction of their compensation from their particular employers. And then, if in time of crisis or in a cyclical depression or a seasonal depression they lose their jobs, it is very difficult for them again to secure employment.

In answer to a question from Mr. Justice Stone this morning, Mr. Jackson referred to a statement which was to be found in the footnote on page 58; and in that statement in the footnote at page 58 it is shown that a man at the age of 40 has only 19 percent of the chance that a man at the age of 20 has of getting a job; and when a man gets to be between 60 and 64 there is a handicap of 83 percent in his case as compared with workers as a whole. Needless to say, the handicap for aged women is even greater.

To take care of this danger of old age a number of different attempts have been made. In the first place, there are some private pension plans. But those private pension plans, as recently as 1930, covered only 4,000,000 employees, and many of those were on the railroads. Of those covered by the plans only 90,000 got benefits in any one year. Then, there is group insurance. The figures on group insurance show that in 1935 only 6,500 in the United States got benefits. Finally there are trade-union plans. Those trade-union plans, according to the most recent estimate, spent less than $4,000,000 a year. That means that if they gave a benefit of $15 a month they covered less than 25,000 persons.

Not only are private plans inadequate, but charity is also inadequate, partly for the reason that Mr. Jackson gave and partly because charity does not address itself to a problem of this sort, which is permanent and which is a problem very different from that which private charity has cared for, except in a few instances.

In the end, the people who become aged turn for their relief to persons other than private employers and charity. The Social Security Board has estimated that of the people over 65 in the United States two-fifths to one-half are dependent on their families. About a quarter, perhaps no more than a fifth, are dependent upon public relief of one sort or another. One-eighth are able to earn something, and one-sixth have some savings.

The consequence is perfectly obvious. The States are tremendously overburdened with this problem of the aged. In the year 1936—that is, last year—the States spent for the aged $161,000,000, of which about one-half was met from the Federal Treasury.

Justice SUTHERLAND. Met from what?

Mr. WYZANSKI. Met from the Federal Treasury by direct grant to the States.

Can there be much question that at this rate of growth the States will be unable to bear the burden? It is said that if it were not for these old-age benefits, by 1950 the States alone will be called upon to spend $700,000,000 annually for their aged. In no year of the depression did they spend more than 500 million for the unemployed. How are they possibly going to make provision for the aged unless steps are taken now?

And the States cannot act alone in this problem. There is first the very serious question of records being kept. In a country like ours, young as it is, people move around from one part of the country to another, and it would be very difficult to have adequate records in the single States.

Moreover, it is quite questionable whether the States could, acting alone, impose a tax that would not put them at a grave economic disadvantage with their sister States.

If the Federal Government endeavored to make some sort of subvention to them the consequence would be that the Federal Government would have to determine whether each State should have a reserve plan or a pay-as-you-go plan. It would have to lay down many details which are referred to in our brief and which are explained in a very excellent article by Prof. J. Douglas Brown, to which we also refer, and which will be found in Law and Contemporary Problems, April 1936.

In this situation the Congress has enacted title 2. Can it be said that this is a very plain case in which Congress has exceeded the

authority given to it? This expenditure is clearly national, general, and not local. It meets the tests laid down by Story and by Hamilton.

In the course of the argument in the *Cincinnati Soap case* it was suggested from the bench that an appropriate test of the general-welfare power might be whether the expenditure met a national objective. That test is the test which Chief Justice Marshall had in mind, for, in *McCulloch* v. *Maryland* in the Fourth of Wheaton, at page 409, he refers to the power of the National Government to apply the revenue for—and I quote—"national purposes", which is a much broader power than the power that the respondent believes has been given to Congress.

If, as we assert, title 8 is good as a taxing measure and title 2 is good as a spending measure, it seems to us very difficult to understand how the two of them taken together can be invalid. Ever since *McCulloch* v. *Maryland* (4 Wheat. 315), and indeed as recently as the *Norman case* in 294 United States Reports (294 U. S. 240), this Court has laid down the principle that two powers may be used in conjunction as well as severally by Congress, and we see no reason why that principle does not apply here.

Indeed, if the two titles are here read together instead of separately, we think our case may be stronger rather than weaker, for much which seems capricious to the respondent has a clear explanation if the two titles be read together.

But it is said that reading the two titles together we find an expropriation and a regulation by Congress in a field reserved to the States.

The charge of expropriation seems to us plainly unfounded. Here the money taken from the taxpayer goes into the general Treasury. It is in no sense earmarked for anyone. But even if it were earmarked to pay the benefits, that would not make it an expropriation. From early history the proceeds of taxes have been earmarked for special purposes. This Court recognized that fact as recently as Monday last in the *Cincinnati Soap case*.

Another very interesting precedent for this tax is furnished by a statute of 1601 in England, the statute of 43 and 44 Elizabeth, Chapter 2, which imposed so-called "poor rates", which are taxes, upon occupiers of land, the money to be earmarked to pay relief to those of the poor who were not able-bodied and to put those who were able-bodied to work.

It seems to us that the correct definition of a tax was given in the *Butler case*, where it was said at page 64 that the power to tax is "the power to tax for the purpose of providing funds for payment of the Nation's debts and making provision for the general welfare." This tax, we contend, is a tax to make provision for the general welfare, if it is not a tax for the general revenue, and in either view is entirely valid and not an expropriation.

I turn now to the charge that it is a regulation, and first of all I note that this statute in none of its parts requires any man to retire from work at any time. It has no significant tendency to induce a man to retire, for the benefits are conservative in amount.

Moreover, I point out that the tax is not levied on the employment of a man who is over 65. And why not? In order that there may be no inducement for a man when he reaches the age of 65 to retire. The employer is encouraged to keep him at work, and the employee is encouraged to stay at work.

It is sometimes said that this is "a system of social insurance." It matters not what the label is, for here we have nothing but an exercise of the taxing power and the spending power. That names are unimportant is shown by *McCulloch* v. *Maryland*, where this Court upheld a bank, although the power to create a bank is not in specific terms given in the Constitution. The bank was the resultant of the exercise of powers conferred. And so here, if this be social insurance, it is the resultant of powers specifically conferred.

It is also said by the respondent that this is a case in which we have a regulation of the wage relationship. Now is that so? I point out that nowhere in this statute is the employer forbidden to deduct from his employees the amount which he pays in excise taxes. The employer is at liberty to reduce by 1 percent the wages of his employees if he wishes to do so. I do not mean to say that I would encourage that practice, but it is open to the employer to adopt the practice, for there is nothing in the statute which forbids it.

Moreover, it cannot be said that any employer knows in advance that his employees—that his employees—will get any part of what that employer or other employers pay to the Treasury of the United States. If an employee dies before he reaches the age of 65—and many employees of course will die before that time—his estate will receive back merely the amount he has paid in taxes plus some 16 percent increment, and that 16 percent increment may be much less than the interest he would have earned on that money deposited in a savings bank.

Three cases are referred to as having some bearing upon this subject: *United States* v. *Butler*, (297 U. S. 1), the *Railroad Retirement case* (*Railroad Retirement Board* v. *Alton R. R. Co.*, 295 U. S. 330), and the decision of the Privy Council in *Attorney General of Canada* v. *Attorney General of Ontario* (No. 101 of 1936).

This case is not like *United States* v. *Butler*, for here there are no regulatory features whatsoever, no contracts, no other devices to regulate.

The *Railroad Retirement case* is not an authority here, for that case involved a statute which was passed under the commerce power, which was considered under the commerce power, and was condemned under the commerce power. There clearly regulation was involved, for men over the age of 65 were required to retire unless some particular exemption was made in their case.

The *Privy Council case* has also been referred to by the respondent, and I think in turning to that case, which goes under the name of *Attorney General of Canada* v. *Attorney General of Ontario*, it is important to bear in mind the caveat which Mr. Justice Holmes uttered in *Diaz* v. *Gonzales* in 261 United States. He reminded us that when we turn to a foreign system of law our tools of grammar and logic may be inadequate to understand the tacit assumptions which underlie a case.

And that is very true here, for, in the Dominion Constitution it is provided that those powers which are given to the Provinces are exclusively reserved to them, a situation which, as McCulloch against Maryland reminds us, does not exist under the tenth amendment.

Moreover, that statute was a statute drafted in terms upon a contributory basis and stands like the Railroad Retirement Act and not like this act.

One final word about this statute as a whole: This statute has the great merit of laying "visible" taxes. It teaches effectively that people do not get something for nothing. It correlates, if you will, the benefits to the burdens.

There is another thing to be remembered about this statute. The benefits are keyed to wages, and that preserves a very important factor in our national life. It makes certain that benefits in different parts of the country will correspond to wages in different parts of the country, and the need and the value of that correlation will be well understood by Your Honors.

Another point about this statute is that it meets not only the need of the dependent aged; it meets the need and mitigates the dread of people before they reach old age, for no man before he reaches the age of 65 knows whether or not he will be dependent on that date, nor does he know for how long an old age he must provide. This statute reassures him and thereby breeds in the body politic an important self-confidence.

And finally, this statute, by its relation of taxes and benefits, if there be a relation, and by its moral promise of future benefits, gives to every man a vital stake in our present political and economic order.

(Whereupon, at 4:30 p. m., the Court adjourned until 12 noon Monday, May 17, 1937.)

○

74TH CONGRESS
1ST SESSION

# H. R. 4120

IN THE HOUSE OF REPRESENTATIVES

JANUARY 17, 1935

Mr. DOUGHTON introduced the following bill; which was referred to the Committee on Ways and Means and ordered to be printed

# A BILL

To alleviate the hazards of old age, unemployment, illness, and dependency, to establish a Social Insurance Board in the Department of Labor, to raise revenue, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

## TITLE I

### APPROPRIATION FOR OLD-AGE ASSISTANCE

SECTION 1. For the purposes of this title, there is hereby appropriated, from funds in the Treasury not otherwise appropriated, the sum of $50,000,000 for the fiscal year ending June 30, 1936, and there is hereby authorized to be appropriated for each fiscal year thereafter the sum of

$125,000,000, of which sums 99½ per centum shall be apportioned among the several States as hereinafter provided.

ALLOTMENTS TO STATES FOR OLD-AGE ASSISTANCE

SEC. 2. The Federal Emergency Relief Administrator (hereinafter called the "Administrator"), as soon as possible after the commencement of each fiscal year, shall make allotments, in amounts as provided in section 6 of this Act, to each State which, through a State old-age authority, has submitted and had approved by the Administrator a State plan for old-age assistance, and which, through its legislature, has accepted the provisions of this title: *Provided*, That such acceptance may be made, when such legislature is not in session, by the Governor of such State, to be effective until the close of the next session of such legislature thereafter.

DEFINITION OF OLD-AGE ASSISTANCE

SEC. 3. As used in this title, "old-age assistance" shall mean financial assistance assuring a reasonable subsistence compatible with decency and health to persons not less than sixty-five years of age who, at the time of receiving such financial assistance, are not inmates of public or other charitable institutions.

APPROVAL OF STATE OLD-AGE PLANS

SEC. 4. A State plan for old-age assistance, offered by the State authority for approval, shall be approved by the Administrator only if such plan—

(a) Is State-wide, includes substantial financial participation by the State, and, if administered by subdivisions of the State, is mandatory upon such subdivisions; and

(b) Establishes or designates a single State authority to administer or supervise the administration of the plan and insures methods of administration which are approved by the Administrator; and

(c) Grants to any person whose claim for assistance is denied the right to appeal to such State authority; and

(d) Provides that such State authority shall make full and complete reports to the Federal Emergency Relief Administration in accordance with rules and regulations to be prescribed by the Administrator; and

(e) Furnishes assistance at least great enough to provide, when added to the income of the aged recipient, a reasonable subsistence compatible with decency and health; and, whether or not it denies assistance to any aged persons, at least does not deny assistance to any person who

(1) Is a United States citizen; and

(2) Has resided in the State for five years or more within the ten years immediately preceding application for assistance; and

(3) Has an income which when joined with the income of such person's spouse, is inadequate to provide a reasonable subsistence compatible with decency and health; and

(4) Is sixty-five years of age or older: *Provided,* That until January 1, 1940, but not thereafter, assistance may be denied to otherwise eligible persons who are less than seventy years of age; and

(f) Provides that so much of the sum paid as assistance to any aged recipient as represents the share of the United States Government in such assistance shall be a lien on the estate of the aged recipient which, upon his death, shall be enforced by the State, and that the net amount realized by the enforcement of such lien shall be deemed to be part of the State's allotment from the United States Government for the year in which such lien was enforced: *Provided,* That no such lien shall be enforced against any real estate of the recipient while it is occupied by the recipient's surviving spouse, if the latter is not more than fifteen years younger than the recipient, and does not marry again.

REPORTS BY STATES

SEC. 5. To obtain the benefits of this title, a State old-age authority shall submit to the Administrator at such time and upon such forms as he may prescribe—

(a) An annual statement of the amount of the appropriation made by the State for its current or ensuing fiscal year for the purpose of carrying out the State plan, stating how much of such appropriation is for the actual payments of old-age assistance and how much for the payment of the expenses of administration; and

(b) An annual estimate of the sum which must be contributed by the political subdivisions of the State during such year for the purpose of carrying out the State plan, estimating how much of the sum is for payment of such old-age assistance and how much for the payment of the expenses of administration; and as soon as possible thereafter, a statement of the exact sums thus contributed; and

(c) At least once in every three months, a statement of the amount, actually paid, as old-age assistance, to each person sixty-five years of age or over, and the amount actually expended for the purpose of administration; and

(d) An annual statement of the amount collected, if any, from the estate of any assisted aged person, for which

the State is accountable to the United States under section 4 (f) of this Act.

(e) An annual statement of the exact amount, if any, of an allotment made under this title to such State remaining unexpended at the close of the year for which such allotment was made.

AMOUNT OF ALLOTMENTS TO STATES

SEC. 6. (a) The Administrator shall compute annually the amount to be allotted to such State at the sum of (a) and (b) of section 5 of this Act, after deducting therefrom the sum of (d) and (e) of such section. In computing the allotment for administration, only so much of the appropriations and/or contributions for that purpose by the State and its political subdivisions shall be taken as a basis of computation which does not exceed 5 per centum of the appropriations for old-age assistance.

(b) The Administrator shall direct that the amount of an allotment shall be changed when, under section 5 (b), a definite statement shows that the sums actually required to be contributed differ from the estimated amount, and the change in the allotment shall be in relation to the variation between the estimate and the actual requirement.

(c) If the sum of all allotments be in excess of the appropriations for the purpose, then the allotment to each State shall be diminished to that percentage which the appropriations bear to the sum of all allotments.

(d) Any unexpended amount of any allotment to a State at the end of the year for which such allotment was made shall be available to the State for the ensuing year.

(e) The Administrator may withdraw his approval of a State plan, if after his approval thereof such plan fails to comply with the conditions specified in section 3 of this Act. In case of such withdrawal of approval, the Administrator shall notify the State authority of his action and the reasons therefor, and shall notify the Secretary of the Treasury to withhold payments to such State.

PAYMENT OF INSTALLMENTS

SEC. 7. The Administrator shall annually notify the Secretary of the Treasury and the treasurers of the several States of the allotments made under this title, and shall periodically notify the Secretary of the Treasury of the amounts payable as quarterly installments to the treasurers of the several States. The Secretary of the Treasury, after receiving such notice, shall pay such quarterly installments to the treasurer of each such State from the sums allotted to it, unless the Administrator notifies him to withhold pay-

ment of any installment, or to change the amount of any allotment, in which case he shall act in accordance with such notification: *Provided*, That no such installment shall exceed one-half of the amounts expended in such State, in the quarter immediately preceding the payment of such installment for the payment of old-age assistance, nor shall it exceed $15 a month per person, and for the administration of the State plan, up to 5 per centum of the total amount expended under such plan in such quarter.

ACTION OF COMPTROLLER GENERAL

SEC. 8. The Comptroller General is authorized and directed to allow credits in the accounts of the Treasury of the United States for payment of allotments in the amounts notified him by the Administrator.

ADMINISTRATION

SEC. 9. From the moneys becoming available under or in accordance with this title not more than one-half of 1 per centum may be expended by the Administrator for all necessary expenditures, including the employment of experts, assistants, clerks, and other persons in the District of Columbia and elsewhere, the purchase of supplies, material, equipment, office fixtures and apparatus, and the incurring of travel and other expenses, as the Administrator

may deem necessary to carry out the purposes of this title. The Administrator shall include in his annual report to Congress a full account of the administration of this title and expenditure of the moneys herein appropriated or authorized. The President is authorized to transfer at any time to any officer or agency of the Government, the duties and powers conferred upon the Administrator under this title.

RULES AND REGULATIONS

SEC. 10. The Administrator is authorized to make all rules and regulations necessary to effectuate the purposes of this title.

INCLUSION OF TERRITORIES AND DISTRICT OF COLUMBIA

SEC. 11. As used in this title the term "State" includes Hawaii, Alaska, Puerto Rico, and the District of Columbia.

## TITLE II

APPROPRIATIONS FOR AID TO DEPENDENT CHILDREN

SECTION 201. For the purposes of this title, there is hereby appropriated, from funds in the Treasury not otherwise appropriated, the sum of $25,000,000 for the fiscal year ending June 30, 1936, and the sum of $25,000,000 is hereby authorized to be appropriated for each fiscal year thereafter, not more than 99½ per centum of such sums

to be apportioned among the several States as hereinafter provided.

ALLOTMENTS TO STATES FOR AID TO DEPENDENT CHILDREN

SEC. 202. The Administrator shall, as soon as possible after the commencement of each fiscal year, make allotments, in amounts as provided in section 206 of this Act, to each State which, through a State authority, has submitted and had approved by him a State plan for aid to dependent children, and which, through its legislature, has accepted the provisions of this title: *Provided*, That such acceptance may be made, when such legislature is not in session, by the Governor of such State, to be effective until the close of the next session of such legislature thereafter.

DEFINITION OF DEPENDENT CHILDREN

SEC. 203. As used in this title, "dependent children" shall mean children under the age of sixteen in their own homes, in which there is no adult person, other than one needed to care for the child or children, who is able to work and provide the family with a reasonable subsistence compatible with decency and health.

APPROVAL OF STATE PLANS FOR AID TO DEPENDENT CHILDREN

SEC. 204. A State plan for aid to dependent children, offered by a State authority for approval, shall be approved by the Administrator only if such plan—

(a) Provides that not later than June 30, 1936, and thereafter, aid to dependent children shall be available, to persons in need of the same, in every political subdivision of the State, and that the State shall make substantial contributions to the payment thereof; and

(b) Provides that such State authority shall make full and complete reports to the Federal Emergency Relief Administration in accordance with rules and regulations to be prescribed by the Administrator; and

(c) Furnishes assistance at least great enough to provide, when added to the income of the family, a reasonable subsistence compatible with decency and health; and

(d) Establishes or designates a single State agency, to administer or supervise the administration of the plan and insures methods of administration and payment which are approved by the Administrator; and

(e) Does not impose a residence requirement, as a condition precedent to the granting of such aid, of longer than one year.

REPORTS BY STATES

SEC. 205. To obtain the benefits of this title a State authority shall submit to the Federal Emergency Relief Administration at such time and on such forms as the Administrator may prescribe—

(a) An annual statement of the amount of the appropriation made by the State for its current or ensuing fiscal year, and the amount made available for such year by the political subdivisions of such State, for the purpose of carrying out the State plan for aid to dependent children; and

(b) At least once in every three months, a statement of the amount actually expended for such purpose; and

(c) An annual statement of the exact amount, if any, of any allotment made under this title to such State, remaining unexpended at the close of the year for which such allotment was made; and

(d) An annual statement of the number of dependent children whose mothers are receiving aid or are on the waiting list therefor under the State plan for aid to dependent children.

AMOUNT OF ALLOTMENTS TO STATES

SEC. 206. (a) The Administrator shall compute annually the amount to be allotted to such State at a sum equal to one-third of the amount reported under section 204 (a) If the sum of all allotments under this paragraph be in excess of the appropriations for the purpose, then the allotment to each State shall be diminished to that percentage which the appropriations bear to the sum of all such allotments.

(b) The Administrator shall allot, in each fiscal year, so much of the amounts made available under this title for the preceding fiscal year as were not required for the purposes of paragraph (a) of this section, to any or all States with approved plans for aid to dependent children, in amounts apportioned by him on a basis of need, taking into account, among other things, the numbers reported under section 205 (d) of this Act.

(c) Any unexpended amount of any allotment to a State at the end of the year for which such allotment was made shall be available to the State for the ensuing year.

(d) The Administrator may withdraw his approval of a State plan for aid to dependent children, if after his approval thereof such plan fails to comply with the conditions specified in section 204 of this Act. In case of such withdrawal of approval, he shall notify the State authority of his action and the reasons therefor, and shall notify the Secretary of the Treasury to withhold payments to such State.

PAYMENT OF INSTALLMENTS

SEC. 207. The Administrator shall annually notify the Secretary of the Treasury and the treasurers of the several States of the allotments made under this title, and shall periodically notify the Secretary of the Treasury of the amount payable, as a quarterly installment, to the treasurer

of each State. The Secretary of the Treasury, after receiving such notice, shall pay such quarterly installment to the treasurer of each such State from the sums allotted to it, unless the Administrator notifies him to withhold payment of any installment, or to change the amount of any allotment, in which case he shall act in accordance with such notification: *Provided*, That no such installment shall exceed the amounts expended by such State in the quarter immediately preceding the payment of such installment for the purpose of carrying out the State plan for aid to dependent children.

ACTION OF COMPTROLLER GENERAL

SEC. 208. The Comptroller General is authorized and directed to allow credit in the accounts of the Treasury of the United States for payment of allotments in the amount notified him by the Administrator.

ADMINISTRATION

SEC. 209. From the moneys becoming available under and/or in accordance with this title, not more than one-half of 1 per centum may be expended by the Administrator for all necessary expenditures, including the employment of experts, assistants, clerks, and other persons in the District of Columbia and elsewhere, the purchase of supplies, material, equipment, office fixtures and apparatus, and in the incurring of traveling and other expenses as the Adminis-

trator may deem necessary to carry out the purposes of this title. The Administrator shall include in his annual report to Congress a full account of the administration of this title and expenditures of the money herein authorized. The President is authorized to transfer at any time, to any officer or agency of the Government, the duties and powers conferred upon the Administrator under this title.

INCLUSION OF TERRITORIES

SEC. 210. As used in this title, the term "State" includes Alaska, Hawaii, Puerto Rico, and the District of Columbia.

RULES AND REGULATIONS

SEC. 211. The Administrator is authorized to make all rules and regulations necessary to effectuate the purposes of this title.

## TITLE III

EARNINGS TAX

SECTION 301. Commencing on January 1, 1937, there shall be levied and assessed upon every employee as defined in this title an earnings tax, to be collected from and paid by every employer subject to this title:

(1) As of January 1, 1937, the tax shall be at the rate of one-half of 1 per centum of the wages paid by such employer to such employee.

(2) As of January 1, 1942, the tax shall be at the rate of 1 per centum of the wages paid by such employer to such employee.

(3) As of January 1, 1947, the tax shall be at the rate of 1½ per centum of the wages paid by such employer to such employee.

(4) As of January 1, 1952, the tax shall be at the rate of 2 per centum of the wages paid by such employer to such employee.

(5) As of January 1, 1957, the tax shall be at the rate of 2½ per centum of the wages paid by such employer to such employee.

The amount of such tax (but no part of the tax levied under section 302) shall be deducted by the employer from the wages of the employee.

EMPLOYMENT EXCISE TAX

SEC. 302. Commencing on January 1, 1937, there shall be levied and assessed upon every employer as defined in this title an employment excise tax, to be collected from and paid by every such employer:

(1) As of January 1, 1937, the tax shall be at the rate of one-half of 1 per centum of the pay roll of such employer.

(2) As of January 1, 1942, the tax shall be at the rate of 1 per centum of the pay roll of such employer.

(3) As of January 1, 1947, the tax shall be at the rate of 1½ per centum of the pay roll of such employer.

(4) As of January 1, 1952, the tax shall be at the rate of 2 per centum of the pay roll of such employer.

(5) As of January 1, 1957, the tax shall be at the rate of 2½ per centum of the pay roll of such employer.

COLLECTION OF TAXES

SEC. 303. (a) The taxes provided for in this title shall be collected by the Bureau of Internal Revenue under the direction of the Secretary of the Treasury. Such taxes shall be paid into the Treasury of the United States.

(b) All provisions of law, including penalties, applicable with respect to any tax imposed by section 600 or section 800 of the Revenue Act of 1926, shall, insofar as applicable and not inconsistent with the provisions of this title, be applicable in regard to the taxes imposed by this title.

RULES AND REGULATIONS

SEC. 304. The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe and publish all needful rules and regulations for the enforcement of this title, and in particular for—

(a) Collection and payment of the tax by stamps, coupons, tickets, books, or such other reasonable device or

method as may be necessary or helpful in securing a complete and proper collection of the tax and for regulating the manner, times, and conditions in, at, and under which the tax shall be collected and paid, including the making and filing of returns and the affixing or other use of said stamps, tickets, books, or other device or devices; and

(b) Issue, sale, custody, production, cancelation, and disposition of such stamps, tickets, books, or other device or devices, including the substitution or replacement thereof in case of loss, destruction, or defacement.

SALE OF STAMPS BY POSTMASTERS

SEC. 305. The Commissioner of Internal Revenue shall furnish to the Postmaster General without prepayment a suitable quantity of adhesive stamps, issued or used for the collection of any tax imposed by this title, to be distributed to, and kept on sale by, the various postmasters in the United States. The Postmaster General may require each such postmaster to give additional or increased bond as postmaster for the value of the stamps so furnished, and each such postmaster shall deposit the receipts from the sale of such stamps to the credit of and render accounts to the Postmaster General at such times and in such form as he may by regulations prescribe. The Postmaster General shall at least once monthly transfer all collections from this source to the Treasury as internal-revenue collections.

PENALTIES

SEC. 306. (a) Except as provided in this title or in regulations made pursuant thereto, every person who buys, sells, offers for sale, transfers, takes, or gives in exchange, or pledges or gives in pledge any stamp, coupon, ticket, book, or other device prescribed by the Commissioner of Internal Revenue for the collection of any tax imposed by this title, shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not more than $1,000 or sentenced to not more than six months' imprisonment, or both.

(b) Any person who, with intent to defraud, alters, forges, makes, or counterfeits any stamp, coupon, ticket, book, or other device prescribed by the Commissioner of Internal Revenue for the collection of any tax imposed by this title, or who uses, sells, lends, or has in his possession any such altered, forged, or counterfeited stamp, coupon, ticket, book, or other device, or who makes, uses, sells, or has in his possession any material in imitation of the material used in the manufacture of such stamp, coupon, ticket, book, or other device, shall, upon conviction thereof, be punished by a fine not exceeding $5,000 or by imprisonment not exceeding five years, or both.

DEFINITIONS

SEC. 307. When used in this title—

(1) The term " person " means an individual, a trust or estate, a partnership, syndicate, group, pool, joint venture,

or other unincorporated organization, or a corporation, association, joint stock company, or insurance company.

(2) The term "domestic", when applied to a corporation or partnership, means created or organized in the United States or under the laws of the United States or of any State or Territory.

(3) The term "foreign", when applied to a corporation or partnership, means a corporation or partnership which is not domestic.

(4) The term "employer" shall include every person who employs an employee, as defined in this title, except that it shall not include the Federal Government, the States or any political subdivision thereof, a governmental instrumentality, or any employer subject to the Railway Retirement Act, including any amendments hereafter made to such Act.

(5) The term "employee" shall include every individual who on January 1, 1937, has not attained the age of sixty years, and who receives wages under any contract of employment or hire, oral or written, express or implied, and the greater part of whose duties under such contract is performed within the continental United States or on board a vessel subject to the jurisdiction of the United States.

(6) The term "wages" shall mean the total of every form of remuneration received by an employee from an

employer, whether paid directly or indirectly by an employer, including salaries, commissions, bonuses, and the reasonable money value of rent, housing, lodging, board (except in the case of board, the total money value shall not be included unless such total value is in excess of $10 for any calendar month), payments in kind, and similar advantages; but it shall not include any such remuneration received by a nonmanual worker who is employed at a monthly salary of more than $250 a month.

(7) The term "pay roll" means the total amount of all wages paid by an employer subject to this title.

(8) The term "continental United States" means the several States and the District of Columbia, and excludes territories and possessions of the United States.

## TITLE IV

### SOCIAL INSURANCE BOARD

SECTION 401 (a). There is hereby established in the Department of Labor a Social Insurance Board (hereinafter referred to as the "Board") to be composed of three members to be appointed by the President. During his term of membership on the Board, no member shall engage in any other business, vocation, or employment. Each member shall receive a salary at the rate of $10,000 a year and shall hold office for a term of six years, except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was ap-

pointed, shall be appointed for the remainder of such term; and (2) the terms of office of the members first taking office after the date of enactment of this title shall expire, as designated by the President at the time of appointment, one at the end of two years, one at the end of four years and one at the end of six years after the date of enactment of this title. The President shall designate the chairman of the Board.

(b) The Board is authorized, subject to the approval of the Secretary of Labor, to appoint and fix the compensation of such officers, attorneys, and experts as may be necessary for carrying out its functions under this Act, without regard to the provisions of the civil-service laws and the Classification Act of 1923, as amended, and, subject to the civil-service laws, to appoint such other officers and employees as are necessary in the execution of its functions and fix their salaries in accordance with the Classification Act of 1923, as amended.

DUTIES OF SOCIAL INSURANCE BOARD

SEC. 402. The Social Insurance Board shall have, among its duties, the duties of—

(a) Studying and making recommendations as to the most effective methods of providing economic security through social insurance, and as to legislation and matters of administrative policy concerning old-age insurance, unem-

ployment compensation, accident compensation, health insurance and related subjects;

(b) Examining and making recommendations to the Secretary of Labor as to the allowance of credit under title VI of this Act;

(c) Supervising and directing, as hereinafter provided, the payment of old-age annuities under a national contributory old-age insurance system;

(d) Issuing old-age annuities, as provided in title V of this Act;

(e) Assisting the States, in the manner hereinafter provided, in the administration of unemployment compensation laws.

APPROPRIATION

SEC. 403. For the purposes of this title, there is hereby appropriated from the funds in the Treasury not otherwise appropriated (a) for the fiscal year ending June 30, 1936, the sum of $5,000,000, and there is hereby authorized to be appropriated for each fiscal year thereafter the sum of $50,000,000, of which sums 98 per centum shall be apportioned by the Board among the States as hereinafter provided; and (b) the proceeds derived from all taxes imposed under title III of this Act, to be allocated to the old-age fund established under this title.

SEC. 404. (a) There is hereby established in the Treasury a fund to be known as the "old-age fund", to be held and invested under the same terms and conditions as the unemployment trust fund established under title VI of this Act; and the Secretary of the Treasury is hereby authorized and directed so to manage such fund.

(b) The Social Insurance Board shall, from time to time, requisition from such fund the amounts necessary for the making of all payments under section 405 of this Act, and shall annually cause to be made, and transmitted to the Secretary of the Treasury in the form of a formal instrument, actuarial valuations of the future income and future expenditures of the old-age fund, which shall show the future obligations of the Government under this title.

PAYMENT OF OLD-AGE ANNUITIES

SEC. 405. (a) On and after January 1, 1942, the Board shall requisition from the old-age fund and cause to be paid, to qualified aged persons, old-age annuities out of the sums appropriated under subsection (b) of section 403 of this Act. No person shall receive such old-age annuity unless

(1) At the time when it is paid to him, he is not less than sixty-five years of age; and

(2) Taxes were paid on his behalf under section 301 of this Act, prior to the day when he attained the age of sixty years; and

(3) Taxes were paid on his behalf, under section 301 of this Act, for at least two hundred different weeks in not less than a five-year period entirely prior to his attaining the age of sixty-five years; and

(4) He is not employed by another in a gainful occupation.

(b) Any person qualified to receive an old-age annuity shall, upon complying with all rules and regulations to be prescribed by the Secretary of Labor and reasonably designed to facilitate the just and prompt payment of such annuities, be entitled to receive once in each month, commencing not earlier than January 1, 1942, a monthly installment of such annuity in the amount and under the conditions hereinafter prescribed, as follows:

(1) A person on whose behalf taxes were paid under section 301 of this Act prior to January 1, 1942, and prior to such person attaining the age of sixty-five years, shall receive as his monthly installment an amount equal to a percentage of his average monthly wage. If taxes were paid on his behalf

(A) In two hundred different weeks (in not less than five years), such percentage shall be 15 per centum of such wage;

(B) For each forty different weeks (prior to his attaining the age of sixty-five years) over such two hundred weeks, up to an additional two hun-

dred weeks, there shall be added to such percentage 1 per centum, except that such addition shall not exceed 1 per centum for the twelve-month period commencing at the end of the original two hundred weeks or the original five-year period, whichever ends later, and for each twelve-month period thereafter;

(C) For each forty different weeks (prior to his attaining the age of sixty-five years) over such aggregate of four hundred weeks, up to an additional four hundred weeks, there shall be a further addition of 2 per centum, except that such addition shall not exceed 2 per centum for the twelve-month period commencing at the end of the additional two hundred weeks or the fifth of the twelve-month periods under (B), whichever ends later, and for each twelve-month period thereafter. If in the five years under (A) such taxes were paid in more than two hundred weeks, such excess weeks over two hundred shall be counted toward the additional two hundred weeks under (B); and if in the five twelve-month periods under (B) such taxes were or are counted as having been paid in more than two hundred weeks, such excess weeks over two hundred shall

be counted toward the additional four hundred weeks under (C).

(2) A person on whose behalf such taxes were paid only after January 1, 1942, shall receive as his monthly installment, an amount equal to 10 per centum of his average monthly wage plus 1 per centum of such wage for each forty different weeks (prior to his attaining the age of sixty-five years) over the original two hundred (in not less than a five-year period) in which such taxes were paid, except that such addition shall not exceed 1 per centum for the twelve-month period commencing at the end of the original two hundred weeks or the original five-year period, whichever ends later, and for each twelve-month period thereafter. If in the original five-year period such taxes were paid in more than two hundred weeks, taxes paid in such excess weeks over two hundred shall be deemed to have been paid in a subsequent twelve-month period.

(3) Any person entitled to the payment of any installment under either paragraph (1) or (2) of this subsection, may, if such person has a dependent spouse, elect to receive a joint survivorship annuity of identical actuarial value in lieu of the annuity provided under either of such paragraphs, under such rules and regulations as the Social Insurance Board shall prescribe.

(4) In no event shall the actuarial value of an annuity paid to a person under this section be less than the amount paid in taxes on his behalf together with interest accretions as determined by the Social Insurance Board.

(5) As used in this section "average monthly wage" shall mean the total amount of wages upon which taxes were paid under section 301 of this Act on behalf of the employee and prior to his attaining the age of sixty-five years, such amount to be divided by the number of months in which such taxes were paid, except that such average monthly wage shall not exceed $150. For the purpose of calculating the average monthly wage, the Social Insurance Board shall adjust the various lengths of the periods for which wages were paid to a monthly basis.

(c) If any person on whose behalf taxes have been paid under section 301 of this Act dies before receiving any benefits, or before receiving in benefits an amount equal to the total amount of such taxes paid on his behalf, with interest accretions prior to the date of first receiving an annuity as determined by the Social Insurance Board, there shall be paid to his legal and/or actual dependents an amount equal to the difference between such amount of

taxes together with such interest accretions and the benefits he has received.

(d) Any person upon whose behalf taxes were paid under section 301 of this Act, who upon reaching the age of sixty-five is not entitled to benefits, may thereafter claim from the Social Insurance Board an amount equal to the amount of such tax payments, and the Social Insurance Board shall pay him such amount, together with interest accretions as determined by such Board. No person who thus claims and receives any amount under this section shall thereafter be entitled to an old-age annuity or any installment thereof.

ALLOTMENTS TO STATES FOR UNEMPLOYMENT COMPENSATION ADMINISTRATION

SEC. 406. The Board shall periodically make allotments, in a total amount of not more than $4,000,000 in the fiscal year ending June 30, 1936, and thereafter not more than $49,000,000 in each year, to those States which have unemployment compensation laws requiring contributions for which credits against tax are allowed under title VI of this Act. The total amount, or so much thereof as the Board deems necessary, allocated under this section shall be apportioned among such States on the basis of need for such financial assistance in the proper administration of such laws.

CONDITIONS OF UNEMPLOYMENT COMPENSATION ADMINISTRATION ALLOTMENTS

SEC. 407. (a) No allotment shall be made or installment paid to a State, under section 406 of this Act, unless and until the Board has made a finding of fact and has certified the same to the Secretary of Labor and the Secretary of the Treasury, that—

(1) All positions in the administration of the unemployment compensation law of such State are filled by persons appointed on a nonpartisan basis, and selected on the basis of merit under rules and regulations prescribed or approved by the Board; and

(2) Administrative regulations and practices are reasonably calculated to insure full payment of unemployment compensation when due; and

(3) Unemployment compensation is paid as a matter of right and in accordance with the terms of the State unemployment compensation law to all persons eligible thereto under such law, and that all persons whose claims for compensation are denied are given a fair hearing, before an impartial tribunal; and

(4) All such unemployment compensation is paid through public employment offices of the State; and

(5) All of the money raised by contributions of employers and employees under such State law is deposited upon collection to become a part of the unemployment trust fund established under title VI of this Act, and, upon being requisitioned, is expended solely in the payment of unemployment compensation; and

(6) The State agency charged with the administration of the unemployment compensation law makes, upon request, full and complete reports to the Social Insurance Board relating to the effect and administration of such law, on forms to be prescribed by the Board, and makes available upon request to any agency of the United States charged with the administration of public works or other assistance through public employment, the names and addresses and ordinary occupation of each recipient of unemployment compensation and the date when such recipient received the last regular payment of compensation to which he was entitled under the State law.

(b) Payment of any installment to a State to which an allotment has been made shall be withheld if the Board reverses the previous finding made by it under this section, and notifies the Secretary of the Treasury and the treasurer

of the affected State of such reversal and the reason or reasons therefor. The amounts thus withheld in any fiscal year shall be added to the total amount from which allotments are made in the next fiscal year.

NOTIFICATION

SEC. 408. The Board shall, as soon as possible after the commencement of the fiscal year, notify the Secretary of the Treasury, and the treasurers of the several States of the States to which allotments for that fiscal year have been made under this title, and of the sums allotted. The Secretary of the Treasury shall thereupon pay in monthly installments to the treasurer of each such State the sums allotted to it, unless the Board notifies him to withhold payment of any installment or to change the amount of any allotment, in which case he shall act in accordance with such notification.

ACTION OF COMPTROLLER GENERAL

SEC. 409. The Comptroller General is authorized and directed to allow credit in the accounts of the Treasury of the United States for payment of allotments in the amount notified him by the Board.

## TITLE V

ANNUITY CERTIFICATES

SECTION 501. The Social Insurance Board is authorized to borrow from time to time, on the credit of the United

States, for the purpose of increasing the old-age fund established under this Act, such sum or sums as in its judgment may be desirable, and to issue therefor, at such prices and upon such terms and conditions as it may determine, annuity certificates: *Provided,* That no such certificate shall be issued except to United States citizens: *And provided further,* That there shall not be issued to an individual a certificate or certificates for loans which would amount, with interest accretions, to more than an annuity of $100 a month after such individual attained the age of sixty-five years,

FOR AND CONDITIONS OF CERTIFICATES

SEC. 502. Each annuity certificate issued under this title shall be in such form and subject to such terms and conditions, and may bear such interest and have such provisions for payment, as the Social Insurance Board may prescribe: *Provided,* That payment of interest may be deferred and payment of principal and interest to persons to whom such certificates have been issued may be made in monthly installments.

ISSUANCE OF STAMPS

SEC. 503. The Board may, under such regulations and upon such terms and conditions as it may prescribe, issue, or cause to be issued, stamps to evidence payments for, or on account of, such certificates.

DEPOSITS IN OLD-AGE FUND

SEC. 504. All moneys borrowed under this title shall be deposited by the Board in the old-age fund established under section 404 of this Act, to be held and used by the Secretary of the Treasury as part of such fund. The Board shall requisition from such fund from time to time all amounts needed to meet promptly all obligations of the United States arising out of annuity certificates.

RULES AND REGULATIONS

SEC. 505. The Social Insurance Board shall make all rules and regulations necessary to carry out the purposes of this title.

## TITLE VI

IMPOSITION OF TAX

SECTION 601. There shall be levied, assessed, and collected annually from every employer subject to this title, for the taxable year commencing January 1, 1936, and for each taxable year thereafter an excise tax, measured by an amount equal to 3 per centum of such employer's pay roll: *Provided,* That

(a) If the Federal Reserve Board's adjusted index of total industrial production averages, for the year ending September 30, 1935, not more than 84 per centum of its average for the years 1923–25, inclusive, the Governor of the Federal Reserve Board shall certify that fact to the

Secretary of the Treasury and to Congress, and the tax imposed under this section shall, for the taxable year commencing January 1, 1936, be measured by an amount equal to 1 per centum of such employer's pay roll;

(b) If such index averages, for such year, more than 84 per centum but less than 95 per centum of such earlier average, such fact shall be so certified, and the tax imposed under this section shall, for the taxable year commencing January 1, 1936, be measured by an amount equal to 2 per centum of such employer's pay roll;

(c) If such index averages, for the year ending September 30, 1936, not more than 84 per centum of such earlier average, such fact shall be so certified, and the tax imposed under this section shall, for the taxable year commencing January 1, 1937, be measured by an amount equal to 1 per centum of such employer's pay roll, except that in no event shall the measure of tax for the taxable year commencing January 1, 1937, be less than the measure of tax for the taxable year commencing January 1, 1936;

(d) If such index averages, for the year ending September 30, 1936, more than 84 per centum but less than 95 per centum of such earlier average, such fact shall be so certified, and the tax imposed under this section shall for the taxable year commencing January 1, 1937, be measured by an amount equal to 2 per centum of such employer's

pay roll, except that in no event shall the measure of tax for the taxable year commencing January 1, 1937, be less than the measure of tax for the taxable year commencing January 1, 1936.

ALLOWABLE CREDIT

SEC. 602. Any employer may credit against the tax thus due, up to 90 per centum of the tax, the amount of his contributions for the taxable quarter to any unemployment fund under any State law: *Provided*, That the Secretary of Labor has, in the month of December in the taxable year, made a finding of fact and certified to the Secretary of the Treasury that—

(a) The State by whose law such contributions were required has accepted the provisions of the Act of June 6, 1933 (U. S. C., title 29, sec. 49 (c) ; 48 Stat. 113) ;

(b) Payment of all compensation is made and/or is to be made through the public employment offices in such State, and commences under such State law two years after contributions are first made under such law;

(c) The State agency of such State, to safeguard the money paid as contributions and to assist in maintaining the stability of industry and employment, deposits all such money, or causes it to be deposited, immediately upon its being paid as contributions, in the unemployment trust fund, or in a bank or banks designated as agents of such trust

fund to be held as part of such trust fund, in accordance with section 604 of this Act;

(d) None of the money requisitioned by such State agency, in accordance with section 604 of this Act, has been used for any purpose except the payment of compensation;

(e) Compensation is not denied in such State to otherwise eligible employees for refusing to accept new work under any of the following conditions: (1) If the position offered is vacant due directly to a strike, lockout, or other labor disputes; (2) if the wages, hours, and other conditions of the work offered are substantially less favorable to the employee than those prevailing for similar work in the locality; (3) if acceptance of such employment would either require the employee to join a company union or would interfere with his joining or retaining membership in any bona fide labor organization;

(f) The State law includes provisions which permit modification thereof at the will of the legislature or which prevent the creation of vested rights against modification or repeal of such law at any time.

FINDINGS OF FACT

SEC. 603. In December 1935 the Secretary of Labor shall notify the Secretary of the Treasury and the treasurers of the several States of the names of those States

having State laws which, if faithfully executed, may entitle employers to credit for contributions made under such laws in the taxable year commencing January 1, 1936. Annually thereafter the Secretary of Labor shall make findings of fact and certifications to the Secretary of the Treasury, as provided in section 602 of this Act, as to compliance by the States with the conditions of subsections (a) to (f) inclusive, of section 602, and shall notify the treasurers of the several States of the names of those States which he finds to comply with such subsections.

UNEMPLOYMENT TRUST FUND

SEC. 604. (a) There is hereby established in the Treasury a trust fund to be known as the "Unemployment trust fund." The Secretary of the Treasury is authorized and directed to receive and hold in this fund any and all moneys delivered in accordance with section 602 of this Act by any State agency to him at the Treasury or at any bank designated by him for the purpose, and to receive and hold the income derived therefrom. The fund or any part thereof may be invested or reinvested in any primary obligations of the United States or in any obligations guaranteed as to both principal and interest by the United States; and such obligations may be acquired by purchase of outstanding obligations at the market price thereof or on original issue at par. Obligations acquired by the fund on original issue,

which are issued exclusively to the fund, shall bear interest at a rate equal (after adjustment to the next lower multiple of one-eighth of 1 per centum) to the average rate of interest payable at the time of such acquisition upon all primary obligations of the United States (other than obligations issued directly to the fund) then forming part of the public debt. Every other obligation acquired for the fund shall be acquired on such terms as to provide an effective investment yield which shall not be less, by more than one-eighth of 1 per centum, than such average rate. It shall be the duty of the Secretary of the Treasury to invest as herein provided such portion of the fund as is not, in his judgment, required to meet current withdrawals. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance thereof to the fund for the sole purpose of providing it with suitable investments at such interest rates as may be required for the purposes of this section, notwithstanding the availability in the market of obligations of the United States bearing the same or different interest rates; and to an amount not in excess of the face amount, from time to time outstanding, of obligations originally issued to the fund, the Secretary of the Treasury is authorized in his discretion and on the basis of fair market values to invest and reinvest in, and to sell (or, in the case of primary obliga-

tions of the United States, to cancel) any obligations of a kind in which he is authorized to invest the fund, but without limitation as to interest rate. Obligations so acquired shall be held in a special account. All purchases, retirements, and sales under this section shall be deemed to be public debt transactions.

(b) Each State agency shall have an undivided interest in the fund, but the Secretary of the Treasury shall maintain a separate book account for each such State agency, and shall credit quarterly on March 31, June 30, September 30, and December 31, to each such account a proportionate part of the earnings of the fund for the preceding quarter, on the basis of the average daily balance of such account.

(c) The Secretary of the Treasury is authorized and directed to pay out of the fund to any State agency such part of the money held in trust for it, as may be duly requisitioned in accordance with the terms of this Act. Whenever in order to make any such payment it is necessary to dispose of any obligations held in the fund, the Secretary of the Treasury is authorized to sell such obligations on the market, or to acquire such obligations for the account of the United States at the market price thereof: *Provided,* That obligations originally issued to the fund shall be so acquired for the account of the United States at par plus accrued interest.

(d) The Secretary of the Treasury is hereby authorized to appoint any one or more of the Federal Reserve or national banks as his agents, on such terms and conditions as he may prescribe, to hold and have custody of the fund or any part thereof, and such banks are hereby authorized to act as such agents.

ADMINISTRATION, REFUNDS, AND PENALTIES

SEC. 605. (a) The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe and publish necessary rules and regulations for the enforcement of the provisions of this title.

(b) Every employer liable for tax under this title shall make a return under oath within one month after the close of the year with respect to which such tax is imposed to the collector of internal revenue for the district in which is located his principal place of business. Such return shall contain such information and made in such manner, as the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury may by regulations prescribe. The tax shall, without assessment by the Commissioner or notice from the collector, be due and payable to the collector within one month after the close of the year with respect to which the tax is imposed. If the tax is not paid when due, there shall be added as part of the tax interest at the rate of 1 per centum a month from the time when the tax became

due until paid. All provision of law (including penalties) applicable in respect of the taxes imposed by section 600 of the Revenue Act of 1926, shall, insofar as not inconsistent with this Act, be applicable in respect of the tax imposed by this Act. The Commissioner may extend the time for filing the return of the tax imposed by this Act, under such rules and regulations as he may prescribe with the approval of the Secretary of the Treasury, but no such extension shall be for more than sixty days.

(c) Returns required to be filed for the purpose of the tax imposed by this Act shall be open to inspection in the same manner, to the same extent, and subject to the same provisions of law as returns made under title II of the Revenue Act of 1926.

(d) The taxpayer may elect to pay the tax in four equal installments, in which case the first installment shall be paid on the date prescribed for the filing of returns, the second installment shall be paid on or before the last day of the third month, the third installment on or before the last day of the sixth month, and the fourth installment on or before the last day of the ninth month, after such day. If any installment is not paid on or before the date fixed for its payment, the whole amount of the tax unpaid shall be paid upon notice and demand from the collector.

(e) At the request of the taxpayer the time for payment of any initial installment of the amount determined as the tax by the taxpayer may be extended under regulations prescribed by the Commissioner with the approval of the Secretary of the Treasury, for a period not to exceed six months from the date prescribed for the payment of such installment. In such case the amount in respect of which the extension is granted shall be paid (with interest at the rate of one-half of 1 per centum per month) on or before the date of the expiration of the period of the extension.

DEFINITIONS

SEC. 606. When used in this title the term "Employer" shall mean any person, partnership, association, corporation, whether domestic or foreign, or the legal representative, trustee in bankruptcy, receiver, or trustee thereof, or the legal representative of a deceased person, who or whose agent or predecessor in interest has, within each of thirteen or more calendar weeks in the taxable year, employed at least four persons in employment subject to this title, except that the term "employer" shall not include the Federal Government, the governments of the several States, municipal corporations, or other governmental instrumentalities. In determining whether an employer employs enough persons to be an "employer" subject hereto, and determining for what tax he is liable here-

under, he shall whenever he contracts with any subcontractor for any work which is part of his usual trade, occupation, profession, or business, be deemed to employ all persons employed by such subcontractor on such work, and he alone shall be liable for the tax measured by wages paid to such persons for such work; except as any such subcontractor, who would in the absence of the foregoing provision be liable to pay said tax, accepts exclusive liability for said tax under an agreement with such employer made pursuant to regulations promulgated by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury.

" Employment " shall mean any employment in which substantially all of the person's work is, or was, performed within the continental United States under any contract of hire, oral or written, express or implied, whether such person was hired and paid directly by the employer or through any other person employed by the employer, provided the employer had actual or constructive knowledge of such contract; except that for the purposes of this title it shall not include any employment included in any unemployment compensation system (other than for the District of Columbia) established by an Act of Congress.

" Wages " shall mean every form of remuneration for employment received by a person from his employer,

whether paid directly or indirectly by the employer, including salaries, commissions, bonuses, and the reasonable money value of board, rent, housing, lodging, payments in kind, and similar advantages.

"Pay roll" shall mean the total amount of all wages paid by the employer during the taxable year to persons employed by him in employment subject to this Act.

"State" shall include the District of Columbia.

"State law" shall mean a statute enacted by any one of the several States which provides for systematic compensation and the creation of an unemployment fund under the direction of a State agency, requires contributions from employers, whether or not they are national banks, and whether or not they are engaged in interstate commerce, except insofar as they are included in any unemployment compensation system (other than one for the District of Columbia) established by Act of Congress, and which may require that employees and/or the State also contribute.

"Contributions" shall mean the amount which the employer has duly paid, as required by a State law, in and for the taxable year, into an unemployment fund.

"Unemployment fund" shall mean a special fund, established under a State law, and administered by a State agency in trust for the payment of compensation, and shall

include so much of such fund as is administered as a pooled fund (which shall never be less, except insofar as it may be diminished by payment of compensation, than the amount raised by contributions measured by 1 per centum of pay roll) and so much, if any, for which the State agency maintains separate accounts for individual employers or groups of employers who are required to make contributions.

"State agency" shall mean any State officer, board, or other authority designated, under a State law, to direct the administration of an unemployment fund in such State.

"Pooled fund" shall mean an unemployment fund or any part thereof in which all contributions are mingled and undivided, and from which compensation is payable to all eligible employees, except that it is payable to persons employed by employers for whom individual or group reserve accounts are maintained by the State agency only when such accounts, and any other liability of employers for compensation, are exhausted.

"Reserve account" shall mean a separate account, maintained by a State agency, of contributions paid by an employer or group of employers, from which compensation is payable to the employees of such employer or group unless such account is exhausted.

"Guaranteed employment account" shall mean a separate account, maintained by a State agency, of con-

tributions paid by an employer or group of employers who guarantee full wages, for not less than forty weeks in each taxable year to all of their employees, or all of their employees in any plant or plants operated by such employer or group, and give adequate guarantees for the payment thereof as prescribed by the State law, from which account may be payable compensation to each such employee if his guarantee is not renewed and he is otherwise eligible for benefits under such law.

" Compensation " shall mean the cash benefits payable under a compulsory State law to employees for their unemployment.

" Employee " as used in this title, shall mean any employed person who is covered by a State law and/or may become eligible for compensation thereunder.

" Tax " shall mean the gross tax imposed on the employer for the taxable year under section 601 of this Act, except that when it is used in section 605 " tax " shall mean the said gross tax minus any amounts credited in accordance with sections 602 and 607 of this Act.

" Taxable year " shall mean the year from January 1 to December 31, inclusive, or any portion of such year.

ALLOWANCE OF ADDITIONAL CREDITS

SEC. 607. Any employer qualifying under section 608 of this Act, who has made contributions and has reduced

them under a State law which initially required uniform contributions from all employers making contributions, and which thereafter allows certain employers to reduce their contributions may, for any taxable year thereafter, credit against the tax an amount in addition to the credit allowed under section 602 of this Act, except that in no instance shall an employer's total credits under this Act exceed 90 per centum of his tax. The additional credit under this section shall be equal to the difference between (a) the amount of contributions (measured by his pay roll attributable to such State), actually required of and duly paid by such employer for such year under such law, and (b) the amount of such contributions which he would have been required to make under such law for such year at the highest rate then applicable to any employer or employers required to contribute under such law.

CONDITIONS OF ADDITIONAL CREDIT ALLOWANCE

SEC. 608. No additional credit shall be allowed under section 607 of this Act except to an employer who—

(a) Has, since contributions were first required of him under such law, made contributions, and is required to continue to contribute to a pooled fund in the State whose law allows the reduction for which such credit is claimed at a rate of at least 1 per centum of his pay roll attributable to such State;

(b) If he is permitted to reduce or cease his contributions to a reserve account, (1) under a State law requiring the State agency to maintain reserve accounts for each employer or group of employers making contributions, he is allowed to do so only when the benefits payable from such reserve account have not been scaled down during the taxable year because of the inadequacy of such reserve account and only when such reserve account amounts to not less than 15 per centum of the total pay roll (attributable to such State) of such employer or group during the taxable year; or (2) under a State law permitting the State agency to maintain reserve accounts for some employers, or groups of employers, is allowed to do so only when such employers or groups have guaranteed the full payment of compensation to their employees regardless of the adequacy of their reserve accounts, and only when such reserve account amounts to not less than 15 per centum of the total pay roll (attributable to such State) of such employer or group during the taxable year;

(c) If he is permitted to contribute at a reduced rate as to contributions measured by the guaranteed wages paid in such State, is allowed to do so only if the State agency maintains a separate guaranteed employment account for him individually or as one of a group of employers, and only if he or such group has fulfilled his or its guaranty,

and only when the amount credited in such guaranteed employment account amounts to not less than 7½ per centum of so much of the total pay roll of such employer group for the taxable year as represents the wages guaranteed under such law by such employer or group;

(d) If he is permitted to contribute at a reduced rate (but not at a rate of less than 1 per centum of pay roll attributable to such State) to a pooled fund, is allowed to do so if the State law permits contributions to a pooled fund (over and above 1 per centum of such pay roll) to be made at varying rates: *Provided,* That such variations are not allowed within five years after contributions are first paid under such law, and then are allowed only on a basis of unemployment compensation experience.

## TITLE VII

### MATERNAL AND CHILD HEALTH

SECTION 701. (a) In order to enable the Federal Government to cooperate with the State agencies of health in extending and strengthening services for the health of mothers and children, especially in rural areas and in areas suffering from severe economic distress, there is hereby appropriated the sum of $4,000,000 from funds in the Treasury not otherwise appropriated, for the fiscal year ending June 30, 1936, and there is hereby authorized to be appro-

priated for each fiscal year thereafter, the sum of $4,000,000. From these amounts so much, not to exceed 5 per centum, as the Children's Bureau shall find to be necessary for administering the provisions of this section and for investigations and reports related thereto, shall be deducted annually for this purpose, to be available until expended. The remainder shall be allocated for furthering and strengthening State and local health services to mothers and children, extending maternity nursing services in counties predominantly rural, and conducting special demonstration and research in maternal care and other aspects of maternal and child health service. For each fiscal year, allocations of the appropriations herein authorized shall be as follows:

(1) For furthering and extending maternal and child health and maternity nursing services, the Secretary of Labor shall allot $20,000 to each State and apportion $1,000,000 among the States in the proportion which the number of live births in each State bears to the total number of live births in the United States as determined annually by the latest available statistics for the United States Birth Registration Area: *Provided,* That no allotment made to a State under this paragraph shall exceed the sum of the amount made available by the State for the purposes of this paragraph

and the amount allotted to it under paragraph (2) of this section;

(2) The Secretary of Labor shall apportion among States unable, because of severe economic distress, to match by themselves in full the amounts made available under paragraph (1), for their use in matching such sums $800,000;

(3) The Secretary of Labor shall allocate the remainder for special demonstrations and research in maternal care in rural areas, and in other aspects of maternal and child health.

(b) The sums provided under paragraphs (2) and (3) of subsection (a) of this section shall be available until the close of the succeeding fiscal year. So much of the amount apportioned under paragraph (1) to any State for any fiscal year as remains unpaid to such State at the close thereof shall be available until the close of the succeeding fiscal year for expenditures in that State, under the conditions specified in paragraph (1), or if not requested by the State agency of health, for apportionment among States as provided in paragraph (2).

(c) In order to receive the benefits of paragraphs (1) and (2) of subsection (a) of this section, a State shall, through its State agency of health, submit to the

Children's Bureau detailed plans for effectuating the purposes of this section within such State and information concerning the amounts made available by the State for such purposes, which, unless exceptional circumstances can be shown, must at least equal the amounts available for similar purposes at the time of the passage of this Act; and if an allocation under subsection (a) paragraph (2) is requested, the conditions leading to such a request. A State plan must include reasonable provision for State administrative and supervisory services, for furthering local maternal and child-health services administered by local public-health units for State financial participation, and for cooperation with medical, nursing, and welfare groups and organizations; and must give due consideration to the development of demonstration services or services of a more permanent character in rural and other needy areas or among groups of the population in special need. When the Chief of the Children's Bureau deems a State plan and the administration thereof to be in reasonable conformity with the provisions of this section and in accordance with accepted standards of public-health practice developed by Federal Bureaus and other agencies, he shall approve the same and send due notice of such approval to the Secretary of Labor and the State agency concerned.

CARE OF CRIPPLED CHILDREN

SEC. 702. (a) In order to enable the Federal Government to cooperate with the State agencies concerned with the provision of medical care and other services for crippled children, especially in rural areas, there is hereby appropriated for the fiscal year ending June 30, 1936, from funds in the Treasury not otherwise appropriated, the sum of $3,000,000, and for each fiscal year thereafter there is authorized to be appropriated $3,000,000. From this amount so much, not to exceed 5 per centum, as the Children's Bureau shall find to be necessary for administering the provisions of this section and for investigations and reports related thereto, shall be deducted annually for this purpose to be available until expended. The remainder shall be allotted to States for purposes of locating crippled children, and of providing facilities for diagnosis and care, hospitalization, and after care, especially for children living in rural areas. For each fiscal year the Secretary of Labor shall allot $20,000 to each State and apportion the remainder among the States on the basis of need as set forth in plans developed by the State agencies concerned and approved by the Children's Bureau: *Provided,* That except in the case of severe economic distress or other exceptional circumstance, no allotment under this subsection shall

exceed the sum made available by the State for the purposes of this section.

(b) In order to receive the benefits of this section a State must, through an authorized State agency concerned with the provision of medical care and other services for crippled children, submit to the Children's Bureau a detailed plan for effectuating the purposes of this section within such State, and information concerning the amounts made available by the State for the purposes of this section, which should at least equal the amounts made available for similar purposes during the fiscal year next preceding the passage of this Act, unless exceptional circumstances can be shown; and if an allocation in addition to the original allotment of $20,000 is requested, the conditions leading to such a request. A State plan must include reasonable provision for State administration, adequate facilities for locating and diagnosing children, adequate medical care, hospitalization and after care, and cooperation with medical, health, and welfare groups and organizations. When the Chief of the Children's Bureau deems a State plan and the administration thereof to be in reasonable conformity with the provisions of this section, he shall approve the same and send due notice of such approval to the Secretary of Labor and the State agency concerned.

AID TO CHILD-WELFARE SERVICES

SEC. 703. (a) In order to enable the Federal Government to cooperate with the State agencies of public welfare in extending and strengthening, especially in rural areas and areas suffering from severe economic distress, welfare services for the protection and care of homeless, dependent, and neglected children, and children in danger of becoming delinquent, there is hereby appropriated for the fiscal year ending June 30, 1936, from funds in the Treasury not otherwise appropriated, the sum of $1,500,000, and there is hereby authorized to be appropriated $1,500,000 for each fiscal year thereafter. From these amounts so much, not to exceed 5 per centum, as the Children's Bureau shall find to be necessary for administering the provisions of this section and for investigations and reports related thereto, shall be deducted annually for this purpose, to be available until expended. The remainder shall be allotted to States for the purposes of assistance to local units, especially in rural areas, in the development of public child-welfare services and for improvement of standards and methods of child-caring service throughout the State. For each fiscal year, from the appropriations herein authorized,

(1) The Secretary of Labor shall apportion $1,000,000 among the States, allotting $10,000 to

each State and the balance to States in the proportion which their population bears to the total population of the United States: *Provided,* That no allotment made to a State under this paragraph shall exceed the sum of the amount made available by the State for the purposes of this section and the amount apportioned to it under paragraph (2) of this subsection.

(2) The Secretary of Labor shall apportion the remainder among States unable, because of severe economic distress, to match in full the amounts allotted under paragraph (1), for their use in matching such sums, or for special demonstrations of methods of community child-welfare service.

(b) The sums provided under paragraph (2) of subsection (a) shall be available for expenditure until the close of the succeeding fiscal year. So much of the amount apportioned under paragraph (1) of subsection (a) to any State for any fiscal year as remains unpaid to such State at the close thereof, shall be available until the close of the succeeding fiscal year for expenditures in that State under the conditions prescribed in such paragraph (1), or, if not requested by the State agency of welfare, for allocation to States as provided in such paragraph (2).

(c) In order to receive the benefits of this section a State must, through its State department of public welfare,

or, if there be none or more than one such agency, through a State agency designated by the legislature or provisionally designated by the Governor if the legislature be not in session, to cooperate with the Children's Bureau under the provisions of this section, submit to the Children's Bureau a detailed plan for effectuating the purposes of this section within such State, and information concerning the amounts made available by the State for such purposes, which should at least equal the amounts made available for similar purposes during the fiscal year next preceding the passage of this Act, unless exceptional circumstances can be shown; and, if an allocation under paragraph (2) of subsection (a) of this section is requested, the conditions leading to such a request. A plan must include reasonable provision for State administration, State financial participation, furthering local public child-welfare services, and cooperation with health and welfare groups and organizations, and give due consideration to demonstration services or services of a more permanent character in rural or other needy areas or among groups of the population in special need. When the Chief of the Children's Bureau deems a State plan and the administration thereof to be in reasonable conformity with the provisions of this section he shall approve the same and send due notice of such approval to the State agency concerned.

PARTICIPATION BY CHILDREN'S BUREAU

SEC. 704 (a) Out of the amounts authorized in this title the Children's Bureau is authorized to employ such experts, assistants, clerks, and other persons in the District of Columbia and elsewhere, to be taken from the eligible lists of the Civil Service Commission, and to purchase such supplies, material, equipment, office fixtures, and apparatus, and to incur such travel and other expenses as it may deem necessary for carrying out the purposes of this title. It shall be the duty of the Children's Bureau to make or cause to be made such studies, investigations, and reports as will promote the efficient administration of this title.

(b) Within thirty days after an appropriation has been made under the authority of this title, the Secretary of Labor shall make the apportionments on the basis of live births and of population as provided herein, shall certify to the Secretary of the Treasury and to the treasurers of the several States the amounts apportioned for the purposes specified. and shall certify to the Secretary of the Treasury the amounts estimated by the Children's Bureau to be necessary for administering the provisions of this title.

(c) Within sixty days after any appropriation authorized by this title has been made, and as often thereafter while such appropriation remains unexpended as changed

conditions may warrant, the Secretary of Labor shall ascertain and certify to the Secretary of the Treasury and the Treasurer of the United States the amounts to which each State is entitled under the provisions of this title, in accordance with plans submitted by the States and approved by the Children's Bureau. Such certificate shall show that the State has complied with all requirements of the pertinent sections of the title. When in conformity with the provisions of the title such certificate, until revoked as provided in subsection (d) hereof, shall be sufficient authority to the Treasurer to make payment to the State in accordance therewith.

(d) Each State agency cooperating with the Children's Bureau under the provisions of this title shall make such reports concerning its operations and expenditures as shall be prescribed or requested by the Bureau. The Bureau, after due notice in writing, setting forth the reasons therefor, may revoke any existing certificate provided for in subsection (c) whenever it shall determine that any State agency has not properly expended or supervised the expenditure of moneys paid to it for the purposes and in accordance with the provisions of this title. When so withheld the State agency may appeal to the Secretary of Labor who may either affirm or reverse the action of the Bureau with such directions as he shall consider proper.

(e) The Children's Bureau shall perform the duties assigned to it by this title under the supervision of the Secretary of Labor, and he shall include in his annual report to Congress a full account of the administration of this title and expenditures of the moneys herein authorized.

(f) As used in this title, the term "State" shall include Alaska, Hawaii, Puerto Rico, and the District of Columbia.

## TITLE VIII

### APPROPRIATIONS FOR PUBLIC HEALTH

SECTION 801. There is hereby appropriated, from funds in the Treasury not otherwise appropriated, the sum of $10,000,000 for the fiscal year ending June 30, 1936, and there is hereby authorized to be appropriated for each fiscal year thereafter the sum of $10,000,000, to be allocated to the Bureau of the Public Health Service to be expended as hereinafter provided.

### LOCAL PUBLIC HEALTH SERVICES

SEC. 802. From the amounts appropriated under this title, the Bureau of the Public Health Service shall annually allot $8,000,000 to the several States, in amounts determined on the basis of the need of each State for such assistance, for the purpose of developing State health services including the training of personnel for State and local health work and for the purpose of assisting counties and/or other po-

litical subdivisions of the States in maintaining adequate public-health programs. Payment of any allotment, or installment thereof, shall be made only after the Secretary of the Treasury has made a finding of fact that there is need to make such money available in such State, and has notified the Treasurer of the United States to pay such allotment or installment, and the amount thereof. Any money appropriated for the purposes of this section but not expended during the fiscal year shall be available for payment of allotments to the States in the next fiscal year.

BUREAU OF THE PUBLIC HEALTH SERVICE

SEC. 803 (a) From the amounts appropriated under this title, $2,000,000 shall annually be available to the Bureau of the Public Health Service, for the further investigation of disease and problems of sanitation, and related matters. Out of the amounts made available in this section the Bureau of the Public Health Service is authorized to employ such experts, assistants, clerks, and other persons in the District of Columbia and elsewhere, to be taken from the eligible lists of the Civil Service Commission, and to purchase such supplies, material, equipment, office fixtures, and apparatus, and to incur such travel and other expenses as it may deem necessary for carrying out the purposes of this title.

(b) The Secretary of the Treasury shall make all rules and regulations necessary to carry out the purposes of this title.

ACTION OF THE COMPTROLLER GENERAL

SEC. 804. The Comptroller General is authorized and directed to allow credit in the accounts of the Treasurer of the United States for payment of allotments in the amounts notified him by the Secretary of the Treasury.

## TITLE IX

SEPARABILITY

SECTION 901. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the Act, and the application of such provisions to other persons or circumstances shall not be affected thereby.

RESERVATION OF POWER

SEC. 902. The right to alter, amend, or repeal any or all provisions of this Act is hereby reserved to the Congress.

SHORT TITLE

SEC. 903. This Act may be known as "The Economic Security Act."

74TH CONGRESS
1ST SESSION

# H. R. 4120

## A BILL

To alleviate the hazards of old age, unemployment, illness, and dependency, to establish a Social Insurance Board in the Department of Labor, to raise revenue, and for other purposes.

By Mr. DOUGHTON

JANUARY 17, 1935
Referred to the Committee on Ways and Means and ordered to be printed

74TH CONGRESS
1ST SESSION

# S. 1130

IN THE SENATE OF THE UNITED STATES

JANUARY 17, 1935

MR. WAGNER introduced the following bill; which was read twice and referred to the Committee on Finance

# A BILL

To alleviate the hazards of old age, unemployment, illness, and dependency, to establish a Social Insurance Board in the Department of Labor, to raise revenue, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

## TITLE I

### APPROPRIATION FOR OLD-AGE ASSISTANCE

SECTION 1. For the purposes of this title, there is hereby appropriated, from funds in the Treasury not otherwise appropriated, the sum of $50,000,000 for the fiscal year ending June 30, 1936, and there is hereby authorized to be appropriated for each fiscal year thereafter the sum of

Note: Companion bill to H.R. 4120

Hearings were held by the Senate Finance Committee on S. 1130 during February 1935.

74TH CONGRESS
1ST SESSION

# S. 1130

# A BILL

To alleviate the hazards of old age, unemployment, illness, and dependency, to establish a Social Insurance Board in the Department of Labor, to raise revenue, and for other purposes.

By Mr. WAGNER

JANUARY 17, 1935
Read twice and referred to the Committee on Finance

# REPORT
# TO THE PRESIDENT

OF THE

# COMMITTEE ON ECONOMIC SECURITY

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1935

# TABLE OF CONTENTS

## LETTER OF TRANSMITTAL

WASHINGTON, D. C., *January 15, 1935.*

The PRESIDENT,
*The White House.*

DEAR MR. PRESIDENT: In your message of June 8, 1934, to the Congress you directed attention to certain fundamental objectives in the great task of reconstruction; an indistinguishable and essential aspect of the immediate task of recovery. You stated, in language that we cannot improve upon:

> Our task of reconstruction does not require the creation of new and strange values. It is rather the finding of the way once more to known, but to some degree forgotten, ideals and values. If the means and details are in some instances new, the objectives are as permanent as human nature.
>
> Among our objectives I place the security of the men, women, and children of the Nation first.
>
> This security for the individual and for the family concerns itself primarily with three factors. People want decent homes to live in; they want to locate them where they can engage in productive work; and they want some safeguard against misfortunes which cannot be wholly eliminated in this man-made world of ours.

Subsequent to this message you created, by Executive order, this Committee on Economic Security to make recommendations to you on the third of the aspects of security which you outlined—that of safeguards "against misfortunes which cannot be wholly eliminated in this man-made world of ours."

In the brief time that has intervened, we have sought to analyze the hazards against which special measures of security are necessary, and have tried to bring to bear upon them the world experience with measures designed as safeguards against these hazards. We have analyzed all proposed safeguards of this kind which have received serious consideration in this country. On the basis of all these considerations, we have tried to formulate a program which will represent at least a substantial beginning toward the realization of the objective you presented.

We have had in our employ a small staff, which included some of the outstanding experts in this field. This staff has prepared many valuable studies giving the factual background, summarizing American and foreign experience, presenting actuarial calculations, and making detailed suggestions for legislation and administration.

▼

We have also had the assistance of the Technical Board on Economic Security, provided for in your Executive order, and composed of 20 people in the Government service, who have special interest and knowledge in some or all aspects of the problem you directed us to study. The Technical Board, functioning as a group, through subcommittees, and as individuals, has aided the staff and the committee during the entire investigation. Many of the members have devoted much time to this work and have made very important contributions, indeed. Plus these, many other people in the Government service have unstintingly aided the committee with special problems on which their advice and assistance has been sought.

The Advisory Council on Economic Security, appointed by you and constituted of citizens outside of the Government service, representing employers, employees, and the general public, has assisted the committee in weighing the proposals developed by the staff and the Technical Board, and in arriving at a judgment as to their practicability. All members of the Council were people who have important private responsibilities, and many of them also other public duties, but they took time to come to Washington on four separate occasions for meetings extending over several days.

In addition to the Council, this committee found it advisable to create seven other advisory groups: A committee of actuarial consultants, a medical advisory board, a dental advisory committee, a hospital advisory committee, a public-health advisory committee, a child welfare committee, and an advisory committee on employment and relief. All of these committees have contributed suggestions which have been incorporated in this report. The medical advisory board, the dental advisory committee, and the hospital advisory committee are still continuing their consideration of health insurance, but joined with the public health advisory committee in endorsement of the program for extended public-health services which we recommend.

Finally, many hundreds of citizens and organizations in all parts of the country have contributed ideas and suggestions. Three hundred interested citizens, representing practically every State, at their own expense, attended the National Conference on Economic Security, held in Washington on November 14, which was productive of many very good suggestions.

The responsibility for the recommendations we offer is our own. As was inevitable in view of the wide differences of opinion which prevail regarding the best methods of providing protection against the hazards leading to destitution and dependency, we could not accept all of the advice and suggestions offered, but it was distinctly helpful to have all points of view presented and considered.

To all who assisted us or offered suggestions, we are deeply grateful.

In this report we briefly sketch the need for additional safeguards against "the major hazards and vicissitudes of life." We also present recommendations for making a beginning in the development of safeguards against these hazards, and with this report submit drafts of bills to give effect to these recommendations. We realize that some of the measures we recommend are experimental and, like nearly all pioneering legislation, will, in course of time, have to be extended and modified. They represent, however, our best judgment as to the steps which ought to be taken immediately toward the realization of what you termed in your recent message to the Congress "the ambition of the individual to obtain for him and his a proper security, a reasonable leisure, and a decent living throughout life."

Respectfully submitted.

FRANCES PERKINS,
*Secretary of Labor (Chairman).*
HENRY MORGENTHAU, Jr.,
*Secretary of the Treasury.*
HOMER CUMMINGS,
*Attorney General.*
HENRY A. WALLACE,
*Secretary of Agriculture.*
HARRY L. HOPKINS,
*Federal Emergency Relief Administrator.*

# REPORT OF THE COMMITTEE ON ECONOMIC SECURITY

## NEED FOR SECURITY

The need of the people of this country for "some safeguard against misfortunes which cannot be wholly eliminated in this man-made world of ours" is tragically apparent at this time, when 18,000,000 people, including children and aged, are dependent upon emergency relief for their subsistence and approximately 10,000,000 workers have no employment other than relief work. Many millions more have lost their entire savings, and there has occurred a very great decrease in earnings. The ravages of probably the worst depression of all time have been accentuated by greater urbanization, with the consequent total dependence of a majority of our people on their earnings in industry.

As progress is made toward recovery, this insecurity will be lessened, but it is not apparent that even in the "normal times" of the prosperous twenties, a large part of our population had little security. From the best estimates which are obtainable, it appears that in the years 1922 to 1929 there was an average unemployment of 8 percent among our industrial workers. In the best year of this period, the number of the unemployed averaged somewhat less than 1,500,000.

Unemployment is but one of many misfortunes which often result in destitution. In the slack year of 1933, 14,500 persons were fatally injured in American industry and 55,000 sustained some permanent injury. Nonindustrial accidents exacted a much greater toll. On the average, 2.25 percent of all industrial workers are at all times incapacitated from work by reason of illness. Each year above one-eighth of all workers suffer one or more illnesses which disable them for a week, and the percentage of the families in which some member is seriously ill is much greater. In urban families of low incomes, above one-fifth each year have expenditures for medical and related care of above $100 and many have sickness bills of above one-fourth and even one-half of their entire family income. A relatively small but not insignificant number of workers are each year prematurely invalided, and 8 percent of all workers are physically handicapped.

At least one-third of all our people, upon reaching old age, are dependent upon others for support. Less than 10 percent leave an estate upon death of sufficient size to be probated.

There is insecurity in every stage of life.

For the largest group, the people in middle years, who carry the burden of current production from which all must live, the hazards with which they are confronted threaten not only their own economic independence but the welfare of their dependents.

For those now old, insecurity is doubly tragic, because they are beyond the productive period. Old age comes to everyone who does not die prematurely and is a misfortune only if there is insufficient income to provide for the remaining years of life. With a rapidly increasing number and percentage of the aged, and the impairment and loss of savings, this country faces, in the next decades, an even greater old-age security problem than that with which it is already confronted.

For those at the other end of the life cycle—the children—dependence is normal, and security is best provided through their families. That security is often lacking. Not only do the children under 16 constitute above 40 percent of all people now on relief, as compared to 28 percent in the entire population, but at all times there are several millions in need of special measures of protection. Some of these need individual attention to restore, as fully as may be, lives already impaired. More of them—those who have been deprived of a father's support—need only financial aid which will make it possible for their mothers to continue to give them normal family care.

Most of the hazards against which safeguards must be provided are similar in that they involve loss of earnings. When earnings cease, dependency is not far off for a large percentage of our people. In 1929, at the peak of the stock-market boom, the average per capita income of all salaried employees at work was only $1,475. Eighteen million gainfully employed persons, constituting 44 percent of all those gainfully occupied, exclusive of farmers, had annual earnings of less than $1,000; 28,000,000, or nearly 70 percent, earnings of less than $1,500. Many people lived in straitened circumstances at the height of prosperity; a considerable number live in chronic want. Throughout the twenties, the number of people dependent upon private and public charity steadily increased.

With the depression, the scant margin of safety of many others has disappeared. The average earnings of all wage earners at work dropped from $1,475 in 1929 to $1,199 in 1932. Since then, there has been considerable recovery, but even for many who are fully employed there is no margin for contingencies.

The one almost all-embracing measure of security is an assured income. A program of economic security, as we vision it, must have as its primary aim the assurance of an adequate income to each human being in childhood, youth, middle age, or old age—in sickness or in health. It must provide safeguards against all of the hazards leading to destitution and dependency.

A piecemeal approach is dictated by practical considerations, but the broad objectives should never be forgotten. Whatever measures are deemed immediately expedient should be so designed that they can be embodied in the complete program which we must have ere long.

To delay until it is opportune to set up a complete program will probably mean holding up action until it is too late to act. A substantial beginning should be made now in the development of the safeguards which are so manifestly needed for individual security. As stated in the message of June 8, these represent not "a change in values" but "rather a return to values lost in the course of our economic development and expansion." "The road to these values is the way to progress." We will not "rest content until we have done our utmost to move forward on that road."

## SUMMARY OF MAJOR RECOMMENDATIONS

In this report we discuss briefly all aspects of the problem of economic security for the individual. On many phases our studies enable us only to call attention to the importance of not neglecting these aspects of economic security and to give endorsement to measures and policies which have been or should be worked out in detail by other agencies of the Government.

Apart from these phases of a complete program for economic security with which we deal only sketchily, we present the following major recommendations:

### EMPLOYMENT ASSURANCE

Since most people must live by work, the first objective in a program of economic security must be maximum employment. As the major contribution of the Federal Government in providing a safeguard against unemployment we suggest employment assurance—the stimulation of private employment and the provision of public employment for those able-bodied workers whom industry cannot employ at a given time. Public-work programs are most necessary in periods of severe depression, but may be needed in normal times, as well, to help meet the problems of stranded communities and overmanned or declining industries. To avoid the evils of hastily

planned emergency work, public employment should be planned in advance and coordinated with the construction and developmental policies of the Government and with the State and local public-works projects.

We regard work as preferable to other forms of relief where possible. While we favor unemployment compensation in cash, we believe that it should be provided for limited periods on a contractual basis and without governmental subsidies. Public funds should be devoted to providing work rather than to introduce a relief element into what should be strictly an insurance system.

### UNEMPLOYMENT COMPENSATION

Unemployment compensation, as we conceive it, is a front line of defense, especially valuable for those who are ordinarily steadily employed, but very beneficial also in maintaining purchasing power. While it will not directly benefit those now unemployed until they are reabsorbed in industry, it should be instituted at the earliest possible date to increase the security of all who are employed.

We believe that the States should administer unemployment compensation, assisted and guided by the Federal Government. We recommend as essential the imposition of a uniform pay-roll tax against which credits shall be allowed to industries in States that shall have passed unemployment compensation laws. Through such a uniform pay-roll tax it will be possible to remove the unfair competitive advantage that employers operating in States which have failed to adopt a compensation system enjoy over employers operating in States which give such protection to their wage earners.

We believe also that it is essential that the Federal Government assume responsibility for safeguarding, investing, and liquidating all reserve funds, in order that these reserves may be utilized to promote economic stability and to avoid dangers inherent in their uncontrolled investment and liquidation. We believe, further, that the Federal act should require high administrative standards, but should leave wide latitude to the States in other respects, as we deem experience very necessary with particular provisions of unemployment compensation laws in order to conclude what types are most practicable in this country.

### OLD-AGE SECURITY

To meet the problem of security for the aged we suggest as complementary measures noncontributory old-age pensions, compulsory contributory annuities, and voluntary contributory annuities, all to be applicable on retirement at age 65 or over.

Only noncontributory old-age pensions will meet the situation of those who are now old and have no means of support. Laws for

the payment of old-age pensions on a needs basis are in force in more than half of all States and should be enacted everywhere. Because most of the dependent aged are now on relief lists and derive their support principally from the Federal Government and many of the States cannot assume the financial burden of pensions unaided, we recommend that the Federal Government pay one-half the cost of old-age pensions but not more than $15 per month for any individual.

The satisfactory way of providing for the old age of those now young is a contributory system of old-age annuities. This will enable younger workers, with matching contributions from their employers, to build up a more adequate old-age protection than it is possible to achieve with noncontributory pensions based upon a means test. To launch such a system we deem it necessary that workers who are now middle-aged or older and who, therefore, cannot in the few remaining years of their industrial life accumulate a substantial reserve be, nevertheless, paid reasonably adequate annuities upon retirement. These Government contributions to augment earned annuities may either take the form of assistance under old age pension laws on a more liberal basis than in the case of persons who have made no contributions or by a Government subsidy to the contributory annuity system itself. A portion of these particular annuities will come out of Government funds, but because receipts from contributions will in the early years greatly exceed annuity payments, it will not be necessary as a financial problem to have Government contributions until after the system has been in operation for 30 years. The combined contributory rate we recommend is 1 percent of pay roll to be divided equally between employers and employees, which is to be increased by 1 percent each 5 years, until the maximum of 5 percent is reached in 20 years.

There still remains, unprotected by either of the two above plans, professional and self-employed groups, many of whom face dependency in old age. Partially to meet their problem, we suggest the establishment of a voluntary Government annuity system, designed particularly for people of small incomes.

### SECURITY FOR CHILDREN

A large group of the children at present maintained by relief will not be aided by employment or unemployment compensation. There are the fatherless and other "young" families without a breadwinner. To meet the problems of the children in these families, no less than 45 States have enacted children's aid laws, generally called "mothers' pension laws." However, due to the present financial difficulty in which many States find themselves, far more of such children are on the relief lists than are in receipt of children's

aid benefits. We are strongly of the opinion that these families should be differentiated from the permanent dependents and unemployables, and we believe that the children's aid plan is the method which will best care for their needs. We recommend Federal grants-in-aid on the basis of one-half the State and local expenditures for this purpose (one-third the entire cost).

We recommend also that the Federal Government give assistance to States in providing local services for the protection and care of homeless, neglected, and delinquent children and for child and maternal health services especially in rural areas. Special aid should be given toward meeting a part of the expenditures for transportation, hospitalization, and convalescent care of crippled and handicapped children, in order that those very necessary services may be extended for a large group of children whose only handicaps are physical.

### RISKS ARISING OUT OF ILL HEALTH

As a first measure for meeting the very serious problem of sickness in families with low income we recommend a Nation-wide preventive public-health program. It should be largely financed by State and local governments and administered by State and local health departments, the Federal Government to contribute financial and technical aid. The program contemplates (1) grants in aid to be allocated through State departments of health to local areas unable to finance public-health programs from State and local resources, (2) direct aid to States in the development of State health services and the training of personnel for State and local health work, and (3) additional personnel in the United States Public Health Service to investigate health problems of interstate or national concern.

The second major step we believe to be the application of the principles of insurance to this problem. We are not prepared at this time to make recommendations for a system of health insurance. We have enlisted the cooperation of advisory groups representing the medical and dental professions and hospital management in the development of a plan for health insurance which will be beneficial alike to the public and the professions concerned. We have asked these groups to complete their work by March 1, 1935, and expect to make a further report on this subject at that time or shortly thereafter. Elsewhere in our report we state principles on which our study of health insurance is proceeding, which indicate clearly that we contemplate no action that will not be quite as much in the interests of the members of the professions concerned as of the families with low incomes.

### RESIDUAL RELIEF

The measures we suggest all seek to segregate clearly distinguishable large groups among those now on relief or on the verge of relief and to apply such differentiated treatment to each group as will give it the greatest practical degree of economic security. We believe that if these measures are adopted, the residual relief problem will have diminished to a point where it will be possible to return primary responsibility for the care of people who cannot work to the State and local governments.

To prevent such a step from resulting in less humane and less intelligent treatment of unfortunate fellow citizens, we strongly recommend that the States substitute for their ancient, out-moded poor laws modernized public-assistance laws, and replace their traditional poor-law administrations by unified and efficient State and local public welfare departments, such as exist in some States and for which there is a nucleus in all States in the Federal emergency relief organizations.

### ADMINISTRATION

The creation of a social insurance board within the Department of Labor, to be appointed by the President and with terms to insure continuity of administration, is recommended to administer the Federal unemployment compensation act and the system of Federal contributory old-age annuities.

Full responsibility for the safeguarding and investment of all social insurance funds, we recommend, should be vested in the Secretary of the Treasury.

The Federal Emergency Relief Administration is recommended as the most appropriate existing agency for the administration of noncontributory old-age pensions and grants in aid to dependent children. If this agency should be abolished, the President should designate the distribution of its work. It is recommended that all social welfare activities of the Federal Government be coordinated and systematized.

## EMPLOYMENT ASSURANCE

A program of economic security for the Nation that does not include those now unemployed cannot possibly be complete. They, above all, are in need of security. Their tragic situation calls attention not only to their own desperate insecurity but to the lack of security of all those who are dependent upon their own earnings for a livelihood. Therefore, any program for economic security that is devised must be more comprehensive than unemployment compensation, which of necessity can be given only for a limited period. In proposing unemployment compensation we recognize that it is but a complementary part of an adequate program for protection against

the hazards of unemployment, in which stimulation of private employment and provision of public employment on a security-payment basis are other major elements.

### PRIVATE EMPLOYMENT

In our economic system the great majority of the workers must find work in private industry if they are to have permanent work. The stimulation and maintenance of a high level of private employment should be a major objective of the Government. All measures designed to relieve unemployment should be calculated to promote private employment and also to get the unemployed back into the main channel of production. We believe that provision of public employment in combination with unemployment compensation will most effectively serve these purposes. Both will operate to maintain purchasing power, and public employment will indirectly give work to many more persons in private industry who otherwise would have none. At the same time it will stimulate workers to accept and seek private employment when it becomes available.

### PUBLIC EMPLOYMENT

What the Federal, local, and State governments would be called upon to do in providing work depends upon many complicated factors: financial resources, advance planning, the general industrial trend and methods; but it is a sound principle that public employment should be expended when private employment slackens, and it is likewise sound that work in preference to relief in cash or in kind should be provided for those of the unemployed who are willing and able to work.

The experience of the past year has demonstrated that making useful work available is a most effective means of meeting the needs of the unemployed. Further, it has been demonstrated that it is possible to put large numbers of persons to work quickly at useful tasks under conditions acceptable to them. The social and economic values of completed projects represent a considerable offset to the economic losses occasioned by millions of unemployed workers. Work maintains occupational skill. The required expenditures have an important stabilizing effect on private industry by increasing purchasing power and employment, and the completed works frequently produce self-liquidating income.

In periods of depression public employment should be regarded as a principal line of defense. Even in prosperous times it may be necessary, on a smaller scale, when " pockets " develop in which there is much unemployment. Public employment is not the final answer to the problem of stranded communities, declining industries, and impoverished farm families, but is necessary supplement to more

fundamental measures for the solution of such problems. And it must be remembered that a large part of the population will not be covered by unemployment compensation. While it will not always be necessary to have public employment projects to give employment assurance, it should be recognized as a permanent policy of the Government and not merely as an emergency measure.

Such an employment program must be related to unemployment compensation; and the resources of all public bodies—Federal, State, and local—must be coordinated if the policy of employment assurance is to be effectively realized. It would be advantageous to include in the program many types of public employment other than those which are considered necessary for the regular operations of government. This would include not only public construction of all kinds, but also appropriate work to employ usefully the professional and self-employed groups in our population. Because of the predominant importance of State and local construction in total public construction it is also essential that such Federal agencies as are established be empowered to incorporate State and local construction into the work program. It would also be desirable to extend Federal loans at low rates of interest to States and local governments for employment purposes. Such loans, once established, should be on a self-liquidating basis, and should become a revolving fund to be used over and over again as loans are repaid.

This entire program points immediately and inevitably toward practical advance planning—on a broad scale to make the potential resources of a region available for the general welfare of the people involved and toward detailed development of individual projects. To this end we endorse the recommendations of the National Resources Board for the establishment of a permanent national planning board.

We propose that public employment be made as nearly like private employment as possible. Applicants should be selected for their apparent ability to do the work offered as well as on the basis of their need; and we believe the public employment officers should be extensively utilized for this purpose. Only those who really work should be kept at work; the others should be discharged as in private employment.

### COORDINATION WITH UNEMPLOYMENT COMPENSATION

We believe it is desirable that workers ordinarily steadily employed be entitled to unemployment compensation in cash for limited periods when they lose their jobs. It is against their best interests and those of society that they should be offered public employment at this stage, thus removing them from immediate consideration for reemploy-

ment at their former work. Very often they will need nothing further than unemployment compensation benefits, for they will be able to reenter private employment after a brief period, but if they are unable to do so and remain unemployed after benefit rights are exhausted, we recommend they should be given, instead of an extended benefit in cash, a work benefit—an opportunity to support themselves and their families at work provided by the Government.

Similarly we deem provision of work the best measure of security for able-bodied workers who cannot be brought under unemployment compensation. Such workers will become eligible for public employment soon after the loss of regular employment; but more care will have to be exercised in their selection, to be certain that only workers who are ordinarily employed are given public employment.

## UNEMPLOYMENT COMPENSATION

### DESCRIPTION

Unemployment compensation as we use this term includes both unemployment insurance and unemployment reserves. It is a device through which reserves are accumulated during periods of employment to be paid out in periods of unemployment. In every system of unemployment compensation set up thus far, these reserves are built up through contributions paid by the employers alone, the employers and employees, or the employers, employees, and the Government. Except in England (where the contributions are uniform amounts per employee), the contributions everywhere are expressed as percentages of pay roll, and only in Belgium is a distinction made in the rate of contribution in different industries in accordance with their risk of unemployment.

All European systems create pooled unemployment insurance funds for the entire state or nation, in which the contributions of all employers are commingled. The systems voluntarily established by a number of employers in this country and also the Wisconsin law (which is the only unemployment compensation act in force in this country) establish, instead, industry or company unemployment reserves, in which each employer (or industry) is responsible for his own employment and his employees must look exclusively to his reserve fund for their compensation.

Some European unemployment insurance systems are voluntary, but the experience everywhere has been that compulsory coverage is necessary to include a majority of the industrial workers. Even with compulsory coverage large groups of workers cannot readily be brought under unemployment compensation; among them employees in very small establishments, and, of course, all self-employed persons.

Benefits from unemployment insurance funds are payable only for involuntary unemployment which is not due to the employee's own misconduct. An employee who is discharged or laid off is required to register at his nearest employment office, but draws no benefits during a specified waiting period. (In the basic calculations of our actuaries, a waiting period of 4 weeks was assumed.) If still unemployed after the waiting period, the worker becomes entitled to unemployment compensation at a specified percentage of his average wages prior to his discharge or lay-off, subject to an absolute maximum and, usually, also an absolute minimum. (In our calculations a 50 percent compensation rate and a maximum of $15 per week, but no minimum, were assumed.) Payments are usually made weekly and, an important condition in any unemployment compensation system, the unemployed worker must keep in touch regularly with the employment office and cannot draw any further benefits if he refuses to accept suitable employment offered him. In any event, the maximum number of weeks of benefit that may be drawn is definitely limited through a ratio of weeks of benefit to weeks of previous employment (1 to 4 in our calculations) and by absolute limitations. (We suggest to the States in framing their laws that on the basis of 3-percent-contribution rate the maximum benefit period cannot safely exceed 16 weeks and should be reduced to 15 weeks, if it is desired to give workers who have been long employed without drawing benefits an additional (maximum) week of compensation for each 6 months they have been employed without drawing benefits, up to a maximum of 10 additional weeks.)

After an unemployed worker has exhausted his rights to benefits, European systems generally permit him to draw extended benefits, on a means-test basis, for additional periods, the entire cost of which is borne by the government. As we have stated, such extended cash benefits seem to us far less desirable than work benefits, and we recommend that an employee, after he has exhausted his contractual rights, be certified to the authorities in charge of the Federal work program as entitled to a work benefit. Such certification shall entitle the unemployed insured worker, who has exhausted his cash benefits, to employment on any available public employment project, without a means test, but with the proviso that he must be dependent upon his own earnings and that not more than one member of any family or household will be given public employment.

### PLACE IN SECURITY PROGRAM

The actuaries and other technicians we have consulted estimate that if the plan we suggest had been in operation throughout the country in 1933, somewhat less than an average of 16,000,000 employed workers would have been included in the system, and that

had there been in that year 100 percent employment, slightly more than 26,000,000 would have been included—one-half of the entire number of those gainfully occupied. These figures give the approximate minimum and maximum number of workers who can be brought under unemployment compensation; the total, at any given time depending upon the state of industrial activity and the extent to which the system is really Nation-wide in opcration.

If a system of unemployment compensation had been in operation everywhere in this country during the years from 1922 to 1933, it is estimated that a 3 percent contribution rate with this coverage would have resulted in average total collections of approximately $825,000,000 per year, or $10,000,000,000 in the entire period. The estimated collections would have varied from a high of approximately $1,040,000,000 in 1929 to a low of $560,000,000 in 1932. During the twenties the contributions would have considerably exceeded the benefits paid and at the maximum point in 1929 approximately $2,000,000,000 would have been accumulated in the unemployment reserve funds, which would have been spent quite rapidly after the depression set in. In comparison with the emergency relief expenditures, now approximating $1,800,000,000 per year, or the $1,000,000,000 annually invested by the workers of the country in industrial insurance even during the depression, and the more than $20,000,000,000 of assets of life-insurance companies, the total annual contributions and maximum reserves in a Nation-wide unemployment compensation system are small, but they are by no means negligible.

Unemployment compensation does not lend itself to actuarial determination of benefits of the same precision as is possible in other forms of insurance. We have now in this country only very limited statistics of unemployment. One of the values of a Naton-wide system of unemployment compensation will be the collection of accurate and comprehensive unemployment statistics which it will make possible.

On the assumption, however, that the past experience during the entire business cycle does furnish at least an approximate guide to possible future unemployment, our actuaries and statisticians have computed the maximum benefit periods which could have been allowed at varying contribution rates. These computations were made on the basis of the unemployment experience of the years 1922 to 1933 and 1922 to 1930, respectively, as shown in table I.

*Actuarial estimates of the maximum number of weeks of benefit that could have been paid at various contribution rates and waiting periods under a nation-wide unemployment compensation system on the basis of the unemployment rates from 1922 to 1933, and from 1922 to 1930*

| Contribution rate | Waiting period (in weeks) | Standard maximum weeks of benefits | | | |
|---|---|---|---|---|---|
| | | 1922 to 1933 experience | | 1922 to 1930 experience | |
| | | Unadjusted | With actuarial adjustments | Unadjusted | With actuarial adjustments |
| 3 percent | 4 | 14 | 10 | 20 | 15 |
| 3 percent | 3 | 13 | 9 | 18 | 14 |
| 3 percent | 2 | 12 | 8 | 17 | 12 |
| 4 percent | 4 | 21 | 15 | 36 | 24 |
| 4 percent | 3 | 20 | 14 | 32 | 21 |
| 4 percent | 2 | 18 | 12 | 28 | 18 |
| 5 percent | 4 | 35 | 21 | 48 | 38 |
| 5 percent | 3 | 31 | 19 | 48 | 35 |
| 5 percent | 2 | 27 | 17 | 46 | 30 |

**Assumptions in the unadjusted computations**

(1) Nation-wide coverage, including all establishments employing six or more employees, but applying to the first $50 per week as a wage or salary to any employee; (2) 1 year of contributions before benefits became payable; (3) deficits in reserve funds after end of period; and (4) benefits of 50 percent of the average weekly wages.

**Adjustments**

On the columns giving the estimated maximum weeks of benefit "with actuarial adjustments" the above assumptions are basic but allowance is made for all factors likely to increase or decrease costs, among them (1) the rule that no employee may draw benefits for whom contributions have not been paid for at least 40 weeks in the preceding years nor for 10 weeks after he has exhausted his benefit rights; (2) savings through employees voluntarily quitting their work and discharges for proven misconduct; (3) allowance of an additional maximum week of benefits for each 6 months of contributions without drawing benefits, up to a maximum of 10 additional weeks; (4) limitation of benefits in the ratio of 1 week of benefits to 4 weeks of contributions; (5) compensation for part-time unemployment; (6) limitation of compensation in seasonal industries to unemployment occurring within the normal season; (7) limitation of the maximum benefit to $15 per week; (8) estimated increases in costs resulting from the fact that benefits will be paid on a full-time-wage basis while the contributions are made on actual pay roll, including much part time; (9) inadequacy of data; and (10) allowances for various contingencies, among them the probability of increased costs in the course of time, as is the experience in all other forms of insurance. Weighting all these and some other factors, the actuaries arrived at a loading of 28 percent above the unadjusted cost figures.

While the maximum benefit periods, set forth in table I, are mere approximations, they very clearly indicate that on a contractual basis, benefits can be paid only for periods which, to many people, will seem short. The benefits are small, although considerably higher on the average than relief grants. While unemployment compensation is far from being a complete protection, it is a valuable first line of defense for the largest group in our population,

the industrial workers ordinarily steadily employed. Unemployment compensation should permit such a worker, who becomes unemployed, to draw a cash benefit for a limited period during which there is expectation that he will soon be reemployed. This should be a contractual right not dependent on any means test. Normally the insured worker will return to his old job or find other work before his right to benefits is exhausted. If he does not find work, we recommend that his further period of unemployment should be met by a work benefit, as described in the section of this report dealing with employment assurance. This correlation between the cash benefit and the work benefit is recommended, and it seems to us that the combination is both fair and desirable. It will carry workers over most, if not all, periods of unemployment in normal times, without resort to any other form of assistance. While the maximum benefit periods indicated by the actuarial calculations are short in relation to the unemployment suffered by the people now on relief, it must be remembered that in ordinary industrial periods the great majority of workers who become unemployed find other work in a much shorter time.

But unemployment compensation is also valuable in depressions. If the benefits are kept within the limits we suggest, the funds should prove adequate for all minor depressions. In a depression of such depth as that which has prevailed since 1929 the funds are likely to be exhausted but will prove very helpful in the early stages. Had $2,000,000,000 been available for distribution to the workers when depression set in in 1929—as it might have been, had an unemployment-insurance system with a 3-percent contribution rate been in operation from 1922 on—it would have had a most pronounced stabilizing effect at a very crucial time. Within a year, or a little more, these accumulated reserve funds would have been exhausted, but considerable amounts would still have continued to be collected in contributions and distributed to the unemployed in benefits, thereby reducing relief costs and lightening the financial load on the public and the Government.

Some economists urge that, instead of using a tax on pay rolls, unemployment compensation should be paid through Federal Government borrowings to be repaid hereafter out of other types of Federal taxes. Without expressing any judgment on that contention, we deem it desirable, at the present time, to employ a pay-roll tax for unemployment compensation, although it may be possible that experimentation under the proposed statute will show that at some time in the future a plan built upon the other alternative suggestion should be substituted, in whole or in part, for that which we are proposing.

In not recommending any contributions derived from bond issues or income or other general tax sources we have had in mind that the Government under the plan we suggest will incur large expenditures in providing a work benefit, which will complement the cash benefits from unemployment compensation. It is our conviction that, at least at this time, general tax revenues should be drawn upon rather for employment assurance than for unemployment compensation.

### GENERAL SKETCH OF LEGISLATION

Unemployment insurance has been in successful operation in England and many other European countries for some years. While the English system suffered some discredit through the combination, from 1924 to 1931, of insurance with relief and in all countries the unemployment-insurance funds have had to be governmentally aided and/or the rate of contributions increased and benefits decreased during the present depression, unemployment insurance everywhere has survived the depression. (Russia, however, has paid no benefits since 1930.) While unemployment insurance has not proved a panacea for unemployment, it has in all countries provided a self-respected method of support, far superior to relief, for a large percentage of the unemployed.

In this country there has been considerable interest in unemployment insurance ever since the enactment of the pioneer British law of 1911, especially since the depression of 1920–21. In the years that have intervened, considerable controversy has developed over the type of unemployment compensation legislation that should be enacted; particularly over such questions as unemployment insurance versus unemployment reserves, employee contributions, governmental contributions, extended benefits, and the type of unemployment to be benefited. It is our conviction that these controversies have developed largely because there has been no action, and, therefore, no practical experience on this subject. Further investigations and other devices for delay will merely enhance the negative character of the debate. What is needed at this state is demonstration, not further debate and research.

This background, it seems to us, is an important consideration in determining the type of unemployment compensation legislation to be recommended. It clearly suggests the desirability of permitting considerable variation, so that we may learn through demonstration what is best. This, we believe, can at this time best be secured under a cooperative Federal-State system, which permits variations in State laws but insures uniformity in respects in which uniformity is absolutely essential.

A federally administered system of unemployment compensation is undoubtedly superior in some respects, particularly in relation to employees who move from State to State. This presents a problem, involved in State administration, which we do not at this time know how to solve, although we do not regard it as insoluble and recommend that it should be made one of the major subjects of study of the Federal administrative agency. We recognize also that in other respects State administration may develop marked inadequacies. Should these fears expressed by the champions of a federally administered system prove true, it is always possible by subsequent legislation to establish such a system. We recommend that it be expressly provided in the Federal act that all States must include in their statutes provisions to the effect that those acts shall not be deemed to create any vested interests preventing modification or repeal and that a similar reservation of power be made by the Federal Government. Accordingly, the Congress can at any time increase the requirements which State laws must fulfill and may, if it sees fit, at some future time, substitute a federally administered system for the cooperative Federal-State system we recommend.

All things considered, however, we deem it the safest and soundest policy to confine the role of the Federal Government with respect to this problem at this time to removing obstacles to State action, safeguarding and liquidating the reserve funds, and aiding the States with their problems, leaving to them primary responsibility for administration.

Federal cooperation is essential, because the States cannot establish systems of unemployment compensation with reasonably favorable conditions unless there is assistance from the Federal Government. So long as there is danger that business in some States will gain a competitive advantage through failure of the State to enact an unemployment compensation law, few such laws will be enacted. This obstacle to State action can be removed only through the imposition by the Federal Government of a uniform tax (rate of contribution) on all employers throughout the country, so that no State will have an unfair advantage. We therefore recommend legislation which will impose a uniform Federal tax on payrolls with an offset permitted to any employer who contributes to an unemployment insurance fund under a compulsory State law. This we believe will encourage the speedy enactment of State laws which meet minimum standards of security and fairness.

The Federal Government has a further important obligation in the safeguarding and investment of the reserve funds. Unemployment reserve funds are peculiar in that the demands upon them will fluctuate violently with industrial conditions. In good years these funds

will have receipts far in excess of disbursements; when serious depression sets in, the reserves will be used up rapidly. Unemployment compensation should not operate to increase unemployment, but there is danger that it will do so unless there is intelligent and unified handling of the reserve funds. One of the most important elements in attaining economic stability is the credit policy of the Government. Unless the investment and liquidation of the unemployment reserve funds is coordinated with this credit policy, these funds may operate to nullify the attempts of the Government to maintain stability. Particularly, when the Government is trying to prevent a depression the unemployment reserve funds should not be thrown on the markets, as they are likely to be if held by the States or in private hands. Intelligently handled, unemployment reserve funds can be made an important factor in preventing a depression; but utilization for this purpose is possible only if their investment and liquidation is within control of the United States Treasury. We deem this an absolute essential if unemployment compensation is to accomplish the purposes for which it is designed.

Beyond this, the respective spheres of the State and local governments in unemployment compensation are not clearly defined. Some standardization is desirable, but we believe that this should not be a matter of Federal control, but of cooperative action. A cooperative Federal-State unemployment compensation system should include the essentials we have outlined. In making definite recommendations as to the technique of establishing such a system, we are proceeding in the conviction that our purpose could be most promptly and effectively accomplished by Federal legislation which would (1) produce uniformity in the burden, by levying a pay-roll tax; (2) stimulate the passage of complete and self-sustaining unemployment compensation laws in the States, by allowing a credit against the Federal tax for contributions paid under State laws; and (3) to allow the necessary central control of the reserve funds, in order to prevent their operating toward instability. We prefer a tax credit device to one in which the tax would be wholly collected and then remitted, as grants-in-aid, to the States, because under the latter system the States would not have self-supporting laws of their own, and as with all compensation having its source in Federal grants there would be great and constant pressure for larger grants exceeding the money raised by the tax, with a consequent confusion of compensation and relief.

### OUTLINE OF FEDERAL ACT

We earnestly recommend prompt enactment by the Congress of legislation which will (1) impose a uniform pay-roll tax on the em-

ployers to whom the act is applicable, beginning with the year 1936, and (2) create machinery for participation in the administration of unemployment compensation.

The tax should be imposed upon all employers who have employed four or more employees for a reasonable period of time (any 13 weeks of the taxable year for example), and should be measured by a percentage of the employer's pay roll. By 1938 the rate of tax should be 3 percent of the pay roll; but in the first 2 years, if economic recovery has not progressed satisfactorily, we recommend a lower rate, and suggest that the index of industrial production of the Federal Reserve Board may well be used to determine whether the rate in the first and second years shall be 1 percent, 2 percent, or 3 percent. We are opposed to exclusions of any specified industries from the Federal act, but favor the establishment of a separate nationally administered system of unemployment compensation for railroad employees and maritime workers.

Against the tax imposed in the Federal law, a credit, up to 90 percent of the tax, should be allowed for the money the employer has paid to the proper State authority as contributions for unemployment compensation purposes pursuant to State law. These credits, however, should be permitted only if the State is cooperating with the Federal Government in the administration of unemployment compensation, expending the money raised solely for benefits, and is depositing all contributions as collected in an unemployment trust fund in the United States Treasury, as hereafter recommended.

If a State, to encourage stabilization of employment, permits particular industries or companies to have individual-reserve or guaranteed-employment accounts—accounts to be kept by the State authority but deposit of the funds in the United States Treasury—or allows lower rates of contributions to employers not having such individual accounts on the basis of their favorable experience, an additional credit beyond the amount contributed in a particular year may be granted in the Federal act. We recommend, however, that such credit be allowed in all cases only on the condition that the employer has discharged in full his obligations under the State law and continues to pay at least 1 percent into the pooled State fund. Further, such an employer with an individual-reserve account, before becoming entitled to any additional credit, must have and maintain a reserve equal to at least 15 percent of his pay roll, and an employer with a guaranteed-employment account, a reserve of 7½ percent of his pay roll; while no additional credit for any reduction in rates payable to a pooled State fund may be allowed until after the State law has been in operation for 5 years.

To encourage efficient administration, without which unemployment insurance will fail to accomplish its purpose, we believe that

the Federal Government should aid the States by granting them sufficient money for proper administration, under conditions designed to insure competence and probity. Among these conditions we deem selection of personnel on a merit basis vital to success. We also recommend that as a condition, both of grants-in-aid for administration and of the allowance of any tax credits for payments made under any State unemployment compensation act, the State must have accepted the provisions of the Wagner-Peyser Act and provide for the payment of unemployment compensation through the public employment offices established under such act. A grant-in-aid for administration would not create any new burden on the Federal Government, as it would be paid for by the amount of the pay roll tax over and above the credits allowed for contributions to State funds.

As an essential part of the Federal law it should be made a requirement for any tax credits that all moneys collected for unemployment compensation purposes under State laws—including those credited to individual industry or company accounts—be deposited as collected in the Treasury of the United States in a trust account to the credit of the State, to be invested and liquidated as the Secretary of the Treasury may from time to time direct. Interest on the average amount so deposited in each State fund shall be allowed at regular intervals, at a rate equal to the average yield of all outstanding primary obligations of the Federal Government, less one-eighth of 1 percent. Withdrawals from the fund are to be made only for unemployment compensation purposes, under regulations to be prescribed by the Secretary of the Treasury.

The collection of the Federal tax and investment of the reserve funds should be made under the control of the Secretary of the Treasury. All other aspects of Federal participation in unemployment compensation should be a responsibility of the Department of Labor. We recommend the creation within the Department of Labor of a social insurance board. We recommend that the board consist of three members appointed by the President. They should devote full time to their duties and be appointed for terms of 6 years, which should be varied at the outset to insure continuity in administrative policies. We recommend that this board be given power to decide what State laws comply with the Federal requirements and that it be made its duty to assist States in setting up unemployment compensation administrations and in the solution of the problems they will encounter; also that it conduct continuous studies to correlate and make useful the experience developed under State laws. The social insurance board should, likewise, have responsibility for the administration of the compulsory and volun-

tary systems of old-age annuities, whose establishment we suggest in another section of this report, and should study the advisability of instituting other forms of social insurance.

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

### SUGGESTIONS FOR STATE LEGISLATION

This committee plans the preparation of a model State unemployment-compensation bill, with alternate clauses at many points. In this report it seems unnecessary to discuss all of the details of this model bill, since the legislature will determine the policy in each State. On some major points, however, comment seems appropriate.

*Contributions.*—The States should make all contributions compulsory and may require them from employers alone, or from employers and employees, with or without contributions by the State government.

*Benefits.*—The States should have freedom in determining their own waiting periods, benefit rates, maximum benefit periods, etc. We suggest caution lest they insert benefit provisions in excess of collections in their laws. To arouse hopes of benefits which cannot be fulfilled is invariably bad social and governmental policy.

It is our recommendation that the benefit periods be kept within the maximum limits of the last column of table I, which has been presented earlier in this report, and in no event should they exceed those of the second last column. If it is considered desirable that the unemployment-compensation funds should give protection in depression periods as well as in normal times, the maximum periods of the first two columns should be regarded as standard. While unemployment varies greatly in different States, there is no certainty that States which have had less than normal unemployment heretofore will in the future have a more favorable experience than the average for the country. States whose industries are such that they will probably continue to have a high rate of unemployment should not pay benefits up to the maximum amounts permitted in the actuarial calculations. With industry or company funds, longer benefit periods can be permitted if the employers guarantee payment of these benefits in full and furnish security adequate to insure fulfillment of these guaranties; but in all other cases it is preferable, at the outset, to err on the side of safety than of too great liberality.

At this point we call attention to the desirability of allowing additional weeks of benefit to employees who have been long employed without drawing benefits. The British experience has been that a very large percentage of all employees draw no benefits over periods of many years. These are the workmen longest retained, who, particularly if they are required to contribute, have a very good claim for additional benefits when, because of a depression or change in technique, they lose their jobs and are unable to find other work. Our actuarial estimates indicate that if 1 week is taken off the ordinary benefit period for all workers, a special maximum of an additional week of benefits can be allowed to workers who have not drawn benefits for 6 months, 2 weeks for those who have not drawn benefits for 12 months, etc., up to a maximum of 10 weeks additional benefits for workers who have not drawn any benefits for 5 years.

*Provisions to protect funds against heavy drains by particular classes of employees.*—The provision last suggested is in line with the world experience that unemployment compensation is best adapted to employees who normally have some degree of security in their employment. Such workers, we feel, should be given some protection against exhaustion of the funds by others who work only intermittently.

English experience has demonstrated that seasonal industries will cause a heavy drain on the unemployment-insurance funds unless the benefits to seasonal workers are limited to unemployment occurring within the usual season for that particular industry. Determination of what this season is for each distinct seasonal industry must necessarily be left to the administrative authority.

Similarly the funds need to be protected against too heavy drain by the casual workers. This can best be done (1) through a ratio which relates the maximum weeks of benefit to the weeks of employment, the usual ratio suggested being 1 to 4; and (2) allowing benefits only if the employee has worked with some degree of regularity.

Partial unemployment creates another special problem. It is desirable, within limits, that work shall be shared when orders fall off, rather than that some employees shall be laid off altogether. It is also desirable that an unemployed man take part-time or odd-job employment when possible. Therefore, to encourage this, we advise that State laws should provide that the combination of part-time wages and benefits is better than benefits alone.

*Willingness to work test.*—To serve its purposes, unemployment compensation must be paid only to workers involuntarily unemployed. The employees compensated must be both able and willing to work and must be denied benefits if they refuse to accept other

suitable employment. Workers, however, should not be required to accept positions with wage, hour, or working conditions below the usual standard for the occupation or the particular region, or outside of the State, or where their rights of self-organization and collective bargaining would be interfered with.

*Individual industry and company accounts.*—The primary purpose of unemployment compensation is to socialize the losses resulting from unemployment, but it should also serve the purpose of decreasing rather than increasing unemployment. We favor leaving it optional with the States whether they will permit any "contracting out" from State-pooled funds in the sense that separate accounts may be set up for the exempted industries or companies, but without any change in the methods of collection or deposit and investment of funds. We strongly urge, however, that only plants which furnish adequate security to guarantee payment in full of all unemployment compensation which may become due to their employees shall be permitted to have separate accounts, and only upon condition that they pay 1 percent of their pay roll into the general State fund. We further advise that if "contracting out" is permitted, the State law should contain provisions under which employees will not lose their unused benefit rights, or any contributions which they may have made to such accounts above benefits received when they voluntarily leave the employ of an employer with a separate reserve account, lest such accounts operate to interfere with the mobility of labor. Experimentation with individual industry and company reserve accounts under proper restrictions will undoubtedly be permitted in some States; therefore, the importance of adequately safeguarding both the rights of the workers and the pooled State funds is emphasized.

We are opposed to any provision in the Federal act under which any industries or companies are exempted from State laws prescribing an exclusive State pooled fund.

*Guaranteed employment.*—Guaranteed employment is a device which, if properly safeguarded, will effectually secure all of the purposes of unemployment compensation. There would be no unemployment problem if all workers were guaranteed a sufficient annual wage. We feel it to be desirable that employers be permitted to experiment with guaranteed employment under the State laws, but also that such experiments should be conducted only under safeguards. Guaranteed employment, we believe, should be recognized as a reason for reduced contribution in State laws, only if the employees get at least as much protection as that afforded to employees by unemployment compensation. The period of guaranteed employment, when it is claimed as an offset, should be for at least 40 weeks of full-time

employment during the year, although less than full-time employment may be counted toward fulfillment of the guaranty, if the number of weeks of guaranteed employment is correspondingly increased. Employees should be further protected by a provision in State laws under which they will receive at least half of the normal unemployment compensation benefits if they lose employment at the end of the guaranty period. Employers claiming contribution credits by guaranteeing employment should be permitted to do so only if the plan includes all their employees or all employees of entire plants. They should be required to make some contribution to the pooled State unemployment compensation fund and should be entitled to additional credits against the Federal tax only if they fulfill all obligations of their guaranty and have accumulated an adequate reserve. Sufficient security should be required by the State authority to insure fulfillment of the guaranty.

#### GENERAL COMMENTS

The plan of unemployment compensation, we suggest, is frankly experimental. We anticipate that it may require numerous changes with experience, and, we believe, is so set up that these changes can be made through subsequent legislation as deemed necessary. If we are to wait until everyone interested in the subject is in agreement as to what is a perfect measure before enacting unemployment compensation legislation, there will be a long and unwarranted postponement of action.

The plan we suggest is one that will secure the much-needed experience necessary for the development of a more nearly perfect system. It is in accord with American traditions and the message of the President which initiated our study of this subject.

We submit that the Federal part of the program should be enacted into law by the Congress at the earliest date possible. This is urgently necessary if the State legislatures are to act in time to permit the legislation to go into effect January 1, 1936. In the coming year, 44 of the 48 States will hold regular sessions of their legislatures. Most of these will convene in January, and will be in session 3 months or less. Unemployment compensation in this country will suffer another year of delay unless there is prompt action by the Congress.

## OLD-AGE SECURITY

#### THE OLD-AGE PROBLEM

In 1930 there were 6,500,000 people over 65 years of age in this country, representing 5.4 percent of the entire population. This percentage has been increasing quite rapidly since the turn of the cen-

tury and is expected to continue to increase for several decades. It is predicted, on the basis of the present population and trends, that by 1940, 6.3 percent of the population will be 65 years of age; by 1960, 9.3 percent; and by 1975, 10 percent. In 25 to 30 years the actual number of old people will have doubled, and this estimate does not take into account the possibility of a decrease in the mortality rate, which would further increase the total.

No even reasonably complete data are available regarding the means of support of aged persons, and the number in receipt of some form of public charity is not definitely known. The last almshouse survey was made more than 10 years ago, and the number of people in institutions of this kind can only be approximated. There are about 700,000 people over 65 years of age on F. E. R. A. relief lists, and the present cost of the relief extended to these people has been roughly estimated at $45,000,000 per year. In addition there are a not definitely known but large number of old people in receipt of relief who are not on F. E. R. A. relief lists. All told, the number of old people now in receipt of public charity is probably in excess of 1,000,000.

The number in receipt of some form of pension is much smaller. Approximately 180,000 old people, most of them over 70 years of age, are receiving pensions under the State old-age assistance laws, the average pension last year being $19.74 per month.

A somewhat smaller number of the aged are receiving public retirement or veterans' pensions, for which the expenditures exceed those under the general old-age assistance laws. Approximately 150,000 aged people are in receipt of industrial and trade-union pensions, the cost of which exceeds $100,000,000 per year.

The number of the aged without means of self-support is much larger than the number receiving pensions or public assistance in any form. Upon this point the available data are confined to surveys made in a few States, most of them quite a few years ago. Connecticut (1932) and New York (1929) found that nearly 50 percent of their aged population (65 years of age and over) had an income of less than $25 per month; 34 percent in Connecticut had no income whatsoever. At this time a conservative estimate is that at least one-half of the approximately 7,500,000 people over 65 years now living are dependent.

Children, friends, and relatives have borne and still carry the major cost of supporting the aged. Several of the State surveys have disclosed that from 30 percent to 50 percent of the people over 65 years of age were being supported in this way. During the present depression, this burden has become unbearable for many of the children, with the result that the number of old people dependent upon public or private charity has greatly increased.

The depression will inevitably increase the old-age problem of the next decades. Many children who previously supported their parents have been compelled to cease doing so, and the great majority will probably never resume this load. The depression has largely wiped out wage earners' savings and has deprived millions of workers past middle life of their jobs, with but uncertain prospects of ever again returning to steady employment. For years there has been some tendency toward a decrease in the percentage of old people gainfully employed. Employment difficulties for middle-aged and older workers have been increasing, and there is little possibility that there will be a reversal of this trend in the near future.

Men who reach 65 still have on the average 11 or 12 years of life before them; women, 15 years. A man of 65, to provide an income of $25 per month for the rest of his life (computing interest at 3 percent) must have accumulated approximately $3,300; a woman nearly $3,600. If only this amount of income is allowed to all of the people of 65 years and over, the cost of support of the aged would represent a claim upon current national production of $2,000,000,000 per year. Regardless of what may be done to improve their condition, this cost of supporting the aged will continue to increase. In another generation it will be at least double the present total.

### GENERAL OUTLINE OF RECOMMENDATIONS

An adequate old-age security program involves a combination of noncontributory pensions and contributory annuities. Only noncontributory pensions can serve to meet the problem of millions of persons who are already superannuated or shortly will be so and are without sufficient income for a decent subsistence. A contributory annuity system, while of little or no value to people now in these older age groups, will enable younger workers, with the aid of their employers, to build up gradually their rights to annuities in their old age. Without such a contributory system the cost of pensions would, in the future, be overwhelming. Contributory annuities are unquestionably preferable to noncontributory pensions. They come to the workers as a right, whereas the noncontributory pensions must be conditioned upon a "means" test. Annuities, moreover, can be ample for a comfortable existence, bearing some relation to customary wage standards, while gratuitous pensions can provide only a decent subsistence.

Difficult administrative problems must be solved before people who are not wage earners and salaried employees can be brought under the compulsory system, and it is to be expected that some people from higher income groups will come to financial grief and dependence in old age. Until literally all people are brought under

the contributory system, noncontributory pensions will have a definite place even in long-time old-age-security planning.

There also is need for a voluntary system of annuities to supplement the compulsory system we advocate, intended primarily for persons of low and moderate income who are not included in the compulsory system. While the latter is not as important as the noncontributory pensions and the compulsory system of contributory annuities, we recommend the establishment of a related, but distinct, voluntary system of Government old-age annuities, for restricted groups in the population who do not customarily purchase annuities from commercial insurance companies.

Finally, in any complete program for old-age security, those aged should be considered who must be cared for in institutions—those who need custodial care which friends and relatives will not provide. Factual data bearing on the institutions for the care of the aged and their inmates are very scant and most of them out of date. We therefore recommend that the United States Department of Labor undertake at once a special survey of such institutions for the purpose of developing a constructive program for the improvement of institutional maintenance of the aged.

### NONCONTRIBUTORY OLD-AGE PENSIONS

Old-age pensions are recognized the world over as the best means of providing for old people who are dependent upon the public for support and who do not need institutional care. In this country 28 States and 2 Territories now have laws providing for the payment of noncontributory pensions to dependent aged persons. The minimum age specified in these laws is either 65 or 70. All of them require long periods of residence within the State and allow pensions only if the aged applicants are without any substantial amount of property or income and have no relatives legally responsible for their support. In most of these acts the pensions are limited to a maximum of $1 per day less any other income the pensioners may receive from any source. A few of the laws are less restrictive, but not more than two or three of the entire number can be regarded as even reasonably adequate. The administrative provisions in many of the laws are likewise defective; the officials who grant the pensions have no facilities for investigation and there is no machinery for supervision. Many laws place the entire cost of pensions on the local governments, and about one-third of these acts are optional in the sense that counties may or may not operate under the pension system as they see fit.

Many of these old-age-pension laws are entirely nonfunctioning; many pension authorities because of financial pressure have cut benefits below a proper minimum, and there are long waiting lists of

needy persons. While some improvement along these lines is to be expected with the insistent popular demand for old-age pensions; financial limitations are such that local and State action alone cannot be relied upon to provide either adequate or universal old-age assistance.

As has been stated, there are four times as many old people over 65 on relief lists as are in receipt of old-age pensions. These aged people do not belong on emergency-relief lists and, very properly, are now being eliminated therefrom. They should, instead, be provided for under old-age pension laws, operating in all States.

There is little likelihood, however, that an appreciable number of the dependent aged will receive pensions unless the financing of such measures is put on a radically different basis than at present. Both State and Federal participation are vital if the dependent aged are to be cared for through the human pension method.

Federal grants-in-aid will encourage the enactment of liberal old-age pension laws in all States and the granting of pensions to all of the aged who are dependent upon the public for support and who do not need institutional care. We, therefore, recommend a system of Federal grants-in-aid to States and Territories which provide old-age assistance for their needy aged under plans approved by the Federal Emergency Relief Administration or its successor agency. These grants-in-aid, we suggest, should be one-half of the total expenditures for old-age pensions, including administrative expenses, but with a proviso limiting the Federal subsidy to $15 per month for any individual and the aid for administrative expenses to 5 percent of the State's total expenditures for old-age assistance.

#### Conditions of grants

Since the Federal Government, under the plan we recommend, is to assume one-half the cost of old-age pensions, we deem it proper that it should require State legislation and administration which will insure to all of the needy aged pensions adequate for their support. We recommend that aid be granted only to those States which enact laws that are state-wide or territory-wide in scope, and, if administered by political subdivisions, are mandatory upon them. Such laws may limit the granting of pensions to citizens of the United States and residents of the State or Territory, but may not require a longer period of residence than 5 years, within the last 10 years preceding the application for a pension. Property and income limitations may, likewise, be prescribed but no aged person otherwise eligible may be denied a pension whose property does not exceed $5,000 in value, or whose income is not larger than is necessary for a reasonable subsistence compatible with decency and health. The pension to be allowed must be an amount sufficient, with the

other income of the pensioner, for such a reasonable subsistence. Federal grants-in-aid are to be paid only on account of pensions granted to persons over 65 years of age but until January 1, 1940, States may maintain a 70-year age limit, which must thereafter be reduced to 65. No Federal aid is to be extended for aged persons cared for in institutions, and so much of the total pensions paid to any pensioner as was derived from the United States Government shall constitute a lien on the estate of the aged recipient, which, upon his death shall be enforced by the State or Territory and refunded to the Federal Government. The administration of the old-age pension laws must be under the supervision of a designated State department, and must be so conducted as to insure fulfillment of the intent of the Federal grants-in-aid; namely, to give all dependent aged persons not in need of institutional care a decent subsistence in their own homes.

**Costs**

Only approximate estimates can be given regarding the costs of the proposed grants-in-aid. If a compulsory contributory annuity system is not established at the same time, actuarial estimates indicate that the Federal share of the cost of the noncontributory old-age pensions may in the first year reach a total of $136,600,000; in the second year, $199,000,000, and would increase steadily thereafter until it reaches a maximum of $1,294,300,000 by 1980. We believe that these estimates are too high, particularly in the earlier years, as they do not allow sufficiently for the lag likely to occur before all the dependent aged will actually be granted pensions. Since the total now expended for old-age pensions is less than $40,000,000 per year, and more than half of the entire population of the country is in States which have old-age pension laws, we are of the opinion that $50,000,000 will be sufficient in the first year to pay the Federal share of the old-age-pension costs. Thereafter, this figure will tend to increase rather rapidly and by 1980 may reach the great total estimated by the actuaries. The estimates of the actuaries consulted by this committee are, in our judgment, so high in estimated figures for 1980 that further careful studies must be given to them, with the objective of finding ways and means for reduction and limitation of estimated Government contributions as of that year.

Obviously these figures will be reduced if a compulsory system of contributory annuities is established simultaneously with the Federal grants-in-aid. Sound financing demands this simultaneous action. The estimates of the actuaries indicate that if a compulsory system of contributory annuities is started by January 1, 1937, Federal grants-in-aid to the noncontributory pensions will by 1980 total less than 40 percent of the amount they will reach by that date if a contributory system is not started.

Furthermore, the actuarial figures assume that contributory annuities will not cover a large percentage of our population comprising those who are not actual wage earners. It is essential that as soon as possible these persons be brought into the compulsory system of contributory annuities, else the annual Government contributions will be so high as to constitute an impossible charge on the taxpayers.

### CONTRIBUTORY ANNUITIES (COMPULSORY SYSTEM)

It is only through a compulsory, contributory system of old-age annuities that the burden upon future generations of the support of the aged can be lightened. With an increasing number and even more rapidly increasing percentage of the aged, the cost of supporting old persons will be a heavy load on future generations regardless of any legislation that may be enacted. Pensions sufficient for a decent subsistence for all of the aged who are dependent upon the public for support are approved by the overwhelming majority of the people of this country. In order to reduce the pension costs and also to more adequately provide for the needs of those not yet old but who will become old in time, we recommend a contributory annuity system on a compulsory basis, to be conducted by the Federal Government. Because of the large number of people involved and the other duties imposed on the Social Insurance Board (which we recommend should have responsibility for the administration of all types of social insurance), we deem it desirable that the taxes to finance this system should not become effective until January 1, 1937, but believe that the necessary legislation should be enacted at an early date, to enable the Board to make the necessary studies and other preparations for putting this plan into operation.

#### Outline of plan

We recommend that the contributory annuity system include, on a compulsory basis, all manual workers and nonmanual workers earning less than $250 per month, except those of governmental units and those covered by the United States Railroad Retirement Act. (In the first 5 years that the act is in effect only employees who on the effective date are less than 60 years of age are to be included.) Employees who lose compulsory coverage (by becoming employers, ceasing to work, etc.) after they have made at least 200 weekly contributions are to be permitted to continue membership on a voluntary basis by paying a contribution equal to the combined contributions required from employers and employees.

The compulsory contributions are to be collected through a tax on pay rolls and wages, to be divided equally between the employers and employees. To keep the reserves within manageable limits, we sug-

gest that the combined rate of employers and employees be 1 percent in the first 5 years the system is in effect; 2 percent in the second 5 years; 3 percent in the third 5 years; 4 percent in the fourth 5 years and 5 percent thereafter. If it is deemed desirable to reduce the burden of the system upon future generations, the initial rate may well be doubled and the taking effect of each higher rate advanced by 5 years.

Both the tax on employers and the employees is to be collected through the employers, who shall be entitled to deduct the amount paid in the employees' behalf from wages due them. The necessary rules and regulations for collection of contributions are to be prescribed by the Secretary of the Treasury.

We suggest that the Federal Government make no contribution from general tax revenues to the fund during the years in which income exceeds payment from the funds, but that it guarantee to make contributions, when the level of payment exceeds income from contributions and interest, sufficient to maintain the reserve at the level of the last year in which income exceeded payments. According to our actuarial estimates the reserve on this basis would be maintained at about $15,250,000,000.

No benefits are to be paid until after the system has been in operation for 5 years, nor to any person who has not made at least 200 weekly contributions, nor before the member has reached the age of 65 and retired from gainful employment. Persons retiring after having passed the age of 65 will receive only the same pension as if they had retired at that age. The benefits are normally to take the form of annuities payable during the remainder of the life of the annuitant. Should a member die before the age of 65 or before the amount of his own contributions has been paid to him as an annuity, the difference between his contributions and the amount which he may have received as an annuity, with interest at 3 percent, is to be paid as a death benefit to his dependents. Members who have made contributions for a short time but who, on reaching the age of 65 are not entitled to an annuity (because they have not made 200 contributions) are to be refunded their own contributions with 3 percent interest.

Under one proposal considered by the committee, the annuity payable to members in whose behalf contributions are first paid during the years 1937 to 1941 shall be computed as follows: If they are eligible to retirement in the sixth year after becoming members, their annuity shall be equal to 15 percent of the average weekly wage during the period they have been within the system, not counting that portion of the wage in excess of $150 per month. For those retiring in the next 5 years this annuity is to be increased by 1 percent of the average weekly wage for each additional

40 weeks of contributions, but the increase shall not exceed 1 percent for each year of membership in the system. Thereafter the initial annuity is to be increased by 2 percent for each 40 weekly contributions, but not more than 2 percent per year, until a maximum pension of 40 percent of the first $150 average monthly wages, upon which contributions have been paid shall be reached.

The minimum annuity payable to persons in whose behalf contributions are first paid in 1942 or subsequent thereto shall on retirement at age 65 or over and after 200 weekly contributions be 10 percent of the first $150 average monthly wages upon which contributions have been paid. To this 10 percent shall be added 1 percent for each 40 weekly contributions subsequent to the first 200 payments made within the first 5 years of membership in the system, but not to exceed 1 percent for each year of membership after the qualifying period of 5 years.

An annuitant with a spouse, if he or she so desires, may chose in lieu of an annuity on the basis outlined, an actuarially equivalent joint survivorship annuity. In all cases, also, members shall not receive less than the actuarial equivalent of their own contribution.

The administration of the compulsory old-age annuity system we recommend should be vested in the Social Insurance Board. All reserve funds of the system, however, shall be invested and managed by the Secretary of the Treasury, on the same basis as the unemployment compensation funds.

Under the plan suggested, however, no payments will actually be made by the Federal Government until 1965, and will, of course, be greater than they would be if paid as incurred, by the amount of the compound interest on the above sum. This plan, thus, involves the creation of a debt upon which future generations will have to pay large amounts annually, the Federal contributions representing the interest at 3 percent on the debt thus incurred to pay (partially) unearned annuities in the early years of the system.

While the creation of this debt will impose a burden on future generations which we do not wish to minimize, we, nevertheless, deem it advisable that the Federal Government should not pay its share of the cost of old-age annuities (the unearned part of annuities to persons brought into the system at the outset) currently. To do so would create a reserve which would reach a total of about $75,000,000,000. Further, to pay this cost now would unfairly burden the younger part of the present generation, which would not only pay for the cost of its own annuities but would also pay a large part of the annuities to the people now middle-aged or over. Expressed differently, the plan we advocate amounts to having each generation pay for the support of the people then living who are old. However, we favor showing the debts to the fund currently incurred by the Government, which debts should be evidenced by formal Government obligations issued to the fund. We accordingly recommend that an actuarial audit of the annuity fund be made and published annually which shall set forth clearly the present status of the fund taking into account future payments and future income and will show the present worth of the obligations being incurred by the Federal Government.

This plan also contemplates only small contributions by employers and employees during the early years of the system. Somewhat larger payments in the early years may be advisable, to reduce the necessary Government contributions later on. If the initial rate were increased to 1 percent each on employers and employees and each higher rate come into operation 5 years earlier than we recommend (which is modification of our plan that has considerable merit), the reserve funds would at the maximum amount to $28,200,000,000, and the ultimate Federal contribution decreased by $350,000,000 per year.

**Costs**

Actuarial estimates based on the plan we have described indicate that the income of the compulsory annuity fund will in the first 5 years that the system is in operation amount to a little more than $300,000,000. With increases in rates and interest earnings on the reserve this income will increase quite rapidly until by 1980 it will

amount to $2,200,000,000 per year. Benefit payments will be light in the early years, but will increase steadily until by 1965 they will exceed the annual receipts. It is at this stage, that the Federal Government would begin to make contributions to the annuity system, which, under the figures submitted by the actuaries reach a maximum of above $1,400,000,000 per year by 1980. (These contributions by the Federal Government, as has been stated, represent the unearned part of the pensions paid to people now approaching old age, with interest on these amounts calculated at 3 percent).

We realize that there may be valid objection to this plan, in that it involves too great a cost upon future generations. This cost can be reduced by putting the rate of 5 percent into effect at an earlier date; it can be entirely eliminated only through not paying any annuities that have not been fully earned. If the Congress deems it advisable to make either or both of these changes, we are prepared to suggest detailed plans for doing so.

Instead of a Government subsidy to the contributory annuity system it may be advisable to supplement the earned annuities of people now old (and whose earned annuities are, therefore small) by granting them assistance under noncontributory old-age pension laws, on a more liberal basis than in the case of persons who have accumulated no rights under the contributory annuity system. Thus, one of the required provisions of a State old-age pension law might be that in no event, prior to the year 1960, shall an annuity to which a person is entitled under the contributory annuity system be taken into account in determining the need of such person for assistance.

In considering the costs of the contributory system, it should not be overlooked that old-age annuities are designed to prevent destitution and dependency. Destitution and dependency are enormously expensive, not only in the initial cost of necessary assistance but in the disastrous psychological effect of relief upon the recipients, which, in turn, breeds more dependency.

The contributions required from employers and employees have an equally good justification. Contributions by the employees represent a self-respecting method through which workers make their own provision for old age. In addition many workers themselves on the verge of dependency will benefit through being relieved of the necessity of supporting dependent parents on reduced incomes, and at the expense of the health and well-being of their own families. To the employers, contributions toward old-age annuities are very similar to the revenues which they regularly set aside for depreciation on capital equipment. There can be no escape from the costs of old age, and, since these costs must be met, an orderly system under which employers, employees, and the Government will all

contribute appears to be the dignified and intelligent solution of the problem.

### VOLUNTARY OLD-AGE ANNUITIES

The voluntary system of old-age annuities we suggest as a supplement to the compulsory plan contemplates that the Government shall sell to individuals on a cost basis deferred life annuities similar to those issued by commercial insurance companies; that is, in consideration of premiums paid at specified ages, the Government would guarantee the purchasers a definite amount of income starting at 65 for example, and continuing throughout the lifetime of the annuitant. The primary purpose of the plan is to offer persons not included within the compulsory system a systematic and safe method of providing for their old age. It could also be used by insured persons as a means of supplementing the old-age income provided under the compulsory plan.

Without attempting to outline in detail the terms under which Government annuities should be sold, it is believed that a satisfactory and workable plan, based on the following principles, could be developed without great difficulty:

1. The plan should be self-supporting, and premiums and benefits should be kept in actuarial balance by any necessary revision of the rates which periodic examinations of the experience would indicate.

2. The terms of the plan should be kept as simple as practicable in the interest of economical administration and to minimize misunderstanding on the part of individuals utilizing these arrangements. This could be accomplished by limiting the types of annuity offered to two or three of the most important standard forms.

3. The plan should be designed primarily for the same income groups as those covered by compulsory system; hence, provision should be made for the acceptance of relatively small premiums (as little as $1 per month) and the maximum annuity payable to any individual should be limited to the actuarial equivalent of $50 per month.

4. The plan should be administered by the social insurance board along with the compulsory old-age insurance system, but as a separate undertaking.

5. The social insurance board should study the feasibility of Government contribution toward the annuities of people now middle aged or older with income of $2,500 per year or less who come under this voluntary plan, comparable to the unearned part of the annuities which will be paid by the Government to people of middle age or older who are brought under the compulsory system. This is but a fair deal to farm owners and tenants, self-employed persons and

other people of small incomes whose economic situation may be not one whit better than that of many workers covered by the compulsory system. Further study will be necessary, however, before a practical method of accomplishing this purpose can be suggested, one which will avoid the danger of benefiting those persons who need assistance least.

## SECURITY FOR CHILDREN

It must not for a moment be forgotten that the core of any social plan must be the child. Every proposition we make must adhere to this core. Old-age pensions are in a real sense measures in behalf of children. They shift the retroatcive burdens to shoulders which can bear them with less human cost, and young parents thus released can put at the disposal of the new member of society those family resources he must be permitted to enjoy if he is to become a strong person, unburdensome to the State. Health measures that protect his family from sickness and remove the menacing apprehension of debt, always present in the mind the breadwinner, are child-welfare measures. Likewise, unemployment compensation is a measure in behalf of children in that it protects the home. Most important of all, public-job assurance which can hold the family together over long or repetitive periods of private unemployment is a measure for children in that it assures them a childhood rather than the premature strains of the would-be child breadwinner.

There are at the moment over 7,400,000 children under 16 years of age on the relief rolls. The lives of some of these children, who have never known a time when their father had a steady job, and who, until Federal relief provided the family with a weak cohesive agent, have known nothing but the threat of being scattered, are lost beyond full restoration to their physical and social fulfillment. Their childhood is already destroyed and their future dark and uncertain. In this age group are 300,000 dependent and neglected children; 300,000 to 500,000 children who are physically handicapped; 200,000 who come as delinquents annually before the courts; and the 75,000 illegitimate children born each year. Special kinds of care must be provided for them to save them from a future more tragic than their impaired childhood.

Most of the children on relief lists are less conspicuously unfortunate, but all of them lack at least one major essential for a childhood which will prepare them in 5, 10, or 15 years to be the mainstay of society. Nothing is wrong with their environment but their parents' lack of money to give them opportunities which are taken for granted in more fortunate homes.

### AID TO FATHERLESS CHILDREN

Among these children most especial attention must be given to the children deprived of a father's support usually designated as the objects of mothers' aid or mothers' pension laws, of whom there are now above 700,000 on relief lists. The very phrases "mothers' aid" and "mothers' pensions" place an emphasis equivalent to misconstruction of the intention of these laws. These are not primarily aids to mothers but defense measures for children. They are designed to release from the wage-earning role the person whose natural function is to give her children the physical and affectionate guardianship necessary not alone to keep them from falling into social misfortune, but more affirmatively to rear them into citizens capable of contributing to society.

Legislation for "mothers' pensions" has been in operation in this country for more than 20 years. Such laws exist in 45 States. Yet less than one-third the number of similar families on relief are now actually receiving mothers' pensions. The cost of these pensions is $37,200,000 a year. Six million dollars of this comes from State governments; local units supply the balance. Less than one-half of the local units authorized to grant mothers' aid are actually doing so. Many others are granting amounts insufficient to defend the children involved. Part of this situation is due to indifference, but in part it is due to the poverty of many local governmental units and to the fact that the Federal Government has been paying the major costs when fatherless families are placed on relief, whereas it makes no contribution to mothers' aid.

When the Federal Government terminates Federal relief, the situation will become immeasurably worse. Neither the return of prosperity nor any of the measures suggested in this report will meet the problem. Mothers' pensions will only partially and inadequately do so as long as the cost falls almost entirely on local governmental units. To meet the situation effectually increased State appropriations and Federal grants-in-aid are essential.

Such Federal grants-in-aid are a new departure, but it is imperative to give them, if the mothers' care method of rearing fatherless families is to become nationally operative. The amount of money required is less than the amount now given to families of this character by the Federal Government by the less desirable route of emergency relief. An initial appropriation of approximately $25,000,000 per year is believed to be sufficient. If the principle is adopted of making grants equal to one-half of the State and local expenditures (one-third of the total cost), with special assistance to States temporarily incapacitated, this sum might in time rise to a possible $50,000,000. Federal grants should be made conditional on passage and enforcement of mandatory State laws and on the submission of

approved plans assuring minimum standards in investigation, amounts of grants, and administration. After a specified date State financial participation should be insisted upon. This might take the form either of equalization grants to local units or of per capita grants, as the several States may prefer.

### CHILD CARE SERVICES

Local services for the protection and care of dependent and physically and mentally handicapped children are generally available in large urban centers, but in less populous areas they are extremely limited or even nonexistent. One-fourth of the States, only, have made provisions on a State-wide basis for county child-welfare boards or similar agencies, and in many of these States the services are still inadequate. With the further depletion of resources during the depression there has been much suffering among many children because the services they need have been curtailed or even stopped. To counteract this tendency and to stimulate action toward the establishment of adequate State or local child-welfare services, a small Federal grant-in-aid, we believe, would be very effective.

### CHILD AND MATERNAL HEALTH SERVICES

The fact that the maternal mortality rate in this country is much higher than that of nearly all other progressive countries suggests the great need for Federal participation in a Nation-wide maternal and child-health program. From 1922 to 1929 all but three States participated in the successful operation of such a program. Federal funds were then withdrawn and as a consequence State appropriations were materially reduced. Twenty-three States now either have no special funds for maternal and child health or appropriate for this purpose $10,000 or less. In the meantime, the need has become increasingly acute.

Crippled children and those suffering from chronic diseases such as heart disease and tuberculosis constitute a regiment of whose needs the country became acutely conscious only after the now abandoned child and maternal health program was inaugurated. In more than half the States some State and local funds are now being devoted to the care of crippled children. This care includes diagnostic clinics, hospitalization, and convalescent treatment. But in nearly half the States nothing at all is now being done for these children and in many the appropriations are so small as to take care of a negligible number of children. Since hundreds of thousands of children need this care the situation is not only tragic but dangerous.

We recommend that the Federal Government through the agency of the Children's Bureau should again assume leadership in a Nation-wide child and maternal health program. Such a program should provide for an extension of maternal and child health services, especially in rural areas. It should include (a) education of parents and professional groups in maternal and child care; supervision of the health of expectant mothers, infants, pre-school and school children, and children leaving school for work, (b) provision for transportation, hospitalization, and convalescent care of crippled children in areas of less than 100,000 population. This program should be developed in the States under the leadership of the State departments of health in cooperation with medical and public-welfare agencies and groups concerned with these problems. Federal participation is vital to its success. It should take the form of both grants-in-aid, and of consultative, educational, and promotional work by the Children's Bureau in cooperation with the State health departments.

The appropriation suggested by our Advisory Committee on Security for Children of $7,000,000 per year is large in proportion to the $41,139 now appropriated to the Children's Bureau for child and maternal health work. But its cost is small when it is compared with the expenditures for many purposes having far less direct relation to human welfare. Whether the precise amount suggested should be appropriated is a matter for the determination of other agencies. But we cannot too strongly recommend that the Federal Government again recognize its obligation to participate in a Nation-wide program saving the children from the forces of attrition and decay which the depression turned upon them above all others.

## RISKS ARISING OUT OF ILL HEALTH

Illness is one of the major causes of economic insecurity which threaten people of small means in good times as in bad. In normal times from one-third to one-half of all dependency can be traced to the economic effects of illness. The money loss caused by sickness in families with less than $2,500 of income per year has been estimated at a total of $2,400,000,000 per annum, of which $900,000,000 represents wage loss and $1,500,000,000 the expenses of medical care.

The seriousness of this hazard, however, lies less in the total loss involved than in its unequal distribution. Nearly half of all people suffer no illness during a normal year, but 7 percent have three or more illnesses and nearly 15 percent have illnesses that disable them for more than a week. Studies of the actual expenditures for medical care in a large number of urban families with incomes ranging from $1,200 to $2,000 per year, relating to the years 1928 to 1931,

disclosed that of each 1,000 families, 218 had medical bills in excess of $100 and 80 in excess of $200; among the 80, 16 had medical costs ranging from $400 to $700, and 4, sickness bills amounting to more than one-half of their incomes.

The figures cited explain why many millions of American families live in dread of sickness. Families with small incomes are compelled to sacrifice other essentials of decent living when serious illness strikes some member, go without needed medical care, or depend upon the gratuitous or near gratuitous services of doctors and hospitals. A mere statement of this situation is sufficient to show that it is both unfair to the medical profession and very costly to the public.

### PUBLIC HEALTH SERVICES

As stated by the medical advisory board of this committee, in a brief progress report recently filed:

> A logical step in dealing with the risks and losses of sickness is to begin by preventing sickness so far as is possible.

Much progress has been made in this respect, yet the fact remains that despite great advances in medicine and public-health protection, millions of our people are suffering from diseases and thousands die annually from causes that are preventable. The mortality of adults of middle and older ages has not been appreciably diminished. With the changing age composition of our population the task of health conservation must be broadened to include adults as well as children. Even minimum public-health facilities and services do not now exist in many large areas. Of 3,000 counties, only 528 have full-time health supervision and only 21 percent of the local health departments were rated in 1933 as having developed a personnel and service providing a satisfactory minimum for the population and the existing problems.

Evidence is accumulating that the health of a large proportion of the population is being affected unfavorably by the depression. The rate of disabling sickness in 1933 among families which had suffered the most severe decline in income during the period 1929 to 1932 was 50 percent higher than the rate in families whose incomes were not reduced. For the first time in many decades the death rate in our large cities is higher this year than it was last year despite the absence of any serious epidemics. In the face of these evidences of increased need local appropriations for public health have been decreased on the average by 20 percent since 1930. The average per capita expenditures from tax funds for public health in 77 cities in 1934 were 58 cents as contrasted with 71 cents in 1931. It is not too much to say that in many parts of the country the men and women in public-health work are very discouraged.

In this situation there is great need for a Nation-wide program for the extension of preventive public-health services. As was well stated by the medical advisory board:

> At the present time appropriations for public-health work are insufficient in many communities, whereas a fuller application of modern preventive medicine, made possible by larger public appropriations, would not only relieve such suffering but would also prove an actual financial economy. Federal funds, expended through the several States, in association with their own State and local public-health expenditures, are, in our opinion, necessary to accomplish these purposes and we recommend that substantial grants be made.

In accord with these principles and following the specific suggestions of the Advisory Committee on Public Health, we recommend: (1) Grants-in-aid to local areas unable to finance public-health programs with State and local resources, to be allocated through State departments of health; (2) direct aid to States in the development of State health services and the training of personnel for State and local health work; (3) additional personnel within the United States Public Health Service for the investigation of disease and sanitary problems which are of interstate or national interest and the detailing of personnel to other Federal bureaus and to States and localities. The Advisory Committee on Public Health suggested that in order to carry out these policies the total appropriation to the Public Health Service be increased to $10,000,000 per year, in contrast with $5,000,000—4 cents per capita—now spent by the Federal Government in all its departments for human health services. The advisory committee also reported that the needs of the country are considerably in excess of the additional expenditures suggested but expressed the view that a larger amount cannot be efficiently spent until necessary additional personnel has been trained and further tests of practical procedures have been made through which certain diseases can be more effectively controlled. It is not within our province to say whether the precise amount suggested should be appropriated, but we strongly endorse the recommendation for increased Federal participation in the prevention of ill health.

It has long been recognized that the Federal, State, and local Governments all have responsibilities for the protection of all of the population against disease. The Federal Government has recognized its responsibility in this respect in the public-health activities of several of its departments. There also are well-established precedents for Federal aid for State health administration and for local public facilities, and for the loan of technical personnel to States and localities. What we recommend involves no departure from previous practices, but an extension of policies that have long been followed and are of proven worth. What is contemplated is a

Nation-wide public-health program, financially and technically aided by the Federal Government, but supported and administered by the State and local health departments.

### HEALTH INSURANCE

The development of more adequate public-health services is the first and most inexpensive step in furnishing economic security against illness. There remains the problem of enabling self-supporting families of small and moderate means to budget against the loss of wages on account of illness and against the costs of medical services needed by their members. The nature of this problem and the nature of the risks which it involves calls for an application of the insurance principle to replace the variable and uncertain costs for individuals by the fixed and predictable costs for large groups of individuals.

Insurance against the costs of sickness is neither new nor novel. In the United States we have had a long experience with sickness insurance both on a nonprofit and commercial basis. Both forms have been inadequate in respect to the protection they furnish, and the latter—commercial insurance—has in addition been too expensive for people of small means. Voluntary insurance holds no promise of being much more effective in the near future than it has been in the past. Our only form of compulsory insurance has been that which is provided against industrial accidents and occupational diseases under the workmen's compensation laws. In contrast other countries of the world have had experience with compulsory health or sickness insurance applied to over a hundred million persons and running over a period of more than 50 years. Nearly every large and industrial country of the world except the United States has applied the principle of insurance to the economic risks of illness.

The committee's staff has made an extensive review of insurance against the risks of illness, including the experience which has accumulated in the United States and in other countries of the world. Based upon these studies the staff has prepared a tentative plan of insurance believed adequate for the needs of American citizens with small means and appropriate to existing conditions in the United States. From the very outset, however, our committee and its staff have recognized that the successful operation of any such plan will depend in large measure upon the provision of sound relations between the insured population and the professional practitioners or institutions furnishing medical services under the insurance plan. We have accordingly submitted this tentative plan to our several professional advisory groups organized for this purpose. These advisory groups have requested an extension of time for the further

consideration of these tentative proposals, and such an extension has been granted until March 1, 1935. In addition, arrangements have been effected for close cooperative study between the committee's technical staff and the technical experts of the American Medical Association.

Until the results of these further studies are available, we cannot present a specific plan of health insurance. It seems desirable, however, to advise the professions concerned and the general public of the main lines along which the studies are proceeding. These may be indicated by the following broad principles and general observations which appear to be fundamental to the design of a sound plan of health insurance.

1. The fundamental goals of health insurance are: (*a*) The provision of adequate health and medical services to the insured population and their families; (*b*) the development of a system whereby people are enabled to budget the costs of wage loss and of medical costs; (*c*) the assurance of reasonably adequate remuneration to medical practitioners and institutions; (*d*) the development under professional auspices of new incentives for improvement in the quality of medical services.

2. In the administration of the services the medical professions should be accorded responsibility for the control of professional personnel and procedures and for the maintenance and improvement of the quality of service; practitioners should have broad freedom to engage in insurance practice, to accept or reject patients, and to choose the procedure of remuneration for their services; insured persons should have freedom to choose their physicians and institutions; and the insurance plan shall recognize the continuance of the private practice of medicine and of the allied professions.

3. Health insurance should exclude commercial or other intermediary agents between the insured population and the professional agencies which serve them.

4. The insurance benefits must be considered in two broad classes: (*a*) Cash payments in partial replacement of wage-loss due to sickness and for maternity cases, and (*b*) health and medical services.

5. The administration of cash payments should be designed along the same general lines as for unemployment insurance and, so far as may be practical, should be linked with the administration of unemployment benefits.

6. The administration of health and medical services should be designed on a State-wide basis, under a Federal law of a permissive character. The administrative provisions should be adapted to agricultural and sparsely settled areas as well as to industrial sections, through the use of alternative procedures in raising the funds and furnishing the services.

7. The costs of cash payments to serve in partial replacement of wage loss are estimated as from 1 to 1¼ percent of pay roll.

8. The costs of health and medical services, under health insurance, for the employed population with family earnings up to $3,000 a year, is not primarily a problem of finding new funds, but of budgeting present expenditures so that each family or worker carries an average risk rather than an uncertain risk. The population to be covered is accustomed to expend, on the average, about 4½ percent of its income for medical care.

9. Existing health and medical services provided by public funds for certain diseases or for entire populations should be correlated with the services required under the contributory plan of health insurance.

10. Health and medical services for persons without income, now mainly provided by public funds, could be absorbed into a contributory insurance system through the payment by relief or other public agencies of adjusted contributions for these classes.

11. The role of the Federal Government is conceived to be principally (*a*) to establish minimum standards for health insurance practice, and (*b*) to provide subsidies, grants, or other financial aids or incentives to States which undertake the development of health insurance systems which meet the Federal standards.

## RESIDUAL RELIEF

Unemployment has become an agglomeration of many problems. In the measures here proposed we are attempting to segregate and provide for distinguishable groups in practical ways.

One of these large groups is often referred to as the "unemployables." This a vague term, the exact meaning of which varies with the person making the classification. Employability is a matter of degree; it involves not merely willingness and ability to work but also the capacity to secure and hold a job suited to the individual. Relatively few people regard themselves as unemployables, and, outside of the oldest age groups, the sick, the widowed, and deserted mothers, most adults would, in highly prosperous times, have some employment.

The fact remains that even before the depression there were large numbers of people who worked only intermittently, who might be described as being on the verge of unemployability—many of them practically dependent on private or public charity. These people are now all on relief lists, plus many others who, before the depression, were steady workers but who have now been unemployed so long that they are considered substandard from the point of view of employability.

There are also large numbers of young people who have not worked or have worked but little in private employment since they left school, primarily because they came into the industrial group during the years of depression. Then there are the physically handicapped, among whom unemployment has been particularly severe. Included on the relief lists also are an estimated total of 100,000 families in "stranded industrial communities," where they have little liklihood of ever again having steady employment. There are 300,000 impoverished farm families whose entire background is rural and whose best chance of again becoming self-supporting lies on the farm.

Policies which we believe well calculated to rehabilitate many of these groups are now being pursued by the Government. These clearly need to be carried through and will require considerable time for fruition. This is especially true of the program for rural rehabilitation and the special work and educational programs for the unemployed young people. There are other serious problems, among them those of populations attached to declining overmanned industries. Only through the active participation of the Federal Government can these problems be solved and the many hundreds of thousands of individuals involved be salvaged.

As for the genuine unemployables—or near unemployables—we believe the sound policy is to return the responsibility for their care and guidance to the States. In making this recommendation we are not unmindful of the fact that the States differ greatly as regards wealth and income. We recognize that it would impose an impossible financial burden on many State and local governments if they were forced to assume the entire present relief costs. That, however, is not what we propose. We suggest that the Federal Government shall assume primary responsibility for providing work for those able and willing to work; also that it aid the States in giving pensions to the dependent aged and to families without breadwinners. We, likewise, contemplate the continued interest of the Federal Government for a considerable time to come in rural rehabilitation and other special problems beyond the capacity of any single State. With the Federal Government carrying so much of the burden for pure unemployment, the State and local governments we believe should resume responsibility for relief. The families that have always been partially or wholly dependent on others for support can best be assisted through the tried procedures of social case work, with its individualized treatment.

We are anxious, however, that the people who will continue to need relief shall be given humane and intelligent care. Under the stimulus of Federal grants, the administration of relief has been modernized throughout the country. In this worst depression of all time, human suffering has been alleviated much more adequately

than ever before. It is not too much to say that this is the only great depression in which a majority of the people in need have really received relief. It would be tragic if these gains were to be lost.

There is some danger that this may occur. While the standards of relief and administration have been so greatly improved in these last years of stress and strain, the old poor laws remain on the statute books of nearly all States. When relief is turned back to the States it should be administered on a much higher plane than that of the old poor laws.

The States should substitute modernized public assistance laws for the ancient, outmoded poor laws. They should replace uncentralized poor-law administrations with unified, efficient State and local public-welfare departments such as already exist in some States and for which all States have a nucleus in their State Emergency Relief Administrations. The Federal Government should insist as a condition of any grants in aid that standard relief practice shall be used and that the States who receive Federal moneys preserve the gains that have been made, in the care and treatment of the "unemployables." Informed public opinion can also do much and we rely upon it to thus safeguard the welfare of these unfortunate human beings and fellow citizens.

## ADMINISTRATION

The Federal Government has long had important functions in relation to social welfare. In the depression these activities have grown apace, particularly in connection with relief. For some time the Government has had the major responsibility for the assistance to above one-sixth of the entire population of the country. Hereafter, the Federal Government will still have large and continuing responsibility for many parts of the heretofore undifferentiated relief problem and some of our recommendations contemplate expansion in Federal social-welfare activities.

The importance which the social-welfare activities of the Federal Government have assumed is such that they should clearly all be administratively coordinated and related. The detailed working out of such coordination does not fall within the scope of this committee, but we deem it important to direct attention to the desirability of early action in this matter.

## ACCIDENT COMPENSATION

Industrial accidents were the first of the major hazards of the modern economic system against which safeguards were provided in this country. These are represented on the one hand by safety

laws and orders and the voluntary efforts of employers to reduce accidents, and, on the other, by the workmen's accident compensation laws now in force in all but four States.

These safeguards have, on the whole, worked quite beneficially, but we still have far too many industrial accidents, and the accident compensation laws are sadly lacking in uniformity and many of them are very inadequate. In view of the start we have made, substitution of the continental European form of contributory accident insurance for our noncontributory accident compensation laws, nationalization of accident compensation, or any other fundamental change is unwarranted. There should be no complacency, however, regarding either the progress we have made toward the prevention of industrial accidents or the adequacy of our compensation laws.

In outlining a long-time program for economic security, we make the following recommendations looking toward more adequately meeting the hazard of industrial accidents.

(1) The Department of Labor should further extend its services in promoting uniformity and raising the standards of both the safety laws and the accident compensation laws of the several States and their administration.

(2) The four States which do not now have accident compensation laws are urged to enact such laws, and passage of accident compensation acts for railroad employees and maritime workers is recommended.

## EMPLOYMENT SERVICE

Great progress has been made in the last 18 months in the development of a more efficient employment service in this country. The National Reemployment Service, set up to facilitate enrolling labor for Public Works projects, has been extended into every State. Under the Wagner-Peyser Act, cooperative arrangements have been developed in the majority of the leading industrial States for the joint conduct of employment offices connected with the United States Employment Service. Through insistence upon a merit basis for selection, an efficient personnel is being developed within the Employment Service.

The Employment Service, however, will have to be still further expanded and improved if the measures for economic security we have suggested are to be put into efficient operation. It is through the employment offices that the unemployment compensation benefits and also the old-age annuities are to be paid. These offices must function as efficient placement agencies if the "willingness-to-work" test of eligibility for benefits in unemployment compensation is to be made effective. They now function to select the employees on Public Works projects and should have a similar relation to any

expanded public-employment program. Above all, the employment offices should strive to become genuine clearing houses for all labor, at which all unemployed workers will be registered and to which employers will naturally turn when seeking employees.

To perform these important functions, a Nation-wide system of employment offices is vital. The nucleus for such a system exists in the United States Employment Service and the National Reemployment Service, which have always been combined "at headquarters" and are now being consolidated in States where both have existed. No fundamental change in the relation of the Federal and State Governments to the employment offices is deemed necessary, but some amendment of the Wagner-Peyser Act is needed to enable the employment offices to perform all the functions our program contemplates. The larger funds required will come from the portion of the Federal pay-roll tax retained for administrative purposes.

Closely related to the development of a more efficient Employment Service is the Federal regulation of private employment agencies doing an interstate business. The interstate business of such private agencies cannot be regulated by the States, and, for the protection no less of the reputable agencies than of the workers, should be strictly regulated by the Federal Government.

### EDUCATIONAL AND REHABILITATION SERVICES

Education, training, and vocational guidance are of major importance in obtaining economic security for the individual and the Nation. And we have at various points in this report made brief references to the importance of vocational guidance and training in the readjustments which are necessary in a coordinated attack on the problem of individual economic security. We here wish to further emphasize that the educational and vocational equipment of individuals is a major factor in their economic security.

At this time it is tragically evident that education and training are not a guarantee against dependency and destitution. Yet there is no reason for losing faith in our democratic system of education; the existing situation merely has brought into bold relief the fact that education, to fulfill its purposes, must be related much more than it has been to the economic needs of individuals. It has become apparent particularly that education cannot be regarded as completed upon leaving school. It has brought out poignantly the difference between schooling and education. In a day and age of rapidly changing techniques and market demands, many people will find it necessary to make readjustments long after they have first entered industry. Adjustment of our educational content and technique to this situation is a vital need in a long-range program for economic security.

In the years immediately ahead, when there is certain to be a large problem in the economic rehabilitation of so many individuals, there is a peculiar need for educational and training programs which will help these worst victims of the depression to regain self-respect and self-support. While men have so much leisure time, those who can profit from further education and training should be afforded an opportunity to make such use of their leisure. Particularly for the young workers and those who have little hope of returning to their old occupations, the need for educational and vocational training and retraining programs is clearly indicated.

Education has been regarded in this country as a responsibility of the State and local governments and should remain so. In the joint attack on economic security which we suggest, Federal participation, however, is most desirable. To a considerable extent the Federal Government is already participating in this endeavor, and we believe that it should continue to do so, if possible, on an extended scale.

What to do with regard to the army of unemployed youths continues to be one of the gravest problems of this Nation. Obviously what the great majority need is a chance to work at some job, a chance to develop skills and techniques. In any program of employment they must be given their fair share of available jobs. For many, however, a training program would be of great benefit. This can be developed satisfactorily only with the assistance of the Federal Government. The local school facilities are not able to take care of their normal tasks, and find it impossible to develop needed vocational-training programs at all commensurate with this problem.

At this point, we desire to call special attention to the importance of special programs for the physically handicapped, of whom there are many millions in this country. Since the passage in 1920 of the Federal Vocational Rehabilitation Act, the Government has been assisting the States in a service of individual preparation for and placement in employment of persons vocationally handicapped through industrial or public accident, disease, or congenital causes.

Forty-five States are now participating in this program and, since it was launched, approximately 68,000 permanently disabled persons have benefited from this service. The work done has shown gratifying annual increases, even in the depression, but is still small in comparison with the need. The desirability of continuing this program and correlating it with existing and contemplated services to workers in the general program of economic security we believe to be most evident.

## OTHER MEASURES FOR ECONOMIC SECURITY

We have expressed our views upon many different measures and policies which we deem essential in a program to protect individuals against the many hazards which lead to destitution and dependency, but we have by no means exhausted the subject. We have dealt with the hazards which afflict the largest numbers—unemployment, old age, ill health, premature loss of the family breadwinner, industrial accidents, lack of training—but we have not dealt with other hazards equally serious for some individuals, such as invalidity, nonindustrial accidents, and other afflictions.

Parts of the program we suggest apply to practically the entire population, particularly the grants-in-aid to the noncontributory old-age pensions, the expansion of preventive public-health services, the aid to mothers' pensions, the maternal and child-health services for rural areas, the services for crippled children, the expansion of the Employment Service, and the policy of employment assurance. Two of the major measures suggested—old-age insurance and unemployment compensation—have more limited application. The former will apply to all employed persons, but will not include in its compulsory provisions proprietors, tenants, or the self-employed. Unemployment compensation will have slightly narrower scope, excluding those in small establishments.

Agricultural workers, domestic servants, home workers, and the many self-employed people constitute large groups in the population who have generally received little attention. In these groups are many who are at the very bottom of the economic scale. We believe that more attention will have to be given to these groups than they have received heretofore. We cannot be satisfied that we have a reasonably complete program for economic security unless some degree of protection is given these groups now generally neglected.

While in the short space of a few months we have made a quite comprehensive survey of the entire problem of economic security for the individual, much further thought needs to be given to many aspects of this problem.

Study of the suggested problems not dealt with in this report and still other aspects of a comprehensive economic security program belong logically among the duties of the social insurance board, if one is established. So do problems of extending the coverage of unemployment compensation and old-age insurance, and the task of correlating the experience gained under these measures to make them better instruments for the accomplishment of the purposes for which they are designed.

## CONCLUSION

The program for economic security we suggest follows no single pattern. It is broader than social insurance and does not attempt merely to copy European methods. In placing primary emphasis on employment, rather than unemployment compensation, we differ fundamentally from those who see social insurance as an all-sufficient program for economic security. We recommend wide application of the principles of social insurance, but not without deviation from European models. Where other measures seemed more appropriate to our background or present situation, we have not hesitated to recommend them in preference to the European practices. In doing so we have recommended the measures at this time which seemed best calculated under our American conditions to protect individuals in the years immediately ahead from hazards which plunge them into destitution and dependency. This, we believe, is in accord with the method of attaining the definite goal of the Government, social justice, which was outlined in the message of January 4, 1935. "We seek it through tested liberal traditions, through processes which retain all of the deep essentials of that republican form of government first given to a troubled world by the United States."

We realize that these measures we recommend will not give complete economic security. As outlined in the messages of June 8, 1934, and January 4, 1935, the safeguards to which this report relates represent but one of three major aspects of economic security for men, women, and children. Nor do we regard this report and our recommendations as exhaustive of the particular aspect which this committee was directed to study—"the major hazards and vicissitudes of life." A complete program of economic security "because of many lost years, will take many future years to fulfill."

The initial steps to bring this program into operation should be taken now. This program will involve considerable cost, but this is small as compared with the enormous cost of insecurity. The measures we suggest should result in the long run in material reduction in the cost to society of destitution and dependency, and we believe, will immediately be helpful in allaying those fears which open the door to unsound proposals. The program will promote social and industrial stability and will operate to enlarge and make steady a widely diffused purchasing power upon which depends the high American standard of living and the internal market for our mass production, industry, and agriculture.

# APPENDIX

## LIST OF COMMITTEES ADVISORY TO THE COMMITTEE ON ECONOMIC SECURITY

### ADVISORY COUNCIL

Frank P. Graham, president University of North Carolina, Chapel Hill, N. C., chairman.
Paul Kellogg, editor The Survey, New York City, vice chairman.
Gerard Swope, president General Electric Co., New York City.
Morris E. Leeds, president Leeds & Northrup, Philadelphia, Pa.
Sam Lewisohn, vice president Miami Copper Co., New York City.
Walter C. Teagle, president Standard Oil Co. of New Jersey, New York City.
Marion B. Folsom, assistant treasurer Eastman Kodak Co., Rochester, N. Y.
William Green, president American Federation of Labor, Washington, D. C.
George M. Harrison, president Brotherhood of Railway and Steamship Clerks, Cincinnati, Ohio.
Paul Scharrenberg, secretary-treasurer California State Federation of Labor, San Francisco, Calif.
Henry Ohl, Jr., president Wisconsin State Federation of Labor, Milwaukee.
Belle Sherwin, former president National League of Women Voters, Washington, D. C.
Grace Abbott, University of Chicago, and former chief United States Children's Bureau.
Raymond Moley, editor Today, and former Assistant Secretary of State.
George H. Nordlin, chairman grand trustees, Fraternal Order of Eagles, St. Paul, Minn.
George Berry, president International Printing Pressmen and Assistants' Union, Tennessee.
John G. Winant, Governor New Hampshire.
Mary Dewson, National Consumers League, New York City.
Louis J. Taber, master National Grange, Cleveland.
Monsigneur John A. Ryan, director department of social action, National Catholic Welfare Conference, Washington, D. C.
Helen Hall, president National Federation of Settlements and director of the Henry Street Settlement, New York City.
Joel D. Hunter, general superintendent United Charities of Chicago.
Elizabeth Morrissey, Notre Dame College, Baltimore, Md.

### TECHNICAL BOARD

Arthur J. Altmeyer, Second Assistant Secretary of Labor, chairman.
Winfield W. Riefler, executive director Central Statistical Board, chairman executive committee.
Otto Beyer, Labor Relations Director, Office of the Federal Coordinator of Transportation.
Thomas H. Eliot, Associate Solicitor, Department of Labor.
Corrington Gill, Assistant Administrator Federal Emergency Relief Administration.
Walton Hamilton, chairman Advisory Council, National Recovery Administration, chairman medical problems subcommittee.
A. H. Hansen, Chief Economic Analyst, Department of State, chairman unemployment insurance subcommittee.
Alexander Holtzoff, assistant to Attorney General, Department of Justice.
Murray Latimer, chairman Railroad Retirement Board, chairman old-age security subcommittee.

William M. Leiserson, chairman National Mediation Board.
Isador Lubin, Commissioner of Labor Statistics, Department of Labor.
H. A. Millis, board member National Labor Relations Board.
H. B. Myers, Assistant Director, Research and Statistics, Federal Emergency Relief Administration.
Herman Oliphant, general counsel, Treasury Department.
Stuart Rice, Assistant Director, Bureau of the Census, Department of Commerce.
H. R. Tolley, Assistant Administrator, Division of Program Planning, Agricultural Adjustment Administration.
Victor N. Valgren, senior agricultural economist, Department of Agriculture.
Jacob Viner, assistant to the Secretary, Treasury Department.
Aubrey Williams, Assistant Administrator, Federal Emergency Relief Administration, chairman public employment and public assistance subcommittee.
E. Willard Jensen, Executive Secretary, Business Advisory Council, Department of Commerce.
Josephine Roche, Assistant Secretary of the Treasury.

### ACTUARIAL CONSULTANTS

Prof. James W. Glover, University of Michigan, Ann Arbor, Mich., chairman.
Prof. Henry L. Reitz, University of Iowa, Iowa City, Iowa.
Prof. A. L. Mowbray, University of California, Berkeley, Calif.
M. A. Linton, president Provident Mutual Life Insurance Co., Philadelphia, Pa.

### MEDICAL ADVISORY COMMITTEE

Dr. Harvey Cushing, professor of neurology, Yale University, New Haven, Conn.
Dr. Thomas Parran, Jr., New York State Commissioner of Health, New York City.
Dr. James Deacon Bruce, Ann Arbor, Mich.
Dr. Stuart R. Roberts, professor of clinical medicine, Emory University, Atlanta, Ga.
Dr. Rexwald Brown, Santa Barbara, Calif.
Dr. James Alexander Miller, professor College of Physicians and Surgeons, New York City.
Dr. Walter L. Bierring, president American Medical Association, Des Moines, Iowa.
Dr. Robert B. Greenough, president American College of Surgeons, Boston.
Dr. George M. Piersol, past president American College of Physicians, Philadelphia.
Dr. George Crile, Cleveland Clinic Hospital, Cleveland.
Dr. J. Shelton Horsley, Richmond, Va.

### PUBLIC HEALTH ADVISORY COMMITTEE

Homer Folks, New York State Charities Aid Association, New York City.
Dr. Eugene L. Bishop, Commissioner of Public Health of Nashville, Tenn.
Dr. A. L. Chelsey, secretary Minnesota Board of Health, St. Paul.
Dr. Allen W. Freeman, dean School of Hygiene and Public Health, Johns Hopkins University, Baltimore.
Dr. Clarence Hincks, director National Committee for Mental Hygiene, New York City.
Dr. Thomas Parran, Jr., Commissioner of Health of New York State, Albany, N. Y.
Dr. Milton J. Rosenau, Harvard Medical School, Cambridge, Mass.
Dr. John J. Sippy, health officer, San Joaquin, Calif.
Katherine Tucker, R. N., director National Organization for Public Health Nursing, New York City.
C. E. A. Winslow, D. P. H., professor public health, Yale School of Medicine, New Haven, Conn.
Abel Wolman, chief bureau of sanitary engineering, Maryland Department of Health, Baltimore.
Dr. Felix J. Underwood, secretary Mississippi Board of Health, Jackson, Miss.
Louis I. Dublin, statistician and vice president, Metropolitan Life Insurance Co., New York City.

### HOSPITAL ADVISORY BOARD

Dr. J. Rollin French, president Western Hospital Association.
Rev. Charles G. Jarrel, president Protestant Hospital Association.
Robert G. Jolly, president American Hospital Association.
Father Alphonse J. Schwitalla, president Catholic Hospital Association.
Dr. Arthur C. Bachmeyer, dean Cincinnati General Hospital.
Michael M. Davis, Ph. D., chairman, Council on Community Relations of American Hospital Association.
Dr. Nathanel W. Faxon, director Strong Memorial Hospital of Rochester.
Dr. S. S. Goldwater, commissioner of hospitals, department of health, New York City.
Dr. Robert C. Buerki, University Hospital of Madison.
Dr. Winford Smith, medical director Johns Hopkins Hospital of Baltimore.
Dr. Frederic A. Washburn, Boston commissioner of institutions.
Dr. Watson S. Rankin, director hospital and orphan section, Duke Endowment.

### DENTAL ADVISORY COMMITTEE

Dr. Frank M. Casto, president American Dental Association of Cleveland.
Dr. J. Ben Robinson, president American College of Dentists of Baltimore.
Dr. Le Roy M. S. Miner, dean of Dental School of Harvard.
Dr. Alfred Walker, chairman of the Judicial Council of American Dental Association.
George A. Coleman, D. D. S., Philadelphia.
Dr. O. W. Brandhorst, St. Louis.
Dr. John T. Hanks, New York.
Dr. John T. O'Rourke, Louisville.
Dr. Bissell Palmer, New York.
Dr. Herbert E. Phillips, Chicago.
Dr. Roy Green, Sacramento.

### ADVISORY COMMITTEE ON PUBLIC EMPLOYMENT AND PUBLIC ASSISTANCE

Miss Dorothy Kahn, director Philadelphia County Relief Board, Philadelphia, chairman.
Miss Edith Abbott, dean Graduate School of Social Service Administration, University of Chicago, Chicago.
Miss Gay Shepperson, administrator Georgia Relief Commission, Atlanta.
Frank Bane, director American Public Welfare Association, Chicago.
Miss Elizabeth Wisner, director School of Social Work, Tulane University, New Orleans.
Father John O'Grady, executive secretary Catholic Conference of Charities, Washington, D. C.
Dr. Ellen Potter, director of medicine, department of institutions and agencies, Trenton, N. J.
Prentice Murphy, executive secretary Children's Bureau of Philadelphia.
Jacob Kepecs, Jewish Home-Finding Society of Chicago.
Linton B. Swift, general director Family Welfare Association of America, New York City.
Walter West, executive director American Association of Social Workers, New York City.
Fred H. Hoehler, director of public welfare, Cincinnati.

### COMMITTEE ON CHILD WELFARE

Homer Folks, secretary State Charities Aid Association, New York City.
Jacob Kepecs, president Child Welfare League of America, Chicago.
Dr. Grover F. Powers, professor of pediatrics, Yale Medical School, New Haven.
Dr. Clifford G, Grulee, secretary American Academy of Pediatrics, Chicago.
Dr. Fred L. Adair, department of obstetrics and gynecology, University of Chicago.
Miss Jane M. Hoey, associate director Welfare Council of New York City.
J. Prentice Murphy, executive secretary the Children's Bureau of Philadelphia.
Dr. T. F. Abercrombie, president conference of State and provincial health authorities, State board of health, Atlanta, Ga.
Rev. Bryant McEntegard, New York City.

# SUPPLEMENT

TO

# REPORT TO THE PRESIDENT

OF THE

# COMMITTEE ON ECONOMIC SECURITY

# TABLES

[Table 1 printed in Report proper]





115795°—35——8

TABLE 2.—*Families and persons receiving emergency relief, continental United States*

| Months | Resident families and persons receiving relief under the general relief and special programs | | | | | Number of transients receiving relief [3] |
|---|---|---|---|---|---|---|
| | Families | Single persons | Total families and single persons | Total persons | Percent of total population [1] | |
| 1933 | | | | | | |
| January | [2] 3,850,000 | (4) | (4) | (4) | (4) | (4) |
| February | [2] 4,140,000 | (4) | (4) | (4) | (4) | (4) |
| March | [2] 4,560,000 | (4) | (4) | (4) | (4) | (4) |
| April | 4,475,322 | (4) | (4) | (4) | (4) | (4) |
| May | 4,252,443 | (4) | (4) | (4) | (4) | (4) |
| June | 3,789,026 | (4) | (4) | (4) | (4) | (4) |
| July | 3,451,874 | [2] 455,000 | 3,906,874 | [2] 15,282,000 | 12 | (4) |
| August | 3,351,810 | [2] 412,000 | 3,763,810 | [2] 15,077,000 | 12 | (4) |
| September | 2,984,975 | [2] 403,000 | 3,387,975 | [2] 13,338,000 | 11 | (4) |
| October | 3,010,516 | [2] 436,000 | 3,446,516 | [2] 13,618,000 | 11 | (4) |
| November | 3,365,114 | 461,315 | 3,826,429 | 15,080,465 | 12 | (4) |
| December | 2,631,020 | 438,431 | 3,069,451 | 11,664,860 | 10 | (4) |
| 1934 | | | | | | |
| January | 2,486,274 | 456,469 | 2,942,743 | 11,086,598 | 9 | (4) |
| February | 2,599,975 | 532,036 | 3,132,011 | 11,627,415 | 9 | 126,878 |
| March | 3,070,855 | 563,138 | 3,633,993 | 13,494,282 | 11 | 145,119 |
| April | 3,847,235 | 590,007 | 4,437,242 | 16,840,389 | 14 | 164,244 |
| May | 3,815,926 | 617,735 | 4,433,661 | 17,228,458 | 14 | 174,138 |
| June | 3,757,971 | 559,502 | 4,317,473 | 16,833,294 | 14 | 187,282 |
| July | 3,867,047 | 542,362 | 4,409,409 | 17,301,734 | 14 | 195,051 |
| August | 4,059,605 | 569,877 | 4,629,482 | 18,187,193 | 15 | 206,173 |
| September | 4,096,725 | 656,215 | 4,752,940 | 18,410,334 | 15 | 221,734 |
| October | [2] 4,106,681 | 720,853 | [2] 4,827,534 | [2] 18,450,567 | 15 | 235,758 |
| November [5] | 4,225,000 | 750,000 | 4,975,000 | 18,900,000 | 15 | 266,000 |

[1] Based on 1930 Census of Population.
[2] Middle of month figures, excluding local homeless which are included under general relief program.
[3] Partially estimated.
[4] Not available.
[5] Partially estimated to cover the rural rehabilitation program on which reports are not yet complete.
[6] Preliminary.

Source: Division of Research, Statistics, and Finance, Federal Emergency Relief Administration.

TABLE 3.—*Cases* [1] *receiving emergency relief—direct, work, special programs*

| 1934 | Grand total | General relief | | | Special programs [2] |
|---|---|---|---|---|---|
| | | Total | Work programs | Direct relief only | |
| April | 4,437,242 | 4,437,242 | 1,176,818 | 3,260,424 | (3) |
| May | 4,433,661 | 4,320,187 | 1,343,214 | 2,976,973 | 113,474 |
| June | 4,317,473 | 4,237,425 | 1,477,753 | 2,759,672 | 80,048 |
| July | 4,409,409 | 4,368,195 | 1,723,295 | 2,644,900 | 41,214 |
| August | 4,629,482 | 4,582,434 | 1,922,029 | 2,660,405 | 47,048 |
| September | 4,752,940 | 4,619,496 | 1,950,728 | 2,658,768 | 133,444 |
| October | 4,827,534 | 4,654,402 | 1,998,167 | 2,656,235 | 173,132 |
| November [4] | 4,975,000 | 4,785,000 | 2,150,000 | 2,635,000 | 190,000 |

[1] Cases include each family or single person on relief, not counting transient single persons.
[2] Rural rehabilitation program, emergency education program, student aid; excludes transients.
[3] Cases aided under special programs in April were included in the general relief program.
[4] Preliminary.

Source: Division of Research, Statistics, and Finance, Federal Emergency Relief Administration.

TABLE 4.—*Obligations incurred for emergency relief from all public funds by source of funds, January 1933 through November 1934, by months and by quarters* [1]

| | Obligations incurred for emergency relief | | | | | | |
|---|---|---|---|---|---|---|---|
| | Total | Federal funds | | State funds | | Local funds | |
| | | Amount | Percent | Amount | Percent | Amount | Percent |
| 1933 | | | | | | | |
| January | $60,827,160.86 | $31,175,001.46 | 51.3 | $8,898,288.71 | 14.6 | $20,753,870.69 | 34.1 |
| February | 67,375,423.32 | 39,850,235.88 | 59.1 | 5,921,376.42 | 8.8 | 21,603,811.02 | 32.1 |
| March | 81,205,631.61 | 51,355,220.07 | 63.2 | 5,212,394.33 | 6.4 | 24,638,017.21 | 30.4 |
| First quarter | 209,408,215.79 | 122,380,457.41 | 58.4 | 20,032,059.46 | 9.6 | 66,995,698.92 | 32.0 |
| April | 73,010,800.68 | 45,373,968.80 | 62.1 | 8,182,877.70 | 11.2 | 19,453,954.18 | 26.7 |
| May | 70,806,338.08 | 48,803,456.80 | 68.9 | 5,017,248.11 | 7.1 | 16,985,633.17 | 24.0 |
| June | 66,339,206.68 | 42,523,714.87 | 64.1 | 8,038,872.89 | 12.1 | 15,776,618.92 | 23.8 |
| Second quarter | 210,156,345.44 | 136,701,140.47 | 65.0 | 21,238,998.70 | 10.1 | 52,216,206.27 | 24.9 |
| July | 60,155,873.87 | 37,482,328.17 | 62.3 | 7,576,554.71 | 12.6 | 15,096,990.99 | 25.1 |
| August | 61,470,496.37 | 39,781,831.27 | 64.7 | 8,726,266.40 | 14.2 | 12,962,398.70 | 21.1 |
| September | 59,346,338.14 | 36,289,188.33 | 61.1 | 11,093,954.69 | 18.7 | 11,963,195.12 | 20.2 |
| Third quarter | 180,972,708.38 | 113,553,347.77 | 62.8 | 27,396,775.80 | 15.1 | 40,022,584.81 | 22.1 |
| October | 64,888,913.42 | 40,415,353.16 | 62.3 | 10,186,795.50 | 15.7 | 14,286,764.77 | 22.0 |
| November | 70,810,514.27 | 39,796,429.13 | 56.2 | 18,633,766.17 | 26.3 | 12,380,318.97 | 17.5 |
| December | 56,526,330.37 | 27,755,056.43 | 49.1 | 18,768,833.14 | 33.2 | 10,002,441.80 | 17.7 |
| Fourth quarter | 192,225,758.06 | 107,966,837.71 | 56.2 | 47,589,394.81 | 24.7 | 36,669,525.54 | 19.1 |
| Total, 1933 | 792,763,027.67 | 480,601,783.36 | 60.6 | 116,257,228.77 | 14.7 | 195,904,015.54 | 24.7 |
| 1934 | | | | | | | |
| January | 53,880,834.01 | 29,065,736.51 | 54.0 | 16,124,460.00 | 29.9 | 8,690,637.50 | 16.1 |
| February | 57,668,212.60 | 26,462,858.11 | 45.9 | 21,832,729.56 | 37.9 | 9,372,624.93 | 16.2 |
| March | 69,794,802.92 | 32,522,395.84 | 46.6 | 25,615,747.44 | 36.7 | 11,656,659.64 | 16.7 |
| First quarter | 181,343,849.53 | 88,050,990.46 | 48.5 | 63,572,937.00 | 35.1 | 29,719,922.07 | 16.4 |
| April | 113,134,286.74 | 82,299,551.45 | 72.7 | 17,642,023.89 | 15.6 | 13,192,711.40 | 11.7 |
| May [2] | 129,222,770.62 | 96,741,145.12 | 74.9 | 12,647,639.02 | 9.8 | 19,833,986.48 | 15.3 |
| June [2] | 125,198,649.88 | 92,084,137.06 | 73.6 | 11,777,402.31 | 9.4 | 21,337,110.51 | 17.0 |
| Second quarter [2] | 367,555,707.24 | 271,124,833.63 | 73.8 | 42,067,065.22 | 11.4 | 54,363,808.39 | 14.8 |
| July [2] | 130,953,215.11 | 95,146,288.68 | 72.6 | 13,061,941.23 | 10.0 | 22,744,985.20 | 17.4 |
| August [2] | 149,424,555.07 | 113,308,571.80 | 75.8 | 12,226,882.75 | 8.2 | 23,889,100.52 | 16.0 |
| September [2] | 143,227,846.44 | 108,559,186.27 | 75.8 | 11,406,614.12 | 8.0 | 23,262,046.05 | 16.2 |
| Third quarter [2] | 423,605,616.62 | 317,014,046.75 | 74.8 | 36,695,438.10 | 8.7 | 69,896,131.77 | 16.5 |
| October [2] | 156,747,867.63 | 121,949,841.00 | 77.8 | 13,950,560.23 | 8.9 | 20,847,466.40 | 13.3 |
| November [2] | 172,750,000.00 | 139,430,000.00 | 80.7 | 10,670,000.00 | 6.2 | 22,650,000.00 | 13.1 |
| Total, 1934 [2] | 1,302,003,041.02 | 937,569,711.84 | 72.0 | 166,956,000.55 | 12.8 | 197,477,328.63 | 15.2 |
| Total, 23 months [2] | 2,094,766,068.69 | 1,418,171,495.20 | 67.7 | 283,213,229.32 | 13.5 | 393,381,344.17 | 18.8 |

[1] Includes obligations incurred for relief extended under the general relief program, under all special programs, and for administration; beginning April 1934 these figures also include purchases of materials, supplies, and equipment, rentals of equipment (such as team and truck hire), earnings of nonrelief persons employed, and other expense incident to the work program. Does not include about $990,000,000 expended for the C. W. A., of which $840,000,000 was derived from Federal funds and $150,000,000 from State and local funds.

[2] Break-down partially estimated.

[3] Preliminary.

Source: Division of Research, Statistics, and Finance, Federal Emergency Relief Administration, Jan. 7, 1935. Table based on reports from State and local relief administrations.

TABLE 5.—*Estimate of unemployment in employments which are customarily covered by unemployment-insurance plans*

| Year: | *Estimated percent of unemployment* | Year—Continued. | *Estimated percent of unemployment* |
|---|---|---|---|
| 1922 | 13. 1 | 1928 | 8. 5 |
| 1923 | 7. 3 | 1929 | 6. 1 |
| 1924 | 9. 4 | 1930 | 15. 3 |
| 1925 | 7. 8 | 1931 | 26. 6 |
| 1926 | 7. 4 | 1932 | 39. 0 |
| 1927 | 8. 3 | 1933 | 39. 2 |

Source: Estimates of the Committee on Economic Security. It should be noted that these unemployment rates are indicative only of the unemployment occurring in the group of gainful workers which are customarily covered by unemployment-insurance plans, and that they do not represent the unemployment for the entire working population. These rates are higher than those for all gainful workers, because the incidence of unemployment borne by the group covered is greater than for the working population as a whole.

TABLE 6.—*States arrayed by average percentage of nonagricultural unemployment—April 1930; 1933 average; and 1930–33 average*

| April 1930 | | | 1933 average | | | 1930–33 average | | |
|---|---|---|---|---|---|---|---|---|
| State | Percent of gainful workers unemployed | Ratio to average of all States | State | Percent of gainful workers unemployed | Ratio to average of all States | State | Percent of gainful workers unemployed | Ratio to average of all States |
| | | *Percent* | | | *Percent* | | | *Percent* |
| All States | 8.6 | 100.0 | All States | 33.2 | 100.0 | All States | 25.8 | 100.0 |
| 1. Michigan | 13.9 | 163.5 | Michigan | 45.9 | 138.3 | Michigan | 34.3 | 132.9 |
| 2. Rhode Island | 11.2 | 131.8 | Pennsylvania | 40.2 | 121.1 | Rhode Island | 29.6 | 114.7 |
| 3. Montana | 10.7 | 125.9 | Arkansas | 39.2 | 118.1 | New Jersey | 28.8 | 111.6 |
| 4. Illinois | 10.3 | 121.2 | New Jersey | 38.8 | 116.9 | Montana | 28.4 | 110.1 |
| 5. Oregon | 10.1 | 118.8 | Arizona | 38.6 | 116.3 | Pennsylvania | 28.3 | 109.7 |
| 6. Nevada | 9.8 | 115.3 | New Mexico | 38.3 | 115.4 | Illinois | 28.0 | 108.5 |
| 7. Ohio | 9.5 | 111.8 | New York | 38.1 | 114.8 | New York | 27.8 | 107.9 |
| 8. Massachusetts | 9.4 | 110.6 | Rhode Island | 36.6 | 110.2 | Nevada | 27.8 | 107.9 |
| 9. Pennsylvania | 9.0 | 105.9 | Florida | 36.6 | 110.2 | Arizona | 27.7 | 107.4 |
| 10. Colorado | 8.9 | 104.7 | Montana | 36.4 | 109.6 | Florida | 27.1 | 105.0 |
| 11. New Jersey | 8.9 | 104.7 | Illinois | 35.7 | 107.5 | Massachusetts | 27.0 | 104.7 |
| 12. California | 8.8 | 103.5 | Nevada | 35.4 | 106.6 | Ohio | 26.9 | 104.3 |
| 13. New York | 8.7 | 102.4 | Colorado | 35.3 | 106.3 | Indiana | 26.6 | 103.1 |
| 14. Indiana | 8.6 | 101.2 | Massachusetts | 34.8 | 104.8 | Connecticut | 26.4 | 102.3 |
| 15. Washington | 8.6 | 101.2 | Utah | 34.3 | 103.3 | New Mexico | 26.2 | 101.6 |
| 16. Utah | 8.5 | 100.0 | Wyoming | 33.9 | 102.1 | Utah | 25.7 | 99.6 |
| 17. Florida | 8.5 | 100.0 | Indiana | 33.4 | 100.6 | Arkansas | 25.6 | 99.2 |
| 18. Oklahoma | 8.4 | 98.8 | Ohio | 32.2 | 97.0 | Colorado | 25.1 | 97.3 |
| 19. Maine | 8.2 | 96.5 | Connecticut | 31.7 | 95.5 | Washington | 24.4 | 94.6 |
| 20. Minnesota | 8.2 | 96.5 | Texas | 31.6 | 95.2 | Wyoming | 24.2 | 93.8 |
| 21. Vermont | 8.0 | 94.1 | Missouri | 31.5 | 94.9 | Missouri | 24.2 | 93.8 |
| 22. North Carolina | 7.9 | 92.9 | Iowa | 31.0 | 93.4 | Oklahoma | 24.2 | 93.8 |
| 23. New Hampshire | 7.9 | 92.9 | Vermont | 30.9 | 93.1 | Louisiana | 24.1 | 93.4 |
| 24. Kentucky | 7.8 | 91.8 | Washington | 30.7 | 92.5 | Vermont | 24.1 | 93.4 |
| 25. Connecticut | 7.8 | 91.8 | Louisiana | 30.6 | 92.2 | California | 24.0 | 93.0 |

TABLE 6.—*States arrayed by average percentage of nonagricultural unemployment—April 1930; 1933 average; and 1930–33 average*—Contd.

| April 1930 | | | 1933 average | | | 1930–33 average | | |
|---|---|---|---|---|---|---|---|---|
| State | Percent of gainful workers unemployed | Ratio to average of all States | State | Percent of gainful workers unemployed | Ratio to average of all States | State | Percent of gainful workers unemployed | Ratio to average of all States |
| | | *Percent* | | | *Percent* | | | *Percent* |
| 26. Wisconsin | 7.8 | 91.8 | Minnesota | 30.3 | 91.3 | Texas | 23.9 | 92.6 |
| 27. Missouri | 7.7 | 90.6 | Nebraska | 30.2 | 91.0 | Wisconsin | 23.8 | 92.2 |
| 28. Louisiana | 7.7 | 90.6 | West Virginia | 29.4 | 88.6 | Minnesota | 23.4 | 90.7 |
| 29. Idaho | 7.6 | 89.4 | Maryland | 29.4 | 88.6 | Maryland | 23.4 | 90.7 |
| 30. West Virginia | 7.4 | 87.1 | California | 29.2 | 88.0 | West Virginia | 23.2 | 89.9 |
| 31. New Mexico | 7.4 | 87.1 | Oklahoma | 29.2 | 88.0 | Alabama | 23.2 | 89.9 |
| 32. Arizona | 7.4 | 87.1 | Alabama | 29.1 | 87.7 | Maine | 21.8 | 84.5 |
| 33. Wyoming | 7.1 | 83.5 | Wisconsin | 28.8 | 86.7 | Iowa | 21.8 | 84.5 |
| 34. Texas | 6.7 | 78.8 | Idaho | 28.5 | 85.8 | Idaho | 21.8 | 84.5 |
| 35. Arkansas | 6.5 | 76.5 | North Dakota | 27.3 | 82.2 | New Hampshire | 21.8 | 84.5 |
| 36. Kansas | 6.2 | 72.9 | Kansas | 26.9 | 81.0 | Oregon | 21.7 | 81.1 |
| 37. North Dakota | 6.1 | 71.8 | Virginia | 25.6 | 77.1 | Nebraska | 21.5 | 83.3 |
| 38. Virginia | 5.9 | 69.4 | Mississippi | 25.1 | 75.6 | North Carolina | 21.3 | 82.6 |
| 39. Nebraska | 5.9 | 69.4 | Kentucky | 22.7 | 68.4 | Virginia | 21.1 | 81.8 |
| 40. Georgia | 5.9 | 69.4 | South Dakota | 22.7 | 68.4 | Kansas | 21.0 | 81.4 |
| 41. Maryland | 5.8 | 68.2 | Tennessee | 22.6 | 68.1 | Kentucky | 20.8 | 80.6 |
| 42. Alabama | 5.6 | 65.9 | Oregon | 21.3 | 64.2 | Tennessee | 20.4 | 79.1 |
| 43. Iowa | 5.4 | 63.5 | New Hampshire | 21.3 | 64.2 | Mississippi | 19.4 | 75.2 |
| 44. Tennessee | 5.3 | 62.4 | District of Columbia | 21.0 | 63.3 | North Dakota | 18.9 | 73.3 |
| 45. South Carolina | 5.2 | 61.2 | Maine | 20.3 | 61.1 | District of Columbia | 18.3 | 70.9 |
| 46. Delaware | 5.2 | 61.2 | North Carolina | 18.4 | 55.4 | Delaware | 18.3 | 70.9 |
| 47. District of Columbia | 4.9 | 57.6 | Delaware | 16.7 | 50.3 | South Dakota | 17.5 | 67.8 |
| 48. Mississippi | 4.6 | 54.1 | South Carolina | 12.9 | 38.9 | South Carolina | 17.2 | 66.7 |
| 49. South Dakota | 3.9 | 45.9 | Georgia | 12.6 | 38.0 | Georgia | 17.0 | 65.9 |

Source: Estimates derived from population and employment data reported by the U. S. Bureau of the Census, the U. S. Bureau of Agricultural Economics, and the U. S. Bureau of Labor Statistics.

TABLE 7.—*Countries in which compulsory unemployment-insurance laws have been enacted and number of workers covered in each*

| Couutry [1] | Date of law [2] | Number insured [3] |
|---|---|---|
| Australia (Queensland) | Oct. 18, 1922 | 175,000 |
| Austria | Mar. 24, 1920 | 969,000 |
| Bulgaria | Apr. 12, 1925 | 280,000 |
| Germany | July 16, 1927 | [4] 17,920,000 |
| Great Britain and Northern Ireland | Dec. 16, 1911 | 12,960,000 |
| Irish Free State | Aug. 9, 1920 | 359,000 |
| Italy | Oct. 19, 1919 | 4,000,000 |
| Poland | July 18, 1924 | 954,000 |
| Switzerland (13 cantons) | ([5]) | [6] 325,000 |
| United States (Wisconsin) | Jan. 29, 1932 | 330,000 |
| Total number insured | | 38,272,000 |

[1] A compulsory law was passed in Russia in 1922, but benefit payments were suspended in 1930.
[2] These are the dates upon which the laws were enacted, not the dates upon which they went into effect.
[3] These are the most recent figures available.
[4] This figure represents the number covered previous to the beginning of the depression in 1929. The official figure is much smaller (12,503,000 at end of August 1933); the difference is due not to any limitation of coverage but to the fact that those unemployed workers who had exhausted their right to insurance benefits and had thus come within the scope of the communal relief were not included in the figures for the members covered by unemployment insurance.
[5] The first of the cantonal measures was passed in 1925.
[6] This figure includes persons compulsorily insured in certain communes in cantons having voluntary insurance.

Source: Compiled by the Committee on Economic Security.

TABLE 8.—*Countries in which voluntary unemployment insurance laws have been enacted and number of workers covered in each*

| Country | Date of law [1] | Number insured [2] |
|---|---|---|
| Belgium | Dec. 30, 1920 | 1,038,000 |
| Czechoslovakia | July 19, 1921 [3] | 1,500,000 |
| Denmark | Apr. 9, 1907 | 337,000 |
| Finland | Nov. 2, 1917 | 15,000 |
| France | Sept. 9, 1905 | 192,000 |
| Netherlands | Dec. 2, 1916 | 502,000 |
| Norway | Aug. 6, 1915 | 47,000 |
| Spain | May 25, 1931 | [4] 50,000 |
| Sweden | Jan. 1, 1935 | ([5]) |
| Switzerland (11 cantons) [6] | Oct. 17, 1924 [7] | 195,000 |
| Total number insured | | 3,876,000 |

[1] These are the dates for the enactment of the national laws, not the dates upon which they took effect.
[2] These are the most recent figures available.
[3] This act came into effect on Apr. 1, 1925.
[4] The number of persons belonging to funds which may be subject to the insurance law is 50,000. It is not definitely known whether all these persons come under the law but it is probable that the majority of them do.
[5] It is estimated that 23 unions with 320,000 members have funds which may be used for the insurance provided in the law. The law became effective Jan. 1, 1935. It is likely that 320,000 can be taken as a rough estimate of the number who will come under the law in its early stages.
[6] 7 of these cantons specify that communes may enforce compulsory insurance within their borders; the population of communes that have compulsory insurance is given in table 1.
[7] This is the date of the national measure. The first of the cantonal acts was passed in 1925.

Source: Compiled by the Committee on Economic Security.

TABLE 9.—*General provisions of compulsory unemployment insurance laws*

| Country and year of original law [1] | Regular weekly contributions | Qualifying period (contributions) | Waiting period (days) | Amount of benefit | Normal duration of benefits |
|---|---|---|---|---|---|
| Australia (Queensland), 1922 | Workers, employers, State, each 6d | 26 weeks | 14 | Varies with locality, marital status, and number of dependents. | 13 weeks. |
| Austria, 1920 | One-half workers, one-half employers, as percentage of basic wage classes. | 20 weeks | 8 | Varies with wage classes, marital status, and number of dependents. | 12 to 20 weeks. |
| Bulgaria, 1925 | Workers, employers, State, each 1 leva. | 52 weeks in 2 years. | 8 | 16 leva daily for head of family; 10 leva all others. | 12 weeks. |
| Germany, 1927 | Workers, employers, each 3¼ percent of basic wage classes. | do | Varies, 3 to 14 with number of dependents. | Varies with wage classes, locality, and number of dependents. | 14 weeks (means test required after 6 weeks). |
| Great Britain, 1911 | Workers, employers, State, each one-third, as flat rate varying with age and sex. | 30 weeks in 2 years. | 6 | Varies with age, sex, and number of dependants. | 26 weeks. |
| Irish Free State, 1911 | Workers and employers contribute varying amounts; State two-sevenths of aggregate. | 12 weeks | 6 | do | 1 day's benefit for each weekly contribution. |
| Italy, 1919 | One-half workers, one-half employers, as percentage of basic wage classes. | 48 weeks in 2 years. | 7 | Varies with wage classes | 90 to 120 days. |
| Poland, 1924 [2] | Wage earners ½ percent of wages; employers, 1½ percent, State 1 percent. | 26 weeks | 10 | Varies with marital status and number of dependents. | 13 weeks. |
| Switzerland (13 cantons) | Varies with the type of insurance fund, occupation, risks involved, and laws of Canton. | 180-day minimum. | 3 minimum | Maximum benefit 50 percent wages, plus 10 percent for members with dependents. | 90-day maximum. |

[1] A compulsory law was passed in Russia in 1922, but benefits were suspended in 1930, owing to an absence of unemployment.
[2] Poland also has a system of unemployment insurance for salaried workers to which only employers and employees contribute.

Source: Compiled mainly from the *Monthly Labor Review*, August and September 1934, "Operation of Unemployment Insurance Systems in the United States and Foreign Countries."

TABLE 10.—*General provisions of voluntary subsidized unemployment insurance laws*

| Country and year of original law | Subsidies | Qualifying period | Waiting period | Maximum amount of benefits | Normal duration of benefits |
|---|---|---|---|---|---|
| Belgium, 1920 | State pays two-thirds of contributions by members. | 1 year | 1 day each month plus 3 days each 6 months. | Three-fourths usual wages | 30 days each 6 months. |
| Czechoslovakia, 1921 | State pays 2 to 3 times union benefits | Varies with fund; 3-month minimum. | 7 days | Two-thirds last wage | 26 weeks. |
| Denmark, 1917 | State, 15 to 90 percent contributions; local governments pay one-third of State subsidy. | 12 months | 6-day minimum; 15 maximum. Varies with fund. | Two-thirds average earnings. | Varies; 70 to 120 days. |
| Finland, 1917 | State, one-third to two-thirds of benefits paid by funds. | 6 months | 6-day minimum; 18 maximum; varies. | Two-thirds average wage | 120 days. |
| France, 1905 | State, 60 to 90 percent of benefits | do | Varies with funds | One-half normal wages | 180 days. |
| Netherlands, 1916 | Federal, one-half workers contributions; local, one-half also. | Varies; 26 weeks in general. | Varies; 6 days in general | 70 percent average daily wage. | Varies; 36 to 90 days. |
| Norway, 1915 | State one-half and more of benefits paid; local governments pay two-thirds of State subsidy. | 26 weeks | Varies with fund; 3 to 14 days. | One-half daily earnings | 13 weeks. |
| Spain, 1931 | State pays varying percentage of benefits. | 6 months | 6 days | Three-fifths normal wages | 60 days. |
| Sweden, 1934 [1] | State pays percentage of benefits | 52 weeks in 2 years | 6-day minimum; 3-month maximum. | Four-fifths usual wages | 90-day minimum; 120-day maximum. |
| Switzerland, 1924 | Federal subsidy, 38 to 43 percent of benefits plus cantonal and communal subsidies. | 180-day minimum | 3-day minimum | Three-fifths normal wages | 90-day maximum. |

[1] Sweden's law became effective Jan. 1, 1935.

Source: Compiled mainly from the *Monthly Labor Review*, August and September 1934, "Operation of Unemployment Insurance Systems in the United States and Foreign Countries."

TABLE 11.—*Number of older persons gainfully occupied by age and occupation for United States, 1930* [1]

| | 45 and over | 50 and over | 55 and over | 60 and over | 65 and over | 70 and over | 75 and over |
|---|---|---|---|---|---|---|---|
| Total population | 28,048,786 | 21,006,507 | 15,030,703 | 10,385,026 | 6,633,805 | 3,863,200 | 1,913,196 |
| Total gainfully occupied | 14,626,620 | 10,350,550 | 6,795,459 | 4,155,395 | 2,204,967 | 977,925 | 335,023 |
| Agriculture | 3,891,109 | 2,979,047 | 2,115,609 | 1,407,129 | 829,825 | 417,734 | 159,809 |
| Forestry and fishing | 84,013 | 58,250 | 36,865 | 21,627 | 11,100 | 4,678 | 1,493 |
| Extraction of minerals | 286,039 | 181,594 | 104,957 | 54,796 | 24,553 | 8,572 | 2,347 |
| Manufacturing and mechanical industries | 4,165,502 | 2,837,582 | 1,794,848 | 1,047,104 | 518,525 | 205,130 | 61,048 |
| Transportation and communication | 994,996 | 656,832 | 400,231 | 222,808 | 100,297 | 33,141 | 9,073 |
| Trade | 1,889,026 | 1,307,044 | 831,557 | 488,493 | 247,726 | 105,367 | 33,616 |
| Public service | 351,075 | 270,775 | 192,679 | 126,097 | 69,441 | 29,701 | 8,891 |
| Professional service | 852,491 | 596,732 | 380,186 | 223,031 | 113,284 | 51,190 | 18,496 |
| Domestic and personal service | 1,566,011 | 1,107,365 | 723,292 | 443,768 | 232,989 | 99,963 | 33,500 |
| Clerical occupations | 546,358 | 355,329 | 215,235 | 120,542 | 57,227 | 22,449 | 6,750 |

[1] Less unknown.

Source: Fifteenth Census of the U. S., 1930, vol. II, *Population*, table 3, p. 567, and vol. IV, *Occupations*, table 21, p. 42.

TABLE 12.—*Age distribution of United States population by urban and rural for 1920 and 1930*

| Age group | Total population | | | Urban population | | | Rural population | | |
|---|---|---|---|---|---|---|---|---|---|
| | 1920 | 1930 | | 1920 | 1930 | | 1920 | 1930 | |
| | Number | Number | Accumulated percentage [1] | Number | Number | Accumulated percentage [1] | Number | Number | Accumulated percentage [1] |
| Under 5 | 11,573,230 | 11,444,390 | | 5,275,751 | 5,626,360 | | 6,297,479 | 5,818,030 | |
| 5 to 9 | 11,398,075 | 12,607,609 | 90.6 | 5,050,276 | 6,211,141 | 91.7 | 6,347,799 | 6,396,468 | 89.1 |
| 10 to 14 | 10,641,137 | 12,004,877 | 80.3 | 4,664,312 | 5,949,693 | 82.7 | 5,976,825 | 6,055,184 | 77.3 |
| 15 to 19 | 9,430,556 | 11,552,115 | 70.5 | 4,445,963 | 6,015,411 | 74.1 | 4,984,593 | 5,536,704 | 66.0 |
| 20 to 24 | 9,277,021 | 10,870,378 | 61.1 | 5,102,099 | 6,420,308 | 65.4 | 4,174,922 | 4,450,070 | 55.7 |
| 25 to 29 | 9,086,491 | 9,833,608 | 52.2 | 5,319,058 | 6,171,951 | 56.1 | 3,767,433 | 3,661,657 | 47.4 |
| 30 to 34 | 8,071,193 | 9,120,421 | 44.2 | 4,726,556 | 5,773,476 | 47.1 | 3,344,637 | 3,346,945 | 40.6 |
| 35 to 39 | 7,775,281 | 9,208,645 | 36.8 | 4,453,437 | 5,773,764 | 38.8 | 3,321,844 | 3,434,881 | 34.4 |
| 40 to 44 | 6,345,557 | 7,990,195 | 29.3 | 3,602,119 | 4,932,386 | 30.4 | 2,743,438 | 3,057,809 | 28.0 |
| 45 to 49 | 5,763,620 | 7,042,279 | 22.8 | 3,190,639 | 4,222,829 | 23.2 | 2,572,981 | 2,819,450 | 22.4 |
| 50 to 54 | 4,734,873 | 5,975,804 | 17.1 | 2,613,070 | 3,491,257 | 17.1 | 2,121,803 | 2,484,547 | 17.1 |
| 55 to 59 | 3,549,124 | 4,645,677 | 12.2 | 1,895,847 | 2,656,416 | 12.0 | 1,653,277 | 1,989,261 | 12.5 |
| 60 to 64 | 2,982,548 | 3,751,221 | 8.5 | 1,528,090 | 2,120,260 | 8.2 | 1,454,458 | 1,630,961 | 8.8 |
| 65 to 69 | 2,068,475 | 2,770,605 | 5.4 | 1,000,986 | 1,527,724 | 5.1 | 1,067,489 | 1,242,881 | 5.8 |
| 70 to 74 | 1,395,036 | 1,950,004 | 3.1 | 660,731 | 1,031,232 | 2.9 | 734,305 | 918,772 | 3.5 |
| 75 to 79 | 856,560 | 1,106,390 | 1.6 | 398,637 | 563,217 | 1.4 | 457,923 | 543,173 | 1.8 |
| 80 to 84 | 402,779 | 534,676 | .7 | 185,455 | 267,715 | .6 | 217,324 | 266,961 | .8 |
| 85 to 89 | 156,539 | 205,469 | .2 | [2] 69,012 | 102,133 | .2 | [2] 87,527 | 103,336 | .3 |
| 90 to 94 | 39,980 | 51,664 | .1 | [2] 17,626 | 25,147 | [3] | [2] 22,354 | 26,517 | .1 |
| 95 to 99 | 9,579 | 11,033 | [3] | [2] 4,223 | 5,007 | [3] | [2] 5,356 | 6,026 | [3] |
| 100 and over | 4,267 | 3,964 | [3] | [2] 1,881 | 1,360 | [3] | [2] 2,386 | 2,604 | [3] |
| Unknown | 148,699 | 94,022 | .1 | 98,835 | 66,036 | .1 | 49,864 | 27,986 | .1 |
| Total population | 105,710,620 | 122,775,046 | 100.0 | 54,304,603 | 68,954,823 | 100.0 | 51,406,017 | 53,820,223 | 100.0 |

[1] Accumulated percentage based on all over first age mentioned in each age group.
[2] Estimated.
[3] Less than one-tenth of 1 per cent.
Source: Fifteenth Census of the U. S., 1930, vol. II, *Population*, tables 7 and 16, pp. 576, 587–89.

TABLE 13.—*Actual and estimated number of persons aged 65 and over compared to total population, 1860 to 2000*

| Year | Number aged 65 and over | Total population | Percent aged 65 and over | Year | Number aged 65 and over | Total population | Percent aged 65 and over |
|---|---|---|---|---|---|---|---|
| 1860 | 849,000 | 31,443,000 | 2.7 | 1940 | 8,311,000 | 132,000,000 | 6.3 |
| 1870 | 1,154,000 | 38,558,000 | 3.0 | 1950 | 10,863,000 | 141,000,000 | 7.7 |
| 1880 | 1,723,000 | 50,156,000 | 3.4 | 1960 | 13,590,000 | 146,000,000 | 9.3 |
| 1890 | 2,424,000 | 62,622,000 | 3.9 | 1970 | 15,066,000 | 149,000,000 | 10.1 |
| 1900 | 3,089,000 | 75,995,000 | 4.1 | 1980 | 17,001,000 | 150,000,000 | 11.3 |
| 1910 | 3,958,000 | 91,972,000 | 4.3 | 1990 | 19,102,000 | 151,000,000 | 12.6 |
| 1920 | 4,940,000 | 105,711,000 | 4.7 | 2000 | 19,338,000 | 151,000,000 | 12.7 |
| 1930 | 6,634,000 | 122,775,000 | 5.4 | | | | |

Source: Data for years 1860 to 1930 from the U. S. Censuses. Estimates for subsequent years by the actuarial staff of the Committee on Economic Security. These forecasts are made on the assumption of a net immigration of 100,000 annually in years 1935-39, and 200,000 annually in 1940 and thereafter.

TABLE 14.—*Operation of old-age pension laws of the United States, 1934*

| State | Type of law | Number of pensioners [1] | Number of eligible age [2] | Percentage of pensioners to number of eligible age | Average pension [1] | Yearly cost [3] |
|---|---|---|---|---|---|---|
| | | | | *Percent* | | |
| Alaska | Mandatory | [4] 446 | 3,437 | 11.1 | $20.82 | $95,706 |
| Arizona | do | [5] 1,974 | 9,118 | 21.6 | 9.01 | 200,927 |
| California | do | [5] 19,300 | 210,379 | 9.2 | 21.16 | 3,502,000 |
| Colorado | do | 8,705 | 61,787 | 14.1 | 8.59 | 172,481 |
| Delaware | do | [6] 1,610 | 16,678 | 9.7 | 9.79 | 188,740 |
| Hawaii | Optional | [6] | [6] | [6] | [6] | [6] |
| Idaho | Mandatory | 1,275 | 22,310 | 5.7 | 8.85 | 114,521 |
| Indiana | do | [7] 23,418 | 138,426 | 16.9 | [7] 6.13 | [8] 1,254,169 |
| Iowa | do | [4] 3,000 | 184,239 | 1.6 | [4] 13.50 | [8] 475,500 |
| Kentucky | Optional | [10] | [10] | [10] | [10] | [10] |
| Maine | Mandatory | [11] | [11] | [11] | [11] | [11] |
| Maryland | Optional | [12] 141 | 92,972 | .2 | 29.90 | 50,217 |
| Massachusetts | Mandatory | [13] 20,023 | 156,590 | 12.8 | 24.35 | 5,411,723 |
| Michigan | do | [13] 2,660 | 148,853 | 1.8 | [13] 9.59 | [13] 306,096 |
| Minnesota | Optional | 2,655 | 94,401 | 2.8 | 13.20 | 420,536 |
| Montana | do | 1,781 | 14,377 | 12.4 | 7.28 | 155,525 |
| Nebraska | Mandatory | [14] | [14] | [14] | [14] | [14] |
| Nevada | Optional | 23 | 4,814 | .5 | 15.00 | 3,320 |
| New Hampshire | Mandatory | [4] 1,423 | 25,714 | 5.5 | [13] 19.06 | [13] 298,722 |
| New Jersey | do | [13] 10,560 | 112,594 | 9.4 | 12.72 | 1,375,693 |
| New York | do | 51,228 | 373,878 | 13.7 | 22.16 | 13,592,080 |
| North Dakota | do | [15] | [15] | [15] | [15] | [15] |
| Ohio | do | [13] 24,000 | 414,836 | 5.8 | [9] 13.99 | [13] 3,000,000 |
| Oregon | do | [17] | [17] | [17] | [17] | [17] |
| Pennsylvania | do | [15] | [15] | [15] | [15] | [15] |
| Utah | do | 930 | 22,665 | 4.1 | 8.56 | 95,509 |
| Washington | do | [7] 2,239 | 101,503 | 2.2 | [9] | [9] |
| West Virginia | Optional | [16] | [16] | [16] | [16] | [16] |
| Wisconsin | do | 1,969 | 112,112 | 1.8 | 16.75 | 395,707 |
| Wyoming | Mandatory | 643 | 8,707 | 7.4 | 10.79 | 83,231 |
| Total | | 180,003 | | | | 31,192,492 |

[1] Where no special reference is given, the figures are as of Dec. 31, 1933.
[2] 1930 Census figures.
[3] Where no special reference is given, the figures represent actual cost for the year 1933.
[4] As of December 1934.
[5] As of Oct. 1, 1934.
[6] No information available or not computed.
[7] As of August 1934.
[8] Appropriation for 1934.
[9] Estimated from expenditures of April through November 1934, $317,000.
[10] No pensions being paid.
[11] Not yet in effect.
[12] As of November 1934.
[13] Estimated from monthly figures.
[14] Not much being done due to lack of funds.
[15] As of September 1934.
[16] No pensions being paid now.
[17] Administered by counties; no information available for State.
[18] Law just being put into effect.

Source: Data collected by the Committee on Economic Security.

TABLE 15.—*Principal features of the old-age pension laws of the United States*

| State | Date enacted | Date amended | In effect | Nature of law | Administration: State | Administration: Local | Degree of State supervision | Allocation of expenses: State | Allocation of expenses: County | Allocation of expenses: Town | Fund provided by— | Qualifications for recipients: Age | Citizenship | Residence: State (years) | Residence: County (years) | Property limit | Annual income limit | Disqualifications (see explanatory footnotes) | Other provisions (see explanatory footnotes) | Maximum amount of pension | Period of payments |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Alaska | 1915 | 1917, 1919, 1925, 1929 | 1915 | Mandatory | Alaska Pioneers Home | No local administration | Territory administration | All | None | None | Territory | M 65 W 60 | Required | (1) | None | Insufficient means of support. | | d, n | B | M $35 a month W $45 a month | Quarterly. |
| Arizona | 1933 | | 1933 | do | State auditor | County old-age pension commission. | Duplicate certificate to auditor; annual report. | 67 percent | 33 percent | None | State and county | 70 | do | 35 | Required | (2) | $300 | a, f | B, C | $30 a month | Monthly. |
| California | 1929 | 1931, 1933 | 1929 | do | Department of social welfare, Division of State aid for the aged. | County board of supervisors, local department of public welfare. | Complete supervision; monthly reports. | One-half | One-half | None | do | 70 | 15 years | 15 | 1 | [3] $3,000 | 365 | a, f, n, o | A | $1 a day | Do. |
| Colorado | 1927 | 1931, 1933 | 1927 | do | Right of appeal to district court and supreme court. | County court; board of county commissioners, trustees. | Annual report to Secretary of State. | State fund allocated to counties in proportion to population. | | | State estate and liquor tax; local liquor tax. | 65 | do | 15 | 5 | [4] 2,000 | 365 | a, b, c, d, f, n | A, B, C | do | Monthly or quarterly. |
| Delaware | 1931 | 1933 | 1931 | do | State old-age welfare commission. | | State administration | All | None | None | State current revenues | 65 | Not required.[4] | 5 | None | | 300 | a, d, f, l, n | C | $25 a month | Monthly. |
| Hawaii | 1933 | 1933 | 1934 | Optional | Territorial auditor | Old-age pension commission | Annual report to Territorial auditor. | None | Shared by county and city. | | Counties and cities | 65 | 30 years | 15 | | (5) | 300 | e, i, f | A, B, C | $15 a month | Do. |
| Idaho | 1931 | | 1931 | Mandatory | Department of public welfare | do | Annual report only | None | All | None | County | 65 | 15 years | 10 | 3 | (3) | 300 | a, b, c, d, e, f, l, m | A, B, C, D | $25 a month | Do. |
| Indiana | 1933 | | 1934 | do | State auditor | Board of county commissioners. | Annual report; duplicate certificate to auditor. | One-half | One-half | None | State and county | 70 | do | 15 | 15 | [4] 1,000 | 180 | a, b, c, d, e, f, i, n. | A, B, C | $15 a month | Do. |
| Iowa | 1934 | | 1934 | do | Old-age assistance commission. | Old-age assistance boards | Complete supervision | All | None | None | State poll tax | 65 | do | 10 | 2 | (3) | [7] 365 | a, b, c, d, f, i, j. | A, B, C, D. | $25 a month | Monthly or quarterly. |
| Kentucky | 1926 | | 1926 | Optional | None | County commissioners | None | None | All | None | County | 70 | do | 10 | 10 | 2,500 | 400 | a, d, f, b, i, j, n. | B | $250 a year | Do. |
| Maine | 1933 | | (6) | Mandatory | Department of health and welfare. | Old-age pension boards | Complete supervision | One-half | One-half cities, towns, plantations. | | No provisions as yet | 65 | Required | 15 | 1 | [4] 300 | 365 | a, b, c, e, f, l, k | A, B, C | $1 a day | Not specified. |
| Maryland | 1927 | 1931 | 1927 | Optional | None | County commissioners | Annual report to Governor | None | All | None | County | 65 | 15 years | 10 | 10 | | 365 | a, c, d, e, f, l, n. | C | do | Do. |
| Massachusetts | 1930 | 1932, 1933 | 1931 | Mandatory | State department of public welfare. | Bureau of old-age assistance | Complete supervision | One-third | Two-thirds cities and towns. | | State poll tax; liquor tax | 70 | Required | 20 | None | None specified | | d, "Deserving citizens." | | Adequate assistance. | Do. |
| Michigan | 1933 | | 1933 | do | State welfare department, old-age pension bureau. | Old-age pension board | do | All | None | None | State poll tax | 70 | 15 years | 10 | None | [4] 3,500 | [7] 365 | a, b, c, d, f, l | A, B, C, D | $30 a month | Monthly. |
| Minnesota | 1929 | 1931, 1933 | 1929 | Optional | None | Board of county commissioners. | None | None | All | Reimburse county. | County, city, town, village | 70 | do | 15 | 15 | [4] 3,000 | 365 | a, c, d, e, f, l, n. | A, B, C | $1 a day | Monthly or quarterly. |
| Montana | 1923 | | 1923 | do | None | Old-age pension commission | Annual report to State auditor | None | All | None | County poor fund | 70 | do | 15 | None | (3) | 300 | b, c, d, e, f, l | A, B, C | $25 a month | Monthly. |
| Nebraska | 1933 | | 1933 | Mandatory | Auditor of public accounts | do | do | None | All | None | County poll tax | 65 | do | 15 | None | (4) | 300 | b, c, d, e, f, l | A, B, C | $20 a month | Do. |
| Nevada | 1925 | | 1925 | Optional | None | Board of county commissioners. | Annual report to Governor | None | All | None | County | 65 | do | 10 | None | [4] 3,000 | 390 | a, b, c, d, e, f, l. | A, B, C, D. | $1 a day | Monthly or quarterly. |
| New Hampshire | 1931 | | 1931 | Mandatory | None | County commissioners | None | None | All | Reimburse county. | do | 70 | do | 15 | 15 | 2,000 | 360 | a, c, d, e, f, l, n. | A, B, C | $7.50 a week | Weekly or monthly. |
| New Jersey | 1931 | 1932, 1933 | 1932 | do | Department of institutions and agencies, division of old-age relief. | County welfare board | Complete supervision | Three-fourths. | One-fourth | None | State inheritance tax and county fund. | 70 | Required | 15 | 1 | 3,000 | (8) | d, e, f, g | A, C | $1 a day | Monthly. |
| New York | 1930 | 1934 | 1930 | do | State department of social welfare. | Public welfare district official | do | One-half | One-half public welfare district. | | State, county, city | 70 | do | 10 | 1 | Unable to support self. | | a, d, f, g | | Determined by official. | Not specified. |
| North Dakota | 1933 | | 1933 | do | Secretary of agriculture and labor. | Board of county commissioners. | do | All | None | None | State special tax | 68 | do | 20 | None | (3) | 150 | a, f, i, m, n, p. | A, B | $150 a year | Monthly. |
| Ohio | 1933 | | 1934 | do | Department of public welfare, division of aid for the aged. | Board of aid for the aged | do | All | None | do | State | 65 | 15 years | 15 | 1 | [4] 3,000; couple [4] 4,000 | 300 | a, b, c, d, f | A, B, C, D. | $25 a month | Do. |
| Oregon | 1933 | | 1934 | do | State board of control | Old-age pension commission | Annual report to State board of control. | Part of State liquor tax distributed to counties, balance paid by counties. | | do | State liquor tax; county general fund. | 70 | do | 15 | 2 | [4] 3,000 | 360 | a, b, c, d, f, i, l. | A, B, C, D. | $30 a month | Monthly or quarterly. |
| Pennsylvania | 1934 | | 1934 | do | Department of welfare | Board of trustees of old-age assistance fund. | Complete supervision | State fur allocated to counties according to number of people on pension rolls. | | | State | 70 | do | 15 | None | Indigent | | a, b, c, d, i | C | do | Monthly. |
| Utah | 1929 | | 1929 | do | None | Board of county commissioners. | None | None | All | None | County | 65 | do | 15 | 5 | (3) | 300 | a, b, c, d, e f, l. | A, B, C | $25 a month | Do. |
| Washington | 1933 | | 1933 | do | None | Board of county commissioners. | None | None | All | None | do | 65 | do | 15 | 5 | (3) | 360 | a, b, c, d, e, f | A, B, C | $30 a month | Do. |
| West Virginia | 1931 | | 1931 | Optional | None | County court | Annual audit by tax commissioner. | None | All | None | do | 65 | do | 10 | 10 | No property or income. | | a, d, e, f, g, b, l, n. | B | $1 a day | Do. |
| Wisconsin | 1925 | 1929, 1931, 1933. | 1925 | (9) | State board of control | County judge | Annual report | One-third | Two-thirds | Reimburse county. | State, county, local | 70 | do | 15 | 15 | [4] $3,000 | 365 | a, c, d, e, f, i, n. | A, B, C | do | Monthly or quarterly. |
| Wyoming | 1929 | 1931 | 1929 | Mandatory | None | Old-age pension commission | Annual report to State auditor | None | All | None | County poor fund | 65 | do | 15 | 5 | (4) | 360 | b, c, d, e, f, l | A, B, C | $30 a month | Monthly. |

[1] Since 1906.
[2] Annual income of any property to be computed at 3 percent of its value.
[3] Annual income of any property to be computed at 5 percent of its value.
[4] Required residence in United States 15 years.
[5] When Governor can raise funds.
[6] House in which applicant lives not to be considered property.
[7] Earnings and gifts up to $100 exempt.
[8] Unable to maintain self.
[9] Mandatory from July 1, 1935, on.

Disqualifications:
a. Inmate of any prison, jail, insane asylum, or correctional institution.
b. Desertion of spouse.
c. To have failed without just cause to provide support for wife and minor children.
d. Relatives legally liable and able to support.
e. Sentence for crime.
f. Disposed of or deprived oneself of property to qualify for pension.
g. Need of institutional care.
h. Recipient of pension from Federal, State, or foreign government.
i. Habitual tramp, vagrant, or beggar.
j. Unable to earn at least $1 per day.
k. Spouse and children able to furnish support.
l. Convicted of crime involving moral turpitude.
m. To have failed to work according to ability.
n. Inmate of benevolent, charitable, or fraternal institution.
o. Husband, wife, parent, or child able and responsible for support.
p. Children liable and able to support.

Other provisions:
A. Transfer of applicant's property to pension authority may be demanded before pension is granted.
B. Amount of payments to be collected from estate on death of pensioner or the survivor of a married couple.
C. Allowances for funeral expenses.
D. Payments may be made to charitable or benevolent institution if pensioner is inmate.

Source: Compiled by Committee on Economic Security from State laws.

TABLE 16.—*Old-age insurance and pension legislation in foreign countries through 1933*

A. COMPULSORY CONTRIBUTORY OLD-AGE INSURANCE LAWS OF GENERAL COVERAGE

| Country | Year when passed | Coverage |
|---|---|---|
| Austria [1] [2] | 1927 | Workers in industry and commerce, including domestic workers, except casual domestics. Special schemes for agricultural workers, salaried employees, and miners. |
| Belgium [2] | 1924 | All wage earners, including agricultural workers and domestics (except casual domestics); and independent workers with incomes below 18,000 francs a year. Special schemes for salaried employees and miners. |
| Bulgaria [1] [2] | 1924 | Employed persons, including agricultural workers and domestics. Special scheme for public officials. |
| Chile [1] | 1924 | Wage earners under 65 earning less than 8,000 pesos a year; independent workers with annual incomes below 8,000 pesos a year. |
| Czechoslovakia [1] [2] | 1924 | Employed workers over school age and under 60, including agricultural, domestic, and home workers. Special schemes for salaried employees, miners, state employees, employees of statutory corporations, such as railways. Special act for independent workers, passed in 1925, not yet enforced. |
| France [1] [2] (see also sec. C). | 1910 | All employed persons under 60 whose annual earnings do not exceed 18,000 francs a year in cities with over 200,000 inhabitants or industrial areas, 15,000 francs elsewhere. (Income limit raised by 2,000 francs in respect of each child.) Persons employed in agriculture subject to insurance aganist old age and death only. Special scheme for miners. |
| Germany [1] [2] | 1889 | All workers, including agricultural, domestic, and home workers. Special scheme for salaried employees with annual earnings below 8,400 reichsmarks. Special scheme for miners. |
| Great Britain [1] [2] (see also section C). | 1925 | All workers, including agricultural workers and domestics; salaried employees with incomes below £250 a year. |
| Greece [1] [2] | 1922 | All persons employed in industry and commerce. |
| Hungary [1] [2] | 1928 | All persons employed in specified employments. Employments may be added by Minister's order. Salaried employees with incomes below 6,000 pengo a year. Special scheme for miners. |
| Italy [1] | 1919 | All employed persons, including agricultural and domestic workers. Salaried employees with incomes below 800 lire a month. |
| Luxemburg [1] [2] | 1911 | Workers in industry and commerce. Special scheme for salaried employees in industry and commerce. |
| Netherlands [1] [2] | 1913 | All employed persons, including agricultural and domestic workers, whose annual remuneration does not exceed 2,000 florins. Insured persons whose remuneration rises above 2,000 florins remain liable to insurance. If their remuneration has been above 3,000 florins for some time, they are exempted at their request. Special schemes for railway workers and miners. |
| Poland [1] [2] | 1933 | All workers in commerce and industry. Insurable wage limit. |
| Portugal [1] | 1919 | All employed persons over 15 years earning less than 900 escudos annually. |
| Rumania [1] | 1912 | All persons employed in industry and commerce, and craftsmen. Special scheme for miners in Ardeal, which includes survivors' insurance. |
| Spain | 1919 | All employed persons whose annual earnings do not exceed 4,000 pesetas. Domestic servants excluded. |
| Sweden [1] | 1913 | All citizens between 16 and 66 years unless already guaranteed pension under army, navy, etc. |
| Union of Soviet Socialist Republics. [1] [2] | 1922 | All manual workers; engineers and skilled technical workers; navigating staff in civil aviation; various categories of salaried employees. |
| Yugoslavia [1] [2] | 1922 | All wage earners except household casuals, farm labor, and sea fishermen. (Not yet enforced.) |
| | 1924 | All workers and other persons employed under mining act. |
| | 1907 | Salaried employees in Slovenia and Dalmatia who have reached age 18 and whose annual earnings are not less than 150 dinars. |

[1] Old-age insurance combined with invalidity insurance.
[2] Old-age insurance combined with survivors' insurance.

Source: Compiled from *Compulsory Pension Insurance*, International Labour Office, Studies and Reports, Series M, No. 10, Geneva, 1933; *Noncontributory Pensions*, International Labour Office, Studies and Reports, Series M, No. 9, Geneva, 1933; *Insuring the Essentials*, Barbara Nachtrieb Armstrong, 1932.

TABLE 16.—*Old-age insurance and pension legislation in foreign countries through 1933*—Continued

B. COMPULSORY CONTRIBUTORY OLD-AGE INSURANCE LAWS OF LIMITED COVERAGE

| Country | Year when passed | Coverage |
|---|---|---|
| Argentina [1] [2] | 1921 | Public utility employees. |
| | 1924 | Bank staffs. |
| Brazil [1] [2] | 1923 | Railway workers. |
| | 1926 | Dock workers. |
| | 1931 | Staffs of public utility undertakings. |
| Cuba [1] [2] | 1927 | Seamen and harbor workers. |
| Ecuador [1] | 1928 | Staffs of banks. |
| Switzerland: | | |
| Canton Glarus [1] | 1916 | Legal residents between ages 17 and 50. |
| Appenzell | 1925 | All legal residents between ages 18 and 64. |
| Basle Town [2] | 1931 | All persons between ages 20 and 65 who have been resident in the Canton for 2 years. |
| Uruguay [1] [2] (see also section C) | 1919 | Staffs of public utility undertakings. |
| | 1925 | Staffs of banks and stock exchange. |

C. NONCONTRIBUTORY OLD-AGE PENSION LAWS

| | | |
|---|---|---|
| Australia [1] | 1908 | All citizens with insufficient income, resident 20 years. |
| Canada | 1927 | All citizens with insufficient income; resident in Canada 20 years, in Province 5 years. |
| Denmark | 1891 | Citizens with insufficient means, resident 5 years. |
| France [1] (see also section A). | 1905 | All citizens with insufficient means. |
| Great Britain (see also section A). | 1908 | Citizens with insufficient means; 12 years' residence since age 50 for natural-born citizens; 20 years' residence in all for naturalized subjects. |
| Greenland | 1926 | All Greenlanders without subsistence income. |
| Iceland | 1909 | Citizens with insufficient means. |
| Irish Free State | 1908 | Citizens with insufficient means, resident 30 years. |
| Newfoundland | 1911 | All citizens with insufficient means. |
| New Zealand | 1898 | Citizens with insufficient means and 25 years' continuous residence. |
| Norway (will not go into effect until announced by Royal decree). | 1923 | All citizens with insufficient income. |
| South Africa | 1928 | All citizens (of 5 years' standing) with 15 years' residence out of preceding 20 years; other persons with 25 years' residence out of preceding 30 years; insufficient income. |
| Uruguay [1] (see also section B.) | 1919 | All persons with insufficient means. (For naturalized subjects or aliens 15 years' residence is required.) |

[1] Old-age pension legislation combined with invalidity pension legislation.
[2] Old-age insurance combined with survivors' insurance.

TABLE 17.—*Principal provisions of foreign noncontributory old-age-pension laws through 1933*

| Country | Year when passed | Qualifications for recipients | | | | | | | | | Amount of pension | Source of fund | Administrative responsibility |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | Age | Citizenship | Residence | Other qualifications | Disqualifications | Property limit | Annual-income limit | Property exemption | Annual-income exemption | | | |
| Australia [1] | 1908 | Men 65,[2] Women 60.[3] | British subject | 20 years in union | a | A, B, C | £400 | £33 | £50. House in which pensioner resides. | £32 10 s.; benefits from friendly societies and trade unions; allowances from children; war pensions. | Maximum £45 10 s. a year.[4] Reduced by £1 for each £10 of property except exempt property. | Commonwealth | Federal Government |
| Canada. Effective in 8 provinces: Alberta, British Columbia, Manitoba, New Brunswick, Nova Scotia, Ontario, Prince Edward Island, Saskatchewan. | 1927 | 70 | British subject | 20 years in union; 5 years in province. | | B | Annual income of real property taken at 5 percent of its value,[4] income of personal property=government annuity purchasable with it. | $365 | See property limit | $125 | Maximum $240 a year;[5] reduced by amount of pensioner's income (less exemption). | ¾ dominion; ¼ province | Shared by dominion and provinces. |
| Denmark | 1891 | 65 [6] | Required | 5 years in state | | D, E, F | Annual income of property taken at 4 percent of its value. | 275 to 375 kr. (varying with locality) plus maximum pension applicable. | Annual income of property taken at 4 percent of its value. | 100 to 200 kr. (varying with locality). | Married couple, maximum 600 to 1,008 kr.;[4] single man, maximum 402 to 678 kr.;[4] single woman, maximum 378 to 642 krone;[4] adjusted to means. | 7/12 state: 5/12 communes | Shared by central government and localities. |
| France [7] | 1907 | 70 | do | None | | G | Income from capital equal to life annuity purchasable with it. | 2,400 francs plus earnings of pensioner. | Income from capital equal to life annuity purchasable with it. | Earnings of pensioner, 400 francs from savings (600 francs if pensioner has raised 3 children to age 16). | Maximum 600 to 900 francs (varying with locality).[8] | State pays 240 francs on each pension; commune pays balance. | Do. |
| Great Britain [9] | 1908 | 70 | British subject | 12 years since age 50 for natural-born citizens, 20 years in all for naturalized subjects. | | E | Annual income from first £375 property (other than property personally enjoyed by pensioner) computed at 5 percent balance; at 10 percent. | £49 17s. 6d. | Income from £25 of property; £39 annual income derived from sources other than earnings; £26 5s. annual income derived from any source; furniture and personal effects; sickness benefit from friendly society or trade union. | | Maximum 10s. a week; reduced in proportion to pensioner's income. | State | Central government. |
| Greenland | 1926 | 65 | Required | | a | | In necessitous circumstances | | | | Amount fixed by district council | District partly reimbursed by State. | |
| Iceland | 1909 | | | | a | | In necessitous circumstances | | | | Minimum 20 kr. a year; maximum 200 kr. a year. | Poll tax on all persons between 18 and 66 years. | |
| Irish Free State | 1908 | 70 | Not required | 30 years in all; 5 years since age 50 for citizens, 10 years for others. | | E | Annual income from first £375 property (other than property personally enjoyed by pensioner) computed at 5 percent; balance at 10 percent. "in need" | £39 3s. | Annual income from £25 of property. £15 12s. 6 d. annual income; furniture and personal effects; sickness benefit from friendly society or trade union. | | Maximum 10s. a week; reduced in proportion to pensioner's income. | State | Central government. |
| Newfoundland | 1911 | 75 [6] | Not required | 20 years in State | | | | | | | $50 a year | State | |
| New Zealand | 1898 | Men 65,[6] women 60.[6] | British subject | 25 years in State | a | A, C, D, E | £460; annual income of property fixed at 10 percent for all property except exempt property (£50). | £80; married couple, £121. | £50. Funeral benefit from friendly society; house (including furniture and personal effects) in which pensioner lives provided ownership is transferred to pension authority.) | £39 | Maximum £40 10s. a year;[4] reduced in proportion to means; increased for pensioners with 2 or more dependent children. | do | Central government. |
| Norway [10] | 1923 | 70 | Required | | a | | Inadequate income | | | | Fixed so that 60 percent of amount will buy necessaries of life. | 50 percent State, 50 percent commune. | |
| South Africa | 1928 | 65 | Not required | 15 years out of 20 just before claiming for persons who have been British subjects for 5 years; 25 years out of 30 for others. | | A, G, H | Annual income from any property owned and occupied by pensioner and from all other uninvested assets computed at 10 percent. | £54 for white persons; £36 for colored persons. | Annual income from property owned and occupied by pensioner and from other uninvested assets computed at 10 percent. | £24 for white persons; £18 for colored persons. | Maximum £30 a year for white persons; maximum £18 a year for colored persons; reduced in proportion to pensioner's means. | State | Central government. |
| Uruguay [5] | 1919 | 60 | do | None required for natural-born subjects: 15 years for naturalized subjects or aliens. | | G | Property must be expressed in terms of annual income. | 202 pesos a year | Property must be expressed in terms of annual income. | 10 pesos | Maximum 96 pesos a year; reduced in proportion to pensioner's means. | A number of special national taxes. | Do |

[1] Old-age pensions combined with invalidity pensions.
[2] Reduced by 5 years in case of incapacity for work.
[3] Pension authority recovers amount of pension on death of pensioner or of survivor of married couple.
[4] If authority accepts transfer of house in which pensioner resides, value is disregarded in assessing means and pensioner lives in it rent-free.
[5] Reduced by 5 years in case of incapacity for work.
[6] Pension is varied in accordance with locality in which pensioner lives and is increased if sending in of application for pension is deferred beyond age 65.
[7] Noncontributory pensions being replaced by contributory pensions.
[8] 65 for widow of beneficiary.
[9] Reduced by 5 years for claimants having 2 or more dependent children under 15.
[10] Will not go into effect until announced by royal decree.
a. Good character.
A. Persons of non-European extraction.
B. Aboriginal natives living under tribal conditions.
C. Desertion of spouse.
D. Imprisonment for dishonorable action.
E. Habitual drunkenness.
F. Receipt of poor relief within 3 years of claiming.
G. Relatives liable and able to support.
H. Aboriginal natives.

Source: Compiled from *Noncontributory Pensions*, International Labour Office Studies and Reports, Series M, No. 9, Geneva, 1933; *Insuring the Essentials*, Barbara Nachtrieb Armstrong, 1932.

115796°—35. (Face p. 76)

TABLE 18.—*Estimated number of families and children receiving mothers' aid and estimated expenditures for this purpose*

[Based on figures available Nov. 15, 1934]

| State | Number of families receiving mothers' aid | Number of children benefiting from mothers' aid | Estimated present annual expenditures for mothers' aid, local and State | | |
|---|---|---|---|---|---|
| | | | Total | Local | State |
| Total | 109,036 | 280,565 | [1] $37,487,479 | [1] $31,621,957 | [1] $5,865,522 |
| Alabama [2] | | | | | |
| Arizona | 106 | 379 | 20,940 | | 20,940 |
| Arkansas [2] | | | | | |
| California | 7,056 | 17,642 | 2,133,999 | 224,252 | 1,909,747 |
| Colorado | 552 | [4] 1,435 | 149,688 | 149,688 | |
| Connecticut | 1,271 | 3,276 | 734,627 | 489,752 | 244,875 |
| Delaware | 348 | 855 | 93,000 | 46,500 | 46,500 |
| District of Columbia | 209 | 720 | 143,997 | 143,997 | |
| Florida | 2,564 | 6,164 | 222,286 | 222,286 | |
| Georgia [2] | | | | | |
| Idaho [3] | 230 | 619 | 36,315 | 36,315 | |
| Illinois | 6,217 | 14,802 | 1,837,012 | 1,533,217 | 303,795 |
| Indiana | 1,332 | 3,856 | 352,224 | 352,224 | |
| Iowa | 3,527 | 49,170 | 719,772 | 719,772 | |
| Kansas | 768 | [4] 1,997 | 75,721 | 75,721 | |
| Kentucky | 137 | [4] 356 | 62,889 | 62,889 | |
| Louisiana | 88 | [4] 229 | 9,312 | 9,312 | |
| Maine | 817 | [4] 2,124 | 310,000 | 155,000 | 155,000 |
| Maryland | 267 | [4] 694 | 117,459 | 117,459 | |
| Massachusetts | 3,939 | 11,817 | 2,450,000 | 1,400,000 | 1,050,000 |
| Michigan | 6,938 | [4] 18,039 | 2,448,962 | 2,448,962 | |
| Minnesota | 3,597 | 9,152 | 1,138,176 | 1,138,176 | |
| Mississippi [2] | | | | | |
| Missouri | 336 | [4] 874 | 93,440 | 93,440 | |
| Montana [3] | 839 | 1,969 | 213,623 | 213,623 | |
| Nebraska | 1,654 | [4] 4,300 | 272,036 | 272,036 | |
| Nevada [3] | 200 | [4] 520 | 44,035 | 44,035 | |
| New Hampshire | 260 | 761 | $82,440 | | $82,440 |
| New Jersey | 7,711 | 18,789 | 2,445,564 | $2,445,564 | |
| New Mexico [3] | | | | | |
| New York | 23,493 | 56,524 | 11,731,176 | 11,731,176 | |
| North Carolina | 314 | 947 | 58,706 | 29,353 | 29,353 |
| North Dakota [3] | 978 | 2,644 | 238,314 | 238,314 | |
| Ohio | 8,923 | 24,470 | 2,116,908 | 2,116,908 | |
| Oklahoma [3] | 1,896 | 5,166 | 123,314 | 123,314 | |
| Oregon | 1,040 | 2,259 | 247,140 | 247,140 | |
| Pennsylvania | 7,700 | 22,557 | 3,197,640 | 1,598,820 | 1,598,820 |
| Rhode Island | 513 | 1,666 | 267,252 | 133,626 | 133,626 |
| South Carolina [2] | | | | | |
| South Dakota [3] | 1,290 | 3,324 | 285,986 | 285,986 | |
| Tennessee | 241 | [4] 627 | 71,328 | 71,328 | |
| Texas | 332 | [4] 863 | 43,987 | 43,987 | |
| Utah | 622 | [4] 1,617 | 78,651 | 78,651 | |
| Vermont | 206 | 461 | 46,976 | 23,488 | 23,488 |
| Virginia | 136 | 545 | 33,876 | 16,938 | 16,938 |
| Washington [2] | 3,013 | [4] 7,834 | 519,538 | 519,538 | |
| West Virginia | 108 | [4] 281 | 16,086 | 16,086 | |
| Wisconsin | 7,173 | 17,932 | 2,180,790 | 1,930,790 | 250,000 |
| Wyoming [3] | 95 | 279 | 22,294 | 22,294 | |

[1] Includes revised figures for Illinois.
[2] No mothers' aid law.
[3] Mothers' aid discontinued.
[4] Estimated on basis of 2.6 children per family, the average rate for 20 States reporting in December 1933.
[5] Estimated on basis of trends in comparable States from which reports have been received.
[6] Law not in operation.

Source: The U. S. Children's Bureau.

TABLE 19.—*Funds for State maternal and child-health work*

| State | 1928 | | | 1934 | Percent increase 1934 over 1928 | Percent decrease 1934 under 1928 |
|---|---|---|---|---|---|---|
| | Total funds | Federal | State | | | |
| Delaware | $18,008.02 | $11,504.01 | $6,504.01 | $33,000.00 | 83.3 | |
| Pennsylvania | 132,621.98 | 68,810.99 | 63,810.99 | 197,539.00 | 48.9 | |
| Maine | 25,000.00 | 15,000.00 | 10,000.00 | 26,300.00 | 5.2 | |
| Massachusetts | 78,275.00 | | 78,275.00 | 80,850.00 | 3.3 | |
| New Hampshire | 20,976.62 | 12,988.31 | 7,988.31 | 21,620.50 | 3.1 | |
| Rhode Island | 24,276.28 | 14,076.28 | 10,200.00 | 24,065.00 | | 0.9 |
| Illinois | 70,000.00 | | 70,000.00 | 69,070.00 | | 1.3 |
| Connecticut | [1] 32,760.00 | | 32,760.00 | 29,392.00 | | 10.3 |
| New Jersey | 118,163.55 | 31,284.55 | 86,879.00 | 103,872.52 | | 12.1 |
| Wisconsin | 50,752.00 | 27,751.62 | 23,000.38 | 43,350.00 | | 14.6 |
| Maryland | 33,554.00 | 19,277.00 | 14,277.00 | 26,844.00 | | 20.0 |
| Minnesota | 47,000.00 | 26,099.65 | 20,900.35 | 36,000.00 | | 23.4 |
| South Dakota | 7,500.00 | 7,500.00 | | 5,000.00 | | 33.3 |
| Arizona | 19,507.42 | 12,253.71 | 7,253.71 | 12,890.00 | | 33.9 |
| New York | 210,041.78 | 80,041.78 | 130,000.00 | 134,500.00 | | 36.0 |
| Virginia | 75,574.00 | 25,574.00 | 50,000.00 | 40,372.00 | | 46.6 |
| Kentucky | 47,597.48 | 26,298.64 | 21,298.84 | 25,200.00 | | 47.1 |
| Michigan | [1] 64,741.11 | 34,741.11 | 30,000.00 | 31,940.00 | | 50.7 |
| Missouri | 49,186.81 | 24,186.81 | 25,000.00 | 28,799.00 | | 51.6 |
| Texas | 77,902.52 | 41,450.52 | 36,452.00 | 34,840.00 | | 55.3 |
| Montana | 24,400.00 | 13,700.00 | 10,700.00 | 10,500.00 | | 57.0 |
| Georgia | 64,438.89 | 35,451.10 | 28,987.79 | 26,000.00 | | 59.7 |
| North Dakota | 8,000.00 | 6,500.00 | 1,500.00 | 3,056.00 | | 61.8 |
| North Carolina | 49,519.66 | 27,259.56 | 22,260.00 | 18,500.00 | | 62.6 |
| Washington | 8,387.00 | 5,000.00 | 3,387.00 | 3,000.00 | | 64.2 |
| Mississippi | 49,076.58 | 22,076.58 | 27,000.00 | 15,150.00 | | 69.1 |
| Wyoming | [1] 10,000.00 | 7,500.00 | 2,500.00 | 2,500.00 | | 75.0 |
| Louisiana | 30,042.00 | 7,521.00 | 22,521.00 | 7,000.00 | | 76.7 |
| Kansas | 35,000.00 | 20,000.00 | 15,000.00 | 8,000.00 | | 77.1 |
| West Virginia | 40,443.48 | 19,571.74 | 20,871.74 | 9,140.00 | | 77.4 |
| Hawaii | 18,451.92 | 11,725.96 | 6,725.96 | 4,100.00 | | 77.8 |
| California | [1] 57,580.00 | 31,290.00 | 26,290.00 | 12,225.00 | | 78.8 |
| Florida | 37,906.00 | 16,531.72 | 21,374.28 | 7,330.00 | | 80.7 |
| Ohio | 53,334.00 | 28,585.57 | 29,748.43 | 10,048.00 | | 81.2 |
| Oregon | 27,533.46 | 15,283.46 | 12,250.00 | 4,701.00 | | 82.9 |
| Iowa | 42,298.91 | 21,085.31 | 21,213.60 | 6,600.00 | | 84.4 |
| Idaho | 12,500.00 | 7,500.00 | 5,000.00 | 1,430.00 | | 88.6 |
| South Carolina | 37,711.30 | 21,355.65 | 16,355.65 | 2,046.00 | | 94.6 |
| Tennessee | 55,767.00 | 25,767.00 | 30,000.00 | 2,912.00 | | 94.8 |
| Alabama | 64,173.90 | 25,836.95 | 38,336.95 | 2,520.00 | | 96.1 |
| Arkansas | 38,635.02 | 21,817.51 | 16,817.51 | | | |
| Colorado | 15,000.00 | 10,000.00 | 5,000.00 | | | |
| Indiana | 53,897.00 | 31,927.00 | 21,970.00 | | | |
| Nebraska | 17,000.00 | 11,000.00 | 6,000.00 | | | |
| Nevada | 16,044.00 | 10,522.00 | 5,522.00 | | | |
| New Mexico | 19,860.66 | 12,430.33 | 7,430.33 | | | |
| Oklahoma | 42,358.96 | 23,679.48 | 18,679.48 | | | |
| Utah | 20,500.00 | 12,500.00 | 8,000.00 | | | |
| Vermont | 5,000.00 | 5,000.00 | | | | |

[1] For four States (California, Connecticut, Michigan, and Wyoming), 1929 figures are given.
Source: The U. S. Children's Bureau.

TABLE 20.—*General economic statistics*

INDICES OF BUSINESS CONDITIONS*

[1923-25=100]

| | 1929 | 1932 | 1934 (first 10 months) |
|---|---|---|---|
| 1. Index of industrial production [1] | 119 | 64 | 80 |
| 2. Index of factory pay rolls [2] | 108 | 45 | 62 |
| 3. Index of factory employment [2] | 101 | 62 | 79 |
| 4. Index of freight car-loadings [1] | 106 | 56 | 63 |
| 5. Index of department store sales (value) [1] | 111 | 69 | 68 |
| 6. Index of construction contracts awarded (value) [2] | 117 | 28 | 33 |
| 7. Index of exports (value) [2] | 115 | 35 | 48 |
| 8. Index of bank debits outside New York City | 140 | 65 | 69 |

*Survey of Current Business*, February 1934, p. 3, and December 1934, p. 3.

[1] Unadjusted for seasonal variation; adjusted for number of working days.
[2] Unadjusted for seasonal variation.
[3] Adjusted for seasonal variation.

TABLE 20.—*General economic statistics*—Continued

OTHER ECONOMIC DATA

| | | | |
|---|---|---|---|
| 9. Number of gainful workers, September | 1934 | | 50,277,000 |
| Estimate of Committee on Economic Security. | | | |
| 10. Per capita full-time income, wage, and salaried employees | 1929 | | $1,475 |
| | 1932 | | $1,199 |
| *National Income, 1929–32*, Letter from Acting Secretary of Commerce, S. Doc. 124, 73d Cong., 2d sess., p. 19. | | | |
| 11. Average weekly factory earnings per wage earner | 1929 | | $28.54 |
| | 1932 | | $17.10 |
| | 1934 | | $20.08 |
| *Survey Current Business*, February 1934, p. 7, and December 1934, p. 7. Data for 1934 for first 10 months. | | | |
| 12. Index of cost of living (1913=100) | December 1929 | | 171 |
| | December 1932 | | 132 |
| | June 1934 | | 136 |
| *Monthly Labor Review*, August 1934, p. 526. | | | |

OLD-AGE DATA

| | | | |
|---|---|---|---|
| 13. Population, 1930 | 60 years of age and over | | 10,385,026 |
| | 65 years of age and over | | 6,633,805 |
| | 70 years of age and over | | 3,863,200 |
| Fifteenth Census of the U. S., 1930, vol. II, *Population*, p. 576. | | | |
| 14. Number of old-age pensioners | 1931 | | 76,339 |
| | 1934 | | 180,003 |
| Data for 1931 from *Monthly Labor Review*, June 1932, p. 1261. Data for 1934 compiled by Committee on Economic Security from latest available information. | | | |
| 15. Amount paid in old-age pensions | 1931 | | $16,173,207 |
| | 1934 | | 31,192,492 |
| Data for 1931 from *Monthly Labor Review*, June 1932, p. 1261. Data for 1934 compiled by Committee on Economic Security from latest available information. | | | |

NATIONAL INCOME STATISTICS

| | | | |
|---|---|---|---|
| 16. National income paid out | 1929 | | $82,300,000,000 |
| | 1933 | | 46,800,000,000 |
| *The National Income, 1933*, release Jan. 14, 1935, p. 6, Department of Commerce. | | | |
| 17. National income paid out | 1933 | | $46,800,000,000 |
| Wages and salaries | | | 29,300,000,000 |
| Dividends and interest | | | 7,300,000,000 |
| Net rents and royalties | | | 2,300,000,000 |
| Entreprenurial withdrawals | | | 7,900,000,000 |
| *The National Income, 1933*, release Jan. 14, 1935, p. 6, Department of Commerce. | | | |
| 18. National income paid out | 1932 | | $48,894,000,000 |
| Business savings or losses | | | 9,529,000,000 |
| Income produced | | | 39,365,000,000 |
| *National Income, 1929–32*, letter from Acting Secretary of Commerce, S. Doc. 124, 73d Cong., 2d sess., p. 10. | | | |

WHOLESALE, RETAIL, AND MANUFACTURING SALES

| | | | |
|---|---|---|---|
| 19. Net wholesale sales | 1929 | | $58,950,108,000 |
| | 1933 | | 32,030,504,000 |
| *Final United States Summary of Wholesale Trade in 1933*, Department of Commerce, Bureau of the Census, p. 7. The 1929 figures have been revised. | | | |
| 20. Net retail sales | 1929 | | $49,114,653,000 |
| | 1933 | | 25,037,225,000 |
| *United States Summary of the Retail Census for 1933*, Department of Commerce, Bureau of the Census, p. 3. | | | |
| 21. Gross value of manufactured products | 1929 | | $69,960,909,712 |
| | 1933 | | 31,358,840,392 |
| *Census of Manufactures: 1933*, Department of Commerce, Bureau of the Census, p. 1. The 1929 figures have been revised. | | | |

LIFE-INSURANCE STATISTICS

| | | | |
|---|---|---|---|
| 22 Aggregate life insurance in force | 1933 | | $97,985,043,747 |
| Ordinary | | | 71,918,829,182 |
| Industrial | | | 17,154,472,848 |
| Group | | | 8,911,741,717 |
| Spectator Co., *Year-Book—Life Insurance*, 1934. | | | |
| 23 Average size of life-insurance policy in force, 1933: | | | |
| Ordinary | | | $2,252 |
| Industrial | | | 210 |
| Computed from Spectator Co. *Year-Book—Life Insurance*, 1934. | | | |
| 24. Surrendered policies and loans, life insurance | 1933 | | $1,394,948,987 |
| Spectator Co., *Year-Book—Life Insurance*, 1934. Also letter from Spectator Co. | | | |

TABLE 20.—*General economic statistics*—Continued

SAVINGS ESTIMATES

| | | |
|---|---|---|
| 25. Annual savings through life insurance | 1933 | $2,950,465,899 |
| New premium payments | | 234,951,196 |
| Renewal premium payments | | 2,715,514,703 |
| Spectator Co., *Year-Book—Life Insurance*, 1934. | | |
| 26. Savings and other time deposits | 1929 | $28,218,000,000 |
| | 1932 | 24,281,000,000 |
| Data for all reporting banks in United States. | | |
| *Statistical Abstract of the United States*, 1933, p 242, table 252. | | |

○

# LISTING OF REFERENCE MATERIALS


Executive Order 6757. *Establishing the Committee on Economic Security and the Advisory Council on Economic Security,* June 29, 1934.

U.S. Committee on Economic Security. *Social Security in America: The Factual Background of the Social Security Act as Summarized from Staff Reports to the Committee on Economic Security.*

*Message of the President Recommending Legislation on Economic Security.* (House Doc. No. 81) *January 17, 1935.*

U.S. Congress. House. Committee on Labor. *Unemployment, Old Age, and Social Insurance. Hearings, 74th Congress, 1st session, on H.R. 2827, 2859, 185, and 10.*

U.S. Congress. House. Committee on Labor. *Workers' Unemployment, Old-Age, and Social Insurance: Report to Accompany H.R. 2827. (H. Rept. 418, 74th Cong., 1st sess.)*

U.S. Congress. House. Committee on Ways and Means. *Economic Security Act. Hearings on H.R. 4120, 74th Congress, 1st session.*

U.S. Congress. Senate. Committee on Finance. *Economic Security Act. Hearings on S. 1130, 74th Congress, 1st session.*

Presidential statement upon Signing the Social Security Act. *August 14, 1935.*